

LAW No. 1/1967
Concerning
FOREIGN INVESTMENT

THE PRESIDENT OF REPUBLIC OF INDONESIA

Considering :

- a. that, trough out the territory of this country, as a blessing of God, potential economic resources are found abundantly which have not yet been trans-formed into real economic strength because of among other things, a lack of capital, experience and technology.
- b. that the Pancasila is the spiritual basis for the development of the Indonesian 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 organizational 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 Indonesian 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 theses truly devoted to serving the economic interests of the people with-out 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 Indonesian capital for time being is not yet being employed.
- g. that it is imperative to devise clear regulations in order to fill the need capital for national development, as well as to avoid uncertainty on the part of foreign investors.

In observance of :

1. Article 5 section (1), article 20 section (1), article 27 section (2) and article 33 of 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 bases on the Pancasila.
4. Law No. 5 of 1960 concerning the Basics of Agrarian Regulation.
5. Law No. 37 Prp. of 1960 on Mining, and Law No. 44 prop. of 1960 on Oil and Natural Gas.
6. Law No. 32 of 1964 concerning Regulations on Foreign Exchange Transactions.

With the approval of the Gotong Royong Peoples Representative Council, has decided :

To enacts :

THE LAW CONCERNING 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 of the foreign exchange resources of Indonesia, and which with the approval of the Government is utilized for 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 Indonesia foreign exchange resources.
- c. That part of the profits which in accordance with this Law is permitted to the 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
FIELDS 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 determined whenever the Government prepares medium and long-term development plans, taking into consideration 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 section (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 other 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 fair needs for manpower with Indonesian nationals, except in cases mentioned in Article 11.

Article 11

Foreign capital enterprises are allowed to bring 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 Article 9, 10, 11 and 12.

CHAPTER V USE OF LAND Article 14

To meet the requirements of foreign capital enterprises, 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 subsection (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 section (a) sub 1 above.
2. By off-setting losses suffered during the period of exemption intended by section (a) sub 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 section (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 Article 15 and 16 shall be stipulated by the Government.

CHAPTER VII
DURATION OF FOREIGN INVESTMENT, RIGHT OF TRANSFER AND REPARATION
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 acquiring to capital subtraction of taxes and other financial obligations in Indonesia;
 - b. costs related to the employment of foreign personnel working in Indonesia;
 - c. other costs 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 concerning taxes and other levies as mentioned in Article 15 remain in effect. The implementation of this article shall be further required 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 interest of the State requires such a step.

Article 22

- (1) In case of the measure 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 no 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 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 chair-man subjected 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, from and national capital, utilizing foreign capital and expertise in the fields of export and the production of goods 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) Enterprise 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 article 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 by the Government.

CHAPTER XII
TRANSITIONAL PROVISION
Article 29

Provision of this Law shall apply to investment of foreign capital affected after this law come into force, either in new enterprises or in already existing enterprises fox expansion and/or modernization.

CHAPTER XIII
TRANSITIONAL PROVISION
Article 30

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

CHAPTER XIV
FINAL PROVISION
Article 31

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

Enacted in Jakarta
On January 10, 1967
The President of The Republic of Indonesia

Sgd
Sukarno

Promulgated in Jakarta
On January 10, 1967
States Secretary of the Republic of Indonesia

ELUCIDATION OF LAW NUMBER 1 OF 1967
concerning
FOREIGN INVESTMENT

GENERAL ELUCIDATION :

For several years our economic situation has been marked by a continuous decline of the People buying power in the conspicuously growing differences in living standards. Such a distressing situation not be allowed to continue and should therefore be immediately halted.

The provisional People's Consultative Assembly has decreed that among other national problems, the main priority should be given to improve the economy of the People and that the way of facing economic problems should be based on national and realistic economic Smetly adhering to this decree of the Provisional People's Consultative Assembly, steps must be taken immediately to improve the economic fate of the people.

Our economic problem is the problem of increasing the prosperity of the People by increasing the production of goods and services, and furthermore the problem of seeking a just distribution of goods and services resulting from such production achieved through investment, utilization of technology, increases in knowledge improvement in skills, and upgrading organizational and managerial capabilities in this respect investment play a very important role. In halting the economic decline and in accomplishing economic development the important principle which should be held to firmly is that all efforts should be based upon the capability and capacity of the Indonesia people themselves yet this principle must not give rise to reluctance to utilize the money and skills of foreigners as long as they are truly deported to serving the economic materest without causing dependence on foreign countries. Based on this rational and realistic starting point as set forth above, this law concerning foreign investment has been enacted to achieve the aforementioned purpose, this law grants exemption/concessions on taxes and other facilities to foreign capital. Nevertheless, this law does not open up all fields of business to foreign capital. Domination of foreign capital as know during the colonial period must automatically be avoided vital enterprises which control the life of the people remain closed to foreign capital (see Article 6). In each permit for foreign investment, a period of validity is fixed which cannot exceed 30 years. Beside, in determining which fields of Government shall fully observe the existing development (Article 5). In this matter one may forget that land, natural re-sources and the sincerity of the Indonesia state and nation can also be calculated as valuable capital. The investment of foreign according to this law may be carried out in the form of enterprises in which one hundred percent of the capital initially consist of cooperation between foreign capital and national capital. With regard to the provisions of Article 27, the Government will also aeternume which fields of activity may be undertaken only through cooperation with national capital (Article 5 section 1).

ELUCIDATION

ARTICLE BY ARTICLE

Article 1

Differing from the credit whereby the borrower bears the risks of utilization in foreign investment the investor bears that risk. This Law only regulate credit matters. in that connection it is necessary to point out the possibility of foreign capital alone being employed in one enterprise or alternatively of foreign capital alone being employed in an enterprise in cooperation with national capital.

Article 2

Foreign capital in this Law shall not only take form on foreign currency, but also shall consist of fixed assets needed to foreign person/bodies used in the enterprise in Indonesia and profit which may be transferred to foreign countries but is reutilized in Indonesia instead.

Article 3

Investment of capital by a foreigner in his status as an individual may create difficulties in the field of International Law. By requiring that the enterprise be a legal entity, there will be certainty with respect to legal status be an Indonesian legal entity subject to Indonesian Law. As a legal entity, there will certainty with respect to the capital invested in Indonesia.

Article 4

Through this provision, equitable development can be strived for throughout Indonesia territory paying attention to deprived regions, in conformity with the regional and national and national economic development plans.

Article 5

Sufficiently clear.

Article 6

Sufficiently clear

Article 7

Sufficiently clear

Article 8

In order to accelerate the execution of economic development, the Government shall determine which forms of cooperation between foreign capital and national capital will be most beneficial for each field of activity. Such cooperation may take the form of work-contracts, joint ventures, or other such forms.

Article 9

The owner of foreign capital is fully allowed to determine the management of this enterprise. This is only proper since the capital investor will want to assign the management of the enterprise to persons trusted by him. In the case of cooperation between foreign capital in national capital, the management shall be jointly determined.

Article 10

Sufficiently clear

Article 11

Besides providing training in technical fields a foreign capital enterprise is obliged to conduct and/or provide facilities for training and education in the field of marketing at home and abroad.

Article 12

Supervision by the Government shall be actively and effectively executed.

Article 14

(1) The provision of this article, which enables grants of land to foreign capital enterprises not only with the right of use, but also with the right of exploitation, constitutes the confirmation of the stipulation in Article 55 paragraph (2) of the Law on the Basics of Agrarian Affairs, in conjunction with Articles 10,62 and 64 of the Decree of the Provisional People's Consultative Assembly No. XXIII/MPRS/1966.

(2) In line with the provisions of law on the Basics of Agrarian Affairs, Article 35, Article 39 and Article 41, the right of construction can be granted for a period of at most 30 years which, in the view of the condition of the enterprise and its building, can be extended for at most 20 years. The right of exploitation can be granted a period of 25 years. For enterprise which, due to the kinds of crops being planted require a longer time, the right of exploitation by prolonging the right by at most 25 years.

Article 15

Exemption.

1. Since the activities of an enterprise may be varied and thus the possibility of production is also varied the period of tax exemption can be governed accordingly. The maximum period of 5 years is regarded as sufficient to give compensation for the expenditures made before the operation concerned commences production.

According to international criteria, the moment of starting production is the moment when the new operation commences producing a quality of good which can be distributed in the market.

2. Distribution of profits earned during the tax exemption period are also appropriately ex-empted from dividend tax.

3. Reinvested profits is treated as new foreign investment.

4. Sufficiently clear.

5. In the frame of granting tax exemption to foreign capital such levies as sub (a) no. 5 shall not be cost before a new operation commerce production. Relief. 1. 'Deviating from marginal company tax amounting to sixty percent of the net profit as stipulated by the 1925. Company Tax Ordinance, for a period of time not more than five years after the period of exemption, a lower tax rate shall be imposed

with a observance to the fields of activity as intended by Article 5 section (1). The amount of tax within said period of time shall constitute a proportional rate at most fifty per-cent of the annual net profit. 2. Article 7 of the 1925 Company Tax Ordinance Stipulates then five years after the period of exemption, a lower with the profit of the following two years. According to the provision stated in period of tax exemption may be calculated with profits earned after the period of tax exemption, so that the said loss may be fully covered

6. The minister of finance shall stipulate a table of depreciation for the fixed assets of the new foreign capital enterprise with observance to the fields of activity according to the order of priority intended by Article 5 section (1).

Article 16

- (1) The amount of concessions taxes on and other taxes referred to in Article 15 shall be stipulated in conformity with the priorities in field on activity as intended by Article 5 and in accordance with the type of the operation.
- (2) There is a possibility that a foreign capital enterprise urgently needed for Indonesia economic grown can prove that the concessions on taxes and other levies as referred to in section (1) are still not inefficient to perform the operation efficiently and effectively. Such a case occur if the said enterprise requires a very large capital for investment or for overhead costs. In such a situation, the Government may grant other concessions to each enterprise deemed to be so deserving. Should the Government issue a Government Regulation as in-tended by Article 16, section (2), the Government shall contact Parliament. Provisions concerning concessions on taxes and other levies as referred to in Chapter VI of this Law shall also be applied to national capital fields of activity

Article 17

The Government will henceforth issue further regulations governing the administration of tax policies.

Article 18

Furthermore the following provisions are stipulated :

1. Foreign capital enterprises should keep separate books for their foreign capital.
2. In Stipulating the amount of foreign capital, the total shall be reduced by the amount which by means of repatriation
3. Every year the enterprise is obligated to submit a report to the Government on its foreign capital position.

Article 19 & 20

Foreign capital enterprise shall be granted permission to transfer in the original foreign currency after having operated for a period of time as stipulated by the Government. The right of transfer constitutes an incentive to attract foreign investment. All transfer, except those which are permitted based on Article 19, letters a, b and c, shall regarded as repatriation of foreign capital. It is felt to be just that enterprise employing foreign capital shall not be allowed to repatriate their capital to the extent that it involves a transfer of the depreciation of their capital as long as those enterprises are still enjoying concessions on taxes and other levies. It is necessary to explain that transfer of profits from foreign capital may also be executed during the time that those enterprises are still enjoying tax concessions and other levies.

Article 21 & 22

To guarantee a reassuring climate for the operation of foreign capital invested in Indonesian, in this article it is stipulated that the Government shall not nationalize foreign capital enterprises, except if it be necessary in the interest of the State. Such a measure may only be carried out by and by giving compensation according to the principles of International Law.

Article 23 The concept of national capital in this Law covers capital of the Central and Regional Government, Cooperatives and national private capital.

Article 24 & 25

Sufficiently clear

Article 26

The provision is intended to prevent foreign capital enterprises from carrying out activities which harm the interest of the State or to prevent them from not taking all measures necessary to manage their operation

effectively and efficiently in line with the objective of granting opportunities to invest foreign capital in Indonesia.

Article 27

Sufficiently clear

Article 28

The execution of this Law involves the domains of several Department. For that reason it is necessary to have a simple coordination body which may take the form of a council consisting of the Ministers concerned.

Article 29, 30 & 31

Sufficiently clear

SUPPLEMENT TO THE STATE GAZETTE NO. 2818