



ASSIST

# STEP-BY-STEP TUTORIAL FOR CASE STUDY 2

## (TRADE IN GOODS)

**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:

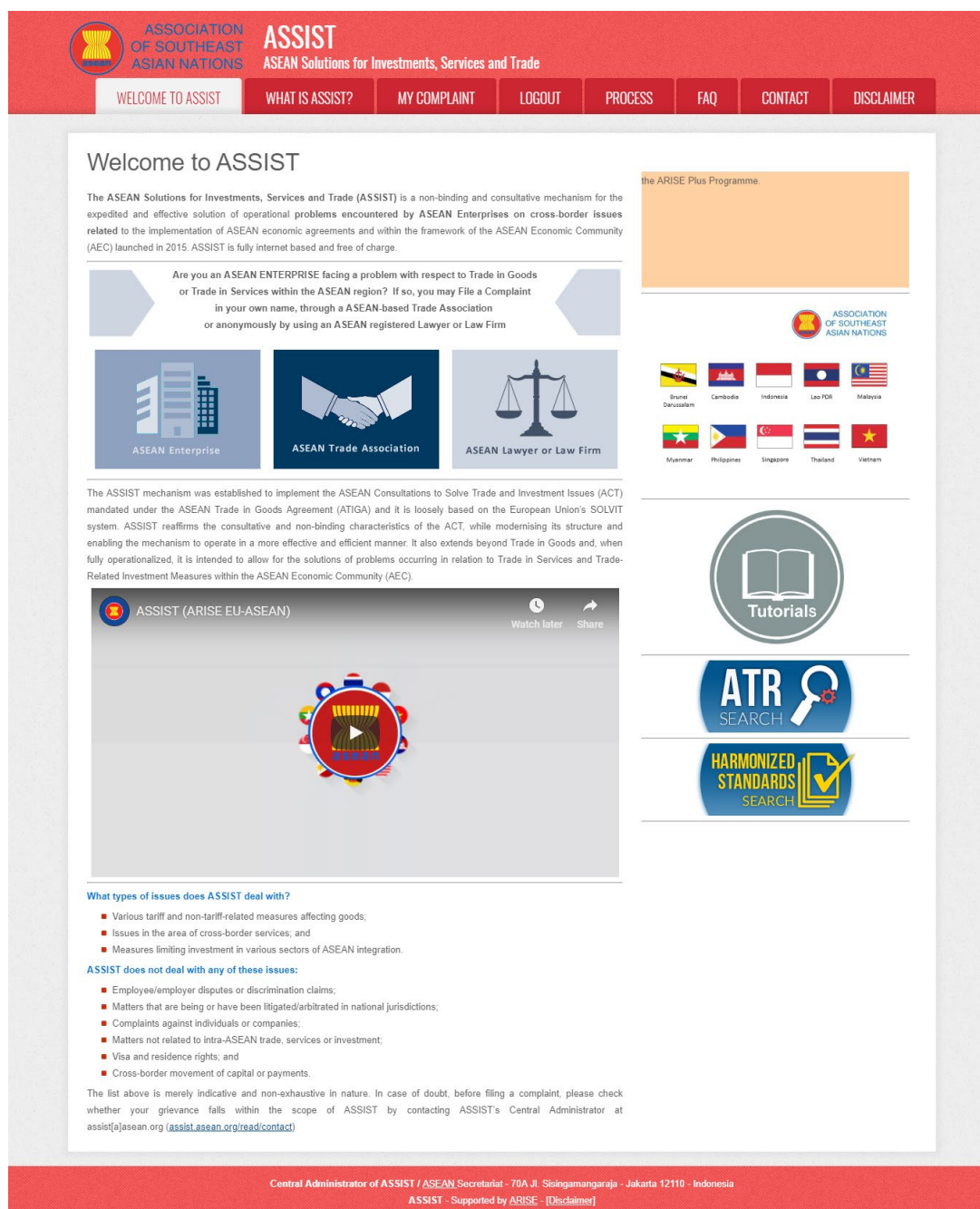
- Complainant = ASEAN-Based Trade Association = ASEAN Trade Association
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant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

## STEP 1

### GO TO THE ASSIST WEBSITE ([HTTP://ASSIST.ASEAN.ORG](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 is the ASEAN logo and the text 'ASSOCIATION OF SOUTHEAST ASIAN NATIONS'. Below this is the 'ASSIST' logo and the tagline 'ASEAN Solutions for Investments, Services and Trade'. A navigation bar contains links: 'WELCOME TO ASSIST', 'WHAT IS ASSIST?', 'MY COMPLAINT', 'LOGOUT', 'PROCESS', 'FAQ', 'CONTACT', and 'DISCLAIMER'.

The main content area is titled 'Welcome to ASSIST'. It includes a paragraph explaining that ASSIST is a non-binding and consultative mechanism for solving operational problems encountered by ASEAN Enterprises on cross-border issues related to the implementation of ASEAN economic agreements. Below this, a section asks if the user is an ASEAN Enterprise facing a problem with respect to Trade in Goods or Trade in Services within the ASEAN region. It provides three options: 'File a Complaint in your own name, through a ASEAN-based Trade Association', 'or anonymously by using an ASEAN registered Lawyer or Law Firm'. Three icons represent these options: 'ASEAN Enterprise', 'ASEAN Trade Association', and 'ASEAN Lawyer or Law Firm'.

Below the icons, a paragraph explains that 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). It also mentions that 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).

Below this paragraph is a video player showing a video titled 'ASSIST (ARISE EU-ASEAN)'. To the right of the video player are three circular icons: 'Tutorials', 'ATR SEARCH', and 'HARMONIZED STANDARDS SEARCH'.

Below the video player, a section titled 'What types of issues does ASSIST deal with?' lists several issues: '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.' Below this, a section titled 'ASSIST does not deal with any of these issues:' lists several 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.'

At the bottom of the page, a footer contains the text: 'Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Siangmangaraja - Jakarta 12110 - Indonesia' and 'ASSIST - Supported by ARISE - [Disclaimer]'.

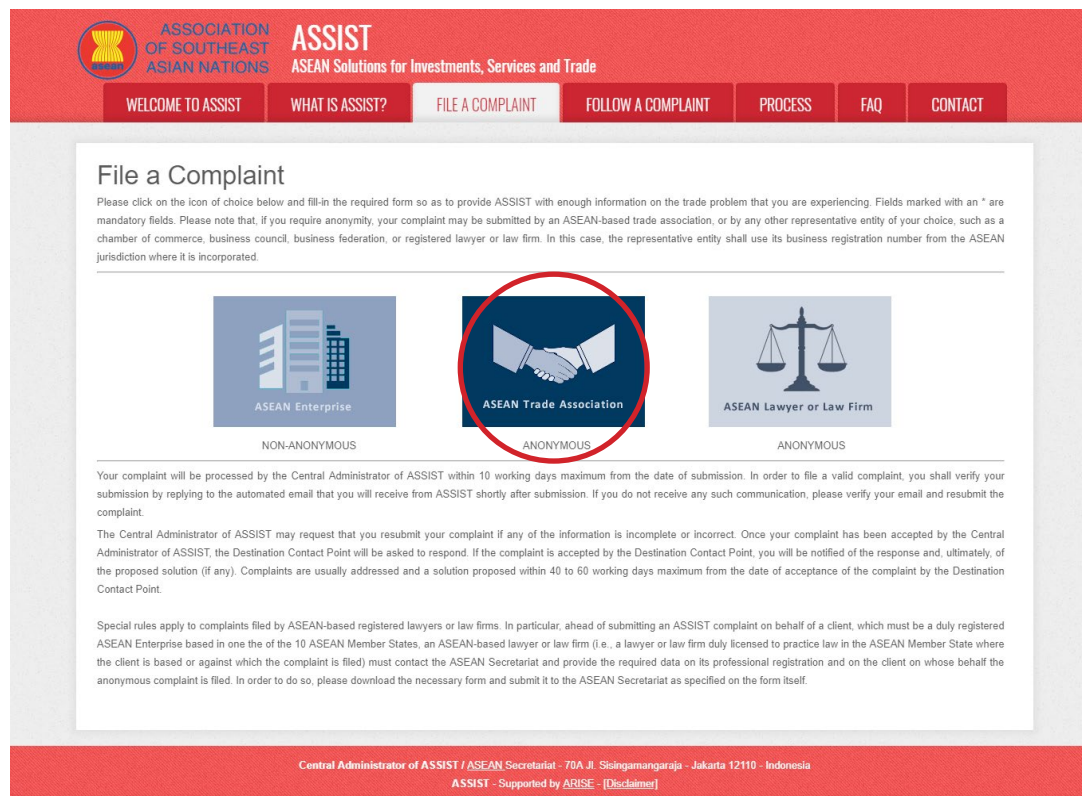


**STEP  
2**

**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

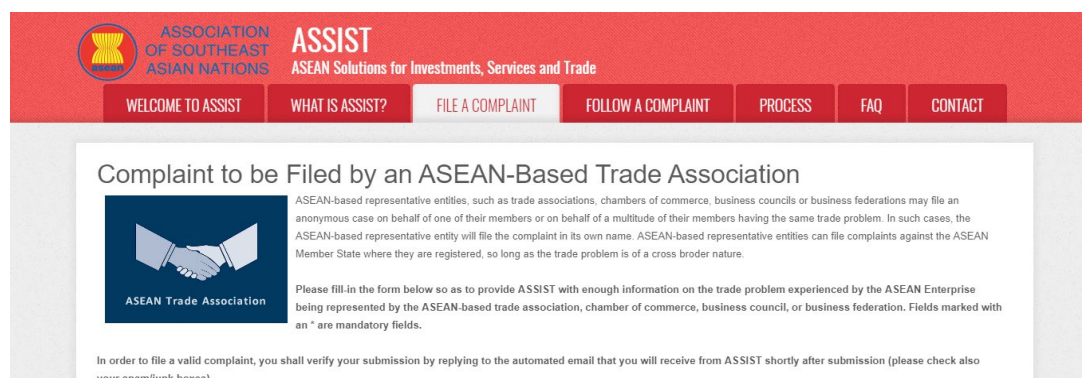
Your complaint will be processed by the Central Administrator of ASSIST within 10 working days maximum from the date of submission. In order to file a valid complaint, you shall verify your submission by replying to the automated email that you will receive from ASSIST shortly after submission. If you 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 ARISE - [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-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

300 characters remaining (300 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   No file chosen


\* Type of Business 

\* Business Sector  Goods


- Services Sector Description 

\* Type of Problem Encountered  1 Tariff-related measures

\* Destination Country 


\* Description 

5000 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


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  buttons are available for detailed instructions on what to fill-in for each field. Please click on the  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-Based 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 A  
Country X

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 A  
Country X

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

☒ 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. Sisingamangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [\[Disclaimer\]](#)



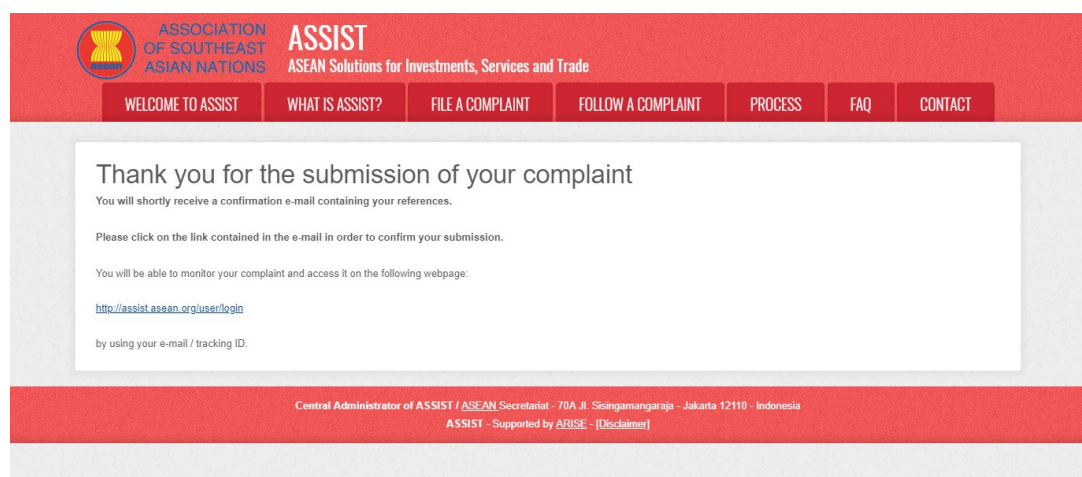
As an example of a clear and concise description of the complaint, below is the description for this specific case study:

"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 screenshot shows the ASSIST website header with the ASEAN logo and navigation tabs. The main content area displays a confirmation message: "Thank you for the submission of your complaint". Below this, it states: "You will shortly receive a confirmation e-mail containing your references." and "Please click on the link contained in the e-mail in order to confirm your submission." It also provides the URL <http://assist.asean.org/user/login> and mentions that the user will be able to monitor their complaint and access it on the following webpage by using their e-mail / tracking ID. The footer contains the contact information for the Central Administrator of ASSIST and mentions support by ARISE.


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.



Gmail


ASEAN Trade Association <aseantradeassociation@gmail.com>

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**[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 A



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

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

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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**

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**ASEAN Enterprise / Trade Association / Law Firm : ASEAN Tobacco Trade Association (type Trade)**  
 Company size :  
 Phone : +12 905903901  
 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 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 : **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.


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Thanking you, ASSIST is at your service.


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

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**2 attachments**

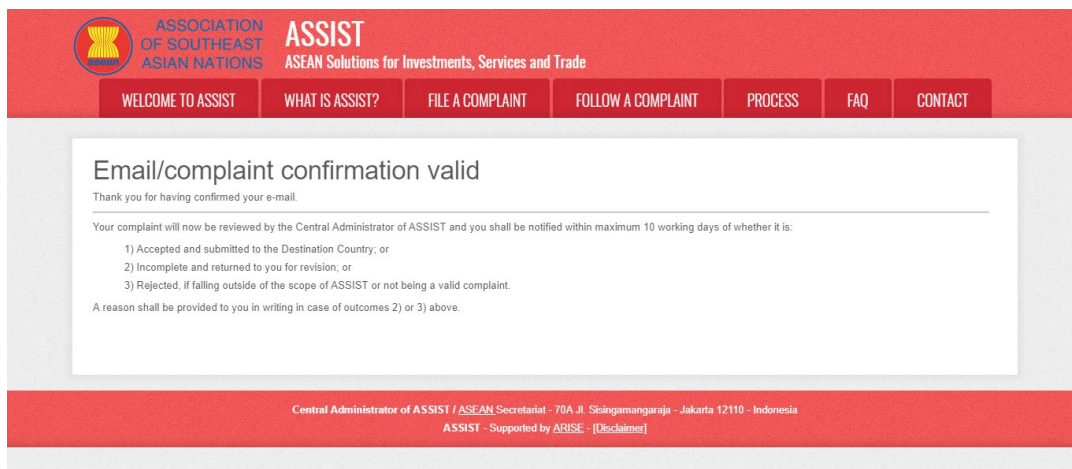


**Annex\_2-Simulated\_Fiscal\_Customs\_Measures\_Dual\_License\_Scheme\_of\_AMS-Y21.pdf**  
46K



**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.

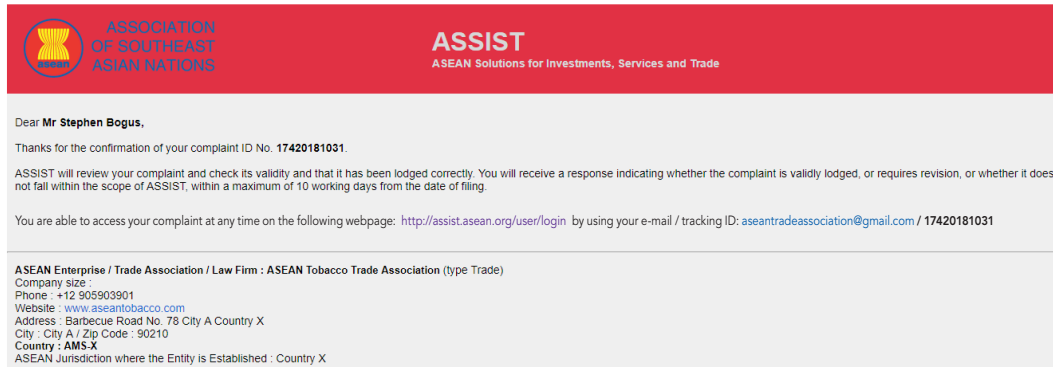


ASEAN Trade Association <aseantradeassociation@gmail.com>

**[ASSIST] Thanks for your email confirmation for the complaint #17420181031**

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

Wed, Oct 31, 2018 at 11:57 AM





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 : 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

2 attachments

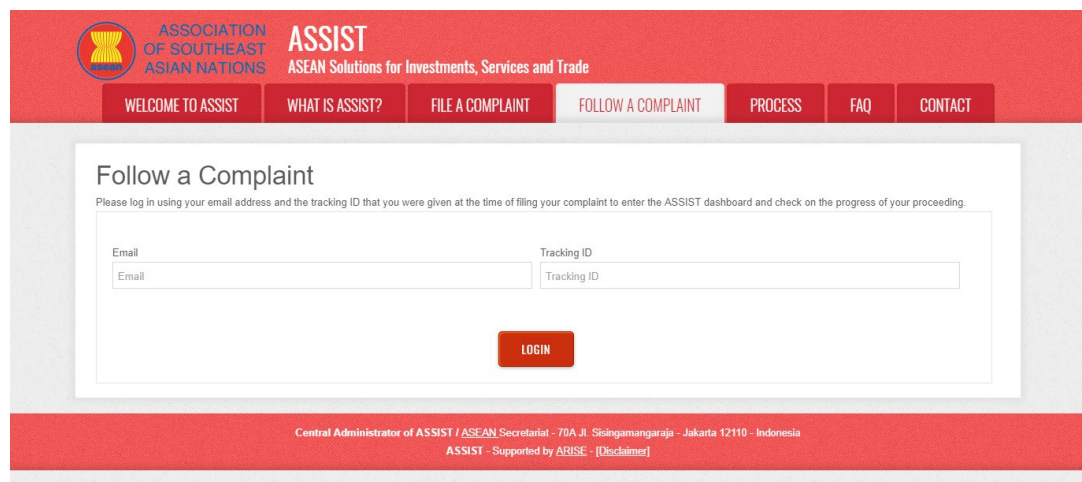
-  Annex\_2-Simulated\_Fiscal\_Customs\_Measures\_Dual\_License\_Scheme\_of\_AMS-Y21.pdf  
46K
-  Annex\_1-Simulated\_Entity\_Registration\_of\_ASEAN\_Tobacco\_Trade\_Association18.pdf  
48K

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.



**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

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - 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 [aseantradeassociation@gmail.com](mailto:aseantradeassociation@gmail.com) and the **Tracking ID** is **17420181031**.

WELCOME TO ASSIST

WHAT IS ASSIST?


FILE A COMPLAINT

FOLLOW A COMPLAINT

PROCESS

FAQ

CONTACT



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

## ASSIST

ASEAN Solutions for Investments, Services and Trade

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### 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 - 70A Jl. Sisingamangaraja - 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:



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 #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	

WITHDRAW COMPLAINT

#### ASEAN ENTERPRISE

ASEAN Enterprise Name		ASEAN Tobacco Trade Association	
Company Size		Address	Barbecue Road No. 78 City A Country X
Phone	+12 905903901	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 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	131313	Type of Problem Encountered	Goods / Decried Customs valuations
Company Registration Proof	<a href="#">Annex 1: Simulated Entity Registration of ASEAN Tobacco Trade Association18.pdf</a>		Destination Country
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

[Annex 2-Simulated Fiscal Customs Measures Dual License Scheme of AMS-Y21.pdf](#)

Central Administrator of ASSIST / ASEAN Secretariat - 70A Jl. Sisingamangaraja - 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  
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:**



Gmail

Central Administrator ASEK <caatasec@gmail.com>

**[ASSIST] Complaint #15020181026 reminder for CA**

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

Sat, Oct 27, 2018 at 5:00 AM



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

**ASSIST**

ASEAN Solutions for Investments, Services and Trade

Action is required by the CA for the complaint:  
**15020181026**

Thanking you, ASSIST is at your service.

[assist.asean.org](#) [Disclaimer]



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, 2018 at 12:02 PM

 <p>ASSOCIATION OF SOUTHEAST ASIAN NATIONS</p>	<p><b>ASSIST</b></p> <p>ASEAN Solutions for Investments, Services and Trade</p>
<p>Dear Mr Stephen Bogus,</p> <p>Your complaint ID No. 17420181031 has been accepted by ASSIST.</p> <p>You are able to access your complaint at any time on the following webpage: <a href="http://assist.asean.org/user/login">http://assist.asean.org/user/login</a> by using your e-mail / tracking ID.</p> <p>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.</p> <p>You will be promptly notified of the response by the Destination Country through ASSIST.</p>	
<p><b>ASEAN Enterprise / Trade Association / Law Firm : ASEAN Tobacco Trade Association (Type Trade)</b>          Company size :          Phone : +12 905903901          Website : <a href="http://www.aseantobacco.com">www.aseantobacco.com</a>          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</p> <p><b>Contact person : Mr Stephen Bogus</b>          Phone : +12 905903901          Position : Chairman          Email : <a href="mailto:aseantradeassociation@gmail.com">aseantradeassociation@gmail.com</a>          Address : Barbecue Road No. 78 City A Country X          City : City A / Zip Code : 90210          Country : AMS-X</p> <p><b>Confidential case code (for law firm or lawyer only):</b>          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</p> <p><b>Description:</b>          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>	
<p>Thanking you, ASSIST is at your service.</p>	
<p><a href="http://assist.asean.org">assist.asean.org</a></p>	

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 ASECC <caatasec@gmail.com>

[ASSIST] Complaint #15020181026 reminder for CA

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

Sat, Oct 27, 2018 at 5:00 AM



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

**ASSIST**

ASEAN Solutions for Investments, Services and Trade

Action is required by the CA for the complaint:  
**15020181026**

Thanking you, ASSIST is at your service.


assist.asean.org [\[Outdated\]](#)

**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.



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 #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. 78 City A Country X
Phone	+12 905903901	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 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	131313	Type of Problem	Goods / Decreed Customs valuations
Company Registration Proof	<a href="#">Annex 1: Simulated Entity Registration of ASEAN Tobacco Trade Association18.pdf</a>		
Type of Business	Retailer	Destination Country	AMS-Y
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]

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).




ASEAN Trade Association <aseantradeassociation@gmail.com>

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

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

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 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."

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 905903901  
 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 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 : 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)

*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:*




AMS Y <aseanmemberstate.y@gmail.com>

**[ASSIST] Complaint #17020181030 reminder for DCP**

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

Wed, Oct 31, 2018 at 6:00 AM

	<b>ASSIST</b> ASEAN Solutions for Investments, Services and Trade
Action is required by the <b>DCP AMS-Y</b> for the complaint: <b>17020181030</b>	
Thanking you, ASSIST is at your service.	
assist.asean.org	

*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:**

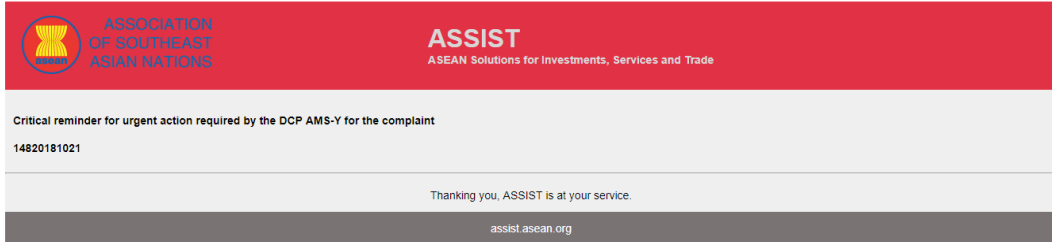


AMS Y <aseanmemberstate.y@gmail.com>


**[ASSIST] Critical DCP reminder for the #14820181021 complaint**

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

Wed, Oct 24, 2018 at 5:00 AM



- (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.



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 #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
31/10/2018 18:06:17	<b>Solution</b>	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	<b>Accepted</b>	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	<b>Email Confirmed</b>	ASEAN-based Enterprise	Email Confirmed
31/10/2018 11:55:41	<b>New</b>	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 905903901	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 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	131313	Type of Problem Encountered	Goods / Decreed Customs valuations
Company Registration Proof	<a href="#">Annex 1: Simulated Entity Registration of ASEAN Tobacco Trade Association18.pdf</a>		
Type of Business	Retailer	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.		
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:

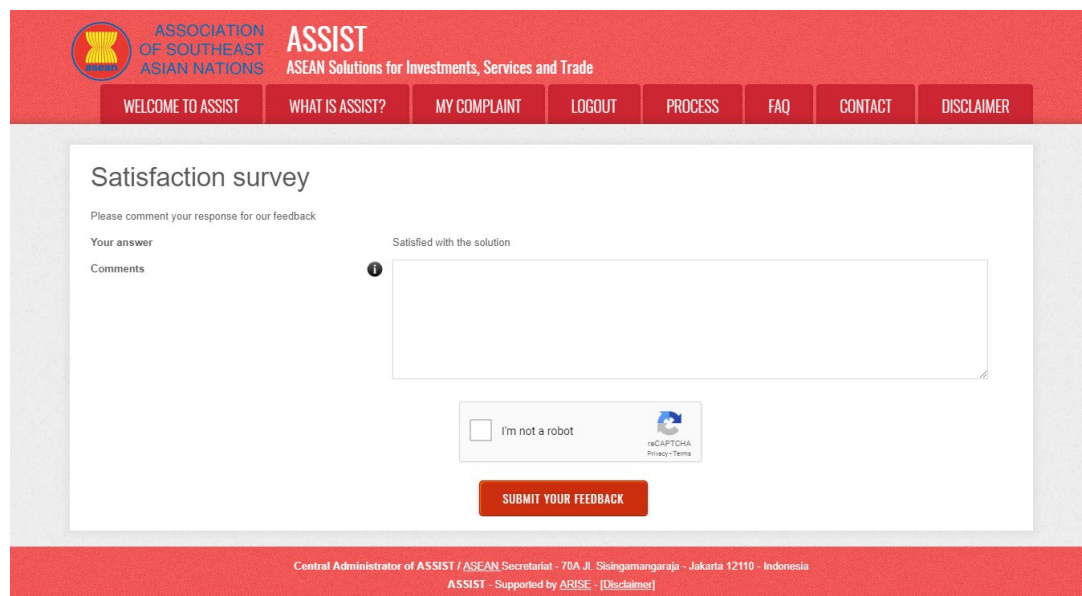
☒ Yes / ☐ No

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.



**Satisfaction survey**

Please comment your response for our feedback

Your answer

Comments


☒ Satisfied with the solution

☐ I'm not a robot

**SUBMIT YOUR FEEDBACK**

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- (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.



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

## ASSIST

ASEAN Solutions for Investments, Services and Trade

WELCOME TO ASSIST

WHAT IS ASSIST?

MY COMPLAINT

LOGOUT

PROCESS

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DISCLAIMER

### Satisfaction survey

Please comment your response for our feedback

Your answer


Comments

Satisfied with the solution

**i** We are satisfied with the reason of rejection of our complaint by AMS-Y. As mentioned by AMS-Y, there has not been an agreement between AMS-X and AMS-Y on whether the WTO dispute was actually resolved. Thus, we will follow-up with our government regarding this matter, specifically on whether AMS-X had complied with its WTO obligations.

We have decided not to pursue any other course of action regarding our complaint.

☒ I'm not a robot

 hCAPTCHA  
Privacy - Terms

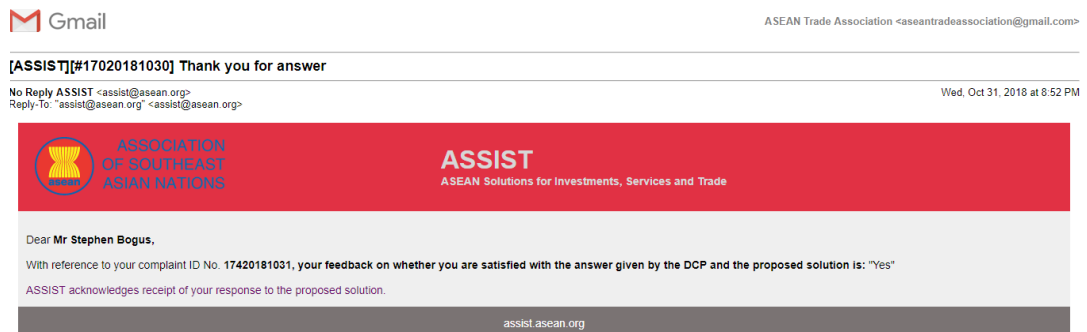
SUBMIT YOUR FEEDBACK

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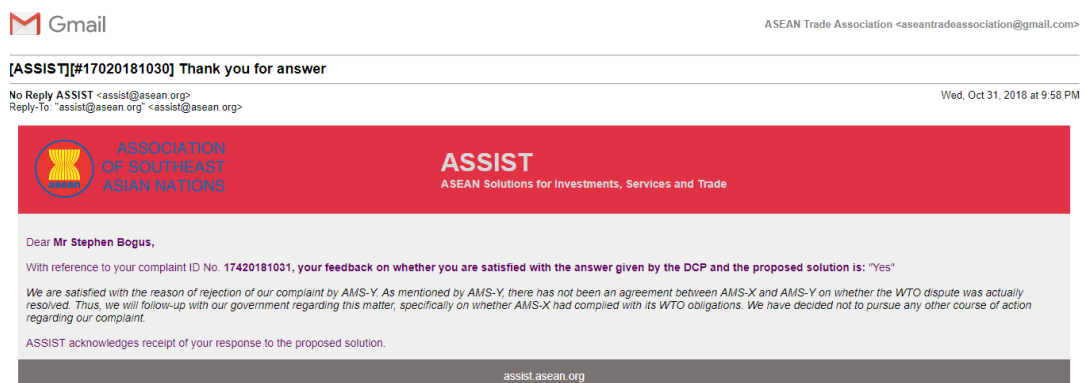
- (b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

### 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.



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## 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
31/10/2018 18:06:17	<b>Solution</b>	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	<b>Accepted</b>	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	<b>Email Confirmed</b>	ASEAN-based Enterprise	Email Confirmed
31/10/2018 11:55:41	<b>New</b>	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 905903901	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 905903901	ZIP Code	90210
Position	Chairman	Country	AMS-X
Email	aseantradeassociation@gmail.com (Confirmed)		

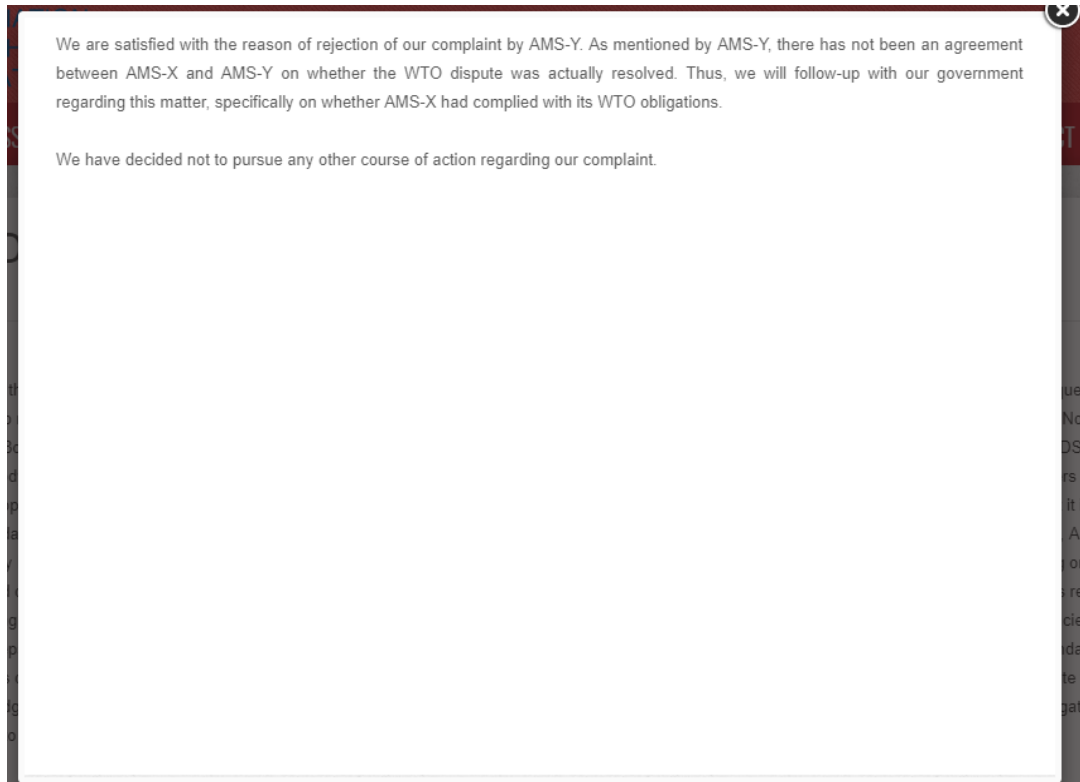
### COMPLAINT DESCRIPTION

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

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- (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.**