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MEETING DOCUMENT

From: To:	General Secretariat of the Council Code of Conduct Group (Business Taxation)
Subject:	(Draft) 6-month Progress Report by the Code of Conduct Group (business taxation) to the ECOFIN Council – VN005

Delegations will find attached a document in view of the Code of Conduct Group (Business Taxation) on 14 November 2019.

Vietnam's Disadvantaged areas regime (VN005)

Given that the Disadvantaged Areas regime was not considered to be within the scope of the FHTP, the Code of Conduct Group conducted its own assessment of this regime [and agreed on the following assessment at its meeting of 14 November 2019]:

	1a	1b	2a	2b	3	4	5
Viet Nam – Disadvantaged areas	X	?	X	?	X	X	X

V = harmful

X = not harmful

Explanation:

Gateway criterion

The Disadvantaged Areas regime provides (just like the IP benefits regime) for a taxation rate of i) 15% for 15 years; or ii) a tax exemption for 4 years and 50% of reduction of tax payable for the next 9 years. Compared to a standard CIT rate of 20%, this regime passes the gateway criterion.

Criteria 1 & 2 – Ring-fencing

The regime is open to both domestic and foreign taxpayers. The tax treatment is the same both for domestic and foreign companies operating in the zone and there are no restrictions on access to the domestic market. This regime does not appear to be ring-fenced.

We do not have any statistics on the use of the regime.

Criterion 3 – Substance requirements

The activities covered by the regime are linked to agriculture, aquaculture, forestry – sectors that require a physical presence.

Criterion 4 – Internationally accepted principles

As already assessed for previous regimes, the Vietnamese rules on transfer pricing (from 2017) are largely in line with the rules used in the OECD Transfer Pricing Guidelines. The arm's length principle is applied as a primary system and formulary apportionment is applied to certain limited cases.

Criterion 5 - Transparency

The conditions for benefitting from the regime are clearly set out in various laws and decrees. Moreover, for each activity sector, the agencies/ministries to be consulted on the authorisation process are listed in the legislation. Therefore, there does not appear to be room for discretional decisions.

Overall assessment

Vietnam's Disadvantaged Areas regime is not harmful.

Moreover, the regime only applies to areas with difficult or extremely difficult socio-economic situations - disadvantaged regions in the jurisdiction - and appears to be proportionate with the aim of supporting the economic development in those regions.