

An equalization measure for deep-seabed mining in the Area

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The Commonwealth

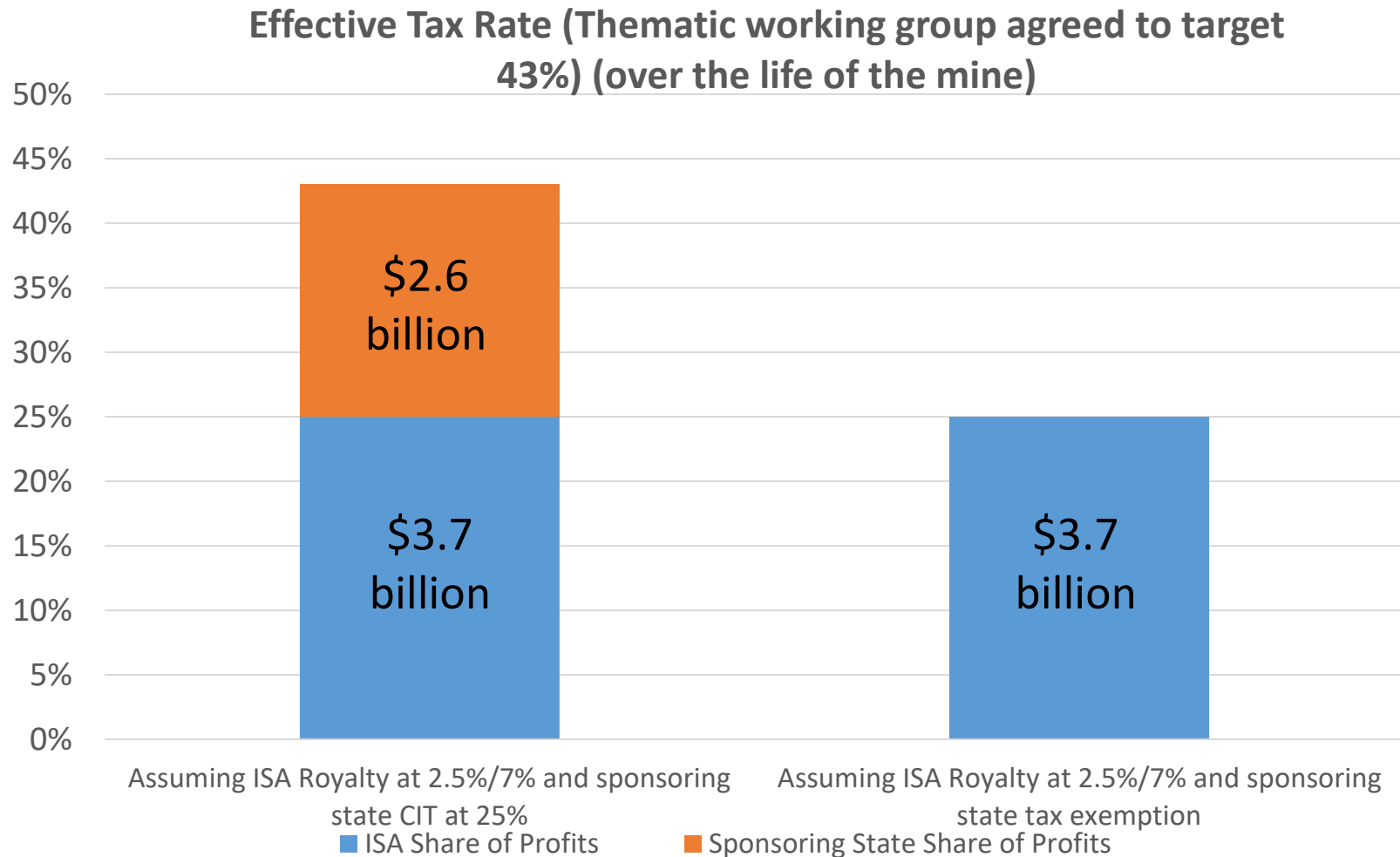
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- The views and opinions expressed in this Presentation are those of the presenter and do not necessarily represent the views of the Commonwealth Secretariat or any Commonwealth Member country.

Overview

1. The 1994 Implementing Agreement Section 8.1.b provides that ‘The rates of payments under the system shall be within the range of those prevailing in respect of land-based mining [...]’.
2. The effective tax rate for a mine is a good measure of ‘rates of payment’.
3. The effective tax rate = payments to government/profits (over the life of the mine).
4. The average effective tax rate for land-based mining is 43%, and this is a good effective tax rate to target for deep-seabed mining (DSM).

Effective tax rate



How the equalization measure works

1. There is a need for an equalization measure to ensure a 43% effective tax rate regardless of sponsoring state tax exemptions.

- Under the equalization measure:
 - a.) a contractor that pays little or nothing to its sponsoring state pays more to the ISA; and
 - b.) a contractor that makes significant payments to its sponsoring state pays little or nothing under the equalisation measure.
- the equalization measure is in addition to the ISA base royalty. Thus, it cannot reduce ISA revenue from a mine.

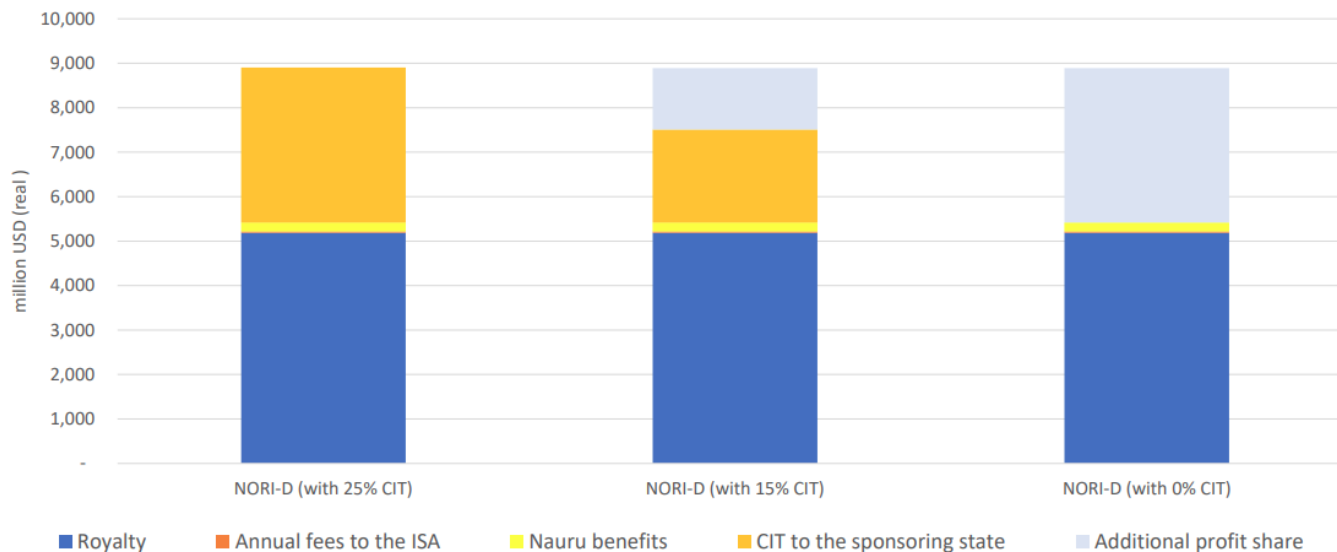
Recent work by IGF

- IGF modelled two mines and showed (with an equalisation measure) a sample average effective tax rate of 43%. This is just as we would hope/predict.
- Their results also show the profit share equalization measure working as intended.



Equalisation measure: Additional Profit Share

Equalisation measure with 25%, 15% and 0% corporate income tax rate



Benefits to an equalization measure

Key benefits of an equalization measure:

- disincentivises sponsoring state tax avoidance.
- helps ensure a level playing field with land-based mining.
- can increase but not decrease ISA revenues from a mine.
- helps create a level playing field between contractors regardless of tax exemptions and subsidies.



Text providing for an equalization measure is included in the Draft Exploitation Regulations

See: <https://isa.org.jm/wp-content/uploads/2025/12/Further-Revised-Consolidated-Text-clean-version.docx>

Regulation 64bis

Equalization measure

[A Contractor, from the date that its Plan of Work has been approved, shall pay the equalization measure as determined in accordance with the applicable Standard governing the equalization measure [subject to article 10 of Annex IV to the Convention].

Exact form of the equalization measure

- In the July 2025 meeting of the equalization measure working group and the ISA session there was consensus that the equalisation measure would take the form of a profit share.
- More specifically, the contractor pays a 25% profit share to the ISA against which its payments to the sponsoring state are creditable.
- The detailed text for the profit share equalisation measure will be provided in a standard (currently in the suspense document available here: [Further-Revised-Suspense-Document.pdf](#).)
- It includes detailed and comprehensive definitions of revenues, costs and profits.

Way forward (1)

1. Reconfirm that the equalisation measure will take the form of a profit share.
2. Confirm the exact text of the profit share equalization measure, remove the text for the hybrid option from the suspense document, and include the profit share equalization measure text in a standard.
3. Revert to discussions concerning the overall payment regime to finalise the exact form and rates of the royalty (noting the consensus around the 43% effective tax rate) and any agreed exemptions from the payment regime for the Enterprise and Enterprise joint ventures.

Way forward (2)

- I have recently had a change of role at the Commonwealth Secretariat and am now leading the Ocean section.
- Going forward, the Commonwealth DSM programme is being led by Dr Chilenye Nwapi, Legal Adviser, Natural Resources, who can be contacted at: c.nwapi@commonwealth.int
- Commonwealth work on the DSM payment regime will be led by Victor Kitange, Economic Adviser, Natural Resource, who can be contacted at: v.kitange@commonwealth.int

Useful links

	Link
Draft Exploitation Regulations, ISBA/31/C/CRP.2 23 December 2025	https://isa.org.jm/wp-content/uploads/2025/12/Further-Revised-Consolidated-Text-clean-version.docx
Suspense Document	Further-Revised-Suspense-Document.pdf .
Briefing Note on the Equalization Measure, Subsidies, State Owned-Enterprises, State Contractors and the Enterprise	Briefing_Note_on_the_Equalization_Measure_Subsidies_State-Owned_Enterprises_State_Contractors_and_the_Enterprise.pdf
Report of the Intersessional Working Group on the Equalization Measure	Report_of_the_Intersessional_Working_Group_on_an_Equalization_Measure.pdf