

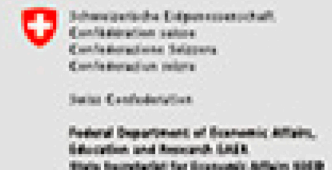
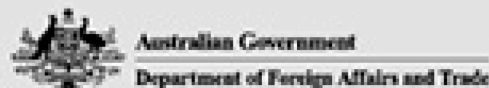
FISCAL MANAGEMENT OF MINING AND PETROLEUM IN WEST AFRICA

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Revenue Administration for Extractive Industries: Common Challenges

Scott Shelton/ Robert Veltri
Fiscal Affairs Department



Synopsis of the presentation

Administration of the extractive sector

Risk evaluation

- Know and understand the tax base

Compliance management

- Multiple mitigation strategies

Information and coordination

- Participation of multiple departments and government agencies
- Compilation of domestic and international documentation

Specific skills needed

- Due to the characteristics of the industry and tax regimes, specific skills are necessary.

Transparency

- Extractive Industry Transparency Initiative (EITI)

Categories of Compliance Risks

Risks are created by the:

- Characteristics of the industry
- Nature of Fiscal Regimes
- Structure of Fiscal Regulation

Nature of the Industry

- Multinational in nature
- Capital Intensive and High Risk
- Price and Currency Volatility
- Non Renewability
- Long development and operating periods
- High levels of exports and imports
- Poor governance
- State control and ownership

Nature of the industry

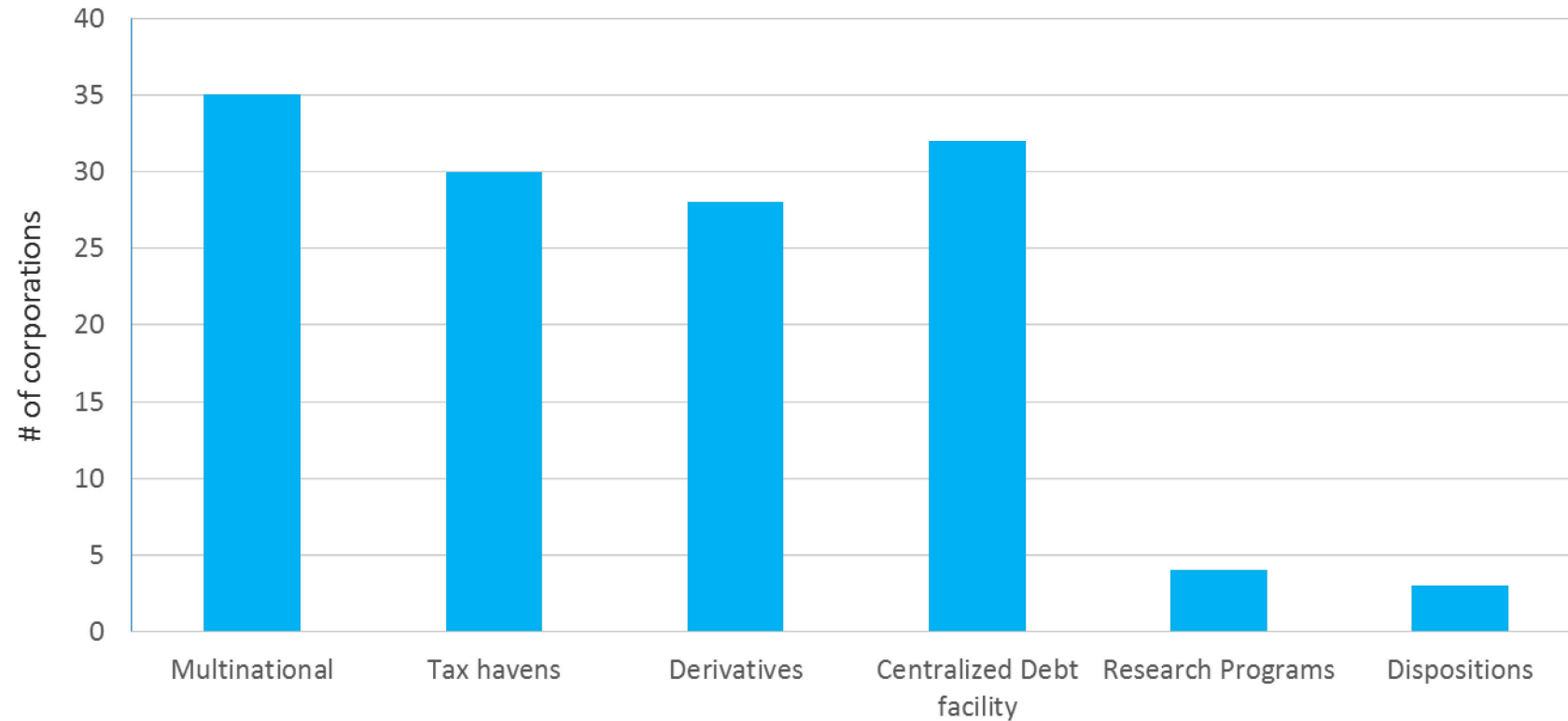
- Artisanal mining

Large sectors of artisanal mining in some countries, formed by mining companies and individuals with and without licenses. They normally operate outside the regulatory regulations of the countries and have little understanding of the regulatory framework. This can represent a significant portion of the economy that operates outside the tax system.

Risk evaluation

Nature of the Sub-Saharan EI Sector

Attributes of Extractive Sector Corporations
(35 corporations analyzed)



Summary of Risks Introduced by the Characteristics of the Industry

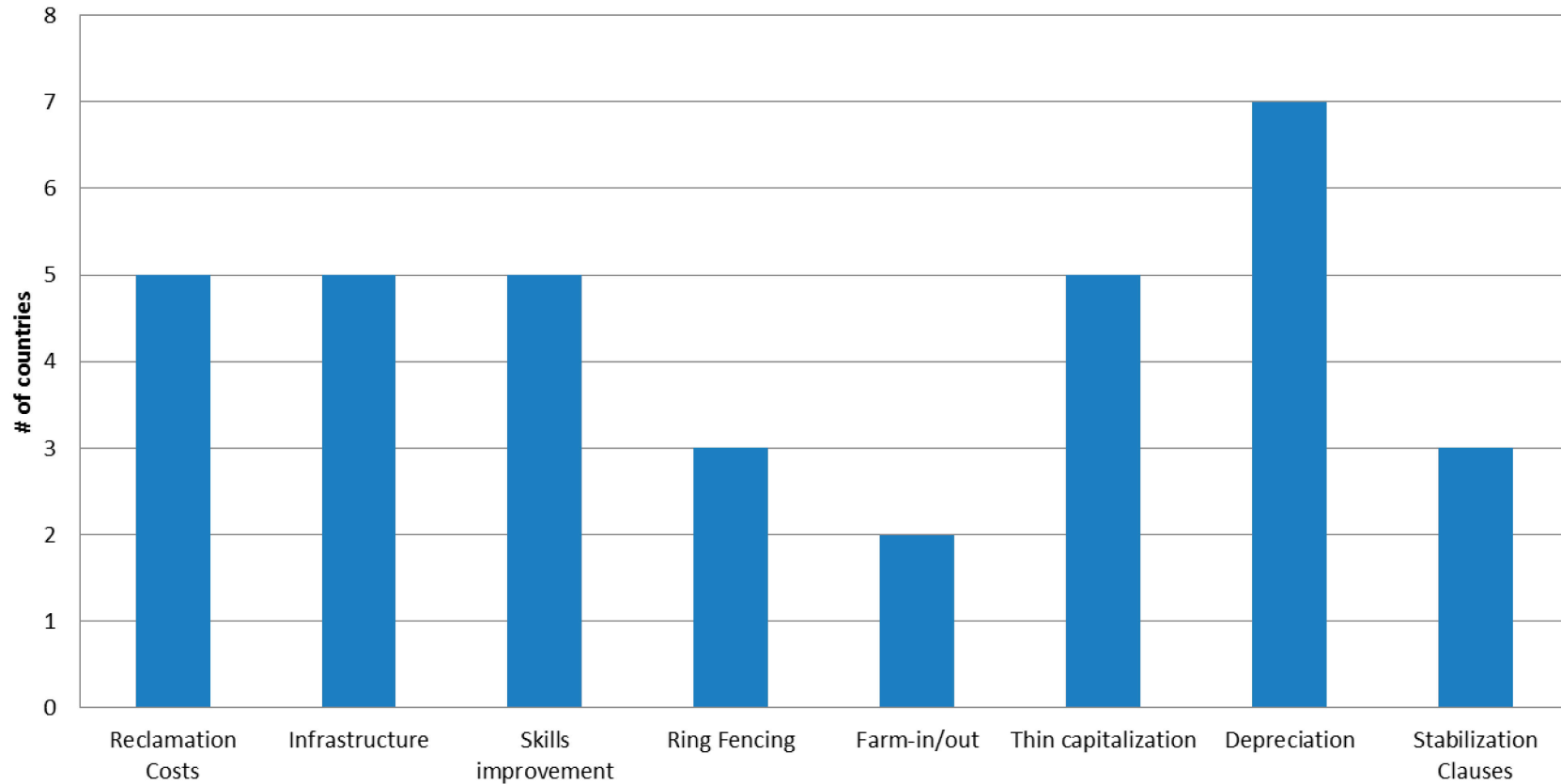
- International planning Techniques
 - Transfer Pricing
 - Expense allocations
 - Allocation of know how and research and Development Costs
 - Hedging, financial instruments
 - Dispositions including indirect transfer of licenses
 - Mineral and Resource Valuation
 - Allocation of Financing costs
 - Domestic
 - Treaty Shopping
 - Corporate Structures
- Risk Sharing Arrangements (Transfers of Licences)
- Pre-production costs
- Early Revenue realization
- Shadow Economy

Nature of the Regulatory Regime

- Mixture of Concessionary and contractual
- CIT, VAT, Royalties (incentives, special rules)
- PSA's (Stabilization Clauses, Incentives, different rules)
- Additional profits tax
- Capital gains
- Withholding
- Equity Participation

Risks evaluation Non-standard Legislation Sub-Saharan Africa

Survey of Seven countries



Challenges presented by specialized provisions of Regulatory regime

- Valuation from Natural Resource sales
- Transfer Pricing
- Finance costs
- Hedging
- Ring Fencing
- Capital Expenditure Rules
- Social Infrastructure, training, reclamation Costs
- Transfers of License Interests

Challenges presented by specialized provisions of Regulatory regime

- With holding taxes and double taxation agreements
- Exemption of imports for NR operations from VAT and Customs duties
- Administering departures from standard legislation which requires specialization
 - Special taxes
 - Contract based regimes
 - NR related tax provisions
 - Bench-mark based pricing, ring fencing, cost recovery limits, deduction and abandonment reserves, investment incentives
- Stability clauses

Summary of risks

Regulatory structure

- Fragmentation (Revenue Authority, Ministry of Mines / Petroleum, National Petroleum Company)
 - Cooperation and exchange of information between agencies
- Conflict of interest - equity participation held by the Ministry of Mines / Petroleum/ or National Oil Company combined with fiscal regulatory functions
- Weak government management and transparency

Risk Based Compliance Management Theory

This is best achieved through:

- Taxpayer education and assistance
- Simple laws and procedures make it easier and less expensive for taxpayers to comply (taxpayers will not voluntarily comply if the tax system itself makes it difficult or too expensive); and
- Risk-based verification deters non-compliance (taxpayers are more likely to comply if they perceive a strong chance of detection and see blatant offenders penalized).

Compliance strategies

Customer support

- Service and information addressed to the taxpayer
 - Key Client Managers
 - Industry forums
- Rulings, tax information notes and tax alerts

Compliance strategies

Directed compliance activities

- Identification and analysis of major risks
- Coordinated risk-based compliance strategies
- Segment-oriented audit programs, with a broad spectrum of audit types Application

Compliance Strategies Artisanal Mining Sector (Informal economy)

- Artisanal mining strategy
 - Communication and information
 - Assistance
 - Facilitation of market access (inclusion and identification)
 - Simplified fiscal regimes

Other mitigation strategies

- Specialized units (industry and transfer prices)
- Centralized comprehensive databases
- Robust and impartial processes for resolving disputes
- Consolidation or coordination of revenue administration
- Transparency

Risk assessment and Administration requires Information sources and coordination

- Public information sources
- International agreements for the exchange of tax information
- Public and private rulings
- Laws regarding data and information access requirements (national and international)
- Exchange of information and cooperation - regulatory bodies

Requirement for Skills Development

- Improvement of the abilities to evaluate the risks
- Development of audit capabilities
- Robust training programs
 - Transfer pricing (valuation techniques)
 - Knowledge of the industry
 - Accounting practices
 - Negotiation skills
 - Relationship management
 - Legislative

Governance and Transparency

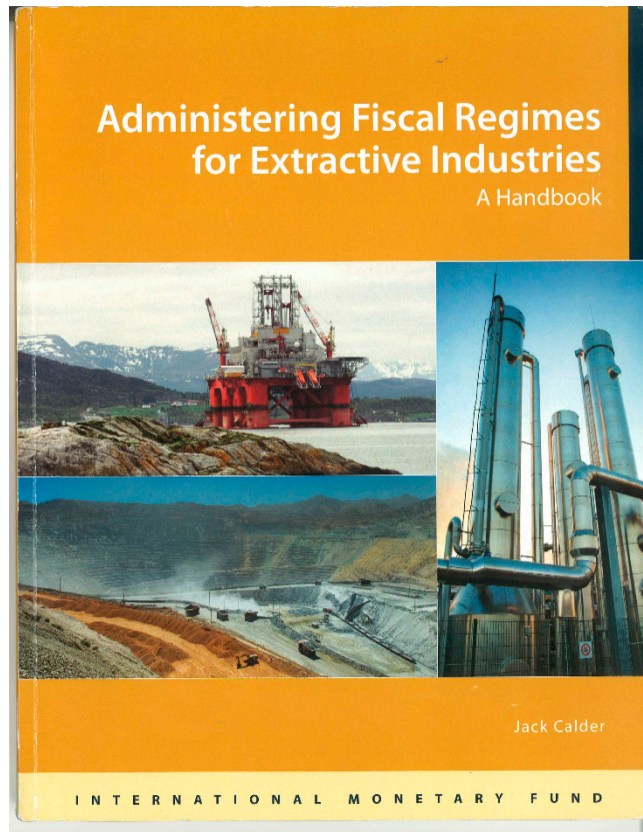
- Weak Governance is considered main explanation for the “Resource Curse”
- Most important aspect of ensuring integrity is effective leadership and management of the revenue administration including; documented procedures, a code of ethics, separation of duties, reliable information systems and strong internal affairs and audit functions.
- Transparency is a vital prerequisite for strengthening governance
 - Clarity of roles and responsibilities
 - Open Budget Process
 - Publicly Available Information
 - Assurances of Integrity

West African Initiatives

- Specialization
 - ✓ natural resource teams
 - ✓ international transactions and transfer pricing
 - ✓ dedicated risk assessment team
- Fiscal modeling to enhance its risk assessment, revenue projections and compliance gap analysis.
- Information sharing arrangement between the the Ministry of Mines and the Tax Authority.
- Centralized tax administration
- Risk assessment incorporated into operational planning

Reference sources

Manual on the administration of fiscal regimes for extractive industries, International Monetary Fund, Jack Calder



Tax administration, Administration of natural resource regimes - a brief introduction ", International Monetary Fund, Andrea Lemgruber and Scott Shelton

