

above, subject to fulfilling the same export condition or employment requirement as those applications which are received by MIDA between 1.10.1986 until 31.12.1990.

- (b) Companies which have been licensed before 1.10.1986 have to comply with the equity condition as stated in the licence. However, the foreign partner is permitted to own up to 100% of the expanded equity as a result of an expansion of capacity or diversification, if approved under the conditions as mentioned in section 1, and provided that this does not contradict the terms of any legal agreement that may have been entered into among the shareholders.

4. Equity policy in relation to projects involving non-renewable resources

For projects which involve the extraction or mining and processing of mineral ores, majority foreign equity participation of up to 100% is permitted. In determining the percentage, the following criteria will be taken into consideration:-

- (a) the level of investments, technology and risk involved in the projects;
- (b) the availability of Malaysian expertise in the areas of exploration, mining and processing of the minerals concerned; and
- (c) the degree of integration, and level of value-added involved in the projects.

5. Assurance in respect of equity ownership

A company that has been approved under the new equity guidelines will not be required to restructure its equity at any time, even after the year 1990, notwithstanding the fact that the company may have undergone an expansion or diversification, provided that the company continues to comply with the original conditions of approval and retains the original features of the project.

6. Investment Guarantee Agreements

Malaysia's readiness to conclude Investment Guarantee Agreements is a testimony of the Government's desire to increase the confidence of foreign investors in Malaysia.

Malaysia has concluded Investment Guarantee Agreements with 16 countries namely the United States of America, the Federal Republic of Germany, Canada, the Republic of France, Switzerland, Sweden and Belgium/Luxembourg, United Kingdom, Sri Lanka, Rumania, Norway, Austria, Finland, the Netherlands, Italy and Kuwait.

(a) Provisions of the Agreement

An Investment Guarantee Agreement will provide the foreign investor with the following:-

- (i) Protection against nationalisation and expropriation.
- (ii) Prompt and adequate compensation in the event of nationalisation or expropriation.
- (iii) Free transfer of profits or capital and other fees.
- (iv) Settlement of investment disputes under the Convention on Settlement of Investment Disputes, of which Malaysia has been a member since 1966.

Malaysia grants foreign investments both na-

tional treatment and most-favoured nation treatment.

The Ministry of Trade and Industry issues letters of coverage under the respective Investment Guarantee Agreements to approved projects in Malaysia.

7. Convention on the Settlement of Investment Disputes

In line with the national policy of promoting and protecting foreign investment, the Malaysian Government in 1966 ratified the provisions of the Convention on the Settlement of Investment Disputes established under the auspices of the International Bank for Reconstruction and Development (IBRD).

Facilities for international conciliation or arbitration are established by the convention through the International Centre for Settlement of Investment Disputes which is located at the principal office of the IBRD in Washington.

Incentives For Investment

The principal incentives for the manufacturing, agricultural and tourism sectors are contained in the Promotion of Investments Act, 1986 and the Income Tax Act, 1967. These incentives are designed to grant relief from taxes in various forms. The taxes applied to companies in Malaysia are in the form of income tax of 35% and development tax is to be abolished gradually starting with a reduction of 1% from year of assessment 1990. Companies given pioneer status incentive are exempted from the payment of these taxes. In the case of the other incentives, the benefits are in the form of allowances given.

1. Incentives for the Manufacturing Sector

A. General Incentives

(a) Pioneer Status

The period of tax relief under this incentive is five years commencing from the production date as determined by the Minister of Trade and Industry. To encourage expansion and reinvestment, pioneer companies are eligible for a further 5-year tax relief period on meeting certain additional requirements. These are:-

- * the company's fixed assets (excluding land) at the end of the initial 5-year period reaching at least MS25 million; or
- * employment level reaching 500 full-time Malaysian workers; or
- * other requirements, which in the opinion of the Minister of Trade and Industry, would contribute towards promoting and enhancing the economic or technological development of the country.

(b) Investment Tax Allowance (ITA)

A company granted the investment allowance may be given an allowance of up to 100% in respect of qualifying capital expenditure incurred within five years from the date of approval of the project. (Please refer to Annex 1 for the criteria awarding Investment Tax Allowance in the manufacturing, agricultural and tourism sectors).

The grant of either Pioneer Status or Investment Tax Allowance will be determined according to priorities termed as promoted activities or promoted products