MINING TAXATION DURING AND AFTER COVID-19:

Tax policy and administration

Presentation by Alexandra Readhead (IGF), Vy Tran (OECD), Anthony Munanda (ATAF)
Outline

1. Introduction
2. Impact of COVID-19 on the mining sector
3. Lessons from global mining tax policy responses
4. Not out of the woods yet - assessing tax relief
5. Beyond COVID-19 – what’s next for mining taxation?
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Impact on mining (...then)

Covid-19 cuts $280bn swathe through top 50 mining companies

Seismic Covid-19 shock set to hit mining industry

By Ed Stoddard • 18 March 2020

Update 3: Coronavirus impact sees Glencore Zambian unit shut copper mines

BHP, Glencore-controlled copper mine in Peru halts operations for two weeks amid pandemic

Covid-19: Vale extends care and maintenance at Voisey’s Bay in Canada
Supply chain disruptions

**China's nickel imports to drop after shutdown in Philippines**

China's nickel ore imports from the Philippines could be badly hit this month after the top-two miners in the Southeast Asian country suspended all operations to comply with COVID-19 containment measures.

**Australia’s Lynas warns on rare earths supply chain**

Main non-China producer says it may need public funds to weather coronavirus downturn.

Source: markets.businessinsider.com
Demand (and prices) for some commodities fall
Increased demand for gold

Source: www.kitco.com
Impact on mining (…now)

Some commodities performed well, others on the re-bound.

**Rapid Response**
Copper reacted quickly to a global slump in manufacturing output

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Australia’s iron ore producers are reaping rewards as Brazilian rivals struggle

Average weekly shipments (Mt)

<table>
<thead>
<tr>
<th>Country</th>
<th>2018</th>
<th>2019</th>
<th>2020 (year to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>5.0</td>
<td>4.5</td>
<td>5.0</td>
</tr>
<tr>
<td>Brazil</td>
<td>6.0</td>
<td>5.5</td>
<td>5.5</td>
</tr>
</tbody>
</table>

Source: Deutsche Bank; Wind
© FT
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3. Government tax and fiscal responses

Three lessons learned so far:

- The mining sector has not needed targeted relief.
- CAPEX is (temporarily) down, but M&A picking up.
- Impetus for mining tax reform (more on this later).
Mining has not needed targeted relief

- Very few instances mining specific tax relief.
- Tax relief measures that benefited mining were economy wide.
- Mining has fared well, or at least was not uniformly affected.
CAPEX is (temporarily) down by 19%

<table>
<thead>
<tr>
<th>Company</th>
<th>Original capex ($m)</th>
<th>Revised capex ($m)</th>
<th>Capex % change</th>
<th>Original production</th>
<th>Revised production</th>
<th>Production % change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anglo American (carats m)</td>
<td>5,250</td>
<td>4,250</td>
<td>-19.1%</td>
<td>33</td>
<td>26</td>
<td>-21.2%</td>
</tr>
<tr>
<td>Anglo American (palladium)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1.4</td>
<td>1.1</td>
<td>-21.4%</td>
</tr>
<tr>
<td>Anglo American (platinum moz)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2.1</td>
<td>1.6</td>
<td>-23.8%</td>
</tr>
<tr>
<td>Angloplat (PGMs moz)</td>
<td>386</td>
<td>330</td>
<td>-14.5%</td>
<td>4.4</td>
<td>3.35</td>
<td>-28.9%</td>
</tr>
<tr>
<td>Antofagasta</td>
<td>1,500</td>
<td>1,300</td>
<td>-13.3%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>First Quantum Minerals (copper kt)</td>
<td>850</td>
<td>675</td>
<td>-20.6%</td>
<td>855</td>
<td>780</td>
<td>-8.8%</td>
</tr>
<tr>
<td>First Quantum Minerals (gold koz)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>290</td>
<td>260</td>
<td>-10.3%</td>
</tr>
<tr>
<td>Freeport-McMoRan (copper mt)</td>
<td>2,800</td>
<td>2,000</td>
<td>-28.6%</td>
<td>1.6</td>
<td>1.4</td>
<td>-12.5%</td>
</tr>
<tr>
<td>Glencore (copper mt)</td>
<td>5,500</td>
<td>4,250</td>
<td>-22.7%</td>
<td>1.3</td>
<td>1.25</td>
<td>-3.8%</td>
</tr>
<tr>
<td>Lundin Mining (copper kt)</td>
<td>620</td>
<td>440</td>
<td>-29.0%</td>
<td>284</td>
<td>278.5</td>
<td>-1.9%</td>
</tr>
<tr>
<td>Newmont Goldcorp (moz)</td>
<td>1,525</td>
<td>1,225</td>
<td>-19.7%</td>
<td>6.4</td>
<td>6</td>
<td>-6.3%</td>
</tr>
<tr>
<td>Norilsk Nickel</td>
<td>2,650</td>
<td>2,350</td>
<td>-11.3%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Norsk</td>
<td>952</td>
<td>757</td>
<td>-20.5%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Rio Tinto (copper kt)</td>
<td>7,000</td>
<td>5,500</td>
<td>-21.4%</td>
<td>550</td>
<td>497</td>
<td>-9.6%</td>
</tr>
<tr>
<td>Sibanye Stillwater</td>
<td>270</td>
<td>210</td>
<td>-22.2%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Vale (copper kt)</td>
<td>5,000</td>
<td>4,600</td>
<td>-8.0%</td>
<td>400</td>
<td>370</td>
<td>-7.5%</td>
</tr>
<tr>
<td>Vale (iron ore mt)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>347</td>
<td>320</td>
<td>-7.8%</td>
</tr>
<tr>
<td>Vale (nickel ktl)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>205</td>
<td>187.5</td>
<td>-8.5%</td>
</tr>
</tbody>
</table>

Total capex cuts ($m) 34,303 27,887
Total copper production cuts (mt) 4.98 4.60

Source: mining.com
But, investment likely to resume soon...

- Caused by containment > uncertainty + finance.
- New investment will be critical post-COVID.
- Some companies requesting tax cuts.
- Avoid incentives to encourage mining investment:
  - Mining comparatively unscathed, or better off.
  - Investors will return as markets stabilise and finance becomes available.
...and already has for some commodities.

Canada: Zijin Mining To Acquire Guyana Goldfields In All-cash Offer For $323 Million

China’s Shandong buys Canadian gold miner TMAC Resources for US$149-million

GOLD: Apollo Gold to acquire First Majestic properties

Mining holding MIND.ID to acquire Vale Indonesia for $392m
Capital gains tax implications

- M&A structured to minimise tax burden
- May involve indirect sales – hard to tax
  - Countries may lack legal right to tax indirect transfers
  - Countries may not know when the transfer occurs
  - Tax treaty impacts
- Tax authorities may lack information and expertise to verify the value of exploration and mining licenses for CGT
- Reverse Takeovers (RTO), farm-ins
- Due diligence issues – foreign investment screening
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4. Assessing the Need for Tax Relief

- Tax and fiscal policy response can **cushion the impact** and support economic recovery.

- **Multilateral collaboration** will be vital for recovery, particularly for developing countries.

- Consideration of major **policy reforms** that will be needed to prepare for restoration of public finances.
Policy objectives – (1) immediate measures

- Preserve productive capacity.
- Maintain business cashflow.
- Retain workers.
- Protect health of workers and affected communities.
Policy objectives – (2) during health containment

- Fine-tune, potentially expand policies already implemented.
- Costs of policy action may be high, but the costs of inaction are likely to be greater.
- Avoid increasing non-compliance risks.
- Must be *quid pro quo* (e.g. government equity).

**LAST RESORT:** Waive payments in 2020

Reduce / defer mineral royalties
Policy objectives – (3) long term

- Where the recovery is anaemic, there may be a case for maintaining expansionary fiscal policy for a sustained period to stimulate business investment.

- Avoid support mode where no longer needed.

- Connect fiscal response to longer term policy objectives, including de-carbonisation and other positive spillovers.

Import duty relief
Maintaining local mining employment and stimulating investment
“Do-Not-Do” Tax Policy Measures

Refrain from income tax holidays, and cutting corporate income tax
• No profits = no tax = unnecessary tax relief

Refrain from dividends/ capital gain tax relief

Refrain from withholding tax relief
• Easy to collect
• Critical given resource constraints

Keep environmental taxes
Screening criteria

• Sector-wide or company-specific? Importance of tax neutrality and maintaining a level playing field
• Commodity type? Know your industry
• Phase of production
• Size of workforce – risk of lay-offs
• Locally incorporated and license company
• Subcontractors / services companies?
Conditions for Tax Relief

- Retain all workers, or agreed %, at regular salaries
- Withhold bonuses, salary increases for Execs
- Cancel dividends to shareholders other than govt.
- Abandon artificial tax avoidance arrangements
- Adopt transparent, fair transfer pricing practices
- Adopt transparent benchmarking for mineral sales

Introduce excess profits tax
Consider state aid as right to additional equity
Implementation and Design

- Measures should be clearly defined
- Use secondary instruments, administrative actions
- Clear, transparent eligibility criteria and procedures
- Penalties for abuses by companies
- Redirect resources to implement, monitor tax relief
- Measures should be temporary over the crisis period
  - Sunset clauses
  - Opportunities for review
More resource-specific guidance available

COVID-19 Response Series
As COVID-19 spreads, governments are responding with drastic measures to combat the pandemic's health and economic impacts. In the mining industry, the virus has harmed workers, disrupted supply chains, and halted operations in many nations. The crisis presents commodity-specific risks to supply and/or demand, which is reflected in ongoing price volatility throughout the sector. There is a risk that countries dealing with this unprecedented crisis may adopt poorly designed policies that may have long-term implications.

The following information and events examine key policy implications for governments and actors being taken by governments to address this rapidly evolving crisis.

Special Series on Fiscal Policies to Respond to COVID-19
This is one of a series of notes produced by the Fiscal Affairs Department to help members address the COVID emergency. The views expressed in this paper are those of IMF staff and do not necessarily represent the views of the IMF, its Executive Board, or IMF management.

Natural Resource Fiscal Regimes: Tax Policy Response
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5. **Emerging issues – M&A, alternative mine financing**
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COVID-19 revenue impacts

- Slow-down in economic activity will reduce or defer CIT.
- Future tax revenues also affected by carry-forward losses.
- A reduction in consumption combined with a shift towards the consumption of necessity goods.
- (Some) resource prices have fallen in the short term which will reduce revenues from excises, royalties and CIT.
Lessons from history

Although the current crisis is different from the 2007-2008 GFC, it does provide a recent case study on tax revenues:

Table 5.1. Average Tax-to-GDP ratios, 2007-2017

<table>
<thead>
<tr>
<th>Year</th>
<th>Asia-Pacific</th>
<th>Africa</th>
<th>Latin America and the Caribbean</th>
<th>OECD</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>21</td>
<td>16.1</td>
<td>21.3</td>
<td>33.6</td>
</tr>
<tr>
<td>2008</td>
<td>21</td>
<td>15.7</td>
<td>21.5</td>
<td>32.9</td>
</tr>
<tr>
<td>2009</td>
<td>20</td>
<td>15.5</td>
<td>20.9</td>
<td>32.2</td>
</tr>
<tr>
<td>2010</td>
<td>20.3</td>
<td>15.3</td>
<td>21.1</td>
<td>32.3</td>
</tr>
<tr>
<td>2011</td>
<td>20.8</td>
<td>16.1</td>
<td>21.5</td>
<td>32.6</td>
</tr>
<tr>
<td>2012</td>
<td>21.3</td>
<td>16.3</td>
<td>21.9</td>
<td>33.1</td>
</tr>
<tr>
<td>2013</td>
<td>21.3</td>
<td>16.7</td>
<td>21.9</td>
<td>33.4</td>
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<td>2014</td>
<td>21.2</td>
<td>16.8</td>
<td>22.1</td>
<td>33.6</td>
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<tr>
<td>2015</td>
<td>21.1</td>
<td>17.2</td>
<td>22.1</td>
<td>33.7</td>
</tr>
<tr>
<td>2016</td>
<td>20.7</td>
<td>17.2</td>
<td>22.6</td>
<td>34.4</td>
</tr>
<tr>
<td>2017</td>
<td>20.1</td>
<td>17.2</td>
<td>22.8</td>
<td>34.2</td>
</tr>
</tbody>
</table>

Note: Averages are shown for 25 LAC countries, 26 African countries, 17 Asia-Pacific countries, and the 36 OECD countries, based on the OECD’s Global Revenue Statistics Database. 2007 is used as the starting point as it represents the high-point for all of these averages. The most recent year for which data is available for all regions is 2017.

Source: OECD Global Revenue Statistics Database.
Impact on budget balances and public debts

• The crisis will likely have a substantial impact on countries’ budget balances and public debt levels.

• The consequences of rising budget deficits could be severe given high debt levels.

• The combination of sharply rising spending needs and reduced revenues suggests a need for innovative approaches for tax policy reform.
Impact on resource rich developing countries

- Many rely more heavily on revenues from taxes on trade and international transactions.

- They have a high share of revenues from commodities and natural resources, and are more exposed to fluctuations in global demand and prices.

- They are more reliant than developed countries on CIT and on consumption taxes, which are both likely to face substantial falls and a slower recovery than other taxes.
Global impetus for mining tax reform

- Some countries considering mining tax increases
  - Ghana, sliding scale royalty for gold
  - Mining companies could pre-pay taxes, royalties

- General trend towards higher mining taxes.

- Mining has been relatively resilient.

- Falling oil revenues place further pressure on mining revenues.
Enter... The Future of Resource Taxation

3-year project by IGF and ATAF, supported by CIAT

Asking two fundamental questions:

Are governments able to maximise revenues from mining under the dominant fiscal regime (royalties and taxes)?

How are changes in the industry likely to impact taxation, and what are the implications for future fiscal regimes?
The Future of Resource Taxation

Tax incentives (if used at all…)
- Must be beneficial to both the taxpayer and government [Cost-Benefit Analysis and financial modelling is required];
- Accelerated depreciations may need to be redesigned
- Exclusion of some items of expenditure

Transparency in pricing of mineral resources
- Companies to disclose third party sales contracts;
- Use of commodity pricing (Quoted Prices) approach in respect of related party transactions;
The Future of Resource Taxation

**Enhanced laws to address indirect transfer of mining rights**

- Address the existing gaps where in some countries indirect transfer of mining rights/licences are not taxable
- Tax transparency and exchange of information capacity will be critical in establishing the details of the transfers.

**Treaty Reform**

- Broader provisions in Article 5 to target exploration
- Technical and Management fees (Article 12) will continue to be relevant to source countries. Revisions may be required to address the automation of services.
Summary

• Mining has not been uniformly affected by COVID-19.

• Sector-specific tax relief has been limited.

• Avoid tax incentives to attract mining investment.

• Any tax relief to the mining sector should be targeted.

• Be vigilant with respect to M&A activity.

• Now is the time to re-think mining fiscal regimes post-COVID.
Questions for Discussion

1. Have countries adopted specific fiscal policy responses for the mining sector due to COVID-19?
2. What opportunities does COVID-19 present for mining fiscal regime design going forward?
3. How are changes in the mining industry likely to impact taxation, and what are the implications for future fiscal regimes? (E.g. automation, demand for energy minerals, environmental policies, deep sea mining.)
4. How can the future mining fiscal regime be improved in its design and implementation?