

## Briefing Note for Thematic Discussion on an Equalization Measure

*Prepared by the delegation of Australia*

The Intersessional Working Group on an Equalization Measure met on 12 and 19 June 2024. Two meetings were held to facilitate the broadest possible participation given differences in time zones. Both meetings covered the same issues. Members, contractors and civil society observers participated in the meetings.

Dr Daniel Wilde of the Commonwealth Secretariat gave a presentation summarising the Thematic Discussion of an Equalization Measure at the Council meeting in March and providing an overview of the two options under consideration:

- (1) The hybrid model of an additional royalty and a top-up profit share, and
- (2) The additional profit-share model.

Dr Wilde's presentation is attached.

Dr Wilde then guided participants through a paragraph by paragraph reading of the draft Standards setting out detailed provisions for both options. He also drew attention to areas where both models require further drafting.

The group thanked Dr Wilde for his continued expert assistance.

There was no consensus or clear preference from the group for either of the two options.

Australia proposed submitting a textual proposal on behalf of the working group containing text for a draft provision for an equalization measure in the draft Exploitation Regulations, together with text for a draft Standard, containing both options. There was no objection from the group. Drafting suggestions from participants have been incorporated into the attached textual proposal.

In addition, one participant provided his personal views on the options. His views were circulated to the intersessional working group and are provided for publication on the ISA website.

The group also welcomed the opportunity to continue the thematic discussion of an equalization measure at the Council meeting on 15 July.

A number of questions to facilitate the thematic discussion are provided.

1. Which of the two options for an equalization measure is preferred?
2. If Option 1 is preferred:
  - (a) how will tax exemptions and subsidies be defined?
  - (b) what profits from entities related to the contractor, such as a contractor's parent company or another related entity undertaking mining activities, are subject to the profit share component of the hybrid model? In other words, how will Relevant Activities/the mining perimeter be defined?
  - (c) what, if any, amendments to the OECD Pillar 2 Global Anti-Base Erosion Model Rules' definitions of Related Entities, Income and Covered Taxes are required?
  - (d) are the proposed 8% rate for the Additional Royalty and 25% rate for the Top-Up-Profit Share Payment acceptable?
3. If Option 2 is preferred, are the 25% Additional Profit Share Rate and 10% uplift acceptable?