



**THE COORDINATING COMMITTEE ON THE IMPLEMENTATION OF THE ATIGA
SUBMISSION FORM FOR CASES OF THE 'MATRIX OF ACTUAL CASES'
ON TRADE BARRIERS**

CASE REFERENCE ID <i>(For Secretariat's use)</i>	REPORTING COUNTRY	INVOLVING COUNTRY
C XXXX	INDONESIA	THAILAND
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION <i>(where applicable)</i>	
	CRUDE PALM OIL	
DESCRIPTION OF TRADE BARRIER FACED <i>Please provide a description of the situation</i>		
<p>Thailand has imposed the NTM in the last three months causing the prohibitions of non-Thailand CPO to enter Lao PDR from Indonesia through port and border of Thailand. This issue hinder Indonesian company from developing a CPO processing facility in Lao PDR. Indonesia sees this issue as a disturbance to Indonesia economy since CPO is one of highly potential product for Indonesia. Considering high potential of the CPO plant in Lao PDR, the company is seeking another way to import the CPO through Vietnam, however it causes unnecessary cost due to geographical condition between Vietnam and Lao PDR. Thus, the opening of the gate through Thailand is the only feasible and cheapest way to get the goods to Lao PDR.</p> <p>Indonesia would like Thailand to have the regulation or arrangement to be abolished at the soonest. Indonesia also of the view that prior to the implementation, Thailand should notify ASEAN regarding the new regulation.</p>		
REFERENCE TO ATIGA PROVISION <i>Please provide a reference to the ATIGA provision to support your case, where applicable</i>		
<p align="center">Article 40 Application of Non-Tariff Measures</p> <ol style="list-style-type: none"> 1. Each Member State shall not adopt or maintain any non-tariff measure on the importation of any good of any other Member State or on the exportation of any good destined for the territory of any other Member State, except in accordance with its WTO rights and obligations or in accordance with this Agreement. 2. Each Member State shall ensure the transparency of its non-tariff measures permitted in paragraph 1 of this Article in accordance with Article 12 and shall ensure that any such measures are not prepared, adopted or applied with the view to, or with the effect of, creating 		

unnecessary obstacles in trade among the Member States.

3. Any new measure or modification to the existing measure shall be duly notified in accordance with Article 11.
4. The database on non-tariff measures applied in Member States shall be further developed and included in the ASEAN Trade Repository as referred in Article 13.

Article 11
Notification Procedures

1. Unless otherwise provided in this Agreement, Member States shall notify any action or measure that they intend to take: (a) which may nullify or impair any benefit to other Member States, directly or indirectly under this Agreement; or (b) when the action or measure may impede the attainment of any objective of this Agreement.
2. Without affecting the generality of the obligations of Member States under paragraph 1 of this Article, the notification procedures shall apply, but need not be limited, to changes in the measures as listed in Annex 1 and amendments thereto.
3. A Member State shall make a notification to Senior Economic Officials Meeting (SEOM) and the ASEAN Secretariat before effecting such action or measure referred to in paragraph 1 of this Article. Unless otherwise provided in this Agreement, notification shall be made at least sixty (60) days before such an action or measure is to take effect. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussion with those Member States having an interest in the action or measure concerned.
4. The notification of the intended action or measure submitted by a Member State shall include: (a) a description of the action or measure to be taken; (b) the reasons for undertaking the action or measure; and (c) the intended date of implementation and the duration of the action or measure.
5. The contents of the notification and all information relating to it shall be treated with confidentiality.
6. The ASEAN Secretariat shall act as the central registry of notifications, including written comments and results of discussions. The Member State concerned shall furnish the ASEAN Secretariat with a copy of the comments received. The ASEAN Secretariat shall draw the attention of individual Member States to notification requirements, such as those stipulated in paragraph 4 of this Article, which remain incomplete. The ASEAN Secretariat shall make available information regarding individual notifications on request to any Member State.
7. The Member State concerned shall, without discrimination, allow adequate opportunities for other Member States to present their comments in writing and discuss these

comments upon request. Discussions entered into by the Member State concerned with other Member States shall be for the purpose of seeking further clarification about the action or measure. The Member State may give due consideration to these written comments and the discussion in the implementation of the action or measure.

8. Other Member States shall present their comments within fifteen (15) days of the notification. Failure of a Member State to provide comments within the stipulated time shall not affect its right to seek recourse under Article 88.

Article 44
Import Licensing Procedures

1. Each Member State shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Agreement on Import Licensing Procedures as contained in Annex 1A to the WTO Agreement.
2. Promptly after entry into force of this Agreement, each Member State shall notify the other Member States of any existing import licensing procedures. Thereafter, each Member State shall notify the other Member States of any new import licensing procedure and any modification to its existing import licensing procedures, to the extent possible sixty (60) days before it takes effect, but in anycase no later than the effective date of the licensing requirement. A notification provided under this Article shall include the information specified in Article 5 of the Agreement on Import Licensing Procedures as contained in Annex 1A to the WTO Agreement.
3. Each Member State shall answer within sixty (60) days all reasonable enquiries from another Member State with regard to the criteria employed by its respective licensing authorities in granting or denying import licences. The importing Member State shall also consider publication of such criteria.
4. Elements in non-automatic import licensing procedures that are found to be impeding trade shall be identified, with a view to remove such barriers, and to the extent possible work towards automatic import licensing procedures.

LIST OF SUPPORTING DOCUMENTS PROVIDED *(where applicable)*

Guidelines for the Matrix of Actual Cases on NTMs/Trade Barriers

1. The cases lodged in the Matrix of actual cases will be classified into 3 categories:

Category	Description
Category A: Resolved Cases	<ul style="list-style-type: none"> • Category A contains issues which have been resolved bilaterally/mutually by ASEAN Member States (AMSs). • Cases in other categories (on-going or new cases) which have been resolved bilaterally/mutually will be classified as Category A. • Cases justified/verified/agreed as NTB-free will be removed from the Matrix for simplifying and making the Matrix user-friendly^(VN)
Category B: On-going Cases	<ul style="list-style-type: none"> • Category B contains any previously raised cases that ASEAN Member States would like to discuss at CCA meetings.
Category C: New Cases	<ul style="list-style-type: none"> • Category C contains the newly lodged cases that ASEAN Member States wish to discuss at CCA meetings.

2. Submission of Category C: New cases:

2.1 At CCA Meeting^(VN) when ASEAN Member States raise new issues/case for discussions, such cases will be lodged into Category C: New cases.

2.2 Reporting country should^(PH) inform the ASEAN Secretariat of these new issues by submission of the submission form and all relevant documents at least 4 weeks before each CCA Meeting in order to allow the responding^(PH) country sufficient time to consult domestically. Should reporting country fail to raise a case within the time frame, such case will automatically be raised at the next CCA Meeting.

2.3 The responding^(PH) country should^(PH) provide the initial response at the CCA Meeting and should^(PH) provide a written response to the reporting country, copied to other ASEAN Member States^(KH) and the ASEAN Secretariat within 4^(PH) weeks after the CCA Meeting.

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2.4 After the new case is lodged into the Matrix under Category C: New cases, such case will be re-categorised into Category B: On-going cases at the next CCA meeting.

3. Addressing Category B: On-going cases:

3.1 Reporting and responding^(PH) country may raise any on-going case for discussion at CCA Meetings.

3.2 On-going cases will be re-categorised into re-solved cases once mutually agreed upon by the reporting and responding^(PH) country.

4. In case that the barrier element/NTBs effect is found in any case lodged, the CCA shall provide recommendations on how to address the issue to be submitted to the AFTA Council, through SEOM for endorsement. Should any case is justified/verified/agreed as NTB-free, it will be removed from the Matrix^(VN)

5. Recalling the decision of the 26th AFTA Council Meeting, to exercise the transparency and enhance the confidence of the private sectors on ASEAN process, the Matrix of actual cases will be uploaded onto the website of the ASEAN Secretariat within 1 month after each CCA Meeting. The information to be reflected in the Matrix of actual cases should be agreed upon by concerned parties (reporting and responding Member States)^(PH). The specific information on the Matrix of actual cases should not contain specific details on which companies are involved in the cases to protect business confidentiality.

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