FACTSHEET

TAX AND EXTRACTIVES

September 2016

AFRICA IS RICHLY ENDOWED WITH NATURAL RESOURCES. MINERAL, OIL AND GAS EXPLORATION AND PRODUCTION CONSTITUTE A KEY PART OF MANY AFRICAN ECONOMIES[1]. THE EXTRACTIVE INDUSTRY IS THEREFORE THE SECTOR THAT ENGAGES IN THE EXTRACTION OF MINERALS, OIL, GAS AND OTHER AGGREGATES FROM THE EARTH[2]. THE CONTINENT BOASTS SIGNIFICANT RESERVES OF BAUXITE, CHROMITE, COBALT, INDUSTRIAL DIAMOND, MANGANESE, PHOSPHATE ROCK, PLATINUM-GROUP METALS, SODA ASH, VERMICULITE AND ZIRCONIUM.

The extractive sector in Africa has the potential to generate a significant amount of much- needed tax revenues to finance the socio-economic development of resource rich countries on the continent. That said, the share of tax revenue from the sector remains below its potential. This is mainly attributable to weak fiscal regimes and public agencies governing the extractive sector; companies enjoying a wide range of unnecessary tax incentives;[3] and an extensive use of unethical tax avoidance, transfer pricing and anonymous company ownership schemes by Multinational Corporations (MNCs).

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AFRICA'S NATURAL RESOURCES

Diamond	Chromite	Gold	Uranium
57%	48%	19%	19%

Source: Economic Commission for Africa, 2010

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[1]Half of Africa's 54 economies are "fiscally dependent" on mineral, oil and gas resources. That is these governments depend on these resources for at least a fifth of their domestic revenue.
[2]UNCTAD, 2012
[3]These incentives range from tax breaks to stability clauses which ensures that companies enjoy these incentives over many years unchanged.

According to the Panama Papers released in April 2016 at least 37 offshore companies, are connected to 44 of Africa's 54 countries. The leaked files show these companies' operations, which have gone on to be named in legal proceedings or criticised by national or international agencies. More than 1,400 companies in the files of the offshore law firm Mossack Fonseca have names that indicate mining or natural resource extraction interests – raising fresh concerns about how tax havens could have been used to exploit the natural wealth of the African continent.

According to the African Union High Level Panel on Illicit Financial Flows from Africa , the extractives sector is the biggest perpetrator of the theft of Africa's financial resources through Illicit Financial Flows (IFFs). African countries lose an estimated US$50 billion revenue through IFFs each year .

To address these weaknesses, African governments have embraced several frameworks such as the Africa Mining Vision (AMV). The AMV is the continent's overriding framework for mining sector governance. The AMV's ultimate strategic goal is to use Africa's mineral resources to promote broad-based socio-economic development of the continent[6]. The principles espoused in the AMV are applicable in the oil and gas sectors as well. One of the pillars of the AMV is the Fiscal Regime and Revenue Management[7].

KEY TERMS TO KNOW

Africa Mining Vision (AMV

The Africa Mining Vision was adopted by African Union Heads of State at the February 2009 AU summit following the October 2008 meeting of African Ministers responsible for Mineral Resources Development. It is Africa's own response to tackling the paradox of great mineral wealth existing side-by-side with pervasive poverty. The AMV seeks to foster a "transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development." The AMV is thus an ambitious change-making process. The pathways to the implementation of the AMV require an analysis of the change process that the AMV aims to unleash.

Country Mining Vision

This is an individual country's blueprint based on the pillars of the AMV on how mining can contribute better to local development by making sure workers and communities see real benefits from large-scale industrial mining and that their environment is protected. Though they are country-specific, the CMVs' design should be based on the Africa Mining Vision as the all-Africa template for making sure that these nations are able to reap a fair share of the benefits of mining, oil and gas to improve the quality of life of their populations by domesticating the AMV at the national level.

African Minerals Development Centre (AMDC)

The African Union (AU) Heads of State and Government established the African Minerals Development Centre (AMDC) to provide strategic technical and operational support for the Vision and its Action Plan. The mission of the Centre is to work with Member States and their national and regional organisations to promote the transformative role of mineral resources in the development of the continent through increased economic and social linkages.

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[6] As the product of African inter-governmental process, it signals a concern by African states to submit to a collectively self-defined regime, rather than externally determined frameworks. Hence, the AMV's goal is to create a "transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development". The AMV, thus, signals a paradigm shift in the role of minerals in African economies. The Vision and its Action Plan embody key reform demands that CSOs and various social constituencies had been making in respect of the mining regimes prevailing across Africa and the overall direction of national development strategies.

[7] **The other clusters/work streams are:** Geological and mineral information systems; building human and institutional systems; artisanal and small-scale mining; mineral sector governance; research and development; linkages, investment and diversification; environment and social issues; and mobilising mining and infrastructure development.

Extractive Industries Transparency Initiative (EITI)
this is a global standard to promote the open and accountable management of natural resources. The standard requires information from the point of extraction, revenue to government and ultimately how it benefits citizens.[8]

International Council for Minerals and Metals
Is an international organisation dedicated to improving the social and environmental performance of the mining and metals industry.

Local Content
The value brought to the local, regional or national economy from an extraction project, this includes hiring local labour and procuring local goods and services from the host country.[9]

Free Prior Informed Consent (FPIC)
This represents the highest standard possible for the involvement of communities in decision making about large extractive projects. This entitles the community to determine the outcome of decisions that affect them especially on the protection of their economic, social and cultural rights, the extractives activities to be undertaken, setting the terms and conditions of the economic, social and environmental impacts of all phases of the project and are given the opportunity to approve (or reject) projects prior to the commencement of operations.

Production Sharing Contract
This is an agreement between the government and a private oil company, whereby the company explores and produces the oil, while the government receives a proportion of the oil produced after costs have been paid.

Upstream
A component of the oil and gas industry that includes exploration, development, production and decommissioning/closing down.

Midstream
The component in the oil and gas industry that includes transportation and storage.

Downstream
The component in the oil and gas industry that includes manufacturing of the products through oil refining, gas processing and petrochemical processes; this includes selling of the products to the market.[10]

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[8] https://eiti.org/about/who-we-are
[9] http://www.resourcegovernance.org/sites/default/files/nrgi_Local-Content.pdf
[10] Norwegian Church Aid, Act Alliance (2015). Local Communities in Kenya's Extractive Sector: From Paternalism to Partnership.

Mining Development Agreements

A contract that governs the relationship between the government and a licence holder for the exploration of a certain area of land for minerals or for the mining of minerals in a certain area in exchange for royalties, taxes and other obligations.

Sovereign Wealth Fund

This is a state owned investment fund that serves as a savings scheme for national development, stabilising the economy and for future generations.

Stabilisation Fund

This is a short to medium-term fund that smooths the volatility of short to medium-term swings in natural resource revenues thus insulating the national budget and economy.

Transfer pricing

This involves either the under or over-declaring of the price or true value of goods and services moved between subsidiaries of the same (multinational) company. For example, if a subsidiary company sells goods to a parent mining company, the cost of those goods paid by the parent to the subsidiary is the transfer price. Most times, extractive industry Multinational Corporations (MNCs) employ transfer (mis)pricing to understate their profits and thus their tax liabilities in the countries where they make their wealth.
As the international operations of MNCs grow in developing countries especially in Africa, the issue of effective transfer pricing regulation has become more pressing for them. Given the more limited skills and resources of such countries in the field of transfer pricing, it becomes increasingly important to consider to what extent international investment agreements including mining contracts can address this imbalance through, for example, increased transparency, information sharing, co-operation and technical assistance provisions, thereby ensuring that developing countries derive full benefits from Foreign Direct Investment (FDI) without exposure to a potentially harmful diversion of revenues through transfer pricing practices.

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TJN-A Seeks to Create Understanding and Debate, and to Promote Reform, Especially in Poorer Countries.

We seek to spearhead tax justice in Africa's development by enabling citizens and institutions to promote equitable tax systems through research, capacity-building and policy-influencing.