

New Emphasis on ASEAN Industrial Cooperation

BOOST FOR ASEAN INDUSTRIAL COOPERATION

ASEAN Industrial Cooperation was given a new boost at the 14th ASEAN economic ministers' meeting in Singapore last month, after the basic agreement on ASEAN Industrial Joint Ventures (AIJV) was initialled by the economic ministers. The basic agreement is expected to be ratified by the ASEAN foreign ministers at next year's meeting. Now ASEAN businessmen are hopeful that the private-sector industrial joint-venture programmes may give a new lease to future ASEAN Industrial Cooperation projects and therefore enhance greater regional cooperation.

Basically, ASEAN Industrial Cooperation involves three types of projects which have been identified at present:

- *ASEAN Industrial Projects (AIPs)*, whereby each member country undertakes a large-scale project. None of these big projects, launched in 1977, has begun production yet. The urea plants in Indonesia and Malaysia are under construction and are expected to come onstream soon. Thailand's rock-salt and soda-ash project has just been given the go-head after much political hassle over the choice of its location and economic viability. Singapore's proposal for a diesel engine plant was shelved. No new proposal from Singapore has come out since. On the other hand, the Philippines had its earlier two proposals—a fertiliser plant and later a pulp and paper mill—dropped after much debate. At last month's ASEAN economic ministers' meeting, the Philippines' copper fabrication plant was given official endorsement.

SLOW PROGRESS LAMENTED

There have been criticisms over the slow progress of the first package of AIPs. Critics have pointed out that these AIPs are costly and cumbersome to organise, and doubt that they will bring significant long-term economic benefits to investors. Not surprisingly, ASEAN officials are said to be unhappy over the progress of these projects. More recently, Malaysian officials were said to have suggested that the AIPs programmes be dropped. Tengku AHMAD RITHAUDDEEN, the Malaysian Trade and Industry Minister, was reported as saying that Malaysia favours more ASEAN projects on a joint-venture basis involving the private sector.

- *ASEAN Industrial Complementation (AIC)*, first proposed in 1977, under which each ASEAN country manufactures some parts or components of an industry and exchanges those components with one another at preferential trading terms. A good example is the ASEAN automotive project.

PROBLEMS AFFECTING AIC PROGRAMMES

Equity and other issues have plagued the ASEAN AIC programmes. An outstanding issue faced by ASEAN officials and businessmen is the problem of agreeing on projects and making the necessary legal and procedural changes to allow trade to begin. Although the idea of the ASEAN automotive project got a good start under the first package of AICs, the project has yet to take off. This is partly because manufacturers of auto-parts are experiencing difficulties in marketing their components to other ASEAN countries; and partly because at the government official level, certain administrative changes have yet to be made to suit the guidelines of the AIC programme.

ASEAN officials have also approved a second set of auto components which qualify for the complementation scheme. But private-sector interests in these complementation schemes are noted to have waned.

- *Private Sector ASEAN Industrial Joint Ventures (AIJV)*, under which any two or three ASEAN partners from the private sector can form a joint-venture project and which the capital fund required for one project may not be too great.

IDEA WELL RECEIVED BY PRIVATE SECTOR

The idea of the private-sector AIJV projects was first mooted by Indonesia and strongly supported by the past ASEAN-CCI (Chambers of Commerce and Industry) President WEE CHO YAO early last year. The idea was well received from the start because under the AIC scheme, there were also difficulties in identifying suitable projects.

The financing aspect of the AIJV projects may also be obtained from the ASEAN Finance Cooperation (AFC) formed last year—the investment arm of the ASEAN Banking Council. The marketing aspect of the project can also look to the proposed ASEAN Trading and Investment Corporation (ATIC). The proposed corporation will undertake the promotion of investment and trading activities in the region.

SCHEME IS FLEXIBLE

One condition is that AIJVs can be approved individually by the ASEAN economic ministers who will have to ensure that there is an equitable distribution of benefits accruing from the AIJVs in the long run. The scheme also provides much flexibility in the sense that each ASEAN country is free to join the AIJV in accordance with its own circumstances.

It has been suggested that projects identified as AIJVs should preferably be new products rather than existing ones and should also be intermediate goods rather than consumer goods. The size of the project should be fairly large or medium scale to exploit the economies of scale in regional cooperation.

BOOST FOR INTRA- ASEAN TRADE

ASEAN businessmen are now hopeful that the AIJVs would be the much needed catalyst to boost greater intra-ASEAN trade. The logical reason is that basically, the idea of the AIJV is aimed at regional import substitution, although in country terms this is intended to encourage exports from one ASEAN country to another.

As a service to clients and subsidiaries, we reproduce in full the text of the agreement on the AIJV initialled by the ASEAN economic ministers recently.

BASIC AGREEMENT ON ASEAN INDUSTRIAL JOINT VENTURES

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA, MALAYSIA, THE REPUBLIC OF THE PHILIPPINES, THE REPUBLIC OF SINGAPORE AND THE KINGDOM OF THAILAND.

MINDFUL of the Declaration of the ASEAN Concord signed in Bali, Indonesia on 26 February 1976, which provides that Member States shall take cooperative action 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 the improvement of their economic infrastructure for the mutual benefit of their peoples;

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 the 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 (AIJV) as stipulated by the following provisions.

ARTICLE I GENERAL PROVISIONS

1. An ASEAN INDUSTRIAL JOINT VENTURE (AIJV) product is any processed or manufactured product which is included in the final list of AIJV products approved by the ASEAN Economic Ministers (AEM) and referred to in Article II, paragraph 3.
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 within the territories of the participating countries;
 - b) has equity participation, from nationals of at least two participating countries. Equity participation, however, shall not be limited to only ASEAN nationals, and
 - c) satisfied the equity ownership provisions specified in paragraphs 5 or 6 of this Article.
4. A participating country is an ASEAN member country which has indicated its intention to participate by way of providing Tariff Preference as provided in Article III for an AIJV product in the final list approved by the AEM.
5. A minimum ASEAN equity ownership of 51 per cent shall be required for any proposed AIJV.
6. Notwithstanding the provisions of paragraph 5 above, the minimum equity requirement therein shall not apply to an entity in any of the following cases:
 - a) the participating countries in a proposed AIJV product agree to a higher equity participation by non-ASEAN investors,
 - b) more than 50 per cent of the product produced by the entity will be exported to non-ASEAN markets,
 - c) where the product is already being produced by the entity in a participating country prior to its inclusion in the final list, and
 - 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.
7. There shall be free selection of the sites for new projects by the investors in an AIJV anywhere within the territories of the participating countries.
8. The approval by the AEM of the final list carries with it the pre-commitment to extend a minimum 50 per cent margin of tariff preferences to AIJV products by participating countries even before AIJVs for such products are approved by any of the participating countries.
9. Non-participating countries in an AIJV product shall waive tariff preferences extended under Article III subject to the conditions therein stated.
10. Any tariff preferences extended by non-part-

icipating countries among themselves for AIJV products shall be in accordance with the provisions of Article 8 paragraph 2 of the Agreement on ASEAN Preferential Trading Arrangements (PTA).

ARTICLE II INSTITUTIONAL ARRANGEMENTS FOR APPROVAL OF AIJV PRODUCTS

1. 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 at the next meeting of COIME the products in which they would like to participate. These products in which at least two ASEAN member countries have indicated their intention to participate shall be compiled into the final list of AIJV products, showing the participating member countries.
3. The final list shall be submitted to the AEM for approval and thereafter be made available to the ASEAN-CCI and national CCIs in ASEAN member countries.
4. For new AIJV products, interested parties shall be given six months from date of AEM approval of the final list to obtain approval from the appropriate government agencies in their respective ASEAN member countries to produce such products anywhere within the territories of the participating countries.
5. In the event that no project for a given AIJV product is approved by any participating country by the end of the stipulated six-month period, such product is automatically deleted from the list.
6. Each member country shall inform COIME at its regular meetings of the AIJVs to which it has granted approval.
7. For an existing product, all participating countries shall jointly inform COIME of entities that have qualified as AIJVs under this Agreement.

ARTICLE III PRIVILEGES AND OBLIGATIONS UNDER THE ASEAN INDUSTRIAL JOINT VENTURE PROGRAMME

For New AIJV Products

1. In the event that at least one project is approved by any participating country for a given AIJV product by the end of the stipulated six-month period following the approval by the AEM of the final list of AIJV products, all participating member countries shall automatically extend a minimum margin of tariff preferences of 50 percent within 90 days of the commercial production of that AIJV product.
2. Notwithstanding Article 8, paragraph 2 of the ASEAN PTA, non-participating countries shall waive

their rights to such tariff preferences under Article III paragraph 1 for a period of three years. The three-year period shall commence from the actual date of commercial production or upon the expiry of 30 months from the date the final list is approved by the AEM, whichever comes earlier.

3. In the event that there is only one approved project for a given AIJV product by the group of participating countries by the end of the stipulated six-month period, the participating countries shall grant to the AIJV exclusivity privileges. Exclusivity privileges shall continue for a period of three years commencing from the actual date of commercial production or upon the expiry of 30 months from the date the AEM approves the inclusion of that product in the final list, whichever comes earlier. In the event that there is more than one approved project for a given AIJV product by the group of participating countries exclusivity privileges shall not be granted.

4. Exclusivity privileges in this Agreement shall mean that during the exclusivity period the participating countries cannot set up new production facilities to make the same product other than the approved project, unless 75 percent of its production is for export to non-ASEAN countries. A production facility is deemed to have been set up when it is in commercial production.

For Existing AIJV Products

5. The participating countries shall extend to an existing AIJV product the same tariff preferences as provided for in Article III paragraph 1 within 90 days from the date the AEM approves the inclusion of that product in the final list.

6. Notwithstanding Article 8 paragraph 2 of the ASEAN PTA, non-participating countries shall waive their rights to such tariff preferences under Article III paragraph 5 for a period of three (3) years from the date of implementation of such tariff preferences.

7. Existing AIJV products shall not be granted exclusivity privileges.

ARTICLE IV SUPERVISION AND REVIEW OF ASEAN INDUSTRIAL JOINT VENTURE PROGRAMME

COIME shall supervise the implementation of this Agreement and shall draw up rules and regulations for such implementation. All decisions of COIME shall be taken by consensus.

ARTICLE V MISCELLANEOUS AND FINAL PROVISIONS

1. This Agreement shall enter into force on the thirtieth day after the deposit of the fifth Instrument of Ratification.

2. This Agreement may not be signed with reservation nor shall reservations be admitted at the time of ratification.

3. All articles of this Agreement may be modified through amendments to this Agreement agreed upon by consensus. All amendments shall become effective upon acceptance by all Contracting States.

4. This Agreement shall be deposited with the Secretary-General of the ASEAN Secretariat who shall promptly furnish a certified copy thereof to each Contracting State.

5. Each Contracting State shall deposit its Instrument of Ratification with the Secretary-General of the ASEAN Secretariat who shall promptly inform each Contracting State of such deposit.

6. IN WITNESS WHEREOF, the undersigned being duly authorized thereto by their respective Governments have signed this Basic Agreement on ASEAN Industrial Joint Ventures.



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