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**Planning For Political Risk:
Investment Protection Treaties**

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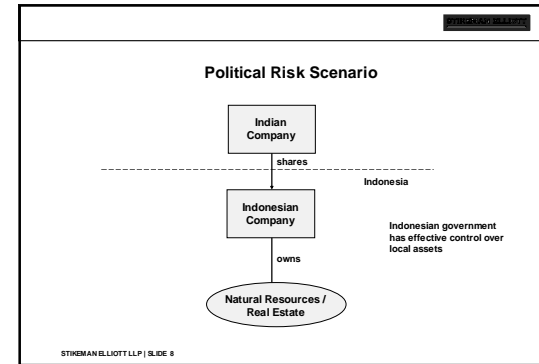
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Presentation Summary

- > what is political risk?
- > why plan for political risk?
- > overview of planning strategies
- > using investment protection treaties

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What is Political Risk?

- > interference with local investment by (unstable) host government
- > expropriation / compulsory purchase below market value
- > arbitrary cancellation of government licenses or concessions
- > exchange controls

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Disguised or "Creeping" Expropriations

- > confiscatory taxation
- > changes to import / export / local content rules
- > labour rules
- > taking disguised as bankruptcy
- > changes in local regulations

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Why Plan for Political Risk?

- > the sovereign state has complete control over persons and property within jurisdictional reach
- > India's robust growth requires access to foreign natural resources
- > extracted commodities (oil, minerals etc) are increasingly found in emerging market countries
- > political risk threatens the entire value in foreign assets
- > effective planning tools are available to mitigate political risk

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Overview of Planning Strategies

- > shift risk to another party
 - insurance
 - replace equity with bank financing
 - take investment public, spreading risk
- > reduce risk
 - investment protection treaties

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Investment Protection Treaties

- > sovereign to sovereign agreements
- > private sector parties are given rights against host governments
- > mechanically similar to tax treaties
- > 165 countries participating in 1800 treaties
- > generally no "limitations of benefits" provisions
 - third party investments through a treaty country are permitted

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Investment Protection Through Tax-Neutral Jurisdiction

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Investment Treaties: Available Protections

- > discriminatory expropriation
- > arbitrary cancellation of license/concessions
- > repatriation of profits, gains, dividends, royalties
- > generally no injunctive relief available
- > subrogation for government insurers
- > compensation from host country government

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Dispute Resolution

- > arbitration under the auspices of a World Bank agency (ICSID)
- > settlement is encouraged
- > host government surrenders rights to diplomatic protections and submits to awards
- > financial awards are enforceable against the (commercial) assets of the seizing government in 165 countries
- > no need to resort to courts of interfering host country government

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Investment Treaties: Commercial Applications

- > enhanced security for
 - corporate, trust and individual investors from treaty countries
 - mutual funds investing in emerging market economies
 - bank loan funding
- > reduced rates for, and access to, political risk insurance

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Indian Investment Protection Treaties

- > Argentina
- > Armenia
- > Bahrain
- > Belarus
- > Bosnia
- > Bulgaria
- > China
- > Croatia
- > Djibouti
- > Egypt
- > Ghana
- > Indonesia
- > Kazakhstan
- > Korea
- > Kuwait
- > Kyrgyzstan
- > Mongolia
- > Morocco
- > Oman
- > Qatar
- > Romania
- > Russian Federation
- > Saudi Arabia
- > Serbia
- > Sri Lanka
- > Sudan
- > Taiwan
- > Uzbekistan
- > Vietnam
- > Yemen

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Indian Investment Protection Treaties

- > Australia
- > Austria
- > Belgium and Luxembourg
- > Cyprus
- > Czech Republic
- > Denmark
- > Finland
- > France
- > Germany
- > Israel
- > Italy
- > Malaysia
- > Mauritius
- > Netherlands
- > Poland
- > Portugal
- > Spain
- > Sweden
- > Switzerland
- > United Kingdom

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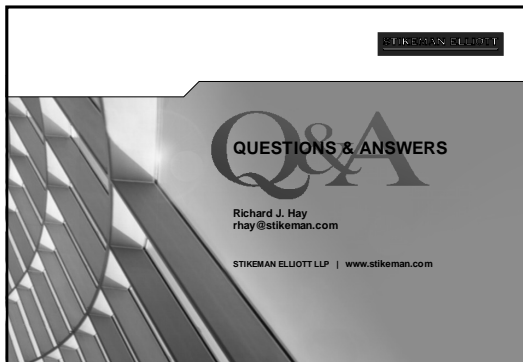
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Conclusions

- > Indian business is increasingly investing abroad
- > political risk exposures in emerging markets
- > sophisticated investors plan to mitigate country risk
- > investment protection treaties generally suspend the usual sovereign defences against investor claims
- > arbitration can secure compensation for government interference
- > integrate tax and investment protection planning

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QUESTIONS & ANSWERS

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