

PD-ABQ-499
97572

UNCLASSIFIED

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
AGENCY FOR INTERNATIONAL DEVELOPMENT
Washington, D.C. 20523

HONDURAS

PROJECT PAPER

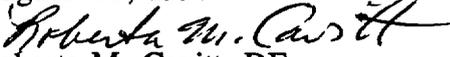
STRENGTHENED RULE OF LAW

AID/LAC/P-943

PROJECT NUMBER: 522-0394

UNCLASSIFIED

ACTION MEMORANDUM FOR THE MISSION DIRECTOR

DATE: August 21, 1997
FROM: 
Roberta M. Cavitt, DF
THROUGH: Gail M. Lecce, SO4 Team Leader 
SUBJECT: Authorization of the Strengthened Rule of Law and Respect for
Human Rights (SROL, 522-0394) Results Package

ACTION REQUESTED: You are requested to sign this Action Memorandum for the SROL Results Package document, thereby approving the Results Package (RP) design document and authorizing its implementation.

BACKGROUND: The SROL RP builds upon the successful experiences and lessons learned from the Strengthening Democratic Institutions (SDI) Project, which will end on December 31, 1998. The Administration of Justice component of the SDI Project has focused on strengthening and professionalizing the two main institutions involved in the sector: the Judiciary and the Public Ministry (Attorney General's Office).

Under the SDI Project, work with the court system centered on establishing a professional judicial career service; strengthening the judiciary's administrative structures and technical capabilities; providing professional education programs to public defenders, prosecutors and judges; and developing a public information program on the legal system. The court system, however, still requires continued support as it enters into its next phase of reform with the pending Criminal Procedures Code (CPC), which over time has become an important component of the SDI Project. Thus, the bulk of our program within this new RP is directed at assisting in the implementation of the new code and further improving the justice sector.

The Public Ministry (PM) is also a key actor under the SDI Project. The PM has had a leadership role in strengthening the rule of law in Honduras, and it is expected to continue that role during the five-year life of the new RP. Establishment of the Public Ministry in effect jump-started the adversarial aspect of the new criminal procedure system before the legal structure was fully in place, helping to create the environment for adoption of the new CPC. Under the new CPC, the Public Ministry is even more important to the legal process. Although the PM has made tremendous progress over the past two years since it was created, it is still a young organization, and further institution building will be necessary.

Bi-partisan civil society support for justice sector reform, another component of the SDI Project, will be a crucial aspect of the new RP as well, given that the November 1997

elections will bring about changes in the Supreme Court. The current Court is very supportive of the reform measures; the new Court is an unknown. It is essential that non-governmental organizations and respected individuals inside and outside the legal community provide a guard against diminishing commitments to the reform efforts as the expected political turnover takes place. Observational travel opportunities and NGO activities in support of judicial reform that started under the SDI Project will continue under the new RP in order to maintain the momentum for change.

DISCUSSION: The SROL RP is designed to promote democracy and a respect for human rights by strengthening the rule of law in Honduras through support to key government institutions and civil society organizations. Activities within this RP will take place during a five-year implementation period beginning in August 1997 and ending on September 30, 2002. The Results Package will contribute to the achievement of USAID/Honduras' Strategic Objective No. 4, *"More Responsive Democratic Processes with Greater Citizen Participation."* Activities funded under the SROL RP will achieve *"Strengthened Rule of Law and Respect for Human Rights"* by helping to accomplish the following second-level intermediate results:

- New criminal procedures code (CPC) effectively implemented.
- Independent, apolitical and effective judiciary.
- Independent, apolitical and effective Public Ministry.
- Broader and more effective civil society participation in justice sector reforms and monitoring.
- Changed mind set regarding rule of law.

The first three results will be achieved by the Judiciary and Public Ministry with assistance from long-term advisors and short-term consultants. The fourth result will be achieved through NGOs, while the fifth will depend upon the multiplier effect of USAID-funded observational travel, in-country follow-on activities, and work with justice sector officials and law students.

Although there will be an overlap between the SDI Project and the SROL RP, there will be no duplication of activities between them. During the overlap period from August 1997 through December 1998, SDI funds will finance the key remaining activities in support of the Court and the PM, including 1997 work plans, the Public Ministry Long-Term Advisor and, partially, the Long-Term Court Advisor. In FY 1997, the SROL RP will finance most of the contract for the Long-Term Court Advisor and a possible civil society grant. In FY 1998, the SROL RP will finance various activities in support of the CPC transition, Judiciary and Public Ministry work plans, as well as civil society and "changed mind-set" activities.

USAID AND COUNTERPART CONTRIBUTIONS: The total cost of the SROL RP is estimated at \$12,490,000 with USAID providing \$8,490,000 in grant funding and the GOH providing a counterpart contribution equivalent to \$4,000,000 in GOH national funds. These GOH funds are not additive resources occasioned by USAID activities. Rather, they represent the resources that the GOH already considers essential to the achievement of its goals during these crucial transition years to a new CPC.

Of the \$8,490,000 USAID contribution authorized, \$1,300,000 will be obligated by the Mission and funded with Development Assistance resources from the Mission's FY 1997 OYB.

Funds will be obligated through a Bilateral Agreement with the Government of Honduras represented by the Ministry of Finance, the Supreme Court, and the Public Ministry. Under this obligation, USAID will use various instruments, such as contracts, purchase orders, and cooperative agreements to acquire goods and services from individuals and organizations.

CONSISTENCY WITH DESIGN GUIDANCE: The attached RP document is consistent with ADS 202.6.5 and thus with the principles of reengineering. The document was prepared by the SO 4 Team in close coordination with the Supreme Court, Public Ministry, and other relevant USAID partners. As per ADS guidelines, this document:

- explicitly identifies and discusses what results will be achieved and how USAID and its partners will measure and achieve them (Section IV and Annex B);
- assesses the feasibility of planned activities, the risks that might imperil achievement of intended results, and how USAID plans to minimize these risks (Section VI);
- identifies and explains how the Results Package will complement and interact with the efforts of other donors (Section V, Subsection B); and
- describes how the Mission and its partners will assure the prudent stewardship of USAID resources (Section VII).

ISSUES: Attached to this Action Memorandum is a summary of the issues raised and their resolution as decided by the Core SO 4 Team in a meeting with the Mission Director and the Deputy Director on July 15, 1997.

SUSTAINABILITY: The attached RP design document includes a discussion of the results that USAID and its partners expect will have become sustainable after the completion of direct USAID assistance. (See Section V, Subsection D.)

ENVIRONMENTAL THRESHOLD DECISION: On July 16, 1997, the LAC Bureau's Chief Environmental Officer approved a Categorical Exclusion for all SROL RP activities. A copy of this Exclusion is attached to the design document as Annex D.

NOTIFICATION: The Congressional Notification for the SROL RP was sent to Capitol Hill on July 14, 1997. That Notification expired without objection on July 29, 1997. (See attached copy of LPA fax.)

AUTHORITY: The SROL Results Package is fully consistent with USAID's approved Country Strategy for FYs 1998-2003 and with our FY 1998-99 R4. Also, in ADS 103.5.1.14.b.1, the AA/LAC delegated to Mission Directors "the authority to implement strategic, special, or support objectives stated in [ADS] section 103.5.b..." This includes the authority to "negotiate, execute, amend, and implement strategic, support, and special objective grants...and other implementing...agreements and documents with public international organizations and foreign governments..." You therefore have the authority to approve this RP design and authorize funds for its implementation.

RECOMMENDATION: That you sign below, thereby approving the RP design and authorizing its funding and implementation.

APPROVE:  8/24/97
Elena L. Brineman Date
Mission Director

DISAPPROVE: _____
Elena L. Brineman Date
Mission Director

Attachments:

1. Minutes of the Issues Meeting
2. LPA Fax and cable
3. Results Package Design Document

USAID/HONDURAS
MEMORANDUM

DATE: July 25, 1997

TO: Distribution

FROM: 
Roberta M. Cavitt, DF

SUBJECT: Issues Resolutions for the New Strengthened Rule
of Law Results Package (SROL RP)



An issues meeting to discuss the new SROL Results Package was held on July 15, 1997 from 2:30 p.m. to 4:30 p.m. in the 6th floor Conference Room. The meeting was chaired by the Mission Director Elena Brineman. Other participants included Wayne Nilsestuen, Ric Rhoda, Skip Waskin, Tim Beans, Sonia Zacapa, Ricardo Callejas, and Roberta Cavitt.

Results Framework

Issue #1: To achieve IR4.1.2 "Independent, Apolitical, and Effective Judiciary," are the tools and tactics described under "Support for the Court Inspector General's Office" sufficiently specific (p.18)? Will our assistance actually influence its associated indicator, "Number of court officials investigated by the IG and sanctioned?"

Discussion: The RP description states that no assistance is planned in the first 2 years and that TA and training can only be very generally anticipated with actual needs and approaches to be determined later. Thus, this tactic seems particularly loosely defined. Its associated indicator, "Number of court officials investigated by the IG and sanctioned," is ambiguous to interpret (p.20). Also, given our deferred and low level assistance to the IG's office, it is questionable whether our assistance will have much influence on this indicator.

Resolution: A GOH covenant for this results package will require "adequate GOH funding for the Court IG." At a minimum, the GOH will have to pick up the costs that USAID has been paying with ESF local currency. The results package document discussion on the budget will be modified accordingly. Since the indicator is at a lower level, where the Mission can analyze it within the Honduran context, SO4 will maintain it in the framework and will provide appropriate explanations when it is reported.

Issue #2: Can the indicators of IR4.1.5 "Change of Mind Set re: ROL," be better specified in terms of actual results?

Discussion: The indicators seem more like inputs rather than results (e.g. the number of trainees sent to observe judicial systems and the number of seminars held in law schools), p.p. 25-26. Is it possible to measure a "change of mind set?"

Resolution: To reflect results rather than inputs, we should look into some "creative" indicators, such as focus groups or analysis of law school journal content. The SO4 Team will talk with Tony Vollbrecht and Sarah Wright, LAC/RSD/EHR, regarding how CAPS has measured results over time through regular evaluation. Thus, the first two indicators may be rewritten or complemented with impact indicators, rather than input/output indicators. In addition, SROL-funded training events for law students and other legal professionals will explicitly include "changed mind set" as a training objective.

Issue #3: Should our proposed work in civil society be defined in more qualitative terms? To what extent have we or will we explore civil society initiatives with non-traditional partners like COHEP, FIDE, labor and *campesino* organizations? (See IR 4.1.4 Civil Society: p.p. 23-24.)

Discussion: The indicators do not seem to capture the qualitative value related to the reasons we propose to support civil society. While broadening participation of civil society may be desirable, if we cannot capture their contribution to our program goals, then it would appear that simply more organizations are better--a dubious program objective. Also, stronger non-traditional partners may provide excellent opportunities for stimulating involvement in "civil society." We should plan to seek out their participation.

Resolution: In order to capture the qualitative accomplishments in this area, the paper will describe creative monitoring tools, evaluations, opinion polls, and others to be determined. IR 4.1.4 shall read, "Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring." Indicator 4.1.4.a may be dropped, and 4.1.4.b will be kept. Also, a flexible description of to-be-determined indicators will show the link between NGO interest/participation in civil society initiatives and the actual results of their efforts/influence on the justice system and human rights protection. The SO4 Team will use the discussions with Tony Vollbrecht and Sarah Wright to obtain more information on monitoring and evaluation tools for this area.

The paper will also make clearer that we do plan to reach out to non-traditional partners. To do so, it will describe in more detail the broad composition of FOPRIDEH's membership. It will also make clear that the door is not shut to organizations other than FOPRIDEH. For example, small amounts of funding

for conferences or seminars will be set aside in the event that organizations such as COHEP, FIDE, labor and *campesino* groups express an interest in supporting justice sector reforms.

Correction: Given the state of the Mission's discussions with FDDH and SO4's views about FDDH's potential value as a partner to our ROL program, it may be imprudent to say, "We anticipate that FOPRIDEH will continue to be our only recipient for the next few years." It is also inconsistent with the discussion on page 24 and elsewhere about FDDH.

Resolution: The document will be corrected to reflect USAID's outreach to various NGOs. The paper will note that FDDH underwent a financial review, not an audit.

Sustainability

Issue #4: What is our goal with respect to sustainability (p.28)? Will we know it when we see it?

Discussion: We must clearly define sustainability under the SROL program and be able to evaluate SROL's success with respect to sustainability based on this definition.

Resolution: This section will be expanded to include a discussion of sustainable intermediate results, continued GOH resources for the justice sector, and our ultimate objectives.

Issue #5: What can we do to help assure that the GOH provides, and continues to provide, adequate funding to enable the Court system to implement the new Criminal Procedures Code effectively on an ongoing basis?

Discussion: The paper notes (p. 29) that "the new CPC is an expensive venture and it will not result in a net cost savings over the Court's current budget, which is quite low." Indeed, in years past, the SO 4 Team has argued vigorously that the Court does not have adequate funding even to implement present procedures effectively; the introduction of new, more expensive procedures will thus make a difficult budgetary situation even more difficult. To address this, the paper proposes to help the Court use its resources more efficiently and to justify its requests for budget increases. Is there anything more we can or should do? For example, could we condition our continued assistance on annual real increases in the GOH budget for the judicial system?

Resolution: The section on the Budget (p. 17) listed under Improvements in Court Administration will be expanded and listed as one of the eight main

activities under Tools and Tactics for IR4.1.2. No covenant for GOH budget allocations for CPC implementation will be included in this document, as it would be counterproductive at this time. The possibility that the GOH may not provide sufficient funding will be noted as a risk, and the provision of an adequate budget for the justice sector will be noted as an outcome toward which USAID and its partners are working.

Technical Assistance for the Court

Issue #6: Is the scope of work for the long-term technical assistance team realistic and feasible?

Discussion: The breadth of the activities envisioned for the long-term TA contract of one international advisor and 3 Hondurans is huge, complex and challenging. How can we assure that our goals for them are achievable?

Resolution: The TA Team will be working with the *Grupo Ejecutor* and the Executive Committee for the transition to the new CPC; thus, their efforts will be multiplied within the Court. In this context, Tim Beans expressed two budget issues. First, he is concerned that the projected budget may be underestimated. Second, he is concerned that the budget for short-term TA may not be sufficient for the Long-Term Court Advisor to accomplish the overall contract terms. It was explained that this budget was based on NCSC's recent proposal for the Public Ministry's Long-Term Advisor and, thus, is more likely to reflect NCSC projections. Most importantly, once NCSC presents its proposal, SO4 will have a better idea if a four person team is sufficient.

Budget

Comment: This draft of the paper provides a budget for only one year's (1997-98) GOH contribution from only one partner (the Public Ministry). The drafters included this to give the mission an idea of the magnitude of the contributions envisioned. The next and final iteration of this paper, however, will need to include a complete illustrative budget from all our Honduran partners: the Public Ministry, the Court, and if possible our civil society partners (if we intend that they contribute anything). The total value of these contributions must reach at least \$2.83 million; i.e., at least 25% of planned LOP costs.

Resolution: The SO4 Team will develop a counterpart budget by Monday, July 21.

Distribution

EBrineman
WNilsestuen
RRhoda

TBeans/MZelaya
LGrizzard/EMontes
LWaskin

GLecce
TSloan
CFlores

SZacapa
RCallejas
FSalazar

CONGRESSIONAL NOTIFICATION TRANSMITTAL SHEET

DATE: July 14, 1997

We wish to inform you of proposed actions in the Agency's programs in Fiscal Year 1997.

- ✓ El Salvador - Rural Financial Markets
- ✓ Honduras - Strengthened Rule of Law
- ✓ Mexico - Judicial Sector Support
- USAID/Regional Center for Southern Africa:
 - The Regional Activity to Promote Integration through Dialogue and Policy Implementation
- Kenya - Agribusiness Support Project
- Kenya TN - Micro-Private Enterprise Development Project
- NIS Regional TN - NIS Special Initiatives

The attached notification was sent to the Hill on July 14, 1997. Obligation may be incurred on July 29, 1997.



Barbara Bennett

Bureau for Legislative and Public Affairs

JUL 14 1997

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
ADVICE OF PROGRAM CHANGE

Country : Honduras
 Project Title : Strengthened Rule of Law
 Project Number : 522-0394
 FY 1997 CP Reference : None
 Appropriation Category : Development Assistance Funds
 (DAF)
 Life-of-Project Funding : \$ 8,490,000 (DAF)
 Intended FY 1997 Obligation : \$ 1,300,000 (DAF)

This is to advise that USAID intends to obligate \$1,300,000 in FY 1997 for the Strengthened Rule of Law Project (522-0394). The total life-of-project obligation will be \$8,490,000. This is a new project not included in the FY 1997 Congressional Presentation. The project will be managed by USAID/Honduras, in the Bureau for Latin America and the Caribbean.

The purpose of the project is to strengthen the rule of law in Honduras, through support to key government institutions and civil society organizations.

Annex: Activity Data Sheet

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
ACTIVITY DATA SHEET

PROGRAM: Honduras

CP 81-05 (4-85)

TITLE Strengthened Rule of Law		FUNDING SOURCE DAF	PROPOSED OBLIGATION (In thousands of dollars)		
			FY 1997 \$1,300 DAF	LIFE OF PROJECT (Authorized) \$8,490	
NUMBER 522-0394	NEW <input checked="" type="checkbox"/>	PRIOR REFERENCE	INITIAL	ESTIMATED FINAL	ESTIMATED COMPLETION DATE
GRANT <input checked="" type="checkbox"/> LOAN <input type="checkbox"/>	CONTINUING <input type="checkbox"/>	none	OBLIGATION FY 97	OBLIGATION FY 01	OF PROJECT FY 02

Purpose: To strengthen the rule of law in Honduras, through support to key government institutions and civil society organizations.

Background: Since 1987, USAID/Honduras has provided assistance to the justice sector through the Strengthening Democratic Institutions Project. Under that project, the administrative structures of the court system were improved; a new, independent Attorney General's office was created; a law establishing an oral adversarial criminal law system was drafted; extensive training was provided to key actors; and civil society support for reforms was generated. Despite the progress made, the justice sector as a whole remains weak and in need of continued assistance. This new project will build on the previous accomplishments.

Description: The new Strengthened Rule of Law (ROL) Project addresses five areas: 1) transition under the new criminal procedure code to oral adversarial trials; 2) support to the Public Ministry, which encompasses the prosecutorial function, and which has been a key change agent for judicial reform in Honduras; 3) improvements in court administration to allow the court system to function more efficiently; 4) support for civil society organizations advocating reforms; and 5) creation of a group of young lawyers who will spearhead reforms in the future.

Sustainability: Improvements in the system will actually reduce budgetary expenditures over time in some cases. Most of the changes are structural and will be self-sustaining once they are implemented. Court and Public Ministry budgets will absorb on-going operational costs.

Relationship to USAID Country Strategy: The project will contribute to USAID/Honduras' Strategic Objective No. 4, "More Responsive Democratic Processes with Greater Citizen Participation."

Host Country and Other Donors: Honduras and the Public Ministry are actively involved in the reform process and will contribute at least 25% of the cost of project activities. Other donors in this sector are the IDB, which expects to contribute some \$8.7 million for court administration and infrastructure during the life of the new ROL Project, and the UNDP, which plans to provide \$1.1 million for a Public Defenders' program during this same period.

Beneficiaries: The beneficiaries of this project are all sectors of Honduran society, who will benefit from a fairer, more efficient system of justice.

Results: (1) The new Criminal Procedures Code will be effectively implemented. Specifically, the number of oral trials held annually, the percentage of criminal cases disposed of by plea bargaining or dismissal, and the percentage of criminal cases resolved within established standards for their timely disposition, will all increase significantly. (2) The judiciary will be more independent, apolitical and effective; i.e., a constitutional amendment changing the system for naming the Supreme Court, extending the justices' tenure, and delinking their appointments from the Presidential election cycle will be enacted; there will be significant increases in the number of criminal cases disposed of per judge per year, the total number of cases adjudicated annually, and the number of adjudications which go against the interests of influential groups or individuals. (3) The Public Ministry will be more effective, as evidenced by an increase in the number of cases prosecuted by the Public Ministry and the number of prosecutions which go against the interests of influential groups or individuals. (4) There will be broader civil society participation in justice sector reforms. Among other things, the number of non-governmental organizations engaged in programs to promote legal reform, and the number of such organizations engaged in programs to inform people of rights under the new Criminal Procedures Code, will increase significantly.

U.S. FINANCING (In thousands of dollars)				PRINCIPAL CONTRACTORS OR AGENCIES (tentative)
	Obligations	Expenditures	Unliquidated	
Through September 30, 1995	0	0	0	<ul style="list-style-type: none"> - Government of Honduras Public Ministry - GON Supreme Court - Honduran Federation of Private Development Organizations (FOPRIDEM) - Honduran Foundation for Democracy and Development (FDDH) - Cooperative Agreement with at least one local NGO. - USAID IQC with the National Center for State Courts
Estimated Fiscal Year 1996	0	0		
Estimated Through September 30, 1996	0	0	0	
		Future Year Obligations	Estimated Total Cost	
Proposed Fiscal Year FY 1997	1,300	7,190	8,490	

BEST AVAILABLE COPY

APPR: RSM

DRAFT: CDS

CLEAR: ()

UNCLASSIFIED

AID/LAC/DPP: CSTRADFORD: CS: HONDURAS. CAB
07/18/96 647-7928
AID/LAC/DPB: R MEEHAN

AID/LAC/SPM: J WEBER (INFO)
AID/LEG : G RODRIGUEZ

AID/LAC/CEN: N LEVINE (INFO)

PRIORITY TEGUCIGALPA

AIDAC

E.O. 12958: N/A

TAGS:

SUBJECT: CONGRESSIONAL NOTIFICATION ALERT

THE FOLLOWING CONGRESSIONAL HOLDS HAVE BEEN LIFTED AS OF
AUGUST 8, 1997. OBLIGATION MAY BE INCURRED WHEN FUNDS ARE
AVAILABLE.

522-0394 STRENGTHENING RULE OF LAW - DOLS 1,300,000 DAF
YY

UNCLASSIFIED

STRENGTHENED RULE OF LAW AND RESPECT FOR HUMAN RIGHTS RESULTS PACKAGE

I. BACKGROUND

The early 1980's were watershed years in Honduras' history, marking the start of its modern democratic era. In 1980 the country returned to a civilian government, after almost 17 consecutive years of military power, and began to reestablish the political, legal and constitutional institutions of democracy which had been developed over the years since Honduras' independence from Spain in 1821. A National Constitutional Convention was elected that year, which was tasked with drafting and enacting a Law of Elections and Political Organizations (1981) and a new Constitution (1982). In 1981, the first general elections of this modern era of governance were held.

USAID/Honduras responded to these historic events with the Strengthening Democratic Institutions (SDI) Project, authorized in 1987. Despite the firm commitment to democracy demonstrated, the new institutions were weak and not fully effective in practice. SDI was a very broad-ranging project designed to strengthen these key democratic institutions. It included four components: Administration of Justice; Legislative Enhancement; Voter Registration and Elections Improvement; and Democratic Leadership Training.

The Administration of Justice component focused on strengthening and professionalizing the two main institutions involved in the sector, the court system and the Public Ministry (Attorney General's Office); supporting critical legislative changes; and, more recently, strengthening oversight of the sector by relevant NGOs.

The Legislative Enhancement component sought to improve the analytical capability and efficiency of the Honduran National Congress by providing technical assistance for design, training and equipping of a new Honduran "Congressional Center for Information and Legislative Studies" (CIEL). The CIEL was inaugurated in March 1993 and has produced and submitted to the Congress over 300 major analytical reports on significant issues and provided hundreds of lesser data and information reports to legislators. Additional activities included modernization of the administrative functions of the Executive Secretariat and the Budget & Paymaster offices.

The Voter Registration and Elections Improvement component supported the national elections of 1989 and 1993 through: 1) technical assistance to the National Elections Tribunal; 2) cleansing of the civil registry (aimed at enhancing voter participation and increasing the reliability of electoral rolls); 3) commodity/material support for the elections; and 4) training of over 64,000 poll workers in each election. In addition, election day observers were financed through International Foundation for Electoral Systems (IFES) in 1993.

The Democratic Leadership component supported activities of the American Institute For Free Labor Development (AIFLD) in labor union strengthening. This grant was successfully completed in 1994.

In 1994, the mission carried out an in-depth review of its democracy sector portfolio as part of the establishment of the Agency's new strategy process, and decided to focus it further. In the weeks prior to the 1993 elections, a CID/Gallup poll had revealed that 66% of the public believed that the elections would be fair, open, and free; in 1994, a similar post-election poll found 81% of Hondurans believed the elections were fair. The mission concluded that the practice and procedures of elections had been firmly established and were functioning adequately, and no longer demanded the level of support merited in the early, critical years when elections were just being reinstated.

Assistance to the Honduran National Congress had had mixed success, strengthening it to some degree but suffering the problems that can be expected with an institution that is more political than technical in nature. Moreover, because of the electoral practices by which congressmen are elected, at best it is not very representative in nature. The mission concluded that further assistance to the Congress was not warranted until structural reforms, making the Congress a more representative institution, were in place.

The mission concluded that the judicial system was still too weak to contribute effectively to the balance of power required for a stable democracy, and that the rule of law was also so seriously defective that it impaired democratic development on a number of fronts. The legal system was unable to confront the rampant corruption in the public sector; no real security of person or property existed; powerful interests were always able to dominate, even when their actions were overtly illegal; the justice system was unable to check these groups or help to even the playing field; and the judicial system itself was a source of human rights abuses, with most of the prison population comprised of prisoners without sentences. Moreover, the weaknesses in the justice sector affected the likelihood of success in the other sectors in which the mission was working. New environmental laws had been passed to protect the forests, but there was no ability to enforce them. Existing investments could not be protected through legal actions, and potential new investors were deterred by knowledge of the environment. Funds that should have been available to the government for investments in the social sector were being siphoned off through corruption. The mission therefore concluded that funding of activities in this sector was a priority and should be continued.

The original Project Assistance Completion Date was August 31, 1991, and the life of project cost was estimated at \$10 million (\$7.5 million USAID, \$2.5 million GOH). Both the PACD and the authorized amounts have been increased several times over the course of the project. The PACD was most recently extended to December 31, 1998, to accommodate the completion of on-going activities under the project, and the final authorized amount is \$21,229,000.

II. AOJ ACTIVITIES AND ACCOMPLISHMENTS UNDER SDI

A. Support to the Judiciary. In general, SDI support to the judiciary was aimed at developing structures that would improve the effectiveness and fairness of justice in Honduras while providing access to the legal system for all sectors of society. To accomplish that overall objective, our support was initially directed at four specific sub-objectives:

1. establishment of a professional judicial career service to enhance the professional and ethical quality of judicial officials and promote staff stability. This included experimental programs for justices of the peace, public defenders and public prosecutors;
2. strengthening the judiciary's administrative structures and technical capabilities;
3. establishing a program of continuing professional education for officials in the career service and the experimental programs;
4. developing a public information program to increase awareness, understanding, appreciation and utilization of the legal system by the general public.

Through 1995, major accomplishments stemming from SDI project support included:

- The National Judicial Reform Commission (NJRC), created in 1985 under the USAID Regional Administration of Justice program, was strengthened in its role of analyzing and coordinating judicial reforms. SDI provided technical assistance, administrative support, office equipment, training and observational travel to the NJRC to help it carry out this role.
- The NJRC developed Judicial Career Law Regulations and Grievance Board Regulations (both in 1988), which, when fully applied, will result in merit-based personnel recruiting, evaluation and promotion processes and in enhanced judicial staff stability. (Although the Court has begun implementation of these regulations, neither is fully in force at this time. We continue to monitor implementation and include this on our policy dialogue agenda.)
- NJRC drafted and/or analyzed such major legislation and regulations as the 1993 Public Ministry Law (adopted); the 1995 Court Inspector General's Office Regulations (adopted) and, more recently, the Criminal Code reforms and the proposed new Criminal Procedures Code.
- The basic administrative systems for the Court's accounting, budgeting, procurement, personnel, payroll and inventory were reorganized and computerized. USAID provided computer hardware, MUNIS software, and related training. (Although administrative systems were improved somewhat with this effort, the MUNIS software

applications have not yet been fully utilized by the Court, because of staff instability and lax training procedures at the Court's Information Systems Office.)

- A computerized jurisprudence information system (FolioViews) was developed and implemented, to enable magistrates, judges, public defenders and other judicial officials to access previous court decisions.
- Selected first instance courts and courts of appeals were strengthened through technical assistance, training, and commodity and logistic support (including reference materials).
- The Public Defenders Office was strengthened and expanded through technical assistance, training, commodity and logistic support, salary upgrades, internship programs, and application of Judicial Career Law criteria. There are now over 100 public defenders.
- The Court's Judicial School was strengthened, through technical assistance, training and logistics support, in order to help upgrade the technical skills of judges, particularly in criminal law.
- The Forensics Medicine Office (originally a Court dependency, and now under the Public Ministry) was strengthened, through several fellowships, in-country training and workshops, commodities, and construction of a regional office in San Pedro Sula. With the upgrading of this office, Honduras for the first time began serious efforts to use forensic evidence in criminal cases.
- Public information and interactive adult education campaigns were carried out, through regular radio broadcasts, to educate the populace, especially in rural areas, on democracy, the justice system and their rights and duties under the law.

Since 1995, while some of the above activities have continued, the emphasis has shifted slightly. With USAID support, the Supreme Court has taken a pro-active role in addressing judicial delay; in supporting the transition from a written, inquisitorial criminal system to an oral adversarial system; and in strengthening the Court Inspector General's Office.

On December 5, 1995, the Supreme Court issued an *auto-acordado*, or a decree for the judicial system, designed to address the delays under the current system and to facilitate the expected transition to the new oral, adversarial system. The decree reaffirmed the Court's commitment to comply with the current criminal procedure code, particularly time limits which it establishes, and to early implementation of transition elements toward the new CPC. As an implementation mechanism, the Court appointed a commission called the *Grupo Ejecutor*, comprised of two former magistrates of courts of appeal and one former judge.

The *Grupo Ejecutor* has achieved the following:

- provided training to all judicial officials on the current CPC and on elements of the new CPC for judges and the bar association;
- conducted three needs and efficiency assessments of lower level courts, and provided logistical support for pilot courts;
- broadcast a nationwide radio program on judicial reform matters; and
- published articles on judicial reform in the Judicial School Review and other publications.

With project support, the Court's Inspector General's Office has been strengthened in the following ways:

- a legal framework was established;
- the professional workforce was nearly tripled, increasing from 7 to 19 inspectors. Support staff, including an administrator, has been increased from 3 to 9. All appointments have followed Judicial Career Law competitive selection criteria;
- the number of regional offices was doubled (to six), for added presence and coverage nationwide, and the offices were fully equipped, including computers and vehicles;
- technical assistance, training and logistics support was provided, permitting more extensive in-country travel and more thorough and professional IG inspections and investigations.

B. Support to the Public Ministry. Prior to 1994, the prosecutorial function in the Honduran judicial system was assigned to an office within the Court, under the supervision of the Supreme Court. The office was small, bureaucratic, and generally ineffective, in keeping with the written, inquisitorial trial system which vests most of the authority for investigating as well as deciding a case in the judge.

In 1993, the SDI Project provided technical assistance to the National Judicial Reform Commission to assist it in the analysis and drafting of a law implementing a provision of the 1982 Constitution that mandated the establishment of an entity separate from the Court to carry out the prosecutorial and, to some degree, investigative functions. The Public Ministry Law, establishing the Ministry as an independent entity, with an Attorney General to be appointed by the Congress, was approved by the Honduran National Congress in December of that year. The basic organizational structure of the Ministry consists of five directorates: the Directorate of Prosecutors; the Directorate of Criminal Investigations (DIC); the Medical

Forensics Directorate (also previously assigned to the Court); the Anti-Narcotics Directorate; and the Administrative Directorate.

The Public Ministry has grown from five persons at the time of its establishment in May 1994 to approximately 1,500 in 1996, including 258 prosecutors. Ten Special Prosecutors Offices were created to handle high-profile and complicated cases (Human Rights, Juveniles and Handicapped, Women's Rights, the Environment, Anti-Corruption, Anti-Narcotics, Ethnic Groups, Constitutional Rights, and Appeals) and four regional offices have been established to increase the Ministry's geographic coverage and improve its accessibility. Additionally, a Technical Assistance Unit has been created to provide specialized training and guidance in highly visible cases of national impact. The Ministry received more than 33,000 public complaints in 1996, and is aggressively prosecuting heavy caseloads throughout the country. Prosecutors present an average of 500 new criminal cases to tribunals each month.

SDI Project funds have supported every aspect of the establishment of the Public Ministry:

- The organizational effectiveness of the Ministry has been strengthened through TA.
- All prosecutors have received training in basic skills and the new CPC; many have received TA and training in specialized areas (such as the prosecution of environmental cases). The Public Ministry has also invited private lawyers to participate in its CPC training.
- The Attorney General and key staff members have participated in regional and international programs designed to enhance their understanding of their roles and to build regional ties.
- Significant commodity support under the project has permitted the rapid expansion of the Ministry's activities.
- A manual case management system, developed with the assistance of international TA, has been adopted, greatly increasing the efficiency and accountability of the prosecutors. Additionally, the Ministry has begun the selection process for an automated case management system, with the assistance of TA and observational travel under the project.
- The forensic labs in both Tegucigalpa and San Pedro Sula have been established/strengthened, and staff have been trained, permitting greater reliance on objective, scientific evidence. The San Pedro Sula facility was constructed with ESF local currency provided as part of the GOH's counterpart contribution to SDI.
- With the assistance of TA and commodity support, the Ministry has developed a first-rate media office, which has generated several extremely effective campaigns directed at the public. One campaign advised citizens of the Ministry's creation, and that its

doors were open to receive complaints of crimes. Other campaigns have been directed at battered women, advising them of their rights and of the role of the Special Prosecutor for Women and Minorities, and at victims of government corruption.

With the substantial logistical, administrative, technical and training support provided by USAID, the Public Ministry, under the strong leadership of the current Attorney General, has emerged as the primary change agent in the Honduran justice system.

C. New Criminal Procedures Code. Enactment of a new Criminal Procedures Code was not one of the project's original objectives. However, it has gained a prominent place among those objectives in recent years as the concept of replacing the written inquisitorial criminal system with an oral adversarial one spread. This is a trend which began in Argentina and in one form or other is being addressed in most Latin American countries. The overall purpose of this fundamental structural change is to create a system which is more transparent and has more checks and balances, and thus is less subject to manipulation and corruption. By its nature, a written system is much more subject to corruption; not only can an individual judge change documents behind closed doors and alter outcomes with little risk of exposure, but support personnel can do the same. Additionally, in an inquisitorial system, the judge exercises much more control of the entire process, again facilitating the possibility that one person can act improperly with little risk of exposure. In an adversarial system, control of the process is more evenly shared among the actors and proceedings are open to the public, thus lessening the ability for one actor alone to distort the outcome. Furthermore, the rights of the defendant, as an individual subjected to the power of the state, receive vastly greater protection under oral adversarial systems.

Various activities under SDI supported this structural change:

- The National Judicial Reform Commission received support in the drafting of the new CPC.
- Creation of the Public Ministry jump-started the adversarial aspects of the system.
- The Public Ministry and the Court carried out training for their staffs and for members of the private bar in the underlying concepts of the new code.
- Through observational travel, two groups of congressmen and Supreme Court magistrates were able to observe oral adversarial procedures first-hand in the United States, and discuss their questions and concerns with key actors in the system.
- U.S. court administration experts helped the Court to assess its budgetary and resource needs for adopting the new procedures, and to draw up a transition plan. As part of that transition plan, the Court established a Court CPC Transition Executive Oversight Committee, comprised of three Supreme Court magistrates, the three members of the

Grupo Ejecutor, the Director of the Judicial School, and other key administrative directors.

D. Civil Society. After the completion of the AIFLD grant, the Democratic Leadership component of the project began to be subsumed under the AOJ component and to focus primarily on civil society support for justice sector reform. The first activity was a Cooperative Agreement awarded in 1994 to the Foundation for Democracy and Development of Honduras (FDDH) to work in the areas of strengthening democracy, administration of justice, electoral reforms and civic values awareness. FDDH had been established in 1993 to meet the need for a private, non-partisan initiative for expressing public opinion and mobilizing resources in support of issues key to the political, social and economic development of Honduras. During the period of the Agreement (1994-1996), FDDH secured support from both a bipartisan membership comprised of well-recognized personalities in the private sector and a coalition of other nongovernmental organizations, including peasant and community organizations, labor unions, private enterprise associations, academia, professionals, political entities and the press. Under the Cooperative Agreement, FDDH actively supported a constitutional amendment for a politically-independent judiciary; the proposed new Criminal Procedures Code; and sweeping electoral reforms for a more participatory democracy. FDDH also developed educational activities among youth promoting civic values awareness and democratic leadership.

A second Cooperative Agreement was awarded in late 1996 to the Honduran Federation of Private Organizations for Development (FOPRIDEH). FOPRIDEH is a non-profit, "umbrella" organization for NGOs in the field of development. It currently has 87 affiliate organizations. The purpose of the cooperative agreement with FOPRIDEH was to gain support from additional organizations for justice sector reforms, primarily by building coalitions of NGOs working in their own areas of interest. FOPRIDEH will make several sub-grants to other NGOs for this purpose. Funds provided by USAID are also being used to strengthen FOPRIDEH's own knowledge and strategic ability in this area, in order to enable it to assist its members. Although FOPRIDEH is new to the justice sector, it has already initiated activities, and it promises to become a strong partner.

III. LINKAGE BETWEEN SDI PROJECT AND NEW RESULTS PACKAGE

The new Results Package (RP) builds on the achievements of the previous project. After several years of drafting, discussion, and building support, the new Criminal Procedures Code is expected to be enacted by the National Congress in mid to late 1997 and implemented one year following passage. Consequently, the bulk of our program within this Results Package must be directed at assisting in the implementation of the code. This is at minimum a five-year process, as experience in other countries has shown, although resource needs will decline over time. Implementation of the code will entail a whole series of efforts, which in their sum are almost overwhelming: training judges, prosecutors, public defenders, and support

personnel for their new roles; ensuring that the private bar is prepared for its new role; adapting equipment and infrastructure needs to the new process; drafting implementing regulations and amending other codes which are affected; adapting informational practices; and reorganizing administrative operations.

The Public Ministry (PM) has had a leadership role in strengthening the rule of law in Honduras, and it is expected to continue that role during the five-year life of the new RP. Establishment of the Public Ministry in effect jump-started the adversarial aspect of the new criminal procedure system before the legal structure was fully in place, helping to create the environment for adoption of the new CPC. Its active prosecution of cases has created a tremendous push on the other players, particularly the court system, to respond. It has been the leader in bringing to justice previously immune elites, helping to break established assumptions that these groups were exempt from the law. Finally, through its media campaigns and open door policy, the PM has established the principle that the law is available for everyone's protection, regardless of their economic, political and social status, and has helped to generate a greater demand for justice in Honduras.

We will continue to support the Public Ministry as a key player in the justice system via this new Results Package. Under the new code, the Public Ministry is even more important, and it is essential that it be able to make a strong showing early in the process, so that the reforms do not lose credibility. Although the Public Ministry has made tremendous progress over the past two years since it was created, it is still a young organization, and institution building will continue to be essential.

An independent and effective judiciary is critical for the justice system to function under any circumstances, and particularly under the new CPC. Court administration will assume greater prominence under the new Results Package. Regardless of the theoretical structure, no court system can deliver fair, impartial, and speedy justice if it lacks the organizational capacity to do so. The court system in Honduras is organizationally quite weak; the new procedures will strain it even further. Improved court administration is a critical link to the adequate functioning of the new system. This will entail a 3-4 year effort, with resource requirements declining over time.

Civil society support for the reforms will be even more crucial under the new Results Package, given the fact that the November 1997 elections will bring about changes in the Supreme Court. The current Court is very supportive of the reform measures; the new Court is an unknown. It is essential that non-governmental organizations provide a guard against diminishing commitments to the reform efforts as the expected political turnover takes place. We will continue efforts begun this year to broaden the number of NGOs involved in this sector and to build coalitions.

Although civil society is an absolutely critical element for generating and supporting a reform environment, the demand for justice sector reform often also comes from within the legal profession itself. Bar associations and law schools are frequently the source of these reforms

in other countries; however, neither is considered to be a particularly viable candidate for that role in Honduras. The National University, which dominates the field of legal education, is commonly considered to have extremely low standards and to be part of the current justice sector crisis. The Honduran Bar Association is fairly weak, with very limited financial resources. It has not taken a leadership role in reform efforts up to this point, and is not expected to do so anytime in the near future.

Consequently, our primary approach to the legal sector itself will be longer term in nature, and will be designed to encourage a changed mind set. Expectations that the justice system in Honduras will be fair and speedy are fairly low; expectations that it will continue to be subject to influence by powerful sectors are quite high. The current attitudes of lawyers and law students reflect these expectations, and shape their own participation in the system. We will seek to engage young law students and other actors in raising ethical standards and making personal commitments to the improvement of the justice system in Honduras. Over time, this activity, though low in cost, could become the most important element in the reform process.

Although also directed at shorter term results, our training programs within the court system and the Public Ministry will complement the above activities. Sustained training programs tend to lead to increased levels of professionalism within the affected organizations; judges and prosecutors see more clearly their roles as responsible officials who merit respect, and they begin to act accordingly. This mind set change is an important one to pursue over time, particularly within the highly politicized judiciary.

IV. RESULTS

A. First Level Intermediate Result. The activities under this Results Package will be directed at the highest level at achieving "*Strengthened Rule of Law and Respect for Human Rights*," (Intermediate Result 4.1), which in turn supports USAID/Honduras' Strategic Objective 4 (SO4), "*More Responsive Democratic Processes with Greater Citizen Participation*." USAID and its partners will use the following indicators to measure progress in achieving this first level intermediate result:

Indicator 4.1.a Increased convictions as a percentage of indictments.

Overall improvement in the ability of the justice system to function will be measured by this indicator, the increase in convictions that result from indictments (or the equivalent in the Honduran system). This number will be influenced by all the institutional actors. The hypothesis is that in an improved system, the police investigations will be better, prosecutors will only take to trial cases on which they have good evidence, and courts will act promptly on that evidence. The number of convictions and indictments will be measured semiannually, with the final figure being measured at the end of the year for that year.

The Court will be responsible for reporting on this indicator, with assistance from a long-term institutional contractor. (See Tools and Tactics section under IR 4.1.2.) Baseline, benchmarks, and the end-of-activity status will be established by the Court and the Attorney General, with assistance from the contractor, during the first year of the RP.

Indicator 4.1.b Decreased incidence of pretrial detainees for new criminal cases.

This indicator will measure the human rights element of the program. The new Criminal Procedures Code incorporates the assumption that those accused of crimes should be held prior to trial only when absolutely necessary. This is a complete departure from the philosophy incorporated into the inquisitorial system, where the accused is routinely held pending trial. (At this time, 90% of the prison population consists of prisoners without sentences held prior to case resolution.) However, even after the new code goes into effect, it will take a concerted effort by the parties to change established behavior, and to resist public pressure to keep alleged criminals off the streets. Defense attorneys (usually the Public Defender) will have to assert the defendants' rights vigorously, and judges will have to be conscious of their duties to implement these changes. We do not expect to see perfect compliance as soon as the new code is passed, but will monitor compliance over time.

The Court will be responsible for reporting on this indicator, again with assistance from the long-term contractor. Baseline, benchmarks, and the end-of-activity status will be established by the Court, with assistance from the contractor, during the first year of the RP, which is also expected to be the year prior to the new Criminal Procedures Code going into effect.

B. Second Level Intermediate Results. To help achieve the overall result of "Strengthened Rule of Law and Respect for Human Rights," USAID and its partners will also pursue the following second-level intermediate results (IRs):

Result 4.1.1 New criminal procedures code (CPC) effectively implemented.

Result 4.1.2 Independent, apolitical and effective judiciary.

Result 4.1.3 Independent, apolitical and effective Public Ministry.

Result 4.1.4 Broader and more effective civil society participation in justice sector reforms and monitoring.

Result 4.1.5 Changed mind set regarding rule of law.

Accomplishment of these IRs -- or at least the realization of significant progress toward them -- is necessary if the rule of law in Honduras is truly to be strengthened and human rights respected. The attached Results Framework illustrates the logical connections between these IRs and the overall result expected of the SROL Results Package. Details regarding tools,

tactics and indicators for each of these second level intermediate results are outlined below.

1. IR 4.1.1 New Criminal Procedures Code Effectively Implemented

Tools and Tactics. USAID assistance in pursuit of this result will be directed primarily at the main actors in the criminal process: the court system, the Public Ministry, and the private bar. Assistance to the other main actor, the Public Defender's Office, is being provided by UNDP and the Spanish Cooperation Agency, and is thus not included in our Results Package.

The Court has responsibility for more of the institutional changes than any of the other players. We will therefore provide intensive technical assistance to the Court, particularly during the first two most difficult years, that is, the year before the new Code goes into effect, when the Court must make all its preparations for the new procedures, and the first year in which the code is in effect. We plan to have a two-year institutional contract in place for this period, through a work order under a Global Bureau Rule of Law IQC with the National Center for State Courts (NCSC). Four long-term advisors would be provided under the contract: one international advisor with extensive experience in court administration, and three Hondurans with administrative qualifications, preferably with MBAs or similar education, to assist him/her. Additionally, senior international advisors with extensive experience both in court administration and in assisting other Latin American countries to make the transition from written inquisitorial to oral adversarial systems will oversee the assistance and take the lead on policy discussions with the Court.

Through SROL, USAID will follow a three-phased approach in providing assistance to the courts. The first phase will be the Preparation Phase, beginning with the initiation of the contract until the new CPC goes into effect, presumably in August 1998. The second phase will be the actual Implementation Phase, starting with the day the code goes into effect. Overlapping with the second phase will be phase three, the Adjustment Phase. During the Adjustment phase, the court system will have to make modifications to take into account factors that were not foreseen during the Preparation Phase, and that come to the Court's and the contractor's attention only as implementation begins to take place. The first period of these three phases, as carried out under this contract, will be two years, although in fact the second and third phases will continue for several more years before procedures under the new CPC become somewhat routine.

SROL resources will fund technical assistance to the Court in six main areas:

1. Technical aspects, involving development of the juridical norms and procedures necessary to implement the code.
2. Training, involving the training of all court personnel (magistrates, judges, justices of the peace, and auxiliary personnel) in their new roles under the code.
3. Infrastructure, which will involve assisting the Court to define its physical, human, and

equipment resources needed to implement the code, and to make plans for acquiring or developing those resources in a managed, logical, timely way.

4. Organization and Administration, which will involve assisting the Court in improving the efficiency of its resource use so as to make it possible for judges to carry out their functions in a timely and efficient way.
5. Management Information, which will involve assisting the Court in developing a modern information system that will permit the magistrates, judges, and auxiliary personnel to carry out their functions in a timely and efficient way.
6. Interinstitutional Coordination, which will involve coordinating among all the main actors in the system, including the Public Ministry, DIC, Public Defenders, and bar association, to ensure that common problems are solved in a way that meets the needs of all the institutions and prevents delay in implementation of the CPC.

In supporting the Court's transition to the new CPC, the institutional contractor will work primarily with the newly formed CPC Transition Executive Oversight Committee, which in turn reports to the full Supreme Court. This Committee will be responsible for all major decisions, planning, and coordination. On a day-to-day basis, the contractor will work with the *Grupo Ejecutor*, and with the individual administrative personnel responsible for specific activities.

Although the CPC is expected to go into effect in the entire country at the same time, our technical assistance will concentrate its efforts on the courts in three pilot cities: Tegucigalpa, San Pedro Sula, and Comayagua. The bulk of cases nationwide are handled by the courts in the first two cities, and the third will provide a good example of a medium-sized city and the problems the courts in such cities will confront in making this transition to the new Code. In the latter half of the second year of the contract, the contractor will assist the Court in focusing more attention on implementation of the new CPC in the rest of the country.

The contractor's first task will be to develop a detailed transition plan. Based on the Transition Plan, and taking into consideration the decision to concentrate efforts on three pilot cities during the first year, the contractor will assist the Court to implement whatever training is necessary for it to implement the CPC effectively. That will involve assuring that Honduran magistrates, judges, justices of the peace, court administrators, and other court officials gain an understanding of, and are prepared to carry out, their new roles under the new CPC.

Assistance to the courts will continue throughout the expected five-year life of this RP. Although the assistance directed specifically at the CPC transition will decline slightly over this period, the magnitude of change required within the court system is enormous. Given its own budgetary constraints within the first two years, the Court will only be able to make the most essential changes. It will therefore be necessary to continue assistance for some three

more years. Midway through year two, we will determine the particular type and level of assistance required for the remaining three years, and the most appropriate contractual mechanism.

SROL resources will also support long-term technical assistance and training to the Public Ministry to assist it to make the transition to the new CPC. However, it is impossible to distinguish activities directed at preparing the Public Ministry for the new CPC and those designed to strengthen the Public Ministry as an institution, since the existence of an independent Public Ministry is in itself an integral part of the transition to the new code. The tools and tactics directed at the prosecutorial side of the transition to the new CPC are therefore described below under IR 4.1.3 (*"Independent, Apolitical, and Effective Public Ministry"*).

It is essential that private criminal lawyers be prepared to participate fully in the new system as well. Unfortunately, our own budgetary constraints, as well as difficulties in providing funds directly to the Honduran Bar Association, preclude our undertaking major, discrete activities for criminal defense attorneys. We have, however, included, and will continue to include, private attorneys in training activities being provided to the Public Ministry and Courts, as appropriate. During the year preceding implementation of the new CPC and the first year of implementation, these efforts will become more conscientious. A small amount of funds will be reserved for activities specifically with the private bar, to address needs which are unique to them and cannot be addressed through the Court or Public Ministry.

Observational travel will be the final tactic used to help Honduras to implement the CPC effectively. Key participants in the system will travel to the U.S. and Puerto Rico to see an oral adversarial system at work. We have begun this process under the SDI Project, starting with policy level officials. Although most of these early travelers will not be active participants in the system, it is essential to mobilize support for and understanding of the system at the highest levels. This is needed not only to achieve passage of the legislation, but also to help assure that there is sufficient support for the changes during the difficult early years of implementation. Later participants whose travel is financed by the new SROL RP will primarily be those who will be actors in the new system -- prosecutors, judges, private attorneys, etc.

Indicators. The following indicators will measure our success at achieving this second-level intermediate result:

4.1.1.a: New CPC passed by legislature.

This indicator is self explanatory. The SO4 Team will be directly responsible for reporting on it.

4.1.1.b: Transition plan for implementation of new CPC exists and is being carried out.

This indicator will also be reported on directly by the SO4 Team. The transition plan will be developed primarily by the Court in conjunction with our long-term TA. We will use this plan, and the contractor's quarterly reporting, to determine progress being made toward this indicator.

4.1.1.c: Number of oral trials held annually.

Oral trials are an intrinsic part of the new Criminal Procedures Code. The baseline for this indicator will be zero, since no oral trials are held under current procedures. The long-term institutional contractor will be responsible for assisting the Court to develop statistical and case tracking systems that allow it to monitor the information needed for this and other indicators. However, the Court will ultimately be responsible for providing this information. The contractor will also be responsible for assisting the Court to develop annual benchmarks of progress and an end-of-RP target. Since the contractor will concentrate first on assisting the Court to implement the CPC in three pilot cities, reporting during at least the first two years will probably include only those cities. New benchmarks will gradually expand the geographic coverage.

4.1.1.d: Percentage of criminal cases disposed of by plea bargaining or dismissal by the prosecutor.

The current criminal procedures code does not permit the prosecutor any discretion in resolving cases other than by taking them to trial. This mandatory approach results in a serious overload of cases flowing through the courts, in turn resulting in long delays in resolving cases, a high percentage of prisoners who have not been convicted, and neglect of important cases which should be receiving greater attention, as the time of judges and prosecutors is involved with cases which could be resolved more expeditiously. Few courts in the world could manage the caseload currently dictated by the Honduran procedural code. The new CPC will correct this by incorporating discretionary aspects, including plea bargaining. This indicator will measure the actors' facility in using this discretion. The baseline will be zero. Technical assistance being provided to the Public Ministry will help it to establish benchmarks and end-of-RP target. The Public Ministry itself will be responsible for reporting on this indicator.

4.1.1.e: Percentage of criminal cases resolved within time limits.

One of the overall goals of the new CPC is to create a more efficient procedure whereby trials are not delayed unacceptably. Such delays in themselves result in miscarriage of justice to both the accused and the victims. The CPC incorporates a number of mechanisms to achieve this goal; time limits for resolving cases are among them. This indicator will measure the effectiveness of this particular aspect of the CPC. The long-term contractor will be

responsible for assisting the Court to develop baseline, benchmarks, end-of-RP targets, and the statistical information system necessary to allow it to report on this indicator. The Court will have ultimate responsibility for this reporting.

4.1.1.f: Number of judges, prosecutors, and administrative staff trained in new CPC.

This indicator is self-explanatory. The long-term contractors for both the Court and the Public Ministry will be responsible for developing benchmarks for this indicator and for reporting on progress toward them.

2. IR 4.1.2 Independent, Apolitical, and Effective Judiciary

Tools and Tactics. In working toward this result, we will focus on eight main activities:

1. Implementation of the CPC. The CPC is directed at making the judiciary both more independent and apolitical, by increasing the transparency of the process and increasing the checks and balances in the system, and at making it more effective, by building in efficiencies throughout. The CPC requires an enormous amount of change by the court system, and will receive the bulk of the focus during the period of this results package. The details of the tools and tactics have been described above.

2. Policy Dialogue for an Adequate Budget. A disciplined, scientific approach to the budgetary process, resulting in adequate budgets, is key for a more effective and efficient Judiciary. Court budgets, however, are still prepared on the basis of allocations received (or expected) from the National Congress, on prior consultations with the Ministry of Finance, and not on financial analyses and forecasts of real needs of the various court dependencies. As a result, court dependencies, including trial and appellate courts handling large caseloads and high-profile cases, frequently suffer from lack of basic administrative, logistical and staff support, which seldom materializes. Systemic inefficiencies also cause an inefficient use of current resources. Thus, the overall perception is that the current Judiciary budget is inadequate.

Overall, the new CPC is an expensive venture, and it will not result in a net cost savings over the Court's current budget, which is quite low. In fact, despite its incremental implementation, the CPC will require increased budgetary resources given administrative, logistical, infrastructure, and human resources development requirements. However, there are many aspects of the new system, as well as some of our other activities (reorganization of lower courts) that will result in productivity increases. For example, there is less duplication of the work of the judge and the prosecutor under the new system, and plea bargaining is aimed primarily at reducing the amount of resources needed to resolve cases. It is imperative the Judiciary plan, develop and execute its budgets in the most efficient way possible, and that it stand firm in securing adequate yearly allocations. USAID will support these Court efforts

through continuing policy dialogue with appropriate GOH counterparts, and, as described below, technical assistance to strengthen the Court's budgetary process. The IDB, however, will focus specifically on the preparation of an effective budget submission to the GOH. (See Part V., Section B.)

3. Improvements in Court Administration. Efficient court administration is essential for any court system to work, regardless of whether it is operating under an oral adversarial system or an inquisitorial system. As every assessment of the Court during the past several years has pointed out, the administrative systems in the Court are currently very weak. The new CPC will tax these systems even further; in addition to requiring many changes in procedures, oral adversarial systems require very intense management by the Court of such things as notifying witnesses, maintaining security of physical evidence, etc. Since the two activities are so integrally related, our main tool for assisting the Court to improve its administration will be the same long-term contractor that will assist the Court to implement the new CPC. This contractor will focus on the following four areas:

a. Case Tracking/Statistical Tracking: The contractor will assist the Court in developing and implementing an effective case tracking and statistical tracking system. Currently, the Court has no effective way to monitor its own activities and output, or the productivity of individual judges. It lacks the information to focus and improve management of its resources and its cases. The system will first be organized on a manual basis, including a manual docketing system. During the course of the contract, the contractor will help the Court to develop a plan to move to an automated system, and will begin implementation of that plan if the manual system is sufficiently developed to permit such automation within the two-year period of the contract.

b. Lower Court Reorganization: The contractor will assist the Court in reorganizing the lower courts (courts of first instance and appeals courts) to centralize the functions of the administrative support personnel. This reorganization is consistent with the analysis of this subject previously carried out by USAID-funded contractors and discussed with the Court in early 1997. Currently, each judge has his own independent support staff. As envisioned under the new system, support staff and equipment will be shared by several judges. This reorganization will not only make administration more efficient, and allow increased professional development of support staff, it will greatly increase the transparency of the system by having case documentation controlled and overseen by more than just the presiding judge and his/her personal staff.

c. Budget: While assisting the Court with the new CPC transition, the contractor also will help the Court to further develop and implement improved budgetary practices. These practices will permit the Court to use its limited resources to the maximum efficiency and effectiveness, and to support its future budget requests in an articulate

and well-documented fashion. In close collaboration with Court officials, the contractor will build on its previous work.

d. Judicial School: The Judicial School is an intrinsic component of a well-functioning court system, and an essential element in the Court's transition to the new CPC. In addition to assisting the Judicial School to carry out training essential for that transition, the contractor will assist the Court to continue to strengthen the School itself as an entity. The contractor will build on its previous work with the Judicial School, and its discussions with the Court on this subject. This activity will continue only during the first year of the contract. It is anticipated that the Inter-American Development Bank will begin activities designed to strengthen the Judicial School after that time, under a project with the Court which it is initiating.

Support for improved court administration will remain at a fairly constant level throughout the life of the Results Package, with an institutional contractor in place throughout.

4. Implementation of Merit-based, Career System for Judges. Development and implementation of the regulations under the judicial career law was an important activity under the SDI Project. Significant progress was made, although there is still room for a great deal of improvement. Implementation of the career standards is essentially a question of political will, and we have no specific TA or training activities planned in the new Results Package. However, we will include this issue as an important element of our policy dialogue with the Court. In particular, we will begin discussing early on with the new Supreme Court and influential political figures the importance of retaining qualified judges at the lower levels, especially since they will already have received extensive training in the new CPC, instead of replacing these judges with new political appointees, which is the usual practice. This policy dialogue will take place at the highest levels, i.e., the Mission Director and Ambassador with the Supreme Court.

5. Support for the Court Inspector General of Tribunals Office. This has been an important USAID-Court activity. The Court Inspector General's Office has become a key arm of the Supreme Court in monitoring the professional behavior of judicial personnel (including magistrates, judges and administrative staff), in reducing judicial corruption, and in enforcing the merit-based judicial career system. Its role of vigilance of professional and ethical conduct is accomplished through judicial inspections and investigations nationwide. Support to the Court IG has strengthened its administrative, logistical and professional capabilities and increased national coverage, including more frequent inspections and investigations. The quality of the IG workforce has improved through technical assistance and training. Through public information campaigns on the role of the IG and how to use its services, citizen participation for improving the quality of justice has also risen. The IG and the Public Ministry have improved cooperation in investigations of suspected criminal conduct by justice sector professionals as a result of USAID support to the IG.

Given the high level of activity in other areas during the early years of the SDI Project and

the relatively solid trajectory of the Court IG at this point, we do not anticipate providing additional assistance to the IG during the first two years of this Results Package. However, in the out years, we will build technical assistance for the IG into our institutional contract in order to help the IG continue its professional development. This TA will focus on those aspects of its work which are uniquely related to a Court IG, since most of our assistance so far has been directed at supporting basic IG institution-building activities. We will also include personnel from the IG's office in relevant training provided by the Court and the Public Ministry, including training provided by ICITAP to the DIC, to the extent possible.

The Court IG will no longer receive ESF local currency funds after December 1997. USAID will negotiate with the Court to provide from its own budgetary resources for the IG, thus assuring the sustainability of this institution as a permanent entity within the Judiciary. The Court's commitment to continue supporting the IG and to further its professionalism will be established in a covenant in the SROL bilateral agreement.

6. Constitutional Amendment. Through the SDI Project, USAID supported the drafting of a constitutional amendment which provided for a less political selection process and longer term of office for the Supreme Court magistrates. Assistance provided to civil society participants promoted the passage of that amendment. However, the amendment has not passed, and it is not expected to pass in the near future. The legislative focus is currently on the CPC. Starting in the second or third year of the SROL RP, we will seek again to focus the National Congress' attention on the constitutional amendment. It will be included in our policy dialogue, and we will seek to make it an item on the agenda of our civil society partners.

7. Orientation for New Supreme Court. In addition to the above activities, most of which will take place over the life of the new RP, the very critical task of orienting the new Supreme Court and building its commitment to these on-going reforms and the program will be conducted during the first year of the RP, as soon as the new Court is named. Policy dialogue should take place at the highest levels, and should include the Mission Director and Ambassador as well as the SO4 Team. Additionally, the long-term institutional contractor will carry out two specific activities aimed at this objective. The first will be an observational tour to the U.S. and Puerto Rico, which will allow the new Court magistrates to see firsthand modern court administration practices and oral adversarial trials, and to discuss the reform program in-depth. Approximately six months after this observational trip, the contractor will organize an in-country conference on the reform program. The new magistrates, previous magistrates, and other key persons will be included in this follow-up activity.

8. Commodity Support. To improve the administrative systems of the Court and enable it to function adequately under the new CPC, some level of commodity support will be required. At this point, the court system is starved for even basic commodities. The first priority will be to provide courts with basic equipment, including typewriters. However, an effective case-tracking and statistical system will eventually require automation. We will begin providing PCs early in the life of the RP so that the judges and support personnel can become accustomed to their use prior to the full automation of the case-tracking system. This

approach has proved essential in other countries. Other equipment will be provided in accordance with the specific transition plan developed for the CPC. Commodities will be provided primarily in the second and third years of the RP.

Indicators. The following indicators will measure our success at achieving this second level intermediate result:

4.1.2.a: Management information system established and applied to administrative functions.

The establishment and use of a management information system is key to improved court administration, and will be a primary activity of the institutional contractor during the entire RP. The contractor, in conjunction with the Court, will establish benchmarks and end-of-RP targets during the first year. The contractor's reports will be the basis for evaluating progress under this indicator.

4.1.2.b: Number of criminal cases disposed of per judge per year.

Improved efficiency in the court system, at all levels from all sorts of interventions, should result in each judge being able to resolve more cases in a fairer, more professional manner. The quality of the resolution of cases is very difficult to measure, and we will not be measuring it under this RP. Ultimately, the Court will have to develop a system for evaluating judges, weighing complaints from participants in the system and IG input. The Court has already begun to work on this issue. The above indicator will measure quantity. Although we will be measuring an average of cases disposed of, the Court itself will keep these statistics by individual judge, and use this as a monitoring and management tool. Since we will be providing intensive assistance first to the courts in three pilot cities, we may segregate out these courts, and look for improvements in them first.

The contractor will assist the Court in developing baseline data and benchmarks. The Court itself will be responsible for reporting this data on a semiannual basis, with the contractor's assistance.

4.1.2.c: Total number of cases adjudicated annually.

This statistic is currently being reported under the SDI Project, and we will continue to report it as part of the new RP. It essentially measures the same quantitative improvement as the indicator above, with the only additional variable being the number of judges in the system. However, it is useful to have the gross number of cases adjudicated over time as a means of comparison. It will also be important to watch whether the new CPC, which requires many more judges than the old system, has a negative impact on this number, although we should reasonably expect some slowdown in adjudications anyway during the first year or so while the Court is adjusting to the new system.

The contractor will help the Court develop new benchmarks for this indicator, using the previous statistics as the baseline data. The Court will be responsible for reporting on this indicator semiannually.

4.1.2.d: Number of court officials investigated by the Inspector General (IG) and sanctioned.

This indicator is continued from the SDI Project. Although we will not be actively engaged in providing assistance to the IG in the early years of this RP, we continue to consider it to be an integral part of our program, and an important self-monitoring system for the courts. We will therefore continue to measure its activity. It is difficult to predict, however, what level of activity is either expected or desired. To the extent that this indicator measures an active IG which ensures that the general public knows of its existence and is invited to make legitimate complaints against judicial officials, we would like to see the indicator show increases. To the extent that it demonstrates continuing or increasing corruption within the court system, we would like to see the measure decrease over time, and would expect to see that happen as other interventions aimed at reducing criminal or unethical behavior by court officials take effect. Ultimately, the indicator is more important to act as a red flag if we and our partners see any dramatic changes than it is as an absolute measure in and of itself.

Using data collected and reported on under the SDI Project as a baseline, we, the contractor, the Court, and the IG will jointly participate in establishing new benchmarks. The IG will be responsible for reporting on this indicator.

4.1.2.e: Number of adjudications which go against the interests of influential groups or individuals (political parties, military, government, economic elite, etc.).

This indicator will be used to measure the independence and apolitical nature of the Court. We will not establish numerical benchmarks under this indicator, since it is very subjective in nature. Rather, we will establish a focus group, and convene it annually (or semiannually), to measure improvement in this area. The SO4 Team will be responsible for organizing the focus group and reporting on the indicator.

4.1.2.f: Constitutional amendment approved changing the system for naming the Supreme Court, extending the justices' tenure, and delinking their appointments from the Presidential election cycle.

This measure is also aimed at the independence of the Court. Although this is an all-or-nothing indicator in a sense, we do not expect the constitutional amendment to be passed in the early years of the RP. We will use this indicator to maintain our partners' focus on the constitutional amendment as an important goal, and to measure the status and progress toward that goal over the period of the RP. The SO4 Team will report directly on this indicator.

3. IR 4.1.3 Independent, Apolitical and Effective Public Ministry

Tools and Tactics. The RP Team's overall tactic will be to continue to provide assistance for the professional development of the prosecutors and for the organizational and administrative development of the institution.

During the one year transition period before the CPC goes into effect, the RP will fund intensive training and technical assistance to the PM to prepare it for its new roles and functions, while continuing to strengthen it as an institution. This TA and training will be provided through a fourteen-month work order under the Global Bureau's Rule of Law IQC with the National Center for State Courts, the same contractor which will be providing assistance to the courts. (Note: The work order for assistance to the Public Ministry will actually be funded initially from the SDI Project. Extensions of the contract will be funded from the new RP, which will overlap with SDI for approximately one year.)

A full-time international advisor will be provided during at least the first fourteen months of the contract. This advisor will assist the Public Ministry in the conceptualization, coordination, and implementation of all assistance activities during that year, including determining the specific areas and timing of short-term TA and training. The long-term advisor will also assist the Public Ministry in developing a training plan for its personnel. This is a critical activity, since training is being provided by several donors at this time, and it needs to be provided in an orderly way that builds in a logical fashion and also leaves Ministry staff sufficient time to continue to carry out their work.

Working with an ad hoc PM training working group, the long-term advisor will determine what short-term consultants will be necessary to conduct training-of-trainers or direct training. Training is expected to include such topics as: how to handle increased discretion at the charging stage of prosecution (options, guidelines); preparatory skills needed to document cases, in addition to argument skills; standards for case and documentation processing (including procedures/forms for case management and tracking); prosecutor responsibilities at the investigation stage (in coordination with police/ICITAP program), including protection of evidence and prosecutorial case; and criminal areas such as drugs, white-collar crime, and corruption. Short-term TA for institution building will be provided for topics such as budgeting, management information systems (MIS), personnel, and administrative policies and procedures.

Although the original contract will be signed for fourteen months, we anticipate that it will be extended for at least another year, to take the Public Ministry through the first critical year of CPC implementation. However, at this time we do not have assurances that the senior in-country advisor will be available beyond the initial period. We will reassess the status of the technical assistance at the end of the first period and decide what combination of short and long-term technical assistance to continue. We expect the overall level of TA to remain fairly high in the second year, but somewhat diminished from the first year.

Additional funds will also continue to be transferred to the Public Ministry for implementation of Annual Work Plans. In general, we have been transferring approximately \$600,000/year over the past few years to the Ministry for this purpose, including both host country-owned local currency generated from ESF programs and dollar resources. The Ministry's Work Plan beginning in March 1998 will be reduced to approximately \$500,000 per year. In part, this reflects the high level of support being provided by the institutional contractor, which offsets some of the Ministry's need to carry out training and technical assistance activities itself. In part, it also reflects the fact that ESF funds are no longer available.

Funding provided through the Annual Work Plans will continue to support the following units and activities:

- the Technical Assistance Unit, which will be responsible for continuing training in the new CPC, for providing support to the General Directorate of Prosecutors in national impact cases and in particularly complex cases of the Special or Regional Prosecutors Offices, and for coordinating with the Supreme Court's *Grupo Ejecutor*;
- the Training Unit, which conducts all other training;
- the Special Prosecutor Against Corruption Program;
- the Medical Forensics Directorate;
- public information campaigns and outreach and civic education programs; and
- logistical and administrative support, including substantial assistance to purchase and implement an automated case management and tracking system, and an updated version of the MUNIS system for administrative operations.

The mix of funding for external technical assistance and annual work plans will be reviewed at the end of the second year of the RP. External technical assistance will be reduced to the extent possible at that time, and funds will be redirected to the annual work plans, which are a less costly alternative and provide the Public Ministry with the experience of managing its own resources. Overall funding for the Public Ministry will begin to phase down over the life of the RP, with the objective of terminating funding for the Public Ministry at that time. The SO4 Team believes that no further external support should be needed after the end of this RP, given the rapid development of the Ministry since it was established.

Policy dialogue will also be an important approach for ensuring an independent and apolitical Public Ministry. Although the initial selection of Public Ministry staff was carried out in a non-partisan manner, the institution, like other Honduran public entities, remains quite vulnerable to political influences not only in staff selection but in carrying out its prosecutorial duties. Both the Embassy and USAID will maintain a fluent and open policy dialogue to promote an institution free (to the extent possible) from party politics.

Indicators. The following indicators will measure our success at achieving this second level intermediate result:

4.1.3.a: Number of cases prosecuted by the Public Ministry.

Prosecutions are the Public Ministry's primordial function. Monitoring these figures will allow us to measure the institution's effectiveness, at least in a quantitative sense. This is a continuation of an indicator used under the SDI Project, which will provide the baseline data. The benchmarks for this new RP will be established by the Public Ministry itself. These benchmarks should recognize that prosecutions cannot continue to increase as rapidly as they did during the years of the Ministry's early expansion, and that the adoption of the new CPC is likely to have a negative impact on these figures in the first years of its implementation, as everyone adjusts to the new procedures. The Public Ministry will continue to be responsible for reporting on this indicator.

4.1.3.b: Number of prosecutions which go against the interests of influential groups or individuals (political parties, military, government, economic elites, etc.).

This indicator will be used to measure the independence and apolitical nature of the Public Ministry. As with the equivalent indicator being used for the Court, we will not establish numerical benchmarks under this indicator. We will use the same focus group that will judge the court's progress in this area to judge the Public Ministry's progress. Again, the SO4 Team will be responsible for reporting on this indicator.

4. IR4.1.4 Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring

Tools and Tactics. Our basic tactic to achieve this result will be a continuation of our approach under SDI but with increased outreach. At this time the only civil society partner we are working with directly is FOPRIDEH, through a cooperative agreement, although we anticipate that FDDH will resume its partnership with us shortly. Our grant to FOPRIDEH under SDI is directed at increasing FOPRIDEH's and its members' knowledge about the justice sector and proposed reforms; strengthening FOPRIDEH's ability to help its members formulate strategies for working in the justice sector; increasing the absolute numbers of NGOs working in this sector; and forming coalitions among these NGOs to achieve a greater overall impact. Given the broad composition of FOPRIDEH's membership which includes 87 NGOs, FOPRIDEH is an excellent means of reaching out to other groups, such as labor and *campesino* organizations, which can support judicial reforms and promote the protection of human rights.

FOPRIDEH has been actively working with other actors in the sector, particularly the Court's *Grupo Ejecutor*, to increase its knowledge base. It will also be working with more

experienced grantees from other Central American countries to improve its ability to strategize in this sector. Once this base has been laid, FOPRIDEH will begin to make subgrants to other NGOs, in specific areas of interest to the individual NGOs. FOPRIDEH will also continue to sponsor events designed to foment the creation of coalitions among participating NGOs. Although it is important to allow the individual NGOs to work in areas of their own interest, so that they have a real commitment to their work, we will also seek to generate support for issues of particular relevance to the rest of our program through a working dialogue and events sponsored by FOPRIDEH itself. These issues may include the proposed new Criminal Procedure Code and the constitutional amendment changing the selection procedures and term of office for Supreme Court magistrates.

In addition to outreach through FOPRIDEH, we will seek out other more non-traditional justice sector partners, such as COHEP and FIDE during the course of the RP and will encourage co-sponsored workshops between our traditional and non-traditional partners. If FDDH resolves the financial review issues currently outstanding, we expect to renew our activities with that organization.

Indicators. The following indicators will measure our success at achieving this second level intermediate result:

4.1.4.a: Number of nongovernmental organizations engaged in programs to promote legal reform.

This indicator will measure our success in expanding the number of NGOs working in this field. There is no precise way to establish a baseline. FOPRIDEH will estimate the beginning number based on its experience and knowledge of the activities of NGOs in Honduras at this time. FOPRIDEH will be responsible for measuring results under this indicator annually, again through its own subjective assessment of activity in the field, and reporting those results to us. The SO4 Team will explore the use of periodic evaluation to measure the impact of these programs.

4.1.4.b: Number of nongovernmental organizations engaged in programs to inform people of rights under the new Criminal Procedures Code

The second indicator introduces a more qualitative element, indirectly measuring the relevance of the NGO programs that occur during the period of our support. An important aspect of the new CPC is that it gives greater rights to the accused, e.g., rights to be released pending trial. This indicator will measure whether NGOs take the initiative to inform citizens of these new rights, so that they are prepared to exercise them. This is a usual and important role for civil society. We are not so much interested in seeing this number increase over time, but rather in verifying that the activity is taking place.

FOPRIDEH will be responsible for measuring and reporting on this data. The baseline is assumed to be zero, since most activity on the CPC to date has been directed at promoting

passage. This indicator will assume more relevance after the CPC has been passed.

Future Measurement Development: To measure the impact of the NGOs cited previously, the SO4 Team will explore the possibility of adding another indicator or planning periodic evaluations that would reflect influence and effectiveness of NGO activities. The SO4 Team will decide how to measure the qualitative aspect of increased NGO involvement in the justice sector and the financial and human resource cost of this measurement within the first year of the RP.

5. IR 4.1.5 Changed Mind Set re: Rule of Law

Tools and Tactics. A variety of highly integrated tools and tactics will be used to achieve this result. Our primary target will be young law students and lawyers. The principal new activity will be observational travel to the U.S., which has proved to be a very powerful instrument for changing vision. We will seek to include a core group of law students, carefully selected for their leadership qualities, in trips to the U.S. to observe oral adversarial trial procedures, modern administrative practices, and law school activities such as legal aid clinics, public defender programs, etc. (If funds permit, this observational travel will be begun under SDI, and then continue under the new RP.) A training assistant (FSNPSC) will be assigned full-time to MDDI to work with this group prior to its departure and after its return to ensure that the group (which should grow over time) remains active and engaged in reform activities. The group will draw up a workplan and continue to refine it over time. Some of the activities we expect the group to carry out will be workshops and discussions at the law schools.

The training assistant will also be responsible for ensuring that other observational travel participants, e.g., judges, prosecutors, congressmen, court administrators, etc., engage with this group of law students in presenting talks or leading workshops. SROL-funded training events for law students and other legal professionals will explicitly include "changed mind set" as a training objective. Finally, the training assistant will incorporate external expert consultants being brought in with funding from this RP for other specific reasons into these activities, capitalizing on their presence in Honduras.

Indicators. The following indicators will measure our success at achieving this second level intermediate result:

4.1.5.a: Number of trainees sent to the U.S. or other countries to observe systems in operation.

Since observational travel will form the basis for beginning to change the vision of justice sector participants in Honduras, we will first measure the absolute numbers of people who have had that opportunity. The SO4 Team will be directly responsible for establishing benchmarks and tracking this indicator. We will assume a baseline of zero.

4.1.5.b: Number of seminars held in law schools by returned trainees.

This indicator will measure whether returned participants are actively engaged in becoming change agents. Formulation of the law students/participant trainees' workplan will be the tool for establishing benchmarks. The law students will be responsible for tracking and reporting on this indicator as part of that workplan.

4.1.5.c: Events or groups organized by returned trainees in support of legal reform.

This indicator will measure the level of activity by returned trainees outside the law schools, either law students or others. Although we are focusing on the law students as the primary change agents for shaping a new vision for the legal profession, we expect that other returned trainees will also play an active part in this process. The SO4 Team will be directly responsible for tracking this indicator.

Future Measurement Development: To measure the impact of short-term observational travel opportunities and multiplier-effect activities with the law students and other legal professionals, the SO4 Team will explore the possibility of adding another indicator, using rapid appraisal techniques, contracting for an opinion poll or focus group, or other periodic evaluation tool that would reflect a "changed mind set regarding rule of law." The SO4 Team will decide how to measure the qualitative aspect of this intermediate result, as well as the financial and human resource cost of such measurement within the first year of the RP.

V. PARTNERS AND STAKEHOLDERS

A. Commitment and Role of Partners within the GOH. Our consultations during the recent development of our democracy strategy, as well as our current program activities, reveal a strong commitment to justice sector reforms among many sectors of Honduran society. This commitment is currently equally reflected by our main partners: the Supreme Court, the Attorney General, and civil society. However, the upcoming elections and changes in key personnel could change the environment. Apart from the appointment of new Supreme Court magistrates that will take place in January of 1998, the Attorney General's term ends 1999. To avoid possible reversals, USAID will work with new partners early in their tenure to build the level of commitment seen in our current partners. In particular, see the tools and tactics described under IR 4.1.2.

B. Expected Role of Other Donors. The main other donors active in the justice sector are the Inter-American Development Bank (IDB), the United Nations Development Program (UNDP), the Spanish Cooperation Agency (AECI) (acting both bilaterally and through the UNDP), and ICITAP.

The IDB will be working on:

- structural modification, construction, and equipping of courthouses (primarily at the justice of the peace level) to adapt them to new trial procedures;
- improved court administration at the centralized levels;
- improved budget submissions to the Ministry of Finance;
- introduction of alternative dispute resolution mechanism in civil cases; and
- drafting various pieces of legislation such as the new Law of Organization and Attributions of Tribunals, the new Civil Procedures Code, the Law of Property and Commercial Business Registration, the Law of Constitutional Jurisdiction, and legislation on domestic violence.

The SO4 Team will maintain close communication with the IDB as the new strategy for the IDB activities evolves, and throughout implementation to ensure complementarity of effort.

The AECI, with the UNDP as implementing agency for part of its program, is planning to work primarily in five areas:

- the Public Defenders program;
- training of judges;
- the new Juvenile Code;
- prisoners without sentences; and
- prisons.

Activities aimed at training Public Defenders in their new role under the revised CPC are critical to the success of the new system, and thus to the success of our program. We will coordinate closely with the AECI/UNDP to ensure consistency in implementation of the new code. Similarly, activities aimed at general institutional strengthening of that office, formerly part of our program, are critical to ensuring that counsel is provided to all defendants, an important element of the new code. With respect to the training of judges, we will coordinate closely to ensure there is no duplication and that the content of the training is consistent.

The other activities being carried out by the AECI and UNDP are not as closely related to our program, and therefore are not critical to its success; nor do they present the likelihood of duplication. The new Juvenile Code has been adopted, and under it the Court has begun carrying out the first oral procedures in the country, prior to passage of the new CPC, which applies to adult defendants. USAID is not working in the juvenile justice area at all. Although many of our activities should indirectly affect juvenile and adult prisoners who have been held for years without being sentenced, the AECI/UNDP will organize a program aimed directly at short-term solutions to this problem. The AECI will also work with the prison system, an area in which USAID has no program.

ICITAP will primarily be concerned with strengthening the investigative function of the Criminal Investigation Division (DIC), which is part of the Public Ministry, and in helping

Honduras to make the transition to a civilian police force. USAID's program with the prosecutorial side of the Public Ministry complements that of ICITAP, and we will coordinate closely. ICITAP's program is also critical to the long-term success of the new CPC, and thus to our program.

C. Stakeholders. There are many who stand to gain from the success of these activities. Unfortunately, they do not tend to be identifiable as groups of stakeholders who can be counted on to support the process. The real gains will be spread throughout the society. Victims of crime should be able to count on more reliable and faster redress of their complaints; disenfranchised groups should be able to participate more fairly in the justice system, and count on its protection; those accused of crimes should be able to receive a more rapid and fairer trial; businesses should have a more stable and reliable environment for their investments; and Honduran citizens should have more protection against their Government's resources being improperly used for personal enrichment rather than for the good of the society. Of these beneficiaries, only business owners are organized into influential groups at this time, and USAID efforts in this sector have not received strong support from these groups in the past.

The stakeholders who stand to lose if the results expected of this RP are achieved are somewhat more identifiable, and many are relatively influential. Among those who have believed that they stand to lose with the adoption of the oral adversarial trial system are some of those lawyers--but by no means all--who are experienced and successful in the current system. We have sought to overcome resistance from this group by demonstrating, through observational travel, that the oral element of the system (although key) still constitutes very little of the lawyers' actual work; much of the attorneys' work continues to be written motions and case preparation. We have also included this group in training programs so that they feel prepared to participate on an equal footing in the new system, and we will continue to do that under the new RP. Finally, we intend to build a closer working relationship with the Honduran Bar Association.

Another group which stands to lose is the political parties. Under the current system, the parties name the Supreme Court, and the Supreme Court then names all lower court judges and support personnel. The judiciary not only provides patronage jobs for party members, but it has also been expected to provide protection for the party in power in cases which came before it. RP activities are aimed at eliminating both the patronage element, to the extent possible, and the biases.

The other groups that stand to lose if the results we envision are achieved are less discrete, but no less powerful. All of those who have been able to benefit from the lack of a fair and independent justice system -- corrupt government officials, businesses that operate extralegally, military officials who have abused their positions, drug interests, etc. -- are stakeholders who can potentially be expected to try to prevent the success of our activities.

Consequently, we are counting primarily on our partners to ensure that these activities do in

fact succeed. During the SDI Project, the GOH, the Supreme Court, and the Attorney General were all highly committed to seeing improvements in the justice system, and their active participation resulted in significant accomplishments. A number of congressmen are also now committed to the same goals. We are counting on the same level of commitment from our new partners. We are also counting on our civil society partners to be able to mobilize broader societal support. Additionally, many of the reforms we will support through the RP are designed to make structural changes that result in systems that allow less opportunity for impropriety, and thus are less dependent on the individual honesty and good faith of the participants.

D. Sustainability. Upon the completion of the activities planned under this Results Package, USAID and its partners expect that the following results will have become sustainable; i.e., these achievements will continue with Honduran support after the completion of direct USAID assistance:

- **The new Criminal Procedures Code will be effectively and permanently in place throughout the country.** Specifically, a cadre of legal professionals trained in and committed to the Code will be in place at all levels of the system; the National Congress will make adequate appropriations for the Court system; and the necessary infrastructure will have been put in place with the assistance of other donors. As a consequence of these measures, the number of oral trials held annually, the percentage of criminal cases disposed of by plea bargaining or dismissal, and the percentage of criminal cases resolved within time limits, will all have steadily increased since enactment of the CPC.
- **The Court system as a whole will have become significantly more independent, apolitical, and effective.** Specifically, the CPC itself will have been enacted and institutionalized; court administration and efficiency will have been improved significantly; and use of a merit-based career system will have become the norm for selection and retention of judges. As a result, the number of criminal cases disposed of per judge per year, the number of cases adjudicated annually, and the number of adjudications which go against the interests of influential groups or individuals will all have increased significantly since the beginning of this RP.
- **The Public Ministry will remain independent and apolitical, and will have become significantly more effective.** Technical assistance, operational support, and training provided by USAID will have permanently improved the capacity of PM staff to play a strong and independent prosecutorial role. This career-level capacity and strength will help to keep the PM on a non-political course, even with changes in leadership. The number of cases prosecuted by the PM, and the number of such cases that go against the interest of influential groups or individuals, will continue to increase significantly, increasing the expectations and demand of Honduran society that these cases continue to be

prosecuted and that the PM remain non-political.

- **Broad civil society participation in monitoring reform of the justice sector will have become an accepted norm of Honduran political life.** The sustainability of any one group - be it FOPRIDEH, FDDH, or any of their members - while very much desirable - is not *per se* an objective of SROL. What is critical, however, and what we expect to accomplish by the end of this RP, is that the participation of concerned citizens in monitoring reform of the justice sector and calling attention to any backsliding become an accepted, normal feature of the Honduran political landscape. Such participation should not be seen as evidence of the weakness of this country's nascent democracy, but rather as a clear sign of its vigor.

- Finally, and perhaps most importantly, we expect that large numbers of the legal community, particularly its younger members, will have **fundamentally changed the manner in which they view the justice system and the results they expect from it, as well as how they view their own role and participation in the justice system.** As discussed above, USAID and its partners are not yet entirely sure how we will measure this "changed mind set." But its existence will be critical to the sustainability of all the other results we seek, for these (predominantly young) professionals will be among the most vocal of those insisting on the correct implementation of the CPC and the presence of an independent, apolitical, and effective judiciary and Public Ministry; indeed, they may ultimately be among the most effective voices within civil society advocating the implementation and maintenance of the reforms we and our partners will support through SROL. At bottom, without the dedicated backing of these professionals and their maintenance of strong ethical behavior as lawyers, any other results we achieve will in the end prove ephemeral.

Ultimately, the sustainable achievement of all these intermediate results will lead to the achievement of the principal result we are seeking through SROL; namely, **Strengthened Rule of Law and Respect for Human Rights.** At one level, we will measure achievement of this result through changes in the indicators we have associated with it; i.e., convictions as a percentage of indictments (which we expect will have increased significantly by the end of SROL) and the incidence of pre-trial detainees (which we expect will decrease significantly over the life of SROL). But these indicators are just that - *indicators* - of the broader societal changes we hope to foster. These changes will ultimately encompass, and depend on, all the indicators and intermediate results discussed above - the enactment of the CPC, the reform of the judiciary, the introduction of a "changed mind set" among legal professionals, etc. It is perhaps presumptuous to suggest that the modest set of initiatives described here will, in five short years, imbue the rule of law and respect for human rights as fundamental norms of society. But if we and our partners achieve all the results to which we aspire, we will help *strengthen* the rule of law and *strengthen* respect for human rights. If we accomplish all this,

we will judge SROL to have been a resounding success.

VI. PRINCIPAL ASSUMPTIONS, RISKS, AND COVENANTS

A. Assumptions

There are four critical assumptions:

- The new CPC will pass in 1997.
- The new Supreme Court, which takes office in January 1998, will provide the level of support necessary to make the program function.
- In particular, we assume that the new Court will have the political will and influence to push successfully for adequate resources for the judicial system.
- The Attorney General who takes office in 1999 will provide the level of leadership necessary for the Public Ministry to continue to play a strong role in the reform process.

Together with our partners, we have undertaken a number of measures designed to increase the likelihood that the new CPC will be approved by the legislature this year. The observational trip for congressmen financed under the SDI Project was extremely successful at building support. We will finance one more observational trip for congressmen in mid-July, and we will continue to stimulate the dialogue on the legislation. Additionally, FOPRIDEH plans to undertake a number of public, coalition-building events in the near future in support of the new CPC.

If the CPC does not pass this year, activities under this RP will have to be altered substantially. However, many activities would continue to make sense, for example, support for the Public Ministry and support to the Court to improve its administrative practices. Therefore, our institutional contractors would still be necessary, although their contracts would have to be modified.

We have included in this Results Package a major activity designed to build support for the program with the new Supreme Court magistrates. We have planned a two-week observational trip to the U.S. and Puerto Rico for them to see and discuss modern administrative practices and oral adversarial trial procedures. This kind of trip has been extremely successful in the past in creating a new vision, particularly with the mayoral candidates. If the upcoming visit and our related policy dialogue activities with the new magistrates are equally successful, we expect that the new Court will push for implementation of the CPC, and for the appropriation of adequate resources, just as vigorously as did its

predecessor.

We have not planned any specific activity to build support with the Attorney General. It is too early at this point to judge the circumstances around that appointment and the appropriate approach. However, this is an issue we will be watching closely, and will address at the right time.

B. Risks

The ability of USAID and its partners to achieve the objectives envisioned for this Results Package could be put at risk by the following:

- The GOH may not be willing or able to provide a sufficient budget to the Court and its dependencies for the transition to and implementation of the new CPC.
- The CPC may not be accepted and effectively implemented in all Honduras during the next 5 years.
- Civil society may not be interested in supporting and monitoring justice sector reforms.
- USAID/Honduras may not receive adequate resources to fully fund the SROL Results Package over the next five years.

USAID/Honduras is addressing the first risk by providing technical assistance to the Court in several areas that directly impact its ability to present a persuasive budget argument to the National Congress and Ministry of Finance. The Long-Term Court Advisor will help the Court increase the efficiency of its administration through improved court organization, administration and modern management information systems. He/she will also advise the Court on effective budgetary practices and the preparation of an articulate, well-documented budget submission. Such improvements in efficiency and documentation of projected costs will allow the Court to present a compelling budget rationale for its activities, especially the implementation of the new CPC. If the Court's efficiency and ability to construct reasonable budgets improve as expected, and if our assumption (see above) that the new Court will have the political will and influence needed to push successfully for appropriation of sufficient resources holds true, we expect to be able to overcome this risk.

The second risk will be assumed by the GOH, magistrates, judges, lawyers, law students, local NGOs, and all participants in the implementation of the new CPC. Changing from a written inquisitorial system to an oral adversarial one constitutes in and of itself a great risk for Honduras. Yet, if Honduras is to combat corruption, protect human rights, and effectively implement its laws, the judicial system must become more transparent, effective, and efficient. Participants in the transition and the Honduran population at large must be dedicated to

improving the justice sector. Commitment to change can be fleeting, especially when the reality of new systems and unfamiliar procedures delays actions or makes work more difficult. To make the transition as smooth as possible, USAID is supporting the Court in the following ways:

- a) The provision of approximately \$1 million in technical assistance annually.
- b) The provision of observational travel in order to stimulate momentum during the first few difficult years of implementation.
- c) By stimulating civil society interest in and support of the new CPC.

The third risk assumed by USAID and the GOH is that civil society partners interested in monitoring justice sector reforms exist or will exist. To address this issue, USAID will reach out to existing organizations and encourage them to follow legal reforms that affect their constituencies. The level of commitment demonstrated already by FOPRIDEH and its partners is encouraging; we are confident that they will continue to maintain this interest, and that other partners will emerge throughout the life of this RP.

The fourth risk, adequate USAID resources, depends upon the U.S. Congress and USAID/Washington budget allocations. If given lower than expected financial resources, the SO4 Team would decrease the number of observational tours to the U.S. or other countries. Deeper cuts would force USAID to reduce its funding to the Public Ministry, thus, decreasing the SO4 Team's ability to achieve its planned results under IR4.1.3, "*Independent, Apolitical, and Effective Public Ministry.*"

C. Covenants

To help manage the risk that the GOH will not provide adequate budgetary resources for the court system, the Bilateral Agreement for SROL will include the following covenants.

The Grantee shall ensure that counterpart funds are made available in a timely and satisfactory manner. Likewise, the Grantee shall provide USAID with quarterly reports on the provision of counterpart contributions. These reports shall be provided no later than 30 days after the end of the quarter. Should the Grantee fail to make available amounts designated in the budget or fail to make those amounts available in a timely and satisfactory manner as determined by USAID, USAID may suspend assistance to one or all activities until such time as USAID shall determine that the assistance may be continued or that one or more of the activities shall be terminated.

The Grantee will ensure that the Court's *Grupo Ejecutor* for the Improvement of the Criminal Process will receive each year the local currency funding necessary to cover its personnel costs, non-personnel costs (travel, lodging, *per diem* and public services), and other logistical support (office furniture and

equipment).

The Grantee will also ensure that the Inspector General of Tribunals Office (IG) will receive each year sufficient local currency funding in order to cover the IG's Action Plan and Budget. These funding levels will also cover IG personnel costs, non-personnel services (travel, lodging, *per diem* and public services), other logistical support (office furniture, equipment and vehicles), and technical assistance and training.

VII. HOW WILL WE ASSURE THE PRUDENT STEWARDSHIP OF USAID RESOURCES?

A. USAID Staffing Requirements

Within USAID, the new Strengthened Rule of Law Results Package will be managed by USAID/Honduras' Strategic Objective 4 Team, and within that team by a smaller Results Package Team established for this purpose. The core USAID members of the SROL RP Team will include:

- A senior U.S. Direct Hire Officer (the Director of USAID's Office of Municipal Development and Democratic Initiatives) as Team Leader;
- A U.S. PSC Democracy Advisor¹
- Two FSN PSC Project Management Specialists
- One MDDIO Participant Training Assistant²; and
- Appropriate representatives of the Offices of Program and Economic Policy, Development Finance, Contract Management, and the Controller's Office.

All of these team members are already on the USAID staff, and their positions are included in the proposed staffing numbers submitted to USAID/Washington as part of the Mission's FY 1998-2003 Strategic Plan. The contract personnel mentioned above are funded by the SDI Project; following the completion of that project in December 1998, funding for their contracts will be provided by the SROL Results Package.

B. Responsibility for Procurement

Under the SROL RP, USAID will continue to follow the same procurement procedures already established under the SDI Project. USAID's Office of Contract Management (O/CM)

¹For 10% of his/her time. This contractor will also serve the Municipal Development Results Package. However, funding for this position will not be split between these two RPs.

²On a three-quarter time basis. This contractor will also serve the Municipal Development Results Package 25% of the time. Funding for this position will be split on a 75-25 basis between these two RPs.

will continue to contract directly for all long-term technical assistance envisioned under this RP, and will be responsible for negotiating and awarding Cooperative Agreements with our expected civil society partners, FOPRIDEH and, possibly, FDDH. O/CM will also directly procure RP-funded commodities for the Court. By contrast, the Public Ministry, which has long been certified as an eligible recipient of USAID funds, will continue to procure grant-funded commodities and short-term local technical assistance on its own behalf.

C. Financial Procedures and Controls

The SO 4 Team will continue to assure the proper stewardship of USAID resources by following the same financial management procedures, and using the same set of internal controls, already in place. Of our likely principal partners, two - the Public Ministry and FOPRIDEH - have been or will shortly be certified as eligible to receive, manage, and account for USAID funds. Another potential partner, FDDH, has received USAID funds in the past, and may become eligible to do so again when and if current outstanding financial management review issues are resolved. Because the financial management procedures and internal controls of our final prospective partner, the Honduran Supreme Court, have not been certified, USAID will continue to work with the Court on an "in-kind" basis only. The Court will not receive or manage any direct USAID grant funding.

D. Monitoring and Evaluation Arrangements

As discussed above, the expanded SO 4 Team (i.e., the team including USAID's customers and partners) will be collectively responsible for monitoring and assessing progress toward all planned results on an ongoing rather than an occasional basis. The team will provide formal updates on progress at least twice a year: once in the fall during USAID/Honduras' Annual Results Reviews, and later in the spring as part of the Mission's annual Results Review and Resource Request (R4) submission to Washington.

While no formal evaluations of the RP as a whole are currently planned, it is likely that during the life of this RP the team may decide to carry out such an evaluation of one or more of its components. A formal evaluation of the success of activities with the Court and the Public Ministry, for example, might be appropriate toward the end of the second year of the RP, when the team will be considering issues such as how (or whether) to re-focus attention on the proposed constitutional amendment on the selection of Court magistrates and on the appropriate mix of technical assistance to the Public Ministry. Similarly, because some RP components such as the qualitative results of justice sector civil society initiatives (IR 4.1.4) and "*Changed Mind Set re: Rule of Law*" (IR 4.1:5) present measurement challenges, periodic evaluations of progress toward these results may prove quite useful. If carried out, these evaluations would involve contracting a common observer or expert who would determine the most appropriate combination of measurement tools such as focus groups, opinion polls, interviews with key informants, newspaper coverage and content. SO4 would use the results of such studies to gauge the impact that USAID activities are having in the justice sector and in the general population. A focused "mini-evaluation" combined with other indicators would

provide the necessary data for thorough results tracking. The decisions on whether to conduct large-scale or "mini" evaluations, and on what is to be evaluated, will be made by the SO Team in consultation with our partners and mission management within the first year of the RP.

The team may also wish to conduct a full-scale evaluation of the RP toward the end of its life, which will coincide with the end of USAID/Honduras' current five-year strategic planning cycle. At that time, we and our partners will likely be assessing possible new approaches to the sector; an evaluation may be useful in helping us do so.

E. Audit Arrangements

USAID will continue to finance audits under the Recipient Contracted Audit Program to monitor the financial management practices of our partners.

VII. RESOURCE REQUIREMENTS

- A. Budget for USAID's Planned Contribution:** See attached budget table entitled, "Planned USAID SROL Grant Contribution (Commitment/Obligation Schedule)."
- B. Budget for Partners' Planned Contribution(s):** See attached budget table entitled, "Planned GOH SROL RP Contributions by Intermediate Results."

Annexes:

- A. Results Framework**
- B. Results Tracking Tables**
- C. Statutory Checklists**
- D. Initial Environmental Examination**

**Planned USAID SROL Grant Contribution
Commitment/Obligation Schedule**

(\$000)

Commitments	FY97	FY98	FY99	FY00	FY01	FY02	All FYs
IR 4.1.1 New CPC Effectively Implemented		150 (TA & trng)	100 (TA & trng)				250
IR 4.1.2 Independent, Apolitical and Effective Judiciary	819 (LTTA & trng)	250 (Cmds)	750 (LTTA & trng) 250 (Cmds)	750 (LTTA & trng)	750 (LTTA & trng)	421 (LTTA & trng)	3,990
IR 4.1.3 Independent, Apolitical and Effective Public Ministry		500 (TA, trng, cmds & op sp) 300 (LTTA)	450 (TA, trng, cmds & op sp) 100 (LTTA)	450 (TA, trng, cmds & op sp) 100 (LTTA)	300 (TA, trng, cmds & op sp)		2,200
IR 4.1.4 Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring	100 (Inst bldg & advoc)	200 (Inst bldg & advoc)	200 (Inst bldg & advoc)	200 (Inst bldg & advoc)	200 (Inst bldg & advoc)		900
IR 4.1.5 Changed Mind Set Regarding Rule of Law		100 (TA & trng)	100 (TA & trng)	25 (TA & trng)	25 (TA & trng)		250
Project Monitoring, Evaluation and Audit		4	4	4	4	4 50 50	120
Project Admin. (FSNPSCs) 2 Management 1 Training 1 Assistance		95 36 25	95 36 25	95 36 25	95 36 25	95 36 25	780
Commit. Totals	919	1,660	2,110	1,685	1,435	681	8,490
Obligations	1,300	1,590	1,800	1,900	1,900	0*	8,490

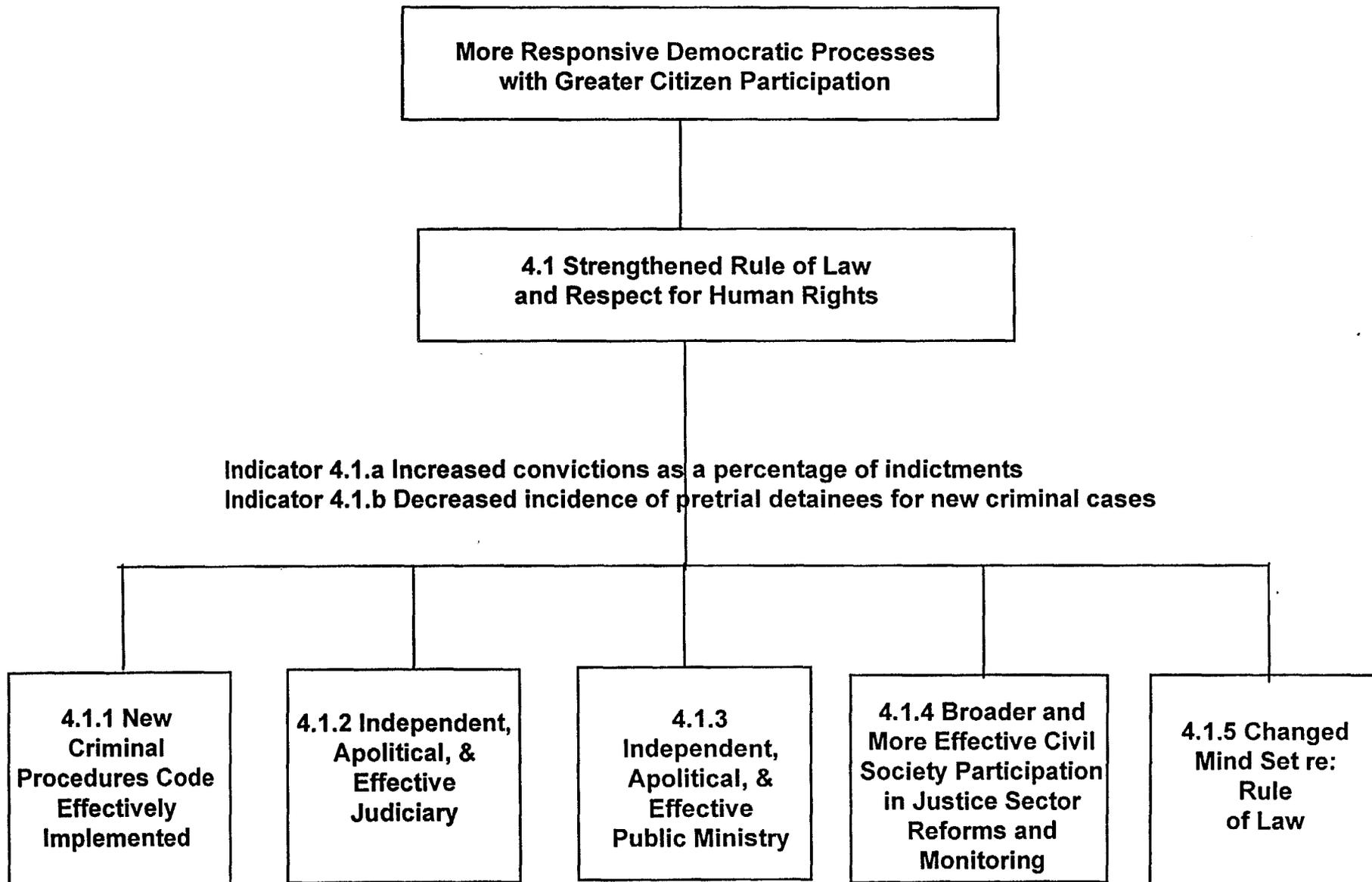
*\$1.9 million in projected obligations approved in the SO4 Strategy remains to be allocated.

**Planned GOH SROL RP Contributions by Intermediate Results
(\$000)***

Results/Activities	CY98	CY99	CY00	CY01	CY02	All CYs
<i>IR 4.1.1 New CPC Effectively Implemented</i>						
Court's Grupo Ejecutor	130.77	161.77	201.53	253.22	320.42	1,067.71
Direct CPC Transition-Related Costs (selected)	386.61	157.96				544.57
IR 4.1.1 Sub-Totals	517.38	319.73	201.53	253.22	320.42	1,612.28
<i>IR 4.1.2 Independent, Apolitical and Effective Judiciary</i>						
Inspector General of Tribunals Office	84.62	69.23	69.23	69.23	69.23	361.54
Court-USAID Liaison/ Int'l Cooperation Office	47.23	45.00	53.31	65.46	81.00	292.00
Office Space for USAID's Long-Term Advisor	3.85					3.85
Logistical Support for Selected Trial and Appellate Courts	57.69	57.69	57.69	57.69	57.69	288.45
Judicial School CPC Training	84.62	84.62	84.62	84.62	84.62	423.10
IR 4.1.2 Sub-Totals	278.01	256.54	264.85	277.00	292.54	1,368.94
<i>IR 4.1.3 Independent, Apolitical and Effective Public Ministry</i>						
PM-USAID Workplan	352.09	270.12	229.37	142.63		994.21
Logistical Support for USAID's Long-Term Advisor	14.67	4.95	4.95			24.57
IR 4.1.3 Sub-Totals	366.76	275.07	234.32	142.63		1,018.78
GOH Contributions Totals	1,162.15	851.34	700.70	672.85	612.96	4,000.00

*Contributions depicted in thousands of dollars, though actually provided in equivalent local currency. The value of this contribution shall be calculated using the reference exchange rate as set forth in Resolution No. 337-6194 of the Central Bank of Honduras in effect on the date of signature of this Agreement.

STRATEGIC OBJECTIVE No. 4



CS

4.1.1 New Criminal Procedures Code Effectively Implemented

- Indicator 4.1.1.a New CPC passed by legislature
- Indicator 4.1.1.b Transition plan for implementation of new CPC exists and is being carried out
- Indicator 4.1.1.c Number of oral trials held annually
- Indicator 4.1.1.d Percentage of criminal cases disposed of by plea bargaining or dismissal by the prosecutor
- Indicator 4.1.1.e Percentage of criminal cases resolved within time limits
- Indicator 4.1.1.f Number of judges, prosecutors, and administrative staff trained in new CPC

4.1.2 Independent, Apolitical, & Effective Judiciary

- Indicator 4.1.2.a Management information system established and applied to administrative functions
- Indicator 4.1.2.b Number of criminal cases disposed of per judge per year
- Indicator 4.1.2.c Total number of cases adjudicated annually
- Indicator 4.1.2.d Number of court officials investigated by the Inspector General (IG) and sanctioned
- Indicator 4.1.2.e Number of adjudications which go against the interests of influential groups or individuals (political parties, military, government, economic elite, etc.)
- Indicator 4.1.2.f Constitutional Amendment approved changing the system for naming the SC, extending the justices' tenure, and delinking their appointments from the Presidential election cycle

4.1.3 Independent, Apolitical, & Effective Public Ministry

- Indicator 4.1.3.a Number of cases prosecuted by the Public Ministry
- Indicator 4.1.3.b Number of prosecutions which go against the interests of influential groups or individuals (political parties, military, government, economic elites, etc.)

4.1.4 Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring

- Indicator 4.1.4.a Number of nongovernmental organizations engaged in programs to promote legal reform
- Indicator 4.1.4.b Number of NGOs engaged in programs to inform people of rights under the new Criminal Procedures Code

4.1.5 Changed Mind Set re: Rule of Law

- Indicator 4.1.5.a Number of trainees sent to the U.S. or other countries to observe systems in operation
- Indicator 4.1.5.b Number of seminars held in law schools by returned trainees
- Indicator 4.1.5.c Events or groups organized by returned trainees in support of legal reform

RESULTS TRACKING TABLES

Annex B

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation APPROVED: DD/MM/YY		COUNTRY/ORGANIZATION: USAID/Honduras		
RESULT NAME: 4.1 Strengthened Rule of Law and Respect for Human Rights				
INDICATOR: 4.1.a INCREASED CONVICTIONS AS PERCENTAGE OF INDICTMENTS				
UNIT OF MEASURE: 100 % X (convictions/indictments)		Year	Planned	Actual
SOURCE: Public Ministry and Court records		Baseline 1997	---	***
INDICATOR DESCRIPTION: This indicator will measure the percent of convictions that result from indictments (or the equivalent in the Honduran system). The number of convictions and indictments will be measured at the end of each year for that year.		1998	TBD by the Court, the Attorney General and the Court Advisor by the end of FY 1998	***
COMMENTS: Overall improvement in the ability of the justice system to function will be measured by the increase in the convictions that result from indictments. This number will be influenced by all the institutional actors. The hypothesis is that in an improved system, the police investigations will be better, prosecutors will only take to trial cases on which they have good evidence, and courts will act promptly on that evidence.		1999	TBD	***
		2000	TBD	***
		2001	TBD	***
		2002	TBD	***
		Target 2003	TBD	***

55

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation
APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1 Strengthened Rule of Law and Respect for Human Rights

INDICATOR: 4.1.b DECREASED INCIDENCE OF PRETRIAL DETAINEES FOR NEW CRIMINAL CASES

UNIT OF MEASURE: 100 % X (unsentenced new prisoners/total new prisoners)

SOURCE: Records from selected pilot courts

INDICATOR DESCRIPTION: This indicator will measure the percentage of prisoners entering the system who remain unsentenced. The baseline will be established during the first year after the new Criminal Procedures Code is approved by Congress.

COMMENTS: The indicator will measure the human rights element of the program. The new Criminal Procedures Code incorporates the assumption that those accused of crimes should be held prior to trial only when absolutely necessary. This is a complete departure from the philosophy incorporated into the inquisitorial system, where the accused is routinely held pending trial. However, even after the new code is in effect, it will take a concerted effort by the parties to change established behavior, and to resist public pressure to keep alleged criminals off the streets. Defense attorneys (usually the Public Defender) will have to assert the defendants rights vigorously, and judges will have to be conscious of their duty to implement these changes. We do not expect to see perfect compliance as soon as the new code is passed but will monitor compliance over time.

Year	Planned	Actual
Historic	---	***
Baseline 1998	TBD by the Court and Court Advisor by end of FY 1998	***
1999	TBD	***
2000	TBD	***
2001	TBD	***
2002	TBD	***
Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented			
INDICATOR: 4.1.1.a NEW CPC PASSED BY LEGISLATURE			
UNIT OF MEASURE: Initially--Pass/Fail; Following Years--In Force	Year	Planned	Actual
SOURCE: SO 4 Team	Baseline 1997	Passed	***
INDICATOR DESCRIPTION:	1998	In Force	***
COMMENTS:	1999	In Force	***
	2000	In Force	***
	2001	In Force	***
	2002	In Force	***
	Target 2003	In Force	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation

APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented

INDICATOR: 4.1.1.b TRANSITION PLAN FOR IMPLEMENTATION OF NEW CPC EXISTS AND IS BEING CARRIED OUT

UNIT OF MEASURE: YES/NO, plus a narrative evaluation

SOURCE: Court and Quarterly Reports from Long-Term Court Advisor

INDICATOR DESCRIPTION:

COMMENTS:

Year	Planned	Actual
Baseline 1997	---	General Plan Written
1998	Specific Plan Written; Implementation Starts	***
1999	Implementation Continues; Plan Revised	***
2000	Implementation Continues	***
2001	Implementation Continues	***
2002	Implementation Continues	***
Target 2003	Implementation Continues	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented			
INDICATOR: 4.1.1.c NUMBER OF ORAL TRIALS HELD ANNUALLY			
UNIT OF MEASURE: Number of Oral Trials	Year	Planned	Actual
SOURCE: Court Records and Long-Term Court Advisor	Historic	--	0
INDICATOR DESCRIPTION: This indicator will measure the number of oral trials held in 3 pilot cities through 2000. After 2000, the number of oral trials held will be tracked in all cities. Benchmarks and targets will be adjusted accordingly.	Baseline 1998	--	0
	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
COMMENTS:	Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation
APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented

INDICATOR: 4.1.1.d PERCENTAGE OF CRIMINAL CASES DISPOSED OF BY PLEA BARGAINING OR DISMISSAL BY THE PROSECUTOR

UNIT OF MEASURE: 100 % X (cases disposed by plea bargaining or dismissal by the prosecutor/number of cases)

SOURCE: Public Ministry and Public Ministry Long-Term Advisor

INDICATOR DESCRIPTION:

COMMENTS:

Year	Planned	Actual
Historic 1997	—	0
Baseline 1998	—	0
1999	TBD	***
2000	TBD	***
2001	TBD	***
2002	TBD	***
Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation APPROVED: DD/MM/YY		COUNTRY/ORGANIZATION: USAID/Honduras	
RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented			
INDICATOR: 4.1.1.e PERCENTAGE OF CRIMINAL CASES RESOLVED WITHIN TIME LIMITS			
UNIT OF MEASURE: 100 % X (cases resolved within time limits/total number of cases)	Year	Planned	Actual
SOURCE: Court records and Long-Term Court Advisor	Baseline 1997	--	TBD by Court and Court Advisor
INDICATOR DESCRIPTION:	1998	TBD	***
COMMENTS:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.1. New Criminal Procedures Code (CPC) Effectively Implemented			
INDICATOR: 4.1.1.f NUMBER OF JUDGES, PROSECUTORS, AND ADMINISTRATIVE STAFF TRAINED IN NEW CPC			
UNIT OF MEASURE: Number Trained	Year	Planned	Actual
SOURCE: Public Ministry and Court Records; Long-Term Advisors to the PM and the Court	Baseline 1997	—	TBD by Long-Term Advisors
INDICATOR DESCRIPTION:	1998	TBD	***
COMMENTS:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***

62

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary			
INDICATOR: 4.1.2.a MANAGEMENT INFORMATION SYSTEM ESTABLISHED AND APPLIED TO ADMINISTRATIVE FUNCTIONS			
UNIT OF MEASURE: Established--Yes/No; Application--See narrative evaluation	Year	Planned	Actual
SOURCE: Court records; Long-Term Court Advisor's Quarterly Reports	Baseline 1997	—	None Established
INDICATOR DESCRIPTION:	1998	TBD by end of FY 1998 by Advisor	***
COMMENTS:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***

13

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary			
INDICATOR: 4.1.2.b NUMBER OF CRIMINAL CASES DISPOSED OF PER JUDGE PER YEAR			
UNIT OF MEASURE: Number of criminal cases disposed of per judge per year	Year	Planned	Actual
SOURCE: Court records and Long-Term Court Advisor	Baseline 1997	---	TBD by Advisor
INDICATOR DESCRIPTION: This indicator will measure the number of criminal cases disposed in 3 pilot cities through 1999. After 1999, the number of criminal cases disposed will be tracked in all cities. Benchmarks and targets will be adjusted accordingly.	1998	TBD	***
	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
COMMENTS:	Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation APPROVED: DD/MM/YY		COUNTRY/ORGANIZATION: USAID/Honduras		
RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary				
INDICATOR: 4.1.2.c TOTAL NUMBER OF CASES ADJUDICATED ANNUALLY				
UNIT OF MEASURE: Number of cases adjudicated annually		Year	Planned	Actual
SOURCE: Strengthening Democratic Institutions Project (SDI/522-0296), Public Ministry and Court records		Baseline 1996*	483	3,389
INDICATOR DESCRIPTION: This indicator includes cases resolved in lower-level and appeals courts. It also includes dismissals.		1998	TBD by Advisor	***
COMMENTS: *As soon as 1997 data is available, it will be added to the table.		1999	TBD	***
		2000	TBD	***
		2001	TBD	***
		2002	TBD	***
		Target 2003	TBD	***

67

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation APPROVED: DD/MM/YY		COUNTRY/ORGANIZATION: USAID/Honduras		
RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary				
INDICATOR: 4.1.2.d NUMBER OF COURT OFFICIALS INVESTIGATED BY THE INSPECTOR GENERAL (IG) AND SANCTIONED				
UNIT OF MEASURE: Number of Court Officials Investigated & Sanctioned.		Year	Planned	Actual
SOURCE: Public Ministry and Court records		Baseline 1997	---	***
INDICATOR DESCRIPTION:		1998	TBD	***
COMMENTS:		1999	TBD	***
		2000	TBD	***
		2001	TBD	***
		2002	TBD	***
		Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary			
INDICATOR: 4.1.2.e NUMBER OF ADJUDICATIONS WHICH GO AGAINST THE INTERESTS OF INFLUENTIAL GROUPS OR INDIVIDUALS (POLITICAL PARTIES, MILITARY, GOVERNMENT, ECONOMIC ELITE, ETC.)			
UNIT OF MEASURE: Narrative Explanation that Interprets the Numerical Data	Year	Planned	Actual
SOURCE: Focus Group Results to be Reported by SO4 Team	Baseline 1997	---	TDB by SO4 Team
INDICATOR DESCRIPTION: This indicator is subjective and will be determined by the results of an annual focus group.	1998	TBD	***
	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	COMMENTS:	Target 2003	TBD

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation

APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.2 Independent, Apolitical, & Effective Judiciary

INDICATOR: 4.1.2.f CONSTITUTIONAL AMENDMENT APPROVED CHANGING THE SYSTEM FOR NAMING THE SUPREME COURT, EXTENDING THE JUSTICES' TENURE, AND DELINKING THEIR APPOINTMENTS FROM THE PRESIDENTIAL ELECTION CYCLE

UNIT OF MEASURE: Narrative that Describes Prograss toward Passage of the Consitutional Amendment

SOURCE: SO4 Team; Legislature

INDICATOR DESCRIPTION:

COMMENTS:

Year	Planned	Actual
Baseline 1997	---	No Amendment
1998	TBD	***
1999	TBD	***
2000	TBD	***
2001	TBD	***
2002	TBD	***
Target 2003	TBD	***

98

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.3 Independent, Apolitical, & Effective Public Ministry			
INDICATOR: 4.1.3.a NUMBER OF CASES PROSECUTED BY THE PUBLIC MINISTRY			
UNIT OF MEASURE: Number of Cases Prosecuted by the Public Ministry	Year	Planned	Actual
SOURCE: Strengthening Democratic Institutions Project (SDI/522-0296), Attorney General's Office Records, Public Ministry and Court Records	Baseline 1996*	15,630	6,901
	1998	TBD by the PM	***
	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***
	INDICATOR DESCRIPTION:		
COMMENTS: *As soon as 1997 data is available, it will be added to the table.			

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.3 Independent, Apolitical, & Effective Public Ministry			
INDICATOR: 4.1.3.b NUMBER OF PROSECUTIONS WHICH GO AGAINST THE INTERESTS OF INFLUENTIAL GROUPS OR INDIVIDUALS (POLITICAL PARTIES, MILITARY, GOVERNMENT, ECONOMIC ELITES, ETC.)			
UNIT OF MEASURE: Narrative Explanation that Interprets the Numerical Data	Year	Planned	Actual
SOURCE: Focus Group Results to be Reported by SO4 Team	Baseline 1997	---	TBD by SO4 Team
INDICATOR DESCRIPTION: This indicator is subjective and will be determined by the results of an annual focus group.	1998	TBD	***
	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***
COMMENTS:			

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.4. Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring			
INDICATOR: 4.1.4.a NUMBER OF NONGOVERNMENTAL ORGANIZATIONS ENGAGED IN PROGRAMS TO PROMOTE LEGAL REFORM			
UNIT OF MEASURE: Number of Organizations	Year	Planned	Actual
SOURCE: FOPRIDEH, SO 4 Team	Baseline 1997	---	FOPRIDEH Estimate TBD
INDICATOR DESCRIPTION:	1998	TBD	***
COMMENTS:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation

APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.4. Broader and More Effective Civil Society Participation in Justice Sector Reforms and Monitoring

INDICATOR: 4.1.4.b NUMBER OF NONGOVERNMENTAL ORGANIZATIONS ENGAGED IN PROGRAMS TO INFORM PEOPLE OF RIGHTS UNDER THE NEW CRIMINAL PROCEDURES CODE

UNIT OF MEASURE: Number of Organizations

SOURCE: FOPRIDEH

INDICATOR DESCRIPTION:

COMMENTS:

Year	Planned	Actual
Baseline 1997	--	0
1998	TBD by FOPRIDEH	***
1999	TBD	***
2000	TBD	***
2001	TBD	***
2002	TBD	***
Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation
APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.5. Changed Mind Set re: Rule of Law

INDICATOR: 4.1.5.a NUMBER OF TRAINEES SENT TO THE U.S. OR OTHER COUNTRIES TO OBSERVE SYSTEMS IN OPERATION

UNIT OF MEASURE: Number of Trainees

SOURCE: SO4 Team

INDICATOR DESCRIPTION:

COMMENTS:

Year	Planned	Actual
Baseline 1997	---	0
1998	TDB by SO4 Team	***
1999	TBD	***
2000	TBD	***
2001	TBD	***
2002	TBD	***
Target 2003	TBD	***

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation
APPROVED: DD/MM/YY

COUNTRY/ORGANIZATION: USAID/Honduras

RESULT NAME: 4.1.5. Changed Mind Set re: Rule of Law

INDICATOR: 4.1.5.b NUMBER OF SEMINARS HELD IN LAW SCHOOLS BY RETURNED TRAINEES

UNIT OF MEASURE: Number of Seminars	Year	Planned	Actual
SOURCE: Law Students and SO4 Team Records	Baseline 1997	—	0
	1998	TBD by law students	***
INDICATOR DESCRIPTION:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***
COMMENTS:			

74

OBJECTIVE NO. 4: More Responsive Democratic Processes with Greater Citizen Participation		COUNTRY/ORGANIZATION: USAID/Honduras	
APPROVED: DD/MM/YY			
RESULT NAME: 4.1.5. Changed Mind Set re: Rule of Law			
INDICATOR: 4.1.5.c EVENTS OR GROUPS ORGANIZED BY RETURNED TRAINEES IN SUPPORT OF LEGAL REFORM			
UNIT OF MEASURE: Number of Events or Groups Organized	Year	Planned	Actual
SOURCE: SO4 Team Records	Baseline 1997	—	TBD by SO4 Team
INDICATOR DESCRIPTION:	1998	TBD	***
COMMENTS:	1999	TBD	***
	2000	TBD	***
	2001	TBD	***
	2002	TBD	***
	Target 2003	TBD	***

2

ADS SUPPLEMENTARY REFERENCE 202.6.3

FY 1997 USAID STATUTORY CHECKLISTS

I. COUNTRY CHECKLIST

Listed below are the statutory and regulatory "country eligibility" criteria applicable to: (A) both Development Assistance ("DA") and Economic Support Fund ("ESF") assistance; (B) DA only; or (C) ESF only.

A. DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT FUND

1. **Narcotics Certification** (FAA Sec. 490): If the recipient is a "major illicit drug producing country" (defined as a country in which during a year at least 1,000 hectares of illicit opium poppy is cultivated or harvested, or at least 1,000 hectares of illicit coca is cultivated or harvested, or at least 5,000 hectares of illicit cannabis is cultivated or harvested) or a "major drug-transit country" (defined as a country that is a significant direct source of illicit drugs significantly affecting the United States, through which such drugs are transported, or through which significant sums of drug-related profits are laundered with the knowledge or complicity of the government):

a. Has the President in the March 1 International Narcotics Control Strategy Report (INCSR) determined and certified to the Congress (without Congressional enactment, within 30 calendar days, of a resolution disapproving such a certification), that (1) during the previous year the country has cooperated fully with the United States or taken adequate steps on its own to satisfy the goals and objectives established by the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or that (2) the vital national interests of the United States require the provision of such assistance?

N/A

b. With regard to a major illicit drug producing or drug-transit country for which the President has not certified on March 1, has the President determined and certified to Congress on any other date (with enactment by Congress

N/A

of a resolution approving such certification) that the vital national interests of the United States require the provision of assistance, and has also certified that (a) the country has undergone a fundamental change in government, or (b) there has been a fundamental change in the conditions that were the reason why the President had not made a "fully cooperating" certification.

2. Indebtedness to U.S. Citizens (FAA Sec. 620(c)): If assistance is to a government, is the government indebted to any U.S. citizen for goods or services furnished or ordered where: (a) such citizen has exhausted available legal remedies, (b) the debt is not denied or contested by such government, or (c) the indebtedness arises under an unconditional guaranty of payment given by such government or controlled entity?

No

3. Seizure of U.S. Property (Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Sec. 527): If assistance is to a government, has it (including any government agencies or instrumentalities) taken any action on or after January 1, 1956 which has the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property of U.S. citizens or entities beneficially owned by them without (during the period specified in subsection (c) of this section) either returning the property, providing adequate and effective compensation for the property, offering a domestic procedure providing prompt, adequate, and effective compensation for the property, or submitting the dispute to international arbitration? If the actions of the government would otherwise prohibit assistance, has the President waived this prohibition and so notified Congress that it was in the national interest to do so?

The Campbell case (96 Teguc 822) raises the issue of Sec. 527. The matter has been referred to State/Legal. State/L will examine the issue based on additional information from post. State/L has not made a determination that Honduras is in violation of Sec. 527 at this time.

4. Communist and Other Countries (FAA Secs. 620(a), 620(f), 620D; FY 1997 Appropriations Act Secs. 507, 523): Will assistance be provided: (a) to China, Cuba, North Korea, Tibet, Vietnam or another Communist country; (b) directly to Cuba, Iraq, Libya, North Korea, Iran, Sudan or Syria; or (c) indirectly to China, Cuba, Iran, Iraq, Libya, North Korea, or Syria? If so, has the President made the necessary determinations to allow assistance to be provided?

No, Honduras is not a communist country.

5. **Mob Action** (FAA Sec. 620(j)): Has the country permitted, or failed to take adequate measures to prevent, damage or destruction by mob action of U.S. property? [Reference may be made to the "Taking into Consideration" memo.] Honduras fully compensated the USG for damages from the 4/88 mob action. The GOH has taken measures to prevent future incidents.
6. **OPIC Investment Guaranty** (FAA Sec. 620(l)): Has the country failed to enter into an investment guaranty agreement with OPIC? [Reference may be made to the annual "Taking into Consideration" memo.] No
7. **Seizure of U.S. Fishing Vessels** (FAA Sec. 620(o); Fishermen's Protective Act of 1967 (as amended) Sec. 5): (a) Has the country seized, or imposed any penalty or sanction against, any U.S. fishing vessel because of fishing activities in international waters? (b) If so, has any deduction required by the Fishermen's Protective Act been made? [Reference may be made to the annual "Taking into Consideration" memo.] No
8. **Loan Default** (FAA Sec. 620(q); FY 1997 Appropriations Act Sec. 512 (Brooke Amendment)): (a) Has the government of the recipient country been in default for more than six months on interest or principal of any loan to the country under the FAA? (b) Has the country been in default for more than one year on interest or principal on any U.S. loan under a program for which the FY 1995 Appropriations Act appropriates funds? a) No, the GOH is not currently in default on its debt payments. No new obligation of USAID resources will be made if Honduras is in a violation status. b) No
9. **Military Equipment** (FAA Sec. 620(s)): If contemplated assistance is development loan or to come from Economic Support Fund, has the Administrator taken into account the percentage of the country's budget and amount of the country's foreign exchange or other resources spent on military equipment? [Reference may be made to the annual "Taking Into Consideration" memo.] Yes, taken into account by the Administrator at the time of approval of the FY 1997 OYB.
10. **Diplomatic Relations with U.S.** (FAA Sec. 620(t)): Has the country severed diplomatic relations with the United States? If so, have relations been resumed and have new bilateral assistance agreements been negotiated and entered into since such resumption? No
11. **U.N. Obligations** (FAA Sec. 620(u)): What

is the payment status of the country's U.N. obligations? If the country is in arrears, were such arrearages taken into account by the A.I.D. Administrator in determining the current A.I.D. Operational Year Budget? [Reference may be made to the annual "Taking into Consideration" memo.]

Honduras is not in arrears to the U.N. to the extent described in Article 19 of the U.N. Charter. Other arrearages in general were taken into account by the Administrator at the time of approval of the FY 1997 OYB.

12. International Terrorism

a. **Sanctuary and Support** (FY 1997 Appropriations Act Sec. 527A; FAA Sec. 620A): Has the country been determined by the President to: (a) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or (b) otherwise support international terrorism, unless the President has waived this restriction on grounds of national security or for humanitarian reasons?

No

b. **Compliance with UN Sanctions** (FY 1997 Appropriations Act Sec. 534): Is assistance being provided to a country not in compliance with UN sanctions against Iraq, Serbia, or Montenegro. If so, has the President made the necessary determinations to allow assistance to be provided?

No

c. **Governments That Aid Terrorist States.** (FAA Section 620G, added by section 325 of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104-132, April 24, 1996): Is assistance being provided to a government which provides assistance to a country the government of which is a terrorist government under section 620A of the FAA?. If so, has the President made the necessary determinations to allow assistance to be provided?

No

13. **Export of Lethal Military Equipment** (FY 1997 Appropriations Act Sec. 552; FAA Se. 620H, added by section 326 of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104-132, April 24, 1996): Is assistance being made available to a government which provides lethal military equipment to a country the government of which is a terrorist government under sections 620A of the FAA, 6(j) of the Export

No

Administration Act (50 U.S.C. App. 2405(j)) or 40(d) of the Arms Export Control Act? If so, has the President made the necessary determinations to allow assistance to be provided?

14. **Discrimination** (FAA Sec. 666(b)): Does the country object, on the basis of race, religion, national origin or sex, to the presence of any officer or employee of the U.S. who is present in such country to carry out economic development programs under the FAA? No

15. **Nuclear Technology** (Arms Export Control Act Secs. 101, 102): Has the country, after August 3, 1977, delivered to any other country or received nuclear enrichment or reprocessing equipment, materials, or technology, without specified arrangements or safeguards, and without special certification by the President? Has it transferred a nuclear explosive device to a non-nuclear weapon state, or if such a state, either received or detonated a nuclear explosive device? If the country is a non-nuclear weapon state, has it, on or after August 8, 1985, exported (or attempted to export) illegally from the United States any material, equipment, or technology which would contribute significantly to the ability of a country to manufacture a nuclear explosive device? [FAA Sec. 620E(d) permits a special waiver of Sec. 101 for Pakistan.] No

16. **Algiers Meeting** (ISDCA of 1981, Sec. 720): Was the country represented at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Assembly of the U.N. on Sept. 25 and 28, 1981, and did it fail to disassociate itself from the communique issued? If so, has the President taken it into account? [Reference may be made to the "Taking into Consideration" memo.] Yes, taken into account by the Administrator at the time of approval of the FY 1997 OYB.

17. **Military Coup** (FY 1997 Appropriations Act Sec. 508): Has the duly elected Head of Government of the country been deposed by military coup or decree? If assistance has been terminated, has the President notified Congress that a democratically elected government has taken office prior to the resumption of assistance? No

18. **Exploitation of Children** (FAA Sec.

116(b)): Does the recipient government fail to take appropriate and adequate measures, within its means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services? No

19. **Parking Fines** (FY 1997 Appropriations Act Sec. 552): Has the overall assistance allocation of funds for a country taken into account the requirements of this section to reduce assistance by 110 percent of the amount of unpaid parking fines owed to the District of Columbia as of the date of enactment of the FY 1997 Appropriations Act, September 30, 1996? FY 1997 obligations will be reduced by 110% of the amount of any unpaid parking fines owed to the District of Columbia as determined by M/B.

20. **Delivery of Humanitarian Assistance** (FAA Sec. 6201, added by FY 1997 Appropriations Act Sec. 559 562): Has the government prohibited or otherwise restricted, directly or indirectly the transport or delivery of United States humanitarian assistance? If so, has the President made the necessary determination to allow assistance to be provided? No

21. **Nuclear Power Plant in Cuba** (Sec. 111 of the LIBERTAD Act, P.L. 104-114, March 12, 1996): Has the country or any entity in the country provided on after the dates of enactment of the FY 1996 Appropriations Act, January 27, 1996, or the LIBERTAD Act, March 12, 1996, assistance or credits in support of the Cuban nuclear facility at Juragua, Cuba. If so, has the overall assistance allocation of funds for that country taken into account the requirements of this section to withhold assistance equal to the sum of any such assistance or credits? No

22. **Harboring War Criminals** (FY 1997 Appropriations Act Sec. 568): Has the government knowingly granted sanctuary to persons in its territory for the purpose of evading prosecution, where such persons--

a. have been indicted by the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, or any other international tribunal with similar standing under international law, or No

b. have been indicted for war crimes or crimes against humanity committed during the period beginning March 23, 1933, and ending on May 8, 1945 under the direction of, or in No

association with (1) the Nazi government of Germany; (2) any government in any area occupied by the military forces of the Nazi government of Germany; (3) any government which was established with the assistance or cooperation of the Nazi government; or (4) any government which was an ally of the Nazi government of Germany?

B. DEVELOPMENT ASSISTANCE ONLY

Human Rights Violations (FAA Sec. 116): Has the Department of State determined that this government has engaged in a consistent pattern of gross violations of internationally recognized human rights? If so, can it be demonstrated that contemplated assistance will directly benefit the needy? No

C. ECONOMIC SUPPORT FUND ONLY

Human Rights Violations (FAA Sec. 502B): Has it been determined that the country has engaged in a consistent pattern of gross violations of internationally recognized human rights? If so, has the President found that the country made such significant improvement in its human rights record that furnishing such assistance is in the U.S. national interest? No

* * * * *

II. ASSISTANCE CHECKLIST

Listed below are criteria applicable to the assistance resources themselves, rather than to the eligibility of a country to: (A) both DA and ESF assistance; (B) DA only; or (C) ESF only.

A. DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT FUND

1. Congressional Notification

a. **General Requirement** (FY 1997 Appropriations Act Sec. 515; FAA Sec. 634A): Yes
If the obligation has not previously justified to Congress, or is for an amount in excess of the amount previously justified to Congress, has a Congressional Notification been made?

b. **Special Notification Requirement** (FY 1997 Appropriations Act, "Burma" and "NIS" Title II headings and Sec. 520): N/A
For obligations for NIS countries, Burma, Colombia, Guatemala (except development assistance), Dominican Republic, Haiti, Liberia, has a Congressional Notification been submitted, regardless of any justification in the Congressional Presentation?

c. **Notice of Account Transfer** (FY 1997 Appropriations Act Sec. 509): N/A
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?

d. **Cash Transfers and Nonproject Sector Assistance** (FY 1997 Appropriations Act Sec. 531(b)(3)): N/A
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?

2. **Engineering and Financial Plans** (FAA Sec. 611(a)): Yes
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?

3. **Legislative Action** (FAA Sec. 611(a)(2)): If the obligation is in excess of \$500,000 and requires legislative action within the recipient country, 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?

The passage of the new Criminal Procedures Code (CPC) is expected at the beginning or prior to the assistance.

4. **Water Resources** (FAA Sec. 611(b)): If the assistance 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.)?

N/A

5. **Cash Transfer/Nonproject Sector Assistance Requirements** (FY 1997 Appropriations Act Sec. 531). If assistance is in the form of a cash transfer or nonproject sector assistance:

N/A

a. **Separate Account:** Are all such cash payments to be maintained by the country in a separate account and not commingled with any other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance)?

N/A

b. **Local Currencies:** If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies:

N/A

(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

N/A

an equivalent amount of local currencies, be used only to carry out the purposes 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?

(3) Has A.I.D. taken all necessary 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

6. **Capital Assistance** (FAA Sec. 611(e)): If capital assistance is proposed (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 assistance effectively? N/A

7. **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 Honduran Public Ministry and Supreme Court will increasingly contribute local currencies to fund their operating costs.

b. **US-Owned Foreign Currencies**

(1) **Use of Currencies** (FAA Secs. 612(b), 636(h)): Are steps being 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. The US owns no excess Honduran currency.

(2) **Release of Currencies** (FAA Sec. 612(d)): Does the U.S. own non-PL 480 excess foreign currency of the country and, if so, has the agency endeavored to obtain agreement for its release in an amount equivalent to the No

dollar amount of the assistance?

8. **Trade Restrictions - Surplus Commodities** (FY 1997 Appropriations Act Sec. 513(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

9. **Environmental Considerations** (FAA Sec. 117; USAID Regulation 16, 22 CFR Part 216): Have the environmental procedures of USAID Regulation 16 been met?

Yes. A categorical exclusion has been made.

10. **PVO Assistance**

a. **Auditing** (FY 1997 Appropriations Act Sec. 550): 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 USAID?

Yes, USAID/Honduras will assure that any PVO recipient shall demonstrate the ability to manage funds and respond to an audit.

b. **Funding Sources** (FY 1997 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 not, has the requirement been waived?

N/A

11. **Agreement Documentation** (Case-Zablocki Act, 1 U.S.C. Sec. 112b, 22 C.F.R. Part 181): For any bilateral agreement over \$25 million, has the date of signing and the amount involved been cabled to State L/T immediately upon signing and has the full text of the agreement been pouched to State/L within 20 days of signing?

The Agreement is below the \$25 million threshold established for implementing Case-Zablocki.

12. **Metric System** (Omnibus Trade and Competitiveness Act of 1988 Sec. 5164, as interpreted by conference report, amending 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

Yes

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?

13. **Abortions** (FAA Sec. 104(f); FY 1997 Appropriations Act, Title II, under heading "Development Assistance" and Sec. 518):

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? (Note that the term "motivate" does not include the provision, consistent with local law, of information or counseling about all pregnancy options.) 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? (As a legal matter, DA only.) 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? (As a legal matter, DA only.) No

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? No

14. Procurement

a. **Source, Origin and Nationality** (FAA Sec. 604(a): Will all procurement be from the U.S., the recipient country, or developing countries except as otherwise determined in accordance with the criteria of this section? Yes

b. **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? Honduras does not so discriminate.

c. **Insurance** (FY 1997 Appropriations Act Sec. 528A): Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate? N/A

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 N/A

permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.)

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. The planned bilateral agreement will comply with the terms of section 901(b) of the Merchant Marine Act of 1936, as amended.

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

h. **U.S. Air Carriers** (Fly America Act, 49 U.S.C. Sec. 1517): If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available?

Yes

i. **Consulting Services** (FY 1997 Appropriations Act Sec. 549): 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

j. **Notice Requirement** (FY 1997 Appropriations Act Sec. 561): Will agreements or contracts contain notice consistent with FAA section 604(a) and with the sense of Congress that to the greatest extent practicable equipment and products purchased with appropriated funds should be American-made?

Yes

15. **Construction**

a. **Capital Assistance** (FAA Sec. 601(d)): If capital (e.g., construction) assistance, will U.S. engineering and professional services

N/A

be used?

b. 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

16. 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

17. Communist Assistance (FAA Sec. 620(h)). Do arrangements exist to insure 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? N/A

18. 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 an illicit trafficker in, or otherwise involved in the illicit trafficking of, any such controlled substance? Yes

19. 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

20. **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

21. **CIA Activities** (FAA Sec. 662): Will assistance preclude use of financing for CIA activities? Yes

22. **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

23. **Export of Nuclear Resources** (FY 1995 Appropriations Act Sec. 506): Will assistance preclude use of financing to finance, except for purposes of nuclear safety, the export of nuclear equipment, fuel, or technology? Yes

24. **Publicity, Propaganda and Lobbying** (FY 1997 Appropriations Act Sec. 546; Anti-Lobbying Act, 18 U.S.C. § 1913; Sec. 109(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, P.L. 100-204): Will assistance be used 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

25. **Commitment of Funds** (FAA Sec. 635(h)): Does a contract or agreement entail a commitment for the expenditure of funds during a period in excess of 5 years from the date of the contract or agreement? No

26. **Impact on U.S. Jobs** (FY 1997 Appropriations Act, Sec. 538):

a. Will any financial incentive be provided to a business located in the U.S. for the purpose of inducing that business to relocate outside the U.S. in a manner that would likely reduce the number of U.S. employees of that business? No

b. Will assistance be provided for the purpose of establishing or developing an export processing zone or designated area in which the

No

country's tax, tariff, labor, environment, and safety laws do not apply? If so, has the President determined and certified that such assistance is not likely to cause a loss of jobs within the U.S.?

c. Will assistance be provided for a project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, or will assistance be for the informal sector, micro or small-scale enterprise, or smallholder agriculture? No

B. DEVELOPMENT ASSISTANCE ONLY

1. **Agricultural Exports (Bumpers Amendment) (FY 1997 Appropriations Act Sec. 513(b))**, as interpreted by the conference report for the 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 (b) in support of research that is intended primarily to benefit U.S. producers? N/A

2. **Recipient Country Contribution (FAA Secs. 110, 124(d))**: Will the recipient country provide at least 25 percent of the costs of the activity with respect to which the assistance is to be furnished or is this cost-sharing requirement being waived for a "relatively least developed" country? Yes

3. **Forest Degradation (FAA Sec. 118)**:

a. Will assistance be used for the procurement or use of logging equipment? If so, does the an environmental assessment indicate that all timber harvesting operations involved will be conducted in an No

environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems?

b. Will assistance be used for: (1) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas; (2) activities which would result in the conversion of forest lands to the rearing of livestock; (3) the construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undergraded forest lands; (4) the colonization of forest lands; or (5) the construction of dams or other water control structures which flood relatively undergraded forest lands? If so, does the environmental assessment indicate 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?

No
No
No
No
No

4. **Deobligation/Reobligation** (FY 1997 Appropriations Act Sec. 510): If deob/reob authority is sought to be exercised under section 510 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? [Note: Compare to no-year authority under section 511.]

N/A

5. **Capital Assistance** (Jobs Through Export Act of 1992, Secs. 303 and 306(d)): If assistance is being provided for a capital activity, is the activity developmentally sound and will it measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level?

N/A

6. **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 United States** (FAA Sec. 620(d)): If assistance is for any productive enterprise 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

7. **Planning and Design Considerations.** Has agency guidance or the planning and design documentation for the specific activity taken into account the following, as applicable? Yes

a. **Economic Development.** FAA Sec. 101(a) requires that 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. N/A

b. **Special Development Emphases.** FAA Secs. 102(b), 113, 281(a) require that assistance: (1) 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 insuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (2) 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. Yes

c. **Development Objectives.** FAA Secs. 102(a), 111, 113, 281(a) require that assistance: (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 insuring 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?

Yes

d. **Agriculture, Rural Development and Nutrition, and Agricultural Research.** FAA Secs. 103 and 103A require that: (1) **Rural poor and small farmers:** assistance for agriculture, rural development or nutrition be specifically designed to increase productivity and income of rural poor; and assistance for agricultural research take into account the needs of small farmers and make extensive use of field testing to adapt basic research to local conditions; (2) **Nutrition:** assistance be 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; (3) **Food security:** assistance increase 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,

N/A

reducing post harvest food losses, and improving food distribution.

e. **Population and Health.** FAA Secs. 104(b) and (c) require that assistance for population or health activities emphasize 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

f. **Education and Human Resources Development.** FAA Sec. 105 requires that assistance for education, public administration, or human resource development (1) strengthen nonformal education, make formal education more relevant, especially for rural families and urban poor, and strengthen management capability of institutions enabling the poor to participate in development; and (2) provide 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.

N/A

g. **Energy, Private Voluntary Organizations, and Selected Development Activities.** FAA Sec. 106 requires that assistance for energy, private voluntary organizations, and selected development problems may be used for (1) 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 production; and facilitative of research on and development and use of small-scale, decentralized, renewable energy sources for rural areas, emphasizing development of energy resources which are environmentally acceptable and require minimum capital investment; (2) technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations; (3) research into, and evaluation of, economic development processes and techniques; (4) reconstruction after natural or manmade disaster and programs of disaster preparedness; (5) special development problems, and to enable proper utilization of infrastructure and related

N/A

projects funded with earlier U.S. assistance;
(6) 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.

h. Appropriate Technology. FAA Sec. 107 N/A
requires that assistance emphasize 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.

i. Tropical Forests. FAA Sec. 118 and FY
1991 Appropriations Act Sec. 533(c) as
referenced in section 532(d) of the FY 1993
Appropriations Act) require that:

(1) **Conservation:** assistance place a N/A
high priority on conservation and sustainable
management of tropical forests and
specifically: (i) stress the importance of
conserving and sustainably managing forest
resources; (ii) 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; (iii) support training programs,
educational efforts, and the establishment or
strengthening of institutions to improve forest
management; (iv) help end destructive
slash-and-burn agriculture by supporting stable
and productive farming practices; (v) help
conserve forests which have not yet been
degraded by helping to increase production on
lands already cleared or degraded; (vi)
conserve forested watersheds and rehabilitate
those which have been deforested; (vii) support
training, research, and other actions which
lead to sustainable and more environmentally
sound practices for timber harvesting, removal,
and processing; (viii) support research to
expand knowledge of tropical forests and
identify alternatives which will prevent forest
destruction, loss, or degradation; (ix)
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; (x) seek to increase the awareness of U.S. Government agencies and other donors of the immediate and long-term value of tropical forests; (xi) utilize the resources and abilities of all relevant U.S. government agencies; (xii) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land; and (xiii) take full account of the environmental impacts of the proposed activities on biological diversity.

(2) **Sustainable Forestry:** assistance relating to tropical forests 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

j. **Biological Diversity.** FAA Sec. 119(g) requires that assistance: (i) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (ii) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (iii) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (iv) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

N/A

k. **Benefit to Poor Majority.** FAA Sec. 128(b) requires that 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, it be designed and monitored to ensure that the ultimate beneficiaries are the poor majority.

Yes

l. **Indigenous Needs and Resources.** FAA Sec. 281(b) requires that an activity recognize the particular needs, desires, and capacities of the people of the country; utilize the country's intellectual resources to encourage institutional development; and support civic education and training in skills required for

Yes

effective participation in governmental and political processes essential to self-government.

m. **Energy.** FY 1991 Appropriations Act Sec. 533(c) as referenced in section 532(d) of the FY 1993 Appropriations Act) requires that assistance relating to energy focus on: (1) end-use energy efficiency, least-cost energy planning, and renewable energy resources, and (2) the key countries where assistance would have the greatest impact on reducing emissions from greenhouse gases. N/A

n. **Debt-for-Nature Exchange.** FAA Sec. 463 requires that assistance which will finance a debt-for-nature exchange (1) support protection of the world's oceans and atmosphere, animal and plant species, or parks and reserves; or (2) promote natural resource management, local conservation programs, conservation training programs, public commitment to conservation, land and ecosystem management, or regenerative approaches in farming, forestry, fishing, and watershed management. N/A

C. ECONOMIC SUPPORT FUND ONLY N/A

1. **Economic and Political Stability** (FAA Sec. 531(a)): Does the design and planning documentation demonstrate that the assistance will 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? (For FY 1997, this provision is superseded by the separate account requirements of FY 1997 Appropriations Act Sec. 532(a), see Sec. 532(a)(5).) N/A

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 N/A

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? (For FY 1997, this provision is superseded by the separate account requirements of FY 1997 Appropriations Act Sec. 532(a), see Sec. 532(a)(5).)

5. **Capital Activities** (Sec. 306, Jobs Through Exports Act of 1992, P.L. 102-549, 22 U.S.C. 2241a): If assistance is being provided for a capital project, will the project be developmentally-sound and sustainable, i.e., one that is (a) environmentally sustainable, (b) within the financial capacity of the government or recipient to maintain from its own resources, and (c) responsive to a significant development priority initiated by the country to which assistance is being provided.

N/A

* * * * *



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

LAC-IEE-97-24

REQUEST FOR A CATEGORICAL EXCLUSION

Project Location : Honduras

Project Title : Strengthened Rule of Law & Respect
for Human Rights RP

Project Number : 522-0394

Funding : \$8,490,000

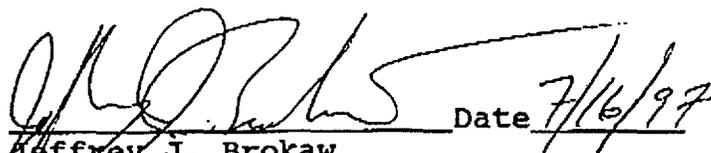
Life of Project : 8/97-8/02

IEE Prepared by : Peter Hearne, Natural Resources
Officer

Recommended Threshold Decision: Categorical Exclusion

Bureau Threshold Decision : Concur with Recommendation

Comments : None


Date 7/16/97
Jeffrey J. Brokaw
Chief Environmental Officer
Bureau for Latin America
and the Caribbean

Copy to : Elena Brineman, Mission Director
USAID/Honduras

Copy to : Peter Hearne, USAID/Honduras

Copy to : Roberta Cavitt, USAID/Honduras

Copy to : Paul Thorn, LAC/SPM-CAC

Copy to : Cecily Mango, LAC/CEN

Copy to : IEE File