PD-ABD-300
73916

AGENCY FOR INTERNATIONAL DEVELOPMENT

Washington, D.C. 20523

PROJECT PAPER

INDONESIA: Economic Law and Improved Procurement Systems 497-0372

Dated: August 20, 1991

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS

PROJECT PAPER

TABLE OF CONTENTS

TABLE OF CONTENTS i
TABLE OF CONTENTS - VOLUME II iv
LIST OF FIGURES AND TABLES v
LIST OF ABBREVIATIONS vi
PROJECT DATA SHEET vii
PROJECT AUTHORIZATION ix

1. THE PROJECT CONTEXT 1

1.1 The Development Context 1

1.1.1 Introduction 1
1.1.2. Historical Context 1
1.1.3. Contemporary Context 2
1.1.4 Importance of Economic Law and Government Procurement Reforms 3

1.2 Project Rationale - Economic Law 3

1.2.1 Background 3
1.2.2 Nature of the Problems in Economic Law 4

1.3 Project Rationale - Government Procurement System 8

1.3.1 Background 8
1.3.2 Nature of Problems in the Procurement System 9

1.4 Conformity with Indonesia's Strategies and Programs 12

1.4.1. Introduction 12
1.4.2. Indonesia's Development Plan 12

1.5 Relationship to A.I.D. Concerns 12
1.6 Other Donor Experience 13

2. PROJECT DESCRIPTION 14

2.1 Project Strategy 14
2.2 Project Goal and Purpose 16

2.3 Project Components 17

2.3.1 Economic Law Development Component 17
2.3.2 Legal Training Component 21
2.3.3 Procurement Management Development Component 25
2.3.4 Legal Information Systems Component 29
2.3.5 Grants for Private Sector Legal Development Component 33

2.4 Interim Assistance Activities 36
2.5 Policy Issues Requiring Project Attention 36
2.6 Project Management 37

2.6.1 Project Secretariat 37
2.6.2 Long-term Technical Assistance Contract 38
2.6.3 Law Development Component 39
2.6.4 Legal Training Component 39
2.6.5 Procurement Management Development Component 39
2.6.6 Legal Information Systems Component 40
2.6.7 Grants for Private Sector Legal Development 40
2.6.8 Annual Planning Process 41
2.6.9 USAID Responsibilities 41

2.7 Project Outputs 42
2.8 Project Achievements - End of Project Status 43

3. IMPLEMENTATION PLAN, MONITORING AND EVALUATION 45

3.1 Implementation Plan 45

3.1.1 Procurement of Long-term Technical Assistance 45
3.1.2 Grants For Private Sector Legal Development 45
3.1.3 Bridging Activities 45

3.2 Project Monitoring 47
3.3 Project Evaluations 48

4. FUNDING AND RESOURCE REQUIREMENTS 48

4.1 Cost Estimates 48
4.2 Obligation and Expenditure Projections 48
4.3 Private Sector Contributions 50
4.4 Methods of Project Financing 50
4.5 Local Cost Financing 51
4.6 Other Donor Contributions 51

5. SUMMARIES OF ANALYSES 52

5.1 Institutional Analysis (Annex A-1) 52
5.2 Economic Analysis (Annex A-2) 52
5.3 Technical Analyses (Annexes A-3 through A-6) 53
5.4 Social Soundness Analysis (Annex A-7) 54
5.5 Environmental Analysis 54

6. CONDITIONS AND COVENANTS 55

6.1 Conditions Precedent to Disbursement 55
6.2 Covenants 55

7. WAIVERS 56

Selected Annexes

Annex B Logical Framework

Annex C Project Budget

Annex D Procurement Plan

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS

PROJECT PAPER

TABLE OF CONTENTS
VOLUME II

ANNEXES

A. Project Analyses
   1. Institutional Analysis
   2. Economic Analysis
   3. Technical Issues Concerning Commercial Law Reform
   4. Legal Information Systems Analysis
   5. Procurement System Analysis
   6. Training Needs Assessment and Recommended Plan
   7. Social Soundness Analysis
   8. Evaluation Plan Recommendations
B. Logical Framework
C. Detailed Project Budget
D. Procurement Plan
E. Statutory Checklist
F. AID/W Guidance - PID Cable
G. Government of Indonesia Request for Assistance
H. Environmental Determination
I. Gray Amendment Certification
J. Bibliography

LIST OF FIGURES AND TABLES

		Page
Figure One	Project Structure	18
Table One	Annual Planning Process	41
Table Two	Implementation Schedule	46
Table Three	Project Resource Requirements	49

LIST OF ABBREVIATIONS

BAPPENAS	National Development Planning Agency
BPHN	National Law Development Agency
CD-ROM	Compact Disk - Read Only Memory
CDSS	Country Development Strategy Statement
CLS	Center for Legal Studies
COP	Chief of Party
DIP	Daftar Isian Proyek (List of Projects and Budgets)
DPR	Dewan Perwakilan Rakyat (House of Representatives)
DPRP	Development Policy Reform Program
EKUIN	Coordinating Ministry for Economics, Financial and Industrial Affairs and for Development Supervision
ELIPS	Economic Law and Improved Procurement Systems
FAR	Federal Acquisition Regulation
FY	Fiscal Year
GDP	Gross Domestic Product
GNP	Gross National Product
GOI	Government of Indonesia
IFB	Invitation for Bid
IFY	Indonesian Fiscal Year
INPRES	Instruksi Presiden (Presidential Instruction)
IPMI	Institut Pengembangan Manajemen Indonesia
IPPM	The Institute for Management Education and Development
IQC	Indefinite Quantity Contract
IRIS	Institutional Reform and Informal Sector Project
KEPPRES	Keputusan Presiden (Presidential Decision)
LNG	Liquid Natural Gas
MUCIA	Midwest Universities Consortium for International Activities
OYB	Operating Year Budget
PDH	Pusat Dokumentasi Hukum (Legal Documentation Center at University of Indonesia
PEDS	Private Enterprise Development Support Project
PID	Project Identification Document
PIL	Project Implementation Letter
PIO/T	Project Implementation Order/Technical Services
PRPAG	Procurement Review and Policy Analysis Group
REPELITA	Indonesian Five-Year Development Plan
RFP	Request for Proposal
S.H.	Sarjana Hukum (Bachelor's Degree in Law)
SEKNEG	Sekretariat Negara (State Secretariat)
SOE	State Owned Enterprise
TA	Technical Assistance
U.I.	University of Indonesia

PROJECT DATA SHEET

AGENCY FOR INTERNATIONAL DEVELOPMENT

PROJECT DATA SHEET

1. TRANSACTION CODE: A (A = Add, C = Change, D = Delete) — Amendment Number

DOCUMENT CODE: 3

COUNTRY/ENTITY: Indonesia

3. PROJECT NUMBER: 497-0372

BUREAU/OFFICE: APRE

5. PROJECT TITLE (maximum 40 characters): Econ. Law & Improved Procurement Systems

6. PROJECT ASSISTANCE COMPLETION DATE (PACD): MM 08 DD 31 YY 97

7. ESTIMATED DATE OF OBLIGATION (Under 'B.' below, enter 1, 2, 3, or 4)

A. Initial FY 91 B. Quarter 4 C. Final FY 93

8. COSTS ($000 OR EQUIVALENT $1 =)

A. FUNDING SOURCE	FIRST FY B. FX	C. L/C	D. Total	LIFE OF PROJECT E. FX	F. L/C	G. Total
AID Appropriated Total	14,250	750	15,000	17,100	900	18,000
(Grant)	(14,250)	(750)	(15,000)	(17,100)	(900)	(18,000)
(Loan)	( )	( )	( )	( )	( )	( )
Other U.S. 1.						
Other U.S. 2.						
Host Country		6,000	6,000		7,000	7,000
Other Donor(s)						
TOTALS	14,250	6,750	21,000	17,100	7,900	25,000

9. SCHEDULE OF AID FUNDING ($000)

A. APPROPRIATION	B. PRIMARY PURPOSE CODE	C. PRIMARY TECH. CODE 1. Grant	2. Loan	D. OBLIGATIONS TO DATE 1. Grant	2. Loan	E. AMOUNT APPROVED THIS ACTION 1. Grant	2. Loan	F. LIFE OF PROJECT 1. Grant	2. Loan
(1) FN						11,000		11,000	
(2) HE						2,000		2,000	
(3) SD						5,000		5,000	
(4)									
TOTALS						18,000		18,000	

10. SECONDARY TECHNICAL CODES (maximum 6 codes of 3 positions each)

11. SECONDARY PURPOSE CODE

12. SPECIAL CONCERNS CODES (maximum 7 codes of 4 positions each)

A. Code

B. Amount

13. PROJECT PURPOSE (maximum 480 characters)

The purpose of this project is to improve Indonesia's economic law and government procurement systems in order to facilitate and support an increased level of private transactions and investments, while also helping to foster greater equity for all firms and individuals.

14. SCHEDULED EVALUATIONS

Interim MM 04 YY 94 MM YY Final MM 03 YY 97

15. SOURCE/ORIGIN OF GOODS AND SERVICES

[X] 000 [ ] 941 [X] Local [ ] Other (Specify)

16. AMENDMENTS/NATURE OF CHANGE PROPOSED (This is page 1 of a ____ page PP Amendment.)

17. APPROVED BY

Signature: L. P. Reade

Title: Director USAID/Indonesia

Date Signed: MM 08 DD 21 YY 91

18. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION: MM DD YY

AID 1330-4 (8-79)

PROJECT AUTHORIZATION

Name of Country: **Indonesia**

Name of Project: **Economic Law and Improved Procurement Systems Project**

Project Number: **497-0372**

1. Pursuant to the Foreign Assistance Act of 1961, as amended, I hereby authorize the Economic Law and Improved Procurement Systems Project for Indonesia, involving planned obligations of not to exceed $18.0 million in grant funds over a six year period from date of authorization, subject to availability of funds in accordance with the A.I.D. OYB/allowance process, to help in financing foreign exchange costs and, as specifically authorized below, local currency costs for the project. The planned life of project is six years from the date of obligation.

2. The project consists of various activities designed to improve Indonesia's economic law and government procurement systems in order to facilitate and support an increased level of private transactions and investments.

3. The Project Agreement which may be negotiated and executed with the Government of Indonesia by the officer(s) to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority shall be subject to the following conditions, together with such other terms and conditions as A.I.D. may deem appropriate.

a. **Source and Origin of Commodities, Nationality of Services**

Commodities financed by A.I.D. under the Project Agreement shall have their source and origin in the United States, except as A.I.D. may otherwise agree in writing. All suppliers of commodities and services shall have the United States as their place of nationality, <u>except</u> as A.I.D. may otherwise agree in writing. Local source financing is authorized for the following procurements or types of procurements:

- Local consultants, experts and instructors,
- Rental of local facilities for workshops/seminars,
- Indonesian language books and other written materials, and
- Small quantities of office supplies.

b. **Conditions Precedent to Disbursement**

1. Prior to any disbursement or to the issuance of any commitment documents under the Project Agreement, the Cooperating Country shall furnish in form and substance satisfactory to A.I.D. evidence of the establishment of the Project Secretariat and shall supply a list of the names of individuals assigned to such Secretariat.

2. Prior to any disbursement or to the issuance of any commitment documents under the Project Agreement for project activities related to the Procurement Management Development Component, the Cooperating Country shall furnish in form and substance satisfactory to A.I.D., evidence of the establishment of the Procurement Review and Policy Analysis Group and shall supply a list of the names of the individuals assigned to such Group.

3. Prior to any disbursement or to the issuance of any commitment documents under the Project Agreement for activities related to the Legal Training Component, the Cooperating Country shall furnish in form and substance satisfactory to A.I.D., evidence that the University of Indonesia Steering Committee for improving its Economic Law Program has been established and shall supply a list of the names of the individuals assigned to such Committee.

c. **Covenants**

1. Prior to the provision of technical assistance, training, commodities or other Project inputs to recipient agencies under the Legal Information Systems Component, i.e., the National Law Development Agency (BPHN), the University of Indonesia Legal Documentation Center (PDH), Sekretariat Negara (SEKNEG) and Ministry of Finance, each of these organizations shall submit to USAID the names of the individual(s) assigned as Official Representative and Project Manager. This condition may be satisfied separately by each recipient agency.

The Cooperating Country shall covenant to:

2. provide each year to USAID Annual Plans for each project component, for all Project years beginning after April 1, 1992;

3. provide sufficient funds to adequately and properly maintain all equipment financed under the grant; and

4. provide all Government of Indonesia personnel required to implement the Project in an effective and timely manner.

4. Grants for Private Sector Legal Development

All direct-A.I.D. grants for Private Sector Legal Development shall be made in accordance with the source, origin, nationality and other policies set forth in A.I.D. Handbook 1, Supplement B, Chapter 16, and A.I.D. Handbook 13. Local Source financing is authorized for all such grants. Unless otherwise agreed by A.I.D., each PVO/NGO grantee will be required to finance from non-A.I.D. sources not less than 25 percent of the total costs of the project or activity supported by the grant.

5. Waiver

Based on the justification contained in Section 7 of the Project Paper, the requirement for the Government of Indonesia to finance the international travel costs for short-term training outside of Indonesia is hereby waived.

L. P. Reade
Mission Director

8/24/91
Date

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

[Note: as used in this Project Paper and related annexes, the terms "economic law" and "commercial law" should be considered interchangeable.]

1. THE PROJECT CONTEXT

1.1 The Development Context

1.1.1 Introduction

Indonesia has reached an important stage in its development as a result of economic policy changes and rapid private sector growth. Enlightened deregulation has recognized the crucial role played by private business in increasing national prosperity and openly endorsed the profit motive as a positive force for economic development. The strong response from the private sector is contributing to a more diversified production base, which is expanding the prospects for sustained growth in the future. The macroeconomic adjustment agenda, while beginning to restructure the economy, has improved living standards and resulted in substantial declines in the incidence of poverty. This process can be continued with access to international and domestic capital markets as well as support from donors.

Impressive as these accomplishments have been, the country is faced with relatively low per capita GNP (less than $600) and people facing poverty numbering in the tens of millions. The challenge for the future is to enter a period of sustained and relatively rapid growth while also expanding the opportunities for significant participation to regions and groups which are not fully sharing in the benefits of development. One prerequisite for achieving these challenges is continued sound macroeconomic management of the economy. Beyond this, Indonesia also needs to reorganize government's involvement in the economy, through deregulation and stimulation of the private sector as well as more efficient management of public sector programs and state-owned enterprises. An important aspect of fostering private sector expansion is strengthening the legal framework within which commercial transactions and investments occur. Likewise, improved Government procurement practices are vital to more efficiently implement public sector development programs.

1.1.2. Historical Context

The 1970's witnessed rapid growth of income, consumption and investment in Indonesia. The country entered the 1980's heavily dependent on petroleum (80% of export earnings, 70% of budget revenues), and thus was positioned precariously for the oil price shocks which occurred between 1982 and 1986. Associated with declining oil prices were international currency fluctuations which increased the country's debt service burden. The resulting economic imbalances created a need for strong policy measures to stabilize the economy and restore

growth. These initiatives came in two major areas: stabilization and restructuring of the economy.

Stabilization measures adopted by government succeeded in realigning the economy with new international conditions. The exchange rate was devalued by 55% by the end of the decade, with support from tight monetary and fiscal policies. Budget deficits were reduced significantly through cuts in capital and import-intensive projects, reductions in subsidies to state-owned enterprises, and higher non-oil revenues. Inflation has also dropped significantly over this period.

Structural reforms sought to create a more diverse and efficient economy. The external sector reform of the trade regime with lower tariff and non-tariff barriers, combined with devaluation of the Rupiah and improved management of the exchange rate, resulted in sharply increased incentives to export and scarcity-based pricing of foreign exchange for imports. Tax reform established a somewhat more reliable and stable basis of revenues. Financial sector reforms eliminated interest rate and credit ceilings so that private sector resources could become more buoyant.

These changes resulted in a dramatic modification of the structure of the economy, with oil/LNG exports as a proportion of total merchandise exports falling from 82% in 1981/82 to 40% in 1989/90. Steady growth rates were reestablished by the end of the decade, with real GDP growth averaging 5.5% from 1983 to 1989 and real non-oil GDP rising at 6.2% per annum. By the end of the 1980's non-oil GDP was growing at 7-8% a year, thus rapidly diversifying the economy and reducing dependence upon petroleum. Private sector investment, although initially slowed by the government's stabilization measures, rose after 1985 and was increasing at 18% per year by 1989.

1.1.3. Contemporary Context

Indonesia has bright prospects for sustained growth. The experience of the 1980's, while difficult and challenging, left the economy more resilient, diversified and competitive. A continuation of growth in the range of 6-7% per annum will allow substantial progress in raising living standards, providing productive employment, and reducing poverty. This growth must be well managed to avoid an excessive debt burden and to broaden and protect the foundations for the economy in the future.

Since the mid-1980's the government has encouraged a more active private sector through deregulation measures to free up the economy. Initial reforms have focused upon streamlining investment, including both licensing and deregulation of foreign direct participation. Much has also been done to improve Indonesia's financial system, especially as related to commercial banking and the equity markets. This has dramatically improved the availability of long term finance. Continued expansion of commercial activity and investment requires improved efficiency and competitiveness, which implies a need not only for *deregulation*, as such, but also a need for *appropriate regulation* (supervision) to clearly define the rules of the game. This must be accompanied by institutional improvements which help to ensure that such rules are disseminated to the public and are properly and fairly enforced. As the current economic

boom continues, it is increasingly clear that existing legal and regulatory structures are inadequate to achieve these objectives.

1.1.4 Importance of Economic Law and Government Procurement Reforms for Continued Economic Gains

The policy changes mentioned above have generally related to the regulatory aspects of the economy, leaving the underlying legal framework for commercial activity intact. While business activities and related regulatory structures have become increasingly sophisticated, these legal foundations are proving to be both antiquated and inadequate. Observers within and outside of Government feel that the pace of economic expansion is seriously constrained by weaknesses in the commercial law environment. Similarly, a variety of striking inadequacies exist in the area of government procurement which are seriously hampering the government's ability to carry out the public investment programs critical for providing the physical infrastructure necessary for business and economic growth. Such inadequacies create unnecessary delays, unfairness in selection procedures, and increased costs. The widespread lack of confidence in Indonesia's procurement system keeps many firms from competing in government procurements, which in turn constrains their ability to grow.

Weaknesses in economic law and government procurement do more than slow the pace of economic expansion and national development. Such weaknesses also relate closely to equitable distribution of the fruits of economic development. While deregulation has allowed and promoted a broad new range of commercial transactions, it has become clear that weaknesses in both policy and implementation continue to offer opportunities for the enrichment of a relatively small number of individuals and large corporations at the expense of others. Moreover, the existence of such weaknesses dramatically affects investor confidence by creating mistrust, uncertainty and a lack of predictability. This has a clear and documentable impact upon the decision-making of both local and foreign businesses as they contemplate investments and other commercial transactions in Indonesia. Overcoming such problems requires significant improvements both in the substance of economic laws and government procurement policies, and in the processes by which such laws and policies are developed, disseminated, administered and enforced. Without such improvements, the confidence of the private sector in the existing economic law and government procurement regimes will continue to deteriorate and economic development will suffer. The need for improvements is immediate and is clearly recognized by the Government of Indonesia and by members of the private sector. These issues are discussed in much greater detail in Annexes A-2 and A-3.

1.2 Project Rationale - Economic Law

1.2.1 Background

A strong economic law system should serve several basic requirements. First, it should govern and regulate the myriad transactions which occur in the modern business world and provide mechanisms for efficiently resolving disputes. In so doing, an economic law system should

reduce costs and uncertainty for producers, investors and consumers. Indonesia's existing economic law regime fails to meet these requirements for several reasons: i) there is a lack of up-to-date commercial laws in many areas, ii) the system suffers from weak administration and enforcement, and iii) information on laws and procedures is very difficult to obtain.

The rapid growth of Indonesia's economy has greatly expanded the quantity of business transactions while also creating the need for new forms of transactions involving the capital markets, consumer credit, leasing activities, and numerous other areas. While commercial activities are growing increasingly sophisticated, much of the current legal foundation for such transactions dates back to Dutch laws which have been essentially unchanged since the mid-19th century. This situation creates numerous problems in that there is an absence of a legally recognized basis for many modern transactions. The problem is compounded by the fact that Indonesia still maintains a multiple legal system, with European-based civil law existing parallel with the customary *(adat)* law and Islamic Law systems. *Adat* law still regulates many aspects of Indonesian commercial life, especially for transactions involving real estate, and various transactions at the sub-provincial level. Islamic law and Islamic courts continue to govern many family and religious law issues, e.g. divorce.

A further aspect of the problem is that significant institutional and procedural weaknesses exist which create uneven (and sometimes capricious) administration and enforcement of existing laws. Thus, even in those cases where the written law appears adequate, the administration and enforcement of such law is highly problematic.

Finally, information pertaining to laws, regulations and related documentation is scattered, disorganized, and in some cases entirely unavailable. Taken together, substantive and institutional weaknesses in the system raise costs, risks and uncertainty, creating a drain on resources and diminished potential for economic expansion.

Annex A-3 provides a more detailed description of the status of economic law in Indonesia, and discusses the various laws which require development or revision to support further economic growth, as well as some of the institutional or process-related reforms which are needed.

1.2.2 Nature of the Problems in Economic Law

1.2.2.1 Weaknesses in Substantive Law

Antiquated or inadequate laws in a variety of commercial areas pose a serious threat to economic expansion and reduce many of the benefits of deregulation. By narrowing access to business opportunities for both Indonesian and foreign firms, inadequate laws impede investments and other business transactions which would otherwise be commercially viable, allow concentrations of wealth among a few influential business firms, and contribute to a negative international image from the perspective of potential investors. Some laws make it difficult to carry out business activities which have long been considered routine in many other economies. By creating uncertainty and raising costs, the lack of an adequate commercial law system discourages investors, licensors, joint-venturers and potential trading partners from entering into business relationships in Indonesia.

A broad range of specific laws exist which contribute to the problems described above. Of particular importance are company law and laws pertaining to credit and security interests. Company law is an area which has not been sufficiently developed to provide adequate protection of shareholder interests or to meet the routine needs of companies for working and long term capital. Current company law, much of which dates from mid-19th century Dutch codes, does not adequately address such fundamental issues as limited liability, shareholders' duties and rights, the definition of "capital," standards of conduct for directors, and financial reporting and auditing. Incorporation is an expensive and unpredictable process which can require several years for completion. During the incorporation process, an extended period of unlimited liability exposure exists which can cause investors to postpone or sometimes even cancel their investment plans. In addition, even though a large number of conglomerates have been established and are operating in Indonesia, the current company law does not provide a basis for consolidation of related companies for reporting or tax purposes.

Credit transactions are particularly affected by the lack of adequate laws dealing with non-possessory security interests. Because credit and security agreements are often unenforceable, higher interest rates are charged to cover the unusually high percentage of unrecoverable loans. Weak enforceability against collateral creates rampant over-collateralization, producing downstream effects throughout the economy. Personal guarantees are often required, even though transactions may have been fully collateralized. Over-collateralization reduces liquidity and leverage, and discriminates against new and small businesses, greatly reducing the number of firms which are allowed to participate in Indonesia's economic expansion. Weak enforceability also causes lenders to insist on excessive loan documentation which raises expenses in terms of both time and money. Credit activities are also impeded by the lack of provisions in current financing law for letters of credit or credit cards. Moreover, there is no clear legal basis for many of the concepts routinely employed in modern loan agreements and promissory notes, such as floating interest rates and acceleration.

Significant weaknesses are also apparent in a wide variety of other legal areas, including bankruptcy law, leasing, factoring, consumer protection, installment sales, international transactions, and mergers and acquisitions.

1.2.2.2. Institutional Weaknesses

While numerous weaknesses exist in the substance of commercial law, institutional weaknesses are of at least equal importance in understanding the negative impacts of the existing commercial law system on business relationships. Weaknesses exist in the procedures for developing appropriate commercial laws, in the administration and enforcement of such laws, and in the substantive and practical expertise of the practicing legal profession as well as academia in the commercial law area. Important weaknesses also exist in alternative forms of dispute resolution (e.g. arbitration) and in accessibility to information on commercial laws and related regulations.

1.2.2.2.1 Weaknesses in the Law Development Process

As described above, extant commercial law draws upon numerous sources, many of which are outdated. The government has not as yet undertaken a thorough assessment of the state of the law, and there is no institutional apparatus in place which is currently capable of performing a comprehensive review. Sporadic attempts have occurred over the past twenty years to prepare improved legislation in the economic law area. Very little of such legislation has reached the Parliament, and even less has been enacted. The system has been plagued by a lack of strong leadership, appropriately trained legislative drafters, cooperation among competing GOI organizations, and consensus on the need for improved legislation. The situation has been further aggravated by the influence of entrenched interests which may benefit from inequities or ambiguities in current laws.

The situation regarding development of regulations is also far from optimal. Many government legal officers lack sufficient practical business experience and modern commercial law expertise. Regulations are sometimes drafted without an adequate understanding of underlying business issues and concerns, which can lead to ineffective or even harmful rules.

1.2.2.2.2 Weaknesses in Legal Institutions

<u>The Court System</u>

Courts are the principal source of interpretation of the law. They are also at present the primary institution for resolving commercial disputes and enforcing contracts in Indonesia. Several major criticisms of Indonesia's courts exist at present. First, they appear to be badly overburdened, a situation which sometimes results in delays of several years. Secondly, there has not been a specialization of expertise among judges. Many judges lack sufficient business knowledge, which at times has resulted in unreasonable decisions. Lastly, there is a perception that some judges render decisions for reasons other than the merits of a case, i.e., for reasons of favoritism or personal economic benefit. Such problems are aggravated by the judiciary's lack of access to complete information on relevant laws, decrees and previous court decisions. The results of these problems are delays and unpredictability which diminish the reliability of contract enforcement, increase risks and transaction costs, raise barriers to new economic activity, and stifle entrepreneurism.

<u>Government Agencies</u>

Various Government agencies are involved in regulating or promoting business activity. These agencies contribute to the weak commercial law regime through an inability to draft laws and regulations which are appropriate to and supportive of modern business transactions, inconsistent interpretation of rules (which decreases predictability), lack of comprehensive knowledge of regulations, inability to furnish copies (and official translations) of needed laws and regulations to businesses, and what at times appears to be capricious enforcement.

Alternative Dispute Resolution (ADR) Mechanisms

Existing ADR mechanisms have very little capacity. One arbitration organization is active at present (as described in Annex A-3), but in general arbitration, conciliation and mediation are little utilized to resolve commercial disputes. The situation is aggravated by the lack of a sound basis in the law for enforcement of arbitration awards.

Legal Education

Very significant weaknesses are apparent in university law schools. An inadequate number of faculty members exist who have been trained in commercial law, and the commercial law commentary produced by such faculties is inadequate both in quantity and sophistication. Students receive training which relies more upon rote memorization than on developing research and analytical skills necessary to function in government legal bureaus, private business, or private law practice. While students receive adequate theoretical grounding in many cases, the practical knowledge required to function effectively in a professional environment, e.g., research skills, legal writing, contracts, taxation, etc., is generally lacking. Annex A-6 provides additional information in this regard.

The Legal Profession

Related to the quality of legal education is the present capacity of the legal profession. It is clear that a very limited number of law firms exist which possess experience in sophisticated business transactions, particularly international transactions. Related to this problem is the limited exposure which most law faculty graduates have to international commercial transactions which rely principally on English language contracts based on the concepts of foreign legal systems. Existing professional associations for lawyers do not adequately provide for certification or disciplinary procedures. Newly hired lawyers in large law firms typically require several years of on-the-job training to acquire serviceable research and analytical skills.

1.2.2.2.4 Weaknesses in the Availability of Information

Despite improvements over the past few years, difficulties in obtaining information about economic laws persist. This situation can unnecessarily discourage new investment and trade, especially for North American and European firms, by making the legal situation appear worse than it actually is. The unavailability of copies of laws and regulations (and official English-language translations of such documents) is the single most common complaint from businessmen, investors and their legal counselors. This lack of readily available information reduces the certainty and predictability upon which modern commercial transactions rely, and which are so important to growth of the private sector. This in turn increases the inherent risk in every venture, resulting in increased costs.

Existing legal information institutions have to date proven unable either to gather and catalogue the historical body of laws, regulations, decrees, etc., or to obtain and efficiently disseminate the constant stream of new laws, regulations, decrees and other guidance on a timely basis.

With regard to the latter, a lag time of up to three years currently exists between the promulgation of a new law and the official appearance of such law in the State Gazette.

The dearth of legal information makes it easier to disregard the law and more difficult to challenge it. It is easier for judges to continue rendering bad decisions if their judgments are unpublished and, therefore, not available for public scrutiny and debate. Similarly, it is easier for civil servants to misapply the law, when the rules which they are administering are unpublished and therefore unavailable as a standard against which to test their behavior. New departmental regulations and ministerial decrees are written continually but there is no requirement that they be published to go into effect. Thus it is difficult for the private sector to learn of new rules, much less obey them; considerable time and expense are required to stay abreast of relevant business requirements. Annex A-4 provides additional information on this topic.

1.3 Project Rationale - Government Procurement System

1.3.1 Background

Accomplishing the goals of national development is closely linked to government procurement processes; procurement is the means by which the national public investment agenda is carried out. In numerous official government statements over the past decade, the need for a sound procurement system has been described in terms of economic growth, equitable distribution of development gains, and the maintenance of political and economic stability. Ironically, it is on precisely these measures that procurement processes are most frequently criticized. Most observers feel that the current government procurement regime is far from being a positive force for equitable economic development. Procurement procedures are poorly understood, inconsistently administered, and often bewildering. These inadequacies cause individual projects to cost more, resulting in a smaller number of projects and fewer opportunities for the private sector. Moreover, in cases where under-qualified bidders are awarded contracts, the result may be inefficient implementation of government projects.

The GOI is continuing to make large investments in infrastructure intended to promote economic growth and improve the quality of life for Indonesians. Most of this infrastructure, particularly in areas such as transport, telecommunications, and power generation, are critical to business and investment expansion. Included within this framework are investments made by Indonesia's state owned enterprise (SOE) sector, which encompasses a large number of firms in areas as diverse as manufacturing, petrochemicals, banking, utilities, retail, and agro-processing. The procurement of commodities and services needed to implement investments by government agencies and SOE's is beset by problems. Such problems result in delays, increased costs, questionable contractor selection and a lack of credibility from the perspective of potential investors and suppliers. This lack of confidence in the integrity of the government procurement system is widespread, a situation which discourages firms, particularly smaller firms, from competing in government procurements. This constrains the ability of such firms to prosper and expand. Moreover, the many perceived weaknesses in the system sometimes cause foreign investors and suppliers to decline the opportunity to bid on major procurement

actions, thereby denying potential local joint-venture firms the access to technology, and marketing and management techniques which could be highly beneficial to Indonesia's development.

Annex A-5 includes additional information on problems related to government procurement, together with possible prescriptions for improvement.

1.3.2 Nature of Problems in the Procurement System

1.3.2.1 Weaknesses in Procurement Law and Regulations

In 1984 Indonesia enacted a Presidential Decree (KEPPRES 29) which governs the implementation of the state budget. This decree regulates the tendering and contracting for services and commodities for all agencies and enterprises which are funded by the government. Due to the large size of the SOE sector, KEPPRES 29 regulates procurement for a surprisingly broad array of enterprises. Some government agencies and SOE's have developed internal procurement guidelines, but these are considered supplemental to the provisions of KEPPRES 29.

In addition to KEPPRES 29, procurement is governed by a 1945 Indonesian constitutional provision, a 1925 Dutch statute (amended in 1968), various Presidential decrees and instructions, ministerial and other circulars, and unpublished administrative rulings on specific procurement cases.

Superficially the laws, rules, regulations, instructions, etc., taken as a whole, seem similar to conventional procurement systems followed by governments in the U.S. and elsewhere. Existing rules attempt to require economical, efficient, timely and openly competitive procurement actions. Numerous problems exist with the substance of the law, however. Various gaps, duplications, ambiguities, and unclear waiver conditions and authorities severely hamper attempts to carry out procurement efficiently and rationally. The degree of discretion given to procurement officials by the current regulations is too broad, allowing widely varying interpretations of procurement policies which may result in decisions which are unfair or contradictory. This situation also provides opportunities for unscrupulous officials to seek unauthorized payments from firms seeking government contracts.

1.3.2.2 Institutional Weaknesses

1.3.2.2.1 Policy Determination and Implementation

There does not currently exist a single preeminent organization within the Indonesian government which is able to effectively develop and implement procurement policy in a comprehensive way. While the GOI has tried various approaches for monitoring procurement, no system has yet evolved for consistently setting policies and ensuring that such policies are implemented throughout government. What exists at present is a situation where numerous government bodies are implementing procurement on a highly *ad hoc*, decentralized basis and

to a significant extent establishing their own procurement policies. Such policies are not necessarily consistent from one ministry to another, which represents a serious problem for any private sector business desiring to contract business with more than one ministry on a regular basis. No single agency has been organized or staffed to begin administering the system as a whole. EKUIN (the Coordinating Ministry for Economics, Financial and Industrial Affairs and for Development Supervision) plays a lead role in monitoring and approving larger procurements (those which exceed Rp 3.0 billion -approximately $1.5 million), but is not involved in proactively weighing alternative policies or introducing new policies into the system on a regular basis. No system is in place to regularly monitor and control individual ministry procurement practices or to review and approve new circulars and directives to ensure consistency with basic policies. Similarly, regarding policy implementation, no organization is presently charged with organizing or disseminating existing rules and regulations. The result is government-wide ambiguity with regard to procurement, which reduces efficiency, fairness and timeliness, while increasing costs.

1.3.2.2.2 Procurement Management System

Following the mid-seventies Pertamina scandal, the GOI established a special procurement board (known as "Team 10") to control and coordinate the procurement of goods and services valued above Rp. 500 million. Team 10 existed for approximately nine years and succeeded in preventing the kind of massive and widely-known abuses which had done much to damage Indonesia's credibility among international bidders.

In 1988, responsibility for procurement was decentralized to the individual ministries in an effort to improve timeliness of procurement actions. At the same time, Team 10 was abolished and responsibility for approving large procurements (those exceeding Rp. 3.0 billion) was transferred to EKUIN. This decentralization, however, was not accompanied by the basic institutional changes which were needed to make decentralization effective. While EKUIN was placed in charge of an approval function, this Ministry has not taken steps to rationalize the procurement system in any way. Lines of authority and reporting have not been established among agencies, and no formal information dissemination system has been put into place. The current institutional structure for managing procurement needs far greater definition.

Some of the problems associated with the procurement system stem from the fact that the rules and procedures defining the system are not available in any central location and have not been codified into any single integrated system. Instead, rules and procedures exist in numerous decrees, regulations, circulars, etc., which are neither widely distributed nor, in some cases, even known to the individuals who are charged with carrying out procurement actions. Given the absence of such documentation, procurement law is not well understood by the government personnel responsible for executing it or by those in the private sector who want to participate in Government procurement. Potential foreign bidders are even more disadvantaged, as much of the relevant documentation is not available in an authorized English translation. As a result, considerable time is wasted during typical procurement actions --both by the private sector and government procurement officials-- either trying to uncover relevant procurement provisions or repeating actions done incorrectly the first time.

Some of the more important weaknesses in the current procurement management system can be summarized as follows:

- Absence of an institutional structure to consistently and regularly promulgate and implement changes in or guidance on procurement rules and policies;

- Poor dissemination to Government officials and the private sector of the laws, decrees, regulations, and rulings which make up the procurement policy of Indonesia;

- Poor understanding of the law and good procurement practice by those in the Government charged with executing it and those in the private sector who may want to participate in Government procurement;

- Lack of a means for resolving incompatibilities between the Indonesian procurement system and systems required by foreign donors and lenders; and

- Weak requirements for engineering, technical and project management expertise which are necessary for effective implementation of commodities and construction contracts.

1.3.2.2.3 Lack of Trained Personnel

The systemic problems described above severely constrain the ability of the GOI to organize and disseminate information on procurement matters to the numerous government agencies and enterprises involved in procurement activities. In addition to these weaknesses, effective procurement is constrained by a lack of trained procurement officers throughout the government and state-owned-enterprise sector. This weakness results from frequent reassignment of public officials, lack of formal procurement training, and the absence of procurement manuals and standardized documents. Moreover, the *ad hoc* procurement committees which are often established to carry out individual procurement actions are not conducive to training or any orderly transfer of knowledge from experienced to inexperienced individuals. Conflict of interest issues also continue to be a major concern.

Some GOI ministries have been assisted by multilateral donors to develop training programs for procurement officers. Such programs have tended to focus very specifically on the requirements for implementing procurement actions financed by those donors. No government-wide training standards or curricula exist at present, and training materials which have been developed for specific circumstances are not readily utilizable by other ministries or in connection with procurement activities of a different nature.

Some of the systemic problems which exist regarding quality of personnel could be overcome by the creation of a corps of government contracting officers and professional support mechanisms. Such mechanisms do not yet exist. There are few formal means for providing training, disseminating information, or providing professional safeguards which would help to limit the arbitrary exercise of discretion and ensure consistency and proper application of procurement rules. These gaps contribute to inefficient, costly and less than fully competitive procurement.

1.4 Conformity with Indonesia's Strategies and Programs

1.4.1. Introduction

Indonesia's strategy for development increasingly depends upon a dynamic and complex private sector capable of providing the levels of investment and production required to sustain growth at projected rates. A prerequisite for the private sector to fulfill this role is an economic law infrastructure to guide and protect private interests in the economy. The Government of Indonesia clearly recognizes the need for improvements in economic law, and has articulated general plans for addressing economic law development. Multilateral agencies likewise have identified critical requirements for economic law development. Moreover, A.I.D. has policy, program and project guidelines which encourage assistance for economic law development and the USAID/Jakarta Mission has included such assistance as a key element in its development assistance strategy. Annex A-2 provides selected statements from some of these entities pertaining to economic law development.

1.4.2. Indonesia's Development Plan

The current five year development plan (*Repelita V)* directly addresses the need for economic law development. Chapter 7: "Development of the Business World," recognizes that while steps have been taken by Indonesia in the past to initiate economic law reform, much remains to be completed: "Although various deregulation and de-bureaucratization steps have been taken up to now, various business obstacles are still faced in the form of regulations, practices and institutional elements no longer up to date so as not to support the business initiatives and undertaking climate, including the climate of fair competition." Chapter 27: "Law" goes on to articulate the country's commitment to economic law development activities during the *Repelita* period: "Within the framework of the promotion and development of the law, it will also be necessary to intensify the reform of the law in a purposeful and integrated manner, such as through the codification and unification of certain legal areas and the drawing up of new laws very much needed to back development in various fields to meet the demands of development, and the increasing legal consciousness and dynamism within society."

The Project will assist the GOI to achieve its objectives by helping to put into place a legal infrastructure which will promote private sector growth and improve the efficiency of commercial transactions and public sector procurement. In this respect the Project is fully consistent with and supportive of Indonesia's open market/private sector approach to development. Moreover, the Project will directly address the GOI's frequently expressed concerns regarding equitable opportunities for all sectors of society.

1.5 Relationship to A.I.D. Concerns

Strategic objectives and policy initiatives formulated by A.I.D. clearly place encouragement of the private sector at center stage. The June, 1985, *Blueprint for Development* calls for a healthy private sector and vibrant market forces as central dimensions to the development process and states A.I.D.'s intention to encourage these elements in its assistance. The March, 1985 A.I.D.

Policy Paper on Private Enterprise Development provides additional detail concerning the role of the legal environment in development:

> "The expansion and efficiency of the private sector depends upon a supportive legal structure and a positive regulatory environment. The existence of an adequate structure of property rights, including patent and copyright law, contract law and judicial arrangements which facilitate adjudication are essential."

The Paper goes on to give clear guidance to Missions on formulating projects:

> "It may be that individual country circumstances will require a significant institutional development effort to build appropriate legal and regulatory institutions conducive to private enterprise. Specific projects or sub-project activities which provide assistance for studies or advisory services to review or reform legal and regulatory barriers, are encouraged."

More recently, A.I.D./Washington has reconfirmed its commitment to privatization and market-economy principles through a draft Strategic Initiative dated December, 1990 entitled "The Business and Development Partnership." This document stresses A.I.D.'s commitment to encouraging a growing role for the private sector in development as a key contribution to sustainable economic growth.

Economic law development and improvements in government and SOE procurement are also consistent with USAID/Jakarta's development strategy. The current CDSS spells out a flexible, pragmatic approach to formulating assistance to support market forces and the private sector. The CDSS identifies commercial law as an area of particular interest. Support for improving the commercial law system fits closely with the Mission's continuing strategy of helping to foster policy and regulatory improvements which will benefit the private sector.

1.6 Other Donor Experience

Several other donors have experience in the Indonesian economic law and government procurement areas.

The Netherlands Council for Cooperation with Indonesia in Legal Matters has provided assistance for several years, including training of legislative drafters, short-courses for judges, and curriculum upgrading for State Law Schools. Assistance has also been provided to begin publishing Supreme Court decisions. While the Dutch program has been well received by the Indonesians, major questions have arisen regarding impact. The program is not focussed upon a particular law area, and deals with a very broad array of institutions. Training has also been directed at broad groups (e.g. almost 100% of Indonesian judges have received at least a few days of training).

With USAID support, the Asia Foundation has provided a variety of assistance, beginning as early as the late seventies. Few of the activities have focussed upon commercial law, but two

current activities are of particular interest. A "CD-ROM" project is underway which seeks to put much of Indonesia's laws, regulations, etc. on five disks, which are expected to be updated once per year. This activity is described in the Legal Information Systems Annex (Annex 4). The Asia Foundation is also assisting the University of Indonesia Faculty of Law to introduce new fields of commercial law into its curriculum, primarily to be taught by local practicing attorneys. This activity appears to be very popular both with regular law students and with part-time students from the private sector.

The Ford Foundation has provided limited assistance for legal training, as described in Annex A-6.

The World Bank conducted significant research during 1990 on the existing economic law system. The resulting report provides a detailed description of current problems and suggested priorities for assistance, and was very influential in the design of the ELIPS Project. The Bank has no immediate plans to provide assistance for economic law development, but is considering the possibility of assistance at some point in the future to supplement the efforts of the ELIPS Project.

The World Bank appears to be the only donor with significant prior experience in the area of government procurement. Because of the large infrastructure projects in Indonesia which are financed with World Bank loans, the Bank has for several years provided procurement implementation courses to procurement officials in the Department of Public Works and certain other government agencies. Such training appears to have been very valuable for the specific purpose of implementing World Bank funded development projects. Neither the World Bank nor other donors have yet provided assistance to improve the GOI's capability to develop procurement policies and procedures for use government-wide.

In assessing the successes and failures of the other donors, two lessons appear clear. First is the need to focus. A program directed too broadly at too many areas has little chance of success. Second, multiple institutional relationships appear to lead to duplication of effort and, at times, working at cross purposes. The ELIPS Project will attempt to avoid these pitfalls by i) working with one institutional counterpart, ii) focussing on discrete law areas, iii) achieving leverage by focussing training and other inputs on small groups of highly-qualified individuals, and iv) providing substantial inputs in a few places, rather than the reverse.

2. PROJECT DESCRIPTION

2.1 Project Strategy

2.1.1 Problem Statement

Indonesia's economic expansion is placing severe strains on the existing economic law and government procurement systems. In principle, the Government of Indonesia intends that these systems should help to foster rapid economic development while also helping to ensure equitable

distribution of development gains and political and economic stability. In practice, the existing systems fall far short of these objectives.

In the economic law area, serious weaknesses exist in i) the substance of existing laws and regulations, ii) the means by which new laws and regulations are developed, iii) dissemination of laws, regulations and related information, and iv) interpretation and enforcement. Such weaknesses are exacerbated by inadequate training among law school faculty and government legal bureau personnel, within the judiciary and among practicing attorneys. The result of these weaknesses is increased risk and uncertainty which lead to higher costs, unpredictable outcomes, a lower volume of investments and business transactions, and ultimately, diminished prospects for economic development.

In the government procurement area, a similar array of weaknesses is apparent. i) Numerous problems exist with the substance of existing rules and policies, ii) the government has not developed comprehensive procurement guidance, such as a procurement handbook, iii) a system does not exist for disseminating policies, rules, procedures and related information, and iv) some procurement personnel are inadequately trained and often not cognizant of relevant rules and regulations. The results of these weaknesses include delays, increased costs, lack of full competition in selection, and a reduced level of credibility from the perspective of potential participants in government procurements. The ultimate result is slower economic development than might otherwise be possible.

2.1.2 Strategy for Assistance

This Project draws upon extensive research and discussions with other donors, members of the private sector, the university community, and individuals from various government agencies. Two major reports which were commissioned by USAID and prepared by local law firms were extremely important in identifying constraints, discussing options for assistance, and prioritizing assistance requirements (see Bibliography). On the basis of these reports, as well as insights available from the numerous contacts which the Mission has cultivated in the commercial law and government procurement areas, a design team was recruited to prepare several technical annexes. The purpose of these annexes was to further assess the existing constraints in law development, legal training, legal information, and procurement management development, to discuss the alternatives for overcoming problems in these areas, and to suggest a strategy for providing assistance. These annexes were very important in assessing the range of problems, focussing in on a specific key constraints, and defining necessary inputs for each area. The annexes also provided valuable information on the pros and cons of providing assistance to the various institutions which are involved in economic law and government procurement.

The GOI directly requested that USAID provide assistance in both the Economic Law and Government Procurement areas. The decision to include these areas in a single project was reached for several reasons: i) GOI responsibility for improving both of these areas rests in EKUIN and involves many of the same individuals, especially at the higher levels, ii) both areas directly relate to improving the environment for private sector business opportunities, iii) expertise required to assist in both areas can be obtained under a single contract, resulting in

economies of scale, and iv) the level of assistance initially required in the government procurement policy area does not appear to warrant a stand-alone project at this time.

As described in the Institutional Analysis (Annex A-1), EKUIN possesses the commitment and political will required to lead this Project. Other institutions will also play major roles. In its capacity as a coordinating ministry, EKUIN has already gained the cooperation of the ministries of finance, trade and others to assist in law development activities. Several GOI entities, including the Ministry of Justice, will be recipients of major inputs for legal information development. The University of Indonesia Faculty of Law, will play a major role in the legal training area. EKUIN has established working relationships with Sekretariat Negara (SEKNEG) and Ministry of Justice to facilitate the successful implementation of the Project.

The GOI recognizes that changes are required to meet the demands of a modern and growing economy, and that assistance is needed to effectively structure and implement such improvements. Assistance is required in order to improve substantive laws and regulations and the institutional capacity to implement and interpret such documents. Of similar importance is the need to upgrade training of legal professionals both inside and outside of government. Dissemination of legal information must also receive priority. The following sections describe the activities which the Project will undertake to respond to problems in each of these areas.

2.2 Project Goal and Purpose

The Economic Law and Improved Procurement Systems (ELIPS) Project is a six-year activity with life of project A.I.D. funding of $18.0 million.

The GOAL of the ELIPS Project is to increase employment and incomes by improving the environment for business growth, creating a more attractive climate for domestic and foreign investment, and increasing the efficiency of development expenditures.

The PURPOSE of the project is to improve the economic law and government procurement systems in order to facilitate and support an increased level of private transactions and investments, while also helping to foster greater equity for all firms and individuals. The new laws, regulations, procedures, systems and institutional structures developed under the Project are expected to:

- Reduce the costs and risks of entering into private transactions in Indonesia;
- Reduce the barriers to entry and mobility of private investment, both domestic and foreign; and
- Provide more fair and efficient government procurement of goods and services, leading to broader and more equitable private sector participation in public investment programs.

2.3 Project Components

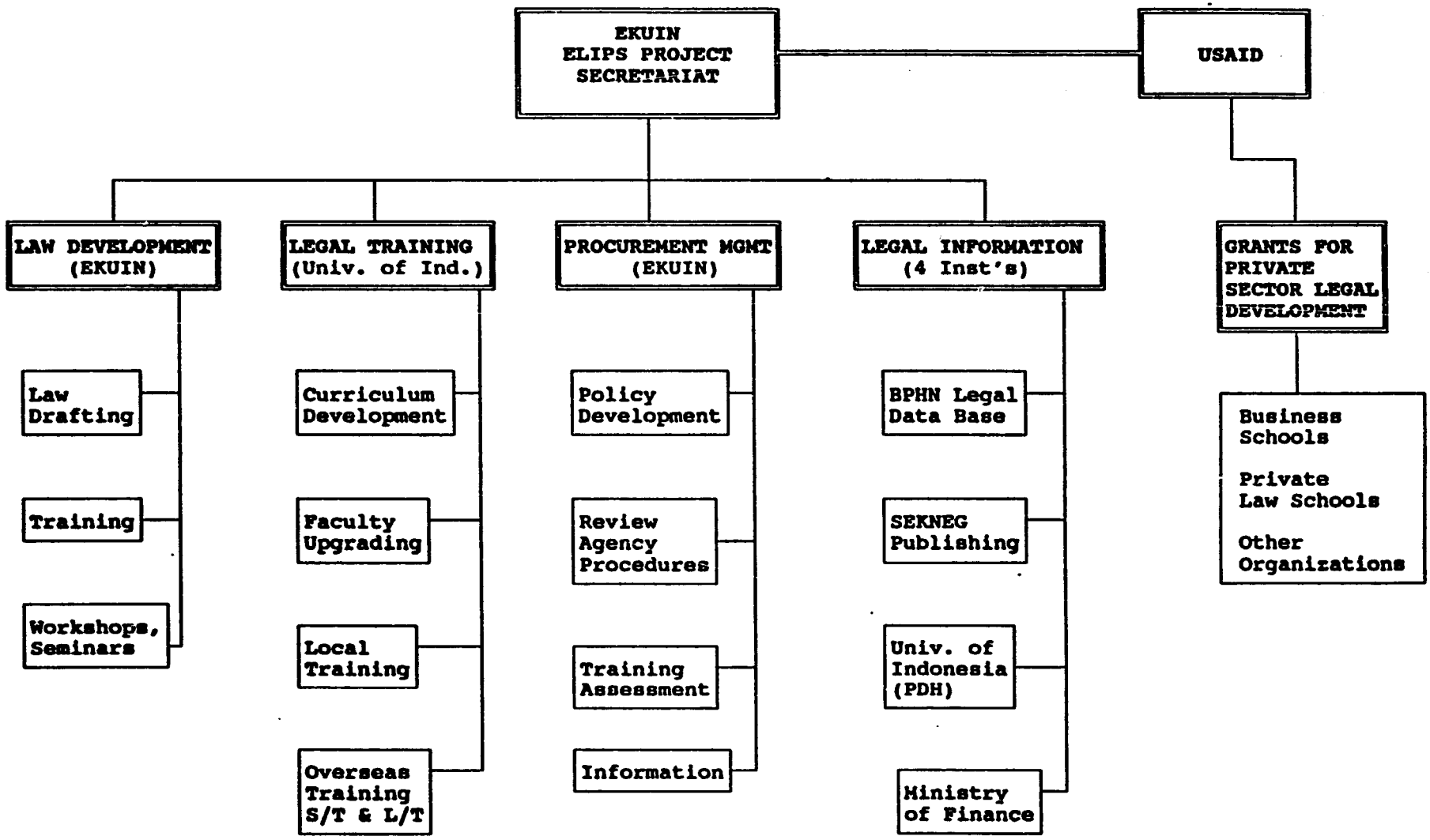
The ELIPS Project is structured as five components: i) Economic Law Development, ii) Legal Training, iii) Procurement Management Development, iv) Legal Information Systems Development, and v) Grants for Private Sector Legal Development. The project is presented schematically on the following page. This Project structure was designed in cooperation with EKUIN and is intended to provide resources to help in overcoming the major problems in economic law and government procurement which were outlined in the Project Rationale section. The first four components will be implemented using a single A.I.D. direct contract. The fifth component will consist of a series of direct A.I.D. grants to private sector organizations.

Each of the Project's components is described in greater detail below. Section 2.6 on Project Management recaps the administrative arrangements for implementing each component and describes the responsibilities of all organizations. Section 4 details the resource requirements. of each organization.

2.3.1 Economic Law Development Component

EKUIN has already begun efforts to develop new legislation in the economic law area. As described in the Institutional Analysis (Annex A-1), EKUIN has not been charged traditionally with responsibilities for drafting new or revised legislation. However, Indonesia's rapid economic expansion and the urgent requirement for improved economic laws has created a need for leadership in this area which EKUIN has now begun to fill. EKUIN has formed a small Law Development Group which has already completed a new draft of the Indonesian Companies Law and is presently engaged in drafting improved legislation for small business. It has also done substantial preparatory work for a new arbitration law with support from A.I.D.-funded short term technical assistance. EKUIN has been seriously constrained in these efforts by the lack of professional staff with appropriate skills, although efforts to second legislative drafters from other economic ministries have already begun. Annex A-3 describes a number of the economic law areas requiring improvement which will be addressed by this Project. A description of Project activities within this component follows.

<u>Law Development.</u> Strengthening the existing EKUIN Law Development Group will be a major aspect of this component. With Project assistance, the group will develop a long-term strategy for law development which prioritizes legislation according to its economic and commercial significance. The group will also be responsible for conducting necessary research and special studies related to developing new or revised laws, establishing training programs for legislative drafters, and actual drafting of new legislation. The group will obtain staff secondments from appropriate ministries as necessary for developing legislation in specific technical areas, e.g. legislative drafters from Ministry of Trade will assist with new trade-related legislation. EKUIN has already gained concurrence from the other economic ministries, as well as the Ministry of Justice, for this collaborative approach to law development. Support will also be obtained from local attorneys and academics as well as from long and short-term advisors, as described below. The Group will prepare Annual Plans with assistance from a long-term USAID-funded advisor, as described below.


EKUIN
ELIPS PROJECT
SECRETARIAT
USAID
LAW DEVELOPMENT (EKUIN)
LEGAL TRAINING (Univ. of Ind.)
PROCUREMENT MGMT (EKUIN)
LEGAL INFORMATION (4 Inst's)
GRANTS FOR PRIVATE SECTOR LEGAL DEVELOPMENT
Law Drafting
Training
Workshops, Seminars
Curriculum Development
Faculty Upgrading
Local Training
Overseas Training S/T & L/T
Policy Development
Review Agency Procedures
Training Assessment
Information
BPHN Legal Data Base
SEKNEG Publishing
Univ. of Indonesia (PDH)
Ministry of Finance
Business Schools
Private Law Schools
Other Organizations

Training for legislative drafters will generally take the form of short courses for participating EKUIN officials and individuals seconded from other organizations (other ministry legal bureaus, the private sector, universities, the DPR). Such courses will deal with specific legal areas, and with the technical aspects of legislative drafting for those areas. This training will be offered primarily to individuals who are directly involved in Project activities, and it is expected that approximately 100 individuals will receive such training over the life of the Project. Such training will be an integral aspect of ongoing legislative drafting activities and will often take the form of on-the-job-training. Such training is expected to have a dispersion effect, in that trainees from other agencies will return to their respective jobs better equipped for ongoing legislative (and regulatory) drafting responsibilities in the future, as well as an improved understanding of legal areas which will assist in interpreting and implementing ministerial regulations. A limited number of individuals will participate in overseas short-term training and/or research assignments in cases where such activities cannot be effectively carried out in-country. Short and long-term opportunities for overseas training will also be available under the Legal Training component, as discussed in Section 2.3.2.

Seminars and Workshops will play an important role in law development activities. With assistance and advice from the long-term advisor and short-term advisors as required, the EKUIN Law Development Group will arrange such activities in order to i) bring new law development activities to the attention of interested members of the public and private sectors, ii) elicit input from the private sector on proposed new legislation, and iii) provide fora for public/private sector discussion of the policy aspects of proposed new legislation. Between 10 and 15 such events are anticipated during the life of the Project.

2.3.1.1 USAID Inputs for the Law Development Component

USAID Project funding will provide long and short term technical assistance and small amounts of training and commodities to support the activities of EKUIN's Law Development Group. Consultants will be stationed in EKUIN and work directly with members of the Law Development Group, including mid and senior level EKUIN officials responsible for the overall success of the Project.

One long-term advisor will serve as chief of party and as senior advisor to the EKUIN Law Development Group.

As Chief of Party, this individual will be responsible for overall coordination of technical assistance activities for the Economic Law, Legal Training, Legal Information, and Procurement components of the Project. The COP will work closely with the EKUIN Project Director. He or she will be assisted in this coordination role by a Project-funded local-hire Project Administrator (American or Indonesian). The Contract will also supply administrative staff (locally-hired) as needed to support the activities of the long-term advisor, short-term advisors and Law Development Group.

As Senior Advisor for Law Development, this individual will provide direct assistance to the EKUIN Law Development Group. It is unreasonable to expect that a single advisor will have the breadth of legal knowledge necessary to participate in law development

activities across the entire range of economic law. Instead, this advisor will possess a general knowledge of the economic law area sufficient to assist EKUIN in developing an overall strategy for law development, to identify the specialized legal expertise needed for specific law development activities, to assess the types of training required for legislative drafters, and to strategize the development of special studies, seminars and workshops to move the law development process forward. The advisor will be responsible for identifying and recruiting short-term consultants (both American and Indonesian) for specific assignments in each of these areas. It is currently estimated that the long-term advisor will be required for four years. With assistance from the Project Administrator and short-term advisors, the long-term advisor will also coordinate overseas short-term training for Law Development Group members.

Short-term advisors will be obtained through the long term technical assistance contract and will come from a variety of sources including law schools, law firms, and private consulting firms. Both Indonesian and American consultants will be used as appropriate for specific law development assignments. Experience to date has demonstrated that four weeks of short-term assistance is needed on-average to effectively assist in preparing new legislation. Where preliminary studies and research are required, longer assignments may be necessary. Certain law development assignments (e.g. for international sales law) will require significant research prior to commencing legislative drafting. It is estimated that approximately 15 major law development activities will be undertaken during the course of the Project. Taking these matters into account, it is currently estimated that approximately 50 person-months of short-term assistance will be required. (Note: this figure includes short term instructors for training activities and short-term advisors to assist with studies, seminars and workshops for this component.) It is difficult at this time to estimate a precise breakdown between American and local advisors, but it is expected that approximately two-thirds of short-term consulting will be performed by U.S. advisors.

Short-term training will be provided to members of the Law Development Group to improve legislative drafting skills and knowledge in specific legal and regulatory areas. The contract will supply short-term instructors and training materials for such activities. Short-term overseas training and research opportunities will also be available to Law Development Group members. Up to 25 such trips are anticipated during the life of the Project. In addition, members of the Law Development Group will be priority candidates for short and long-term training overseas under the Legal Training component, which is described in Section 2.3.2.

Special studies, seminars and workshops will be supported with short-term technical assistance, guest speakers, and materials. For special events involving private sector participation, USAID will provide funds for appropriate meeting facilities. Such costs will be pre-financed by EKUIN with reimbursement by USAID up to agreed-upon amounts.

Commodities will be provided to support the activities of this component and in general such commodities will be funded under the long-term technical assistance contract. Such items will include legal reference and training materials, personal computers for members of the contract team, and basic office supplies for the long and short-term advisors. The Law Development Group will be supplied with computers and peripheral devices in order to utilize CD-ROM

technology for legal research and analysis. It is projected that approximately five computers may be supplied through the contract for the use of the Law Development Group.

USAID-funded Project inputs for the Law Development component may be summarized as follows:

- Long-term advisor (four years)
- Local-hire Project Administrator (four years)
- Local-hire administrative support staff (four years)
- Short-term advisors (50 person months)
- Overseas short-term training/research (25 individuals)
- Commodities (computers, materials, supplies)
- Support for Seminars and Workshops (facilities)

2.3.1.2 GOI Inputs for the Law Development Component

EKUIN's Project contribution will include the full-time effort of the Project Director and at least two other individuals assigned to the Project Secretariat. Law Development Group staff from EKUIN or on secondment from other ministries will also be included in the GOI contribution. The GOI will supply office space for long and short term advisors, members of the Law Development Group, visiting speakers, instructors, and any other personnel engaged under the Project. Logistical arrangements and training facilities will be supplied by EKUIN or by other participating public and private organizations. Costs of reproducing non-copyrighted materials and for miscellaneous supplies for the Law Development Group will be borne by EKUIN. EKUIN will supply a cash budget for costs such as travel and per diem for individuals attending training, workshops and seminars in-country. Salaries and other costs for members of the Law Development Group will be borne by EKUIN.

2.3.1.3 Private Sector Inputs for the Law Development Component

Private sector inputs are expected to include continued *pro bono* support for EKUIN's Law Development Group, as well as participation in private sector workshops.

2.3.2 Legal Training Component

As described earlier, the need for economic law training for law school faculty, practicing attorneys, government legal bureau personnel, judges, and others has become all too apparent. Annex A-6 exhaustively reviews the many alternative approaches for responding to training requirements in this area. It is clear that the Project can address only a small percentage of such requirements, and that a high degree of focus is necessary in order to achieve impact. As described in Annex A-6, the Faculty of Law at University of Indonesia possesses the fundamental commitment, resources and forward-looking perspective which are necessary to build a sustainable program of training for public and private sector legal professionals. This

University also possesses the needed degree of connections and credibility, both with other Indonesian state universities and with several U.S. law schools.
The University recognizes the importance of improved economic law training and has already begun taking steps to build stronger programs in economic law, especially emphasizing outreach to the private sector, e.g., practical legal skills for practicing attorneys. New short-courses are now beginning on topics of particular relevance, e.g. tax law, accounting for lawyers, and intellectual property. Such courses are being offered on a fee basis, and are already over-subscribed. The Project will build upon this effort to promote a strengthened program which can provide practical legal training to faculty, government personnel, judges, and individuals from the private sector. The two-fold objective of this activity will be to develop the institutional capacity of the University to provide high-quality economic law training in the future, while also providing urgently-needed training in the present. This Project component will be implemented by a U.I. Steering Committee which is constituted for the purpose of strengthening the University's program in economic law training. This Committee will be responsible for preparing and implementing a long-term training and institutional development strategy and for completing Annual Plans, with the assistance of long and short-term technical assistance supplied under the Project.

Other public and private law faculties will also benefit from this component. Through the *Konsorsium Ilmu Hukum*, the 26 state law schools are linked for purposes of curriculum development and faculty upgrading. The University of Indonesia faculty of law is a prominent and active member of this group, and can utilize the *Konsorsium* for several purposes in the area of economic law training. First, the Konsorsium can serve as a convenient channel for disseminating upgraded training materials to other schools. Secondly, the Konsorsium provides an excellent means for publicizing the existence of short and long term economic law courses which could benefit faculty members in other law schools. Finally, the Konsorsium has been in existence for several years, and provides a well-established network for sharing information and materials, which is expected to be instrumental in gradually upgrading the capacity of other law schools.

The new program of short courses mentioned above is providing an important source of revenue to the Faculty of Law which is being used to improve faculty compensation, facilities and other resources. In addition, the University has already succeeded in getting contributions from the private sector for upgrading classroom space, including new equipment and air conditioning. These efforts are demonstrating the long-term sustainability of an economic law program which includes substantial outreach to the private sector.

[Note: While the University of Indonesia is well-suited to receive Project inputs and deliver training to a wide variety of beneficiaries, other institutions also have comparative advantages in certain areas. During the course of Project Paper design, it became evident that certain identified training targets (e.g. businessmen) could be accessed through other institutions. The Grants for Private Sector Legal Development Component of this Project will provide grants to support institution(s) which can provide the best access to such trainees. This component is described in Section 2.3.5.]

With Project support, the University's Economic Law program will be strengthened as follows:

Curriculum development activities will be strengthened or initiated to modernize economic law curricula for undergraduate and graduate students. Such efforts will emphasize updated courses to reflect ongoing developments in economic law, new courses which stress research and analytical methods, and courses emphasizing the "practical" skills essential to support commercial transactions, e.g., contract drafting, negotiation, bankruptcy administration, etc. New or expanded curricula will also be developed for special short courses to be offered to the private sector, law faculty and government officials.

Faculty upgrading courses will be offered in selected economic law areas, for both University of Indonesia faculty and for faculty from other law schools. While it is expected that most trainees would be from the State Law Faculties, faculty members from private law schools may also attend such courses, if mutual agreement can be reached among the institutions involved. Such courses will strengthen faculty members' knowledge in a variety of legal areas, and also stress research and analytical methods.

Overseas long-term training opportunities will be offered to a small number of highly qualified law school faculty, government legal bureau personnel from the EKUIN Law Development Group, and other appropriate individuals on a competitive basis. The total number of such trainees is not expected to exceed twenty. Management of this activity and participant selection procedures are described under Project Management, Section 2.6.

Overseas short-term training courses will be utilized where there is a clear need for such training and comparable training cannot be arranged in Indonesia. Recipients of such training are likely to include law school faculty members, judges, legal bureau personnel, and others (possibly including private sector attorneys). While difficult to predict at this point, it is estimated that approximately fifty individuals will participate in courses of this nature, with a mean course-length of one month. Young judges and economic law faculty members, as well as Legal Bureau personnel from EKUIN's Law Development Group, will be priority candidates for short-term training overseas.

Short-term local courses for private sector individuals, legal bureau personnel, judges, practicing attorneys, and others will be established to upgrade the knowledge and skills of these groups. To the maximum possible extent, such courses will be offered on a fee basis. At the present time, many questions remain unanswered as to the structure, content and frequency of such courses. Careful assessment of requirements and objectives will be necessary before establishing new courses. Currently, it appears that a mixture of short-term and part-time course work is needed, and that such training will need to be tailored rather specifically to each audience. For example, practicing attorneys from Jakarta may be able to devote two evenings per week to attend courses. Judges, government personnel and others from outside of Jakarta will be better served through short-term courses of perhaps two to three weeks duration.

It is important to note that the training delivered under this component will benefit not only University of Indonesia, but also other faculties of law, and practitioners in both the public and private sectors.

2.3.2.1 USAID Inputs for the Legal Training Component

USAID funds will provide long and short-term advisory and training assistance as follows:

One long-term training advisor will assist the University of Indonesia law school to carry out the activities described above. This individual will assist in assessing long and short-term training needs, strategizing plans to meet these needs and organizing the required resources. The advisor will manage the process of identifying and recruiting the short-term assistance (both Indonesian and American) required to upgrade economic law curricula and to provide short term training courses. The advisor will also be in charge of identifying overseas training resources, both long and short term, and assisting candidates to make arrangements to attend such courses. This advisor will be assisted by one contract-funded local hire administrative assistant. It is currently estimated that the advisor will be required for five years.

Short-term advisors/instructors, both Indonesian and American, will be provided to conduct short courses for faculty, judges, legal bureau personnel, and private sector individuals, as well as to assist with curriculum-upgrading activities. The majority of short-term assistance will be procured under the long-term technical assistance contract (see Section 4.4). Initially, the contract will provide much of the training resources necessary to conduct the program. As faculty upgrading occurs as a result of training locally or abroad, however, it is expected that University of Indonesia faculty members will gradually assume the burden for teaching short-term courses. It is currently expected that contract-funded short-term training assistance totalling approximately 80 person months will be required over a five-year period. Although difficult to quantify at this stage, a portion of the short-term assistance will be locally procured, primarily from the private legal community, both Indonesian and American.

Overseas training, both long and short-term, will be available for exceptional candidates. During the course of Project design it became evident that a small but very high quality pool of potential trainees exist in academia, government and the private sector who already possess the requisite capabilities to receive overseas training. Thus it is not expected that the Project will expend resources developing English language skills of potential candidates. The long-term advisor will assist in processing candidates for all overseas training. Funds for such training will be included in the technical assistance contract.

Commodities for the University of Indonesia Law School will be procured by the contractor, probably through sub-contracts. This is expected to include reference books, training materials, legal journals, etc. The contract will provide personal computers and basic office supplies for the Advisor and Administrative Assistant. On an as-needed basis, up to three personal computers will be supplied to U.I. personnel engaged in the Project on a full-time basis. (Note: the University's Legal Documentation Center will receive computer inputs under the Legal Information Systems component.)

USAID-funded Project inputs for this component may be summarized as follows:

- **Long-term training advisor** (five years)
- **Local-hire administrative assistant** (five years)

- **Short-term advisors/instructors** (80 person months)
- **Overseas training - long term** (twenty participants)
- **Overseas training - short term** (fifty trainees)
- **Commodities** (reference and training materials, computers, supplies)

2.3.2.2 GOI Inputs for the Legal Training Component

The GOI contribution will include University of Indonesia personnel dedicated to this effort (estimated at two full-time professional staff and one secretary), plus a portion of the time of involved faculty members (both from U.I. and other law schools), the Dean of Law and others. The University of Indonesia will supply office space for the long-term advisor and for all short-term advisors and instructors. Space and logistical support for all training activities will also be provided. Travel, per diem, honoraria, etc. for individual trainees (for courses conducted in Indonesia) will be borne by the University or by other sponsoring organizations. Airfares to the U.S. West Coast for long-term trainees will be borne by the GOI. The University will bear the costs of reproducing non-copyrighted training materials supplied by the Project. Any fees generated by the Project (e.g. tuition fees for short courses) will be utilized to pay for project activities and will be considered part of the GOI or private sector contribution to the Project. As agreed upon in Annual Plans, the University will supply a portion of books and reference materials required for the Project.

2.3.2.3 Private Sector Inputs for Legal Training Component

Private sector inputs are expected to include continued *pro bono* part-time teaching support for the University's new short courses in commercial law topics, fees and tuition for participation in short courses, and limited commodities support for upgrading classroom and administrative space.

2.3.3 Procurement Management Development Component

As noted in Annex A-5, expenditures of public funds generally do not provide the maximum possible benefit in relation to the amount of funds expended. Research has revealed recurrent and pervasive problem areas which are found to varying degrees in all of the implementing agencies and government controlled enterprises. Recognizing this fact, the Indonesian Government requested USAID's assistance to examine the current procurement system and to provide Project assistance to obtain sustainable improvements.

Given the limited funding available from the ELIPS Project, and the vast range of implementing agencies and state-owned enterprises, it is not realistic at this stage to consider working directly at the procurement implementation level (i.e. with individual implementing agencies). Since the major problems noted in procurement implementation are consistent throughout government, the ELIPS Project will focus its assistance on helping to develop a central **procurement management system** which will: i) develop appropriate policies and guidelines, ii) ensure that

policies and guidelines are available to all implementing agencies, SOE's and private sector firms, and iii) develop staff capabilities to provide a centralized source of procurement expertise which can maintain standards and provide the impetus for continued and sustainable improvements. The outcomes of such improvements are expected to include greater consistency and transparency in government procurement, leading to reduced costs and broader participation by the private sector.

A Procurement Review and Policy Analysis Group (PRPAG) will be developed to carry out the objectives described above, in order to provide permanent oversight and management capabilities and to improve EKUIN's ability to react quickly and decisively as needs in the procurement area evolve. It is expected that EKUIN's Secretary General will serve as the head of the PRPAG. The basic framework for this group currently exists in EKUIN together with the requisite regulatory authorities (INPRES 1988). PRPAG members will be drawn partly from the existing INPRES team. The PRPAG will be charged with overall responsibility for implementing this component and will prepare Annual Plans with the assistance from a USAID-financed long-term advisor. The PRPAG is expected to accomplish the following over the life of the Project:

Policy Development

- Comprehensively review KEPPRES 29 and related regulations and prepare recommendations for modifications or updates.
- Develop supplemental guidance on implementation of KEPPRES 29 and other government procurement policies.
- Develop a mechanism for reviewing and approving deviations from the provisions of KEPPRES 29 when necessary and justified.
- Comprehensively examine the procurement requirements of the major multilateral and bilateral donors, and devise ways to satisfy or modify such requirements in the context of an integrated national procurement system.

Procurement Review

- Monitor EKUIN reviews of procurements exceeding Rp. 3.0 billion and recommend amending the review threshold if appropriate.
- Conduct reviews of implementing agencies' procurement policies and procedures to ensure adequacy and consistency with KEPPRES 29 and other procurement standards.
- Review implementing agency procedures for selecting project directors and develop guidelines to establish minimum standards, leading eventually to certification of a cadre of government procurement personnel.

Training Assessment

- Develop standard curricula or guidelines for procurement training.
- Monitor and periodically evaluate training within the implementing agencies.

- Sponsor training seminars and workshops for upper level implementing agency personnel on common problem areas. Such seminars can include interested private sector participants.
- Provide on-the-job training for EKUIN staff and personnel seconded to EKUIN from other agencies.

Information Dissemination

- Conduct special private sector workshops to convey the latest procurement procedures and policies to all interested firms.
- Publish and distribute KEPPRES 29 and any modifications thereto.
- Provide an official English translation of KEPPRES 29.
- Prepare a comprehensive procurement manual including sample documents and standardized procedures for use throughout government.
- Maintain the procurement manual through the ongoing issuance of updates and circulars to implementing agencies.
- Collect and analyze procurement statistical data.
- Develop and begin regular publication of a procurement information bulletin to act as a centralized source for the following types of information:

  - Notices of Availability of IFBs, RFPs, etc.
  - Notice of Contract Awards
  - Requests for Preliminary Interest Letters
  - Notification of Sub-contracting Opportunities
  - Advance Notification of Changes to Procurement Policies and Regulations

2.3.3.1 USAID Inputs for Procurement Management Development Component

USAID Project funding will provide a variety of assistance for developing and supporting the activities of the PRPAG, as follows:

One Long-term Advisor will assist EKUIN in developing the organizational structure and necessary staffing for the PRPAG. In addition, the advisor will work closely with PRPAG staff to review and analyze the current procurement regulatory base, develop recommendations for revisions to the regulations, and prepare a procurement manual. The long-term advisor will also manage the process of identifying the need and sources for short-term technical assistance and will recruit such expertise under the long term technical assistance contract. A further responsibility of the advisor will be assessing the need for training, both local and U.S., and arranging such training with the assistance of PRPAG staff and short-term advisors. It is expected that this advisor will be required for two years, with a possible one-year extension. The contract will provide administrative staff as necessary.

Short-term Advisors will be available to EKUIN on an as needed basis. The director of the PRPAG will work closely with the long-term advisor to identify specialized areas requiring short-term assistance. It is anticipated that much of the assistance will support the development of the comprehensive procurement manual and the development of EKUIN's capability to

manage the process of information dissemination. It is currently estimated that approximately 18 person months of short term technical assistance will be required, including assistance related to short-term training activities described below.

Short-term Training will be limited primarily to personnel involved directly with the PRPAG, including both EKUIN personnel and personnel seconded to the PRPAG from other agencies (if any). Most training will be arranged and conducted in Indonesia. Where specialized training courses exist abroad, small numbers of PRPAG staff will be offered the opportunity to participate. Such training will be in the areas of procurement policy, implementation and management. Where training is provided to individuals who were seconded to EKUIN by implementing agencies, such personnel will provide a valuable source of procurement expertise and information when they return to their respective agencies. USAID Project funds will be provided under the long-term contract for short-term training abroad, for training materials, and for short-term instructors. Although difficult to estimate precisely, it is expected that approximately 50 individuals will participate in in-country training programs, and probably no more than 15 will attend short-term courses abroad. USAID will also provide funding to support approximately three workshops to convey updated procurement information to interested private sector firms.

Commodities will be supplied on a limited basis to support the activities of the PRPAG. Such commodities are expected to include approximately three personal computers and related software to provide automated information collection and desk top publishing capabilities. This will enable the PRPAG to collect and analyze relevant statistical data and distribute procurement information to government implementing agencies. While this publication capability will not be sufficient to carry out the long-term plans for publishing an information bulletin, it will facilitate the printing and distribution of circulars and notices for government agencies to meet basic information needs. Training materials will also be supplied by the Project. The long-term advisor and administrative staff will be supplied with personal computers and office supplies. All commodities and materials will be supplied through the long-term contract.

USAID-funded Project inputs for this component may be summarized as follows:

- **Long-term advisor** (2-3 years)
- **Local-hire administrative staff** (2-3 years)
- **Short-term advisors** (18 person months)
- **Overseas short-term training** (15 individuals)
- **Commodities** (computers, training and reference materials, supplies)
- **Private sector workshops** (3)

2.3.3.2 GOI Inputs for the Procurement Management Development Component

Members of the PRPAG will be included in EKUIN's contribution to the Project, together with dedicated support staff. A portion of the Secretary General's time will also be included. Office space for members of the PRPAG, the long-term advisor, short-term advisors and other personnel involved in the Project will be supplied by EKUIN. Space and logistics for training,

seminars and other meetings will be supplied by EKUIN. All in-country expenses for trainees will be borne by EKUIN or by other sponsoring organizations. EKUIN will furnish a cash budget for such items as supplies, in-country travel, per diem and other personnel costs. EKUIN will be responsible for reproduction of non-copyrighted materials supplied by the Project. EKUIN will bear all salaries and in-country expenses of PRPAG members and local trainees.

2.3.3.3 Private Sector Inputs for the Procurement Management Development Component

Private sector inputs are expected to include participation in private sector workshops on a fee-basis to the maximum extent possible.

2.3.4 Legal Information Systems Component

The various reports on commercial law which were commissioned in connection with this Project design highlighted legal information as one of the most significant constraints to effectively improving the overall framework of commercial law and its usefulness for business and economic growth. Annex A-4 lays out in considerable detail the weaknesses in this area and the immediate and long-term needs for improvement. As pointed out in the Annex, limited efforts are already underway in various quarters to improve the reliability and accessibility of legal information. Assistance provided by this Project will build upon these initial efforts and significantly improve information resources in several organizations. The rationale for selecting these organizations is provided in Annex A-4. In brief, these organizations were selected because they already possess considerable resources, they have demonstrated commitment to this effort, and they provide the greatest potential for providing access to information to large numbers of individuals in government organizations, businesses, law firms, academia, and the general public. Special workshops will be conducted by the National Law Development Agency (BPHN) and other legal information organizations to make the public aware of new facilities and resources. Such activities are intended to heighten the awareness of individuals in both the public and private sectors of the relevance of strong legal information systems and to provide limited training on access and utilization of the newly-established legal information systems. It is expected that such activities will lead to much-increased demand for legal information. Where feasible and appropriate, fees will be charged for private sector attendees.

Project assistance will be provided in two major areas: upgrading legal information resources for documentary and research purposes, and upgrading dissemination capacity in order to make new laws, regulations, decrees, etc. available to public and private sector users within a reasonable amount of time after promulgation. These two areas are described below. Additional information is provided in Annex A-4.

2.3.4.1. Legal Information Resources

As described in Annex A-4, existing resources for legal research and documentation purposes are scattered, disorganized, and in some cases unavailable. To begin remedying this situation,

hardware, software and training will be provided to the two institutions which have primary responsibility in this area: BPHN and the Legal Documentation Center at University of Indonesia (PDH).

It will be necessary to thoroughly review the weaknesses in the existing systems and design a comprehensive plan for overcoming such weaknesses prior to introducing hardware inputs. The preliminary assessment described in Annex A-4 suggests that inputs for BPHN may include a mini-computer with adequate storage to create a full-text database of all extant legal information in Indonesia, plus software, terminals, modems, etc. Such a system would solidify BPHN's position as the official repository of legal information issued by the Government of Indonesia. The Agency will be at the center of a network for distribution of legal information throughout the national and provincial levels of government. User fees will be established where feasible to help achieve long-term self-sustainability.

Dissemination of legal information, especially to areas outside of Jakarta, is expected to rely upon installation of the CD-ROM storage system, the development of which is currently being assisted by the Asia Foundation with funding provided by USAID/Jakarta. This technology will enable BPHN to provide any government or private organization with a compact disk containing the full text of all Indonesian laws in the BPHN database. Low cost peripheral equipment is required to access this information through personal computers.
USAID funds will also support upgrading the Law Documentation Center (PDH) at the University of Indonesia. It is expected that this center will be linked to BPHN and will be at the center of a distribution network serving all state universities, while also providing research facilities to the general public, at reasonable cost. The result will be dramatically improved resources for legal research. Hardware, software and training will be provided to the University to implement improvements to PDH.

In addition to BPHN and PDH, support is likely to be provided to SEKNEG and EKUIN to purchase the equipment necessary to access the BPHN data base. This is expected to dramatically upgrade the capacity of these institutions to perform the legal research necessary to efficiently carry out legislative drafting responsibilities. Training for users will also be provided. Private sector organizations will be encouraged to purchase direct access to the BPHN data base.

2.3.4.2 Dissemination of Legal Information

SEKNEG is the initial recipient of new legislation and Presidential Decrees after such documents have been finalized and signed into law. SEKNEG experiences considerable delay in publishing such documents because of the need to input the full text of such documents using a word processing system. The need to validate the text, along with incompatibility between the system currently used by SEKNEG and the system used to print the text in large quantities adds further delays to the publishing process. The result is a delay of several months before new laws are available to the government printing office. Similar delays are apparent within the printing office, with the overall result being a lag of two to three years between promulgation of legal information and general availability to the public.

USAID funding will support an upgrading of SEKNEG's capacity to disseminate legal information. Specific inputs require further study in connection with an overall review of the existing weaknesses in the system. Such study will be conducted by the long-term legal information advisor during the first months of the advisor's assignment. Inputs to SEKNEG are expected to include hardware and software needed to perform file conversion and transfer of text to the government printing office. The system may be linked to BPHN to permit electronic transfer of official documents and to provide a single input mechanism for printing and electronically storing legal information. Training will also be provided. The government printing office which is responsible for producing the State Gazette and Berita Negara is administered by SEKNEG. It is anticipated that hardware will be provided to this printing office to significantly upgrade the capacity to input and publish legal information on an efficient and timely basis.

At present, much of the responsibility for distributing regulations rests with the promulgating ministries. Because of the backlog at the state enterprise printing facility, often one to two years may pass before new ministerial regulations are publicly available. Ministry budgets for printing are generally very small, thus few copies of regulations are available prior to their appearance in official publications. It is often difficult even for one ministry to obtain copies of regulations issued by another ministry. Moreover, there is no absolute requirement that ministerial regulations be published at all.

The Ministry of Finance is one of the most important GOI entities in the area of economic deregulation and supervision. A steady stream of regulations and other ministerial guidance flow from the Ministry of Finance, much of which is not readily available to the public. As a pilot effort, the Ministry of Finance will receive assistance to install in-house publishing capability, to improve the timeliness of public availability of information. The Ministry will also be linked to the BPHN data base, which should improve the ability of Ministry Legal Bureau personnel to perform necessary research related to drafting and interpreting regulations. The Ministry of Finance was selected for the pilot because of the large number of regulations it issues which affect the financial markets, banking and other commercial activities.

2.3.4.3 Other Potential Applications and Studies

A number of studies will be conducted to determine the feasibility of expanding information system capabilities to meet the needs of other organizations in Indonesia. Such studies will be coordinated by the long-term legal information advisor, with assistance from short-term advisors, and are likely to focus on the following topics, among others:

- Extending legal information systems availability to Provincial Government legal bureaus;
- Design and installation of a procurement information and tracking system;
- Upgrading the copyright, trademark and patent registry system;
- Privatization of legal information dissemination responsibilities; and

- Designing an automated national registry system for security interests.

2.3.4.4 USAID Inputs for the Legal Information Systems Component

Assistance under this component will probably be provided via a sub-contract to the master technical assistance and training contract.

One long-term advisor will be responsible for developing a plan to achieve the objectives of the Project. This will include preparing a comprehensive legal information strategy, reviewing alternative automation strategies and preparing a final procurement list. The long-term advisor will be assisted in this task by short-term advisors, both local and American. The advisor, in conjunction with the recipient organizations, will plan the installation of hardware and training for personnel, and will develop a strategy to ensure optimal utilization of the improved information systems. The advisor will identify the needs for short-term advisors, trainers, and technicians and recruit such individuals as needed. The contract will supply local hire administrative staff as required. The advisor will prepare Annual Plans for approval by recipient organizations, EKUIN and USAID. The long-term advisor will be required for three years, with the possibility of a one-year extension.

Short-term advisors, trainers and technicians will be recruited under the long-term contract. These individuals will assist with installation, training of users and operators, and conducting studies of other legal information needs (see Section 2.3.4.3 above). Current estimates call for 25 person-months of short-term assistance. Advisors will be procured both locally and from the U.S.

Seminars/Workshops. The Project will provide funding to support special seminars and workshops designed to publicize the availability of new resources in the legal information area and to provide training. USAID funds will be provided for space and logistics on a reimbursement basis, up to agreed-upon amounts. Seminars and workshops will be conducted on a fee-basis, where feasible and appropriate.

Commodities will be provided, as described above. This is expected to include computer hardware and software as well as installation and training. Advisors and administrative staff will be furnished with personal computers and basic office supplies. It is estimated that the cost of commodities supplied under this component will total approximately $2.1 million.

USAID-funded Project inputs for this Project component may be summarized as follows:

- Long-term advisor (3-4 years)
- Local-hire administrative staff (3-4 years)
- Short-term advisors/trainers (25 person months)
- Commodities (computers and related equipment, training materials)
- Special workshops (10)

2.3.4.7 GOI Inputs for the Legal Information Systems Component

Staff will be dedicated to the Project from each recipient organization, including a Project Manager to oversee installation, maintenance, and use of new systems. Staff will also include proof-readers, and quality-control personnel. Office space for long and short term advisors and all short-term trainers will be furnished by BPHN and other recipient organizations. Space for equipment will also be provided. Recipient organizations will supply a cash budget for such items as equipment, maintenance, adequate electricity, supplies, and operators. Reproduction of non-copyrighted training materials supplied by the Project will be the responsibility of recipient organizations. Operators and other necessary personnel will be supplied by recipient organizations on a permanent basis. Any fees generated by Project activities (e.g. through private sector seminars or user fees) will be recycled for such uses as seminar support, training, etc. Salaries and expenses of all GOI personnel will be provided by the GOI.

2.3.4.8 Private Sector Inputs for Legal Information Systems Component

Private sector inputs are expected to include participation in fee-based training activities, seminars and workshops, and substantial financing to acquire access to newly established legal information resources (subscription and hook-up fees, etc.).

2.3.5 Grants for Private Sector Legal Development Component

As discussed earlier, the University of Indonesia will be the recipient of Project support to upgrade its program in Economic Law. The University possesses strong potential to be strengthened to provide high quality training to several key beneficiary groups, e.g., law school faculty, judges, and government legal bureau personnel. During the course of Project design, however, it became evident that a variety of training approaches would be needed to reach a broad audience in the area of economic law training. This is especially true regarding private sector trainees.

Through discussions with a large number of individuals in private law practice, business schools, private universities, and the Center for Legal Studies, the Project Design Team learned of the high degree of private sector interest in economic law training and of the incipient activities which already exist in a number of organizations. Some of these organizations possess a comparative advantage in reaching certain target groups requiring training in economic law. Business schools, for example, have a demonstrated ability to access individuals who are working at medium and high levels in private industry. Some of the private law schools have close links to the banking sector. The Center for Legal Studies, a private non-governmental organization, has historical links to both private law firms and high government officials.

At this stage, it is difficult to precisely define the best approach for such support, or to greatly narrow the scope of possible institutions. Instead, the Project design has concentrated on developing preliminary concepts for support, and exploring existing and planned activities among private sector institutions.

USAID will provide direct A.I.D. grants to selected institutions on the basis of competitive proposals, which will be solicited after project obligation. Selection committees will consist of USAID and EKUIN officials, plus representatives from the private sector as appropriate. Criteria for selection of grantees will be developed after Project obligation. At present, it appears that between two and four grants of this nature will be provided by the Project. Grant recipients will be expected to provide a contribution of staff and faculty time, space and logistics support, and a cash budget for such items as materials, travel, in-country per diem, etc. The following is a description of some of the potential recipients of Project grants, together with a preliminary idea of the types of activities which these institutions might undertake in support of Project objectives. Also noted are the activities which are already underway in these institutions related to strengthening economic law training.

The Institute for Management Education and Development (IPPM), has been the recipient of USAID grant funding for several years under the Private Sector Management Development Project. The Mission's track record with this institute is good. IPPM is considering adding several specializations to its program, including a major in economic law. Such a specialization would not produce lawyers, *per se*, but would yield a cadre of MBA graduates with a strong background in economic law theory and practice (including contract drafting and other technical specialties). Moreover, IPPM feels that many of the candidates for this program would already possess an S.H. (Bachelor's degree in law). Thus these MBA graduates would possess exceptionally strong economic law backgrounds, and would be qualified to both practice law and to take jobs in business or government. Grant support to IPPM for economic law training could be utilized for curriculum development, professor training, research programs, short-term technical assistance, outreach programs, etc. IPPM has a relationship with the MUCIA University consortium in the United States which would be useful for obtaining both business and law school faculty support.

The Institut Pengembangan Manajemen Indonesia (IPMI) is also receiving grant support under the Private Sector Management Development Project. IPMI has recently launched one special course in economic law and is interested in developing a program specialization in this area. As above, such a program would develop MBA graduates with economic law expertise, many of whom would already hold the S.H. degree. Grant support would likely be used for the kinds of activities described above for IPPM. IPMI is especially interested in short-term courses to reach members of the business community as well as judges and government officials. IPMI is also considering the possibility of utilizing the Center for Legal Studies (CLS) as a special conduit for outreaching the private sector, and members of the public sector. To accomplish this objective, CLS would receive training and institutional strengthening from IPMI. IPMI has an ongoing relationship with Harvard University which would be useful for obtaining both business and law school expertise.

Business Schools at University of Indonesia and Gajah Mada University were established approximately four years ago and are beginning to provide MBA training for State University students and faculty. These business schools have been established essentially as "off-balance sheet" activities and are intended to be self-supporting. New course offerings include such topics as contracts, finance, taxation, etc. These schools are the first official MBA-granting

institutions in Indonesia and require substantial faculty and curriculum development. These institutions appear to have strong potential as grant recipients.

The Center for Legal Studies (CLS) is the only organization known to exist in Indonesia which attempts to directly reach the private sector with special seminars and short courses related to a wide variety of law issues. To date, CLS has suffered from lack of funding, staff and other resources, although it is managed by a board of distinguished public and private sector individuals. CLS has been seeking ways to upgrade its capabilities and resources in order to improve the quality and scope of its training, especially in the economic law area. This organization has an ongoing relationship with IPMI, which could be useful for upgrading programs. Although CLS is not primarily an educational institution, CLS may be able to provide assistance under contract to a wide range of educational institutions.

Private law schools offer another significant opportunity to access elements of the private sector. While many such schools exist, few appear to have real depth in the economic law area at present. Many have ambitious plans to upgrade their resources in this area, however, and two or three schools in the Jakarta area seem well-positioned to make real strides to improve their programs. Perhaps the most difficult aspect of working with such institutions would be assessing their relative strengths and weaknesses, since the Mission has little experience with these organizations.

U.S. universities offer an interesting approach for improving Indonesian institutions. A competitive grant or cooperative agreement with an American university could be structured to provide resources to work directly with an Indonesian school (e.g. an Indonesian private law school) to upgrade faculty, resources, curricula, etc. This would place the burden of designing such a program and locating an Indonesian partner upon the U.S. university.

A new private sector law institute, possibly similar to the American Law Institute, could be developed with support from private law firms and businesses to increase the professionalism of practicing attorneys, to provide a forum for discussing law development needs, to strategize needed improvements in legal education, and to carry out many of the other responsibilities of a true professional association. At present, the many competing bar associations are relatively ineffective in these areas. The Mission may wish to consider providing support to assist in establishing such an organization at some point during the life of the Project.

Private commercial arbitration associations. There is at present only one significant commercial arbitration organization in Indonesia, the Indonesian Arbitration Association (BANI). Arbitration and other alternative dispute resolution (ADR) mechanisms provide an important means for businesses to resolve commercial disputes outside of the formal court system. Successful passage of new arbitration legislation (which is expected to be assisted by the Project) will provide the environment for creation and growth of private ADR mechanisms. Indigenous or U.S. organizations (such as the American Arbitration Association) may wish to develop programs to help strengthen existing and/or create new private arbitration associations either of a general commercial character such as BANI, or connected with more specialized trade or manufacturing groups (such as the construction industry or retail traders). The Mission

may wish to consider providing support to assist in establishing such an organization at some point during the life of the Project.

It is difficult at this stage to quantify the benefits which may result from this Project component. Depending upon the support mode chosen, and the number of institutions involved, it is reasonable to expect significant upgrading of programs in several institutions, 30-40 direct faculty beneficiaries, a long-term stream of student beneficiaries, and many indirect beneficiaries, concentrated in the private sector.

2.4 Interim Assistance Activities

In order to maintain momentum prior to the arrival of long-term advisors, USAID will provide funding for interim bridging activities starting shortly after Project obligation. Such assistance will be designed and managed by the USAID Project Officer in conjunction with the EKUIN Project Director, and will include short-term technical assistance and possibly training. Short term advisors may be utilized to provide bridging assistance in the following areas:

- Assisting the EKUIN Law Development Group in beginning to draft new laws in the small business, arbitration, and anti-trust areas.
- Assisting University of Indonesia to establish the foundations for its strengthened program in Economic Law training.
- Assisting recipient organizations under the Legal Information Systems component to more precisely define their automation requirements.
- Perform data base audits at BPHN and PDH legal documentation centers.
- Study the feasibility of automating the State Gazette publishing system.
- Assist the Procurement Review and Policy Analysis Group to structure its responsibilities and to assess proposed revisions to KEPPRES 29.

The total amount of short-term assistance to be provided during the bridging period remains to be determined, but is expected to be in the range of six to twelve person-months.

2.5 Policy Issues Requiring Project Attention

The ELIPS Project is not designed to directly address a broad range of policy issues in the economic law and government procurement areas. Rather, it represents an initial effort to assist in overcoming a large number of problems seriously constraining improvements in these areas. The Project will present opportunities, however, for both contractor team members and USAID personnel to engage in a dialogue with high level government policy makers . The Project will also create a variety of fora which will draw increasing numbers of private sector organizations

and individuals into the economic law and government procurement policy arenas. Thus, discussion of policy issues will inevitably play an important role in the implementation of this Project.

The array of policy areas requiring attention will be continuously refined during Project implementation with input from the contractors, USAID, individuals from the private sector, and the many GOI organizations involved in the Project. A preliminary list of policy issues follows:

- Publication of laws and regulations as a precondition for becoming effective.
- Required publication of all judicial decisions.
- Establishment of a central registry of legally recognized non-possessory security interests.
- Self-regulation/professionalization of the legal profession.
- Open public debate encouraged regarding development of new legislation.
- Stronger accreditation systems for law schools, both public and private.
- Privatization of legal information dissemination responsibilities.
- Establishment of special commercial courts.
- Cost recovery for government legal publications.

While most of the issues above are key to improving the legal regime, the basic underlying conditions which would permit policy changes to effectively operate do not yet exist to a degree which would permit insisting upon them as conditions for providing assistance. For example, immediate adoption of a policy requiring publication as a precondition for effectiveness is not feasible under the current inefficient and slow publication system. Such a change can be effectively implemented during the life of the Project after modernization of GOI legal publication capabilities. There appears to be a consensus both in the public and private sector on the need for establishing a national registry for non-possessory security interests, but considerable study is needed to determine the most appropriate way of accomplishing this (possible options include the operation of such a registry entirely by a private sector organization whose actions would be legally recognized by the courts).

2.6 Project Management

2.6.1 Project Secretariat

The Implementing Agency for the ELIPS Project will be the Ministry for Economic, Financial and Industrial Affairs and Development Supervision (EKUIN). Management of the Project will be provided by a Project Secretariat located in the office of the Executive Secretary for Legal Affairs, which has assisted in all phases of the Project's design. The Secretariat will be headed by EKUIN's Assistant Executive Secretary for Legal Affairs, who will serve as a full-time Project Director. [Note: the Project Director also serves as head of the EKUIN Law Development Group.] The Secretariat will also be staffed by at least two EKUIN professional staff serving as deputies to the Project Director.

The Project Secretariat will be responsible for directing the implementation of all Project activities with the exception of the Grants for Private Sector Legal Development component. The Secretariat will direct and coordinate the activities of the long-term contractor team, liaise with GOI organizations involved in the Project, and maintain contact with the USAID Project Officer. The EKUIN Project Director will have numerous responsibilities, including reviewing and approving Annual Plans and major commodities purchases.

2.6.2 Long-term Technical Assistance Contract

A long-term A.I.D. Direct Contract will provide the bulk of technical assistance, training and commodities for the Project, as follows:

- Chief of Party/Advisor for Law Development
- Local-hire Project Administrator
- Long-term Legal Training Advisor
- Local-hire Training Administrative Assistant
- Long-term Legal Information Advisor
- Long-term Procurement Advisor
- Short-term advisors/instructors
- Administrative staff
- Short-term overseas training
- Long-term overseas training
- Commodities

It is anticipated that almost all technical assistance requirements (including locally hired American or Indonesian consultants) will be covered by the long-term contract. Most short and long-term overseas training, as well as commodities, will also be funded through the contract. (Funds for workshops and seminars will be committed by Project Implementation Letter (PIL) and provided to the GOI on a reimbursement basis. Special requirements, e.g., for evaluation consultants, will be contracted separately. We do not foresee the utilization of host-country contracting for technical assistance, training, or commodities.)

The Chief of Party will work directly with the EKUIN Project Director to coordinate all activities. The COP will serve as the Advisor for Law Development activities, and will coordinate and provide oversight for the activities of the Legal Training, Legal Information and Procurement advisors. The COP will be responsible for ensuring that Annual Plans are completed for each component and for coordinating all quarterly and annual reporting requirements. The COP will serve as the basic link between the EKUIN Project Director and the Legal Training, Legal Information and Procurement advisors. The COP will also be the primary contact point for the USAID Project Officer, who will track and report Project results to the USAID Director and other staff.

The local-hire Project Administrator will report to the COP and be responsible for the central administrative functions for all components. This will include assisting with recruitment of short-term advisors and trainers, managing project finances, helping to coordinate the annual planning and quarterly reporting process, assisting with processing long and short-term overseas

trainees, etc. This individual will be a local hire staff, and may be either Indonesian or American. Additional secretarial, clerical or bookkeeping staff will be supplied under the contract as necessary.

The COP and Project Administrator will also be responsible for monitoring GOI and private sector contributions to the Project and reporting on such contributions to USAID.

2.6.3 Law Development Component

The Law Development Advisor will work directly with the EKUIN Law Development Group to carry out the tasks described in Section 2.3.1. The advisor will be resident at EKUIN and will work directly with members of the Law Development Group, the EKUIN Project Director, and the USAID Project Officer. The advisor will assist the Law Development Group in preparing Annual Plans, which require approval of the USAID Project Officer. Quarterly reports will be prepared for review by the EKUIN Project Director and USAID.

Overseas short-term trainees will be selected by the Law Development Group, with assistance from the long-term advisor. The selection will require USAID concurrence.

2.6.4 Legal Training Component

The University of Indonesia Faculty of Law will establish a Steering Committee for economic law training under the direct supervision of the Dean of Law. The Legal Training Advisor will work directly with this group to carry out the tasks described in Section 2.3.2. Advisory services, training and commodities inputs for University of Indonesia programs will be provided under the direct contract. An Annual Plan will be prepared each year by the Steering Committee with assistance from the Advisor. Such plans will determine the expenditure of resources and will require agreement from the Dean of Law, the EKUIN Project Director, and the USAID Project Officer. The Advisor will also deliver each quarter to the COP a detailed report of progress toward objectives to be incorporated in the contractor's quarterly report.

An Overseas Training Committee will be established to provide oversight for overseas training, and to advise on selection of candidates for both short and long-term training abroad. This Committee will include faculty members from the University (including the Dean of Law), the EKUIN Project Director, and the long-term Legal Training advisor. The Committee will be established during the first year of Project implementation. The Overseas Training Office (OTO) will be utilized to provide assistance for overseas training as appropriate. USAID concurrence will be required for all trainees. The contract-funded administrative assistant will be responsible for assisting with arrangements for all overseas training.

2.6.5 Procurement Management Development Component

The Procurement Advisor will work directly with the PRPAG to carry out the tasks described in Section 2.3.3. The PRPAG will be headed by the EKUIN Secretary General, who currently leads the INPRES procurement review group. This group will prepare Annual Plans with

assistance from the Advisor. Such Plans will require the approval of the USAID Project Officer prior to implementation. The Advisor will also deliver each quarter to the COP a detailed report of progress toward objectives to be incorporated in the contractor's quarterly report.

Overseas trainees will be selected by the PRPAG, with assistance from the long-term advisor. The selection requires USAID concurrence.

2.6.6 Legal Information Systems Component

The GOI organizations participating in the Legal Information component will be provided resources by the contractor essentially as clients, rather than having direct control of the resources supplied by the contract. The Legal Information Advisor will work directly with the recipient organizations to complete the tasks described in Section 2.3.4. Each organization will designate an official representative to liaise with the long-term advisor, the EKUIN Project Director, and USAID. In addition, each organization will appoint a Project manager to carry out all tasks related to installation, maintenance, and training. Official representatives follow:

Recipient Organization	Official Representative
BPHN	Director General
University of Indonesia	Dean of Law
SEKNEG	Assistant Secretary
Ministry of Finance	Legal Bureau Chief

Delivery of training, technical assistance and commodities will be according to Annual Plans developed principally by the Long-term Advisor, with participation of each organization. Such plans will require approval of the EKUIN Project Director and the USAID Project Officer, prior to implementation. Actual purchases of computer hardware will require the prior approval of USAID.

2.6.7 Grants for Private Sector Legal Development

Implementation of this component will be via a series of grants to private sector Indonesian organizations, or possibly to U.S. universities or other organizations, as described in Section 2.3.5. Such grants will be competitively awarded, on the basis of proposals solicited during the first year of Project implementation. A committee including USAID, EKUIN and others as appropriate will review proposals and make recommendations for grants. The grants will be awarded and administered by the USAID Office of Contract Management. At the present time, it is expected that the grant management methodology used for the existing grants with IPPM and IPMI (quarterly progress reviews with periodic reprogramming of funds as required) will be incorporated for the new series of grants. If resources are made available to U.S. universities, cooperative agreements may be utilized in order to provide a somewhat stronger degree of involvement for USAID.

2.6.8 Annual Planning Process

As described above, an annual planning process will be utilized to help ensure coordination and cooperation among Project organizations, and the efficient provision and management of both USAID and GOI inputs to the Project. Annual Plans are summarized as follows:

TABLE ONE

ANNUAL PLANS

ANNUAL PLAN	RESPONSIBILITY FOR PREPARATION	APPROVALS REQUIRED
Law Development	EKUIN Law Development Group	USAID
Legal Training	University of Indonesia Steering Committee, with assistance from Legal Training Advisor	EKUIN Project Director, U.I. Dean of Law, USAID
Procurement Development	PRPAG, with assistance from Procurement Advisor	USAID
Legal Information Systems	Legal Information Advisor, with input from recipient organizations	Recipient Organizations, EKUIN Project Director, USAID

The Annual Plan will work essentially as a contract between the participating organizations and the Project Secretariat to provide specific deliverables and resources in accordance with the schedule agreed to and described in the Annual Plan. This will be particularly important in the cases of Legal Training and Legal Information Systems, due to the complexity of these components. Annual Plans will specify milestones and actions to be carried out by GOI organizations and contractors to meet the schedule included in the Plans. Progress against the Plans will be tracked on a quarterly basis and will be reviewed in meetings chaired by the EKUIN Project Director, and attended by USAID, the contractor, and representatives from the recipient organizations. Working in cooperation, USAID and EKUIN will have the authority to reprogram Project resources as necessary, if serious deficiencies occur in scheduled performance. The EKUIN Project Director and the USAID Project Officer will jointly resolve issues involving the technical assistance contractors.

2.6.9 USAID Responsibilities

USAID will appoint one Project Officer to manage this Project. It is expected that this will be a full-time responsibility for this individual for the first 18 to 24 months of Project implementation, and will require up to 75% of this individual's time thereafter. The Project Officer will be assisted by one full-time Indonesian Program Assistant. The Project Officer will

participate in periodic progress review meetings and will be responsible for reviewing and approving Annual Plans. The Project Officer's approval will be required for all short-term assistance and overseas training under the long-term contracts and for procurement plans.

The USAID Project Officer will be responsible for identifying, designing and managing all "bridging activities" as discussed under Section 2.4, in consultation with other USAID technical and support office staff, and the EKUIN Project Director.

The USAID Project Officer will also be responsible for designing, with assistance from other USAID technical staff, the EKUIN Project Director and the long term advisors, scopes of work for mid-term and final project evaluations. This is further discussed in Section 3.3.

USAID may also provide Project funding for a PSC to advise on law and procurement development.

2.7 Project Outputs

The following is an abbreviated list of expected Project outputs.

2.7.1 Economic Law Development Outputs

a. Fifteen new economic laws drafted (passed by the DPR or under active consideration). Annex A-3 provides a discussion of some of the proposed law areas.

b. 100 Government legal bureau personnel with improved skills in technical economic law areas and in legislative drafting skills.

c. Strengthened public/private dialogue on law development issues.

2.7.2 Legal Training Outputs

d. University of Indonesia economic law curriculum upgraded and expanded, resulting in improved law graduates.

e. 200 University of Indonesia and other law school faculty providing improved legal training, with new emphasis on practical legal skills.

f. A long-term stream of law students receive improved economic law training as a result of upgraded curricula and faculty at University of Indonesia and other law schools.

g. Several hundred private and public sector professionals improve their skills as a result of short-term local training in a wide variety of economic law areas.

2.7.3 Procurement Management Development Outputs

h. KEPPRES 29 and related guidance (including English-language versions) are fully revised and disseminated to line ministries.

i. A permanent Procurement Review and Policy Analysis Group is developed in EKUIN and staffed by well-trained professionals.

j. Standard curricula is developed for government-wide procurement training.

k. A regular information dissemination program is in place which publishes procurement information related to solicitations, contract awards, etc.

2.7.4 Legal Information Systems Outputs

l. BPHN and University of Indonesia legal information systems are up and running and fully accessible to public and private sectors.

m. Improved SEKNEG legal information system reduces lag time on availability of new laws and regulations to a period of weeks.

n. Improved Ministry of Finance legal information system results in improved public and private sector access to both new and historical regulations and rulings.

2.7.5 Grants for Private Sector Legal Development

o. Quality of economic law education dramatically improved at two or more private sector institutions, resulting in a long-term stream of graduates with improved practical understanding of economic law issues.

p. Improved private sector access to short courses in relevant economic law topics.

q. Creation and/or strengthening of one-two private sector organizations important to the development or implementation of commercial law.

2.8 Project Achievements - End of Project Status

The following achievements, among others, are anticipated by the PACD:

a. Improved economic laws (e.g. companies law, security interests law, mergers and acquisitions law, and many others) contribute to increased domestic and foreign investment and improve the efficiency of commercial transactions. Downstream impacts include positive effects on employment levels, overall economic growth and standard of living. This accomplishment is measurable in terms such as:

- increase in number of new businesses,
- reduction in time required to incorporate,
- reduction in time required to transfer property title,
- increase in foreign businesses investing or doing business in Indonesia,
- increase in technology licenses,
- increase in availability of long-term capital,
- increase in private sector contribution to GDP.

b. Improved law drafting capabilities both in EKUIN and other economic ministries contributes to efficient ongoing law development as legislative requirements continue to evolve with the expanding economy.

c. Expanded and improved programs and faculty for economic law training at the University of Indonesia and other educational institutions result in a cadre of legal professionals capable of supporting the increasing volume and complexity of commercial transactions.

d. A significantly increased capacity in both the public and private sectors to conduct legal research and to interpret and apply economic laws contributes to more efficient transactions and investments and increases the predictability of outcomes. Improved research capacities also increase fairness.

e. Upgraded abilities among government legal bureau personnel improves efficiency and timeliness in interpreting regulations, resulting in a more credible and predictable regulatory environment for the private sector.

f. Management of the government procurement system is improved to ensure more efficient use of public investments and to increase equitable treatment for participating firms. Measures of this accomplishment include:

- reduction in time and cost to execute projects,
- increase in number of bids awarded below government cost estimate,
- reduction in incidence of contractor defaults,
- reduction in number of award protests,
- increase in the number of career procurement professionals.

g. The government procurement system is applied consistently by all procuring organizations, increasing fairness and improving access for a greater number of private sector firms.

h. Improved public and private sector access to full texts of laws, decrees, and regulations allows business and investment decisions to be made on a more well-informed and reliable basis, resulting in greater efficiencies and more rapid business expansion, as well as greater equity and fairness. Improved access can be measured by, for example:

- reduction in time required to gain access,
- increase in number of publications and services related to economic law,

laws and regulations required to be published as a condition of becoming effective.

3. IMPLEMENTATION PLAN, MONITORING AND EVALUATION

3.1 Implementation Plan

The illustrative table on the following page lists many of the Project's key implementation actions. This list reflects current planning, and is subject to refinements.

During the first weeks after Project obligation, the two Governments will exchange sample signatures of authorized representatives. EKUIN will officially designate the members of the Project Secretariat, the Law Development Group, and the Procurement Review and Policy Analysis Group. The Law Development Group and PRPAG will begin the process of creating Annual Plans.

During the first six months of the Project, the University of Indonesia will name the members of its Steering Committee for developing an improved program in Economic Law. Each recipient organization under the Legal Information Systems Component will designate an Official Representative and Project manager.

3.1.1 Procurement of Long-term Technical Assistance

Immediately following Project obligation, preparation of solicitation documentation will begin for the long-term technical assistance contract. The RFP will be cleared by the EKUIN Project Director prior to issuance. Based on current planning, the Mission expects to mobilize a long term team during the fourth quarter of FY1992.

3.1.2 Grants For Private Sector Legal Development

During the first year of Project implementation, the Mission will identify potential grantees through a solicitation of interest process which advertises the availability of grant funds for the stated purposes and invites interested organizations to submit applications to USAID. Grantees will be selected by an evaluation committee which includes representatives from the Mission, EKUIN and the private sector, if appropriate. Current planning indicates that initial grants may be awarded in 1993.

3.1.3 Bridging Activities

A great deal of momentum exists in EKUIN, BPHN, the University of Indonesia and other organizations in developing improved economic laws, developing stronger legal information resources, improving economic law training, and producing improved polices for government

TABLE TWO

ILLUSTRATIVE IMPLEMENTATION SCHEDULE

NO.	ACTION	TARGET DATES
1.	Project Agreement signed	Aug 1991
2.	GOI Project Staff designated and initial PILS issued	1st Qtr-FY92
3.	Finalize TA bridging requirements and prepare scopes of work	" "
4.	PRPAG and EKUIN Law Development Group formalized	" "
5.	Short-term bridging TA begins	2nd Qtr-FY92
6.	Solicit proposals from private sector organizations	" "
7.	Issue RFP for long-term assistance contract	" "
8.	Steering Committee established at U.I.	" "
9.	Review grant proposals from private organizations	3rd Qtr-FY92
10.	Annual Work Plans prepared for all components	" "
11.	Review Technical Assistance contractor proposals	" "
12.	Conduct First Annual Review	" "
13.	Award long-term technical assistance contracts	" "
14.	Technical Assistance teams mobilized	4th Qtr-FY92
15.	Implementation procedures formalized with TA	" "
16.	Quarterly reporting indicators agreed upon	1st Qtr-FY93
17.	Award initial grants to private organizations	" "
18.	Begin public/private workshops and seminars	" "
19.	Begin short-term courses at U.I.	2nd Qtr-FY93
20.	Short-term training begins in all components	3rd Qtr-FY93
21.	Complete recommendations for KEPPRES 29 revisions	" "
22.	Conduct Second Annual Review	" "
23.	First long-term overseas trainees depart	4th Qtr-FY93
24.	Issuance of Government Procurement Manual	" "
25.	Mid-term Evaluation	1st Qtr-FY94
26.	Finalize commodities procurement lists	" "
27.	Equipment installed at Ministry of Finance	2nd Qtr-FY94
28.	Equipment installed at BPHN and PDH	3rd Qtr-FY94
29.	Third Annual Review	" "
30.	Equipment installed at SEKNEG	4th Qtr-FY94
31.	Fourth Annual Review	3rd Qtr-FY95
32.	Fifth Annual Review	3rd Qtr-FY96
33.	Final Evaluation	2nd Qtr-FY97
34.	Sixth Annual Review	3rd Qtr-FY97
35.	PACD	Aug 1997

procurement. Considerable impetus exists to make major changes in commercial law and the concerned ministries are willing to cooperate now in law development activities. In order to build upon this momentum, it is imperative that USAID provide necessary assistance in the near-term, prior to the arrival of long-term advisors, currently scheduled for mid-1992. Examples of such assistance were provided in Section 2.4.

Immediately after Project obligation, the USAID Project Officer and EKUIN Project Director will assess the requirements for bridging assistance with input from EKUIN and other recipient

organizations. Scopes of work and contracting documentation will be prepared in order to begin bridging activities during the second quarter of FY 1992.

A number of mechanisms may be used to provide bridging assistance. This includes buy-ins to A.I.D. centrally-funded projects (e.g. IRIS, PEDS), IQC buy-ins, and local procurement of American or Indonesian advisors. At the present time, it is expected that all such assistance will be procured on a direct basis, i.e., funds are unlikely to be committed for host-country procurement of advisors. PIO/T's or purchase orders for short-term bridging assistance will require the signature of the EKUIN Project Director. The total amount of such assistance, prior to arrival of the long-term contractors, is expected to be in the range of six to twelve person-months.

3.2 Project Monitoring

One of the first tasks of the long-term technical assistance team will be to establish mechanisms for monitoring and reporting on Project activities. An important aspect of this task will be establishing baseline data and developing systems to constantly update such data for planning and reporting purposes. Monitoring and reporting is ultimately the responsibility of USAID, and selection of indicators and establishment of monitoring systems by the contractors will require the approval of USAID.

Project monitoring and reporting will consist of three major activities: regular updating by Project personnel of established Project data bases, quarterly reporting, and annual reporting. The long-term contractor teams will have primary responsibility for quarterly and annual reports, and will assist GOI organizations in preparing Annual Plans (the long-term advisor for the Legal Information component will prepare Annual Plans with inputs from recipient organizations). Periodic progress reviews will be conducted to review progress against established benchmarks.

Long-term advisors for all components (other than the Grants for Private Sector Legal Development component) will provide inputs for quarterly and annual reporting to the Project Administrator, who will coordinate such reports under the supervision of the COP. The COP will be responsible for submitting such reports to USAID and EKUIN.

As indicated earlier, Annual Plans require concurrence from various parties before taking effect. Quarterly reports will be used by EKUIN and USAID as the basis for periodic progress reviews with the contractors and the GOI organizations receiving assistance. Annual reports will form the basis of major annual meetings to review progress and consider reprogramming actions as necessary. Quarterly and annual reports will include data on the entire range of project activities and progress against annual planning targets. Financial data will be provided in detail. Such data will also be utilized for USAID Quarterly Implementation Reviews.

The long-term team will also have responsibility for monitoring GOI and private sector contributions to the Project, including Project-generated funds, and reporting on such

contributions to USAID. All Project-generated funds will be recycled for use in the Project, for example for funding workshops.

3.3 Project Evaluations

Mid-term and end-of-project evaluations will be conducted. These evaluations will be facilitated by the availability of monitoring data collected by contractor teams over the life of the Project. Briefly, the two evaluations may be described as follows:

> **The Mid-Project Performance Evaluation** will assess the continuing validity and relevance of the Project in supporting private sector growth through improved economic law and government procurement systems. Findings will be used to help determine the need for mid-Project revision of objectives, institutional arrangements, funding, etc.
>
> **The End-of-Project Impact Evaluation** will determine whether required actions have been carried out, whether performance over the life of the Project has been consistent with expectations, and whether additional actions are required to ensure sustainability of Project accomplishments.

Annex A-8 discusses possible evaluation strategies in considerable detail. This annex will be used by the technical assistance team in planning Project monitoring activities, and by USAID in designing the mid-term and end-of-Project evaluations. Project evaluations will be conducted by Gray Amendment firms.

4. FUNDING AND RESOURCE REQUIREMENTS

4.1 Cost Estimates

The total cost of the ELIPS Project is $25 million, consisting of USAID funding of $18 million, GOI contributions of $5 million and private sector contributions estimated at $2 million. USAID resources will be used to fund all foreign exchange costs for technical assistance, training and commodities. Local currency costs will be borne jointly by USAID and the GOI, and by USAID and private sector organizations.

A summary breakdown of funding requirements appears on the following page. Detailed analyses of funding and resource requirements (cash and in-kind) are provided in the Detailed Project Budget, Annex C.

4.2 Obligation and Expenditure Projections

The major portion of funding for this Project is being provided through a special allocation of Development Policy Reform Program (DPRP) Funds from the APRE Bureau. DPRP funds totalling $15 million will be obligated in August, 1991 through a Project Agreement with

EKUIN. An additional $3 million will be obligated from the Mission OYB during the first three years of the Project for the Grants for Private Sector Legal Development Component.

TABLE THREE

PROJECT RESOURCE REQUIREMENTS
($000's)

	Life-of-Project Funding			
PROJECT COMPONENT	USAID	GOI	Private Sector	Project Total
1. Economic Law Development	2,920	970	120	4,010
2. Legal Training	4,305	1,420	470	6,195
3. Procurement Management Development	1,705	710	50	2,465
4. Legal Information Systems Development	4,055	1,900	360	6,315
5. Grants for Private Sector Legal Development	3,000	-	1,000	4,000
Other Costs				
Evaluations and Audits	300	-	-	300
Contingency and Inflation	1,715	-	-	1,715
PROJECT TOTALS	18,000	5,000	2,000	25,000

GOI funds will be reserved through annual development plans and budgets (DIPs). GOI funds for activities between August, 1991 and April, 1992 will be made available through a revision of the IFY 1991 DIPs.

Expenditures will rise gradually during the Project before peaking in the fourth and fifth years of implementation. Expenditure projections are provided in Annex C.

4.3 Private Sector Contributions

The private sector is expected to contribute approximately $2.0 million to this Project. At least one-half of this amount will be in the form of counterpart contributions for the Grants for Private Sector Legal Development Component. The remainder will include tuition fees for short-courses and seminars, *pro bono* assistance to the EKUIN Law Development Group and to University of Indonesia, funds and commodities provided to upgrade University of Indonesia facilities, access fees for legal information, and other items. All Project-generated funds from tuition, fees, etc. will be recycled for use within the Project, for example to fund workshops and seminars.

4.4 Methods of Project Financing

The Project will finance activities using three methods: i) direct payment by USAID, 2) direct payment by the GOI, and 3) pre-financing by the GOI with reimbursement from USAID.

USAID will contract directly for all technical advisors. All long-term and most short-term overseas training will be included in the long-term technical assistance contracts. The long-term contracts will provide funding for short-term advisors and materials for in-country training. Computers and related hardware and software will be procured under the long-term contract or under a sub-contract.

USAID will retain a limited amount of funding outside of the long-term contract to be used on a contingency basis for special training needs, short-term technical assistance or purchase of materials. Such items may be procured through direct contract, or may be procured and pre-financed by the GOI and reimbursed by USAID, pursuant to mutual agreement and issuance of a PIL.

In cases where short-term training or research abroad are not funded under the contract, the GOI will pre-finance these costs. USAID will make reimbursement up to agreed upon amounts pursuant to PILs issued for this purpose.

USAID will support seminars and workshops under the Economic Law Development, Procurement Management Development and Legal Information Systems components. The GOI will pre-finance these costs and seek reimbursement from USAID (up to agreed-upon amounts) pursuant to PILs which commit funds for these specific activities.

Evaluations and audits will be funded directly by USAID, through buy-ins or direct contracts.

Support will be provided to private sector organizations utilizing A.I.D. direct grants. Recipients will provide funding for certain local currency costs, to be agreed upon at the time the Mission accepts a grant proposal.

A.I.D. encourages the participation to the maximum extent possible of small, disadvantaged, and women-owned small business concerns in this activity in accordance with Part 19 of the

FAR and the Gray Amendment. It is anticipated that the prime contractors will utilize such concerns for at least 10% of the total contract value.

4.5 Local Cost Financing

Implementation of the various components of the Project will require the financing of local goods and services in cases in which the required goods and services are only available locally, off-shore procurement would be inefficient or unreasonably costly because of limited amounts to be procured, local procurement is necessary to ensure timely and effective Project implementation, or such other circumstances which make off-shore procurement clearly unreasonable from a management or cost point of view. Based on these criteria, it is anticipated that the following procurements or types of procurements will be required to be locally sourced:

i) Local legal consultants, experts or instructors. These individuals/firms will be hired to provide expertise in Indonesian law not available outside of Indonesia;
ii) Rental of local facilities for workshops/seminars,
iii) Indonesian language books and other written materials, and
iv) Small quantities of office supplies.

Project financing will also be used to make grants to various organizations for private sector legal development. The types of local source procurement under these grants cannot be determined at this time but it is clear that some local source procurement will be required. In order to permit prospective grantees the necessary flexibility to design and implement their activities in accordance with sound business practice, authorization of local source financing will be necessary. Grantees will still be required to follow order of preference rules and other A.I.D. source, origin and nationality policies applicable to grantees.

4.6 Other Donor Contributions

The Project builds upon legal development activities underway and funded by the Asia Foundation (with USAID/Jakarta support) and the Netherlands development program (see Annex A-6).

The World Bank has conducted significant research related to improving Indonesia's economic law system. Discussions are underway within the Bank concerning the possibility of providing support to supplement the activities of the ELIPS Project. Depending upon the progress of the ELIPS Project, there appears to be a strong possibility of additional funding from the World Bank for legal training and legal information systems development within the next two years. The Bank has also expressed interest in becoming involved in assistance for Government Procurement development, particularly for training at lower levels of the procurement system. USAID staff will continue discussions with the World Bank as ELIPS Project implementation proceeds.

5. SUMMARIES OF ANALYSES

A number of analyses were undertaken in connection with the design of this Project, the complete text of which appear in Annexes A-1 through A-7. Brief summaries follow.

5.1 Institutional Analysis (Annex A-1)

The design team examined the qualifications and commitment of the GOI organizations appearing to offer the best potential for implementing the ELIPS Project. Annex A-1 provides a detailed examination of the capacities of these organizations, together with a discussion of priority needs, technical expertise required, suitability of proposed technology, and potential pitfalls.

5.2 Economic Analysis (Annex A-2)

The development agenda for the 1990's calls for continued rapid growth and expansion of the private sector. Key to this agenda is enhanced private participation in investment, production and export. Only with this private sector participation will the necessary resources be available to achieve the growth targets which will generate several million new jobs each year, raise per capita incomes, and reduce the numbers remaining poor.

Commercial law and government procurement systems are key elements in Indonesia's economic development and are as vital as physical infrastructure to facilitate the complex transactions and investments essential to rapid growth and vibrant participation by the private sector. The economic rationale for this Project stems from the role of transactions and investments in a private sector market oriented economy, as well as from the role of government in the development process through procurement activities. Efficiency and fairness in the commercial arena are fundamental to achieving the growth rates and development plans which Indonesia has targeted. Complementing the legal requirements of certainty, predictability and confidence, these economic criteria help determine the shape of reforms required in the commercial law area. Likewise, improvements in procurement are vital to the government's and state-owned enterprises' ability to successfully carry out national development plans. The exact agenda for reforms, driven by an imperative of support for growth and development targets, is determined by bottlenecks which develop in the economy and the political ability to ameliorate these constraints. The growth rates projected for the 1990's cannot be achieved without deliberate and sustained reforms and improvements in the legal infrastructure and in government procurement performance.

A strong economic law environment provides the underpinnings to support private sector participation at the pace and magnitude required for sustained development. Without well-defined and fairly enforced economic laws, the risks of transactions remain high, boosting costs and limiting participation by domestic and foreign firms. The basic government procurement requirements to support Indonesia's development agenda are coordinated and well-defined regulations and guidelines accompanied by trained staff capable of timely and fair implementation.

The costs being incurred under the current commercial law and government procurement environments are high and will rise as the economy becomes more complex. Constraints on growth from either debilitating economic laws or inefficient procurement mean heavy costs; for each .10% decrease in GDP growth there is a loss of approximately $8.8 million per year. Ill-defined legal relationships increase risk and raise the costs of capital and transactions. Higher interest rates and returns on projects are necessary to balance risks which could be reduced through appropriate legal structures. Weak procurement management likewise inflicts heavy costs on the economy; overall costs of weak procurement are believed to approach 30% of major project costs, including use of consultants, payment of premiums for late orders, interest on amounts delayed in approval, and slippage regarding regulations and procedures. If measured against just the magnitude of donor project assistance estimated at $4.8 billion per annum for 1992/93 through 1995/96, this represents hundreds of millions of dollars in excess costs which could be more productively allocated to additional development on the basis of more timely and efficient procurement. Measured from any perspective, the costs of ill-defined and implemented commercial law and procurement systems is large and growing.

5.3 Technical Analyses (Annexes A-3 through A-6)

The development of this Project draws upon a significant amount of research and analysis performed by members of the Mission as well as outside consultants. The results of this work are included in Annex A and provide the substantive and strategic underpinnings for the Project Description section of this Project Paper.

Annex A-3, *Technical Issues Concerning Commercial Law Reform in Indonesia*, outlines the existing legislative and systemic problems which impede the improvement and modernization of Indonesia's commercial law system. A number of possible solutions for these problems are highlighted.

Annex A-4 provides an in depth analysis of existing legal information systems and provides a detailed strategy for overcoming certain key problems in this area during the life of the Project.

Annex A-5 is an analysis of the Indonesian Government procurement system with prescriptions for improvement. This analysis, together with earlier research undertaken in connection with PID preparation, helped determined the Project's strategy for overcoming key weaknesses in the existing system of government procurement.

Annex A-6 consists of a detailed assessment of training needs for both the economic law and procurement components of the Project, a discussion of alternative training strategies and associated constraints, a detailed description of the recommended training strategy, and a section devoted to the development of self-sustaining training capacity. The results of this analysis form much of the foundation of the training strategy provided in the Project Description.

5.4 Social Soundness Analysis (Annex A-7)

The design team concluded that the planned activities would benefit a broad cross-section of society. Despite rapid growth and promising reforms, Indonesia remains among the poor countries of the world. While interventions planned by this project are at the macroeconomic level, the project is expected to benefit a large number of ordinary citizens and small entrepreneurs, as well as larger or more well-established business firms. There are both identifiable groups which can be considered targets of project activities, and groups which are not specifically targeted but which are expected to benefit indirectly from an improved legal and government procurement environment. It is also important to recognize that side-effects of economic growth can themselves become obstacles to social and economic improvements among some members of society.

A strengthened legal environment (including improved legislation, greater access to information and strengthened enforcement) will enable greater numbers of individuals and firms to take part in the commercial transactions and investments which contribute to business and economic growth. Similarly, improved government procurement systems will provide an avenue for increasing the diversity of private sector participation in Indonesia's development agenda. Thus project beneficiaries in the private sector include *larger numbers of small and medium-sized firms* participating in the formal economy. The effective result of broadening participation in the economy is stimulation of the middle class and gradual conversion of the most energetic and organized informal sector participants into formal sector small-scale entrepreneurs.

Indirectly, broad lower-level economic groups will also benefit from a smoothly functioning private sector which reduces costs and raises quality and efficiency. Such groups include the urban and rural poor which benefit from employment creation and from new protections for workers and consumers which are expected to be offered under a strengthened and modernized commercial law system.

Rapid changes in the economy are bringing about changes in the role of women, including increased opportunities in some sectors such as manufacturing, and diminished jobs in other sectors such as primary agriculture. It is reasonable to expect that women will achieve significant gains as general business activity grows. The largest impact for women, even if indirect, may come in the increased opportunities for business formation and expansion, which will be enhanced by this Project.

5.5 Environmental Analysis

A categorical exclusion from environmental review was requested at the time the PID was submitted for AID/Washington review, pursuant to A.I.D. Regulation 16, Section 216.2(c)(1). Such request was based upon the fact that activities funded under this project will have no direct impact upon the physical environment, and that indirect impacts cannot be reasonably identified or quantified. The categorical exclusion was approved by the Bureau environmental officer on January 28, 1991. A copy of the Initial Environmental Examination is included at Annex H.

The activities proposed for financing in this Project Paper are essentially the same as those described in the PID.

6. CONDITIONS AND COVENANTS

6.1 Conditions Precedent to Disbursement

6.1.1 Project Representatives

Prior to the disbursement of USAID funds, USAID will be provided with the names and specimen signatures of the Project representatives for the Government of Indonesia.

6.1.2 Establishment of Project Secretariat

Prior to the disbursement of USAID funds for any purpose, USAID will receive satisfactory evidence that the Project Secretariat has been established in EKUIN.

6.1.3 Formalization of the PRPAG

Prior to the disbursement of USAID funds for activities related to procurement management development, USAID will receive satisfactory evidence that the PRPAG has been established, and will receive a list of names of the individuals assigned to this unit.

6.1.4 University of Indonesia Steering Committee

Prior to the disbursement of USAID funds for activities to be financed under the Legal Training Component, USAID will receive satisfactory evidence that the Steering Committee for strengthening U.I.'s economic law program has been established, and will be furnished with a list of names of the individuals participating on this committee.

6.2 Covenants

6.2.1 Annual Plans

For activities implemented after April 1, 1992, the Government of Indonesia will furnish each year to USAID Annual Plans for the Economic Law Development, Legal Training, Procurement Management Development, and Legal Information Systems components of the Project.

6.2.2 Project Evaluation

The GOI and USAID agree to establish an evaluation program that will (a) identify a set of indicators and a means to measure progress against such indicators, (b) evaluate progress toward attaining ELIPS Project objectives, (c) identify problem areas or constraints to achieving these

objectives, (d) develop solutions to overcome these problems and constraints, and (e) evaluate, to the extent practical, the overall development impact of the Project.

6.2.3 Legal Information Systems Component

Prior to the provision of technical assistance, training, commodities or other Project inputs under the Legal Information Systems Component, recipient agencies will be required to provide to USAID the names of the individual(s) assigned as Official Representative and Project Manager. This requirement may be satisfied separately by each recipient agency.

6.2.4 Maintenance of Equipment Supplied by the Project

GOI organizations participating in the Project will covenant to provide sufficient funds in their annual development or annual routine budgets to adequately maintain all equipment financed by the Project.

6.2.5 Staffing

The GOI will agree to provide all personnel required to implement the Project in an effective and timely manner.

7. WAIVERS

7.1 International Travel for Short-term Training

Current GOI budgetary guidelines and procedures regarding donor-financed projects make it quite difficult for the GOI to furnish a cash budget for certain items, including air travel to and from the U.S. Notwithstanding such difficulties, the GOI agreed during Project negotiations with USAID to furnish a substantial cash budget to cover all in-country costs of GOI personnel involved in training, workshops, seminars and other activities. This will include all costs incurred in Indonesia by GOI personnel for travel, per diem, and honoraria. The GOI also agreed to pay for the costs of certain materials and supplies, as well as round-trip travel to the U.S. west coast for long-term trainees.

The travel costs involved for short-term training activities in the U.S. are high in relation to the duration of such courses, which are likely to range from two weeks to several months. In part because of this, the Indonesian Government has for some time consistently followed a policy of not financing the cost of international airfare for short-term training regardless of whether such training is part of a foreign donor financed development project or a project financed from the GOI's own budget resources.

Given the high cost of offshore training, and the fact that most short-term training activities can be arranged in Indonesia, the vast majority of short-term training provided by the Project will take place in-country. While such in-country training activities will be emphasized, it appears

clear that short-term training courses in certain technical areas are reasonably available only outside of Indonesia. Given the nature and objectives of the ELIPS Project, which involves both policy development and policy implementation in the economic law and government procurement areas, the utilization of U.S.-based short-term training in situations where it is relevant and valuable, and cannot be conducted in Indonesia, is important to the achievement of Project objectives. Accordingly, waiver of the requirement that the GOI pay for international travel for short-term training activities is justified.

The total estimated cost of international airfare for short-term training under the Project is $120,000.

ANNEX A

TECHNICAL ANALYSES

ANNEX A-1

INSTITUTIONAL ANALYSIS

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

Table of Contents

		Page
I.	Introduction	1
II.	Current Institutional Milieu	1
	A. Background to Economic Law Development Activities	1
	B. Status of Government Procurement System	4
III.	Assessment of Proposed Implementing Agency	5
IV.	Institutional Development Requirements	9
	A. Capacity Building in Law Development	9
	B. Capacity Building in Legal Education	10
	C. Increased Capacity in Legal Information	11
	D. Capacity Building in Procurement Management	13
V.	Private Sector Participation	14
	A. Private Sector Advisory Assistance	14
	B. Development of Legal Publishing Sector	15
VI.	Other Issues	15
	A. Extent of	16
	B. Availability of Required Expertise	16
	C. Suitability of Proposed Technology	17

INSTITUTIONAL ANALYSIS

I. INTRODUCTION

This annex presents the results of an analysis of the capacities of the organizations which will carry out Economic Law and Improved Procurement System (ELIPS) Project activities; namely, economic law development, legal information systems development, and procurement management development. The analysis considers both the capacity of each organization to perform the functions which will be affected by the Project, and the capacity of each organization to implement portions of the project.

A brief description of the current state of play is followed by a discussion of the challenges to project implementation, the conditions affecting management of the project, the institutional development requirements of the Project, and the nature of private sector participation.

II. CURRENT INSTITUTIONAL MILIEU

The institutional development requirements for the ELIPS Project encompass a broad range of activities. Implementation of the Project will require gaining the cooperation and coordinating the activities of at least two influential government departments as well as several other organizations. The objective to establish a rational and coordinated process for developing economic laws in Indonesia is particularly ambitious. Increasing the accessibility of legal information to government agencies and the public, and improving the effectiveness and efficiency of the government procurement system will also not be accomplished easily. The current situation with regard to each of these areas is described below.

A. Background to Economic Law Development Activities

1. Law Development Process

Laws and regulations in Indonesia are promulgated at many levels: through enactment of legislation by the Parliament, through Presidential Decree, and through regulations published by individual ministries. Legal issuances also include Presidential Instructions, ministerial policy statements regulatory interpretation and regulations issued at the provincial level. Each GOI ministry has a legal bureau which, among other things, is responsible for drafting laws. In practice, the Ministry of Justice has been the principal source of most draft legislation, the majority of which has dealt with civil and criminal matters.

Although it was established initially in 1967 as an independent agency, the National Law Development Agency (BPHN) was placed under the Ministry of Justice about 20 years ago. Intended to be the central point for planning the legislative agenda, conducting research and preparing initial drafts of legislation, and maintaining and distributing official legal information, much of the legal drafting capability of the BPHN has now been transferred to the Directorate for Law and Legislation at Ministry of Justice.

The legislative process typically begins with an academic draft. The ministry concerned with the legislation generally will request BPHN (or possibly another entity, e.g. the law faculty at the University of Indonesia) to prepare such draft. Officials in several ministries and many people in the legal community indicate that the quality of academic drafts prepared by BPHN has been problematic, and point out that the Agency has produced exceedingly little draft legislation which has actually been passed into law.

It is common for the organization preparing academic drafts to consult lawyers in private practice and often these individuals are responsible for major portions of the draft. Academic drafts are revised and polished by the sponsoring ministry, which might again rely on assistance from lawyers outside the government in this process. Typically, there is little coordination or involvement with other ministries.

Proposed legislation in final draft form is submitted by the sponsoring ministry to the Sekretariat Negara (SEKNEG) which serves as an executive secretariat to the Parliament. While SEKNEG is responsible primarily for ensuring that proposed legislation is not in conflict with existing laws or decrees, and that adequate consideration has been given to the responsibilities of ministries other than the sponsoring ministry, it has assumed a major role in drafting or re-drafting legislation. Rather than return drafts for revision by the sponsoring ministry, for example, SEKNEG often will revise the legislation in consultation with the sponsor. Attorneys at SEKNEG are, in effect, the final arbiters of draft legislation and function as specialists in the laws relevant to the ministries for which the attorneys are responsible. For example, SEKNEG has invested in overseas training for several of its attorneys in the areas of companies law, banking law and anti-trust law to prepare them for reviewing and revising the draft legislation in these areas which must pass through SEKNEG.

In addition to its role in drafting legislation, SEKNEG also exerts considerable influence on the pace of development through its ability to submit or withhold proposed laws to the Parliament. Despite its theoretically limited authorities, SEKNEG is a key organization in the law development process.

2. Status of Legal Information

Legal information as defined by the ELIPS Project includes all documentation describing the laws, regulations, Presidential Decrees, and court decisions governing civil, criminal and economic activities in Indonesia. Only *adat*, or customary law, is excluded from the definition.

a. Availability of Legal Information

In general, legal information is not readily available in Indonesia. Individuals and organizations, including government departments, needing copies of laws, decrees and regulations must rely on a variety of sources to determine the current rules governing commercial transactions and other activities for which they might be responsible. Low priority has been placed on such information by the Ministry of Information, with the result that departmental printing budgets, which are under the control of this Ministry, are usually

quite small. Departments literally are unable to publish sufficient quantities of the laws and regulations for which they are responsible to meet their own needs, let alone the needs of others. The limited availability of official copies of legislation and regulations has given rise to a variety of informal mechanisms for obtaining legal information. The major short-coming of relying upon these informal sources is that the user has no assurance that the documents are complete or that they represent the official version.

In addition, the general lack of availability of information has helped to foster a situation wherein good quality and timely information is available only to firms and individuals which cultivate special relationships with primary sources of such information. Thus, other firms and individuals who do not have such relationships are placed at an extreme disadvantage in conducting their business. Special "information relationships" are costly both in terms of time and money, and typically only the most prosperous law firms and business concerns have adequate access to up-to-date regulations in the economic law area.

Recently enacted legislation and Presidential Decrees are assembled by SEKNEG for publishing in the *State Gazette*. However, printing orders at the state-owned printing enterprise are backlogged more than two years. Typically, the official text of legislation is not readily available to individuals, business organizations or law firms for 2-3 years. SEKNEG internally prints a limited number of such texts and distributes copies to the departments and key agencies. Remaining copies, if any, are available to the public until the supply is exhausted. However, even this internal printing process requires several months after legislation is signed because of resource constraints and obsolete equipment.

Many businesses and law firms subscribe to a recently established publication, *Business News*, which prints excerpts of recent legislation. Law firms and others rely on this publication to alert them to recently enacted laws and then use a variety of methods to obtain copies of the full text of the legislation.

Regulations issued by ministries are generally published in the *Berita Negara*, or State Journal, and are also available for distribution at the ministries. As in the case of the State Gazette, the Journal is published infrequently and generally two to three years after regulations have taken effect. *Business News* also publishes lists of recently issued regulations, but not the full texts. There is no absolute requirement that Ministerial regulations be published. Articles of Incorporation for newly established companies are also published with the State Journal.

Court decisions are generally not published, although the Dutch aid program is supporting a project to enter the text of Supreme Court decisions into an automated database. This effort has just begun, and justices are submitting their decisions for publications on a voluntary basis.

b. Status of Efforts Underway to Improve the Availability of Legal Information

At present, several efforts are underway to increase the availability of legal information in Indonesia.

The National Law Development Agency (BPHN) has collected most extant laws and regulations, including provincial ordinances, and has developed an automated index retrieval system for laws enacted since 1945. The Agency is in the process of entering the full text of Presidential Decrees into a system which will provide the first database of official legal documentation in machine-readable form. Text is entered at the keyboard using word processing software and then verified against the original document. The process is slow, and to-date about 50% of the text of Presidential Decrees has been entered. Retrieval of the information relies on a keyword system, a methodology which limits search capabilities.

Development of the BPHN database system was supported by a grant from the Ford Foundation in 1988. The grant financed the purchase of personal computers for data entry, and a mini-computer to provide storage. BPHN has developed a long-range plan for making all official legal information available to the national departments and the 27 provinces through telecommunications or electronic media.

With financing from an A.I.D. grant, the Asia Foundation has been working with BPHN to create a system which will make widespread distribution of the database possible. Under the system, the legal information contained in the BPHN database will be distributed on CD-ROM media on a subscription basis to any governmental or private sector organization. The approach offers the advantages of regular, but not instant, updating and a method of widespread distribution that is not dependent upon telecommunications. Asia Foundation is in the process of negotiating a contract with a firm to provide the software and equipment which will be used to access and retrieve the information from the CD-ROM disk.

The Netherlands Government is supporting several advisors and providing assistance in a number of law development activities, including long-term training of administrative law judges in Holland. In the area of legal information, the Dutch are supporting development of an automated database of Supreme Court decisions. To date approximately 1,000 of the most recent cases have been entered into the system, but the effort is still plagued by technical difficulties.

B. Status of Government Procurement System

Prior to 1988, the GOI relied upon SEKNEG as the central procurement agency for goods and services from both domestic and foreign suppliers. Responsibility for procurement was transferred to the individual government departments in 1988 with the issuance of KEPPRES 29. This Presidential Decree, with several supplementary issuances, has provided the basis for all regulations and practices governing the GOI procurement system. The delegation of purchasing authority to the departments was welcomed in that it improved the quality of technical review of tenders, and was supposed to shorten the time required for these reviews. However, very few of the personnel in the GOI departments are experienced in administering procurement regulations, administering contracts and negotiating with contractors. In the absence of contracting specialists, responsibility for interpreting applicable procurement regulations and ensuring that contract provisions are consistent with GOI requirements are assigned to the team of engineers and other technical personnel which prepared the project design.

INPRES 1, 1988 assigned the Coordinating Ministry for Economics, Financial and Industrial Affairs and for Development Supervision (EKUIN) responsibility for reviewing the procurement packages prepared by ministries prior to award of contracts of more than Rp. 3.0 billion ($1.5 million). Prospective procurement awards are reviewed by a committee of individuals chaired by EKUIN, and consists of personnel from various ministries and the State Audit Agency. Considerable delay in the award of contracts is likely to occur when donor financing of projects imposes requirements that are incompatible with KEPPRES 29 requirements. The rigidness with which KEPPRES requirements are interpreted, and the reluctance of all but the most senior of officials to take responsibility for approving deviations from stated requirements becomes very apparent when the EKUIN review process discloses a problem and a package is returned to the purchasing ministry for resolution. In the absence of any perceived authority to waive KEPPRES requirements, the technical personnel typically bring the matter to the attention of their minister, or rely on a letter from EKUIN citing the deviations in the procurement process but neither approving or disapproving the award, as authority to proceed. Considerable time is consumed in the process, and much of the delay in awarding contracts is attributed unfairly to EKUIN.

Inadequate procurement management and contract negotiating experience among the technical personnel leads to inconsistent interpretations of procurement regulations and subjects prospective contractors to what appears to be an arbitrary and capricious system. As discussed above, rigid adherence to interpretations of KEPPRES requirements often leads to considerable delay in donor-financed projects. These delays are significant, in that EKUIN estimates that 80% of the contracts it reviews involve donor-financing. To minimize the potential for problems with contract awards, many ministries rely on extensive use of consultants both to prepare tender documents and negotiate awards on large donor-funded projects. Multi-lateral agencies like the Asian Development Bank and the World Bank typically include an amount for consultants in their estimates of approximately 3% of the project budget. For projects in the current-year ADB portfolio alone, this amounts to about $60 million.

Inconsistent application of regulations and subjective interpretation of the contract conditions being offered opens the procurement process to abuse and collusion, particularly when domestic contractors or amounts under the Rp. 3.0 billion threshold are involved. Estimates of the cost to the GOI resulting from inefficiencies in the procurement system range from 15% to 40% of total contract awards. Given the high economic development impact of most civilian department purchases, this suggests that, in effect, the budget for economic development is being diminished by a similar amount.

To address the problems in the procurement system, EKUIN has been given responsibility, in addition to its procurement review responsibility, for drafting a revised set of procurement regulations and now chairs a separate group working on that effort.

III. ASSESSMENT OF PROPOSED IMPLEMENTING AGENCY

Three issues are addressed in this Institutional Analysis. The first is concerned with determining the most effective organizational structure within the Government of Indonesia

- 65

for carrying out the project activities, taking into account existing organizational relationships and the relative power of the organizations involved. A second concern is identifying the existing institutions which require strengthening in order to carry on project activities beyond the end of USAID financial assistance. The third concern is providing for private sector participation, particularly in the area of training and legal information system development.

The analysis considered the potential of three GOI organizations to manage the Project without compromising their primary responsibilities:

- Coordinating Ministry for Economics, Financial and Industrial Affairs and for Development Supervision (EKUIN)
- National Law Development Agency (BPHN) of Ministry of Justice (MOJ)
- Sekretariat Negara (SEKNEG)

The analysis also considered the feasibility of setting up sub-projects to provide decentralized, rather than centralized, management of the Project.

1. Law Development Capacity

Three organizations share major roles in the development of economic laws in Indonesia. The Department of Justice is important because it heretofore has been the principal drafter of most laws and many Presidential Decrees. More significantly, the official repository for all legal information, BPHN, is under the Ministry of Justice. The Ministry of Justice has a large staff of attorneys, but few appear to possess experience in economic law. The Sekretariat Negara is key to the development of economic law not only because of its "gatekeeper" role with regard to draft legislation submitted to the Parliament, but also because of the role that it has adopted as the technical specialist and final arbiter of all legislation. EKUIN is an important organization because the ministries for which it has primary coordinating responsibility include virtually all of ministries that affect and control commercial transactions.

There clearly has been some tension between the Department of Justice and EKUIN as to which organization should be responsible for drafting legislation defining economic laws. In early 1991 both EKUIN and Justice prepared draft company laws for review by SEKNEG. It appears that SEKNEG will rely upon the EKUIN version in preparing its own final version of this draft legislation.

While EKUIN has the requisite authority to direct and coordinate the development of laws and regulations, particularly those affecting the ministries under its umbrella of coordination (Finance, Industry, and Trade), it does not have a large legal staff of its own and is dependent for legal expertise on the departments under its coordinating umbrella. EKUIN has been successful in obtaining pro bono assistance from the private sector legal community in Jakarta. USAID has also provided EKUIN with access to legal specialists from the U.S.

The Coordinating Ministry for Economics, Financial and Industrial Affairs and for Development Supervision (EKUIN) was determined to be the most appropriate GOI organization for implementing the ELIPS Project. The ability of EKUIN to serve as the focal point for the Project is supported by the lead role that the Ministry has fulfilled in drafting recent economic laws, particularly company law and the small business law. This assignment of responsibility stems in part from the reputation that the Ministry has for getting things done quickly. The current Minister is still remembered throughout the GOI for the swift manner in which he was able to get new tax legislation enacted in 1988.

Another consideration in determining the organization best positioned to develop economic law is that EKUIN has all of the economic ministries and departments within its coordinating umbrella. These organizations include the Ministries of Finance, Trade and Industry, Bank Indonesia and the Stock Exchange (BAPEPAM). These organizations can provide human resources as well as technical advice in the drafting of economic laws. While in the past the Ministry of Justice had the lead role in drafting legislation, the expertise of Justice lies more with civil and criminal law than economic law. Moreover, the National Law Development Agency of the Ministry of Justice, although still maintaining a large staff of lawyers in the law drafting division, does not have a strong reputation for effectiveness, even within the Ministry of Justice.

The most compelling reason for working through EKUIN is the strong evidence that the Ministry has support from the highest levels to increase the pace of development of economic laws. The current Minister has a well-deserved reputation for being action-oriented and being able to overcome "turf issues" and the lack of coordination among ministries which frequently hampers important government actions in Indonesia.

While the Ministry of Justice and SEKNEG obviously deserve strong consideration as Implementing Agencies, each would be at disadvantage in trying to fulfill this role. The Ministry of Justice's role in economic matters and its relative lack of staff with legal expertise in the areas related to commercial transactions would make it difficult to lead the development of economic laws effectively. SEKNEG does have, or is rapidly developing, expertise in the legal areas encompassed by economic law. In fact, the Secretariat might have the highest concentration of highly competent legal talent of any GOI organization. However, SEKNEG's responsibilities as final arbiter and drafter of legislation would be compromised if it was also responsible for preparing initial drafts of legislation. Also, project management activities would require more energy and time than SEKNEG's small staff could afford.

2. Procurement System Experience

An additional consideration in EKUIN's qualifications as implementing agency is that it has been assigned responsibility for revising KEPPRES 29, the principal regulatory document on public procurement practices in Indonesia. The Ministry also chairs the committee which reviews procurements in excess of Rp. 3.0 billion. This central role in the

review and revision of procurement procedures puts EKUIN in a good position to take responsibility for developing the comprehensive procurement management and policy framework proposed under the ELIPS Project.

3. Legal Information System Expertise

EKUIN does not have a great deal of experience with legal information systems. However, its role in the development of these systems will primarily be one of contract manager rather than technical expert. Several organizations will receive assistance in developing their own legal information systems. EKUIN is well-positioned to manage this overall process, because of its official coordinating role among the economic line ministries.

4. Assessment of Project Implementation using a Sub-Project Approach

Because of the diversity of activities included under the ELIPS Project and the number of organizations involved, consideration was given to breaking the activities down into sub-projects and assigning management responsibility to several rather than one organization. After analysis, this approach was rejected for two reasons. Review of the performance on other donor projects involving sub-projects revealed that the experiences with this approach have been poor. In general, this approach leads to independent, rather than coordinated, actions among sub-project managers and hinders attainment of overall project objectives.

Additionally, while the components of the ELIPS Project appear diverse, in reality there is considerable inter-relationship among activities within the components. Reviewing the experience of technical assistance efforts involving sub-projects suggests that maintaining these relationships and coordinating project activities can be achieved more effectively by one rather than multiple implementing organizations.

5. Provision for Justice and SEKNEG Involvement

Despite its strong leadership and the good reputation that EKUIN is developing for getting things done, it is clear that EKUIN and the ELIPS Project will require the cooperation of the Ministry of Justice and SEKNEG if Project activities are to move smoothly. Potential conflicts among the organizations are more likely to arise over "turf issues", than real issues concerning EKUIN's ability to manage the project or reach objectives. The potential for conflicts between EKUIN and each of the other organizations is reduced significantly by the level of participation and the value of the benefits that SEKNEG and the Ministry of Justice, through BPHN, will enjoy in the Project.

Throughout the design process, the team encountered considerable enthusiasm for the ELIPS Project at each of the three organizations. SEKNEG and Ministry of Justice appear to recognize that EKUIN has senior level support for its lead role which is required to make the Project a success. There is an emerging level of cooperation among EKUIN, Justice and SEKNEG that is quite evident in current working relationships. The EKUIN Project

68

Manager will have to devote adequate time to coordinating activities and avoiding potential conflicts if the full potential of the ELIPS Project is to be realized.

6. Project Management

Day-to-day management of the ELIPS Project will be provided by a unit set up within EKUIN. The proposed Project Manager is an experienced professional with training in both economics and law. The unit will be staffed by personnel who have already gained experience in drafting the Company Law recently submitted to SEKNEG, and who are currently preparing draft legislation relates to small and business. At present this unit is expected to consist of about 10 professionals, including seconded individuals rotate in from other economic ministries.

One of the responsibilities of the contractor providing law development assistance will be to provide training in research and legislative drafting to this staff to assure the continued effectiveness of this unit after the end of the Project.

A long-term advisor serving as Chief-of-Party for the Law Development contractor will be provided with an office in the EKUIN unit and will assist the Project Manager. Management of the ELIPS Project will be guided by Annual Plans which will be developed in co-operation with SEKNEG, the Ministry of Justice and the University of Indonesia. These plans will provide the agenda for quarterly meetings of the project participants. The purpose of such meetings will be to review the progress of Project against the Plans, and to develop a coordinated approach to any changes which might be required.

IV. INSTITUTIONAL DEVELOPMENT REQUIREMENTS

A principal objective of the ELIPS Project is to significantly improve the efficiency and speed of economic law development in Indonesia. In addition, the Project seeks to create effective institutions which will continue to be active in improving the quality of procurement management and in providing easy access by governmental organizations and the general public to legal information that is reliable and up-to-date.

A. Capacity Building in Law Development

1. Economic Law Development

Expertise in legal drafting, although not extensive, exists in many GOI agencies and ministries. Virtually all of the ministries and departments have legal bureaus and a relatively large staff of lawyers. The National Law Development Agency has over 100 lawyers on its law development staff. The Sekretariat Negara has approximately 30 lawyers on its staff. However few lawyers in most ministries have much experience with economic law.

The ELIPS Project will support the expansion of a Law Development Group within EKUIN. The unit is expected to consist of a small permanent professional staff of approximately 3-4, and an additional staff of 5-10 drawn from the economic ministries.

- 69

Practical experience and training will be provided to the staff by the Law Development contractor who will also be occupying space in the EKUIN unit. The skills of the EKUIN staff will be developed through enrollment in short courses sponsored by the Project and through experience in working with the contractor, and short-term technical advisors, in carrying out research and drafting various economic laws. By working in close association with senior legal advisors, it is expected that the EKUIN staff will develop considerable and sustainable expertise in economic law well before the end of the ELIPS Project.

The ELIPS Project will increase the capacity of the Government of Indonesia to develop economic law in several ways. For one, the organization which will be set up to carry out the ELIPS Project will establish a process for drafting economic laws which will be a major improvement over the uncoordinated and inefficient manner in which law is currently developed in Indonesia. The proposed process could serve as a model for development of laws in any area, and is expected to have a positive influence on future legislative drafting activities. The coordination and division of responsibilities for drafting laws created by the ELIPS project management unit will eliminate much of the duplication of effort that currently exists, as well as the excessive level of work required by SEKNEG because of inadequate coordination by ministries in drafting legislation at present.

The capacity to develop law in Indonesia will be further increased by the training and staff development assistance which will be provided by the Project to personnel in various ministries. It is expected that by the end of the Project, five or six ministries, including EKUIN, will have a nucleus of trained staff experienced in conducting legal research and preparing draft legislation in a number of areas related to commercial activities.

The legal information system to be created by the ELIPS Project will also help to increase law development capacity in Indonesia. The system will reduce significantly the time required to compile laws and regulations having a bearing on proposed new legislation, and will speed up the process of identifying conflicting or overlapping laws, decrees and regulations.

In addition, the training and skills enhancement provided to law faculty, judiciary and attorneys will have a lasting and positive effect on the future development and interpretation of economic laws.

B. Capacity Building in Legal Education

1. Expanded Economic Law Education

Increased capacity for economic law training will be supported by the ELIPS Project. Assistance will be provided to establish a much-strengthened program in Economic Law at the University of Indonesia. This is expected to contribute significantly to developing professional skills of a lasting nature and providing the high degree of sustainability which is a major objective of the Project.

70

The program at the University of Indonesia will also increase the quality of economic law education at law schools in other state universities through long-term and short-term training of law faculty. These faculty members will become more capable of upgrading the economic law curriculum at their universities, and for conducting short-term courses for public and private sector lawyers communities. Detailed information on proposed legal training programs is contained in Annex A-6.

The Law Development contractor selected for the ELIPS Project will provide administrative and logistical support to University of Indonesia. Recruitment of legal specialists, both Indonesian and expatriate, will be the responsibility of the law development contractor in coordination with the law faculty of the University of Indonesia.

The University of Indonesia Faculty of Law is the preferred choice for legal training for several reasons. For one, it is an existing institution dedicated to training lawyers and, therefore, has a built-in incentive to continue its education responsibilities beyond the end of the Project. It will also receive assistance under the Project in installing a legal information system, and as a research facility will provide easier access to the general public than might be available if such resources were housed in a government ministry. In addition, the Law Faculty has experience in conducting short-courses and workshops in economic law and has been successful in attracting fee-paying attenders. The University is also a logical choice because of its association with the state universities and its ability to assist in the establishment of comparable continuing education and legal information research facilities at the provincial universities.

To further enhance the quality of legal education, and particularly to provide economic law students with more of an orientation toward commerce than is usually provided in an academic setting, the Project also intends to explore the possibilities of working with a highly-regarded private business school. This program would help to provide law students with a background in practical commercial law applications which is necessary for a career in private practice or business.

C. Increased Capacity in Legal Information

1. Legal Information Institutional Capacity

The capacity to maintain and enhance the reliability and accessibility of legal information in Indonesia will be developed in several institutions. The National Law Development Agency (BPHN) will be the primary focus of the Project's activities related to automated full-text legal information retrieval. The capacities of SEKNEG, the university system, and the private sector will be developed as well. A description of legal information requirements is provided in Annex A-4.

2. BPHN Capacity Building

The ELIPS Project will provide support to BPHN to develop its capacity as the official government repository and source for legal information. Personnel at BPHN will be trained

during and after the installation of hardware and the full-text retrieval software in maintenance and operation of the legal information system. An audit will be conducted of the text to be entered into the system to ensure that the database being created is reliable and accurate. Staff from BPHN will participate with contractor staff in this audit to instill the need for stringent control of text entry operations. The contractor will remain on the BPHN site long enough to ensure that the system is operating satisfactorily and that BPHN staff have had sufficient training to maintain and operate the information system without further assistance.

The Project will assist BPHN in its current efforts to create an automated full-text retrieval system for legal information by providing software, hardware and training for both system technicians and users. This assistance will enable BPHN to create a complete database of laws, decrees and regulations in considerably less time than would be required under the current method of keyboard entry of document text. Assistance provided under the Project will also solve problems caused by incompatibilities between current word processing systems and the photo-typesetting systems used by the government printing plant, which will greatly improve the ability of SEKNEG and BPHN to get legislation and decrees published and distributed.

As described previously, BPHN is developing a system that will make it possible to distribute the full text of legal documents on CD-ROM. The University does not have a full-text database, but can be provided with one by BPHN. This effort will be supported by the ELIPS Project. This assistance will give the University the capacity to train students in the use of legal information systems, as well as increase the capacity of the Law Faculty to support legal research by faculty and students.

3. University System Capacity

All relevant legal information will be entered into the BPHN database using text scanners provided by the Project. Once the database is complete and verified, it will be transferred to the Legal Documentation Center (PDH) at University of Indonesia. The legal information system at the University will be kept current through periodic transfers of updated data by BPHN. The primary purpose of installing the system at University is to provide students and faculty with opportunities to conduct legal research using full-text retrieval systems. Use of the system will be incorporated into the law curriculum to ensure that current and future students become adept in modern methods of legal research. The PDH system, as well as the center at BPHN, have been and will continue to be open to the public.

4. SEKNEG Information System

The ELIPS Project will assist SEKNEG in overcoming the current delays it experiences in getting official documents published and distributed, as well as increase its capacity to conduct legal research. The specifics of this assistance are discussed in Annex A-4, but consist essentially of providing the Secretariat with a local area network (LAN) system for accessing a database of full-text legal documents, and for performing desktop

72

publishing. The virtually immediate availability of copies of recent legislation and Presidential Decrees is expected to generate a dependency within the public and private sectors on rapid and ready access to legal information which will ensure continued support for the SEKNEG system well beyond the PACD.

D. Capacity Building in Procurement Management

1. Procurement Management Capacity

One of the major objectives of the ELIPS Project is to foster the creation of a centralized procurement management and policy office. This office will greatly expand the capacity of the GOI to maintain a unified procurement system which stays current with local and international economic conditions. The Project initially will assist in developing this capacity by supporting a group assembled by EKUIN to revise KEPPRES 29 and prepare a comprehensive procurement manual. The manual will attempt to reconcile Indonesian procurement practices with the requirements of donor agencies, as well as incorporate needed revisions in current regulations.

The Project will also provide assistance to establish a procurement management organization and system within EKUIN which will provide effective oversight and maintenance of procurement practices. The procurement management unit will also responsible for promulgating procurement policy and maintaining the integrity of the system. Assistance to improve the procurement management will be provided through a combination of long-term and short-term advisors. The areas of assistance are briefly described in the analysis of the Indonesian procurement system contained in Annex A-5.

One of the objectives of the assistance provided under the procurement system component of the ELIPS Project will be to establish a central unit for procurement management. These management responsibilities will include policy formation and promulgation, oversight of government procurement activities and procurement curricula development and training.

EKUIN is the logical organization in which to create the procurement management unit because of its extensive involvement in reviewing major procurement actions and in preparing revisions to KEPPRES 29. A primary responsibility of the procurement management unit will be to maintain the integrity of the government procurement system and to foster the growth of a body of procurement professionals within the GOI.

The procurement management unit will review the need for clarification to existing procurement policies and will issue instructions and supplementary regulations on a regular basis. The professional development activities of the unit will include curriculum development for use by procurement implementing agencies.

The unit will also provide oversight of procurement activities of the ministries through periodic reviews to ensure that policies and regulations are carried out in a consistent and effective manner.

-73

V. PRIVATE SECTOR PARTICIPATION

The capacity of the private sector to advise and litigate in the area of economic law will be increased through practicing attorney participation in the education programs and workshops developed with ELIPS Project assistance. These programs will be administered by the University of Indonesia and other institutions. Project assistance will take the form primarily of short-term assistance, curriculum development, and providing guest lecturers to lead or participate in seminars and workshops.

To develop a sustainable capability in legal information system dissemination and maintenance, the Legal Information contractor may be required to team with an Indonesian firm and to develop the capacity of the firm in information systems technology. This approach would help to ensure long-term maintenance of the system and is expected to promote the growth of the local legal information publishing industry.

The ELIPS Project provides for private sector participation in several ways. The Project will seek input from the private sector in the development of new legislation, in developing economic law curricula, in the preparation of a procurement system manual, and in the design of the legal information systems to be installed through the Project.

A. Private Sector Advisory Assistance

1. Private Sector Participation in Law Development

Several law firms in Jakarta have on their staff highly-qualified lawyers who have expressed an interest in advising EKUIN during the legislative drafting process. EKUIN has made use of such pro bono services in preparing its recent draft of the companies law. Participation of outside expertise will increase as a result of the law development activities being supported by the ELIPS Project and will contribute to the quality of draft laws prepared under the Project.

2. Private Sector Participation in Legal Information System Development

A small group of individuals practicing law in Indonesia, both Indonesians and expatriate, practicing law in Indonesia have been promoting and assisting the development of legal information systems in Indonesia, in some instances, for more than 15 years. These individuals are a valuable resource which can contribute a great deal to the development of the legal information system to be installed under the ELIPS Project.

To take advantage of this resource, a small advisory group will be created to work directly with the EKUIN Project Manager in designing and developing the legal information system. This group will include several individuals in private law practice in Indonesia and government attorneys from BPHN, the University of Indonesia and key ministries. This group will assist the legal information contractor in preparing the final design and implementation plan for the legal information system.

3. Private Sector Participation in Procurement Management System Development

As a way of announcing the effort being organized to improve the efficiency of the government procurement system, and to solicit public comment on suggested revisions, EKUIN will sponsor a procurement workshop soon after the ELIPS Project is initiated. This workshop is expected to be similar to one held in January, 1991 announcing the development of a Company Law and attended by a wide cross-section of organizations and individuals with an interest in companies law.

The agenda for the workshop will include presentations by the ministries and state-owned enterprises which are major purchasers of goods and services, and by outside experts in international procurement activities. Attendees are expected to include representatives from a cross-section of domestic and international companies, as well as personnel from the various GOI ministries and from the international development institution community. The workshop is intended to open a dialogue between the officials responsible for developing a comprehensive procurement system, including a procurement manual, and the organizations involved in procurement or the supply of goods and services.

B. Development of Legal Publishing Sector

To help promote the creation of a legal publishing industry in Indonesia, the Legal Information contractor may be requested to subcontract with a local firm. At present, there is only a small market for legal clearing house publications. While the market is expected to grow, the number of law firms in Indonesia now is estimated to be less than 100. This number is insufficient to provide a profitable market, given the high cost of publishing legal texts. However, with the advent of full text information retrieval systems, the demand for similar installations in private firms is expected to increase, as is the number of law firms. Moreover, the cost of publishing large volumes of information on CD-ROM is quite low. The appropriateness of this technology for Indonesian requirements suggests an opportunity for a firm to develop and publish large databases on a wide variety of topics, in addition to legal information.

Flexibility will be provided to the Legal Information contractor in developing an information system and publishing capability in a local firm. A joint-venture, however, would appear to be most appropriate arrangement in that it would permit the contractor to share in the profits resulting from introduction of the information system technology. A joint-venture would be advantageous to the local partner as well, in that it would ensure that the local company would have access to advances in the technology and would be able to access the technical services of the U.S. partner.

VI. OTHER ISSUES

The activities which will be supported by the ELIPS Project are virtually without precedent in A.I.D. For that reason there are few examples of past project experience to draw upon in assessing the technical feasibility and realism of the proposed approach to achieving the Project's objectives. Rather, the project design relied upon an assessment of the commitment

of the Government of Indonesia, the availability of the technical expertise required, and the suitability of the proposed technology to conditions in Indonesia.

A. Extent of Commitment

The success of policy reform-oriented projects rests most often on the commitment of the government involved to initiate the policy revisions developed by the project. There is considerable evidence of a serious GOI commitment to undertake development and implement the economic laws which are required to sustain the economic growth which Indonesia has experienced during the past decade. This evidence can be found in the major deregulation programs of the last five years, and in the transformation of the stock exchange from a largely moribund institution into an active trading center.

The commitment of the GOI is also apparent in the posting of the current EKUIN minister. His reputation for effectiveness implies that EKUIN is expected to make considerable progress in developing the fundamental laws required for continued economic expansion. Further evidence of the support that EKUIN has from high levels of government is provided by the cooperation that is emerging from the Ministry of Justice. It is significant also that of the various drafts of a revised Company Law which were available to SEKNEG, the draft prepared by EKUIN was selected as the basis for the document which will be submitted to the Parliament.

While EKUIN will not be able to avoid all the "turf issues" which inevitably arise when project activities cut across departmental lines of responsibility, it is clear that EKUIN has been given a mandate to improve the status of economic laws in Indonesia, and is expected to produce results. There appears to be general recognition of this mandate, and each organization involved in the ELIPS Project has indicated that it is willing to work with EKUIN in this effort.

B. Availability of Required Expertise

Although the technical expertise required for the ELIPS Project is outside the traditional areas of A.I.D. assistance, the basic technical approach of the Project, particularly in the area of law development, is similar to projects providing assistance in policy reform. There are a number of examples throughout A.I.D. history which demonstrate the ability of the Agency to assist structural and policy reform efforts successfully. The question, therefore, is whether the ELIPS Project can deliver experts in the legal specialties which are of interest to the GOI who are sufficiently senior to meet the levels of professional competence which will be required for effectiveness.

In addition to private law firms, universities may be a potential source of personnel. While the types of legal expertise required by the ELIPS Project are available, it will require considerable flexibility on the part of A.I.D. and a high degree of resourcefulness on the part of the Law Development contractor to recruit legal specialists within a time frame that fits with the law drafting activities of the GOI and EKUIN.

76

C. Suitability of Proposed Technology

The ELIPS Project will provide full-text database and retrieval software, desktop publishing software, and computers and peripheral equipment to the National Law Development Agency, the University of Indonesia, SEKNEG, and the Ministry of Finance. The publishing capacity of the Administrative Courts will also receive support.

1. Software Technology

The legal information software technology, i.e., full-text retrieval applications, have been in use in the U.S. and other countries for several years and are well-proven. Obsolete text retrieval systems, primarily systems which rely on key words or indexes, are in use currently in Indonesia by several law firms which adapted them to their specialized needs. With adequate training in the maintenance and use of the software, it is unlikely that personnel at any of the proposed installations will have difficulty supporting and operating up-to-date text retrieval systems. Formal training for both technical support personnel and users will require one week, while full competency in the use and maintenance of the software system can be acquired through several weeks of practical experience with the software.

Desktop publishing software will also be provided to shorten the time required to print and provide widespread supply of to legislation and other legal information. The software technology involved in desktop publishing, while somewhat more complex, is similar to word processing software. Word processing systems are in wide use throughout the public and private sectors in Indonesia and experience with these systems is common at both professional and administrative levels. Use of word processing systems would be even higher, if equipment were more readily available or affordable in Indonesia. No difficulties related to training or aptitude are anticipated in providing the desktop publishing software at the proposed installations.

2. Hardware Technology

The hardware to be provided by the ELIPS Project under the Legal Information component consists of 386-based computers with large storage capacities, local area network (LAN) systems consisting of a 386-based computer with large storage capacity and terminals and keyboards for multi-users, desktop scanning equipment, CD-ROM drives, and laser printers.

With the exception of the scanning equipment, all of the other hardware proposed is in use in Indonesia at the present time. The National Law Development Agency has been using a LAN provided by the Ford Foundation in 1988 to enter the full text of Presidential Decrees. Use of CD-ROM technology is limited to private applications at the present time, but negotiations are in process to purchase a system for use by BPHN which is likely to become the GOI standard.

-71

Scanning technology does not appear to be in wide use. However, use of the system requires skills comparable to photo-copying operations, i.e., very little training is required.

Maintenance and repair of the equipment, particularly the scanners and CD-ROM drives, is another matter. While computer repair facilities are available, none of the personnel in these firms have experience in repairing scanners and CD-ROM drives. Because of the similarity in technology between scanners and photo-copiers and CD-ROM drives and video cassette recorders (VCRs), however, it is expected that access to local repair facilities will be available within one to two years. In the meantime, the equipment supplier under the Project will be required to provide for maintenance and repair of the equipment during a guarantee period of at least one year.

ANNEX A-2

ECONOMIC ANALYSIS

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

Table of Contents

Executive Summary 1

I. Introduction 3

II. Law and Procurement as Foundations for Economic Activity 3

II.A. Legal Foundations 3
1. Law as Infrastructure 3
2. Legal Approach 4
3. Economic Approach 6
4. Support for Economic Development 6
5. Basic Elements 6
a. Contract law 7
b. Company law 8
c. Dispute resolution 9
d. Legal information 9

II.B. Procurement Foundations 10

1. Government Procurement as Implementation of Public Investment 10
a. Development Planning 10
b. State Owned Enterprises 11
2. Efficiency Considerations 11
3. Equity Considerations 11
4. Basic Elements 12
a. Legal Basis 12
b. Policy Determination 12
c. Management 12
d. Training 12

III. Current Development Environment 13

III.A. Development Context 13

1. Introduction 13
2. Historical Context 13
3. Contemporary Context 14

III.B. Mandates for Change 16

1. Introduction 16
2. Development Plan 16
3. Multilateral Donors 16
4. U.S. AID 18

80

IV. Constraints on Sustainable Development 19

IV.A. Planned Development 19

1. Introduction 19
2. A Medium-Term Macroeconomic Outlook 19

IV.B. Anticipated Constraints on Development 21

1. Introduction 21
2. Economic Imperatives 22
3. Economic Law 23
   a. Financial Sector Law 23
   b. Company Law 25
   c. Mergers and Acquisitions Law 25
   d. Trademark Law 25
4. Procurement 26
   a. Development Plan Provision of Infrastructure 26
   b. State Owned Enterprises: Support Services 27

Appendix 1: Mandates for Development of Economic Law in Indonesia 30
Development Plan 30
Multilateral Donors 31
U.S. AID/Washington 35
U.S. AID/Indonesia 36

Appendix 2: Indonesian Organization of Economic Law and Procurement 37
Economic Law 37
Government Procurement 38

Sources Consulted 40

EXECUTIVE SUMMARY

Economic law and procurement serve as key elements in Indonesia's economic development. As vital as physical infrastructure, appropriate economic laws facilitate the complex transactions essential to rapid growth and vibrant participation by the private sector. Procurement by government entities and state-owned enterprises represents a significant demand element in the economy, one which must be carried out efficiently while taking into account key equity dimensions. Efficiency and equity are fundamental to economists' perspectives on appropriate organization of economic law and procurement. These supplement certainty, predictability and confidence which are traditional legal criteria used to judge their adequacy.

The basic elements required of economic law to support Indonesia's rapid pace of structural adjustment and economic reform are contract law, company law, dispute resolution, and legal information. These together form an underpinning which supports private sector participation at the pace and magnitude required. Without well defined, transparent and fairly enforced economic laws risks of transactions remain high, boosting costs and limiting participation by domestic and foreign transactors. The basic elements required of procurement to support Indonesia's development agenda are coordinated and well-defined regulations and guidelines accompanied by trained staff capable of timely and fair implementation.

The development agenda for the 1990s calls for continued rapid growth and a widening and deepening of development. Key to this agenda is enhanced private participation in investment, production and export. Only with this private sector participation will the necessary resources be available to achieve the growth targets which will generate several million new jobs each year, raise per capita incomes, and reduce the numbers remaining poor.

There is broad agreement that reform of economic law and procurement are key to achieving Indonesia's development agenda. The country's development plan, Repelita V, is explicit about the need for reform. Multilateral donors have identified the need for a well-functioning legal system as a prerequisite in the shift towards a vibrant private sector. U.S. AID has consistently placed encouragement and enhancement of the private sector at center stage and has recognized the contributions which project assistance to economic law and procurement reform can make. U.S. AID/Indonesia, in its Country Development Strategy Statement for FY 1989-FY 1993, has identified economic law reform as a key to the goal of supporting market forces and the private sector.

The exact pace and mix of economic laws and procurement dimensions which Indonesia will reform over the next six years will largely be determined by both the bottlenecks encountered to rapid growth and the political support for reform. Economic criteria place a high priority on the following as high priority areas for legal improvement: company law; secured transactions law; financing law; trademark law; arbitration law; and bankruptcy law. Procurement improvements are likely to focus on coordination and administrative

- 82

realignment of Keppres 29 procurement regulations with major donor requirements, publication and wide distribution of a unified procurement manual, and training of officials for improved performance.

The costs being incurred under the current economic law and procurement environment are high and expected to rise as the economy becomes more complex. Constraints on growth from either debilitating economic laws or inefficient procurement mean heavy costs; for each 0.10% decrease in GDP growth there is a loss of US$ 8.8 million per year (compounded over future years). Ill-defined legal relationships increase risk and raise the costs of capital and transactions. Higher interest rates and returns on projects are necessary to balance risks which could be reduced through appropriate legal structures. Weak procurement management likewise inflicts heavy costs on the economy; on average 3% of donor project costs go to consultants for operation and supervision of procurement. Overall costs of weak procurement approach 30% of major project costs, including use of consultants, payment of premiums for late orders, interest on amounts delayed in approval, and slippage of regulations and procedures. If measured against just the magnitude of donor project assistance estimated at US$ 4.2 billion p.a. for 1992/93-1995-96, this represents hundreds of millions of US dollars in excess costs which could more productively be allocated to additional development on a more timely and efficient basis of procurement. Measured from any perspective, the costs of ill-defined and operated economic law and procurement systems is large and growing, thus placing the financial and economic imperatives for reform and improvement in perspective.

83

"...sharply stepped-up economic activity in 1989-90 has overwhelmed the country's physical infrastructure. Roads, harbours, power plants and telecommunication facilities are all straining under the pressure.

"Most investors say that infrastructural problems are a nuisance but not a major disincentive to investment in Indonesia. Investors are more concerned about the technocrats' ability to continue deregulating the Indonesian economy."

Far Eastern Economic Review
April 18, 1991

I. INTRODUCTION

The economic rationale for an economic law and improved procurement (ELIPS) project in Indonesia stems from the role of transactions and contracts in a private-sector market oriented economy, as well as from the role of government in the development process through procurement activities. Efficiency and equity are shown to be fundamental to the achievement of growth rates and development plans targeted for the country. Complementing certainty, predictability and confidence as legal requirements, these economic criteria help determine the shape of reforms required of economic law. Improvements in procurement are shown to be vital to the government's and state-owned enterprises' successful accomplishment of development and production mandates. The exact agenda for reforms, driven by an imperative of support for growth and development targets, is determined by bottlenecks which develop in the economy and the political ability to ameliorate these constraints.

II. LAW AND PROCUREMENT AS FOUNDATIONS FOR ECONOMIC ACTIVITY

II.A. Legal Foundations

1. Law as Infrastructure. Infrastructure is a vital foundation for economic development. Typically it is the "visible" infrastructure of physical capital in the public and private sectors (transport, utilities, communications, social service agencies, production, processing, distribution) which is considered essential as economic development progresses. But another type of infrastructure is likewise essential for development to proceed: appropriate legal and judicial institutions, as well as laws and regulations which support the pace and complexity of economic transactions. Table 1 defines an economic law and procurement framework which demonstrates the scope of legal and regulatory "infrastructure" ideally supporting Indonesia's economy. Just as inadequate, obsolete physical infrastructure constrains economic activities, inappropriate economic law (and related institutions) can severely slow

-84

the pace of economic development, inequitably alter the range of participants (domestic and international), and drastically raise the cost (and lower the efficiency) of transactions. There must be an evolution of the legal underpinning for an economy as development proceeds; laws and institutional structures once supportive and adequate become outdated hindrances to increasingly complex economic relationships, unless continuously reviewed and selectively revised.

Laws and regulations are often misunderstood as integral parts of a functioning economy. Governments must provide for agreed upon elements of public welfare: national defense and public safety, social services, selected development and production activities and limited income redistribution. But equally important: "rules of the economic game" must be established and maintained. Protection of the public's interests pertaining to the economy often drive government regulation related to levels of competition, consumer protection, environmental enhancement, etc. There are, of course, wide differences in the level and mode of government regulation of economies, both between nations and within individual countries over time. These range from direct prohibition and administrative direction of some activities to legally mandated behavior and taxation-subsidization of other activities. Thus, one essential ingredient of successful economic development is a level and design of government regulation which is supportive of society's welfare while achieving least cost, highest efficiency regulatory intervention in the economy. This results in cycles or phases of regulatory activity, sometimes increasing or "reregulating" elements of the economy, but typically moving towards less and more sophisticated (more efficient) "guidance" of economic activity through deregulation and replacement of direct administrative regulation with indirect, legally based economic incentives and disincentives for economic behavior.

There are, then, two types of "rules of the economic game": those by which the government regulates and directs, as well as those which define and enhance economic transactions by and between individuals and entities. The latter are typically referred to as economic laws which rule the transactions between individual transactors (each of which may also be influenced and affected by government regulatory activities). Government must be the source of economic law: defining allowable transactions and providing for enforcement of contracts or relationships. Further, analogous to regulation of an economy, government must assure that economic law and its enforcement evolves to match the needs of the economy if the pace of development is to be unhindered.

2. Legal Approach.. Laws, both for regulation and to govern commercial transactions, have typically been developed and "maintained" through a legal approach. This is a particular mind-set which values certainty, predictability and confidence. Thus, for instance, an economic law framework should assure that economic transactions have certainty under the law (clear rules which assure that intended transactions can in fact be carried out). Further, there should be predictability of transactions, such that they will be respected by others and enforced by appropriate institutions (often the courts). Finally, economic law as a body of jurisprudence should promote confidence among private transactors so that economic relationships can be established and maintained. These are laudable goals which certainly serve the needs of society in many dimensions.

85

TABLE 1
ECONOMIC LAW AND PROCUREMENT FRAMEWORK

I. Economic Law

A. Substantive Laws and Regulations

Company Law
Secured Transactions Law
Financing Law
International Sales Law
Arbitration Law
Bankruptcy Law
Mergers and Acquisitions Law
Enforcement of Foreign Courts
    Money Judgements Law
Private International Law

Installment Sales Law
Consumer Protection Law
Unfair Trade Practices Law
Trademark Law
Copyright Law
Patent Law
Business Registry Law
Transport Law
Foreign Investment Law
Factoring Law
Leasing Law

B. Institutions

Law Development Process
    Drafting
    Codification
    Promulgation
    Publication

Law Enforcement Process
    Court System
    Government Agencies
    Arbitration

C. Legal Profession

Legal Services
University Law Faculties
Continuing Legal Education

D. Information

Laws and Regulations
Judicial Decisions

II. Procurement

A. Laws and Regulations

Constitution
Presidential Decrees
Ministerial Circulars
  and Instructions
Administrative Rulings

B. Institutions

Policy determination
Implementation
Information Dissemination
Management
Training

-86

3. Economic Approach. Economists bring different perspectives to the analysis of law, typically being concerned with issues of efficiency and equity. Thus, in economists' eyes, the legal approach's concerns with certainty, predictability and confidence are necessary but not sufficient conditions for an adequate economic law structure. Law typically evolves as selective changes are made; this introduces the opportunity for additional criteria to be used in judging the adequacy of elements of economic law. Further, it means that where aspects of the law increasingly hinder economic activity, discrete revisions should be undertaken consistent with legal mandates and economic requirements. The capacity of a nation to enforce, review and selectively alter its economic law is as critical to economic development as is development planning and provision of physical infrastructure.

Efficiency and equity considerations should not be viewed as contrary to, but rather supportive of, concerns over certainty, predictability and confidence in the law. Economic law which is adequate to support and enhance economic development must minimize the legal barriers to entry and maximize the mobility of transactors within the economy (producers, consumers, savers and investors). Indeed, there must be a legal environment which promotes and facilitates the efficient growth of market activities (markets providing for value-based voluntary exchanges with predictable outcomes at reasonable levels of risk and transaction cost). Efficiency in transactions must be promoted by standardizing contract terms, assuring enforcement of rights, and increasing the availability of information for participants (existing and potential); all will reduce the economic costs (in time and money) of transactions in the economy. Enforcement of the rights of transactors must be timely and certain if risk and cost are to be minimized; risk that agreed upon contract rights will not be fulfilled reduces the participants' willingness to participate, resulting in the need for higher returns to attract willing transactors. Complex economies require sophisticated markets and financial intermediaries, which in turn depend upon legal assurances that transactions have sanctity. Thus, strengthening of markets and achievement of economic justice requires that property rights be protected and enforced efficiently. This is one definition of equity in the protection of income and wealth (as contrasted with a government's power to redistribute income and wealth through taxation and subsidy in the search for a socially more acceptable distribution of purchasing power).

4. Support for Economic Development. Economic development is a dynamic process by which economic forces are strengthened (widened and deepened) in support of sustainable levels of economic growth. Increasingly this is taking the shape of structural adjustment of major sectors and financial-economic conditions. Tightly linked to such fundamental reforms in a developing economy are deregulation and privatization, two approaches to severely limiting government's role in the economy in favor of promotion of private interests and markets. In essence this is a broad substitution of private actions and markets for government direction and involvement in the economy.

5. Basic Elements. A well conceived, smoothly operating economic law structure is critical to sustaining the pace of structural adjustment and economic reform. More weight can only be put on the private sector and private markets in economic development if the "rules of the economic game" are supportive of efficient and equitable transactions. The basic elements of an adequate economic law structure include:

-87

contract law, including provision for:
- credit
- collateral
- consumer protection

company law, including provision for:
- accounting
- auditing
- capital market regulation

dispute resolution
legal information

Each element's basic role in a developing economy must be defined along economic lines if it is to be capable of promoting (rather than hindering) the structural transformation sought as part of the development process.

a. Contract law - Contracts define the most basic element of a market economy: voluntary exchange transactions. Self-seeking entities strive to achieve those activities which will improve their economic situations (flows of income, stocks of wealth). Given the opportunity, such entities will engage in those transactions which are compatible with their self-interests. Again given the opportunity, offsetting competitive forces will shape such transactions so as to maximize the joint benefit possible. Transactions, however, can be difficult to negotiate and costly to achieve if approached as mutually separate activities outside of supportive legal structures. In a world of limited information, uncertainty about the future and propensity for opportunistic behavior, few transactions except instantaneous exchanges of value (a form of barter) can occur. Customary or standardized terms and conditions for such transactions, called contracts, act to reduce costs of negotiation, provide for enforcement of rights, and allow for orderly adjudication in the future to react to unexpected conditions.

A body of contract law can and must develop as an economic institution which supports efficient and equitable transactions. The essential parts of such contract law are:

- laws providing for standardized contracts
- enforcement provisions to protect each contract party's interests and rights
- mechanisms to reinterpret contracts in the face of unforseen contingencies
- information
- insurance (risk-spreading) facilities

Provision of these dimensions to an economic law structure requires not only the laws themselves, but also institutions to assure the smooth operation of transactions.

88

The costs to a developing economy of inadequate contract law rise as the complexity and sophistication of exchanges grows. Private voluntary transactions at the pace and magnitude required cannot occur in the absence of a well-developed (transparent, predictable, objective, enforceable) legal infrastructure. Where transactions do occur, the costs of forming the transaction (ad hoc negotiation of contract provisions) are high, thus requiring higher expected rates of return for the contracting parties and acting as a drag on the economy. Participation in economic transactions is limited to those entities well connected, financially well-established, and/or capable of achieving high expected rates of return. Market development is limited in space and time if the transactions (in the form of contracts) are not standardized tradables.

b. Company law - Production (the creation of value added in physical or financial terms) by enterprises in the private sector forms the foundation of economic activity in a dynamic economy (supplemented by government provision for meeting society's demand for public and quasi-public goods). Formed around the behavioral trait of cost minimization-profit maximization, such entities can be viewed as continually choosing optimum production plans in support of owner's financial gain.

Special legal constructs are required to support the complexities of production needed by expanding economies. Limited liability is a legal concept which conveys strong benefits upon the corporation as a production entity. As a legal construct, it also provides an alternative view of the corporation as a production entity. Organization of economic activity as a limited liability company (corporation) conveys benefits through a standard form of contract (voluntary association), including limitations on liability, indefinite life, transferability of ownership, evolution of management. Standard provision for such organizational benefits results in economies of transaction cost for both participating individuals and for society. Government also imposes costs (requirements) on corporations, to protect the interests of participating individuals and society. Such regulations often stipulate elements of control, reporting, transfer of ownership, and management. Every such "cost" of incorporation diminishes the magnitude of benefits gained by having production based upon standard-form contracts.

The mix of legally defined production entities in any market economy ranges from sole proprietorships and partnerships to private and publicly held corporations. Company law must provide for each type of organization, including provision for: establishment, governance, distribution, dissolution, financial reporting, and disclosure. In providing for these dimensions to production entities, government should seek to balance society's needs for control and information against the benefits gained from minimizing interference in the production activities of legally defined entities. Deregulation of government "policing" of production activities, from the economic perspective, promotes enhanced efficiencies and encourages market-based responses to the economy's requirements for production and distribution. Further, it promotes broader participation by individuals in ownership of production (a company share-based form of financial intermediation), thus expanding sources of capital and allowing lenders to share directly in the risk-return dimensions to production.

c. **Dispute resolution** - the rights (interests) of transactors must be protected for voluntary exchange to hold any meaning. Certainty of protection is fundamental to efficient conduct of economic activities. Likewise, speed of conflict resolution is essential, pending which uncertainty of outcome translates into risk of loss. Often the judicial structure is the basis for resolving such conflicts. Such a foundation for dispute resolution requires efficient organization of justice, with adequate supply of courts to minimize periods of determination. It requires penalties for contract violation which are fair and predictable. It requires "specialization" of judicial review so that the complexities of economic disputes can be adjudicated fairly and form a basis of understanding of the economic and financial forces involved. It requires an open, honest distribution of justice, with the body of law as it is interpreted supplemented by judicial precedent. Without these dimensions, the judiciary will fail to support contracts as the basis for economic exchanges. Supplements to judicial resolution, such as arbitration, offer efficient mechanisms for negotiation between disputing parties where involved parties agree to the process and outcome.

d. **Legal information** - Rights which are mutually respected among transactors do not need to be enforced by entities outside of the contracts themselves. Contracts are valued for their efficiency in defining rights and allowing for redefinition and protection in the face of unexpected conditions. Only in a relatively few situations must rights be protected through recourse to judicial or arbitration mechanisms. But without information on the provisions of the law and its interpretation by the courts, the certainty of contracting is absent. Readily accessible knowledge of the law is fundamental to smooth functioning of voluntary contracts (and acts as a cost-effective substitute to perpetual judicial interpretation and enforcement). Knowledge of legal rights, if widely understood, acts as a deterrent to abuse. Without such knowledge, costs of entering into transactions rise dramatically and deter efficient economic activities. Thus, an increasingly sophisticated and comprehensive level of information about economic law is essential as development proceeds. This can prevent lack of confidence, mistrust, high barriers to entry, and costly searches for legal underpinnings to transactions.

Availability of information about economic law requires the acquiescence of government, but does not depend necessarily upon monopoly government provision. It is essential that government assure authoritative, open and comprehensive access to information; the public must have the right to know about laws and regulations (and pending revisions) and judicial-administrative enforcement. However, this is not the same as requiring that government always be the provider of such information in widely distributed formats. Private knowledge-based producers can play a creative role in converting the public's right to know into user-fee supported products available on a timely basis. A combination of official government public notification of laws, regulations, and judicial actions with public-private publications can satisfy the economy's needs for information.

-90

II.B. Procurement Foundations

1. Government Procurement as Implementation of Public Investment - Procurement is central to government's role in development planning and in operation of state owned enterprises. In this capacity government should be considered entrepreneurial and judged accordingly. Scarcity of resources, whether for development plan implementation (from domestic as well as foreign public and private sources) or for operation of parastatals, should be the foundation upon which management decisions rest in the public sector. This is often agreed to in principle but constantly violated in practice by governments. Actions to instill greater competition and efficiency in government procurement can pay large dividends by lowering costs, obtaining more qualified contractors, and expanding the effective purchasing power of funds dedicated to government purchasing operations.

Public infrastructure and efficient operation of state owned enterprises have importance beyond minimizing the cost of procurement. Both serve as a vital foundation for the economy; transport, telecommunications, power, social and welfare services all become prerequisites to effective economic activity. Inordinate delays in a coordinated expansion of infrastructure to support economic growth serves to delay and strangle the very economic expansion intended. Inefficient, costly, poor quality operation of state owned enterprises equally hinders smooth expansion of the economy at the same time that it serves as a drag on public funds (expanding subsidies from or reducing revenues going to government revenue).

Procurement by government and parastatals presents unique problems. Monopsony elements often exist where very large purchases mean that no effective competitive market conditions can exist without elaborate rules and procedures. Procurement activities must then act as a pseudo-replacement for such competitive forces. For all public purchases care must be exercised so that procedures enhance fairness, transparency and competition among bidders. Often serving as a conduit for foreign technology, proper procurement is especially important in capturing appropriate state-of-the-art products and processes as an integral component of the nation's infrastructure and mode of production. Finally, transparent and equitable procedures are required to promote full participation by foreign suppliers, a condition especially important as economic development moves the economy closer to world standards for production and marketing.

a. Development Planning - Five year development plans serve to provide both broad policy direction for national development and detailed outlines for actions by government and the private sector required to achieve Plan goals, objectives and targets. Stipulation of how public resources will be used to implement the plan provides government entities with direction as to needed programs and infrastructure. Efficiency in utilizing public resources for expansion of infrastructure, as well as its subsequent operation and maintenance, obviously increases the effective claim of development funds on resources for development. Timely and competitive procurement is essential to maintaining the momentum and schedule called for by development plans; interdependence of projects within plans means that slippage of some aspects of a plan can impose broader costs on other parts of the economy.

b. **State Owned Enterprises** - Public operation of production entities should not remove the mandate for efficient management. While governments may have controlling interests in petrochemicals, banking, utilities, manufacturing, retail distribution, and many dimensions to agriculture, the input-output dimensions of economic linkages pass along parastatal inefficiencies and high costs to other sectors in the economy. Competitiveness of a nation's production depends not only upon the efficiency of a particular producer; the effective costs of tradables and non-tradables help determine costs at world prices. Where private producers purchase and use products and services of state owned enterprises, which is almost always the case, their efficiency is intertwined with that of the SOEs themselves.

While efficient management of SOEs is a continuing problem in many nations, procurement can be central to effective operation. Production entities, even or especially where publicly controlled, need guidelines and procedures for obtaining best-suited, least-cost capital goods and technology. In an era of moves towards privatization of many parastatals and calls for more efficient management of those production entities remaining in public control, procurement is one key element in achieving efficient management. Sloppy, prolonged, and/or corrupt purchasing of major inputs to production not only raises current costs but often denies the state owned entity an efficient base for production throughout the effective life of the inputs procured.

2. Efficiency Considerations. Economic dimensions to government procurement demand adequate competition among bidders, sophisticated drafting of tenders, fair and timely analysis of bids, and awards based upon an optimum mix of capacity and cost considerations. Without these dimensions to government procurement, the development and SOE operating objectives described above cannot be met. All of these criteria basically seek to emulate market forces which do not exist in government procurement. The theory of competitive markets argues that offsetting demand and supply forces provide market prices reflecting embedded costs of production, without rent or economic profit as an added dimension to price. Erosion of competition on either side (reduction of entities demanding or supplying) weakens the ability of markets to provide embedded cost based pricing. Procurement regulations and practices, if properly structured along economic dimensions, reestablish sufficient degrees of these market forces to achieve an adequate level of efficiency (least cost acquisition).

3. Equity Considerations. Governments often use procurement as a means of accomplishing other goals besides efficiency. Objectives such as encouraging national participation, limiting foreign sourcing, promoting small entity participation, encouraging regional or ethnic or gender balance, achievement of social justice are sometimes mixed into detailed procurement procedures, regulations and implementation. There can be no doubt that such "equity" considerations are important. Further, it is valid for government procurement, being often the major source of demand in the market, to pursue selectively equity goals which are considered vital to national development. What is rarely understood, however, is that there may be true costs to be borne by adding equity considerations to procurement procedures. A benefit-cost framework ideally would identify the economic costs

a2

of tempering least-cost, best-performance sourcing criteria in procurement with other equity considerations. Rarely are extra-efficiency procurement criteria even recognized as having potential economic costs, let alone weighed against their economic costs to the costs of development implementation and state-owned enterprise costs.

4. Basic Elements. The objectives discussed above for procurement by government, both directly as part of development activities and indirectly through state owned enterprises, can only be achieved if there is an appropriate structure in place. In general there are several dimensions to such a structure: the legal basis, a mechanism for determining policy directions, management capacity, and training to assure smooth operation.

a. **Legal Basis** - Operational criteria must be established which identify responsibilities for procurement, lines of authority, degrees of centralization, criteria, and mechanisms for analysis, award and audit. Such criteria, to be effective, must be grounded clearly in the body of laws and regulations pertaining to a nation's government activities and the operations of state owned enterprises. Ambiguities, inconsistencies and lapses in criteria quickly weaken the potential for procurement to achieve objectives of efficiency and equity mandated by the government.

b. **Policy Determination** - Government development activity in general, and procurement in particular, must be considered a dynamic process. No set of laws and regulations, even if ideally suited to a particular set of national objectives, can long remain effective unless modified and updated. Changes in degrees of competition (foreign and domestic), technologies and products, as well as national criteria mean that broad policy direction must periodically be given to procurement functions. Sometimes such modifications can be made through interpretations and changes in administrative practices. Other changes, of a more profound nature, may require periodic changes in the underlying legal foundations for procurement. Both types of actions must be kept current.

c. **Management** - Ideal procurement practices, even if kept current with policy directives, cannot function well unless there is sound, competent management. Government procurement is complex for government as well as for suppliers, and it becomes increasingly so as economies grow in sophistication and effective ranges of suppliers expand to regional and world levels. Procurement thus becomes one of the most important functions of government and SOE entities in the realm of management and operation. Detailed regulations and guidelines alone cannot substitute for sound management capability in procuring supplies, capital goods and technology.

d. **Training** - The monetary dimensions as well as number and range of procurement required of governments call for procurement staff which can implement procedures in an efficient and timely manner. Given decentralization of responsibility for procurement between agencies or division as well as often along spatial dimensions, continuous attention to training is necessary. Often the weak link in

procurement resides at the foundation level of staff responsible for basic implementation. Inadequate pay, low morale, poor working conditions, lack of competence can diminish or sabotage effective procurement.

III. CURRENT DEVELOPMENT ENVIRONMENT

III.A. Development Context

1. Introduction - Indonesia faces a period of consolidation during the 1990s, following experience with severe external shocks during the 1980s. Through a series of policy changes the country is positioned to start a new decade with reduced macroeconomic imbalances and a less distorted incentive system. Strong response from the private sector is contributing to a diversification of the production base; this expands prospects for sustained growth in the future. The adjustment agenda, while starting to restructure the economy, has improved living standards and resulted in substantial declines in the incidence of poverty. This process can be continued with access to international and domestic capital markets as well as support from donors.

Impressive as these accomplishments have been, the country is faced with a relatively low per capita GNP (less than US$500) and absolute numbers of people facing poverty in the millions. The challenge for the future is to enter a period of sustained and relatively rapid growth while expanding the opportunities for significant participation to regions and groups not fully sharing in the benefits of development. One prerequisite for achieving these challenges is continued sound macroeconomic management of the economy. Beyond this, Indonesia also needs to reorganize government's involvement in the economy, through deregulation and stimulation of the private sector as well as more efficient management of public sector programs and state-owned enterprises.

2. Historical Context - The 1970s witnessed rapid growth of income, consumption and investment in Indonesia. The country entered the 1980s heavily dependent on petroleum (80% of export earnings, 70% of budget revenues), thus positioned precariously for the world price shocks to petroleum between 1982 and 1986. Associated with declining oil prices were international currency fluctuations which increased the country's debt service burden. Resulting large income losses created an environment calling for strong policy measures to stabilize the economy and restore growth. These initiatives came in two major areas: stabilization and restructuring of the economy.

Stabilization measures adopted by government succeeded in realigning the economy with altered international conditions. The real effective exchange rate was devalued by 55% by the end of the decade, with support from tight monetary and fiscal policies. Current account deficits declined from 7% to less than 2% of GNP by 1989. Budget deficits were likewise reduced to less than 2% of GDP through civil service salary freezes, cuts in capital and import-intensive projects, reduced subsidies to state-owned enterprises, and higher non-oil revenues. Inflation, which was contained to less than 10% in most years, dropped to 6% by 1989.

-94

Structural reforms sought to create a more diverse and efficient economy. In the external sector reform of the trade regime and lower tariff and non-tariff barriers, combined with exchange rate devaluations and improved management of the exchange rate, resulted in sharply increased incentives to export and scarcity-based pricing of foreign exchange for imports. Tax reform established a more reliable and stable foundation for revenues. Financial sector reforms eliminated interest rate and credit ceilings so that private sector resources became more buoyant.

These policy changes, to achieve stabilization and structural reform, resulted in dramatic modification of the structure of the economy. Oil/LNG exports as a proportion of total merchandise exports fell from 81.9% in 1981/82 to 39.8% in 1989/90. The ratio of non-oil exports to non-oil imports rose from 28.6% to 85.8% over the same period. This reorientation of the economy away from over-dependence on petroleum was mirrored in domestic indicators; non-oil manufacturing as a percent of GDP rose from 8.4% to 14.3% and oil/LNG revenues as a proportion of total revenues fell from 70.6% to 38.2%. Private fixed investment as a percent of total fixed investment rose from 52.1% to 62%. Policy changes likewise reestablished growth rates by the end of the decade, with real GDP growth averaging 5.5% from 1983 to 1989 and real non-oil GDP rising faster at 6.2%. Non-oil manufacturing grew at 12.3% and non-oil exports at 13.2% over the same period. By the end of the decade non-oil GDP was growing at 7-8% a year, thus rapidly diversifying the economy and reducing dependence upon petroleum. Private sector investment, initially slowed by stabilization measures, rose after 1985 and reached a level of 18% per year by 1989.

3. Contemporary Context - Indonesia has bright prospects for sustained growth. The experience of the 1980s, while difficult and challenging, left the economy more resilient, diversified and competitive. A continuation of growth in the range of 6-7% per annum will allow for substantial progress in raising living standards, providing productive employment, and reducing poverty. But this growth must be well managed to avoid an excessive debt burden and to broaden and protect the foundations for the economy in the future.

Government's development strategy calls for a series of key measures to achieve national objectives.

reform of the trade regime - there is need for a reduction in protection, tariff and non-tariff, which protects significant portions of domestic manufacturing and specific products. Only with realistic determinants of competitiveness can new investment be directed to expansion of domestic production and export capacity along efficiency lines.

macroeconomic management - there is need for careful control of inflation, reduction of budget subsides, stimulation of exports to improve the external balance, and finalization of reforms which increase the liquidity of the credit system.

investment streamlining - there is need to further reduce remaining restrictions on investment licensing and to continue the process of simplifying and speeding the process of approval and implementation.

-95

financial sector reform - there is need for appropriate regulation and supervision of the financial sector to assure confidence and efficiency. At the same time, moves to provide necessary legislation on banking, insurance and pensions need to be completed.

The Government's development strategy pertaining to the private sector is directly relevant to the growing pressures for economic law and procurement reform. Starting in the 1980s the government began to encourage a more active private sector. This strategy has focused on reducing dependence on petroleum as a base for economic activity (domestic and foreign) and raising the contribution of non-oil production and trade. To achieve this it has been and remains of prime importance to improve efficiency and competitiveness. The approach has been a series of regulatory reforms to complement the macroeconomic stabilization measures, both intended to elicit strong supply responses. Deregulation of transport and finance have strengthened these sectors' abilities to support private sector growth. Investment has increasingly been directed into labor-intensive production where Indonesia has a competitive advantage, thus widening employment opportunities. Growth at the rates experienced and projected strain infrastructure, support services and the natural resource-environment base for sustainable development. All of these pressures on the economy call for a carefully coordinated but comprehensive modification of the support structure and incentive environment for private sector economic activity, replacing direct intervention and management with indirect, price-based incentives and disincentives for parallel growth and support.

Creation of a well functioning and appropriately structured regulatory and incentive environment for the private sector is complex and, of necessity, is occurring in stages. Initially reforms have focused most intensively upon investment, both licensing and regulation of foreign direct participation. The investment process has been simplified and streamlined. This is especially true after the May, 1989, action by government to replace a long positive list of areas where investment was permitted with a short negative list of activities where investment remains closed. Complementing this action has been encouragement of foreign investors by easing ownership controls on investment in export-oriented activities and other priority areas. Further actions required include additional expansion of domestic and foreign investment opportunities; elimination of all possible licensing (including capacity expansion licenses); improved coordination of local level participation; and moderation of divestiture obligations of foreign investors. Of a longer term nature but increasingly imminent, there is need also to develop the legal and regulatory foundations of a modern corporate financial environment.

Financial sector reforms, while still underway, exemplify the sequential process of reforms and the impacts which can be achieved even as reform continues. Much has already been done to strengthen and broaden the financial system in Indonesia, especially related to commercial banking and the stock exchange. Over the period 1983-88 several reforms deregulated interest rates, replaced credit ceiling with reserve money management, and increased competition through easier entry by private domestic and foreign banks. Encouragement of a capital market strengthened availability of long term finance. Initial steps were taken to improve the soundness of the system.

-96

III.B. Mandates for Change

1. Introduction - Indonesia's strategy for development increasingly depends upon a dynamic and complex private sector, capable of providing the levels of investment and production required to sustain growth at projected rates. A prerequisite for the private sector to fulfill this role is an economic law infrastructure to guide, protect and manage private interests in the economy. There is a clear recognition of the need for improvements in economic law by Indonesia, which has articulated general plans for addressing economic law development. Multilateral agencies likewise have identified critical requirements for economic law development. Finally, U.S. AID has policy, program and project guidelines which encourage assistance for economic law development while the U.S. AID/Indonesia Mission has included such assistance as a key element in its development assistance strategy. Appendix One provides selected statements from these entities, thus providing additional detail on the scope and timing of planned and recommended economic law development activities in Indonesia.

2. Development Plan - The current five year development plan, Repelita V, covering the years 1989/90 - 1993/94, directly addresses the need for economic law development. In Chapter 7: "Development of Business World," it is recognized that while steps have been taken by Indonesia in the past to initiate economic law reform, much remains to be completed: "Although various deregulation and debureaucratization steps have been taken up to now, various business obstacles are still faced in the form of regulations, practices and institutional elements no longer up to date so as not to support the business initiatives and undertaking climate, including the climate of fair competition." Chapter 27: "Law" goes on to articulate the country's commitment to economic law development activities during the plan period: "Within the framework of the promotion and development of the law, it will also be necessary to intensify the reform of the law in a purposeful and integrated manner, such as through the codification and unification of certain legal areas and the drawing up of new laws very much needed to back development in various fields to meet the demands of development, and the increasing legal consciousness and dynamism within the society."

3. Multilateral Donors - The World Bank has increasingly focused on the critical role of commercial law development as an integral component of the development process. In its 1989 World Development Report analysis was made of the legal foundations for financial development. While development of clear legal rules concerning the economic rights and obligations of different agents should be an inherent part of development, in most developing countries legal systems have been inherited from previous colonial rule and are inappropriate and mismatched to today's requirements. Indonesia is singled out as an example, pointing out that the country's sophisticated system of customary adat law varies dramatically from the civil and commercial codes imported by the Dutch. The continued operation of these two legal systems in parallel fashion ill serves the country's needs: "Inevitably, they cause conflict and uncertainty, and weak judicial administration has compounded the problems. As a result the legal system has a diminished role in the settlement of disputes.

97

The May, 1989, Wold Bank Report: Indonesia: Strategy for Growth and Structural Change, points out the need for a well-functioning legal system as a prerequisite in the shift towards a vibrant private sector. It goes on to argue that Indonesia's legal system falls far short in this regard by having antiquated laws, gaps in the legal framework (such as intellectual property rights and the legal and accounting framework for financial transactions), and heavy dependence for implementation upon regulations and decrees while enforcement through a complicated court process is neither transparent nor based upon precedents. What is required is a complex, time-consuming process of substantive revisions of laws, reform of legal procedures and reorientation of institutions. "To ensure that the legal system does not become a major constraint to the deregulation process, it is critical that reform of the legal system be revitalized. Many 'process' changes can be made easily while the substantive revisions in the laws are being worked out. But equally important, administrative reform of the court system will be required if the laws are to be implemented in an effective manner."

The May, 1990, World Bank Report: Indonesia: Foundations for Sustained Growth, lends urgency and detail to recommended areas where reform is required to prevent the economic law infrastructure from impeding development. Enforcement and interpretation of laws by courts and the general efficiency of the legal process needs to be improved. The current long delays, cumbersome procedures and legal uncertainty all contribute to a high cost environment for transactions. Arbitration as a dispute settlement mechanism offers one way to reduce such costs for selected disputes. Of major importance are improvements in the laws themselves: "Legislated changes as needed to lend greater legal certainty and codify recent changes made through deregulation measures in a few key areas (such as banking, foreign and domestic investment, companies and securities laws). Changes in the commercial legal framework are also essential if these broader reforms are to have their desired effects."

A sister agency to the World Bank, the International Finance Corporation, has independently assessed Indonesia's environment for investment in its January, 1990 Report: Investment Promotion Strategy for Indonesia and recommended changes to sustain and enhance the development gains being made. From IFC's perspective the urgency for legal reform is clear:

One of the problems is the negative image of Indonesia as a place to do business in the minds of a number of investors (both present and potential). While the Government has introduced a whole new set of laws and regulations to encourage foreign direct investment (FDI), and has simplified procedures to speed up processing of FDI applications, the perception of investors about the investment environment is much more pessimistic. Potential investors are not fully aware of the nature and scope of recent policy changes,and there is a general perception that policies and regulations are often applied inconsistently. Furthermore, there is a general perception that it takes an unacceptably long period of time to filter a new law or regulation through the "bureaucratic channels" from the policy makers to those that administer such a new law. Compounded by perceived "unwieldy" bureaucracy, difficulties in finding a suitable local partner, and a degree of corrupt practices, all these elements may present a real deterrent to realizing an actual increase in the flows of FDI, as projected in Repelita V (12% per annum).

98

Thus, while the IFC study found that Indonesia has made significant progress in adjusting its specific foreign investment policies and procedures to encourage foreign investment since 1986, there still remains an urgent need to continue, indeed to accelerate, efforts at deregulation coupled with comprehensive improvements in the economic law framework.

4. U.S. AID - Strategic objectives and policy initiatives formulated by A.I.D. clearly place encouragement and enhancement of the private sector at center stage. The June, 1985, Blueprint for Development calls for a healthy private sector and vibrant market forces as central dimensions to the development process and specifies AID's intention to encourage these elements in its assistance. The March, 1985 A.I.D. Policy Paper: Private Enterprise Development provides additional detail concerning the role of the legal environment in development:

> The expansion and efficiency of the private sector depends upon a supportive legal structure and a positive regulatory environment. The existence of an adequate structure of property rights -- including patent and copyright law, contract law and judicial arrangements which facilitate adjudication are essential.

It goes on to give clear guidance to Missions in formulation of projects:

> It may be that individual country circumstances will require a significant institutional development effort to build appropriate legal and regulatory institutions conducive to private enterprise. Specific projects or sub-project activities which provide assistance for studies or advisory services to review or reform legal and regulatory barriers, are encouraged.

Most recently, AID/Washington has reconfirmed commitment to privatization and market-economy principles through a draft Strategic Initiative of December, 1990, "The Business and Development Partnership." This document stresses AID's previous record in encouraging a growing role for the private sector in development as a key contribution to sustainable economic growth.

Economic law development and improvements in government and SOE procurement are also consistent with U.S. AID/Indonesia's development strategy. The January, 1988, Country Development Strategy Statement (CDSS): Indonesia FY 1989-FY 1993 spells out a flexible, pragmatic approach to formulating assistance supportive of market forces and the private sector. It recognizes that Government of Indonesia structural and policy reforms have and will continue to occur at a fast pace and in close cooperation with substantial program support from the World Bank. To build upon and support this reform, the Mission: "... will therefore take a flexible, cooperative approach that is mutually supportive with the Bank, targeting those areas of opportunity which are most consistent with our own program, offer the greatest return within the private sector, or are otherwise well suited to AID's expertise or ability to grant finance." Specifically identified as an area of particular interest for project assistance in the CDSS is commercial law, thus positioning the Mission directly to support development of Indonesia's economic law and procurement systems.

.99

IV. CONSTRAINTS ON SUSTAINABLE DEVELOPMENT

IV.A. Planned Development

1. Introduction - Fundamental to Indonesia's Fifth Plan objectives of reducing poverty and rasing living standards is sustained and steady growth in non-oil GDP of approximately 6-7% per year. To achieve this, it is necessary to maintain the current macroeconomic strategy which combines prudent macroeconomic management with structural changes which strengthen and diversify the economy. This is necessary so that the growth path is consistent with financial stability in the face of a growing debt burden. Growth of the magnitude projected will require increases in savings and investment and macroeconomic policies will be required which bring about the increases needed, while also promoting reforms in the trade regime, industrial policy and the financial sector.

2. A Medium-Term Macroeconomic Outlook - Projections of growth and structural change over the life of the Fifth Development Plan and beyond are difficult to determine and subject to substantial change. Indonesia is heavily impacted by a variety of world economic conditions which help determine the country's actual growth. The ability of Government to maintain appropriate macroeconomic policies and otherwise manage the economy likewise substantially determines the actual growth which will occur.

Such external and internal conditions change and growth projections are updated accordingly. What is important in analyzing the likely contribution of an economic law and procurement project is the key role an improved economic law and procurement environment has in supporting projected growth. Thus, while projected growth rates will change periodically, each such growth path is feasible if and only if planned structural changes in economic law and procurement are made as an integral part of economic management. As has been argued already, growth requires supporting infrastructure including the a framework of economic laws and procurement practices.

An example of projected growth for Indonesia is given by the World Bank Report of May, 1990: Indonesia: Foundations for Sustained Growth. Such growth projections (and Indonesia's economic prospects) are heavily driven by conditions in the world economy, particularly by the oil market. As these conditions change, so will Indonesia's prospects for growth. In projecting Indonesian growth through the year 2000, the World Bank has taken into account projected economic activity in the OECD countries, world real interest rates (LIBOR), oil prices, non-oil commodity prices and Indonesia's terms of trade. Projections of these conditions were combined with some basic assumptions about conditions within Indonesia which would tend to moderate growth in the near term, including: stagnant oil production due to capacity constraints; a leveling off of rice production from the 1989 bumper crop; a gradual decline in the rate of growth of non-oil manufacturing and exports from the very high levels of the late 1980s; infrastructural constraints on the economy in supporting services (especially power, telecommunications and transport).

The resulting growth projections are shown in Table 2. Several of particular importance to economic law and procurement issues are discussed here:

100

income and product - gross national income is projected to grow at 6% p.a. through the year 2000, down from 7.8% in 1989 but nearly double the 3.8% rate 1983-88. GDP growth is projected at 6% p.a. at the beginning of the decade and then declining to 5.5% by the end. Of particular importance is the growth of non-oil GDP, projected to slow from 8.1% p.a. in 1989 to 7% in 1990, 6.6% 1990-95, and 6.4% 1995-2000. This growth will be supported by improvements in productivity stemming from structural reforms and solid investment flows which build up production capacity in agriculture and manufacturing, as well as some improvements in economic infrastructure. Such buoyant growth rates require that fixed investment grow at 7-8% p.a. (with private investment growing 16.8% p.a. in 1990 and declining gradually to 9% 1990-95 and 6.4% 1995-2000) so that by 2000 it reaches 26% of GDP. To fuel investment, savings must be strong, with public savings growing from 6.4% of GDP in 1990, to 8.7% 1990-95 and 9.1% 1995-2000 while national savings rises from 22.2% of GDP in 1990 to 26.5% in 2000.

external balance - The growth of non-oil exports since 1986 has been very strong, reaching near 16% in 1989, with projections for 1990 of 15.9% p.a. but declining to 8.1% in 1990-95 and 6.9% 1995-2000. Resulting from deregulation, private sector imports of intermediate and capital goods surged in 1989 to a growth rate of 18.2% p.a. in 1989, projected to decline through the end of the century. The impact of these trends and projected oil exports and imports is a projected slight worsening in the size of the current account deficit from 1.9% of GDP in 1989 to 2.1% of GDP in 1990, but then gradually falling in proportion to GDP until it reaches 1% by 2000.

TABLE 2

WORLD BANK BASE CASE
SELECTED INDONESIAN ECONOMIC INDICATORS, 1983-2000

	Actual 1983-1988	Estimated 1989	Projected 1990	1990-1995	1995-2000
Average real growth rates (% p.a.)					
Gross national income (GNY)	3.8	7.8	6.1	6.4	6.1
Gross domestic product (GDP)	5.1	7.4	6.0	5.6	5.5
Non-oil GDP	5.9	8.1	7.0	6.6	6.4
Non-oil exports	12.7	15.9	15.9	8.1	6.9
Non-oil imports	-4.9	18.2	10.7	8.6	6.3
Fixed investment	-1.0	13.0	12.0	8.6	6.4
- Public	-4.3	6.2	4.1	8.4	6.4
- Private	1.6	17.7	16.8	9.0	6.4
Consumption	4.0	6.5	5.0	5.5	5.9

Structure of the economy (%)					
Non-oil manufacturing/GDP	13.7	14.3	15.2	18.4	21.7
Non-oil exports/non-oil imp.	89.7	85.8	86.9	91.7	94.5
Public savings/GDP	5.5	6.2	6.4	8.7	9.1
National savings/GDP	20.0	21.3	22.2	25.6	26.5
Fixed investment/GDP	20.0	21.1	22.4	25.3	25.8
Private fixed investment/total fixed investment	55.7	59.4	61.0	60.4	60.5
Consumption/GDP	74.4	73.3	72.8	70.4	70.2
Macroeconomic balance (%)					
Current account/GNP	-2.2	-1.9	-2.1	-1.4	-1.0
Non-interest current acct/GNP	2.3	2.4	2.1	1.6	1.1
Overall public sector balance/GDP	-3.4	-2.2	-2.4	-1.5	-1.0
Public sector primary balance/GDP	-0.4	-0.6	0.4	0.5	0.5
MLT debt service/exports	36.1	32.1	33.0	21.8	16.8
MLT debt/exports	218.6	189.0	177.6	130.7	99.7
MLT debt/GNP	61.0	54.7	52.3	43.6	33.2

Source: World Bank, Table 2.3: Base Case - Selected Economic Indicators, 1983-2000, Indonesia: Foundations for Sustained Growth, Washington D.C.: May 4, 1990, p. 28.

IV.B. Anticipated Constraints on Development

1. Introduction - The projected growth targets and structural changes which Indonesia presents in Repelita V and which multilateral agencies such as the World Bank, the IMF and the Asian Development Bank provide in cooperation with GOI are considered by all observers ambitious. They approach the fastest pace of any developing countries in the world. And while Indonesia has demonstrated in the past 4-5 years a solid and sustained ability for responsible economic management, continued careful timing of complex improvements in the economy underlies the growth targets and projections.

There is, then, an inherent assumption about achievement of growth rates targeted for Indonesia. It is indirectly discussed in assumptions made about projected growth and in development planning documents discussed above. Here it is important to make it explicit:

> constraint hypothesis for Indonesian growth in the 1990s - targeted and projected growth rates at the pace planned cannot be achieved without deliberate and sustained reforms and improvements in the legal infrastructure for the economy (economic law) and in government and SOE procurement procedures and performance.

102

2. Economic Imperatives - Complex economic growth requires supporting infrastructure, physical, legal, and regulatory. Inadequate infrastructure slows development and growth rates by making production and expansion more difficult and costly. But the exact degree of drag (reduced growth) and how it is manifest among sectors is nearly impossible to predict. This is compounded by alterations in the external and internal conditions upon which growth projections are made (the moving target).

It is possible to identify the types of constraints which various elements of the economic law and procurement framework might place upon the economy and its growth if left in their current condition. Appendix Two provides a description of the institutional organization which comprises Indonesia's economic law and procurement system; it is elements of this institutional organization which will have to be reformed.

Investment, domestic and foreign, is critical to the pace of development planned for Indonesia. Projections indicate that even with gains in economic efficiency, the rate of fixed investment will need to expand from 21% of GDP in 1990 to 26% by 2000. This investment must be not only in infrastructure (power, telecommunications, roads and ports) but also through private investment in expanded capacity for non-oil exports. To achieve projected levels of investment, policy reforms must proceed, especially in the financial sector, to enhance profitability of private investment. Supporting increased profitability must be a streamlining, simplification, and transparency to economic law. For public sector investment to achieve levels anticipated, a streamlined procurement system must be in place.

The magnitudes of resource flows involved are large. Even incremental reductions in such flows due to inappropriate legal and procurement frameworks involve significant amounts of money. Domestic investment approvals for 1989 were Rph 19.6 trillion, while the amount for the first 8 months of 1990 stood at Rph 42.6 trillion. Foreign investment approvals in 1989 were Rph. 4.7 trillion while for the first eight months of 1990 they stood at Rph. 6.6 trillion. Project aid from foreign donors, at an annual average of US$ 2.6 billion per year during 1987/88 to 1989/90, are estimated at US$ 3.1 billion for 1990/91-1991/92, US$ 4.2 billion for 1992/93-1995/96, and US$ 4.4 billion for 1996/97-2000/01.

A slowing of growth by even 0.10% from any source, including misaligned economic law and procurement, means that Indonesia forgoes economic product on the order of Rph. 16.6 billion (US$ 8.8 million) in a year, with larger losses when compounded over longer time periods. Weaknesses in Government procurement typically result in use of consultants to assist in procurement on all large donor funded projects, at an average of 3% of project cost. The costs of just this one dimension to weak procurement approach US$ 93 million for projected 1990/91-1991/92 project assistance flows. Estimates approach 30% for the overall excess cost of procurement in Indonesia due to excess use of consultants, premium charges for late delivery due to procurement delays, interest on donor loans for the excess costs, slippage and non-mandated payments, and collusion among bidders. This means that on donor financed project assistance overall costs of procurement inefficiency could range in the hundreds of millions of US dollars per year. Of course, not all projects and procurement agencies experience such costs, but consistency of reports on the existence of major inefficiencies verify that large losses are occurring.

The economic imperative, then, is to assure levels of resource flows to support projected growth rates. Private investment could be attracted at lower interest rates if economic law was more supportive and risks were less. Donor assistance could be more efficiently used, reducing costs to the economy for such usage. For economic law, what derives from this imperative is sequential improvement in those components of the law critical to establishing investment flows. For procurement, what flows logically is need for selective improvements in regulations, procedures and implementation. Informed observers identify the following dimensions as likely candidates for improvement, so that the economic development agenda can proceed apace.

3. Economic Law - There are a number of important areas where economic laws are inadequate for the economic forces being unleashed by development in Indonesia. Existing laws are outdated and in bringing them up to date, the complexities of the dual system of Dutch and Indonesian law needs to be streamlined. This revamping of economic law is an urgent priority of Government in the coming years. There is need for greater legal certainty and codification of recent changes made through deregulation measures in key areas: banking, foreign and domestic investment, companies and securities laws. There is likewise need for improvement in the enforcement and interpretation of laws by courts; there are currently long delays, cumbersome procedures and uncertainty since legal decisions are rarely published. This adds up to high cost of transactions (contractual relationships) and a slowing of scope and magnitude of participation in the private sector. It also adds up to a diminished capacity for the economy to support the projected growth rates. Both result in inefficiencies which increasingly will hamper the economy and reduce the efficiency of resources devoted to development.

The exact order in which economic laws will be revised is determined by their relative constraint on development as well as the political realities of regulatory and legislative reform. Thus as has been argued, it is not possible to predict which laws will require reform at specific times over the next 6 years. What is predictable is the need for capacity in government for speedy reform as legal problems become a hinderance to further rapid growth. The following are several examples of elements of economic law which either are in the process of being reformed or appear to have high priority in the next few years.

a. Financial Sector Law - The ability of the private sector to expand appropriately as the economy grows requires a number of financial services and intermediary institutions:

- commercial banks to provide working capital and long-term debt finance
- venture capitalists and a stock exchange to contribute equity
- insurance and pension funds to supply long-term funds
- leasing companies and securities houses to offer alternative financing options

All of this should aid development objectives of stimulating savings, investment and growth. This means mobilizing greater amounts of savings through a range of offering instruments better suited to the preferences and needs of the public; transforming the maturity and size of savings into funds required for investment projects; and allocating

104

available funds to the highest return projects at lowest possible borrowing costs. Only a sound, increasingly sophisticated financial system can provide the necessary financial stability, service and cost-effectiveness required.

Indonesia has already made major efforts to promote such a sound financial system. The initial reform was in June, 1983 when Government deregulated commercial bank interest rates, replaced credit ceilings with a reserve money management system, and revamped the interest rate structure. In 1984 and 1985 money market instruments and a rediscount window at the Bank of Indonesia were introduced. In 1988 and 1989 further steps were taken to:

- lessen restrictions on entry and branching for foreign and domestic banks
- allow public enterprises to place up to 50% of their deposits outside of state banks
- allow non-bank financial institutions to issue certificates of deposit
- allow banks and non-bank financial institutions to raise capital in the stock markets
- lower barriers to entry in leasing, insurance, consumer finance, venture capital and securities activities
- clarify development and control of non-bank financial institutions, lending limits, joint venture bank capital ownership and bank mergers, definition of bank capital, reserve requirements, and bank investment in stocks.

The impacts have been dramatic in freeing up the financial sector to be responsive to the needs of the economy. From October, 1988 when banking was deregulated to the present (27 months) 63 new private banks have opened, bringing the total to 174. Bank branches country-wide doubled to 4,500, 18 foreign joint venture banks were licensed, and hundreds of smaller community credit banks in rural areas were formed. Credit extended by banks rose 45% in 1989 and 57% in 1990. Deposits collected kept pace. The composition of lending changed also, with private bank lending rising 80% in 1990 compared to credit expansion by state banks of only 36%. Near the end of 1990 private banks accounted for 36% of total credit outstanding compared with a market share of just 24% at the end of 1988. Credit extended by the Bank of Indonesia had declined to 14% of total bank credit at the end of 1990, compared to 26% at the end of 1989.

Parallel with the opening up of financial institutions, a host of problems has surfaced requiring legislative and regulatory attention. There is a fundamental need for an integrated legal framework defining the scope and activities of various financial intermediaries and the supervisory role of various government entities. Draft laws on the role of the Bank of Indonesia, commercial banks, insurance companies, investment (mutual) funds, and pension funds exist and are working their way to consideration by Parliament. Such laws need to provide ground rules for the operation of the financial intermediary entities. They need to delineate Bank of Indonesia's authority and ability to carry out monetary policy. Regulations need to be harmonized to eliminate unnecessary barriers or advantages for particular groups of institutions.

105

Economic law needs to evolve in parallel fashion to support stable growth of the financial system.

b. Company Law - Current company law has only 21 sections and contains a number of gaps related to modern corporate structures and transactions. Formation of a company must be for a specific purpose and time period; is cumbersome and time consuming; modification through merger is not defined; and dissolution of a company is vague. Accounting and auditing requirements are not provided.

A revised, modern and flexible Companies Law is critical to sustaining private sector participation in economic development. Several drafts of such revisions exist and are working their way to Parliament. The process, to be effective in enacting a useful and flexible law, must clarify objectives and interact with other dimensions of economic law. If Companies Law is considered in isolation, too many requirements and restrictions will be placed upon business entities, thus diminishing the dynamic nature of companies to form, change and disappear as economic conditions change.

c. Mergers and Acquisitions Law - The dynamic flexibility of a market economy depends upon the easy entry, merger and exit of firms as unsuccessful companies either stop their activity or merge with more successful ones. Indonesian law does not address the concept of mergers and the issue of corporate reorganization is likewise not covered. Thus, at present failing companies are faced with closing down and liquidating their assets. From society's perspective it is often more efficient for the viable portions of a failing business entity to merge with a successful firm, in the process maintaining some level of employment and avoiding distress sale of assets.

Indonesia does currently have a set of legal provisions governing mergers in the form of guidelines from the Bank of Indonesia. However, these rules assume the existence of a statutory merger system which does not exist. Further, the rules have been applied inflexibly at times. Thus, there is at present no general merger law. There is a need, which will grow in importance, to study merger and reorganization issues, including taxation dimensions. The result ultimately will need to be reform of economic law to provide for efficient merger and acquisition activities.

d. Trademark Law - An essential dimension to the sanctity of market transactions is protection of uniquely distinguishing market identities. Indonesia's 1961 Trademark Law (Law No. 21, Year 1961) provides limited protection in the form of renewable 10 year registration of trademarks. Such protection is also available to foreign trademark owners if they give a power of attorney to someone in Indonesia to file the registration application (with the subsequently issued ownership registration in the name of the foreign principal, not the local proxy). However, the law does not allows for sanctions against an infringer, although civil and criminal sanctions are potentially available through other parts of the law. Problems of delay in legitimate registration and cancelation of a pre-existing non-bonafide registration of a trademark weaken the effectiveness of the law and raise the cost of doing business in Indonesia. It may also discourage additional international business coming into Indonesia given the

106

uncertainty of when protection can be afforded to trademarks. What is required is an amendment to the substantive provisions of the Trademark Law as well as more efficient and timely administration of the trademark system in Indonesia.

4. Procurement - Success breeds its own problems, which is especially true in the case of Indonesia's physical infrastructure and supporting services. As aptly pointed out by the Far Eastern Economic Review:

> "... sharply stepped up economic activity in 1989-90 has overwhelmed the country's physical infrastructure. Roads, harbours, power plants and telecommunication facilities are all straining under the pressure."
>
> ...
>
> "One of the main threats to Indonesia's future economic growth is inadequate investment in infrastructure. 'You can't really blame the government for not supplying enough electricity,' said businessman Iman Taufik. 'Who could have predicted Rps 60 trillion of new investment projects in 1990?"
>
> ....
>
> Another infrastructural constraint is the lack of telephones. Indonesia has about 1 million installed telephones, or about one telephone for every 200 people. The difficulty of communicating by telephone or facsimile has reached alarming, if not quite critical, levels." (April 18, 1991, pp. 36-40).

Timely completion of cost-effective public projects under the development plan as well as delivery of services to the rest of economy from state owned enterprises rests upon procurement procedures and practices. Current procurement procedures are inadequate to support development at the pace called for by growth projections. Without improvements in procurement, growth will be slowed, levying a heavy cost on Indonesia.

a. **Development Plan Provision of Infrastructure** - The achievement of GOI's policy objectives for the 1990s requires a sharpening of focus in public spending. This is true especially to ensure that there is adequate provision of basic infrastructure and services to remove potential bottlenecks constraining higher growth of private sector activity (agricultural support services, power, telecommunications, transport). It is also true of public expenditures required to meet the needs of the poor for basic services (education, health, family planning, water, sanitation). Repelita V and the annual development budgets aim towards achieving these objectives.

The magnitudes of development expenditures by sector for Repelita IV and V are shown in Table 3. A doubling of overall development expenditure between plans, to 101.7 trillion Rp. for 1988-93 places the challenges to procurement in perspective. Further, changing priorities within Repelita V demonstrate the central role of physical infrastructure: irrigation at 9.8%, up from 5.3% in Repelita IV; infrastructure (energy and transportation) at 30%, up from 29.2%; health at 2.6%, up from 2%; and housing and water supply at 6.5%, up from 3.8%.

107

Constraints in procurement inevitably delay infrastructure coming on-line, which in turn dampens growth. It has been estimated that only 65% of development budget procurement is accomplished on schedule (Ministry of Public Works). This leads to delays in availability of infrastructure to support production and to address basic human needs within the development process. On the growth side, if lack of infrastructure reduces growth by 0.10% it means Indonesia foregoing economic product on the order of 16.6 billion Rp (using 1989 market prices) or US$ 8.8 million per year; compound growth means that reductions of even small magnitudes become large losses of product and income over periods as short as a five year development plan.

b. **State Owned Enterprises: Support Services** - Indonesia has a large and diversified public enterprise sector, derived from past major public investments in providing direct production capacity in industrial and agricultural sectors. This arose first from nationalization of Dutch companies in 1958 and then in the 1970s from a further expansion of public enterprises. As articulated by Government Regulation No. 3 of 1983, they are intended to:

- contribute to development objectives and state revenues
- provide basic goods and services to the public
- pioneer activities which promote or complement private sector development
- generate income and profits.

Given GOI's strengthened focus on promoting the private sector, there is a reorganization and rationalization of the public enterprise sector underway, including privatization, divestiture, and improvements in operating efficiency.

At the central government level there are some 212 public enterprises in Indonesia, classified into 3 categories by the 1983 Government Regulation No. 3, while other legislation has established state banks, other state enterprises and the petroleum enterprise Pertamina:

Perjans (Government agencies) - 116 plus 34 joint-ventures, spanning plantations, manufacturing, mining and services (airlines and state trading companies)

Perums (public corporations) - 33, mostly in the infrastructure area including PLN in power, Perumtel in telecommunications, ports, housing and gas

Perseros (limited liability companies) - 2, one of which is the railways.

other - 26, divided among 8 state-owned banks, Pertamina, and 18 enterprises in various sectors

TABLE 3
SECTORAL DISTRIBUTION OF DEVELOPMENT EXPENDITURES (% OF TOTAL)

	Repelita IV Actual	Repelita V Plan	1989/90 Budget	1990/91 Budget
Agriculture	15.2	20.8	19.7	20.3
Agriculture	5.3	9.8	9.6	10.1
Irrigation	4.4	6.2	4.7	4.6
Transmigration	3.2	3.0	2.7	3.6
Resources & environment	2.2	1.7	2.6	2.0
Infrastructure	29.2	30.0	32.3	31.5
Energy	13.3	9.9	11.3	11.5
Transp. & communications	16.0	20.2	21.0	20.0
Industry and mining	10.0	4.9	6.7	6.6
Industry	5.6	2.1	3.2	2.9
Business development	2.5	1.7	1.4	1.4
Mining	1.9	1.1	2.2	2.2
Regional development	9.7	10.5	11.6	12.3
Human resource development	21.5	27.2	21.8	22.6
Education and manpower	14.4	16.7	13.4	14.1
Health	2.0	2.6	1.9	2.5
Population & social welfare	1.3	1.4	1.2	1.2
Housing & water supply	3.8	6.5	5.3	4.8
General services	14.5	6.5	8.0	6.8
Total	100.0	100.0	00.0	100.0
Memo item (Rp. trillion)				
Total at current prices	48.0	101.7	13.5	15.2

Source: World Bank, Table 4.1: Sectoral Distribution of Development Expenditures, Indonesia: Foundations for Sustained Growth, Washington D.C.: May 4, 1990, p. 80.

Calculation of the economic importance of these state enterprises, while clearly immense, is difficult because firms do not separately report employee wages which is a critical element of their value added. However, in 1983 the public enterprises were estimated to contribute roughly 25% of overall GDP. While some PEs have

been and remain profitable and efficient, overall the sector has provided a low pre-tax return on total assets (4% in 1979, down to 1% in 1982, rising to 5.2% in 1989). The overall budgetary burden on the central government has diminished from -4.6% of GDP in 1983 to -0.6% in 1988/89. The rate of return for PEs is low compared to the general rate of return to investment or in relation to the real rates of interest on lending in the financial sector. The majority of profits among PEs are concentrated among a few sectors. Finally, the current level of profits, while it has increased, is inadequate to drive the investment requirements of PEs. There remains a need for continuing improvements:

> "By streamlining the public enterprise sector and further improving its efficiency, this sector could contribute more substantially to public resource mobilization and to over all growth in the economy." World Bank, Indonesia: Foundations for Sustained Growth, May 4, 1990, p. 102.

Procurement for public enterprises is controlled partially by government procedures and regulations. Thus, problems with procurement affect not only development expenditures, but also the operation, responsiveness and efficiency of public enterprises.

110

APPENDIX 1

MANDATES FOR DEVELOPMENT OF ECONOMIC LAW IN INDONESIA

Development Plan

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 7: "Development of Business World."

> The main problem encountered by the business world [during Repelita IV] was that relating to the undertaking climate in the wide sense. Although various deregulation and debureaucratization steps have been taken up to now, various business obstacles are still faced in the form of regulations, practices and institutional elements no longer up to date so as not to support the business initiatives and undertaking climate, including the climate of fair competition. In addition, from time to time it was still met in the field the implementation of deregulation and debureaucratization policies not all in line with the aims and objectives of the deregulation and debureaucratization policies, so that the business world has not fully obtained any benefit from the policy measures intended to more encourage and facilitate their undertaking activities. This problem can be overcome by continuing and improving the deregulation and debureaucratization measures as well as promoting the implementation thereof in the field. (p. 33)
>
> ...
>
> ... it is still necessary to improve several institutional infrastructure, such as banking system with its credit system, production and marketing information system, government's service system, including that in licensing and taxation sectors. Although in Repelita IV corrections to and improvements in physical and institutional infrastructure were made a lot, the steps to this direction should still be continued and enhanced in Repelita V. (p. 36)
>
> ...
>
> ..., to create a sound and attractive undertaking climate, the deregulation and debureaucratization policies in various sectors relating directly to the activities of business, production, trade and investment will be continued and improved. The attention will be given to the improvement in the implementation of those policies in the field.
>
> Closely relating to the establishment of a stable, sound and attractive undertaking climate is the development of physical and institutional infrastructure which is adequate and can support the fast developing business world. In case of provision of physical infrastructure, the state's limited fund will be utilized as well as possible by carefully choosing the infrastructure which can really encourage the activities of the business world and by inviting as far as possible the participation of the business world in the development as well as in the operation and maintenance. The institutional infrastructure will be more developed and made to function through the institutional policy covering the deregulation and debureaucratization measures as well. (p. 38)

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, English Translation. Chapter 27, "Law."

> The promotion of the law is aimed to stabilise and safeguard the realisation of the development of the country and its results, create a more favorable conditions enabling each member of the society to enjoy legal certainty and legal order, to give greater support and guidance to development activities to achieve just welfare, and develop national discipline and a sense of social responsibility on the part of each member of society. ...
>
> Within the framework of the promotion ad development of the law, it will also be necessary to intensify the reform of the law in a purposeful and integrated manner, such as through the codification and unification of certain legal areas and the drawing up of new laws very much needed to back up development in various fields to meet the demands of development, and the increasing legal consciousness and dynamism within the society. (p. 452-453)
>
> ...
>
> There is a need for a more purposeful and integrated legal reform. For this purpose it is necessary to complete the drawing up of a codification and unification of certain fields of the law and the making of new laws. The two measures are highly needed in supporting development in various sectors in accordance with the demand of development and the level of the legal consciousness of the people and in line with the moving forces living within the society. (p. 452-453)
>
> Measures will be taken to realize a national legal system by drawing up national legislative action plans in the field of basic laws and in the different sectoral legal fields. These efforts are aimed at achieving various laws for boosting economic activities and social welfare, creating a cleaner and more authoritative government, securing in a firmer way the rights and obligations of the citizens and for a more intensive implementation of the country's archipelagic principle. (p. 472)

Multilateral Donors

World Bank, Indonesia: Strategy for Growth and Structural Change, May 3, 1989, Chapter 3: "Promoting Private Sector Growth."

> A well-functioning legal system is an important prerequisite if the shift towards a less government regulated environment for the private sector is to be successful. The Indonesian legal system falls far short in this regard. Most basic laws date back to the colonial period and have not been reformulated in the face of changing conditions. There are also notable gaps in the legal framework, for instance, on intellectual property rights and the legal and accounting framework for financial transactions .... As a result of the general character of most statutes, implementation is often dependent upon subsequent regulations and decrees. The most important weakness in the legal system is enforcement, with a complicated court process, that lacks transparency and precedents. Addressing these shortcomings is necessarily a

complex and time consuming task that will require substantive revisions of laws, reform of legal procedures and reorientation of institutions. To ensure that the legal system does not become a major constraint to the deregulation process, it is critical that reform of the legal system be revitalized. Many "process" changes can be made easily while the substantive revisions in the laws are being worked out. But, equally importantly, administrative reform of the court system will be required if the laws are to be implemented in an effective manner. (pp. 74-75)

World Bank, World Development Report 1989, Chapter 6: "Foundations of Financial Systems," June, 1989.

The development of clear legal rules concerning the economic rights and obligations of different agents should go hand in hand with economic and financial development. In rural societies local sanctions have played an important part in limiting dishonesty by contracting parties ..., but urbanization has made local sanctions less effective. More complex rules and regulations are required to govern the impersonal relations of modern commercial life. And the emergence of large corporations has called for a continuously evolving set of rules to resolve the shifting conflicts of interest among shareholders, managers, bondholders, employees, and consumers.

Most developing countries have legal systems that were imposed during colonial rule. These were often at odds with local custom. Indonesia's sophisticated system of customary adat law uses legal concepts (for example, with respect to land tenure) that are quite different from those in the civil and commercial codes imported by the Dutch. Under the Dutch, adat law applied to Indonesians and Dutch law to Europeans and modern institutions such as companies and banks (since adat law does not cover loan contracts or similar transactions). These parallel systems are still in use today. Inevitably, they cause conflict and uncertainty, and weak judicial administration has compounded the problems. As a result the legal system has a diminished role in the settlement of disputes. ...

...

In some countries inherited legal systems have not been updated to meet the changing needs of the economy. In addition, commercial laws may be weakly enforced because of cumbersome procedures or because inadequate resources are devoted to the task. But just as too few rules can create uncertainty, so can too many--especially if they keep changing.

To make their legal systems more effective, governments need to provide for acceptable collateral (an issue closely related to the assignment and transferability of property rights), to rationalize company legislation (especially with regard to disclosure of information and bankruptcy and reorganization proceedings), and to strengthen law enforcement. Contract performance can be improved by making breach of contract more costly. Provision of security, such as pledged or mortgaged assets and third-party guarantees, is one approach. Lenders can ensure repayment in other ways too: by attaching covenants to the loan contract, by appointing a representative to the board of directors, through contingent ownership of assets (by

113

means of convertible debt securities, for example), an by closely monitoring the borrower. (pp. 85-86)

International Finance Corporation, Foreign Investment Advisory Service, Investment Promotion Strategy for Indonesia, January, 1990.

The Government has always tried to reconcile the desire to avoid foreign domination, on the one hand, with recognition of the need to use foreign capital, technology and skills to accelerate economic development on the other. The Constitution sets out the basic principles guiding FDI policy: self-reliance, no foreign domination, safeguarding and control in economic and social development. These principles are the foundation for the Law Concerning Foreign Investment (No. 1, 1967), and the Law Concerning Domestic Investment (No. 6, 1968), and later Amendments and Presidential decrees concerning foreign and domestic investment. These, and related laws, decrees and regulations have created an elaborate multi layer control system for FDI which is specific to foreign investment, and is additional to the general regulatory system affecting the operation of Indonesian enterprises. Such a system may have been somewhat unique in the elaborate way in which it tried to achieve multiple guarantees against the undesirable effects for FDI. It has tended to encourage a high investment and operating cost environment, disrupted harmonious relationship between the Indonesian and foreign parties to joint ventures, made new investment hostage to the slow rate of development of the indigenous entrepreneurial class and domestic capital market for equities, concentrated economic power in the hand of a limited group of entrepreneurs able to contribute to the financing of the joint venture and capable of performing the functions needed from the local partners, and opened up the possibility of improper behavior from lower level officials. There is no doubt that the regulatory framework presented a severe hurdle for investors (particularly in export-oriented and high-tech sectors) that have not been ready to compromise with strict ownership and divestitive requirements and other restrictive practices.

Since the early 1980s, the Government's strategy towards private sector development has changed significantly. Declining oil prices drastically reduced both tax revenues and export earnings. This curtailed the Government's capacity to finance the planned levels of public investment and exposed the dangers of continuing to pursue an inward looking development strategy. The Government responded to this new situation by significantly reducing public expenditures (particularly direct public investment in manufacturing and mining sectors) and by reassessing the role that the private sector should play in the economy. It was recognized that the private sector had to be encouraged to play a greater role in generating new employment opportunities and in increasing non-oil exports earnings. As a result, over the past several years the Government has embarked upon a phased program of reforms designed to improve the incentive framework and simplify economic regulations. The current five-year plan, Repelita V, clearly recognized the need to develop a healthy and dynamic investment climate, and to encourage the private sector including FDI to play a more important role in the economy.

114

Relaxation or elimination of a number of restrictions, which started in May, 1986, goes a long way toward meeting the concerns of foreign investors. These measures have significantly reduced the difference in treatment between domestic firms (PMDN) and firms with foreign ownership (PMA). At the same time, together with the broader regulatory measures, they have removed many of the disincentives to foreign investors and have improved substantially the investment environment in Indonesia.

...

These dramatic increases in FDI approvals show that Indonesia has made significant progress in adjusting its specific foreign investment policies and procedures to establish an environment that is considerably more attractive to foreign investors than was the situation prior to 1986. However, there are still several issues and problems that must be faced if investment objectives are to be achieved.

One of the problems is the negative image of Indonesia as a place to do business in the minds of a number of investors (both the present and potential), including those interviewed by FIAS, especially for the purposes of this study. While the Government has introduced a whole new set of laws and regulations to encourage FDI, and has simplified procedures to speed up processing of FDI applications, the perception of investors about the investment environment is much more pessimistic. Potential investors are not fully aware about the nature and scope of recent policy changes, and there is a general perception that policies and regulations are often applied inconsistently. Furthermore, there is a general perception that it takes an unacceptably long period of time to filter a new law or regulation through the "bureaucratic channels" from the policy makers to those that administer such a new law. Compounded by perceived "unwieldy" bureaucracy, difficulties in finding a suitable local partner, and a degree of corrupt practices, all these elements may present a real deterrent to realizing an actual increase in the flows of FDI, as projected in Repelita V (12% per annum). (pp. 4-8)

World Bank, Indonesia: Foundations for Sustained Growth, May 4, 1990, Chapter 3: "Efficient Private Sector Growth."

In many important areas the existing commercial laws are outdated, and do not meet the requirements of a modern economy. The gaps in the commercial law framework will need to be addressed as an urgent priority in the next few years. Perhaps most importantly, the system of enforcement and interpretation of laws by courts, and generally the efficiency of the legal process needs to be improved. Currently, there are long delays, cumbersome procedures, legal uncertainty (since legal decisions are rarely published), and high costs of the legal process. Alternative dispute settlement mechanisms, such as the functioning of Arbitration Boards could be developed. Legal reforms and the development of institutions involve difficult and complex issues and will take time to be completed. Legislated changes are needed to lend greater legal certainty and codify recent changes made through deregulation measures in a few key

115

areas (such as banking, foreign and domestic investment, companies and securities laws). Changes in the commercial legal framework are also essential if these broader reforms are to have their desired effects. (p. 66)

World Bank, Indonesia: Priorities for Commercial Law Reforms for Private Sector Development, Draft June 29, 1990.

The Government has embarked on a major program of economic deregulation to enhance the role of the private sector in the economy. In response, the private sector is growing rapidly and attracting sizeable domestic and foreign investment. In this environment, there is need for a well-functioning commercial law system. As the private sector grows in size and complexity, a well-functioning commercial law system will facilitate its development by reducing costs and risks and be establishing rules for efficient private sector activities in an administratively less regulated economy. (p. i.).

U.S. AID/Washington

U.S. AID, Bureau for Program and Policy Coordination, Blueprint for Development: The Strategic Plan of the Agency for International Development, June, 1985.

A healthy private sector, one which will most effectively contribute to rapid and sustainable development and the overcoming of poverty, requires the free play of market forces. Too often government intervention limits incentives to increase production, as occurs regularly in agriculture, or leads to unemployment, as occurs when artificially low interest rates or high tariff barriers contribute to capital intensive modes of production. AID is seeking the fuller use of market forces to promote basic needs objectives. (p. 20)

U.S. AID, Bureau for Program and Policy Coordination, A.I.D. Policy Paper: Private Enterprise Development, revised, March, 1985.

The expansion and efficiency of the private sector depends upon a supportive legal structure and a positive regulatory environment. The existence of an adequate structure of property rights -- including patent and copyright law, contract law and judicial arrangements which facilitate adjudication are essential.

...

It may be that individual country circumstances will require a significant institutional development effort to build appropriate legal and regulatory institutions conducive to private enterprise. Specific projects or sub-project activities which provide assistance for studies or advisory services to review or reform legal and regulatory barriers, are encouraged. (p. 12)

U.S. AID, Assistant Administrator, "The Business and Development Partnership", draft Strategic Initiative, December, 1990.

> The adoption of market-economy principles on a global scale has brought with it new opportunities and challenges. Through its privatization programs and activities, the Agency for International Development has been in the forefront of creating conditions necessary for sustainable economic growth. Its systemic commitment to private enterprise as a key vehicle to help emerging countries improve their economic performance has laid a solid foundation for the implementation of market-based economic principles. ... (p. 1)

U.S. AID/Indonesia

U.S. AID/Indonesia, Country Development Strategy Statement (CDSS): Indonesia FY 1989-FY 1993, January, 1988.

> Trade, industry, and investment deregulation is a relatively new focus for USAID, and is predicated on substantial changes already enacted or contemplated by the GOI. Many of these actions have involved close cooperation with and substantial program support by the World Bank. We will therefore take a flexible, cooperative approach that is mutually supportive with the Bank, targeting those areas of opportunity which are most consistent with our own program, offer the greatest return within the private sector, or are otherwise well suited to AID's expertise or ability to grant finance. Of particular interest are licensing requirements for domestic industries, quota restrictions and tariffs on the import of raw materials, foreign and domestic investment restrictions, and local commercial law. (p. 33)

47

APPENDIX 2

INDONESIAN ORGANIZATION OF ECONOMIC LAW AND PROCUREMENT

Economic Law

A large part of Indonesian law is based upon old, general and outdated Dutch law. There are some important exceptions, including more recent laws, like those applying to foreign investment companies, specialized industries and taxation. Economic law is based upon the pre-independence Dutch Commercial code, originating in the middle of the last century. Land law is based upon the Agrarian Law of 1960. Progress is being made in copyright, patent and trademark laws. Indonesian laws and regulations have, as determined by Decree of (Provisional) National Assembly (MPRS) No. 20 of 1966, the following hierarchy:

1. The 1943 Indonesian Constitution (UUD, 1945).
2. A decree of the National Assembly (TAP MRP).
3. A government regulation replacing laws (*peraturan pemerintah pengganti undang-undang -- PERPU*). This is regulated by the President under the crucial conditions that it should subsequently be approved by the parliament (DPR). This rule is also based upon Article 22(1) of the 1945 Indonesian Constitution.
4. A government regulation (*peraturan pemerintah -- PP*). This is regulated by the President to implement laws and is based upon Article 5(2) of the 1945 Indonesian Constitution.
5. A presidential decree (*keputusan presiden -- KEPPRES*). This is issued by the President to implement laws and government regulations.
6. A ministerial regulation.
7. A ministerial instruction.

Circulars issued by government departments do not have the force of law.

The judicial system consists of:

1. General court. A General court is presided over by 3 professional judges and has both civil and criminal jurisdiction. This court has 3 levels:
   - local/district court (*pengadilan negeri*), the lowest level General court.
   - high court (*pengadilan tinggi*), the first appellate level General court.
   - Supreme Court (*mahkamah agung*).

2. Religious court. Only a Moslem may appear in this court, which handles only particular cases such as marriage, divorce and remarriage; it also issues religious advice on inheritance matters (*fatwa waris*). There are two levels: the lowest and appellate courts. The right of final appeal is to the Supreme Court.

118

3. Military court. Only military personnel or a civilian who has a dispute with military personnel may appear in this court, which has only criminal jurisdiction. There are two levels: the lowest and appellate courts. The right of final appeal is to the Supreme Court.

4. Administrative court. The administrative court (*peradilan tata usaha negara*) has only recently been created and its facilities are not yet in place. Its purpose will be to accommodate people's rights against government officials.

The legal profession is organized as follows:

1. Notary public. Only Notary publics deal with the areas of transferring real property, testamentary and matrimonial acts, and the preparation of articles of incorporation establishing a limited company (*perseroan terbatas*), firma, CV or Commanditare Vennootschap, and other entities that must be drawn up through authentic documents by a notarial deed. A notary must become a *pejabat pembuat akte tanah (PPAT)* in order to execute transactions in land; to become a PPAT a notary public must be appointed by the Minister of Justice.

2. Advocate. An advocate's usual role is to provide advice and assistance for administrative, civil, commercial and criminal matters. An advocate may plead before all court levels and must be approved by the Minister of Justice.

3. Counsellor at law. The normal role is to provide advice in civil, commercial, corporate and tax matters. A counsellor does not provide litigation services and must be approved by the Ministry of Justice in order to practice.

Government Procurement

New regulations establish limits of authority for tendering in government hierarchies:

1. Heads of offices, chiefs of working units, project managers, or their equivalents are authorized to award, through competitive bids, purchase contracts valued at up to Rp. 500 million.

2. Director-Generals and officials of similar rank are authorized to award through competitive bids, purchase contracts worth between Rp. 500 million and Rp. 1 billion.

3. Ministers or heads of nondepartmental government institutions are authorized to award contracts valued between Rp. 1 billion and Rp. 3 billion.

4. Ministers or heads of nondepartmental government institutions are also authorized to award procurement contracts over Rp. 3 billion, but such contracts must be approved by the Coordinating Minister for Economic, Financial and Industrial Affairs and Development Coordination.

119.

Procurement contracts awarded by ministers, government agencies, local governments and state companies may be subject to audits by the Government Audit Agency (BPKP) regarding prices, quality and volume.

Sources: Adapted from: Gary W. Christian, "Commercial Law in Indonesia," prepared for US AID/Indonesia, January, 1991; Darrell Johnson, "Restraints of the Indonesian Legal System on Commercial Development," prepared for US AID/Indonesia, December, 1990; Robert Hornick, "Technical Issues Concerning Commercial Law Reform in Indonesia," prepared for US AID/Indonesia, November, 1990; Hugh Verrier, "Government Procurement in Indonesia," prepared for US AID/Indonesia, July, 1989; Will Jourdin, "Improvement of the Indonesian Procurement System," prepared for US AID/Indonesia, November, 1990; Price Waterhouse, Doing Business in Indonesia, Jakarta, Indonesia, 1989.

120

SOURCES CONSULTED

Alchian, Armen A. and Harold Demsetz, "Production Information Costs and Economic Organization," American Economic Review, Vol. 62, 1972.

Asian Development Bank, Asian Development Outlook 1990, Manila, Philippines, April, 1990.

Asian Development Bank, Programs Department (East), The Ongoing Development of Investment Financing Capabilities of the Banking Sector in Indonesia, Operations and Policy Studies Series, September, 1990.

Asian Development Bank, Development Prospects and the Gulf Crisis: Economic Review and Bank Operations - Indonesia, November, 1990.

Asian Development Bank, Programs Department (East), Towards A Competitive Economy: The Emerging Role of the Private Sector in Indonesia, Operations and Policy Studies Series, April 1991.

Asian Wall Street Journal, "Asian Economic Survey," Five-Part Asian Wall Street Journal Roundup, October 15-19, 1990.

Cheung, Steven N.S., "The Contractual Nature of the Firm," Journal of Law and Economics, Vol. XXVI, April, 1983.

Christian, Gary W., "Commercial Law in Indonesia," prepared for US AID/Indonesia, January, 1991.

Coase, R.J., "The Problem of Social Cost," Journal of Law and Economics, 1960.

Economist Intelligence Unit, Indonesia: Country Profile 1990-91, London, August, 1990.

Far Eastern Economic Review, "Indonesia: Time to Consolidate," April 18, 1991, pp. 33-52.

Hart, O., "An Economist's Perspective of the Theory of the Firm," Columbia Law Review, No. 7, November, 1989.

Hasibuan-Sedyono, Chrysanti, "Women in Business in Indonesia," paper for Women in Business and Politics in Southeast Asia Workshop, Singapore, December 18-19, 1990.

Hornick, Robert, "Technical Issues Concerning Commercial Law Reform in Indonesia," prepared for US AID/Indonesia, November, 1990.

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 7: "Development of Business World."

121

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 27, "Law."

International Finance Corporation, Foreign Investment Advisory Service, Investmen Promotion Strategy for Indonesia, January, 1990.

International Monetary Fund, Indonesia - Staff Report for the 1989 Article IV Consultation Washington D.C.: April 6, 1989.

International Monetary Fund, Indonesia: Recent Economic Developments, Washington D.C. April 19, 1989.

International Monetary Fund, Indonesia: Recent Economic Developments, Washington D.C.: April 27, 1990.

Johnson, Darrell, "Restraints of the Indonesian Legal System on Commercial Development," prepared for US AID/Indonesia, December, 1990.

Jourdin, Will, "Improvement of the Indonesian Procurement System," prepared for US AID/Indonesia, November, 1990.

Price Waterhouse, Doing Business in Indonesia, Jakarta, Indonesia, 1989.

Reilly, T.C., Memorandum on Policy For Capital Market Development in Indonesia, prepared for U.S. AID, Bureau for Private Enterprise by Arthur Young, Washington D.C.: July, 1986.

Sajahrir, Dr. and Adam B. Slangor, Economic Deregulation and Regulation in Indonesia: Policy Issues and Economic Impact, 1983-1989, prepared for U.S. AID/Indonesia, Jakarta, Indonesia: April 4, 1990.

U.S. AID, A.I.D.'s Experience With Democratic Initiatives: A Review of Regional Programs in Legal Institution Building, A.I.D. Program Evaluation Discussion Paper No. 29, Washington D.C.: February, 1990.

U.S. AID, Assistant Administrator, "The Business and Development Partnership", draft Strategic Initiative, December, 1990.

U.S. AID, Bureau for Program and Policy Coordination, A.I.D. Policy Paper: Private Enterprise Development, revised, March, 1985.

U.S. AID, Bureau for Program and Policy Coordination, Blueprint for Development: The Strategic Plan of the Agency for International Development, June, 1985.

U.S. AID/Indonesia, Country Development Strategy Statement (CDSS): Indonesia FY 1989-FY 1993, January, 1988.

122

U.S. AID/Indonesia, Commercial Law Procurement Systems Project: Project Identification Document (Project No. 497-0372), Jakarta, Indonesia: December 21, 1990.

Verrier, Hugh, "Government Procurement in Indonesia," prepared for US AID/Indonesia, July, 1989.

Votaw, Gregory B., Indonesia: The Current Business Climate in the Context of Deregulation, prepared for U.S. AID/Indonesia, Economic Policy Support Office, Jakarta, Indonesia: November 30, 1989.

Williamson, Oliver E., "Transaction Cost Economics:The Governance of Contractual Relations," Journal of Law and Economics, October, 1979.

World Bank, Indonesia: Strategy for Economic Recovery, Washington D.C.: May 5, 1987.

World Bank, Indonesia: Strategy for Growth and Structural Change, Washington D.C.: May 3, 1989.

World Bank, World Development Report 1989, Chapter 6: "Foundations of Financial Systems," Washington D.C.: June, 1989.

World Bank, Indonesia: Foundations for Sustained Growth, Washington D.C.: May 4, 1990.

World Bank, Indonesia: Poverty Assessment and Strategy Report, Washington D.C.: May 11, 1990.

World Bank, Indonesia: Priorities for Commercial Law Reforms for Private Sector Development, Washington D.C.: Draft June 29, 1990.

World Bank, World Development Report, World Development Indicators, Washington D.C.: July, 1990.

ANNEX A-3

TECHNICAL ISSUES CONCERNING COMMERCIAL LAW REFORM IN INDONESIA

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

124

TABLE OF CONTENTS

Definition of Commercial Law 1

Sources of Indonesian Commercial Law 2

Commercial Law Infrastructure 2

Problems 3

1. Legislative Problems 3

   a. Company law 4
   b. Secured transactions 6
   c. Financing law 7

2. Process Problems 8

   a. Courts 8
   b. Legal profession 8
   c. Legal information 9

Possible Solutions 10

1. Legislative Reform 11

   a. Priorities 11

      Company law 12
      Secured transactions 12
      Financing 13
      International Sales Convention 13

   b. Procedures 14

      Comprehensive vs. piecemeal 14
      Statute or decree 14
      Lead body 15
      Models 15
      Domestic legal advisors 16
      Foreign advisors 17

125

2. Process Reform 17

a. Alternate Dispute Resolution Mechanisms 18

Commercial arbitration 18
Foreign courts/foreign court judgments 20
Special commercial courts 20

b. Information 21

Regulations and decrees 21
Court cases 21

c. Training 21

d. Private International Law 22

e. Foreign Law Firms 23

Further Research 23

SCHEDULE C.1

List of Selected Commercial Laws in Indonesia

SCHEDULE C.2

Description of Existing Commercial Law Institutions

SCHEDULE C.3

Indonesian Lawyers with Commercial Law Expertise

Technical Issues Concerning Commercial Law Reform in Indonesia

This Annex addresses the subject of whether and what kinds of commercial law reform may be needed in Indonesia today, to support and facilitate economic development, assuming a continued commitment by the Indonesian government to deregulation, private enterprise and competition. The premise of the study is that, in the circumstances of deregulation and greater private initiative, entrepreneurs must look increasingly to commercial law, rather than the discretion of public officials, for the rules by which to organize and administer their transactions. The approach of the study is to view commercial law reform as comprising two sets of issues: (i) legislative, dealing with the substance of the rules and regulations of commercial law, and (ii) process, dealing with the institutional infrastructure necessary to administer and enforce the commercial law, such as the courts and legal profession.

Definition of Commercial Law

The term "commercial law" does not have a universally accepted meaning. For purposes of this study, we give it a broad interpretation so as to cover all laws, regulations and decrees that regulate relationships of a commercial nature, both domestic and transnational, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: incorporation and other forms of business organization; any trade transaction for the supply or exchange of goods or services; distribution agreements; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; secured transactions; banking; insurance; exploitation agreement or concession; joint ventures and other forms of industrial or business

cooperation; carriage of goods or passengers by air, sea, rail or road.[1] In this broad sense, commercial law would also include special rules relating to the settlement of commercial disputes, such as commercial arbitration regulations; and private international law rules applicable to transnational commercial relationships, such as regulations specifying the extent to which a commercial contract involving an Indonesian person or property and a foreign national can be governed by foreign law.

Sources of Indonesian Commercial Law

The rules of Indonesian commercial law are contained in a Commercial Code, parts of a Civil Code, and in various statutes (undang-undang), presidential decrees (keputusan presiden), government regulations (peraturan pemerintah) and ministerial decrees (keputusan menteri). There are also numerous lower level decrees (e.g., keputusan dirjen) and circulars (surat edaran) with relevant content, as well as important court decisions interpreting and applying the commercial law or, in some instances, creating new law. Finally, there are relevant bilateral and multilateral treaties. A partial list of these sources is attached as schedule C.1.

Commercial Law Infrastructure

The principal institutions relevant to the administration and enforcement of Indonesian commercial law are (i) the law-making bodies themselves (such as parliament, the president, the ministries) which draft and enact law; (ii) the governmental administrative agencies, which supervise and administer the law; (iii) the courts, which adjudicate disputes and enforce the

[1] This is, in essence, the definition of commercial relationship adopted by UNCITRAL in the Model Law on International Commercial Arbitration.

law; (iv) the bar, including notaries and practicing lawyers, who give advice, draft and negotiate contracts, and (in the case of lawyers) represent clients before courts; (v) the law faculties, both public and private, which train future lawyers, notaries, judges and administrators, and which are an important source of commentary on law; and (vi) the law information industry, which compiles enacted law and disseminates information about it. These institutions are described in more detail in schedule C.2.

Problems

Two distinct sets of problems with commercial law need to be evaluated: (i) perceived shortcomings in the substance of the commercial legislation itself, and (ii) perceived shortcomings in the administration and enforcement of the commercial law.

1. Legislative Problems

Many of Indonesia's commercial laws are old. The Commercial and Civil Codes were adopted in the mid-19 century. The bankruptcy act was adopted in the early 20th century. All were based on Dutch models, and were promulgated in Dutch; none have been significantly amended with respect to their commercial law provisions.[2] There are no official Indonesian language translations of these, or any of the other colonial laws still in force. Some commentators even argue that these colonial laws are no longer in force.

Since independence, some supplemental commercial legislation has

[2] Civil Code provisions respecting real property, marriage and divorce, and employment have been substantially changed, or supplemented, by later, post-independence legislation.

been enacted, e.g. respecting intellectual property, but the quantity has not been large. There are a number of areas of modern commercial activity which are either not the subject of any special legislation (e.g. franchising) or are regulated primarily by administrative decrees (e.g. lease financing, capital markets).

That laws are old, that particular commercial activities are not specially regulated or are governed by administrative rather than parliamentary decrees, does not necessarily mean that the commercial law is inadequate for a deregulated, private economy. Codes are potentially dynamic instruments, and the courts and administrators in other civil law jurisdictions have successfully adapted ancient code provisions to modern circumstances, much as U.S. courts have been able to adapt an 18th century constitution to 19th and 20th century needs. Indeed, precisely because Indonesia's commercial law is grounded in codes (Roman - Dutch and Napoleonic laws) of common origin with many legal systems of the world, it can be said that the base of Indonesian commercial law is sound. Much of the criticism of Indonesia's commercial law, upon analysis, turns out to be a quarrel with imperfect administration and enforcement, rather than with the substantive provisions of the law itself.

Nevertheless, whether because of a failure by administrators and courts to adapt flexible code provisions to modern needs, or because those provisions are inherently inadequate for certain kinds of modern commercial relationships, there are shortcomings in the substantive provisions of the commercial law. The subjects of company law, secured transactions and financing provide examples.

a. Company law. The present company law, which governs the establishment, operation and liquidation of corporations, consists of only

twenty articles in the Commercial Code (Articles 36-56), as supplemented by a 1970 amendment of one of those Articles. Even by the standards of developing countries, this is a very minimal quantity of regulation for so central an institution to modern economic life. Many subjects of importance to the establishment, management and liquidation of modern business corporations are simply not addressed: e.g. at what point in the four-step incorporation process (which can take years from start to finish) does a shareholder acquire limited liability; under what circumstances will a corporation become bound by the pre-incorporation acts of its founders; can shares be paid for with goods or services as well as cash and, if so, how are such goods and services to be valued; under what circumstances, if any, can a transferor of issued but unpaid shares be relieved of liability for the unpaid amount; can there be different classes of shares; may a corporation redeem and retire outstanding shares and on what terms; can shareholders' meetings ever be held without complying with notice requirements, and can shareholders take actions without a meeting, if all shareholders consent; can shareholders enter into voting agreements circumscribing how they will vote their shares; can a minority shareholder commence derivative proceedings; what are the standards of conduct for directors and commissioners; may a corporation indemnify a director or commissioner for negligent or intentional misconduct; can minority shareholders dissent from, and obtain payment of the fair value of their shares in the event of, certain corporate actions with which they disagree; can two corporations merge or consolidate. In the absence of specificity in the Code, issues such as these have been left to the courts or the Ministry of Justice to resolve.

The process of incorporation is expensive and time consuming. The existing Code requires that articles of association be drafted by a notary in notarial deed form, approved as to form and substance by the Ministry of Justice, registered at a district court and published in a special company's

supplement to the State Gazette. Obtaining Ministry of Justice approval can take anywhere from 3 to 18 months. Publication can take another 1 or 2 years. The same procedures must be followed for amendments.

Finally, despite there being only twenty articles on corporations, several of the articles are arguably harmful, particularly Article 47, which provides for the automatic dissolution of a corporation upon its sustaining losses of at least 75% of its capital.

It should be added that methods of accommodating some of these shortcomings have been worked out by custom and practice, and therefore their detrimental impact has to some extent been ameliorated. For example, regarding Article 47, the Ministry of Justice has issued an interpretation to the effect that the Article does not mean what it says, that a court order of dissolution is still required, and that if the deficiency is corrected before an order of dissolution has been entered, then dissolution is not compelled. It is not known whether the courts will adopt a similar interpretation in the event of a dispute as to the provision's meaning.

b. Secured transactions. Indonesia has a statutory real property mortgage law (that also applies to ships) and a statutory pledge law (for obtaining security interests by possession of collateral), both contained in Articles of Book II of the Civil Code. However, there is no statutory law for non-possessory security interests in movables and intangibles - a critical form of security for modern purchase money and working capital financing. The courts of Indonesia, like the courts of Holland (where a similar problem once existed) have to some extent filled the void, by creating entirely out of case law a form of non-possessory security interest called "fiduciary transfer". However, the lack of formal provisions has left open many technical issues that would be appropriate to address, e.g. whether second and third fiduciary

transfers can exist simultaneously over the same collateral; whether fiduciary transfers can secure a revolving credit in which, at any given moment during the life of the facility, there may be no outstanding drawdowns and therefore no debt.

Finally, there is no registry for recording fiduciary transfers and putting third parties on notice of their existence. This is a critical flaw.

c. Financing law. Book III of the Civil Code, governing inter alia contractual obligations, includes special articles on contracts of lending. In addition there is a large section in the Commercial Code dealing with commercial paper. Nevertheless, because the provisions pre-date many of the techniques of modern financing, they do not always provide an adequate legal framework for such transactions, thus inhibiting the development and use of these techniques. For example, promissory notes, a common and inexpensive form of negotiable instrument used throughout the world to document vast quantities of financing, are underutilized in Indonesian transactions, at least in part because of the inferior legal status which they are assigned in the law vis a vis other instruments such as the much more expensive notarial acknowledgement of debt (which must be drawn up by a notary in special notarial deed form). Promissory notes, when they are used, can only be used for documenting relatively primitive, short term financing with a single repayment date and a fixed rate of interest, because the commercial paper law does not seem to recognize instalment payment notes, floating rate notes and acceleration clauses. Other shortcomings with existing financing law would include the absence of any provisions giving an express legal basis for and requesting the use of letters of credit, one of the principle mechanisms in the world for financing trade transactions. There are also many standard provisions which are routinely included in medium and long term credit documents but which have no express sanction in Indonesian law, thus leading

to uncertainty about their enforceability, such as foreign currency payment obligations, floating interest rates, and acceleration clauses.

2. Process Problems

Much of the criticism of Indonesia's commercial law turns out, upon analysis, to involve shortcomings in the administration and enforcement of law, rather than shortcomings in the substantive provisions of the law itself. Chief among these shortcomings is the Courts. There are also problems stemming from insufficient commercial expertise within the legal profession (including government lawyers as well as the private bar) and lack of easily available information about commercial law.

a. Courts. Courts (together with the commentary of scholars) are the principal source of interpretation of the law. They are also the primary institution for resolving commercial disputes and enforcing contracts. When the Courts do not function properly, laws are badly interpreted, predictability (important to orderly economic activity) suffers and the reliability of contracts wanes. This, in turn, increases transaction costs, raises barriers to new economic activity, stifles enterprise and reduces competition.

There are three major criticisms of the Courts. First, they are said to be relatively overburdened with cases, mostly of a non-commercial nature. The final resolution of commercial disputes can take years. Second, many judges apparently lack sufficient business expertise, leading to commercially unreasonable decisions. Third, there is a belief that the Courts are corrupt, and sometimes render judgments without regard to the merits of a case. Although this belief seems as widespread in the local as in the foreign community, foreigners, and especially Americans, feel particularly vulnerable.

b. Legal profession. Not only judges, but many government legal officers and practicing lawyers, are said to lack sufficient practical business experience and commercial law expertise. This means, in the case of government legal officers, that economic regulations are sometimes drafted without enough understanding of the underlying business issues and concerns, leading to ineffective or harmful rules. It means, in the case of practicing lawyers, that business objectives will not always be adequately understood, sometimes leading to poorly drafted contracts and bad advice. The problem is compounded in some instances by inadequate foreign language training among many lawyers relative to other professionals. This, among other things, can hinder legal officers and practicing lawyers from learning about important commercial and commercial law developments in other countries. It can also complicate communication with foreign clients and adversaries.

This lack of sufficient commercial experience and commercial law expertise is mirrored in the law faculties as well. It means that there are not enough law teachers able to teach and train effectively in this area, thus perpetuating the problem. It also means that there is not enough quality commercial law commentary being produced by the faculties, and therefore inadequate interpretation and analysis of rapidly changing circumstances in the commercial law field.

c. Legal information. Despite improvements over the last twenty years, difficulties in finding the law and obtaining information about law persist. This can make the legal situation seem worse than it is, thus unnecessarily discouraging new investment and trade; in any event it facilitates a disregard of the law. For example, it is easier for judges to continue rendering bad decisions when their judgments are unpublished, and therefore hidden from public scrutiny and debate. It is easier for government

bureaucrats to misapply the law, when the rules they are administering are unpublished, and therefore unavailable as a standard against which to test their behavior.

Possible Solutions

Two kinds of commercial law reforms seem to be needed: (i) legislative reform, involving the drafting and promulgation of new laws and regulations regarding certain substantive areas of commercial law, such as company law, secured transactions and financing law; and (ii) process reform, involving efforts to improve the administration and enforcement of commercial law, including development of alternative dispute resolution mechanisms, better dissemination of commercial information, e.g. by regularized publication of regulations, decrees and court decisions, and provision of additional commercial law training. Each of these categories of reform is discussed below.

Preliminarily, several caveats may be in order. First, legislative reform is not likely to be beneficial, and in certain circumstances it may even be harmful, unless it is accompanied by process reform.[3] Therefore, it is essential to focus simultaneously on both categories of reform. Second, both kinds of reform must be spearheaded by Indonesians, not foreigners. Part of the reason the Codes have not played the dynamic role in Indonesian commerce that they seem to have played in other civil law countries is the deeply felt belief that they are foreign rules that were imposed on Indonesia by an exploitative colonial power. Third, commercial law reform is only one

[3] E.g. if a new, well drafted anti-trust law were to be promulgated, but were administered incompetently or corruptly in disregard of the rule of law, then the result could be higher transaction costs than now, stifled enterprise and public cynicism instead of increased competition.

kind of law reform. It deals only with the economic goals and consequences of the legal system. While economic goals are very important, there are other law reform goals that Indonesia's policy planners must weigh and balance against the economic one, such as maintenance of political stability, preservation of the rule of law and the administration of justice generally. Fourth, even within the important economic area, resources are limited and there are key policy choices to be made. For example, the current emphasis on company law reform, while appropriate, is in part driven by the constituency of international businessmen, journalists, lawyers and academics most likely to have access to policy makers and their advisors. Some attention should probably also be given, and some funds earmarked for, the purely domestic commercial law constituency of manufacturers, distributors and retailers who do not participate in the international economy. In some instances, the commercial law reform interests of the latter group will no doubt overlap with the former. But there will probably also be instances where the latter group will have a special agenda of its own.

1. Legislative Reform

This section will address the subjects of which substantive areas of commercial law should be prioritized, and how the reform could be accomplished.

a. Priorities

The subjects of company law, secured transactions and financing should be among those short listed for possible near term commercial law reform. Attention should also be given to whether Indonesia should become a party to the United Nations Convention on Contracts for the International Sale of Goods.

Company law. There is a fairly widespread consensus as to the need for a new company law to govern the establishment, management and liquidation of corporations. There already exists a comprehensive draft law, apparently prepared more than ten years ago, based on Dutch corporate law as it existed in the 1970's. A threshold issue to be decided is whether the basic model should in fact be the relatively regulated approach of Dutch law (and a number of other civil law jurisdictions), the relatively unregulated American approach of Delaware and other U.S. states, or the intermediate regulated approach of the U.K., which is followed in places like Malaysia and Singapore.

It would be necessary for whatever group is charged with the preparation of a new company law to investigate the various basic models, understand how each differs from the others on the key issues, and then decide on which approach to take. There are things to be said for and against each model, and which will best serve the needs of Indonesia is not an open and shut issue. A time limit should be fixed for making this basic choice, and support should be offered for conducting the comparative investigation and thrashing out the issues, including appropriate short term study grants, one or more workshops, and technical advisory services if requested.

Secured transactions. There is need for a law on non-possessory security interests in movables and intangibles, to facilitate purchase money and working capital financing. The possibility of incorporating the subjects of aircraft mortgages and ship mortgages in such law should also be considered.

Most urgently needed is a system for recording such security interests. If for any reason promulgation of a secured transactions law will have to be indefinitely delayed, then priority attention should be given to the issue of

how to establish a legally effective registry for recording fiduciary transfers, the current form of non-possessory security interest in Indonesia that has been created entirely by case law. One possibility is that the courts themselves would have inherent authority to establish such a registry, since fiduciary transfer is derived entirely from case law. Another possibility is that such a registry could be created privately by an organization like the Chamber of Commerce. Arguably, if it became custom and practice for lenders to register their fiduciary transfers at such a private registry, and for purchasers to check the registry before buying used equipment and inventory, then the amount of fraud and good faith purchasing of items subject to security interests could be greatly reduced, even without a statutory registry.

Financing. It should be helpful to banks, other financial institutions and borrowers alike, and possibly facilitate more innovative financing, if Indonesia were to adopt a modern financing law covering subjects such as modern promissory notes, letters of credit and term lending. Lease financing and hire purchase might also be included. (The latter could also be part of a secured transactions law).

International Sales Convention. A growing number of developed and developing countries have become parties to the United Nations Convention on Contracts for the International Sale of Goods.[4] Basically, the Convention provides a detailed set of contract rules to govern contracts of sale of goods between parties whose places of business are in different states. By providing a common set of rules for determining whether an enforceable contract has been entered into and what are the rights and obligations of parties to a

[4] Argentina, Australia, Austria, China, Denmark, Egypt, Finland, France, German Democratic Republic, Hungary, Italy, Lesotho, Mexico, Norway, Sweden, Syria, U.S.A., Yugoslavia, Zambia.

contract where the parties have failed to provide for them, the Convention should lead to greater standardization and understanding in international sales and therefore lower transaction costs and fewer disputes. As part of Indonesia's expanding program of international trade, it should consider whether its international trade transactions would be facilitated by membership in the Convention.

b. Procedures

How should substantive commercial law reform be accomplished? Should it be attempted piecemeal or as part of a more comprehensive commercial law reform package? Should it be done by statute or administrative decree? Which Indonesian governmental body should lead and coordinate the effort? What models should be used? What role should local lawyers play? What role, if any, should foreign advisors play?

Comprehensive vs. piecemeal. In theory, a comprehensive approach is probably best. In practice, a piecemeal approach is likely to be the only realistic one, given time constraints, limited resources and limited expertise.

Statute or decree. Statutes can provide greater legal authority and certainty; they also take longer to obtain. The tradition of Indonesian statutes is to delegate a substantial amount of rule making authority to administrative agencies. Therefore, some combination of the two will probably have to be used. For example, in an ideal world, it would probably be best for secured transactions to be the subject of a detailed statute. However, other approaches are possible. If a new banking law were to include a grant of authority to the Minister of Finance to establish and administer a system of secured transactions, that might do, and in any event be an improvement on the current state of affairs.

Lead body. There are a number of Indonesian institutions which, in concept, might be appropriate for leading the commercial law reform effort. Traditionally, the Ministry of Justice is responsible for law. The National Development Agency (BPHN), an agency under the jurisdiction of the Ministry of Justice, has as one of its principal charters the drafting of new legislation. One or more of the economic ministries, because of their special responsibility for economic policy and the connection between economic development and commercial law could be the appropriate agency. EKUIN has demonstrated some initiative in this regard.

It should probably be the policy of AID to respond to a request for assistance with commercial law reform from whatever agency emerges as having the will and political backing to pursue the subject. At the moment, this looks like EKUIN.

Whoever takes the lead, coordination and cooperation across a broad range of agencies and constituencies will surely be required. It would be appropriate for AID to encourage such coordination and cooperation. It would also be appropriate to encourage the active participation of private sector persons, including practicing Indonesian lawyers, whose practical experience and interface with the private sector should be helpful.

Models. No general rules of thumb can be established as to what laws, or which country's laws, should be used as models for commercial law reform. It is important that AID not undertake funding on the premise that U.S. law should always be the model. The policy objective should be to ensure that the Indonesian draftsmen be made aware of the choices, and the comparative advantages and disadvantages of one model as against another. It should also be noted that there already exists a substantial body of draft Indonesian

141

commercial law legislation covering the subjects listed below, some of it recently prepared and some of it not so recent, which one or another individual or committee has been previously commissioned to produce.[5] This draft legislation also constitutes an important resource which the current draftsmen should be encouraged to study.

Civil Procedure	Company Law
Banking	Insurance
Futures Exchange	Hire Purchase
Aircraft Mortgages	Arbitration
Commercial Code	Maritime Law
Pension Fund	Commodities Law
Contracts	Land Mortgages
Trademarks	Private International Law

Domestic Legal Advisors. It is important that Indonesian lawyers from outside the ministerial legal bureaus be actively involved from an early stage in the design and drafting of new commercial legislation, not only because they represent a genuine source of relevant expertise, but also because their early involvement is necessary to the on-going interpretative process once the laws are enacted. Only if Indonesia law teachers and practitioners themselves have been intimately involved in the design and drafting, can they later generate the kind of informed interpretation and analysis needed to ensure that the new laws are properly understood and administered.

---

[5] There are several reasons why this draft legislation has never been presented to Parliament. In a few instances (e.g. banking), the draft itself is so recent it is still being reviewed and revised. In other instances, a particular draft may reflect a more interventionist approach to a particular subject than would be appropriate for today's deregulation. In most instances, however, the reason has probably been the relatively low priority which, until recently, was assigned to commercial law reform by the executive branch.

Despite a real shortage of qualified local legal personnel with adequate commercial and commercial law expertise, the fact remains that there nevertheless are some teachers and practitioners with a wealth of relevant experience and knowledge. A list of some of these people, mostly from the Jakarta area, is attached as Schedule C.3. There are others, including additional resources outside Jakarta. All the persons listed are either teachers or practitioners. Virtually all of the teachers have had or continue to have, private practice experience; they are in the vanguard of giving a practical orientation to the highly academic bias of the law faculties.

Foreign Advisors. Foreign legal advisors can be a resource, if the Indonesians request it. They should not be the only resource. AID should encourage the Indonesians themselves to draft their own legislation, with such foreign technical assistance as they deem appropriate. It should not encourage the Indonesians to have foreigners do the drafting for them. The new laws, if they are to have a chance at acceptance, must be, and must be seen to be, Indonesian work product.

2. Process Reform

Process reform on a large scale is intimidating, expensive and impossible to achieve in the short or medium term. It is well beyond the resources of any donor agency, and in any event is probably not something that money alone, in whatever quantities and however well spent, can address.

There are, however, some modest steps that might be taken and which could make a difference in the short or medium term, if implemented reasonably promptly. Such steps are described below under the headings: alternate dispute resolution mechanisms; information; training; private

international law; and foreign law firms.

a. Alternate Dispute Resolution Mechanisms

Although one cannot hope to reform the court system in any significant way in the short or medium term, one can perhaps develop detours around parts of it. Possible reforms would include commercial arbitration, authorization to enforce foreign court judgments, and creation of specialized commercial courts.

Commercial arbitration. Indonesia should consider enacting a commercial arbitration law. Arbitration is a method of settling disputes outside the existing court system. Parties contractually agree, either at the time they enter into a particular commercial contract, or later after a dispute arises, to submit a dispute relating to a particular contract to adjudication by one or more private, non-judicial persons such as lawyers, businessmen, bankers or entrepreneurs. The parties agree on a particular set of arbitration rules according to which the arbitration will be conducted, and they agree to be bound by the resulting award of the arbitrators as if it were a court judgment. Generally, the courts never become involved in the arbitral process, unless one of the parties acting in bad faith files a law suit anyway (in which event the courts are supposed to send the parties back to arbitration) or refuses to comply with a final award (in which event the other party must seek court assistance to enforce the award). Thus, arbitration can reduce, but not entirely eliminate, the possible involvement of courts in a particular dispute.

In order for commercial arbitration to be a viable alternative to the courts, several conditions are necessary. First, there must be a clear basis in law authorizing parties to agree to arbitration, prohibiting courts from interfering where parties have agreed to arbitration and obligating courts to

recognize and enforce arbitration awards as if they were court judgments. This basis is usually set forth in an arbitration statute. In Indonesia, the authority to arbitrate is now based primarily on provisions in an old Dutch procedural code (RV), which has been repealed but which the Indonesian courts continue to use as guidelines.[6] This may be an adequate basis for arbitration, but it is far from ideal. Therefore, to give arbitration a sound basis, it would be highly desirable for Indonesia to enact a modern commercial arbitration law. Apparently, there already exists a draft of such a law. Also, UNCITRAL has promulgated a model law on international commercial arbitration which, with some modifications, could be adapted for purely domestic arbitration as well.

Second, there must be one or more (usually private) institutions, called arbitral institutions, which promulgate rules for conducting arbitrations, administer arbitrations which parties have elected to conduct under such rules, and provide physical facilities such as administrative offices and hearing rooms. Usually, the institutions also provide the parties with a list of persons willing to serve as arbitrators, although parties are normally allowed to select arbitrators outside the list, if they wish. In Indonesia, there is at present one arbitral institution, BANI (the Indonesian National Arbitration Board), which operates under the auspices of KADIN (the Chamber of Commerce). BANI administers 5-10 new arbitrations each year. Disputes have involved amounts in controversy ranging from a few thousand dollars to several million. Although not widely known, BANI appears to have done a good job administering the disputes submitted to it. For example, most cases have

---

[6] Indonesia is also party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Pursuant to this Convention, as supplemented by Supreme Court Regulation No. 1/1990, certain foreign arbitral awards are now supposed to be enforceable in Indonesia.

been completed within 6 months to 1 year from filing. It would be appropriate to consider the possibility of providing some kind of support to help strengthen BANI and/or to help establish a second arbitral institution, keeping in mind the need for arbitral institutions to be private rather than governmental bodies.

Foreign courts/foreign court judgments. Existing Indonesian law, like the law in other jurisdictions, allows parties to agree by contract to submit contractual disputes to resolution by a foreign court. As a practical matter, however, this is not normally a viable alternative to the Indonesian courts, because Indonesian courts are not required to enforce foreign courts money judgments. Foreign courts could, however, become a viable alternative to Indonesian courts in some circumstances, and therefore be an alternative dispute resolution mechanism, if Indonesia were to enact an enforcement of foreign courts money judgments law, such as can be found in a number of other jurisdictions of the world, e.g. New York. Pursuant to such a law, the courts of Indonesia would be obligated in defined circumstances to enforce the money judgments of non-Indonesian courts.

Special commercial courts. As a medium term solution, Indonesia could consider the possibility of establishing a separate commercial court system which courts would have authority over all commercial disputes where the amount in controversy exceeded some specified minimum amount. Such courts might be administered under the jurisdiction of an economic ministry rather than the Ministry of Justice, and would have power to enforce their own judgments. Innovative approaches to rules of procedures and recruitment of judges could be considered. For example, instead of the usual three-judge panels, cases might be tried before a single judge, thus reducing the number of commercially trained judges who would be needed to staff the system. Judges might be hired from among retired notaries and practitioners, or

prominent practicing notaries and lawyers who would take a 3-5 year leave of absence from their practices, instead of recruiting them from the professional judiciary. Appeals could be prohibited, or limited to very narrow circumstances, thus expediting the process. Such a system would require careful study and, even if adopted, would need at least several years from the time of adoption to become operational. Thus, one would be looking at a likely 5-7 year time frame from conception to operation.

b. Information

In order to increase the availability of information about law, the following should be considered.

Regulations and decrees. The Indonesian government should consider promulgating a law that would require all administrative regulations, decrees and circulars to be deposited at a designated central registry, and published in an official gazette, as a condition of their becoming effective. To facilitate prompt publication, establishment of a daily or weekly news print gazette, to supplement the more permanent annual official gazette, might be considered. Either PDH or BPHN would be appropriate candidates for serving as the official depository.

Court cases. The Indonesian government should consider requiring publication of all commercial judgments of the courts, or at least facilitate such publication by requiring that all such judgments be deposited with a registry to be maintained by an agency such as PDH or BPHN. The registry would be open to the public and commercial publishers would be free to publish some or all of the decisions on a for-profit basis.

c. Training

To address the shortfall in commercially trained legal professionals, a major commitment of funds should be set aside for the further training of legal professionals in commerce and commercial law. Such training should have an international as well as domestic component, and include long term (degree programs) as well as short term commitments. In designing a training program, account would have to be taken of the relatively weak foreign language skills of most law graduates. The important but delicate task of identifying those within the local community on whom to rely for selecting candidates to participate in the various programs, and the competing needs and interests of training government legal officers versus university law teachers versus other legal professionals, will also have to be given careful attention. It may also be appropriate to coordinate any training programs with the law curriculum reform efforts being undertaken by the State University Consortium Law Sub-Committee (Sub-Konsortium Ilmu Hukum) headed by Prof. Mochtar Kusumaatmadja, a former Dean of the Law Faculty at Pajajaran University, Minister of Justice and Minister of Foreign Affairs.

d. Private International Law

Indonesia, like all other countries of the world, has a special body of procedural rules applicable to relationships between foreigners and nationals, called "private international law." These rules regulate, for example, the circumstances in which such parties may agree to have their contracts governed by foreign law, and how to decide what law should govern a particular transaction when the contract itself does not say. Although a highly technical subject, these rules are extremely important for international commercial transactions.

In the case of Indonesia, its private international law rules are mostly embodied in custom and practice as elaborated by commentators. The courts are not always familiar with these rules, and do not always apply them properly, which results in greater uncertainty than is necessary within the foreign business community. It would facilitate international commerce if Indonesia's private international law rules could be codified in a modern statute. There already exists a working draft.

e. Foreign Law Firms

Although it is a subject of some sensitivity, the Indonesian government should consider allowing foreign law firms to establish offices in Indonesia, as e.g. did Singapore and Hong Kong twenty years ago in conjunction with their then programs of deregulation. Not only could such firms help fill the shortfall in commercially trained lawyers, they might also operate as training vehicles for young Indonesian lawyers employed by such firms. In addition, the process of competition itself, in law as in other fields, can accelerate the development of legal skills and reduce transaction costs even as it provides greater consumer choice. Various formats for admitting foreign firms could be considered, such as requiring foreign firms to form a joint venture with an Indonesian law firm, or restricting the practice of foreign law firms to foreign law.

Further Research

This study of technical issues concerning commercial law reform in Indonesia has inevitably been influenced by the ideas of persons living and working in the Jakarta area, where the study was prepared, and more particularly by persons within that community who have an orientation toward the international economy. It would be interesting if a portion of any money

granted for commercial law reform could be earmarked for further study of commercial law as it affects the purely domestic economy. Such a study should probably be conducted in an area well removed from Jakarta -- perhaps Surabaya, and would attempt to focus on the problems of small, purely domestic manufacturers, distributors and retailers, including the warungs. Perhaps the commercial law needs of this constituency would prove to be rather different from those identified in this study.

List of Selected Commercial Laws in Indonesia

1. Commercial Code

arts.	6-12	:	Bookkeeping
	14-56	:	Business entities (includes corporations, partnerships)
	62-98	:	Brokers, commission agents and other commercial intermediaries
	100-229k	:	Commercial paper
	230-243	:	Repossession from bankrupt of goods sold on instalment
	246-308	:	Insurance
	309-754	:	Sea Transportation (includes ships and ships' cargo, shipping enterprises, master and crew, seamen's contracts, vessel charters, transport of passengers and cargo, accidents at sea)

2. Civil Code, Books II (portions) and III

arts.	1131-1149	:	Priorities among creditors
	1150-1161	:	Pledge
	1162-70, 1171(2)-(4), 1173-81, 1184-85, 1189-94, 1197-1232	:	Hypothecation (mortgage)

1233-1312	:	Obligations generally
1313-1351	:	Contractual obligations
1352-1380	:	Non-contractual obligations (includes wrongful acts/torts)
1381-1456	:	Termination of obligations
1457-1540	:	Sales
1541-1546	:	Exchange of goods
1547-1600	:	Rentals
1601-1617	:	Labor agreements (includes employment, independent contractors, construction)
1618-1652	:	Partnerships
1653-1665	:	Juristic associations
1694-1739	:	Deposit of goods
1754-1769	:	Loans
1774-1791	:	Contingent contracts
1792-1819	:	Agency and representation
1820-1850	:	Suretyship
1851-1864	:	Compromise agreements

3. Bankruptcy Law (includes Moratorium), Stbl. 1905/217

4. Trademark Law, Law No. 21/1961

5. Copyright Law, Law No. 6/1982 as amended by Law No. 7/1987

6. Patent Law, Law No. 6/1989 (comes into force Aug. 1, 1991)

152

7. Business Registry Law, Law no. 3/1982

8. Criminal Code, arts 382 & 393 (unfair trade practices)

9. Ship Registration Ordinance, Stbl. 1933/48

10. Air Transport Law, Law No. 83/1958

11. Foreign Investment Law, Law No. 1/1967 as amended by Law No. 11/1970

12. Domestic Investment Law, Law No. 8/1968, as amended by Law No. 12/1970

ANNEX B

LOGICAL FRAMEWORK

LOGICAL FRAMEWORK

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
GOAL: To increase employment and incomes by improving the environment for business growth, creating a more attractive climate for domestic and foreign investment, and increasing the efficiency of development expenditures.	• Increase in level of domestic and international commercial transactions. • Increase in private sector contribution to GDP. • Increase in number of jobs. • Increase in real incomes.	• GOI economic reports. • International economic reports. • USAID economic and other research. • GOI procurement reports. • BAPEPAM listings.	• GOI continues to deregulate and encourage expansion of the private sector. • Economic and political stability, both national and international. • The will for change in GOI institutions is genuine and able to endure management and personnel shifts.
PURPOSE: To improve the economic law and government procurement systems in order to facilitate and support an increased level of private transactions and investments, while also helping to foster more equitable treatment for all firms and individuals. New laws, regulations, procedures, systems and institutional structures developed under the Project are expected to: • Reduce the costs and risks of entering into private transactions in Indonesia; • Reduce the barriers to entry and mobility of private investment, both domestic and foreign; and • Provide more fair and efficient government procurement of goods and services, leading to broader and more equitable private sector participation in public investment programs.	**END OF PROJECT STATUS:** • Improved institutional capacity for developing economic laws. • Improved law drafting capabilities both in EKUIN and other economic ministries. • Expanded and improved programs for economic law training at the University of Indonesia and other educational institutions. • A significantly increased institutional capacity in both the public and private sectors to conduct legal research and to interpret and apply economic laws. • Upgraded abilities among government legal bureau personnel which improves efficiency and timeliness in interpreting regulations.	• Project monitoring of key institutional data versus baseline information. • Project evaluations. • GOI official economic data. • Trade and professional journals. • Other donor economic reports. • Technical and other publications. • Discussions with local and foreign attorneys and businessmen. • Number of individuals utilizing legal information facilities on a daily or weekly basis.	• GOI remains receptive to analysis and advice of donor-financed TA. • Climate of commercial and economic reform continues. • Existence of a pool of talented GOI officials to spearhead needed reforms. • Foreign and domestic investors respond to improved investment climate. • Public debate is allowed to develop regarding law development issues. • Full and timely access is allowed to private sector users of legal information.

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
	• Improved management of the government procurement system. • Consistently applied government procurement system in all procuring organizations. • Improved public and private sector access to full texts of laws, decrees, and regulations.		
OUTPUTS: **Economic Law Development** • A strengthened EKUIN Law Development Group. • Trained legislative drafters. • Seminars and workshops that enable public/private discussion of proposed new legislation.	• Fifteen new economic laws drafted (passed by the DPR or under active consideration). • 100 Government legal bureau personnel with improved skills in technical economic law areas and in legislative drafting skills. • Several seminars and workshops that strengthen public/private dialogue on law development issues.	• Project evaluations. • Project monitoring and reporting of project data versus baseline information. • GOI commercial and economic data. • Other donor economic reports. • Private sector reports. • Discussions with local and foreign attorneys and businessmen. • Proceedings of seminars and workshops.	• Newly developed human resources utilized in an appropriate capacity. • Current balance of influence among GOI institutions not significantly altered. • Private sector responds to opportunities to influence policy. • Continued openness to advice.

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Legal Training and Institution Building • Upgraded and expanded economic law curriculum at University of Indonesia. • Trained law school faculty, practicing attorneys, government legal bureau personnel, judges, and others dealing with economic laws.	• University of Indonesia economic law curriculum upgraded and expanded, resulting in improved law graduates. • 200 University of Indonesia and other law school faculty providing improved legal training, with new emphasis on practical legal skills. • A long-term stream of law students receive improved economic law training as a result of upgraded curricula and faculty at University of Indonesia and other law schools. • A long-term stream of private and public sector professionals improve their skills as a result of short-term local training in a wide variety of economic law areas.		
Procurement Management Development • An established central procurement management system which will: i) develop appropriate policies and guidelines; ii) ensure that policies and guidelines are available to all implementing agencies, SOE's and private sector firms; and iii) develop staff capabilities to provide a centralized source of procurement expertise.	• KEPPRES 29 and related guidance (including English-language versions) are fully revised and disseminated to line ministries. • A permanent Procurement Review and Policy Analysis Group is developed in EKUIN and staffed by well-trained professionals. • Standard curricula is developed for government-wide procurement training. • Regular information dissemination program is in place which publishes procurement information related to solicitations, contract awards, etc.		

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Legal Information Systems • Upgraded legal information systems for documentary and research purposes. • Upgraded institutions' dissemination capacity to make new laws, regulations, and decrees available to public and private sector users.	• BPHN and University of Indonesia legal information systems up and running and fully accessible to public and private sectors. • Improved SEKNEG legal information dissemination reduces lag time on availability of new regulations to a period of weeks. • Improved Ministry of Finance legal information system results in improved public and private sector access to both new and historical regulations and rulings. • Routine publication of administrative court decisions and judicial decisions of other courts.		
Grants for Private Sector Legal Development Strengthened private sector institutions' ability to provide high quality training to several key beneficiary groups, e.g., law school faculty, judges and GOI legal bureau personnel.	• Quality of economic law education improved at two or more private sector institutions resulting in a long-term stream of students with improved practical understanding of economic law issues. • Improved private sector access to short courses on relevant economic law topics. • Creation and/or strengthening of one-two private sector organizations important to the development or implementation of economic law.		

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS				MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
INPUTS:	($000'S)					
	USAID	GOI	Other	TOTAL		
A. Law Development	2,920	970	120	4,010	• Project documentation.	• Qualified organizations and individuals can be identified and contracts negotiated.
B. Legal Training	4,305	1,420	470	6,195	• Periodic reporting by TA team, annual project reviews, etc.	• Financial resources are provided as planned.
C. Procurement Management Development	1,705	710	50	2,465	• Annual program reviews.	
D. Legal Information Systems	4,055	1,900	360	6,315		
E. Grants for Private Sector Legal Development	3,000		1,000	4,000		
F. Evaluations and Audits	300			300		
G. Contingencies and Inflation	1,715			1,715		
PROJECT TOTALS	18,000	5,000	2,000	25,000		

ANNEX C

PROJECT BUDGET

TABLE OF CONTENTS

		Page
Annex C-1	Project Budget by Component	2
Annex C-2	Project Budget by Expenditure Category	3
Annex C-3	Estimated Personnel Expenditures	4
Annex C-4	Expenditure Projections by Fiscal Year	5
Annex C-5	Detailed Resource Requirements:	
Annex C-5.1	• Law Development	6
Annex C-5.2	• Legal Training	8
Annex C-5.3	• Procurement Management Development	10
Annex C-5.4	• Legal Information Systems	11

160

PROJECT BUDGET
By Sub-Component
($000's)

SUB-COMPONENT	USAID Funds	GOI Funding			Private Sector	Project Total
		Cash	In-Kind	Total		
LAW DEVELOPMENT						
Personnel (Note 1)	2,520		650	650	100	3,270
Short-term Training	210	100	75	175		385
Seminars & Workshops	100	75	50	125	20	245
Commodities	90	10	10	20		110
Sub-total	2,920	185	785	970	120	4,010
LEGAL TRAINING						
Personnel (Note 1)	2,920		580	580	100	3,600
Training	1,050	260	490	750	350	2,150
Commodities	335	40	50	90	20	445
Sub-total	4,305	300	1,120	1,420	470	6,195
PROCUREMENT						
Personnel (Note 1)	1,430		505	505		1,935
Short-term Training	150	60	50	110		260
Private Sector Workshops	60		5	5	50	115
Commodities	65	45	45	90		155
Sub-total	1,705	105	605	710	50	2,465
LEGAL INFORMATION						
Personnel (Note 1)	1,805		900	900		2,705
Short-term Training		85	125	210	10	220
Seminars & Workshops	100		30	30	20	150
Commodities	2,150	250	510	760	330	3,240
Sub-total	4,055	335	1,565	1,900	360	6,315
Other Costs:						
Contingency	1,715					1,715
Evaluation & Audit	300					300
Sub-total	2,015					2,015
PRIVATE SECTOR GRANTS	3,000				1,000	4,000
TOTAL FUNDING	**18,000**	**925**	**4,075**	**5,000**	**2,000**	**25,000**

Note 1: Includes all personnel for advisory services, training, seminars and workshops; GOI in-kind personnel costs include office space for GOI and USAID-funded personnel.

161

PROJECT BUDGET
By Category of Expenditure
($000's)

EXPENDITURE CATEGORY	USAID Funds	GOI Funding			Private Sector	Project Total
		Cash	In-Kind	Total		
PERSONNEL (Note 1)						
Law Development	2,520		650	650	100	3,270
Legal Training	2,920		580	580	100	3,600
Procurement	1,430		505	505		1,935
Legal Information	1,805		900	900		2,705
Sub-total	8,675		2,635	2,635	200	11,510
TRAINING						
Law Development	210	100	75	175		385
Legal Training	1,050	260	490	750	350	2,150
Procurement	150	60	50	110		260
Legal Information		85	125	210	10	220
Sub-total	1,410	505	740	1,245	360	3,015
SEMINARS & WORKSHOPS						
Law Development	100	75	50	125	20	245
Legal Training						
Procurement	60		5	5	50	115
Legal Information	100		30	30	20	150
Sub-total	260	75	85	160	90	510
COMMODITIES						
Law Development	90	10	10	20		110
Legal Training	335	40	50	90	20	445
Procurement	65	45	45	90		155
Legal Information	2,150	250	510	760	330	3,240
Sub-total	2,640	345	615	960	350	3,950
Other Costs:						
Contingency	1,715					1,715
Evaluation & Audit	300					300
Sub-total	2,015					2,015
PRIVATE SECTOR GRANTS	3,000				1,000	4,000
TOTAL FUNDING	18,000	925	4,075	5,000	2,000	25,000

Note 1: Includes all personnel for advisory services, training, seminars and workshops; GOI in-kind personnel costs include office space for GOI and USAID-funded personnel.

-162-

PROJECT BUDGET

Estimated Personnel Expenditures
($000's)

PERSONNEL CATEGORY	Inputs	USAID Funds	GOI Funding			Priv. Sect.	Project Total
			Cash	In-Kind	Total		
LONG-TERM ADVISORS							
Law Development	4 py	1,200					1,200
Legal Training	5 py	1,500					1,500
Procurement	3 py	900					900
Legal Information	4 py	1,200					1,200
Sub-total	16 py	4,800					4,800
SHORT-TERM ADVISORS & INSTRUCTORS							
Law Development	50 pm	1,000				100	1,100
Legal Training	80 pm	1,200				100	1,300
Procurement	18 pm	450					450
Legal Information	25 pm	500					500
Sub-total	173 pm	3,275				200	3,350
ADMIN. PERSONNEL & SUPPLIES							
Law Devt. (Note 1)		320					320
Legal Training		220					220
Procurement		80					80
Legal Information		105					105
Sub-total		725					725
GOI PERSONNEL (Note 2)							
Law Development				650	650		650
Legal Training				580	580		580
Procurement				505	505		505
Legal Information				900	900		900
Sub-total				2,635	2,635		2,635
TOTAL FUNDING		8,695		2,685	2,685	200	11,510

Note 1: Includes the Project Administrator. This individual will assist the COP with activities related to all sub-components of the Economic Law and Procurement Development component.

Note 2: GOI personnel costs include office space for GOI and USAID-funded personnel.

163

Expenditure Projections by Fiscal Year
($000'S)

PROJECT COMPONENT	ESTIMATED EXPENDITURES						TOTAL
	FY92	FY93	FY94	FY95	FY96	FY97	
LAW DEVELOPMENT							
Long-Term Advisor		300	300	300	300		1,200
Short-Term Advisors	100	250	250	200	100	100	1,000
Other Personnel Costs		70	70	70	70		280
Overseas S/T Training		50	50	40	40	20	200
Seminars & Workshops	20	20	20	20	10	10	100
Commodities		70	40	20	10		140
Sub-total	120	760	730	650	530	130	2,920
LEGAL TRAINING							
Long-Term Advisor		300	300	300	300	300	1,500
Short-Term Advisors	100	250	300	300	200	50	1,200
Other Personnel Costs		40	40	40	40	40	200
Overseas L/T Training			100	200	250	150	700
Overseas S/T Training		50	100	100	50	50	350
Commodities	40	50	100	100	50	15	355
Sub-total	140	690	940	1,040	890	605	4,305
PROCUREMENT							
Long-Term Advisor		300	300	300			900
Short-Term Advisors	100	100	100	100	50		450
Other Personnel		20	20	20			60
Overseas S/T Training		50	50	50			150
Workshops		20	20	20			60
Commodities	10	20	30	25			85
Sub-total	110	510	520	515	50		1,705
LEGAL INFORMATION							
Long-Term Advisor		300	300	300	300		1,200
Short-Term Advisors	100	150	150	55	25	20	500
Other Personnel		20	20	20	20		80
Seminars & Workshops		20	40	29	10	10	100
Commodities		850	850	425	50		2,175
Sub-total	100	1,340	1,360	820	405	30	4,055
Contingency & Evaluation			500	600	600	315	2,015
PRIVATE SECTOR GRANTS		500	700	700	700	400	3,000
Total Expenditures	470	3,800	4,750	4,325	3,175	1,480	18,000

164

LAW DEVELOPMENT COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	4 py	300	1,200					1,200
Short-Term Advisors	50 pm	20 (Note	1,000				100	1,100
Project Administrator	4 py	2)	200					200
Administrative Staff	4 py	50	80					80
Office Supplies/PC's for TA		20	40					40
GOI Personnel					475	475		475
Office Space					175	175		175
S/T TRAINING (Note 3)								
Overseas training/research	30	7	210					210
S/T Instructors	(Note 4)							
Training Space					75	75		75
Trainee Costs (Note 5)				100		100		100
SEMINARS & WORKSHOPS								
Short-Term Advisors	(Note 4)							
Meeting Space & Logistics	10	10	100		50	50		150
Participant Costs (Note 5)				75		75	20	95
COMMODITIES								
Computers	5	5	25					25
Computer Mtce./Supplies				5	5	10		10
Training Materials			50					50
Reference Materials			15					15
Reproduction Costs				5	5	10		10
TOTAL FUNDING			2,920	185	785	970	120	4,010

Notes appear on the following page.

LAW DEVELOPMENT COMPONENT

NOTES

1. Personnel amounts include all related support costs for overhead, travel, housing, etc.

2. Short-term advisors will be recruited both locally and from the U.S.; $20,000/person-month is the average anticipated cost for such services.

3. In addition to participating in courses offered through this component, members of the Law Development Group will also be priority candidates for long and short-term overseas training and local short-term courses offered under the Legal Training Component.

4. USAID-funded short-term instructors for short-term training and advisors/speakers for seminars and workshops are included in the 50 pm of short-term assistance appearing in the Personnel line item.

5. The GOI is responsible for local costs including travel, per diem, honoraria, etc. for individuals participating in short-term training, seminars and workshops.

LEGAL TRAINING COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long Term Advisor	5 py	300	1,500					1,500
S/T Advisors/Trainers	80 pm	15 (Note 2)	1,200				100	1,300
Admin. Assistant	5 py	40	200					200
Office Supplies/PC's for TA			20					20
University Personnel					450	450		450
Office Space					130	130		130
TRAINING								
In-country Costs for: Curriculum Development, Faculty Upgrading, & trainee expenses				230		230	50	280
Short-term Instructors	(Note 3)							
Overseas L/T	20	35	700	30		30		730
Overseas S/T	50	7	350					350
Classroom Space					490	490	50	540
Tuition & Fees							250	250
COMMODITIES								
Training Materials			200	30	30	60	10	270
Reference Materials			120				10	130
Computers	3	5	15					15
Reproduction Costs				5	5	10		10
Other Supplies				5	15	20		20
TOTAL FUNDING			4,305	300	1,120	1,420	470	6,195

Notes appear on the following page.

LEGAL TRAINING COMPONENT

NOTES

1. Personnel amounts include all related support costs for overhead, travel, housing, etc.

2. Short-term advisors and instructors will be procured locally and from the United States. At present the expected average cost of such assistance, per person-month, is $15,000.

3. USAID-funded short-term training advisors and instructors are included in the 80 pm of short-term assistance appearing in the Personnel line item.

PROCUREMENT MANAGEMENT DEVELOPMENT COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	3 py	300	900					900
Admin. Staff	3 py	20	60					60
Short-Term Advisors	18 pm	25	450					450
Supplies/PC's for TA			20					20
GOI Personnel					375	375		375
Office Space					130	130		130
TRAINING								
Overseas - Short-term	15	10	150					150
Local Training Costs:								
Space & Logistics					50	50		50
Trainee Costs				60		60		60
Short-term Instructors	(Note 2)							
PRIVATE SECTOR WORKSHOPS								
Space and Logistics	3	20	60		5	5	10	75
Short-term Advisors	(Note 2)							
Fees							40	40
COMMODITIES								
Training Materials			20					20
Reference Materials			20					20
Computers	5	5	25					25
Reproduction & Distribution				40	40	80		80
Other Supplies				5	5	10		10
TOTAL FUNDING			1,705	105	605	710	50	2,465

NOTE 1: Personnel amounts include all related support costs for overhead, travel, housing, etc.
NOTE 2: Included in PERSONNEL - short-term advisors.

LEGAL INFORMATION SYSTEMS COMPONENT

ESTIMATED RESOURCE REQUIREMENTS
($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	4 py	300	1,200					1,200
Administrative Staff	4 py	20	80					80
Short-Term Advisors/Trainers	25 pm	20	500					500
Supplies/PC's for TA			25					25
GOI Personnel- Supervisory					250	250		250
GOI Personnel- Other					500	500		500
Office Space					150	150		150
TRAINING								
Short-term Trainers (Note 2)								
Trainee Costs				85		85		85
Training Space					125	125	10	135
SEMINARS & WORKSHOPS								
Short-Term Advisors (Note 2)								
Meeting Space & Logistics	10	10	100		30	30	20	150
COMMODITIES								
Computers:								
Hardware & Software	4 inst.	var.	2,100					2,100
Maintenance				100		100		100
Space & Electricity				100	490	590		590
Supplies				40		40		40
Training/Reference Materials			50					50
Reproduction Costs					10	10		10
Other Supplies				10	10	20		20
User Fees							330	330
TOTAL FUNDING			4,055	335	1,565	1,900	360	6,315

Note 1: Personnel amounts include all related support costs for overhead, housing, travel, etc.
Note 2: Included in PERSONNEL - Short-term Advisors.

GRANTS TO EDUCATIONAL INSTITUTIONS COMPONENT

RESOURCE REQUIREMENTS

(Illustrative Only)

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	Grantee Funding			Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total	
PERSONNEL							
Short-Term Advisors							
Short-Term Trainers							
New Faculty							
Secretarial Support							
Admin. Assistant							
TRAINING							
Curriculum Development							
Classroom Space							
Overseas Training L/T							
Overseas Training S/T							
Classroom Space							
WORKSHOPS AND SEMINARS							
Speakers							
Logistics and Space							
Publicity							
Materials							
COMMODITIES							
Reference Books							
Training Materials							
Computers							
Reproduction Costs							
TOTAL FUNDING							

ANNEX D

PROCUREMENT PLAN
AND
METHODS OF FINANCING

PROCUREMENT PLAN AND METHODS OF FINANCING

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
1. Personnel										
a. Long-Term	16py	4,800			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
b. Short-Term	153pm	2,650			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
	20pm	500			DP	AID	Buy-In	PIO/T	C	Interim "bridging" TA.
				200	In-kind					Pro bono TA & training.
c. Other		725			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
d. GOI Personnel			2,635		In-kind					Includes office space.
Sub-Total (11,510)		8,675	2,635	200						
2. Training										
a. Overseas L/T	20	700			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
			30		Cash	GOI	DIP			Air-fares to West Coast.
b. Overseas S/T	85	640			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
	10	70			DR	GOI	DIP	PIL	PIL	Interim "bridging" training.
c. Local Training:										
-Travel, Per Diem			475		Cash	GOI	DIP			Includes honoraria.
				50	In-kind					For priv. sector trainees.
-Space			740		In-kind					Classroom space.
				60	In-kind					Classroom equipment.
d. Tuition & fees				250	Cash					Short-course fees.
Sub-Total (3,015)		1,410	1,245	360						

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
3. Seminars & Workshops										
a. Facilities	23	260			DR	GOI	DIP	PIL	PIL	For public/private seminars.
			85		In-kind					
				10	In-kind					
b. Participant Costs			75		Cash	GOI	DIP			Travel, etc.
				40	In-kind					
c. Fees				40	Cash					
Sub-Total (510)		260	160	90						
4. Commodities										
a. Computers		2,100			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
--Related costs			240		Cash	GOI	DIP			
--Space			490		In-kind					
b. User Fees				330	Cash					
c. Reference and Trng. Materials		510			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
		30			DR	GOI	DIP	PIL	PIL	Supplied during year one.
d. Misc. Supplies			105		Cash	GOI	DIP			
			125		In-kind					
				20	In-kind					
Sub-Total (3,950)		2,640	960	350						
5. Private Sect. Grants		3,000			DR	AID	Grant		Grant	Direct AID Grants to Private Sector Organizations
				1,000	Cash & In-kind					
Sub-Total (4,000)		3,000		1,000						

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
6. Other Items										
a. Eval. & Audit		300			DP	AID	DC	PIO/T	C	Evaluations conducted by Gray Amendment firms
b. Contingency & Inflation		1,715								
Sub-Total		2,015								
PROJECT TOTALS		18,000	5,000	2,000						

Definitions

DP Direct Payment to Contractor
DC Direct Contract
DR Direct Reimbursement to GO (no advances)
UC Umbrella Contract
C Contract

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

PROJECT PAPER ANNEXES

VOLUME II A

1-7.6

Indonesian Lawyers with Commercial Law Expertise

Following is a partial list of Indonesian lawyers, many of whom are teachers and most of whom are or have been in private practice, with special commercial law expertise. They would make excellent technical advisors for designing and drafting new commercial legislation.

Prof. Dr. Priyatna Abdurrasyid
Tetana Duta Konsulindo
Wisma Argo Manunggal 4th Fl.
Jl. Gatot Subroto Kav. 22
Jakarta
Phone: 514729

Prof. Dr. Mariam Darus Badrulzaman
Fakultas Hukum
Univ. Sumatera Utara
Medan
Phone: 23210
Jakarta contact: 7391809

Dr. M. Kiki Ganie
Lubis, Ganie, Surowidjojo
28th & 29th Fl. Bank Bumi Daya Plaza
Jl. Imam Bonjol 61
Jakarta
Phone: 335101

Prof. Mr. Dr. Sudargo Gautama
9 Medan Merdeka Timur
Jakarta
Phone: 341358

Dr. Sunaryati Hartono
Director, National Law Development Agency
Jl. May. Jen. Sutoyo (Cililitan)
Jakarta
Phone: 8091908

Dr. Charles Himawan
Dean, Law Faculty
University of Indonesia
Jakarta
Phone: 7270003

Prof. Dr. Komar
Mochtar, Karuwin & Komar
Wisma Metropolitan II, 14th Fl.
Jl. Jend. Sudirman Kav. 31
Jakarta
Phone: 5781130

Mrs. Winita Kusnandar
Kusnandar & Associates
Central Plaza, 16th Fl.
Jl. Jend. Sudirman Kav. 47
Jakarta
Phone: 516840

Mrs. Kartini Mulyadi
Gedung Bina Mulia
Jl. H.R. Rasuna Said Kav. 10
Jakarta
Phone: 516968

Satjipto Rahardjo
Law Faculty
University Airlangga
Semarang
Phone: N/A

Erman Rajagukguk
Lembaga Studi Hukum dan Ekonomi
Jl. Borobudur 14
Jakarta
Phone: 3107771

Marjono Reksodiputro
Ali Budiardjo, Nugroho, Reksodiputro
Wisma Argo Manunggal 10th Fl.
Jl. Jend. Gatot Subroto 22
Jakarta
Phone: 516744

Mrs. Santoso
Mochtar, Karuwin & Komar
Wisma Metropolitan II, 14th Fl.
Jl. Jend. Sudirman Kav. 31
Jakarta

Phone: 5781130

Mrs. Kitty Sugondo-Kramadibrata
Sugondo-Kramadibrata & Rekan
Jl. Iskandarsyah I/12
Kebayoran Baru
Jakarta Selatan
Phone: 7391809

Frank Supit
Makarim & Taira S.
Summitmas Tower, 17th Fl.
Jl. Jend. Sudirman Kav. 6162
Jakarta Selatan
Phone: 5200272

Mrs. Ratna Wulan
Ratna Wulan & Partners
Wisma Kosgoro, 20th Fl.
Jl. M.H. Thamrin 53
Jakarta
Phone: 321631

Description of Existing Commercial Law Institutions

The following is a description of the principal institutions relevant to the administration and enforcement of commercial law.

1. Law Making Bodies

Parliament (DPR). Parliament is responsible for enacting statutes. In practice, the initiative for new legislation and the preparation of draft laws is normally the prerogative of the executive branch. Typically, either BPHN (the National Law Development Institute, an agency under the jurisdiction of the Minister of Justice), or a ministry with primary jurisdiction over a particular subject area, will commission the preparation of a so-called "academic draft". The draft may be done by a recognized expert in the field, or a committee of specialists from the universities and/or ministries. The draft is supposed to be prepared only with regard to technical, not political, considerations.

The draft is then presented to, studied by and revised by, an inter-departmental steering committee composed of representatives of the various ministries having an interest in the subject matter of the draft. This committee, among other things, seeks to harmonize the interests of the different ministries. The inter-departmental revised draft is then submitted to the Ministry of Justice for approval; and Justice submits the draft to the Cabinet Secretariat (SEKNEG) for its approval. Either Justice or SEKNEG may insist upon further modifications, or may return the draft to the predecessor institution in the chain for further study or revision. Only when SEKNEG has given its final approval will the draft be submitted to

Parliament for consideration. Thus, SEKNEG ultimately controls not only the content of the draft legislation but also the decision as to which items will be given priority. The latter is especially important because the parliamentary process is such that only a limited number of bills can be considered each year.

Relatively little commercial legislation has been enacted by Parliament. When legislation is enacted, whether pertaining to commerce or otherwise, it tends to be general in nature, with the promulgation of detailed, implementing regulations being delegated to one or more relevant ministries.

The President. The President is responsible for issuing government regulations and presidential decrees. Government regulations are normally the highest level of implementing regulation for legislation. Presidential decrees are of different types. Some, which seek to implement the Constitution through authority granted to the President, are regarded in practice as having a status at least equal to that of statutes.

Ministries. The bulk of implementing regulations (ministerial decrees, dirjen decrees, circulars) are issued by the various ministries and their sub-divisions, or by autonomous agencies like the Capital Investment Coordinating Body (BKPM). They are drafted by legal bureaus attached to the relevant ministry/agency. Most of the relevant detail respecting a particular law is contained in these regulations.

2. Administrative Agencies

The various ministries and autonomous agencies function not only as originators of law, but also as administrators, with substantial day-to-day authority over significant areas of commercial behavior. For example:

182

Foreign investment. Every direct foreign investment must be approved by the President of Indonesia acting through BKPM. BKPM also monitors implementation of foreign investments and divestitures.

Establishment of corporations. The Ministry of Justice must approve establishment of all corporations, including the form and substance of each corporation's articles of association.

Business licenses. To engage in particular business activities, entrepreneurs must frequently obtain one or more business or operating licenses from the ministry having jurisdiction over the relevant activity.

Even in an era of deregulation, the role of these agencies is likely to remain very important, if somewhat diminished or differently focused. For example, if Indonesia were to adopt fair trade or anti-monopoly legislation, this would likely require creation of a new supervisory agency with substantial authority.

3. Courts

The Indonesian judicial system is composed of district courts, high courts and a Supreme Court. The district courts are courts of general jurisdiction, handling all matters of a civil or commercial nature as well as criminal cases. The high courts and Supreme Court are appellate bodies. There is no specialization within the judiciary, and judges are expected to handle whatever cases are assigned to them. A separate system of administrative law courts is now being established, with specially trained administrative law judges.

Cases, both at the district court and appellate levels, are normally tried before three-judge panels. This is also true at the Supreme Court, which consists of 51 judges who are organized into 17 chambers of 3 judges each. The court system is administered by the Ministry of Justice. Judges are appointed and dismissed by the Ministry of Justice, and are part of a professional judiciary that is recruited and trained out of law school.

4. The Bar

The practicing bar is comprised both of lawyers and notaries. Lawyers practice either individually or in firms. Although most local firms are small, there are several, primarily in Jakarta, with more than 20 lawyers.

Notaries, as in other civil law systems, hold a place of special importance. The number of notaries is regulated. Many types of transactions must be documented by notaries on notarial deeds (e.g. hypothecation of land).

Foreign law firms are prohibited from having offices in Indonesia. However, several local firms employ foreign lawyers, including foreign lawyers on secondment from foreign law firms. Also, there are foreign lawyers who have been seconded to several local consulting companies.

5. The Law Faculties

There are 24 state, and approximately 100 private, law faculties in Indonesia. Normal matriculation takes 5 years. Law is an undergraduate major and is not regarded by most students as a preferred area of study. The majority of law graduates enter the civil service or general work force in non-law related positions. Further post-graduate training is required for those who

become teachers, notaries or judges.

6. The Law Information Industry

There is no central depository law, and no requirement of publication as a condition for regulations and decrees becoming effective. The following are the principal sources of information about law generally, and commercial law in particular.

State Gazettes. The state printing office publishes 4 official gazettes: Lembaran Negara, Tambahan Lembaran Negara, Berita Negara and Tambahan Berita Negara. These contain all statutes (undang-undang) and government regulations (peraturan pemerintah), some presidential decrees (keputusan presiden) and treaties, official elucidations of the foregoing, certain official notices (such as trade mark registrations) and copies of all articles of association of Indonesian corporations.

Ministry Law Bureaus. Certain of the ministries maintain relatively complete files of implementing regulations issued by their respective ministries. These regulations are not usually published or made generally available to the public, except on an ad-hoc basis by personal visit.

Law Documentation Center (PDH)/National Law Development Agency (BPHN). Both of these organizations have been active in collecting and indexing (but not publishing) laws and implementing regulations issued by many ministries. PDH is administered by the University of Indonesia. BPHN is under the jurisdiction of the Ministry of Justice. Both have reading rooms that are open to the public. PDH is a particularly popular library for government employees, private lawyers and students to do research. Both organizations are also now in the process of computerizing their indexes.

BPHN has been very active in promoting the circulation of regulations among departments and provincial governments.

Commercial publishers. There are two private reporting services, Business News and Warta Cafi, which publish daily newsletters containing recently issued regulations relevant to commerce, and which are available by subscription both in the Indonesian language and in English. While not complete, these are the best published sources of current information about new regulations.

Several commercial publishers also publish, on an irregular basis, compilations of regulations or court judgments on particular subjects.

Court cases. Most of the many court judgments handed down each year by the courts of Indonesia are not published and not generally available. The Judges Association, Ikatan Hakim Indonesia, publishes a monthly magazine called Varia Peradilan which contains several judgments in each issue, usually including one or two commercial law cases. Although published for judges, the magazine is sold in the bookstores and also can be obtained by subscription. A number of universities also publish law journals and several of these occasionally contain commercial law judgments. Finally, the Supreme Court has traditionally published each year 20-30 of its judgments, including several in the commercial law area, under the title Yurisprudensi Indonesia.

Private libraries. Several practicing lawyers and law firms maintain good private collections.

ANNEX A-4

LEGAL INFORMATION SYSTEMS

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

187

I. OVERVIEW

This annex provides a detailed assessment of the present legal information environment in Indonesia, identification of the strengths/deficiencies in the current situation and a comprehensive set of recommendations for improvement. It includes a requirements analysis encompassing the benefits which will be obtained by automating the individual database sources, the importance of a central "institutional home" for legal information and the attendant dissemination mechanism(s) which will help ensure effective access by both the private and public sectors. Issues related to organizational considerations, the potential for commercial involvement/participation by the private sector and the need for training and education are likewise addressed.

From an objective standpoint, the present legal information system(s) structure must be classified as poor. However, the good news is that much has been done, and much is in progress to improve the situation. While the current status may be viewed by some as disappointing, it is not indicative of what can and will be achievable given the contemplated USAID technical assistance at this timely juncture.

In a subsequent section, the results of the assessment are presented in a strategic framework followed by an actionable implementation plan. The latter covers system design parameters, timeframes, milestones, hardware, software, staffing and funding requirements.

The objective of this component of the Economic Law and Improved Procurement System Project (ELIPS) is to provide requisite resources that will help establish a modern legal information system in Indonesia; one that is readily accessible by all concerned. Implicit in this undertaking is an approach whereby the existing structural foundations underpinning legal information will be strengthened and made more efficient from an institutional standpoint. To that end initiatives already underway such as the Asia Foundation's CD-ROM program have been viewed as "building blocks" which should be utilized wherever possible.

The work completed under this technical assessment spanned 6 weeks of in country effort. It benefited greatly from the initial surveys and preliminary analysis which were part of the USAID Project Identification (PID) process conducted last year. Direct participation was solicited and received from a broad range of interested public and private sector parties. These included representatives from those Government Agencies with major responsibilities in the area; private law firms, the University of Indonesia, private Indonesian companies in the publishing and computer industries, the World Bank, the Asia Foundation, the Netherlands Council for Legal Cooperation with Indonesia and other knowledgeable parties.

The following sections will deal with and provide an historical perspective, an assessment of the present legal information system, potential for private sector involvement, recommendations, and proposed strategy and implementation plan.

186

AN HISTORICAL PERSPECTIVE

Historically, public access to legal information in Indonesia has been very limited. Not only has availability been an issue but even locating reliable and current source data has proved to be a tedious and at times elusive chore. To date no official method of bringing regulations into existence in a reasonable timeframe has been given priority. More importantly, the collective body of law in any given area consists of the law itself, related government regulations, administrative interpretations, and court decisions. Each must be researched separately since there has been no single collection point nor method to reconstruct and relate them into a rationale whole. As a consequence, private businesses, lawyers, professionals in the government's administrative branches, the judicial system itself and even the public at large encounter difficulty in ascertaining what the law is and how it should be applied.

As stated by the World Bank in its June, 1990 draft paper on commercial law reform:

"The legal effectiveness of a commercial legal framework depends fundamentally on easily accessible and certain laws. When the laws and procedures are unclear they result in legal uncertainty and inconsistent application. The efficiency of the court system and legal processes also depends to a great extent on legal information. Widely known laws and their interpretation, as well as the publication of judgments, help ensure the consistent application of laws. Better access to legal information allows legislators, economic policy makers, and government legal bureaus to know and master the existing laws and rules, helping them avoid inconsistencies and contradictory policies in the development of the law. The consequences of inadequate legal information are a lack of public confidence and mistrust in the legal system, high barriers to entry for private businesses, especially small businesses less able to pay for a costly private search for legal information, inefficient economic transactions, and an underpinning for unfair practices."

The situation in Indonesia can be best characterized as fragmented, incomplete and inefficient. It has, however, been recognized as such and significant attempts have been made during the past 15-20 years to improve the systematization, computerization and dissemination of legal information in Indonesia. Unfortunately, these have been grossly under resourced; which largely explains why progress has been slow. While much remains to be done, much has also been accomplished.

The major efforts have involved the University of Indonesia (UI) and the Ministry of Justice; the latter through it's National Law Development Agency (BPHN). Their origins date back more than 15 years. They stand as convincing testimony that the need for greatly improved legal information systems has been recognized in Indonesia.

Over time they have each developed significant basic information systems capabilities. In cooperation with each other they have conceived and have begun implementing a national legal information network concept called *Sistem Jaringan Dokumentasi dan Informasi Hukum* (National Legal Documentation and Information Network; often referred to as *SJDI Hukum*). This effort began in 1978 and is still evolving. Together, UI and BPHN represent vital,

189

"cornerstone" institutional building blocks for the development of modern legal information systems in Indonesia.

Following is a summary of their efforts.

University of Indonesia - Law Documentation Center (PDH)

Under the auspices of the Faculty of Law of the University of Indonesia, a Legal Documentation Center (*Pusat Dokumentasi Hukum; PDH* for short) was founded in 1972. It's aim has been to collect, catalog and index all laws and regulations. The founding group included Mardjono Reksodiputro, the center's first Director who subsequently became Dean of the Law School (1983-1989) and who is now in private practice; and Wahyono Darmabrata who has served as Director of the Legal Documentation Center (more commonly called PDH-FHUI) since 1983.

Supported by the Asia Foundation and under an expanded program, the Netherlands Council for Legal Cooperation with Indonesia, PDH has compiled four significant microfiche collections and indexes of Indonesian laws and regulations. A small number of the basic microfiche sets of the Indonesian Laws and Government Regulations have been produced, duplicated and distributed to the Ministry of Justice, the Indonesian Supreme Court and certain State University Law Faculties. Additionally, they have been offered for sale and law firms, notaries, libraries, the Harvard Law School, the Library of Congress and others have purchased sets.

The collections include:

1. **Indonesian Laws and Regulations (for the period 1945 -1981):**

This collection covers national laws (*Undang-undang*), presidential decrees and ministerial regulations. Maritime regulations through 1986 are also included. Approximately 5,000 microfiche representing 300,000 pages of laws and regulations are involved.

2. **Provincial Regulations (for the period 1950 - 1989):**

This collection is comprised of 4,110 microfiche, involving in excess of 200,000 pages of regulations issued by Indonesia's 27 provinces.

3. **Indies Staatsblad - Laws/Regulations from the Dutch Period:**

This collection has 2,000 microfiche (approximately 100,000 pages) covering the laws and regulations published in the state gazette prior to independence after World War II (1948).

4. **Law Journal Articles (for the period 1947 - 1990):**

Articles from over 100 law journals which have been published in Indonesia since independence are covered. This involves 1,345 fiche or roughly 60,000 pages of material.

At present this is the only collection which is being maintained and updated periodically. Following on the next page (Exhibit 1) is a self-explanatory structural diagram of the process. Appropriate indexes are provided for each of the microfiche collections. Separately PDH publishes a monthly catalog and subject index of current laws and regulations called *Informasi Peraturan Perundang-undangan Republik Indonesia.*

PDH maintains a small facility at a reasonably convenient location in the city of Jakarta which is open to the public. Usage is modest, perhaps no more than several people a day including students. In part this is due to the fact that the information microfiche collections are not current. The staff is small and funding sporadic, with major dependence on donor organizations. From an organizational standpoint PDH operates largely independently of the University. It is not directly controlled by the Law School but rather maintains a "collegial" - relationship with it based on mutual interests.

The library facilities at the University of Indonesia itself are quite spacious and there has been some discussion on transferring PDH activities to these facilities.

Ministry of Justice - National Law Development Agency (BPHN)

Not too long after PDH was established, the then Minister of Justice, Mochtar Kusmaatmadja, set up a similar legal documentation center within his newly reorganized National Law Development Agency (*Badan Pembinaan Hukum Nasional - BPHN for short*). Commencing in 1975, the two centers (PDH and BPHN) began to work together to form and implement a legal information network that would serve all of Indonesia. It is called the National Legal Documentation and Information Network (*Sistem Jaringan Dokumentasi dan Informasi Hukum - SJDI Hukum for short*). Following several preparatory symposiums, SJDI was inaugurated in 1978.

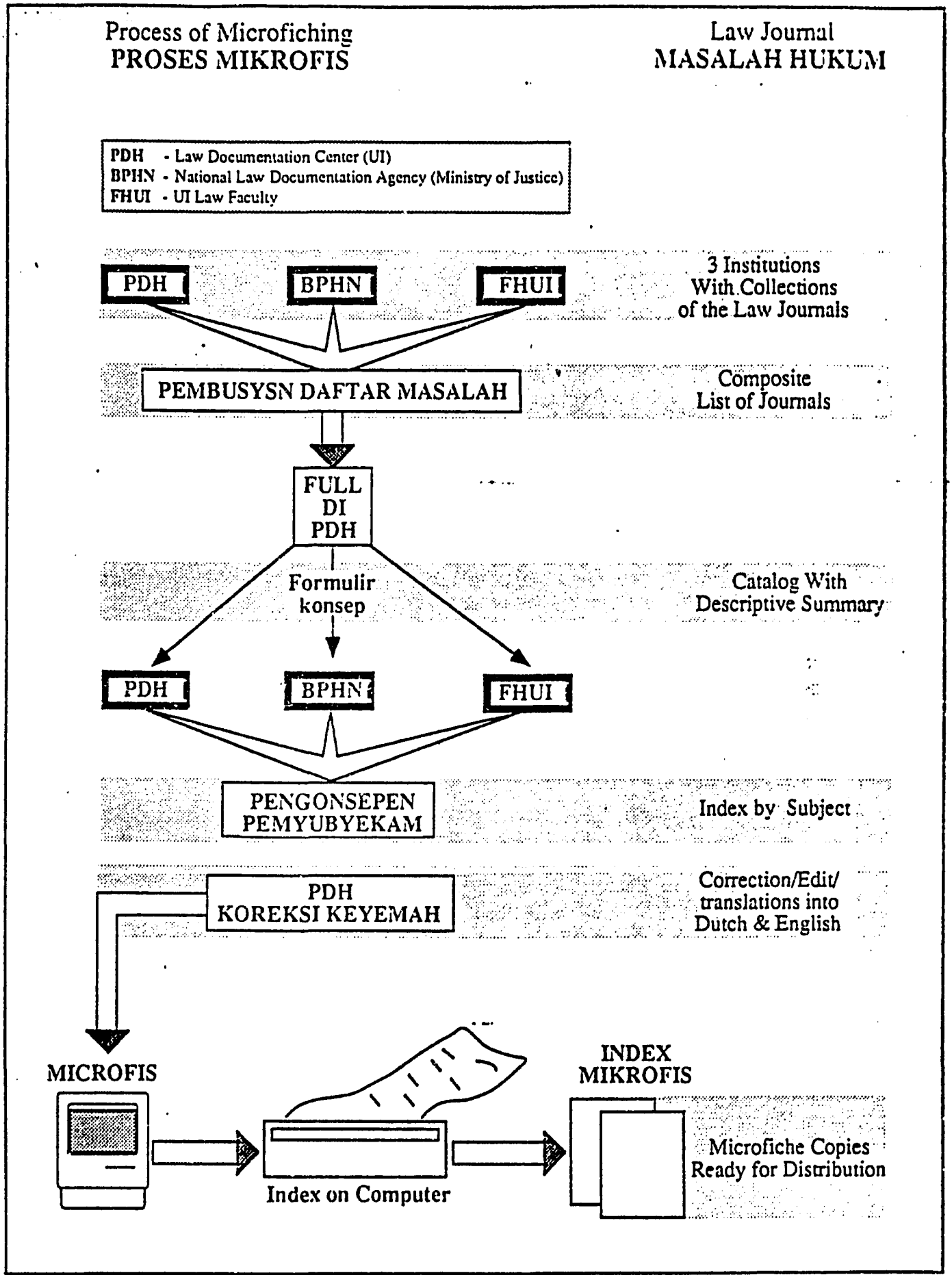
Logistically, this "network" is decentralized and functions as an association. Participants include all government departments and agencies, all 27 provinces through the law bureaus of the provincial government secretariats and the law faculties of the universities throughout the country. A major goal of SDJI is to assist each of the participating law bureaus, especially at the provincial level, to become mini legal documentation centers themselves. Other important objectives include use of nationally accepted compilation and cataloging standards and sharing of legal information within the network and eventually the public.

Over time, a star network has come into being with BPHN as the dominant center of the configuration. PDH now functions as more of a secondary, but still very important, locus of activity. During the early years SJDI had an active coordinating committee drawn from the two major documentation centers, BPHN and PDH; a number of participating institutions; the National Library and the Indonesian Scientific Documentation Center. It is less so today as BPHN has assumed more direct responsibility for overall SDJI development activities.

Exhibit 1

Process of Microfiching
PROSES MIKROFIS

Law Journal
MASALAH HUKUM



Aspen Systems Corporation

Exhibit 2 on page 7 was prepared by BPHN. It depicts the organizational structure of the emerging "network", including its "planned" evolution over the short, medium and long term - next 5 years.

BPHN is headed by Dr. C.F.G. Sunaryati Hartono. The department has three centers; one for law drafting, one for planning and one for information systems. The latter has the responsibility for the central database(s), library and network (SDJI). Since 1989 its activities have been directed by Mrs. Kuswantyo Tami Haryono. Because of the importance of this center its organizational structure, functions and staffing are shown in Exhibit 3 on page 8.

As can be seen from Exhibit 3 on page 8, BPHN has a solid and trained nucleus support organization which can be built upon. BPHN maintains a library at its headquarters building which is open to the public. Approximately 1,000 library cards have been issued at a nominal charge of 2,000 Rupiah/year (roughly $1). The library has 13,000 titles. On a daily basis an average of 10 to 20 people are reported to utilize these facilities (which are air-conditioned unlike PDH which is not).

Separately, in cooperation and with the support of other organizations a number of basic steps have been taken to computerize the legal information databases and move toward dissemination throughout the country to both the public and private sectors. For example, in 1988 the Asia Foundation provided a grant to BPHN to purchase computer equipment, particularly data entry terminals (PCs), in support of its information system automation efforts.

Recently a draft Presidential Decree was submitted to SEKNEG which formally designates BPHN as the legal information network focal point. It is currently under review and discussion.

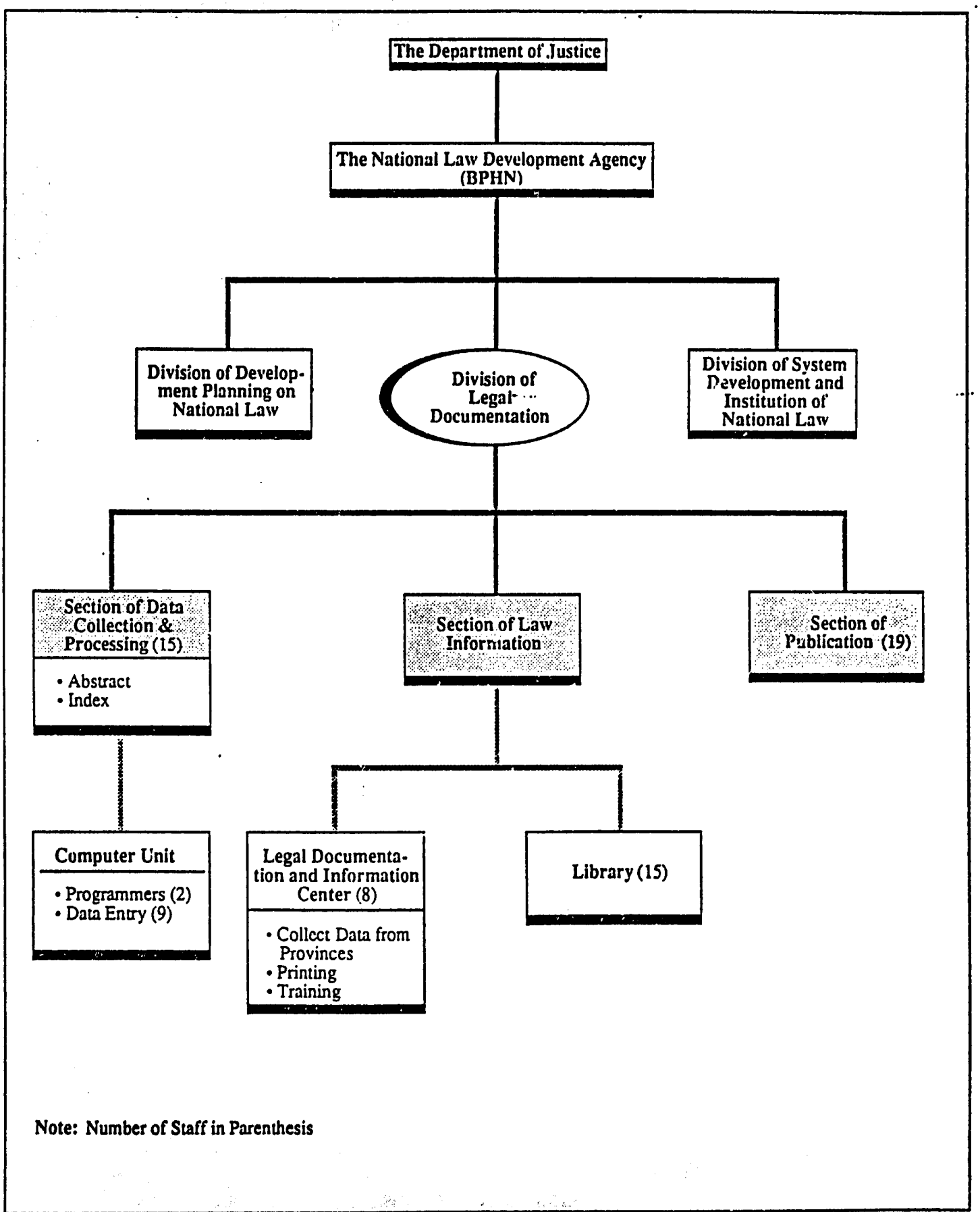
BPHN and PDH Accomplishments

During the past 15 years much has been accomplished in the collection, compilation and cataloging of Indonesian laws and regulations. This has led to the development of a set of national standards for the citation and retrieval of legal information. Since 1986 a major effort has been underway to improve these methods and make them consistent with prevailing international standards as well as the requirements of computerized information retrieval. This task was undertaken by several specialized committees with representatives from both centers (UI and BPHN), the National Library, the Indonesian Scientific Documentation Center, the Library Faculty of the University of Indonesia and other interested government departments. To date a series of seven manuals have been published. They address the processing of Indonesian legal materials according to fixed national standards and the development of standard curricula for training law librarians and legal documentation personnel.

P3.

Exhibit 2

BPHN Organization Chart Where the SJDI Network Center Will Reside

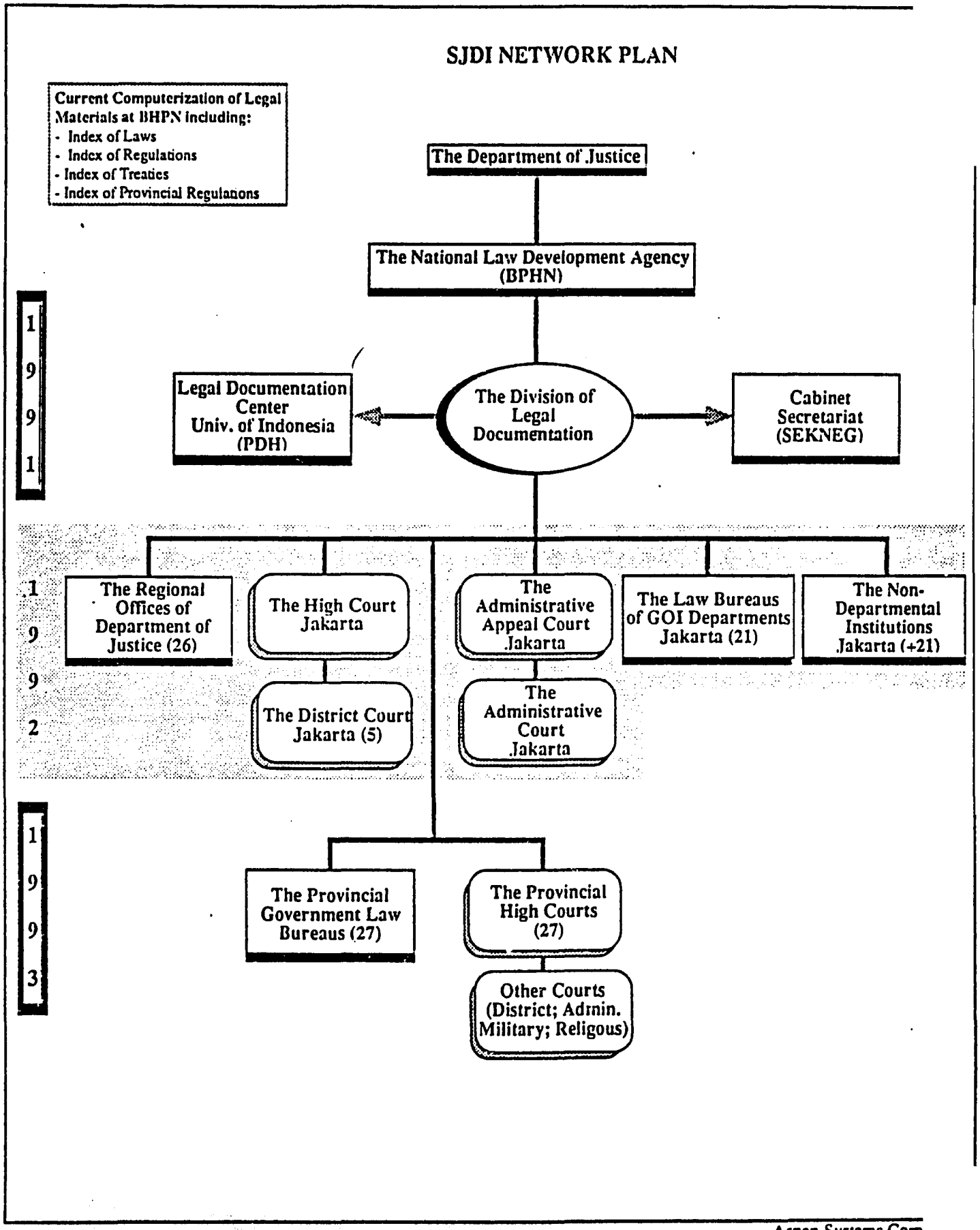


Note: Number of Staff in Parenthesis

Aspen Systems Corporation

Exhibit 3

BPHN Plan For The Inclusion Of Legal Information/Organizations in the SJDI Network



Aspen Systems Corp

Standardized Manuals

BPHN has published and distributed the following manuals.

1. Organization of the National Legal Documentation and Information Network (SJDI) - 53 pages; 1988.

2. Building and Administration of Collections of Legal Materials (Pre-Cataloging) - 40 pages; 1988.

3. Technical Manual on Law Books and Post Cataloging

   a. Cataloging of Law Books (according to the Universal Decimal Classification) - 92 pages; 1988.

   b. Cataloging of Indonesian Laws and Regulations - 50 pages

   c. Cataloging of Law Books according to the Dewey Decimal Classification - 85 pages.

4. Guide to Information Services - 28 pages; 1988.

5. Standards for Equipment and Supplies - 37 pages; 1988.

6. Guide to Abstracting Laws and Regulations -27 pages; 1990.

7. Guide to the Use of the Khaidah Program; Sub Module A on Laws and Regulations - 25 pages; 19 exhibits; 1990

Citation Indexing was begun in the late 1970's based upon a system designed by PDH and the Cabinet Secretariate (SEKNEG) in 1978. It is called *TAPIS (Tabel Penunjuk Intisari Hukum)*. Over the ensuing decade both PDH and BPHN have worked to compile a citation index of the State Gazette covering all years starting in 1945. The State Gazette is the official government publication of all laws and presidential and ministerial regulations and decrees. The work has grown over time and now includes lower level regulations in the financial and maritime areas. It provides a cornerstone reference tool for determining relationships between laws and regulations which have been amended, replaced, superseded or implemented by subsequent laws and regulations. As such it provides a requisite capability for publishing laws and regulations on a more useful annotated basis. A parallel system for abstracting laws and regulations was also designed in 1978 by SEKNEG and BPHN. It is in use by these organizations and has been standardized in Manual Number 7 listed above. SEKNEG has also developed a basic retrieval system which it uses to access its own internal database of annotated legal abstracts of laws and regulations.

At present there are no formal efforts underway to input court decisions in the indexes, catalogs, abstracts or full text databases resident at PDH and PBHN. Both organizations

196

recognize the desirability of expanding their systems to incorporate this type of legal information. To date the courts have been reluctant to participate and have effectively retained their independence in this regard. However, an independent pilot project will start this summer at the Supreme Court. It will receive direct support and assistance from the Netherlands Council for Legal Cooperation with Indonesia. Both PDH and BPHN expect that in the future this type of legal information will be more available and will be included in their central databases.

Computerization of Databases, cataloging and indexing

In cooperation with PDH, the BPHN has designed a computerized cataloging and indexing system called KHAIDAH for *KHAzanah Informasi Dan Anotasi Hukum* (Treasury of Legal Information and Annotations). It involves the development of a series of integrated databases of legal information appropriate to a microcomputer (PC) environment. Both centers are involved in data entry and the expansion of the databases. It currently includes most laws and regulations of the central government, Provincial regulations, law journal articles, international treaties and legal abstracts are also being included as will as index of court reports later this year. Other organizations who are either active or very interested in using the system include the Department of Finance, the Department of Trade, the Bank of Indonesia and some of the provincial secretariats.

The following types of information are contained in the inter-linked databases; Catalog Information, Subject Categories, Source and Location, Abstracts, Legal Basis, Abbreviated Citations, and Publication Information.

The basic databases cover:

... Laws and Regulations
... Provincial Regulations
... Legal Literature
... Law Journal Articles
... International Treaties
... Court Reports (under development)

While the *KHAIDAH* system is a computerized indexing system it does not have the capability of providing full-text retrieval. Both PDH and BPHN hope to develop such a system; one which will provide comprehensive and automated access for legal research; one which can be used by government law bureaus, universities, private law firms and the public alike. The first step in this program is to begin making the computerized databases available on CD-ROM (Compact Disk/Read-Only Memory) so they can then be accessed on a local basis at the provinces and the universities to start. The plan is to publish and update the CD-ROM discs regularly and provide for their public sale. It is a very cost efficient distribution method for large volumes of "reference" type data/information.

Disks cost less than $2.50 each in production quantity lots. The optical media as its name implies is both compact and non-erasable. For example, a typical CD-ROM disk, as pictured

197

on the next page (Exhibit 4), has a capacity of 600 mega-bytes of data. This is equivalent to about 1,500 floppy disks - or - 270,000 pages of text. The CD-ROM disk is organized like a spiral helix roughly three miles long. Data access software is usually added for high-speed data retrieval by the user. Only a personal computer (PC/AT) with an appropriate CD Drive (the device into which the disk is inserted and accessed by the computer) is required along with the data retrieval software. From the users standpoint the CD-ROM can be used on a stand-alone basis (in a single PC) or in a multi-user shared system configuration (LAN). It is also very portable and can contain books worth of information on a single disk as shown on the next page.

This CD-ROM project is expected to help improve both public and private access to basic legal information throughout Indonesia on a cost effective basis without the expense and major communications infrastructure improvements which would be required to support an on-line, computer access implementation. This project is being supported through the Asia Foundation under a USAID grant. It is a positive first step which can be expanded and built upon.

Closely coupled with this project is the planned completion of the initial database which will be "published", complete with retrieval software by fall. It will include a useful, current and authoritative subset of Indonesian legal information encompassing:

(1) The Constitution (*Undang-undang DASAR*)
(2) Decrees of the Peoples Consultative Assembly (*Ketetapan*)
(3) Laws (*Undang-undang*)
(4) Government Regulations (*Peraturan Pemerintah*)
(5) Presidential Decisions (*Keputusan Presiden*)
(6) Certain Ministerial Decrees and Decisions. These are being compiled initially by topic verses by ministry. For example, the Paket Paket Peraturan or Packages which are collections of government policies all issued at the same time which govern particular fields of economic activity; especially policies aimed at deregulation and debureacratization. These include, for example, those relating to investment, banking, import procedures, customs/excise, shipping, intermodal transport, leasing, venture capital and other types of reform.

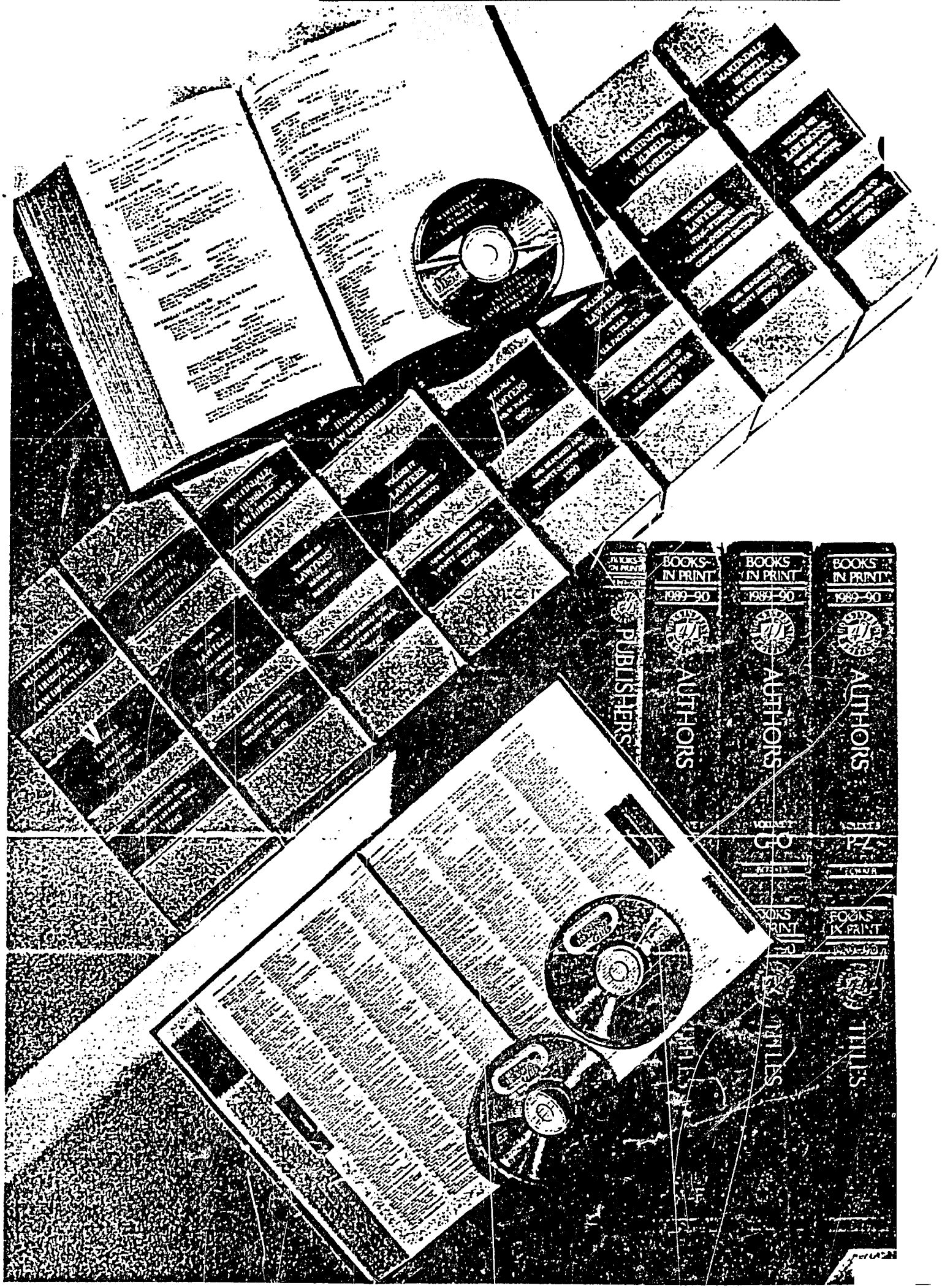
The central data base of information will be broadened and eventually become all encompassing as a function of time during the next 5 years.

INFORMATION ORIGINATION - THE BASIC SOURCES

Following is a description of the basic sources of Indonesian laws and regulations from which an authoritative legal information data base can and is to varying degrees being developed.

The "Older" Dutch Commercial Codes - Many of the regulations which govern credit, contracts, security transactions and companies derive from the 19th century Dutch Codes and remain in effect. Under Article II of the Transitional Provision of Indonesia's Constitution

198


BOOKS IN PRINT
1989-90
AUTHORS
BOOKS IN PRINT
1989-90
AUTHORS
BOOKS IN PRINT
1989-90
AUTHORS
PUBLISHERS
TITLES
TITLES
MARTINDALE-HUBBELL LAW DIRECTORY
WALKER'S LAWYERS
LAW DIRECTORY

of 1945, for practical purposes they remain in effect until superseded by new laws. These Codes are written in Dutch and no official authoritative version in the Indonesian language exists. The applicable microfiche collection at PDH, for example, is the legal "Dutch' version. Today few Indonesians either speak or understand Dutch. There are several unofficial translations, the most recent of which was a 2 book edition (4,235 pages in small print) published in 1989 by Ichtiar Baru-van Hoeve; a private Indonesian firm. Even though it was not an official translation it was a "best seller". According to the publisher, 4,000 copies were printed - surely an indication of demand for legal information. However, other than in print there is currently no Indonesian version in machine readable (e.g. computerized) form.

The STATE GAZETTE - A Primary Source - The State Gazette, under the direction of the office of the State Secretariat (SEKNEG) is published irregularly in limited quantities. It contains the full-text of the Laws (*Undang-undang*) passed by Parliament (DPR); Government Regulations (*Peraturan Pemerintah*) and Presidential Decisions (*Keputusan Presiden*) which relate to international treaties and agreements. Publication tends to be slow and the information up to two years old when issued. However, SEKNEG also publishes a quarterly Compilation of State Regulations (*Himpunan Peraturan Negara*) for internal, albeit limited, government distribution. This is an important source since it is more timely. It also has a larger scope than the State Gazette and includes all Presidential Decisions (not just those related to international affairs) as well as Presidential Instructions (*Instruksi Presiden*). However, at present there is no legal requirement that laws and implementing regulations be published and made available to the public prior to their effective date.

Additionally, there is a supplement to the State Gazette (*Tambahan Lembaran Negara*) which has the official elucidations of the Laws and government regulations which were published. Like the State Gazette it is dated by the time it is published.

THE STATE REPORTS - (*Berita Negara*) are published under the auspices of the Department of Information. These contain official notices and some departmental regulations and decisions; although the latter two are not required. A Supplement to the State Reports (*Tambahan Berita Negara*) are, in fact, a series of separate volumes. One of the more important ones publishes the Articles of Association of limited liability companies. Another publishes Registered Trademarks.

THE PROVINCIAL GAZETTES - (*Lembaran Daerah*) contain the decisions of the Governor and Provincial Government. They are published separately by each province after approval by the Department of Domestic Affairs. Thus the relevant "database" should not be dated as it is theoretically already resident in Jakarta at an early date.

DEPARTMENTAL DECISION LETTERS AND REGULATIONS - Government departments often issue policies and rules via separate Decisions (*Keputusan*), Decision Letters (*Surat Keputusan*) and Regulations (*Peraturan*). Explanations are then issued in a series of Circular Letters (*Surat Edaran*) which are circulated to interested parties. At present there is no central collection point much less automated index or catalog of same.

200

COURT DECISIONS - Every year the Supreme court publishes selected decisions in an annual (hence dated) publication entitled Indonesian Jurisprudence (*Yurisprudensi Indonesia*). Separately, the Ministry of Justice has begun publishing certain selected District and High Court decisions in a semi-annual series called Compilation of Court Decisions (*Himpunan Putusan-putusan Pengadilan Negeri*). These are also somewhat dated (6 to 9 months) and distribution is quite limited.

The Netherlands Council for Legal Cooperation is currently sponsoring a program to assist in the design and implementation of an automated database for Supreme Court Decisions.

As to lower court opinions these are sometimes found in periodicals like *Varia Peradilan* which is published by the Indonesian Judges Association (*Ikatan Hakim Indonesia*) and *Forum Keadilan*, a monthly magazine published by the Justice Foundation (*Yayasan Keadilan*).

SECONDARY SOURCES OF INFORMATION - Law journals and articles concerning Indonesia tend to originate from the various university law faculties. As noted earlier, PDH keeps track of these and publishes an appropriate index which is available to both the public and private sectors. As mentioned earlier over 60,000 pages of material from more than 100 law journals covering the period 1947-1990 have been microfiched and are in their collection. For reference purposes an inquiry search was made of ABA NET (a major on-line legal database service in the United States). It picked up only two articles related to Indonesia.

Private publications (newsletters), specifically *Warta CAFI* and Business News publish newly issued regulations of interest; although not officially authorized versions. They represent an important current source of information especially in the areas of investment, communications and trade.

Lastly, the Directorate General of Taxes and the Bank of Indonesia provide very useful information to the private sector in their respective areas of responsibility. First, on tax matters, since 1983 the tax authority has accepted requests for rulings on specific questions of tax law and published them in circular letters available to the public. Second, the Bank has issued a manual, which it up-dates from time to time, which contains all of the pertinent banking laws and regulations. The manual is organized in a systematic manner with appropriate references. This manual of banking regulations is called *IKPI (Ikhtisar Ketentuan-ketentuan Perbankan Indonesia)*.

PUBLIC REGISTRIES - Indonesia has a number of registries. None have truly automated record retrieval systems in place. Among the more important are copyright, land and company registrations. None currently exists for security interests in assets other than land (such as a Uniform Commercial Code (UCC) 1 type filing). The status/existence of pending filings is not officially accessible to the public and such research is a potentially cumbersome manual process even within the government.

SUMMARY - In summary, virtually all legal information data sources and their processing/production are not currently automated. This coupled with resource (budgetary)

20

constraints has resulted in the aforementioned timing delays and ease with which legal information can be accessed. It is thus an area which can benefit from investment in technology (computer automation) which can both speed up the collection/dissemination of the information by improving the processing capabilities of the information systems infrastructure itself.

AN ASSESSMENT OF THE PRESENT LEGAL INFORMATION SYSTEM

This section provides an assessment of the current legal information environment and the areas which, from a practical standpoint, can benefit and be improved through technical assistance. It identifies strengths, constraints and shortcomings of the current situation. The analysis considered and includes inputs from the following:

... A survey of private sector, university and government (both at the national and provincial levels) requirements for legal information

...Briefings by those government agencies (at both national and provincial level) responsible for the preparation, "management" and dissemination of legal information.

...On-site review and examination of existing systems, processing procedures, databases and organizational capabilities.

...In-depth discussions with knowledgeable private sector participants who have been deeply involved in the development of legal information systems over the past decade.

...User interviews including law firms and government officials.

...Meetings with outside support organizations including the Asia Foundation, World Bank and the Netherlands Council for Legal Cooperation in Indonesia.

The assessment is focused on four system aspects. In order of importance technically they are the Database(s), Systems Retrieval Capability, Dissemination/Access to Information and lastly, Organizational Infrastructure.

The Database(s) - Overall poor; but slowly improving.

In this context, database(s) refers to all available legal information irrespective of the media it is contained in. In general the information is scattered, often on different media such as print, fiche or magnetic disk and at various locations. There is presently no complete nor central source of authoritative legal information in existence. Retrieval tools such as card catalogs, indexes, printed lists and computerized search capability are also scattered and are not standardized nor consistent with each other.

202

(1) Comprehensiveness and Completeness - Poor to Fair

...Court decisions other than the Supreme Court are incomplete and basically lacking. They have not been incorporated into central database sites on a comprehensive basis.

...Ministerial Decisions (*Keputusan Menteri*) and Ministerial Regulations (*Peraturan Menteri*) - the departmental decisions and regulations are kept on a decentralized basis. As noted by the World Bank in its previously referenced report "..no person or agency knows with certainty what regulations have been issued or are in effect."

...Provincial and District regulations databases are decentralized and of varying completeness.

...An official registration system, hence useful database, by which security interests in assets other than mortgages can be registered does not exist.

...Presently, there is no official translation in Indonesian of the Dutch Codes and Regulations.

(2) *Currency (Timeliness)* - Poor

...Virtually all databases are not current with some as much as two or more years out of date.

...With few exceptions, all originating source document systems (those of the promulgating governmental organizations) are not fully automated. This includes a lack of electronic publishing capability. It is the single greatest technical hindrance to speeding up the entire "system".

...There is no mandatory legal requirement that government laws and regulations be officially published and available prior to becoming effective. By definition were this the case and enforced, timeliness would not be near the issue that it is.

...Adequate and timely funding for publication, data center processing and the like has been from time to time a factor.

(3) Accuracy/Information Reliability - Believed to be Fair to Good Which is a credit to those who have diligently compiled the databases year in and year out.

As with all databases the reliability of the information contained therein is the most crucial element in its utility from a end-users standpoint. Therefore, it would be wise to conduct a comprehensive audit of both the database itself and the procedures for its updating, management and control at an early date. This is of such importance that it should be quickly incorporated into the CD-ROM project before things proceed much further.

(4) Maintainability - Fair, but may well degrade to poor as overall volumes increase over time without systems automation.

Limitations include lack of adequate resourcing, lack of automation (heavy reliance on

manual processes), lack of sufficiently trained personnel to both manage and maintain existing systems and at the same time substantially improve them (especially at the originating sources). As with all databases, the area of "quality control" requires constant attention, direct supervision and monitoring.

Systems Retrieval Capability - Poor

...The degree to which databases (whether it be a library or on-line computer access service) are structured, indexed, catalogued and data items related to one another are significant factors in their utility. It is an area which should be carefully reviewed prior to any major new systems commitments.

...Lack of automation, including local area networks (LAN's) and full-text retrieval systems capability are the major systems constraints in most government agencies.

...The documentation centers at BPHN and PDH both will require a review and upgrading of their database systems capabilities if they are to effectively serve as the primary network nodes.

The foregoing can be tackled on a modular, project by project basis starting with the central database sites relatively quickly once appropriate technical assistance including hardware, software and training is approved. Systems connectivity, standardization and transparency to the user are important aspects of effective automation.

...User capability to conduct legal information research using automated systems is virtually non-existent. It is a training issue which can be successfully addressed over time, resources permitting; and assuming of course that the systems are concurrently being put in place. If the benefits of automation are to be fully realized the number of people who understand how to use the system must be greatly expanded. It is essential.

Dissemination/Access to Information - Extremely Poor

The planned CD-ROM project sponsored by the Asia Foundation will be a significant first step forward in improving the situation. Continued development and implementation of SJDI (National Legal Documentation and Information Network) of which the CD ROM project is a part provides the primary vehicle through which progress will be made in the next few years. Among the current constraints which affect legal information access and dissemination, especially by the private sector are:

...Physical locations where comprehensive legal information is easily accessible are relatively few throughout the country.

...University and other library collections are incomplete.

...There is no meaningful legal publishing industry in the sense of publishing primary source material in a reliable fashion. The same can be said for the government.

...The State Printing Enterprise (Ministry of Information) does not have the authority to print, sell or distribute all government publications; effectively leaving each government department to determine how best to meet its implied obligation for the adequate and timely dissemination of legal information.

...Direct access to government agencies for information varies and can be frustrating and time consuming. Alternatively, the use of private law firms to research even apparently simple legal questions can prove relatively costly, since they must deal with the same system. This has been well documented in a number of studies commissioned by USAID over the past year in connection with the ELIPS Project Identification Document (PID).

Organizational Infrastructure - Fair

From an automation standpoint BPHN has the basic organizational capability in place to function as the central legal information center. PDH also has certain base capability which can support BPHN efforts and function as a secondary and parallel center.

Excepting SEKNEG and the Ministry of Finance, the capabilities in most other government organizations are either very weak or non-existent in this regard.

Summary of Findings - The Prognosis is Favorable

One can best characterize Indonesia's formal legal information systems capability and performance as fragmented, incomplete, under resourced and cumbersome. As such it is presently incapable of satisfactorily meeting the actual requirements of both the public and even more so the private sector. In this case requirements are defined in the context of being comprehensive, timely, readily accessible and useable. In other words, today it does not meet a minimum standard of providing the appropriate information as to what the law is, how it is to be interpreted and will be applied -certainly not in an easily accessible and timely manner. The basic findings of the assessment confirm those of the World Bank in its previously reference report, namely that "The infrastructure does not (presently) provide (satisfactory) materials which would enable lawyers and scholars to develop disciplined methods of analyzing applicable legal rules and regulations."

Yet over the past 15 years progress albeit slowly has been made and the trend is both positive and beginning to quicken. More importantly a broad based commitment to improvement is clearly evident. This finding was consistent throughout all government agencies visited (both at the national as well as provincial levels), the University Law Faculties and the private sector alike. It represents the single most critical factor that can enhance and leverage the technical assistance that USAID can offer. It requires only that it be sustained and focused on a program implementation process that is executed in a planned, intelligent and coordinated manner that is properly resourced.

With USAID technical assistance to support the Indonesian Government's efforts to improve the country's legal information systems, the prognosis is favorable.

205

Once again, to ensure things are headed in the right direction an audit of the database needs to be undertaken at the earliest practical date. Success may well depend on it.

POTENTIAL FOR PRIVATE SECTOR INVOLVEMENT

Other than occasional publishing of law books, journals and small printing runs of material for some government organizations there is little private sector involvement in supplying legal information on a commercial basis. Nor at present is there an apparent sustainable market demand which is large enough to attract requisite investment capital for it. For example, it is estimated that there are less than 1,500 practicing attorneys and less than 250 listed law firms in the country.

But this is not the entire picture. The internal needs of government legal bureaus probably far exceed those of private practitioners. This is also true of the higher educational system when one adds up the numbers of law professors and their students. Service industries including accountants, bankers, government contractors, investment advisors and trade consultants have legal informational needs ranging from tax to company incorporation to procurement regulations to import/export matters to copyrights, patents/trademarks to security interests in assets to product liability to commercial contracts and their enforcement. Likewise business itself needs access to reliable and timely legal information upon which to base their investment decisions. For smaller enterprises access to reasonably priced legal information is a factor in itself. Still the total potential market size is rather small and will not support a large number of competitors; probably only one or at best two..

Perhaps even more significant is the fact that the official sources of legal information are scattered, often out of date and not readily available at anything approaching a reasonable expenditure of time and resources. As pointed out earlier this situation has much to do with identifiable weaknesses in the legal information infrastructure itself. These are areas which the USAID technical assistance program can help improve. In so doing it will make an important indirect contribution in fostering an environment conducive to commercial participation by the private sector. Once the basic "official" legal information system has been brought up to date and the private sector allowed access, then a for-profit legal information industry can evolve over time.

Today, comprehensive legal information is not commercially available. There are no active information service providers similar to a Commerce Clearing House (CCH), Lexus, Westlaw or ABA Net; and it will probably take 10 to 20 years before such sophisticated services emerge. But while the potential today is clearly limited, there is need for basic information services both in and out of government. One way of encouraging private sector participation would be make it a condition of resourcing the technical assistance components of the CLPS Program. For example, as part of the competitive bidding process, preference could be given to U.S. contractors prepared to partner with Indonesian firms. The resultant joint venture would bring together electronic publishing and computer based information systems in a single commercial organization; one which in time could grow and prosper long after the CLPS Program has completed its mission. Legal publications, legal information research,

206

training courses, data base maintenance services and perhaps eventually on-line information access for subscribers could all be provided profitably. On a revenue basis, it is estimated that this business night reach $25 to $30 million annually in 5 years. For this to emerge it will be essential that the Indonesian government makes its official publications (legal information data base) available to commercial enterprises on a timely basis. Provision for sale to allow the government to recoup its costs would be both beneficial to the government and act as an incentive to speed up the process of making the basic information available to the private sector for "repackaging" and marketing to a larger group of interested parties than would otherwise be the case.

During our review of legal information requirements it became obvious that virtually every government department could benefit from installation of modern computer systems and automated data processing capabilities. Legal information systems is but a small subset. It may provide a significant opportunity, perhaps a billion dollars over the next 10 years, for U.S. companies to partner commercially with Indonesian firms and help automate the government. Although this area is beyond the scope of the ELIPS Project, it is one which may be worth investigating further through a follow-up feasibility study conducted under the auspices of A.I.D. perhaps in conjunction with the U.S. Department of Commerce.

RECOMMENDATIONS

Recommendations are divided into two categories; policy and technical. Those involving policy will require issuance either of a revision to an existing law or an enabling presidential decree or other similar regulation.

Policy Recommendations:

(1) That the Indonesian Government be encouraged to enact appropriate legislation which would stipulate that any law, decree or government regulation would have to be published in its entirety and made available to the public prior to its effective date. While all areas of regulation might be covered, criminal, civil and commercial conduct, it is the latter which should be focused on first from the standpoint of this project.

By implication, the frequency of publication would increase and it should result in a weekly issue. In time a daily publication perhaps similar to the Congressional Record.

As will be discussed in Technical Recommendation Number 3, installation of an electronic publishing capability at the State Gazette (SEKNEG) will greatly assist the government in meeting such an obligation.

There is no more decisive action that the government can take which will speed up both the availability and timely distribution of governmental decisions which have the force of law. Since regulations can not go into effect without publication, all ministries and departments will have special incentive to see that their administrative processes are streamlined to accomplish this objective. All concerned, both private and public sector alike will benefit

from improved access to legal information and its timeliness that will result from this change in process.

(2) That the Government be encouraged to expand the State Gazette to include the State Reports (*Berita Negara*) thus making it a required official legal publication; not just for information purposes. This would imply that responsibility for its publication would shift from the Department of Information to SEKNEG.

(3) That the Government authorize itself to sell its publications to the public at a fair and reasonable price which will allow it to recoup its printing costs.

At present there are prohibitions which prevent the government from selling its official publications to the public. As a result only limited quantities of legal information are therefore being printed by the Government due to departmental budget constraints. The availability of legal information is thus hampered accordingly.

(4) That a public registry of security interests in assets other than land be created. See Technical Recommendation Number 4.

(5) That all court decisions be published and available for public inspection. See Technical Recommendation Number 5.

(6) That the prime information systems contractor, as a condition of its contract award, be required to join with an Indonesian partner and establish an ongoing commercial presence in the country.

The intent of this recommendation is to help establish long term private sector commercial involvement and encourage investment in legal information systems and publishing activities which will continue long after the A.I.D. sponsored assistance has been completed.

(7) With respect to making government procurement information available to the private sector on a timely basis; technical assistance should be provided to set up the equivalent of a Commerce Business Daily type publication. Issuance and availability to the public sector would be mandatory. The publication itself would provide synopses of proposed contract actions (including advance notice of requests for information/ proposal (RFI/RFP) that had a value in excess of Rph 20,000,000 or approximately $10,000. The publication would be matched to a centralized data base source that would be designed to serve management information needs of the government who would be a prime beneficiary of such a system. Responsibility for publication would reside in an appropriate ministry such as BAPPENAS as determined by the Indonesian Government.

(8) Maintain program momentum through relatively inexpensive technical bridging projects which should be started this summer in advance of major contractor and resource procurement which for practical purposes is not expected to take place much prior to mid-1992. A list of suggested projects is presented after the following section on Technical Recommendations.

As previously stated on page 19, the most important task which needs be accomplished from a timing standpoint is to conduct an immediate "assist audit" of the present legal information data bases at both BPHN and PDH. Data processing and data base maintenance procedures will be important parts of the audit as well as determining the accuracy (quality) of the data base itself. This should not be deferred else precious time will be lost which would otherwise be available for corrective action if required. It should be accomplished before proceeding any further with the CD ROM project; certainly prior to distribution of the disks and installation of the initial operating "systems".

Additionally, advisory participation in technical planning and related budgets for legal information systems should prove helpful to the Indonesian government as it prepares its fiscal plan for next year. That process is beginning now and will be completed by fall.

Technical Recommendations:

(1) Upgrade existing information systems capability at BPHN to include a full-text data base retrieval capability, central data base computer, and attendant communications, expanded data storage, automated document conversion and associated training. Included are data base design, installation of text retrieval software and necessary computer, peripheral equipment, data communications and system security.

This center will function as the official and central repository of all legal information issued by the Government of Indonesia. It will form the network center for the comprehensive distribution of this information throughout the government and its provinces.

(2) Establish a legal information clearing house at the University of Indonesia in conjunction with PDH. This legal information documentation center will have data base processing and retrieval capabilities similar to those at BPHN. It will serve as a major secondary network center with information distribution responsibility to all Universities. Additionally, it will function as an information clearing house.

Both PDH and BPHN are expected to serve the public sector by making reliable legal information readily available to legal institutions, law firms, private companies, students, citizens etc. Whether PDH or BPHN or both should function as the primary information interface with the private sector should be determined by the parties involved. However, only BPHN (not PDH) can be deemed the official information source for the network.

(3) Substantially upgrade SEKNEG publishing and legal information data base management capabilities by installing a LAN based legal information/desk top publishing system. This will provide:

...The capability to compile and publish the State Gazette electronically thus greatly speeding up the process - hence "official information" availability to the private sector.

...By introducing a LAN capability with a server link to BPHN's central data base the internal processing/centralization of information within the GOI will be greatly enhanced improving the timeliness and access of these vital databases by all concerned.

...Introduction of a LAN for use by SEKNEG lawyers will not only facilitate improved administrative efficiency of legislative drafting and processing but also establish a "showcase" of the benefits of computerization of the legal process.

(4) Design and install a comprehensive court case tracking/monitoring system at the recently established Administrative Court. Separately, provide the court with an electronic publishing capability along with assistance in setting up an official publication system of court decisions. Co-ordinate this effort with that already underway at the Supreme Court (sponsored by the Netherlands Council for Legal Cooperation With Indonesia.

(5) Provide technical assistance to compile an indexed compendium of tax regulations along with an associated automated data base/publishing capability and distribution system for ready access by the private sector.

(6) Provide technical assistance in the design and upgrading of the copyright/trademark/patent processing system. An initial pilot for copyrights can be established with relative ease with the cooperation of the private legal sector; which is willing to do so.

(7) In conjunction with the Bank of Indonesia and EKUIN, provide initial design and technical planning support for a computer based, nationwide registry capability for filing/recording security interests in assets. This would provision for easy private sector (banking) access to the "official" data base.

(8) Design, install and implement an enhanced procurement information publication and computerized data base tracking system as recommended by EKUIN; probably BAPPENAS.

(9) Provide appropriate operator, user and maintenance training for all of the foregoing systems - data base retrieval - LAN - electronic publishing - distribution to the private sector.

STRATEGY

Implementation of the foregoing policy and technical recommendations will provide the underpinning for establishing a coherent, manageable and timely legal information system which will be much more easily accessible by both public and private sectors alike.

The cornerstone of the strategy is to focus primary technical resources on computerizing existing legal information systems and expanding their content to include court decisions as well as implementing new public registries which will benefit economic expansion and trade. These efforts should be concentrated in the first two years of the process and not stretched out over a longer period less things get bogged down and the benefits of computerization

never reach the END USER in a useful timeframe. The foundation building blocks which will be addressed include:

...Automating and upgrading government operations that generate or are otherwise responsible for "originating" legal information (the original data sources themselves) - SEKNEG (State Gazette), The Ministries, The Provincial Governments, The Courts etc.

...Supporting the Ministry of Justice - National Law Development Agency (BPHN) as the central, official repository and information distribution center for the country with the Legal Documentation Center (PDH)/University of Indonesia as a complementary, major secondary center.

...Facilitating establishment of a nationwide legal information distribution capability involving BPHN, PDH, SEKNEG and private legal publishing interests with their separate marketing and distribution channels.

...Comprehensive education and training of system operators and the information users they serve (both private and public sector alike) for whom timely access to legal information is relevant.

A building block approach will be utilized, one which is not dependent on completion of other system components before it can be used. Operational prototypes/beta site installations will be employed thus lowering the risk of prematurely undertaking a countrywide roll-out of automated legal information systems including distribution. Added benefits of this approach include (1) early identification, training and working experience of the initial cadre of government, university and private sector participants who will be have responsibility for operating and managing the systems over the longer term; (2) early demonstration of systems reliability under controlled, "real world" conditions; and (3) flexibility to adapt and modify the new systems capabilities based upon this initial experience prior to full commitment of budgeted resources. These are the primary foundation building blocks upon which a modern, legal information system will be built.

Although many benefits will be obtained through automation, only if the Government of Indonesia passes legislation requiring publication of laws/regulations prior to their effective date will timely access to legal information by the private sector be assured.

II. IMPLEMENTATION PLAN

Implementation of the foregoing technical recommendations will provide a solid information systems foundation to support the objectives of the ELIPS Project. The proposed implementation plan builds upon the efforts of BPHN and PDH which are already underway. It provides for the development of greatly improved automation capability at important information sources including the State Gazette (SEKNEG) and the courts starting with the Administrative Court. It makes provision for a central automated procurement database with attendant electronic publishing capability. It establishes at least two physical "distribution"

21

centers in every province where both public and private sector interests will have ready access to up-to-date legal information. It provides for a central registry capability for recording security interests in assets other than mortgages. It makes provision for data base/processing automation of the patent office (intellectual property) so that the status of copyrights, trademarks and patent applications can be easily tracked thus simplifying the tasks of both research and enforcement for all concerned. It encourages and supports participation of legal information publication/distribution by and to the private sector. Lastly, it provides for comprehensive training of both system operations personnel and end users alike. Resources are concentrated to provide maximum tangible results within the first two years of the ELIPS Project.

The implementation plan is modular and employs the technique of building prototype installations. This lowers the risk of committing large scale resources prematurely. It is divided into 8 discrete segments each of which is self-contained. With the exception of the roll-out of physical information centers, none is directly dependent on the successful completion of any other. Each segment in turn has three basic phases; (1) Systems Design and Specification; (2) Systems Acquisition and Installation; (3) Systems Operations, Training and Maintenance. The plan assumes that an experienced U.S. Master Contractor will function as a "systems integrator" who will maintain an in-country presence and "partner" and utilize local private sub-contractors whenever practical. Additionally, from an organizational standpoint it is assumed that USAID/Jakarta will have a long term technical advisor (T/A) on board by Labor Day to assist in providing oversight as well as coordinating the relationship between AID, EKUIN and the Master Contractor on technical matters.

The plan also recognizes that the formal process of concluding an Agreement with the GOI and the subsequent letting of competitive implementing contracts will probably take up to a year. The plan therefore assumes that USAID/Jakarta will approve an interim BRIDGE PROGRAM of preliminary tasks which will be started this summer. Less than 2% of the ELIPS Budget will be needed to do this; an investment which will greatly enhance the prospects of success by cutting at least 6 to 9 months off the time needed to get automated legal information systems in place, operational and available for dissemination of information to the public. The T/A mentioned above can manage this programmatic aspect for AID. Below is a summary listing of the project segments along with their estimated resource requirements (budget) and timing. Each segment then is separately described in more detail. Since most plan segments require a design assessment phase, it is recommended that USAID/Jakarta negotiate a Cost Plus Fixed Fee (CPFF) Task Order Contract vehicle with its Master U.S. Technical Systems Contractor. In recognition that the process of concluding an Agreement with the GOI and subsequent letting of competitive implementing contracts may take up to a year a description of proposed <u>Bridge Programs</u> which can be initiated immediately is presented starting on page 30.

PLAN SUMMARY

Project Segment		Start	Finish	Budget ($000)
(1)	BPHN Central Data Base (SDJI)	8/91 *	6/93	450
(2)	SEKNEG Automation/LAN Including Electronic Publishing Capability	9/91 *	9/92	450
(3)	PDH/UI Information Clearing House	8/91 *	6/93	475
(4)	Info Center Roll-out/Public and Private Sector Participation	12/92	12/94	300
(5)	System for Publication of Court Decisions (Admin Court, etc.)	3/92	12/93	475
(6)	Publication of GOI Procurement Announcements/Status	4/92	4/93	550
(7)	Publication of a Comprehensive Tax Manual of Regulations	5/92	5/93	550
(8)	Central Registry of Security Interests	6/92	12/92	250
(9)	Patent Office Automation	10/91	12/92	250
Training, ongoing technical support & mgt.		3/92	3/95	1,175
Bridge programs (* See page 30)		8/91 *	2/92	275
	TOTALS			5,200

Segment Descriptions

(1) National Law Development Agency (BPHN)

BPHN has been designated as the central hub of the GOI legal information network (SDJI). As such it will have the responsibility for building and maintaining the "official" legal information data base. In support of this mandate, the scope of technical assistance will encompass a major upgrade of systems capability including:

213

... System Design, Operations Evaluation and Data Base Audit

... Installation of Full Text Retrieval Capability

... Commercial Law Library Upgrade and Automation

... Hardware and Software Installation/Upgrade for Central Data Base and LAN for Legislative Research/Drafting

... Implementation of Appropriate Data Base Maintenance Procedures and Systems Management Practices

... Direct data base access connection for the Ministry of Justice, SEKNEG and PDH/University of Indonesia.

... Training

(2) SEKNEG Automation

SEKNEG has responsibility for review and coordination of proposed legislation prior to its submission to the President for consideration. It also publishes the State Gazette. Automation improvements here including desktop publishing will provide important tools to help streamline the legal information process at a primary source. It will also serve as a "legal automation" showcase for other government ministries. Project tasks include:

... Conduct automation study to determine SEKNEG legal staff requirements.

... System Design for Electronic Publishing Upgrade of the State Gazette Including Provision for More Frequent Publication.

... Installation (Hardware/Software) of LAN and Upgraded Electronic Publishing Capability.

... Training

Exhibit 5 on pages 34-35 is attached for reference purposes. It outlines a proposed LAN and Desktop Publishing Capability which would be appropriate for SEKNEG.

(3) Establishment of a Legal Information Clearing House at the Legal Documentation Center (PDH) in Conjunction With the University of Indonesia Library and Law Faculty.

This project will provide for an automated, legal information data base with full text retrieval capability comparable to that of BPHN. It will be a secondary (backup) central legal information source and will be responsible for timely distribution of the data base to all universities in Indonesia.

Its expanded capability will provide a foundation tool for the development and training of legal researchers by the Law School. Collection and cataloging of additional legal materials such as law journal articles, legal books and publications both within and without Indonesia on a computerized basis will form the basis for establishing a clearing house of legal information which can be offered to both the public and private sectors on a "call in" subscription service basis.

... System Design and Architecture Determination

... System Installation (Hardware/Software)

... Commercial Law Library Upgrade and Automation

... Development of Course(s) in How to Conduct Legal Research With the Benefit of Automated Tools (reference data bases).

... Establishment of a Legal Information Clearing House and Training of Personnel to Operate and Maintain Same.

Exhibit 6 starting on page 36 provides some examples of clearing house type capabilities which have been successfully implemented in the United States.

(4) Legal Information Distribution/Availability Throughout Indonesia - A Three Channel Roll-Out.

To provide for improved access to legal information by both private and public sector alike three channels will be supported.

First, technical support will be provided to BPHN to provided government access as the SDJI Network is implemented. Part of this will involve direct, real-time data base accessibility by key government departments. Most will be handled through periodic publication and distribution of the central legal information data base to each Provincial Law Bureau.Use of CD ROM technology will be used for this purpose.

Second, a separate channel will be set up by the University of Indonesia to provide CD ROM distribution to universities and libraries throughout the country.

Third, inclusion of NGO's such as legal aid societies as additional legal information access points will be investigated.

Fourth, the feasibility of attracting private sector publishers to the program on a commercial basis will be explored.

... Set-up of Physical Information Distribution Points - Provincial Governments, Universities, Book Stores, NGO's etc.

215

... Training of Personnel to Operate and Use the CD ROM. Distributed Legal Information Data Bases at Each Provincial Location.

... Contractor/Private Sector Partner Set-up of CD ROM Publishing Capability.

(5) Development of an Automated Data Base Capture System and Publication of Court Decisions Capability for Other Than the Supreme Court.

Initial focus will be on the new Administrative Court, starting with the Appellate Courts and in time expanded to cover other administrative courts throughout the country. Coordination with the Netherlands Council for Legal Cooperation With Indonesia efforts at the Supreme Court will be given a high priority.

... System Design and Architecture

... Equipment Procurement and System Installation

... Set-up of Data Base and Electronic Publishing Operations

... Training

(6) Timely Announcement of GOI Procurements

This project will establish a publication capability which will make important procurement information available to the private sector. Knowledge of planned procurements by the private sector should greatly improve competition and is especially important to small and medium size businesses who otherwise might not be aware of the opportunities in a timely fashion. A CBD type publication is envisioned as a logical extension to the BAPENAS annual "Blue Book". The project will be coordinated closely with EKUIN and involve the major GOI purchasing organizations such as Public Works and the Ministry of Tourism, Post and Telecommunications.

... System Design and Architecture

... Set up of Automated Data Base and Tracking Procedures

... Installation of Internal Publishing Capability

(7) Publication of a Comprehensive Tax Manual

This project will provide direct assistance in compiling existing tax regulations with appropriate indexation and annotation for public use in a consistent, useful and accessible form. The availability and continued updating of this information is expected to provide a useful authoritative source of tax information for private publishers to refine even further as they develop Commerce Clearing House (CCH) type services. A central internal database and small LAN should be included, funding permitting.

... Assembly, indexing, coding, annotation/source citation of current tax regulations.

... Design and development of an automated data base

... Installation of a desktop publishing capability

... Training in data base maintenance and publishing

(8) Establishment of a Central Registry for Security Interests Other Than Mortgages.

In cooperation with the Bank of Indonesia and other financial institutions this project component will establish a registry to record the existence of security interests in assets which can be accessed by commercial lenders.

... Feasibility Study With Appropriate Banking and Government Organizations.

... System Design and Architecture

... Equipment Procurement and Systems Installation

... Set up of Operations and Training of Personnel

(9) Automation of the Patent Office

With the support of the U.S. Patent Office and the World Intellectual Property Organization (WIPO), a computerized processing capability and its related data base will be designed.

... System Design and Architecture

... Set up of a Computerized Copyright Data Base Capability With the Assistance of the Private Sector on a Pilot Basis.

... Establish an Automated Copyright Information/Search Capability and Make it Available to the Private Sector on a Fee Basis.

Bridge Programs

To ensure a smooth transition into the ELIPS Project and avoid a material loss in the momentum already established, the following bridging projects should be undertaken commencing immediately upon approval of the Project Paper (July - August, 1991).

(1) Data Base Audit at BPHN - $32,000; 5 weeks - start in August

An "assist" audit of the integrity of the present legal information data base which BPHN maintains should be conducted immediately. It should include a quality control review of the

27

adequacy of existing data collection, data entry, verification, indexing and data base maintenance and control procedures. Once the quality of the data base and its management have been determined any necessary corrective actions and training can be initiated quickly with the assistance of the audit team.

The importance of completing this audit at the earliest possible date can not be overstated. This data base is the very foundation upon which the entire legal information system rests. All must have confidence in its reliability. For example, with the exception of a pilot at UI discussed below, it would be inadvisable to proceed much further with the CD ROM project until the quality and completeness of the data base is assured.

The audit will also provides an early opportunity to involve the private sector under the supervision of a qualified U.S. Contractor skilled in data base management. Potential participants have already been identified and would be included within the fixed price budget noted above.

The audit would be conducted by a reputable legal information systems contractor who would provide the audit manager who would employ, train and supervise a local staff of 3 or 4 "junior computer systems auditors."

(2) Data Base Computerization at PDH - $30,000; 60 day timeframe; starting in September.

A similar audit should be conducted at PDH so that this data base can be used as one of the verification check posts to determine the integrity of the BPHN central data base. At the same time the microfiche collection should be converted if feasible and set up on a computerized data base at the University of Indonesia. An alternative is to obtain reproduction rights to an existing translation of Dutch/Indonesian law which is already in machine readable form (e.g. from P.T.Ichtiar Baru - Van Hoeve).

Once again this provides an early opportunity for private sector participation; logically the same team that conducts the BPHN audit.

(3) Legal Research Course Design Support - $20,000; Fall 1991

Early completion of PDH data base computerization will allow for implementing a university sponsored legal research methodology course using automated legal information systems before year-end. The plan would be to contract with a local, well known law instructor to develop such a course that among other things would make use of one of the first CD ROM pilot installations at UI. From a practical standpoint, the CD ROM data base itself does not need to be current for such a training course since it is the familiarization with information sources and the methodology to research them that is basis of the course. Greg Churchill of the firm Ali Budiardjo, Nugroho, Reksodiputro would be an excellent candidate to prepare such a course under the direction of Charles Himawan, Dean of the Law Faculty at the University of Indonesia. Mr. Churchill who is already active in the CD ROM project also

teaches a legal research course. It would only need to be expanded to incorporate the use of computerized research "tools".

(4) Feasibility Study of Automating the State Gazette Publishing Process. $35,000; 45 days - commencing in October.

This review should include a plan which is developed in conjunction with SEKNEG to publish a daily announcement newsletter; weekly issuance of abstracts of new regulations; and monthly publication of the full text of the regulations (now being done only on an annual basis. More frequent publication of new company Articles of Incorporation can be included and made available both in published form and via a central data base look up capability which would be scoped as part of the study. Participation of a private sector publishing firm in a consulting capacity under the direction of a qualified U.S. Contractor should be encouraged and is provided for in the above budget.

(5) SDJI Planning Review - $20,000; 30 days - starting October.

This is essentially a requirements analysis which encompasses the adequacy and need to include full text retrieval capability at both BPHN and PDH/UI as well as the extent to which hardware and systems software should be upgraded. A review of information distribution plans should also be conducted at the same time since a major objective of SDJI/BPHN/PDH/UI is to make legal information readily accessible to the private sector.

Realistic timing schedules and resource requirements should be part of this important process. Results of this forum can provide timely input to factor into the final plan for legal information systems component of the ELIPS Project.

(6) Ministry of Finance Automated Legal Data Base; $25,000 - 45 days; commencing in October.

Provide preliminary system design services to scope a simple, automated data base capability to keep tract of, manage and publish departmental regulations and ministerial decrees. This along with a comparable system (which requires an upgrade only) at SEKNEG can provide showcase opportunities upon which further expansion at the legal bureaus of every ministry can be based; the templates as it were.

(7) Upgrade of Commercial Law Libraries at BPHN and UI - $23,000; Fall, 1991.

This project will provide funding to support commercial law library acquisition programs at both BPHN and UI. This includes a purchase of books, law journal subscriptions etc as well as a design review for automating the acquisition program itself.
The University of Singapore provides one such model.

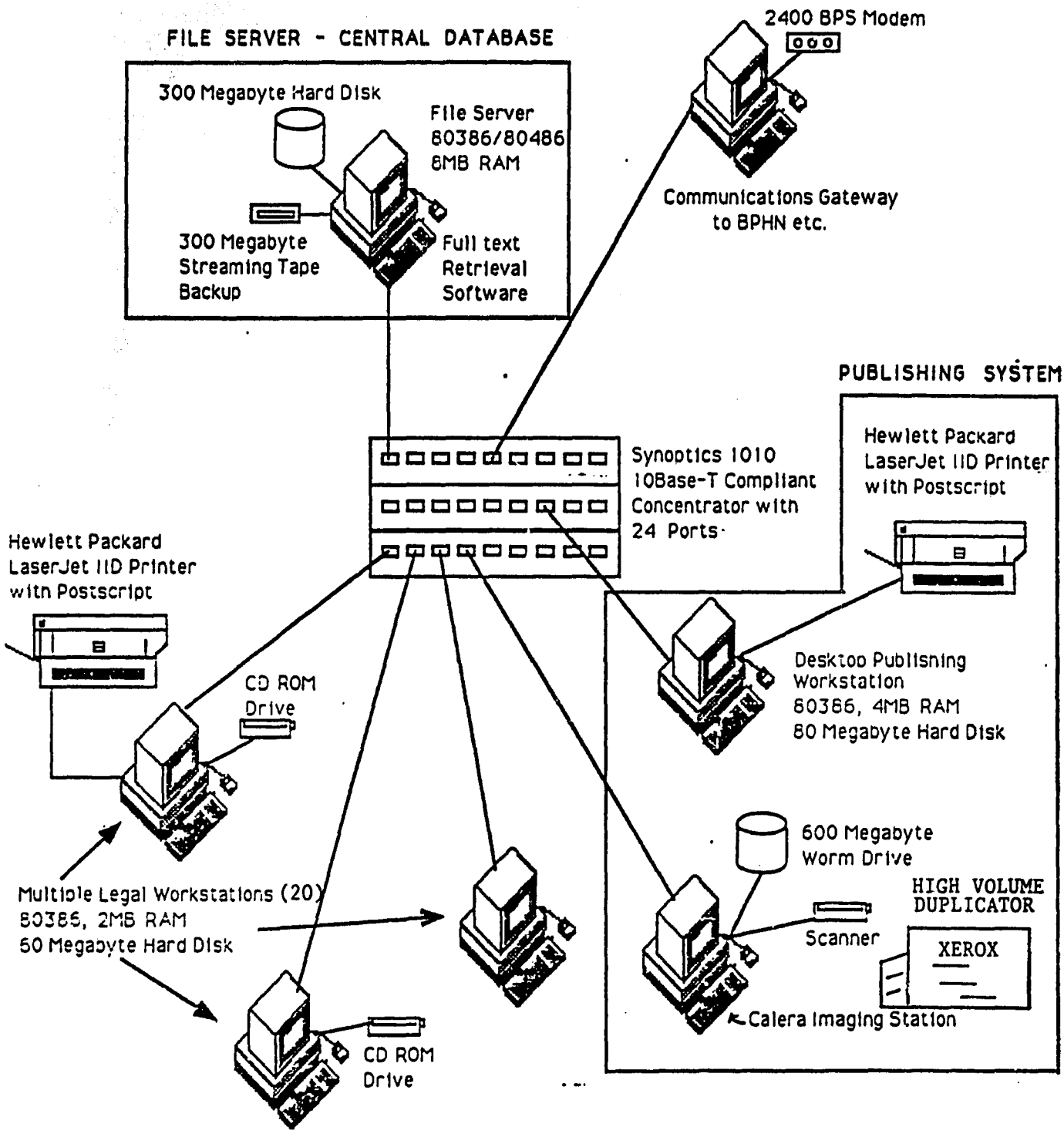
(8) Recruiting a Short Term "Bridging" Technical Advisor $90,000; 5 months commencing August.

USAID should acquire the services of a knowledgeable technical advisor to coordinate the foregoing activities on its behalf and provide assistance to the GOI in preparing its fiscal year 1992 office automation budget proposals (Ministry of Justice, SEKNEG and EKUIN etc). Separately, the T/A should prepare detailed draft specifications and criteria for issuance of an RFP to implement the legal information systems component of the ELIPS Project.

Summary:

In addition to keeping program momentum going the foregoing bridging projects will provide added benefits including (1) early identification, working experience and training of an initial cadre of government, university and private sector participants who will be instrumental in achieving program success over the longer term; (2) demonstration of systems reliability under controlled and manageable, "real world" operating conditions; and (3) flexibility to adapt and modify the systems based upon this initial experience prior to commitment to full implementation and in the case of the CD ROM project, a nation-wide roll-out.

Exhibit 5
SEKNEG Local Area Network and Publishing System



NOTES:
Imaging Workstation has Hi Resolution Monitor, Scanner, and 600 Megabyte Worm Drive for full text search and retrieval.

LAN utilizes a star topology running 10Base-T Ethernet on Unshielded Twisted Pair Wiring. Additional concentrators may be added to support more users without interfering with the initial configuration.

All workstations have the ability to share printer, storage and coummunication gateway resources.

The Network Operating System can be either Novell or Banyan Vines.

Project Workflow Diagram

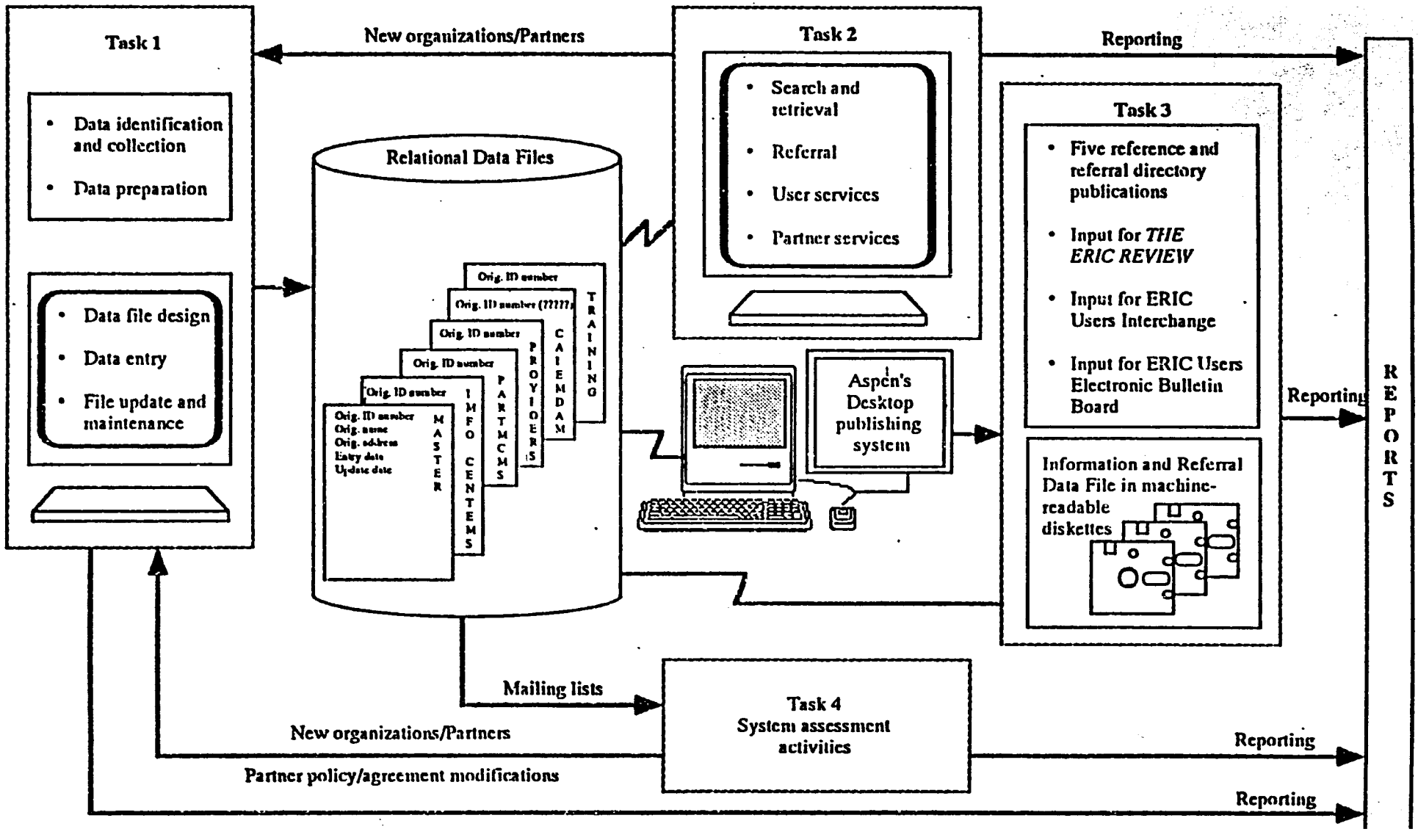


Exhibit 5 continued

File Server
IBM 80386/80486 Based PS/2 (e.g. Model 95)
300 Megabyte Hard Disk
One Floppy - either 5¼ 1.2 Megabyte (HD) or 3½ 1.44 Megabyte (HD)
8 Megabytes RAM
300 Megabyte Streaming Tape Cartridge Backup System

Price - $10,000

Workstations
80386 Based
4 Megabyte (Publishing workstation) or 2 Megabyte (Legal workstation) Ram
80 Megabyte (Publishing workstation) or 60 Megabyte (Legal workstation) Hard Disk
5¼ 1.2 Megabyte (HD) Floppy Drive and a 3½ 1.44 Megabyte (HD) Floppy Drive
Color VGA adapter and monitor
DOS 4.01
Microsoft Compatible Mouse

Price - Publishing workstation $3500.00 ea., Legal workstation $2899.00 ea.

Communications Gateway
1200/2400 BPS Gateway
640K RAM
5¼ 1.2 Megabyte (HD) Floppy Drive and a 3½ 1.44 Megabyte (HD) Floppy Drive

Price - $3000.00

Imaging Station
Calera Imaging Station with scanner
600 Meg 5¼ Optical Worm Disk Unit, OCR Character, Database Retrieval System, High Resolution Monitor and Application Software

Price - $35,000.00

Printers
HP LaserJet Series IID with HP Postscript and 4 Megabyte RAM upgrade

Price - $3500.00 ea.

EXHIBIT 6

Project Description-US Department of Education ACCESS ERIC Clearinghouse

ACCESS ERIC coordinates and promotes the Educational Resources and Information Center (ERIC) clearinghouses and other system components for the U.S. Department of Education's Office of Educational Research and Improvement. The growing use of ERIC System stems form the public's increasing recognition of the information and referral files, user service, and other means of disseminating and coordinating ERIC system activities. The files provide data on system activities, system users, non-ERIC clearinghouse networks, and other information of value to current and potential users. Information specialists respond to telephone (1-800-USE-ERIC), mail, and walk-in requests for general reference and referrals from education policymakers, teachers, parents, students, and the public at large. When queries are subject-specific, the specialists refer them to appropriate ERIC clearinghouses. Product development and user outreach grow as the project updates data files and identifies new potential user groups. ACCESS ERIC provides logistical support for systemwide meetings, coordinates systemwide projects, and acts as a broker for the system to promote essential communication and outreach. The project also maintains an electronic bulletin board to promote information exchange and service networking.

Scope of Work

Clearinghouse Work efforts include the following tasks too promote the services and products of the ERIC System:

- Identifies educational information resources of value to users and future users.
- Collects and organizes information into five dBASE IV data files.
- Produces and distributes directories of information and referral files in hard copy an electronic form.
- Answers telephone, mail, and walk-in requests about the system and refers subject-specific requests to the appropriate clearinghouses.
- Offers a variety of systemwide products and services in response to user requests.
- Develops mutually beneficial relationships with information organizations to link them to the dissemination activities.
- Increase user awareness through publications announcement, articles, conference participation, public service announcements, and direct mail.
- Maintains an electronic bulletin board service.
- Provides logistical support for Directors and technical meetings.
- Identifies and secures sources of funding outside the ERIC System to support the production and distribution of systemwide products.
- Offers feedback on systemwide problems, products, and dissemination efforts.

Project Description: **U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) Library Services.**

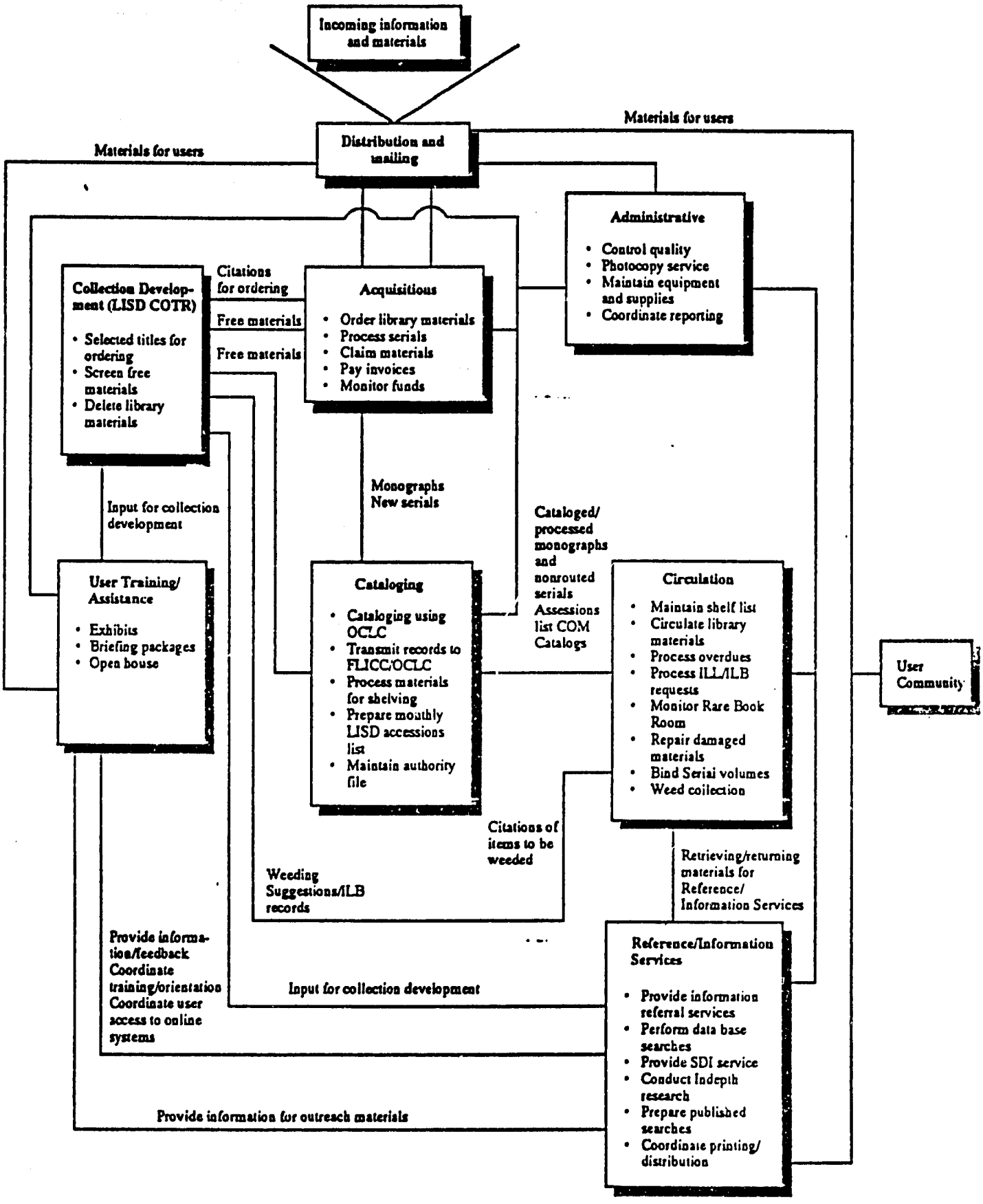
The Library and Information Services Division (LISD) supports NOAA's broad research programs in marine and atmospheric science, solar terrestrial physics, experimental meteorology and weather modification, and satellite observations. This extensive library collection contains over 500,000 books, journals, reports, and documents. LISD provides services to fulfill the information requirements for all the NOAA constituencies, as well as the extensive user community outside NOAA, including other governemnt agencies, professional associations, national and international scientific societies and organizations, and the general public. About 30,000 information and referral requests are answered each year.

Scope of Work

Library Service staff responsibilities include the management and operation of Library functions including, but not limited to:

- Acquisition of materials for the Library collection and NOAA offices.
- Receipt and processing of Library and non-Library materials.
- Cataloging and bibliographic processing of Library materials.
- Serials check-in and routing.
- Circulation and interlibrary loans.
- Reference and information research.
- Online information retrieval (computerized literature searching).
- Preparation of published literature searches and current issues analyses.
- User training and assistance for LISD patrons.
- Binding of Library materials.
- Maintenance of equipment and supplies.
- User-oriented, customized products and services and administration of cost recovery (fee-for-service) program.
- Preparation of management, statistical, and special reports.

NOAA Workflow Diagram



ANNEX A-5

INDONESIAN PROCUREMENT SYSTEM ANALYSIS

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

227

I. INTRODUCTION

This analysis examines the characteristics of the Indonesian Government procurement system, and suggests areas of improvements that might be initiated to increase the effectiveness and efficiency of public investment, as well as achieve greater equity and transparency in the purchase of goods and services. The analysis supplements a previous evaluation of the Government of Indonesia (GOI) procurement system conducted in November, 1990 as part of the PID preparation process for the Economic Law and Improved Procurement System (ELIPS) project.

The analysis is intended to augment, and where possible, validate the findings of the previous study and to identify potential solutions to the following salient issues which were manifested during the review of Indonesian procurement processes:

1) There is an absence of a definitive and complete set of rules and procedures governing the acquisition process.

2) Differences exist between procurement requirements imposed by the various lenders or donors of funds to finance a particular project and the acquisition requirements utilized to finance projects by the GOI.

3) Personnel charged with procurement responsibility are not able to adequately prepare technical requirements in a clear and consistent manner.

4) The guidelines and procedures applicable to the administrative management of contracts, although adequate are restrictive.

5) Procurement oversight is unduly restrictive.

II. GOI PROCUREMENT POLICIES AND REGULATIONS

The current procurement policies and regulations which govern the acquisition of goods and services by the various components of the GOI are derived from Presidential Decree No. 29 of 1984 supplemented by a series of Presidential Decrees and Instructions issued through 1988. The entire procurement framework is commonly referred to as Keppres 29. More specifically, this law establishes general policies applicable to the procurement process but leaves the procedural aspects to the implementing Ministry or state owned enterprise. Among the most salient elements addressed in Keppres 29 are: (1) Tender policies; (2) Pre-qualification of Contractors; (3) Preferential treatment of Indonesian suppliers; (4) Solicitation of Bids; (5) Evaluation of bids; (6) Guidance relative to source selection; and (7) Policy requiring contract review, based on monetary value, by the Coordinating Minister for Economic, Financial and Industrial Affairs and Development Supervision (EKUIN).

To summarize, Keppres 29 and its supplements are applicable to all procurements made by the GOI. However, these policies and guidelines are not always compatible with the

228

procurement requirements of the various lending institutions which provide financing for numerous GOI projects. Therefore the interpretation and associated implementation of Keppres 29 must be modified to integrate the Keppres 29 procurement requirements with those policies and guidelines established by the various funding institutions.

III. FINDINGS

The following components of this project paper considers the salient procurement issues set forth above, giving consideration to the application of policies and guidelines mandated by Keppres 29 and associated supplements; and provides recommendations which, when implemented, can reduce inefficiencies and enhance the value of the procurement process.

A. Difficulties Related to the Lack of an Integrated, Definitive and Complete Set of Rules and Procedures Governing the Acquisition Process

Although Keppres 29 provides the framework for a rational set of rules and procedures governing the procurement process, it is cumbersome and difficult to use.

First, it consists of more than 15 distinct articles and numerous attachments treating myriad subjects directly or indirectly related to the procurement process. The applicable information contained in the attachments, more often than not, represents a clarification or provides an interpretation of the original Keppres 29 document.

Second, the official language used in contracts for GOI financed projects is Indonesian. However, in contracts for projects financed by other than GOI funds the preferred language is English. Distributed copies of Keppres 29 and its supplements are solely in the Indonesian language. Translation, where required, into other languages is the responsibility of the potential user. Even though the translation is often accomplished using certified sources, a literal translation of some provisions is very difficult. As a consequence the translated document is often flawed by distortions and ambiguity as to the meaning of the various requirements set forth.

Third, although it was designed primarily to implement the expenditure of GOI internally financed projects, Keppres 29 procurement policies and guidelines are applied to all procurements made by the GOI without regard to unique procurement requirements which may be imposed as a condition of funding by other sources external to the GOI. For example, Keppres 29 sets forth specific criteria with regard to the use of competitive bidding procedures. Specifically, Keppres 29 mandates that at least three bids must be received which conform to the stated requirements and that only pre-qualified firms may submit a tender. When less than three bids are received, or if the responding prices tendered exceed project authorized funding limitations, a "failure of the tender process" is declared and the tender process repeated. Only when the tendering process fails three times, is the procuring activity authorized to select a source, conduct negotiation and make award of the contract on the basis of direct appointment.

In contrast, international bidding procedures (ICB) utilized by most external funding sources permit, as an alternative to rebid, immediate negotiation with the lowest evaluated bidder. Failing a satisfactory response by the lowest bidder, negotiation with the next lowest bidder is acceptable in order to obtain a satisfactory agreement.

Fourth, availability and distribution of Keppres 29 to all levels of potential users (within or outside the GOI) is at best limited. It is estimated that as much as 60% of the GOI staff involved in the procurement process do not have a complete copy of Keppres 29 and the associated supplements.

Fifth, interpretation of the various provisions of Keppres 29 and supplemental Presidential Decrees and Instructions (Inpres) is not uniform between user entities. For instance, a responsible procurement official at the local level may utilize one of many interpretations that are acceptable under the broad provisions of Keppres 29, but this interpretation may differ substantially from that utilized by a procurement official at the Ministry level. For example, in a procurement for furniture for a specific province the assigned PIMPRO made a determination, upon receipt of tender documents that all were unacceptable based on his interpretation of the "local content" requirements set forth in Keppres 29. Review of the tender documents revealed that the potential sources were Indonesian firms from outside the local province in which the deliverable items were to be used. The determination by the PIMPRO was correct when one considers that none of the deliverable items consisted of products or labor performed within that province. However, Keppres 29 was not intended to be applied in a micro manner. Rather the "local content" requirement was intended to be applied to goods and services produced outside of Indonesia.

Sixth, Neither Keppres 29 nor its supplements contain a set of standard, sample or model procurement documents which are applicable to every procurement. As such, each user entity is free to develop its own approach to procurement based on its interpretation and application of the requirements of Keppres 29.

All of the preceding contribute to an extension of the procurement process (i.e., precludes timely implementation of vital projects); increases contract and economic opportunity costs; fosters ambiguities in the management of projects; and reduces the ability of the GOI to react favorably to donor or outside financing.

The GOI, in recognition of the inherent weaknesses attributable to the breadth and lack of uniform interpretation of procurement guidelines, initially established "Team 10" and subsequently assigned EKUIN the responsibility for ensuring that minimum standards of procurement were met. To this end, Keppres 29 and its supplements clearly specify that all procurements (without regard to the source of funding or value) are to be in conformance with EKUIN guidelines. As a result of being given this authority, EKUIN has established and published a limited number of circulars concerning procurement activity.

In most instances, the EKUIN guidelines relate to: (a) changes in prices concerning centralized procurement of multiple purpose equipment, i.e., motor vehicles, computers, office machines and the like; (b) choices of technology; (c) format for attachments to the

-230

application for approval of projects in excess of Rp. 3 billion ($1.5 million- U.S.); (d) procedures for procurement of goods and services by "direct appointment"; (e) completeness and clarity of tender document in procurements exceeding Rp. 3 billion ($1.5 million- U.S.; (f) provisions related to the use of domestic goods; and (g) authority for operational activities utilizing funding from revenues generated by operations, to bypass the mandatory EKUIN review and approval requirement.

The Keppres 29 (as supplemented) requirement that all procurement activity comply with EKUIN guidelines represents a positive step towards a uniform procurement system. However, implementation by EKUIN of this responsibility has, as yet, not reached fruition. The lack of expeditious progress in performing this vital assignment appears to be due in part to a lack of sufficiently trained procurement staff capable of implementing and managing a government wide procurement system which addresses all elements of the acquisition process.

Implementation is further exacerbated by the high turnover of procurement oriented personnel at the Department level. GOI staff (at the user/project level) are frequently transferred to other assignments every two years. In addition, skilled procurement personnel familiar with the procurement process view this type of work as career limiting and upon obtaining sufficient skills are often promoted or transferred. As such, the retention rate of qualified procurement staff is low.

B. Incompatibilities Between Indonesian and Financial Institution or Donor Requirements

As discussed above, the GOI procurement process encompasses two distinct patterns, both of which are based on compliance with Keppres 29 and its supplements. When the GOI is dealing with internal financing, the procurement requirements follow policies and procedures of the Department sponsoring the project. On the other hand, when the project is funded by external financing, the GOI procurement system must conform with specific acquisition requirements established by the donor lending institution.

Projects funded by donor or lender financing generally contain explicit requirements applicable to the procurement of goods and services for a specific project. Since all lender financing agreements are negotiable and differ between the various lending sources (i.e., ADB, World Bank, OECP) there may be little or no uniformity between projects. In order to insure conformity with their requirements some lenders provide the borrower (the GOI) with guidelines and handbooks, which include sample contracts, general/special terms and reporting formats.

A cursory review of the material provided by the various financial institutions reveals that in most instances it is very comprehensive. Typical subjects addressed in projects involving the procurement of "Goods" are: (1) the invitation for tender; (2) Instructions to bidders; (3) Bid forms and price schedules; (4) Contract form; (5) General conditions of contract; (6) Special conditions of contract; (7) Scope of work, specifications and drawings; and (8) Bid and performance security forms. A tailored version of these procurement considerations is addressed in a separate handbook for "Civil Work" projects.

In the case of consultants, the guidelines and sample procurement documents are augmented with discussions related to the determination of a need for the consultant; consideration of alternatives to doing the work; definition of the scope of services; establishment of a budget and period of performance; source selection; negotiation; supervision; and assessment of consultant performance and closure of the consulting agreement.

The guidelines and handbooks provided by the lending institutions are by their nature instructive. That is they explain how to prepare procurement documents in conformance with the intent of the lenders' requirements. The guidelines and handbooks also recognize that resultant procurement details must be developed by the borrower in conformance with the host country objectives, laws and regulations, but leave the integration of same to the borrower. In many instances the lending institution will provide training in the form of seminars, workshops, or project launch meetings. These meetings are effective in-so-far as they provide information on how to comply with the special requirements of the loan agreement for that specific project. However, they do not provide insight or training which may be directly applied to the reconciliation between procurement requirements mandated by the lending institutions and the procurement policies and procedures established by Keppres 29.

The procurement requirements imposed by different funding institutions vary. Hence, the procurement process becomes impeded without policies and procedures which address how the GOI will comply with the express requirements of the funding institution and at the same time ensure that the GOI procurement methodology and objectives set forth in Keppres 29 and its supplements are not compromised.

For instance, it is the objective of the GOI (as expressed in Keppres 29) to give priority to the internal development of industry and business. This requirement is accomplished through the use of restricted bidding lists. However, application of this procedure may conflict with the funding institution requirement for free and open competition. Lender experience has indicated that the mandatory use of economically weak or inexperienced contractors often results in delay of the project, increased cost and poor quality, all of which do not reflect good procurement practice. One department resolves this problem by simply specifying that no substitutes for the designated sources of supply may be utilized when it established the procurement requirements. This action requires extensive supporting documentation and requires approval by a director or minister depending upon the value of the procurement. However, this approach is neither sanctioned nor prohibited by Keppres 29 and therefore is not uniformly applied by all GOI departments.

Additional problems may occur when the funding for a specific project includes both internal and external funds from different sources of financing. Although multiple sources of funds may be necessary for the implementation of a given project, it tends to create anomalies in the procurement process since the implementing Department now has to reconcile its procurement methodology to comply with potentially incompatible procurement requirements. The first, being compliance with requirements of Keppres 29 and the second those mandated as a condition of funding by the lending institution(s).

As a result, the responsible Department may divide the work into packages based on the source of the funding. Such an approach may not be the most technically or cost effective alternative. Another Department may resolve this problem by negotiation of supplemental terms to the loan agreements in order to overcome the lack of congruency in procurement methodology between the parties. It is significant to note that there is no uniform standard which provides policies or guidelines for all departments involved in the procurement process. Hence, each Department or Ministry develops its own method of compliance which is considered acceptable until challenged (if at all) by the state audit agency.

C. Difficulty in Stating Requirements in a Clear and Consistent Manner

1) Introduction

It is a generally accepted principle that the success of a given procurement depends heavily on the buyer's ability to convey, in the clearest terms possible, his requirements to the prospective bidder (contractor). Among other things the clarity of the Statement of Work (SOW) and attendant specifications: (1) Affects the quality of bidders on a given project; (2) Tells the contractor "what" it is to do; (3) Provides a basis for performance measurement; (4) Permits reliable estimates of funding for a project; (5) Allows the contractor to prepare meaningful estimates; and (6) Provides a basis by which the buyer and seller can determine the necessity for changes during the period of contract performance.

Often an inadequate statement of work and attendant specifications permits the contractor broad discretion in determining the ultimate characteristics of the deliverable product without sufficient consideration of long term collateral requirements such as maintenance and operation. Even though the deliverable product may conform to the contract requirements and perform its intended function throughout the warranty or guarantee period, it may not meet the long term objectives of the project. For example, a loose technical description which does not clearly express long term maintenance and operation requirements after the deliverable is placed in service can result in a higher overall cost of the project.

2) Current Practice

At the present time some departments of the GOI lack sufficient procurement and/or technical expertise to independently prepare adequate statements of work or attendant specifications and contract documents. The level of technical information included in any individual bid package will vary in accordance with the preparers' training and skill. Minimum standards for the type and level of information to be used in bid packages is not specified by Keppres 29. Rather, the practice employed is left to the discretion of the Department (project) responsible for the procurement and/or the requirements established by the sources of funding.

Such an approach can be detrimental to timely completion of contract work. For example, a supplier involved in a current equipment contract reports that specifications prepared by the GOI project staff contain excruciating detailed information on standard or relatively insignificant components and little or no guidance as to how equipment of the contractor will

233

be integrated with that of another contractor. Integration or interface problems are often considered a problem which must be resolved by the individual contractors and not within the duties of the project manager. In some instances, this may require modification to the technical requirements of each contract affected which adds to the potential for delay in project completion since modification of the existing contract requirements will require evaluation and approval by the GOI project manager.

3) Combining Requirements

Sometimes the procurement staff is uncertain as to how to package related requirements into statements of work or specifications which could be handled more efficiently by one supplier. As a result the GOI ends up issuing two or more contracts. The adverse effect to the GOI can be measured by the increase in time and cost necessary to manage and coordinate the performance of each contractor. Had the required effort been bundled, the GOI would only have to manage a single contractor.

4) Use of Consultants

As a means to overcome the lack of experienced procurement staff the GOI makes extensive use of consultants to perform project technical design and procurement activity. The source of the project funding, the particular GOI Department in charge of the project, and the level of technical and project management expertise are significant factors in determining the amount of consultative assistance the GOI requires. In some circumstances involving the use of other than GOI funds, the financing institution may, as a condition of financing, insist that the GOI utilize consultants. Under such a circumstance it is common for the financing entity to be a participant in the selection of and/or approval of the consultant.

Not only are consultants tasked with design duties but they also prepare the SOW and specifications used in tender documents. Once tender(s) have been received, the GOI relies on these same consultant(s) to assist (perform) in the evaluation process and provide recommendations of acceptability to the project selection committee. In some instances, the consultant may actively participate in the negotiation and selection process. Subsequent to award, the GOI user (procuring agency) may again turn to the consultant for field support in the form of project supervision, inspection and completion.

The consultant keeps GOI procurement officials apprised of the activity under the contract through a series of reports. When the consultant has determined that an anomaly exists the report will include recommendations for corrective or remedial action by the appropriate GOI procurement representative. While the preceding appears to overcome the basic problem arising from a lack of trained and experienced GOI technical and procurement personnel it is fraught with inequities which result in inefficiency and higher project costs at the expense of the GOI.

First, there is little or no real control over the consultant's effort. Essentially the consultant is free to choose the design and methods which he deems suitable, regardless of the potential cost consequences.

Second, even though the consultant is accountable for any mistakes or errors in the design process or in the preparation of resultant SOW and specifications used in the bidding documents, some mistakes occur. When the consultant is acting as the supervisor of contract work which he designed, there may be a tendency to shift responsibility for necessary corrections to the contractor;

Third, unless the consultant is of the highest moral and ethical fiber, there is a possibility that collusion and bribery could occur to the detriment of the GOI;

Fourth, there is no incentive for the consultant to act in the most efficient or cost effective manner. Indeed, the consultant is frequently paid on a time and material or level of effort basis. Hence, the more work assigned to the consultant or the longer the project takes to complete, the greater the consultants income;

Fifth, if the project is financed from other than GOI funds, the expense of the consultant is generally included as an integral part of the project-financing. This approach has the effect of increasing project cost;

Finally, the consultant is not obligated to train or otherwise contribute to the growth of GOI personnel involved in the procurement process.

It is estimated that, at a minimum, three percent (3%) of all GOI project funds are expended in payment for consulting services related to the procurement function. If one considers that the current 65 GOI projects funded by the Asian Development Bank (ADB) are valued at approximately $8 billion coupled with more than an estimated $16 billion in loans by the World Bank and OECF, it appears that the GOI is expending cumulatively $720 million for consultant services to support lender financed procurement activity.

D. Administrative Management Guidelines and Procedures Although Adequately Defined Are Restrictive.

1) Introduction

A considerable amount of time and effort is consumed in the performance of procurement oriented tasks prior to award of a contract. Pre-award administrative tasks include: (a) establishing the requirement; (b) preparation of approved supplier lists; (c) preparation of the bidding documents; (d) evaluation of tenders; (e) cost and price analysis; (f) negotiation, if appropriate; and (g) source selection.

Subsequent to contract award several other administrative tasks must be undertaken in order to assure that the contract work is performed in a timely manner and in compliance with the terms of the contract. Typical elements comprising the administrative management of contracts after award are: (a) Maintenance of files and records; (b) Interface with the contractor; (c) Monitoring and reporting the status of physical progress and schedule; (d) Problem identification and implementation of timely corrective action; (e) Resolution of

disputes; (f) Authorization and implementation of changes in the work scope; (g) Control and disbursement of project funds; (h) Inspection; and (i) Final acceptance and completion.

2) Keppres 29 as Supplemented Contains Express Requirements Applicable to the Procurement Process

Keppres 29, as supplemented, includes specific policies and guidelines related to specific elements of the procurement process. Among these policies are provisions that mandate or authorize direct procurement by the government offices, ministries, or state owned institutions for contracts up to Rp. 20 million ($ 10,000) to weak economic groups; all procurements above Rp. 20 million are subject to the guidelines applicable to the tender process (i.e., type of tender, conditions for use, and establishment of an evaluation team); pre-qualification of potential sources of supply and establishment of a qualified bidders list.

In addition, Keppres 29 contains description of the entire bid process; requirement for a procurement steering committee; use of domestic products and services; preferences for award to developing Indonesian sources for small procurements; restricts bidding by foreign sources to procurements greater than Rp. 200 million ($100 thousand); prohibits contracts having "cost plus fee" payment terms; establishes the various contract terms and minimum provisions; delegates authority for making awards based on the value of the procurement; and provides for state audit after completion.

Strict adherence to these policies and guidelines by all ministries, agencies, and state-owned enterprises is mandatory.

3) Delegation of Authority and Responsibility

Even though responsibility for the administrative management of contracts (work authorizations in the form of SKP or DIP designated projects) is essentially delegated to each Ministry, all government entities must strictly adhere to the policies and procedures set forth in Keppres 29 and supplements. The skill levels of the procurement staff, the value of the project and the visibility of the project will generally determine the quality of administrative management for a given project.

The more experienced departments (such as Public Works, Communication, or state owned enterprises, e.g. Pertamina) have established detailed internal procedures predicated upon ministerial guidelines which govern the methods and extent of administrative management which will be applied to the procurement process. Delegation of authority and responsibility to a project manager is typically based on project value. The criteria for delegation is generally included as an integral part of the ministerial guidelines.

In the case of Public Works, a project manager at the work site of contract performance is delegated the authority and the responsibility for all project activity related to GOI financed procurement up to a maximum project value of Rp. 500 million ($250 thousand). Administrative management authority for procurements exceeding the Rp. 500 million level is generally retained by the Director General of Public Works.

- 236'

The authority delegated to the project manager encompasses the entire procurement process including the preparation of bid documents; evaluation of tenders; negotiation (if required); source selection; performance monitoring; inspection; disbursement; and completion.

The project manager is not authorized to make or enter agreements which exceed the budget authorized for the project. If the budget is insufficient to perform the project work (as may be reflected by tenders), the project manager may request a change in the project budget. It is important to note that obtaining increases in project budgets is extremely difficult because of the level of documentation and justification and the inordinate amount of processing time.

It is rare that any such increase will be sought by the project manager. As a result the contractor often finds itself performing work without the benefit of equitable compensation. This is particularly evident when changes occur and the contractor must perform the work at no increase in contract price simply because no funds remain in the project budget.

Projects funded by sources other than the GOI are administratively managed in a similar manner, except that all project decisions are, by agreement, subject to the review and approval by the appropriate financial institution. It is significant to note that most of the lending institutions include a contingency (approximately 10% of the loan value) to cover mistakes in project estimated costs and unplanned changes in the contract work. However, a request for additional funds must be documented, justified and approved in accordance with the requirements of Keppres 29.

Pertamina, a state owned enterprise, has two systems of administrative management which it applies to the procurement function. Procurement for goods and services associated with operations is initiated by the specific Department affected (i.e., Refinery Operations). A requisition is prepared which includes a definitive technical description of the good or service and potential source of supply. The requisition must be approved by the appropriate functional manager and is then forwarded to the Logistics Department where a "Buyer" is assigned responsibility for the preparation of necessary bid documents; conducts the solicitation; and receive tenders. The buyer (as in the case of the project manager) is not authorized to independently select a source nor make an award as this is reserved for the tender committee established for that purpose.

The decision to make an award to a specific contractor is reserved for the Director of Logistics if the amount of the contract is below Rp. 1 billion ($500 thousand). Procurements in excess of Rp. 1 billion ($500 thousand) must be approved by the President-Director of Pertamina. The restriction of authority at the Director level can cause significant problems in light of the quantities of certain raw materials necessary for petroleum production. For example, if the unit cost of a required "Ethyl" additive is estimated at $2/lb. and use is projected at 20 tons per month, the price per month exceeds the Director's level of authority and requires approval by the President-Director. While this approach appears tolerable, it is noted that approval by the President-Director can only be obtained after study by the President-Director's staff.

237

Moreover, even when the staff can act expeditiously, if the President-Director is not available, the award and contract signature are delayed. The net effect of such delay can be measured in the economic opportunity cost plus the possibility that Pertamina may have to pay a premium to avoid interruption in its refinery operation.

Subsequent to source selection and award the buyer issues the appropriate paperwork and conducts follow-up activity only to the extent that the product is delivered to the requesting organization. Acceptance of the product and problems arising after receipt of the item are the responsibility of the requesting organization.

The administrative management acquisition of capital equipment and facilities is delegated to a project manager and is handled similarly to the procurement process described for Public Works, above. Of particular note is the absence of the "Buyer" in the process. This would appear detrimental to Pertamina since it does not take advantage of the "Buyer's" experience with the procurement process.

E. Procurement Oversight Activity is Restrictive

1) Procurement Oversight is a Functional Necessity

In order to ensure that the implementation of regulations, policies, guidelines and cost control associated with the procurement process are proper and in conformance with the objectives of the government it is essential that a viable procurement system provide for oversight. The basic function of oversight is to (a) assure a level of consistency and uniformity in the performance of procurement activity; (b) serve as a focal point for the identification of problems which impede the smooth operation of the procurement process in a timely manner; and (c) provide a means of accountability (i.e., control).

2) Oversight as Practiced By the GOI

Prior to 1980 the procurement process was highly decentralized and all decisions concerning procurement were made at the ministerial or equivalent level. With the advent of the Pertamina scandal (in 1976), the GOI took extraordinary actions to regain control over the procurement function. The measures taken to rectify this situation resulted in a highly centralized system which conveyed only limited authority to officials involved in the procurement process.

In 1980, the government established the Control Team for the Procurement of Government Goods (referred to as "Team 10"). "Team 10" was given responsibility: (a) to review and determine the kind and number of bidders, specifications, price and the procurement procedures for goods and contracted work desired by the government; (b) to evaluate the technical features and quality of goods and contracted work; (c) to provide guidance for the administration and documentation of procurements. In addition, "Team 10" was given the authority to establish all necessary rules, procedures and regulations attendant to the procurement process.

In 1984, the government, upon realizing a measure of confidence in the procurement process decentralized the authority for monitoring, interpreting, and applying the policies and guidelines for procurement activity as set forth in Keppres 29. Ministries, agencies and state owned institutions were authorized to conduct procurement activity without intervention by the central government for projects (i.e., procurements) having a value of Rp.500 million ($250 thousand). Procurements exceeding this threshold were subject to the review of "Team 10". A similar function was established at the departmental and provincial level for procurement activity up to the Rp. 500 million level. The internal review and authority to contract was, to an extent, decentralized, but along with this decentralization came the necessity for the development of internal guidelines (ministerial) applicable to the review process which tended to mirror the extensive oversight activity conducted by "Team 10".

In other words, although authority was decentralized, there was little or no improvement in the length of time required for obtaining necessary review and approval. Indeed, in some instances the time increased, to the low threshold value of Rp. 500 million ($250 thousand) and a lack of skilled procurement professionals to adequately process the required procurement documentation.

In recognition of the problem, the GOI in Presidential Instruction Number 1 (Inpres 1) of 1988 abolished "Team 10" and transferred the responsibility for procurement to the Coordinating Minister for Economy, Finance and Industry and Development Supervision (EKUIN). The decree also conveyed authorization to specific government officials (i.e., head of an office, working unit or project; director general or official of similar level; and minister or head of a state owned enterprise) to award tenders (contracts) on the basis of express rupiah thresholds. In addition, the mandatory review and approval (by EKUIN) for procurements was raised from Rp. 500 million to Rp. 3 billion ($1.5 million-U.S.).

3) Role of EKUIN in the Oversight Process

Implementation of the preceding changes did result in a slight reduction in the time required to conduct procurement activity by eliminating a level of review, but inflation and growth in project estimates did little to reduce the amount of procurements requiring review and approval at the Rp. 3 billion level. Despite its small staff, EKUIN reviews approximately 800 out of a total estimated 3,800 procurement actions per year. The review process takes approximately two weeks, however it is rare that approval is obtained within this time period. The reason for the delay in the approval process can be attributed to a lack of uniformity in contract and approval documentation as well as the limited procurement skills of the organization submitting the procurement to the EKUIN review process. Therefore, it is not surprising that several iterations of review may be required before EKUIN gives its concurrence.

The actual extent of EKUIN's authority except with respect to procurements made on "direct appointment" basis is unclear. It appears that despite the authority granted under Keppres 29, EKUIN chooses to relegate itself to raising questions related to whether or not a given procurement action is in conformance with the requirements established by Keppres 29 but does not accept or reject a given procurement based on the soundness of the business transaction.

4) Oversight by the State Audit Function

The reader will recall that Inpres Number 1 of 1988 provides for a "post audit" of projects not subject to EKUIN review and approval. The "post audit" activity as performed by the Finance and Development Supervisory Agency (*Badan Pengawasan Keuangan dan Pembanguan-BPKP*) is intended to verify the correctness of the quantity, quality of the goods and services and the reasonableness of the prices. Although this method of control is necessary as part of the oversight function, it can result in procurement problems. Absent a standardized and definitive manual of procurement policies and regulations, the state auditor is given considerable leeway in determining whether a given procurement action reflects a reasonable price. The auditor's decision is based on his interpretation which may or may not reflect the minimum acceptable standard associated with good procurement practices. In such instances, payment to the contractor may be withheld pending resolution or in some instances the entire contract could be declared invalid. The effect on the procurement process can be measured in a loss of competent suppliers, delay in the receipt of required goods, or delay in the completion of projects.

5) Summary

Oversight is a vital ingredient of the procurement management process by providing a means of assessing accountability and ensuring control in the expenditure of state funds . As practiced by the GOI, oversight to date appears to place heavy emphasis upon control at the expense of measures which might be undertaken to overcome system impediments which result in project delay and attendant increased cost. An inordinate amount of time is required to conduct review and approval of procurement actions. The delays in processing and evaluating bids stem in part from the overly detailed and repetitive review of proposed awards/contracts ostensibly mandated by strict adherence to the policies and guidelines of Keppres 29. This problem could be overcome without compromising the oversight process if there was a single authority (a manual) which contained a uniform set of policies, regulations and interpretations to be utilized by all government entities. Such a measure would contribute to uniformity and consistency in the procurement process and reduce the need for individual ministerial guidelines to specific elements of procurement which are unique to that particular ministry or state owned institution. Hence, the time expended in oversight review and approval could be focused on any deviation from the procurement standard without a loss of accountability.

E. **Recommendations**

1) Introduction

The recommendations that follow are based upon a review of Keppres 29 and supplements; the ELIPS PID; prior reports related to the Indonesian procurement process; interviews and discussions with representatives of EKUIN, Department of Public Works, Department of Communication, Pertamina, the World Bank, the Asian Development Bank, private sector contractors; and the Findings set forth within this Annex as constrained by the limited time available to perform the analysis and writing tasks.

-246

2) Need for Review and Modification of Keppres 29

It is clear that Keppres 29 and related supplements are essential for implementing the key GOI economic objectives and achieving accountability for procurement by the various departments and agencies. Moreover, the basic elements comprising Keppres 29 (as supplemented) which govern the procurement process are generally in conformance with acceptable business practices commonly observed in international contracting.

The procurement initiatives enunciated by Keppres 29 in 1984 and expanded by Presidential Instruction in 1988 represented a substantial step in improving the procurement process. Notwithstanding the GOI's actions to date, it must be recognized that the procurement process is not static. Indeed, procurement activity is dynamic in nature and therefore the policies and guidelines affecting the procurement process require periodic review and update in order to reflect current trends.

The criteria for determining the health of a procurement system are directly related to its ability to meet the objectives for which it was established and its flexibility to adapt to a dynamically changing environment. In the case of the GOI, the procurement process does meet the minimum needs of the government, albeit not necessarily in the most timely and efficient manner. Rather than rewrite Keppres 29 and its supplements, it is recommended that the provisions of Keppres 29 and its supplements be reviewed and modified as appropriate. Particular attention should be given to those articles set forth in Keppres 29 which address the following:

A) Thresholds at which the formal bidding process is initiated.
B) Delegation of procurement authority to Ministries, Departments, Agencies, and State-owned enterprises.
C) Pre-qualification of Contractors.
D) Policies related to local content and development of the GOI industrial base.
E) Eligibility of foreign contractors for local tender.
F) Methods used to estimate project cost as applied to the work authorization and budget process.
G) Disbursement of project funds, i.e., prompt payment to contractors and billing rates for consultants.

Keppres 29 specifically assigns to EKUIN the responsibility for oversight and compliance with the policies and guidelines governing procurement by the GOI. It is reasonable to conclude that any review and recommendation for modification should be performed by EKUIN.

3) Preparation and Distribution of a Uniform Procurement Manual

This analysis has demonstrated a clear need for the preparation and distribution of a single procurement manual which reflects consistency in interpretation and application of the policies and guidelines by which the GOI conducts its procurement activity. In addition, the procurement manual should provide (insofar as possible) universal formats and samples of procurement documentation (with emphasis on the bidding and evaluation process) which

241

reconcile any incompatibilities between Ministries, Departments, state owned institutions and special requirements mandated by funding institutions. The resultant manual should be prepared in both Bahasa Indonesia and English. Distribution and appropriate training (as discussed below) should be made to all personnel involved in the procurement process.

It has already been established (elsewhere in this Annex) that most of the GOI ministries and agencies have developed procurement policies, procedures and/or guidelines for internal use. It is also acknowledged that there are certain differences in the requirements associated with each ministry and agency conducting procurement activity. The procurement manual will have to resolve and/or provide for these unique elements.

Preparation of the procurement manual should not be based on a re-inventing of the wheel. Therefore, a team comprised of specialists experienced in the GOI procurement process from the Departments of Agriculture, Communication, Public Works, and from PLN, Perumtel, and Pertamina should be assembled for the purpose of developing a comprehensive procurement manual which will set forth the policies and procedures to be followed by all GOI entities involved in the acquisition process.

Since EKUIN has been given the responsibility (see Keppres 29 as supplemented in 1988) for establishing procurement policies, procedures and guidelines as well as oversight to ensure that the requirements of Keppres 29 are complied with by all GOI ministries and agencies, it is reasonable to assume that the procurement manual should be prepared under its auspices.

4) Training of GOI Staff Assigned Procurement Responsibility

Preparation and distribution of a procurement manual coupled with the review and potential change to the policies and guidelines established by Keppres 29 represents only part of the solution to the problems outlined in this project paper. In order to implement the procedures contained in the procurement manual it is imperative that GOI personnel (i.e., procurement executives as well as those performing the procurement activity) involved in the procurement process have a common understanding and interpretation of what the requirements mean. This objective can be achieved through comprehensive training which addresses both the policies and procedures set forth in the manual, as well as an explanation of the rationale for them.

Due to the large number, estimated at 2,000 persons of varied backgrounds and responsibility requiring training, courses should be specifically designed in accordance with their needs. For example, senior executives (ministers, directors general, directors and personnel charged with management tasks) should be given an abbreviated course designed to provide a level of information commensurate with their responsibility. Course material for project managers, buyers, and other GOI personnel performing detailed procurement tasks should be provided with an extensive curriculum.

242

Because of the complexity in subject material, the courses should be segregated into discrete modules comprising, at a minimum, the following:

A) Internal and External Relationships
B) Pre-Award Effort
   (1) Establishing the requirement and preparing the Statement of Work and Speecifications.
   (2) Identification, survey and pre-qualification of potential sources of supply.
   (3) Preparation of the bid documents.
   (4) Establishing an evaluation criteria.
   (5) Technical evaluation of tenders.
   (6) Cost and/or price analysis
   (7) Source selection process.
   (8) Preparation of contract documents.
   (9) Preparation of procurement packages necessary to approval and award.

C) Post Award Activity

   (1) Contract file documentation
   (2) Disbursement of funds
   (3) Changes and Modifications
   (4) Inspection
   (5) Completion
   (6) Closeout

The preceding is not meant to be all inclusive but represents a logical grouping of subjects related to the procurement process. The actual content of course material should be determined and prepared exclusively for application to the GOI procurement environment (i.e., no canned courses).

5) Implementation of the ELIPS Project

A) Procurement Contractor Assistance

The ELIPS project should engage a qualified procurement contractor having government and international contracting experience. The procurement contractor would provide assistance to EKUIN in the review of Keppres 29 and supplements and preparation of a GOI procurement manual. Typical tasks would encompass formulation of procurement methodology and; provide recommendations for content, format and sample documents related to: (1) the compilation of GOI procurement rules and procedures; (2) methods of evaluation and source selection; (3) conduct of administrative activities associated with technical management, inspection, and acceptance;(4) methods of implementing changes; (5) procurement system maintenance through follow-up, update and dissemination of changes to procurement system policies and procedures; and (6) provide for oversight activity.

243

Optimal utilization of the procurement contractor can be best achieved by dividing the effort into two phases.

B) Phase I Activity and Constraints

Phase I would encompass a period of several months. During this time the contractor would familiarize itself with the current GOI procurement process by performing a comprehensive review of (1) Keppres 29 and supplements; (2) the existing ministerial, departmental, or state owned institutions internal procurement documents, procedures, and guidelines; and (3) the policies and guidelines imposed by sources of funding other than the GOI.

By its nature the review process will require interviews and discussions with key GOI team members. The actual time to complete Phase I activity will be dependent upon the availability of GOI personnel; documents (existing policies and procedures); and the amount of assistance the GOI requires to resolve ongoing procurement problems.

C) Phase II Activity and Constraints

Phase II activity is directed toward assisting EKUIN in the development of revisions to specific sections of Keppres 29 and preparation of a standard GOI procurement manual. In addition, the contractor would interface with the training contractor (if different) and provide assistance in the development of training materials. The estimated time required to perform Phase II effort is twelve months.

It is estimated that four to five individuals will be required for a minimum of twelve months to support this effort. It is important to note that completion of Phase II effort is severely constrained by the time required for the review of suggested procurement manual sections by the GOI team and, as in the case of Phase I, the amount of assistance required to deal with current GOI procurement problems. Recent experience indicates that the GOI review process can be very difficult to complete in a timely manner. Therefore, it is imperative that the contractor and GOI agree on a specific schedule for implementation prior to the start of Phase II activity.

D) Training

Training can be performed by the procurement contractor (if qualified) or by a competent subcontractor. The training organization with the aid of the procurement professional will be responsible for developing training material in modular form which utilizes or is based upon the GOI procurement manual. It is noted that training should be designed in a manner which will permit the GOI to conduct courses after an initial cadre of procurement professionals have completed their education. In order to use project funds efficiently the training task should not be started until at least 25% of the procurement manual is completed and approved.

6. Benefits from Implementation of the ELIPS Project

A) GOI

Benefits accruing to the GOI from implementation of the ELIPS project are: (1) establishment of a single source of integrated GOI procurement rules and procedures; (2) create a cadre of a skilled procurement staff which would reduce and/or eliminate many of the concerns set forth in other parts of this paper; (3) improved administrative management of the procurement process; (4) reduction in the time between the establishment of a requirement (i.e., desired project) and award; (5) more efficient use of available funding with a commensurate reduction in overall project cost; (6) increased competition achieved through an increase in the numbers of potential contractors (suppliers) capable of meeting the requirements of the GOI; and (7) enhance the confidence of external funding sources in the GOI's ability to manage and control project performance thereby increasing the opportunity to obtain project financing by sources outside the GOI.

It is reasonable to conclude that (due to wide spread distribution and commonality in procedures for all parts of the GOI) the procurement manual could eventually become the ultimate authority for all Indonesian acqusition activity vis-a-vis Keppres 29. That is to say, Keppres 29 would be considered the enabling legislation (i.e., the law) and the procurement manual the implementing regulations. Under such circumstances, the responsible entity, EKUIN (or another assigned organization) would become the focal point for all interpretation and policy related to the procurement process. Such an approach would contribute to maintenance of the procurement system in a dynamic environment, i.e, as the GOI develops economically.

B) Private Sector

The private sector will also benefit from the ELIPS project. Of particular note is the potential for development of a domestic training program patterned after the ELIPS effort. It is anticipated that there will be a demand for procurement training by the private sector after implementation of the procurement manual so that they can be more effective suppliers.

245

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

PROJECT PAPER ANNEXES

VOLUME II B

246

ANNEX A-6

TRAINING ANALYSIS

ECONOMIC LAW AND IMPROVEMENT PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

TABLE OF CONTENTS

SUBJECT	PAGE
List of Tables	i
List of Appendices	ii
ASSESSMENT OF NEEDS	
A Model for Thinking	1
ECONOMIC LAW	
Training Needs Assessment: Economic Law What Is: Indonesian Legal Education	2
Curricula and Quality	3
The Impact of Economic Law Education and training.	10
The Private Sector Situation	11
The Public Sector Situation	15
The Practice of Law: Status	15
Prior Donor Assistance: Its Shape and Impact	16
What Should Be: Training and Education in Economic Law	23
The Training Gap -- Who Needs What and Why: An Overview.	25
PROCUREMENT	
Training Needs Assessment: Procurement -- What Is	28
Training Needs Assessment: Procurement What Should Be.	34
The Training Gap: Procurement Who Needs What and Why	35
Footnotes	36

"A Lawyer who has not studied economics
...is very apt to become a public enemy."
Louis D. Brandeis

"Law is a tool for social engineering."
Roscoe Pound

"The Law in Indonesia is in a sleeping state."

Charles Himawan
Dean, Law School
University of Indonesia
in Kompas
April 25, 1991

SUBJECT	PAGE

ALTERNATIVE TRAINING STRATEGIES AND CONSTRAINTS

ECONOMIC LAW

Strategies and Constraints: Economic Law 39

Strategic Questions 43

Clientele/Target Group Emphasis 43

Training Approach/Type/Shape: Emphasis 44

Subject Matter Considerations 46

Training and Timing Considerations 47

The Training Package Combinations: Alternatives 47

Balancing Skills and Knowledge 47

Institutional Interfaces: Organizational
Conduits for Economic Law Training 48

Training Overseas: Opportunities and Alternatives. 55

PROCUREMENT

Alternative Training Strategies and Constraints: Procurement 67

Training About What: (Procurement) 68

The Shape of Training and Who Would Train (Procurement) 69

The Alternative Institutional Mechanisms for Training 69

The Overall Constraints of Training: An Overview 71

SUBJECT	PAGE

THE RECOMMENDED TRAINING STRATEGIES

ECONOMIC LAW

The Strategic Overview 81

The Institutional Mechanisms for Training 82

Who and How Many: The Training Participants 84

What: Training About 89

By Whom: Who Trains 90

When: Training Time, Timing and Timeline 91

Roles: USAID, Government of Indonesia, and Contractors 93

How Much: Training Cost Analysis 93

Success: How Do We Know We are There? Evaluation 94

PROCUREMENT

Recommended Strategy 94

DEVELOPING A SELF-SUSTAINING STRATEGY

A Self-Sustaining Strategy for Training: Procurement 96

A Self-Sustaining Strategy for Training: Economic Law 97

APPENDICES 99

LIST OF TABLES

NO.	TITLE	PAGE
1.	Numbers of Students in Morning and Evening Courses, by Package, who have Graduated from the University of Indonesia this Academic Year	5
2.	Status of Legal Education at State Universities; Numbers of Students and Faculty	7
3.	Netherlands Assistance on Legal Matters	19
4.	Number of Participants in Netherlands-Sponsored "Penataran" (Short Course) Programs	19
5.	Ford Foundation Activities in Legal Matters	23
6.	Who Needs What, When and Why: Economic Law	25
7.	Products, Outputs, Outcomes: Economic Law	28
8.	Products, Outputs, Outcomes: Procurement	35
9.	Shapes of Training: Economic Law	40
10.	American Law Schools: Graduate Degree Programs, Listed by Areas of Concentration	59
11.	Reasons Why Training Programs Succeed Or Fail	75

-252-

LIST OF APPENDICES

Number	Title
1.	Law Schools in the United States
2.	Listing of State Universities and other Academic Institutions in Indonesia
3.	Private Universities in Indonesia
4.	Excerpts from the Evaluation Report: "Evaluation of the Inter-University Cooperation Project on Legal Matters in Indonesia. An Evaluation of Dutch Efforts on Legal Improvement in Indonesia. December, 1990
5.	University of Indonesia; Numbers of Students and Teachers. 1989.
6.	1982 Curriculum of the Faculty of Law, University of Indonesia
7.	1986 Curriculum of the Faculty of Law, University of Indonesia
8.	Asia Foundation Law Programs in Indonesia
9.	Curriculum and Syllabus: Procurement Training, Department of Public Works, 1991
10.	Training Schedules: Procurement Training, Department of Public Works. Ujung Pandang, 1991
11.	Pertamina Logistics Courses: Syllabi

ASSESSMENT OF TRAINING NEEDS

I. INTRODUCTION

Training in Commerical Law Development is a key component of the forthcoming project. The required training inputs have been initially diagnosed as substantial and fundamental to the short-term and more importantly to the long-term development of Commercial Law and Procurement in Indonesia.

With such weight being placed on Training for the success of the project, it is important to state this warning at the outset; training in and of itself is not a panacea or cure-all for the many ailments in the practice of Commercial Law or in the processes of Procurement. Excellent training programs have been implemented in both of these fields around the world. Despite their excellence, such training has often had little overall impact. Why? Because following the training programs, the trainees are sent back into working environments which are not yet progressive or creative. The over-all training impact that might-have-been...wasn't.

The training needs that will be outlined here are many, varied and complex. Indonesia, its government and its culture are also complex. It is therefore important that we begin this analysis of training needs with a clear recognition that training by itself will not solve the many problems of the legal profession, of legal education, of Economic Law (as Commercial Law is commonly called in Indonesia) or of Procurement. The approach to be taken must be multi-faceted and it will require patience. Six years is not a long time. It is enough time, however, in which to have a solid impact on a major problem, or more accurately, on a series of problems. Training needs are closely linked with the institution-building needs and the needs in the areas of Legal Information and Procurement.

If any progress is to be made in meeting the basic training needs in Economic Law and Procurement, care must be taken to integrate the trained persons back into an environment that will make the most of the education they have received. This concern will be given further attention in the analysis of training strategies in a variety of ways, including the sequencing of training groups. Training for the implementation of Economic Law and Procurement processes is important but it is the overall, holistic development of these areas which is the focus of this Project and which will lead to the desired outcomes.

A Model for Thinking

The assessment of training needs is difficult without a model for thinking about human and organizational performance. Such models provide guidance for analysis of complex situations. This is just such a situation. Without inflicting any grand theories on the users of this document, here is a brief description of a simple but very useful model: the Organizational Elements Model (OEM).

The Organizational Elements Model of Roger Kaufmann is, as its title indicates, principally oriented to the analysis of needs within a single organization. In this project, the model will be used to encompass a variety of organizations, and two fields of study that are also professions. In this case the model might better be called a Situational Elements Model. The utility of this model in thinking about Economic Law and Procurement is that it not only provides a framework for examining discrepancies (needs)..."What is" compared to "What should be"...but it can also later be used as an evaluation tool. The model looks like this:

WHAT SHOULD BE	**INPUTS**	**PROCESSES**	**PRODUCTS**	**OUTPUTS**	**OUTCOMES**
	Quasi Needs Gap	**Quasi Needs Gap**	**Need**	**Need**	**Need**
WHAT IS	**INPUTS**	**PROCESSES**	**PRODUCTS**	**OUTPUTS**	**OUTCOMES**

As can be seen there are five elements: (1) Inputs (Money, time, people, tools, equipment, materials); (2) Processes (activities that are used to turn inputs into products, outputs and outcomes); (3) Products, which are intermediate in nature (for example, a curriculum, a training manual); (4) Outputs (finished final products that remain within an organization or organizations. Example: a law student who receives a diploma in a university); and (5) Outcomes, which are final products out in society.

The OEM model has been loosely used throughout this paper to assist in the identification of discrepancies or needs which are, as can be seen in the diagram above, primarily the gaps between "What Is" and "What Should be" in the Products, Outputs and Outcomes elements.

While there are some overlapping elements in the Economic Law and Procurement portions of this Project, the assessment of training needs will be examined separately because there are major differences in subject matter and because it is simply neater to handle the two topics separately.

II. TRAINING NEEDS ASSESSMENT: ECONOMIC LAW

A. What is Indonesian Legal Education. An Overview

Indonesia's commercial or economic laws are very old; many were established in the 19th century and most were based on Dutch models established during the reign of that colonial power in the Netherlands East Indies. Many of these laws have not been significantly

255

amended since the colonial times. There are not even Indonesian language translations of some of the laws. Despite this, it has been argued that the foundations of Indonesian commercial law are sound. The foundations may be sound but the laws have not been able to encompass the modern developments in a rapidly growing economy. It has also been suggested that much of the criticism of Indonesian commercial law stems from "imperfect administration and enforcement" and is also closely related to the "insufficient commercial expertise within the legal profession (government lawyers as well as the private bar)". These two criticisms are important to the assessment of training needs in Economic Law. *1

Insufficient legal expertise is grounded in the substance and processes of legal education in general as well as education in Economic Law in particular. The problem is even deeper than that. Mardjono Reksodiputro, a well-respected Indonesian lawyer and educator, writes in an Indonesian language journal that "the problems of legal higher education are basically no different than those of general higher education in Indonesia" *2. The most fundamental problem is a teaching style in higher education that continues the "banking methods" of educational delivery found in the lower levels of the educational system (i.e. depositing knowledge into students much as one would deposit coins in a coin-bank). These rote-learning methods are particularly unsuited to the study of Law, where the ability to argue a case logically in court is the antithesis of rote-learning. Professor Mardjono decries the lack of creative thinking abilities in law school graduates and feels that many of them are merely "*tukang*" or technicians upon graduation from law schools. (This could be designated a "Process problem" in the OEM Model). One prominent lawyer, interviewed for this analysis, stated that upon interviewing newly graduated candidates for possible entrance to his firm, he repeatedly got blank looks and seldom an answer to the following question: "What does a lawyer do?"

Curricula and Quality

By way of introduction to this topic, it is useful to understand the various 'levels' and degrees awarded in the Indonesian educational system. They are as follows:

D-1:
D-2: These are three levels within the so-called "Diploma" programs. Diplomas are given for particular skills such as nursing, librarian assistants, engineers.
D-3:

S-0 This is the "*Sarjana Muda*" or Bachelor's Degree. This usually takes 3 years to obtain. It is slowly being phased out. In Law, the degree is called the "B.H." (Bachelors of Law Degree).

S-1 The "*Sarjana*" degree. This is a five year program, or 2 years beyond the Sarjana Muda. It is the Dutch version of a Master's degree. For Engineers this degree is indicated by the title "Ir"; in Economics the title "Drs" is used. For Law graduates, the degree is called a "Sarjana Hukum" or" S.H."

S-2. This is a graduate level program. Two years. A Master's (Magister) Degree is awarded. In Law, the degree is called a "M.H." or Master's of Law Degree.

256

S-3 The Doctoral Program. The student must pass through a Master's Degree program in order to obtain this degree. Indicated by the title "DR."

The low quality of law school graduates has been a problem for many years and certainly has not gone unnoticed. Efforts have been made periodically to revise the curricula of law schools and such efforts have been renewed recently, particularly in Economic Law. But the progress has been slow. There have been and are serious, committed teachers and lawyers in Indonesia who have shown great persistence and fortitude in trying to improve general legal education in the country. Several expatriates have also devoted much time to the improvement of legal education. But it is an uphill battle. Other related problems impinge on improvements in legal education.

One problem, noted by Professor Mardjono, is that there have been few formal relationships between the legal profession and legal higher education faculty. Despite the fact that many Indonesian lawyers also teach, academia and the legal profession often seem to go their separate ways. While informal interaction has provided some bridging between education and the legal profession and channels are beginning to open, more remains to be done.

Recognition of the quality problem among law graduates has accelerated during the past year. Articles on the subject by law school teaching staff have appeared in Indonesian newspapers as recently as January and February, 1991. *3 These articles apparently were written in response to concerns expressed by Indonesian Minister of Justice Ismail Saleh in December, 1990. The Minister noted that the problem was not new and had emerged among law graduates in the mid-1960s. Unfortunately, the quality problem has been occurring just as the economy has been growing and as the study of Law has become increasingly complex. Legal Education has sprouted a variety of new branches including Environmental Law, Forensic Law, Computer Law, International Economic Law, Economic Development Law and Business Law. The presence of economic aspects in most of these new branches of Law has been a reflection of the increasing attention being paid to Economic Law in the professional legal marketplace. The curricula in Indonesian Law schools did not keep pace with the changing times.

In general, the Indonesian Law schools have tended in the past to emphasize public legal issues rather than private sector commercial considerations. This is now beginning to change. The University of Indonesia is has already begun a course called Accounting for Lawyers and will begin a course in September on Patent Law and also possibly Tax Law.

The foundations of the overall law curriculum at the University of Indonesia come from the 1924 Dutch Rechtshogeschool (RH) curriculum with a few changes (additions of Cultural Anthropology and Bahasa Indonesia). But the foundations have been revised several times (See Appendix 6 for the 1982 Law Curriculum) and the modern, expanded law curriculum as presented in 1986 (See Appendix 7) contains a lot of what Professor Mardjono Reksodiputro refers to as "*kurang dalam*" or superficialness. Coupled with the sometimes limited reading abilities of the students, the curricular difficulties have mounted. One response of the students is to only study, in general, from notes and book outlines provided

by the teachers. The current curriculum, according to Professor Mardjono is too inward-looking and parochial. *4

The Law curriculum at the University of Indonesia is, however, generally regarded as the most progressive. The curriculum (See Appendix 7 for the Bahasa Indonesia version) is divided into seven parts or packages. Students must take 5 compulsory courses for the University of Indonesia, 18 compulsory courses for the Faculty of Law and then must take subjects in one of the seven packages or subject areas ("Special Programs"). These Special Programs are:

I. Civil Law
II. Criminal Law
III. Litigation
IV. Law and Economics (Begun in 1982)
V. Administrative Law.
VI. International Law.
VII. Welfare Law (or Public Interest Law).
This includes such topics as Environmental Law, and Housing law.

To get some idea of the relative popularity of these topics among students (as well as the numbers of graduates from the Faculty of Law at the University of Indonesia), consider the following data, organized per 'package', as of February 6, 1991, in Table 1. Compare too the number of graduates with the number of entering students in Table 2.

TABLE 1

NUMBERS OF STUDENTS IN MORNING AND EVENING COURSES, BY PACKAGE (SPECIAL COURSES), WHO HAVE GRADUATED THIS ACADEMIC YEAR UNIVERSITY OF INDONESIA

Package		Morning Courses	Evening Courses	TOTAL
I.	CIVIL LAW	33	10	43
II.	CRIMINAL LAW	2	3	5
III.	LITIGATION	8	-	8
IV.	ECONOMICS & LAW	13	4	17
V.	ADMIN. LAW	3	15	18
VI.	INTERNATIONAL LAW	13	-	13
VII.	PUB. INTEREST LAW	-	2	2
		TOTAL:		106

258

Note that Civil Law has the largest population because it is considered the easiest package to get through.

It should be noted that while 30 people were received for Master's Degrees programs in this past year, only 5 actually graduated. There were 5 new PHD Law graduates in the past six months (1990-91).

A State University Law Sub-Committee (Sub-Konsorsium Ilmu Hukum) headed by Professor Mochtar Kusumaatmadja, a former Dean of the Law Faculty at Padjadjaran University, a Minister of Justice and a Minister of Foreign Affairs, is currently pushing curriculum reform efforts in Indonesian legal education. The University of Indonesia's most recent curriculum reforms (such as upcoming courses in Economic Law) are being looked to as a model. It is uncertain, however, whether other State Universities and the many private law schools can or are willing to make the changes. Curriculum reforms are only part of the problems of legal education.

Obtaining skilled law faculty is also a problem. The monetary incentive to be a teacher of Law is very small. As Charles Himawan, Dean of the University of Indonesia Law School recently asked: "What does a faculty member do on the average salary in a law school here? The average salary of a Law School professor at the University of Indonesia is $100 per month!" Some professors are also professional lawyers. Others have other jobs to make ends meet. Obtaining faculty who are fully committed to curricular reform and their jobs is difficult in the Indonesian context.

.....

Teaching methodology, curriculum and relationships between higher education and the legal profession are all generic problems of legal education in Indonesia. But what of the specific conditions of Economic Law within the legal education field? What are the specific questions that must be asked in order to define the current conditions (What Is: Outcomes, Outputs, Products) in Economic or Commercial Law Education in Indonesia? The following is a short list of some of these questions:

1. (Outcomes): What is the current impact of legal education of Economic/Commercial Law today?

2. (Outcomes): What is the current state of Economic Law knowledge in:
   a. Government Ministries
   b. Private Law firms/the business community.

3. (Outputs): How many students graduate from law schools currently (or in the last few years) with a specialization in business/economic/commercial law? What percentage of the total of law students specialize in Economic Law?

4. (Outputs): What is the general "quality of knowledge and skills " among law students majoring in Economic Law in Indonesia?

5. (Products): What is the current state of the curricula on Economic Law in Indonesian law schools?

6. (Processes): What is the current process of Economic Law training in Indonesia? How is it taught; in what depth; for how long?

7. (Inputs): How many teachers in law faculties teach Economic Law in Indonesia?

8. (Inputs): What is the availability of educational materials (books, etc) for law students on Economic Law?

9. (Inputs): What funds have been/are available for the specific development of Economic Law skills in Indonesia (from the Government, universities, donor agencies)? Other inputs?
   a. For Government personnel? . . .
   b. Curriculum development/faculty development in law schools.
   c. Private lawyers already working in law firms?

These questions cover the key areas of concern for an assessment of the state of Economic Law as a field and the condition of training in Indonesia. As will be seen, however, obtaining specific, objective answers to these questions (particularly in the form of statistics) is extremely difficult. The assessment will of necessity depend more on qualitative opinions of resident Indonesian and expatriate lawyers and teachers.

There is some information available from the Ministry of Education (circa 1989) on the numbers of students (mahasiswa) and teachers (dosen) in the law schools of the state (public) universities. The following table gives an indication of the size of the academic efforts in legal education.

TABLE 2
STATUS OF LEGAL EDUCATION AT STATE UNIVERSITIES
(1989)

NAME OF STATE INSTITUTION	NO. OF LAW STUDENTS S-1	NO. OF LAW TEACHERS (BY LEVEL OF STUDENTS TAUGHT) Total	S1	S2	S3
Universitas Indonesia	1,575	155	126	22	7
Universitas Padjadjaran	1,152	133	115	8	10

- 260'

NAME OF STATE INSTITUTION	NO. OF LAW STUDENTS S-1	NO. OF LAW TEACHERS (BY LEVEL OF STUDENTS TAUGHT) Total	S1	S2	S3
Universitas Jenderal Sudirman	1,348	115	111	4	-
Universitas Diponegoro	1,772	125	105	14	6
Universitas Sebelas Maret	1,406	83	73	10	-
Universitas Gajah Mada	1,993	81	64	13	4
Universitas Airlangga	1,321	89	55	28	6
Universitas Brawijaya	1,459	96	73	22	1
Universitas Jember	1,581	78	68	9	1
Universitas Syiah Kuala	1,152	59	46	12	1
Universitas Sumatera Utara	1,194	139	125	8	6
Universitas Andalas	1,652	121	110	11	-
Universitas Jambi	1,233	68	65	3	-
Universitas Sriwijaya	817	80	70	10	-
Universitas Tangjungpura	1,305	71	66	5	-

261

NAME OF STATE INSTITUTION	NO. OF LAW STUDENTS S-1	NO. OF LAW TEACHERS (BY LEVEL OF STUDENTS TAUGHT) Total	S1	S2	S3
Universitas Lambung Mangkurat	964	56	54	2	2
Universitas Sam Ratulangi	1,963	131	131	-	-
Universitas Hasanuddin	1,710	101	89	8	4
Universitas Pattimura	1,003	42	38	3	1
Universitas Udayana	2,584	134	126	8	-
Universitas Mataram	1,862	83	72	11	-
Universitas Nusacendana	607	65	63	2	-
Universitas Cenderawasih	490	28	28	-	-
Universitas Tadulako	816	73	71	-	-
Universitas Bengkulu	536	42	32	10	-
TOTALS	33,495	2,248	1,976	223	49

*S1, S2, and S3 are levels of degrees. The numbers of law students listed here are the numbers entering the S-1 programs.

Data is taken from the Direktorat Perguruan Tinggi Negeri di Indonesia, 1989. Jakarta: Direktorat Jenderal Pendidikan Tinggi, Ministry of Education and Culture (DEPDIKBUD), 1990.

202

It should be noted that only six of these universities have graduate law programs: University of Indonesia, Universitas Diponegoro (Semarang), Universitas Air Langga (Surabaya), Universitas Gajah Mada (Yogyakarta), Universitas Brawijaya (Malang) and UNPAD (Universitas Padjadjaran (Bandung). Note that all of these programs are on the island of Java.

There are many law schools outside of the state university system. A listing of these private institutions may be found in Appendix 3. In general, the programs at these schools tend to be of lesser quality than those of the state institutions although there are a few good programs. The Universitas Tarumanegara in Jakarta, for example, will shortly be starting a graduate law program, a first among the private universities.

B. The Impact of Economic Law Education and Training

This section of the analysis will attempt to answer the first two questions above on the overall impact of Economic Law training as well as the specific knowledge and skills on Economic Law among government ministry personnel as well as in private law firms and the business community. In order to do this, three levels or phases of needs analysis will be considered: (1) the organizational level, (2) the operational level and (3) the individual level. *5

Organizationally, the concerns of senior managers in relevant government and private organizations are usually identifed through interviews in terms of discrepancies between performance and goals. The economic and social analyses section of this Project Paper addresses many of these concerns. Nevertheless, it is important to state again that important figures in the Indonesian government see that organizationally "what is" in relevant ministries is not adequate to efficiently cope with the demands of a modernizing, growing economy. They do see that what does exist is affecting and will affect organizational performance in the specific ministries and that this can also make a difference in foreign investment. They see that building the capabilities of the ministries is important.

They would agree with Peter Senge in his recent landmark book on Management called The Fifth Discipline, that they do not have "Learning Organizations" in important parts of the government. The concept of "The Learning Organization" is an important one and fits very well not only with the intent of this Project but also with the focus of training needs. A "Learning Organization" is:

"an organization which is continually expanding its capacity to create its future." *6

243

Organizationally, if the ministries most directly connected with Economic Law are not as yet continuously expanding capacities to create their futures, then there is a problem or problems which training can help address. This concept is particularly important in considering the sustainability of any training plan and will be referred to again later.

1. The Private Sector Situation

In private sector organizations too, at the organizational level of analysis, there is a perception that current performance in economic or commercial law is less efficient than it should be. This of course is related to many factors outside of training. Nevertheless, interviews with private lawyers in Indonesia, some of whom are also teachers of law, show that there are not enough law firms with "the capacity to create their own future" at the present time. Law firms that deal in international business law (and which often have connections with foreign law firms), are few in number (perhaps only a dozen) and are the exception to the rule because of their solid resources.

It is important to understand at this point the different types of lawyers present in Indonesian society. First, there are law graduates (and there are many of these, although the exact number is not really known), judges, prosecutors, public attorneys, legally trained bureaucrats, government lawyers (in the legal bureaux of Government Departments; it is difficult also to learn the exact numbers of these personnel but per Department there would be no more than ten), lawyers who are academicians, and finally private lawyers.

Understanding the different categories of lawyers in Indonesia is also helpful. They are as follows:

1. Notaries (or Civil Law Notaries): These are public officials in the sense that they don't represent clients. They receive graduate training for this. Notaries are generally well paid and do such things as register deeds and process deeds of incorporation (of companies).

2. Advocates: These are law graduates who have passed a test and are licensed by the Supreme Court. They are litagators. They are independent and respected. A bestguess on their numbers would be between 1,000 and 1,200. Their numbersare limited by a per province quota of "slots".

3. *Pengacara:* (which literally means "Procurers"). These are also litagators, but they have lesser qualifications than the Advocates. They do have a law degree (an S.H. or Sarjana Hukum) and are licensed by the high court in each province. They do not, however, have to pass a law test.

4. *Pengacara Praktek* (or POKROL): These persons might in other circumstances be called 'bush lawyers'. They have licenses like the Pengacara but they are not law graduates. They have adopted the profession of litagation but don't have the qualifications to be a 'lawyer' (it is currently being questioned whether the term 'lawyer' should even be used for these persons).

Note: In Indonesia, there is no requirement that you have to be a lawyer to appear before a court.

5. Consulting Lawyers: This is a new group of lawyers, and the fastest growing group as well. These are corporate or business lawyers; they work in law firms and consult to the business community. They do not really go to court, at least by choice.

6. Company Lawyers: These are lawyers who are employees of companies and deal with the legal mattters of those companies.

Categories 2 through 6 are all potential targets for a Commerical Law project with the possible exception of *Pengacara Praktek*, given their questionable status. The private sector in general (and private lawyers in particular) constitute a prime audience for this project.

At the second level of analysis, Operational Analysis, training needs come into better focus. While no in-depth task analyses can be performed in the time frame allotted for this study in order to capture discrete behaviors, interviews with public and private sector persons having interests in Economic Law as well as documents prepared especially for the project confirm that legal training in Economic Law is not having a strong impact on organizational operations.

In the study, *Restraints of the Indonesian Legal System on Commercial Development: Selected Solutions and Priorities* (December 6, 1990), the author first describes what private sector business lawyers must do in operational terms. Commercial lawyers are seen to be "problem-solvers" and are required to understand the facts of the client's problem, locate applicable laws, analyze how the law applies to the client's actual circumstances and give advice based on the conclusions of the analysis that has been made. *7

A second major portion of the commercial lawyer's work is the drafting of documents dealing with commercial transactions. This requires a thorough understanding of the clients' factual problems and the Indonesian laws that can be applied to these problems.

A business lawyer also has to prepare legal opinions to be given to third parties dealing with the lawyer's client. This is particularly important, for example, in loan transactions, where a debtor's lawyer must issue a legal opinion to a lender that the debtor has been incorporated and has the proper licenses to conduct businesses.

"What Is" at the present time, however, is totally different. The author of the above report outlines the current conditions:

265

"One significant problem faced by the private sctor is finding qualified business lawyers who can assist them (in the above process). It is a general impression that graduating law students are not trained adequately as business lawyers. This may be a result of a curricula which focuses more on public law and public legal issues rather than private sector commercial considerations." *8

This study lends credence to the earlier observation that newly graduated law students did not know what a lawyer actually did in a commercial law firm.

In practical terms, this all means that practicing lawyers may not always understand business objectives, which can lead to both poorly drafted contracts and bad advice to the client. Again, poor training is not the only problem; lack of clearly defined laws and regulations (or the total lack of them) -- is a major factor. In cases where international transactions are involved, inadequate foreign language training relative to that of other professionals is definitely a hinderance. It should be noted too that the professional legal community in Indonesia consists not only of lawyers but also of a large body of notaries who hold, as in other civil law systems, a place of special importance. (No reliable estimate of the number of practicing lawyers and notaries currently exists but they probably number only a few thousand. It is also difficult to say how many of these lawyers could be called "corporate lawyers"; no such data really exists). The Notaries too lack in commercial law skills.

What are the training needs of lawyers, particularly lawyers working in the business sector (as 'Business Consultants')? Some of these have been indirectly indicated above. They include the following skills; some are specific to Commercial Law, others are more general but still highly important.

1. Legal Research and Analysis Skills
2. Legal Writing/Drafting Skills (Legal Documents: Contracts etc.)
3. Identifying/understanding clients' legal problems
4. Preparing legal opinions for 'Third Parties'
5. Negotiation Skills
6. Accounting Skills
7. Business Finance Skills
8. Creative/Critical Thinking Skills (re. Thinking like a Business Person)
9. Foreign Language Skills (for selected lawyers dealing with international clients and/or subject matter).
10. Cross-Cultural Skills (for same target audience as 9).
11. Interpersonal Skills for the Lawyer
12. Reading Skills (including Speed Reading)
13. Questioning Skills
14. Indonesian language skills (writing/speaking)
15. Use of computerized legal information systems

There are important Knowledge Areas for lawyers working in the commercial world as well. They include the substantive areas covered by existing as well as forthcoming economic laws: Patent Law, Trademark Law, Company Law, Merger and Acquisitions, Intellectual Property Rights, Real Estate and Land Law, International Commercial Transactions, International Commercial Law, Joint Ventures, Consumer Protection, as well as Business Finance, Economics, and Accounting.

The perceptions in the business community of the need for commercial law development vary with whom one talks. "Life goes on" in the Indonesian business world despite the difficulties of getting things done. The loudest voices in favor of reform come from foreign business people, particularly Americans and Europeans, who find the delays and complexities of dealing in the Indonesian context both frustrating and expensive. They would like the rules of the game made clear and the way made straight. Many local business people have been living with, patiently, the process as it exists and they work through it and around it.

It is important to remember that Indonesia has been, and still largely continues to be, an "oral culture"; writing things down with clarity and precision is not a 'given' yet. One anthropologist compared the subtleties of Javanese culture to the traffic patterns of Yogyakarta; they were not logical and precise but rather circuitous and 'irrational' from a western perspective. But the traffic flowed relatively harmoniously if not particularly efficiently. The modern world has been catching up with the business operations of Indonesia (or vice-versa), however, and the need for business efficiency is slowly being recognized as important to the future of the business community and the Indonesian economy as a whole. It is important for this project to recognize, on the other hand, that cultural values are not not going to be instantly changed and that there are many business people who would like, for a variety of reasons (tradition, culture, slippage) that commercial law not become too rational. Even if the laws are clarified concerning commercial transactions, culture and habits are not going to change as fast.

In universities, organizationally, there are goals to increase the performance of Economic Law faculty but, as has been seen in the analysis of the state of legal education, the goals are limited by resources and the limited resources are barriers to performance.

At the organizational level, then, there is currently a weak impact being made by education and training in Economic Law. This is not to say that Indonesian organizations...government, private and academic... are not functioning with the present training capabilities. They are, and the economy is growing rapidly. In terms of expanding the capacities to create their own futures, however, limitations are perceived by important and far-sighted persons in the top ranks of government as well as in the private and academic sectors.

---

2. The Public Sector Situation

The operational impact (or more accurately, the lack of impact) of Economic Law training in the public sector has been noted in a number of studies. In the case of government legal officers, this means that economic regulations are sometimes drafted without enough understanding of the underlying business issues and concerns. The implication is that this leads to either ineffective or harmful rules. *9 While it is difficult to actually determine the number of government legal officers who are competent in Commercial or Economic law, one estimate by a prominent government official is that the number may only be about a "handful".

Another part of the Economic Law infrastructure in the public sector is the judiciary. The Indonesian judicial system is composed of District (Kabupaten) Courts, High Courts (at the provincial level) and The Supreme Court. The Kabupaten courts handle all matters of a civil or commercial nature in addition to criminal cases. (It should be noted that there is no specialization in the Indonesian judiciary and judges must handle whatever cases are brought before them). The High Courts and the Supreme Court are appellate bodies. The Supreme Court consists of 51 judges who are organized into 17 chambers of 3 judges each. Cases in the High Courts and the Supreme Court are tried before these three-judge panels. There is now being established a system of administrative courts, with trained administrative law judges. The administration of the court system is under the jurisdiction of the Ministry of Justice. The Ministry controls the budget and the posting, transfer and promotion of judges. The judges are part of a professional judiciary that are trained and recruited out of law school.

The courts are the primary institution for resolving commercial disputes, and from an operational perspective the courts suffer from a number of problems. One problem that has been clearly identified is that the Indonesian court system is very much overburdened with cases and most of the cases are of a non-commercial nature. A second operational problem, however, relates directly to training. Many judges apparently lack sufficient business expertise and this has led to decisions that have been perceived as "commercially unreasonable". *10

At the very bottom level of analysis -- Individual Analysis -- of the impact of Economic Law training, normally employees (in this case of law firms and the government) would be evaluated on their performance on specific tasks (such as the tasks for commercial lawyers delineated above). This again is obviously beyond the scope of this assessment and almost no studies exist on this topic.

3. The Practice of Law: Status.

It is important to note that the practice of law in Indonesia is not highly regarded as a profession. As one Indonesian law student who studied in Holland said:

"When I graduated from Leiden--, I let my family know that I intended to become an advocate. They were very much against this..It was sinking to a very low level. Government was proper..the *Pamong Praja*.. but certainly not law practice." *11

A university thesis, by Emmy Yuhassarie at the Universitas Airlangga in Surabaya, Indonesia (1984) surveyed a group of law professionals and found that the skills seen as most important to lawyers were, in order of importance: (1) Legal Implementation, (2) Legal Interpretation and (3) Legal Reasoning. *12 But given the reactions of Indonesian and expatriate lawyers to the quality of skills related to Economic Law presently available in the marketplace, it would appear that Implementation, Interpretation and Reasoning by new lawyers has not yet reached a high standard. The presence of many "*tukang*" or technicians but a dearth of creative, thoughtful lawyers in the public and private sectors has been previously noted.

The current status of Economic Law knowledge and skills in the Government, the Courts and in the private sector indicates that training and overall legal education has not had a strong impact. As improvements are made in legal education directly related to Economic Law, it expected that the existing performance gap will begin to narrow. This will take resources and it will take time. Resources in the form of donor assistance (Inputs), however, have been flowing to the legal education sector in general for a number of years and it is important to examine the type and amount of these resources as part of this assessment process.

C. Prior Donor Assistance: Its Shape and Impact

Three long-term contributors to the development of Indonesian Law and to legal education have been (1) The Asia Foundation (with USAID funding), (2) the Dutch Government and (3) The Ford Foundation. Many of the efforts have been related to Training in general and some have been and are directly related to Economic Law.

The Asia Foundation's Law Programs in Indonesia began with the Indonesian Legal Services program in 1979-1980 and included a number of publication production programs (law books, microfiche collections of laws and regulations) as well as support for clinical legal education programs at four law schools. They also sponsored in-country scholarships for university law lecturers (Masters and Doctoral programs) and in-country training programs for Supreme Court judges. The Foundation has sponsored a number of other assistance programs to the legal and legal education professions over the past decade.

Presently, the foundation continues to sponsor such activities and three of these are directly related to Training and to Commercial Law. These three activities include (1) Judicial

-269

training in commercial law and preparation of practical Indonesian language reference books for sitting judges in various aspects of commercial law; (2) a pilot project at the University of Indonesia to introduce new fields of commercial law into the curriculum (with courses taught by practicing attorneys); and (3) training and seminar programs and the provision of American consultants to assist the new Directorate-General for Patents, Copyrights and Trademarks. In addition, a fourth activity relevant to the overall development of legal education in the country has been the sponsorship of the most recent annual meeting of Law Deans (one of a series of such meetings sponsored by the Foundation) which focused on the issue of curriculum reform, especially the need to make the law curriculum more practical, more professionally oriented and more relevant to the needs of law firms and private businesses (See Appendix 8 for a complete listing of Asia Foundation law activities in Indonesia).

These most recent activities in Economic Law education would seem to provide an excellent base upon which to build the training structure of this Project. The Asia Foundation's activities have provided a continuing but modest flow of assistance in legal education and law development. This assistance should not be underestimated. The Foundation has given assistance to the field of Law in this country and supported a steady stream of useful activities when few others were interested. The total amount of direct assistance from 1979-1991 in monetary terms is about $1.9 million; if the Foundation's other expenses (e.g. salaries) devoted to these tasks are included the amount rises to approximately $2.75 million.

From the perspective of the Asia Foundation, the biggest problem, vis-a vis their legal education efforts, has been the ambivalence on the part of the Indonesian government on law reform in general until recently. A new seriousness has now appeared, it is felt, due to the perceived connection with economic development issues.

The Government of the Netherlands has also assisted Indonesia with legal education, providing assistance in the form of technical advisers as well as sponsoring Indonesians to study Law in Holland.

The history of Dutch support for legal development is much shorter than that of The Asia Foundation. Although there was a small fellowship program during the 1970s, the bulk of the assistance began only in 1986 and is continuing today. In monetary terms this assistance amounts to approximately two million dollars per year.

The Dutch assistance is handled through the independent Netherlands Council for Cooperation (which is solely supported by the Dutch government) and focuses on three Project components: (1) in the Ministry of Justice; (2) with the Supreme Court; and (3) with the State Universities through the *Konsorsium Ilmu Hukum*. The work of the Dutch continues the continuity of legal tradition established in colonial times (many laws are still written in the Dutch language).

In the Ministry of Justice component of the assistance work continues on several activities. First, there has been the training of "Legislative Drafters". This training was at first

administratively conducted through BPHN (the National Law Development Center) but now is done at the Training Center (*PUSDIKLAT*) of the Ministry of Justice. The training has been done through four and one half month courses and conducted with Indonesian teachers. The second activity supported by the Dutch is the "Codification of Laws" or "Academic Drafts" for sections of the civil code. Mortgage Law (on Land) has been produced in this process so far and is relevant to the Economic Law efforts of this project. A second academic draft is being produced on Purchase/Installments Law (for consumers). It is interesting to note that this work is not actually done by BPHN staff but rather is sub-contracted to persons outside that agency.

In the Supreme Court component of the Dutch support, a major activity since 1987 has been a training program for all judges in Indonesia; the training programs are very short (one week), case-oriented and designed to be a catalyst for judicial improvement. Appeals Court judges are training first and they become part of a training cadre for the District (*Kabupaten*) court judges. A total of 2,800 judges will have completed this program by the end of 1991. Additionally some judges participate in a three month "Specialized Course" in Holland. As a part of the course they prepare a small book on a specific legal topic and this book becomes a part of the course material for training programs in Indonesia. A training course for Administrative Judges provides a small amount of training in Holland but most of it takes place in two week training programs in Indonesia. Another activity started five years ago is the implementation of a Legal Data Bank for the Supreme Court as well as a Case Tracking system.

The third and final component of Dutch legal assistance concerns the State Universities and particularly the upgrading of faculty. The assistance is carried out through the State University Law Consortium (*Konsorsium Ilmu Hukum*) and focuses on five areas of law: Commercial Law, Civil Law, Criminal Law, International Law, and Law and Development (Legal Sociology and Anthropology). It should be noted that the Consortium has divided these topics among five different universities as "centers." Commercial Law has been assigned to Gajah Madah University in Yogyakarta. Commercial Law efforts have been acknowledged to have had a "slow start" with few workshops held. Last year four two-week courses in Commercial Law were conducted (50-60 faculty members each from different State Universities participated in these courses). In addition to these training activities, the Dutch also support the preparation of law textbooks in Bahasa Indonesia. A Legal Dictionary in Dutch-English is also being prepared. The numbers of people trained in the university-focused portion of the assistance appear on the following page.

A synopsis of the numbers (roughly) of persons trained to date in the Dutch law programs has been supplied by Peter Evers, of the Netherlands Council for Cooperation with Indonesia in Legal Matters. This information is presented in the following table:

TABLE 3
NETHERLANDS TRAINING ASSISTANCE ON LEGAL MATTERS
Number of Participants (Estimated)

TRAINING FOCUS	NUMBERS OF PERSONS TRAINED
Legislative Drafting Training	Approximately 130 government staff from various institutions have received training (about 40 o: these were trained in the Netherlands between 1987 anc 1990).
University Program	Approximately 300-350 mid-level university lecturers have participated in one course or another; most of them have followed two consecutive courses. (See following table or *Penataran* courses).
PHD. Research in the Netherlands	Between 1986 and 1991, approximately 50 university teachers have received fellowships (for 9 months); 10 of the 50 teachers have already received PHDs.
Training Administrative Judges	13 Supreme Court Justices have done research and study in the Netherlands; a training program for lowei administrative judges in Indonesia is just beginning.

The *Penataran* ('Summercourses') noted above have been a key mechanism in the Netherlands program for upgrading the staff of the law faculties. The table below lists the field of study and the total number of participants by gender in these courses. They are held once a year.

TABLE 4
PARTICIPANTS IN PENATARAN COURSES
1987-1990
Netherlands Inter-University Program

FIELD	DATES	NO. OF PARTICIPANTS		
		Male	Female	Total
1987				
1. Civil Law (Yogyakarta)	13-26/1/87	20	10	30

272

FIELD	DATES	NO. OF PARTICIPANTS Male	Female	Total
2. Intl. Law (Bandung)	13/7-1/8/87	31	2	33
3. Admin Law (Bandung)	10-22/8/87	27	4	31
4. Criminal Law (Semarang)	10-28/8/87	30	11	41
5. Civil Law (Medan)	31/8-12/9/87	13	9	22
6. Criminology (Surabaya)	2/11-14/1/87	26	3	29
1988				
7. Civil Law (Ujung Pandang)	5-16/1/88	20	9	29
8. Criminal Law (Lampung)	4-24/7/88	28	9	37
9. Commercial Law (Yogyakarta)	8-21/8/88	23	10	33
10. Civil Law I (Semarang) (for Java, Bali, Lombok)	22/8-3/9/88	27	8	35
11. Civil Law II (Yogyakarta)	28/8-10/9/88	17	10	27
12. Criminology	31/10-12/11/88	21	8	29
1989				
13. Civil Law II (Medan)	10-20-1/89	18	11	29

273

14. Commercial Law (Palembang)	6-17/2/89	30	14	44
15. Admin. Law	10-15/7/89	35	4	39
Environ. Law (Yogjakarta)	17-22/7/89	33	9	42
16. Civil Law II (Ujung Pandang)	17-29/7/89	14	8	22
17. Criminal Law (Kupang)	31/7-19/8/89	20	4	24
18. Commercial Law (Surabaya)	20/8-2/9/89	30	13	43
19. Intl Economic Law (Bandung)	18-27/9/89	13	5	18
20. Labour Law (Bandung)	7-19-/8/89	23	5	28
21. Criminology (Padang)	30/10-11/11/89	22	8	30
1990				
22. Civil Law II (Denpasar)	3-14/1/90	23	5	28
23. Law of the Sea (Bandung)	8-20/1/90	15	0	15
24. Commercial Law (Solo)	5-16/2/90	27	10	37
25. Admin. Law (Surabaya)	9-22/7/90	31	5	36
26. Criminal Law (Purwokerto)	1-21/8/90	20	6	26
27. Intl Econ. Law (Bandung)	2-10/10/90	16	5	21

224

Please note that four courses on Commercial Law have been held to date (1987-1990) in these *Penataran.*

Principal problems identified by the Dutch with their work to date include the following:

(1) The final responsibility for project coordination and supervision has become unclear (originally the coordinating body was a "Consultative Forum" chaired by SEKNEG or BAPPENAS but in September, 1990, the Ministry of Justice issued a decree forming the "Indonesian Committee for Legal Cooperation with the Netherlands". This is under the charimanship of the Ministry of Justice with BAPPENAS and SEKNEG only acting as advisers.

(2) The organizational complexity of the cooperation program (many indivdual sub-programs with various independent Indonesian counterparts) puts a heavy burden on the the Dutch counterpart in terms of coordination, management and administration.

(3) Limited knowledge of English and Dutch in Indonesia hampers effective transfer of knowledge.

(4) Lack of funds and organizational flexibility on the Indonesian side often makes it difficult to set up counterpart teams capable of continuing activities after the Netherlands assistance is finished. (A problem of sustainability).

(5) In addition, the project's activities often slow down career development by the Indonesian counterpart staff thus lessening their overall motivation. A suggestion to improve this condition is that the Indonesian counterpart organization must provide full-time staff and that project activities must provide opportunities to advance the career opportunities of the staff rather than holding them back.

These problems provide extremely relevant lessons to the project under consideration here.

The third donor agency, the Ford Foundation, began its efforts in the area of Law in 1977 but has done very little that could be directly associated with Commercial Law. The Foundation did support a steady stream of law and legal education activities during the 1970's and early 1980s however. Most of the grants were small (see list of projects and grants in the following table). Today the Ford Foundation continues to support some important activities that are related to law under the general heading of Human Rights activities. For example, it supports a Women's legal Education Program through two NGOs (*LBH: Lembaga Bantuan Hukum* or Legal Aid Foundation; and UWK). Total worth of this grant is $40,000. The are also giving assistance on Environmental Law through Gajah Mada University in Yogyakarta.

TABLE 5
FORD FOUNDATION ACTIVITIES IN LEGAL MATTERS
INDONESIA

ACTIVITY TITLE	ACTIVITY DATES	FUNDING AMOUNTS
Legal Education and Research	Sept. 1972-Sept., 1974.	$13,400
Support of Legal Aid. Universitas Padjadjaran	August, 1973-August, 1974	$ 5,000
Legal Documentation Center University of Indonesia	July, 1977-June, 1979	$69,000
Seminars on Maritime Law	1978-1979	$2,241
Legal Documentation Center University of Indonesia	April, 1979-September, 1981	$23,600
University of Syiah Kuala, Aceh -- Adat Law	December, 1982-July, 1983	$ 6, 141
Legal Aid Grants	June, 1982-March, 1984	$16,200
Women's Legal Education Program (Re: Family Law)	Present	$40,000

Both The Asia Foundation and The Ford Foundation efforts have been modest in monetary terms but very important in that they have provided definite, continuing support for carefully focused activities in legal and legal education development. The Dutch efforts since 1987 have been on a much larger scale and continue, with a long-term perspective, to contribute significantly to legal education and law improvement in Indonesia.

C. WHAT SHOULD BE: TRAINING AND EDUCATION IN ECONOMIC LAW

From the previous examination of the current status of legal training and education in Indonesia, and focusing particularly on the Economic Law, it has been seen already that numerous gaps exist between what is and what should be. Here we will briefly review what the situation in terms of Economic Law training should be, not necessarily in "the best of all possible worlds" but in the real world of Indonesia.

226

The areas of focus are: (1) the Government (legal officers inside the various Departments); (2) the Judiciary; (3) Academia (Faculty, Curriculum, Teaching methodologies--all of which focus on the students), and (4) the Private Sector (lawyers and business people).

Government officials in the Departments must be able to understand the substance of Commercial/Economic Law, particularly in those Departments where such understanding is of high economic significance: the Ministries of Trade and Industry, the Ministry of Finance, EKUIN and of course the Ministry of Justice. SEKNEG (Sekretariat Negara) too must have officials with a thorough grounding in many aspects of Economic Law as well as legislative drafting. As noted earlier, Indonesia has continued to grow despite the lack of such training but as the planned new laws (Company Law, Patent Law etc) fall into place in an effort to clarify legal processes, the greater will be the need for informed officials in the Government Departments. Many of these officials will have to interface with a legal community and business community which will (hopefully) be better informed on Economic Laws. (For examples of specific topics that government personnel must learn, see the list of topics under academia below).

The Judiciary too, despite some recent assistance in Commercial Law training to the Supreme Court, must become much better acquainted with Economic Law in order to cope with commercial cases in a well-informed manner. As new laws are promulgated and old laws clarified, the urgency to train other parts of the Judiciary becomes greater. As the economy becomes larger and more complex, the number of commercial cases is also likely to increase.

In academia, the universities need to present modern, up-to-date courses on a variety of Economic Law topics. These topics must include:

1. Company Law
2. Patent Law
3. Trademark Law
4. Copyright Law
5. Foreign Investment law
6. Financing Law
7. Arbitration Law
8. Mergers and Acquisitions Law
9. Consumer Protection Law
10. Secured Transactions Law
11. Bankruptcy Law
12. Leasing Law
13. Private International Law and others

Such "practical" courses are already becoming popular because students are seeing there will be a market for skills in those areas. Again, as new laws are put into place, students will have to be presented with courses that cover the new information. This requires an increased pace of curricular reform and it requires a trained faculty. The faculty will have to have graduate training in Economic law topics. And faculty must gradually move away

from the traditional, spoon-feeding of information to students and rather learn new methodologies of helping students to learn in active and dynamic ways.

The number of academic institutions presenting Economic law topics will have to increase to meet the anticipated demands of students. Printed learning materials will have to be produced to more clearly explain many of the new topics.

In the private sector, what "should be" are a large number of lawyers who are able to work in either or both the domestic and international areas of Economic Law. They must first, of course, have more accessible legal information but they also must have the skills upon graduation from Law School that enables them to practice "Business Law/Corporate Law/Commerical Law/Economic Law" without the huge amount of additional education now required (through only a few well-to-do law firms in Jakarta) to bring them to a standard of legal practice required in a modern business world. The private business lawyer must be able to accomplish all of the tasks outlined earlier in the paper as basic to the implementation of Commercial or Economic Law.

All of the above "What should be" will not happen in a six year project but it could happen in the next ten to fifteen years, given concerted efforts by the Government, academic institutions and particularly donor agencies.

D. THE TRAINING GAP: WHO NEEDS WHAT AND WHY -- AN OVERVIEW

It is obvious that the training gap is large. It is obvious that in a six year project with funds covering a variety of activities, not everything will be done that should be done.
But training is important and it is obvious that an important impact must be made. The question for review here is: who needs what and why? The question of "when?" is also important.

A brief list is in order:

TABLE 6

WHO ? needs	WHAT?	WHEN? and	WHY?
Government Department Legal Officers	Economic Law short courses on selected topics (see above).	As soon as possible. Some course topics will have to be developed following passage of laws.	Cope with clarified old laws as well as new ones. Be able to administer laws, deal with private sector, explain to public.

228

Judiciary, particularly younger judges at *kabupaten* (district level). Future Economic Law cadre.	Economic Law short courses.	As soon as possible for short courses in Indonesia.	To be able to knowledgably rule in anticipated legal decisions in economic law old and new.
Academia. Faculty	Curricular reform Short course training in economic law topics in Indonesia. Technical assistance with training methodology in conjunction with short courses (above). Few selected for overseas training in Commercial Law specialties.	Long-term support. During life of project, sequenced as curricula are developed and new laws developed.	Law schools are the foundation of legal training. Changes must be made to improve overall quality of economic legal education.
Law Librarians	Masters Degrees for a few selected individuals (U.I. + BPHN)	Long-term	Expanding law libraries require increased skills. More organized access.
Private Sector Business and Legal Communities	Seminars sponsored for fees.	As soon as possible after clarification of new laws.	Expanding public knowledge of legal information.

SEKNEG + Govt. Dept. Legal Bureaus + Ministry of Justice Legislative Drafting Directorate	Legislative drafting short courses	As soon as possible	Speed up legislative drafting process
Legal Information Users (University of Indonesia faculty, students + private sector users) + Govt. Legal Bureau personnel	Short courses	Upon legal information set-up	Implement information availability

Note: Among government officials, short-course training should be given to relevant high level officials first.

The question of "who" should be trained deserves some attention in terms of the availability of candidates for each type of training. In brief, the judiciary (young judges) would be available for longer term overseas training on a selected, and probably rotating basis in order not to take too many of them away from their jobs. Government officials would be available for short courses and seminars on relevant topics and would be selected on the basis of the importance of a particular topic for their work. Legal information system users would be available in relevant government offices first and then through short workshops, probably on a fee basis if from the private sector. SEKNEG personnel would be available on a selected basis and have asked for training in legal drafting. In summary, Needs as related to Training requirements (the gap between "What Is" and "What Should be") exist basically as follows:

TABLE 7
ECONOMIC LAW

PRODUCTS	OUTPUTS	OUTCOMES
Curriculum Reform (Law Schools)	Private sector lawyers and business people complete Economic Law workshops and seminars.	Private sector has clear understanding of Economic Laws.
Training and Training materials for civil servants, private sector, faculty, and others.	Selected SEKNEG + other personnel complete legislative drafting short courses.	Legislative drafting process in government proceeds more rapidly and effectively.
	Faculty complete upgrading in Economic Law topics (Selected).	Students in selected university Law Schools receive in-depth education in wider variety of Economic Law topics.
	Selected Law Librarians complete Master's Degrees in Law Librarianship (U.I./BPHN).	Law libraries better organized and more accessible re growing interest Economic Law materials.
	Potential users complete mini courses on how to do research in automated information system (Private/Govt/U.I.).	

III. TRAINING NEEDS ASSESSMENT: PROCUREMENT

A. What Is: Status of Training and Education in Procurement

The Indonesian government system is divided into five principal levels: (1) National, (2) Provincial, (3) District (*Kabupaten*), (4) Sub-District (*Kecamatan*) and (5) Villages (*Desa*) with slight variations in urban areas. A recent report commissioned by USAID/Jakarta (1990) describes the Indonesian procurement system and notes that it often deviates from good practice, especially at the provincial and *kabupaten* (District) levels.

Among the problems identified in the above report are lack of a real procurement institution or integrated administrative system to carry out basic rules and procedures, existing laws which leave many decisions to the unfettered discretion of officials and incompatibilities

281

between the Indonesian procurement system and that required by foreign donors and lenders in projects which they finance. Especially pertinent here is the problem of engineering and technical, project management, and procurement functions that are "often poorly performed or not performed at all because of the lack of properly trained people or lack of Government resources."

There are a number of sub-problems directly related to the poor standard of procurement personnel in the government. The frequent turnover among public servants and the lack of regular practices for handing over project responsibilities are serious impediments to the procurement process. The absence of procurement manuals and and standardized or model documents is a major handicap; there is lack of knowledge about the procurement laws that do exist. Further, there is no regular guidance as to how procurement should be carried out, especially at the lower administrative levels of government.

It is difficult to know exactly how many people in the Indonesian government deal with Procurement. One estimate is that there are almost 2,000 people at various levels involved in the procurement process. The Department of Public Works, however, wants to train 4,800 of its personnel in Procurement. Another estimate is that only about 100 people have even adequate competence in procurement systems. It has been suggested too that there is a difference between meeting donor expectations and actually knowing how to do procurement.

One of the departments with the largest amount of procurement responsibility, the Department of Public Works, employs five-person teams to oversee each of the projects in which it is involved (800 projects per year at the present time). On each team are several types of technical officers including a Logistics officer as well as a sociologist/anthropologist. No one on these teams is specifically charged with the administrative and oversight function related to procurement. The Department of Public Works already has, however, a curriculum and syllabus for training its personnel on procurement for World Bank-funded projects.

It is important to note that training in Procurement is happening in several quarters and to various degrees. The key players are the Ministry of Public Works, PERTAMINA, PLN, and, through LAN (*Lembaga Administrasi Negara*), the National Administration Foundation, which does training programs for project managers.

The biggest player in Procurement, and Procurement training, is the Department of Public Works. Any thought that training on procurement is somehow not happening in Indonesia should be quickly erased. The Department has six regional training centers (in Medan, Bandung, Jakarta, Yogyakarta, Surabaya and Ujung Pandang) with dining rooms, dormitories and audio-visual equipment. There is an additional training facility in Bali. These training centers are the sites for many different types of training, including training on procurement processes and regulations.

The Department of Public Works conducts procurement training covering three major subject areas: (1) Procurement/Provision of Consultant Services, (2) Procurement of Civil Works (3) Procurement of Goods. The basic objectives of these training programs are for personnel

282

of the Department (and other agencies) to understand procedures, understand agreements, and understand new regulations.

Training sessions are generally limited to 30 people. Approximately 30% of the training time is spent on presentations while the other 70% is used in analysis and discussions of case studies about procurement problems.

The Department has an excellent base of training materials on Procurement. These were developed with World Bank assistance in 1987 (through the Training Programme for Development of Project Management Capabilities) and they consist of 38 modules divided into the three subject areas noted above. The Guidelines from the Asia Development Bank and the World Bank are part of the training program since this Department deals heavily with these international organizations. The materials appear to be very thorough. As an example, the training materials on the provision of construction services are divided into seven modules:

1. Introducing the Provision of Construction Services
2. Pre-Qualifications
3. Tendering Documents
4. Tendering and Evaluation (ICB) for large Contracts
5. Tendering and Evaluation (LCB)
6. Contract Clarification and Mobilization
7. Contract Requirements

The modules all contain pre-made handouts for the participants (including case studies) as well as pre-made materials for transparencies. There are also trainer's manuals (pedoman). In other words, this appears to be an exceedingly complete set of training materials. A set of some of these materials (on the provision of construction services) has been obtained by the author and will be left with USAID (please note that the manuals are in Bahasa Indonesia although there are sample contracts in English). These training materials look basically very good; the World Bank has assisted in laying a very good foundation in the Department. With such good materials available, this project should not try to reinvent the wheel. That is not a need, although modifications may be needed for other types of procurement not falling under the rubric of ADB and the World Bank. A good base of materials exists. (See Appendix 9 for a concise syllabus and curriculum covering the three major subject areas [Consultant services, Procurement of Civil Works, and procurement of Goods] and Appendix 10 for a sample training schedule from a January, 1991 training program. These are in Bahasa Indonesia).

There are problems with the actual implementation of the training however. Each module is supposed to be for a seven day program. Because of lack of funds, each module is covered in only two days. The Department's training staff admit this is really too fast but do the best they can. They usually cover three modules in six-day training programs.

There is a need and that is for training itself. The funding problem has definitely limited how many people can be trained. Since 1987, the Department has trained on the average

slightly more than 100 persons per year. Last year the Department trained 164 persons from various parts of the country in procurement (in three separate training programs; six days each). The training programs are generally for Department provincial office personnel and each training program brings in staff from regions to a reasonably central location. The three training locations last year were in Yogyakarta, Bali and Ujung Pandang (in Sulawesi). It should be noted that the Department has trained and continues to train personnel from other agencies such as Bina Marga (the Highway agency) and Cipta Karya (the Human Settlements Directorate).

During this fiscal year (1991-1992), the Department of Public Works will be extending the reach of its training programs in focus and in numbers. It plans to train 280 persons. This will be a training of trainers program and the participants will be trainers from the provincial level. This training program will be funded by the World Bank and offers the chance for a future multiplier effect. Such an effect is required because the numbers of personnel that need to be trained are very large; one Department estimate is that the total number requiring training will be about 4,800! These are members of procurement teams who work with the approximately 800 projects currently under the Department's jurisdiction.

Another government agency which is active in Procurement is PLN or the National Electric Company. In its Jakarta headquarters it has a Procurement Division of 30 people which purchases a wide variety of items. PLN had its first training in procurement four years ago with World Bank support. The Bank, through its Professional Training Program, funded two persons to study Procurement in the United States for 3-4 months with Bechtel (in 1988). In association with Bechtel, the consulting firm of Pecel provided a hands-on training program on Procurement in Taiwan for two more people. Currently PLN is setting up an Engineering Center (which delineates technical specifications for many procurements), again with Bechtel, and training on Procurement is occurring at this Center. The Asian Development Bank periodically, every year or so, has seminars on Procurement to which PLN sends personnel. PLN does have procurement problems in the acceptance of bids and in preparation of contracts but it does have a core Procurement Division staff in Jakarta as well as provincial procurement staff. It does need more training but has a foundation of knowledgable personnel.

Pertamina is the national oil company of Indonesia and as such is a very large player in procurement. The procurement process is subsumed under the Logistics function and organizationally can be diagrammed as follows:

LOGISTICS

CONTROL	PROCUREMENT	DISTRIBUTION
What to Buy (Standardization)	Where to Buy At What Price.	Transportation Storage:
How Many. (Inventory)		Upkeep/ Maintenance Warehousing.

Training occurs for all of these functions and throughout the whole range of grades/levels of the Pertamina organization. The levels and the types of training which take place at various points in the career ladder in Pertamina look like this (Highest Levels are at the top of the list and training usually follows promotion to a higher ranking):

GRADES/LEVELS			TYPES OF TRAINING
			Selected staff above Lvl. 6 study annually at London Petroleum Institute for 3 months.
P.			
1.			
2.	SENIOR	/\	2-6 grads. of Young Prof. Program
3.		||	annually are sent to Michigan State University MBA Program in Logistics.
4.	STAFF		
5.		||	Levels 1-7 receive regular refresher courses for 8 weeks at University of Indonesia (Lembaga Manajemen Fakultas)
6.		/\	Two tracks for all Junior staff. Those under 40 years old join Academic Program III;
7.	JUNIOR	||	those over 40 join a 3 month "*Pemadyan*" program.
8.	STAFF	||	Young Professionals Prog. Lvl. 8 (for new
9.		||	(university graduates; under 26 years of age), 12 months. Called the "Fresh Blood" program.

285

10.		/\	Academic Program II. Also for 12 months. For
11.		|	graduates of Academic Program 1. Levels
12.	NON	|	Levels 10-12.
		|	
13.	STAFF	|	Academic Program I.
14.		|	Levels 13-15. 12 months. Approx. 30 participants
15.		|	per year. Includes procurement.

Training at all of these levels contains material on procurement, although it is incorporated under the rubric of Logistics. The selected Young Professionals who enter the MBA program at Michigan State University study Management but with an emphasis on Logistics. A listing of the Michigan State courses appears in Appendix 3. Additional training in Procurement is done periodically by sending personnel to American Management Association seminars in the United States (or the AMA courses are done in Indonesia). Training in Negotiations is done in the United States by the well-known KARAS consulting group. There are also Executive Training Courses done at the National Defense Institute in Indonesia for upper level personnel. Sample syllabi for some of the various Pertamina courses appear in Appendix 11. Other Pertamina materials have been given by the author to USAID/Jakarta.

The education given by Pertamina to its professionals is impressive. A lot of thought has been put into the total n-service program and Procurement is woven into much of the curricula. Similarly the overseas training fits Pertamina's needs very well. This is a very professional in-house education system and is a good model for what should happen in other government Departments.

The Economic Coordinating Ministry (EKUIN) now holds the authority in the government to approve procurement of goods and services having a value of more than 3 billion rupiah. EKUIN has emphasized that the responsibility for contract execution, however, rests with the relevant departments or agencies. But while the decentralization of responsibility is logical, there has been no concomitant effort to upgrade procurement skills in the Departments. The result is that while life and procurement go on in these Departments, with the procurement frequently occcuring on a major scale, there is neither a clear set of regulations or laws nor (seldom) the personnel with the knowledge and the skills to administer the procurement process in any standard way. While there are some government officials with such knowledge and skills, the numbers are believed to be quite small (and difficult to determine) and the personnel concentrated in a few agencies.

The Indonesian government has been procuring materials and skills for many years and in large quantities, but the amount of wastage or slippage is also seen to be very large. EKUIN recognizes the problems of procurement. Having the procurement laws and administration process defined clearly is currently a major goal. When that is accomplished, the need for

trained procurement personnel at various levels of the government, and in all Departments, will become of the utmost importance.

B. Training Needs Assessment: What Should Be

Given the present situation as described above, and the desire of EKUIN to remedy the problems as rapidly as possible, the "What Should Be" situation is quite clear in terms of training. There needs to exist in all government departments a cadre of personnel who have a high standard of professional competence in procurement knowledge and skills. There should be a small core staff of procurement specialists in each department at the national level, with the size of that staff depending on the overall amount of procurement done annually. Similarly, procurement specialists should be a part of provincial and kabupaten level staffs. The actual structuring of such positions is a decision for the Indonesian government. The need for personnel with clearly defined procurement responsibilities is very clear. It should be emphasized that the Indonesian government has no desire to create a new level of bureaucracy around Procurement.

In addition to having personnel with defined procurement responsibilities, there also needs to be a Procurement Manual which is relatively definitive and clear in its compilation of procurement rules/regulations/laws. These laws are the substantive basis for training the procurement personnel. It is expected that this Manual, when completed, will also contain specific instructions on the process of implementing procurement at least in regard to the completion of appropriate forms at each stage. When the Procurement Manual is completed it must receive wide distribution in the government and also be available to the public. Workshops or seminars for the private sector on generic procurement topics (Negotiation Skills, Contracts etc) could be presented before the Procurement Manual is completed or at least before Government personnel are fully trained.

Once there is a Procurement Manual with included guidance on the process of implementing procurement, regular training programs must be implemented. The Department of Public Works already has an excellent set of training modules on Procurement. While they are oriented more to Asia Development Bank and World Bank procurement policies, it would appear they would provide an excellent basis for any adapatations that might be made in the future.

Recognizing that one of the problems previously described is the frequent turnover of government personnel, and that new employees often receive little or no orientation to the specific details of their jobs, (especially important if the positions involve specialized knowledge and skills as are required in procurement), the training of procurement personnel must be institutionalized. Procurement training is not a one-shot experience. New personnel will have to receive training periodically. Personnel already trained must regularly receive upgrading and retraining as new developments arise in the procurement process. Procurement training is an activity which must be continuously sustained. One of the biggest needs is for a lot more training for many more personnel.

C. The Training Gap: Who Needs What, When and Why

In brief, the training gap is large. Knowledge and skills are urgently required in the field of procurement. They are needed at the national, provincial and district levels of the government and there needs to be professional procurement personnel at all of these levels. The laws/regulations on procurement must first be compiled into one Manual that is widely distributed within the government and is also availabe to the general public. The procurement process .. that is, the administration/oversight process .. must also be included in the Manual as much as possible (although one of the key elements of a good Procurement System is its flexibility). Training modules must be prepared and a group of knowledgable, skilled trainers must be gathered and trained themselves. A Training Manual for the Trainers should be developed. Then, training in procurement can seriously begin.

In terms of Products, Outputs and Outcomes, the training in procurement can be viewed as follows:

TABLE 8
PROCUREMENT

PRODUCTS	OUTPUTS	OUTCOMES
Procurement Manual Guidelines/book outlining the procurement admnistrative/oversight processes. Set of Training Modules. Base on existing manuals. Training of Trainers Manual (base on existing manual).	High level officials complete training first. Relevant government operational officials complete first round of training. All relevant government officials complete regular (annual) refresher/upgrading training.	Relevant government officials know and can administer new procurement laws efficiently and effectively. Private sector business persons understand and can more efficiently and effectively respond to government procurement needs and processes.

298

FOOTNOTES

1. USAID/Jakarta. Technical Issues Concerning Commercial Law in Indonesia. December, 1990.

2. Reksodiputro, Mardjono. "Pendidikan Hukum di Indonesia" in Hukum dan Pembangunan No. 6, December, 1990.

3. Jakarta Post. "RI Faces Problem of Low Quality Law Graduates." Saturday, February 23, 1991. p. 4.

4. Reksodiputro, Mardjono. Ibid.

5. Deden-Parker, Ann in Journal for Instructional Development Fall, 1990.

6. Senge, Peter. The Fifth Discipline: The Art and Practice of the Learning Organization. New York: Doubleday/Currency, 1990. pp. 1-15.

7. USAID/Jakarta. Restraints of the Indonesian Legal System on Commercial Development. 1990. p. 74.

8. Ibid.

9. USAID/Jakarta. Technical Issues Concerning Commercial Law in Indonesia. p. 9.

10. Ibid.

11. Lev, Daniel. S. "Judicial Authority and the Struggle for an Indonesian Rechstaat". Law and Society. Vol. 13, No. 1, Fall, 1978.

12. Yuhassarie, Emy. Peranan Pendidikan Hukum Formal dalam Membentuk Minat ke Arah Profesi Penegakan Hukum/Peradilan. (Thesis). Surabaya: Lembaga Penelitian Universitas Airlangga, 1983, p. 7.

Special Note

Statistics on Dutch assistance in the area of Law are taken from:

The Evaluation Report. Evaluation of the Inter-University Cooperation Project on Legal Matters in Indonesia. The Hague: Directorate General for International Cooperation, Ministry of Foreign Affairs of the Netherlands. December, 1990.

Special appreciation must be given to Greg Churchill for the information on the different types of lawyers in Indonesian society as well as for many other insights into law and legal education in Indonesia. His knowledge and opinions are much respected by the author.

ALTERNATIVE TRAINING STRATEGIES AND CONSTRAINTS

"Process Reform on a large scale is intimidating, expensive and impossible to achieve in the short and medium term. It is well beyond the resources of any donor agency, and in any event is probably not something that money alone in whatever quantities and however well-spent, can address.

There are, however, some modest steps that might be taken and which could make a difference in the short or medium term."

Technical Issues Concerning Commercial Law Reform in Indonesia
USAID/Jakarta
1990.

292

IV. ALTERNATIVE TRAINING STRATEGIES AND CONSTRAINTS: ECONOMIC LAW AND PROCUREMENT

Having examined the human and organizational performance for both Economic Law and Procurement, identified the conditions that should exist in both these sectors in the Indonesian context, basically reviewed the training gaps (needs), and examined very generally what should be done, consideration can now be given to the alternative strategies that are available for implementing training programs.

By way of general introduction to this section, it is important that attention be drawn to the quotation that appears on the previous page. Process reform on a large scale is indeed intimidating, expensive and impossible to achieve in the short or medium term, particularly in the topics under consideration here. The first portion of the quotation is intended to give one pause. It is almost a shock treatment. It is meant to be.

Keeping that in mind, the second part of the quotation sounds a note of hope, calling as it does for some modest steps in the short and medium term. A six year project might be called medium term; it is certainly not long term. Modest steps are in order but the modest steps must have maximum impact. This might be a general guideline for considering different training strategies and their constraints.

In other words, we must be realistic. Government and donor agencies are frequently susceptible to a disability called "projectitis;" crowding too many overblown expectations into a concisely limited time frame. While it is important to plan activities in sections over time and funding priorities require this, development in general and human beings in particular never tend to move as fast as planners think they should. Development takes time. So as we contemplate the following training strategies, we must think about combining a long-term perspective with medium-term plans. Thought must be given to what cannot be accomplished with the training strategies proposed and how, perhaps, other donor assistance and institution-building in Indonesia can carry on what is being started. Consideration must also be given to what other donors, especially The Asia Foundation and the Government of the Netherlands, have done and continue to do.

"Systems Thinking" makes us recognize that one problem is connected to many others in a variety of ways. This project cannot solve all of the problems, no matter how good the strategy for training. Systems thinking also teaches us that we must recognize the difference between two types of solutions to problems: (1) Symptomatic Solutions and (2) Fundamental Solutions. The first type of solution cures only the symptoms of a problem. Often, the process of curing just the symptom may only aggravate a problem further. Fundamental solutions must address fundamental problems. The Indonesian government considers Economic Law and Procurement to be fundamental problems and in many ways they are.

292

They are also, however, connected to other fundamental problems such as the turnover among civil servants, low salaries, and administrative slippage. The training strategies to be reviewed here will be examined as to whether they are part of fundamental solutions or whether they only relieve symptoms. The strategy that is chosen for implementation should later be evaluated from the same perspective.

The two parts of the project will be treated separately here in terms of training strategies for the sake of clarity.

A. Alternative Strategies and Constraints: Economic Law Training

1. The Shape of Things: Training Shapes and Options

The target groups in the Economic Law portion of the project are:

a. Government legal personnel in each of the Departments and agencies.
b. The Judiciary (particularly younger judges at the *kabupaten* level).
c. The State University Law Faculties.
d. SEKNEG (Sekretariat Negara) has specific learning requirements in legislative drafting.
e. Law Librarians (at BPHN and University of Indonesia).
f. Users of Legal Information Systems:
   i. in the government
   ii. at the University of Indonesia (faculty, and through them, students)
   iii. private sector/business community.
g. Private sector lawyers and business people.

What are some of the options for "shapes of training" to be considered? This depends, of course on the learning topic and the target audience. In general, let us review the options and the constraints.

TABLE 9
SHAPES OF TRAINING ECONOMIC LAW

GENERAL TRAINING OPTION/SHAPE/TOPIC	WHO FOR? (potential only)	ADVANTAGES/ CONSTRAINTS
LONG-TERM DEGREE TRAINING IN THE UNITED STATES OR OTHER COUNTRY.	State University faculty members (selected).	Advantages: 1. Exposure to high quality Commercial Law teaching. Rigorous.
LONG-TERM DEGREE TRAINING IN THE UNITED STATES OR OTHER COUNTRY	Graduate students students in Law. Law Librarians Judiciary	2. English language would be required. 3. Useful in that it exposes trainee to international books & documents, cases. 4. Particularly helpful in exposure to different cultures, business, thoughts. Disadvantages: 1. Expensive. 2. English language. 3. Culture Shock. 4. Substance of law programs oriented to foreign law & culture. 5. Away from Indonesia law developments and job.
INTERNSHIPS IN LAW FIRMS IN ANOTHER COUNTRY.	Law students (Graduates)	Advantages: 1. Practical experience. 2. Good especially for specialists in international commercial law. Disadvantages: 1. Could be expensive. 2. Language. 3. Culture shock.

295

GENERAL TRAINING OPTION/SHAPE/TOPIC	WHO FOR? (potential only)	ADVANTAGES/ CONSTRAINTS
INTERNSHIPS IN INDONESIAN LAW FIRMS.	Law students (Graduates)	Advantages: 1. Practical experience. 2. Relevant if focus on commercial law. 3. In Indonesian context. Disadvantages: Internship situation must be carefully set up or will be waste of time.
ECONOMIC LAW WORKSHOPS Skill Training Legal Writing Legal Research & Analysis Negotiation Skills Accounting/Business Finance Using Legal Information Systems	University Faculty Law Students Private Lawyers and business peole (for fee only) Judges Government/ Department officials SEKNEG Min. of Justice officials	Advantages: 1. Can be done in parts or modules. 2. Short 2. Relatively cheap 4. In Indonesia 5. Indonesian language or English depending on clientele 6. Private sector workshops would promote business community understanding. Disadvantages: 1. Many trainees 2. Without care, not enough subject depth/time.

Technical Training
Patent Law
Company Law
Trademark Law
Copyright Law
Foreign Investment Law
Financing Law
Arbitration Law
Bankruptcy Law
Leasing Law

GENERAL TRAINING OPTION/SHAPE/TOPIC	WHO FOR? (potential only)	ADVANTAGES/ CONSTRAINTS
Consumer Protection Law International Private Law General Commercial law Legislative Drafting		
OTHER TECHNICAL ASSISTANCE (in Indonesia with mixed team of foreign and domestic staff) 1. Curriculum Development for State Universities 2. Training manual preparations. 3. General consulting/ coaching.	ALL	Advantages: 1. Done in Indonesia. 2. If done properly, language not problem for Indonesians. 3. Personal. 4. Relatively cost effective. Disadvantages: 1. Requires Indonesian-speaking foreign staff. 2. Tendency to import inappropriate legal models.
SHORT TERM TRAINING IN ASIAN REGION COUNTRIES.	University Faculty Judiciary SEKNEG Selected Government officials	Advantages: 1. Less expensive than U.S./foreign training. 2. Less culture shock/ climate shock/food shock. 3. Trainees see what is taking place in commercial law in neighboring countries. Disadvantages: 1. Language could be a problem. 2. Quality of learning on commercial law topics must be checked carefully.

297

GENERAL TRAINING OPTION/SHAPE/TOPIC	WHO FOR? (potential only)	ADVANTAGES/ CONSTRAINTS
		3. Perception that the training might not be as good as in U.S./or Europe. 4. Cost is more than domestic training.

2. Strategic Questions

Given the above description of possible training program types and shapes, there are then some strategic questions that require answers. An assumption is made here that no one type of training approach will fulfill the needs of the varied clientele in the Economic Law portion of the project. Given funding and other limitations;

1. Which clientele/target group should receive the most emphasis in the training strategy?

2. What weight should be given to specific training types in any combination package that is considered?

3. What amount of emphasis should be given to study/training outside of Indonesia?

4. What subject matter should receive the major focus for each group?

5. Are there strategic timing considerations that will affect the sequencing of the various training activities?

6. What overall "training package combination" will give the maximum benefit for the cost?

7. What is the best institutional arrangement/mechanism through which the Economic Law portion of the project can operate?

3. Clientele/Target Group Emphasis

There are a number of target groups to be considered in the Economic Law portion of the project. In terms of immediacy of training, the government legal officials would have to come first, with higher level officials receiving the first training. But in overall terms of importance a very good case can be made for including all of the groups that have been listed previously. If the project could only focus on one of the groupings (the 'must do'

group), then again the government legal officers would have to receive the first priority, with the judiciary (selected, young, *kabupaten* judges) being second. These two groups, if no one else was trained, would achieve the quickest short-term impact. These two groups have to know what the latest Economic Laws are in order to administer them.

Training of legal information system users will be urgently required as that system begins to take shape. The availability of legal information is extremely important in this project and support of the legal information component is crucial to its success. Once the system is in place, it is of no value unless government personnel and the general public can access the information.

It would be very easy to rule out any other target groups beyond the above three, but such short-range thinking would be also be short-sighted. It is like building a house with only one wall and a roof but no foundation.

The foundation for future development of economic law will come through the next generation of young lawyers graduating from universities. The faculty at the State Universities have already made a start, with donor assistance, at curriculum reforms in commercial law. But a lot more assistance is needed to meet what is seen as growing demand for practical, business-oriented courses. The faculty need upgrading in their knowledge of the various aspects of Economic Law as well as in their skills helping students to learn in order to meet this demand more effectively. Law libraries need help too, hence the inclusion of Master's programs for two law librarians.

4. Training Approach/Type/Shape: Emphasis

Different training approaches or shapes have already been described but it is important to summarize the advantages and constraints of several of them. An emphasis on overseas training always has an immediate feeling of "glitz"; of foreign travel, gaining international perspectives and cross-cultural learning. It does all of that and it is valuable. After that immediate feeling is allowed to pass however, it can be seen that putting all of the training eggs in the overseas basket is a costly and not always cost-effective endeavor. The selected training strategy to be presented here must take this into account. Regional training has some excellent assets if the proper institutions can be found; lower costs, similar climates and food, and other related characteristics make this an important training option.

Domestic short-term training, in the form of seminars or workshops can be a cost-effective way to present training on Economic Law topics. In addition to cost, there are the advantages of language and learning on "home ground" to recommend the domestic workshop approach.

Another avenue for training would be to institute a "Young Professionals Program", modelled on a similar program now operating successfully with USAID assistance at the Indonesian Ministry of Trade. The Ministry of Trade program has as its goal to increase professionalism, particularly analytical and overall professional skills of its top mid-level staff.

The program provides classroom lectures on general economic analysis skills with specialized workshops and technical labs that focus on developing key research skills (computer programming, English language, library and information capabilities, management skills). The Young Professionals program also provides on-the-job training and technical assistance to mid-level staff who are doing key Ministry policy work. The target group in the Ministry of Trade is the "best and the brightest" in the Ministry with 80 people having been trained during the first year. The participants are divided into four groups:

- The Young Professionals Training Group. This consists of staff with intermediate economic and English language skills (about 20 people).

- The Core Interest Group. This is a group with more advanced skills, including some staff with overseas graduate degrees (about 15 people).

- Study Groups.
- Technical Training Labs.

In its first year, the Ministry of Trade program has encompassed activities for all of the above groups including a training course, policy seminars, an English language training program, computer training program, on-the-job training and policy assistance, and the development of a Reference Library. The Young Professionals Program could be a template for a similar program in legal education but it would also have to replicate the key elements for success in the Ministry of Trade program. These elements have included:

(1) "A strong commitment at the Ministerial and Echelon I and II levels (freeing up time for staff participation, rewarding staff for participation, supporting and utilizing solid research, and broadly, improving how leadership manages their staff.

(2) A strong personal desire for mid-level staff to improve their skills and positive and reasonably transparent incentives (in terms of professional and monetary advancement) for participating in the training.

(3) A comfortable physical training environment and adequate library, computer and other supplies are needed to facilitate training.

(4) Flexibility is needed to adapt the training program over time to meet continuously evolving needs." (*1)

One possibility would be to implement a similar Young Professional's Program for the "best and the brightest" of legal bureau staff of the various ministries, but with special emphasis on personnel from the ministries being coordinated by EKUIN. This might be implemented through the University of Indonesia. An obvious difference with this strategy would be that the participants would be coming from different ministries and that the technical advisers would not be able to do as much of the all important on-the-job training and counseling

300

required. It might be possible to work around this problem however. A variation on this theme would be to also institute a Young Professional's Program for newly graduated law students--again the "best and brightest" -- from the state universities as a 'post-graduate' program for those with special interest in Economic Law. Another variation of the Young Professionals Program would be to implement it, as in the current program, only in one Ministry; for example, the Ministry of Justice. Again, this requires a lot of organizational and personal commitment. Without such commitment, such a program will not have much chance of success. In the case of the Ministry of Trade, the driving force for the program came from the Ministry's leadership and staff.

5. Subject Matter Considerations

Each target group will require slightly different emphases in terms of what they learn. One consideration for government legal officers will be the status of different legal reforms now being thrust forward in the area of Economic Law. The government personnel will require a general short course in Economic Law...a series of courses on different aspects of economic law is another important approach..but the content will have to be in tune with the latest developments. Company Law, Patent Law and Copyright Law would seem to have immediate value but other topics such as Foreign Investment Law and Bankruptcy Law may also develop in importance.

The judiciary need a thorough grounding in Economic Laws that will help them make informed decisions. An inventory of what is emphasized in most recent Economic Law decisions would assist in determining the actual content of an Economic Law course or series of courses. It has been suggested too that judges (as well as lawyers) need assistance in writing legal opinions.

SEKNEG has specifically requested a course in legislative drafting and the users of the legal information system will have to do just that: use it effectively and efficiently. The private sector legal and business communities will need seminars on the latest laws and information that appears.

The State University faculty need a wide variety of short-term training and some long-term training on a variety of subject matter. In part, the strategy for determining what faculty will learn in short-courses is dependent on what steps are already taking place (for example, the University of Indonesia is establishing this year a course in Economic Law) as well as what other donor agencies are doing.

In order not to overlap with the Dutch efforts in Commercial Law, it might be useful to think about approaches to subject matter that emphasize comparative (Anglo/American-Indonesian) approaches to such topics as Company Law, Land Law and others. Intellectual Property Law and Consumer Protection Law are two potential areas of interest that have not yet received much attention in the Dutch efforts in legal education assistance. It should be noted too that the University of Indonesia has recently made an agreement to train Patent Examiners.

For the private sector, a useful type of assistance would be to support seminar/workshop presentations for American business people on different aspects of Economic Law; with coming developments providing the focus for such presentations and discussions.

6. Training and Timing Considerations

It has already been noted that certain training activities are dependent on the development of new or revised laws. Early impact in training will have to be made with the relevant government civil servants and judiciary with the universities and the private sector to follow. The most efficient and effective way to do this would be to train a core team of trainers (preferably persons who already have excellent training experience) and they in turn would train others.

7. The Training Package Combinations: Alternatives

A. Package A: The Overseas Strategy
Spend most of training funds on overseas degree programs and internships in U.S. law firms.

B. Package B: The Short-term, Domestic Approach
Focus most of resources on workshops for Government officials, judiciary.

C. Package C: The Short-term, Academic, Domestic Approach
Focus bulk of resources on upgrading State University faculty (mid-level lecturers with higher professors acting as part of the training team).

D. Package D: The Campuran (Mixture) Approach
Mix long term and short-term programs for various named target groups but place emphasis on short-term programs done in Indonesia. Few overseas degree programs.

These are just a few of the alternative combinations that are being considered; each has, as has been seen from the previous explanations, some distinct advantages and constraints. Principally, the specific and distinct needs of each target group must be weighed in deciding which package is the most appropriate.

8. Balancing Skills and Knowledge

How are skills and knowledge balanced in this project? There is certainly a lot of room for both. The specific knowledge and skills needs have already been listed and will not be repeated here. The most 'balanced' approach would be to think of differing emphases of skills and knowledge as being determined by the target group. The academic audience requires both, with the scale perhaps tipped a bit more towards knowledge (although the skill of facilitating learning rather than didactically teaching would seem most important). The Government civil servants in the ministry legal bureaux also require skills and knowledge but

302

the balance should definitely lean towards specific skills. The Judiciary require both specific skills and increased and focused knowledge (skills such as legal writing would seem paramount but knowledge of commercial law among judges has been cited as a major weakness in need of attention). The private lawyers also need more knowledge of the commercial aspects of law, but perhaps more importantly, they (including new law students) need a heavy dose of practical skills that would eliminate the blank stares to the question of what a lawyer actually does.

9. Institutional Interfaces: Organizational Conduits for Economic Law Training.

Until this point, the discussion of training strategies has focused on the questions of "What?", "Who?", "When?" and also "Why?" What has yet to be considered is: "How?" or more accurately, "through whom?"

There are a lot of potential players in the Economic Law portion of the project. They include EKUIN, a project contractor or contractors, the Ministry of Justice and BPHN, the University of Indonesia, Gajah Madah University (designated as the "point" university for Economic law training), the Consortium of State Universities, the Center for Legal Studies (PPHJ) as well as excellent management schools (private) such as IPPM and IPMI and newer "executive resource centers" such as that of Sampoerna.

There are several questions to be asked here which will act as a filter or as criteria for considering which mechanism to use for administering the training programs.

A. Does a contractor have clearly delineated partners with whom to work?

B. Is the overall arrangement relatively simple?

C. Will the project activities and benefits be sustainable after the project in institutions through which the contractor works or in other ways?

The contractor has to work with clearly designated institutions that can commit resources on a long term basis to an effort that is sustainable for the forseeable future.

Following are some of the options.

A. Institutional Arrangement A

Description: Contractor assists academia through Sub-Konsorsium Ilmu Hukum (Consortium of State Universities). Small consultative forum acts as intermediary (consists of small committee with representatives from the Consortium and perhaps EKUIN).

Contractor works with PUSDIKLAT (Training Center) of the Ministry of Justice, trains their trainers and uses the Ministry as a venue for the training programs for civil servants and the judiciary.

302

Contractor works with PPH (Center for Legal Studies) to deliver other short courses on Legal Information and on Economic Law topics to private sector.

Advantages:

1. Contractor provides assistance through several different organizational mechanisms; each appropriate to the type of work in which they are involved. Konsorsium Ilmu Hukum already has divided law curriculum in several parts with Gajah Mada University in Yogyakarta being designated as the lead university in Commercial Law.

2. New organizational mechanisms do not have to be set up; use the framework of what is in existence already.

3. Existing organizations could be strengthened and improved.

4. Involves an extra player: the Ministry of Education.

5. Working with the PUSDIKLAT (Ministry of Justice) could require considerable extra effort.

Disdavantages:

1. Administration of project activities takes place through several organizations; difficult to monitor and assist all of the organizations. Relatively complex in terms of politics, as well as in start-up and operational terms.

2. Key institutions all from government; not neutral from point of view of academic and business community.

B. Institutional Arrangement B

Description: Contractor works with a newly established government institution called (tentatively) The Center for Economic Law or Center for Excellence in Economic Law. Support comes from EKUIN, Ministry of Justice and perhaps Ministry of Finance. Location in downtown Jakarta (possibly rent office and training space in one of the new-office buildings or in one of the Ministries such as the Ministry of Justice).

Support also comes in the form of faculty drawn from Sub-Konsorsium Ilmu Hukum (higher level professors).
Contractor provides technical assistance and visiting teachers through the Center and also supplies the Consortium of Universities with same. Contractor also assists Center staff in developing training materials and training trainers.

Advantages:

1. Establishes a unique institution in Economic Law. Could build bridges between government ministries.

2. Can be a focus or magnet for future donor assistance.

3. Establishes one major center, with government support for stability, through which a contractor may work and provide technical assistance.

Disadvantages:

1. Complex to establish. Joint relationship between ministries might be difficult in operational terms.

2. Complexity of joint arrangement might lead to long-term higher costs in implementation.

3. Government resistance to establishing new institutional structures.

C. Institutional Arrangement C

Description: Contractor works through a newly established institution called the Center for Economic Law or Center for Excellence in Economic Law. Joint government and private sector effort: i.e. one of the well-established, private schools of Management such as Institute for Management Education and Research (IPPM) or IPMI. Government Departments contribute training and legal staff (from EKUIN, Ministry of Justice, Ministry of Finance) on a part-time basis to work with selected staff from one of the private Management schools in Jakarta. Center staff also provide training to mid-level lecturers from the State Universities and work through the State University Consortium. Consortium agrees, with financial assistance to provide high level professors as part-time lecturers. Core Center staff develops training materials and other Economic Law publications (Commercial Law Newsletter, booklet series). Solicits donor agency funding for continuing sustanance. Trains government and private sector staff in Economic Law courses (some mixed, some not).

Advantages:

1. Establishes a unique institution in Economic Law, that brings together in an official joint arrangement government and private sector interests. Could build bridges between the public and private sectors.

2. Could be a magnet for institution-building donor assistance.

3. Better access to business community through the private management schools.

205

Disadvantages:

1. Setting up such a complex institution might be prohibitively complex; bringing together somewhat disparate partners. Keeping it together might be equally complex.

2. Complexity could lead to greater cost.

3. Could be expensive.

4. This would probably not be a popular, palatable idea.

5. The business schools may be too tightly 'stretched' in terms of personnel, space and time to be involved in any such arrangement.

6. It would be very difficult for Government ministries to arrange to contribute personnel to such an institution.

7. Government resistance to establishing new organizational structures.

D. Institutional Arrangement D

Description: Contractor works through a Center for Economic Law or Center for Legal Excellence in Economic Law. This would be administered by the University of Indonesia. Physical location of the Center could be at the University's Depok campus but since this is far out of the city, it might be more convenient for many of the target groups (civil servants, business/law community) to have a physical location for training somewhere in downtown Jakarta. This would depend on available space and the type of training.

The Center at the University would hire professional staff, full-time and part-time, who would help prepare curricula for short-term training programs, training manuals for trainers and trainees, train trainers and in general administer the training center operations through a manager and staff. Publications program might be done here too. The University location could take advantage, and must take advantage, of the University's other current efforts in developing an Economic Law curriculum and presenting courses.

The Center would be a conduit for sending students, faculty and others overseas for study and for bringing visiting lecturers from abroad. It would be the venue too for Technical Advisers from the Contractor (providing office space and general facilities). It would prepare and implement short-term training programs for government civil servants, judges and faculty from the State Universities. Some training programs for faculty might be carried out at Gajah Mada University in Yogyakarta; Gajah Mada is the institution designated by the Sub-Konsorsium Hukum as the campus to specialize in Commercial Law.

Advantages:

1. Provides institutional setting that is more or less ready-made.
2. Good venue for institution-building.
3. "Neutral" institution (relatively independent of the government and the private sector).
4. In Jakarta, relatively near to major business community.
5. The University itself has "built-in" faculty and students who could benefit full-time from having such an institution on campus.
6. The University is a prominent member of the Sub-Konsorsium Hukum.
7. Relatively simple to set up.
8. Relatively less costly to set up.
9. Excellent venue for assisting some specific target audiences of a legal information system: students and faculty. The University is also the locale of one of two Legal Information Centers; the University could receive some support through the Center in this regard.
10. Working with an institution which is already perceived to be strong and progressive.

Disdavantages:

1. Because it is not the Government, might have less power to get things done (unless strong commitments are made). Would have to have good resource support from contractor and the government to get things done. Sustainability could be a problem.

2. Administrative support possibly inadequate if not planned well. Legal faculty underpaid and must struggle to survive by doing many jobs. Commitment? Doubts about whether the University could effectively handle training for the various target audiences, especially private sector. Perhaps too much vis-a vis doing all of the training.

3. Possibility that there would not be enough committed space at the University's new campus in terms of offices, classroom etc. Requires commitment from the university, which seems possible. Location, location and location? Is this the place/environment for a project that is not only oriented to the academic community but also to the Government and private sectors? Might require renovating in-town and new campus facilities.

4. Being an academic institution, it is possible that the focus of project work would lean more towards academic accomplishments and not enough towards the business and legal community. Would require careful cultivation and integration of government, academic, and private sector groups in a locale that is neutral...but also academic.

5. It could involve another bureaucratic player; the Ministry of Education. (Depends upon how this relationship is structured; the State Universities now have the authority to enter into relationships with other organizations under certain circumstances without involvement from the MOE.)

E. Institutional Arrangement E

Agreement made for one domestic, private Indonesian contractor to carry out all types of training in Economic Law (and possibly in Legal Information Systems as well). Several of the large Indonesian private sector Management schools are possible candidates (IPPM, IPMI).

Note: It is possible that a domestic contractor might also be the working mechanism for training in the Legal Information and Procurement sections of the project.

Advantages:

1. Simple arrangement. One source.
2. Emphasizes private sector implementation; possible good access to the private sector lawyers and business persons.

Disadvantages:

1. Institution building would be, in part, for a private, probably for-profit, organization.

2. Government might not like the idea of carrying out training for its employees at a private institution.

3. Possible high cost factor.

F. Institutional Arrangement F

Since no one institution may be able to cope adequately and effectively with the different target audiences of the project, "divide and conquer". Use several different organizations to implement programs for different target groups. University of Indonesia could be the implementing institution with whom the contractor would work to provide the upgrading of the academic targets (faculty, law students, the state universities in general). An organization such as the Center for Legal Studies (or perhaps one of the local business schools) could present seminars/workshops to the private sector audience on commercial law topics as well as even legal information system use (consideration might be given to letting out an "RFP" to private organizations for the private sector portion of the training). Publications such as a booklet

308

series on Economic Law topics and a Economic Law Newsletter could also be done through this private organization. The *PUSDIKLAT* of the Ministry of Justice could be the implementing agency for training programs for personnel of the Government ministry legal bureaux.

Advantages:

1. Gives portions of a complex training program to those organizations which might be best suited to their implementation. Compatibility.

2. Avoids the complexities of bringing together organizations/institutions that may resist such marriages to begin with and which, if forced together, might make incompatible working partners (e.g. Government training institutions and private management schools).

3. Possible sustainability advantages; matching the work to the general, built-in focus of the organizations could lead to more effective capacity-building in each of them.

Disadvantages:

1. Contractor must deal with several institutions, each with their own problems. Complex in a different way. Different scenarios for different institutions and different leadership personalities.

2. Could be expensive in a different way; the 'spoils' might be divided less efficiently in terms of time spent by the contractor coping with different people in multiple organizations.

3. Sustainability perhaps spread too thin. Possibility of not enough impact on any one institution's capacity.

G. Institutional Arrangement G

Contractor assists in setting up an entirely independent institution called the Center for Economic Law. Could be an NGO or a *Lembaga* (Foundation) through which funds come from the government, the business sector and donor assistance. Could receive an "endowment" from USAID plus building. This institution would administer training programs for all of the target audiences, publish booklets and Newsletters, and be the conduit for sending participants to overseas institutions for the study of Economic Law subjects. Hires permanent staff to manage and operate the institution and also a permanent core training staff. Is a conduit too for visiting teachers and consultants, both domestic and foreign. Could charge fees for publications, short-courses, seminars and workshops based on a sliding scale for different target audiences.

Advantages:

1. Starts fresh. Little baggage from previous institutions, political, bureaucratic or otherwise. A "best and brightest" staff could be gathered.

2. Could be regarded as neutral territory.

3. Done effectively and efficiently, offers an excellent venue for institution-building, capacity building. Good sustainability possibilities if fees charged for services to various sectors on a sliding scale. Attractive.

4. Could be a good future donor magnet.

5. Contractor works through this one major conduit.

Disadvantages:

1. Brave new world. Start-up requires a lot of extra work. Risk.

2. A new institution could require extra expense for purchase of building, paying for a good core staff.

3. Does not develop existing institutions, at least directly.

4. Government resistance to setting up new institutions under this Project.

The seven institutional arrangements or organizational interfaces above each have their pluses and minuses as can be seen. There are obviously other organizational arrangements that could be made; different combinations of the above plus other totally different arrangements. These however, seem to be the major possibilities and in the next section of the paper ("The Recommended Training Strategy"), the choice which seems most logical, cost-effective, relatively easy to initiate, operationally simple, most easily sustainable and beneficial to the Indonesian government and society will be discussed.

10. Training Overseas: Opportunities and Alternatives

Given that candidates are available for overseas training (state university faculty, selected new graduates from law school, Law Librarians, perhaps government legal officers) there are several questions which must be answered:

A. Who should study what overseas?
B. Where are the institutions that offer courses of study in the various aspects of Economic Law? Which aspects are offered at which institutions?

There are several answers to the first question. In order to lay the foundation for future high-quality skills in Economic Law, selected faculty members from the State Universities should receive graduate degree training abroad with study emphases on Economic or Commercial Law. In addition, these faculty should also study how to teach law (a skill that also requires short-term training through technical assistance in the Indonesian context). Faculty should be selected who will return to their institution following the study abroad, and who also are young enough so that there is a teaching career ahead of them, specifically in Economic Law topics.

There are several disadvantages of sending university faculty abroad. If a faculty member (or newly graduated student for that matter) studies law in the United States, the substance of the learning will be on the American legal system. What is learned, however, is "critical thinking in the law" and that, according to knowledgable Indonesian lawyers, is the key asset of studying outside of Indonesia. Emphases on teaching law would be helpful too for this target group. Since the disadvantages weigh heavily in selecting faculty to do this, at least for long term training, it is important that only the "best and brightest" who could contribute to Indonesian legal education be selected.

A second type of overseas training for university faculty could be short-term training in specific Economic Law subjects. This has the advantage of not taking the student away from Indonesia or her/his work for long periods of time but like all types of overseas training is relatively expensive. There is also the advantage, however, of exposing the students to new ways of thinking in a different environment, even for the short term.

A reminder must be given again, however, about the fundamental problems that exist in Indonesia's legal education system. As already noted, a new teacher of law at the University of Indonesia makes a starting salary of only US$ 100.00 per month. Short or long courses do not solve that problem, at least directly. It will improve knowledge and hopefully skills and perhaps this will give law teachers greater opportunities for extra income from other law related positions.

Another target group for long-term study for graduate degrees would be "the best and the brightest" of newly graduated law students (from State Universities, at least for this Project) who would have a specialization in Economic Law and/or International private law subjects. These persons would truly be the foundation for Economic Law in the future. In order to promote equity in Indonesian law and legal education, women as well as students from outer island universities should be given special attention in the selection process.

Law Librarians would have to enter Law Librarianship Master's Degree courses overseas to bring their skills up to a higher level.

What then are the alternative institutions abroad in which Economic Law students could study? For short-term courses in Economic Law, a unique institution in Italy should be seriously considered:

International Development Law Institute
Via Paolo Frei, 23
00197, Rome, Italy.

The Institute, known by the acronymn IDLI, has a good reputation in training law students from many nations. Its regular programs in Rome include a twelve-week Development Lawyers Course (DLC), two-week International Business Transactions (IBT) seminars as well as other seminars.

The Development Lawyers Course imparts basic legal skills (such as advising, negotiating and drafting) in the context of international financing, contracting and foreign investment. The IBT seminars focus on specialized development-related legal topics. Of interest too is that IDLI has the capability to conduct in-country training workshops; these could be very useful and cost-effective.

For long-term study, attached is a listing of American law schools and their study program emphases, as provided by the American Cultural Center library in Jakarta (Table 9). An additional listing from several commercial law guides are also provided in Appendix 1. It should be noted that certain universities do have Commercial or Economic Law specializations and that there are a variety of different titles for such specializations. Each has a somewhat different focus within Economic Law (such as Corporate Law or Commercial Law). These Economic Law specializations are noted on the list.

There are several American universities that should be mentioned for their experience in and with developing nations. These include:

1. **The University of Washington.** This university has an Asian Law Center. Eleven faculty members at the University of Indonesia are graduates of its law programs with apparently satisfactory results. They also have a Master's Degree program in Law Librarianship from which a librarian at the University of Indonesia has graduated (she is Indonesia's only law librarian with a U.S. Master's Degree).

2. **Franklin Pierce College School of Law.** Concord, New Hampshire. Has experience in legal training for students from developing nations. Special programs of interest include Business and Commercial Law and Law and Science (including Patents and Products Liability). A Patent Practice and Procedure Clinic offers students experience in claims drafting and skills important to the intellectual property lawyer. There is also a Business Clinic.

3. **Harvard University, Cambridge, Massachusetts.** Harvard has world-wide experience in law and development. They currently have a team of long-term consultants working in Indonesia through the Harvard Institute for International Development.

312

4. **Cornell University Law School, Ithaca, New York.** Cornell is recommended not only because of its Law School (one of its four "concentrations" is Business Law and Regulation) but because the University itself has a long-standing reputation as a center for Indonesian Studies in the United States.

5. **Florida State University Law School.** In addition to a climatic advantage, Florida State has been working on the development of a Caribbean Law Institute in the Caribbean; experience which could lend itself to this project.

6. **University of Pittsburgh School of Law.** This university also has long standing and successful experience in graduate education for Indonesians. Numerous government officials have received doctorates and master's degrees from this institution. The School of Law offers various Joint and Cooperative Degree Programs, including programs that might be useful to Indonesian clients: Law and Business Administration, Law and Public Management, and Law and Industrial Management.

In summary, there are a variety of alternative training opportunities and strategies for the improvement of knowledge and skills in Economic Law in Indonesia. Each has its assets and drawbacks. What is apparent however, is that this project will not be sending huge 'waves' of graduate students and others abroad for study, although some overseas study will be useful for selected groups. More beneficial would be training in-country for government officials, the judiciary, university faculty, graduate students and the private sector in generally short-term training programs. The delivery of the training would be implemented for the most part by teams of Indonesian trainers who receive training from a core training staff consisting of outside experts (foreign and domestic). Emphasis must be placed on how to make the strategy a sustainable one, in part by setting up a special center for Economic Law.

TABLE 10

AMERICAN LAW SCHOOLS GRADUATE DEGREE PROGRAMS BY AREA OF CONCENTRATION

Supplied by the American Cultural Center
Jakarta, Indonesia

February, 1990

ON THE PERILS OF ESTABLISHING AN AMERICAN-STYLE LITIGIOUS SOCIETY
or
What happens when there are no Courses of Action

An American businessman seeking to establish a working relationship with a large Indonesian conglomerate sent his lawyer to visit a high level official of the conglomerate in Indonesia.

The lawyer's first question to the Indonesian official was:
"Well, tell me about the litigation record of your company?"

There was a pause and a look of puzzlement on the face of the Indonesian businessman. He asked:
"What is a "litigation record?"

The American lawyer replied impatiently:
"You know, how many times has your company been sued: once, twice, ten times, thirty times?"

The Indonesian businessman looked back in genuine amazement and said:
"Why, we've <u>never</u> been sued."

<u>"What?"</u>

Story told
to the author
by an American
businessman in
Jakarta.
May 12, 1991.

GRADUATE DEGREES DEFINED

DEGREE	DEFINITION
LL.M.	Master of Laws
S.J.D.	Doctor of Juridical Science
J.S.D.	Doctor of the Science of Law
J.S.D.	Doctor of Jurisprudence
J.S.D.	Doctor of Juridical Science
J.S.M.	Master of the Science of Law
D.C.L.	Doctor of Comparative Law
M.C.L.	Master of Comparative Law
M.C.L.:A.P.	Master of Comparative Law:American Practice
M.C.L.:F.P.	Master of Comparative Law:Foreign Practice
LL.C.M.	Master of Comparative Law
M.C.J.	Master of Comparative Jurisprudence
M.L.S.	Master of Library Science
M.A.L.S.	Master of American Legal Studies
M.L.I.	Master of Arts or of Science in Legal Institutions

0716t

Received from
American Bar Association
February 1990

GRADUATE DEGREE PROGRAMS BY AREA OF CONCENTRATION

SCHOOL	DEGREE OFFERED
	Administrative Law: Economic Regulation
Howard	LL.M.
	Admiralty
Tulane	LL.M.
	Agricultural Law
Arkansas-Fayetteville	LL.M.
	American Law
Howard	MCJ
	American Common Law Legal System
Temple	LL.M.
	American Legal System
Duke	LL.M.
	American Legal Studies
Chicago-Kent	M.A.L.S.
	Asian Law
U. of Washington	LL.M.
	Banking Law Studies
Boston U.	LL.M.
	Business and Taxation
Bridgeport	LL.M.
McGeorge	LL.M.
	Business & Taxation: Transnational Practice
McGeorge	LL.M.
	Clinical Law
Temple	LL.M.
	Common Law Studies
Georgetown	LL.M.
	Comparative Law: Comp. Jurisprudence
Alabama	M.C.L.
California Western	M.C.L.
Dickinson	M.C.L.

SCHOOL	DEGREE OFFERED
	General
Alabama	LL.M.
California-Berkeley	LL.M., J.S.D.
Catholic U. of Puerto Rico	M.S.L.
Emory	LL.M.
Howard	LL.M.
Illinois	LL.M.
Miami	LL.M.
Michigan	LL.M., M.C.L., S.J.D.
San Diego	LL.M.
Southern Methodist	LL.M.
Tulane	LL.M., S.J.D.
	Goverment Procurement Law
Howard	LL.M.
	Intellectual Property
John Marshall	LL.M.
	Inter-American Law
Miami	LL.M.
New York U.	M.C.J.
	International and Comparative Law
Georgetown	LL.M.
Howard	LL.M.
Notre Dame	LL.M.
	International and Comparative Law/Advocacy
Georgetown	LL.M.
	International Economics Law
Houston	LL.M.
	International Legal Studies
American	LL.M.
New York U.	LL.M., J.S.D.
	International Law
Harvard	S.J.D.
Miami	LL.M.
Southern Methodist	LL.M.
Temple	LL.M.
	Judicial Process
Virginia	LL.M.

318

SCHOOL	DEGREE OFFERED
	Property and Natural Resources
Southern Methodist	LL.M.
	Public International Law
Harvard	S.J.D.
	Real Property, Land Development & Finance Law
Miami	LL.M.
	Research
Duke	S.J.D.
Washington U.	J.S.D.
	Securities Regulation
Georgetown	LL.M.
	Taxation
Alabama	LL.M.
Baltimore	LL.M.
Boston U.	LL.M.
Bridgeport	LL.M.
Capital	LL.M.
Chicago-Kent	LL.M.
Denver	LL.M.
DePaul	LL.M.
Emory	LL.M.
Florida	LL.M.
Georgetown	LL.M.
Golden Gate	LL.M.
Harvard	S.J.D
Houston	LL.M.
Howard	LL.M.
John Marshall	LL.M.
McGeorge	LL.M.
Miami	LL.M.
Minnesota	LL.M.
Missouri-Kansas City	LL.M.
San Diego	LL.M.
Southern Methodist	LL.M.
Temple	LL.M.
Villanova	LL.M.
Washington U.	LL.M.
Wayne State	LL.M.
William & Mary	ML&T
William Mitchell	LL.M.

GRADUATE DEGREE PROGRAMS BY STATE

Year of Approval	State	School	Degree	Concentration
1968	AL	Alabama	LL.M. LL.M. M.C.L.	General Taxation Comparative Law
1980	ARK	Arkansas-Fayetteville	LL.M.	Agricultural Law
Not Stated	CAL	California-Berkeley	LL.M. J.S.D.	General General
1978		California-Los Angeles	LL.M.	Varies--U.S. & Comp.
1979		McGeorge School of Law	LL.M. LL.M. LL.M.	Taxation Business & Taxation Bus. & Tax.--Transntl
1982		California Western	M.C.L.	Comparative Law
1978		San Diego	LL.M. LL.M. M.C.L.	Taxation General Comparative Law
1980		Golden Gate	LL.M.	Taxation
Not Stated		Stanford	J.S.D. J.S.M.	Designed to meet individual student's interests
1975	COL	Denver	LL.M.	Taxation
1983	CONN	Bridgeport	LL.M. LL.M.	Taxation Business & Taxation
Not Stated		Yale	LL.M. J.S.D. D.C.L.	Not Stated Not Stated Not Stated Research
Not Stated	D.C.	American	LL.M.	International Legal Studies

Year of Approval	State	School	Degree	Concentration
Not Stated		Emory	LL.M.	General
			LL.M.	Taxation
			LL.M.	Litigation
Not Stated	ILL	Illinois	LL.M.	General
			M.C.L.	Comparative Law
			J.S.D.	Not Stated
1983		Chicago-Kent	MALS	American Leg. Studies
			LL.M.	Taxation
1977		DePaul	LL.M.	Taxation
1951		John Marshall	LL.M.	Taxation,
			LL.M.	Intellectual Property
1923		Northwestern	LL.M.	Varies
			S.J.D.	Varies
Not Stated		University of Chicago	LL.M.	Not Stated
			M.C.L.	Not Stated
			D.C.L.	Not Stated
			J.S.D.	Not Stated
1983	IN	Indiana-Bloomington	LL.M.	Varies
			M.C.L.	Comparative Law
1986		Notre Dame	LL.M.	Comparative and International Law
1968	LA	University of Iowa	M.C.L.	Comparative Law
1924	LA	Louisiana State	LL.M.	Varies
			M.C.L.	Varies
1937		Tulane	LL.M.	General
1981			LL.M.	Admiralty
1982			LL.M.	Energy & Environment
1931			M.C.L.	Comparative Law
1980			MCL-MA	Latin Amer. Studies
1957			S.J.D.	General
1986	MD	Baltimore	LL.M.	Taxation
1959	MASS	Boston University	LL.M.	Taxation
1983			LL.M.	Banking Law Studies

Outsiders who come with ready-made
solutions are worse than useless.
They must first understand from us
what are the questions, help us to
articulate them better and then help
us to find solutions.

Tilakaratha

THE RECOMMENDED TRAINING STRATEGIES

Alice: "I really want to ask you which way I ought to go."

The Cheshire Cat: "Well, my dear, that depends...
on where you want to get to"

From:
Alice in Wonderland by Lewis Carroll

"No matter where you go,
there you are."

Lao-Tse.

B. Alternative Training Strategies and Constraints: Procurement

Training has been taking place in many different sectors of the Government on Procurement. The amount of training varies widely, depending on the Department. Even in the most active of the Departments there appears to be a need for a lot more training than is being done. Lack of funds for training is a complaint which is often heard.

The principal focus and target group for the training of Procurement personnel would be government officials and staff, with possible sponsorship of workshops and seminars for private sector lawyers and business people.

Among the questions to be answered regarding alternative strategies are the following:

1. Who should be trained?

    a. Who should be trained first? (Sequencing)

2. What would be the principal aspects to be covered in such training?

    a. What is the relative need for substantive as opposed to skills training?

    b. What kind or shape of training?

3. Who would do the training? Alternatives.

    a. Personnel
    b. Organizational mechanisms

1. Training for Whom?

Many Departments (Ministries) in the Indonesian government purchase/acquire vast quantities of goods and services during a year. The amount of goods depends on the ministry. The Department of Public Works, for example, is one of the largest purchasers of goods and services.

The basic strategy in this project would be to train a core group of personnel and officials in each ministry on the new regulations to be published in the Procurement Manual. The number of personnel and officials would depend on each ministry and its needs. Higher level officals would be trained first so that they understand the Procurement process and substance.

One important aspect of the strategy would be to focus the training on two levels or target groups in the government:

325

a. The Executive Level: High level officials in each Department. The training would be more of a general overview; it would lack the depth and detail of the following programs.

b. The Managerial Level: Training of managers who will oversee personnel implementing the procurement processes. These persons must understand the substance and the process of procurement in considerably more depth than the executives.

One basic problem regarding training in Procurement is not that there isn't anyone to train but rather that, once the new procurement regulations are approved, training will have to be carried out for core groups of personnel in all of the ministries and various agencies.

The anticipated problem of frequent turnover of procurement personnel (as with other government civil servants) is not going to be basically changed as a result of this project. However, if the procurement training is institutionalized and there are continuing training programs on the subject, including refresher courses that update substance and process learning, then in the long-term at least, the Government will eventually gain a critical mass of skills and knowledge on procurement that will have an impact. The alternative is to do one major wave of training on procurement for all relevant personnel during the project. This would have definite disadvantages.

2. Training About What?

In terms of logical order of occurence, the first steps toward Procurement training are the approval of the Procurement Regulations and the production of a manual containing these regulations.

One approach or strategy about the subject matter of the initial training programs would be to focus principally on the substance of the new regulations in the first round with a small amount of administrative process. The target audiences, as noted above, also influence the depth of the training. The following rounds of training programs would focus somewhat on the substance of Procurement but more on the process of implementation. Another approach would be to focus on the content and the process of specific aspects of Procurement in a carefully ordered series of training workshops. Training materials would first have to be produced before the training can begin. The shape of the materials will often shape the actual training course.

One approach to the presentation of the various aspects of the procurement process and substance would be to produce one large training manual in ring binder form which becomes the basic training manual for all procurement training assistance. This would be the basis for all training programs on the subject and sections of it could be revised easily because of its loose-leaf form. A second approach to training materials would be the production and use of "modules" about specific topics. These modules could be based, in part, on Procurement materials already in existence in commercial form as well as on materials

326

available from international organizations such as the World Bank. An important consideration is that the training materials must be written in Bahasa Indonesia although there will be certain sections related to international procurement which must be in English. These latter materials must be fully understood by procurement officers who will be involved in international procurement processes. Modules can have the advantage of being produced in stages and they also break the material down into more easily absorbable 'bites' for the participants. The module topics would basically comprise two major parts, with a number of headings under each: (1) Pre-Contract Award Processes, and (2) Post-Contract Award Processes.

3. The Shape of Training and Who Would Train

Procurement training could involve a lot of participants. Therefore, one training approach would involve many short-term training programs or workshops for government personnel. The possibility for overseas training, relatively short-term, is also an alternative for selected key personnel. One thought might be to have a core training team who receive in-depth overseas training as well as technical assistance when they return to Indonesia. A small core group of key implementation procurement personnel could also receive such training.

Alternatively, and more cost-effective, would be to have foreign procurement experts conduct training programs for a core group of trainers and implementing officials in Indonesia, most probably from different Government ministries. This alternative and overseas training do present problems of language, with a very good understanding of English being necessary. The overseas training is the more difficult in terms of language (and culture shock, food shock and climate shock) while the in-country training by foreign experts might be more easily accomplished with translations and translators. Training materials should be prepared in Bahasa Indonesia as much as possible for in-country training.

4. The Alternative Institutional Mechanisms for Training

There are several possibilities for institutionalizing Procurement training and these present different arrangements too for any contractor working in the procurement area.

a. The Departmental Arrangement

Training would be carried out through already established training institutions in one or more different Government Departments. The Department of Public Works already has an active training section and could be the venue for such training programs. Their staff could be trained in Procurement substance and skills. The Department of Finance might be another possibility. Another possibility is LAN (*Lembaga Administrasi Negara*) which already conducts training programs for Project Managers in the Government.

Advantages:

1. The Departments usually have their own training sections. This would not require setting up a separate institution. Trainers already are in place and a physical location would already exist. Easier to initiate.

2. Cost might be relatively less than other arrangements.

Disadvantages:

1. Training on Procurement might overload current training staff. Would have to add extra new staff.

2. Procurement training might not receive appropriate visibility for such an important topic. Might be lessened by inclusion in a training section having activities in other topics.

b. The Indonesian Institute for Acquisitions Arrangement

In this arrangement an independent institution is set up with the backing of EKUIN. The Institute would not only focus on training but also on bringing together experts on Procurement, and possibly initiating a publications program on the topic. The Institute would also be the conduit for bringing in foreign experts for technical assistance purposes, as well as organizing seminars or workshops on procurement topics for private sector lawyers and business people.

Advantages:

1. The Institute is independent although it would have the backing of the powerful EKUIN ministry. This gives it possible sustainability advantages.

2. The visibility of Procurement would be heightened.

3. The possibility of not only doing training but also other activities related to Procurement could have a symbiotic effect if properly organized.

Disadvantages:

1. Could be more costly to initiate.
2. The physical location would have to be worked out. It could begin in some Government facilities that already exist.
3. More complex to initiate.
4. Government resistance to establishing new organizations.

c. The Private Sector Institutional Arrangement

In this alternative, the training programs for government officials would be contracted to a domestic private organization (a consulting firm with strong training skills or one of the private management schools). This strategy would allow the private organization to hire various domestic and foreign consultants with the aid of the contractor.

Advantages:

1. Responsibilities for organizing the training programs would not fall heavily on the government.
2. Could be more efficient and cost-effective.
3. A private training organization might have better access and credibility with other private sector organizations (re: the provision of seminars and workshops to the private sector on procurement).

Disadvantages:

1. Since it would be principally government officials who would be trained, this arrangement would probably not be enthusiastically received by the government.
2. Might be difficult to arrange.
3. Could be more costly.

There are undoubtedly other specific arrangements or combinations of the above that might be suitable for implementing training programs in procurement but the above represent the principal alternative strategies.

C. The Overall Constraints of Training: A Review

As has been indicated previously, Training has often been seen as the panacea for the ills of developing countries. Experience has shown that this is totally over-optimistic. There is an increasing awareness that training must be seen as part of a set of complex, inter-related factors which together help to determine the pace of development.

While there is a relationship between the role of training at the micro and macro levels, supplying training to individuals (the micro-level) provides no guarantee that the training will be effectively utilized at the macro level.

Research in developing nations has shown that it is important to identify preconditions for effective training. A World Bank Working Paper by Samuel Paul (*2) lists five such preconditions. These are highly relevant for the project to be initiated here.

Preconditions for Effective Training

Training Policies and Management of Institutions. A "national policy on effective training and its design and management is a prerequisite." Haphazard organization of training, and training concepts, content, and methodologies which are not adapted to local environments can lead to ineffective training programs.

The Education System. "The training system can only build on what the education system can offer." When the educational foundation is weak, training becomes an uphill battle. In part, this may be due to inadequate manpower planning by the government.

The Stock of Educated Manpower. A good supply of educated manpower is required for effective training and this is not necessarily the fault of the educational system alone. When past policies of manpower development make it difficult for public service to attract an adequate supply of educated manpower, intense competition for trained manpower occurs as does a rapid turnover or depletion of public service personnel. Less effective training usually results.

Personnel Policies and Systems. "Training is unlikely to be effective as long as the personnel policies and systems in the government do not support this activity." If, for example, training efforts are not integrated with career development plans of civil servants or good performance evaluation systems, then it is unlikely there will an "effective demand" for training.

The Administrative Culture of Governments. While much can be transferred through training, without major changes in the administrative culture (organizational environment) it is difficult for training to have any profound impact on development.

The first three of these factors...policies for the management of training, the education system and the stock of educated manpower...lead to effectiveness through the improvement of the supply of training (qualitatively and quantitatively).

The fourth and fifth factors..Personnel Policies and Administrative Culture..lead to training effectiveness by promoting a more genuine demand for training.

In the previous analysis of training needs and alternative strategies for training, it has been seen that there are various degrees of difficulty regarding all five of these preconditions in the Indonesian context. The reality is that allowances will have to be made for these weaknesses in the training programs to come. The training programs themselves should do all that can be done to emphasize these preconditions in the curricula.

330

There must, however, be a recognition of the above preconditions. This might be called a "reality check". It is the reality and the "glass half full" attitude (as opposed to viewing a glass as half empty) that has been changing for the positive in Indonesia. Many talented Indonesians are working hard to change the "preconditions". This project will continue the positive trend in the reality that is modern-day Indonesia.

There are other lessons that have been learned about training in general from evaluations of such programs in developing nations. The afore-mentioned Work Bank study by Samuel Paul pulls together six such lessons which are extremely important for the planned training efforts in Economic Law and Procurement.

The Lessons for Training from Evaluation

Lesson One. If the training needs and training programs are evaluated skillfully, considerable improvement in the efficiency and effectiveness of training can be achieved.

Lesson Two. Increased attention to the problems of the client and greater willingness to facilitate learning rather than teaching tend to augment the impact of training. This lesson particularly comes down hard on "imported" teaching techniques that emphasize teaching (by the lecture method and with too much focus on theory) rather than learning methods that are more participatory and which emphasize the practical.

Lesson Three. A long-term perspective on the development of training capacity is essential even when planning a short-term development project.

Lesson Four. The design and management of training institutions and the approach to development and motivation of faculty trainers will have a strong influence on training effectiveness. Noted as part of this lesson are the inhibiting influence of civil service regulations "mindlessly applied". Also noted is the drawback of civil servants who are appointed for short periods of time as trainers and academics whose development is ignored over long periods. Both groups will be little motivated to perform and innovate.

Lesson Five. When high priority is given to training by government and adequate resources are allocated to strengthen the institutions, training effectiveness is likely to improve.

Lesson Six. The effectiveness of training tends to improve when career planning and development and other personnel policies are closely integrated with training. (*3)

The above are macro viewpoints on potential impacts of training programs. Also important are some lessons from the micro or Training Manager/Facilitator standpoint. This discussion of Alternative Training Strategies and Constraints therefore concludes with a succinct presentation of some of these more micro-constraints from The I.O. Book of Training. The "Reasons Why Training Programs Succeed or Fail" from this book appear on the following pages (Table 11) and provide useful guidance for the forthcoming training programs in Economic Law and Procurement. (*4)

TABLE 11

REASONS WHY TRAINING PROGRAMS SUCCEED OR FAIL

REASONS WHY TRAINING PROGRAMS SUCCEED OR FAIL

	PROBLEMS & BARRIERS TO SUCCESS		WAYS TO AVOID OR MINIMIZE THEM
1	LACK OF SUPPORT FROM TOP MANAGEMENT	Top management gives lip service and supports training "in word but not in deed." They may come to first meeting, but not be seen thereafter. They may pull key people out of class for "crash" projects, meetings, etc. Common feeling is that "they need it" . . . (meaning the other managers and their subordinate supervisors). The projects and activities of the moment are always more important than attending a training session.	a. Run top management through program first (tailored to their needs which differ somewhat from first-line supervisors and their needs). b. If a isn't possible, conduct half-day briefing for bosses: cover the content, intent, and design of your course . . . how it's different, why their support is essential to its success (see Nos. 8 & 9). c. Get involvement of bosses in the needs analysis before you begin (see No. 2). d. Sell president and key executives before your briefing. Have them participate in running the briefing and kicking off first class meeting.
2	LITTLE KNOWLEDGE OF AUDIENCE AND THEIR NEEDS	Instructor and/or course materials do not deal with the real needs of participants. Problems and illustrations brought up in workshop are textbook examples that don't ring true to the day-to-day needs of the supervisors and line managers who are sitting in workshop. When they bring up their own problems and needs, the instructor often discourages them ("too specialized a case . . . doesn't apply to others here"). Translation: I don't know what you do well enough to relate to the rest of the class.	a. Interview sampling of the population of trainees 3-4 weeks before course starts. b. Use an instructor who knows the organization's people and politics. c. Use survey research to do a modest needs analysis (Survey of Organization Climate, Self-Inventory of Managerial Responsibilities, etc.). d. Have each participant bring in a "What Went Wrong" form (brief case history) to each class meeting, showing how the concepts and skills for each workshop apply to a real problem or "incident." e. Break group into sub-groups of 3-5 persons each on role plays, case study, discussion of incidents, etc. so that instructor can circulate, listen, and get to know the group and their needs.
3	INADEQUATE PRE-SELLING OF PARTICIPANTS BY THEIR BOSSES	Often those selected to attend find out by memo from the Training or Personnel Dept. with little if any explanation by their bosses on why they have been selected to attend. (In companies where other cycles will be run subsequently, a supervisor's friends may be scheduled later but not know it yet.) Many questions arise: Why me? Am I being rewarded? Or do I need help more than the others? Who will cover for me while I'm at workshop?	a. As in No. 1, run bosses through course or have them attend briefing before each cycle (only bosses of participants). b. Involve bosses in selecting which of their people should attend (and, if you're having more than one cycle, in what sequence). c. Give bosses a course outline to go over with their subordinates who will be participating. d. In your invitation memo to participants, tell them to schedule a 15-20 minute meeting with the boss to discuss the course — intent, content, why they've been picked, who will cover for them during workshop and involvement by the boss during the program (See Nos. 8 & 9).

	PROBLEMS & BARRIERS TO SUCCESS		WAYS TO AVOID OR MINIMIZE THEM
4	INSTRUCTOR LACKS CREDIBILITY AND/OR FAMILIARITY WITH SUBJECT	The in-company instructor is often perceived as a "staff type" who lacks line experience and may never have supervised others or been responsible for management decisions of any consequence. Outside instructors (professor from local business school, consultant, etc.) lack knowledge of the organization and therefore tend to stay in the "safe" areas of theory and concept. Line managers who are asked to instruct can relate to the participants and their needs, but are often uncomfortable with the course content.	a. Select an instructor who has experience with management training and credibility (acceptance by participants). Then qualify him/her (i.e., Train The Trainer). b. Use instructional materials that are "fail-safe" . . . pre-tested to be successful independent of the instructor. c. Ask for detailed instructor guidelines. If the publisher cannot provide these, look elsewhere. d. Use outside instructor(s) to work with your in-company instructors; team-teach the first cycle (to "certify" your instructor in the process).
5	TOO MUCH LECTURE AND ONE-WAY COMMUNICATION	Often there's a lot of information to be crowded into one session. Frequently the instructor has an ego-need to share knowledge. Often precedent or environment leads participants to be passive and the instructor active (e.g., college professors, straight row seating "auditorium style," etc.). However, when you bring supervisors together, they have a need to interrelate: to share experiences, swap gripes, and assert their membership in the family of management.	a. Make sure instructor is process-oriented (and not information-centered or wrapped up in his/her own ego needs). b. Arrange classroom seating in layout that promotes interaction among participants. c. Train instructor in the 3-stage model of learning (acquisition-demonstration-application) and in the use of case method, role play, games, etc.
6	PROGRAM IS CANNED... THE "NOT INVENTED HERE" SYNDROME	Instructor and/or participants do not see relevance of materials. Their complaint is that "this doesn't apply . . . it's a bank, and we're a bottling company" . . . or, "this is a production problem and we're in sales." Sometimes the problem is that the instructor feels a need to create material (to justify his/her existence) and is threatened by outside material. Buyers of training programs face a problem: they want a quality course of a caliber that can't be "home grown," yet they want to be seen as an internal developer of training (and not as a purchaser of "off-the-shelf" materials).	a. Some commercially available courses are too general, too glib. They attempt to apply to everyone, and end up lacking substance. Avoid them. b. Carry out needs analysis in advance, so you can adapt program to your needs. c. Tailor the course as you run it (through the use of Critical Incidents, Action Plans, Climate Surveys, self-inventory, etc.). d. Educate participants to the fact that *principles* of effective supervision are universal and are often shown most vividly in a context other than our own (since we tend to bog down in details of our own business). Make the variety of illustrations an asset rather than a liability. e. Involve top management in the selection of the program. Present a cost comparison on what it costs to make a "home grown" course and to buy an existing, proven package, then adapt it. Let top management make the final approval or choice.

	PROBLEMS & BARRIERS TO SUCCESS		WAYS TO AVOID OR MINIMIZE THEM
7	TOO MUCH THEORY... NO "HOW TO" OR "HANDS ON"	Course deals with "safe" topics that are abstractions: the theories of Blake-Mouton, McGregor, McClelland, Likert, Maslow, Herzberg, etc. Other abstractions: authority-responsibility, the management cycle, principles of organizational behavior (chain of command, span of control, etc.). These are interesting as a *preface*, but they don't improve performance. The problem is how to move from cognitive matters into the applied areas of day-to-day supervision.	a. Specify behavioral objectives for each class meeting (what the participants will do as a result . . . preferably starting during the week following workshop). b. Workshop exercises should emphasize *skills*, not *knowledge* (i.e., course should be management *training*, not management *education*). c. Select an instructor who can blend theory with practice. d. (All the things listed in No. 5 apply here as well.) e. Take the learner through all 3 stages of the learning model — acquisition, demonstration, application.
8	DRIVES A WEDGE BETWEEN PARTICIPANT AND BOSS	Participants may meet resistance on part of boss, interfering with *attendance* (e.g., classes missed due to "crash" projects), or with *homework* ("I had to work nights this week"), or with *application* of new skills back on the job ("I don't care what they told you in training, here's what I want"). Or, armed with new concepts and skills, participants become more aware of boss' shortcomings and more frustrated by the climate, style, etc. within their group.	a. If possible, train "from the top down" so that bosses (dept. heads, officers, etc.) go through course first. b. Mix levels, so that bosses attend along with the supervisors. (If you have some "questionable" partnerships, put boss in one cycle and subordinate in another.) c. Involve bosses in the team-teaching of the course (perhaps a different team for each session). d. Failing the above, conduct a 2-3 hour briefing for bosses at start. Outline content, intent, and their role as "sponsors". Hold a wrap-up meeting at end of course. e. Development of Action Plan and meeting with boss following each workshop. (See No. 9)
9	NO TRANSFER OF TRAINING FROM CLASSROOM TO JOB	Participants do not perform any better back on the job. Could be for many reasons (including the preceding eight). However, *main* reason is usually that management had not spelled out *how* each participant would put to work the things learned in class. The problem is that management courses don't go far enough in structuring a system for implementing and maintaining new behaviors. A further problem is that this *must* be done by participants and their bosses; it cannot be done by the instructor (whose authority begins and ends with the workshop period).	a. For each workshop meeting (except perhaps the initial one), each participant should prepare an Action Plan that spells out what will be done back at work as a result of this workshop (e.g., setting goals and standards for subordinates, updating job descriptions, giving constructive performance appraisals, etc.). b. The participant meets with his/her boss during the time between workshops. They review the Action Plan, modify, agree on timetable for implementing it. c. At start of next workshop, participants work in small groups comparing Action Plans and sharing insights gained during meeting with boss. d. In some courses, it is appropriate to bring participants together 3-6 months after end of class cycle, for each to report results of Action Plan.

336

	PROBLEMS & BARRIERS TO SUCCESS		WAYS TO AVOID OR MINIMIZE THEM
10	WRONG PEOPLE AS PARTICIPANTS	In a stimulating workshop, participants learn from each other. The problem occurs when key supervisors are pulled out or drop out. This deprives the others of their insights, experiences, etc. Sometimes the group will have a heavy proportion of those participants who were most expendable ("good old Charlie" with five years to go before retirement). Sometimes there are too many "staff types" who don't supervise anyone. Sometimes one department or division is overrepresented and begins to dominate.	a. Make extra effort to get and keep the key supervisors whose participation is important to the success of your program. b. Try to balance the mix of participants according to experience, dept. or function, sex, and age. c. Within the group, vary seating at each meeting so participants have different neighbors each time. d. Meet individually with "sponsoring" managers and help them to pick and to commit the right participant(s).
11	NO EVALUATION OF IMPACT	In many courses, the only evaluation is a rating sheet passed out at the last group meeting. This measures popularity, not effectiveness. Also, top management needs a "summary recap" of the impact of the program. It's the instructor's responsibility to provide this. Also, others in the organization (e.g., supervisors who haven't been through the course) need to know about the program's acceptance and effectiveness.	a. By using Action Plans, you can follow-up and evaluate actual *impact* (and not just whether they liked it). b. Prepare a report for top management: give statistics (No. participants, attendance, results, bottom line impact, if any). c. Invite company newspaper (house organ) editor to sit in on a workshop, take photos, interview a few participants on likes and dislikes. d. Hold follow-up meeting 3-6 months later. (see suggestion in 9d.)
12	NO ONGOING PLAN FOR CONTINUED GROWTH	Supervisor training and management development are usually one-time "shot-in-the-arm" activities with no long-range plan for further growth. Often selections of programs are made on a year-to-year basis (e.g., problem-solving from Kepner-Tregoe last year, PRIME series from AMA the year before, etc.) *without* any overall guidelines or scheme for integrating varied approaches. Supervising is a 12-month-a-year activity; it is not confined to the 8-16 weeks of a course.	a. Prepare an overall plan for growth and development. b. Don't make or buy programs based on current fads (this year transactional analysis, next year transcendental meditation . . .). c. Provide a year-round calendar of training, perhaps not as intense (time demanding) as the 8-16 week series. d. Form a *Supervisory Association* of the graduates of each cycle. They meet once per month, have speaker, and plan programs for their own continued growth. Meetings also serve as a forum for addressing organizational problems and improving the work climate. e. Provide a monthly self-study packet to each supervisor. Administer assessment exercises to help each participant gauge strengths and weaknesses.

FOOTNOTES

Alternative Strategies and Constraints for Training

1. USAID/Jakarta. "First Year Progress Report on the Ministry of Trade's Young Professional's Program." Prepared by Steve Parker and Jim Cassing. February 6, 1991. Pages 1 and 9.

2. Paul, Samuel. Training for Public Administration and Management in Developing Countries. A Review. Washington D.C.: World Bank Staff Working Papers, No. 584, 1983. pp. 13-15.

3. Ibid. pp. 61-66.

4. Training Technology Associates. The I.O. Book of Training. Houston, Texas, 1982.

THE RECOMMENDED TRAINING STRATEGIES

Strategies, not one strategy, will be outlined here because the two major subject areas -- Commercial Law and Procurement -- require different approaches and different thinking. Nevertheless, there are some common questions which must be answered for both subjects. The questions for the most part begin with such simple words as Why, Where, What, Who, How Many, By Whom, When, and How Much. Then we need to know if we have gotten to Success, and on the way, how far we have come. Therefore, we need criteria for evaluation.

I. COMMERCIAL LAW

A. The Strategic Overview

In the previous section of this document, various alternative strategies were examined as to the approaches and types of training required. The basic target groups were and are: (1) Government Legal Bureau personnel, specifically in the Departments under the coordination of EKUIN (Finance, Industry, Trade, and EKUIN itself) plus the Ministry of Justice; (2) the Judiciary (particularly younger judges at the Kabupaten level); (3) Academia (faculty of state universities plus law librarians); and (4) The Private Sector (private lawyers and the business community).

Basically, the strategy to be outlined here is addressed to both the short-term and the long-term. The emphasis will be more on short-term courses, workshops and seminars in-country since these are seen to be more cost-effective and efficient. There will also be some long-term overseas study, particularly for university faculty.

As the basis for strategy, however, there also has to be a long-term vision. Foundations have to be built and the tendency towards an approach which only yields' immediate gratification' has to be resisted. This is true for all of the groups, but perhaps even more so for the academic target group. The strategy of Prof. Mardjono Reksodiputro is a model that should be followed. It could be called the Strategy of Foundation Building. It puts first things first.

Professor Mardjono's approach in developing the skills of law faculties has been as follows. In 1981, for example, a graduate program in Law, including Economic Law, was started at the University of Indonesia. The first step was to develop a collection of materials (books and articles). The second step was to organize a "Study Group" of scholars who began using the collected materials and themselves published papers based on these materials. The third step was that the best of the study group scholars were chosen to go overseas for training. The fourth step (probably informal) was that the returnees would develop courses in the 'new' field. The point or principle here is that there should be "first things first" in order to build a capability; a capability that is regenerative. This type of strategy builds capacities that have impact after a project is officially finished.

In addition to "First things first", the Commercial Law portion of this project may also be described as having multiple targets and using an institutional implementation strategy which

not only divides the spoils but places activities with organizations that can best implement them. This could be called the Strategy of Fit.

The principle here is also that if at all possible it probably is better to strengthen existing organizations rather than start new ones. In other words, look for existing training institutions where there is a core or a germ of life, creativity, people and infrastructure, and, if after evaluating the potential, there are rays of hope, build on what is there. Sometimes, starting new organizations in circumstances such as this dilutes the efforts of existing organizations or increases the competition for scarce resources. If those rays of hope are not there, then start something entirely fresh and new. This is the Strategy of Starting With What Is (If Possible).

The last strategy is to envision and plan for sustainability; both for institutions and for individuals. This is the Strategy of Sustainability.

B. The Institutional Mechanisms for Training: Commercial Law -- Choices and Rationale

The various alternative institutional arrangements, through which a contractor would work, have been outlined in detail, with their advantages and disadvantages. There obviously is no perfect arrangement. Weaknesses can be identified for all of them. But strengthening institutions and the training that goes on in them is why this project is being developed. There is a need. The recommended arrangement recognizes this reality.

The recommended arrangement is as follows:

1. The University of Indonesia: would train the following target groups through a Center for Economic Law, to be established by the Project.

   a. Personnel in the Legal Bureaux in the following Departments/Agencies would be the primary focus.
      Ekuin
      Industry
      Trade
      Finance
      Ministry of Justice
      SEKNEG

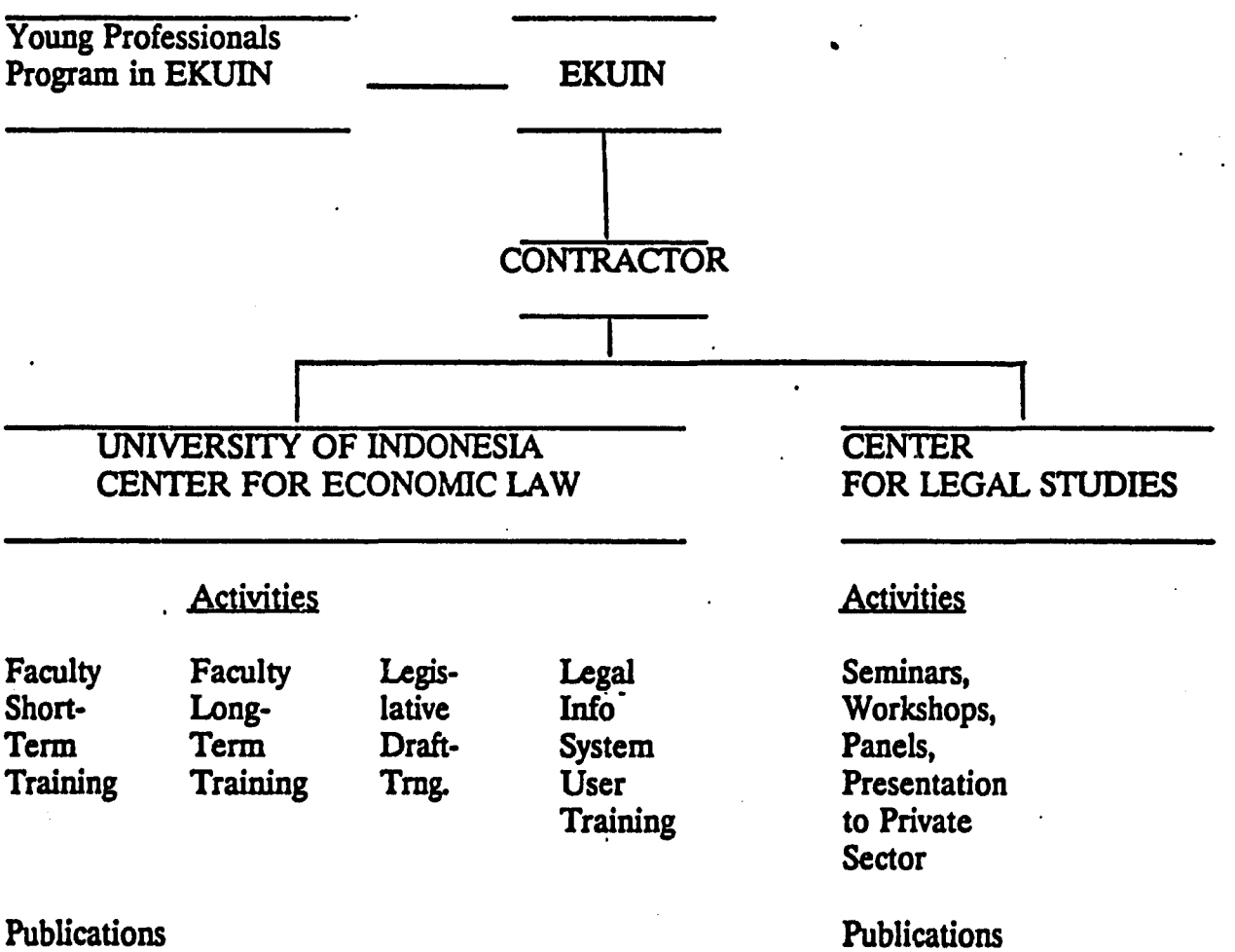
   b. Law Faculty (from the State Universities). The University of Indonesia would be the conduit for the long-term training, and the developer and manager of the short-term training.

   c. Selected *Kabupaten* Judges (Young: best and the brightest). Would have to coordinate with the Ministery of Justice, which administers the court system, on selection and logistics (training sites etc).

2. The Center for Legal Studies (*Pusat Pengkajian Hukum or PPH*). This is a private foundation which has had extensive experience in implementing workshops on legal topics for the private sector audience. It was established in 1987 in response to the impression that the Indonesian legal system had not yet been conducive to economic development. It collaborates with a wide variety of private and government institutions and routinely sponsors workshops and courses, seminars, and colloquium. It also periodically publishes newsletters and reports. It has previously received funds from USAID to start its activities and in 1988/89 received funding from The Asia Foundation for general strengthening as well as to publish its Newsletter. It would here provide seminars and workshops on pertinent Economic Law topics for the following audiences:

Private sector Lawyers (Advocates, Pengacara, Consulting Lawyers, Company Lawyers)
The Domestic Business Community
The Foreign Business Community

Schematically, the training arrangement would be as follows:



These two organizations are chosen because they meet the criteria of the Strategies of Fit, Sustainability, and of Starting With What Is (If Possible). While a plan that initiates an independent Center was attractive, these two organizations will make the project possible. Deciding on two organizations rather than one was a difficult choice. It would certainly be more simple if the contractor worked with only one. After careful thought, however, it seemed that the two-organization plan would lead to the greatest effectiveness.

The Center for Legal Studies is the only major player of its type. The private schools of management (such as IPMI and IPPM) dwindled in stature as players because they are already overburdened and stretched too thin in terms of time, staff and space (this applied in general). The various bar associations remain locked in constant conflict. The Center's connections can be regarded as positive (the glass half full syndrome).

The University of Indonesia is probably the most progressive of the state universities, and is even described as the "Harvard of Indonesia," although such comparisons should not be taken out of context. It has the basic facilities at its new campus in Depok as well as 'in-town' sites. The buildings at Depok are only two years old but do require a number of internal improvements (classrooms require air-conditioning, furniture, and perhaps equipment such sound systems as well as better lighting; offices require some upgrading). The University has the space; it just needs modest internal renovation. Host-country support might be in order here.

The University has a core of faculty who could work on a project such as this (Dean Charles Himawan says there might be as many as ten persons who could be committed to it). The University also already offers a program in Law and Economics, which is a plus, since it is a program that would be strengthened through the project. The University is a likely institution too because of its relative nearness to the government bureaucracy of Jakarta as well as being part of the academic community (especially the state university system).

The University's weaknesses of course remain and would have to receive special attention. If a Center for Economic Law is set up there, commitments would have to made for full-time staff as well as for professional faculty time. A strong, committed manager who is personable but who can also get things done plus other professional staff would be a must. Fees could be charged for the training of Government legal staff as well as judges, thus helping to sustain the Center.

C. Who and How Many? : The Training Participants

The four major target groups have already been noted but further expansion on this information is required. This will be later coupled with the different types or approaches to training in order to achieve a comprehensive picture.

1. Government Bureau Legal Staff.

General Objective: Given training on-the-job as well through seminars and short-courses over an 18 month period, the participants will be able to understand important Economic

Law concepts and put them into practice in their own Departments according to a preconceived set of standards.

The basic objective for this target group is to build up a core group or cadre of skilled and knowledgable legal professionals in specific government departments who can deal with competence on commerical or economic law issues.

The most effective and logical way to implement this type of training would be through a "Young Professionals Program in Economic Law". This would be based in EKUIN and would be modelled on the Young Professionals Program currently being carried out at the Ministry of Trade. The major difference between the two programs would be that in the Ministry of Trade the participants would be working in their own Ministry. In the EKUIN program being proposed here, the participants would be chosen from a variety of Ministries, principally those under the coordination of EKUIN (Finance, Trade, Industry as well as EKUIN itself) plus the Ministry of Justice. These participants would work in EKUIN on Economic Law tasks while learning actively in the program. Upon completion of the program they would return to their ministries (or in a few selected cases study abroad before returning to their ministries. The training program per group would be 18 months long. The first group would be replaced by a second group of participants which would in turn be replaced by a third group. Ten Young Professionals would be given the opportunity to study abroad to the Master's Degree level, given language and other skills.

TOTAL PARTICIPANTS:

Program I: 25 Young Professionals
10 Core Group Members
+ Weekly Study Group Participants
+ English Language Training for YPs and Core members.

Program II: 25 Young Professionals
10 Core Group Members
+ Weekly Study Group Participants
+ English Language Training for YPs and Core Members.

Program III: 25 Young Professionals
10 Core Group Members
+ Weekly Study Group Participants
+ English Language Training for YPs and Core Members

TOTAL PARTICIPANTS TRAINED = 75

(Ten of these persons during the life of the program will have the opportunity to study for a Master's Degree abroad).

---

2. The Judiciary:

General Objective: Given a series of four, two-week short courses, the Kabupaten judges should be able to demonstrate in class and in the court that when presented with relevant Economic Law subject matter, they are able to identify the key problems of the case, understand the terminology, and produce a knowledgable legal opinion.

It is not possible to ascertain at this writing exactly how many *Kabupaten* judges exist; the best estimates put the number in "the hundreds". Given that EKUIN would like to focus on younger talented judges to build a future cadre of judges with knowledge of Economic Law, a goal of 200 judges to be trained through a series of four two- week short courses (*Penatarans*) would seem to be a reasonable goal. Each course (Economic Law I, II, III, and IV) would be held once a year with the courses staggered over the life of the training program.

TOTAL PARTICIPANTS TRAINED (4X) = 200

3. State University Law Faculty (Short Term):

General Objective: Given the proposed series of Economic Law courses, the participants will be able to prepare a course on at least one Economic Law topic one year after the completion of the course series.

The faculty to be trained in these courses would be the mid-level, up-and-coming personnel rather than the top level professors. These training programs should be done as regional "road shows" using a mixed team of foreign and domestic trainers. There are about 200 faculty members teaching S-2 courses and while the participants do not necessarily have to come from this grouping, it gives a basic indication of the size of the target population of mid-level personnel. If 100 of these faculty members, representing all of the universities, could receive training on various aspects of Economic Law through four separate short-courses (Economic law I, II, III, IV) during the six year life of the project, there would be a core of Economic Law faculty that might begin to give special attention to that subject in their respective institutions. Four separate training programs per year would have to be held (25 participants each time) over a four year period. Participants should represent all of the universities although insitutions with larger faculties should receive greater representation. If at all possible, it is recommended that the same participants proceed through all four courses.

TOTAL PARTICIPANTS TRAINED: 100 (4X)

4. State University Law Faculty (Long-Term Training)

General Objective: By the end of the degree education programs, the participants will have received a degree in a relevant aspect of Commercial/Economic Law and be prepared to begin a related course at their home educational institution.

These faculty members should be the best and the brightest of mid-level, up-and-coming personnel at the state universities. They will have to have an excellent command of English. The most likely type of program would be a Master's degree program, with the possibility of a doctoral degree in several exceptional cases. This will depend on the candidates available. It is proposed that 25 persons from the state universities receive graduate training at the Master's Degree level and 5 (given availability of appropriate candidates) study to the doctoral level. It is recommended that universities in the commercial centers of Java (Jakarta, Surabaya, Yogyakarta, Semarang, Malang) receive no more than 15 of the combined Master's Degree and Doctoral Degree slots, with the remaining slots being distributed evenly outside of java. It is further recommended that, if at all possible, no less than one third of the slots for study be filled by women.

TOTAL PARTICIPANTS = 25 Master's Degree Participants
5 Doctoral Degree Students

5. SEKNEG/Legislative Drafting Directorate (Ministry of Justice). Legislative Drafting Short Courses.

General Objective: By the completion of two successive training programs, the participants will be able to effectively implement legislative drafting according to criteria prepared for the courses.

Two successive short-courses, to be held within the same year (for reinforcement), for two years, will be held under the auspices of the Center for Economic Law of the University of Indonesia. The general purpose of the courses is to upgrade legislative drafting skills in these two organizations. SEKNEG should be able to send 20 persons (the same persons) to both of the trainings, and the Legislative Drafting Directorate should send 10 persons per year. This means that 30 persons per year will attend these training programs.

TOTAL PARTICIPANTS TRAINED = 60

6. Legal Information System Users

General Objective: Given a working, updated Legal Information System at the University of Indonesia and the opportunity for training programs to take place, participants will be able to operate the system and retrieve data on Economic Law topics by the end of the training program.

Based at the University of Indonesia, these training programs will be offered to Young Professional's Program participants, faculty members, and students, (as well as to private lawyers and others (for a small fee). A core of 5 staff members of the University, to be selected, would be trained in the use of the system as well as how to train others. The core staff would then be responsible for implementing two short (1-2 hours) training sessions per month for a total of twnety-four training sessions per year. The maximum number of participants per session would be 25. It is anticipated that the trainers would also be able

to provide assistance to various individuals as time permits. Subject matter in the training sessions should be oriented through example to Economic Law topics. The Young Professionals would receive separate programs on the use of these systems (25 YPs + 10 core group persons, per YP program).

TOTAL REGULAR SESSIONS PER YEAR = 24
MAXIMUM NO. OF PERSONS PER SESSION = 25
TOTAL POSSIBLE NO. OF PERSONS TRAINED PER YEAR IN REGULAR SESSIONS = 600
TOTAL POSSIBLE NO. OF PERSONS TO BE TRAINED OVER A FIVE YEAR PERIOD IN 'REGULAR' SESSIONS = 3,000
(Given one year for set-up of system)

TOTAL POSSIBLE YOUNG PROFESSIONALS TO BE TRAINED = 105 (DURING SIX YEAR PROGRAM).

7. Private Sector Lawyers, Business People, General Public:

General Objective: Given an opportunity to participate in workshops or seminars, (and read further on these topics in newsletters or journals, the members of this target group will be able to articulate more effectively the principal issues in the general area of Economic Law, and will be able to apply their learning to their business life.

Under the auspices of the Center for Legal Studies, and in coordination with the University of Indonesia's Center for Economic Law, the Project could support the presentation of five "events" per year dealing with high-interest issues in Economic Law. The audience for these events will the private sector. The events may take the form of workshops, seminars, panel discussions, or roundtables. The project could support a maximum of two international speakers per year (airfare, lodging and compensation) on important and dynamic issues relating to Economic Law. The Project could also support the publishing of a quarterly Newsletter by the Center for Legal Studies, providing that the Newsletter focuses at least 25% of its space on Economic Law articles and topics, and two issues per year of an "Annals" journal that focus on Economic Law topics (2000 copies). The journal would use the Economic Law events that it has organized as a base of the subject matter in these two issues. The events and the journal would be provided for a fee (a sliding scale arrangement for small business people would be helpful to this audience). It is strongly suggested that the Center for Legal Studies and the Center for Economic Law at the University of Indonesia coordinate closely on Economic Law activities. There would appear to be good possibilities for collaboration in terms of publications and presentation of speakers and panelists (such as might also be used in the Young Professionals Program).

TOTAL EVENTS: 5 PER YEAR
(average) = 30 events during the six year life of the program.

- 346'

Another aspect of who receives training is selection criteria for the various groups. While much of this will have to be worked out by the contractors and the various players, a few suggestions are in order.

In terms of the *kabupaten* judges, the younger, up-and-coming judges will be the best bet. Therefore, one criteria should be that the candidates be under 40 years old; under 35 if possible. The point here is to build a group of judges for the future with commercial law skills. Choosing the best and the brightest will have to be done through the Ministry of Justice and only suggestions can probably be made regarding criteria. Such criteria might have to be partially subjective but could also include law school grades, field of interest in law school (those have some commercial law background might be given preference), and those who might have already had some training in commercial law through the Dutch programs. English language skills might also be important.

The law faculty from the various state universities will be studying either in short-courses in Indonesia or will be studying in law schools overseas. For the overseas training, facilty in the English language will be a must and it must be high quality. Law faculty who also have private law practices might be an important choice. This would be a way of upgrading the skills of currently practicing private lawyers; an important group that should get attention through this project but who might not be able to do so if they were only working for a private law firm. The future overseas law students will have to pass all prerequisite tests for entrance into the foreign law schools. If faculty/lawyers are sent to short-courses abroad (such as to IDLI in Rome), they also must show foreign language expertise. Publishing papers on commercial law topics (and the quality of those papers) could also be a prerequisite for studying abroad, for the short or long term. The process suggested by Prof. Mardjono, described earlier in this section, is a good basis for selecting the most promising candidates from the various law faculty. Previous experience or education in commercial law would be a useful though not a necessary, requirement for participants in domestic short courses.

Candidates for legislative drafting short courses from the Ministry of Justice Directorate for Law and Legislation plus SEKNEG will have to be selected by those agencies. Job performance, age (under 40 is preferable), and an evaluation of writing and analytical skills would be useful criteria.

For the Young Professionals Program in EKUIN, criteria might include age (under 35), educational background or experience either with commercial law an/or international law, estimated job performance, English language skills (depending on whether they will be in a "core group", study group or Young Professionals), writing and speaking skills and estimated overall capabilities in the future.

D. Training About What?

Determination of the specific subject matter for the above learning will be left to the staff of the Center for Economic Law, EKUIN and advisors from the contractor. Again, however, some generalizations may be made about what each of the groups will be learning.

Participants in the Young Professionals Program should be able to experience high quality lectures and participate in discussions with invited speakers on many of the topics listed in the first section of this paper (Patent Law, General Commercial Law, Company Law, International Law) as well as have the opportunity to apply skills in focused skill workshops. General and specific instructional objectives should be prepared for all training programs. Needed skills have also been listed in the first section of this paper. They include writing skills, research and analysis skills, negotiation skills and a variety of business-oriented skills.

The Young Professionals Program must not only provide courses and seminars but, very importantly, provide on-the-job training. For details on the shape of a Young Professionals Program (in the Indonesian Ministry of Trade), see the draft paper by Steve Parker and James Cassing, available through USAID.

Faculty of the Law Schools should focus on the most important aspects of commercial law in individual courses. These major topic areas have been noted previously. Skills should be integrated into these courses. Faculty who are selected for overseas study should first be able to prepare a professional paper after guided study of an Economic Law topic. In the foreign law school, the faculty/students must focus on commercial/economic law subject matter (See Appendices for specific information). It might be helpful, given the interests of the candidates, to have certain students specialize in different Economic Law topics, thus spreading around the knowledge. It would be helpful too if more than one person study the same topic, so that there is a chance for mutual support among the students.

The *kabupaten* judges will study similar materials on commercial law as the legal staff of the Departments, although the judges should have the opportunity to practice with cases that are relevant to their (future) work.

E. By Whom : Who Trains

Courses provided through the University of Indonesia (short courses for faculty, judges, Departmental personnel, SEKNEG) will be provided via a team system as used by the Dutch. A core of teachers/trainers should be prepared during the first part of the project. The series of short courses envisioned for the faculty would take place at universities in different regions and a mixed team of foreign teacher/trainers and University of Indonesia faculty would conduct these programs. Similar arrangements could be made for training of Departmental personnel, and personnel of the Ministry of Justice and SEKNEG. Legal Information System training staff would first receive training at the University by visiting outside experts arranged by the contractor.

An important first step in forming a "core" is setting up the Center for Economic Law at the University of Indonesia. The Center will require not only administrative staff but also a faculty who will be committed to the work of the Center for the long-term. Several of these staff could receive overseas training and then be contractually committed to teaching for the Center for a certain amount of time. The Center will need a full-time teaching faculty. They will need time to prepare curricula for the various courses and teaching materials as well.

Multiple uses, with careful planning, might be made of invited visiting lecturers/teachers from other countries. The Young Professionals Program would be an obvious beneficiary. Four or five short-term advisors per year would work with the Young Professional Group for three or four weeks. In addition, these advisors would work with the core Center faculty to prepare curricula and work with the faculty in doing training programs. Special guest speakers would be brought in for the Young Professionals Program; they in turn would assist with at least one training program or could be a speaker for the Center for Legal Studies (this will require careful coordination between the Center for Economic Law and the Center for Legal Studies).

F. When: Training Time, Timing and Timeline:

The various elements of the project are dependent on a lot of preparatory steps and there are certain obvious sequences that must occur. For example, before there are training programs, curricula and other training materials must be developed. Technical Advisors must be hired. And a Center for Economic Law must be planned and physically set up with offices and people before much can happen. The private sector seminars and workshops on Economic Law could be begun without such physical preparations; nevertheless many steps have to be taken such as finding and hiring appropriate speakers or panelists, advertising and finding a place to hold the event.

The first half of the first year of the project would have to be devoted to many such preparations. Establishing the Center, planning the actual training events, contacting participants, identifying staff, selecting candidates for overseas study and making the necessary contacts with foreign institutions are just a few of the early project activities.

A general "timeline", divided by year, might look as follows.

YEAR ONE	YEAR TWO	YEAR THREE
Project Set-up. Begin Young Prof. Program I. Private Sector Programs (3-4) Prepare curricula & materials Begin short courses for Department personnel Send first group of faculty overseas at end of year Train Legal Info Staff to train others.	Finish Young Prof. Program I 5 private sector events Begin Kab. judges training series I, II Prepare curricula & materials for future Continue Department short courses Send second faculty group overseas + 1-2 ex Y.Ps. Legal info system mini-trainings begin Legislative drafting course I.	Begin Young Prof. Program II 5 private sector events Kabupaten judges series II, III Legislative drafting course II 3rd faculty group overseas + YPs Continue department short courses Legal info systems mini-training continue.

YEAR FOUR	YEAR FIVE	YEAR SIX
Finish YP Program II 5 private sector events Department short courses Legal Info systems mini-trainings 4th faculty group sent overseas including 2 Law Librarians Legislative drafting course	Begin YP Program III 5 private sector events Department short courses Legal info systems mini trainings Kabupaten judges training series IV, V Legislative drafting course	Finish YP Program III 5 private sector events Department short courses Legal info systems mini trainings Kabupaten judges training series VI, VIII

G. Roles: USAID, Government of Indonesia, Contractors

Basically, the Government of Indonesia would be expected to provide space, honorarium for participants, travel for participants (and arrangements in-country), materials such as paper and stationery supplies, and staff for all programs. The contractors would be expected to arrange for all overseas study and provide experts and visiting lecturers for the various programs. Two resident experts would be present on the project; one should be working full-time with the Young Professionals Program and the other person should be situated at the University of Indonesia and would manage the other programs (and work with the staff of the newly created Center for Economic Law). USAID could assist with books for library of Young Professionals Program and the U. I. Law Library + Law Libraries in selected State Universities plus other guidance to the project as necessary.

H. How Much?

Given the uncertain structure and dimensions of the Project at this writing, no detailed Training Cost Analysis is presently possible. If it is assumed that the Training portion of the Law portion of this project is set at 6 million dollars, then training expenses might roughly be broken down as follows:

Overseas Training Programs	$1.5 million
Young Professionals Program (all speakers, advisors, etc)	$ .5 million
Domestic Training Programs Legislative Drafting Judges Legal Info Systems Departmental Short Courses University Faculty Training	$2.0 million
Training Related Support Services Books, Curriculum dev. Materials, Audio-visual equipment, easels, flip charts, whiteboards.	$ 100,000
Support for Private Sector Programs of Center for Legal Studies (including publications efforts.	$250,000

(Other training funds would be spent on the Procurement portion of the project).

I. Success: How Do We Know We are There? Evaluation

For all training programs, the contractors will be required to establish specific program and course objectives which are measurable at several levels:

1. Individual Participant reactions
2. Fulfillment of Program and Course objectives
3. Results Evaluation: Evaluation on-the-job of trained personnel.

A yearly report should cover the training activities and examine the progress made and the need for improvement. Success in this program will be to establish, or at least begin to establish a critical mass of people who are knowledgable in Economic Law and who will be putting their knowledge and skills to work in the universities (building the long-range foundation), in the government and the business and legal communities.

II. RECOMMENDED STRATEGY: PROCUREMENT

At this writing, the actual structure and extent of Procurement Training is somewhat unclear. Ideally, it would be recommended that the Government first begin by clearly identifying persons in the various Departments whose responsibility is Procurement. The forthcoming Procurement Manual could then be presented as part of a series of focused training programs. Ideally, working with and improving existing training materials (previously produced with World Bank support) as well as adapting them to situations other than pure donor agency procurements, would be a recommmended plan. This would require donor agency cooperation. Ideally, it would be useful to have a small body of people in the Government (in EKUIN) who truly become a center of Procurement expertise in the country. These people would be advisers to the various Departments on Procurement problems, would keep up-to-date on the latest Procurement developments internationally and nationally, and be at the very least organizers of Training of Trainers programs on selected Procurement topics. This would help to institutionalize and stabilize the Procurement knowledge and skills and lead to greater sustainability. Ideally, it should be (and is) recommended that the actual process and supervision of Procurement receive greater attention.

Not so ideally, the recommended strategy will be to train high and middle level managers and trainers (perhaps those already trained) in the new regulations to appear in the forthcoming Procurement Manual. A best estimate of the number of personnel to be trained over the life of the project would be about 300, divided into different groups by Department and job status.

The contractor will arrange to either work with skilled Indonesian trainers in preparing the specific training materials, or do the training directly (which presents a language problem). Higher level personnel should be trained first so that they understand what the new regulations mean.

DEVELOPING A SELF-SUSTAINING TRAINING STRATEGY

A PLAN

DEVELOPING A SELF-SUSTAINING TRAINING STRATEGY -- A PLAN

Sustainability has been defined as "the ability of a system to produce outputs or benefits valued sufficiently by beneficiaries and stakeholders (actors other than users with an interest in what the system does) to ensure enough inputs to continue performance with long-term impacts". Sustainability depends upon maintaining

(1) tangible outputs and benefits,
(2) resource flows (such as revenue and staff),
(3) cost-effective service delivery systems.

It should be noted that the preconditions and lessons from the World Bank document by Samuel Paul, as reviewed in the section of this paper (Part 2) entitled Alternative Strategies and Constraints, are extremely important to the consideration of sustainability in a training strategy.

It is also important to recall the definition of a "Learning Organization" by Peter Senge that was quoted at the beginning of this paper. A Learning Organization is:

---

an organization which is continually
expanding its capacity to create
the future.

In terms of sustainability in this project, care must be taken to help the involved organizations to continually expand their capacities to create their own futures.

Nevertheless, as has also been stated, this Project is attacking problems which are part of "systems" of problems. There are problems which will not be eliminated by training in this project because they are beyond its scope. Training by itself is not going to make this project sustainable.

There is an important difference between training and development in organizations. Training occurs in the classroom (and sometimes as field work). Development (at least in the sense used here) is a combination of learnings from training plus continuing coaching/upgrading/mentoring and other helping activities on-the-job. Development on-the-job depends on management that is willing to create a working environment which is conducive to creativity and producing high-quality standards and services. This project must try to do this but it is not going to solve the large-scale problems of low-salaries for civil servants and university professors nor the frequent turnover of personnel in the civil service. Having made these caveats, it is important to outline a plan for capacity-building in training.

In this project, regarding training, it must be asked: What is to be sustained? The principal answer is that benefits are to be sustained and in the process organizations will be assisted as well. Capacity-Building will occur through the training supplied.

The key question to be addressed here, however, is how can a self-sustaining training capacity be developed. Since the approaches to the several parts of the Project are slightly different, a plan for self-sustenance is going to vary somewhat with each part: Economic Law, Legal Information Systems and Procurement.

A. A Self-Sustaining Strategy for Training: Procurement

The strategy in the Procurement area is aimed directly at the capacity of the Government to carry on with procurement training after the project is officially completed. How?

1. The Institution-Building Factor: The Project proposes that the contractor train a cadre of trainers in the major government entities which conduct procurement activities. The goal is to increase the capacity of each organization to upgrade its staff in the knowledge and skills required for the procurement process. There are already training staff and programs at many of the active Departments (in Procurement) and state agencies (Pertamina, Department of Public Works).

2. The Training Capacity Factor: The project will therefore be building into this Institute the capacity to carry on the training function after the project. The contractor will be training a group of trainers who will be part of the Institute's staff. These trainers will have to develop a training manual or modules and then in turn will be training a cadre of professional, career contract officers and specialists. This project therefore will be building a capacity to carry on the training through building a core staff of knowledgable personnel.

3. The Momentum Factor: The need for training for the government civil servants is not going to stop at the end of the project. The need will definitely continue for training of new personnel (anticipating that this project is not going to be the total answer to the "frequent turnover" problem). Further, there will also be a need for continuing refresher courses as regulations are changed and more is learned about the procurement process. In a sense, need begets need.

4. The Commitment Factor: The overall commitment of key figures in the Indonesian government to the ideas behind this project is relevant to thinking about self-sustaining training capacity. In terms of considering sustainability and training capacity, the USAID/University of Maryland draft paper on "Sustainability: Lessons for ANE" points out that a principal project identification question is as follows: "Does the project idea conform with the long-run development policies and strategies?" The answer in this case is that, yes, it definitely does. If there is commitment to the basic idea of the project, then there will be a much greater chance for a self-sustaining training capacity.

5. The Symbiosis Factor: It is strongly suggested that the following ideas be adopted as part of the work on Procurement. The logical place for the following activities to occur would be in EKUIN (given that it is the focus for Procurement Improvement), through LAN (*Lembaga Administrasi Indonesia*) or perhaps through the Department of Public Works. The following work would have a symbiotic effect.

a. A modest publications program (for example, a series of booklets that clearly explain specific aspects of the procurement process). These booklets could be aimed at the private sector and sold for a small fee that would make a profit (albeit small) that could be used to continue the publication program.

An Acquisitions Management Newsletter issued four times a year could be sold to the private sector (distribution details would have to be worked out) and would provide updates on the procurement process and practical, how-to-do it advice.

These publications would seem to fall naturally from the work on curricula of the trainer team.

While only suggestions, these and perhaps other similar ideas would all build on each other (the symbiotic effect). The aim would be not only to train government officials, but also to provide a locus for procurement knowledge and skills.

B. A Self-Sustaining Strategy for Training: Economic Law

Planning for a self-sustaining training capacity in the area of Economic Law is more complex than that of Procurement because there are more actors involved. Nevertheless, the strategy is much the same; first acheive commitment to an institution and then proceed with capacity building within the institution's staff. This strategy too contains a number of specific factors or parts.

1. The Institution-Building Factor. In the case of Economic Law, there were a number of institutional or inter-institutional variations that had possibilities for implementation, as has been seen. The chosen institutional arrangements are with the University of Indonesia and the institutional mechanism proposed is a Center for Economic Law as well as with the Center for Legal Studies (PPH) for private sector education. This Center for Economic Law is envisioned as the focus for Economic and Commercial Law in Indonesia. Its activities would have to be supported by the University as well as through the Government (via fees for services). One purpose of the project, therefore, would be to establish and proceed to strengthen the Center, especially its training capabilities.

Capacity-building at the University would take place through contributions of the Government, the University and USAID. The University's capacity in Economic Law would be strengthened through domestic and foreign training. The Center would also be a conduit and implementer for training activities at and for other state legal institutions, thus having a multiplier effect in the legal higher education system. The process of organizing the educational activities of the Center would also lead to self-sustainability in the academic targets of the project (i.e. identifying materials in Economic Law, obtaining them, organizing an Economic Law Study Group, having the group publish papers, selecting and sending

-356

selected members of the Study group overseas, and having these members return to teach new courses).

The Center for Legal Studies (PPH) would help to build knowledge and skills in the private sector among lawyers and business people; these programs .. workshops and seminars, could be self-sustaining through the fees that are charged. As knowledge and skills are built through these programs, it is anticipated that Economic Law topics will increase in popularity. A modest publications program through PPH (support of an Annals series on Economic Law topics... based on the workshops and seminars... plus an Economic Law Newsletter that can be sold), would help in self-sustainability not only of PPH but of the overall topic itself.

It is important that a "critical mass" of persons be accumulated during the project who can articulate the issues in Economic Law to both the government and private sectors. With the concurrent work of the Netherlands and the capacity building in the University system , both a critical awareness and a critical mass of people who are knowledgable in Economic Law will be supported.

ANNEX A-6

TRAINING ANALYSIS APPENDICES

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

APPENDIX 1

LAW SCHOOLS IN THE UNITED STATES

COMPLETELY UPDATED!

BARRON'S GUIDE TO LAW SCHOOLS

AND PROFESSIONAL SCHOOL APPLICATIONS

NEW AND UPDATED FEATURES: New Easy-Reference Chart shows vital statistics at all ABA-approved schools • New section with profiles of selected non-ABA-approved schools • New information on placement services offered by schools • New Placement Chart of all ABA-approved schools • New Chart shows statistics indicating chance of admission to all ABA-approved schools

FACT-FILLED PROFILES ON 175 ABA-APPROVED LAW SCHOOLS
Enrollment • Costs • Admissions Data • Median LSAT scores and GPAs • Programs • Student Body Data • Faculty Data • Library Data • Placement • and more • Student Activities • Financial Aid • Application Procedures

PLUS: TIPS ON TAKING THE LSAT
A COMPLETE LSAT WITH ANSWERS
SEVENTH EDITION Epstein, Shostak and Troy

BARRON'S

260

GUIDE TO LAW SCHOOLS

SEVENTH EDITION

Elliott M. Epstein
Jerome Shostak
Lawrence M. Troy

BARRON'S EDUCATIONAL SERIES, INC.
New York • London • Toronto • Sydney

.361

© Copyright 1986 by Barron's Educational Series, Inc.

© Copyright 1986, Model LSAT Exam by Jerry Bobrow.

Prior editions © Copyright 1984, 1983, 1980, 1978, 1970, 1967 by Barron's Educational Series, Inc.

All rights reserved.
No part of this book may be reproduced
in any form, by photostat, microfilm, xerography,
or any other means, or incorporated into any
information retrieval system, electronic or
mechanical, without the written permission
of the copyright owner.

All inquiries should be addressed to
Barron's Educational Series, Inc.
250 Wireless Boulevard
Hauppauge, New York 11788

Library of Congress Catalog Card No. 86-17474

International Standard Book No. 0-8120-3651-4

Library of Congress Cataloging-in-Publication Data

Epstein, Elliott M.
Barron's guide to law schools.

Includes index.
1. Law schools—United States. I. Shostak, Jerome.
II. Troy, Lawrence M. III. Title. IV. Title: Guide to
law schools.
KF266.E6 1986 340'.07'1173 86-17474
ISBN 0-8120-3651-4

PRINTED IN THE UNITED STATES OF AMERICA

789 410 987654

342

CHAPTER 6

Law Schools at a Glance

The table on the following pages will give you pertinent facts about all 174 law schools offering the J.D. that are approved by the American Bar Association. The table by necessity can't present nuances or all details and therefore should be used together with the detailed profiles of all the individual law schools, which make up the second major section of this part of *Barron's Guide to Law Schools*. Regional maps showing the location of the ABA-approved law schools follow right after the table.

* * *

The information on the Law Schools at a Glance table should be self-explanatory, and if any item is puzzling the profile of the relevant school should be consulted. The individual profiles may also include important supplementary material.

In several categories of the table, a bullet (•) is used to indicate a "yes" answer; if the box remains blank, a "no" answer is indicated. The Time Offered, Joint degree program, Graduate law degree program, and Matriculation Calendar (Matric Cal) categories all use this system. Thus, the first entry on the table, American University, is shown to schedule classes during the day and in the evening, to offer joint degree and graduate law degree programs, and normally to allow students to begin studies only in the fall.

Most law schools operate on a semester basis, and information on credits needed for the J.D. is in terms of semester hours. For schools operating on a quarter system, the abbreviation qh (for quarter hour) is included. Similarly, part-time tuition is presented on a semester hour basis, unless the notation qh appears.

The number of volumes in the library generally includes microform volume-equivalents as well as hard-copy volumes. The figures for full-time tuition as a rule refer to annual charges.

If a category of the table does not apply to a school the abbreviation not appl (for not applicable) appears; if information was not available, a dash (—) is entered.

INSTITUTION	PROGRAMS						ACADEMIC COMMUNITY									MATRICAL				TUITION			
	Time Offered						Enrollment		Characteristics of student body				Faculty		Library								
	Day	Evening	Credits needed for J.D.	Credits of required courses	Joint degree program	Graduate Law Degree Program	full-time	part-time	average age at matriculation	percent women	percent minority	attrition rate	full-time	part-time	number of volumes	Fall	Winter	Spring	Summer	in-state (f/t)	in-state (p/t)	out-of-state (f/t)	out-of-state (p/t)
American University (Washington College of Law)	•	•	86	34	•	•	819	228	24	49	9	2	38	64	218,000	•				$8636	$320/hr	$8636	$320/hr
Antioch University	•		95	28			365	not appl	27	47	35	—	17	11	91,000	•				$7375	not appl	$7375	not appl
Arizona State University	•		87	32			437	not appl	26	47	15	6	28	6	220,000	•				$990	not appl	$3844	not appl
Baylor University	•		120 qh	74 qh			399	not appl	22	35	4	7	18	8	127,000	•		•	•	$3480	not appl	$3480	not appl
Boston College	•		85	30	•		800	not appl	26	48	23	1	43	34	194,500	•				$8920	not appl	$8920	not appl
Boston University	•		84	35	•	•	1290	not appl	23	39	4	1	62	28	310,000	•				$10,100	not appl	$10,100	not appl
Brigham Young University (J. Reuben Clark Law School)	•		90	30	•		450	not appl	25	22	6	3	30	6	275,000	•				$2760	not appl	$2760	not appl
Brooklyn Law School	•	•	85	35	•		819	339	24 (f/t) 30 (p/t)	45	15	6	49	52	244,000	•				$8000	$6000	$8000	$6000
California Western School of Law	•		88	56		•	475	not appl	—	29	7	15	25	20	150,000	•		•		$7000	not appl	$7000	not appl
Campbell University	•		90	75			287	not appl		37	5		16	11	110,000	•				$5774	not appl	$5774	not appl
Capital University	•	•	85	38			385	295	26	32	5	12	21	13	172,000	•			•	$6944	$224/hr	$6944	$224/hr
Case Western Reserve University	•		88	37	•		688	not appl	24	39	10	1	42	27	220,000	•				$9600	not appl	$9600	not appl
Catholic University of America (Columbus School of Law)	•	•	84	31	•		582	258	25	44	10	8	40	50	140,000	•				$9200	$335/hr	$9200	$335/hr

[illegible] Western Reserve University	•		88	37	•		688	not appl	24	39	10	1	42	27	220,000	•				$9600	[illegible] appl	[illegible]	[illegible] appl
Catholic University of America (Columbus School of Law)	•	•	84	31	•		582	258	25	44	10	8	40	50	140,000	•				$9200	$335/hr	$9200	$335/hr
Catholic University of Puerto Rico	•	•	92	63	•	•	102	100	29	39	100	15–20	10	19	118,000	•		•		$120/hr	$120/hr	$120/hr	$120/hr
City University of New York—Law School at Queens College	•		92	70–72			420	not appl	28	56	26	—	30	8	136,000	•				$3725	not appl	$5325	not appl
Cleveland State University (Cleveland-Marshall College of Law)	•	•	87	—	•	•	541	459		38	7		44	25	260,000	•				$2672	$103/hr	$5344	$206/hr
College of William and Mary (Marshall-Wythe School of Law)	•		90	39		•	525	11	22	36	8	4	27	11	228,000	•			•	$2688	$90/hr	$6566	$219/hr
Columbia University	•		83	—	•	•	959	not appl	23	37	21	1	65	25	701,000	•				$11,200	not appl	$11,200	not appl
Cornell University	•		84	32	•	•	556	not appl	23	38	12	1	34	14	385,000	•				$10,830	not appl	$10,830	not appl
Creighton University	•		90	53	•		512	11	23	32	6	10	24	34	144,000	•				$5724	$195/hr	$5724	$195/hr
Delaware Law School of Widener University	•	•	87	55	•		569	341	—	35	5	—	28	30	180,000	•		•		$6650	$5000	$6650	$5000
DePaul University	•	•	86	37	•	•	660	400	24	38	9	5	41	49	225,000	•				$7990	$5202	$7990	$5202
Detroit College of Law	•	•	85	53			369	401	27	36	10	15	25	41	157,000	•		•		$5700	$4275	$5700	$4275
Dickinson School of Law	•		88	41		•	547	not appl	24	37	0.3	5	22	32	201,000	•				$5390	not appl	$5390	not appl
Drake University	•		90	44 – 45	•		405	7	26	33	6	9	26	14	150,000	•				$7130	$238/hr	$7130	$238/hr
Duke University	•		86	31	•	•	557	not appl	22	34	10	5	40	40	353,000	•				$10,230	not appl	$10,230	not appl
Duquesne University	•	•	89	64	•		288	349		38	4	5	24	24	125,000	•				$5134	$3868	$5134	$3868
Emory University	•	•	88	43	•	•	649	71	23	42	7	5	34	39	180,000	•				$8400	$350/hr	$8400	$350/hr
Florida State University	•		88	40	•		566	not appl	27	38	12	6	31	9	255,000	•				$1467	not appl	$4396	not appl
Fordham University	•	•	83	44	•		811	411	24	38	6	3	41	74	340,000	•				$8600	$6450	$8600	$6450
Franklin Pierce Law Center	•	•	84	34			319	not appl	27	37	2	10	17	14	139,000	•				$6500	not appl	$6500	not appl
George Mason University	•	•	126 qh	48 qh			318	335	27	42	6	5	26	19	190,000	•				$2352	$56/qh	$7226	$173/qh
George Washington University (National Law Center)	•	•	84	38	•	•	1282	361	24	44	—	2	50	101	350,000	•				$9760	$349/hr	$9760	$349/hr
Georgetown University	•	•	83	30	•	•	1582	482	22	44	20	1	75	115	454,000	•				$9900	$338/hr	$9900	$338/hr
Georgia State University	•	•	135 qh	72 qh	•		232	359	30	45	12	6	21	12	125,000	•				$2160	$45/qh	$6480	$135/qh

INSTITUTION	PROGRAMS						ACADEMIC COMMUNITY									MATRICCAL				TUITION			
	Time Offered						Enrollment		Characteristics of student body				Faculty		Library								
	Day	Evening	Credits needed for J.D.	Credits of required courses	Joint degree program	Graduate Law Degree Program	full-time	part-time	average age at matriculation	percent women	percent minority	attrition rate	full-time	part-time	number of volumes	Fall	Winter	Spring	Summer	in-state (f/t)	in-state (p/t)	out-of-state (f/t)	out-of-state (p/t)
Golden Gate University	•	•	86	60	•	•	309	266	25	50	12	20	24	29	190,000	•		•		$7800	$260/hr	$7800	$260/hr
Gonzaga University	•	•	90	51	•		342	32	31	33	7	5	22	10	200,000	•				$7050	$235/hr	$7050	$235/hr
Hamline University	•	•	88	31	•		469	not appl	26	38	4	9	23	24	150,000	•				$6410	not appl	$6410	not appl
Harvard University	•		83	—	•	•	1760	not appl	24	33	20	1	79	25	1.4 million	•				$9900	not appl	$9900	not appl
Hofstra University	•		85	34	•		787	n/ap	25	48	8	2	37	15	250,000	•				$7350	not appl	$7350	not appl
Howard University	•		88	56	•	•	437	not appl	25	55	86	6	26	19	222,000	•				$4000	not appl	$4000	not appl
Illinois Institute of Technology (Chicago-Kent School of Law)	•	•	90	30	•	•	652	410	29	38	7	3	35	79	375,000	•				$7500	$5000	$7500	$5000
Indiana University/Bloomington	•		86	36	•	•	535	27	24	36	8	2 – 4	33	4 – 8	300,000	•			•	$1946	$70/hr	$5327	$190/hr
Indiana University/Indianapolis	•	•	85	53	•		400	375	23	41	3	15	35	8	350,000	•				$2085	$70/hr	$5708	$190/hr
Inter-American University of Puerto Rico	•	•	90	70	•		421	409	—	40	—	5 – 6	30	23	119,000	•				$140/hr	$140/hr	$140/hr	$140/hr
John Marshall Law School	•	•	86	43	•	•	922	411	27	41	4	4	45	65	220,000	•		•		$6600	$220/hr	$6600	$220/hr
Lewis and Clark College (Northwestern School of Law)	•	•	86	35	•		430	247	27	41	6	10	26	44	200,000	•				$6910	$4915	$6910	$4915
Louisiana State University (Paul M. Hebert Law Center)	•		97	36	•	•	717	not appl	—	35	4	20	33	21	425,000	•				$1782	not appl	$3952	not appl
Loyola Marymount University	•	•	87	45 – 46			877	387	—	45	15	6	54	25	303,000	•				$7685	$265/hr	$7685	$265/hr

[illegible]siana State University (Paul M. Hebert Law Center)	•		97	36	•	•	717	not appl	—	35	4	20	33	21	425,000	•				$1782	not appl		not appl
Loyola Marymount University	•	•	87	45 – 46			877	.387	—	45	15	6	54	25	303,000	•				$7685	$265/hr	$7685	$265/hr
Loyola University/New Orleans (Branch Knox Miller School of Law)	•	•	90	70	•		427	250	23	41	7	10	28	27	168,000	•				$210/hr	$210/hr	$210/hr	$210/hr
Loyola University of Chicago	•	•	86	43	•		478	243	25	47	9	4	25	91	125,000	•				$6930	$5198	$6930	$5198
Marquette University	•		90	55	•		454	not appl	24	39	6	2	20	17	125,000	•				$7030	not appl	$7030	not appl
Memphis State University (Cecil C. Humphreys School of Law)	•	•	90	55	•		383	100	—	35	8	13	20	9	180,000	•				$1470	$62/hr	$3618	$156/hr
Mercer University (Walter F. George School of Law)	•		88	43	•		493	3	24	33	5	10 – 15	25	13	185,000	•				$7152	—	$7152	—
Mississippi College	•	•	88	52			263	54		33	8	9	16	11	168,000	•				$5573	$190/hr	$5573	$190/hr
New England School of Law	•	•	84	42			513	474	26	44	7	10	32	36	200,000	•				$6100	$4575	$6100	$4575
New York Law School	•	•	85	36	•		758	400	26	39	15	4	56	88	257,000	•		•		$8000	$365/hr	$8000	$365/hr
New York University	•		82	—	•	•	1162	not appl	—	—	15	1	80	65	685,000	•				$11,200	not appl	$11,200	not appl
North Carolina Central University	•	•	86	58			228	80	—	45	50	15 – 25	19	9	128,000	•				$762	$469	$3608	$2603
Northeastern University	•		99	47	•		442	not appl	26	60	14	1	19	30	105,000	•				$9240	not appl	$9240	not appl
Northern Illinois University	•		85	35	•		250	not appl	26	30	8	15	24	6	140,000	•				$1590	not appl	$3222	not appl
Northern Kentucky University (Salmon P. Chase College of Law)	•	•	88	61			187	169	28	27	5	15	18	8	172,000	•				$1622	$68/hr	$4900	$204/hr
Northwestern University	•		90	35	•	•	596	not appl	24	42	9		43	35	463,000	•				$11,310	not appl	$11,310	not appl
Nova University (Center for the Study of Law)	•	•	87	45			715	not appl	27	46	13	20	26	17	225,000	•				$6850	not appl	$6850	not appl
Ohio Northern University (Claude W. Pettit College of Law)	•		131 qh	62 qh			437	not appl	24	25	5	13	20		170,000	•				$6831	not appl	$6831	not appl
Ohio State University	•		84	31	•		629	not appl	23	41	9		35	5	485,000	•				$2580	not appl	$5954	not appl
Oklahoma City University	•	•	90	34	•		486	204	26	32	5	7	24	4	100,000	•			•	$210/hr	$210/hr	$210/hr	$210/hr
Pace University	•	•	90	43	•		435	345	28 (f/t) 31 (p/t)	49	7	8	41	42	178,000	•				$8600	$280/hr	$8600	$280/hr
Pepperdine University	•		88	56			582	not appl	24	38	8	10	30	37	189,000	•				$9440	not appl	$9440	not appl
Rutgers University/Camden	•	•	84	31	•		550	170	26	43	8	n/av	43	12	325,000	•				$2996	$125/hr	$4510	$188/hr

INSTITUTION	PROGRAMS						ACADEMIC COMMUNITY									MATRICAL				TUITION			
	Time Offered						Enrollment		Characteristics of student body				Faculty		Library								
	Day	Evening	Credits needed for J.D.	Credits of required courses	Joint degree program	Graduate Law Degree Program	full-time	part-time	average age at matriculation	percent women	percent minority	attrition rate	full-time	part-time	number of volumes	Fall	Winter	Spring	Summer	in-state (f/t)	in-state (p/t)	out-of-state (f/t)	out-of-state (p/t)
Rutgers University/Newark	•	•	84	—	•		496	254	27	48	24	5	40	20	345,000	•				$2996	$125/hr	$4510	$188/hr
St. John's University	•	•	84	60			700	350	—	—	—	3	40	20	275,000	•				$7200	$5900	$7200	$5900
Saint Louis University	•		88	36	•		642		25	38	6	10	27	18	260,000	•				$7060	$275/hr	$7060	$275/hr
St. Mary's University of San Antonio	•		90	44			631	not appl	25	40	13	10	26	32	155,000	•				$7500	not appl	$7500	not appl
Samford University (Cumberland School of Law)	•	•	90	52	•		662	not appl	24	25	3	18	28	15	187,000	•				$5730	not appl	$5730	not appl
Santa Clara University	•	•	86	44	•		650	198	26	43	20	10	31	25	179,000	•				$7644	$5392	$7644	$5392
Seton Hall University	•	•	84	46	•		765	451	26	39	7		37	41	209,000	•				$7105	$245/hr	$7105	$245/hr
Southern Illinois University/ Carbondale	•		90	37	•		291	not appl	26	30	4	10	22	5	238,000	•				$1188	not appl	$3564	not appl
Southern Methodist University	•		90	—	•	•	676	28	27	42	11	4	35	34	316,000	•				$9050	$310/hr	$9050	$310/hr
Southern University and A&M College	•		96	75			345	not appl	25	30	65	12	17	11	207,000	•				$804	not appl	$1724	not appl
South Texas College of Law	•	•	90	35			688	529	26	41	9	10	42	30	238,000	•		•	•	$154/hr	$154/hr	$154/hr	$154/hr
Southwestern University	•	•	87	54			626	345	27	43	15	15	52	48	240,000	•				$275/hr	$275/hr	$275/hr	$275/hr
Stanford University	•		101 qh	27 qh	•	•	514	not appl	—	41	22	—	42	0	300,000	•				$10,776	not appl	$10,776	not appl
State University of New York at Buffalo	•		81 – 86	33 – 36	•		813	—	28	43	12	2	42	21	250,000	•				$3150	—	$5150	—
Stetson University	•		86	49			543	not appl	—	42	7	—	24	25	220,000	•		•	•	$6130	not appl	$6130	not appl
Suffolk University	•	•	90	var	•		900	700	24	50	7	—	55	45	200,000	•				$6700	$5025	$6700	$5025

Suffolk University	•	•	90	var	•		900	700	24	50	7	—	55	45	200,000	•				$6700	$5025	$6700	$5025
Syracuse University	•		86	—	•		666	30	25	40	8	8 – 10	35	20	133,000	•				$9600	$420/hr	$9600	$420/hr
Temple University	•	•	83	29	•	•	799	407	27	46	11	4	46	59	335,000	•				$3968	$154/hr	$7528	$306/hr
Texas Southern University (Thurgood Marshall School of Law)	•	•	90	43	•		400	not appl	—	35	90	—	27	0	108,000	•				$1164	not appl	$5000	not appl
Texas Tech University	•		90	53	•		532	not appl	26	36	10	12 – 16	26	1	184,000	•				$1170	not appl	$5200	not appl
Thomas M. Cooley Law School	•	•	90	72 – 74			49	976	27	31	5	30	30	80	151,000	•		•	•	$5850	$195/hr	$5850	$195/hr
Touro College	•	•	84	39			325	239	25	39	9	5	28	8	100,000	•				$7450	$5900	$7450	$5900
Tulane University	•		90	33	•	•	723	not appl	25	42	11	5	35	31	315,000	•				$8334	not appl	$8334	not appl
Union University (Albany Law School)	•		87	31	•		688	not appl	—	42	5	—	31	13	197,000	•				$7350	not appl	$7350	not appl
University of Akron	•	•	84	43	•		281	298	26	37	7	8	26	18	175,000	•				$2123	$71/hr	$3803	$127/hr
University of Alabama	•	•	90	42	•	•	465	not appl	24	36	7	1.5	26	10	214,000	•				$1752	not appl	$3188	not appl
University of Arizona	•	•	85	40	•		433	not appl	30	43	10	10	25	11	224,000	•				$990	not appl	$3844	not appl
University of Arkansas/ Fayetteville	•		84	48		•	402	not appl	—	25	5	—	25	2	198,000	•				$1130	not appl	$2390	not appl
University of Arkansas at Little Rock	•	•	87	50	•		238	164	29	45	7	—	25	17	154,000	•				$1100	$55/hr	$2360	$118/hr
University of Baltimore	•	•	90	58	•		530	439	25	42	10	8	34	56	220,000	•				$2890	$99/hr	$5495	$195/hr
University of Bridgeport	•	•	86	36 – 38	•	•	550	265	27	33	3	6	38	17	200,000	•		•		$7500	$315/hr	$7500	$315/hr
University of California/ Berkeley (Boalt Hall)	•		81	35	•	•	949	not appl	24	40	25	1 – 2	65	25	480,000	•				$1437	not appl	$5253	not appl
University of California/Davis	•		88	33	•		507	not appl	26	49	25	2	25	10	260,000	•				$1313	not appl	$5129	not appl
University of California/Los Angeles	•		87	34	•	•	963	not appl	—	42	27	5	53	31	300,000	•				$1386	not appl	$5202	not appl
University of California/San Francisco (Hastings College of the Law)	•		88	34	•		1502	not appl	25	45	21	10	51	69	416,000	•				$1212	not appl	$5028	not appl
University of Chicago	•		140 qh	49 qh	•	•	530	not appl	—	—	—	—	35	7	435,000	•				$10,920	not appl	$10,920	not appl
University of Cincinnati	•		88	38	•		380	not appl	24	45	10	3	27	24	184,000	•				$2934	not appl	$5955	not appl
University of Colorado	•		86	38	•		476	not appl	26	45	10	5	30	6	205,000	•				$1728	not appl	$5400	not appl

INSTITUTION	PROGRAMS						ACADEMIC COMMUNITY									MATRICCAL				TUITION			
	Time Offered						Enrollment		Characteristics of student body				Faculty		Library								
	Day	Evening	Credits needed for J.D.	Credits of required courses	Joint degree program	Graduate Law Degree Program	full-time	part-time	average age at matriculation	percent women	percent minority	attrition rate	full-time	part-time	number of volumes	Fall	Winter	Spring	Summer	in-state (f/t)	in-state (p/t)	out-of-state (f/t)	out-of-state (p/t)
University of Connecticut	•	•	86	42 – 43	•		462	230	23	49	7	4 (day) 5 (eve)	35	39	280,000	•				$1900	$80/hr	$4400	$80/hr
University of Dayton	•	•	87	33	•		350	not appl	26	33	3	11	17	9	176,000	•				$6000	not appl	$6000	not appl
University of Detroit	•	•	86	45	•		555		—	37	5	10	24	10	186,000	•				$230/hr	$230/hr	$230/hr	$230/hr
University of Florida	•		86		•	•	1074	not appl	23	39	6	10	58		40,000	•		•		$1350	not appl	$3995	not appl
University of Georgia	•		88	33	•		590	not appl	24	37	5	7	37	1	377,000	•				$1582	not appl	$4746	not appl
University of Hawaii/Manoa (William S. Richardson School of Law)	•		89	40	•		258	not appl	28	48	75	3	16	25	150,000	•			•	$1360	not appl	$4960	not appl
University of Houston	•	•	88	33	•		850	350	26	48	19	2%	45	20	325,000	•				$1128	$48/hr	$5160	$150/hr
University of Idaho	•		84	32			228	not appl	26	23	3	7	15	1	111,000	•				$1344	not appl	$3344	not appl
University of Illinois	•		90	38–39	•		613	not appl	23	35	7	1	32	1	474,000	•				$2832	not appl	$4736	not appl
University of Iowa	•		90	35	•	•	639	not appl	—	34	9	3	47	41	407,000	•		•		$1680	not appl	$4740	not appl
University of Kansas	•		90	42	•		522	not appl	25	38	6	9	27	8	230,000	•			•	$1350	not appl	$3154	not appl
University of Kentucky	•		88	35	•		430	not appl	25	35	2	5	23		270,000	•				$1645	not appl	$4923	not appl

University of Kansas	•		90	42	•		522	not appl	25	38	6	9	27	8	230,000	•			•	$1350	not appl	$[illegible]	not appl
University of Kentucky	•		88	35	•		430	not appl	25	35	2	5	23		270,000	•				$1645	not appl	$4923	not appl
University of Louisville	•	•	90	38	•		354	171	26	42	5	11	35	14	151,000	•				$1661	var	$4939	var
University of Maine	•		89	38			230	2	28	35	0	5	16	10	200,000	•				$2220	$74/hr	$5550	$185/hr
University of Maryland	•	•	84	45–46	•		550	225	26 (f/t) 30 (p/t)	—	21	5	42	40	200,000	•				$3200	$2300	$5650	$4250
University of Miami	•	•	88			•	1400		—	—	22	—	42	118	275,000	•				$8080	$6062	$8080	$6062
University of Michigan	•		83		•	•	1107	not appl	—	33	14	1	50	7	600,000	•			•	$4470	not appl	$9400	not appl
University of Minnesota	•		88	35	•	•	775	not appl	24	41	8	3	40	26	500,000	•				$3135	not appl	$6285	not appl
University of Mississippi	•		90	61	•		479	9	22	29	5	17	19	7	210,000	•			•	$1817	$64/hr	$2993	$123/hr
University of Missouri—Columbia	•		88	51–52	•		432	not appl	25	36	6	15	22	6	207,300	•				$2490	not appl	$5514	not appl
University of Missouri—Kansas City	•		90	51		•	448	not appl	26	42	4	20	24	2	144,000	•				$2938	not appl	$6130	not appl
University of Montana	•		90	72	•		225	not appl	29	39	2	2	14	10	105,000	•				$1781	not appl	$3545	not appl
University of Nebraska—Lincoln	•		96	45	•		427	not appl	26	36	4	4	28	10	174,000	•				$1418	not appl	$3825	not appl
University of New Mexico	•		86		•		335	not appl	28–39	54	39	4	29	19	250,000	•				$890	not appl	$3050	not appl
University of North Carolina at Chapel Hill	•		86	32	•		645	not appl	23	44	8	7	39	10	275,000	•				$822	not appl	$3742	not appl
University of North Dakota	•		90	33			235	not appl	—	33	2	6	19	8	232,000	•				$1380	not appl	$2586	not appl
University of Notre Dame	•		90	63	•	•	510	not appl	24	33	10	5	31	11	170,000	•				$8260	not appl	$8260	not appl
University of Oklahoma	•		90	32	•		660	not appl	25	38	8	5	30	14	210,000	•				$1108	not appl	$3208	not appl
University of Oregon	•		85	33	•		473	not appl	27	36	8	5	25	17	185,000	•				$2767	not appl	$4054	not appl
University of Pennsylvania	•		90	39.5	•	•	704	not appl	23	41	15	1	33	32	—	•				$10,650	not appl	$10,650	not appl
University of Pittsburgh	•		88	37	•		732	18	24	43	5	8	31	19	187,000	•				$5000	—	$8820	—
University of Puerto Rico	•	•	92	70			335	213	—	48	—	—	45	15	130,000	•				$1600	$45/hr	—	—
University of Puget Sound	•	•	90	47			793	246	30	43	9	9	39	19	250,000	•			•	$6985	$330/hr	$6985	$330/hr
University of Richmond (The T.C. Williams School of Law)	•		90	53	•		427	not appl	24	42	4	5	18	23	118,500	•			•	$7255	not appl	$7255	not appl

INSTITUTION	PROGRAMS						ACADEMIC COMMUNITY									MATRICUL				TUITION			
	Time Offered						Enrollment		Characteristics of student body				Faculty		Library								
	Day	Evening	Credits needed for J.D.	Credits of required courses	Joint degree program	Graduate Law Degree Program	full-time	part-time	average age at matriculation	percent women	percent minority	attrition rate	full-time	part-time	number of volumes	Fall	Winter	Spring	Summer	in-state (f/t)	in-state (p/t)	out-of-state (f/t)	out-of-state (p/t)
University of San Diego	•	•	85	55	•	•	729	374	27	38	6	16	47	44	227,000	•			•	$7490	$5330	$7490	$5330
University of San Francisco	•	•	82	43.5	•		472	188	25	46	18	16	31	14	200,000	•				$7510	$273/hr	$7510	$273/hr
University of South Carolina	•		88	43	•		744	not appl	25	35	7	10	41	13	280,000	•				$1808	not appl	$3588	not appl
University of South Dakota	•		90	44 – 45	•		201	not appl	24	34	4		15	3	101,000	•				$1552	not appl	$3008	not appl
University of Southern California	•		88	33	•	•	565	not appl	24	40	18	1	40	15	280,000	•				$10,764	not appl	$10,764	not appl
University of Tennessee	•		84	45 – 47	•		503	not appl	25	32	8	7	29	12	226,000	•				$1508	not appl	$3660	not appl
University of Texas at Austin	•		86	35	•	•	1569	not appl	24	39	20	2	52	31	642,000	•			•	$720	not appl	$4500	not appl
University of the Pacific (McGeorge School of Law)	•	•	131 qh	95 qh	•	•	727	542	24	36	7	10	52	25	250,000	•				$7794	$211/qh	$7794	$211/qh
University of Toledo	•	•	84	42	•		484	227	—	33	6	9	35	10	201,000	•				$1890	$90/hr	$4008	$178/hr
University of Tulsa	•	•	88	—	•		400	200	—	—	8	8–10	27	11	199,000	•				$5655	$3900	$5655	$3900
University of Utah	•		88	35	•	•	390	not appl	27	35	7	2	22	10	291,000	•				$1607	not appl	$4580	not appl
University of Virginia	•		86	20	•	•	1150	not appl	24	33	7	1	56	38	525,000	•				$3346	not appl	$7116	not appl
University of Washington	•		135 qh	48 qh		•	478	not appl	24	44	13	5	35	14	419,000	•				$2304	not appl	$5760	not appl
University of Wisconsin	•	•	90	—	•	•	820	93	26	43	9	2	55	20	300,000	•				$1945	$81/hr	$5794	$242/hr

University of Washington	•		135 qh	48 qh	•	•	478	not appl	24	44	13	5	35	14	419,000	•				$2304	not appl	$57[illegible]	not appl
University of Wisconsin	•	•	90	—	•	•	820	93	26	43	9	2	55	20	300,000	•				$1945	$81/hr	$5794	$242/hr
University of Wyoming	•		86	53	•		200	not appl	28	37	4	15	16	—	146,000	•				$773	not appl	$2442	not appl
Valparaiso University	•		90	47			358	not appl	25	38	4	7	17	10	143,000	•				$7200	not appl	$7200	not appl
Vanderbilt University	•		88	33	•		529	not appl	24	37	4	2	28	20	154,000	•				$9800	not appl	$9800	not appl
Vermont Law School	•		84	33	•	•	430	not appl	27	34	3	15	19	29	114,000	•		•		$7150	not appl	$7150	not appl
Villanova University	•		86	31	•	•	682	not appl	26	45	7	4	31	58	273,000	•				$6860	not appl	$6860	not appl
Wake Forest University	•		89	38	•		495	not appl	24	35	4	3–5	26	17	180,000	•				$6800	not appl	$6800	not appl
Washburn University of Topeka	•		90	32			528	not appl	27	33	8	6	26	15	162,000	•		•		$2790	not appl	$3660	not appl
Washington and Lee University	•		85	33			358	not appl	23	35	5	3	21	12	236,000	•				$7100	not appl	$7100	not appl
Washington University	•		86	32–36	•	•	609	not appl	24	41	3	6	33	41	315,000	•				$8800	not appl	$8800	not appl
Wayne State University	•	•	86	36	•	•	587	213	26	42	9	4	38	30	296,000	•				$3410	$111/hr	$7310	$241/hr
Western New England College	•	•	88	44			516	322	26	41	5	10	26	44	217,000	•				$6450	$4835	$6450	$4835
West Virginia University	•		90	46	•		308	11	26	41	4	5	25	11	160,000	•				$1220	$45/hr	$3340	$164/hr
Whittier College	•	•	87	41	•		300	150	27	33	15	10–15	18	8	150,000	•		•		$7710	$257/hr	$7710	$257/hr
Willamette University	•		88	38	•		370	not appl	26	40	10	4	16	10	100,000	•				$6950	not appl	$6950	not appl
William Mitchell College of Law	•	•	88	58		•	1109		25	42	6	4	34	100	176,000	•				$6140	$4200	$6140	$4200
Yale University	•		81	23	•	•	603	1	24	38	14	—	68		706,000	•				$10,700	$891/hr	$10,700	$891/hr
Yeshiva University (Benjamin N. Cardozo School of Law)	•		84	36	•		916	not appl	23	49	2	5	30	38	316,000	•	•		•	$8585	not appl	$8585	not appl

ALSO BY SALLY F. GOLDFARB

The Insider's Guide to the Colleges (seventh edition, with David J. Leffell)
The Insider's Guide to Prep Schools (with Joan Barrett)

Fourth Edition, Newly Updated

Inside the Law Schools

A Guide by Students for Students

Sally F. Goldfarb
Yale Law School, Class of 1982

E. P. DUTTON NEW YORK

374

Copyright © 1980, 1982, 1983, 1986 by Sally F. Goldfarb

All rights reserved. Printed in the U.S.A.

No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system now known or to be invented, without permission in writing from the publisher, except by a reviewer who wishes to quote brief passages in connection with a review written for inclusion in a magazine, newspaper, or broadcast.

Published in the United States by E. P. Dutton,
a division of NAL Penguin Inc.,
2 Park Avenue, New York, N.Y. 10016.

Library of Congress Cataloging-in-Publication Data

Goldfarb, Sally F.
Inside the law schools.

1. Law schools—United States—Directories.
I. Title.
KF266.G64 1986 340'.07'1173 86-8976
ISBN 0-525-48201-6

Published simultaneously in Canada by Fitzhenry & Whiteside Limited, Toronto

10 9 8 7 6 5 4

Fourth Edition

Contents

Why Is This Book Different? ix
Researchers xi
1. Is Law School for You? 1
2. Choosing the Right Law School 13
3. Getting In 21
4. Paying for It 41
5. How to Use This Book 47
6. The Law Schools: An Inside View 55
University of Akron (Akron, OH) 55
University of Alabama (University, AL) 57
Albany Law School (Albany, NY) 59
American University, Washington College of Law (Washington DC) 63
University of Arizona (Tuscon, AZ) 66
University of Arkansas—Little Rock (Little Rock, AR) 69
Baylor University (Waco, TX) 72
Boston College (Newton, MA) 74
Boston University (Boston, MA) 77
Brigham Young University (Provo, UT) 79
Brooklyn Law School (Brooklyn, NY) 82
University of California—Berkeley, Boalt Hall School of Law (Berkeley, CA) 85
University of California—Davis (Davis, CA) 89
University of California, Hastings College of the Law (San Francisco, CA) 92

with the stereotypes of the region, people are extraordinarily friendly. Everyone shares outlines and lecture notes readily, and students frequently form cooperative exam preparation groups. The professors pride themselves on their availability during office hours (although they sometimes fail to post what those hours are). It's not at all unusual to find a handful of professors at a student party.

Studying law in the state capital has its advantages, among them the proximity to some half-dozen courts, including the state supreme court. The state law library, housed in the judicial center in downtown Topeka, is available to students. The majority of students obtain part-time and summer positions with the local court system, private firms and corporations, or various state agencies and departments. Students can also work with faculty members as research assistants.

Washburn has a fully staffed legal clinic located in separate facilities. Third-year students can earn a generous amount of credit for representing indigent clients, and most students who participate find the experience invaluable.

Student-sponsored activities are never in short supply. In addition to Student Bar Association dances and picnics a couple of times each year, there are intramural basketball and football teams, racquetball and golf tournaments, and parties hosted by the three legal fraternities. Unlike many other law schools, Washburn enjoys a high level of student participation in these events.

For those who want their résumé to show something other than name, rank, and grade point average, Washburn has a law journal, whose members are chosen by grades or annual writing contest; moot court and client counseling groups, with membership chosen by competitions open to all; and special interest groups like the Women's Legal Forum and Kansas Trial Lawyers Association.

Topeka has its own cultural attractions in the form of concerts, plays, and dance performances. The usual cluster of college bars is a mere block from campus. One thing Topeka doesn't offer is big-city ambience. Kansas City is sixty miles away.

The placement office arranges some on-campus interviews for permanent, summer, and part-time positions. Its services also de workshops on résumé-writing and interviewing, and semi- on dressing for success and nonlegal careers.

The thing to remember about Washburn is that you'll have to draw heavily on your own energy and creativity to make the school and the city into a stimulating environment. Says one student, "Students at Washburn can make law school as hard or as easy as they want it to be. Those who realize this will do well here."

University of Washington School of Law

Address: Condon Hall, Seattle, WA 98195
Phone: (206) 543-4078
Degrees: J.D., LL.M. (marine law, Asian law), Ph.D. (Asian law), J.D./M.B.A., J.D./M.A. (international studies), other joint degrees
Median LSAT: 40
Median GPA: 3.55
Applicants accepted: 38%
Transfers: 4–8/30–45
Law enrollment: 513 (480 J.D.)

Campus enrollment: 34,000
Part time: 0
Women: 45%
Minorities: 12%
Dorm residents: 5%
Library: 410,000
Student-faculty ratio: 12–1
Expenses: $5787 (in-state), $8589 (out-of-state)
Financial aid: 80% (35% gift)
Apply by: February 1, March 1 (aid)

Disabled students: Fully accessible. In five years, 5 blind students, 2 deaf, 2 wheelchair users, and 5 with other mobility problems. Extensive services provided by law school and university include office for blind students, special exam facilities, library assistance, taping and transcription services, readers, sign interpreters.

Placement: Approximately 70% of second-years and 60% of third-years placed at end of spring term; over 75% of graduates known to be employed six months after graduation. About 125 employers on campus in one year; most from Seattle area, others mainly from Washington, Oregon, Alaska, California, Washington, D.C.; 85% private firms, 10% government, 4% business, 1% other. Approximately 80% of grads stayed in Washington (67% in Seattle); others mainly in Alaska, Washington, D.C., and California. Grads enter vate firms

(42%), clerkships (14%), government (12%), business (5%), public interest (3%), other (25%). Salaries: $15,000–$35,000. Washington bar pass rate: 91% (state average: 80%).

The University of Washington School of Law is located in a business and residential area three miles north of downtown Seattle. The area is dominated by the university, whose enrollment (the largest on the West Coast) puts a strain on the local housing market. Those students who succeed in living nearby begin their search early and with money in hand. Forming a group to rent a house is the method of choice.

The law school building is three blocks west of the main campus. The school has its own administration and only minimal contact with the huge university and its red tape. This isolation contributes to solidarity among the law students but also makes it easy to spend three years without sampling the many recreational and cultural resources the main campus has to offer.

In the admissions mix, LSAT scores are the main ingredient, and undergraduate grades are a close second. After that, a candidate's statement of purpose or background and experience might get some consideration.

The first-year curriculum is definitely demanding and leaves little time for anything else. After first year, the load lessens only slightly, but students seem to develop better methods for coping with it and manage to take on jobs and other outside activities. All three years, Seattle's weather (i.e., constant rain) creates an atmosphere conducive to indoor study for those who aren't hardy.

Second- and third-year courses are all electives. The business and Asian law programs are particularly strong. Students can get good experience through programs like law review, moot court, and judicial and legislative externships. Thanks to budget cuts, UW is not the place to come for in-house clinical practice opportunities.

First-year courses all employ the Socratic method. After that, many professors revert to a lecture style and are willing to answer questions instead of just asking them. The faculty has good scholarly credentials, but teaching talent is uneven. First-year students looking ahead to the next year are wise to ask their upper-level colleagues about professorial reputations.

The placement service arranges some on-campus interviews, but most students have to arrange outside interviews on their own to find a part-time or summer job. The placement service

listing of jobs in local firms is a helpful starting place. UW does not have a large national following, for the reason that most UW grads prefer to stay in the Seattle area.

Social life revolves around the weekly TGIF (a beer bust sponsored by the Student Bar Association) and private parties. The students here set a typical Pacific Northwest standard: Work hard, play hard, and don't take yourself too seriously. There is competition, but it's kept at a reasonable level by the presence of large numbers of people who run, bike, hike, ski, and sail all year round. Some students are politically active, others devote themselves to literature or music. Older second-career types seem to fit in.

Seattle is a green, hilly city on the water and close to the mountains. The best transport is by bus, bike, or ferry. A car is useful only for getting out of town. "Seattle has parks, great beaches, theaters, music, and a terrific selection of movies," reports one student. "Beyond that, you can do what we often do. Drink."

Seattle offers a life-style that many people find very attractive. The bad part of that is that the market for lawyer jobs here is extremely tight. The good part is that, if you choose to go to UW, you'll be the envy of your friends at law schools in much less appealing locations.

Washington University School of Law

Address: St. Louis, MO 63130
Phone: (314) 889-6400
Degrees: J.D., LL.M. (tax, urban studies), J.D./M.B.A., J.D./M.S.W. (social work), other joint degrees
Median LSAT: 36
Median GPA: 3.22
Applicants accepted: 50%
Transfers: 6–10/20
Law enrollment: 650 (600 J.D.)

Campus enrollment: 11,000
Part time: 0
Women: 40%
Minorities: 5%
Dorm residents: NA
Library: 300,000
Student-faculty ratio: 20–1
Expenses: $13,900
Financial aid: 68% (55% gift)
Apply by: rolling; March 1 (aid)

Disabled students: Fully accessible. Within five years, 1 blind

1986-87

THE OFFICIAL GUIDE
To U.S. Law Schools

Prelaw Handbook

Published by
Law School Admission Council/Law School Admission Services

in Cooperation with the
American Bar Association
and the Association of American Law Schools

LSAC

©1986 Law School Admission Services, Inc. All Rights Reserved.

ISBN 0-9610958-2-2
ISSN 0-886-3342

Library of Congress Catalog Card Number: 77-647665

378

II. THE LEGAL PROFESSION

The United States has more than 647,000 lawyers, roughly one lawyer for every 350 citizens. This is nearly three times the ratio to be found in Great Britain, nine times that in France, and more than 25 times the percentage of lawyers in Japan.

Lawyers work in nearly every community in the United States. They deal with major courtroom cases and minor traffic disputes, complex corporate mergers and straightforward real estate transactions. They work for giant industries, small businesses, government agencies, international organizations, private trade associations, public interest groups, and colleges and universities. Lawyers also work independently, either with other lawyers or alone. They can be found in the midst of every significant social issue. They represent both the impoverished and the wealthy, the helpless and the powerful.

The lawyer's basic skills

American law practice is so diverse that no one can describe what the "typical" lawyer does. Each lawyer works with different clients and different legal problems. But all lawyers need to be expert at managing people's affairs. To be so requires certain basic legal skills. Lawyers must know how to advocate the views of groups and individuals within the context of our legal system, how to give intelligent counsel on the law's requirements, how to write and speak clearly, and how to negotiate effectively.

Advocating. The lawyer's role as advocate is to represent a particular point of view as vigorously as possible. The American judicial system and our public policy decision-making process assume that equitable solutions will emerge from the clash of opposing interests. The success of this adversarial system of American law depends upon the talents and training of the lawyers who work as advocates within it. In this adversarial system, lawyers often must defend interests or positions with which they disagree. Lawyers understand that their skills can be useful in marshalling evidence and presenting arguments as to why a particular outcome is desirable, even though adverse consequences for others may result.

Counseling. Lawyers spend a good deal of their time giving people expert advice. Few ventures in the modern world can be undertaken without some understanding of the law. Through their knowledge of what the law requires and how it can protect the people it is meant to serve, lawyers play a major role in creating new relationships and new enterprises. In many cases, the lawyer's role as counselor serves as much to prevent as to encourage litigation.

Communicating. Lawyers are writers and speakers. Whether in the courtroom or the board room, lawyers must be forceful, articulate communicators. If lawyers could not translate thoughts and opinions into clear and precise English, it would be difficult for the law to serve society. After all, the law is embodied in words, and many of the disputes that give birth to laws begin with language — its meaning, use, and interpretation. Economic transactions must be expressed as formal contracts, lawsuits lead to judicial opinions, and Congressional enactments are recorded as printed statutes.

Negotiating. The lawyer's role as negotiator is to reconcile divergent interests and opinions. When the parties to a proposed transaction disagree, the lawyer, acting as a dispassionate outsider, may be able to help them find common ground. Although the client's interests are a lawyer's first priority, often those interests are served best after compromise and conciliation have paved the way to an equitable settlement. Because lawyers are trained to see the implications of alternate courses of action, they often are able to break an impasse.

Types of legal practice

A legal career is diverse enough to satisfy nearly any preference, though legal training, even of a specialized nature, will not itself guarantee acceptance into every career setting. Nearly two-thirds of American lawyers are in private practice, but the types of practice range from one-person offices to large firms of 200 lawyers or more. Roughly 10 percent of the profession work for government agencies (including some 10,000 judges) and nearly an equal number work for private businesses as salaried lawyers or in management. The rest engage in a variety of pursuits, including politics, banking, insurance, journalism, and legal education.

Legal specialties

Many practicing lawyers become experts in handling one field of law. Sometimes a lawyer spends an entire career working on issues and developing expertise in a single speciality. Large law firms that provide a full range of legal services tend to employ more specialists. The sole practitioner, who must handle a variety of problems alone, may have greater opportunity to work in several areas. There are, however, many lawyers in large firms who maintain general practices, and there are small firms and one-person offices that concentrate on single legal issues. Both types of practice can be rewarding. One offers the satisfaction of mastering a particular legal discipline and the other the challenge of exploring new fields.

In the United States, recognition of distinct legal specialties is relatively new. Until recently, patent law was the only field in which lawyers specialized. Now, however, new fields of law are developing and the demand for lawyers who understand them is growing. Examples are employment discrimination and environmental law. Civil rights litigation and energy law, too,

have recently achieved the stature of distinct legal specialities. Among major areas of specialization are corporate law, taxation, criminal law, antitrust, and family law.

Corporate law. The corporate lawyer is primarily an adviser who helps clients conduct their business affairs smoothly and efficiently, consistent with the law. Because the corporate lawyer typically deals with so many different aspects of business organization and finance, identifying corporate law as an independent speciality is a bit misleading. The responsibilities of a corporate lawyer can range from preparing the initial articles of incorporation and bylaws for a new enterprise to handling a corporate reorganization under the provisions of federal bankruptcy law.

Tax law. Tax law has become an important specialty as the impact of federal, state, and local taxes has grown in the past 50 years. It is one area of the law where change is constant. The federal internal revenue code and its associated regulations are now several thousand pages in length. Mastering the complexities of tax regulation requires great skill. New statutes, court decisions, and administrative rulings are issued frequently and the tax lawyer must be continually alert to changes and new developments. Economic planning usually includes attention to taxes and the tax lawyer can assist clients in understanding and minimizing their tax liabilities.

Criminal law. Criminal defense lawyers represent clients accused of crime. Their public counterparts are the prosecutors and district attorneys who represent the interests of the state in criminal prosecutions. Both types of criminal lawyers deal with fundamental issues of life and liberty. They defend many of the basic rights considered crucial to the preservation of a free and just society. Many criminal defense lawyers practice in small firms or on their own.

Antitrust law. Antitrust law deals with the public regulation of economic concentration and unfair competition. Monopolizing trade or engaging in predatory competitive practices is illegal in the United States. Either the government or private parties who may have been harmed by an antitrust violation can sue to recover damages, to enforce penalties, or to compel corrective action. Lawyers who specialize in this highly complex field of law represent either private concerns or public interest. Because antitrust litigation can be very expensive and time-consuming, most lawyers who practice in this field are affiliated with larger law firms or work for the government.

Family law. Family, or domestic relations, law is concerned with relationships between individuals in the context of the family. Many lawyers who practice this kind of law are members of small law firms or are sole practitioners. They specialize in resolving problems that arise among family members and in creating or dissolving personal relationships (such as adoption, divorce, and annulment). When the issues involved in domestic relations work elicit strong emotions among the parties to a case, the lawyer's skills as a personal counselor are indispensable.

Admission to the bar

To practice law, every lawyer must be admitted to a state bar. Standards for admission to the bar are regulated by each state and differ from state to state. Most states require candidates for admission to the bar to have graduated from an ABA-approved law school and to show evidence of sound character, fitness to practice law, and an understanding of legal ethics. Candidates also must pass examinations testing their knowledge of the law, skill in legal reasoning, and understanding of legal ethics and professional responsibility.

Once admitted, lawyers may practice only in the state or states where they are members of the bar in good standing, although many states will admit reciprocally attorneys from other jurisdictions who have practiced law actively for a certain number of years. States usually grant temporary bar admission for particular cases. Many states have student practice rules that admit advanced law students under the close supervision of an admitted lawyer and in conjunction with students' academic programs.

A few states require law students to register with the board of bar examiners before graduation or, in some cases, soon after they're enrolled in law school, if they intend to practice in those states. Persons who plan to attend law school should check the bar admission requirements for those states where they may wish to practice after completing their education.

Federal courts set their own standards for admission. The most basic requirement for federal district court admission is bar admission in the state where the federal district is located.

Bar associations

Bar associations are membership organizations designed to raise the standards of the legal profession and to encourage professional unity. Their activities vary depending on the size and interests of the local bar. Many bar associations sponsor programs intended to broaden the availability of legal services and to familiarize the public with the legal profession. Many bar associations also conduct extensive continuing legal education programs to help members update their skills and their knowledge of the law. The largest national organization of attorneys in the United States is the American Bar Association (ABA), which sponsors a number of programs dealing with legal education, law reform, judicial selection, and professional responsibility.

The ABA has promulgated a set of regulations gov-

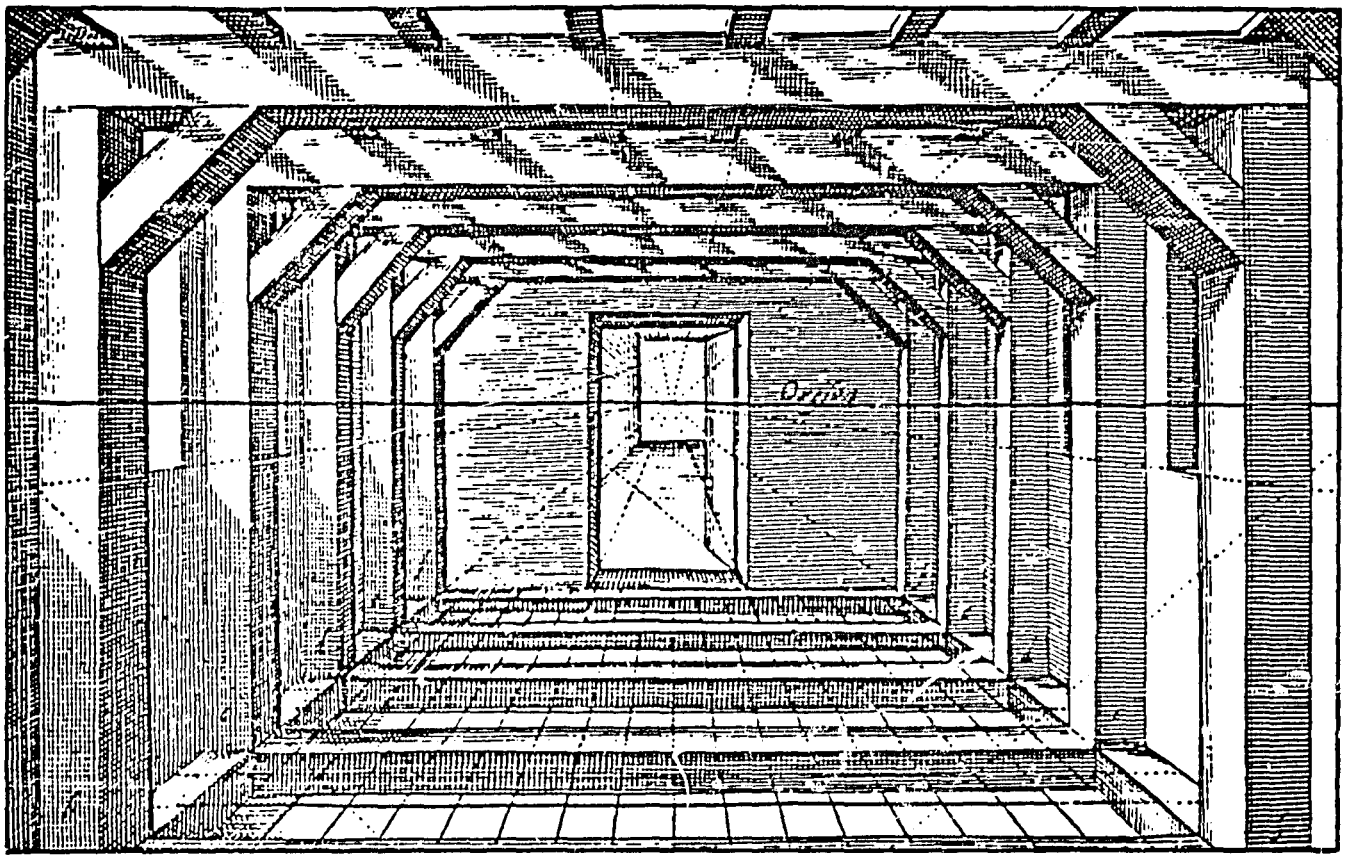
erning ethical standards in the practice of law known as the Code of Professional Responsibility. Attorneys who violate these standards are subject to censure, suspension, or disbarment. All students attending approved law schools in the United States are required to receive instruction in professional responsibility.

Employment prospects

Future demand for persons with legal training is almost impossible to predict. The number of lawyers is projected to increase sharply in the future. Yet, rising case loads in the nation's courts and continuing federal and state regulation suggest that there will always be a need for attorneys. Whether this expanding need will match or fall short of the parallel growth in the number of licensed attorneys is a question no one can answer with certainty. The legal profession itself may adapt to changing job markets by encouraging lawyers to enter fields that traditionally have not been considered law-related.

Lawyers with outstanding academic credentials will continue to have little difficulty in obtaining desirable positions. The majority of lawyers, however, will have to devote considerable time and energy to securing a first job they consider acceptable. Their opportunities will vary from locality to locality and among legal disciplines. They'll find intense competition for certain positions while opportunities in other fields may expand.

Prospective law students should evaluate their personal career goals, including any geographic preferences, when considering the legal job market.



The National Association for Law Placement

The National Association for Law Placement, Inc., (NALP) is a professional organization for law school placement officers, recruitment administrators, hiring partners, bar executives, and legal personnel directors employed by corporations, firms, government, and public interest organizations. It gathers employment statistics and provides a forum for discussion of mutual recruitment problems and of developing legal career areas. NALP is not an employment agency nor a clearinghouse of job listings for students. But it does offer its law school members the opportunity to improve their in-school placement services and their career guidance programs. NALP's employer members benefit from NALP contacts and NALP publications and conferences.

The association has questioned a number of articles in recent years projecting an increasingly tight job market. Its annual employment surveys have shown that a large proportion of each year's graduates find law-related employment before or within nine months of graduation. NALP expects this pattern to continue in the near future.

-381

III. BECOMING A LAWYER

Few decisions in life are as important as choosing a career. The work we do occupies a large portion of our time and energy. The profession we choose determines our lifestyle and, in large measure, defines us as individuals.

Many people are attracted to a career in law because they recognize the important role that lawyers play in modern society. They also are attracted to the kinds of personal satisfactions that the law often provides. Their image of what a lawyer actually does, however, is sometimes false. Popular presentations in films and on television imply that all lawyers spend a great deal of time either arguing cases in a courtroom or putting together vast international business deals in richly paneled offices on Wall Street.

In actuality, most lawyers practice their profession in a very different environment. While some do indeed spend large amounts of their time in court, the vast majority seldom appear before a judge. Many have never tried a case. And, while some lawyers do work on projects involving huge sums of money and major international clients, many concentrate instead upon smaller items such as preparing wills and advising small businesses. This type of work can be very rewarding, but it lacks the drama and prestige associated with the public's conception of a typical lawyer's workday.

Since only a small fraction of practicing attorneys become courtroom specialists or partners in major law firms, it would be a mistake to enroll in law school with the expectation that a legal education will inevitably guarantee entry into these types of practices or lead to substantial wealth. It is possible for any law school graduate to develop an expertise in litigation, but, for the most part, recruitment for major law firms is highly selective and very competitive. Lawyer earnings are more often comfortable than luxurious.

Law school is primarily for people who want to practice law. It is true that lawyers pursue a wide range of occupations and that many become leaders in business and government. But law school training, while neither rigidly specialized nor absolutely broad, has one overriding goal: to prepare people to deal with legal problems within the framework of the American legal system. Most law school graduates go on to practice law and remain practicing attorneys for the rest of their careers.

The easiest career choice is the one that merges an enriching professional life with a person's own basic interests. Law is a rewarding field in which to work, but it is not a profession that is right for everyone. For a great many, however, law offers opportunities for service to society that other careers do not.

Legal training in the United States

Legal education in the United States is the responsibility of the nation's law schools — graduate institutions of higher learning dedicated to teaching the methods and principles of American law. In nearly every state, graduation from an ABA-approved law school is required for admission to the bar. A very few states will permit people to take their bar examinations who have graduated from an unapproved school, who have obtained a partial legal education, or who have studied privately with a practicing attorney. The number of persons admitted in these ways nationwide however, is limited. For all practical purposes, becoming a lawyer in the United States requires a degree from an approved law school.

Most law schools require three years of full-time attendance, or four years of part-time study if a student enrolls in a law school's evening division. The American Bar Association has approved 175 law schools in the United States. These schools must meet certain standards with respect to their faculties, facilities, and course offerings in order to retain ABA approval. Neither the ABA nor any other professional legal organization attempts to rank law schools qualitatively. Such judgments are subjective and differ according to the relative emphasis one attaches to library holdings, student composition, faculty size, or other factors. Each approved law school provides basic training in American law sufficient to qualify its graduates to take the bar examination in all states.

Unapproved law schools. A number of operating law schools have not been approved by the American Bar Association. Some states permit graduates of these unapproved schools to take the bar examination or to be admitted reciprocally, but most do not. Before enrolling, you should carefully consider the limitations that result from obtaining a degree from these unapproved programs. You should carefully review the implications of your decision and enroll only if it is clear that such a school will provide adequate legal training and that employment possibilities will not be unduly restricted after graduation.

Correspondence courses. A few institutions offer correspondence courses purporting to provide a legal education. The American Bar Association expressly disapproves of correspondence law courses. Correspondence law school graduates are *not* eligible to take the bar examination in any state except California and even there only under special conditions.

Advanced graduate study. Roughly one-third of the law schools approved by the ABA also offer graduate programs for advanced law degrees. These programs provide advanced study in specialized fields, such as tax law, and in some cases offer training for legal scholars and teachers. Graduation from law school is a prerequisite for entering an advanced degree program, and completion of a substantial, publishable work of legal scholarship is the usual final requirement. Graduates earn a master's degree in law.

382

The law school experience

Law schools differ in the emphasis they give to certain subjects and in the degree to which they provide a student with opportunities for independent study and clinical experience. Nearly all law schools, however, share certain basic features, many of which are unique to legal education in the United States.

Gearing up for the first year. The law school environment is intense and competitive. Class preparation and review are so time consuming that many schools advise their students not to hold part-time jobs while studying law. The American Bar Association recommends that no full-time law student take an outside job requiring more than 20 hours a week. Most schools encourage their students to become totally immersed in reading, discussing, and thinking about the law.

The first year of law school is a new, sometimes startling experience. The newness is exciting for many and anxiety-provoking for almost all. Professors expect you to be prepared in class every day, but your course grade rests primarily on a single examination at the end of the quarter, semester, or, at some schools, the end of the year. Until the final examination, the professor gives little formal feedback.

Mastering the case method approach. Virtually all American law schools use a mode of teaching called the "case method." This learning approach is what first-year students are likely to find least familiar. Since it is neither possible nor desirable to teach the contents of the great body of statutory law, judicial opinion, and agency ruling that exists in the United States, law schools concentrate instead upon teaching legal reasoning: the method of thinking and standards of decision-making lawmakers apply. By focusing on the underlying principles that shape the law's approach to different fact situations, students learn to distinguish between subtly different legal results and to identify the critical factors that determine a particular outcome. Once you have mastered these distinctions, you should be able to apply insights to new situations.

The case method involves the detailed examination of a number of related judicial opinions (cases) that describe an area of law. Depending on the subject, you also learn to apply the same critical analysis to legislative materials and scholarly articles.

Professors almost never tell you what the cases and materials stand for; instead, they expect you to discover the legal principles on your own. The role of law professors is to goad and stimulate. They will ask

Table 1
Legal Education and Bar Admission Statistics 1965-1985

Year	Total Enrollment	Women	First Year	LSAT Taken	LSDAS Completions	J.D. or LL.B. Awarded	New Admissions to the Bar
1965	59,744	2,537	24,167	39,406		11,507	13,109
1966	62,556	2,678	24,077	44,905		13,115	14,644
1967	64,406	2,906	24,267	47,110		14,738	16,007
1968	62,779	3,704	23,652	49,756		16,007	17,764
1969	68,386	4,715	29,128	59,050		16,733	19,123
1970	82,499	7,031	34,713	74,092		17,183	17,922
1971	94,468	8,914	36,171	107,479		17,006	20,485
1972	101,707	12,173	35,131	119,694	80,364	22,342	25,086
1973	106,102	16,760	37,018	121,262	81,913	27,756	30,879
1974	110,713	21,788	38,074	135,397	85,999	29,045	30,707
1975	116,991	26,737	39,038	133,546	83,100	29,961	34,144
1976	117,451	29,982	39,996	133,320	82,243	32,592	37,935
1977	118,557	32,538	39,676	128,135	78,717	33,640	37,660
1978	121,606	36,808	40,479	127,760	81,366	33,317	39,086
1979	122,801	38,627	40,717	115,284	72,529	34,590	42,756
1980	125,397	42,122	42,296	112,466	76,669	35,059	41,997
1981	127,531	44,986	42,537	111,750	79,669	35,286	42,382
1982	127,828	47,083	42,034	118,565	82,636	34,846	42,905
1983	127,195	47,980	41,159	111,620	82,145	36,389	43,369
1984	125,698	48,499	40,747	104,621	72,900	36,687	42,630
1985	NA	NA	NA	95,129	70,001	NA	NA

Note: Enrollment is that in ABA-approved schools as of October 1, 1984. The LSAT volume is given for the test year ending in the year stated. For example, in the test year July 1984 through June 1985, there were 95,129 administrations of the LSAT. The Law School Data Assembly Service was used by 70,001 persons (who completed law school applications and requested that LSAT results and undergraduate transcripts be sent to at least one school). J.D. or LL.B. degrees are those awarded by ABA-approved law schools for the academic year ending in the year stated. Thus, there were 36,687 degrees awarded in the year beginning with the fall of 1983 term and ending with the summer 1984 term. Enrollment statistics courtesy of the Office of the ABA Consultant on Legal Education.

383

questions (the "Socratic method") designed to explore the facts of the case, to determine the legal principles applied in reaching the result, and to analyze the method of reasoning used. In this way, professors encourage you to relate the case to others like it or to distinguish it from similar, but inapplicable precedents. In order to challenge you to defend your reasoning, professors may play "devil's advocate," adopting a position contrary to the holding of the case.

Since this process places most of the burden of learning on the student, classroom discussions can be exciting. They are also demanding. You must struggle to bring order to the data. However uninformed, unprepared, or puzzled you may be, *you* do much of the talking in class.

Learning to think like a lawyer. The case method, with its reliance on student-teacher interchange, reflects the general belief that the primary purpose of law school is not to teach substantive law but to teach students "to think like lawyers." Teachers of law are less concerned about technical coverage of rules than are their counterparts in many other disciplines. While good memory is useful to the law student, it is scarcely enough for success. The ability to be analytical and literate is considerably more important than the power of total recall.

Law is more an art than a science. In analyzing a case, the reality you seek is not easy to weigh and measure. Legal study therefore requires an attentive mind and a tolerance for ambiguity. Part of the law's complexity results from the existence of 53 different court systems in the United States that do not necessarily agree on all questions. Much of its complexity is due simply to the fact that the law is a human institution in which judgments must be relative and standards malleable.

People who especially value structure, authority, and order are often attracted to law school. The idea of rules in books and principles dictated by learned professors appeals to these prospective lawyers. But the study of law does not involve the kind of certainty such students are seeking. Law professors rarely have the answers and even rarer is the occasion when they give them. So from the beginning students may feel uncertain and resentful. They want something the law professors cannot give; complex legal questions do not have simple solutions.

Most incoming law students expect to learn the law with a capital "L." Unfortunately, law schools cannot teach The Law. Memorization and recitation of legal rules are not the prime objectives of legal education. Law schools teach concepts and ways of approaching and resolving legal issues so that future lawyers can deal with yet unimaginable legal questions.

Acquiring practical skills. Legal education is academically oriented in the sense that students devote most of their time to mastering general concepts and principles that shape the law. Law schools place relatively less emphasis on more practical matters such as legal drafting and law office management. In recent years, however, many schools have inaugurated or expanded programs designed to offer students direct experience in actual legal practice. These programs allow second- and third-year students to participate in court trials and appeals, render counseling to indigent persons and the elderly, undertake legislative drafting, and do other legal work for academic credit.

Law schools pay considerable heed to relating traditional, analytic course work to skills training or to the client-oriented setting of the clinic. Schools differ in the range and variety of clinical education they offer, though the trend toward integrating practical experience with theoretical study is more widespread today than ever before.

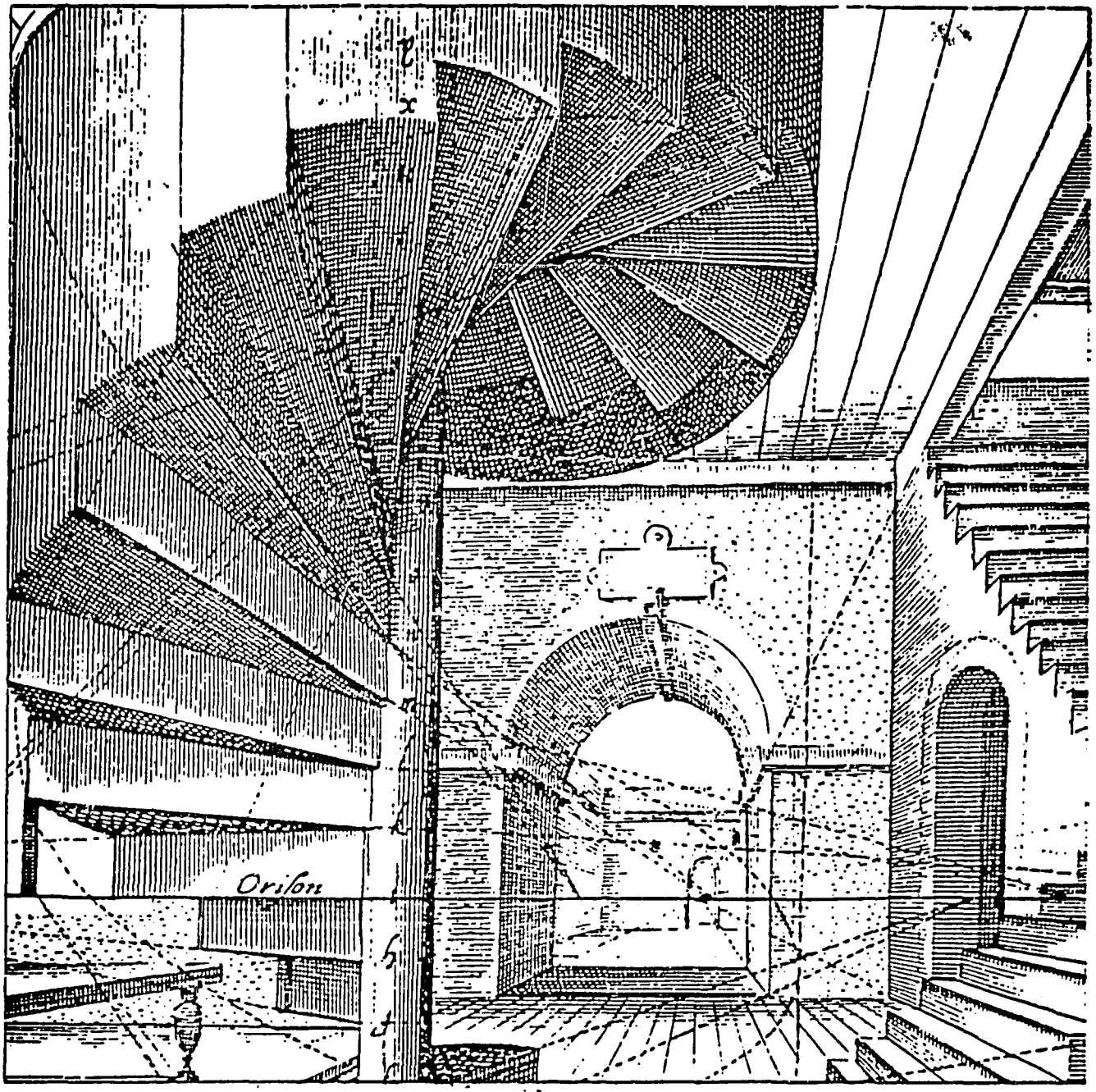
Participating in extracurricular activities. Student organizations are a valuable supplement to classroom learning. Typically, these organizations are dedicated to advancing the interests of particular groups of law students (e.g., Blacks, women, or Hispanic Americans), promoting greater understanding of specific legal fields (e.g., environmental or international law), or providing opportunities for involvement in extracurricular professional, social, and sports activities.

A unique feature of American law schools is that law students entirely manage and edit the legal profession's principal scholarly journals. Membership on the editorial staffs of these journals — the law reviews — is widely considered to be a mark of academic distinction. Selection is ordinarily based on academic performance, writing ability, or both.

The curriculum. First-year law students follow a designated course of study that covers many of the same basic legal subjects regardless of school. Thus, in your first year, you are likely to encounter courses on civil procedure, criminal law and process, contracts, torts, and property, in addition to a legal method or writing course. Constitutional law is a first-year course in some schools, a second-year course in others. Second- and third-year students are able to select from a broader range of courses, many of them elective, but nearly all will choose to take most of the following: administrative law, evidence, corporations, taxation, trusts and estates, commercial law, and professional responsibility. These universal courses are basic to legal education, but every law school supplements this basic curriculum with a wide variety of additional course offerings, some of the most common being antitrust, conflict of laws, international law, family law, security regulation, and labor law.

In the first year, you will learn about the analytical framework of American law through the study of cer-

384



tain fundamental subjects.

Civil procedure concentrates on the process of adjudication in the United States, covering such subjects as jurisdiction and standing to sue, motions and pleadings, pre-trial procedure, the structure of a lawsuit, and appellate review of trial results.

Constitutional law focuses on the basic principles that govern the separation of powers within the federal government and between national and state governments, the rights of individuals under the Constitution, and the resolution of conflicts among competing Constitutional principles.

Contracts is devoted to examination of the nature of enforceable promises and rules for determining appropriate remedies in case of non-performance.

Criminal law deals with what constitutes crime. Criminal procedure is concerned with the rules and procedures for enforcing sanctions against individuals accused of committing offenses against the public order and well being. It also deals with the rights guaranteed to those charged with criminal violations.

Property law is the study of the creation, apportionment, and transfer of rights of use, control and disposition of interests in land, buildings, natural resources,

385

as well as other particular things or objects.

Torts deals with private wrongs, such as negligence, assault, and defamation, that are violative of duties created by the law.

In addition to attending classes, most first-year students are required to participate in a moot court exercise in which they take responsibility for preparing written briefs and arguing a hypothetical court case. Some schools also offer alternative exercises, all designed to acquaint first-year students with advocacy skills and preparation for adjudication.

Preparing for law school

As a prelaw student, your goal should be to get the most from your time in college. College education stands on its own merits as preparation for a lifetime of active involvement in a diverse and changing society. So-called "prelaw curriculum" is a myth, a mistaken notion based on an inexact analogy to premedical programs, which are quite specific and virtually obligatory for medical school candidates.

Acquiring a well-balanced education. While no single curricular path is the ideal preparation for law school, a broadly based undergraduate program that includes training in analytical reasoning and writing will serve you well. Law schools want students who can think, read, and write and who have some understanding of the forces that have shaped human experience. You can acquire these attributes in any number of college courses, whether in the humanities, the social sciences, or the natural sciences.

English language and literature courses are virtually indispensable. At the same time, every law student should be aware of the institutional processes of government through which much of the law is made and applied. You can gain this awareness through study in political science. Because the law is inseparable from our historical experience, you should have some acquaintance with American history. The fact that many legal subjects are intimately concerned with economic relations among individuals and with the structure and development of business enterprises makes a knowledge of macro and microeconomics valuable. Statistics, accounting, and computer science are other courses that will help you to understand special legal subjects and the practice of law.

The pros and cons of prelaw study. Undergraduate courses designated "prelaw" tend to be less effective means of preparing for law school. Such courses may introduce you to broad legal principles and provide a basis for deciding whether to pursue legal studies, but they are rarely taught with the same depth and rigor as actual law school courses. For this reason, most law schools do not recommend them.

Carrying a rigorous course load. Academic standards are important in your selection of undergraduate courses. A narrowly based, unchallenging, or vocationally-oriented undergraduate curriculum is not the best preparation for law school. So long as you receive a quality education and learn critical analysis, logical reasoning, and written and oral expression, the range of acceptable college majors is very broad. What counts most is the intensity and depth of your undergraduate program, showing your capacity to perform well at an academically rigorous level. Many entering law students have college majors in political science, history, or economics, but a significant proportion have undergraduate degrees in philosophy, anthropology, engineering, linguistics, mathematics, English, psychology, business, sociology, the natural sciences, or other disciplines.

The Association of American Law Schools has issued a statement on prelegal education that reads, in part, as follows:

> . . . The Association can properly call attention to the quality of undergraduate instruction it believes fundamental to the later attainment of legal competence. That quality of education is concerned with the development in prelaw students of basic skills and insights. It thus involves education for:
>
> • comprehension and expression in words;
>
> • critical understanding of the human institutions and values with which the law deals;
>
> • creative power in thinking.
>
> The development of these fundamental capacities is not the monopoly of any one subject-matter area, department, or division. Rather, their development is the result of a highly individualized process pursued with high purpose and intensive intellectual effort. . . .

How to Find Out More About Law Schools

• Study and compare the admission data and other information provided in this handbook. But first, read carefully the explanatory note on page 42 to help you avoid possible misinterpretation of the information.

• Obtain and read the catalog (often called a bulletin) of each school that interests you. Use the postcards attached in this handbook to request materials. Your college prelaw adviser or library may already have the catalogs.

• Consult your college prelaw adviser.

• Write to a school's admission office for further information only if the catalog does not adequately cover a particular concern.

• Talk to a representative of the school, either when you visit the campus or when the representative visits your college. These meetings are more fruitful if you have studied the school's catalog.

• Visit the schools. You can learn a great deal from a look at the library facilities, from talks with students and faculty members, and perhaps from visits to classes. However, very few law schools grant formal admission interviews.

• Talk to the alumni of the schools. But be careful. Law schools change, sometimes fairly quickly. Try to talk to a recent graduate or to one who is active in alumni affairs and therefore knowledgeable about the school as it is today.

Choosing a law school

You should consider many variables in choosing the "right" law school. Educational quality, size, and location are important, but many intangible elements such as campus atmosphere, a sense of excitement, a devotion to learning, and a feeling of community spirit within a school can be equally significant in determining how well a law school matches your needs. Selecting the right law school is a difficult decision and requires considerable care and thought. Relying on general notions of prestige or reputation is not enough. If you select the "best" law school in this manner, it may turn out not to be at all well-suited to your specific needs.

You should begin the process of choosing a law school with an honest appraisal of your strengths and preferences. You can obtain an excellent legal education in many different settings. Some of the factors you should weigh carefully include:

- the size, composition, and background of the student body;
- the location, size and nature of the surrounding community;
- the particular strengths or interests of the faculty;
- the degree to which clinical experience or classroom learning is emphasized;
- the nature of any special programs offered;
- the number and type of student organizations;
- the range of library holdings; and
- whether a school is church-related, affiliated with a university, or independent.

The individual school descriptions in this volume can help you assess these factors, but decide only after reviewing the full admission materials available from each law school.

Considering special programs. Most law schools share a common approach to training lawyers. Many emphasize particular teaching methods, such as placing students in legal internships for academic credit, or using the government or legal resources of a surrounding community. A number of schools have specialized programs that combine law with other disciplines such as business, public administration, international relations, science and technology, or medicine.

Many law schools also offer joint-degree programs in which you can obtain a second degree from an affiliated institution in less time than it would take to complete requirements for both degrees separately. The most common of these programs provide joint degrees in Law and Business Administration or Law and Public Administration, but joint programs also exist in economics, history, urban planning, medicine, social work, international relations, journalism, public health, and other fields. You should consider whether such specialized programs offered by a given school would be useful in your career.

Evaluating location. Location is more than a matter of physical geography. Many law school graduates find jobs in the general region of their schools. Furthermore, admission policy and tuition costs often favor residents of the state in which a publicly supported law school is located. Many are drawn to their home-state school for this reason.

Increasing your chances for acceptance. Each year, qualified students are rejected by all the schools to which they apply because they overestimate their qualifications and underestimate the competition. The best way to avoid this pitfall is to apply to a mix of schools, including some at which your chances of being accepted are high and some where admissions are more competitive.

Law School Forums

In the fall of 1986, Law School Admission Council/Law School Admission Services will sponsor Law School Forums in major cities across the United States. Admission is free. The one-and-one-half-day forums will provide potential law school applicants with opportunities to:

- talk with representatives from many of the country's American Bar Association-approved law schools;
- obtain admission materials, catalogs, financial aid information and information on legal career opportunities; and
- attend special videotape sessions on minority applicant/student concerns, the law school admission process, how to prepare for the LSAT, how to select an appropriate law school, and so on.

The 1986 Forums are scheduled for:

New York, NY
Friday, September 19, 1986
Saturday, September 20, 1986
Vista International Hotel
Three World Trade Center
(entrance on West Street)

Chicago, IL
Friday, October 10, 1986
Saturday, October 11, 1986
Palmer House and Towers
17 East Monroe Street

Boston, MA
Friday, October 31, 1986
Saturday, November 1, 1986
Plaza Castle
Columbus and Arlington Streets
(Across from Boston Park Plaza Hotel)

Los Angeles, CA
Friday, November 14, 1986
Saturday, November 15, 1986
Century Plaza Hotel
2025 Avenue of the Stars

For further information, write to:
Law School Forums
LSAC/LSAS
P.O. Box 63
Newtown, PA 18940-0063

The Cornell Law School is a national school located in Ithaca, New York, a town of about 30,000 in the beautiful Finger Lakes district of New York. The non-metropolitan atmosphere, combined with the relatively small size of the Law School's student body (540 students), produces an unusually favorable environment for effective legal education. The primary purpose of the school is to prepare lawyers who can render effective service to their clients; who understand the interactions between legal process and social process; who are interested in and capable of furthering legal progress and reform; and who, above all, will fulfill the traditional role of lawyer as leader in the community and as defender of our heritage of freedom. The law faculty has built a broadly diversified curriculum designed to accomplish these aims while retaining the school's intimate character.

LIBRARY AND PHYSICAL FACILITIES. The law library contains about 386,000 volumes, and is arranged to give students direct access to the books. LEXIS and WESTLAW, computer based systems for legal research, are available to students for on-line use.

The Law School is self-contained in Gothic-style Myron Taylor and Hughes Halls, which contain the library, lecture and seminar rooms, student and faculty lounges, the moot court room, the dormitory, and cafeteria.

BASIC PROGRAM OF STUDY AND DEGREE REQUIREMENTS. The school operates on a semester system, with the first semester running from late August into December and the second from January to May. The regular curriculum is a three-year program leading to the J.D. degree. Candidates for this degree must satisfactorily complete 84 semester hours and 96 weeks of study. The first-year required curriculum is similar in content to that of most American law schools. First-year classes are sectioned so that each student has one class with an enrollment of about 25, while other classes vary in size but generally contain 50 to 100 students. After the first year, the curriculum is structured, but students have a wide range of course choices. Before graduation, all students must have taken at least one skills class, at least one perspective class, and at least one class dealing with issues of professional responsibility. In addition, students must satisfy a writing requirement.

The third year of law study furnishes the opportunity to diversify through pursuit of individual interests. A wide range of elective courses, including many seminars and problem courses, hold out that prospect. The third year also permits concentration through in-depth study of a single field. To encourage this use of the third year, the School offers students the opportunity to concentrate in any one of four areas: 1) Advocacy; 2) Business Law and Regulation; 3) General Practice; or 4) Public Law.

SPECIAL PROGRAMS. Qualified students have the opportunity to earn the J.D. with specialization in international legal affairs by earning an additional five credit hours of study in international and comparative law.

Formal joint degree programs offered by Cornell Law School include the JD-MBA and JD-MPA (Graduate School of Management); JD-MILR (School of Industrial and Labor Relations); JD-Master of Regional Planning (College of Architecture, Art and Planning); JD-Ph.D. or JD-MA in Philosophy (Graduate School); and J.D.-Ph.D. in other fields of the Graduate School, such as Economics, History, and Sociology. Highly qualified applicants may enter a J.D.-baccalaureate degree program after three years of college by arrangement with their undergraduate school.

A highly selective graduate program admits a few students each year for the LL.M. and J.S.D.

The Cornell Legal Aid Clinic provides services to persons financially unable to employ an attorney; this and other clinical experiences such as the Washington, D.C. Externship Program provide opportunities for practical training.

ACTIVITIES. The student organizations and activities listed below represent the wide range of interest and concerns of a highly diverse student body. Among the School's many activities are the American Indian Law Students Association, the Asian American Law Students Association, the Black American Law Students Association, the Cornell Christian Law Fellowship, *the Cornell International Law Journal*, the Cornell International Law Society, *the Cornell Law Review*, the Cornell Law Student Association, the Elmira Prison Project, the Environmental Law Society, the International Legal Studies Program, Lambda Law Students, Latino-American Law Students Association the Law Ethics and Religion Program, the Law Partner's Association, the Moot Court Program, the National Lawyers Guild, two legal fraternities, Phi Alpha Delta and Phi Delta Phi, the Public Interest Law Union, and the Women's Law Coalition.

STUDENT BODY. Cornell Law School students are men and women who represent a wide-range of interests, skills, abilities, and accomplishments. There is currently a total enrollment of about 540 students, representing most states and about 200 colleges. About 38 percent of the students are women and about 12 percent are minority group members.

The academic attrition rate for all students at the law school has been less than one percent.

388

ADMISSION. Applicants are urged to complete their applications before January 1st; all applications completed after February 1st will be considered late. Decisions are made on a rolling basis. Admissions decisions are based on a number of factors, both quantifiable (LSAT, undergraduate GPA) and nonquantifiable, including quality of the overall academic record, leadership ability, interpersonal skills, graduate education, work experience, and potential for significant contribution to the legal profession. The Admissions Committee considers minority background to be a positive factor in an applicant's file. The admission process is an extremely selective one; in 1985 about 3,100 applications were received for approximately 175 spaces in the entering class.

To secure a place in the class, each applicant accepted for admission must pay an initial deposit after receiving notice of acceptance. A second deposit is due in early summer. The amount and timing of the deposit procedure may vary from year to year. Those admitted to the class entering in the fall of 1985 were required to pay a $150 deposit on April 5 and a $350 deposit on June 1. Applicants are notified of the details of the deposit procedure at the time of acceptance.

PLACEMENT. A placement director and staff assist students seeking permanent and summer positions. During the fall hundreds of employers from throughout the country conduct interviews at the Law School. Experience in recent years has been that 85 to 90 percent of graduating seniors have job offers prior to graduation in May. Graduates of the class of 1984 reported the following experience: 77 percent in private practice, 12 percent in judicial clerkships, 5 percent in government, 3 percent in business concerns, and 3 percent in other law jobs. Graduates of Cornell are widely dispersed across the country. Law School graduates take bar examinations in many states; the passage rate for first-time bar examinees from Cornell is generally between 90 and 100 percent.

EXPENSES AND FINANCIAL AID. Tuition in 1985-86 is $10,830 per year. The total expense for a single student is estimated at about $17,980; for married students, about $21,160.

The Law School has a comprehensive financial aid program for students with substantial need. Currently, about 40 percent of the students receive scholarship aid; a higher percent receive student loans. Applicants for aid must register with GAPSFAS. The deadline for receipt of the GAPSFAS report by the Law School is March 15 for entering students who wish to be considered for scholarships. The Law School generally does not recognize a student's financial independence from parents or spouse in calculating need for financial aid.

The Law School is committed to continuing to assure access to the Law School to students from all economic groups. All students who could not enroll at a private law school without substantial financial assistance are encouraged to apply to Cornell. In many cases, the Cornell Law School Financial Aid Committee has been able to offer enough financial assistance, even to the neediest students, to enable them to enroll at the Law School.

HOUSING. First-year students often prefer to live in Hughes Hall, the dormitory attached to the Law School. The City of Ithaca and surrounding towns provide a wide variety of accommodations to University students. Students from other parts of the country are often pleasantly surprised both by the wide variety of options available in Ithaca and by the relatively modest cost of housing, compared to similar housing in metropolitan areas.

CORRESPONDENCE. Admissions Office, Cornell Law School, Ithaca, NY 14853. Phone: (607) 256-5141. Cornell University is an equal opportunity affirmative action educator.

Applicant Group Applying for the 1985-86 Academic Year

In each box, the figure to the left of the slash represents applicants, while the figure to the right of the slash represents acceptances (e.g., 10/2 in a box means 2 of 10 applicants with that combination of LSAT and GPA were accepted).

	LSAT (10) PERCENTILE INTERVALS										
GPA	0-10	11-20	21-30	31-40	41-50	51-60	61-70	71-80	81-90	91-99	Total
3.75 Above	0/0	2/0	2/0	3/0	8/2	14/1	24/1	60/14	117/68	140/118	370/204
3.74 3.50	4/0	4/0	7/0	10/0	14/1	25/2	45/4	126/19	239/109	228/103	702/318
3.49 3.25	0/0	3/0	13/0	8/1	25/8	30/4	52/0	133/9	231/63	279/168	774/253
3.24 3.00	3/0	6/0	20/0	13/0	28/3	40/7	56/10	85/6	127/14	152/41	530/81
2.99 2.75	7/0	6/0	7/0	9/1	12/0	22/3	20/2	41/3	45/0	56/7	225/18
2.74 2.50	9/0	6/0	12/0	11/0	8/1	8/3	12/0	11/1	23/2	19/4	119/11
2.49 2.25	2/0	6/0	3/0	1/0	5/1	2/0	4/0	8/0	6/1	7/0	44/2
2.24 2.00	3/0	0/0	0/0	0/0	0/0	0/0	1/0	5/1	2/0	1/0	12/1
Below 2.00	0/0	0/0	0/0	1/0	1/0	3/0	0/0	2/0	0/0	0/0	7/0
Total	28/0	33/0	64/0	56/2	101/16	144/22	214/17	471/53	790/257	882/521	2783/888

Cornell Law School

Figures reflect admission decisions as of 9/26/85 for all applicants. This profile reflects approximately 90% of all applications, including all groups.

389

Franklin Pierce Law Center, a privately supported, ABA approved national law school and the only law school in New Hampshire, was established in 1973 as a legal center practicing innovation in legal education and specializing in the ways law interrelates with technological and scientific change.

Our innovation in legal education has several emphases. One is a wide variety of options for hands-on clinical experience representing real clients; 85 percent of the Class of 1983, for example, completed clinical work for academic credit. A second emphasis is a near-peer professional relationship between instructors and students, achieved through student participation in governance, the careful use of student teaching assistants and provision for an informal atmosphere. Yet another is supplanting the traditional law review (often limited competitively to a small proportion of the student body) with a large number of continuing and changing projects, clinics and programs which are designed to develop skills directly useful in the practice of law. Self-reliant students who know themselves (their strengths, objectives, motivations) and want to shape individualized programs from among a rich army of opportunities thrive at Franklin Pierce Law Center. We rely on pride and responsibility, not fear or class rank, as motivators.

The specialization in law/science connections has resulted in an intensive curriculum in intellectual and industrial property law, in a developing concentration on small and new business enterprises that are technologically based, and on a heightened student and faculty familiarity with the pervasiveness of technology in today's society.

Several faculty and student members of the Law Center have focused their study and work in the area of individual rights v. society. There is ample opportunity for students concerned with the rights of children, and the terminally ill, as well as the standards of confinement in the state hospitals and prisons to become involved with these issues (and others) and gain expertise while in law school.

With approximately 115 in each entering class the Law Center is one of the smaller private law schools in the United States. Classes tend to be small, especially after first year; 35 of 50 elective courses, for example, enroll 35 or fewer students. Established as a kind of educational laboratory away from any university complex, it is located in a correspondingly small capital city (32,000 population) that, except for Manchester's suburbs to the south, is surrounded by rural northern New England communities. The metropolitan Boston area, 70 miles away, is linked to Concord directly by I-93.

LIBRARY AND PHYSICAL FACILITIES. The Law Center building houses all school activities except one clinic set up as a law office, which is located nearby. The law library of over 130,000 volumes is the largest in the state and has special strengths in law/science, intellectual property, human rights, administrative law and taxation subjects. The library affords all students access to computer-assisted research and microform materials and has close ties with other libraries.

BASIC PROGRAM OF STUDY AND DEGREE REQUIREMENTS. The program leads to the J.D. degree following six semesters (or the equivalent) of full-time residence. Examinations are given on a semester basis. All students have the right to complete the first year. Annual attrition is approximately 5 percent. Courses are occasionally offered in the summer.

FACULTY. The 18 full-time faculty members, aided by a smaller complement of part-time instructors, have been selected for their commitment to teaching and their achievements in practice, public service or education. Almost all maintain active links with legal practice, often through the Center's clinics and research projects.

SPECIAL PROGRAMS. Most of our advanced offerings are concentrated in four broad categories: Business and Commercial Law, Law and Science (including Patents and Products Liability), Individual Rights and Social Responsibilities, and Criminal Law. In each category we have programs designed to give students experience with actual cases or problems through clinics, internships or legislative research and drafting projects. The following are examples:

The Family and Housing Law Clinic provides an opportunity within the Law Center for acquiring skills in relating effectively with clients, and advocating clients' interests in court. Approximately 50 second and third-year students annually provide legal assistance to Merrimack County residents coming to the Clinic with problems concerning divorce, neglect and abuse, child support, housing, debt collection and the like.

The Patent Practice and Procedure Clinic affords students with technological bent and background, solid grounding in claims drafting and other skills essential to the intellectual property lawyer. Our students work on real patent and technology transfer matters for university inventors (at such schools as Dartmouth, University of Massachusetts, University of New Hampshire, Massachusetts Institute of Technology and Carnegie-Mellon University) and other clients. They become prepared for patent practice immediately upon receiving the Juris Doctor degree, having earlier passed the patent bar examination.

In the Criminal Defense Clinic, students work with

390

trial attorneys in the statewide Public Defender network. In the Appellate Defender Program, housed at the Law Center, students prepare briefs for the New Hampshire Supreme Court in cases ranging from disorderly conduct to first-degree murder.

Other programs include a Business Clinic, an environmental law program, the Law/Science Research Group and the Child Guardianship Project. These and the Internship Program are described in the Bulletin.

We have begun a major program of computer-assisted instruction (CAI) powered by special software. Using microcomputers linked through a powerful minicomputer, students confront a series of legal questions and explore varieties of solutions. The computer responds to whichever path or "branch" the student takes. Results to date confirm that CAI is a valuable learning tool in legal education.

ACTIVITIES. Students prepare notes and comments for IDEA: *The Journal of Law and Technology*, published by the Center's Patent, Trademark, and Copyright Research Foundation. Student organizations include the Women's Caucus, the Law Science Research Group, the Law Students Cooperative Association, the *Obiter Dictum* (a school newspaper) and chapters of the American Trial Lawyers Association, Phi Alpha Delta law fraternity, National Lawyers Guild, the American Bar Association Law Student Division, the International Law Society and the Lawyers' Alliance for Nuclear Arms Control.

STUDENT BODY. Students come from 40 states, over 150 colleges and universities, and a range of academic and employment backgrounds from anthropology through zoology. Average age on admission is 27. Forty percent of the students are women.

ADMISSION. While LSAT score(s) and grade-point average are, of course, factors which must be considered in the decision-making process, neither, alone, is determinative. There are no "automatic" admits or denies. Each applicant's file is read in its entirety by several Committee members. Serious consideration will be given to evidence that heavy reliance on the LSAT is inappropriate in a particular case. Grade point average is reviewed in light of program difficulty, standards of the institution attended, improvement trends, and time away from college.

Our Admissions Committee is composed of members of the faculty, student body, and the Director of Admissions. The Committee utilizes the collective wisdom resulting from the varied work experiences, diverse educational and cultural backgrounds, and wide-ranging interests of its members. Each application is thereby afforded a thorough and thoughtful review. The candidate's personal statement, letters of recommendation (if any), and resume are evaluated along with the "numbers." Community service, employment during college, and other nonacademic accomplishments are given weight to the extent that they reflect initiative, social responsibility, maturity and other qualities.

No special prelegal study or employment is required. Applications are encouraged from all disciplines and professions.

To ensure full Committee review, the application must be received at the Law Center by April 1st. Decisions are made on a rolling basis from January to June. Applicants are encouraged to take the LSAT no later than December and to complete their files early. LSDAS is required.

Entering students may apply only for fall admission. Transfer candidates who have completed a year at another ABA approved law school may be considered for fall or spring matriculation. Franklin Pierce Law Center does not discriminate on the basis of age, sex, race, color, religion, national origin, marital status, sexual preference or physical handicap, and encourages members of groups underrepresented in the legal profession to seek admission.

EXPENSES AND FINANCIAL AID. Tuition for academic year 1985-86 is $6,500. Course materials average $400 per year. Students secure their own housing. Personal expenses (housing, food, transportation, medical expenses) average $6,100 for the academic year.

Scholarship, loan and student employment assistance is distributed according to financial need as demonstrated through the GAPSFAS and the institutional aid application. Forms are available from the Admissions Office. Early application is encouraged. Forms on file before April 1 receive optimum consideration. Approximately 40% of our students receive financial assistance from the Law Center to supplement the Guaranteed Student Loan.

PLACEMENT. The Law Center's placement office assists students and alumni(ae) in obtaining permanent employment. Graduates are practicing in 38 states. The distribution by employment type is comparable to that of other national law schools: private practice, 50%; government, 20%; public service, 12%; business, 9%; judicial clerkships, 8%. Some placements are the direct result of internships, clinical experiences and specialized study at the Law Center. The Law Center is a member of the National Association of Law Placement.

CORRESPONDENCE. Admissions Office, Franklin Pierce Law Center, 2 White Street, Concord, N.H. 03301. (603) 228-9217.

351

Harvard Law School, established in 1817, is the oldest existing law school in the United States. It is located, along with most other parts of Harvard University, in Cambridge, Massachusetts. The school offers a diverse curriculum intended to provide comprehensive training for those who wish to become legal practitioners, as well as those interested in public service, law teaching, and legal scholarship. Through its faculty, students, and graduates, Harvard seeks to make substantial contributions toward solving the complex legal problems confronting our society.

LIBRARY AND PHYSICAL FACILITIES. Harvard's Law School Library is the largest and most complete academic law library in the world. It contains more than 1,400,000 volumes and includes, in addition to a nearly complete selection of legal materials, an extensive collection dealing with social problems related to law and legal studies. The school occupies 16 buildings that include dormitories, eating facilities, libraries, classrooms, and administrative offices.

BASIC PROGRAM OF STUDY AND DEGREE REQUIREMENTS. The program for the initial law degree, Juris Doctor (J.D.), is designed for full-time study during three academic years. There is no summer program. Classes begin the first week in September. The faculty is composed of 78 full-time professors and assistant professors and 32 lecturers.

Our basic aim is to train students to be lawyers. The emphasis is not on any particular type of law: the curriculum includes courses in civil liberties as well as corporate finance; international trade as well as criminal law; taxation as well as legal services for the poor. Nor is the curriculum oriented toward mastering detail or teaching the law "as it is." Law reform, legal philosophy, the historical development of legal institutions—all of these subjects and many more are important fields of study for an educated member of the profession. Since the law changes often and the problems lawyers face vary endlessly, it is more important to master the enduring principles of law, its methods of reasoning, and its process of development and change rather than the law as it is currently written.

The first-year curriculum is designed to give each student a thorough grounding in the basic intellectual processes of legal reasoning and analysis. It consists of criminal law, contracts, civil procedure, torts, property, a legal methods course including Ames moot court work, and one or two elective courses during the second semester. Except for a required paper and a course in professional responsibility, the second and third years of the J.D. degree program are entirely elective. These options are broad and include several combined degree programs as well as cross-registration possibilities with other Harvard graduate schools.

ACTIVITIES. Law-related activities at Harvard Law School are diverse and numerous. They include seven law student publications (*Harvard Law Review, Harvard Journal on Legislation, Harvard International Law Journal, Harvard Civil Rights-Civil Liberties Law Review, Harvard Environmental Law Review, Harvard Women's Law Journal,* and *Harvard Journal of Law and Public Policy*) as well as the Board of Student Advisers (which administers the Ames moot court and alternative programs), the Legislative Research Bureau, International Law Club, Civil Rights-Civil Liberties Research Committee, and Student Bar Association.

Massachusetts allows law students to represent the indigent of the Commonwealth in the District Courts. There are five organizations at the Law School that provide legal aid to the community under this provision (Community Legal Assistance Office, Harvard Voluntary Defenders, Harvard Legal Aid Bureau, Prison Legal Assistance Project, and the Harvard Student District Attorney Project). Other activities are the *Law School Record* (America's oldest law school newspaper), Law School Forum, Yearbook, Drama Society, Harvard Black Law Students Association, Harvard Environmental Law Society, the Committee on Gay and Lesbian Legal Issues, La Alianza, Sociedad Inter-Americana, American Indian Law Students Association, and Asian American Law Students Association.

STUDENT BODY. In the 85-86 academic year, there were 1,668 J.D. students and 175 LL.M. and S.J.D. students enrolled. All 50 states and more than 300 undergraduate institutions were represented. In the 1985 entering class, 36 percent of the J.D. students were women and 17 percent were members of minority groups.

ADMISSION. The large volume of applications makes the admission process highly selective. Almost 6,000 applications were received for the first-year class entering in September 1985. Approximately 780 applicants were admitted to fill a class of 550 entering students. The application process is described in the application materials, which are available by late August.

Completed applications must be submitted by February 15th. No applications will be received or processed after that date.

A question that arises in the mind of every prospective applicant is "What are my chances for admission?" Certainly no set of statistics based solely upon objective factors will provide an unambiguous answer. Essentially, three factors are considered: personal qualifications

and accomplishments of the applicant, academic skills and performance, and LSAT scores. In considering personal accomplishments, the committee evaluates all available information, including extracurricular and community activities, work experience, personal background, letters of recommendation, and any demonstrated societal, economic, or educational disadvantage the candidate has had to overcome.

We have decided to abandon a profile chart of applicants considered and admitted that is based solely upon undergraduate GPA and LSAT scores. Our admissions process takes many factors besides college grades and LSAT scores into account and is far too complex to be represented fairly or completely by a two factor profile. Indeed, even your grade point average is a complex of factors rather than a single number. College grades are adjusted in two ways: (1) mathematically based upon a comparison of the performance at Harvard Law School of students from the candidate's college or group of colleges with that of a control group and (2) subjectively based upon the diversity, depth, difficulty, and performance patterns indicated by the college transcript.

We hope that the following general observations will help candidates to make an informed and practical judgment about the advisability of applying to Harvard Law School. We think that candidates should carefully compare their own records with the School's general experience before submitting an application.

1. During 1985, the entire applicant pool had average LSAT scores of 675 ("old test") or 39 ("new test.") and the median undergraduate GPA was 3.50.

2. Candidates whose UGPAs *and* LSAT scores are below those submitted by a majority of the applicant population stand little chance for admission unless their other qualifications, backgrounds, or personal accomplishments would, in the opinion of the Admissions Committee, contribute specially and significantly to the entering class at Harvard Law School.

3. More than 700 candidates for 1985 admission submitted UGPAs above 3.50 *and* LSAT scores above the 95th percentile. Sixty percent of this group were offered admission.

4. Two out of five candidates offered admission to the 1985 entering class had earned a 3.60 UGPA or better *and* had scored above the 95th percentile on the LSAT.

At no point on any objective scale of qualifications are the chances for admission to Harvard Law School 0 or 100%. A number of applicants with relatively low UGPAs or LSAT scores are offered admission each year while a significant proportion of candidates with very high grades and/or LSAT scores are not admitted.

Since no one is admitted whom we do not expect to do satisfactory law school work, the academic failure rate is very low, averaging less than 1 percent.

EXPENSES AND FINANCIAL AID. Tuition and fees for the 1985-86 academic year are $10,305. Living expenses and miscellaneous costs to provide a modest standard of living for most unmarried students will be approximately $7,200.

We help provide financial aid up to this level solely for students who demonstrate need according to our criteria. Every effort will be made to assist students financially during their three years of legal study. The uncertain status of the Government's Student Assistance Programs, however, may create exceptional demands upon our loan funds. In the event that it becomes necessary to establish priorities for our limited loan funds, preference will be given to students who are already enrolled in the School. Applications are made through GAPSFAS.

PLACEMENT. Our placement office assists students in obtaining permanent, part-time, and summer positions. Recently the employment pattern at graduation has been: law firms, 65 percent; judicial clerkships, 15 percent; federal, state, and local government, 10 percent; legal services, 5 percent; and teaching, further education, corporations, and other positions, 5 percent. About half of each year's class locates in New York, Washington, D.C., Massachusetts, or California; the other half locates in about 35 other states plus four or five foreign countries. In the past few years 90 to 95 percent of the graduates have accepted offers for employment or further education by the time of graduation.

CORRESPONDENCE. Admissions Office, Harvard Law School, Cambridge, MA 02138.

Classes in law have been offered at the University of Pittsburgh since 1843. The School of Law, established as a formal division of the university in 1895, is a charter member of the AALS and is on the approved list of the ABA. The law school is located on the university campus in Oakland, the educational and cultural center of the city of Pittsburgh. State and federal courts, major corporate headquarters, private law firms, and Bar Association headquarters and library are located in downtown Pittsburgh, a 10-minute drive from the school. The Oakland area is home to four colleges and universities, the seven-hospital University Health Center, Carnegie Institute and Museum.

LIBRARY AND PHYSICAL FACILITIES. The law school occupies a modern six-story building (built in 1975), containing classrooms, seminar rooms, a large student lounge, student organization offices, an auditorium, a courtroom, administrative and faculty offices, and the law library. With current holdings in excess of 185,000 volumes and microform volume equivalents, the library will grow to over 250,000 volumes in the next decade. A rapidly expanding treatise collection is augmented by more than 1,200 legal periodicals. All first-year students are trained to do computer-assisted legal research on the library's LEXIS terminal. Another legal research data base, known as WESTLAW, is available for student use. The library has also been designated a select depository for U.S. Government publications. Facilities for typing, individual and group study, and audiovisual activities make the library a multipurpose learning center. Faculty offices encircle two floors of the library, thus promoting contact between professors and students.

BASIC PROGRAMS OF STUDY AND DEGREE REQUIREMENTS. The program leading to the J.D. Degree requires three years of full-time study, while our Part-Time Program must be completed in no more than six years. The School of Law offers the following Joint and Cooperative Degree Programs: Law and Public and International Affairs and Law and Business Administration with graduate schools at the University of Pittsburgh; Law and Industrial Management and Law and Public Management with Carnegie-Mellon's Schools of Industrial Management and Urban and Public Affairs.

The first year of study includes required courses in legal process and civil procedure, contracts, torts, criminal law and procedure, property, and legal research and writing. The size of each entering class is normally limited to about 240 students. First-year course size is normally no more than 75 students, and one basic course is given in a small section of less than 30 students. This assures that each student will have extensive opportunities to participate in class discussion and to work closely with faculty members. Upon successful completion of the first year, students have no other required courses with the exception of a course in Professional Responsibility. Second and third-year students are able to choose from a wide variety of elective courses, as well as clinical and seminar offerings, with the opportunity to concentrate in their areas of interest in both classroom and out-of-classroom work.

The faculty consists of 31 full-time, and 19 part-time members. The student population is 735.

SPECIAL PROGRAMS. The Legal Clinic Program enables second and third-year students to earn academic credit by working one day a week in one of several public law or judicial offices. Certified third-year law students may represent clients in court and administrative proceedings as part of their clinic work. The offices involved in the clinical program this year include: the local District Attorney and Public Defender offices, Neighborhood Legal Services, Senior Citizens' Legal Services, the Department of Environmental Resources, the Human Relations Commission, the Department of Justice, Community Advocate Unit of the Commonwealth of Pennsylvania, ACLU, the U.S. Third Circuit Court of Appeals, and the U.S. Department of Housing and Urban Development.

The Legal Clinic Program also includes work at the Western State Penitentiary. There, students function in an attorney-client situation, developing their interviewing, legal writing, and research skills as they help inmates prepare post-conviction, habeas corpus, and pardon petitions. A select number of students are appointed each semester to serve as interns at the U.S. Attorney's Office.

The Moot Court Program involves mandatory competition among first-year students, who brief and argue a mock appellate court case. Upperclassmen can compete interscholastically in a number of national competitions, including the National Moot Court, Jessup International Moot Court, Labor Law Moot Court, and the ABA Client Counseling Competitions.

ACTIVITIES. All students are members of the Student Bar Association, which coordinates most student activities and serves as a conduit for student representation in the decision-making processes of the school.

The *University of Pittsburgh Law Review*, established in 1935, is edited by students chosen for scholastic achievement and writing ability. It publishes four times a year and contains articles, comments, and notes on recent cases, current legislation, and topics of scholarly interest. A second law review specializing in the

area of commercial law, *The Journal of Law and Commerce*, is published twice yearly and is also staffed by students chosen for their scholastic achievement and writing skill in the commercial law field.

Other student activities include the Women's Caucus, Black American Law Students Association, Environmental Law Council, National Lawyers Guild, Phi Alpha Delta law fraternity, Civil Liberties Coalition, International Law Society, and the Lesbian and Gay Law Caucus.

ADMISSION. Admission is open to qualified graduates of accredited colleges and universities. Applications for the 1985-86 entering class came from 40 states and 10 foreign countries, representing over 160 undergraduate institutions.

In making an admissions decision, the Admissions Committee relies heavily on the applicant's undergraduate grade-point average (GPA) and the applicant's ability for success in law school as measured by the Law School Admission Test (LSAT). An admissions decision is more than a numerical ranking of applicants by GPA and LSAT. (No numerical index calculation is used by the Law School.) For example, an applicant's GPA may be evaluated by judging his or her transcript on the strength of the undergraduate institution and on the difficulty of the curriculum chosen.

Although reliance on LSAT and GPA is often appropriate, there may be other instances in which less quantifiable factors are important for the applicant who has established a basic ability to do acceptable work. Proven capacity for leadership, dedication to community service, excellence in a particular field, motivation, graduate study, work experience, extracurricular activities, and any socioeconomic, physical, or educational disadvantages overcome by the applicant are all considered. The applicant is advised to make the best possible use of the Personal Statement and the Optional Questionnaire to put such facts before the Committee.

Although there is no guarantee that this year's applicant pool will be the same as last year's, it might be helpful to know that the average LSAT score for last year's class fell approximately in the 75th percentile and the average GPA was 3.20.

The University of Pittsburgh is a state-related institution but no admissions preference is given to instate residents.

Letters of reference are often useful but not required. Personal interviews are generally not given. Persons interested in applying to the school are invited to attend the group sessions for prospective applicants held at the school every month from September through February.

The school accepts as transfer students each year a limited number of students from other accredited law schools who have done exceptionally well at other schools. Transfer students must be in attendance at the School of Law for two full years in order to receive a law degree from the University of Pittsburgh.

EXPENSES AND FINANCIAL AID. Tuition and fees are $5,082 a year for Pennsylvania residents and $8,902 a year for nonresidents for 1985-86.

Applicants for financial aid must register with GAPSFAS. Scholarships of partial tuition are awarded by the school on the basis of need. Additional aid is available from university and government agencies.

HOUSING. Information on campus housing may be obtained by writing to the Director of Housing, University of Pittsburgh, Towers Lobby, Pittsburgh, PA 15260. For off-campus housing data, write to the Coordinator for Off-Campus Housing, University of Pittsburgh, Schenley Hall/Pine Room, Pittsburgh, PA 15260.

PLACEMENT. The Placement Office provides year-round assistance to the school's students and graduates. The Office serves as a clearinghouse for information on summer, part-time and permanent work with law firms, corporations, accounting firms, government agencies, judges, and other legal employers. Information is disseminated through a weekly student newsletter, a semi-monthly alumni newsletter and frequently scheduled workshop sessions, panel discussions and speakers.

Major employers send recruiters to conduct on-campus interviews with second and third-year students. Law firms from 25 major cities are participants in this program. Out-of-town placement trips allow students to interview with employers in other regions, and student resumes are forwarded to interested employers in distant locations who seek candidates from Pitt. Special contact with School of Law alumni, who practice in nearly every state, facilitates the effort to secure summer and full time employment opportunities. The school also participates in the Mid-Atlantic Consortium Interview Day in Washington, D.C., which includes interviews with employers from numerous geographical areas.

The graduating classes at the University of Pittsburgh achieve excellent employment records. The 1984 graduating class had a 96% legal employment rate six months after graduation.

CORRESPONDENCE. Admissions Office, School of Law, University of Pittsburgh, 3900 Forbes Avenue, Pittsburgh, PA 15260.

Established in 1899, the School of Law is part of the main campus of the University of Washington, approximately four miles from downtown Seattle. The campus overlooks Lake Washington and the Cascade Mountains to the east, Puget Sound and the Olympic Mountains to the west. The University is the largest single campus institution in the western United States with an enrollment of 34,000 students and offers nearly every discipline for study. The School of Law has 35 full time faculty members and about 500 students. Because of the favorable student-faculty ratio, classes are generally small and there are frequent opportunities for student-teacher contacts. Each first year student is usually in at least one class of 30 or fewer students, in addition to the Basic Legal Skills course. The school is a member of the AALS, is approved by the ABA, and has a chapter of Order of the Coif.

LIBRARY AND PHYSICAL FACILITIES. The School of Law is housed in Condon Hall, a building designed by Romaldo Giurgola and completed in 1974. The law library has more than 410,000 volumes including collections of pamphlets, microfilms, and microfiche materials. Of particular interest are the extensive collections which support the graduate programs in Asian Law and Law & Marine Affairs. Both LEXIS and WESTLAW computerized research systems are an important part of the law library's research facilities. On the campus of the University, as part of the University library system, are 20 other libraries containing over 4,000,000 books, all of which are available to law students.

BASIC PROGRAM OF STUDY AND DEGREE REQUIREMENTS. The school, which offers only a full-time program, is on the quarter system. Satisfactory completion of 135 quarter credits and nine resident quarters (consisting of at least 12 credit hours per quarter) is required for the J.D. degree. The first-year curriculum consists of courses in basic legal skills, contracts, torts, property, civil procedure, criminal law, and administrative law, and is mandatory for all students.

Except for an analytical writing requirement and a class in professional responsibility, all courses in the second and third years are electives. In addition to traditionally conducted courses and seminars, advanced students may participate in courses in trial advocacy, negotiations and drafting. Externships with legislative committees, government agencies, and with local attorneys selected by the faculty for outstanding merit are available. Finally, students may earn credit for working as a judicial law clerk at either the trial or appellate level.

Students are encouraged to rely on their initiative and to develop their own powers of perception. Classroom discussion in which students participate fully is one means used to assist this development. Independent research projects, either in the context of a seminar or through individual study under faculty supervision, are also emphasized.

Although it is a state law school, Washington State law is not emphasized unduly. Graduates of the school are prepared to practice law anywhere in the United States or other common-law countries. The curriculum and methods of instruction are designed to develop the student's highest potential both in school and thereafter.

The School of Law offers courses during the Summer Quarter to advanced students, including students in good standing at other law schools.

SPECIAL PROGRAMS. Courses in the law of several Asian countries are available to students for the first degree and also for the advanced degrees of Master of Laws (LL.M.) and Doctor of Philosophy (Ph.D.). The school also offers the LL.M. degree in law and marine affairs in conjunction with other nationally known departments on the University campus. The law school provides facilities and instruction for one of only two graduate programs in the nation in Law Librarianship. A combined four-year program leading to the M.B.A. and J.D. degree is also available in conjunction with the School of Business Administration. Concurrent programs in other disciplines may be arranged with the cooperation of the Graduate School.

ACTIVITIES. There are a number of student groups active in the School of Law. The *Washington Law Review*, a quarterly professional journal edited by students, has a national reputation, and the Student Bar Association conducts various student activities. Chapters of the Law Student Division of the ABA and the National Lawyers Guild are represented. There is also an active minority law student group and an active Law Women's Caucus. The extensive moot court program includes regional and national competition and the Jessup International Moot Court Competition. There are local chapters of Phi Delta Phi, Delta Theta Phi, and Phi Alpha Delta legal fraternities at the school. Students serve on faculty committees and may attend faculty meetings.

STUDENT BODY. Total enrollment for 1984–85 was 505, including 44 graduate students and 461 J.D. students, of whom 44 percent were women and more than 11 percent were members of ethnic minority groups. The first year class of 171 students was made up of graduates of 83 different colleges and universities. Annual attrition for academic reasons is less than 5%.

ADMISSION. Beginning students must have received a baccalaureate degree from an accredited college or

university prior to commencing the study of law. All applicants are required to take the LSAT no later than the December administration immediately before the application deadline. Test results from February or March exams will not ordinarily be considered for admission the following fall. Scores on the 200–800 scale will no longer be accepted. Transcripts of college work must be processed by LSDAS. No specific prelaw course is required or recommended, and the School of Law subscribes to the remarks set forth in the introduction to this handbook. Students are admitted only in the fall. Prospective applicants are welcome to visit the school and meet with the admissions staff to answer any questions they may have, but a formal interview is not part of the admissions process. The deadline for receiving applications for the entering class is February 1. To be assured of consideration for admission, all other credentials, including the LSDAS report, must be filed with the School of Law no later than March 1. There is a $35 application fee for first year and transfer applicants.

Transfer students are accepted only to the extent vacancies exist and only from applicants who have completed one year at a member school of the AALS. Such applicants must show that they can produce above-average work at the law school or that they can produce acceptable work at the law school and only by transferring can they alleviate serious hardship. Transfer applications for admission must be postmarked or delivered by July 15. Complete credentials must be on file in the school by August 1.

Racial and ethnic minority group status is a positive factor in the admissions process.

The median LSAT score of those applicants offered admission for the Autumn 1985 entering class was in the 90th percentile, and the median grade-point w[illegible] 3.52. Twelve percent of those offered admission ha[illegible] graduate degrees.

EXPENSES AND FINANCIAL AID. The 1985–86 tuition for Washington residents is $2,304 per academic year; for newly enrolled, out-of-state students it is $5,760. The minimum academic year expense for single students (on-campus) is estimated at $5,200 plus tuition and fees.

Awards of law school financial aid are primarily on the basis of financial need, although scholarship, minority status, or other factors may be considered with regard to certain awards.

HOUSING. University dormitory housing is available for single students. Limited University housing is available for married students in one apartment building adjacent to the campus and in five housing complexes off campus. Early application is important. Private apartments and houses are available in Seattle and its environs.

PLACEMENT. The law school's placement office assists students and graduates in finding both temporary and full-time employment. Firms, agencies, and other potential employers are invited to interview at the school and to list job openings in the regularly published placement bulletin. More than 120 employers interviewed in 1984–85.

CORRESPONDENCE. Law School Admissions; Condon Hall, JB-20; University of Washington; Seattle, WA 98195.

Applicant Group Applying for the 1985-86 Academic Year

In each box, the figure to the left of the slash represents applicants, while the figure to the right of the slash represents acceptances (e.g., 10/2 in a box means 2 of 10 applicants with that combination of LSAT and GPA were accepted).

	LSAT (10) PERCENTILE INTERVALS										
GPA	0–10	11–20	21–30	31–40	41–50	51–60	61–70	71–80	81–90	91–99	Total
Above 3.75	0/0	0/0	3/0	1/0	8/1	5/1	8/2	22/22	30/30	23/23	100/79
3.74 3.50	0/0	0/0	3/0	2/0	12/1	9/2	32/4	60/40	59/59	60/60	237/166
3.49 3.25	1/0	1/0	7/0	12/0	13/2	20/2	26/1	66/5	77/57	57/55	280/122
3.24 3.00	2/0	6/0	12/0	11/0	15/0	27/5	17/0	43/2	47/10	54/47	234/64
2.99 2.75	0/0	3/0	6/0	6/0	5/0	9/1	7/0	27/2	23/5	18/9	104/17
2.74 2.50	11/0	4/0	5/0	7/0	2/0	4/0	7/0	16/0	10/0	5/2	71/2
2.49 2.25	4/0	2/0	3/0	4/0	2/0	2/0	0/0	3/0	3/0	1/0	24/0
2.24 2.00	2/0	2/0	1/0	0/0	0/0	0/0	1/0	0/0	1/0	0/0	7/0
Below 2.00	0/0	0/0	1/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0	1/0
Total	20/0	18/0	41/0	43/0	57/4	76/11	98/7	237/71	250/161	218/196	1058/450
Applicants with Pass-Fail Records	0/0	1/0	1/0	1/0	1/0	1/0	2/0	3/0	1/1	1/1	12/2

University of Washington School of Law

Figures reflect admission decisions as of 10/1/85 for all applicants. Pass/Fail records include applicants from foreign institutions. This profile reflects nearly 100% of all applications, including minority and foreign students.

APPENDIX 2

LISTING OF STATE UNIVERSITIES AND OTHER STATE ACADEMIC INSTITUTIONS IN INDONESI

With Addresses

DAFTAR ALAMAT
UNIVERSITAS, INSTITUT, SEKOLAH TINGGI dan AKADEMI NEGERI

1. **UNIVERSITAS INDONESIA**
   Jl. Salemba Raya No 4 Jakarta dan Kampus UI Depok
   Telp. 330355, 330343, 7270020, 7270021, 7270022, 7270023
2. **IKIP JAKARTA**
   Jl. Rawamangun Muka, Jakarta Timur, Jakarta.
   Telp. 4897927, 4890046, 4893726
3. **INSTITUT PERTANIAN BOGOR**
   Jl.Raya Padjajaran Bogor
   Telp. 23081
4. **INSTITUT TEKNOLOGI BANDUNG**
   Jl. Taman Sari No. 64, Bandung
   Telp. 83047, 83048, 83414
5. **UNIVERSITAS PADJADJARAN**
   Jl. Dipati Ukur No. 35 Bandung
   Telp. 83271-78
6. **IKIP BANDUNG**
   Jl. Dr. Setiabudi No. 229, Bandung
   Telp. 83162 - 4, 83652
7. **UNIVERSITAS JENDERAL SOEDIRMAN**
   Kampus UNSOED Grendeng, Purwokerto 53122, Kotak Pos 15
   Telp. 21292 - 94
8. **UNIVERSITAS DIPONEGORO**
   Jl. Imam Bardjo, SH. No. 1, Kotak Pos 270, Semarang
   Telp. 311513, 311514, 311520.
9. **IKIP SEMARANG**
   Jl. Kelud Utara No. 111, Semarang, Kotak Pos 50232
   Telp. 311502, 311510
10. **UNIVERSITAS SEBELAS MARET**
    Jl. Ir. Sutami No. 36A Kentingan, Surakarta.
    Telp. 6623 - 24, 6761, 6663 - 64
11. **UNIVERSITAS GADJAH MADA**
    Bulak Sumur, Yogyakarta
    Telp. 88688 - Telex : 25315
12. **IKIP YOGYAKARTA**
    Kampus IKIP Karang Malang, Yogyakarta.
    Telp. 86168, 86034, 86075, 86903
13. **UNIVERSITAS AIRLANGGA**
    Jl. Airlangga No. 4 - 6, Surabaya
    Telp. 41348, 42557, 470983

14. INSTITUT TEKNOLOGI SEPULUH NOPEMBER
    Kampus ITS Keputih Sukolilo, Surabaya
    Telp. 597264, 597274, 597775, 595472 Telex : 34224 INTEKS 1A Fax : 597845
15. IKIP SURABAYA
    Jl. Kayoon 72-74 Surabaya - 60231
    Telp. 815654
16. UNIVERSITAS BRAWIJAYA
    Jl. Mayjen Haryono, No. 169, Malang
    Telp. 51611
17. IKIP MALANG
    Jl. Surabaya No. 6 Malang, Kotak Pos 65145
    Telp. 51312, 51313, 51314, 51315, 51921
18. UNIVERSITAS JEMBER
    Jl. Veteran No. 3, Jember Kotak Pos 59
    Telp. 21270, 41500, 41422
19. UNIVERSITAS SYIAH KUALA
    Komplek Darussalam, Banda Aceh
    Telp. 22721, 23408
20. UNIVERSITAS SUMATERA UTARA
    Jl. Universitas No. 9, Kampus USU, Medan.
    Telp. 23272, 23210 - TELEX : 51753
21. IKIP MEDAN
    Jl. Merbau No 38A, Medan Kotak Pos 590
    Telp. 327704, 324402
22. UNIVERSITAS ANDALAS
    Jl. Perintis Kemerdekaan No.77 Padang.
    Telp. 21535, 21565
23. IKIP PADANG
    Kampus IKIP Air Tawar, Padang
    Telp. 21838, 21260 , 25664 , 25689, 25601
24. UNIVERSITAS RIAU
    Jl. Pattimura 9,Pekan Baru
    Telp. 21341, 23742
25. UNIVERSITAS JAMBI
    Jl. Prof. Dr. Sri Soedewi Masjchun Sofwan, SH
    Telp. 23198, 22774
26. UNIVERSITAS SRIWIJAYA
    Jl. Sri Jaya Negara, Palembang
    Telp. 26388, 24155

160

DAFTAR ALAMAT
UNIVERSITAS, INSTITUT, SEKOLAH TINGGI dan AKADEMI NEGERI

27. **UNIVERSITAS LAMPUNG**
    Jl. Prof. Dr Sumantri Brojonegoro No. 1. Bandar Lampung
    Telp. 526767, 52971, 53475, 53609, 53252
28. **UNIVERSITAS TANJUNGPURA**
    Jl. Imam Bonjol Pontianak
    Telp. 78124, 36439, 32270, 36033
29. **UNIVERSITAS PALANGKARAYA**
    Kampus UNPAR Tanjung Nyaho, Jl.Yos Sudarso, Palangkaraya - 73111A
    Telp. 21492, 21722
30. **UNIVERSITAS LAMBUNG MANGKURAT**
    Jl. Brigjen H. Hasan Basry, Kotak Pos 219 Banjarmasin.
    Telp. 4177 - 4195
31. **UNIVERSITAS MULAWARMAN**
    Kampus Gn.Kelua No. 5, Samarinda Kotak Pos 68
    Telp. 21118
32. **UNIVERSITAS SAM RATULANGI**
    Kampus UNSRAT Bahu Manado
    Telp. 3586 - 3786, Telex : 74131
33. **IKIP MANADO**
    Kampus IKIP Negeri Manado, Manado.
    Telp. 51193, 51241
34. **UNIVERSITAS HASANUDDIN**
    Jl. Mesjid Raya 55, Ujung Pandang
    Telp. 6343, 22212, Telex : 71179
35. **IKIP UJUNG PANDANG**
    Kampus IKIP Gunung Sari Baru, Ujung Pandang
    Telp. 83930, 82617, 81653, 81594
36. **UNIVERSITAS PATTIMURA**
    Jl. A. Yani, Kotak Pos 95, Ambon
    Telp. 2189, 3560
37. **UNIVERSITAS UDAYANA**
    Kampus Bukit Jimbaran
    Telp. 71854
38. **UNIVERSITAS MATARAM**
    Jl. Pendidikan Mataram, Lombok. Kotak Pos 20 Ampenan
    Telp. 21166, 23007
39. **UNIVERSITAS NUSACENDANA**
    Jl. Adisucipto Panfui - Kupang
    Telp. 21680, 22515, 22503

40. UNIVERSITAS CENDERAWASIH
    Jl. Sentani Abe Pura Jayapura, Irian Jaya, P.O.Box 422
    Telp. 74/Abe - 151/Abe - Telex : 76138
41. UNIVERSITAS HALUOLEO
    Jl. Mayjen. S. Parman, Kendari
    Telp. 21834, 21503
42. UNIVERSITAS TADULAKO
    Kampus Bumi Bahari Tadulako, Tondo, Palu.
    Telp. 21590
43. UNIVERSITAS BENGKULU
    Jl. Raya Kandang Limun, Bengkulu
    Telp. 21170, 21884
44. UNIVERSITAS TERBUKA
    Jl.Cabe Raya, Pondok Cabe, Kotak Pos - 6666, Ciputat-Tangerang
    Telp. 7490941, (11 Saluran), Telex No. 47498, uter ia Fax. (021) 7490417
45. INSTITUT SENI INDONESIA YOGYAKARTA
    Jl. Parangtritis Km. 6,5 Kotak Pos 210, Yogyakarta.
    Telp. 2183, 2933
46. ASTI BANDUNG
    Jl. Buah Batu 212, Bandung
    Telp. 421532
47. STSI SURAKARTA
    Kentingan Jebres, Surakarta 57126
    Telp. 47658, 57126
48. STSI DENPASAR
    Jl. Nusa Indah, Denpasar
    Telp. 27316 (0361)
49. ASKI PANDANG PANJANG
    Jl. Puti Bungsu 35, Pandang Panjang
    Telp. 82077

402

APPENDIX 3

PRIVATE UNIVERSITIES IN INDONESIA

MICHIGAN STATE UNIVERSITY Graduate PROGRAMS

860. Special Projects
Fall, Winter, Spring, Summer. 1 to 6 credits. May reenroll for a maximum of 16 credits. Approval of instructor.
Supervised study, reading, and research in specialized areas of linguistics.

861. Second Language Acquisition
Spring. 3(3-0) LIN 401.
Research and general theories; universals; personal, social, neurolinguistic, and other factors influencing second and foreign language acquisition/learning; comparisons with first language acquisition; methods of research.

865. Contrastive Analysis
Spring. 3(3-0) LIN 403.
The essentials of contrastive analysis, with emphasis on methods of making such analysis. The usefulness of and controversies concerning contrastive analysis will also be discussed.

871. Comparative Indo-European Linguistics
Fall of odd-numbered years. 3(3-0) LIN 471.
Comparative linguistics as applied to the investigation of the development and historical relationships of the languages of the Indo-European family.

880. Seminar in Linguistics
Fall, Winter, Spring. 3(3-0) May reenroll for a maximum of 18 credits in different topics. Approval of department.
Advanced critical study of current topics in linguistics such as applications to other disciplines, aspects of linguistic theory, child language acquisition, contrastive analysis, structure of particular languages.

899. Master's Thesis Research
Fall, Winter, Spring, Summer. Variable credit. Approval of instructor.

999. Doctoral Dissertation Research
Fall, Winter, Spring, Summer. Variable credit. Approval of instructor.

Russian RUS

Students who have had high school work in the foreign language in which they wish to continue their studies must take a placement examination in that language. Placement in the appropriate course is determined by the results of this examination. University credit is not given for courses waived by performance on the placement examination.

401. Russian Literature Before 1917
Fall. 3(3-0) RUS 303 or RUS 323 or RUS 327 or approval of department.
Major literary movements, authors, and works from the Kievan time to 1917.

402. Russian Literature Before 1917
Winter. 3(3-0) RUS 401 or approval of department.
Continuation of RUS 401.

403. Russian Literature Before 1917
Spring. 3(3-0) RUS 402 or approval of department.
Continuation of RUS 402.

410. Russian Reading Skills
Fall, Winter, Spring, Summer. 5(5-0) RUS 101 or graduate students or approval of department.
Designed for those in scientific or other fields who wish to be able to read scholarly material. An intensive presentation of Russian grammar with emphasis on those features and techniques necessary for reading and translation.

411. Russian Reading Skills
Fall, Winter, Spring, Summer. 5(5-0) RUS 103 or RUS 410 and approval of department.
Reading and translation of works in the student's field of interest. Completion of RUS 410 and RUS 411 with a 3.0 or better will satisfy the Ph.D. reading requirement in most departments.

425. Contemporary Russian Literary Language
Fall. 3(3-0) RUS 323.
Description and analysis of contemporary Russian literary language, its phonology, morphology and syntax. Designed especially for future teachers of Russian.

426. Contemporary Russian Literary Language
Winter. 3(3-0) RUS 425 or approval of department.
Continuation of RUS 425.

427. Contemporary Russian Literary Language
Spring. 3(3-0) RUS 426 or approval of department.
Continuation of RUS 426.

499. Special Projects
Fall, Winter, Spring, Summer. 1 to 8 credits. May reenroll for a maximum of 18 credits. Approval of department.
Work in areas outside regular course offerings.

801. Slavic Bibliography and Research Methods
Fall of odd-numbered years. 3(3-0)
Bibliographies of Slavic literature and languages. The library and the utilization of its resources. Principles of bibliographic compilation and research techniques in Russian Literature and linguistics.

817. Nineteenth Century Russian Prose I
Fall of odd-numbered years. 3(3-0)
Pushkin and Chekhov's search for a modern literary expression.

828. Introduction to Old Church Slavic
Fall of even-numbered years. 3(3-0) Basic knowledge of Russian or another Slavic language.
Grammatical structure of the first written Slavic language accompanied by readings from the canonical Old Church Slavic texts.

832. Russian Drama Before 1859
Winter of odd-numbered years. 3(3-0)
Origin and development of Russian drama. Analysis of major plays by Fonvizin, Griboyedov, Pushkin, Lermontov and Gogol.

836. Nineteenth Century Russian Poetry
Winter of even-numbered years. 3(3-0) Approval of department.
Trends and styles in 19th century Russian poetry up to 1890. Emphasis on major poetry by Zhukovsky, Batyushkov, Pushkin, Baratynsky, Yazykov, Tyutchev, Lermontov, Tolstoy, Fet, Nekrasov, and Solovyev.

856. Twentieth Century Russian Prose I
Winter of even-numbered years. 3(3-0)
Modernistic trends in Russian prose before 1917.

860. Graduate Reading Course
Fall, Winter, Spring. 1 to 5 credits. May reenroll for a maximum of 15 credits. Approval of department.
Supervised reading course for investigation of special fields in Russian literature.

899. Master's Thesis Research
Fall, Winter, Spring. Variable credit. Approval of department.

981. Seminar in Slavic Studies
Fall, Winter, Spring. 3(3-0) May reenroll for a maximum of 18 credits.
A particular writer, a major work, or a limited theme is chosen for intensive analysis.

999. Doctoral Dissertation Research
Fall, Winter, Spring, Summer. Variable credit. Approval of department.

MANAGEMENT MGT

College of Business and Graduate School of Business Administration

403. Research and Negotiation for Purchasing Materials and Management
Fall, Winter, Spring. 4(4-0) MGT 305 or approval of department. Interdepartmental with the Department of Marketing and Transportation Administration.
Applied research and planning focusing on the purchasing and materials management functions in organizations. Preparation for and conducting purchase negotiations. Field research studies. Administration of the research and planning effort.

405. Operations Management Topics
Fall, Winter, Spring. 4(4-0) MGT 304 or approval of department. Interdepartmental with the Department of Marketing and Transportation Administration.
Consideration of current and controversial questions in operations management. Field experience to study operations and policies in business. Industry studies; impact of new technology and government regulations.

407. Materials and Logistics Policy
Winter, Spring. 4(4-0) MGT 303 plus 12 credits in MLM Program. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.
Analysis of comprehensive cases incorporating topical coverage of the entire materials and logistics management program.

404

409. *Business Policy*
Fall, Winter, Spring, Summer. 4(4-0) Seniors in business administration, MGT 302; F 1391; MTA 300.
Problems, methods, and analytical frameworks for building and maintaining consistent and effective policy frameworks in the business enterprise. Written and oral analyses are made of comprehensive cases cutting across the major functions within business organizations. Team and individual reports are required.

411. *Staffing the Organization*
Fall. 4(4-0) MGT 310; MTA 317.
Job design; job analysis; employment planning; recruitment, selection, and placement; employment interviewing and testing; validation of selection procedures; affirmative action constraints; EEOC guidelines; induction and orientation of employees.

412. *Appraisal, Compensation and Benefits*
Winter. 4(4-0) MGT 310.
Wage and salary administration; job evaluation; employee motivation; performance appraisal; relating pay to performance; financial and non-financial incentives; equity considerations; employee benefits.

413. *Occupational Safety and Health Administration*
Fall, Winter. 4(4-0) Juniors; MGT 302 for majors.
Programs and procedures for control of work accidents and maintenance of health in business and other organizations. Analysis of costs related to employee and product safety. Administration of a safety program in compliance with new Federal law.

415. *Managerial Approaches to Collective Bargaining*
Winter, Spring. 4(4-0) MGT 302 or Junior non-business majors.
Union-management problems and managerial strategy and tactics in collective bargaining—the union challenge, legal constraints, negotiations and operating under the contract, dimensions of cooperation and conflict.

417. *Minorities and Women in the World of Work*
Fall, Spring. 4(4-0) Senior majors or approval of department. Interdepartmental with the School of Social Work.
Racial, ethnic, sexual and other minority experiences and problems in the world of work. Awareness training approach (what it's like to be ...) featuring movies, guests, subgroup discussions and encounter-type exercises.

419. *Group Dynamics and Organization Development*
Spring. 4(4-0) MGT 302. Students may not receive credit in both MGT 419 and PSY 356.
Group dynamics and development; organizational diagnosis; assessment of work attitude and organization climate; organization development goals and methods; action research, survey feedback, team building, conflict management; evaluating organization development activites.

426. *Personnel Training and Individual Development*
Fall. 4(4-0) MGT 310.
The training and development function; career stages and career planning; needs analysis; training and individual development techniques; evaluation of training and employee development programs.

442. *Traffic and Transportation Management*
(MTA 342.) Winter, Spring. 4(4-0) MGT 303, MTA 341, MTA 345. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.
Basic practices related to purchasing and operating transportation services for private and public enterprises.

446. *Physical Distribution Operations*
Winter, Spring. 4(4-0) MGT 303, MTA 341, MTA 345. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.
Distribution operations activities emphasizing distribution facility management and customer based information systems management. Field trips required.

468. *Field Studies*
Fall, Winter, Spring, Summer. 1 to 4 credits. May reenroll for a maximum of 8 credits. Business administration majors and approval of department.
Planned program of observation, study, and work in selected business firms. Designed to supplement classroom study in such a way as to make maximum contribution to students' total educational experience. Field work may be arranged in finance, insurance, marketing, personnel management, production management, purchasing, real estate, retailing, transportation and banking.

800. *Materials and Logistics Management*
Fall, Winter, Spring, Summer. 4(4-0) Graduate students. Interdepartmental with the Department of Marketing and Transportation Administration.
Management concepts of and frameworks for acquisition, conversion and distribution processes. Impact on business and social systems, productivity and profits. Emphasis on planning, analysis and control of purchasing, production and physical distribution.

801. *Operations Management*
Winter. 4(4-0) MGT 800 or approval of department. Interdepartmental with the Department of Marketing and Transportation Administration.
Managing the production system. Strategies of product and process selection. Design of production facilities: location, layout and capacity. Organizing and staffing operations and work measurement. Controlling quality and costs.

803. *Purchasing Administration*
Winter, Spring. 4(4-0) MGT 800. Interdepartmental with the Department of Marketing and Transportation Administration.
Purchasing objectives, responsibilities, policies and organization. Source selection, evaluation and development. Negotiations. Purchase planning and evaluation.

806. *Organization and Management*
Fall, Winter, Spring, Summer. 4(4-0) Approval of department.
Macro and micro models of organizational behavior applied to organizational process and design. Topics include: organization planning and design, design strategies (product, function, matrix, other), organization-environment interface, motivation, leadership, group processes, conflict management, the managerial role.

807. *Administrative Policy*
Fall, Winter, Spring, Summer. 4(4-0) MGT 806, MTA 805, F I 889. Last term MBA students or approval of dean.
Application of administrative theory and techniques to business situations through cases cutting across major functions within business organization. Cases viewed from standpoint of general management with consideration of social and physical environmental forces surrounding the firm.

808. *Seminar in Management, Organization, and Administration*
Fall, Winter, Spring, Summer. 4(4-0) May reenroll for a maximum of 12 credits.
Philosophy, practice, research, and current problems in management, organization, and administration. Historical and current literature, lectures, discussion, individual research, cases and plant visits are methods of study used in various terms.

History of Management Thought
Fall.
Development of management concepts as evidenced in the writings of major contributors. Environment factors and relation of early ideas to current thought.

Contemporary Issues in Administration
Spring.
Recent and current developments in the administration of business enterprises. Examination of theory and practice.

Organization Theory
Winter, Summer.
Critical and comparative consideration of organization theory with special reference to industrial organizations. Problems of organization structure and administrative practice in the management of business concerns are analyzed in the light of objectives, environment, and current theories.

809. *Transportation Distribution Strategies*
Fall, Winter. 4(4-0) MGT 800. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.
Planning and control of the enterprise's transportation and physical distribution system. Emphasis on detailed examination of component parts of the movement storage system.

810. *Personnel Management*
Fall, Winter, Summer. 4(4-0) MGT 806.
Management of the personnel function; personnel policy formulation; the role of the personnel executive; personnel staffing, training and development, performance appraisal, compensation and benefits; labor relations; relevant legislation and judicial decisions.

811. *Organizational Staffing*
Fall. 4(4-0) MGT 810.
Job design and analysis, recruitment selection and placement; employment interviewing and testing; validation of employment criteria and selection procedures; induction and orientation of employees; equal opportunity and affirmative action requirements are stressed.

812. *Systems Design Modeling*
Spring. 4(4-0) MGT 800. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.
Research procedure and planning models for design of the firm's logistical system. Emphasis on situational analysis, research methodology, data analysis, analytical techniques and implementation.

815. *Business and Material Forecasting*
Fall. 4(4-0) MGT 800 or approval of department. Interdepartmental with the Department of Marketing and Transportation Administration.

Causes and consequences of supply dynamics. Analyses and forecasts of national and international materials and purchasing business trends. Influences of material resource problems on policies, strategies and behaviors.

816. *Transportation Policy and Plans*
Fall, Winter. 4(4-0) MGT 800. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.

An operational model and theoretical perspective on national policies that are apt to shape the future of the transportation system. Interaction of government, carrier, and user logistics and distribution strategies.

817. *Women, Minorities and Management*
Spring. 4(4-0) MGT 806.

Women and minorities in the world of work; management issues specific to race and sex; entry, training, staff-line relationship, peer relationships; legal, environmental, behavioral aspects; marriage and dual careers; implications for the individual and the organization.

818. *Supervisory and Executive Development*
Fall, Spring, Summer. 4(4-0) MGT 806 or MGT 808.

Theory and research of developmental stages of executive careers. Special emphasis on: impact of organization on executive potentiality; forces influencing development of executive skills and abilities; studies of antecedents of executive role performance; role of training programs.

821. *Production and Inventory Planning and Control*
Winter, Spring. 4(4-0) MGT 800 or approval of department. Interdepartmental with the Department of Marketing and Transportation Administration.

Theory and practice of production and inventory planning and control. Focus on computer based planning systems for material requirements including aggregate planning, master scheduling, capacity planning, shop floor control and inventory planning.

826. *Personnel Training and Individual Development*
Winter. 4(4-0) MGT 810.

Training and development of personnel at all levels of the business enterprise; planning, implementing and evaluating training programs; career stages and career planning; matching individual and organizational development needs.

831. *Computers and Systems Analysis for Business*
Fall, Spring. 4(4-0) MTH 111, STT 315 or concurrently or 12 credits of college mathematics. Open only to MBA candidates without background in computer usage and systems analysis.

Computer programming and systems analysis in business administration.

832. *Statistical Methods for Business*
Fall, Spring. 4(4-0) MTH 111. Open only to MBA candidates without background in statistics.

Statistics for analysis and research in business.

833. *Decision-Making Models*
Fall, Winter, Spring, Summer. 4(4-0) MGT 832; ACC 840 or concurrently.

Normative decision analysis in business under different assumptions of information availability.

834. *Linear Optimization Models*
Fall. 4(4-0) MGT 833 or MTH 334 or MTH 480.

Basic linear optimization techniques, linear programming techniques, sensitivity analysis, parametric procedures, duality theory, large scale programming procedures, special LP problems. The literature of linear models applications in production.

835. *Advanced Optimization Models*
Winter. 4(4-0) MGT 834.

Optimization models with emphasis on integer and dynamic programming, network models, heuristic methods.

836. *Applied Stochastic Processes for Business*
Spring. 4(4-0) STT 441; MTH 113 or MTH 123.

The structure and analysis of stochastic models common to business and economics. Topics may include the Poisson process, renewal-reward processes, discrete Markov processes, with examples from queuing, reliability, maintenance and inventory.

837. *Operations Systems Simulation*
Winter. 4(4-0) Approval of department.

Simulation models in research and operations planning and control. Construction, validation and experimentation. Special purpose languages.

838. *Design and Analysis of Statistical Experiments*
Winter. 4(4-0) COM 905.

Basic experimental design. Non-parametric and multivariate methods. Elementary sampling theory. Response surface methodology. Data analysis using BMD and SPSS.

841. *Materials and Logistics Management Policy*
Spring, Summer. 4(4-0) MGT 800 plus 30 credits in the MBA Program. Interdepartmental with and administered by the Department of Marketing and Transportation Administration.

Case course that integrates the materials and logistics management program. Emphasis on problem recognition, applying course materials and preparation of plans that improve total systems performance.

848. *Management Science Applications*
Summer. 4(4-0) MGT 833.

Analysis of cases utilizing techniques of management science. Problem definition, data collection, and problem solving and implementation.

860. *Corporation Management and Society*
Spring. 4(4-0) MGT 806.

Analysis of the emerging character of administrative structure of the large corporation. Administrative autocracy, corporate government, stockholder and director relationships. Examination of ethics of decision making, strategic values and priorities basic to resource allocation decisions.

890. *Special Problems*
Fall, Winter, Spring, Summer. 1 to 4 credits. May reenroll for a maximum of 12 credits. Approval of department.

906. *Behavioral Research: Organization*
Winter. 3 credits. MTA 905.

Concepts and methods of behavioral science research that are applicable to the study of organization as a strategic device in the development of tangible and intangible values and in the control of elements of business enterprise.

907. *Seminar in Organizational Behavior*
Fall. 4(4-0) MGT 806.

Directed reading on the behavior of individuals within business organizations. Theory and research in motivation, leadership, and group dynamics are covered.

908. *Seminar in Organization Theory*
Winter. 4(4-0) MGT 806; doctoral candidates: master's candidates with approval of department. Interdepartmental with the Department of Psychology.

Directed reading and research on issues in contemporary organization theory.

911. *Seminar in Personnel Research*
Spring. 4(4-0) MGT 810; doctoral candidates: master's candidates with approval of department.

Directed reading and research on issues in contemporary personnel administration theory and practice.

912. *Special Topics Research Seminar*
Fall, Winter, Spring. 2 to 4 credits. May reenroll for a maximum of 12 credits. Approval of department.

Specialized topics in management.

920. *Manufacturing Strategy*
Winter. 4(4-0) MGT 801, MGT 821.

Strategic planning in manufacturing. The corporate, national and international environments of operations management. Formulating and evaluating manufacturing strategy and policies vis-a-vis corporate and other functional strategies.

921. *Inventory Theory*
Spring. 4(4-0) MGT 920 or approval of department.

Classical and neoclassical inventory models under various conditions of uncertainty and organizational complexity. Evaluation of large planning systems for manufacturing and distribution inventory.

922. *Production Planning and Scheduling*
Fall. 4(4-0) MGT 921 or approval of department.

The hierarchy of strategic and operational production planning and scheduling.

923. *Topics in Operations Management*
Spring. 4(4-0) MGT 922 or approval of department.

Current research in Operations Management. Research methods and strategies. Preparation and presentation of student papers.

999. *Doctoral Dissertation Research*
Fall, Winter, Spring, Summer. Variable credit. Approval of department.

406

MARKETING AND TRANSPORTATION ADMINISTRATION MTA

College of Business and Graduate School of Business Administration

400H. *Honors Work*
Fall, Winter, Spring. 1 to 15 credits. Approval of department.
Investigates models, concepts and research findings of particular significance to effective decision making in administration of marketing and transportation systems.

403. *Research and Negotiation for Purchasing Materials and Management*
Fall, Winter, Spring. 4(4-0) MGT 305 or approval of department. Interdepartmental with and administered by the Department of Management.
Applied research and planning focusing on the purchasing and materials management functions in organizations. Preparation for and conducting purchase negotiations. Field research studies. Administration of the research and planning effort.

405. *Operations Management Topics*
Fall, Winter, Spring. 4(4-0) MGT 304 or approval of department. Interdepartmental with and administered by the Department of Management.
Consideration of current and controversial questions in operations management. Field experience to study operations and policies in business. Industry studies; impact of new technology and government regulations.

407. *Materials and Logistics Policy*
Winter, Spring. 4(4-0) MGT 303 plus 12 credits in MLM Program. Interdepartmental with the Department of Management.
Analysis of comprehensive cases incorporating topical coverage of the entire materials and logistics management program.

409. *Directed Study*
Fall, Winter, Spring, Summer. 1 to 4 credits. May reenroll for a maximum of 8 credits. Majors and approval of department.
Planned program of independent research or observation, study, and work in selected business firms. Designed to supplement classroom study in such a way as to make maximum contribution to student's total educational experience.

413. *Sales and Sales Management*
Fall, Winter. 4(4-0) MTA 302, MTA 319.
Planning, implementing, and controlling the firm's personal selling function. Topics include selling tasks and processes; sales territories; sales quotas; recruitment, selection, and motivation of sales personnel; analysis of sales performance.

415. *International Marketing*
Fall, Winter. 4(4-0) MTA 301.
Development of criteria for evaluating foreign markets. Design of international organization and marketing systems. Study of major methods, modes, and strategies of international trade and operations. Applications through reports and case decisions.

439. *Advanced Food Processing and Distribution Management*
Fall. 3(3-0) MTA 335. Interdepartmental with Food Systems Economics and Management.
Managerial principles and techniques applied to food processing and distribution. Emphasizes adjustment to changing social, economic and internal company environment. Student interaction with industry, labor and government representatives. Field trips, special projects.

442. *Traffic and Transportation Management*
(MTA 342.) Winter, Spring. 4(4-0) MGT 303, MTA 341, MTA 345. Interdepartmental with the Department of Management.
Basic practices related to purchasing and operating transportation services for private and public enterprises.

446. *Physical Distribution Operations*
Winter, Spring. 4(4-0) MGT 303, MTA 341, MTA 345. Interdepartmental with the Department of Management.
Distribution operations activities emphasizing distribution facility management and customer based information systems management. Field trips required.

452. *Retail Policies and Problems*
Spring. 4(4-0) MTA 351.
Analysis of retail problems with examination of selected current major problem areas. Critical review of budgetary and other controls, standards and techniques used to achieve management objectives.

460. *Marketing Policies*
(MTA 418.) Fall, Winter, Spring, Summer. 4(4-0) MTA 302, MTA 319, one MTA elective.
Comprehensive analysis and discussion of cases that integrate marketing concepts and theories. Individual and group level analyses of major tasks and decisions involved in developing and marketing products and services.

800. *Materials and Logistics Management*
Fall, Winter, Spring, Summer. 4(4-0) Graduate students. Interdepartmental with and administered by the Department of Management.
Management concepts of and frameworks for acquisition, conversion and distribution processes. Impact on business and social systems, productivity and profits. Emphasis on planning, analysis and control of purchasing, production and physical distribution.

801. *Operations Management*
Winter. 4(4-0) MGT 800 or approval of department. Interdepartmental with and administered by the Department of Management.
Managing the production system. Strategies of product and process selection. Design of production facilities: location, layout and capacity. Organizing and staffing operations and work measurement. Controlling quality and costs.

802. *Research Analysis for Marketing Decisions*
Fall, Spring. 4(4-0)
Use of research techniques as an aid in marketing decision making. Research process involving research problem definition, hypothesis formulation, data collection, interpretation and presentation. Class projects may be used.

803. *Purchasing Administration*
Winter, Spring. 4(4-0) MGT 800. Interdepartmental with and administered by the Department of Management.
Purchasing objectives, responsibilities, policies and organization. Source selection, evaluation and development. Negotiations. Purchase planning and evaluation.

804. *Marketing Concepts and Processes*
Fall, Winter. 4(4-0)
The business is considered relative to its external environment. Institutions comprising the marketing system, the principal environmental opportunities and constraints facing the marketing manager, and the major marketing informational, control and coordination devices available to the firm will be studied.

805. *Marketing: Models, Theories and Strategies*
Fall, Winter, Spring, Summer. 4(4-0) MTA 804.
Analysis of marketing functions, programming marketing effort, and control and coordination are considered within the context of industrial and consumer demand. Strategic and decision-making aspects of marketing are stressed.

808. *Emerging Issues in the Business Environment*
Winter, Spring. 4(4-0) May reenroll for a maximum of 12 credits if course content changes. Thirty credits of MBA core program, or approval of department.
Selected significant current organization, social, political, economic and cultural issues are examined in relation to business policy and decision making. Discussions, readings and research reports. Topics selected may vary from term to term.

809. *Transportation Distribution Strategies*
Fall, Winter. 4(4-0) MGT 800. Interdepartmental with the Department of Management.
Planning and control of the enterprise's transportation and physical distribution system. Emphasis on detailed examination of component parts of the movement storage system.

811. *Seminar in Marketing*
Fall, Winter, Spring, Summer. 1 to 5 credits. May reenroll for a maximum of 15 credits.

812. *Systems Design Modeling*
Spring. 4(4-0) MGT 800. Interdepartmental with the Department of Management.
Research procedure and planning models for design of the firm's logistical system. Emphasis on situational analysis, research methodology, data analysis, analytical techniques and implementation.

815. *Business and Material Forecasting*
(MGT 802.) Fall. 4(4-0) MGT 800 or approval of department. Interdepartmental with and administered by the Department of Management.
Causes and consequences of supply dynamics. Analyses and forecasts of national and international materials and purchasing business trends. Influences of material resource problems on policies, strategies and behaviors.

816. *Transportation Policy and Plans*
Fall, Winter. 4(4-0) MGT 800. Interdepartmental with the Department of Management.
An operational model and theoretical perspective on national policies that are apt to shape the future of the transportation system. Interaction of government, carrier, and user logistics and distribution strategies.

821. *Production and Inventory Planning and Control*
Winter, Spring. 4(4-0) MGT 800 or approval of department. Interdepartmental with and administered by the Department of Management.
Theory and practice of production and inventory planning and control. Focus on computer based planning systems for material requirements including aggregate planning, master scheduling, capacity planning, shop floor control and inventory planning.

823. *Seminar in Retailing*
Winter. 4(4-0)
Critical analysis of available generalizations concerning the economic, social, and commercial role of retailing. Special attention to concepts of retail competition and productivity. Emphasis on research in improving retail efficiency.

824. *Marketing Channel Management*
Spring. 4(4-0) MTA 805.
Seminar in selected organizational, social, political, economic and cultural issues related to management in marketing channels.

831. *Food Marketing Management*
Fall, Spring. 4(4-0) May reenroll for a maximum of 8 credits. Interdepartmental with the Department of Agricultural Economics.
Food industry adjustment to changing social, economic and internal company environment. Managerial principles and techniques applied to food processing and distribution. Student interaction with industry, labor and government representatives.

841. *Materials and Logistics Management Policy*
Spring, Summer. 4(4-0) MGT 800 plus 30 credits in the MBA Program. Interdepartmental with the Department of Management.
Case course that integrates the materials and logistics management program. Emphasis on problem recognition, applying course materials and preparation of plans that improve total systems performance.

851. *Market Behavior and Competitive Strategy*
Fall, Winter, Summer. 4(4-0) MTA 805.
Industrial and consumer market structure and behavior and their impact upon the firm's competitive operations and actions.

853. *Market Programming*
Winter, Spring, Summer. 4(4-0) MTA 805.
Planning processes leading to programming the various elements of market cultivation. Major emphasis is given to the development of a total marketing strategy for the firm. Case analysis.

854. *Problem-Solving Processes in Marketing*
Fall, Spring. 4(4-0) MTA 853.
The problem-solving process is approached through the investigation and solution of current marketing problems by research teams.

855. *Market Cost-Revenue Analysis*
Winter. 4(4-0) One course in accounting and one in marketing. Interdepartmental with the Department of Finance and Insurance.
Analytical tools for use in planning and controlling marketing activities. Emphasis on the determination of factors causing marketing cost differences and the assignment of costs to those factors. Application of tools to determination of expenditure-revenue patterns and market potentials.

860. *International Business*
Fall, Summer. 4(4-0) MTA 805.
The economic environment within which the international firm operates is presented. Special emphasis on relating trade and payments theory, regional analysis, and economic development to strategy formulation of the firm. Marketing, financial, and organizational factors are considered.

862. *International Marketing*
Winter. 4(4-0) MTA 860.
Models for headquarters planning and control of international marketing operations are developed. Social, cultural, institutional, and economic variables are considered in studying marketing operations in foreign environments.

863. *Problems in International Business*
Spring. 4(4-0) MTA 862.
Examination of strategies and organization for international business. In-depth consideration of headquarters and overseas personnel, marketing, financial, and legal issues.

890. *Special Problems*
Fall, Winter, Spring, Summer. 1 to 4 credits. May reenroll for a maximum of 8 credits. Approval of department.

905. *Analysis of Business Enterprise Systems*
Fall. 3 credits. MTA 805; MGT 806.
Research concepts and scientific methods for the study of business enterprise systems. The design of research, formulation of hypotheses, concepts of measurements and use of quantitative methods in the study of business systems.

909. *Theory of Transportation-Distribution Systems*
Fall. 4(4-0)
Examines the functions of transportation-distribution systems. Develops the relevant elements of networks, systems, and economic theory with empirical design. Applications to the design evaluation, and control of representative macro and micro systems.

910A. *Advanced Research in Marketing I*
Winter. 4(4-0) Second-year doctoral students in marketing.
Advanced concepts and quantitative methods in the scientific investigation of market phenomena and the tools of market cultivation.

910B. *Advanced Research in Marketing II*
Spring. 5(5-0) MTA 910A.
Continuation of MTA 910A.

911A. *History of Market Thought*
Fall. 4(4-0) May reenroll for a maximum of 15 credits. MTA 851.
Traces the evolution of marketing institutions, techniques, theories and criticisms. The influence of changing environmental and technological factors on marketing practice and thought. Readings in retrospective and original materials, discussion and research paper.

911B. *Seminar in Macro Marketing*
Winter. 4(4-0) May reenroll for a maximum of 15 credits. MTA 911A.
Examines the relationships between competition, marketing and corporate and economic growth. Emphasis is given to a functional examination of competition and the central role of innovation in the process.

912. *Research Methodology in Transportation-Distribution Systems*
Winter. 4(4-0) MTA 812, MTA 909.
Research methodology in the design and administration of transportation-distribution systems. Emphasis on technique and methodology for conducting system design studies and evaluation of common implementational problems.

941. *Transportation-Distribution Development Policy*
Spring. 4(4-0) MTA 909, MTA 912.
Applications in theory, principles, and processes developed in MTA 909 and MTA 912 to the design of research processes and reports in significant transport and distribution problems.

957. *Seminar in Micro Marketing*
Spring. 4(4-0) MTA 911A.
Examines the current state of theory concerning the planning and implementation of marketing strategies and programs, and tries to identify where future research is needed and/or will be most useful to marketing and business managers.

999. *Doctoral Dissertation Research*
Fall, Winter, Spring, Summer. Variable credit. Approval of department.

MATHEMATICS MTH

College of Natural Science

One and one-half years of high school algebra and one year of geometry and a satisfactory score on the placement test are prerequisites for all courses in the Department of Mathematics which carry credit.

400H. *Honors Work*
Fall, Winter, Spring. 1 to 16 credits. MTH 215 or approval of department.
Individualized reading and study in mathematics for students of high intellectual promise.

405. *Mathematical Topics for Teachers*
Fall, Winter, Spring, Summer. 1 to 4 credits. May reenroll for a maximum of 12 credits. Approval of department; open only to teachers participating in teacher institutes or special extension courses.

406. *Mathematical Modeling for Teachers*
Spring. 3(3-0) MTH 215.
Mathematical topics covered include: binary, octal and hexidecimal arithmetic, Euclidean algorithm and prime number generators, root finding for polynomials, approximation of functions, difference equations, combinatorics and probability problems, topics from geometry, and mathematical modeling and simulation.

408

APPENDIX 4

EXCERPTS FROM THE EVALUATION REPORT: "EVALUATION OF THE INTER-UNIVERSITY COOPERATION PROJECT ON LEGAL MATTERS IN INDONESIA"

December, 1990.

An Evaluation of Dutch Efforts on Legal Improvement in Indonesia

3.3. Penatarans: possibilities for improvement

It remains difficult, if not impossible, to measure the real benefits of a penataran.

As has been stated in par. 3.1. it might be useful to reconsider - as has been suggested in the mid-term evaluation report - whether the penatarans in future should remain the important element in the way they are now in most of the subprojects. The question remains whether in general a more qualitative approach could not be more efficient and effective.
It might be desirable to give penatarans only for a smaller number of better selected Indonesian lecturers. They might in turn take over the responsibility for training their fellow-teachers. Experience in some subprojects seems to support the opinion that the effect of the lectures is by far greater when the selection of participants has been done on stricter terms. That comes as no surprise. But, for example, well informed Indonesian lecturers may give a penataran to their colleagues more efficiently than a Dutch lecturer as they are not hampered by the language barrier. So, why not, more in general, restrict the lecture by Dutch professors to the best Indonesian lecturers - who really master the English language - and let those lecturers do the rest of the job?

We have to recognize however that everybody involved considers the penatarans as a very usefull method of teaching. People do agree that there is a language barrier, but they generally seem to have come to live with it. Translation or summarizing, especially when the Indonesian counterpart is present at the lecture and deals with this aspect, seems to help to overcome that barrier in their view.

It should be added that most of the penatarans in the last two years were attended by staff members who were among the best participants of penatarans before. In some cases it has been observed that they progressed in the meantime both in English and in knowledge in their field of law.
An alternative for the penataran, not even for a penataran to be attended only by the best, cannot be offered at present.
On the long term one might consider the possibilities a kind of Open University or Teleac system could offer for up-grading staff in such a vast country as Indonesia. But that is no real alternative for todays needs.

This being said, we would like to make a few remarks on possibilities for the improvement of the penataran in general. In our opinion, some of these possibilities could easily be realised. A few have indeed been tried out in one or more of the subprojects and showed themselves successful. So why not consider them for use in other subprojects. Other improvements however can only be the result of difficult choices to be made by the project managers involved. We are well aware of that. We are also aware of the fact that there are quite a few interrelated problems. Nevertheless we dare to present those possibilities also.

Let us start with the language problem. It still exists. Generally spoken, there is no solid base to be found for the supposition that the participants will have a sufficient knowledge of English in the near future.
For some penatarans knowledge of English is essential. International law is an example. Criminology to a lesser degree, too. In that field at least a passive knowledge is a must, as most of the litterature is in English. The language problem could be solved if only Dutch professors who really master the Indonesian language would be involved as lecturers. We have been informed that some of them are going to study bahasa Indonesia. For the cooperation that might prove not to be a bad investment at all, to be cheered anyhow.
The problem could at least for the greater part be solved by selecting participants upon their working knowledge of English. And it might at least be diminished if the Dutch lecturers would restrict themselves to a more background position, not teaching Dutch law, but offering examples of developments in Dutch law as far as that is necessary for a better understanding of developments in Indonesian law.

410

It will in any case be helpful if Dutch lecturers speak their English well, be it slowly.

We have mentioned a better selection upon knowledge of English as a possibility. More can be said about selection.
There seems to be, according to many participants and at least part of the lecturers, a rather great variety in level of knowledge of the participants who came to a penataran for the first time. Here is room for improvements. A choice could also be made more generally, as has been mentioned before, for upgrading only the best. The results in quite a few subprojects with this kind of approach are quite positive in this respect.

In general, mostly elder teachers, having reached a certain level as civil servants, are selected for a penataran. Often some younger ones from the organizing university take also part. Participants should, if possible, also be selected upon their capabilities as teacher and their possibility to pass on their newly gained knowledge. But then, the teaching method in a penataran should aim at strengthening the teaching capabilites of the participants too. It is strongly recommended to look at the presentation in and content of a penataran also from a didactical point of view. In teaching the teachers, we have to take care, that we teach them in such a way, that we may expect the best results for the students. It is also recommended to consider whether upgrading the teaching skills should not be done in close cooperation with the Applied Approach system (AA/Nuffic/Dep Dik Bud Project), now existing in most universities in Indonesia.
In this respect the various didactical methods used in penatarans could be compared, in order to see whether some approaches may not also be useful for other penatarans. We have missed an internal evaluation in this respect.
A choice for the best performers at penatarans should be based on objective criteria.

For some penatarans it has been a requirement to present a paper in advance. Sometimes prospective participants may write on any topic they like, as long as it has any relation with the field of law of the penataran. It seems preferable to give them the choice out of a few specific topics. Furthermore, requirements should be strictly observed. It is not clear why people, who do not present any paper at all, are nevertheless admitted, if a paper is a requirement.
Such a paper should be discussed with the participants individually, and suggestions should be made for improvements. Then the papers should be rewritten during the penataran.

As to preparation, some participants complained that they have been sent to a penataran without any idea about the content of the penataran, let alone that they had themselves prepared in any way. Some stated that they even had no idea about the objectives of the penataran. We have also been informed that materials for the penataran have not been sent to the prospective participants because it was expected that, even if they had received the material, they would not study it or leave it at home instead of bringing it with them to the penatarans.

Good information on the objectives of a penataran and on the contents of the course is necessary. The same seems to go for good preparation, based on materials that are meant to be used by the participants in their own teaching. We have to admit however, that in general reading habits in Indonesia are somewhat under developed. Not too much can therefore be expected from preparation by reading only. As to the materials, they ask for intensive discussions among the project managers, and for precise arrangements in order to ensure that these materials are presented in time and in such a way, that they can be used for their ultimate goal to serve as study materials for students.

If preparation by the participants prior to a penataran in any form is a requirement, then this preparation should be checked.

Some participants have complained that some Indonesian or Dutch lecturers told them something they knew already. According to them, those teachers, offered the same solutions for problems as these participants found themselves already. When confronted with these remarks, some lecturers have explained us, that they tried to teach the participants to reach these solutions through

411

another way of reasoning, thus offering a new approach to problem solving.

It seems clear, that also in this respect better information and explanation could be of great help. We stated before, that participants should be selected upon their capability to pass on their newly gained knowledge.
Some participants mentioned, that they were not able to do so. because elder staff members did not approve any changes in the content of lectures to students. The project managers should be aware of this problem and initiate solutions. It should be ensured that the material of the penatarans could be distributed among other staff members and that the newly gained knowledge and - as is recommended - the newly gained teaching skills are to be discussed in staff meetings.

Even the best technical approach would fail if there is a lack of enthusiasm, both from teachers and participants. There is no doubt whatsoever that in this respect the penatarans indeed do have a bright future.

In the project proposal it is stated, that penatarans should be held at the law faculties of the seven main state universities.
It was decided nevertheless that penatarans were to be held also elsewhere. They have been organized at various other state universities, for example in Lampung, Kupang, Ambon and Purwokerto.

During our visit to Hasanuddin University the question was raised, whether Hasanuddin University should not play an important role in upgrading teachers at the various law faculties in the eastern part of Indonesia, as it is the Indonesian governments' policy to give Hasanuddin University a leading role in developing other universities, as part of the special attention that will be paid to the development of the eastern part of Indonesia as a whole.

It is common practice that penatarans are attended by quite a few younger staff members of the organizing university. If penatarans in future should only be held in Java - as seems to be the idea - this would be of some disadvantage to junior staff of universities outside Java. It would also make attendance by some lecturers of private universities outside Java very difficult. The mission is not in a position to advice on this matter.

It wants to stress however, that the place where a penataran is to be held, should in no way hamper attendance by selected teachers from state universities all over the country.

3.4. Book development: the need to continue

The results on the book development element in the first phase, as described in par. 2.2. have on the whole been rather disappointing. This is to be regretted as book development, both in the form of translating relevant Dutch legal texts in the Indonesian language and the writing of new original material, forms an especially relevant instrument for attaining the objectives of the project.
As it can hardly be doubted that the number of Indonesian professors and teachers able to read and translate Dutch will further diminish in time, more attention should be paid in the second phase of the project to the development of law books (including translations) which can be used for educational purposes by the indonesian law faculties.
As a certain knowledge of the Dutch language will remain necessary in the future to retain the accessability of Dutch source material for the Indonesian legal system, Indonesian law faculties should encourage law students to study the Dutch language. Indonesian law professors still mastering the Dutch language can play a special role both in promoting the study of the Dutch language and in providing their expertise on Dutch legal terminology.

412

3.5. Legal information: towards an integrated approach

Supportive legal information activities will remain necessary in the second phase. Another approach seems however to be called for. The rather large sendings of books, chosen by Indonesian legal institutions and authorities, should be stopped. In the second phase only those books and periodicals should be sent which are actually needed and/or which can have a truly supportive function for the activities to be undertaken in the context of the inter-university project and the legal cooperation as a whole. Project-managers should be closely involved in the choice and the timing of more modest sendings of books and periodicals in the future.

The present activities on the disclosure of relevant legal materials by microfiching and indexing should be continued both in Indonesia and the Netherlands.

As the effects of the law librarian course are presently unclear and doubts have arisen on the usefullness of the course under the present circumstances in Indonesia, it is for the time being recommended that no further fellowships for the course will be granted. In the mean time efforts should be undertaken to convince the relevant Indonesian authorities of the need to raise the status and position of (law) librarians of Universities.

The successful reorganization of the Mahkamah Agung library, effected through the support of an experienced Dutch librarian, might be an example that could be followed for other law-libraries as well. By supporting this kind of operations, care should however be taken that conditions necessary for the upkeep of the library in the future are fulfilled.

4. Conclusions and recommendations

4.1. Conclusions

Inter-university project

1. Legal cooperation between the Netherlands and Indonesia finds its ratio in the fact that the Indonesian legal system has been derived in the past from the Dutch legal system.
   Both systems are still very much comparable: civil law, criminal law and commercial law are based to a great extent on the same principles, while many Dutch source-books on these fields of law are still in use in Indonesia.
   The same applies to the recently developed administrative law in Indonesia as it follows the main principles of the Dutch "AROB" - law.

2. In the field of international economic law and the law of the sea, as well as in the field of criminology the historical link with the Dutch legal system is less relevant. Cooperation in these fields is nevertheless valuable for purposes of comparison and stimulation. Both sides can profit from each other's knowledge and experience.

3. Most of the sub-projects have used the penataran as the main element. In the first phase of the cooperation 27 penatarans were held, with some 650 members of university staff as participants, of which an estimated 40 percent attended more than one penataran in the same field of law.

4. Joint research has been done in only a few sub-projects. Many workshops have been held in almost all subjects, mainly for the preparation of a penataran or to discuss the cooperation in that sub-project more in general.
   In some of the sub-projects seminars have been held, not only as a result of the discussions in a workshop, but sometimes also immediately after a penataran had been held.

413

5. Book development has been undertaken, though not always with the results that had been aimed for.

6. As to research supervision, this element has been part of nearly all of the subprojects.

7. Upon evaluating the results, it should be observed, that results of projects like these are difficult to measure. The mission did not take exams. It had to rely for a great deal on the opinions expressed by the program managers, by teachers in the penatarans, by the results obtained in exams during the penatarans and last but not least by the opinions, expressed by participants.

8. In general, the results obtained so far in civil law, especially in upgrading, are to be qualified as successful.

9. Mainly due to its slow start, commercial law is in proportion somewhat less successful. However, in upgrading as such there is no indication that it is less successful than the civil law subproject.

10. For criminal law especially the combination of research and preparation for a penataran is to be appreciated very much. Though the results of the first penataran were not very promising, this subproject as a whole can be qualified as successful, as can criminology.

11. In the field of administrative jurisdiction and planning and environmental law the results seem rather good as some 100 university teachers more or less have been - as one of the program managers put it - "drenched" in, or at least made familiar with, administrative law, a relative newcomer to Indonesian law. The editing of a general introduction textbook in this first phase, so timely that it has been used already, is a fine result.

12. As to labour law, the results obtained so far can hardly be called succesful, though it should be kept in mind that this is a minor part of the program, only recently developed. If some kind of concentration within the program as a whole is to be considered, labour law should however be dropped, mainly because of lack of activity on the Indonesian side.

13. The results obtained so far in international economic law can be considered to be very successful. Not only as to the level of participants in the last penatarans, which showed improvement, but also as to joint research and book development.

14. International Law of the Sea is also to be judged among the successful parts of the program. Both in helping a newly founded Institute (Indonesian Center for Law of the Sea; Bandung) to become established and in cooperating in teaching and training the program partners can only be congratulated.

15. Probably due to lack of realistic planning and certainly to a lack in program management nothing came out of history of law, and no tangible results can be reported. This part of the subproject can only be considered as unsuccessful. Though history of law is a very interesting subject, especially in Indonesian-Dutch relations, given the results so far, there can hardly be any reason to continue this subproject.

16. Results obtained so far in the field of sociology of law can hardly be evaluated. It is however to be observed that a more in depth training, giving ample opportunity for reflexion on the key issue of the rule of law in Indonesia, should be deemed very important. It could very well prove to be a rather successful method to have a select group of thoroughly trained influential scholars who can contribute in their turn to the further development of the rule of law in Indonesia.

17. The results in anthropology of law are to be considered not bad at all. Certainly the cooperation has contributed to a rather great interest in the field of Anthropology of Law in Indonesia. That interest has been demonstrated at a very successful seminar in Jakarta, the first to be held in Indonesia, attended by over 100 participants, in early 1989. The results of the research, done while being trained on the spot, could be presented at this seminar.

18. In the various fields of law that do form part of the inter-university project the position of women has not received specific attention up till now. Especially the subproject anthropology of law seems to offer opportunities for giving attention to this aspect in the future.

Legal Information project

19. The use of sending Dutch books and periodicals is limited as, only a very small number of professors and teachers has sufficient command of the Dutch language to read them. Visits made by the evaluation-team to a number of law faculty libraries have shown that these libraries are at present well-stocked with Dutch legal materials. These materials are however not always kept in good order and the number of people using these materials up till now has been very limited. Now that the limited aim of the booksendings, providing Indonesian legal institutions with relevant and recent Dutch-law books, has been attained, another, more modest, approach of the sendings of legal materials seems to be called for.

20. Though the progress made in disclosure of legal materials seems to be rather slow the importance of the disclosure activities can hardly be questioned. A better accessability of legal documents which are at the basis of a great number of regulations that are still in force is an absolute necessity for any system of law.

21. As the status of librarians in Indonesia is rather low, the participants of the law librarian course did not show themselves over-enthusiastic when the mission met them. It appeared that they all had been ordered to follow the course. Though it is too early to comment on the successfullness of the course which is still running to the end of 1990, the mission is doubtful on its effects for the future under the present circumstances.

22. The reorganization of the library of the Mahkamah Agung was successfully effected in June and July 1990. Mrs. de Waay of the Van Vollenhoven Institute went to Indonesia to give assistance to the reorganization.

4.2. Recommendations

Inter-university project

1. Upgrading of staff is a long term process, while results are often very difficult to assess. These truths seem especially relevant for the inter-university project and the legal information project. Consequently there is only one option possible: to continue while trying to further improve the quality of the projects in terms of efficiency and effectiveness. To decide otherwise would not only destroy the positive results gained thus far, but would also negate the challenge for Dutch legal society as a whole vis a vis the Indonesian legal society as part of the Indonesian legal system can be considered an offspring of the Dutch legal system. This does certainly not mean that both systems are identical or that they should develop in the same direction. What Indonesian teachers and students need is not more knowledge of Dutch law but a better insight in possible ways for solving their own legal problems.

2. It seems to be in the interest of Indonesia as well as the project as a whole that the secretarial role of the Konsorsium Ilmu Hukum should be strengthened by the Indonesian side both in terms of personnel and money.

3. It is recommended that the position of program-officer in Jakarta is to be maintained in the future, as this function will remain necessary for a smooth execution of the complicated inter-university project and the other projects that form part of the legal cooperation in general. As some of his present tasks can hopefully be taken over by the secretariat of the Konsorsium Ilmu Hukum in the near future, tasks which are actually carried out by the Leyden secretariat can be shifted to the program-officer. The Leyden-secretarial staff of the Nederlandse Raad should eventually be reduced.

4. It is recommended that the Nederlandse Raad will conclude contracts with the faculties of the universities that will be involved in the cooperation specifying what is expected to be done by the faculties in an eventual continuation of the project. On the long term the quality of the input of the Dutch universities stands to gain by this approach as law faculties can be held responsible for their performance in the future. As a rise of funds available for the project is not certain, the remuneration of the universities should be kept as low as possible.
The mission has been informed by the Chairman of the Konsorsium Ilmu Hukum that it is the intention of the Indonesian authorities to formalize the relations between the Konsorsium and the Indonesian Law faculties as well.

5. Efforts should be made to keep the project as a whole manageable by keeping the number of sub-projects limited.
Only those sub-projects, which have proved themselves successful and for which the Indonesian partners have shown a clear interest, should be maintained in an eventual next phase of the project.

6. An alternative for the penataran, not even for a penataran to be attended only by the best, cannot be offered at present.
On the long term one might consider the possibilities a kind of Open University or Teleac system could offer for up-grading staff in such a vast country as Indonesia. But that is no real alternative for todays needs.

7. For some penatarans knowledge of English is essential. International law is an example. Criminology to a lesser degree, too. In that field at least a passive knowledge is a must, as most of the litterature is in English. Generally spoken, the language problem can be solved if only Dutch professors who really master the Indonesian language would be involved as lecturers. We have been informed that some of them are going to study bahasa Indonesia. For the cooperation that might prove not to be a bad investment at all, to be cheered anyhow. The problem could at least for the greater part be solved by selecting participants upon their working knowledge of English. And it might at least be diminished if the Dutch lecturers would restrict themselves to a more background position, not teaching Dutch law, but offering examples of developments in Dutch law as far as that is necessary for a better understanding of developments in Indonesian law.

8. Participants should , if possible, also be selected upon their capabilities as teacher and their possibility to pass on their newly gained knowledge. But then, the teaching method in a penataran should aim at strengthening the teaching capabilites of the participants too. It is strongly recommended to look at the presentation and content of a penataran also from a didactical point of view.

9. It is also recommended to consider whether upgrading the teaching skills should not be done in close cooperation with the Applied Approach system (the team INT), now existing in most universities in Indonesia.

416

10. The various didactical methods used in penatarans could be compared, in order to see whether some approaches may not also be useful for other penatarans.

11. A choice for the best performers at penatarans should be based on objective criteria.

12. Good information on the objectives of a penataran and on the contents of the course is necessary.

13. If preparation by the participants prior to a penataran in any form is a requirement, then this preparation should be checked.

14. It should be ensured that the material of the penatarans could be distributed among other staff members and that the newly gained knowledge and - as is recommended - the newly gained teaching skills are to be discussed in staff meetings.

15. As a certain knowledge of the Dutch language will remain necessary in the future to retain the accessability of Dutch source material for the Indonesian legal system, Indonesian law faculties should encourage law students to study the Dutch language. Indonesian law professors still mastering the Dutch language can play a special role both in promoting the study of the Dutch language and in providing their expertise on Dutch legal terminology.

Legal Information project

16. The rather large sendings of books, chosen by Indonesian legal institutions and authorities, should be stopped. In the second phase only those books and periodicals should be sent which are actually needed and/or which can have a truly supportive function for the activities to be undertaken in the context of the inter-university project and the legal cooperation as a whole. Project-managers should be closely involved in the choice and the timing of more modest sendings of books and periodicals in the future.

17. The present activities on the disclosure of relevant legal materials by microfiching and indexing should be continued both in Indonesia and the Netherlands.

18. As the effects of the law librarian course are presently unclear and doubts have arisen on the usefulness of the course under the present circumstances in Indonesia, it is for the time being recommended that no further fellowships for the course will be granted. In the mean time efforts should be undertaken to convince the relevant Indonesian authorities of the need to raise the status and position of (law) librarians of Universities.

19. The successful reorganization of the Mahkamah Agung library, effected through the support of an experienced Dutch librarian, might be an example that could be followed for other law-libraries as well. By supporting this kind of operations, care should however be taken that conditions necessary for the upkeep of the library in the future are fulfilled.

APPENDIX 5

UNIVERSITY OF INDONESIA
NUMBERS OF STUDENTS AND TEACHERS
1989

Source:
Direktorat Perguruan Tinggi Negeri
di Indonesia
1989

Direktorat Jenderal Pendidikan Tinggi
Departemen Pendidikan dan Kebudayan

UNIVERSITAS INDONESIA

DIDIRIKAN : 2 Pebruari 1950
ALAMAT : Jl. Salemba Raya No 4 Jakarta dan Kampus UI Depok
TELEPON : 330355, 330343, 7270020, 7270021, 7270022, 7270023

REKTOR : Prof. Dr. Sujudi
PR I : Prof. dr. M. K. Tadjudin
PR II : Legowo, SE, MSM
PR III : dr. Merdias Almatsier

Fakultas		Mahasiswa	Dosen Tetap	S1	S2	S3
1. Sastra	S1	1.694	269	192	46	31
2. Hukum	S1	1.575	155	126	22	7
3. Ekonomi	S1	2.528	232	108	78	46
4. Ilmu Sosial dan Ilmu Politik	S1	1.720	201	125	53	23
5. Psikologi	S1	637	106	82	13	11
6. Kedokteran	S1	989	606	69	490	47
7. Kesehatan Masyarakat	S1	152	69	16	44	9
8. Kedokteran Gigi	S1	464	160	86	68	6
9. Matematika dan IPA	S1	1.677	196	143	28	25
10. Teknik	S1	3.033	218	164	37	17
11. Ilmu Komputer	S1	109	–	–	–	–
12. Ilmu Keperawatan	S1	196	–	–	–	–
Sub Jumlah	S1	14.774	2.212	1.111	879	222
13. Politeknik	D3	1.412	170	170		
14. Diploma ISIP	D3	299	–			
15. Non Gelar Sastra	D3	1.191	–			
16. Diploma MIPA	D3	458	–			
Sub Jumlah	S0	3.360	170	170		
15. Pasca Sarjana	S2	936	4	–	3	1
	S3	24	–			
	Sp1	933	–			
Sub Jumlah	S2/S3	1.893	4	–	3	1
Jumlah		20.027	2.386	1.281	882	223

TENAGA NON AKADEMIK : 2.014
1. Tenaga Administrasi Tetap : 1.802
2. Tenaga Teknisi Tetap : 40

3. Tenaga Laboran Tetap		24
4. Tenaga Pustakawan Tetap		148

PRASARANA PENDIDIKAN/KAMPUS

A. TANAH	:	3.581.580	m^2
1. Tanah Kampus	:	3.346.700	m^2
2. Tanah Perumahan	:	129.880	m^2
3. Tanah Asrama Mahasiswa	:	–	m^2
4. Tanah Lain-lain	:	5.000	m^2
B. BANGUNAN	:		
1. Ruang Kuliah	:	17.834	m^2
2. Ruang Laboratorium	:	19.736	m^2
3. Ruang Perpustakaan	:	17.444	m^2
4. Ruang Seminar	:	7.724	m^2
5. Ruang Dosen	:	6.636	m^2
6. Ruang Kantor/Administrasi	:	20.096	m^2
7. Ruang Kegiatan Mahasiswa	:	1.362	m^2
8. Ruang Studio	:	1.545	m^2
9. Asrama Mahasiswa	:	16.357	m^2
10. Ruang Komputer	:	1.470	m^2
11. Ruang Serbaguna	:	2.621	m^2
12. Ruang Penelitian/Peng.Pd.Masyarakat	:	5.178	m^2
13. Ruang Olahraga	:	2.746	m^2
14. Bangunan Lainnya	:	–	m^2

SARANA PENDIDIKAN

- Buku Perpustakaan	:	61.620	judul
	:	81.566	exp

APPENDIX 6

1982 CURRICULUM OF THE FACULTY OF LAW UNIVERSITY OF INDONESIA

Lampiran II:

KURIKULUM 1982

Bagi yang masih memerlukan Kurikulum 1982, berikut adalah perinciannya. Kurikulum ini seyogianya berlaku sampai dengan bulan Agustus 1989, tetapi pada tahun lalu (1989) telah diperpanjang dan berlaku hingga bulan Agustus 1990. Sebagaimana telah diketahui bahwa Kurikulum ini diberlakukan bagi mahasiswa yang terdaftar pada tahun akademik 1984/1985 dan sebelumnya (SK Dekan HUI No. 121/SK/D/7/1982).

A. Jumlah dan Komposisi Beban Kredit

PROGRAM KEKHUSUSAN

JENIS MATA KULIAH	I	II	III	IV	V	VI	VII
Wajib Universitas	10	10	10	10	10	10	10
Wajib Fakultas	60	60	60	60	60	60	60
Wajib Program Kekhususan	31	23	67	32	21	17	16
Pilihan	43	51	07	42	53	57	58
Beban Kredit Minimal	144	144	144	144	144	144	144

B. Daftar Mata Kuliah Wajib Universitas

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HUK 10101	Agama Islam	2			
HUK 10102	Agama Katholik	2			
HUK 10103	Agama Protestan	2			
HUK 10104	Agama Hindu	2			
HUK 10105	Agama Budha	2			
HUK 10201	Pancasila	2			
HUK 10301	Kewiraan	2			
HUK 10302	Ilmu Alamiah dasar		2		belum-dikuliahkan
HUK 10303	Ilmu Budaya dasar		2		sda.
HUK 40401	Kuliah Kerja Nyata				sda.
	Jumlah	6	4		

C. Daftar Mata Kuliah Wajib Fakultas

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HPE 10101	Asas-asas Hukum Perdata Barat		3	HID 10101	
HPI 10101	Asas-asas Hukum Pidana	3		HID 10102	
HTN 10101	Asas-asas Hukum Tata Negara	3		idem HID 10101 HID 10102 HID 10201	
HAN 10101	Asas-asas Hukum Administrasi Negara		3	HID 10101 HID 10102	
HPE 10201	Asas-asas Hukum Islam		3	HID 10101 HID 10102	
HPE 10301	Asas-asas Hukum Adat		3	HID 10101 HID 10102	
HID 10101	Pengantar Ilmu Hukum	3			
HID 10102	Pengantar Tata Hukum Indonesia		3		
HID 10201	Ilmu Negara	4			
	Filsafat Hukum	3		110 SKS	dapat diambil salah satu aspek
HID 50301	Aspek Etis atau				
HID 50302	Aspek sosial atau				
HID 50303	Aspek Praktis.				
HMP 10201	Manusia dan Kebudayaan di Indonesia	3			
HMP 10101	Ilmu Sosiologi	3			
HMP 10901	Bahasa Indonesia	3			harus diambil dalam 30 SKS pertama
HMP 10903	Bahasa Inggris I	2			
HMP 10905	Bahasa Belanda I	2			
HMP 10904	Bahasa Inggris II		2	HMP 10903	
HMP 10906	Bahasa Belanda II		2	HMP 10905	
HID 10401	Methode Penelitian Hukum I	3			
HMP 10301	Ilmu Ekonomi		3		
HSK	Skripsi		6	110 SKS	dapat

					diambil dalam semester gasal atau genap
HSK 50101	Hukum tentang Hubungan sesama Anggauta Masyarakat (PK I)				
HSK 50201	Hukum tentang Pencegahan dan Penanggulangan Kejahatan (PK II)				
HSK 50301	Praktisi Hukum (PK III)				
HSK 50401	Hukum tentang Kegiatan Ekonomi (PK IV)				
HSK 50501	Hukum tentang Hubungan Negara dan Masyarakat (PK V)				
HSK 50601	Hukum tentang Hubungan Transnasional PK VI)				
HSK 50701	Hukum tentang Kesejahteraan Masyarakat (PK VII)				
	Jumlah		29	31	

I. Daftar Mata Kuliah Wajib Program Kekhususan:
Hukum tentang Hubungan Sesama Anggota Masyarakat

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HPE 20102	Hukum Perorangan dan Kekeluargaan Perdata Barat	2		HPE 10101	
HPE 20103	Hukum Kebendaan Perdata Barat	2		HPE 10101	
HPE 20104	Hukum Perikatan dan Persetujuan khusus Perdata Barat	2		HPE 10101	
HPE 40901	Kapita Selekta Hukum Perdata Barat		2	90 SKS	
HPE 30105	Hukum Kewarisan Perdata Bara		2	60 SKS	
HPE 50801	Perbandingan Hukum Perdata		2	110 SKS HPE 20104	

HIN 20101	Asas-asas hukum Antar Tata Hukum		3	HPE 10101 HAC 20101	
HPE 20202	Hukum Perorangan dan kekeluargaan Islam	2		HPE 10201	
HPE 20203	Hukum Kewarisan Islam		2	HPE 20202	
HPE 20302	Hukum Perorangan dan Kekeluargaan Adat	1		HPE 10301	
HPE 20303	Hukum Kebendaan Adat	1		HPE 10301	
HPE 20304	Hukum Perikatan dan Persetujuan Khusus Adat	1		HPE 10301	
HPE 20305	Hukum Kewarisan Adat		1	HPE 20302	
HAC 20101	Hukum Acara Perdata	3		HPE 10101 HPE 20104	
HAN 30201	Hukum Agraria (Termasuk Garis-Garis Besar Perkembangan Hukum Tanah,Konsepsi,Sistem, Asas-Asas, Lembaga-Lembaga Hukum dan Ketentuan-Ketentuan Pokoknya)	3		60 SKS	
HMP 50102	Sosiologi Indonesia		2	90 SKS	
	Jumlah	17	14		

II. Daftar Mata Kuliah Wajib Program Kekhususan:
Hukum Tentang Pencegahan dan Penanggulangan Kejahatan.

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HPI 20102	Dasar-dasar Penghapus/ Peringan Pemberat Pidana	2		HPI 10101	
HPI 20103	Percobaan,Penyertaan dan Gabungan Tindak Pidana		2	HPI 10101	
HPI 20201	Hukum Penitensier	2		HPI 10101	
HPI 20301	Delik-delik Khusus dalam K.U.P. Pidana		3	HPI 10101	
HPI 20401	Hukum Perlindungan Anak		2	HPI 10101	
HPI 20501	Ilmu Kedokteran Kehakiman / Kriminalistik		2	HPI 10101	

HPI 30601	Kriminologi	3		60 SKS	
HPI 30602	Kapita Selekta Hukum Pidana	2		HPI 50102	
HPI 20305	Klachtdelict, Hapusnya Kewenangan Menuntut dan	2		HPI 10101	
	Menjalankan Pidana	2		HPI 10101	
HAC 20201	Hukum Acara Pidana	3			
	Jumlah	14	9		

III. Daftar Mata Kuliah Wajib Program Kekhususan: Praktisi Hukum

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Genap	Prasyarat	Keterangan
	Mata Kuliah Wajib Program Kekhususan Hukum tentang hubungan sesama anggota masyarakat	17	14		
	Mata Kuliah Wajib Program Kekhususan Hukum tentang pencegahan dan penanggulangan Kejahatan	14	9		
HAC 20301	Hukum Acara Perdata Peradilan Agama	2		HPE 10201	
HAC 50701	Praktek Hukum		2	110 SKS	
HAC 20601	Perwasitan Nasional	2		HPE 20401	
HAC 20202	Bentuk dan Sifat Kekuasaan Kehakiman Ditinjau dari Hukum Acara Pidana		2	HAC 20201	
HAN 20301	Asas-asas Hukum Perburuhan	3		HPE 20104	
HAN 20303	Penyelesaian Perselisihan Perburuhan dan Pemutusan Hubungan Kerja		2	HAN 20301	
	Jumlah	38	29		

IV. Daftar Mata Kuliah Wajib Program Kekhususan: Hukum tentang Kegiatan Ekonomi

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Genap	Prasyarat	Keterangan
HPE 20104	Hukum Perikatan dan Persetujuan khusus Perdata Barat	2		HPE 10101	
HPE 20204	Zakat dan Wakaf	2		HPE 10201	
HPE 20304	Hukum Perikatan dan Persetujuan khusus Adat	1		HPE 10301	
HPE 20401	Asas-asas Hukum Dagang	3		HPE 20104	
HPE 20501	Hukum Tentang Organisasi Perusahaan		3	HPE 20401	
HPE 20402	Hukum Tentang Surat berharga	2			
HPE 20403	Hukum Tentang Pengangkutan Darat dan Perairan Pedalaman		2	HPE 20401	
HPE 20404	Hukum Tentang Pengangkutan Laut		3	HPE 20401 HPE 20405	
HPE 20502	Hukum Tentang Jual Beli Perusahaan		2	HPE 20401 HPE 20501	
HPE 20405	Hukum Pertanggungan Ansuransi	3		HPE 20401	
HPE 20503	Hukum Tentang Investasi Swasta dan Pembangunan		2	HPE 20401	
HPE 20504	Hukum Tentang Koperasi		2	HPE 20401	
HAN 30201	Hukum Agraria (Termasuk Garis-Garis Besar Perkembangan Hukum Tanah, Konsepsi, Sistem, Asas-asas, Lembaga-lembaga Hukum dan Ketentuan ketentuan Pokoknya)		3	60 SKS	
HAN 20301	Asas-asas Hukum Perburuhan		3	HPE 20104	
	Jumlah	10	23		

V. Daftar Mata Kuliah Program Kekhususan: Hukum Tentang Hubungan Negara dan Masyarakat

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HTN 20102	Lembaga Kepresidenan	1		HTN 10101	
HTN 20103	Lembaga Perwakilan Rakyat	2		HTN 10101	
HTN 20201	Hak-hak Asasi Manusia	2		HTN 10101	
HTN 20104	Pemilihan Umum		2	HTN 10101	
HTN 20105	Kekuasaan Kehakiman (Peninjauan dari Segi Hukum Tata Negara)		2	HTN 10101	
HAN 20102	Hukum Tata Usaha dan Birokrasi Negara	2		HAN 10101	
HAN 20104	Hukum Administrasi Daerah	2		HAN 10101	
HAN 20105	Hukum Anggaran Negara		2	HAN 10101	
HID 20103	Ilmu Perundang-undangan	2		HAN 10101	
HAN 20108	Hukum Administrasi Pembangunan		2	HAN 10101	
HAN 20110	Hukum Administrasi kota/desa		2	HAN 10101	
	Jumlah	11	10		

VI. Daftar Mata kuliah Wajib Program Kekhususan: Hukum Tentang Hubungan Transnasional

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HIN 20101	Asas-asas Hukum Antar Tata Hukum Extern		3	HPE 10101 HPE 20102 HPE 20103 HPE 20104 HAC 20101	
HIN 20201	Asas-asas Umum Hukum Internasional Publik	3		HPE 10101 HPI 10101 HTN 10101 HAN 10101	
HIN 20202	Hukum Organisasi Internasional	3		HIN 20201	
HIN 20203	Hukum Laut	2		HIN 20201	
HIN 20204	Hukum Udara dan Angkasa	2		HIN 20101	
HIN 20102	Konvensi-konvensi Hukum Perdata Internasional		2	HIN 20101	
HIN 20201	Asas-asas Hubungan Internasional	2		HIN 20101	
	Jumlah	12	5		

VII. Daftar Mata Kuliah Wajib Program Kekhususan:
Hukum Tentang Kesejahteraan Masyarakat dan Masalah Sosial

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
HTN 20201	Hak Asasi Manusia	2		HTN 10101	
HTN 20301	Masalah Kewarganegaraan	2		HTN 10101	
HAN 30201	Hukum Agraria (Termasuk Garis-Garis Besar Perkembangan Hukum Tanah, Konsepsi, Sistem, Asas-asas, Lembaga-lembaga Hukum dan Ketentuan-Ketentuan Pokoknya)	3		60 SKS	
HAN 20301	Asas-asas Hukum Perburuhan	3		HPE 20104	
HAN 20305	Kesehatan dan Keselamatan Kerja		2	HAN 20301	
HMP 50102	Sosiologi Indonesia		2	90 SKS	
HMP 10302	Ekonomi Pembangunan		2	HMP 10301	
	Jumlah	10	6		

D. Daftar Mata Kuliah Pilihan

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat	Keterangan
	Mata Kuliah Wajib Program Kekhususan yang satu merupakan mata kuliah Pilihan bagi Program Kekhususan lain				
HPI 20302	Delik Ekonomi	2		HPI 10101	
HPI 20303	Delik Korupsi		2	HPI 10101	
HPI 20304	Delik Subversi		2	HPI 10101	
HPI 20502	Psykiatri Kehakiman		2	HPI 10101	
HTN 20801	Perbandingan Hukum Tata Negara	2		HTN 10101 HTN 20102 HTN 20103 HTN 20201 HTN 20301 HTN 20104 HTN 20105	
HTN 20802	Perbandingan Hukum Tata Negara Asean		2	HTN 10101 HTN 20102 HTN 20103 HTN 20201 HTN 20301 HTN 20104 HTN 20105	
HAN 20103	Hukum Administrasi Lingkungan		2	HAN 10101	
HAN 20106	Hukum Administrasi Kepegawaian dan Ketenaga kerjaan Negara	2		HAN 10101	
HAN 20107	Hukum Pengawasan dan Peradilan Administrasi	2		HAN 10101	
HAN 20109	Kebijaksanaan dan Pengambilan Keputusan	2		HAN 10101	
HAN 20401	Hukum Pajak dan Administrasi Perpajakan		2	HAN 10101	
HIN 20901	Kapita Selekta mengenai masalah yang sedang Aktuil Dalam Hukum Perdata Internasional		2	HAN 10101	
HIN 20302	Area Studi Tenggara/ASEAN		2	HIN 20301	
HIN 20303	Area Studi Timur Tengah	2		HIN 20301	

HIN 20304	Area Studi Negara-negara Komunis/Barat		2	HIN 20301	
HPE 20406	Kepailitan, Akoord dan Penundaan Pembayaran	3		HPE 20401	
HAC 20203	Pembuktian (Peninjauan dari Hukum Acara Pidana)		2	HPI 10101 HAC 20201	
HPI 20306	Aspek Pidana dan Aspek Hukum lainnya dalam : 1. Mass Media 2. Kependudukan 3. Kesehatan		2	HPI 10101	
HAN 30202	Tata Guna Tanah dan Land Reform	3		HAN 30201	
HAN 30203	Pengadaan Tanah	3		HAN 30201	
HAN 30204	Pendaftaran Tanah	3		HAN 30201	
HAN 30205	Tanah Sebagai Jaminan Hutang		2	HAN 30201	
HAN 30801	Perbandingan Hukum Tanah		2	HAN 30201	
HAN 20302	Hubungan Perburuhan	2		HAN 20301	
HAN 20304	Perlindungan, Jaminan dan Asuransi Tenaga Kerja	2		HAN 20301	
HAN 20306	Pengerahan dan Pendayagunaan Tenaga Kerja		2	-	
HMP 30909	Pengantar Hukum Amerika		2	60 SKS	
HPI 30602	Viktimologi	2		60 SKS	
HID 40402	Metode Penelitian Hukum II		2	100 SKS	

PENGERTIAN PRASYARAT :

Yang dimaksud mata kuliah dengan prasyarat adalah bahwa untuk menempuh mata kuliah tersebut :

1. Mahasiswa bersangkutan disyaratkan harus sudah mengikuti semua kegiatan akademik untuk mata kuliah prasyarat itu meskipun belum berhasil lulus ujian akhir semester, atau
2. Telah memiliki sejumlah S.K.S. yang disyaratkan.

Lampiran III :

Sejalan dengan Kurikulum 1982 yang dipaparkan diatas, dan sebelum adanya keseragamaan dalam lingkungan UI, yaitu sebelum Keputusan Rektor No. 057/SK/R/UI/1984, tanggal 6 Juli 1984, maka evaluasi keberhasilan mahasiswa dilakukan pada empat "tingkat", yaitu pada (i) setiap akhir semester, (ii) setiap 4 (empat) semester, (iii) setiap 8 (delapan) semester dan (iv) pada akhir program studi (Surat Keputusan Dekan Fakultas Hukum Universitas Indonesia No. 121/SK/D/H/82).

(i) Evaluasi Keberhasilan studi mahasiswa setiap akhir semester

Setiap selesai akhir ujian semester, diadakan evaluasi keberhasilan studi mahasiswa. Hasilnya dicantumkan dalam Kartu Hasil Studi (KHS) mahasiswa bersangkutan. Tujuannya adalah untuk menentukan jumlah beban SKS yang dapat diambil (dipikul) oleh mahasiswa itu, berdasarkan ketentuan yang ada, pada semester berikutnya.

(ii) Evaluasi keberhasilan studi mahasiswa setiap 4 (empat) semester

Pada akhir 4 (empat) semester pertama terhitung mulai tahun akademik 1982/1983 diadakan evaluasi keberhasilan studi mahasiswa untuk menentukan apakah mahasiswa yang masih bersangkutan masih boleh melanjutkan studinya atau harus meninggalkan Fakultas Hukum Universitas Indonesia. Seorang mahasiswa boleh melanjutkan studinya apabila (1) telah mengumpulkan minimal 40 (empat puluh) SKS untuk Kuliah Pagi, minimal 32 (tiga puluh dua) SKS untuk Kuliah Sore, dan (2) mencapai Indeks Prestasi Kumulatif (IPK) 2,00 atau lebih.

Apabila dalam jangka waktu 4 (empat) semester tersebut mahasiswa bersangkutan berhasil mengumpulkan lebih dari 40 (empat puluh) SKS, maka evaluasinya hanya dilakukan untuk jumlah 40 (empat puluh) SKS matakuliah-matakuliah dengan nilai tertinggi saja pada Kuliah Pagi, sedang untuk kuliah Sore, apabila mahasiswa bersangkutan berhasil mengumpulkan lebih dari 32 (tiga puluh dua) SKS matakuliah-matakuliah dengan nilai tertinggi itu saja.

(iii) Evaluasi keberhasilan studi mahasiswa setiap 8 (delapan) semester

Proses yang sama seperti pada (ii) juga dilakukan pada hasil studi mahasiswa setelah 8 (delapan) semester pertama terhitung mulai tahun akademik 1982/1983, dengan ketentuan bahwa jumlah SKS yang harus dikumpulkan adalah

APPENDIX 7

1986 CURRICULUM OF THE FACULTY OF LAW UNIVERSITY OF INDONESIA

(Curriculum still basically in use at the University in 1991)

Dengan demikian telah menjadi jelas bahwa mulai tahun akademik 1990/1991 dan seterusnya hanya berlaku satu macam kurikulum, yaitu Kurikulum 1986.

KURIKULUM 1986

A. Jumlah Dan Komposisi Beban Kredit

PROGRAM KEKHUSUSAN							
JENIS MATA KULIAH	I	II	III	IV	V	VI	VII
Wajib Universitas	10	10	10	10	10	10	10
Wajib Fakultas	46	46	46	46	46	46	46
	12	12	12	12	12	12	12
Wajib Program Kekhususan	23	20	41	26	25	25	23
	10	12	10	9	14	10	16
Pilihan	43	44	25	41	34	41	37
Beban Kredit Minimal	144	144	144	144	144	144	144

B. Mata Kuliah Wajib Universitas*
(Wajib ditempuh dalam lima semester pertama)

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HUK 10100	Agama (a)	2		
HUK 10201	Pancasila	2		
HUK 10301	Kewiraan	2		
HUK 10302	Ilmu Alamiah Dasar (b)		2	
HUK 10303	Ilmu Budaya Dasar		2	
HUK 40401	Kuliah Kerja Nyata (K.K.N.)(c)			
	Jumlah SKD	6	4	

(a) HUK 10101 Islam, HUK 10102 Katolik, HUK 10103 Protestan, HUK 10104 Hindu atau HUK 10105 Budha.
(b) Sementara belum dikuliahkan.
(c) Lihat Daftar Mata Kuliah Wajib Fakultas.

C. Mata Kuliah Wajib Fakultas*
(Wajib ditempuh dalam lima semester pertama)

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HAC 20101	Hukum Acara Perdata		3	HPE 10101
HAC 20201	Hukum Acara Pidana	3		HPI 10102
HAN 10101	Asas-asas Hukum Administrasi Negara		3	HTN 10101
HAN 20301	Asas-asas Hukum Perburuhan	3		HPE 10101
HAN 30201	Hukum Agraria	3		HPE 10101
HID 10101	Pengantar Ilmu Hukum (a)	3		
HID 10102	Pengantar Tata Hukum Indonesia (a)	3		
HID 10201	Ilmu Negara (a)	4		
HIN 20201	Asas-asas Hukum Internasional Publik	3		HTN 10101
HPE 10101	Asas-asas Hukum Perdata Barat		3	
HPE 10201	Asas-asas Hukum Islam		3	
HPE 10301	Asas-asas Hukum Adat		3	
HPE 20401	Asas-asas Hukum Dagang (a)	3		HPE 10101
HPI 10101	Asas-asas Hukum Pidana	3		
HTN10101	Asas-asas Hukum Tata Negara	3		
HID 50301	Filsafat Hukum (a) *	3		110 SKS
HSK 50100	Skripsi (b)*	6		110 SKS
HUK40401	K.K.N. (c) *	3		
	Jumlah SKS	18 25	15	

(a) Diberikan dan diuji setiap semester.
(b) HSK 50101 PK I, HSK 50102 PK II, HSK 50103 PK III, HSK 50104 PK IV, HSK 50105 PK V, SK 50106 PK VI, HSK 50107 PK VII.
(c) Sementara berdasarkan seleksi.

* Walaupun mata kuliah HUK 40401, HID 50301 dan HSK 50100 termasuk dalam kelompok mata kuliah Wajib Universitas dan Fakultas, namun demikian sebagai pengecualian, mata kuliah ini tidak wajib ditempuh dalam lima semester pertama.

I. Daftar Mata Kuliah Program Kekhususan I
Hukum tentang Hubungan Sesama Anggota Masyarakat

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Genap	Prasyarat
HPE 20102	Hukum Perorangan dan Kekeluargaan Perdata Barat	2		HPE 10101
HPE 20103	Hukum Kebendaan Perdata Barat	2		HPE 10101
HPE 20104	Hukum Perikatan dan Persetujuan Khusus Perdata Barat	2		HPE 10101
HPE 20106	Asas-asas Hukum Antar Tata Hukum		3	HAC 20101 HPE 20104
HPE 20202	Hukum Perorangan dan Kekeluargaan Islam	2		HPE 10201
HPE 20203	Hukum Kewarisan Islam		2	HPE 10210
HPE 20306	Hukum Kekeluargaan dan Kewarisan Adat		2	HPE 10301
HPE 20307	Hukum Kebendaan dan Hukum Perikatan Adat	2		HPE 10301
HPE 30105	Hukum Kewarisan Perdata Barat		2	HPE 20102
HPE 40901	Kapita Selekta Masalah Aktual Hukum Perdata Barat		2	90 SKS
HPE 50801	Perbandingan Hukum Perdata		2	110 SKS
HMP 10101	Pengantar Sosiologi	3		
HMP 10201	Manusia dan Kebudayaan di Indonesia	3		
HMP 10901	Bahasa Indonesia		3	
HMP 10905	Bahasa Belanda I	2		
HMP 10906	Bahasa Belanda II	3	2	
	Jumlah SKS	18	3 15	

II. Daftar Mata Kuliah Program Kekhususan II
Hukum tentang Pencegahan dan Penanggulangan Kejahatan

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Genap	Prasyarat
HAC 202	Pembuktian (Penekanan pada segi Hukum Acara Pidana)		2	HPI 10101 HAC 20201
HPI 20102	Dasar-dasar Penghapus,Peringan dan Pemberat Pidana	2		HPI 10101
HPI 20103	Percobaan,Penyertaan dan Gabungan Tindak Pidana		2	HPI 10101
HPI 20201	Hukum Penitensier	2		HPI 10101
HPI 20301	Tindak Pidana Khusus dalam KUH Pidana		3	
HPI 10101				
HPI 20305	Tindak Pidana Aduan,Hapusnya Kewenangan Menuntut dan Menjalani Pidana	2		HPI 10101
HPI 20401	Hukum Perlindungan Anak (Penekanan dari Segi Hukum Pidana)		2	HPI 10101
HPI 30601	Kriminologi	3		60 SKS
HPI 30603	Apita selekta Masalah Aktual Hukum Pidana		2	90 SKS
HPI 50801	Perbandingan Hukum Pidana	2		110 SKS
HMP 10101	Pengantar Sosiologi	3		
HMP 10201	Manusia dan Kebudayaan di Indonesia	3		
HMP 10901	Bahasa Indonesia *		3	
HMP 10905	Bahasa Belanda I	2		
HMP 10906	Bahasa Belanda II		2	HMP 10905
HMP 50102	Sosiologi Indonesia		2	HMP 10101
	Jumlah SKS	19	3 15	

III. Daftar Mata Kuliah Program Kekhususan III Praktisi Hukum

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HPE 20102	Hukum Perorangan dan Kekeluargaan Perdata Barat	2		HPE 10101
HPE 20103	Hukum Kebendaan Perdata Barat	2		HPE 10101
HPE 20104	Hukum Perikatan dan Persetujuan Khusus Perdata Bara	2		HPE 10101
HPE 20106	Asas-asas Hukum Antar Tata Hukum		3	HAC 20101 HPE 20104
HPE 20202	Hukum Perorangan dan Kekeluargaan Islam	2		HPE 10201
HPE 20203	Hukum Kewarisan Islam		2	HPE 10201
HPE 20306	Hukum Kekeluargaan dan Kewarisan Adat		2	HPE 10301
HPE 20307	Hukum Kebendaan dan Hukum Perikatan Adat	2		HPE 10301
HPE 30105	Hukum Kewarisan Perdata Barat		2	HPE 20102
HAC 20203	Pembuktian (Penekanan Pada Segi Hukum Acara Pidana)	2		HPI 10101
HPI 20102	Dasar-dasar Penghapus,Peringan dan Pemberat Pidana	2		HPI 10101
HPI 20103	Percobaan,Penyertaan dan Gabungan Tindak Pidana		2	HPI 10101
HPI 20301	Tindak Pidana Khusus Dalam KUH Pidana		3	HPI 10101
HPI 20305	Tindak Pidana Aduan,Hapusnya Kewenangan Menuntut dan Menjalani Pidana	2		HPI 10101
HPI 30601	Kriminologi	3		60 SKS
HAC 20301	Hukum Acara Peradilan Agama	2		HPE 10201
HAC 20401	Hukum Acara Peradilan Administrasi Negara	2		HAN 10101
HAC 50701	Praktek Hukum Perdata	2		110 SKS
HAC 50702	Praktek Hukum Pidana		2	110 SKS
HAN 20303	Penyelesaian Perselisihan Perburuhan PHK		2	
HMP 10905	Bahasa Belanda I	2		
HMP 10906	Bahasa Belanda II		2	HMP 10905
HID 10401	Metode Penelitian Hukum I	3		
HMP 10901	Bahasa Indonesia		3	
	Jumlah SKS	30	3 20	

IV. Daftar Mata Kuliah Program Kekhususan IV
Hukum tentang Kegiatan Ekonomi

Kode	Nama Mata Kuliah	Semester/SKS Gasal		Semester/SKS Genap	Prasyarat
HPE 20104	Hukum Perikatan dan Persetujuan Khusus Perdata Barat	2			HPE 10101
HPE 20204	Zakat dan Wakaf	2			HPE 10201
HPE 20307	Hukum Kebendaan dan Perikatan Adat			2	HPE 10301
HPE 20402	Hukum Surat Berharga	3			HPE 20401
HPE 20403	Hukum Pengangkutan Darat dan Perairan Pedalaman			2	HPE 20401
HPE 20404	Hukum Pengangkutan Laut			3	HPE 20401
HPE 20405	Hukum Pertanggungan Asuransi			3	HPE 20401
HPE 20501	Hukum Organisasi Perusahaan			3	HPE 20401
HPE 20502	Hukum Jual Beli Perusahaan			2	HPE 20501
HPE 20503	Hukum Investasi Swasta dan Pembangunan			2	HPE 20401
HPE 20504	Hukum Koperasi			2	HPE 20401
HMP 10301	Ilmu Ekonomi			3	
HMP 10302	Ekonomi Pembangunan			2	HMP 10301
HMP 10901	Bahasa Indonesia		3		
HMP 10903	Bahasa Inggeris I	2			
HMP 10904	Bahasa Inggeris II	2			HMP 10903
	Jumlah SKS	11	3	24	

V. Daftar Mata Kuliah Program Kekhususan V
Hukum tentang Hubungan Negara dan Masyarakat

Kode	Nama Mata Kuliah	Semester/SKS Gasal		Semester/SKS Genap	Prasyarat
HAC 20401	Hukum Acara Peradilan Administrasi Negara (a)	2			HAN 20107
HAN 20102	Hukum Tata Usaha dan Birokrasi Negara	2			HAN 10101
HAN 20104	Hukum Administrasi Daerah	2			HAN 10101
HAN 20105	Hukum Anggaran Negara			2	HAN 10101
HAN 20107	Hukum Pengawasan dan Peradilan Administrasi Negara			2	HAN 10101
HAN 20108	Hukum Administrasi Pembangunan			2	HAN 10101
HAN 20110	Hukum Administrasi Kota dan Desa			2	HAN 10101
HAN 20402	Hukum Pajak	2			HTN 10101
HAN 20403	Hukum Administrasi Perpajakan			2	HAN 20402
HID 20101	Ilmu Perundang-undangan	2			HAN 10101
HTN 20102	Lembaga Kepresidenan	2			HTN 10101
HTN 20103	Lembaga Perwakilan Rakyat	2			HTN 10101
HTN 20104	Pemilihan Umum			2	HTN 10101
HTN 20105	Kekuasaan Kehakiman (peninjauan dari segi HTN)			2	HTN 10101
HTN 20201	Hak-hak Asasi Manusia	2			HTN 10101
HTN 20301	Masalah Kewarganegaraan	2			HTN 10101
HID 10401	Metode Penelitian Hukum I	3			
HID 10402	Metode Penelitian Hukum II			2	HID 10401
HMP 10101	Pengantar Sosiologi	3			
HMP 10201	Manusia dan Kebudayaan di Indonesia	3			
HMP 10901	Bahasa Indonesia		3		
	Jumlah SKS	27	3	16	

VI. Daftar Mata Kuliah Program kekhususan VI
Hukum tentang Hubungan Transnasional

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HIN 20101	Asas-asas Hukum Antar Tata Hukum Extern		3	HAC 20101 HPE 20104
HIN 20102	Konvensi-konvensi Hukum Perdata Internasional		2	HIN 20101
HIN 20202	Hukum Organisasi Internasional	3		HIN 20201
HIN 20203	Hukum Laut	2		HIN 20201
HIN 20204	Hukum Udara dan Angkasa	2		HIN 20201
HIN 20205	Hukum Humaniter (a)	(2)		HIN 20201
HIN 20206	Hukum Perjanjian Internasional Publik (a)	(2)		HIN 20201
HIN 20305	Asas-asas Hubungan Internasional	3		HIN 20301
HIN 20104	Hukum Perikatan dan Persetujuan Khusus Perdata Barat	2		HPE 10101
HPE 40901	Kapita Selekta Masalah Aktual Hukum Perdata Barat		2	90 SKS
HPE 50801	Perbandingan Hukum Perdata		2	110 SKS
HID 10401	Metode Penelitian Hukum I	3		
HMP 10301	Ilmu Ekonomi		3	
HMP 10901	Bahasa Indonesia	3		
HMP 10903	Bahasa Inggeris I	2		
HMP 10904	Bahasa Inggeris II		2	HMP 10903
	Jumlah SKS	17 3	14	

(a) Sementara belum diberikan dan diwajibkan

VII. Daftar Mata Kuliah Program Kekhususan VII
Hukum tentang Kesejahteraan Masyarakat

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HAN 20103	Hukum Administrasi Lingkungan		2	HAN 10101
HAN 20108	Hukum Administrasi Pembangunan		2	HAN 10101
HAN 20110	Hukum Administrasi Kota dan Desa		2	HAN 10101
HAN 20304	Perlindungan,Jaminan dan Astek	2		
HMP 10401	Perundang-undangan Sosial	3		HAN 20301
HMP 20103	Masalah Hukum kekeluarga-an dan Hukum Waris dalam-Masyarakat Indonesia (a)		(2)	HPE 10101
HPE 20204	Zakat dan Wakaf	2		HPE 10201
HPE 20504	Hukum Koperasi		2	HPE 20401
HPI 20302	Tindak Pidana Ekonomi	2		HPI 10101
HPI 2020 1	Hukum Penitensier	2		HPI 10101
HTN 20201	Hak-hak Asasi Manusia	2		HTN 10101
HMP 10101	Pengantar Sosiologi	3		
HMP 10201	Manusia dan Kebudayaan di Indonesia	3		
HMP 10301	Ilmu Ekonomi		3	HMP 10301
HMP 10302	Ekonomi Pembangunan		2	HMP 10301
HMP 10901	Bahasa Indonesia	3		
HMP 50102	Sosiologi Indonesia		2	HMP 10101
	Jumlah SKS	19 3	15	

(a). Sementara belum dikuliahkan

I. Daftar Mata Kuliah Pilihan
(Menurut Abjad Kode)

Kode	Nama Mata Kuliah	Semester/SKS Gasal	Semester/SKS Genap	Prasyarat
HAN 20601	Perwasitan Nasional	2		
HAN 20202	Bentuk dan Sifat-sifat Kekuasaan Kehakiman dari segi Pidana	2		
HAN 20106	Hukum Administrasi Kepegawaian dan Ketenagakerjaan	2		HAN 10101
HAN 20109	Kebijaksanaan dan Pengambilan Keputusan	2		HAN 10101
HAN 20111	Dasar-dasar Administrasi Negara		2	HAN 10101
HAN 20302	Hubungan Perburuhan	2		HAN 20301
HAN 20305	Kesehatan Kerja dan Kesela matan Kerja		2	HAN 20301
HAN 20306	Pengerahan dan Pendayagunaan Tenaga Kerja		2	HAN 20301
HAN 20404	Kapita Selekta Hukum Perpajakan Internasional		2	90 SKS
HAN 20405	Hubungan Keuangan antara Pusat dan Daerah		(2)	HAN 20110
HAN 30202	Tata Guna Tanah dan Bangunan Reform		3	
HAN 30203	Pengadaan Tanah	3		HAN 30201
HAN 30204	Pendaftaran Tanah	3		HAN 30201
HAN 30205	Tanah Sebagai Jaminan Hutang		2	HAN 30201
HAN 30206	Sistem Kondominium dan Masalahnya		2	HAN 30201
HAN 30801	Perbandingan Hukum Tanah		2	110 SKS
HAN 50801	Perbandingan Hukum Administrasi Negara	2		110 SKS
HIN 20302	Studi Kawasan Asia Tenggara (Asean)		2	HIN 20201
HIN 20303	Studi Kawasan Timur Tengah	2		HIN 20201
HIN 20901	Kapita Selekta Masalah Aktual Dalam HPI			90 SKS
HIN 20902	Hukum Lingkungan Internasional (a)	(2)		
HIN 20903	Hukum Maritim (a)		(2)	
HMP 20104	Komputer Untuk Ahli ukum			HPE 20401
HPE 20406	Kepailitan,koord dan Penundaan Pembayaran	3		
HPE 20505	Pasar Modal	2		
HPE 20507	Perusahaan Transnasional (a)	(2)		
HPE 30901	Hukum Tambang (a)		(2)	
HPE 30902	Hukum Enerji (a)		(2)	
HPE 30903	Akuntansi Untuk Ahli - Hukum (a)	(2)		
HPE 30904	Dasar-dasar Manajemen (a)	(2)		
HPE 30905	Hukum Perbankan		2	
HPE 30906	Hak Milik Intelektual		2	
HPE 30907	Hukum Kedokteran		2	
HPE 30908	Alih Teknologi (a)		(2)	
HPI 20303	Tindak Pidana Korupsi		2	HPI 10101
HPI 20304	Tindak Pidana Subversi		2	HPI 10101
HPI 20306	Aspek Pidana dan Aspek Hukum Lainnya dalam Media Masa Kependudukan dan Kesehatan		2	HPI 10101
HPI 20501	Ilmu Kedokteran Kehakiman		2	HAC 20201
HPI 20502	Psikiatri Kehakiman		2	
HPI 20503	Ilmu Forensik	2		HAC 20201
HPI 20504	Psikologi Untuk Ahli Hukum(a)	(2)		
HPI 20505	Penerapan Asas-asas Pancasila Dalam Pelaksanaan Hukum Pidana (a)	(2)		HAC 20201
HPI 30602	Viktimologi	2		
HTN 20801	Perbandingan Hukum Tata Negara	2		110 SKS
HTN 20802	Perbandingan Hukum Tata Negara Asean	2		110 SKS
	Jumlah	37	32	

APPENDIX 8

ASIA FOUNDATION LAW PROGRAMS IN INDONESIA

ASIA FOUNDATION LAW PROGRAMS IN INDONESIA

Previous Programs

Indonesian Legal Services Program (1979-81): In cooperation with the University of Indonesia, production of 58 core collections of law books to universities and legal aid groups, production of 27 microfiche collections of Indonesian laws and regulations, support for a number of legal aid organizations and research on legal topics, support for clinical legal education programs at four law schools, and production of two legal textbooks.

Congress of Indonesian Women (*KOWANI*): Production and distribution of legal literacy materials, especially to inform women of their rights under the Marriage Law of 1974 (1980-1982).

Indonesian Legal Infrastructure Program (1982-1984): In cooperation with the University of Indonesia, development of new legal reference and case materials, implementation of legal research projects, publication of the legal information clearing-house bulletin, Bahana, provision of subscriptions to law journals and indexing of Supreme Court decisions.

Department of Justice, National Law Development Agency (1983-1985): Establishment of an English language training lab, provision of U.S. training in legislative drafting, and support for activities of ASEAN Law Association.

Provincial Universities Legal Outreach Program (1987-1989): Basic legal education for local government officials and communities carried out by 15 state university law faculties.

Various universities: In-country scholarships for Masters and Doctoral degree programs for university law lecturers (1988-present).

Supreme Court: In-country training programs for judges (1990); Regional conferences of Asian Chief Justices and Court Administrators under LAWASIA (1987-present).

Legal Aid and Consultation Institute for Women and Families (1989-1990): Establishment of a nationwide network of branch offices to provide legal assistance, advice and counselling services to the public on family issues.

Department of Justice, National Law Development Agency: Development of computerized full-text, Indonesian-language legal research system on CD ROM and distribution to relevant government departments, law schools, law firms, NGOs, legislative bodies and private businesses. The first demo disk is now being developed. Ultimately, the complete collection of Indonesian laws, regulations, decrees, treaties, dergulation packages, provincial regulations, selected court rulings etc. will consist of five disks, to be updated each year.

Supreme Court: Judicial training in commercial law and preparation of practical, Indonesian-language reference books for sitting judges in various aspects of commercial law.

Consortium of Law Deans: A series of annual meetings of Indonesia's 26 state university law faculty deans. The most recent focused on the issue of curriculum reform, especially the need to make the law curriculum more practical, more professionally oriented and more relevant to the needs of law firms and private businesses.

National Committee on Legal Literacy: A series of five television shows broadcast over Indonesian national television to inform citizens of their rights under the law via entertaining dramas. The five shows have dealt with labor law, land law, criminal procedure, family law and the availability of legal aid services. This project has involved an unprecedented degree of cooperation among government, NGOs and university law faculties, and the five videos are being made available to all 26 state university law faculties for use in legal literacy programs.

University of Indonesia: Pilot project to introduce new fields of commercial law into the curriculum. These elective courses are taught largely by practicing attorneys.

Center for Legal Studies: Research, publications and seminars on relevant policy issues, including deregulation, capital markets, commercial arbitration, company law etc.

Department of Justice: Training and seminar programs and the provision of American consultants to assist the new Directorate-General for Patents, Copyrights and Trademarks.

Indonesian Environmental Forum (WALHI): U.S. observation tours, staff training and conferences to assist Indonesia's leading environmental NGO in estalishing menvironmental mediation and arbitration mechanisms. A number of NGOs, especially in Eastern Indonesia, have been assisted in programs to educate citizens in the area about land ownership rights.

Provided by The Asia Foundation, March 28, 1991.

APPENDIX 9

CURRICULUM AND SYLLABUS

Procurement Training
Department of Public Works
Government of Indonesia
1990-1991

III. PROGRAM TRAINING

1. Kurikulum dan Silabus

Training diadakan selama 6 hari dengan kurikulum dan silabus meliputi prosedur / tata cara pengadaan jasa konsultan, jasa konstruksi, dan pengadaan barang; baik dalam negeri maupun luar negeri; sejak persiapan pengadaan sampai dengan kontrak / penyerahan barang.

Kurikulum dan silabus secara terinci adalah sebagai berikut:

KURIKULUM DAN SILABUS

TATA CARA PENGADAAN JASA KONSULTAN

NO.	KURIKULUM	S I L A B U S	JAM PEL	PENGAJAR
1	Pokok-pokok Prosedur Pengadaan Jasa Konsultan Dalam Negeri	.Kebijaksanaan Pemerintah dalam Pengadaan Jasa Konsultan berdasarkan Keppres, Inpres, SK Men. Ekuin, Kepmen dll.	2	.Budihardjo, MSc/ Ir. Paul A.N.
2	Guidelines IBRD/ADB	.Peraturan Lembaga / Negara Pemberi Bantuan (IBRD/ADB) tentang tata cara prakualifikasi, dokumen lelang, evaluasi dll.	2	- " -

3	Longlisting & Short-listing Kriteria	.Prakualifikasi (Registrasi perusahaan, klasifikasi bidang pekerjaan, kualifikasi tingkat kemampuan, keharusan menjadi anggota profesi, penyusunan long list dan short list	2	.Wibisono, MSc/ Abdul Rachman,MSc
4	Dokumen Tender & Kriteria Evaluasi	.Isi Dokumen Tender .Pembukaan dan Evaluasi dokumen penawaran.	3	.Wibisono, MSc/ Abdul Rachman MSc
5	Evaluasi Teknis	.Kriteria Evaluasi Teknis .Klarifikasi	4	Abdul Rachman,MSc /Wibisono, MSc.
6	Evaluasi Biaya	.Kriteria Evaluasi Biaya .Negosiasi	4	.Ir.Harkantono/ Abdul Rachman,MSc
7	Masalah Kontrak	.Isi Kontrak .Cara Penyusunan Kontrak	1	.Handono,SH/ Budihardjo,MSc

440

KURIKULUM DAN SILABUS

TATA CARA PENGADAAN JASA KONSTRUKSI

NO.	KURIKULUM	S I L A B U S	JAM PEL	PENGAJAR
1	Pokok-pokok Prosedur Pengadaan Jasa Konstruksi Dalam Negeri	.Kebijaksanaan Pemerintah dalam Pengadaan Jasa Konstruksi berdasarkan Keppres, Inpres, SK Men. Ekuin, Kepmen dll.	2	.Ir Mulyadi K / Ir. Sunarto
2	Guidelines IBRD/ADB	.Peraturan Lembaga / Negara Pemberi Bantuan (IBRD/ADB) tentang tata cara prakualif., dokumen lelang,evaluasi dll.	2	.Ir Mulyadi K / Ir. Sunarto
3	Prakualifikasi DN	.Tata Cara Prakualifikasi DN .Klasifikasi &Kualifikasi Perus .SKN Peserta Lelang	2	.M.Natsir, SH/ Rusman MSc.
4	Prakualifikasi LN	.Tata Cara Prakualifikasi LN .Penilaian kemampuan teknis, personal dan keuangan perusahaan.	2	.M.Natsir, SH/ Rusman MSc.
5	Dokumen Lelang	.Penyusunan dok. lelang .Isi Dokumen Lelang DN & LN	5	.Rusman, MSc / M.Natsir, SH

6	Pemb.Penawaran & Evaluasi	.Proses Pembukaan Penawaran .Tata Cara Evaluasi Adm., Teknis dan Harga .Evaluasi Ll Lump Sum & HS	5	.Ir. Sunarto / Ir.Mulyadi,K
			18	

KURIKULUM DAN SILABUS

TATA CARA PENGADAAN BARANG DAN JASA LAIN

NO.	KURIKULUM	S I L A B U S	JAM PKL	PENGAJAR
1	Pokok-pokok Prosedur Pengadaan Barang dan Jasa Lain Dalam Neg.	.Kebijaksanaan Pemerintah dalam Pengadaan Barang/Jasa lain berdasarkan Keppres, Inpres, SK Men. Ekuin, Kepmen dll.	2	.Drs.Situmorang/ Dra.Rosna S.
2	Guidelines ADB/IBRD	.Peraturan Lembaga / Negara Pemberi Bantuan (IBRD/ADB) tentang tata pengadaan, dok.lelang, evaluasi, dok. kontrak, dan delivery	1	.Drs. Situmorang/ Dra. Rosna S.
3	Dokumen Lelang DN/LN	.Penyusunan Dokumen Lelang .Isi Dokumen Lelang	4	.Ir.Surastoto/ Dra. Rosna S

442

		.Cara menyusun Spec. Teknis		.Ir. Nurachim / Drs.Situmorang
4	Pembukaan Penawaran	.Proses Pembukaan Penawaran	2	.Dra. Rosna S./ Ir. Surastoto
5	Evaluasi	.Tata cara evaluasi Adm., Teknis dan harga	3	.Ir.Surastoto/ Dra. Rosna S
6	Dokumen Kontrak	.Penyusunan Dok. Kontrak	2	.Ir.Supriyatno/ Dra.Rosna S
7	Penyerahan Barang	.Penyerahan Barang oleh Rekanan/ekspedisi .Pemeriksaan & Penerimaan Brg	3	.Ir.Nurachim/ Drs.Situmorang
			17	

2.Methode Penyajian

Materi / bahan training disajikan dengan cara / methode :

- Kuliah / ceramah (70 %)
- Diskusi/studi kasus (30 %)

APPENDIX 10

TRAINING SCHEDULES

Procurement Training
Procurement of Goods
Department of Public Works
Ujung Pandang
January, 1991

JADWAL TRAINING TATA CARA PENGADAAN BARANG DAN JASA DI UJUNG PANDANG -KELAS A -

Hari Pertama (Senin 28 Januari 1991)

NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	P e m b u k a a n	
2.	08.45 - 09.30	Pokok2 Prosedur Pengad. Jasa Konsultan DN	Budihardjo MSc./Tim Pengajar.
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Guidelines IBRD / ADB	- " -
5.	11.15 - 12.00	- " -	
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Longlisting & Shortlisting	Wibisono, MSc / Budihardjo, MSc.
7.	13.45 - 14.30	Dokumen Tender	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Evaluasi Teknis	Wibisono, MSc / Budihardjo, MSc.
9.	15.30 - 16.15	- " -	- " -
10.	16.15 - 17.00	- " -	- " -

Hari Ke-dua (Selasa 29 Januari 1991)

NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 -08.45	Evaluasi Teknis	Wibisono, MSc./ Budihardjo MSc
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Evaluasi Teknis	- " -
5.	11.15 - 12.00	Kriteria Ev. Biaya	Abdurachman, MSc./ Dra. Rosna S.
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Kriteria Ev. Biaya	- " -
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Kriteria Ev. Biaya	- " -
9.	15.30 - 16.15	Masalah Kontrak	Budihardjo, MSc.

445

Hari Ke-tiga (Rabu 30 Januari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Pokok2 Prosedur Pengad. Jasa Konstruksi	Ir.Mulyadi K./ Drs. A.Suganda
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	Guide Line IBRD/ADB	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Guide Line IBRD/ADB	- " -
5.	11.15 - 12.00	- " -	- " -
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Prakualifikasi DN	Ir.Sunarto / Ir. Mulyadi. K
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Prakualifikasi LN	- " -
9.	15.30 - 16.15	- " -	- " -

Hari Ke-empat (Kamis 31 Januari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Dokumen Lelang	Ir.Mulyadi.K / Ir.Sunarto
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Dokumen Lelang	- " -
5.	11.15 - 12.00	- " -	- " -
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Pemb.Penawaran & Evaluasi	Ir.Sunarto / Ir. Mulyadi K
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Pemb.Penawaran & Evaluasi	- " -
9.	15.30 - 16.15	- " -	- " -

144

Hari Ke-Lima (Jum'at 1 Februari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Pokok2 Prosedur Pengad. Barang DN	Drs. JH Situmorang/ Ir. Nurachim
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	Pokok2 Prosedur Pengad. Barang LN	Ir. Nurachim / Drs.JH. Situmorang
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Pokok2 Prosedur Pengad. Barang LN	- " -
	11.15 - 13.30	I s t i r a h a t	
5.	13.30 - 14.15	Dokumen Lelang DN	Ir. Nurachim / Drs. JH Situmorang
6.	14.15 - 15.00	- " -	- " -
7.	15.00 - 15.45	Dokumen Lelang LN	Ir. Surastoto/ Ir. Supriyatno
	15.45 - 16.00	I s t i r a h a t	
8.	16.00 - 16.45	Dokumen Lelang LN	- " -
9.	16.45 - 17.30	Pemb. Penawaran & Evaluasi Brg. DN/LN	Drs. JH. Situmorang/ Ir. Nurachim
10.	17.30 - 19.30	I s t i r a h a t	
11.	19.30 - 21.00	Pemb.Penawaran & Evaluasi	-"-

Hari Ke-enam (Sabtu 2 Februari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45		
2.	08.45 - 09.30	Dok. Kontrak DN/LN	Ir. Supriyatno/ Ir. Surastoto
3.	09.30 - 10.15	- " -	- " -
	10.15 - 10.30	Istirahat	
4.	10.30 - 11.15	Penyerahan Barang LN.	Ir. Supriyatno / Ir. Surastoto
5.	11.15 - 12.00	Penyerahan Brg.LN	
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Penyerahan Brg.DN	Drs.JH.Situmorang/ Ir. Nurachim
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	Istirahat	
8.	14.45 - 15.45	P e n u t u p a n	

447

JADWAL TRAINING TATA CARA PENGADAAN BARANG DAN JASA DI UJUNG PANDANG -KELAS B -

Hari Pertama (Senin 28 Januari 1991)

NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	P e m b u k a a n	
2.	08.45 - 09.30	Pokok2 Prosedur Pengad. Jasa Konsultan DN	Budihardjo, MSc./ Tim Pengajar
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Guidelines IBRD / ADB	- " -
5.	11.15 - 12.00	- " -	
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Longlisting & Shortlisting	Abdulrachman MSc./ Dra. Rosna S.
7.	13.45 - 14.30	Dokumen Tender	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Evaluasi teknis	Abdulrachman,MSc / Dra. Rosna.S.
9.	15.30 - 16.15	- " -	
10.	16.15 - 17.00	- " -	- " -

Hari Ke-dua (Selasa 29 Januari 1991)

NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 -08.45	Evaluasi Teknis	Abdulrachman MSc./ Dra. Rosna S.
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Evaluasi Teknis	- " -
5.	11.15 - 12.00	Kriteria Ev. Biaya	Wibisono,MSc/ Budihardjo, MSc.
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Kriteria Ev. Biaya	- " -
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Kriteria Ev. Biaya	- " -
9.	15.30 - 16.15	Masalah Kontrak	Wibisono, MSc.

448

Hari Ke-tiga (Rabu 30 Januari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Pokok2 Prosedur Pengad. Jasa Konstruksi	Ir. Mulyadi.K. / Drs. A. Suganda
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	Guide Line IBRD/ADB	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Guide Line IBRD/ADB	- " -
5.	11.15 - 12.00	- " -	- " -
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Prakualifikasi DN	Rusman Islmail, MSc/ Rds.A.Suganda
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Prakualifikasi LN	- " -
9.	15.30 - 16.15	- " -	- " -

Hari Ke-empat (Kamis 31 Januari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Dokumen Lelang	Rusman Ismail, MSc/ Drs. A. Suganda
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	- " -	- " -
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Dokumen Lelang	- " -
5.	11.15 - 12.00	- " -	- " -
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Pemb.Penawaran & Evaluasi	- " -
7.	13.45 - 14.30	- " -	- " -
	14.30 - 14.45	I s t i r a h a t	
8.	14.45 - 15.30	Pemb.Penawaran & Evaluasi	- " -
9.	15.30 - 16.15	- " -	- " -

449

Hari Ke-Lima (Jum'at 1 Februari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/PENGAJAR
1.	08.00 - 08.45	Pokok2 Prosedur Pengad. Barang DN	Drs. JH. Situmorang/ Ir. Rurachim
2.	08.45 - 09.30	- " -	- " -
3.	9.30 - 10.15	Pokok2 Prosedur Pengad. Barang LN	Ir. Nurachim / Drs. JH. Situmorang
	10.15 - 10.30	I s t i r a h a t	
4.	10.30 - 11.15	Pokok2 Prosedur Pengad. Barang LN	- " -
	11.15 - 13.30	I s t i r a h a t	
5.	13.30 - 14.15	Dokumen Lelang LN	Ir.Surastoto/ Ir. Supriyatno
6.	14.15 - 15.00	- " -	- " -
7.	15.00 - 15.45	Dokumen Lelang DN	Ir. Nurachim / Drs.JH. Situmorang
	15.45 - 16.00	I s t i r a h a t	
8.	16.00 - 16.45	Dokumen Lelang DN	- " -
9.	16.45 - 17.30	Dokumen Kontrak DN/LN	Ir.Supriyatno/ Ir. Surastoto
10.	17.30 - 18.15	- " -	- " -

Hari Ke-enam (Sabtu 2 Februari 1991)			
NO.	JAM	MATA PELAJARAN	PENYAJI/MODERATOR
1.	08.00 - 08.45	Pemb.Penawaran & Evaluasi Brg. DN/LN	Drs. JH. Situmorang/ Ir. Nurachim
2.	08.45 - 09.30	-"-	-"-
3.	09.30 - 10.15	- " -	- " -
	10.15 - 10.30	Istirahat	
4.	10.30 - 11.15	Penyerahan Barang DN Brg DN/LN	Drs. JH. Situmorang/ Ir. Nurachim
5.	11.15 - 12.00	Penyerahan Brg.DN	-"-
	12.00 - 13.00	I s t i r a h a t	
6.	13.00 - 13.45	Penyerahan Brg.LN	Ir. Supriyatno / Ir. Surastoto
7.	13.45 - 14.30	Penyerahan Brg.LN	-"-
	14.30 - 14.45	Istirahat	
8.	14.45 - 15.45	P e n u t u p a n	

450

APPENDIX 11

SYLLABI

PERTAMINA LOGISTICS COURSES

TERTAMINA

BPS CURRICULUM:
(YOUNG PROFESSIONALS PROGRAM)

RENCANA KEGIATAN BIMBINGAN PROFESI SARJANA

1,5 bulan	1,5 bulan	1 bulan	2 bulan	2 bulan	1 bulan
+ 257 JP LMFE - U I ...	+ 53 JP NON-LOG + 330 JP LOGISTIK	+ 240 JP PPT MIGAS - CEPU	KERJA LAPANGAN DI UEP III / CIREBON	KERJA LAPANGAN DI UP IV / CILACAP	##### xx ##### xx ##### xx

- Pelajaran klas & test tertulis :

1. 13 minggu pertama + 640 JP (LMFE - UI,Non LOG,LOG) di Jakarta.

   - Satu minggu a' 5 hari kerja, setiap hari 10 JP kecuali hari Jum'at 9 JP.
   - Jam pelajaran dimulai 7.30 s/d 16.15, setiap jam pelajaran berlangsung 45 menit, dengan 3 kali istirahat.
   - Materi yang diberikan oleh LMFE-UI diusulkan ditambah dengan materi analisa harga pasar selama 7 sessi sedangkan materi dan jumlah jam pelajaran lainnya yang diberikan oleh LMFE-UI sama dengan penataran Logistik Penyegaran Manajemen.

2. 4 minggu berikutnya + 240 JP di PPT MIGAS Cepu dengan perincian sebagai berikut :

   + 220 JP : - Pengetahuan bahan-bahan
   - Pengetahuan peralatan teknik
   - Pengetahuan material
   - Pengetahuan industri minyak & pemeliharaan

   + 20 JP : - Peninjauan kelapangan minyak, kilang, utilities, bengkel dll. di Cepu

   - Satu minggu a' 6 hari kerja a' 10 sessi kecuali jum'at 9 sessi

3. Setiap Senin, Rabu, Jum'at Senam Tera Indonesia jam 05.00-06.00

- Kerja lapangan di UEP III/CRB :
  - Lap. Pengeboran
  - Perawatan/pemeliharaan sumur

  dengan dipimpin oleh instruktur PPT MIGAS Cepu.

- Kerja lapangan di UP IV/Cilacap :
  - Pemeliharaan kilang
  - T.A. Kilang

  dengan dipimpin oleh instruktur PPT MIGAS Cepu.

- Libur persiapan pembuatan karya tulis.
- Ujian akhir lisa & ujian ulangan.
- Sidang panitia penguji.
- Judisium + SK

	SYLABUS : B P S MATA KULIAH : M A N A G E M E N T	JAM PELA-JARAN	P E N G A J A R
I.	MANAGEMENT BY OBJECTIVE		LMFI. U.I.
	A. PENGANTAR MBO :		
	1. Arti dan peran Management	1	
	2. Perencanaan	1	
	3. Pengambilan keputusan & pemecahan masalah	2	
	4. Pengorganisasian dan pengisian jabatan	1	
	5. Pengendalian	1	
		6	
	B. MANAGEMENT PARTISIPATIF :		
	1. Azas-azas Management partisipatif	1	
	2. Dinamika kelompok	4	
	3. Kepemimpinan	3	
	4. Motivasi	3	
	5. Komunikasi	2	
	6. Konflik dalam organisasi	3	
		16	
	C. MANAGEMENT BERDASARKAN SASARAN :		
	1. Arti dan peran MBO	1	
	2. Proses MBO	1	
	3. Persyaratan MBO	1	
	4. Manfaat MBO	1	
	5. Latihan MBO	2	
		6	
	D. TEST MBO	2	
	Jumlah I.	30	
II.	STATISTIK		
	1. Pengertian, tujuan dan penggunaan statistik	2	
	2. Distribusi frequensi	2	
	3. Analisa pareto	2	
	4. Sampling	6	
	5. Analisa indeks	5	
	6. Queuing theory	2	
	7. Queuing theory, aplication	4	
	8. Kasus statistik	3	
	9. Test statistik	2	
	Jumlah II.	28	
III.	FORECASTING		
	A. 1. Peran forecasting & penggunaan	2	
	2. Metode dalam forecasting	3	
	3. Teknik forecasting	8	
	4. Test forecasting	2	
		15	
	B. Analisa harga / Pasar	7	
	Jumlah III.	22	

SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
NETWORK PLANNING :		LMFE - U I
1. Konsep sistem	4	
2. Konsep network	6	
3. Teknik membuat diagram	8	
4. Analisa network	8	
5. Pengendalian proyek	3	
6. Test network planning	2	
Jumlah IV.	31	
LINEAR PROGRAMMING :		
1. Linear programmer & aplikasi	1	
2. Interpretasi grafis	2	
3. Metode simplek	8	
4. Analisa kepekaan	3	
5. Dinamika programming	3	
6. Kasus Linear programming	5	
7. Test Linear programming	2	
Jumlah V.	24	
MATERIAL MANAGEMENT		
A. 1. Sistem produksi & permasalah annya	2	
2. P P C	3	
3. Inventory control & M R P	5	
4. Material management	5	
5. Test material management	2	
Jumlah VI	17	
FINANCIAL MANAGEMENT		
A. PEMBELANJAAN		
1. Fungsi & peran pembelanjaan	1	
2. Perputaran dana	2	
3. Management modal kerja :		
a. Pengelolaan kas	1	
b. Pengelolaan piutang	1	
c. Pengelolaan persediaan	3	
4. Analisa Break-even	4	
5. Perencanaan & pengendalian keuangan	8	
6. Kebijaksanaan investasi :		
a. Time value of money	2	
b. Kriteria investasi	8	
7. Kebijaksanaan sumber dana	2	
8. Kebijaksanaan struktur keu.	4	
9. Leasing borowing	8	
10. Internal kontrol	8	
Jumlah A.VII.	52	
B. ANALISA LAPORAN KEUANGAN :		
1. Ruang Lingkup analisa laporan keuangan	1	
2. Laporan keuangan	4	
3. Analisa modal kerja & likuiditas	6	
4. Analisa struktur keuangan	4	
5. Analisa rentabilitas	5	
6. Analisa Cash flow	4	
7. Kasus analisa laporan keu.	12	
Jumlah B.VII	36	

	SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
VIII	PERSONNEL MANAGEMENT		LMFE - U I
	1. Perencanaan sumber daya manusia	1	
	2. Kebijaksanaan pegawai	1	
	3. Analisa jabatn	2	
	4. Rekruitment selection and placement	2	
	5. Latihan & pengembangan	2	
	6. Reward and punishment system	2	
	7. Transfer dan promosi	1	
	8. Performance appraisal	2	
	9. Test sumber daya manusia	2	
	Jumlah VIII	15	
	Jumlah sesi seluruhnya	257	

45

	SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
IX.	KOMPUTERISASI : - Manajemen informasi	7	Dosen PERTAMINA non S D L
X.	SUMBER DAYA MANUSIA : - Industrial relation - Psykhologi industri	 5 5	
XI.	ANGGARAN : - Anggaran operasi & investasi s/d SKOP - Anggaran pembelian material operasi & kapital s/d SKIP	 5 5	
XII.	LINDUNGAN LINGKUNGAN	4	
XIII	KESELAMATAN KERJA	4	
XIV.	CONTROLLING/AUDITING & WASKAT	4	
XV.	ASURANSI & KLAIM	8	
XVI.	AKUNTANSI HARTA BENDA MODAL & HUTANG PIUTANG - Sistematika rekening & code biaya	 6	
		53	

456

	SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
XVII	MANAGEMENT LOGISTIK		Dosen dari S D L
	A. POLICY :		
	1. Kebijaksanaan perusahaan di bidang Logistik	4	
	2. Pengantar management & organisasi Logistik	7	
	3. UU 8/71, B.K.K.A. dll	4	
	4. Standardisasi	4	
	5. Coding	4	

		23	
	B. PENGADAAN :		
	1. Intro : Pengadaan	2	
	2. Pengendalian tingkat persediaan, analisa persediaan barang umum, suku cadang, program	10	
	3. Inventory control	16	
	a. EOQ formula dll.		
	b. Ordering review		
	c. Safety stock&stock level		
	4. Surplus, Dead stock,Salvage, Substitusi,Fast/Slow moving item	5	
	5. Pembelian :		
	a. Fungsi-fungsi	5	
	b. Sourcing	5	
	c. Terms, condition etc.	5	
	d. KEPPRES 29/84, KEPPRES 6/88, INPRES 1/88	4	
	e. Analisa harga/pasar	5	
	f. System pembelian	10	
	g. Follow up	5	
	6. Dokumen-dokumen/formulir pengadaan - pengenalan/latihan		

		72	
	C. OPERASI :		
	1. Intro : Operasi	2	
	2. INPRES 4/84 dan ketentuan-ketentuan lain yang terkait	4	
	3. Clearance	15	
	4. Claim	4	
	5. Penghapusan & penyisihan	4	
	6. Freight forwarder	2	
	7. Distribution	4	

		35	
	8. Warehousing :	25	
	a. Receiving		
	b. Storage & Up keep,preservation		
	c. Issuing		
	d. Despatching & packaging		
	e. House keeping & security		
	f. Material handling		
	9. Proyek	10	
	a. Pengadaan material proyek		
	b. Pergudangan		
	c. Tata usaha		
	d. Surplus material proyek		

		25	

SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
Pindahan	35	Dosen dari S D L
C. OPERASI :		
10. Harta benda bergerak a. Tata usaha HBB b. Inventarisasi c. Penyimpanan	6	
11. Toolhouse a. Movable administration b. Rig & Field supplies c. Tool dressing	10	
12. Dokumen/formulir operasi - pengenalana/latihan		
	51	
D. ANGKUTAN		
1. Undang-undang lalu-lintas	30	
2. Jenis/type/spec & kegunaan alat angkut & angkat		
3. Operasi angkutan : - angkutan barang - angkutan penumpang		
4. Bongkar muat : - loose - peti/krat - pallet/bulk Bongkar muat di pelabuhan		
5. Tata usaha angkutan : - Formalitas * kendaraan * dispensasi * pemindahan kendaraan - Administrasi angkutan - Laporan-laporan		
6. Pool & garasi : - Inspeksi/service/perbaikan /overhoul/uji kendaraan - Bahan bakar		
7. Mode angkutan : - Darat - Laut - Udara - Rig move - Angkutan peti kemas	14	
8. Carless system	2	
9. Dokumen/formulir - angkutan perkenalan/latihan		
	46	
E. DAL & BANG.		
1. Intro Dal & Bang	2	
2. MESC/KIMAP · Dokumentasi MESC/KIMAP · MESC/KIMAP General mat - MESC/KIMAP Spare parts - Aplikasi KIMAP · Kode lokal - Cross Reference Penciptaan KIMAP dan lain-lain	20	
Dipindahkan	22	

	SYLABUS : B P S MATA KULIAH : MANAGEMENT	JAM PELA-JARAN	P E N G A J A R
	Pindahan	22	Dosen dari S D L
	3. Tata usaha persediaan		
	- Harga satuan penerimaan	4	
	- Pembukuan persediaan & harga gudang :	25	
	- Gudang & pemindahan antar gudang, sub gudang, imprest stock, gudang mobil		
	- MIT/MNYCF/salvage/penyusutan/PCOD		
	- Tata usaha persediaan		
	- Stock record & account		
	- Pemeriksaan persediaan		
	- Permintaan pembayaran & pembebanan		
	- Verifikasi		
	4. UMMS/LOGICS	20	
	5. PPCS/OPCS	10	
	6. Prosedure & sistem	4	
	7. Dokumen/formulir Dal & Bangperkenalan/latihan		

		85	
XVII	ALLOCATION & DISTRIBUTION	6	
XIX	VEHICLES ROUTING & SCHEDULING	8	
XX.	NEGOSIASI	4	

		18	
	Total keseluruhan Logistik	330 ====	

	SYLABUS : B P S MATA KULIAH : PENGETAHUAN MATERIAL & EQ. DAN P.I.M.	JAM PELAJARAN	P E N G A J A R
I.	PENGETAHUAN BAHAN : - Metalurgi - Iron & steel - Non Ferous metals - Non metallic metals - Heat treatment - Mekanika kekuatan bahan - Corrosive - Standard-standard material	15	PPT MIGAS - CEPU
II.	PENGETAHUAN TEHNIK PERALATAN - Rotating equipment - Pressure vessel - Hoisting & lifting equipment - Electric equipment - Instrument equipment - Shop equipment - Pengetahuan gambar teknik peralatan & material	30	
III.	PENGETAHUAN MATERIAL & PENGUKURAN & PENULISAN SPECIFIKASI : - Material D & P (MG 01 s/d 12) - General material (MG 58,64,68,69,70,73,74,75, 76,77,78,79,80,81,85,87,88,89) - Refinery material (MG 41,42,43,44,56,59,62,63, 64,67,74,85,86,89).	 20 70 30	
IV.	PENGETAHUAN INDUSTRI MINYAK : - E P - P - P D N - P & T	30	
V.	PEMELIHARAAN / MAINTENANCE : - E P - P - P & T	25	
VI.	PENINJAUAN DILAPANGAN MINYAK, UNIT PENGOLAHAN DLL. DI CEPU	20	
		--- 240 ===	

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

PROJECT PAPER ANNEXES

VOLUME II C

461

ANNEX A-7

SOCIAL SOUNDNESS ANALYSIS

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

462

Table of Contents

I. Introduction 1

II. Targeted Groups 2

A. Strengthened Legal Environment 2
B. Improved Procurement 2
1. Government Procurement 3
2. State-owned Enterprise Procurement 3

III. Non-targeted Groups 3

IV. Impacts 4

A. Private Sector 4
1. Existing Conditions 4
2. Planned Project Impacts 5

B. Labor 5
1. Existing Conditions 5
2. Planned Project Impacts 6

C. Provincial Residents 6
1. Existing Conditions 6
2. Planned Project Impacts 7

D. The Poor 7
1. Existing Conditions 7
2. Planned Project Impacts 8

E. Women 8
1. Existing Conditions 8
2. Planned Project Impacts 8

Sources Consulted 10

463

"In Indonesia ..., the current economic globalization has already brought a negative impact namely the widening gap between the economically-weak businessmen and the economically-strong conglomerates and other business groups which have kept growing in numbers.

"Laws are needed to improve the situation especially with regard to continuously making the national income increase while at the same time assuring equal opportunity for small-scale business, cooperations and the economically weak groups."

Justice Minister Ismail Saleh
The Indonesian Times
May 8, 1991

I. INTRODUCTION

The interventions planned by this project for economic law and procurement development are at the macroeconomic level. In analyzing the social implications of project activities, impacts on individuals or specific groups are not easily attributable directly to outcomes of planned activities. However, an improved legal and regulatory environment will fundamentally strengthen the private sector and its participation in the economy. An improved procurement system will increase the government's capacity to achieve development objectives and efficient operation of state-owned enterprises (SOEs); both functions benefit broad groups in society. There are identifiable groups which can be considered targets of project activities. Likewise, there are some groups which are not specifically targeted and will not benefit directly from the improved legal and procurement environment.

Indonesia, despite rapid growth and promising reforms, remains among the poor countries of the world. Conditions for a large number of Indonesians require dramatic improvement if the masses in the exploding urban areas and the large numbers continuing to reside in rural areas are to share fully in the development process. Side-effects of growth and development themselves become obstacles to social and economic improvements. Pollution, over-taxed physical and social infrastructure, disparities of income along spatial, ethnic and class lines, and heavy concentrations of ownership and financial power all diminish the benefits of the development process if left unmitigated. But growth itself offers additional resources for mitigation while careful development planning and policy reform can minimize these detrimental dimensions to Indonesian growth.

The ELIPS project, by strengthening the economic law infrastructure and improving government and state-owned enterprise procurement, will contribute to sustaining the pace of growth and the development process. Alone it cannot ameliorate the side-effects of the development process. It can and does seek to broaden the base of participation in the economy, make transparent law and procurement systems, and stimulate the social improvement of targeted groups.

464

II. TARGETED GROUPS

Individuals and groups which can be beneficiaries of project activities are those in a position to benefit directly from an improved legal environment and strengthened procurement practices. Included are those already participating in a substantial way in (and those benefiting from) private sector transactions and government procurement. The project interventions seek to broaden and deepen participation by individuals and identifiable groups in market transactions and procurement. The following are examples of project beneficiaries.

A. Strengthened Legal Environment

The private sector has been growing rapidly in Indonesia. A key element in the country's development strategy is to enable greater numbers of people and firms to take part in production, exchange, savings, and investment via stimulation of the private sector. The efficient organization and motivation which markets bring to private transactions is inherently inclusive of additional participants. Size and influence in the economy become less important as organizing criteria for transactions as competitive markets place more emphasis on quality and cost-competitiveness in determining successful participants.

Project beneficiaries in the private sector include larger numbers of smaller firms. Of special note in this regard are enhanced opportunities for women entrepreneurs to become established and grow within the private sector. The effective result of broadening participation in the economy is stimulation of the middle class and gradual conversion of the most energetic and organized informal sector participants into formal sector small-scale entrepreneurs. Strengthened financial intermediaries offer new opportunities for savers to receive competitive rates of compensation on funds lent short-term and long-term, through new financial media such as insurance, stock markets, mutual funds, and pension funds.

Indirectly broad groups in society benefit from a smoothly functioning private sector which reduces costs and raises quality and efficiency. Such groups include the urban and rural poor which find that their income levels have larger effective purchasing power. Labor benefits from job generation by medium and small-scale enterprise participation in the growth of the economy. Provincial and rural citizens have enhanced opportunities as market forces spread gradually beyond the major urban commercial centers, bringing greater opportunities for economic participation.

B. Improved Procurement

Government and state-owned enterprise procurement is a large and important dimension to Indonesia's economy. Planned improvements in procurement will increase accessibility of government contracts beyond the largest, most financially solid domestic firms now able to bid on projects. More efficient procurement operations, which contain equity dimensions themselves, will open up new opportunities for firms and individuals to participate in procurement along geographic, ethnic and gender dimensions.

365

1. Government Procurement

The success of 5 year development plans, implemented through annual development budgets, rests partly on efficient expenditure of development funds for capital projects. Improved procurement practices can strengthen the ability of middle size private firms to capture part of the government's expenditure on capital projects. Criteria in procurement guidelines also direct government to take steps to broaden participation in procurement by smaller scale firms and to disperse procurement along regional, ethnic and gender lines.

Indirectly broad groups in society benefit from a smoothly functioning government procurement system which increases competition for contracts, lowers costs of projects, and assures more timely delivery of completed projects which meet the technical specifications required by government. Among the major targets of development expenditure are the urban and rural poor, provincial regions, the young and aged, and women.

2. State-owned Enterprise Procurement

The public, via government ownership (total or partial) of state-owned enterprises, pays through budget subsidies for inefficient parastatal operation. Losses by state-owned enterprises become a drain on revenue, which effectively diverts funds away from other societal needs. Thus, improved procurement by state-owned enterprises reduces losses to government from one set of parastatals and raises surpluses (profits) accruing to the public via the treasury. Improved parastatal procurement also offers greater opportunities for broadening the participation of middle and small scale firms.

Improved operation of state-owned enterprises not only lowers the subsidy required of taxpayers, but offers opportunities to improve the quality and reduce the price of products and services. Thus, the general public can benefit from improvements in transport, communication, utilities, agricultural services, manufacturing, mining, and state trading. Such benefits, however, have more than proportionate favorable impacts on the lower income groups and the poor whose effective purchasing power is extended to a broader market basket of goods and services.

III. NON-TARGETED GROUPS

Some groups are not specifically targeted by the project; they will not benefit directly from the impacts of a strengthened commercial law environment and improved procurement. Small farmers in non-estate crops, lower-level wage earners in the informal sector and the chronically unemployed or underemployed do not use the dimensions of the economy which will be affected by the project. However, even these groups stand to benefit indirectly from a vibrant and growing private sector, stronger capacity to implement development plans and budgets, and more efficient operation of state-owned enterprises. Continuing reductions in

466

the absolute numbers of the poor and increases in wages and per capita incomes promise to narrow the economic marginality of these groups and gradually bring more of each group's members into the main stream of the formal economy.

IV. IMPACTS

The social impacts of ELIPS are especially important for five stakeholder groups, each of which needs to be positively affected by project outcomes. The private sector, labor, provincial residents, the poor, and women each should find improved conditions and opportunities for active participation in the economy if the ELIPS project is to be successful. In the design stage, therefore, the needs of these key groups have been taken into account. Through both direct project impacts and indirect improvements in the economy, each group can benefit from project components. For each group the existing conditions are briefly described, followed by a discussion of specific ways in which ELIPS project activities will have positive impacts.

A. Private Sector

1. Existing Conditions

The private sector dominates output of goods and services in Indonesia. Asian Development Bank estimates show that the private sector grew at 13.5% p.a. over the period 1983-1989 vs. public sector growth of 8.2%. Private sector shares of gross domestic product rose from 79% in 1983 to 81% in 1989. However, there is substantial variation in private sector participation among sectors, ranging from low participation in some sectors (in 1989 utilities 18%, banking and finance 50%, and public administration and defense 0%) to high participation in others (in 1989 agriculture 98%; construction 97%, retail trade, hotels and restaurants 95%; transport and communication 80%; manufacturing 77%; and mining and quarrying 77%). However, state-owned enterprises remain large players in some sectors, including public administration and defense (where privatization of some public services remains to be effectively considered); for utilities (electricity, gas and water supply) the share of private output fell between 1983 and 1989 from 27% to 18%. There was rapid private sector expansion some sectors: for banking and finance the share of private sector output rose from 40% in 1983 to 50% in 1989 while for manufacturing the share rose from 72% to 77% and for mining and quarrying the share rose from 71% to 75%.

Within the private sector there is considerable concentration of economic power among conglomerates, introducing elements of monopoly and oligopoly power. As selective privatization of state-owned enterprises is implemented further concentration of economic power is possible. In 1987-88 there was an especially high level of government ownership (by % of value added) in three sectors: basic metals (89.1% government ownership, 6% private, 4.9% foreign); basic chemicals (72.6% government ownership, 14.6% private, 12.8% foreign); and cement (61.5% government ownership, 24.8% private, 13.7% foreign). The private sector dominated production in: textiles

467

(68.1% private, 24.8% foreign, 7.1% government); food products-ISIC 311 (53.9% private, 9.4% foreign, 36.7% government); food products-ISIC 312 (53.8% private, 27.6% foreign, 18.6% government); wood products (83.3% private, 13% foreign, 3.7% government); tobacco (95.9% private, 3.3% foreign, 0.8% government); and garments (98% private, 1.8% foreign, 0.2% government). Private conglomerates (highly intertwined among themselves through cross holdings, joint ventures and shared senior executives) and large social foundations (Yayasans: founded with an endowment for social purposes, tax-exempt; playing an important role in financing the Indonesian economy) present the possibility that privatization of SOEs will result in further concentration of economic power within a few private sector entities. Care must be taken to assure that sale of ownership is widely distributed among small investors and employees so that concentration does not hamper the economy even as privatization occurs. Added impetus for this trend comes from President Suharto's January 4, 1990 appeal for large private firms to divest up to 25% of their corporate equity to cooperatives.

2. Planned Project Impacts

The largest beneficiary of ELIPS activities should be the private sector. Dependent upon a solid foundation of law for production and exchange, with access to government business opportunities via sound procurement mechanisms, private sector nurturing is the major goal being pursued. All activities are planned directly to contribute to a strengthened private sector. Drafting and enactment of economic law, as well as its implementation and enforcement, will provide the foundation required for private domestic and foreign participation in the economy. Enhanced information on the legal infrastructure contributes to a fair and transparent legal system. Improved procurement procedures and a cadre of trained procurement officials would increase the resources available for development and SOE capital projects, with the private sector gaining access on more equitable and timely bases to this business. Training components for the law and its information sources are being specifically designed to allow for private sector participation, often on a cost-recovery basis. Improved procurement regulations and development of training materials are intended to create opportunities for private sector firms to provide procurement related services. The structuring of the project itself will include private sector participation in delivery of commodities and services.

B. Labor

1. Existing Conditions

In 1990 there were 76 million Indonesians in the labor force. This stems from a population of 180 million which grew 2.1% p.a. 1985-1990 and is expected to grow at 1.9% p.a. during Repelita V. The labor force is growing at approximately 3% p.a. or 2.4 million new entrants seeking jobs each year. Official unemployment figures are below 3%, but underemployment may be as high as 40%. The prospects for increased numbers of jobs focus on manufacturing, services and agriculture. Government has

468

set a target of 5% growth of jobs, a rate just adequate to absorb the anticipated growth of the labor force. In some sectors shortages of trained workers are appearing, including technicians, accountants, engineers and managers. Lagging provision of critical skills in the economy are pushing up compensation (such as for financial analysts) and bidding skilled workers away from the public sector.

2. Planned Project Impacts

Job creation and higher worker productivity and compensation derive from the macroeconomic objectives being pursued. A fundamental dimension to enhanced employment opportunities is its linkage to private sector activity. In most sectors of the economy Government is dependent upon private investment and production decisions for job creation. Thus, the direct stimulation of ELIPS to the private sector serves also to stimulate employment. Within a growing labor market, there will be a premium on workers who possess or can obtain the skills and experience required in an economy evolving towards more sophisticated manufacturing (increasingly for export) and an ever more complex financial and service sector. Provision is made in the project for short-courses which train private sector lawyers and business people about the economic dimensions to the law. Improved curriculum content in the nation's law schools, a planned project activity, can also equip graduates with better knowledge about the law. A streamlined procurement system would improve the opportunities for additional Indonesian businesses to participate in government and SOE procurement activities. All of these project activities improve the skill base of labor and increase job opportunities related to economic law and procurement.

C. **Provincial Residents**

1. Existing Conditions

The regional (inter-island) distribution of population in Indonesia is extremely unbalanced, with the islands of Java, Madura and Bali accounting for some 7% of total land area but containing almost 65% of the total population. Growth rates of population on these densely populated islands has been slower than in the other regions of Indonesia, but Government has sought to accelerate a rebalancing of population distribution through its transmigration policy of opening up new lands in the outer islands and sponsoring resettlement. Differential growth among provinces within Indonesia has unevenly distributed the benefits of Indonesia's fast-paced development. The growth of real consumption expenditures during 1981-87 ranged from 3.86% p.a. in Java to 2.86% in Sumatra, 1.27% in Kalimantan, and less than 1% in Sulawesi. Similarly there have been variations in growth rates of regional non-oil GDP over the same period (4.65% in Java, 4.08% in Kalimantan, 3.39% in Sumatra, and 2.96% in Sulawesi). The economy's growth, based largely on non-oil manufacturing, export agriculture and rice, has thus benefited some areas (Java and Sumatra) over others. In other areas income levels were more directly affected by government development expenditures, so that during the 1981-1987 period large declines in government expenditures for development negatively affected income from

469

off-farm activities while indirect affects were felt from reduced public expenditure on construction of physical and social infrastructure. From a regional perspective the largest absolute number of the poor reside in Java (66% of the poor in 1987) followed by 11.2% in Sumatra, 9.0% in Sulawesi, 2.5% in Kalimantan, and 11.3% in other provinces.

2. Planned Project Impacts

A significant outcome of the project will be improved government and SOE procurement. This will reduce cost, raise effective purchasing power of allotted funds, and speed completion of capital projects. The nature of uneven dispersion of economic participation and prosperity results in a disproportionate role placed upon government procurement for rural and provincial economic stimulation. With improved procurement there should be a more rapid resolution of urban-rural-provincial disparities. Also the provision for small business and national participation in procurement should result in greater business opportunities. An enhanced legal environment for the private sector should provide indirect benefits to small and new entrepreneurs in the provinces and outside of the major urban areas.

D. The Poor

1. Existing Conditions

Steady and impressive progress is being made in reducing poverty in Indonesia. According to official Central Bureau of Statistics estimates there was a decline in the proportion of the population considered poor (below the poverty line) in both urban and rural areas, falling from 21.6% (35 million people) in 1984 to 17.4% (30 million people) in 1987. There was also a significant reduction in the incidence of rural poverty (declining by 21% from 26 million people to 20 million people between 1984 and 1987) and a smaller reduction in urban areas (declining from 23.1% of urban dwellers in 1984 (9.3 million people) to 20.1% in 1987 (but rising to 9.7 million people given rapid urbanization). Sustained, broad-based economic growth is perhaps the most important element in further poverty reduction. Calculations by the World Bank indicate that a growth rate of the non-oil economy in the range of 6-7% p.a. with an unchanged elasticity of poverty reduction relative to economic growth would result in a decline in poverty to 9% by the year 2000 (20 million people out of a larger population).

The Government's strategy for alleviation of poverty, beyond maintenance of rapid growth with its impacts on reducing the number and proportion counted as poor, stems from two priorities: a) ensuring adequate provision of basic infrastructure and services which could constrain higher growth of private sector activity (agricultural support services, power, telecommunications, and transport) and b) improved targeting of public expenditures to meet the need of the poor (both capital and operating expenditures on social services including education, health, family planning, water supply, and sanitation).

470

2. Planned Project Impacts

A rapidly growing economy with rising employment opportunities and an adequate development program offers a path towards reduced poverty (in relative and absolute terms). ELIPS should make a major contribution to these prerequisite conditions for expanding prosperity and shrinking poverty. The poor, by their very nature at the edge of formal economic activity, are not in line to be direct beneficiaries of the project.

E. Women

1. Existing Conditions

Through the Constitution and law the rights of women are in theory well protected. In practice, a variety of hurdles constrain their full participation in the economy. In 1983 a Minister of State for the Role of Women was instituted to assist in maximizing the participation of women in society and the economy as well as to assure that equal opportunity as provided under the law is achieved. As measured by the Indonesian Institute for Management Education and Development's study of Women in Business in Indonesia, the labor participation rate for women among the economically active (15-65 years old) rose from 31.9% in 1980 to 43.3% in 1986. Women's occupations reflect the importance of agriculture and rural domicile as well as limited opportunities in the modern dimensions to the economy: in 1985 55% of women worked in agriculture; 18% in production, transport and related jobs; 15% in sales; 4% as clerical and related workers; 3.4% as professional workers; 3.7% in service; and 0.2% as managers and administrators. The changing role of women is reflected in women's labor force participation rates in rural areas, which has decreased from 72.6% in 1971 to 63.6% in 1980 due to modernization and limited land and capital. With the migration of people to urban areas, women have gained a significant role in retail business, finance and services: with 79.6% of total jobs for women in 1971 being in these sectors and 76.5% in 1980 (compared to 67% for men in 1971 and 70.1% in 1980). Rapid changes in the economy are bringing about changes in the role of women, including increased opportunities in some sectors such as manufacturing, and diminished jobs in other sectors such as primary agriculture. Among developing countries the role of women in Indonesia is reasonably egalitarian; there are fewer barriers to participation and women hold very prominent positions in law, government and increasingly in the economy.

2. Planned Project Impacts

Project activities can make a significant contribution to enhancing the role of women in the Indonesian economy. The capacity-building activities of the project will strengthen the legal and procurement framework which supports economic activity. Specific training focused on women's groups in law (within the government and the private sector) and procurement would offer opportunities to increase the participation of women in law, business, and procurement. The largest impact for

421

women, even if indirect, may come in the area of business where opportunities for business formation and growth will be enhanced as the economy continues to grow. Because Indonesia has a relatively open society where gender bias is at a minimum, it is reasonable to expect that women will achieve significant gains as general business activity grows. Between the sectors of law, business and procurement, statistics show the most active participation of women in the business sector. Special courses on the legal dimensions to business and means of participating in government procurement activities would give additional encouragement to women as part of the project.

472

SOURCES CONSULTED

Christian, Gary W., "Commercial Law in Indonesia," prepared for US AID/Indonesia, January, 1991.

Economist Intelligence Unit, Indonesia: Country Profile 1990-91, London, August, 1990.

Far Eastern Economic Review, "Indonesia: Time to Consolidate," April 18, 1991, pp. 33-52.

Hasibuan-Sedyono, Chrysanti, "Women in Business in Indonesia," paper for Women in Business and Politics in Southeast Asia Workshop, Singapore, December 18-19, 1990.

Hornick, Robert, "Technical Issues Concerning Commercial Law Reform in Indonesia," prepared for US AID/Indonesia, November, 1990.

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 7: "Development of Business World."

Indonesia, Fifth Five-Year Development Plan, 1989/90-1993/94, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 27, "Law."

Johnson, Darrell, "Restraints of the Indonesian Legal System on Commercial Development," prepared for US AID/Indonesia, December, 1990.

Jourdin, Will, "Improvement of the Indonesian Procurement System," prepared for US AID/Indonesia, November, 1990.

U.S. AID, A.I.D. Evaluation Handbook, Chap. 3: "Project Development, Analysis and Presentation," Washington D.C.: September, 1982 (with updates).

U.S. AID/Indonesia, Country Development Strategy Statement (CDSS): Indonesia FY 1989-FY 1993, January, 1988.

U.S. AID/Indonesia, Commercial Law Procurement Systems Project: Project Identification Document (Project No. 497-0372), Jakarta, Indonesia: December 21, 1990.

Verrier, Hugh, "Government Procurement in Indonesia," prepared for US AID/Indonesia, July, 1989.

World Bank, Indonesia: Strategy for Growth and Structural Change, Washington D.C.: May 3, 1989.

World Bank, Indonesia: Foundations for Sustained Growth, Washington D.C.: May 4, 1990.

47

World Bank, Indonesia: Poverty Assessment and Strategy Report, Washington D.C.: May 11, 1990.

World Bank, Indonesia: Priorities for Commercial Law Reforms for Private Sector Development, Washington D.C.: Draft June 29, 1990.

World Bank, World Development Report, World Development Indicators, Washington D.C.: July, 1990.

474

ANNEX A-8

RECOMMENDED EVALUATION PLANS

ECONOMIC LAW AND
IMPROVED PROCUREMENT SYSTEMS PROJECT

USAID/Jakarta

July, 1991

475

Table of Contents

I. Introduction 1

II. Interested Observers 1

III. Baseline and Monitoring Information 2

IV. Management and Performance Evaluation 2
- A. Purpose 3
- B. Collaboration with Government of Indonesia 3
- C. Evaluation Methodology 3
- D. Recommended Evaluation Entity 4

V. Sustainability Evaluation 4
- A. Definition 4
- B. Special ELIPS Considerations 5
- C. Provision for Sustainability 5
- D. Recommended Evaluation Entity 5

VI. Policy Impact Evaluation 5
- A. Links to Policy and Economic Performance 6
- B. Building Upon Existing Analysis 6
- C. Provision for Yearly Evaluation 7

VII. Evaluation Time Line 7

VIII. Estimated Costs 8

Appendix 1 Outline of Baseline Conditions and Project Targets 9
- A. Candidate Measures of Socioeconomic Dimensions 9
- B. Economic Law and Procurement Dimensions 10

Sources Consulted 16

476

I. INTRODUCTION

The path-breaking nature of AID's Economic Law and Improved Procurement System (ELIPS) Project in Indonesia requires a bold and comprehensive evaluation element integral to the project activities. The experiences of designing the project, implementing its activities, and measuring its achievements will all be important to other donors in Indonesia as well as AID worldwide. With such an intense focus on this project by others, evaluation takes on added significance and must be innovative, timely and comprehensive.

There are three types of evaluations which are important for ELIPS:

Management and Performance
Sustainability
Policy Impact

The normal focus of AID evaluation efforts is upon project management and performance. This dimension to evaluation is incorporated in the ELIPS evaluation plan by providing for mid-project and end-of-project evaluations. Sustainability is rapidly becoming a new focus of design, operation and evaluation criteria for AID projects, with an APRE Memo of December 24, 1990 stating: "Sustainability of returns on A.I.D.-financed development investments is a priority initiative for APRE." Therefore the ELIPS evaluation explicitly incorporates sustainability concerns into the management and performance evaluations. Policy impact of ELIPS has special significance because of the high visibility of the project among donors and within AID. It is therefore important for project evaluation to place special emphasis on monitoring and communicating the complex interactions which will occur in Indonesia between project-sponsored activities and resulting policy changes and improvements in economic conditions. Provision is made for this special type of evaluation.

II. INTERESTED OBSERVERS

Within Indonesia AID is leading the way for other donors by implementing a project of assistance in commercial law and procurement improvements. The innovative approach being taken of working with both government entities and the private sector will set a pattern for future donor assistance. The World Bank, the Asian Development Bank, the Dutch, and other donors have expressed an interest in possible future supportive assistance to Indonesia in the commercial law and procurement area. These donors are interested in learning the lessons which AID experiences as they position themselves for possible supplemental assistance in the future. Thus, the experience of establishing and operating ELIPS will be highly visible in Indonesia. AID should assure that the experience and lessons learned are evaluated properly and in a timely manner.

USAID/Indonesia is also in the spotlight worldwide within AID in designing and implementing ELIPS. Assistance to Indonesia in reforming and streamlining commercial law and procurement is being watched closely as an innovative and exciting new way to stimulate private sector activity in support of development objectives and more rapid growth. The assistance planned in this project is consistent with AID's new Strategic Initiatives of early

477

1991, as it is with the Bureau of Private Enterprise's new Institutional Reform and the Informal Sector (IRIS) project. The PID and project design work has already become an important consideration as AID's Eastern European Program considers assistance for commercial law reform. Other missions will likewise look to ELIPS as they consider similar assistance. While AID has supported other projects in the law area, the ELIPS project design, driven by the objective of strengthening and enabling private sector participation in development, is unique in probing new areas and types of assistance.

III. BASELINE AND MONITORING INFORMATION

The foundation for all evaluation rests upon collection and maintenance of quantitative and. qualitative information. This is a prerequisite for the types of evaluation recommended for ELIPS. Therefore an on-going activity of the project (coordinated by the AID project officer and carried out by the contract technical assistance teams) will be maintenance of baseline data describing conditions at the start of the project and quarterly monitoring of progress indicators which measure changes in conditions over the life of the project. Where possible, the baseline data itself will consist of historic time series data, thus providing support for trend analysis before and during the life of the project. There are two types of baseline and monitoring data which must be maintained. First, there is project-specific baseline and performance data. This describes through quantitative measures the conditions in the commercial law and procurement areas which are targeted for improvement under the project. Second, there is broader socioeconomic baseline and performance data which is causally related to commercial law and procurement conditions.

An initial specification of baseline data which forms the foundation for measuring project achievements is given in Appendix 1. This structure of baseline and monitoring data should be finalized by the project contractors and EKUIN immediately after the technical assistance is in place and operational.

Under the supervision of the AID project officer, EKUIN and the project contractors will be responsible for periodic reporting of agreed upon monitoring data. The project contractors will maintain a computer data base of monitoring information (with operational responsibility delegated to project contractors at the discretion of the project officer) and make provision for periodic reporting of such information including interpretation of trends and conditions. This will assure that baseline and monitoring data are readily available to support evaluations and otherwise assist in reporting on the ELIPS project.

IV. MANAGEMENT AND PERFORMANCE EVALUATION

Both mid-project and end-of-project evaluations are included as integral dimensions to the project design. Provision for monitoring of progress indicators, in comparison to baseline conditions, is included in the project to facilitate these evaluations. Responsibility to maintain monitoring information as well as to design, supervise and report on evaluations required by AID rests with the project officer. Project contractors and Indonesian counterpart agencies will be heavily involved in collection and reporting of monitoring information as well as the actual conduct of the evaluation studies.

478

A. Purpose

Management and performance evaluations assist in determining the effectiveness of particular interventions and whether planned results are being achieved. The economic law and procurement project will be evaluated twice:

mid-project performance evaluation - will assess the continuing validity and relevance of the project in supporting private sector growth through an improved commercial law environment and enhanced government procurement procedures and practices. Findings will assist in mid-project corrections of objectives, institutional arrangements and service delivery mechanisms.

end-of-project impact evaluation - will determine whether required actions have been carried out, whether performance over the life of the project has been consistent with expectations, and whether additional actions are required to assure sustainability of project accomplishments.

B. Collaboration with Government of Indonesia

Close cooperation between AID and EKUIN, as implementing agency on the project, will be important in carrying out the two evaluations. Specific determination of the focus of each evaluation should be jointly made so that the information needs of AID and GOI are fulfilled by the evaluation studies and reports. Through EKUIN, the various entities in Indonesia participating in and/or receiving benefits from project activities (both in the public and private sectors) should be brought into the evaluation process. Maximum use of Indonesian evaluation resources should be made in conducting the studies.

C. Evaluation Methodology

Each of the two project evaluations will assess the following elements of the project.

baseline conditions - consideration of project specific and broader socioeconomic conditions extant at the front end of the project.

project targets - the quantitative and qualitative project targets specified in the logical framework matrix for achievement over the life of the project.

progress indicators - assessment of degree of improvement over baseline conditions and progress towards achieving planned targets, using time-series data on indicators of change in commercial law and procurement conditions as specified in the logical framework matrix.

planning assumptions - assessment of changes in external factors important in determining achievements of the project. This will include a review of start-of-project assumptions, experience over the project lifetime, and new external conditions and their likely impact on rest-of-project performance (for the mid-project evaluation) and final project achievement (for end-of-project evaluation).

419

causative factors - determination of causes for slowed or non-achievement of planned targets. For the mid-project evaluation where lack of accomplishment is due to changed external conditions, recommendations will be made for modifications in project targets to fit the altered realities within which the project must complete its life. Where internal causes are identified for project difficulties in the mid-project evaluation, recommendations will be made for improvements in organization and performance.

D. Recommended Evaluation Entity

AID, Bureau of Private Enterprise has established the Institutional Reform and the Informal Sector (IRIS) Project. This is specifically designed to assist in institutional reform through greater understanding of the institutional requirements for economic growth and through assistance to countries which undertake their own institutional reform programs. Central to IRIS is the promotion of improved laws, regulations, organizational structures and decision-making processes. Thus, IRIS will be participating in, accumulating experience in, and evaluating the lessons from a number of institutional reform projects throughout the world. This accumulating expertise makes IRIS a logical candidate for providing evaluation assistance to ELIPS. The on-going IRIS teams and contacts will provide a roster of qualified individuals to evaluate ELIPS. Beyond providing experience-based evaluations, IRIS can assist in making widely available the lessons learned from ELIPS assessments.

V. SUSTAINABILITY EVALUATION

An integral part of the management and performance evaluations should be attention towards sustainability of ELIPS project activities. This can be assured if one of the team members is specifically and exclusively charged with sustainability evaluation responsibilities. Experience in conducting sustainability evaluations is developing in AID and the expertise required to address this important dimension to project performance can readily be included in the mid-project and end-of-project evaluations specified for ELIPS.

A. Definition

Sustainability, according to AID, is perpetuation of project activities and benefits beyond the life of the project on a self-sustaining basis. In the case of commercial law development and improvements in Indonesia's procurement system, this would mean that the capacity of government to reform commercial laws and procurement practices would be firmly grounded in the appropriate government and private sector entities. For legal information, this would mean continuing production of authoritative data sources and distribution on a cost-recovery basis. For training in economic law and procurement administration, this would mean not only a cadre of individuals trained by the end of the project, but also institutional arrangements within government and in the private sector which continue to provide training as required. For all of these dimensions to the project, it would mean that the financial resources required to sustain them would be available on an on-going basis without AID assistance. Ideally, from a sustainability perspective, these resources would

-480

be generated within Indonesia from public and private sector sources (rather than dependent upon additional assistance from other donors once AID finishes its project support).

B. Special ELIPS Considerations

The special focus of ELIPS on capacity for commercial law and procurement reform requires a modified sustainability approach. The objective of ELIPS is to assist Indonesia, both the government and the private sector, to streamline and improve the legal and procurement environment within which development operates. To a great extent this will mean improving government administration and direct involvement in the economy (and markets) with "rules of the game" which are transparent, fair and enforceable. Thus, the very accomplishments of ELIPS in the form of codified laws and regulations, will act to sustain rapid development in Indonesia. In doing this, the project will act to eliminate (make unsustainable) entire sets of antiquated laws and direct government involvement in the economy.

C. Provision for Sustainability

Clearly the capacity to continue this reform process, thus further strengthening the private sector, markets and the role of prices and financial incentives, must be sustained in Indonesia. The focus of sustainability evaluations, therefore, should be brought to bear on evaluating the progress of building a firm foundation for reform of commercial law and procurement in Indonesia. Project design has focused heavily upon selection of key entities, public and private, which play vital roles in the legal and procurement reform process. These entities are targets for assistance during the life of the project. Such assistance has been designed to strengthen these entities and make them self-sufficient. It will be appropriate and helpful for the successful operation of the project if sustainability of these entities is evaluated as a distinct and important part of the mid-project evaluation. Further, sustainability issues will be important in the end-of-project evaluation; this will identify the degree to which project sustainability objectives were achieved and remaining steps which must be taken in Indonesia to assure sustainability of the legal and procurement reform process and those institutions vital to its operation.

D. Recommended Evaluation Entity

AID has a Cooperative Agreement with the University of Maryland's International Development Management Center to strengthen sustainability as a criterion in the design, implementation and evaluation stages of projects. Selection of a team member with sustainability expertise for ELIPS evaluations will be assisted if the University of Maryland Cooperative Agreement is considered in designing evaluations under this project.

VI. POLICY IMPACT EVALUATION

The high visibility of ELIPS among donors and AID means that attention will remain focused upon Indonesia's record of policy, legislative, and regulatory reform in support of rapid growth and development. A key question which will continually be asked will be the linkages

481

between reform efforts supported by ELIPS and Indonesia's economic development record (pattern and pace). Therefore there is special need for Policy Impact Evaluation of ELIPS. This type of evaluation should be separate from and in addition to the other types of evaluation required: Management and Performance as well as Sustainability, both of which focus more specifically upon project design and implementation.

A. Links to Policy and Economic Performance

Indonesia has accomplished a great deal of economic reform during the 1980s and at an accelerated pace since 1988 in pursuit of maintaining rapid growth and broadening the base of participation by and dependence upon the private sector. There remains a varied and ambitious agenda of policy initiatives and legislative-regulatory implementation steps for this pace of development to be continued. The goal of moving the country to a broad-based, self-sustaining foundation for growth is at the heart of the government's intense interest in economic law and procurement reform capacity. There is a demonstrated commitment broadly distributed among technocrats and progressive entities in Indonesia to sustain growth with legal and institutional reforms supportive of growing private sector vibrancy.

A fundamental question which will arise about ELIPS is its contribution to the evolving policy, legal and regulatory environment in Indonesia. This question goes beyond issues of efficient and successful project performance (important as these issues remain) to get at the core question: can donor project assistance facilitate economic reform and continued rapid development along the lines planned for ELIPS? The Policy Impact Evaluation is intended to address these concern.

B. Building Upon Existing Analysis

There exists in Indonesia an active and varied program of economic policy formulation and evaluation. The Government of Indonesia and multilateral donors (working closely with key government entities) conduct periodic assessments of economic policies and performance. Building upon this ongoing work, an ELIPS Policy Impact Evaluation can be conducted over the life of the project. This type of evaluation would focus on developing links between policies and performance in the Indonesian economy and ELIPS activities and accomplishments. Often the linkages would be indirect and complex. However, a careful analysis of available information would go a considerable distance towards establishing verifiable linkages and identifying indirect paths of influence and causation.

The level of effort required to carry out a yearly policy impact evaluation would be modest. The most productive arrangement would provide a macroeconomist for approximately 3-4 weeks each year to review the status of policy dialogue and direction by Government, review the evolving nature of economic law and project contributions to it, and assess the direction and magnitude of linkages between legal modifications and economic change. A report suitable for wide distribution would be the resulting product. It would be most efficient and informative if the same analyst conducted subsequent policy evaluations, thus providing continuity and a standard format to the annual reports produced.

482

C. Provision for Yearly Evaluation

A yearly evaluation of policy impact, timed to build upon broader government and donor assessment of policy changes, would provide the type of impact assessment information which will be at the forefront of many observers' interests in ELIPS. These evaluations would review the policy environment, chart changes and improvements, and highlight the specific role of economic law and procurement reform in achievements made and setbacks suffered in Indonesia's development process. A common format pursued each year would establish this evaluation as an innovative and useful record of project impact and linkage to the development environment. Continuity can be maintained by having the same economic analyst(s) perform each yearly Policy Impact Evaluation.

VII. EVALUATION TIME LINE

Proposed evaluation activities could operate according to the following schedule:

start of project - AID project officer, contractors and GOI agree upon range of baseline measures and performance indicators; data system established and initiated; baseline data and historic time series collected and entered; quarterly contractor/GOI reporting and entry of performance indicators initiated and maintained through life of project.

third quarter of first year - policy impact evaluation conducted

end of first year - performance indicators report issued.

third quarter of second year - policy impact evaluation conducted

end of second year - performance indicators report issued.

second quarter third year - scope of work written for mid-project management and performance and sustainability evaluations; contracting arrangements initiated for evaluation.

third quarter of third year - policy impact evaluation conducted

end of third year - performance indicators report issued.

first quarter of fourth year - mid-project management and performance and sustainability evaluations conducted, reports issued

third quarter of fourth year - policy impact evaluation conducted

end of fourth year - performance indicators report issued.

third quarter of fifth year - policy impact evaluation conducted

end of fifth year - performance indicators report issued.

second quarter sixth year - scope of work written for end-of-project management and performance and sustainability evaluations; contracting arrangements initiated for evaluation

third quarter of sixth year - policy impact evaluation conducted

end of sixth year - end-of-project performance indicators report issued.

first quarter seventh year - end-of-project management and performance and sustainability evaluations conducted, report issued.

VIII. ESTIMATED COSTS

	(dollars)
Six yearly Policy Impact Evaluations	90,000
Mid-Project Evaluation	100,000
End-of-Project Evaluation	150,000
TOTAL	340,000

484

APPENDIX 1

OUTLINE OF BASELINE CONDITIONS AND PROJECT TARGETS

A. Candidate Measures of Socioeconomic Dimensions

GDP growth rate - real
- Baseline: 1983-88 = 5.1%; 1989e = 7.4%
- Target: 1988-93 = 5% (Repelita V); 1990-95 = 5.6%, 1995-2000 = 5.5% (IBRD)

GDP per capita - real ($ in 1988 prices)
- Baseline: 1989/90 = $505
- Target: 1988-93 = 3.1% (Repelita V); 1993/94 = $602 (ADB)

Non-oil GDP growth rate - real
- Baseline: 1983-88 = 5.9%; 1989e = 8.1%
- Target: 1990-95 = 6.6%, 1995-2000 = 6.4% (IBRD)

Consumption growth rate - real
- Baseline: 1983-88 = 4.0%; 1989e = 6.5%
- Target: 1990-95 = 5.5%, 1995-2000 = 5.9% (IBRD)

Fixed Investment - Public growth rate - real
- Baseline: 1983-88 = -4.3%; 1989e = 6.2%
- Target: 1990-1995 = 8.4%, 1995-2000 = 6.4% (IBRD)

Fixed Investment - Private growth rate - real
- Baseline: 1983-88 = 1.6%; 1989e = 17.7%
- Target: 1990-95 = 9.0, 1995-2000 = 6.4% (IBRD)

Non-oil exports growth rate - real
- Baseline: 1983-88 = 12.7%; 1989e = 15.9%
- Target: 1990-1995 = 8.1%, 1995-2000 = 6.9% (IBRD)

Non-oil imports growth rate - real
- Baseline: 1983-88 = -4.9%; 1989e = 18.2%
- Target: 1990-1995 = 8.6%, 1995-2000 = 6.3% (IBRD)

Fixed Investment/GDP ratio
- Baseline: 1983-88 = 20.0%; 1989e = 21.1%
- Target: 1990-1995 = 25.3, 1995-2000 = 25.8% (IBRD)

National Savings/GDP ratio
- Baseline: 1983-88 = 20.0%; 1989e = 21.3%
- Target: 1990-1995 = 25.6%, 1995-2000 = 26.5% (IBRD)

Domestic Inflation (CPI) growth rate
- Baseline: 1975-83 = 16.2%; 1988 = 8.0%, 1989e = 6.3%
- Target:

Employment growth rate
- Baseline: 1990 labor force = 76 million, 1990-1993 growth rate = 3% p.a. or 2.4 million new entrants p.a.
- Target: growth of labor force 1988-1993 = 11.9 million or 15.9% over Repelita V; Plan job creation 1988-93 = 2.3 million industrial, 4.0 million

agriculture, 5.2 million other new job + labor absorption in intensive infrastructure and transmigration program (Repelita V)

Unemployment rate

Baseline: 1989 economy-wide = 2.6%, urban areas ages 15-24 = 22..5%, rural ages 15-24 = 4.1%, underemployment 1987 estimate = 42%

Target: 1988-93 = <3% economy-wide (Repelita V)

Private Sector Share of GDP

Baseline: 1983 = 79%; 1989 = 81%

Target: 1996 = 83% (straight line extrapolation)

Incidence of Poverty

Baseline: 1984 = 22% (35 million); 1987 = 17% (30 million)

Target: 2000 = 9% (20 million) (IBRD)

Budgetary Impact of State-Owned Enterprises (% of GDP)

Baseline: 1983 = -4.6%, 1988/89 = -0.6%

Target:

Approved Foreign Investment

Baseline: 1988 = US$4,435 million, 1989 = US$ 4,719 million

Target:

B. Economic Law and Procurement Dimensions

B.1. Economic Law

B.1.a. Substantive Laws and Regulations

1. Probable High Priority Areas for Improvement

Company Law

Baseline: existing law antiquated, inadequate, lacks provisions for modern business operations, requires 3 to 12+ months to form corporation; draft company law submitted to SEKNEG 4/91

Target: action by Parliament 1992, including provisions for modern conduct of business, reduction in time to form and alter companies to 1-3 months by 1993

Secured Transactions Law

Baseline: there is no statutory law for non-possessory security interests in movables and intangibles; there is no registry for recording fiduciary transfers

Target: drafting of law and provision for efficient registry, submission to SEKNEG and action by Parliament according to priority assigned by EKUIN among required actions on economic law

486

Financing Law
Baseline: existing provisions pre-date modern financing, do not provide adequate legal framework for transactions
Target: drafting of law covering modern promissory notes, letters of credit, term lending, perhaps lease financing and hire purchase, submission to SEKNEG and action by Parliament according to priority assigned by EKUIN among required actions on economic law

Trademark Law
Baseline: the 1961 Trademark Law generally gives effective protection for domestic and foreign trademark owners, but is weak in practical enforcement,lacks sanctions and does not recognize the term "well-known trademarks" for judicial remedy purposes
Target: effective procedures needed to protect existing trademarks within existing law; alteration of law to allow for judicial recourse desirable for current cases of infringement

Arbitration Law
Baseline: existing law adequate; little used, requires streamlining, publicity
Target: improve BANI or other association, raise quality of arbitrators including use of non-nationals, increase knowledge of arbitration as alternative, raise confidence by issuing regulations giving sanctity to foreign arbitral awards

Bankruptcy Law
Baseline: existing law of 1905 adequate as framework; court system inadequate to handle proceedings
Target: no fundamental changes in law required, formation of specialized commercial courts might improve timely, smooth adjudication

Mergers and Acquisitions Law
Baseline: the concept of mergers and corporate reorganizations is not addressed; failing companies forced to file for bankruptcy and liquidation when merger might be more economically beneficial
Target: draft law including provision for tax dimensions, submission to SEKNEG and action by Parliament according to priority assigned by EKUIN among required actions on economic law

2. Other Areas for Possible Reform

Enforcement of Foreign Courts Money Judgements Law
Private International Law
Leasing Law
International Sales Law

487

Factoring Law
Installment Sales Law
Consumer Protection Law
Unfair Trade Practices Law
Copyright Law
Patent Law
Business Registry Law
Unfair Trade Practices Law
Transport Law
Foreign Investment Law

B.1.b. Institutions

Law Development Process

Drafting
Baseline: individual ministries have legal drafting capability, scarcity of staff trained in economic law; competition and inefficiency high
Target: centralize responsibility for directing economic law drafting in EKUIN by 1992, improve capability of ministries to participate in legal drafting over life of project

Codification
Baseline: Parliament required to approve laws, approximately 4-5 per session
Target: prioritize, streamline, coordinate drafting and approval process to support economic imperatives for new laws, approximately 1 each session through 1996

Promulgation
Baseline: Presidential Decrees serve important function in implementation of basic laws; system functioning smoothly
Target: facilitate use of Presidential Decrees as supplement to codification as means of providing legal foundations for the economy; support to legal drafting should support timely promulgation, capability should be in place by 1993

Publication
Baseline: up to 2 year delay in publication, inadequate copies, lack of cost-recovery capability
Target: support SEKNEG capability to publish and distribute (directly and through private sector products) laws and regulations prior to effective date; capability should be in place by 1993

Law Enforcement Process

488

Court System
Baseline: heavy backlog of cases, delay measured in years; decisions not published
Target: selective assistance in publishing economic law decisions starting in 1994; training for junior judges in economic law starting in 1993

Government Agencies
Baseline: regulatory and administrative interpretations variable among entities; information on decisions not readily available
Target: assist entities heavily involved in economic law issues with improved information handling, publication capabilities starting in 1993

Arbitration
Baseline: organization, legal basis for binding decisions limited; increasing interest as alternative dispute resolution
Target: support drafting of legal basis for streamlined arbitration, enforcement of decisions; timing of codification-promulgation to be determined by EKUIN

B.1.c. Legal Profession

Legal Services
Baseline: adequate domestic and foreign law firms to support current demand; training and research capabilities in economic law area limited, with strongest abilities for formal economic law services in foreign law firms
Target: assist delivery of legal services through availability of legal information products, cost-recovery short-courses in economic law and information access; information products and short-courses to be available over life of project, fully operational by 1996

University Law Faculties
Baseline: limited capacity to teach economic law, highly variable by province; lack of curriculum materials and access to legal information inhibiting factors
Target: support strengthening of economic law centers in selected universities, including support for faculty development, curriculum preparation, information training, conduct of courses; support starting in 1992, fully operational economic law centers by 1994

Continuing Legal Education
Baseline: very limited; common for lawyers to teach in law schools oriented primarily to students, not those practicing the law
Target: systematic short-course offerings to legal community on cost-recovery basis through university economic law centers; initial offerings in 1992, fully operational by 1993

189

I.d. Information

Laws and Regulations
Baseline: the formal, legal information system is fragmented, incomplete, under-funded and cumbersome
Target: produce computer-based full-text access and retrieval system for primary and secondary legal information by 1996, with interim bench-mark targets for data capture, production, distribution, training beginning in 1992

Judicial Decisions
Baseline: no full-text decisions are readily available, most are not published
Target: include relevant economic law judicial decisions in legal information system, including decisions of administrative court and supreme court by 1996

B.2. Procurement

B.2.a. Laws and Regulations

Constitution
Baseline: Constitutional foundation for procurement authority adequate
Target: no changes necessary

Presidential Decrees
Baseline: Kepres 29 inadequate, no official English translation of basic decree and supplements
Target: revision of procurement provisions by 1992 including official English translation and model procurement documents

Ministerial Circulares and Instructions
Baseline: ministerial and state-owned enterprise implementation of Kepres 29 inadequate
Target: revision by 1993 consistent with new Kepres and donor-financed requirements

Administrative Rulings

B.2.b. Institutions

Policy determination
Baseline: EKUIN has responsibility to ensure minimum standards of procurement met
Target: strengthen EKUIN to provide oversight, continuing guidance on adjustments to procurement regulations and implementation

490

Implementation
Baseline: EKUIN has procedural approval responsibility for procurements above Rp. 3 billion; there is no clear professional procurement profession within Government; frequent transfer of staff at project level to other assignments
Target: move procedural approval responsibility to ministries and SOEs after streamlined procurement regulations and rules are codified; establish procurement institute and corps of professional procurement officers; raise compensation and eliminate frequent transfer of project staff

Information Dissemination
Baseline: only 40% of GOI staff involved in procurement have complete copy of Kepres 29 and associated supplements
Target: print and distribute revised regulations and guidelines to 100% of involved procurement officials by 1993

Management
Baseline: limited procedural approval responsibility rests with EKUIN; individual ministries and SOEs carry out management of procurement
Target: create professional corps of procurement officials, distribute throughout major procurement entities by 1996

Training
Baseline: limited training by individual ministries and SOEs (with donor assistance in some cases)
Target: train: procurement institute staff, senior procurement management officials within ministries and SOEs, create training modules on revised procurement process, train procurement trainers within ministries and SOEs

SOURCES CONSULTED

Christian, Gary W., "Commercial Law in Indonesia," prepared for US AID/Indonesia, January, 1991.

Hornick, Robert, "Technical Issues Concerning Commercial Law Reform in Indonesia," prepared for US AID/Indonesia, November, 1990.

Johnson, Darrell, "Restraints of the Indonesian Legal System on Commercial Development," prepared for US AID/Indonesia, December, 1990.

Jourdin, Will, "Improvement of the Indonesian Procurement System," prepared for US AID/Indonesia, November, 1990.

U.S. AID, A.I.D. Evaluation Handbook, Chap. 3: "Project Development, Analysis and Presentation," Washington D.C.: September, 1982 (with updates).

U.S. AID, A.I.D. Evaluation Handbook, Chap. 11: "Project Monitoring," Washington D.C.: September, 1982 (with updates).

U.S. AID, A.I.D. Evaluation Handbook, Chap. 12: "Project Evaluation," Washington D.C.: September, 1982 (with updates).

U.S. AID, Guidelines for Data Collection, Monitoring, and Evaluation Plans for A.I.D.-Assisted Projects, Washington D.C.: April, 1987.

U.S. AID, A.I.D.'s Experience With Democratic Initiatives: A Review of Regional Programs in Legal Institution Building, A.I.D. Program Evaluation Discussion Paper No. 29, Washington D.C.: February, 1990.

U.S. AID, Asia Near East Bureau, Procedural Guidelines for Evaluation, Washigton D.C.: February, 1986.

U.S. AID/Indonesia, Commercial Law Procurement Systems Project: Project Identification Document (Project No. 497-0372), Jakarta, Indonesia: December 21, 1990.

Verrier, Hugh, "Government Procurement in Indonesia," prepared for US AID/Indonesia, July, 1989.

192

ANNEX B

LOGICAL FRAMEWORK

ANNEX B

LOGICAL FRAMEWORK

ECONOMIC LAW AND IMPROVED PROCUREMENT SYSTEMS PROJECT

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
GOAL: To increase employment and incomes by improving the environment for business growth, creating a more attractive climate for domestic and foreign investment, and increasing the efficiency of development expenditures.	• Increase in level of domestic and international commercial transactions. • Increase in private sector contribution to GDP. • Increase in number of jobs. • Increase in real incomes.	• GOI economic reports. • International economic reports. • USAID economic and other research. • GOI procurement reports. • BAPEPAM listings.	• GOI continues to deregulate and encourage expansion of the private sector. • Economic and political stability, both national and international. • The will for change in GOI institutions is genuine and able to endure management and personnel shifts.
PURPOSE: To improve the economic law and government procurement systems in order to facilitate and support an increased level of private transactions and investments, while also helping to foster more equitable treatment for all firms and individuals. New laws, regulations, procedures, systems and institutional structures developed under the Project are expected to: • Reduce the costs and risks of entering into private transactions in Indonesia; • Reduce the barriers to entry and mobility of private investment, both domestic and foreign; and • Provide more fair and efficient government procurement of goods and services, leading to broader and more equitable private sector participation in public investment programs.	**END OF PROJECT STATUS:** • Improved institutional capacity for developing economic laws. • Improved law drafting capabilities both in EKUIN and other economic ministries. • Expanded and improved programs for economic law training at the University of Indonesia and other educational institutions. • A significantly increased institutional capacity in both the public and private sectors to conduct legal research and to interpret and apply economic laws. • Upgraded abilities among government legal bureau personnel which improves efficiency and timeliness in interpreting regulations.	• Project monitoring of key institutional data versus baseline information. • Project evaluations. • GOI official economic data. • Trade and professional journals. • Other donor economic reports. • Technical and other publications. • Discussions with local and foreign attorneys and businessmen. • Number of individuals utilizing legal information facilities on a daily or weekly basis.	• GOI remains receptive to analysis and advice of donor-financed TA. • Climate of commercial and economic reform continues. • Existence of a pool of talented GOI officials to spearhead needed reforms. • Foreign and domestic investors respond to improved investment climate. • Public debate is allowed to develop regarding law development issues. • Full and timely access is allowed to private sector users of legal information.

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
	• Improved management of the government procurement system. • Consistently applied government procurement system in all procuring organizations. • Improved public and private sector access to full texts of laws, decrees, and regulations.		
OUTPUTS: **Economic Law Development** • A strengthened EKUIN Law Development Group. • Trained legislative drafters. • Seminars and workshops that enable public/private discussion of proposed new legislation.	• Fifteen new economic laws drafted (passed by the DPR or under active consideration). • 100 Government legal bureau personnel with improved skills in technical economic law areas and in legislative drafting skills. • Several seminars and workshops that strengthen public/private dialogue on law development issues.	• Project evaluations. • Project monitoring and reporting of project data versus baseline information. • GOI commercial and economic data. • Other donor economic reports. • Private sector reports. • Discussions with local and foreign attorneys and businessmen. • Proceedings of seminars and workshops.	• Newly developed human resources utilized in an appropriate capacity. • Current balance of influence among GOI institutions not significantly altered. • Private sector responds to opportunities to influence policy. • Continued openness to advice.

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Legal Training and Institution Building • Upgraded and expanded economic law curriculum at University of Indonesia. • Trained law school faculty, practicing attorneys, government legal bureau personnel, judges, and others dealing with economic laws.	• University of Indonesia economic law curriculum upgraded and expanded, resulting in improved law graduates. • 200 University of Indonesia and other law school faculty providing improved legal training, with new emphasis on practical legal skills. • A long-term stream of law students receive improved economic law training as a result of upgraded curricula and faculty at University of Indonesia and other law schools. • A long-term stream of private and public sector professionals improve their skills as a result of short-term local training in a wide variety of economic law areas.		
Procurement Management Development • An established central procurement management system which will: i) develop appropriate policies and guidelines; ii) ensure that policies and guidelines are available to all implementing agencies, SOE's and private sector firms; and iii) develop staff capabilities to provide a centralized source of procurement expertise.	• KEPPRES 29 and related guidance (including English-language versions) are fully revised and disseminated to line ministries. • A permanent Procurement Review and Policy Analysis Group is developed in EKUIN and staffed by well-trained professionals. • Standard curricula is developed for government-wide procurement training. • Regular information dissemination program is in place which publishes procurement information related to solicitations, contract awards, etc.		

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Legal Information Systems • Upgraded legal information systems for documentary and research purposes. • Upgraded institutions' dissemination capacity to make new laws, regulations, and decrees available to public and private sector users.	• BPHN and University of Indonesia legal information systems up and running and fully accessible to public and private sectors. • Improved SEKNEG legal information dissemination reduces lag time on availability of new regulations to a period of weeks. • Improved Ministry of Finance legal information system results in improved public and private sector access to both new and historical regulations and rulings. • Routine publication of administrative court decisions and judicial decisions of other courts.		
Grants for Private Sector Legal Development Strengthened private sector institutions' ability to provide high quality training to several key beneficiary groups, e.g., law school faculty, judges and GOI legal bureau personnel.	• Quality of economic law education improved at two or more private sector institutions resulting in a long-term stream of students with improved practical understanding of economic law issues. • Improved private sector access to short courses on relevant economic law topics. • Creation and/or strengthening of one-two private sector organizations important to the development or implementation of economic law.		

191

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS				MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
INPUTS:	($000'S) USAID	GOI	Other	TOTAL	• Project documentation.	• Qualified organizations and individuals can be identified and contracts negotiated.
A. Law Development	2,920	970	120	4,010	• Periodic reporting by TA team, annual project reviews, etc.	• Financial resources are provided as planned.
B. Legal Training	4,305	1,420	470	6,195	• Annual program reviews.	
C. Procurement Management Development	1,705	710	50	2,465		
D. Legal Information Systems	4,055	1,900	360	6,315		
E. Grants for Private Sector Legal Development	3,000		1,000	4,000		
F. Evaluations and Audits	300			300		
G. Contingencies and Inflation	1,715			1,715		
PROJECT TOTALS	18,000	5,000	2,000	25,000		

ANNEX C

PROJECT BUDGET

TABLE OF CONTENTS

		Page
Annex C-1	Project Budget by Component	2
Annex C-2	Project Budget by Expenditure Category	3
Annex C-3	Estimated Personnel Expenditures	4
Annex C-4	Expenditure Projections by Fiscal Year	5
Annex C-5	Detailed Resource Requirements:	
Annex C-5.1	• Law Development	6
Annex C-5.2	• Legal Training	8
Annex C-5.3	• Procurement Management Development	10
Annex C-5.4	• Legal Information Systems	11

PROJECT BUDGET
By Sub-Component
($000's)

SUB-COMPONENT	USAID Funds	GOI Funding			Private Sector	Project Total
		Cash	In-Kind	Total		
LAW DEVELOPMENT						
Personnel (Note 1)	2,520		650	650	100	3,270
Short-term Training	210	100	75	175		385
Seminars & Workshops	100	75	50	125	20	245
Commodities	90	10	10	20		110
Sub-total	2,920	185	785	970	120	4,010
LEGAL TRAINING						
Personnel (Note 1)	2,920		580	580	100	3,600
Training	1,050	260	490	750	350	2,150
Commodities	335	40	50	90	20	445
Sub-total	4,305	300	1,120	1,420	470	6,195
PROCUREMENT						
Personnel (Note 1)	1,430		505	505		1,935
Short-term Training	150	60	50	110		260
Private Sector Workshops	60		5	5	50	115
Commodities	65	45	45	90		155
Sub-total	1,705	105	605	710	50	2,465
LEGAL INFORMATION						
Personnel (Note 1)	1,805		900	900		2,705
Short-term Training		85	125	210	10	220
Seminars & Workshops	100		30	30	20	150
Commodities	2,150	250	510	760	330	3,240
Sub-total	4,055	335	1,565	1,900	360	6,315
Other Costs:						
Contingency	1,715					1,715
Evaluation & Audit	300					300
Sub-total	2,015					2,015
PRIVATE SECTOR GRANTS	3,000				1,000	4,000
TOTAL FUNDING	18,000	925	4,075	5,000	2,000	25,000

Note 1: Includes all personnel for advisory services, training, seminars and workshops; GOI in-kind personnel costs include office space for GOI and USAID-funded personnel.

500'

PROJECT BUDGET
By Category of Expenditure
($000's)

EXPENDITURE CATEGORY	USAID Funds	GOI Funding			Private Sector	Project Total
		Cash	In-Kind	Total		
PERSONNEL (Note 1)						
Law Development	2,520		650	650	100	3,270
Legal Training	2,920		580	580	100	3,600
Procurement	1,430		505	505		1,935
Legal Information	1,805		900	900		2,705
Sub-total	8,675		2,635	2,635	200	11,510
TRAINING						
Law Development	210	100	75	175		385
Legal Training	1,050	260	490	750	350	2,150
Procurement	150	60	50	110		260
Legal Information		85	125	210	10	220
Sub-total	1,410	505	740	1,245	360	3,015
SEMINARS & WORKSHOPS						
Law Development	100	75	50	125	20	245
Legal Training						
Procurement	60		5	5	50	115
Legal Information	100		30	30	20	150
Sub-total	260	75	85	160	90	510
COMMODITIES						
Law Development	90	10	10	20		110
Legal Training	335	40	50	90	20	445
Procurement	65	45	45	90		155
Legal Information	2,150	250	510	760	330	3,240
Sub-total	2,640	345	615	960	350	3,950
Other Costs:						
Contingency	1,715					1,715
Evaluation & Audit	300					300
Sub-total	2,015					2,015
PRIVATE SECTOR GRANTS	3,000				1,000	4,000
TOTAL FUNDING	18,000	925	4,075	5,000	2,000	25,000

Note 1: Includes all personnel for advisory services, training, seminars and workshops; GOI in-kind personnel costs include office space for GOI and USAID-funded personnel.

- 501

PROJECT BUDGET

Estimated Personnel Expenditures
($000's)

PERSONNEL CATEGORY	Inputs	USAID Funds	GOI Funding			Priv. Sect.	Project Total
			Cash	In-Kind	Total		
LONG-TERM ADVISORS							
Law Development	4 py	1,200					1,200
Legal Training	5 py	1,500					1,500
Procurement	3 py	900					900
Legal Information	4 py	1,200					1,200
Sub-total	16 py	4,800					4,800
SHORT-TERM ADVISORS & INSTRUCTORS							
Law Development	50 pm	1,000				100	1,100
Legal Training	80 pm	1,200				100	1,300
Procurement	18 pm	450					450
Legal Information	25 pm	500					500
Sub-total	173 pm	3,275				200	3,350
ADMIN. PERSONNEL & SUPPLIES							
Law Devt. (Note 1)		320					320
Legal Training		220					220
Procurement		80					80
Legal Information		105					105
Sub-total		725					725
GOI PERSONNEL (Note 2)							
Law Development				650	650		650
Legal Training				580	580		580
Procurement				505	505		505
Legal Information				900	900		900
Sub-total				2,635	2,635		2,635
TOTAL FUNDING		8,695		2,685	2,685	200	11,510

Note 1: Includes the Project Administrator. This individual will assist the COP with activities related to all sub-components of the Economic Law and Procurement Development component.

Note 2: GOI personnel costs include office space for GOI and USAID-funded personnel.

502

Expenditure Projections by Fiscal Year
($000'S)

PROJECT COMPONENT	ESTIMATED EXPENDITURES						TOTAL
	FY92	FY93	FY94	FY95	FY96	FY97	
LAW DEVELOPMENT							
Long-Term Advisor		300	300	300	300		1,200
Short-Term Advisors	100	250	250	200	100	100	1,000
Other Personnel Costs		70	70	70	70		280
Overseas S/T Training		50	50	40	40	20	200
Seminars & Workshops	20	20	20	20	10	10	100
Commodities		70	40	20	10		140
Sub-total	120	760	730	650	530	130	2,920
LEGAL TRAINING							
Long-Term Advisor		300	300	300	300	300	1,500
Short-Term Advisors	100	250	300	300	200	50	1,200
Other Personnel Costs		40	40	40	40	40	200
Overseas L/T Training			100	200	250	150	700
Overseas S/T Training		50	100	100	50	50	350
Commodities	40	50	100	100	50	15	355
Sub-total	140	690	940	1,040	890	605	4,305
PROCUREMENT							
Long-Term Advisor		300	300	300			900
Short-Term Advisors	100	100	100	100	50		450
Other Personnel		20	20	20			60
Overseas S/T Training		50	50	50			150
Workshops		20	20	20			60
Commodities	10	20	30	25			85
Sub-total	110	510	520	515	50		1,705
LEGAL INFORMATION							
Long-Term Advisor		300	300	300	300		1,200
Short-Term Advisors	100	150	150	55	25	20	500
Other Personnel		20	20	20	20		80
Seminars & Workshops		20	40	29	10	10	100
Commodities		850	850	425	50		2,175
Sub-total	100	1,340	1,360	820	405	30	4,055
Contingency & Evaluation			500	600	600	315	2,015
PRIVATE SECTOR GRANTS		500	700	700	700	400	3,000
Total Expenditures	470	3,800	4,750	4,325	3,175	1,480	18,000

503

LAW DEVELOPMENT COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	4 py	300	1,200					1,200
Short-Term Advisors	50 pm	20 (Note	1,000				100	1,100
Project Administrator	4 py	2)	200					200
Administrative Staff	4 py	50	80					80
Office Supplies/PC's for TA		20	40					40
GOI Personnel					475	475		475
Office Space					175	175		175
S/T TRAINING (Note 3)								
Overseas training/research	30	7	210					210
S/T Instructors	(Note 4)							
Training Space					75	75		75
Trainee Costs (Note 5)				100		100		100
SEMINARS & WORKSHOPS								
Short-Term Advisors	(Note 4)							
Meeting Space & Logistics	10	10	100		50	50		150
Participant Costs (Note 5)				75		75	20	95
COMMODITIES								
Computers	5	5	25					25
Computer Mtce./Supplies				5	5	10		10
Training Materials			50					50
Reference Materials			15					15
Reproduction Costs				5	5	10		10
TOTAL FUNDING			2,920	185	785	970	120	4,010

Notes appear on the following page.

LAW DEVELOPMENT COMPONENT

NOTES

1. Personnel amounts include all related support costs for overhead, travel, housing, etc.

2. Short-term advisors will be recruited both locally and from the U.S.; $20,000/person-month is the average anticipated cost for such services.

3. In addition to participating in courses offered through this component, members of the Law Development Group will also be priority candidates for long and short-term overseas training and local short-term courses offered under the Legal Training Component.

4. USAID-funded short-term instructors for short-term training and advisors/speakers for seminars and workshops are included in the 50 pm of short-term assistance appearing in the Personnel line item.

5. The GOI is responsible for local costs including travel, per diem, honoraria, etc. for individuals participating in short-term training, seminars and workshops.

505

LEGAL TRAINING COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long Term Advisor	5 py	300	1,500					1,500
S/T Advisors/Trainers	80 pm	15 (Note 2)	1,200				100	1,300
Admin. Assistant	5 py	40	200					200
Office Supplies/PC's for TA			20					20
University Personnel					450	450		450
Office Space					130	130		130
TRAINING								
In-country Costs for: Curriculum Development, Faculty Upgrading, & trainee expenses				230		230	50	280
Short-term Instructors	(Note 3)							
Overseas L/T	20	35	700	30		30		730
Overseas S/T	50	7	350					350
Classroom Space					490	490	50	540
Tuition & Fees							250	250
COMMODITIES								
Training Materials			200	30	30	60	10	270
Reference Materials			120				10	130
Computers	3	5	15					15
Reproduction Costs				5	5	10		10
Other Supplies				5	15	20		20
TOTAL FUNDING			4,305	300	1,120	1,420	470	6,195

Notes appear on the following page.

LEGAL TRAINING COMPONENT

NOTES

1. Personnel amounts include all related support costs for overhead, travel, housing, etc.

2. Short-term advisors and instructors will be procured locally and from the United States. At present, the expected average cost of such assistance, per person-month, is $15,000.

3. USAID-funded short-term training advisors and instructors are included in the 80 pm of short-term assistance appearing in the Personnel line item.

PROCUREMENT MANAGEMENT DEVELOPMENT COMPONENT

ESTIMATED RESOURCE REQUIREMENTS

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	3 py	300	900					900
Admin. Staff	3 py	20	60					60
Short-Term Advisors	18 pm	25	450					450
Supplies/PC's for TA			20					20
GOI Personnel					375	375		375
Office Space					130	130		130
TRAINING								
Overseas - Short-term	15	10	150					150
Local Training Costs:								
Space & Logistics					50	50		50
Trainee Costs				60		60		60
Short-term Instructors	(Note 2)							
PRIVATE SECTOR WORKSHOPS								
Space and Logistics	3	20	60		5	5	10	75
Short-term Advisors	(Note 2)							
Fees							40	40
COMMODITIES								
Training Materials			20					20
Reference Materials			20					20
Computers	5	5	25					25
Reproduction & Distribution				40	40	80		80
Other Supplies				5	5	10		10
TOTAL FUNDING			1,705	105	605	710	50	2,465

NOTE 1: Personnel amounts include all related support costs for overhead, travel, housing, etc..
NOTE 2: Included in PERSONNEL - short-term advisors.

LEGAL INFORMATION SYSTEMS COMPONENT

ESTIMATED RESOURCE REQUIREMENTS
($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	GOI Funding			Private Sector	Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total		
PERSONNEL (Note 1)								
Long-Term Advisor	4 py	300	1,200					1,200
Administrative Staff	4 py	20	80					80
Short-Term Advisors/Trainers	25 pm	20	500					500
Supplies/PC's for TA			25					25
GOI Personnel- Supervisory					250	250		250
GOI Personnel- Other					500	500		500
Office Space					150	150		150
TRAINING								
Short-term Trainers (Note 2)								
Trainee Costs				85		85		85
Training Space					125	125	10	135
SEMINARS & WORKSHOPS								
Short-Term Advisors (Note 2)								
Meeting Space & Logistics	10	10	100		30	30	20	150
COMMODITIES								
Computers:								
Hardware & Software	4 inst.	var.	2,100					2,100
Maintenance				100		100		100
Space & Electricity				100	490	590		590
Supplies				40		40		40
Training/Reference Materials			50					50
Reproduction Costs					10	10		10
Other Supplies				10	10	20		20
User Fees							330	330
TOTAL FUNDING			4,055	335	1,565	1,900	360	6,315

Note 1: Personnel amounts include all related support costs for overhead, housing, travel, etc.
Note 2: Included in PERSONNEL - Short-term Advisors.

GRANTS TO EDUCATIONAL INSTITUTIONS COMPONENT

RESOURCE REQUIREMENTS

(Illustrative Only)

($000's)

PROJECT INPUTS	Description of Inputs		USAID Funding	Grantee Funding			Project Total
	Quantity	Cost/Unit		Cash	In-Kind	Total	
PERSONNEL							
Short-Term Advisors							
Short-Term Trainers							
New Faculty							
Secretarial Support							
Admin. Assistant							
TRAINING							
Curriculum Development							
Classroom Space							
Overseas Training L/T							
Overseas Training S/T							
Classroom Space							
WORKSHOPS AND SEMINARS							
Speakers							
Logistics and Space							
Publicity							
Materials							
COMMODITIES							
Reference Books							
Training Materials							
Computers							
Reproduction Costs							
TOTAL FUNDING							

ANNEX D

PROCUREMENT PLAN
AND
METHODS OF FINANCING

PROCUREMENT PLAN AND METHODS OF FINANCING

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
1. Personnel										
a. Long-Term	16py	4,800			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
b. Short-Term	153pm	2,650			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
	20pm	500			DP	AID	Buy-In	PIO/T	C	Interim "bridging" TA.
				200	In-kind					Pro bono TA & training.
c. Other		725			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
d. GOI Personnel			2,635		In-kind					Includes office space.
Sub-Total (11,510)		8,675	2,635	200						
2. Training										
a. Overseas L/T	20	700			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
			30		Cash	GOI	DIP			Air-fares to West Coast.
b. Overseas S/T	85	640			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
	10	70			DR	GOI	DIP	PIL	PIL	Interim "bridging" training.
c. Local Training:										
-Travel, Per Diem			475		Cash	GOI	DIP			Includes honoraria.
				50	In-kind					For priv. sector trainees.
-Space			740		In-kind					Classroom space.
				60	In-kind					Classroom equipment.
d. Tuition & fees				250	Cash					Short-course fees.
Sub-Total (3,015)		1,410	1,245	360						

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
3. Seminars & Workshops										
a. Facilities	23	260			DR	GOI	DIP	PIL	PIL	For public/private seminars.
			85		In-kind					
				10	In-kind					
b. Participant Costs			75		Cash	GOI	DIP			Travel, etc.
				40	In-kind					
c. Fees				40	Cash					
Sub-Total (510)		260	160	90						
4. Commodities										
a. Computers		2,100			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
--Related costs			240		Cash	GOI	DIP			
--Space			490		In-kind					
b. User Fees				330	Cash					
c. Reference and Trng. Materials		510			DP	AID	DC	PIO/T	UC	Supplied under L/T contract.
		30			DR	GOI	DIP	PIL	PIL	Supplied during year one.
d. Misc. Supplies			105		Cash	GOI	DIP			
			125		In-kind					
				20	In-kind					
Sub-Total (3,950)		2,640	960	350						
5. Private Sect. Grants		3,000			DR	AID	Grant		Grant	Direct AID Grants to Private Sector Organizations
				1,000	Cash & In-kind					
Sub-Total (4,000)		3,000		1,000						

INPUTS	Qty.	Financing ($000)				Exec. Agency	Proc. Method	Documentation		Remarks
		AID	GOI	Priv. Sect.	Type			E/Mark	Commit	
6. Other Items										
a. Eval. & Audit		300			DP	AID	DC	PIO/T	C	Evaluations conducted by Gray Amendment firms
b. Contingency & Inflation		1,715								
Sub-Total		2,015								
PROJECT TOTALS		18,000	5,000	2,000						

Definitions

DP Direct Payment to Contractor
DC Direct Contract
DR Direct Reimbursement to GO (no advances)
UC Umbrella Contract
C Contract

ANNEX E

STATUTORY CHECKLIST

515

5C(2) - ASSISTANCE CHECKLIST

Listed below are statutory criteria applicable to the assistance resources themselves, rather than to the eligibility of a country to receive assistance. This section is divided into three parts. Part A includes criteria applicable to both Development Assistance and Economic Support Fund resources. Part B includes criteria applicable only to Development Assistance resources. Part C includes criteria applicable only to Economic Support Funds.

CROSS REFERENCE: IS COUNTRY CHECKLIST UP TO DATE?	Yes.
A. CRITERIA APPLICABLE TO BOTH DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT FUNDS	
1. Host Country Development Efforts (FAA Sec. 601(a)): Information and conclusions on whether assistance will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture, and commerce; and (f) strengthen free labor unions.	The project will support the development of new laws and procedures which are expected to have a beneficial impact on a), b), c), d) and e). f) N/A.
2. U.S. Private Trade and Investment (FAA Sec. 601(b)): Information and conclusions on how assistance will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).	New laws and procedures developed under the project should improve the environment for U.S. trade and investment in Indonesia. The project will finance technical assistance, commodities and training from U.S. suppliers.
3. Congressional Notification:	
a. General requirement (FY 1991 Appropriations Act Secs. 523 and 591; FAA Sec. 634A): If money is to be obligated for an activity not previously justified to Congress, or for an amount in excess of the amount previously justified to Congress, has Congress been properly notified (unless the notification requirement has been waived because of substantial risk to human health or welfare)?	A congressional notification expired on July 24, 1991.

b. Notice of new account obligation (FY 1991 Appropriations Act Sec. 514): If funds are being obligated under an appropriation account to which they were not appropriated, has the President consulted with and provided a written justification to the House and Senate Appropriations Committees and has such obligation been subject to regular notification procedures?	N/A.
c. Cash transfers and nonproject sector assistance (FY 1991 Appropriations Act Sec. 575(b) (3): If funds are to be made available in the form of cash transfer or nonproject sector assistance, has the Congressional notice included a detailed description of how the funds will be used, with a discussion of U.S. interests to be served and a description of any economic policy reforms to be promoted?	N/A.
4. Engineering and Financial Plans (FAA Sec. 611(a)): Prior to an obligation in excess of $500,000, will there be: (a) engineering, financial or other plans necessary to carry out the assistance; and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?	a. Yes. b. Yes.
5. Legislative Action (FAA Sec. 611(a) (2)): If legislative action is required within recipient country with respect to an obligation in excess of $500,000, what is the basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance?	No legislative action is required.
6. Water Resources (FAA Sec. 611(b): FY 1991 Appropriations Act Sec. 501): If project is for water or water-related land resource construction, have benefits and costs been computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.)? (See A.I.D. Handbook 3 for guidelines).	N/A.
7. Cash Transfer and Sector Assistance (FY 1991 Appropriations Act Sec. 575(b)): Will cash transfer or nonproject sector assistance be maintained in a separate account and not commingled with other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance)?	N/A.

517

8. Capital Assistance (FAA Sec. 611(e)): If project is capital assistance (e.g., construction), and total U.S. assistance for it will exceed $1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?	N/A.
9. Multiple Country Objectives (FAA Sec. 601(a)): Information and conclusions on whether projects will encourage efforts of the country to : (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperative, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions.	The project will support the development of new laws and procedures which are expected to have a beneficial impact on a), b), c), d) and e). f) N/A.
10. U.S. Private Trade (FAA Sec. 601(b)): Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).	New laws and procedures developed under the project should improve the environment for U.S. trade and investment in Indonesia. The project will finance technical assistance, commodities and training from U.S. suppliers.
11. Local Currencies	
a. Recipient Contributions (FAA Secs. 612(b), 636(h)): Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.	The GOI and the Indonesian private sector will provide the equivalent of $ 7.0 million for the Project for local costs.
b. U.S.-Owned Currency (FAA Sec. 612 (d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?	No.
c. Separate Account (FY 1991 Appropriations Act Sec. 575). If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies:	

518

(1) Has A.I.D. (a) required that local currencies be deposited in a separate account established by the recipient government, (b) entered into an agreement with that government providing the amount of local currencies to be generated and the terms and conditions under which the currencies so deposited may be utilized, and (c) established by agreement the responsibilities of A.I.D. and that government to monitor and account for deposits into and disbursements from the separate account?	N/A.
(2) Will such local currencies, or an equivalent amount of local currencies, be used only to carry out the proposes of the DA or ESF chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government?	N/A.
(3) Has A.I.D. taken all appropriate steps to ensure that the equivalent of local currencies disbursed from the separate account are used for the agreed purposes?	N/A.
(4) If assistance is terminated to a country, will any unencumbered balances of funds remaining in a separate account be disposed of for purposes agreed to by the recipient government and the United States Government?	N/A.
12. Trade Restrictions	
a. Surplus Commodities (FY 1991 Appropriations Act Sec. 521(a)): If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity?	N/A.

519

b. Textiles (Lautenberg Amendment) (FY 1991 Appropriations Act Sec. 521(c): Will the assistance (except for programs in Caribbean Basin Initiative countries under U.S. Tariff Schedule "Section 807", which allows reduced tariffs on articles assembled aborad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel?	No.
13. Tropical Forests (FY 1991 Appropriations Act Sec. 533(c)(3)): Will funds be used for any program, project or activity which would (a) result in any significant loss of tropical forests, or (b) involve industrial timber extraction in primary tropical forest areas?	a. No. b. No.
14. Sahel Accounting (FAA Sec. 121(d)): If a Sahel project, has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of project funds (either dollars or local currency generated therefrom)?	N/A.
15. PVO Assistance.	
a. Auditing and registration (FY 1991 Appropriations Act Sec. 537): If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D.?	Grants made to PVOs under the project will only be made to PVOs which are registered with A.I.D. and have provided audit documentation as requested by A.I.D.
b. Funding sources (FY 1991 Appropriations Act, Title II, under heading "Private and Voluntary Organizations"): If assistance is to be made to a United States PVO (other than a cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?	If assistance is provided to a U.S. PVO under the project, it will be required to meet this eligibility requirement.

520

16. Project Agreement Documentation (State Authorization Sec. 139 (as interpreted by conference report)): Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D. LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision).	The ELIPS Project Agreement is not subject to this requirement.
17. Metric System (Omnibus Trade and Competitiveness Act of 1988 Sec. 5164, as interpreted by conference report, amendment Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance activity use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage?	The bulk of the procurement under the Project will be for technical services. Regarding commodities purchased, efforts will be made to use metric measurements to the maximum extent possible.
18. Women in Development (FY 1991 Appropriations Act, title II, under heading "Women in Development"): Will assistance be designed so that the percentage of women participants will be demonstrably increased?	Yes.
19. Regional and Multilateral Assistance (FAA Sec. 209): Is assistance through regional or multilateral organizations? If so, why is assistance not so provided? Information and conclusions on whether assistance will encourage developing countries to cooperate in regional development programs.	Assistance will focus on development of new Indonesian economic laws and related systems and procedures. These activities relate to specific Indonesian legal and economic issues, and as such are not suitable for a regional organization approach.

521

20. Abortions (FY 1991 Appropriations Act. Title II, under heading "Population, DA", and Sec. 525):	
a. Will assistance be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?	No.
b. Will any funds be used to lobby for abortion?	No.
21. Cooperatives (FAA Sec. 111): Will assistance help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward a better life?	No.
22. U.S.-Owned Foreign Currencies.	
a. Use of currencies (FAA Secs. 612(b), 636(h); FY 1991 Appropriations Act Secs. 507, 509): Describe steps taken to assure that, to the maximum extent possible, foreign currencies owned by the U.S. are utilized in lieu of dollars to meet the cost of contractual and other services.	N/A.
b. Release of currencies (FAA Sec. 612(d): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?	No.
23. Procurement.	
a. Small business (FAA Sec. 602(a)): Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed?	Yes.
b. U.S. procurement (FAA Sec. 604(a)): Will all procurement be from the U.S. except as otherwise determined by the President or determined under delegation from him?	Yes.
c. Marine insurance (FAA Sec. 604(d)): If the cooperating country discriminates against marine insurance companies authorized to do business in the U.S., will commodities be insured in the United States against marine risk with such a company?	Indonesia does not so discriminate.

522

d. Non-U.S. agricultural procurement (FAA Sec. 604(e)): If non-U.S. procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where commodity financed could not reasonably be procured in U.S.).	N/A.
e. Construction or engineering services (FAA Sec. 604(g)): Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.)	No.
f. Cargo preference shipping (FAA Sec. 603)): Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates?	No. Section 901(b) applies.
g. Technical assistance (FAA Sec. 621(a)): If technical assistance is financed, will such assistance be furnished by private enterprise on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs?	Yes. Yes, as appropriate.
h. U.S. air carriers (International Air Transportation Fair Competitive Practices Act, 1974): If air transportation of persons or property is financed on a grant basis, will U.S. carriers be used to the extent such service is available?	Yes.
i. Termination for convenience of U.S. Government (FY 1991 Appropriations Act Sec. 504): If the U.S. Government is a party to a contract for procurement, does the contract contain a provision authorizing termination of such contract for the convenience of the United States?	Yes.

523

j. Consulting services (FY 1991 Appropriations Act Sec. 524): If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)?	Yes.
k. Metric conversion (Omnibus Trade and Competitiveness Act of 1988, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance program use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight) through the implementation stage?	The bulk of the procurement under the Project will be for technical services. Regarding commodities purchased, efforts will be made to use metric measurement to be maximum extent possible.
l. Competitive Selection Procedures (FAA Sec. 601(e)): Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?	Yes.
24. Construction	
a. Capital project (FAA Sec. 601(d)): If capital (e.g., construction) project, will U.S. engineering and professional services be used?	N/A.
b. Construction contract (FAA Sec. 611(c)): If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable?	N/A.

524

c. Large projects, Congressional approval (FAA Sec. 620(k): If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed $100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation), or does assistance have the express approval of Congress?	N/A.
25. U.S. Audit Rights (FAA Sec. 301(d)): If fund is established solely by U.S. contributions and administered by an international organization, does Comptroller General have audit rights?	N/A.
26. Communist Assistance (FAA Sec. 620(h). Do arrangements exist to ensure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries?	Yes.
27. Narcotics	
a. Cash reimbursements (FAA Sec. 483): Will arrangements preclude use of financing to make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated?	Yes.
b. Assistance to narcotics traffickers (FAA Sec. 487): Will arrangements take "all reasonable steps" to preclude use of financing to or through individuals or entities which we know or have reason to believe have either: (1) been convicted of a violation of any law or regulation of the United States or a foreign country relating to narcotics (or other controlled substances); or (2) been involved in the illicit trafficking of, any such controlled substance?	(1) Yes. (2) Yes.
28. Expropriation and Land Reform (FAA Sec. 620(g)): Will assistance preclude use of financing to compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President?	Yes.
29. Police and Prisons (FAA Sec. 660): Will assistance preclude use of financing to provide training, advice, or any financial support for police, prisons, or other law enforcement forces, except for narcotics programs?	Yes.
30. CIA Activities (FAA Sec. 662): Will assistance preclude use of financing for CIA activities?	Yes.

525

31. Motor Vehicles (FAA Sec. 636(i)): Will assistance preclude use of financing for purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained?	Yes.
32. Military Personnel (FY 1991 Appropriations Act Sec. 503): Will assistance preclude use of financing to pay pensions, annuities, retirement pay, or adjusted service compensation for prior or current military personnel?	Yes.
33. Payment of U.N. Assessments (FY 1991 Appropriations Act Sec. 505): Will assistance preclude use of financing to pay U.N. assessments, arrearages or dues?	Yes.
34. Multilateral Organization Lending (FY 1991 Appropriations Act Sec. 506): Will assistance preclude use of financing to carry out provisions of FAA Section 209(d) (transfer of FAA funds to multilateral organizations for lending)?	Yes.
35. Export of Nuclear Resources (FY 1991 Appropriations Act Sec. 510): Will assistance preclude use of financing to finance the export of nuclear equipment, fuel, or technology?	Yes.
36. Repression of Population (FY 1991 Appropriations Act Sec. 511): Will assistance preclude use of financing for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights?	Yes.
37. Publicity or Propaganda (FY 1991 Appropriations Act Sec. 516): Will assistance be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress?	No.
38. Marine Insurance (FY 1991 Appropriations Act Sec. 563): Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate?	Yes.

526

39. Exchange for Prohibited Act (FY 1991 Appropriations Act Sec. 569): Will any assistance be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law?	No.
B. CRITERIA APPLICABLE TO DEVELOPMENT ASSISTANCE ONLY	
1. Agricultural Exports (Bumpers Amendment) (FY 1991 Appropriations Act Sec. 521(b), as interpreted by conference report for original enactment): If assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities: (a) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U.S. exporters of a similar agricultural commodity; or (2) in support of research that is intended primarily to benefit U.S. producers?	N/A.
2. Tied Aid Credits (FY 1991 Appropriations Act, Title II, under heading "Economic Support Fund"): Will DA funds be used for tied aid credits?	No.
3. Appropriate Technology (FAA Sec. 107): Is special emphasis placed on use of appropriate technology (defined as relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor)?	N/A.

527

4. Indigenous Needs and Resources (FAA Sec. 281(b)): Describe extent to which the activity recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civic education and training in of skills required for effective participation in governmental and political processes essential to self-government.	Project is designed to respond to a well-defined set of specific needs, taking into account existing capacities; project will make full use of available local advisors and instructors; project training will help to equip public and private sector participants with stronger skills in order to assist in developing new economic laws and systems.
5. Economic Development (FAA Sec. 101(a)): Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?	Yes.
6. Special Development Emphases (FAA Secs. 102(b), 113, 281(a)): Describe extent to which activity will: (a) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and ensuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (b) encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (e) utilize and encourage regional cooperation by developing countries.	(a) The poor will benefit from increased employment opportunities which are expected to result from expansion of the private sector. (b) Democratic institutions will be strengthened through the establishment of a stronger economic law framework. (c) The project supports self-help measures which are already underway. (d) The project is expected to encourage the establishment or expansion of women-owned firms. (e) N/A.
7. Recipient Country Contribution (FAA Secs. 110, 124(d)): Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter cost-sharing requirement being waived for a "relatively least developed" country)?	Yes.

528

8. Benefit to Poor Majority (FAA Sec. 128(b)): If the activity attempts to increase the institutional capabilities of private organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?	Yes.
9. Abortions (FAA Sec. 104(f); FY 1991 Appropriations Act, Title II, under heading "Population, DA," and Sec. 535):	
a. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions?	No.
b. Are any of the funds to be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations?	No.
c. Are any of the funds to be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?	No.
d. Will funds be made available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services?	N/A.
e. In awarding grants for natural family planning, will any applicant be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning?	N/A.
f. Are any of the funds to be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning?	No.
g. Are any of the funds to be made available to any organization if the President certifies that the use of these funds by such organization would violate any of the above provisions related to abortions and involuntary sterilization?	N/A.

529

10. Contract Awards (FAA Sec. 601(e)): Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?	Yes.
11. Disadvantaged Enterprises (FY 1991 Appropriations Act Sec. 567): What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)?	Given the exceptionally broad nature of the project's technical assistance and training requirements, it appears unlikely that any one such firm or organization could fulfill such requirements. It is expected that such firms and organizations will participate in the project as recipients of sub-contracts to supply specific technical assistance or training inputs.
12. Biological Diversity (FAA Sec. 119(g): Will the assistance: (a) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (c) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas?	(a) No. (b) No. (c) No. (d) No.
13. Tropical Forests (FAA Sec. 118; FY 1991 Appropriations Act Sec. 533(c)-(e) &(g)):	
a. A.I.D. Regulation 16: Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16?	Yes.

530

b. Conservation: Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible: (1) stress the importance of conserving and sustainably managing forest resources; (2) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas; (3) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (4) help end destructive slash-and-burn agriculture by supporting stable and productive farming practices; (5) help conserve forests which have not yet been degraded by helping to increase production on lands already cleared or degraded; (6) conserve forested watersheds and rehabilitate those which have been deforested; (7) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing; (8) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation; (9) conserve biological diversity in forest areas by supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (10) seek to increase the awareness of U.S. Government agencies and other donors of the immediate and long-term value of tropical forests; (11) utilize the resources and abilities of all relevant U.S. government agencies; (12) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land; and (13) take full account of the environmental impacts of the proposed activities on biological diversity?	N/A.

531

c. Forest degradation: Will assistance be used for: (1) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems; (2) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas; (3) activities which would result in the conversion of forest lands to the rearing of livestock; (4) the construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undergraded forest lands; (5) the colonization of forest lands; or (6) the construction of dams or other water control structures which flood relatively undergraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development?	N/A.
d. Sustainable forestry: If assistance relates to tropical forests, will project assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry?	N/A.
e. Environmental impact statements: Will funds be made available in accordance with provisions of FAA Section 117(c) and applicable A.I.D. regulations requiring an environmental impact statement for activities significantly affecting the environment.	N/A.
14. Energy (FA 1991 Appropriations Act Sec. 533(c)): If assistance relates to energy, will such assistance focus on: (a) end-use energy efficiency, least-cost energy planning, and renewable energy resources, and (b) the key greatest impact on reducing emissions from greenhouse gases?	N/A.

532

15. Sub-Saharan Africa Assistance (FY 1991 Appropriations Act Sec. 562, adding a new FAA chapter 10 (FAA Sec. 496)): If assistance will come from the Sub-Saharan Africa DA account, is it: (a) to be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant; (b) to be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector; (c) being provided in accordance with the policies contained in FAA section 102; (d) being provided in close consultation with African, United States and other PVOs that have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa; (e) being used to promote reform of sectoral economic policies, to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities, to bring about appropriate sectoral restructuring of the Sub-Saharan African economies, to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development, and to take into account, in assisted policy reforms, the need to protect vulnerable groups; (f) being used to increase agricultural production in ways that protect and restore the natural resource base, especially food production, to maintain and improve basic transportation and communication networks, to maintain and restore the renewable natural resource base in ways that increase agricultural production, to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care, to provide increased access to voluntary family planning services, to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education, and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas?	N/A.

533

16. Debt-for-Nature Exchange (FAA Sec. 463): If project will finance a debt-for-nature exchange, describe how the exchange will support protection of: (a) the world's oceans and atmosphere; (b) animal and plant species; and (c) parks and reserves; or describe how the exchange will promote: (d) natural resource management, (e) local conservation programs, (f) conservation training programs, (g) public commitment to conservation, (h) land and ecosystem management, and (i) regenerative approaches in farming, forestry, fishing, and watershed management.	N/A.
17. Deobligation/Reobligation (FY 1991 Appropriations Act Sec. 515): If deob/reob authority is sought to be exercised in the provision of DA assistance, are the funds being obligated for the same general purpose, and for countries within the same region as originally obligated, and have the House and Senate Appropriations Committees been properly notified?	N/A.
18. Loans	
a. Repayment capacity (FAA Sec. 122(b): Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest.	N/A.
b. Long-range plans (FAA Sec. 122(b): Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities?	N/A.
c. Interest rate (FAA Sec. 122(b): If development loan is repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter?	N/A.
d. Exports to Untied States (FAA Sec. 620(d): If assistance is for any productive enterprises which will compete with U.S. enterprises, is there an agreement by the recipient country to prevent export to the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan, or has the requirement to enter into such an agreement been waived by the President because of a national security interest?	N/A.

534

19. Development Objectives [FAA Secs. 102(a), 111, 113, 281(a)]: Extent to which activity will: (1) effectively involve the poor in development, by expanding access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and ensuring wide participation of the poor in the benefits of development on a sustained basis, using the appropriate U.S. institutions; (2) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions; (3) support the self-help efforts of developing countries; (4) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (5) utilize and encourage regional cooperation by developing countries?	(a) The poor will benefit from increased employment opportunities which are expected to result from expansion of the private sector. (b) Democratic institutions will be strengthened through the establishment of a stronger economic law framework. (c) The project supports self-help measures which are already underway. (d) The project is expected to encourage the establishment or expansion of women-owned firms. (e) N/A.
20. Agriculture, Rural Development and Nutrition, and Agricultural Research (FAA Secs. 103 and 103A):	
a. Rural poor and small farmers: If assistance is being made available for agriculture, rural development or nutrition, describe extent to which activity is specifically designed to increase productivity and income of rural poor; or if assistance is being made available for agricultural research, has account been taken of the needs of small farmers, and extensive use of field testing to adapt basic research to local conditions shall be made.	N/A.
b. Nutrition: Describe extent to which assistance is used in coordination with efforts carried out under FAA Section 104 (Population and Health) to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people.	N/A.

535

c. Food security: Describe extent to which activity increases national food security by improving food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post harvest food losses, and improving food distribution.	N/A.
21. Population and Health [FAA Secs. 104(b) and (c)]: If assistance is being made available for population or health activities, describe extent to which activity emphasizes low-cost, integrated delivery systems for health, nutrition and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.	N/A.
22. Education and Human Resources Development (FAA Sec. 105): If assistance is being made available for education, public administration, or human resources development, describe (a) extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, and strengthens management capability of institutions enabling the poor to participate in development; and (b) extent to which assistance provides advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.	(a) Project assistance is expected to improve the quality and relevance of economic law education. (b) Project will assist in providing advanced training to individuals charged with responsibility for developing, implementing, interpreting and enforcing economic laws, and for developing national policies for government procurement.
23. Energy, Private Voluntary Organizations, and Selected Development Activities (FAA Sec. 106): If assistance is being made available for energy, private voluntary organizations, and selected development problems, describe extent to which activity is:	
a. concerned with data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy resources which are environmentally acceptable and require minimum capital investment;	N/A.

536

b. concerned with technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations;	N/A.
c. research into, and evaluation of, economic development processes and techniques;	N/A.
d. reconstruction after natural or manmade disaster and programs of disaster preparedness;	N/A.
e. for special development problems, and to enable proper utilization of infrastructure and related projects funded with earlier U.S. assistance;	N/A.
f. for urban development, especially small, labor-intensive enterprises, marketing systems for small producers, and financial or other institutions to help urban poor participate in economic and social development.	N/A.
24. Sahel Development (FAA Secs. 120-21). If assistance is being made available for the Sahelian region, describe: (a) extent to which there is international coordination in planning and implementation; participation and support by African countries and organizations in determining development priorities; and a long-term, multidonor development plan, which calls for equitable burden-sharing with other donors; (b) whether a determination has been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of project funds (dollars or local currency generated therefrom).	N/A.
C. CRITERIA APPLICABLE TO ECONOMIC SUPPORT FUNDS ONLY	**Not ESF funded.**
1. Economic and Political Stability (FAA Sec. 531(a): Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA?	N/A.
2. Military Purposes [FAA Sec. 531(e)]: Will this assistance be used for military or paramilitary purposes?	N/A.
3. Commodity Grants/Separate Accounts (FAA Sec. 609): If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made?	N/A.

- 637

4. Generation and Use of Local Currencies [FAA Sec. 531(d)]: Will ESF funds made available for commodity import programs or other program assistance be used to generate local currencies? If so, will at least 50 percent of such local currencies be available to support activities consistent with the objectives of FAA sections 103 through 106?	N/A.
5. Cash Transfer Requirements [FY 1991 Appropriations Act, Title II, under heading "Economic Support Funds," and Sec. 575(b)]. If assistance is in the form of a cash transfer:	
a. Separate Account: Are all such cash payments to be maintained by the country in a separate account and not to be commingled with any other funds?	N/A.
b. Local currencies: Will local currencies that may be generated with funds provided as a cash transfer to such a country also be deposited in a special account, and has A.I.D. entered into an agreement with that government setting forth the amount of the local currencies to be generated, the terms and conditions under which they are to be used, and the responsibilities of A.I.D. and that government to monitor and account for deposits and disbursements?	N/A.
c. U.S. Government use of local currencies: Will all such local currencies also be used in accordance with FAA Section 609, which requires such local currencies to be made available to the U.S. Government as the U.S. determines necessary for the requirements of the U.S. Government, and which requires the remainder to be used for programs agreed to by the U.S. Government to carry out the purposes for which new funds authorized by the FAA would themselves be available?	N/A.
d. Congressional notice: Has Congress received prior notification providing in detail how the funds will be used, including the U.S. interests that will be served by the assistance, and, as appropriate, the economic policy reforms that will be promoted by the cash transfer assistance?	N/A.

ANNEX F

A.I.D. WASHINGTON PID CABLE

ACTION AID : INFO DCM ECON CHRON 5

VZCZCJAC088
PP RUEHJA
DE RUEHC #9727/01 0380236
ZNR UUUUU ZZH
P 070051Z FEB 91
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA PRIORITY 3684
BT
UNCLAS SECTION 01 OF 03 STATE 039727

ACTION COPY

LOG: 249 ET
07 FEB 91 2140
CN: 21975
CHRG: AID
DIST: AID

RECEIVED FEB 7 1991 USAID/CAR Jakarta

AIDAC

E.O. 12356: N/A
TAGS:
SUBJECT:

INDONESIA COMMERCIAL LAW AND PROCUREMENT SYSTEMS PROJECT (CLPS), 497-0372 - PID REVIEW MEETING

REF: (A) ELLIOTT TO LEWIS/ROGERS FAX, 1/4/91, (B) STATE 310437

1. SUMMARY: THE ASSISTANT ADMINISTRATOR FOR THE BUREAU FOR ASIA AND PRIVATE ENTERPRISE (AA/APRE) HEREBY DELEGATES TO THE USAID/INDONESIA MISSION DIRECTOR AUTHORITY TO APPROVE THE PROJECT IDENTIFICATION DOCUMENT AND PROJECT PAPER FOR THE COMMERCIAL LAW AND PROCUREMENT SYSTEMS PROJECT, 497-0372. THIS CABLE CONTAINS SEVERAL POINTS FOR THE MISSION TO CONSIDER DURING PROJECT PAPER DESIGN. THE CABLE ALSO PROVIDES FURTHER GUIDANCE ON THE ISSUE OF FUNDING. THIS PROJECT CONTINUES TO HAVE STRONG BUREAU SUPPORT AND APRE WANTS TO ASSIST USAID/INDONESIA IN CLPS' DEVELOPMENT IN ALL POSSIBLE WAYS.

2. A PID REVIEW MEETING WAS HELD ON JANUARY 17, 1991. THE OBJECTIVE OF THE MEETING WAS:

- TO DISCUSS PROGRAM AND DESIGN ISSUES;

- TO IDENTIFY SUGGESTIONS FOR PROJECT IMPROVEMENT WHICH WOULD BE COMMUNICATED TO THE FIELD; AND

- TO DECIDE WHETHER TO RETAIN PID APPROVAL AUTHORITY IN AID/W OR DELEGATE IT TO USAID/INDONESIA.

THE MEETING WAS CHAIRED BY GENE MORRIS, APRE/DR/PD, AND ATTENDED BY REPRESENTATIVES OF OTHER BUREAU OFFICES INCLUDING TR, GC, EM, SMIE, AND AA/APRE. THE GENERAL COUNSEL AND DEPUTY GENERAL COUNSEL FOR AID ALSO ATTENDED. APRE/FPM AND APRE/I PROVIDED COMMENTS IN ADVANCE OF THE MEETING.

3. PROJECT DESIGN SUGGESTIONS AND CLARIFICATION APPEAR BELOW:

A. FUNDING: THE PID PROPOSES AN LOP OF DOLS 15 MILLION

USAID ROUTING		
TO	ACT.	INFO
DIR		✓
DD		✓
EPSO		
LA	✓	
PDS		✓
EXO		
CM		✓
FIN		
FIN/B		✓
FIN/FA		
ARD		
O/PH		
EHR		
EHR/T		
VHP		
PSD		✓
INFO C		
PER		
DMC		
GSO		
L&R		

54

WHILE AFRE APPROVED DOLS 11 MILLION OF DPRP FUNDING FOR THIS PROJECT. THE UNCERTAINTY OF DPRP FUNDING IN GENERAL WAS COMMUNICATED TO USAID/INDONESIA THROUGH THE NPD DECISION CABLE (REF B) AND IN MORE RECENT MESSAGES (REF A). THE DPRP FUND HAS BEEN REDUCED TO DOLS 33 MILLION AND IS BEING HELD BY PPC FOR ALLOCATION IN MARCH/APRIL, BUT COULD BE AFFECTED BY A POSSIBLE SEQUESTRATION OF AGENCY FUNDS. THE SEQUESTRATION DECISION IS EXPECTED TO BE RESOLVED IN MARCH/APRIL, AT WHICH TIME WE WILL PROVIDE FINAL GUIDANCE ON FUNDING OPTIONS FOR ALL PROJECTS FOR WHICH DPRP FUNDS WERE REQUESTED.

PLEASE BE AWARE THAT DPRP CRITERIA REQUIRE THAT ALL DPRP FUNDS BE OBLIGATED IN THE INITIAL FISCAL YEAR. THEREFORE, PERFORMANCE FUNDS FOR THIS PROJECT, IF AVAILABLE AT ALL, WILL BE FOR FY 91 OBLIGATION ONLY. FINAL GUIDELINES ON THE PROCESS AND USE OF DPRP FUNDS WILL BE ISSUED SHORTLY.

I. MISSION ISSUES: THE REVIEW COMMITTEE FULLY AGREED WITH THE ISSUES ARTICULATED BY THE MISSION ON PAGE 28 OF THE PID. THEY INCLUDED FUNDING, INSTITUTIONAL RELATIONSHIPS, PRIVATE SECTOR PARTICIPATION, ECONOMIC IMPACT, FOCUS OF COMMERCIAL LAW IMPROVEMENTS, AND HOST COUNTRY CONTRIBUTION.

REGARDING PROJECT FOCUS, THE REVIEW COMMITTEE AGREED THAT THE COMMERCIAL LAW COMPONENT SHOULD WORK

CONCURRENTLY IN THREE AREAS: (1) THE DEVELOPMENT OF NEW LAWS, (2) THE DEVELOPMENT OF A LAW-MAKING PROCESS, AND (3) THE PUBLICATION AND DISSEMINATION OF LAWS. THE COMMITTEE STRONGLY PREFERRED PLACING GREATER EMPHASIS ON THE LAW-MAKING PROCESS AND THE PUBLICATION AND DISSEMINATION OF LAWS THAN WAS ARTICULATED IN THE PID: BROADENING THE PROCESS THROUGH WHICH NEW LAWS ARE MADE TO INCLUDE INPUT FROM THE PRIVATE SECTOR AND MAKING EXISTING LAWS MORE TRANSPARENT AND ACCESSIBLE TO ALL RECEIVED BROAD COMMITTEE SUPPORT. THE PROJECT PAPER SHOULD ADDRESS THESE AREAS IN MORE DETAIL. (FOR EXAMPLE, EXPENDITURES FOR "LEGAL INFORMATION SYSTEMS" SHOULD BE LISTED.)

WITH REGARD TO PRIVATE SECTOR PARTICIPATION, THE REVIEW COMMITTEE SUGGESTED THAT ALL ELEMENTS OF THE PRIVATE SECTOR WHICH SIGNIFICANTLY INFLUENCE OR ARE AFFECTED BY COMMERCIAL LAWS AND PROCUREMENT SYSTEMS BE FULLY INVOLVED IN THE DESIGN AND IMPLEMENTATION OF THIS
PT
#9727

NNNN

-541

PROJECT. THE COMMITTEE SUGGESTS THAT, IN ADDITION TO THE LEGAL PROFESSION, THERE MAY BE VARIOUS BUSINESS ASSOCIATIONS AND OTHER PROFESSIONALS, SUCH AS ACCOUNTANTS, THAT HAVE IMPORTANT INPUTS TO MAKE. ALL GROUPS COULD PARTICIPATE FROM THE START IN THE LAW-MAKING PROCESS, BUT ALSO IN RECEIVING TRAINING, TECHNICAL ASSISTANCE, AND INSTITUTIONAL SUPPORT THAT WOULD STRENGTHEN THEIR CONTRIBUTION.

WE APPRECIATE THE DIFFICULTY IN DEVELOPING AND QUANTIFYING THE CAUSALITY BETWEEN THE PROJECT AND IMPACT AT THE MACROECONOMIC LEVEL. INDEED IT MAY BE IMPRACTICAL. HOWEVER, USAID/INDONESIA HAS DEVELOPED PRACTICAL PERFORMANCE INDICATORS FOR ITS EXISTING PORTFOLIO AND THE BUREAU EXPECTS THE SAME WILL BE DONE IN THE CASE OF THIS NEW PROJECT. SINCE RESULTS TRACKING IS A KEY BUREAU CONCERN, THE PREPARATION OF A COMPREHENSIVE BASELINE AND THE EXAMINATION OF ALTERNATIVE FRAMEWORKS FOR MONITORING AND EVALUATION, AS CITED IN THE PID, IS STRONGLY ENCOURAGED.

C. LEVEL AND COMPOSITION OF TECHNICAL ASSISTANCE: AS A GENERAL COMMENT, THE LEVEL OF TECHNICAL ASSISTANCE IN THIS PROJECT SEEMS HIGH. BASED ON PAST EXPERIENCE, THE REVIEW COMMITTEE IS SOMEWHAT WARY OF TECHNICAL ASSISTANCE IN THE LEGAL AREA USING SHORT-TERM CONSULTANTS, IF THOSE CONSULTANTS LACK A BACKGROUND IN LOCAL LEGAL CULTURE. IT IS RECOGNIZED, HOWEVER, THAT SOME OF THE BEST PEOPLE WITH EXPERIENCE IN INDONESIA MAY

ONLY BE AVAILABLE ON A SHORT-TERM BASIS.

ALSO, THE MISSION MAY FIND IT VERY DIFFICULT TO ATTRACT WELL-QUALIFIED INDIVIDUALS FOR AS LONG AS FOUR OR FIVE CONSECUTIVE YEARS. ASKING AN INDIVIDUALS TO SPEND TWO OR THREE YEARS AND THEN RETURN TO INDONESIA PERIODICALLY MAY BE MORE ATTRACTIVE, PARTICULARLY FOR UNIVERSITY STAFF. THE REFINEMENT OF LONG AND SHORT-TERM TECHNICAL ASSISTANCE REQUIREMENTS FOR BOTH THE COMMERCIAL LAW AND PROCUREMENT SYSTEMS COMPONENTS OF THE PROJECT, AS SUGGESTED IN THE PID, IS ENCOURAGED.

WE ENCOURAGE THE MISSION TO BE CREATIVE IN USING THE U.S. PRIVATE SECTOR FOR TRAINING OR OTHER PURPOSES, PERHAPS ON A VOLUNTEER BASIS. U.S. LAW FIRMS, FOR EXAMPLE, MIGHT ACCEPT INDONESIAN LAWYERS AS INTERNS. APPROPRIATE INTERNSHIPS FOR OTHER RELEVANT PROFESSIONS ALSO MIGHT BE FOUND. IN ADDITION, WESTLAW AND/OR LEXIS, MAJOR FIRMS SPECIALIZING IN COMPUTERIZED ON-LINE LEGAL INFORMATION SYSTEMS, MIGHT ASSIST IN THE LEGAL INFORMATION NETWORK.

D. PRIVATIZATION: GIVEN THE PERVASIVENESS OF STATE OWNED-ENTERPRISES (SOES) IN INDONESIA, THE PROJECT PAPER MIGHT CONSIDER (1) THE POSSIBILITY OF LINKAGE BETWEEN CLPS AND THE FINANCIAL MARKETS PROJECT (WITH ITS NEW PRIVATIZATION COMPONENT) AND (2) HOW CLPS MAY IMPROVE THE GENERAL CLIMATE FOR THE PRIVATIZATION OF SOES.

542

WISE TO CONSIDER USING IRIS TECHNICAL RESOURCES DURING THE IMPLEMENTATION PHASE FOR ASSISTANCE IN ADMINISTRATIVE RULE-MAKING AND REGULATIONS BASED ON NEW LEGISLATION. LIKEWISE, THE WORK OF PERU'S INSTITUTE FOR LIBERTY AND DEMOCRACY (ILD), LED BY HERNANDO DE SOTO, MAY HAVE SOME VALUABLE LESSONS FOR CLPS. PAPERS REVIEWING THE LAST TEN YEARS OF ILD'S WORK WILL BE SENT TO THE MISSION. AFRE FURTHER NOTES THAT A ROAD CONTRACTOR PERFORMANCE STUDY WAS PERFORMED IN INDONESIA UNDER ST'S DECENTRALIZATION: FINANCE AND MANAGEMENT PROJECT AND WONDERS WHETHER THERE IS ANY LINK BETWEEN IT AND THE PROCUREMENT SYSTEMS COMPONENT OF CLPS.

LASTLY, THE EASTERN EUROPEAN PROGRAM ALSO IS WORKING ON COMMERCIAL LAW REFORM. AFRE/DR/PD WILL DISTRIBUTE ANY RELEVANT INFORMATION/FINDINGS IT DISCOVERS.

- GRAY AMENDMENT CONTRACTING: THE MISSION IS REMINDED THAT THE PP DISCUSSION OF CONTRACTING OPPORTUNITIES OF GRAY AMENDMENT ENTITIES SHOULD INCLUDE PROCUREMENT PLANS AND SPECIFIC STEPS THAT WILL BE UTILIZED TO FURTHER SUCH INVOLVEMENT, I.E., 8(A) SET-ASIDE, PRIME CONTRACTING, SUB-CONTRACTING, JOINT VENTURES, ETC.. FIELD MISSION INPUT CURRENTLY IS BEING SOLICITED VIA AN AFRE/W CABLE (STATE 26718) ENTITLED "MINORITY BUSINESS PROGRAM: ESTABLISHMENT OF THE EARLY ALERT SYSTEM."

- THE IEE HAS BEEN APPROVED BY AFRE ENVIRONMENTAL COORDINATOR MOLLY KUX WITH NO ADDITIONAL COMMENTS. THE SIGNED IEE WILL BE SENT TO THE MISSION. BAKER
BT
#9727

NNNN

- 543

ANNEX G

Government of Indonesia Request for Assistance

DEPARTEMEN LUAR NEGERI
REPUBLIK INDONESIA

Jakarta, August 31, 1991.

Mr. Lewis P. Reade
Director
U.S. Agency for International Development
American Embassy
J a k a r t a

Re : Economic Law and Improved Procurement Systems Project

Dear Mr. Reade,

The Government of Indonesia (GOI) hereby requests the assistance of the U.S. Agency for International Development (USAID) in the form of an US$ 15.0 million grant to finance the proposed Economic Law and Improved Procurement Systems Project.

The goal of this project is to increase employment and incomes by improving the environment for business growth, creating a more attractive climate for domestic and foreign investment, and increasing the efficiency of development expenditures. This high priority project will be an important element in the GOI program to promote private sector growth by improving the economic law and government procurement framework within which private sector firms operate. Project inputs will include technical assistance, training, and commodities.

The executing agency for the project will be the Office of the Coordinating Minister for Economy, Finance, Industry and Development Supervision (EKUIN).
Management of the Project will be provided by a Project Secretariat located in the Office of the Deputy Executive Secretary for Legal Affairs. In addition to EKUIN, Ministry of Finance and such other GOI's Department and Agencies under EKUIN coordination, project inputs will be received by the University

GHS

of Indonesia, the National Law Development Agency Ministry of Justice and Secretariat Negara. The GOI will contribute the equivalent of the US$ 5.0 million in cash and in-kind for this project.

We also anticipate to include the participation of the private sector institutions in the ELIPS project for which the additional grant of US$ 3.0 million will be requested as the need arises during the course of implementing the project.

We look forward to your favorable response, and thank you for your kind cooperation.

Sincerely Yours,

H.I. JASIN
Acting Director General for
Foreign Economic Relation

54

ANNEX H

ENVIRONMENTAL DETERMINATION

INITIAL ENVIRONMENTAL EXAMINATION

(A) PROGRAM COUNTRY: Indonesia

(B) ACTIVITY: Commercial Law and Procurement Systems Project (497-0372)

(C) FUNDING: $15.0 million

(D) PERIOD OF FUNDING: FY 91 - FY 97

(E) ENVIRONMENTAL ACTION RECOMMENDED:

Categorical Exclusion in accordance with Regulation 16, Section 216.2(c)(1). Activities fall within the class of actions described in Section 216.2(c)(2)(i) and (iii).

(F) STATEMENT PREPARED BY: _____
John R. Rogers
Project Officer

(G) ENVIRONMENTAL OFFICER CLEARANCE: _____
Jerry Bisson
Mission Environmental Officer

(H) DECISION OF USAID/INDONESIA ACTING DIRECTOR:

Approved _____

Disapproved _____

Date 12/21/90

(I) DECISION OF APRE ENVIRONMENTAL OFFICER:

Approved _____

Disapproved _____

Date 1-28-91

EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE OF ENVIRONMENTAL IMPACT

A. Description of the Project:

The Commercial Law and Procurement Systems Project (497-0372) is a six-year, $15.0 million initiative with the purpose of developing a framework of commercial law and a government procurement system which will facilitate and support increased private sector participation and investment in Indonesia's economic development, while fostering more equitable treatment for all firms, organizations and individuals. New laws, regulations, procedures and institutional structures to be developed under the Project are expected to: i) reduce the costs and risks of entering into private transactions in Indonesia; ii) reduce the barriers to entry and mobility of private investment, both domestic and foreign; and iii) provide for fair and transparent procurement of goods and services for public sector activities, leading to expanded, equitable and more efficient private sector participation in public investment programs. This will be accomplished by providing training, technical assistance and possibly limited computerization support to improve both the substance of existing laws, regulations, decrees and rules, and the processes by which such laws, regulations, etc., are administered and enforced. The goal of the Project is to create employment and increase incomes.

B. Recommended Environmental Action:

Activities to be funded by this Project fall within the class of actions described in Section 216.2(c)(2)(i) and (iii) and will have no direct impact upon the physical environment. Indirect environmental effects may result as improvements to the commercial law and government procurement systems lead to an expansion of Indonesia's private sector, which will involve increases in commercial transactions of all types and increased levels of investment. Such effects will be entirely indirect and cannot be reasonably identified or quantified at this time or at any time in the future. Further environmental review does not appear to be possible or necessary. **On this basis, it is recommended that this Project be categorically excluded from further environmental review pursuant to A.I.D. Regulation 16, Section 216.2(c)(1).**

Clearance:

Paul Scott,
Mission Legal Advisor PWS

Annex I

CERTIFICATION PURSUANT TO GRAY AMENDMENT

CERTIFICATION PURSUANT TO
GRAY AMENDMENT

As the Director and Principal Officer of the Agency for International Development in Indonesia, I certify that during the design of the Economic Law and Improved Procurement Systems (ELIPS) Project (497-0372) full consideration has been given to the potential involvement of small and/or economically and socially disadvantaged enterprises, and historically black colleges universities and minority controlled private and voluntary organizations covered by the Gray Amendment.

The project procurement plan is based on the need to utilize contractors with highly specific substantive knowledge and technical competence across a broad array of disciplines, including numerous specialized areas of commercial law, legal training, legal information systemization, dissemination and automation, and government procurement. The necessary knowledge and expertise are not available, to the best of our knowledge, from minority controlled and women-owned firms, historically black colleges and universities, and minority controlled private voluntary agencies. However, it is anticipated that the prime contractors will use such concerns for at least 10% of the total contract value. If all other aspects of the evaluation of contract bids are equal, the participation of such concerns may become the determining factor for selection.

Further, it is the policy of this Mission to use Gray Amendment firms for all interim and final project evaluations.

L. P. Reade
Mission Director

8/21/91
Date

-551

ANNEX J

BIBLIOGRAPHY

BIBLIOGRAPHY

Asian Development Bank, *Asian Development Outlook 1990*, Manila, Philippines, Apr 1990.

Asian Development Bank, Programs Department (East), *Towards A Competitive Economy: The Emerging Role of the Private Sector in Indonesia*, Operations and Policy Studies Series, April 1991.

Cheung, Steven N.S., "The Contractual Nature of the Firm," *Journal of Law and Economics*, Vol. XXVI, April, 1983.

Christian, Gary W., "Commercial Law in Indonesia," prepared for USAID/Jakarta, March, 1991.

Churchill, Greg, "A Summary of Efforts Toward Systemization, Computerization and Dissemination of Indonesian Legal Information," November 10, 1989.

Cox, Grant, "A Survey of Private Sector Training in Indonesia," prepared for USAID/Jakarta, November, 1985.

Creative Associates International, "A Retrospective of A.I.D.'s Experience in Strengthening Democratic Institutions in Latin America, 1961-1981," prepared for LAC Bureau, September 1987.

Economist Intelligence Unit, *Indonesia: Country Profile 1990-91*, London, August, 1990.

Far Eastern Economic Review, "Indonesia: Time to Consolidate," April 18, 1991, pp. 33-52.

Forum Keadilan, "Waiting for the Company Law," unofficial translation, February, 1991.

Hoffman, Michael, Bruce Ferguson, and Robert Rerimassie, "Land Administration in Indonesia: Regulation, Prices and Development," The Urban Institute, Washington, D.C., March 1991.

Hornick, Robert, "Technical Issues Concerning Commercial Law Reform in Indonesia," prepared for USAID/Indonesia, November, 1990.

Indonesia, *Fifth Five-Year Development Plan, 1989/90-1993/94*, Bappenas, Jakarta, 1989, Unofficial English Translation. Chapter 7: "Development of Business World," and Chapter 27, "Law."

International Finance Corporation, Foreign Investment Advisory Service, *Investment Promotion Strategy for Indonesia*, January, 1990.

International Monetary Fund, *Indonesia: Recent Economic Developments*, Washington D.C.: April 27, 1990.

Johnson, Darrell, "Restraints of the Indonesian Legal System on Commercial Development," prepared for USAID/Jakarta, December, 1990.

Jourdin, Will, "Improvement of the Indonesian Procurement System," prepared for USAID/Indonesia, November, 1990.

Lev, Daniel S., "Judicial Institutions and Legal Culture in Indonesia."

Mudge, Arthur, "Report of Program Review for Caribbean Law Institute," Checchi & Company Consulting, Inc., Washington, D.C., May, 1990.

Price Waterhouse, *Doing Business in Indonesia*, Jakarta, Indonesia, 1989.

Reilly, T.C., *Memorandum on Policy For Capital Market Development in Indonesia*, prepared for AID Bureau for Private Enterprise by Arthur Young, Washington D.C.: July, 1986.

Sajahrir, Dr. and Adam B. Slangor, "Economic Deregulation and Regulation in Indonesia: Policy Issues and Economic Impact, 1983-1989," prepared for USAID/Jakarta, April 4, 1990.

U.S. AID, "A.I.D.'s Experience With Democratic Initiatives: A Review of Regional Programs in Legal Institution Building," *A.I.D. Program Evaluation Discussion Paper No. 29*, Washington D.C.: February, 1990.

U.S. AID, Assistant Administrator, "The Business and Development Partnership", draft Strategic Initiative, December, 1990.

U.S. AID, Bureau for Program and Policy Coordination, "A.I.D. Policy Paper: Private Enterprise Development," revised, March, 1985.

U.S. AID, Bureau for Program and Policy Coordination, *Blueprint for Development: The Strategic Plan of the Agency for International Development*, June, 1985.

U.S. AID, LAC Bureau, Project Paper: "Regional Administration of Justice (597-0002)," February 13, 1985.

USAID/Indonesia, "Country Development Strategy Statement (CDSS): Indonesia FY 1989-FY 1993," January, 1988.

USAID/Indonesia, "Commercial Law and Procurement Systems Project: Project Identification Document" (Project No. 497-0372), Jakarta, Indonesia: December 21, 1990.

554

Vatikiotis, Michael, "Order in Court," *Far Eastern Economic Review*, June 15, 1989.

Vatikiotis, Michael, "Fortune From Adversity," *Far Eastern Economic Review*, April 19, 1990.

Verrier, Hugh, "Government Procurement in Indonesia," July, 1989.

Votaw, Gregory B., "Indonesia: The Current Business Climate in the Context of Deregulation," prepared for USAID/Jakarta, November 30, 1989.

World Bank, *Indonesia: Strategy for Economic Recovery*, Washington D.C.: May 5, 1987

World Bank, *World Development Report 1989*, Chapter 6: "Foundations of Financia Systems," Washington D.C.: June, 1989.

World Bank, *Indonesia: Foundations for Sustained Growth*, Washington D.C.: May 1990.

World Bank, *Indonesia: Priorities for Commercial Law Reforms for Private Sector Development*, Washington D.C.: Draft June 29, 1990.

555