



*Economic Law, Institutional &
Professional Strengthening
Project*

ELIPS II

Final Report

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A. PROJECT PURPOSE AND OBJECTIVES

USAID's overall country program strategy in Indonesia for the years 2000-2004 has focused on supporting the Transition to a Prospering and Democratic Indonesia. For the economic sector, the strategic objective has been to Set Foundations for Rapid, Sustainable, and Equitable Economic Growth. Within this framework, the Economic Law, Institutional and Professional Strengthening (ELIPS II) Activity was conceived as USAID's principal vehicle for providing technical assistance in the legal and regulatory area, with the goal of encouraging a legal and regulatory environment conducive to investment and growth, and the purpose of improving economic laws and regulations, legal institutions, and professional associations.

Over a 38 month period from September 2001 through October 2004, ELIPS II provided capacity-building support and technical assistance to improve economic laws and regulations, legal institutions, and professional associations in Indonesia. Building on the accomplishments of the ELIPS I project¹, ELIPS II worked in four main objective areas:

1. *Assist the GOI in the broad area of economic law.* Under Component 1, ELIPS II was to support the GOI executive branch in fostering an environment conducive to economic growth by assisting in the drafting, revision, evaluation, submission and implementation of economic laws, regulations and procedures.
2. *Assist regulatory commissions to function effectively.* Under Component 2, ELIPS II was to assist the GOI in addressing regulatory issues, including capacity-building assistance to such newly created public regulatory commissions as the Competition and Anti-corruption commissions, in order to improve the enforcement of existing laws, regulations and procedures and to clearly define a sound legal and regulatory environment.
3. *Strengthen law schools and professional associations and assist them in outreach.* To strengthen the legal profession in Indonesia and to build sustainability (Component 3), ELIPS II TA was to focus on the strengthening of law schools and professional associations and helping them reach out to parliaments, commercial courts, media and NGOs on legal economic issues.
4. *Develop human and ICT resources.* ELIPS II was to strengthen participating institutions through providing both short-term and long-

¹ The Economic Law and Improved Procurement Systems (ELIPS I) project provided technical assistance, training, and commodity support to improve Indonesia's economic law and government procurement systems. Achieving this purpose was expected to facilitate an increased level of private transactions and investments, while also helping to foster greater equity for all firms and individuals. Checchi and Company Consulting, Inc. was the implementing partner for both ELIPS I and ELIPS II.

term training, assistance on utilizing Information-Communication Technology (ICT), and encouraging linkages between US and Indonesian universities or professional associations. A key task under Component 4 was the preparation, placement, and support of up to 30 participants in Masters degree programs at U.S. law schools.

B. PROJECT ORGANIZATION, STAFFING, AND IMPLEMENTATION CONTEXT

ELIPS II was implemented by Checchi and Company Consulting, Inc. under a SEGIR-GBTI task order awarded to the Nathan/MSI Group. Checchi fielded a team of five long-term advisors, as follows:

- James Agee, Chief of Party/Legal Education/Outreach Advisor
- Cliff Thompson, Legal Education Advisor
- John Davis, Regulatory Advisor
- Jonathan Eddy, Legal Advisor
- Patricia Kendall, Legal and Judicial Advisor to Partnership for Governance Reform

The Legal Advisor, located at the Ministry of Justice and later at the PPAATK, was tasked with assisting the GOI in the broad area of economic law and, as discussed below, in developing the legal framework for combating terrorism and money laundering (Component 1). The Regulatory Advisor was based at the Competition Commission, but also worked with other regulatory commissions under Component 2. The two Legal Education advisors were based at the University of Indonesia's Institute for Law and Economics and had primary responsibility for Components 3 and 4. The Legal and Judicial Advisor to the Partnership for Governance Reform joined the project in August 2002 after the task order was modified to support the Partnership.

The team was supported by Indonesian technical, administrative, and clerical staff as well as by expatriate and local short-term advisors. The utilization of expatriate short-term advisors in Indonesia was severely curtailed during much of the project due to security concerns.

At the time ELIPS II was designed, there was a new Indonesian government in place and the outlook for Indonesia rising from the ashes of the Asian Financial Crisis looked promising. ELIPS II was tasked with helping to build and strengthen the legal infrastructure that would be required for this return to strong economic growth for Indonesia, a land blessed with abundant natural resources and a new, more democratic and responsive government. However, the terrorist attacks on New York and Washington of September 11, 2001, just days before ELIPS II began activities, would influence the direction of the ELIPS II project for the next three years. With the U.S. invasion of Afghanistan, the focus of both U.S. and Indonesian governments shifted from economic law to anti-terrorism and anti-money laundering. The Government of Indonesia also went through a trying leadership change with Abdulrahman Wahid being replaced as president by

Megawati. As Megawati's government was less concerned less with growth than with stability, work in many areas of economic reform ground to a halt.

In October 2002, a bomb went off in a busy street in Bali, killing over 200 people including many foreign tourists, and making ELIPS II work in developing the legislative framework for the war on terrorism still more critical. At the same time, half of the ELIPS II team was evacuated to the U.S. because of perceived security threats, and no short-term advisors could be cleared for travel to Indonesia. During the six-month evacuation period, ELIPS II was able to maintain its momentum on all fronts through use of Internet communications with advisors in the U.S. and the use of videoconferencing facilities paid for by USAID that had been installed at the University of Indonesia. This flexibility, and the ability to respond with appropriate resources even when limits were placed on the deployment of those resources, were demonstrated repeatedly over the life of the project and enabled ELIPS II to achieve results in a challenging implementation environment.

C. SUMMARY OF MAJOR ACHIEVEMENTS

ELIPS II provided important inputs for Indonesia's new financial crime regime that included drafting of an anti-terrorism law, anti-money laundering laws and regulations, and a mutual legal assistance law. ELIPS II also played a key role in the institutional development of Indonesia's Competition Commission (KPPU). ELIPS II advisors prepared a personnel plan for the new Competition Commission along with a complete training plan. ELIPS II advisors developed and delivered introductory and advanced courses in the economics of competition and in investigative techniques to Competition Commission staff. With Indonesian law schools, ELIPS II advisors developed graduate level courses in Tax Law, International Sales Transactions, and An Introduction to US Law in a CD-ROM format to be used in distance learning programs throughout the country. ELIPS II identified and supported 31 participants in US masters of law programs. Thirty of the participants have completed the masters program and ELIPS II advisors have arranged for the final participant to complete the degree requirements at some future date.

D. ACHIEVEMENTS AND RESULTS BY PROJECT COMPONENT

Specific achievements are set out below in the same order as the USAID objective areas listed in Section A above. These achievements are discussed in further detail in the final reports the resident advisors submitted to USAID at the conclusion of their respective assignments.

1. Assist the GOI in the broad area of economic law.

a) Drafting, evaluating and improving drafts of economic laws

GENERAL ECONOMIC LAWS

Company Law. ELIPS II advisors Jonathan Eddy and Douglas Branson completed a review of the current draft Company Law and submitted it for the consideration of the Indonesian drafting team. There was resistance within the team to adopting some of the changes recommended by ELIPS II to make it easier to form a limited liability company. In the second quarter of 2002, ELIPS II advisor Jonathan Eddy came to Jakarta to present ELIPS II recommendations in a series of meetings with the drafting team. There continues to be resistance within the government to recommendations that would remove some of the discretionary authority from government officials, thereby making incorporating faster and less expensive. In the third quarter of 2002, students in the ELIPS II sponsored legislative drafting course worked with ELIPS II Advisor Eddy to develop a legislative report that laid out alternatives to some of the more questionable parts of the new draft law and discussed the benefits of the alternatives proposed by ELIPS II. As of the date of this report, the draft law had not been submitted to Parliament for consideration.

Warehouse Receipts Law. ELIPS II advisors from the University of Indonesia Legislative Drafting Program worked with BAPPEBTI staff to prepare a warehouse receipts draft law and a legislative research report, which were completed in the first quarter of 2002. Both documents have been submitted to the President's office for further submission to Parliament. Further action in this area is dependent on the warehouse receipts law being passed.

Investment Law. With ELIPS II support, Trisakti University organized a seminar on in the third quarter of 2002 to publicly discuss the draft Investment Law. The seminar focused on important issues being debated by the drafting team such as: the effectiveness of tax holidays; the need for an investment approval system; and whether any such approval system should be located in Jakarta or at the regional level. While the draft law is still being considered by the government, this was the first opportunity that the public had to provide input into the drafting process of this important law. One of the significant results of this and similar activities carried out by ELIPS II and other donors was the government's agreement to a single law to cover both foreign and domestic investment, putting both types of investors on an equal footing. In the early years after the fall of Suharto, it was extremely important to stimulate public discussion on drafts as the government had little experience in garnering public input and was perhaps not inclined to search it out.

ICT Law. In the third quarter of 2002, ELIPS II sponsored a half-day seminar with the University of Indonesia, Padjadjaran University, and the Department of Justice on the use of data in electronic form as evidence. This

topic is covered in both the draft cyberlaw prepared by Padjadjaran University and the draft e-commerce law prepared by the University of Indonesia. In preparation for this seminar, ELIPS II sponsored the preparation and publication of a book of articles on information and communication technology law issues by leading Indonesian academics. The goal of the publication was to provide a foundation for higher level discussion of the policy issues concerning information and communication technology law. The head of the University of Indonesia's e-commerce law drafting team was later sent to the University of Washington to pursue an LLM under ELIPS II sponsorship. ELIPS II advisors were concerned that further work with the University of Indonesia in this area would result in law that would restrain the growth of Internet commerce rather than encourage it. While USAID continues to pursue cyber law reform, ELIPS II advisors believe that the real problem in the cyber law area lies in the criminal procedure code (which does not allow electronic information to be introduced as evidence) and the enforcement regime (enforcement of laws against credit card fraud is spotty). Reform in these two areas would do more to develop Internet commerce in Indonesia than would new laws.

ANTI-MONEY LAUNDERING LAW

ELIPS II worked closely with the Indonesian Government and other donors to prepare the anti-money laundering law for final passage by the Parliament. The anti-money laundering law was passed during the second quarter of 2002. Unfortunately, Parliament made several changes in the law, which made it less effective.

ELIPS II, working with a small group made up of representatives from the Department of Justice, Bank Indonesia, and the Department of Finance drafted a presidential decree on the organization and powers of the Financial Intelligence Unit (FIU) in the last quarter of 2002. ELIPS II advisors met several times with the Central Bank, the office of the Attorney General (AG), and the Ministry of Justice to offer assistance in establishing the new FIU and worked with other international funding organizations to insure that the FIU received timely support.

ELIPS II prepared a study for the AG's office on the feasibility of establishing a special Financial Crimes Prosecution unit. The feasibility study recommended that the AG wait until after an EU sponsored training is completed to decide on how many and which personnel will be assigned to the prosecution unit. Due to accusations of corruption, the AG's office did not follow-up on the EU training until mid-2004, too late for ELIPS II to make any meaningful contribution. To help build capacity within the office, ELIPS II sent a promising young member of the AG's staff to the University of Washington to pursue an LLM with an emphasis on financial crime.

Beginning in 2003, ELIPS II placed a full-time advisor (Jonathan Eddy) at the Indonesian anti-money laundering body known by its acronym of PPATK. The ELIPS II advisor participated in three successive rounds of inter-

departmental review of amendments to the 2002 anti-money laundering law, conducted under the sponsorship of PPATK, the Ministry of Justice, and the Cabinet Secretariat. At each stage, ELIPS II provided technical drafting assistance, together with support materials, and coordinated inputs from specialized legal advisors from the U.S. and other donor countries. The ELIPS II advisor participated in the preparation of materials responding to the Financial Action Task Force (FATF) and attended and participated in PPATK meetings with the Asia-Pacific Money Laundering Committee Group and in bilateral meetings with concerned US authorities. Periodic briefings were conducted for USAID, Embassy, other US agencies, and other foreign donors and governments.

In October 2003, Law 25/2003 was passed by Parliament and signed by President Megawati. The amendments satisfied the concerns of FATF, and as a direct result, Indonesia was invited by FATF to submit an implementation plan, the next step towards removal of Indonesia from FATF's list of Non-Compliant Countries and Territories (NCCT).

ELIPS II advisors also participated in successive sessions for the review of anti-money laundering law implementing decrees, first by PPATK, and then by the Cabinet Secretariat. ELIPS II provided direct drafting assistance, as a result of which the initial draft decrees were revised to provide additional authority and flexibility to the PPATK. These changes drew favorable comment from international reviewers (US agencies and the APG Review Group). In November 2003, President Megawati issued two Presidential Decrees establishing the organizational structure and the duties and authority of the PPATK.

Additionally, the ELIPS II advisor assisted in the preparation and review of a Government Regulation on Witness Protection in cases of money laundering, as called for by Law 15/2002, including attendance at review meetings sponsored by the Ministry of Justice. In November 2003, President Megawati issued the Government Regulation on Witness Protection.

ELIPS II continued to provide support to PPATK in responding to compliance issues raised by FATF through most of 2004. ELIPS II advisors assisted the PPATK in preparing an anti-money laundering implementation plan for the FATF, which, among other activities, called for a new mutual legal assistance law to be completed in 2004. The plan was accepted by the head of the National Anti-Money Laundering Coordinating Council (the Coordinating Minister for Security Affairs) and by the FATF, enabling Indonesia to join the international organization of financial intelligence units and begin work on a draft mutual legal assistance law.

Working with a small group of ELIPS II trained legislative drafters and two lawyers from the PPATK, the ELIPS II advisor prepared an initial draft of the mutual legal assistance law for consideration by the Indonesian government. While the Ministry of Justice was initially reluctant to fast-track the draft, the pending presidential election pressured them into working on the draft

in a compressed time frame. ELIPS II was able to offer timely support for the drafting effort and the final draft was completed in late September 2004, in time to be taken to the October APG meeting where it will be shared with FATF member countries during Indonesia's interim face-to-face evaluation.

ANTI-TERRORISM LAW

During the second quarter of 2002, ELIPS II short-term advisor Kent Roach met several times with the very large team charged with drafting Indonesia's anti-terrorism law. Prof. Roach also met with other government officials and representatives of civil society prior to submitting comments on an early draft. The draft went through a number of revisions, with Prof. Roach and other ELIPS II advisors having input throughout the process. In late 2002, ELIPS II, working with the Embassy, sent Prof. Abdul Gani, the Director General for Legislation at the Ministry of Justice, to Honolulu to attend a seminar on anti-terrorism. Within hours of the October 12, 2002, terrorist bombing in Bali, the Indonesian Government issued two emergency regulations, in lieu of law, dealing with anti-terrorism. One emergency regulation was, with minor alterations, draft six of the anti-terrorism law that ELIPS II had been working on for most of the year, while the other specifically dealt with the Bali incident. In the weeks following the bombing, ELIPS II worked with the GOI to prepare draft seven for submission to Parliament and passage into law, replacing the emergency regulations. ELIPS II also prepared a briefing book which explained in detail the importance of each article and how the wording was arrived at, discussed issues raised in the press about the draft, and contained comparative materials. MOJ staff used the briefing book during hearings at Parliament (DPR).

Although ELIPS advised against this, the anti-terrorism law was made retroactive and used to prosecute the accused in the Bali incident. In 2004, the retroactivity law was overturned on constitutional grounds, putting the convictions of the Bali bombers in question and ruling out the death sentences they had received under the anti-terrorism law. The anti-terrorism law itself, however, has withstood challenges and has been used to successfully convict the Marriott Hotel bombers.

b) Provide on-the-job training to key economic institutions on how to prepare draft laws.

Training for Legislative Drafters. With the assistance of Professors Ann and Robert Seidman from the Law School at Boston University, ELIPS II developed a plan for training legislative drafters at the Secretariat of the DPR and within the newly established Directorate General of Law and Legislation at the Ministry of Justice. The plan called for several intensive training programs for prospective legislative drafters in Indonesia, and longer-term training-of-trainers at Boston University. The first intensive in-country training course was held in the second quarter of 2002 for 80 participants

representing the DPR, various government agencies, and NGOs.² The draft laws prepared during this training included Company Law, Bankruptcy Law, Anti-Money Laundering Regulations, Foundation Law Regulations, Foreign Investment, Warehouse Receipts Regulations, Land Registration Law, and Land Distribution Law. Immediately following the intensive training, ELIPS II sponsored a one-day seminar, led by the Seidmans, to introduce the heads of legal bureaus from all government departments to legislative drafting methodology.

CD-ROM Course on Evaluating Legislation. ELIPS II developed a self-paced, asynchronous course on CD-ROM on Evaluating Legislation for members of Parliament and government officials. Participants in the Boston University training program (see Section D.3 (a), below) worked with ELIPS II advisors to develop the scripts and exercises for the course. ELIPS II organized a series of half-day workshops to introduce and distribute the course in Jakarta (2), Padang, Medan, Bandung, Yogyakarta, Surabaya, Semarang, Denpasar, Makassar and Manado, coordinating the workshops with the Civil Society Support and Strengthening Project to include Indonesian NGOs in the target cities and with the USF project in Eastern Indonesia. There were between 100 -120 participants at each workshop, including local legislators, academics, NGO staff and the media. Faculty from the University of Indonesia (UI) presented each workshop and ELIPS II provided copies of the CD-ROM to each participant. The course was very well received and forms the backbone of legislative drafting courses delivered to regional governments by UI's Legislative Drafting Program. ELIPS II estimates that over 4,000 copies of the eight-hour CD-ROM course have been made and distributed throughout Indonesia.

2. ELIPS II assists the GOI in regulatory issues, including at the newly created Competition and Anti-corruption commissions.

a) Advise and assist in the start-up and functioning of public regulatory commissions.

Assistance to Officeholder Wealth Declaration Commission. The law establishing the anti-corruption commission was passed by Parliament in late 2002, but the commission was not established until early 2004. In 2002, the ELIPS II Regulatory Advisor worked mainly with the anti-corruption commission's predecessor, the Officeholder Wealth Declaration Commission, which deals with corruption of government officials, to develop a training plan for that organization.

Organizational and Skills Development for the KPPU. ELIPS II advisors Beryl York and Sri Wahyu Sakti prepared a job analysis, skills identification, training needs assessment and human resources management plan for the Competition Commission (KPPU) in 2002. The results of the training needs

² Also providing support for this training were the Ford Foundation (support for NGO participants), the Rural Development Institute, and the University of San Francisco.

assessment confirmed a need for basic and advanced training in competition law and economics. The first Basic Skills course began in the fourth quarter of 2002 with a basic economics module taught by Indonesian economists. ELIPS II also sponsored a legal English course for KPPU staffers.

KPPU Strategic Plan. The York/Sakti assessment also identified the need for skills training covering subjects such as investigative planning, trial advocacy, legal writing, budgeting, auditing, office administration, etc. Training in these areas was carried out by the Federal Trade Commission, which joined ELIPS II at the KPPU in mid-2002. One of the most important recommendations of the assessment was that the KPPU should develop a strategic plan, and ELIPS II advisors worked with the KPPU on developing that plan during 2003.

Overseas Participant Training for KPPU Staff. Two KPPU lawyers were selected to study for LL.M. degrees at American University in Washington, DC, beginning in January 2003. The two staffers have since returned from their successful program at American and have been assigned to head up the KPPU's regional offices in Surabaya and Makassar, respectively.

b) Assist in the establishment/development of uniform rules, procedures, administrative guidelines, accountability, and computerization.

Uniform Rules for Independent Regulatory Bodies. Throughout 2002, ELIPS II advisors monitored discussions of draft legislation and regulations related to the establishment of independent regulatory bodies (IRBs). The laws for money laundering, oil and gas, telecom and electricity all mandate establishment of IRBs, as do draft laws and regulations for financial institution supervision and broadcasting. With respect to oil and gas, ELIPS II advisors had discussions with USAID's energy consultants advising the committee drafting regulations for the upstream and downstream oil and gas regulatory bodies (BALAK and BATUR) mandated by the Oil and Gas Law approved in November 2001. The Government regulations to establish the telecom commission required by the Telecom Act of 1999, and the electricity commission required by the electricity law approved in 2002, have been issued. While these commissions were being established, ELIPS II encouraged the adoption of common procedural rules that could be the nucleus of a later administrative procedures act to be considered by the Parliament.

Regulation Regarding Appeals from KPPU Decisions. ELIPS II also provided assistance to the Supreme Court and the KPPU in drafting a regulation to guide the courts in handling of appeals from KPPU decisions. Two leading U.S. administrative law experts, Ron Levin and Bob Anthony, presented seminars jointly to the Supreme Court and the KPPU on the law of judicial review of administrative decisions, emphasizing the concept of deference to the administrative agency. Over a period of ten months, ELIPS II advisors participated in meetings of the Supreme Court Steering Committee

regarding the concepts to be incorporated in the regulation. The ELIPS II advisors also contributed their own complete draft of the regulation to the discussion, and prepared a paper on court litigation appealing Federal Trade Commission competition decisions that was delivered at a Supreme Court-sponsored seminar in April 2003. The final version of the regulation (*perma*) was signed by the Chief Justice on August 26, 2003, and was applied in the appeal of the KPPU's decision in the Garuda case. The regulation requires the courts to give a measure of deference to the KPPU's findings, but does not provide a very clear statement of that policy except with respect to findings of fact. The Supreme Court appears to be willing to rely on training judges to fill in the gap in the *perma*, which, in turn, is intended to fill gaps in the law.

c) Advise other Commissions in areas such as telecommunications, energy, and consumer protection.

Operations Manual for Consumer Dispute Settlement Bodies. In 2002, ELIPS II advisors drafted an operations manual for the consumer dispute settlement bodies that have been established in seven pilot regencies/mayoralities. The advisors also participated in a number of training seminars sponsored by the Ministry of Industry and Trade for persons who will be members of or work with the consumer dispute settlement bodies.

d) Provide on-the-job training to local counterparts, conduct seminars for regional universities, etc.

Socialization of Anti-Monopoly Law. The ELIPS II Regulatory Advisor participated in a series of workshops for socialization of the Anti-Monopoly Law, sponsored by the KPPU. At the first workshop, held in Lampung, the Regulatory Advisor spoke on "Development of Competition Law in the Context of Economic Regulation." He also made a joint presentation with the FTC Advisor at a KPPU socialization workshop for Supreme Court judges in Jakarta in 2002.

3. Strengthen law schools and professional associations and assist them in outreach.

a) Assist in the improvement of legal training for students, university faculty and practicing professionals.

Boston University Training Program in Legislative Drafting. ELIPS II arranged for two groups of Indonesian lawyers and law faculty to attend a four-month training program in Legislative Drafting at Boston University in the fall of 2002 and the spring of 2003. The participants came from the University of Indonesia (3), the Department of Justice (2), and the Legislative Drafting

Unit in the DPR Secretariat (2).³ After this program, ELIPS II gave the three UI trainers further experience in legislative drafting by engaging them as advisors on ELIPS II drafting exercises such as the Warehouse Receipts drafting effort. The result is that there has been a great deal of demand for UI's drafting instructors, who now teach legislative drafting to members of local parliaments (DPRDs) throughout Indonesia. The DPRD trainings have been paid for by the local governments themselves, with ELIPS II support being limited to the provision of training materials.

Distance Learning Courses in Bankruptcy and Intellectual Property. In 2002, two pilot distance-learning courses that were used as a proof of concept, advanced Bankruptcy and advanced Intellectual Property, were delivered to over 100 students enrolled in each course. ELIPS II worked with a local ISP to provide both the communications infrastructure and develop the distance-learning software suite to support the courses. While the software and infrastructure were in place in early September 2002, during the first weeks of the courses there was a lot of work involved in getting all the universities connected for the videoconference segments. One person at each university had to dedicate almost eight hours a week to videoconference coordination, and it remains to be seen if this level of effort will continue after ELIPS II funding ceases. There have also been problems with the internet software suite.

Distance Learning Course in Introduction to American Law. Working with USF, ELIPS II developed a for-credit course entitled Introduction to American Law to be delivered over the ELIPS II distance-learning infrastructure. The USF course was offered to ELIPS pre-LL.M. students in 2003 and counted toward the LL.M. degree for those continuing their studies at USF. Problems with the Internet infrastructure outside of Jakarta and the limited reach of the videoconferencing network led ELIPS II advisors to abandon these interactive technologies in early 2003. Instead, ELIPS II decided to focus almost entirely on asynchronous technologies for delivering law courses.

Training in Anti-Money Laundering Regulations. In 2004, ELIPS II used the videoconferencing network to provide short-term training in 2004 on compliance with new anti-money laundering regulations. Faculty from the University of Indonesia and staffers at Citibank Jakarta delivered the training to bankers in five Indonesian cities. Unfortunately, the course was not well received by bankers outside of Jakarta, and the last two of the four courses was delivered in Jakarta only.

Empirical Research Skills Workshop. To encourage multi-disciplinary and empirical research, and to build skills in application of such research, ELIPS II organized a workshop at the University of Wisconsin in July 2003 for

³ The first group included Mrs. Sri Hariningsih, who up until June of 2002 was Indonesia's top legislative drafter at the Department of Justice and is now a guest lecturer at the University of Indonesia, and Mrs. Maria Farida Indrarti, head of the Legislative Drafting Program at the University of Indonesia.

Indonesian LL.M candidates who were resident in the U.S. during the summer of 2003, a small number of junior faculty who had shown promise in research work in Indonesia, and five candidates from the USAID-sponsored Masters in Economics program at Georgia State University. This workshop was intended to replace the “Legislative Forums” that were part of ELIPS II’s initial workplan but had to be postponed and finally cancelled because of recurring security issues. The workshop was developed against the backdrop of the intense legislative reform efforts that has taken place in Indonesia following the 1997 financial crisis, the subsequent changes in the laws governing the institutional form of government in Indonesia (e.g. Parliamentary reforms, law governing regional autonomy, the proposed Constitutional Court), and the establishment of new institutions to implement new economic law (e.g. fiduciary transfer registry, competition commission). Instructors in the course included: Bryant Garth of the American Bar Foundation; Anita Ramasastry and Veronica Taylor from University of Washington; and Stewart Macaulay from the University of Wisconsin.

Tax Law Curriculum Development. The teaching of tax in Indonesia has traditionally been done in economics faculties and business schools, with law schools offering only rudimentary coverage at best. Yet a lawyer’s perspective on tax policy and tax problems is often different from that of the accountant. The few tax professionals in Indonesia, both local and foreign, trained in both accountancy and law, have encouraged the law schools to provide training in tax law.

Two law schools decided to introduce tax into their curriculums - the University of Indonesia at the Master level (S2) and Gadjah Mada University at the level of the first law degree (S1). Both universities requested ELIPS II’s support for this new enterprise. Professor Charles Irish of the University of Wisconsin Law School, who also directs Wisconsin’s East Asia Legal Studies Center, was engaged to assist with this activity. As an initial step, Prof. Irish conducted a feasibility study, meeting with UI-UGM leadership and faculty and various tax professionals, including the Tax Advisory Committee of the American Chamber of Commerce and the Indonesian Director of Jardine Company. As a follow-up to the feasibility study, Prof. Irish returned to Indonesia in early 2004 to participate in weeklong workshops with potential tax teachers. Because the shortage of suitable teachers will not be resolved quickly, ELIPS II has provided each of the schools with a CD-ROM based course on tax law as an interim measure. (See Section D.4 (d) for further detail.)

b) Assist in the drafting of national level exam, exam administration protocols, and associated code of ethics for prospective legal practitioners.

Bar Admission Standards. In 2002, ELIPS II provided written materials obtained from U.S. bar associations and disciplinary bodies and provided them to Indonesian organizations involved in the development of a single bar

association. Later in 2002, ELIPS II cooperated with the American Bar Association in sponsoring two members of a seven person delegation who visited the U.S. to study the methods of admission to the bar, with emphasis on the bar examination process and the reporting on moral fitness prior to admission. ELIPS II-sponsored participants were Mulya Lubis of Judicial Watch, Indonesia, and Ibrahim Assegaf of Hukumonline.com. A major focus of the tour was a visit to the National Bar Admissions Council, located in Madison, Wisconsin. The emphasis on admission standards for a professional bar and the visit to Madison were particular contributions of ELIPS II to the jointly-sponsored study tour.

c) Strengthen professional associations, such as the Indonesian Bar Association.

Professional Association Development. The various legal professional associations in Indonesia have long resisted the idea of unifying, because of the fear that the government would have an easier time taking control of a single organization. The argument that a unified organization could be a more effective voice against the government, as it has been in many developing and developed countries, was effectively overlooked. The fall of the Soeharto regime in 1998 eased the way for those advocating unity, and ELIPS II assisted in that process by helping to sponsor the ABA study visit discussed in D.3 (b) above and by providing basic resource materials to all of the Indonesian professional lawyers associations.

Draft Advocates Act. ELIPS II made major inputs to the draft Advocates Act, which was passed in 2003 and provided for the formation of a unified professional association and a code of ethics. During the legislative process, two changes were made in the draft that had been advocated by ELIPS II and others: 1) the number of Indonesian organizations was increased from five to eight, most notably by the inclusion of the Legal Consultants (Solicitors) Association, and 2) the timeframe for implementation was reduced from five year to two years.

d) Assist in outreach efforts aimed at helping parliaments and local governments draft laws and regulations.

As discussed above (see Section D.3 (a)) ELIPS II has devoted significant resources to the development of a legislative drafting training capability at the University of Indonesia. Legislative drafters trained by ELIPS in Indonesia and at the Boston University Legislative Drafting program in the United States are now actively training members of local parliaments throughout Indonesia in legislative drafting skills. These trainings are paid for by the local governments themselves, with ELIPS II support being limited to the provision of training materials.

e) Assist in outreach efforts to media.

While no specific activities were undertaken with the media, the media were involved in many ELIPS II activities. All short-term in-country seminars

attempted to include the media in some way to inform them of developments in the area of economic law. The media was also specifically involved in ELIPS II work on the anti-terrorism law; a leading member of the print media was engaged in the entire process of drafting the anti-terrorism law and also participated in a trip to the United States to meet with anti-money laundering and counter-terrorism officials. Finally, ELIPS II worked closely with the PPATK to insure that a consistent message was delivered to the media concerning Indonesia's progress toward getting off the FATF's NCCT list.

f) Assist the dissemination of legal materials and documents.

Legal Databases. ELIPS II provided a custom Bankruptcy database, the State Gazette database, and the Civil Code database to each of the universities participating in the distance learning program. Unfortunately, it appears that these databases are receiving little use, for two reasons. First, there is still a shortage of library computers in the regions outside of Jakarta, and since these databases are not distributed widely, due to their cost, students can only access them at libraries. While one solution would be to provide for wider distribution, this could destroy the nascent publishing industry that relies on income from limited distribution to keep its products up-to-date. Second, law teachers do not require students to do even the most rudimentary research as part of their coursework. Until teachers begin instilling a research attitude in students, it is doubtful that any of these materials, no matter how accessible, will be used at Indonesian universities.

Basic Books. The ELIPS I project produced a number of "Basic Books," intended to provide a relatively brief introduction to a subject of law, with an emphasis in many books on law in action. ELIPS II supported the updating of two of the most popular books and commissioned a new book entitled Introduction to the Indonesian Legal System. University of Kansas Law Professor John Head was engaged to update his Introduction to Economic Law to incorporate introductory text on several developing areas of law, including cyber law. Paramita, a faculty member at Diponegoro University who received her LL.M. degree under ELIPS I sponsorship, edited the changes in Indonesian. Another basic book selected for revision was Topik-Topik, a collection of some 40 syllabi for economic law courses. Although Indonesia has long required teachers to have a syllabus, many of these syllabi are akin to course catalog descriptions rather than guides to the actual topics covered in the course. Topik-Topik contains both generic syllabi for law subjects, including some new areas of law, and examples of syllabi used in Indonesian law schools.

Felix Soebagio, a distinguished member of the UI law school faculty and a named partner in one of Jakarta's leading law firms, was selected to develop the text of Introduction to the Indonesian Legal System. This 200-page book is now complete in both English and Indonesian and the University of Indonesia has indicated an interest in publishing it.

4. Develop human and ICT resources.

a) Organize training workshops, seminars, and forums.

Faculty Workshops. In 2002, ELIPS II sponsored two workshops at Hasanuddin University (UNHAS) and Sam Ratulangi University (UNSRAT) with invited faculty, and organized another presentation for lawyers and faculty from several law schools. At these events, University of Indonesia faculty member Adijaya Yusuf and ELIPS II consultant Prof. John Head led discussions focused on the direction to be taken in the new editions of their basic books, respectively Topik-Topik and A General Introduction to Economic Law.

Economic Impact of Terrorism Conference. Also in 2002, ELIPS II and the Partnership for Economic Growth (PEG) co-sponsored a major conference on the economic impact of terrorism. ELIPS II speakers Koid Swee Lian, head of the Financial Intelligence Unit at the Central Bank of Malaysia, and Jerry Rowe, a retired IRS money laundering expert, made presentations on financing of terrorism and money laundering. The conference was attended by over 200 participants from academia, government and the private sector.

b) Arrange for short-term internships.

Law Firm Internships. During the summer university breaks in both 2003 and 2004, ELIPS II arranged and supported three-month internships for selected law school faculty in cooperation with four of Jakarta's leading private law firms. A total of nine interns were selected competitively from junior law school faculty who had participated in ELIPS II programs in the past. The program was restricted to candidates from outside Jakarta who would not otherwise have the opportunity to practice in a leading law firm, and was designed to provide participants with practical experience in economic law that would strengthen their teaching at law school and in CLE courses. The interns met weekly with ELIPS II's Legal Education advisors, and prepared weekly summaries of their activities. The advisors also met with the supervising attorneys in the participating firms to monitor the interns' progress. Both the interns and the participating firms reported strong satisfaction with the experience.

Workshops and Internships for KPPU Commissioners. In late 2002, ELIPS II supported participation of two KPPU commissioners in the Antitrust Workshop in Sedona, Arizona. ELIPS II also organized and supported the attendance of the KPPU Executive Director in (i) the International Competition Network Merger Investigation Workshop in Washington and (ii) a two day program, together with one commissioner, at the Federal Trade Commission covering non-substantive, i.e., mostly administrative, functions such as the commission secretary, human resources, communications, general counsel, and library. Finally, ELIPS II arranged a September 2004 Washington internship for the KPPU's Director of Communications, to focus on the FTC's outreach and public relations activities.

c) Fund Master degree training for up to 30 candidates.

Overview. ELIPS II selected, prepared, and fully supported 30 candidates for Masters degree training in the United States.⁴ A list of participants, their Indonesian institutional affiliations, and the U.S. law schools they attended is attached to this final report (Attachment 1). The first group of 13 Masters candidates was composed of eight men and five women, with an average age in the early 30s, of which ten were from five law school faculties and three from government ministries. The second group of 17 was made up of ten men and seven women, with an average age of about 29, of which 12 were from four law school faculties and five represented four government institutions or independent regulatory agencies. With one exception, all candidates in both groups completed their programs successfully and have returned to Indonesia. The one who did not complete his program has returned to Indonesia and his university has had discussions with the University of Washington to allow him to finish his degree in the near future.

Candidate Selection. U.S. law schools require a level of English that is far beyond the capabilities of most Indonesian law graduates, who are products of an educational system that provides inadequate foreign language training. In addition to fulfilling the language requirement, candidates for ELIPS II-supported overseas LL.M. programs were required to be either junior faculty members or government lawyers whose careers would increasingly deal with matters of economic law. A candidate also needed the support of the Dean or Department Head and key colleagues, to be assured of later service within the law school or government agency. ELIPS II identified an encouraging number of candidates who met these criteria except for the English language requirement. So the obvious need was to support English language training for the otherwise qualified candidates.⁵

Pre-Departure Preparation. To prepare potential candidates for study in the U.S. and help them improve their English language skills, ELIPS II developed three pre-LLM programs that combined introductions to the common law with some of the best English language training available in Indonesia. Both the law component and the language section provided for

⁴ The participating U.S. law schools were the University of San Francisco, University of Washington (Seattle), American University (Washington, DC), and the University of Wisconsin (Madison). In addition, ELIPS II provided support for a Padjajaran University (UNPAD) faculty member who had received a Fulbright Scholarship for LL.M. studies at John Marshall School of Law in Chicago, Illinois, in order to cover the difference between the Fulbright stipend and his actual costs.

⁵ Since the ELIPS II Advisors were convinced they could select Indonesians with the character and academic ability to complete their Masters programs, they needed to convince one or more U.S. law schools to trust their judgments about these candidates' abilities. In effect, ELIPS II asked the U.S. schools to make not one but two concessions: 1) to lower the 580 (237) or higher TOEFL requirement for admission to 550 (213); and 2) to provide, in addition to student advisors, a faculty member who would meet weekly with an ELIPS II candidate to make sure that he or she remained on track.

interactive teaching, written exams, and individual assessments based on class performance. The first program (13 weeks) was subcontracted to the University of San Francisco Law School (USF) and the Indonesian-Australian Language Institute. The second program (5 weeks) was primarily taught by Professor Paul Brietzke of Valparaiso University. The third program (10 weeks) involved a distance-learning course developed by USF (with both an original CD-ROM and synchronous on-line internet feedback between the candidates and the instructor) and language training by the British Institute in Jakarta. ELIPS II advisors taught in all of these courses as part of the process of readying the students and evaluating their capacities to accomplish the LLM.

Visa Requirements. ELIPS II LLM program participants confronted an obstacle arising from the tightened requirements for obtaining U.S. student visas, a result, of course, of the heightened security concerns post-9/11. These new requirements imposed a mandatory waiting period (up to six months for the last group of candidates) and were continuously evolving, and there was a lack of clarity as to the specific rules. For example, visa processing could be held up because a computerized database was not set up to accommodate Indonesians with only one name. Eventually, ELIPS II and USAID were able to overcome this formidable obstacle so that all candidates in the 2003/04 group were issued their visas in time to begin their LLM programs in the Fall of 2003.

Tuition Discounts. The home office of Checchi and Company Consulting, Inc., the implementing subcontractor for ELIPS II, worked closely with ELIPS II Advisors to arrange for significant tuition discounts with three of the U.S. law schools - American University, University of Wisconsin and the University of San Francisco. These discounts saved the Government over \$110,000 in tuition payments and made it possible for all 30 candidates to receive funding toward the LLM. The University of Washington (Seattle) was also very cooperative, providing outstanding assistance to ELIPS II candidates during and following their stay in Seattle.

d) Determine the relative ICT needs at participating institutions.

Needs Assessment and Planning Activities. To determine the relative ICT needs of participating institutions, ELIPS II advisors visited numerous law schools, technology vendors and other interested parties in Jakarta, Surabaya, Jayapura and Bali in December 2001. The premise of the needs assessment was that a successful Indonesian economic law distance learning capability meeting the minimum standards for accessibility, reliability, sustainability and scalability, requires the integration and engagement of Indonesian law professors, Indonesian technical professionals, Indonesian-based content development and delivery technologies, and Indonesian law students and professionals.

Pilot Courses and Lessons Learned. Based on the 2001 study and a planning workshop in February 2002, two semester-long courses on Bankruptcy and

Intellectual Property Rights were designed to have both a synchronous and asynchronous content components. With respect to both the synchronous and the asynchronous component for both courses, substantial resources were expended in planning their development and implementation. Despite this planning effort and extensive training in the use of this technology, the Indonesian professors delivering the two courses made only limited use of the asynchronous ICT content development and delivery tools and quickly reverted to their traditional lecture-only teaching format. The failure the Indonesian ISP to implement all of the required asynchronous features of the distance-learning application further compounded the problem.⁶

Despite the problems and difficulties experienced in the Bankruptcy and Intellectual Property Rights courses, progress was made with regard to the objective, to prove the concept of distance learning. Two other courses, Introduction to American Law and Evaluating Legislation (discussed elsewhere in this report) benefited substantially from the lessons learned in developing and delivering the asynchronous components of the Bankruptcy and Intellectual Property Rights courses. Unlike the two semester-long pilot courses, which used both synchronous and asynchronous methods to deliver course content, the Evaluating Legislation course and the Introduction to American Law course utilize only asynchronous methods to deliver course content.

The two main lessons learned, and now incorporated into the method of delivery for ELIPS II courses, are: (a) store the course content on each user's workstation (either directly on the hard drive or on a CD-ROM), to avoid the problems of reliability and connectivity associated with delivering course content over the Internet; and (b) use more mature and reliable Internet applications for the communication and collaboration components of each course, to achieve a more reliable capability for accessing content and for communication and collaboration.⁷

CD-ROM Course Development. Based on these lessons, ELIPS II advisors developed two additional courses for distribution on CD-ROM. The first course was "International Sales Transactions." The course, consisting of 14 hours of lectures, interactive quizzes, readings and slide shows, has been used at universities throughout Indonesia. At Surabaya University, the International Sales Transactions course has been delivered to all undergraduate students in the commercial law program and has been well

⁶In addition to the difficulties associated with the development and delivery of the synchronous content for the Bankruptcy and Intellectual Property Rights courses, other factors contributed to a dwindling student enrollment by the end of the semester, namely: (a) the change to a not-for-credit status at the four participating universities for each of the courses; (b) a scheduling conflict at UGM; (c) the change in the Bankruptcy course, from a combined United States/Indonesian team taught course, to a United States only taught Comparative Bankruptcy course; and (d) the numerous cancellations of the Intellectual Property Rights classes due to personal scheduling conflicts on the part of the Indonesian professors.

⁷ Attachment 3 summarizes other lessons learned from ELIPS II-supported distance learning activities.

received by both teachers and students. The University of North Sumatra has used parts of the syllabus in a number of graduate and undergraduate courses on commercial law. The University of Indonesia uses the course and the translated reading materials in a wide range of undergraduate courses that touch on international transactions.

The final distance learning course prepared by ELIPS II was an “Introduction to Indonesian Tax Law.” The course consists of 28 lectures accompanied by a dedicated text. The course was developed after ELIPS II advisors worked with faculty at the University of Indonesia and at Gajah Mada University on the development of a tax law curriculum (see Section D.3 (a) for details). Since tax law is not taught at Indonesian law schools, this course not only introduces the subject to students, but also is meant to serve as a guide to teachers in designing future tax law courses. The tax law course was completed in September 2004 and has been distributed to over 100 schools throughout Indonesia.

e) Collect, translate and disseminate legal materials, including legal decisions via the media and Internet.

ELIPS II advisors Kenneth Yates and Charles Shapiro prepared a plan to make Supreme Court decisions available to the public via the Internet. The plan was shared with The Asia Foundation (TAF), which co-funded the follow-up activities. The Yates/Shapiro plan set out a system whereby local legal publishers would have access to all Supreme Court decisions so they, in turn, could make them available to the legal profession and universities. ELIPS II and TAF worked together through the mid-2004 to implement this plan, with TAF providing the equipment and ELIPS II training the Supreme Court staff who would be scanning and distributing the decisions. As of the date of this report, the Supreme Court has scanned in all decisions from April 2004 and TAF is working with the Supreme Court to develop a system for distributing the scanned copies of decisions to interested Indonesian legal publishers.

5. Partnership for Governance Reform

In early 2002, ELIPS II was asked to support the Partnership for Governance Reform by providing a legal-judicial advisor to the Partnership for one year.⁸ The legal and judicial advisor arrived in Indonesia in August 2002, but was evacuated in October under State Department orders resulting from the Bali bombings. From Washington, the advisor’s ability to provide support to the Partnership and the legal judicial reform team was severely constrained. Nevertheless, the advisor:

⁸ The Partnership for Governance Reform is an Indonesian organization created with funding from a number of multi- and bi-national donors including the UNDP, the World Bank, and the Dutch and British governments. USAID did not provide funds directly to the partnership, instead choosing to provide one of four foreign advisors. Other advisors worked on anti-corruption and management issues.

- Helped shape the Strategy and Work Plan for 2003 by providing written comments to drafts.
- Met with members of the Indonesian Supreme Court who were in Washington on a study tour to discuss planning for a possible program with Partnership funding to support creation of a judicial code of ethics and disciplinary system. This work is ongoing and involves obtaining input from other donors.
- Obtained relevant information and materials for use in Partnership legal reform programs.
- Continuing to communicate with the donor working group on legal judicial reform and to plan for the CGI.
- Worked with the National Law Commission on an extension of its program and a new proposal for additional funding in 2003-04.

E. GENDER CONCERNS

Awareness of gender issues was a concern for ELIPS II in planning and implementing project activities. ELIPS II ensured that an equitable number of women benefited from training and other project-supported events during the life of the project. Of the 30 LL.M. candidates sponsored by ELIPS II, twelve were women. Women also made up the majority of participants in short-term U.S. training programs.

F. FUTURE DIRECTIONS

In the aftermath of the events of September 11, 2001, and later the Bali bombings, the focus of the ELIPS II project's law development work shifted increasingly from commercial law to criminal law. Thus, while ELIPS II made significant contributions to helping develop the legal underpinnings for Indonesia's anti-terrorism and anti-money laundering regimes, its activities in the commercial law arena were limited to one review of the company law, a conference on the investment law, and a study of the secured transactions law.

Most of the commercial law problems that ELIPS II was expected to work on, before being diverted to criminal law matters, still represent hurdles to increased foreign investment. Indonesia's new president, Susilo Bambang Yudhoyono, campaigned on making Indonesia more "investor friendly," and it will be important for his administration to address lingering commercial law issues in order to achieve this goal.

Indonesia's bankruptcy law is among the most frequently discussed reform targets. The current law, which has been exploited by unscrupulous individuals in attempting to plunder two international insurance companies, allows the commercial court to put a company into bankruptcy if there are two debts that are both "due" and "have not been paid." The intention of the law's drafters was to make it difficult for the majority owners and officers of the bankrupt company to fraudulently transfer company assets while court proceedings were being dragged out. However, in the two cases that have

made national headlines the commercial court ruled that such debts included unsettled contract disputes, when in fact these disputes should have been sent to trial court for resolution before being classified as due and not paid. The incentive for this type of suit is that it allows court-appointed receivers (who in both cases have been affiliated with the law firms bringing the original bankruptcy actions) to loot cash rich companies in the receivership process. There have been calls for reforms to the law that would either exclude insurance companies from the current bankruptcy regime, or require the court to apply some sort of solvency test before sending any company into bankruptcy.⁹ Whatever reforms the Indonesian government decides on, their choices need to be informed by careful study of the situation and the impact of proposed reforms on the still weak legal regime for bankruptcy.

Weaknesses in Indonesia's secured transactions law and registry system also need to be addressed. As policy, the law was supposed to make it easier for businesses to utilize their capital as collateral for loans, which would cost less because of reduced risk to the lender. The law specifically was not intended to apply to consumer credit. However, the law passed by parliament has failed on both counts. There are several reasons for this failure. First, since a land titling model was used in framing the law, businesses are unable to effectively use the system to collateralize inventory. Second, the threshold amount for loans that must be registered was set too low, overwhelming the system with tens of thousands of consumer loans for motorcycles and appliances. Third, the registry is not open to lenders, so they cannot establish whether the same collateral has been used to secure other loans; moreover, the government's decision to create provincial registries means that, even if lenders were given access to this information, they would have to check more than 30 separate registries.

Other areas of commercial law that need to be reformed if Indonesia is going to attract foreign investment include company law, corporate governance, and investment law. Arguably, it is still too difficult to incorporate in Indonesia and the government remains inflexible about allowing corporations to engage in more than one area of commerce. While Indonesia's weak corporate governance has not had a chilling effect on the stock market, it is not inconceivable that the exposure of questionable practices at a few key corporations could bring the market crashing down by highlighting the lack of good governance in general. Investment law is still at the draft stage and could be improved by provisions to ensure a level playing field for all investors.

Finally, no matter how good the law, it cannot have the desired effect without an honest and professional judiciary. While The Asia Foundation has had a small project at the Supreme Court and the IMF has been training

⁹ The first reform is probably the more promising of the two, but consideration needs to be given to other types of companies that might be excluded, e.g. pension companies that have large liquid reserves. The second reform may be less desirable as it would require sophisticated jurists to apply the solvency test.

commercial court judges, there is still much to be done in the area of judicial reform. The current Chief Justice does not have a strong power base in the government or the court, but he is reform minded, and donors could assist him in building support for reform within the court. At the same time, the Supreme Court must be encouraged to use its newly acquired control over the entire court system to enforce discipline in the courts.¹⁰ Just how USAID/Indonesia can have an impact on the courts will be determined largely by the amount of resources the Mission is prepared to allocate to the reform effort. To have any chance of success in this realm, there will need to be a multi-pronged capacity-building strategy, coordinated with the IMF and other donors, and assisted by the legal profession, academia and the NGO community.

¹⁰That the Supreme Court remains reluctant to issue instructions to the lower courts even when it observes a string of bad decisions being made is illustrated by the insurance company bankruptcy cases. In the first case, the court overturned the commercial court's decision but did nothing to explain its reasons to either the court or the general public. In the second case, the court provided legitimate reasons for overturning the commercial court's decision, but failed to follow-up with instructions for handling future cases with similar sets of facts.

Attachment 1: LL.M Program Participants

Name of Participant	Institutional Affiliation	U.S. Law School	Duration of Program
Lie Li Tjuen	Pattimura University	University of San Francisco	August 2002 - May 2003
Ana Rusanawaty	University of Indonesia	University of San Francisco	August 2002 - May 2003
Fatahilla	University of Indonesia	University of Wisconsin, Madison	August 2001 - January 2003
Yetty Komalasari Dewi	University of Indonesia	University of Wisconsin, Madison	August 2002 - May 2003
Melania Kiswandari	University of Indonesia	University of Wisconsin, Madison	August 2002 - August 2003
Sutra	Hasanuddin University	University of Wisconsin, Madison	August 2002 - January 2004
Henny Marlyna	University of Indonesia	University of Wisconsin, Madison	August 2003 - May 2004
Wenny Setiawati	University of Indonesia	University of Wisconsin, Madison	August 2003 - May 2004
Nisa Istiani	University of Indonesia	University of Wisconsin, Madison	August 2003 - May 2004
Rosewitha Irawaty	University of Indonesia	University of Wisconsin, Madison	August 2003 - May 2004
Reny Amir	Secretariat of the National Parliament	University of Wisconsin, Madison	August 2003 - May 2004
Rendy Wahyu Prasetyo	University of Indonesia	University of Wisconsin, Madison	August 2003 - June 2004
Brian Prastyo	University of Indonesia	University of Wisconsin, Madison	August 2003 - May 2004
Wisnu Aryo Dewanto	University of Surabaya	University of Washington, Seattle	September 2002 - July 2003
Eko Suseno Agung Cahyanto	Secretariat of the Cabinet	University of Washington, Seattle	September 2002 - August 2003
Andy Sandi A. T. Tonralipu	Gadjah Mada University	University of Washington, Seattle	September 2002 - July 2003
Edmon Makarim	University of Indonesia	University of Washington, Seattle	September 2002 - December 2003
Purnomo Sucipto	Secretariat of the Cabinet	University of Washington, Seattle	September 2003 - June 2004
Troeno Morayoga	Secretariat of the Cabinet	University of Washington, Seattle	September 2003 - June 2004
Muhammad Yusufidli Adhyaksana	Attorney General's Office	University of Washington, Seattle	September 2003 - June 2004
Inderanta Depari	University of Indonesia	University of Washington, Seattle	September 2003 - August 2004
Junaidi	KPPU	American University	December 2002 - December 2003
Winner Sitorus	Hasanuddin University	American University	December 2002 - December 2003
Helli Nurcahyo	KPPU	American University	December 2002 - December 2003
Sonya Claudia Siwu	University of Surabaya	American University	August 2003 - May 2004
Sanusi Bintang	Syah Kuala University	American University	August 2003 - May 2004
Hadi Rahmat Purnama	University of Indonesia	American University	August 2003 - May 2004
Yoserwan	Andalas University	American University	August 2003 - May 2004
Ranggalawe Suryasaladin Sugiri	University of Indonesia	American University	August 2003 - June 2004
Restu Debrian Mahyuni	National Law Reform Agency	American University	August 2003 - September 2004

Attachment 2: Short-Term Training Programs, Study Tours, and Workshop/Seminars

Program Description	Dates	Location	Estimated Participants
Anti-Corruption Study Tour	November 2001	Washington, DC and Florida	8
Pre-LLM Program/Intensive English Training	January-April 2002	Bali	36
Bar Association Study Tour	May 2002	United States	2
E-Learning Teaching Strategy Workshop	June 8-9, 2002	Bali	14
Basic Books Workshop	June 2002	Jakarta	40
Assessing Legislation Workshop	June 7, 2002	Jakarta	10
Legislative Drafting Training of Trainers	June 8-9, 2002	Jakarta	30
Legislative Drafting Course	July 7-20, 2002	Jakarta	80
Assessing Legislation for Members of Parliament	23 -24 July 2002	Jakarta	20
Seminar on Draft Investment Law	July 23, 2002	Jakarta	100
ICT Law Seminar	July 2002	Jakarta	75
Pre-LLM American Legal System Training Program	July-August 2002	Jakarta	35
Conference on Economic Costs of Terrorism (co-sponsor)	July 2002	Jakarta	200
Advanced Training in Legislative Drafting	September-December 2002	Boston, Massachusetts	5
Anti-Terrorism Seminar	August 26-29, 2002	Honolulu, Hawaii	1
Sedona Anti-Trust Conference	November 14-15, 2002	Sedona, Arizona	2
ICN Merger Workshop	November 21-22, 2002	Washington, DC	1
KPPU Basic Skills Course	July-August 2003	Jakarta, Bogor	40
Pre-LLM Program/Intensive English Training	January-March 2003	Jakarta	34
Advanced Training in Legislative Drafting	January-April 2003	Boston, Massachusetts	2
Investment Law Seminar (with Muhammadiyah University)	April 10, 2003	Jakarta	150
Workshop on Empirical Research Skills	June 30-July 11, 2003	Madison, Wisconsin	20
Seminar on Bankruptcy Law	July 29, 2003	Jakarta	120
Law Firm Internships	June-August 2003	Jakarta	4
Training for KPPU Staff: Industrial Organization	August 28-September 7, 2003	Bogor	40
Legal English for KPPU Staff	October 2003--January 2004	Jakarta	20
Launching CD-Rom Course on Evaluating Legislation	2003-2004	Indonesia (various)	1000
Tax Law Workshops for University Teachers	February 2004	Jakarta, Yogyakarta	38
Legislative Drafting Course	February 16-28, 2004	Jakarta	80
KPPU Professional Skills Course	March 2004	Jakarta	40
Law Firm Internships	June-August 2004	Jakarta	5
Multilateral Conference on Cybercrime	August 24-28, 2004	Hanoi, Vietnam	2

Attachment 3: Distance Learning Program – Lessons Learned

- Indonesian law professors are comfortable in imparting content using synchronous videoconferencing lectures, but have limited computer experience, and hence are uncomfortable in incorporating the asynchronous features of a distance-learning application for delivering content. Over time, as Indonesian professors become more familiar with ICT, their use of the features and functions of any distance-learning application for the delivery of asynchronous content should improve – how soon and by how much, however, will require further experimental use of ICT by these professors.
- United States law professors, on the other hand, having substantially more experience in the use of computers, are extremely comfortable in developing and delivering content both synchronously and asynchronously.
- Teaming up Indonesian law professors with counterpart subject matter United States law professors for the Bankruptcy and Intellectual Property Rights courses did not work as well as initially planned. Indeed, the Bankruptcy course changed in mid-semester from a team taught course to a course taught solely by the U.S. professor. The principal reason the teaming-up approach did not work as planned is due primarily to the Indonesian law professors' need or desire to turn over responsibility for content development and delivery to the United States professors. Any future team taught course will require substantially more cooperation and communication between the Indonesian professors and their counterparts outside Indonesia in the planning, development and delivery of all course content.
- Indonesian professors, in addition to being unfamiliar with the potential benefits of using a distance-learning application for delivering course content, appear to be far more comfortable than U.S. law professors in “winging” a lecture from notes rather than engaging students in classroom discussion based on readings and research assignments. Change in Indonesian law school teaching pedagogy will be far slower than anticipated.
- Most Indonesian law students, even at the S-2 or S-3 levels, are not as advanced in English-language skills as initially thought. Accordingly, delivering content in English presents a learning barrier for most students. Thus, any future semester-long mediated course, to be effective, will require all critical content delivered in English asynchronously to be translated to Indonesian (e.g., the audio portion of the lecture, any accompanying reinforcing text, etc.).
- Students at the receiving universities, in addition to inadequate English-language skills, require more knowledge about the course

expectations, particularly for any course with content delivered asynchronously. Stated differently, any future distance-learning semester-long mediated course will require better marketing, both by the receiving universities and by the Indonesian professors teaching the course. The students will also require more training in the use of computers and in the use of distance-learning application software.

- ICT used to deliver live videoconferencing lectures is unreliable. Moreover, even if Telekom can improve on the reliability of the ICT that it is employing, the variable telecommunication costs to provide live videoconferencing lectures (approximately \$100 an hour for each sending and receiving university, or approximately \$3,000 per semester for each sending and receiving university for a two-credit course) results in making the use of live videoconferencing for the delivery of synchronous lectures to multiple universities throughout Indonesian problematical, at best, in terms of the minimum standards for the criteria of “sustainability” and “scalability”.
- It is questionable whether deploying edge servers at university computer centers for delivering asynchronous content will meet the minimum standards for the criteria of “sustainability” and “scalability” in the near term. Although moving content closer to the end-user – in this case, the student – is the correct strategy in limited bandwidth environments, this solution requires technical personnel sufficiently trained and motivated to deploy, configure and maintain these servers. There is serious doubt that this technical expertise is available in Indonesia.
- Given the communications infrastructure in Indonesia and the limited bandwidth availability, both over the Internet and within local area networks, delivering audio/video content over the Internet from a central source is highly problematic; at best, at least for the near-term, any content delivered over the Internet will need to be limited to audio only.
- Given these limitations of delivering asynchronous content over edge servers or over the Internet, the only near-term feasible means of implementing a distance-learning capability in Indonesia for asynchronous content is through disk-based web products. In this regard, the disk-based web features and functionality being employed by ELIPS II appear to more than meet the minimum standards for accessibility and reliability.