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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Code of Conduct Group (Business Taxation)
Subject:	(Draft) Progress Report by the Code of Conduct Group (Business Taxation) to the ECOFIN Council of December 2018 - Annex: Spain's regional Navarra patent box regime (ES022)

Delegations will find attached a document in view of the meeting of the Code of Conduct Group (Business Taxation) on 15 November 2018.

Spain's regional Navarra patent box regime (ES022)

The following rollback was agreed by the Code of Conduct Group on 15 November 2018:

a. Previous assessment:

*"There is one main concern **which deviates** from the CoC criteria and it relates to:*

*- the **scope of the Spanish/subnational Navarra IP regime** which is broader than the scope set in the Action 5 report. IP assets such as know-how, trade secrets¹ are not covered by the latter, while they fall under the ES IP regime."*

b. Rollback amendments

- Know-how/trade secrets (along with trademarks and other non-qualifying IP rights) are specifically excluded from the scope. Thus, the "harmful" feature would be corrected.
- An exhaustive list of eligible IP assets is included in the draft pending adoption:
 - patent,
 - utility model,
 - complementary protection certificates of medicines and of plant protection products,
 - designs and models legally protected, resulting from research and development and innovation activities, and
 - sophisticated copyrighted software resulting from research and development activities.

The listed assets would be in line with the nexus agreement (paragraphs 34 to 36) and the Group's previous decisions, if the draft law were adopted without changes.

- The final legislation has been published in the official Gazette of Navarra:
 - la ley Foral LEY FORAL 20/2018, de 30 de octubre 2018, de modificación de diversos impuestos: BOLETÍN N° 216 - 8 de noviembre de 2018
http://www.navarra.es/home_es/Actualidad/BON/Boletines/2018/216/Anuncio-0/

¹ information concerning industrial, commercial or scientific experience obtained by conducting R&D or innovation projects