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WTO Trade Policy Review: Brunei Darussalam

Note: This text provides brief details of the conditions foreign business will encounter in trade with Brunei Darussalam. It is based on a WTO Trade Policy Review for Brunei Darussalam, issued end February 2008. Readers wishing for deeper analysis should turn to the original Trade Policy Review available on the WTO website. (http://www.wto.org/english/tratop_e/tpr_e/tp296_e.htm)

Trade Policy Reviews are an exercise, mandated in the WTO agreements, in which member countries' trade and related policies are examined and evaluated at regular intervals.

ECONOMIC ENVIRONMENT

Brunei Darussalam is a small, relatively open economy in which trade and foreign direct investment play vital roles. With one of Asia's highest per capita incomes, of US$30,000, Brunei owes its prosperity mainly to its abundant petroleum (oil and natural gas) resources, whose share of GDP grew from 53% in 2002 to 69% in 2006.The oil and gas sector's large share of GDP and exports leaves Brunei vulnerable to external shocks, particularly given the prospect of an eventual depletion of these resources. Consequently, the Government has been encouraging economic diversification, mainly into manufacturing and services, especially financial services, tourism, and transport. Brunei levies virtually no tax on personal incomes or on goods and services. Tax revenue therefore fluctuates with oil and gas production and changing petroleum prices.

Brunei has intensified its participation in regional and, for the first time, bilateral trade agreements. It is particularly active in ASEAN, the East Asia Growth Area, APEC, and the four-member Trans Pacific Strategic Economic Partnership (SEP) Agreement (with Chile, New Zealand, and Singapore). In ASEAN, Brunei has reduced tariffs on 93% of tariff lines to 5% or zero for products of ASEAN origin. The Brunei Darussalam, Indonesia, Malaysia, Philippines–East ASEAN Economic Growth Area (BIMP–EAGA) aims to pool complementary resources in the region to develop selected sectors, including air and maritime linkages, construction, fisheries, and tourism. The Trans-Pacific SEP aims to liberalize and facilitate trade in goods (by removing all tariffs on traded goods over time) and a broad range of services as well as to improve the business environment among the four participating countries.

Brunei has also increased activity on the bilateral front. In 2002, Brunei and the United States signed a Trade and Investment Framework Agreement (TIFA) to enhance liberalization of trade and investment, and cooperation in such areas as intellectual property, information and communication technology, biotechnology and eco tourism, aquaculture and halal products; it also includes consultations on the elements of a possible free-trade agreement. In 2007, Brunei and Japan signed the Brunei-Japan Economic Partnership Agreement to facilitate the free flow of goods, services, and investments as well as enhance cooperation in energy, human resource development and science and technology.

In seeking to promote private sector development in non-oil and gas industries, Brunei overhauled its investment laws, and established the Brunei Economic Development Board (BEDB) in 2001 to promote Brunei as an investment destination. The BEDB adopted a new approach to attracting FDI, focusing on a few large projects, including a global mega port hub and downstream manufacturing industries using natural gas. Foreign investment, including up to 100% foreign equity investment, is permitted in all sectors except those involving local natural resources (notably agriculture and fisheries) and those relating to national food security, for which minimum local participation of 30% is required. To encourage foreign investment, Brunei provides tax incentives, particularly under the pioneer status programme. This exempts companies from corporate tax (normally 30% for non-petroleum companies), up to a maximum of 11 years, and from customs duty on imports of plant, machinery, and equipment as well as inputs of raw materials not available in Brunei.

TRADE POLICIES AND PRACTICES

Brunei Darussalam is committed to applying MFN treatment to products coming from all WTO Members. Brunei's applied MFN tariffs are low, averaging 4.8% in 2007, zero for agriculture and 5.4% for non agricultural products, ranging from 0% to 30%. Almost 99% of tariffs are subject to ad valorem rates, while 131 carry specific rates of duty, which apply mainly to matches, cigarettes, coffee, tea, and petroleum oils and lubricants. As they tend to conceal relatively high ad valorem equivalents, estimates of which were not available, it is likely the inclusion of these specific duties in the calculation of the average applied MFN tariff rate would raise Brunei's overall level of tariff protection. Brunei has bound nearly 93% of its tariff lines at the WTO; while the average applied tariff rate is low, the average bound rate is 25.8%, leaving a large gap between the applied and bound MFN rates.

Brunei has continued to reduce its already low tariff rates under ASEAN as well as more recent preferential agreements, although imports of a few products are still subject to non-tariff restrictions. As a member of the ASEAN Common Effective Preferential Tariff (CEPT) scheme, Brunei has continued to reduce its preferential tariff rate, currently at 2.4%, half of the average applied MFN rate. Differences between the CEPT and MFN tariffs exist mainly in plastic and rubber products, machinery, transport equipment, and precision instruments. As a result of the Trans-Pacific SEP Agreement, Brunei will bind its current MFN applied zero rates at zero and eliminate all the tariffs that it applies to other products by 2015, except for a short list of items, such as alcohol, tobacco, and firearms that it intends to exempt on moral, human health, and security grounds. Under the Brunei-Japan EPA, which entered into force in 2007, Brunei is committed to eliminating tariffs on a range of products, including Japanese automobiles and auto parts, whose rates are currently set at 20%.

Although Brunei's tariff barriers are relatively low, a number of import prohibitions, restrictions, and licensing requirements on various products for health, security, and moral reasons have remained generally unchanged during the review period. Currently, there are no mandatory standards (technical regulations) in Brunei, only 42 voluntary standards that relate to construction and one in the food sector.

Government procurement remains an important instrument of economic policy, and government construction activities, in particular, play a major part not only in the construction industry, but in the economy as a whole. Brunei is not a signatory to the WTO Government Procurement Agreement.

Brunei has strengthened its legal framework for the protection of intellectual property rights (IPRs) and is considering accession to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, which address copyrighted works in a digital environment. However, it still needs to implement its Patent Order (that dates from 1999) to provide patent protection for, inter alia, pharmaceutical and agricultural products and processes. Brunei does not have a strong track record in IPR enforcement, partly due to a lack of institutional capacity.

SECTORAL POLICIES

Brunei's 8th Plan emphasized the need to move the economy away from oil and gas as the primary source of economic activity (and revenue) through the expansion of agriculture and industry and the development of certain services with the potential to achieve growth, namely: business services; financial services; hospitality and tourism; and transport and logistics. The non-oil and gas manufacturing sector remains weak and underdeveloped and has shrunk from 3% to 1% of GDP since 2002, indicating that Brunei's diversification policy has met with little overall success.

In several key sectors of the economy, such as oil and gas, telecommunications, transport and energy generation and distribution, there continues to be a strong government presence, often in the form of state-owned monopolies, which can act unencumbered by any competition law. The resulting lack of competition may have adversely affected prices and the cost of doing business in Brunei, although relevant data were not available. The very small size of the domestic market discourages local and foreign participation in the economy and hampers the ability of non-oil and gas industries to achieve economies of scale, and thus to compete against imports as well as in export markets.

Farming has become a part-time business for most rural families, owing to the availability of more lucrative forms of employment. Brunei's agriculture sector is very small, accounting for under 1% of nominal GDP in 2006, and Brunei imports more than 80% of its food requirements. To reduce Brunei's dependence on food imports and to attain a greater degree of self sufficiency in agriculture, government policy has sought to: boost domestic production of rice, vegetables, poultry, and livestock; develop the agri-food industry; produce high-value-added products using new techniques; and conserve and protect the country's biological diversity.

Brunei's industrial base remains limited. The main industries are cement production, garment making, production of pre-cast concrete structures, mineral water, canned food, dairy products and publishing and printing. The small domestic market, a poorly developed local private sector, high wage costs, a shortage of skilled labour, slow bureaucratic procedures and a lack of transparency, and the ban on foreigners owning land have all deterred foreign capital and technology from non-oil and gas industries in Brunei.

The share of services (excluding construction) in Brunei's GDP has fallen from 23% in 2001 to under 17% in 2006. The leading services sectors are finance and business services, the wholesale and retail trade, and transport and communications. The Government has aimed to transform Brunei into a "Service Hub for Trade and Tourism" by promoting trade, travel, business, and communications in and through Brunei and by developing Brunei's infrastructure including: upgrading facilities at Brunei International Airport; expanding Muara Port, Brunei's main port; and increasing capacity in the telecommunications services network to increase penetration rates; as well as expanding coverage by the domestic and international postal services.

During the review period, there has been considerable strengthening of financial sector supervision and regulation, including efforts to enhance monitoring of financial soundness indicators. In particular, the enactment of the new Banking, Finance Company, Insurance and Securities Amendment Orders brings the regulatory framework more in line with international standards. The legislation has paved the way for on-site inspection, increased capital requirements for local Brunei incorporated banks, and tightened provisions affecting financial leasing and other financial services, money transmission services, means of payment such as credit cards, guarantees, and foreign exchange. The Government has continued to encourage Islamic banking (which in mid 2007, accounted for 38% share of commercial banks' assets) on the basis of legislation to support banks operating under Islamic principles, including taking a share of profits from the firms it funds rather than charging them interest.

Telecommunications throughout Brunei are of a high standard and it ranks well in Asia in terms of penetration and infrastructure. Brunei has a telephone household penetration rate of 100% and there has been significant growth of cellular subscribers; mobile penetration, which stood at a healthy 32% by end 2001, continued to grow strongly and reached 74% by 2006. There has also been significant investment in a rural telecoms network, which permits all rural and remote areas to have access to the telephone and Internet. Brunei's telecommunications industry has recently shifted from a monopoly situation in fixed line and mobile telephony to a state of oligopoly with the eventual goal of creating a competitive environment where home-grown companies would be challenged to rise to global standards and even break into international markets.

Tourism has been identified as a major contributor to exports with the potential to play an important role in Brunei's economic diversification plans. However, the tourism industry in Brunei remains relatively undeveloped, with around 200,000 foreign tourists in 2007. Around 70% of tourists come from other ASEAN and Asian countries, in particular Malaysia, Singapore, and China. In addition, a much larger number of same-day visitors from Malaysia enter Brunei through land-entry points. The Government's objective is to increase international tourist arrivals as well as increase the average length of stay and expenditure by developing activities such as ecotourism, adventure and culture tourism, theme parks, and cruising. In order to reach a target of 250,000 tourists by 2010, additional facilities, including accommodation, transport and communication, and banking services, need to be developed.