



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>	
24 February 2014	HS 2101, Kapal Api	
DESCRIPTION OF TRADE BARRIER FACED		
<i>Please provide a description of the situation</i>		
<p>The counterfeit product of Kapal Api coffee in Malaysia, have been exist in Malaysia market since 2010. The counterfeit product has similar packaging to the original product and the price is 40% cheaper than the original, but the content of the counterfeit product found below the standard and can impact consumer's health.</p> <p>The case had been filed to civil court and 2 companies which produced the counterfeit products only should paid RM 10.000 fine, while the total lost of Kapal api is RM 10 billion.</p> <p>To avoid further forgery, Kapal Api has been issuing new packaging, since August 2013. Nevertheless, the new counterfeit products with the new label found in September 2013. Currently, Kapal Api is undertaking investigation process. Kapal Api also had reported this new case to Kementerian Perdagangan Dalam Negeri Koperasi dan Kepenggunaan (KPDNKK) Malaysia for pursuing legal enforcement.</p> <p>For the information, Kapal Api product export to Malaysia is 75% of their total export with market share for roast and ground coffee as much as 50%. Indonesia urge Malaysia to administer a strict enforcement on the case due to the potential damages that can be inflicted.</p>		
REFERENCE TO ATIGA PROVISION		
<i>Please provide a reference to the ATIGA provision to support your case, where applicable</i>		
<p>Counterfeit Products of Kapal Api Coffee in Malaysia has violated SPS Chapter Trade Description Act 2011, Trade Marks Act 1976, Consumer Protection Act 1999 and Food Act 1983.</p> <p>Counterfeit Products of Kapal api which can impact the consumer's health which stated in SPS Chapter in ATIGA.</p>		

LIST OF SUPPORTING DOCUMENTS PROVIDED <i>(where applicable)</i>

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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