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성공적인 투자진출을 위한 TIP



합작파트너 선정 시 주의

합작투자가 불가피할 시 합작투자자의 회사 재산 횡령을 방지할 수 있도록 계약서의 구체화 내지 모니터링 장치가 필요하며, 계약서에 대한 변호사의 법률자문을 받는 것이 바람직하다. 합작투자 상대방이 기술을 전수받은 후에는 결별 선언하는 경우가 있으므로 계약서 작성시 상호 관계를 명확히 하여야 한다.



공장부지 선정 시 유의

업체가 밀집되어 있는 지역을 공장부지로 선정할 경우에 종업원의 이직율이 높으며, 인근회사와의 비교를 통해 종업원들의 임금인상 및 복리후생 증진에 대한 요구가 높게 나타나는 경향이 있으므로 이 점을 염두에 두고 부지를 선정하여야 한다.



인도네시아 근로자의 국민성 이해

노무관리에 있어서 인도네시아인은 소극적이고 수동적인 특성을 갖고 있으므로 큰 소리로 지시하는 것보다는 가르쳐주는 자세가 필요하고 지각이나 결근에 대해서는 처벌보다 스스로 반성할 수 있도록 기회를 주는 것이 필요하다.



법적 분쟁 여지 최소화

투자 시 가급적 실용신안, 상표출원 등을 통해 인도네시아 특허청으로부터 특허를 미리 받거나 대비책을 세운 후 상품 수출을 추진하는 것이 필요하며, 판매관리 면에서는 어음, 수표대금 결제 시 자주 부도가 발생되고, 부도 시 우리나라와 같은 큰 구속력이 없으므로 수표 거래 시 주의가 요망된다.



한국인 직원 활용

투자 초기단계에 있어서는 각 분야별로 유능한 한국 직원을 파견하여 단기간 내에 조직 및 관리에서 경영의 안정을 기하는 것이 바람직하다. 그렇지 않을 경우 시행착오를 겪음으로써 시간적, 금전적인 손실이 크게 발생할 가능성이 높다.



노동계약서 작성시 유의

최근 노사문제가 자주 발생하고 있는데 이러한 노사분규를 방지하기 위해서는 고용계약서를 현지 노동법에 근거하여 작성하되 근로자의 의무를 상세히 기술함으로써 추후 분쟁 시에 대비하고, 원만한 노사관계를 유지토록 항상 신경을 써야 한다.

I. 투자 여건

1. 투자 환경

■ 긍정적 요소

- 정치 경제적 안정화
 - 2004년 10월 인니 최초의 민선 대통령 취임 이후 정치적으로 안정화가 이루어지고 있으며, 대내외적으로 대통령의 부패척결, 경제개발을 위한 노력이 인정받고 있음
 - 1998년 금융위기 이후에 경제성장이 점차 안정화되어 2004년부터는 5%대의 성장률을 보이다가 2007년부터는 6%대를 상회하는 경제성장이 전망되고 있음

<인도네시아 경제전망>

구분	2007	2008	2009	2010	2011
GDP(명목) (억 달러)	4,010	4,390	4,800	5,270	5,790
실질경제성장률 (%)	6.3	6.5	6.7	7.0	7.2
인플레이션 (%)	6.0	5.0	4.0	4.0	4.0
비석유제품 수출 (억 달러)	804	863	930	1,004	1,088
비석유제품 수입 (억 달러)	574	627	700	786	886

자료원: IMF

- 풍부한 천연자원
 - 인니는 LNG, 석탄, 니켈, 주석 및 원유 등 천연자원의 보고
 - 세계 최대의 열대림 보유국으로 산림자원 풍부
 - 세계적인 코코넛, 야자, 천연고무 생산국

- 저임의 풍부한 노동력

- 세계 제4위의 인구(2억4천만명)를 바탕으로 풍부한 노동력 제공
- 수도인 자카르타 인근의 최저임금은 900,560루피아(약 100달러)로 베트남(약 50달러)에 비하여 다소 비싸지만 지방의 경우 50~60달러 정도도 가능
- 평균수명이 선진국에 짧은 반면, 출산율이 높아서 인구의 50% 이상이 25세 이하 젊은층으로 구성되어 있는 등 생산가능 인구가 지속 증가

- 부정적 요소

- 노동의 유연성 부족 및 인건비 상승

- 높은 해고비용: 1년 근무당 1개월치 해고 수당 + 3년 근무당 1개월치 근속수당 (단, 기한부 고용계약은 해당되지 않음)
- 2000년 이후 매년 인건비 큰 폭 증가
(자카르타 최저 임금 상승률: 2005년 15.0%, 2006년 9.95%)
- 초과근무수당의 누진제 적용: 1시간 초과 150%, 2시간 이상 200% 지급 등

- 인프라 부족

- 도로, 항만 등 인프라 설비 부족 및 낙후로 컨테이너 운송비용, 하역비용 등 물류 비용이 높은 편
- 전력 부족으로 전기의 안정적 공급 차질

<인도네시아 인프라 현황>

구 분	인도네시아 통계	아세안 국가순위
전기보급률(%)	53	11위
유선전화 보급률(%)	4	12위
휴대폰 보급률(%)	6	9위
하수구 연결율(%)	55	7위
식수(상수도)보급률(%)	78(14)	7위
도로(km/1,000명)	1.7	8위

자료원: World Bank 2005

- 부정부패와 관료주의, 비효율적인 경제 시스템
 - 투자 인 · 허가 과정의 복잡한 절차와 시간, 비공식적 비용 발생
 - 관세 환급, 부가세 환급, 법인세 선납 등 세금 선납 후 사후 정산 및 환급 시의 부조리
 - 밀수 만연으로 정상적인 수출입에 장애
 - 외국인투자에 대한 기본적인 지원 및 보호 의식 부족
- 안전에 대한 불안
 - 2002년 발리 호텔, 2003년 자카르타 메리어트 호텔, 2004년 주 인니 호주대사관, 2005년 발리 식당가의 자살 폭탄테러 발생 등 잦은 테러로 인하여 민생치안에 대한 불안감 존재
 - 지진의 빈발, 조류독감, 기타 풍토병 등으로 외국인들에게는 위험한 지역으로 인식

2. 외국인 투자 동향

■ 외국인 투자 동향

- 2006년도 인도네시아에 대한 외국인투자(실행기준)는 867건, 59억7천7백만 달러에 그쳐 2005년 대비 33%나 감소
 - 지난해 투자가 크게 감소한 것은 2005년 대폭적인 유가인상 이후 인도네시아 경제가 정상적으로 운용될지에 대한 불확신 및 노동법, 세법, 투자법 개정 등 투자환경 개선관련 법규 개정이 지지부진하면서 투자자들이 투자시기를 저울질하였기 때문으로 분석됨
- 연도별 대 인도네시아 외국인투자금액(실행 기준)은 1998년 48억 달러에서 1999년 82억 달러, 2000년 99억 달러로 대폭 증가하였다가 2001년 35억 달러로 크게 감소하였으며, 그 이후 2004년까지 30~50억 달러에 머물렀다가 2005년도에는 89억1천5백만 달러를 기록
 - 1999년 및 2000년에 외국인투자가 크게 늘어난 이유는 1996년부터 외국인에 대한 100% 투자 허용에 따라 단기적으로 급증한 투자 승인건의 실행, 수하르토 정권의 32년 독재 종결, IMF 금융위기의 안정화 등이 복합적으로 작용한 것으로 파악됨
- 2006년 지역별 투자실행액은 자카르타 수도권이 330건에 14.7억 달러, 서부 자바가 199건에 16.2억 달러, 리아우주가 9건에 5.9억 달러, 반텐주가 84건 5.1억 달러, 동부 자바가 54건에 3.8억 달러를 차지하였으며, 총 외국인투자의 74%가 자바섬에 집중되었음
- 2006년 감소하였던 투자실행액은 2007년 들어서 회복세를 보여, 1분기까지 전년대비 14.9% 증가한 29억9천8백만 달러의 승인실적을 보이고 있음

■ 외국인투자 승인 동향

- 2006년도 외국인투자 승인은 1,718건에 156억6천만 달러로 2005년 대비 30.4%가 증가하였음
- 신규 투자는 46억2천7백만 달러로 2005년 대비 16.5% 감소하였으나 기 진출기업의 증액투자는 59억1천9백만 달러로 전년 대비 2.2% 증가하였으며, 특히 기업인수 등을 통한 투자변경건이 127.9%나 증가한 51억1천3백만 달러를 기록함
- 2006년의 분야별 투자승인 실적은 금속·기계·전자 분야가 가장 많아 84건에 29억2천만 달러를 기록했으며, 다음은 건설분야로 46건 25억6천만 달러이었으며, 화학·의약품, 종이 및 제지 등의 순임
- 2007년에 들어서 투자승인은 급격히 늘어나 지난해 동기대비 5배도 증가한 141억 달러를 기록하여, 지난해 연간 승인실적에 육박하고 있음
- 특히 올해 1분기의 투자승인 증가는, 산업별로는 화학 및 제약 산업(89억8천5백만 달러), 국가별로는 미국(87억7천4백만 달러)의 투자승인 급증에 기인하고 있음

<인도네시아 외국인투자 현황>

(단위: 백만 달러, 건)

	투자 승인			투자 실행		
	건 수	금 액	증감률	건 수	금 액	증감률
2000	1,599	16,015	47.0%	638	9,877	20.0%
2001	1,375	15,202	-5.1%	453	3,484	-64.8%
2002	1,238	9,955	-34.6%	435	3,085	-11.5%
2003	1,238	14,278	43.4%	570	5,450	76.7%
2004	1,226	10,416	-27.1%	544	4,601	-15.6%
2005	1,648	13,579	30.4%	909	8,915	93.7%
2006	1,718	15,659	15.3%	867	5,977	-33.0%
2007(1분기)	457	14,133	496.4%	245	2,998	14.9%

자료원: 인도네시아 투자조정청(BKPM)

■ 국별 투자동향

● 말레이시아가 최대 투자국(2006년)

- 2006년 대 인도네시아 최대 투자국은 말레이시아로서 23.3억 달러의 투자를 승인받아 전체 투자 승인액의 14.9%를 차지함. 이어 싱가포르가 21.8억 달러, 세이셸 공화국 14.1억 달러, 영국 10.4억 달러에 이어, 한국은 8.8억 달러로 다섯 번째를 기록함

● 투자 승인건수 한국이 최다

- 투자승인 건수 기준으로는 한국이 313건으로 인도네시아에 대한 최대 투자국으로, 건수 기준 2위국인 말레이시아의 203건인 것과 비교해 보면 우리나라 기업들의 인도네시아에 대한 투자 관심이 상대적으로 높은 것을 보여줌

<2006년도 대 인도네시아 국별 투자 순위(투자 승인 기준)>

순위	국가	승인건수(건)	승인액(천달러)	비중(%)
1	말레이시아	203	2,328,776	14.9
2	싱가포르	245	2,185,684	14.0
3	세이셸공화국	10	1,410,183	9.0
4	영국	123	1,039,180	6.6
5	한국	313	887,207	5.7
6	스위스	4	477,737	3.1
7	일본	55	443,662	2.8
8	홍콩	16	398,684	2.5
9	프랑스	23	355,864	2.3
10	대만	27	218,621	1.4
	합계	1,718	15,659.115	100.0

자료원 : 인도네시아 투자조정청(BKPM)

●누적기준 일본이 최대 투자국

- 1967년부터 지난해까지의 투자승인 누계기준으로는 일본이 394억2천만 달러로 인도네시아 최대 투자국임(전체 투자승인 금액의 12.2%를 차지)
- 한국은 누계기준 투자금액은 전체 7위이며 건수로는 1위를 차지

<1967년~2006년 대 인도네시아 국별 투자 순위(투자 승인 기준)>

순위	국가	승인건수(건)	승인액(천달러)	점유율(%)
1	일본	1,750	39,420,551	12.6
2	영국	1,017	35,193,976	11.3
3	싱가포르	2,317	28,469,394	9.1
4	홍콩	549	20,904,148	6.7
5	대만	1,163	13,476,979	4.3
6	말레이시아	1,176	12,544,817	4.0
7	한국	2,727	12,143,362	3.9
8	미국	679	11,725,807	3.7
9	독일	356	9,521,462	3.0
10	호주	717	9,517,352	3.0
	합계	18,024	312,744,882	100

자료원: 인도네시아 투자조정청(BKPM)

II. 투자유치 제도

1. 외국인투자유치 정책 및 우대·제한 분야

■ 외국인투자유치 정책

- 인도네시아 정부는 외국으로부터의 투자를 유치하기 위하여 대폭적인 투자환경 개선정책을 도입해 오고 있음. 특히 1980~90년대 관련 규제가 대폭 완화됨에 따라 1994년부터는 일부 분야를 제외한 외자 100% 투자가 가능
- 2007년 4월에는 기존의 내국인 투자법과 외국인투자법을 합친 신투자법이 발효

■ 투자우대 정책

- 외국인투자자에 대한 세금우대 등의 혜택은 아직까지는 광범위하게 시행되지 못하고 있으며, 아래와 같은 분야에서 일부 혜택이 있음
- 신규투자자에 해당하는 설비 및 기계수입, 최초 2년간 생산에 필요한 원재료 수입에 대하여 마스트리스트를 작성하여, 최고 5%의 우대 수입관세 납부 (재무부령 2000년 135호)
- 특정분야 및 지역에 대한 세금우대에 대한 규정(Regulation No 1 / 2007)이 올해 초 발표되었음
- 동 규정은 그동안 유명무실하였던 첨단산업분야 투자에 대한 소득세 면제(대통령령 7호, 1999년 1월14일) 규정을 실질적으로 대체하게 됨

- 대상 : 2007년 1월이후 BKPM 으로부터 투자승인을 받은 기업
(신규투자기업 및 기투자업체의 확장투자도 포함)중 식품, 섬유, 제지 등 정부지정 15개 업종을 대상

- 내용

- 소득공제

- 고정자산 투자의 30% 상당액을 6년에 걸쳐 과세소득에서 공제(매년 5%)
 - 상업생산개시일 기준으로 하며, 현지실사를 통하여 세금당국이 결정

- 가속상각

유형고정자산 그룹	내용 연수	감가상각 및 이연상각	
		정액법	정률법
I. 비건축물			
Category I	2 년	50%	100%
Category II	4 년	25%	50%
Category III	8 년	12.5%	25%
Category IV	10 년	10%	20%
II. 건축물			
영구	10 년	10%	-
비영구	5 년	20%	-

- 이중과세 방지 협정에 근거한 배당 원천세 경감

- 결손금 손실보상기간 5년, 특정 조건하에서 최대 10년

- 투자우대 적용대상 15개 산업분야

- Food Industry

- Food Flavor and Spice Industry

- Textile and Clothing Industry
 - Textile Fiber Preparation Industry
 - Textile Fiber Preparation and Yarn Spinning and Weaving Industry
 - Textile Fiber preparation and yarn spinning and weaving industry and fabric perfecting and/or printing industry
 - Textile Fiber Preparation and yarn Spinning and weaving Industry and clothing and textile and accessories industry
 - Weaving Industry and garment and textile and accessory Industry

- Pulp, Paper and Paperboard Industry
 - Pulp Industry
 - Cultural Paper Industry
 - Industrial Paper Industry

- Chemical Substance Industry
 - Base Chemical Industry of Anorganic Chlor and Alkali
 - Other Anorganic Base Chemical Industry
 - Industry of Organic Base Chemical Substances coming from agricultural product
 - Industry of Organic base chemical substance coming from petroleum, natural gas and coal
 - Other organic base chemical industry
 - Artificial Rubber Industry

- Other Chemical substance Industry
 - Pharmaceutical Substance Industry

- Rubber and Rubber Product Industry
 - Industry of Rubber Products for the Need of Industry
- Porcelain Product Industry
 - Industry of Laboratory and Electrical/Technical Appliance made of porcelain
- Ferrous and Steel Base Metal Industry
 - Base Iron and steel Industry
 - Base Iron and steel industry up to steel rolling Industry
- Non Ferrous Base Metal Industry
 - Non –Ferrous base metal production industry
 - Non–Ferrous Metal Milling Industry
 - Non metal extraction Industry
 - Non –ferrous and steel pipe and pipe fitting industry
- Machine and Appliance Industry
 - Boiler, Turbine and Reel Industry
 - Internal combustion Engine Industry
 - Pump and Compressor Industry
 - Industry of Machine/Appliance for Metal Processing/Working
 - Textile Machine industry
 - Other specific industrial machine Industry
- Electrical motor, Generation and Transformator Industry
 - Electrical Motor Industry
 - Industry of Generator
- Electronic and Telematics Industry
 - Office, Computing and Electronic Accounting machine Industry

- Gas tube lamp industry
- Industry of electronic tube and valve as well as other electronic components
- Industry of transmission and communication device
- Industry of radio, television, sound and picture recorders and the like
- Photographic camera Industry
- Software consulting service Industry

- Land Transport Industry
 - Industry of Machine/Equipment for Metal Processing/working
 - Industry of four-wheel vehicle or more
 - Industry of two, four wheel and more vehicle appliance

- Ship/Vessel Building and repairing Industry
 - Ship/vessel Industry
 - Ship equipment and appliance Industry

- Non ferrous base metal making Industry

■ 투자 제한 분야

- 인도네시아 정부는 올해 4월에 발효한 개정 투자법 '2007년 제 25호'의 시행세칙에 맞추어 대통령령 '2007년 제 76호'와 '제 77호'에 의하여 새로운 투자 제한 분야를 2007년 7월3일부터 발효시킴

- 이번 규정에는 25개 업종을 투자금지 업종으로 규정하였으며, 15개 분야 120개 업종에 대해서는 업종별로 외국자본 출자 비율에 대한 상한선을 규정함

- 신 규정이 발효하기 이전에 승인된 투자는 대상에서 제외하며, 승인시의 내용을 변경할 때는 새로운 규정이 적용됨
- 통신, 환경, 식량안보 및 천연자원 다양성보존 등과 관련된 11개 분야에 대해서는 투자제한 강도를 높임
- 대중매체의 경우 외국인 소유지분을 최대 20%로 제한하며, 대중교통회사는 49%, 전력생산 배분·공급회사 95%, 25헥타르 이상의 야자유 농장 95%, 의약품 회사는 75%로 외국인 지분이 제한됨
- 민간병원의 경우 외국인 지분이 65%까지 허용되고, 보건서비스 지원사업이나 의료장비대여업 같은 분야에서는 외국인 지분이 49%까지 허용됨. 호텔이나 여관, 가라오케, 마사지업소 등을 포함한 14종류의 관광산업군에 대해서는 외국인 지분이 50%까지 허용됨. 농업은 위치제한이 있으며, 지방정부규정에 따라야 함.
- 교통분야의 항공 운송업은 49%, 정보통신분야의 유선전화 49%, 이동통신 및 위성전화는 65%까지 외국자본출자가 가능함
- 통신분야는 종전 규정은 최대 95%까지 외국자본의 출자를 허용하였으나 유무선 통신회사 등 국가안보에 직결되는 분야에 대해서는 외국인 소유지분 상한제를 도입하게 됨. 이미 상한선을 넘어서 회사에 대해서는 더 이상 외국인 소유지분을 허용하지 않기로 함

<최대 외국자본 소유 비율(대통령령 NO77/2007)>

99%	: 사리아은행, Foreign Exchange Banking
95%	: 석유가스개발, 원자력발전을 포함한 발전분야, 고속도로, 식수, 벼농업 (25ha 이상) 고구마 옥수수 농업
85%	: Leasing, Venture Capital
80%	: 생명보험, 손해보험, 재보험
75%	: 제약
65%	: 병원, 클리닉, 비즈니스컨설팅
55%	: 건설, 건설 컨설팅
50%	: 공연장, 1~2성급 호텔, 케터링, 스파, 바/카페
49%	: 인력회사, 의료장비 임대, 침술, 통신네트워크, 인력회사, 해상항공운송
25%	: 자연관광, 생태관광

- 또한 정부가 지방정부규정에 근거해 특정지역의 경우 19개 사업군에 대해서만 투자를 허용하기로 결정함

- 메단과 수라바야에서는 민간병원과 유치원이 위치제한을 받고 자카르타에서는 보건지원서비스(의료장비임대업)도 위치제한을 받게 됨.

- 네거티브 리스트 규정 (대통령령 76호 및 77호/2007년 7월 3일)

- 첨부 참조

2. 2007년 신투자법 주요 내용 (2007년 4월 26일 발효)

■ 핵심요지

- 신투자법은 1967년의 외국인투자법, 1968년의 국내투자법을 통합해 투자에 관한 골격법으로서 재정비되었고, 인니의 투자환경을 개선할 수 있는 긍정적인 규정들을 대폭 포함

- 신법의 주요 내용은 내외국인투자자 동등대우, 투자자의 소유권 보호, 과실 송금 이전의 자유(본국 송금 포함), 조세혜택, 재산권 강화, 거주 편의 강화 및 통합투자서비스 제도의 시행, 투자 분쟁의 국제중재 처리 규정 등임
- 그러나 앞으로 투자정책의 수립과 이행관련 투자조정청(BKPM) 과 정부부처(무역부 등) 및 지방정부 간의 역할, 각종 허가권 발급기관 문제, 통합투자서비스 시스템의 원활한 이행 여부 등은 향후 신투자법 보완규정(대통령령 및 각종 시행령)의 추이를 지켜보아야 알 수 있을 것임

■ 신투자법 주요 내용

(전문 및 17개 장(Chapter), 40개 조항(Article)으로 구성)

- 내외국인 투자자 동등 대우(6조)
- 투자자의 소유권 보호(7조)
 - 정부는 법에 의한 경우 외에 국유화 조치를 취하거나 투자자의 소유권을 침해하지 않으며, 법에 따라 이러한 조치를 취할 경우 시장가격에 따른 보상 부여
- 과실송금 이전의 자유 보장(8조)
 - 투자자가 지정하는 곳으로의 자산의 자유로운 이전 보장
 - 자본, 이익, 은행이자, 배당금 및 기타 소득, 로열티, 투자분야 외국인 종사자의 소득, 청산 소득 등을 외국화폐로써 자유롭게 이전하거나 본국으로 송금할 수 있는 권리 보장

- 투자 제한 · 금지 분야 및 업종(12조)

- 외국인 투자자는 무기, 탄약, 폭약, 군장비 및 법에 의해 금지된 분야의 투자가 금지되며, 내외국인투자자 공히 투자가 금지되는 분야는 대통령령으로 결정

- 투자자의 권리 · 의무 · 책임(14~17조)

- 투자자는 법과 규정에 따른 권리의 보장을 받으며, 선한 기업 경영의 원칙 이행, 기업의 사회적 의무, 자본투자행위에 대한 투자조정청(BKPM) 보고, 법과 규정의 준수 등 의무와 책임을 이행해야 함

- 조세혜택(18조)

- 일정기간 이행된 자본투자량에 따른 소득세 감면
- 인니에서 생산할 수 없는 자본재, 기계류 수입시 수입관세 면제 또는 감면
- 원자재 및 보조원자재 수입시 일정 기간 및 일정 조건하에 수입관세 면제 또는 감면
- 일정기간 인니에서 생산되지 않는 자본재, 기계류 및 생산장비 수입시 부가가치세(Value Added Tax) 면제 또는 중지
- 특정지역의 특정 분야에서의 토지세, 건물세 감면
- 개척분야 산업(Pioneer Industry, 신기술과 국가경제에 전략적 가치 부여 산업) 투자에 대한 일정 기간, 일정 범위의 소득세 감면, 면제

- 투자자의 토지에 대한 권리 확인(22조)

- 토지경작권(Right to Cultivate): 최장 95년까지 가능
- 건설권(Right to Build): 최장 80년까지 가능
- 토지사용권(Right to Use): 최장 70년까지 가능

● 외국인투자자의 거주 편의 강화(23조)

- 자격을 갖춘 투자자 중 투자조정청(BKPM)의 추천에 따라 2년간의 거주허가 및 현재 1년 및 6개월 비자를 대체하는 2년짜리 복수입국사증 부여, 2년 이상 인니에 거주한 외국인투자자에 대한 5년 유효 거주허가서 부여 가능 등

● 사업허가서 취득 통합서비스시스템 도입(25~26조)

- 상업행위를 하는 자본투자기업은 사업허가서 통합서비스시스템(One Door Integrated Services)을 통해 취득

● 투자정책의 조정과 이행(27~28조)

- 정부는 정부기관간, 정부기관과 인도네시아 은행간, 정부기관과 지방정부간, 지방정부간 투자정책을 조정함
- 투자조정청(BKPM)은 투자정책을 이행하며, 투자조정청은 대통령에게 책임을 지고, 동 청장은 대통령이 임명함

● 외국 투자자관련 분쟁의 국제중재 처리(32조)

- 정부와 외국투자자간 분쟁은 국제중재를 통해 결정되고, 양측은 이에 구속

■ 주요 쟁점

● 투자조정청(BKPM)의 기능과 역할

- 투자조정청은 과거 대통령령으로 존재하다가 금번 신투자법에서 정식으로 투자 정책의 이행을 담당하는 기관으로 규정됨.
- 투자조정청장은 대통령에게 직접 보고하고 대통령이 직접 임면
- 투자조정청은 투자정책의 이행을 담당하고 통합투자서비스 시스템의 유일한 창구로서의 권한을 부여받았으나 향후 투자 유치 및 투자자에 대한 제반 편의 제공에 있어 투명하고, 효율적인 기관으로 변화할지는 예단하기 어려움

● 투자정책의 조정과 이행

- 신투자법은 “정부가 투자정책을 조정하는 책임을 지고”, “투자조정청(BKPM)은 투자정책의 이행을 조정한다”라고 되어 있으나, 투자정책을 조정하는 것이 정부의 어느 부처인지 명시되지 않고 있음
- 현재 무역부와 투자법팀(National Investment Law Team)이 신투자법의 하부 규정 초안작업을 하고 있으므로, 동 문제는 향후 추이를 지켜보아야 함

● 통합투자서비스 시스템

- 신투자법은 사업허가서를 통합투자서비스를 통해 발급토록 규정하고 있고, 통합투자서비스 운영의 조정과 이행은 투자조정청이 하게 되어 있으나 중앙부처와 지방정부가 기존의 각종 인허가권을 BKPM에 넘겨주려 하지 않을 것이므로, 사업허가권 부여문제는 신법의 해석과 이행에 있어 많은 혼란을 야기할 것으로 보임
- 특히 지방자치법을 개정하지 않는 이상 신투자법을 근거로 지방정부의 인허가권을 BKPM으로 이행하기 어려움

- 거주 편의 강화 관련

- 신투자법은 2년의 거주허가 및 연속 2년이상 거주시 5년 유효 거주허가서 부여 등 투자자들에게 매력적인 조건을 제시하고 있음
- 다만 상기 조치는 일정한 자격을 갖춘 투자자에게 자동으로 부여되는 것이 아니라 투자조정청의 추천을 받은 자에 한하여 인니 이민청장이 부여하게 되어 있어, 실질적으로 BKPM의 ‘허가’에 상당하는 절차를 거쳐야 하는데 BKPM의 추천 기준이 명시되어 있지 않는 등 문제점이 남아 있음

Ⅲ. 법인 설립

1. 법인설립 절차

■ 투자허가

- 주무 기관: 투자조정청(BKPM)
- 담당업무
 - 사업설립인가(외국인 투자승인)
 - 수입관세 감면(자본재 및 원부자재 수입에 한함)
 - 한정수입업자(APIT) 등록증

■ 투자허가 후 법인설립 절차

- 투자청으로부터 투자승인서를 받으면 회사 설립 절차에 들어갈 수 있음. 투자허가서는 발급일로부터 3년 이내에 투자실적이 없으면 자동으로 취소됨
- 투자승인서는 임시사업허가서의 기능을 가지고 있으며, 투자완료 후 영구사업허가서를 별도로 획득하여야 하며, 주주가 출자금을 회사계좌에 불입 후에 법무부의 회사 설립승인서를 획득하여야 법인 자격이 부여됨
- 법인설립 절차

구분	담당기관	비고
외국인투자 승인	• 투자조정청(BKPM)	• 외국투자승인(SP)
정관 작성	• 공증인(노터리) 사무소	• 공증
소재지 등록	• 관할 지역사무소	• 소재증명서 발급

세무 등록 번호	국세청/지방세무서	• 세무 등록 번호(NPWP) 발행 • 부가가치세 과세업자 등록(SPPKP)
자본금 입금	• 일반은행	• 자본금 불입 및 출자 확인
회사 정관 등기	• 법무부	• 회사 정관의 승인, 관보 공고
회사 등록	• 지방 상업국	• 회사등록 (TDP)
외국인 체류 및 취업허가	• 이민청 및 노동부	• 체류 및 고용허가
영구 사업허가	• BKPM	• 영구 사업 허가(IUT)
별도 허가	• 재무부 • 중앙은행 • 광물·에너지부	• 금융·보험 부문 • 은행업 • 석유·천연 가스 부문

2. 법인 설립 필요서류

■ BKPM 투자승인 신청시 구비서류

- 신청서(BKPM양식: MODEL I/PMA) 기재
 - 신청인(업종) 및 회사명
 - 연간 생산 및 판매계획
 - 위치 및 공장부지 면적
 - 고용계획
 - 건축일정 및 계획
 - 자금계획
 - 자본금 조달 및 구성
- 첨부 서류
 - 본사 정관 영문 공증본(Articles of Association)
 - 본사 등기부등본 영문
 - 대표이사 여권 사본
 - 생산공정도 및 사업계획안
 - 단, 개인의 경우에는 여권 전체 페이지 사본

■ BKPM 투자승인 후 법인 설립 필요서류

● 투자허가서 (투자청)

- 서류 제출후 발급시까지 약 7일소요

● 정관

- 공증인 사무실에서 정관에 서명함으로서 유효

● 소재 증명서

- 정관이 확정되면 관할 지역사무소에 소재등록을 하고 소재 증명서 발급

● 납세자 번호

- 자카르타 지역 납세의무자는 외자 세무서 세적등록을 하고, 지방 납세의무자는 지역 세무서 혹은 외자세무서에 등록을 통하여 납세자 번호 부여 및 부가가치세 과징 대상 회사 등록

● 자본금 출자 확인서

- 은행계좌 개설후 납입자본금 입금후 확인서 발급

※ 현지법상 통장개설을 위해서는 투자승인서, 정관, 소재지 증명서, 납세자번호, 법무부의 회사설립 등기, 지방상업국 등록(TDP), 외국인 기한부 거주허가서를 필요로 하나, 절차상의 문제로 인하여 현실적으로는 법무부 등기 이후의 절차는 추후 보완하는 형태로 운영되기도 함

VI. 연락사무소 설립

- 외국기업은 인도네시아에 연락사무소를 설립할 수 있으며 투자 조정청 또는 업종에 따라 상업부(무역), 공공사업부(건축), 재무부(금융)에 등록할 수 있음
- 원칙적으로 연락사무소는 시장조사 및 홍보업무를 수행하며, 수주, 입찰, 계약서명, 수출입 및 유통 등과 같은 영업 및 무역활동이 금지됨
- BKPM에 연락사무소 설립을 신청할 경우에는 신청서에 다음 서류를 첨부해야 함
 - 주재원 임명장 (Letter of Appointment)
 - 본사 정관 영문 공증
 - 활동 범위 명세서 (Letter of Statement)
 - 여권 복사본, 사진
- 지사 설립 허가를 받은 후에는 법인 설립과 마찬가지로 소재지 등록, 납세자번호 발급, 회사명부 등록의 절차를 따라야 함
- 상업부에 지사 설립 신청 시에는 500만 루피아를 예치해야 함

V. 조세 제도

1. 법인세

■ 납세의무

- 외국 납세의무자는 인도네시아에서 발생한 원천소득에 대하여 납세의무가 있으며, 인도네시아에서 설립된 내국법인은 국내원천소득과 해외원천소득을 합산하여 과세되며, 외국소득에 대하여 납부한 세액은 해외원천 소득에서 세액공제함

■ 법인세율

과세표준금액(루피아)	세율(%)
최초금액부터 ~50,000,000	10
50,000,001 ~100,000,000	15
100,000,001 이상	30

2. 개인소득세

■ 납세의무

- 연속성 여부와 관계없이 12개월 간 183일 이상 인도네시아 내에 체류하는 경우, 또는 인도네시아에 거주하는 경우

■ 일반 개인 거주자의 원천세율

과세표준금액(루피아)	세율(%)
최초금액부터 ~25,000,000	5
25,000,001 ~50,000,000	10
50,000,001 ~100,000,000	15
100,000,001 ~200,000,000	25
200,000,001 이상	35

■ 일반 개인거주자에 대한 연간 소득공제금액

항 목	금액/연간 기준 (단위: 루피아)
납세자 본인 기초공제	2,880,000
배우자 공제	1,440,000
부양자 공제(최고 3인까지)	1,440,000/인
의무관련 공제(총소득의 5%, 1개월 최고 108,000루피아 한도)	1,296,000
Jamsostek(사회보장)	전액
연금 (총소득의 5%, 1개월 최고 36,000루피아 한도)	432,000

3. 부가가치세

■ 대상

- 재화 및 용역거래를 과세대상으로 함

■ 세율

- 부가가치세 세율은 최고 15%에서 최저 5% 범위내에서 경제환경에 따라 운영되는 탄력세율로서, 현재는 10%를 적용하고 있음

4. 원천징수

■ 원천징수 개요

- 원천징수세액은 모든 지급액으로부터 징수
 - 거주자의 원천징수세액은 관련소득 신고시 납부세액에서 공제
 - 원천징수소득자가 비거주자인 경우 원천징수로 종결

■ 원천징수 대상 소득

- 배당, 이자, 임대료, 사용료 및 자산운용과 관련된 기타소득
- 인도네시아 내에서 수행된 기술 및 관리용역에 대한 대가 등

VI. 노무 관리

1. 고용 관계

■ 고용 관계를 규정하는 법적 근거

- 개인별 고용계약서
- 사규
- 단체 근로계약서

■ 고용 계약의 형태

- 무기한부 고용계약(55세 정년)
- 기한부 고용계약(한시성 사업장에 적용)
- 아웃소싱

2. 임금

■ 임금 수준

- 인도네시아는 주별 최저임금제도를 운영하고 있으며, 주에 따라 지역별 또는 산업별 최저임금을 제시하는 등 세부내용에 차이가 있음.
- 자카르타 특별주는 2007년 최저임금이 지난해 대비 9.95% 증액한 90만560루피아이며, 서부자哇주는 15.5% 증가한 51만 6,840 루피아, 반텐주는 12.8% 증가한 74만6,500 루피아, 리아우주는 9.9% 증가한 71만 루피아임
- 특히 우리나라 투자기업은 내년도 최저임금이 90만 루피아 수준이 되는 자카르타, 서부자哇주의 버까시 및 반둥, 반텐주의 땅그랑 지역 등에 80% 이상 위치해 있어, 점차 최저임금이 경

영에 부담이 될 것으로 보임

● 주요 지역별 최저임금

(단위: 루피아)

NO	PROVINCE	2005	2006	2007
1	NANGGROE ACEH D.	620,000	820,000	850,000
2	NORTH SUMATERA	600,000	737,794	761,000
3	WEST SUMATERA	540,000	650,000	725,000
4	RIAU	551,500	637,000	710,000
5	ISLAND RIAU	557,000	760,000	805,000
6	JAMBI	485,000	563,000	658,000
7	SOUTH SUMATERA	503,700	604,000	753,000
8	BANGKA BELITUNG	560,000	640,000	720,000
9	BENGKULU	430,000	516,000	644,838
10	LAMPUNG	405,000	505,000	555,000
11	WEST JAVA	408,260	447,654	516,840
12	CENTRAL JAVA	390,000	450,000	500,000
13	EAST JAVA	340,000	390,000	448,500
14	D.K.I JAKARTA	771,843	819,100	900,560
15	BANTEN	585,000	661,613	746,500
16	D.I. YOGYAKARTA	400,000	460,000	500,000
17	BALI	447,500	510,000	622,000
18	WEST KALIMANTAN	445,200	512,000	560,000
19	CENTRAL ALIMANTAN	523,698	634,260	665,973
20	EAST KALIMANTAN	600,000	684,000	766,500
21	SOUTH KALIMANTAN	536,300	629,000	745,000
22	EAST NUSA TENGGARA	450,000	550,000	600,000
23	WEST NUSA ENGGARA	475,000	550,000	645,000
24	MALUKU	500,000	575,000	635,000
25	NORTH MALUKU	440,000	528,000	660,000
26	GORONTALO	435,000	527,000	560,000
27	NORTH SULAWESI	600,000	713,500	750,000
28	SOUTH SULAWESI	510,000	612,000	672,300
29	CENTRAL SULAWESI	450,000	575,000	615,000
30	SOUTHEAST SULAWESI	498,600	573,400	640,000
31	PAPUA	700,000	822,500	987,000

자료원: Ministry of Manpower & Transmigration / Business News
International Labor Organization (ILO)

■ 퇴직금

• 지급 기준

• 해고수당: 노동법 156조 2항

- 1년미만: 1개월 임금
- 1년~2년: 2개월 임금
- 2년~3년: 3개월 임금
- 3년~4년: 4개월 임금
- 4년~5년: 5개월 임금
- 5년~6년: 6개월 임금
- 6년~7년: 7개월 임금
- 7년~8년: 8개월 임금
- 8년 이상: 9개월 임금

• 근속수당: 노동법 156조 3항

- 3년~6년: 2개월 임금
- 6년~9년: 3개월 임금
- 9년~12년: 4개월 임금
- 12년~15년: 5개월 임금
- 15년~18년: 6개월 임금
- 18년~21년: 7개월 임금
- 21년~24년: 8개월 임금
- 24년 이상: 10개월 임금

• 손해보상금: 노동법 156조 4항

- 연차휴가 미실시에 따른 보상금
- 근로자 또는 근로자 가족이 새로운 직장으로 옮기는 데 따른 이전비

- 근로자의 해고금 및 근속수당의 15% 상당의 보상비
- 기타 고용계약 또는 사규, 단체 근로협약에 규정에 따른 사항

● 사례별 적용

- 자진퇴사 및 중대과실에 따른 퇴사: 손해보상금(156조 4항) 및 사규·단체협약에 따른 자진퇴사 보상금
- 중대과실 이외의 이유로 해고: 해고수당, 근속수당, 손해보상금
- 정년(별도 연금제도 없는 경우) 및 사망: 해고수당 2배, 근속수당, 손해보상금

3. 노동조건

■ 노동시간

- 기본 근로시간: 1일 7시간, 주당 40시간
- 유해위험 작업시간: 1일 6시간, 주당 35시간
- 휴식시간: 연속 4시간 근로 시 최소 30분
- 초과근무
 - 초과근무 한도: 하루 3시간, 주당 14시간 (노동법 77조)
 - 초과근무 수당
 - 평일: 초과근무 1번째 시간은 평상근무 1.5배, 2번째 시간부터 2배
 - 공휴일: 처음 1~7시간은 평상근무 2배, 8시간째는 3배, 9시간째 이후는 4배(노동법 78조 및 장관령 102호)

■ 휴가

- 12개월 근무시 연 12 근무일의 휴가
- 6년 근속시 7~8년째 1개월의 휴가 실시

■ 해고

- 근로계약, 사규, 단체협약 규정 위반에 대해 1~3차 경고장 순차적 발급 후 근로관계 해지할 수 있으며, 경고장은 각각 6개월간 유효함
- 고용해지는 형사법상 범죄나 중대한 과실이 아닌 경우를 제외하고는 과도한 퇴직금 지급으로 인하여 노동시장의 경직성을 초래하고 있음
- 중과실에 해당하는 사유는 아래와 같음
 - 회사 소유의 물건 또는 돈을 사기, 절도, 횡령했을 경우
 - 허위 또는 거짓말을 하여 회사에 피해를 입힌 경우
 - 사업장에서 음주, 주정, 마약 등의 약품을 사용·배포한 경우
 - 미풍양속을 해치는 행위 또는 도박의 경우
 - 직장동료를 폭행, 고문, 공갈, 협박한 경우
 - 법률에 저촉되는 행위를 하도록 권유하는 경우
 - 사업주 소유의 물품을 고의적으로 파괴하거나, 위험한 상태로 방치해 두는 행위
 - 회사기밀을 밝히거나 누설했을 경우
 - 사업장 내에서 다른 행위로 5년 이상의 형사처벌을 받은 경우

4. 사회보장제도

- 10명 이상의 노동자를 고용하는 회사 또는 1개월에 최저 100만 루피아의 임금을 지불하는 모든 조직 혹은 기관은 고용 노동자를 사회보장에 가입시킬 의무를 가짐

- 인도네시아는 사회보장으로서 Jamsostek를 운영하고 있으며 부과되는 보장은 산재보험, 노후보험, 사망보험, 건강보험이며, 산재·노후·사망보험은 의무가입사항임
- 보험료 산정기준

구분	보험료율
산재보험	고정급의 0.24~1.74%
사망보험	고정급의 0.3%
노후보험	고정급의 5.7% (회사가 3.7%, 개인이 2% 부담)
건강보험	미혼자: 고정급의 3% 기혼자: 고정급의 6%

VII. 기타 정보

1. 주요 기관 전화번호

기 관	전 화
주인니 한국 대사관	(62-21)520-1915
KOTRA 무역관	(62-21)574-1522
한인회	(62-21)521-2515
한인상공회의소	(62-21)527-7539
외환은행	(62-21)574-1030
우리은행	(62-21)515-1919

2. 한국투자기업지원센터(자카르타) 투자 법률 자문서비스

- 주 1회 (매주 금요일 오후) 사전 예약업체를 대상으로, 센터 내에 고문변호사 초빙하여 대면 상담
 - 담당자: 김현철 차장
 - 이메일: khc@kotra.or.kr
 - 전화: (62-21)574-1522
 - 질의내용 사전 통보 후 대면 상담
 - 상담자 : 이승민 변호사(YSM & Partners)

3. 인니 투자조정청 (BKPM) 개요

구 분	내 용
기관명	Investment Coordinating Board (인니아: Badan Koordinasi Penanaman Modal (BKPM))
주 소	Jl. Gatot Subroto 44, Jakarta 12190
연락처	전화: (62-21)525-2008 / 팩스: (62-21)525-4945
설립일	1967년
소 속	대통령 직속기구
대 표	무하마드 루트피(Muhammad Lutfi) <직위 명칭: 청장(Chairman)>

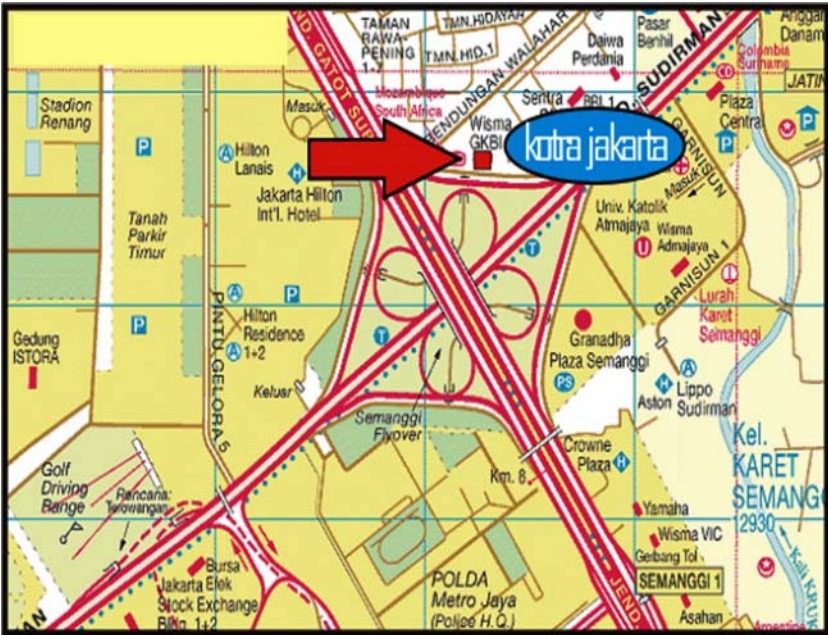
역 할	투자와 관련된 정책 및 계획 수립 투자 승인 투자관련 정보 서비스 투자 모니터링 및 평가 투자유치 활동 전개
조 직	국내: 본사, 31개 지역에 지방 사무소 - 본사는 투자환경개선, 투자 유치, 대외협력, 투자서비스, 투자승인을 담당하는 5개 본부(본부장은 Deputy Chairman)로 구성 해외: 6개국에 해외 사무소(대만, 일본, 네덜란드, 호주, 영국, 미국)
직 원	약 550명

4. KOTRA 자카르타 한국 무역관 연락처

- 설치시기: 1964년 8월
- 무역관 연락처
 - 주 소: 21st Fl. Suite 2102, Wisma GKBI
Jl. Jendral Sudirman Kav. 28, Jakarta 10210
 - 전 화: (62-21)574-1522 / 팩스: (62-21)572-2187
 - 홈페이지: www.kotra.or.kr/jakarta
 - 무역관 이메일: jakarta@kotra.or.kr
 - 무역관 직원 및 연락처

직 위	성 명	연 락 처
관 장	김 병 권	(62-816)824749
부 장	장 준 상	(62-812)8522063
차 장	김 현 철	(62-812)8392672
차 장	복 덕 규	(62-813)81816151

<KOTRA 자카르타무역관 안내 지도>



국가 개요

- 국 명: 인도네시아 공화국 (Republic of Indonesia)
- 면 적: 2,027,087km² (한반도의 9배)
 - 수마트라, 자바, 칼리만탄, 술라웨시, 파푸아 등 5개의 큰섬과 17,500여개의 작은 섬으로 구성
- 수 도: 자카르타(Jakarta)
- 주요도시: 자카르타, 수라바야, 반둥, 스마랑, 족자카르타(이상 자바), 메단, 팔렘방(이상 수마트라), 반자르마신, 발릭빠빔, 뽀띠아낙(칼리만탄), 우중뽀당, 머나노(슬라웨시), 덴파사(발리), 암본(말루꾸)
- 인 구: 2억4천만명
- 민족구성: 자바족(45%), 순다족, 아체족, 바딕족 등 300여 종족
- 언 어: Bahasa Indonesia (인도네시아 공용어)
- 종 교: 회교(87%), 기독교(7%), 가톨릭(3%), 힌두교(2%)등
- 정부형태: 대통령 중심제
 - 국민협의회(MPR): 헌법제정, 국가정책 방향 결정 (국회 및 지역대표 의원 총 678명으로 구성, 임기 5년)
 - 국회(DPR): 법률제정 (인구비례로 69개 선거구에서 550명 선출, 임기 5년)
 - 지역대표(DPD): 주요 사항에 대해 국민협의회에 참여 (32개주에서 주별 4명, 계 128명 선출, 임기 5년)
- 국가원수: Susilo Bambang Yudoyono 대통령
- 화폐단위: 루피아(Rupiah, IDR로 표기)
- 환 율: IDR 9,009.01 / US\$ 1
- 기 후: 열대몬순, 고온 무풍다습
 - 연평균기온: 25~28℃(자카르타 32~33℃), 습도 73~87%,
 - 우기(10월-3월)와 건기(4월-9월)로 나뉨
- 시 차: GMT + 7 (자카르타 기준, 한국보다 2시간 느림)

<부록> 투자 법령 및 관련 자료

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ALI BUDIARDJO, NUGROHO, REKSODIPUTRO

Passed by the House of Representatives on March 29, 2007

Signed into Law Number 25 of 2007 by the President on April 26, 2007

Promulgated on April 26, 2007 in State Gazette Number 67 of 2007, and Supplement to State Gazette Number 4724



**UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR 25 TAHUN 2007
TENTANG
PENANAMAN MODAL**

**LAW OF THE REPUBLIC OF INDONESIA
NUMBER 25 OF 2007
CONCERNING
INVESTMENTS**

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UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR 25 TAHUN 2007
TENTANG
PENANAMAN MODAL

DENGAN RAHMAT TUHAN YANG MAHA ESA

PRESIDEN REPUBLIK INDONESIA,

Menimbang:

- a. bahwa untuk mewujudkan masyarakat adil dan makmur berdasarkan Pancasila dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 perlu dilaksanakan pembangunan ekonomi nasional yang berkelanjutan dengan berlandaskan demokrasi ekonomi untuk mencapai tujuan bernegara;
- b. bahwa sesuai dengan amanat yang tercantum dalam Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia Nomor XVI/MPR/1998 tentang Politik Ekonomi dalam rangka Demokrasi Ekonomi, kebijakan penanaman modal selayaknya selalu mendasari ekonomi kerakyatan yang melibatkan pengembangan bagi usaha mikro, kecil, menengah, dan koperasi;
- c. bahwa untuk mempercepat pembangunan ekonomi nasional dan mewujudkan kedaulatan politik dan ekonomi Indonesia diperlukan peningkatan penanaman modal untuk mengolah potensi ekonomi menjadi kekuatan ekonomi riil dengan menggunakan modal yang berasal, baik dari dalam negeri maupun dari luar negeri;
- d. bahwa dalam menghadapi perubahan perekonomian global dan keikutsertaan Indonesia dalam berbagai kerja sama internasional perlu diciptakan iklim penanaman modal yang kondusif, promotif, memberikan kepastian hukum, keadilan, dan efisien dengan tetap memperhatikan kepentingan ekonomi nasional;

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 25 OF 2007
CONCERNING
INVESTMENTS

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF
THE REPUBLIC OF INDONESIA,

Considering:

- a. that to realize a just and prosperous society that is based on Pancasila and the 1945 Constitution of the State of the Republic of Indonesia, it is necessary to make sustainable national economic development founded on economic democracy in pursuit of the state's goals;
- b. that consistent with the mandate set forth in Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 concerning Economic Policy in the context of Economic Democracy, investment policies should at all times underlay the people's economy that commits itself to the enhancement of micro, small and medium enterprises, and cooperatives;
- c. that to accelerate national economic development and to realize Indonesian political and economic sovereignty it is necessary to step up investments in order to turn economic potentials into real economic strength by use of funds derived from both home and abroad;
- d. that to deal with global economic changes and Indonesia's participation in diverse international cooperations it is necessary to create investment climate to be conducive, promoting, giving legal certainty, justice and efficiency with due regard to the interest of national economy;

- | | |
|--|--|
| <p>e. bahwa Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing dan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri perlu diganti karena tidak sesuai lagi dengan kebutuhan percepatan perkembangan perekonomian dan pembangunan hukum nasional, khususnya di bidang penanaman modal;</p> <p>f. bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, huruf b, huruf c, huruf d, dan huruf e perlu membentuk Undang-Undang tentang Penanaman Modal.</p> | <p>e. that Law Number 1 of 1967 concerning Foreign Investments, as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967 concerning Foreign Investments, and Law Number 6 of 1968 concerning Domestic Investments, as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic Investments need replacement for no longer being consistent with the need of accelerated national economic enhancement and law development, most notably, in the field of investment;</p> <p>f. that having due regard to item a, item b, item c, item d, and item e it is necessary to make a Law concerning Investments.</p> |
|--|--|

Mengingat:

Pasal 4 ayat (1), Pasal 5 ayat (1), Pasal 18 ayat (1), ayat (2), dan ayat (5), Pasal 20, serta Pasal 33 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;

Dengan Persetujuan Bersama

DEWAN PERWAKILAN RAKYAT REPUBLIK INDONESIA
dan
PRESIDEN REPUBLIK INDONESIA

MEMUTUSKAN:

Menetapkan: UNDANG-UNDANG TENTANG
PENANAMAN MODAL.

PENJELASAN UMUM

Salah satu tujuan pembentukan pemerintahan negara adalah untuk memajukan kesejahteraan umum. Amanat tersebut, antara lain, telah dijabarkan dalam Pasal 33 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan merupakan amanat konstitusi yang mendasari pembentukan seluruh peraturan perundang-undangan di bidang perekonomian. Konstitusi mengamanatkan agar pembangunan ekonomi nasional harus berdasarkan prinsip demokrasi yang mampu menciptakan terwujudnya kedaulatan ekonomi Indonesia. Keterkaitan pembangunan ekonomi dengan pelaku

Bearing in mind:

Article 4 section (1), Article 5 section (1), Article 18 section (1), section (2), and section (5), Article 20, and Article 33 of the 1945 Constitution of the State of the Republic of Indonesia;

With the Joint Consent of:
THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA
and

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact: LAW CONCERNING INVESTMENTS.

GENERAL ELUCIDATION

One of the goals of establishing state governance is to further public welfare. This mandate has been set forth, inter alia, in Article 33 of the 1945 Constitution of the State of the Republic of Indonesia, and is a constitutional mandate that underlies the making of all economic laws and regulations. The Constitution has mandated that national economic development must be founded on the democratic principle that is capable of realizing the sovereignty of the Indonesian economy. A link between economic development and people's economic actors has been affirmed by Decree of the People's Consultative

ekonomi kerakyatan dimantapkan lagi dengan Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia Nomor XVI/MPR/1998 tentang Politik Ekonomi Dalam Rangka Demokrasi Ekonomi sebagai sumber hukum materiil. Dengan demikian, pengembangan penanaman modal bagi usaha mikro, kecil, menengah, dan koperasi menjadi bagian dari kebijakan dasar penanaman modal.

Berkaitan dengan hal tersebut, penanaman modal harus menjadi bagian dari penyelenggaraan perekonomian nasional dan ditempatkan sebagai upaya untuk meningkatkan pertumbuhan ekonomi nasional, menciptakan lapangan kerja, meningkatkan pembangunan ekonomi berkelanjutan, meningkatkan kapasitas dan kemampuan teknologi nasional, mendorong pembangunan ekonomi kerakyatan, serta mewujudkan kesejahteraan masyarakat dalam suatu sistem perekonomian yang berdaya saing.

Tujuan penyelenggaraan penanaman modal hanya dapat tercapai apabila faktor penunjang yang menghambat iklim penanaman modal dapat diatasi, antara lain melalui perbaikan koordinasi antarinstansi Pemerintah Pusat dan daerah, penciptaan birokrasi yang efisien, kepastian hukum di bidang penanaman modal, biaya ekonomi yang berdaya saing tinggi, serta iklim usaha yang kondusif di bidang ketenagakerjaan dan keamanan berusaha. Dengan perbaikan berbagai faktor penunjang tersebut, diharapkan realisasi penanaman modal akan membaik secara signifikan.

Suasana kebatinan pembentukan Undang-Undang tentang Penanaman Modal didasarkan pada semangat untuk menciptakan iklim penanaman modal yang kondusif sehingga Undang-Undang tentang Penanaman Modal mengatur hal-hal yang dinilai penting, antara lain yang terkait dengan cakupan undang-undang, kebijakan dasar penanaman modal, bentuk badan usaha, perlakuan terhadap penanaman modal, bidang usaha, serta keterkaitan pembangunan ekonomi dengan pelaku ekonomi kerakyatan yang diwujudkan dalam pengaturan mengenai pengembangan penanaman modal bagi usaha mikro, kecil, menengah, dan koperasi, hak, kewajiban, dan tanggung jawab penanam modal, serta fasilitas penanaman modal, pengesahan dan perizinan, koordinasi dan pelaksanaan kebijakan penanaman modal yang di dalamnya mengatur mengenai kelembagaan, penyelenggaraan urusan penanaman modal, dan ketentuan yang mengatur tentang penyelesaian sengketa.

Undang-Undang ini mencakupi semua kegiatan penanaman modal langsung di semua sektor. Undang-Undang ini juga memberikan jaminan perlakuan yang sama dalam rangka penanaman modal. Selain itu, Undang-Undang ini memerintahkan agar Pemerintah meningkatkan koordinasi antarinstansi Pemerintah, antara instansi Pemerintah dengan Bank Indonesia, dan antara instansi Pemerintah dengan pemerintah daerah. Koordinasi dengan pemerintah daerah harus sejalan dengan semangat otonomi daerah. Pemerintah daerah bersama-sama dengan instansi atau lembaga, baik swasta maupun Pemerintah, harus lebih diberdayakan lagi, baik dalam pengembangan peluang potensi daerah maupun dalam koordinasi promosi dan pelayanan penanaman modal. Pemerintah daerah menjalankan otonomi seluas-luasnya untuk mengatur dan mengurus sendiri urusan penyelenggaraan penanaman modal berdasarkan asas otonomi daerah dan tugas pembantuan atau dekonsentrasi. Oleh karena itu, peningkatan

Assembly of the Republic of Indonesia Number XVI/MPR/1998 concernign Economic Policy in the Context of Economic Democracy as substantive legal authority. Therefore, enhancement of investments in micro, small and medium enterprises, and cooperatives is made a part of major policies of investments.

In connection therewith, investments must be made a part of the conduct of national economy and be positioned in an effort to increase the national economic growth, to create job opportunities, to improve sustainable economic development, to improve the capacity and capability of national technology, to foster people's economic development, as well as to realize public welfare, in a competitive economic system.

The purposes of the conduct of investments are only reachable if supporting factors that obstruct investment climate can be contained through, inter alia, improving coordination among agencies of the Central Government and regions, establishment of efficient bureaucracy, certainty of the investment law, highly-competitive economic costs, conducive business climate in labor, and business security. With the improvement of such various supporting factors, it is hoped that realization of investments will be better-situated in a significant manner.

The spiritual atmosphere in the making of Law on Investments is built upon the spirit to create conducive investment climate, and therefore the Law concerning Investments regulates important-judged matters, namely, inter alia, those related to the coverage of the law, major investment policies, forms of business entity, treatment of investments, business sectors, as well as a link between economic development and people's economic actors, of which is to be realized in the regulation on enhancement of investments in micro, small and medium enterprises, and cooperatives, investor's rights, obligations, and responsibilities as well as investment facilities, validation and permission, coordination and implementation of investment policies in which it governs institutions, administration of investment affairs, and provisions governing dispute settlements.

This Law embraces all direct investments in all sectors. This Law also gives an assurance of equitable treatment with respect to investments. In addition thereto, this Law orders the Government to increase coordination among the Government agencies, between the Government agencies and Bank Indonesia, and between the Government agencies and regional governments. Coordination with the regional governments must be in line with the regional autonomy spirits. The regional governments together with private and Government agencies or institutions must be more empowered both in the enhancement of potential investment opportunities in regions and coordination of investment promotion and services. The regional governments implement as extensive autonomy as possible in order to organize and administer themselves the conduct of investment affairs based on the principle of regional autonomy and assignment duties or deconsentration. Therefore, the increased institutional coordination must be measurable

koordinasi kelembagaan tersebut harus dapat diukur dari kecepatan pemberian perizinan dan fasilitas penanaman modal dengan biaya yang berdaya saing. Agar memenuhi prinsip demokrasi ekonomi, Undang-Undang ini juga memerintahkan penyusunan peraturan perundang-undangan mengenai bidang usaha yang tertutup dan yang terbuka dengan persyaratan, termasuk bidang usaha yang harus dimitrakan atau dicadangkan bagi usaha mikro, kecil, menengah, dan koperasi.

Permasalahan pokok yang dihadapi penanam modal dalam memulai usaha di Indonesia diperhatikan oleh Undang-Undang ini sehingga terdapat pengaturan mengenai pengesahan dan perizinan yang di dalamnya terdapat pengaturan mengenai pelayanan terpadu satu pintu. Dengan sistem itu, sangat diharapkan bahwa pelayanan terpadu di pusat dan di daerah dapat menciptakan penyederhanaan perizinan dan percepatan penyelesaiannya. Selain pelayanan penanaman modal di daerah, Badan Koordinasi Penanaman Modal diberi tugas mengoordinasikan pelaksanaan kebijakan penanam modal. Badan Koordinasi Penanaman Modal dipimpin oleh seorang kepala yang bertanggung jawab langsung kepada Presiden. Jabaran tugas pokok dan fungsi Badan Koordinasi Penanaman Modal pada dasarnya memperkuat peran badan tersebut guna mengatasi hambatan penanaman modal, meningkatkan kepastian pemberian fasilitas kepada penanam modal, dan memperkuat peran penanam modal. Peningkatan peran penanaman modal tersebut harus tetap dalam koridor kebijakan pembangunan nasional yang direncanakan dengan tahap memperhatikan kestabilan makroekonomi dan keseimbangan ekonomi antarwilayah, sektor, pelaku usaha, dan kelompok masyarakat, mendukung peran usaha nasional, serta memenuhi kaidah tata kelola perusahaan yang baik (good corporate governance).

Fasilitas penanaman modal diberikan dengan mempertimbangkan tingkat daya saing perekonomian dan kondisi keuangan negara dan harus promotif dibandingkan dengan fasilitas yang diberikan negara lain. Pentingnya kepastian fasilitas penanaman modal ini mendorong pengaturan secara lebih detail terhadap bentuk fasilitas fiskal, fasilitas hak atas tanah, migrasi, dan fasilitas perizinan impor. Meskipun demikian, pemberian fasilitas penanaman modal tersebut juga diberikan sebagai upaya mendorong penyerapan tenaga kerja, keterkaitan pembangunan ekonomi dengan pelaku ekonomi kerakyatan, orientasi ekspor dan insentif yang lebih menguntungkan kepada penanam modal yang menggunakan barang modal atau mesin atau peralatan produksi dalam negeri, serta fasilitas terkait dengan lokasi penanaman modal di daerah tertinggal dan di daerah dengan infrastruktur terbatas yang akan diatur lebih terperinci dalam ketentuan peraturan perundang-undangan.

Dengan memperhatikan hal tersebut, Undang-Undang ini juga memberikan ruang kepada Pemerintah untuk mengambil kebijakan guna mengantisipasi berbagai perjanjian internasional yang terjadi dan sekaligus untuk mendorong kerja sama internasional lainnya guna memperbesar peluang pasar regional dan internasional bagi produk barang dan jasa dari Indonesia. Kebijakan pengembangan ekonomi di wilayah tertentu ditempatkan sebagai bagian untuk menarik potensi pasar internasional dan sebagai daya dorong guna meningkatkan daya tarik pertumbuhan suatu kawasan atau wilayah ekonomi khusus yang bersifat strategis bagi

through the speed of the granting of licensing and investment facilities at a competitive cost. In order to meet the principle of economic democracy, this Law also orders preparation of laws and regulations concerning business sectors that are closed and open with requirements, including business sectors that must be in partnership or be reserved for micro, small and medium enterprises, and cooperatives.

Key issues that are faced by investors to start a business in Indonesia have been addressed by this Law in which there is regulation on validation and permission, and further, regulation on one-stop integrated services. With this system, it is greatly hoped that the integrated services at the central and in regions can create simplified licensing and speedy administration. In addition to investment services in regions, the Investment Coordinating Board is assigned to coordinate the implementation of investment policies. The Investment Coordinating Board is led by a head that is responsible directly to the President. Detailed major duties and functions of the Investment Coordinating Board are basically to strengthen the board's roles to contain obstacles to investments, to improve certainty of granting facilities to investors, and to reinforce the investors' roles. The improvement of investors' roles must remain within the corridor of the national development policies that are planned by stages, namely, by having due regard to the macroeconomic stability and economic balance among regions, sectors, business actors, and community groups; by supporting the roles of national business; as well as by addressing the code of principles of good corporate governance.

Investment facilities are granted by taking into account the levels of economic competitiveness and the state's financial condition, and should be more promoting by comparison with facilities granted by other countries. The importance of certainty of these investment facilities has encouraged more specific regulation on the forms of fiscal facility, land title facility, immigration facility, and import permission facility. In addition, the granting of these investment facilities is also made in an effort to bolster worker absorption, a link of economic development and people's economic actors, export orientation and more beneficial incentives to investors that use domestic production capital goods or machines or equipment, as well as facilities associated with locations of investments in less-developed areas and in limited-infrastructure areas to be regulated more thoroughly by provisions of laws and regulations.

Having due regard to the foregoing, this Law also gives latitude to the Government to make a policy to anticipate various subsisting international treaties, and at the same time to encourage other international cooperation to broaden the opportunities of regional and international markets for Indonesian good and service products. Enhanced economic policies in specified regions are positioned as part to lure the potential international markets and as the impetus to increase the appeal for growth in a special economic zone or area that is strategic in nature for national economic enhancement. In addition, this Law also governs the rights to transfer assets and

pengembangan perekonomian nasional. Selain itu, Undang-Undang ini juga mengatur hak pengalihan aset dan hak untuk melakukan transfer dan repatriasi dengan tetap memperhatikan tanggung jawab hukum, kewajiban fiskal, dan kewajiban sosial yang harus diselesaikan oleh penanam modal. Kemungkinan timbulnya sengketa antara penanam modal dan Pemerintah juga diantisipasi Undang-Undang ini dengan pengaturan mengenai penyelesaian sengketa.

Hak, kewajiban, dan tanggung jawab penanam modal diatur secara khusus guna memberikan kepastian hukum, mempertegas kewajiban penanam modal terhadap penerapan prinsip tata kelola perusahaan yang sehat, memberikan penghormatan atas tradisi budaya masyarakat, dan melaksanakan tanggung jawab sosial perusahaan. Pengaturan tanggung jawab penanam modal diperlukan untuk mendorong iklim persaingan usaha yang sehat, memperbesar tanggung jawab lingkungan dan pemenuhan hak dan kewajiban tenaga kerja, serta upaya mendorong ketaatan penanam modal terhadap peraturan perundang-undangan.

Perekonomian dunia ditandai oleh kompetisi antarbangsa yang semakin ketat sehingga kebijakan penanaman modal harus didorong untuk menciptakan daya saing perekonomian nasional guna mendorong integrasi perekonomian Indonesia menuju perekonomian global. Perekonomian dunia juga diwarnai oleh adanya blok perdagangan, pasar bersama, dan perjanjian perdagangan bebas yang didasarkan atas sinergi kepentingan antarpihak atau antarnegara yang mengadakan perjanjian. Hal itu juga terjadi dengan keterlibatan Indonesia dalam berbagai kerja sama internasional yang terkait dengan penanaman modal, baik secara bilateral, regional maupun multilateral (World Trade Organization/WT0), menimbulkan berbagai konsekuensi yang harus dihadapi dan ditaati.

Berbagai pertimbangan di atas dan mengingat hukum penanaman modal yang telah berlaku selama kurang lebih 40 (empat puluh) tahun semakin mendesak kebutuhan Undang-Undang tentang Penanaman Modal sebagai pengganti Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing dan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri yang selama ini merupakan dasar hukum bagi kegiatan penanaman modal di Indonesia perlu diganti karena tidak sesuai lagi dengan tantangan dan kebutuhan untuk mempercepat perkembangan perekonomian nasional melalui konstruksi pembangunan hukum nasional di bidang penanaman modal yang berdaya saing dan berpihak kepada kepentingan nasional.

the rights to transfer and repatriate with due regard to legal responsibilities, fiscal obligations, and social obligations that should be settled by investors. A possible outbreak of a dispute between an investor and the Government is also anticipated by this Law through regulation on dispute settlements.

An investor's rights, obligations, and responsibilities are regulated specifically to give legal certainty, to affirm investors' obligations to apply the code of principle of sound corporate governance, to respect the community's cultural traditions, and to fulfill corporate social responsibility. Regulation on responsibilities of investors is necessary in order to encourage fair business competition climate, to broaden responsibility for the environment, and to address worker rights and obligations, as well as to make an effort to urge investors to comply with laws and regulations.

The world economy is marked with tight competition among countries, thus pushing investment policies to create competitiveness of the national economy in order to encourage the integration of Indonesian economy into global economy. The world economy is also rife with trade blocks, common markets, and free trade treaties founded on the synergy of interest among the parties or countries to treaties. Indonesia's participation in diverse international cooperation with respect to investments, whether bilateral, regional or multilateral (World Trade Organization/WT0) has also posed various consequences to be faced and complied with.

With the above-mentioned considerations and bearing in mind the investment law that has already been in place for about 40 (forty) years, the need of a Law on Investments in lieu thereof is urgent to replace Law Number 1 of 1967 concerning Foreign Investments, as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967 concerning Foreign Investments, and Law Number 6 of 1968 concerning Domestic Investments, as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic Investments, which until the present have become the legal basis of investment activities in Indonesia but no longer keep pace with the challenges and needs to expedite national economic enhancement through constructing the national law development in the field of investment in order to be competitive and to side with the national interest.

BAB I
KETENTUAN UMUM

Pasal 1

Dalam Undang-Undang ini yang dimaksud dengan:

1. “Penanaman modal” adalah segala bentuk kegiatan menanam modal, baik oleh penanam modal dalam negeri maupun penanam modal asing untuk melakukan usaha di wilayah negara Republik Indonesia.
2. “Penanaman modal dalam negeri” adalah kegiatan menanam modal untuk melakukan usaha di wilayah negara Republik Indonesia yang dilakukan oleh penanam modal dalam negeri dengan menggunakan modal dalam negeri.
3. “Penanaman modal asing” adalah kegiatan menanam modal untuk melakukan usaha di wilayah negara Republik Indonesia yang dilakukan oleh penanam modal asing, baik yang menggunakan modal asing sepenuhnya maupun yang berpatungan dengan penanam modal dalam negeri.
4. “Penanam modal” adalah perseorangan atau badan usaha yang melakukan penanaman modal yang dapat berupa penanam modal dalam negeri dan penanam modal asing.
5. “Penanam modal dalam negeri” adalah perseorangan warga negara Indonesia, badan usaha Indonesia, negara Republik Indonesia, atau daerah yang melakukan penanaman modal di wilayah negara Republik Indonesia.
6. “Penanam modal asing” adalah perseorangan warga negara asing, badan usaha asing, dan/atau pemerintah asing yang melakukan penanaman modal di wilayah negara Republik Indonesia.
7. “Modal” adalah aset dalam bentuk uang atau bentuk lain yang bukan uang yang dimiliki oleh penanam modal yang mempunyai nilai ekonomis.
8. “Modal asing” adalah modal yang dimiliki oleh negara asing, perseorangan warga negara asing, badan usaha asing, badan hukum asing, dan/atau

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law:

1. “Investment” means any form of investing activity by both domestic investors and foreign investors to do business in the territory of the state of the Republic of Indonesia.
2. “Domestic investment” means an investing activity to do business in the territory of the state of the Republic of Indonesia that is carried out by a domestic investor by use of domestic capital.
3. “Foreign investment” means an investing activity to do business in the territory of the state of the Republic of Indonesia that is carried out by a foreign investor both by use of all of foreign capital and by engagement in a joint venture with a domestic investor.
4. “Investor” means an individual or a business entity that makes an investment, who may be a domestic investor and a foreign investor.
5. “Domestic investor” means an Indonesian national, an Indonesian business entity, the state of the Republic of Indonesia, or a region that makes an investment in the territory of the state of the Republic of Indonesia.
6. “Foreign investor” means a foreign national, a foreign business entity, and/or a foreign government that makes an investment in the territory of the state of the Republic of Indonesia.
7. “Capital” means an asset that is owned by an investor in the form of money or another form which is nonmoney, bearing economic value.
8. “Foreign Capital” means capital that is owned by a foreign state, a foreign national, a foreign business entity, a foreign legal entity, and/or an

badan hukum Indonesia yang sebagian atau seluruh modalnya dimiliki oleh pihak asing.

9. "Modal dalam negeri" adalah modal yang dimiliki oleh negara Republik Indonesia, perseorangan warga negara Indonesia, atau badan usaha yang berbentuk badan hukum atau tidak berbadan hukum.
10. "Pelayanan terpadu satu pintu" adalah kegiatan penyelenggaraan suatu perizinan dan nonperizinan yang mendapat pendelegasian atau pelimpahan wewenang dari lembaga atau instansi yang memiliki kewenangan perizinan dan nonperizinan yang proses pengelolaannya dimulai dari tahap permohonan sampai dengan tahap terbitnya dokumen yang dilakukan dalam satu tempat.
11. "Otonomi daerah" adalah hak, wewenang, dan kewajiban daerah otonom untuk mengatur dan mengurus sendiri urusan pemerintahan dan kepentingan masyarakat setempat sesuai dengan ketentuan peraturan perundang-undangan.
12. "Pemerintah pusat," yang selanjutnya disebut Pemerintah, adalah Presiden Republik Indonesia yang memegang kekuasaan pemerintahan negara Republik Indonesia sebagaimana dimaksud dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
13. "Pemerintah daerah" adalah gubernur, bupati atau walikota, dan perangkat daerah sebagai unsur penyelenggara pemerintahan daerah.

Penjelasan Pasal 1: Cukup jelas

Pasal 2

Ketentuan dalam Undang-Undang ini berlaku bagi penanaman modal di semua sektor di wilayah negara Republik Indonesia.

Penjelasan Pasal 2:

Yang dimaksud dengan "penanaman modal di semua sektor di wilayah negara Republik Indonesia" adalah penanaman modal langsung dan tidak termasuk penanaman modal tidak langsung atau portofolio.

Indonesian legal entity, of which the capital is in part or in whole is owned by a foreign party.

9. "Domestic Capital" means capital that is owned by the state of the Republic of Indonesia, an Indonesian national, or a business entity of a legal entity or nonlegal entity form.
10. "One-Stop Integrated Service" means an administrative activity of licensing and nonlicensing with delegation or referral of authority from an institution or agency with licensing and nonlicensing authority, the administrative process of which begins from the stage of application to the stage of issue of documents, which is done in one place.
11. "Regional Autonomy" means a right, authority, and obligation of an autonomous region to administer and organize itself the local government and public affairs in accordance with provisions of laws and regulations.
12. "Central Government," hereinafter called "Government," means the President of the Republic of Indonesia that holds power over governing the state of the Republic of Indonesia as intended by the 1945 Constitution of the State of the Republic of Indonesia.
13. "Regional Government" means the governor, regent or mayor and the regional body as an element that conducts regional administration.

Elucidation of Article 1: Sufficiently clear

Article 2

The provisions of this Law shall apply to investments in all sectors in the territory of the state of the Republic of Indonesia.

Elucidation of Article 2:

"Investments in all sectors in the territory of the state of the Republic of Indonesia" means direct investments, not including indirect or portfolio investments.

BAB II
ASAS DAN TUJUAN

Pasal 3

(1) Penanaman modal diselenggarakan berdasarkan asas:

a. kepastian hukum;

Penjelasan Pasal 3 Ayat (1) Huruf a:

Yang dimaksud dengan "asas kepastian hukum" adalah asas dalam negara hukum yang meletakkan hukum dan ketentuan peraturan perundang-undangan sebagai dasar dalam setiap kebijakan dan tindakan dalam bidang penanaman modal.

b. keterbukaan;

Penjelasan Pasal 3 Ayat (1) Huruf b:

Yang dimaksud dengan "asas keterbukaan" adalah asas yang terbuka terhadap hak masyarakat untuk memperoleh informasi yang benar, jujur, dan tidak diskriminatif tentang kegiatan penanaman modal.

c. akuntabilitas;

Penjelasan Pasal 3 Ayat (1) Huruf c:

Yang dimaksud dengan "asas akuntabilitas" adalah asas yang menentukan bahwa setiap kegiatan dan hasil akhir dari penyelenggaraan penanaman modal harus dipertanggungjawabkan kepada masyarakat atau rakyat sebagai pemegang kedaulatan tertinggi negara sesuai dengan ketentuan peraturan perundang-undangan.

d. perlakuan yang sama dan tidak membedakan asal negara;

Penjelasan Pasal 3 Ayat (1) Huruf d:

Yang dimaksud dengan "asas perlakuan yang sama dan tidak membedakan asal negara" adalah asas perlakuan pelayanan nondiskriminasi berdasarkan ketentuan peraturan perundang-undangan, baik antara penanam modal dalam negeri dan penanam modal asing maupun antara penanam modal dari satu negara asing dan penanam modal dari negara asing lainnya.

e. kebersamaan;

Penjelasan Pasal 3 Ayat (1) Huruf e:

Yang dimaksud dengan "asas kebersamaan" adalah asas yang mendorong peran seluruh penanam modal secara bersama-sama dalam kegiatan usahanya untuk mewujudkan kesejahteraan rakyat.

f. efisiensi berkeadilan;

Penjelasan Pasal 3 Ayat (1) Huruf f:

Yang dimaksud dengan "asas efisiensi berkeadilan" adalah asas yang mendasari pelaksanaan penanaman modal dengan mengedepankan efisiensi berkeadilan dalam usaha

CHAPTER II
PRINCIPLES AND PURPOSES

Article 3

(1) Investments shall be conducted based on the principles of:

a. legal certainty;

Elucidation of Article 3 section (1) subsection a:

"Principle of legal certainty" is the principle that the rule-of-law state lays down law and provisions of laws and regulations as the foundation of any investment policy and measure;

b. transparency;

Elucidation of Article 3 section (1) subsection b:

"Principle of transparency" is the principle of receptiveness to the public right to have access to true, honest, and nondiscriminatory information on investment activities;

c. accountability

Elucidation of Article 3 section (1) subsection c:

"Principle of accountability" is the principle that provides every activity and end result of the conduct of investments must be accountable to the public or people as the holder of the supreme sovereignty in accordance with provisions of laws and regulations;

d. equitable and nondiscriminatory treatment against country of origin.

Elucidation of Article 3 section (1) subsection d:

"Principle of equitable and nondiscriminatory treatment against country of origin" is the principle of a nondiscriminatory service treatment between domestic investors and foreign investors, or between investors of one foreign country and investors of another foreign country based on provisions of laws and regulations.

e. togetherness;

Elucidation of Article 3 section (1) subsection e:

"Principle of togetherness" is the principle that which all investors are encouraged to take on their business roles together in the realization of public welfare.

f. efficiency in justice;

Elucidation of Article 3 section (1) subsection f:

"Principle of efficiency in justice" is the principle that underlies the conduct of investments by taking primacy of efficiency in justice in order to realize just, conducive and

untuk mewujudkan iklim usaha yang adil, kondusif, dan berdaya saing.

g. berkelanjutan;

Penjelasan Pasal 3 Ayat (1) Huruf g:

Yang dimaksud dengan "asas berkelanjutan" adalah asas yang secara terencana mengupayakan berjalannya proses pembangunan melalui penanaman modal untuk menjamin kesejahteraan dan kemajuan dalam segala aspek kehidupan, baik untuk masa kini maupun yang akan datang.

h. berwawasan lingkungan;

Penjelasan Pasal 3 Ayat (1) Huruf h:

Yang dimaksud dengan "asas berwawasan lingkungan" adalah asas penanaman modal yang dilakukan dengan tetap memperhatikan dan mengutamakan perlindungan dan pemeliharaan lingkungan hidup.

i. kemandirian; dan

Penjelasan Pasal 3 Ayat (1) Huruf i:

Yang dimaksud dengan "asas kemandirian" adalah asas penanaman modal yang dilakukan dengan tetap mengedepankan potensi bangsa dan negara dengan tidak menutup diri pada masuknya modal asing demi terwujudnya pertumbuhan ekonomi.

j. keseimbangan kemajuan dan kesatuan ekonomi nasional.

Penjelasan Pasal 3 Ayat (1) Huruf j:

Yang dimaksud dengan "asas keseimbangan kemajuan dan kesatuan ekonomi nasional" adalah asas yang berupaya menjaga keseimbangan kemajuan ekonomi wilayah dalam kesatuan ekonomi nasional.

(2) Tujuan penyelenggaraan penanaman modal, antara lain untuk:

- a. meningkatkan pertumbuhan ekonomi nasional;
- b. menciptakan lapangan kerja;
- c. meningkatkan pembangunan ekonomi berkelanjutan;
- d. meningkatkan kemampuan daya saing dunia usaha nasional;
- e. meningkatkan kapasitas dan kemampuan teknologi nasional;
- f. mendorong pengembangan ekonomi kerakyatan;
- g. mengolah ekonomi potensial menjadi

competitive business climate.

g. sustainability;

Elucidation of Article 3 section (1) subsection g:

"Principle of sustainability" is the principle that in a planned manner seeks a continuous development process through investments to ensure welfare and progress in all aspects of life, both in the present day and the future.

h. environmentally-sound;

Elucidation of Article 3 section (1) subsection h:

"Environmentally-sound principle" is the principle in which an investment is made by having due regard to and accentuating the environmental protection and conservation.

i. independence; and

Elucidation of Article 3 section (1) subsection i:

"Principle of independence" is the principle in which an investment is made by taking primacy to the potentials of nation and state by not being unreceptive to the inflows of foreign capital in order to realize the economic growth.

i. balanced advancement and national economic unity;

Elucidation of Article 3 section (1) subsection j:

"Principle of balanced advancement and national economic unity" is the principle that seeks maintenance of a balance of economic advancement among regions within the national economic unity.

(2) The purposes of the conduct of investments shall be, inter alia:

- a. to increase growth in national economy;
- b. to create job opportunities;
- c. to improve sustainable economic development;
- d. to augment the capability of competitiveness of the national business world;
- e. to increase the capacity and capability of national technology;
- f. to foster the enhancement of the people's economy;
- g. to turn economic potentials into real economic

kekuatan ekonomi riil dengan menggunakan dana yang berasal, baik dari dalam negeri maupun dari luar negeri; dan

- h. meningkatkan kesejahteraan masyarakat.

Penjelasan Pasal 3 Ayat (2): Cukup jelas

BAB III

KEBIJAKAN DASAR PENANAMAN MODAL

Pasal 4

- (1) Pemerintah menetapkan kebijakan dasar penanaman modal untuk:

- a. mendorong terciptanya iklim usaha nasional yang kondusif bagi penanaman modal untuk penguatan daya saing perekonomian nasional; dan
- b. mempercepat peningkatan penanaman modal.

Penjelasan Pasal 4 Ayat (1): Cukup jelas

- (2) Dalam menetapkan kebijakan dasar sebagaimana dimaksud pada ayat (1), Pemerintah:

- a. memberi perlakuan yang sama bagi penanam modal dalam negeri dan penanam modal asing dengan tetap memperhatikan kepentingan nasional;

Penjelasan Pasal 4 Ayat (2) Huruf a:

Yang dimaksud dengan "perlakuan yang sama" adalah bahwa Pemerintah tidak membedakan perlakuan terhadap penanam modal yang telah menanamkan modalnya di Indonesia, kecuali ditentukan lain oleh ketentuan peraturan perundangan.

- b. menjamin kepastian hukum, kepastian berusaha, dan keamanan berusaha bagi penanam modal sejak proses pengurusan perizinan sampai dengan berakhirnya kegiatan penanaman modal sesuai dengan ketentuan peraturan perundang-undangan; dan

Penjelasan Pasal 4 Ayat (2) Huruf b:
Cukup jelas

- c. membuka kesempatan bagi perkembangan dan memberikan perlindungan kepada usaha mikro, kecil, menengah, dan koperasi.

strength by use of funds derived from both home and abroad; and

- h. to improve public welfare.

Elucidation of Article 3 section (2): Sufficiently clear

CHAPTER III

MAJOR INVESTMENT POLICIES

Article 4

- (1) The Government shall adopt major investment policies:

- a. to encourage creation of conducive national business climate for investments in order to strengthen the competitiveness of the national economy; and
- b. to expedite the increase of investments.

Elucidation of Article 4 section (1): Sufficiently clear

- (2) In the adoption of major policies as intended by section (1) the Government shall:

- a. accord equitable treatment to domestic investors and foreign investors with due regard to the national interest;

Elucidation of Article 4 section (2) subsection a:

"Equitable treatment" is that the Government does not discriminate treatment against investors having invested in Indonesia, unless provided otherwise by provisions of laws and regulations.

- b. ensure the legal certainty, business certainty, and business safety for investors starting from the licensing process to termination of investment activities in accordance with provisions of laws and regulations.

Elucidation of Article 4 section (2) subsection b:
Sufficiently clear

- c. give opportunities to the enhancement of and give protection to micro, small and medium enterprises, and cooperatives.

Penjelasan Pasal 4 Ayat (2) Huruf c:
Cukup jelas

- (3) Kebijakan dasar sebagaimana dimaksud pada ayat (1) dan ayat (2) diwujudkan dalam bentuk Rencana Umum Penanaman Modal.

Rencana kerja dan pembangunan yang ada sebelum UU ini yang juga memuat masalah penanaman modal, lihat:

1. Inpres No. 3/2006 tentang Paket Kebijakan Perbaikan Iklim Investasi (27 Feb 2006);
2. UU No. 17/2007 tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2005–2025 (5 Feb 2007);
3. Perpres No. 7/2005 tentang Rencana Pembangunan Jangka Menengah Nasional Tahun 2004–2009 (19 Jan 2005);
4. Perpres No. 19/2006 tentang Rencana Kerja Pemerintah Tahun 2007 (15 Mei 2006); dan
5. Rancangan Awal Rencana Kerja Pemerintah Tahun 2008.

Penjelasan Pasal 4 Ayat (3):
Cukup jelas

BAB IV

BENTUK BADAN USAHA DAN KEDUDUKAN

Pasal 5

- (1) Penanaman modal dalam negeri dapat dilakukan dalam bentuk badan usaha yang berbentuk badan hukum, tidak berbadan hukum atau usaha perseorangan, sesuai dengan ketentuan peraturan perundang-undangan.
- (2) Penanaman modal asing wajib dalam bentuk perseroan terbatas berdasarkan hukum Indonesia dan berkedudukan di dalam wilayah negara Republik Indonesia, kecuali ditentukan lain oleh undang-undang.
- (3) Penanam modal dalam negeri dan asing yang melakukan penanaman modal dalam bentuk perseoran terbatas dilakukan dengan:
 - a. mengambil bagian saham pada saat pendirian perseroan terbatas;
 - b. membeli saham; dan
 - c. melakukan cara lain sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 5: Cukup jelas

Elucidation of Article 4 section (2) subsection c:
Sufficiently clear

- (3) Major investment policies as intended by section (1) and section (2) shall be reflected in a General Plan for Investments.

The current work and development plans before the Law is enacted in which investment issues are reflected, see:

1. Inpres No. 3/2006 concerning Policy Package of Investment Climate Improvement (27 Feb 2006);
2. UU No. 17/2007 concerning the 2005–2025 National Long-Term Development Plan (5 Feb 2007);
3. Perpres No. 7/2005 concerning the 2004–2009 National Medium-Term Development Plan (19 Jan 2005);
4. Perpres No. 19/2006 concerning the 2007 Governmental Work Plan (15 May 2006); and
5. First draft 2008 Government Work Plan.

Elucidation of Article 4 section (3):
Sufficiently clear

CHAPTER IV

FORMS OF BUSINESS ENTITY AND DOMICILE

Article 5

- (1) Domestic investments may be made in the form of a business entity in the form of a legal entity, nonlegal entity or sole proprietorship in accordance with provisions of laws and regulations.
- (2) Foreign investments must be in the form of a limited liability company under Indonesian law, and domiciled within the territory of the state of the Republic of Indonesia, unless provided otherwise by law.
- (3) Domestic and foreign investors who make an investment in the form of a limited liability company shall:
 - a. subscribe for shares at the time the limited liability company is established;
 - b. purchase shares; and
 - c. take another method in accordance with provisions of laws and regulations.

Elucidation of Article 5: Sufficiently clear

BAB V

PERLAKUAN TERHADAP PENANAMAN MODAL

Pasal 6

- (1) Pemerintah memberikan perlakuan yang sama kepada semua penanam modal yang berasal dari negara manapun yang melakukan kegiatan penanaman modal di Indonesia sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 6 Ayat (1): Cukup jelas

- (2) Perlakuan sebagaimana dimaksud pada ayat (1) tidak berlaku bagi penanam modal dari suatu negara yang memperoleh hak istimewa berdasarkan perjanjian dengan Indonesia.

Penjelasan Pasal 6 Ayat (2):

Yang dimaksud dengan "hak istimewa" adalah antara lain hak istimewa yang berkaitan dengan kesatuan kepabeanaan, wilayah perdagangan bebas, pasar bersama (common market), kesatuan moneter, kelembagaan yang sejenis, dan perjanjian antara Pemerintah Indonesia dan pemerintah asing yang bersifat bilateral, regional, atau multilateral yang berkaitan dengan hak istimewa tertentu dalam penyelenggaraan penanaman modal.

Pasal 7

- (1) Pemerintah tidak akan melakukan tindakan nasionalisasi atau pengambilalihan hak kepemilikan penanam modal, kecuali dengan undang-undang.

Penjelasan Pasal 7 Ayat (1): Cukup jelas

- (2) Dalam hal Pemerintah melakukan tindakan nasionalisasi atau pengambilalihan hak kepemilikan sebagaimana dimaksud pada ayat (1), Pemerintah akan memberikan kompensasi yang jumlahnya ditetapkan berdasarkan harga pasar.

Penjelasan Pasal 7 Ayat (2):

Yang dimaksud dengan "harga pasar" adalah harga yang ditentukan menurut cara yang digunakan secara internasional oleh penilai independen yang ditunjuk oleh para pihak.

- (3) Jika di antara kedua belah pihak tidak tercapai kesepakatan tentang kompensasi atau ganti rugi sebagaimana dimaksud pada ayat (2), penyelesaiannya dilakukan melalui arbitrase.

Penjelasan Pasal 7 Ayat (3):

Yang dimaksud dengan "arbitrase" adalah cara

CHAPTER V

TREATMENT AGAINST INVESTMENTS

Article 6

- (1) The Government shall accord equitable treatment to all investors of any countries that carry out investment activities in Indonesia in accordance with provisions of laws and regulations.

Elucidation of Article 6 section (1): Sufficiently clear

- (2) Treatment as intended by section (1) shall not apply to investors of a country that has acquired privileges by virtue of a treaty with Indonesia.

Elucidation of Article 6 section (2):

"Privilege" is, inter alia, a privilege related to customs units, free trade zones, common markets, monetary units, institutions of a similar kind, and bilateral, regional, or multilateral agreements between the Government of Indonesia and the government of a foreign country concerning particular privileges in the conduct of investments.

Article 7

- (1) The Government shall take no measures of nationalization or expropriation against the proprietary rights of investors, unless provided by law.

Elucidation of Article 7 section (1): Sufficiently clear

- (2) Where the Government takes measures of nationalization or expropriation against the proprietary rights as intended by section (1), then the Government shall pay compensation the amount of which shall be established by market value.

Elucidation of Article 7 section (2):

"Market value" means value that is established in accordance with the internationally-accepted methods adopted by an independent appraiser named by the parties.

- (3) If both parties fail to reach an agreement of compensation or damages as intended by section (2), the settlement thereof shall be made through arbitration.

Elucidation of Article 7 section (3):

"Arbitration" is a method of settling a private dispute

penyelesaian suatu sengketa perdata di luar pengadilan yang didasarkan pada kesepakatan tertulis oleh para pihak yang bersengketa.

Pasal 8

- (1) Penanam modal dapat mengalihkan aset yang dimilikinya kepada pihak yang diinginkan oleh penanam modal sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 8 Ayat (1): Cukup jelas

- (2) Aset yang tidak termasuk aset sebagaimana dimaksud pada ayat (1) merupakan aset yang ditetapkan oleh undang-undang sebagai aset yang dikuasai oleh negara.

Penjelasan Pasal 8 Ayat (2): Cukup jelas

- (3) Penanam modal diberi hak untuk melakukan transfer dan repatriasi dalam valuta asing, antara lain terhadap:

- a. modal;
- b. keuntungan, bunga bank, deviden, dan pendapatan lain;
- c. dana yang diperlukan untuk:
 1. pembelian bahan baku dan penolong, barang setengah jadi, atau barang jadi; atau
 2. penggantian barang modal dalam rangka melindungi kelangsungan hidup penanaman modal;
- d. tambahan dana yang diperlukan bagi pembiayaan penanaman modal;
- e. dana untuk pembayaran kembali pinjaman;
- f. royalti atau biaya yang harus dibayar;
- g. pendapatan dari perseorangan warga negara asing yang bekerja dalam perusahaan penanaman modal;
- h. hasil penjualan atau likuidasi penanaman modal;
- i. kompensasi atas kerugian;
- j. kompensasi atas pengambilalihan;

outside the court of law based on a written agreement made by parties to a dispute.

Article 8

- (1) Investors may transfer assets they own to parties the investors desire in accordance with provisions of laws and regulations.

Elucidation of Article 8 section (1): Sufficiently clear

- (2) Assets not counting assets as intended by section (1) shall be assets that are determined by law as assets controlled by the state.

Elucidation of Article 8 section (2): Sufficiently clear

- (3) Investors shall be granted the following rights to transfer and repatriate in foreign currencies, inter alia:

- a. capital;
- b. profits, bank interest, dividends, and other income;
- c. funds that are needed:
 1. to purchase raw materials and components, intermediate goods or finished goods; or
 2. to replace capital goods in order to protect the viability of the investments.
- d. additional funds that are needed for investment financing;
- e. funds for repayment of loans;
- f. royalties or fees that are payable;
- g. income of foreign nationals who work for an investment company;
- h. proceeds of the sale or liquidation of an investment;
- i. compensation for damages;
- j. compensation for acquisitions;

k. pembayaran yang dilakukan dalam rangka bantuan teknis, biaya yang harus dibayar untuk jasa teknik dan manajemen, pembayaran yang dilakukan di bawah kontrak proyek, dan pembayaran hak atas kekayaan intelektual; dan

l. hasil penjualan aset sebagaimana dimaksud pada ayat (1).

Penjelasan Pasal 8 Ayat (3): Cukup jelas

(4) Hak untuk melakukan transfer dan repatriasi sebagaimana dimaksud pada ayat (3) dilakukan sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 8 Ayat (4): Cukup jelas

(5) Ketentuan sebagaimana dimaksud pada ayat (1) tidak mengurangi:

a. kewenangan Pemerintah untuk memberlakukan ketentuan peraturan perundang-undangan yang mewajibkan pelaporan pelaksanaan transfer dana;

Penjelasan Pasal 8 Ayat (5) Huruf a:
Cukup jelas

b. hak Pemerintah untuk mendapatkan pajak dan/atau royalti dan/atau pendapatan Pemerintah lainnya dari penanaman modal sesuai dengan ketentuan peraturan perundang-undangan;

Penjelasan Pasal 8 Ayat (5) Huruf b:
Cukup jelas

c. pelaksanaan hukum yang melindungi hak kreditor; dan

Penjelasan Pasal 8 Ayat (5) Huruf c:
Cukup jelas

d. pelaksanaan hukum untuk menghindari kerugian negara.

Penjelasan Pasal 8 Ayat (5) Huruf d

Dalam hal terjadi kerugian negara, Pemerintah dapat melakukan tindakan hukum, antara lain berupa peringatan, pembekuan, pencabutan izin usaha, tuntutan ganti rugi, dan sanksi lain sesuai dengan ketentuan peraturan perundang-undangan.

k. payments made in connection with technical assistance, fees payable for technical and management services, payments made under a project contract, and payments related to intellectual property rights; and

l. proceeds of the sale of assets as intended by section (1).

Elucidation of Article 8 section (3): Sufficiently clear

(4) The rights to transfer and repatriate as intended by section (3) shall be exercised in accordance with provisions of laws and regulations.

Elucidation of Article 8 section (4): Sufficiently clear

(5) The provision as intended by section (1) shall not detract from:

a. the power of the Government to effect provisions of laws and regulations that require reporting of fund transfers;

Elucidation of Article 8 section (5) subsection a:
Sufficiently clear

b. the rights of the Government to draw taxes and/or royalties and/or other Government revenues from investments in accordance with provisions of laws and regulations.

Elucidation of Article 8 section (5) subsection b:
Sufficiently clear

c. enforcement of law to protect the rights of creditors; and

Elucidation of Article 8 section (5) subsection c:
Sufficiently clear

d. enforcement of law to avoid losses to the state.

Elucidation of Article 8 section (5) subsection d:

Where there is a loss to the state, the Government may institute a legal act through, inter alia, warning, freezing, revocation of business permit, claim of damages, and other sanctions in accordance with provisions of laws and regulations.

Pasal 9

- (1) Dalam hal adanya tanggung jawab hukum yang belum diselesaikan oleh penanam modal:
 - a. penyidik atau Menteri Keuangan dapat meminta bank atau lembaga lain untuk menunda hak melakukan transfer dan/atau repatriasi; dan
 - b. pengadilan berwenang menetapkan penundaan hak untuk melakukan transfer dan/atau repatriasi berdasarkan gugatan.
- (2) Bank atau lembaga lain melaksanakan penetapan penundaan berdasarkan penetapan pengadilan sebagaimana dimaksud pada ayat (1) huruf b hingga selesainya seluruh tanggung jawab penanam modal.

Penjelasan Pasal 9: Cukup jelas

BAB VI

KETENAGAKERJAAN

Pasal 10

- (1) Perusahaan penanaman modal dalam memenuhi kebutuhan tenaga kerja harus mengutamakan tenaga kerja warga negara Indonesia.
- (2) Perusahaan penanaman modal berhak menggunakan tenaga ahli warga negara asing untuk jabatan dan keahlian tertentu sesuai dengan ketentuan peraturan perundang-undangan.
- (3) Perusahaan penanaman modal wajib meningkatkan kompetensi tenaga kerja warga negara Indonesia melalui pelatihan kerja sesuai dengan ketentuan peraturan perundang-undangan.
- (4) Perusahaan penanaman modal yang mempekerjakan tenaga kerja asing diwajibkan menyelenggarakan pelatihan dan melakukan alih teknologi kepada tenaga kerja warga negara Indonesia sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 10: Cukup jelas

Article 9

- (1) Where there is a legal responsibility not yet settled by investors:
 - a. an investigator or the Minister of Finance may request banks or other institutions to defer the right to transfer and/or repatriate; and
 - b. the court shall have jurisdiction to order deferment of the right to transfer and/or repatriate following a claim.
- (2) A bank or other institution shall execute a deferment order following a court order as intended by section (1) subsection b until investors have discharged all the responsibilities.

Elucidation of Article 9: Sufficiently clear

CHAPTER VI

LABOR

Article 10

- (1) In addressing their labor need, investment companies must give precedence to Indonesian-national workers.
- (2) Investment companies shall be authorized to engage foreign-national experts for specified office and expertise in accordance with provisions of laws and regulations.
- (3) Investment companies must improve the competency of Indonesian-national workers through job training in accordance with provisions of laws and regulations.
- (4) Investment companies that employ foreign workers must conduct training and transfer technology to Indonesian-national workers in accordance with provisions of laws and regulations.

Elucidation of Article 10: Sufficiently clear

Pasal 11

- (1) Penyelesaian perselisihan hubungan industrial wajib diupayakan untuk diselesaikan secara musyawarah antara perusahaan penanaman modal dan tenaga kerja.
- (2) Jika penyelesaian sebagaimana dimaksud pada ayat (1) tidak mencapai hasil, penyelesaiannya dilakukan melalui upaya mekanisme tripartit.
- (3) Jika penyelesaian sebagaimana dimaksud pada ayat (2) tidak mencapai hasil, perusahaan penanaman modal dan tenaga kerja menyelesaikan perselisihan hubungan industrial melalui pengadilan hubungan industrial.

Penjelasan Pasal 11: Cukup jelas

BAB VII BIDANG USAHA

Pasal 12

- (1) Semua bidang usaha atau jenis usaha terbuka bagi kegiatan penanaman modal, kecuali bidang usaha atau jenis usaha yang dinyatakan tertutup dan terbuka dengan persyaratan.

Penjelasan Pasal 12 Ayat (1):

Bidang usaha atau jenis usaha yang tertutup dan yang terbuka dengan persyaratan ditetapkan melalui Peraturan Presiden disusun dalam suatu daftar yang berdasarkan standar klasifikasi tentang bidang usaha atau jenis usaha yang berlaku di Indonesia, yaitu klasifikasi berdasarkan Klasifikasi Baku Lapangan Usaha Indonesia (KBLI) dan/atau Internasional Standard for Industrial Classification (ISIC).

Klasifikasi terbaru untuk Indonesia, lihat:

- Klasifikasi Baku Lapangan Usaha Indonesia (KBLI) Tahun 2005 yang dikeluarkan oleh Badan Pusat Statistik (Okt 2005).

- (2) Bidang usaha yang tertutup bagi penanam modal asing adalah:
 - a. produksi senjata, mesiu, alat peledak, dan peralatan perang; dan
 - b. bidang usaha yang secara eksplisit dinyatakan tertutup berdasarkan undang-undang.

Penjelasan Pasal 12 Ayat (2)

Yang dimaksud dengan "alat peledak" adalah alat yang

Article 11

- (1) Industrial relations dispute settlement must be exhausted to be made on a deliberation between an investment company and workers.
- (2) If no result of settlement as intended by section (1) is reached, the settlement thereof must be exhausted through a tripartite mechanism.
- (3) If no result of settlement as intended by section (2) is reached, an investment company and workers shall settle the industrial relations dispute through an industrial relations court.

Elucidation of Article 11: Sufficiently clear

CHAPTER VII BUSINESS SECTORS

Article 12

- (1) All business sectors or business types shall be open to investment activities, except for business sectors or business types that are declared to be closed and open with requirements.

Elucidation of Article 12 section (1):

Business sectors or business types that are closed and open with requirements are provided for by Regulation of the President in a list based on the standard for classification of business sectors or business types applicable in Indonesia, to wit classification based on Klasifikasi Baku Lapangan Usaha Indonesia (KBLI) and/or the Internasional Standard for Industrial Classification (ISIC).

The latest Indonesian classification, see:

- Klasifikasi Baku Lapangan Usaha Indonesia (KBLI) of 2005, issued by the Statistics Central Agency (Oct 2005).

- (2) Business sectors that are closed for foreign investors shall be:
 - a. production of weapons, ammunition, explosive devices, and armaments; and
 - b. business sectors that are explicitly declared to be closed by law.

Elucidation of Article 12 section (2)

"Explosive devices" are devices used in the interests of

<i>digunakan untuk kepentingan pertahanan dan keamanan.</i> (3) Pemerintah berdasarkan Peraturan Presiden menetapkan bidang usaha yang tertutup untuk penanaman modal, baik asing maupun dalam negeri, dengan berdasarkan kriteria kesehatan, moral, kebudayaan, lingkungan hidup, pertahanan dan keamanan nasional, serta kepentingan nasional lainnya.	<i>defense and security.</i> (3) The Government by virtue of Regulation of the President shall establish business sectors closed to investments, both to foreign investments and domestic investments, based on the following criteria: soundness, morals, culture, the environment, national defense and security, as well as other national interests.
<u>Penjelasan Pasal 12 Ayat (3):</u> <u>Cukup jelas</u> (4) Kriteria dan persyaratan bidang usaha yang tertutup dan yang terbuka dengan persyaratan serta daftar bidang usaha yang tertutup dan yang terbuka dengan persyaratan masing-masing akan diatur dengan Peraturan Presiden.	<u>Elucidation of Article 12 section (3):</u> <u>Sufficiently clear</u> (4) Criteria and requirements of business sectors that are closed and open with requirements as well as a list of business sectors that are closed and open with requirements shall be regulated by Regulation of the President, respectively.
<u>Penjelasan Pasal 12 Ayat (4):</u> <u>Cukup jelas</u> - <u>Peraturan daftar negatif investasi yang ada dan akan diganti, lihat:</u> Keppres No. 96/2000 tentang Bidang Usaha Yang Tertutup dan Bidang Usaha Yang Terbuka Dengan Persyaratan Tertentu bagi Penanaman Modal (20 Jul 2000), sebagaimana diubah oleh Keppres No. 118/2000 (16 Agu 2000).	<u>Elucidation of Article 12 section (4):</u> <u>Sufficiently clear</u> - <u>The current regulations on the negative list to be replaced, see:</u> Keppres No. 96/2000 concerning Business Sectors That Are Closed and Business Sectors That Are Open to Investment with Specified Requirements (20 Jul 2000), as amended by Keppres No. 118/2000 (16 Aug 2000).
(5) Pemerintah menetapkan bidang usaha yang terbuka dengan persyaratan berdasarkan kriteria kepentingan nasional, yaitu perlindungan sumber daya alam, perlindungan, pengembangan usaha mikro, kecil, menengah, dan koperasi, pengawasan produksi dan distribusi, peningkatan kapasitas teknologi, partisipasi modal dalam negeri, serta kerja sama dengan badan usaha yang ditunjuk Pemerintah.	(5) The Government shall establish business sectors that are open with requirements based on the national interest criteria, to wit protection of natural resources, protection and enhancement of micro, small and medium enterprises, and cooperatives, supervision of production and distribution, increase of technology capacity, domestic capital participation, as well as cooperation with business entities named by the Government.
<u>Penjelasan Pasal 12 Ayat (5):</u> <u>Cukup jelas</u> <u>Peraturan prosentase kepemilikan saham asing yang ada dan akan diganti, lihat:</u> 1. PP No. 20/1994 tentang Pemilikan Saham Dalam Perusahaan Yang Didirikan Dalam Rangka Penanaman Modal Asing (19 Mei 1994), sebagaimana diubah oleh PP 83/2001 (19 Des 2001); dan 2. Kepbkm No. 15/SK/1994 tentang Ketentuan Pelaksanaan Pemilikan Saham Dalam Perusahaan Yang Didirikan Dalam Rangka Penanaman Modal Asing (29 Jul 1994).	<u>Elucidation of Article 12 section (5):</u> <u>Sufficiently clear</u> <u>The current regulations on foreign share percentages to be replaced, see:</u> 1. PP No. 20/1994 concerning Share Ownership in Companies Established for Foreign Investments (19 May 1994), as amended by PP 83/2001 (19 Dec 2001); and 2. Kepbkm No. 15/SK/1994 concerning Implementing Provisions on Share Ownership in Companies Established for Foreign Investments (29 Jul 1994).
BAB VIII PENGEMBANGAN PENANAMAN MODAL BAGI USAHA MIKRO, KECIL, MENENGAH, DAN KOPERASI Pasal 13 (1) Pemerintah wajib menetapkan bidang usaha yang dicadangkan untuk usaha mikro, kecil, menengah, dan koperasi serta bidang usaha yang terbuka untuk usaha besar dengan syarat harus	CHAPTER VIII ENHANCEMENT OF INVESTMENTS IN MICRO, SMALL AND MEDIUM ENTERPRISES, AND COOPERATIVES Article 13 (1) The Government must establish business sectors that are reserved for micro, small and medium enterprises and cooperatives, as well as business sectors that are open to large businesses on

bekerja sama dengan usaha mikro, kecil, menengah, dan koperasi.

Penjelasan Pasal 13 Ayat (1)

Yang dimaksud dengan "bidang usaha yang dicadangkan" adalah bidang usaha yang khusus diperuntukkan bagi usaha mikro, kecil, menengah, dan koperasi agar mampu dan sejajar dengan pelaku ekonomi lainnya.

- (2) Pemerintah melakukan pembinaan dan pengembangan usaha mikro, kecil, menengah, dan koperasi melalui program kemitraan, peningkatan daya saing, pemberian dorongan inovasi dan perluasan pasar, serta penyebaran informasi yang seluas-luasnya.

Penjelasan Pasal 13 Ayat (2):
Cukup jelas

Peraturan kemitraan yang ada dan akan diganti dan disatukan dengan Perpres daftar negatif investasi, lihat:

- Keppres No. 127/2001 tentang Bidang/Jenis Usaha Yang Dicadangkan Untuk Usaha Kecil dan Bidang/Jenis Usaha Yang Terbuka Untuk Usaha Menengah atau Besar Dengan Syarat Kemitraan (14 Des 2001).

condition that they cooperate with micro, small and medium enterprises, and cooperatives.

Elucidation of Article 13 section (1)

"Business sectors that are reserved" are business sectors that are for the special benefit of micro, small and medium enterprises and cooperatives in order to be capable and equitable to other economic actors.

- (2) The Government shall guide and enhance micro, small and medium enterprises, and cooperatives through partnership programs, increase of the competitiveness, inducement of innovation and market expansion, as well as wide dissemination of information.

Elucidation of Article 13 section (2):
Sufficiently clear

The current regulations on partnership to be replaced and incorporated into Keppres on the negative list, see:

- Keppres No. 127/2001 concerning Business Sectors/Types Reserved for Small Enterprises and Business Sectors/Types Open to Medium or Large Enterprises with the Requirement of Partnership (14 Dec 2001).

BAB IX

HAK, KEWAJIBAN, DAN TANGGUNG JAWAB
PENANAM MODAL

Pasal 14

Setiap penanam modal berhak mendapat:

- a. kepastian hak, hukum, dan perlindungan;

Pasal 14 Huruf a:

Yang dimaksud dengan "kepastian hak" adalah jaminan Pemerintah bagi penanam modal untuk memperoleh hak sepanjang penanam modal telah melaksanakan kewajiban yang ditentukan.

Yang dimaksud dengan "kepastian hukum" adalah jaminan Pemerintah untuk menempatkan hukum dan ketentuan peraturan perundang-undangan sebagai landasan utama dalam setiap tindakan dan kebijakan bagi penanam modal.

Yang dimaksud dengan "kepastian perlindungan" adalah jaminan Pemerintah bagi penanam modal untuk memperoleh perlindungan dalam melaksanakan kegiatan penanaman modal.

- b. informasi yang terbuka mengenai bidang usaha yang dijalankannya;

Penjelasan Pasal 14 Huruf b: Cukup jelas

- c. hak pelayanan; dan

Penjelasan Pasal 14 Huruf c: Cukup jelas

- d. berbagai bentuk fasilitas kemudahan sesuai dengan ketentuan peraturan perundang-

CHAPTER IX

RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES
OF INVESTORS

Article 14

Every investor shall be entitled to enjoy:

- a. certainties of right, law, and protection;

Elucidation of Article 14 item a:

"Certainty of right" means the Government ensures investors have access to rights provided that the investors have fulfilled specified obligations.

"Certainty of law" means the Government ensures to place law and provisions of laws and regulations as the basic foundations in every measure and policy for investors.

"Certainty of protection" means the Government ensures investors have access to protection when carrying out investment activities.

- b. transparent information about business sectors engaged;

Elucidation of Article 14 item b: Sufficiently clear

- c. right to services; and

Elucidation of Article 14 item c: Sufficiently clear

- d. various forms of simplified facility consistent with provisions of laws and regulations.

undangan.

Penjelasan Pasal 14 Huruf d: Cukup jelas

Pasal 15

Setiap penanam modal berkewajiban:

- a. menerapkan prinsip tata kelola perusahaan yang baik;

Penjelasan Pasal 15 Huruf a: Cukup jelas

- b. melaksanakan tanggung jawab sosial perusahaan;

Penjelasan Pasal 15 Huruf b:

Yang dimaksud dengan "tanggung jawab sosial perusahaan" adalah tanggung jawab yang melekat pada setiap perusahaan penanaman modal untuk tetap menciptakan hubungan yang serasi, seimbang, dan sesuai dengan lingkungan, nilai, norma, dan budaya masyarakat setempat.

- c. membuat laporan tentang kegiatan penanaman modal dan menyampaikannya kepada Badan Koordinasi Penanaman Modal;

Penjelasan Pasal 15 Huruf c

Laporan kegiatan penanam modal yang memuat perkembangan penanaman modal dan kendala yang dihadapi penanam modal disampaikan secara berkala kepada Badan Koordinasi Penanaman Modal dan pemerintah daerah yang bertanggung jawab di bidang penanaman modal.

Peraturan laporan penanaman modal yang sudah ada sebelum UU ini, lihat:

- Kepbkpm No. 61/SK/2004 tentang Pengendalian Pelaksanaan Penanaman Modal (20 Jul 2004), sebagaimana diubah oleh Kepbkpm No. 71/SK/2004 (4 Okt 2004).

- d. menghormati tradisi budaya masyarakat sekitar lokasi kegiatan usaha penanaman modal; dan

Penjelasan Pasal 15 Huruf d:
Cukup jelas

- e. mematuhi semua ketentuan peraturan perundang-undangan.

Penjelasan Pasal 15 Huruf e:
Cukup jelas

Pasal 16

Setiap penanam modal bertanggung jawab:

- a. menjamin tersedianya modal yang berasal dari sumber yang tidak bertentangan dengan ketentuan peraturan perundang-undangan;

Elucidation of Article 14 item d: Sufficiently clear

Article 15

Every investor shall have obligations:

- a. to apply the principle of good corporate governance;

Elucidation of Article 15 item a: Sufficiently clear

- b. to implement corporate social responsibility;

Elucidation of Article 15 item b:

"Corporate social responsibility" means a responsibility mounted in every investment company to keep creating relationship which is in harmony, in balance and suitable to the local community's neighborhood, values, norms, and culture.

- c. to make a report on investment activities and submit it to the Investment Coordinating Board;

Elucidation of Article 15 item c:

An investment report that contains an update of investments and obstacles an investor faces is submitted periodically to the Investment Coordinating Board and the regional government responsible for the field of investment.

The current regulations on the investment report before the law is enacted, see:

- Kepbkpm No. 61/SK/2004 concerning Supervision of the Implementation of Investments (20 Jul 2004), as amended by Kepbkpm No. 71/SK/2004 (4 Oct 2004).

- d. to respect the cultural traditions of the community around the location of investment business activities; and

Elucidation of Article 15 item d:
Sufficiently clear

- e. to comply with all provisions of laws and regulations.

Elucidation of Article 15 item e:
Sufficiently clear

Article 16

Every investor shall be responsible:

- a. to ensure the capital availability derived from sources not against provisions of laws and regulations;

- b. menanggung dan menyelesaikan segala kewajiban dan kerugian jika penanam modal menghentikan atau meninggalkan atau menelantarkan kegiatan usahanya secara sepihak sesuai dengan ketentuan peraturan perundang-undangan;
- c. menciptakan iklim usaha persaingan yang sehat, mencegah praktik monopoli, dan hal lain yang merugikan negara;
- d. menjaga kelestarian lingkungan hidup;
- e. menciptakan keselamatan, kesehatan, kenyamanan, dan kesejahteraan pekerja; dan
- f. mematuhi semua ketentuan peraturan perundang-undangan.

Penjelasan Pasal 16: Cukup jelas

Pasal 17

Penanam modal yang mengusahakan sumber daya alam yang tidak terbarukan wajib mengalokasikan dana secara bertahap untuk pemulihan lokasi yang memenuhi standar kelayakan lingkungan hidup, yang pelaksanaannya diatur sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 17:

Ketentuan ini dimaksudkan untuk mengantisipasi kerusakan lingkungan yang disebabkan oleh kegiatan penanaman modal.

BAB X

FASILITAS PENANAMAN MODAL

Pasal 18

- (1) Pemerintah memberikan fasilitas kepada penanam modal yang melakukan penanaman modal.

Penjelasan Pasal 18 Ayat (1): Cukup jelas

- (2) Fasilitas penanaman modal sebagaimana dimaksud pada ayat (1) dapat diberikan kepada penanaman modal yang:

- a. melakukan perluasan usaha; atau
- b. melakukan penanaman modal baru.

Penjelasan Pasal 18 Ayat (2): Cukup jelas

- b. to assume and settle any obligation and damage in accordance with provisions of laws and regulations if an investor ends or leaves or abandons his/her business activities in a unilateral manner;
- c. to create fair competition business climate, to prevent monopolistic practices, and other matters that are detrimental to the state;
- d. to keep the environment sustainable;
- e. to create workers' safety, health, amenity, and welfare; and
- e. to comply with all provisions of laws and regulations.

Elucidation of Article 16: Sufficiently clear

Article 17

Investors engaged in a nonrenewable natural resource business must allocate funds by progressive stages for location recovery in compliance with the standard environmental feasibility, the implementation of which shall be regulated in accordance with provisions of laws and regulations.

Elucidation of Article 17:

This provision is intended to anticipate environmental damage that results from investment activities.

CHAPTER X

INVESTMENT FACILITIES

Article 18

- (1) The Government shall grant facilities to investors who make investments.

Elucidation of Article 18 section (1): Sufficiently clear

- (2) Investment facilities as intended by section (1) may be granted to an investment:

- a. that expands its business; or
- b. that makes a new investment.

Elucidation of Article 18 section (2): Sufficiently clear

(3) Penanaman modal yang mendapat fasilitas sebagaimana dimaksud pada ayat (2) adalah yang sekurang-kurangnya memenuhi salah satu kriteria berikut ini:

a. menyerap banyak tenaga kerja;

Penjelasan Pasal 18 Ayat (3) Huruf a:
Cukup jelas

b. termasuk skala prioritas tinggi;

Penjelasan Pasal 18 Ayat (3) Huruf b:
Cukup jelas

c. termasuk pembangunan infrastruktur;

Penjelasan Pasal 18 Ayat (3) Huruf c:
Cukup jelas

d. melakukan alih teknologi;

Penjelasan Pasal 18 Ayat (3) Huruf d:
Cukup jelas

e. melakukan industri pionir;

Penjelasan Pasal 18 Ayat (3) Huruf e:

Yang dimaksud dengan "industri pionir" adalah industri yang memiliki keterkaitan yang luas, memberi nilai tambah dan eksternalitas yang tinggi, memperkenalkan teknologi baru, serta memiliki nilai strategis bagi perekonomian nasional.

f. berada di daerah terpencil, daerah tertinggal, daerah perbatasan, atau daerah lain yang dianggap perlu;

Penjelasan Pasal 18 Ayat (3) Huruf f:
Cukup jelas

g. menjaga kelestarian lingkungan hidup;

Penjelasan Pasal 18 Ayat (3) Huruf g:
Cukup jelas

h. melaksanakan kegiatan penelitian, pengembangan, dan inovasi;

Penjelasan Pasal 18 Ayat (3) Huruf h:
Cukup jelas

i. bermitra dengan usaha mikro, kecil, menengah atau koperasi; atau

Penjelasan Pasal 18 Ayat (3) Huruf i:
Cukup jelas

j. industri yang menggunakan barang modal atau mesin atau peralatan yang diproduksi di dalam negeri.

Penjelasan Pasal 18 Ayat (3) Huruf j:
Cukup jelas

(3) An investment to receive facilities as intended by section (2) shall be an investment that meets at least one of the following criteria:

a. absorbs many workers;

Elucidation of Article 18 section (3) subsection a:
Sufficiently clear

b. falls under a high priority scale;

Elucidation of Article 18 section (3) subsection b:
Sufficiently clear

c. is engaged in infrastructure constructions;

Elucidation of Article 18 section (3) subsection c:
Sufficiently clear

d. transfers technology;

Elucidation of Article 18 section (3) subsection d:
Sufficiently clear

e. is engaged in a pioneer industry;

Elucidation of Article 18 section (3) subsection e:

"Pioneer industry" is an industry that has wide-ranging links, gives added values and high externality, introduces new technology, as well as has strategic values for the national economy.

f. is located in a remote area, a less-developed area, a contiguous area, or another area deemed needy;

Elucidation of Article 18 section (3) subsection f:
Sufficiently clear

g. keeps the environment sustainable;

Elucidation of Article 18 section (3) subsection g:
Sufficiently clear

h. conducts research, development, and innovation activities;

Elucidation of Article 18 section (3) subsection h:
Sufficiently clear

i. is in partnership with micro, small and medium enterprises or cooperatives; or

Elucidation of Article 18 section (3) subsection i:
Sufficiently clear

j. is engaged in an industry that uses domestically-produced capital goods or machines or equipment.

Elucidation of Article 18 section (3) subsection j:
Sufficiently clear

(4) Bentuk fasilitas yang diberikan kepada penanaman modal sebagaimana dimaksud pada ayat (2) dan ayat (3) dapat berupa: a. pajak penghasilan melalui pengurangan penghasilan netto sampai tingkat tertentu terhadap jumlah penanaman modal yang dilakukan dalam waktu tertentu; b. pembebasan atau keringanan bea masuk atas impor barang modal, mesin, atau peralatan untuk keperluan produksi yang belum dapat diproduksi di dalam negeri; c. pembebasan atau keringanan bea masuk bahan baku atau bahan penolong untuk keperluan produksi untuk jangka waktu tertentu dan persyaratan tertentu; d. pembebasan atau penangguhan Pajak Pertambahan Nilai atas impor barang modal atau mesin atau peralatan untuk keperluan produksi yang belum dapat diproduksi di dalam negeri selama jangka waktu tertentu; e. penyusutan atau amortisasi yang dipercepat; dan f. keringanan Pajak Bumi dan Bangunan, khususnya untuk bidang usaha tertentu, pada wilayah atau daerah atau kawasan tertentu.	(4) Facilities to be granted to an investment as intended by section (2) and section (3) may be in the form of: a. income tax through a reduction of net income to a specified extent of the total investments made within a definite period; b. exemptions or relief on import duty of production capital goods, machines, or equipment not yet produced at home; c. exemptions or relief on import duty of production raw materials or components for a definite period and with specified requirements; d. exemptions or deferment of Value-Added Tax for a definite period on import of production capital goods or machines or equipment not yet produced at home; e. accelerated depreciation or amortization; and f. relief on Land and Buildings Tax, particularly for specified business sectors in specified regions or areas or zones;
<i>Penjelasan Pasal 18 Ayat (4): Cukup jelas</i>	<i>Elucidation of Article 18 section (4): Sufficiently clear</i>
(5) Pembebasan atau pengurangan pajak penghasilan badan dalam jumlah dan waktu tertentu hanya dapat diberikan kepada penanaman modal baru yang merupakan industri pionir, yaitu industri yang memiliki keterkaitan yang luas, memberi nilai tambah dan eksternalitas yang tinggi, memperkenalkan teknologi baru, serta memiliki nilai strategis bagi perekonomian nasional.	(5) Exemptions or reductions of corporate income tax in a definite amount and period may only be granted to a new investment which is a pioneer industry, to wit an industry that has wide-ranging links, gives added values and high externality, introduces new technology, as well as has strategic values for the national economy.
<i>Penjelasan Pasal 18 Ayat (5): Cukup jelas</i>	<i>Elucidation of Article 18 section (5): Sufficiently clear</i>
(6) Bagi penanaman modal yang sedang berlangsung yang melakukan penggantian mesin atau barang modal lainnya, dapat diberikan fasilitas berupa keringanan atau pembebasan bea masuk.	(6) Ongoing investments that are replacing machines or other capital goods may be granted facilities in the form of customs duty relief or exemptions.
<i>Penjelasan Pasal 18 Ayat (6): Cukup jelas</i>	<i>Elucidation of Article 18 section (6): Sufficiently clear</i>
(7) Ketentuan lebih lanjut mengenai pemberian fasilitas fiskal sebagaimana dimaksud pada ayat (4) sampai dengan ayat (6) diatur dengan	(7) Further provisions on the granting of fiscal facilities as intended by section (4) through section (6) shall be regulated by Regulation of

Peraturan Menteri Keuangan.

Penjelasan Pasal 18 Ayat (7): Cukup jelas

<u>Peraturan insentif fiskal yang sudah ada sebelum UU ini, lihat:</u>	
<u>PPH:</u>	- PP No. 1/2007 tentang Fasilitas Pajak Penghasilan Untuk Penanaman Modal di Bidang-bidang Usaha Tertentu dan/atau di Daerah-daerah Tertentu (2 Jan 2007); - Permenkeu No. 16/PMK.03/2007 tentang Pemberian Fasilitas Pajak Penghasilan Untuk Penanaman Modal di Bidang-bidang Usaha Tertentu dan/atau di Daerah-daerah Tertentu (19 Feb 2007); - Perdirjenpjk No. 67/PJ./2007 tentang Tata Cara Pemberian Fasilitas Pajak Penghasilan Untuk Penanaman Modal di Bidang-bidang Usaha Tertentu dan/atau di Daerah-daerah Tertentu (5 Apr 2007);
<u>Penghasilan Neto:</u>	
	- Perdirjenpjk No. 70/PJ/2007 tentang Jenis Jasa Lain dan Perkiraan Penghasilan Neto (9 Apr 2007);
<u>PPN:</u>	- PP No. 12/2001 tentang Impor dan atau Penyerahan Barang Kena Pajak Tertentu Yang Bersifat Strategis Yang Dibeaskan dari Pengenaan Pajak Pertambahan Nilai (22 Mar 2001), sebagaimana diubah oleh PP No. 43/2002 (23 Jul 2002), PP No. 46/2003 (13 Agu 2003), PP No. 7/2007 (8 Jan 2007), dan PP No. 31/2007 (1 Mei 2007);
<u>Barang Modal:</u>	
	- Kepmenkeu No. 135/KMK.05/2000 tentang Keringanan Bea Masuk atas Impor Mesin, Barang dan Bahan Dalam Rangka Pembangunan/ Pengembangan Industri/Industri Jasa (1 Mei 2000), sebagaimana diubah oleh Kepmenkeu No. 28/KMK.05/2001 (26 Jan 2001) dan Permenkeu No. 47/PMK.04/2005 (17 Jun 2005); - Kepdirjenbc No. 37/BC/2000 tentang Tata Cara Pemberian Keringanan Bea Masuk atas Impor Mesin, Barang dan Bahan oleh Industri/Industri Jasa Yang Melakukan Pembangunan/ Pengembangan Berdasarkan Kepmenkeu No. 135/KMK.05/2000 (9 Jun 2000); - Sedirjenbc No. 13/BC/2001 tentang Petunjuk Pelaksanaan Pemberian Fasilitas Keringanan Bea Masuk atas Impor Mesin, Barang dan Bahan Dalam Rangka Pembangunan/Pengembangan Industri/Industri Jasa (24 Apr 2001).

the Minister of Finance.

Elucidation of Article 18 section (7): Sufficiently clear

<u>The current regulations on fiscal incentives before the Law is enacted, see:</u>	
<u>Income Tax:</u>	- PP No. 1/2007 concerning Income Tax Facilities for Investments in Specified Business Sectors and/or Specified Regions (2 Jan 2007); - Permenkeu No. 16/PMK.03/2007 concerning the Granting of Income Tax Facilities for Investments in Specified Business Sectors and/or Specified Regions (19 Feb 2007); - Perdirjenpjk No. 67/PJ./2007 concerning Procedures for the Granting of Income Tax Facilities for Investments in Specified Business Sectors and/or Specified Regions (5 Apr 2007);
<u>Net Income:</u>	- Perdirjenpjk No. 70/PJ/2007 concerning Other Types of Services and Estimate of Net Income (9 Apr 2007);
<u>VAT:</u>	- PP No. 12/2001 concerning Import and/or Delivery of Taxable Specified Goods Strategic in Nature Exempt from Value Added Tax (22 Mar 2001), as amended by PP No. 43/2002 (23 Jul 2002), PP No. 46/2003 (13 Aug 2003), PP No. 7/2007 (8 Jan 2007), and PP No. 31/2007 (May 1, 2007);
<u>Capital Goods:</u>	
	- KepmenkeuNo. 135/KMK.05/2000 concerning Relief on Import Duty of Machines, Goods and Material for Enhancement/Development of Industries/Service Industries (1 May 2000), as amended by Kepmenkeu No. 28/KMK.05/2001 (26 Jan 2001) and Permenkeu No. 47/PMK.04/2005 (17 Jun 2005); - Kepdirjenbc No. 37/BC/2000 concerning Procedures for Granting Relief on Import Duty of Machines, Goods and Substances by Industries/Service Industries that Makes Enhancement/Development based on Kepmenkeu No. 135/KMK.05/2000 (9 Jun 2000); - Sedirjenbc No. 13/BC/2001 concerning Directives for Granting Import Duty Facilities of Machines, Goods and Substances for Making Development/Enhancement of Industries/Service Industries (24 Apr 2001).

Pasal 19

Fasilitas sebagaimana dimaksud dalam Pasal 18 ayat (4) dan ayat (5) diberikan berdasarkan kebijakan industri nasional yang ditetapkan oleh Pemerintah:

Penjelasan Pasal 19: Cukup jelas

<u>Kebijakan yang ada sebelum UU ini, lihat:</u>
- Kebijakan Pembangunan Industri Nasional (2005) yang dikeluarkan oleh Departemen Perindustrian (Mar 2005).

Article 19

Facilities as intended by Article 18 section (4) and section (5) shall be granted based on a national industry policy adopted by the Government:

Elucidation of Article 19: Sufficiently clear

<u>The current policy before the law is enacted, see:</u>
- The National Industrial Development Policy (2005), issued by the Department of Industry (Mar 2005).

Pasal 20

Fasilitas sebagaimana dimaksud dalam Pasal 18 tidak berlaku bagi penanaman modal asing yang tidak berbentuk perseroan terbatas.

Penjelasan Pasal 20: Cukup jelas

Pasal 21

Selain fasilitas sebagaimana dimaksud dalam Pasal 18, Pemerintah memberikan kemudahan pelayanan dan/atau perizinan kepada perusahaan penanaman modal untuk memperoleh:

Article 20

Facilities as intended by Article 18 shall not apply to foreign investments of non-limited liability company form.

Elucidation of Article 20: Sufficiently clear

Article 21

In addition to facilities as intended by Article 18, the Government shall provide simplified services and/or permission to investment companies to obtain:

- a. hak atas tanah;
- b. fasilitas pelayanan keimigrasian; dan
- c. fasilitas perizinan impor.

Penjelasan Pasal 21: Cukup jelas

Pasal 22

- (1) Kemudahan pelayanan dan/atau perizinan hak atas tanah sebagaimana dimaksud dalam Pasal 21 huruf a dapat diberikan dan diperpanjang di muka sekaligus dan dapat diperbarui kembali atas permohonan penanam modal, berupa:

- a. Hak Guna Usaha dapat diberikan dengan jumlah 95 (sembilan puluh lima) tahun dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 60 (enam puluh) tahun dan dapat diperbarui selama 35 (tiga puluh lima) tahun;

Penjelasan Pasal 22 Ayat (1) Huruf a:

Hak Guna Usaha (HGU) diperoleh dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 60 (enam puluh) tahun dan dapat diperbarui selama 35 (tiga puluh lima) tahun.

- b. Hak Guna Bangunan dapat diberikan dengan jumlah 80 (delapan puluh) tahun dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 50 (lima puluh) tahun dan dapat diperbarui selama 30 (tiga puluh) tahun; dan

Penjelasan Pasal 22 Ayat (1) Huruf b:

Hak Guna Bangunan (HGB) diperoleh dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 50 (lima puluh) tahun dan dapat diperbarui selama 30 (tiga puluh) tahun.

- c. Hak Pakai dapat diberikan dengan jumlah 70 (tujuh puluh) tahun dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 45 (empat puluh lima) tahun dan dapat diperbarui selama 25 (dua puluh lima) tahun.

Penjelasan Pasal 22 Ayat (1) Huruf c:

Hak Pakai (HP) diperoleh dengan cara dapat diberikan dan diperpanjang di muka sekaligus selama 45 (empat puluh lima) tahun dan dapat diperbarui selama 25 (dua puluh lima) tahun.

- (2) Hak atas tanah sebagaimana dimaksud pada ayat (1) dapat diberikan dan diperpanjang di muka

- a. land titles;
- b. immigration service facilities; and
- c. import permission facilities.

Elucidation of Article 21: Sufficiently clear

Article 22

- (1) Simplified services and/or permission of land titles as intended by Article 21 item a may be granted and extended all at once in advance, and is renewable at the investor's request for the following:

- a. Right to Cultivate may be granted for a period of 95 (ninety-five) years by being granted and extended all at once in advance for a period of 60 (sixty) years, and renewable for a period of 35 (thirty-five) years;

Elucidation of Article 22 section (1) subsection a:

Right to Cultivate is acquired by being granted and extended all at once in advance for a period of 60 (sixty) years, and renewable for a period of 35 (thirty-five) years;

- b. Right to Build may be granted for a period of 80 (eighty) years by being granted and extended all at once in advance for a period of 50 (fifty) years, and renewable for a period of 30 (thirty) years;

Elucidation of Article 22 section (1) subsection b:

Right to Build is acquired by being granted and extended all at once in advance for a period of 50 (fifty) years, and renewable for a period of 30 (thirty) years;

- c. Right to Use may be granted for a period of 70 (seventy) years by being granted and extended all at once in advance for a period of 45 (forty-five) years, and renewable for a period of 25 (twenty-five) years;

Elucidation of Article 22 section (1) subsection c:

Right to Use is acquired by being granted and extended all at once in advance for a period of 45 (forty-five) years, and renewable for a period of 25 (twenty-five) years.

- (2) Land titles as intended by section (1) may be granted and extended all at one in advance for

sekaligus untuk kegiatan penanaman modal, dengan persyaratan antara lain:

- a. penanaman modal yang dilakukan dalam jangka panjang dan terkait dengan perubahan struktur perekonomian Indonesia yang lebih berdaya saing;

Penjelasan Pasal 22 Ayat (2) Huruf a:
Cukup jelas

- b. penanaman modal dengan tingkat risiko penanaman modal yang memerlukan pengembalian modal dalam jangka panjang sesuai dengan jenis kegiatan penanaman modal yang dilakukan;

Penjelasan Pasal 22 Ayat (2) Huruf b:
Cukup jelas

- c. penanaman modal yang tidak memerlukan area yang luas;

Penjelasan Pasal 22 Ayat (2) Huruf c:

Yang dimaksud dengan "area yang luas" adalah luas tanah yang diperlukan untuk kegiatan penanaman modal dengan mempertimbangkan kepadatan penduduk, bidang usaha, atau jenis usaha yang ditentukan dengan peraturan perundang-undangan.

- d. penanaman modal dengan menggunakan hak atas tanah negara; dan

Penjelasan Pasal 22 Ayat (2) Huruf d:
Cukup jelas

- e. penanaman modal yang tidak mengganggu rasa keadilan masyarakat dan tidak merugikan kepentingan umum.

Penjelasan Pasal 22 Ayat (2) Huruf e:
Cukup jelas

- (3) Hak atas tanah dapat diperbarui setelah dilakukan evaluasi bahwa tanahnya masih digunakan dan diusahakan dengan baik sesuai dengan keadaan, sifat, dan tujuan pemberian hak.

Penjelasan Pasal 22 Ayat (3):
Cukup jelas

- (4) Pemberian dan perpanjangan hak atas tanah yang diberikan sekaligus di muka dan yang dapat diperbarui sebagaimana dimaksud pada ayat (1) dan ayat (2) dapat dihentikan atau dibatalkan oleh Pemerintah jika perusahaan penanaman modal menelantarkan tanah, merugikan kepentingan umum, menggunakan atau memanfaatkan tanah tidak sesuai dengan maksud

the following investment activities, inter alia:

- a. an investment that is made for a long term and linked to structured changes in the Indonesian economy aimed at improving competitiveness;

Elucidation of Article 22 section (2) subsection a:
Sufficiently clear

- b. an investment with an investment risk level that requires a long-term return on capital based on the types of investment activities carried out;

Elucidation of Article 22 section (2) subsection b:
Sufficiently clear

- c. investments that need no large areas;

Elucidation of Article 22 section (2) subsection c:

"Large area" is a land size that is needed for investment activities by considering population densities, business sectors, or business types specified by laws and regulations.

- d. investments with the state land title; and

Elucidation of Article 22 section (2) subsection d:
Sufficiently clear

- e. investments that do not undermine a sense of public justice and does not harm the public interest.

Elucidation of Article 22 section (2) subsection e:
Sufficiently clear

- (3) A land title is renewable upon evaluation that the land remains in good use and cultivation conforming to the condition, nature, and purpose the title is granted.

Elucidation of Article 22 section (3):
Sufficiently clear

- (4) The granting and extension of land titles that are granted all at once in advance and renewable as intended by section (1) and section (2) may be terminated or cancelled by the Government if an investment company abandons the land, harms the public interest, uses or cultivates land inconsistent with the objectives and purposes of the granting of its land titles, as well as violates

dan tujuan pemberian hak atas tanahnya, serta melanggar ketentuan peraturan perundang-undangan di bidang pertanahan.

Penjelasan Pasal 22 Ayat (4):
Cukup jelas

- Peraturan tanah yang ada sebelum UU ini, lihat:
1. Keppres No. 34/1992 tentang Pemanfaatan Tanah Hak Guna Usaha dan Hak Guna Bangunan Untuk Usaha Patungan Dalam Rangka Penanaman Modal Asing (6 Jul 1992);
 2. Permenagr No. 2/1993 (500-3302.A) tentang Tata Cara Memperoleh Izin Lokasi dan Hak atas Tanah bagi Perusahaan Dalam Rangka Penanaman Modal (23 Okt 1993);
 3. Kepmenagr No. 22/1993 (400-3972) tentang Petunjuk Pelaksanaan Izin Lokasi Dalam Rangka Pelaksanaan Permenagr No. 2/1993 (4 Des 1993); dan
 4. Kepmenagr No. 21/1994 (500-3827) tentang Tata Cara Perolehan Tanah bagi Perusahaan Dalam Rangka Penanaman Modal (7 Des 1994).

the provisions of laws and regulations concerning land.

Elucidation of Article 22 section (4):
Sufficiently clear

- The current land regulations before the law is enacted, see:
1. Keppres No. 34/1992 concerning Uses of HGU Land and HGB Land by Joint Ventures Business for Foreign Investments (6 Jul 1992);
 2. Permenagr No. 2/1993 (500-3302.A) concerning Procedures for Obtaining a Location Permit and Land Titles for Investment Companies (23 Oct 1993);
 3. Kepmenagr No. 22/1993 (400-3972) concerning Guidelines to Location Permits in the Implementation of Permenagr No. 2/1993 (4 Dec 1993); and
 4. Kepmenagr No. 21/1994 (500-3827) concerning Procedures for Acquiring Land for Investment Companies (7 Dec 1994).

Pasal 23

- (1) Kemudahan pelayanan dan/atau perizinan atas fasilitas keimigrasian sebagaimana dimaksud dalam Pasal 21 huruf b dapat diberikan untuk:
- a. penanaman modal yang membutuhkan tenaga kerja asing dalam merealisasikan penanaman modal;
 - b. penanaman modal yang membutuhkan tenaga kerja asing yang bersifat sementara dalam rangka perbaikan mesin, alat bantu produksi lainnya, dan pelayanan purnajual; dan
 - c. calon penanam modal yang akan melakukan peninjauan penanaman modal.

Penjelasan Pasal 23 Ayat (1): Cukup jelas

- (2) Kemudahan pelayanan dan/atau perizinan atas fasilitas keimigrasian yang diberikan kepada penanaman modal sebagaimana dimaksud pada ayat (1) huruf a dan huruf b diberikan setelah penanam modal mendapat rekomendasi dari Badan Koordinasi Penanaman Modal.

Penjelasan Pasal 23 Ayat (2)

Rekomendasi diberikan setelah penanaman modal memenuhi ketentuan penggunaan tenaga kerja asing sesuai dengan ketentuan peraturan perundang-undangan ketenagakerjaan.

- (3) Untuk penanam modal asing diberikan fasilitas, yaitu:
- a. pemberian izin tinggal terbatas bagi penanam modal asing selama 2 (dua) tahun;

Article 23

- (1) Simplified services and/or permission in connection with immigration facilities as intended by Article 21 item b may be granted:
- a. for investments that need temporary foreign workers to realize investments;
 - b. for investments that need temporary foreign workers to service machines, other production aids, and after-sales service; and
 - c. to prospective investors to explore possibilities for investments.

Elucidation of Article 23 section (1): Sufficiently clear

- (2) Simplified services and/or permission in connection with immigration facilities to be granted to investments as intended by section (1) item a and item b shall be granted after investors have received recommendation from the Investment Coordinating Board.

Elucidation of Article 23 section (2):

Recommendation is given after an investment has complied with the provisions of foreign worker employment in accordance with the provisions of labor laws and regulations.

- (3) A foreign investor shall be granted the following facilities:
- a. the granting of a non-permanent residence permit to a foreign investor for a period of 2 (two) years;

- b. pemberian alih status izin tinggal terbatas bagi penanam modal menjadi izin tinggal tetap dapat dilakukan setelah tinggal di Indonesia selama 2 (dua) tahun berturut-turut;
- c. pemberian izin masuk kembali untuk beberapa kali perjalanan bagi pemegang izin tinggal terbatas dan dengan masa berlaku 1 (satu) tahun diberikan untuk jangka waktu paling lama 12 (dua belas) bulan terhitung sejak izin tinggal terbatas diberikan;
- d. pemberian izin masuk kembali untuk beberapa kali perjalanan bagi pemegang izin tinggal terbatas dan dengan masa berlaku 2 (dua) tahun diberikan untuk jangka waktu paling lama 24 (dua puluh empat) bulan terhitung sejak izin tinggal terbatas diberikan; dan
- e. pemberian izin masuk kembali untuk beberapa kali perjalanan bagi pemegang izin tinggal tetap diberikan untuk jangka waktu paling lama 24 (dua puluh empat) bulan terhitung sejak izin tinggal tetap diberikan.

Penjelasan Pasal 23 Ayat (3):
Cukup jelas

- (4) Pemberian izin tinggal terbatas bagi penanam modal asing sebagaimana dimaksud pada ayat (3) huruf a dan huruf b dilakukan oleh Direktorat Jenderal Imigrasi atas dasar rekomendasi dari Badan Koordinasi Penanaman Modal.

Penjelasan Pasal 23 Ayat (4):
Cukup jelas

Peraturan ketenagakerjaan asing and keimigrasian yang sudah ada sebelum UU ini, lihat:

1. PP No. 32/1994 tentang Visa, Izin Masuk, dan Izin Keimigrasian (14 Okt 1994), sebagaimana diubah oleh PP No. 18/2005 (4 Mei 2005) dan PP No. 38/2005 (12 Okt 2005);
2. Kepmenkeh No. M.02-IZ.01.10/1995 tentang Visa Singgah, Visa Kunjungan, Visa Tinggal Terbatas, Izin Masuk, dan Izin Keimigrasian (14 Mar 1995), sebagaimana diubah oleh Kepmenkeh No. M.01-IZ.01.10/2003 (23 Mei 2003) dan Permenkumham No. M.01-IZ.01.10/2007 (13 Feb 2007);
3. Permenakertrans No. 07/Men/IV/2006 tentang Penyederhanaan Prosedur Memperoleh Ijin Mempekerjakan Tenaga Kerja Asing (IMTA) (29 Mar 2006), sebagaimana diubah oleh Permenakertrans No. 15/Men/IV/2006 (28 Apr 2006); dan
4. Permenkumham No. M.06-IL.01.10/2006 tentang Penetapan Fasilitas Khusus di Bidang Keimigrasian pada Kawasan Ekonomi Khusus (31 Agu 2006).

- b. the granting of a change in the status of non-permanent residence permit to an investor into the status of permanent residence permit after the investor has resided in Indonesia for a period of 2 (two) consecutive years;
- c. the granting of a multiple re-entry permit to the holder of non-permanent residence permit with a validity period of 1 (one) year for a period of not exceeding 12 (twelve) months counted from when the non-permanent residence permit is granted;
- d. the granting of a multiple re-entry permit to the holder of non-permanent residence permit with a validity period of 2 (two) years for a period of not exceeding 24 (twenty-four) months counted from when the non-permanent residence permit is granted; and
- e. the granting of a multiple re-entry permit to the holder of permanent residence permit for a period of not exceeding 24 (twenty four) months counted from when the permanent residence permit is granted.

Elucidation of Article 23 section (3):
Sufficiently clear

- (4) A non-permanent residence permit for a foreign investor as intended by section (3) item a and item b shall be granted by the Directorate General of Immigration on the recommendation of the Investment Coordinating Board.

Elucidation of Article 23 section (4):
Sufficiently clear

The current regulations on foreign employment and immigration before the Law is enacted, see:

1. PP No. 32/1994 concerning Visas, Entry Permits, and Immigration Permits (14 Oct 1994), as amended by PP No. 18/2005 (4 May 2005) and PP No. 38/2005 (12 Oct 2005);
2. Kepmenkeh No. M.02-IZ.01.10/1995 concerning Transit Visa, Visit Visas, Non-Permanent Resident Visas, Entry Permits, and Immigration Permits (14 Mar 1995), as amended by Kepmenkeh No. M.01-IZ.01.10/2003 (23 May 2003) and Permenkumham No. M.01-IZ.01.10/2007 (13 Feb 2007);
3. Permenakertrans No. 07/Men/IV/2006 concerning Simplified Procedures for Obtaining a Foreign Worker Employment Permit (29 Mar 2006), as amended by Permenakertrans No. 15/Men/IV/2006 (28 Apr 2006); and
4. Permenkumham No. M.06-IL.01.10/2006 concerning Provision of Special Facilities in the Field of Immigration in Special Economic Zones (31 Aug 2006).

Pasal 24

Kemudahan pelayanan dan/atau perizinan atas fasilitas perizinan impor sebagaimana dimaksud

Article 24

Simplified services and/or permission in connection with import permission facilities as intended by

dalam Pasal 21 huruf c dapat diberikan untuk impor:

- a. barang yang selama tidak bertentangan dengan ketentuan peraturan perundang-undangan yang mengatur perdagangan barang;
- b. barang yang tidak memberikan dampak negatif terhadap keselamatan, keamanan, kesehatan, lingkungan hidup, dan moral bangsa;
- c. barang dalam rangka relokasi pabrik dari luar negeri ke Indonesia; dan
- d. barang modal atau bahan baku untuk kebutuhan produksi sendiri.

Penjelasan Pasal 24: Cukup jelas

BAB XI

PENGESAHAN DAN PERIZINAN PERUSAHAAN

Pasal 25

- (1) Penanam modal yang melakukan penanaman modal di Indonesia harus sesuai dengan ketentuan Pasal 5 Undang-Undang ini.
- (2) Pengesahan pendirian badan usaha penanaman modal dalam negeri yang berbentuk badan hukum atau tidak berbadan hukum dilakukan sesuai dengan ketentuan peraturan perundang-undangan.
- (3) Pengesahan pendirian badan usaha penanaman modal asing yang berbentuk perseroan terbatas dilakukan sesuai dengan ketentuan peraturan perundang-undangan.

Pengesahan badan hukum dan kewenangan daerah, lihat:

1. Permenkumham No. 837-KP.04.11/2006 tentang Pendelegasian Wewenang Menkumham Dalam Memberikan Pengesahan Badan Hukum Perseroan Terbatas Kepada Kepala Kanwil Depkumhamdi Seluruh Indonesia (24 Mar 2006); dan
2. Permenkumham No. M.01-HT.01.10/2006 tentang Tata Cara Pengajuan Permohonan dan Pengesahan Akta Pendirian, Persetujuan, Penyampaian Laporan dan Pemberitahuan Akta Perubahan Anggaran Dasar Perseroan Terbatas (19 Jun 2006).

- (4) Perusahaan penanaman modal yang akan melakukan kegiatan usaha wajib memperoleh izin sesuai dengan ketentuan peraturan perundang-undangan dari instansi yang memiliki kewenangan, kecuali ditentukan lain dalam undang-undang.

Article 21 item c may be granted for import of:

- a. goods to the extent not against the provisions of laws and regulations that govern trading in goods;
- b. goods that bear no negative impact on safety, security, health, the environment, and morals of the nation;
- c. goods for the purpose of plant relocation from abroad to Indonesia; and
- c. capital goods or raw materials for own production needs.

Elucidation of Article 24: Sufficiently clear

CHAPTER XI

COMPANY VALIDATION AND LICENSING

Article 25

- (1) Investors who make investments in Indonesia must comply with the provisions of Article 5 of this Law.
- (2) Validation of establishment of a domestic investment business entity in the form of a legal entity or nonlegal entity shall be made in accordance with provisions of laws and regulations.
- (3) Validation of establishment of a foreign investment business entity in the form of a limited liability company shall be made in accordance with provisions of laws and regulations.

Validation of legal entity and regional authority, see:

1. Permenkumham No. 837-KP.04.11/2006 concerning Delegation of Menkumham's Authority in Granting Validation of Legal Entity of Limited Liability Companies to the Head of Regional Offices of Depkumham Throughout Indonesia (24 Mar 2006); and
2. Permenkumham No. M.01-HT.01.10/2006 concerning Procedures for Filing Applications for and Validation of Deeds of Establishment, Approvals, Deliveries of Reports and Notice of Deeds of Amendments to the Articles of Association of Limited Liability Companies (19 Jun 2006).

- (4) An investment company to carry out business activities must obtain a license/permit in accordance with provisions of laws and regulations from an authorized agency, unless provided otherwise by law.

- (5) Izin sebagaimana dimaksud pada ayat (4) diperoleh melalui pelayanan terpadu satu pintu.

Penjelasan Pasal 25: Cukup jelas

Pasal 26

- (1) Pelayanan terpadu satu pintu bertujuan membantu penanam modal dalam memperoleh kemudahan pelayanan, fasilitas fiskal, dan informasi mengenai penanaman modal.
- (2) Pelayanan terpadu satu pintu dilakukan oleh lembaga atau instansi yang berwenang di bidang penanaman modal yang mendapat pendelegasian atau pelimpahan wewenang dari lembaga atau instansi yang memiliki kewenangan perizinan dan nonperizinan di tingkat pusat atau lembaga atau instansi yang berwenang mengeluarkan perizinan dan nonperizinan di provinsi atau kabupaten/kota.
- (3) Ketentuan mengenai tata cara dan pelaksanaan pelayanan terpadu satu pintu sebagaimana dimaksud pada ayat (2) diatur dengan Peraturan Presiden.

- Ketentuan tata cara yang ada yang akan diganti, lihat:
1. Keppres No. 29/2004 tentang Penyelenggaraan Penanaman Modal Dalam Rangka Penanaman Modal Asing dan Penanaman Modal Dalam Negeri Melalui Sistem Pelayanan Satu Atap (12 Apr 2004);
 2. Permendagri No. 24/2006 tentang Pedoman Penyelenggaraan Pelayanan Terpadu Satu Pintu (6 Jul 2006);
 3. Keppres No. 97/1993 tentang Tata Cara Penanaman Modal (23 Okt 1993), sebagaimana diubah oleh Keppres No. 115/1998 (28 Jul 1998) dan Keppres No. 117/1999 (30 Sep 1999);
 4. Kepbikpm No. 57/SK/2004 tentang Pedoman dan Tata Cara Permohonan Penanaman Modal Yang Didirikan Dalam Rangka Penanaman Modal Dalam Negeri dan Penanaman Modal Asing (2 Jul 2004), sebagaimana diubah oleh Kepbikpm No. 70/SK/2004 (4 Okt 2004).

Penjelasan Pasal 26: Cukup jelas

BAB XII

KOORDINASI DAN PELAKSANAAN KEBIJAKAN PENANAMAN MODAL

Pasal 27

- (1) Pemerintah mengoordinasi kebijakan penanaman modal, baik koordinasi antarinstansi Pemerintah, antara instansi Pemerintah dengan Bank Indonesia, antara instansi Pemerintah dengan pemerintah daerah, maupun antarpemerintah daerah.

Penjelasan Pasal 27 Ayat (1): Cukup jelas

- (5) A license/permit as intended by section (4) shall be obtained through one-stop integrated services.

Elucidation of Article 25: Sufficiently clear

Article 26

- (1) One-stop integrated services are aimed at helping investors have access to simplified services, fiscal facilities, and information on investments.
- (2) One-stop integrated services shall be carried out by an authorized investment institution or agency that has assumed delegation or assignment of authority from an institution or agency authorized in licensing and nonlicensing at the central level, or from an institution or agency authorized to issue a license or nonlicense in provinces or districts/cities.
- (3) Provisions concerning procedures and implementation of one-stop integrated services as intended by section (2) shall be regulated by Regulation of the President.

- The current regulations on procedures to be replaced, see:
1. Keppres No. 29/2004 concerning Administration of Foreign Investments and Domestic Investments Through One-Stop Services (12 Apr 2004);
 2. Permendagri No. 24/2006 concerning Guidelines to the Conduct of One-Stop Services (6 Jul 2006);
 3. Keppres No. 97/1993 concerning Procedures for Investments (23 Oct 1993), as amended by Keppres No. 115/1998 (28 Jul 1998) and Keppres No. 117/1999 (30 Sep 1999);
 4. Kepbikpm No. 57/SK/2004 concerning Guides to and Procedures for Applications for Investments Established for Domestic Investments and Foreign Investments (2 Jul 2004), as amended by Kepbikpm No. 70/SK/2004 (4 Oct 2004).

Elucidation of Article 26: Sufficiently clear

CHAPTER XII

COORDINATION AND IMPLEMENTATION OF INVESTMENT POLICIES

Article 27

- (1) The Government shall coordinate investment policies amongst the Governmental agencies, between the Governmental agencies and Bank Indonesia, between the Governmental agencies and the regional governments, and amongst the regional governments.

Elucidation of Article 27 section (1): Sufficiently clear

- (2) Koordinasi pelaksanaan kebijakan penanaman modal sebagaimana dimaksud pada ayat (1) dilakukan oleh Badan Koordinasi Penanaman Modal.

Penjelasan Pasal 27 Ayat (2): Cukup jelas

- (3) Badan Koordinasi Penanaman Modal sebagaimana dimaksud pada ayat (2) dipimpin oleh seorang kepala dan bertanggung jawab langsung kepada Presiden.

Penjelasan Pasal 27 Ayat (3):

Yang dimaksud dengan bertanggung jawab langsung kepada Presiden adalah bahwa Badan Koordinasi Penanaman Modal dalam melaksanakan tugas, menjalankan fungsi, dan menyampaikan tanggung jawabnya langsung kepada Presiden.

- (4) Kepala Badan Koordinasi Penanaman Modal sebagaimana dimaksud pada ayat (3) diangkat dan diberhentikan oleh Presiden.

Penjelasan Pasal 27 Ayat (4):
[Tidak ada penjelasan]

Pasal 28

- (1) Dalam rangka koordinasi pelaksanaan kebijakan dan pelayanan penanaman modal, Badan Koordinasi Penanaman Modal mempunyai tugas dan fungsi sebagai berikut:

- a. melaksanakan tugas dan koordinasi pelaksanaan kebijakan di bidang penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf a:
Cukup jelas

- b. mengkaji dan mengusulkan kebijakan pelayanan penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf b:
Cukup jelas

- c. menetapkan norma, standar, dan prosedur pelaksanaan kegiatan dan pelayanan penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf c:

Dalam rangka penetapan norma, standar, dan prosedur Badan Koordinasi Penanaman Modal berkoordinasi dengan departemen/instansi terkait.

- d. mengembangkan peluang dan potensi penanaman modal di daerah dengan memberdayakan badan usaha;

- (2) Coordination of the implementation of investment policies as intended by section (1) shall be made by the Investment Coordinating Board.

Elucidation of Article 27 section (2): Sufficiently clear

- (3) The Investment Coordinating Board as intended by section (2) shall be led by a head and shall be directly responsible to the President.

Elucidation of Article 27 section (3):

“Directly responsible to the President” means that the Investment Coordinating Board, in the performance of its duties, assumes functions and takes direct responsibility to the President.

- (4) The Head of the Investment Coordinating Board as intended by section (3) shall be appointed and dismissed by the President.

Elucidation of Article 27 section (4):
[No elucidation]

Article 28

- (1) In regard to coordination of the implementation of investment policies and services, the Investment Coordinating Board shall have the following duties and functions:

- a. to perform duties and coordinate the implementation of investment policies;

Elucidation of Article 28 section (1) subsection a:
Sufficiently clear

- b. to study and propose investment service policies;

Elucidation of Article 28 section (1) subsection b:
Sufficiently clear

- c. to establish values, standards and procedures for the implementation of investment activities and services;

Elucidation of Article 28 section (1) subsection c:

In regard to establishment of values, standards and procedures, the Investment Coordinating Board coordinates with the relevant departments/agencies.

- d. to enhance investment opportunities and potentials in regions by empowering business entities;

Penjelasan Pasal 28 Ayat (1) Huruf d:
Cukup jelas

- e. membuat peta penanaman modal Indonesia;

Penjelasan Pasal 28 Ayat (1) Huruf e:
Cukup jelas

- f. mempromosikan penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf f:
Cukup jelas

- g. mengembangkan sektor usaha penanaman modal melalui pembinaan penanaman modal, antara lain meningkatkan kemitraan, meningkatkan daya saing, menciptakan persaingan usaha yang sehat, dan menyebarkan informasi yang seluas-luasnya dalam lingkup penyelenggaraan penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf g:
Cukup jelas

- h. membantu penyelesaian berbagai hambatan dan konsultasi permasalahan yang dihadapi penanam modal dalam menjalankan kegiatan penanaman modal;

Penjelasan Pasal 28 Ayat (1) Huruf h:
Cukup jelas

- i. mengoordinasi penanam modal dalam negeri yang menjalankan kegiatan penanaman modalnya di luar wilayah Indonesia; dan

Penjelasan Pasal 28 Ayat (1) Huruf i:
Cukup jelas

- j. mengoordinasi dan melaksanakan pelayanan terpadu satu pintu.

Penjelasan Pasal 28 Ayat (1) Huruf j:
Cukup jelas

- (2) Selain tugas koordinasi sebagaimana dimaksud dalam Pasal 27 ayat (2), Badan Koordinasi Penanaman Modal bertugas melaksanakan pelayanan penanaman modal berdasarkan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 28 Ayat (2):
Cukup jelas

Pasal 29

Dalam melaksanakan tugas dan fungsinya serta pelayanan terpadu satu pintu, Badan Koordinasi Penanaman Modal harus melibatkan perwakilan

Elucidation of Article 28 section (1) subsection d:
Sufficiently clear

- e. to make an Indonesian investment map;

Elucidation of Article 28 section (1) subsection e:
Sufficiently clear

- f. to promote investments;

Elucidation of Article 28 section (1) subsection f:
Sufficiently clear

- g. to enhance investment business sectors through investment guidance, by, inter alia, increasing partnership, increasing competitiveness, creating fair business competition, and disseminating as widely as possible information on the conduct of investment activities;

Elucidation of Article 28 section (1) subsection g:
Sufficiently clear

- h. to help contain various obstacles and give consultation on problems investors face in the conduct of investments.

Elucidation of Article 28 section (1) subsection h:
Sufficiently clear

- i. to coordinate domestic investors that conduct their investment activities outside the territory of Indonesia; and

Elucidation of Article 28 section (1) subsection i:
Sufficiently clear

- j. to coordinate and implement one-stop integrated services.

Elucidation of Article 28 section (1) subsection j:
Sufficiently clear

- (2) In addition to coordinating duties as intended by Article 27 section (2), the Investment Coordinating Board shall have a duty to perform investment services based on provisions of laws and regulations.

Elucidation of Article 28 section (2):
Sufficiently clear

Article 29

In the performance of its duties and functions as well as one-stop integrated services, the Investment Coordinating Board must directly involve the

secara langsung dari setiap sektor dan daerah terkait dengan pejabat yang mempunyai kompetensi dan kewenangan.

Penjelasan Pasal 29: Cukup jelas

- Pendirian BKPM sebelum UU ini, lihat:
- Keppres No. 33/1981 tentang Badan Koordinasi Penanaman Modal (27 Jul 1981), sebagaimana diubah oleh Keppres No. 113/1998 (28 Jul 1998), Keppres No. 120/1999 (6 Okt 1999) dan Keppres No. 28/2004 (12 Apr 2004).

representatives from every sector and relevant regions together with the competent and authorized officials.

Elucidation of Article 29: Sufficiently clear

- The establishment of BKPM before the law is enacted, see:
- Keppres No. 33/1981 concerning the Investment Coordinating Agency (27 Jul 1981), as amended by Keppres No. 113/1998 (28 Jul 1998), Keppres No. 120/1999 (6 Oct 1999) and Keppres No. 28/2004 (12 Apr 2004).

BAB XIII

PENYELENGGARAAN URUSAN PENANAMAN MODAL

Pasal 30

- (1) Pemerintah dan/atau pemerintah daerah menjamin kepastian dan keamanan berusaha bagi pelaksanaan penanaman modal.
- (2) Pemerintah daerah menyelenggarakan urusan penanaman modal yang menjadi kewenangannya, kecuali urusan penyelenggaraan penanaman modal yang menjadi urusan Pemerintah.
- (3) Penyelenggaraan urusan pemerintahan di bidang penanaman modal yang merupakan urusan wajib pemerintah daerah didasarkan pada kriteria eksternalitas, akuntabilitas, dan efisiensi pelaksanaan kegiatan penanaman modal.
- (4) Penyelenggaraan penanaman modal yang ruang lingkupnya lintas provinsi menjadi urusan Pemerintah.
- (5) Penyelenggaraan penanaman modal yang ruang lingkupnya lintas kabupaten/kota menjadi urusan pemerintah provinsi.
- (6) Penyelenggaraan penanaman modal yang ruang lingkupnya berada dalam satu kabupaten/kota menjadi urusan pemerintah kabupaten/kota.
- (7) Dalam urusan pemerintahan di bidang penanaman modal, yang menjadi kewenangan Pemerintah adalah:
 - a. penanaman modal terkait dengan sumber daya alam yang tidak terbarukan dengan tingkat risiko kerusakan lingkungan yang tinggi;

CHAPTER XIII

ADMINISTRATION OF INVESTMENT AFFAIRS

Article 30

- (1) The Government and/or the regional governments shall ensure the business certainty and security in the conduct of investments.
- (2) The regional governments shall administer investment affairs that fall under their authority, except for the administration of investment affairs that become the Government's affairs.
- (3) Administration of the governing affairs in the field of investment which is mandatory affairs of the regional governments shall be based on the criteria of externality, accountability, and efficiency in carrying out investment activities.
- (4) The conduct of investments the scope of which is across provinces shall become the Government's affairs.
- (5) The conduct of investments the scope of which is across districts/cities shall become the provincial government's affairs.
- (6) The conduct of investments the scope of which is within one district/city shall become the district/city government's affairs.
- (7) The governing affairs that become the power of the Government in the field of investment shall be:
 - a. investments related to nonrenewable natural resources with a level of high environmental damage risk;

b. penanaman modal pada bidang industri yang merupakan prioritas tinggi pada skala nasional; c. penanaman modal yang terkait pada fungsi pemersatu dan penghubung antarwilayah atau ruang lingkungannya lintas provinsi; d. penanaman modal yang terkait pada pelaksanaan strategi pertahanan dan keamanan nasional; e. penanaman modal asing dan penanam modal yang menggunakan modal asing, yang berasal dari pemerintah negara lain, yang didasarkan perjanjian yang dibuat oleh Pemerintah dan pemerintah negara lain; dan f. bidang penanaman modal lain yang menjadi urusan Pemerintah menurut undang-undang. (8) Dalam urusan pemerintahan di bidang penanaman modal yang menjadi kewenangan Pemerintah sebagaimana dimaksud pada ayat (7), Pemerintah menyelenggarakannya sendiri, melimpahkannya kepada gubernur selaku wakil Pemerintah, atau menugasi pemerintah kabupaten/kota. (9) Ketentuan mengenai pembagian urusan pemerintahan di bidang penanaman modal diatur lebih lanjut dengan Peraturan Pemerintah.	b. investments in industries with national high priority scale; c. investments linked to the functions of uniting and linking regions, or the scope of which is across provinces; d. investments linked to the implementation of a national defense and security strategy; e. foreign investments and investors that use foreign capital derived from the government of another country based on a treaty entered into by the Government and the government of another country; and f. other investment fields that by law become the Government's affairs. (8) In regard to the governing affairs in the field of investment that become the power of the Government as intended by section (7), the Government shall administer itself, delegate it to the governor in his/her capacity as the representative of the Government, or assign the district/city government. (9) Provisions on distribution of the governing affairs in the field of investment shall be regulated further by Regulation of the Government.
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Peraturan tentang pembagian kewenangan yang ada dan akan diganti, lihat:
- PP No. 25/2000 tentang Kewenangan Pemerintah dan Kewenangan Propinsi Sebagai Daerah Otonomi (6 Mei 2000).

The current regulations on division of authority to be replaced, see:
- PP No. 25/2000 concerning Power of the Central Government and Authority of the Provincial Governments as Autonomous Regions (6 May 2000).

Penjelasan Pasal 30: Cukup jelas

Elucidation of Article 30: Sufficiently clear

BAB XIV

CHAPTER XIV

KAWASAN EKONOMI KHUSUS

SPECIAL ECONOMIC ZONES

Pasal 31

Article 31

(1) Untuk mempercepat pengembangan ekonomi di wilayah tertentu yang bersifat strategis bagi pengembangan ekonomi nasional dan untuk menjaga keseimbangan kemajuan suatu daerah, dapat ditetapkan dan dikembangkan kawasan ekonomi khusus. (2) Pemerintah berwenang menetapkan kebijakan penanaman modal tersendiri di kawasan ekonomi	(1) To expedite economic enhancement in specified regions that are strategic for national economic development, and to maintain a balance of advancement of a region, a special economic zone may be established and developed. (2) The Government shall have the power to establish separate investment policies for special
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khusus.

- (3) Ketentuan mengenai kawasan ekonomi khusus sebagaimana dimaksud pada ayat (1) diatur dengan undang-undang.

Penjelasan Pasal 31: Cukup jelas

- Kebijakan yang ada sebelum UU ini, lihat: Keppres No. 12/2006 tentang Komite Pengarah Pengembangan Kawasan Ekonomi Khusus di Pulau Batam, Pulau Bintan dan Pulau Karimun (29 Agu 2006).

economic zones.

- (3) Provisions on special economic zones as intended by section (1) shall be governed by law.

Elucidation of Article 31: Sufficiently clear

- The current policy before the law is enacted, see: Keppres No. 12/2006 concerning the Supervisory Committee for Development of Special Economic Zones in Batam Island, Bintan Island and Karimun Island (29 Aug 2006).

BAB XV

PENYELESAIAN SENGKETA

Pasal 32

- (1) Dalam hal terjadi sengketa di bidang penanaman modal antara Pemerintah dengan penanam modal, para pihak terlebih dahulu menyelesaikan sengketa tersebut melalui musyawarah dan mufakat.
- (2) Dalam hal penyelesaian sengketa sebagaimana dimaksud pada ayat (1) tidak tercapai, penyelesaian sengketa tersebut dapat dilakukan melalui arbitrase atau alternatif penyelesaian sengketa atau pengadilan sesuai dengan ketentuan peraturan perundang-undangan.
- (3) Dalam hal terjadi sengketa di bidang penanaman modal antara Pemerintah dengan penanam modal dalam negeri, para pihak dapat menyelesaikan sengketa tersebut melalui arbitrase berdasarkan kesepakatan para pihak, dan jika penyelesaian sengketa melalui arbitrase tidak disepakati, penyelesaian sengketa tersebut akan dilakukan di pengadilan.
- (4) Dalam hal terjadi sengketa di bidang penanaman modal antara Pemerintah dengan penanam modal asing, para pihak akan menyelesaikan sengketa tersebut melalui arbitrase internasional yang harus disepakati oleh para pihak.

Penjelasan Pasal 32: Cukup jelas

CHAPTER XV

DISPUTE SETTLEMENTS

Article 32

- (1) Where an investment dispute arises between the Government and an investor, then such parties shall first settle the dispute through deliberation to reach a consensus.
- (2) Where a dispute settlement as intended by section (1) fails, such a dispute settlement may be made through arbitration or alternative dispute resolution or a court of law in accordance with provisions of laws and regulations.
- (3) Where an investment dispute arises between the Government and a domestic investor, then such parties may go to arbitration for settlement based on an agreement of the parties, and if a dispute settlement through arbitration is not agreed on, then the dispute settlement shall be made in a court of law.
- (4) Where an investment dispute arises between the Government and a foreign investor, then such parties shall settle the dispute through international arbitration that must be agreed on by the parties.

Elucidation of Article 32: Sufficiently clear

BAB XVI

SANKSI

Pasal 33

- (1) Penanam modal dalam negeri dan penanam modal asing yang melakukan penanaman modal dalam bentuk perseoran terbatas dilarang membuat perjanjian dan/atau pernyataan yang menegaskan bahwa kepemilikan saham dalam perseroan terbatas untuk dan atas nama orang lain.

Penjelasan Pasal 33 Ayat (1):

Tujuan pengaturan ayat ini adalah menghindari terjadinya perseroan yang secara normatif dimiliki seseorang, tetapi secara materi atau substansi pemilik perseroan tersebut adalah orang lain.

- (2) Dalam hal penanam modal dalam negeri dan penanam modal asing membuat perjanjian dan/atau pernyataan sebagaimana dimaksud pada ayat (1), perjanjian dan/atau pernyataan itu dinyatakan batal demi hukum.

Penjelasan Pasal 33 Ayat (2): Cukup jelas

- (3) Dalam hal penanam modal yang melaksanakan kegiatan usaha berdasarkan perjanjian atau kontrak kerja sama dengan Pemerintah melakukan kejahatan korporasi berupa tindak pidana perpajakan, penggelembungan biaya pemulihan, dan bentuk penggelembungan biaya lainnya untuk memperkecil keuntungan yang mengakibatkan kerugian negara berdasarkan temuan atau pemeriksaan oleh pihak pejabat yang berwenang dan telah mendapat putusan pengadilan yang berkekuatan hukum tetap, Pemerintah mengakhiri perjanjian atau kontrak kerja sama dengan penanam modal yang bersangkutan.

Penjelasan Pasal 33 Ayat (3):

Yang dimaksud dengan "tindak pidana perpajakan" adalah informasi yang tidak benar mengenai laporan yang terkait dengan pemungutan pajak dengan menyampaikan surat pemberitahuan, tetapi yang isinya tidak benar atau tidak lengkap atau melampirkan keterangan yang tidak benar sehingga dapat menimbulkan kerugian pada negara dan kejahatan lain yang diatur dalam undang-undang yang mengatur perpajakan.

Yang dimaksud dengan "penggelembungan biaya pemulihan" adalah biaya yang dikeluarkan di muka oleh penanam modal yang jumlahnya tidak wajar dan kemudian diperhitungkan sebagai biaya pengeluaran kegiatan penanaman modal pada saat penentuan bagi

CHAPTER XVI

SANCTIONS

Article 33

- (1) Domestic investors and foreign investors who make investments in the form of a limited liability company are prohibited from entering into an agreement and/or making a statement asserting that share ownership in a limited liability company is for and in the name of another person.

Elucidation of Article 33 section(1):

The purpose of this section is to prevent a situation where a company is formally owned by a person, but in actuality or in substance the owner of the company is someone else.

- (2) Where a domestic investor and a foreign investor enter into an agreement and/or make a statement as intended by section (1), such an agreement and/or statement is declared to be void by operation of law.

Elucidation of Article 33 section(2): Sufficiently clear

- (3) Where an investor who carries out business activities by virtue of an agreement or a cooperation contract with the Government has committed corporate crimes in the forms of criminal tax offense, recovery cost markup, and other forms of cost markup which diminish profits resulting in losses to the state upon findings or audits by authorized officials, and who has obtained a final and binding court decision, the Government shall terminate the agreement or the cooperation contract with the investor concerned.

Elucidation of Article 33 section(3):

"Criminal tax offense" means information regarding reports in connection with tax collection by submission of tax returns, the content of which is untrue or incomplete, or appending false statements that may lead to the state's loss and other crimes as provided for by the laws governing taxation.

"Recovery cost markup" means an expense incurred in advance by an investor, the amount of which is unreasonable and will subsequently be calculated as expenditure for investment activities at the time of determining the Government's share.

hasil dengan Pemerintah

Yang dimaksud dengan "temuan oleh pihak pejabat yang berwenang" adalah temuan dengan indikasi unsur pidana berdasarkan hasil pemeriksaan yang dilakukan oleh Badan Pemeriksa Keuangan atau pihak lainnya yang memiliki kewenangan untuk memeriksa, yang selanjutnya ditindaklanjuti sesuai dengan peraturan perundang-undangan.

Pasal 34

- (1) Badan usaha atau usaha perseorangan sebagaimana dimaksud dalam Pasal 5 yang tidak memenuhi kewajiban sebagaimana ditentukan dalam Pasal 15 dapat dikenai sanksi administratif berupa:
 - a. peringatan tertulis;
 - b. pembatasan kegiatan usaha;
 - c. pembekuan kegiatan usaha dan/atau fasilitas penanaman modal; atau
 - d. pencabutan kegiatan usaha dan/atau fasilitas penanaman modal.
- (2) Sanksi administratif sebagaimana dimaksud pada ayat (1) diberikan oleh instansi atau lembaga yang berwenang sesuai dengan ketentuan peraturan perundang-undangan.
- (3) Selain dikenai sanksi administratif, badan usaha atau usaha perseorangan dapat dikenai sanksi lainnya sesuai dengan ketentuan peraturan perundang-undangan.

Penjelasan Pasal 34: Cukup jelas

BAB XVII

KETENTUAN PERALIHAN

Pasal 35

Perjanjian internasional, baik bilateral, regional, maupun multilateral, dalam bidang penanaman modal yang telah disetujui oleh Pemerintah Indonesia sebelum Undang-Undang ini berlaku, tetap berlaku sampai dengan berakhirnya perjanjian tersebut.

Penjelasan Pasal 35: Cukup jelas

"Findings by authorized officials" means findings with indications of criminal elements upon results of examination made by the Audit Board or other parties authorized to examine, after which the findings are followed up in accordance with laws and regulations.

Article 34

- (1) Business entities or sole proprietorships as intended by Article 5 that fail to fulfill obligations as provided for by Article 15 may be imposed administrative sanctions in the form of:
 - a. a written warning;
 - b. a restriction of the business activity;
 - c. freezing of the business activity and/or investment facilities; or
 - d. closure of the business activity and/or investment facilities.
- (2) Administrative sanctions as intended by section (1) shall be imposed by an authorized agency or institution in accordance with provisions of laws and regulations.
- (3) In addition to administrative sanctions, business entities or sole proprietorships may be imposed other sanctions in accordance with provisions of laws and regulations.

Elucidation of Article 34: Sufficiently clear

CHAPTER XVII

TRANSITIONAL PROVISIONS

Article 35

International treaties on investments, whether bilateral, regional, or multilateral, the Government of Indonesia has signed before this Law is in effect shall remain to be valid until the treaties have expired.

Elucidation of Article 35: Sufficiently clear

Pasal 36

Rancangan perjanjian internasional, baik bilateral, regional, maupun multilateral, dalam bidang penanaman modal yang belum disetujui oleh Pemerintah Indonesia pada saat Undang-Undang ini berlaku wajib disesuaikan dengan ketentuan Undang-Undang ini.

Penjelasan Pasal 36: Cukup jelas

Pasal 37

- (1) Pada saat Undang-Undang ini berlaku, semua ketentuan peraturan perundang-undangan yang merupakan peraturan pelaksanaan dari Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing dan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri dinyatakan tetap berlaku sepanjang tidak bertentangan dan belum diatur dengan peraturan pelaksanaan yang baru berdasarkan Undang-Undang ini.
- (2) Persetujuan penanaman modal dan izin pelaksanaan yang telah diberikan oleh Pemerintah berdasarkan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing dan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri dinyatakan tetap berlaku sampai dengan berakhirnya persetujuan penanaman modal dan izin pelaksanaan tersebut.
- (3) Permohonan penanaman modal dan permohonan lainnya yang berkaitan dengan penanaman modal

Article 36

Draft international treaties on investments, whether bilateral, regional, or multilateral, the Government of Indonesia has not yet signed at the time this Law is in effect must be adjusted to the provisions of this Law.

Elucidation of Article 36: Sufficiently clear

Article 37

- (1) At the time this Law is in effect, all provisions of laws and regulations that constitute implementing regulations of Law Number 1 of 1967 concerning Foreign Investments, as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967 concerning Foreign Investments, and Law Number 6 of 1968 concerning Domestic Investments, as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic Investments, are declared to remain valid to the extent not in conflict with and not yet regulated by new implementing regulations under this Law.
- (2) Investment approval and operating permits the Government has granted under Law Number 1 of 1967 concerning Foreign Investments, as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967 concerning Foreign Investments, and Law Number 6 of 1968 concerning Domestic Investments, as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic Investments, are declared to remain valid until the investment agreement and the operating permit have expired.
- (3) Applications for investments and other applications with respect to investments that

yang telah disampaikan kepada instansi yang berwenang dan pada tanggal disahkannya Undang-Undang ini belum memperoleh persetujuan Pemerintah wajib disesuaikan dengan ketentuan dalam Undang-Undang ini.

- (4) Perusahaan penanaman modal yang telah diberi izin usaha oleh Pemerintah berdasarkan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing dan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri dan, apabila izin usaha tetapnya telah berakhir, dapat diperpanjang berdasarkan Undang-Undang ini.

Penjelasan Pasal 37: Cukup jelas

BAB XVIII

KETENTUAN PENUTUP

Pasal 38

Dengan berlakunya Undang-Undang ini:

- a. Undang-Undang Nomor 1 Tahun 1967 tentang Penanaman Modal Asing (Lembaran Negara Republik Indonesia Tahun 1967 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 2818) sebagaimana telah diubah dengan Undang-Undang Nomor 11 Tahun 1970 tentang Perubahan dan Tambahan Undang-Undang Nomor I Tahun 1967 tentang Penanaman Modal Asing (Lembaran Negara Republik Indonesia Tahun 1970 Nomor 46, Tambahan Lembaran Negara Republik Indonesia Nomor 2943); dan
- b. Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri (Lembaran Negara Republik Indonesia Tahun 1968 Nomor 33, Tambahan Lembaran Negara Republik Indonesia Nomor 2853) sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1970 tentang Perubahan dan Tambahan

have been filed with the authorized agencies, and on the date this Law is ratified have not yet obtained Government approval, must be adjusted to the provisions of this Law.

- (4) Investment companies that have been granted a business permit by the Government under Law Number 1 of 1967 concerning Foreign Investments, as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967, and Law Number 6 of 1968 concerning Domestic Investments, as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic Investments, and the permanent business permit of which has expired, may be granted extension under this Law.

Elucidation of Article 37: Sufficiently clear

CHAPTER XVIII

CONCLUDING PROVISIONS

Article 38

Upon the effectiveness of this Law:

- a. Law Number 1 of 1967 concerning Foreign Investments (State Gazette of the Republic of Indonesia Number 1 of 1967, Supplement to State Gazette of the Republic of Indonesia Number 2818), as amended by Law Number 11 of 1970 concerning Amendments and Supplement to Law Number 1 of 1967 (State Gazette of the Republic of Indonesia Number 46 of 1970, Supplement to State Gazette of the Republic of Indonesia Number 2943); and
- b. Law Number 6 of 1968 concerning Domestic Investments (State Gazette of the Republic of Indonesia Number 33 of 1968, Supplement to State Gazette of the Republic of Indonesia Number 2853), as amended by Law Number 12 of 1970 concerning Amendments and Supplement to Law Number 6 of 1968 concerning Domestic

Undang-Undang Nomor 6 Tahun 1968 tentang Penanaman Modal Dalam Negeri (Lembaran Negara Republik Indonesia Tahun 1970 Nomor 47, Tambahan Lembaran Negara Republik Indonesia Nomor 2944),

dicabut dan dinyatakan tidak berlaku.

Penjelasan Pasal 38: Cukup jelas

Pasal 39

Semua ketentuan peraturan perundang-undangan yang berkaitan secara langsung dengan penanaman modal wajib mendasarkan dan menyesuaikan pengaturannya pada Undang-Undang ini.

Penjelasan Pasal 39: Cukup jelas

Pasal 40

Undang-Undang ini mulai berlaku pada tanggal diundangkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Undang-Undang ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Penjelasan Pasal 40: Cukup jelas

Disahkan di Jakarta
pada tanggal 26 April 2007
PRESIDEN REPUBLIK INDONESIA,
ttd.

DR. H. SUSILO BAMBANG YUDHOYONO

Diundangkan di Jakarta
pada tanggal 26 April, 2007
MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,
ttd.
HAMID AWALUDIN

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 2007 NOMOR 67.

TAMBAHAN LEMBARAN NEGARA REPUBLIK INDONESIA NOMOR 4724.

Investments (State Gazette of the Republic of Indonesia Number 47 of 1970, Supplement to State Gazette of the Republic of Indonesia Number 2944),

are revoked and declared to no longer be valid.

Elucidation of Article 38: Sufficiently clear

Article 39

All provisions of laws and regulations that are directly related to investments must be founded on and adjusted to this Law.

Elucidation of Article 39: Sufficiently clear

Article 40

This Law shall take effect from the date it is promulgated.

In order that every person may know of it, the promulgation of this Law is ordered by placement in the State Gazette of the Republic of Indonesia.

Elucidation of Article 40: Sufficiently clear

Ratified in Jakarta
on April 26, 2007
PRESIDENT OF THE REPUBLIC OF INDONESIA
sgd.

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on April 26, 2007
MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA
sgd.
HAMID AWALUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 67 OF 2007

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC
OF INDONESIA NUMBER 4724.

Translated and annotated by Wishnu Basuki (ABNR)
wbasuki@abnrlaw.com

ALI BUDIARDJO, NUGROHO, REKSODIPUTRO
COUNSELLORS AT LAW

Submitted to BKPM in 2 (two) copies.

Lampiran 2

SK Kepala BKPM
No. 57 / SK / 2004

MODEL I / PMA

**INVESTMENT APPLICATION
INTERM OF FOREIGN INVESTMENT**

This investment application under the Foreign Investment Law No. 1 of/year 1967 and No. 11 of/year 1970 is herewith submitted to BKPM on behalf of the Government of The Republic of Indonesia and Implementation of Presidential Decree Number 29 of 2004 concerning .

I. DESCRIPTION OF THE PARTICIPANTS

A. Foreign Participant(s)

1. Name company (ies) or individuals :
2. Main line of business :
3. Address (incl. phone, E-mail address and fax number) :

B. Indonesian Participant(s)

1. Name (company, cooperative or individuals) :
2. Tax Registration Code Number (NPWP) :
3. - Main line of business :
- Investment status : PMA,PMDN or Non PMA/PMDN *)
4. Address (incl. Phone number, E-mail address and fax number) :

*) Stripe which are not used.

II. DESCRIPTION OF THE PROPOSED PMA COMPANY

1. Name of company :
2. Main line of business :

4. Annual Production :

5. Annual Sales of Products :

Estimated total export value : US\$.....

7. Employment : Expatriate Indonesian

- Note : Expatriate professionals position must be specified.

- 2

- a. Fixed capital :
- Cost of Land & land development : US\$.....
 - Cost of Building : US\$.....
 - Cost of Machinery, Equipment and spare parts : US\$.....
 - Others Miscelenous : US\$.....
 - Sub total : US\$.....
- b. Working Capital (one turn over operation) : US\$.....
- Total : US\$.....

Note : If more than one locations/line of businesses, investment should be devided for each location and/or field of business.

9. Source of Investment Funds :

- a. Equity : US\$.....
- b. Loan : US\$.....
- Total : US\$.....

10. Equity Capital :

- a. Authorized Capital : US\$.....
- b. Issued Capital : US\$.....
- c. Paid-up Capital : US\$.....

Note : Issued capital at lease is equal to equity.

11. Shareholding (s)

a. Foreign Shareholding (s)	US\$.	%
.....		
.....		
.....		
Sub Total		
b. Indonesian Shareholding (s)	US\$	%
.....		
.....		
.....		
c. Total (a + b)	US\$.....	100%

12. Implementation will be completed within months from the date of the issuance of the Government's Approvals.

III. DECLARATION

1. We acknowledge that the company(ies) shall be obliged to take preventive measures against any pollution resulting from the operation of our investment project, at our joint venture company's own expense(s) and in conformity with the applicable laws and regulations.
2. This application has been properly and duly executed and we (the participants) are responsible for its accuracy, correctness and completeness, including all data and documents attached here to.

Foreign Applicant(s)

.....,20.....
Indonesian Applicant(s)

Stamp duty Rp. 6.000,-

(.....)
Name, Signature

(.....)
Name, Signature and Stamp

ENCLOSURE :

1. By Foreign Participant:
 - a. Articles of Association of the Company in English or Indonesian language; or
 - b. Copy of valid passport for foreign individual
2. By Foreign Investment Company (PMA) :
 - a. Articles of Association of the Company and any amendment(s)
 - b. Tax Registration Code Number (NPWP)
3. By Indonesian Participant:
 - a. Articles of Association of the Company and any amendment(s) or Identity Card for Individual
 - b. Tax Registration Code Number (NPWP).
4.
 - a. Flowchart of the production process and raw materials requirement for processing industries.
 - b. Description Explanation of business activities for services sector
5. Power of Attorney to sign the application if the participant(s) are represented by another party.
6.
 - a. Other requirements from the sectoral minister concerned, if any, as stated among others in the “Technical Guidance’s Book on Investment Implementation”.
 - b. Certain sector namely mining sector which has extraction activity, energy sector, palm oil plantation and fishery, must obtain Letter of recommendation by the related/technical ministries.
 - c. For the Palm Oil Processing Industry which does not have raw material supplied by its own plantations, the raw material guarantee document supplied by the plantation must be completed, and recognized by the plantation Department of Regency/City Government.
7. In the business sector required for partnership cooperation:
 - a. Agreement between Small Scale Enterprise and Medium/Large Scale Enterprise outlining among others name and address of each party, pattern of partnership, right and obligation of each party as well as guidance provided for Small Scale Enterprises.
 - b. Letter of Statement from the Small Scale Enterprise concerning that the enterprise fulfills the criteria of Small Scale Enterprises based on Law No. 9 of 1995.

Note : For the requirements at point 6 a,b,c will be coordinated by BKPM with other related government institutions .

FORMULIR KPPA

**APPLICATION FORM
FOR THE ESTABLISHMENT OF A REPRESENTATIVE OFFICE
IN INDONESIA**

Information concerning the foreign company which will open a Representative Office in Indonesia

1. Name of Company :
2. Line of Business :
3. Headquarter Address :
(incl. Phone number, E-mail address,
and Fax number)

Address of the Representative Office in Indonesia

1. City :
2. Province :
3. Address :
 - a. Building :
 - b. Street :
 - c. Telephone Number :
 - d. E-mail :
 - e. Fax. Number :

Information about the individual who will become the Representative Office's executive

1. Full Name :
2. Citizenship :
3. Address :
 - a. in the country of origin (if any) :
 - b. in Indonesia :
4. Passport Number (for foreign) or Identification Card Number (for Indonesia) :
Valid until :
5. Letter of appointment from the foreign company represented :
 - a. Number (if any) :
 - b. Date :
 - c. Valid until :

Manpower Plan	:	Foreign	Indonesian
a. Management	:		
b. Expert(s)	:		
c. Staff(s)	:		
		-----	-----
Total	:		

Incentives applied for :

1. () Expatriate Work Permit
2. () Multiple Exit / Re-entry Permit
3. () Exemption from obtaining fiscal clearance for going abroad (SKFLN)

Declaration

It is declared that this application has been properly and duly executed and that the applicant is responsible for its accuracy, correctness, and completeness, including all data and documents attached hereto.

.....,20.....

Signature of
The management of
The foreign company represented

Materai Rp. 6.000,-

(.....)
Name, Signature and Accupation

ENCLOSURE :

1. Letter of appointment from the parent company.

2. Power of Attorney to sign the application if the participant is represented by another party.
3. Articles of Association of the parent company and any amendment(s).
4. Copy of valid passport (for foreigner) or copy of identification card number (for Indonesia) who will be proposed as a Representative Executive.
5. Letter of statement concerning the willingness to stay, and only work in the position as the Representative Office Executive without doing other business in Indonesia.