


# Indonesia's Role in Maximising the Benefits of Foreign Investment for the Community Through Regulation of Entry Policies

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Article Info	ABSTRACT
<p><b>Keywords:</b> Investment Foreign Direct Investment Regulation of Entry</p>	<p>Indonesia, as one of the most populous countries in the world, faces the challenge of maximising the potential of its natural and human resources through foreign direct investment (FDI) activities. This study uses a normative legal method with a literature review approach to analyse how Indonesia, through its sovereignty, regulates entry in FDI to ensure economic growth and public welfare. The results of the study show that Indonesia has established a relatively comprehensive regulatory framework through Law No. 25 of 2007 on Investment, which includes guarantees against takeovers, dispute resolution mechanisms, tax and non-tax incentives, investment screening, local collaboration requirements, environmental protection, and provisions on local equity. These regulations have proven to play a role in minimising the risk of economic dependence, preventing the exploitation of natural resources, and strengthening the country's legal position in negotiations with foreign investors. This study found that Indonesia has succeeded in maximising the benefits of FDI, particularly through job creation, improving the competence of the local workforce through training, and technology transfer from foreign companies. However, the effectiveness of the policy is still influenced by implementation challenges such as licensing bureaucracy and legal certainty. This study concludes that regulations that balance investor protection and national interests are key to ensuring that FDI generates optimal benefits for the community. Recommendations are directed at strengthening investment governance, improving environmental sustainability standards, and harmonising central and regional regulations to create a more stable and inclusive investment climate.</p>
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## INTRODUCTION

Every country is always competing to improve the welfare, progress, and prosperity of its people. This is done in different ways in each country, including our country. The State of Indonesia, in order to improve the welfare and prosperity of its people in a constitutive manner, is clearly mandated through the preamble to the Constitution of the Republic of Indonesia in the opening paragraphs 3 and 4. In these provisions, there are noble ideals that are the goals of the formation of the Indonesian state which has a vision to create a just and prosperous society. This can be realized through one of the ways, namely Foreign Investment activities in Indonesia.

The actualization of the realization of the State's ideals is expressed in concrete form through the enactment of Law Number 25 of 2007 concerning Investment (UUPM). This is an effort to accelerate national economic development and realize Indonesia's economic sovereignty, to face various global economic dynamics and to demonstrate Indonesia's involvement in international relations. Article 1, number 1 of the UUPM states that investment is:

*" Investment is any form of investment activity, whether by domestic investors or foreign investors to conduct business in the territory of the Republic of Indonesia."*

Meanwhile, what is meant by Foreign Investment in the UUPM is explained as follows:

*" Foreign investment is an activity of investing capital to conduct business in the territory of the Republic of Indonesia carried out by foreign investors, whether using foreign capital entirely or in association with domestic investors. "*

Foreign investment plays a crucial role in driving a country's economic progress (Jonker, 2009: 31). This is based on the fact that a country desires progress in various sectors. In the economic sector, foreign investment is recognized as necessary to finance large projects, such as infrastructure development, manufacturing, and increasing a company's production capacity. In the field of science, a country can also experience progress through technology and knowledge transfer activities as a result of foreign investors, who often bring new technology and knowledge to the destination country.

The philosophical principle that states that investment activities by multinational companies (MNCs) actually bring benefits to the country where the foreign investment is carried out or the host country . It is the basis for countries competing to attract the interest of foreign investors to carry out FDI activities in their country, including Indonesia (Yani, 2020: 55). However, it is important to remember that Foreign Investment activities are also not free from various risks, such as excessive economic dependence on foreign investors or the potential exploitation of natural resources that ignore the principle of environmental sustainability. Because of this, countries must pay attention to appropriate policies to ensure that Foreign Investment activities provide maximum benefits for their economic and social development. This study aims to discuss how Indonesia concretely utilizes existing foreign investment activities to the maximum for the benefit of the Indonesian nation based on applicable laws and regulations, especially to identify the form of *Regulation of Entry* implemented by Indonesia based on Laws and Regulations related to Investment and How the Indonesian Government Maximizes Foreign Investment Activities in Indonesia.

Three previous studies have shown that the issue of foreign investment in Indonesia is generally discussed from the perspective of the influence of regulations on the investment climate (Dewanto, 2023), which emphasizes the effect of changes in national regulations on foreign investor interest; then from the perspective of the government's political-economic policies in managing foreign capital flows and their obstacles at the bureaucratic and political levels (Aryanisah et al., 2025); and research that examines the state's role in providing legal protection for investors through Law 25/2007 and international instruments, but highlights weak implementation in the field (Murti & Putra, 2025). Compared to the three, this study presents a novelty by focusing on how Indonesia maximizes the benefits of foreign

investment through the regulation of entry mechanism—not only assessing the climate or legal protection—but also normatively analyzing how entry requirements, screening, incentives, and the state sovereignty framework are designed to ensure FDI truly provides optimal benefits for the Indonesian people. This novelty places the research in a more specific and applicable realm, namely how the design of FDI entry policies can be an instrument to prevent the risk of dependency and ensure the sustainability of economic benefits for the public.

## RESEARCH METHODS

This study uses a normative approach with a descriptive nature (Soekanto, 2010), namely analyzing the rules of laws and regulations related to Investment. The data used are secondary data obtained through a literature study of 12 sources, in the form of laws, investment law textbooks, national journal articles, policy documents, and other relevant scientific publications. All data are analyzed qualitatively and normatively through a process of regulatory inventory, grouping of legal issues, and systematic interpretation of the norms governing the regulation of entry in Foreign Investment. The analysis is then directed to draw conclusions that describe the extent to which the Indonesian legal framework maximizes the benefits of FDI for the national interest.

## RESULTS AND DISCUSSION

### **The concept of Regulation of Entry implemented by Indonesia is reviewed from the Investment Law**

A country's right to control the entry of foreign investment is unlimited; this right flows from its sovereignty as a nation. Any foreign investment can be excluded by a nation. However, a sovereign entity can surrender its rights even over purely internal matters through agreement (Salim, Budi, 2008). State sovereignty refers to a nation's right to determine policies within its territory without interference from foreign parties.

In the context of Foreign Investment, state sovereignty allows states to determine whether to accept or reject foreign investment, as well as to regulate the conditions applicable to foreign investors in their countries. If a treaty permits the right of entry and national treatment upon entry of nationals of the contracting states, the right of control over investments on the basis that such investments are made by foreigners is completely lost for each contracting state. If such a treaty applies to foreign investment, it completely eliminates the control rights that states have over foreign investment, unless the treaty itself provides an exception for this situation (Widjaja, 2019). It may still be possible that, in an emergency, the treaty rights of foreign investors may be suspended.

This sovereignty is concretely reflected in the legal policies of a host country to ensure that investment activities are maximally profitable, not detrimental. Investment will be difficult to enter Indonesia without a clear legal basis and regulations, such as licensing between the central and regional governments, with a complicated bureaucracy that is constantly changing and unpredictable (Sentosa, 2010: 118). Law enforcement officials and law enforcement officers play a crucial role in creating a conducive investment climate and

ensuring that prospective or existing investors do not hinder their operations. Likewise, the legal culture of the community and business actors is subject to existing agreements or cooperation. This legal policy is outlined in the form of laws and regulations containing *regulations of entry*, which serve as guidelines for prospective foreign investors to comply with the requirements they must provide or fulfill before undertaking foreign investment activities in the host country. According to M. Sornarajah (Sornarajah, 2010: 88) in his book entitled " *The International Law on Foreign Investment* ", it is stated that there are several conditions for foreign investors to comply with the policies regulated by the host country's government, namely:

1. Guarantees against expropriation
2. Guarantees relating to dispute settlement
3. *Tax and non-tax incentives to foreign investors*
4. Screening of foreign investment entry
5. Requirement of local collaborations
6. Capitalization requirements
7. Requirements relating to environmental protection
8. Requirements relating to export targets
9. Requirements relating to local equity
10. *Other Requirements*
11. Regulation and expropriations

Based on Law Number 25 of 2007 concerning Investment, investment activities must be given equal treatment between foreign investors and domestic investors. This is clearly stated in Article 6 paragraph (1) of the Investment Law which states:

*"The government provides equal treatment to all investors from any country who carry out investment activities in Indonesia in accordance with the provisions of laws and regulations."*

This article is in accordance with the principle of " *the most favored nations* " Trade Related Investment Measures-WTO, by upholding the principle of non-discrimination / not differentiating treatment by the host country to foreign investors with investors from their country in the country receiving the capital (Jack, 1998: 27). In contrast to domestic investors who can conduct business in the form of a business entity that is not a legal entity, in the case of foreign investment it must be established in the form of a limited liability company, as stated in Article 5 paragraph (2) of Law Number 25 of 2007 concerning Investment. However, there are several requirements that must be met or complied with by prospective foreign investors who wish to carry out investment activities, this is in Law Number 25 of 2007 concerning Investment relating to regulations regarding:

Guarantees against expropriations *are* stated in Article 7 paragraph (1) which guarantees the state's treatment not to carry out nationalization, unless determined by law, and further in Article 7 paragraph (2) implies that in the event that in the future attempts to take ownership rights through nationalization do not reach an agreement, especially regarding the amount of compensation or compensation, the parties in this case the host state *and* foreign investors can resolve matters that are the subject of the dispute through an

arbitration institution. This provision is adapted with the aim or intention to change the perception of risks that may arise as a result of nationalization.

*Guarantees* relating to dispute settlement In the event of a future dispute, Law Number 25 of 2007 concerning Investment provides guarantees regarding efforts to resolve disputes in Article 32 of the dispute resolution chapter. This article mandates that in the event of a dispute, the effort that must be made must be deliberation to reach a consensus. This relates to efforts to find a Joint Solution to create a fair and sustainable agreement, as well as maintaining good working relationships between the disputing parties. However, if the deliberation is unsuccessful, Law Number 25 of 2007 concerning Investment states that further dispute resolution must be carried out through alternative dispute resolution or arbitration. This guarantee is provided with the expectation that there will be a greater flow of foreign investment if an impartial method for seeking a resolution in the event of host state government intervention *is* available to foreign investors (Sornarajah: 2010: 102).

*incentives* to foreign investors This provision relates to the provision of tax incentives to foreign investors as a way to ensure that foreign investors act or behave in accordance with the rules of the game set by the host state , this provision is contained in Article 18 paragraph (4) of the Investment Law. The exemption or reduction of corporate income tax in a certain amount and time as mentioned above can only be given to new investments that are pioneer industries, namely industries that have broad links, provide added value and high externalities, introduce new technology, and have strategic value for the national economy of the host country. These tax incentives are a useful way to ensure that foreign investors act in accordance with the desired manner by the host state . Tax incentives are given when new equipment is purchased for the process of modernizing a factory or on condition that some shares in the investment are transferred to citizens of the host state , this method is also carried out with the intention or purpose of achieving certain goals, for example, improving technology through indirect regulations.

*of Foreign Investment Entry* . A country must screen prospective foreign investors who wish to invest in its country. Screening is carried out through administrative bodies by requiring that a feasibility study be prepared and tested to demonstrate the potential benefits of the investment for the country's economy and the local region, and not the opposite, which would be detrimental to the country's sovereign interests. This norm is seen in Article 17 of Law Number 25 of 2007 concerning Investment, which states the obligation to exploit renewable natural resources and, if non-renewable, must allocate funds for location restoration based on environmental feasibility standards. The screening function carried out through these administrative bodies indicates the potential benefits that can be derived from investment activities, because many countries allow foreign investment only through joint ventures , and the preparation of feasibility studies is an administrative requirement.

Requirements for local collaboration ( *requirement of local collaboration* ) This requirement is a pattern related to the requirement that foreign investment must be carried out with cooperation or collaboration and participation from local businesses or local businesses, with the aim of opening and expanding employment opportunities and generating income for the host country. This is regulated in Law Number 25 of 2007

concerning Investment in Article 10. The obligation to collaborate with local businesses is a strategy established by the State of Indonesia through this Law to open employment opportunities, or indirectly transfer knowledge regarding technology used by foreign investment companies.

**Capitalization Requirements :** Countries may require that foreign investors wishing to enter and conduct business in Indonesia bring all or a certain percentage of their capital from their country of origin. This is regulated in Article 1, number 3 of Law Number 25 of 2007 concerning Investment. When a foreign investor agrees to capitalization requirements and then fails to comply, the host state, where the capital is invested, has the right to stop or disrupt the foreign investment. This right arises as part of the internal law or sovereignty of the host state. The exercise of this right cannot be considered an international wrong provided that due process standards have been met.

*Requirements* relating to environmental protection The host state *and* its institutions must pay attention to the environmental impacts that arise or could potentially occur as a result of the entry of foreign investment (Boon, 2023). A feasibility study must be conducted before the entry permit for foreign investment is approved, requiring an assessment of the impact on the environment. This is regulated in Article 3 paragraph (1) letters g and h of Law Number 25 of 2007 concerning Investment. An environmental impact study must be made before the entry permit for foreign investment. The permit will be rejected if the impact on the environment will be very bad. This is a reaction to the Bhopal Disaster in India in 1984 where the foreign investment company from the United States Union Carbide Corporation (UCC) which established a factory in Bhopal experienced a leak and released 40 tons of toxic gas into the air inhaled by approximately 500,000 (five hundred thousand) people, which is said to be the worst industrial disaster after the Chernobyl incident. However, environmental standards in many developing countries are typically not high.

*Requirements* relating to export targets : These requirements mandate export policies supported by foreign investment activities. This is done with the expectation that multinational corporations *will* produce and/or export products from their countries in order to gain foreign exchange. This is regulated in Article 21, letter c, of Law Number 25 of 2007 concerning Investment. Imposing these requirements will exacerbate conflicts between host countries and foreign investors. Foreign investors will find it difficult to meet the requirements imposed under current conditions.

Requirements related to local equity (*requirements to local equity*) These requirements mandate that there must be participation with domestic equity of the host country / local equity in foreign investment activities. This requirement is implemented with the aim of ensuring that the host country *has* direct or indirect control over the foreign investment business or company. This is regulated in article 1 number 8. This ensures that local entrepreneurs or businessmen, who will benefit from their relationship with foreign investors through the acquisition of managerial and business acumen, will emerge (Ariani, 2022). The amount of local equity participation of the host country *is* further regulated in more detail in the Investment Coordinating Board Regulation Number 5 of 2019 *in conjunction with* the Investment Coordinating Board Regulation Number 1 of 2020.

Other *requirements* stipulated in the Foreign Investment Laws of various countries are enforced in an effort to maximize the benefits of foreign investment for the host country's economy. This is regulated in Articles 10 and 13 of Law Number 25 of 2007 concerning employment absorption, transfer of science and technology, and training of Indonesian workers in foreign investment companies. These requirements may exist and be applied to local research related to products and product adaptation to local conditions. The imposition of these requirements can also be justified because it is based on the sovereign right of a country to regulate economic activities occurring within its territory.

Regulation and Expropriation *Foreign* investment activities must operate within the regulatory framework of the host country . If the acceptance of foreign investment is conditional, failure to meet these conditions can be used as a reason for host country intervention, as well as expropriation. This rule can be seen in Article 7 paragraph (2) of Law Number 25 of 2007 concerning Investment. In all these cases, there is no doubt about the domestic legality of these actions if the legally mandated procedures have been followed. The issue is whether such interference can be considered expropriation under international law. The basic assumption is that it cannot be considered expropriation, because foreign investors are accepted on the condition that local laws are complied with.

### **Indonesia's Role in Maximizing the Benefits of Foreign Investment Activities in its Territory**

Foreign investment plays a crucial role in a country's economic, political, and infrastructure development. Foreign investment is, in principle, permitted by a country; it is a crucial element in driving a country's economic growth and development. This is based on the belief that funds from foreign investment can contribute to national development and the economy.

In some cases, national savings must help offset the shortfalls caused by foreign investment in providing capital to support development. In addition to the capital needed to achieve national savings goals, which are a key priority for economic growth, the government takes steps to ensure that national savings remain stable despite declines (Untung, 2010: 49). To ensure that national savings remain stable, every sector must support its maintenance.

Foreign investment activities as discussed in the previous point in this paper must be based on legal certainty, for that Indonesia through Law Number 25 of 2007 concerning Investment provides rules of the game in terms of investment not only to prospective foreign investors but also to prospective domestic investors (PMDN). This means that the state treats investors, both foreign investors and domestic investors without distinction or discrimination. This is the ideal of the Indonesian nation as contained in the 1945 Constitution of the Republic of Indonesia which states that the Government of the State of Indonesia is tasked with protecting all Indonesian people, and all of Indonesia's blood, and to advance public welfare, to educate the life of the nation.

In the general explanation of Law Number 25 of 2007 concerning Investment, it is also stated that investment activities must be part of the implementation of the national economy and be placed as an effort to increase sustainable economic development, increase national technological capacity and capabilities, and encourage people's economic development, and

realize the welfare of the community in an economic system that is foreign-powered. Linked to the legal context of investment, especially in terms of foreign investment, this can be seen from the government's efforts to pay attention to the welfare of the nation by establishing the provisions of Law Number 25 of 2007 concerning Investment as the rules of the game for all investors, which include:

Opening Job Opportunities for Indonesian Workers, Foreign investment activities in a country must comply with the legal provisions stipulated by that country. This in Indonesia is regulated in Article 10 paragraph (1) of Law Number 25 of 2007 concerning Investment which states that the absorbed workforce must prioritize Indonesian citizens. This is in accordance with the mandate of the Indonesian constitution, namely the function of protecting the nation, as well as efforts to advance public welfare. In practice, it is often found in various countries that grant foreign investment permits in their country, but do not pay attention to the interests of their nation that with the entry of foreign investment should be able to use the native workforce of the host country, so that the foreign investment activities can provide the widest possible benefits for the Indonesian people. Furthermore, Article 10 paragraph (3) also states that PMA Companies are required to improve the competency of the workforce through job training. After absorbing domestic workers, the government also through this Law makes every effort to ensure that the workforce is given job training in the designated fields. Providing training to the workforce has significant benefits for both the individual recipients and foreign investment companies conducting foreign investment activities in Indonesia. Such training is necessary to improve the skills and competencies of the workforce, thereby increasing the productivity, quality of work, and efficiency of the domestic workforce.

## CONCLUSION

In foreign investment activities in Indonesia, investors must be willing to comply with and fulfill ( *compliance* ) regarding any conditions for permission to carry out foreign investment activities written in the law of the country ( *regulation of entry* ). These foreign investment activities must also be carried out by paying attention to the provisions contained in Law Number 25 of 2007 concerning Investment, and paying attention to the sovereignty of the country where the capital is invested. The Indonesian state plays an important role in bringing economic opportunities through *Foreign Direct Investment* (FDI) and maximizing the benefits of the entry of foreign investment activities in Indonesia. The state must guarantee legal certainty for foreign investors who carry out their activities, and at the same time must be able to bring the benefits of foreign investment activities to the community by opening new job opportunities in foreign investment companies, as well as developing the skills and abilities of the Indonesian workforce so that they are able to absorb the knowledge and technology brought by foreign investment companies. Various efforts must continue to be made by the government to strengthen economic stability and build the country's infrastructure to be able to realize the ideals of the Indonesian nation contained in the Constitution. Further research is recommended to further examine the effectiveness of the implementation of regulations of entry in practice at the central and regional levels, including

how harmonization of investment policies is applied to strategic sectors and whether these provisions are truly able to increase technology transfer, labor absorption, and national competitiveness. Furthermore, further research can deepen the empirical analysis of the actual impact of Foreign Direct Investment (FDI) on economic growth and social welfare, while conducting comparative studies with other countries in the region to identify more optimal policy models. Evaluation of environmental and sustainability aspects of foreign investment activities is also important, given that global dynamics related to ecological responsibility are increasingly becoming a primary focus in international investment practices.

## REFERENCE

- Aminuddin Ilmar. (2007). *Hukum penanaman modal di Indonesia*. Jakarta: Kencana.
- Ariani, R. (2022). *Investasi Infrastruktur Dan Dampaknya Terhadap Perekonomian Lokal: Studi Kasus Jalan Tol Trans-Jawa*. Jakarta: Ekonomi Pembangunan.
- J.H. Jack, *International Competition in Services: a Constitutional Framework*, Washington DC: American Institute for Public Policy Research, 1998)
- K.E. Boon, *Balancing Rights and Duties of Host and Guest under Investment Law*, ILCEA, 50, 2023
- Kairupan, D. (2013). *Aspek hukum penanaman modal asing di Indonesia*. Jakarta: Kencana.
- Rajagukguk, E. (2019). *Hukum investasi: Penanaman modal asing (PMA) dan penanaman modal dalam negeri (PMDN)*. (Cet. ke-1). Jakarta: PT RajaGrafindo Persada.
- Sembiring, S. (2010). *Hukum investasi*. Bandung: CV. Nuansa Aulia.
- Sihombing, J. (2009). *Hukum penanaman modal di Indonesia*. Bandung: Alumni.
- Soekanto, S. (2010). *Pengantar Penelitian Hukum*. Jakarta: UI-Press.
- Sornarajah, M. (2010). *The international law on foreign investment* (3rd ed.). Cambridge: Cambridge University Press.
- Syaputra, Naufan. (2021). *Hukum Investasi Dan Pertumbuhan Ekonomi Di Indonesia*. Jakarta: Rajawali Pres.
- Untung, H. B. (2010). *Hukum investasi*. Jakarta: Sinar Grafika.
- Widjaja. (2019). *Dinamika Perkembangan Ekonomi Indonesia: Sebuah Tinjauan Investasi*. Yogyakarta : Sinar Grafika
- Widyoningrum, R. R. (2023). *Penyelesaian sengketa investasi asing melalui mekanisme arbitrase internasional* (Studi kasus: Rafat Ali Rizvi melawan Republik Indonesia). *Student Research Journal*, 1(3), 274–291.
- William, K., & Syailendra, M. R. (2023). *Penyelesaian sengketa investasi asing melalui arbitrase internasional*. *Journal of Education Research*, 4(4), 1982–1990.
- Yani, M. (2020). *Tantangan hukum investasi dalam era digital: Studi kebijakan perlindungan investor berbasis teknologi finansial*. *Jurnal Hukum Ekonomi Digital*, 7(1), 55–68.
- Zulkarnain, A. R., & Prasetyo, H. (2024). *Implikasi regulasi investasi terhadap pertumbuhan ekonomi nasional: Perspektif hukum dan kebijakan*. *Jurnal Ekonomi & Kebijakan Publik*, 9(2), 112–127.