



**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 (For Secretariat’s use)	REPORTING COUNTRY	INVOLVING COUNTRY
	Thailand	Philippines
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION (where applicable)	
20 September 2017	Portland cement and Blended Hydraulic Cement with Pozzolan under classification HS 2523	
DESCRIPTION OF TRADE BARRIER FACED		
Please provide a description of the situation		
<p>New import regulations (DAO 17-02, DAO 17-04, DAO 17-05) of cement – Starting from 17 March 2017, Department of Trade and Industry of the Philippines launched Department Administrative Order No. 17-02, 17-04, 17-05 (New Guidelines for Mandatory Certification of Portland Cement and Blended Hydraulic Cement with Pozzolan covered by PNS 07:2005 and PNS 63:2006 respectively).</p> <p>The New Guidelines require that only cement sourced from foreign cement manufacturer plant(s) holding a valid Philippine Standard (PS) Quality and/or Safety Certification Mark License(s) shall be permitted to be imported into the Philippines. Moreover, an Import Commodity Clearance (ICC) shall be required for all cement importations except those imported by cement manufacturers with operating Integrated Cement Plant(s) in the Philippines</p> <p>As a consequence of these new regulations, importers or manufacturers have to apply for both PS License and ICC, which creates unnecessary obstacles to trade as well as burdensome and duplication of procedures. These duplicate requirements also delay customs clearance and create unnecessary cost of occupying warehouses for ICC sampling and testing. At the same time, these regulations lead to shorten shelf life and worsened market competitiveness of imported products.</p> <p>Thailand is of the view that the regulations may violate Most Favor 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 and the requirements for ICC does not apply to cement product imported by an importer who has Integrated Cement Plant in Philippines.</p> <p>Thailand would like to seek Philippines’ assistance to clarify and reconsider this matter in order to facilitate trade flows between the two countries.</p>		
REFERENCE TO ATIGA PROVISION		
Please provide a reference to the ATIGA provision to support your case, where applicable		
<p><u>ASEAN Trade in Goods Agreement (ATIGA)</u></p> <p>Article 6</p> <p>National Treatment on Internal Taxation and Regulation</p> <p>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.</p> <p style="text-align: center;">-----</p>		

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.

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.

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

Agreement on Trade-Related Investment Measures

Article 2 National Treatment and Quantitative Restrictions

LIST OF SUPPORTING DOCUMENTS PROVIDED

(where applicable)

- DAO 17-02 Series of 2017 (New Guidelines for Mandatory Certification of Portland Cement and Blended Hydraulic Cement with Pozzolan Covered by PNS 07:2005 and PNS 63:2006 Respectively)
- DAO 17-04 Series of 2017 (Amendments to DAO 15-01:2015 and DAO 17-02:2017)
- DAO 17-05 Series of 2017 (New Guidelines for Mandatory Certification of Portland Cement and Blended Hydraulic Cement with Pozzolan Covered by PNS 07:2005 and PNS 63:2006 Respectively)