

MARGIN OF PREFERENCE ON ASEAN INDUSTRIAL JOINT VENTURE PRODUCTS

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Attached for your information and guidance is a copy of the 1st Indorsement dated May 14, 1997 of the Board of Investment (BOI) informing the Bureau that their office fully concurs with the interpretation of Nestle Philippines, Inc. and favorably endorses the request that the 90% Margin of Preferential (MOP) granted to all its Asean Industrial Joint Venture (AIJV) products shall remain valid and effective after the initial four-year exclusivity period or until December 31, 2002 pursuant to Art. 12(d) of the Asean Industrial Cooperation (AICO) Agreement which superseded the AIJV scheme.

Adopted: 28 May 1997

(SGD.) RAY M. ALLAS
Deputy Commissioner
Internal Administration Group

"Attachment"

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

New AIJV Products

1) x x x

2) The tariff preference described in Article III paragraph 1 shall apply, during the initial four-year period, only to AIJVs in participating countries. The four-year period shall commence from the actual date of commercial production of the AIJV product or upon expiry of 30 months from the date of approval of the inclusion of that in the final list or in the APL, whichever is earlier. (Emphasis supplied)

3a) x x x

b) x x.x

c) . . .

d) After the waiver for an AIJV product, any entity in any member country which produces that AIJV product irrespective of whether it qualifies as an AIJV or not, shall enjoy the same margin of tariff preference in the participating countries for that AIJV product. (Emphasis supplied)

From the above provision, it appears that the initial four-year period is an exclusivity period for AIJV's companies in participating countries to enjoy the MOP and does not at all limit the enjoyment of the MOP to four years from the commercial operation. In fact, it appears from the above provision that after the four year waiver period any

entity in the participating country that produces the AIJV products irrespective of whether it qualifies as an AIJV or not shall enjoy the MOP in the participating country for that AIJV product.

In view of the above, this office favorably endorses the herein request of Nestle Philippines, Inc.

(SGD.) MELITO S. SALAZAR, JR.

Acting Secretary

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