



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

<b>CASE REFERENCE ID</b> (For Secretariat’s use)	<b>REPORTING COUNTRY</b>	<b>INVOLVING COUNTRY</b>
	Thailand	Viet Nam
<b>DATE OF REPORT SUBMISSION</b>	<b>HS CODE AND PRODUCT DESCRIPTION</b> (where applicable)	
20 November 2017	Passenger Car under classification HS 8703 and Motor Vehicles for the transport of goods under classification HS 8704	
<b>DESCRIPTION OF TRADE BARRIER FACED</b>		
Please provide a description of the situation		
<p>New regulations of importing car to Viet Nam – On 17 October 2017, the Vietnamese Government issued Decree No. 116/2017/ND-CP on the regulations on conditions for automobiles manufacturing and assembling, importing and doing businesses on automotive warranty &amp; maintenance services in Viet Nam. Without the circular document explaining clear practical details, the Decree is expected to be implemented from 1 January 2018.</p> <p>In addition to the very short timing to implement changes to the new import processes, as well as the new documentation, Thailand is also very concerned that the Decree is not aligned with the principles of the WTO. It appears to be of discriminatory nature and unfairly treat imported vehicles compared to those that are locally produced. Furthermore, the requirements in the Decree are not aligned with good regulatory practices and international norms that require reasonable notice periods of regulatory changes. The Decree’s requirements also diverge from globally accepted rules for automotive trade.</p> <p>New regulations, under Decree 116 on automobile importing to Viet Nam includes</p> <ul style="list-style-type: none"> <li>- To get import license from the Ministry of Industry and Trade, Vehicle Type Approval (VTA) certificate/document issued by overseas government authorities of the exporting country is required. This new requirement is of serious concern because the government VTA certificates, especially for the CBU, are not available in many countries including Thailand.</li> <li>- Inspection and Testing related to emission and safety by the Viet Nam Registration under Ministry of Transport (MOT) are required on every shipment of CBU imports, rather than the current regulation that requires one test per model, per year. This means that the same model will be tested repeatedly whenever they are part of different shipments. This will significantly extend the time to process imports, possibly up to several months, at significant cost to importers. Beyond the extended time costs, there is a fundamental concern whether the testing laboratories or infrastructure in Viet Nam will be sufficient to cope with this requirement. Besides, the conducting of carbon emissions and safety testing in Viet Nam is quite different from good international practices according to international standard (UN regulation)</li> </ul>		

The Decree will have direct and serious impact on the exports of Thailand. Several automakers in Thailand have already cancelled or significantly reduced their production for exports to Viet Nam during December 2017 – January 2018 which caused more than 47,000 million Baht loss. More importantly, it also undermined investor’s confidence and future outlook of the ASEAN market.

Thailand views that new regulations on automobile importing to Viet Nam may violate Most Favored Nation Treatment, National Treatment, Application of Non-Tariff Measures, Import Licensing Procedures, and Technical Barriers to Trade obligations since the measures create unnecessary obstacles to trade.

Thailand would like to seek Viet Nam’s assistance to reconsider and amend the Prime Minister’s Decree No. 116/2017/ND-CP taking into account the concerns of all relevant agencies and stakeholders. In the meantime, Thailand would like Viet Nam to postpone the entry into force of the Decree in order to allow sufficient lead time. Thailand also would like Viet Nam to hold consultations with affected trading partner, including Thailand to bring such measures into conformity with the WTO and ATIGA agreements.

**REFERENCE TO ATIGA PROVISION**

Please provide a reference to the ATIGA provision to support your case, where applicable

**ASEAN Trade in Goods Agreement (ATIGA)**

**Article 6**

**National Treatment on Internal Taxation and Regulation**

Each Member State shall accord national treatment to the goods of the other Member States in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 is incorporated into and shall form part of this Agreement, mutatis mutandis.

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**Article 40**

**Application of Non-Tariff Measures**

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 nontariff 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.

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**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 any case 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.

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## **WTO**

### **General Agreement on Tariffs and Trade 1994**

#### **Article 1 General Most-Favoured-Nation Treatment**

#### **Article 3 National Treatment on Internal Taxation and Regulation**

### **Agreement on Technical Barriers to Trade**

#### **Article 2: Preparation, Adoption and Application of Technical Regulations by Central Government Bodies**

#### **Article 5: Procedures for Assessment of Conformity by Central Government Bodies**

### **Agreement on Import Licensing Procedures**

#### **Article 1 General Provisions**

#### **Article 3 Non-Automatic Import Licensing**

## **LIST OF SUPPORTING DOCUMENTS PROVIDED**

(where applicable)

- Decree No: 116 /2017/ND-CP (The regulations on conditions for automobiles manufacturing, assembling, importing and automotive warranty & maintenance services)