



# ASSIST - ASEAN SOLUTIONS FOR INVESTMENTS, SERVICES AND TRADE

# ASSIST TOOLKIT

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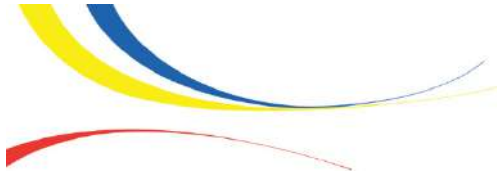


## **ASSIST - ASEAN SOLUTIONS FOR INVESTMENTS, SERVICES AND TRADE**

# **ASSIST**

**T O O L K I T**





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## INTRODUCTION TO THE TOOLKIT

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The purpose of this toolkit is to provide government officials of ASEAN Member States, who are tasked to act as National Contact Points or Focal Points for the purpose of the ASEAN Solutions for Investments, Services and Trade or 'ASSIST', as well as business and private sector representatives, with a set of training materials to train the potential users of ASSIST, on how to use ASSIST to lodge a complaint or to interact with ASEAN Governments in relation to intra-ASEAN cross-border trade issues.

The aim of ASSIST is to provide a simple means for the ASEAN private sector to address any non-tariff measure, non-tariff barrier, trade irritant or trade problem that may be inhibiting regional trade in goods or services, by raising issues or concerns where integration mechanisms may not appear to be implemented in full or in the spirit of the particular regional agreement at the national level. Currently, ASSIST allows only for complaints related to intra-ASEAN cross-border trade in goods and trade in services related to the implementation of ASEAN economic agreements and within the framework of the ASEAN Economic Community (AEC).

This toolkit has been developed through the ASEAN Regional Integration Support from the European Union (ARISE) Plus, which is a European Union funded project to support the ASEAN region in trade facilitation and economic integration. The development of this toolkit is based on the request by the ASEAN Senior Economic Officials' Meeting (SEOM) and the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC).

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### Tools

1. Sample PowerPoint Presentation – PowerPoint explaining what ASSIST is and its structure (*i.e.*, establishment, legal basis, scope, key actors, and key features), and showing the ASSIST process flow through a simplified diagram of the ASSIST mechanism and its associated timeline.
2. ASSIST User Manual for the Private Sector – Manual providing the guidelines and procedures for the ASEAN private sector or 'ASEAN Enterprise' of the free-of-charge, online-based and non-binding consultative mechanism 'ASSIST'.
3. ASSIST Tutorials – For users to familiarize themselves with the mechanics of ASSIST, five step-by-step tutorials were developed based on hypothetical case studies provided in the ASSIST User Manual. The purpose of the tutorials is to help users to better understand the ASSIST process and the role played by the various actors. The tutorials are also available for download at the ASSIST website: <http://assist.asean.org>.





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# SLIDE PRESENTATION: ASEAN SOLUTIONS FOR INVESTMENTS, SERVICES AND TRADE (ASSIST) AN OPPORTUNITY FOR THE PRIVATE SECTOR



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## ASEAN Solutions for Investments, Services and Trade (ASSIST) An Opportunity for the Private Sector

[Name of Presenter]  
[Name of Ministry/Agency]  
ASSIST Training Event at [name of event]  
[venue and date]

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### What is ASSIST?

- User-friendly web-based portal (<http://assist.asean.org>) that is easy to find and access, easy to remember, easy to manage, reliable, effective, and free of charge or cost effective (no fees and simplified, non-judicial procedures).
- Its aim is to provide a simple means for the ASEAN private sector to address any non-tariff measure, non-tariff barrier, trade irritant or trade problem related to cross-border issues (e.g. when ASEAN enterprises experience trade issues when exporting their goods or services, or when investing into other ASEAN countries).
- ASSIST may be used directly by ASEAN enterprises (companies or its representative entities for anonymity reasons (*i.e.*, trade associations, chambers of commerce, business councils, business federations, or their appointed ASEAN lawyers or law firms)). Proof of registration is required.
- ASSIST is only for intra-ASEAN cross-border trade issue between an ASEAN Enterprise (*i.e.*, a company, not an individual person) legally registered in one ASEAN Member State and the Government of one of the other nine ASEAN Member States. Purely domestic issues vis-à-vis the home Government of the complaining enterprise cannot be referred through ASSIST.

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## What is ASSIST?

- ASSIST serves as a non-binding and consultative mechanism to find expedited and effective solutions to problems encountered by ASEAN-based enterprises when doing cross-border business related to the implementation of ASEAN economic agreements falling within the scope of Article 1 (1) of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.
- Non-binding means that ASEAN Member States may decide not to accept a complaint or not to offer a solution once a complaint has been lodged on the ASSIST system. Although ASSIST is non-binding, ASEAN Member States shall deal with complaints on a best endeavour basis.
- Consultative means that it is not a judicial system unfolding before a national or international court and it is not managed and decided by an independent judge, arbiter, mediator, panel of experts or third adjudicating body. It unfolds by means of direct online consultations through the ASSIST software platform between ASEAN enterprises and ASEAN Governments.
- ASSIST allows only for complaints related to intra-ASEAN cross-border trade in goods and trade in services.
- For **trade in goods**, key role in addressing perceived NTBs and streamlining NTMs and natural add-on to the ATR (<http://atr.asean.org>).
- For **trade in services**, it is to address the issues raised in relation to the 11 broad sectors of services supply that are provided in the Services Sector Classification List under the WTO Document MTN/GNS/W/120.

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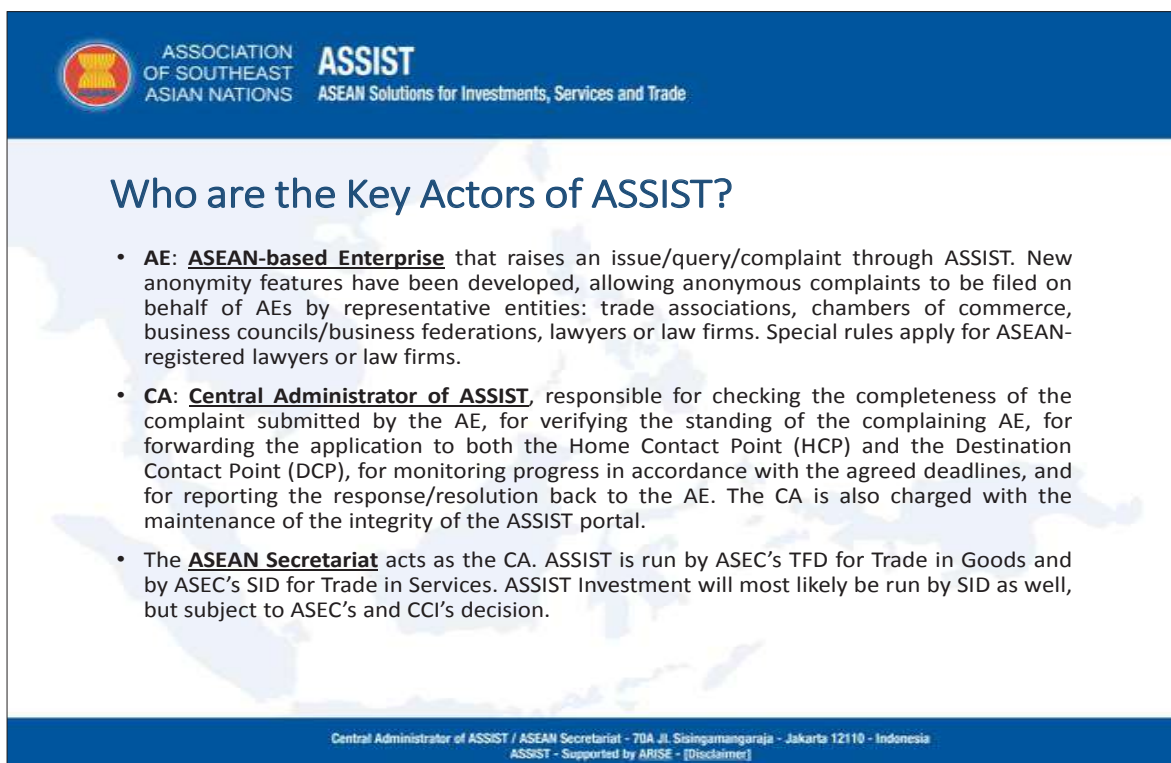
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## What is the Broader Context of ASSIST?

- Implementation of the **AEC Blueprint 2025** and its trade facilitation agenda: “82. To ensure effective implementation of the AEC Blueprint 2025, the following strategic measures will be undertaken:
  - iv. ASEAN Member States may also access other mechanisms such as the ASEAN Solutions for Investments, Services, and Trade (ASSIST)”;
- Facilitate trade, investments and ASEAN regional economic integration and **role of ‘private sector’** in assisting Governments to remove obstacles;
- **Needs of ‘private sector’**, particularly SMEs (trade facilitation, expedited processes, ease of engagement with authorities, avoidance of disputes, solutions to problems);
- **Increase transparency**, especially of NTMs (primary focus on goods), by providing linkage to the ASEAN Trade Repository (ATR) and National Trade Repositories (NTRs) maintained by AMSs where trade related information is available.

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## Who are the Key Actors of ASSIST?

- **HCP: Home Contact Point**, which is the national body in the ASEAN Member State of the AE that is notified of the query/complaint by the CA.
- **DCP: Destination Contact Point**, which is the national body in the ASEAN Member State where the issue is raised and that is responsible for accepting (or rejecting) the issue and then coordinating the resolution/response by the relevant responsible authority(ies) (RAs).
- **RA(s): Responsible Authority(ies)** in the country of the DCP that will investigate the issue/compliant and provide a solution, if possible.
- The HCPs/DCPs (*i.e.*, **Focal Points for ASSIST**) and RAs in each AMS must be identified, structured, trained and built into a **national network**, which is efficient and responsive. Example of Trade in Goods and Trade in Services, and expectations for ASSIST's extension to Investments.

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## What are the Key Features of ASSIST?

- ASSIST aims at being an effective tool of **trade facilitation** and **regional economic integration**;
- It remains **consultative** and **non-binding** in nature, but intends to be **professionally-managed** and **credible**;
- It does not aim at determining who is right and who is wrong, but at finding **solutions to practical trade problems**;
- It may be used even just to seek **greater regulatory transparency** and/or **interpretative clarity** (*e.g.*, rules of origins, customs regimes, licensing, etc.);
- It aims at being **reliable, transparent, responsive** and **efficient**;
- It is based on **simple** and **user-friendly** formats, with clear instructions and processes;
- **Confidentiality** and now even **anonymity** can be preserved. Companies no longer need to file a complaint in their own name if they fear retaliation or bad publicity;

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## What are the Key Features of ASSIST?

- All Key Actors must **commit** to adhere to the agreed administrative and technical requirements, meeting the **required timeframes** and following the **codified due process**;
- Only **duly-registered AEs** (or their representative entities), which file complete complaints, can use ASSIST. **Proof of registration** will be requested to AE (or its representative entity) when lodging a complaint;
- The CA is **independent** from the HCPs/DCPs, in order to maintain the effectiveness and **integrity** of the portal.
- Each AMS must devote the necessary institutional, financial and human resources to maintain their Focal Points and to establish networks of RAs, which are critical to its success. The **private sector must be vigilant**;
- **The ASEAN business community must take full advantage of the opportunities offered by ASSIST** to seek solutions to the constraints that they may be facing when trading within ASEAN. They now have *'no excuse'* and can directly interact with AMS Governments to seek resolution of the trade problems that they are experiencing;

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## What are the Key Features of ASSIST?

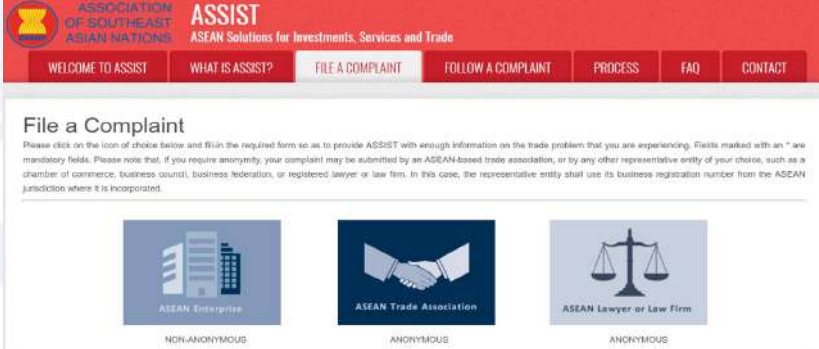
- Anonymity is now offered and the system is simple, fully internet-based, free-of-charge, and expedited. AEs have *'nothing to lose'*;
- ASSIST has an interactive **'tracking system'** and a **'traffic light' dashboard** that allows the key actors to see the progress of each complaint online (**Green**: on schedule; **Yellow**: warning; **Red**: delayed).
- The ASSIST website is now available in **all 7 ASEAN** languages, but cases may only be filed in English;
- **Step-by-step tutorials** for users to better understand the ASSIST process are now available on the ASSIST website and is now available in all ASEAN languages;
- The ASSIST website and the ASSIST website is now available in **all ASEAN languages**;
- A **Frequently Asked Questions (FAQs) page** is available on the website;
- A **User Manual** for CA/HCPs/DCPs is also available upon request to the National Contact Points or Focal Points for ASSIST in the respective AMSs. It is now also available in **all ASEAN languages**;
- A **'public forum'** section of the ASSIST portal will in the future provide data/statistics on complaints, operational guidelines, success stories of resolved cases, feedback from users/AEs, and tips on using ASSIST. No confidential information will be placed on the *public forum*.

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## How does ASSIST Work?

- Applicants will need to register and receive a password-protected log-in;
- A standardised online application form has been developed for use;



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## How does ASSIST Work?

- A computer-generated **tracking code** is assigned, with CA/HCP notified;
- CA will assess (in **max 10 working days**) the complainant's *'standing'* and complaint's completeness. The CA may request the complainant to provide additional information or clarifications;
- CA will inform the AE or, for anonymous complaints, the ASEAN-based representative entity, or the ASEAN-registered lawyer or law firm, and submit complaint to DCP/HCP, if there is *'standing'*;
- Maximum time limit (**10 working days**) is set for DCP to accept/reject complaint;
- Rejections of complaints must be **motivated in writing with a reason**;
- If accepted, DCP will involve RA(s) and fixed time limits will apply (**30 to 50 working days**);
- RAs/DCP may request a single time extension (of up to **20 working days**) if the issue is complex;
- RAs/DCP **must provide** a response/resolution/remedy in written form;
- CA will follow-up. If DCP/RAs **unresponsive**, issue will be referred to AMSS;

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## How does ASSIST Work?

- DCP will provide a solution to CA or advise why the case is not solvable;
- CA will register the solution on ASSIST and send it to the AE or, for anonymous complaints, the ASEAN-based representative entity or the ASEAN-registered lawyer or law firm. The CA will also copy the HCP;
- The AE (or its representative entity, or lawyer, or law firm) will notify the CA if it considers the issue **satisfactorily addressed** (i.e., resolved/settled); and
- If not satisfied, the AE (or its representative entity, or lawyer, or law firm) may advise the CA on its intended course of action.

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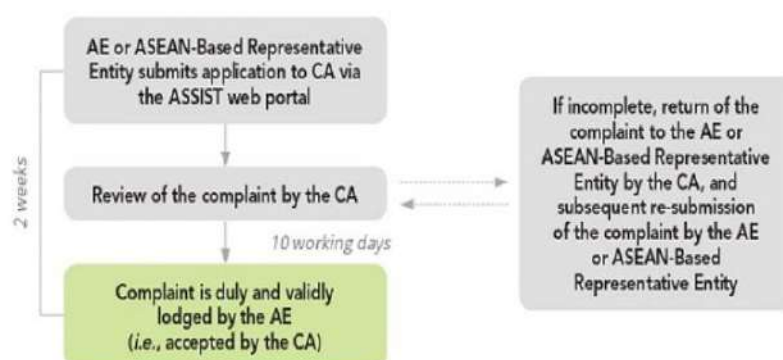


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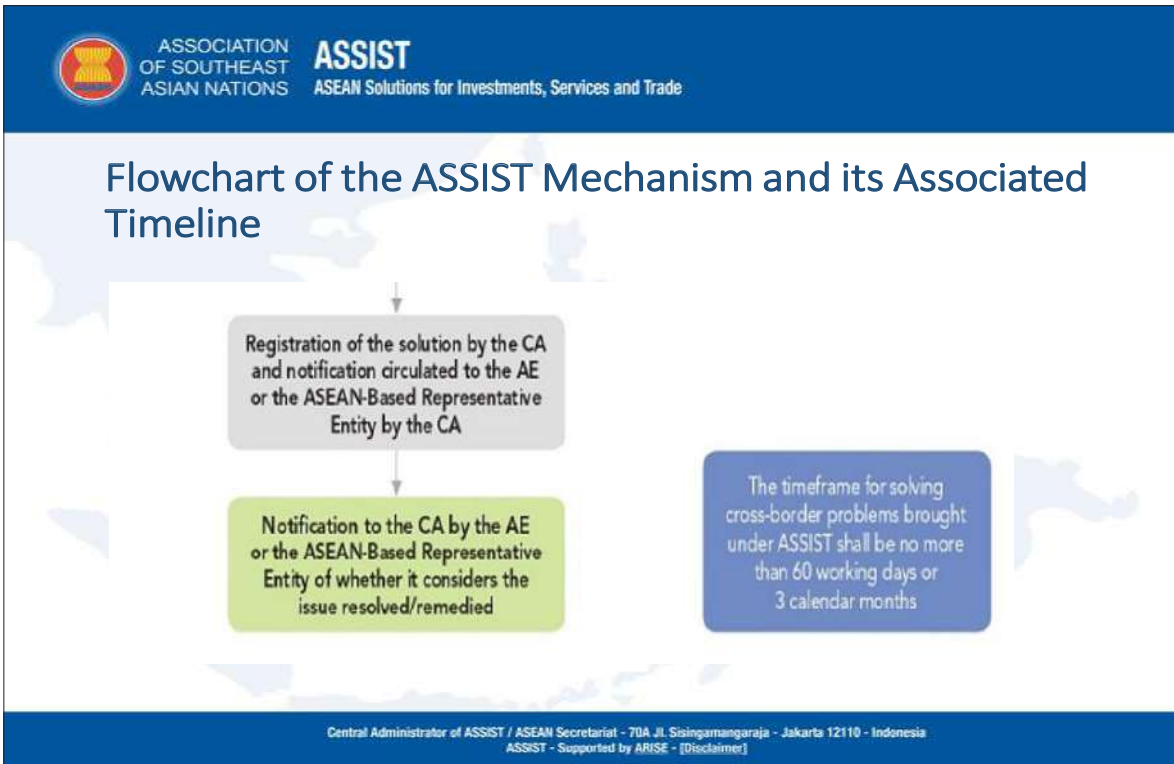
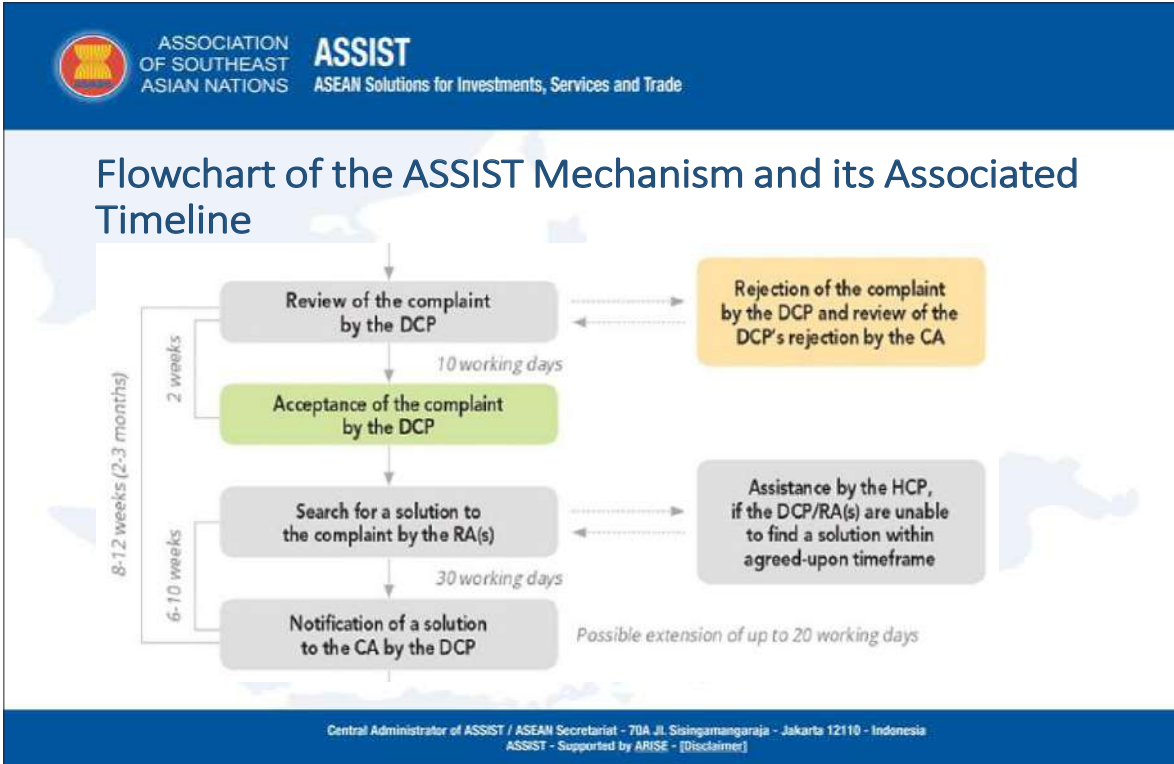
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## Flowchart of the ASSIST Mechanism and its Associated Timeline



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## Statistical Data of ASSIST Usage

- **4 cases** lodged in first 29 months of operation (8/2016 to 12/2018) and **6 cases** lodged in the last 15 months (1/2019 to 3/2020).
- This corresponds to a **150% increase in utilization** since anonymity was introduced. In fact, **5 of the 6 cases** lodged since 1/2019, were lodged by Business Councils or Business Federations.
- Will your problem be the next?

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## Thank you

Please access the following link: [\*\*\*ASSIST - An Opportunity for the Private Sector\*\*\*](#) to download a PowerPoint version (ppt format) of the presentation slides.

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Photo credit: Nathan Associates - PSDA Project, Myanmar

# ASSIST USER MANUAL FOR PRIVATE SECTOR



Photo credit: Nathan Associates - PSDA Project, Myanmar

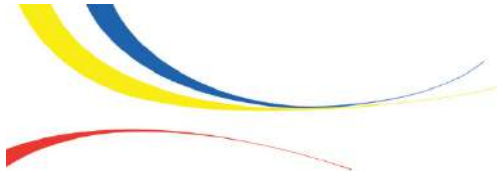


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## ASSIST USER MANUAL FOR PRIVATE SECTOR

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### About this Manual

This Manual provides the guidelines and procedures for the key actors of the free-of-charge, online-based and non-binding consultative mechanism – ASEAN Solutions for Investments, Services and Trade or 'ASSIST' - set up with the aim of solving operational problems encountered by ASEAN enterprises on cross-border issues related to the implementation of ASEAN economic agreements and within the framework of the ASEAN Economic Community (AEC).

Part 1 of this Manual contains a general overview of ASSIST, outlining the scope, key actors, communications channels, etc., while Part 2 goes on to explain the complaint handling process from using the online complaint form, for non-anonymous and anonymous complaints, to when a solution is provided by ASSIST. Part 2 also provides a simplified diagram of the ASSIST Process Flow.

Reference tables, a flowchart of the ASSIST mechanism, Frequently Asked Questions (FAQs), and hypothetical case studies for better understanding of the ASSIST process are provided as Annexes at the end of this Manual.

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ASSIST is accessed directly on its own website (<http://assist.asean.org>) or via the website of the ASEAN Trade Repository (<http://atr.asean.org>).

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## Part 1: GENERAL OVERVIEW OF ASSIST

This part of the Manual provides a general overview of what is ASSIST and its structure (i.e., establishment, scope, key features, key actors, types of complaints, communication channels and public forum).

### What is ASSIST?

- ASSIST is designed as a key instrument to allow, facilitate and encourage ASEAN business operators and the private sector to interact directly with the Governments of individual ASEAN Member States and address trade problems on the ground.
- ASSIST is only available for intra-ASEAN cross-border trade issues between an ASEAN Enterprise, legally registered in one ASEAN Member State, and the Government of one of the other nine ASEAN Member States. Thus, ASSIST cannot be used to lodge a complaint against a Government of a country outside of ASEAN. ASSIST may also be used to address problems vis-a-vis other companies.
- ASSIST is an internet-based and business-friendly facility for receiving, processing and responding to complaints submitted by ASEAN enterprises, its representative entities or its appointed lawyer or law firm.
- Complaints within the scope of ASSIST are limited to operational problems encountered by ASEAN enterprises on cross-border trade issues related to the implementation of ASEAN economic agreements and within the framework of the ASEAN Economic Community (AEC).
- ASSIST is a non-binding and consultative means of communication, which seeks expedited and effective solutions for ASEAN enterprises experiencing trade problems when doing cross-border business within the ASEAN region. 'Non-binding' means that ASEAN Member States may decide not to accept a complaint or not to offer a solution once a complaint has been lodged on the ASSIST system. Although ASSIST is non-binding, ASEAN Member States shall deal with complaints on a best endeavour basis.
- ASSIST is consultative in nature, meaning that it is not a judicial system unfolding before a national or international court and it is not managed and decided by an independent judge, arbiter, mediator, panel of experts or third adjudicating body. It unfolds by means of direct online consultations through the ASSIST software platform between ASEAN enterprises (companies or its representative entities, i.e., trade associations, chambers of commerce, business councils or business federations, or their appointed lawyers or law firms) and ASEAN Governments.
- ASSIST is a free-of-charge service, operating through an online facility that is managed by the ASEAN Secretariat. There are no charges, no fees and no registration or submission costs in using ASSIST. The ASSIST web portal is based on simple and user-friendly formats, with a high degree of automatic features and computer-generated reminders and correspondence (email messaging), based on the process stages and set timelines. This aims at making the process smooth, expedited, easy to administrate and use, and effective.



- Confidentiality is of the utmost importance and only the complainants, the directly involved ASEAN Member States, and the ASEAN Secretariat will have the right to access the actual complaint and the solutions proposed (please also refer to the disclaimer of liability, which can be accessed on the link in the footer of all ASSIST's webpages, in this regard).
- Any information being exchanged through ASSIST cannot be used later in a court of law for purposes of domestic litigation or international dispute settlement (*i.e.*, World Trade Organisation (WTO) and/or ASEAN). ASSIST's disclaimer is clear. No information or statements made by complainants or by ASEAN Member States within the process of ASSIST can be used in national or international litigation. While not being enforceable in a court of law, however, the proposed solutions may have specific value within the similar context of such complaints before the administrative authorities (*i.e.*, customs officers, trade officials, authorities issuing the import licenses, conformity assessment bodies, etc.) of the ASEAN Member State that has proposed the solutions.

## A. WHY AND HOW WAS ASSIST ESTABLISHED?

As mandated by the ASEAN Leaders, the ASSIST mechanism was established to implement the ASEAN Consultation to Solve Trade and Investment Issues (ACT) mandated under the ASEAN Trade in Goods Agreement (ATIGA) and it is loosely based on the European Union's SOLVIT system.

ACT was a consultation mechanism that was trialled in the 2000's, as provided in Article 88 of the ASEAN Trade in Goods Agreement and contained in the Declaration on ASEAN Concord II (Bali Concord II).

ASEAN Senior Economic Officials endorsed the proposal by ARISE (ASEAN Regional Integration Support from the European Union) on the concept for ASSIST and instructed ARISE to set up the necessary institutional mechanisms, detailed procedures and guidelines for ASSIST, and the website allowing internet access for ASSIST key actors.

ASSIST reaffirms the consultative and non-binding characteristics of the ACT, while modernising its structure and enabling the mechanism to operate in a more effective and efficient manner. As such, ASSIST serves as a mechanism for the expedited and effective solution of operational problems encountered by ASEAN enterprises on cross-border issues related to the implementation of ASEAN agreements falling within the scope of Article 1(1) of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism. ASSIST was launched in 2016 at the side-lines of the 48<sup>th</sup> ASEAN Economic Ministers (AEM) Meeting in August 2016 as one of the key deliverables under Lao PDR's ASEAN Chairmanship. The intended and eventual reach of ASSIST is the compliance with and implementation of both the letter and the spirit of the ASEAN Trade in Goods Agreement, as well as the ASEAN protocols and agreements on transport, finance and investment, and services. ASSIST was initially limited to intra-ASEAN trade in good issues in order to gradually operationalize the system. However, it is also set up to deal with trade in services and trade-related investment measures.

The aim is to provide a simple means for the ASEAN private sector to address any non-tariff measure, non-tariff barrier, trade irritant or trade problem that may be inhibiting regional trade and investment, by raising issues or concerns where integration mechanisms may not appear to be implemented in full or in the spirit of the particular regional agreement at the national level.



## **B. WHAT IS THE SCOPE OF ASSIST?**

ASSIST allows only for complaints related to intra-ASEAN cross-border trade in goods, trade in services and trade-related investment issues within the AEC.

### **Issues that are Covered by ASSIST**

- Cross-border issues or problems related to the implementation of one or more ASEAN economic agreement(s), which means the agreements concluded by ASEAN Member States for purposes of the realisation of the AEC for trade in goods, trade in services and investment measures.

### **Issues that are Not Covered by ASSIST:**

Essentially, anything outside the scope as described above. This includes:

- Employee/employer disputes or discrimination claims;
- Matters that are being or have been litigated/arbitrated in national jurisdictions;
- Complaints against individuals or companies/businesses;
- Matters not related to intra-ASEAN trade, services or investment;
- Immigration issues;
- Visa and residence rights; and
- Cross-border movement of capital or payments.

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## **ADDITIONAL IMPORTANT INFORMATION**

ASSIST is only for intra-ASEAN cross-border trade issue between an ASEAN Enterprise (*i.e.*, a company, not an individual person) legally registered in one ASEAN Member State and the Government of one of the other nine ASEAN Member States. Purely domestic issues vis-à-vis the home Government of the complaining enterprise cannot be referred through ASSIST.

In cases where a services provider, which belongs to a parent company based in ASEAN Member State X, but that offers its services in ASEAN Member State Y, intends to file a complaint against ASEAN Member State Y, it is the parent company in ASEAN Member State X that should file the complaint on ASSIST. However, the case can also be filed 'anonymously' by an ASEAN-based trade association, chamber of commerce, business council, business federation, registered lawyer or registered law firm on behalf of the actual complainant.

## **C. WHAT ARE THE KEY FEATURES OF ASSIST?**

- Linkage to the ASEAN Trade Repository (ATR). In line with the ASEAN Trade in Goods Agreement (ATIGA), the ATR is intended to provide transparency on the trade and customs laws and procedures of all ASEAN Member States. The ATR is an electronic interface through which the public can freely access the information available on the National Trade Repositories (NTRs) of each ASEAN Member State;
- Simple and user-friendly web-based portal that can be accessed and used, free-of-charge, by ASEAN enterprises experiencing trade problems when exporting their goods or services, or when investing into other ASEAN countries;

- An interactive 'tracking system' and 'traffic light' dashboard that allows the key actors to follow the online proceedings;
- The ability of ASEAN enterprises to lodge complaints anonymously, by doing so through ASEAN-based trade associations, or other representative entities such as chambers of commerce, business councils, business federations, or registered ASEAN-based lawyers or law firms, when anonymity is desired by the complainant;
- Online tutorials are available on the ASSIST website and the website will soon be available in all ASEAN languages (but cases may only be filed in English).
- A public forum where data on the type and number of applications, case studies of resolved issues, and feedback from ASEAN enterprises may be published.

## D. WHO ARE THE KEY ACTORS WITHIN ASSIST?

### 1. ASEAN Enterprise (AE)

#### **What is the definition of an ASEAN Enterprise and who qualifies as an ASEAN Enterprise?**

A company duly registered in one of the ten ASEAN Member States.

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#### **ADDITIONAL IMPORTANT INFORMATION**

Only ASEAN companies may use ASSIST. An individual person with personal complaints cannot lodge a complaint on ASSIST. However, an individual lawyer may file a complaint on behalf of its client, provided that the latter is a duly-registered ASEAN Enterprise.

#### **Who can represent an ASEAN Enterprise?**

- An ASEAN-based Representative Entity (*i.e.*, one that is duly registered in one of the ten ASEAN Member States), such as an ASEAN-based trade association, chamber of commerce, business council, or business federation, can use ASSIST and raise an issue, query or complaint through ASSIST on behalf of one of its members or a multitude of its members having the same trade problem.
- An ASEAN-registered Lawyer or Law Firm, duly admitted to practice law in one of the ten ASEAN Member States' jurisdictions, may represent an ASEAN Enterprise and submit a complaint through ASSIST on behalf of its client.

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#### **ADDITIONAL IMPORTANT INFORMATION**

For an ASEAN Enterprise (or representative entity) to be legally registered, the ASEAN Enterprise must have fulfilled the legal obligations in the country in which it operates and registered as a business or trade association/chamber of commerce, business council/business federation, and been provided a business registration license. For a lawyer to act on behalf of a client under ASSIST, a professional license, issued in accordance with the prevailing legislation in the respective ASEAN Member States, must be displayed.

## 2. Central Administrator (CA)

- The ASEAN Secretariat is the Central Administrator of ASSIST and, in that capacity, manages the online proceedings and maintains the functionality of the ASSIST facility.
- All communications among the key actors in ASSIST go through and are screened by the Central Administrator.
- The Central Administrator, after appropriate checks, passes the complaint details on to the ASSIST Contact Points (Home and Destination Contact Points) in the relevant Member State(s).
- The Central Administrator monitors progress and relays back to the applicant (*i.e.*, ASEAN Enterprise, its representative entity or its appointed lawyer or law firm) a response and, if available, a solution to the problem at the origin of the complaint.

## 3. Home Contact Point (HCP)

- The national body (*i.e.*, Focal Point) in the ASEAN Member State of the complaining ASEAN Enterprise (or where the parent company is based in certain Trade in Services cases).
- This ministry, agency or governmental authority may intervene, if need be, to hold discussions with the Central Administrator and/or the Destination Contact Point.

## 4. Destination Contact Point (DCP)

- The national body (*i.e.*, Focal Point) in the ASEAN Member State where the issue is raised and the ASEAN Enterprise is facing trade problems (*i.e.*, in the ASEAN Member State against which the complaint is lodged).
- This ministry, agency or governmental authority will decide whether it wants to engage within ASSIST to offer the ASEAN Enterprise a solution, will coordinate with its national competent authorities, and will manage all communications with the Central Administrator of ASSIST.

## 5. Relevant National Authorities (RAs)

- The authority(ies) or other government representative(s) that are competent and responsible in the ASEAN Member State where the issue is raised and where the ASEAN Enterprise is facing trade problems.
- These ministry(ies), agency(ies) or governmental authority(ies) are tasked by the Destination Contact Point with finding a solution to the issue and, in the instances where they acknowledge a complaint as accepted, they will suggest a possible solution to the complainant (*i.e.*, ASEAN Enterprise, its representative entity or its appointed lawyer or law firm) through their Destination Contact Point and on to the Central Administrator.

## E. HOW CAN COMPLAINTS BE FILED?

**There are two types of complaints which can be filed through ASSIST:**

### 1. Non-Anonymous Complaints

Non-anonymous complaints can be submitted directly by an ASEAN Enterprise in its own name, as defined in Section D.1. of this Part of the Manual.

The ASEAN Enterprise must provide its national business registration number and proof of registration, which is mandatory on the complaint form on the ASSIST website.

### 2. Anonymous Complaints.

If anonymity is required by the ASEAN Enterprise experiencing the cross-border trade problem within ASEAN, the complaint can be submitted by an ASEAN-based Representative Entity of the ASEAN Enterprise's choice, such as a trade association, chamber of commerce, business council, business federation, or an ASEAN-registered Lawyer or Law Firm.

#### **ASEAN-Based Trade Associations and other ASEAN-Based Representative Entities**

- a. ASEAN-based Representative Entities, such as trade associations, chambers of commerce, business councils or business federations may file an anonymous case on behalf of one of their members or on behalf of a multitude of their members having the same trade problem. This approach is also intended to allow for multiple complainants, having the same trade problem, to avoid having to file multiple complaints. It must be noted that fees may apply when representative entities provide this service to ASEAN Enterprises seeking anonymity.
- b. In such cases, the ASEAN-based Representative Entity will file the complaint in its own name. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.
- c. ASEAN-based Representative Entities can file complaints against the ASEAN Member State where they are registered, so long as the trade problem is of a cross border nature and they are representing an ASEAN constituency (*i.e.*, a regional association and not merely a national one) or an individual member that is legally-registered in a different ASEAN Member State than the one of registration of the ASEAN-based Representative Entity.

#### **ASEAN-Registered Lawyers or Law Firms**

- a. ASEAN-registered Lawyers or Law Firms may file an anonymous case on behalf of one of their clients (*i.e.*, the ASEAN Enterprise having the trade problem). The lawyer or law firm must be duly licensed to practice law in the ASEAN Member State where the client is based or in the ASEAN Member State against which the complaint is filed.

- b. Special rules apply to complaints filed by ASEAN-registered Lawyers or Law Firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, an ASEAN-registered Lawyer or Law Firm must first contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is being filed. In order to do so, the lawyer or law firm must download the necessary form on the ASSIST website (<http://assist.asean.org/complaint/?m=42&type=law>) and submit it by email to the ASEAN Secretariat, as specified on the form itself.
- c. Once the ASEAN Secretariat has provided the Confidential Case Code (CCC) by email to the lawyer or law firm, the actual complaint can be filed through ASSIST, using the dedicated online form.

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#### **ADDITIONAL IMPORTANT INFORMATION**

For an ASEAN Enterprise and an ASEAN-based Representative Entity, proof of business registration within the Member State of the enterprise or representative entity making the complaint is required when lodging the complaint application – to be provided as an attachment, by means of an electronic copy of the registration document. For an ASEAN-registered Lawyer or Law Firm, the law firm or lawyer’s professional license is required as registration proof. However, the lawyer or law firm must submit the business registration of its client, the ASEAN Enterprise, in confidence to the ASEAN Secretariat, prior to filing the actual complaint through ASSIST.

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#### **F. HOW DO THE ASSIST COMMUNICATION CHANNELS WORK?**

ASSIST operates by maintaining communication channels through the Central Administrator, on behalf of the complainant (*i.e.*, ASEAN Enterprise, ASEAN-based Representative Entity, or ASEAN-registered Lawyer or Law Firm), with the government officials of the agencies nominated as Focal Points for ASSIST within the ASEAN Member States.

- This is managed through the web-based portal, by email messaging, according to assigned responsibilities and procedures; and
- By user access – through login controls to ASSIST Administrator Panels – to monitor progress and compliance with the agreed time frames.

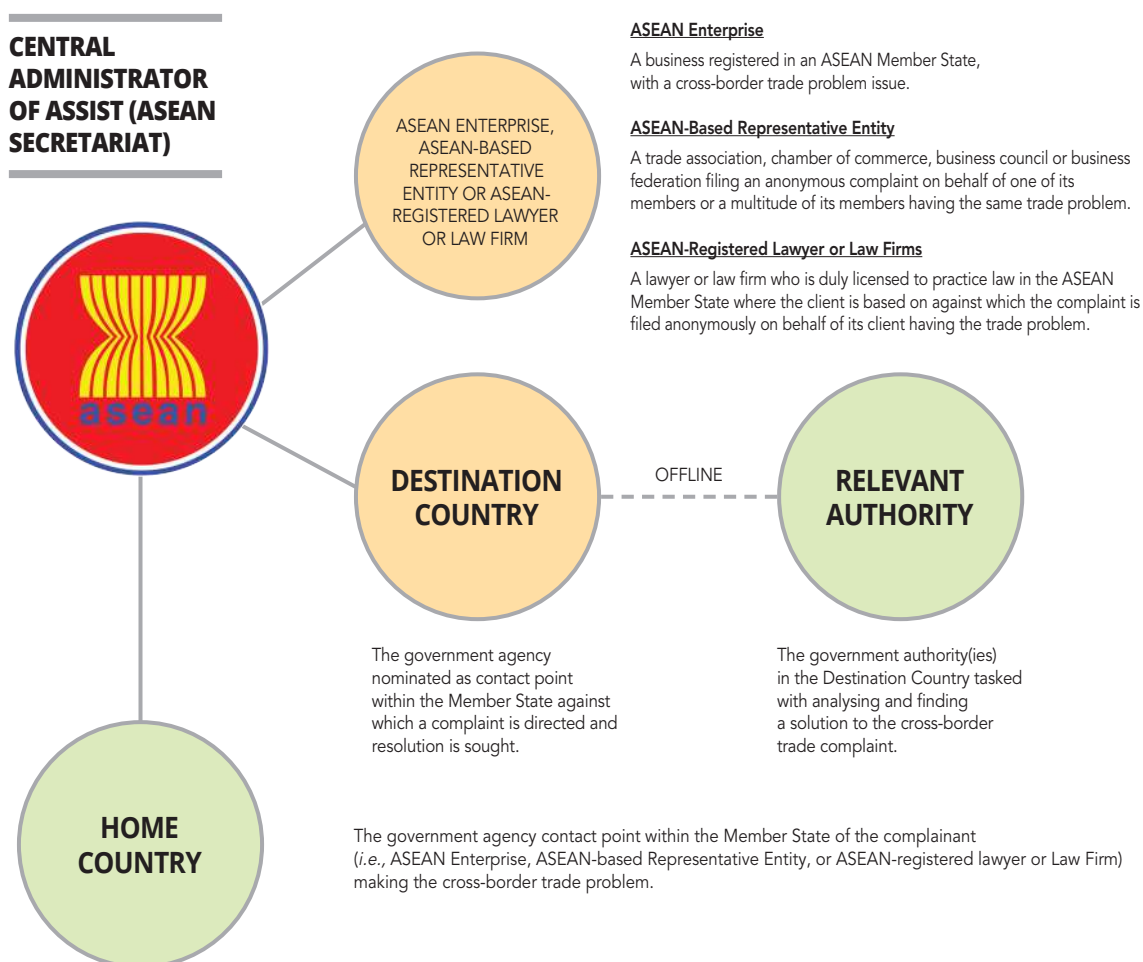
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#### **ADDITIONAL IMPORTANT INFORMATION**

In some instances, an automated notification appears in the ASSIST webpage following a certain action by the complainant, such as a complaint is filed, which requires the complainant to click on the link provided to continue the ASSIST process.

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**Figure 1.**  
**The Communications/Constructive Structure of ASSIST**



### Central Administrator of ASSIST (CA)

The ASEAN Secretariat is the Central Administrator of ASSIST and, in that capacity, manages the online proceedings. All communications in ASSIST go through and are screened by the Central Administrator.

### Home Country/Home Contact Point (HCP)

The national body, called ASSIST Focal Point, in the ASEAN Member State of business registration of the complainant. This ministry, agency or governmental authority may intervene, if need be, to hold discussions with the Central Administrator and/or the Destination Contact Point.

### Destination Country/Destination Contact Point (DCP)

The national body, called ASSIST Focal Point, in the ASEAN Member State where the issue is raised and where the ASEAN Enterprise is facing trade problems. This ministry, agency or governmental authority will decide whether it wants to engage within ASSIST in order to offer the complainant (*i.e.*, ASEAN Enterprise, its representative entity or its appointed lawyer or law firm) a solution, will coordinate with its national competent authorities, and will manage all communications through the system and with the Central Administrator of ASSIST.

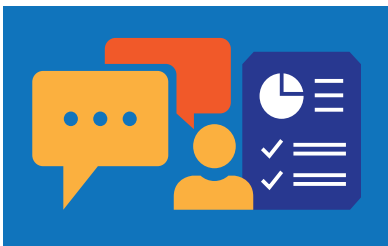
### Relevant National Authority (RA)

The Authority or Authorities, or other government representatives, tasked with finding a solution to the issue being complained about by the complainant (i.e, ASEAN Enterprise, its representative entity or its appointed lawyer or law firm). They are the competent and responsible authorities in the ASEAN Member State against which the complaint was lodged and where the ASEAN Enterprise is facing trade related problems. In situations where the Destination Contact Point accepts a complaint, they may suggest a possible solution to the complainant, which is then forwarded through their Destination Contact Point and, via the Central Administrator and, ultimately to the ASEAN Enterprise, its representative entity, or its lawyer or law firm.

### ADDITIONAL IMPORTANT INFORMATION

It is important to note that English is the language of official communication within the ASSIST system and the complaint must be written in English. All supporting documents uploaded by the complainant (such as legal briefs, technical reports and the like) must be written in English. However, any official documents such as proof of registration, national laws, certificates, licenses or similar, which are written in a national official language may be uploaded onto the system in support of the complaint, but should be accompanied by an (unofficial) English translation. The solution from the Destination Country will also be provided in English.

## G. PUBLIC FORUM ON THE ASSIST WEBSITE



As more experience is gained with ASEAN Member States' trade complaint resolution through ASSIST, the ASSIST web portal will eventually have a public forum section. Over time, the Public Forum will provide information that can be useful for ASEAN Enterprises that are looking for business solutions while doing business in the region. The Public Forum will also encourage business to share their own experiences and useful lessons in seeking solutions in ASEAN. No confidential information will be placed on the Public Forum.

### It is proposed that the Public Forum contain the following information:

- Data/statistics on the type and number of applications;
- Operational guidelines;
- Case studies or success stories of resolved issues;
- Guides to help businesses to better understand ASEAN agreements;
- Feedbacks from users or complainant enterprises; and
- Tips on using ASSIST.

### ADDITIONAL IMPORTANT INFORMATION

Confidentiality of information in the Public Forum will be strictly maintained. Any details identifying individual complainants or their representative entities, as well as the ASEAN Member States concerned, will not be published, unless publication is authorised by all the parties involved.







## Part 2:

# THE COMPLAINT HANDLING PROCESS

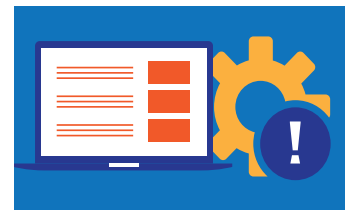
This Part of the Manual gives guidance with respect to the complaint handling process. Examples of hypothetical case studies are also provided in Annex 4 to give a better picture of the processes by which complaints are handled by Authorities involved in the operation of ASSIST.

## How is a Complaint Lodged?

### A. USING THE ONLINE COMPLAINT FORM

#### 1. For an ASEAN Enterprise

A qualifying ASEAN Enterprise may file a complaint using the specified online form on the ASSIST website: <http://assist.asean.org> or by selecting 'ASEAN Enterprise' icon on the 'File a Complaint' tab.



#### 2. For an ASEAN-Based Trade Association and other ASEAN-Based Representative Entity

For anonymous complaints lodged by a qualifying ASEAN-based Trade Association and other ASEAN-based Representative Entities, such as chambers of commerce, business councils or business federations, a complaint may be filed using the specified online form on the ASSIST website by selecting 'ASEAN Trade Association' on the 'File a Complaint' tab. In this case, the complaint must be filed under the representative entity's own name, as the member(s) on behalf of which the complaint is filed must remain anonymous. The complaint will be filed using the representative entity's business registration number and no information on the actual ASEAN Enterprise behind the complaint is to be revealed to the Home and/or Destination Contact Points.

#### 3. For an ASEAN-Registered Lawyer or Law Firm

For anonymous complaints lodged by a qualifying ASEAN-registered Lawyer or Law Firm, a complaint may be filed using the specified online form on the ASSIST website by selecting 'ASEAN Lawyer or Law Firm' on the 'File a Complaint' tab. In this case, the complaint will be filed using the lawyer's professional license and no information on the actual ASEAN Enterprise need to be revealed to the Home and/or Destination Contact Point. However, special rules apply to complaints filed by ASEAN-registered Lawyers or Law Firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, an ASEAN-based lawyer or law firm must first contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is being filed (*i.e.*, the company registration licences). In order to do so, the lawyer or law firm must download the necessary form from the ASSIST website (<http://assist.asean.org/complaint/?m=42&type=law>) and submit it by email to the ASEAN Secretariat, as specified on the form itself. Once the ASEAN Secretariat has provided a Confidential Case Code (CCC) by email to the lawyer or law firm, the actual complaint can be filed. The CCC is a substitute for the contact details of the ASEAN Enterprise, which enables the Destination Contact Point to be reassured that the anonymous complaint was lodged on behalf of an ASEAN Enterprise and vetted by the ASEAN Secretariat. The CCC has to be inserted by the law firm or lawyer in the actual complaint form on the ASSIST website in the field provided in the 'Complaint Description' section of the form.

### PLEASE INCLUDE ALL ESSENTIAL INFORMATION IN THE ONLINE COMPLAINT FORM!

The online form prompts for the required information, including business name and details (depending on the complainant, *i.e.*, ASEAN Enterprise, ASEAN-based Trade Association or other ASEAN-based Representative Entity, or ASEAN-registered Lawyer or Law Firm), contact person details, and a description of the complaint, to be provided. It is extremely important that the 'Description' field in the 'Complaint Description' section of the complaint form be filled-in properly, (*i.e.*, it should give a full explanation of the problem experienced), so that the Central Administrator of ASSIST may be able to clearly identify the problem in the context of the specific ASEAN agreement(s). Also, Reference Tables on List of Sub-Category of Goods and List of Services Sectors and Sub-Sectors are provided in Annex 1 to this Manual, so as to give guidance on filling in the 'Type of Problem Encountered' and 'Services Sector Description' in the 'Complaint Description' section of the complaint form.

Supporting documents, such as the business registration of the ASEAN Enterprise or ASEAN-based Trade Association (or other ASEAN-based Representative Entity), the professional license of the lawyer for complaints filed by an ASEAN-registered Lawyer of Lawyer, the relevant law or measure, the schedule of specific commitments under ASEAN Framework Agreement on Services or AFAS (for trade in services related complaints), and any legal arguments, factual evidence, and possible avenues that already have been pursued domestically, should be filed with the complaint, so as to help the Central Administrator in deciding whether to approve the complaint or not. Complainants may even consider proposing possible solutions in order to facilitate the process and the identification of a solution. Properly and comprehensively presented complaints will have a higher chance of being accepted by the Destination Country, with the objective of finding a solution. Such additional information may be provided in electronic form as attachments to the website complaint form.

Fields marked with an asterisk (\*) are mandatory fields. If the complainant is not sure on what to fill-in for a field, ⓘ buttons are available to click on for a review of the detailed instructions on what to fill-in for each of the 'Complaint Description' field.

The Central Administrator of ASSIST may request resubmission of a complaint if any of the necessary information is incomplete or incorrect (refer to Section C.2. of Part 3 'Roles and Responsibilities of the Central Administrator' of this Manual for more details).

## B. STEPS IN HANDLING A COMPLAINT

### 1. For an ASEAN Enterprise or an ASEAN-Based Representative Entity



#### Submission of Complaint

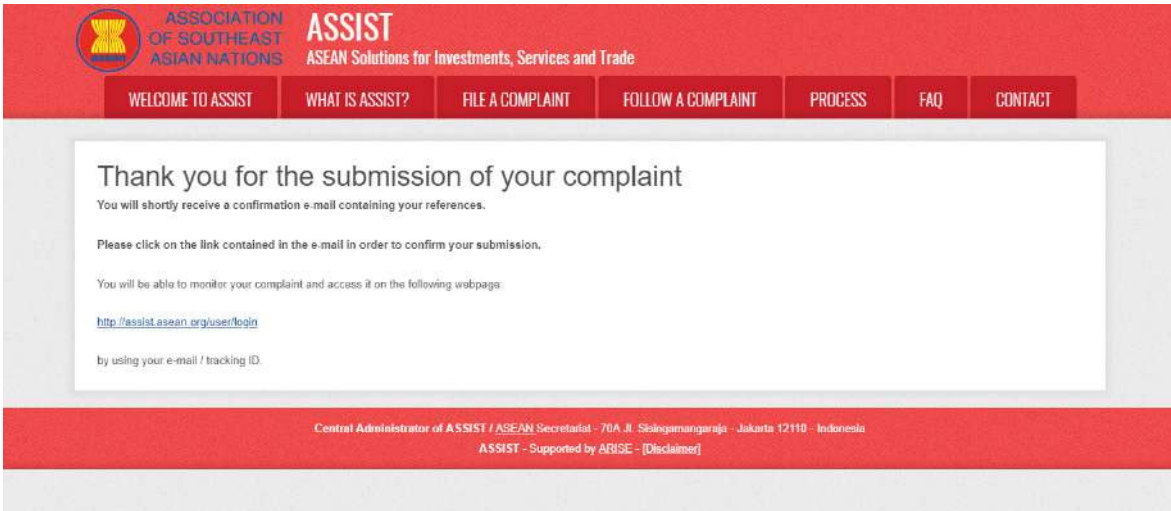
A qualifying ASEAN Enterprise or an ASEAN-based Trade Association or other ASEAN-based Representative Entity prepares and submits a complaint (being within the scope of ASSIST) using the online complaint form at ASSIST's website: <http://assist.asean.org> in the 'ASEAN Enterprise' or 'ASEAN Trade Association' icons on the 'File a Complaint' tab. An ASEAN-based Representative Entity may file a complaint on behalf of one of its members or a multitude of its members if the ASEAN Enterprise wishes to remain anonymous. The input details are checked by the system to ensure that all mandatory information is present.

## ADDITIONAL IMPORTANT INFORMATION

In order to build a thorough and well-proven/well-argued case, before lodging a complaint, the complainant should undertake careful research on the basis of the information provided on ASSIST's website and/or by seeking guidance and assistance from its own home Government or from independent consultants, lawyers, law firms, business councils, chambers of commerce, business federations and trade associations.

### Acknowledgement of complaint

On the submission of a complaint, the ASEAN Enterprise or ASEAN-based Representative Entity receives an automatic acknowledgement on the webpage, as shown below.



The screenshot displays the ASSIST website interface. At the top, there is a red header with the ASSIST logo (Association of Southeast Asian Nations) and the text "ASSIST ASEAN Solutions for Investments, Services and Trade". Below the header is a navigation menu with buttons for "WELCOME TO ASSIST", "WHAT IS ASSIST?", "FILE A COMPLAINT", "FOLLOW A COMPLAINT", "PROCESS", "FAQ", and "CONTACT". The main content area is a white box with a grey border, containing the following text:

**Thank you for the submission of your complaint**  
You will shortly receive a confirmation e-mail containing your references.

Please click on the link contained in the e-mail in order to confirm your submission.

You will be able to monitor your complaint and access it on the following webpage:

<http://assist.asean.org/user/login>

by using your e-mail / tracking ID.

At the bottom of the page, there is a red footer with the text: "Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia" and "ASSIST - Supported by ARISE - [Disclaimer]".

The Central Administrator of ASSIST is also alerted to the submission of a new complaint. This is followed by an email directed to the address given for the contact person named in the complaint form. An example is given below.



ASEAN Enterprise &lt;aseanenterprise0@gmail.com&gt;

**[ASSIST] Thanks to confirm your complaint #14620181017 submission**

 No Reply ASSIST <assist@asean.org>  
 Reply-To: "assist@asean.org" <assist@asean.org>

Wed, Oct 17, 2018 at 12:45 P

**ASSIST**  
 ASEAN Solutions for Investments, Services and Trade

Dear Mr Paul Smith,

Thank you for having filed a complaint on **ASSIST**, the system of ASEAN Solutions for Investments, Services and Trade.

Please confirm your complaint **14620181017** on the following link (or by copy-pasting the following link onto your internet browser):  
[http://assist.arsenadevelopment.space/user/confirm\\_email?email=aseanenterprise0@gmail.com&id=14620181017&code=3y4i38bq98](http://assist.arsenadevelopment.space/user/confirm_email?email=aseanenterprise0@gmail.com&id=14620181017&code=3y4i38bq98)

After your confirmation, ASSIST will monitor your complaint and you will be able to access it on the following webpage  
<http://assist.arsenadevelopment.space/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / **14620181017**

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**ASEAN Enterprise / Trade Association / Law Firm : Star 88 Co., Ltd.** (type Enterprise)  
 Company size : 50 to 100  
 Phone : +905 524 1532  
 Website : [www.star88.com](http://www.star88.com)  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
**Country : AMS-X**  
 :

**Contact person : Mr Paul Smith**  
 Phone : +905 524 1532  
 Position : Chief Executive Officer  
**Email : [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)**  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
 Country : AMS-X

**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 123456  
 Type of Business : Service provider  
 Business Sector : Services /  
 Type of problem encountered : Transport services  
 Destination Country : AMS-Y

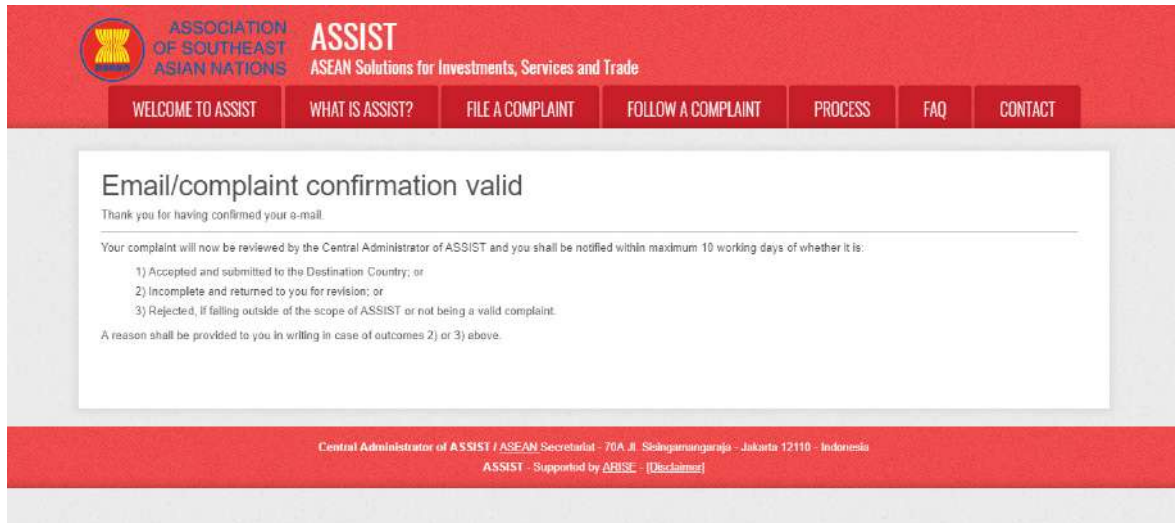
**Description:**  
 We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X&E's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.

Thanking you, ASSIST is at your service.

[assistasean.org](http://assistasean.org)

3 attachments

The email to the ASEAN Enterprise or ASEAN-based Representative Entity's contact person contains the basic details of the complaint submission and the complaint number or tracking identity number (Tracking ID), that is automatically allocated to the complaint by ASSIST, through which the complainant may monitor progress of the complaint (further details on monitoring a complaint are provided in the "Complainant may Monitor the Progress of a Complaint" in Section E of this Part). A reply to the email is expected; the complainant/addressee can confirm and so validate the submission by simply clicking on the link provided in the email. Once the complainant clicks on the link, the following page will automatically appear on the computer screen.



### Verification by Central Administrator

The Central Administrator of ASSIST carries out verification checks to determine eligibility (*i.e.*, whether or not the complaint falls within the scope of ASSIST), and as a result of that analysis, within 10 working days, reviews the complaint and:

- **Accepts** the complaint and passes it on to the relevant national focal points (*i.e.*, the 'Destination Contact Point' and the 'Home Contact Point');
- May request further information (**incomplete**) or ask for revision by the complainant (see further explanation of the Central Administrator's actions under Section C.2. of Part 3 of this Manual 'The Role of the Central Administrator of ASSIST'); or
- **Rejects** the complaint as invalid, with reasons given as to why it took such decision.

### Destination Contact Point to Accept or Reject

The Destination Contact Point (within the ASEAN Member State against which the complaint is directed and from which a solution is sought) reviews the details of the complaint within 10 working days and decides if:

- On the basis of the information provided, the complaint appears to present a valid case, and so the complaint is **accepted**;
- An email notifying acceptance goes to the Central Administrator and Home Contact Point;
- Details are forwarded to the Relevant National Authority, in order to seek a potential resolution to the problem; or
- The case presented is not valid, or, after consulting the Relevant National Authorities, the Destination Contact Point decides that the ASSIST mechanism is not the appropriate channel, and the complaint is **rejected**. The Central Administrator and Home Contact Point are informed through email, with reasons for the rejection given by the Destination Contact Point.

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## ADDITIONAL IMPORTANT INFORMATION

If the complaint is accepted by the Destination Contact Point and passed to the Relevant Authority(ies) for a reply, the Destination Contact Point is expected to monitor progress and to obtain a response from the Relevant National Authority(ies) within the agreed ASSIST time frame. The timeline set for each stage of the ASSIST process is laid out in Section D 'Complaint Handling Timeline' of this Part of the Manual.

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### Central Administrator Responds with Result

The reply, such as a suggested solution, is sent by the Destination Contact Point to the Central Administrator, within 30 to 50 working days, and:

- The response or solution proposed is reviewed by the Central Administrator, in the context of providing a satisfactory answer to the problem experienced and described in the complaint.
- This gives the Central Administrator an opportunity to seek any clarification, if necessary, before registering the solution or response, and relaying the outcome to the ASEAN Enterprise (*i.e.*, the complainant) or the ASEAN-based Representative Entity.
- The Central Administrator relays the Destination Contact Point's response to the complaint back to the ASEAN Enterprise (the complainant) or the ASEAN-based Representative Entity.

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## ADDITIONAL IMPORTANT INFORMATION

All solutions must be in full conformity with existing ASEAN commitments and applicable ASEAN Member States' laws and regulations.

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### Complainant Responds in the Satisfaction Survey

After submission of the solution by the ASEAN Member State through ASSIST, the ASEAN Enterprise (*i.e.*, the complainant) or the ASEAN-based Representative Entity is notified by email and asked to reply to a satisfaction survey by clicking on YES/NO. The ASEAN Enterprise (*i.e.*, the complainant) or the ASEAN-based Representative Entity is then redirected to the ASSIST website to answer the survey and is invited to give comments, particularly if not satisfied.

- If the ASEAN Enterprise (*i.e.*, the complainant) or the ASEAN-based Representative Entity that lodged the complaint is not satisfied with the proposed outcome, it may seek to refer the case, through its ASEAN Member State of business registration, to the ASEAN Compliance Body (ACB) or to the ASEAN Enhanced Dispute Settlement Mechanism (EDSM).
- The complainant may also decide to pursue national litigation or alternative dispute resolution mechanisms (*i.e.*, mediation, conciliation or arbitration) within national ASEAN jurisdictions.

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST | WHAT IS ASSIST? | MY COMPLAINT | LOGOUT | PROCESS | FAQ | CONTACT | DISCLAIMER

### Satisfaction survey

Please comment your response for our feedback

Your answer

Comments

Satisfied with the solution

I'm not a robot

**SUBMIT YOUR FEEDBACK**

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - (Disclaimer)

## ADDITIONAL IMPORTANT INFORMATION

When a solution to an issue is proposed, it is important to remember that ASSIST is established as a consultative process vis-à-vis ASEAN Member States and the advice given aims at solving the specific issue on the ground and not at 'deciding who is right and who is wrong' or determining the consistency with ASEAN law of the ASEAN Member States' laws, regulations, procedures and/or practices being complained against through ASSIST.

In addition, the information provided by the complainant shall be used within ASSIST and by the actors involved only for purposes of addressing the specific ASSIST complaint. Appropriate steps shall be taken to safeguard commercially sensitive or personal data at all times, especially when transferring data across the network.

The complainant may choose to withdraw the complaint at any stage until a solution has been proposed by ASSIST.

## 2. For an ASEAN-Registered Lawyer or Law Firm

### Download Anonymous Complaint Form

If an ASEAN-registered Lawyer or Law Firm submits a complaint on behalf of its client, the lawyer or law firm must, prior to submitting the actual complaint, download the necessary form from the ASSIST website in the 'File a Complaint: ASEAN Lawyer or Law Firm' page or the following link: (<http://assist.asean.org/complaint/?m=42&type=law>), as provided below.

### Submit Anonymous Form and other Required Documents to the ASEAN Secretariat/ ASSIST Central Administrator

Once the lawyer or law firm fills in the form, it must be submitted by email to the ASEAN Secretariat at [assist@asean.org](mailto:assist@asean.org), along with: (i) the lawyer's or law firm's professional registration/license document (if the original language is not





### **ASEAN Secretariat Responds**

The ASEAN Secretariat responds to the ASEAN-registered Lawyer or Law Firm on whether the documents that are submitted meet the requirements and are complete or not.

- If the documents are complete, then the ASEAN Secretariat provides the Confidential Case Code (CCC) by email to the lawyer or law firm, so that the actual complaint can be filed.
- If the documents are not complete, the ASEAN Secretariat requests that the lawyer or law firm sends the missing necessary documents.

### **Submission of Actual Complaint**

The ASEAN-registered Lawyer or Law Firm prepares and submits a complaint using the online complaint form available on ASSIST's website: <http://assist.asean.org> in the 'ASEAN Lawyer or Law Firm' icon on the 'File a Complaint' tab. The input details are checked by the system to ensure that all mandatory information is present.

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### **ADDITIONAL IMPORTANT INFORMATION**

The Confidential Case Code (CCC) provided by the ASEAN Secretariat must be inserted in the actual complaint under the field provided in the 'Complaint Description' section of the form.

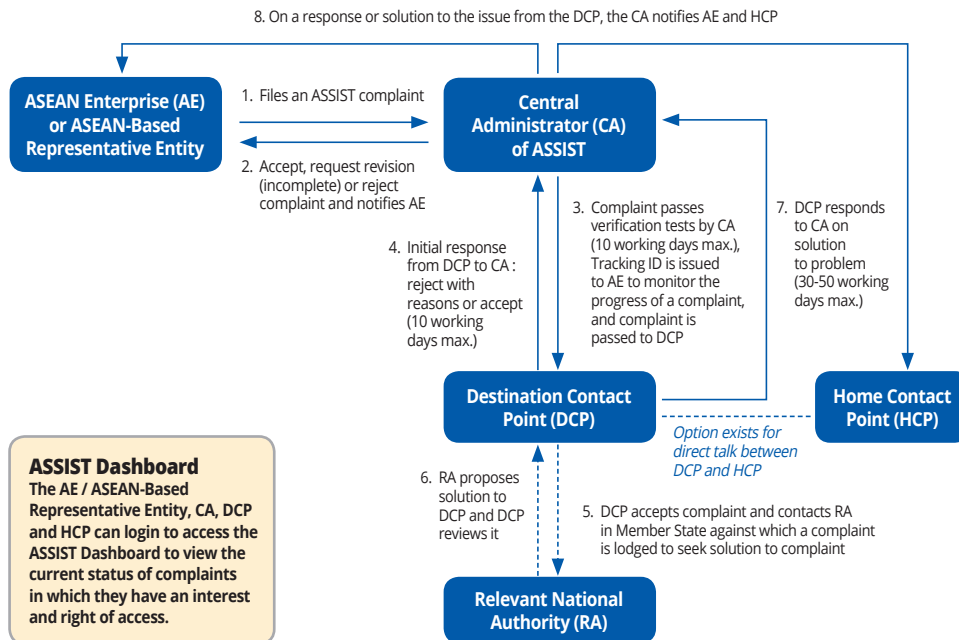
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**The ASEAN-registered Lawyer or Law Firm may then continue the ASSIST process by following the same steps in handling a complaint for an ASEAN Enterprise and ASEAN-based Representative Entity, as listed above.**

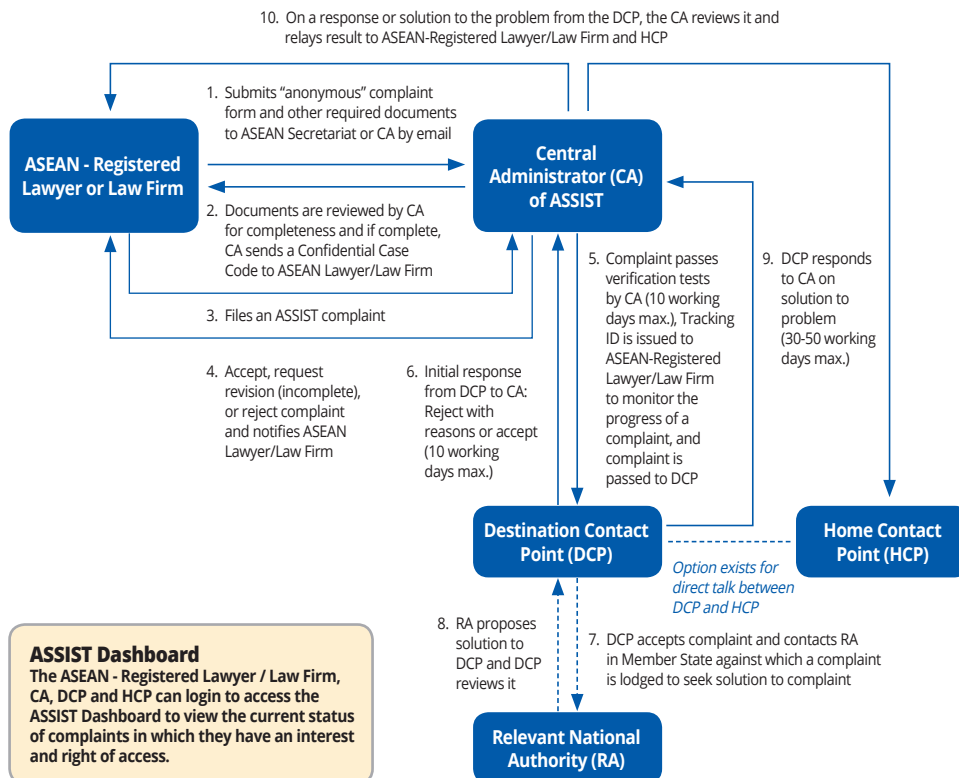
## **C. ASSIST PROCESS FLOW**

The two flow charts below illustrate the basic steps in handling a complaint. The first flow chart illustrates the steps in handling a complaint submitted by an ASEAN Enterprise or an ASEAN-based Representative Entity, while the second one illustrates the steps in handling a complaint submitted by an ASEAN-registered Lawyer or Law Firm.

**Figure 2.**  
**Complaint Filed by an ASEAN Enterprise or an ASEAN-Based Representative Entity**

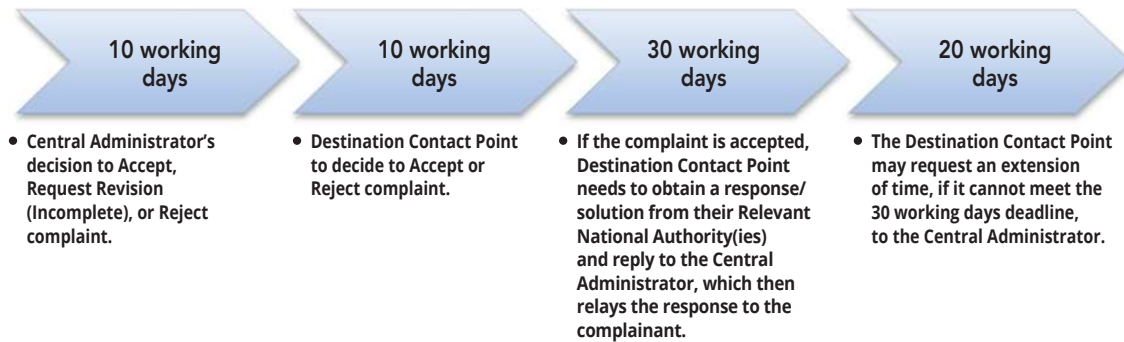


**Figure 3.**  
**Complaint Filed by an ASEAN-Registered Lawyer or Law Firm**



## D. COMPLAINT HANDLING TIMELINE

Progress in handling a complaint is monitored and responses are expected within the following timeline:



### 1. Extensions of Time

In situations where the Relevant National Authority(ies), within the Member State against which the complaint is lodged, are actively seeking a resolution to the trade problem encountered by the complainant, and are unable to meet the 30 working day deadline set by the Central Administrator of ASSIST due to the issue being complex and requiring consultations with additional domestic authorities, the Destination Contact Point may request an extension of time.

- The Central Administrator may extend the deadline for up to 20 working days upon request of the Destination Contact Point.
- This extended deadline shall not extend the total duration of the time allocated to the Destination Country to provide a solution to more than 50 working days from when the complaint was accepted by the Destination Contact Point.
- An extension of time is recorded within the system and the Central Administrator notifies the Destination Contact Point of the extended deadline for a solution to be submitted.
- In an extension of time, the whole ASSIST process should not exceed 60 working days from when a complaint is accepted by the Central Administrator.

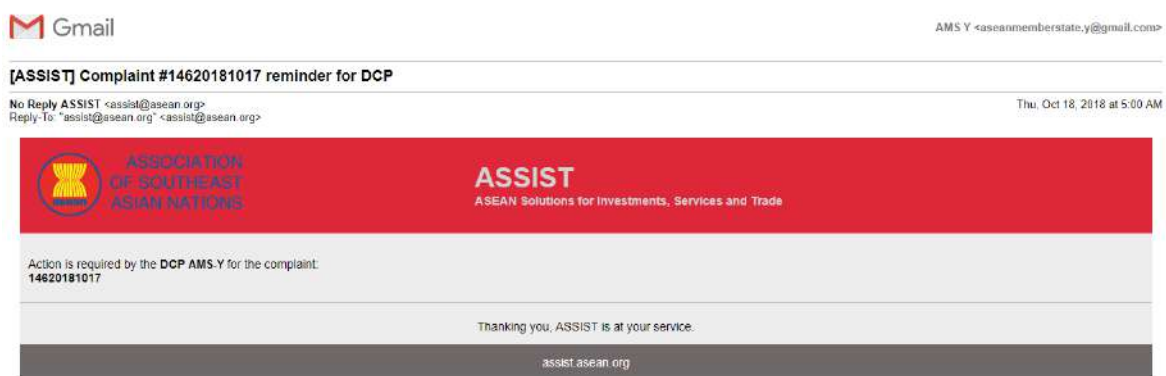
### 2. Follow-up on Overdue Actions



When some actions are overdue by the Central Administrator or the Destination Contact Point, or reminders are needed on actions to be taken within the expected time intervals, yellow or red warnings, as seen here, are displayed to the Central Administrator or Destination Contact Point's dashboards, including to the complainant's display of the status of the complaint through accessing the website.

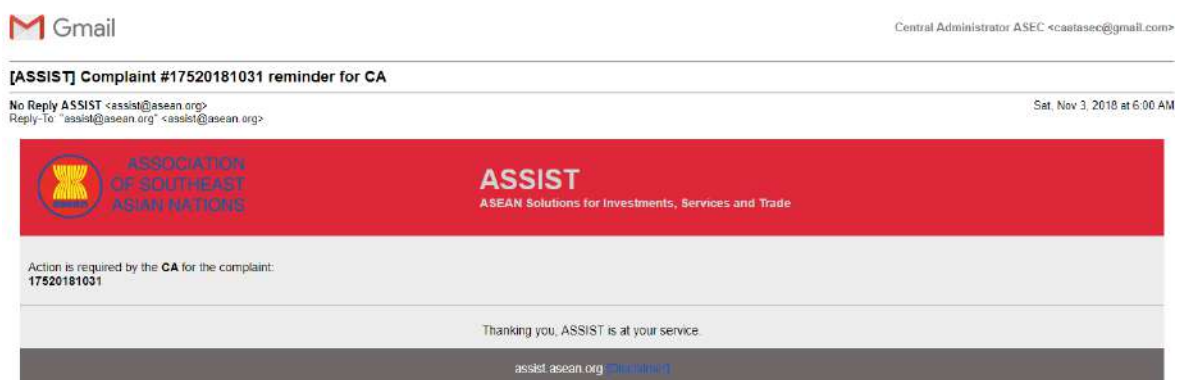
Automatic reminders via email from the ASSIST system are also sent to the Central Administrator and Destination Contact Point, with copies sent to the Home Contact Point, if no actions are taken by the Central Administrator and/or the Destination Contact Point within the required timeframes for that certain action.

- If, upon receiving a complaint, the Central Administrator does not revert to the complainant within 10 working days after a complaint is lodged, the Central Administrator will receive an automatic reminder via email from ASSIST within 7 calendar days after the complaint is lodged. The Central Administrator must decide to accept, request revision (incomplete), or reject a complaint within 10 working days.
- If the Central Administrator still has not provided a response to the complainant, the Central Administrator will receive another automatic reminder via email from ASSIST, within 14 calendar days after a complaint is lodged, informing the Central Administrator that an action is required by it in order to continue the ASSIST process.



An example of an email reminder to the Central Administrator that an action is overdue.

- If a complaint has been accepted by the Central Administrator and passed on to the Destination Contact Point, but the Destination Contact Point does not revert with a response within 10 working days, the Destination Contact Point will receive an automatic reminder via email from ASSIST within 7 calendar days after the complaint has been accepted by the Central Administrator. The Destination Contact Point must decide on whether to accept or reject the complaint within 10 working days.
- If the Destination Contact Point still has not provided a response, the Destination Contact Point will receive another automatic reminder via email from ASSIST, within 14 calendar days after a complaint is lodged, informing the Destination Contact Point that an action is required by it in order to continue the ASSIST process.



An example of an email reminder to the Destination Contact Point that an action is overdue.

## ADDITIONAL IMPORTANT INFORMATION

The timeframe for solving cross-border problems brought under ASSIST shall be no more than 30 working days (unless an extension of maximum 20 working days has been accorded) from the date when the complaint has been accepted by the Destination Contact Point (i.e., the ASEAN Member State against which the complaint is filed).

**Annex 2 'Flowchart of the ASSIST Mechanism and its Associated Timeline' of this Manual provides a detailed but easy to follow description of the ASSIST processes.**

## E. COMPLAINANT MAY MONITOR PROGRESS OF THE COMPLAINT

To follow progress of a complaint, select the 'Follow a Complaint' tab from the webpage at <http://assist.asean.org>, and the below page will appear. The complainant may login using their email address and the Tracking ID given in the confirmation of complaint submission message.

The screenshot shows the ASSIST website's 'Follow a Complaint' page. At the top, there is a red navigation bar with the ASSIST logo and the text 'ASSIST ASEAN Solutions for Investments, Services and Trade'. Below the logo are several navigation tabs: 'WELCOME TO ASSIST', 'WHAT IS ASSIST?', 'FILE A COMPLAINT', 'FOLLOW A COMPLAINT' (which is highlighted), 'PROCESS', 'FAQ', and 'CONTACT'. The main content area is titled 'Follow a Complaint' and contains the following text: 'Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.' Below this text is a login form with two input fields: 'Email' and 'Tracking ID'. A red 'LOGIN' button is positioned below the input fields. At the bottom of the page, there is a red footer with the text: 'Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi Raya - Jakarta 12110 - Indonesia' and 'ASSIST - Supported by ARISE - [Disclaimer]'.

By using the Tracking ID, the system displays to the complainant the details of the complaint and the processing steps taken by ASSIST in the complainant's ASSIST dashboard.

In the example display of the complainant's ASSIST dashboard below, which uses fictitious data developed for tutorial developing purposes, the complaint is directed in this case against a trade problem with ASEAN Member State-Y (AMS-Y). The complainant was represented by an ASEAN-registered Lawyer because its client, a duly registered business in AMS-X (i.e., the ASEAN Enterprise) wished to remain anonymous.

- The complaint has been acknowledged as received by ASSIST, by email message;
- Upon initial review by the Central Administrator, the complaint was seen as incomplete (for the reasons stated in an email to the complainant) and the Central Administrator requested the ASEAN-registered Lawyer to revise the complaint and provide additional information;
- The complaint was revised and resubmitted by the Lawyer on the same day; and
- The status of the complaint remains at this stage (according to the history of the complaint) with the Central Administrator for verification of completeness and acceptance.

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST | WHAT IS ASSIST? | MY COMPLAINT | LOGOUT | PROCESS | FAQ | CONTACT | DISCLAIMER

### Tracking ID #18120181102 / AMS-Y

History			
Date	Action	Action By	Comments
02/11/2018 16:52:15	Received	ASEAN-based Enterprise	
02/11/2018 16:10:12	Incomplete	Central Administrator of ASSIST	Dear Ms. Siena Riviera,  Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.  In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation...)
02/11/2018 12:19:36	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
02/11/2018 12:18:02	New	ASEAN-based Enterprise	

**WITHDRAW COMPLAINT**

#### ASEAN ENTERPRISE

ASEAN Enterprise Name			
ARISE & Partners			
Company Size		Address	Danube Street No. 13 City P Country X
Phone	+36 1 7653572	City	City P
Website	www.arise&partners.com	ZIP Code	12310
		Country	AMS-X

#### CONTACT PERSON

First Name			
Siena			
Address			
Danube Street No. 13 City P Country X			
Last Name			
Riviera			
City			
City P			
Phone			
+36 7878137686			
ZIP Code			
12310			
Position			
Senior Associate			
Country			
AMS-X			
Email			
sienalarivera@gmail.com (Confirmed)			

#### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	137911	Type of Problem	Goods / Internal taxes and charges levied on imports
		Encountered	
Company Registration Proof	<a href="#">Annex 2-Simulated Professional License of Ms. Siena Riviera1.pdf</a>	Destination Country	AMS-Y
Type of Business	Export/Import		
Description	We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contract Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil thereby discriminating against palm oil and demeritizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other like products manufactured or sold in AMS-Y (i.e. Food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).		
Attachment	<a href="#">Annex 2-Simulated Regulation of AMS-Y1.pdf</a> <a href="#">Annex 3-Simulated Legal Brief-ARISE-Partners1.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisinganegara - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

An example of the ASSIST dashboard of a complainant in viewing the status of its complaint.

# Annex 1.

## REFERENCE TABLES

### 1.1. List of Sub-Categories of Goods<sup>1</sup>

#### 2.4.1. Sub—Categories of Goods

#### I. GOODS

##### 1. Tariff-related measures

##### 2. Rules of origin

##### 3. Non-tariff measures

#### 3.1 Sanitary and phytosanitary measures

- 3.1.1 Prohibitions and restrictions of imports for SPS reasons
- 3.1.2 Tolerance limits for residues and restricted use of substances
- 3.1.3 Labeling, marking and packaging requirements
- 3.1.4 Hygienic requirements
- 3.1.5 Treatment for elimination of plant and animal pests and disease-causing organisms in the final product (e.g., post-harvest treatment)
- 3.1.6 Other requirements on production or post-production processes
- 3.1.7 Conformity assessment related to SPS
- 3.1.8 SPS measures not elsewhere specified

#### 3.2 Technical barriers to trade

- 3.2.1 Prohibitions or restrictions of imports for TBT reasons
- 3.2.2 Tolerance limits for residues and restricted use of substances
- 3.2.3 Labeling, marking, and packaging requirements
- 3.2.4 Production or post-Production requirements
- 3.2.5 Product identity requirement
- 3.2.6 Product quality or performance requirement
- 3.2.7 Conformity assessment related to TBT
- 3.2.8 TBT measures not elsewhere specified

#### 3.3 Pre-shipment inspection and other formalities

- 3.3.1 Pre-shipment inspection
- 3.3.2 Direct consignment requirement
- 3.3.3 Requirement to pass through specified port of customs
- 3.3.4 Import monitoring and surveillance requirements and other automatic licensing measures
- 3.3.5 Other formalities not elsewhere specified

<sup>1</sup> This classification is based on the classification proposed and endorsed for use in the ASEAN Trade Repository, with respect to notification obligations under Article 13 of the ATIGA.

### **3.4 Contingent trade protective measures**

- 3.4.1 Antidumping measures
- 3.4.2 Countervailing measure
- 3.4.3 Safeguard measures

### **3.5 Non-automatic licensing, quotas, prohibitions, and quantity control measures other than for SPS or TBT reasons**

- 3.5.1 Non-automatic import licensing procedures other than authorisations for SPS or TBT reasons
- 3.5.2 Quotas
- 3.5.3 Prohibitions other than for SPS and TBT reasons
- 3.5.4 Export restraint arrangement
- 3.5.5 Tariff Rate Quotas (TRQs)
- 3.5.6 Quantity control measures not elsewhere specified

### **3.6 Price control measures including additional taxes and charges**

- 3.6.1 Administrative measures affecting customs value
- 3.6.2 Voluntary export price restraints (VEPRs)
- 3.6.3 Variable charges
- 3.6.4 Customs surcharges
- 3.6.5 Seasonal duties
- 3.6.6 Additional taxes and charges levied in connection to services provided by the Government
- 3.6.7 Internal taxes and charges levied on imports
- 3.6.8 Decreed Customs valuations
- 3.6.9 Price control measures not elsewhere specified

### **3.7 Finance measures**

- 3.7.1 Advance payment requirement
- 3.7.2 Multiple exchange rates
- 3.7.3 Regulation on official foreign exchange allocation
- 3.7.4 Regulations concerning terms of payment for imports
- 3.7.5 Finance measures not elsewhere specified

### **3.8 Measures affecting competition**

- 3.8.1 State trading enterprises, for importing; other selective import channels
- 3.8.2 Compulsory use of national services
- 3.8.3 Measures affecting competition not elsewhere specified

### **3.9 Trade-related investment measures (TRIMs)**

- 3.9.1 Local content measures
- 3.9.2 Trade balancing measures
- 3.9.3 Trade-related investment measures not elsewhere specified

### **3.10 Distribution restrictions**

- 3.10.1 Geographical restriction
- 3.10.2 Restriction on resellers



### **3.11 Restriction on post-sales services**

### **3.12 Subsidies (excluding export subsidies)**

### **3.13 Government procurement restrictions**

### **3.14 Intellectual property**

### **3.15 Export-related measures**

- 3.15.1 Export license, quota, prohibition, and other quantitative restrictions
- 3.15.2 State trading enterprises, for exporting; other selective export channels
- 3.15.3 Export price control measures
- 3.15.4 Measures on re-export
- 3.15.5 Export taxes and charges
- 3.15.6 Export technical measures
- 3.15.7 Export subsidies
- 3.15.8 Export credits
- 3.15.9 Export measures not elsewhere specified

## **1.2. List of Services Sectors and Sub-Sectors<sup>2</sup>**

### **1. BUSINESS SERVICES**

#### **1.1 Professional Services**

- 1.1.1 Legal Services
- 1.1.2 Accounting, auditing and bookkeeping services
- 1.1.3 Taxation Services
- 1.1.4 Architectural services
- 1.1.5 Engineering services
- 1.1.6 Integrated engineering services
- 1.1.7 Urban planning and landscape architectural services
- 1.1.8 Medical and dental services
- 1.1.9 Veterinary services
- 1.1.10 Services provided by midwives, nurses, physiotherapists and para-medical personnel
- 1.1.11 Other professional services

#### **1.2 Computer and Related Services**

- 1.2.1 Consultancy services related to the installation of computer hardware
- 1.2.2 Software implementation services
- 1.2.3 Data processing services
- 1.2.4 Data base services
- 1.2.5 Other computer and related services

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<sup>2</sup> This list of services sector and sub-sectors is adapted from the WTO Document #MTN/GNS/W/120, Services Sector Classification List.

### **1.3 Research and Development Services**

- 1.3.1 R&D services on natural sciences
- 1.3.2 R&D services on social sciences and humanities
- 1.3.3 Interdisciplinary R&D services

### **1.4 Real Estate Services**

- 1.4.1 Involving own or leased property
- 1.4.2 On a fee or contract basis

### **1.5 Rental/Leasing Services without Operators**

- 1.5.1 Relating to ships
- 1.5.2 Relating to aircraft
- 1.5.3 Relating to other transport equipment
- 1.5.4 Relating to other machinery and equipment
- 1.5.5 Other rental/leasing services without operators

### **1.6 Other Business Services**

- 1.6.1 Advertising services
- 1.6.2 Market research and public opinion polling services
- 1.6.3 Management consulting service
- 1.6.4 Services related to manufacturing consulting
- 1.6.5 Technical testing and analysis services
- 1.6.6 Services incidental to agriculture, hunting and forestry
- 1.6.7 Services incidental to fishing
- 1.6.8 Services incidental to mining
- 1.6.9 Services incidental to manufacturing
- 1.6.10 Services incidental to energy distribution
- 1.6.11 Placement and supply services of personnel
- 1.6.12 Investigation and security
- 1.6.13 Related scientific and technical consulting services
- 1.6.14 Maintenance and repair of equipment
- 1.6.15 Building-cleaning services
- 1.6.16 Photographic services
- 1.6.17 Packaging services
- 1.6.18 Printing, publishing
- 1.6.19 Convention services
- 1.6.20 Other business services

## **2. COMMUNICATION SERVICES**

### **2.1 Postal services**

### **2.2 Courier services**

**2.3 Telecommunication services**

- 2.3.1 Voice telephone services
- 2.3.2 Packet-switched data transmission services
- 2.3.3 Circuit-switched data transmission services
- 2.3.4 Telex services
- 2.3.5 Telegraph services
- 2.3.6 Facsimile services
- 2.3.7 Private leased circuit services
- 2.3.8 Electronic mail
- 2.3.9 Voice mail
- 2.3.10 On-line information and data base retrieval
- 2.3.11 Electronic data interchange (EDI)
- 2.3.12 Enhanced/value added facsimile services, incl. store and forward, store and retrieve
- 2.3.13 Code and protocol conversion
- 2.3.14 On-line information and/or data processing (including transaction processing)
- 2.3.15 Other telecommunication services

**2.4 Audio-visual services**

- 2.4.1 Motion picture and video tape production and distribution services
- 2.4.2 Motion picture projection service
- 2.4.3 Radio and television services
- 2.4.4 Radio and television transmission services
- 2.4.5 Sound recording
- 2.4.6 Other audio-visual services

**2.5 Other communication services****3. CONSTRUCTION AND RELATED ENGINEERING SERVICES**

- 3.1 General construction work for buildings**
- 3.2 General construction work for civil engineering**
- 3.3 Installation and assembly work**
- 3.4 Building completion and finishing work**
- 3.5 Other construction and related engineering services**

**4. DISTRIBUTION SERVICES**

- 4.1 Commission agents' services**
- 4.2 Wholesale trade services**
- 4.3 Retailing services**
- 4.4 Franchising**
- 4.5 Other distribution services**

## **5. EDUCATIONAL SERVICES**

- 5.1 Primary education services**
- 5.2 Secondary education services**
- 5.3 Higher education services**
- 5.4 Adult education**
- 5.5 Other education services**

## **6. ENVIRONMENTAL SERVICES**

- 6.1 Sewage services**
- 6.2 Refuse disposal services**
- 6.3 Sanitation and similar services**
- 6.4 Other environmental services**

## **7. FINANCIAL SERVICES**

### **7.1 All insurance and insurance-related services**

- 7.1.1 Life, accident and health insurance services
- 7.1.2 Non-life insurance services
- 7.1.3 Reinsurance and retrocession
- 7.1.4 Services auxiliary to insurance (including broking and agency services)

### **7.2 Banking and other financial services**

- 7.2.1 Acceptance of deposits and other repayable funds from the public
- 7.2.2 Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction
- 7.2.3 Financial leasing
- 7.2.4 All payment and money transmission services
- 7.2.5 Guarantees and commitments
- 7.2.6 Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
- 7.2.7 Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues
- 7.2.8 Money broking
- 7.2.9 Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services
- 7.2.10 Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments
- 7.2.11 Advisory and other auxiliary financial services
- 7.2.12 Provision and transfer of financial information, and financial data processing and related software by providers of other financial services

### **7.3 Financial services, other**

## **8. HEALTH-RELATED AND SOCIAL SERVICES**

- 8.1 Hospital services**
- 8.2 Other Human Health Services**
- 8.3 Social Services**
- 8.4 Other health-related and social services**

## **9. TOURISM AND TRAVEL-RELATED SERVICES**

- 9.1 Hotels and restaurants (including catering)**
- 9.2 Travel agencies and tour operator services**
- 9.3 Tourist guides services**
- 9.4 Other tourism and travel-related services**

## **10. RECREATIONAL, CULTURAL AND SPORTING SERVICES**

- 10.1 Entertainment services**
- 10.2 News agency services**
- 10.3 Libraries, archives, museums and other cultural services**
- 10.4 Sporting and other recreational services**
- 10.5 Other recreational, cultural and sporting services**

## **11. TRANSPORT SERVICES**

### **11.1 Maritime Transport Services**

- 11.1.1 Passenger transportation
- 11.1.2 Freight transportation
- 11.1.3 Rental of vessels with crew
- 11.1.4 Maintenance and repair of vessels
- 11.1.5 Pushing and towing services
- 11.1.6 Supporting services for maritime transport

### **11.2 Internal Waterways Transport**

- 11.2.1 Passenger transportation
- 11.2.2 Freight transportation
- 11.2.3 Rental of vessels with crew
- 11.2.4 Maintenance and repair of vessels
- 11.2.5 Pushing and towing services
- 11.2.6 Supporting services for internal waterway transport

### **11.3 Air Transport Services**

- 11.3.1 Passenger transportation
- 11.3.2 Freight transportation
- 11.3.3 Rental of aircraft with crew
- 11.3.4 Maintenance and repair of aircraft
- 11.3.5 Supporting services for air transport

#### **11.4 Space Transport**

#### **11.5 Rail Transport Services**

- 11.5.1 Passenger transportation
- 11.5.2 Freight transportation
- 11.5.3 Pushing and towing services
- 11.5.4 Maintenance and repair of rail transport equipment
- 11.5.5 Supporting services for rail transport services

#### **11.6 Road Transport Services**

- 11.6.1 Passenger transportation
- 11.6.2 Freight transportation
- 11.6.3 Rental of commercial vehicles with operator
- 11.6.4 Maintenance and repair of road transport equipment
- 11.6.5 Supporting services for road transport services

#### **11.7 Pipeline Transport**

- 11.7.1 Transportation of fuels
- 11.7.2 Transportation of other goods

#### **11.8 Services auxiliary to all modes of transport**

- 11.8.1 Cargo-handling services
- 11.8.2 Storage and warehouse services
- 11.8.3 Freight transport agency services
- 11.8.3 Services auxiliary to all modes of transport, other

#### **11.9 Other Transport Services**

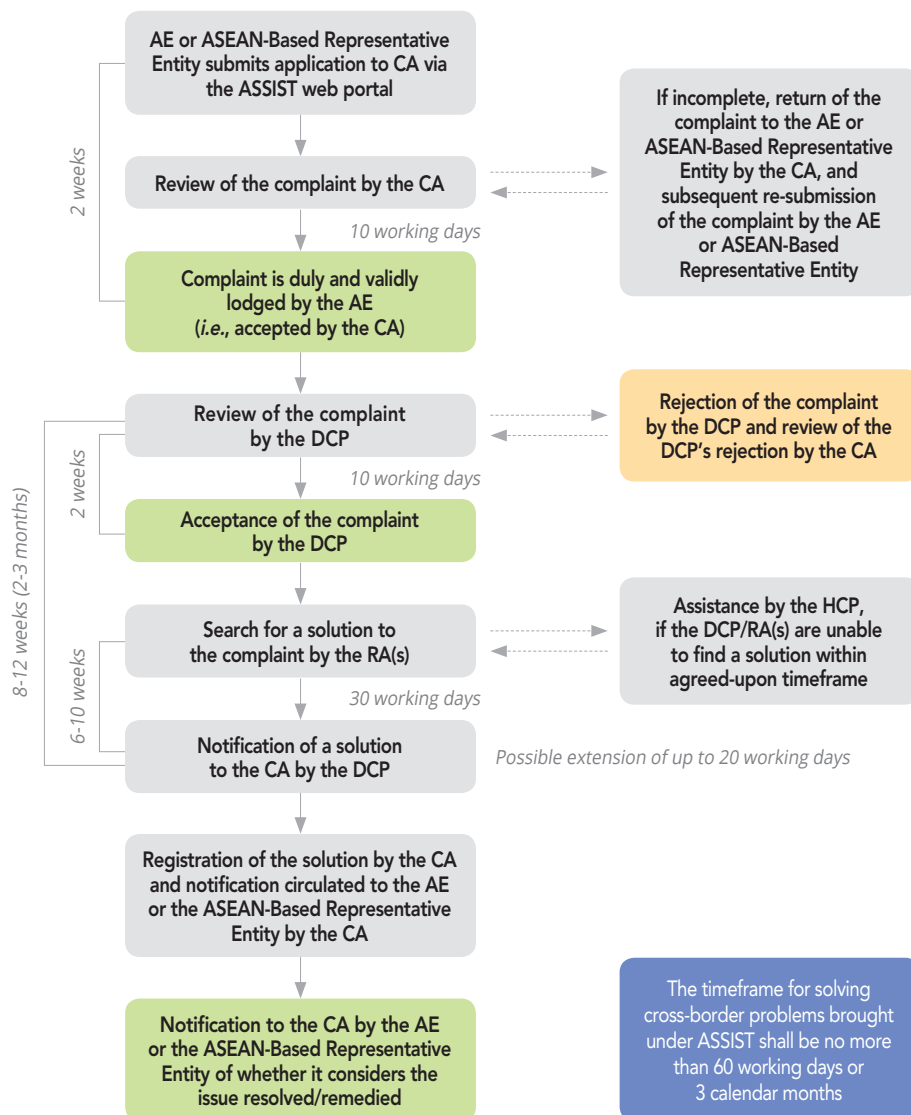


## Annex 2. FLOWCHART OF THE ASSIST MECHANISM AND ITS ASSOCIATED TIMELINE

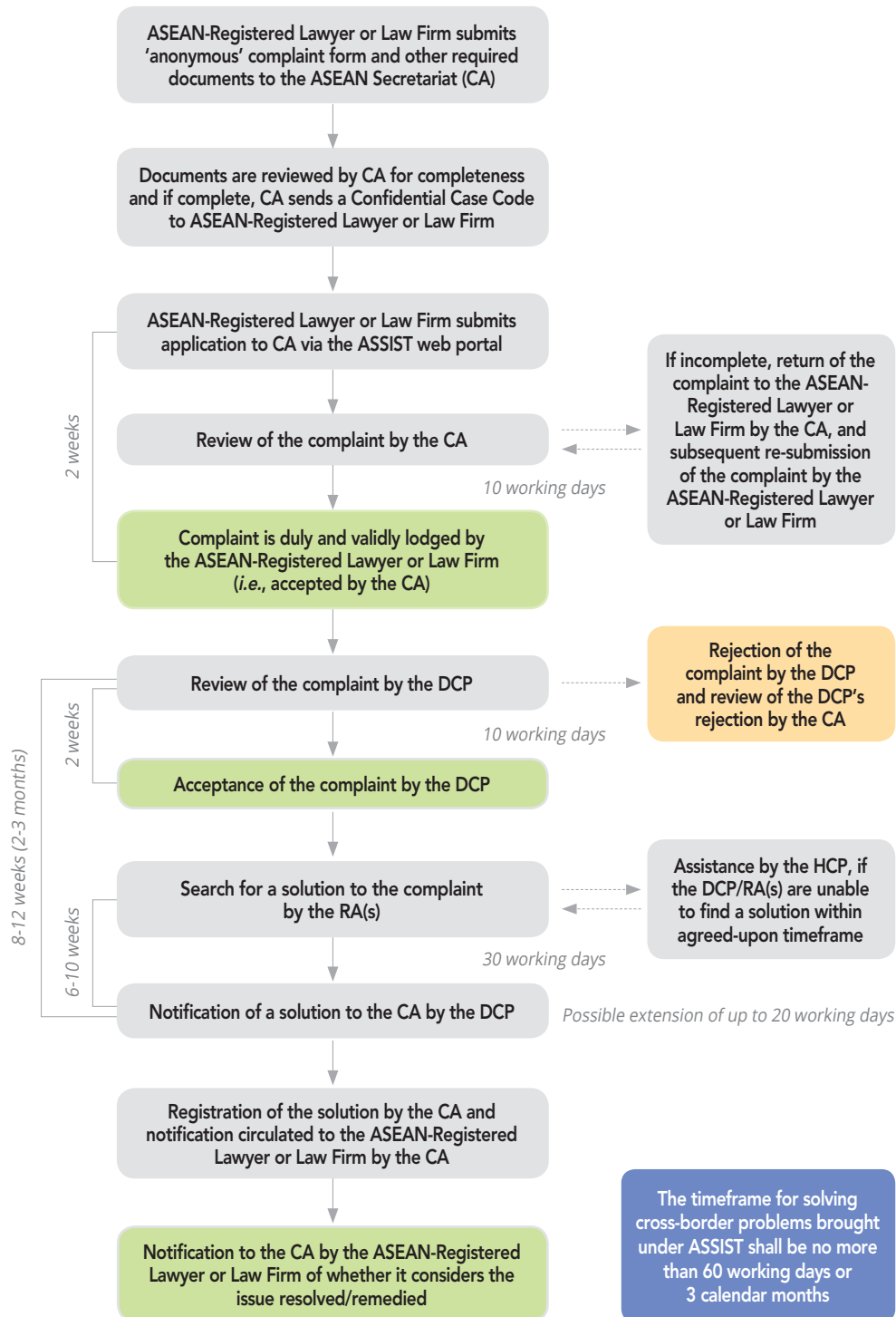
The following flowcharts provides a summary of the ASSIST process. The following acronyms apply:

- AE : ASEAN Enterprise
- CA : Central Administrator
- DCP : Destination Contact Point
- HCP : Home Contact Point
- RAs : Relevant Authority(ies)

### 2.1. For a Complaint Filed by an ASEAN Enterprise or an ASEAN-Based Representative Entity



## 2.2. For a Complaint Filed by an ASEAN-Registered Lawyer or Law Firm





## Annex 3.

# FREQUENTLY ASKED QUESTIONS (FAQs)



### 1. General questions about ASSIST

#### 1.1 Are there any charges or fees for using ASSIST?

No, ASSIST can be used at no cost. There are no charges, no fees and no registration or submission costs.

#### 1.2 Why is ASSIST currently available only for complaints related to intra-ASEAN cross-border trade in goods and trade in services?

When will it be extended to investment issues? ASSIST has been available for issues in relation to trade in goods since August 2016 and for issues occurring with respect to intra-ASEAN cross-border trade in services since 1 May 2019. ASSIST will likely be extended to investment issues in 2020.

#### 1.3 What is meant by saying that ASSIST is non-binding?

Non-binding means ASEAN Member States may decide not to accept a complaint or to offer a solution once a complaint has been lodged on the ASSIST system. Although ASSIST is non-binding, ASEAN Member States shall deal with complaints on a best endeavour basis.

#### 1.4 Why is ASSIST consultative in nature?

ASSIST is not a judicial system unfolding before a national or international court and it is not managed and decided by an independent judge, arbiter, mediator, panel of expert or third adjudicating body. It unfolds through direct online consultations through the ASSIST software platform between ASEAN-based enterprises (companies or trade associations/chambers of commerce) and ASEAN Governments.

#### 1.5 What kind of information will be placed on the public forum page of the ASSIST website?

Over time, the Public Forum will provide information that can be useful for ASEAN Enterprises that are looking for business solutions while doing business in the region. The information will include success stories, case studies and guides to help businesses better understand ASEAN agreements. The Forum will also encourage business to share their own experiences and useful lessons in seeking solutions in ASEAN. No confidential information will be placed on the Forum.

#### 1.6 Will complaints remain confidential? Who has access to the information provided by a complainant in its complaint or by an ASEAN Government as part of a solution being proposed?

Confidentiality is of the utmost importance and only the complainants, the directly involved ASEAN Member States and the ASEAN Secretariat will have the right to access to the actual complaint and to the solutions proposed. (Please also see the disclaimer of liability on the ASSIST website in this regard).

#### 1.7 Can any of the information being exchanged through ASSIST later be used in a court of law for purposes of domestic litigation or international dispute settlement (i.e., WTO and/or ASEAN)?

No. ASSIST's disclaimer (please see the link in the footer of all ASSIST's webpages) is clear. No information or statements made by complainants or by ASEAN Member States within the process of ASSIST can be used in national or international litigation. While not being enforceable in a court of law, however,

the proposed solutions may have specific value within the similar context of such complaints before the administrative authorities (*i.e.*, customs officers, trade officials, authorities issuing the import licenses, conformity assessment bodies, etc.) of the ASEAN Member State that has proposed solutions.

## 2. The scope of ASSIST

### 2.1 Can an ASEAN Enterprise lodge a complaint against its own country's Government?

No. ASSIST is only for intra-ASEAN cross border trade issue between an ASEAN Enterprise legally registered in one ASEAN Member State and the Government of one of the other nine ASEAN Member States. Purely domestic issues vis-à-vis the home Government of the complaining enterprise cannot be referred through ASSIST. In cases where a services provider, that belongs to a parent company based in ASEAN Member State A, but that that offers its services in ASEAN Member State B, intends to file a complaint against ASEAN Member State B, it is the parent company in ASEAN Member State A that should file the complaint on ASSIST. However, the case can also be filed 'anonymously' by an ASEAN-based trade association, chamber of commerce, business council, business federation, registered lawyer or registered law firm on behalf of the actual complainant.

### 2.2 Can ASSIST be used to lodge a complaint against a Government of a country outside of ASEAN (e.g., Australia, China, the EU, Japan, Korea, the US, etc.)?

No. ASSIST is only for intra-ASEAN cross border trade issue between an ASEAN Enterprise legally registered in one ASEAN Member State and the Government of one of the other nine ASEAN Member States.

### 2.3 Can a complainant lodge a complaint in relation to a measure that is already before national courts in domestic litigation, or that is the object of an ongoing arbitration or that has been taken up by its Government within WTO or ASEAN under the respective dispute settlement mechanisms?

No. If a complaint is lodged under any such circumstances, the ASEAN Secretariat or the Destination country will likely reject the complaint as not validly lodged.

## 3. Before lodging a complaint

### 3.1 Is it necessary to get permission or support from the ASEAN Government where the complainant is legally registered ahead of lodging a complaint on ASSIST?

No, it is not. ASSIST is available for direct use by ASEAN Enterprises and no permission need be sought from their home Governments. That being said, complainants are encouraged to seek their home governments' opinions and possible support ahead of filing a complaint through ASSIST.

### 3.2 If a complainant does not fully understand the relevant ASEAN Agreements or needs advice before lodging a complaint, what are the available resources to seek advice and guidance?

A complainant may seek their home governments' opinions and possible support ahead of filing a complaint through ASSIST. They may also seek guidance and assistance from independent consultants, lawyers, law firms, chambers of commerce, business councils, business federations, trade associations or even academia. Guidance and support by any of these actors is highly recommended when complainants are enterprises that may have technical capacity constraints with regard to understanding ASEAN issues or difficulties communicating in English.

### **3.3 If the complaint is a micro-, small- or medium-sized enterprise (MSME), what is the best way to seek support when filing an ASSIST complaint?**

By seeking guidance and assistance from independent consultants, lawyers, law firms, chambers of commerce, business councils, business federations, trade associations or even academia. Or by seeking its home government's opinion and possible support ahead of filing a complaint through ASSIST.

### **3.4 How can a complainant be sure that the issue that is affecting its business activities falls within the scope of ASSIST?**

The scope of ASSIST is presented on the ASSIST website. A complaint may be rejected if it falls into one of the following categories: It is not covered or regulated by any ASEAN trade agreement; It goes beyond intra-ASEAN trade; It is solely a dispute between businesses; It is not supported by sufficient and reliable information; It is subject to other legal administrative or judicial review and/or litigation; and It is addressing investment issues, which is currently not yet available under ASSIST.

Therefore, the complainant should undertake careful research on the basis of the information provided on ASSIST's website and/or by seeking guidance and assistance from its own home government or from independent consultants, lawyers, law firms, business councils, chambers of commerce, business federations and trade associations.

### **3.5 Why is it important to build a thorough and well-proven/well-argued case before lodging a complaint on ASSIST?**

This is very important because the case will be examined by the relevant authorities involved in ASSIST. The measure or practice being challenged, or the problem being faced by the complainant must be presented clearly, and it is highly recommended that supporting documentation be provided. Complainants may even consider proposing possible solutions to facilitate the process. Comprehensively presented complaints will have a higher chance of being accepted by the Destination Country, with the objective of finding a solution.

## **4. Lodging a complaint**

### **4.1 Does a complainant need to pre-register to show that his/her company is an ASEAN-based enterprise or trade association or is registration automatic when filing a complaint?**

There is no pre-registration process. The complainant must provide its national business registration number and proof of registration, which is mandatory on the complaint form on the ASSIST website. Lawyers or law firms filing complaints on behalf of their clients (anonymous complaints) must first register with the ASEAN Secretariat and file a dedicated form to obtain the Confidential Case Code from the ASEAN Secretariat.

### **4.2 Does a complainant need to fill in the online complaint form and register each time that he/she wishes to lodge a complaint or can he/she file multiple complaints with a single form?**

The complainant must fill in the online Complaint Form each time the enterprise (or the entity representing it, in anonymous complaints) lodges a new complaint with all the mandatory fields completed.

### **4.3 Does a complainant need to register as an ASEAN Enterprise at some central registry?**

No, there is no central registry. Only lawyers or law firms filing complaints on behalf of their clients (anonymous complaints) must first register with the ASEAN Secretariat and file a dedicated form to obtain the Confidential Case Code from the ASEAN Secretariat.

#### **4.4 What does it mean to be an ASEAN Enterprise (i.e., company or trade association) legally registered in one of the 10 ASEAN Member States?**

This means that the ASEAN Enterprise has fulfilled the legal obligations of the country in which it operates and has registered as a business or trade association / chamber of commerce / business council / business federation. This will be in accordance with the prevailing legislation in the respective ASEAN country. Similar criteria apply to lawyers or law firms filing complaints on behalf of their clients. They will need to show registration with one of the ASEAN Member States and the professional license to practice law in the relevant ASEAN jurisdiction.

#### **4.5 If the complainant is the legally registered ASEAN office (i.e., branch, subsidiary, representative office, plant, distribution centre, etc.) of a multinational corporation from a country outside of ASEAN, can the complaint be lodged by the complainant's "head office" located in a non-ASEAN country?**

No. The complaint must be lodged by the enterprise operating in one of the ASEAN countries. However, the 'head office' can provide advice or technical support to the ASEAN Enterprise when the latter submits its complaint.

#### **4.6 Can a complaint be lodged by a consultant, lawyer or advisor on behalf of an ASEAN Enterprise? If so, which business registration number and proof of registration should be provided?**

Yes, a complaint may be filed by a consultant, lawyer or advisor on behalf of an ASEAN Enterprise, but in this case the registration number and proof of legal registration must be that of the ASEAN Enterprise (AE) being represented, because it is the AE's complaint that is being lodged. Complainants may, of course, be advised and assisted in lodging their complaints by individuals or entities not working for that ASEAN Enterprise. However, if the complaint being filed is an anonymous complaint, the business registration number (for trade associations, chambers of commerce, business councils, business federations, etc.) and proof of legal registration (for lawyers and law firms) will be those of the entity filing the complaint on behalf of the ASEAN enterprise and not of the ASEAN enterprise itself.

#### **4.7 Can an individual person lodge a complaint on ASSIST?**

No. At this point in time, ASSIST is only available for use by legally registered businesses (i.e., legal entities). It is not for individuals (i.e., natural persons). However, an individual lawyer may file an anonymous complaint on behalf of one of his/her clients (i.e., an ASEAN-based Enterprise), so long as of course all other requirements are met.

#### **4.8 Can a complainant lodge a complaint anonymously without using its company's name? If so, what is the alternative approach to do so?**

Yes, anonymous complaints may be lodged when a complainant prefers that, for whatever reason, its identity not be revealed to the Home and/or Destination Contact Points. In order to do so, a complainant may use a trade association or similar representative entity (i.e., a chamber of commerce, business council, business federation, lawyer or law firm) for the complaint to be lodged on its behalf. The ASEAN-based trade association or representative entity does not need to indicate the name of the specific ASEAN Enterprise(s) on behalf of which it files the complaint and shall simply file the complaint by using its own business registration number (i.e., the business registration number in the ASEAN jurisdiction where it is incorporated or the practicing license for lawyers or law firms). Lawyers and law firms also need to pre-register with the ASEAN Secretariat and file a dedicated form in order to receive a Confidential Case Code to be used when filing the anonymous complaint. This approach is also intended to allow for multiple complainants, having the same trade problem, to avoid having to file multiple complaints. It must be noted that fees may apply when representative entities provide this service to ASEAN Enterprises seeking anonymity.

**4.9 Why/when should a complainant or multiple complainants consider lodging a complaint through a legally registered ASEAN trade association, business council or business federation?**

This mode may be used if a number of companies all have the same trade problem or issue and they decide to use their representative business association (*i.e.*, trade associations, chambers of commerce, business councils, business federations, etc.) in order to lodge the complaint on their behalf seeking a solution for all of them. Another situation may be where the enterprise does not wish to have its identity revealed due to the potential sensitivity of an issue and would prefer for its business association to lodge the complaint on its behalf, thereby retaining anonymity. In this latter case, duly registered ASEAN-based and licensed lawyers or law firms may also be used, subject to them meeting the registration requirements with the ASEAN Secretariat.

**4.10 Can a complainant upload any document (e.g., laws, correspondence with authorities, licenses, photographic evidence, legal memoranda, etc.) when filing its complaint?**

Yes. In any format, as long as it is within the Mb limit for attachments that are indicated on the ASSIST online complaint form. In exceptional cases, the complainant may be requested to provide the Central Administrator with additional information by email.

**4.11 Can a draft complaint be saved on the ASSIST webpage (i.e., the online complaint form) for later completion?**

No. The complainant should work offline to prepare the complaint and then copy and paste the information onto the online complaint form at the time of lodging the complaint.

**4.12 Can a single complaint be filed against multiple ASEAN Member States if the same trade problem is being experienced in many countries?**

No. Each complaint can only be against one ASEAN Member State at any one time. The complainant would have to lodge multiple complaints if it is experiencing the same problem in more than one country.

**4.13 Does a complainant need to mail a copy of its complaint to any of the other actors under ASSIST?**

No. All communications are done online through the ASSIST platform.

**4.14 Can a complaint be lodged in a language other than English? If not, can at least some of the supporting factual and legal information (e.g., proof of company registration or copy of a national law) be provided in the language of the complainant or of the country where the trade problem is occurring?**

English is the language of official communication within the system and the complaint must be written in English. All supporting documents uploaded by the complainant (such as legal briefs, technical reports and the like) must be written in English. However, any official documents such as proof of registration, national laws, certificates, licenses or similar, which are written in a national official language may be uploaded onto the system in support of the complaint, but should be accompanied by an English translation. The solution from the Destination Country will also be provided in English.

**5. Once a complaint is lodged**

**5.1 What should a complainant do if it has lost or forgotten the tracking ID number and or the e-mail used to lodge a complaint?**

The complainant should contact the ASEAN Secretariat's Contact Point as shown on the ASSIST website.

**5.2 What happens to a complaint if it is rejected by either the Central Administrator (CA) or the Destination Contact Point (DCP)?**

Once a complaint is rejected, that particular proceeding is technically concluded and the complaint is terminated. However, a complainant may either file a new complaint under ASSIST, providing additional or new information to justify its complaint, or seek other alternative options to find appropriate solutions, including referring the matter to other dispute resolution mechanisms (see information provided below in the section on "Once a solution is provided").

**5.3 Can the Central Administrator or the Destination Contact Point request additional information from the complainant (ASEAN Enterprise)?**

Yes they can. The Central Administrator can send the complaint back to the Enterprise using the 'Incomplete' function on the ASSIST system and requesting further information. The Destination Contact Point can only request additional information from the ASEAN Enterprise via the Central Administrator and this is to be done 'offline' (i.e., via e-mail or telephone communication). The Destination Contact Point does not have direct contact with the ASEAN Enterprise.

**5.4 Can a complainant voluntarily provide additional information after having filed its complaint? If so, what is the procedure to do so?**

No. A complainant cannot provide additional information once the complaint has been accepted or rejected by either the Central Administrator or the Destination Country. To do so, the complainant would have to withdraw the complaint and lodge a new one with the additional information.

**5.5 Can a complaint be withdrawn once a complainant has lodged it? If so, what is the procedure to do so?**

Yes it can. Only the complainant can withdraw the complaint at any time during the course of the proceeding. To do so, the complainant would need to log onto its ASSIST dashboard, open the complaint and click on the 'Withdraw' function. All the relevant actors under ASSIST would be automatically notified of the withdrawal by the ASSIST system.

**5.6 Does the ASEAN Enterprise communicate directly with the Destination Contact Point or with the Responsible Authorities?**

No. There is no direct communication at any stage in the process.

**5.7 How often can a Destination Contact Point request a time extension of a maximum 20 days?**

Only once using the online function.

**5.8 What should a complainant do if it does not hear back from ASSIST with an answer within 30 to 50 working days (i.e., 6-10 calendar weeks) from the date when the Destination Contact Point accepted the complaint?**

In this case, a complainant may either contact ASSIST's Central Administrator via e-mail (see the ASSIST website for contact details of the ASEAN Secretariat's ASSIST Contact Point) to enquire about the state-of-play of its proceeding, or contact its Home Contact Point in its own country to follow-up on its behalf with the Destination Contact Point as to why there is a delay.

## 6. Provision of Solutions

### 6.1 What can a complainant do if it does not receive a solution to its complaint?

In this case, a complainant may either contact ASSIST's Central Administrator via e-mail to enquire about the state-of-play of its proceedings, and contact its Home Country Contact Point to facilitate the process. The complainant could seek other options including dispute resolution mechanisms (e.g., the procedures of the ASEAN Enhanced Dispute Settlement Mechanism, through its home Government, or national litigation in the destination country, or arbitration, or even the procedures of the WTO Dispute Settlement Mechanism, through its Home Government acting as a WTO Member against the destination country).

### 6.2 What can a complainant do if it is not satisfied with the solution to its complaint?

In this case, a complainant may consider either filing a new complaint under ASSIST with new or additional factual information, or seek other alternative options, including recourse to the dispute resolution mechanisms as mentioned in 6.1 above.

### 6.3 Can a complainant appeal a proceeding that has not delivered a solution or one that is not satisfactory?

No. The ASSIST is a "non-binding" and voluntary mechanism. It is not part of a legal proceeding where the complainant can appeal a decision by a government.

### 6.4 Can a complainant file again the same complaint if it did not receive an answer or it received a solution that it did not consider satisfactory?

Yes, technically it can, but it would likely be unproductive and a waste of time and resources. However, if the complainant decides to do so, it is strongly recommended that it consider reformulating the complaint, providing additional factual evidence or legal arguments for consideration by the Destination Country.



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A 'Frequently Asked Questions' page is also available for users or key actors of ASSIST under the 'FAQ' tab on the ASSIST website at: <https://assist.asean.org/read/faq/30/>.







## Annex 4.

# HYPOTHETICAL CASE STUDIES

Several case studies were developed to test the operationalisation and functioning of the ASSIST system. These simulated scenarios add realistic detail in illustrating the intended scope of ASSIST and the interaction of the complainant enterprise, the Central Administrator and the National Contact Points. The information in these five case studies is fictional and does not reflect the position of and/or any provisions with respect to any ASEAN Member States. No identification with actual companies, countries, trade in goods, services or investments is intended or should be inferred.

Step-by-step tutorials based on the following case studies were also developed for better understanding of the ASSIST process. The tutorials are available in the last section of this toolkit and also on the ASSIST website at <https://assist.asean.org/read/proces/20>.

The first scenario is for a complaint not falling under ASSIST, the second and third scenarios are mock trade in good cases, while the last two scenarios are hypothetical trade in services cases.

## The Scenarios

### Case 1:

A complaint is filed by an ASEAN Enterprise and rejected by ASSIST's Central Administrator

#### Reason for Rejection:

The complaint dealt with an issue that falls outside of the scope of ASSIST and so is not validly lodged by the ASEAN Enterprise.

### Case 2:

A complaint that is filed by an ASEAN-based Trade Association on behalf of its Member, an ASEAN Enterprise, accepted by ASSIST's Central Administrator as validly lodged, (*i.e.*, being complete and falling within ASSIST's scope), but rejected by the Destination Contact Point

#### Reason for Rejection:

The complaint is rejected by the Destination Contact Point because of the same dispute having already been litigated at the World Trade Organization (WTO) in a complaint brought by the country of registration of the ASEAN Enterprise (where the Home Contact Point is located) against the country of the Destination Contact Point. This placed the complaint outside of the scope of ASSIST and within the rights of the Destination Contact Point to reject. In the case at stake, the rejection by the Destination Contact Point was sufficiently motivated and fell within the sovereignty of ASEAN Member States within the ASSIST system.

### Case 3:

A complaint that is filed by an ASEAN-registered Lawyer of Law Firm on behalf of its client, an ASEAN Enterprise, accepted by the Central Administrator as having been validly lodged (*i.e.*, being complete and falling within ASSIST's scope), also accepted and solution proposed by the Destination Contact Point and accepted by the ASEAN Enterprise.

**Reason for Acceptance:**

The Destination Contact Point accepted the complaint as an issue for which it is willing to engage with the ASEAN Lawyer through ASSIST, interact with the domestic Relevant National Authorities (RAs) and provide a solution to the ASEAN Lawyer through ASSIST.

In the case at stake, the Home Contact Point is not actively involved, but all other possible steps in the ASSIST procedure, including the initial request by the Central Administrator for additional information from the ASEAN Lawyer, are simulated for purposes of reviewing a full-fledged ASSIST proceeding.

**Case 4:**

A complaint that is filed by an ASEAN Enterprise, accepted by the Central Administrator as having been validly lodged (*i.e.*, being complete and falling as within ASSIST's scope), also accepted and solution proposed and Destination Contact Point and accepted by the ASEAN Enterprise

**Reason for Acceptance:**

The Destination Contact Point accepted the complaint as an issue for which the particular ASEAN Member State is willing to engage with the ASEAN Enterprise, interact with the domestic Relevant Authorities (RAs) and provide a solution to the AE through ASSIST. The case at stake is structured to reflect Mode 1 (or the so-called Cross Border Supply) of international trade in services, which is defined in the ASEAN Framework Agreement on Services (AFAS) and the General Agreement on Trade in Services (GATS), *mutatis mutanda*, as the supply of a service from the territory of one country into the territory of another country or, in other words, in all commercial instances where the service moves across the border.

**Case 5:**

A complaint that is filed by an ASEAN Enterprise (parent company of its subsidiary company), accepted by the Central Administrator as having been validly lodged (*i.e.*, being complete and falling within ASSIST's scope), but rejected by the Destination Contact Point

**Reason for Rejection:**

The Destination Contact Point rejected the complaint because it finds that the allegations by the ASEAN Enterprise lacks merits as the Destination Contact Point has complied with the relevant ASEAN commitments. The case at stake falls under Mode 3 (Commercial Presence) of services trade, which is defined in GATS and AFAS, *mutatis mutanda*, as the supply of a service supplier of one country, through commercial presence in the territory of any other country.

The ASEAN Enterprise in this case is the parent company in another ASEAN Member State of its subsidiary company where the Subject ASEAN Member State or DCP is located and that is actually the one with the problem or complaint.

## **Case 1: Complaint Rejected by Central Administrator**

**The Complainant**

Mr. Very Upset is a director of *Blue Sapphire Consulting Group* (the ASEAN Enterprise) and he has a post graduate degree in economics. He has been offered a job in a consultancy firm in AMS-Y (the Destination Country) and intends to move to Phnom Penh and live there on a permanent basis.

**The Complaint Details**

The Cambodian company indicated that it would take about one month for it to secure Mr. Upset's work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by the Government of AMS-Y. This is jeopardizing Mr. Upset's chances of getting the job. Mr. Upset wishes to raise an ASSIST complaint against the Cambodian Government, though his company in AMS-X, for delaying the issuing of his work permit. The basis of Mr. Upset's complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN as well as the ASEAN Framework Agreement on Services (AFAS).

**Review by ASSIST's Central Administrator**

ASSIST's Central Administrator (*i.e.*, the ASEAN Secretariat) reviews the complaint and rejects it. This case appears to be an individual's private issue rather than a company issue and is, therefore, not covered by the ASEAN Agreement on Movement of Natural Persons, which states in Article 2.2 that it does not apply to measures affecting natural persons seeking to access to the employment market of another ASEAN Member State, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

ASSIST is available for complaints triggered by ASEAN Enterprises (*i.e.*, duly registered legal entities, not natural persons) and the artificial use of a legal entity (*i.e.*, the ASEAN Enterprise), in order to address and issue that refers to interactions between an ASEAN Member States and a natural person, is not sufficient to extend the scope of coverage of ASSIST to it. In the case at stake, Mr. Upset should interact directly with AMS-Y's Ministry of Interior and/or Ministry of Labour. ASSIST is not an available instrument.

**The Result**

The rejection appears valid and sufficiently justified. ASSIST will consider this procedure as one where no complaint was lodged.

**Case 2:****Complaint Filed by an ASEAN-Based Trade Association and Rejected by Destination****Contact Point****The Complainant**

The ASEAN Enterprise is a registered company in AMS-X. The *ASEAN Tobacco Trade Association*, the ASEAN-based Trade Association, files an ASSIST complaint on behalf of the ASEAN Enterprise against AMS-Y (the Destination Contact Point) concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y.

**The Complaint Details**

Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. *ASEAN Tobacco Trade Association* claims that AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ATIGA, which incorporates into ASEAN, *mutatis mutandis*, the WTO Agreement on Customs Valuation. According to *ASEAN Tobacco Trade Association*, AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement.

In addition, *ASEAN Tobacco Trade Association* claims that AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the General Agreement on Tariffs and Trade (GATT) 1994, because it provides less favourable treatment for imported products than for like domestic products.

### **Review by ASSIST's Central Administrator**

This complaint was validly lodged and is approved by the Central Administrator of ASSIST – the ASEAN Secretariat.

Details of the complaint are forwarded by the Central Administrator to the Destination Contact Point (AMS-Y) and the Home Contact Point (AMS-X).

### **Review and Decision by Destination Contact Point**

The Destination Contact Point (AMS-Y) rejected the complaint because it argued that the case was the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism.

In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to imported cigarettes.

- At its meeting on 17 November 2008, the WTO Dispute Settlement Body (DSB) had established a panel, which circulated its report to the Members on 15 November 2010.
- On 22 February 2011, AMS-Y notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the panel report.
- On 17 June 2011, the Appellate Body report was circulated to Members and, at its meeting on 15 July 2011, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report.
- On 11 August 2011, AMS-Y informed the DSB that it intended to implement the recommendations and rulings of the DSB in line with its WTO obligations and that it would need a reasonable period of time to do so.
- On 23 September 2011, AMS-Y and AMS-X informed the DSB that they had mutually agreed on the reasonable period of time for AMS-Y to comply with the recommendations and rulings of the DSB.
- At a DSB meeting on 28 January 2013, AMS-Y reported that it had completed the final outstanding steps in its implementation process. However, AMS-X did not agree that AMS-Y had fully implemented the DSB's recommendations and rulings.
- At the DSB meeting of 27 February 2013, AMS-X expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly.
- At the DSB meeting on 18 June 2014, AMS-Y reported that it did not have to take any further action to implement the DSB's recommendations and rulings. AMS-X disagreed and was of the view that AMS-Y had failed to comply.

Despite there not being agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved and on whether AMS-Y had complied with its WTO obligations, the complaint lodged by *ASEAN Tobacco Trade*

*Association* is one that the Destination Contact Point rightfully considered as already addressed within the WTO framework, including in light of the ASEAN obligations that *ASEAN Tobacco Trade Association* had referred to in its ASSIST complaint. The Destination Contact Point is sovereign in deciding whether or not it intends to engage in the ASSIST Process to offer a solution to the complaining ASEAN-based Trade Association.

### **The Result**

The rejection appears valid and sufficiently justified. ASSIST will consider this procedure as one where the complaint was rejected and a solution has not been provided.

## **Case 3:**

### **Complaint Filed by an ASEAN-Registered Lawyer or Law Firm and Solution to Complaint Proposed and Accepted**

#### **The Complainant**

*ARISE & Partners* (the ASEAN Enterprise) is a duly registered law firm based in AMS-X. It files a complaint under ASSIST on behalf of its client, a company duly registered in AMS-X, in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015.

#### **The Complaint Details**

The measure adopted by the Government of AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in Singapore.

*ARISE & Partners* claims that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats.

*ARISE & Partners* claims in its ASSIST complaint, that the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (*i.e.*, food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).

#### **Review by ASSIST's Central Administrator**

This complaint was validly lodged by the ASEAN-registered Lawyer, but the Central Administrator of ASSIST requests additional information from the complainant in order to properly assess the claim and accept the complaint. In particular, the Central Administrator requests re-submission the complaint by annexing information on the AMS-Y measure that is allegedly inconsistent with the ATIGA.

#### **Resubmits Complaint with Additional Information**

*ARISE & Partners* resubmits the complaint and annexes both the copy (in the English language) of AMS-Y's Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015, and a legal brief detailing out its allegations, the parts of the AMS-Y measure that are considered discriminatory, and the arguments that the ASEAN Enterprise believes should be taken into consideration for purposes of accepting the complaint and possibly providing a solution.

### Central Administrator Accepts

On the basis of the re-submitted and now complete complaint, the Central Administrator accepts the complaint as falling within the scope of ASSIST and as being validly lodged. The ASSIST proceeding commences and the complaint is submitted to AMS-Y (the Destination Contact Point) and copied to AMS-X (the Home Contact Point) for information.

### The Destination Contact Point agrees to Accept

The Destination Contact Point (*i.e.*, AMS-Y's Ministry of Trade and Industry) reviews the complaint, informally interacts with its domestic Relevant Authorities, namely the Prime Minister's Office, the Ministry of Health, the Ministry of Finance, the Agri-Food and Veterinary Authority, and the Health Promotion Board of AMS-Y, and replies to the Central Administrator that it wishes to accept the complaint and engage in the ASSIST procedure.

### Resolution Sought

Upon internal discussions between the Destination Contact Point and the Relevant Authorities, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under Singapore's strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization's Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity.

However, AMS-Y recognizes that the measure did single-out certain products (*i.e.*, *inter alia*, palm oil) and did not target, in a 'neutral manner', the substances (*i.e.*, saturated fats) that the Government considers dangerous (if consumed in excess) from a dietary and health policy perspective. Therefore, the Destination Contact Point, in coordination with AMS-Y's Relevant Authorities, proposes the immediate suspension of the measure contained in its Ministry of Health Regulation Chapter 1000, Section 100 of 2015, pending its amendment to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. Singapore underlined that its measure was never intended to have, *de jure or de facto*, any discriminatory effect or objective, being justified in science and in light of its health protection purpose and applying to all 'like' products containing saturated fats.

### Solution Proposed and Accepted

The Destination Contact Point communicated the proposed solution to the Central Administrator, which in turn informed the Relevant Authorities and Home Contact Point through ASSIST.

Having reviewed the proposed solution, *ARISE & Partners* replies to the Central Administrator through ASSIST and expresses its satisfaction at the proposed solution thereby accepting it.

ASSIST will consider this procedure as one where the complaint was accepted and a solution was provided by the Destination Contact Point and accepted by the Complainant.

## Case 4:

### Complaint Filed by an ASEAN Enterprise and Solution to Complaint Proposed and Accepted

#### The Complainant

*Star 88 Co., Ltd.*, the ASEAN Enterprise, is a duly registered shipping company in AMS-X. As a shipowner, it has entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into

AMS-X using *Star 88 Co., Ltd.*'s fleet of vessels. It has agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y.

### **The Complaint Details**

In August 2018, *Star 88 Co., Ltd.* learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities (*i.e.*, iron, aluminium, rubber and cotton), are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for *Star 88 Co., Ltd.*'s business and prevent it from providing its maritime shipping services between AMS-X and AMS-Y. *Star 88 Co., Ltd.* is very worried and believes that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (*e.g.*, the ASEAN Framework Agreement on Services, or AFAS).

*Star 88 Co., Ltd.* files a complaint under ASSIST in relation to the issuance of the new shipping law by AMS-Y. The AE argues that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, the AE claims that this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and, most importantly for purposes of ASSIST, is a clear violation of the Schedule of Specific ASEAN Commitments of AMS-Y under the AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment.

### **Review by ASSIST's Central Administrator**

The Central Administrator of ASSIST – the ASEAN Secretariat initially reviews and accepts the complaint as falling within the scope of ASSIST and as being validly lodged.

The ASEAN Enterprise has provided proof that it is a business registered in an ASEAN Member State (*i.e.*, AMS-X) by providing its company registration number and an electronic copy of its company/business registration in both the local language and English translation (unofficial). The ASEAN Enterprise has also annexed a copy of the Ministry of Trade Law No. 13 Year 2018 that is allegedly in violation of the Schedule of Specific ASEAN Commitments of AMS-Y under the AFAS. The AE has also given a detailed description in the complaint form of the problem in the context of the new law and of its allegations, which the Central Administrator deems sufficient.

Details of the complaint is submitted to AMS-Y (the Destination Contact Point or DCP) and copied to AMS-X (the Home Contact Point or HCP) for information.

### **Destination Contact Point Accepts Complaint**

AMS-Y's Destination Contact Point, (*i.e.*, the Ministry of Trade of AMS-X) reviews the complaint, informally interacts with its domestic Relevant Authorities (RAs), namely the Directorate General of International Trade, the Ministry of Transportation, the Ministry of Marine Affairs and Fisheries, and the Ministry of Finance, and communicates to the Central Administrator that it wishes to accept the complaint and engage in the ASSIST procedure.

### **Resolution Sought**

Upon internal discussions between the DCP and the RAs, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber,

to use only AMS-Y's domestic vessels (*i.e.*, vessels belonging to maritime shipping companies based in AMS-Y), as there has also been criticism and disagreements from local exporters that this new regulation will possibly affect export volumes and State revenues, as it will discourage or alienate foreign investors, as many buyers of the restricted commodities are now pending finalization of their contracts. However, AMS-Y stated that it did not intend for the regulation to be seen as a protectionist measure against foreign vessels and in violation of free trade principles. AMS-Y underlined that its measure was initially intended to encourage AMS-Y's shipping industry to increase domestic shipping capacity as more than 90% of all shipping in AMS-Y waters is handled by foreign vessels. Thus, for example, in the rubber industry more than 90% of export shipments are conducted by foreign vessels. Domestic shipping capacity was estimated at 50 million tons in 2017, while foreign vessels shipped 800 million tons in the same year, which is a major difference.

AMS-Y added that the key goal of the regulation is that domestic shipping services companies start to benefit more significantly from the rising amount of sea trade in AMS-Y waters. Currently, most of the contracts and volumes of sea trade are dominated by foreign shipping service companies. However, AMS-Y agrees that it requires a more gradual process rather than a sudden break, thus the decision to postpone indefinitely (although not to revoke) the application of the new law.

#### **Solution Proposed and Accepted**

The Destination Contact Point communicated the proposed solution to the Central Administrator, which in turn informed the Relevant Authorities and Home Contact Point through ASSIST.

Having reviewed the proposed solution, *Star 88 Co., Ltd.* replies to the Central Administrator through ASSIST and expresses its satisfaction at the proposed solution thereby accepting it.

ASSIST will consider this procedure as one where the complaint was accepted and a solution was provided by the Destination Contact Point and accepted by the Complainant.

### **Case 5: Complaint Filed by an ASEAN Enterprise (Parent Company of its Subsidiary Company) and Rejected by Destination Contact Point**

#### **The Complainant**

*AirTel Co., Ltd.* is a duly registered telecommunications company in AMS-X. It is a subsidiary company of *AirTel Holdings, Inc.* which is based in AMS-Y. 80% of the total shares issued by *AirTel Co., Ltd.* are owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. *AirTel Co., Ltd.*'s operating license has been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by *AirTel Co., Ltd.* is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses.

A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level



management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. *AirTel Co., Ltd.* feels that it has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce.

The revoking of *AirTel Co., Ltd.*'s license and the amendment of the business license regulation has caused the shares of *AirTel Co., Ltd.*'s parent company, *AirTel Holdings, Inc.*, to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. *AirTel Co., Ltd.* believes that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

### **The Complaint Details**

*AirTel Co., Ltd.* decides to lodge its complaint through ASSIST. However, under ASSIST, an ASEAN Enterprise legally registered in AMS-Y cannot lodge a complaint against AMS-Y for a measure adopted or maintained by the latter. With respect to trade in services, this principle would rule out any complaint being lodged under Mode 3 on Commercial Presence, where an ASEAN Enterprise legally registered and 'commercially present' in AMS-Y would need to bring a complaint against a measure of AMS-Y. Thus, *AirTel Co., Ltd.* decided to request its parent company, *AirTel Holdings, Inc.*, which is based and legally registered in AMS-X, to bring this case under ASSIST against AMS-Y.

Thus, *AirTel Holdings, Inc.*, the ASEAN Enterprise, a duly registered company in AMS-X, files a complaint under ASSIST in relation to the revocation of the license of its subsidiary company, *AirTel Co., Ltd.* which is registered in AMS-Y. *AirTel Holdings, Inc.* argues that the revocation of the license of *AirTel Co., Ltd.* and the amendment of the Telecommunications Business License Act are illegal acts in the telecommunications sector by AMS-Y and thus, a discrimination against foreign investors and in clear violation of the Schedule of Specific ASEAN Commitments of AMS-Y under the AFAS where AMS-Y have committed to allow commercial presence of a foreign company (*i.e.*, the Mode 3 provision of telecommunication services), in other words the legal right for foreign operators, legally registered in another ASEAN Member State to provide the service through commercial establishment, without any limitations to market access and national treatment.

### **Review by ASSIST's Central Administrator**

The Central Administrator of ASSIST – the ASEAN Secretariat initially reviews and accepts the complaint as falling within the scope of ASSIST and as being validly lodged.

The ASEAN Enterprise has provided proof that it is a business duly registered in an ASEAN Member State by providing its company registration number and an electronic copy of its company/business registration in both the local language and English translation (unofficial). The ASEAN Enterprise has also annexed a copy of the AMS-Y Specific Schedule of ASEAN Services Commitments, specifically in the Telecommunication Services sector, as well as the AMS-Y 2010 Telecommunications Business License Act No. 1500 and the amended act (2018).

Details of the complaint is submitted to AMS-Y (the Destination Contact Point or DCP) and copied to AMS-X (the Home Contact Point or HCP) for information.

### **Review and Decision by Destination Contact Point**

AMS-Y's Destination Contact Point, (*i.e.*, the Ministry of Trade of AMS-X) reviews the complaint, informally interacts with its domestic Relevant Authorities (RAs), namely the Ministry of Telecommunications, the National Communication Authority, and the Ministry of Commerce, and communicates to the CA that it wishes to reject the complaint.

The Destination Contact Point finds sufficient basis that AMS-Y has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: (i) not more than 49% of the capital share of the company may be owned by foreign partner(s); (ii) at least three quarters of the company's senior level management and the person authorized to sign any binding commitments as a representation of the company must be AMS-Y nationals. Thus, the amendment of the 2018 Telecommunications Business License Act No. 1500 is not in violation of AMS-Y's Schedule of Services Commitments.

In response to AE's claim that it has not received any notification from AMS-Y on the new amendment, AMS-Y responded that the Government of AMS-Y has promulgated the amendment of the law through official government websites and local newspapers after it has been approved on 1 September 2018.

### **The Result**

The Destination Contact Point's reasons for rejection are sent to the Central Administrator and it is reviewed for language and sufficiency of information. The Central Administrator accepts the reason of rejection as it appears valid and sufficiently justified. The Central Administrator: (i) notifies the ASEAN Enterprise of the decision; (ii) informs the ASEAN Enterprise that the ASSIST proceedings are terminated; and (iii) informs the ASEAN Enterprise of its options (*i.e.*, legal action, arbitration, withdrawal of service, etc.) and advise the Central Administrator whether it intends to pursue any of these courses of actions.

ASSIST will consider this procedure as one where the complaint was rejected and a solution has not been provided.





Photo credit: Deborah Tomasowa for US-ACTI

# ASSIST TUTORIALS



The tutorials are also available on the ASSIST website at <https://assist.asean.org/read/proces/20>

Photo credit: Deborah Tomasowa for US-ACTI





Image credit: eastspring investments

# STEP-BY-STEP TUTORIAL FOR CASE STUDY 1

## Complaint Filed by an ASEAN Enterprise and Rejected by the Central Administrator.

**Brief Description of Case:** This scenario is that of a complaint that is rejected by ASSIST's Central Administrator (CA) because of it not having been validly lodged by the Complainant. In the case at stake, the rejection took place because the complaint dealt with an issue that falls outside of the scope of ASSIST.

The complaint is in relation to a delay of the complainant's work permit in the Destination Country. The complainant is a director of a consultancy firm in the Home Country with a postgraduate degree in economics, who has been

offered a job in a consultancy firm in the Destination Country and intends to move and live there on a permanent basis. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by the Destination Country. This is jeopardizing the complainant's chances of getting the job. Thus, he wishes to raise an ASSIST complaint against the Destination Country, through his company in the Home Country, for delaying the issuing of his work permit. The basis of Mr. Upset's complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services (AFAS).

### List of Actors and Abbreviations:

- Complainant = ASEAN Enterprise (AE)
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)

## STEP 1

### GO TO THE ASSIST WEBSITE ([HTTP://ASSIST.ASEAN.ORG](http://assist.asean.org))

If you feel that your case is a problem on an ASEAN cross-border trade related issue, you are a business registered in an ASEAN Member State, and you would like a free of charge, non-binding, consultative service, and receive an expedited and effective solution, go to the following link: <http://assist.asean.org>.

Below is the homepage of ASSIST.

The screenshot shows the ASSIST homepage with a red header containing the ASSOCIATION OF SOUTHEAST ASIAN NATIONS logo and the ASSIST title. Below the header is a navigation bar with tabs: WELCOME TO ASSIST, WHAT IS ASSIST?, FILE A COMPLAINT, FOLLOW A COMPLAINT, PROCESS, FAQ, and CONTACT. The main content area features a 'Welcome to ASSIST' section with a video player for 'ASSIST (ARISE EU-ASEAN)'. To the right, there is a list of ASEAN member states with their respective flags: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. At the bottom, there are icons for Tutorials, ATR SEARCH, and HARMONIZED STANDARDS SEARCH. The footer contains contact information for the Central Administrator of ASSIST and a disclaimer.

**STEP 2**

**SELECT THE 'FILE A COMPLAINT' TAB (ASEAN ENTERPRISE ICON)**

If you are filing a complaint under your own company (non-anonymous complaint) and you are not represented by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm, click on the 'ASEAN Enterprise' icon on the 'File a Complaint' tab.



## File a Complaint

Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields. Please note that, if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.



NON-ANONYMOUS



ANONYMOUS



ANONYMOUS

Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you do not receive any such communication, please verify your email and resubmit the complaint.

The Central Administrator of ASSIST may request that you resubmit your complaint if any of the information is incomplete or incorrect. Once your complaint has been accepted by the Central Administrator of ASSIST, the Destination Contact Point will be asked to respond. If the complaint is accepted by the Destination Contact Point, you will be notified of the response and, ultimately, of the proposed solution (if any). Complaints are usually addressed and a solution proposed within 40 to 60 working days maximum from the date of acceptance of the complaint by the Destination Contact Point.

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN Enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. In order to do so, please download the necessary form and submit it to the ASEAN Secretariat as specified on the form itself.

When you click on the 'ASEAN Enterprise' icon, the following page will appear.



## Complaint to be Filed by an ASEAN Enterprise



Please fill-in the form below so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields.

Please note that, if you require anonymity, your complaint should be submitted instead by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. Dedicated forms are available under the respective [icons](#).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please also check your spam/junk boxes).

### ASEAN ENTERPRISE

\* ASEAN Enterprise Name

\* Company Size

\* Phone

Website

\* Address

300 characters remaining (300 maximum)

\* City  ZIP Code

\* Country

### CONTACT PERSON

\* Gender  Mr  Mrs  Ms

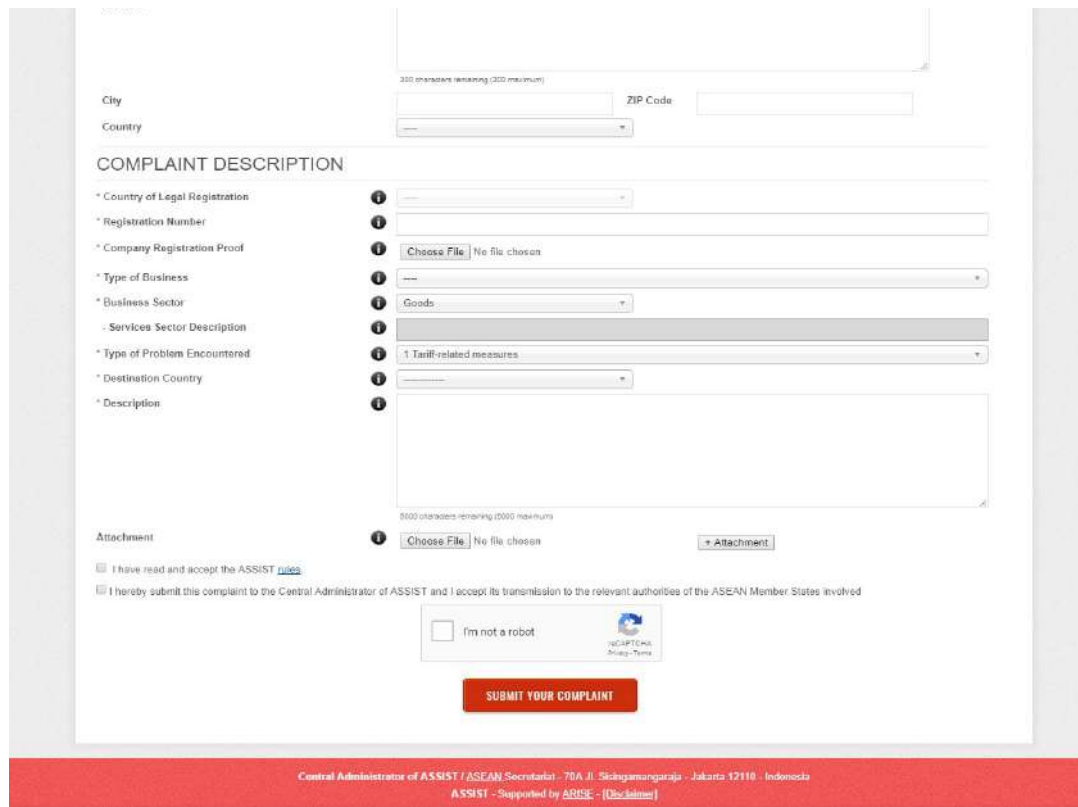
\* First Name  \* Last Name

\* Phone

\* Position

\* Email

Address



300 characters remaining (200 maximum)

City  ZIP Code

Country

**COMPLAINT DESCRIPTION**

\* Country of Legal Registration

\* Registration Number

\* Company Registration Proof

\* Type of Business

\* Business Sector

- Services Sector Description

\* Type of Problem Encountered

\* Destination Country


\* Description

800 characters remaining (2000 maximum)

Attachment

I have read and accept the ASSIST [rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot. 

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Sidiqamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [\[Discipline\]](#)

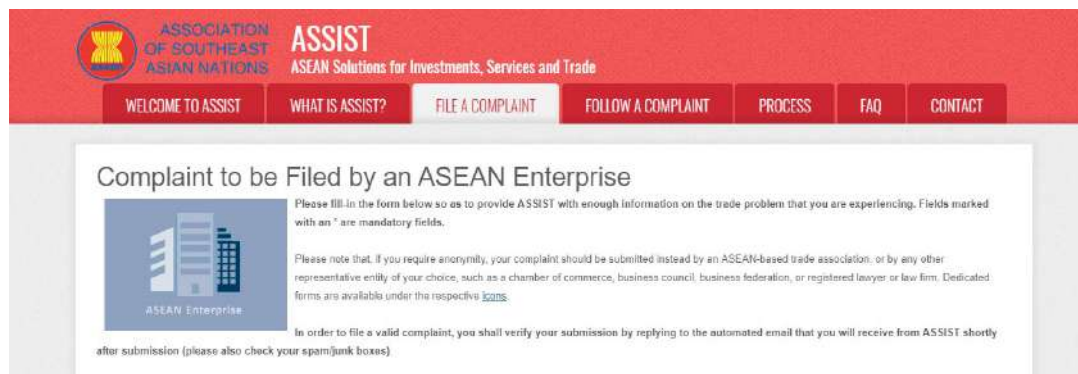
Fill-in the above form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in for each field. Please click on the **i** buttons to make sure that you fill-in the correct information in the form.

It is extremely important that you properly fill-in the 'Description' field. The CA will need to verify that the description given in the complaint is sufficient to clearly identify the problem in the context of the specific subject agreement(s). Thus, please carefully layout your complaint with legal arguments and factual evidence to help the CA in deciding whether to approve your complaint.

**STEP 3**

**FILL-IN THE COMPLAINT FORM**

Below is an example of a completed form for this specific case study.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

**Complaint to be Filed by an ASEAN Enterprise**

Please fill-in the form below so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields.

Please note that, if you require anonymity, your complaint should be submitted instead by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. Dedicated forms are available under the respective [links](#).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please also check your spam/junk boxes).

ASEAN Enterprise



### ASEAN ENTERPRISE

\* ASEAN Enterprise Name: Blue Sapphire Consulting Group

\* Company Size: 10 to 50

\* Phone: +96131415

Website: www.bluesapphirecg.com

\* Address: Red Sparrow Street No. 13  
City: V  
Country: X

\* City: City V ZIP Code: 12130

\* Country: AMS-X

---

### CONTACT PERSON

\* Gender:  Mr  Mrs  Ms

\* First Name: Verry \* Last Name: Upeal

\* Phone: +96131415

\* Position: Director

\* Email: aseanenterprise0@gmail.com

\* Address: Red Sparrow Street No. 13  
City: V  
Country: X

\* City: City V ZIP Code: 12130

\* Country: AMS-X

---

### COMPLAINT DESCRIPTION

\* Country of Legal Registration: AMS-X

\* Registration Number: 123456

\* Company Registration Proof: [Choose File](#) Simulated Comp. ing Group.pdf

\* Type of Business: Service provider

\* Business Sector: Services

\* Services Sector Description: Consultancy

\* Type of Problem Encountered: 12 Other Services

\* Destination Country: AMS-Y

\* Description:
 

I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis.


Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chances of getting the job.

Thus, I wish to raise an ASSIST complaint against AMS-Y, through my company in AMS-X, for

Attachment: [Choose File](#) No file chosen [+ Attachment](#)

I have read and accept the [ASSIST rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot 

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi - Jakarta 12110 - Indonesia

ASSIST - Supported by ASEAN - [Disclaimer](#)

Below is the AE's description of his complaint in this case study:

"I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis.

Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chances of getting the job.

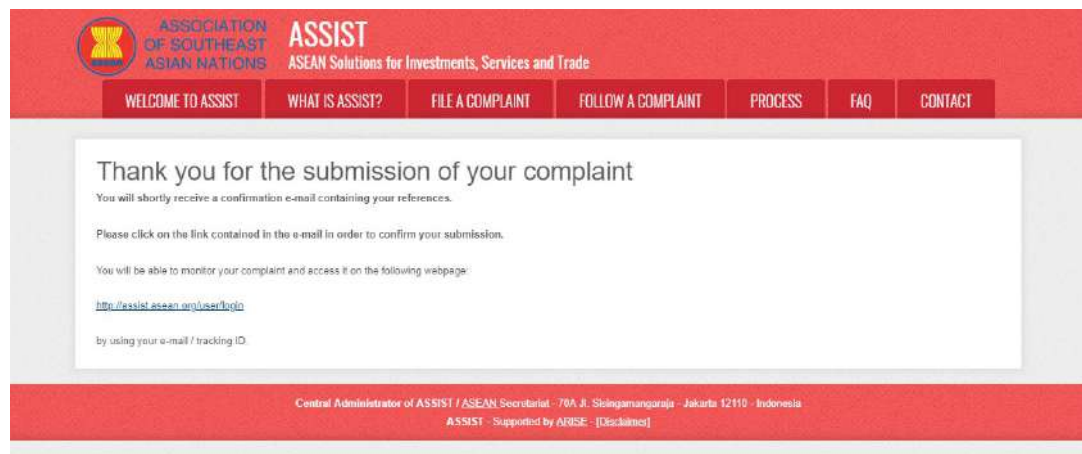
Thus, I wish to raise an ASSIST complaint against AMS-Y, through my company in AMS-X, for delaying the issuing of my work permit. The basis of my complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services. I hereby attach my company's business registration in AMS-X as the requirement to lodge a complaint under ASSIST."

When the complaint is filed by clicking 'Submit Your Complaint', the following page in Step 4 will appear.

**STEP  
4**

**RECEIVE A NOTIFICATION FROM ASSIST**

Once you file a complaint on the ASSIST website, the below page will appear, informing you that a confirmation email will be sent to the email address which you have provided in your complaint form.



The above notification indicates that you should click on the link provided in your email account to confirm your complaint with ASSIST.

**STEP  
5**

**CONFIRM YOUR COMPLAINT FROM YOUR EMAIL ACCOUNT**

- (a) Go to the email account that you have provided in the complaint form. You will receive an email from ASSIST requesting you to confirm your complaint by clicking on the link provided or by copy-pasting the link onto the Internet browser. This is also required by ASSIST to confirm that the email address which you have provided is valid. Your complaint number is also provided in this email. In this case, your complaint number is **16920181030**.

Below is the email which you will receive from ASSIST.

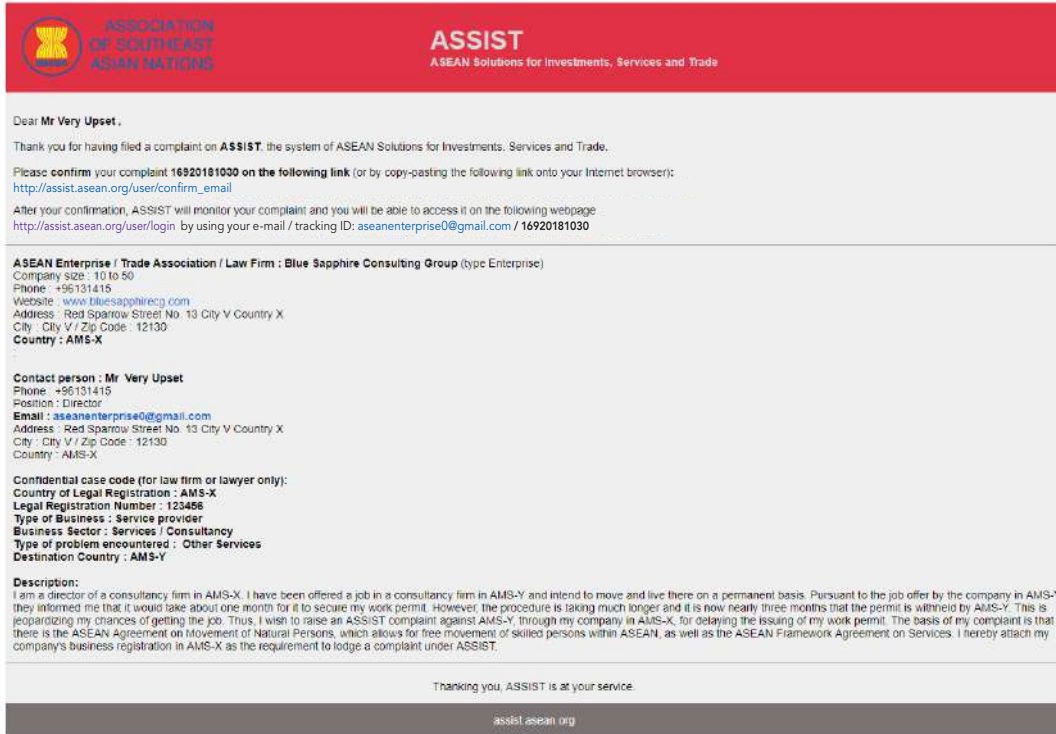


ASEAN Enterprise <aseanenterprise0@gmail.com>

**[ASSIST] Thanks to confirm your complaint #16920181030 submission**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Tue, Oct 30, 2018 at 1:21 P



Dear **Mr Very Upset**,

Thank you for having filed a complaint on **ASSIST**, the system of ASEAN Solutions for Investments, Services and Trade.

Please confirm your complaint **16920181030** on the following link (or by copy-pasting the following link onto your Internet browser):  
[http://assist.asean.org/user/confirm\\_email](http://assist.asean.org/user/confirm_email)

After your confirmation, ASSIST will monitor your complaint and you will be able to access it on the following webpage:  
<http://assist.asean.org/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / **16920181030**

**ASEAN Enterprise / Trade Association / Law Firm : Blue Sapphire Consulting Group** (type Enterprise)  
Company size : 10 to 50  
Phone : +96131415  
Website : [www.bluesapphirecng.com](http://www.bluesapphirecng.com)  
Address : Red Sparrow Street No. 13 City V Country X  
City : City V / Zip Code : 12130  
Country : **AMS-X**

**Contact person : Mr Very Upset**  
Phone : +96131415  
Position : Director  
Email : [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)  
Address : Red Sparrow Street No. 13 City V Country X  
City : City V / Zip Code : 12130  
Country : **AMS-X**

**Confidential case code (for law firm or lawyer only):**  
Country of Legal Registration : **AMS-X**  
Legal Registration Number : 123456  
Type of Business : Service provider  
Business Sector : Services / Consultancy  
Type of problem encountered : Other Services  
Destination Country : **AMS-Y**

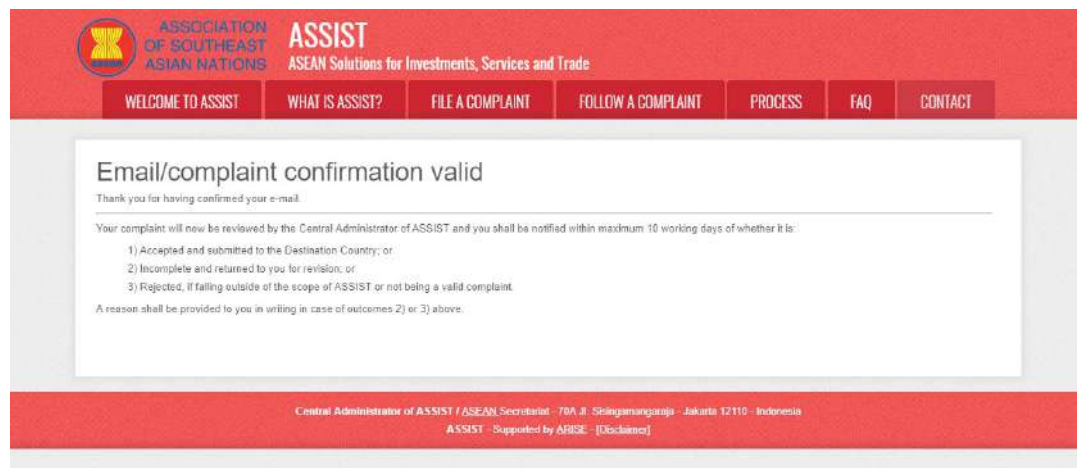
**Description:**  
I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis. Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chances of getting the job. Thus, I wish to raise an ASSIST complaint against AMS-Y through my company in AMS-X, for delaying the issuing of my work permit. The basis of my complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services. I hereby attach my company's business registration in AMS-X as the requirement to lodge a complaint under ASSIST.

Thanking you, ASSIST is at your service.

assist.asean.org

Simulated\_Company\_Registration\_of\_Blue\_Sapphire\_Consulting\_Group.pdf  
50K

(b) Click on the link as requested in the above email and the following page will appear.



**ASSOCIATION OF SOUTHEAST ASIAN NATIONS** **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

**Email/complaint confirmation valid**

Thank you for having confirmed your e-mail.

Your complaint will now be reviewed by the Central Administrator of ASSIST and you shall be notified within maximum 10 working days of whether it is:

- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

A reason shall be provided to you in writing in case of outcomes 2) or 3) above.

Central Administrator of ASSIST / ASEAN Secretariat - TBA #, Selingmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

The above notification will inform you that your complaint will be reviewed by the CA and that you will be notified by email within maximum 10 working days of whether it is:

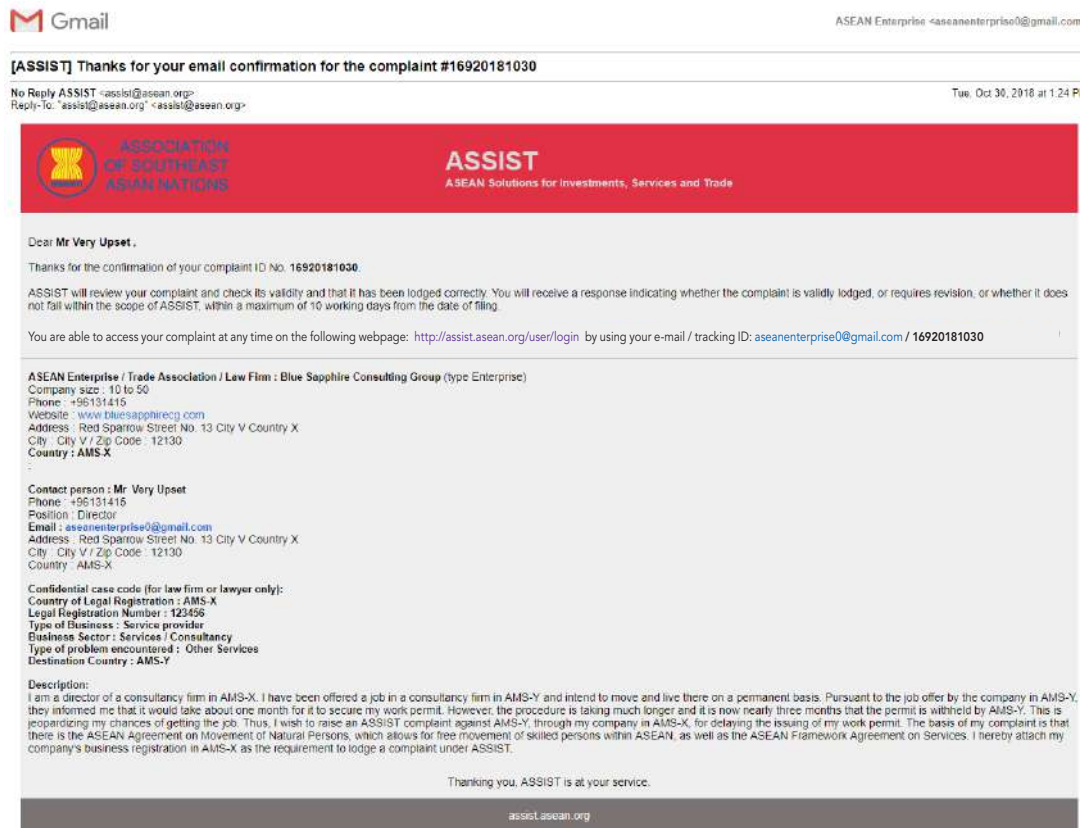
- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

Go to your email account.

**STEP  
6**

**RECEIVE AN EMAIL FROM ASSIST THAT YOUR EMAIL ADDRESS AND COMPLAINT IS VALID**

- (a) Go to your email account and you will see a new email from ASSIST. This email indicates that you have confirmed your complaint, that the CA will check its validity, and that it has been filed within ASSIST. ASSIST will revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.



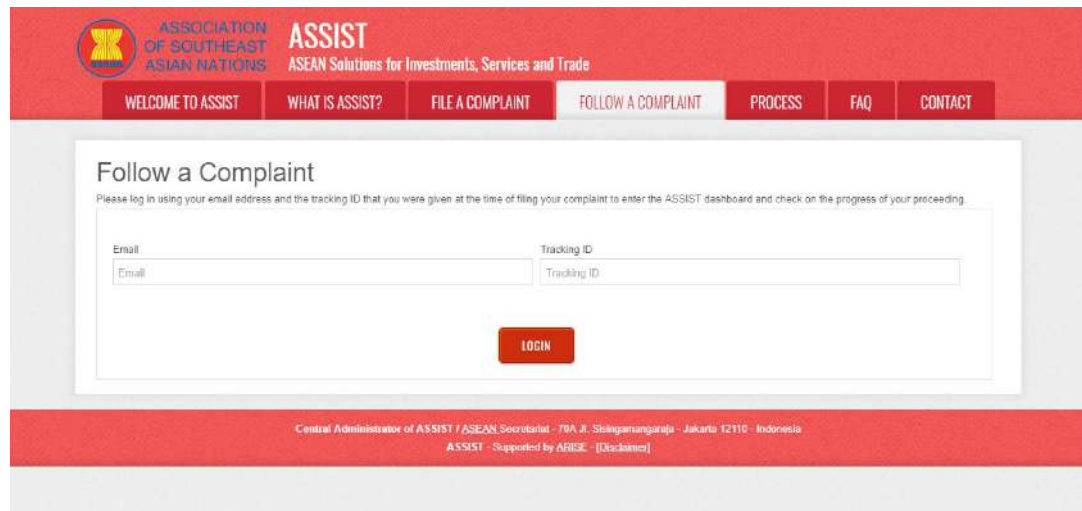
 Simulated\_Company\_Registration\_of\_Blue\_Sapphire\_Consulting\_Group.pdf  
50K

As indicated in the above email, you are now able to monitor the progress by clicking on the indicated link which will be directed to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website.

**STEP  
7**

**MONITOR THE PROGRESS OF YOUR COMPLAINT**

- (a) Go to the following link: <http://assist.asean.org/user/login> or go to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website. The below page will appear.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS  
**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Follow a Complaint

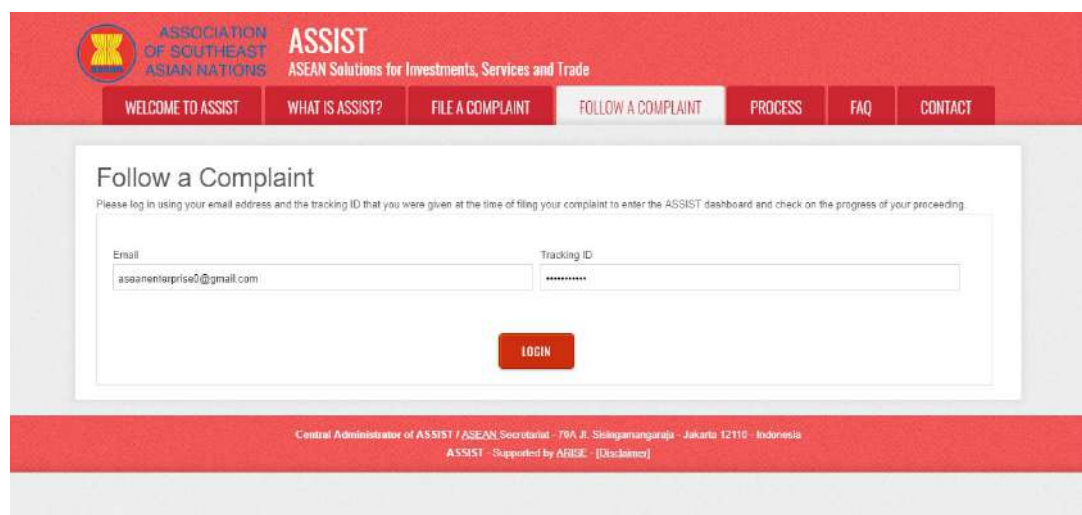
Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.

Email  Tracking ID

**LOGIN**

Central Administrator of ASSIST / ASEAN Secretariat - 79A, Jl. Salekpesangraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

- (b) Enter your email address and tracking ID (your complaint number) in the required fields to login. In this case, the **Email Address** is [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) and the **Tracking ID** is **16920181030**.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS  
**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Follow a Complaint

Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.

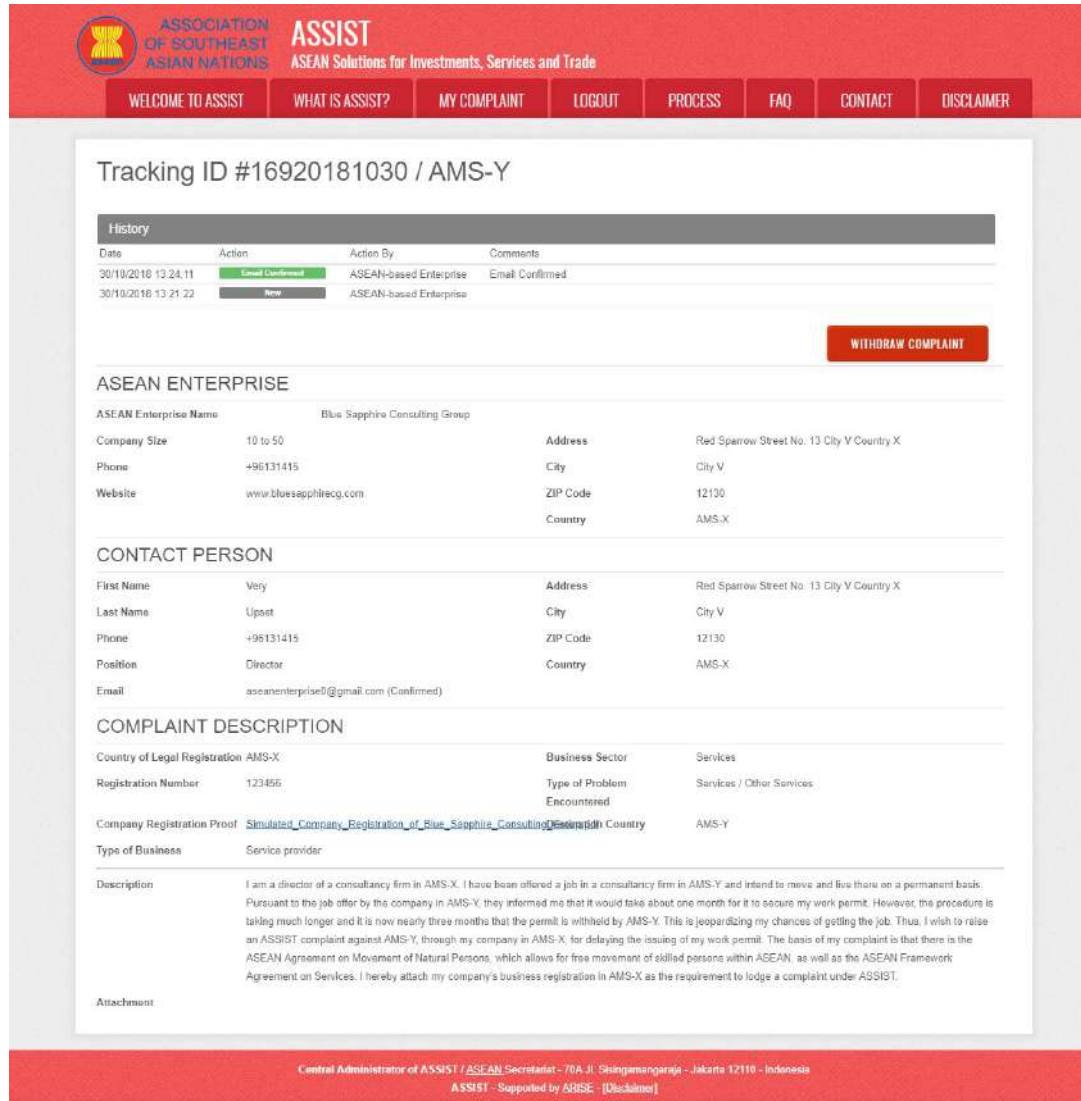
Email  Tracking ID

**LOGIN**

Central Administrator of ASSIST / ASEAN Secretariat - 79A, Jl. Salekpesangraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

Once you login, you will see your ASSIST dashboard where you can monitor the progress of your complaint.

(c) View of your ASSIST Dashboard once you have successfully logged-in:



The screenshot displays the ASSIST dashboard interface. At the top, there is a navigation menu with options: WELCOME TO ASSIST, WHAT IS ASSIST?, MY COMPLAINT, LOGOUT, PROCESS, FAQ, CONTACT, and DISCLAIMER. The main content area shows the following details:

- Tracking ID #16920181030 / AMS-Y**
- History Table:**

Date	Action	Action By	Comments
30/10/2016 13:24:11	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
30/10/2016 13:21:23	New	ASEAN-based Enterprise	
- ASEAN ENTERPRISE:**
  - ASEAN Enterprise Name: Blue Sapphire Consulting Group
  - Company Size: 10 to 50
  - Phone: +96131415
  - Website: www.bluessapphirecg.com
  - Address: Red Sparrow Street No. 13 City Y Country X
  - City: City Y
  - ZIP Code: 12130
  - Country: AMS-X
- CONTACT PERSON:**
  - First Name: Verly
  - Last Name: Upset
  - Phone: +96131415
  - Position: Director
  - Email: aseanenterprise@gmail.com (Confirmed)
  - Address: Red Sparrow Street No. 13 City Y Country X
  - City: City Y
  - ZIP Code: 12130
  - Country: AMS-X
- COMPLAINT DESCRIPTION:**
  - Country of Legal Registration: AMS-X
  - Registration Number: 123456
  - Company Registration Proof: Simulated Company Registration of Blue Sapphire Consulting Group
  - Type of Business: Service provider
  - Business Sector: Services
  - Type of Problem Encountered: Services / Other Services
  - Country: AMS-Y
  - Description: I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis. Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chances of getting the job. Thus, I wish to raise an ASSIST complaint against AMS-Y, through my company in AMS-X, for delaying the issuing of my work permit. The basis of my complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services. I hereby attach my company's business registration in AMS-X as the requirement to lodge a complaint under ASSIST.

At the bottom of the dashboard, there is a footer with the text: Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia. ASSIST - Supported by ARSE - [Disclaimer]

As you can see in your dashboard, the actions taken for your complaint are clearly indicated in your dashboard and this list will be regularly updated after each action is taken. Your completed complaint form, which you have submitted, is also accessible on your dashboard.

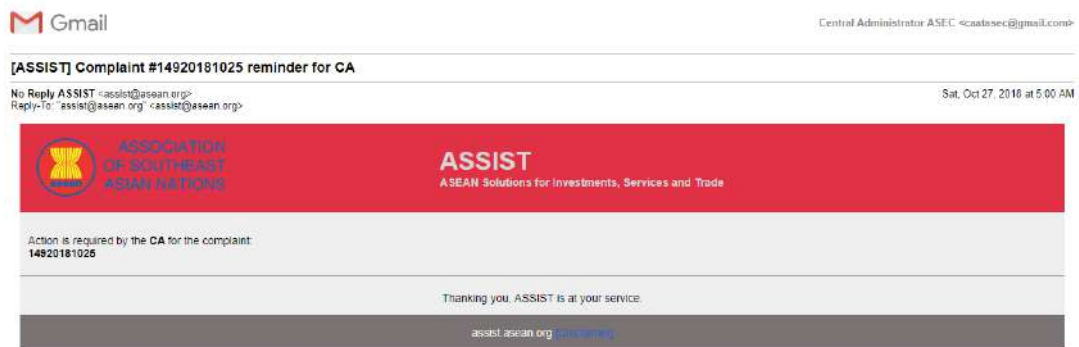
**STEP  
8**

**CENTRAL ADMINISTRATOR REVIEWS YOUR COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL (ACCEPT, INCOMPLETE, OR REJECT)**

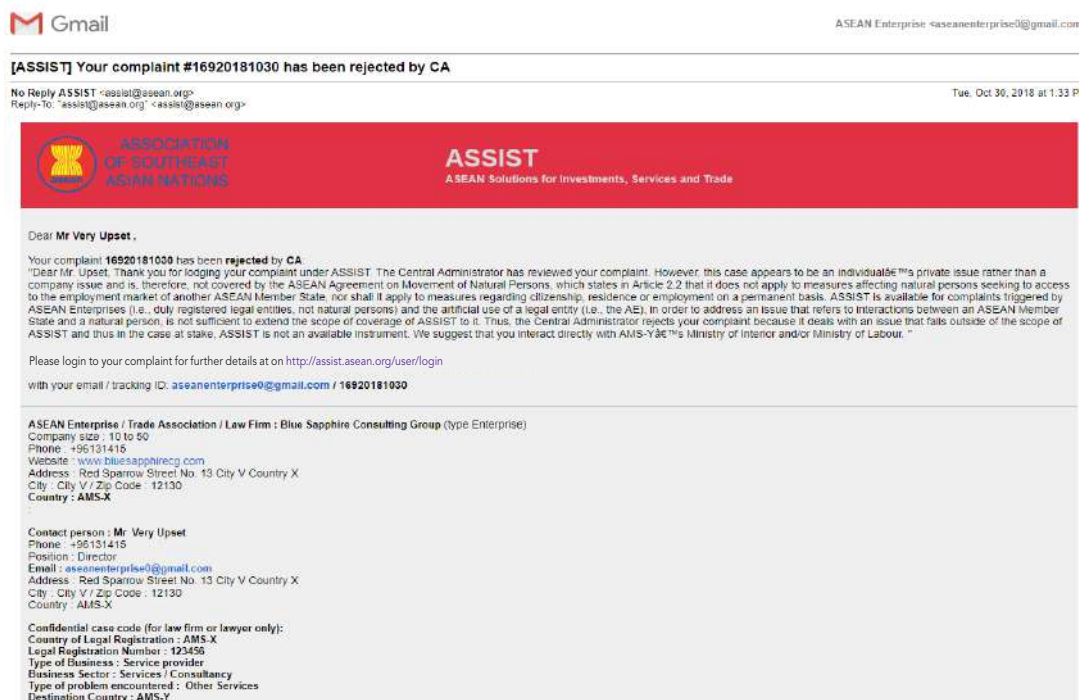
Once the CA has completed reviewing your complaint and decided on whether to accept/incomplete/reject, an email will be sent to you typically within 10 working days since you lodged your complaint.

*If no action has been taken in the meantime by the CA, the CA will receive the below automatic reminder via email from the ASSIST online system within 7 calendar days after the complaint is lodged. As indicated above, the CA must decide to accept, declare incomplete and request revision, or reject the complaint within 10 working days.*

**Email Reminder 1 for the Central Administrator:**



Regularly check your email account within the 10 working days after lodging your complaint. You will eventually receive a new email from ASSIST.



**Description:**  
I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis. Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chances of getting the job. Thus, I wish to raise an ASSIST complaint against AMS-Y, through my company in AMS-X, for delaying the issuing of my work permit. The basis of my complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services. I hereby attach my company's business registration in AMS-X as the requirement to lodge a complaint under ASSIST.

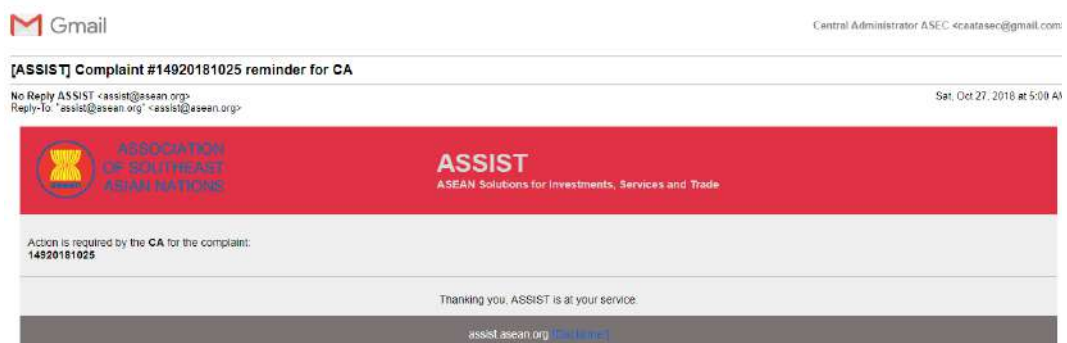
Thanking you, ASSIST is at your service.

[assist.asean.org](http://assist.asean.org) [\[Track ID\]](#)

In this case, your complaint has been reviewed and **rejected** by the CA. The CA finds that this case appears to be an individual's private issue rather than a company issue and is, therefore, not covered by the ASEAN Agreement on Movement of Natural Persons. ASSIST is available for complaints triggered by ASEAN Enterprises (i.e., duly registered legal entities, not natural persons) and the artificial use of a legal entity (i.e., the AE), in order to address an issue that refers to interactions between an ASEAN Member State and a natural person, is not sufficient to extend the scope of coverage of ASSIST to it.

*If you do not receive an email from ASSIST within the required timeframe (10 working days since the complaint is lodged), then this means that the CA has an overdue action. The CA will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is required by the CA for the complaint. The CA will receive the email below:*

**Email Reminder 2 for the Central Administrator:**




**STEP  
9**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR**

If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has **"Rejected"** your complaint.





ASSOCIATION OF SOUTHEAST ASIAN NATIONS


## ASSIST

ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST    WHAT IS ASSIST?    MY COMPLAINT    LOGOUT    PROCESS    FAQ    CONTACT    DISCLAIMER

### Tracking ID #16920181030 / AMS-Y

**History**

Date	Action	Action By	Comments
30/10/2018 13:33:22	Reported	Central Administrator of ASSIST	Dear Mr. Upset,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed your complaint. However, this case appears to be an individual's private issue rather than a company issue and is, therefore, not covered by the ASEAN Agreement on Movement of Natural Persons. 
30/10/2018 13:24:11	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
30/10/2018 13:21:22	New	ASEAN-based Enterprise	

WITHDRAW COMPLAINT

**ASEAN ENTERPRISE**

ASEAN Enterprise Name		Blue Sapphire Consulting Group	
Company Size	10 to 50	Address	Red Sparrow Street No. 13 City V Country X
Phone	+96131415	City	City V
Website	www.bloesapphirecg.com	ZIP Code	12130
		Country	AMS-X

**CONTACT PERSON**

First Name	Very	Address	Red Sparrow Street No. 13 City V Country X
Last Name	Upset	City	City V
Phone	+96131415	ZIP Code	12130
Position	Director	Country	AMS-X
Email	aseanenterprise0@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Other Services
Company Registration Proof	Simulated_Company_Registration_of_Blue_Sapphire_Consulting_Group.pdf Country		
Type of Business	Service provider		
Description	<p>I am a director of a consultancy firm in AMS-X. I have been offered a job in a consultancy firm in AMS-Y and intend to move and live there on a permanent basis. Pursuant to the job offer by the company in AMS-Y, they informed me that it would take about one month for it to secure my work permit. However, the procedure is taking much longer and it is now nearly three months that the permit is withheld by AMS-Y. This is jeopardizing my chance of getting the job. Thus, I wish to raise an ASSIST complaint against AMS-Y, through my company in AMS-X, for delaying the issuing of my work permit. The basis of my complaint is that there is the ASEAN Agreement on Movement of Natural Persons, which allows for free movement of skilled persons within ASEAN, as well as the ASEAN Framework Agreement on Services. I hereby attach my company's business registration in AMS-X as the requirement to lodge a complaint under ASSIST.</p>		
Attachment			

Central Administrator of ASSIST / ASEAN Secretariat - TIA Jl. Setiabudi - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

Click on the magnifying glass icon in the comments column. The full response from the CA will appear, as can be seen below:

Dear Mr. Upset,

Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed your complaint. However, this case appears to be an individual's private issue rather than a company issue and is, therefore, not covered by the ASEAN Agreement on Movement of Natural Persons, which states in Article 2.2 that it does not apply to measures affecting natural persons seeking to access to the employment market of another ASEAN Member State, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis. ASSIST is available for complaints triggered by ASEAN Enterprises (i.e., duly registered legal entities, not natural persons) and the artificial use of a legal entity (i.e., the AE), in order to address an issue that refers to interactions between an ASEAN Member State and a natural person, is not sufficient to extend the scope of coverage of ASSIST to it.

Thus, the Central Administrator rejects your complaint because it deals with an issue that falls outside of the scope of ASSIST and thus in the case at stake, ASSIST is not an available instrument. We suggest that you interact directly with AMS-Y's Ministry of Interior and/or Ministry of Labour.

**The rejection appears valid and is sufficiently justified. ASSIST will consider this procedure as one where no complaint was ever lodged.**



# STEP-BY-STEP TUTORIAL FOR CASE STUDY 2

## (TRADE IN GOODS)

Photo credit: Nathan Associates - PSDA Project, Myanmar

**Complaint Filed by an ASEAN-Based Trade Association on behalf of its Member, an ASEAN Enterprise, Accepted by Central Administrator and Rejected by Destination Contact Point.**

**Brief Description of Case:** This scenario is that of a complaint that is accepted by ASSIST's Central Administrator as having been validly lodged by an ASEAN-based Trade Association on behalf of its member, an ASEAN Enterprise/AE (i.e., being complete and falling within ASSIST's scope). The complaint is lodged by the ASEAN-based Trade Association because the AE wishes to remain anonymous. However, the case is rejected by the Destination Country because of the same dispute having already been litigated at the World Trade Organization (WTO) in a complaint brought by the country of registration of the AE (where the Home Country is located) against the Destination Country. In the case at stake, the rejection by the Destination Country was sufficiently motivated and fell within the sovereignty of ASEAN Member States within the ASSIST system.

The complaint is in relation to several fiscal and custom's measures of the Destination Country affecting cigarettes exported from the Home Country to the Destination

Country. Such measures include the Destination Country's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. The ASEAN-based Trade Association claims that the Destination Country administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the WTO Agreement on Customs Valuation. According to the ASEAN-based Trade Association, the Destination Country does not use transaction value as the primary basis for customs valuation and fails to conform to the sequence of valuation methods mandated by Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, the ASEAN-based Trade Association claims that the Destination Country's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the General Agreement on Tariffs and Trade (GATT) 1994, because it provides less favourable treatment for imported products than for like domestic products.

### List of Actors and Abbreviations:

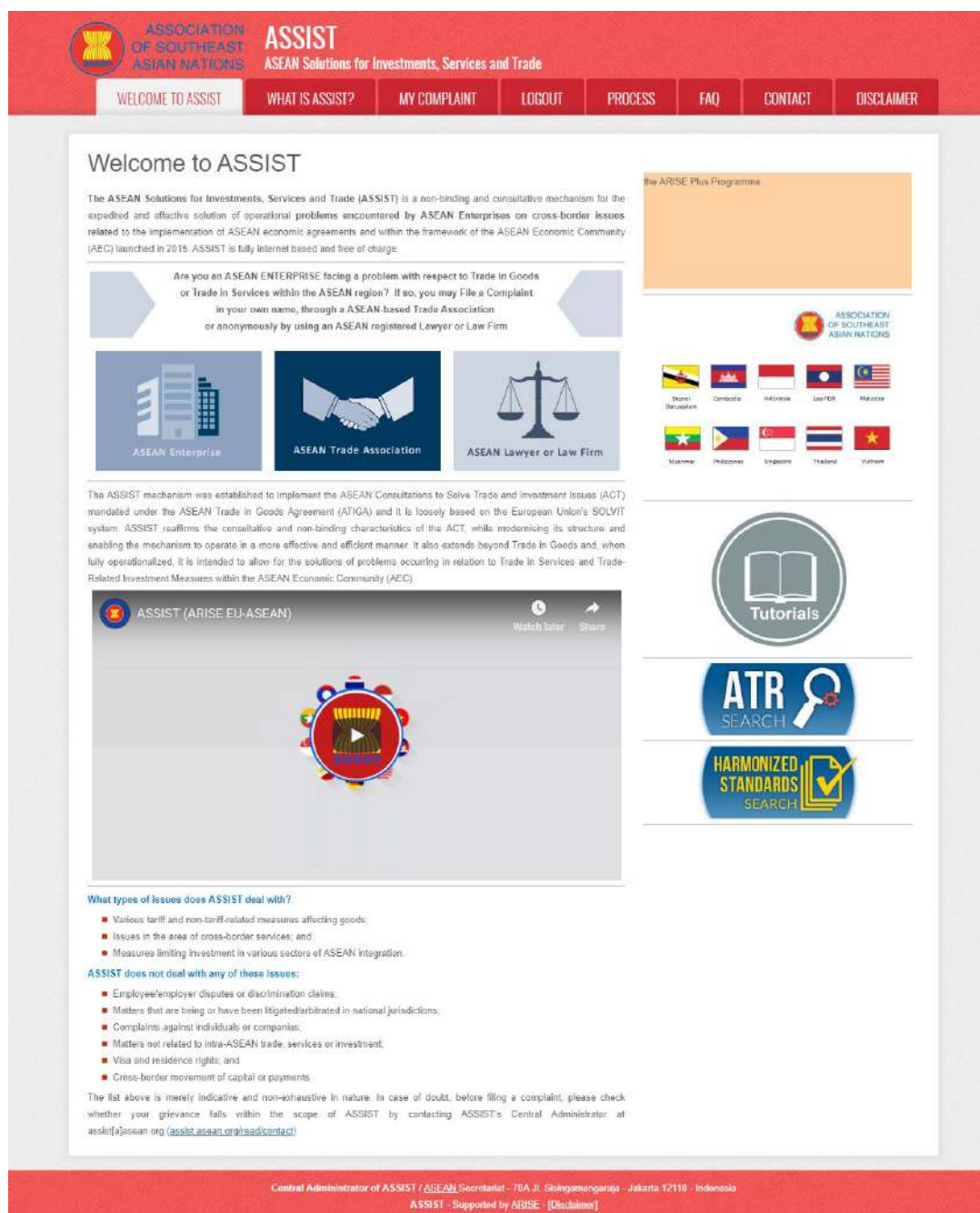
- Complainant = ASEAN-Based Trade Association = ASEAN Trade Association
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant National Authorities = Relevant Authorities (RAs)

**STEP  
1**

## GO TO THE ASSIST WEBSITE (HTTP://ASSIST.ASEAN.ORG)

If you feel that your case is a problem on an ASEAN cross-border trade related issue, you are a business registered in an ASEAN Member State, and you would like a free of charge, non-binding, consultative service, and receive an expedited and effective solution, go to the following link: <http://assist.asean.org>.

Below is the homepage of ASSIST.



The screenshot shows the ASSIST website homepage. At the top, there is a navigation bar with the following menu items: WELCOME TO ASSIST, WHAT IS ASSIST?, MY COMPLAINT, LOGOUT, PROCESS, FAQ, CONTACT, and DISCLAIMER. The main content area is titled "Welcome to ASSIST" and includes a brief description of the service, a central question "Are you an ASEAN ENTERPRISE facing a problem with respect to Trade in Goods or Trade in Services within the ASEAN region?", and three icons representing "ASEAN Enterprise", "ASEAN Trade Association", and "ASEAN Lawyer or Law Firm". Below this, there is a video player for "ASSIST (ARISE EU-ASEAN)". To the right, there are sections for "Tutorials", "ATR SEARCH", and "HARMONIZED STANDARDS SEARCH". At the bottom, there is a list of issues ASSIST deals with and does not deal with, followed by contact information for the Central Administrator.

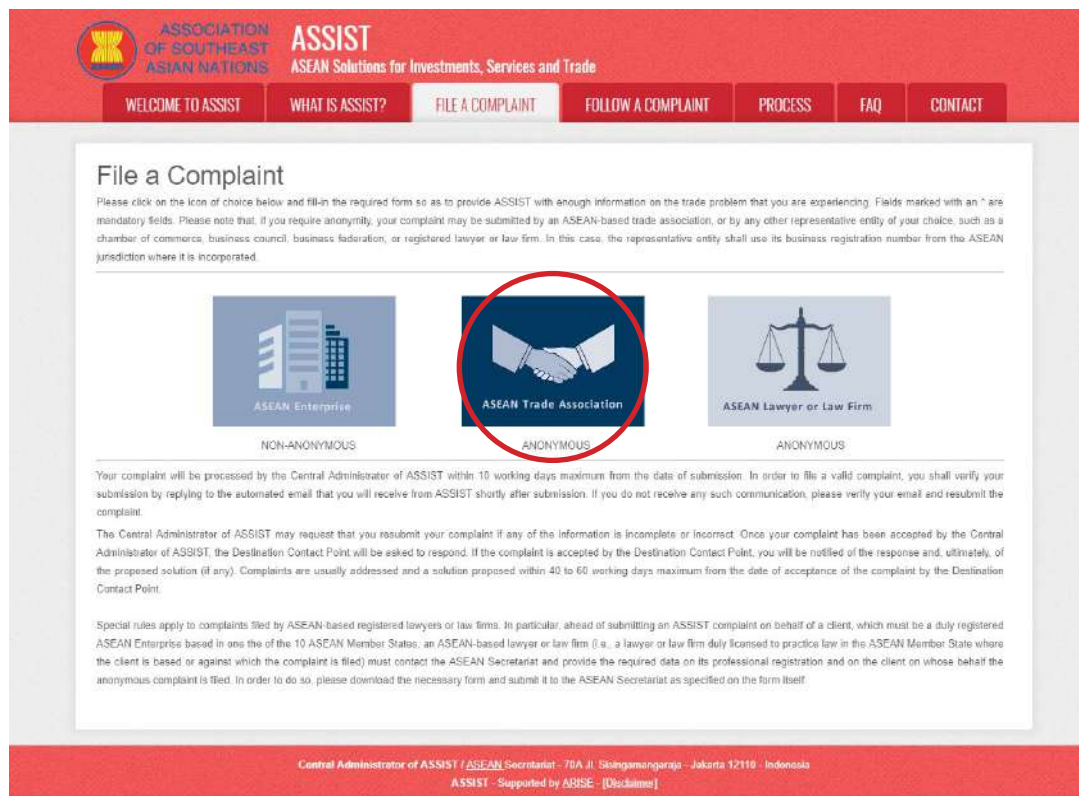
**Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Senoengamangaraja - Jakarta 12110 - Indonesia**  
ASSIST - Supported by ARISE - [Disclaimer]

**STEP 2**

**SELECT THE 'FILE A COMPLAINT' TAB (ASEAN TRADE ASSOCIATION ICON)**


If you are an ASEAN-based trade association filing a complaint on behalf of your member or a multitude of members (anonymously) having the same trade problem, click on the 'ASEAN Trade Association' icon on the 'File a Complaint' tab.

Please note that, as an ASEAN-based trade association, you need to file the complaint in your own name as your member is anonymous. ASEAN-based representative entities, include trade associations, can file complaints against the ASEAN Member State where they are registered, so long as the trade problem is of a cross-border nature.




**File a Complaint**

Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields. Please note that, if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.




ASEAN Enterprise

NON-ANONYMOUS



ASEAN Trade Association

ANONYMOUS



ASEAN Lawyer or Law Firm

ANONYMOUS

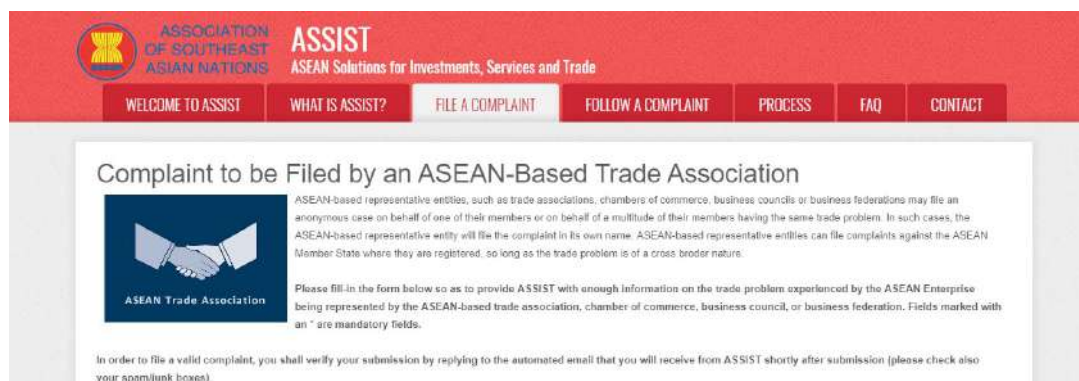
Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you do not receive any such communication, please verify your email and resubmit the complaint.

The Central Administrator of ASSIST may request that you resubmit your complaint if any of the information is incomplete or incorrect. Once your complaint has been accepted by the Central Administrator of ASSIST, the Destination Contact Point will be asked to respond. If the complaint is accepted by the Destination Contact Point, you will be notified of the response and, ultimately, of the proposed solution (if any). Complaints are usually addressed and a solution proposed within 40 to 60 working days maximum from the date of acceptance of the complaint by the Destination Contact Point.


Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN Enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. In order to do so, please download the necessary form and submit it to the ASEAN Secretariat as specified on the form itself.

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [Disclaimer]

When you click on the 'ASEAN Trade Association' icon, the following page will appear.



**Complaint to be Filed by an ASEAN-Based Trade Association**



ASEAN Trade Association

ASEAN-based representative entities, such as trade associations, chambers of commerce, business councils or business federations may file an anonymous case on behalf of one of their members or on behalf of a multitude of their members having the same trade problem. In such cases, the ASEAN-based representative entity will file the complaint in its own name. ASEAN-based representative entities can file complaints against the ASEAN Member State where they are registered, so long as the trade problem is of a cross border nature.

Please fill-in the form below so as to provide ASSIST with enough information on the trade problem experienced by the ASEAN Enterprise being represented by the ASEAN-based trade association, chamber of commerce, business council, or business federation. Fields marked with an \* are mandatory fields.

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please check also your spam/junk boxes).

### ASEAN-BASED TRADE ASSOCIATION

\* ASEAN-based Trade Association Name

\* Phone

Website

\* Address

350 characters remaining (350 maximum)

\* City  ZIP Code

\* Country

\* ASEAN Jurisdiction where the Entity is Established

---

### CONTACT PERSON

\* Gender  Mr  Mrs  Ms

\* First Name  \* Last Name

\* Phone

\* Position

\* Email

Address

300 characters remaining (300 maximum)

City  ZIP Code

Country

---

### COMPLAINT DESCRIPTION

\* Country of Legal Registration

\* Registration Number

\* Entity Registration Proof

Choose File | No file chosen

\* Type of Business

\* Business Sector

Goods

- Services Sector Description

\* Type of Problem Encountered

1. Tariff-related measures

\* Destination Country

\* Description


3000 characters remaining (3000 maximum)

Attachment

Choose File | No file chosen

I have read and accept the [ASSIST rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot 

Central Administrator of ASSIST / ASEAN Secretariat - TDA JI, Setiabudi - Jakarta 12110 - Indonesia

ASSIST - Supported by ARISE - [Disclaimer]

Fill-in the above form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in for each field. Please click on the **i** buttons to make sure that you fill-in the correct information in the form.

It is extremely important that you properly fill-in the 'Description' field. The CA will need to verify that the description given in the complaint is sufficient to clearly identify the problem in the context of the specific subject agreement(s). Thus, please carefully layout your complaint with legal arguments and factual evidence to help the CA in deciding whether to approve your complaint.

**STEP 3**

**FILL-IN THE COMPLAINT FORM**

Below is an example of a completed form for this specific case study.

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST
WHAT IS ASSIST?
FILE A COMPLAINT
FOLLOW A COMPLAINT
PROCESS
FAQ
CONTACT

### Complaint to be Filed by an ASEAN-Based Trade Association

ASEAN Trade Association

ASEAN-based representative entities, such as trade associations, chambers of commerce, business councils or business federations may file an anonymous case on behalf of one of their members or on behalf of a multitude of their members having the same trade problem. In such cases, the ASEAN-based representative entity will file the complaint in its own name. ASEAN-based representative entities can file complaints against the ASEAN Member State where they are registered, so long as the trade problem is of a cross border nature.

Please fill-in the form below so as to provide ASSIST with enough information on the trade problem experienced by the ASEAN Enterprise being represented by the ASEAN-based trade association, chamber of commerce, business council, or business federation. Fields marked with an \* are mandatory fields.

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please check also your spam/junk boxes)

#### ASEAN-BASED TRADE ASSOCIATION

\* ASEAN-based Trade Association Name

\* Phone

Website

\* Address

\* City  ZIP Code

\* Country

\* ASEAN Jurisdiction where the Entity is Established

#### CONTACT PERSON

\* Gender  Mr  Mrs  Ms

\* First Name  \* Last Name

\* Phone

\* Position

\* Email

Address

\* City  ZIP Code

\* Country

#### COMPLAINT DESCRIPTION

\* Country of Legal Registration

\* Registration Number

\* Entity Registration Proof

\* Type of Business

\* Business Sector

\* Services Sector Description

\* Type of Problem Encountered

\* Destination Country

\* Description

Attachment  Attachment

I have read and accept the ASSIST rules.

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Sisinganegara - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

As an example of a clear and concise description of the complaint, below is the description for this specific case study:

“We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y’s fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y’s customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers.

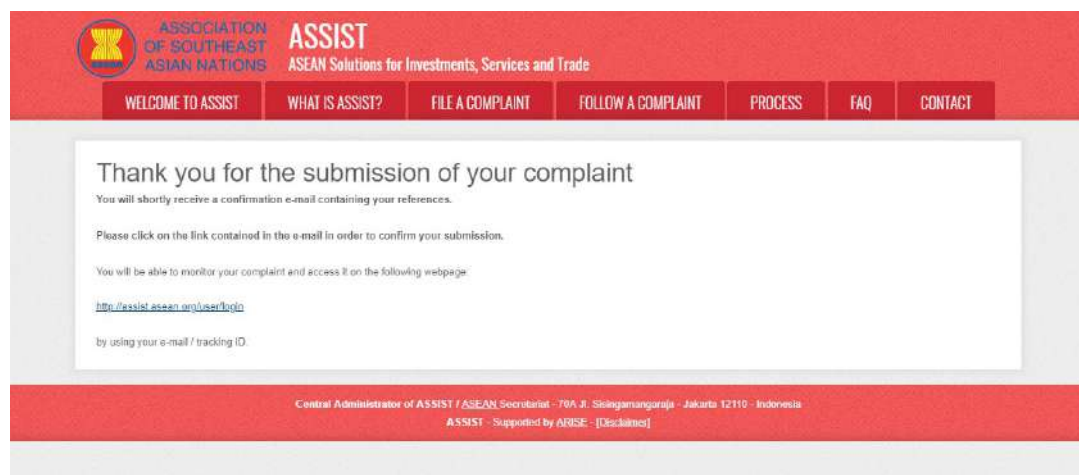
AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation and fails to conform to the sequence of valuation methods mandated by Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement.

In addition, AMS-Y’s dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the General Agreement on Tariffs and Trade (GATT) 1994, because it provides less favourable treatment for imported products than for like domestic products.”

When the complaint is filed by clicking ‘Submit Your Complaint’ tab, the following page in Step 4 will appear.

**STEP  
4**

**RECEIVE A NOTIFICATION FROM ASSIST**



The above notification indicates that you should click on the link provided in your email account to confirm your complaint with ASSIST.

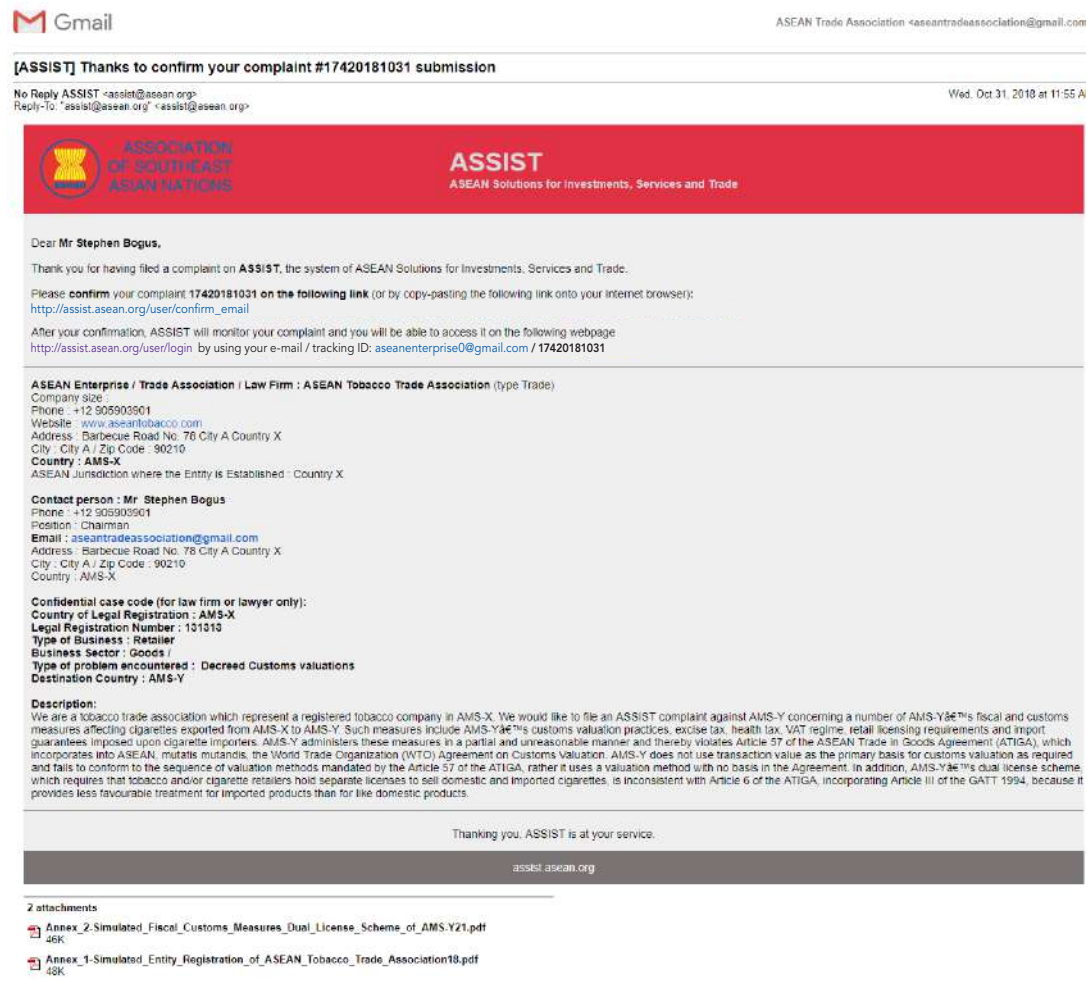


**STEP  
5**

**CONFIRM YOUR COMPLAINT FROM YOUR EMAIL ACCOUNT**

- (a) Go to the email account that you have provided in the complaint form. You will receive an email from ASSIST requesting you to confirm your complaint by clicking on the link provided or by copy-pasting the link onto the Internet browser. This is also required by ASSIST to confirm that the email address which you have provided is valid. Your complaint number is also provided in this email. In this case, your complaint number is **17420181031**.

Below is the email which you will receive from ASSIST.



**[ASSIST] Thanks to confirm your complaint #17420181031 submission**

No Reply ASSIST <assist@asean.org>  
Reply-To: assist@asean.org <assist@asean.org>

Wed, Oct 31, 2018 at 11:55 AM

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

Dear Mr Stephen Bogus,

Thank you for having filed a complaint on **ASSIST**, the system of ASEAN Solutions for Investments, Services and Trade.

Please **confirm** your complaint **17420181031** on the following link (or by copy-pasting the following link onto your internet browser):  
[http://assist.asean.org/user/confirm\\_email](http://assist.asean.org/user/confirm_email)

After your confirmation, ASSIST will monitor your complaint and you will be able to access it on the following webpage:  
<http://assist.asean.org/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / **17420181031**

**ASEAN Enterprise / Trade Association / Law Firm : ASEAN Tobacco Trade Association** (type Trade)  
Company size :  
Phone : +12 905903501  
Website : [www.asean.tobacco.com](http://www.asean.tobacco.com)  
Address : Barbecue Road No. 76 City A Country X  
City : City A / Zip Code : 90210  
Country : **AMS-X**  
ASEAN Jurisdiction where the Entity is Established : Country X

**Contact person : Mr Stephen Bogus**  
Phone : +12 905903501  
Position : Chairman  
Email : [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com)  
Address : Barbecue Road No. 78 City A Country X  
City : City A / Zip Code : 90210  
Country : **AMS-X**



**Confidential case code (for law firm or lawyer only):**  
Country of Legal Registration : **AMS-X**  
Legal Registration Number : 101010  
Type of Business : **Retailer**  
Business Sector : **Goods**  
Type of problem encountered : **Decreed Customs valuations**  
Destination Country : **AMS-Y**

**Description:**  
We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.

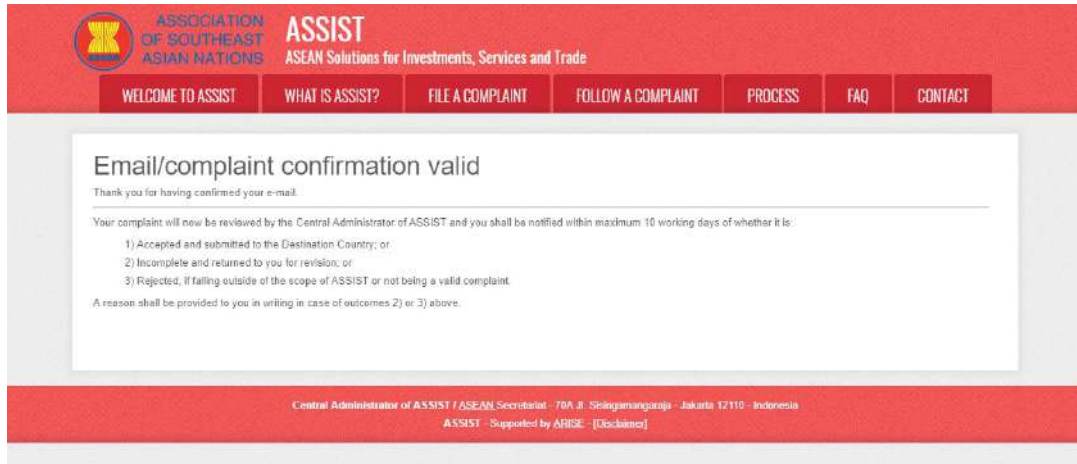
Thanking you, ASSIST is at your service.

[assist.asean.org](http://assist.asean.org)

2 attachments

-  **Annex\_2-Simulated\_Fiscal\_Customs\_Measures\_Dual\_License\_Scheme\_of\_AMS\_Y21.pdf**  
46K
-  **Annex\_1-Simulated\_Entity\_Registration\_of\_ASEAN\_Tobacco\_Trade\_Association18.pdf**  
48K

- (b) Click on the link as requested in the above email and the following page will appear.



The above notification will inform you that your complaint will be reviewed by the CA and that you will be notified by email within maximum 10 working days of whether it is:

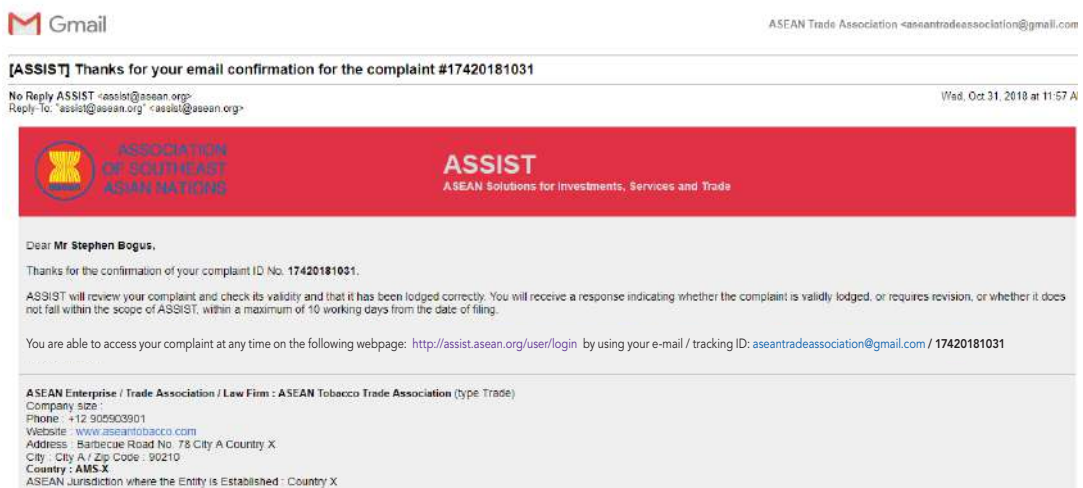
- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

Go to your email account.

**STEP  
6**

**RECEIVE AN EMAIL FROM ASSIST THAT YOUR EMAIL ADDRESS AND COMPLAINT IS VALID**

Go to your email account and you will see a new email from ASSIST. This email indicates you have confirmed your complaint, that the CA will check its validity, and that it has been filed within ASSIST. ASSIST will revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.



Contact person : Mr. Stephen Bogus  
 Phone : +12 905903901  
 Position : Chairman  
 Email : [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com)  
 Address : Barbecue Road No. 78 City A Country X  
 City : City A / Zip Code : 90210  
 Country : AMS-X



Confidential case code (for law firm or lawyer only):  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 131313  
 Type of Business : Retailer  
 Business Sector : Goods /  
 Type of problem encountered : Decreased Customs valuations  
 Destination Country : AMS-Y

Description:  
 We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.

Thanking you, ASSIST is at your service.

[assist.asean.org](http://assist.asean.org)

2 attachments

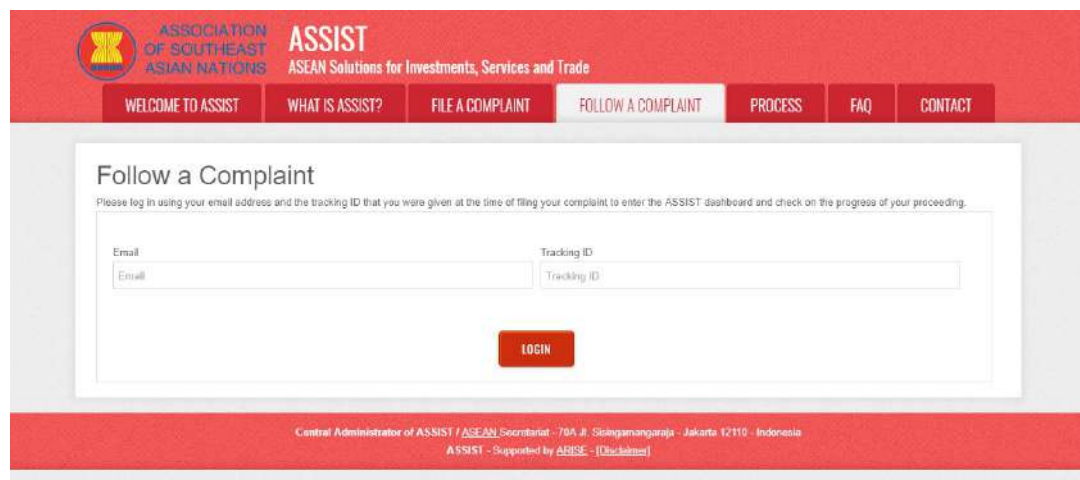
-  [Annex\\_2-Simulated\\_Fiscal\\_Customs\\_Measures\\_Dual\\_License\\_Scheme\\_of\\_AMS-Y21.pdf](#)  
46K
-  [Annex\\_1-Simulated\\_Entity\\_Registration\\_of\\_ASEAN\\_Tobacco\\_Trade\\_Association18.pdf](#)  
48K

As indicated in the above email, you are now able to monitor the progress by clicking on the indicated link which will be directed to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website.

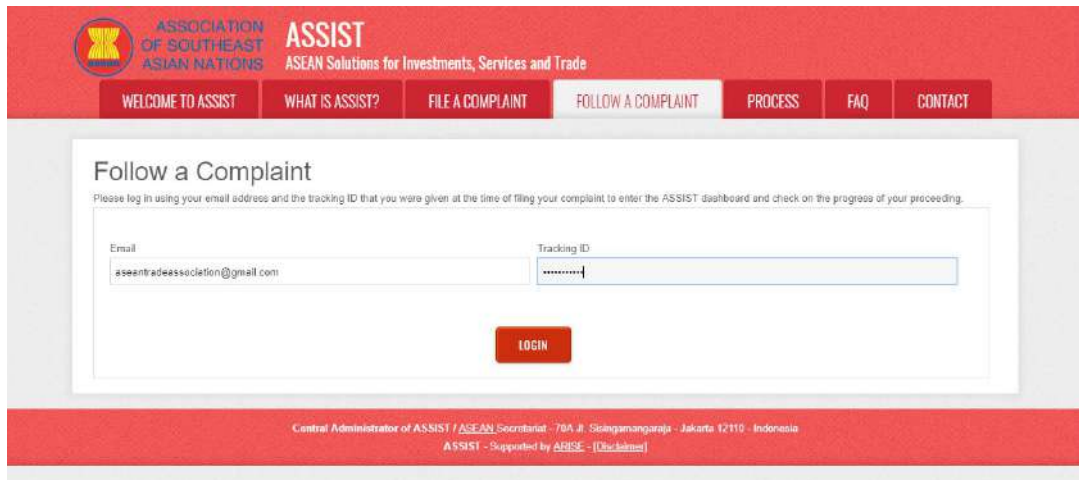
**STEP  
7**

**MONITOR THE PROGRESS OF YOUR COMPLAINT**

- (a) Go to the following link: <http://assist.asean.org/user/login> or go to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website. The below page will appear.

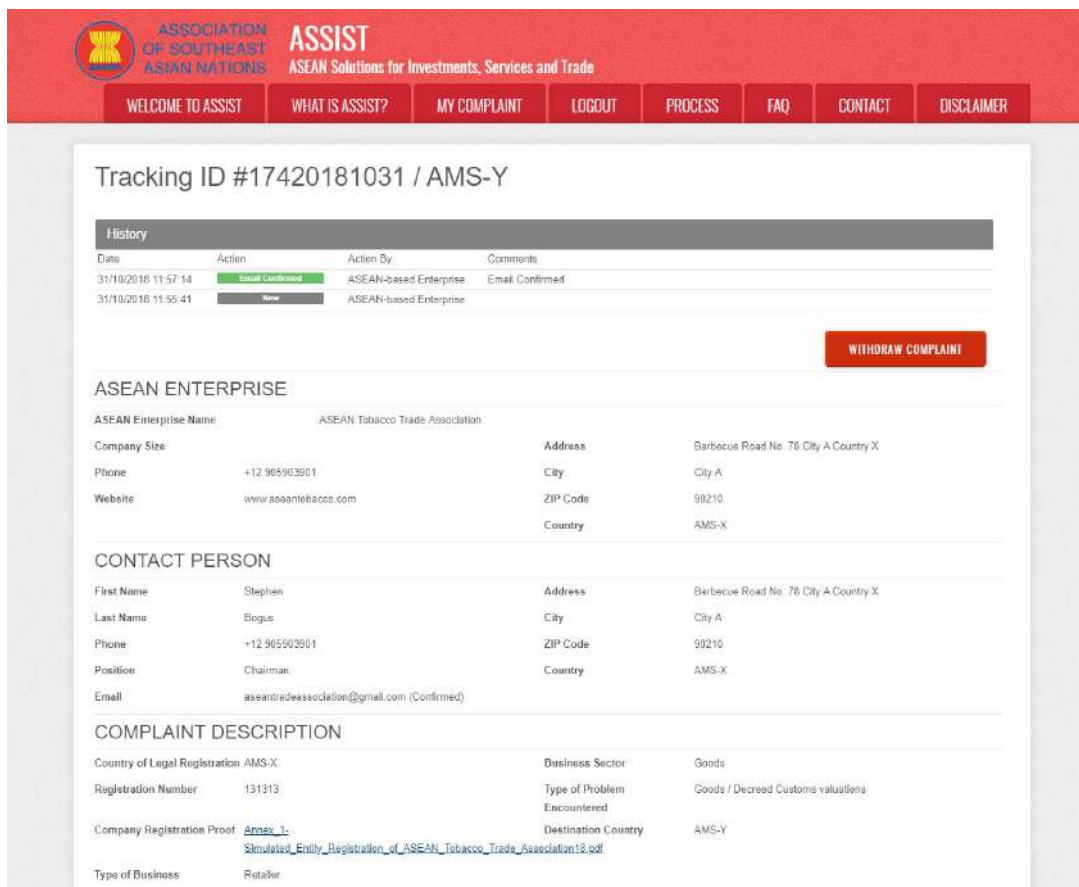


- (b) Enter your email address and tracking ID (your complaint number) in the required fields to login. In this case, the **Email Address** is [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com) and the **Tracking ID** is **17420181031**.



Once you login, you will see your ASSIST dashboard where you can monitor the progress of your complaint.

(c) View of your ASSIST Dashboard once you have successfully logged-in:



**Tracking ID #17420181031 / AMS-Y**

History			
Date	Action	Action By	Comments
31/10/2018 11:57:14	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
31/10/2018 11:55:41	New	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: ASEAN Tobacco Trade Association

Company Size		Address	Barbecue Road No. 78 City A Country X
Phone	+12 965903901	City	City A
Website	www.aseantobacco.com	ZIP Code	90210
		Country	AMS-X

**CONTACT PERSON**

First Name	Stephen	Address	Barbecue Road No. 78 City A Country X
Last Name	Bogus	City	City A
Phone	+12 965903901	ZIP Code	90210
Position	Chairman	Country	AMS-X
Email	aseantradeassociation@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	131313	Type of Problem	Goods / Decried Customs valuations
Company Registration Proof	<a href="#">Annex 1: Simulated Entity Registration of ASEAN Tobacco Trade Association18.pdf</a>	Destination Country	AMS-Y
Type of Business	Retailer		

Description	We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices: excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 67 of the ASEAN Trade In Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 67 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.
Attachment	<a href="#">Annex 2-Simulated Fiscal Customs Measures Dual License Scheme of AMS-Y21.pdf</a>

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

As you can see in your dashboard, the actions taken for your complaint are clearly indicated in your dashboard and this list will be regularly updated after each action is taken. Your completed complaint form, which you have submitted, is also accessible on your dashboard.

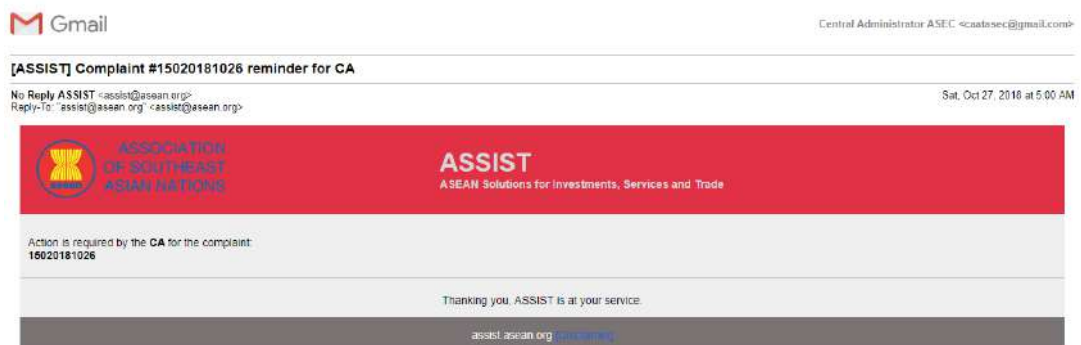
**STEP  
8**

**CENTRAL ADMINISTRATOR REVIEWS YOUR COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL (ACCEPT, INCOMPLETE, OR REJECT)**

Once the CA has completed reviewing your complaint and decided on whether to accept/incomplete/reject, an email will be sent to you typically within 10 working days since you lodged your complaint.

*If no action has been taken in the meantime by the CA, the CA will receive the below automatic reminder via email from the ASSIST online system within 7 calendar days after the complaint is lodged. As indicated above, the CA must decide to accept, declare incomplete and request revision, or reject the complaint within 10 working days.*

**Email Reminder 1 for the Central Administrator:**



The screenshot shows an email from the Central Administrator of ASSIST. The subject is "[ASSIST] Complaint #15020181026 reminder for CA". The email body contains the ASSIST logo and the text: "Action is required by the CA for the complaint: 15020181026". It concludes with "Thanking you, ASSIST is at your service" and the website "assist.asean.org".

Regularly check your email account within the 10 working days after lodging your complaint. You will eventually receive a new email from ASSIST.




ASEAN Trade Association <aseantradeassociation@gmail.com>

**[ASSIST] Your complaint #17420181031 is accepted by CA**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Wed, Oct 31, 2016 at 12:02 P



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

Dear Mr Stephen Bogus,

Your complaint ID No. 17420181031 has been accepted by ASSIST.

You are able to access your complaint at any time on the following webpage: <http://assist.asean.org/user/login> by using your **e-mail / tracking ID**.

Since your complaint has been accepted by ASSIST, the Destination Country will now be asked to review your complaint and either accept it, or reject it, or revert back to you with a request for more information within 10 working days from today.

You will be promptly notified of the response by the Destination Country through ASSIST.

---

**ASEAN Enterprise / Trade Association / Law Firm : ASEAN Tobacco Trade Association (Type: Trade)**  
 Company size :  
 Phone : +12 905903901  
 Website : [www.asean10tobacco.com](http://www.asean10tobacco.com)  
 Address : Barbecue Road No. 78 City A Country X  
 City : City A / Zip Code : 90210  
 Country : **AMS-X**  
 ASEAN Jurisdiction where the Entity is Established : Country X

**Contact person : Mr. Stephen Bogus**  
 Phone : +12 905903901  
 Position : Chairman  
 Email : [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com)  
 Address : Barbecue Road No. 78 City A Country X  
 City : City A / Zip Code : 90210  
 Country : AMS-X

**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 131313  
 Type of Business : Retailer  
 Business Sector : Goods /  
 Type of problem encountered : Decreased Customs valuations  
 Destination Country : AMS-Y

**Description:**  
 We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 67 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 67 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.

Thanking you, ASSIST is at your service.

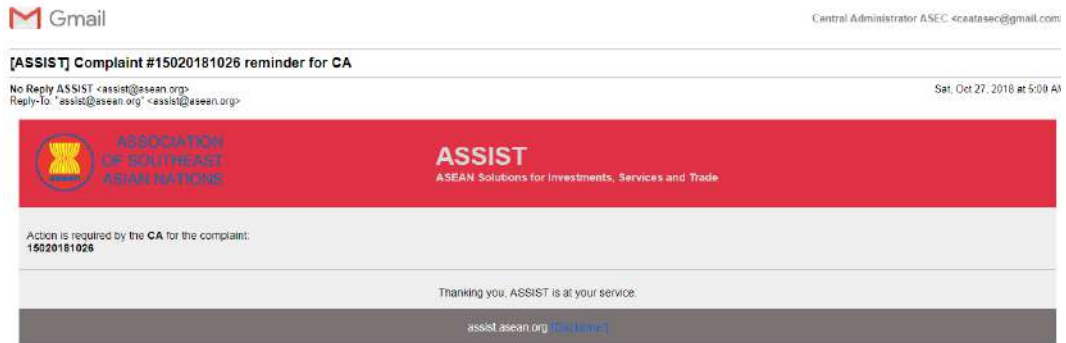
[assist.asean.org](http://assist.asean.org)

In this case, the above email shows that your complaint has been **accepted** by the CA. The email also informs you that your complaint will now be sent to the Destination Contact Point, which is the government agency (ASSIST Focal Point) in AMS-Y where you are facing trade problems and where your complaint is directed and a resolution is sought. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept, reject or revert back to you with a request for more information. This is intended to give time to the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities.

The Home Contact Point, which is the government agency (ASSIST Focal Point) in AMS-X (your home country) has also been notified that your complaint is lodged.

*If you do not receive an email from ASSIST within the required timeframe (10 working days since the complaint is lodged), then this means that the CA has an overdue action. The CA will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is required by the CA for the complaint. The CA will receive the email below:*

**Email Reminder 2 for the Central Administrator:**



**STEP 9**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR**

If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has **"Accepted"** your complaint.

**Tracking ID #17420181031 / AMS-Y**

History			
Date	Action	Action By	Comments
31/10/2018 12:02:33	Accepted	Central Administrator of ASSIST	Dear Mr Stephen Bogus,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your trade association's registration document which proves that you are an entity registered.
31/10/2018 11:57:14	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
31/10/2018 11:55:41	New	ASEAN-based Enterprise	

**WITHDRAW COMPLAINT**

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: ASEAN Tobacco Trade Association

Company Size		Address	Barbecue Road No. 76 City A Country X
Phone	+12 965903901	City	City A
Website	www.asean10tobacco.com	ZIP Code	90210
		Country	AMS-X

**CONTACT PERSON**

First Name	Stephen	Address	Barbecue Road No. 76 City A Country X
Last Name	Bogus	City	City A
Phone	+12 965903901	ZIP Code	90210
Position	Chairman	Country	AMS-X
Email	aseantradeassociation@gmail.com (Confirmed)		

COMPLAINT DESCRIPTION			
Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	131313	Type of Problem Encountered	Goods / Decreased Customs valuations
Company Registration Proof	<a href="#">Annex_1: Simulated_Entity_Registration_of_ASEAN_Tobacco_Trade_Association18.pdf</a>	Destination Country	AMS-Y
Type of Business	Retailer		
Description	<p>We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.</p>		
Attachment	<a href="#">Annex 2 Simulated Fiscal Customs Measures Dual License Scheme of AMS-Y21.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - TDA JI, Selegangmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

Click on the magnifying glass icon in the comments column. The full response from the CA will appear, as can be seen below:

Dear Mr Stephen Bogus,

Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your trade association's registration document which proves that you are an entity registered in AMS-X and you have also provided us with a copy of the AMS-Y fiscal and customs measures that are in violation of Article 57 of ATIGA, mutatis mutanda, the WTO Agreement on Customs Valuation as well as a detailed explanation of the AMS-Y dual license scheme on domestic and imported cigarettes sale, which is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994.

Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST.

We will forward your complaint to AMS-Y (Destination Contact Point). The Destination Contact Point will review your complaint and consult with the relevant national authorities, and will revert with a response within 10 working days on whether it has accepted or rejected your complaint.

You may monitor the progress on the handling of the complaint by login to your ASSIST Dashboard by using your Email/Tracking ID.

As informed in Step 8, once the complaint has been accepted by the CA, the complaint will be sent to the Destination Contact Point (DCP) in AMS-Y where you are facing trade problems. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept or reject it. This is intended to give time for the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities. Once the DCP responds, an email will be sent to you from ASSIST informing you whether your complaint has been accepted or rejected by the DCP in AMS-Y.

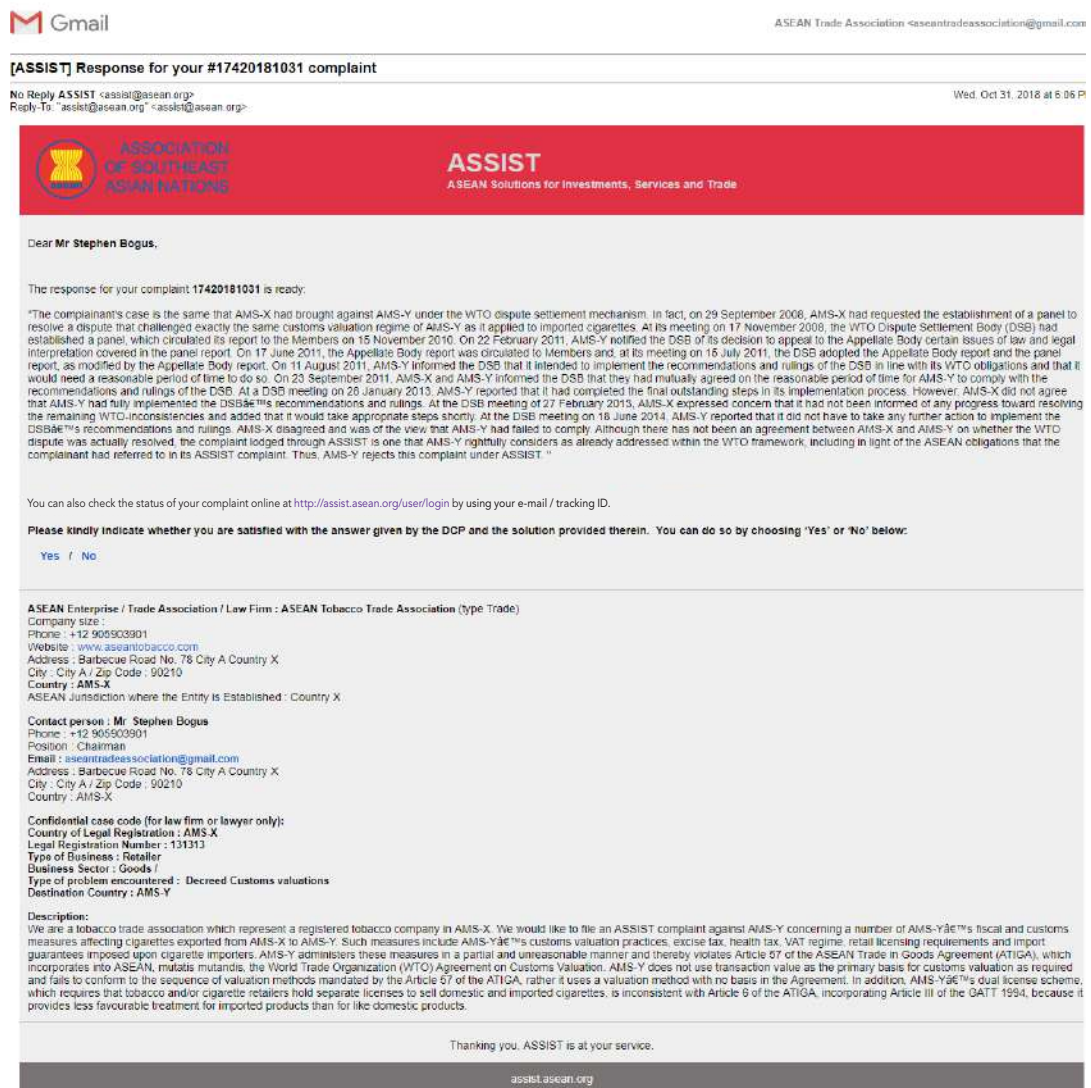
Regularly check your email account within the 10 working days after the response from the CA that your complaint is accepted. You will eventually receive a new email from ASSIST.



**STEP  
10**

**RECEIVE AN EMAIL NOTIFICATION FROM ASSIST THAT A RESPONSE TO YOUR COMPLAINT HAS BEEN PROVIDED BY AMS-Y AND ACCEPTED BY THE CENTRAL ADMINISTRATOR**

- (a) Go to your email account. You will receive a new email from ASSIST indicating the response to your complaint from the DCP. In this case, your complaint has been **rejected** by the DCP (AMS-Y).



**[ASSIST] Response for your #17420181031 complaint**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

ASEAN Trade Association <aseantradeassociation@gmail.com>  
Wed, Oct 31, 2018 at 6:06 PM

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

Dear Mr Stephen Bogus,

The response for your complaint **17420181031** is ready.

"The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2006, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to imported cigarettes. At its meeting on 17 November 2008, the WTO Dispute Settlement Body (DSB) had established a panel, which circulated its report to the Members on 15 November 2010. On 22 February 2011, AMS-Y notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the panel report. On 17 June 2011, the Appellate Body report was circulated to Members and, at its meeting on 15 July 2011, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report. On 11 August 2011, AMS-Y informed the DSB that it intended to implement the recommendations and rulings of the DSB in line with its WTO obligations and that it would need a reasonable period of time to do so. On 23 September 2011, AMS-X and AMS-Y informed the DSB that they had mutually agreed on the reasonable period of time for AMS-Y to comply with the recommendations and rulings of the DSB. At a DSB meeting on 20 January 2015, AMS-Y reported that it had completed the final outstanding steps in its implementation process. However, AMS-X did not agree that AMS-Y had fully implemented the DSB's recommendations and rulings. At the DSB meeting of 27 February 2019, AMS-X expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly. At the DSB meeting on 16 June 2014, AMS-Y reported that it did not have to take any further action to implement the DSB's recommendations and rulings. AMS-X disagreed and was of the view that AMS-Y had failed to comply. Although there has not been an agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved, the complaint lodged through ASSIST is one that AMS-Y rightfully considers as already addressed within the WTO framework, including in light of the ASEAN obligations that the complainant had referred to in its ASSIST complaint. Thus, AMS-Y rejects this complaint under ASSIST."

You can also check the status of your complaint online at <http://assist.asean.org/user/login> by using your e-mail / tracking ID.

Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below.

Yes / No

ASEAN Enterprise / Trade Association / Law Firm : ASEAN Tobacco Trade Association (type Trade)  
Company size :  
Phone : +12 90503901  
Website : [www.aseantobacco.com](http://www.aseantobacco.com)  
Address : Barbecue Road No. 78 City A Country X  
City : City A / Zip Code : 90210  
Country : AMS-X  
ASEAN Jurisdiction where the Entry is Established : Country X

Contact person : Mr Stephen Bogus  
Phone : +12 90503901  
Position : Chairman  
Email : [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com)  
Address : Barbecue Road No. 78 City A Country X  
City : City A / Zip Code : 90210  
Country : AMS-X

Confidential case code (for law firm or lawyer only):  
Country of Legal Registration : AMS X  
Legal Registration Number : 131313  
Type of Business : Retailer  
Business Sector : Goods  
Type of problem encountered : Decreed Customs valuations  
Destination Country : AMS-Y

Description:  
We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 67 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, *mutatis mutandis*, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 67 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.

Thanking you, ASSIST is at your service.

[assist.asean.org](http://assist.asean.org)

*The process is slightly different in cases where your complaint is accepted by the DCP. Within 10 working days after the response from the CA that your complaint is accepted, you will receive an email informing that your complaint has been accepted by the DCP in AMS-Y and that the DCP will coordinate with the competent national authorities or the Responsible Authorities (RAs) to analyse your complaint in detail.*

*Once the RAs complete their efforts, the DCP should review the solution and provide it to the CA within the 40 working days from the date of acceptance by the DCP. Thus, to meet this deadline, a time limit should be assigned by the DCP for the RAs to find a solution. It is the responsibility of the DCP to notify the CA of any change relating to the timeframe between it and national authorities.*

The CA may extend the deadline for up to 20 working days upon request of the DCP. The system will automatically notify when the deadlines are approaching (i.e., typically, 10 calendar days before the lapse). If the DCP misses its deadline to submit a solution to the CA, the online system will notify the CA to follow-up with the DCP.

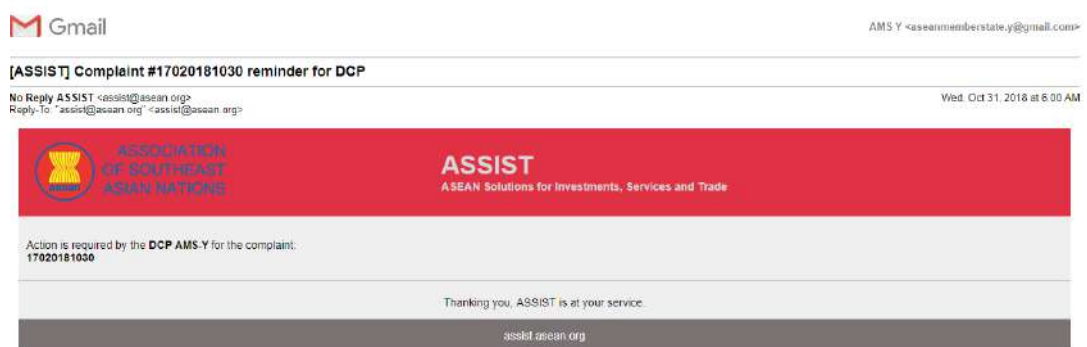
You will then receive a second email notification from ASSIST that a solution is proposed by the DCP/AMS-Y and accepted by the CA.

However, in cases such as this one, where a complaint is **"Rejected"** by the DCP, you may not receive an email from ASSIST within the 10 working days deadline. The rejection and reason for rejection by the DCP will only be sent to the CA through ASSIST within the 10 working days. The CA will then review it for language and sufficiency of information within 5 working days from the receipt by the CA of a rejection email by the DCP.

If the CA accepts the reason of rejection, a response which has been reviewed and approved by the CA is sent to your email, such as the one above. If the CA is dissatisfied with the stated reasons for the rejection by the DCP, the ASSIST system allows the CA to request the DCP to rectify the rejection. However, this option by the CA has no binding value on the DCP, and if no response within 5 working days, the online system will automatically circulate the rejection to the complainant.

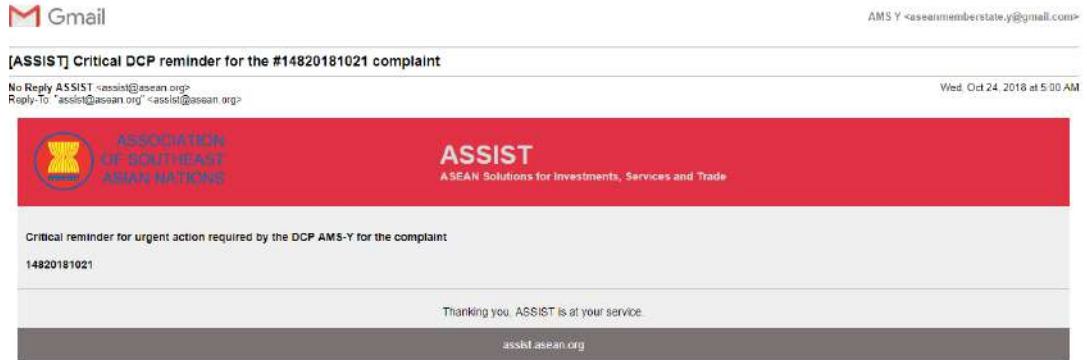
If no action has been taken in the meantime by the DCP, the DCP will receive the automatic reminder below via email from the ASSIST online system within 7 calendar days after the complaint has been accepted by the CA. As indicated above, the DCP must decide to accept or reject the complaint within 10 working days from when the CA has accepted the complaint.

*Email Reminder 1 for the Destination Contact Point:*



If you do not receive an email from ASSIST on the response by the DCP within the required timeframe (10 working days) after the complaint has been accepted by the CA, then this means that the DCP has an overdue action. The DCP will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is urgently required by the DCP for the complaint.

**Email Reminder 2 for the Destination Contact Point:**



(b) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that a solution for your complaint has been proposed. The complete ASSIST solution/response from the DCP, which has been accepted by the CA, is also provided in the first paragraph of your dashboard.

**Tracking ID #17420181031 / AMS-Y**

**ASSIST Solution**

The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to imported cigarettes. At its meeting on 17 November 2008, the WTO Dispute Settlement Body (DSB) had established a panel, which circulated its report to the Members on 15 November 2010. On 22 February 2011, AMS-Y notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the panel report. On 17 June 2011, the Appellate Body report was circulated to Members and, at its meeting on 15 July 2011, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report. On 11 August 2011, AMS-Y informed the DSB that it intended to implement the recommendations and rulings of the DSB in line with its WTO obligations and that it would need a reasonable period of time to do so. On 23 September 2011, AMS-X and AMS-Y informed the DSB that they had mutually agreed on the reasonable period of time for AMS-Y to comply with the recommendations and rulings of the DSB. At a DSB meeting on 26 January 2013, AMS-Y reported that it had completed the final outstanding steps in its implementation process. However, AMS-X did not agree that AMS-Y had fully implemented the DSB's recommendations and rulings. At the DSB meeting of 27 February 2013, AMS-X expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly. At the DSB meeting on 18 June 2014, AMS-Y reported that it did not have to take any further action to implement the DSB's recommendations and rulings. AMS-X disagreed and was of the view that AMS-Y had failed to comply. Although there has not been an agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved, the complaint lodged through ASSIST is one that AMS-Y rightfully considers as already addressed within the WTO framework, including in light of the ASEAN obligations that the complainant had referred to in its ASSIST complaint. Thus, AMS-Y rejects this complaint under ASSIST.

Attachment

History			
Date	Action	Action By	Comments
31/10/2018 18:06:17	Solution	Central Administrator of ASSIST	The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to...
31/10/2018 12:02:33	Accepted	Central Administrator of ASSIST	Dear Mr Stephen Bogus,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your trade association's registration document which proves that you are an entity registered...
31/10/2018 11:57:14	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
31/10/2018 11:55:41	Done	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: ASEAN Tobacco Trade Association

Company Size: [Blank]

Phone: +12 96503901

Website: www.aseantobacco.com

Address: Barbecue Road No. 79 City A Country X

City: City A

ZIP Code: 90210

Country: AMS-X

CONTACT PERSON			
First Name	Stephan	Address	Barbecue Road No. 70 City A Country X
Last Name	Bogus	City	City A
Phone	+12 905903901	ZIP Code	90210
Position	Chairman	Country	AMS-X
Email	aseantradeassociation@gmail.com (Confirmed)		
COMPLAINT DESCRIPTION			
Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	T31313	Type of Problem Encountered	Goods / Decreased Customs valuations
Company Registration Proof	<a href="#">Annex 1- Simulated Entry Registration of ASEAN Tobacco Trade Association10.pdf</a>	Destination Country	AMS-Y
Type of Business	Retailer		
Description	<p>We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.</p>		
Attachment	<a href="#">Annex 2-Simulated Fiscal Customs Measures Dual License Scheme of AMS-Y21.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

Below is the response from the DCP:

"The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to imported cigarettes. At its meeting on 17 November 2008, the WTO Dispute Settlement Body (DSB) had established a panel, which circulated its report to the Members on 15 November 2010. On 22 February 2011, AMS-Y notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the panel report. On 17 June 2011, the Appellate Body report was circulated to Members and, at its meeting on 15 July 2011, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report. On 11 August 2011, AMS-Y informed the DSB that it intended to implement the recommendations and rulings of the DSB in line with its WTO obligations and that it would need a reasonable period of time to do so. On 23 September 2011, AMS-X and AMS-Y informed the DSB that they had mutually agreed on the reasonable period of time for AMS-Y to comply with the recommendations and rulings of the DSB. At a DSB meeting on 28 January 2013, AMS-Y reported that it had completed the final outstanding steps in its implementation process.

However, AMS-X did not agree that AMS-Y had fully implemented the DSB's recommendations and rulings. At the DSB meeting of 27 February 2013, AMS-X expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly. At the DSB meeting on 18 June 2014, AMS-Y reported that it did not have to take any further action to implement the DSB's recommendations and rulings. AMS-X disagreed and was of the view that AMS-Y had failed to comply.

Although there has not been an agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved, the complaint lodged through ASSIST is one that AMS-Y rightfully considers as already addressed within the WTO framework, including in light of the ASEAN obligations that the complainant had referred to in its ASSIST complaint. Thus, AMS-Y rejects this complaint under ASSIST."

- (c) In the bottom of the email from ASSIST in 10 (a) above, you are requested to indicate whether you are satisfied or not with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' in the field provided.

Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:

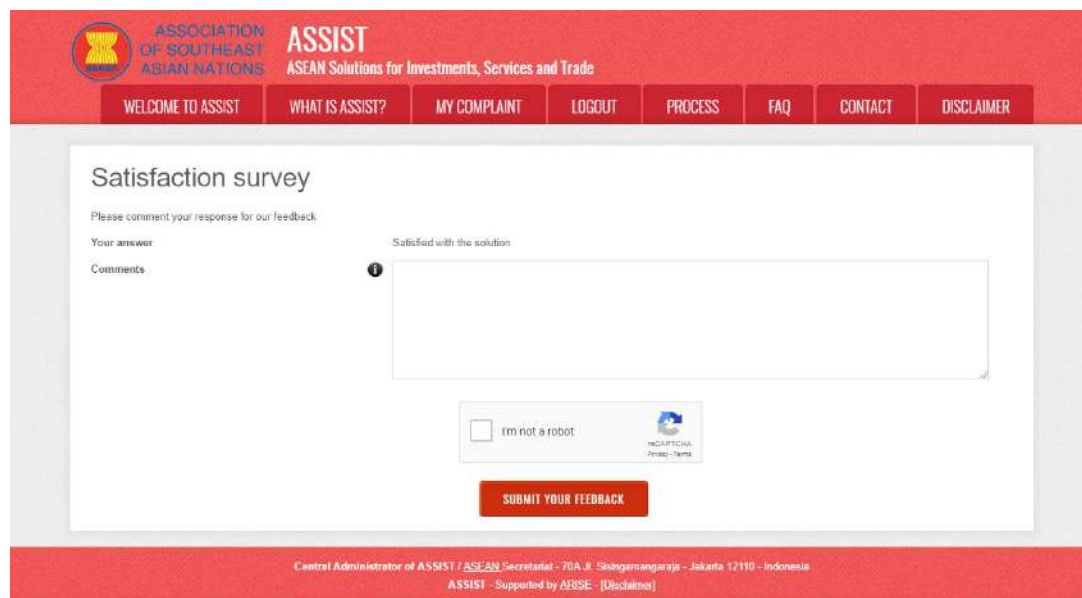
Yes /  No

In this case, the AE chooses "Yes".

**STEP  
11**

**PROVIDE YOUR FEEDBACK TO THE PROPOSED SOLUTION/RESPONSE PROVIDED BY AMS-Y IN THE SATISFACTION SURVEY AND RECEIVE ACKNOWLEDGEMENT EMAILS FROM ASSIST**

Once you choose 'Yes/No' in Step 10 (c) above, you will be directed to the page below where you will be requested to answer the Satisfaction Survey and be invited to provide comments, particularly if you are not satisfied with the proposed response/solution.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? MY COMPLAINT LOGOUT PROCESS FAQ CONTACT DISCLAIMER

**Satisfaction survey**

Please comment your response for our feedback.

Your answer Satisfied with the solution

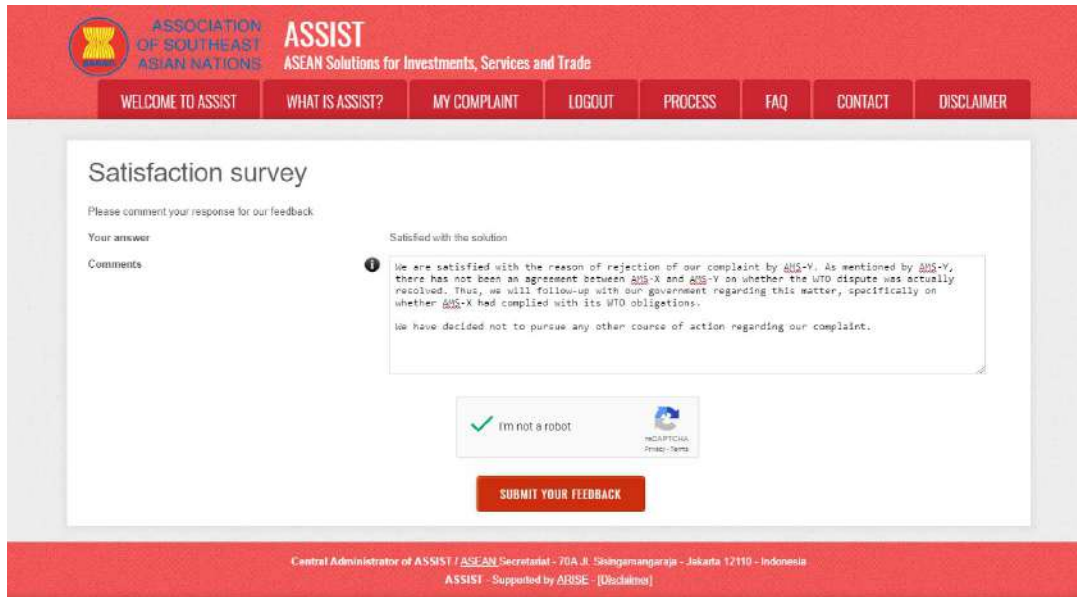
Comments

I'm not a robot

**SUBMIT YOUR FEEDBACK**

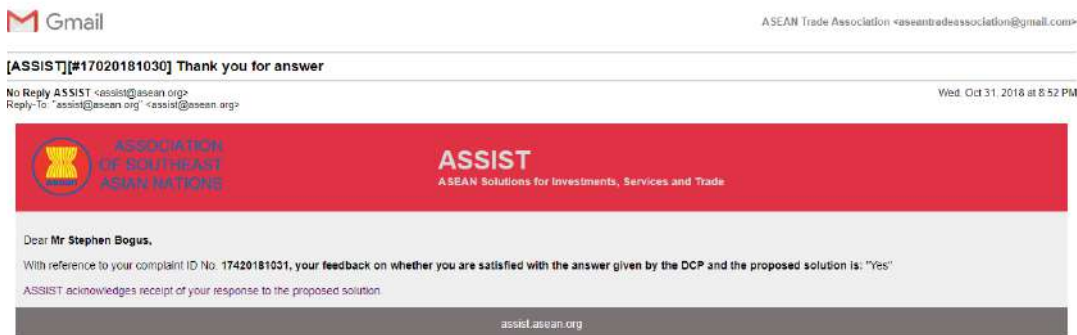
Central Administrator of ASSIST / ASEAN Secretariat - 70A, Jl. Siangmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARSE - [Disclaimer]

- (a) Fill-in the Satisfaction Survey. In this case, the ASEAN Trade Association is satisfied with the solution/response provided by ASSIST and thus indicates accordingly.



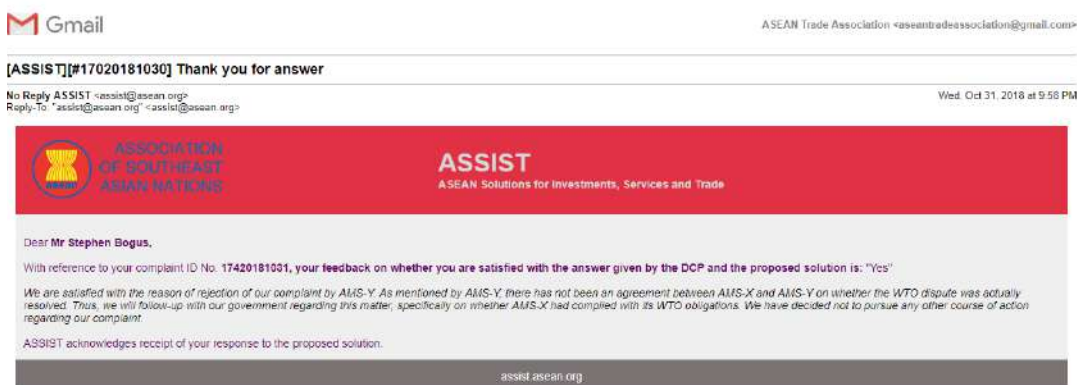
(b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

*First Acknowledgement Email from ASSIST*




*Second Acknowledgement Email from ASSIST*

*If you provided a comment on the Satisfaction Survey, you will receive a second email below, acknowledging receipt of your response to the proposed solution will be sent by ASSIST to you, the DCP and the HCP.*



- (c) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The final view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that you have indicated satisfaction to the proposed solution by ASSIST.



**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST
WHAT IS ASSIST?
MY COMPLAINT
LOGOUT
PROCESS
FAQ
CONTACT
DISCLAIMER

## Tracking ID #17420181031 / AMS-Y

**ASSIST Solution**

The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to imported cigarettes. At its meeting on 17 November 2008, the WTO Dispute Settlement Body (DSB) had established a panel, which circulated its report to the Members on 15 November 2010. On 22 February 2011, AMS-Y notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretation covered in the panel report. On 17 June 2011, the Appellate Body report was circulated to Members and, at its meeting on 15 July 2011, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report. On 11 August 2011, AMS-Y informed the DSB that it intended to implement the recommendations and rulings of the DSB in line with its WTO obligations and that it would need a reasonable period of time to do so. On 23 September 2011, AMS-X and AMS-Y informed the DSB that they had mutually agreed on the reasonable period of time for AMS-Y to comply with the recommendations and rulings of the DSB. At a DSB meeting on 28 January 2013, AMS-Y reported that it had completed the final outstanding steps in its implementation process. However, AMS-X did not agree that AMS-Y had fully implemented the DSB's recommendations and rulings. At the DSB meeting of 27 February 2013, AMS-X expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly. At the DSB meeting on 18 June 2014, AMS-Y reported that it did not have to take any further action to implement the DSB's recommendations and rulings. AMS-X disagreed and was of the view that AMS-Y had failed to comply. Although there has not been an agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved, the complaint lodged through ASSIST is one that AMS-Y rightfully considers as already addressed within the WTO framework, including in light of the ASEAN obligations that the complainant had referred to in its ASSIST complaint. Thus, AMS-Y rejects this complaint under ASSIST.

Attachment:

History			
Date	Action	Action By	Comments
31/10/2010 10:06:17	Satisfied	Central Administrator of ASSIST	The complainant's case is the same that AMS-X had brought against AMS-Y under the WTO dispute settlement mechanism. In fact, on 29 September 2008, AMS-X had requested the establishment of a panel to resolve a dispute that challenged exactly the same customs valuation regime of AMS-Y as it applied to. <span style="float: right; border: 1px solid red; border-radius: 50%; padding: 2px;">1</span>
31/10/2010 12:02:33	Received	Central Administrator of ASSIST	Dear Mr Stephen Bogus,
31/10/2010 11:57:14	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
31/10/2010 11:55:41	New	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name	ASEAN Tobacco Trade Association		
Company Size		Address	Barbecue Road No. 78 City A Country X
Phone	+12 965903901	City	City A
Website	www.aseantobacco.com	ZIP Code	90210
		Country	AMS-X

**CONTACT PERSON**

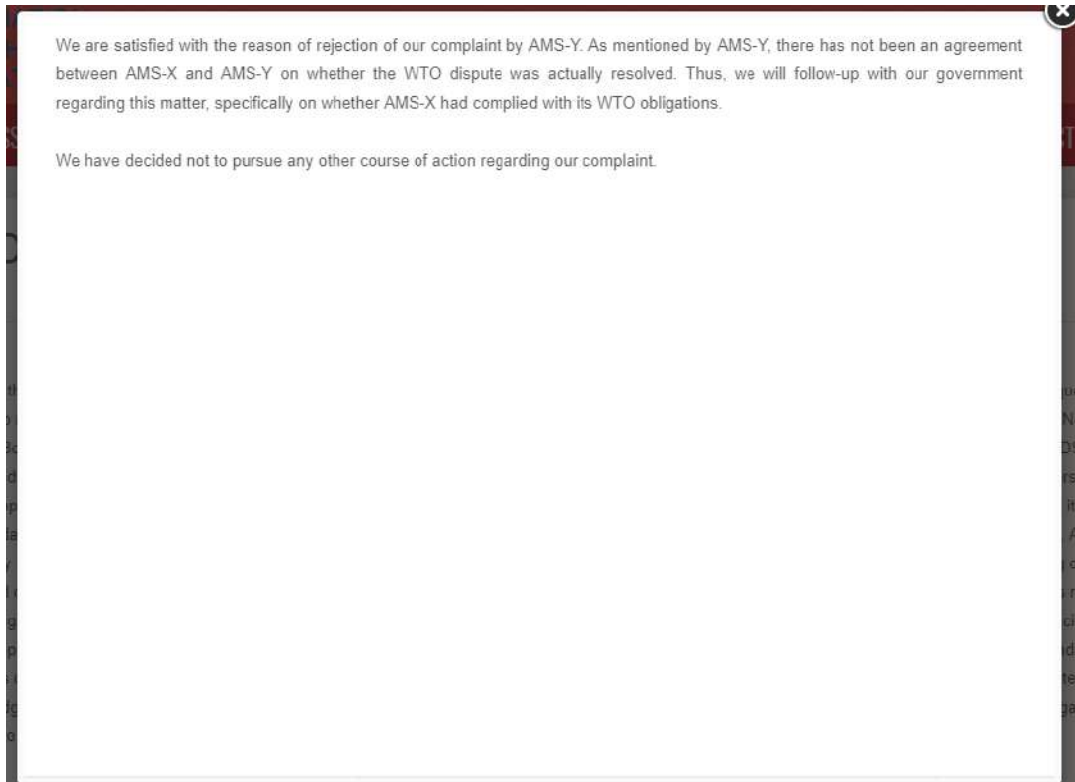
First Name	Stephen	Address	Barbecue Road No. 78 City A Country X
Last Name	Bogus	City	City A
Phone	+12 965903901	ZIP Code	90210
Position	Chairman	Country	AMS-X
Email	aseantradeassociation@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	131313	Type of Problem Encountered	Goods / Decreased Customs valuations
Company Registration Proof	<a href="#">Annex_1-Simulated_Entity_Registration_of_ASEAN_Tobacco_Trade_Association18.pdf</a>	Destination Country	AMS-Y
Type of Business	Retailer		
Description	We are a tobacco trade association which represent a registered tobacco company in AMS-X. We would like to file an ASSIST complaint against AMS-Y concerning a number of AMS-Y's fiscal and customs measures affecting cigarettes exported from AMS-X to AMS-Y. Such measures include AMS-Y's customs valuation practices, excise tax, health tax, VAT regime, retail licensing requirements and import guarantees imposed upon cigarette importers. AMS-Y administers these measures in a partial and unreasonable manner and thereby violates Article 57 of the ASEAN Trade in Goods Agreement (ATIGA), which incorporates into ASEAN, mutatis mutandis, the World Trade Organization (WTO) Agreement on Customs Valuation. AMS-Y does not use transaction value as the primary basis for customs valuation as required and fails to conform to the sequence of valuation methods mandated by the Article 57 of the ATIGA, rather it uses a valuation method with no basis in the Agreement. In addition, AMS-Y's dual license scheme, which requires that tobacco and/or cigarette retailers hold separate licenses to sell domestic and imported cigarettes, is inconsistent with Article 6 of the ATIGA, incorporating Article III of the GATT 1994, because it provides less favourable treatment for imported products than for like domestic products.		
Attachment	<a href="#">Annex_2-Simulated_Fiscal_Customs_Measures_Dual_License_Scheme_of_AMS-Y21.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - TRA, Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

- (d) If you would like to see the comment that you have provided in the Satisfaction Survey, click on the magnifying glass icon and the below screen will appear.



In cases where no solution is found through ASSIST or if the DCP finds sufficient basis that its RAs have complied with the relevant ASEAN commitments and that the complaint lacks merits, this finding and the basis for such finding is promptly conveyed to the CA, which informs the complainant accordingly. The complainant may, if so desired and through its Home Contact Point and ASEAN Member State of registration, refer the case to the ASEAN Compliance Body (ACB), the ASEAN Enhanced Dispute Settlement Mechanism (EDSM), pursue national litigation or alternative dispute resolution mechanisms (i.e. mediation, conciliation or arbitration) within national ASEAN jurisdictions.

**ASSIST will consider this procedure as one where the complaint was rejected and a solution has not been provided.**

**Please note that the timeframe for solving cross-border problems brought under ASSIST shall be no more than 40 working days or 2 calendar months (unless an extension of maximum 20 working days has been accorded) from the date in which the complaint is lodged.**





**Complaint Filed by an ASEAN Registered Lawyer or Law Firm on Behalf of its Client, an ASEAN Enterprise, Accepted by Central Administrator and Solution Proposed by Destination Contact Point and Accepted by ASEAN Enterprise.**

**Brief Description of Case:** This scenario is that of a complaint that is accepted by ASSIST's Central Administrator (CA) as having been validly lodged by an ASEAN Registered Lawyer/Law Firm (ASEAN Lawyer) on behalf of its client, the ASEAN Enterprise (AE), and also accepted by the Destination Country as an issue for which it is willing to engage with the ASEAN Lawyer through ASSIST, interact with the domestic Relevant National Authorities and provide a solution to the ASEAN Lawyer through ASSIST. In the case at stake, the Home Country is not actively involved, but all other possible steps in the ASSIST procedure, including the initial request by the CA for additional information from the ASEAN Lawyer, are simulated for purposes of reviewing a full-fledged ASSIST proceeding.

The complaint is in relation to the new excise duty imposed by the Destination Country on palm oil and

food products containing palm oil under its Ministry of Health's Regulation of 2015, Chapter 1000, Section 100. The measure adopted by the Destination Country introduced taxes on foods that are high in sugar and saturated fat, as part of a strategy for addressing the rising problem of obesity in the Destination Country. The ASEAN Lawyer claims that the Destination Country's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. The ASEAN Lawyer claims, in its ASSIST complaint, that the measure adopted and applied by the Destination Country is contrary to Article 6 of the ASEAN Trade in Goods Agreement (ATIGA) (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in the Destination Country (i.e., food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).

**List of Actors and Abbreviations:**

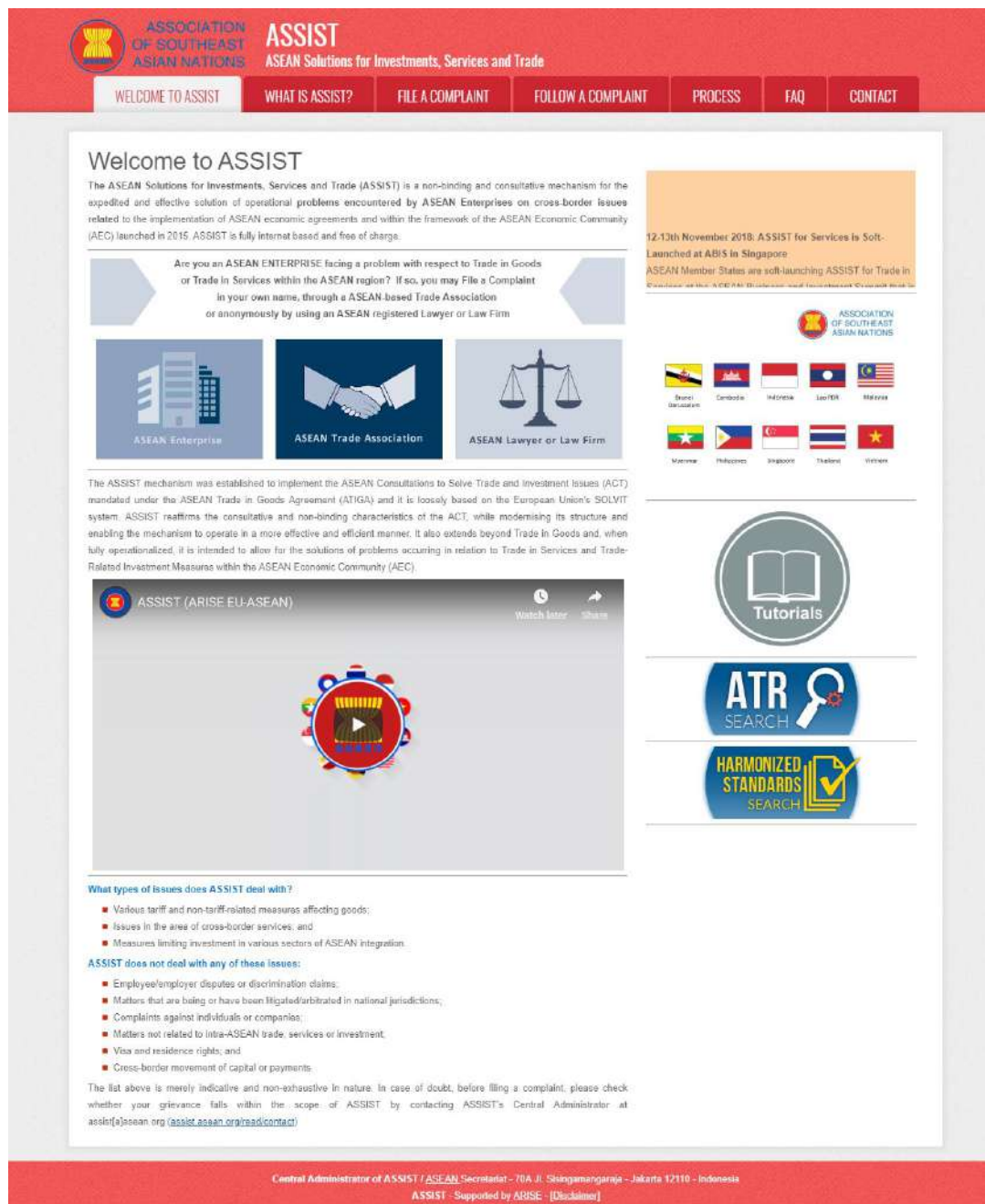
- Complainant = ASEAN Lawyer or Law Firm
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant National Authorities = Relevant Authorities (RAs)

**STEP 1**

**GO TO THE ASSIST WEBSITE (HTTP://ASSIST.ASEAN.ORG)**

If you feel that your case is a problem on an ASEAN cross-border trade related issue, you are a business registered in an ASEAN Member State, and you would like a free of charge, non-binding, consultative service, and receive an expedited and effective solution, go to the following link: <http://assist.asean.org>.

Below is the homepage of ASSIST.

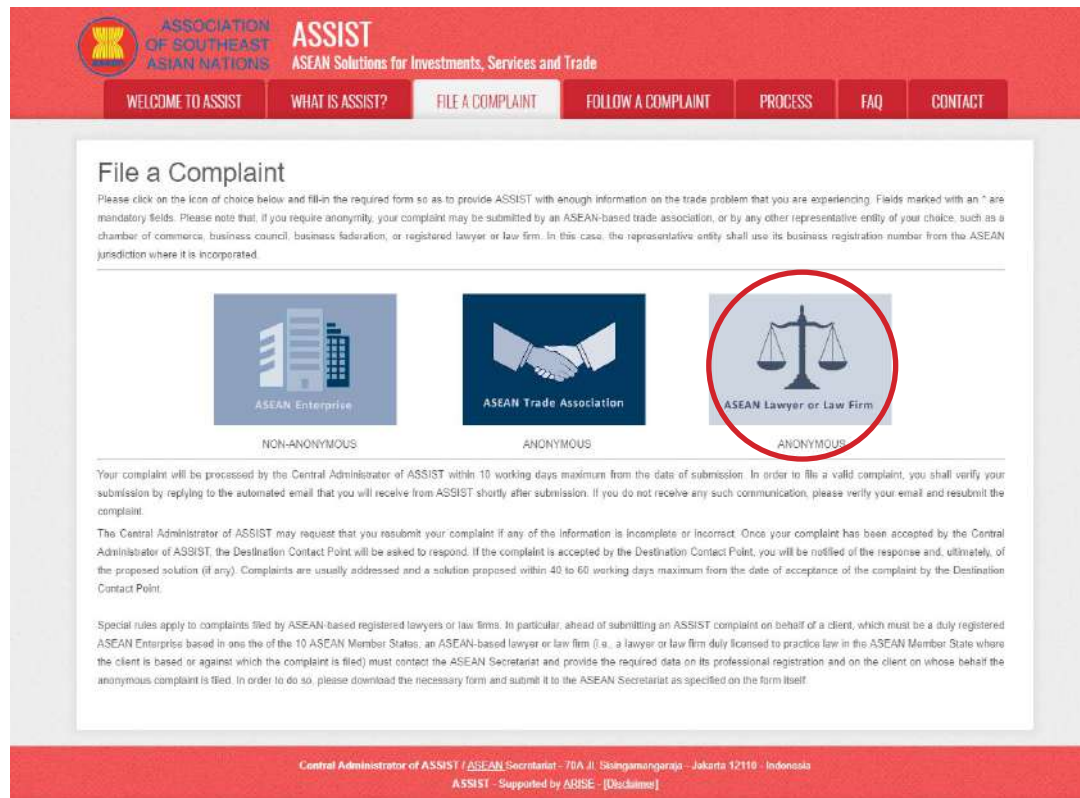


The screenshot shows the ASSIST website homepage. At the top, there is a navigation menu with the following items: WELCOME TO ASSIST, WHAT IS ASSIST?, FILE A COMPLAINT, FOLLOW A COMPLAINT, PROCESS, FAQ, and CONTACT. The main content area features a 'Welcome to ASSIST' section with a brief description of the service. Below this, there are three icons representing 'ASEAN Enterprise', 'ASEAN Trade Association', and 'ASEAN Lawyer or Law Firm'. A central text box asks: 'Are you an ASEAN ENTERPRISE facing a problem with respect to Trade in Goods or Trade in Services within the ASEAN region? If so, you may File a Complaint in your own name, through a ASEAN-based Trade Association or anonymously by using an ASEAN registered Lawyer or Law Firm'. To the right, there is a section titled '12-13th November 2018: ASSIST for Services is Soft-Launched at ABS in Singapore' with a list of ASEAN member states represented by their flags: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. Below this, there are three circular icons for 'Tutorials', 'ATR SEARCH', and 'HARMONIZED STANDARDS SEARCH'. At the bottom, there is a list of 'What types of issues does ASSIST deal with?' and 'ASSIST does not deal with any of these issues:'. The footer contains the contact information for the Central Administrator of ASSIST and a disclaimer.

**STEP 2**




**SELECT THE 'FILE A COMPLAINT' TAB (ASEAN LAWYER OR LAW FIRM)**

- (a) If you are an ASEAN registered lawyer or law firm filing a complaint on behalf of your client (i.e. the ASEAN Enterprise having the trade problem) and duly licensed to practice law in the ASEAN Member State where your client is based or against which the complaint is filed, click on the 'ASEAN Lawyer or Law Firm' icon on the 'File a Complaint' tab.



**File a Complaint**

Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields. Please note that, if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.

NON-ANONYMOUS      ANONYMOUS      ANONYMOUS

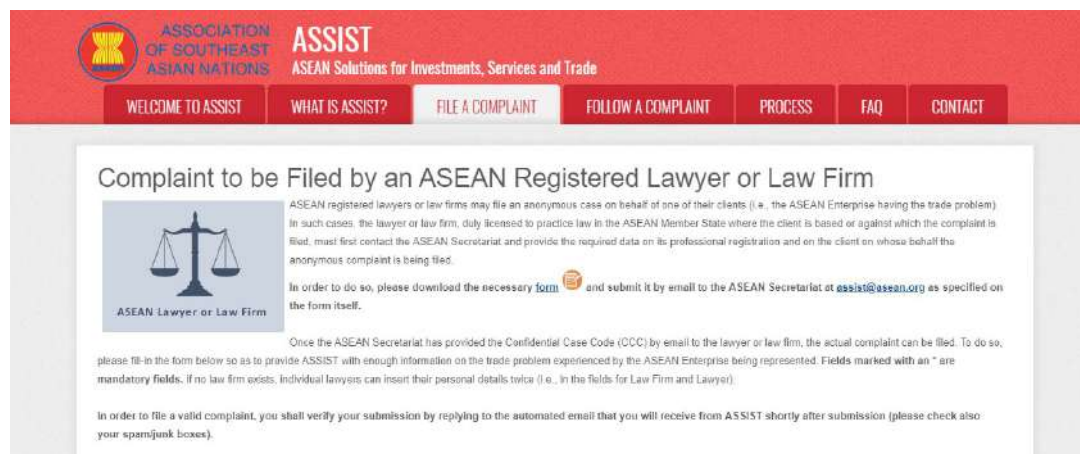
Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you do not receive any such communication, please verify your email and resubmit the complaint.

The Central Administrator of ASSIST may request that you resubmit your complaint if any of the information is incomplete or incorrect. Once your complaint has been accepted by the Central Administrator of ASSIST, the Destination Contact Point will be asked to respond. If the complaint is accepted by the Destination Contact Point, you will be notified of the response and, ultimately, of the proposed solution (if any). Complaints are usually addressed and a solution proposed within 40 to 60 working days maximum from the date of acceptance of the complaint by the Destination Contact Point.

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN Enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. In order to do so, please download the necessary form and submit it to the ASEAN Secretariat as specified on the form itself.


Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [Disclaimer]

- (b) When you click on the 'ASEAN Lawyer or Law Firm' icon, the following page will appear.



**Complaint to be Filed by an ASEAN Registered Lawyer or Law Firm**

ASEAN registered lawyers or law firms may file an anonymous case on behalf of one of their clients (i.e., the ASEAN Enterprise having the trade problem). In such cases, the lawyer or law firm, duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed, must first contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is being filed.

In order to do so, please download the necessary form  and submit it by email to the ASEAN Secretariat at [assist@asean.org](mailto:assist@asean.org) as specified on the form itself.

Once the ASEAN Secretariat has provided the Confidential Case Code (CCC) by email to the lawyer or law firm, the actual complaint can be filed. To do so, please fill in the form below so as to provide ASSIST with enough information on the trade problem experienced by the ASEAN Enterprise being represented. Fields marked with an \* are mandatory fields. If no law firm exists, Individual lawyers can insert their personal details twice (i.e., in the fields for Law Firm and Lawyer).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please check also your spam/junk boxes).

### LAW FIRM

\* Law Firm Name

\* Phone

Website

\* Address

210 characters remaining (300 maximum)

\* City  ZIP Code

\* Country

\* ASEAN Jurisdiction(s) where Local Office(s) is(are) Established

---

### LAWYER

\* Gender  Mr  Mrs  Ms

\* First Name  \* Last Name

\* Phone

\* Position

\* Email

Address

330 characters remaining (300 maximum)

City  ZIP Code

ASEAN Jurisdiction(s) where Admitted to Practice Law

---

### COMPLAINT DESCRIPTION

\* Confidential Case Code

\* Country of Legal Registration

\* Legal Registration Number

\* Registration Proof  No file chosen

\* Type of Business

\* Business Sector

- Services Sector Description

\* Type of Problem Encountered

\* Destination Country


\* Description

5100 characters remaining (5000 maximum)

Attachment  No file chosen

I have read and accept the [ASSIST rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved

I'm not a robot 

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - 70A-II, Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE [Disclaimer]

(c) As an ASEAN registered lawyer or law firm, you need to file the complaint in your own name and/ or your law firm's name as the identity of your client is kept anonymous. In order to do so, you must follow the instructions in the above page. First, you must download the necessary form to fill-in and submit to the ASEAN Secretariat, as specified on the form itself.

When you click on the 'round orange' icon in the above page, the following form will be downloaded on your computer.

**STEP  
3**

**DOWNLOAD THE "ANONYMOUS" COMPLAINT FORM FROM THE 'COMPLAINT TO BE FILED BY AN ASEAN REGISTERED LAWYER OR LAW FIRM' PAGE**

**Form to be used by ASEAN-based Lawyers or Law Firms  
to file an 'anonymous' complaint on behalf of an ASEAN Enterprise**

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. [assist@asean.org](mailto:assist@asean.org)

**LAWYER**

- Gender:
- First Name:
- Last Name:
- Title/Position:
- Address:
- Zip code: City:
- Phone: E-mail:
- ASEAN Jurisdiction(s) where Admitted to Practice Law (country):

**LAW FIRM**

- Name:
- Address:
- Zip code: City:
- Phone: E-mail:
- Website:
- ASEAN Jurisdiction(s) where Local Office(s) is(are) Established (country):

**PROFESSIONAL LICENCE**

Please attach the Professional Licence (e.g., issued by the Government, Lawyers' Bar, Law Society, declaration by Attorney General's Chamber, etc.) for the individual lawyer showing the ability to practice law in the relevant ASEAN jurisdiction(s). Should there be no such Professional Licence, a sworn declaration should be submitted by the Lawyer or Law Firm indicating that the individual Lawyer is admitted to practice law in the relevant ASEAN jurisdiction(s). The document can be attached in PDF format in the original language. If the original language is other than English, an unofficial translation into English should also be attached and submitted to the ASEAN Secretariat.

**DETAILS OF ASEAN ENTERPRISE**

- ASEAN Enterprise Name:
- Company Size:
- Address:
- Zip code: City:
- Phone: E-mail:
- Website:
- Country of Legal Registration:
- Registration Number:
- Company Registration Proof: *To be attached to the email*

Fill-in the above form and submit it by email to the ASEAN Secretariat at [assist@asean.org](mailto:assist@asean.org), as specified on the form itself. Please also submit the following required data along with the form: (i) your professional registration/licence document (if original language is not English, then an unofficial translation into English should also be attached) and (ii) the company registration document of the client (an ASEAN Enterprise) on whose behalf the anonymous complaint is filed.

**STEP  
4**

**FILL-IN THE "ANONYMOUS" COMPLAINT FORM**

Fill in the downloaded form. Below is an example of a completed form for this specific case study.

**Form to be used by ASEAN-based Lawyers or Law Firms  
to file an 'anonymous' complaint on behalf of an ASEAN Enterprise**

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. [assist@asean.org](mailto:assist@asean.org)

**LAWYER**

- Gender: Female
- First Name: Sierra
- Last Name: Riviera
- Title/Position: Senior Associate
- Address: Danube Street No. 13
- Zip code: 12310 City: P
- Phone: +36 7878137686 E-mail: [aseanlawyer0@gmail.com](mailto:aseanlawyer0@gmail.com)
- ASEAN Jurisdiction(s) where Admitted to Practice Law (country): Country X

**LAW FIRM**

- Name: ARISE & Partners
- Address: Danube Street No. 13
- Zip code: 12310 City: P
- Phone: +36 1 7653572 E-mail: [aseanlawyer0@gmail.com](mailto:aseanlawyer0@gmail.com)
- Website: [www.arise&partners.com](http://www.arise&partners.com)
- ASEAN Jurisdiction(s) where Local Office(s) is(are) Established (country): Country X

**PROFESSIONAL LICENCE**

Please attach the Professional Licence (e.g., issued by the Government, Lawyers' Bar, Law Society, declaration by Attorney General's Chamber, etc.) for the individual lawyer showing the ability to practice law in the relevant ASEAN jurisdiction(s). Should there be no such Professional Licence, a sworn declaration should be submitted by the Lawyer or Law Firm indicating that the individual Lawyer is admitted to practice law in the relevant ASEAN jurisdiction(s). The document can be attached in PDF format in the original language. If the original language is other than English, an unofficial translation into English should also be attached and submitted to the ASEAN Secretariat.

*Professional Licence is attached as Annex 0.*

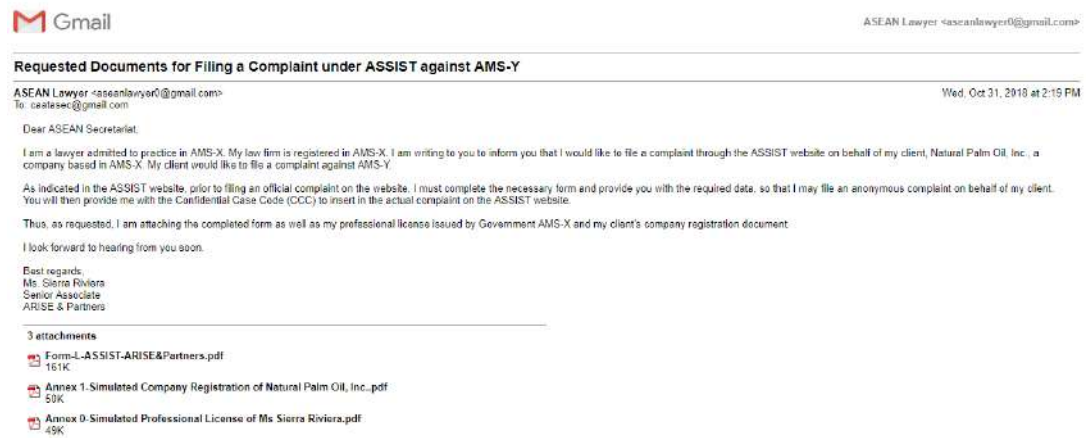
**DETAILS OF ASEAN ENTERPRISE**

- ASEAN Enterprise Name: Natural Palm Oil Inc.
- Company Size: 150
- Address: Sweet Lane No. 22, Chocolate Boulevard
- Zip code: 13150 City: P
- Phone: +36 1 726 5977 E-mail: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)
- Website: [www.naturalpalmoil.com](http://www.naturalpalmoil.com)
- Country of Legal Registration: Country X
- Registration Number: 123456789
- Company Registration Proof: *Attached as Annex 1*

**STEP  
5**

**SEND THE COMPLETED FORM TO THE ASSIST CENTRAL ADMINISTRATOR/ASEAN SECRETARIAT BY EMAIL**

As specified in the form, send the completed form to the ASEAN Secretariat/ASSIST Central Administrator at [assist@asean.org](mailto:assist@asean.org), along with the other required documents as indicated in Step 3 above. Below is an example of an email sent from the ASEAN Lawyer to the ASEAN Secretariat for this specific case study.

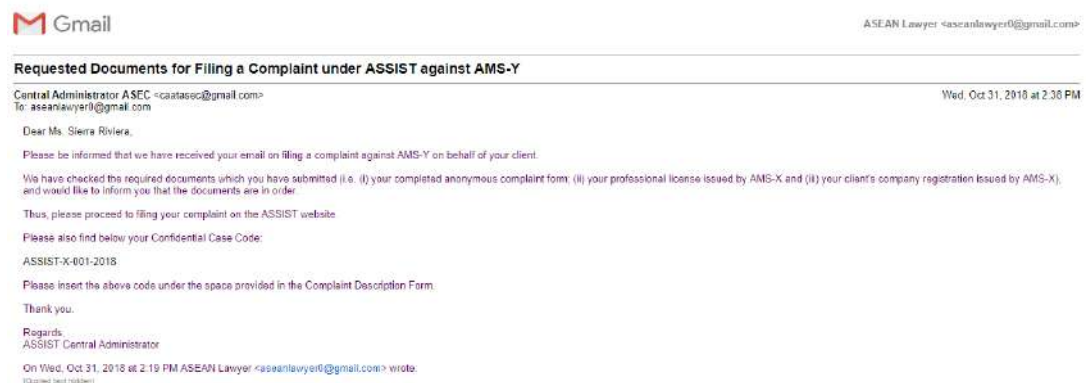


**STEP  
6**

**RECEIVE A RESPONSE FROM THE ASEAN SECRETARIAT/CENTRAL ADMINISTRATOR IN YOUR EMAIL ACCOUNT**

(a) The ASEAN Secretariat/CA will reply to your email to inform you of whether the documents that you have submitted meet the requirements and are complete or not. In the example below, the ASEAN Lawyer has submitted all the necessary documents.

The ASEAN Secretariat/CA will also provide you with a Confidential Case Code to insert in the actual complaint form on the ASSIST website.



(b) Once the ASEAN Secretariat has provided you with the Confidential Case Code (CCC) and informed you that you may proceed in filing the actual complaint, go to the ASSIST webpage again and select the 'File a Complaint' Tab (ASEAN Lawyer or Law Firm). The blank complaint form in Step 2 (b) will appear again. In this case, your CCC is **ASSIST-X-001-2018**.

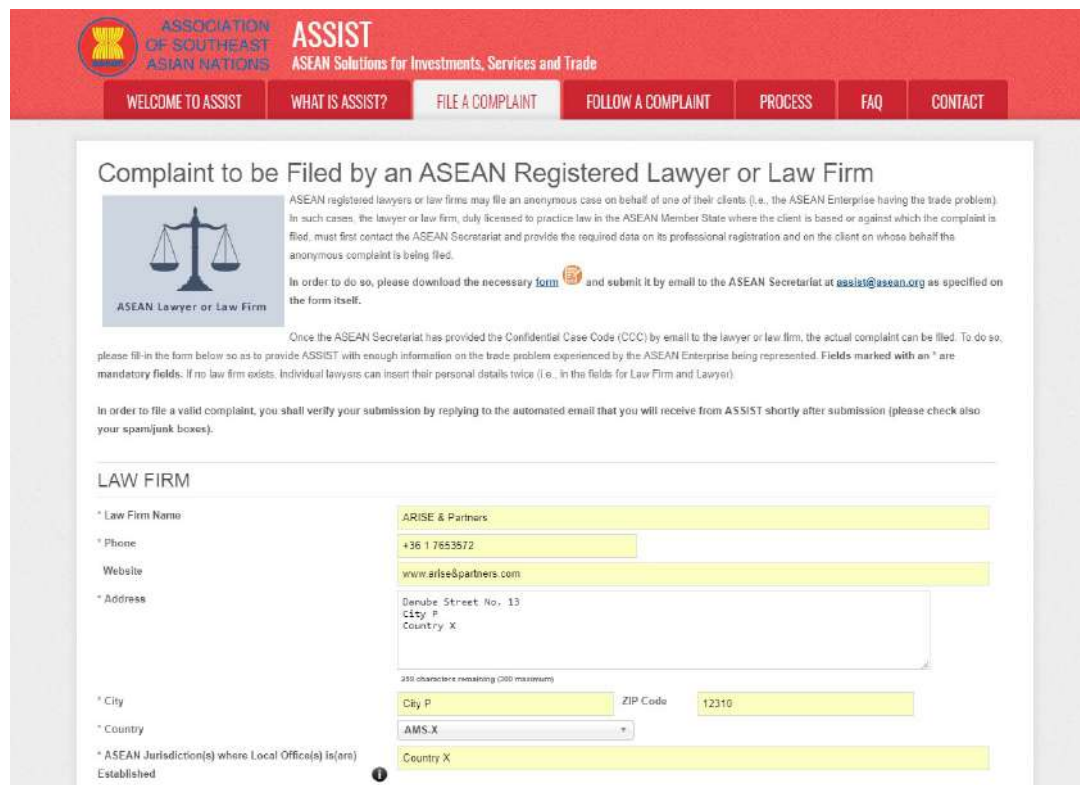
**STEP  
7**

**FILL-IN THE 'COMPLAINT TO BE FILED BY AN ASEAN REGISTERED LAWYER OR LAW FIRM' FORM**

Fill-in the blank form in Step 2(b) so as to provide ASSIST with enough information on the trade problem that your client is experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in for each field. Please click on the **i** buttons to make sure that you fill-in the correct information in the form. If no law firm exists, individual lawyers can insert their personal details twice (i.e., in the fields for Law Firm and Lawyer).

It is extremely important that you properly fill-in the 'Description' field. The CA will need to verify that the description given in the complaint is sufficient to clearly identify the problem in the context of the specific subject agreement(s). Thus, please carefully layout your complaint with legal arguments and factual evidence to help the CA in deciding whether to approve your complaint.

Below is an example of a completed form for this specific case study.



**Complaint to be Filed by an ASEAN Registered Lawyer or Law Firm**

ASEAN registered lawyers or law firms may file an anonymous case on behalf of one of their clients (i.e., the ASEAN Enterprise having the trade problem). In such cases, the lawyer or law firm, duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed, must first contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is being filed.

In order to do so, please download the necessary [form](#) and submit it by email to the ASEAN Secretariat at [assist@asean.org](mailto:assist@asean.org) as specified on the form itself.

Once the ASEAN Secretariat has provided the Confidential Case Code (CCC) by email to the lawyer or law firm, the actual complaint can be filed. To do so, please fill-in the form below so as to provide ASSIST with enough information on the trade problem experienced by the ASEAN Enterprise being represented. Fields marked with an \* are mandatory fields. If no law firm exists, individual lawyers can insert their personal details twice (i.e., in the fields for Law Firm and Lawyer).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please check also your spam/junk boxes).

**LAW FIRM**

\* Law Firm Name: ARISE & Partners

\* Phone: +36 1 7653572

Website: www.arisepartners.com

\* Address: Denebe Street No. 13  
City P  
Country X

250 characters remaining (260 maximum)

\* City: City P ZIP Code: 12310

\* Country: AMS.X

\* ASEAN Jurisdiction(s) where Local Office(s) is(are) Established: Country X



### LAWYER

\* Gender:  Mr  Mrs  Ms

\* First Name:  \* Last Name:

\* Phone:

\* Position:

\* Email:

Address:

City:  ZIP Code:

ASEAN Jurisdiction(s) where Admitted to Practice Law:

---

### COMPLAINT DESCRIPTION

\* Confidential Case Code:

\* Country of Legal Registration:

\* Legal Registration Number:

\* Registration Proof:

\* Type of Business:

\* Business Sector:

\* Services Sector Description:

\* Type of Problem Encountered:

\* Destination Country:

\* Description:

Attachment:

I have read and accept the [ASSIST rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot

Central Administrator of ASSIST / ASEAN Secretariat - 70A-Jl. Sisirgamanegara - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE - [Disclaimer]

As an example of a clear and concise description of the complaint, below is the description for this specific case study:

"We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y.

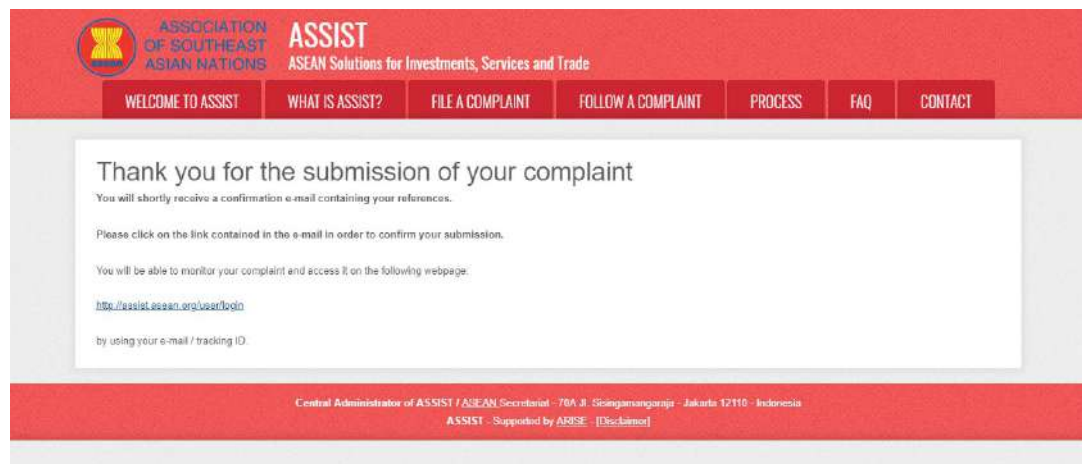
We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats.

Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (i.e., food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat)."

When the complaint is filed by clicking the 'Submit Your Complaint' tab, the following page in Step 8 will appear.

**STEP  
8**

**RECEIVE A NOTIFICATION FROM ASSIST**



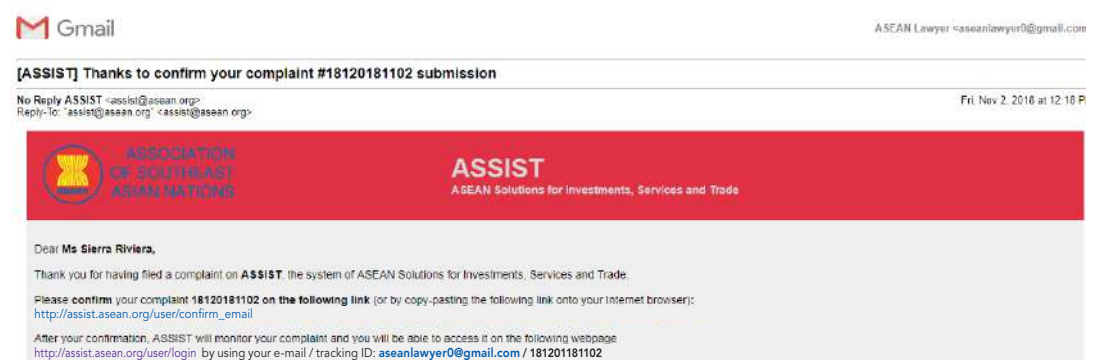
The above notification indicates that you should click on the link provided in your email account to confirm your complaint with ASSIST.

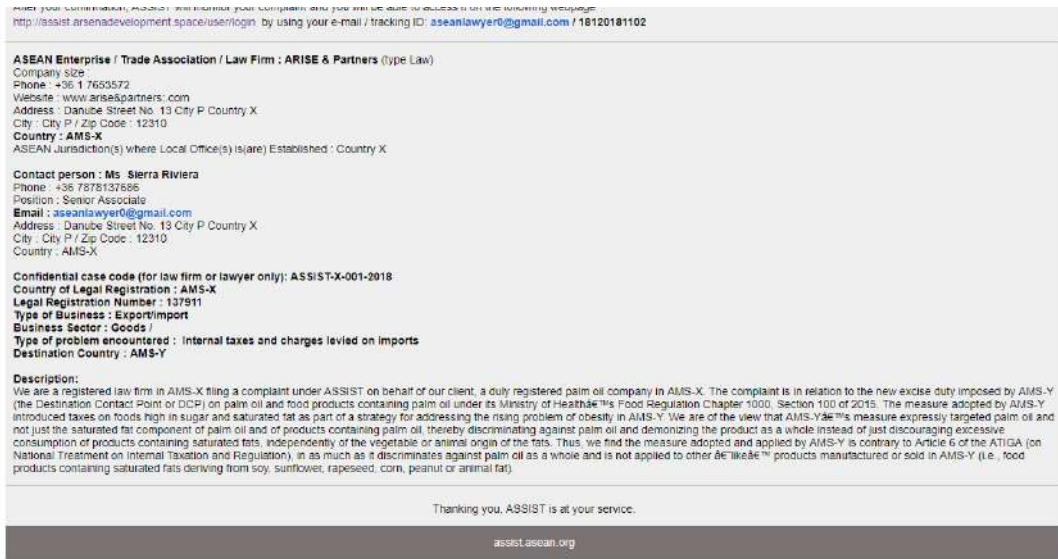
**STEP  
9**

**CONFIRM YOUR COMPLAINT FROM YOUR EMAIL ACCOUNT**

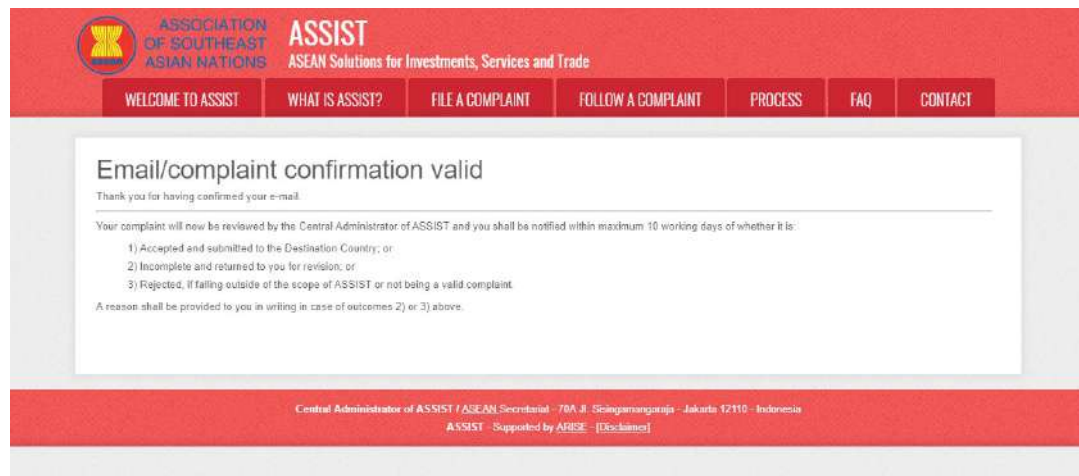
- (a) Go to the email account that you have provided in the complaint form. You will receive an email from ASSIST requesting you to confirm your complaint by clicking on the link provided or by copy-pasting the link onto the Internet browser. This is also required by ASSIST to confirm that the email address which you have provided is valid. Your complaint number is also provided in this email. In this case, your complaint number is **18120181102**.

Below is the email which you will receive from ASSIST.





(b) Click on the link as requested in the above email and the following page will appear.



The above notification will inform you that your complaint will be reviewed by the CA and that you will be notified by email within maximum 10 working days of whether it is:

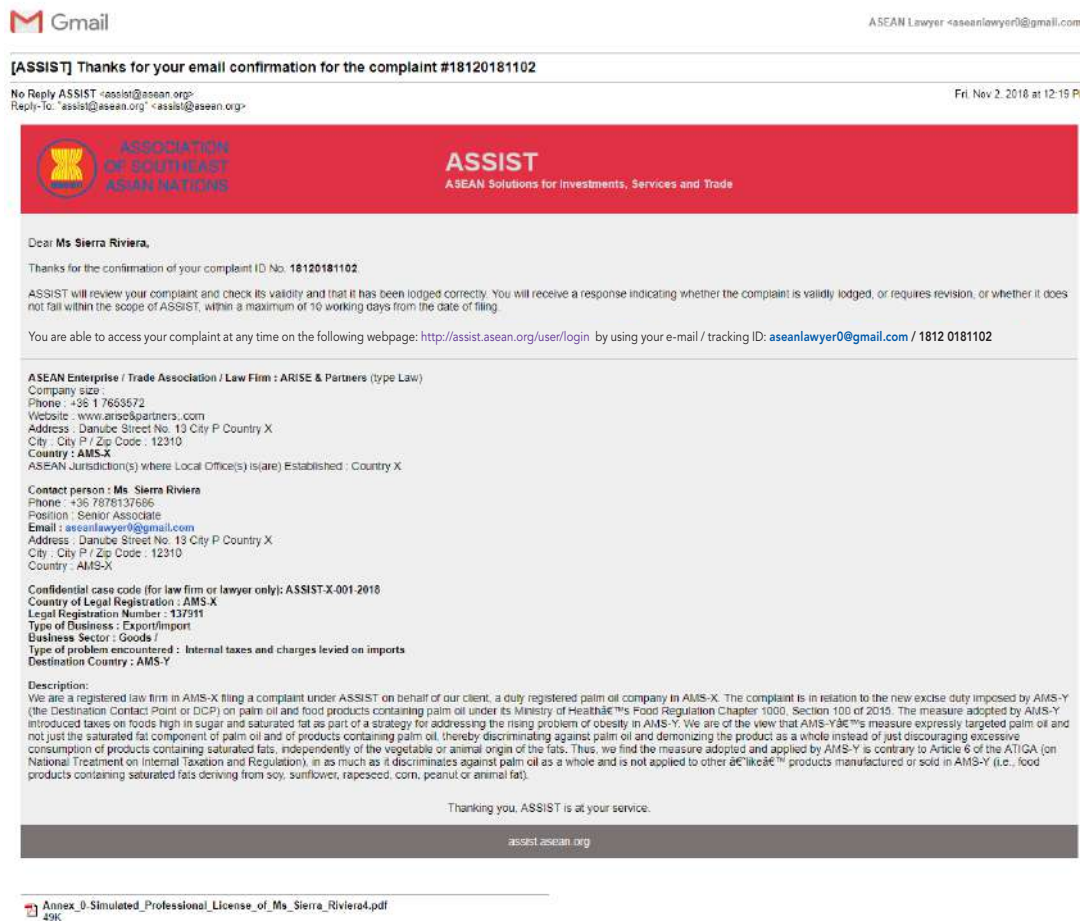
- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

Go to your email account.

**STEP  
10**

**RECEIVE AN EMAIL FROM ASSIST THAT YOUR EMAIL ADDRESS AND COMPLAINT IS VALID**

Go to your email account and you will see a new email from ASSIST. This email indicates that you have confirmed your complaint, that the CA will check its validity, and that it has been filed within ASSIST. ASSIST will revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.

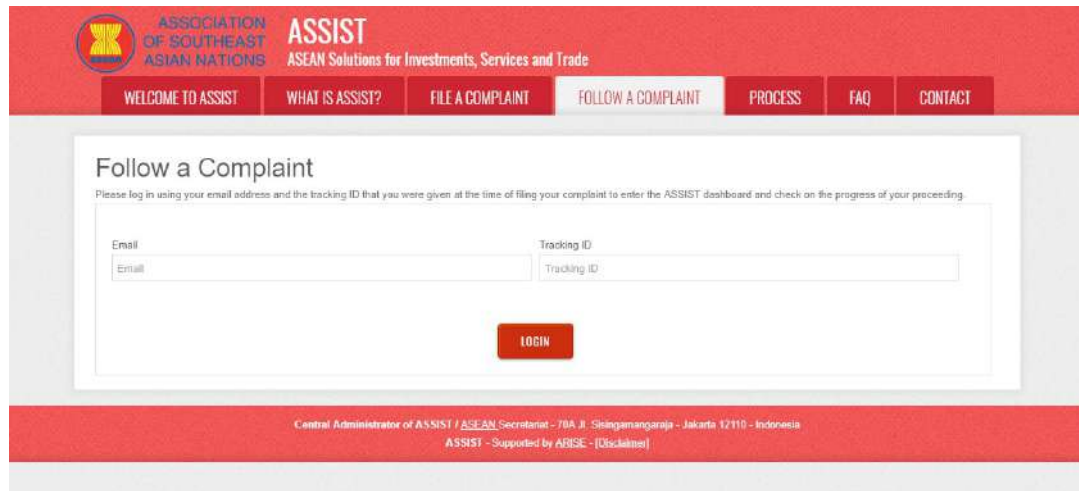


As indicated in the above email, you are now able to monitor the progress by clicking on the indicated link which will be directed to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website.

**STEP  
11**

**MONITOR THE PROGRESS OF YOUR COMPLAINT**

- (a) Go to the following link: <http://assist.asean.org/user/login> or go to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website. The below page will appear.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Follow a Complaint

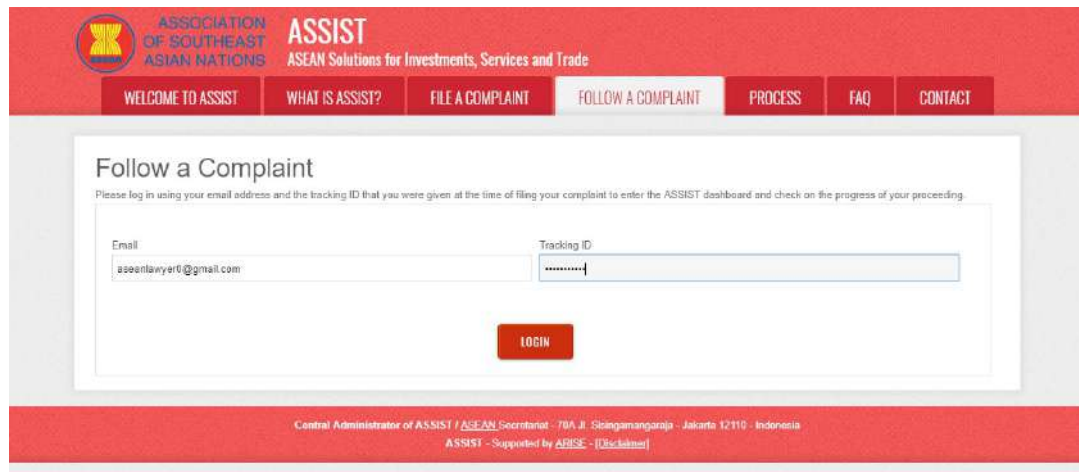
Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.

Email  Tracking ID

**LOGIN**

Central Administrator of ASSIST / ASEAN Secretariat - TBA II, Sisingamangaraja - Jakarta 12115 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

(b) Enter your email address and tracking ID (your complaint number) in the required fields to login. In this case, the **Email Address** is [aseanlawyer0@gmail.com](mailto:aseanlawyer0@gmail.com) and the **Tracking ID** is **18120181102**.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Follow a Complaint

Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.

Email  Tracking ID

**LOGIN**

Central Administrator of ASSIST / ASEAN Secretariat - TBA II, Sisingamangaraja - Jakarta 12115 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

Once you login, you will see your ASSIST dashboard where you can monitor the progress of your complaint.

(c) View of your ASSIST Dashboard once you have successfully logged-in:



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? MY COMPLAINT LOGOUT PROCESS FAQ CONTACT DISCLAIMER

### Tracking ID #18120181102 / AMS-Y

History			
Date	Action	Action By	Comments
02/11/2018 12:19:35	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
02/11/2018 12:18:02	New	ASEAN-based Enterprise	

[WITHDRAW COMPLAINT](#)

### ASEAN ENTERPRISE

ASEAN Enterprise Name: ARISE & Partners			
Company Size		Address	Danube Street No. 13 City P. Country X
Phone	+36 1 7653572	City	City P.
Website	www.arise&partners.com	ZIP Code	12310
		Country	AMS-X

### CONTACT PERSON

First Name	Sierra	Address	Danube Street No. 13 City P. Country X
Last Name	Riviera	City	City P.
Phone	+36 7678137686	ZIP Code	12310
Position	Senior Associate	Country	AMS-X
Email	aseanlawyer@gmail.com (Confirmed)		

### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	137911	Type of Problem Encountered	Goods / Internal taxes and charges levied on imports
Company Registration Proof	<a href="#">Annex II - Simulated Professional License of Ms Sierra Riviera.pdf</a>	Destination Country	AMS-Y
Type of Business	Export/Import		
Description	<p>We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1090, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment an Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (i.e. food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).</p>		
Attachment			

Central Administrator of ASSIST / ASEAN Secretariat - TPA Jl. Setiabudi - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE - [Disclaimer]

As you can see in your dashboard, the actions taken for your complaint are clearly indicated in your dashboard and this list will be regularly updated after each action is taken. Your completed complaint form which you have submitted is also accessible on your dashboard.

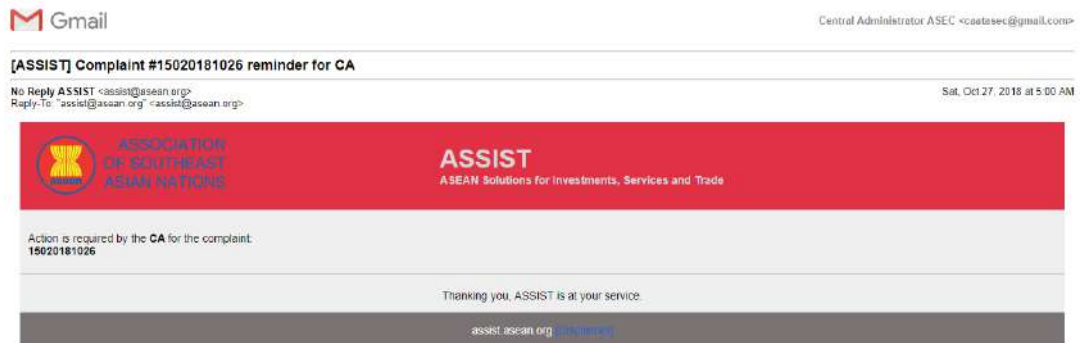
**STEP  
12**

**CENTRAL ADMINISTRATOR REVIEWS YOUR COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL (ACCEPT, INCOMPLETE, OR REJECT)**

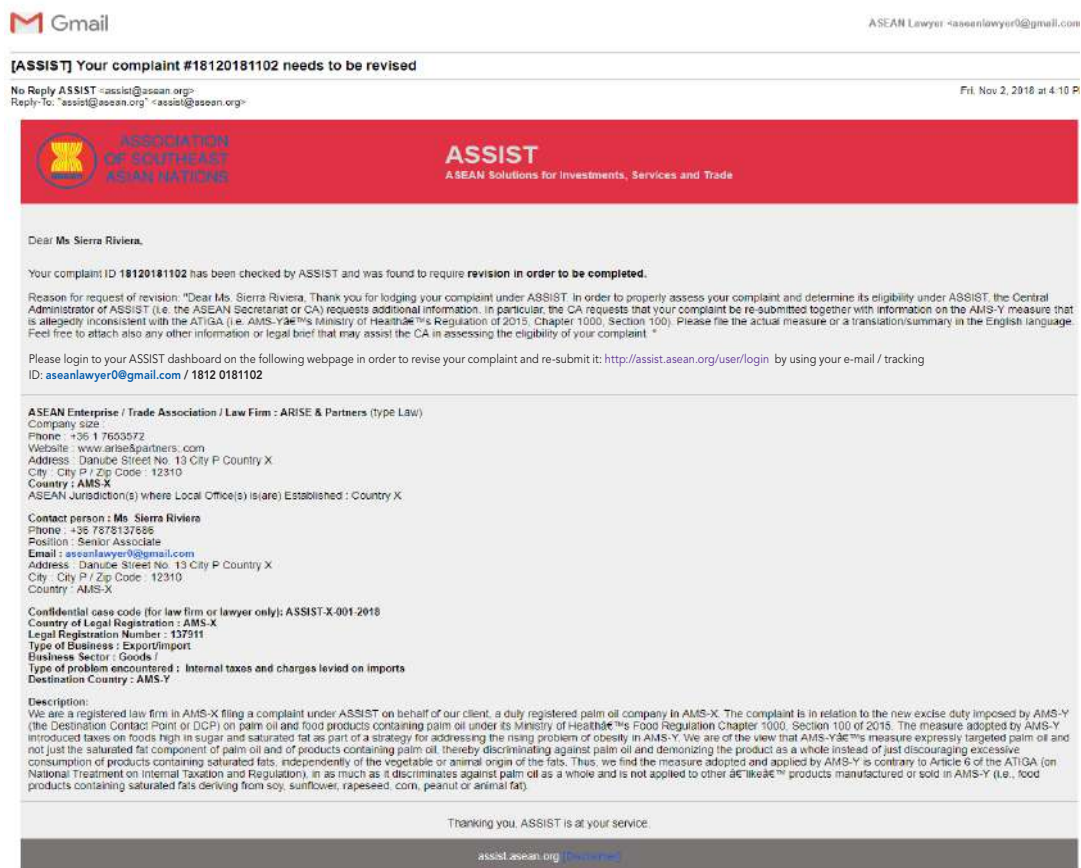
Once the CA has completed reviewing your complaint and decided on whether to accept/incomplete/reject, an email will be sent to you typically within 10 working days since you lodged your complaint.

*If no action has been taken in the meantime by the CA, the CA will receive the below automatic reminder via email from the ASSIST online system within 7 calendar days after the complaint is lodged. As indicated above, the CA must decide to accept, declare incomplete and request revision, or reject the complaint within 10 working days.*

**Email Reminder 1 for the Central Administrator:**



Regularly check your email account within the 10 working days after lodging your complaint. You will eventually receive a new email from ASSIST.

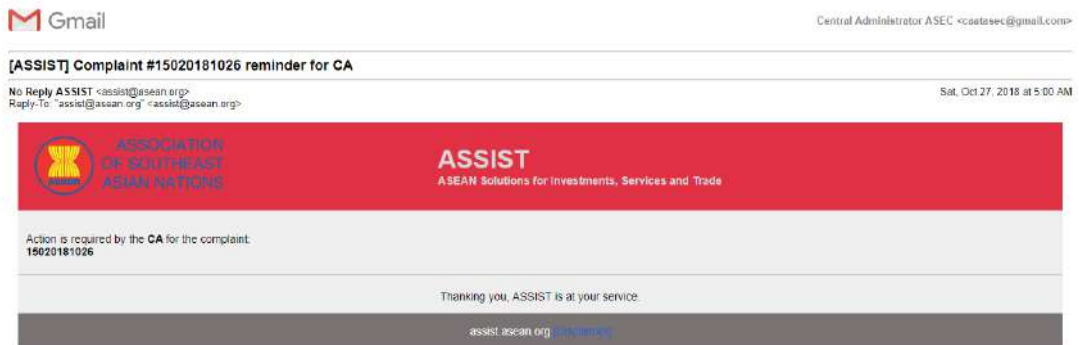


In this case, the CA reviews the form and finds that it is **incomplete**. CA requires additional information from you as you have only submitted your Professional Licence document. Thus, CA sends an email response to you requesting you to re-submit the complaint by attaching AMS-Y's regulation or measure that is at issue along with a legal brief detailing out your allegations and the arguments that you believe should be taken into consideration for purposes of accepting the complaint and possibly providing a solution.

As indicated in the above email, in order to revise your complaint and re-submit it, you will need to login to your ASSIST dashboard.

If you do not receive an email from ASSIST within the required timeframe (10 working days since the complaint is lodged), then this means that the CA has an overdue action. The CA will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is required by the CA for the complaint. The CA will receive the email below:

**Email Reminder 2 for the Central Administrator:**

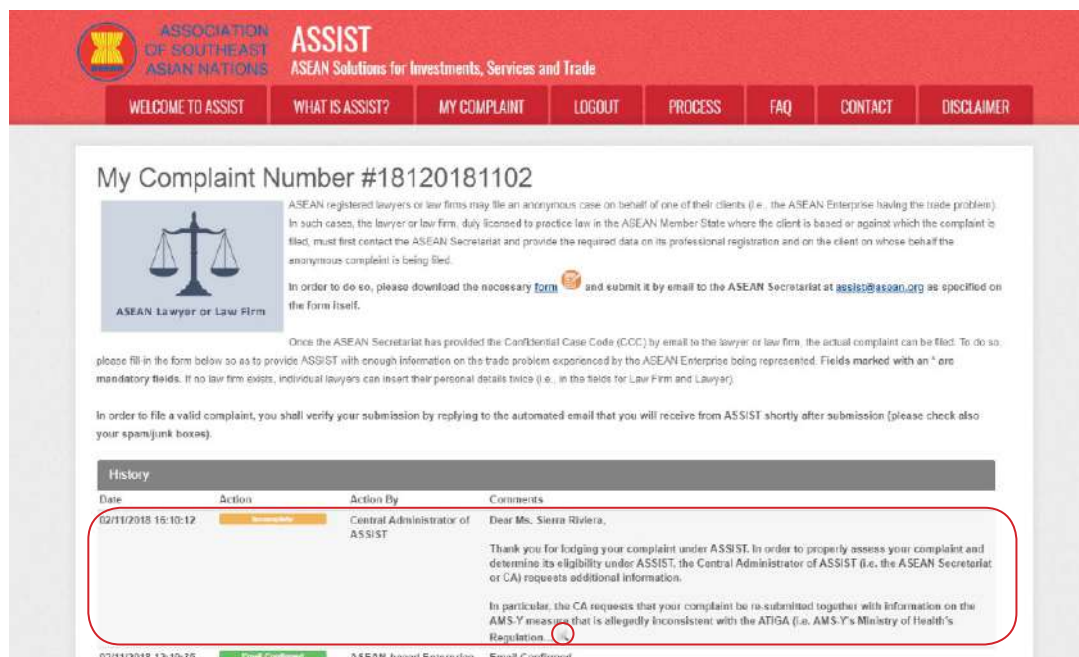


**STEP  
13**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR AND TO REVISE YOUR "INCOMPLETE" COMPLAINT**

- (a) If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 11(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has indicated your complaint as **"Incomplete"**.





02/11/2018 12:18:02
File
ASEAN based Enterprise

WITHDRAW COMPLAINT

### LAW FIRM

\* Law Firm Name:

\* Phone:

Website:

\* Address:

\* City:  ZIP Code:

\* Country:

\* ASEAN Jurisdiction(s) where Local Office(s) is(are):

Established:

---

### LAWYER

\* Gender:  Mr  Mrs  Ms

\* First Name:  \* Last Name:

\* Phone:

\* Position:

\* Email:

\* Address:

City:  ZIP Code:

ASEAN Jurisdiction(s) where Admitted to Practice Law:

---

### COMPLAINT DESCRIPTION

\* Confidential Case Code:

\* Country of Legal Registration:

\* Legal Registration Number:

\* Registration Proof:  No file chosen

[Annex 8-Simulated Professional License of Ms. Sierra Riviera4.pdf](#)

\* Type of Business:

\* Business Sector:

- Services Sector Description:

\* Type of Problem Encountered:

\* Destination Country:

\* Description:

Attachment:  Annex 2-Simulated Regulation of AMS-Y.pdf

Annex 3-Simulated L... RISE & Partners.pdf

I have read and accept the ASSIST [rules](#)

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved

I'm not a robot

SUBMIT YOUR COMPLAINT

Central Administrator of ASSIST / ASEAN Secretariat - JBA Jl. Sukoponegaraaja - Joharis 52110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

(b) Click on the 'magnifying glass' icon in the 'comments' column. The full response from the CA will appear, as can be seen below:

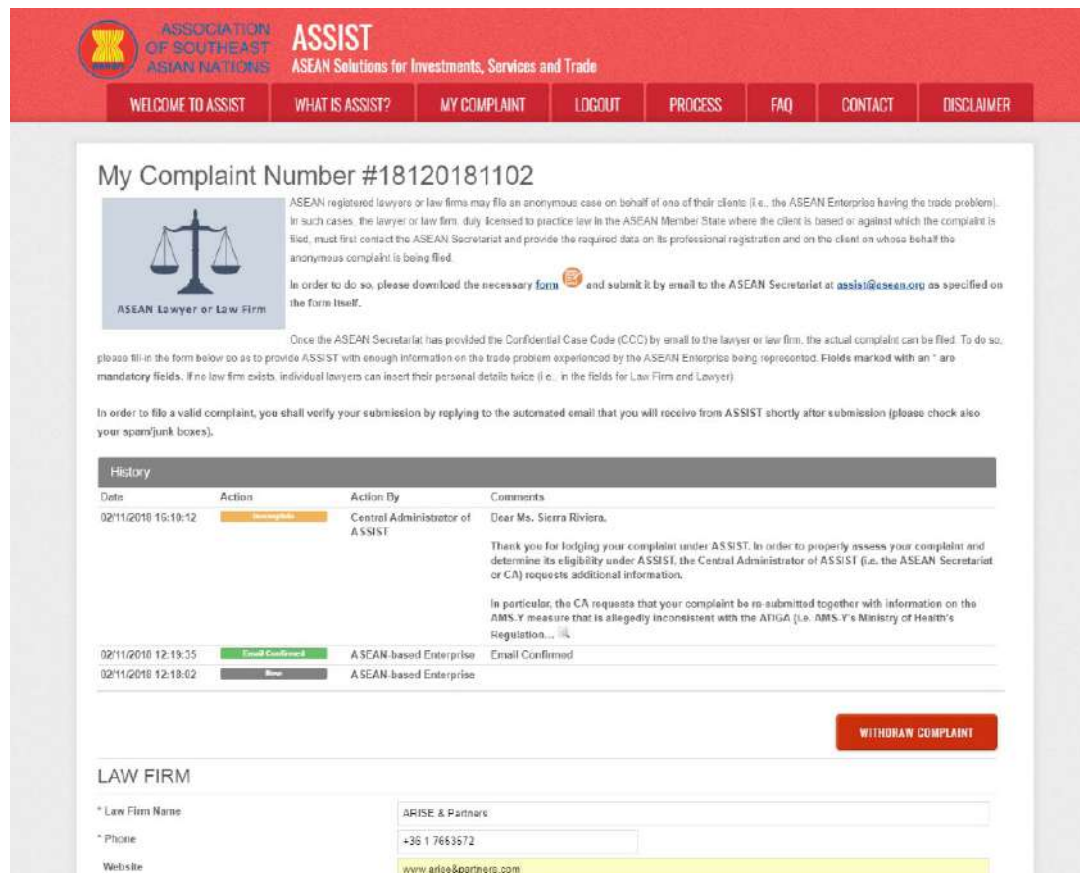
Dear Ms. Sierra Riviera,

Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.

In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100).

Please file the actual measure or a translation/summary in the English language. Feel free to attach also any other information or legal brief that may assist the CA in assessing the eligibility of your complaint.


- (c) Attach the additional documents requested by the CA and re-submit your complaint through your dashboard, i.e. AMS-Y's regulation or measure at issue and the legal brief.




**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST | WHAT IS ASSIST? | MY COMPLAINT | LOGOUT | PROCESS | FAQ | CONTACT | DISCLAIMER

### My Complaint Number #18120181102




 ASEAN Lawyer or Law Firm

ASEAN registered lawyers or law firms may file an anonymous case on behalf of one of their clients (i.e., the ASEAN Enterprise having the trade problem). In such cases, the lawyer or law firm, duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed, must first contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is being filed.

In order to do so, please download the necessary form  and submit it by email to the ASEAN Secretariat at [assis@asean.org](mailto:assis@asean.org) as specified on the form itself.

Once the ASEAN Secretariat has provided the Confidential Case Code (CCC) by email to the lawyer or law firm, the actual complaint can be filed. To do so, please fill in the form below so as to provide ASSIST with enough information on the trade problem experienced by the ASEAN Enterprise being represented. Fields marked with an \* are mandatory fields. If no law firm exists, individual lawyers can insert their personal details twice (i.e., in the fields for Law Firm and Lawyer).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please check also your spam/junk boxes).

History			
Date	Action	Action By	Comments
02/11/2018 15:19:12	 Incomplete	Central Administrator of ASSIST	Dear Ms. Sierra Riviera,  Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.  In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation...
02/11/2018 12:19:35	 Email Confirmed	ASEAN based Enterprise	Email Confirmed
02/11/2018 12:18:02	 New	ASEAN based Enterprise	

**WITHDRAW COMPLAINT**

#### LAW FIRM

\* Law Firm Name:

\* Phone:

Website:

\* Address  
Denube Street No. 13  
City P  
Country X

\* City  
City P ZIP Code 12310

\* Country  
AMS-X

\* ASEAN Jurisdiction(s) where Local Office(s) is(are) Established  
Country X

**LAWYER**

\* Gender  
 Mr  Mrs  Ms

\* First Name  
Sierra \* Last Name  
Riviera

\* Phone  
+35 7878137666

\* Position  
Senior Associate

\* Email  
asianlawyer@gmail.com

Address  
Denube Street No. 13  
City P  
Country X

City  
City P ZIP Code 12310

ASEAN Jurisdiction(s) where Admitted to Practice Law  
AMS-X

**COMPLAINT DESCRIPTION**

\* Confidential Case Code  
ASSIST-X-0012018

\* Country of Legal Registration  
AMS-X

\* Legal Registration Number  
137911

\* Registration Proof  
Choose File No file chosen  
Annex 0-Simulated Professional License of Ms. Sierra Riviera.pdf

\* Type of Business  
Export/Import

\* Business Sector  
Goods

\* Services Sector Description

\* Type of Problem Encountered  
3.6.7 Internal taxes and charges levied on imports

\* Destination Country  
AMS-Y

\* Description  
We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y.  
We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against our client and its products in AMS-Y.

Attachment  
Choose File Annex 2-Simulated Regulation of AMS-Y.pdf Attachment  
Choose File Annex 3-Simulated L. RISE & Partners.pdf Remove

I have read and accept the ASSIST rules.  
 I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - PIA J. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE [Disclaimer]

(d) Receive a notification from ASSIST on the submission of your revised complaint.

ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? MY COMPLAINT LOGOUT PROCESS FAQ CONTACT DISCLAIMER

**Thank you for the submission of your complaint**  
You will shortly receive a confirmation e-mail containing your references.

Please click on the link contained in the e-mail in order to confirm your submission.

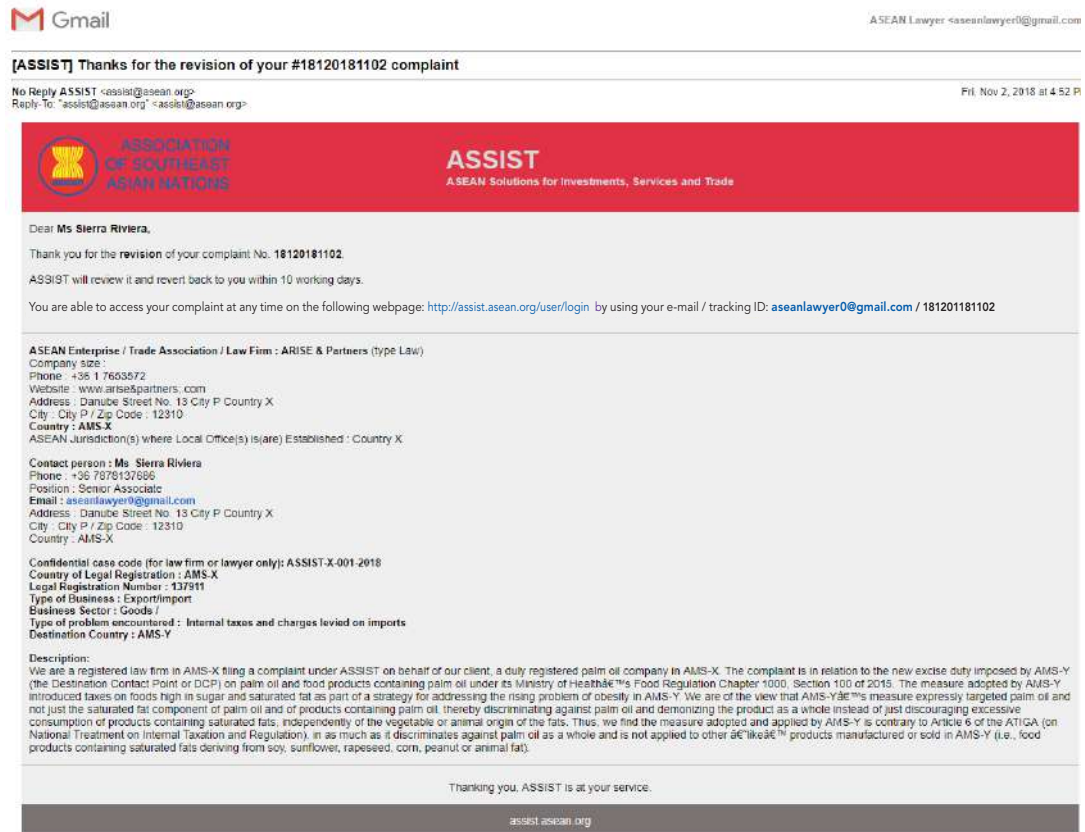
You will be able to monitor your complaint and access it on the following webpage:  
<http://assist.asean.org/user/login>  
by using your e-mail / tracking ID.

Central Administrator of ASSIST / ASEAN Secretariat - PIA J. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE [Disclaimer]

**STEP  
14**

**RECEIVE AN EMAIL FROM ASSIST REGARDING YOUR REVISED COMPLAINT**

Go to your email account and you will see a new email from ASSIST. This email indicates that your revised complaint has been received and that ASSIST will review it and revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.



*If no action has been taken in the meantime by the CA, the CA will receive the automatic email reminders via email from the online system as indicated in Step 12 above.*

Regularly check your email account within the 10 working days and you will eventually receive a new email from ASSIST.

**STEP  
15**

**CENTRAL ADMINISTRATOR REVIEWS YOUR REVISED COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL**

Once the CA has completed reviewing your revised complaint, an email will be sent to you.

Go to your email account and receive the email below from ASSIST.

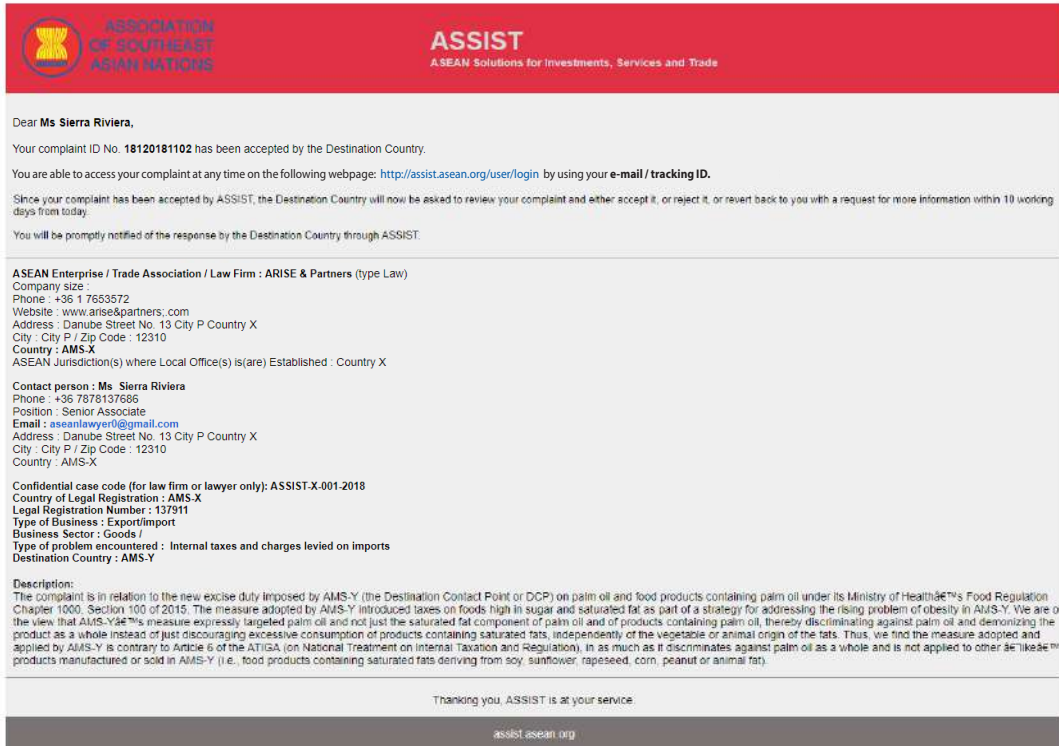


ASEAN Lawyer <aseanlawyer0@gmail.com>

**[ASSIST] Your complaint #1812 0181102 is accepted by CA**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Fri, Sep 21, 2018 at 2:07 PM



Dear Ms Sierra Riviera,

Your complaint ID No. **18120181102** has been accepted by the Destination Country.

You are able to access your complaint at any time on the following webpage: <http://assist.asean.org/user/login> by using your **e-mail / tracking ID**.

Since your complaint has been accepted by ASSIST, the Destination Country will now be asked to review your complaint and either accept it, or reject it, or revert back to you with a request for more information within 10 working days from today.

You will be promptly notified of the response by the Destination Country through ASSIST.

**ASEAN Enterprise / Trade Association / Law Firm : ARISE & Partners (type Law)**  
Company size  
Phone : +36 1 7653572  
Website : www.arise6partners.com  
Address : Danube Street No. 13 City P Country X  
City : City P / Zip Code : 12310  
Country : **AMS-X**  
ASEAN Jurisdiction(s) where Local Office(s) is(are) Established : Country X

**Contact person : Ms Sierra Riviera**  
Phone : +36 7878137686  
Position : Senior Associate  
**Email : aseatlawyer0@gmail.com**  
Address : Danube Street No. 13 City P Country X  
City : City P / Zip Code : 12310  
Country : AMS-X

**Confidential case code (for law firm or lawyer only): ASSIST-X-001-2018**  
Country of Legal Registration : **AMS-X**  
Legal Registration Number : 137911  
Type of Business : Export/Import  
Business Sector : Goods /  
Type of problem encountered : Internal taxes and charges levied on imports  
Destination Country : **AMS-Y**

**Description:**  
The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and denigrating the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other "like" products manufactured or sold in AMS-Y (i.e., food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).

Thanking you, ASSIST is at your service.

assist.asean.org

The above email shows that your revised complaint has been **accepted** by the CA. It also indicates that your complaint will now be sent to the Destination Contact Point, which is the government agency (ASSIST Focal Point) in AMS-Y where you are facing trade problems and where your complaint is directed and a resolution is sought. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept, reject or revert back to you with a request for more information. This is intended to give time to the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities.

The Home Contact Point, which is the government agency (ASSIST Focal Point) in AMS-X (your home country) has also been notified that your complaint is lodged.

**STEP  
16**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR**

If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 11(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has **"Accepted"** your complaint.

ASSIST  
 ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST
WHAT IS ASSIST?
MY COMPLAINT
LOGOUT
PROCESS
FAQ
CONTACT
DISCLAIMER

Tracking ID #18120181102 / AMS-Y

**History**

Date	Action	Action By	Comments
02/11/2018 18:31:54	Accepted	Central Administrator of ASSIST	Thank you for the completion or revision of your complaint. The Central Administrator has verified that the complaint is now complete, with the submission of the following documents: (i) AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100; and (ii) Legal Brief on the Complaint. Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST.
02/11/2018 16:52:16	Rejected	ASEAN-based Enterprise	
02/11/2018 16:10:12	Incomplete	Central Administrator of ASSIST	Dear Ms. Sierra Riviera,  Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.  In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation ...
02/11/2018 12:19:35	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
02/11/2018 12:18:02	New	ASEAN-based Enterprise	

WITHDRAW COMPLAINT

**ASEAN ENTERPRISE**

ASEAN Enterprise Name	ARISE & Partners		
Company Size		Address	Danube Street No. 13 City P Country X
Phone	+36 1 7653572	City	City P
Website	www.arise&partners.com	ZIP Code	12310
		Country	AMS-X

**CONTACT PERSON**

First Name	Sierra	Address	Danube Street No. 13 City P Country X
Last Name	Riviera	City	City P
Phone	+36 7678137606	ZIP Code	12310
Position	Senior Associate	Country	AMS-X
Email	aseanlavyer0@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	137511	Type of Problem	Goods / Internal taxes and charges levied on Imports Encountered
Company Registration Proof	<a href="#">Annex 1: Simulated Professional License of Ms. Sierra Riviera.pdf</a>		
Type of Business	Export/Import		
Description	We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (i.e. food products containing saturated fats deriving from soy sunflower, rapeseed, corn, peanut or animal fat).		
Attachment	<a href="#">Annex 2-Simulated Regulation of AMS-Y1.pdf</a> <a href="#">Annex 3-Simulated Legal Brief ARISE_Partner1.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE - [Disclaimer]

Click on the 'magnifying glass' icon in the 'Comments' column. The full response from the CA will appear, as can be seen below:

Thank you for the completion or revision of your complaint. The Central Administrator has verified that the complaint is now complete, with the submission of the following documents: (i) AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100; and (ii) Legal Brief on the Complaint. Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST.

We will forward your complaint to AMS-Y (Destination Contact Point). The Destination Contact Point will review your complaint and consult with the relevant national authorities, and will revert with a response within 10 working days on whether it has accepted or rejected your complaint.

You may monitor the progress on the handling of the complaint by login to your ASSIST Dashboard by using your Email/Tracking ID.

As informed in Step 15, once the complaint has been accepted by the CA, the complaint will be sent to the Destination Contact Point (DCP) in AMS-Y where you are facing trade problems. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept or reject it. This is intended to give time for the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities. Once the DCP responds, an email will be sent to you from ASSIST informing you whether your complaint has been accepted or rejected by the DCP in AMS-Y.

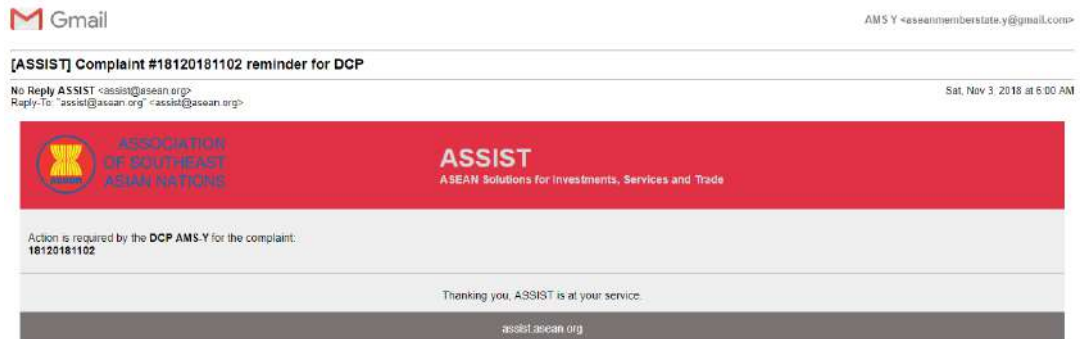
Regularly check your email account within the 10 working days after the response from the CA that your complaint is accepted. You will eventually receive a new email from ASSIST.

**STEP  
17****RECEIVE AN EMAIL NOTIFICATION FROM ASSIST ON WHETHER YOUR COMPLAINT IS ACCEPTED OR REJECTED BY THE DESTINATION CONTACT POINT IN AMS-Y**

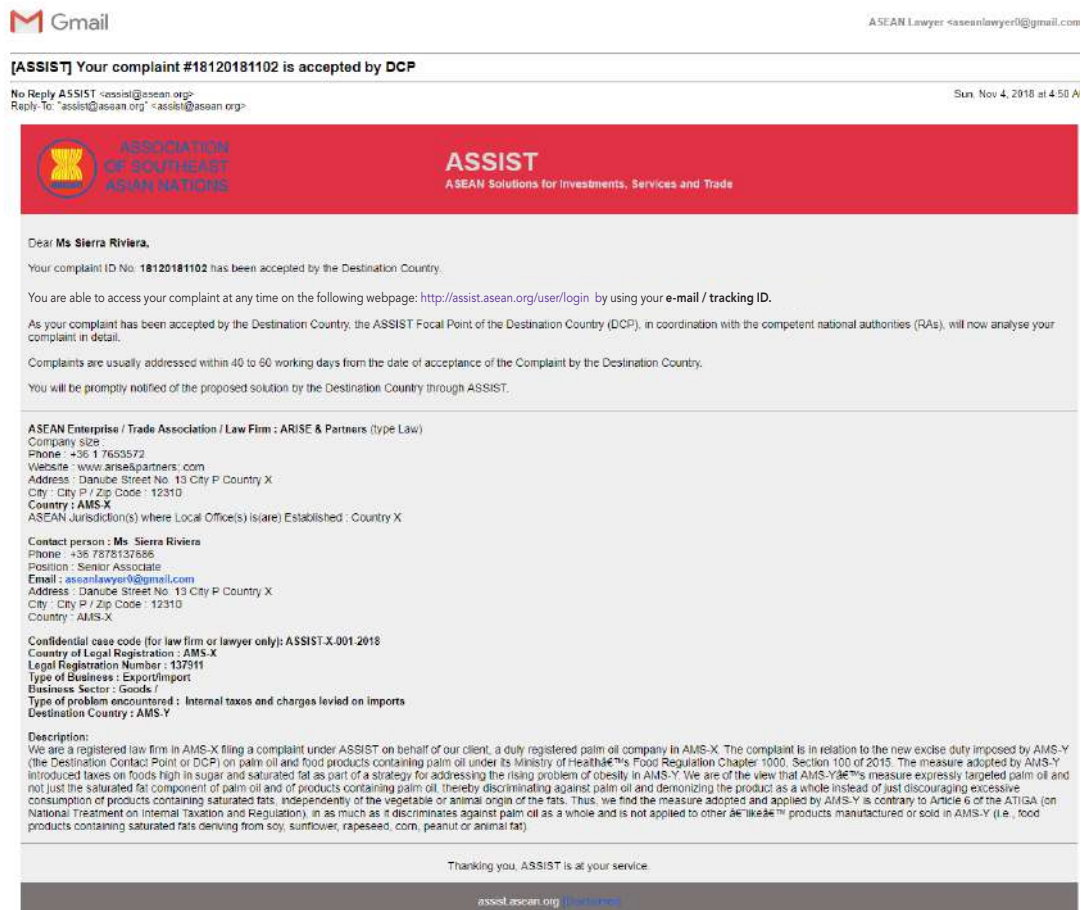
Within 10 working days after the response from the CA that your complaint is accepted, you will receive an email below informing that your complaint has been accepted or rejected by the DCP in AMS-Y.

*If no action has been taken in the meantime by the DCP, the DCP will receive the automatic reminder below via email from the ASSIST online system within 7 calendar days after the complaint has been accepted by the CA. As indicated above, the DCP must decide to accept or reject the complaint within 10 working days from when the CA has accepted the complaint.*

**Email Reminder 1 for the Destination Contact Point:**



Regularly check your email account within the 10 working days after the response from the CA that your complaint is accepted. You will eventually receive a new email from ASSIST.

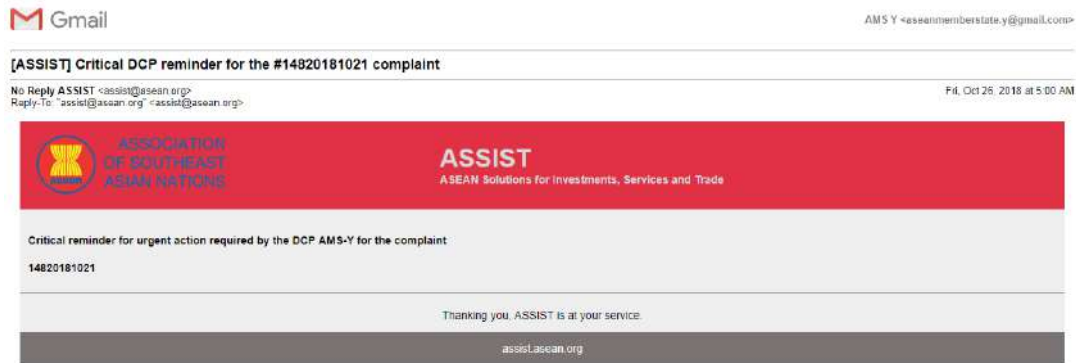


In this case, the complaint has been **accepted** by the DCP as can be seen above.

*If you do not receive an email from ASSIST on the response by the DCP within the required timeframe (10 working days) after the complaint has been accepted by the CA, then this means that the DCP has an overdue action. The DCP will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is urgently required by the DCP for the complaint.*



**Email Reminder 2 for the Destination Contact Point:**



Once the DCP accepts the complaint, the matter is forwarded to the Responsible Authorities (RAs) for input. Once the RAs complete their efforts, the DCP should review the solution and provide it to the CA within the 40 working day deadline. Thus, to meet this deadline, a time limit should be assigned by the DCP for the RAs to find a solution. It is the responsibility of the DCP to notify the CA of any change relating to the timeframe between it and national authorities.

The CA may extend the deadline for up to 20 working days upon request of the DCP. The system will automatically notify when the deadlines are approaching (i.e., typically, 10 calendar days before the lapse). If the DCP misses its deadline to submit a solution to the CA, the online system will notify the CA to follow-up with the DCP.

Regularly check your email within the 40 + 20 working days after you have been notified that the DCP has accepted your complaint. You will eventually receive a new email from ASSIST indicating the proposed solution by the DCP.

**STEP  
18**

**RECEIVE AN EMAIL NOTIFICATION FROM ASSIST THAT A SOLUTION IS PROPOSED BY AMS-Y AND ACCEPTED BY THE CENTRAL ADMINISTRATOR**

After the DCP (AMS-Y) receives a proposed solution from their RA(s) and considers that the proposal addresses the issue raised in the complaint, the DCP will provide that proposed solution to the CA.

The CA will: (i) review the solution in the context of the original complaint; (ii) register the solution and send it to the AE by email; and (iii) copy the solution to the Home Contact Point/HCP in AMS-X (your home country).

(a) Go to your email account. You will receive a new email from ASSIST indicating the response to your complaint from the DCP.




ASEAN Lawyer <aseanlawyer0@gmail.com>

**[ASSIST] Response for your #18120181102 complaint**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Sun, Nov 4, 2018 at 5:21 A



**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

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Dear **Ms Sierra Riviera**,

The response for your complaint **18120181102** is ready:

"Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y&#x2019;s strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization&#x2019;s Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity. However, AMS-Y recognizes that the measure did single-out certain products (i.e., inter alia, palm oil) and did not target, in a &quot;neutral manner&quot;, the substances (i.e., saturated fats) that the Government considers dangerous (if consumed in excess) from a dietary and health policy perspective. Therefore, the DCP, in coordination with AMS-Y&#x2019;s RA, proposes the immediate suspension of the measure contained in its Ministry of Health&#x2019;s Food Regulation of 2015, Chapter 1000, Section 100, pending its amendment to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. AMS-Y underlined that its measure was never intended to have, de jure or de facto, any discriminatory effect or objective, being justified in science and in light of its health protection purpose and applying to all &quot;like&quot; products containing saturated fats."

You can also check the status of your complaint online at <http://assist.aseandevelopment.space/user/login> by using your email / tracking ID.

**Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:**

[Yes](#) / [No](#)

---

**ASEAN Enterprise / Trade Association / Law Firm : ARISE & Partners (type Law)**  
**Company size:**  
**Phone :** +36 1 7653572  
**Website :** www.arisepartners.com  
**Address :** Danube Street No. 13 City P Country X  
**City :** City P / **Zip Code :** 12310  
**Country :** AMS-X  
**ASEAN Jurisdiction(s) where Local Office(s) is(are) Established :** Country X

**Contact person : Ms Sierra Riviera**  
**Phone :** +36 7676137666  
**Position :** Senior Associate  
**Email :** aaseanlawyer0@gmail.com  
**Address :** Danube Street No. 13 City P Country X  
**City :** City P / **Zip Code :** 12310  
**Country :** AMS-X


**Confidential case code (for law firm or lawyer only):** ASSIST-X-001-2018  
**Country of Legal Registration :** AMS-X  
**Legal Registration Number :** 137911  
**Type of Business :** Export/Import  
**Business Sector :** Goods /  
**Type of problem encountered :** Internal taxes and charges levied on imports  
**Destination Country :** AMS-Y

**Description:**  
 We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health&#x2019;s Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y&#x2019;s measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other &quot;like&quot; products manufactured or sold in AMS-Y (i.e., food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).

Thanking you, ASSIST is at your service.

assist.asean.org

(b) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 11(a) and (b) above. The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that a solution for your complaint has been proposed. The complete solution from the DCP, which has been accepted by the CA, is also provided in the first paragraph of your dashboard.



**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

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WELCOME TO ASSIST
WHAT IS ASSIST?
MY COMPLAINT
LOGOUT
PROCESS
FAQ
CONTACT
DISCLAIMER

---

Tracking ID #18120181102 / AMS-Y

---

**ASSIST Solution**

Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y&#x2019;s strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization&#x2019;s Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity. However, AMS-Y recognizes that the measure did single-out certain products (i.e., inter alia, palm oil) and did not target, in a 'neutral manner', the substances (i.e., saturated fats) that the Government considers dangerous (if consumed in excess) from a dietary and health policy perspective. Therefore, the DCP, in coordination with AMS-Y&#x2019;s RA, proposes the immediate suspension of the measure contained in its Ministry of Health&#x2019;s Food Regulation of 2015, Chapter 1000, Section 100, pending its amendment to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. AMS-Y underlined that its measure was never intended to have, de jure or de facto, any discriminatory effect or objective, being justified in science and in light of its health protection purpose and applying to all 'like' products containing saturated fats.

Attachment

History			
Date	Action	Action By	Comments
04/11/2018 05:21:40	Solved	Central Administrator of ASSIST	Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y's strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization's Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity.
02/11/2018 18:31:54	Proposed	Central Administrator of ASSIST	Thank you for the completion or revision of your complaint. The Central Administrator has verified that the complaint is now complete, with the submission of the following documents: (i) AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100; and (ii) Legal Brief on the Complaint. Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST.
02/11/2018 16:52:15	Received	ASEAN-based Enterprise	
02/11/2018 16:10:12	In Progress	Central Administrator of ASSIST	Dear Ms. Sierra Riviera,  Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.  In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100).  Email Confirmed.
02/11/2018 12:19:35	Final Comment	ASEAN-based Enterprise	
02/11/2018 12:18:02	New	ASEAN-based Enterprise	

### ASEAN ENTERPRISE

ASEAN Enterprise Name		ARISE & Partners	
Company Size		Address	Danube Street No. 13 City P. Country X
Phone	+36 1 7653572	City	City P
Website	www.arise&partners.com	ZIP Code	12310
		Country	AMS-X

### CONTACT PERSON

First Name	Sierra	Address	Danube Street No. 13 City P. Country X
Last Name	Riviera	City	City P
Phone	+36 7676137686	ZIP Code	12310
Position	Senior Associate	Country	AMS-X
Email	aseanlawyer0@gmail.com (Confirmed)		

### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Goods
Registration Number	137911	Type of Problem Encountered	Goods / Internal taxes and charges levied on imports
Company Registration Proof	<a href="#">Annex 1: Simulated Professional License of Ms. Sierra Riviera.pdf</a>	Destination Country	AMS-Y
Type of Business	Export/Import		
Description	We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and food products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (i.e. food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).		
Attachment	<a href="#">Annex 2-Simulated Regulation of AMS-Y1.pdf</a> <a href="#">Annex 3-Simulated Legal Brief ARISE Partners1.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

Below is the proposed solution from the DCP:

“Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y's strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization's Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity.

However, AMS-Y recognizes that the measure did single-out certain products (i.e., inter alia, palm oil) and did not target, in a 'neutral manner', the substances (i.e., saturated fats) that the Government considers dangerous (if consumed in excess) from a dietary and health policy perspective.

Therefore, the DCP, in coordination with AMS-Y's RA, proposes the immediate suspension of the measure contained in its Ministry of Health's Food Regulation of 2015, Chapter 1000, Section 100, pending its amendment to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. AMS-Y underlined that its measure was never intended to have, de jure or de facto, any discriminatory effect or objective, being justified in science and in light of its health protection purpose and applying to all 'like' products containing saturated fats."

(c) In the bottom of the email from ASSIST in 18(a) above, you are requested to indicate whether you are satisfied or not with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' in the field provided.

Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:

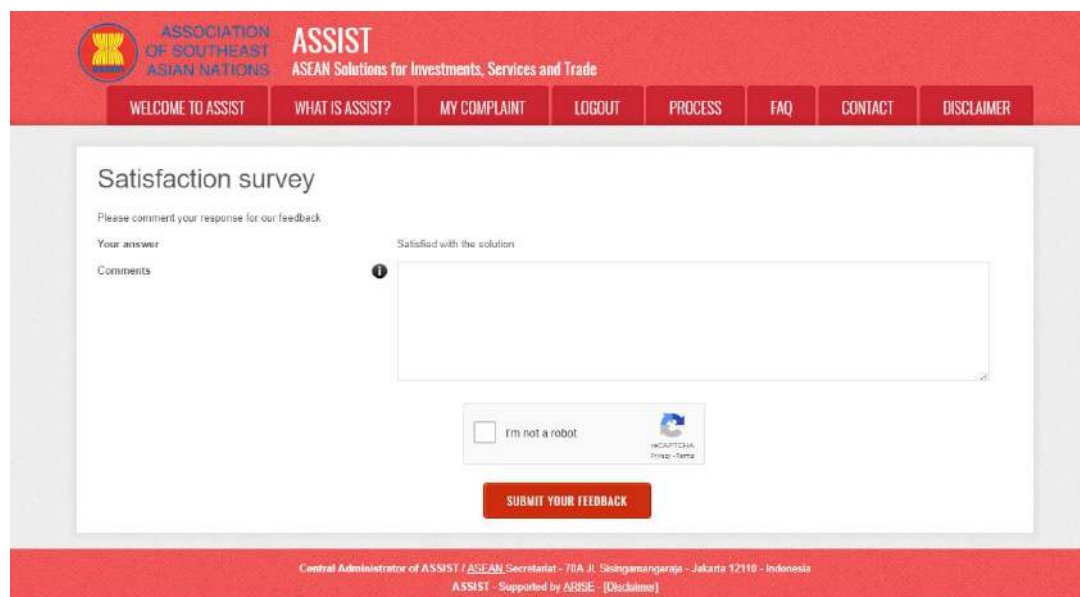
Yes /  No

In this case, the AE chooses "Yes".

**STEP  
19**

**PROVIDE YOUR FEEDBACK TO THE PROPOSED SOLUTION PROVIDED BY AMS-Y IN THE SATISFACTION SURVEY AND RECEIVE ACKNOWLEDGEMENT EMAILS FROM ASSIST**

Once you choose 'Yes/No' in Step 18(c) above, you will be directed to the page below where you will be requested to answer the Satisfaction Survey and be invited to provide comments, particularly if you are not satisfied with the proposed solution.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST** ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? MY COMPLAINT LOGOUT PROCESS FAQ CONTACT DISCLAIMER

### Satisfaction survey

Please comment your response for our feedback.

Your answer: Satisfied with the solution

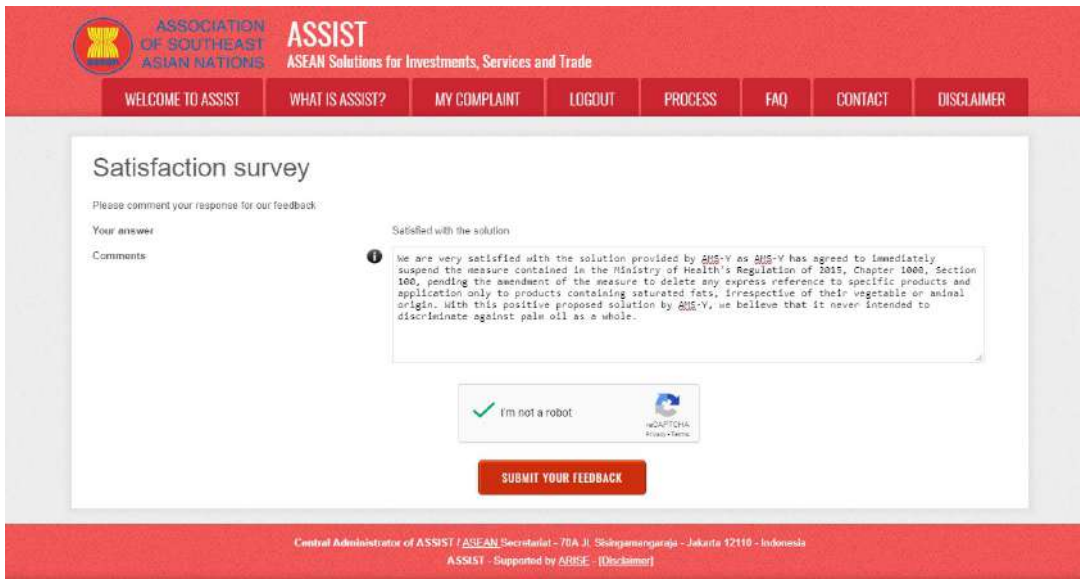
Comments: [Text Area]

I'm not a robot

**SUBMIT YOUR FEEDBACK**

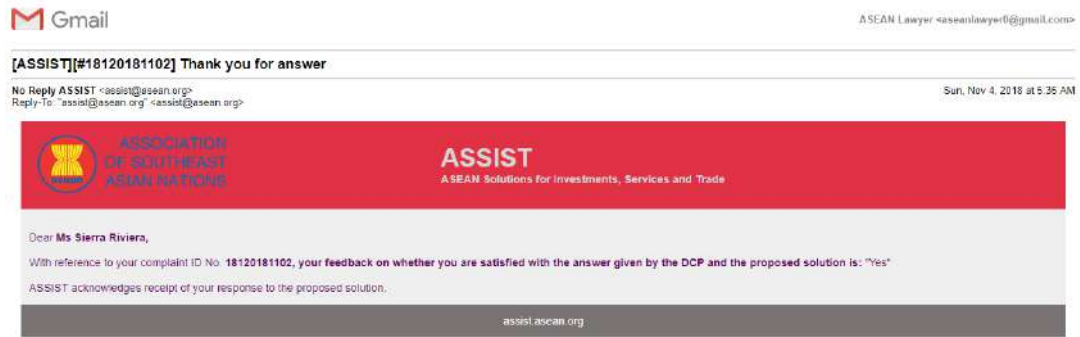
Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

(a) Fill-in the Satisfaction Survey. In this case, the ASEAN Law Firm/Lawyer is satisfied with the solution provided by ASSIST and thus indicates accordingly.



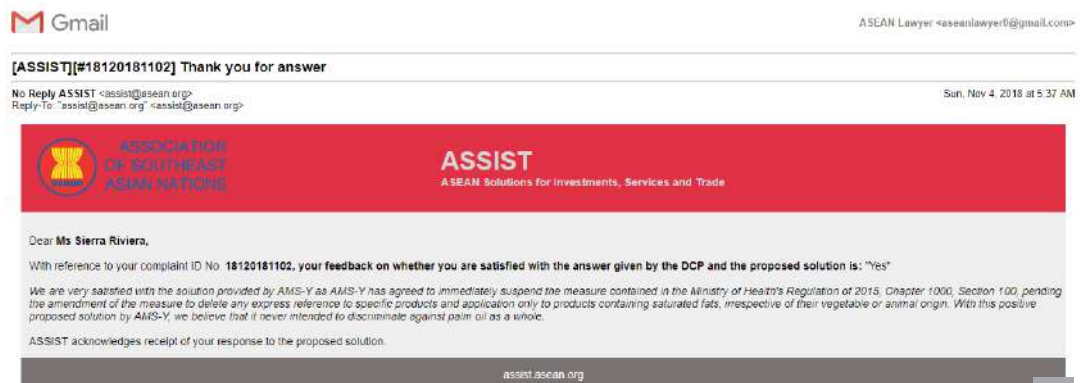
(b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

**First Acknowledgement Email from ASSIST**

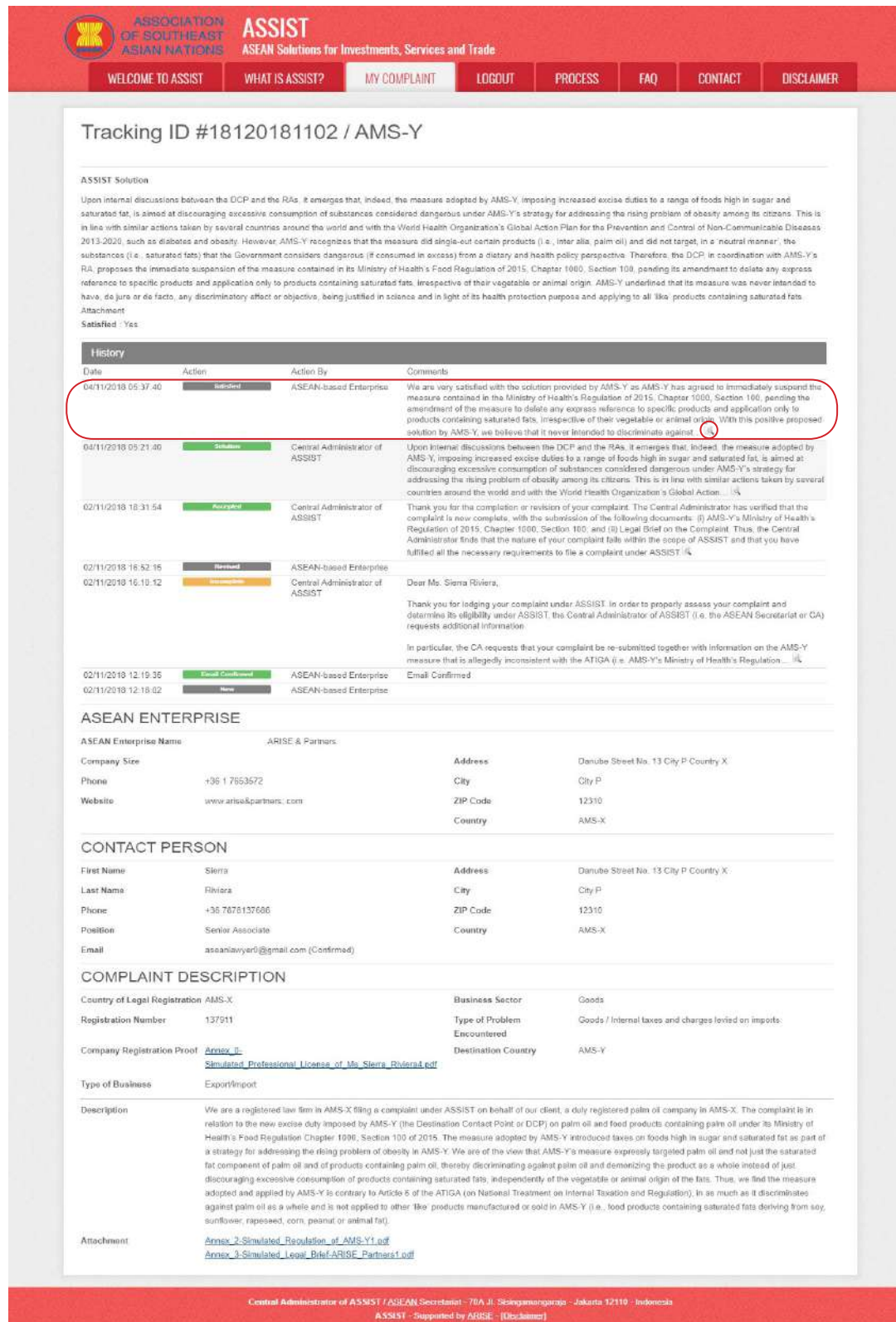


**Second Acknowledgement Email from ASSIST**

If you provided a comment on the Satisfaction Survey, you will receive a second email below, acknowledging receipt of your response to the proposed solution will be sent by ASSIST to you, the DCP and the HCP.



- (c) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 11(a) and (b) above. The final view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that you have indicated satisfaction to the proposed solution by ASSIST.



**Tracking ID #18120181102 / AMS-Y**

**ASSIST Solution**

Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y's strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization's Global Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2020, such as diabetes and obesity. However, AMS-Y recognizes that the measure did single-out certain products (i.e., inter alia, palm oil) and did not target, in a 'neutral manner', the substances (i.e., saturated fats) that the Government considers dangerous (if consumed in excess) from a dietary and health policy perspective. Therefore, the DCP, in coordination with AMS-Y's RA, proposes the immediate suspension of the measure contained in its Ministry of Health's Food Regulation of 2015, Chapter 1000, Section 100, pending its amendment to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. AMS-Y underlined that its measure was never intended to have, de jure or de facto, any discriminatory effect or objective, being justified in science and in light of its health protection purpose and applying to all 'like' products containing saturated fats.

Attachment

Satisfied : Yes

History			
Date	Action	Action By	Comments
04/11/2018 05:37:40	Satisfied	ASEAN-based Enterprise	We are very satisfied with the solution provided by AMS-Y as AMS-Y has agreed to immediately suspend the measure contained in the Ministry of Health's Regulation of 2015, Chapter 1000, Section 100, pending the amendment of the measure to delete any express reference to specific products and application only to products containing saturated fats, irrespective of their vegetable or animal origin. With this positive proposed solution by AMS-Y, we believe that it never intended to discriminate against...
03/11/2018 05:21:40	Solution	Central Administrator of ASSIST	Upon internal discussions between the DCP and the RAs, it emerges that, indeed, the measure adopted by AMS-Y, imposing increased excise duties to a range of foods high in sugar and saturated fat, is aimed at discouraging excessive consumption of substances considered dangerous under AMS-Y's strategy for addressing the rising problem of obesity among its citizens. This is in line with similar actions taken by several countries around the world and with the World Health Organization's Global Action...
02/11/2018 18:31:54	Resolved	Central Administrator of ASSIST	Thank you for the completion or revision of your complaint. The Central Administrator has verified that the complaint is now complete, with the submission of the following documents: (i) AMS-Y's Ministry of Health's Regulation of 2015, Chapter 1000, Section 100, and (ii) Legal Brief on the Complaint. Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST. <a href="#">View</a>
02/11/2018 16:52:16	Revised	ASEAN-based Enterprise	
02/11/2018 16:10:12	Incomplete	Central Administrator of ASSIST	Dear Ms. Sierra Rivera,  Thank you for lodging your complaint under ASSIST. In order to properly assess your complaint and determine its eligibility under ASSIST, the Central Administrator of ASSIST (i.e. the ASEAN Secretariat or CA) requests additional information.  In particular, the CA requests that your complaint be re-submitted together with information on the AMS-Y measure that is allegedly inconsistent with the ATIGA (i.e. AMS-Y's Ministry of Health's Regulation... <a href="#">View</a>
02/11/2018 12:19:36	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
02/11/2018 12:18:02	New	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: ARISE & Partners

Company Size	Address
	Danube Street No. 13 City P Country X
Phone	City
+36 1 7663572	City P
Website	ZIP Code
www.arise&partners.com	12310
	Country
	AMS-X

**CONTACT PERSON**

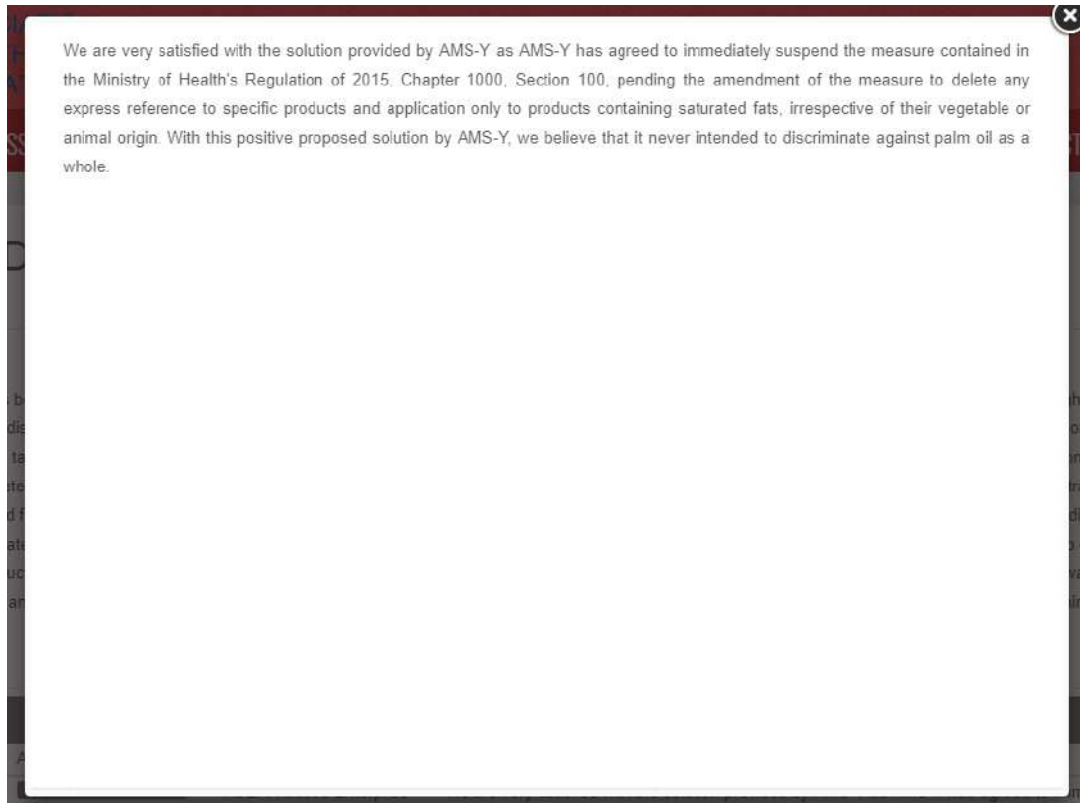
First Name	Address
Sierra	Danube Street No. 13 City P Country X
Last Name	City
Rivera	City P
Phone	ZIP Code
+36 7676137666	12310
Position	Country
Senior Associate	AMS-X
Email	aseanriverer@gmail.com (Confirmed)

**COMPLAINT DESCRIPTION**

Country of Legal Registration	Business Sector
AMS-X	Goods
Registration Number	Type of Problem Encountered
137511	Goods / Internal taxes and charges levied on imports.
Company Registration Proof	Destination Country
<a href="#">Annex 2-Simulated Professional License of Ms Sierra Rivera.pdf</a>	AMS-Y
Type of Business	Export/Import
Description	We are a registered law firm in AMS-X filing a complaint under ASSIST on behalf of our client, a duly registered palm oil company in AMS-X. The complaint is in relation to the new excise duty imposed by AMS-Y (the Destination Contact Point or DCP) on palm oil and feed products containing palm oil under its Ministry of Health's Food Regulation Chapter 1000, Section 100 of 2015. The measure adopted by AMS-Y introduced taxes on foods high in sugar and saturated fat as part of a strategy for addressing the rising problem of obesity in AMS-Y. We are of the view that AMS-Y's measure expressly targeted palm oil and not just the saturated fat component of palm oil and of products containing palm oil, thereby discriminating against palm oil and demonizing the product as a whole instead of just discouraging excessive consumption of products containing saturated fats, independently of the vegetable or animal origin of the fats. Thus, we find the measure adopted and applied by AMS-Y is contrary to Article 6 of the ATIGA (on National Treatment on Internal Taxation and Regulation), in as much as it discriminates against palm oil as a whole and is not applied to other 'like' products manufactured or sold in AMS-Y (i.e., food products containing saturated fats deriving from soy, sunflower, rapeseed, corn, peanut or animal fat).
Attachment	<a href="#">Annex 2-Simulated Regulation of AMS-Y1.pdf</a> <a href="#">Annex 3-Simulated Legal Brief-ARISE_Partners1.pdf</a>

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi Raya - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimer]

- (d) If you would like to see the comment that you have provided in the Satisfaction Survey, click on the 'magnifying glass' icon and the below screen will appear.



On notification that a solution proposed to an AE has been accepted as satisfactory by the ASEAN Law Firm/Lawyer, the DCP should pass notice of the acceptance on to the RA(s), to ensure that any administrative arrangements necessary to implement the solution are in place as soon as possible.

**ASSIST will consider this procedure as one where the complaint was accepted and a solution was provided by the DCP and accepted by the ASEAN Lawyer/Law Firm.**

**Please note that the timeframe for solving cross-border problems brought under ASSIST shall be no more than 40 working days or 2 calendar months (unless an extension of maximum 20 working days has been accorded) from the date when the complaint has been accepted by the DCP (i.e. the ASEAN Member State against which the complaint was filed).**







# STEP-BY-STEP TUTORIAL FOR CASE STUDY 4 (TRADE IN SERVICES)

Photo credit: Rio Lecatompessy on Unsplash

## Complaint Filed by an ASEAN Enterprise, Accepted by Central Administrator and Destination Contact Point and Solution Proposed by Destination Contact Point and Accepted by the ASEAN Enterprise.

**Brief Description of Case:** This scenario is that of a mock case that is structured to reflect Mode 1 (or the so-called *Cross Border Supply*) of international trade in services, which is defined in the ASEAN Framework Agreement on Services (AFAS) and the General Agreement on Trade in Services (GATS), *mutatis mutanda*, as the supply of a service from the territory of one country into the territory of another country or, in other words, in all commercial instances where the service moves across the border. This scenario is that of a complaint that is accepted by ASSIST's Central Administrator as having been validly lodged by the Complainant (*i.e.*, being complete and falling within ASSIST's scope) and also accepted by the Destination Country as an issue for which the particular ASEAN Member State is willing to engage with the Complainant through ASSIST, interact with the domestic relevant

authorities and provide a solution to the Complainant through ASSIST.

The complaint is in relation to a new shipping law issued by the Destination Country, namely the *Ministry of Trade Law No. 13 Year 2018*, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities (*i.e.*, iron, aluminium, rubber and cotton), are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for the Complainant's business and prevent it from providing its maritime shipping services between the Home Country and the Destination Country. The Complainant is very worried and believes that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of the Destination Country under the relevant ASEAN economic agreements (*e.g.*, the ASEAN Framework Agreement on Services, or AFAS).

### List of Actors and Abbreviations:

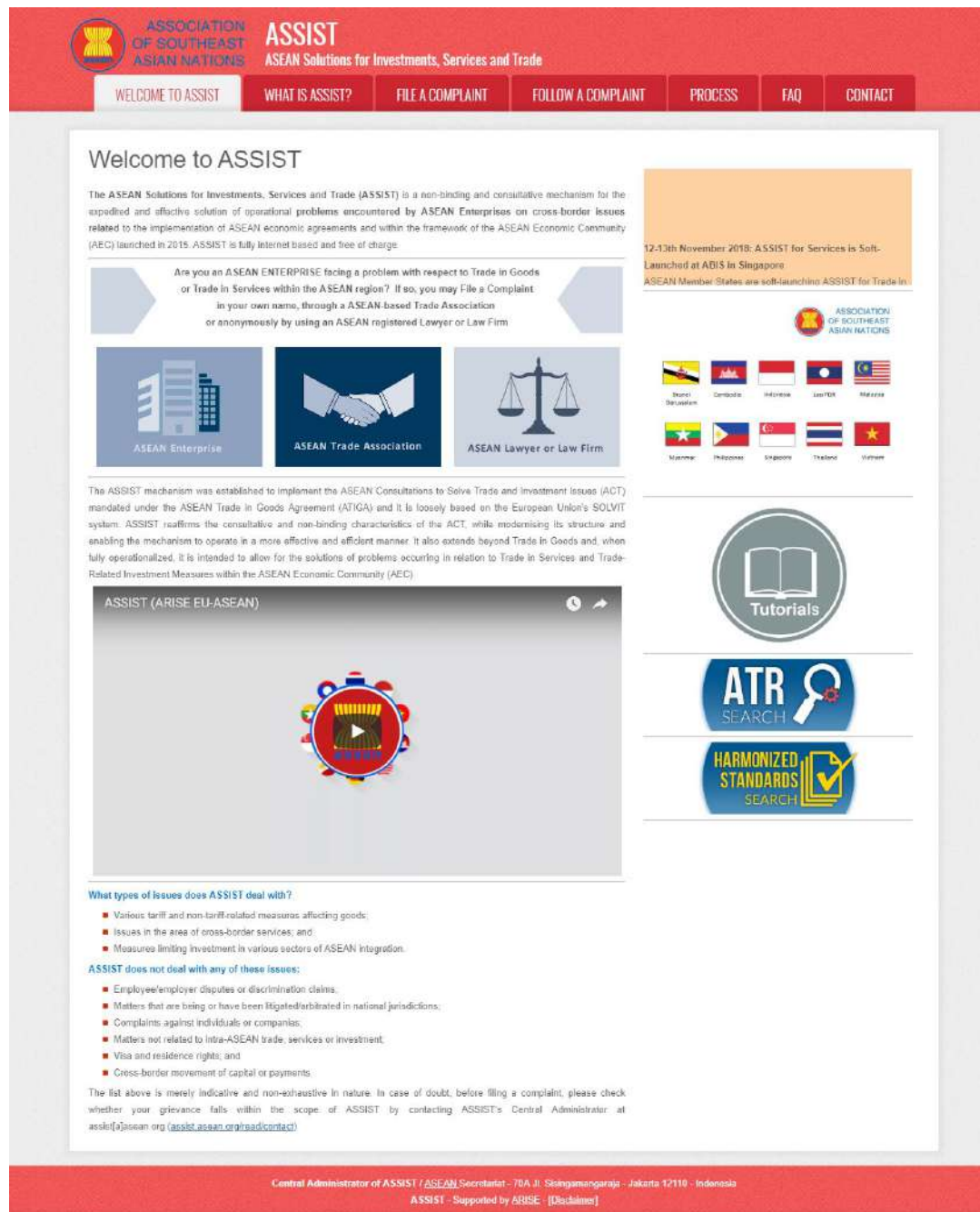
- Complainant = ASEAN Enterprise (AE)
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant National Authorities = Relevant Authorities (RAs)

## STEP 1

### GO TO THE ASSIST WEBSITE ([HTTP://ASSIST.ASEAN.ORG](http://assist.asean.org))

If you feel that your case is a problem on an ASEAN cross-border trade related issue, you are a business registered in an ASEAN Member State, and you would like a free of charge, non-binding, consultative service, and receive an expedited and effective solution, go to the following link: <http://assist.asean.org>.

Below is the homepage of ASSIST.



The screenshot shows the ASSIST homepage with a navigation menu at the top. The main content area is titled "Welcome to ASSIST" and includes a description of the service, a list of ways to file a complaint (ASEAN Enterprise, ASEAN Trade Association, ASEAN Lawyer or Law Firm), and a list of ASEAN member states. There are also icons for Tutorials, ATR Search, and Harmonized Standards Search.

**Welcome to ASSIST**

The ASEAN Solutions for Investments, Services and Trade (ASSIST) is a non-binding and consultative mechanism for the expedited and effective solution of operational problems encountered by ASEAN Enterprises on cross-border issues related to the implementation of ASEAN economic agreements and within the framework of the ASEAN Economic Community (AEC) launched in 2015. ASSIST is fully internet based and free of charge.

Are you an ASEAN ENTERPRISE facing a problem with respect to Trade in Goods or Trade in Services within the ASEAN region? If so, you may File a Complaint in your own name, through a ASEAN-based Trade Association or anonymously by using an ASEAN registered Lawyer or Law Firm

ASEAN Enterprise | ASEAN Trade Association | ASEAN Lawyer or Law Firm

The ASSIST mechanism was established to implement the ASEAN Consultations to Solve Trade and Investment Issues (ACT) mandated under the ASEAN Trade in Goods Agreement (ATIGA) and it is loosely based on the European Union's SOLVIT system. ASSIST reaffirms the consultative and non-binding characteristics of the ACT, while modernising its structure and enabling the mechanism to operate in a more effective and efficient manner. It also extends beyond Trade in Goods and, when fully operationalized, it is intended to allow for the solutions of problems occurring in relation to Trade in Services and Trade-Related Investment Measures within the ASEAN Economic Community (AEC).

ASSIST (ARISE EU-ASEAN)

12-13th November 2018: ASSIST for Services is Soft-Launched at ABIS in Singapore  
ASEAN Member States are soft-launching ASSIST for Trade in

ASEAN Member States: Brunei Darussalam, Cambodia, Indonesia, Laos/TPR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam

Tutorials | ATR SEARCH | HARMONIZED STANDARDS SEARCH

**What types of issues does ASSIST deal with?**

- Various tariff and non-tariff related measures affecting goods;
- Issues in the area of cross-border services; and
- Measures limiting investment in various sectors of ASEAN integration.

**ASSIST does not deal with any of these issues:**

- Employee/employer disputes or discrimination claims;
- Matters that are being or have been litigated/arbitrated in national jurisdictions;
- Complaints against individuals or companies;
- Matters not related to intra-ASEAN trade, services or investment;
- Visa and residence rights; and
- Cross-border movement of capital or payments.

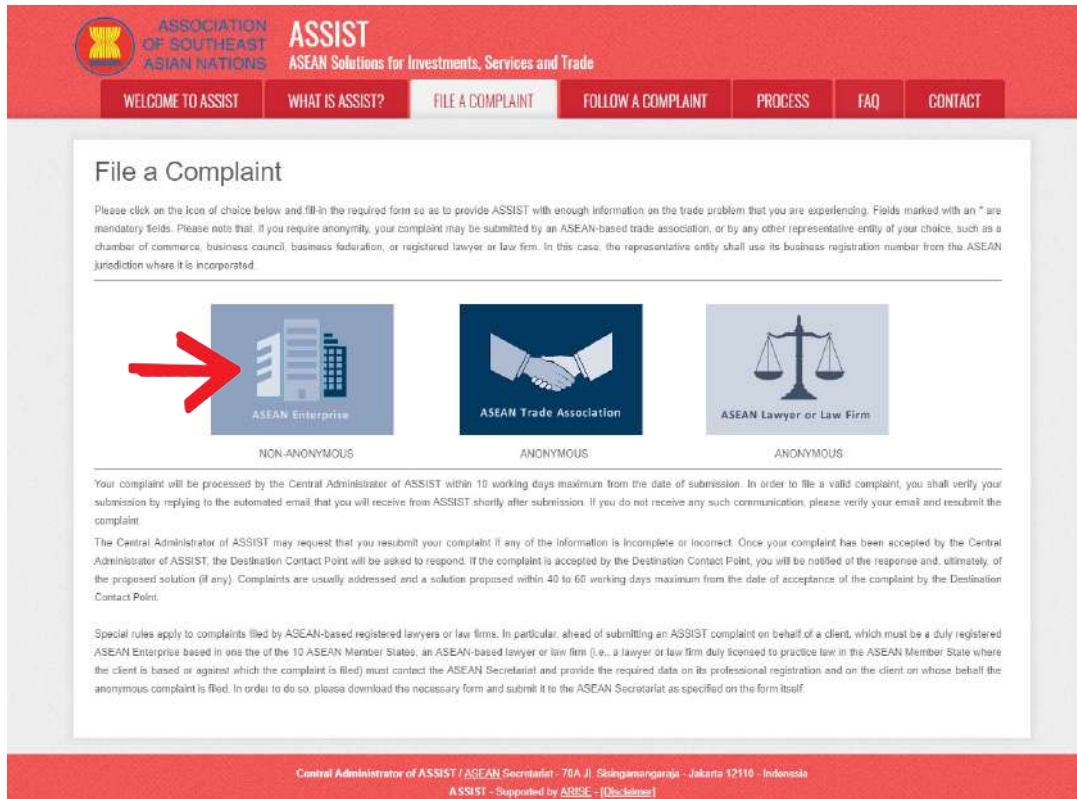
The list above is merely indicative and non-exhaustive in nature. In case of doubt, before filing a complaint, please check whether your grievance falls within the scope of ASSIST by contacting ASSIST's Central Administrator at [assist@asean.org](mailto:assist@asean.org) ([assist.asean.org](https://www.assist.asean.org)) or [assist@asean.org](mailto:assist@asean.org).

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi Saragaja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [Disclaimer]

**STEP  
2**


**SELECT THE "FILE A COMPLAINT" TAB (ASEAN ENTERPRISE ICON)**

If you are filing a complaint under your own company (non-anonymous complaint) and you are not represented by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm, click on the "ASEAN Enterprise" icon on the File a Complaint tab.




**File a Complaint**


Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields. Please note that if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.



ASEAN Enterprise  
NON-ANONYMOUS



ASEAN Trade Association  
ANONYMOUS



ASEAN Lawyer or Law Firm  
ANONYMOUS

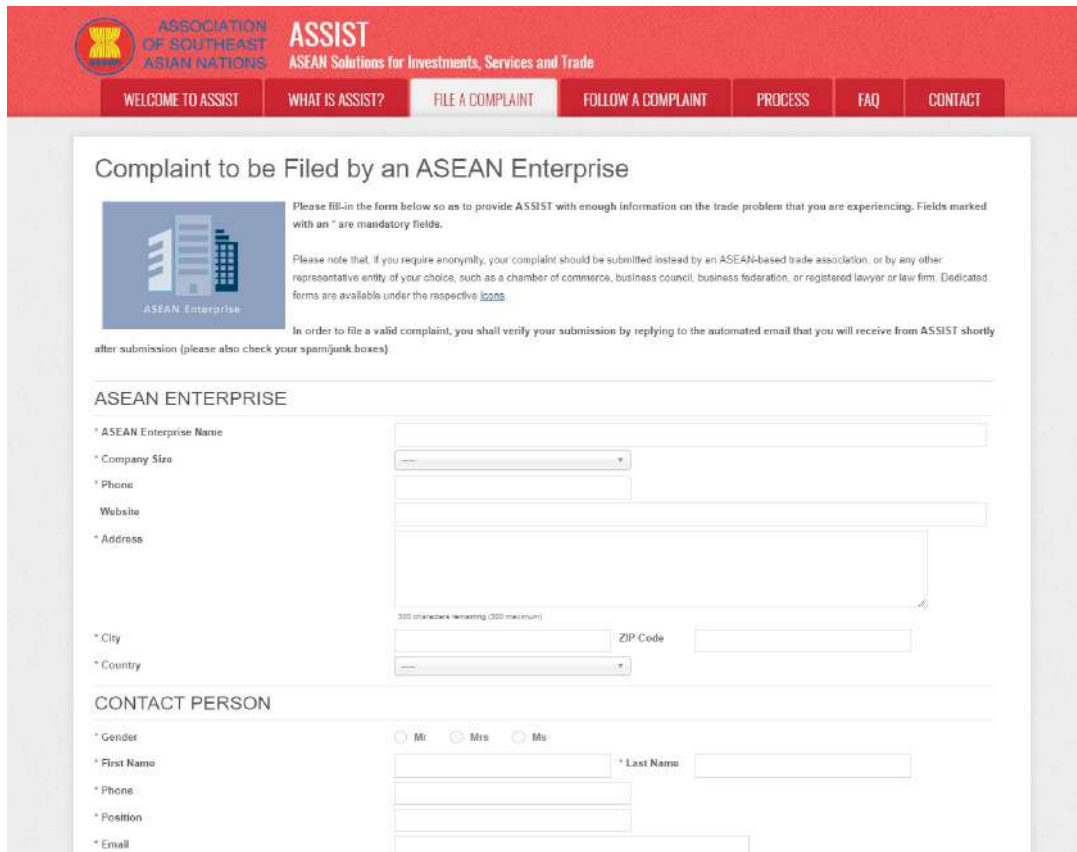
Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you do not receive any such communication, please verify your email and resubmit the complaint.

The Central Administrator of ASSIST may request that you resubmit your complaint if any of the information is incomplete or incorrect. Once your complaint has been accepted by the Central Administrator of ASSIST, the Destination Contact Point will be asked to respond. If the complaint is accepted by the Destination Contact Point, you will be notified of the response and, ultimately, of the proposed solution (if any). Complaints are usually addressed and a solution proposed within 40 to 60 working days maximum from the date of acceptance of the complaint by the Destination Contact Point.

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN Enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. In order to do so, please download the necessary form and submit it to the ASEAN Secretariat as specified on the form itself.

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisinganegara - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimers]

When you click on the “ASEAN Enterprise” icon, the following page will appear.



**Complaint to be Filed by an ASEAN Enterprise**

Please fill-in the form below so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields.

Please note that, if you require anonymity, your complaint should be submitted instead by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. Dedicated forms are available under the respective [links](#).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please also check your spam/junk boxes).

**ASEAN ENTERPRISE**

\* ASEAN Enterprise Name

\* Company Size

\* Phone

Website

\* Address

300 character maximum (300 maximum)

\* City  ZIP Code

\* Country

**CONTACT PERSON**

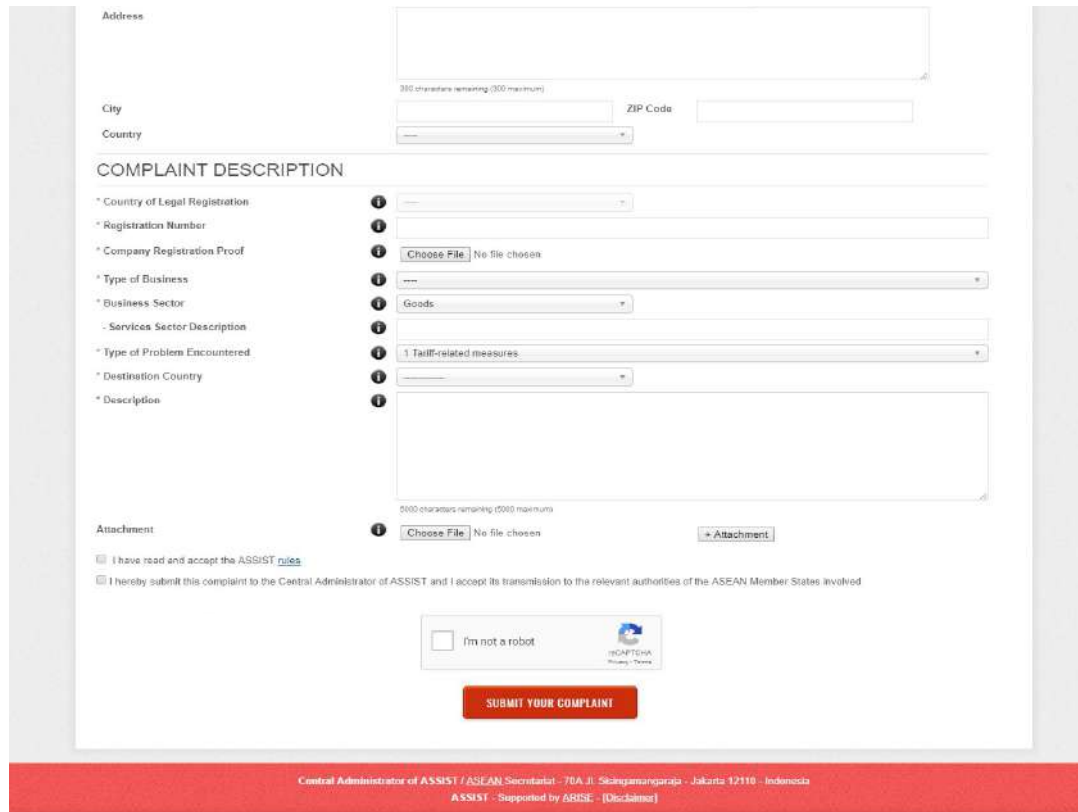
\* Gender  Mr.  Mrs.  Ms.

\* First Name  \* Last Name

\* Phone

\* Position

\* Email



Address

City

Country

ZIP Code

**COMPLAINT DESCRIPTION**

\* Country of Legal Registration

\* Registration Number

\* Company Registration Proof

\* Type of Business

\* Business Sector

Services Sector Description

\* Type of Problem Encountered

\* Destination Country

\* Description

Attachment

I have read and accept the ASSIST rules.

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

I'm not a robot

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [Disclaimer]

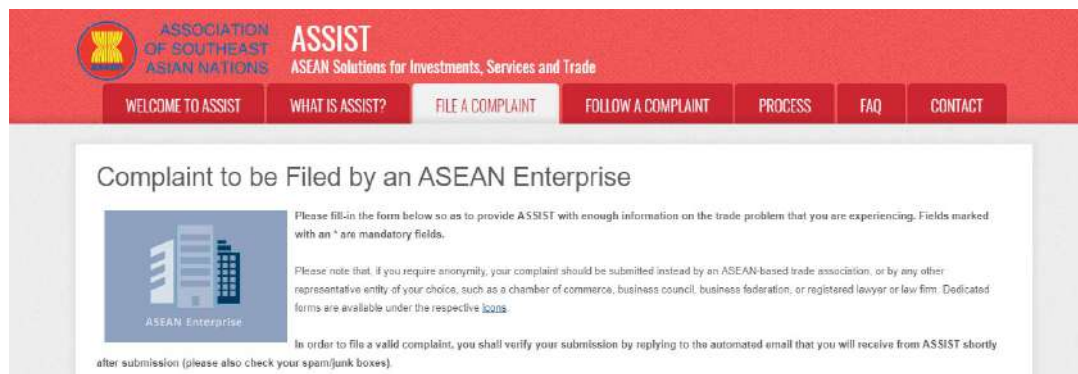
Fill-in the above form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in for each field. Please click on the **i** buttons to make sure that you fill-in the correct information in the form.

It is extremely important that you properly fill-in the "Description" field. The CA will need to verify that the description given in the complaint is sufficient to clearly identify the problem in the context of the specific subject agreement(s). Thus, please carefully layout your complaint with legal arguments and factual evidence to help the CA in deciding whether to approve your complaint.

**STEP 3**

**FILL-IN THE COMPLAINT FORM**

Below is an example of a completed form for this specific case study.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST

WHAT IS ASSIST?

FILE A COMPLAINT

FOLLOW A COMPLAINT

PROCESS

FAQ

CONTACT

**Complaint to be Filed by an ASEAN Enterprise**

Please fill-in the form below so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields.

Please note that, if you require anonymity, your complaint should be submitted instead by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. Dedicated forms are available under the respective [links](#).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please also check your spam/junk boxes).

ASEAN Enterprise

### ASEAN ENTERPRISE

\* ASEAN Enterprise Name: Star 88 Co., Ltd.

\* Company Size: 50 to 100

\* Phone: +905 524 1532

Website: www.star88.com

\* Address: Better Living Street  
City W  
Country X

291 characters remaining (300 maximum)

\* City: City W ZIP Code: 1711

\* Country: AMS-X

---

### CONTACT PERSON

\* Gender:  Mr  Mrs  Ms

\* First Name: Paul \* Last Name: Smith

\* Phone: +905 524 1532

\* Position: Chief Executive Officer

\* Email: aseanenterprise0@gmail.com

\* Address: Better Living Street  
City W  
Country X

291 characters remaining (300 maximum)

City: City W ZIP Code: 1711

Country: AMS-X

---

### COMPLAINT DESCRIPTION

\* Country of Legal Registration: AMS-X

\* Registration Number: 123456

\* Company Registration Proof: [Choose File](#) Annex 1-Simulat. 8 Co., Ltd.pdf

\* Type of Business: Service provider

\* Business Sector: Services

\* Services Sector Description:

\* Type of Problem Encountered: T1 Transport services

\* Destination Country: AMS-Y



\* Description: We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y.

2572 characters remaining (3000 maximum)

Attachment: [Choose File](#) Annex 2-Simulated Law of AMS-Y.pdf [+ Attachment](#)  
[Choose File](#) Annex 3-Simulated AM...nsport Services.pdf [Remove](#)

I have read and accept the ASSIST rules.

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - TDA Jl. Setiabudi - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE - [Disclaimer]

As an example of a clear and concise description of the complaint, below is the AE's description of his complaint in this case study:

"We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby

being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y.

We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS).

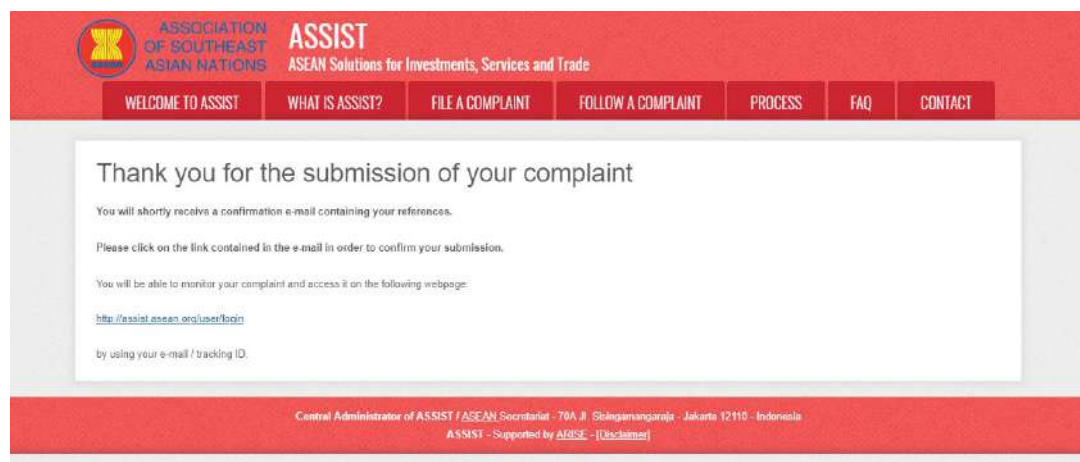
We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly."

When the complaint is filed by clicking "Submit Your Complaint", the following page in Step 4 will appear.

**STEP  
4**

**RECEIVE A NOTIFICATION FROM ASSIST**

Once you file a complaint on the ASSIST website, the below page will appear, informing you that a confirmation email will be sent to the email address which you have provided in your complaint form.




The above notification indicates that you should click on the link provided in your email account to confirm your complaint with ASSIST.

**STEP  
5**

**CONFIRM YOUR COMPLAINT FROM YOUR EMAIL ACCOUNT**

- (a) Go to the email account that you have provided in the complaint form. You will receive an email from ASSIST requesting you to confirm your complaint by clicking on the link provided or by copy-pasting the link onto the Internet browser. This is also required by ASSIST to confirm that the email address which you have provided is valid. Your complaint number is also provided in this email. In this case, your complaint number is **14620181017**.

Below is the email which you will receive from ASSIST.



ASEAN Enterprise <aseanenterprise0@gmail.com>

---

**[ASSIST] Thanks to confirm your complaint #14620181017 submission**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Wed, Oct 17, 2016 at 12:45 P



**ASSIST**

ASEAN Solutions for investments, Services and Trade

Dear **Mr Paul Smith**,

Thank you for having filed a complaint on **ASSIST**, the system of ASEAN Solutions for Investments, Services and Trade.

Please **confirm** your complaint **14620181017** on the following link (or by copy-pasting the following link onto your Internet browser):  
[http://assist.asean.org/user/confirm\\_email](http://assist.asean.org/user/confirm_email)

After your confirmation, ASSIST will monitor your complaint and you will be able to access it on the following webpage:  
<http://assist.asean.org/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / **14620181017**

---

**ASEAN Enterprise / Trade Association / Law Firm : Star 88 Co., Ltd.** (Type Enterprise)  
 Company size : 50 to 100  
 Phone : +905 524 1532  
 Website : [www.star88.com](http://www.star88.com)  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
 Country : **AMS-X**

**Contact person : Mr Paul Smith**  
 Phone : +905 524 1532  
 Position : Chief Executive Officer  
 Email : [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
 Country : **AMS-X**

**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : **AMS-X**  
 Legal Registration Number : **123456**  
 Type of Business : **Service provider**  
 Business Sector : **Services**  
 Type of problem encountered : **Transport services**  
 Destination Country : **AMS-Y**

**Description:**  
 We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 19 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g. the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.




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Thanking you, ASSIST is at your service.

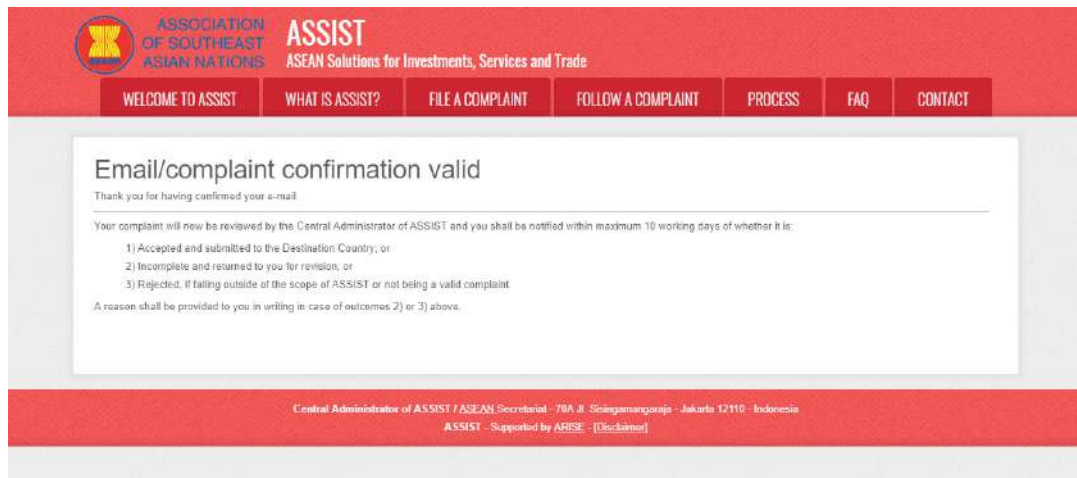
assist.asean.org

---

3 attachments

-  [Annex\\_2-Simulated\\_Law\\_of\\_AMS-Y2.pdf](#)  
47K
-  [Annex\\_3-Simulated\\_AMS-Y\\_Schedule\\_of\\_Specific\\_Commitments\\_Maritime\\_Transport\\_Services.pdf](#)  
90K
-  [Annex\\_1-Simulated\\_Company\\_Registration\\_of\\_Star\\_88\\_Co.,\\_Ltd\\_.pdf](#)  
50K

(b) Click on the link as requested in the above email and the following page will appear.



The screenshot shows the ASSIST website interface. At the top, there is a navigation menu with the following items: WELCOME TO ASSIST, WHAT IS ASSIST?, FILE A COMPLAINT, FOLLOW A COMPLAINT, PROCESS, FAQ, and CONTACT. The main content area displays a confirmation message: "Email/complaint confirmation valid". Below this, it says "Thank you for having confirmed your e-mail". A line of text follows: "Your complaint will now be reviewed by the Central Administrator of ASSIST and you shall be notified within maximum 10 working days of whether it is:". This is followed by a numbered list: "1) Accepted and submitted to the Destination Country; or", "2) Incomplete and returned to you for revision; or", "3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint". Below the list, it states: "A reason shall be provided to you in writing in case of outcomes 2) or 3) above." At the bottom of the page, there is a footer with the text: "Central Administrator of ASSIST / ASEAN Secretariat / TWA II, Soekarno-Hatta - Jakarta 12110 - Indonesia" and "ASSIST - Supported by ARISE - [Disclaimer]".

The above notification will inform you that your complaint will be reviewed by the CA and that you will be notified by email within maximum 10 working days of whether it is:

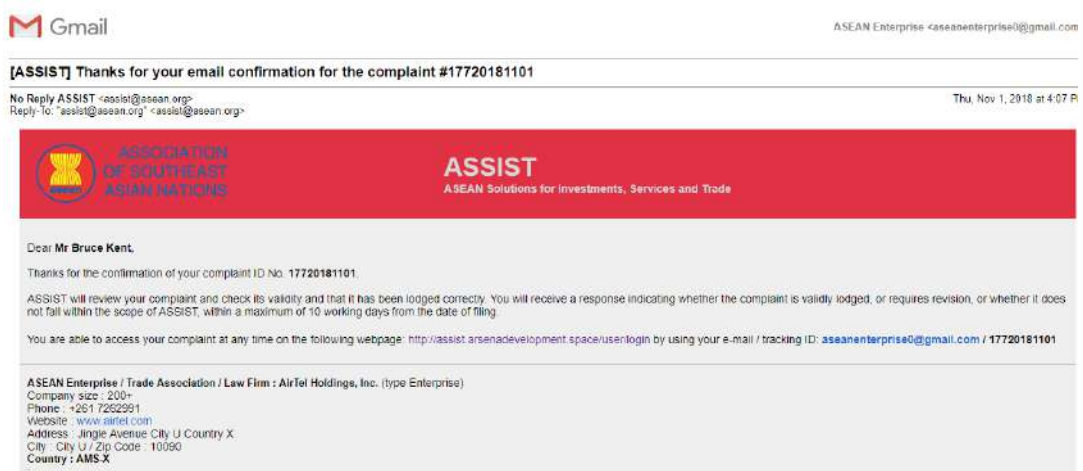
- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

Go to your email account.

**STEP  
6**

**RECEIVE AN EMAIL FROM ASSIST THAT YOUR EMAIL ADDRESS AND COMPLAINT IS VALID**

Go to your email account and you will see a new email from ASSIST. This email indicates that you have confirmed your complaint, that the CA will check its validity, and that it has been filed within ASSIST. ASSIST will revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.



The screenshot shows an email from ASSIST. The sender is "ASEAN Enterprise <aseanenterprise0@gmail.com>". The subject is "[ASSIST] Thanks for your email confirmation for the complaint #17720181101". The email body contains the following text: "Dear Mr Bruce Kent, Thanks for the confirmation of your complaint ID No. 17720181101. ASSIST will review your complaint and check its validity and that it has been lodged correctly. You will receive a response indicating whether the complaint is validly lodged, or requires revision, or whether it does not fall within the scope of ASSIST, within a maximum of 10 working days from the date of filing. You are able to access your complaint at any time on the following webpage: <http://assist.arsenadevelopment.space/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / 17720181101". At the bottom, there is contact information for ASEAN Enterprise / Trade Association / Law Firm: AirTel Holdings, Inc. (type Enterprise), including company size, phone number, website, address, city, and country.



Contact person : Mr. Bruce Kent  
Phone : +261 8159255399  
Position : President  
Email : aseanenterprise@gmail.com  
Address : Jingle Avenue City U Country X  
City : City U / Zip Code : 10090  
Country : AMS-X

Confidential case code (for law firm or lawyer only):  
Country of Legal Registration : AMS-X  
Legal Registration Number : 123456  
Type of Business : Service provider  
Business Sector : Services / Telecommunication  
Type of problem encountered : Communication Services  
Destination Country : AMS-Y

Description:  
We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y, 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

Thanking you, ASSIST is at your service.

assist.asean.org

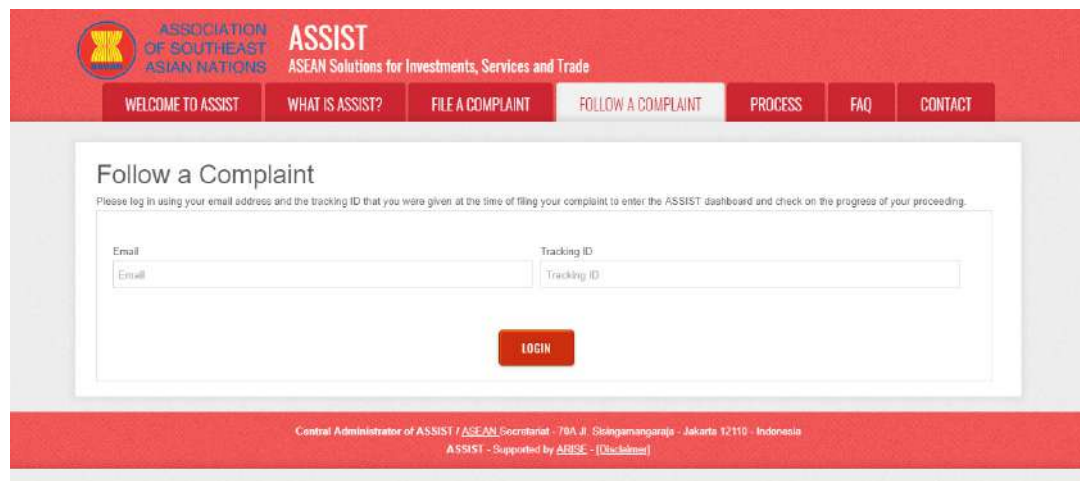
- 4 attachments
- Annex\_2\_Simulated\_AMS\_Y\_Schedule\_of\_Specific\_Commitments-AFAS\_9\_Consolidated\_Schedule1.pdf 91K
  - Annex\_3\_Simulated\_Law\_of\_AMS-Y1.pdf 47K
  - Annex\_4\_Simulated\_Amendment\_Law\_of\_AMS-Y1.pdf 47K
  - Annex\_4\_Simulated\_Corporate\_Regulation\_of\_AirTel\_Holdings\_1.pdf

As indicated in the above email, you are now able to monitor the progress by clicking on the indicated link which will be directed to the "Follow a Complaint" tab on the menu bar on the ASSIST Website.

**STEP  
7**

**MONITOR THE PROGRESS OF YOUR COMPLAINT**

- (a) Go to the following link: <http://assist.asean.org/user/login> or go to the "Follow a Complaint" tab on the menu bar on the ASSIST Website. The below page will appear.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS ASSIST ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

**Follow a Complaint**

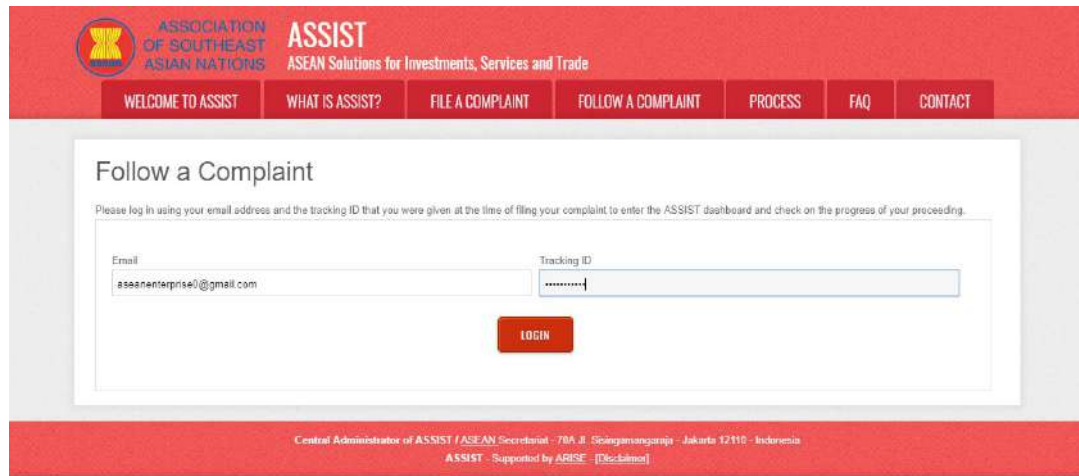
Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.

Email  Tracking ID

LOGIN

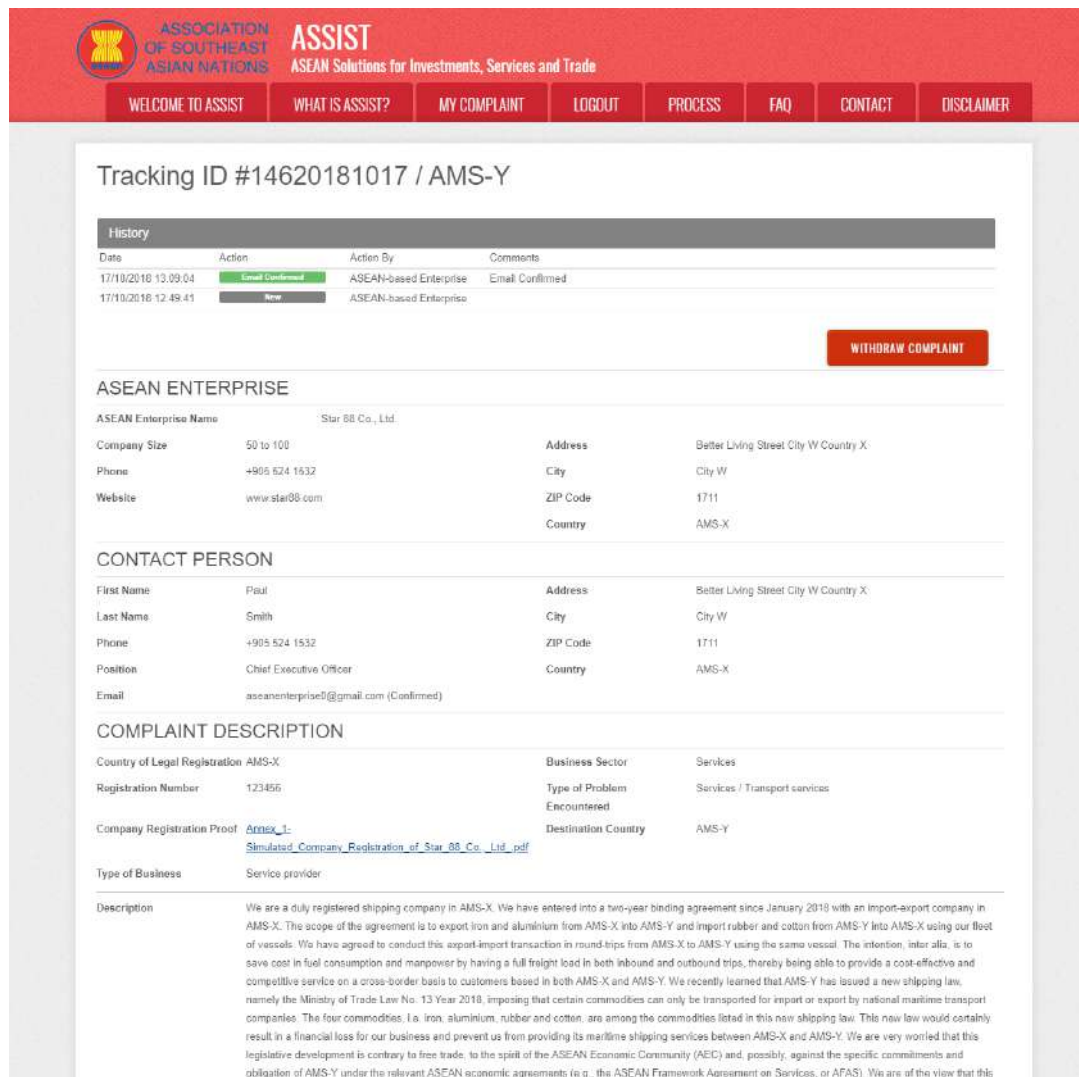
Central Administrator of ASSIST / ASEAN Secretariat / TBA II, Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - (Dibacklog)

- (b) Enter your email address and tracking ID (your complaint number) in the required fields to login. In this case, the **Email Address** is [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) and the Tracking ID is **14620181017**.



Once you login, you will see your ASSIST dashboard where you can monitor the progress of your complaint.

(c) View of your ASSIST Dashboard once you have successfully logged-in:



**Tracking ID #14620181017 / AMS-Y**

History			
Date	Action	Action By	Comments
17/10/2016 13:09:04	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
17/10/2016 12:49:41	New	ASEAN-based Enterprise	

**WITHDRAW COMPLAINT**

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: Star 88 Co., Ltd.

Company Size	50 to 100	Address	Better Living Street City W Country X
Phone	+905 524 1532	City	City W
Website	www.star88.com	ZIP Code	1711
		Country	AMS-X

**CONTACT PERSON**

First Name	Paul	Address	Better Living Street City W Country X
Last Name	Smith	City	City W
Phone	+905 524 1532	ZIP Code	1711
Position	Chief Executive Officer	Country	AMS-X
Email	aseanenterprise@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Transport services
Company Registration Proof	<a href="#">Annex 1- Simulated Company Registration of Star 88 Co. Ltd..pdf</a>	Destination Country	AMS-Y
Type of Business	Service provider		

**Description**

We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this



As you can see in your dashboard, the actions taken for your complaint are clearly indicated in your dashboard and this list will be regularly updated after each action is taken. Your completed complaint form, which you have submitted, is also accessible on your dashboard.

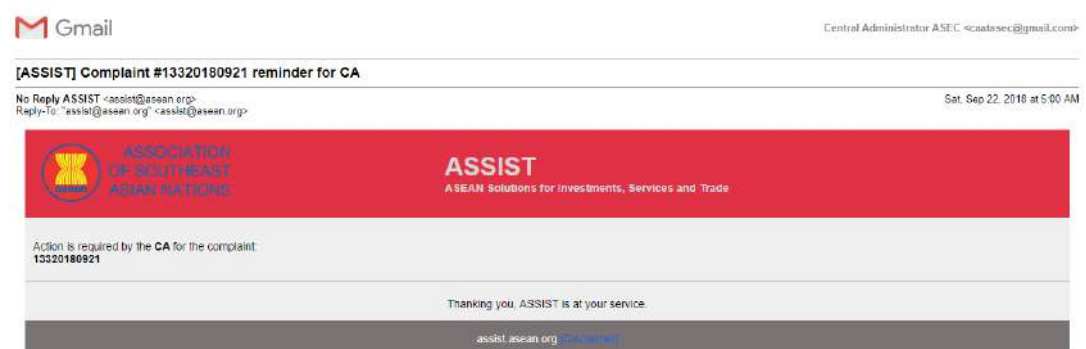
**STEP  
8**

**CENTRAL ADMINISTRATOR REVIEWS YOUR COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL (ACCEPT, INCOMPLETE, OR REJECT)**

Once the CA has completed reviewing your complaint and decided on whether to accept/incomplete/reject, an email will be sent to you typically within 10 working days since you lodged your complaint.

*If no action has been taken in the meantime by the CA, the CA will receive the below automatic reminder via email from the ASSIST online system within 7 calendar days after the complaint is lodged. As indicated above, the CA must decide to accept, declare incomplete and request revision, or reject the complaint within 10 working days.*

**Email Reminder 1 for the Central Administrator:**



Regularly check your email account within the 10 working days after lodging your complaint. You will eventually receive a new email from ASSIST.

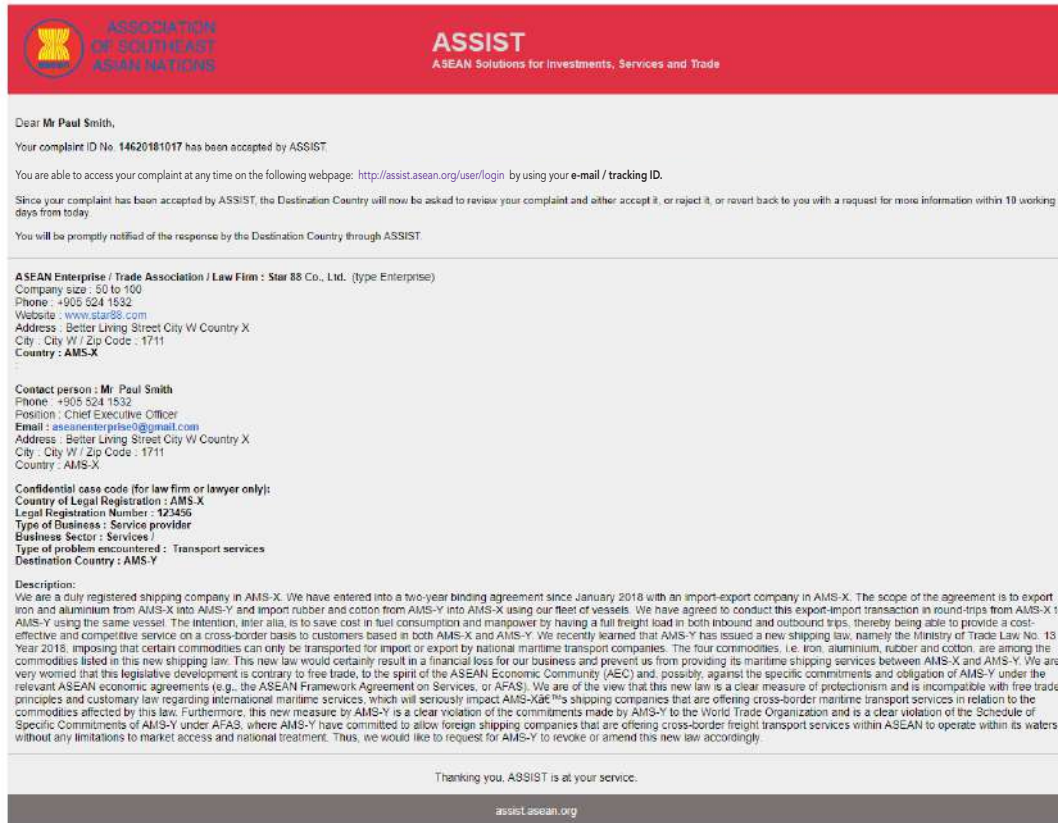


ASEAN Enterprise <aseanenterprise0@gmail.com>

**[ASSIST] Your complaint #14620181017 is accepted by CA**

No Reply ASSIST <assist@asean.org>  
Reply-To: 'assist@asean.org' <assist@asean.org>

Wed, Oct 17, 2018 at 2:40 P



The image shows a screenshot of an email from ASSIST. The header includes the ASSIST logo and the text 'ASSIST ASEAN Solutions for Investments, Services and Trade'. The main body of the email contains the following information:

Dear Mr Paul Smith,  
Your complaint ID No. 14620181017 has been accepted by ASSIST.

You are able to access your complaint at any time on the following webpage: <http://assist.asean.org/user/login> by using your e-mail / tracking ID.

Since your complaint has been accepted by ASSIST, the Destination Country will now be asked to review your complaint and either accept it, or reject it, or revert back to you with a request for more information within 10 working days from today.

You will be promptly notified of the response by the Destination Country through ASSIST.

**ASEAN Enterprise / Trade Association / Law Firm : Star 88 Co., Ltd. (type Enterprise)**  
Company size : 50 to 100  
Phone : +905 524 1532  
Website : [www.star88.com](http://www.star88.com)  
Address : Better Living Street City W Country X  
City : City W / Zip Code : 1711  
Country : AMS-X

**Contact person : Mr. Paul Smith**  
Phone : +905 524 1532  
Position : Chief Executive Officer  
Email : [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)  
Address : Better Living Street City W Country X  
City : City W / Zip Code : 1711  
Country : AMS-X

**Confidential case code (for law firm or lawyer only):**  
Country of Legal Registration : AMS-X  
Legal Registration Number : 123456  
Type of Business : Service provider  
Business Sector : Services  
Type of problem encountered : Transport services  
Destination Country : AMS-Y

**Description:**  
We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y has committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.

Thanking you, ASSIST is at your service.

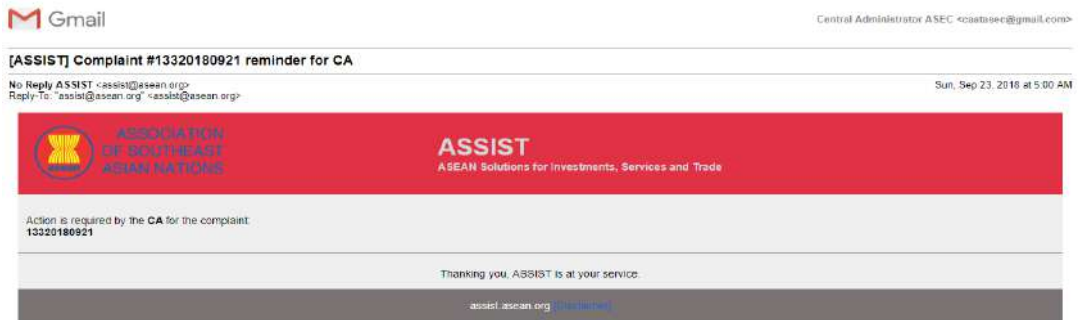
[assist.asean.org](http://assist.asean.org)

In this case, the above email shows that your complaint has been **accepted** by the CA. The email also informs you that your complaint will now be sent to the Destination Contact Point, which is the government agency (ASSIST Focal Point) in AMS-Y where you are facing trade problems and where your complaint is directed and a resolution is sought. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept, reject or revert back to you with a request for more information. This is intended to give time to the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities.

The Home Contact Point, which is the government agency (ASSIST Focal Point) in AMS-X (your home country) has also been notified that your complaint is lodged.

*If you do not receive an email from ASSIST within the required timeframe (10 working days since the complaint is lodged), then this means that the CA has an overdue action. The CA will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is required by the CA for the complaint. The CA will receive the email below:*

**Email Reminder 2 for the Central Administrator:**



**STEP  
9**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR**

If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has "Accepted" your complaint.

**Tracking ID #14620181017 / AMS-Y**

History			
Date	Action	Action By	Comments
17/10/2018 14:40:40	Accepted	Central Administrator of ASSIST	Dear Mr Paul Smith,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you...
17/10/2018 13:09:04	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
17/10/2018 12:49:41	New	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name	Star 88 Co., Ltd.	Address	Better Living Street City W Country X
Company Size	50 to 100	City	City W
Phone	+905 524 1532	ZIP Code	1711
Website	www.star88.com	Country	AMS-X

**CONTACT PERSON**

First Name	Paul	Address	Better Living Street City W Country X
Last Name	Smith	City	City W
Phone	+905 524 1532	ZIP Code	1711
Position	Chief Executive Officer	Country	AMS-X
Email	aseanenterprise0@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Transport services
Company Registration Proof	<a href="#">Annex 1</a> <a href="#">Simulated Company Registration of Star_88_Co.,Ltd_.pdf</a>	Destination Country	AMS-Y

Type of Business	Service provider:
Description	<p>We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018. Imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.</p>
Attachment	<p><a href="#">Annex 2_Simulated_Law_of_AMS.Y2.pdf</a> <a href="#">Annex 3_Simulated_AMS.Y_Schedule_of_Specific_Commitments-Maritime_Transport_Services.pdf</a></p>

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Setiabudi Raya - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

Click on the magnifying glass icon in the comments column. The full response from the CA will appear, as can be seen below:

Dear Mr Paul Smith,

Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you have also provided us with a copy of the Ministry of Trade Law No. 13 Year 2018 that is allegedly in violation of the Schedule of Specific Commitments of AMS-Y under AFAS. In addition, you have also submitted a copy of the concerned commitments of AMS-Y under AFAS. Thus, the Central Administrator finds that the nature of your complaint falls within the scope of ASSIST and that you have fulfilled all the necessary requirements to file a complaint under ASSIST.

We will forward your complaint to AMS-Y (Destination Contact Point). The Destination Contact Point will review your complaint and consult with the relevant national authorities, and will revert with a response within 10 working days on whether it has accepted or rejected your complaint.

You may monitor the progress on the handling of the complaint by login to your ASSIST Dashboard by using your Email/Tracking ID.

As informed in Step 8, once the complaint has been accepted by the CA, the complaint will be sent to the Destination Contact Point (DCP) in AMS-Y where you are facing trade problems. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept or reject it. This is intended to give time for the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities. Once the DCP responds, an email will be sent to you from ASSIST informing you whether your complaint has been accepted or rejected by the DCP in AMS-Y.

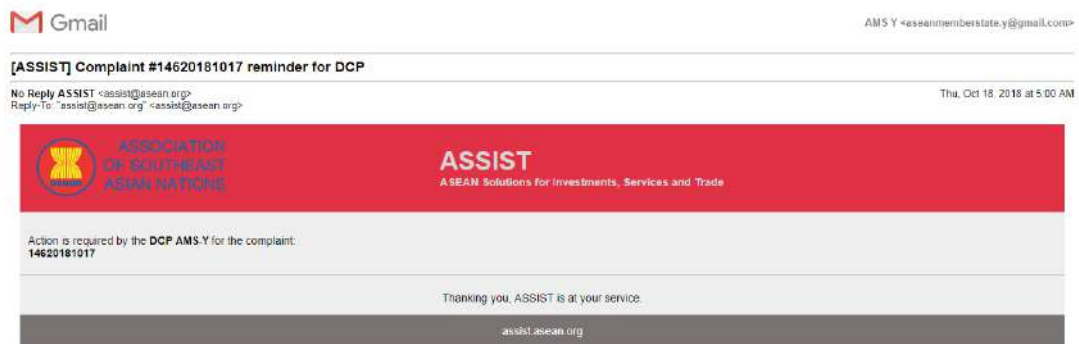
**STEP  
10**

**RECEIVE AN EMAIL NOTIFICATION FROM ASSIST ON WHETHER YOUR COMPLAINT IS ACCEPTED OR REJECTED BY THE DESTINATION CONTACT POINT IN AMS-Y**

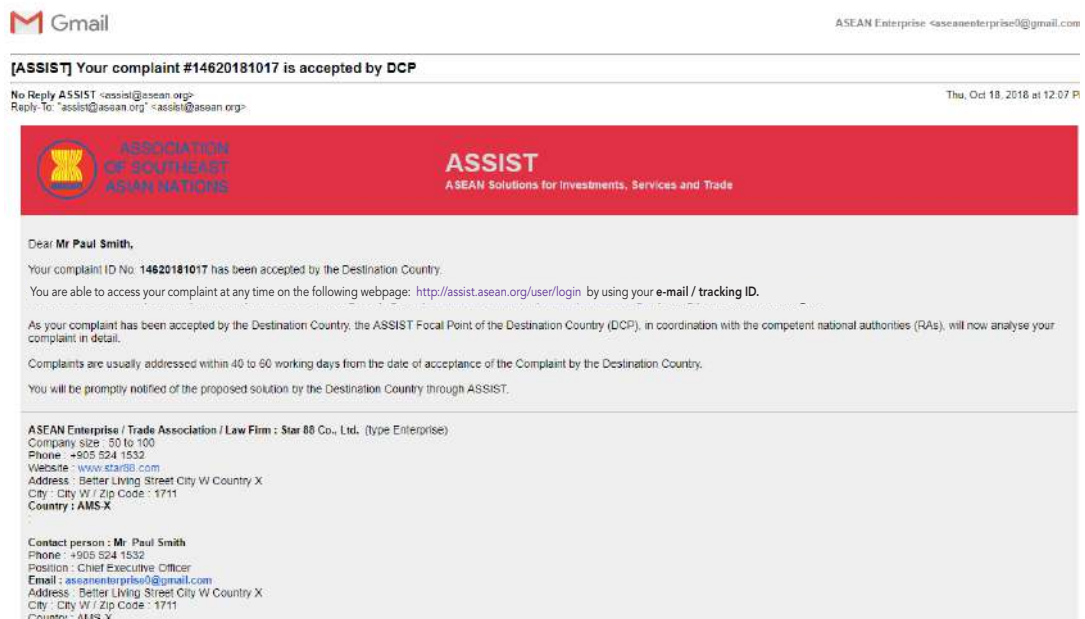
Within 10 working days after the response from the CA that your complaint is accepted, you will receive an email below informing that your complaint has been accepted or rejected by the DCP in AMS-Y.

*If no action has been taken in the meantime by the DCP, the DCP will receive the automatic reminder below via email from the ASSIST online system within 7 calendar days after the complaint has been accepted by the CA. As indicated above, the DCP must decide to accept or reject the complaint within 10 working days from when the CA has accepted the complaint.*

**Email Reminder 1 for the Destination Contact Point:**



Regularly check your email account within the 10 working days after the response from the CA that your complaint is accepted. You will eventually receive a new email from ASSIST.



Confidential case code (for law firm or lawyer only):  
Country of Legal Registration : AMS-X  
Legal Registration Number : 123456  
Type of Business : Service provider  
Business Sector : Services I  
Type of problem encountered : Transport services  
Destination Country : AMS-Y

**Description:**  
We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.

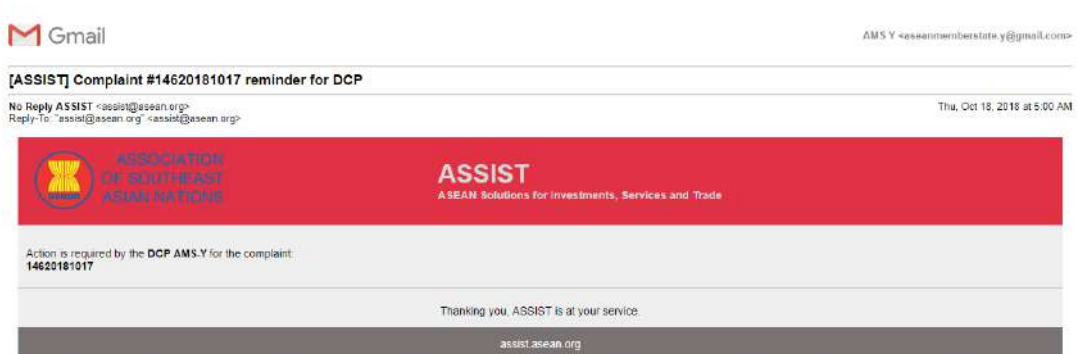
Thanking you, ASSIST is at your service.

[assist.asean.org](mailto:assist.asean.org) [\[Details\]](#)

In this case, the complaint has been accepted by the DCP as can be seen above.

*If you do not receive an email from ASSIST on the response by the DCP within the required timeframe (10 working days) after the complaint has been accepted by the CA, then this means that the DCP has an overdue action. The DCP will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is urgently required by the DCP for the complaint.*


**Email Reminder 2 for the Destination Contact Point:**



M Gmail AMS Y <assanmemberstate.y@gmail.com>

**[ASSIST] Complaint #14620181017 reminder for DCP**

No Reply ASSIST <assist@asean.org> Thu, Oct 18, 2018 at 5:00 AM  
Reply-To: "assist@asean.org" <assist@asean.org>

 ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade

Action is required by the DCP AMS.Y for the complaint:  
**14620181017**

Thanking you, ASSIST is at your service.

[assist.asean.org](mailto:assist.asean.org)

Once the DCP accepts the complaint, the matter is forwarded to the Responsible Authorities (RAs) for input. Once the RAs complete their efforts, the DCP should review the solution and provide it to the CA within the 40 working day deadline. Thus, to meet this deadline, a time limit should be assigned by the DCP for the RAs to find a solution. It is the responsibility of the DCP to notify the CA of any change relating to the timeframe between it and national authorities.

The CA may extend the deadline for up to 20 working days upon request of the DCP. The system will automatically notify when the deadlines are approaching (i.e., typically, 10 calendar days before the lapse). If the DCP misses its deadline to submit a solution to the CA, the online system will notify the CA to follow-up with the DCP.

Regularly check your email within the 40 + 20 working days after you have been notified that the DCP has accepted your complaint. You will eventually receive a new email from ASSIST indicating the proposed solution by the DCP.



**STEP  
11**

**RECEIVE AN EMAIL NOTIFICATION FROM ASSIST THAT A SOLUTION IS PROPOSED BY AMS-Y AND ACCEPTED BY THE CENTRAL ADMINISTRATOR**

After the DCP (AMS-Y) receives a proposed solution from their RA(s) and considers that the proposal addresses the issue raised in the complaint, the DCP will provide that proposed solution to the CA.

The CA will: (i) review the solution in the context of the original complaint; (ii) register the solution and send it to the AE by email; and (iii) copy the solution to the Home Contact Point/HCP in AMS-X (your home country).

- (a) Go to your email account. You will receive a new email from ASSIST indicating the response to your complaint from the DCP.




ASEAN Enterprise <aseanenterprise@gmail.com>

**[ASSIST] Response for your #14620181017 complaint**

No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Thu, Oct 18, 2016 at 12:38 PM



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

**ASSIST**

ASEAN Solutions for Investments, Services and Trade

Dear Mr Paul Smith,

The response for your complaint **14620181017** is ready.

"Upon internal discussions between the DCP and the RAs, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y's domestic vessels (i.e., vessels belonging to maritime shipping companies based in AMS-Y), as there has also been criticism and disagreements from local exporters that this new regulation will possibly affect export volumes and State revenues, as it will discourage or alienate foreign investors, as many buyers of the restricted commodities are now pending finalization of their contracts. However, AMS-Y stated that it did not intend for the regulation to be seen as a protectionist measure against foreign vessels and in violation of free trade principles. AMS-Y underlined that its measure was initially intended to encourage AMS-Y's shipping industry to increase domestic shipping capacity as more than 90% of all shipping in AMS-Y waters is handled by foreign vessels. Thus, for example, in the rubber industry more than 90% of export shipments are conducted by foreign vessels. Domestic shipping capacity was estimated at 50 million tons in 2017, while foreign vessels shipped 800 million tons in the same year, which is a major difference. AMS-Y added that the key goal of the regulation is that domestic shipping services companies start to benefit more significantly from the rising amount of sea trade in AMS-Y waters. Currently, most of the contracts and volumes of sea trade are dominated by foreign shipping service companies. However, AMS-Y agrees that it requires a more gradual process rather than a sudden break; thus the decision to postpone indefinitely (although not to revoke) the application of the new law."

You can also check the status of your complaint online at <http://assist.asean.org/user/login> by using your e-mail / tracking ID.

**Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:**

[Yes](#) / [No](#)

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**ASEAN Enterprise / Trade Association / Law Firm : Star 88 Co., Ltd.** (type Enterprise)  
 Company size : 50 to 100  
 Phone : +905 524 1532  
 Website : [www.star88.com](http://www.star88.com)  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
 Country : AMS-X

Contact person : Mr Paul Smith  
 Phone : +905 524 1532  
 Position : Chief Executive Officer  
 Email : [aseanenterprise@gmail.com](mailto:aseanenterprise@gmail.com)  
 Address : Better Living Street City W Country X  
 City : City W / Zip Code : 1711  
 Country : AMS-X


**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 123456  
 Type of Business : Service provider  
 Business Sector : Services /  
 Type of problem encountered : Transport services  
 Destination Country : AMS-Y

**Description:**  
 We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2016 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y has committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.

Thanking you, ASSIST is at your service.

assist.asean.org

(b) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that a solution for your complaint has been proposed. The complete solution from the DCP, which has been accepted by the CA, is also provided in the first paragraph of your dashboard.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS

## ASSIST

ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST | WHAT IS ASSIST? | MY COMPLAINT | LOGOUT | PROCESS | FAQ | CONTACT | DISCLAIMER

### Tracking ID #14620181017 / AMS-Y

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**ASSIST Solution**

Upon internal discussions between the DCP and the RA, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y's domestic vessels (i.e., vessels belonging to maritime shipping companies based in AMS-Y), as there has also been criticism and disagreements from local exporters that this new regulation will possibly affect export volumes and State revenues, as it will discourage or alienate foreign investors, as many buyers of the restricted commodities are now pending finalization of their contracts. However, AMS-Y stated that it did not intend for the regulation to be seen as a protectionist measure against foreign vessels and in violation of free trade principles. AMS-Y underlined that its measure was initially intended to encourage AMS-Y's shipping industry to increase domestic shipping capacity as more than 90% of all shipping in AMS-Y waters is handled by foreign vessels. Thus, for example, in the rubber industry more than 90% of export shipments are conducted by foreign vessels. Domestic shipping capacity was estimated at 50 million tons in 2017, while foreign vessels shipped 600 million tons in the same year, which is a major difference. AMS-Y added that the key goal of the regulation is that domestic shipping services companies start to benefit more significantly from the rising amount of sea trade in AMS-Y waters. Currently, most of the contracts and volumes of sea trade are dominated by foreign shipping service companies. However, AMS-Y agrees that it requires a more gradual process rather than a sudden break, thus the decision to postpone indefinitely (although not to revoke) the application of the new law.

Attachment

History			
Date	Action	Action By	Comments
16/10/2018 12:38:25	Solution	Central Administrator of ASSIST	Upon internal discussions between the DCP and the RA, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y's domestic vessels (i.e., vessels belonging to maritime shipping... <a href="#">View</a>
17/10/2018 14:40:40	Proposed	Central Administrator of ASSIST	Dear Mr Paul Smith,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you... <a href="#">View</a>
17/10/2018 13:09:04	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
17/10/2018 12:49:41	New	ASEAN-based Enterprise	

#### ASEAN ENTERPRISE

ASEAN Enterprise Name	Star 88 Co., Ltd.		
Company Size	50 to 100	Address	Better Living Street City W Country X
Phone	+905 524 1532	City	City W
Website	www.star88.com	ZIP Code	1711
		Country	AMS-X

#### CONTACT PERSON

First Name	Paul	Address	Better Living Street City W Country X
Last Name	Smith	City	City W
Phone	+905 524 1532	ZIP Code	1711
Position	Chief Executive Officer	Country	AMS-X
Email	aseanenterprise@gmail.com (Confirmed)		

#### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Transport services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of Star 88 Co., Ltd.pdf</a>	Destination Country	AMS-Y
Type of Business	Service provider		
Description	<p>We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g., the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.</p>		
Attachment	<a href="#">Annex 2-Simulated Law of AMS-Y2.pdf</a> <a href="#">Annex 3-Simulated AMS-Y Schedule of Specific Commitments-Maritime Transport Services.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE - [Disclaimer]

Below is the proposed solution from the DCP:

“Upon internal discussions between the DCP and the RAs, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y’s domestic vessels (i.e., vessels belonging to maritime shipping companies based in AMS-Y), as there has also been criticism and disagreements from local exporters that this new regulation will possibly affect export volumes and State revenues, as it will discourage or alienate foreign investors, as many buyers of the restricted commodities are now pending finalization of their contracts.

However, AMS-Y stated that it did not intend for the regulation to be seen as a protectionist measure against foreign vessels and in violation of free trade principles. AMS-Y underlined that its measure was initially intended to encourage AMS-Y’s shipping industry to increase domestic shipping capacity as more than 90% of all shipping in AMS-Y waters is handled by foreign vessels. Thus, for example, in the rubber industry more than 90% of export shipments are conducted by foreign vessels. Domestic shipping capacity was estimated at 50 million tons in 2017, while foreign vessels shipped 800 million tons in the same year, which is a major difference.

AMS-Y added that the key goal of the regulation is that domestic shipping services companies start to benefit more significantly from the rising amount of sea trade in AMS-Y waters. Currently, most of the contracts and volumes of sea trade are dominated by foreign shipping service companies. However, AMS-Y agrees that it requires a more gradual process rather than a sudden break, thus the decision to postpone indefinitely (although not to revoke) the application of the new law.”

(c) In the bottom of the email from ASSIST in 11(a) above, you are requested to indicate whether you are satisfied or not with the answer given by the DCP and the solution provided therein. You can do so by choosing ‘Yes’ or ‘No’ in the field provided.

Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing ‘Yes’ or ‘No’ below:

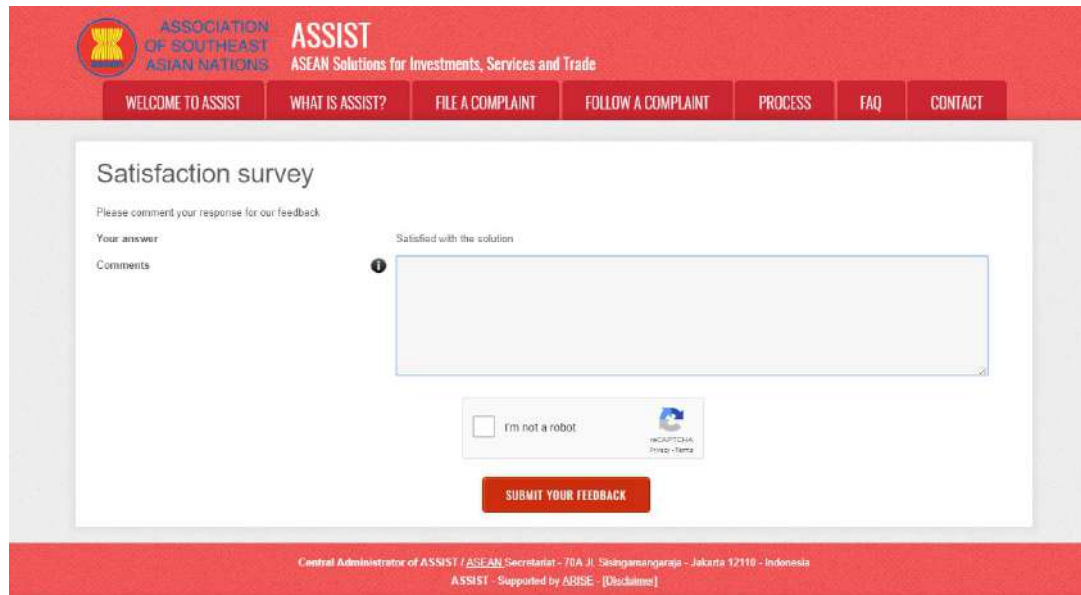
Yes /  No

In this case, the AE chooses “Yes”.

## STEP 12

### PROVIDE YOUR FEEDBACK TO THE PROPOSED SOLUTION PROVIDED BY AMS-Y IN THE SATISFACTION SURVEY AND RECEIVE ACKNOWLEDGEMENT EMAILS FROM ASSIST

Once you choose ‘Yes/No’ in Step 11 (c) above, you will be directed to the page below where you will be requested to answer the Satisfaction Survey and be invited to provide comments, particularly if you are not satisfied with the proposed solution.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade


WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Satisfaction survey

Please comment your response for our feedback.

Your answer: Satisfied with the solution

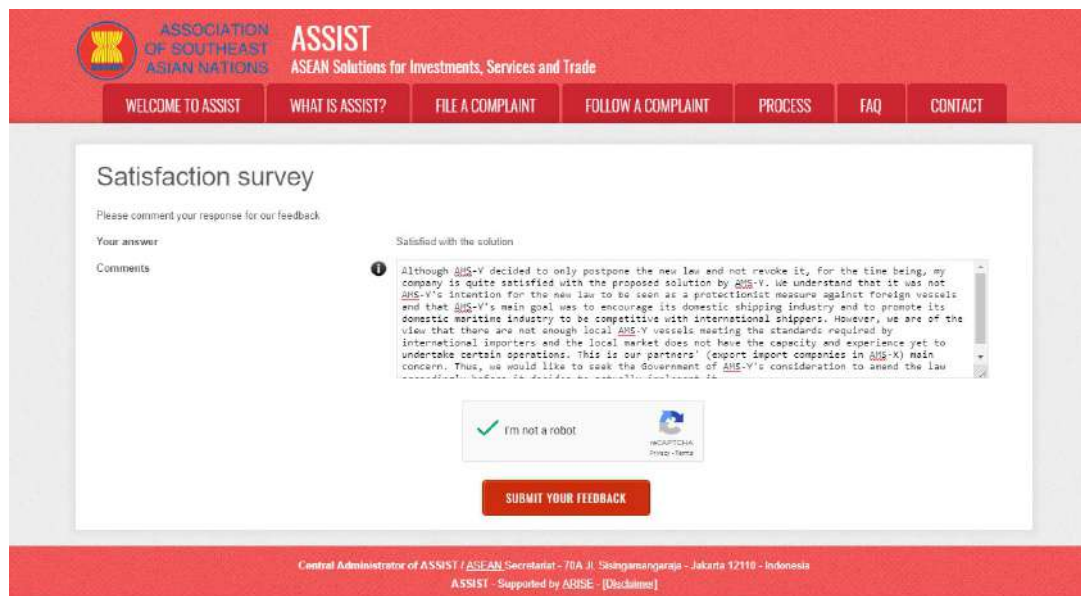
Comments: [Empty text area]

I'm not a robot 

**SUBMIT YOUR FEEDBACK**

Central Administrator of ASSIST / ASEAN Secretariat - TDA JI, Sisjagmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

- (a) Fill-in the Satisfaction Survey. In this case, the AE is satisfied with the solution provided by ASSIST and thus indicates accordingly.



ASSOCIATION OF SOUTHEAST ASIAN NATIONS **ASSIST**  
ASEAN Solutions for Investments, Services and Trade


WELCOME TO ASSIST WHAT IS ASSIST? FILE A COMPLAINT FOLLOW A COMPLAINT PROCESS FAQ CONTACT

### Satisfaction survey

Please comment your response for our feedback.

Your answer: Satisfied with the solution

Comments: Although AMS-Y decided to only postpone the new law and not revoke it, for the time being, my company is quite satisfied with the proposed solution by AMS-V. We understand that it was not AMS-V's intention for the new law to be seen as a protectionist measure against foreign vessels and that AMS-V's main goal was to encourage its domestic shipping industry and to promote its domestic maritime industry to be competitive with international shippers. However, we are of the view that there are not enough local AMS-Y vessels meeting the standards required by international importers and the local market does not have the capacity and experience yet to undertake certain operations. This is our partners' (export import companies in AMS-K) main concern. Thus, we would like to seek the Government of AMS-Y's consideration to amend the law

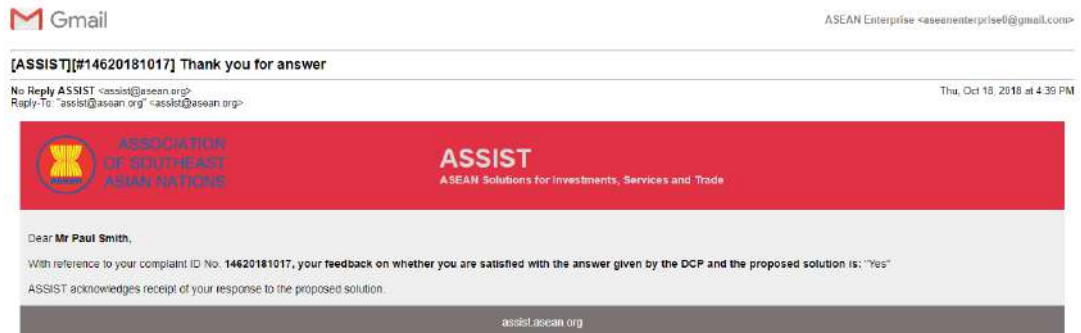
I'm not a robot 

**SUBMIT YOUR FEEDBACK**

Central Administrator of ASSIST / ASEAN Secretariat - TDA JI, Sisjagmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABSE - [Disclaimer]

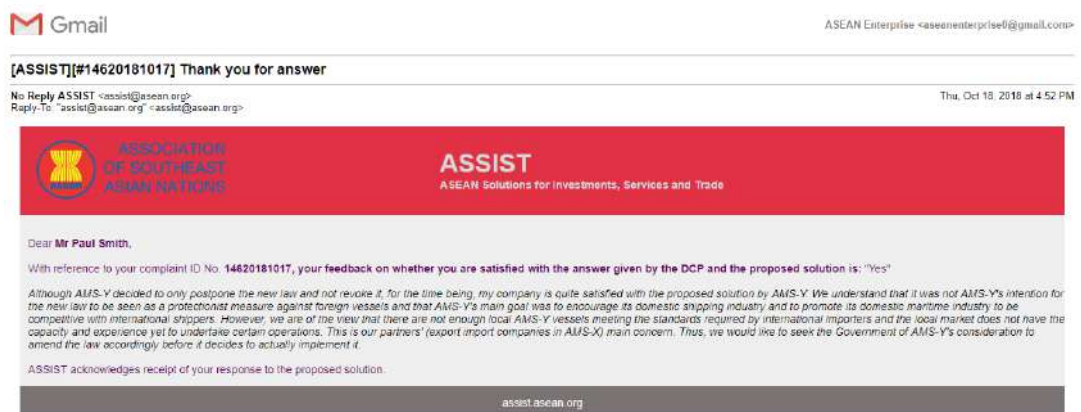
- (b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

## First Acknowledgement Email from ASSIST



## Second Acknowledgement Email from ASSIST

If you provided a comment on the Satisfaction Survey, you will receive a second email below, acknowledging receipt of your response to the proposed solution will be sent by ASSIST to you, the DCP and the HCP.



- (c) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The final view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that you have indicated satisfaction to the proposed solution by ASSIST.



### Tracking ID #14620181017 / AMS-Y

#### ASSIST Solution

Upon internal discussions between the DCP and the RA, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y's domestic vessels (i.e. vessels belonging to maritime shipping companies based in AMS-Y), as there has also been criticism and disagreements from local exporters that this new regulation will possibly affect export volumes and State revenues, as it will discourage or alienate foreign investors, as many buyers of the restricted commodities are now pending finalization of their contracts. However, AMS-Y stated that it did not intend for the regulation to be seen as a protectionist measure against foreign vessels and in violation of free trade principles. AMS-Y underlined that its measure was initially intended to encourage AMS-Y's shipping industry to increase domestic shipping capacity as more than 90% of all shipping in AMS-Y waters is handled by foreign vessels. Thus, for example, in the rubber industry more than 90% of export shipments are conducted by foreign vessels. Domestic shipping capacity was estimated at 50 million tons in 2017, while foreign vessels shipped 600 million tons in the same year, which is a major difference. AMS-Y added that the key goal of the regulation is that domestic shipping services companies start to benefit more significantly from the rising amount of sea trade in AMS-Y waters. Currently, most of the contracts and volumes of sea trade are dominated by foreign shipping service companies. However, AMS-Y agrees that it requires a more gradual process rather than a sudden break, thus the decision to postpone indefinitely (although not to revoke) the application of the new law.

Attachment

Satisfied: Yes

#### History

Date	Action	Action By	Comments
18/10/2018 16:52:00	Satisfied	ASEAN-based Enterprise	Although AMS-Y decided to only postpone the new law and not revoke it, for the time being, my company is quite satisfied with the proposed solution by AMS-Y. We understand that it was not AMS-Y's intention for the new law to be seen as a protectionist measure against foreign vessels and that AMS-Y...
18/10/2018 12:38:29	Solution	Central Administrator of ASSIST	Upon internal discussions between the DCP and the RA, AMS-Y decides to postpone the application of the new regulation requiring exporters and importers of certain commodities, including iron, aluminium, cotton and rubber, to use only AMS-Y's domestic vessels (i.e. vessels belonging to maritime shipping...
17/10/2018 14:40:40	Accepted	Central Administrator of ASSIST	Dear Mr Paul Smith,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you...
17/10/2018 13:09:04	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
17/10/2018 12:49:41	New	ASEAN-based Enterprise	

#### ASEAN ENTERPRISE

ASEAN Enterprise Name	Star 88 Co., Ltd.		
Company Size	50 to 100	Address	Better Living Street City W Country X
Phone	+905 524 1532	City	City W
Website	www.star88.com	ZIP Code	1711
		Country	AMS-X

#### CONTACT PERSON

First Name	Paul	Address	Better Living Street City W Country X
Last Name	Smith	City	City W
Phone	+905 524 1532	ZIP Code	1711
Position	Chief Executive Officer	Country	AMS-X
Email	aseanenterprise@gmail.com (Confirmed)		

#### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Transport services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of Star_88_Co_Ltd.pdf</a>	Destination Country	AMS-Y
Type of Business	Service provider		

**Description**

We are a duly registered shipping company in AMS-X. We have entered into a two-year binding agreement since January 2018 with an import-export company in AMS-X. The scope of the agreement is to export iron and aluminium from AMS-X into AMS-Y and import rubber and cotton from AMS-Y into AMS-X using our fleet of vessels. We have agreed to conduct this export-import transaction in round-trips from AMS-X to AMS-Y using the same vessel. The intention, inter alia, is to save cost in fuel consumption and manpower by having a full freight load in both inbound and outbound trips, thereby being able to provide a cost-effective and competitive service on a cross-border basis to customers based in both AMS-X and AMS-Y. We recently learned that AMS-Y has issued a new shipping law, namely the Ministry of Trade Law No. 13 Year 2018, imposing that certain commodities can only be transported for import or export by national maritime transport companies. The four commodities, i.e. iron, aluminium, rubber and cotton, are among the commodities listed in this new shipping law. This new law would certainly result in a financial loss for our business and prevent us from providing its maritime shipping services between AMS-X and AMS-Y. We are very worried that this legislative development is contrary to free trade, to the spirit of the ASEAN Economic Community (AEC) and, possibly, against the specific commitments and obligation of AMS-Y under the relevant ASEAN economic agreements (e.g. the ASEAN Framework Agreement on Services, or AFAS). We are of the view that this new law is a clear measure of protectionism and is incompatible with free trade principles and customary law regarding international maritime services, which will seriously impact AMS-X's shipping companies that are offering cross-border maritime transport services in relation to the commodities affected by this law. Furthermore, this new measure by AMS-Y is a clear violation of the commitments made by AMS-Y to the World Trade Organization and is a clear violation of the Schedule of Specific Commitments of AMS-Y under AFAS, where AMS-Y have committed to allow foreign shipping companies that are offering cross-border freight transport services within ASEAN to operate within its waters without any limitations to market access and national treatment. Thus, we would like to request for AMS-Y to revoke or amend this new law accordingly.

**Attachment**

[Annex 2: Simulated Law of AMS-Y2.pdf](#)  
[Annex 3: Simulated AMS-Y Schedule of Specific Commitments Maritime Transport Services.pdf](#)

- (d) If you would like to see the comment that you have provided in the Satisfaction Survey, click on the magnifying glass icon and the below screen will appear.



On notification that a solution proposed to an AE has been accepted as satisfactory by the AE, the DCP should pass notice of the acceptance on to the RA(s), to ensure that any administrative arrangements necessary to implement the solution are in place as soon as possible.

**ASSIST will consider this procedure as one where the complaint was accepted and a solution was provided by the DCP and accepted by the AE.**

**Please note that the timeframe for solving cross-border problems brought under ASSIST shall be no more than 40 working days or 2 calendar months (unless an extension of maximum 20 working days has been accorded) from the date when the complaint has been accepted by the DCP (i.e. the ASEAN Member State against which the complaint was filed).**





ASSIST

# STEP-BY-STEP TUTORIAL FOR CASE STUDY 5 (TRADE IN SERVICES)

Photo credit: Nathan Associates - PSDA Project, Myanmar

**Complaint Filed by an ASEAN Enterprise (Parent Company of its Subsidiary Company), Accepted by Central Administrator and Rejected by Destination Contact Point.**

**Brief Description of Case:** This scenario is that of a mock case that falls under Mode 3 (Commercial Presence) of services trade, which is defined in the ASEAN Framework Agreement on Services (AFAS) and the General Agreement on Trade in Services (GATS), mutatis mutanda, as the supply of a service supplier of one country, through commercial presence in the territory of any other country. This scenario is that of a complaint that is accepted by ASSIST's Central Administrator (CA) as having been validly lodged by the AE, which is the parent company in another ASEAN Member State of its subsidiary company, where the ASEAN Member State against which the complaint is filed is located and that is actually the one with the problem or complaint, but

being rejected by the Destination Country because the latter finds that the allegations by the AE lack merit as the Destination Country has complied with the relevant ASEAN commitments.

The complaint is in relation to the revocation of the license of the subsidiary company and the amendment of the Telecommunications Business License Act by the Destination Country, which AE claims is a discrimination against foreign investors and in clear violation of the Schedule of Specific ASEAN Commitments of the Destination Country under the AFAS where the Destination Country has committed to allow commercial presence of a foreign company, in other words the legal right for foreign operators, legally registered in another ASEAN Member State, to provide the service through commercial establishment, without any limitations to market access and national treatment.

## List of Actors and Abbreviations:

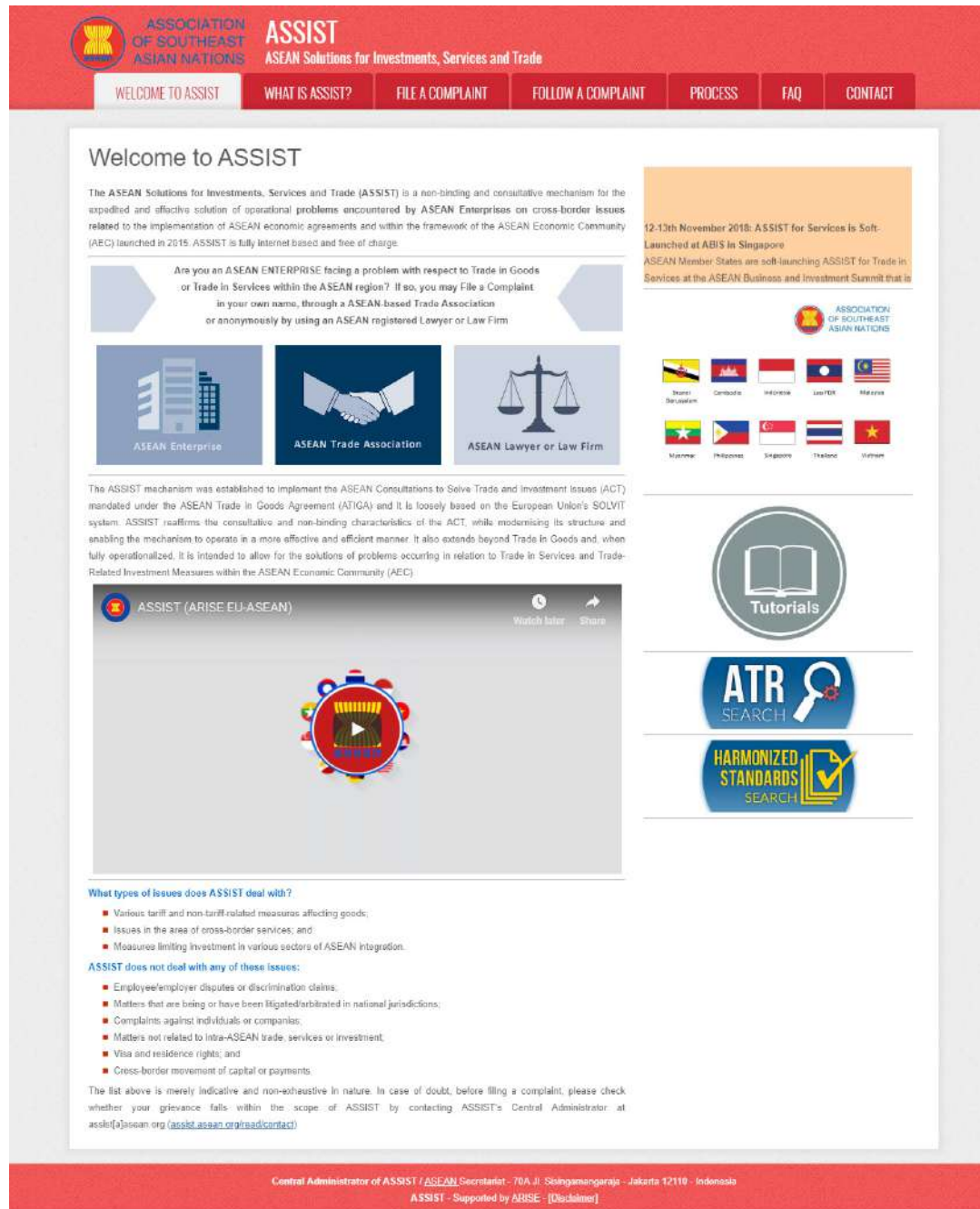
- Complainant = ASEAN Enterprise (AE)
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant National Authorities = Relevant Authorities (RAs)

## STEP 1

### GO TO THE ASSIST WEBSITE ([HTTP://ASSIST.ASEAN.ORG](http://assist.asean.org))

If you feel that your case is a problem on an ASEAN cross-border trade related issue, you are a business registered in an ASEAN Member State, and you would like a free of charge, non-binding, consultative service, and receive an expedited and effective solution, go to the following link: <http://assist.asean.org>.

Below is the homepage of ASSIST.



The screenshot shows the ASSIST homepage with a navigation menu at the top. The main content area includes a 'Welcome to ASSIST' section with a description of the mechanism, a central call-to-action box asking if the user is an ASEAN Enterprise, and three icons representing 'ASEAN Enterprise', 'ASEAN Trade Association', and 'ASEAN Lawyer or Law Firm'. Below this is a list of ASEAN member states with their flags. There are also sections for 'Tutorials', 'ATR SEARCH', and 'HARMONIZED STANDARDS SEARCH'. A list of issues ASSIST deals with and does not deal with is provided, along with contact information for the Central Administrator.

**Welcome to ASSIST**

The ASEAN Solutions for Investments, Services and Trade (ASSIST) is a non-binding and consultative mechanism for the expedited and effective solution of operational problems encountered by ASEAN Enterprises on cross-border issues related to the implementation of ASEAN economic agreements and within the framework of the ASEAN Economic Community (AEC) launched in 2015. ASSIST is fully internet based and free of charge.

Are you an ASEAN ENTERPRISE facing a problem with respect to Trade in Goods or Trade in Services within the ASEAN region? If so, you may File a Complaint in your own name, through a ASEAN-based Trade Association or anonymously by using an ASEAN registered Lawyer or Law Firm

ASEAN Enterprise | ASEAN Trade Association | ASEAN Lawyer or Law Firm

The ASSIST mechanism was established to implement the ASEAN Consultations to Solve Trade and Investment Issues (ACT) mandated under the ASEAN Trade in Goods Agreement (ATIGA) and it is loosely based on the European Union's SOLVIT system. ASSIST reaffirms the consultative and non-binding characteristics of the ACT, while modernising its structure and enabling the mechanism to operate in a more effective and efficient manner. It also extends beyond Trade in Goods and, when fully operationalized, it is intended to allow for the solutions of problems occurring in relation to Trade in Services and Trade-Related Investment Measures within the ASEAN Economic Community (AEC).

12-13th November 2018: ASSIST for Services is Soft-Launched at ABIS in Singapore  
ASEAN Member States are soft-launching ASSIST for Trade in Services at the ASEAN Business and Investment Summit that is

ASEAN Enterprise | ASEAN Trade Association | ASEAN Lawyer or Law Firm

Tutorials | ATR SEARCH | HARMONIZED STANDARDS SEARCH

**What types of issues does ASSIST deal with?**

- Various tariff and non-tariff-related measures affecting goods;
- Issues in the area of cross-border services; and
- Measures limiting investment in various sectors of ASEAN integration.

**ASSIST does not deal with any of these issues:**

- Employee/employer disputes or discrimination claims;
- Matters that are being or have been litigated/arbitrated in national jurisdictions;
- Complaints against individuals or companies;
- Matters not related to intra-ASEAN trade, services or investment;
- Visa and residence rights; and
- Cross-border movement of capital or payments.

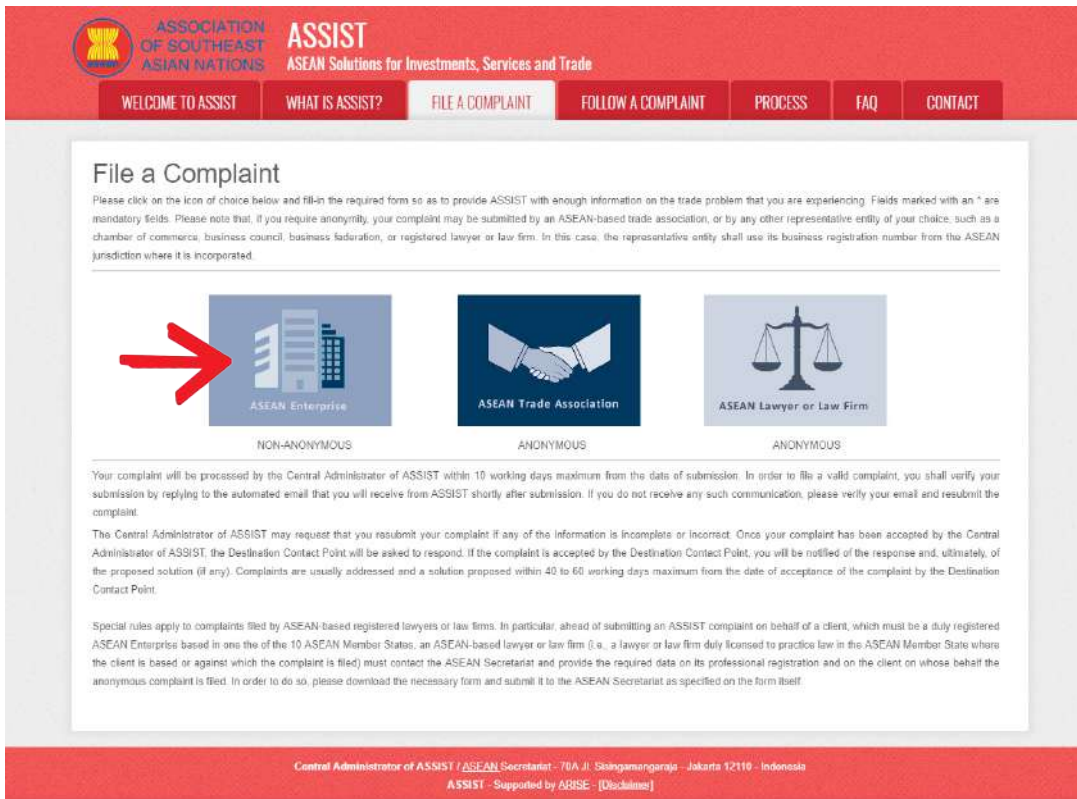
The list above is merely indicative and non-exhaustive in nature. In case of doubt, before filing a complaint, please check whether your grievance falls within the scope of ASSIST by contacting ASSIST's Central Administrator at [assist@asean.org](mailto:assist@asean.org) ([assist.asean.org](mailto:assist.asean.org) or [assist@asean.org](mailto:assist@asean.org))

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ABISE - [Disclaimers]

STEP  
2


SELECT THE 'FILE A COMPLAINT' TAB (ASEAN ENTERPRISE ICON)

If you are filing a complaint under your own company (non-anonymous complaint) and you are not represented by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm, click on the 'ASEAN Enterprise' icon on the File a Complaint tab.




**File a Complaint**


Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields. Please note that, if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.



NON-ANONYMOUS



ANONYMOUS



ANONYMOUS

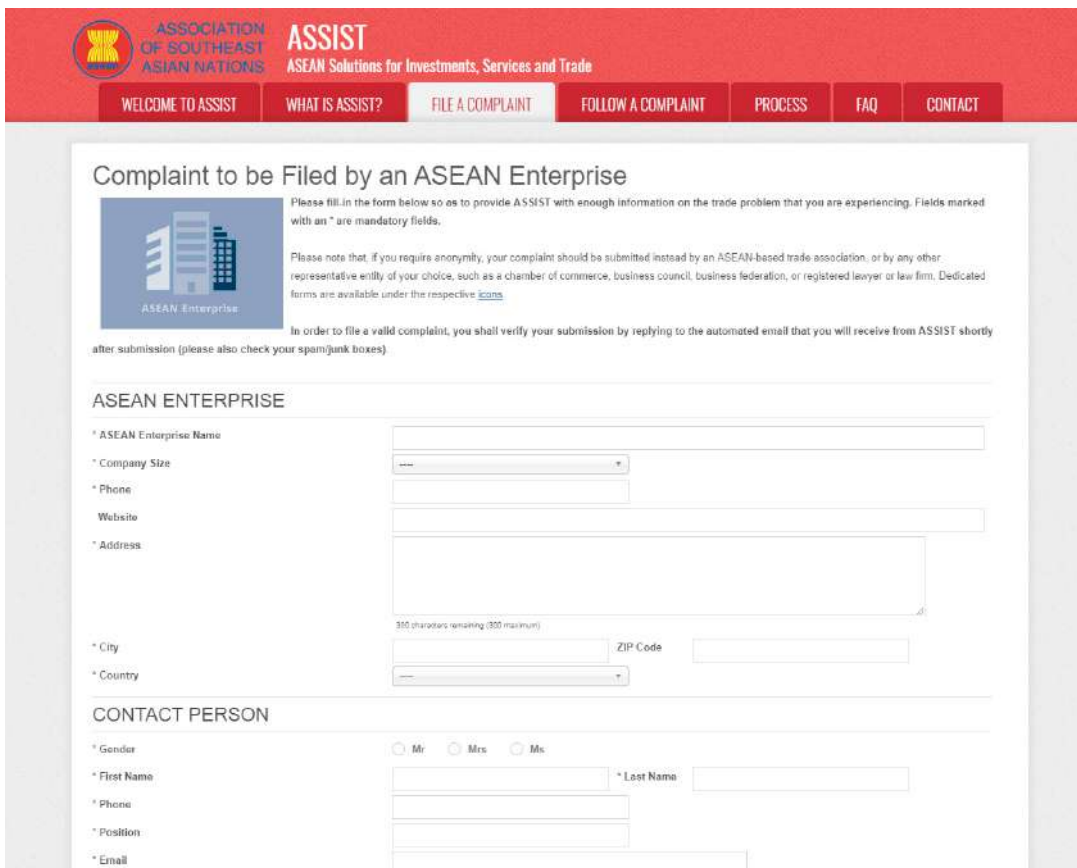
Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you do not receive any such communication, please verify your email and resubmit the complaint.

The Central Administrator of ASSIST may request that you resubmit your complaint if any of the information is incomplete or incorrect. Once your complaint has been accepted by the Central Administrator of ASSIST, the Destination Contact Point will be asked to respond. If the complaint is accepted by the Destination Contact Point, you will be notified of the response and, ultimately, of the proposed solution (if any). Complaints are usually addressed and a solution proposed within 40 to 60 working days maximum from the date of acceptance of the complaint by the Destination Contact Point.

Special rules apply to complaints filed by ASEAN-based registered lawyers or law firms. In particular, ahead of submitting an ASSIST complaint on behalf of a client, which must be a duly registered ASEAN Enterprise based in one of the 10 ASEAN Member States, an ASEAN-based lawyer or law firm (i.e., a lawyer or law firm duly licensed to practice law in the ASEAN Member State where the client is based or against which the complaint is filed) must contact the ASEAN Secretariat and provide the required data on its professional registration and on the client on whose behalf the anonymous complaint is filed. In order to do so, please download the necessary form and submit it to the ASEAN Secretariat as specified on the form itself.

Central Administrator of ASSIST / ASEAN Secretariat - TIA Jl. Setiabudi Raya - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [Disclaimers]

When you click on the 'ASEAN Enterprise' icon, the following page will appear.



**Complaint to be Filed by an ASEAN Enterprise**

Please fill in the form below so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an \* are mandatory fields.

Please note that, if you require anonymity, your complaint should be submitted instead by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. Dedicated forms are available under the respective [icons](#).

In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission (please also check your spam/junk boxes)

**ASEAN ENTERPRISE**

\* ASEAN Enterprise Name

\* Company Size

\* Phone

Website

\* Address

380 characters remaining (300 maximum)

\* City  ZIP Code

\* Country

**CONTACT PERSON**

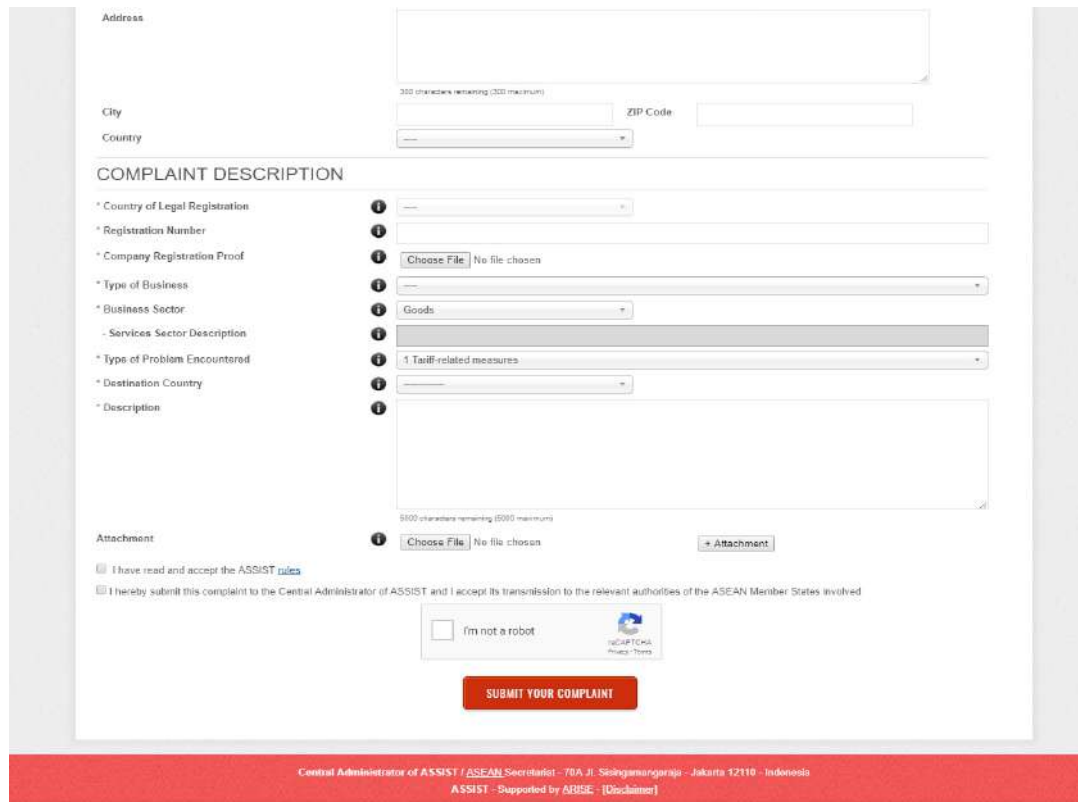
\* Gender  Mr  Mrs  Ms

\* First Name  \* Last Name

\* Phone

\* Position

\* Email



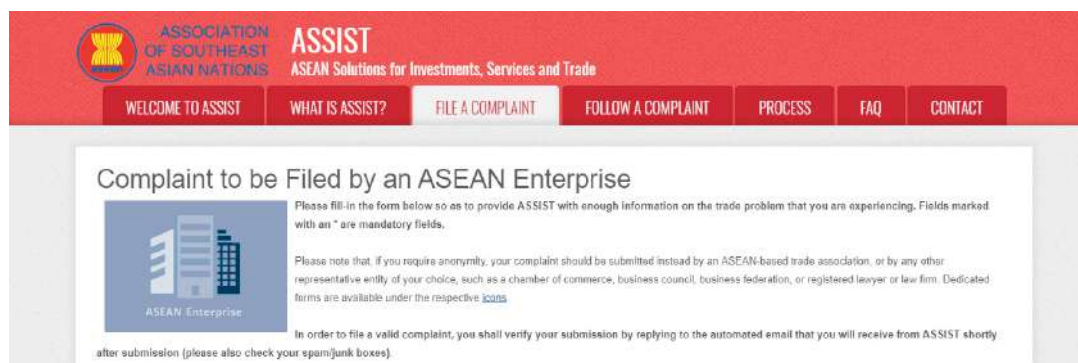
Fill-in the above form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in for each field. Please click on the **i** buttons to make sure that you fill-in the correct information in the form.

It is extremely important that you properly fill-in the 'Description' field. The CA will need to verify that the description given in the complaint is sufficient to clearly identify the problem in the context of the specific subject agreement(s). Thus, please carefully layout your complaint with legal arguments and factual evidence to help the CA in deciding whether to approve your complaint.

**STEP 3**

**FILL-IN THE COMPLAINT FORM**

Below is an example of a completed form for this specific case study.



### ASEAN ENTERPRISE

\* ASEAN Enterprise Name: AirTel Holdings, Inc.

\* Company Size: 200+

\* Phone: +261 7262991

Website: www.airtel.com

\* Address: Jingle Avenue  
City U  
Country X

City: City U ZIP Code: 10050

Country: AMS-X

---

### CONTACT PERSON

\* Gender:  Mr  Mrs  Ms

\* First Name: Bruce \* Last Name: Kent

\* Phone: +261 0159255399

\* Position: President

\* Email: aseanenterprise0@gmail.com

Address: Jingle Avenue  
City U  
Country X

City: City U ZIP Code: 10050

Country: AMS-X

---

### COMPLAINT DESCRIPTION

\* Country of Legal Registration: AMS-X

\* Registration Number: 123456

\* Company Registration Proof: [Choose File](#) Annex 1-Simulated Idings, Inc.pdf

\* Type of Business: Service provider

\* Business Sector: Services

\* Services Sector Description: Telecommunication

\* Type of Problem Encountered: 2 Communication Services



\* Destination Country: AMS-Y

\* Description: We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1509, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses.

Attachment: [Choose File](#) Annex 2-Simulated AM...dated Schedule.pdf [Attachment](#)  
[Choose File](#) Annex 3-Simulated Law of AMS-Y.pdf [Remove](#)  
[Choose File](#) Annex 4-Simulated A...nt Law of AMS-Y.pdf [Remove](#)

I have read and accept the ASSIST [rules](#).

I hereby submit this complaint to the Central Administrator of ASSIST and I accept its transmission to the relevant authorities of the ASEAN Member States involved.

**SUBMIT YOUR COMPLAINT**

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12110 - Indonesia  
 ASSIST - Supported by ARISE [Disclosure]

As an example of a clear and concise description of the complaint, below is the AE's description of his complaint in this case study:

"We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Co., Ltd., is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. are owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no

longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses.

A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce.

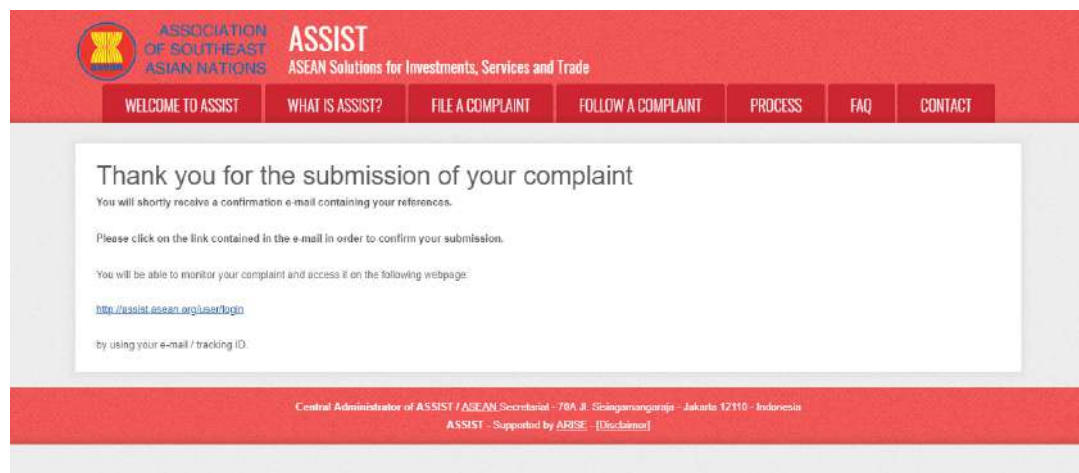
The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS)."

When the complaint is filed by clicking 'Submit Your Complaint', the following page in Step 4 will appear.

**STEP  
4**

**RECEIVE A NOTIFICATION FROM ASSIST**

Once you file a complaint on the ASSIST website, the below page will appear, informing you that a confirmation email will be sent to the email address which you have provided in your complaint form.



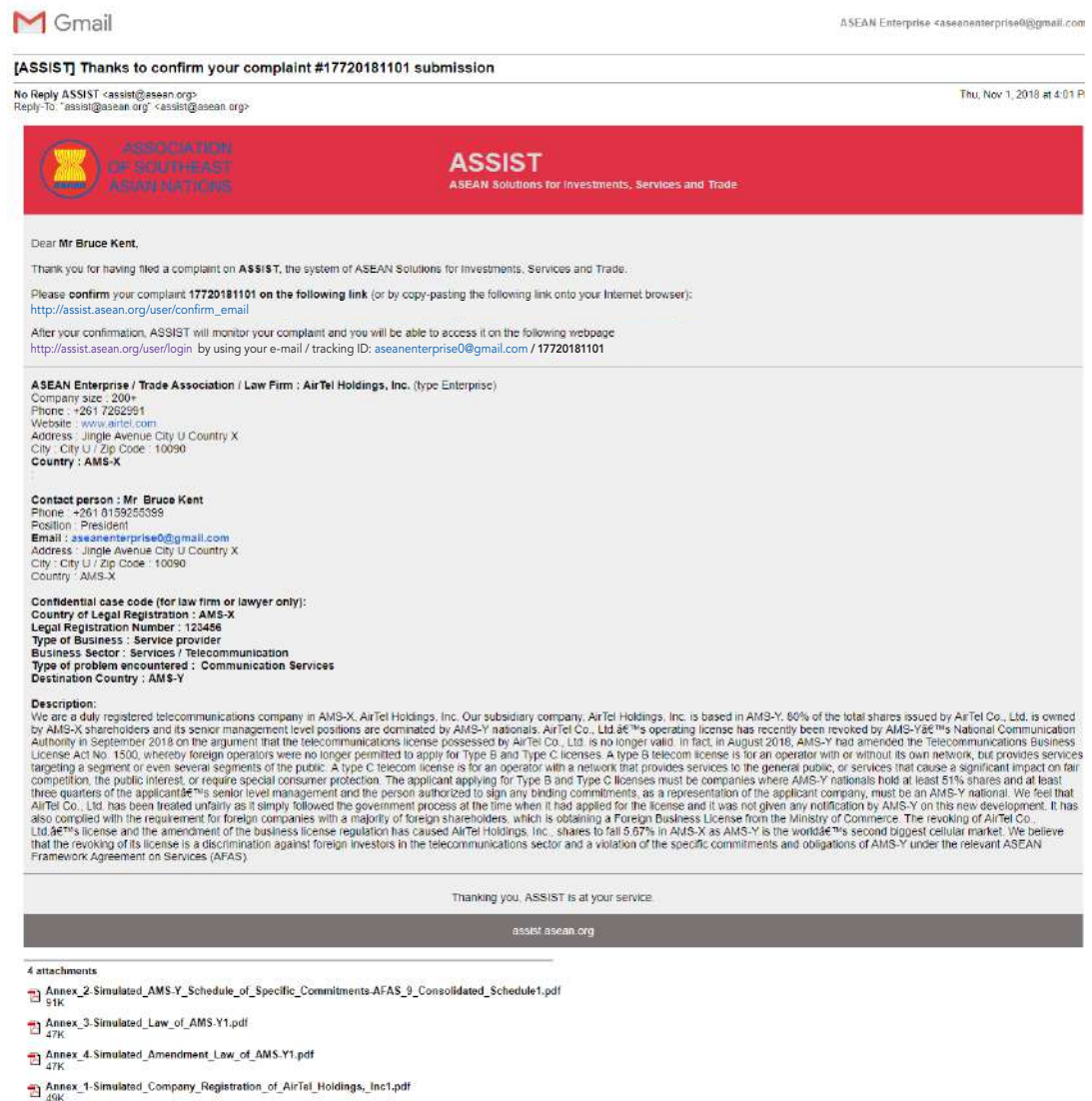
The above notification indicates that you should click on the link provided in your email account to confirm your complaint with ASSIST.

**STEP  
5**

**CONFIRM YOUR COMPLAINT FROM YOUR EMAIL ACCOUNT**

- (a) Go to the email account that you have provided in the complaint form. You will receive an email from ASSIST requesting you to confirm your complaint by clicking on the link provided or by copy-pasting the link onto the Internet browser. This is also required by ASSIST to confirm that the email address which you have provided is valid. Your complaint number is also provided in this email. In this case, your complaint number is **17720181101**.

Below is the email which you will receive from ASSIST.




**Gmail** ASEAN Enterprise <aseanenterprise0@gmail.com>

---

**[ASSIST] Thanks to confirm your complaint #17720181101 submission**

No Reply ASSIST <assist@asean.org> Thu, Nov 1, 2018 at 4:01 PM  
 Reply-To: "assist@asean.org" <assist@asean.org>



**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

Dear **Mr Bruce Kent**,

Thank you for having filed a complaint on **ASSIST**, the system of ASEAN Solutions for Investments, Services and Trade.

Please confirm your complaint **17720181101** on the following link (or by copy-pasting the following link onto your Internet browser):  
[http://assist.asean.org/user/confirm\\_email](http://assist.asean.org/user/confirm_email)

After your confirmation, ASSIST will monitor your complaint and you will be able to access it on the following webpage:  
<http://assist.asean.org/user/login> by using your e-mail / tracking ID: [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) / **17720181101**

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**ASEAN Enterprise / Trade Association / Law Firm : AirTel Holdings, Inc.** (type Enterprise)  
 Company size : 200+  
 Phone : +261 7262291  
 Website : [www.airtel.com](http://www.airtel.com)  
 Address : Jingle Avenue City U Country X  
 City : City U / Zip Code : 10090  
 Country : AMS-X

**Contact person : Mr Bruce Kent**  
 Phone : +261 015925338  
 Position : President  
 Email : [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com)  
 Address : Jingle Avenue City U Country X  
 City : City U / Zip Code : 10090  
 Country : AMS-X

**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 123456  
 Type of Business : Service provider  
 Business Sector : Services / Telecommunication  
 Type of problem encountered : Communication Services  
 Destination Country : AMS-Y





**Description:**  
 We are a duly registered telecommunications company in AMS-X. AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc. shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

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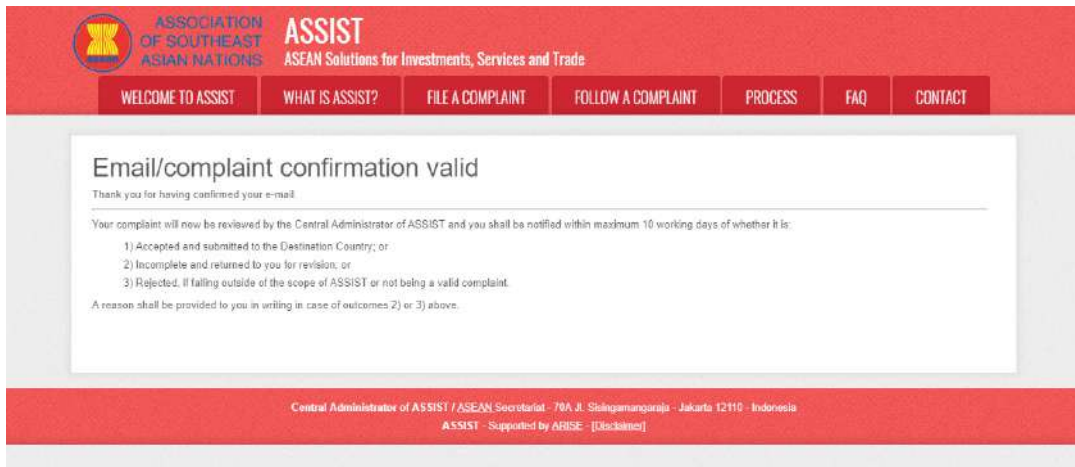
Thanking you, ASSIST is at your service.

assist.asean.org

4 attachments

-  [Annex\\_2-Simulated\\_AMS-Y\\_Schedule\\_of\\_Specific\\_Commitments-AFAS\\_9\\_Consolidated\\_Schedule1.pdf](#)  
51K
-  [Annex\\_3-Simulated\\_Law\\_of\\_AMS-Y1.pdf](#)  
47K
-  [Annex\\_4-Simulated\\_Amendment\\_Law\\_of\\_AMS-Y1.pdf](#)  
47K
-  [Annex\\_1-Simulated\\_Company\\_Registration\\_of\\_AirTel\\_Holdings\\_Inc1.pdf](#)  
49K

- (b) Click on the link as requested in the above email and the following page will appear.



The above notification will inform you that your complaint will be reviewed by the CA and that you will be notified by email within maximum 10 working days of whether it is:

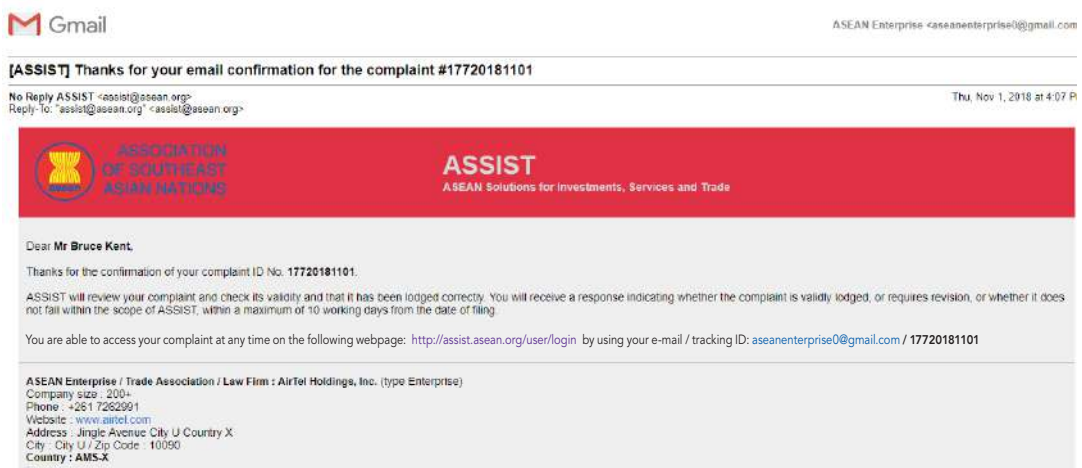
- 1) Accepted and submitted to the Destination Country; or
- 2) Incomplete and returned to you for revision; or
- 3) Rejected, if falling outside of the scope of ASSIST or not being a valid complaint.

Go to your email account.

**STEP  
6**

**RECEIVE AN EMAIL FROM ASSIST THAT YOUR EMAIL ADDRESS AND COMPLAINT IS VALID**

Go to your email account and you will see a new email from ASSIST. This email indicates that you have confirmed your complaint, that the CA will check its validity, and that it has been filed within ASSIST. ASSIST will revert with a response indicating whether the complaint is accepted, incomplete or rejected within 10 working days.









Contact person : Mr. Bruce Kent  
 Phone : +261 8159255399  
 Position : President  
 Email : aseanenterprise0@gmail.com  
 Address : Jingle Avenue City U Country X  
 City : City U / Zip Code : 10090  
 Country : AMS-X

Confidential case code (for law firm or lawyer only):  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 123456  
 Type of Business : Service provider  
 Business Sector : Services / Telecommunication  
 Type of problem encountered : Communication Services  
 Destination Country : AMS-Y

Description:  
 We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

Thanking you, ASSIST is at your service.

assist.asean.org

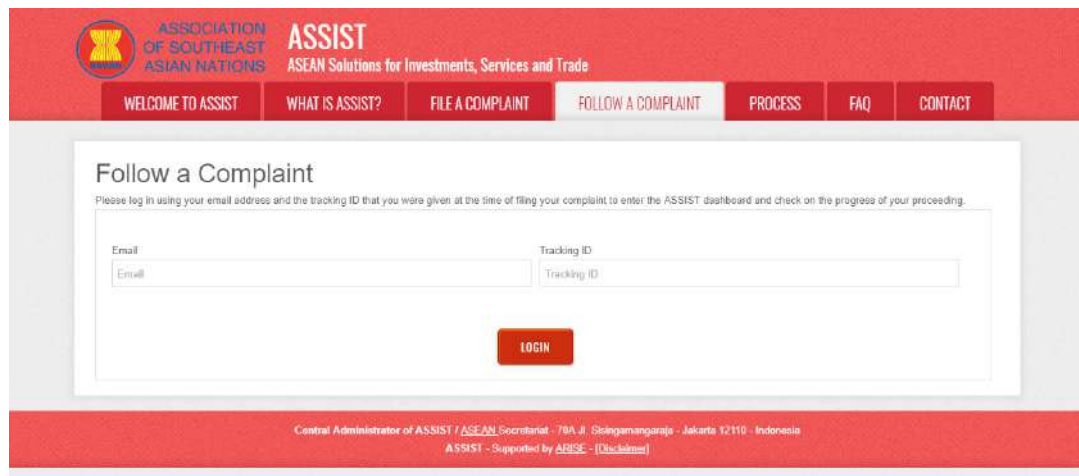
- 4 attachments
-  Annex\_2-Simulated\_AMS-Y\_Schedule\_of\_Specific\_Commitments-AFAS\_9\_Consolidated\_Schedule1.pdf  
91K
  -  Annex\_3-Simulated\_Law\_of\_AMS-Y1.pdf  
47K
  -  Annex\_4-Simulated\_Amendment\_Law\_of\_AMS-Y1.pdf  
47K
  -  Annex\_1-Simulated\_Company\_Registration\_of\_AirTel\_Holdings\_Inc1.pdf  
45K

As indicated in the above email, you are now able to monitor the progress by clicking on the indicated link which will be directed to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website.

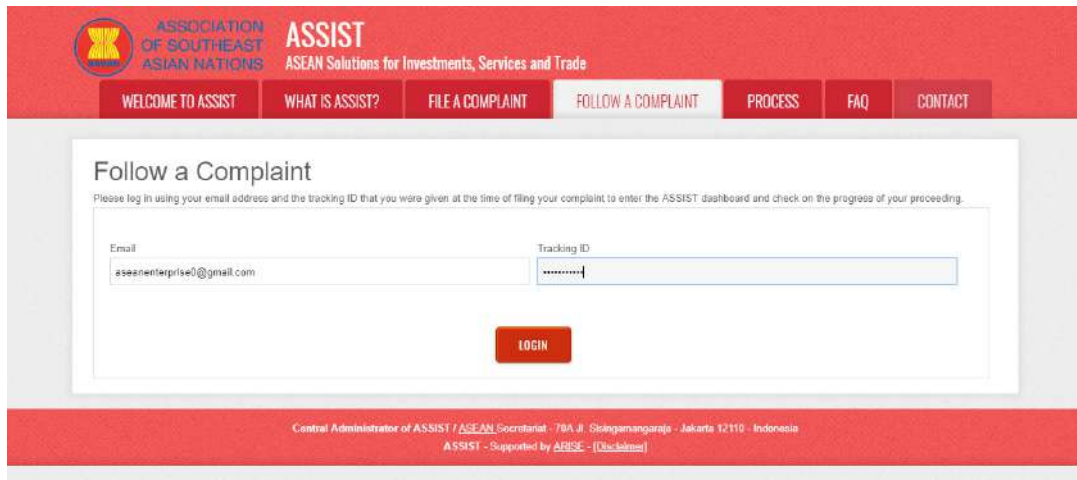
**STEP  
7**

**MONITOR THE PROGRESS OF YOUR COMPLAINT**

- (a) Go to the following link: <http://assist.asean.org/user/login> or go to the 'Follow a Complaint' tab on the menu bar on the ASSIST Website. The below page will appear.



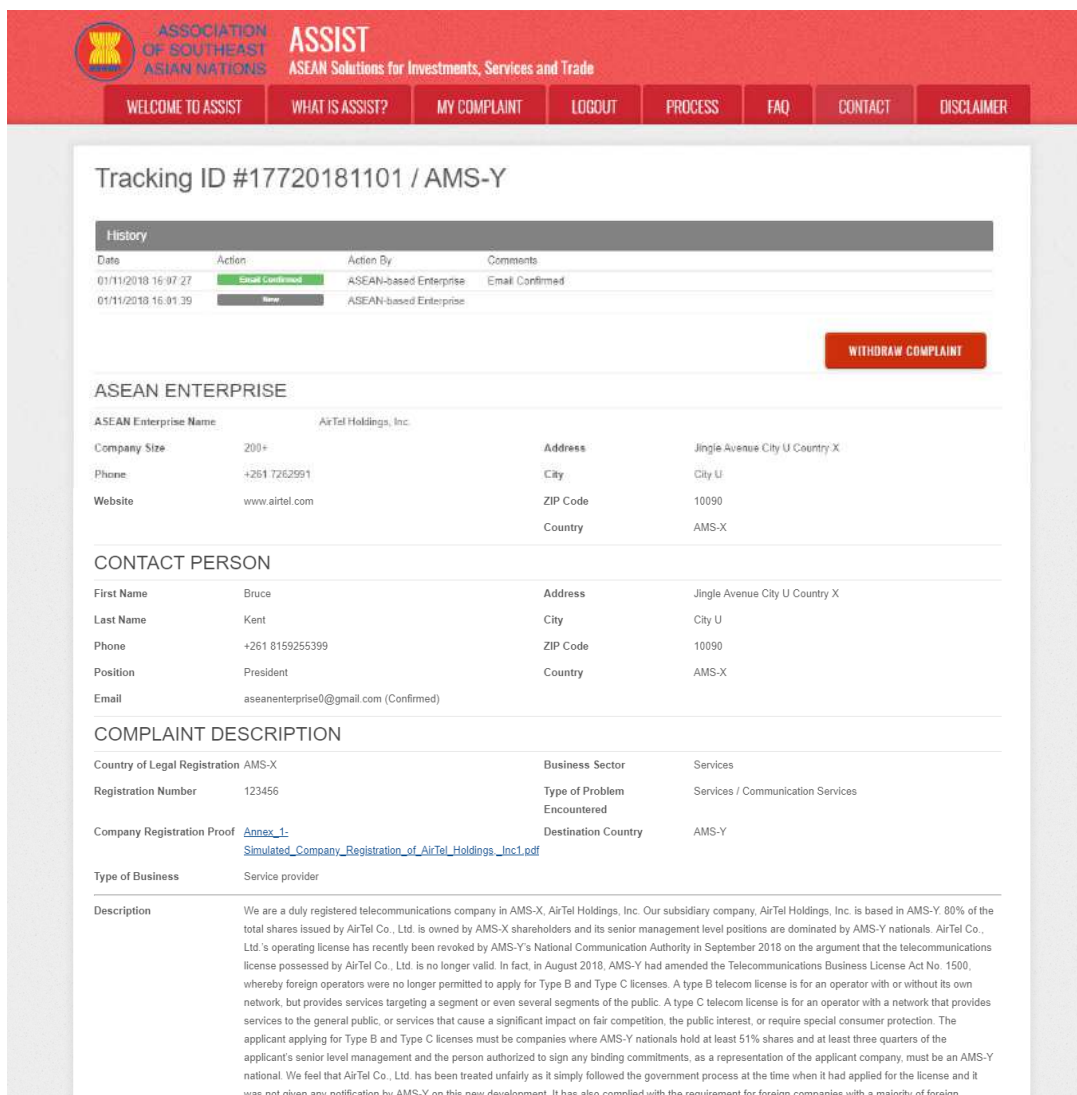
- (a) Enter your email address and tracking ID (your complaint number) in the required fields to login. In this case, the **Email Address** is [aseanenterprise0@gmail.com](mailto:aseanenterprise0@gmail.com) and the **Tracking ID** is **17720181101**.



The screenshot shows the 'Follow a Complaint' login page. At the top, there is a navigation bar with the ASSIST logo and the text 'ASEAN Solutions for Investments, Services and Trade'. Below the navigation bar, there are several menu items: 'WELCOME TO ASSIST', 'WHAT IS ASSIST?', 'FILE A COMPLAINT', 'FOLLOW A COMPLAINT' (which is highlighted), 'PROCESS', 'FAQ', and 'CONTACT'. The main content area has a heading 'Follow a Complaint' and a sub-heading 'Please log in using your email address and the tracking ID that you were given at the time of filing your complaint to enter the ASSIST dashboard and check on the progress of your proceeding.' Below this, there are two input fields: 'Email' (containing 'aseanenterprise0@gmail.com') and 'Tracking ID' (containing a masked ID). A 'LOGIN' button is positioned below the input fields. At the bottom of the page, there is a footer with the text: 'Central Administrator of ASSIST / ASEAN Secretariat - 79A Jl. Setiabudi - Jakarta 12110 - Indonesia' and 'ASSIST - Supported by ABISE - [Disclaimer]'.

Once you login, you will see your ASSIST dashboard where you can monitor the progress of your complaint.

(c) View of your ASSIST Dashboard once you have successfully logged-in:



The screenshot shows the ASSIST dashboard for a complaint. At the top, there is a navigation bar with the ASSIST logo and the text 'ASEAN Solutions for Investments, Services and Trade'. Below the navigation bar, there are several menu items: 'WELCOME TO ASSIST', 'WHAT IS ASSIST?', 'MY COMPLAINT' (which is highlighted), 'LOGOUT', 'PROCESS', 'FAQ', 'CONTACT', and 'DISCLAIMER'. The main content area has a heading 'Tracking ID #17720181101 / AMS-Y'. Below this, there is a 'History' table with the following data:

Date	Action	Action By	Comments
01/11/2018 16:07:27	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
01/11/2018 16:01:39	New	ASEAN-based Enterprise	

Below the history table, there is a 'WITHDRAW COMPLAINT' button. The dashboard also displays the following information:

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: AirTel Holdings, Inc.

Company Size: 200+      Address: Jingle Avenue City U Country X

Phone: +261 7262991      City: City U

Website: www.airtel.com      ZIP Code: 10090

Country: AMS-X

**CONTACT PERSON**

First Name: Bruce      Address: Jingle Avenue City U Country X

Last Name: Kent      City: City U

Phone: +261 8159255399      ZIP Code: 10090

Position: President      Country: AMS-X

Email: aseanenterprise0@gmail.com (Confirmed)

**COMPLAINT DESCRIPTION**

Country of Legal Registration: AMS-X      Business Sector: Services

Registration Number: 123456      Type of Problem Encountered: Services / Communication Services

Company Registration Proof: [Annex 1- Simulated Company Registration of AirTel Holdings, Inc1.pdf](#)      Destination Country: AMS-Y

Type of Business: Service provider

**Description**

We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign

shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of APTel Co., Ltd.'s license and the amendment of the business license regulation has caused APTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

Attachment

[Annex\\_2-Simulated\\_AMS-Y\\_Schedule\\_of\\_Specific\\_Commitments-AFAS\\_9\\_Consolidated\\_Schedule1.pdf](#)  
[Annex\\_3-Simulated\\_Law\\_of\\_AMS-Y1.pdf](#)  
[Annex\\_4-Simulated\\_Amendment\\_Law\\_of\\_AMS-Y1.pdf](#)

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - Jakarta 12119 - Indonesia  
 ASSIST - Supported by ABSE - [Disklaimer]

As you can see in your dashboard, the actions taken for your complaint are clearly indicated in your dashboard and this list will be regularly updated after each action is taken. Your completed complaint form, which you have submitted, is also accessible on your dashboard.


**STEP 8**

**CENTRAL ADMINISTRATOR REVIEWS YOUR COMPLAINT AND SENDS A RESPONSE TO YOUR EMAIL (ACCEPT, INCOMPLETE, OR REJECT)**

Once the CA has completed reviewing your complaint and decided on whether to accept/incomplete/reject, an email will be sent to you typically within 10 working days since you lodged your complaint.

*If no action has been taken in the meantime by the CA, the CA will receive the below automatic reminder via email from the ASSIST online system within 7 calendar days after the complaint is lodged. As indicated above, the CA must decide to accept, declare incomplete and request revision, or reject the complaint within 10 working days.*


**Email Reminder 1 for the Central Administrator:**

 Central Administrator ASECC <caatasec@gmail.com>

---

**[ASSIST] Complaint #15020181026 reminder for CA**

No Reply ASSIST <assist@asean.org> Sat, Oct 27, 2018 at 5:00 AM  
 Reply-To: assist@asean.org <assist@asean.org>


 ASSOCIATION OF SOUTHEAST ASIAN NATIONS
 
**ASSIST**  
 ASEAN Solutions for Investments, Services and Trade

Action is required by the CA for the complaint: 16020181026

Thanking you, ASSIST is at your service

[assist.asean.org](http://assist.asean.org) [#15020181026](#)


Regularly check your email account within the 10 working days after lodging your complaint. You will eventually receive a new email from ASSIST.

 ASEAN Enterprise <aseanenterprise@gmail.com>

---

**[ASSIST] Your complaint #17720181101 is accepted by CA**

No Reply ASSIST <assist@asean.org> Thu, Nov 1, 2018 at 10:37 P  
 Reply-To: assist@asean.org <assist@asean.org>

 ASSOCIATION OF SOUTHEAST ASIAN NATIONS
 
**ASSIST**  
 ASEAN Solutions for Investments, Services and Trade

Dear Mr Bruce Kent,

Your complaint ID No. 17720181101 has been accepted by ASSIST.

You are able to access your complaint at any time on the following webpage: <http://assist.asean.org/user/login> by using your e-mail / tracking ID.

Since your complaint has been accepted by ASSIST, the Destination Country will now be asked to review your complaint and either accept it, or reject it, or revert back to you with a request for more information within 10 working days from today.

You will be promptly notified of the response by the Destination Country through ASSIST.

**ASEAN Enterprise / Trade Association / Law Firm : AirTel Holdings, Inc.** (type Enterprise)  
 Company size : 200+  
 Phone : +261 7262991  
 Website : [www.airtel.com](http://www.airtel.com)  
 Address : Jingle Avenue City U Country X  
 City : City U / Zip Code : 10090  
 Country : AMS-X  
 :

**Contact person : Mr. Bruce Kent**  
 Phone : +261 8159255399  
 Position : President  
 Email : [aseanenterprise@gmail.com](mailto:aseanenterprise@gmail.com)  
 Address : Jingle Avenue City U Country X  
 City : City U / Zip Code : 10090  
 Country : AMS-X

**Confidential case code (for law firm or lawyer only):**  
 Country of Legal Registration : AMS-X  
 Legal Registration Number : 123456  
 Type of Business : Service provider  
 Business Sector : Services / Telecommunication  
 Type of problem encountered : Communication Services  
 Destination Country : AMS-Y

**Description:**  
 We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc.'s shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

Thanking you, ASSIST is at your service.


[assist.asean.org](http://assist.asean.org)

In this case, the above email shows that your complaint has been **accepted** by the CA. The email also informs you that your complaint will now be sent to the Destination Contact Point, which is the government agency (ASSIST Focal Point) in AMS-Y where you are facing trade problems and where your complaint is directed and a resolution is sought. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept, reject or revert back to you with a request for more information. This is intended to give time to the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities.

The Home Contact Point, which is the government agency (ASSIST Focal Point) in AMS-X (your home country) has also been notified that your complaint is lodged.

*If you do not receive an email from ASSIST within the required timeframe (10 working days since the complaint is lodged), then this means that the CA has an overdue action. The CA will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is required by the CA for the complaint. The CA will receive the email below:*

**Email Reminder 2 for the Central Administrator:**

 Central Administrator ASEC <[caatasec@gmail.com](mailto:caatasec@gmail.com)>


---

**[ASSIST] Complaint #13320180921 reminder for CA**

No Reply ASSIST <[assist@asean.org](mailto:assist@asean.org)>  
 Reply-To: [assist@asean.org](mailto:assist@asean.org) <[assist@asean.org](mailto:assist@asean.org)>

Sun, Sep 23, 2018 at 5:00 AM

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 ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

**ASSIST**  
ASEAN Solutions for Investments, Services and Trade

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Action is required by the CA for the complaint.  
**13320180921**

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Thanking you, ASSIST is at your service.

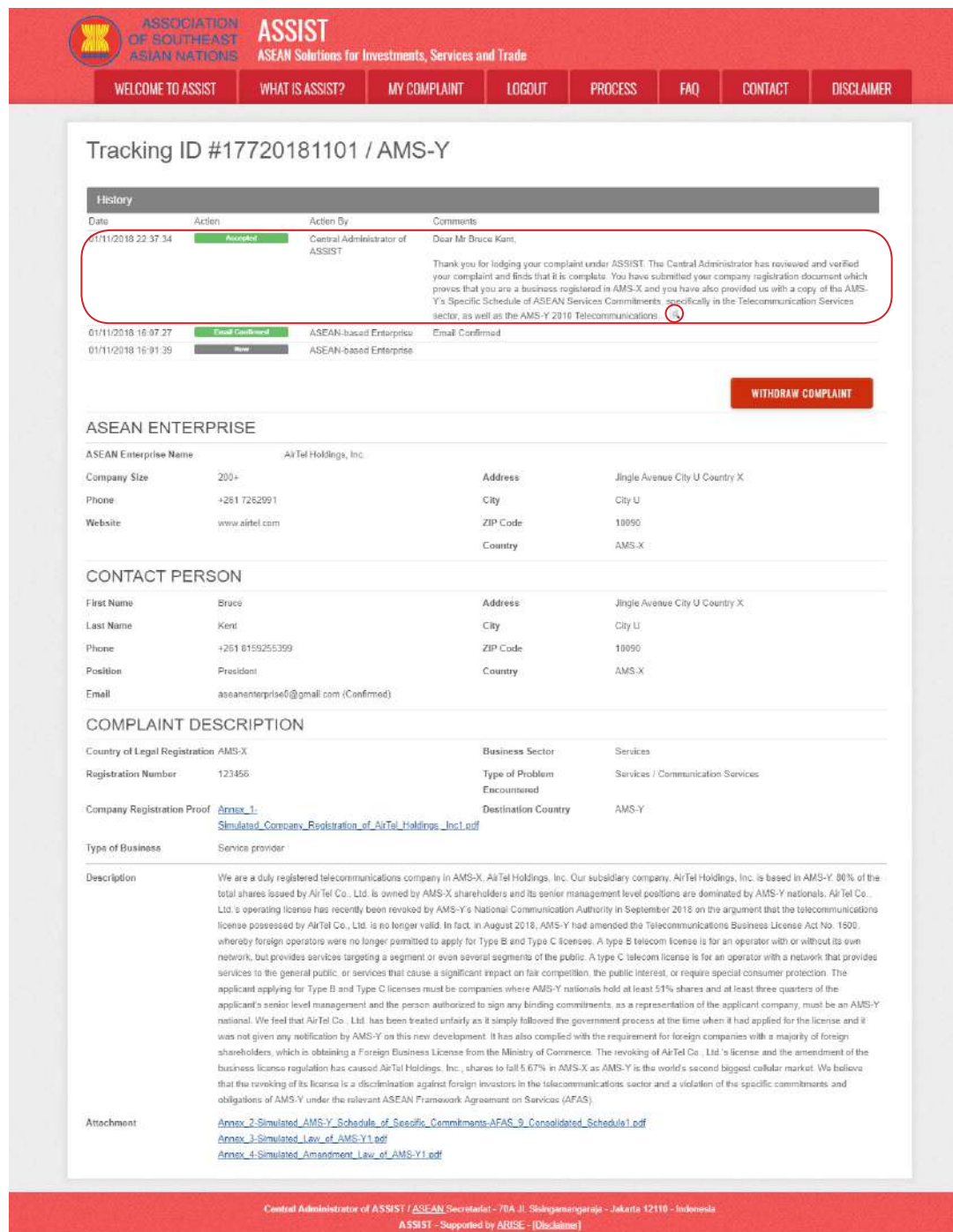
[assist.asean.org](http://assist.asean.org)

**STEP  
9**

**LOGIN TO YOUR ASSIST DASHBOARD BY USING YOUR EMAIL AND TRACKING ID TO SEE THE ACTUAL RESPONSE FROM THE CENTRAL ADMINISTRATOR**

If you wish to see the full response from the CA, you will need to login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above.

The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicated that the CA has **"Accepted"** your complaint.



**Tracking ID #17720181101 / AMS-Y**

History			
Date	Action	Action By	Comments
01/11/2018 22:37:34	Accepted	Central Administrator of ASSIST	Dear Mr Bruce Kent,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you have also provided us with a copy of the AMS-Y's Specific Schedule of ASEAN Services Commitments, specifically in the Telecommunication Services sector, as well as the AMS-Y 2010 Telecommunications...
01/11/2018 16:07:27	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
01/11/2018 16:01:39	New	ASEAN-based Enterprise	

**WITHDRAW COMPLAINT**

**ASEAN ENTERPRISE**

ASEAN Enterprise Name	AiTel Holdings, Inc.		
Company Size	200+	Address	Jingle Avenue City U Country X
Phone	+261 7262991	City	City U
Website	www.airetel.com	ZIP Code	10090
		Country	AMS-X

**CONTACT PERSON**

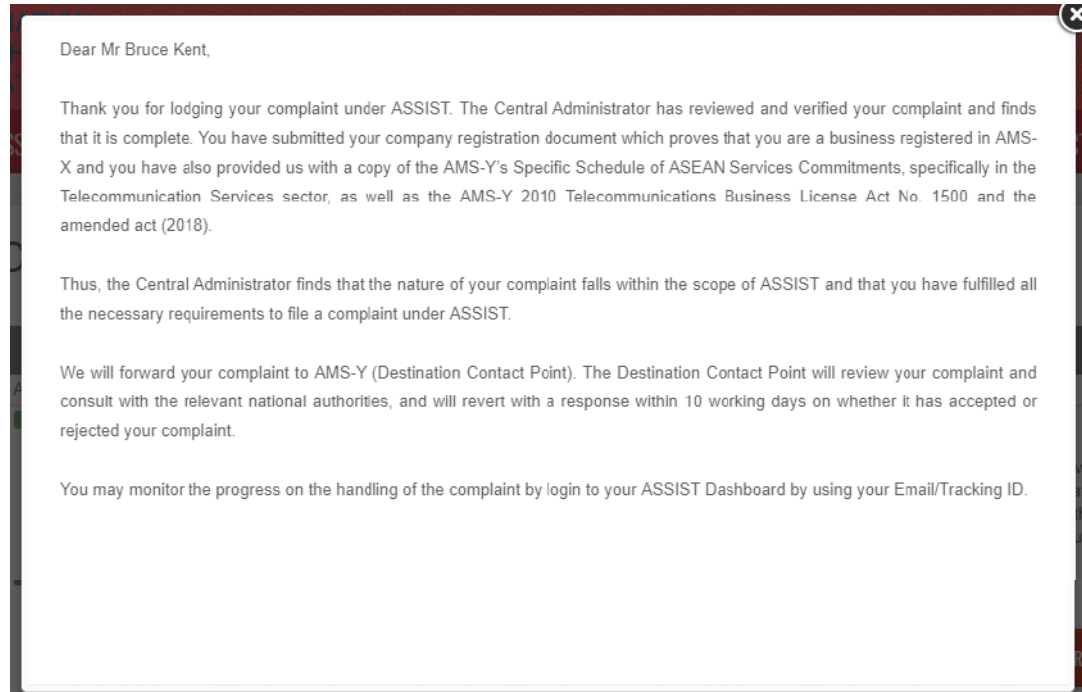
First Name	Bruce	Address	Jingle Avenue City U Country X
Last Name	Kent	City	City U
Phone	+261 6159255399	ZIP Code	10090
Position	President	Country	AMS-X
Email	aseanenterprise0@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Communication Services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of AiTel Holdings_Inc1.pdf</a>	Destination Country	AMS-Y
Type of Business	Service provider		
Description	We are a duly registered telecommunications company in AMS-X, AiTel Holdings, Inc. Our subsidiary company, AiTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AiTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AiTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AiTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AiTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which in obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AiTel Co., Ltd.'s license and the amendment of the business license regulation has caused AiTel Holdings, Inc.'s shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).		
Attachment	<a href="#">Annex 2-Simulated_AMS-Y_Schedule_of_Specific_Commitments_AFAS_9_Consolidated_Schedule1.pdf</a> <a href="#">Annex 3-Simulated_Law_of_AMS-Y1.pdf</a> <a href="#">Annex 4-Simulated_Amendment_Law_of_AMS-Y1.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Satekembanganaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARSE - [Disclaimer]

Click on the magnifying glass icon in the comments column. The full response from the CA will appear, as can be seen below:

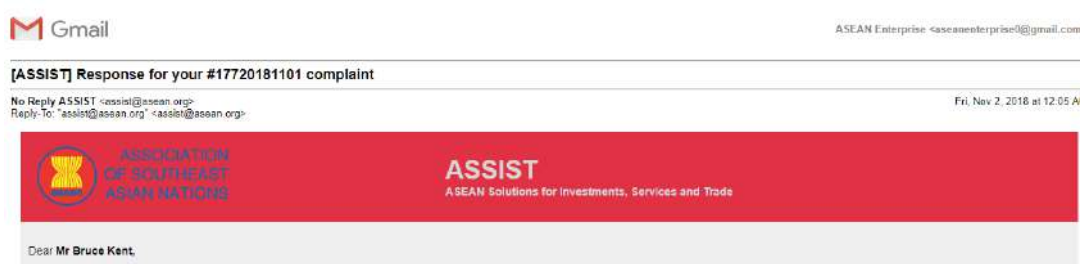


As informed in Step 8, once the complaint has been accepted by the CA, the complaint will be sent to the Destination Contact Point (DCP) in AMS-Y where you are facing trade problems. The DCP in AMS-Y will be given 10 working days to review your complaint and either accept or reject it. This is intended to give time for the DCP to examine the details of the complaint, and consult as necessary with any relevant national authorities. Once the DCP responds, an email will be sent to you from ASSIST informing you whether your complaint has been accepted or rejected by the DCP in AMS-Y.

**STEP  
10**

**RECEIVE AN EMAIL NOTIFICATION FROM ASSIST THAT A RESPONSE TO YOUR COMPLAINT HAS BEEN PROVIDED BY AMS-Y AND ACCEPTED BY THE CENTRAL ADMINISTRATOR**

- (a) Go to your email account. You will receive a new email from ASSIST indicating the response to your complaint from the DCP. In this case, your complaint has been rejected by the DCP (AMS-Y).



The response for your complaint **17720181101** is ready:

\*AMS-Y finds sufficient basis that AMS-Y has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: (i) not more than 49% of the capital share of the company may be owned by foreign partner(s); (ii) at least three quarters of the company's senior level management and the person authorized to sign any binding commitments as a representation of the company must be AMS-Y nationals. Thus, the amendment of the 2018 Telecommunications Business License Act No. 1500 is not in violation of AMS-Y's Schedule of Services Commitments. The AMS-Y AFAS Horizontal Commitments is attached for ease of reference. In response to the applicant's claim that it has not received any notification from AMS-Y on the new amendment, AMS-Y responded that the Government of AMS-Y has promulgated the amendment of the law through official government websites and local newspapers after it has been approved on 1 September 2018.

You can also check the status of your complaint online at <http://assist.asean.org/user/login> by using your e-mail / tracking ID.

**Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:**

Yes / No

**ASEAN Enterprise / Trade Association / Law Firm : AirTel Holdings, Inc.** (type Enterprise)

Company size : 200+  
Phone : +261 7262991  
Website : [www.airtel.com](http://www.airtel.com)  
Address : Jingle Avenue City U Country X  
City : City U / Zip Code : 10090  
Country : AMS-X

Contact person : Mr Bruce Kent  
Phone : +261 815925399  
Position : President  
Email : [aseanenterprise@gmail.com](mailto:aseanenterprise@gmail.com)  
Address : Jingle Avenue City U Country X  
City : City U / Zip Code : 10090  
Country : AMS-X

Confidential case code (for law firm or lawyer only):  
Country of Legal Registration : AMS-X  
Legal Registration Number : 123456  
Type of Business : Service provider  
Business Sector : Services / Telecommunication  
Type of problem encountered : Communication Services  
Destination Country : AMS-Y

Description:

We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).

Thanking you, ASSIST is at your service.

[assist.asean.org](http://assist.asean.org)

*The process is slightly different in cases where your complaint is accepted by the DCP. Within 10 working days after the response from the CA that your complaint is accepted, you will receive an email informing that your complaint has been accepted by the DCP in AMS-Y and that the DCP will coordinate with the competent national authorities or the Responsible Authorities (RAs) to analyse your complaint in detail.*

*Once the RAs complete their efforts, the DCP should review the solution and provide it to the CA within the 40 working days from the date of acceptance by the DCP. Thus, to meet this deadline, a time limit should be assigned by the DCP for the RAs to find a solution. It is the responsibility of the DCP to notify the CA of any change relating to the timeframe between it and national authorities.*

*The CA may extend the deadline for up to 20 working days upon request of the DCP. The system will automatically notify when the deadlines are approaching (i.e., typically, 10 calendar days before the lapse). If the DCP misses its deadline to submit a solution to the CA, the online system will notify the CA to follow-up with the DCP.*

*You will then receive a second email notification from ASSIST that a solution is proposed by the DCP/AMS-Y and accepted by the CA.*

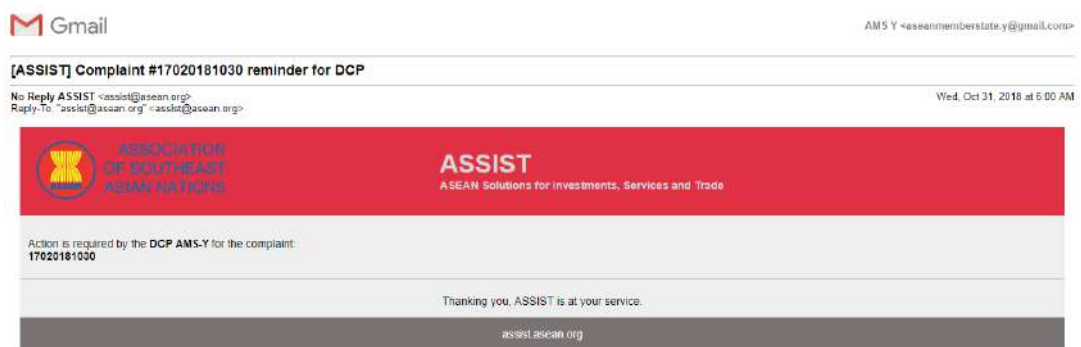
However, in cases such as this one where a complaint is **"Rejected"** by the DCP, you may not receive an email from ASSIST within the 10 working days deadline. The rejection and reason for rejection by the DCP will only be sent to the CA through ASSIST within the 10 working days. The CA will then review it for language and sufficiency of information within 5 working days from the receipt by the CA of a rejection email by the DCP.

If the CA accepts the reason of rejection, a response which has been reviewed and approved by the CA is sent to your email, such as the one above. If the CA is dissatisfied with the stated reasons for the rejection

by the DCP, the ASSIST system allows the CA to request the DCP to rectify the rejection. However, this option by the CA has no binding value on the DCP, and if no response within 5 working days, the online system will automatically circulate the rejection to the AE.

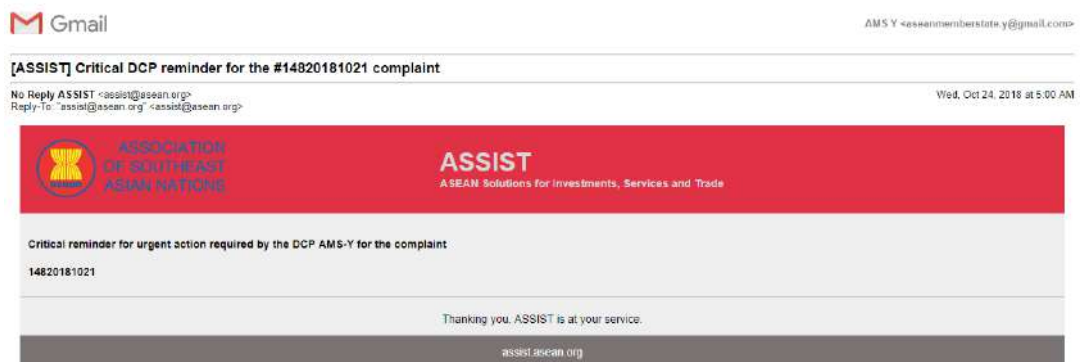
*If no action has been taken in the meantime by the DCP, the DCP will receive the automatic reminder below via email from the ASSIST online system within 7 calendar days after the complaint has been accepted by the CA. As indicated above, the DCP must decide to accept or reject the complaint within 10 working days from when the CA has accepted the complaint.*

**Email Reminder 1 for the Destination Contact Point:**




*If you do not receive an email from ASSIST on the response by the DCP within the required timeframe (10 working days) after the complaint has been accepted by the CA, then this means that the DCP has an overdue action. The DCP will receive another automatic reminder via email (14 calendar days after the complaint is lodged) that an action is urgently required by the DCP for the complaint.*

**Email Reminder 2 for the Destination Contact Point:**



(b) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The full view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that a solution for your complaint has been proposed. The complete ASSIST solution/response from the DCP, which has been accepted by the CA, is also provided in the first paragraph of your dashboard.





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PROCESS
FAQ
CONTACT
DISCLAIMER

## Tracking ID #17720181101 / AMS-Y

**ASSIST Solution**

AMS-Y finds sufficient basis that AMS-Y has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: (i) not more than 49% of the capital share of the company may be owned by foreign partner(s); (ii) at least three quarters of the company's senior level management and the person authorized to sign any binding commitments as a representation of the company must be AMS-Y nationals. Thus, the amendment of the 2018 Telecommunications Business License Act No. 1500 is not in violation of AMS-Y's Schedule of Services Commitments. The AMS-Y AFAS Horizontal Commitments is attached for ease of reference. In response to the AE's claim that it has not received any notification from AMS-Y on the new amendment, AMS-Y responded that the Government of AMS-Y has promulgated the amendment of the law through official government websites and local newspapers after it has been approved on 1 September 2018.

Attachment

History			
Date	Action	Action By	Comments
02/11/2018 00:05:11	Solved	Central Administrator of ASSIST	AMS-Y finds sufficient basis that AMS-Y has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements:...
01/11/2018 22:37:34	Accepted	Central Administrator of ASSIST	Dear Mr Bruce Kent,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you have also provided us with a copy of the AMS-Y's Specific Schedule of ASEAN Services Commitments, specifically in the Telecommunication Services sector, as well as the AMS-Y 2018 Telecommunications...
01/11/2018 16:07:27	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
01/11/2018 16:01:39	New	ASEAN-based Enterprise	

### ASEAN ENTERPRISE

ASEAN Enterprise Name		AirTel Holdings, Inc.	
Company Size	200+	Address	Jingle Avenue City U Country X
Phone	+261 7262991	City	City U
Website	www.airtel.com	ZIP Code	10090
		Country	AMS-X

### CONTACT PERSON

First Name	Bruce	Address	Jingle Avenue City U Country X
Last Name	Kent	City	City U
Phone	+261 815925399	ZIP Code	10090
Position	President	Country	AMS-X
Email	aseanenterprise@gmail.com (Confirmed)		

### COMPLAINT DESCRIPTION

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Communication Services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of AirTel Holdings_Inc1.pdf</a>	Destination Country	AMS-Y
Type of Business	Service provider		
Description	<p>We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).</p>		
Attachment	<a href="#">Annex 2-Simulated_AMS-Y_Schedule_of_Specific_Commitments-AFAS_9_Consolidated_Schedule1.pdf</a> <a href="#">Annex 3-Simulated_Law_of_AMS-Y1.pdf</a> <a href="#">Annex 4-Simulated_Amendment_Law_of_AMS-Y1.pdf</a>		

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Below is the response from the DCP:

“AMS-Y finds sufficient basis that AMS-Y has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a

limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: (i) not more than 49% of the capital share of the company may be owned by foreign partner(s); (ii) at least three quarters of the company's senior level management and the person authorized to sign any binding commitments as a representation of the company must be AMS-Y nationals. Thus, the amendment of the 2018 Telecommunications Business License Act No. 1500 is not in violation of AMS-Y's Schedule of Services Commitments.

In response to the AE's claim that it has not received any notification from AMS-Y on the new amendment, AMS-Y responded that the Government of AMS-Y has promulgated the amendment of the law through official government websites and local newspapers after it has been approved on 1 September 2018."

(c) In the bottom of the email from ASSIST in 10(a) above, you are requested to indicate whether you are satisfied or not with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' in the field provided.

Please kindly indicate whether you are satisfied with the answer given by the DCP and the solution provided therein. You can do so by choosing 'Yes' or 'No' below:

Yes /  No

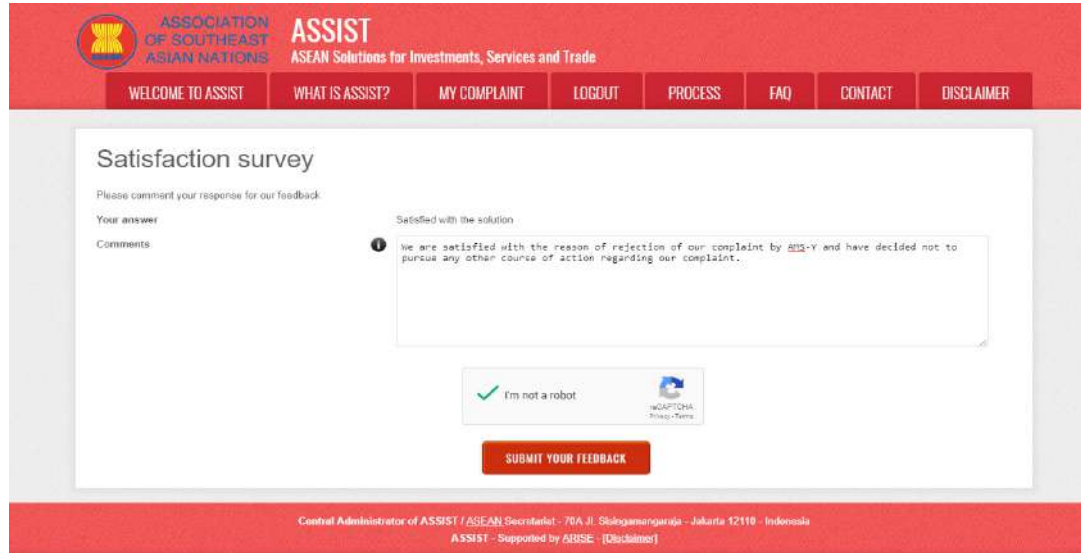
In this case, the AE chooses "Yes".

**STEP 11**

**PROVIDE YOUR FEEDBACK TO THE PROPOSED SOLUTION/RESPONSE PROVIDED BY AMS-Y IN THE SATISFACTION SURVEY AND RECEIVE ACKNOWLEDGEMENT EMAILS FROM ASSIST**

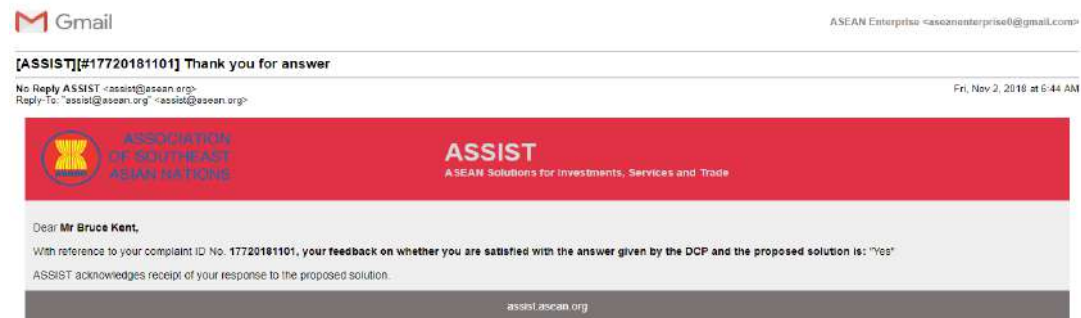
Once you choose 'Yes/No' in Step 10(c) above, you will be directed to the page below where you will be requested to answer the Satisfaction Survey and be invited to provide comments, particularly if you are not satisfied with the proposed response/solution.

- (a) Fill-in the Satisfaction Survey. In this case, the AE is satisfied with the solution/response provided by ASSIST and thus indicates accordingly.



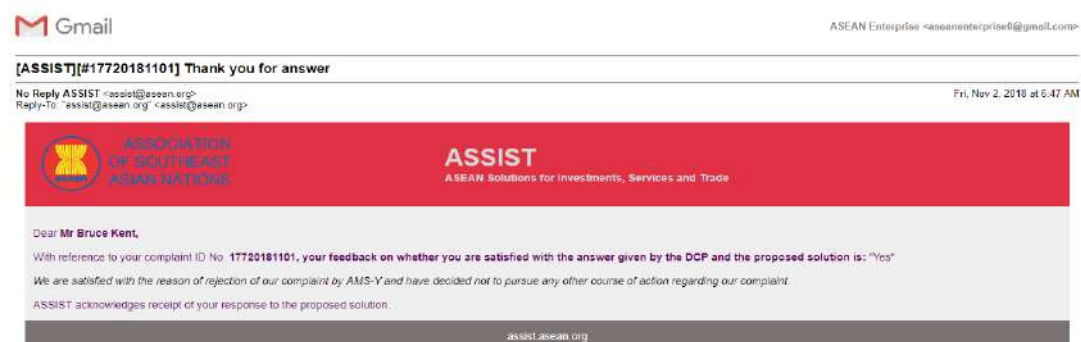
- (b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

**First Acknowledgement Email from ASSIST**




**Second Acknowledgement Email from ASSIST**

*If you provided a comment on the Satisfaction Survey, you will receive a second email below, acknowledging receipt of your response to the proposed solution will be sent by ASSIST to you, the DCP and the HCP.*



- (c) Login to your ASSIST dashboard using your email and tracking ID as indicated in Step 7(a) and (b) above. The final view of your dashboard can be seen below. As you can see, another action has been added to your 'History' indicating that you have indicated satisfaction to the proposed solution by ASSIST. The comment that you have provided in the Satisfaction Survey can also be seen in the 'Comments' section.



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### Tracking ID #17720181101 / AMS-Y

**ASSIST Solution**

AMS-Y finds sufficient basis that AMS-X has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: (i) not more than 49% of the capital share of the company may be owned by foreign partner(s); (ii) at least three quarters of the company's senior level management and the person authorized to sign any binding commitments as a representation of the company must be AMS-Y nationals. Thus, the amendment of the 2010 Telecommunications Business License Act No. 1500 is not in violation of AMS-Y's Schedule of Services Commitments. The AMS-Y AFAS Horizontal Commitments is attached for ease of reference. In response to the AE's claim that it has not received any notification from AMS-Y on the new amendment, AMS-Y responded that the Government of AMS-Y has promulgated the amendment of the law through official government websites and local newspapers after it has been approved on 1 September 2018.

Attachment  
Satisfied : Yes

History			
Date	Action	Action By	Comments
02/11/2018 06:47:04	Satisfied	ASEAN-based Enterprise	We are satisfied with the reason of rejection of our complaint by AMS-Y and have decided not to pursue any other course of action regarding our complaint.
02/11/2018 00:05:11	Solved	Central Administrator of ASSIST	AMS-Y finds sufficient basis that AMS-X has complied with its relevant ASEAN commitments and that the complaint lacks merit. It argues that, although under the AFAS Schedule of Specific Commitments, AMS-Y has no limitations on foreign ownership, it is stated in its Horizontal Commitments that, as a limitation to market access, the Commercial Presence of the foreign service provider(s) may be in the form of a joint venture and/or representative office, which should meet the following requirements: ... 1/4
01/11/2018 22:37:34	Accepted	Central Administrator of ASSIST	Dear Mr Bruce Kent,  Thank you for lodging your complaint under ASSIST. The Central Administrator has reviewed and verified your complaint and finds that it is complete. You have submitted your company registration document which proves that you are a business registered in AMS-X and you have also provided us with a copy of the AMS-Y's Specific Schedule of ASEAN Services Commitments, specifically in the Telecommunication Services sector, as well as the AMS-Y 2010 Telecommunications. ... 1/4
01/11/2018 16:07:27	Email Confirmed	ASEAN-based Enterprise	Email Confirmed
01/11/2018 16:01:39	New	ASEAN-based Enterprise	

**ASEAN ENTERPRISE**

ASEAN Enterprise Name: AirTel Holdings, Inc.

Company Size	200+	Address	Jingle Avenue City U Country X
Phone	+261 7262991	City	City U
Website	www.airtel.com	ZIP Code	10690
		Country	AMS-X

**CONTACT PERSON**

First Name	Bruce	Address	Jingle Avenue City U Country X
Last Name	Kent	City	City U
Phone	+261 815925399	ZIP Code	10690
Position	President	Country	AMS-X
Email	aseanenterprise@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Communication Services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of AirTel Holdings, Inc.pdf</a>		
Type of Business	Service provider		
Description	<p>We are a duly registered telecommunications company in AMS-X, AirTel Holdings, Inc. Our subsidiary company, AirTel Holdings, Inc. is based in AMS-Y. 80% of the total shares issued by AirTel Co., Ltd. is owned by AMS-X shareholders and its senior management level positions are dominated by AMS-Y nationals. AirTel Co., Ltd.'s operating license has recently been revoked by AMS-Y's National Communication Authority in September 2018 on the argument that the telecommunications license possessed by AirTel Co., Ltd. is no longer valid. In fact, in August 2018, AMS-Y had amended the Telecommunications Business License Act No. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses. A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant impact on fair competition, the public interest, or require special consumer protection. The applicant applying for Type B and Type C licenses must be companies where AMS-Y nationals hold at least 51% shares and at least three quarters of the applicant's senior level management and the person authorized to sign any binding commitments, as a representation of the applicant company, must be an AMS-Y national. We feel that AirTel Co., Ltd. has been treated unfairly as it simply followed the government process at the time when it had applied for the license and it was not given any notification by AMS-Y on this new development. It has also complied with the requirement for foreign companies with a majority of foreign shareholders, which is obtaining a Foreign Business License from the Ministry of Commerce. The revoking of AirTel Co., Ltd.'s license and the amendment of the business license regulation has caused AirTel Holdings, Inc., shares to fall 5.67% in AMS-X as AMS-Y is the world's second biggest cellular market. We believe that the revoking of its license is a discrimination against foreign investors in the telecommunications sector and a violation of the specific commitments and obligations of AMS-Y under the relevant ASEAN Framework Agreement on Services (AFAS).</p>		
Attachment	<a href="#">Annex 2-Simulated_AMS-Y_Schedule_of_Specific_Commitments-AFAS_9_Consolidated_Schedule1.pdf</a> <a href="#">Annex 3-Simulated_Law_of_AMS-Y1.pdf</a> <a href="#">Annex 4-Simulated_Amendment_Law_of_AMS-Y1.pdf</a>		

Central Administrator of ASSIST / ASEAN Secretariat - 70A, Jl. Setiabudi - Jakarta 12110 - Indonesia  
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In cases where no solution is found through ASSIST or if the DCP finds sufficient basis that its Member State has complied with its relevant ASEAN commitments and that the complaint lacks merits, this finding and the basis for such finding is promptly conveyed to the CA, which informs the complainant accordingly. The complainant may, if so desired and through its Home Contact Point and ASEAN Member State of registration, refer the case to the ASEAN Compliance Body (ACB), the ASEAN Enhanced Dispute Settlement Mechanism (EDSM), pursue national litigation or alternative dispute resolution mechanisms (i.e. mediation, conciliation or arbitration) within national ASEAN jurisdictions.

**ASSIST will consider this procedure as one where the complaint was rejected and a solution has not been provided.**

**Please note that the timeframe for solving cross-border problems brought under ASSIST shall be no more than 40 working days or 2 calendar months (unless an extension of maximum 20 working days has been accorded) from the date in which the complaint is lodged.**





