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STUDY REPORT

BRUNEI DARUSSALAM

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I. Introduction

Brunei Darussalam is a relatively open small economy heavily dependant on international trade and investment. Oil and gas, the economy's cornerstone, are almost totally (96%) exported, and most products (e.g. foodstuffs, inputs and raw materials, manufactured goods) and many services are imported. Little non-petroleum economic diversification has occurred, despite a government priority. Petroleum accounts for some two-thirds of GDP. The sector's relative size, however, varies with fluctuations in world oil and gas prices, and expanded until the recent slump in prices due to the global economic crisis. In 2007, the government sector accounted for 12.7% of GDP. Brunei Darussalam's abundant oil and gas reserves and very small population have generated relatively high average incomes (nominal annual GDP per capita of around US\$30,000) by regional standards; these levels seem above its APEC developing status.

Unilateral structural reforms to address competitiveness, including by achieving APEC's voluntarily Bogor Goals via IAPs, would assist Brunei Darussalam's economic diversification by enhancing efficiency and promoting a lower-cost economy. Trade and investment liberalization coupled with lower government commercial involvement, including in services, could make a significant contribution to reducing the country's vulnerable growth performance. Due to the recent collapse in world oil and gas prices and the global economic recession, which could worsen, the economy's growth prospects have deteriorated, with low or negative growth expected in 2008 (0.6% in 2007).

The average (unweighted or simple) MFN tariff in 2008 fell to 3.6% from 4.8% in 2007, due mainly to tariffs on many tariff items being replaced with excise taxes. This has been the principal unilateral MFN tariff change since 2001. Removing tariff discrimination against imports and making these duties general consumption taxes potentially makes the tariff structure less distorting to trade and resource allocation, thereby promoting economic efficiency. Having only some 1% of tariff lines with specific or non-ad valorem duties enhances tariff transparency and predictability; nevertheless they seemingly conceal some high ad valorem tariff rates. The tariff is almost totally bound multilaterally. In 2008, the (simple) average bound tariff rate of 25.8% was well above the applied average of 3.6%, undermining traders' predictability by allowing tariffs to be raised substantially within WTO commitments.

However, Brunei Darussalam has some relatively high rates of up to 20% (20.4% of tariff lines in 2008) and 30% (0.1% or six tariff lines). Tariff peaks apply to a significant number of industrial goods (e.g. wood and wood products, boilers, machinery and mechanical appliances, electrical machinery and appliances), with some 20% of tariff lines each exceeding three times the simple average MFN tariff rate (domestic peaks) and 15% (international peaks). Relatively pronounced tariff escalation in such products provides comparatively high effective protection.

The authorities indicated that the Bogor Goals are an opportunity to promote APEC trade (and investment) liberalization by achieving “low tariffs on all or most products”. This suggests that Brunei Darussalam’s interpretation of the Bogor Goals may have changed from the 2005 IAP Review when “free and open trade” was seen as “eliminating tariffs”. This could potentially be a significant departure in Brunei Darussalam’s view of the Bogor Goals that may provide scope to maintain some relatively high tariffs. This could raise traders’ uncertainty over what tariffs may remain in 2020 and the extent to which Brunei Darussalam will pursue tariff reforms given that existing levels could arguably be claimed as already “low” (at least on average). While the authorities reaffirmed in written comments on this report that was committed to “gradually eliminate” tariffs by 2020, Brunei Darussalam could clarify this in the forthcoming IAP Review to avoid any confusion.

While well advanced in meeting its Bogor tariff commitments, Brunei Darussalam’s trade is still restricted by certain relatively high tariffs. Thus, instead of being complacent it may wish to consider the economic advantages of voluntarily accelerating meeting its Bogor Goals, say by 2015. This would not only be in Brunei Darussalam’s economic interests but also may more accurately reflect its development status of being a relatively well-off developing APEC economy. An important issue for Brunei Darussalam is how to ensure that these relatively high tariffs are eliminated (or reduced). This may require unilateralism that so far have been largely lacking in Brunei Darussalam. Multilateralism, after Doha’s failure, seems increasingly unable to achieve such reductions.

Brunei Darussalam is intensifying participation in regional and bilateral trade agreements. Preferential tariffs raise the possibility of net trade diversion that could distort its trading patterns and undermine economic efficiency. These are no substitute economically to MFN tariff reforms, achieved either multilaterally or unilaterally. Brunei Darussalam’s preferential tariff reductions will also not achieve the Bogor Goals on tariffs, which are based on non-discrimination (MFN). Indeed, rather than facilitating meeting the Bogor Goals they may move Brunei Darussalam further from them unless a domestic means exists to ensure that such discriminatory tariff reductions can be translated into MFN cuts. Precisely how this will occur remains unclear. Such FTAs also risk weakening the multilateral system and may have adverse implications for APEC. While limiting its preferential trading partners to APEC economies Brunei Darussalam has perhaps reduced these implications for APEC, this is likely to change significantly as it forges FTAs with non-APEC economies, such as Pakistan. Brunei Darussalam will also need to consider the implications of FTAs with non-ASEAN countries on achieving the ASEAN Economic Community (AEC) by 2015, and of achieving the AEC on APEC.

Brunei Darussalam’s IAP on tariffs is at times difficult to understand, contains mistakes and does not distinguish sufficiently clearly between when reporting on bound or applied tariff rates. This contributes to possible confusion and

undermines the usefulness of its IPA as a transparency tool. Brunei Darussalam may wish to revise its IAP accordingly.

Brunei Darussalam last included information on non-tariff measures in its 2006 IAP. Brunei Darussalam's comprehensive non-tariff measures, including mostly import prohibitions and licensing, mainly cover agricultural and fish products, pharmaceuticals, timber, telecommunications equipment, motor vehicles, glues, print material, and beverages, predominantly for health, security and moral reasons. "Food balancing" requirements no longer apply to imports of beef and poultry.

Regarding services, Brunei Darussalam features some interesting developments. The corporatization of the Jabatan Telekom Brunei (JTB), the former state monopoly in telecommunications, has unleashed increasing competition in the sector. Financial services have also thrived; Brunei Darussalam IAP illustrates how an increasing number of financial firms (both national and foreign) are entering the market, thus improving services in banking, insurance and Islamic finance. While tourism development seems less sophisticated, there are signs of improvement of the sector, which is expected to become one of the main income sources in the future.

To promote investment and export in priority sectors, including declared pioneer industries, extensive tax and other incentives apply. The incentives do not require local content, impose restrictions on imported inputs or relate to foreign exchange balancing requirements (i.e. are not WTO-illegal TRIMS). However, some incentives may arguably be inconsistent with WTO rules on subsidies.

In comparison to previous IAPs, Brunei Darussalam presents continuous advancements in the area of standards and conformance. Following an approach aimed at establishing standards compatible with world benchmarks, the country has been able to adopt most of ISO regulations. Although there is no complex institutional design to implement and oversee innovations in this field, the Government has made an effort to improve its capacities, and has organized several seminars on standards and conformance. The diffusion of international standards among business might be assisted by the recently created National Standard Centre (NSC), under the aegis of the Ministry of Industry and Primary Resources. The establishment of new technical committees could also help in this endeavor.

Brunei Darussalam continues to streamline and improve customs procedures in an effort to facilitate trade (imports and exports). Many changes have been made in line with APEC trade facilitation guidelines. Implementation has slipped from 2008, including due to difficulties in introducing the Single Administration Document (SAD) for customs declarations, but is expected to be operational by 2009. Brunei Darussalam is examining whether to adopt the ATA Convention, but allows duty-free temporary importation for three months (extendable for a

maximum of three months) for goods used at demonstrations, exhibitions and as trade samples. It is also assessing the advantages of joining the revised Kyoto Convention, which would require significant changes to its customs laws and practices (e.g. appeal processes); authorities indicated that Brunei Darussalam is currently only about 5% consistent with Kyoto requirements. Its advanced customs ruling system has no legislative backing.

Since 1999, Brunei Darussalam has enacted several pieces of legislation in order to protect intellectual property rights (IPRs). At the same time, a set of efforts has been devoted to the education of small and medium-sized firms and consumers regarding IPRs. Notwithstanding these improvements, the Patent Order signed in 1999 has not entered into force. Despite the prosecution of cases reported by the Government, some APEC economies still question the efficiency of Brunei Darussalam's policies to halt infringements of IPRs.

The principles of the WTO dispute settlement procedures have been adopted by Brunei Darussalam in their trade negotiations with ASEAN and other partners. Since 2002, Brunei Darussalam has been a member of the ICSID Convention on the Settlement of Disputes between States and Nationals of Other States. Despite these commitments to dispute settlement procedures, thus far there has not been any event involving Brunei Darussalam.

It is worth noting that Brunei Darussalam's 2008 IAP contained no chapters on competition policy, government procurement, deregulation/regulatory review, implementation of WTO commitments, and mobility of business people. Some of such material was contained in previous IAPs, while other aspects have not been included. It would contribute to transparency and the value of its IAP if Brunei Darussalam could update its IAP to reflect any changes or to indicate at least that no changes have occurred since the last entry. Brunei Darussalam has submitted few WTO notifications, and has a substantial number outstanding.

II. Economic and Structural Performance

1. Economic developments

Brunei Darussalam's macro-economic performance has fluctuated in recent years linked mainly to the performance of the oil and gas sector, which accounted for some two-thirds of GDP in 2007 (up from some 57% in 2003). Real economic growth of 2.9% in 2003 fell to 0.5% and 0.4% in 2004 and 2005, respectively, and while recovering sharply to 4.4% in 2006 again dropped to 0.6% in 2007. Nominal GDP per capita was about B\$48,000 in 2006 (US\$30,000) and 2007 (US\$31,000), up substantially from some B\$33,000 (US\$19,000) in 2003. Inflation has been low at 1% or below since 2003 (0.3% in 2007). Unemployment has also been relatively low at some 4% over this period. Brunei Darussalam's large external trade surpluses, equivalent to 45.3% of GDP in 2007 (51.9% in 2006), reflect substantial excess of gross national savings over gross domestic investment (52.1% of GDP in 2006).¹ Gross foreign reserves stood at US\$667.5 million at end-2007.

Low 2007 growth reflected the petroleum sector's contraction by 6.9% (down from 4.3% growth in 2006), due to a 11.6% and 3.5% decline in oil and LNG production, respectively. The non-oil and gas sector grew by 9.5% (4.5% in 2006), due almost entirely to growth in services, especially business services (14.6%), wholesale and retail (11.9%), transport and communications (11.6%), construction (10.9%), and electricity and water (2.7%). Some service sectors, especially hotels and restaurants (-7.6%) and finance (-1.2%) contracted, along with non-oil and gas manufacturing (-2.9%). The primary sector (agriculture, forestry and fishing), which accounts for under 1% of nominal GDP, also performed poorly, despite agriculture growth of 4.8%, with the forestry and fishing sectors declining by -8.5% and -16.0%, respectively, in 2007.

Decomposing Brunei Darussalam's growth in 2007 reveals that the non-oil and gas sector contributed 4.3 percentage points while the oil and gas sector shaved 3.7 percentage points from growth. Non-oil and gas sector growth was mainly from the Government sub-sector (2.6 percentage points). Private sector non-oil and gas growth was mainly in business services (0.7 percentage points), whole and retail trade (0.5 percentage points), and construction (0.4 percentage points).

Macro-economic policies

The fiscal situation has been very healthy, with large budget surpluses in recent years due to buoyant petroleum taxes. The budget surplus in 2007 was 16.2% of GDP (albeit well down on 23.8% in 2006). Revenue as a share of GDP fell to 47.5% in 2007 (52.5% in 2006) while expenditure rose to 31.3% (28.7% in 2006).

¹ Current account surpluses closely resemble trade balances. Large "errors and omissions" in Brunei's balance of payments reflect weaknesses in its balance of payments data (IMF, 2008, p. 26).

Brunei Darussalam's currency board maintains its dollar at a one-to-one parity with the Singapore dollar through the Currency Interchangeability Agreement (CIA). It is managed by the Brunei Currency and Monetary Board (known as Brunei Currency Board before February 2004). With this arrangement Brunei Darussalam's monetary policy mirrors Singapore and thus has no independent monetary or exchange rate policy to assist maintaining international competitiveness; Brunei Darussalam's exchange and interest rate developments closely track Singapore.² According to the authorities this arrangement has delivered price and financial stability to Brunei Darussalam.

Structural policies

As well as ensuring macro-economic stability and high rates of economic growth, the National Development Plan calls for non-petroleum economic diversification by promoting investment, including foreign, in downstream industries and in economic clusters of non-petroleum activities. This is to be done by enhancing national economic competitiveness through policies that encourage productivity, economic openness and competition; investment in downstream industries and other economic clusters selected based on competitive strengths, export potential and job opportunities; development of world class infrastructure required to attract foreign and domestic investment in new export industries.³ The Plan also has as one of its four key development thrusts strengthening the foundation for a "knowledge based economy".

Brunei Darussalam's efforts to promote economic diversification have had little success. In addition to petroleum, the economy depends heavily on the public sector, with its major commercial involvement, provision of a wide range of subsidized services, and employment of about half of the local labour force. In 2007, it accounted for 12.7% of nominal GDP, up substantially from 11.0% in 2006. State monopolies exist, predominantly in the services sector, and limited competition, including from imports, raises the costs of doing business and reduces efficient private investment opportunities. The relatively large government sector and high public sector wages, symptomatic of "Dutch disease" effects, stifle the private sector development and impede economic diversification.⁴ Nevertheless, Brunei Darussalam's flexibility in allowing foreign labour to be recruited to meet domestic shortfalls provides important skills needed for growth and diversification.

² The fact that Brunei's real effective exchange rate has depreciated consistently during the period, at least until 2006, has helped its international competitiveness by partially offsetting the "Dutch disease" effects of the oil and gas sector on appreciating the Brunei dollar.

³ Council for the Long-Term Development Plan (2007), p. 38.

⁴ These effects may help explain the comparatively small size of Brunei's traded goods sector (non-oil and gas manufacturing and primary production) relative to its non-traded sector (services), which works against economic diversification. Such effects are also reduced the extent to which oil and gas export earnings are sterilized, for example, by investing such funds overseas and running large fiscal surpluses.

Unilateral structural reforms to address these issues, including by achieving APEC's voluntarily Bogor Goals via IAPs, would assist economic diversification by enhancing efficiency and promoting a lower-cost economy. Trade and investment liberalization coupled with lower government commercial involvement, including in services, could make a significant contribution to reducing Brunei Darussalam's vulnerable growth performance, dependant on oil and gas. The IMF believes economic diversification will require a reduced government role and structural reforms to attract private investment, including improving the business environment and reducing price controls.⁵

Foreign direct investment (FDI)

Inward FDI has been relatively low and volatile since 2003. It fell from US\$433.5 million in 2006 to US\$260.2 million in 2007. Most (38.3%) was in the financial sector and almost one-third in mining and quarrying (predominantly oil and gas). The rest was mainly in manufacturing (29.5%). Most FDI in 2007 was sourced from Japan (29.4%), North America (17.8%), United Kingdom (14.3%), Malaysia (15.8%), Singapore (7.8%), Hong Kong (7.6%) and China (6.6%).

2. Merchandise trade developments

Composition

Brunei Darussalam's exports almost exclusively oil and LNG, which accounted for 96.2% in 2007. Other exports consist mainly of manufactured goods, including machinery and transport equipment, and garments (1.5%).

Brunei Darussalam's imports almost entirely manufactured goods. In 2007, imports consisted mainly of machinery and transport equipment (41.4%), manufactured goods (21.8%), food and live animals (12.8%), miscellaneous manufactured articles (10.3%), chemicals and related products (7.5%).

Direction

Brunei Darussalam's exports in 2007 were mainly to Japan (33.5%), Indonesia (24.2%), Australia (13.7%), Korea (12.1%) and the US (5.0%).

Imports in 2007 were sourced mainly from Singapore (22.4%), Malaysia (18.9%), the US (12.8%), Japan (8.5%) and China (7.5%).

3. Economic outlook

Real GDP growth was forecast at between 0.5-1.0% in 2008, held back by expected lower oil output, due mainly to weaker global demand, falling world oil prices, and production constraints facing Brunei Shell Petroleum. Inflation is

⁵ IMF, 2008a.

expected to rise but remain low at 1.0-2.0%. Continued lower world oil prices and the emerging global recession are significant downside risks on future growth. Indeed, the IMF's latest projections are for negative real economic growth of -0.5% in 2008, with growth of 2.8% returning in 2009.

III. IAP Review Issues

1. Tariff

Objectives:

APEC economies will achieve free and open trade in the Asia-Pacific Region by:

- a. progressive reductions in tariffs until the Bogor Goals are fully achieved; and
- b. ensuring the transparency of APEC economies' respective tariff regimes

Brunei Darussalam's tariff regime is relatively open. Since 2004 it has applied HS 2002, consisting of 10,702 8-digit tariff lines in 2008. Some 74.7% of total tariff lines were duty free in 2008, compared with 68.1% in 2007. The average (unweighted or simple) MFN tariff in 2008 fell to 3.6% from 4.8% in 2007. These reductions reflect the decision to eliminate tariffs on 712 tariff items and replace them with excise taxes, thereby effectively extending these duties to domestic production as well as imports (Import Duties Order 2007 and Excise Duties Order 2007) (see below).⁶ The main products on which tariffs were eliminated by these changes were completely-built-up (CBU) motor vehicles, alcoholic beverages, cigarettes and tobacco (mainly items of HS Chapters 22, 24 and to a lesser extent 87). Removing such tariff discrimination against imports and making these duties general consumption taxes is a significant change to Brunei Darussalam's tariff regime, making it potentially less distorting to trade and resource allocation, thereby promoting economic efficiency. Replacing certain tariffs with excise taxes has been the principal unilateral MFN tariff change since 2001. The authorities stated that excise duties are levied uniformly on imports and domestically-produced equivalent products. They are not intended to protect domestic producers but to raise revenue and meet social, health and environmental objectives.

Only some 120 tariff items (approximately 1% of all lines) have specific or non-ad valorem duties. The main products covered by specific tariffs in 2008 are matches, certain alcoholic preparations, tea, coffee, petrol and certain other petroleum products, such as lubricating oils. Although ad valorem equivalents of these items were unavailable, these seem to conceal some high ad valorem tariff rates.⁷ They are used for administrative simplicity and to control customs under-invoicing. Brunei Darussalam is converting bound non-ad valorem tariff rates to ad valorem equivalents in preparation for implementing the WTO Doha Non-Agricultural Market access modalities. It has converted 48 bound specific tariff rates (19 industrial and 29 agricultural tariff lines), leaving 59 lines bound with non-ad valorem duties.⁸ Brunei Darussalam's IAP at times does not distinguish sufficiently clearly between when reporting on bound and applied tariff, thus

⁶ A further four tariff items with zero tariffs had excise taxes imposed.

⁷ These specific rates are excluded from the 2008 tariff average of 3.6% presented in this report.

⁸ Some of the calculated bound ad valorem equivalents are very high.

contributing to possible confusion and undermining the usefulness of its IAP as a transparency tool.

While having low overall tariffs, Brunei Darussalam has some relatively high rates of up to 20% (20.4% of tariff lines in 2008) and 30% (0.1% or six tariff lines).⁹ Tariffs range from zero for agricultural products to an average of some 5% for industrial/non-agricultural goods. Basic foodstuffs and industrial inputs are duty free as are computers and related products. Tariff peaks on industrial products apply to a significant number of tariff lines, with some 20% of lines each exceeding three times the simple average MFN tariff rate (domestic peaks) and 15% (international peaks). The 20% tariff band applies to products such as wood and wood products, boilers, machinery and mechanical appliances, electrical machinery and appliances. Consequently relatively pronounced tariff escalation in these industries provides comparatively high effective protection. Authorities indicated that this reflected revenue considerations and not protectionism, with few, if any, of these goods produced in Brunei Darussalam.

According to the authorities the Bogor Goals are an opportunity to promote trade (and investment) liberalization within APEC by achieving “low tariffs on all or most products”. This may be a changed interpretation of the Bogor Goals from the 2005 IAP Review when Brunei Darussalam’s perception of “free and open trade” was to “eliminate tariffs”. This could potentially represent a significant departure in Brunei Darussalam’s view of the Bogor goals that may provide scope to maintain some relatively high tariffs. This could raise traders’ uncertainty on what products will remain tariff protected in 2020 and the extent to which Brunei Darussalam will pursue tariff reforms given that existing levels could be arguably claimed as already low (at least on average). While the authorities reaffirmed its commitment to “gradually eliminate” tariffs by 2020 in written comments provided on this report, Brunei Darussalam could clarify its position in the IAP Review to avoid any confusion.

While well advanced in meeting its Bogor commitments, Brunei Darussalam’s trade is still restricted in areas of relatively high tariffs. These potentially distort resource use efficiency and penalize consumers. Thus, instead of sitting on its merits it may wish to consider the economic advantages of voluntarily accelerating meeting its Bogor Goals, say by 2015. This would not only be in Brunei Darussalam’s economic interests but also may more accurately reflect its development status of a relatively well off developing APEC economy, with an estimated annual per capita income of over US\$30,000.

An important issue for Brunei Darussalam is how to ensure that its relatively high rates are eliminated (or reduced). These reductions would seem to require unilateral efforts that to date have been lacking in Brunei Darussalam. Multilateral reductions, especially given the failure so far of the Doha negotiations, seem increasingly less able to achieve such liberalization, particularly if as some

⁹ In total there are six tariff rate bands; zero, 5%, 10%, 15%, 20% and 30%.

commentators suggest governments will be more hesitant in embarking on future multilateral rounds.

(a) WTO bindings

Brunei Darussalam has bound some 92.8% of tariff lines. The HS sections with the lowest coverage of tariff bindings are HS04 “prepared foods” (88.7% of tariff lines), HS05 “mineral products” (93.4%) and HS17 “transport equipment” (36.0%).¹⁰ However, the predictability provided by these bindings to traders is undermined by the large gaps of bound over applied tariff rates, which provide scope for Brunei Darussalam to raise tariffs without breaching WTO commitments. For example, in 2008 the (simple) average bound tariff of 25.8% substantially exceeds the applied average of 3.6%. While the average bound tariff is slightly higher for industrial (26.2%) than agricultural products (23.4%), the gap between applied and bound rates is greater for agricultural products since they are duty free. Bound tariffs of 50% are found mainly in animal and dairy products, coffee and tea, and fruit and vegetables. For non-agricultural products bound rates of 40% and above are mainly in chemicals, leather products, wood and pulp, transport equipment, and electrical equipment. Reducing ceiling bindings closer to applied tariff rates would make Brunei Darussalam’s tariff regime more predictable. Brunei Darussalam sees the Doha Round as an opportunity to improve the coverage of its tariff bindings and to lower bound levels.

(b) Excise tariffs

The Excise Duty Order 2007 (gazetted 9 May 2007) repealed the 1973 Excise Duty Order. The authorities indicated that the discriminatory excise duty on imported samsu was removed by setting the same excise rate on domestically-produced samsu.¹¹ CBU and CKD motor vehicles and cycles are subject to an excise rate of 20%, except for 15% on “road tractors for semi-trailers”.¹² Industrial machinery is exempt from excise duty. The authorities stated that excise duties do not discriminate against imports.

¹⁰ WTO, 2008, p. 41.

¹¹ Samsu is subject to an excise duty of \$90 per dal if of an alcoholic strength of 40% or below and \$120 per dal if of greater alcoholic strength. This rate is less than other beverages of similar alcoholic strength. For example, all spirits, whether above or below 46% alcoholic content by volume, and bitters, whether above or below 57% alcoholic content, are excisable at \$250 per dal. However, the duty rates on samsu are the same as those on arrack and pineapple spirit, as well as on sake and cider (\$90 per dal). However, since domestic production and imported alcoholic beverages are prohibited for religious reasons such excise duties are of little practical relevance and raise no revenue.

¹² Motor vehicle and cycle parts and components, as well as bicycles and their parts, continue to be dutiable mainly at a tariff of 20%.

(c) Tariff preferences

The authorities indicated Brunei Darussalam continues to favour WTO-plus and compliant preferential trade agreements to further enhance trade liberalization, but attached a higher priority to multilateralism. Under AFTA's CEPT Brunei Darussalam applied as at 1 January 2008 preferential tariffs of from 0-5% on 92.7% of tariff lines included in the Inclusion List; 85.15% of tariff lines covered in this List had zero duties. Brunei Darussalam intends meeting the AFTA's goal of eliminating duties on remaining items by 2010. It has transferred all products in the Temporary Exclusion List and the Sensitive List according to the CEPT timetable. All CEPT preferential tariffs are ad valorem.

The remaining 7.3% of tariff lines (778 items) are covered by the General Exclusion List (GEL) and have tariff rates ranging from 0-20%. Brunei Darussalam is committed to phase in and eliminate tariffs on all products in the GE List except alcoholic beverages, cigarettes, firearms and opium by 2010. Overall the (simple) average CEPT rate accorded ASEAN members is some 2.4%, compared to an average MFN rate in 2008 of 3.6%. Differences between average applied MFN and CEPT rates are mainly in HS sections "plastic and rubber products", "hides and skins", "wood and wood products", "footwear and headgear", "machinery", "transport equipment", and "precision instruments".¹³

The Trans-Pacific Strategic Economic Partnership Agreement (TPSEPA, or the P4) signed by Brunei Darussalam with Chile, Singapore and New Zealand in August 2005 became effective for Brunei Darussalam from 12 July 2006. Brunei Darussalam eliminated tariffs on the majority of goods imported from other parties upon implementation, except for a number of sensitive goods on which tariffs are to be eliminated by 2015. Some products (alcohol, tobacco, opium and firearms) are excluded to protect public morals, human health and security. Brunei Darussalam sees the TPSEPA as building a bridge between Latin America, the Pacific and Asia. Australia, Peru and the US are to commence negotiations to join the TPSEPA in 2009.

Brunei Darussalam is a party to the ASEAN-China FTA (ACFTA) that entered into force from July 2005 and the ASEAN-Korea FTA (AKFTA), effective from 1 July 2008. Both agreements have similar modalities where products on the normal track are to be eliminated by 2010 except for a limited number of goods on which tariffs will be removed by 2012. Tariffs on sensitive products are to start being reduced in 2012. As of January 2008, Brunei Darussalam had eliminated duties on 68.12% of tariff lines under ACFTA and AKFTA. Tariffs will be eliminated on another 668 items under ACFTA and on 781 items under AKFTA from 2009. As an ASEAN member Brunei Darussalam will continue to be involved in joint ASEAN FTAs, such as currently being finalized jointly with Australia and New Zealand.

¹³ WTO, 2008, p. 41.

The Brunei-Japan Economic Partnership Agreement (BJEPA), signed in June 2007, became effective on 31 July 2008. Brunei Darussalam has committed to eliminate tariffs in 5 tranches, upon entry into force and in equal annual installments over four, six, eight or 11 years. Brunei Darussalam is conducting a Joint Study Group with Pakistan on the feasibility of having a trade agreement.

Brunei Darussalam's preferential tariffs raise the possibility of net trade diversion that could distort its trading patterns and undermine economic efficiency. They also risk making its tariff regime more cumbersome, thus raising traders' costs and uncertainty, such as in meeting rules of origin, and the associated adverse economic effects for Brunei Darussalam less transparent and worse. Thus, the economic advantages of preferential tariff reductions are at best ambiguous, and such discriminatory liberalization is no substitute economically to MFN tariff reforms, achieved either multilaterally or unilaterally. Brunei Darussalam's preferential tariff reductions will also not achieve the Bogor Goals on tariffs, which are based on non-discrimination or an MFN basis. Indeed, rather than facilitating meeting the Bogor Goals they may move Brunei Darussalam further from them unless a domestic means exists to ensure that such discriminatory tariff reductions can be translated into MFN cuts. Precisely how this will occur remains unclear. Such FTAs also risk weakening the multilateral system and may have adverse implications for APEC. While limiting its preferential trading partners to APEC economies Brunei Darussalam has perhaps reduced these implications for APEC, this is likely to change significantly as it forges FTAs with non-APEC economies, such as Pakistan. Brunei Darussalam will also need to consider the implications of FTAs with non-ASEAN countries on achieving the ASEAN Economic Community (AEC) by 2015, and of achieving the AEC on APEC.

(d) Transparency

While an electronic version of the current 2008 tariff schedule is available on request from customs no hard copy is printed. The latest version currently available on the APEC database is for 2001. The authorities indicated that it had not been updated because there had been no tariff changes, but it would add the recent changes as soon as possible. Brunei Darussalam should also be encouraged to in future provide annual updates, even if unchanged, to improve transparency and traders' confidence in using the database as a source of current tariff rates. Transparency is reduced by the electronic tariff including only MFN tariff rates, and it should incorporate all preferential tariff rates as soon as possible. Both rates will, according to the authorities, "soon" be available electronically when e-customs is implemented. While the authorities indicated both MFN and preferential rates are provided to the WTO's Integrated Data Base (IDB) this has a limited transparency impact since it is not publicly accessible.

During the in-economy visit a number of inadvertent errors in Brunei Darussalam's IAP concerning tariffs were identified and the authorities indicated

these would be rectified. Brunei Darussalam should also be encouraged to take greater efforts to ensure the accuracy of its IAP in future in order to improve transparency and ensure IAP credibility.

2. Non-Tariff Measures

Objectives:

APEC economies will achieve free and open trade in the Asia-Pacific region by:

- a. progressively reducing NTMs to the maximum extent possible to minimize possible distortion to trade;
- b. in respect to WTO members:
 - elimination of any measures inconsistent with WTO agreements
 - full compliance with WTO agreements in accordance to WTO commitments; and
- c. ensuring the transparency of APEC economies' respective non-tariff measures.

Brunei Darussalam's 2008 IAP contained no Chapter 2 on non-tariff measures because according to authorities there had been no changes since the previous IAP. Brunei Darussalam last included such information in its 2006 IAP. Brunei Darussalam's non-tariff measures mainly cover agricultural and fish products, pharmaceuticals, timber, telecommunications equipment, motor vehicles, glues, print material, and beverages. Brunei Darussalam imports most of its foodstuffs, except for eggs and poultry in which it is self sufficient.

Brunei Darussalam continues to prohibit a limited number of imports for security, health, wild life protection, moral and religious reasons, including on (i) live pigs bred in or from any country to prevent animal diseases (ii) opium and chandu (iii) Java sparrows (iv) fire crackers for health and safety (v) arms and ammunition (vi) human vaccines of Chinese Taipei origin for health and security (vii) cough mixtures containing codeine for health¹⁴ (viii) spirits and liquors for health and religion (ix) pens, pencils and other articles resembling syringes for safety and security.¹⁵ It is unclear as to why the ban on vaccines applies only to those of Chinese Taipei origin.¹⁶ The extent to which production of such products is banned in Brunei Darussalam is uncertain, and hopefully the authorities will clarify this at the forthcoming IAP Review. Authorities indicated that some of these non-tariff measures no longer existed and that the relevant agencies had issued new legislation and regulations informing the public; however, no details were provided. It would be helpful if the authorities informed other APEC economies of these developments at the forthcoming Review, and incorporated them in its IAP.

All non-prohibited imports can be imported under open general licenses unless specifically subject to import licensing/permits. Import licensing applies to a number of goods mainly for health, sanitary/phytosanitary, and moral reasons. Restricted licensed imports, the reason for the license and the relevant licensing agency are summarized in Table 1. As well as an import permit from the

¹⁴ The authorities indicated that such imports are not completely prohibited but controlled through licensing. This is because codeine is listed as a controlled substance under the Poisons Act.

¹⁵ WTO, 2008, p. 44.

¹⁶ Only vaccines registered with in any recognized benchmark country can be imported. Brunei currently implements a provisional drug registration system until the Medicines Order 2007 is finalized and approved. Any country wishing to register vaccines in Brunei must meet technical requirements.

authorizing agency the importer must obtain an approval permit from Customs. Imports of agricultural products require an import permit from the Department of Agriculture and sanitary and phytosanitary certification from the competent authority of the exporting country (i.e. the country of origin). Imported eggs currently in practice do not need to be individually stamped "imported." Imported salt, sugar, rice paddy (unmilled rice) and "converted" timber are restricted to maintain security of domestic supply and price stability. Most rice is imported directly from Thailand under a Joint-Venture Agreement administered by the Information and Technology and State Stores Department (under the Ministry of Finance). It maintains minimum stocks for food security reasons (and for sugar).

Other products are licensed but only require an import permit issued by the relevant agency and no approval permit from Customs (Table 2), such as mineral water, telecommunications equipment, live plants and animals, and used cars.¹⁷ These are automatically granted for used cars if imported through a designated agent; come with after-sales service; are roadworthy; and no older than three years (reduced recently from five years). Thus, older cars cannot be imported even though they are sold and registered domestically. Live animals and plants require an import permit from the Department of Agriculture and SPS certification from the competent authority in the exporting country. Imported beef and poultry must also satisfy halal requirements for religious reasons and be from government-approved abattoirs (Halal Meat Act and the Halal Certificate and Halal Label Order, 2005).¹⁸ Approved abattoirs exist in Malaysia, Australia, Indonesia, Saudi Arabia, China and India. Brunei Darussalam imports live animals from any country declared free of contagious animal diseases by the OIE. Beef and poultry imports are no longer subject to "food balancing" requirements restricting imports to meeting shortfalls in domestic production.

Import licenses are needed prior to importation and are valid for six months; they cannot be transferred among importers. Brunei Darussalam's last WTO notification on import licensing in 1997 stated that the licensing system was to protect health, national security, and morals. However, domestic food security now seems to be an added reason. Brunei Darussalam could update its WTO licensing notification to improve transparency.

Brunei Darussalam's non-tariff barriers are contained in the ASEAN Non-Tariff Measure Database, the latest list being as at 9 June 2007 (Table 3). Behind the border, a non-tariff measure in the form of a price support scheme benefits rice

¹⁷ Import permits on telecommunications equipment are required for general security purposes and to monitor the equipment to ensure its compatibility with local systems. They are granted based on imports meeting specified technical criteria.

¹⁸ Pork and pork products, which are subject to import permits from the Department of Agriculture and SPS certification from the competent authority of the exporting country, are effectively banned for religious reasons as no such permits are issued.

production. The Government guarantees to buy back paddy rice at \$1.60 per kg (the scheme cost \$1.1 million in 2006 (up from \$289,000 in 2000)).¹⁹

¹⁹ The authorities indicated that the figure of \$1.1 billion referred to in the WTO Trade Policy Review Report (WTO, 2008, p. 69) is incorrect and that they had advised the WTO Secretariat of this.

3. Services

Objectives:

APEC economies, in accordance with the APEC Policy Framework for Work on Services, will achieve free and open trade and investment in the Asia-Pacific region by:

- a. progressively reducing restrictions on market access for trade in services;
- b. progressively providing for inter-alia most favored nation (MFN) treatment and national treatment for trade in services;
- c. providing, in regulated sectors, for the fair and transparent development, adoption and application of regulations and regulatory procedures for trade in services; and
- d. recognizing the role that e-commerce plays in the supply and consumption of services.

Brunei Darussalam has made a commitment to four of the 12 services included in the WTO General Agreement on Trade in Services (GATS). In its IAP 2008 Brunei Darussalam did not submit a comprehensive update on services. Anyhow, meaningful advancements are addressed below.

(a) Telecommunications

Traditionally, Brunei Darussalam has enjoyed a high penetration rate of telecommunication services --specifically telephony. According to the *World Development Report 2007-2008*, published by the United Nations Development Program (UNDP), Brunei Darussalam ranks 30th in installed telephone mainlines, penetration of cellular phones, and internet users per 1,000 people.²⁰

Telecommunication services in Brunei Darussalam used to be provided by a state monopoly, the Jabatan Telekom Brunei (JTB). Established in 1952, JTB undertook two main roles: firstly, it provided telecommunication services and built the necessary infrastructure to pursue this endeavor; secondly, it was a regulatory agency. Taking into account the dynamics of the sector as well as the profound changes in the international telecommunication markets, the 8th National Development Plan advocated the corporatization of JTB. Finally, it was corporatized on April 1, 2006, under the name TelBru.

The regulatory functions of JTB have been absorbed by the Authority for Information Communication Technology Industries (AiTi). This agency was established in 2001, and started operations in January, 2003. AiTi is only responsible for issuing the licenses, while the policy on market access still remains under the Ministry of Telecommunication. The maximum extent of foreign participation allowed is 50%. Foreign providers can only participate in the Brunei Darussalam market by acquiring equity in existing providers in the course of normal commercial negotiations.

The reform of the telecommunication sector in Brunei Darussalam has brought important changes in market structure. At present, the value of this sector is

²⁰ UNDP, 2007-2008, p. 273.

about B\$300 million and its annual growth rate is 10%. At present three companies compete in Brunei Darussalam's market. TelBru, the biggest firm, provides local and international services with international direct dialing (IDD) to more than 156 countries. DSTCom is focused on providing cellular mobile telephony. The third firm, b.mobile, is also involved in mobile telephony with 3G technology. It was established in 2005 as a joint venture between TelBru and QAF Comserve.

(b) Financial services

Brunei Darussalam has a broad range of financial services. Eight banks offer full banking services. Two are locally incorporated banks, namely the Bank Islam Brunei Darussalam (BIBD) and Baiduri Bank, while the trust fund is the Tabung Amanah Islam Brunei (TAIB). The rest are foreign registered bank branches, namely Citibank NA, Hong Kong and Shanghai Bank Corporation (HSBC), Malayan Banking Berhad, RHB Bank Berhad, Standard Chartered Bank and United Overseas Bank.

Any bank incorporated in Brunei Darussalam must have a capital adequacy ratio of at least 10% of risk assets and maintain minimum cash balances of 6% of its deposits. The Banking Order that took effect in March 2006 states that foreign banks whose head offices are situated overseas are required to maintain net head office funds of B\$30 Million in Brunei Darussalam.

Regarding insurance, the Insurance Order (2006) and the Insurance Regulations (2006) are the legal instruments that regulate the activities of the insurance sector. Prior to the introduction of the Insurance Order (2006), there were 18 conventional insurance companies but as a result of the stricter requirements, only 10 were granted licenses to carry on insurance business. Four are locally incorporated companies, namely Audley Insurance Company Sdn Bhd, MBA Insurance Sdn Bhd, National Insurance Company Berhad, and Standard Insurance Sdn Bhd; and 6 are foreign branches, namely TM Asia Life Singapore Ltd, American International Assurance Co. Ltd, The Great Eastern Life Assurance Co Ltd, TM Asia Insurance Ltd, ETIQA Insurance Berhad, and Mitsui Sumitomo Insurance (Malaysia) Berhad.

On August 23 1986, the Ministry of Finance approved the formation of the General Insurance of Brunei Darussalam (GIAB), which as a representative organization of insurance companies currently has 9 members. In order to conduct operations in the country, the Insurance Order and Takaful Order states that every company should be registered as a member of an insurance association, maintain a surplus of assets in the form of cash or securities, and make a deposit. If a foreign company wishes to enter the market, it can operate as branch in Brunei Darussalam subject to similar requirements as locally incorporated companies. The authorization of a new firm is the responsibility of the Ministry of Finance.

Economic strategists in Brunei Darussalam consider that competing with other financial hubs in East Asia (i.e., Singapore, Hong Kong, and Shanghai) would not be an easy task for the country. Hence, taking its religious and cultural inheritances as a source of competitive advantage, Brunei Darussalam aims at specializing in Islamic banking. Islamic financial institutions are expected to follow the tenets of *sharia*, the body of Islamic religious laws. A central concept of the Islamic insurance companies is *Takaful*, which means “joint guarantee”. The Takaful Order (2008) and Takaful Regulations (2008) govern the activities of the *takaful* sector which consist of three *takaful* operators of which two are subsidiaries of banks, namely Insurans Islam TAIB Sdn Bhd and Takaful BIBD Sdn Bhd, while Takaful IBB Berhad is a stand-alone entity.

In 2000, Brunei Darussalam founded the Brunei International Financial Centre (BIFC). It promotes the development of the financial sector as well as Islamic financial activities. In April 2006, the Government launched Sukuk-al-Ijarah, a short-term bond that was encouragingly received from the day of issue. In 2006, the Islamic Bank of Brunei (IBB) and the Islamic Development Bank of Brunei (IDBB) merged to become Bank Islam Brunei Darussalam (BIBD) to be, on assets, the largest financial institution in the country. The Islamic Banking Order (2008) and Islamic Banking (Miscellaneous Provisions) Regulations (2008) govern the activities of the Islamic bank.

(c) Tourism

Both middle-term and long-term development plans envisage tourism as a key priority to be developed if Brunei Darussalam is to diversify its sources of income. The Ministry of Industry and Primary Resources has set the target of raising B\$4.5 billion of tourism income by 2023. The Brunei Tourism Board was established in 2005.

Among the most ambitious development projects, the Government is seeking to set the Kampung Ayer Cultural and Tourist Information Centre, in Bandar Seri Begawan, as the first stop for overseas tourists. Another salient project is to build the stage II of Ulu Temborong National Park, establishing a marine park, and furnishing a set of forest recreational parks and eco-tourism destinations. The Government has also launched the so-called Kenali Negara Kitani (KNK), aimed at boosting domestic tourism. Some of these projects are tied to improvements in infrastructure. For instance, Brunei Darussalam is evaluating the possibility of building a bridge that would link both parts of the country. This kind of project could have positive impacts in terms of reducing travel time, and would allow the development of isolated areas on Borneo Island.

Economic data for the tourism sector suggest these promotion efforts are bearing fruit, albeit in an incremental fashion. The number of tourist arrivals rose by 13% in 2007, above the target of 7%; the number of visitors in 2007 totaled 178,540. The number of tour operators has increased to 32 companies.

4. Investment

Objectives:

APEC economies will achieve free and open investment in the Asia-pacific region by:

- a. liberalizing their respective investment regimes and the overall APEC investment environment by, inter alia, progressively providing for MFN treatment and national treatment and ensuring transparency; and
- b. facilitating investment activities through, inter alia, technical assistance and cooperation, including exchange of information on investment opportunities.

Brunei Darussalam does not have a list of sectors or activities subject to restricted foreign equity i.e. where full foreign ownership is prohibited. Nevertheless, while foreign direct investment (FDI), including of up to 100% overseas equity, is allowed in most areas, especially in certain government-declared priority activities for encouraging investment (Table 4), it is capped at 70% equity in sectors involving natural resources (e.g. agriculture and fisheries) and national food security. In services where state-owned entities are major suppliers e.g. mass media, telecommunications, posts, energy and utilities, both domestic and foreign investors require government approval. For example, investment in telecommunications must be approved by the sector's regulatory body (Authority for Info-Communication Technology Industry (AiTi)), and foreign equity is capped at 49%. Foreign equity is also capped in other services, such as at 55% in construction and related engineering services and 30% in rail transport services. Entry to banking, petrol stations and travel agencies are regulated in accordance with market size.²¹ FDI, in a number of manufacturing activities, including retail businesses, prohibitive drugs, fireworks and liquor, is restricted; two activities, liquor and defense equipment, are also closed to domestic investment (Table 5).

The authorities indicated that national treatment is extended to foreign investors in unrestricted investment activities. Brunei Darussalam does not restrict repatriation of capital, remittance of profits (e.g. dividends) or royalties from FDI, and has no exchange controls. Foreign workers ranging from labourers to executive managers can be recruited if there is insufficient local supply, subject to the issue of work visas and permits (valid for two years). A labour license from the Labour Department is needed first, and if granted the Immigration Department will issue a visa. The Labour Department requires a cash deposit or banker's guarantee from the employer applying for a work permit. This meets the costs of the workers' entry, subsistence allowance, housing, medical care and repatriation. Identity cards from the Immigration Department must be renewed annually.

²¹ In the case of petrol stations, the Ministry of Industry and Primary Resources chairs a Committee to review applications for new outlets according to the Guidelines to Consider Miscellaneous License Applications for Petrol Stations.

At least half of the Board of Directors of every company in Brunei Darussalam must be nationals or residents of the country.

The Government is keen to commercialize and corporatize state-owned entities, including privatization, and is embarking on preparing a Privatization Master Plan. Privatizing public services that are best undertaken by the private sector is consistent with Brunei Darussalam's current Development Plan.

(a) Legislative and administrative arrangements

The Investment Incentives Order 20001, administered by the Ministry of Industry and Primary Industry, remains the fundamental investment legislation. It aims to diversify the Brunei Darussalam economy by providing tax-based incentives to promote investment to upgrade technology, research and development to increase production capacities and economic growth. The Brunei Economic Development Board (BEDB) was formed as a statutory board in November 2001 (Box 1). It focuses on new industries and other economic activities that are likely to provide knowledge, new markets, and employment opportunities. BEDB tries to achieve this by promoting business clusters in areas where Brunei Darussalam is considered to have competitive advantages, and it always strives to work in partnership with foreign investors, government agencies and local stakeholders. The Brunei Industrial Development Authority (BINA), under the Ministry of Industry and Primary Resources, also coordinates industrial development and liaises with other agencies to expedite applications for those requiring public facilities and assistance. It has developed several industrial parks, mainly near Muara Port, to facilitate SMEs. The Ministry acts as a "one-stop shop" for investors wishing to use industrial sites and facilities to also encourage foreign/local joint ventures, including satisfying national food security needs.

Box 1: Brunei Economic Development Board (BEDB)

The BEDB's five-year plan announced in 2003 is to establish a US\$4.5 billion infrastructure development consisting of a US\$3 billion industrial park at Sungai Liang (SPARK) based on petrochemicals, and a US\$1.5 billion construction of a mega port at Pulau Muara. A methanol plant, involving foreign partners, is currently being constructed at SPARK, and plans exist to develop a US\$400 million natural gas power plant and other petrochemical activities, especially derivative industries based on methanol (e.g. polypropylene, acetic acid and polyacetyl), oil refining and storage facilities, and aluminum production (a Memorandum of Understanding in with Alcoa to consider construction of a US\$1.8 billion smelter at PMB). Other industry clusters being targeted by BEDB are tourism (especially eco-tourism), aquaculture (prawn and fish farming), agriculture (poultry, eggs and feed mill), alternative/renewable energy (solar and biodiesel), Islamic businesses (global Halal, including export of meat from cattle grazed on farms owned in Australia, and financial services), waste management (engineered landfill, recycling, composting and incineration), education, and ICT based on its own iCentre that became operational in 2008 as Brunei Darussalam's first investment incubator, which is administered by a Singaporean firm. The Muara island project (PMB) includes construction of a container port (to be developed and operated by the Philippines' International Container

Terminal Services Inc), an export processing zone, and an industrial park to develop as a manufacturing hub.

The BEDB's main objectives are to: stimulate the growth and development of the economy by promoting Brunei Darussalam as an investment destination; develop plans to attract foreign and local investment in industries and skill-intensive services that enjoy good export-market prospects; promote and assist in the development of industrial activities; encourage foreign and local industries to invest in new technology, automation, training, research, and product development activities; and support the development of local entrepreneurs and SMEs.

The general criteria for evaluation of investment projects are: sustainability, prospects of industrial spin-off and businesses opportunities for domestic SMEs, potential to create employment opportunities and fit with the national economic development plan. In keeping with its efforts to ensure real and sustainable benefits are derived from investments, investors enter into a Cooperation Agreement with the BEDB. In signing the agreement, the BEDB helps the investor in securing incentives, utilities, and infrastructure. The investor commits to agreed quantifiable and qualitative undertakings on a best endeavours basis in such areas as employment, transfer of technology, local participation, promotion of local SMEs, spin-offs, and community development.

Source: Authorities of Brunei Darussalam (adapted from WTO, 2008, p. 31).

(b) Foreign land ownership

Foreigners (individuals or entities with majority foreign ownership) cannot own land but may lease it long-term for industrial, agricultural, forestry and aquaculture uses.²² BEDB, through its Act, allows foreign and domestic investors to lease industrial land based on the project's estimated lifetime, and they can be renewed. Leases can be used as loan collateral. A Strata Title Act is being drafted.

(c) Petroleum sector

Upstream

The state-owned Brunei National Petroleum Company (Petroleum BRUNEI, PB), created in 2002 as a "Private Limited" Company under the Brunei National Petroleum Company Order 2002, encourages private, including foreign investment, in upstream oil and natural gas activities through production-sharing agreements (PSAs).²³ PB was granted all mineral rights in four prime petroleum blocks (two offshore and two onshore) covering in total some 15,300 sq. km.

PSAs are for a maximum of 30 years, and consist of a maximum exploration period of six years in two three-year commitment phases. The production period is a maximum of 22 years. PB has the right to hold an interest of up to 15%. A quarterly percentage allocation of recoverable costs is made from production and

²² Some 95% of land is state-owned. The Land Code permits foreigners to own land only with the Sultan's consent.

²³ To manage its oil and gas investments, PB formed four wholly-owned subsidiaries (PB Petrochemical Company and PB ExPro in 2006, and PB Logistics and PB Services in 2007).

profits are split “favourably and fairly”, with the contractor paying royalties and fixed income (petroleum) taxes of currently 55%. The contractor must also contribute to research and development from both “cost” oil/gas and its profit share, and contribute their allocated petroleum for emergency supply, domestic fuel and feedstock requirements as and when required at a fixed volume and rate. A jointly established and managed special Abandonment, Removal and Restoration Fund initiated early in the exploration phase covers costs of abandonment and removal of installations and equipment plus site restoration in line with Health, Safety and Environmental (HSE) requirements.

Downstream

As part of the Government’s policy to widen Brunei Darussalam’s hydrocarbon industrial base PB is open to working with interested, including foreign, investors to develop domestic downstream petrochemical plants. Downstream developments are currently concentrated in the Sungai Liang Industrial Park. PB’s subsidiary, PB Petrochemical Company, has a 25% stake in the Brunei Methanol Company (BMC), a joint venture with Mitsubishi Gas Chemical Company Inc. and ITOCHU Corporation. The US\$400 million plant, currently under construction, will have an annual production capacity of 850,000 tonnes, and is due to be operational in 2010. It is expected to promote growth in Small Medium Enterprises (SMEs), including in services, and to employ 160 people; 90% at the start will be Brunei locals, rising to 95% within five years. Another joint venture, Brunei Methanol Tanker, was formed in April 2008 between PB Logistics (on behalf of PB), Kokuka Sangyo Co. Ltd and Itochu Corporation to transport methanol to BMC’s plant.²⁴

(d) Incentives

Firms registered under the Company’s Act are eligible for investment incentives under the Investment Incentives Order 2001, which is administered by the Ministry of Industry and Primary Resources. Foreign investors, including joint ventures, receive national treatment. This Order simplified granting of tax incentives while the Income Tax (Amendment) Order 2001 broadened them.²⁵ Tax relief includes tax holidays of up to 20 years, investment allowances, loss deductions, and exemptions to import duties (Table 6). They are offered under a range of schemes, including to declared pioneer companies. These are industries previously not conducted on an adequate scale to meet Brunei Darussalam’s economic needs; that have favourable development prospects; and that the Minister is satisfied are in the public interest. There are 25 activities covering many products declared as pioneer industries (Table 7). Certain

²⁴ PB Logistics has a 50% share while Kokuka Sangyo Co. Ltd, a subsidiary of Mitsubishi Gas Chemical Company, has 30% and ITOCHU 20%.

²⁵ WTO, 2008, p. 31.

investment incentives, however, such as SME assistance, are limited to Brunei nationals or local companies. The company tax rate was reduced from 30% to 27.5% for the 2008 year of assessment and will be reduced to 25.5% for the 2009 year of assessment (Income Tax (Amendment) Order 2008). Income tax thresholds were also introduced to provide tax relief for SMEs, as well as newly registered companies whereby the initial B\$100,000 is non-taxed for the first three years.

Brunei Darussalam's IAP states that it has no WTO-inconsistent trade-related investment measures (TRIMs). The incentives do not require local content, impose restrictions on imported inputs or relate to foreign exchange balancing requirements. However, some incentives may arguably be inconsistent with WTO rules on subsidies e.g. income tax and other exemptions to exporters that require at least 20% of sales to be exported and to be not less than B\$20,000 annually, and the income tax exemption for firms exporting at least B\$3 million annually of eligible goods or involved in entrepot trade of over B\$5 million annually.

(e) Bilateral investment treaties (BITs) and Double Tax Agreements (DTAs)

Brunei Darussalam has ratified Agreements concerning the Reciprocal Protection and Promotion of Investments (Bilateral Investment Treaties – BITs) with Oman (effective from 2006), South Korea (effective from 2003) and Ukraine (effective from 2006). Brunei Darussalam has also signed several investment treaties with European countries that are yet to be ratified. BITs provide for the protection of investments, in particular on fair and equitable treatment, expropriation and dispute settlement. The authorities indicated that provisions in Brunei Darussalam's BITs abide by all twelve APEC Non-binding Investment Principles (Table 8). They provide a mechanism for settling disputes, which for Brunei Darussalam applies only to post-establishment investment activities, through bilateral consultations or arbitration under international rules. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) is incorporated into domestic legislation (Arbitration Act Cap.173). In 2002, Brunei Darussalam became a signatory to the Convention on the Settlement of Investment Disputes Between States and Nationals of other States and the International Centre for Settlement of Investment Disputes (ICSID).

Brunei Darussalam has ratified Agreements for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital (Double Taxation Agreements – DTAs), with the United Kingdom (effective from 1950), Singapore (effective from 2007), Indonesia (effective from 2002), China (effective from 2006) and Vietnam (effective from 2008). Brunei Darussalam has also signed DTAs with other countries that are being ratified. DTAs define each country's tax rights and add certainty on the granting of tax credits and exemptions. Tax credits under DTAs are only available for resident companies of each country. Brunei Darussalam also provides unilateral tax relief

of up to half its rate to both resident and non-resident companies on income from Commonwealth countries that provide reciprocal relief.

(f) ASEAN Arrangements

Under the 1999 ASEAN Investment Area Bold Measures Agreement Brunei Darussalam allows 100% foreign equity in a positive list of high-technology manufacturing and export-oriented industries (Table 9). As well as allowing full foreign ownership, these measures include minimum three year corporate income tax exemption or a minimum 30% corporate investment tax allowance, duty-free imports of capital goods, domestic market access, a minimum industrial land leasehold period of 30 years, employment of foreign personnel, and speedy customs clearance. They cover manufacturing investment applications received and approved in 1999 and 2000, from both ASEAN and non-ASEAN investors.

Brunei Darussalam is committed to meeting obligations under the 1998 ASEAN Framework Agreement on the ASEAN Investment Area (AIA) 's.²⁶ This called for ASEAN Members to immediately open up all industries (specifically defined in September 2001 to be manufacturing, agriculture, fisheries, forestry, mining and quarrying as well as related services) and to extend national treatment to all ASEAN investors by 2010 (including majority-ASEAN owned foreign joint ventures) and to all non-ASEAN investors by 2020, subject to a Temporary Exclusion List (TEL) and a Sensitive List (SL).²⁷ The progressive removal of the TEL was accelerated for manufacturing investments from 2010 to 2003 in 2001, to which Brunei Darussalam complied. Brunei Darussalam's TEL covers several agricultural activities, one forestry activity and several related service activities (Table 10). Its SL was last reviewed by 2003, and contains a number of sensitive sectors/sub-sectors related to usage of local resources, government services or to food security sensitive (Tables 11 and 12). Members also scheduled a negative list of General Exemptions in areas that could not be opened or granted national treatment due to national security, public morality, public health or environmental protection..

The AIA contains an automatic MFN obligation for ASEAN Members to extend to each other any preferential investment treatment extended to non-ASEAN countries. Brunei Darussalam does not intend to change its investment legislation to explicitly cover the more favourable treatment provided to ASEAN Members under AIA.

²⁶ Members agreed in August 2007 to combine the Framework Agreement with the ASEAN Agreement on the Promotion and Protection of Investments into an expanded single ASEAN Comprehensive Investment Agreement (ACIA), to be completed by the 11th AIA Council meeting to be held in August 2008.

²⁷ The Agreement was extended to include portfolio investment and matters relating to investment covered by other ASEAN Agreements in September 2001.

5. Standards & Conformance

Objectives:

APEC economies will, in accordance with the Declaration on APEC Standards and Conformance Framework and with the Agreement on Technical Barriers to Trade (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) attached to the WTO Agreement:

- a. align their domestic standards with international standards;
- b. endeavour to actively participate in international standardisation activities;
- c. promote good regulatory practice for the preparation, adoption and application of technical regulations in the APEC region;
- d. achieve recognition of conformity assessment including mutual recognition arrangements in regulated and voluntary sectors;
- e. promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors; and
- f. ensure the transparency of the standards and conformity assessment of APEC economies.

Brunei Darussalam's approach to standards and conformance could be characterized as quite liberal. The main governmental policy is to adopt international standards whenever they apply to Brunei Darussalam. It is a member of ISO and participates in the Affiliate Member Programme of IEC. In April 2007, Brunei Darussalam expressed its intention to participate in Parts II and III of the APEC EEMRA. Such participation was confirmed in June, 2007, at the APEC SCSC2/ SOM3 meeting in Cairns, Australia.

According to the IAP 2008, Brunei Darussalam has kept aligning its standards with ISO. It has adopted ISO 9001, ISO 9001 and ISO 9004. Brunei Darussalam has also completed aligning its standards with IEC 60355/CISPR Standards in EMC, in areas such as electrical/electronic appliances, rubber products, food labeling and machinery.

Brunei Darussalam does not have a public agency in charge of setting standards. However, the Government might be planning to establish an institution to oversee the most salient activities on standards. Meanwhile, the Ministry of Development (MOD), through the Construction Planning and Research Unit (CPRU), is in charge of the coordination and diffusion of standards. National standards are elaborated by technical committees and approved by the MOD. Thus far, there are only three committees (construction, electrical and certification of halal foods), with six technical committees being formed under the construction sector. Standards are voluntary.

The National Standard Centre (NSC) under the Ministry of Industry and Primary Resources functions as a facilitator for entrepreneurs in developing products meeting existing recognized standards and accreditation. It is hoped this will promote and enhance local entrepreneurs to pursue certification programs

provided by international certification and accreditation organizations in Brunei Darussalam.

Notwithstanding this institutional design, Brunei Darussalam has showed continuous improvements in the area of standards and conformance along different IAP processes. Its reports on this are rather comprehensive, and make evident a serious commitment to develop standards and conformance.

Additionally, Brunei Darussalam has organized a plethora of seminars on standards, such as the Symposium for EE Equipment on Explosive Environment for the Asia Pacific Region and APEC Seminar on Understanding and implementing the EEMRA, in May 2008.

6. Customs Procedures

Objectives:

APEC economies will facilitate trade in the Asia-Pacific region by simplifying and harmonizing customs procedures.

Brunei Darussalam continues to streamline and improve customs procedures in an effort to facilitate trade (imports and exports). Many changes have been made in line with APEC trade facilitation guidelines (Table 13). These include harmonizing tariff nomenclature by first adopting the HS2002 and from December 2008 the HS2007 (Brunei Darussalam is currently considering becoming a contracting party to the HS Convention); aligning laws with the WTO Agreement on Customs Valuation from September 2001 whereby some 95% of imports are subject to transaction value (the rest being mainly used goods, such as motor vehicles where a fixed depreciation schedule is applied, and goods imported under rental or leasing schemes); enhancing appeal procedures and advance tariff classification rulings; facilitating temporary imports; adopting risk-management techniques; introducing green/red channel mechanisms for cargo in 2006; raising integrity levels; and enhancing computerization by adopting the UN/EDIFACT standard and reducing documentary requirements. Brunei Darussalam has also amended Intellectual property rights legislation to enable Customs to comply with the TRIPs Agreement by putting in place systems and procedures for controlling at the border illegal/counterfeit products. It has no non-discriminatory rules of origin.

According to Brunei Darussalam's IAP Customs wishes to move to completely paperless customs processing as part of its 2004-09 IS/IT Plan, which incorporates electronic submission of the importer's/exporters' declaration, the shipping manifest, and exchange of information among government agencies, on-line payment, and development of a web-services portal to allow on-line application of permits, drawback, registrations, etc. E-customs allowing declarations and permits to be processed electronically was to be introduced from September 2008; stage 1 was introduced by then and the final stage, due to be completed by November 2008, when electronic submission of declarations would become mandatory is still be completed. Legal and technical work is continuing on Brunei Darussalam's implementation of a national single window to facilitate customs documentation procedures, cargo release, and clearance. Its implementation has slipped from 2008, including due to difficulties in introducing the Single Administration Document (SAD) for customs declarations, but is expected to be operational by 2009.

While Brunei Darussalam is examining whether to adopt the ATA Convention, duty-free temporary importation is allowed for three months (extendable for a maximum of three months) for goods used at demonstrations, exhibitions and as trade samples. Applications for temporary importation must be made to Customs accompanied by an approval or verification letter from the Ministry of Home

Affairs and the relevant government agency. Goods not exported within the allowed period pay full import duties. A financial guarantee (cash deposit or bank cheque) for the amount of import duty that must be lodged on importation is fully refunded on export. Customs is according to the IAP aligning its temporary importation procedures with international practices.

According to the authorities Brunei Darussalam's latest revised customs legislation (Customs Order 2006) incorporate some Kyoto Convention requirements. They are assessing the overall advantages of joining the revised Kyoto Convention. This would require significant changes to its customs laws and practices; authorities indicated that Brunei Darussalam is currently some 50% consistent with Kyoto requirements. It would have to change, for example, the customs appeal process whereby appeals may be made within 14 days to the Minister, whose decision is final, but only in cases where it is not specifically stated that decisions are at the Controller's absolute discretion. No independent courts or tribunals hear appeals.

Brunei Darussalam's advanced ruling system has no legislative backing. Customs administratively facilitates advance ruling requests by phone or in writing. This procedure will be abolished when E-Customs becomes operative, and it is drafting legislation and procedures e.g. on adopting standard application forms.

Customs currently adopts according to Brunei Darussalam's IAP best practices and guidelines of WCO Risk Management Techniques. Customs inspects all cargoes ranging from 10% to 100% of the consignment. A Committee is studying legal aspects and requirements of Risk Management Techniques. Brunei Darussalam plans introducing Red and Green Channels at the International Airport.

While Brunei Darussalam's FTAs require originating products to meet the direct consignment rule, goods transshipped through non-party countries may be allowed subject to documentary requirements stipulated in respective FTAs.

7. Intellectual Property Rights

Objectives:

APEC economies will:

- a. in conformance with the principles of the TRIPS Agreement:
 - ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights,
 - foster harmonization of intellectual property rights systems in the APEC region, promote transparency strengthen public awareness activities,
 - strengthen public awareness activities, and
 - promote dialogue on emerging intellectual property policy issues, with a view to further improve intellectual property rights protection and use of the intellectual property rights systems for the social and economic benefit of members.
- b. address the challenges for intellectual property rights arising from the rapid growth and developments of the New Economy by:
 - establishing legal frameworks to promote creative endeavor and encourage on-line activity;
 - ensuring a balance between the different rights and interests of copyright owners, users and distributors;
 - establishing an appropriate balance among all stakeholders, including content providers and ISPs in terms of the liabilities for infringing intellectual property on-line; and
 - providing incentives for innovation without sacrificing the community's interest in reasonable access to information.

Brunei Darussalam is a full-fledged member of the Paris Convention, the Berne Convention, the WTO-TRIPS and the World Intellectual Property Organization (WIPO). It has also signed the ASEAN Framework Agreement on Intellectual Property Cooperation.

IPR provisions are included as well in the Trans-Pacific Strategic Economic Partnership Agreement (also known as Trans-Pacific SEP or P-4), signed in 2005 by Brunei Darussalam, Chile, New Zealand and Singapore. It commenced in 2006 and includes commitments in areas such as copyright, patents and trade marks. The P-4 encourages cooperation between public agencies in IPR enforcement and exchanging information on infringements. Detailed IPR provisions are dealt with in Article 97 of the bilateral Agreement between Japan and Brunei Darussalam for an Economic Partnership (BJEPA); this was signed in June 2007 and entered into force on 31 July 31 2008.

According to Brunei Darussalam's IAP, "the main objective of the government is to ensure adequate and effective protection through legislation, administration and enforcement of IPR based on the principles of Most Favoured Nation treatment, national treatment and transparency as set out in the TRIPS Agreement and other related agreements".

The Registries Division of the Attorney General's Chambers at the Prime Minister's Office is the Registrar for IPR matters and is responsible for all matters relating to the issuance of Intellectual Property Rights. Although it has no specific

legal mandate to be responsible for the regulation of IPR, it fulfills that role by default of its Registrar status and coordinates closely with the Royal Customs and Excise Department and the Royal Brunei Police Force on enforcement. The Department of Royal Customs and Excise is responsible for border measures control.

In order to enforce IPRs, the right holder should submit a complaint though this is not mandatory. However, due to the unavailability of right holders in the country, a complaint would be seen as the first show of commitment and availability to enforce their rights. The Royal Brunei Police Force has ex-officio powers to conduct investigations on violations to IPR legislation. However, this would depend on the available evidence and also the available training. The maximum penalty for IPR infringements is imprisonment for up to 5 years and/or a fine not exceeding B\$100,000.

Brunei Darussalam has undergone a sustained effort to align legislation with such arrangements. In 1999-2000, the Government approved an ambitious battery of legislation to protect IPRs. Some of the main pieces of legislation issued were the Copyright Order, the Industrial Designs Order, and the Layout Design Order, which were settled in 1999 and took effect from May 2000. The Trade Marks Act was revised in 1999 and commenced from June, 2000. Recently, the Attorney General is tailoring amendments to the Copyright and Trademarks Orders. The Patent Order was also signed in 1999 but, as stated in Brunei Darussalam 2008 IAP, has not entered into force.

Officials from these institutions often participate in training seminars organized by WIPO, ASEAN, the US Patent and Trademark Office (USPTO), the World Customs Union (WCO), and other Regional APEC economies such as Australia, Singapore, Malaysia and Hong Kong. To improve public awareness of IPRs, the Attorney General has promoted a set of seminars for SME businesses and civil society. The personnel of the Attorney's General's Chambers has actively participated in seminars and symposia organized by APEC and ASEAN.

Recent efforts of the Attorney General's Chambers to raise the level of public awareness in IPR include the following:

1. Workshop on effective practices in the enforcement of IPR, 3-4 June 2008 organized by Royal Brunei Customs and Excise Department and USPTO Global Intellectual Property Academy;
2. BSA Conference on Staying Compliant with Software Asset Management-24th June 2008;
3. Seminar on Roles and Issues of IP, 26th August 2008 in cooperation with the Japanese Embassy;

4. Workshop on border measures with US in September 2008 with the Customs Department; and

5. Planned meeting with vendors in January 2009.

IPR infringements have been prosecuted since the late 1990s and early 2000s, when enforcement of different pieces of legislation on IPRs was enacted. Domestic courts have dealt with IPR complaints on industrial designs, copyright and trademarks. Most have been solved by mutual agreement; in other cases, alleged pirated products have proved to be genuine. There are relatively few cases in which accused infringers have been prosecuted. Those cases are mainly related to pirated movies, VCRs and apparel.

Still, some APEC members remain skeptical about IPR enforcement in Brunei Darussalam. For instance, in the 2008 WTO Trade Policy Review the United States expressed concerns about high levels of optical disk piracy and other weaknesses in Brunei Darussalam's IPR regime. Nevertheless, the US believes Brunei Darussalam is eager to cooperate on these issues and will cooperate with it in efforts to improve IPR enforcement.

8. Competition Policy

Objectives:

APEC economies will enhance the competitive environment to increase consumer welfare in the ASIA-Pacific region, taking into account the benefits and challenges of globalization, developments in the New Economy and the need to bridge the digital divide through better access to ICT, by:

- a. introducing or maintaining effective, adequate and transparent competition policy and/or laws and associated enforcement policies;
- b. promoting cooperation among APEC economies, thereby maximizing, inter alia, the efficient operation of markets, competition among producers and traders, and consumer benefits; and
- c. improving the ability of competition authorities, through enhanced capacity building and technical assistance, to better understand the impact of globalization and the New Economy.

Brunei Darussalam did not include a section on Competition Policy in its 2008 IAP because no changes had occurred since 2007. Brunei Darussalam has not, however, provided information on competition policy in its IAP since 2001.

While Brunei Darussalam recognizes competition policy importantly contributes to improved competitiveness and sustainable economic growth no specific legislation or policy exists on competition policy. The authorities indicated that competition policy is addressed generally through economic regulations, such as price controls and by licensing of new entrants.

(a) Price controls

The Price Controller sets maximum prices of controlled items to protect consumers, prevent market volatility, ensure stable supply and to promote fair competition (Price Control Act, last amended in 1999 and revised in 2002). Products covered include basic foodstuffs and necessities, such as passenger motor vehicles, infant milk powder, cigarettes, cooking oil, rice and sugar. Price controls apply to both imported and domestically-produced goods. The Act also enables the Price Controller to prohibit, regulate or control the import or export of controlled goods, and to take action to prevent hoarding of these products. No such action has been taken recently. Currently consumption of rice, sugar and petroleum is subsidized.

Internal distribution controls are maintained by the Information Technology and State Stores Department of the Ministry of Finance on items subject to import and export restrictions e.g. rice and sugar to ensure a stable and secure national food supply.²⁸ Rice stocks are replenished by weekly shipments under a long-term government agreement with Thailand, most recently through its joint venture BruSiam Food Alliance Co. Ltd.

²⁸ WTO, 2008, p. 57.

(b) Sectoral competition regulations

Competition regulation in Brunei Darussalam is implemented on a sector-by-sector basis. Recent significant progress in implementing sectoral competition was to establish the independent Authority for Info Communication Technology Industry (AiTi) to regulate the telecommunications sector, including promoting competition. Oil and gas activities are overseen by the Petroleum Unit (under the Prime Minister Office and reports to the Minister of Energy), a regulatory body that prudently monitors all activities of concessionaires to ensure internationally-accepted standards are met.

The 1932 Monopolies Act (last revised 2003) whereby the Sultan can grant and protect specified monopolies exempts only two activities from competition. These are the collection and export of crocodile, python and monitor lizard skins, and the manufacture, selling, purchasing, importing and exporting of firearms and ammunition, including defense equipment, armaments, military aircraft, vessels and vehicles. No application has been made for the skin monopoly.

Brunei Darussalam does not yet see the urgency for a national competition law to regulate competition given its small size and early stages of economic development in some sectors. It observes the APEC principles on competition policy. Brunei Darussalam has flexibility in applying commitments on general principles competition on a “best endeavour” due to its smallness under the TPSEP.²⁹

²⁹ If Brunei adopts a competition law or a national competition authority it will become fully subject to these competition principles.

9. Government Procurement

Objectives:

APEC economies will:

- a. develop a common understanding on government procurement policies and systems, as well as on each APEC economy's government procurement practices;
- b. achieve liberalization of government procurement markets throughout the Asia-Pacific region in accordance with the principles and objectives of the Bogor Declaration, contributing in the process to the evolution of work on government procurement in other multilateral fora;
- c. increase the use of electronic means to conduct government procurement and in so doing seek to promote the uptake of e-commerce more broadly; and
- d. implement and maintain standards consistent with the APEC Leaders' Transparency Standards.

Brunei Darussalam's 2008 IAP contained no Chapter on government procurement. Brunei officials indicated there have been no changes since the previous IAP. Brunei Darussalam last included such information in its 2007 IAP.

As long as Brunei Darussalam's public sector is the main economic force in the country, government procurement will be a crucial matter. According to figures for various years, state acquisitions have been as high as 7% of GDP.

At the international level, Brunei Darussalam has not signed the WTO Government Procurement Agreement. Conversely, Trans-Pacific SEP features a broad coverage. The Financial Regulations, issued in 1983, are the main legislation on government procurement. Ministry of Finance circulars provide guidelines. Tenders over B\$500,000 are analyzed and approved by the State Tender Board; lower tenders are approved by Mini Tender Boards in every Ministry.

The Government invites firms to tender in procurements above B\$50,000, through either Open Tender, Selective Tender or Exemption (or Limited) Tender. The rules are published in the *Government Gazette* and the main domestic newspaper (*Pelita Brunei*). The Auditor General can obtain records of procurement decisions by the State Tender Board and Mini Tender Boards for check-and-balance purposes to ensure compliance to tender procedures.

Foreign firms can participate in tenders individually but it is advisable for them to form joint-ventures with selected local companies. This improves their chances of getting contracts as local partners can make easier registration, communication with the government, and recording activities.³⁰

³⁰ WTO, 2008, p. 51.

10. Deregulation/Regulatory Review

Objectives:

APEC economies will facilitate free and open trade and investment in the Asia-Pacific Region by, inter alia:

- a. enhancing the transparency of regulatory regimes (including through the use of new technologies);
- b. eliminating domestic regulation that may distort or restrict trade, investment or competition and are not necessary to achieve a legitimate objective; and
- c. speeding up reforms that encourage efficient and well functioning product, labour and capital markets and supportive of institutional frameworks.

Brunei Darussalam's IAP did not contain a section on Deregulation/Regulatory Review as according to the authorities no changes have occurred since 2007. Brunei Darussalam last provided information on Deregulation/Regulatory Review in its IAP in 2001. The authorities indicated that the main changes in the regulatory framework since 2001 were the formation of the Authority for Info-Communication Industry of Brunei Darussalam (AiTi) from 2003 to regulate and restructure the telecoms sector based on the Telecommunications Order 2001 and the AiTi Order 2001 (effective in 2006), and of the Syariah Financial Supervisory Board in January 2006 to regulate Islamic financial institutions. Drafting of the new Islamic banking Order 2007 is almost completed.

11. Implementation of WTO Obligations

Objectives:

APEC economies will ensure full and effective implementation of Uruguay Round outcomes within the agreed timeframe in a manner fully consistent with the letter and spirit of the WTO Agreement.

Brunei Darussalam did not include a section on Implementation of WTO Obligations in its 2008 IAP. It last provided this information in its IAP in 2001.

It seems Brunei Darussalam has implemented its Uruguay Round commitments in accordance with WTO agreements. However, verifying this, as with any member, is extremely difficult in practice. It has not been involved in any WTO disputes, either directly or as a third party, and has had no requests for consultations.³¹

While Brunei Darussalam has submitted some 34 regular WTO notifications its record is less than desirable with many outstanding. Latest information from the WTO indicates it has 34 outstanding notifications.³² Notwithstanding capacity constraints, Brunei Darussalam should be encouraged to improve its record of WTO notifications to promote transparency. The only notifications to the WTO since 2005 have been on regional trading arrangements and halal food standards.

(a) WTO notification of regional trading arrangements

Brunei Darussalam notified its Economic Partnership Agreement with Japan to the WTO on the day it became operational, namely 31 July 2008, under Articles XXIV of the GATT (goods) and V of the GATS (services).³³ The factual presentation to the Committee of Regional Trade Agreements is yet to occur. It also notified the TPSEP Agreement to the WTO on 18 May 2007 under GATT Article XXIV and GATS Article V.³⁴ The Factual Presentation of the Agreement to Members occurred in September 2008.³⁵ Under this Agreement Brunei Darussalam has two years from entry into force to negotiate its services schedule. These negotiations (and on government procurement, which have concluded), due to be completed by 12 October 2008, are close to completion.³⁶

³¹ WTO, 2008, p. 24.

³² WTO, 2008a.

³³ WTO documents WT/REG/244/N/1 and S/C/N/466, 4 August 2008.

³⁴ WTO documents WT/REG229/N/1 and S/C/N/394, 21 May 2007.

³⁵ WTO document WT/REG229/1, 9 May 2008.

³⁶ WTO document WT/REG229/2, 7 July 2008.

12. Dispute Mediation

Objectives:

APEC economies will:

- a. encourage members to address disputes cooperatively at an early stage with a view to resolving their differences in a manner which will help avoid confrontation and escalation, without prejudice to rights and obligations under the WTO Agreement and other international agreements and without duplicating or detracting from WTO dispute settlement procedures;
- b. facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the Asia-Pacific region; and
- c. ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.

In its IAP 2008, Brunei Darussalam's position is that any trade disputes, whether with governments or private entities, should first be resolved as best as possible through consultations and negotiations, and that arbitration should only be used as a last resort.

The principles of the WTO dispute settlement procedures are adopted by Brunei Darussalam in negotiations on dispute settlement mechanisms in their free trade agreements. At the regional level, Brunei Darussalam is a member of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism, 2004, and the Agreement among the Government of Brunei Darussalam the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion and Protection of Investment, 1987. The former regulates settlement of disputes on economic agreements between ASEAN Members and the latter provides for the promotion and protection of investments, which includes settlement of related disputes.

Further, Brunei Darussalam is a member of the ICSID Convention on the Settlement of Disputes between States and Nationals of Other States when it ratified to the Convention on 16th September 2002. The Ministry of Finance is currently working closely with the Attorney General's Chambers in preparing implementing legislation for the ICSID Convention.

Brunei Darussalam has not been involved in any trade dispute. It acknowledges that the absence of disputes on trade and investment means that settlement mechanisms provided under the international and domestic laws (i.e., WTO in the international realm and the Arbitration Act, Chapter 173 in the national sphere), are yet to be applied and tested.

13. Mobility of Business People

Objectives:

APEC Economies will:

- a. enhance the mobility of business people who are engaged in the conduct of trade and investment activities in the Asia-Pacific region; and
- b. enhance the use of information and communication technology (ICT) to facilitate the movement of people across borders, taking into account the Leader's Statement on Counter Terrorism.

Brunei Darussalam is one of the 17 APEC economies participating in the APEC Business Travel Card (ABTC) for business visitors. It has implemented this arrangement since August 2003. ABTC holders entering Brunei Darussalam receive a multiple entry visa and a pass valid for three months. Brunei International Airport at Bandar Seri Begawan has an exclusive lane for ABTC holders.

Regarding employment of foreigners in Brunei Darussalam, all nationalities, except Malaysians and Singaporeans, must obtain an Employment Visa. If granted, the Department of Immigration and National Registration (DINR) issues an Employment Pass. The Employment Pass can be extended for up to 2 or 3 years for each extension. Foreigners are expected to return to their countries of origin before resuming new employment contracts in Brunei Darussalam. Applications to extend Employment Passes must be from the domestic sponsor/employer. Family members (spouse and children) are issued with Dependent Passes to accompany holders of Employment Passes.

Should the Employment Visa/Pass be rejected, the local employer applicant may appeal to the Department of Immigration and National Registration. However, the Department of Immigration and National Registration may withhold the reasons for rejecting any Visa/Pass application.

Although not necessarily related to business, some transparency aspects might hinder further mobility for visitors to the country. Moreover, they can undermine the intention of transforming Brunei Darussalam into a major tourist destination stated both in the National Development Plan 2007-2012 and in the long-term development plan (Wawasan 2035).³⁷

The Department of Immigration and National Registration offers visa waivers for nationals of 52 countries -- mostly countries belonging to ASEAN and the European Union, as well as the United States, Japan and Oman, among others. They can stay in Brunei Darussalam between 14 and 30 days. Visas upon arrival are extended to visitors from Australia, Qatar, Bahrain and Kuwait.

³⁷ Council for the Long-Term Development Plan (2007), p. 97.

For citizens of countries not subject to waivers, visa application can be a slow and centralized process. For instance, the web page of the Brunei Darussalam Embassy in the United States stresses that granting visas can take from seven days to one month, if the documents have to be sent to Bandar Seri Begawan. However, the specific nationality criteria for deciding to send the application to Brunei Darussalam are not explicitly stated. In such cases, the waiting time for the visa remains unclear. This fact may affect the process of planning a trip to Brunei Darussalam.

The visa application form is not available on the web of all Brunei Darussalam overseas missions. It is currently available online at the website of the Immigration Department in Malay Language; soon it will be available in English. However, prospective applicants would usually browse the web pages of Brunei Darussalam's embassies and consulates rather than check the site of the Department of Immigration and National Registration. In such circumstances, planning a tourist or business trip can become quite a thorny process for some APEC citizens.

In order to overcome such problems, Brunei Darussalam plans to establish new systems for issuing visas, such as application on-line, that Brunei Darussalam expects to meet the international standard of issuing visas within 14 days.

14. Transparency

Objectives:

Transparency is a General Principle in the Osaka Action Agenda. To build on this, APEC Leaders agreed in the 2001 Shanghai Accord to develop transparency standards and report progress in the Individual Action Plan. Since 2002, Leaders agreed in the Leaders' Statement to Implement APEC Transparency Standards to General Transparency Standards, including on monetary, financial and fiscal policies and dissemination of macroeconomic policy data, and to area-Specific Transparency Standards on tariffs, non-tariff measures, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, deregulation/regulatory review, mobility of business people and government procurement. Leaders agreed to review the Transparency Standards periodically and, where appropriate, review, revise and expand them further.

In Brunei Darussalam the Coordination of Transparency policies is under the Office of the Prime Minister.

Although some ministries' web pages have links to transparency issues, Brunei Darussalam has no centralized web page for all ministries. Some efforts, though, have been made in this direction. For instance, the Ministry of Finance is responsible for advertising government procurement both on the internet and the main domestic newspapers. Advertisements for government recruits are also published in local newspapers.

A key source to public sector information is the *Government Gazette*. It is published in Malay and English, and has three editions. The first edition (part II) is published between 24 and 30 times per year; it includes subsidiary legislation, amendments to Acts, top-level appointments, and new statutes enacted under Emergency Order. The other two editions comprise part IV of the *Gazette*. The first of these sections is published twice-monthly and covers general notifications; the other is issued monthly and has to do with trade marks. The *Government Gazette* is only available in hard-copy. It may be purchased one-off or by yearly subscription. The *Gazette* is sent by air mail to Singapore and Malaysia; to other countries it is sent via 2nd class mail, although air mail is available at an extra fee.

Notwithstanding these achievements, significant potential seems to exist for improving transparency policies in Brunei Darussalam. For instance, publishing the *Government Gazette* on the internet would make access easier for foreign governments and potential investors.

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Tables

Table 1
Restricted licensed imports, 2008

Product	Reason for restriction	Authorizing agency
Eggs for hatching purposes and fresh eggs unless clearly stamped in non-erasable ink or similar substance with the word "IMPORTED" on the shell of each egg	To prevent the introduction of animal diseases	Agriculture Department, Ministry of Industry and Primary Resources
Any living plant or planting material, including from Sabah and Sarawak	To prevent the introduction of exotic plant diseases	Agriculture Department, Ministry of Industry and Primary Resources
Live cattle, poultry, and birds	To prevent the introduction of animal diseases	Agriculture Department, Ministry of Industry and Primary Resources
Pin tables, fruit machines, slot machines and any other machines of like nature whether involving an element of chance or not	To prevent illegal gambling activities	Ministry of Home Affairs
Poisons and deleterious drugs	Health	Narcotics Control Bureau
Rice paddy and the products thereof, and separated, skimmed or whole milk	Security of supply and price stability	Department of Information Technology and State Stores, Ministry of Finance
Paddy grains (unmilled)/paddy seeds	To prevent the introduction of exotic plant pests and diseases	Department of Agriculture, Ministry of Industry and Primary Resources
Persian glue	Health	Ministry of Health
Poh Ka, Poh Kah or Poh Kau; Liow Ko, Ch'ow Ko	To prevent illegal gambling activities	Ministry of Home Affairs
Sugar, salt	Security of supply and price stability	Department of Information Technology and State Stores, Ministry of Finance
Converted timber	Security of supply and price stability	Forestry Department, Ministry of Industry and Primary Resources
Used and reconditioned vehicles (5 years or older) including motorcars, motorcycles, lorries, omnibuses, tractors and trailers	Safety	Royal Customs and Excise Department, Ministry of Finance
Any radio-active materials	Safety	Ministry of Health
Rhinoceros horn and all other parts of or products derived from the carcass of a rhinoceros	CITES	Agriculture Department, Ministry of Industry and Primary Resources
Beef, including the carcass of the animal or any part thereof, the meat (whether frozen, chilled or fresh), bones, hide, skin, hooves, horns, offal or any other part of the animal or any portion thereof, unless it has been slaughtered in an abattoir approved in writing by the Minister of Religious Affairs	Religious	Ministry of Religious Affairs; Ministry of Health; and Department of Agriculture, Ministry of Industry and Primary Resources
Turtle eggs	Health	Agriculture Department, Ministry of Industry and Primary Resources
	To regulate and to ensure adequate protection of marine resources	Fisheries Department, Ministry of Industry and Primary Resources
	CITES	Department of Agriculture, Ministry of Industry and Primary Resources
Broadcasting equipment	Security	Ministry of Communications

Table 1 (cont'd)

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Product	Reason for restriction	Authorizing agency
Cigarettes unless with Ministry of Health approved health warning written on the packages	Health	Ministry of Health
Poultry, including the carcass of the bird or any part thereof, the meat (whether frozen, chilled or fresh), bones, skin, offal or any other part of the animal or any portion thereof, unless it has been slaughtered in an abattoir approved by the Minister of Religious Affairs	Religious	Ministry of Religious Affairs; Ministry of Health; and Department of Agriculture, Ministry of Industry and Primary Resources
Alcoholic beverages	Religious ban	Royal Customs and Excise Department, Ministry of Finance

Source: Authorities of Brunei Darussalam (adapted from WTO, 2008).

Table 2
Imports subject to licensing, 2008

Product	Reason for restriction	Licensing authority
Live plants, live cattle, seeds for germinating, birds and any other animals	To prevent introduction of exotic plant pests and diseases, and animal diseases	Department of Agriculture, Ministry of Industry and Primary Resources
Commercial shipments of fruit and vegetables	For health reasons	Department of Agriculture, Ministry of Industry and Primary Resources
Any live insects, invertebrate animals in any stage of their life cycles	To prevent introduction of exotic pests and animal diseases	Department of Agriculture, Ministry of Industry and Primary Resources
Meat, meat products and edible offal (including poultry meat and its products)	For health and religious reasons	Department of Agriculture, Ministry of Industry and Primary Resources; Ministry of Religious Affairs; Ministry of Health
Fish and any other marine products except those listed under CITES	To regulate and to ensure adequate protection of marine resources	Department of Fisheries, Ministry of Industry and Primary Resources
Prawn, crab, cuttle-fish and any kind of crustaceans and molluscs	To regulate and to ensure adequate protection of marine resources	Department of Fisheries, Ministry of Industry and Primary Resources
Piranha and Arawana	To regulate and to ensure adequate protection of marine resources	Department of Fisheries, Ministry of Industry and Primary Resources
Fishing equipment	To regulate and to ensure adequate protection of marine resources	Department of Fisheries, Ministry of Industry and Primary Resources
Timber, classes 1A, 1B, 1C, Nibong, Rotans, converted timber	For security of supplies and price stability	Department of Forestry, Ministry of Industry and Primary Resources
Deleterious drugs	Health	Medical Department, Ministry of Health
Any kind of chemical substances	Health	Medical Department, Ministry of Health
Agricultural chemicals	Health	Medical Department, Ministry of Health
Poisons	Health	Medical Department, Ministry of Health
Antiseras and vaccines	Health	Medical Department, Ministry of Health
Printed media	Security	Royal Brunei Police Force; Ministry of Religious Affairs; Ministry of Home Affairs
Used or reconditioned vehicles over five years old, including motorcars, motorcycles, motor lorries, omnibuses, tractors and trailers	Security	Department of Land Transport, Ministry of Communications; Royal Customs and Excise Department, Ministry of Finance

Table 2 (cont'd)

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Product	Reason for restriction	Licensing authority
Radio communication apparatus and dealers, such as TVRO ASTRO (free on air), radar apparatus, remote control such as for motor car, racing car and boat; wireless telephone, walkie talkie, pagers, mobile radio, transmitters, amateur and hand transceiver; radio transmitters and transmitter/receiver; aeronautical communications apparatus for use in aircraft and aviation; maritime radio communication apparatus for use in coastal and shipping communication; telecommunications fixed-line sets, such as domestic telephone sets	Security	Ministry of Communications
Arms, explosives, fireworks/crackers	Security	Royal Brunei Police Force
Antiques and articles of a historical nature made or discovered in Brunei Darussalam, and wild life	To protect national heritage	Brunei Museums

Source: Authorities of Brunei Darussalam (adapted from WTO,2008).

Table 3
Non-tariff measures, June 2007

HS	HS description	NTM type	NTM type (ASEC)	NTM description
	All types of drugs and poison	Import Licensing	6100: Non-automatic licensing	Poison Act 1956 Chapter 114
	Woven labels, badges etc, not embroidered, in the piece, in strips or cut to shape or size	Import Permit	6100: Non-automatic licensing	Undesirable Publication Act
	Orders, insignias, medals, badges and decoration instituted by statues of the Sultan	Prohibited Import	6300: Prohibition	Undesirable Publication Act
	Standards, coats of arms and official seals of the Sultan and Her Majesty the Raja Isteri; the State seal	Prohibited Import	6300: Prohibition	
	Fabrics of tissues consisting of any fibre whatsoever and of any other article whatsoever which fibre or tissue or other articles bear imprint of any currency or bank note or coins which are or have not at any time been issued or current, and any other country	Prohibition (6300)	6300: Prohibition	Prohibited imports
		Quantity Control Measure- Prohibition (6300)	6300: Prohibition	Articles bearing the imprint or reproduction of any currency, bank notes or coins are prohibited
		Quantity Control Measure- Prohibition (6300)	6300: Prohibition	Dangerous drugs: Opium, Heroin, Morphine, Psychotropic substances, mescaline, barbiturates, amobarbital are prohibited
	Poh Kah or Poh Kau; Liow ko, Ch'ow ko	Quotas for sensitive product categories (6270)	6270: Quota for sensitive products	Restricted imports
	Any rooting compost or other growing media	Import Permit	6100: Non-automatic licensing	Importation prohibited except under and in accordance with the conditions stipulated in the plant Importation Permit (Schedule 2) obtained from Department of Agriculture. Any non-conforming import may be destroyed, returned to sender, or held for treatment if appropriate.

Table 3 (cont'd)

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HS	HS Description	NTM type	NTM type (ASEC)	NTM description
	Any living plant pathogens	Import Permit	6100: Non-automatic licensing	Importation prohibited except under and in accordance with the conditions stipulated in the plant Importation Permit (Schedule 2) obtained from Department of Agriculture. Any non-conforming import may be destroyed, returned to sender, or held for treatment if appropriate.
	Any Living Insects, invertebrate animals in any stage of their life Cycle	Import Permit	6100: Non-automatic licensing	Importation prohibited except under and in accordance with the conditions stipulated in the plant Importation Permit (Schedule 2) obtained from Department of Agriculture. Any non-conforming import may be destroyed, returned to sender, or held for treatment if appropriate.
0106	Live Animals	Technical Measures- Technical Regulations (8100)	8100: Technical regulation	Animal Import Permit issued in strict adherence to the requirements in the Quarantine and Prevention of Diseases (Animal) Regulations Enactment (Cap. 47) and extra ones set by Veterinary Officer which may from time to time change according to disease status and subject to any declaration or proclamation, or any International agreement or memorandum of understanding pertaining to animal imports and exports and their products. Permit valid for one month, and on consignment basis except for day old chicks and eggs.
0103	Live pigs	Prohibition on the basis of religious	6300: Prohibition	Prohibited imports of pigs from any country and accredited by the Ministry of Religious Affairs except for swine
	Meat & Edible Meat Offal	Technical Measures- Technical Regulations (8100)	8100: Technical regulation	In conformity with the Emergency (Halal Meat) Order, 1988, "halal" imported meat must originate from abattoirs and processing plants approved by Brunei authorities. Imports must comply with veterinary requirements of Agricultural Department. Every consignment shall be accompanied by a Veterinary Health Certificate issued by Authorized Veterinarian of exporting country, obtained within 14 of dispatch.
	Fish and any other marine products except those listed under CITES	Non-automatic licensing (6100)	6100: Non-automatic licensing	Import License Issued by Fisheries Department
	Prawns, Crab, Cuttlefish and any kind of Crustaceans and Molluscs	Non-automatic licensing (6100)	6100: Non-automatic licensing	Import License Issued by Fisheries Department
	Piranha and Arawana	Non-automatic licensing (6100)	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0301	Fish fry	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0301	Marine and fresh water fish for aquaria	Import Licensing & Health Certificate	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0302	Marine and fresh water fish, not for aquaria, fresh or chilled	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0303	Marine and fresh water fish, frozen (excluding fillet)	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0306	Shrimps, prawns, crabs and other, frozen	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0306	Rock lobsters, crabs, other sea crawfish and other, fresh	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0306	Lobsters, shrimps and prawns, fresh	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department

Table 3 (cont'd)

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HS	HS description	NTM type	NTM type (ASEC)	NTM description
0307	Oysters and mussels	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0307	Cuttlefish, live, fresh or chilled or other	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0307	Cockles	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0307	Abalone, jellyfish and other molluscs	Import Licensing	6100: Non-automatic licensing	Import License Issued by Fisheries Department
0307	Eggs for hatching	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Subject to Quarantine And Prevention of Diseases (Animal) Regulations Enactment (Cap. 47) and any extra requirements set by Veterinary Officer. Every consignment to be accompanied by Veterinary Health Certificate issued by authorized Veterinarians of exporting country, obtained within 14 days of dispatch.
0307	Bird's eggs, in shell, fresh, preserved or cooked	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Subject to Quarantine And Prevention of Diseases (Animal) Regulations Enactment (Cap. 47) and any extra requirements set by Veterinary Officer. Every consignment to be accompanied by Veterinary Health Certificate issued by authorized Veterinarians of exporting country, obtained within 14 days of dispatch.
0407	Hen and duck eggs, fresh, not for hatching	Import Permit	6100: Non-automatic licensing	Imports must comply with the Veterinary Requirements of the Department of Agriculture. Every consignment to be accompanied by a Veterinary Health Certificate issued by authorized Veterinarian of exporting country, obtained within 14 days of dispatch.
0408	Other birds' eggs, fresh, not for hatching	Import Permit	6100: Non-automatic licensing	Imports must comply with the Veterinary Requirements of the Department of Agriculture. Every consignment to be accompanied by a Veterinary Health Certificate issued by authorized Veterinarian of exporting country, obtained within 14 days of dispatch.
	Any living plant or planting material (except from Sarawak and Sabah)	Quotas for sensitive product categories (6270)	6200: Quota	Imports of plants and plant materials (w/o any soil attached) need phytosanitary certificates Agriculture Department.
	Living plants, live trees	Technical Measures and Technical Regulations (8100)	8000: Technical measures	Imports of plants and plant materials (w/o any soil attached) need phytosanitary certificates Agriculture Department.
	Consignment of plant(s)	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Subject to prohibitions and restrictions defined by Agricultural Pests and Noxious Pest (Import and Export Rules). Imports to be accompanied by a Phytosanitary Certificate signed by or on behalf of an authorized official in the country of origin in which the plant(s) is (were) grown., within 14-days from dispatch.
	Plants	Import Permit	6100: Non-automatic licensing	The Plant Import Permit issued in strict adherence to the Agricultural Pests and Noxious Pests (Import and Export) Rules, or any International agreements or memorandum of understanding pertaining to import/export of plants and their pests. Permit is valid for 6 months for one consignment. Permit not normally issued to import vegetative propagating material of a species that can equally well be obtained from seeds.
	Plants	Import Permit	6100: Non-automatic licensing	

Table 3 (cont'd)

2009 APEC IAP Peer Review Study Report: Brunei Darussalam

HS	HS description	NTM type	NTM type (ASEC)	NTM description
	Plants or part of any plant	Import Permit	6100: Non-automatic licensing	Imported soil, including attached to roots, is banned unless excepted in Schedule 1 (from Limbang); it may be imported by the Director of Agricultural for research purposes. Imports must be in accordance with the plant Importation Permit (Schedule 2) obtained from Department of Agriculture. Any non-conforming import may be destroyed, returned to sender, or held for treatment if appropriate.
0601	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower, chicory plants and roots other than roots of heading No. 12.12.	Technical Measures and Technical Regulations (8100)	8000: Technical measures	Agricultural Pests and Noxious Plants Act 1962 Section 24(1) (F)
0602	Other live plants, (including their roots) cuttings and slips; mushroom spawn.	Technical Measures and Technical Regulations (8100)	8000: Technical measures	Agricultural Pests and Noxious Plants Act 1962 Section 24(1) (F)
0601	Bulbs, tubers, tuberous roots, crowns and rhizomes, dormant ; bulbs, tubers, tuberous roots, lorns, crowns and rhizomes, in growth or in flower; chicory plants and roots	Import Permit & Phytosanitary Certificate	6100: Non-automatic licensing	Agricultural Pests and Noxious Plants Act 1962 Section 24(1) (F)
0602	Budded and seedling rubber stumps, rubber budwood	Import Permit & Phytosanitary Certificate	6100: Non-automatic licensing	Agricultural Pests and Noxious Plants Act 1962 Section 24(1) (F)
	Edible Vegetables, Commercial shipment of fruits and vegetables, edible fruit & nuts, coffee, tea and spices, cereals	Technical Measures- Technical Regulations (8100)	8000: Technical measures	Subject to prohibitions and restrictions defined by Agricultural Pests and Noxious Pest (Import and Export Rules). Imports to be accompanied by a Phytosanitary Certificate signed by or on behalf of an authorized official in the country of origin in which the plant(s) is (were) grown, within 14-days from dispatch.
1006	Rice.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Import permit subject to obtaining approval from Information Technology and State Store Department; subject to price control.
1006	Rice paddy and the Products thereof	Quotas for sensitive product categories (6270)	6200: Quota	Restricted imports
	Malt and wheat gluten, seeds, other vegetable products	Technical Measures- Technical Regulations (8100)	8000: Technical measures	Subject to prohibitions and restrictions defined by Agricultural Pests and Noxious Pest (Import and Export Rules). Imports to be accompanied by a Phytosanitary Certificate signed by or on behalf of an authorized official in the country of origin in which the plant(s) is (were) grown, within 14-days from dispatch.
	Seeds for Germinating	Non-automatic licensing (6100)	6100: Non-automatic licensing	Subject to prohibitions and restrictions defined by Agricultural Pests and Noxious Pest (Import and Export Rules). Imports to be accompanied by a Phytosanitary Certificate signed by or on behalf of an authorized official in the country of origin in which the plant(s) is (were) grown, within 14-days from dispatch.
1302	Opium and Chandu, Java Sparrows	Total Prohibition (6310)	6300: Prohibition	Prohibited imports
	Fats and oils	Technical Measures- Technical Regulations (8100)	8100: Technical regulation	Importation on inedible tallow need a sterilization certificate

Table 3 (cont'd)

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HS	HS Description	NTM type	NTM type (ASEC)	NTM description
	Sugar	Non-automatic licensing (6100)	6100: Non-automatic licensing	License/Permits Issued by the State's Store Departments
	Sugar	Quotas for sensitive product categories (6270)	6200: Quota	Restricted imports
1701	Cane or beet sugar and chemically pure sucrose, in solid form.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit subject to approval from Information Technology and State Store Department.
	Spirit & Liquors	Prohibition (6300)	6300: Prohibition	Prohibited imports
	Alcoholic beverages	Quotas for sensitive product categories (6270)	6270: Quota for sensitive products	Restricted imports
2201	Natural Mineral Water	Non-automatic licensing (6100)	6100: Non-automatic licensing	License/permits from Brunei Industrial Development Authority (Bina)
	Cigarettes	Import Permit	6100: Non-automatic licensing	Restricted import unless health warning written on packages approved by the Ministry of Health. Subject to price control.
2501	Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solution or containing added anti-caking or free-flowing agents; sea water.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit subject to approval from Information Technology and State Store Department. Subject to price control.
2501	Salt	Quotas for sensitive product categories (6270)	6200: Quota	Permit subject to approval from Information Technology and State Store Department. Subject to price control.
2612	Radioactive materials	Prohibited	6300: Prohibition	
	All kinds of chemical substances including agricultural chemicals	Import Licensing	6100: Non-automatic licensing	Poison Act 1956 Chapter 114
	Any kind of chemical substances, agricultural chemical, poisons, delirious drugs	Automatic license (5100)	5100: Automatic license	Automatic License/Permits Issued by Medical Department
2844	Any radio-active materials	Quotas for sensitive product categories (6270)	6270: Quota for sensitive products	Restricted imports
	Cough mixture containing codeine	Prohibition (6300)	6300: Prohibition	Prohibited imports
	Pharmaceutical Products	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Imports subject to company and product registration, labeling, advertising controls, inspection, and quarantine by the Ministry of Health based on public health and life protection.
	Poisons and Deterious Drugs	Quotas for sensitive product categories (6270)	6270: Quota for sensitive products	Restricted imports

Table 3 (cont'd)

2009 APEC IAP Peer Review Study Report: Brunei Darussalam

HS	HS Description	NTM type	NTM type (ASEC)	NTM description
	Pharmaceutical Products	Technical Measures-Technical Regulations (8100)	8000: Technical measures	Imports subject to company and product registration, labeling, advertising controls, inspection, and quarantine by the Ministry of Health based on public health and life protection.
	Pharmaceutical Products	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Imports subject to company and product registration, labeling, advertising controls, inspection, and quarantine by the Ministry of Health based on public health and life protection.
	Any kind of Chemical substances, agricultural chemical, poisons	Automatic license (5100)	5100: Automatic license	Imports subject to company and product registration, labeling, advertising controls, inspection, and quarantine by the Ministry of Health based on public health and life protection.
3002	Antisera and other blood fractions and vaccines for veterinary medicine	Import Licensing	6100: Non-automatic licensing	Poison Act 1956 Chapter 114
3002	Vaccines of Taiwan origin	Prohibition (6300)	6300: Prohibition	Prohibited imports
	Fertilizers, cosmetics, soaps, waxes and pastes, tanning, dyeing, extracts and inks	Automatic license (5100)	5100: Automatic license	Automatic license/permit from Medical Department for any kind of chemical substances, agricultural chemicals, poisons
3202	Antiseras and Vaccines	Automatic license (5100)	5100: Automatic license	Automatic license/permit from Medical Department
	Glues	Quotas for sensitive product categories (6270)	6200: Quota	Restricted imports on Persian glue, Poh Ka
	Glues	Automatic license (5100)	5100: Automatic license	Automatic license/permit from Medical Department for any kind of chemical substances, agricultural chemicals, poisons
3505	Dextrin's and other modified starches, glues	Import Licensing	6100: Non-automatic licensing	Dangerous Drug Act
3506	Products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1kg, adhesives based on rubber or plastics (including artificial resins), other prepared glues	Import Licensing	6100: Non-automatic licensing	Dangerous Drug Act
	Explosives, fireworks/fire crackers	Automatic license (5100)	5100: Automatic license	Automatic license/permits from Royal Brunei Police
	Explosives	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from Royal Brunei Police Force
3604	Fire crackers	Prohibition (6300)	6300: Prohibition	Prohibited imports
	Timber Class 1A, 1B, 1C, Nibong, Rotans, converted Timber	Automatic license (5100)	5100: Automatic license	Automatic license/permit from Forestry Department
	Wood	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Import Permit, which will be issued after obtaining approval of license or permit from Forestry Department, is required on imports of woods
	Converted timber	Quotas for sensitive product categories (6270)	6200: Quota	Permit, subject to approval from Forestry Department

Table 3 (cont'd)

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HS	HS Description	NTM type	NTM type (ASEC)	NTM description
	Books, Newspapers	Quantity Control Measure-Prohibition (6300)	6300: Prohibition	Indecent and obscene articles or prints prohibited
	Publication and printed matters	Controlled Imports	6100: Non-automatic licensing	Undesirable Publication Act
4302	Newspapers, journals and periodicals, whether or not illustrated or containing advertising material.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from Royal Brunei Police Force, the Ministry of Religious Affair, and the Ministry of Home Affairs
5608	Fishing Equipments	Non-automatic licensing (6100)	6100: Non-automatic licensing	License/permit from Fisheries Department
8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading No. 82.08, and blades therefore.	Quantity Control Measure-Prohibition (6300)	6300: Prohibition	Imports of knives prohibited
	Pin tables, fruit machines, Slot Machines and any other tables or machines of a like nature whether involving element of chance or not	Quotas for sensitive product categories (6270)	6200: Quota	Restricted imports (Gambling)
	Radio Communications apparatus and dealers – such as TVRO, ASTRO (free to air), Radar apparatus – remote Control such as Motor Car, Racing Car and Boat	Automatic license (5100)	5100: Automatic license	Automatic license from Telecoms Department.
	Wireless Telephone – Walkie Talkie, Pagers, mobile Radio Transmitter, Amateur and Hand Transceiver, radio transmitter and transmitter receiver	Automatic license (5100)	5100: Automatic license	Automatic license from Telecoms Department.
	Aeronautical Communications Apparatus for use in Aircraft and Aviation, telecommunications fixed line sets e.g. telephone sets	Automatic license (5100)	5100: Automatic license	Automatic license from Telecoms Department.
	Maritime Radio Communication Apparatus for use in Coastal and Shipping Communication,	Automatic license (5100)	5100: Automatic license	Automatic license from Telecoms Department.
8517	Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Approval Permit, which will be issued after obtaining approval of license or permit from Telecommunication Department, is required on imports of telephone equipment
8523	Tapes and discs for television image and sound recording;	Controlled Imports	6100: Non-automatic licensing	Undesirable Publication Act
8524	video tapes and video discs			
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video camera recorders.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from Telecommunications Department

Table 3 (cont'd)

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HS	HS Description	NTM type	NTM type (ASEC)	NTM description
8525	Transmitters and transmitter receivers	Import Licensing	6100: Non-automatic licensing	Permit, subject to approval from Telecommunications Department
8525	Broadcasting Equipment	Quotas for sensitive product categories (6270)	6200: Quota	Permit, subject to approval from Telecommunications Department
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from Telecommunications Department
8527	Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting, whether or not combined, with sound recording or reproducing apparatus or a clock.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from Telecommunications Department
8527	Radio telephonic or radio telegraphic receivers	Import Licensing	6100: Non-automatic licensing	Permit, subject to approval from Telecommunications Department
	Used or re-conditioned vehicles, including motorcars, motorcycles, minibuses, etc	Automatic license (5100)	5100: Automatic license	Automatic license/permits from Land Transport Department
8702	Motor vehicles for transporting ten or more persons, including driver.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
8702	Motor vehicles for transporting ten or more persons, including driver.	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Imported motor vehicles must be inspected by Transport Department
8702	Used motor buses with seating more than 8 persons	Application Permit (AP)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
8703	Motor cars and other vehicles principally for transporting persons (other than those of heading No. 87.02), including station wagons and racing cars.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
8703	Motor cars and other vehicles principally for transporting persons (other than those of heading No. 87.02), including station wagons and racing cars.	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Imported motor vehicles must be inspected by Transport Department
8703	Used motor vehicles for transporting persons	Application Permit (AP)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
8704	Motor vehicles for transporting goods.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
8704	Motor vehicles for the transport of goods.	Technical Measures-Technical Regulations (8100)	8100: Technical regulation	Imported motor vehicles must be inspected by Transport Department
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department

Table 3 (cont'd)

2009 APEC IAP Peer Review Study Report: Brunei Darussalam

HS	HS Description	NTM type	NTM type (ASEC)	NTM description
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.	Technical Measures- Technical Regulations (8100)	8100: Technical regulation	Imported motor vehicles must be inspected by Transport Department
8711	Used motor-cycles, with or without side-cars; used scooters	Application Permit (AP)	6100: Non-automatic licensing	
8712	Bicycles and other cycles (including delivery tricycles), not motorized.	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Land Transport or the Royal Customs and Excise Department
	Arms	Automatic license (5100)	5100: Automatic license	Automatic license/permit from Royal Brunei Police
	Arms and Ammunitions	Prohibition (6300)	6300: Prohibition	Prohibited imports
	Arms & Ammunition	Quantity Control Measure-Licensing (6100)	6100: Non-automatic licensing	Permit, subject to approval from the Royal Brunei Police Force
9507	Fishing Equipments	Non-automatic licensing (6100)	6100: Non-automatic licensing	License/permit from Fisheries Department
9504	Video games of a kind used with a television receiver	Quantity Control Measure-Prohibition (6300)	6300: Prohibition	Imports of video games prohibited
9608	Pens, pencils and other articles resembling syringes	Prohibition (6300)	6300: Prohibition	Prohibited imports
9706	Antiques and Articles of Historical made or discovered in Brunei Darussalam and wild life	Automatic license (5100)	5100: Automatic license	Automatic license/Permits from Brunei Museums

Source: ASEAN, 2007.

Table 4
Preferred industries, activities, and products for investment

Industry/activity	Government support and assistance
Agriculture	
Poultry farming	Assistance for infrastructure, technical and material inputs, training, marketing and location. Financial assistance for local farmers/producers available through: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Cultivation of vegetables, medicinal plants, herbs and spices, fruit, rice and other cereals and floriculture	
Production of planting material	
Livestock farming	
Cultivation of fodder crops or animal feed ingredients	
Fisheries	
Offshore/inshore fishing, aquaculture crustaceans and fish, and spawning, breeding or culturing of aquarium fish	Support and assistance is available for infrastructure facilities, technical assistance, training, marketing and location. Material inputs are provided for offshore and inshore fisheries for local producers. Financial assistance for local farmers/producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Forestry	

Industry/activity	Government support and assistance
Timber plantations, non-timber products, reforestation and afforestation, processing and treatment of wood products, non-timber products, furniture and fixtures and integrated timber complex	Assistance is provided for infrastructure facilities, technical support, material inputs, training and location. Marketing assistance is available only for non-timber products. Financial assistance for local farmers/producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Processed food	
Vegetables, tubers, roots, rice and other cereals, fruit, herbs and spices, medicinal plants and coffee	Assistance is provided for infrastructure facilities, technical inputs, marketing and location. Assistance is not provided for material inputs or for training for fish-meal. Training assistance is available for local producers. Auditing for pre-HACCP Certification. Financial assistance for local farmers/producers available in the form of:
Livestock, poultry, eggs	- government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Fodder crops or animal feed ingredients	- government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Fish and fishery products	- government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Manufactures	
Electrical and electronic machinery including electrical power machinery and switching gear; telecommunications equipment; domestic electrical equipment; and equipment for distributing electricity	Assistance for infrastructure facilities and for location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Printed matter	Assistance for infrastructure facilities and for location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Pigments, paints, varnishes and related material; chemical materials and products n.e.s.; fertilizers; soaps, cleansing and polishing preparations; and inorganic chemicals, oxides and halogen salts	Assistance for infrastructure facilities and for location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Medicinal and pharmaceutical products; essential oils, perfumes and flavouring materials	Assistance for infrastructure facilities, technical and material inputs, marketing and location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Ships and boats	Assistance for infrastructure facilities and location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Silica products	Assistance for infrastructure, material inputs, marketing and location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Ceramic products and pottery	Assistance for infrastructure, material inputs, marketing and location. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Metal products, containers for storage and transport, wire products (excluding electric wiring), and fencing grills; nails, screws, nuts, bolts, rivets and similar parts of iron, steel and copper; hand held tools or machines; sanitary, plumbing, heating and lighting fixtures and fittings	Assistance for infrastructure, marketing and location. Assistance for material inputs also provided for metal products, containers for storage and for sanitary, plumbing, heating and lighting fixtures and fittings. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
Non-metal products such as lime, cement and fabricated building materials; clay construction material and refractory construction material; and mineral manufacturing	Assistance for infrastructure, marketing and location. Material input assistance also available for clay construction material, refractory construction material and mineral manufacturing. Financial assistance for local producers available in the form of: - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order

Table 4 (cont'd)

Industry/activity	Government support and assistance
Apparel products; and textile products including synthetic and regenerated (artificial) fibres, floor coverings, materials of rubber and plastics, and plastic material, regenerated cellulose and artificial resins	Assistance for infrastructure, and location. Marketing assistance for apparel products, synthetic and regenerated fibres, and floor coverings also available. Financial assistance for local producers available in the form of: <ul style="list-style-type: none"> - government guaranteed loans available from selected local banks; - tax breaks under the Investment Incentives Order
<p>Miscellaneous</p> <p>Aircraft catering; aluminium wall tile; rolling mill plant; industrial chemicals; shipyard (repair and maintenance); tissue paper; canning, bottling and packaging; furniture; glass; plastics and synthetics; supporting services to water transport; slaughtering, preparing and preserving halal meat; related waste industry; manufacture of radio, television and communication equipment and apparatus; engineering or technical services including laboratory, consultancy and research development activities; computer based information and computer related services; development or production of industrial designs; services and activities related to the provision of leisure and recreation; publishing services; services related to the provision of education; medical services; services and activities related to agricultural technology; services and activities related to the provision of warehousing facilities; services related to the organization or management of exhibitions and conferences; financial services; business consultancy, management and professional services; venture capital fund activity; operation or management of any mass rapid transit system; services provided by auction house; and maintaining and operating a private museum</p>	Financial assistance for local producers available in the form of tax breaks under the Investment Incentives Order

Source: Reproduced from WTO, 2008, pp. 107-07.

Table 5
Negative list of manufacturing activities for investment

<p>Manufacturing activity</p> <p>Prohibited drugs</p> <p>Arms and ammunition</p> <p>Spirit and other alcoholic beverages</p> <p>Fireworks</p> <p>Tobacco and tobacco substitute products</p> <p>Polluting industries and industries affecting the environment</p> <p>List of existing manufacturing activities</p> <p>Retail</p>
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Source: APEC Secretariat [available at: <http://www.aseansec.org/8027.htm>].

Table 6
Tax exemptions, 2008

Scheme	Eligibility	Exemptions (incentives)	Authority
Corporate tax exemptions	Payable by companies resident in Brunei on income accruing in, derived from, or receivable in Brunei. Non-resident companies are taxed only on income arising in Brunei. Sole proprietorships and partnerships are not subject to tax.	<p>All expenses incurred in the production of taxable income are allowed to be deducted for tax purposes. This includes interest on borrowed money used in acquiring income; rent on land and buildings used in trade or business; costs of repair on premises, plant and machinery; bad debts and specific doubtful debts; employers' contributions to approved pension or provident funds.</p> <p>For petroleum and gas companies, royalties are deductible for tax purposes.</p> <p>Wear and tear allowances may also be claimed including for industrial buildings for which an initial allowance of 10% is given in the year of</p>	Ministry of Finance

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Scheme	Eligibility	Exemptions (incentives)	Authority
Pioneer Status	Any activity not being carried out in Brunei on a commercial scale suitable for the economic requirements or development of Brunei or at all; favourable prospects for further development of exports; development of the industry is expedient in the public interest. Expanded categories include: pioneer enterprise; expansion of established enterprises; pioneer service company; post pioneer company; export enterprise; export service company; international trading company; warehousing and servicing company.	<p>expenditure and an annual allowance of 2% of the qualifying expenditure on a straight line basis until the total expenditure is written off; an initial allowance of 20% of the cost of purchasing machinery and the plant is given in the year of expenditure with annual allowances calculated on the reducing value of the assets from 3% to 25%; balancing allowances in the year of depreciable assets; carry forward of capital allowances unused at the end of the tax relief period may be applied against post pioneer profits; losses arising from trade business, a profession or vocation in a base period may be offset against the statutory income of that period; carry forward of unabsorbed losses allowed for five years.</p> <p>Exemption from payment of corporate tax (27.5% in 2008 and 25.5% in 2009) for a basic period of 5 to 8 years depending on fixed capital expenditure for a pioneer enterprise:</p> <ul style="list-style-type: none"> - Up to 5 years for fixed capital expenditure of less than B\$500,000 to 2.5 million; - Tax relief up to 8 years for fixed capital expenditure of more than B\$2.5 million ; - Further extension of tax relief of up to 11 years for activities located in High Tech Park (and further extension of up to 20 years at the discretion of the Minister). <p>Exemption from customs duties on imported machinery, equipment, component parts, accessories or building structures.</p> <p>Exemption from duties on imported raw materials not available or produced in Brunei intended for the production of pioneer products.</p> <p>Carry forward losses and allowances</p>	PFS in the Ministry of Industry and Primary Resources
Expansion of enterprises	Companies already established in Brunei wishing to expand their production if this is deemed beneficial to Brunei and expedient in the public interest	<p>Exemption from payment of corporate tax of 30% for between three and five years depending on the level of new capital expenditure:</p> <ul style="list-style-type: none"> - Three years for new capital expenditure of up to B\$1 million, and - Five years for new capital expenditure of more than B\$1 million (with extension for a period not exceeding 20 years) 	PFS in the Ministry of Industry and Primary Resources
Approved foreign loan	For loans not less than B\$200,000 in value used to purchase production equipment and if the credit facilities are obtained through a foreign lending company	Exempt from a 20% withholding tax	PFS in the Ministry of Industry and Primary Resources
Pioneer service companies	When the Minister considers it expedient in the public interest Where a company is engaged in any qualifying activity	Exemption from income tax Carry forward losses and allowance	PFS in the Ministry of Industry and Primary Resources
Post pioneer companies	Any company that is: <ul style="list-style-type: none"> - a pioneer company on or after 1 May 1975 - a pioneer enterprise or pioneer service company - an export enterprise that had been a pioneer enterprise immediately before its tax relief period as export enterprise. 	Exemption from income tax; Deduction of losses; and Adjustment of capital allowances and losses	PFS in the Ministry of Industry and Primary Resources
Expanding service companies	Tax relief period for expanding service commencing on its expansion day; or immediately after the expiry of an existing tax relief period. Exemption period 11 years. The extension	Exemption from income tax	PFS in the Ministry of Industry and Primary Resources

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Scheme	Eligibility	Exemptions (incentives)	Authority
	period not exceeding 5 years at any one time and may be extended but not more than 20 years in total.		
Export of services	Qualifying services	Exemption from income tax Deduction of allowances and losses	PFS in the Ministry of Industry and Primary Resources
International Trade incentives	Where a company is engaged in: international trade in qualifying manufactured goods or domestic product and export sales are expected to exceed B\$3 million per annum; or entrepot trade in any qualifying commodities and export sales exceed or are expected to exceed B\$5 million per annum.	Exemption from income tax	PFS in the Ministry of Industry and Primary Resources
Investment allowance	Subject to the economic, technical and other merits of the project, an investment allowance may also be applied in respect of the fixed capital expenditure of any of the following: (i) manufacture or increased manufacture of any product; (ii) provision of specialized engineering or technical services; (iii) research and development; (iv) construction operation; (v) recycling of domestic industrial waste; (vi) any qualifying activity under pioneer services company; (vii) promotion of the tourist industry (other than a hotel).	Exemption from income tax	PFS in the Ministry of Industry and Primary Resources
Warehousing and servicing incentives	Any company intending to incur fixed capital expenditure of not less than B\$2 million for the establishment or improvement or warehousing facilities wholly or mainly for storage and distribution of manufacture goods to be sold and exported by the company, with the processing or the provision of related services; or for the purpose of providing technical or engineering services wholly or mainly to a person not resident in Brunei Darussalam.	Exemption from income tax.	PFS in the Ministry of Industry and Primary Resources
Investment in new technology companies	Any company incorporated in Brunei Darussalam desirous of using in Brunei Darussalam a new technology in relation to product, process, or service may make application provided: - the technology, would promote or enhance economic or technological development in Brunei Darussalam, - not less than 30% of the paid-up capital is beneficially owned by citizens or persons to whom a resident permit has been granted under regulations made under the Immigration Act (Chapter 17) throughout the whole of the qualifying period of the technology company.	Deduction allowable to eligible holding company	PFS in the Ministry of Industry and Primary Resources
Overseas investment and venture capital incentives	Any company incorporated in Brunei Darussalam desirous of developing or using in Brunei Darussalam a new technology in relation to a product, process, or service may make an application to the Minister to be approved as a venture company.	Deduction of losses allowable to eligible holding company.	PFS in the Ministry of Industry and Primary Resources

Source: Adapted from WTO, 2008.

Table 7
Declared pioneer industries and products

Pioneer industries	Pioneer products
Aircraft catering services*	Various types of food for airlines.
Cement finish mill*	Cement.
Pharmaceuticals*	Various types of medicines, vitamins, tablets and syrups.
Aluminum wall tiles	Aluminum wall tiles and other decorative tiles.
Rolling mill plant	Manufacturing/fabricating iron and steel, steel bars, angle iron, u-channels
Industrial chemicals*	Various types of chemicals for oil and other industries
Shipyards*	Ship repair and maintenance.
Tissue paper	Tissue paper and tissue napkins.
Textiles*	Various types of clothing.
Canning, bottling and packaging*	Various types of canned, bottled and packaged food.
Furniture	Wooden, rattan, knock-down furniture.
Glass	Sheet, industrial optical and photographic glassware, lighting, and decorative glassware, etc.
Ceramics and pottery	Tiles, sanitary ware, chinaware, stoneware, pottery, porcelain ware.
Wood base*	Plywood and wooden construction elements.
Plastics and synthetic	PVC tubing pipes, plastics, bottles, containers, various types of medical, surgical and household rubber products.
Fertilizers and pesticides	Various types of fertilizers and pesticides.
Toys	Mechanical, electronic, wooden, plastic and rubber toys
Gas	Various types of industrial gas
Sheet metal-forming*	Roofing, walling, fencing, roof trusses, frames, fitting and fixtures, ducting, containers for storage and transport, other related building materials.
Manufacture/renovation of electrical industrial machinery and apparatus*	Electric motors, generators and complete turbine-generators and complete turbine-generator and engine generator sets, transformers, switchgear and switchboard apparatus, rectifiers, other electrical transmission and distribution equipment, electrical industrial control devices such as motor starters and controllers, electro-magnetic clutches and brakes, electrical welding apparatus and other electrical industrial apparatus.
Supporting services to water transport*	Provision of services to all kinds of water transport, such as maintenance and operation of piers, docks and associated buildings and facilities, pilotage, maintenance and operation of light houses and other aids to navigation, loading and discharging of vessels, maintenance and operation of canals, salvaging of distressed vessels and cargoes, and ship leasing and rental
Slaughtering, preparing and preserving halal meat*	Abattoirs and halal meat packing plants; dressing and packing cattle, sheep, lambs, poultry and rabbits. This includes processing and packing activities such as curing, smoking, salting, pickling, packing in air-tight containers and quick-freezing, the manufacture of sausage casing, halal meat soups, halal meat puddings and pies and other edible halal animal fats
Related waste industry*	Environmental products and services, oily waste treatment and recycling, organic and inorganic hazardous waste material disposal, waste water treatment and disposal, environment laboratory services air pollution control and other related services
Manufacture of non-metallic mineral products*	The manufacture of miscellaneous non-metallic mineral products, such as concrete, gypsum and plaster products, including ready-mixed concrete, glass fibre insulation product, mineral wool, slate products, cut-stone products, abrasives, graphite products, silica and all other non metallic mineral products except asbestos
Manufacture of radio, television and communication equipment and apparatus*	Radio and television receiving sets, sound reproducing and recording equipment, including public address systems, gramophones, dictating machines and tape recorders, gramophone records and pre-recorded magnetic tapes; wire and wireless telephone and telegraph equipment; radio and television transmitting, signaling, and detection equipment and apparatus; radar equipment and installations; parts and supplies specially used for electronic apparatus classified in this group; semi-conductors and related sensitive semi-conductor devices; fixed and variable electronic capacitors and condensers; radiographic, fluoroscopic and other x-ray apparatus and tubes

* Pioneer certificates have been granted to companies.

Source: Ministry of Industry and Primary Resources, 2008.

Table 8
Summary of Brunei bilateral investment treaties in relation to the APEC non-binding investment principles

Principle no.	APEC non-binding investment principle	Brunei's bilateral investment treaties
1.	Transparency	Included in one of Brunei's BITs under negotiation, which contains a clause stating that Brunei will make publicly available anything pertaining to investment subject to non-disclosure of material that would impede law enforcement, prejudice legitimate commercial interests of investors or contravene laws protecting confidentiality and the public interest.
2.	Non-discrimination between source economies	Included under the Article National Treatment and Most-Favoured-Nation Treatment. Investment shall not be treated less favourable than accorded its own investors or those of any third State, nor less favourably than accorded to investors of any third State.
3.	National Treatment	Articles on Promotion and Protection of Investment, and on National

		Treatment and Most-Favoured-Nation Treatment cover national treatment (similar to above). Also, the Article on Promotion and Protection of Investment includes (i) fair and equitable treatment on investments and returns of investors of each Member in another Member and (ii) full protection and security of investments by investors of each Member in another Member.
4.	Investment Incentives	Included under the protocol to the agreement as an addition to the provisions under the Article on National Treatment and Most-Favoured-Nation Treatment, whereby (i) measures taken in the interests of public order and security, public health or morality shall not be deemed "treatment less favourable" and (ii) Members are not obliged to extend to investors resident in another member tax privileges, tax exemptions and tax reductions which according to its tax laws are granted only to resident investors.
5.	Performance Requirements	No provisions on this matter.
6.	Expropriation and Compensation	Included under the Articles on Nationalization or Expropriation, and on Compensation for Losses, which provide for (i) investments of investors of both parties shall not be expropriated, or subject to measures having equivalent effect, except for public purposes in accordance with the law, on a non-discriminatory basis and against fair and equitable compensation (investment's fair market value) and (ii) fair and adequate compensation covers damages or losses caused where nationals and companies of one Member suffer in another Member from forced requisitioning of property or destruction of property by its forces or authorities not from combat or was not required by the necessity of the situation.
7.	Repatriation and Convertibility	Included under the Article Free Transfer whereby both parties permit funds (including capital, net operating profits and loan repayments) to be freely transferred, without unreasonable delay and on a non-discriminatory basis.
8.	Settlement of Disputes	Included in the Articles on Settlement of Disputes Between an Investor and a Contracting Party, and on Settlement of Disputes Between the Contracting Parties. Disputes shall be settled by negotiation, and if unsettled within 6 months may, if both parties agreed, be submitted either for resolution or to international conciliation under the Conciliation Rules of the United Nations Commission on International Trade Law.
9.	Entry and Sojourn of Personnel	Included under the Article on Entry and Sojourn of Personnel, whereby temporary entry and sojourn of key personnel as well as their immediate family members are granted, subject to relevant laws and regulations.
10.	Avoidance of Double Taxation	Subject to separate Double Taxation Agreements (DTA). Countries having a BIT with Brunei may not have a DTA.
11.	Investor Behaviour	No provision on this matter.
12.	Removal of Barriers to Capital Exports	No provision on this matter.

Source: Authorities of Brunei Darussalam.

Table 9
Positive list of manufacturing activities, including high-technology industries, covered by "bold" investment measures

Broad group	Description of activity
Food products, creameries and beverages	Manufacture of sugar confectionery and other food preparations; chocolate and other food preparations containing cocoa or chocolate; and dried fruit (including artificially dehydrated).
Silica products	Processing and manufacture of silica products.
Metal products	Manufacture of metal containers for storage and transport; nails, screws, nuts, bolts, rivets and similar parts of iron/steel/copper; hand tools or machines; and sanitary, plumbing, heating, lighting fixtures and fittings.
Textile mill products	Manufacture of synthetic and re-generated (artificial) fibres; floor coverings, tapestries, etc; materials of rubber; and plastic materials, re-generated cellulose and artificial resins.
Leather products	Manufacture of footwear and other leather products.
Electrical and electronic machinery/equipment/apparatus	Manufacture of electrical apparatus for medical purposes and radiological apparatus; telecommunications apparatus; and domestic electrical equipment.
Chemical products	Manufacture of pigments, paints, varnishes and related products; chemical materials and other chemical products; fertilizers; essential oils, perfumes and flavour materials; soaps, cleansing and polishing compounds; and inorganic chemicals, element oxides and halogen salts.
Other	Manufacture of jewellery, goldsmith and silversmith wares; and travel goods, handbags and similar articles.

Table 9 (cont'd)

Broad group	Description of activity
High technology industries	Manufacture of ISIC 3211 (aircraft and aircraft parts); 335 (Communications and other electronic equipment); 336 (office, store and business machines); 3379 (other electrical industrial equipment); 3911 (indicating, recording and controlling instruments); 3912 (other instruments and related products); 3192 (construction and mining machinery and materials handling equipment); 3194 (turbine and mechanical power transmission equipment); 3199 (other machinery and equipment); 3999 (other manufactured products); 37 grp (chemical and chemical products); and 30 grp (other manufacturing).

Source: ASEAN Secretariat [available at: <http://www.aseansec.org/6497.htm>].

Table 10
Temporary exclusion list (TEL) for the opening of industries and related services for the manufacturing, agriculture, fishery, forestry, mining and quarrying sectors

Sector	ISIC	Industry	Restriction/requirement
A. Industries closed to both national and foreign investors			
Manufacturing, agriculture, fishery, forestry, mining and quarrying		Nil	Nil
B. Industries closed only to foreign investors			
Manufacturing, agriculture, fishery, forestry, mining and quarrying		Nil	Nil
C. Industries open with restriction to foreign investors			
Agriculture	0111	Growing of cereals and other crops n.e.c.	30% local participation for access to Government facilities and sales to domestic market
	0112	Growing of vegetables, horticulture specialties and nursery products	30% local participation for access to Government facilities and sales to domestic market
	0113	Growing of fruits, nuts, beverage and spice crops	30% local participation for access to Government facilities and sales to domestic market
	0150	Hunting, trapping, and game propagation, including related service activities	30% local participation for access to Government facilities and sales to domestic market
	0121	Farming of cattle, sheep, goats, horses, asses, mules and hinnies, dairy farming	30% local participation for access to Government facilities and sales to domestic market
	0130	Growing of crops combined with animal farming (mixed farming)	30% local participation for access to Government facilities and sales to domestic market
	0140	Agriculture and animal husbandry service activities, except veterinary services	30% local participation for access to Government facilities and sales to domestic market
	Forestry	0200	Forest plantations and nurseries and downstream processing
D. Related services open with restriction to foreign investors			
Services incidental to agriculture	0140/	Agricultural and animal husbandry services on a fee or contract basis	30% local participation for access to Government facilities and sales to domestic market
	88110/		
	88120	Services rendered on a fee or contract basis for the following:	30% local participation for access to Government facilities and sales to domestic market
		- renting of agricultural machinery & equipment	
	7121/		
	88110	- veterinary services	
	8520/		
	88120	- agricultural research & experimental development	
	7310/		
	88110	- agricultural market research	
7413/			
88110			
Services incidental to forestry	0200/	Forest plantations and nurseries, and forest-based industrial processing	30% local participation for access to Government facilities and sales to domestic market
	88140		

Source: ASEAN Secretariat [available at: <http://www.aseansec.org/18657.htm>].

Table 11
Sensitive list (SL) for the opening of industries for services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying sectors

Sector	ISIC	Industry	Restriction/requirement
A. For opening of industries for services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying sectors			
I. Industries closed to both national and foreign investors			
Manufacturing	1810	Garments of category 338, 339,638 and 639 for the US market.	No more approval given.
II. Industries closed only to foreign investors			
Manufacturing	1554	Drinking water from tap or other local sources.	Subject to control.
	2694	Cement.	Subject to control.
III. Industries open with restrictions to foreign investors			
Manufacturing		To utilize local resources, domestic market access and government facilities or the manufacture of food-related products, unless for export when 100% foreign equity is allowed, except for the manufacture of food-related products and the use of local resources.	30% local participation required.
Agriculture	0122	Other animal farming; production of animal products n.e.c.	30% local participation required to government facilities and to sell domestically.
Fisheries	0500	Offshore capture fisheries (purse seining and long lining) and Aquaculture.	30% local participation required.
Mining and quarrying	1110	Extraction of crude oil and natural gas.	Foreign investment allowed but cannot be certain of 100% ownership. Government may acquire participation upon declaration of the field's commerciality.
Mining and quarrying	1110	Silica mining.	30% local participation required to government facilities and to sell domestically.
Mining and quarrying	1110	Extraction of ground water.	30% local participation required to government facilities and to sell domestically.
Mining and quarrying	1410	Quarrying of stone.	30% local participation required to government facilities and to sell domestically.
IV. Service-related industries open with restriction to foreign investors			
Incidental to manufacturing	88411	Food-related product manufacturing services.	To utilize local resources, domestic market access and government facilities there must be at least 30% local participation.
	2310/88450	Manufacture of coke oven products.	Restriction on 100% foreign company participation.
	2330/88450	Manufacture of refined petroleum products.	Foreign participation considered on a case-by-case basis.
	2411/88460	Manufacture of basic chemicals (e.g. basic organic chemicals).	Foreign participation considered on a case-by-case basis.
	2412/88460	Manufacture of fertilizers and nitrogenous compounds (urea).	Foreign participation considered on a case-by-case basis.
	2413/88460	Manufacture of plastics in primary forms and synthetic rubber (e.g. ethylene polymers, synthetic rubber derived from oils, etc).	Foreign participation considered on a case-by-case basis.
Incidental to fisheries	0500/88200	Offshore capture fisheries (purse seining and long lining) and aquaculture.	30% local participation required.
Incidental to mining and quarrying	88300	Sectors rendered on a fee or contract basis at petroleum fields e.g. drilling, derrick building and dismantling, petroleum well casings, cementing.	Restriction on 100% foreign company participation.
	1120/88300	Excludes mineral prospecting services, petroleum field exploration and geophysical (e.g. seismic) and geological surveying services are classified in a separate category (class 8675 Engineering-related scientific and technical consulting services).	Foreign participation considered on a case-by-case basis.

Source: ASEAN Secretariat [available at: <http://www.aseansec.org/18657.htm>].

Table 12
Sensitive list (SL) for the opening of industries for services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying sectors

Sector	ISIC	Industry	Restriction/requirement
Manufacturing & forestry		Land ownership.	Foreigners cannot own land unless consented to by His majesty Council.
Manufacturing		Government procurement.	To participate in government tendering foreign nationals and companies must have local company representation. The supplier may obtain supplies from a supplier with less than 100% local ownership.
Manufacturing		SME development policy.	Foreigners are not allowed to enjoy privileges reserved for local SMEs – soft loans and grants.
Manufacturing		Corporate equity requirements/domestic market access.	To utilize local resources, domestic market access and government facilities, there must be a minimum of 30% local participation. However, full foreign ownership permitted if all output exported, except for manufacturing of food-related products and use of local resources.
Agriculture		Land ownership.	With the consent of his majesty Council.
		Government paddy purchasing scheme.	Applicable only to local farmer i.e. foreign production of paddy cannot participate in the Scheme.
Agriculture		Registration as importer of meat products.	Reserved for local registered companies.
Agriculture		Application of import permits for Halal meat.	Under the jurisdiction of the Ministry of Religious Affairs.
Agriculture		Registration as importer.	Reserved for local registered companies.
Agriculture		Subsidies.	Foreigners are not allowed to receive farm input subsidies.
Agriculture		Hawkers sales requirement	Foreigners not allowed as sales personnel in agriculture farm product stalls.
Fisheries		Land ownership.	All activities only allowed on land gazetted to the Fishery Department.
Fisheries		Corporate equity requirements/domestic market access.	30% local participation required. All produce/catches must be processed/landed in Brunei.
Mining & quarrying		Land ownership	Foreigners cannot own land unless consented to by His majesty Council. All activities are only allowed on gazetted land.
Mining & quarrying		Corporate equity requirements/domestic market access	30% local participation required.
Manufacturing, agriculture, fisheries, forestry, quarrying & mining		Incentives.	Any company incorporated or registered under the Company's Act is eligible for investment incentives under the Investment Incentives Order 2001.
Manufacturing, agriculture, fisheries, forestry, quarrying & mining		Work permits.	All foreign investors and employees must obtain work visa and work permits.
Manufacturing, agriculture & fisheries		Company directors.	At least half of the directors shall be Brunei nationals.
Manufacturing, agriculture, fisheries, mining & quarrying		Existing conditions imposed on existing industries.	Those related services utilizing government facilities before the enforcement of the AIA Agreement shall continue to be applicable. Any changes subject to approval.
Forestry		Land ownership.	Foreigners cannot own land unless consented to by His majesty Council.
Forestry		Corporate equity requirements/domestic market access.	Local participation in logging/sawmilling operations must be more than 51%.
Forestry		Existing conditions imposed on existing industries.	Fir new timber-based industries supplementary raw materials should be sourced from overseas.

Source: ASEAN Secretariat [available at: <http://www.aseansec.org/18657.htm>].

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Table 13
Major actions taken under APEC guidelines to improve customs procedures, as at end-November 2008

APEC guideline	Actions taken by Brunei Customs
Greater public availability of information, including implementation of APEC Leaders' Transparency Standards on Customs Procedures (2002 Statement of Los Cabos, Mexico)	<ul style="list-style-type: none"> - Continue updating public information on customs website, including on Customs Laws, tariffs and procedures. Announce changes to customs procedures through customs circulars and briefings to importers and forwarders. A hotline also enables the public to lodge complaints on illegal activities or contraband to Customs. - Legislation and most of the procedures available on a hard copy. - Some customs information available from ASEAN customs website (http://www.asean.or.id/economic/customs/info_brunei.htm).
Alignment with UN/EDIFACT International Standards for Electronic Commerce/Paperless Trading	<ul style="list-style-type: none"> - Adopted computerization and information system called Customs Information Control System (CCIS) to process customs import/export declarations at nearly all major entry points by 2001. - Finalized 2004-2009 IS/IT Plan to implement e-Government, including (i) submission of importer/exporter data (customs declaration) and shipping manifest electronically (ii) exchanging information electronically with other government agencies (iii) online payment and (iv) developing web-services portal (i.e. online application for permits, drawbacks, registrations etc). - Stage 1 of e-customs adopted and final stage to be completed by November 2008.
Adoption of national single window to facilitate customs documentation procedures, cargo release, and clearance by 2008	<ul style="list-style-type: none"> - Legal and technical work continuing and to be operational by 2009.
Implementation of Clear Appeals Provisions	<ul style="list-style-type: none"> - Appeals by any person aggrieved by Controller's decision except specifically provided that such decision is at the absolute discretion of the Controller to the Minister of Finance whose decision is final. - Reviewing appeal provisions to conform to the international practice.
Alignment with WTO Valuation Agreement	<ul style="list-style-type: none"> - Adopted WTO Valuation Agreement in September 2001 (Customs (Amendment) Order, 2001 and Customs (Valuation of Imported Goods) Rules, 2001) after permitted 5-year delay.
Provision of Temporary Importation Facilities (APEC economies will provide facilities for temporary importation, by taking such action as acceding, where appropriate, to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (the A.T.A. Convention))	<ul style="list-style-type: none"> - Duty-free temporary importation allowed of goods for trade samples, exhibitions and demonstrations for up to 6 months provided covered by a Customs Import Declaration. Full duty payable if goods not re-exported in time. A security deposit equal to the potential customs duty payable is required on importation. - Updating current temporary importation arrangements to align with international practice and assessing A.T.A. Carnet and Temporary Import Provisions.
Implementation of an Advance Classification Ruling System	<ul style="list-style-type: none"> - Provides administrative advance rulings requested either by writing or phone. Committee on Customs Procedures is drafting legislation, including standard application forms to request customs rulings on tariff rates and classification.
Implementation of Harmonized System Convention	<ul style="list-style-type: none"> - Adopted HS 2002 version and considering whether to become a contracting party to the HS Convention. Intends to adopt HS2007 by 2009.
Adoption of Systematic Risk Management Techniques (to allow customs administrations to facilitate trade and travel while maintaining high-level border control)	<ul style="list-style-type: none"> - All cargoes subject to customs inspection ranging from 10% to 100%. Passengers and belonging randomly inspected (10% to 100%). Studying Risk Management Techniques through training and seminars. An Ad Hoc Committee set up to study legal aspects and requirements of Risk Management Techniques.
Integrity	<ul style="list-style-type: none"> - Officers subject to Public Service Commission Act to uphold integrity. A Discipline Committee set up to deal with integrity of officials and penalties for non-compliance.

Source: APEC (2008), *Brunei's Individual Action Plan 2008* (adapted from WTO, Trade Policy Review Brunei Darussalam 2008, pp. 35-6 [available at: http://www.wto.org/english/tratop_e/tpr_e/s196-03_e.doc].

Annex I

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Annex II

**Consolidated Questions and Answers
Brunei Darussalam's 2009 IAP Peer Review**

A. FROM REVIEW TEAM (Malcolm Bosworth)

Chapter 1: Tariffs

(a) General

1. Please describe how tariffs are set in Brunei, and the extent to which they change during the year. Are tariffs set on a calendar or financial year basis? Also, please indicate whether Brunei interprets the Bogor Goals as achieving zero or low tariffs on all or most items.

Answer:

Tariffs are set in accordance to the legislation under the Customs Act (Cap 36).

Brunei sees the Bogor Goals as an opportunity to promote liberalise trade and investment within APEC. As a contribution, Brunei has unilaterally taken steps to eliminate duties on 713 lines on 1 January 2008, bringing down her current average applied MFN tariffs to 3.6 percent from 4.8 percent. 74.7 percent of Brunei's total tariff lines are currently duty-free as a result.

Brunei Darussalam interprets the Bogor Goals as achieving low tariffs on all or most items.

2. Are the amendments to tariff rates since 1994 listed in the 2008 IAP (p.2) exhaustive? In particular, have the only tariff changes made since 1999 been the elimination of tariffs on 713 items on 1 January 2008. Please provide details of any other major changes.

Answer:

The last major change in tariffs is on 1 January 2008.

3. Please explain the difference between the 2008 WTO TPR 2008 that states Brunei had 10,689 8-digit HS02 tariff lines in 2007 while the 2008 IAP states (p. 3) there are 10,702 such items as at 1 January 2008.

Answer:

The 10,702 tariff lines include 13 items under Chapter 98 which is not included in the WTO calculation.

4. Please confirm that the latest tariff rates provided on the APEC Data Base are for 2001, and if so explain why in light of the statement in the 2008 IAP (p. 4) that “Brunei updates its tariff data on this Data Base in a timely manner.” Also, please elaborate on the statement in the IAP (p. 4) that Customs is “currently putting all information related to tariffs on its website”, including when this is expected to occur.

Answer:

Brunei Darussalam remain committed to update the APEC Data Base in a timely manner. However since there were no changes to the MFN rates for the past few years, Brunei has not up dated the data base. We will submit the latest changes as soon as possible.

MFN and preferential tariff will soon be available on line with the implementation of e-customs.

5. Why has Brunei not signed the WTO Agreement on Information Technology Products, and has it any intentions of doing so? What implications would this have for tariff rates?

Answer:

Brunei has one of the lowest average MFN applied rates amongst APEC developing economies and these lines include products under coverage in the WTO ITA.

Our MFN applied rates on these said-products are extremely low – some of which are accorded duty-free concessions.

As such, we are already well on the way to meeting the objectives of the ITA i.e. eventual tariff elimination.

On the issue of accession, the merits of this plurilateral agreement has always been considered, of which the eventual decision is dependent on the needs and conditions arising from Brunei’s national developmental objectives.

6. Please explain how Brunei implements the transparency standards on market access agreed to by APEC Members in October 2002 on publishing tariff, including preferential, rates.

Answer:

Brunei has actively sought to improve her transparency standards on market access. Data on MFN tariffs and preferential tariffs can be obtained from the Integrated Database of the WTO and ASEAN Secretariat website.

MFN as well as preferential tariffs will soon be available on-line with the implementation of e-customs.

7. Please explain the replacement of tariffs on motor vehicles, alcoholic beverages and cigarettes as from January 2008 with excise taxes. Also, please explain the IAP statement (p. 2) that “import tariffs were eliminated on 713 items and excise duties introduced on 716 items”. Does this mean that excise taxes were applied to 3 items where tariffs were not eliminated, and if so on which items and why?

Answer:

Excise taxes are levied on a non-discriminatory basis in relation to imported and domestically-produced goods. This is intended for fiscal objectives, as well as for social, health and environmental considerations.

The decision to introduce excise duties was not meant to replace the import duties. However since the elimination of import duty and the imposition of excise duty entered into force at the same time, public has the miss-conception that excise duty replaces import duty.

All the 716 items that are now excised have seen their import duties fall to zero, effectively reducing barriers to trade for APEC exporters. The 3 items in question are already duty free and not part of the 713 package.

8. Please clarify that excise taxes are not included as part of tariff rates and are levied additionally on imports at the same rates as for domestically-produced goods. Please provide a list of the current goods subject to excise tax along with their rates and corresponding import tariffs. Please clarify the situation with Samsoo (including medicated Samsoo liquor) i.e. that a B\$5 per gallon excise tax is levied on locally-made Samsoo (B\$11 per decalitre) and imports incur a tariff of B\$90 per decalitre if bottled and not exceeding 40% alcoholic strength by volume, and of B\$120 per decalitre for other imports (WTO 2008 TPR, p. 43). Is imported Samsoo also levied the B\$11 excise tax?

Answer:

Excise duty is internal tax imposed on imports as well as on domestically-produced goods at the same rate.

A list of these items can be obtained under

http://www.mfa.gov.bn/download/download/customs_and_excise_import_duties_or_der.pdf

These items cover Chapter 22, Chapter 24 and some products under Chapter 87. The import duties of the concerned tariff lines are zero.

(b) Bindings

9. Brunei has bound 92.8% of tariff lines (WTO 2008 TPR, p. 39) and 74.7% are bound at zero (IAP 2008, p. 3). However, average (simple) bound tariffs of 25.8% (WTO 2008 TPR, p. 41) substantially exceed the 2007 average (simple) rate of 4.8% in 2007, thereby indicating significant ceiling bindings e.g. 50% on many agricultural products and 40% on many industrial products. Please provide the bound and corresponding applied rates for these tariff lines. Also, please explain why Brunei maintains such a large difference between bound and applied rates on many items.

Answer:

All agricultural applied tariffs are duty-free.

For bound tariffs of 40%, these correspond to part of Chapters 37, 40, 44, 70, 73, 84, 85, 87 and 94. The corresponding applied tariffs are at 5 to 20 percent.

We would like to clarify that the statement “74.7% are bound at zero” is not true. There is no product currently bound at zero. 74.7 percent refers to percentage of tariff lines that have zero applied rates.

10. Please explain why the coverage of bindings is lowest in HS sections “transport” (36% of tariff lines) and “prepared foods” (88.7%) (WTO 2008 TPR, p. 43).

Answer:

Most of the tariff lines under HS Chapter 87 – vehicles and auto-related parts – are unbound and tariffs of between 0 – 20 percent apply. Similarly for prepared food, chapter 22 is unbound. However, as of 1 January 2008, applied duties on all these lines (specifically CBU and alcoholic beverages) are eliminated.

11. Please explain the undertaking in the 2008 IAP (p. 3) to bind 82% of total tariff lines already bound at 5% during 2001-10. Are these additional to the UR commitments on bindings? What products will be affected? Have these commitments been offered in the WTO under Doha and if so provide details? If not, please explain why?

Answer:

There are several errors noted in the 2008 IAP submission on Tariff. This particular paragraph does not reflect the true position as of date and should be disregarded. Update to the tariff IAP will be submitted in due course.

12. Please elaborate on the commitment in the 2008 IAP to progressively reduce bound tariffs to zero between 2010- 2020 (p.3). Have these commitment been offered in the WTO under Doha and if so provide details. If not, please explain why?

Answer:

There are several errors noted in the 2008 IAP submission on Tariff. This particular paragraph does not reflect the true position as of date and should be disregarded. Update to the tariff IAP will be submitted in due course.

13. Please list any tariff lines with applied specific rates and bound ad valorem rates, and vice-versa, giving ad valorem equivalents, if possible, for each item to show that bindings are met.

Answer:

There are 19 lines (NAMA) and 29 lines (Agriculture) under specific duties and their conversions to ad valorem equivalents are attached.

14. Please explain the apparent discrepancy in the average (simple) bound rate for 2007 provided in the WTO 2008 TPR (p. 39) of 25.8% and that provided in the 2008 IAP (p. 9) of 27.8% as at 1 January 2008.

Answer:

The average simple bound rate is 25.8% and not 27.8% (typo mistake) as stated in the 2008 IAP submission.

(c) Applied

15. Please explain the apparent discrepancy in the average (simple) applied MFN for 2007 provided in the WTO 2008 TPR (p. 39) of 4.8% for 2007 and that given in the 2008 IAP (p. 9) of 3.6% as at 1 January 2008.

Answer:

Prior to 1 January 2008, Brunei's average applied MFN rates are 4.8 percent. As of 1 January 2008, duties on 713 lines are eliminated, bringing down average applied MFN rates to 3.6 percent.

16. Please confirm that the highest tariff rates are 20% and 30%, and that these apply to 20.4% and 0.1% of tariff lines, respectively (WTO 2008 TPR, p. 39). Please explain the apparent discrepancy between the 2008 IAP that indicates 74.7% of tariff lines have zero tariff (p. 3) and the 2008 WTO TPR (p. 39) that states 68.1% of tariff lines had zero tariffs in 2007. Given that the IAP states that 74.7% of tariff lines are bound at zero tariff does this imply that a substantial share of tariff lines bound at zero tariff rate have non-zero tariffs (i.e. exceed their bound levels)? Please list such items if the case.

Answer:

Yes, the highest applied rate is 30 percent and this applies to 0.1 percent of tariff line. The next highest applied rate is 20 percent and this applies to 20.4 percent of tariff lines.

Prior to 1 January 2008, 68.1 percent of tariff lines are duty-free. As of 1 January 2008 with the enforcement of the Customs Import Duties Order 2007, duties on 713 lines are eliminated, bringing the proportion of duty-free lines to 74.7 percent.

Applied duties for these lines are at zero. This does not apply to bound duties.

17. Please explain the rationale for significant tariff escalation and disparities in 2-digit ISIC industries "fabricated metal products and machinery" and "chemicals" (WTO 2008 TPR, p. 38). Similarly, please explain the policy reasons why a substantial share of tariff items (21%) have domestic "tariff peaks" (MFN tariffs exceeding three times the overall average simple applied rate).

Answer:

Brunei Darussalam does not have any domestic industries for fabricated metal products and machinery and therefore there is effectively no protectionism. The tariff rate for chemicals is 0 percent.

These tariff peaks, applied to only a small proportion of Brunei's tariff lines, are for Brunei's fiscal objectives to fulfill her national development plans.

18. Please explain the apparent contradiction between the 2008 IAP that states "the MOF had converted all of Brunei's specific tariff (87 tariff lines) to ad valorem" duties (p. 3) and the WTO 2008 TPR that indicates that in 2007 "1.2% of tariff lines (131) had specific rates, covering mainly cigarettes, alcoholic beverages, coffee, tea, petroleum oils and lubricants" (p. 38). Also, the 2008 IAP states there were 59 tariff items with specific

rates as of 1 January 2008 (p. 11). Please provide ad valorem equivalents, if available, for these products, and indicate why the policy of removing specific rates was reversed.

Answer:

We would also like to clarify the statement “the MOF had converted all of Brunei’s specific tariff (87 tariff lines) to ad valorem”. There are only 48 specific tariff rates converted to ad valorem (refer to Q13). The remaining are still in specific rates and this relates to Chapter 22 and 24 and there are no ad valorem equivalent exists.

19. Please explain how the Government is to continue reviewing its tariff policy aimed at reducing MFN rates (2008 IAP, p. 3), and how these are to be achieved?

Answer:

Brunei is committed to the conclusion of the Doha Round that aims to enhance further liberalization of trade.

(d) Tariff preferences

20. Please comment on Brunei’s FTA policies and agenda, including how it can be rationalized with its commitment to non-discriminatory liberalization in the WTO and unilateral efforts to further open the economy. What, if any, impact will the recent collapse of the Doha talks have on this policy?

Answer:

Brunei will continue to look into preferential trade agreements that are WTO-plus (and that are consistent with WTO obligations) to further enhance trade liberalisation, while recognizing that the multilateral trading system is her priority.

Brunei wishes to reiterate the priority it places on the multilateral trading system as the best possible means to enhance trade liberalization for a small open economy. The difficulties encountered at the most recent Ministerial trade talks are therefore met with disappointment.

Brunei is prepared to play a part to restart the talks and urges the major stakeholders of this Round to reconcile their differences for the benefit of international trade.

ASEAN - CEPT

21. Please provide details to support the statement in the 2008 IAP that “almost 98% of total tariff lines are now in the CEPT with tariffs between 0-5%” (p.4), including reconciling this statement with other statements (p. 4) that Brunei will reach the AFTA goal of achieving “100% of tariff lines between 0-5% by 2002”.

Answer:

We would like to clarify the statement in the 2008 IAP submission. As of 1st January 2008, almost 93 percent of tariff lines under the CEPT AFTA are with tariff between 0-5 percent.

22. Please provide details of Brunei’s current status in achieving AFTA’s goal of eliminating tariffs in its Inclusion List by 2010. Also, please clarify if “elimination” refers to zero duties or 0-5% duties, and if the latter indicate how many will be zero?

Answer:

As of 1st January 2008, 85.15 percent of tariff lines in the inclusion list have their duties eliminated. By 2010 all will have zero duties.

23. Please confirm that Brunei’s Inclusion List currently covers 99.3% of tariff lines, and that 0.1% has rates of 15% and 6.2% of 20%. Please indicate the main products with these higher rates and how they are to be lowered to a maximum 5% by 2010. Please also confirm that Brunei met AFTA’s goal of “eliminating” tariffs on 50% of tariff lines included in its Inclusion list by 2003.

Answer:

As of 1st January 2008, Brunei’s inclusion list covers 92.7 percent tariff lines. All products in the inclusion list have duties between 0-5 percent. All duties will be eliminated by 1 January 2010.

The remaining tariff lines are in the General Exclusion List of which tariff rate ranges between 0-20 percent.

24. Please indicate the products and tariff rates for items not in Brunei’s Inclusion List, indicating those in the General Exception list and the Temporary Exclusion List, distinguishing between “sensitive” and “highly sensitive” products. Please confirm that Brunei met the CEPT objective to begin phasing “sensitive” products into the Inclusion List from 1 January 2001 or from 1 January 2003 at the latest, and provide details. Also,

provide the same information for “highly sensitive” products (due to be transferred to the Inclusion List from 1 January 2001 or from 1 January 2005 at the latest). What arrangements have been made to remove all Temporary Exclusions by 2010 as required?

Answer:

All products in the Temporary Exclusion List (TEL) and Sensitive List (SL) have been transferred into the Inclusion List (IL) according to the timeline.

There are currently 778 items in the General Exception List. During the review of the GE list, Brunei Darussalam committed to phase in and eliminate the tariff of all products in the GE except alcoholic beverages (chapter 22), cigarette (chapter 24), firearms and opium by 1st January 2010.

25. Please confirm if some CEPT rates are specific duties even though the MFN rate is ad valorem, providing details of such cases and explaining why.

Answer:

All CEPT rates are ad valorem.

26. Please comment on the possible trade diversion effects of CEPT, especially in those products (e.g. HS sections “wood and articles”, “machinery”, “transport equipment” and “precision instruments” that have the largest preferential margins (WTO 2008 TPR, p. 42). What effort is Brunei taking to minimize possible trade diversion by reducing MFN tariffs?

Answer:

The possible effects of trade diversion may be present. However, most of Brunei trade is with ASEAN Member States and the reduction/elimination of tariff will enhance intra-ASEAN trade. Since the inception of AFTA, Brunei has seen an increase in trade within ASEAN as well as outside ASEAN.

Since the Uruguay Round, Brunei has committed to unilaterally reduce her applied MFN tariffs. To date, Brunei has one of the lowest average applied MFN tariffs among developing countries. Brunei will continue to review the MFN tariffs in relation to its national development objectives.

27. Please update Brunei’s AFTA program for eliminating non-tariff barriers, the First package being due by 1 January 2008 and the Second Package by 1 January 2009.

Answer:

Brunei only maintains non-tariff measures that are consistent with the WTO. As such all the existing non-tariff measures are justifiable and conform to the green box criteria agreed under the program.

28. Please provide details of any product specific rules under ASEAN's priority integration sectors.

Answer:

Negotiation on the Product Specific Rules under the CEPT AFTA including for the priority sectors products have been completed and scheduled for implementation by August 2008.

ASEAN - Other

29. Please provide details of Brunei's tariff commitments under the ASEAN-China FTA and the ASEAN-Korea Agreement, indicating what reductions have occurred to date and any outstanding commitments. Also, please indicate why these arrangements have not been included in Brunei's 2008 IAP.

Answer:

The tariff commitments under the ACFTA came into force on 1st July 2005 while AKFTA commitments started on 17th July 2008. Both agreements have similar modalities where products in the normal track will have their duties eliminated by 2010 except for a limited number of products which will be eliminated by 2012. Products in the sensitive track will have their duties reduce starting 2012.

As of 1st January 2008, 68.12% of tariff lines offered under the ACFTA have their duties eliminated. The next cut will begin on 1 January 2009 where another 668 tariff lines will have their duties eliminated.

Similarly with AKFTA, 68.12% of tariff lines offered are duty free upon entry into force of the Agreement. On 1st January 2009, another 781 tariff lines will have their duties eliminated.

(c) Trans-pacific Strategic Economic Partnership Agreement with Chile, Singapore and New Zealand

30. Please provide details of Brunei's tariff commitments under this Agreement, signed in 2005, and whether it has entered into force. Please explain to what extent, if

any, Brunei's commitment to keep current MFN applied zero rates at zero includes tariff lines unbound in the WTO. If so, will Brunei bind these in the WTO, and if not, please explain why? Do commitments to phase out tariffs on most other products by 2015 not require any tariff reductions until 2010? Please provide details of the goods excluded from tariff commitments, and indicate the rationale.

Answer:

Brunei signed the Trans-Pacific Strategic Economic Partnership Agreement on 2 August 2005 and deposited its Instrument of Provisional Application to New Zealand as the depository of the Agreement on 12 June 2006. The Agreement came into force for Brunei Darussalam on 12 July 2006.

The Agreement provides for trade liberalization of Chapters 1 to 97 of the Harmonized System (HS) except in the case of Brunei, where some products (alcohol, tobacco, opium and firearms) are excluded from its tariff schedule on grounds of protection of public morals, human health and security.

The Agreement contains no explicit transition period: in the case of Brunei, most tariffs are eliminated on entry into force of the Agreement with transition periods applying to a number of sensitive products to be completed by 2015.

31. Please indicate the rationale for including Singapore (an ASEAN member) in this Agreement, and provide details of any different tariff or related treatment extended by Brunei to it under the two Agreements.

Answer:

Brunei Darussalam was invited to join the P4 Agreement by Singapore. It is believed that the Agreement will bring about strategic benefits for all four partners, Brunei Darussalam, Chile, New Zealand and Singapore, and in effect build a bridge between Latin America, the Pacific and Asia.

AFTA is a different agreement compared to TPSEPA in which AFTA has: (i) a different set of modalities – in which tariff elimination occurs by 2010; (ii) a different coverage – covers only trade in goods whereas TPSEPA is more comprehensive; (iii) different concessions apply – for instance, rules of origin in AFTA are different compared to those in TPSEPA.

(d) Brunei-Japan Economic Partnership Agreement

32. Please indicate why this Agreement is not mentioned in the 2008 IAP when it was signed in June 2007. Please provide details of implementation and of Brunei's commitments to lower tariffs.

Answer:

Although the BJEPA was signed in June 2007, the Agreement only entered into force on 31st July 2008.

Under the BJEPA, Brunei has committed to lower tariffs in tranches:

- a) elimination upon entry into force,**
- b) elimination in 4 equal annual installments from the Base Rate to free (as from date of entry into force of the BJEPA),**
- c) elimination in 6 equal annual installments from the Base Rate to free (as from date of entry into force of the BJEPA),**
- d) elimination in 8 equal annual installments from the Base Rate to free (as from date of entry into force of the BJEPA),**
- e) elimination in 11 equal annual installments from the Base Rate to free (as from date of entry into force of the BJEPA),**

Chapter 2: Non-tariff Measures

33. Please explain why Brunei's 2008 IAP has no Chapter 2 on non-tariff measures.

Answer:

The NTM Chapter was not part of 2008 IAP submission in view there are no changes from the previous IAP submission.

(a) Import prohibitions

34. Please elaborate on the stated reasons for the following import prohibitions (WTO 2008 TPR, p. 44), indicating if domestic production of the prohibited good is permitted (i) pigs bred in or from Thailand to prevent animal diseases (ii) fire crackers for health and safety (iii) vaccines of Chinese Taipei origin for health and security (iv) cough mixtures containing codeine for health (v) spirits and liquors for health and religion (vi) pens, pencils and other articles resembling syringes for safety and security.

Answer:

There is no domestic production for the stated import prohibited items.

Import prohibition applies in the context of GATT:47 Article XX – General Exceptions – on grounds of public morals and protection of human, animal or plant life or health.

Brunei Darussalam does not allow import of animals from the countries which are not yet declared (by OIE) free of the foot and Mouth Diseases (FMD)

35. Please provide details of any other import prohibitions, and confirm that the temporary ban on cement to protect the sole (state-owned) domestic supplier was lifted in February 2005. When was it implemented and what processes were involved are the processes for providing such temporary tariff protection. Have any other products benefited?

Answer:

Items which import prohibition exists are already summarized under Q34.

The temporary ban on cement – in effect since 1999 – was lifted in February 2005. This temporary ban is consistent with GATT:47 Article XIX applied where there is a serious threat to the domestic industry; namely as a result of substantial increase in imports and import restrictions imposed by Brunei’s trading partners.

(b) Import licensing

36. Please explain the import licensing system, especially in relation to fish, eggs, salt, sugar, rice, separated, skimmed or whole milk, and “converted” timber to maintain security of domestic supply, food security and price stability (WTO 2008 TPR, p. 34-6). Do import quotas exist? Please explain the import licensing of used cars, motor cycles, trucks, buses, tractors and trailers 5 years or older, indicating if they can be registered.

Answer:

Brunei has a small domestic agricultural industry and is highly dependent on imports. The import licensing system is used to keep track of the import quantities in order to ensure the availability and accessibility of such items.

Brunei does not maintain import quotas.

Import permits for used vehicles are issued by the Land Transport Department. In all cases, the importer must also submit the import permit to the Department of Royal Customs and Excise to obtain an approval permit (AP). The approval/import permits are automatically granted provided that certain criteria are fulfilled: 1) Imported through designated agent. 2) After sales service is provided. 3) roadworthiness of the motor vehicles.

Importers must also have a valid miscellaneous license from Facilitation and Promotion Service Section, Ministry of Industry and Primary Resources.

The used cars to be imported and registered in Brunei should not be more than three years old.

37. Please explain the licensing of imported beef and chicken for religious reasons unless slaughtered in approved abattoirs, and the extent to which they are restricted to Malaysia and Australia. Are imports of live cattle from sources other than the state-owned cattle farm in Australia allowed, including from other Australian suppliers?

Answer:

Currently, the rules governing the licensing of halal food in Brunei Darussalam can be found under:

- **The Halal Meat Act; and**
- **The Halal Certificate and Halal Label Order 2005**

Malaysia and Australia are not the only economies with approved abattoirs. There are currently 6 economies with approved abattoirs, namely: Malaysia, Indonesia, Australia, Saudi Arabia, China and India.

Basically import of live animals are allowed from countries/states which are free from foot and mouth diseases (FMD), Bovine Spongiform Encephalities (BSE) and anthrax as well as dangerous diseases specified from time to time by the Department of Agriculture.

Chapter 4: Investment

38. Please confirm that foreign investment is generally capped at 49%, but can be negotiated with the BEDB up to 100%. If so, please provide details of how these negotiations are held and of the criteria used to decide if to allow higher foreign equity and at what level? Please also provide details of the screening mechanism applied to foreign investment, and whether the same process applies to domestic investors.

Answer:

BEDB undertakes its commercial negotiations as a corporate body and as such the negotiations they undertake and criteria they use are their discretion. For further information on BEDB please refer to <http://www.bedb.com.bn/>

Policies relating to foreign ownership allow for full foreign ownership, majority foreign ownership and minority foreign ownership, depending on the type of

industry. In general, for industrial activities that require use of government industrial sites, or other forms of incentives would need at least 30% local equity.

Projects are assessed based on their merit/ value-add to Brunei. The BEDB does not actively discriminate between foreign and domestic investors. However, the Brunei Company's Act requires the company established in Brunei to have 50% of its Board Members to be locals. In addition, unless a local subsidiary is incorporated, foreign companies that have established a place of business in Brunei are required to register a branch office within three months.

Brunei does not yet have a horizontal screening mechanism for foreign investment, and applications are screened by relevant agencies, depending on the types of activities. In general, however, the procedures for establishing a business as well as applying for licenses are the same for both foreign and local investors.

39. Please provide details of the current restrictions on full foreign equity, including in restricted sectors where the Government is a major service provider e.g. mass media, telecoms, posts, energy and utilities, as well as other sectors e.g. banking, retail, petrol stations, and manufacture and sale of liquor. Please indicate where similar restrictions apply to domestic investors. Also, what restrictions apply for national food security reasons (e.g. maximum 70% as indicated in WTO 2008 TOR, p. 68) or for processing local natural resources?

Answer:

Brunei Darussalam currently does not have a list of restrictions on full foreign equity.

Under the ASEAN Investment Area Bold Measures Agreement signed in January 1999, Brunei Darussalam allows for 100% foreign equity ownership in high-technology manufacturing and export oriented industries.

Other than that, full foreign ownership is not permitted in sectors involving local natural resources (notably fisheries and agriculture) and those relating to national food security where a minimum of 30% local participation is required.

Where the Government is a major service provider, participation by investors including foreign investors would be subjected to approval by the government. For example, for investments in the telecommunication sector, interested foreign investors would need to seek the approval of the regulatory body for that sector i.e. the Authority for Info-communication Technology Industry (AiTi).

In the energy sector, the Brunei National Petroleum Sdn Bhd encourages the involvement of investors through the Production Sharing Agreement Scheme (http://www.pb.com.bn/psc_scheme.htm). In addition, entry to the banking, petrol

station and travel agent sectors are regulated in accordance to the size of the market. Meanwhile in the retail sector, entry of foreign investors is allowed through a case by case basis where the level of foreign equity may vary according to the type of activities. Production and manufacture of liquor and defence equipments and armaments on the other hand are two sectors which are currently closed to both local and foreign investors.

The government is also actively looking towards corporatizing and commercializing public services, facilities and developmental infrastructure with the aim to encourage more private sector participation into such sectors. The government is currently in the process of preparing a Privatization Master Plan to provide strategic directions, policies, strategies and programs to support and implement this policy

40. Please clarify that for unrestricted sectors foreign investors receive national treatment? What about on land use?

Answer:

For unrestricted sectors, foreign investors will receive national treatment, subject to amendments in the domestic laws and regulations.

Brunei maintains its policy on foreign ownership of land, i.e. that foreigners may not own land, due to its limited land mass.

However, under the BEDB Act local and foreign investors are allowed to own industrial land through leases of up to 30 years (renewable). The land can be used as collateral to finance projects. Different time-frames on leases are available for different sectors, e.g. manufacturing.

In addition, a Strata Title Act is being drafted to address concerns raised on this policy.

41. Please provide details of any discrimination Brunei provides ASEAN investors under the AIA, and of progress towards achieving the AIA's goal to open all industries to ASEAN foreign investment by 2010 and to all other sources by 2020. Please provide details of Brunei's exceptions in the Temporary Exclusion List and the Sensitive Lists, and of any efforts to include these for liberalization.

Answer:

Under the AIA, liberalization is for five sectors (Manufacturing, Fisheries, Forestry, Mining and Quarrying, and Agriculture) and for services incidental to these five sectors.

Under the Temporary Exclusion List: Brunei Darussalam is committed to eliminate the listed restrictions for the sectors under the TEL by 2010 to ASEAN investors and 2020 to non-ASEAN investors. The Sensitive List contains a set of sectors/subsectors which are sensitive to liberalization as they are related to usage of local resources/government services or are related to food security.

Any further liberalization will be subject to any changes in the domestic policies, laws and regulations.

42. Please provide details on whether all investment incentives provided, including fishing and forestry, are subject to national treatment and that they do not discriminate between foreign investment sources.

Answer:

All investment incentives (as of Investment Incentives Order 2001) are provided to companies registered under the Company's Act. The Act which is currently administered by the Ministry of Industry and primary Resources is designed to encourage the investment and development of industrial and economic activities in the country.

Investment incentives provided under the Order does not discriminate between foreign investment sources and are eligible to any investors, local or foreign provided they meet the conditions imposed to avail such incentives.

The Order introduced a wider range of categories and activities for investors and businesses to qualify for a range of tax relief, investment allowances, loss deductions and exemptions from import duties.

Nonetheless, there are some investment incentives such as Micro-credit financing scheme (MFS) which are only applicable to local companies owned by "Rakyat Melayu" of Brunei Darussalam.

43. Please provide details of investment protection (e.g. against expropriation) for foreign investors, especially for those from countries that Brunei does not have Bilateral Investment Treaties.

Answer:

Brunei Darussalam has ratified the International Centre for Settlement of Investment Disputes (ICSID) on the 16th Sept 2002. Legislation has been drafted to implement the said Convention in Brunei Darussalam. However, it is has not yet entered into force.

Under the Provisions of the Conventions, foreign investors are able to request for a conciliation of arbitration on any investment disputes that arise between the investor and the Brunei Government. Foreign investors are also protected from discriminatory expropriation and are able to bring the matter to the International Arbitration Institution.

44. Please clarify the statement that in the 2008 IAP (p. 40) that Brunei has no WTO-inconsistent trade-related investment measures given: income tax and other exemptions extended to export enterprises require exports to be at least 20% of total sales and not less than B\$20,000 annually (WTO 2008 TPR, p. 111), and income is tax exempt for companies exporting at least B\$3 million of eligible goods, or entrepot trade and exports exceed B\$5 million annually.

Answer:

These incentives are provided to all companies registered under the Company's Act, including joint ventures, on a non-discriminatory basis.

All incentives do not breach Brunei Darussalam's commitments under the WTO Agreement on Trade Related Investment Measures as they (i) do not require usage of local content (ii) impose restriction for the imports of inputs and (iii) does not relate to any foreign exchange balancing requirements, in order for companies to gain the advantages.

45. Please elaborate on the 2008 IAP statement (p. 47) that foreign workers ranging from labourers to executive managers can be recruited if there is insufficient local supply.

Answer:

Brunei Darussalam encourages local participation in the private sector. Nonetheless, it recognizes the small workforce in the country, and thus practices a flexible policy which allows companies to employ foreign workers particularly in areas where there are short supply of local workers. In this regard, it also recognizes that a flow of skilled immigrant labour is necessary to facilitate the transfer of knowledge and expertise as well as to increase labour productivity.

Brunei Darussalam's Labour Act (Cap 39) outlines some of the facilities and regulations governing labour provisions.

To promote the utilization of local manpower, the government has embarked on several skill training and job matching programs designed to improve the marketability of local workforce to the private sector.

46. Please provide details on the extent to which Brunei's Bilateral Investment Treaties meet the APEC Non-binding Investment principles.

Answer:

Brunei Darussalam has abided by all twelve principles as outlined in the APEC investment principles.

Nonetheless, for the time being, Brunei Darussalam only allows investors to claim damages under the Investor-State Dispute Settlement mechanism for post-established investment activities. Brunei Darussalam has also committed only to WTO TRIMS for Performance Requirements.

Table 1 below summarizes the extent to which Brunei's Bilateral Investment Treaties (BITs) meet the APEC Non-binding investment principles.

TABLE 1 : Summary of Brunei Bilateral Investment Treaties in relation to APEC Non-Binding Investment Principles

No.	APEC Non-binding Investment Principles	Brunei's Bilateral Investment Treaties
1.	Transparency	<ul style="list-style-type: none"> • An article with regard to this principle is included in one of the treaty which is still under negotiation. • Under the Article <i>Transparency</i>, however, there is a clause stating that Brunei will make publicly available anything pertaining to investment in its economy but does not make any disclosure which would impede law enforcement or be contrary to its laws protecting confidentiality, public interest or prejudice legitimate commercial interests of particular investors.
2.	Non-discrimination between source economies	<ul style="list-style-type: none"> • This provision is in all BITs concluded by Brunei Darussalam under the Article <i>National Treatment and Most-Favoured-Nation Treatment</i>. • Under this article, the treatment of the investment shall not be less favourable than that accorded either to investments of its own or investments of investors of any third State; and treatment shall not be less favourable than that accorded to investors of any third State.
3.	National Treatment	<ul style="list-style-type: none"> • There are provisions regarding National Treatment under the Articles <i>Promotion and Protection of Investment</i>; and <i>National Treatment and Most-Favoured-Nation Treatment</i>. • This is similar to the above-mentioned article. In addition, under the Article <i>Promotion and Protection of Investment</i>, the provision also includes: <ul style="list-style-type: none"> (i) Fair and equitable treatment with regards to investments and returns of investors of each Contracting Party in the territory of the other Contracting Party; and (ii) Full protection and security of investments by investors of each Contracting Party in the territory of the other Contracting Party.
4.	Investment Incentives	<ul style="list-style-type: none"> • This provision is included under the protocol to the agreement. • It is an additional to the provisions under Article <i>National Treatment and Most-Favoured-Nation Treatment</i>, whereby it includes provisions such as: <ul style="list-style-type: none"> (i) Measures that have been taken of public order and security, public health or morality shall not be deemed "treatment less favourable"; and (ii) Contracting party is not oblige to extend to the investors resident in the territory of the other Contracting Party tax privileges, tax exemptions and tax reductions which according to its tax laws are granted only to investors resident in its territory.

5.	Performance Requirements	<ul style="list-style-type: none"> • No provision regarding this matter.

No.	APEC Non-binding Investment Principles	Brunei's Bilateral Investment Treaties
6.	Expropriation and Compensation	<ul style="list-style-type: none"> • There is a standard provision regarding Expropriation and Compensation under the Articles <i>Nationalisation or Expropriation</i>; and <i>Compensation for Losses</i>. • Under the Articles, the provisions include: <ul style="list-style-type: none"> (i) Investments of investors of both parties shall not be expropriated, or subject to measures having effect equivalent to expropriation except for a public purpose in accordance with law on a non-discriminatory basis and against fair and equitable compensation. Compensation shall be valued at fair market value of the investment. (ii) Fair and adequate compensation in cases where nationals and companies of one Contracting Party suffer damage or loss in the territory of the other Contracting Party resulting from requisitioning of their property by its forces or authorities; or destruction of their property by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation.
7.	Repatriation and Convertibility	<ul style="list-style-type: none"> • This provision is included under the Article <i>Free Transfer</i>. • In this provision, both parties shall permit the funds (including capital, net operating profits, repayments of loans) of the other party related to an investment in its territory to be freely transferred, without unreasonable delay and on a non-discriminatory basis.
8.	Settlement of Disputes	<ul style="list-style-type: none"> • There is a standard provision in Brunei's BITs regarding Settlement of Disputes under the Articles <i>Settlement of Disputes between an Investor and a Contracting Party</i>; and <i>Settlement of Disputes between the Contracting Parties</i>. • Disputes shall be settled amicably through negotiations between the parties to the dispute. Any dispute which are not settled within a period of six months may, if both parties agreed, be submitted either for resolution or to international conciliation under the Conciliation Rules of United Nations Commission on International Trade Law.

9.	Entry and Sojourn of Personnel	<ul style="list-style-type: none"> • This provision is included under the Article <i>Entry and Sojourn of Personnel</i>. • In this provision, it not only grants temporary entry and sojourn of key personnel but also to their immediate family members subject to relevant laws and regulations.
10.	Avoidance of Double Taxation	<ul style="list-style-type: none"> • This is a separate agreement under Double Taxation Agreement (DTA). Those countries which have an agreement under BITs with Brunei do not necessarily have DTA with Brunei.
11.	Investor Behaviour	<ul style="list-style-type: none"> • No provision regarding this matter.
12.	Removal of Barriers to Capital Exports	<ul style="list-style-type: none"> • No provision regarding this matter.

Chapter 6: Customs Procedures

47. Please update Brunei's progress in operating by 2008 its national single window to facilitate customs documentation procedures, cargo release and clearance, as well as in operating e-Customs by September 2008 (2008 IAP, p. 72).

Answer:

Legal and technical works on the national single window are still on-going. The project is in good shape for operationalisation before the end of 2008.

On the other hand, Stage 1 of the e-customs has been successfully put in place. The final stage is expected to be completed by November 2008.

48. Please provide details of Brunei's review of the ATA Carnet and Temporary Import Provisions (2008 IAP, p. 72) and of any intentions to adopt it. What major changes would such adoption require?

Answer:

Brunei is currently undertaking study to assess the possibility of Brunei acceding to the ATA Carnet Convention.

49. Please provide details of appeal procedures against customs decisions, including in particular whether they can be made to the courts.

Answer:

The Customs Order, 2006 provided that any person aggrieved by the decisions of the Controller on any matter rests with the Controller (with some exceptions) may submit appeal within 14 days of the decision. The appeal should be submitted to the Minister whose decision shall be final.

50. Please provide details on Brunei's introduction of transaction value and confirm that it applies to all imports. Do any minimum import prices exist? Do special valuation rules apply to used goods (e.g. motor vehicles) and how is transaction value checked?

Answer:

Brunei adopted and implemented the WTO Customs Valuation in September 2001 and issued the respective legislation - Customs (Customs Valuation for Imported Goods) rules 2001. The transaction value is applicable to about 95% of imports. While used goods use different valuation rules.

There is no minimum import price apply in Brunei.

51. Please indicate any plans for Brunei to become a contracting party to the HS Convention and update its intention to adopt HS-07 by end-2008 (2008 IAP, p. 76). Please provide the same information for the Kyoto Convention, indicating the main changes required for Brunei to do so and the extent to which these have already been introduced.

Answer:

Brunei is currently considering the feasibility of Brunei becoming a contracting party to the HS Convention. The HS 2007 will be implemented before end 2008.

Brunei is also considering the possibility of acceding to the Kyoto Convention. Assessment are being made to ensure that Brunei would be able to comply to the requirements stipulated in the Convention particularly to align the procedures and practice in line with the Kyoto Convention.

52. Please provide details on the introduction of risk management techniques in customs, including inspection requirements.

Answer:

All the customs entry points to Brunei Darussalam are equipped with x-ray machines. Physical inspection and profiling were sometime done at random when the situation required. However this more often done for passengers' luggage clearance.

53. Please update the IAP statement (p. 76) that Brunei is drafting legislation to provide advanced customs rulings, and when it is likely to be implemented.

Answer:

The legal process is still on-going and all efforts are being made to finalize it as soon as possible. However, advance ruling have been practice for sometime on administrative basis.

Chapter 8: Competition Policy

54. Please indicate why Brunei's 2008 IAP omits entries for competition policy.

Answer:

It is not the intention to omit competition policy from 2008 IAP. The Chapter was not part of the 2008 IAP submission in view that there are no changes from the previous submission.

55. Please provide details of any intentions by Brunei to implement competition legislation or more generally competition policy by ensuring open and competitive markets. Also, please provide details of how it is trying to adhere to the APEC Principles to Enhance Competition and the Regulatory Framework.

Answer:

Brunei Darussalam recognizes the importance of competition policy as an element contributing towards improving the performance and competitiveness of the private sector as well as to support sustainable economic growth.

Brunei Darussalam practices competition policy through economic regulations such as price regulations and licensing of entry into economic sectors, in addition to implementing competition policy on a sectoral level in the telecommunication sector, financial sector and the oil and gas industry. Exception to competition is only allowable in two activities under the Monopoly Act.

Brunei Darussalam also practices competitive bidding in government procurements.

Due to the small size of the economy, Brunei Darussalam currently does not see the urgency to create a national competition law to regulate competition.

As a member of APEC, Brunei Darussalam observes the APEC principles of competition policy.

Chapter 10: Deregulation/Regulatory Review

56. Please indicate why Brunei's 2008 IAT omits entries on deregulation/regulatory review.

Answer:

The deregulation/ regulatory chapter was not part of the 2008 submission in view that there are no changes to the previous submission.

57. Please provide details of efforts to commercialize public entities, and of markets with legislatively prohibited or restricted entry, such as those subject to state monopolies.

Answer:

The previous 8th National Development Plan saw the corporatization of Telecommunication Department as well as the newly established regulatory body Authority for Info-Communication Technology Industries (AiTi). Under the new plan, more government departments and services are being earmarked for corporatization and commercialization. The plan has also endorsed a Privatization Master Plan which will set guidelines and procedures to further liberalise the public sector and encourage public-private partnerships (PPP).

Chapter 11: WTO Obligations

58. Please provide details on implementation of Brunei's WTO commitments, highlighting any areas where this is posing difficulties. Please confirm if 32 WTO notifications are still outstanding (as at April 2008 [WTO website at: http://www.wto.org/english/thewto_e/countries_e/brunei_darussalam_e.htm]) and explain why if the case.

Answer:

Since the establishment of the WTO in January 1995, Brunei Darussalam like other WTO members has made regular notification to the WTO. To date, Brunei Darussalam has submitted about 34 notifications in accordance with various WTO provisions. Brunei Darussalam will continue to look into updating any outstanding notifications where appropriate.

59. Please explain Brunei's policy on notifying FTAs to the WTO as none of its non-ASEAN agreements have seemingly been notified.

Answer:

Brunei Darussalam has always endeavoured to comply with its commitments to notify the WTO of its Free Trade Agreements as promptly as it can. Brunei is a member of two non-ASEAN FTAs, namely the Trans-Pacific Strategic Partnership Agreement (TSEP or P4) and the Brunei-Japan Economic Partnership Agreement (BJEPA).

For the notification on Trans-Pacific Strategic Economic Partnership (TPSEP) Agreement, please refer to WTO document WT/REG229/N/1 and S/C/N/394 dated 21 May 2007, whereby the notification to the WTO was done by Brunei Darussalam, Chile, New Zealand and Singapore on 18th May 2007.

Also, please refer to WTO document WT/REG244/N/1 and S/C/N/466 of 4 August 2008 for the notification on Brunei-Japan Economic Partnership Agreement (BJEPA) to the WTO which was done by Brunei and Japan on 31st July 2008.

B. FROM REVIEW TEAM (José Luis León-Manríquez)

General questions

60. Please offer an overview of Brunei Darussalam's approach to bilateral and multilateral FTAs.

Answer:

Other than ASEAN FTA, Brunei Darussalam has only one bilateral FTA with Japan and one plurilateral FTA under Trans Pacific Strategic Economic Partnership together with Chile, New Zealand and Singapore.

Brunei Darussalam will continue to uphold the multilateral trading system as its priority while at the same time continues to enter into bilateral/plurilateral FTA to enhance trade liberalization. Brunei Darussalam sees the bilateral/ plurilateral and multilateral approaches complementing each other.

61. Is Brunei undertaking any other negotiation towards further Asia Pacific or Trans-Pacific FTAs, beyond the P-4 agreement with *New Zealand*, Singapore and Chile? If so, please elaborate further.

Answer:

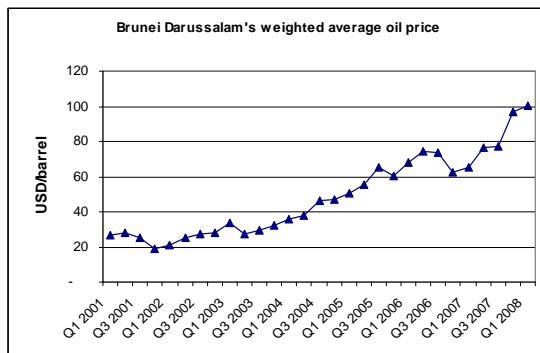
There are currently no immediate plans to undertake such FTA in a bilateral context. However the P4 is an agreement which is open to countries that are willing to join. At the moment the U.S and Peru have indicated their interest to join the P4 Agreement. If this is realized, accession negotiation is bound to take place.

62. Please explain to what extent increasing oil prices have either favored or affected the economy of Brunei Darussalam

Answer:

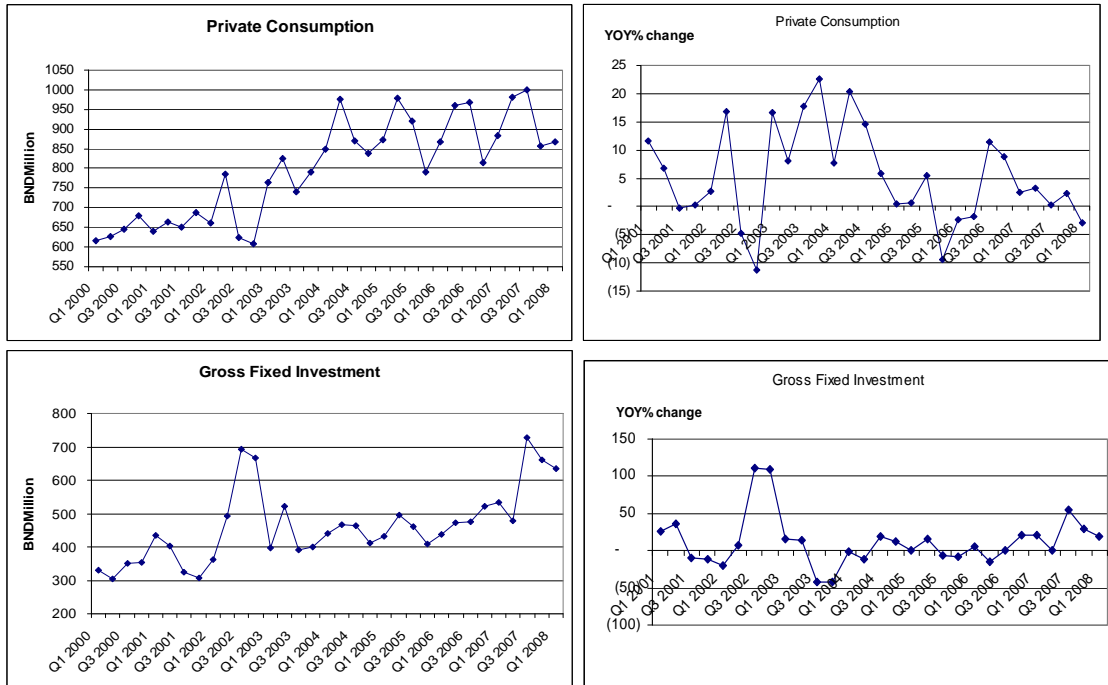
The effect of the increase in oil price to the economy has been mixed. While revenue increases, cost indirectly affected by the increase in oil such as transportation cost also increases. This causes a balancing effect on net revenue.

Since 2001, the Brunei Darussalam's weighted average oil price began to rise. As of May 2008, the price stood at US\$129.6/barrel, about 425% above the average price level in 2001.

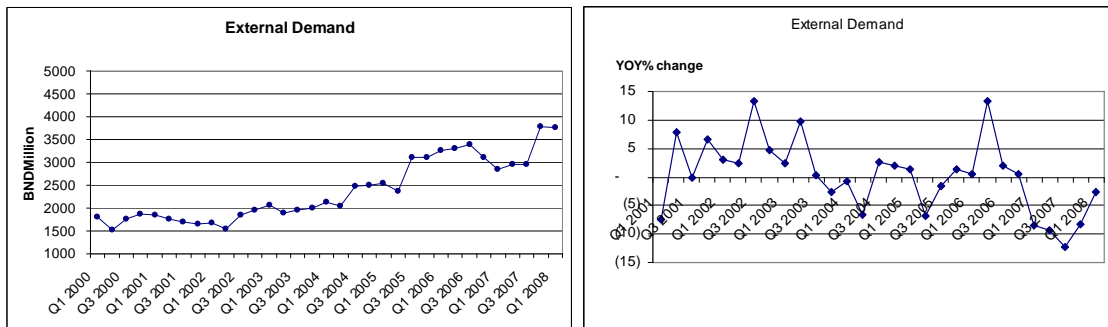


Higher oil prices affect economic activity in Brunei Darussalam through both domestic demand, although to a lesser extent, as well as through external demand. The impact is transmitted through higher related costs such as food and air transportation especially during 2007 onwards when the airfare rose by 4.3% in 2007 and airlines started raising their fuel surcharge due to soaring jet fuel cost in Q1 2008. This has added to domestic business costs and adversely affected business activities.

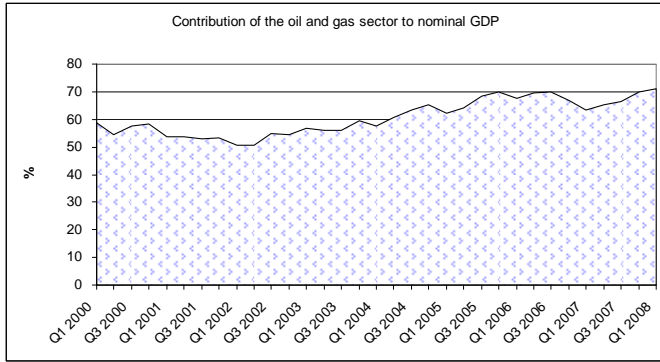
Further, the higher costs were passed on in terms of output prices, which in turn result in lower consumer demand as CPI rose. This has led to moderation of private consumption and investment activities.



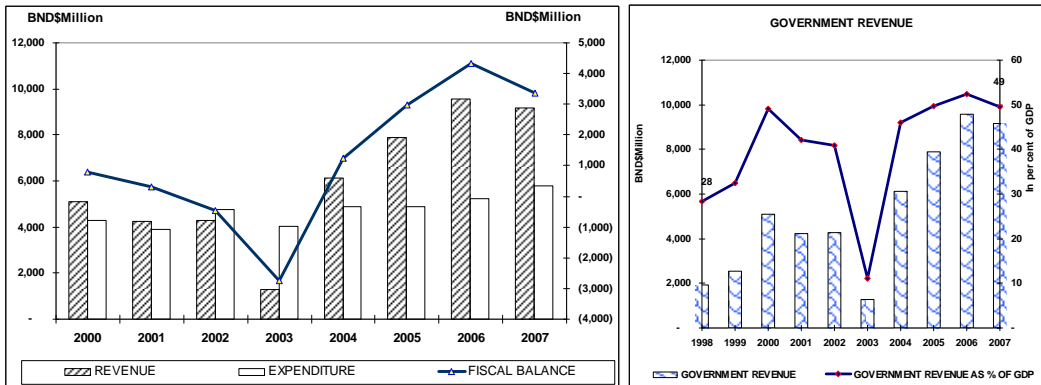
Brunei Darussalam is a net oil exporter. Since the bulk of Brunei’s exports comprises of oil and gas, higher global energy prices has led to higher value of exports with three attendant impacts.



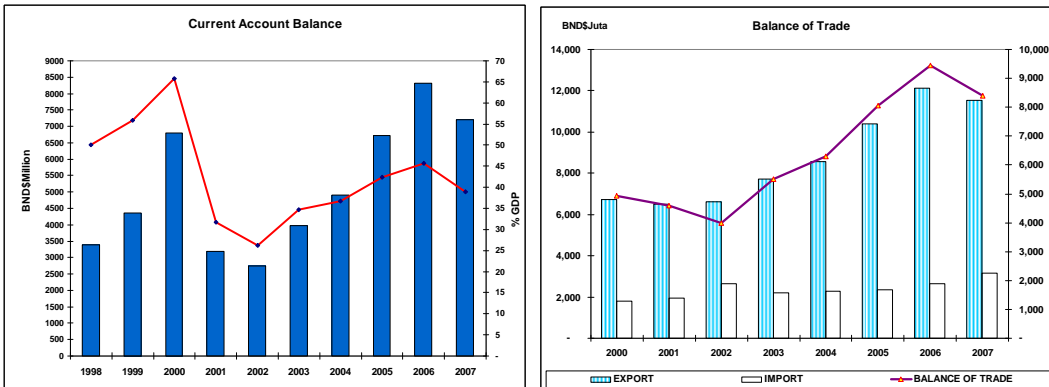
First, in terms of sectoral balance, this situation has resulted in the rising share of the oil & gas sector in Brunei’s nominal GDP. The share of oil and gas sector in GDP now stands at 71.2% (in first quarter of 2008) against 53.3% in 2001.



Second, the government enjoys a larger fiscal surplus. Government revenue from the oil & gas sector accounted for 87.2% of total government revenue in 2007. The increasing oil prices thus provided Brunei Darussalam with a comfortable fiscal position. In the first quarter of 2008, the fiscal surplus stood at 20.9% of nominal GDP compared to 3.6% in 2001.



Thirdly, the external current account surplus widened to 39.1% of nominal GDP in 2007 against 31.7% in 2001.



63. What is the methodology to measure Brunei advancements toward economic diversification from the energy sector? What is the self-evaluation of Brunei regarding its strategy of economic diversification?

Answer:

Brunei Darussalam realizes the importance of diversifying its economy away from the crude oil and natural gas sectors and has identified 5 economic clusters that can potentially be developed; 1) Tourism and Hospitality, 2) Halal Food, 3) Transport and Logistics, 4) Business and Financial Services and 5) Info-Communication Technology (ICT).

In addition to that, BEDB focuses on business clusters which exploit Brunei Darussalam's comparative advantage in the energy sector. In that context, BEDB has begun undertaking to develop downstream activities in the oil and natural gas sectors. The development of the Sungai Liang Industrial Park (SPARK) as an authority and a one stop centre to facilitate establishment and operations of FDI in the park indicates one major move by Brunei towards widening its economic base for future generations. Under SPARK, the construction of the USD350 million methanol plant is currently underway and will start production by 2010. The methanol derivatives are also expected to provide more business and employment opportunities to the local SMEs. The multi-billion deep water Pulau Muara Besar (PMB) port project is also expected to generate similar opportunities.

In the new Long-Term Development Plan, several policy directions and programmes that will be implemented under the Economic, Institutional Development, Local Business Development, as well as Infrastructure Development strategies will help to further widen the economic base.

There are at least three key performance indicators to measure success of our economic diversification strategy.

First, the oil and gas revenues account should, in the future, account for less than half of fiscal revenue. This is the liquidity measure of success. When the government revenues from oil and gas decline, then it's an indication that the non-oil sector has grown.

Second, the non-oil exports account for a significant proportion of total exports. This is the output measure of success. So far, oil and gas commodities account for around 90% of Brunei exports. When the share of non-oil exports decline, then it's an indication that our domestic non-oil production base has expanded.

Third, the private sector (including GLCs) employs 95% of the total employment. This is the employment measure of success. Up to present, government is the country's biggest employer. A successful diversification policy should be reflected in the composition between government and private sector employment.

Using those three yardsticks, Brunei Darussalam is still a long way to go from achieving it's own economic diversification agenda.

64. Please provide further information about previous and current Five-Year development plans in your country. What have been their main goals? Have they achieved these goals in terms of GDP growth, inflation, etc.?

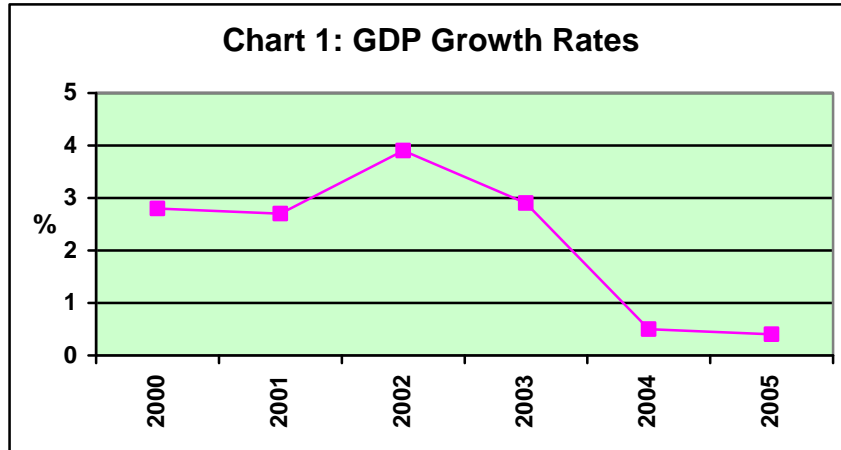
Answer:

THE PREVIOUS FIVE-YEAR DEVELOPMENT PLAN: RKN8 (2001-2005)

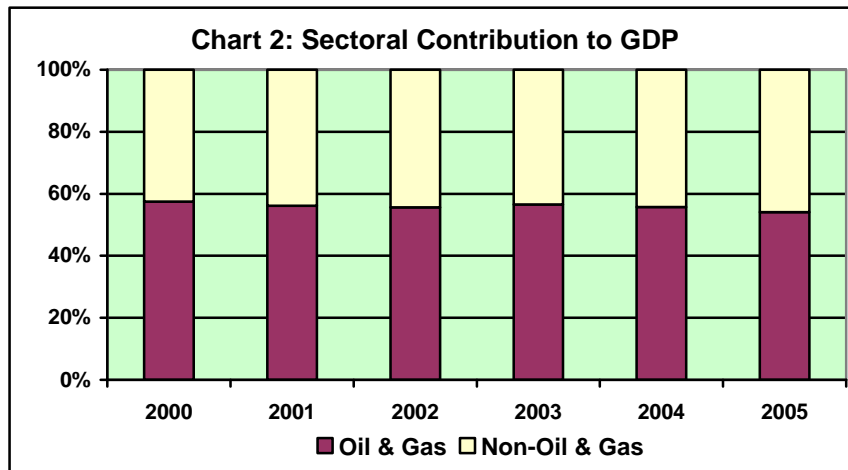
In the past (up to the Eighth National Development Plan (RKN 8), the country's development efforts were focused on the nine long term objectives name(i) improving the quality of life of the people; (ii) maximising the economic utilisation of national resources; (iii) developing non-oil industries; (iv) accelerating human resources development; (v) maintaining full employment and increasing the level of productivity; (vi) maintaining a moderate rate of inflation; (vii) fostering a more disciplined, self-reliant and caring society; (viii) encouraging and nurturing the development of malay citizens as leaders of industry and commerce; and (ix) maintaining a clean and healthy environment.

Significant achievements were made on the objectives of improving the quality of life, maintaining a low inflation rate and a clean and healthy environment. On economic utilisation of resources, human resource development (HRD), and employment and productivity, the achievements were moderate; while progress on the development of non-oil industry, the creation of a highly disciplined and self-reliant society, and the advancement of malay citizens as leaders of industry and commerce was low.

The average annual growth rate of GDP during RKN8 was 2.1 per cent (Chart 1). This figure was lower than the targeted growth of 5-6 per cent. Brunei Darussalam's economy also grew slower compared to ASEAN's average of 5.0 per cent (2000-2004). It was slower than the global growth of 3.8 per cent per year.



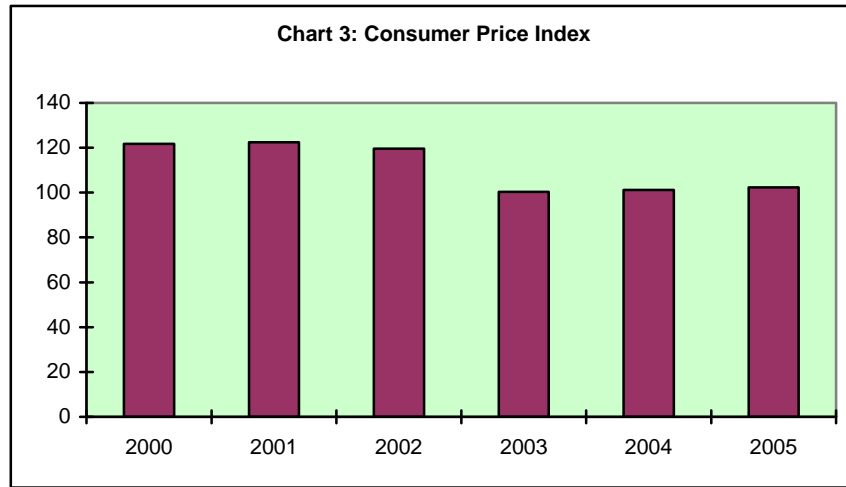
The economy was still very much dependent on the oil and gas sector, although this sector recorded negative growth rates in 2004 and 2005. By 2005, the oil and gas sector's contribution to GDP at constant prices was 54.1 per cent compared to 57.5 per cent at the end of RKN7 in 2000 (Chart 2). The decreasing contribution of oil sector in the GDP was compensated by an increase in the contribution of the non-oil and gas sector.



Brunei Darussalam's labour force in 2001 was recorded at 154,200 persons and increased to 169,200 persons in 2005. The labour force participation rate (LFPR) showed marginal change, from 69.3 per cent in 2001 to 70 per cent in 2005. The male LFPR of 79.6 per cent in 2005 was higher than that of the female LFPR of 59.1 per cent in the same period.

Price development had been broadly under control where the average rate of inflation during RKN8 was around 0.1 per cent per annum, accomplishing the long-term development objective to maintain a moderate rate of inflation. This was as a result of various government measures especially through various administrative procedures such as Brunei Grand Sale, the enforcement of the Price Control Act as

well as the maintenance of current relevant government subsidies. The lower Consumer Price Index (CPI) recorded in 2003 resulted from the rebasing of the CPI which now uses 2002 as the base year (Chart 3).



THE CURRENT FIVE-YEAR DEVELOPMENT PLAN: RKN 2007-2012

The current National Development Plan (RKN 2007-2012) is the first series of the six national development plans to cover the new thirty-year long term plan. This Plan represents a new shift in planning and implementation of development programmes and projects. This is the first RKN to be based on the objectives of the national vision, *Wawasan Brunei 2035*. It provides the country with the needed guidance with respect to the country's development in the next three decades.

The *Wawasan Brunei 2035* will be realised through three Outlines of Strategy and Policy for Development (OSPD). Each OSPD details out the eight strategies through various policy directions to be executed within a ten year period. A set of key performance indicators (KPIs) will be used as measurement of development performance.

The first OSPD, covering the period 2007-2017 has outlined 50-points policy directions which are categorised according to the following 8 *Wawasan's* strategies, namely: education, economic, security, institutional development, local business development, infrastructure development, social security, and environmental strategies.

In the next five years, as is already reflected in RKN 2007-2017 document, Brunei Darussalam's development efforts are designed along four development thrusts: (1) to widen the country's economic base and to strengthen the foundation for a knowledge-based economy (KBE); (2) to accelerate social progress and maintaining political stability; (3) to enlarge the pool of highly skilled labour force, and (4) to strengthening the institutional capacity.

Towards that end, a total of BND9.5 billion is allocated during this RKN 2007-2012 period. The detailed breakdown of RKN 2007-2012 sectoral allocations is shown below. The bulk of funding allocation goes to the social services with 32.2 per cent of the total, followed by the public utilities (15.7 per cent) and ICT (12.1 per cent)

RKN 2007-2012 Sector Allocations

	Allocated	Percentage
	BND Million	
1 Industry and Commerce	1,025.0	10.8
2 Transport and Communication	1,067.0	11.2
3 Social Services	3,055.7	32.2
4 Public Utilities	1,492.7	15.7
5 Public Buildings	673.0	7.1
6 Science & Technology and Research & Development	165.2	1.7
7 Info-Communication Technology	1,145.7	12.1
8 Security	596.8	6.3
9 Miscellaneous	278.9	2.9
Overall Total	9,500.0	100.0

PROGRESS IN 2006-2008

1. Widening the economic base and strengthening the foundation for a knowledge-based economy (KBE).

On average, Brunei Darussalam's GDP growth during 2006-2008 period has been weak. On the back of weak oil output and higher level of capital spending (driven by higher implementation rate of RKN 2007-2012 programmes/projects), and continued progress in the methanol plant and the Sungai Liang Industrial Park (SPARK) projects, GDP in 2008 is forecast to be around 0.5 – 1.0%. Which brings the average growth rate to be around 1%. This is lower than the targeted growth of an average of 6 per cent during RKN 2007-2012.

While the government has privatized a few of its GLCs, the bigger privatization agenda has not started as the government is still waiting for the privatization masterplan (which is the strategic blueprint to privatization) to be completed. In the meantime, efforts have been made to develop local businesses, ICT development, promotion of Brunei's halal brand, and tourism industry.

Another important feature in RKN 2007-2012, which is compatible with the policy intention to move towards knowledge-based economy (KBE) is the implementation of research and development (R&D). In the area of Science, Technology and Innovation (STI), focus will be on: (i) strengthening the STI

institutional setup and arrangement; (ii) strengthening the existing STI infrastructure; (iii) financing STI research and promotion; and (iv) human capacity building from primary to tertiary level. The approach taken is to jump start R&D activities and to catalyse more STI activities and to be at par with countries in the region.

2. Enlarging the pool of highly skilled labour force.

Under HRD, the education sector will focus on improving the quality and accessibility of education and on the promotion of life-long learning culture. The new 21st Century National Education System (SPN 21) has been implemented in 2008.

3. Accelerating social progress and maintaining political stability and Strengthening the institutional capacity.

In the transport and communication sector, efforts have been made on the implementation of new infrastructures and on improving the utilisation of existing facilities with emphasis on better delivery, safety and quality of services in order to cut down travel time, and by opening up new access to various locations in the country.

In the social services sector, the government has continued to implement various programmes/projects. In providing public housing, the government has accelerated the construction of public housing. In providing healthcare to the public, the construction of two healthcare centres have been completed. The centralised sewerage system will be further improved through the introduction of new sewerage treatment technology, and increasing its coverage to include new areas. More drainage infrastructure will be upgraded and improved to reduce flood prone areas. n. The security sector has been allocated around 6.3 per cent from the total allocation during the Plan period. The focus will be to improve the existing infrastructure and building new infrastructure and facilities.

The public utilities sector, which receives 15.7 percent of the total scheme value of RKN 2007-2012, will focus on implementing programmes/projects to provide continuous, reliable, adequate and quality water and electricity supply to the nation.

The ICT sector will focus on integrating e-Government programmes to enable the provision of quality online customer services. In addition, emphasis will also be given on enhancing local small and medium enterprises (SMEs) through e-Business and building human and institutional capacity in ICT applications.

65. To what extent the process of liberalization of FDI and foreign trade has been facilitated by Brunei's membership in APEC? Is it better explained by Brunei's participation in multilateral agreements such as WTO and ASEAN?

Answer:

Brunei Darussalam's participation in regional or multilateral groupings cannot be seen as the reason for its effort to liberalize FDI and foreign trade. Participation in these groupings provided us with the avenue in which to build capacity, increase confidence and create awareness of Brunei Darussalam's readiness to attract FDI and Foreign Trade.

66. What would be your own evaluation about Brunei's move towards the Bogor goals?

Answer:

Brunei Darussalam is in the right track to achieve the Bogor Goal. We view the importance of reaching the Bogor goal as its commitment towards achieving a trade and investment regime that is free and open. Our commitments to reduce and eliminate tariff in the respective bilateral and regional FTAs are complemented by our unilateral efforts to eliminate tariff.

In addition, efforts are being actively undertaken to improve further the ease of doing business through the review of existing laws and regulations.

Brunei long term development plan or Wawasan 2035 which is being implemented in phases takes into account the regional and international commitments in its strategies and policy objectives and as such these will be align and integrated into domestic policies.

Chapter 1: Tariffs

67. IAP for 2008 states that Brunei eliminated last January tariffs on 713 items and introduced duties in 716 items. Could you elaborate on the logic of these changes as well as the sector in which tariffs were either eliminated or included?

Answer:

Excise taxes are levied on a non-discriminatory basis in relation to imported and domestically-produced goods. This is intended for fiscal objectives, as well as for social, health and environmental considerations.

On the other hand, the 716 tariff lines that are now excised have seen their import duties fall to zero, effectively reducing barriers to trade for APEC exporters.

68. Is Brunei planning forward to reduce current tariffs on used motor vehicles?

Answer:

The import duties on motor vehicles have been eliminated.

Chapter 2: Non-Tariffs measures

69. Could you explain the reason for the absence of a Chapter on NTM in Brunei 2008 IAP Report?

Answer:

The NTM Chapter was not part of 2008 IAP submission in view there are no changes from the previous submission.

70. Does Brunei still maintain the prohibition for vaccines from Taiwan reported in IAP 2006? If so, what is the rationale of this prohibition?

Answer:

Yes. This prohibition is based on GATT:47 Article XX on grounds of public health and safety.

At present only vaccines which are registered with any of the MOH recognised benchmark countries are allowed to be imported into Brunei Darussalam. Currently Brunei Darussalam is implementing provisional drug registration while waiting for relevant rules under Medicines Order 2007 to be finalised and approved. Any country interested to register their vaccines in Brunei Darussalam should comply with the technical requirements on drug registration.

71. Does Brunei still uphold the prohibition for imports of cough mixture with codeine reported in IAP 2006? If so, what is the foundation of this prohibition?

Answer:

Imports of cough mixtures containing codeine are not completely prohibited, but restrictions do apply as codeine is listed as a controlled substance under the Poisons Act and importation is controlled through licensing. It is also classified as a prescription only medicine in Brunei Darussalam.

72. Is it still necessary a license issued by AiTi to import wireless telephones, radar apparatus and radio transmitters reported in IAP 2006? If so, what is the rationale of this prohibition?

Answer:

The permits are required for general security purposes, in order to monitor the equipment imported and ensure compatibility to existing telecommunications systems in place. The permits are granted upon the fulfillment of technical criteria. (Ref. to Telecommunications Order 2001)

Chapter 3: Services

(a) Telecommunications

73. Please explain the status of the process of privatization of Jabatan Telekom Brunei (JTB). To what extent has it been fulfilled? Do new regulations by AiTi allow the participation of foreign firms in this sector?

Answer:

Jabatan Telekom Brunei was privatized on 1st April 2006.

AITI is only responsible for issuing the licenses but the policy on market access still remains with the Ministry of Telecommunication.

The maximum extent of foreign participation allowed is 50%. If foreign providers wish to participate in the Brunei market, they may do so by acquiring equity in existing providers in the course of normal commercial negotiations.

(b) Education

74. Please explain the absence of a section about education in Brunei 2008 IAP Brunei Report.

(c) Accounting Services

75. Please explain the absence of a section about accounting services in Brunei 2008 IAP Brunei Report.

Answer:

Brunei has yet to include accounting and education services in its IAP.

Chapter 4: Investment

76. Could you provide further information on the evolution of FDI inflows into Brunei since 2000? To what extent these outcomes can be attributed to BEDB policies? What economic sectors have been the most dynamic in terms of eliciting new FDI flows?

Answer:

Net foreign direct investment was slightly over US\$1 billion in 2002, and tripled to over US\$3 billion in 2003. In 2002, more than half of foreign direct investment went to the tertiary sector followed by the mining & quarrying sectors and manufacturing sector. However in 2003, oil and gas exploration and extraction accounted for almost all of the US\$3 billion inflows in that year and for most of the inflows since then. Manufacturing sector is the next sector which steadily receive increasing FDI inflows.

Please view attached ANNEX 1 on statistics for FDI inflows into Brunei by year (2000-2007) and industry/sectors.

The Brunei Economic Development Board (BEDB) plays a major role in developing and promoting Brunei as an investment destination to foreign investors. In January 2003, the BEDB proposed a five-year US\$4.5 billion infrastructure development strategy in which could offer foreign firms significant technical, construction, and expansion opportunities. Specifically, the plans include a US\$3 billion industrial site at Sungai Liang and a US\$1.5 billion Mega port at Pulau Muara. The proposed industrial site includes a US\$400 million power plant, relying on the Sultanate's natural gas resources, an aluminium smelter and downstream projects, as well as a port, free-trade zone, and supporting infrastructure.

For the BEDB, petrochemical industries have been the most dynamic in terms of eliciting new FDI flows into Brunei. This is because of the existence of natural gas resources and a well managed oil and gas industry.

There are currently four big projects under the BEDB:

SPARK

The development of an industrial park named Sungai Liang Industrial Park (SPARK) is one of the several initiatives taken by BEDB in attracting FDI into Brunei. SPARK is designed to be a world class petrochemicals hub, which will house petrochemical related industries and their spin-offs.

Currently, the BEDB is also looking at several proposals with regards to downstream e.g methanol and its derivatives, petrochemical industries as well as supporting service for the oil and gas industry.

Through SPARK the BEDB has secured FDI from the Brunei Methanol Company (a joint Venture Company between Mitsubishi Gas Chemical Company , INC, Brunei National Petroleum Company Sendirian Berhad and Itochu Corporation) in 2006. The BEDB is currently in discussion with foreign investors on the other petrochemical projects.

I-CENTRE

Through *icentre* project (Brunei's first technology incubation centre, the BEDB was able to secure FDI from a technology collaborator from Malaysia in 2007. At the moment, the BEDB is also engaging other foreign technology collaborators to invest in the centre.

PMB

BEDB is currently looking at significant government investment in basic infrastructure for proposed deep-water container port at the Pulau Muara Besar (PMB) to attract foreign investors to co-invest with us.

BEDB expects to appoint a port operator and master-planner within the year. Besides the proposed port, PMB will also house an Export Processing Zone and Industrial Park. There have also been a number of proposals for an integrated refinery and petrochemicals complex on PMB. The BEDB has signed an MOU with foreign investors in an Aluminium Smelting Project. There have also been a number of proposal for an integrated refinery and petrochemicals complex on PMB.

WASTE MANAGEMENT

The BEDB is currently looking-into an energy efficient waste management project in Brunei.

Chapter 6: Custom procedures

77. Please explain the status of the discussion about signing the Kyoto convention.

Answer:

Brunei is currently considering the feasibility of acceding to the Kyoto Convention. Assessment are being made to ensure that Brunei would be able to comply to the requirements stipulated in the Convention particularly to align the procedures and practice in line with the Kyoto Convention.

78. Has Brunei finally implemented a system of green light/red light system at the International Airport?

Answer:

Brunei is currently in the process of finalizing the legal and administrative work for the implementation of the green/red channel system.

Chapter 7: Intellectual property rights

79. Has the patent Order of 1999 come into force? If so, what have been the outcomes so far?

Answer:

The Patents Order of 1999 has been published in the *government gazette* but has not come into force.

80. Please specify with more detail the number and nature of those infringement cases on copyrights, trade marks and industrial design that have been submitted to the courts. What have been the punishments for those who have broken IPR laws?

Answer:

Please find attached statistics on IPR enforcement cases compiled by the Commercial Crime Unit of the Royal Brunei Police Force.

Chapter 8: Competition policy

81. Please let us know further details about the Price Control Act established in 1974. Is it still enforced? If so, what is the rationale of the continuity of such a law?

Answer:

The Price Control Act 1974 (amended 1999) is still enforced by the Department of Economic Planning and Development (DEPD) and is also currently under review.

Under the Act, the appointed Price Controller may fix maximum price and charge for service in respect of goods which differs from the maximum price or the charge for which services fixed for another area in respect of like or similar goods. He may also have the power in control of movement, export and import dealing of price controlled articles or goods. The price controlled articles or goods to date include rice, sugar, motor vehicles, cigarettes and infant milk. In addition to that, the Price Controller will ensure that all commodities have price tags.

The continuity of such a law is needed for the protection of local consumer interests through controlling prices of basic essential items and selected controlled items and the prevention of hoarding of these items to influence the market.

Chapter 9: Government procurement

82. Please indicate why Brunei's 2008 IAP omits comments on Government procurement.

Answer:

Government Procurement chapter was not included in the 2008 submission in view that there are no changes to the previous submission.

Chapter 12: Dispute mediation

83. From your viewpoint, what is the reason of the absence of WTO and government-private sector disputes settlements cases reported in IAP 2008? Is there any sort of "informal mechanism" for solving disputes?

Answer:

To date, there is no commercial dispute case involving Brunei.

Chapter 13: Mobility of business people

84. Getting a visa to enter Brunei seems difficult for citizens of those countries where there is no a Brunei representation. Are you planning forward to set a system of e-visas and/or payment of visa fees with credit card?

Answer:

Brunei is currently considering the feasibility of introducing e-visa system (applying visa on line) and it is in its long term plan. The priority at the moment is up-grading and migrating the existing IT system.

On 5th May 2008, Brunei launched the new biometric or electronic passport which will provide better security and faster processing. It is one of the Department of Immigration initiatives under the e-government to replace the machine readable passport which was introduced in 1993.

C. FROM APEC ECONOMIES

Canada

Chapter 1: Tariffs

1. While happy to see progress on reducing tariffs in Brunei, Canada would note that there remain many unbound tariffs. What are Brunei's plans to bind the remaining unbound tariffs?

Answer:

Brunei sees the Doha Round as an excellent opportunity to improve her bindings of unbound tariffs.

Chapter 4: Investment

2. Canada would appreciate an explanation for what is essentially AIA-minus position with respect to treatment accorded to non-ASEAN investors. Will Brunei legislation be explicit on more favourable treatment to ASEAN investors?

Answer:

The AIA looks at the liberalization of the five sectors and services incidental to these five sectors. Essentially, ASEAN investors will enjoy the opening up of these industries with limited restrictions, a treatment which may not be available to non-ASEAN investors.

The AIA contains an automatic MFN obligation where all ASEAN member countries have agreed to extend to other ASEAN member countries any preferential treatment granted in any other FTA with another country.

There are currently no plans for this more favorable treatment to be stated explicitly in Brunei's legislation.

China

Chapter 4: Investment

1. What is the process of Brunei to assess, review and amend the industrial policies which may include development strategies, government support, and market access? What are the conditions or restrictions on foreign investment in the sensitive industries, such as mass media, telecommunications, posts, energy and utilities, banking, arms and ammunitions, retail businesses, petrol stations and liquor? Are these policies reviewed and adjusted on regular basis? If yes, what is the adjustment based on?

Answer:

Policies are reviewed by the relevant agencies in each economic sectors, and are adjusted according to individual policies related to the national economic development plans and objectives.

Brunei Darussalam currently does not have a list of restrictions on full foreign equity.

Under the ASEAN Investment Area Bold Measures Agreement signed in January 1999, Brunei Darussalam allows for 100% foreign equity ownership in high-technology manufacturing and export oriented industries.

Other than that, full foreign ownership is not permitted in sectors involving local natural resources (notably fisheries and agriculture) and those relating to national food security where a minimum of 30% local participation is required.

With regards to the banking sector, the Banking Order 2006 does not contain any provisions that restrict foreign entities to set up a bank in Brunei Darussalam. Under this order, foreign entities or investors are permitted to set-up a bank in Brunei Darussalam, conditional upon fulfilling the licensing criteria and the minimum paid-up capital requirements (Section 7 and 8, of the Banking Order 2006) as follows:

MINIMUM PAID UP CAPITAL BANKING	
Head Office In Brunei [Section 8(d)]	B\$ 100 Million
Head Office Outside Brunei [Section 8(e)]	B\$ 1 Billion (Global) B\$ 30 Million (Net Head Office Funds to be maintained in Brunei)

Under Section 14 of the Banking Order 2006, a person is prohibited to become an indirect, 10%, 20%, 33% or majority controller of a bank incorporated in Brunei Darussalam unless prior approval is given from the Authority.

2. Does the “Investment Incentives Order 2001” apply to both domestic and foreign-invested companies? Are there any tax incentives granted to export-oriented manufacturers? If yes, what are they?

Answer:

The Investment Incentives Order 2001 applies to both domestic and foreign-invested companies, as long as they are registered under the Companies’ Act of Brunei Darussalam.

There are tax incentives granted to export-oriented manufacturers including exemption from income tax, exemption from import duties on machinery, equipment, component parts, accessories or building structures and exemption from import duties on raw materials.

3. How does Brunei encourage cooperation between local SMEs and foreign investors?

Answer:

Brunei Darussalam notes the importance of SMEs in the overall development of the domestic economy. As such agencies such as BEDB and MIPR endeavour to maximize the benefits generated by investment through the strengthening of policy, legal and institutional framework and human resources development for investment and improving investment promotion capabilities.

An example which could be observed from the agencies' initiatives is the BEDB's Cooperation Agreement with Brunei Methanol Company (BMC) which aims to support local SMEs and create employment opportunities for local people. Another example is the *icentre*, Brunei's first technology incubator whereby big companies are encourage to help developing the small local ICT companies through business mentorship and marketing support program.

Brunei Darussalam also looks at the economic cooperation chapter under the relevant ASEAN agreement with its dialogue partners, such as ASEAN-Korea, which have introduced cooperation programmes related to SME development.

4. Please introduce the master plan and project plans regarding infrastructure construction in Brunei, such as sea port construction and road building. Could foreign investors involved in these fields enjoy preferential treatment or facilitation policies?

Answer:

Under the National Development Plan 2007-2012, the key thrusts for the next five years are (i) to further develop the transport and communication infrastructures in terms of the quality of services and (ii) to increase the sectoral contributions of these sectors to GDP.

The government will build several new roads and bridges as well as improve the existing ones. These projects are hoped to have positive impacts in terms of cutting down travel time, enhancing road safety and opening up of isolated areas for possible future economic activities. A feasibility study for the construction of a bridge to connect the Brunei-Muara District to Temburong District will be

undertaken. A bus terminal and a central bus station will be built in Muara and Bandar Seri Begawan.

Efforts are being undertaken to promote the Muara Port, including the provision of incentives to port users and the improvement in the management of the port services. To enhance the efficiency, safety and security of the Muara Port, several projects will be implemented including Service and Export Hub, Warehouse Facilities, Post Security Building and Equipment, and extension of Department of Port Headquarters.

Under the Brunei Economic Development Board, the Board had developed a master plan to develop the Sungai Liang Industrial Park (SPARK) as a world class petrochemical hub. Under the master plan, in addition to the basic infrastructure such as roads and drainage, the master plan also provided for independent power plant, water treatment plan and export facilities. Another project is to transform the Pulau Muara Besar (PMB) into a Regional Deepwater Container Port. BEDB is still in the process of engaging the master planner to develop a master plan for the project. Other infrastructure construction include Anggerek Desa Technology Park and the engineered dumpsite/ incinerator

All investors are invited through open-tender process. There are neither preferential treatments nor preferential facilitation policies for the contractors/ investors (foreign or locals).

Chapter 6: Customs Procedures

5. Under the framework of a free trade agreement, if the originating goods have been transshipped through a non-Party, what supporting documents do Brunei customs authorities require to identify the origin of the goods?

Answer:

In most of our FTAs, originating products must meet the direct consignment rule. Nevertheless, goods transshipped through non-party may be allowed and in this regard, the documents required may be stipulated in the respective FTAs.

6. Since Brunei does not have domestic regulations on rules of origin for imports and exports how will it deal with commercial fraud involving rules of origin?

Answer:

Brunei Darussalam does not require any non-preferential certificate of origin for the importation of goods into Brunei Darussalam.

Hong Kong China

Chapter 1: Tariffs

1. We commend Brunei Darussalam for maintaining generally low applied tariffs, with an average of 3.6%. We also welcome Brunei's plan to review its tariff policy with a view to reducing the applied tariff, and to progressively reduce the bound tariff to zero between 2010 and 2020.

Answer:

Brunei thanks Hong Kong, China for its comments.

Chapter 6: Customs Procedures

2. For "Paperless Trading", we would like to know if the web-based submission of Customs declaration and permit would be mandatory after the implementation of e-customs by September 2008.

Answer:

The implementation of e-customs is backed by legislation therefore all customs declaration and permits would need to be submitted on-line.

3. Regarding the appeal mechanism under the "Implementation of Clear Appeals Provisions" in which any person aggrieved by the Controller's decision may appeal to the Minister of Finance whose decision shall be final. We would like to know if there is any other independent court or tribunal to process the appeal.

Answer:

None

Peru

Chapter 6: Customs Procedures

ALIGNMENT WITH WTO VALUATION AGREEMENT

1. How does Brunei handle the training to business community related to goods valuation?

Answer:

The Royal Customs and Excise Department conducts regular awareness and training program on goods valuation both to the business community as well as customs officers. All the programs are conducted in-house.

IMPLEMENTATION OF THE TRIP'S AGREEMENT

2. Which entity issues and regulates legislation related to Intellectual Property Rights and coordinates with Customs for controlling? How?

Answer:

The Attorney General Chamber is responsible for all matters relating to the issuance and regulation of Intellectual Property Rights as well as coordinating with the Royal Customs and Excise Department and the Royal Brunei Police on enforcement. The Department of Royal Customs and Excise is responsible for border measure control only.

ADOPTION OF SYSTEMATIC RISK MANAGEMENT TECHNIQUES

3. What kind of selection channels uses Brunei Customs for controlling goods during clearance?

Answer:

There are different options available depending on the situation. These include using x-ray machine; physical inspection which is done at random as well as profiling.

4. Is the introduction of green and red channels at the international airport for luggage of persons or import or export goods?

Answer:

Brunei is presently in the process of finalizing the legal as well as administrative work for the implementation of the green/red channel system.

5. Will the implementation of these channels be based on a profile selection and/or a selection model(s)?

Answer:

Implementation of these channels will be based on profiling.

6. If yes, what kind of fraud will be prioritized in the selection?

Answer:

All frauds will be dealt with. As the basic responsibility of the Royal Customs and Excise Department is border control measures, smuggling and import duty evasion would then be the top priority. These would also include false declaration, falsifying documents, possession of dutiable, prohibited or uncustomed goods.

TRANSPARENCY

7. Does Brunei Customs charges any fees for providing data in its webpage?

Answer:

At the moment it is free of charge.

CARNET ATA

8. When will Brunei adopt the ATA Carnet Convention?

Answer:

Brunei is currently undertaking study to assess the possibility of Brunei acceding to the ATA Carnet Convention.

Chinese Taipei

Chapter 4: Investment

1. The section “Competition Policy and Regulatory Reform” (p. 10 of the “Brunei Investment” file) states that “Brunei had formed the Authority for Info-Communications Technology Industry (AiTi) as the regulatory authority in the sector”. Also, under “General Policy Framework” (p. 14) it is stated that “All investment sectors are open to foreign investors except for a few restricted sectors which the Government is the major provider of services such as...telecommunications...” Please elaborate on the Government’s supervision and regulation on investments in telecommunications, such as limitation of shareholding proportions.

Answer:

Brunei Darussalam’s 8th National Development Plan saw the corporatization of Telecommunication Department as well as the newly established regulatory body Authority for Info-Communication Technology Industries (AiTi).

The telecommunications sector in Brunei is open to foreign investment. If foreign providers wish to invest in the Brunei market, they may do so by acquiring equity in the existing providers through the course of normal commercial negotiations.

As per AiTi's published Operational Handbook, the maximum allowable foreign equity participation in the telecommunications sector is 50%.

United States

Chapter 5: Standards and Conformance

1. What steps has Brunei taken towards recognizing international standards, particularly with respect to the Codex Alimentarius Commission's ad hoc Intergovernmental Task Force on Foods Derived from Biotechnology? This would include both the guidelines and the annexes to the guidelines related to the safety assessment of foods derived from biotechnology.

Answer:

Brunei Darussalam adopts international standards where no national standard exists including CODEX. However, due to resource constrain we are not yet able to align ourselves to the requirements on foods derived from biotechnology, including to put in place the legislation to control the entry of food derived from biotechnology. These food however, still subject to labeling requirement as of any other foods.

2. We understand, Brunei maintains extremely strict requirements for Halal products which are stricter than the Codex Alimentarius standard for Halal and are also inconsistent with other Islamic countries. Given the low risk associated with processed products, we would appreciate understanding Brunei's rationale for pursuing measures beyond established international standards for Halal? Specifically, we are interested in the rationale for the following: 1) the requirement that two Bruneian religious officials be present to witness the slaughter and provide the Halal certification, and 2) the measure that does not allow host countries to use their own religious officials to carry out the Halal slaughter or prepare the Halal certification.

Answer:

The Codex Alimentarius standard for Halal food provide general and broad guidelines and also accepts that there may be differences in interpretation according to different Islamic Schools of Thought, and as such are subject to the interpretation of each importing country.

As such, Brunei's domestic laws and regulations reflect its understanding and interpretation and in accordance with the Islamic School of Thought Brunei follows, as set by the Mufti of Brunei.

Regarding the specific questions raised:

- (i) Brunei requires that two religious officials be present as witnesses in order to ensure certainty and prevent doubt e.g. anything which may be missed by the first witness may be observed by the second;**
- (ii) The Halal Meat Act states that slaughter of local halal meat may be carried out by "a Muslim holding a Slaughtering Certificate" however there is no such requirement in the Act for imported Halal Meat. Brunei therefore requests more information on this measure referred to. As to the requirement that Halal Certification must be prepared by Bruneian religious officials, this is due to the fact that they will be issuing the Halal Certificate for importation.**

3. Also, please provide further clarification on the following sections of Brunei's Halal requirements.

Section 2.4 Halal Food – It may be difficult for both importers and exporters to know that all ingredients are Halal. In addition other countries allow non-halal ingredients if Halal ingredients are not available. Who will be liable if gelatin or sausage casings have not been certified?

Answer:

If potential foreign exporters intend to seek 'Brunei Halal' certification from MUIB, then approval must be obtained from the religious authorities under the Halal Certificate and Halal Label Order.

Otherwise, interested parties must comply with the requirements under the Public Health (Food) Act under the Ministry of Health.

Art. 6 Importations state that any processed food which is intended to be imported into Brunei must comply with the relevant labeling requirements. If such requirements are not complied with within 3months of importation, it shall be exported by the importer or forfeited or disposed of, as directed.

Art. 9 further lists the offences under the Act, and the corresponding punishments, e.g. for any person who labels or sells etc food in a manner which does not comply with prescribed standards is guilty of an offence.

Non-halal food may be sold in Brunei, but should therefore not be (mis)represented as halal food.

Section 2.8 Najis – What does contamination mean in this section?

Answer:

There is no definition of “contamination” in the Halal Acts, as such it would have the ordinary dictionary meaning of the word.

contaminate: make (something) impure by exposure to or addition of a poisonous or polluting substance (source: The Oxford Pocket Dictionary of Current English, 2008)

As such “contamination” in the mentioned section, would mean contamination or exposure to / contact with the mentioned product e.g. non-halal items such as najis.

2.8 Najis

2.8.1 Najis according to Hukum Syara’ are: (a) animals or things that are themselves not permissible such as pig (kхинzir) and all its derivatives, blood and carrion; (b) halal food that is contaminated with things that are non-halal; (c) halal food that comes into direct contact with things that are non-halal; (d) any liquid and objects discharged from the orifices of human beings or animals such as urine, excrement, blood, vomit, pus, sperm and ova of pigs and dogs except sperm and ova of other animals; and (e) carrion or halal animals that are not slaughtered according to Hukum Syara’.

2.8.2 There are three types of najis: (a) Mughallazhah which is considered as severe najis which are dogs and pigs (kхинzir) including any liquid and objects discharged from their orifices, descendants and derivatives. (b) Mukhaffafah which is considered as light najis. The only najis in this category is urine from a baby boy at the age of 2 years and below who has not consumed any other food except his mother’s milk. (c) Mutawassitah which is considered as medium najis which does not falls under severe or light najis such as vomit, pus, blood, alcoholic drinks (khamar), carrion, liquid and objects discharged from the orifices, etc.

Section 3.2.1 Place of slaughter - In this section, it clearly states that the place of slaughter shall be used for the purpose of the Halal slaughter of animals only. Does this indicate that the Government of Brunei wants full dedicated Halal slaughter establishments and slaughter equipment?

Answer:

Yes. Facilities and machinery in a Halal slaughterhouse should be dedicated to the slaughter of Halal Meat.

Facilities or machinery which were previously used for non-Halal slaughter may be used to process Halal food, provided that the facility or machinery have been cleansed in accordance with the relevant Islamic rites.

However, Brunei Darussalam does not require site inspections for food processing plants. It is only for ‘Brunei Halal’ certification for food processing plants that such plants must undergo site inspection in accordance with the Halal Standard (PBD 24:2007).

4. Brunei currently maintains a comprehensive product registration process for processed products. Registration involves assessing the compliance of written procedures with the management system requirements and then auditing the implementation of the system on an ongoing basis. Given the low risk associated with processed products, please explain the justification for requiring a copy of the manufacturer’s certificates or HACCP for each product item, for each and every subsequent shipment in order to certify the product as Halal. Non-compliance to this production, process measure would not singularly negatively impact the safety of these products, since all foods for human consumption, including non-Halal food products, must also be determined to be safe or should not be sold in the market.

Answer:

The laws governing the importation of halal food are governed under the Halal Meat Act and the Halal Certificate and Halal Label Order, whereas the importation of food generally (including processed food) is governed by the Public Health (Food) Act.

For Brunei Halal certification, site inspections of the food processing plants need to be undertaken, in accordance with Halal Standard PBD 24: 2007. Details of the certification procedure are available on the bruneihalal website: <http://www.bruneihalal.gov.bn/node/101>

To export halal meat into Brunei, Interested parties must obtain permission from the Department of Halal Food (Protection) and include the following:

- i. A letter requesting permission;**
- ii. Twin forms A or B or C or D;**
- iii. A profile of the firm/abattoir that intends to export meat into Brunei Darussalam**
- iv. Copies of certificates from the authorities in their originating countries such as certificates showing that the country is free of contagious and easily communicable diseases such as avian flu, foot and mouth disease, mad-cow disease and the like; in accordance with the World Organisation for Animal Health.**

- v. **A valid slaughtering certificate for the abattoir/slaughtering house that is applying.**
- vi. **Certificates showing accreditation such as HACCP, VHM, GMP, ISO, etc. that have been issued by the authorities in the country to the applying abattoir.**

The letter requesting permission to export halal meat into Brunei Darussalam must be submitted to the Authority Issuing Board for Halal Import Permits / Jawatankuasa Lembaga Mengeluarkan Permit Import Halal (LMPH). If approved, the application will be submitted to the Brunei Islamic Religious Council / Majlis Ugama Islam Brunei (MUIB).

If MUIB agrees with the endorsement of the abattoir by Jawatankuase LMPIH, MUIB will instruct the Inspection Authority / Jawatankuasa Pemeriksa (JP) to inspect the abattoir.

JP will give a report on its findings to MUIB.

Upon satisfactory assessment of the applying abattoir's report, i.e. the abattoir meets all the requirements to import meat into Brunei Darussalam, MUIB will send two safety instructors to the abattoir at the expense of the applying abattoir.

As such there is no requirement for a copy of the manufacturer's certificates or HACCP for each product item, for each and every subsequent shipment in order to certify the product as Halal.

Maintenance of the Certified Halal certificate and Halal Labels may be done via surveillance audits which will be conducted on the certified place or place of business in at least (6) six months, to determine whether the Halal procedure and requirements are being maintained. However, the frequency of the audits will vary according to the needs. More frequent audits will be conducted based on the recommendation of the compliance audit report and on cases such as rejection of products by importing countries and customer complaints.

In addition, during product registration there is no requirement for the submission of HACCP certificate for Halal verification. However importers/traders are required to fill in the Product Registration Form and to submit the packaging of the product.

5. Please explain why Brunei's expiration date labeling and shelf life requirements deviate from standards the Codex Alimentarius Commission's *General Standard on Food Labeling*? For example, Brunei requires both a production and expiration date, while Codex only requires the "date of minimum durability" or best by" date.

Answer:

The requirement of production and expiration date on food labels are only applicable for 25 food items with a shelf life of under 2 years as listed under the Public Health (Food) Act. For other food items, no labeling requirements on expiration date, production date or shelf life apply, and it is left up to the manufacturers.

Generally, food labeling requirements in Brunei are similar to that being practiced in Malaysia, Singapore and Australia.

Annex III

**Brunei Darussalam's Peer Review: Experts Visit
15-18 September 2008**

Schedule of Meetings with Ministries/ Departments

Date	Ministry/ Department	Time	Venue	Issues	Contact Person	Representatives
15/09	Ministry of Finance:	8.30 -10.00	Briefing Room 2 ICC	Customs Procedures Financial Services Government Procurement	Mr. Zaki Hassanol 2381545 zaki.hassanol@mof.gov.bn	Mr. Hisham Hanifah Acting Director Revenue Division (Now Deputy Permanent Secretary, Ministry of Finance)
	Revenue Division					Mr. Matali Apong Secretary, State Tender Board Ministry of Finance
	Royal Customs and Excise Department					Hjh Rafezah Abd Rahman Finance Officer, Financial Institution Division Ministry of Finance
	Financial Institution Division					Hjh Maizatul Najibah Mohammad Finance Officer, Financial Institution Division Ministry of Finance
	State Tender Board					Mr. Zaki Hassanol As'shari Finance Officer Research and International Division Ministry of Finance
						Mr. Ibrahim Abd. Rahman Deputy Superintendent of Customs Department of Royal Customs and Excise
						Mr. Asmayuddin Hamid Senior Superintendent of Customs

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						<p>Department of Royal Customs and Excise</p> <p>Mr. Hafiy Abdullah Fung Superintendent of Customs Research Department of Royal Customs and Excise</p> <p>Mr. Pg. Arriffin Pg. Tuah Ass. Superintendent of Customs Research Department of Royal Customs and Excise</p>
15/09	Department of Economic Planning and Development	10.30- 12.00	Briefing Room 2 ICC	Planning and Implementation of National Development Plans	<p>Ms. Maisarah Majid 8833319 maisarah.majid@jpe.gov.bn</p>	<p>Ms. Zainab Morshidi Acting Director Dept. of Policy and coordination Department of Economic Planning and Development</p> <p>Mr. Amin Hashim Acting Director Department of Planning Department of Economic Planning and Development</p> <p>Ms. Dk. Siti Nirmala Pg. Mohamad Acting Assistant Director Department of Planning Department of Economic Planning and Development</p> <p>Mr. Gemok Haji Ghani Statistics Officer Department of Statistics Department of Economic Planning and Development</p> <p>Ms. Maisarah Majid Economic Officer Department of Policy and Coordination Department of Economic Planning and Development</p>
16/09	Ministry of Industry and Primary	8:30 - 10:00	Wawasan Room, 1 st floor	Sectoral Policies (industry, agriculture,	Ms. Bani Tengah	Mr. Pg. Kamaruddin Pg Razak Director

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	Resources		MIPR building	fishing, forestry) Investment incentives	Hp: 8720095	<p>Policy and Planning Division Ministry of Industry and Primary Resources</p> <p>Ms. Norsarizah Sarbini Project Officer Policy and Planning Division Ministry of Industry and Primary Resources</p> <p>Mr. Shahrul Rizan Othman Project Officer, Policy and Planning Division Ministry of Industry and Primary Resources.</p> <p>Ms. Siti Nurbani Tengah Senior Counsel Ministry of Industry and Primary Resources</p> <p>Mr. Zulzalani Osman Special Duties Officer Ministry of Industry and Primary Resources</p> <p>Mr. Pg Izudin Pg Abas Tourism Officer Tourism Development Department Ministry of Industry and Primary Resources</p> <p>Mr. Rusali Safar Senior Agriculture Officer Department of Agriculture Ministry of Industry and Primary Resources</p> <p>Dr.Siti Romlah Mohd Jais Veterinarian Department of Agriculture Ministry of Industry and Primary Resources</p> <p>Ms. Masni Mohsin Special Duties Officer Brunei Industrial Development Authority Ministry of Industry and Primary Resources</p> <p>Ms. Azlina Aji</p>
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16/09	Brunei Economic Development Board (BEDB)	10:30 -12: 00	Block 2K, Bangunan Kerajaan, Jalan Ong Sum Ping	FDI Policies	<p>Mr. Ariffin Sulaiman Manager, Stakeholder Division Ariffin@bedb.com.bn Tel: 2230058 (d) 2230111 ext 207</p>	<p>Mr. Vincent Cheong, CEO Brunei Economic Development Board</p> <p>Dr. Manaf Metussin Head of Stakeholder Division Brunei Economic Development Board</p>
16/09	Petroleum Unit	12:15 - 1:15	Briefing room 2 ICC	Sectoral Policies: Mining		<p>Mr. Hj. Mohd Anas Haji Abdul Latif Senior Legal Officer. Head of Corporate Section Petroleum Unit Prime Ministers' Office</p>

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						<p>Mr. Pg. Shariful PSI Pg. Hj. Ismail Engineer Corporate Section Petroleum Unit Prime Ministers Office</p> <p>Ms. Nuramalina Hayate Hj. Metassan Engineer Corporate Section Petroleum Unit Prime Ministers' Office</p>
17/09	<p>Ministry of Foreign Affairs and Trade:</p> <p>Department of Economic Cooperation</p> <p>Department of Trade Development</p> <p>Department of International Trade</p>	8:15 -10:15	Briefing room 2 ICC	<p>APEC APEC Food System WTO P4 ASEAN Bilateral Trade Facilitation Dispute Mediation Consular Services</p>	<p>Mr. Rozaimée Abdullah Rozaimée.abdullah@mfa.ghov.bn</p>	<p>Dato Paduka Lim Jock Hoi Permanent Secretary Ministry of Foreign Affairs and Trade</p> <p>Mr. Mohammad Alias Serbini Director Department of Economic Cooperation</p> <p>Mr. Abu Sufian Ali Acting Director Department of International Trade</p> <p>Ms. Norashikin Johari Acting Assistant Director Department of International Trade</p>
17/09	Department of Protocol and Consular (Department of Immigration)	10:15 -10:45	Briefing room 2	Business Mobility	<p>Mr. Rozaimée Abdullah Rozaimée.abdullah@mfa.ghov.bn</p>	<p>Mr. Sukardi Sani Second Secretary Department of Protocol and Consular Affairs Ministry of Foreign Affairs and Trade</p> <p>Mr. Saufi Ibrahim Ass. Director Department of immigration and National Registration</p>