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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Code of Conduct Group (Business Taxation)
	– Report to the Council
	= Endorsement

Malaysia's manufacturing regime under the Pioneer status regime (high technology) (MY016): Final description and assessment

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STANDSTILL REVIEW PROCESS (JANUARY 2019)

The OECD FHTP assessed in January 2019 the Pioneer status regime (MY007) as part out of scope ("High Technology"), part not harmful (amended) ("Contract R&D"). The out of scope part, which relates to non-highly mobile activities (manufacturing), was therefore identified as a new regime (MY016) by the Code of Conduct Group (COCG) at its meeting of 30 January 2019 following its standard procedure.

On this occasion, the COCG agreed on the following assessment:

Description

According to Malaysia, the regime is not limited to foreign entities or transactions with foreign entities, there are substantial activity requirements in the legislation and the criteria for the application of the regime as well as the legislation and guidelines for its application are available to the public. Provisions regulate the products or activities that may benefit from the regime. It regulates the R&D expenditure as a share of the gross sales. It states that a certain share of the staff must have a certain level of qualification. There is also a standard substance requirement in the Promotion of Investments Act (paragraph 6 as amended).

These aspects are regulated in existing legislation (Promotion of Investments Act 1986, No 327; Promotion of Investments (High Technology) Order No 59 of 2012; Income Tax (Exemption) (No 2) Order 2015). The new provisions apply as of 1 January 2019.

Grandfathering of the old provisions is provided until 30 June 2021.

Assessment

The amendments to the old MY007 regime are in line with criterion 2.1 and therefore the newly identified MY016 regime is not harmful.