



IGF

INTERGOVERNMENTAL FORUM
on Mining, Minerals, Metals and
Sustainable Development

UNRESOLVED ISSUES: Corporation taxation in the natural resource sector

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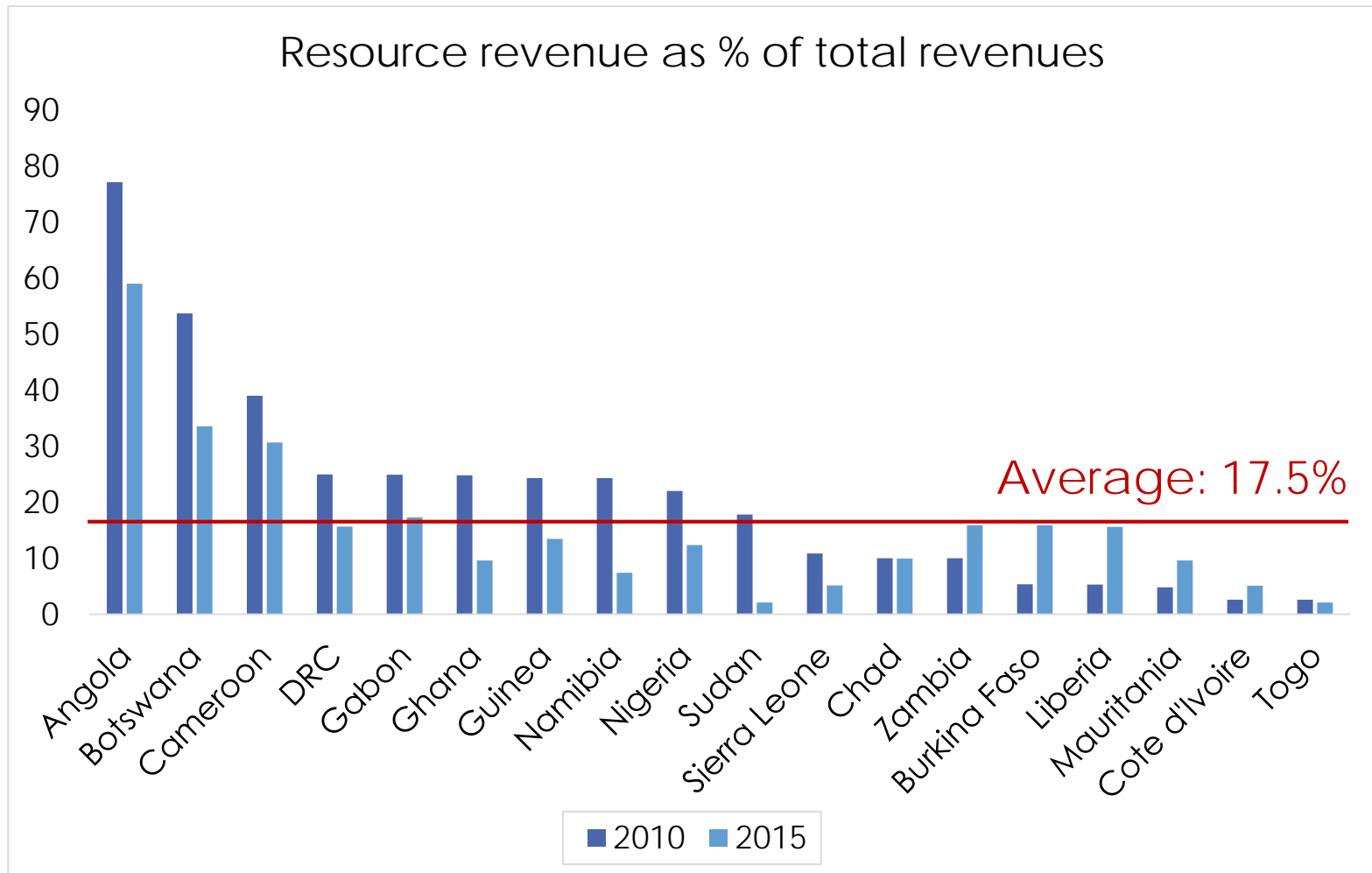
 Canada

Extractives are different.





But, LDCs rely on resource taxes,



Source: Government Revenue Dataset (ICTD) and EITI data



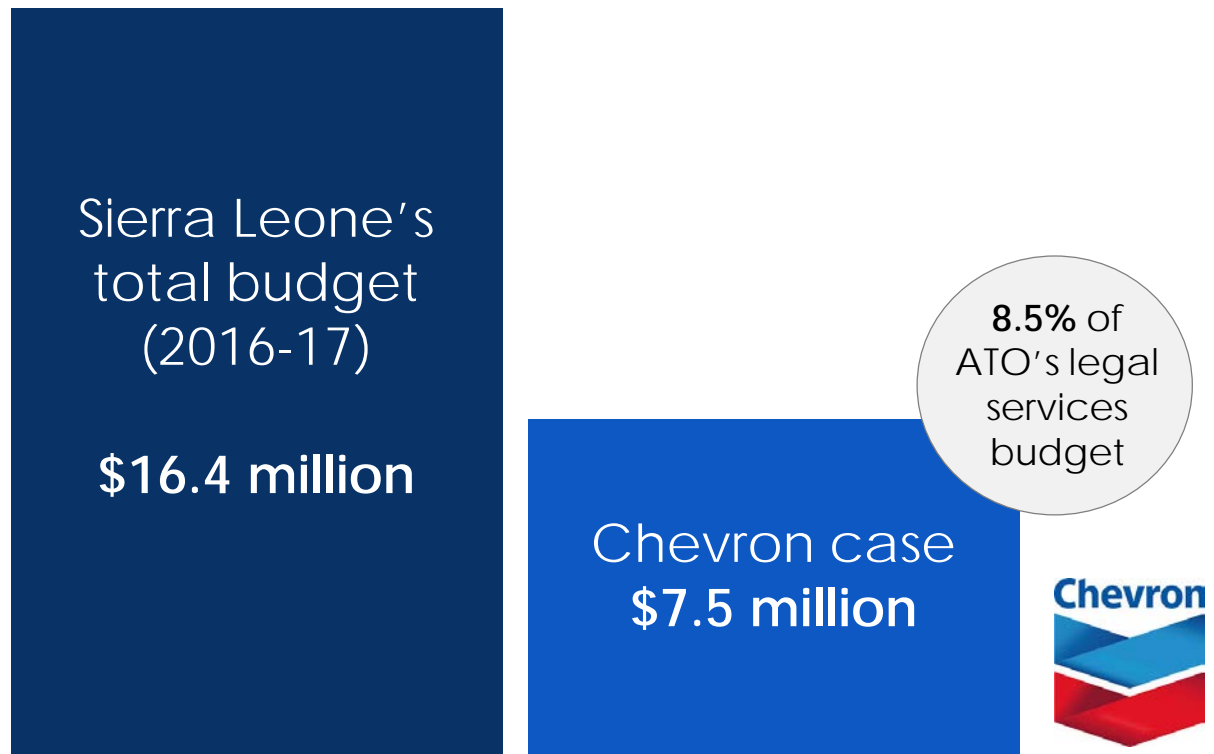
...profit shifting persists;

- Excessive interest deductions: \$380 mn
 - Chevron v. Australian Tax Office
- Profit shifting via marketing commission: \$245 mn
 - BHP vs. Australian Tax Office
- Re-structuring to avoid capital gains tax: \$404 mn
 - Heritage Oil v. Uganda Revenue Authority
- **Alleged** under-pricing of mineral sales: \$1.8 bn
 - Cameco vs. Canadian Revenue Authority

...current rules are too complex;



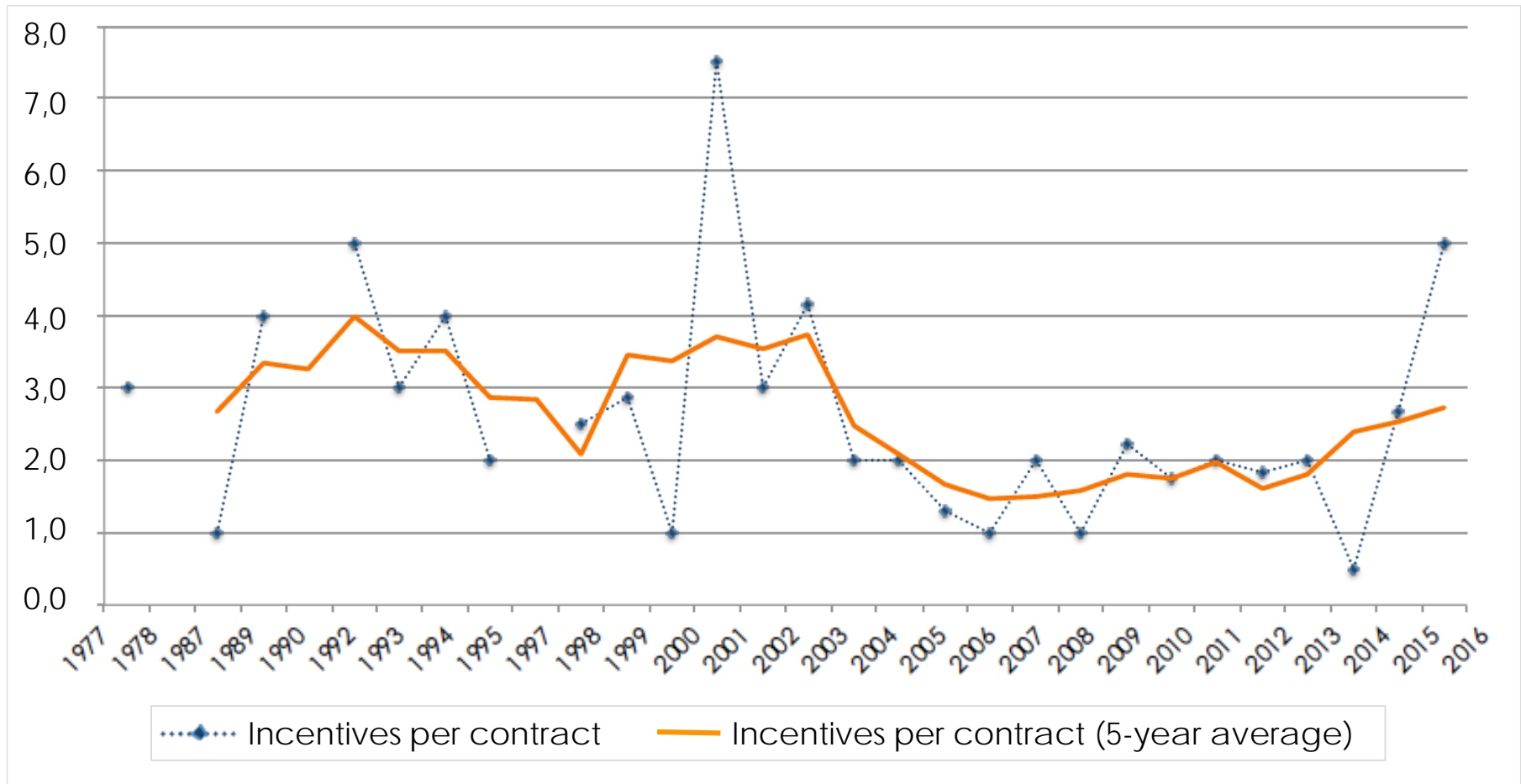
1 transfer pricing dispute in Australia = 45% of Sierra Leone's budget for tax administration





...there is tax competition.

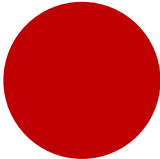
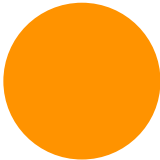
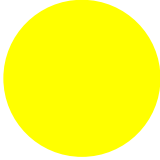
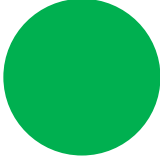
Number of mining tax incentives over time in 21 countries



Source: New IGF dataset forthcoming.

Can reforms apply to minerals?

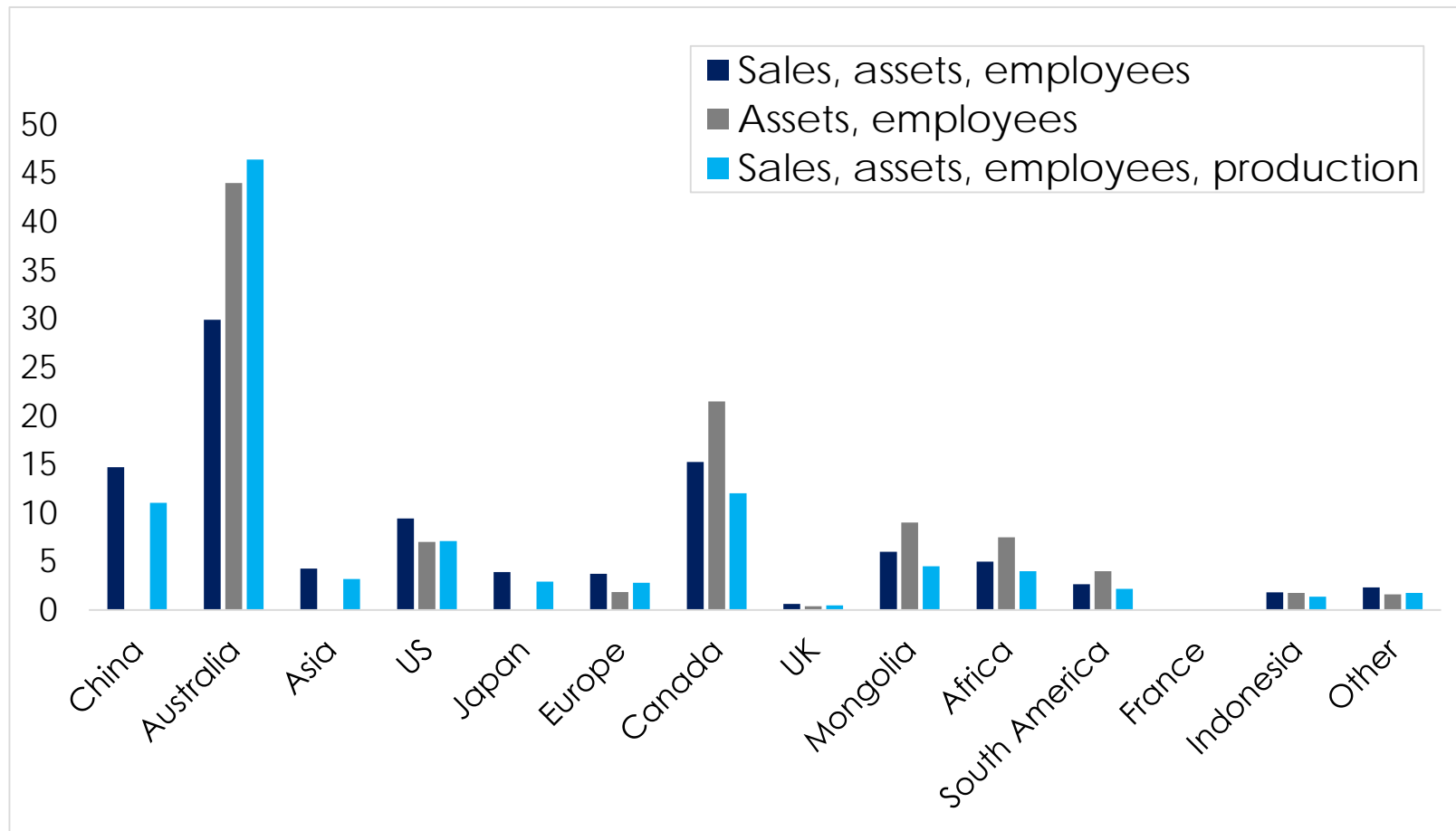


DBCFT		Resource profits end up in location of customer.
RPA		Same as above, but limits risk for routine transaction.
FA		Modified to include a production factor.
Minimum tax on inbound		Combined with greater use of benchmark prices.

Modified formulary apportionment



Apportionment of Rio Tinto's Global Profits (2017) (%)



Source: Rio Tinto's 2017 Financial Statement ('production' only includes bulk commodities)



Min. tax plus benchmark prices

- **Sixth method (related / unrelated?)**
 - Base and precious metals and bulk commodities (e.g. gold, copper, cobalt, iron ore, manganese).
- **Norm prices**
 - Advantage: government-posted price
 - Could apply to hard rock mining.
- **Advance Pricing Agreements or legislated formulas**
 - Complex minerals (e.g. bauxite).

If source-based tax, what type?



Resource taxes do not have to be profit-based

Fiscal Instrument	Vulnerability to profit shifting
Fixed fee	
Royalty	Depends on the type
Corporate income tax	Profit-based
Progressive profits tax	
Resource rent tax	
Production sharing	May depend on JV
Paid equity	
Carried interest	No free lunch...

Green indicates BEST performance & red indicates WORST performance



In summary

- Taxation of resources must be part of the conversation;
- Some reform proposals could apply, with modifications;
- Source-based taxes robust to BEPS should be prioritized.