Committee of Experts on International Cooperation in Tax Matters

30th Session, New York, 24-27 March 2025

Co- coordinators' Report
on
Taxation of the Extractive Industries

3 papers are presented for approval

➢ A draft guidance on The Valuation of Mining Products for Tax Purposes.

➢ A draft guidance on Tax incentives and the global minimum tax.

➢ A draft guidance on Energy Transition in Extractive Industries.

The Valuation of Mining Products

Main comments and suggestions from 29th Session:

➤ coordination with the Subcommittee on Transfer Pricing;

➤ the need for practical guidance to help tax administrations address valuation challenges;

➤ impact of tax stability agreements on product valuation; periodic review of advance pricing agreements, including an option on royalties.

The Valuation of Mining Products

Primary Points/ findings:

➢ Proper valuation of extracted products essential if a country and its people are to receive the full benefit of the country's natural endowment of wealth.

➢ Comparable uncontrolled price (CUP) method of valuation involves identification of index price, adjustment for numerous factors including, for example, product quality, contractual terms under which product is to be marketed. CUP method requires both technical expertise and application of professional judgment.

The Valuation of Mining Products

Primary Points/ findings:

➢ Transactional net margin method (TNMM) can also be used to benchmark profitability of hub entities; can supplement CUP.

➢ Valuation controversies are frequent and challenging, placing premium on technical expertise as well as project management and negotiation skills.

Tax incentives and the global minimum tax

Identifying interactions of international tax regimes and tax incentives:

➢ The 15% global minimum tax (GMT) is the latest iteration of taxes in the home states of foreign investors that apply to low-taxed income in host countries.

➢ Existing versions include rules on Controlled Foreign Companies.

Tax incentives and the global minimum tax

Identifying interactions of international tax regimes and tax incentives:

➢ These taxes may interact with tax incentives granted by host countries to foreign investors in the extractive industries. In some cases, they may undermine the tax benefits provided by incentives as the investor states collect the foregone revenue.

➢ Chapter 5 of the handbook now includes a supplement with an analysis of those interactions.

Tax incentives and the global minimum tax

Extractive-specific guidance on government responses to the Global Minimum Tax:

➢ This paper complements existing general guidance by focusing on the specific characteristics of the extractive industries, such as:

- What may constitute "covered taxes" under the GMT within the complex fiscal regimes of extractive industries.
- What incentives most commonly used in the sector may be affected by the GMT.
- How stabilization provisions in resource contracts should be analyzed when developing policy responses to the GMT.
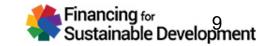
Tax incentives and the global minimum tax

Extractive-specific guidance on government responses to the Global Minimum Tax:

➢ As >50 countries implement a version of the Global Minimum Tax (GMT), affected jurisdictions are advised to assess the impact and, if warranted, adapt their domestic tax policies accordingly.

Energy Transition in Extractive Industries

Main issues raised at the last Session:

➢ inadequate labor protections in some countries, during energy transition policy implementation,

➢ balancing the urgent need for energy access with the promotion of clean energy production,

➢ protective measures for vulnerable groups during clean energy policy implementation,

➢ the need for a deeper analysis of the risks and costs associated with such measures as carbon capture and storage.

Some Proposals on future work

- Impact of the new provisions of the UN Model Update on the extractive sector.

- Energy transition and alternative energy generation and 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

Thank you