



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	Malaysia
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION <i>(where applicable)</i>	
18 February 2014	HS Code 2101, Coffee 3-1 mix "Kopiko L.A Coffee"	
DESCRIPTION OF TRADE BARRIER FACED		
<i>Please provide a description of the situation</i>		
<p>On 19 December 2014, Custom Authority in Port Klang, Malaysia had retained 4 containers coffee worth of RM 455,150 coffee products, "Kopiko L.A. Coffee" imported by Inbisco Sdn Bhd from Indonesia. This action was taken under recommendation from Kementerian Kesehatan Malaysia (KKM) based on Food Regulation 1985 article 18 (6) (d) which stated: "No Label which describes any food shall include any food shall include any claim d) as to the suitability of a food for use in the prevention, alleviation, treatment or cure of a disease, disorder or particular physiological condition, except as otherwise permitted in these regulations."</p> <p>The confiscation are due to the "Kopiko L.A Coffee" labelling statement of "Low Acid" which believed by Malaysian Authority against the said regulation and create misconfusion., In contrary, Indonesia believe that the statement of "Low Acid" is a new category of coffee which has scientific evident and has not violate any rules/regulation in general and Food Regulation 1985 Article 18 (6) (d) in specific.</p> <p>On 10 January 2014, KKM (Food Safety and quality Division/FSQD) agreed to release 4 container of coffee products "Kopiko L.A.Coffee" and gave 4 months periode to sell the remain products. After the periode 4 months, "Kopiko L.A Coffee" should has new label. FSQD also agree that "Low Acid" is not a part of nutrition contained in coffee and that "Low Acid" can be considered as new category of coffee that can be proven scientifically</p> <p>Concern arise from such situation on legal status of the products, where due to category of "Low Acid" is not regulated in Food Regulation 1985, such labelling statement is prohibited. Due to this, the product will be prohibited in Malaysia market after the four month time period given ended, where as the amendment to the said regulation (is not feasible/will take a toll). The prohibition will cause an RM 2.5 million per month loss for the Indonesia company.</p> <p>At the moment, related companies, work closely with the Indonesia Trade Attaché in Kuala Lumpur Malaysia, have prepared materials for the amendment proposal and a new product label after the previous proposed label has been rejected.</p>		

For the information, same label has been sold and distributed in Singapore without any hitch. The category of "Low Acid" is a product niche market, and develop countries such as USA also permitted the said statement in the labelling of the products.

REFERENCE TO ATIGA PROVISION

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

Based on Article 40 ATIGA "each member state shall not adopt or maintain any NTMs on the importation of any good o 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 of in accordance with this Agreement.

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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