Transfer Pricing and Extractives

- Mandate: To develop a note containing and analyzing some examples on transfer pricing issues in extractive industries, both relating to production of oil and natural gas and relating to mining and minerals extraction

- Deliverable: Guidance note on Transfer Pricing Issues in Extractive Industries

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Guidance Note - Layout

1. Introduction
2. Table identifying transfer pricing issues that may arise in the extractives industry according to (major) consecutive stages of the extractive industry value chain
3. Value Chain of Mining and Minerals Extraction
4. Value Chain of Production of Oil and Natural Gas

Guidance Note - Layout

Table 1 lists the respective phases and common transfer pricing issues that arise during those phases:

① Negotiation & Bidding;
② Prospecting & Exploration;
③ Development;
④ Production (up to concentrate level);
⑤ Processing (Refining & Smelting);
⑥ Sales & Marketing;
⑦ Decommissioning

Guidance Note - Layout

Format of Table 1

A: Negotiation and Bidding	Industry	Why is it an issue?	How to deal with this?
1. Acquisition of data from related parties	Mining Oil and Gas	Where the geological data is acquired from a related party, there is risk of overstatement of the acquisition cost (for deduction or depreciation).	Use traditional TP methods – CUP or Cost plus to assure reasonability of the transfer price. However, comparability may be a real issue. It should be noted that the transfer of (geological) data might occur directly or indirectly by transferring the shares in the entity holding the data.

Guidance Note - Layout

The chapter on Value Chain of Mining and Minerals Extraction lists the functions performed, assets used and risks taxpayers are exposed to in this industry, plus common transfer pricing issues with 8 practical examples originating from actual experience:

- Example 1: Export of low value minerals to an intermediary distribution company
- Example 2: Coal Group marketing activities
- Example 3: Price fluctuations and intermediary sales of Uranium
- Example 4: Market off-taker function
- Example 5: Buying and Selling of Iron
- Example 6: Intercompany financing
- Example 7: Copper JV
- Example 8: Sale and leaseback of equipment

Guidance Note - Layout

The chapter on the Value Chain of Production of Oil And Natural Gas identifies:

- The upstream, midstream and downstream business;
- Industry-specific issues such as

    The use of a Central Operating Model;

    Financing Cost;

    Intra-Group Guarantees;

    The use of Cost Sharing;

    The Challenge of Group Synergies;

    The Industry Practice of Charging at Cost; and

    The Issue of Ring Fencing

Guidance Note - Layout

The chapter on Value Chain of Production of Oil and natural Gas also lists 8 practical Examples originating from actual experience.

- Example 1: Oil acquired from related companies
- Example 2: Structure and operations of a company in the Petroleum Industry, which could lead to practical transfer pricing issues
- Example 3: Market volatility issues
- Example 4: Financing Costs
- Example 5: Horizontal Ring Fencing
- Example 6: Cost Sharing Agreement
- Example 7: Intercompany charges at Cost
- Example 8: Parent company guarantees

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