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Committee of Experts on International Cooperation in Tax Matters

Thirtieth session

New York, 24-27 March 2025

Item 3(f) of the provisional agenda

Taxation of the Extractive Industries

Co-Coordinator's Report

Summary

During the Twenty-ninth Session of the Committee, draft papers on the following topics were presented for discussion: (i) Energy Transition; (ii) Valuation of Mining Products for Tax Purposes; and (iii) Tax Incentives and the Global Minimum Tax in the Extractive Industries. Feedback from members and observers was gathered, and the papers were refined accordingly, with the aim of obtaining approval at the Thirtieth Session.

The Subcommittee's Co-Coordinator's are hereby: **(1) providing an update on the progress** made by the Subcommittee since the last Session, and **(2) presenting for approval** the following papers:

- CRP.9, a draft guidance on Tax incentives and the global minimum tax in the extractive industries, a supplement to "Chapter 5: Tax Incentives" of the UN Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries.
- CRP.8, a draft guidance on The Valuation of Mining Products for Tax Purposes.
- CRP.10, a draft guidance on Energy Transition in Extractive Industries.

Background information

1. During its Twenty-third Session, the Committee endorsed Secretariat's proposal to establish a Subcommittee on Extractives Industries Taxation. The Subcommittee was tasked with addressing key tax-related challenges in the sector, including trade mispricing and the undervaluation of resources in extractive industries; tax incentives and permanent establishment (PE) issues; and energy transition from fossil fuels to renewable and environmentally friendly sources. Subsequently the second topic was broken into two separate workstreams: a) tax incentives and the global minimum tax in the extractive industries to supplement Chapter 5 of the UN Handbook on Taxation of the Extractive Industries; and b) permanent establishment (PE) and other income issues in the extractive sector. Additionally, the mandate provided for the examination of other tax matters that may arise in relation to the extractive industries. At its Twenty-fourth Session, the Committee approved a workplan with four workstreams aimed at developing practical guidelines to assist developing countries in navigating these taxation challenges. Progress updates on the Subcommittee's work were subsequently presented during the Twenty-fifth and Twenty-sixth Sessions.
2. During the Twenty-seventh Session, a paper on PE and other income issues in the extractive industries was presented, proposing options for a standalone article or amendments to various articles of the UN Model Convention. These changes were aimed at resolving technical issues by drawing on country-specific experiences. Following discussions, the Committee thanked the Subcommittee for various issues raised and solutions proposed, including a basis for a new article on PE in the extractive industries, to be drafted by the Subcommittee on Updating the Model Convention. Further, a paper on tax incentives and the global minimum tax was presented for first review by the Committee. While members provided a range of feedback, a key suggestion was to redraft the paper as supplement to the existing guidance on tax incentives (Chapter 5 in the UN Handbook on taxation in the extractive industries) considering recent developments, including the global minimum tax and its impact on the extractive industries.
3. At the Twenty-eighth Session, a draft paper on energy transition in the extractive industries was presented for first consideration by the Committee. Members and observers provided input to refine the document. Additionally, an update was given on the progress of the Subcommittee's other workstreams, with a commitment to present draft papers on these topics at the following session.
4. During the Twenty-ninth Session, the Subcommittee presented three draft papers for the Committee's consideration: (i) draft paper on the tax incentives and the global minimum tax in the extractive industries, **Supplement to Chapter 5: Tax Incentives** of the *UN Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries*; (ii) the draft **Guidance on the Valuation of Mining Products for Tax Purposes**, was introduced for its first reading; (iii) lastly a revised version of the draft guidance on **Energy Transition in Extractive Industries** was submitted for a second reading. Committee Members and observers provided feedback on all three papers for further improvement in preparation for their final approval at the Thirtieth Session.

Progress made by the Subcommittee

5. Since the Twenty-ninth Session, the Subcommittee convened in an online meeting on 23 and 24 January 2025 to review and discuss the feedback received on the draft papers during the last Committee Session and consider additional input. Each paper was revised accordingly, considering all comments received with the objective of finalizing and presenting them for approval at the 30th session of the Committee. All three papers are presented to the Committee for its approval.
6. In line with the feedback received during the last Session, the Subcommittee engaged with the Subcommittee on Transfer Pricing as part of the work on the topic of the valuation of mining products for tax purposes. This collaboration provided valuable insights that improved the content of the draft.

Tax Incentives Workstream

7. This paper examines the interaction between Global Minimum Tax rules and tax incentives in the extractive industries, ensuring that incentives remain effective without leading to 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. The latest version includes editorial refinements to enhance clarity and readability. *This paper is presented for discussion and approval.*

Mineral Product Valuation Workstream

8. This report highlights the importance of accurate mineral product valuation in preventing profit shifting within the natural resources sector. It reviews valuation methods available to tax administrations, explores the practical challenges they encounter, and suggests ways for governments to address these issues. The latest version incorporates additional refinements and was revised in collaboration with the Subcommittee on Transfer Pricing, aligning it with the feedback received during the Twenty-ninth Session. *This paper is presented for discussion and approval.*

Energy Transition Workstream

9. This paper explores the intersection of tax policy and energy transition, with a focus on energy production. It assesses different approaches to transitioning from fossil fuels to cleaner energy sources, emphasizing the investment gap between developed and developing countries. The analysis proposes tax measures to encourage clean energy investment in developing countries and highlights the role of tax administrations at both national and subnational levels. Additionally, it offers practical guidance to help tax authorities navigate these challenges by incorporating country-examples to illustrate potential outcomes. The new version of the paper includes further refinements and editorial improvements. *This paper is presented for discussion and approval.*

Topics for consideration by the next Committee membership

10. As the current Committee membership nears the end of its term, Subcommittee members have identified several critical topics in extractive industries taxation, particularly relevant to developing countries, that warrant further exploration. While some of these issues were discussed during the

term, the packed mandate prevented their full development. In preparation for the Committee's next term, the Co-coordinators and the Secretariat surveyed Subcommittee participants to identify key areas that could merit continued attention by the next membership of the Committee. Based on this feedback, a summarized list of potential focus areas is provided below:

- A study/review of the impact of the new provisions of the UN Model Update on the extractive sector.
- Additional issues on energy transition and alternative energy generation and taxation of critical minerals.
- Issues of deep-sea mining.
- Taxation of medium scale and small-scale mining.
- The interaction between Bilateral Investment Treaties and domestic taxation of extractive industries

Actions sought from the Committee

11. The Subcommittee is hereby *providing a short progress report* on the work undertaken since the Twenty-ninth Session and is *presenting for approval*:

- CRP.9, a draft supplement to “Chapter 5: Tax Incentives” of the UN Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries.
- CRP.8, a draft guidance on The Valuation of Mining Products for Tax Purposes.
- CRP.10, a draft guidance on Energy Transition in Extractive Industries.