Guidance note on Tax Treatment of Decommissioning for Extractive Industries

U.N. Dep of Economic and Social Affairs.
The Committee of Experts on International Cooperation in Tax Matters
Geneva 19-23 October 2015

Mr Olav Fjellså, Petrad Foundation, Norway; Olav.fjellsaa@no.bp.com
Chris Sanger, Global Tax Policy Leader, EY. csanger@uk.ey.com

22 October 2015

Tax Policy objectives

Key concern is to make sure that the tax system does not:

- adversely affect behaviour or
- undermine policy intentions.

Decommissioning differs from other tax policy considerations since:

- Planning/saving needs to occur over a long period
- Funding of decommissioning is critical
- Implementation is at the end of the life of (and interest in) the project
- The tax rules will likely need to address changes of ownership
- The quantum of the decommissioning cost can outweigh (many times) the profits of the final years

Basic principles

- Qualified business costs normally considered deductible
- Costs are deductible …
  - On a cash basis: Australia, Denmark, Norway, United Kingdom
    - Defers tax relief
  - Pre-fund basis: India, Mozambique, Mexico, South Africa, Zambia
    - Gives incentive to make provision
    - Provides visibility of funding
  - Accruals basis: Netherlands, Ghana
- Tax relief applies only to approved costs

Some key policy scenarios to address

- Late life entrant
  - Lack of tax history
  - Single project
- Decommissioning specialist
  - Qualifying as a valid expense
- Change of use
  - Residual liability
- Cross border fields
  - Interaction of two (or more) taxation regimes

Proposed next steps

1. Revise paper to include
   - mining
   - policy scenarios
   - dispute resolution

2. Revised paper for discussion at April 2016 Sub-Committee meeting

3. Presentation to Full Committee in October 2016