

**BASIC AGREEMENT
ON THE ASEAN INDUSTRIAL COOPERATION SCHEME**

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (ASEAN);

REAFFIRMING their desire to collaborate for the acceleration of economic growth in the region to promote greater industrialisation of their economies, to expand their trade and investment and to improve the economic infrastructure for the mutual benefit of their people;

MINDFUL of the rapid development in the international economic environment and the need to maintain ASEAN's attractiveness and competitiveness as an investment region;

RECOGNIZING that the liberalization of trade and investment in ASEAN Countries can support meaningful industrial cooperation which can greatly contribute to strengthening and broadening the base of their industrial sector;

CONVINCED that ASEAN industrial cooperation will increase intra-ASEAN investment and investment from non-ASEAN sources;

CONVINCED ALSO that the sharing of resources will foster closer ASEAN economic integration as well as enhance the technology base, economies of scale and scope, and the competitiveness of ASEAN industries;

NOTING the proposal by the ASEAN Chambers of Commerce and Industry (ASEAN-CCI) on the ASEAN industrial cooperation scheme and the confidence expressed by the ASEAN-CCI in the viability of the scheme;

DESIRING to provide the guidelines and institutional framework within which the ASEAN private sector may collaborate on the basis of mutual and equitable benefits for the ASEAN Member Countries and increased industrial production for the region as a whole;

MINDFUL of the need to develop the growth of Small and Medium Scale Enterprises (SMEs) taking into consideration the stages of development among ASEAN Member Countries;

ADHERING to the principles, concepts and ideals of the Framework Agreement on Enhancing ASEAN Economic Cooperation and the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area;

DO HEREBY AGREE to pursue the ASEAN Industrial Cooperation Scheme as stipulated by the following provisions:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement :

1. "AICO Scheme" shall mean the ASEAN Industrial Cooperation Scheme established by this Agreement.
2. "AICO Arrangement" shall mean a cooperative arrangement consisting of a minimum of two Participating Countries and one Participating Company in each Participating Country.
3. "Participating Countries" shall mean ASEAN Member Countries which agree to participate in an AICO Arrangement by granting the specified privileges to the Participating Companies.
4. "Participating Companies" shall mean companies incorporated and operating in ASEAN Member Countries meeting the criteria under Article 2(1) and Article 3 of this Agreement.
5. "AICO Products" refer to the following:
 - a. AICO Final Products shall be the final output which does not undergo any further processing within the specific AICO arrangement; or
 - b. AICO Intermediate Products shall be products used within the AICO arrangement as an input to the AICO Final Product; or
 - c. AICO Raw Materials shall be used as input to an intermediate product or as direct input to the AICO Final Product;

which shall be reflected in the Certificate of Eligibility (COE) issued to the Participating Companies.

6. "Preferential Tariff Rates" shall mean the advanced CEPT rates fixed by Participating Countries within the range of 0% to 5%.
7. "National Authorities" shall mean the relevant authorities of ASEAN Member Countries responsible for the approval of an AICO application and the granting of privileges.

ARTICLE 2

GENERAL PROVISIONS

1. The AICO Arrangement shall be made up of Participating Companies incorporated and operating in different ASEAN Member Countries which seek to cooperate in the manufacture of AICO Products.
2. The number of Participating Companies in an AICO Arrangement may change subject to the defined minimum level.
3. An AICO Arrangement may have more than one Participating Company in each of the Participating Countries and may cover multiple products.

ARTICLE 3

ELIGIBILITY CRITERIA

1. Companies wishing to benefit from the privileges of the AICO Scheme shall fulfill the following criteria:
 - a. be incorporated and operating in an ASEAN Member Country;
 - b. have a minimum of 30% national equity. The equity condition may be waived after consultation by the Participating Countries in cases where the proposing companies meet the other criteria of this Article; and

- c. undertake resource sharing, industrial complementation or industrial cooperation activities.
2. Each Participating Company of an AICO Arrangement must submit documentary evidence on resource sharing, industrial complementation or industrial cooperation activities such as joint ventures, joint manufacturing, technology transfer, training, licensing, consolidated purchasing and procurement, management service, sales and marketing agreement or other areas of cooperation.

ARTICLE 4

PRODUCT COVERAGE AND ELIGIBILITY

1. All products, other than products listed in Article 9 (General Exception) of the Agreement of the CEPT Scheme, shall be eligible for the AICO Scheme.
2. Product approval shall be at HS 8-digit level and above.
3. An AICO Product shall meet the Rules of Origin of the CEPT Scheme.

ARTICLE 5

PRIVILEGES

1. A Participating Company shall be entitled to the following privileges under the AICO Scheme:
 - a. approved AICO Products traded between Participating Companies shall enjoy preferential tariff rates of 0%-5%, the actual rate of which shall be determined by each Participating Country. The preferential tariff shall cease when the tariff rate of the product reaches the final CEPT rate;
 - b. local content accreditation shall be accorded, where applicable, to products manufactured by Participating Companies; and

- c. non-tariff incentives offered by the respective National Authorities. The granting of these incentives shall be based on the fulfillment of the requirements of the respective Participating Country.
2. ASEAN Member Countries may subsequently introduce additional tariff and non-tariff incentives under this Agreement.

ARTICLE 6

OPERATING GUIDELINES AND AWARD PRINCIPLES

1. An AICO Arrangement shall only require the approval of the Participating Countries.
2. A Participating Company shall be accorded the privileges under this Agreement upon the approval of its application in accordance with the provisions of Article 7.
3. The approval of an AICO Arrangement shall not be limited to the initial applicants manufacturing a particular AICO Product. Subsequent applications from companies manufacturing the same AICO Products shall also be approved once the companies meet the eligibility criteria.
4. A prospective company in a non-participating Member Country could participate in an on-going AICO Arrangement if the non-participating country agrees to extend the preferential tariff rates to the AICO Products and upon the agreement of the existing Participating Countries.
5. A Participating Company shall use the intermediate parts and raw materials only in the manufacture of AICO Products. A Participating Country may withdraw the privileges under this Agreement if a Participating Company violates this obligation.

ARTICLE 7

APPLICATION PROCEDURES

1. Interested companies wishing to participate in an AICO Arrangement shall apply directly to the National Authorities for approval.
2. ASEAN Member Countries shall inform the ASEAN Secretariat of their participation in an AICO Arrangement and the tariff rate to be applied within the 0%-5% band, within 60 days of receipt of the application. ASEAN Member Countries which are unable to indicate a decision on the tariff rate within this period shall nevertheless indicate their decision on acceptance or otherwise, of the arrangement and the product as an AICO Product.
3. The ASEAN Secretariat shall issue the COE within 14 days of the receipt of approval from Participating Countries.
4. The Participating Company shall use the COE to claim preferential tariff rates and to apply for non-tariff incentives from the relevant National Authorities.
5. Participating Countries shall grant the Preferential Tariff Rates within 60 days from the date of the issuance of the COE by the ASEAN Secretariat.

ARTICLE 8

MONITORING BODY

1. National Authorities shall monitor the implementation of their respective AICO Arrangements. The ASEAN Secretariat shall be responsible for the overall monitoring of the AICO Scheme. For this purpose, Participating Countries shall submit regular reports on the AICO Arrangements in their respective countries to the ASEAN Secretariat.
2. The ASEAN Economic Ministers (AEM) Meeting and its subsidiary bodies shall review the progress and implementation of the AICO Scheme.

ARTICLE 9

SETTLEMENT OF DISPUTE

Any differences between the ASEAN Member Countries concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties. If such differences cannot be settled amicably, it shall be submitted to the Dispute Settlement Mechanism.

ARTICLE 10

ACCESSION OF NEW MEMBERS

New Members of ASEAN shall accede to this Agreement by signing and depositing the instrument of ratification with the Secretary General of ASEAN.

ARTICLE 11

OTHER PROVISIONS

1. The scope of coverage of this Agreement shall subsequently be expanded to include additional sectors.
2. Participating Countries shall eliminate all quantitative restrictions and non-tariff barriers applicable to an approved AICO product.

ARTICLE 12

REPEALING PROVISION

Upon the entry into force, this Agreement shall supersede the Basic Agreement on ASEAN Industrial Joint Ventures (AIJVs) dated 15 December 1987 and the Memorandum of Understanding on the Brand-to-Brand Complementation (BBC) Scheme dated 18 October 1988 subject to the following conditions:

- a. that BBC and AIJV applications shall not be accepted upon entry into force of this Agreement;
- b. only amendments to approved models in the BBC Scheme shall be allowed;
- c. that existing BBC companies shall continue to enjoy the margin of preference and the local content accreditation for products approved to this date until the expiry of the current car model previously approved; and
- d. for existing AIJVs, the privileges shall cease on 31 December 2002. With effect from 1 January 2003 the final CEPT rate shall apply.

ARTICLE 13

FINAL PROVISIONS

- 1. The respective Governments of ASEAN Member Countries shall undertake the appropriate measures to fulfill the obligations arising from this Agreement;
- 2. Any amendment to this Agreement shall be made by consensus and shall become effective upon acceptance by all ASEAN Member Countries.
- 3. No reservation shall be made with respect to any of the provisions of this Agreement;
- 4. This Agreement shall be deposited with the Secretary General of ASEAN who shall promptly furnish a certified copy thereof to each ASEAN Member Country; and
- 5. This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory Governments with the Secretary General of ASEAN.

IN WITNESS HEREOF, the undersigned have signed this Agreement on ASEAN Industrial Cooperation Scheme.

DONE at Singapore, this **27th** day of **April 1996** in a single copy in the English Language.