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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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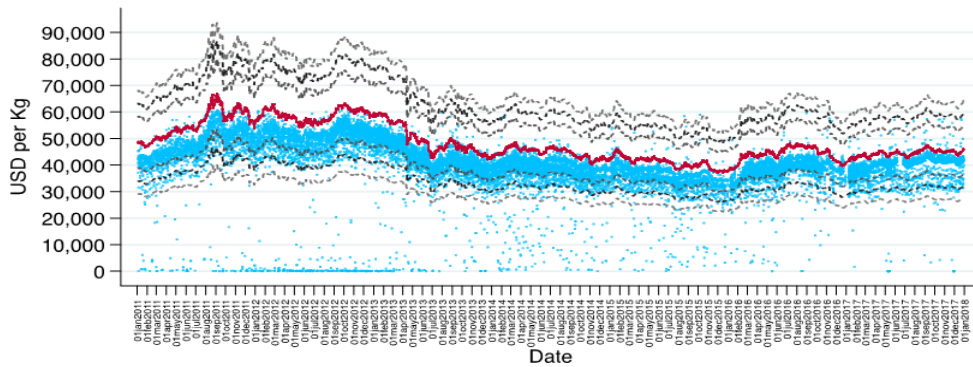
<https://curbing-iffs.org>

Evidence

ECONOMIC FINDINGS: GHANA (2011-17)

Unwrought Gold

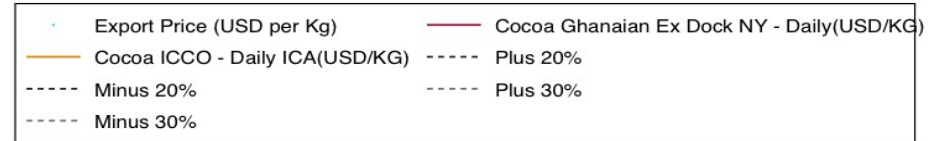
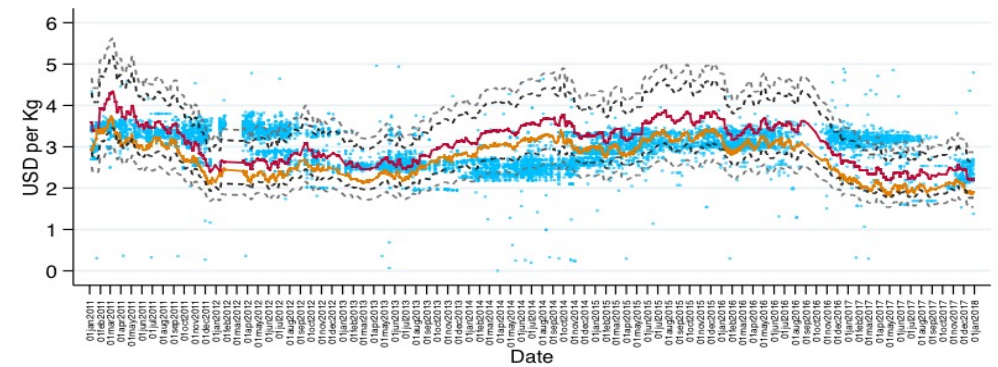
Transaction Prices vs. Market Referenced Prices



N = 20,933; Data Sources: Thomson Reuters Datastream/LBMA, Ghana Revenue Authority (GRA) - Customs Division

Cocoa Beans

Transaction Prices vs. Market Referenced Prices



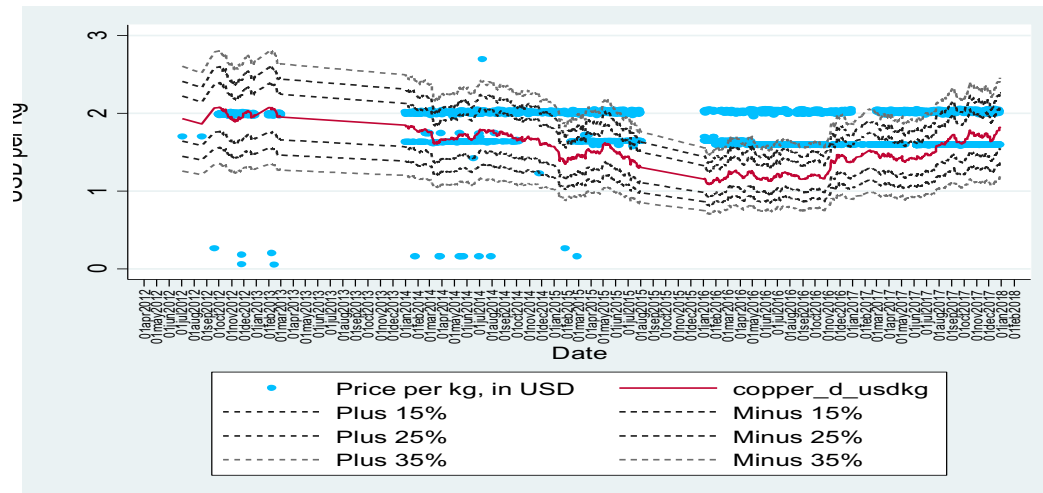
N = 13,210; Data Sources: ICCO, Ghana Revenue Authority (GRA) - Customs Division

- Gold: Undervalued exports equal \$3.8 billion (11% of total)
- Cocoa: Undervalued exports equal \$360 million (3% of total)

ECONOMIC FINDINGS: LAOS (2012-17)

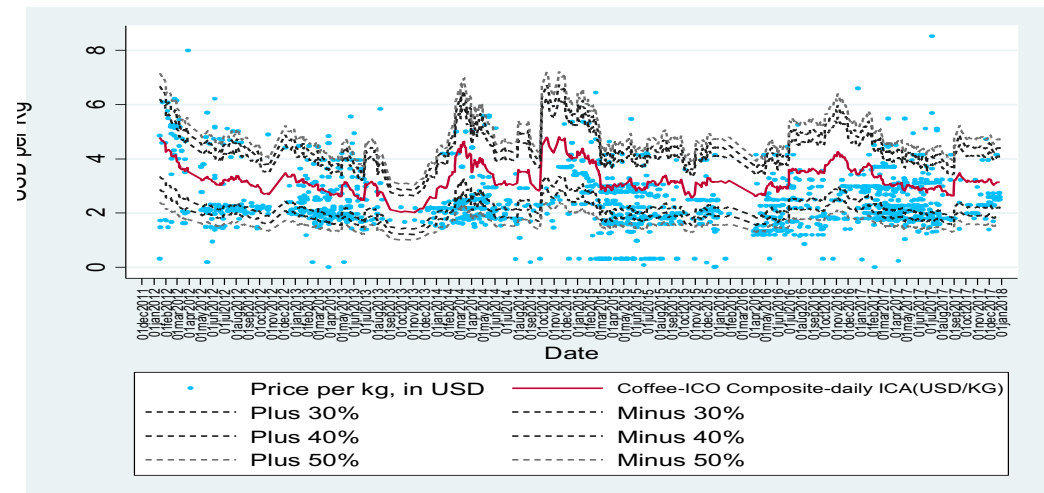
Copper Concentrates

Transaction Prices vs. Market Referenced Prices



Coffee Beans

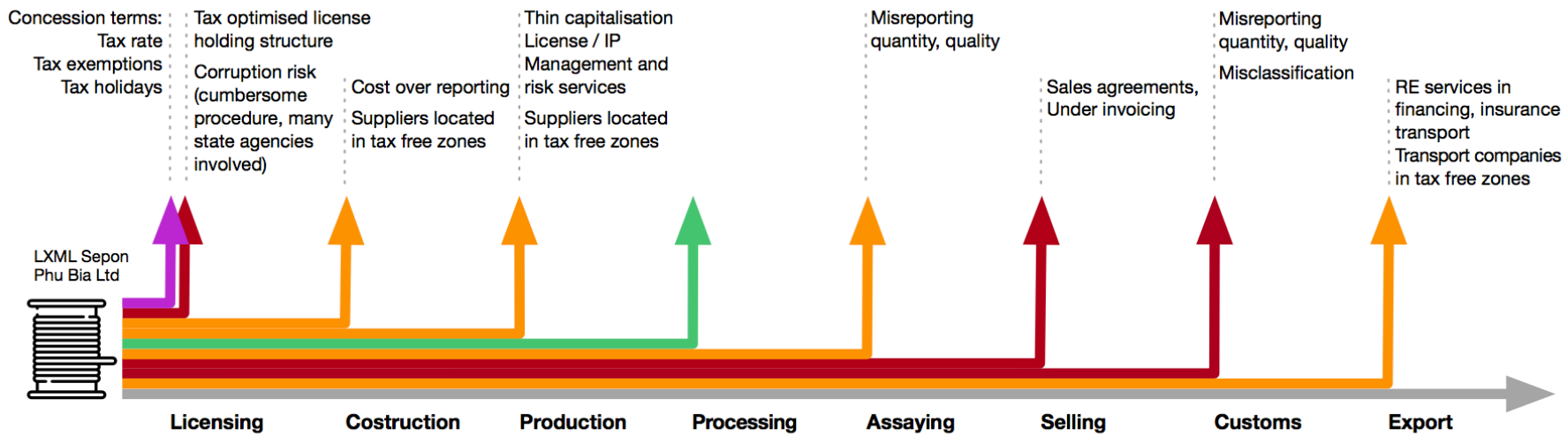
Transaction Prices vs. Market Referenced Prices



- 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

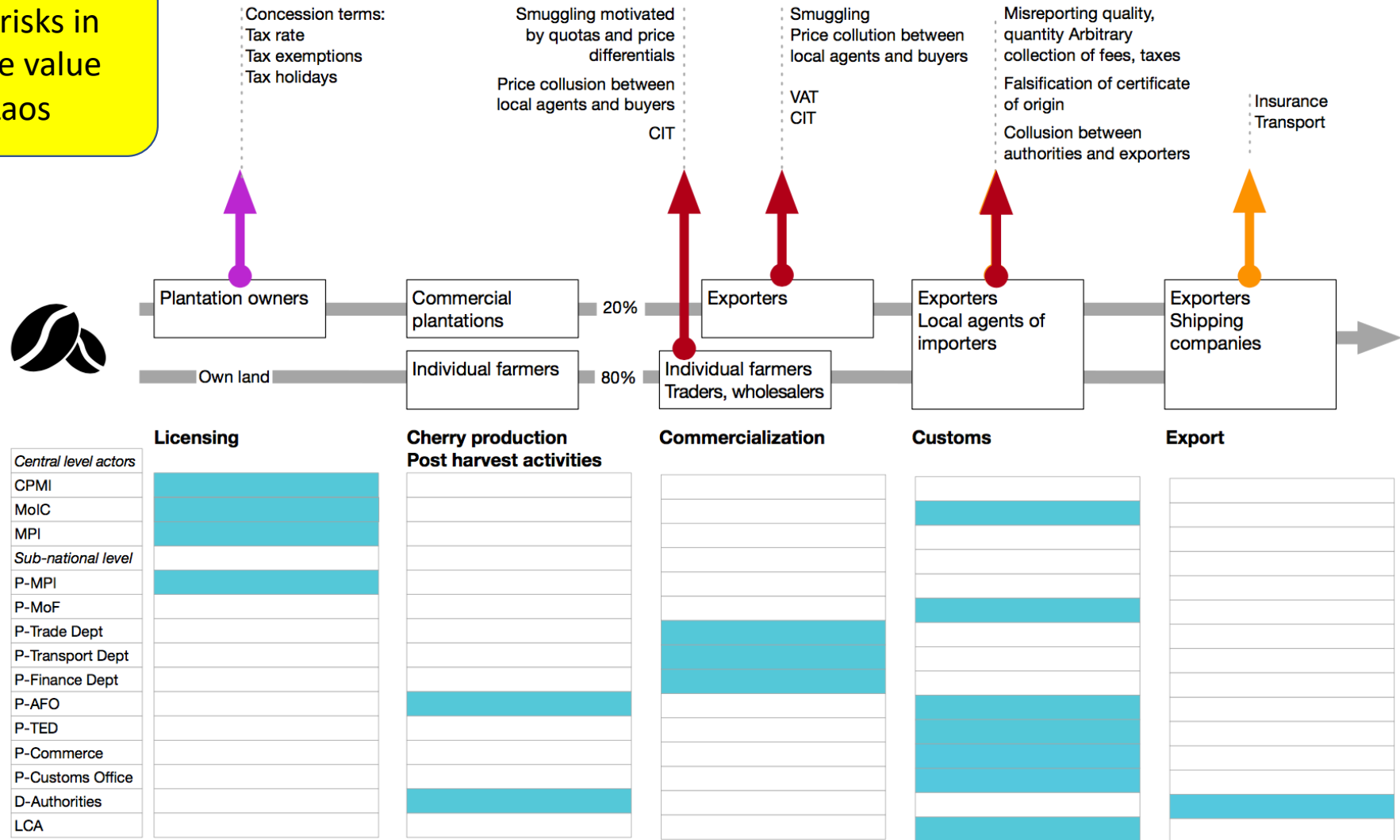


(Local) suppliers

National Assembly							
Prime Minister Office							
Mgmt of Investment							
MPI							
MPI One Stop Service							
MPI Province							
MEM							
MEM - D-GM							
MEM - D-MM							
MEM - Province							
MEM - D-NRE							
Bank of Laos							
MoF - Customs Dep							
MoF - Tax Dep							
MoF -SAM							
D & V authorities							

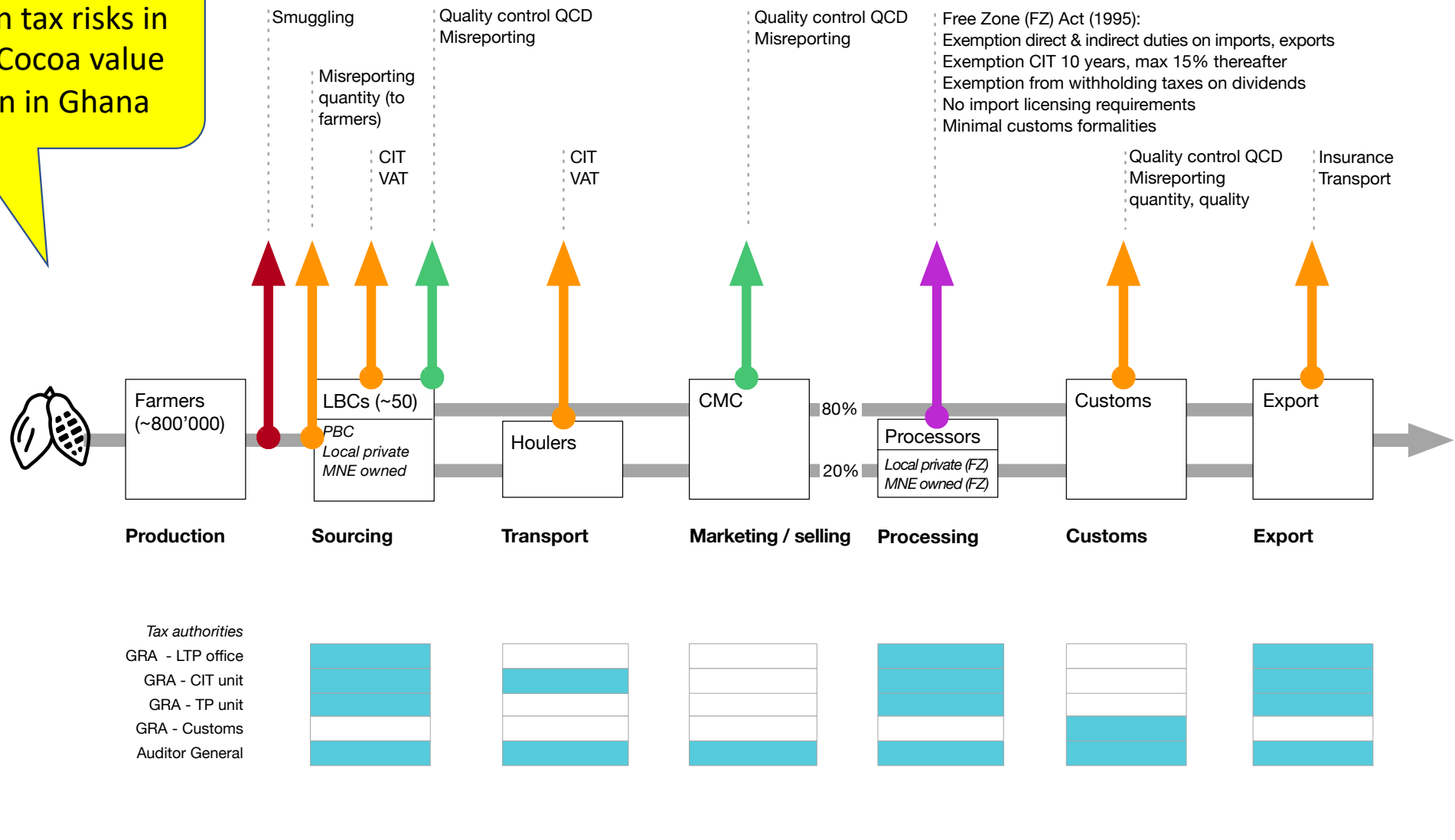
■ Low IFF risk ■ High IFF risk CPMI Committee for Promotion & Management of Investment D-N Department of Natural Resources P- Province
■ Medium IFF risk ■ Tax incentives D District MEM Ministry of Mines RE Related entity
 Dep Department MoF Ministry of Finance SAM State Asset Management Dep
 D-MM Department of Mining Management MPI Ministry of Planning and Investment V Village

Main tax risks in the Coffee value chain in Laos



■ Low IFF risk ■ High IFF risk CPMI Committee for Promotion & Management of Investment LCA Lao Coffee Association MPI Ministry of Planning and Investment
■ Medium IFF risk ■ Tax incentives D-District MoF Ministry of Finance P-Province
 D-TED District Technology and Environment Division MoIC Ministry of Industry and Commerce P-AFO Province Agriculture and Forestry Office

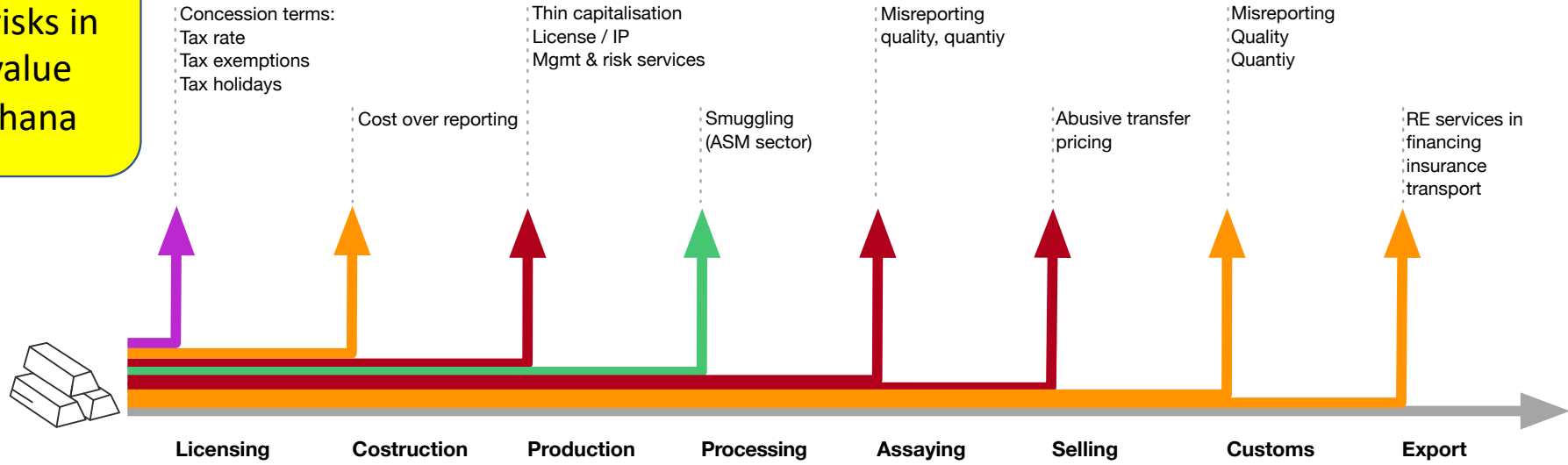
Main tax risks in the Cocoa value chain in Ghana



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

- Low IFF risk
- Medium IFF risk
- High IFF risk
- Tax incentives
- CIT Corporate Income Tax
- FZ Free Zone
- GRA Ghana Revenue Authority
- LBC Licensed buying company
- MNE Multinational enterprise
- PBC Produce buying company (COCOBOD subsidiary)
- QCD Quality Control Department (COCOBOD subsidiary)
- TP Transfer pricing
- VAT Value Added Tax

Main tax risks in the Gold value chain in Ghana



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							

Issues

Staffing
Audit expertise

Loss carry forward
VAT, CIT

Expertise, technology
Information asymmetry
Collusion

TP audit capacity
Unspecific TP regulation
RE sales contract

■ Low IFF risk ■ High IFF risk ASM Artisanal and small-scale mining LTP Large taxpayer
■ Medium IFF risk ■ Tax incentives FIC Financial Intelligence Center MNE Multinational enterprise TP Transfer pricing
 GRA Ghana Revenue Authority PMMC Precious Minerals Marketing Company RE Related entity

Politics

The OECD Transfer Pricing Guidelines (TPG)



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

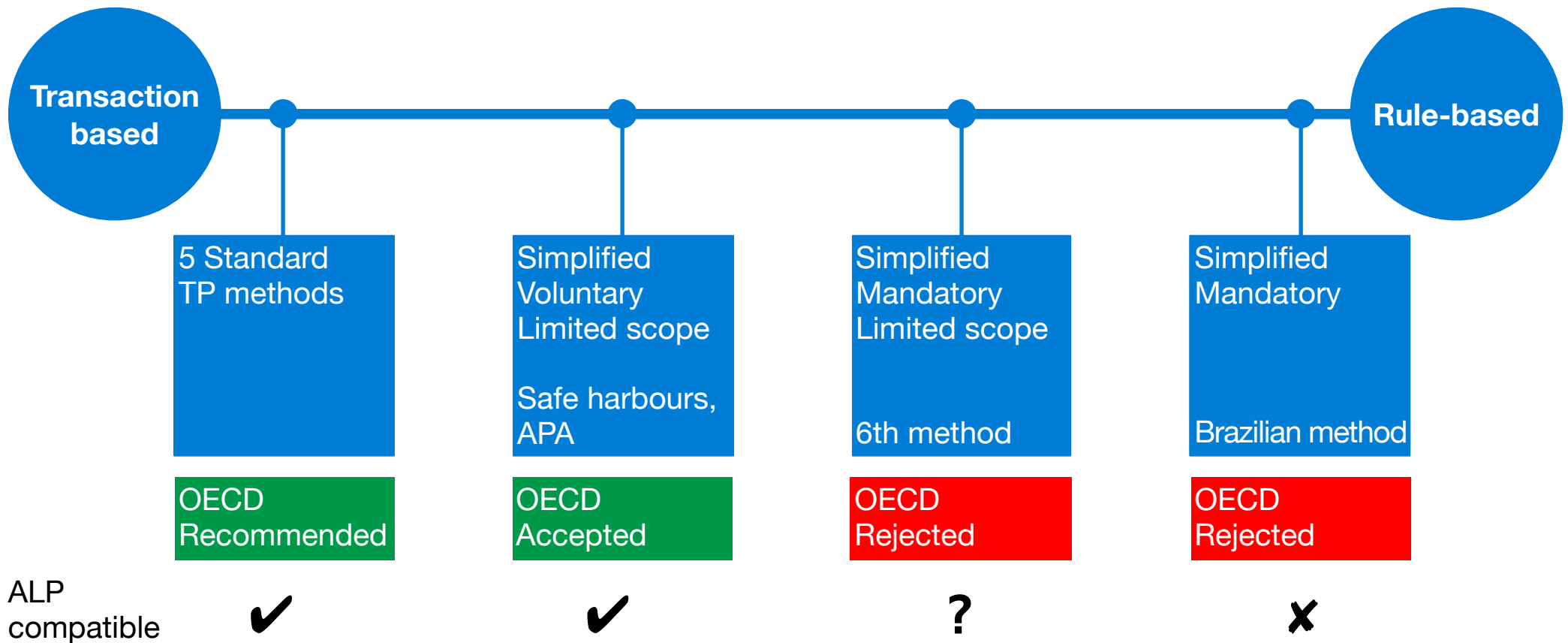
Criticized due to the difficulty of finding “comparable” transactions

TPGs are complex, somewhat ambiguous, and resource-intensive 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»

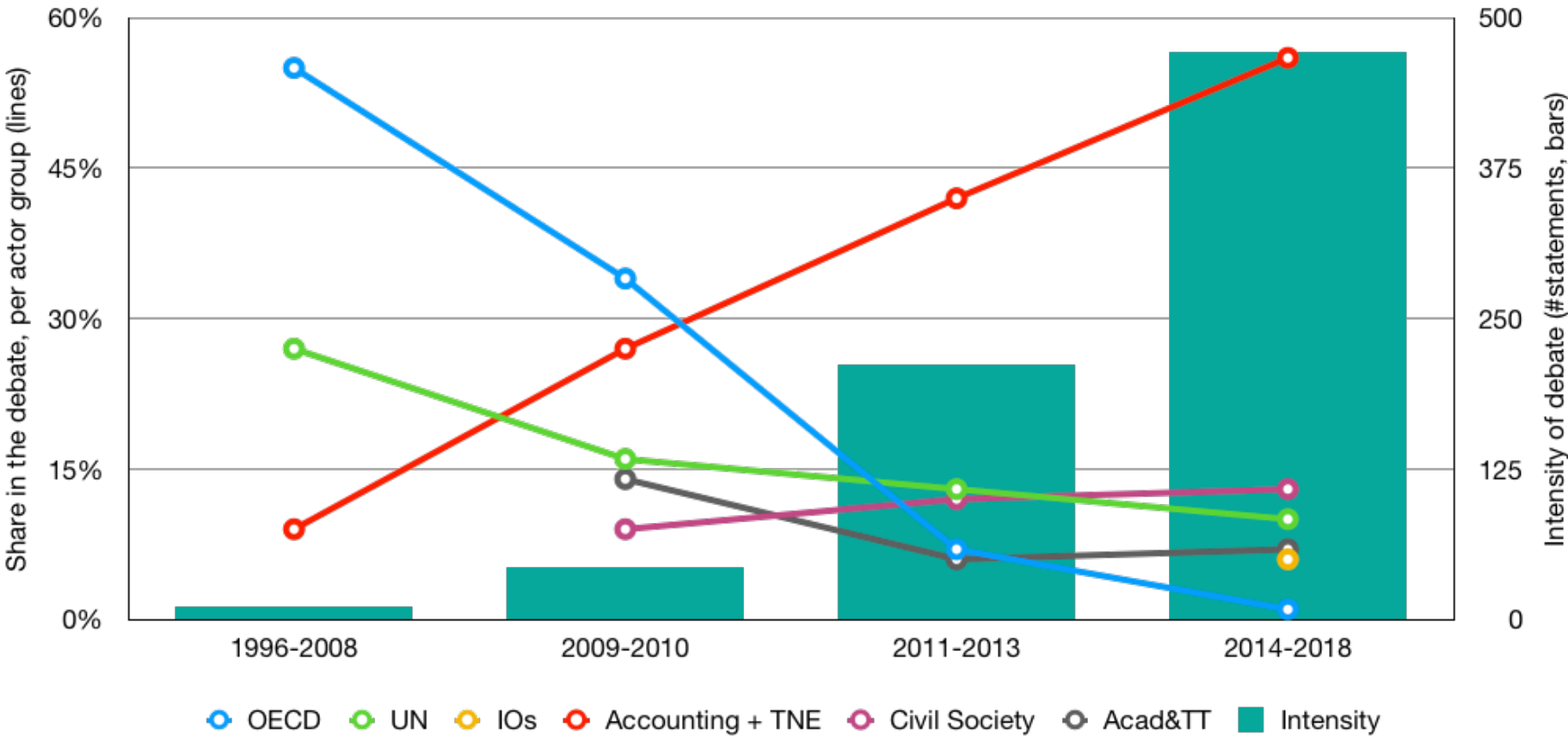
Ángel Gurría, OECD Secretary General, 2012

Simplified alternative methods exist, but only few country simplify and the methods rejected by the OECD as of now

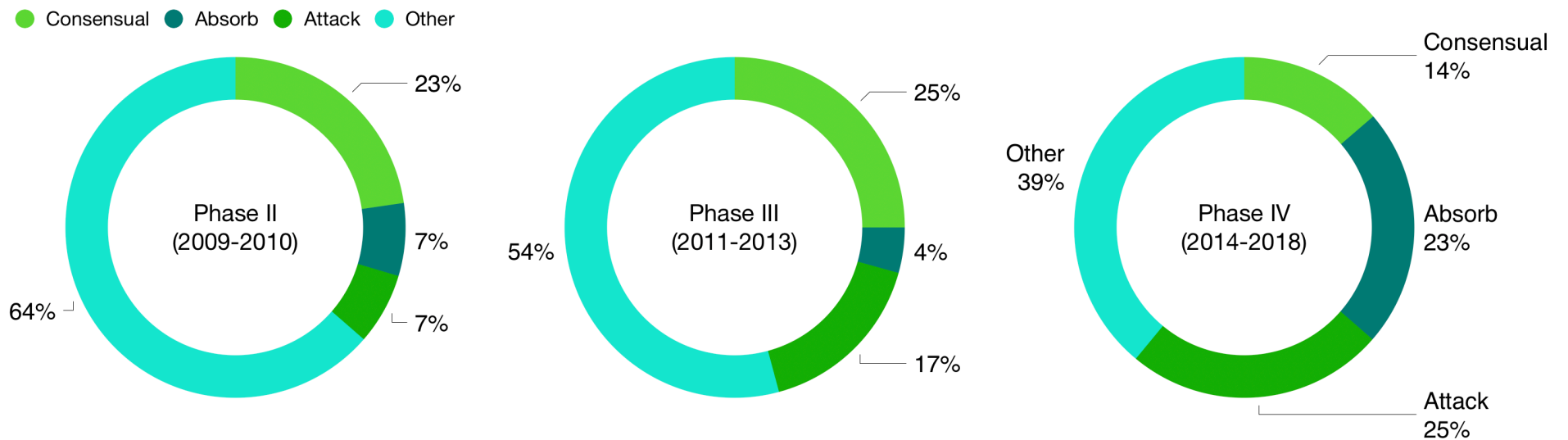


Debate of TP Rules has become more intense, more controversial, and more politicized

Evolution of the public debate over simplified TP methods



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

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

Thank you.