

**SUPPORT FOR ECONOMIC GROWTH AND INSTITUTIONAL REFORM (SEGIR) AREA (4),
GENERAL BUSINESS DEVELOPMENT AND TRADE AND INVESTMENT (GBTI)**

QUARTERLY PERFORMANCE REPORT

Contract No.:	PCE-I-00-98-00016-00
Contractor's Name:	The Nathan-MSI Group
Period Covered:	July - September 2003

Current Quarter Activities

Task Order 821. Indonesia Economic Law, Institutional and Professional Strengthening (ELIPS II) Activity, 8/15/01-12/31/04

ELIPS II seeks to improve economic laws and regulations and strengthen legal institutions and professional associations to foster a transparent and sound legal and regulatory environment enforced by the commercial court system and regulatory commissions. The intent is to reduce business uncertainty, lower hidden costs of doing business, and increase investment. ELIPS II is working to strengthen and assist regulatory commissions, the Ministry of Justice, law schools, and professional associations. It is also providing technical assistance in drafting, promoting, passing, understanding and implementing laws, decrees, administrative orders, and decisions.

ELIPS II began work in 2001 shortly after the September 11 attacks on the United States and just before the launch of Operation Enduring Freedom in early October. Tensions were high in Indonesia in the run up to the war in Afghanistan and it was difficult for ELIPS advisors to travel anywhere in Indonesia including in and around Jakarta. Even after tensions eased, it was not until early 2002 that ELIPS was again authorized to bring in short-term advisors. Then on October 12, 2002, two bombs went off in a crowded area on Bali killing more than 200 people, mostly foreign tourists. As a result, an evacuation was ordered and two of the five resident ELIPS advisors were sent to Washington, D.C., where they worked out of (subcontractor) Checchi and Company Consulting's home offices (except for brief periods of authorized travel) until mid-April 2003, when the evacuation order was lifted and all advisors returned to Indonesia. The Jakarta Marriott bombing of August 5, 2003, led to a further ban on travel by short-term advisors, which remains in place as of this writing. Thus, in the 24 months since the ELIPS II was launched, the project has been unable to bring short-term advisors into the country and has been operating under various in-country travel restrictions for more than 12 months. This has had a tremendous impact on plans for ELIPS activities; for example, the planned Legislative Forums have been delayed and cancelled four times, the Legislative Drafting Training program planned for late August 2003 has been delayed twice

and is tentatively rescheduled for early January 2004, and all public forums have been severely curtailed.

Even with these severe handicaps, ELIPS II has been extremely effective in several areas, most notably in taking a lead role in developing the legislative framework for the war on terrorism. With support from USAID, ELIPS II provided the only foreign advisors to the Government of Indonesia's Anti-Terrorism Law drafting team. ELIPS supported public discussions of an early draft law, which was shelved after receiving severe public criticism, and later sent a team of drafters to the United States to discuss alternative drafts that were being floated in Jakarta. ELIPS followed up by providing a highly qualified Canadian advisor to work closely with the drafting team until the law was enacted by emergency decree of the President immediately after the Bali bombings, and then by preparing briefing materials for the Indonesian Department of Justice to use in Parliamentary hearings on the emergency law, which was later ratified and was used to successfully prosecute the Bali Bombers. The law has also recently passed a serious public opinion challenge with support both from many within the security services and human rights leaders. ELIPS, working closely with its Government of Indonesia counterparts, was able to walk a fine line in responding to the necessity of curbing terrorism while respecting the principles of an emerging democracy.

ELIPS has also played a lead role in the development of Indonesia's anti-money laundering regime. ELIPS' support for this effort stretches back several years, beginning with commentaries on early drafts of the law before there was any donor interest. Working closely with the Australians, ELIPS provided bridging support to the new Indonesian Financial Intelligence Unit (FIU) team, beginning with sponsorship of an early trip for the team to meet with counterparts in Thailand and Malaysia. The model for donor cooperation that ELIPS II and the Australians have developed to support the Indonesian FIU has been praised by the regional anti-money laundering body (Asia-Pacific Group or APG) and by U.S. government representatives from the Departments of Justice and Treasury. ELIPS II continues to support drafting efforts at the FIU, as discussed below.

Assist the Government of Indonesia in Economic Law

The principal focus of the ELIPS Legal Advisor during this quarter continued to be on assistance to the recently formed Financial Intelligence Unit (PPATK) combating money laundering. The advisor prepared material for submission to the Financial Action Task Force (FATF) prior to its June plenary session in Berlin and October plenary session in Stockholm. He also advised the PPATK concerning responses to FATF's Asia-Pacific Review Group, attending the February and September meetings with the APG review team and assisting in the presentations at those meetings. Further revisions to the proposed amendment to the existing Anti-Money Laundering law (Law No. 15 of 2002) were drafted in response to concerns expressed by the FATF and by outside donor review, and these revisions were then submitted to an extensive inter-agency review process. Briefing memoranda were prepared to assist in securing the approval of the draft by the President, and getting it forwarded to Parliament. Passage of the legislation was secured in September. Two Presidential Decrees

required to implement the law were further revised to provide strengthened powers to the PPATK, and briefings were again conducted to assist in the issuance of the decrees.

Also during the quarter, ELIPS II completed initial design of an empirical evaluation of the utilization and implementation of the 1999 Secured Transaction Law and engaged an Indonesian graduate of ELIPS II's workshop on empirical research (Madison, Wisconsin—July, 2003) to conduct the evaluation. The evaluation itself is currently underway.

Assist Regulatory Commissions to Function Effectively

The ELIPS Regulatory Advisor continued to support the Commission for Supervision of Business Competition (KPPU) in discussions and drafting of critical documents that will guide the development and operations of the KPPU and define the scope of its authority. Among these documents are: (i) a Supreme Court regulation to govern court handling of appeals of KPPU decisions; (ii) a revised regulation to govern case-handling within the KPPU; and (iii) a set of amendments to Law No. 5/1999 on the Prohibition of Monopoly and Unhealthy Business Competition. With respect to the Supreme Court regulation, the ELIPS advisor is working with both the KPPU and the Supreme Court. Drafting, with the assistance of the ELIPS advisor, was completed during the quarter and the regulation signed on August 26th. The Jakarta District Court is already applying the regulation in the appeal of the KPPU's Garuda Airlines decision. Immediately prior to the departure of the FTC Advisor in early July, the ELIPS Regulatory Advisor joined him in making presentations to commissioners, staff and journalists about the joint FTC-ELIPS drafts of the regulation on case handling and the amendments to Law No. 5.

Strengthen Law Schools and Professional Associations and Assist in Outreach

Major effort during the quarter was devoted to successfully shepherd 17 Masters' candidates through the post 9/11, newly-computerized U.S. visa process and the differing admissions requirements of the cooperating schools: University of Washington (Seattle), University of Wisconsin, and American University. In addition, ELIPS advisors completed work on a CD-ROM based course on evaluating legislation for legislators, which features ten recorded lectures by Indonesian faculty, interactive assignments and quizzes as well as a library of resources that can be used after completing the course. ELIPS organized a series of half-day workshops throughout the country to explain how to use the course and distribute free copies to both government and civil society groups. Over 1,000 copies of the CD-ROM were distributed at these seminars.

Develop Human and ICT Resources

Work continued on a CD-ROM for a 40 hour course on International Sales Transactions taught by Professor Debbie Shon from the University of Southern California School of Law. ELIPS advisors also completed planning a course for bankers on compliance with new anti-money laundering regulations, which will be delivered with faculty from the University of Indonesia and staffers at Citibank Jakarta to five cities in Indonesia over the USAID-funded

videoconferencing network. The ELIPS internship program for law faculty from outside of Jakarta came to a successful close during the quarter, with the three participating law firms and four interns all agreeing that the program was useful and that they would like to see it continued. The development of a CD-ROM package on “Aspects of Multinational Bankruptcies” is being discussed with Prof. Bruce Markell of the University of Nevada Law School. Prof. Markell would work with ELIPS advisors to prepare an 8-12 hour course that can be marketed by Indonesian universities as a Continuing Legal Education (CLE) product. This course, if approved, will be completed in the next quarter.