

**ASSIST**

# STEP-BY-STEP TUTORIAL FOR CASE STUDY 5

## (TRADE IN SERVICES)

**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 Subject ASEAN Member State 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:

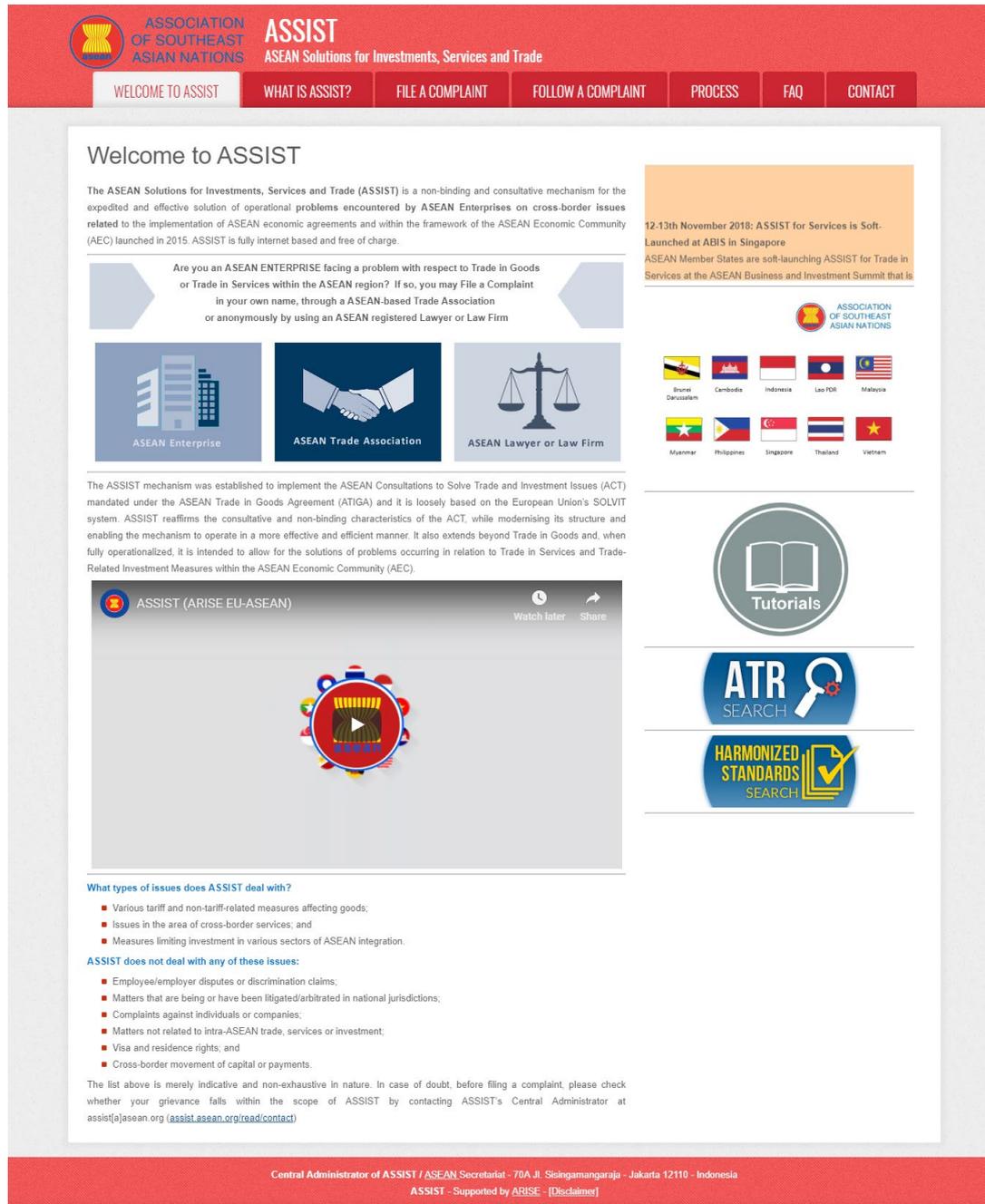
- Complainant = ASEAN Enterprise (AE)
- ASEAN Secretariat = Central Administrator of ASSIST (CA)
- Home Country = Home Contact Point (HCP) in ASEAN Member State-X (AMS-X)
- Destination Country = Destination Contact Point (DCP) in ASEAN Member State-Y (AMS-Y)
- Relevant National Authorities = Relevant 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 service, a central question about filing a complaint, and three icons representing 'ASEAN Enterprise', 'ASEAN Trade Association', and 'ASEAN Lawyer or Law Firm'. Below this is a video player for 'ASSIST (ARISE EU-ASEAN)'. To the right, there is a news item about the soft-launching of ASSIST for Services in Singapore, a 'Tutorials' section with an open book icon, and two search tools: 'ATR SEARCH' and 'HARMONIZED STANDARDS SEARCH'. At the bottom, there are lists of issues ASSIST deals with and does not deal with, and 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).

**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 Services at the ASEAN Business and Investment Summit that is

**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/read/contact](http://assist.asean.org/read/contact))

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

200 characters remaining (300 maximum)

\* City  ZIP Code

\* Country

### CONTACT PERSON

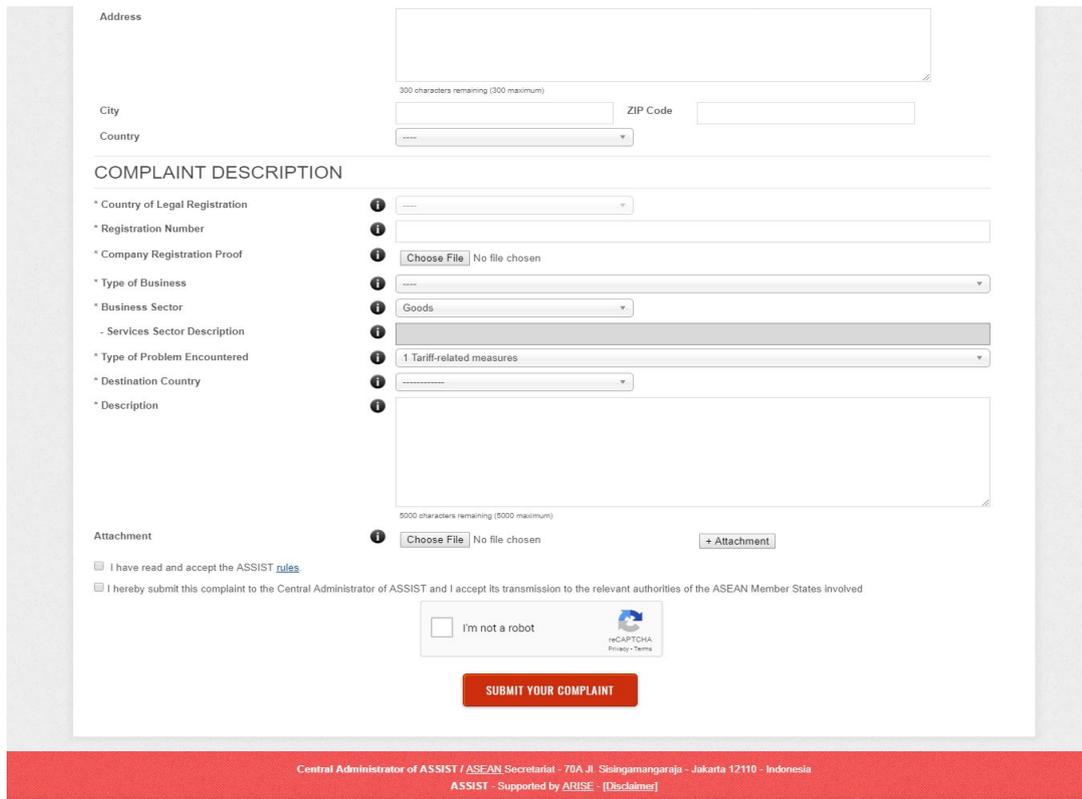
\* Gender  Mr  Mrs  Ms

\* First Name  \* Last Name

\* Phone

\* Position

\* Email



Address

300 characters remaining (300 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

5000 characters remaining (5000 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 - 70A Jl. Sialangmangaraja - Jakarta 12110 - Indonesia  
ASSIST - Supported by ARISE - [\[Disclaimer\]](#)

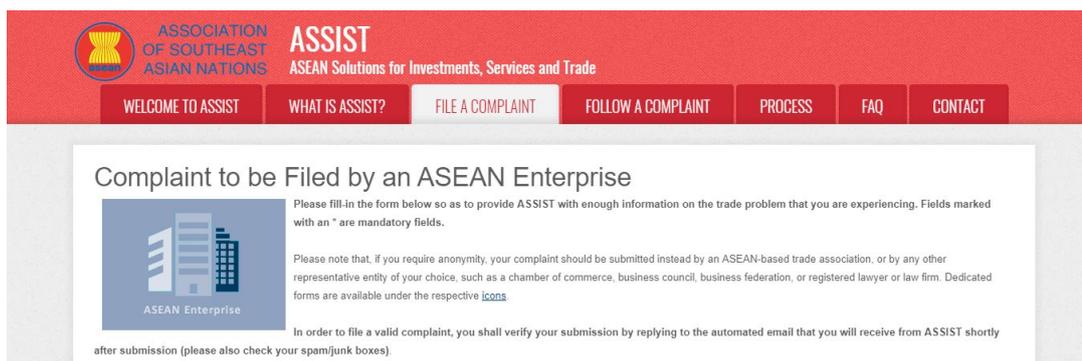
Fill-in the above form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an asterisk (\*) are mandatory fields. If you are not sure on what to fill-in for a field, the **i** buttons are available for detailed instructions on what to fill-in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



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 [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: AirTel Holdings, Inc.

\* Company Size: 200+

\* Phone: +261 7262991

Website: www.airtel.com

\* Address: Jingle Avenue  
City U  
Country X

298 characters remaining (300 maximum)

City: City U ZIP Code: 10090

\* Country: AMS-X

### CONTACT PERSON

\* Gender:  Mr  Mrs  Ms

\* First Name: Bruce \* Last Name: Kent

\* Phone: +261 8159255399

\* Position: President

\* Email: aseanenterprise0@gmail.com

Address: Jingle Avenue  
City U  
Country X

298 characters remaining (300 maximum)

City: City U ZIP Code: 10090

Country: AMS-X

### COMPLAINT DESCRIPTION

\* Country of Legal Registration: AMS-X

\* Registration Number: 123456

\* Company Registration Proof: Choose File Annex 1-Simulat...ldings, Inc.pdf

\* Type of Business: Service provider

\* Business Sector: Services

- Services Sector Description: Telecommunication

\* Type of Problem Encountered: 2 Communication Services

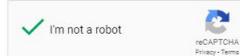
\* Destination Country: AMS-Y

\* 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. 1500, whereby foreign operators were no longer permitted to apply for Type B and Type C licenses.

2881 characters remaining (3000 maximum)

Attachment: Choose File Annex 2-Simulated AM...idated 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

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 Holdings, Inc. 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."

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.

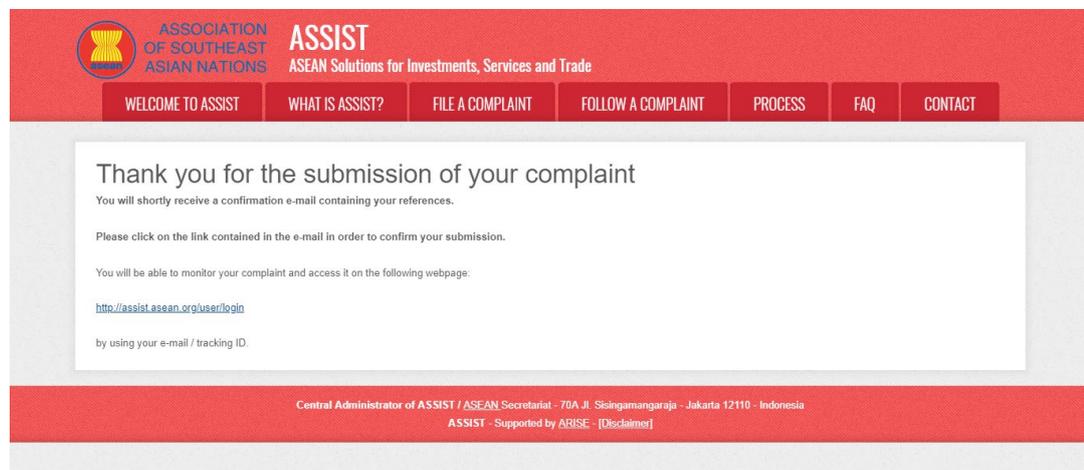
A type B telecom license is for an operator with or without its own network, but provides services targeting a segment or even several segments of the public. A type C telecom license is for an operator with a network that provides services to the general public, or services that cause a significant 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 screenshot shows the ASSIST website header with the logo and navigation menu. 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 can monitor their complaint using their e-mail or 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 **17720181101**.

Below is the email which you will receive from ASSIST.


ASEAN Enterprise <aseanenterprise0@gmail.com>

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**[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 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 : [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.

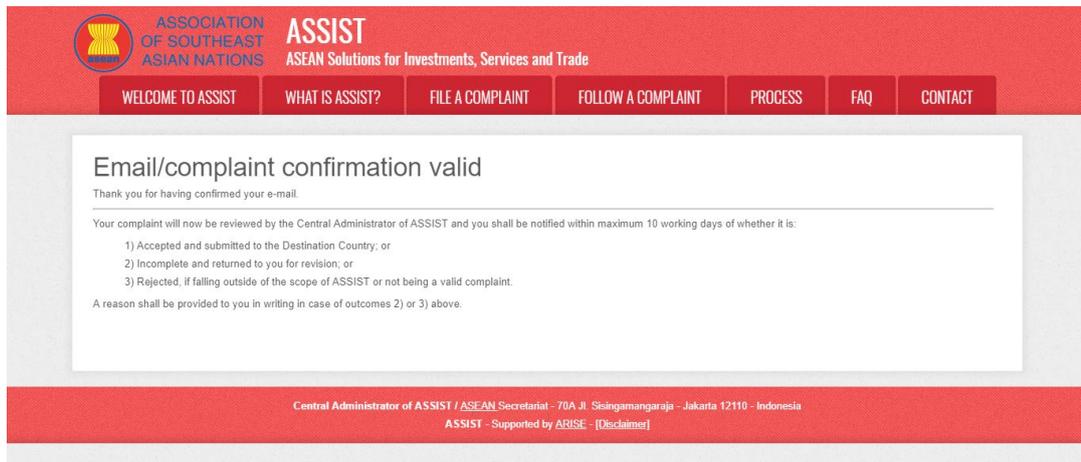
[assist.asean.org](mailto:assist.asean.org)

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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](#)  
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.

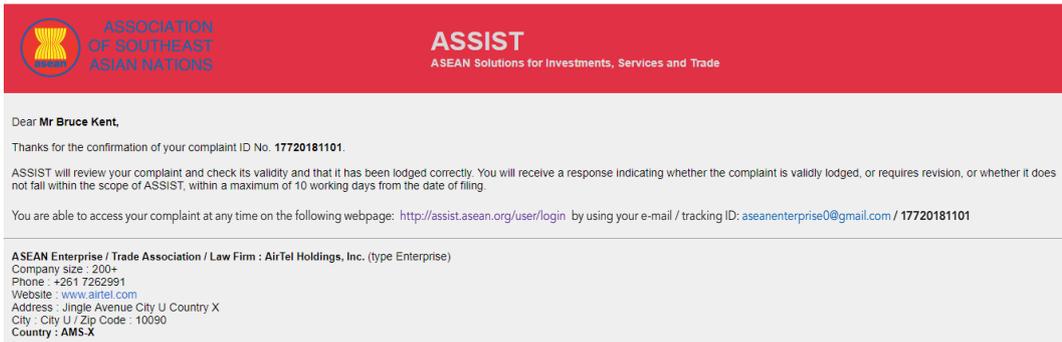


ASEAN Enterprise <aseanenterprise0@gmail.com>

**[ASSIST] Thanks for your email confirmation for the complaint #17720181101**

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

Thu, Nov 1, 2018 at 4:07 PM



Contact person : Mr Bruce Kent  
Phone : +261 8159253399  
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

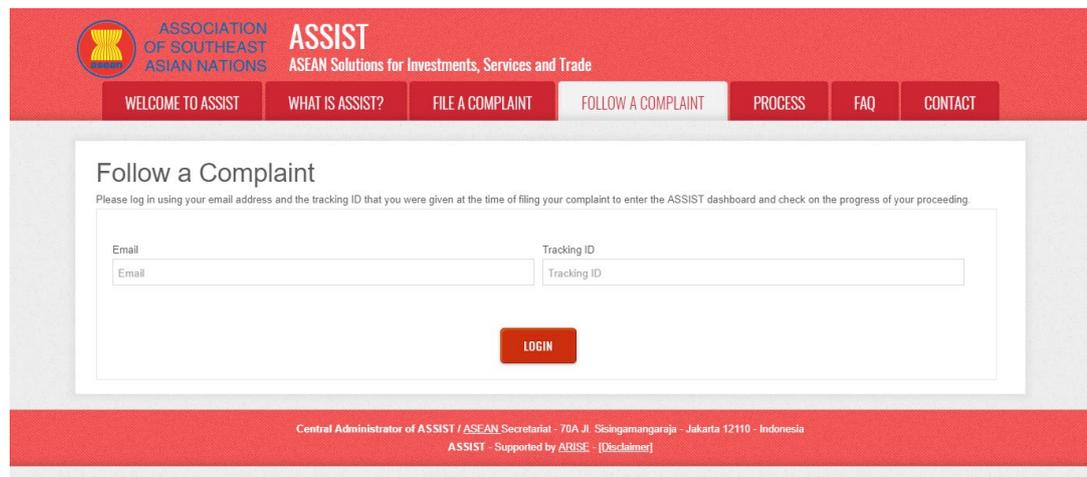
-  Annex\_2-Simulated\_AMS-Y\_Schedule\_of\_Specific\_Commitments-AFAS\_9\_Consolidated\_Schedule1.pdf  
91K
-  Annex\_3-Simulated\_Law\_of\_AMS-Y1.pdf  
47K
-  Annex\_4-Simulated\_Amendment\_Law\_of\_AMS-Y1.pdf  
47K
-  Annex\_1-Simulated\_Company\_Registration\_of\_AirTel\_Holdings\_Inc1.pdf  
49K

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.

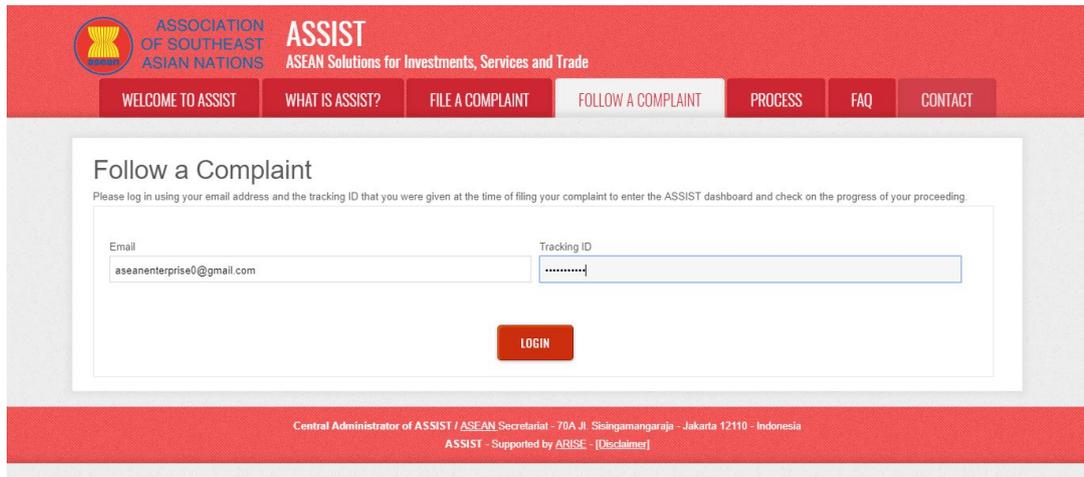
**STEP  
7**

**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**.



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.

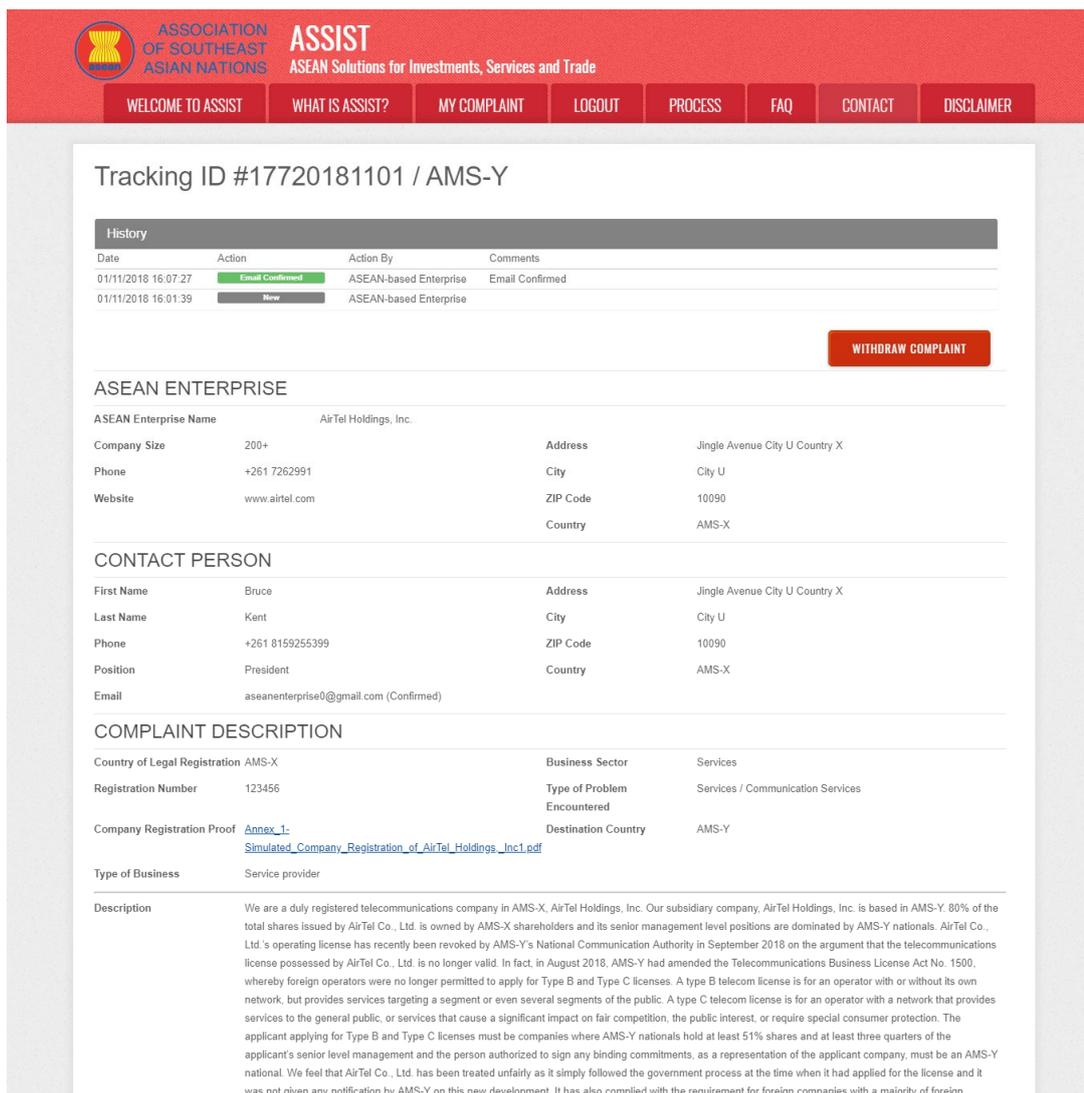
Email: aseanenterprise0@gmail.com Tracking ID: .....

**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 #17720181101 / AMS-Y

History			
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	

**WITHDRAW COMPLAINT**

#### 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	<a href="#">Annex 1- Simulated Company Registration of AirTel Holdings, Inc1.pdf</a>	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 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).

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 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 ASEC <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:  
**15020181026**

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Thanking you. ASSIST is at your service.

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

 Gmail ASEAN Enterprise <aseanenterprise0@gmail.com>

---

**[ASSIST] Your complaint #17720181101 is accepted by CA**

No Reply ASSIST <assist@asean.org> Thu, Nov 1, 2018 at 10:37 PM  
 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



ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS

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

Action is required by the CA for the complaint:  
**13320180921**

Thanking you, ASSIST is at your service.

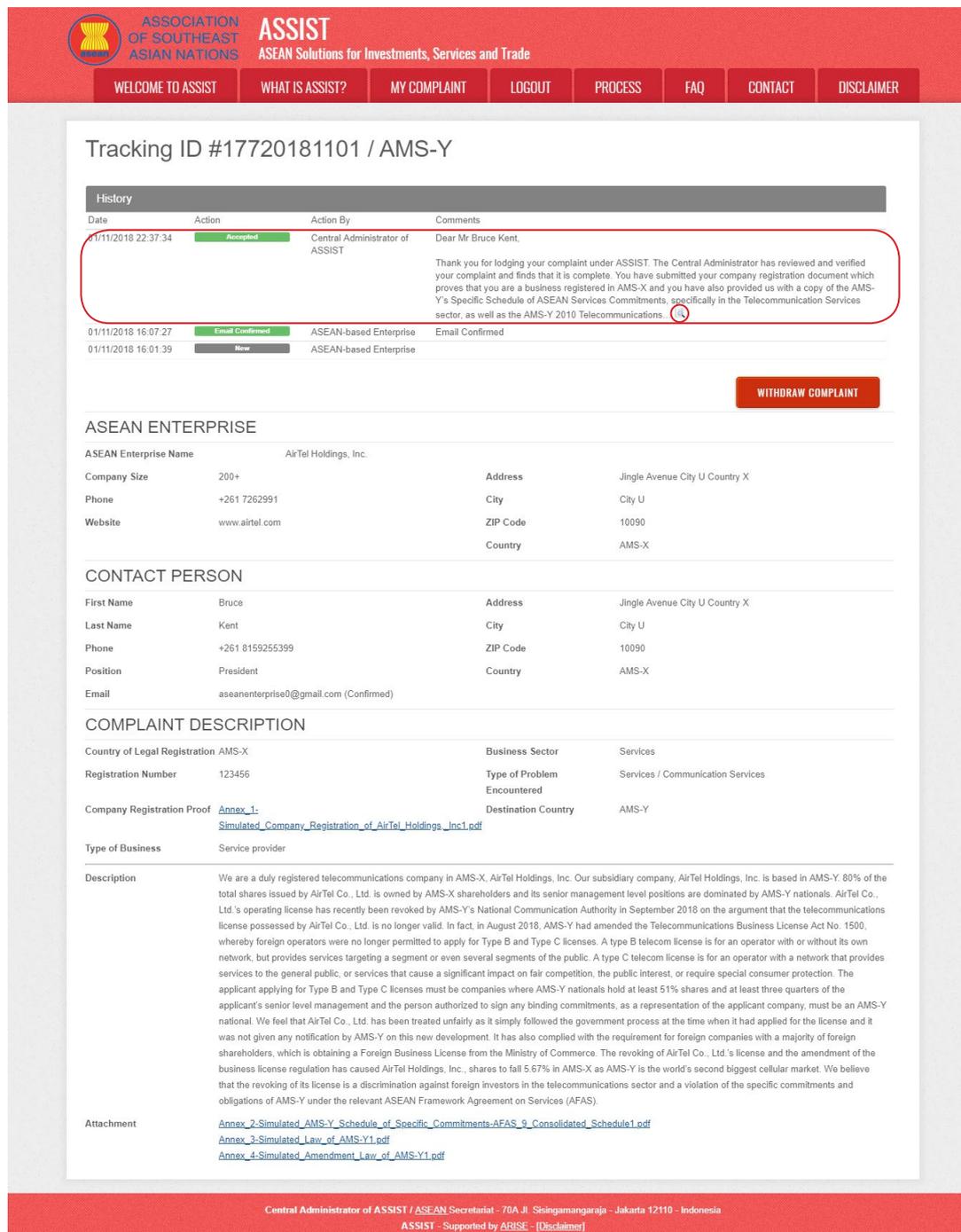
[assist.asean.org](http://assist.asean.org) [Discussion](#)

**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	

**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**

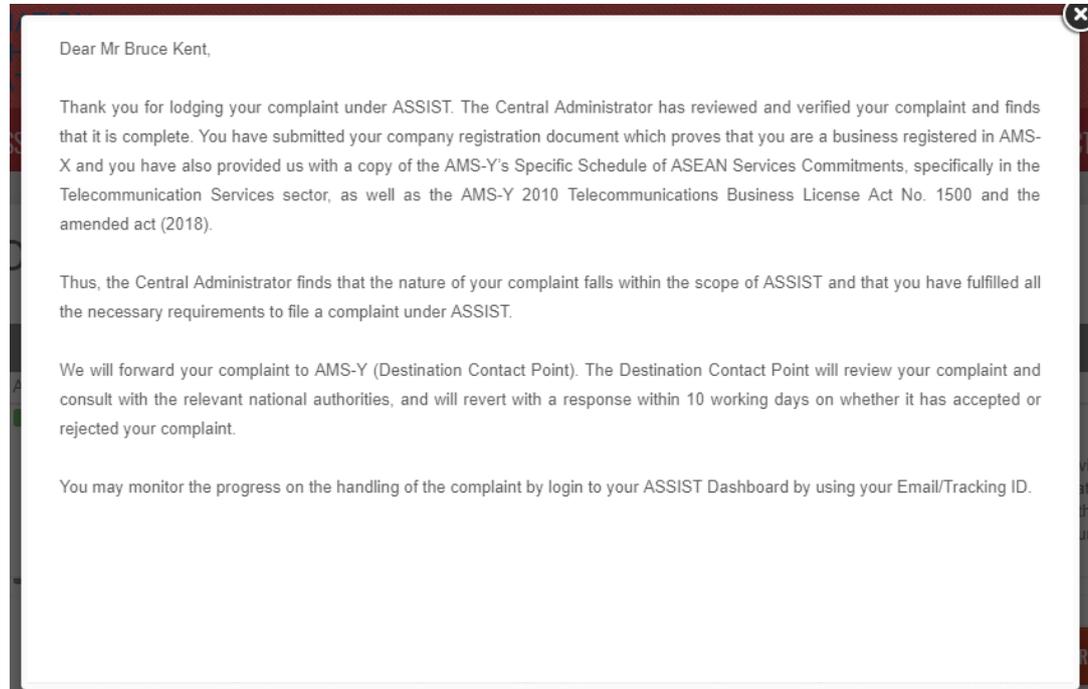
First Name	Bruce	Address	Jingle Avenue City U Country X
Last Name	Kent	City	City U
Phone	+261 8159255399	ZIP Code	10090
Position	President	Country	AMS-X
Email	aseanenterprise0@gmail.com (Confirmed)		

**COMPLAINT DESCRIPTION**

Country of Legal Registration	AMS-X	Business Sector	Services
Registration Number	123456	Type of Problem Encountered	Services / Communication Services
Company Registration Proof	<a href="#">Annex 1: Simulated Company Registration of AirTel Holdings_Inc1.pdf</a>	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 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).		
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. 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:



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).



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

**[ASSIST] Response for your #17720181101 complaint**No Reply ASSIST <assist@asean.org>  
Reply-To: "assist@asean.org" <assist@asean.org>

Fri, Nov 2, 2018 at 12:05 AM

ASSOCIATION  
OF SOUTHEAST  
ASIAN NATIONS**ASSIST**

ASEAN Solutions for Investments, Services and Trade

Dear Mr Bruce Kent,

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

*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.*

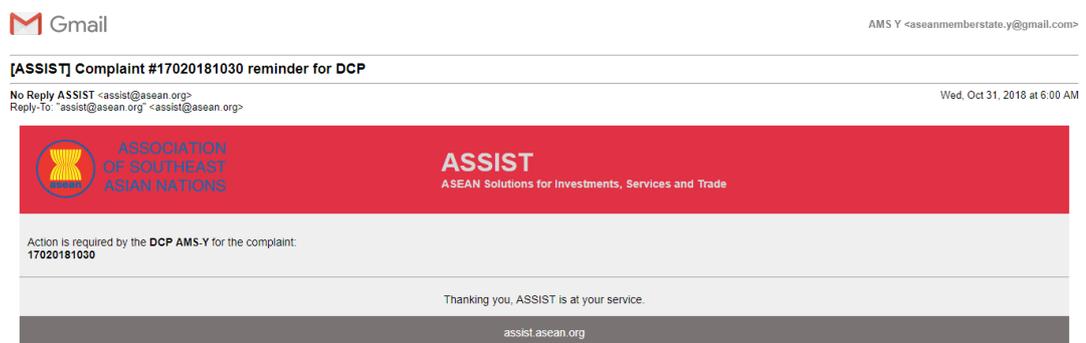
However, in cases such as this one where a complaint is **"Rejected"** by the DCP, you may not receive an email from ASSIST within the 10 working days deadline. The rejection and reason for rejection by the DCP will only be sent to the CA through ASSIST within the 10 working days. The CA will then review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

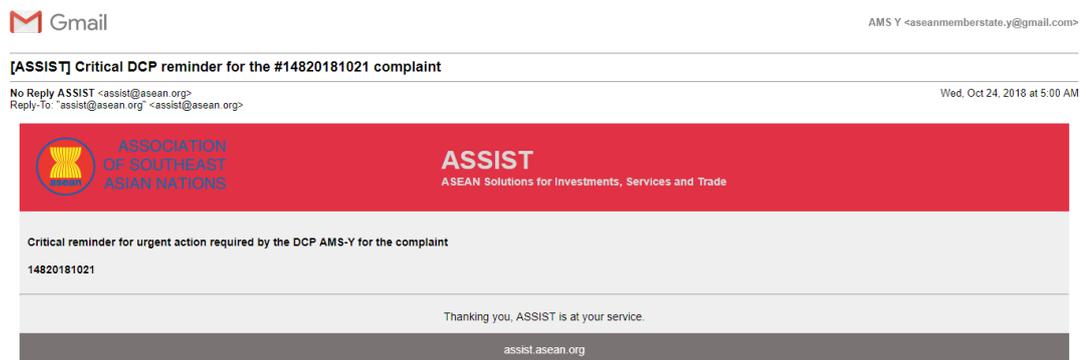
*If no action has been taken in the meantime by the DCP, the DCP will receive the automatic reminder below via email from the ASSIST online system within 7 calendar days after the complaint has been accepted by the CA. As indicated above, the DCP must decide to accept or reject the complaint within 10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



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

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

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## 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	Solution	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	Received	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	

**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	<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.

**Satisfaction survey**

Please comment your response for our feedback

Your answer

Comments

Satisfied with the solution

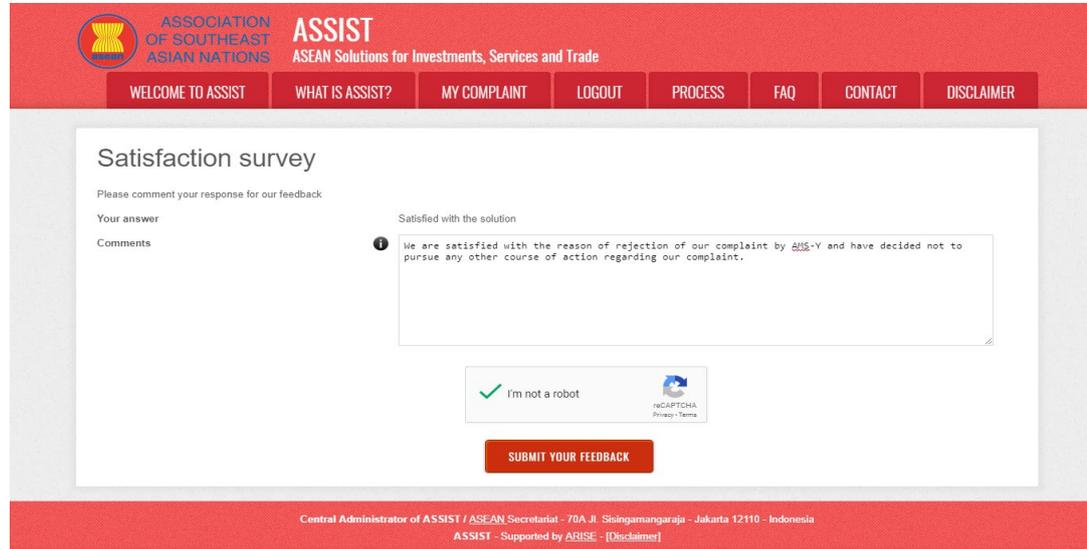
I'm not a robot

reCAPTCHA

**SUBMIT YOUR FEEDBACK**

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



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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

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.

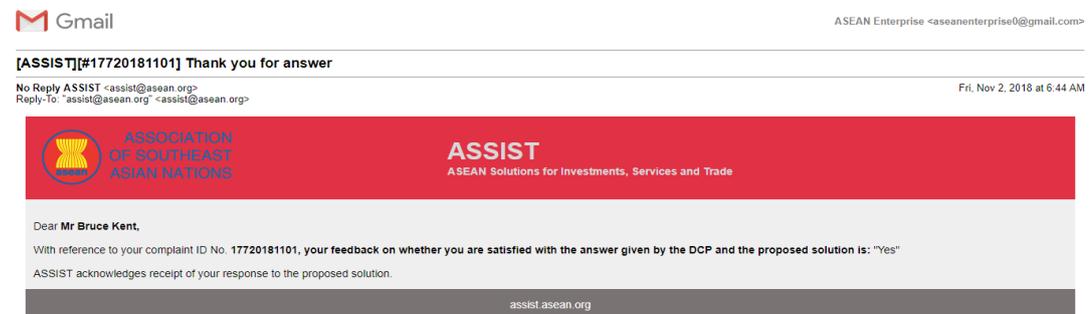
I'm not a robot

SUBMIT YOUR FEEDBACK

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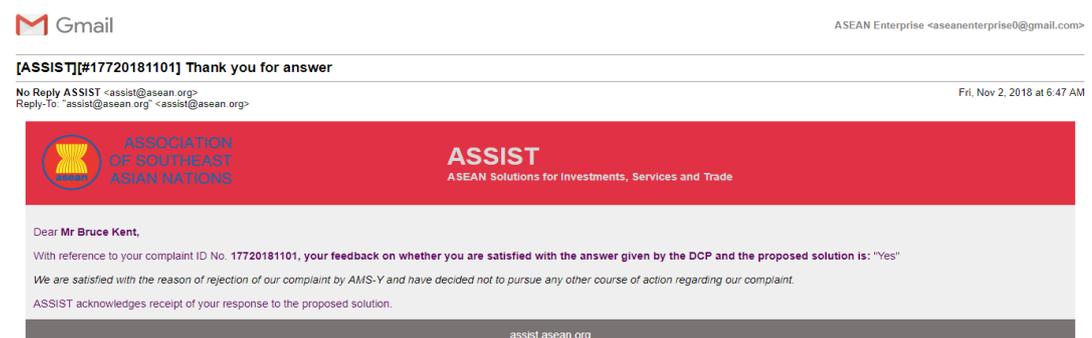
- (b) Go to your email account. You will receive one or two (if you have filled-in the Satisfaction Survey) new emails from ASSIST, which acknowledge receipt of your response to the proposed solution by AMS-Y. A copy of your responses will also be sent to the DCP and the HCP.

### 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. The comment that you have provided in the Satisfaction Survey can also be seen in the 'Comments' section.



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WELCOME TO ASSIST

WHAT IS ASSIST?

MY COMPLAINT

LOGOUT

PROCESS

FAQ

CONTACT

DISCLAIMER

### Tracking ID #17720181101 / AMS-Y

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**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

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	Solution	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 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	

#### 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	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 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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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.**