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**ECONOMIC LAW AND IMPROVED PROCUREMENT
SYSTEMS (ELIPS) PROJECT (497-0372)
Contract No AID 497-0372-C-00-3001-00**

FINAL REPORT

Submitted to

**U S Agency for International Development
Jakarta, Indonesia**

Submitted by

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TABLE OF CONTENTS

	<u>Page</u>	
Section 1	Overview	1
1 1	Project Background and Objectives	1
1 2	Project Organization	2
1 3	Purpose and Organization of This Report	3
Section 2	Law Development Component	4
2 1	Background and Performance Objectives	4
2 2	Results Achieved	5
2 2 1	Functioning Economic Law Development Process (Result LD-1)	5
2 2 2	Law-trained Staff Using Improved Legal Research and Drafting Techniques (Result LD-2)	6
2 2 3	GOI Ongoing Use of U S and Indonesian Private Sector Expertise (Result LD-3)	6
2 3	Lessons Learned and Recommendations	6
Section 3	Legal Training Component	8
3 1	Background and Performance Objectives	8
3 2	Results Achieved	9
3 2 1	Institutional Strengthening of Public Law Schools (Result LT-1)	9
3 2 2	Upgrading of Law School Faculty (Result LT-1)	9
3 2 3	Upgrading of Law School Curriculum (Result LT-1)	10
3 2 4	Capacity to Offer In-Depth Economic Law Training (Result LT-2)	11
3 2 5	Preliminary Effort to Establish Accreditation Standards (Result LT-3)	11
3 3	Lessons Learned and Recommendations	11

Table of Contents /

	<u>Page</u>
Section 4 Legal Information Systems Component	13
4 1 Background and Performance Objectives	13
4 2 Results Achieved	13
4 2 1 Improved Timeliness of Publication of Key Legal Documents (Result LIS-1)	13
4 2 2 Improved Availability of New Legal Information among Government Departments (Result LIS-2)	14
4 2 3 Improved Availability of Legislation to Government Entities, Research Institutions, the Private Sector, and the Public at Large (Result LIS-3)	15
4 3 Lessons Learned and Recommendations	16
ELIPS Project Reports and Publications	18

1 1 Project Background and Objectives

In August 1991, the U S Agency for International Development authorized the Economic Law and Improved Procurement Systems (ELIPS) project for the stated purpose of improving Indonesia's economic law and government procurement systems. Achieving this purpose was expected to facilitate and support an increased level of private transactions and investments, while also helping to foster greater equity for all firms and individuals. It was anticipated that the new laws, regulations, procedures, systems, and institutional structures developed under the project would (a) reduce the costs and risks of entering into private transactions in Indonesia, (b) reduce the barriers to entry and mobility of private domestic and foreign investment, and (c) provide more fair and efficient government procurement of goods and services, leading to broader and more equitable private sector participation in public investment programs.

The ELIPS project was structured as four components:

- (1) the Economic Law Development component to (a) develop and implement an overall plan for commercial law development in Indonesia, (b) strengthen the capability of the Government of Indonesia (GOI) to carry out law development activities, and (c) establish and carry out a process for creating and/or revising specific commercial laws and facilitating their enactment into law,
- (2) the Legal Training component to (a) strengthen the capabilities of existing legal training institutions to provide quality training in commercial law related areas, (b) increase the level of commercial law resources and expertise available in Indonesia, and (c) increase commercial law knowledge and skills of public and private sector lawyers through training programs,
- (3) the Procurement Management Development component to strengthen the capability of the GOI to improve the efficiency, transparency, and openness of the government procurement system, and
- (4) the Legal Information Systems component to significantly increase the availability of timely, complete, and accurate legal information to the public and private sectors.

The principal activity financed under the project was a long-term technical assistance contract which was awarded in October 1992 to Checchi and Company Consulting, Inc. The contract had a base period of four years and a two-year option term. The option was exercised by USAID in April 1996 but the term was shortened to 18 months so that contract completion would coincide with the end of Indonesia's fiscal year and the Soeharto Government's five-year term. To allow time to complete activities disrupted by the economic and political crisis in Indonesia and the subsequent evacuation of USAID and contractor personnel, the contract completion date was ultimately extended to July 31, 1998.

1 2 Project Organization

The role of the contractor was to assist the GOI counterpart agencies in implementing the four project components. The principal counterpart agency for the ELIPS project was the Office of the Coordinating Minister for Economy, Finance and Development Supervision (EKKU WASBANG) which made available the services of a full-time Indonesian Project Director. Other cooperating agencies with the Government of Indonesia included the National Law Development Agency of the Department of Justice (BPNH), the State Secretariat (SEKNEG), the Development of Finance (DEPKU), the Law School of the University of Indonesia and the six other members of the Indonesian Consortium of Law Schools, and the Legal Documentation Center of the University of Indonesia (PDH-UI).

The technical assistance was provided by Checchi in association with two subcontractors: Business Advisory Indonesia (BAI), an Indonesian company, and the American Manufacturers Export Group (AMEG), a U.S. firm. BAI participated with Checchi in all aspects of the delivery of technical advisory services. AMEG supplied commodity procurement services and transportation support.

The long-term technical assistance team consisted of the following key personnel:

David James, Chief of Party/Law Development Advisor (1992-93)
Theodore Parnall, Chief of Party/Law Development Advisor (1993-96)
Gary Goodpaster, Chief of Party/Law Development Advisor (1996-98)
Cliff Thompson, Legal Training Advisor (1993-97)
Hal Sullivan, Government Procurement Advisor (1992-96)
Charles Shapiro, Legal Information Systems Advisor (1992-96)
James Agee, Project Administrator (1992-98), Legal Information Systems Advisor (1997-98)

The team was supported by Indonesian technical, administrative, and clerical staff as well as by expatriate and Indonesian short-term advisors. A number of short-term advisors, including partners of leading law firms in Asia and the U.S., provided their services to the ELIPS project on a *pro bono* basis.

Technical assistance activities for each of the four project components were elaborated in an annual plan for the Indonesian fiscal year (April 1-March 31). The plans were prepared by the Indonesian counterpart organizations in collaboration with the ELIPS advisors. Progress against overall project objectives and the annual plan was reported by the contractor on both a quarterly and annual basis.

Beginning with the IFY 1996-97 annual report and in keeping with USAID's strategic objectives and results framework, performance benchmarks were integrated into the report format. ELIPS activities were expected to contribute to the achievement of both intermediate results under USAID/Indonesia's economic growth strategic objective¹ as measured by the following indicators:

¹ USAID's economic growth strategic objective for the period from 1998 to 2001 is to promote sustained liberalization of international trade and domestic competition for the mutual benefit of Indonesia and the United States. Intermediate results are: IR 1.1 improved policies and practices to promote increased openness to international trade and investment, and IR 1.2 improved policies and practices to promote strengthened domestic economic competition.

IR 1 1 4 Adoption of Key Government Enactments which Facilitate Foreign Trade and Investment, and IR 1 2 4 Improved Transparency of Indonesia's Economic Law and Regulatory Environment

1 3 Purpose and Organization of This Report

This final report gives a concise summary of the expected and actual results of the ELIPS project's Law Development, Legal Education, and Legal Information Systems components. The final report on the Procurement Management Development component was submitted to the GOI Project Director and USAID in August 1996 at the conclusion of technical assistance services to that component.

The reports submitted by the ELIPS project at the close of each Indonesian fiscal year (IFY) give detailed information on the activities and accomplishments of each project component. In addition, ELIPS has produced numerous reference books and training materials, draft laws, commentaries, and working papers, and studies of economic law issues. Annex 1 contains a bibliography of ELIPS publications.

This report follows the format of the annual reports. The discussion of each component is organized as follows:

- Background and Performance Objectives
- Results Achieved
- Lessons Learned and Recommendations

Reference is made to other ELIPS documents as appropriate.

2.1 Background and Performance Objectives

When the ELIPS project began, Indonesia lacked modern commercial and business laws in a number of critical areas. Furthermore, there was no organized process for researching, drafting, and building support for needed laws. The Law Development component of the ELIPS project, which was designed to assist Indonesia in modernizing its economic law regime, has the following objectives and expected outputs:

Objectives

- develop and implement a strategic plan for commercial law development in Indonesia,
- strengthen the capability of the government to carry out law development activities, and
- establish and carry out, in selected commercial law areas, a process for creating and/or revising specific commercial laws and facilitating their enactment into law

Outputs

- approximately 15 new commercial laws drafted,
- 100 government legal bureau personnel trained in legislative drafting and research,
- well-defined processes exist for developing and securing passage of new legislation, and
- private sector is involved in preparing and reviewing new legislation

Implementation of the Law Development component has been coordinated by EKKU WASBANG, ELIPS' principal counterpart agency.² In 1996, results consistent with USAID's Economic Growth strategic objective were defined and incorporated in the contract by amendment. The results and applicable performance benchmarks for the Law Development component are:

Result LD-1 Indonesia to have a functioning economic law development process in place involving ongoing consultations among law-oriented officials from the economics ministries, lawyers from the private sector, and officials from the Ministry of Justice. *Performance Benchmarks: 15 draft economic laws in English and Bahasa Indonesia inclusive of 10 draft laws and associated working papers circulated to relevant GOI ministries and business and legal communities and at least 4 enactments formally adopted by the government.*

Result LD-2 Law-trained staff of GOI ministries and state-owned enterprises using improved legal research and drafting techniques. *Performance Benchmark: at least 170 GOI personnel trained in basic and advanced techniques.*

Result LD-3 The Law Development component's ability to identify and recruit Indonesian and international legal specialists transferred to GOI officials.

² EKKU WASBANG (Coordinating Ministry of Economy, Finance and Development Supervision) was restructured as EKKUIN (Coordinating Ministry of Economy, Finance and Industry) in 1998.

2 2 Results Achieved

2 2 1 Functioning Economic Law Development Process (Result LD-1)

✓ ELIPS was instrumental in drafting and commenting on the following economic laws that were formally enacted by the GOI during the ELIPS contract period

- ✓ Capital Markets Law
- ✓ Company Law
- ✓ Commodities Exchange Law
- ✓ Intellectual Property Laws on Trademarks, Copyright, and Patents

In addition, ELIPS helped produce two sets of implementing regulations for the Commodities Exchange Law whose enactment was delayed due to the Presidential election and the ongoing economic crisis

- ✓ Commodities Board Rules
- ✓ Commodity Exchange Regulations

✓ ELIPS was instrumental in developing, commenting on, and otherwise promoting the following economic laws that have been circulated to relevant GOI ministries and Indonesian business and legal communities

- ✓ Competition Law
- ✓ Secured Transactions Law
- ✓ Arbitration Law
- ✓ Bankruptcy Law
- ✓ Contract Law (International and Domestic)
- ✓ Promissory Notes Law
- ✓ Negotiable Instruments Law
- ✓ Trade Secrets Law
- ✓ Industrial Design Law
- ✓ Integrated Circuits Law
- ✓ Investment Law
- ✓ Legal Document Deposit Law

✓ ELIPS prepared, published, and distributed an English-Bahasa Indonesia Economic Law Dictionary along with a series of monthly bulletins with current information on economic law issues

✓ A model process for economic law development has been created and put in place which engages Indonesian decision makers from both the public and private sectors in preparing academic drafts and resolving key issues for economic/business activity. In this model, foreign legal practitioners and scholars represent a valuable resource in helping Indonesian government officials, legal specialists, and members of the private business community understand the issues and alternatives

2 2 2 Law-trained Staff Using Improved Legal Research and Drafting Techniques (Result LD-2)

✓ A total of 173 GOI legal staff received formal training in economic law drafting and research. The training was delivered in two-week (40 classroom hours) and six-week (80 classroom hours) courses covering both basic and advanced legal drafting and research techniques.

✓ More than 1,000 GOI officials and representatives of the private sector in Indonesia have participated in seminars, workshops, and other types of training activities dealing with specific topics of economic law. As initial drafts of laws and regulations in Indonesia frequently were prepared by persons within a single ministry who lacked drafting skills as well as an awareness of how the legal document might affect existing laws and regulations, the broad outreach activities that characterized these inter-ministerial training programs were especially important.

2 2 3 GOI Ongoing Use of U S and Indonesian Private Sector Expertise (Result LD-3)

✓ The ability to identify and utilize Indonesian and international legal specialists to assist the process of drafting economic laws and regulations has been transferred to key officials within the economics ministries, BPHN, and SEKNEG. This is evident from the GOI's use of local and international expertise in the drafting of key economic laws called for as part of the 1998 IMF-lead economic reform packages such as the draft law on Bank Indonesia, competition law, foreign investment law, and others.

✓ In addition to the workshops and seminars under LD-2, ELIPS organized and/or participated in numerous conferences and seminars aimed at encouraging greater use by GOI lawmakers of private sector lawyers and business persons. The first major international law reform conference in Indonesia involving both private and government lawyers was organized by the LD component in 1995. ELIPS' participation in the National Seminar on Law Development (July 1995) also enabled Indonesian lawmakers at the highest levels to draw upon private sector technology and expertise.

2 3 Lessons Learned and Recommendations

▪ Successful law development, like law drafting, creates a process not simply a written product. The success of a law development project should be measured not only by the number of "academic drafts" it produces, but also by the degree to which the process of preparing such drafts engages decision makers from both public and private sectors in resolving key issues for business and economic activity.

▪ It is neither realistic nor desirable for foreign legal specialists to present draft laws to the government in final or near final form. The foreign experts' skills are best made use of as a part of a process in which indigenous legal specialists and members of the business community discuss important issues affecting private sector commercial behavior. In the case of Indonesia, it is for Indonesian officials to resolve the issues after Indonesian-based legal specialists have presented the alternatives. The foreign expert represents a valuable resource in helping these groups reach a better understanding of the legal alternatives available in the international market place in which Indonesia must compete.

- In order to function as a modern state, have an internationally competitive economy, enhance social and political stability, and increase the social and economic welfare of all of its people, Indonesia needs large-scale reform both the laws and legal institutions. In the past, economic law reform in Indonesia has been driven by *ad hoc*, rather than systematic, considerations. Initial drafts of laws and regulations frequently have been prepared by persons within a single ministry who do not have a systematic perspective and who lack awareness of how the proposed legislation will affect existing laws and regulations and of what is required to make the law effective. Because laws affecting commerce are rarely limited in impact or execution to a single ministry or organization, law reform requires the cooperation of a wide variety of ministries, organizations, and private sector interests.
- Even when Indonesia adopts a new law, serious questions remain about its application and enforcement. The experience of the ELIPS team suggests that Indonesia's academic and business legal communities question whether improvements in legislation or regulation can be effective without major institutional reform in law enforcement and judicial institutions.
- In the absence of a serious commitment to systematic law reform, law development programs should work to expand the "ink blots" by seeking out those arenas where rule-based behavior makes a significant difference in institutional performance and supporting the efforts of those attempting to introduce such ordering.

3.1 Background and Performance Objectives

The Legal Training component of the ELIPS project has underpinned the project's programs of economic law development and improved access to law because a reformed legal system requires people with sufficient education and training. At the beginning of the project, education in economic law in Indonesia was sparse at best and essential educational opportunities were lacking. To address these weaknesses, the technical assistance has the following objectives and expected outputs:

Objectives

- strengthen the capabilities of existing legal training institutions to provide quality training to law faculty, law students, and government and private sector lawyers in commercial law related areas,
- increase the overall level of commercial law resources and expertise available in Indonesia, and
- increase commercial law knowledge and skills of public and private sector lawyers through direct individual and group training programs

Outputs

- University of Indonesia commercial law curriculum upgraded,
- 200 law faculty providing improved legal training,
- a long-term stream of law students receiving improved training,
- private sector legal professionals have improved skills resulting from short-term training in a variety of commercial law fields

The primary implementing agency for the Legal Training component has been the Faculty of Law of the University of Indonesia (FH-UI in Indonesian) and its Legal Education Steering Committee appointed and directed by the Dean. The Legal Steering Committee collaborates with the Consortium of Law Schools and its member institutions, especially the other six leading public law schools in Indonesia. As a result of this vigorous and effective collaboration among the public law schools, ELIPS has exceeded the expectations of the project design which assumed that legal training and curricular reform would center on FH-UI and would be shared with other law schools at some later date.

In early 1996, the objectives and outputs of the Legal Training component were expanded to include other public law schools and expressed as "results" which the ELIPS team would use its best efforts to achieve by contract completion. These results, and performance benchmarks where applicable, were defined as follows:

Result LT-1 Indonesian public law schools to have an improved capability to provide essential educational opportunities in three interrelated areas: (1) institutional strengthening, (2) upgrading of faculty, and (3) upgrading of the curriculum. *Performance Benchmarks: 40 syllabi, 18 sets of teaching materials (modules), and 5 basic books developed, published, and in use.*

Result LT-2 Capacity to offer in-depth economic law training at UI and two of the other six “leading” law schools

Result LT-3 Preliminary effort to establish accreditation standards

3 2 Results Achieved

3 2 1 Institutional Strengthening of Public Law Schools (Result LT-1)

✓ FH-UI, the Consortium of Law Schools, and the six other leading law schools have the capacity to plan and implement legal training activities. There is a core of committed, full-time economic law faculty at these institutions who are accustomed to cooperative programs, and there is a new national network of economic law experts, many of them junior faculty, who have worked and trained together with ELIPS support.

✓ Strong links have been established, based on numerous contacts through ELIPS, between the Indonesian law schools and the Association of American Law Schools, the American Bar Association, and at least six U.S. law schools (University of California at Davis and Berkeley, University of Washington, University of Wisconsin, University of Florida, American University, and Harvard University). For a variety of reasons, including accumulated goodwill and self-interest, many of these ties will continue.

✓ Institutional contacts have been made with other law schools in the Southeast Asian region through ELIPS support of the biennial meeting of the ASEAN Law Schools Association (ALSA) General Assembly in 1995. The ALSA meeting was arranged to coincide with the annual meeting of the Consortium of Law School deans and included a substantive program focused on modern economic law curricula. The first ASEAN Law Students’ Competition, held in Surabaya, followed the emphasis on new economic laws which the ELIPS project brought to ALSA.

✓ FH-UI has successfully organized and presented continuing education courses in economic law subjects without financial assistance from ELIPS.

3 2 2 Upgrading of Law School Faculty (Result LT-1)

✓ Nine of ten ELIPS candidates for U.S. Masters degrees in law (LL.M.) completed their degrees and returned to their respective universities equipped to design and teach courses, including creating syllabi and teaching materials, in areas of economic law. This result was achieved in spite of most of the candidates’ initially low TOEFL scores and the consequent need to persuade U.S. law schools to admit them and pay special attention to their needs and progress.

✓ Over 100 junior faculty members drawn from all 26 public law schools completed full-time, three-to-five month training programs, providing them with the capability to design and teach courses in at least two subjects of economic law. 15 junior faculty participated in a five-month program at Harvard Law School tailored to their needs for substantive training in economic law areas and practical experience developing teaching materials. More than 90 junior faculty received paid

leaves of absence from their deans to complete semester programs of study (*pencangkakan*) at FH-UI (four programs) and the University of Padajaran (UNPAD) in Bandung (one program)

✓ Approximately 110 junior faculty completed one-month training programs in the U S or received equivalent training in Indonesia designed to improve their knowledge of one or more economic law subjects and enable them to handle an economic law course with supervision 41 junior faculty (and 41 GOI officials) completed established summer programs for foreign lawyers at the University of California-Davis, the University of Wisconsin, and the Southwestern Legal Foundation The other faculty members completed courses taught by two ELIPS Distinguished Visiting Professors and the Legal Training Advisor at FH-UI and other leading law schools

✓ More than 1,600 law faculty, GOI lawyers, and other legal professionals were introduced to the subject of modern economic law at one-day training courses This form of personnel upgrading added to the pool of people available and eager for further training, and sympathetic to the effort to improve economic law education in Indonesia Some of these workshops focused on specific topics of economic law (e g , Comparative Contracts, Company Law, Secured Transactions) to help build a national network of experts and facilitate the production of basic books in each subject matter

✓ Four senior faculty received advanced training and exposure to the economic law literature at U S law school libraries

✓ In a competitive selection process from all Masters and Doctoral programs at the seven leading law schools, 31 graduate students likely to have key positions in the future were awarded ELIPS stipends to assist their research and writing in economic law areas

3 2 3 Upgrading of Law School Curriculum (Result LT-1)

✓ Forty syllabi, each outlining the topics within one subject area of economic law, were developed and disseminated by law school faculty, whereas none existed before

✓ Eighteen sets of teaching materials (modules), each containing reading materials relevant to a particular economic law course, were drafted by teams of senior and junior faculty participating in semester-long *pencangkakan*, and subsequently published

✓ Eight basic books were edited and published Each book provides useful background for faculty and students as well as an introduction to GOI lawyers, other professionals, and lay citizens on a particular topic of economic law Each book was a cooperative effort of the seven leading law schools

✓ Progress was made in introducing viable models for interactive teaching (in lieu of lecturing) through demonstrations, production of a pamphlet on interactive teaching methods, and preparation of a teaching problems and notes for courses in Contracts and Arbitration

✓ A core collection of approximately 200 law books was purchased and placed in each of the seven leading law schools

- ✓ Approximately 1000 basic texts were placed at the University of Indonesia, with access available to faculty in all Indonesian law schools

3 2 4 Capacity to Offer In-Depth Economic Law Training (Result LT-2)

✓ Due to the institutional strengthening and faculty and curriculum upgrading undertaken by the ELIPS project at the public law schools, FH-UI and two of the other six leading law schools have the capacity to offer an in-depth major in economic law, while the remaining four leading law schools have adequate offerings. The stronger programs should be well equipped to attract junior faculty to post-graduate training programs for which local funding is already available

✓ The other 19 public law schools now have minimal course selections in economic law areas, where none existed before. Junior faculty who participated in semester long training programs with ELIPS support represent the seeds for further growth of economic law courses at these schools

✓ Although it was assumed there would be a time-lag of some years before the newly-trained faculty and new teaching materials would be significantly utilized by the law schools, a comprehensive report (March 1997) on the 26 public law schools demonstrated that substantial utilization of these resources was already in progress

3 2 5 Preliminary Effort to Establish Accreditation Standards (Result LT-3)

✓ ELIPS assisted a GOI pilot project to explore the possibility of establishing a national accreditation board for Indonesian law schools. Although it is unlikely that Indonesia will adopt mandatory accreditation standards comparable to those used in the U S, model curriculum packages developed by ELIPS will be useful in helping Indonesian law schools to assess their institutional ambitions and needs in light of their resources

✓ In 1997, subsequent to an ELIPS workshop with the Konsortium of Law Schools, the GOI adopted minimal accreditation grades for law schools, an initial step in the process of establishing accreditation standards

3 3 Lessons Learned and Recommendations

- ELIPS was able to overcome the low TOEFL scores of otherwise well-qualified junior faculty by persuading key contacts at U S law schools to make exceptions to their admission standards. However, there are likely to be continuing opportunities for overseas training offered by the GOI and international donors. Part of the preparation for the future should be a continuing attention to increasing the pool of economic law faculty with the necessary language skills to qualify for such opportunities

- As more economic laws are enacted or draft laws are released for public discussion in Indonesia, and as more faculty economic law experts become available, the feasibility and need for short courses to inform government officials and the private sector about changes in the law will increase dramatically. While some needs may be met by organizations responding to the market or by gov-

ernment departments with sufficient funds to commission the necessary courses, FH-UI and the other leading law schools should develop a system for identifying, prioritizing, and responding to the essential unmet needs

- The start made by FH-UI in including other Indonesian law schools in the planning and implementing legal training activities should be continued and expanded. Collaboration between FH-UI and the other leading law schools has improved the quality of the economic law curriculum and course materials and has increased the political likelihood that those schools will be accepting of change. While building on the present ties among the leading law schools, these law schools should at the same time make efforts to cooperate with the 19 other public law schools and some 175 private law schools located throughout the archipelago.
- The experience of established law schools is that innovations in the structure of the curriculum come slowly and with great difficulty. Recognizing the inevitability that some senior faculty will defend the *status quo*, ELIPS sought to involve such faculty in the institution building activities of the Legal Training component to encourage them to become proponents of change.
- Even when a consensus exists for reform of the economic law curriculum, differences of opinion will exist among persons of goodwill. There is no single correct set of choices within each school. Nor should the choices be the same among different schools with different resources (especially with respect to qualified faculty) and different local needs. These factors and others make it difficult for any law school to structure discussions of curriculum reform. One approach is to ask which economic law subjects, now integrated into required courses on commercial law, are sufficiently complex and important to merit a course of their own. It is hoped that the new economic law syllabi, teaching materials, and trained faculty developed through the ELIPS project will be of help in responding to this question.
- In the post-Soeharto era of *reformasi*, new laws will require a generation of graduates with the knowledge and skills to understand and apply them. The ELIPS project increased the competency of law school faculty to carry out the required teaching, research, and drafting duties. But for continued reform, it is essential that this base be expanded and further strengthened.

4 1 Background and Performance Objectives

The objective of the Legal Information Systems (LIS) component of the ELIPS project is to increase significantly the availability of timely, complete and accurate Government of Indonesia (GOI) legal information to the public and private sectors. LIS activities have been undertaken in two major areas: (1) upgrading legal information resources for documentary and research purposes, and (2) upgrading legal information resources for making new legal documents (laws, regulations, etc.) available within a reasonable amount of time after promulgation. In addition to the ELIPS project's principal counterpart agency, EKKU WASBANG, the LIS component has worked with four designated GOI implementing agencies: the National Law Development Agency (BPHN), a unit of the Ministry of Justice, the Ministry of Finance Law Bureau's Documentation Center (MOF), the Legal Documentation Center of the University of Indonesia (PDH-UI), and the Law Bureau at the State Secretariat (SEKNEG).

The expected results and performance benchmarks of the Legal Information Systems component are as follows:

Result LIS-1 Improved timeliness of publication of key legal documents. *Performance Benchmark* reduced time-lag to print pamphlet copies of legal documents signed by the President (SEKNEG documents) and later published in the State Gazette (*Lembaran Negara dan Tambahan Lembaran Negara* or LN/TLN) to approximately one week after issuance.

Result LIS-2 Improved availability of new legal information among government departments. *Performance Benchmark* fully functioning electronic bulletin board service (BBS) in at least one GOI ministry for dissemination of new economic laws and regulations.

Result LIS-3 Improved availability of legislation to government entities, research institutions, the private sector, and the public at large. *Performance Benchmarks* compilation of legal databases into CD-ROM format of *Informasi*, LN/TLN updated through December 1997, *Capital Markets Law*, *Tax Law*, and *Ministerial documents* from the Ministry of Finance and the Ministry of Industry and Trade, distribution of at least 600 copies of all CD-ROM products to all provinces in Indonesia through the public/private sectors.

4 2 Results Achieved

4 2 1 Improved Timeliness of Publication of Key Legal Documents (Result LIS-1)

✓ The time-lag for publishing pamphlet (loose leaf) copies of Presidential-level legal documents has been reduced from a minimum of 90 days to a maximum of one week from the date of issuance. SEKNEG is the GOI agency responsible for publishing loose-leaf copies of all Presidential-level

materials inclusive of Laws (*Undang-undang*), Government Regulations in Lieu of Law (*Peraturan pemerintah pengganti undang-undang*), Government Regulations (*Peraturan pemerintah*), Presidential Decisions (*Keputusan Presiden*), and Presidential Instructions (*Instruksi Presiden*) At the beginning of the ELIPS project, the loose leaf copies of these materials typically were printed more than 90 days after the law or regulation had been signed by the President, and then only in limited numbers for distribution within the Government To address the time delay, ELIPS installed a networked system of computers with desk-top publishing capabilities so that legal documents could be typed and printed for the President's signature on site at SEKNEG The same machine readable file used to print the document signed by the President was then available for printing additional copies for distribution, making it possible to produce loose-leaf copies within minutes When the Company Law was signed in 1995 the Government, using this technology, had loose-leaf copies of the law available at a seminar held the day after the law was signed In practice, there is usually a five to six day delay in the publication and distribution of the loose-leaf versions of Presidential materials, but this is not a limitation of the technology

✓ Based on the more freely available loose-leaf versions of the Presidential materials, private sector publishers are publishing quarterly versions of the State Gazette (*Lembaran Negara*), the annual hard-bound compilation of Presidential-level laws and regulations assembled by SEKNEG and published by the Government Printing Office The official edition of the *Lembaran Negara* was being published two years late at the beginning of the ELIPS project and has not been published at all since 1996 The CD-ROM version of the *Lembaran Negara*, which is updated within six months of the end of each calendar year, has also helped to fill this gap

4 2 2 Improved Availability of New Legal Information among Government Departments (Result LIS-2)

✓ An electronic Bulletin Board Service (BBS) was designed and installed at the National Law Development Agency (BPHN) to make information on recent laws and regulations issued by the Government of Indonesia available to anyone in the world with access to a computer and a modem through a toll-free "800" number The bulletin board currently lists regulations issued by the Minister of Home Affairs and the Minister of Foreign Affairs in addition to providing the full text of Presidential level documents BPHN has provided training in the use of the bulletin board to all members of the National Legal Information System, which represents all departments in the central government, the state universities, and provincial governments A similar noticing system is under consideration by the Legal Documentation Center at the University of Indonesia (PDH-UI)

✓ Based on the model developed by ELIPS and ELIPS inputs, many Indonesian government departments have designed similar bulletin board systems on the Internet An Asian Development Bank project was recently completed that mapped all of these sites in Indonesia and elsewhere in Asia, Europe and the U S The Australian Aid Agency is funding the development of a Internet-based site at BPHN that would contain information on the new bankruptcy law and court decisions This site could also contain updates that are currently on the bulletin board and would be available not only to the government, but also to the public at large

4 2 3 Improved Availability of Legislation to Government Entities, Research Institutions, the Private Sector, and the Public at Large (Result LIS-3)

- ✓ Over 1,900 copies of seven different CD-ROM based full-text databases had been distributed to government agencies and departments, state and private universities, and various non-profit organizations in Indonesia. These databases include Tax and Capital Markets laws and regulations, Ministry of Finance regulations from 1975-1995, Ministry of Industry and Trade regulations from 1968-1995, and the *Lembaran Negara* and three updates of the *Lembaran Negara* current through December 1997. Over 1,000 users have been trained in the use of these databases at BPHN and through a series of on-site training programs conducted by ELIPS staff in conjunction with BPHN staff.
- ✓ BPHN staff have been increasingly involved in the development of these databases and have demonstrated the ability to continue building them after the ELIPS project ends. BPHN staff have cooperated with the local distributor of the CD-ROM building and search software through a series of training programs and will be able to continue this association as they develop new databases and update current ones.
- ✓ To insure that the CD-ROMs would be used, ELIPS distributed at least one CD-ROM capable computer along with a printer to every central government department and to at least one government office in each of Indonesia's 27 provinces.
- ✓ The public has access to the databases at each of the provincial government sites as well as at BPHN. To further expand public access, all of the databases have been provided to every law faculty in the state university system. Law faculties in the provinces and in Jakarta are open to legal professionals and in many cases to the public and allow free access not only to ELIPS materials but also to other collections of law. ELIPS provided additional training to law faculty librarians in the use of the CD-ROMs and supplied computer equipment if the faculty did not already own a CD-ROM capable computer.
- ✓ Two additional CD-ROM based databases were developed at PDH-UI based on the *Informasi* series. These databases contain catalog listings of all legal materials collected by PDH-UI for the years 1996 and 1997. The databases also contain links from the catalog records to images of the materials, thus replacing the microfiche system PDH-UI had been using prior to the introduction of this technology. PDH-UI has distributed these databases to all 26 state university law faculties and has plans to put the information on the Internet to allow access to the public as well as to sell the databases to the private sector.
- ✓ At least three private companies have published and distributed legal information on CD-ROM to the public since ELIPS introduced the concept in early 1995. These companies have built on ELIPS designed databases and developed other databases to complement those available through the government. Subjects covered by these databases include tax law, labor law, insurance law, environmental law, and land law, among others.

4.3 Lessons Learned and Recommendations

- Coordination among the different Indonesian government departments involved in the ELIPS project was difficult and in some cases impossible to effect. The Department of Finance was never fully integrated into the LIS component of ELIPS, even though several databases were made with DOF materials. In the opening days of the project the Department of Justice (BPHN) was not aware that they were to be a part of ELIPS and was not amenable to cooperating with EKKU WASBANG in developing full-text databases. The contractor had to struggle over many months to forge cooperation between the different departments with only limited success. Even now SEKNEG does not cooperate closely with BPHN in the dissemination of legal materials and, as late as March 1998, ELIPS project personnel had to intervene with SEKNEG to obtain documents for inclusion in the *Lembaran Negara* database on BPHN's behalf. Future projects of this kind should make sure that inter-institutional linkages are clearly understood before the work begins and those linkages should be spelled out in written documents which have been agreed to by all parties.

- The biggest obstacles to developing legal information systems in Indonesia are (1) the difficulty in collecting source materials and (2) the general ambivalence toward the law shown by many Indonesians. The collection difficulty could be easily overcome if the GOI enacted a law requiring that all legal documents be deposited in a central place to be effective. ELIPS drafted such a deposit law for the government's consideration and later published this draft in hopes that at some point it or something like it might be adopted. The ambivalence toward the law is a result of the government's inconsistent enforcement. Many times we heard such comments as "After we find the law, we then check with the government to see if they are enforcing it." Our own experience in training government lawyers has shown us that the law is sometimes ignored or inconsistently applied, thus making a legal information system less valuable to users. Perhaps the new reforms taking place within the government after the fall of Soeharto will change this attitude and make legal information systems more important.

- With benefit of hindsight, the original design of the database may have been too complex for Indonesia. The PREMISE-based databases, while well designed, were difficult to develop as they required a great deal of marking up of the text documents. They also required the publishers to prepare separate tables of contents which were laborious to build, difficult to update, and error-prone. After interviewing dozens of users we found that they used very little of the functionality offered by the PREMISE databases. Most users simply entered one word searches against the entire database and then printed out most or all of the documents that contained that word. Later Folio-based databases were of a simpler design and while not offering the same flexibility in searching, significantly simplified the tasks of publishing and upgrading. On the basis of this experience the *Informasi* database was made to demonstrate just how simple a database could be. Although the *Informasi* database only contained a limited amount of full text, it showed what could be done on the most basic level and still be usable.

- Initial assumptions about computer hardware availability and computer skills within the government were overestimated. Outside of a very small group of government offices in Jakarta, almost no government office had CD-ROM access. In addition, the computer skills of most government employees were extremely limited, particularly with respect to Windows-based programs. Thus, training had to include such basics as using a mouse and installing software in the Windows envi-

ronment, in addition to training on the specific search software used on the ELIPS CD-ROMs. Conditions in the private sector are quite different, however. The three private sector publishers of CD-ROM law databases all report that their customers require minimal, if any, training and almost no support to use the databases they have developed.

- The Government's budget to fund recurring expenses is very limited and there is a reluctance to commit such funds. At the simplest level this meant that laser printers supplied by the ELIPS project often were not used because they required toner cartridges, making them more expensive to maintain than dot matrix printers which could be re-inked at low cost. At the CD-ROM level, the PREMISE licensing fee of \$35 now seems prohibitively expensive, however, this issue has been addressed by moving to Folio for which the licensing fee is approximately \$5 per database and allows up to four updates at no additional cost. The inability of the GOI to fund ongoing expenses also affected the bulletin board system when the government reduced the number of telephone lines to the bulletin board from three to one as a cost-saving measure. Since electricity at all government offices was shut down outside of working hours, online systems had to be restarted each day, which was not only time-consuming but also limited access to those systems.
- The economic crisis that Indonesia is experiencing now casts in doubt the likelihood that the legal information systems developed by ELIPS will be continued without significant donor support, except at PDH-UI. This is unfortunate, but given the depth of the crisis it is understandable. The hope is that the new spirit of reform will cause more people to become interested in the law and that the work ELIPS has done will be the basis for a more complete national legal information system when the crisis is over.

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Annual Report

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