



**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	MALAYSIA	INDONESIA
DATE OF REPORT SUBMISSION	HS CODE AND PRODUCT DESCRIPTION(<i>where applicable</i>)	
15 FEBRUARY 2012	Cosmetic and Glass Products	
DESCRIPTION OF TRADE BARRIER FACED		
<i>Please provide a description of the situation</i>		
<p>Non-Recognition of Test Reports and Certification for Cosmetics and Glass Products imported from Malaysia.</p> <p>a. <u>Cosmetic Products</u></p> <p>ASEAN Cooperation on Standards and Conformity Assessment is aimed at facilitating the removal of technical barriers to trade in order to the realization of the ASEAN Free Trade Area (AFTA). Over the past years, the focus of this cooperation was on the alignment of national standards to relevant international standards and the implementation of mutual recognition arrangements (MRAs).</p> <p>Since 1998, ASEAN cosmetic regulators and cosmetic industry have been working through the Cosmetic Product Working Group (CPWG) now known as ASEAN Cosmetics Committee of the ASEAN Consultative committee for standards and Quality (ACCSQ) to address issues associated with barriers for this sector.</p> <p>As a result of this collaboration, the Agreement on the ASEAN Harmonized Cosmetic Regulatory scheme was signed by ASEAN Ministers during the 35th ASEAN Economic Ministers Meeting on 2 September 2003. This Agreement covers: (i) the ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetic; and (ii) the ASEAN Cosmetic Directive.</p> <p>To ensure the smooth implementation of the Agreement, seven technical documents were developed which include illustrative list of cosmetic products by category; product registration requirements and procedures; common labelling requirements; a handbook on ingredient listings; common claims guidelines; common import and export requirements; and good manufacturing practice.</p> <p>The MRAs for conformity assessment as well as the harmonization of standards and technical regulations are an important contribution to the economic integration in ASEAN. The operation of the ASEAN Harmonized Cosmetic Regulatory Scheme will, no doubt assist regulators in networking for best practices and ensuring safety for consumers. In turn, this will assist the cosmetic industry in reducing the cost of doing business and gaining market access for its products in ASEAN and</p>		

international markets.

b. Glass Products

The Indonesian government introduced a number of regulations concerning technical standards and products safety in 2009, including the Draft Decree on Mandatory Implementation of Indonesian National Standards for Glass Plate.

On October 2, 2009, the Department of Agriculture and Chemical industry subordinated to the Department of Industry issued the Draft Decree on Mandatory Implementation of Indonesian National Standards for Glass Plate. The decree states that all the domestically produced and imported glass plates are obliged to meet the requirements of SNI when they are sold in the domestic market. Therefore, the glass plate producer and/or importer should possess the product certificate with SNI label, and meet the requirements of SNI 15-0047-2005. The decree will take effect in 6 months after its approval.

Implications

Under these regulations, the products exported to Indonesia must be tested and certified by the accredited laboratories. This causes:

- Unnecessary costs being incurred by exporters.
- Delayed-implementation of the ASEAN Cosmetic Directive further requires GMP certification of affected products (this has been made away with by the ACD). Delayed implementation of ASEAN Cosmetic Directive. Defies the underlying purpose for facilitating trade for cosmetics products in the region.

REFERENCE TO ATIGA PROVISION

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

Article 74 **(Standards)**

1. Each Member State undertakes that its national standards authorities accept and follow the *Code of Good Practice for the Preparation, Adoption and Application of Standards* as provided for in Annex 3 of the *Agreement on Technical Barriers to Trade* as contained in Annex 1A to the WTO Agreement.
2. In harmonising national standards, Member States shall, as the first and preferred option, adopt the relevant international standards when preparing new national standards or revising existing standards. Where international standards are not available, national standards shall be aligned among Member States.
3. Member States are encouraged to actively participate in the development of international standards, particularly in those sectors that have trade potential for ASEAN.
4. Harmonisation of the existing national standards and adoption of international standards into new national standards should be based on "*Adoption of International Standards as Regional or*

National Standards", as contained in the ISO/IEC Guide 21 or its latest edition.

5. Whenever modifications of contents and structure of the relevant international standards are necessary, Member States shall ensure an easy comparison of the contents and structure of their national standards with the referenced international standards and provide information to explain the reason(s) for such modifications.
6. Member States shall ensure that:
 - a) the modifications of contents of international standards are not prepared and adopted with a view to, or with the effect of, creating unnecessary technical barriers to trade; and
 - b) the modifications of contents shall not be more restrictive than necessary.

Article 75
(Technical Regulations)

1. In adopting technical regulations, Member States shall ensure that:
 - a) these are not adopted with a view, to or with the effect of, creating technical barriers to trade;
 - b) these are based on international or national standards that are harmonised to international standards, except where legitimate reasons for deviations exist;
 - c) alternative means that are least trade restrictive to achieve the desired objectives are considered before a decision is taken on the adoption of technical regulations;
 - d) the adoption of prescriptive standards is avoided to ensure that unnecessary obstacles to trade are not introduced, to enhance fair competition in the market or that it does not lead to a reduction of business flexibility; and
 - e) treatment accorded to products imported from Member States is no less favourable than that accorded to like products of national origin and to like products originating from any other Member State.
2. Member States shall ensure that only those parts of a standard that represent minimum requirements to fulfil the desired objectives are referred to in the technical regulations.
3. Member States shall also ensure that, wherever applicable, the preparation, adoption and application of technical regulations are to facilitate the implementation of the respective ASEAN Sectoral Mutual Recognition Arrangements.
4. Whenever the need for technical regulations is urgent for overcoming problems that arise or threaten to arise within the territory of a Member State and the available time does not allow such Member State to harmonise the relevant national standards, that Member State shall consider using the appropriate international standards or the relevant parts of them as the first alternative.
5. Member States shall comply with the notification procedures as stipulated in Article 11. However, in the case of technical regulations under this Article, other Member States shall present their

comments, if any, within sixty (60) days of the notification. Member States shall, upon request, provide to other Member States the draft of the technical regulation and other information regarding the deviations from the relevant international standards and the applicable pre-market conformity assessment procedure.

6. Except in urgent circumstances, Member States shall allow at least six (6) months between the publication of technical regulations and their entry into force in order to provide sufficient time for producers in exporting Member States to adapt their products or methods of production to the requirements of importing Member States.

Article 76
(Conformity Assessment Procedures)

1. Member States shall ensure that conformity assessment procedures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary technical barriers to trade and that conformity assessment procedures that have to be complied with by suppliers of products originating in the territories of other Member States are not more stringent than those accorded to suppliers of like products of national origin.
2. Member States shall adopt conformity assessment procedures that are consistent with international standards and practices and wherever such procedures cannot be achieved because of differences in legitimate objectives, the differences of conformity assessment procedures shall be minimised as far as possible.
3. Member States shall develop and implement ASEAN Sectoral Mutual Recognition Arrangement in the regulated areas, where appropriate, in accordance with the provisions of *the ASEAN Framework Agreement on Mutual Recognition Arrangements*.
4. Member States shall accept the results of conformity assessment produced by conformity assessment bodies designated by other Member States in accordance with the provisions of *the ASEAN Framework Agreement on Mutual Recognition Arrangements* and the provisions of the respective ASEAN Sectoral Mutual Recognition Arrangements in all regulated areas.
5. Member States shall establish co-operation among National Accreditation Bodies and National Metrology Institutes (NMIs), including legal metrology in ASEAN to facilitate the implementation of MRAs in regulated and non-regulated sectors.

LIST OF SUPPORTING DOCUMENTS PROVIDED*(where applicable)*