



**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	Viet Nam
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION <i>(where applicable)</i>	
15 December 2017	Passenger Car under classification HS 8703 and Motor Vehicles for the transport of goods under classification HS 8704	
DESCRIPTION OF TRADE BARRIER FACED <i>Please provide a description of the situation</i>		
<p>Vietnamese Government issued Prime Minister Decree No. 116/2017/ND-DC about Requirements for Manufacturing, Assembly and Import of Automobiles and Trade in Automobile Warranty and Maintenance Services. The Decree has issued on 17 October 2017 and expected to be implemented start from 1 January 2018 without any circular documents.</p>		
<p>Indonesia Government is very concern about this Decree, besides the very short timing implementation after Decree issuance (only 3 months), while the International regulation stated that it should be minimum 6 months transition before implementation, we also facing difficulty to fulfill the requirements mentioned on Decree 116 as follows :</p>		
<p>CBU exported to Viet Nam :</p>		
<p>1. Article 6, Clause 2, point a</p>		
<p>Imported automobiles :</p>		
<p>a). Imported brand-new automobiles</p>		
<p>- When conducting inspections or testing, the automobile importer shall provide the quality management authority with the following documents: A copy of the certificate of eligible imported automobile class issued by a foreign competent authority; a factory quality control slip prepared by a foreign automobile manufacturer/assembler for each automobile; valid documents on assessment results of quality assurance conditions of the foreign automobile manufacturer/assembler for the factory producing imported automobile classes issued by a foreign competent authority;</p>		
<p>Concern :</p>		
<p>- VTA Certificate is not available in many countries due to different homologation system and standard. It's not a common items to conduct self certification by exporter's automakers.</p>		
<p>- Imported brand-new automobiles shall be inspected by the quality management authority for each shipment. The model of each automobile class in each shipment shall have emission and technical safety quality inspected or tested. If inspected or tested automobile models fail to satisfy regulations on emission and technical safety quality, the importer shall re-export all automobiles of the same class in such shipment;</p>		
<p>Concern :</p>		
<p>- It requires more lead time (add time to test 2~3 months) and costly.</p>		

This Decree will caused serious impact on Indonesia automotive export to Viet Nam. Some automakers in Indonesia already cancelled production for its export to Viet Nam and caused 9,337 units of export vehicle loss during Dec 2017 ~ Mar 2018.

Indonesia views that this Decree make Trade Barriers to industry and reduce investor's confidence to ASEAN market. Additionally, the Decree 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. Indonesia also notice that this regulation is not yet notify in WTO, also at ASEAN.

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.

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 Annex1A 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

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)

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
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 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 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 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 country should provide the initial response at the CCA Meeting and should provide a written response to the reporting country, copied to other ASEAN Member States and the ASEAN Secretariat within 4 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 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 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.

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). 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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