

## **REVISED BASIC AGREEMENT ON ASEAN INDUSTRIAL JOINT VENTURES**

THE GOVERNMENTS OF BRUNEI DARUSSALAM, THE REPUBLIC OF INDONESIA, MALAYSIA, THE REPUBLIC OF THE PHILIPPINES, THE REPUBLIC OF SINGAPORE AND THE KINGDOM OF THAILAND.

MINDFUL of the Declaration of ASEAN Concord signed in Bali, Indonesia on 24 February 1976, which provides that Member Countries shall take cooperative actions in their national and regional development programmes, utilizing as far as possible the resources available in the ASEAN region to broaden the complementarity of their respective economies;

REAFFIRMING their desire to collaborate for the acceleration of economic growth in the region, to promote the greater utilization of their agriculture and industries, the expansion of their trade and improvement of their economic infrastructure for the mutual benefit of their people;

CONVINCED that the consolidation of markets among ASEAN countries can support meaningful industrial joint ventures which can greatly contribute to strengthening and broadening the base of industrial sectors of their respective economies, promoting the greater utilization of their industries and expansion of their trade;

NOTING the suggestions on industrial joint ventures which have been advanced by the ASEAN Chambers of Commerce and Industry (ASEAN-CCI), and the confidence demonstrated by the ASEAN-CCI in the viability of ASEAN industrial joint ventures;

AFFIRMING that in the economies of the ASEAN countries, the private sector shall continue to be encouraged to play the major role in most of the economic activities, including industry and trade;

DESIRING to provide the guidelines and institutional framework within which the ASEAN Governmental machinery and the private sector, through the ASEAN-CCI, may collaborate to identify opportunities, formulate programmes and design projects for pursuing industrial joint ventures on the basis of mutual and equitable benefits for the member countries and increased industrial production for the region as a whole.

DO HEREBY AGREE to pursue ASEAN Industrial Joint Ventures as stipulated by the following provisions:

### **ARTICLE I GENERAL PROVISIONS**

1) AN Industrial Joint Venture (AIJV) product is any processed or manufactured product which is included in the final list of AIJV products referred to in Article II, paragraph 3 or in the AIJV Products List (APL) drawn up and approved by the ASEAN Committee on Industry, Minerals and Energy (COIME) in accordance with Article II Paragraph 9.

2) An AIJV product may be an existing product or a new product;

a) An existing product is one which is being processed or manufactured in any of the participating countries at the time of its inclusion in the final list.

b) Any product not covered by the definition of an existing product is a new product.

3) An AIJV is any entity which:

a) produces an AIJV product in any of the participating countries;

b) has equity participation from nationals of at least two participating countries;

c) satisfies the equity ownership provisions specified in paragraph 5 of this Article and the minimum 5 per cent equity contribution from nationals of each participating country.

4) With respect to a particular AIJV product, a participating country is an ASEAN member country which has indicated its intention to participate by way of providing tariff preference as well as the other privileges provided for in Article I\_I hereof. An ASEAN member country which has not indicated its intention to so participate is a non-participating country with respect to that particular AIJV product.

5) A minimum ASEAN equity ownership of 51 per cent shall be required for any proposed AIJV. In respect of projects for which AIJV status has been applied for before 31 December 1990 and subsequently approved, the applicable minimum ASEAN equity ownership shall be 40 per cent. The minimum ASEAN equity shall not apply to an entity in any of the following cases:

a) where the participating countries in a proposed AIJV product agree to a higher equity participation by non-ASEAN investors;

b) where more than 50 per cent of the product produced by such entity will be exported to non-ASEAN markets;

c) where the product is already being produced by an entity in a participating country prior to its inclusion in the final list; or

d) where an entity has already been approved by a participating country to produce that product prior to the inclusion of the product in the final list.

6) The investors in an AIJV shall be free to locate their projects in any of the participating countries.

7) The approval by the ASEAN Economic Ministers (AEM) or COIME, as delegated by AEM, of the final list or the APL carries with it the pre-commitment to extend a minimum ninety (90) per cent margin of tariff preference to AIJV products by participating countries as provided for in Article III paragraphs 1 and 6.

8) Non-participating countries in an AIJV product shall waive tariff preferences extended under Article III subject to the conditions therein stated.

9) Any tariff preferences extended by non-participating countries among themselves for AIJV products shall be in accordance with the provisions of Chapter II, Article 8,

paragraph 2 of the Agreement on ASEAN Preferential Trading Arrangements (PTA).

## **ARTICLE II**

### **INSTITUTIONAL ARRANGEMENTS FOR APPROVAL OF AIJV PRODUCTS**

1) The Committee on Industry, Minerals and Energy (COIME) shall invite nominations for AIJV products from the ASEAN-CCI and ASEAN member countries. All nominations for existing AIJV products shall be accompanied by details of existing production facilities, such as ownership, location and production capacities. These shall be compiled at a COIME meeting into a tentative list of AIJV products.

2) ASEAN member countries shall examine such tentative list and indicate to COIME at a subsequent meeting, the products in which they would like to participate and declare any existing production facilities they have for such products. Those products for which at least two ASEAN member countries have indicated their intention to participate shall be included in the final list showing the participating member countries.

3) The final list shall be submitted to the AEM or COIME as delegated by AEM for approval and thereafter be made available to the ASEAN-CCI and national Chambers of Commerce and Industry in ASEAN member countries.

4) For new AIJV products, interested parties shall be given six months from the date the final list is approved to obtain approval from the appropriate government agencies to produce such products.

5) At the end of the stipulated six-month period, all participating countries shall inform COIME of those applications for the production of new AIJV products for which approval has been granted. Any product for which approval has not been granted within the stipulated six-month period shall be automatically deleted from the list.

6) COIME shall inform all member countries of those new AIJV products for which approval has been granted.

7) For existing AIJV products, interested parties shall seek their respective governments' confirmation that their entities qualify as AIJVs under this Agreement, after the inclusion of their AIJV products in the final list.

8) For existing AIJV products, all participating countries shall inform COIME of entities that have qualified as AUVs under this Agreement.

9) In addition to the above institutional arrangements, the following are hereby provided:

a) Each ASEAN member country shall draw up a list of AIJV products which it shall support and approve in principle for AIJV status. Such country lists of AIJV products could include products not locally produced in the respective countries and products with export potential.

b) From these lists, COIME will draw up an AIJV Products List which shall consist of those products for which at least two member countries have expressed support, and which shall so indicate the participating member countries. To this list COIME shall add other potential AIJVs. This list shall be made available to the ASEAN-CCI and national Chambers of