

**1988 MEMORANDUM OF UNDERSTANDING BRAND-TO-BRAND
COMPLEMENTATION ON THE AUTOMOTIVE INDUSTRY UNDER
THE BASIC AGREEMENT ON ASEAN INDUSTRIAL
COMPLEMENTATION (BAAIC)**

Signed in Pattaya, Thailand on 18 October 1988

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

MINDFUL of the Declaration of ASEAN Concord signed in Bali, Indonesia on 24 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 improvement of their economic infrastructure for the mutual benefit of their peoples;

AWARE that pursuing Industrial Complementation 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;

CONVINCED that Brand-to-Brand Complementation (BBC) is the scheme that would best achieve the objectives of industrial complementation through improved economies of scale for all suppliers and increased intra-ASEAN trade;

NOTING that the Basic Agreement on ASEAN Industrial Complementation (BAAIC) signed in Manila, Philippines on June 18, 1981 provides the general framework within which Brand-to-Brand Complementation could operate;

DESIRING to effect further the provisions of the BAAIC and provide more specific guidelines for pursuing Brand-to-Brand Complementation, in particular on the basis of mutual and equitable benefits for the Member States, and increased industrial production for the region as a whole;

HAVE agreed to sign this Memorandum of Understanding as follows:

SECTION 1: BBC SCHEME

Each BBC Scheme shall be an arrangement whereby specified parts/components of a specific vehicle model are traded and used by the Brand-Owners and Brand Related Original Equipment Manufacturers in their respective Original Equipment products.

SECTION 2: PARTICIPATING COUNTRY

A participating country is an ASEAN member country which has agreed to participate in a specific BBC Scheme by way of providing tariff preference as well as other privileges provided for in Section 9 hereof. There shall be two or more countries participating in respect of any specific BBC Scheme.

SECTION 3: BRAND-OWNER (BO)

A Brand-Owner shall be any Original Equipment Manufacturer (OEM) being the privileged owner or co-owner of a registered brand name, and having proprietary design rights to produce finished products, sub-assemblies, parts and components thereof.

SECTION 4: BRAND-RELATED ORIGINAL EQUIPMENT MANUFACTURER (BR-OEM)

A Brand-related Original Equipment Manufacturer shall be any manufacturer/assembler in a participating country entitled to use parts/components designed by the brand owner for use by the BR-OEM in the Original Equipment Market irrespective of whether the relationship to the Brand-Owner is that of an associate, affiliate or any other type of technical and/or commercial cooperation.

SECTION 5: BRAND-TO-BRAND PARTS/COMPONENTS MANUFACTURER (BBPM)

A Brand-to-Brand Parts/Components Manufacturer shall be any manufacturer producing in a participating country parts/components which are included in the approved BBC Scheme. A BBPM may be an in-plant production facility manufacturing under the direct control of either the Brand-Owner, or the BR-OEM plants, or an independent manufacturer not related to the BO or the BR-OEM.

SECTION 6: BRAND-TO-BRAND COMPLEMENTATION PRODUCT (BBC-PRODUCT)

A Brand-to-Brand Complementation Product shall be any part/ component manufactured, or to be manufactured in any one or more of the participating countries for inclusion in the BBC Scheme.

A BBC product shall comply with the technical specifications of the BO and/or the respective BR-OEM as defined in Section 3 and Section 4.

SECTION 7: INSTITUTIONAL ARRANGEMENTS

- a) Nomination for a BBC Scheme from BOs and BR-OEMs shall be submitted to COIME, and shall specify the brand, vehicle type, model, sub-groups, components or parts and proposed participating countries.
- b) Countries interested in participating in the Scheme shall subsequently negotiate and agree on the respective source and buying countries for each product and submit the agreed product sourcing list to COIME for decision. Additional products in the Scheme may be approved by COIME by ad-referendum in the absence of a COIME Meeting.
- c) COIME shall issue a certificate listing the products in each BBC Scheme which shall enjoy the privileges herein provided.

SECTION 8: PREREQUISITES

BBC products should:

- a) comply with the rules of origin as stipulated in the Agreement on the ASEAN Preferential Trading Arrangements unless the ASEAN content requirement is otherwise reduced under Article V of the "Protocol on Improvements on Extension of Tariff Preferences under the ASEAN Preferential Trading Arrangements";
- b) be manufactured under international quality assurance system standards;
- c) be competitively priced in relation to the prevailing market price.

SECTION 9: PRIVILEGES

Participating countries shall automatically grant:

- a) local content accreditation if a BBC product is a component for the manufacture of any product in the participating countries which have local content programmes;
- b) a minimum of 50% margin of tariff preference (MOP) to BBC products already approved by COIME in accordance with the following terms:
 - i) The margin of tariff preference for each BBC product shall be granted within 90 days of approval by COIME of that BBC product. For New BBC products, the MOP shall be extended from the actual date of commercial production of the product or upon expiry of 30 months from the date of approval of the product whichever comes earlier;
 - ii) Non-participating countries shall initially waive their rights under Chapter II, Article 8, paragraph 2 of the ASEAN Preferential Trading Arrangements (PTA) for the first four years from date of granting of MOP. The maximum waiver period for non-participating countries shall be 8 years. However, any time after the first four years, a nonparticipating country can enjoy the MOP granted by participating countries as soon as it extends the same MOP itself. If a non-participating country does not wish to grant such MOP, then the waiver period shall be extended beyond the first four years for as long as the nonparticipating country maintains this position subject to a maximum waiver period of eight years. Non-participating countries need not extend a margin of preference and local content accreditation to participating countries on BBC products;
 - iii) Non-participating countries which so desire, and upon notification and concurrence of COIME, may become participating countries of any BBC Scheme at any time and shall extend the same margin of tariff preference and other privileges where applicable, for that BBC product;
 - iv) After the waiver period for a BBC product, any entity in any member country whether the member country is, participating in the specific BBC Scheme or not, which produces that BBC product shall enjoy the same margin of tariff preference in the participating countries for that BBC product,
 - v) In respect of any BBC product on which there is a prevailing zero duty, the binding of such a duty shall be regarded as fulfilling the requirement of extending the minimum 50% margin of tariff preference.

- c) freedom of choice to the participants in the BBC Scheme to source or procure parts/components from any manufacturer of the participating countries.

SECTION 10: OBLIGATIONS

In consideration of the privileges granted to the BOs, BROEMs and BBPMs pursuant to the provisions of Section 9, the participating countries shall use their best endeavours to ensure that:

- a) in cases where BBC products of existing plants do not meet OEM quality standards of the BOs, the BOs, BR-OEMs and BBPMs shall jointly cooperate to upgrade the quality of those products;
- b) whenever feasible, a programme for export of BBC products to BOs and/or BR-OEMs operations in non-ASEAN countries shall be established to further improve the scope and viability of BBC products manufacturing;
- c) in respect of new products or changes in specifications required for existing products in order to comply with brand specifications, the BOs and/or BR-OEMs shall provide the designated BBPM in a participating country with complete technical specifications within a period of 90 days from the date the parties agree to cooperate on the production of the specific BBC product;
- d) the BOs and/or BR-OEMs and BBPMs shall use their best endeavours to establish commercial production of new parts or of redesigned existing parts within a period of 12 months from the date the technical specifications are issued; provided that the basic manufacturing facilities exist and the new product or redesigned products represent an extension of the product range for the BBPMs;
- e) the BOs and/or BR-OEMs shall properly identify the BBC product and where applicable its components;
- f) the BOs and/or BR-OEMs shall, together with the BBPMs implement the BBC Scheme within a reasonable period from the date of approval of the BBC Scheme.

SECTION 11: MISCELLANEOUS

- a) No Mandatory Single-Sourcing of Parts/Components

In cases where an approved BBC product is produced in more than one participating country, normal commercial purchase considerations shall prevail and the buying manufacturers shall have freedom of choice in respect of imports enjoying MOP.

- b) Additions and Alterations to BBC Products

Any additions and/or alterations to any previously approved BBC Scheme shall be allowed provided such products are approved by COIME.

- c) Supervision and Review

COIME shall supervise the implementation of these guidelines and shall review the same from time to time. In respect of all matters concerning the implementation of these guidelines, all decisions shall be taken by consensus of the ASEAN member countries.

d) Amendments

Any amendment to this Memorandum of Understanding on Brand-to- Brand Complementation on the Automotive Industry under the Basic Agreement on ASEAN Industrial Complementation (BAAIC) shall be agreed to by all ASEAN member countries.

e) First BBC Scheme

Initially, for the first BBC Scheme, Malaysia, Philippines and Thailand are the participating countries.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments have signed this Memorandum of Understanding on Brand-to-Brand Complementation on the Automotive Industry.

DONE in Pattaya, Thailand this Eighteenth day of October Nineteen Hundred Eighty Eight in one original copy in the English Language.

For the Government of Brunei Darussalam: **H.E. PENGIRAN DATO SERI LAILA JASA, DR. HAJI ISMAIL BIN PENGIRAN HAJI DAMIT**, Minister of Development

For the Government of the Republic of Indonesia: **H.E. MR. RADIUS PRAWIRO**, Minister Coordinator for Economy, Finance and Industry and Development Supervision

For the Government of Malaysia: **H.E. DATIN PADUKA RAFIDAH AZIZ**, Minister of Trade and Industry

For the Government of the Republic of the Philippines: **H.E. MR. JOSE S. CONCEPCION, JR.**, Secretary, Department of Trade and Industry

For the Government of the Republic of Singapore: **H.E. BRIG.-GEN. (RES) LEE HSIEN LOONG**, Minister for Trade and Industry

For the Government of the Kingdom of Thailand: **H.E. DR. SUBIN PINKAYAN**, Minister of Commerce