



**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
	Thailand	Indonesia
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION <i>(where applicable)</i>	
15 Feb 2012	fresh fruits, fresh vegetables and fresh bulbs	
DESCRIPTION OF TRADE BARRIER FACED <i>Please provide a description of the situation</i>		
<p>Limited entry points for imported fresh fruits, vegetables and fresh bulbs – Indonesia issued Agriculture Ministerial Regulation No. 42/2012 and 43/2012, which came into effect on 19 June 2012, regarding plant quarantine measures for importation of fresh fruits, vegetables and fresh vegetable bulbs into Indonesia. Upon the entry into force of these regulations, imported fresh fruits and vegetables have to enter into Indonesia through designated entry points, which only are Makassar seaport, Surabaya seaport, Medan seaport and Jakarta's international airport.</p> <p>The Indonesia's measure to limit entry points of imported imported fresh fruits, vegetables and fresh bulbs has an adverse impact on the importation of such products from Thailand, especially lychees, mangoes, onions, red onions and garlic, since these products are unable to enter the main seaport of Jakarta. Due to the prolonged transportation of such imported products from Thailand to other designated seaports, as well as from those designated seaports back to the main market in Jakarta, the measure imposed has increased the costs of transportation and storage for exporters, especially for perishable products.</p> <p>Since the WTO's <i>SPS Agreement</i> explicitly states that SPS measures must be applied <u>only to the extent necessary</u> to protect human, animal or plant life or health and that such SPS measures <u>must not be more trade-restrictive than required</u> to achieve their appropriate level of SPS protection, Thailand urges Indonesia to review her restrictive measure accordingly and be more trade-facilitative to ASEAN exporters.</p>		

REFERENCE TO ATIGA PROVISION

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

Article 41

General Elimination of Quantitative Restrictions

Each Member State undertakes **not to adopt or maintain any prohibition or quantitative restriction on the importation of any goods of the other Member States** or on the exportation of any goods destined for the territory of the other Member States, except in accordance with its WTO rights and obligations or other provisions in this Agreement. To this end, Article XI of GATT 1994, shall be incorporated into and form part of this Agreement, *mutatis mutandis*.

Article 81 (SPS Measures) (ATIGA)

General Provision and Obligations

2. Member States affirm their rights and obligations with respect to each other under the *SPS Agreement*.

3. Each Member State commits to apply the principles of the *SPS Agreement* in the development, application or recognition of any sanitary or phytosanitary measures with the intent to facilitate trade between and among Member States while protecting human, animal or plant life or health in each Member State.

SPS Agreement (WTO)

Article 2

Basic Rights and Obligations

2. Members shall ensure that any sanitary or phytosanitary measure **is applied only to the extent necessary to protect human, animal or plant life or health**, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.

Article 5

Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

6. ... when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, **Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection**, taking into account technical and economic feasibility.

LIST OF SUPPORTING DOCUMENTS PROVIDED *(where applicable)*

- Agriculture Ministerial Regulation No. 42/2012
- Agriculture Ministerial Regulation No. 43/2012