

POST-INDEPENDENCE ECONOMIC REGULATION IN TIMOR LESTE: NORMATIVE ANALYSIS OF FOREIGN INVESTMENT LAW

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Article Info	Abstract
Article History	Geographically, Timor Leste is the country closest to Indonesia, making it easier for Indonesian investment to flow to Timor Leste. Therefore, Indonesian investment in Timor Leste will benefit both countries economically, and to maintain stability and security, economic cooperation is one way to achieve peace and prevent conflicts that are prone to occur at the land border between Timor Leste and Indonesia. This research uses a qualitative approach. Furthermore, this research is descriptive-explanatory in nature because it explains narratively and identifies the cause and effect of the issues in the research. Based on the findings, in terms of regulations, Timor Leste has attempted to align its investment legal framework with international principles; however, in practice, the goal of achieving welfare for the majority of the people still faces significant challenges. The foreign investment legal framework in Timor-Leste is normatively designed to guarantee legal certainty and protection for foreign investors, primarily through the applicable Private Investment Law. This law aims to attract investment by establishing clear rules regarding ownership rights, capital transfers, and dispute resolution mechanisms.
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I. INTRODUCTION

Timor-Leste, officially known as the Democratic Republic of Timor-Leste, has a complex historical trajectory shaped by colonialism, integration, and eventual independence. Formerly a Portuguese colony and later a first-level region of the Unitary State of the Republic of Indonesia (NKRI), Timor-Leste shares deep historical, cultural, and geopolitical ties with Indonesia. Even prior to European colonization, the territory of Timor was part of the broader Nusantara civilization, influenced by major archipelagic powers such as the Majapahit and Sriwijaya kingdoms, and historically referred to as part of the Lesser Sunda Islands. Following a brief declaration of independence in 1975, Timor-Leste was integrated into Indonesia, leading to a 24-year occupation marked by significant human rights violations (Pereira & Feijó, 2023).

Following its independence on 20 May 2002, Timor-Leste faced substantial challenges in rebuilding its political, legal, and economic systems after prolonged conflict and structural destruction. As the youngest country in Asia, the post-independence period marked a critical phase in which the state was required to establish a comprehensive regulatory framework capable of supporting economic stability, attracting investment, and ensuring public welfare. Post-independence economic regulation in Timor-Leste or providing a normative analysis of foreign investment law in that context. In contrast, the international investment regime emphasizes the need to consider local expectations and the political economy challenges associated with foreign investment, which can undermine local rights and values. Additional sources will be needed for insight into Timor-Leste's foreign investment law (Perrone, 2020). In this context, economic regulation particularly in relation to foreign investment became a central instrument of national development policy. The new coalition government aims to

achieve higher growth and fiscal sustainability by focusing on economic diversification and private sector development ("Democratic Republic of Timor-Leste", 2024).

Economically, Timor-Leste has relied heavily on revenues from petroleum resources in the Timor Gap. While this sector has contributed significantly to state income, the economy's heavy dependence on oil and gas exposes the country to substantial risks arising from volatility in global oil prices. This structural vulnerability underscores the urgency of economic diversification through foreign investment. Timor-Leste, in formulating investment laws that protect national interests from foreign companies, highlighted the imbalance created by unequal Bilateral Investment Treaties (BITs) that favor capital-exporting countries (Mahmood, n.d.). Diversifying the economy by prioritizing strategic non-oil sectors is therefore crucial to achieving sustainable and resilient economic growth (Setiawan et al., 2025). Foreign investment is thus positioned not merely as a fiscal alternative, but as a legally regulated instrument for long-term development and poverty reduction. However, it highlights the urgent need for economic diversification and private sector development following the halt in oil and gas production. The new coalition government aims for higher growth and fiscal sustainability, which may involve reforms in foreign investment regulations to attract investment and support economic stability, ("Democratic Republic of Timor-Leste," 2024)

Geographically, Timor-Leste's proximity to Indonesia creates strategic opportunities for cross-border economic cooperation. Indonesian investment, in particular, holds potential mutual benefits for both countries, contributing to economic growth, regional stability, and conflict prevention in border areas. Economic cooperation through investment is increasingly viewed as a legal and diplomatic mechanism to foster peace, security, and shared prosperity in the post-conflict setting. However, post-independence economic policies have shown that investment in capital-intensive extractive industries has not improved local living standards. The management of oil revenues has been criticized for favoring politically aligned groups, suggesting that foreign investment regulations may be influenced by political patronage rather than sustainable development, which could undermine long-term economic stability and peacebuilding efforts (Dal Poz, 2018).

Despite theoretical assumptions that small states may achieve prosperity more efficiently due to manageable populations and streamlined governance, Timor-Leste's post-independence reality revealed significant economic instability. In its early years as a sovereign state, the country experienced severe poverty and was regarded as one of the poorest nations in Asia. Political uncertainty between 2017 and 2022, coupled with external shocks such as the COVID-19 pandemic and Cyclone Seroja, further strained the national economy. Nevertheless, recent developments indicate gradual recovery, with economic growth projected to reach 3.4 percent in 2024, placing Timor-Leste among the faster-growing economies in East Asia.

Within this broader socio-economic transformation, the role of law particularly foreign investment law becomes crucial. Legal certainty is a fundamental prerequisite for attracting foreign investment, as it provides a predictable and secure environment for investors. The consistent implementation of investment-related laws and the availability of arbitration mechanisms for transparent and impartial dispute resolution are essential to meeting investor expectations and enhancing confidence in the host state's legal system (Marsal et al., 2024). Bureaucratic complexities and frequent shifts in government policies continue to pose obstacles that may deter foreign investment and undermine investor confidence (Tedjokusumo & Siswanto, 2024).

Post-independence economic regulation must not only attract foreign capital but also align with international investment law principles, ensure legal certainty, protect investor rights, and simultaneously safeguard national interests and public welfare. A normative analysis of Timor-Leste's foreign investment legal framework is therefore essential to assess whether existing regulations adequately fulfill these objectives and contribute to sustainable and inclusive development. A normative analysis of foreign investment law or post-independence economic regulation in Timor-Leste. The legal status, responsibilities, and regulation of Private Security Companies (PSCs) and Private Military Companies (PMCs) in Timor-Leste, analyzing

their definitions, roles, responsibilities, and how they impact society and the law (Soares & Price, 2015).

Are the post-independence economic regulations of Timor Leste, particularly those related to foreign investment, aligned with the principles of international investment law and capable of achieving welfare for the people of Timor Leste?

How does the foreign investment legal framework applicable in Timor Leste normatively guarantee legal certainty and protection for foreign investors?

II.RESEARCH METHOD

This study employs a qualitative research approach aimed at examining the processes and meanings of social realities as they occur in their natural context. The qualitative approach emphasizes non-numerical data and relies on textual and narrative information to achieve an in-depth understanding of the phenomenon under investigation. (Creswell W. 2003), "a qualitative approach is one in which the inquirer often makes knowledge claims based primarily on constructivist perspectives (i.e. the multiple meaning of individual experiences, meaning socially and historically constructed, with an intent of developing a theory or pattern) or advocacy/participatory perspectives (i.e. political, issue-oriented, collaborative or change-oriented) or both." Qualitative methods to understand and describe various phenomena in the field, such as attitudes, behavior, expressions, and actions, which are then explained in sentences to understand as stated by (Salim & Haidir, 2019).

This research adopts a descriptive-explanatory design, as it seeks not only to describe the phenomenon systematically but also to explain the causal relationships underlying the issues examined. Data were collected through document analysis, including relevant laws and regulations, policy documents, official reports, and scholarly literature related to the research topic. This approach is particularly relevant in examining regulatory and policy-related challenges, as previous studies have shown that the implementation of renewable energy in engineering sectors is often constrained by inadequate regulatory frameworks and issues of policy harmonization (Saputra et al., 2025).

The data analysis was conducted using a qualitative descriptive technique, involving data reduction, data display, and conclusion drawing. Through this analytical process, patterns, themes, and relationships were identified and interpreted to provide a comprehensive explanation of the research findings. This research adopts a descriptive explanatory design, as it seeks not only to describe the phenomenon systematically but also to explain the causal relationships underlying the issues examined. Data were collected through document analysis, including relevant laws and regulations, policy documents, official reports, and scholarly literature related to the research topic (P.S et al., 2019).

III.RESULT AND DISCUSSION

Post-Independence Economic Regulations of Timor Leste, Particularly Those Related to Foreign Investment, Are Aligned with the Principles of International Investment Law and Capable of Achieving Welfare for the People of Timor Leste

Economic regulation involves the state in pricing decisions, market entry, investment, and company products. Empirical studies on economic regulation have developed rapidly since George Stigler's seminal work in 1962. Various literature analyzes the impact of regulation, both in natural monopoly industries and structurally competitive industries. This research shows that regulation can have a significant impact on prices, creation and distribution of rents, costs, and technological innovation. Current policy and research activities focus on restructuring and market design in traditional natural monopoly sectors and on the shift toward market-based or incentive regulation. Various policy experiments around the world provide a rich set of observations for empirical analysis. Early results show some unexpected consequences and highlight the importance of institutional details in market design.

The Government of Timor-Leste has welcomed foreign investment opportunities and business development since independence in 2002. In practice, the investment climate continues to be hampered by inadequate regulatory mechanisms, corruption, inadequate personnel capacity, and inadequate infrastructure. The government is trying to address these issues, but limited human capacity and time-consuming bureaucratic/legislative systems have slowed reform progress. Initially plagued by conflict and chaos after independence, Timor-Leste has emerged as a peaceful and stable democratic country. Peaceful government transitions and freely contested elections, including the 2022 presidential election which was contested by 16 candidates and the 2023 parliamentary election which saw a change in party control of the government, demonstrate an active political climate with competing views on the best ways to develop an economy that largely relies on public sector spending for growth. Timor-Leste's desire to join the Association of Southeast Asian Nations (ASEAN) and its recent membership in the World Trade Organization (WTO) provide incentives to implement fiscal and economic reforms to meet regional and international norms.

Timor-Leste welcomes and seeks to attract Foreign Direct Investment (FDI). The government has worked hard to build effective legislative, executive, and judicial institutions, design laws and regulations, and build human resource capacity. In 2011, parliament unanimously approved the government's National Strategic Development Plan. The plan directs oil revenue to support non-oil economic development and help the country become a middle-income country by 2030. Although open to FDI and trying to improve a conducive environment, Timor-Leste's legal, regulatory, and human resource capacity remains weak and continues to present challenges for investors.

There are no laws or practices in the country that allegedly discriminate against foreign investors by prohibiting, restricting, or requiring foreign investment in an economic sector according to US investors. However, under the constitution, only citizens may own land. Timor-Leste enacted laws in 2017 and 2018 to facilitate and protect foreign private investment by complying with international agreements and reducing bureaucratic barriers. The Private Investment Law No. 15/2017 states that foreign citizens can be granted rights to private property for investment and reinvestment projects subject to limitations established in the Constitution and laws on land and commercial companies.

By law, foreign investors can invest in any sector except postal services, public communications, transportation, protected natural areas, funeral services, and the production and distribution of weapons, as these sectors are specifically reserved for the state. Investors are also prohibited from investing in sectors restricted by law. In areas that allow foreign investment, there are no restrictions on the level of foreign ownership or control. There have been no changes to the legal regime in the past year. However, in practice, foreign companies have significant ownership in reserved sectors. For example, Brazilian, Indonesian, Vietnamese, and Chinese investors control large shares in the country's three telecommunications providers. The main principles of international investment law are designed to attract and protect foreign investment, which theoretically can achieve welfare for the people of Timor Leste through job creation, technology transfer, and economic diversification.

Principles of International Investment Law

International investment law is governed by various bilateral treaties (BIT) and multilateral agreements, as well as the national law of each country. Its main principles include:

1. Fair and Equitable Treatment (FET): This principle requires host countries to treat foreign investors fairly, transparently, and non-discriminately, in accordance with international legal standards.
2. Most-Favoured Nation Clause (MFN): This principle ensures that investors from one treaty partner country receive treatment as favorable as investors from any other country (third party) in the same situation.
3. Protection from Expropriation: Host countries have the right to take over private property (expropriation), but international law requires that it must be for a public purpose,

conducted non-discriminatorily, and accompanied by prompt, adequate, and effective compensation. Legal Certainty and Stability: The existence of a clear and stable legal framework, including well-defined investment laws and property rights, is essential for building investor confidence. Timor Leste has enacted the Private Investment Law (Law No. 15 of 2017) and Land Law to provide this clarity. Dispute Resolution: Providing effective mechanisms to resolve disputes between foreign investors and the state (State-Investor Dispute Settlement/ISDS) provides additional guarantees for investors.

Achieving Welfare for the People of Timor Leste

The application of these principles can support welfare in Timor Leste by:

Attracting Foreign Direct Investment (FDI): Legal protection and certainty seek to attract FDI needed to diversify the economy that is currently highly dependent on oil and gas. Job Creation: Investment in non-oil and gas sectors, such as agribusiness or tourism, can create productive jobs and help address high unemployment rates, especially in rural areas. Increasing National Income: Foreign capital inflows and the resulting economic activity can increase tax revenue and exports, which the government can then use to improve public services and living standards.

Knowledge and Technology Transfer: Foreign investors often bring new technologies, managerial skills, and best business practices that can be adopted by the local workforce and companies. However, it is important for Timor Leste to ensure that these investments not only benefit investors but also prioritize national interests and people's welfare, for example through enforcing healthy business competition and more labor-intensive rather than capital-intensive investments. Timor Leste and Indonesia themselves have completed substantial negotiations for a Bilateral Investment Agreement aimed at further promoting and protecting the investments of both countries. In terms of regulations, Timor Leste has attempted to align its investment legal framework with international principles; however, in practice, the goal of achieving welfare for the majority of the people still faces significant challenges.

Regulatory Alignment: Timor Leste has enacted new investment laws (Law No. 15/2017) and is trying to align itself with ASEAN and UNCTAD best practices, guaranteeing fair and equitable treatment for foreign investors, and providing legal certainty regarding fund transfers and expropriation. Welfare Challenges: Despite regulatory efforts, the country remains classified as a low-income economy by the World Bank, with high unemployment rates and more than half the population living below the poverty line. Economic Dependence: Welfare is still highly dependent on oil and gas revenues whose reserves are dwindling, while economic diversification and productive job creation in the non-oil and gas sector remain major structural challenges.

The Foreign Investment Legal Framework Applicable in Timor Leste Normatively Guarantees Legal Certainty and Protection for Foreign Investors

Investment comes from the word "invest" which means to plant or invest money or capital. The term investment or capital investment is a term known in daily business activities as well as in legislative language. The term investment is a popular term in the business world, while the term capital investment is commonly used in legislation. However, basically these two terms have the same meaning, so they are sometimes used interchangeably. The era of globalization has brought major transformations in various aspects of life, including in the economic field. Globalization encourages cross-country economic integration, accelerates the flow of goods, services, capital, and information. One of the most tangible impacts of economic globalization is increased cooperation and competition among countries in attracting foreign investment. Countries around the world are competing to create a conducive legal, political, and economic climate to attract the interest of global investors. This includes deregulation, simplification of licensing procedures, and formulation of attractive fiscal and monetary policies. In this context, the dynamics of the world economy are becoming increasingly complex. The global financial crisis, trade wars, climate change, and the COVID-19 pandemic provide pressure and at the same time new opportunities in international economic

governance. Developing countries face a dual challenge: maintaining domestic economic stability while remaining open to global cooperation.

However, globalization also provides great opportunities to drive economic growth through Foreign Direct Investment (FDI) flows, which in many cases become catalysts for development. Foreign direct investment plays an important role in economic development, especially for developing countries that have limited financing resources. FDI not only provides additional capital but also contributes to job creation, productivity improvement, and technology transfer. The new government will give top priority to addressing Timor-Leste's political and security crisis. To achieve stability also means we must revive the stagnant economy and tackle the country's very worrying social problems. This document along with its annexes focuses on how social revival can be initiated. This document and the accompanying Sector Notes were prepared by the World Bank Group (including the World Bank and IFC) and the Asian Development Bank (ADB) as a service to the new Government, and presented with a spirit of friendship and commitment to Timor-Leste's future.

The economy will not recover without better security and restoration of people's trust in their leaders. This means radical reform within the police and military. This means stopping violence in society so that internally displaced persons (IDPs) feel safe enough to return home. This means implementing proper justice and holding accountable those who violated the law in 2006. These subjects will be addressed in detail in a brief report being prepared by the United Nations, but their fundamental importance needs to be acknowledged here. The state is obliged to establish policies necessary to enhance the country's economic development, by encouraging and promoting private investment as a determining factor in wealth creation and employment, which is fundamental to improving the quality of life of society. It is important to build a legal framework designed to support national private investment, so it can contribute to accelerating the development of Timor-Leste's economic structure.

In this context, this Law establishes a series of guarantees and incentives for national investors, in accordance with policies for economic growth and private sector promotion enshrined in the National Development Plan. This law is an important contribution to encouraging private investment and also realizing concern for poverty alleviation, job creation, and promoting sustainable economic growth, with the aim of the welfare of the people of Timor-Leste. To increase Indonesia's economic competitiveness in the international world, Indonesia needs capital assistance, one of which comes from foreign investors. Related to this, the Indonesian government has issued various policies to provide legal certainty and ease of investment in the country. The legal instruments that regulate foreign investment regulations in Indonesia include Law Number 25 of 2007 concerning Investment.

However, it is worth knowing and understanding what requirements are needed and must be possessed by foreign business actors before investing in Indonesia. It should be remembered that not all business sectors and industries in Indonesia can accept foreign investment. Establishing a foreign company in Indonesia as regulated by the Foreign Investment Law must have legal entity status or be in the form of a limited liability company as regulated in Law Number 40 of 2007 concerning Limited Liability Companies. Meanwhile, Foreign Direct Investment (FDI) can expand business in other countries in the long term. FDI in Indonesia is regulated in:

1. Law No. 25/2007 concerning Investment;
2. Law No. 40/2007 concerning Limited Liability Companies;
3. Presidential Regulation No. 39/2014 concerning the List of Closed and Open Business Fields based on DNI (Negative Investment List).

In addition, the government has also issued Regulation of the Minister of Investment/Head of BKPM Number 1 of 2022 concerning Procedures for Implementing Partnerships in the Field of Foreign Investment (PMA). For sectors engaged in information technology-based industries, the government has issued policies as regulated in the Financial Services Authority Regulation Number 10/POJK.05/2022 of 2022 concerning Information Technology-Based Crowdfunding Services. This regulation stipulates that foreign capital ownership in fintech lending operators may not exceed 85 percent of paid-up capital. Every PMA is also required

to comply with administrative requirements established by the government, whether related to tax provisions and employment regulations, availability of capital, creating a healthy business climate, preventing monopolistic practices, and creating safety, health, comfort, and welfare for workers.

Comparison of Legal Frameworks

The foreign investment legal frameworks of Timor Leste and Indonesia show significant differences, especially in the level of regulatory depth and bureaucratic complexity. Timor Leste's Law Number 5 of 2005 is simpler in nature and has the basic aim of attracting investment to a developing country, while Indonesia's legal framework is more complex and undergoes continuous reform through the Job Creation Law (Omnibus Law) to increase competitiveness. Here is the comparison:

1. Timor Leste: Law No. 5 of 2005 on FDI
2. Law Number 5 of 2005 (together with Law No. 4/2005 on Domestic Investment) was the initial foundation for FDI in Timor Leste, which has since been revoked and replaced by the Private Investment Law No. 13/2017.
3. Initial Focus: Law No. 5/2005 aimed to attract foreign investors by establishing guarantees, incentives, and basic rights, with a required minimum investment value of USD 100,000 to obtain these facilities.
4. Sector Exclusions: This law specifically does not apply to investments in the exploration, research, and production of oil and gas, as well as extractive mineral resource industries, which are governed by special legislation.
5. Dispute Resolution: Based on current investment guidelines referring to the replacement law, disputes between investors and the government are encouraged to be resolved peacefully, but foreign investors can choose international arbitration, such as through ICSID (International Centre for Settlement of Investment Disputes).
6. Regulatory Stability: Despite legal updates, investors may face challenges related to inconsistencies in policy implementation at the local level and the need for legal certainty in certain sectors.

Indonesia: Current Legal Framework

Indonesia's investment legal framework is more dynamic and integrated, primarily regulated by Law No. 25 of 2007 concerning Investment and significantly amended through the Job Creation Law (Law No. 11 of 2020) and its implementing regulations (such as BKPM Regulation No. 4 of 2021).

1. Focus and Objectives: Indonesia's current legal framework strongly emphasizes simplifying risk-based business licensing through the Online Single Submission (OSS) system, liberalizing investment sectors through the Positive Investment List (replacing the Negative List), and improving a friendly investment climate.
2. Business Form: FDI in Indonesia must be in the form of a limited liability company (PT), unless otherwise determined by law.
3. Dispute Resolution: Indonesia also encourages dispute resolution through deliberation but often relies on national or international arbitration. Indonesia, like Timor Leste, seeks to review existing Bilateral Investment Treaties (BIT) to ensure a balance of rights and obligations between investors and the state.
4. Policy Dynamics: Despite simplification efforts, investors in Indonesia sometimes face regulatory uncertainty due to overlapping ministerial authorities and rapid policy changes.

Summary of Comparison

In summary, Indonesia has a more structured and mature legal framework, with recent legal reforms focused on ease of doing business through digitalization and sector liberalization. Conversely, Timor Leste, with a younger legal framework, offers strong basic guarantees and incentives to attract foreign capital as a driver of economic development.

Legal Guarantees in Timor-Leste

The foreign investment legal framework in Timor-Leste is normatively designed to guarantee legal certainty and protection for foreign investors, primarily through the applicable Private Investment Law. This law aims to attract investment by establishing clear rules regarding ownership rights, capital transfers, and dispute resolution mechanisms.

Several main guarantees include:

1. Legal Protection: Foreign investors are given the same treatment as domestic investors, in accordance with international standards, which prohibit discrimination.
2. Property Rights: The legal framework guarantees ownership rights over legally acquired assets and property.
3. Fund Transfers: Investors are guaranteed to be able to transfer funds related to their investments abroad, including profits, dividends, and liquidation proceeds, in freely convertible currency (the US Dollar is the official currency of Timor-Leste).
4. Dispute Resolution: The law establishes dispute resolution mechanisms, which may include international arbitration, to provide fair and neutral options for investors.

Although normatively this legal framework is strong, challenges in practical implementation and bureaucracy are still often faced by investors in the field. For more detailed information, investors can refer to the complete text of Timor Leste's Private Investment Law or consult with relevant investment authorities.

IV. CONCLUSION

In regulatory terms, Timor-Leste has made notable efforts to align its foreign investment legal framework with internationally recognized principles, particularly by emphasizing legal certainty, transparency, and investor protection. Normatively, the Private Investment Law provides a clear legal basis for foreign investors through provisions governing ownership rights, capital transfers, and dispute resolution mechanisms, thereby creating a formal environment conducive to investment inflows.

Nevertheless, the practical implementation of this legal framework reveals persistent challenges that limit its effectiveness in achieving broader social welfare objectives. Bureaucratic inefficiencies, institutional capacity constraints, and inconsistencies in policy application have reduced the ability of investment regulations to generate inclusive and equitable economic benefits. As a result, while foreign investment has the potential to contribute to economic growth, its impact on improving the welfare of the majority of the population remains uneven.

Therefore, the success of foreign investment regulation in Timor-Leste cannot be assessed solely on its normative alignment with international standards but must also be evaluated based on its implementation and socio-economic outcomes. Strengthening institutional coordination, improving regulatory enforcement, and ensuring that investment policies are integrated with national development priorities are essential steps to transform legal certainty for investors into tangible welfare gains for society at large.

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