World Bank Engagement & Technical Session

Enforcing Contracts

Brunei Darussalam Prime Minister's Office

Brunei has focused its reform efforts since June 2015 on 4 thematic areas to improve the efficiency, quality and costs of its legal system

Doing Business 2016

Enforcing Contracts Ranking: 113/189 economies

Enforcing Contracts Distance to Frontier: 54.47

Thematic reform areas of focus since June 2015 for 2017 Rankings:

1. **Court structure and proceedings**
2. **Case management**
3. **Court automation**
4. **Alternative dispute resolution**

1 **Court structure & proceedings (1/2)**: New commercial court established to improve efficiency of trial proceedings for commercial cases

Reform Area	Description	Evidence of Impact OR Expected Benefits

New Commercial Court	• New Commercial Court established within the Intermediate Court on 4th February 2016
	• Panel of 7 Intermediate Court judges to hear commercial cases
	• Court will hear disputes related to:
	  ○ Contracts
	  ○ Export & import of goods
	  ○ Insurance & re-insurance
	  ○ Banking & financial services
	  ○ Operation of markets & exchanges
	  ○ Commodities trading
	• Court will introduce 2 new procedures:
	  ○ Case management conference
	  ○ Option of mediation
		• Expedited disposal of cases
		• Shortened "queuing" time for hearing dates

Case management (1/2)

Existing Court Procedures	Description	Evidence of Impact
Enforcement of time standards	• There are currently three key court events with time standards for civil cases: 1. **Service of process** – Order 6, Rule 7 of Rules of Supreme Court limits validity of write of summons to 12 months 2. **First hearing** – Order 12, Rule 4 of Rules of Supreme Court requires defendant to enter appearance within 8 days of being served the writ of summons 3. **Filing of statement of defense** – Order 18, Rule 2 of Rules of Supreme Court requires a defendant to file his defense pleadings and serve the defense on the plaintiff before the expiration of 14 days after the time limited for appearing or after the statement of claim is served on him, whichever is later.	• Time standards respected in >50% of cases – applications for time extensions are rarely encountered

Case management (2/2)

Reform Area	Description	Evidence of Impact OR Expected Benefits
Rules of Supreme Court – Practice Directions	• 8 new Practice Directions were introduced in 2015. • Order 86, Rule 5 was introduced into the Rules of Supreme Court in December 2015 with an effective date of 23rd March 2015. • Practice Direction No. 1 of 2015 deals with 'Applications for Adjournments' – adjournments are granted on merits • Practice Direction No. 2 of 2015 deals with 'Absence from Court' – on medical grounds, medical certificate with necessary information, must be given to court before the hearing or within 24 hours. On any other grounds, the application will be considered on its merits.	• Expected to reduce number of applications of adjournments

3

Court automation (1/3): Introduction of JCMS has allowed court processes to operate more efficiently and cost-effectively

Reform Area	Description	Evidence of Impact OR Expected Benefits
Judiciary Case Management System (JCMS)	• The new Judiciary Case Management System (JCMS) was launched on 23rd April 2015 and made mandatory for use by Court staff and all lawyers. • JCMS includes the Electronic Filing System, Queue Management System and Case Management System • JCMS is accessible for filing suits with the court online at http://efiling.judiciary.gov.bn	• Greater efficiency and accuracy in management of courts documents – all online • Expedited tracking of status of cases for both lawyers and the Judiciary • Allows more effective data gathering to monitor court efficiency in terms of clearance rate, age of pending cases and time to disposition – resulting reports are being used by Judiciary management to drive improved performance

3 **Court automation (2/3)**: E-payment and publication of judgments are also improving efficiency and increasing transparency

Reform Area	Description	Evidence of Impact OR Expected Benefits
Electronic Payment of Court Fees	• All Court fees can now be paid online through EFS with effect from April 2016	• Eliminates need for lawyers to send staff to courts to submit payments, saving time and money
Publication of Judgments	• All commercial case judgments are made available to the general public online at http://www.judiciary.gov.bn • Magistrates Court cases available from 2015 - 2016 • Intermediate Court cases available from 2010 – 2013 • High Court cases available from 2010 – 2014 • Court of Appeal cases available from 2010 - 2015	• Increased transparency on court proceedings and verdicts

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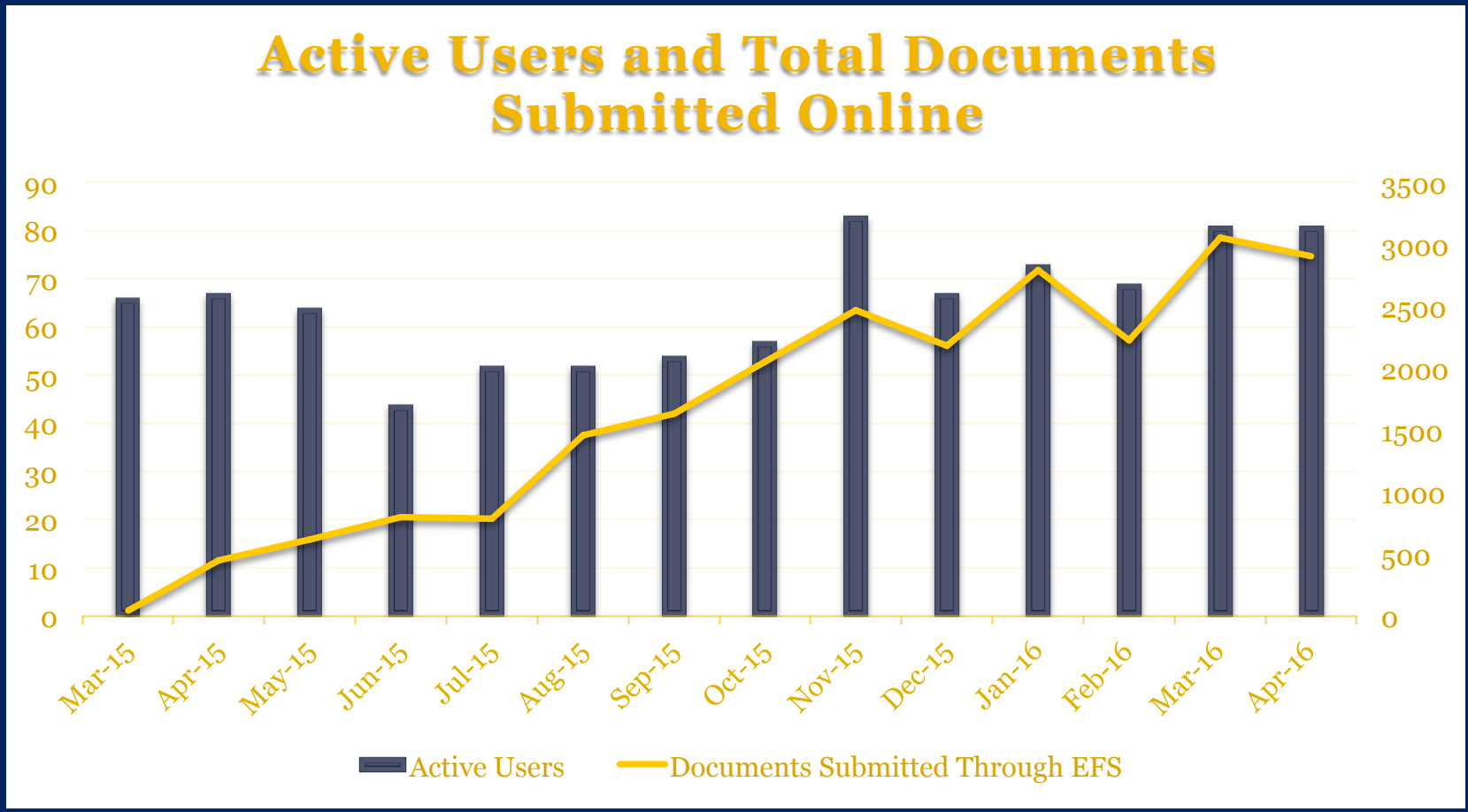
Court automation (3/3): JCMS user-base is already high and system has received positive feedback from users



4 **Alternative dispute mechanisms (1/2)**: Availability of BDAC provides an alternative mechanism to settlement of commercial disputes

Reform Area	Description	Evidence of Impact OR Expected Benefits

New Arbitration Centre	• Brunei Darussalam Arbitration Centre (BDAC) is established as a company and has commenced operation on 09 May 2016
	• Objectives of BDAC
	  ○ To promote adoption of arbitration and mediation services in resolving commercial issues and disputes as speedier alternative to usual settlement through civil proceedings in court
	  ○ To provide arbitration facilities as well as administrative services and mediation to meet needs of domestic and international consumers
	• Independent and non-profit centre with a broad mandate
	• BDAC is located on the 8th Floor of the Brunei Economic Development Board building at Jalan Kumbang Pasang
		• Usage of BDAC to resolve commercial disputes by arbitration or mediation will lessen cases going to court, thus enabling courts to expedite disposal of cases.

Alternative dispute mechanisms (2/2): BDAC building and the facilities

Thank You

For more information

www.judiciary.gov.bn

www.business.gov.bn