

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 1, YEAR 1967
CONCERNING
FOREIGN INVESTMENT

BY THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering :
- a. that throughout the territory of this country, as a blessing of God, potential economic resources are found abundantly which have not yet been transformed into real economic strength because of among other things, lack of capital, experience and technology;
 - b. that *Pancasila* is the spiritual basis for the development of the Indonesia economic system and should always be reflected in economic policy;
 - c. that economic development requires transformation of potential economic resources into real economic strength through investment, utilization of technology, expansion of knowledge, improvement of skills, and increases in organization and managerial ability;
 - d. that efforts to overcome economic decline and further develop our economic potential should be based on the capabilities and capacities of the Indonesia people themselves;
 - e. that nevertheless this principle of relying on our own capability and capacity should not lead to reluctance to make use of foreign capital, technology and skill, so long as there are truly devoted to serving the economic interests of the people without causing dependence on foreign countries;
 - f. that foreign capital should be utilized to maximum advantage in order to accelerate the economic development of Indonesia, as well as utilized in other fields and sectors, where Indonesia capital for the time being is not yet being employed;
 - g. that it is imperative to devise clear regulations in order to fill the need for capital for national development, as well as to avoid uncertainty on the part of foreign investors.
- In view of :
- 1. Article 5 paragraph (1), Article 20 paragraph (1), Article 27 paragraph (2) and Article 33 of the Constitution;

2. The Decree of the Provisional Peoples Consultative Assembly of the Republic of Indonesia No. XXIII/MPRS/1966 concerning The Reform of The Basic Policies on the Economy, Finance and Development;
3. Note 1 of the MPRS of 1966 concerning Foreign Policy Based on *Pancasila*;
4. Law Number 1 Year 1960 concerning The Basic of Agrarian Regulation;
5. Law Number 37 Prp. Year 1960 concerning Mining, and Law Number 44 Prp. Year 1960 concerning Oil and Natural Gas;
6. Law Number 32 Year 1964 concerning Regulations on Foreign Exchange Transaction.

With the approval of

THE GOTONG ROYONG PEOPLE'S REPRESENTATIVE COUNCIL

To stipulate : LAW CONCERNING FOREIGN INVESTMENT

CHAPTER I
DEFINITIONS OF FOREIGN INVESTMENT

Article 1

Investment in this Law denotes only direct investment of foreign capital made in accordance with or based upon the provision of this Law for the purpose of carrying on the enterprise in Indonesia, with the understanding that the owner of the capital directly bears the risk of the investment.

Article 2

Foreign investment in this Law means:

- a. Foreign exchange which does not form a part the foreign exchange resources of Indonesia, and which with the approval of the Government is utilized to finance an enterprise in Indonesia.
- b. Equipment for an enterprise, including rights to technological development and materials imported into Indonesia, provided the said equipment is not financed from Indonesian foreign exchange resources.
- c. That part of the profits which in accordance with this Law is permitted to be transferred, but instead is utilized to finance an enterprise in Indonesia.

CHAPTER II
LEGAL FORM, DOMICILE AND AREA OF AN ENTERPRISE

Article 3

- (1) An enterprise as intended by Article 2, which is operated wholly or for the greater part in Indonesia as a separate business unit, must be a legal entity organized under Indonesian Law and have its domicile in Indonesia.
- (2) The Government shall determine whether an enterprise is operated entirely or for the greater part in Indonesia as a separate business unit.

Article 4

The Government shall determine the operating area for foreign capital enterprise in Indonesia, in accordance with national and regional economic developments, the type of enterprise the amount of capital to be invested and the desires of the capital owner.

CHAPTER III
FIELD OF ACTIVITY FOR FOREIGN INVESTMENT

Article 5

- (1) The Government shall determine the fields of activity open to foreign investment, according to an order of priority, and shall decide upon the conditions to be met by the investor of foreign capital in each such field.
- (2) The order of priority shall be determinate whenever the Government prepares medium and long-term development plans, taking into considerations developments in the economy and technology.

Article 6

- (1) Fields of activity which are closed to foreign investment exercising full control are those of importance to the country and in which the lives of a great deal of people are involved, such as the following:
 - a. harbors;
 - b. production, transmission and distribution of electric power for the public;
 - c. shipping;
 - d. telecommunications;
 - e. aviation;

- f. drinking water;
 - g. public railways;
 - h. development of atomic energy;
 - i. mass media.
- (2) Industries performing a vital function in national defense, among others, the production of arms, ammunition, explosive, and war equipment, are absolutely prohibited to foreign investment.

Article 7

In addition to those mentioned in Article 6 paragraph (1), the Government may determine certain fields of activity in which foreign capital may no longer be invested.

Article 8

- (1) Foreign investment in the field of mining shall be carried out in cooperation with the Government on the basis of a work-contract ("*kontrak karya*") or order form in accordance with prevailing regulations.
- (2) The system of cooperation on the basis of work contract or other form can be implemented in other field of activity which will be determined by the Government.

CHAPTER IV MANPOWER

Article 9

The owner of foreign capital has full authority to appoint the management of the enterprise in which his capital is invested.

Article 10

Foreign capital enterprises are required to meet their needs for manpower with Indonesian nationals, except in cases mentioned in Article 11.

Article 11

Foreign capital enterprises are allowed and employ foreign managerial and expert personnel in positions which cannot yet be filled by Indonesian nationals.

Article 12

Foreign capital enterprises are required to conduct and/or provide regular and systematic training and educational facilities in Indonesia and/or abroad for Indonesian nationals with the aim of gradually replacing foreign employees by Indonesian nationals.

Article 13

The Government shall supervise the execution of the provisions of the Articles 9, 10, 11 and 12.

CHAPTER V
USE OF LAND

Article 14

To meet the requirements of foreign capital enterprise, land may be provided, with the right of construction, the right of exploitation, and the right of use in accordance with prevailing regulations.

CHAPTER VI
CONCESSIONS ON TAXES AND OTHER LEVIES

Article 15

Foreign capital enterprises are granted the following concessions on taxes and other levies:

a. Exemption from:

1. Company tax on profits during a specified period not exceeding five years from the moment the enterprise commences production.
2. Dividend tax on that part of accrued profits paid to shareholders, as long as these profits are earned during a period not exceeding five years from the moment the enterprise commences production.
3. Company tax on profits referred to in Article 19 paragraph (1) point a which are reinvested in the enterprise in Indonesia, for a specified period not exceeding five years from the time of reinvestment.
4. Import duties at the time of entry into Indonesia of fixed assets such as machinery, tools or instruments needed for the operation of said enterprise.
5. Capital stamp duties on the issuance of capital originating from foreign investment.

b. Relief:

1. In the levy of company tax through a proportional rate of not more than 50% for a period not exceeding five years after expiration of the exemption period as intended by point a sub-point 1 above.
2. By off-setting losses suffered during the period of exemption intended by point a sub-point 1, against profits subject to tax following the period mentioned above.
3. By allowing accelerated depreciation of fixed assets.

Article 16

- (1) The concessions on taxes and other levies mentioned in Article 15 shall be granted after consideration of the priority on fields of activity as intended by Article 5.
- (2) Besides the concessions on taxes and other levies referred to in paragraph (1) of this Article, additional privileges may be granted by Government Regulations to any foreign capital enterprise which is extremely important for economic development.

Article 17

Execution of the provisions of Articles 15 and 16 shall be stipulated by the Government.

CHAPTER VII

DURATION OF FOREIGN INVESTMENT, RIGHT OF TRANSFER AND REPATRIATION

Article 18

Every permit for investment of foreign capital shall specify the duration of its validity, which shall not exceed 30 (thirty) years.

Article 19

- (1) Foreign capital enterprise shall be granted the right of transfer in the original currency of the invested capital at the prevailing exchange rate, for:
 - a. profits accruing to capital subtraction of taxes and other financial obligations in Indonesia;
 - b. cost related to the employment of foreign personal working in Indonesia;

- c. other cost which shall be subsequently determined;
 - d. depreciation of fixed assets;
 - e. compensation in case of nationalization.
- (2) Transfer procedures shall be subsequently determined by the Government.

Article 20

Transfers constituting capital repatriation can not be permitted as long as the concessions taxes and other levies as mentioned in Article 15 remain in effect. The implementation of this article shall be further regulation by the Government.

CHAPTER VIII
NATIONALIZATION AND COMPENSATION

Article 21

The Government shall not undertake a total nationalization/revocation of ownership rights of foreign capital enterprises nor take steps to restrict the rights of control and/or management of the enterprises concerned, except when it shall be declared by law that the interest of the State requires such a step.

Article 22

- (1) In case of the measures referred to in Article 21, the Government has the obligation to provide compensation, the amount, type and method of payment of which shall have been agreed upon by both parties, in accordance with valid principles of international law.
- (2) If not agreement can be reached between the two parties with regard to the amount, type and method of payment for compensation, arbitration shall take place which shall be binding on both parties.
- (3) The arbitration board shall consist of three persons: one appointed by the Government, one by the owner of the capital, and a third person as chairman selected jointly by the Government and the owner of the capital.

CHAPTER IX
COOPERATION BETWEEN FOREIGN AND NATIONAL CAPITAL

Article 23

- (1) In the fields of activity open to foreign capital, cooperation may be effected between foreign and national capital, with due consideration to the provisions of Article 3.
- (2) The Government shall further determine the fields of activity, forms and methods of cooperation between foreign and national capital, utilizing foreign capital and expertise in the fields of export and the production of good and services.

Article 24

Profits obtained by foreign enterprises resulting from cooperation between foreign capital and national capital as mentioned in Article 23, after subtraction of taxes and other obligations payable in Indonesia, are permitted to be transferred in the original currency of the foreign capital invested.

Article 25

The provisions of this law regarding tax concessions and guarantees regarding nationalization and compensation are also valid for foreign capital mentioned in Article 23.

CHAPTER X
OTHER RESPONSIBILITIES OF THE FOREIGN INVESTOR

Article 26

Foreign capital enterprises are obligated to manage and control their enterprises in accordance with the principles of good business administration without harming the interests of the State.

Article 27

- (1) Enterprises mentioned in Article 3 of which the capital is entirely foreign, are obligated to provide opportunities for participation by national capital, following specified period and in proportions to be determined by the Government.
- (2) When participation as intended by section (1) of this article is effected by selling pre-existent shares, the proceeds of such can be transferred in the original currency of the foreign capital concerned.

CHAPTER XI
OTHER PROVISIONS

Article 28

- (1) Provisions of this Law shall be implemented by coordination among the Government agencies concerned in order to ensure harmonization of Government policies regarding foreign capital.
- (2) Procedures for such coordination shall be subsequently determined by the Government.

Article 29

Provision of this Law shall apply to investment of foreign capital effected after this Law comes into force, either in new enterprises or in already existing enterprises for expansion and/or modernization.

CHAPTER XII
TRANSITIONAL PROVISION

Article 30

Matter not yet regulated in this Law shall be subsequently stipulated by the Government.

CHAPTER XIII
FINAL PROVISION

Article 31

This Law shall take effect on the day of its enactment. In order that every person may be informed, promulgation of this Law is ordered through publication in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On January 10, 1967
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed
SOEKARNO

Promulgated in Jakarta
On January 10, 1967
THE STATES SECRETARY OF THE REPUBLIC OF INDONESIA

Signed
MOHD. ITJHSAN