

## NEWS RELEASE FROM ANTAM

For further information please contact:

Mr Ashur Wasif

Corporate Secretary

Tel: (6221) 780 5119

Fax: (6221) 781 2822

Email: [corsec@antam.com](mailto:corsec@antam.com)

[www.antam.com](http://www.antam.com)

### **ANTAM TO REPAY BOND EARLIER THAN PLANNED DUE TO HIGHER WITHHOLDING TAX RATE**

**Jakarta, December 6<sup>th</sup>, 2006** – PT Antam Tbk (ASX - ATM; JSX, SSX - ANTM) announces today that due to a higher than expected withholding tax rate it will repay holders of the outstanding notes issued by Antam Finance Limited (AFL) in 2003 on December 29<sup>th</sup>, 2006, earlier than planned. The AFL bond will be repaid at par and bond holders will receive the accrued and unpaid interest since the last coupon payment on September 30<sup>th</sup>, 2006. The bonds were due for repayment on September 30, 2010 and could be recalled early on the date of every semi-annual coupon payment beginning from September 30, 2007. However, Antam will recall the remaining US\$171 million of bonds ten months earlier than planned due to the cancellation of the Avoidance of Double Taxation Agreement between Mauritius and Indonesia (Indo-Mauritius DTA) at the end of 2004, which was not expected at the time of issuance, and caused the withholding tax rate to double to 20%.

Antam's President Director Dedi Aditya Sumanagara said:

**We have made every attempt to solve the problem caused by the cancellation of the Indonesia-Mauritius DTA and therefore avoid invoking the early redemption clause of the bonds, but feel we are left without any options but to repay earlier than planned, according to what is allowed by the bond agreement. We value our good reputation in the international bond market, especially as regards the future financing of our growth projects, and we regret the inconvenience caused to our bond holders. Indeed, we wanted to pay a sweetener, but if we didn't precisely follow the terms of the notes we could possibly have run into legal trouble.**

Antam's wholly-owned Mauritius subsidiary, AFL, issued the US\$200 million bond on September 30, 2003 and then loaned the funds to Antam to help finance the FeNi III nickel expansion, which is now nearly complete. The Indo-Mauritius DTA allowed for a reduction on the withholding tax levied against the interest payments on the on-loan made from AFL to Antam, to a rate of 10%. Antam, the guarantor of the notes, was responsible for paying the withholding tax. After the Indo-Mauritius DTA was cancelled the tax rate doubled to 20%. The higher tax rate caused the rate of Antam's bond interest charges, which are grossed up to include the tax rate, to increase from 8.19% to 9.22%.

According to the terms and conditions of the AFL bond, Antam has the right to redeem the bonds early if the rate of withholding tax exceeds 10%, which was the rate when the AFL bond was issued. To exercise the right to redeem the bonds early, the bond agreement requires that Antam take reasonable available measures to avoid the obligation.

The rationale of doing the tax call is to reduce the financial charges of the company, which increased significantly due to the doubling of the withholding tax rate to 20%. As well, Antam's advisors indicated to management that given all possible measures have been taken to solve the problem following the cancellation of the Indo-Mauritius DTA, to not invoke the tax call as per the terms and conditions of the notes would probably not be satisfactory to the majority shareholder and could potentially cause an audit by a government body as regards the actions of management.

A brief chronology of events that led up to Antam recalling the bonds early for tax reasons reveals that Antam has taken every step to avoid the problem of the cancellation of the Indo-Mauritius DTA.

- Mid-2004: Antam learns of the probable cancellation of the Indo-Mauritius DTA.

- August 26, 2004: Antam issues a statement as regards the probable cancellation of the Indo-Mauritius DTA saying that “Antam wishes to confirm that it will continue to abide by its obligations to make payments to AFL so that AFL's bond holders are not affected.” The understanding at that time was that moving to a new jurisdiction would solve the problem.
- December 2004: Antam incorporates Antam Europe B.V. in the Netherlands and transfers the rights and obligations of the on-loan to Antam from AFL to Antam Europe B.V.
- January 1<sup>st</sup>, 2005: The Indo-Mauritius DTA is cancelled and interest earned by AFL on its loan to Antam is subject to double the rate of withholding tax, from 10% to 20%.
- January 1<sup>st</sup>, 2005: A new Avoidance of Double Taxation Agreement between Indonesia and the Netherlands (Indo-Netherlands DTA) comes into effect, which can not be amended for five years. This agreement includes a provision which exempts loans to Indonesian entities from a Dutch lender, i.e. Antam Europe B.V., with a maturity over two years from having to pay any withholding tax.
- First Half 2005: The Indonesian Tax Office (ITO) takes the position that it would not allow companies to take advantage of withholding tax relief on interest under the Indo-Netherlands DTA as both governments had not agreed on the “mode of application” of the interest provision.
- June 1<sup>st</sup>, 2005: The ITO issues a circular which clarifies that interest paid to a Dutch lender is subject to a reduced withholding tax rate of 10% and that this rate applies to all loans. There would be no exemptions for loans maturing over two years.

- July 7<sup>th</sup>, 2005: The ITO issues a circular which defines the term “beneficial owner” as used in tax treaties between Indonesia and other countries. Previously, in line with the OECD standards, only a Certificate of Domicile was required. The new more stringent definition said that the beneficial owner must be “the actual owner of the income....who is fully entitled to directly enjoy the benefits of such income.” Special purpose vehicles were specifically excluded from the definition of beneficial owner. If a lender is not the beneficial owner, the normal withholding tax of 20% will apply.
- First Half of 2006: Antam learns the decision by another Indonesian company that also issued bonds via a company in Mauritius, to invoke early redemption of its bonds because of the cancelled Indo-Mauritius DTA, was upheld by the UK Court of Appeal.
- First Half of 2006: Antam receives several attractive financing proposals from banks.
- October 20<sup>th</sup>, 2006: Antam receives a letter from the ITO which confirms that the withholding tax rate Antam must pay on the interest from the on-loan is 20% as Antam Europe B.V. is not considered the beneficial owner.
- November 30<sup>th</sup>, 2006: AFL sends a notice of redemption to bond holders.

###