



BRUNEI  
INVESTMENT CLIMATE STATEMENT  
2015

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## Executive Summary

Brunei Darussalam is an energy-rich Sultanate on the northern coast of Borneo in Southeast Asia. Brunei boasts a well-educated, largely English-speaking population, excellent infrastructure, and a government intent on attracting foreign investment and projects. In parallel with Brunei's efforts to attract foreign investment, the country has improved its protections for Intellectual Property Rights (IPR).

Despite repeated calls for diversification, Brunei's economy remains dependent on the income derived from sales of oil and gas. Substantial revenue from overseas investment supplements income from domestic hydrocarbon production. These two revenue streams provide a comfortable quality of life for Brunei's population. Citizens are not required to pay tax, have access to free education through to the university level, free medical care and, frequently, subsidized housing.

Brunei has a stable political climate and is generally sheltered from natural disasters. Brunei's central location in Southeast Asia, with good telecommunications, numerous airline connections, business tax credits in specified sectors, and no income, sales or export taxes offers a welcoming climate for would-be investors. Brunei is a founding member of the Trans-Pacific Partnership (TPP) trade negotiations. Sectors offering U.S. business opportunities in Brunei include Aerospace & Defense, Agribusiness, Construction, Petrochemicals, Energy & Mining, Environmental Technologies, Food Processing & Packaging, Franchising, Health Technologies, Information & Communication, Islamic Finance, and Services. In 2014 Brunei released an Energy White Paper outlining its vision of leveraging its oil wealth to diversify its economy, create local employment, increase foreign direct investment (FDI), and sharply increase the use of renewable energy by 2035.

The Export-Import Bank of the United States (EXIM) and the Energy Department of Brunei's Prime Minister's Office signed a Memorandum of Understanding (MOU) that calls for expanded information sharing regarding trade and energy business opportunities in the Asia-Pacific region, as well as exploring options for utilizing up to USD 1 billion EXIM Bank loans to finance U.S. exports in support of selected projects in the region. The MOU creates significant new opportunities for U.S. energy companies in Brunei and the Asia-Pacific region while advancing the goals set out by the United States-Asia Pacific Comprehensive Energy Partnership (USACEP).

In 2014 Brunei began supplementing the existing common law-based penal system with a penal code based on Islamic law, which will carry Sharia punishments. The Islamic Penal Code is applicable across the board. The first phase became effective on May 1, 2014. It expands restrictions regarding the drinking of alcohol, eating in public during the fasting hours in the month of Ramadan, and indecent behavior. Two subsequent phases, the timing of which is not yet clear, are expected to introduce severe punishments such as; stoning to death for certain sex-related offenses and the amputating of limbs. Brunei officials say the most severe punishments will rarely if ever be implemented given the very high standard of proof required under the Sharia Penal Code. While the law does not specifically address business-related matters, potential investors should be aware that there is controversy surrounding the Sharia Penal Code issue.

## **1. Openness To, and Restrictions Upon, Foreign Investment**

### **Attitude toward Foreign Direct Investment**

Brunei has an open economy favorable to foreign trade and foreign direct investment (FDI) as it continues its economic diversification efforts away from its long reliance on oil and gas exports.

FDI is important to Brunei as it plays a key role in economic and technological development. Brunei encourages FDI in the domestic economy through various investment incentives offered by the Brunei Economic Development Board (BEDB) and the Ministry of Industry and Primary Resources (MIPR) and through activities by the Ministry of Foreign Affairs and Trade (MOFAT).

The 2015 World Bank and the International Finance Corporation report indicated that Brunei's ease of doing business ranking had dropped 3 spots to rank 101 out of 189 economies. The report attributed the drop less to any action by Brunei to make it harder to do business and more to inaction while other countries made positive changes. The one significant gain was a change in rank of 16 spots on dealing with construction permits, largely attributed to Brunei consolidating final inspections under a single agency. The Authority for Building and Construction Industry (ABCi) one-stop shop also issues all pre-construction approvals and building permits. The rankings for six of the ten indicators slipped, including: starting a business; registering property; getting credit; protecting minority investors; enforcing contracts; and resolving insolvency.

Responding to the report, Brunei's Minister of Industry and Primary Resources stated that the culture of business-as-usual was no longer relevant in the increasingly competitive world facing Brunei. Brunei also amended its laws to make it easier and quicker for entrepreneurs to establish businesses. The Miscellaneous License Act (Amendment) 2015 cuts down the wait time for new business registrants to start operations, with low-risk businesses like eateries and shops able to start operations immediately. Brunei fell from the number four country in the Association of Southeast Asian Nations (ASEAN) in terms of ease of doing business to number six.

### **Other Investment Policy Reviews**

Not applicable.

### **Laws/Regulations of Foreign Direct Investment**

The basic legislation on investment includes the Investment Incentive Order 2001 and Income Tax (As Amended) Order 2001. Brunei does not yet have a stock exchange, but the creation of a securities market is reportedly under development. Brunei's constitution does specifically provide for judicial independence, but in practice the court system operates without government interference. Brunei's legal system includes parallel systems; one based on Common Law and the other based on Islamic Law.

Brunei's national strategy, Wawasan (National Vision) 2035, emphasizes attracting FDI as an important driver of growth. The Brunei Economic Development Board (BEDB) seeks to

diversify Brunei's economy and create employment opportunities for its people. The BEDB administers incentives and loans to encourage investment projects from abroad.

The Ministry of Industry and Primary Resources is the main coordinating agency for investment and industrial development in the primary sector, manufacturing, and tourism. The Ministry encourages and assists local and foreign investors to participate in ventures to produce goods and services for export and local markets and to satisfy national food security and employment needs.

### **Industrial Promotion**

Through its Investment Incentives Order 2001, Brunei seeks to stimulate economic development by encouraging the establishment and expansion of specified industrial and economic enterprises. The authority to administer this legislation is currently vested in the Minister of Industry and Primary Resources, who is able to offer investment incentives in the form of tax relief for the following:

**Pioneer Industries:** Any limited company that has been granted a pioneer certificate will then be given pioneer incentives, including exemption from the 30 percent corporate tax for a period ranging from five years for a fixed capital expenditure of BND 500,000 to BND 2.5 million (USD 370,000 to USD 1,852,000); eight years for an expenditure over BND 2.5 million; and 11 years for a project located in a designated high-tech industrial park, with permitted extensions; exemption from taxes on imported duties on machinery, equipment, components parts, accessories or building structures; exemption from taxes on imported raw materials not available or produced in Brunei intended as feedstock for the production of Pioneer products; and carry forward losses and allowances.

Industries that have been declared as pioneer industries and pioneer products include: Agribusiness (fertilizers and pesticides); Agricultural, Construction, Building & Heavy Equipment (cement finishing mill, manufacture of electrical industrial machinery and apparatus, rolling mill plant, sheet metal-forming); Chemicals, Petrochemicals, Plastics & Composites (plastics and synthetic, manufacture of non-metallic mineral products, gas); Consumer Goods & Home Furnishings (furniture, ceramic and potteries, tissue paper, toys); Environmental Technologies (related waste industry); Food Processing & Packaging (slaughtering, preparing and preserving halal meat, canning, bottling and packaging); Health Technologies (pharmaceuticals); Information & Communication (manufacture of radio, television and communication equipment and apparatus); Industrial Equipment & Supplies (glass, wood base); Marine Technology (ship repair and maintenance, supporting services to water transport); Metal Manufacturing & Products (aluminum wall tile); Services (aircraft catering services); Textiles, Apparel & Sporting Goods (textiles). Additional details are available at [http://www.bedb.com.bn/doing\\_incentives\\_pioneer.html](http://www.bedb.com.bn/doing_incentives_pioneer.html)

**Pioneer Service Companies:** Pioneer service companies may be eligible for tax relief, depending on the fixed capital expenditure, for a period of 8 years with given extension not exceeding 11 years in total.

Activities that have been declared as pioneer services include: Agribusiness (agriculture technology related services and activities); Architecture & Engineering (any engineering or technical services including laboratory, consultancy and research and development activities, development or production of any industrial design); Automotive & Ground Transportation (operation or management of any mass rapid transit system); Education (provision of education related services); Finance (business, management and professional consultancy services, financial services, venture capital fund activity); Health Technologies (medical services); Information & Communication (computer-based information and other computer related services, publishing services); Media & Entertainment (maintaining and operating a private museum, provision of leisure and recreation related services and activities); Services (services and activities related to warehousing facilities); Travel (services and activities relating to the organization or management of exhibitions and conferences). Additional details are available at [http://www.bedb.com.bn/doing\\_incentives\\_pioneerservice.html](http://www.bedb.com.bn/doing_incentives_pioneerservice.html).

**Production For Export:** The Minister of Industry and Primary Resources may approve a company proposing to engage in specified activities either wholly or partly for export as an export enterprise. Certified companies may be exempted from income tax; from import duties on machinery, equipment, component parts, accessories or building structures; and from import duties on raw materials for a period of six to 15 years depending on the company's fixed capital expenditure and pioneer status.

Qualified activities have included: Agribusiness (agriculture, forestry and fishery activities). Additional details are available at [http://www.bedb.com.bn/doing\\_incentives\\_production.html](http://www.bedb.com.bn/doing_incentives_production.html).

**Service For Export:** Specified services may be eligible for exemption from income tax and deduction of allowance and losses. The tax relief period of an export service company shall begin on its day of commencement and shall not exceed 11 years. Any given extension shall not exceed 3 years at one time and not exceed 20 years in total.

Qualified services have included: Architecture & Engineering (technical services including construction, distribution, design and engineering services); Education (educational and training service); Industrial Equipment & Supplies (fabrication of machinery and equipment, and procurement of materials, components and equipment); Information & Communication (data processing, programming, computer software development, telecommunications and other related ICT services); Services (consultancy, management supervisory or advisory services relating to any technical matter or to any trade or business; professional services including accounting, legal, medical and architectural services.) Additional details are available at [http://www.bedb.com.bn/doing\\_incentives\\_service.html](http://www.bedb.com.bn/doing_incentives_service.html)

**Foreign Loan for Product Equipment:** There is a 20% withholding tax for interest paid to non-resident lenders. However the government may grant a tax exemption for any approved foreign loan if the loan is utilized for the purchase of production equipment. Additional information is available at [http://www.bedb.com.bn/doing\\_incentives\\_foreign.html](http://www.bedb.com.bn/doing_incentives_foreign.html). Information on additional forms of business and investment incentives is available at [http://www.bedb.com.bn/doing\\_incentives.html](http://www.bedb.com.bn/doing_incentives.html).

### **Limits on Foreign Control**

There has been no restriction on total foreign ownership of companies incorporated in Brunei Darussalam. The Companies Act requires locally incorporated companies to have at least one of the two directors—or if more than two directors, at least two of them—to be ordinarily resident in Brunei Darussalam. The Companies Act allows the board to be totally non-resident; however, the company concerned would have to apply to the appropriate authorities for permission and show justifications for such decisions. Notwithstanding whether the company is locally or foreign owned and managed, the rate of corporate income tax is the same.

### **Privatization Program**

Brunei's Ministry of Communication has made corporatization and privatization part of its Strategic Plans 2008-2017, which call for the Ministry to shift its role from a service provider to a regulatory body with policy-setting responsibility. In that role, the Ministry will develop specific policies through corporatization and privatization; establish a regulatory framework and business facilitation. Currently, the Ministry is studying initiatives to privatize and corporatize four state-owned agencies: the Ports Department, the Maritime and Port Authority of Brunei Darussalam, the Postal Services Department, and Brunei International Airport management. These services are not yet completely privatized and there is no timeline for privatization, as the Ministry is still in the process of considering the initiative. Guidelines regarding the role of foreign investors and the bidding process are not yet available. The strategy can be found in [www.mincom.gov.bn](http://www.mincom.gov.bn).

### **Screening of FDI**

Post is informed that Brunei, through BEDB, has one or more processes to screen, review or approve foreign investments. The processes are kept confidential. Post has received no complaints from U.S. businesses about the screening process.

### **Competition Law**

Brunei does not have any general competition legislation pertaining to the regulation of competition issues. Brunei formally started the process of drafting the Brunei Competition Order in May 2012, which reportedly emulates the legislation and best practices in the international jurisdiction including prohibitions against anti-competitive agreements, abuse of dominance, and anti-competitive mergers. It is not known when the law will be approved and implemented.

### **Investment Trends**

Brunei is a founding member in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 10 other Asia-Pacific partners are seeking to establish a comprehensive, next-generation regional agreement to liberalize trade and investment. This agreement will advance U.S. economic and trade policies within fast-growing economies, and aid in the economic integration across the Asia-Pacific region. The TPP agreement will include commitments on goods, services, intellectual property rights, labor, and other traditional trade and investment issues. It will also address a range of emerging issues not covered by past



agreements. In addition to the United States and Brunei, the TPP negotiating partners currently include Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. Brunei is also a negotiating party to the Regional Comprehensive Economic Partnership (RCEP).

According to the U.S. Trade Representative, Brunei's annual trade balance decreased by 16.8 per cent from BND 11,765.5 million (USD 9,488.31 million) in 2012 to BND 9,788.4 million (USD 7,830.72 million) in 2013. Meanwhile the total trade showed a decline of 8.9 per cent from BND 20,675.9 million (USD 16,672.11 million) in 2012 to BND 18,829.6 million (USD 15,063.68 million) in 2013. The U.S. goods trade surplus with Brunei was BND 676 million (USD 541 million) in 2013, a decrease of USD 470 million (BND 587 million) from 2012. U.S. goods exports in 2013 were USD 559 million (BND 699 million), up 254.4 percent from the previous year. Corresponding U.S. imports from Brunei were USD 17 million (BND 21 million), down 81 percent. Brunei is currently the 100th largest export market for U.S. goods. The stock of U.S. foreign direct investment (FDI) in Brunei was USD 116 million (BND 160 million) in 2012 (latest data available), up 17.2% from 2011.

*Table 1*

<b>Measure</b>	<b>Year</b>	<b>Index or Rank</b>	<b>Website Address</b>
<b>TI Corruption Perceptions index</b>	2014	N/A	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
<b>World Bank's Doing Business Report "Ease of Doing Business"</b>	2015	101 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
<b>Global Innovation Index</b>	2014	88 of 143	<a href="http://globalinnovationindex.org/content.aspx?page=data-analysis">globalinnovationindex.org/content.aspx?page=data-analysis</a>
<b>World Bank GNI per capita</b>	2013	n/a	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

## **2. Conversion and Transfer Policies**

### **Foreign Exchange**

In June 2013 the Financial Action Task Force (FATF) announced that Brunei Darussalam is no longer subject to FATF's monitoring process under its on-going global Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) compliance process. Brunei Darussalam will work with the Asia-Pacific Group (APG) as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report. The report cited Brunei's significant progress in improving its AML/CFT regime and noted that Brunei had established the legal and regulatory framework to meet its commitments in its Action Plan regarding the strategic deficiencies that the FATF had identified in June 2011.

*Remittance Policies*

Not applicable/information not available.

**3. Expropriation and Compensation**

There is no history of expropriation of foreign owned property in Brunei. There have been cases of domestically owned private property being expropriated for infrastructure development. Compensation was provided in such cases, and claimants were provided with due process regarding their disputes.

**4. Dispute Settlement****Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts**

Onshore companies are governed by the Companies Act while offshore companies are governed by the International Business Companies Order of 2000. There are no specialized commercial courts. Brunei's constitution does not provide for judicial independence but in practice the court system operates without government interference. Post has received no complaints from companies regarding the judicial system.

The use of Alternative Dispute Mechanisms (ADR) is not new to Brunei. Both mediation and conciliation as a means of settling disputes has been deep rooted in Brunei's traditions and were originally carried out community leaders and important social figures

**Bankruptcy**

Brunei's bankruptcy act is available at [http://www.agc.gov.bn/agc1/images/LAWS/ACT\\_PDF/cap067.pdf](http://www.agc.gov.bn/agc1/images/LAWS/ACT_PDF/cap067.pdf). Recent amendments to the act increased the minimum threshold for declaring bankruptcy from BND 500 to BND 10,000 (USD 370 to USD 7,407) and enabled the trustee to direct the Controller of Immigration to impound and retain the bankrupt's passport, certificate of identity or travel document to prevent him from leaving Brunei Darussalam. The amendments also saw the imposition of a number of duties on the bankrupt to deliver all his property under his possession, books, paper etc. to the trustee.

**Investment Disputes**

Information not available.

**International Arbitration**

Information not available.

*ICSID Convention and New York Convention*

Brunei is a member state to the convention on the International Centre for Settlement of Investment Disputes (ICSID Convention) and a signatory to the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

**Duration of Dispute Resolution**

Information not available.

**5. Performance Requirements and Investment Incentives****WTO/TRIMS**

Brunei became a World Trade Organization (WTO) member in 1995 and a signatory to the General Agreement on Tariffs and Trade (GATT) in 1993.

**Investment Incentives**

Companies producing goods and services for export can apply for a renewable 10-year tax exemption. Corporate tax relief of up to 5 years is available for companies that invest between BND 500,000 to BND 2.5 million (USD 370,000 to USD 1.85million), and up to 8 years for amounts exceeding BND 2.5million (USD 1.85 million) in approved ventures. An 11-year tax break is offered if the venture is located in a high-tech industrial park. Businesses wishing to compete in domestic markets can qualify for tax breaks for up to eight years. Sole proprietorships and partnerships are not subject to tax. Individuals do not pay any capital gains tax and profits arising from the sale of capital assets are not taxable. Brunei has double-taxation agreements with Britain, Indonesia, China, Singapore, Vietnam, Bahrain, Oman, Japan, and Pakistan. Tax on petroleum operations is codified in the 1960 Income Tax enactment, which is similar to tax policies in other oil-producing nations.

*Research and Development*

Information not available.

**Performance Requirements**

The Brunei government is actively seeking to increase the number of Bruneians working in the private sector. Brunei's 2014 Energy White Paper calls for the number of persons employed in the energy sector to increase from 20,000 in 2010 to 50,000 in 2035, and for the number of locals employed in the sector to increase from 10,000 to 40,000 in the same period. To advance this goal, all companies competing for a tender in the oil and gas industry are required to have at least half of their employees Bruneians.

Expatriate employment is controlled by a Labor Quota system from the Labor Department and the issuance of employment passes, by the Immigration Department. Brunei allows for new companies to apply for "special approval" to expedite the recruitment of expatriate workers in

select positions for essential jobs. According to the Ministry of Home Affairs, this approval is only available to new companies operating in the urban and suburban areas for six months, and covers businesses such as restaurants and shops. The “special approval” cuts the waiting time down from 21 days to 7.

### **Data Storage**

Information not available.

## **6. Right to Private Ownership and Establishment**

All businesses in Brunei must be registered with the Registrar of Companies within the Attorney General’s Chambers. Except for sole proprietorships, foreign investors can fully own incorporated companies, foreign company branches or representative offices. Partnerships generally require the participation of citizens. Foreign direct investments by multi-national corporations may not require local partnership in setting up a subsidiary of their parent company in Brunei. However, at least one company director must be a Brunei citizen or permanent resident in Brunei Darussalam. A multinational company with an operating plant on an MIPR industrial park is required to have 30% of the companies’ board represented by Brunei citizens and permanent residents.

## **7. Protection of Property Rights**

### **Real Property**

Mortgages are recognized and enforced in Brunei, however only Bruneians can own land property in Brunei. Foreigners and permanent residents can only hold properties under strata tiles or long-term leasehold rights. Most banks have stopped granting housing loans to foreigners and permanent residents. The 2011 data from the International Monetary Fund (IMF) showed no foreign direct investment (FDI) for real estate, rentals and business activity. In 2009 and 2010, the sector saw BND 3 million in FDI per year while in 2007 and 2008 it logged BND 2 million of FDI value.

Amendments to the Land Code are in the works to ban past practices of proxy sale of land to foreigners and permanent residents using the power of attorney (PA) and Trust Deeds (TD). PA and TD are no longer recognized as viable mechanisms in land deals involving non-citizens. The move to ban the PA and TD was announced at the 8th Legislative Council meeting on March 12, 2012. The proposed laws will also have retroactive effect, converting all existing property owned through PA and TD into 60-year leases. The rationale for the restriction is to ensure sufficient land ownership by citizens. PA’s are still in land development transactions allowing for only 5-year ownership for land developers and 25-year ownership for banks. The PA in these cases was allowed to be used as collateral.

### **Intellectual Property Rights**

Brunei’s IP protection and enforcement regime is still in development but is increasingly strong and effective. The country was removed from the Special 301 report in 2013, and stayed off the

list in 2014 and 2015, in recognition of its improving IPR protections, increasing enforcement, and efforts to educate the public about the importance of IPR.

Brunei's long-gestating Copyright (Amendment) Order 2013 was finalized and adopted in December 2013, a development long requested by the U.S. government. The change further enhanced enforcement provisions for copyright infringement by increasing penalties for offences; adding new offenses; strengthening the enforcement powers of the Royal Brunei Police Force and the Ministry of Finance Customs and Excise Department; and allowing for sanctioned private prosecution. The amendments are designed to deter copyright infringements with fines of BND 10,000 (USD 7,400) to BND 20,000 (USD 14,800) per infringing copy, imprisonment for a term up to five years or both. The new penalty is up to four times more severe than the previously existing penalty. Enforcement agencies are authorized to enter premises and arrest without warrant, to stop, search and board vehicles and also to access computerized and digitized data. The amendments further allow for admissibility of evidence obtained covertly and protect the identity of informants. Statistics on seizures of counterfeit goods are unavailable.

Brunei transferred its Registry of Trademarks from the Attorney General's Chambers (AGC) to the BEDB effective June 2013. The transfer expanded the BEDB Patents Registry Office's (PRO) capabilities to accept applications for the registration of trademarks in addition to patents and industrial designs. The office's name officially changed the Brunei Intellectual Property Office (BruIPO). The change created a national IP office, making policy coordination easier. The World Intellectual Property Organization's Singapore office described the move as a very positive step in terms of strengthening the IP protection efforts, because it provides comprehensive management of IP. In 2014, BruIPO reported that local trademark applications more than doubled in comparison to 2013, rising from 41 to 101.

In September 2013, Brunei acceded to the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs to protect IP from industrial designs, making it the second ASEAN Member country, following Singapore, to accede. The accession emphasized Brunei's commitment under the ASEAN Intellectual Property Rights Action Plan 2011 – 2015. Brunei also plans and has publicly committed to acceding to other World Intellectual Property Organization's (WIPO) treaties including the Madrid Protocol for the International Registration of Marks, the WIPO Performances and Phonograms Treaty (WPPT), and the UPOV Convention 1991 for the protection of New Varieties of Plants (PV). In addition, Brunei is actively negotiating the Trans-Pacific Partnership's IPR chapter with the United States and other TPP participants. The Recording Industry Association of Malaysia, which in the past had criticized Brunei for a lack of support for IPR protection, opened its own office in Brunei in 2013. For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

*Resources for Rights Holders*

Contact at Mission:

- Allison M. Carragher
- Political/Economic/Consular Officer
- +673 238-4616 ext. 2165
- CarragherAM@state.gov

Country/Economy resources:

The United States Embassy in Bandar Seri Begawan maintains a list of local attorneys at <http://brunei.usembassy.gov/list-of-attorneys.html>

## **8. Transparency of the Regulatory System**

Brunei's foreign direct investment policies are not fully transparent, particularly with respect to limits on foreign equity participation, partnership requirements, and the identification of sectors in which foreign direct investment is restricted.

## **9. Efficient Capital Markets and Portfolio Investment**

Brunei recently signed a Memorandum of Understanding (MOU) with the Securities Commission Malaysia (SCM) to boost cooperation in the capital markets. The MOU was designed to strengthen collaboration in the development of fair and efficient capital markets in the two countries. It also provided a framework to facilitate greater cross-border capital market activities and cooperation in the areas of regulation as well as capacity building and human capital development, particularly in the area of Islamic capital markets.

### **Money and Banking System, Hostile Takeovers**

Information not available.

## **10. Competition from State-Owned Enterprises**

Brunei's state-owned enterprises are involved in key sectors of the economy, such as oil and gas, telecommunications, transport, and energy generation and distribution. However, Brunei has not yet notified its state trading enterprises to the WTO Working Party on State Trading Enterprises. There is no published list of SOE's, but specific examples include:

- Semaun Holdings, incorporated as a private limited company, is wholly owned by the Brunei Government. Its emphasis is on joint ventures with foreign investors, mainly in aquaculture, food processing, glass crystal, and hi-tech manufacturing industries which are currently not open for 100% foreign ownership.
- Under the Telecommunications Order 2001, the Authority for Info-communications Technology Industry (AiTi) regulates the licensing of the telecommunications industry. The establishment, installation, maintenance, provision or operation of unlicensed telecommunication systems or services within Brunei is a punishable offence, resulting in imprisonment, and large fines. AiTi has not opened up the telecommunications industry for foreign participation. The

telecommunications industry is dominated by Telekom Brunei (TelBru) and Data Stream Technologies (DST) Communications both privatized state companies. Telbru is the sole provider of fixed lines. Its subsidiary company, B-mobile, provides 3G mobile services together with DST. DST is also the sole provider of Global Systems for Mobile communication (GSM) mobile phone service and the sole pay-television service provider.

- Royal Brunei Technical Services (RBTS), established in 1988 as a wholly-government owned corporation, is responsible for managing the acquisition of a wide range of systems and equipment and maintaining those acquired systems and equipment.
- Brunei National Petroleum Sendirian Berhad (PB) is the national oil company. PB is wholly owned by the Brunei Government and was incorporated on January 14, 2001 as a private limited company. The company was granted all the mineral rights in eight prime onshore and offshore petroleum blocks comprised of the deepwater offshore Blocks CA1 & CA2, inboard offshore Blocks N, P, Q, & B and onshore Blocks L & M totaling 20,552 sq. km. Currently, the company manages the production sharing contractors exploring the onshore and deepwater offshore blocks. The company is also working with the Block B operator in the development of the Maharaja Lela/Jamalulam Field.

### **OECD Guidelines on Corporate Governance of SOEs**

Brunei does not adhere to the OECD guidelines on corporate governance of SOE's.

### **Sovereign Wealth Funds**

The Brunei Investment Agency (BIA) manages the Government of Brunei's General Reserve Fund, and their external assets. Established in 1983, its assets are reportedly worth USD 30 billion. It has holdings in corporations, real estate, and currencies. BIA's activities are not publicly disclosed. It is ranked the lowest in transparency ratings by The Sovereign Wealth Fund Institute.

## **11. Corporate Social Responsibility**

Corporate social responsibility (CSR) is still a relatively new concept in Brunei, and there are no specific government programs encouraging foreign and local enterprises to follow generally accepted CSR principles. However there is a broad awareness of corporate social responsibility among both producers and consumers, and individual private and public sector organizations have formalized CSR programs and policies. There are no reporting requirements and no independent NGOs in Brunei that promote or monitor CSR.

### **OECD Guidelines for Multinational Enterprises**

Brunei does not adhere to the OECD guidelines for multinational enterprises.

## 12. Political Violence

Brunei has no recent history of political violence. The country experienced an uprising in 1962, when it was a British protectorate, which ended through the intervention of British troops. The country has been ruled peacefully under emergency law ever since.

## 13. Corruption

Since January 1, 1982, Brunei has enforced the Emergency (Prevention of Corruption) Act. In 1984, the Act was renamed the Prevention of Corruption Act (Chapter 131). The Anti-Corruption Bureau (ACB) was established on February 1, 1982 for the purpose of enforcing the Act. The Prevention of Corruption Act provides specific powers to the ACB for the purpose of investigating accusations of corruption. The Act also provides power for ACB to investigate certain offences under the Penal Code and offences under other written laws, provided such offences were disclosed during the course of ACB investigation into offences under the Prevention of Corruption Act.

The ACB strives to ensure a corruption-free public service. Corrupt practices are punishable under the Prevention of Corruption Act. The Act also applies to Brunei citizens abroad. There are perceptions that corruption in the private sector is more prevalent than in the public sector. This has prompted the ACB to focus on the private sector, as the private sector plays a critical role in Brunei's economic diversification. Brunei is a member of the International Association of Anti-Corruption Authorities.

In Transparency International's Corruption Perception Index (CPI) 2014, Brunei is ranked 38 out of 175 countries.

No U.S. Company has identified corruption as an obstacle to conduct business in Brunei.

*UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Brunei has signed and ratified the UN Anticorruption Convention.

*Resources to Report Corruption*

Government Point of Contact:

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There are no international, regional, local or nongovernmental organizations operating in the country/economy that monitor corruption.



#### **14. Bilateral Investment Agreements**

Brunei is a member of the Association of Southeast Asian Nations (ASEAN), which has Free Trade Agreements (FTA) with Australia, New Zealand, China, India, and South Korea, and a Comprehensive Economic Partnership Agreement with Japan.

Brunei currently has Bilateral Investment Treaties with China, Germany, India, the Republic of Korea, Oman, and South Africa.

Brunei was the ASEAN Coordinator in negotiations for the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), which was signed in Thailand on 27 February 2009 and entered into force on 1 January 2010. Brunei is a negotiating party to the TPP and the Regional Comprehensive Economic Partnership (RCEP).

Brunei was one of the original members of the Trans-Pacific Strategic Economic Partnership Agreement (P4), a Free Trade Agreement between Brunei Darussalam, Chile, Singapore, and New Zealand signed on 18 July 2005. The P4 later evolved into the Trans-Pacific Partnership (TPP) with the addition of new members, namely the United States, Australia, Canada, Japan, Peru, Malaysia, Mexico, and Vietnam. The TPP negotiations are currently ongoing.

#### **Bilateral Taxation Treaties**

Brunei does not have a bilateral taxation treaty with the United States.

#### **15. OPIC and Other Investment Insurance Programs**

Overseas Private Investment Corporation (OPIC) programs are not available in Brunei given the country's affluence.

#### **16. Labor**

The 2011 labor force estimate was 185,900 persons with an unemployment rate of 1.7 percent, according to the Brunei Darussalam Statistical Yearbook 2011 (latest data available), though unofficial estimates place the unemployment figures higher.

Brunei relies heavily on foreign labor in lower-skill and lower-paying positions, with approximately 120,000 guest workers brought in to fulfill specific contracts. The largest percentage of those work in construction, followed by wholesale and retail trade and then professional, technical, administrative and support services. Most unskilled laborers in Brunei are immigrants from Indonesia, Malaysia and the Philippines on renewable two year contracts.

The skilled labor pool includes both immigrants on short term visas and Bruneian citizens and permanent residents, who often are well educated but who often prefer to work for the government, with its better benefits such as bonuses, education allowance, interest-free loans, housing allowance, and other benefits, rather than the private sector. Approximately 25% of the total Brunei citizen workforce is employed in the public sector.

Matters relating to labor conditions are covered under the Labor Act, Employment Order 2009 and Workmen's Compensation Act. Expatriate employment is controlled by a Labor Quota system from the Labor Department and the issuance of employment passes, by the Immigration Department. Brunei allows for new companies to apply for "special approval" to expedite the recruitment of expatriate workers in select positions for essential jobs. According to the Ministry of Home Affairs, this approval is only available to new companies operating in the urban and suburban areas for six months, and covers businesses such as restaurants and shops. The special approval cuts the waiting time down from 21 days to 7.

The Brunei government is actively seeking to increase the number of Bruneians working in the private sector. Brunei's 2014 Energy White Paper calls for the number of persons employed in the energy sector to increase from 20,000 in 2010 to 50,000 in 2035, and for the number of locals employed in the sector to increase from 10,000 to 40,000 in the same period. To advance this goal, all companies competing for a tender in the oil and gas industry are required to have at least half of their employees Bruneians.

The law, including related regulations and statutory instruments, protects the right of workers to form and join unions. Under the Trade Unions Act, unions must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions of their choice without previous authorization or excessive requirements. The only union in the country, which was composed of Brunei Shell Petroleum workers, dissolved in 2014. There are no other active unions or worker organizations.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the minister of home affairs and the Department of Labor. The government prohibits strikes, and the law makes no explicit provision for the right to collective bargaining. The law prohibits employers from discriminating against workers in connection with union activities, but it does not provide for reinstatement for dismissal related to union activity.

Various domestic laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission are required for those under age 18. Female workers under age 18 may not work at night or on offshore oil platforms. The Department of Labor, which is part of the Ministry of Home Affairs, effectively enforced laws related to the employment of children. There were no reports of violations of child labor laws.

The law does not set a minimum wage, but most employed citizens commanded good salaries. The public sector pay scale covers all workers in government jobs. Wages for employed foreign residents were wide ranging. Some foreign embassies set minimum wage requirements for their nationals working in the country.

The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. The law provides for paid annual holidays, overtime for work in excess of 48 hours per week, and double time for work performed on legal holidays. The law also stipulates that an employee may not work more than 72 hours of overtime

a month. Laws regarding hours were frequently not observed in practice. Occupational health and safety standards were established by government regulations. The Labor Department inspected working conditions both on a routine basis and in response to complaints. There were approximately 40 labor inspectors in the Labor Department in 2014. The government usually moved quickly to investigate abuses, and abusive employers faced criminal and civil penalties. All employment agencies have to be endorsed by the government and have to undergo government vetting and training before operating. In 2014, there were three cases of Employment Agencies operating without a license. Two of the cases were forwarded to the Law and Prosecution Division of the Department of Labor, while one case is still under investigation. The Labor Department had the power to terminate the license of abusive employers and revoke their foreign labor quota. The majority of abuse cases were settled out of court through agreements where the employer paid financial compensation to the worker.

The government generally enforced labor, health, and safety regulations effectively, but enforcement in the unskilled labor sector was lax. This was true especially for foreign laborers at construction sites, where wage arrears and inadequate safety and living conditions were reported. The government may close a workplace where health, safety, or working conditions are unsatisfactory, but this did not happen during the year.

Government data from 2011, the most recent available, indicated approximately 85,000 foreigners lived in the country temporarily. The law protected the rights of foreign workers through inspections of facilities and a telephone hotline for worker complaints. Immigration law allows for prison sentences and caning for workers who overstay their work permits, for workers who fall into irregular status due to their employers' negligence, for irregular immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. The law also requires recruiting agencies to be registered.

Government mediation by the Labor Department continued to be the most common means used to resolve labor disputes. The commissioner responsible for labor had the additional authority to protect foreign worker rights. The government prosecuted employers who employed irregular immigrants or did not process workers' documents, rendering them irregular. When grievances could not be resolved, regulations require employers to pay for the repatriation of the foreign workers and all outstanding wages. By custom, particularly for low-skilled workers, some employers held employee passports and restricted employee activities during non-work hours. Foreign workers who filed grievances sometimes did not receive their back wages. Foreign migrant workers often signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. The government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries; nevertheless, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

There were cases reported of nonpayment of salaries. The majority of cases involved domestic and construction workers. In many cases courts levied judicial penalties including convictions and fines against employers found guilty of nonpayment of wages.

## 17. Foreign Trade Zones/Free Ports/Trade Facilitation

Muara Port is Brunei's main seaport with an established Free Trade Zone called the Muara Export Zone (MEZ), which was established to promote and develop Brunei Darussalam as a trade hub of the region. The establishment of the MEZ was an initial step towards developing other Free Trade Zones in the country.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
<b>Host Country Gross Domestic Product (GDP) (\$M USD)</b>	2012	16,950	2014	14,914	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
<b>Foreign Direct Investment</b>	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
<b>U.S. FDI in partner country (\$M USD, stock positions)</b>	N/A	N/A	2013	132	BEA
<b>Host country's FDI in the United States (\$M USD, stock positions)</b>	N/A	N/A	N/A	N/A	
<b>Total inbound stock of FDI as % host GDP</b>	N/A	N/A	2013	Less than 1%	

\*Host country GDP data available from Brunei Economic Development Board (BEDB)

*Table 3: Sources and Destination of FDI*

IMF Coordinated Direct Investment Survey data are not available for Brunei.

*Table 4: Sources of Portfolio Investment*

IMF Coordinated Portfolio Investment Survey data are not available for Brunei.

**19. Contact for More Information**

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