



Case Study: Brunei Darussalam

OECD Asia-Pacific for Tax and Financial Crime Investigation

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Mengutip Hasil ● Memudahkan Perdagangan Merentas Sempadan ● Membantu Memelihara Keselamatan Negara



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1. Background: Brunei Darussalam

Brunei Darussalam	
Region	Southeast Asia
	North Coast, Borneo Island
Population	0.42M
Area:	5,765 KM ²
Official Language:	Malay
Currency:	Brunei Dollar (1:1 pegged with Singapore Dollar)





2. Introduction: Financial Investigation Unit

When?

Established on 2nd November 2020.

*Initially, any cases of undeclared cash & proceeds from smuggling activities were to be investigated by Investigation & Prosecution Unit.

Why?

- i. Customs focal unit for National Anti-Money Laundering Committee (NAMLC).
- ii. To monitor movements of physical cash via Post Control.
- iii. To take measures & actions on the illicit profits from smuggling activities.

How?

- i. Predicate customs cases.
- ii. Cash Bearer Negotiable Instruments (CBNI) records.
- iii. Intelligence Reports / Risk-Assessment



3. External Stakeholders: Other Agencies



Attorney General's Chambers

- To provide legal advice.
- To provide verdict on restrain, seize, confiscate, etc.



Brunei Darussalam Central Bank

- To consolidate progress on National Anti-Money Laundering Committee.
- To provide assistance such as freezing account & intelligence financial report



Financial Institutions

- Local Banks, International Banks, Money Changers, etc .
- To provide relevant official documents ; i.e. OTC transactions, online banking, remittances, etc.



Royal Brunei Police Force

- Parallel investigation such as counterfeit currency, gambling and other vices.
- To provide remand / custody.





4. Case Study

Predicate Offence: Smuggling Case

	CASE DETAILS
Date:	7 th December 2020
Predicate Offence:	Smuggling Case
Seizure:	100 cartons of contraband cigarettes
Cash Seizure	BND \$1,070.00 (approx. US\$ 778.76)
Notes:	Cigarette Tax: 1 stick = BND 0.50 per stick (approx. US \$0.36) 100 cartons = BND \$10,000.00 (approx. US \$7,278.14)



5. Actions taken by the Investigation Team/ Inter-Agency Cooperation

ACTIONS TAKEN	INTER-AGENCY COOPERATION
Report via Integrated Financial Intelligence System (IFIS) to request relevant financial documents.	Customs & Brunei Darussalam Central Bank
Verification of employment Status as <i>“Construction Labour”</i>	Customs & Immigration Dept
Discovery of BND 100,151.19 in his savings account	Customs & Local Bank
Temporary freeze 48 hours (immediate)	Customs & Brunei Darussalam Central Bank
Acquired 1 year freezing order (extension)	Customs & Attorney General’s Chambers
Referred the case to Deputy Public Prosecutors	Customs & Attorney General’s Chambers



6. Verdict – January 2021

NATURE	VERDICT	LEGAL POWER
a) Illegal possession of contraband goods	Court fine amounting to BND \$85,000.00 (approx. US \$61,940.67) or 17 months imprisonment	Section 136, Excise Order
b) Illicit cash	BND \$535.00 (approx. US \$380.23)	Section 357, Criminal Procedure Code
c) Savings Account	To pursue further investigation on the suspected <i>“proceeds of smuggling”</i> .	Criminal Asset Recovery Order (CARO)

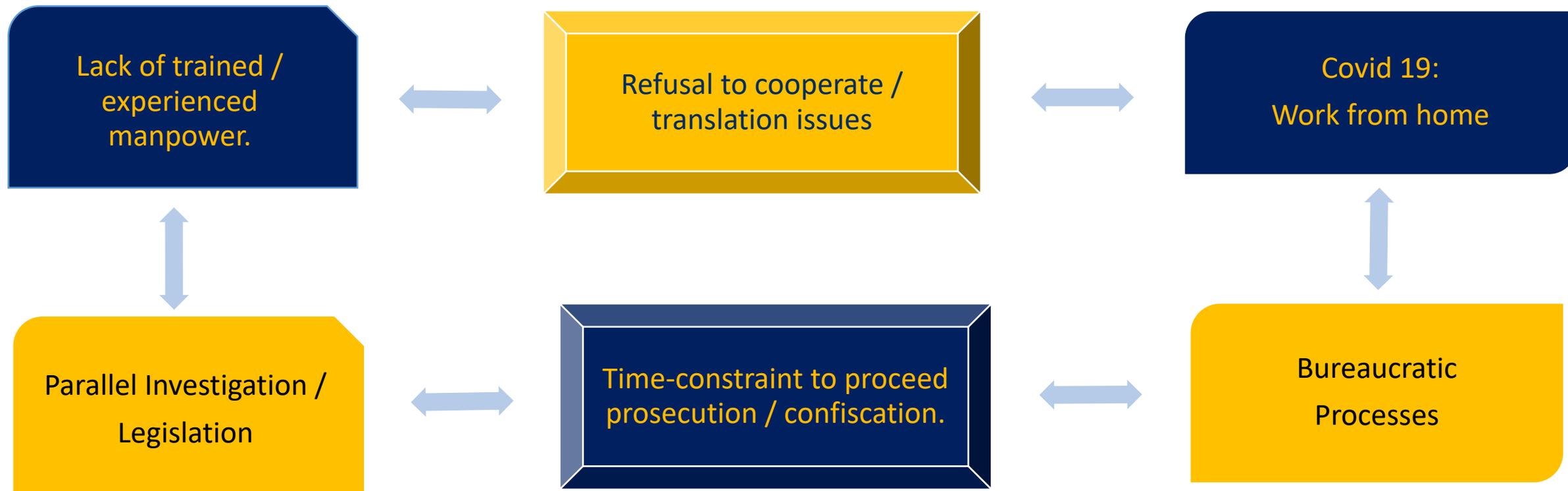


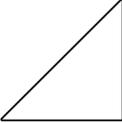
Conclusion of the case: Asset Recovery (January 2022)

NATURE	ASSET RECOVERY / CONCLUSION	LEGAL POWER
Illicit Cash	Confiscated & transferred to CARO Fund (January 2021)	Section 357, Criminal Procedure Code
Savings Account	Deemed as “tainted property” & transferred to CARO Fund (January 2022)	Section 68, Criminal Asset Recovery Order (CARO)
Deportation	Blacklisted – i.e. “LIST A”	Immigration Act

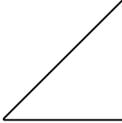


7. Challenges:





First Initiation: Submitted report & requested financial documents via Integrated Financial Intelligence System (IFIS) to the Central Bank.



First Freezing: Obtained restraint order for bank savings account totaling \$100,151.09 (Section 115, CARO 2012)

First Confiscation (Savings Account): Granted court verdict to confiscate savings account deemed as "Tainted Property" amounting to BND 40,000.00.



Internal Developments

- i) Capacity building in terms of seizure, investigation, tracing & prosecution.
- ii) Coordination within different units / divisions for collective actions.

Other LEAs

- i) Parallel investigation such as Labour Law, Gambling Offence, etc
- ii) Dissemination of information-sharing.
- iii) National Anti-Money Laundering Committee (NAMLC)

WAYFORWARD

Regulations & Legality

- i) Review / amendment for "*burden of proof*"
- ii) To justify the suspicious assets / transactions.
- iii) Provide multiple layers of regulation.

International Counterparts

- i) Sharing best practices (WCO)
- ii) Access to International Databases – such as FinCrime Online Library.
- iii) Accreditation from international experts.



THANK YOU

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