

Mr Carlo Cottarelli
Director
Fiscal Affairs Department
International Monetary Fund
700 19th Street NW
Washington DC 20431
USA

27 April 2012

Dear Mr Cottarelli,

ICMM greatly appreciates the opportunity to coordinate the participation of some of our member mining companies at the IMF consultation meeting held on April 17, 2012. Following the meeting, the ICMM member companies involved - Anglo American, Barrick, BHP Billiton, Freeport-McMoRan, Newmont, Rio Tinto, Teck and Vale (and later Xstrata) – and IAMGold, thought it would be useful to set down on paper the following principles they believe should be applied in the design of mining tax regimes on a country-by-country basis.

Revenue mobilization and broadening the tax base

The stated objective of the board paper is revenue mobilization and broadening the tax base.

Capacity building

The most effective means of raising revenue is to collect the tax that is already due from the existing tax base. This requires investment in tax administration, building the capacity of the tax authorities to execute their most basic responsibilities which are to apply equitably the tax law to all taxpayers and to collect the right amount of tax due in accordance with that tax law.

Without getting this fundamental capacity in place, the results of further broadening of the tax base will be less effective, particularly in terms of lifting overall governance. This is because a tax system that does not discriminate among tax payers, has a greater impact in terms of stimulating a virtuous cycle of respect for the rule of law and the role of government institutions, encouraging more taxpayers to become tax compliant.

A tax regime should include an open legislative and administrative system, a fair court system, consistency of application of tax rules and the ability to seek binding advance rulings as to the application of tax laws. Where tax legislation provides for issuances of tax refunds, the system to obtain such refunds should be clearly defined and the refunds issued in a timely fashion. New tax laws should be supported by clear regulations or other guidance so that tax administrators and taxpayers both know how to implement or interpret those laws, reducing uncertainty for taxpayers and protecting the tax base.

Transparency

Transparency over tax revenues is a strong deterrent to corruption and a vital enabler in encouraging tax compliance. Transparency can therefore both increase tax revenues and accountability in terms of how those tax revenues are spent.

Many major multinationals are signatory to the [Extractive Industries Transparency Initiative \(EITI\)](#) which was established in 2003 and have provided voluntary reporting of tax and wider economic contributions for a number of years. We believe that the EITI process, under which an independent party reconciles the payments made by the extractive industry to the amount of revenue received by the government, remains the best way to promote transparency around payments to governments and thereby assist in the fight against corruption, and enhancing the scope for populations to hold their governments to account as to whether they spend those revenues in support of poverty reduction.

Corruption must be addressed as a priority. It impedes responsible mining investment by raising the investment return hurdle and placing those who play by the rules at a competitive disadvantage. Tackling corruption is the first step to be taken in broadening the tax base.

If corruption is not tackled revenue mobilization will not deliver the hoped for benefits.

Mining projects as catalysts for economic development

The International Council on Mining and Metals (ICMM) was established in 2001 to improve sustainable development performance in the mining and metals industry which today has 21 mining and metals companies as members as well as 31 national and regional mining associations and global commodity associations. ICMM's current social and economic work program includes the Mining: Partnerships for Development program – formerly the Resource Endowment Initiative – which focusses on enhancing the substantial contribution that sustainable mining can make to development.

ICMM began the Resource Endowment initiative in collaboration with UNCTAD and the World Bank Group. It has developed a substantial body of research on why some countries have avoided the “resource curse” and practical recommendations for companies, government and civil society. It was overseen by an independent international advisory group including the Head of the UN Global Compact and a former Prime Minister of Senegal. The Resource Endowment initiative showed that the “resource curse” is not inevitable. Mining investments can drive economic growth and reduce poverty nationally and locally. However, companies alone cannot unlock the development benefits from mining. Governance is key and multi-stakeholder partnerships can help fill capacity gaps.^[1] The ICMM has also worked closely with the African Union, and has been involved in the development of the African Mining Vision which sets out how mining can be used “holistically” to drive continental development through integrating it much better into development policies at local, national and regional levels.

These approaches all underline that mining projects can be a catalyst for significant economic development, generating investments in infrastructure that help underpin the growth in other businesses. The success or otherwise of a mining project should not therefore be measured merely in terms of the tax revenues raised as this ignores the broader contribution to economic development.

Key principles of tax design (to be tailored on a country-by-country basis)

Internationally competitive: the overall tax burden on the industry should be competitive with tax burdens in other countries; the overall tax burden should be measured at the national and subnational levels and include, but not limited to, such levies as corporate income tax, indirect taxes (customs duties, unrecovered GST/VAT, property taxes etc), various mining related royalties and taxes, and payroll related taxes.

^[1] <http://www.icmm.com/mpd> - The findings were based on the application of the ICMM's Resource Endowment Toolkit (April 2006) in four countries – Chile, Ghana, Peru and Tanzania. The toolkit has now been revised, extended and re-published as the Mining: Partnerships for Development Toolkit

Prospective: tax changes should not undermine the basis upon which past investments have been made (i.e. no retrospective application);

Differentiated: mining tax regimes should recognize that capital investment and financial return characteristics differ across resources commodities such that different minerals can sustain different tax burdens;

Resource-based: a resource-based tax should be limited to the value of the resource at the point of extraction (not reach into the value added from post extraction activities such as infrastructure, concentrating, smelting and refining).

Equitable and efficient: Reform of taxation and royalty arrangements should promote economic activity and improve the efficiency, simplicity and fairness of the tax system without compromising competitive neutrality. A profits based mining tax provides for greater incentive for investment and employment (an output based tax increases costs of production).

The above mentioned mining companies look forward to continuing the dialogue.

I would also like to confirm that we have no objections to this letter being posted on the IMF website.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized capital letter 'R' followed by a horizontal line extending to the right.

R. Anthony Hodge
President

Copy:

IMF: Michael Keen, Philip Daniel and Karla Chaman

ICMM members: Anglo American, Barrick, BHP Billiton, Freeport-McMoRan, Newmont, Rio Tinto, Teck, Vale and Xstrata

IAMGold