Attachment to Coordinator Paper: (3) Note on Selected Treaty Issues in Relation to the Extractive Industries[1]

Contents

Executive Summary/Purpose ... 2
Status of this Note ... 2
Terms Used ... 2
Background ... 3
Overview of the Extractive Industries Life-Cycle in Relation to Cross-Border Tax Issues ... 6
Personal Scope of Tax Treaties ... 9
Substantive Scope of Tax Treaties ... 10
- Profit taxes ... 10
- Bonuses ... 11
- Royalties ... 11
- Production Sharing Agreements ... 12

Territorial Scope of Tax Treaties ... 15
Business Profits and Permanent Establishment Issues ... 16
Taxation of Services ... 18
Income from Immovable Property ... 20
International Shipping/Air Transport ... 21
Associated Enterprises ... 21
Articles 10, 11, 12 – Dividends, Interest, Royalties ... 22
Capital Gains ... 22
Article 15 – Dependent Personal Services ... 23
Articles 16 and 19 – Director's Fees and Government Service ... 24
Article 21 – Other Income ... 24
Article 22 – Taxation of Capital ... 24
Article 23 – Elimination of Double Taxation ... 24
Article 24 – Non-Discrimination ... 25
For more information ... 26

[1] The first draft has been prepared by Tomas Balco with valuable contributions from Jan de Goede, Nana A. Okoh, Susana Bokobo Moiche, and Álvaro de Juan Ledesma as well as the UN Secretariat and other members of the Subcommittee for Extractive Industry Taxation Issues for Developing Countries. Ilka Ritter and Viktoria Wöhrer have contributed to the revision of the first draft.

Executive Summary/Purpose

The extractive industries play an important role in the process of sourcing natural resources which are critical for the development of many economies. Both developing and developed countries are actors in the process of natural resource extraction – both as host countries to the extractive activities and also as countries where the extractive industry companies have their head-offices, raise capital and make strategic decisions. Extractive activities often include a cross-border element due to global business models and integrated value chains. They are undertaken by investors, license holders, service providers and suppliers who are often not resident in the source country. In this context, a number of international tax issues arise.

This note reviews tax treaty articles which are potentially affected by economic activities of the extractive industries and highlights the issues that countries, especially developing countries, may wish to take into consideration in the process of designing their tax treaty policy, (re-)negotiating their existing tax treaties and in applying their respective tax treaties. Whereas this guidance note deals with tax treaty issues especially from the perspective of the UN Model Tax Convention, reference is also provided to the OECD Model Tax Convention where appropriate. In addition, some tax treaty provisions which depart from both the UN and the OECD Model and address specific problems related to the extractive industries are presented.

The issues raised in this note affect both the tax revenue of the jurisdictions involved and the tax position of companies involved in the extractive activities.

Status of this Note

This note is for guidance only. It is intended to address tax treaty issues in the extractive industries in brief form, to raise awareness of potential challenges as well as to aid those faced with these issues in a position to make policy and administration decisions. Some of the specific areas related to the application of tax treaties – for example, aspects on taxation of capital gains and permanent establishment issues – are to be further elaborated in separate guidance notes.

Terms Used

Consortium Joint venture arrangement of several investors, who may pool the capital and expertise to jointly exploit and share the risks connected to exploiting a particular extractive project.

Double tax treaty (DTT) An agreement negotiated by two (or more) countries to ensure the avoidance of double taxation.

License holder Person obtaining the license to explore and extract the natural resource from the state, often through a process of competitive bidding.

Operator The operator is the entity in charge of performing the actual extraction of the natural resources. It can be the license holder or one of the license holders, if the license was granted to a consortium.

Permanent Establishment (PE) Term used in double taxation agreements to refer to a situation where a non-resident entrepreneur is taxable in a country; that is, an enterprise in one country will

not be liable to the income tax of the other country unless it has a "permanent establishment" through which it conducts business in that other country. Even if it has a PE, the income to be taxed will generally only be to the extent that it is 'attributable' to the PE.

Production Sharing Agreement (PSA) Contract regulating relationships between the states and oil companies with regard to the exploration and production of hydrocarbons. The concession is assigned to the national oil company jointly with the foreign oil company which has exclusive right to perform exploration, development and production activities and can enter into agreements with other local or international entities.

Royalty In the extractive industries, the term 'royalty' refers to the obligatory payment made by the operator of the extraction project to the state as a compensation for the extraction rights. Royalties are generally calculated with reference to the type, quantity, quality and/or value of the extracted mineral resource as a percentage of the gross volume or value of the production (i.e., costs do not reduce the base), and are due once production commences. The term 'royalties' as defined under Article 12 UN Model has a different meaning and refers to the payment for the right to use property (in case of the UN Model both tangible and intangible).

Service Provider/Subcontractor A Service Provider/Subcontractor is a company or individual providing various types of services and other supplies in the framework of the extractive industries.

Treaty Shopping The practice of structuring an investment/business activity so as to take advantage of a particular tax treaty. The term is normally applied to a situation where a person not resident of either of the treaty countries establishes an entity in one of the treaty countries in order to obtain treaty benefits.

Background

Bilateral tax treaties play an important role in coordinating the rules of cross-border tax treatment and thus avoiding double taxation with the objective to eliminate obstacles to cross-border trade and investment. This reduces the risk of excessive tax costs on cross-border investments. Tax treaties allocate taxing rights to one of the Contracting States, and limit the other Contracting State in exercising its domestic tax laws to the extent provided for in the treaty. The restriction may either be of an absolute nature, i.e. the tax treaty allocates an exclusive taxing right to the resident state or to the source state, or of a relative nature in that the tax treaty limits the source state to tax certain income only at a maximum applicable rate of tax and requires the resident state to either exempt the income or to grant a tax credit Moreover, a tax treaty may also allocate non-exclusive unlimited taxing rights at source, for example for income from immovable property. Tax treaties limit the taxing rights of both the source and the resident state and may thus limit the abilities of the source state to collect the tax revenue of income earned/sourced with the jurisdiction and of the resident state to tax its residents on their worldwide income.

It needs to be stressed that tax treaties always operate in conjunction with domestic law. Tax treaties play an important coordination role between the tax systems of two[2] Contracting States. The domestic law establishes and determines the issues relevant for the existence of the tax liability, while the tax treaty may suppress (fully or partially) or confirm this tax liability. The general view is that tax treaties do not create a tax liability.[3] Therefore, where the domestic law fails to establish a tax liability, the tax treaty will not remedy this situation.

Tax treaties also provide for measures to assure administrative cooperation. Article 25 provides for a mutual agreement procedure to eliminate double taxation in situations where the competent authorities of two Contracting States have different interpretations of the tax treaty. If the taxation of one of the Contracting States is not in line with the tax treaty, the taxpayer may initiate a mutual agreement procedure to resolve the situation. Article 26 contains rules regarding the exchange of information. Article 27 (when used) provides for assistance in the collection of taxes.

The UN Model and the OECD Model are used by many states as a basis for their tax treaty negotiations and have therefore considerable influence on international tax law. Currently, both the UN Model (2011) and the OECD Model (2014) contain only very few provisions specifically addressing issues arising in the extractive industries. The general rules contained in the tax treaty are also applied to specific issues and situations arising in the extractive industries. Due to the special nature of the extraction of natural resources, several countries have however included specific provisions regarding extractive industries in their tax treaties. One common example is a specific 'Offshore Activities Article' in the Nordic Convention.[4] Some European States[5] have declared reservations to the OECD Model and inserted such Articles in their tax treaties.

[2] In rare instances, tax treaties may have a multilateral character – e.g. the Nordic Tax Treaty concluded between five Nordic countries (Norway, Iceland, Sweden, Denmark and Finland).
[3] Some countries – e.g. France and Australia follow the practice that tax treaties may establish a tax liability.
[4] See for example Article 21 of the Nordic Convention; Article 21 DTT Denmark – Latvia (1993). A special Article for the exploration and extraction of hydrocarbons can be found in the treaties of Argentina, Australia, Denmark, Greece, Malta, the Netherlands, the UK, Ireland, Latvia, Lithuania, Norway, Sweden, the UAE and the US.
[5] See reservations to the OECD Model of Denmark, Greece, the UK, Ireland, Latvia, Lithuania and Norway.

Example: Article 21 - Denmark – Latvia (1993) Income and Capital Tax Treaty

<u>Activities in connection with preliminary surveys, exploration or extraction of hydrocarbons</u>

1. Notwithstanding the provisions of Article 5 and Article 14, a person who is a resident of one of the Contracting States and carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons situated in the other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

2. Notwithstanding the provisions of paragraph 1, drilling rig activities carried on offshore shall constitute a permanent establishment only if the activities are carried on for a period or periods exceeding 365 days in aggregate in any 18-month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be regarded as carried on by the enterprise to which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

3. Notwithstanding the provisions of paragraph 1, profits derived by a resident of a Contracting State from the transportation by ship or aircraft of supplies or personnel to a location where offshore activities in connection with preliminary surveys, exploration or extraction of hydrocarbons are being carried on in the other Contracting State or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the first-mentioned State.

4. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of labour or personal services rendered aboard a ship or aircraft covered by paragraph 3 shall be taxed in accordance with paragraph 3 of Article 15.

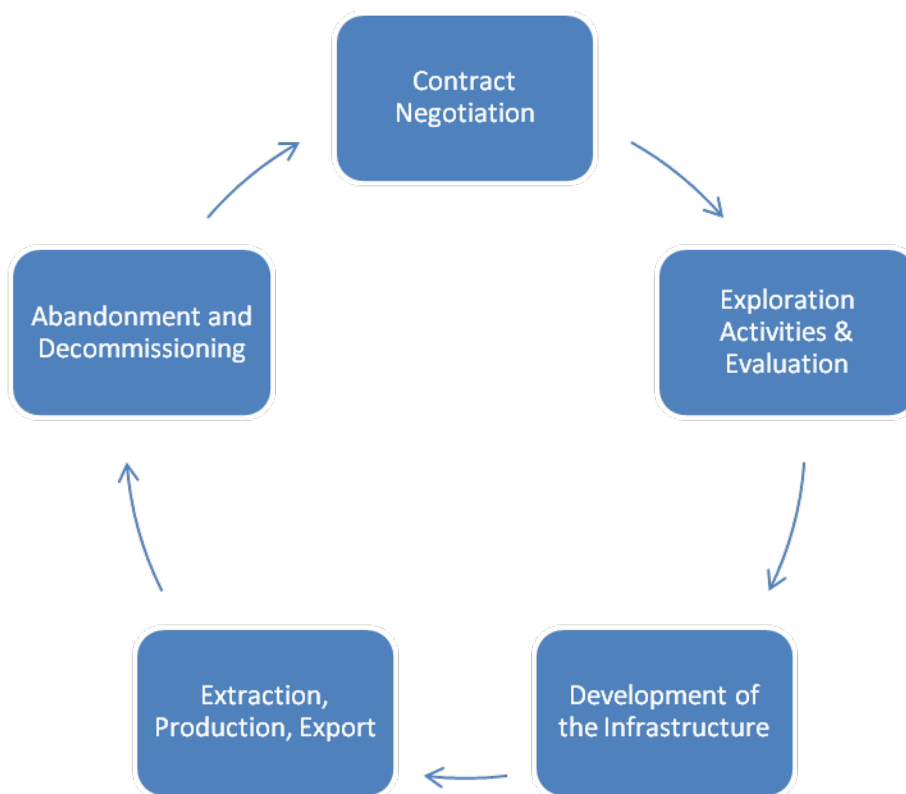
5. Notwithstanding the provisions of Article 13, a capital gain on drilling rigs used for activities mentioned in paragraph 2 which is deemed to be derived by a resident of a Contracting State when the rig activities cease to be subject to tax in the other Contracting State shall be exempt from tax in that other State. For the purpose of this paragraph, the term "capital gain" means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

Countries that neglect to pay special attention to the specific issues arising in the extractive industries when designing their domestic tax law and negotiating their tax treaties may potentially lose taxing rights in respect of income and capital raised by extractive activities taking place within their jurisdiction and thus may fail to obtain tax revenue which could otherwise be available for development activities. Furthermore, countries should be aware of possible situations where double taxation may arise and the economic consequences thereof.

Overview of the Extractive Industries Life-Cycle in Relation to Cross-Border Tax Issues

Extractive industry activities often take place over a long period of time. The different critical activities can be divided into five main stages: 1. Contract Negotiation; 2. Exploration Activities and Evaluation; 3. Development of the Infrastructure; 4. Extraction, Production and Export; and 5. Abandonment and Decommissioning. These stages could be further separated, for example the abandonment and decommissioning can be considered as two separate stages. Furthermore, the stages can overlap. While the exploration may be still ongoing, the development and even extraction can already take place at the same time. This lifecycle is illustrated in the below figure.

Figure 1: Lifecycle of an Extractive Industry Project



Different international tax issues arise in each of these stages. The following table summarizes the key activities alongside the key domestic and international tax considerations.

Table 1: Stages, Activities, Actors, Domestic Tax Issues and Potential International Tax Issues

Stages	Key Activities	Actors	Domestic Tax Issues	International Tax Issues
Contract Negotiation and Signature	Extractive companies (investors) may engage in competitive bidding or contract negotiation with the assistance of advisers and lawyers	Extractive Company (operator or license holder); consortium members; advisers, lawyers, financiers	Obligatory (tax) payments, such as signature bonus; payments to advisers and withholding tax consideration	Are signature bonus payments covered by the scope of DTT? Taxation of income to advisors? Is a DTT applicable?
Exploration Activities and Evaluation	Exploration activities in different form take place – geological studies, drilling, and seismic tests, sample taking and analyzes; evaluation of potential for further extraction	Extractive company; subcontractors specializing in the exploration activities (on-shore and off-shore); analysts	Obligatory (tax) payments, such as discovery bonus, payments to subcontractors and the relevant tax considerations (incl. withholding tax) Does the country exercise taxing rights over the territorial waters and exclusive economic zone?	Are discovery bonus payments coved by the scope of the DTT? Taxation of income to subcontractors? Existence of permanent establishment? Is the given off-shore area covered by the tax treaty?
Development of the Infrastructure	Development of extractive facility (mining pits, extraction wells) and supportive infrastructure including transportation (roads, railway, pipelines), accommodation and office units as well as ancillary infrastructure. Activities related to environmental and	Extractive company; subcontractors for construction, installation and drilling companies	Obligatory (tax) payments, such as development bonus (unusual); payments to subcontractors and the relevant tax considerations (withholding tax)	Are development bonus payments covered by the scope of DTT? Does the subcontractor have a PE?

	resettlement issues.			
Extraction, Production and Export	Extractive activities take place on a commercial scale. Resources are processed and/or sold/ transported/exported	Extraction Company Subcontractors for Processing, Transportation, other Services	Extraction taxes (royalties, share from PSA, hydrocarbon taxes, corporate income tax, hydrocarbon tax); export related taxes (excise, export customs duty, export rent taxes and other); payments to subcontractors and the relevant tax considerations (withholding tax); adjustments to prices for natural resources (transfer pricing); Tax implications of profit repatriation and payments to capital providers (rent and debt).	Are extraction type of taxes covered by the scope of the DTT? Does the subcontractor have a PE? Treatment of administrative adjustments of prices for natural resources (transfer pricing). Tax treaty implications of profit repatriation and payments to capital providers.
Abandonment and Decommissioning	Extractive activities are finalized and are replaced by decommissioning activities, clean-up of pollution and removal of infrastructure	Extraction Company; subcontractors specializing in decommissioning and environmental clean-up activities	Special decommissioning/rehabilitation allowance or reserve created during the life of the project – considerations of deductibility and subsequent taxation of excess reserve Payments to subcontractors and the relevant tax considerations (withholding tax)	Is the taxation of the excess decommissioning/rehabilitation allowance/reserve in accordance with the DTT? Does the subcontractor have a PE?

Personal Scope of Tax Treaties

The general principle of Article 1 is that tax treaties should apply only in respect of the persons (natural personals as well as legal persons, such as companies) that are residents of one or both of the Contracting States. Article 4 subsequently provides a definition of who is a resident of a Contracting State for treaty purposes and in doing so the Article refers to the domestic law of the Contracting States.

Many extractive projects may be organized in the form of incorporated, but also in the form of non-incorporated joint-ventures (also known as consortia). Incorporated joint-venture projects would be, in most cases, carried out through a separate legal entity, which is usually subject to tax in its country of residence. This should not cause special issues in respect of the tax treaty application, with the exception of treaty shopping, which is addressed below.

Non-incorporated joint ventures may, in particular, give rise to questions related to the application of tax treaties. Non-incorporated joint-ventures will operate not as one single legal entity, but as a contractual relation between several investors, where they jointly carry on the extractive activities and co-own both the assets and income arising from these activities. Consequently, they are also jointly liable for the costs related to the extraction project and potential liabilities. In such arrangements, one of the partners may be appointed as operator of the project, who will then be responsible for the accounting as well as operational aspects of the project; however, the tax liabilities are to be borne by each member of the consortium individually.

Such arrangements give rise to issues under domestic tax law and tax treaties. At the level of domestic law, issues of tax liability will be critical, i.e. whether the partners of the consortium are liable to tax in both the source state and the residence state. The consortium as such is generally not liable to tax. Under a tax treaty, one question will be whether the consortium will be entitled to benefits arising from the tax treaty (e.g. reduced rate of branch profit tax). Since non-incorporated joint-ventures are contractual arrangements of several investors, they can be regarded as a 'body of persons' for treaty purposes.[6] The investors may also come from different jurisdictions, which can further complicate the issues. However, the tax treaty may only apply to those partners of the joint venture who qualify as residents of the Contracting States. This may lead to further issues, especially where only some of the partners of the joint venture are residents of the Contracting States as in such a situation there may only be a proportional entitlement to benefits arising from the tax treaties.

Another potential issue in the extractive industries is the 'improper use' of tax treaties including treaty shopping practices. In this respect, neither the UN Model nor the OECD Model provides specific provisions, although the Commentaries to Article 1 explain how improper use of treaties may be combatted.[7]

[6] As stipulated in the UN Commentary to Article 3, citing the OECD Commentary, the term "person" should be interpreted very broadly.

[7] Addressed in the Commentary on Article 1 of both the UN Model and the OECD Model.

In light of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project,[8] it is likely that based on recommendations under Action 6, the Limitation of Benefits clause and/or a general anti-abuse rule based on the principal purposes of transactions or arrangements (the principal purposes test) will become more widely used to counter treaty shopping. It is also advisable that developing countries consider domestic law anti-avoidance measures, which, as established in both the UN and OECD Commentaries, are acceptable and can be applied alongside treaty based anti-avoidance measures at least when they meet certain criteria.

Furthermore, it is recommended that countries establish measures of an administrative nature to enable the tax authorities to pre-screen transactions prior to the application of tax treaties. While such measures may on the one hand work as a natural deterrent to some of the most frequent treaty abuse practices; on the other hand, such measures may also create compliance and administrative costs.

Substantive Scope of Tax Treaties

As was noted earlier, with respect to most types of income relevant for the extractive industries, tax treaties aim to eliminate double taxation by limiting or eliminating source state taxation. Where the source state retains the taxing right and levies tax on the income, treaties oblige the state of residence to eliminate double taxation through the granting of a credit or an exemption.

Many countries have developed special tax regimes regulating the tax and compliance obligations of companies engaged in extractive activities. As different special taxes can be found in the extractive industries, the question arises as to which of these special taxes are covered by the scope of tax treaties. These special tax systems can be designed in different ways and can use different instruments, the characteristics of which may determine whether the particular type of tax may be covered by the scope of the tax treaty.

Profit taxes

Some countries design their extractive taxation system using a profit tax as the main instrument, just as in other sectors. Some countries apply a higher than standard tax rate while others have separate income tax regimes addressing sector-specific issues. Alternatively, the countries use as a special progressive tax rate scale for highly profitable operations (excess profit tax or windfall tax).

[8] The BEPS project is undertaken by the OECD on behalf of the G20 and proposes 15 Actions that are intended to provide countries with domestic and international instruments that will better align taxing rights with economic activity.

Example: Norwegian Special Petroleum Tax

A special petroleum tax is levied on profits from petroleum production and pipeline transportation on the Norwegian Continental Shelf. The special petroleum tax is currently levied at a rate of 51 %. The special tax is applied to relevant income in addition to standard 27 % income tax, resulting in a 78 % marginal tax rate on income subject to petroleum tax. The basis for computing the special petroleum tax is the same as for income subject to ordinary corporate income tax, except that onshore losses are not deductible from the special petroleum tax and a tax-free allowance, or uplift, is granted at a rate of 5.5 % per year. The uplift is computed on the basis of the original capitalized cost of offshore production installations. The uplift may be deducted from taxable income for a period of four years, starting in the year in which the capital expenditure is incurred. Unused uplift may be carried forward indefinitely.

Those taxes levied on profits – such as corporate income tax, special surcharges on extractive companies, as well as excess profits taxes – are usually covered by the scope of Article 2. In order to avoid diverging interpretations by the competent authorities, the counties may seek to include special taxes applying to the extractive industries into the list of examples in Article 2 para 3.

Example – Article 1 of the Norway - United States Income and Capital Tax Treaty
(as amended through 1980)

The taxes which are the subject of this Convention are:

....

-in the case of Norway, the national and municipal taxes on income (including contributions to the tax equalization fund), and the special tax administered under section 5 of the Act of 13 June 1975, No. 35, relating to the taxation of submarine petroleum resources, as in effect on the date of signature of the Protocol to this Convention, and taxes substantially similar thereto enacted after such date.

Bonuses

Bonus payments have to be paid for obtaining the right to explore or extract the natural resources. Bonuses are one-off (or sometimes staged) payments which may be fixed, the result of a bid or negotiated, and are generally linked to particular early project events such as license awards or signature. They provide early revenue to the government and are easy to administer, and as such, can be attractive from a government or resource owner standpoint. From the investors' side, bonuses are often made in advance, potentially before knowledge of commerciality, and are unrelated to production and thus generally less attractive to investors. The bonuses are not levied with reference to profit, rather they are payments for obtaining the exploration and extraction rights and therefore they would not be normally considered to constitute tax on income or capital, which could be covered by the scope of the tax treaty.

Royalties

Royalties are the equivalent to the purchase price of the natural resource and entitle the extractive company to the ownership and subsequent sale of the natural resource. They are generally

calculated as a percentage of the gross volume or value of the production and are due once production commences. With the exception of some countries,[9] royalties are not levied with reference to profit and therefore they would not be considered to constitute tax on income or capital, which could be covered by the scope of the tax treaty.

Production Sharing Agreements

Production Sharing Arrangements generally provide a formula for sharing the production between the investor and the government. They are especially used in the oil and gas industry, but mining PSAs do exist as well. A certain percentage of production is allocated to cover the actual investment and production costs borne by the investor (called 'cost oil' in that industry), and the remaining amount is shared between the investors and the government (called 'profit oil'). Profit oil may be the only payment to the government and it can be made in cash or in kind. Alternatively, the investor's portion of the profit oil may also be subject to profit based taxes imposed. Profit taxes imposed on the profit oil will usually fall within the scope of the tax treaty. However, especially where the source state obtains a larger in-kind allocation in lieu of taxes on the investor's income, the treaty should clarify that this falls within the scope of the tax treaty.

In addition to the different types of special tax payments made by the extractive industries, there are the standard types of taxes that may relate to payments made to resident and non-resident employees, service providers or taxes applicable to profit distribution and other types of passive income. The type and nature of these traditional types of taxes rarely raises issues regarding the substantive scope of the tax treaty. In the following table, the different types of taxes and obligatory payments to Governments levied during the different stages in relation to extractive industry activities are listed with indication of whether or not these types of taxes are to be covered by the scope of tax treaties.

[9] South Africa determines the applicable royalty rate with reference to Earnings before Interest

Figure 3: Types of Taxes Levied at different stages of extractive project and the applicability of tax treaty:

Stages	**Type of Taxes and Obligatory Payments to Governments**	**Typical Characteristic**	**Covered by Scope of DTT**
Contract Negotiation and Signature	Signature Bonus	A payment in the form of % (e.g. 1% of expected value of natural resources) or a fixed amount	Usually not (unless the payment is designed in a way that it can be considered a tax on income credited against the CIT)
Exploration Activities & Evaluation	Exploration Bonus	Similar to Signature Bonus	Usually not
	Rent Payments	Payments for the use of land	Usually not
	Tax Levied on Employees	Income Taxes	Yes (taxpayer-individual)
	Tax Levied on Service Providers	Income Taxes	Yes (taxpayer-subcontractor)
Development of the Infrastructure	Bonuses and Rentals	Same as bonuses and rentals above	Same as bonuses and rentals above
	Taxes on Employees and Subcontractors	Same as taxes levied on employees and subcontractors above	Same as taxes levied on employees and subcontractors above
	Import Duties and Levies, VAT	Indirect Taxes and Levies	No
Extraction, Production,	Royalties	Payment on the volume or value of the	Usually not

Export		extracted resource	
	Bonuses and Rentals	Same as bonuses and rentals above	Same as bonuses and rentals above
	Production Sharing payments	% of production paid to state	Usually not, unless designed as a tax on income/ % of profit
	Profit Taxes and Excess Profit Tax	Tax on Income/Profit	Yes
	Export Duties and Export Levies	Tax on Value of Exported Resource	No
Abandonment and Decommissioning	Environmental Fees or Penalties	Fines or Penalties for Pollution	No
	Taxes on Employees and Subcontractors	Same as taxes levied on employees and subcontractors above	Same as taxes levied on employees and subcontractors above

If these special types of taxes are not covered by tax treaties (i.e. outside of their scope), the host states can still levy these taxes, but conversely, the other contracting states will have no treaty obligation to eliminate the potential double taxation by granting a credit or exemption. As no treaty limitations and obligations arise, this may lead to higher overall tax costs related to the particular investment and commercial activities. Therefore, many countries hosting extractive activities seek to design their tax systems in a way as to assure two objectives:

- the country establishes and retains the taxing rights in respect of these extractives and related activities;
- the taxes levied on the extractive activities can be credited in the investor's residence state.

In addition, the scope of the tax treaty is also relevant for Article 25 (Mutual Agreement Procedure), unless the scope of this article is extended to include additional taxes not covered by Article 2. Article 26 and 27 under the UN Model apply to taxes of every description, not only taxes covered under Article 2. Therefore the key question may often be whether the special levy is properly regarded as a tax for the purposes of the treaty.

Tax treaties usually cover taxes on income and on capital. Neither the UN Model nor the OECD Model contains special provisions to address which special taxes applicable to the extractive industries shall be covered by a tax treaty. However, country practices indicate that some countries seek to include taxes levied on extractive activities in the scope of their tax treaties as long as these taxes meet the character of taxes on income or capital. To assure this outcome, countries may consider designing the relevant taxes to assure the nature of these taxes meet the character of taxes on income or capital. It is also appropriate to address the issue during negotiations and to specifically state in the tax treaty that a special tax levied in the extractive industries is covered by the treaty. This will ensure a credit or exemption for such taxes.

In cases where special taxes in the extractive industries levied by the source state are covered by a tax treaty, the residence state has the obligation to apply Article 23 to eliminate double taxation. Some treaties specifically provide for special rules for the calculation of the maximum tax credit that the residence state has to provide.[10]

Territorial Scope of Tax Treaties

Neither the UN nor the OECD Model contains terms/definitions, which would specifically address issues of the extractive industries.

However, since many countries, in their practices, include the definition of 'Contracting States' in Article 3, this definition determines the geographic scope of the application of the tax treaty. Such definition may include notions of territory and territorial waters, which are usually automatically included in the notions of state territory, but may also be expressly extended to include the continental shelf and exclusive economic zones, within which the states may exercise taxing rights in accordance with international law.

[10] See for example Art. 23 Norway – United States DTT.

The question may arise, whether where such an extended definition (continental shelf and exclusive economic zone) is omitted, the taxes levied on the activities taking place within the jurisdiction of the Contracting State fall within the scope of the treaty and consequently if the country of source is potentially limited in the exercise of its taxing rights and the country of residence is obliged to eliminate potential double taxation.

In the case where the extended definition is not included in the treaty, one could conclude that the tax treaty does not apply to the taxes levied by the host state over such territories and no limitations of host state taxing rights arise, but equally no obligations to eliminate the double taxation arise for the state of residence. Therefore some states may deliberately omit the inclusion of such an extended definition.

Countries with extractive resources that are in the process of negotiating tax treaties may want to decide for or against including an extended definition of the territorial scope into their treaty, weighing the costs of potentially giving up source country taxing rights with clarity for both the tax administration and tax payers.

Business Profits and Permanent Establishment Issues

The profits from commercial activities will usually be covered by Article 7 – Business Profits, unless other articles apply to the specific type of income. Article 7 provides for exclusive taxing rights for the state of residence of the recipient of the income, unless the enterprise carries on business in the state of source and such activities are conducted through a permanent establishment. In such a case, profits from such activities, which are attributable to the permanent establishment, may be taxed in the country of source. If economic activities do not fall within the definition of what constitutes a permanent establishment, the profits from such activities may only be taxed in the country of residence. This general rule and principle may not be suitable for the policy objectives of some countries that host extractive activities and therefore they may include specific provisions into their bilateral tax treaties, which may further alter these default rules of Article 7 and Article 5 to address these specifics.

The provisions of Articles 7 and 5 will be relevant for different actors and players in the extractive industry sector. These provisions will be important for the investors and operators, who may operate in the host country without having established incorporated entity,[11] since existence of permanent establishment will determine, whether the country may levy tax on profits made by the investor, but these provisions will be also relevant for the various non-resident service providers and suppliers to this industry.

The term "permanent establishment" is an important threshold that is central to Article 7 and is defined in Article 5. However, it is also critical for the operation of other articles regulating the taxation of income such as dividends, interest, royalties, capital gains, income from employment as well as other income and capital. While this note addresses issues relevant for tax treaty

[11] Some countries may require that the investor to be incorporated within the country to obtain a license to explore or extract resources – e.g. Nigeria and Brazil.

negotiations, there is a specific Guidance Note that is being drafted to address the practical aspects of permanent establishment concept in relation to extractive industry.

"*The term 'permanent establishment' means a fixed place of business through which the business of the enterprise is wholly or partly carried on*" (Art. 5(1) UN Model). The condition that the place of business, or the use of it, has to be 'permanent' is explained in the OECD Commentary (cited in the UN Commentary) in the sense that a PE can be deemed to exist only if the place of business has a certain degree of permanency (i.e. if it is not of a purely temporary nature). A place of business may, however, constitute a PE even though it exists, in practice, only for a very short period of time because the nature of the business is such that it will only be carried out for that short period of time. It is sometimes difficult to determine whether this is the case.[12]

In addition, Art. 5(2) list specific operations that prima facie constitute a PE. It especially includes "*a place of management, a branch, an office, a factory, a workshop, and a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.*" The OECD Commentary to this paragraph (also cited in the UN Commentary) states that "*the term 'any other place of extraction of natural resources' should be interpreted broadly*" to include all places of extraction of hydrocarbons whether on or offshore. This is the only specific provision specifically addressing the extractive industry activities and the illustrative example indicates that **extractive activities** carried out by non-resident investors and subcontractors will usually constitute a PE in the source country. Thus the income derived and capital owned in respect of operating a mine, oil or gas well as well as any other place of extraction of natural resources by the non-resident enterprise may be subject to tax in the country of source (location of the natural resource).

The model provision, however, addresses only the extraction activities and does not address the issue of **exploration activities**. The OECD Commentary, which is also quoted in the UN Commentary offers in this regard several policy options to be addressed in bilateral negotiation:

"15. The Contracting States may agree, for instance, that an enterprise of a Contracting State, as regards its activities of exploration of natural resources in a place or area in the other Contracting State:

a) shall be deemed not to have a permanent establishment in that other State; or

b) shall be deemed to carry on such activities through a permanent establishment in that other State; or

c) shall be deemed to carry on such activities through a permanent establishment in that other State if such activities last longer than a specified period of time.

The Contracting States may moreover agree to submit the income from such activities to any other rule."[13]

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[12] See UN Model Double Taxation Convention (2011): Commentary on Article 5 para. 3.
[13] Such an extraction provision can be found for example in Art. 5(8) Canada – Papua New Guinea tax treaty, where activities in connection with exploration or exploitation of natural resources that in total last more than 30 days during a 12-month period will be deemed to constitute a PE.

Accordingly, some countries exercise this policy option and include exploration activities in Art. 5(2) of their tax treaties.[14] Without providing any further rules, the general provisions of permanent establishment definition (Article 5(1) will apply to such exploration activities.

Alternatively, a treaty could provide for exploration to be a PE in a separate provision.[15] Such a provision may either provide that the exploration activities (onshore or offshore) deem to constitute a permanent establishment irrespective of the duration of activities. Other countries will include provisions with a specific time threshold[16] – e.g. 30 day rule, based on which the exploration activities deem to constitute permanent establishment if they continue for more than 30 days.

Both the UN and the OECD Model also have a provision dealing with **construction sites**. In this respect, the two models however differ from each other. Whereas Article 5(3) of the OECD Model states that "*a building site or construction or installation project constitutes a permanent establishment if it lasts more than twelve months*", the UN Model gives the host country broader taxing rights by providing for a six-month duration test for building and construction PEs and expressly includes supervisory activities. This may be especially relevant in the extractive industries, since significant construction and installation of infrastructure takes place in the development stage. In the oil and gas industry it is commonly understood that the well is being constructed, since it requires significant other construction activities beyond the mere drilling activity, including concrete works, welding, cementing, etc.

Furthermore, some countries also deem a PE where 'substantial equipment' is used 'by, for or under contract' with the taxpayer.[17] Where countries introduce such provisions, interpretation issues may arise in respect to the term 'substantial' equipment.[18]

Taxation of Services

As was noted above, significant part of the activities related to exploration, development of deposits and extraction activities are performed by various service providers and suppliers. The services carried out may encompass the drilling of wells (directional drilling, tubular running, cementing, etc.), logistics (communication, helicopter, logistic base, etc.), construction work, including maintenance and repair work, preventive maintenance, engineering and consultancy services, catering, supply and hotel services. This naturally leads to questions, such as to what extent can the profits earned by the service providers and subcontractors be taxed by the source state, where these activities take place.

The host country is usually only allowed to tax a service fee paid to a subcontractor under the applicable tax treaty if (i) the non-resident subcontractor has a permanent establishment in the host country; and (ii) the service fee is attributable to the permanent establishment.

[14] This can for example be found in Art. 5(2)(f) Canada - Kazakhstan tax treaty dated 25 September 1996.
[15] This can for example be found in Art. 5(3)(3) Australia - China tax treaty.
[16] See for example Article 21 of the Nordic Convention.
[17] See DTT of Australia, Ghana and other mining countries; for example Art. 4 (3) b Australia – Singapore DTT; Art. 5 (3) c Australia – Switzerland DTT.
[18] See Australian Taxation Office, ATO Interpretative Decision 2006/306.

In this respect, the UN Model contains special provisions, which are designed to provide the country of source extended taxing rights as compared to the OECD Model. Specifically, under the UN Model a PE also encompasses a situation where services are furnished in the country, including consultancy services, by enterprises through employees or others for more than 183 days within any twelve-month period (Art. 5(3) UN Model). This provision thus permits the country of source to levy taxes on business profits of enterprises without a fixed place of business in the source country, in case their activities in the source country exceed the 183 days threshold. As this threshold may still be high for certain activities, especially in the extractive sector, a number of countries introduced a lower threshold for exploration activities as mentioned above. This means that also those activities, which would escape the Service PE, would be considered to constitute a PE if such a special provision is included.

'Independent' agents may also constitute a PE when the activities of such an agent are devoted wholly or almost wholly on behalf of the enterprise, and are not dealing at an arm's length basis with the enterprise (Art. 5(7) UN Model).

By including these UN Model provisions, countries significantly increase their right to levy tax on services provided in their territory.

Since there may be also significant amounts of profits earned by non-residents who do not have a significant presence in the country, have a high degree of mobility, or provide part or all of the services from outside the host jurisdiction, some host countries are increasingly applying a final withholding tax to service fees paid to non-residents without a taxable presence in the jurisdiction. The withholding tax may apply to independent services in general or be limited to the provision of 'technical services'. On the one hand, final withholding on service fees offers some protection to the host country revenue against base erosion that may otherwise arise when service fees are paid to non-residents. [19] On the other hand, the gross income taxation may mean that the tax costs may increase the net profit (where the profit margin is lower than the rate of the withholding tax) and thus can increase costs for the investors, because many of the service providers may insist that the cost of services should be increased to reflect these tax costs. Furthermore, in the state of residence no double tax relief may be granted for most of the withholding tax, since the tax liability exceeds the tax liability on the net income. However, some countries may provide the tax relief in any event. [20]

A host country wishing to maintain a withholding tax on fees for technical services may want to preserve its taxing right in its tax treaties. In cases where the host country wants to prevent treaty shopping by the subcontractor an effective way would be to include a rule in the income tax legislation that generally confines the benefits of a tax treaty to genuine residents of the other Contracting State.

Furthermore, in order to retain the taxing right also in non-abusive situations, the host country may negotiate specific provisions in its tax treaties. For the treatment of services under tax treaties it is

[19] See L. Burns, Income Taxation through the Life Cycle of an Extractive Industries Project, 20 Asia-Pacific Tax Bulletin 6, p. 410 (2014).

[20] Many countries also grant a credit for taxes paid on gross income, see e.g. for the US Sec. 903 IRC and for Germany Sec. 34c ITA.

important that the UN Model maintains Article 14 dealing with independent personal services. Accordingly, the host country is allowed to tax such income when a fixed base is available or if the stay is for a period or periods amounting to or exceeding in the aggregate 183 days in any 12-month period in addition to the taxation of business profits in case there is a PE in the host country. This threshold criterion thus raises similar issues like the threshold criterion of permanent establishment and countries may wish to consider whether similar considerations in respect of specific types of permanent establishment, including the reduced time periods relevant for exploration/extraction activities shall be introduced and applicable under Article 14.

Some countries include in their tax treaties special provisions covering income from "Technical Services", which permits the country of source to levy tax on income derived by non-residents even if the time/location threshold is not exceeded (i.e. even when the PE/fixed base test is not met). Moreover, the UN Tax Committee has decided to add a new Article to the UN Model dealing with 'fees for technical services'.[21] This proposed article will allow the host country to tax 'technical services' up to a certain percentage of the gross amount even if the non-resident subcontractor does not have a PE in the host state. This type of provision significantly extends the taxing rights of the country of source as compared to other treaties and permits the country to levy tax on the services derived by contractors and subcontractors in respect of the services, which may be provided in the process of exploration activities, consulting or other specialized services.

Income from Immovable Property

Article 6 allocates the right to tax income from immovable property to the state where the property is situated. Both the UN Model and the OECD Model state in Article 6(2) that the term 'immovable property' shall have the meaning that it has under the domestic law of the state where the property is situated. "Rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources" shall in any case be considered as 'immovable property'. 'Working a resource' means removing the natural resources from the landed property.[22] Income from exploitation of natural resources is therefore in general taxable in the state where they are extracted.

In some treaties a specific provision is included, often in a Protocol, clarifying that exploration and exploitation licenses relating to natural resources shall be regarded as immovable property situated in the state to which they appertain (sometimes also deeming such licenses to pertain to a PE situated in that state).[23] This means that the income derived by non-resident from the operations related to immovable property (including extractive activities) is subject to taxation in the country of source (location of the extractive activities) irrespective of whether the activities may constitute a

[21] UN Committee of Experts on International Cooperation in Tax Matters, 10th Session, Taxation of services (various articles), UN Doc E/2014/45-E/C.18/2014/6 (27-31 October 2014), para. 74ff.

[22] Reimer in Reimer & Rust (eds), *Klaus Vogel on Double Taxation Conventions*, 4th edn (2015) Article 6 at m.no. 131.

[23] This can for example be found in the Protocol to the Croatia – Netherlands tax treaty dated 23 May 2000.

permanent establishment or not.[24] This also has relevance for the ability of the host country to tax the capital gains from sale of such licenses.

International Shipping/Air Transport

While Article 8 takes away the taxing rights from the country of source, considerations in the treaty negotiation may be dedicated to the operation of tug boats and similar transport vehicles in the territorial waters and continental shelf – to exclude them from the possible scope of this article.

It should be borne in mind that if the scope of the state has been extended to the continental shelf any movements of boats etc. between onshore/harbour and a point on the continental shelf of the same state automatically falls outside the scope of Article 8 and the rules related to international traffic do not apply in respect of such activities.

Example: Article 6 paragraph 2 – Singapore- UK Tax Treaty

The term "international traffic" means all movements by a ship or aircraft operated by an enterprise of one of the Contracting States, **other than movements solely between places in the other Contracting State or solely between such places and one or more structures used for the exploration or extraction of natural resources situated in waters adjacent to the territorial waters of that other Contracting State.**

Countries may also want to ensure that they are not to accidentally including other means of transport in the scope of this article, as they may lose the taxing rights over different transport operators involved in the transport of natural resources, possibly giving up the right to tax significant profits that may arise from transporting natural resources.

Associated Enterprises

While Article 9 foresees primary and corresponding adjustments in the situations where transfer prices depart from the arm's length price, considerations could be given to situations, where the countries operate regulations that require that the transfer price should not depart from a certain price set by regulatory bodies.

Such benchmark or reference prices are used by different countries in respect of hydro-carbons and minerals and since discussion may arise whether these benchmark prices are an arm's length price, one could consider whether this specific aspect should be mentioned either in the wording of Article 9 or should be provided as clarification to Article 9 in the protocol to the treaty.

Further work will be undertaken in the future to address the specifics of transfer pricing in the extractive industries.

[24] Article 6 paragraph 3 establishes that the provisions of Article 6 apply irrespective of the provisions of Article 7.

Articles 10, 11, 12 – Dividends, Interest, Royalties

These articles may not raise specific issues related to the extractive activities; nevertheless, they may still raise issues pertinent to developing countries and tax base erosion.

There is a specific difference between the UN and OECD Models in Article 12 - Royalties, where the OECD Model allocates the exclusive taxing right to the country of residence, while the UN Model allocates the right to tax royalty to the country of source with a limited tax rate. In addition, the definition of Royalty in Article 12, paragraph 3 of the UN Model extends the definition to include payments for the use of scientific, commercial and industrial equipment – thus permitting the country of source to levy tax on both – payments for the use of intangible property and the payments for the use of tangible property (including rental payment for the specific equipment used in the exploration, drilling, mining and other activities).

Capital Gains

Capital gains from the sale of license or similar rights to extract the natural resources as well as the sale of shares of companies who possess such rights may present a significant tax revenue potential on the one side as well as challenge for the extractive companies, since significant tax costs can be involved. Since this topic deserves detailed policy analyses, this note limits itself to some general observations and a separate Guidance Note is available that addresses this topic in detail.

Article 13 generally mirrors the principles for allocation of taxing rights for particular types of income and allocates the right to tax gains from the alienation of assets to the country which had the right to tax income generated by these assets. Gains from the sale of the mineral resources extracted from or exploited in one Contracting State are therefore generally taxable in that state. Some countries have extended the taxation right for the situs state to also include maritime mineral deposits and assets in connection with the exploration and/or exploitation of such mineral resources offshore. Often, such provisions are found in a separate article for the exploration and exploitation of hydrocarbon resources. For example, Article 21(9) of the Nordic Convention allocates the right to tax gains from the alienation of the right to survey and explore or exploit hydrocarbon deposits, including a right to a share in or profits from such deposits to the situs state.

In most cases of a direct transfer of a mining or petroleum right the source country would be allowed to tax the income from sale as gains from immovable property under the applicable tax treaty (assuming the license is considered immovable property). It is however a common form of tax planning for non-residents to invest through a multi-tier non-resident corporate structure so as to facilitate a possible tax-free exit from the investment. Instead of directly selling a mine, a non-resident could avoid capital gains taxation by an offshore sale several companies up the line. Some countries therefore extend the definition of immovable property in Article 6 to include shares in companies deriving their value from immovable property.[25] Consequently, Article 13(1) allows them to tax both the direct transfer of extraction/exploration rights and the indirect transfer of such rights via the sale of shares of companies, which possess such rights, if the natural resources are located in their country.

[25] For example, France.

In this regard, it is also appropriate to highlight the existence of Article 13(5) of the UN Model, which permits the country of source to tax the income from capital gains also where the property does not derive more the 50 per cent value from the immovable property. The provision however applies only in direct transfers of shares, so it may not be effective in the indirect transfer of shares situations.

In case Article 6 does not include shares in companies deriving their value from immovable property, the same result can be achieved by Article 13(4) of the UN Model. It allocates the right to tax indirect transfers of immovable property to the source country where the immovable property is located. This rule applies, however, only when the value of the entity is derived 'principally' from interests in immovable property in the jurisdiction. If the 50 per cent threshold is satisfied, then the whole gain is taxable. If a company is sold that holds interests in mining or petroleum rights in different countries, the arrangement could be structured in a way that the threshold is not satisfied in relation to any country. Even if in such a case the gains of alienation of shares consist only of mining rights, none of the source countries might be allowed to impose a tax because the 50 per cent-threshold must be fulfilled in respect to one single country. The impact of such tax planning can be limited by implementing a lower threshold.

Where the taxation of capital gains takes place from such indirect transfers of shares, it is appropriate to assure that the potential double taxation is relieved. This can take place through cost recovery methods or through measures in the country of residence of the seller.

In this respect, it is important to point out the current limitation in the wording of the UN Model, which limits the country of source to levy tax on such transfers, where the company is carrying on active business. In particular, Article 13(4) states that "*Nothing contained in this paragraph shall apply to a company, partnership, trust or estate, other than a company, partnership, trust or estate engaged in the business of management of immovable properties, the property of which consists directly or indirectly principally of immovable property used by such company, partnership, trust or estate in its business activities.*" This limitation may prevent the source state to levy a tax on capital gains from the transfers of shares of extractive companies. The issue of the operation of Article 13(4) is considered in detail in a separate Guidance Note on capital gains taxation in the extractive industries.

Article 15 – Dependent Personal Services

The provisions of Article 15 provides an exclusive taxing right to the country of residence of the employee, with exceptions when the employee exercises the employment in the country of source and some of the conditions in Article 15 paragraph 2 are not met (the employee is present for more than 183 days in the country of source, or the salary is paid by an employer who is resident in the country of source, or the salary is born by the PE of the employer in the country of source). This also means that where the shorter time threshold – e.g. 30 days applies to certain activities – such as explorations, the salaries of staff carrying out these activities (connected to the PE) become also taxable in the state of source.

Assuming the PE definition in Article 5 takes into considerations the specifics of extractive industries (such as short term activities of various service providers), the provisions of Article 15 will automatically reflect the adjustments made by the definitions in Article 5 – especially, where the PE

is deemed immediately or after a short period of time (e.g. after 30 days) and thus no further changes are required to the tax treaty provisions. The host country will be able to tax the salaries of the personnel engaged in providing the services and activities, where these activities constitute a PE including the deemed PE as a result of specific activities related to the extractive industry.

Articles 16 and 19 – Director's Fees and Government Service

In respect of Article 16 – Director's Fees, it is advisable to follow the UN Model, which extends the application of this article also to the top management of companies.

One specific issue that may arise in respect of Article 19 – Government Services is a situation, when the Contracting States established a national oil and gas or mining company. In this case, the activities of the Contracting State should be considered as those mentioned in Article 19 paragraph 3 and the provisions of Article 19 paragraph 1 and 2 should thus not apply in respect of the remuneration received by the employees of these state companies.

Article 21 – Other Income

The UN and OECD Model differ in respect of the allocation of taxing rights of other income. The types of income that is not covered specifically in other provisions of the tax treaty should be subject to tax in the country of residence (according to the OECD Model)[26] and in the country of source (according to the UN Model), when the income is paid from the country of residence.

Many countries prefer to follow the UN Model version of Article 21, as situations may arise in which certain payments related to the extractive industries may fall in the category of Article 21 on other income (e.g. various compensation payments, payments from insurance compensations, arbitration awards, etc. – assuming a tax on these payments would fall under Article 2).

Article 22 – Taxation of Capital

While Articles 6 to 21 of the UN Model and the OECD Model deal with the taxation of cross-border income of a recurrent nature, Article 22 of both Models govern the taxation of capital in cross-border cases. In substance, Article 22 mirrors the treatment and definitions in the allocation rules on corresponding items of income. It thus refers to the definition of immovable property in Article 6, the PE definition in Article 5 and the scope of Article 8 – Shipping and Air Transport. The meaning of the single terms used in Article 22 is identical to the meaning of the same terms in the other treaty articles.

Article 23 – Elimination of Double Taxation

As was noted earlier, the elimination of double taxation through the methods of credit and exemption play an important role also in the extractive industries.

[26] With the exception of cases, when this other income is attributable to the permanent establishment.

The specific issue related to the extractive industries would be the obligation of the country of residence to eliminate double taxation, where the country of source was entitled to levy tax on income or capital. Specifically, the question will arise, whether the specific types of taxes levied on the extractive activities fall within the scope of the tax treaty, in accordance to Article 2 and whether the country of residence has to provide credit in respect of the particular type of tax. Countries of residence may seek to limit the maximum credit available as can be demonstrated from the example below.

Example: Article 23 of Norway – USA Tax Treaty

Article 23
Relief from double taxation
....
The appropriate amount allowed as a credit by the United States shall be based upon the amount of income taxes paid or accrued to Norway. However, the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. In addition, in the case of income taxes paid or accrued to Norway by persons subject to the special tax referred to in subparagraph 2(a)(ii) of Article 1 (Taxes covered), or to a substantially similar tax, the appropriate amount allowed as a credit by the United States shall be limited to the amount of income taxes paid or accrued to Norway attributable to Norwegian source taxable income in the following way:

(i) with respect to income taxes paid or accrued to Norway on oil and gas extraction income from oil or gas wells in Norway, the amount to be allowed as a credit for a taxable year shall not exceed the product of:
  (a) the maximum statutory United States tax rate applicable to a corporation for such taxable year, and
  (b) the amount of such income;

(ii) further, the lesser of:
  (a) the amount of taxes paid or accrued to Norway on oil and gas extraction income from oil or gas wells in Norway that is not allowable as a credit under subparagraph (i), or
  (b) two percent of such income for the taxable year

  shall be deemed to be income taxes paid or accrued in the two preceding or five succeeding taxable years, to the extent not deemed paid or accrued in a prior taxable year, and shall be allowable as a credit in the year in which it is deemed paid or accrued subject to the limitation in subparagraph (i);

(iii) the provisions of subparagraphs (i) and (ii) shall apply separately, in the same way (but with the deletion, in the case of subparagraph (ii), of the words "the lesser of (a)" and "or (b) two percent of such income for the taxable year") to the amount of income taxes paid or accrued to Norway on:
  (a) Norwegian source oil related income not described in subparagraph (i); and
  (b) other Norwegian source income.

Article 24 – Non-Discrimination

Tax treaties contain the principle of non-discrimination. This principle is also relevant for the extractive industries, since it prohibits different and less favourable treatment in respect of taxation of permanent establishments – Article 24 (3) and discriminatory treatment in deductibility of certain expenses – Article 24 (4).Situations which may give rise to discrimination considerations include those cases in which the host country levies a higher tax rate on operators of the extractive

industries. However, if this higher tax rates apply irrespective of the residence of the investor or the head office of the extractive company, they are not to be considered as discriminatory.

Similarly, where the host country levies a special branch profit tax, the issue may arise, whether this branch profit tax is in accordance with a tax treaty. The country practices indicate that many countries chose to clarify these issues in Article 24(3), through a special provision inserted in Article 10 (Dividends) or in the protocols to the tax treaties.

Situations, where the host country opts for indirectly taxing the non-resident subcontractor by denying a deduction for the payment of the fee at the level of the payer may be also considered discriminatory if similar payments made to resident recipients are deductible.

For more information…

E. Reimer & A. Rust, Klaus Vogel on Double Taxation Conventions

C. Brown, Permanent Establishments and the Mining Industry – A Roadmap to the Taxation of Resource-Based Activities under Tax Treaties, 18 Asia-Pacific Tax Bulletin 1, p. 5 (2012)

See L. Burns, Income Taxation through the Life Cycle of an Extractive Industries Project, 20 Asia-Pacific Tax Bulletin 6, p. 410 (2014)

IMF, The Taxation of Petroleum and Minerals: principles, problems and practice, edited by Philip Daniel, Michael Keen and Charles McPherson (2010)