



DOMESTIC IMPLEMENTATION OF INTERNATIONAL COMMITMENTS

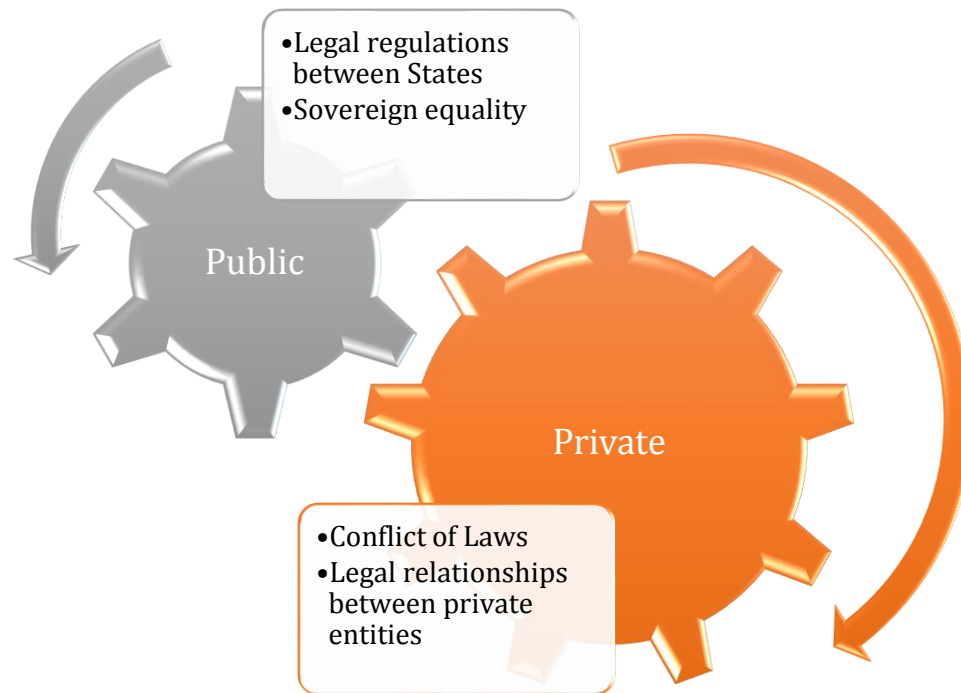
Public Officers' Law Seminar :
Understanding the Law
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INTRODUCTION: Distinction between **Private** International Law and **Public** International Law



- 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

International Organization



WORLD TRADE
ORGANIZATION

Treaty





World Trade Organization: Introduction

- Article 1 of the Marrakesh Agreement established the World Trade Organization (WTO) on 1st January 1995.
- 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)
 - v. Trade Policy Review Mechanism (TPRM) (Annex 3)
 - 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**
 4. Patent: **Patent 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

PREAMBLE	INITIAL PROVISIONS & GENERAL DEFINITION	NATIONAL TREATMENT & MARKET ACCESS FOR GOODS	RULES OF ORIGIN & ORIGIN PROCEDURES	TEXTILE & APPAREL	CUSTOMS ADMINISTRATION & TRADE FACILITATION	TRADE REMEDIES
SANITARY & PHYTOSANITARY MEASURES	TECHNICAL BARRIERS TO TRADE	INVESTMENT	CROSS BORDER TRADE IN SERVICES	FINANCIAL SERVICES	TEMPORARY ENTRY FOR BUSINESS PERSONS	TELECOMMUNICATIONS
ELECTRONIC COMMERCE	GOVERNMENT PROCUREMENT	COMPETITION POLICY	STATE OWNED ENTERPRISE	INTELLECTUAL PROPERTY	LABOUR	ENVIRONMENT
COOPERATION & CAPACITY BUILDING	COMPETITIVENESS & BUSINESS FACILITATION	DEVELOPMENT	SMALL & MEDIUM SIZED ENTERPRISES	REGULATORY COHERENCE	TRANSPARENCY & ANTI-CORRUPTION	ADMINISTRATIVE & INSTITUTIONAL PROVISION
		DISPUTE SETTLEMENT	EXCEPTIONS & GENERAL PROVISIONS	FINAL PROVISIONS		



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

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