

Transparency just for show?

Petr Jansky, Marek Sedivy and Saila N. Stausholm

Intro

- Tax avoidance undermines public revenues, especially in developing countries
- Some developing countries are resource rich but do not benefit much – “the resource curse”
- The extractives sector bears responsibility to pay taxes in those countries, but as multinational corporations they are able to participate in aggressive tax planning
- Transparency through country by country reporting can help detect and prevent misalignments and tax abuse

This two-tiered, tax haven structure is very commonly accepted by investors worldwide as a flexible, tax-efficient and sensible means of investing their capital into major, cross-border infrastructure investments.

GAI LTD completed a \$50 million private placement and a series of transactions that resulted in GAI LTD becoming a wholly-owned subsidiary of Global Alumina, a New Brunswick, Canada, public company. At the conclusion of these transactions, GAI LTD's shareholders became shareholders of Global Alumina, a company now traded on the Toronto Venture Exchange, and GAI LTD became wholly-owned by Global Alumina. We elected to become a Canadian public company and to list our shares on the Toronto Venture Exchange as it is among the largest, most knowledgeable and favorable markets for investments in African mining and mineral processing companies.

The current structure, therefore, is Global Alumina, a Canadian public company, owns 100% of GAI LTD, a BVI-based investment holding company, which in turn owns GAC LTD, a BVI-based investment entity with the sole purpose of completing the GAC Alumina Refinery Project, owns GAC Guinea, the Guinean entity with the sole purpose of completing the GAC Alumina Refinery Project.

CBCR

- If we want to test whether companies are taxed where value is created, we need info on not just how much tax they pay but also how much value was created there
- Idea of CBCR should be that you can track misalignments – are there allocation of profits going on to jurisdictions where activities are low?

CBCR adoption

- 2003 EITI – voluntary, extractive companies and governments
- 2013 EU extractive and logging sector
- 2014 EU financial sector
- 2017 OECD BEPS (not disclosed)

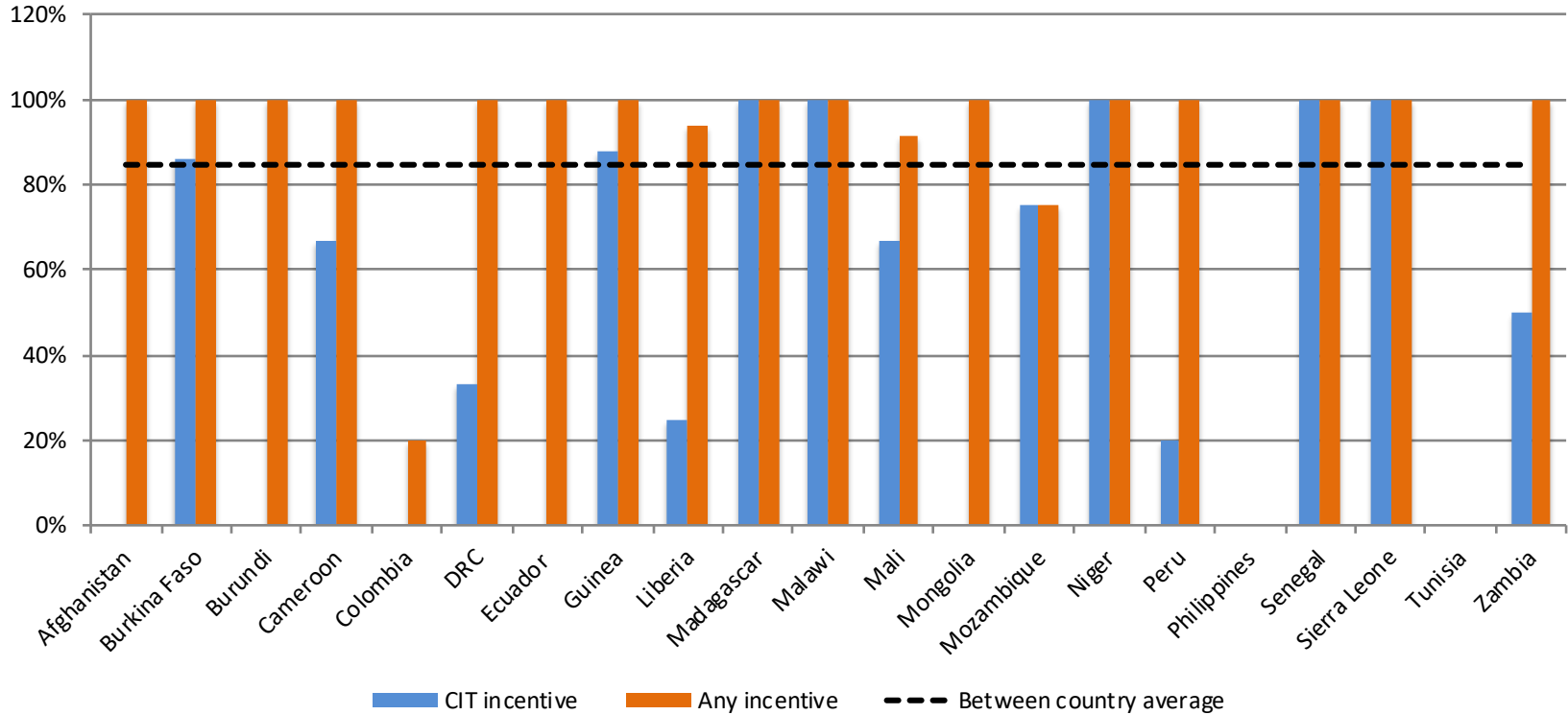
But how to interpret the data?

If a company has paid a low amount of tax in a country, does that mean...

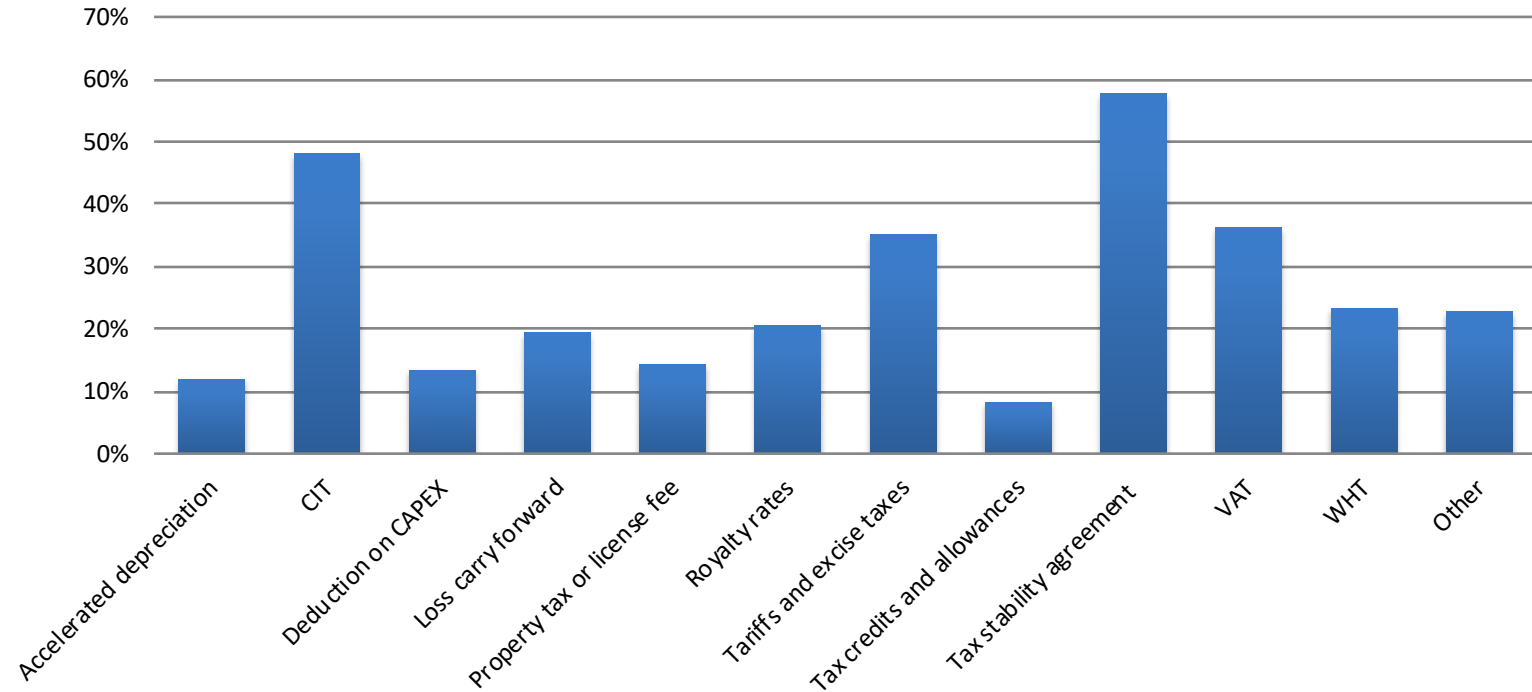
- no value was created there (it was not profitable)?
- value was created and extracted through global wealth chains?
- value was created but untaxed?

Without revenue data we cannot know whether any tax should have been paid. But without the tax circumstances we also cannot know what tax should have been paid.

Proportion of mining contracts that vary favorably from law



Average proportion of contracts with incentive





Transparency in the mining sector

Organizations (NRGI) collect the data available:

- Payments data: Country by country tax (+ fees, royalties etc) payment
- Contracts
- Annual reports/ Orbis data

Combining these should in principle give us a good picture of tax payment in the extractive industry



Only 3 companies overlap

Firm	Project	Jurisdiction of incorporation	Availability of annual reports
BP Exploration Angola (Kwanza Benguela) Limited	Block 20/21 (Angola)	United Kingdom	2011 – 2016
BP Exploration (Caspian Sea) Limited	Azeri, Chirag and Deepwater Gunashli Fields (Azerbaijan)	United Kingdom	1993 - 2016
Rio Tinto	Simandou (Guinea)	United Kingdom	1993 – 2017

Is transparency just for show?

- Tax payment data is not very useful in itself to detect tax avoidance
- We can hope that the disclosure in itself induces companies to self-police
- Without access to revenue, costs, investment and other activity data as well as contract data the data is not useful for tax avoidance/misallocation detection

Conclusion

- Current CBCR standard for extractive and logging industries may have been a frontrunner, but is now behind other industries in terms of transparency
- A new CBCR/PBPR standard has to go beyond tax and financial statements, and include the legal framework