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**Committee of Experts on International
Cooperation in Tax Matters
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Item 3(f) of the provisional agenda

Taxation of the Extractive Industries

Co-Coordinator's Report

Summary

This report provides an update on the progress made by the Subcommittee on Extractive Industries Taxation since the last Session. The work has focused on three main topics: (i) Energy Transition; (ii) Valuation of Mining Products for Tax Purposes; and (iii) Tax Incentives and the Global Minimum Tax in the Extractive Industries.

The Subcommittee's Co-Coordinator are hereby presenting, for a *first reading, with a view to approval at the Thirtieth Session*, a draft **Annex 2 to "Chapter 5: Tax Incentives"** of the UN Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries (E/C.18/2024/CRP.44). This Annex analyzes the potential impact of this global minimum tax on tax incentives typically offered to investors in the extractive industries.

Furthermore, a draft guidance on **The Valuation of Mining Products for Tax Purposes (E/C.18/2024/CRP.42)** is also presented for a *first reading, with a view to approval at the Thirtieth Session*. The report discusses the importance of accurate product valuation to prevent profit-shifting in the natural-resources sector and explores methods and challenges for tax administrations to address these issues effectively.

Finally, a draft guidance on **Energy Transition in Extractive Industries (E/C.18/2024/CRP.43)** is presented for a *second reading and seeks the Committee's suggestions and guidance, with a view to approval at the Thirtieth Session*. The paper delves into the complex intersection of tax policy and practice with the evolving landscape of energy transition, with a particular emphasis on energy production.

Background Information

1. At its Twenty-third Session, the Committee endorsed Secretariat's proposal to establish a Subcommittee on Extractives Industries Taxation. The Subcommittee's mandate specifically calls for work on: trade mispricing and the undervaluation of resources in extractive industries; tax incentives and permanent establishment issues; energy transition from fossil fuels to renewable and environmentally friendly sources; and other tax matters that may arise in relation to the extractive industries.
2. At its Twenty-fourth Session, the Committee approved a workplan focused on developing guidelines to assist developing countries in addressing identified issues in the taxation of extractive industries. During the Twenty-fifth and Twenty-sixth Sessions, updates on the Subcommittee's progress were provided to the Committee.
3. In the Twenty-seventh Session, a paper on permanent establishments in the extractive industries was presented, proposing a standalone article on permanent establishments and amendments to various articles of the Model Convention. These proposals aimed to resolve technical issues in the sector by drawing on country-specific experiences. The Committee noted that responsibility for drafting the proposed article would be transferred to the Subcommittee on Updating the Model Convention. Additionally, a paper on tax incentives was presented, though it was acknowledged that a majority of Committee members expressed reservations. Suggestions were made, among others, to update existing guidance on incentives rather than developing new guidelines, leading the Subcommittee to revise the paper based on these perspectives.
4. During the Twenty-eighth Session, a draft paper on energy transition in the extractive industries was presented for first consideration of the Committee. Members and observers expressed general support for the paper, and their comments and suggestions were acknowledged, indicating that they would be incorporated into the next version of the paper. As for the other workstreams, an update on progress was provided, and it was noted that drafts of these workstreams would be presented at the following session.

Progress made by the Subcommittee

5. Since the Twenty-eighth Session of the Committee, a technical meeting was held on May 30, 2024, focusing on tax incentives. The meeting involved a small group consisting of the lead drafters of this workstream, a Committee member, and the Secretariat. Discussions centered on addressing the concerns raised regarding the paper on tax incentives, while exploring pathways for advancing the workstream. The group deliberated on whether the paper should be included as an annex to the 2021 UN Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries and the need to ensure the paper remains factual, focusing on helping countries reassess their incentives.
6. Additionally, the Subcommittee convened an in-person meeting in Nairobi, Kenya, from August 20 to 22, 2024, to review the feedback received during the last Session and to advance the progress of the workstreams. This meeting involved a thorough review of the first draft paper on Mineral Valuation, where feedback was collected, and recommendations were made to enhance the paper for its first presentation to the Committee at the Twenty-ninth Session. The Energy Transition paper

also underwent a detailed, paragraph-by-paragraph review, resulting in significant improvements. Furthermore, the group agreed on a new approach for the Tax Incentives workstream, which will involve reshaping the existing paper and incorporating it as an annex to Chapter 5 of the UN Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries.

Tax Incentives Workstream

7. This paper (E/C.18/2024/CRP.44) addresses the interaction between Global Minimum Tax rules and incentives in the extractive industries, ensuring that incentives remain effective without causing unintended consequences. It builds on the work presented during the Twenty-seventh Session, now structured as an annex to Chapter 5 on Tax Incentives in the UN Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries. This paper is presented for first reading.

Mineral Product Valuation Workstream

8. This report (E/C.18/2024/CRP.42) outlines the significance of accurate product valuation in preventing profit shifting in the natural resources sector. It reviews available examination techniques for tax administrations and addresses the practical challenges they face. Additionally, it proposes ways for governments to better address these valuation issues. The report is based on discussions with tax administrators from minerals-rich countries and other experts. This paper is presented for first reading.

Energy Transition Workstream

9. This paper (E/C.18/2024/CRP.43) explores the intersection of tax policy and energy transition, with a focus on energy production. It examines various approaches to energy transition, emphasizing the disparity in investment and energy production between developed and developing countries. The analysis proposes tax policies to boost clean energy investment in developing countries and highlights the critical role of tax administrations at both national and subnational levels. Moreover, the paper provides practical guidance to assist tax authorities in effectively navigating these challenges, using examples from various countries to illustrate potential outcomes. This paper is presented for a second reading.

Proposed Actions

10. The Subcommittee is submitting a brief progress report on the work completed since the Twenty-eighth Session and is: (1) **submitting for first consideration** (with a view to approval at the Thirtieth Session) a draft Annex 2 to Chapter 5: Tax Incentives of the UN Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries (E/C.18/2024/CRP.44), which addresses the interaction between Global Minimum Tax rules and incentives in the extractive industries; along with a draft guidance on The Valuation of Mining Products for Tax Purposes (E/C.18/2024/CRP.42); and (2) **presenting a for second reading** (with a view to approval at the Thirtieth Session) the paper on Energy Transition in Extractive Industries (E/C.18/2024/CRP.43).