IGF

INTERGOVERNMENTAL FORUM
on Mining, Minerals, Metals and
Sustainable Development

IGF GUIDANCE FOR GOVERNMENTS:

Countering Tax Base Erosion and Profit Shifting in the Mining Sector

For many resource-rich developing countries, mineral resources present an unparalleled economic opportunity to increase government revenue. Tax base erosion and profit shifting (BEPS)—combined with weak tax administration in developing countries—threaten this prospect.

The International Monetary Fund (IMF) estimates that developing countries' BEPS revenue losses exceed USD 200 billion annually.

With a long list of Sustainable Development Goals (SDGs) to finance, and the end of the commodity super cycle, it is now more important than ever that resource-rich developing country governments ensure that existing mining projects contribute their full share to government budgets.

In 2016, IGF member country governments identified BEPS as their primary collective concern.

IGF believes that equipping developing country governments with the knowledge, skills and tools to build and administer mining tax systems that can address BEPS is central to improving domestic revenue mobilization and enabling countries to achieve full implementation of the SDGs.

To deliver the best results for its members, IGF has partnered with the Organisation for Economic Co-operation and Development (OECD) Centre for Tax Policy and Administration, combining its mining expertise with the OECD's knowledge of taxation to design sector-specific solutions to some of the most pressing base erosion challenges facing developing countries.

IGF member countries will be involved in the program throughout, providing guidance, input, and feedback to ensure solutions are responsive, practical and capable of being implemented in resource-constrained environments.

WORK HAS ALREADY BEGUN

The **IGF Technical Workshop on Tax Base Erosion and Profit Shifting**—presented in collaboration with the OECD during the IGF's Annual General Meeting (October 20, 2017 in Geneva)—provided a forum to discuss these challenges:

- Transfer pricing
- Mineral product pricing
- Excessive interest deductions (use of debt)
- Tax incentives
- Investment treaties and stability agreements.

TRAINING ON TRANSFER PRICING RISK ASSESSMENT FOR THE MINING INDUSTRY

IGF is providing training to help African tax authorities address transfer mispricing in the mining sector. Workshops are being developed for the government of Cote d'Ivoire in October 2017 and Liberia in February 2018.

This training will be based upon a new toolkit aimed at helping African tax authorities address transfer mispricing in the mining sector. The toolkit was published by the African Tax Administration Forum (ATAF) along with the German Federal Ministry for Economic Cooperation and Development (through the Gesellschaft für Internationale Zusammenarbeit).

The Toolkit for Transfer Pricing Risk Assessment for the African Mining Industry helps to determine whether particular high-risk, related-party transactions should be selected for a transfer pricing audit. IGF was invited to be the toolkit's official training partner.

A MENU OF ISSUES

More than 100 countries are working together to address tax base erosion and profit shifting through the G20/OECD BEPS initiative. The Inclusive Framework on BEPS aims to address significant gaps in existing national and international tax rules which are exploited by multinational corporations. The initiative has outlined 15 BEPS Actions that arm governments with the tools to combat aggressive tax planning and tax avoidance by multinational corporations.

This program builds on the OECD BEPS Actions to include other causes of revenue loss in the mining sector, such as the use of harmful tax incentives, abusive hedging arrangements and metals streaming.

The program will cover the following issues:

1. **Excessive Interest Deductions**
2. **Transfer Mispricing**
3. **Undervaluation of Mineral Exports**
4. **Harmful Tax Incentives**
5. **Tax Stabilization**
6. **International Tax Treaties**
7. **Indirect Transfer of Mining Assets**
8. **Metals Streaming**
9. **Abusive Hedging Arrangements**
10. **Inadequate Ring-fencing**

OUR MODEL

PHASE 1:

For each of the topics listed above, we will develop a combination of policy and administrative tools for use by resource-rich developing country governments.

There are three overarching principles that guide the program:

1. **Adapt existing guidance on international tax issues to be specific to the mining sector.** We are taking tax issues experienced by a range of sectors in the economy (for example, tax treaties) and developing a framework by which governments of resource-rich countries can analyze the impact of treaty provisions on taxes imposed on the mining sector, as well as possible strategies to protect the mining tax base against specific treaty risks.

2. **Fill vital gaps in the available resources.** We are developing new practical guidance and tools that specify the precise legal, administrative, organizational and technical means required for tax authorities and mining regulatory agencies to address the tax issue. For example, we look at "metals streaming," a financing arrangement that may reduce the tax base of resource-producing countries, for which there is virtually no guidance.

3. **Keep administrative capacity front of mind.** Mining tax law is only as effective as the administrative capacity of the tax authority responsible for enforcing it. We are delivering practical tools capable of being implemented by developing country tax authorities with limited resources, and access to tax information..

All results from the program will be publicly available via a dedicated website that will offer users a holistic view of how different mining tax issues interact, and the potential policy trade-offs. The site will be an up-to-date centre of expertise on international tax policy design and administration in mining, and a home to the guidance and tools that will be developed over thenext two years.

PHASE 2:

IGF will deliver a menu of training options for member country governments based on the work produced in Phase 1. It will be a mix of annual training events on BEPS issues, as well as country-specific trainings and direct advisory services.

With support from GIZ, IGF will develop a diagnostic tool that countries can use to identify the specific BEPS risks they need help with. IGF will then gather the relevant policy guidance and tools to provide a tailored package of support.

OUR EXPERTS

- **Alexandra Readhead** is Technical Advisor to IGF on Tax Base Erosion and Profit Shifting. She is a specialist in international taxation and the extractive industries.
- **Dan Devlin** is the Senior Economist in Natural Resource Taxation at the OECD. He is also a technical adviser to the OECD-UNDP Tax Inspectors Without Borders project in Liberia on mining.
- **Howard Mann** is an Associate & Senior International Law Advisor to IISD and IGF. He is a specialist in international investment and sustainable development law, as well as mining contract negotiations.

WANT TO GET INVOLVED?

We recognize that there are many governments, organizations, and individuals with significant expertise on mineral tax policy and administration. Current collaborators include: the IMF, United Nations Tax Committee, World Bank Group, African Development Bank, African Mining for Development Centre, International Senior Lawyers Project and the International Council on Mining and Metals.

The program has initial funding from Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) and the Canadian government.

More funds are still required.

FOR MORE INFORMATION, PLEASE CONTACT:

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