Tax risks along the commodity value chain in resource-dependent Developing Countries

by

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.
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Evidence
ECONOMIC FINDINGS: GHANA (2011-17)

- Gold: Undervalued exports equal $3.8 billion (11% of total)
- Cocoa: Undervalued exports equal $360 million (3% of total)
Copper: Under & Overvalued exports equal $75.6 & $80.9 million respectively (4% of total)

Coffee: Undervalued exports equal $159 mill. (46% of total)
Risks
Main tax risks in the Copper value chain in Laos
Main tax risks in the Coffee value chain in Laos

- Concession terms: Tax rate, Tax exemptions, Tax holidays
- Smuggling motivated by quotas and price differentials
- Smuggling: Price collusion between local agents and buyers
- Misreporting quality, quantity: Arbitrary collection of fees, taxes
- Falsification of certificate of origin
- Collusion between authorities and exporters
- Insurance transport

Plantation owners ➔ Commercial plantations ➔ Exporters ➔ Exporters Shipping companies

Licensing

Post harvest activities

Commercialization

Customs

Export

Central level actors:
- CPMI
- MoC
- MPI
- Sub-national level
- P-MPI
- P-MoF
- P-Trade Dept
- P-Transport Dept
- P-Finance Dept
- P-AFO
- P-TED
- P-Commerce
- P-Customs Office
- D-Authorities
- LCA

Cherry production

Low IFF risk
High IFF risk
Medium IFF risk
Tax incentives

CPMI, MoF
District Technology and Environment Division
LCA, MoF, MoIC, Ministry of Finance, Industry and Commerce, P-AFO, Province Agriculture and Forestry Office
Main tax risks in the Cocoa value chain in Ghana

- **Smuggling**
  - Quality control QCD
  - Misreporting

- **Quality control QCD**
  - Misreporting

- **Effective tax incentives**
  - Exemption direct & indirect duties on imports, exports
  - Exemption CIT 10 years, max 15% thereafter
  - Exemption from withholding taxes on dividends
  - No import licensing requirements
  - Minimal customs formalities

- **Quality control QCD**
  - Misreporting

- **Insurance**
  - Transport

- **Transport**
  - Houlers
  - Processors
  - Local private (FZ)
  - MNE owned (FZ)

- **Processing**
  - Local private (FZ)
  - MNE owned (FZ)

- **Marketing / selling**

- **Export**

**Tax authorities**
- GRA - LTP office
- GRA - CIT unit
- GRA - TP unit
- GRA - Customs
- Auditor General

**Tax authorities**
- GRA - CIT unit
- GRA - TP unit

**IFF risks**
- Low IFF risk
- Medium IFF risk
- High IFF risk

**Other Terms**
- CIT Corporate Income Tax
- FZ Free Zone
- GRA Ghana Revenue Authority
- MNE Multinational enterprise
- PBC Produce buying company (COCOBOD subsidiary)
- TP Transfer pricing
- VAT Value Added Tax
Main tax risks in the Gold value chain in Ghana

Concession terms:
- Tax rate
- Tax exemptions
- Tax holidays

Thin capitalisation:
- License / IP
- Mgmt & risk services

Misreporting:
- Quality, quantity
- Quality

Cost over reporting

Smuggling (ASM sector)

Abusive transfer pricing

Issues:
- Staffing
- Audit expertise
- Loss carry forward
- VAT, CIT
- Expertise, technology
- Information asymmetry
- Collusion
- TP audit capacity
- Unspecific TP regulation
- RE sales contract

Issues by risk:
- Low IFF risk
- Medium IFF risk
- High IFF risk
- Tax incentives

Organizations:
- Presidency
- Minister of Mining
- Minerals Commission
- PMMC
- Mines Inspectorate
- GRA - LTP office
- GRA - Mining Audit Desk
- GRA - TP unit
- GRA - Customs
- Auditor General
- FIC
- Bank of Ghana

Other:
- ASM Artisanal and small-scale mining
- FIC Financial Intelligence Center
- GRA Ghana Revenue Authority
- LTP Large taxpayer
- MNE Multinational enterprise
- PMMC Precious Minerals Marketing Company
- TP Transfer pricing
- RE Related entity
Politics
The OECD Transfer Pricing Guidelines (TPG)

Based on the arms’ length principle (ALP) to mimic “real” market transactions

Criticized due to the difficulty of finding “comparable” transactions

TPGs are complex, somewhat ambiguous, and resource-intense to apply → challenging for under-resourced tax authorities.

“The time has come to simplify the rules and alleviate the compliance burden for both tax authorities and taxpayers”

Ángel Gurría, OECD Secretary General, 2012
Simplified alternative methods exist, but only few countries simplify and the methods rejected by the OECD as of now.
Debate of TP Rules has become more intense, more controversial, and more politicized.
The debate over standard – versus simplified TP methods turns more hostile over time

Consensual: Agreement between supporters and opponents of simplified methods (mainly regarding complexity and challenges in applying the ALP)

Absorb: Frames calling for modifying simplified methods to make them fit with the arm’s length principle

Attack: Frames directly attacking the validity of simplified methods
## Take-away points

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<tr>
<th>Category</th>
<th>Description</th>
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<tr>
<td>Policy choices</td>
<td>Country tax regimes (tax rates, royalties, incentives and tax holidays) and tax rules must strike a balance between attracting FDI and benefitting the country</td>
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<td>Capacity</td>
<td>Effective taxation requires adequate resources and capacity of assaying and verification bodies, tax authorities, customs, ...</td>
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<td>Coordination</td>
<td>between state bodies (national and sub-national level) is critical, particular for soft commodities</td>
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<td>Intl. tax rules</td>
<td>directly affect developing countries – their increased participation in policy deliberations is critical</td>
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Thank you.