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JUSTICE INSTITUTIONS STRENGTHENING PROGRAM

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1st Quarter FY2011 Report

October 1, 2010 – December 31, 2010



Timorese Investigators Attend Anti-Corruption Commission

Investigator Training

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TIMOR-LESTE JUSTICE INSTITUTIONS STRENGTHENING PROGRAM (JISP):

On May 10, 2005, USAID/Timor-Leste (USAID/TL) awarded IQC Contract No. DFD-I-00-04-00175-00 to Management Sciences for Development, Inc. to implement JISP. The present period of implementation is set to expire on June 30, 2011.

EXECUTIVE SUMMARY

JISP builds administrative and management capacity in Timor-Leste's justice sector institutions by providing training and technical support in the areas of general administration, strategic planning, financial management, human resources administration, good governance and anti-corruption practices. The core approach of MSD is to provide parallel academic and practical training through long-term courses such as the Executive Financial Management and Training Support Program (FMST) currently being administered. JISP also deploys experts and advisers to provide technical assistance and support for capacity-building in several justice agencies. A key objective of JISP is to enable justice sector institutions to perform key management functions, enhance their effectiveness, develop greater efficiency in their day-to-day operations and increase their capacity to perform their mandated functions under the law. Various contract modifications over the past five (5) years have enabled JISP to consolidate and refine its support for justice and accountability institutions. JISP currently provides support to the Anti-Corruption Commission (CAC), Office of the Public Defender (OPD) and the Ministry of Justice.

During the reporting period, Roger Batty replaced Gerard Mosquera as Chief of Party. Mr. Mosquera resigned his position to fill an appointment with the Philippine Government. Programmatically, a number of important achievements were reached this quarter. These achievements included the commencement of investigation training for newly recruited investigators in the ACC and the production of operations manuals for the same organization. Financial Management and Basic Auditing courses continued successfully, and the roll-out of administrative skills to the Public Defender's District Offices commenced. In addition, MSD facilitated the participation of four Government of Timor-Leste (GoTL) officials in the 8th Annual Post Graduate Certificate in Corruption Studies at the University of Hong Kong as well as the attendance and participation of four other GoTL officials at the 14th International Anti-Corruption Conference in Bangkok, Thailand.

Also during the period, a revised work-plan based on the previously approved budget realignment received USAID concurrence and implementation commenced. This quarterly report notes progress made both in implementing the new plan and the targets set out in the 4th quarter report together with an account of the logistical challenges faced and the actions taken to address them.

In coordination with the USAID Timor-Leste Democracy and Governance Office, the MSD project team implemented the following activities during the reporting period:

JISP 2010/2011 work-plan revised and approved. After a thorough and comprehensive review by the USAID Mission and MSD home office, the USAID Regional Contracting Office (RCO) approved the proposed budget realignment for the project implementation period ending on June 30, 2011. Following this approval a revised work-plan was drawn up and has now received USAID approval. The plan has seven key elements:

- Supporting the Public Defender
- Supporting efficient judicial administration
- Supporting the organization of the Anti-Corruption Commission
- Producing an assessment of the investigation policies and processes of Timor-Leste's investigation agencies
- Building capacity for audit in the Office of the Inspector General
- Building an academic foundation for anti-corruption
- The Financial Management Training and Support Program

MSD continued to assist the Anti-Corruption Commission (CAC) to develop and implement its strategic and institutional development plan, produce operating manuals and commence investigator training. The CAC has a broad mandate to combat corruption and related activities committed in the public administration against the public trust, through investigation, prevention and public education. The CAC has wide ranging powers designed to enhance its capacity to implement its mandate. Being an infant organization, its major challenge is to set-up operations, establish its manpower structure and develop initial staff capacity to conduct investigations. In this regard, Commissioner Aderito de Jesus Soares requested USAID and MSD support to organize his office and prepare basic planning documents that will guide the institutional development of the CAC. The USAID-funded Institutional Strategy Adviser Jose Brito was continuously deployed by MSD at CAC throughout the reporting period.

Mr. Brito developed several technical documents based on the legal framework of Timor-Leste and CAC organic law as part of training of CAC investigators. Main topics covered during the training were as follows: penal code; code of criminal procedure penal; criminal investigation techniques; developing criminal information; basic operational procedures.

Mr. Brito has also produced the following:

- A draft code of conduct for CAC's criminal investigators;
- Support and advice for the Commissioner and his senior staff (deputies and directors) for internal legal procedures and administrative actions, especially on the issues of crime documentation and contacts with media
- Providing operational guidance on how to deal with corruption complaints received by CAC
- Support and advice in preparation for CAC's recognition event for World Anti-Corruption Day (National Seminar held on 7 December 2010) and preparations for a CAC led seminar with Senior Government officials
- Advice on issues of corruption prevention and public education

- Advising about the need for recording and analyzing intelligence and procedures to develop it
- Advice on the construction of a manual case management system, in preparation for transition to an electronic version and its compatibility with the national system current under development in the OPG and Courts
- Advice about administrative procedures relating to case management and the handling of files, documents and procedures for reception and incoming/out coming of documents

The major development in this quarter however was the commencement of training for the nine new investigators recruited by CAC. Whilst most of the investigators have university degrees, they have no previous investigation experience and hence training at this stage has been limited to very basic concepts of crime, law, investigation processes and criminal procedures. Mr. Brito has also started the process of planning the transition from this training to the training which will be offered to the CAC through the MCC Threshold Program.

MSD Administration Adviser continues support for improvement of manual file management and general administration at Public Defenders Office (PDO). USAID-funded Administration Specialist Esmerina Petutschnig continued to implement the PDO Head Office processes for registration, movement recording and storage of the Public Defender's manual file management system which she designed. The manual system has been designed to facilitate easy conversion to an electronic system and to ensure compatibility with the national inter-agency case management system which is in the course of development. This has involved close liaison and cooperation with AUSAid's Justice Facility and UNDP. Mrs. Petutschnig also addressed and implemented changes to the routine office processes at the PDO. Having been pilot tested in the Dili Central Office, Mrs. Petutschnig commenced the roll-out of these systems to the PDO's four District Offices. Specifically, the following results were generated:

- An agreement was reached for the mapping of the workflow of criminal and civil case records and implementation was commenced
- Design of standard forms for the proposed electronic records management system of the PDO was completed
- Roll-out of the newly designed processes to PDO's district offices commenced at Baucau
- Mrs. Petutschnig was appointed to represent the PDO on the Justice Facility's working group tasked with implementing the national electronic case management system and as such contributed to its design to take account of features unique to the work of the PDO
- Provided additional technical assistance in the preparation of the PDO budget proposal to the Ministry of Justice
- Initiated procurement processes for the supply of filing cabinets and supplies to accommodate the filing system in Dili Central and District offices

Initial roll-out visits to the three other district offices (Suai, Oecusse and Maliana) and follow-up work in Baucau will take place during the next reporting period.

Public Defender renews request for continuing USAID/MSD support. At a meeting on December 7, 2010 with Ron West, Roger Batty and Esmerina Petutschnig, the Public Defender, Dr. Sergio Hornai expressed appreciation for the support he had received from

USAID/MSD and asked that it be continued. Although he had been unable to accommodate the proposed assistance of Mr. Alex Nicholas as it was to a large extent a duplication of work being done by UNDP, he was very keen to have USAID/MSD assistance to recruit and fund the services of a Public Defender Inspector. He reported that he was currently awaiting the creation of the Superior Council for Public Defense. Once that has taken place, Dr. Hornai intends to formally request funding of the Inspector position from USAID. He pointed out that the PDO has entered into an exchange program with the Public Defender's Office of Brazil and was confident that MSD's use of this vehicle would facilitate the recruitment of a suitably qualified and experienced Inspector and Secretary to the Superior Council. Dr. Hornai also requested Mrs. Petutschnig's services be continued.

MSD Strategic Planning Adviser reassigned to researching the investigating capacities and inter-agency relationships of Timor-Leste's justice sector agencies: The deployment of USAID-funded Mr. Alex Nicholas to assist the Public Defender and Inspector General with strategic and operational planning was cancelled when it became apparent that the proposed assignment did not meet with the approval of the respective agencies. As a consequence, Mr. Nicholas' expertise has been utilized to meet a USAID request for a review of the workload demands facing the agencies of Timor-Leste which carry out investigation work as part of their mandates, of their capacities and skills levels to meet those demands and of the legal frameworks which govern their activities. The review will also identify if and how the agencies interact and communicate with each other and any logistical or other constraints which hamper their efficiency and the ability of the Prosecutor General to mount successful prosecutions arising from cases handled by these agencies.

The outcome of this review is intended to be a comprehensive report which highlights shortfalls and shortcomings which can then be addressed holistically, either by USAID or other donors, as USAID intends to share the document. Mr. Nicholas has also been tasked with producing a model Memorandum of Understanding (MOU) between the Inspector General and the Prosecutor General in which the modalities of their interaction and cooperation will be set out. This may be later used as a template for similar MOUs between the other role-players.

The agencies involved are:

- Office of the Prosecutor General
- Office of the Inspector General
- Anti-Corruption Commission
- The Provedor for Human Rights and Justice
- Customs
- The Banking and Payments Authority
- The Civil Service Commission

At the end of the report period Mr. Nicholas had completed the legal research and had almost finalized liaison with the agencies concerned. His report will be supplied to USAID on or about January 28, 2011.

With MSD support, the Office of the Inspector General (OIG) undertakes recruitment of USAID-funded Senior Audit Adviser. The Office of the Inspector General is one of the first offices established in the country and was already in operation pre-independence under the United Nations Transitional Administration (UNTAET). Over the years, the OIG has

received technical assistance in the form of advisers and consultants supported by various development partners. These advisers and consultants have conducted a series of capacity-building initiatives and activities to establish and enhance the capacity of OIG officers to conduct internal audit, inspections and investigations. There is a present need to rationalize these efforts, consolidate gains achieved, and intensify efforts to build the capacity of the OIG to perform its mandate to conduct internal audit as part of promoting transparency and accountability. On June 10, 2009, the Council of Ministers approved Decree Law No. 22/2009, creating the organs of the General Inspection of the State (GIS) that include the Inspector General, the Inspection Councils and the various operational units and services which will implement the mandate and technical activities required by the decree law. In essence, the OIG is mandated to perform internal audits and other interventions to ensure the sound management of financial, budgetary and financial resources of the government, evaluate and improve government systems, processes and procedures, and prevent waste, inefficiency and corruption in public financial transactions and operations. The principal priority of the OIG at present is to secure technical assistance to jumpstart its audit operations while its main complement of auditors are being trained under JISP's EFMTS and BAC courses.

The Inspector General requested USAID assistance to support the engagement of a Senior Audit Adviser to provide technical assistance and training to the audit staff of the OIG, and this request has been approved by USAID. In this regard, a selection panel composed of the Inspector General and his Deputies, with MSD assistance, completed the selection process for a USAID-funded Senior Audit Adviser for the OIG. As of writing, deployment of this adviser was awaiting USAID Regional Contracting Office approval.

Executive Financial Management (EFMTS) and Basic Auditing Course (BAC) continues. The previous quarterly report announced the launching of these 18 month courses by Her Excellency Judith Fergin, the United States Ambassador to Timor-Leste. Since then, course delivery has continued smoothly with weekly sessions for both classes. Attendance figures have been maintained and are actively monitored with remedial action being taken by the heads of the organizations whose participants skip classes without permission to do so. Early assessments have indicated good absorption rates. Participants in the EFMTS are middle to senior Managers from the Ministry of Justice, the Courts, the Office of the Inspector General, the Office of the Prosecutor General, the Provedor for Human Rights and Justice and the Public Defender. The Basic Auditing Course focuses on staff from the Office of the Inspector General. There are (30) participants in the EFMTS and (39) in the BAC, (8) of whom attend both sessions.

The EFMTS and BAC delivery team was brought up to full strength by the recruitment and appointment of Mr. Augusto Barreto, an extremely well qualified Timor-Leste national as Deputy Course Director who commenced duty on 22 November 2010. Mr. Barreto's appointment overcomes previously experienced difficulties in translating technical documents in Tetum.

Acting President of Court of Appeal expresses interest in the recruitment and appointment of an international adviser. During the prolonged absence from Timor-Leste of Judge Dr. Claudio Ximenes, the President of the Court of Appeal, his duties have been performed by Judge Dra. Maria Natercia Gusmao. The duties of the President of the Court of Appeal are onerous as not only is the office holder required to sit in Court and decide cases, but he/she is also required to administer the whole of the judiciary including strategic

planning, administration, human resource management, etc. Judge Natercia Gusmao believes there is a pressing requirement for an internationally experienced Judge to be appointed as adviser to the President of the Court of Appeal to perform functions similar to those undertaken by Judge's clerks in the Common Law system. Judge Ximenes is due to resume his duties in January 2011 and his views on this proposal will be canvassed by Judge Natercia Gusmao. If he is in agreement an approach will be made by the President of the Court of Appeal for assistance in recruiting and funding the position.

Anti-Corruption Commission and Court of Appeal request USAID/MSD assistance to provide basic administration training to newly recruited support staff. Between them, the Anti-Corruption Commission and the Court of Appeal have recently recruited and appointed (40) new support staff, few of whom have any previous experience of administration and office management. At the request of the Anti-Corruption Commissioner and the Acting President of the Court of Appeal, JISP has designed a course to introduce these staff, whose duties are vital to the smooth operation of the organizations, to administration processes, office management, ethics and record keeping. The proposal amounts the provision of (70) hours of training to be delivered at the rate of four hours per week over four months. The training would be delivered by the EFMTS/BAC team, principally the new Deputy Course Director without any significant impact on budgets. The proposal is currently with the organizations for review prior to a formal request for approval being made to USAID.

Request for USAID funding of replacement Inspector Prosecutor and Secretary to the Superior Council withdrawn. Following a written request from the Prosecutor General, and with USAID consent, MSD proceeded with a recruitment exercise to fill this important vacancy. A number of applicants responded to advertisements placed by MSD. The CVs of the applicants were forwarded to the Prosecutor General who identified (5) candidates for short-listing and interview. One candidate failed to respond to an invitation for interview and another was unavailable. Accordingly (3) applicants were interviewed either in person or by telephone on December 11. The Panel consisted of Dr. Aderito Tilman and Dra. Angelina Saldhana of the Prosecutor General's Chambers and Messrs. Ronald West and Roger Batty of JISP. Unfortunately, none of the three candidates were assessed as being suitable for the appointment. This was reported to the Prosecutor General who has since advised that the post will be filled by direct recruitment by her office and funded by the State budget. She has accordingly withdrawn her request for USAID/MSD assistance in this matter. At the same time she expressed her appreciation and thanks to USAID and MSD for their past assistance and is looking for further help with training from USAID. Some of her officers' training needs are to be met through the MCC Threshold Program and MSD will continue to maintain close contact with OPG through the implementation of recommendations made in Mr. Alex Nicholas' report.

Four National Leaders attend the 14th International Anti-Corruption Conference in Bangkok, Thailand. With USAID and MSD support, Commissioner Aderito De Jesus has led a delegation composed of himself, the Prosecutor General, Dra. Ana Pessoa Pinto, the Provedor, Dr. Sebastiao Ximenes and Anti-Corruption Deputy Commissioner Jose Neves to attend the 14th International Anti-Corruption Conference, the most prominent anti-corruption conference in the world. The conference in Bangkok, Thailand was held from November 10-13, 2010. Upon their return, all participants reported on the success of the event, its educational value and the many opportunities they had availed themselves of to interface with anti-corruption practitioners from around the world. In particular they were able to gain a

global perspective and to better contextualize Timor-Leste's corruption scenario and view it comparatively. All four intend to conduct in-house debriefings amongst their respective staffs to share the knowledge and experience gained.

Anti-Corruption Commission scholarship program sent four Timorese senior public officials to the Hong Kong University's Post Graduate Certificate Course in Corruption Studies. JISP and the Anti-Corruption Commission agreed to jointly sponsor a USAID-funded scholarship program to support four Timorese professionals to attend a Post Graduate Course in Corruption Studies from November 22, 2010 to December 6, 2010 at the Hong Kong University. With JISP providing secretariat support, the Commission identified its own Director of Investigations and her Deputy as two of the participants whilst invitation were also extended to and accepted by the Deputy Prosecutor General and the Deputy Provedor for Human Rights and Justice. All four have now returned and have reported on the course which they found challenging, yet rewarding. All four have been required to complete an individual written assignment which together with their performance in Hong Kong will be used to assess whether certificate awards are merited.

The plan is now in the course of implementation.

JISP facilitates Procurement Training. JISP played a minor role in facilitating training in single source procurement. The program responded to a request made by the Prosecutor General for this training and arranged for it to be delivered by Mr. John Blunt and EU funded procurement expert. About (50) participants attended the presentation on 15 December 2010. Participants included the Prosecutor General, the Inspector General, the Anti-Corruption Commissioner and the Provedor for Human Rights and Justice and their respective staffs.

Actions to be taken January 2011 to March 2011:

- Continue implementation of EFMTS and BAC courses
- Deliver an administrative training package for the Courts and the Anti-Corruption Commission
- Deploy a Senior Audit Adviser
- Transition from JISP Training of CAC investigators to MCC Threshold Program
- Design of CAC IT Platform and intelligence analysis system
- Continued operational advice to CAC
- Completion of Report on review of the capacity of Timor-Leste's investigation agencies
- Production of model MOU between Office of the Prosecutor General and the Office of the Inspector General
- Negotiations with President of Court of Appeal on the recruitment and deployment of an International Adviser
- Commence recruitment of Public Defender Inspector
- Completion of procurement of office furniture for Public Defender's Offices