

1. Minutes of last meeting, apologies, matters arising and action points

- 1.1 Alan Tume (AT) welcomed everyone to the meeting.
- 1.2 There were no matters arising from the Minutes of the last meeting on 24th March 2015.

2. Oil and Gas Tax Policy

i) Policy update including Fiscal Forum

- 2.1 HMT explained that Oil and Gas now falls into the portfolio of the new Exchequer Secretary (XST), Damian Hinds.
- 2.2 HMT noted that a good meeting had been held at the Fiscal Forum, where the XST reaffirmed the principles outlined in 'Driving Investment' while encouraging industry to reduce costs and increase efficiency.
- 2.3 HMT highlighted the policy priorities for the coming months. HMT stated that the priority was to progress the extension of the definition of qualifying expenditure (QE) in the Investment Allowance (IA). Currently, only capital expenditure is deemed to qualify as QE. However, HMT would like to include other investment that is in line with MER UK. HMT is currently working on the details of the policy and, subject to ministerial approval, expects to be in a position to release draft legislation over the summer, with the intention of laying the regulations when Parliament returns in the autumn. HMT stated that they would expect legislation to be effective as of when the draft legislation is issued, although this would also be subject to ministerial decision. Martyn Rounding (MR) emphasised that this timing was subject to HMRC receiving the necessary information to enable the legislation to be drafted.
- 2.4 HMT and OGA will also be looking at three other areas: exploration, access to infrastructure, and access to decommissioning relief. They are currently defining the problems in these areas and intend to have further discussions with industry in due course. It was noted that they are not just looking at fiscal solutions to any problems.
- 2.5 Andrew Enever (AE) stated that industry welcomed the XST's "business as usual" approach. He asked that HMT update Industry on the discussions with OGA. He also said that companies would continue to give feedback to HMT on the proposed extension to QE.

ii) PRT certificates

- 2.6 Ray Daly (RD) said that HMRC solicitors are currently looking at the waiver proposed by industry and they are keen to make progress as quickly as possible. Claire Ralph (CR) explained that Industry had met during Purdah to draft a waiver based on that used for EITI, which could be used as a basis by HMRC solicitors. She confirmed that Industry would want to reserve the right to withdraw consent and stated that Industry are keen to move quickly on this given that it is fundamental to DRD. AT reiterated HMRC's wish to move quickly, saying that they wanted to overcome any

difficulties as swiftly as possible. He stated that he would consult CR further if any particularly challenging questions arose.

2.7 CR gave a short update on tracking the benefits of DRD. OGUK has sent a questionnaire to companies to ascertain how much money has been freed up due to DRDs. The deadline for responses has not yet passed but many have already been returned and CR believes that they will present a positive picture.

iii) EITI

2.8 AT stated that good progress has been made. The new independent administrator, Moore Stephens, has been appointed, the templates have been completed and the guidance is in place. The waiver is being designed and AT noted the contribution that Industry had made. It is expected that the template and waiver will be distributed in mid-June and that they should be returned to the administrator within 6 weeks.

2.9 AE asked that all those that had been contacted by the administrator responded and, equally, all those who had not been contacted but expected to be should get in touch. He advised Industry that there would be workshops in Aberdeen and London at the beginning of July and that companies should take part if they wished to. He also stated that companies would be asked about beneficial ownership and asked that companies respond.

2.10 CR emphasised that while companies would be asked for their non-ringfenced tax contributions for payments received in 2014, these would not be published. The figures are simply being used for reconciliation purposes.

3. Oil and Gas Technical issues

i) SC apportionment of profits

3.1 Anne Hurdman (AHM) stated that HMRC had received the combined technical response from UKOITC to HMRC's earlier correspondence with those affected regarding the section 7(5) Finance Act 2011 election. AHM said that the letter did not alter the technical opinion of HMRC and that they do not intend to reply to the letter directly, instead contacting each company individually. For companies that HMRC feels meet the criteria, they will discuss future methodology for the apportionment. For those it feels does not, it will serve closure notices.

3.2 Industry asked if HMRC had consulted outside Counsel. AT stated that they were confident with the advice given internally and have no plans to seek external advice. Industry expressed a concern that HMRC had not consulted outside counsel as significant resources could be wasted if the HMRC view was to change on consulting outside counsel prior to a hearing.

4. Other

i) Diverted Profits Tax (DPT)

4.1 AE explained that Industry was keen to understand more about the process and implementation of this new tax.

- 4.2 Paul Croasdale (PC) stated that a risk assessment had started, which aimed to identify companies that might be affected by DPT. HMRC is currently concentrating its efforts on contacting high risk companies as resources are limited. However, recruitment is underway to expand this team.
- 4.3 AT explained that a list had been compiled containing the companies that may be affected by DPT and HMRC has started to approach these companies. However, he emphasised that the list was based on specific data and that there would be companies on the list who would not be affected and companies that had been omitted but might be affected. He stated that it is, therefore, difficult to give an estimation of the number of companies that would be affected but hoped that all companies on the list would be contacted by the autumn. AT confirmed that companies would be contacted through their CRMs.
- 4.4 Industry emphasised the importance of certainty and asked if there was going to be a meeting to discuss the principles of DPT to allay the fears of those who believed they would not be affected but wanted to confirm this. AT stated that he appreciated the need for more certainty and that companies should contact HMRC if they had queries regarding any specific situations. PC stated that finalised guidance would be issued in due course and that this would include some examples. Andrew Hoar (AH) stated that to enable HMRC to engage productively with groups it would be beneficial for groups to provide their analysis of the DPT legislation, on a line by line basis, as well as the information suggested in the draft guidance.
- 4.5 Mike Earp (ME) asked if DPT would be categorised as an upstream tax for EITI purposes. AE argued that this was likely if it related to extractive activities. Industry questioned how the payment would be split between up and down stream. AT stated that this was no different to RFCT and CT.
- 4.6 Following questions from Industry, AT explained the organisation of LB and how Oil and Gas companies, as well as the suppliers, fit into the HMRC structure. He assured companies that whichever part of HMRC were responsible for their CRM, they would be treated in the same way for the purposes of DPT.

ii) Major change in nature or conduct of trade

- 4.7 Clare Dunne (CD) stated that she had been contacted about how the legislation on losses on change of ownership where there was a major change in the nature of trade (Part 14 CTA 2010) applied in relation to ring fence trades. She said that it was not possible to give a blanket assurance, as each case has to be looked at individually and decided on its own facts. However, CD appreciates that companies want clearer guidance on HMRC's position. She asked that examples of scenarios giving cause for concern should be forwarded. This would enable there relevant technical advisor to study the cases and a conversation to be initiated.

iii) R&D – Additional agenda item

- 4.8 It was requested that anyone with concerns about R&D write to the policy team.

5. AOB

i) Joint conference

5.1 Bezhan Salehy (BS) stated that work on the joint conference on 12th November at 100 Parliament Street was well underway and asked Industry to suggest topics for discussion. It was suggested that DPT should be included and AE suggested that the OGA should be included.

ii) Alternatives to dial-in

5.2 AE explained that some companies were effectively excluded from these meetings because budget constraints prevent them from travelling from Aberdeen. He asked if it would be possible to arrange for dial in details.

5.3 AT replied that he understood the difficulties and agreed that we should look at alternatives. Several solutions were suggested, such as holding some meetings in Scotland or arranging a video conference, although AT has some concerns that HMRC cannot host one of sufficient size. It was suggested that Pinsent Masons might have sufficient capacity. AT and AE have agreed to find a solution before the next meeting.

iii) Next meeting

5.4 It was suggested that the next meeting would be held on Tuesday 8th September at 3pm, subject to confirmation.