DOMESTIC IMPLEMENTATION OF INTERNATIONAL COMMITMENTS

Public Officers’ Law Seminar: Understanding the Law
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INTRODUCTION: Distinction between Private International Law and Public International Law

- Private International Law rules:
  1. A competent court
  2. The applicable law
  3. Whether recognition and enforcement are possible

- Public International Law also regulates relations between States and non-State actors.
INTRODUCTION: Traditional Theories on the Relationship between International and Domestic Law

- **Monism:**
  - *Civil law* countries are monistic.
  - Such examples are Chile, Japan, Mexico, Peru and Viet Nam.

- **Dualism:**
  - *Common law* countries are primarily dualist
  - Such examples are Brunei, Australia, Canada, Malaysia, New Zealand, Singapore and USA.
APPLICATION AND IMPLEMENTATION: International Trade Law into Brunei Legislation
World Trade Organization: Introduction

- Annexed to the Marrakesh Agreement are:
  i. General Agreement on Tariffs and Trade (GATT) 1994 (Annex 1A)
  ii. General Agreement on Trade in Services (GATS) (Annex 1B)
  iii. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Annex 1C)
  iv. Understanding on Rules and Procedures governing the Settlement of Disputes (DSU) (Annex 2)
  vi. Plurilateral Trade Agreement (Annex 4)
TRIPS: Domestic Implementation

- Pre WTO, Brunei IP legislation were:
  1. Trade Marks Act (Cap 98)
  2. Merchandise Marks Act (Cap 96).
  3. Inventions Act (Cap 72)

- After Brunei became a party to WTO and TRIPS on 1st January 1995, Brunei was obligated to introduce or amend IP legislation which are:
  1. Copyright: Copyright Order
  2. Industrial Design: Industrial Designs Order
  3. Layout Design: Layout Designs Order
  5. Trademarks: Trademarks Act

- Established the Brunei Intellectual Property Office (BruIPO) on 1st June 2013.

- Became parties to several international IP Treaties such as the Berne Convention, Paris Convention, Budapest Treaty and the Hague Agreement.
TPRM: Introduction

- Purpose:
  1. Achieve greater *transparency* in the *trade policies and practices* of Members; and
  2. To contribute and to improved adherence by all Members to *rules, disciplines and commitments* made under the WTO agreements.
TPRM: Domestic Implementation

1st Review 2001
- Investment Incentives Order
- Revised BEDB Act
- Industrial Coordination Order
- IP laws were enacted
- BIFC established
- Corporatize JTB

2nd Review 2008
- Brunei's Constitution was revised
- MFA was renamed MoFAT
- Involved in FTA negotiations with China, Japan, Korea, India, Australia and New Zealand
- Liberalise some sectors
- DTA with several countries
- BEDB Act amended
- NSAC was formed
- AITI was established

3rd Review 2014
- Launched National Vision 2035
- Established AMBD
- Committed to new FTAs: AJCEP, AANZFTA, TPP, RCEP and AHKFTA
- Signed 16 ADTAs
- Signed 8 BITs
- ROCBN was moved to MoF
- Setting up BruIPO
- NSC was set up
Trans Pacific Partnership: Introduction

‘High quality 21st Century’ Agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, USA and Viet Nam.

Grew out from the ‘Pacific Four’ (P4) Agreement [Brunei, Chile, Singapore & New Zealand].
### Trans Pacific Partnership: Domestic Implementation

<table>
<thead>
<tr>
<th>Category</th>
<th>Topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preamble</td>
<td>Initial Provisions &amp; General Definition</td>
</tr>
<tr>
<td>Initial Provisions</td>
<td>National Treatment &amp; Market Access for Goods</td>
</tr>
<tr>
<td>National Treatment</td>
<td>Rules of Origin &amp; Origin Procedures</td>
</tr>
<tr>
<td>Rules of Origin &amp; Origin Procedures</td>
<td>Textile &amp; Apparel</td>
</tr>
<tr>
<td>Textile &amp; Apparel</td>
<td>Customs Administration &amp; Trade Facilitation</td>
</tr>
<tr>
<td>Customs Administration</td>
<td>Trade Remedies</td>
</tr>
<tr>
<td>Trade Remedies</td>
<td>Sanitary &amp; Phytosanitary Measures</td>
</tr>
<tr>
<td>Sanitary &amp; Phytosanitary Measures</td>
<td>Technical Barriers to Trade</td>
</tr>
<tr>
<td>Technical Barriers to Trade</td>
<td>Investment</td>
</tr>
<tr>
<td>Investment</td>
<td>Cross Border Trade in Services</td>
</tr>
<tr>
<td>Cross Border Trade in Services</td>
<td>Financial Services</td>
</tr>
<tr>
<td>Financial Services</td>
<td>Temporary Entry for Business Persons</td>
</tr>
<tr>
<td>Temporary Entry for Business Persons</td>
<td>Telecommunications</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>Electronic Commerce</td>
</tr>
<tr>
<td>Electronic Commerce</td>
<td>Government Procurement</td>
</tr>
<tr>
<td>Government Procurement</td>
<td>Competition Policy</td>
</tr>
<tr>
<td>Competition Policy</td>
<td>State Owned Enterprise</td>
</tr>
<tr>
<td>State Owned Enterprise</td>
<td>Intellectual Property</td>
</tr>
<tr>
<td>Intellectual Property</td>
<td>Labour</td>
</tr>
<tr>
<td>Labour</td>
<td>Environment</td>
</tr>
<tr>
<td>Environment</td>
<td>Cooperation &amp; Capacity Building</td>
</tr>
<tr>
<td>Cooperation &amp; Capacity Building</td>
<td>Competitiveness &amp; Business Facilitation</td>
</tr>
<tr>
<td>Competitiveness &amp; Business Facilitation</td>
<td>Development</td>
</tr>
<tr>
<td>Development</td>
<td>Small &amp; Medium Sized Enterprises</td>
</tr>
<tr>
<td>Small &amp; Medium Sized Enterprises</td>
<td>Regulatory Coherence</td>
</tr>
<tr>
<td>Regulatory Coherence</td>
<td>Transparency &amp; Anti-Corruption</td>
</tr>
<tr>
<td>Transparency &amp; Anti-Corruption</td>
<td>Administrative &amp; Institutional Provision</td>
</tr>
<tr>
<td>Administrative &amp; Institutional Provision</td>
<td>Dispute Settlement</td>
</tr>
<tr>
<td>Dispute Settlement</td>
<td>Exceptions &amp; General Provisions</td>
</tr>
<tr>
<td>Exceptions &amp; General Provisions</td>
<td>Final Provisions</td>
</tr>
<tr>
<td>Final Provisions</td>
<td></td>
</tr>
</tbody>
</table>
Domestic Implementation: Sanitary and Phyto-sanitary

Amend/Implement Legislation
- Agricultural Pests and Noxious Plant Act
- Fishery Order
- Public Health (Food) Act and Regulation
- Wholesome Meat Order 2011
- Plant Quarantine Order
- Animal Infectious Disease and Quarantine Order

Transparency Obligation
- Notify proposed SPS that may affect trade of another Party
- Make available to the public:
  - Proposed SPS measure
  - Legal basis
  - Receiving written comments
Domestic Implementation: Intellectual Property

Treaties to Accede
- Madrid Protocol
- WIPO Copyright Treaty
- WIPO Performances and Phonograms Treaty
- UPOV Convention

Amend IP & IP-related Legislation
- TM Act: sound marks
- Data Protection for Agricultural Chemical Products
- Patent Order:
  - Data Protection for Pharmaceutical Products including biologics
- Patent linkage
- © Order:
  - Term of protection from 50 years to 70 years
  - ISP’s safe harbour
  - Ex-officio for goods in transit
Domestic Implementation: Labour

**Adopt and Maintain Statutes, Regulations & Practices as stated in the ILO Declaration**
- Freedom of Association & Effective Recognition of the right to collective bargaining
- Elimination of all forms of forced/compulsory labour
- Abolition of child labour & Prohibition on the worst forms of child labour
- Elimination of discrimination in respect of employment & occupation
- Acceptable work conditions with respect to minimum wages, hours of work, and occupational safety and health.

**Amend/Implement Legislation**
- Trade Union Act
- Employment Order
- Hazardous list - conditions within which children can work
- Trade Dispute Act
- Right to strike
- Collective Bargaining
- Minimum Wage (?)
- Discrimination in respect of employment
Domestic Implementation: Environment

Objective
- Promote mutually supportive trade & environment policies
- Promote high levels of environmental protection & effective enforcement of environmental laws
- Enhance Parties’ capacities to address trade-related environmental issues, including through cooperation

Implement Legislation
- Biodiversity Order 2015 (draft)
- Environmental Protection and Management Order (draft)
- Hazardous Waste Control Order (draft)

Other Implementation
- Identification of changes required to existing procedures and practice
QUESTION AND ANSWER SESSION

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THANK YOU