

TECHNICAL ASSISTANCE COMPLETION REPORT

Department: OGC

TA No. and Name 3472-INO: A Governance Audit of the Public Prosecution Service			Amount Approved: \$1,000,000	
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Date of Report			TA Completion Date	
Approval	Signing	Fielding of Consultants	Original	Actual
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			Account Closing Date	
			Original	Actual
			31 Nov 2000	25 August 2003
Description <p>The Public Prosecution Service (PPS) of Indonesia consists of the Attorney General's Office (AGO), the high public prosecution offices (HPPOs), and the district public prosecution offices (DPPOs). There is a HPPO in each provincial capital, and a DPPO is in each district capital. The PPS is one of the principal institutions responsible for law enforcement in Indonesia (in addition to the police and the judiciary). It formulates policy for criminal justice, determines whether to prosecute, and undertakes all prosecutions. It has powers to represent the State and the Government in civil and administrative matters and generally to provide legal advice to Government agencies. The PPS has also assumed additional responsibilities in connection with the Government's anticorruption efforts following the economic crisis. As with other public institutions in Indonesia, however, the incidence of corruption, collusion, and nepotism in the PPS itself is high. Reforming the PPS to enhance its credibility and efficiency is essential for effective law enforcement and the administration of justice generally. The increased transparency, predictability, and accountability in the implementation and enforcement of public policies will facilitate economic activity in Indonesia and generally contribute to its recovery from the economic crisis.</p>				
Objective and Scope <p>The objective of the TA was to assist the PPS to begin enhancing its credibility and efficiency. Such assistance was provided through a governance audit of the organization, operations, and processes of the PPS to identify the strengths of and the constraints on the PPS.</p> <p>The scope of the TA included an audit of the AGO and six selected HPPOs and DPPOs, followed by a series of workshops (at least one workshop in Jakarta and in each province of Indonesia) with all relevant stakeholders to discuss the preliminary results of the audit and recommendations and to obtain their feedback. The audit categories were (i) the nature and purpose of the PPS; (ii) the management of the AGO, HPPO, and DPPO operations; (iii) data compilation and management; (iv) resource management and allocation; (v) human resource management of PPS personnel; (vi) integrity and ethics of PPS personnel; (vii) training and continuing legal education of PPS personnel; (viii) public accountability; (ix) relationship between the PPS and other agencies; and (x) PPS response to commercial crimes. Specific recommendations for each audit category were to be prepared, as appropriate, together with outline plans to reform and improve the PPS.</p> <p>The TA was designed so that many consultants would be working in the field intensively for a short period (total of three months). There was support within the PPS and civil society for reform during TA processing, but the opposition was very strong. It was considered that a comprehensive and well-designed program of assistance to the PPS, supported by several donors, would strengthen the reform group. The governance audit would provide the necessary empirical data for such program of assistance, but it had to be completed quickly so that the PPS could be assisted before the window of opportunity closed.</p>				
Evaluation of Inputs <p>While necessary, the short period for TA implementation presented many practical difficulties. The consultants had to obtain various data from the AGO, HPPOs and DPPOs. Much of this data is highly sensitive and the PPS had never dealt with external audits previously. With more time, the consultants would have been able to put more PPS personnel at ease regarding the governance audit and obtained more relevant data. The international consultants were technically proficient in their respective fields. With more time, they would have become more familiar with the issues and problems facing Indonesia and the PPS. Also, the size of Indonesia and the condition of local transport infrastructure precluded the organization of workshops in Jakarta and every province. With more time, more workshops would have been organized in more provinces and better representation and feedback obtained for the reports. As it was, the time in the field for the international consultants was extended and the time for the domestic consultants was converted and the funds used for a variety of discrete Indonesian inputs (workshops, leadership honoraria, papers on relevant Indonesian legal topics, legal advice).</p>				

The team of international consultants selected by ADB was proposed by PricewaterhouseCoopers and the contract was signed with PwC. A PwC partner was one of the international consultants and he handled contract administration and liaison with ADB. The Jakarta office of PwC also contributed some personnel for the TA. But the substantive legal inputs largely came from international consultants associated with the British Institute of International and Comparative Law (the joint venture partner of PwC for this TA) and indeed a BIICL consultant was the team leader. This division of responsibilities, unfortunately, meant that ADB had to deal with two parties on TA implementation. Because those two parties did not always agree and the TA was implemented very intensively over four months, many contractual and other problems emerged which were only resolved after much effort and time. The performance of ADB and the consultants are rated satisfactory.

Counterpart support for the TA was very good. Qualified staff was seconded to help the consultants, suitable office facilities were provided, and support from senior levels of the PPS was clearly demonstrated at critical stages. The performance of the EA is rated highly satisfactory.

Evaluation of Outputs

The consultants delivered a *Transformation Action Plan for the Attorney General of Indonesia* and a *Final Report*, and conducted six workshops. All the outputs were delivered within the respective agreed schedules and are acceptable to both ADB and the Government. The findings and recommendations in the *Final Report* were in line with general expectations. The Appendices to the *Final Report* are particularly useful in that they serve as a compilation of useful data about the PPS in a single document. The objective of the TA was achieved in that the governance audit processes—interactions among the consultants and PPS staff, knowledge in the community that the PPS was undergoing a governance audit, etc—helped the PPS to begin enhancing its credibility and efficiency.

Overall Assessment and Rating

The TA is rated partly successful. The outputs are acceptable to both ADB and the Government. However, the Attorney General and other senior PPS staff who worked with the consultants were replaced while the *Final Report* was being finalized. Indeed the new Attorney General is generally not considered to be a champion for reform. ADB and other donors have refrained from committing substantial additional resources to assist the PPS until the Government indicates clearly that reform of the PPS is a priority. The *Final Report* has not been utilized in the manner envisaged originally. And the TA's goal of a credible and efficient PPS has not been achieved.

Major Lessons Learned

Governance and reform with respect to an institution such as the PPS are complex processes. The commitment of the Government is clearly required, but unambiguous wholesale commitment is almost never available. How much less from the ideal is still adequate for donors like ADB to take the first step depends on a variety of factors, including whether a window of opportunity plausibly exists.

The consultants with both technical expertise and deep familiarity with the local environment and institutions are most likely to provide analyses and recommendations that are useful, practical and not trite. For implementation purposes, the team leader must have clear authority over both substantive and contractual matters.

Recommendations and Follow-Up Actions

The *Final Report* has been presented to the Government and relevant donors. When ADB and the donors are satisfied the Government is serious about reform of the PPS, careful consideration should be given to revising and updating the *Final Report* so that it is as germane as possible.