

**No. 30804**

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**AUSTRALIA  
and  
INDONESIA**

**Agreement concerning the promotion and protection of  
investments (with exchange of letters). Signed at Jakarta  
on 17 November 1992**

*Authentic text: English.*

*Registered by Australia on 8 March 1994.*

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**AUSTRALIE  
et  
INDONÉSIE**

**Accord relatif à l'encouragement et à la protection des inves-  
tissements (avec échange de lettres). Signé à Jakarta le  
17 novembre 1992**

*Texte authentique : anglais.*

*Enregistré par l'Australie le 8 mars 1994.*

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF AUSTRALIA  
AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA  
CONCERNING THE PROMOTION AND PROTECTION OF  
INVESTMENTS

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The Government of Australia and the Government of the Republic of Indonesia (hereinafter referred to as the "Parties");

BEARING IN MIND the friendly and cooperative relations existing between the two countries and their peoples;

RECOGNISING that promoting the flow of capital for economic activity and development is important for the expansion of their economic relations and cooperation, the stimulation of their investors' business initiative and the fostering of prosperity in both countries;

INTENDING to create favourable conditions for investments by investors of one Party in the territory of the other Party on the basis of sovereign equality, non-discrimination and mutual benefit;

ACKNOWLEDGING that investments of investors of one Party in the territory of the other Party would be made within the framework of laws of the latter Party; and

RECOGNISING that pursuit of these objectives would be facilitated by a clear statement of principles and measures relating to the promotion and protection of investments;

HAVE AGREED AS FOLLOWS:

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<sup>1</sup> Came into force on 29 July 1993, i.e., 30 days after the date of the last of the notifications (of 27 May and 29 June 1993) by which the Parties had informed each other of the completion of the constitutional requirements, in accordance with article XV (1).

ARTICLE I  
Definitions

1. For the purposes of this Agreement:

- (a) "investment" means every kind of asset owned or controlled and invested by investors of one Party and admitted by the other Party in its territory in conformity with the laws, regulations and investment policies of the latter applicable from time to time including, but not exclusively:
- (i) movable and immovable property including rights such as mortgages, liens and pledges;
  - (ii) shares, stocks, bonds and debentures and any other form of participation in a company;
  - (iii) a loan or other claim to money or a claim to performance related to investment having economic value;
  - (iv) intellectual and industrial property rights including rights with respect to copyright, patents, trade marks, trade names, industrial designs, trade secrets, know-how and goodwill;
  - (v) business concessions and any other rights required to conduct economic activity and having economic value conferred by law or under a contract, including rights to engage in agriculture, forestry, fisheries and animal husbandry, to search for, extract or exploit natural resources and to manufacture, use and sell products; and
  - (vi) activities associated with investments, such as the organisation and operation of business facilities, the acquisition, exercise and disposition of property rights including intellectual property rights, and the raising of funds including purchase and sale of foreign exchange;

(b) "investor" means:

(i) in respect of the Republic of Indonesia:

(A) a natural person who according to the laws of the Republic of Indonesia is an Indonesian national; and

(B) any company with a limited liability incorporated in the territory of the Republic of Indonesia or any juridical person constituted in accordance with its laws; and

(ii) in respect of Australia:

(A) a natural person who is a citizen or permanent resident of Australia; and

(B) any corporation, association, partnership, trust or other legally recognised entity that is duly incorporated, constituted, set up or otherwise duly organised:

i under the law of Australia, or

ii under the law of a third country and owned or controlled by a natural person described in paragraph (ii) (A) or by an entity described in paragraph (ii) (B) i regardless of whether or not the entity is organised for pecuniary gain, privately or otherwise owned, or organised with limited or unlimited liability;

(c) "returns" means amounts yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalty payments, fees, payments in connection with intellectual property rights, and all other lawful income;

(d) "territory":

(i) in respect of the Republic of Indonesia means the territory under the sovereignty of the Republic of Indonesia and such parts of the continental shelf and the adjacent seas over which the Republic of Indonesia has sovereignty, sovereign rights as well as other rights in accordance with the 1982 United Nations Convention on the Law of the Sea;<sup>1</sup>

(ii) in respect of Australia means the territory under the sovereignty of Australia and the adjacent seas over which Australia exercises its sovereignty consistent with the 1982 United Nations Convention on the Law of the Sea, and other adjacent seas and the continental shelf over which Australia exercises sovereign rights or other rights in accordance with that Convention;

(e) "freely convertible currency" means a convertible currency as classified by the International Monetary Fund or any currency that is widely traded in international foreign exchange markets.

2. An investor shall be regarded as controlling an entity as described in paragraph 1 (b) (ii) (B) ii or an investment if the investor has a substantial interest in such entity or investment. Any question arising out of this Agreement concerning the control of such an entity or investment shall be resolved to the satisfaction of the Parties.

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<sup>1</sup>United Nations, *Treaty Series*, vols. 1833, 1834 and 1835, No. I-31363.