20th Meeting of the Advisory Expert Group on National Accounts,
5, 12 and 13 July 2022, Remote Meeting

Agenda item: 8

WS.14 Distinction between recording a tax, a services transaction and similar boundary cases

Introduction

In its meeting of 20 April 2022, the AEG reviewed a draft guidance note on the *distinction between recording a tax, a services transaction and similar boundary cases*, focusing on specific issues in the area of environmental taxes, payments and regulation. The note had been developed by members of the Environmental Economic Accounting Area Group (as part of the Well-being and Sustainability Task Team), but AEG members were asked whether the issue should be dropped due to its wider implications beyond environmental accounting or whether a more generic guidance note should be developed. The AEG were supportive of developing a broader guidance note on the topic, which would consider the treatment of all compulsory payments related to government policy. This note provides an initial version of that broader guidance note.

The aim of the note is to discuss different options for recording compulsory payments that are mandated to take place by government as part of government policy and regulation. The note has three distinct sections:

I. Treatment of payments to permit entities the performance of activities or to own/use specific goods/assets
II. Treatment of payments related to the use or extraction of natural resources
III. Possible rearrangement of transactions related to regulatory policies.

The issues addressed include: When should an administrative payment be a tax or sale of a service? What should be included under rent? How should right-to-use natural resource leases be treated? When should payments mandated by government regulation be rearranged?

The content of this guidance note links to other guidance notes currently under discussion or consultation (such as WS.6 and WS.7).[1] While the outcomes of these guidance notes will be relevant for this guidance note, our view is that its views and options are not contradicting these other guidance notes, instead it might be helpful in framing those other discussions.

The note has already benefited from initial feedback from national accounts and government finance statistics colleagues in IMF's Statistics Department, as well as colleagues in Eurostat's Government Finance Statistics Directorate. At this stage, the drafting team would like to obtain feedback from the AEG on some specific issues in order to be able to come up with a final draft that can be discussed at the October meeting for approval for global consultation.

[1] WS.6 Accounting for the Economic Ownership and Depletion of Natural Resources; WS.7 Treatment of Emissions Permits

Questions to AEG

The AEG is requested to reflect on the following questions:

- Do you agree that the draft guidance note should be further developed with the aim of releasing it for global consultation after the October 2022 AEG meeting?
- Under Section I, do you broadly agree with the options presented for delineating between taxes and sales of service or are there other options that should be considered? Do you have any comments on the options or arguments presented? In your experience, is the data available to apply the current "out of proportion" guidance and would you have any specific examples of borderline cases that could be usefully explored further?
- Under Section II, do you broadly agree with the options presented for clarifying and/or amending the current guidance on the treatment of payments related to the use or extraction of natural resources or are there other options that should be considered? Do you have any comments on the options or arguments presented, and would you have specific examples of borderline cases that could be usefully explored further?
- Under Section III, do you broadly agree that there is a need to clarify the current guidance on when to rearrange transactions mandated by government regulation? If yes, do you have any comments on the options or arguments presented, and would you have specific examples that could be explored in more detail?
- Do you have any other comments/suggestions with regard to the guidance note?

Guidance Note:

Taxes and other compulsory payments related to government policy[1]

1. **The design and implementation of policies may depend on the capacity under which the government is acting.** Government can for instance act as: sovereign, regulator, supervisor, producer/provider of public goods and services, owner of public nonfinancial assets, shareholder in a corporation, or as a contractual party under domestic law. Sometimes government will be acting in more than one of the above roles within a particular policy. All of this can be a challenge for statistical compilers when trying to categorize and reflect the economic flows generated by a government policy, in a manner which is consistent and which captures the economic substance in accordance with the standard definitions and classifications of macroeconomic statistics. This can result in policies which have similar economic impacts (on producers and consumers) being recorded differently in government finance statistics and national accounts, as a direct result of the way the policy has been designed and implemented.

2. **Arguably the challenge for statistical compilers is particularly acute when dealing with transactions that are mandated by government.** These could be compulsory payments to government for permission to engage in an activity or to use a resource (including natural resources), or payments required by government as part of a legal or regulatory framework. Additionally, they could also be payments mandated to take place not with the government but between two or more economic actors within the economy.

3. **The aim of this guidance note is to discuss options for recording compulsory payments that are mandated to take place by government.** Of particular focus are, those related to licenses and permits – including for the use of natural resources – and other payments required under regulatory frameworks.

4. **Given that this guidance note seeks to provide improved guidance on the treatment of payments mandated through law, regulation and government policies**, it would not be surprising if many of them were best reflected as taxes, given the definition of a tax as a compulsory and unrequited payment. However, there are established rationales why some mandated payments are not best considered as taxes, but should instead be treated as sales of services, as rent – if relating to use of natural resources, or as other transactions. There are also some existing guidelines on when statistical compilers might rearrange certain payments that do not directly involve the government through the government accounts.

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[1] The guidance note has been prepared by Foyzunnesa Khatun, David Bailey, Phil Stokoe from the IMF Statistics Department (Government Finance Division) and Jorrit Zwijnenburg (OECD).

5. **This note reviews the existing guidance and suggests possible clarifications and improvements.** Section I discusses payments to perform activities or to own or use goods/assets; Section II discusses payments related to the use or extraction of natural resources; finally, Section III discusses rearrangement of transactions related to regulatory policy.

SECTION I: PAYMENTS TO PERFORM ACTIVITIES OR TO OWN OR USE GOODS/ASSETS[2]

BACKGROUND AND ISSUES

6. **One of the functions of government is to grant licenses / permits / certificates which provide the recipient with the permission to use/own goods or engage in certain activities.** The payment for these licenses, permits, or certificates may in some instances be considered as a tax and in other instances as a payment for a service (an administrative fee in *Government Finance Statistics Manual 2014 (GFSM 2014)*). Both the *System of National Accounts 2008 (2008 SNA)* and the *GFSM 2014* provide well established guidance on how to differentiate between taxes and administrative fees. The core guidance explains that the payment should be recorded as a tax if the permit/ license/ certificate (hereafter referred to as license) is automatically granted, with little or no work on the part of the government. However, it should be recorded as a fee if the government uses the licenses to **both** exercise a proper regulatory function (with competence checks and similar) **and** if the payments are not out of all proportion to the costs of providing the service.

7. **The practical application of identifying whether a service of equivalent value has been provided in return for a compulsory payment is challenging and may be inconsistent across countries.** There is currently considerable variety in how countries assess whether or not a payment made to government as part of a mandatory process is a tax or payment for a service (an administrative fee). Countries with limited statistical resources may treat the majority of such payments as payments for services (administrative fees), often on the basis that it is not normally the government's tax collection agency which is responsible for levying these fees. However, even in those countries with more developed statistical infrastructures there can be differences, for example, payments such as those for visas, passports, and public broadcasting television licenses may be treated differently between countries. While these differences may sometimes be due to genuine differences in how the schemes operate, more commonly it is due to different interpretations of the current statistical guidance, particularly that related to whether or not a payment is "out of all proportion".

8. **Different treatments may also emerge as a result of the guidance in the statistical manuals suggesting which type of payments (related to mandatory processes) should be considered a tax.** The *2008 SNA* (paras. 8.64c and 9.70) states that payments for licenses to own or use vehicles, boats or aircraft, and to engage in recreational hunting, shooting or fishing should all be considered taxes. This

[2] Importantly in this section we refer to goods and assets **not** owned by government, as permission to use goods and assets owned by government would be a contractual arrangement recorded as an operating lease, financial lease or resource lease depending on the nature of the contract and the underlying good/asset. Examples of permissions to use goods/assets include government permits to own or use firearms, vehicles, boats or aircraft.

same list is repeated in *BPM6* (para. 10.181). While *GFSM 2014* does not have this exact text it does provide a breakdown of taxes on use of goods and on permission to use goods or perform activities which includes motor vehicle taxes, business and professional licenses, pollution taxes, radio and television licenses, and license and permits for households (see *GFSM 2014* Table 5.4).

9. **Similarly different treatments may be due to the guidance in the statistical manuals suggesting which type of license payments (related to mandatory processes) should be considered payments for services.** The *2008 SNA* (paras. 8.64c and 9.70) states that payments for driving or pilot's licenses, television or radio licenses[3], firearm licenses, passports, airport fees and court fees should all be considered payments for services. The text in *BPM6* (para. 10.181) simply suggests that any payments which are not related to the licenses explicitly identified as taxes (see paragraph above) should be recorded as payments for services. While *GFSM 2014* (para. 5.138) includes a similar list to the *SNA 2008*. It doesn't explicitly mention firearm licenses or airport fees but does include a suggestion that visa fees should be recorded as administrative fees (payments for services). The *GFSM 2014* (paras. 5.74 and 5.138) also mentions that payments for compulsory deposit guarantee/insurance schemes should be recorded as taxes and payments for voluntary deposit guarantee/insurance schemes should be recorded as administrative fees.

10. **The differences in the examples given in the three manuals is unhelpful, particularly given that all three manuals are consistent in their description of the conceptual delineation between taxes and payments for services.** Presumably the examples were added alongside the conceptual guidance in the manuals due to the perceived difficulty in applying the assessment of whether a payment was for a "proper regulatory function" and whether or not it was "out of all proportion" to the service provided. However, it is debatable whether all the examples given of payments for services (or administrative fees) could be described as related to a proper regulatory function. Similarly, some of the examples given as taxes might be considered to be payments related to regulatory functions, depending on the details of the particular mandatory process. For instance, a license to use a motor vehicle may involve safety checks or tests to ensure the safety of the vehicle, prior to a license being issued.

11. **The inclusion of examples in the manuals is likely to result in compilers classifying payments differently depending on whether they are following the conceptual guidance or the named examples.** As noted in the above paragraph, some of the types of licenses listed as being related payments for services may not have the features of a regulatory function, depending on the scheme details, and so the payments for these licenses may be better treated as taxes. Even if there is a regulatory function being undertaken it may be that the payment is out of all proportion to the cost of the service, and so again the payments for the license may be better treated as taxes. Common examples of such out of proportion payments are visa fees, and even passport fees in some countries. As noted above, there may also be cases where licenses whose payments are recommended to be treated as taxes, would actually be better treated as payments for services.

12. **Taxes are compulsory, unrequited payments, in cash or in kind, made by institutional units to government units.** This is according to the *2008 SNA* (para. 22.88), *GFSM 2014* (para. 5.23),

[3] It is noteworthy that contrary to the SNA reference, Eurostat's Manual on Government Deficit and Debt (Section I.2.4.7) advocates for most public broadcasting licenses to be recorded as taxes (unless it is possible to opt out from the consumption of public broadcast services while not affecting the ability to consume private broadcast services).

and European System of Accounts 2010 (ESA 2010) (paras. 4.14 and 4.77). They are unrequited because the government provides nothing directly in return to the individual unit making the payment (although the individual units may benefit indirectly when the government provides goods or services collectively or to the community), and compulsory because the government has used the operation of law to raise these revenues.

13. **Given the definition of a tax; are payments for licenses compulsory and requited?** As currently written, it could be argued that the guidance in the 2008 *SNA* and *GFSM 2014* view the provision of licenses as compulsory (as only government can provide the necessary license) but not necessarily always unrequited. Payments for licenses which are not regulatory are always taxes (hence unrequited), presumably based on the idea that if the license is not regulating an activity or use/ownership of a good then it is simply a mechanism for government to raise revenue (i.e., a tax). The guidance also implies where a license is to regulate an activity or good then there can be seen to be a direct benefit to those applying and paying, with the question of whether the payment is a tax or sale of service ultimately coming down to whether the price paid is commensurate (in proportion) to the service provided by the government. If the payment is not in proportion then it is not requited. *GFSM 2014* (para. 5.73) and 2*008 SNA* (para. 22.89) note that where *"little or no work other than a minimum control of the legal capacity of the acquirer to receive the permit…"* is performed then a payment in this case is considered a tax, this includes instances where licenses are provided automatically upon application. These paragraphs continue on to explain that when the government is performing a regulatory function and the price charged is in proportion to the cost, the payment is a sale of a service (hence requited), although it is still a tax when the payment is out of proportion.

14. **The compulsory nature of needing authorization or permission to engage in an activity is not unusual.** Certain activities can typically only be engaged in with the permission of government, such as international travel, driving a car, or fishing. Similarly, certain goods, such as guns, can only be bought by a person with the appropriate permission to own that good. While there is an element of requitedness in these situations, as the individual receives the required authorization, a choice to pay for the license does not exist for the individual once they have decided to take part in the activity, or to seek permission to own the good/asset. Furthermore, the individual typically wants only to engage in the activity or own/use the good/asset and is only applying for the license as they are obliged to do so by law. Therefore, as individuals have no choice but to apply for the license and as the application does not guarantee authorization (or a refund), the payment related to the activity could be considered as unrequited as well as compulsory – hence an argument for all licenses, whatever the cost, to be recorded as taxes.

15. **Furthermore, regulatory functions are implicitly assumed to be a service provided by government to those applying for the license rather than mainly to benefit wider society.** Regulation is a broad area for government and is typically used to protect citizens and ensure delivery of goods and services. Although businesses do benefit to some extent (e.g. competitive market, employee rights and safety, etc.) , it could be argued that businesses and households applying for licenses are not the main beneficiaries of regulation – consumers and the general public are – and any benefits received by those applying for the licenses are indirect.

16. **Should the proportionality test be applied to payments to government that are not compulsory?** The *2008 SNA* para. 22.88 states that *"the payment is part of a mandatory process that ensures proper recognition of ownership or that activities are performed under the strict authorization of*

the law" and very similar language is used in *GFSM 2014* para 5.72*.* The language in these paragraphs can be interpreted to mean the authorization required, and hence payment, is part of enforcing the law (with respect to regulation, supervision and safety). Therefore, this guidance is applicable only to payments to government that are compulsory under law. At times, compilers may overlook this part of the guidance and apply the guidance on whether a payment is commensurate to a wider range of payments to government. As such, there is a question of whether this guidance should be applied to (i) payments charged under the operation of law, (ii) all compulsory payments, or (iii) any payments to government.

17. **What is considered "in proportion" in the statistical guidance is undefined**. The guidance requires an assessment as to whether the payment is in or out of proportion to the cost of the service provided. However, it does not provide guidance on how this assessment should be made. As such, GFS and national accounts compilers spend time deliberating this. Passport fees vary widely in price across the world and these prices may or may not be in proportion to the cost to produce them. Similarly, visa fees for some countries may be large even though little work is done when granting the visa (even when visa fees are low, it still may be the case that the cost of the work done by the government in issuing the visas is significantly below the visa payments received). In both cases, there may also be cross-subsidization so that some visas or passports are provided at lower prices than others, with no correlation between the prices charged and the amount of checks and work undertaken by the government. How should the assessment of whether a payment is out of proportion be made? Should it compare the payment to the specific administrative work connected to issuing that license? This can be challenging to do, particularly if a license doesn't have a single flat price but instead a range of prices depending on different factors. Should then the aggregate payments for license be compared with the total administrative costs of the government unit providing the license? This might be a more practical calculation to do, but it will likely include a range of administrative costs which are completely unrelated to providing the license. The result may also depend on the government structure and how it is subdivided into units/departments. Given these difficulties, this area of guidance would benefit from further clarity, which could range from improving the language to introducing a formulaic approach for testing whether a charge is 'in proportion' e.g. similar to the market test.

18. **As discussed earlier, those applying for the licenses are perhaps not the main or direct beneficiaries of regulation and it could be said that the beneficiary of regulation is society as a whole.** Hence, under this logic, these payments are unrequited and are compulsory transfers, imposed through the force of law, and as such are taxes (as they are clearly not fines or penalties). It could be further argued that all such payments are tools to raise government revenue whether they are only to cover the costs of the units providing the permits or to fund government operations more widely. For instance, in the specific examples of passports and visas – once an individual has decided to take part in an activity (travel internationally or reside/work in a country), they no longer have a choice but to pay government in order to do so. They cannot obtain a passport or a visa from anyone else other than government, nor importantly can they engage in the desired activity without the necessary license (i.e. passport or visa). Therefore, a passport or visa alone provides no direct benefits but are simply authorizations needed to perform other activities. This approach and change to the current statistical guidance would remove the current uncertainty as to whether a compulsory payment for a permit is a tax or fee, and so would improve data comparability between countries.

19. **Should license payments be partitioned into an element which is commensurate with the work of government (requited) and a tax element (unrequited).** As discussed above, the guidance in

the statistical manuals is that if the government uses a license to exercise "a proper regulatory function" the payment should be recorded as a tax if it is out of proportion to the work undertaken by the government in issuing the license, or as payment for a service (administrative fee) if the payment is not out of proportion. This dichotomy is questionable, and perhaps a better representation of the economic substance is that those payments considered out of proportion to the cost of providing the service should be partitioned into a payment for a service element, equal to the cost of providing the service, and a tax element equal to the rest of the payment. Such an approach would be supported by the guidance in *GFSM 2014* para. 3.11, which states that, "*Some transactions appear to be exchanges but are actually combinations of an exchange and a transfer. In such cases, the actual transaction should be partitioned and recorded as two transactions, one that is only an exchange and one that is only a transfer.*" It could also be seen as analogous the treatment in *SNA 2008* of separating out a FISIM component from an interest payment; a sale of service component from a nonlife insurance premium; and separating out from unitary charge payments related to public private partnerships (PPPs) the elements of fees, interest and payments of principal (in those cases where the government is the economic owner of the asset).

OPTIONS

20. **Option 1: No change to current guidance.** Without changing the guidance inconsistency between and within the statistical manuals will continue.

21. **Option 2: Clarify the guidance in the manuals with respect to (a) the named examples, and (b) the assessment of "out of proportion".** Both *GFSM 2014* and *2008 SNA* list specific examples of licenses or other compulsory payments that should be considered as fees (sales of services) or taxes. Whether this recording by convention, based on the name and type of a license, leads to greater or lesser harmonization across countries is unclear. On the one hand, the current list provides pragmatic guidance which is easy to apply, but on the other this can lead to payments being recorded differently to how they would be treated if the conceptual guidance was applied. Removing or caveating the named examples would enforce the conceptual guidance. However, without additional clarification on aspects of the guidance, such as how to assess "out of proportion", this might not lead to more consistency.

22. **Option 3: Clarification of what is a "mandatory process" and so when to assess whether a payment is "out of proportion".** The guidance on distinguishing between a tax and a fee for a service comes after the *2008 SNA* para. 22.88 which refers to payments for licenses as being part of a mandatory process. As such, the guidance on distinguishing between taxes and fees is only intended to apply to payments that are compulsory under the operation of law. In fact, the current guidance is even more specific than that, and only proposes the assessment of whether or not a payment is out of proportion for those payments related to a "proper regulatory function of government". However, as noted earlier compilers may apply this guidance to compulsory payments to government that are not linked to any law. For example, local governments may charge fees for residential parking payments – these permits are compulsory but may not be linked to a specific law.

23. **Option 4: Consider all compulsory payments for licenses to be unrequited and so taxes.** A more substantive change would be to consider all compulsory payments to governments for licenses as unrequited, regardless of whether the cost of providing them is in proportion to the fees charged. This would result in recording all of these payments as taxes, and would recognize that the regulation imposed by government in issuing the licenses is primarily to benefit the wider community and not the applicant for the license.

24. **Option 5: Partition the compulsory payments for licenses into a fee (payment for service) component and tax component.** The current guidance only recognizes a sale of a service element where the government is conducting a regulatory function and the payment is in proportion to the costs of providing the service. Where the costs are out of proportion the entire payment is considered a tax, but in economic substance there is still a service element being provided by the government and this could be recognized by partitioning the payment.

25. **In summary, in *GFSM 2014*, fees for compulsory licenses are recorded under the category of 'administrative fees'** which also includes other payments to government that are sales of services (including fees payable for voluntary participation in deposit insurance or other guarantee schemes that are not standardized guarantee schemes). As such, recording fees for compulsory licenses as taxes (option 4) or partitioned between taxes and fees (option 5) would not eliminate this category but would reduce significantly the amount recorded in this category; total government revenue would be unaffected. In the *2008 SNA*, a similar change would be seen, with a fall in payments for non-market output and an increase in taxes.

SECTION II: PAYMENTS RELATED TO THE USE OR EXTRACTION OF NATURAL RESOURCES

BACKGROUND AND ISSUES

26. **In most countries, governments own most of the natural resources.** Governments typically either legally own natural resources or control natural resources on behalf of citizens or society. In both cases they will usually decide how to use these natural resources to meet policy aims. However, in some countries, such as the US, there is also widespread private ownership of land and the natural resources beneath it (such as coal, oil, gas, and minerals). In all countries, the extraction or use of these resources is governed by laws and regulations, where those extracting or using the natural resources need to obtain permission to do so or follow certain rules and regulations. This is the case even when the government is not the owner of the natural resource.[4]

27. **In the *2008 SNA*, *GFSM 2014* and *ESA 2010*, not all natural resources are considered economic assets.** *2008 SNA* para. 10.167 defines the asset boundary for natural resources as *"…only those naturally occurring resources over which ownership rights have been established and are effectively enforced can therefore qualify as economic assets and be recorded in balance sheets. They do not necessarily have to be owned by individual units, and may be owned collectively by groups of units or by governments on behalf of entire communities. Certain naturally occurring resources, however, may be such that it is not feasible to establish ownership over them: for example, air, or the oceans. In addition, there may be others that cannot be treated as economic assets because they do not actually belong to any particular units…".* As such, in accordance with this principle, the current guidance on

[4] GN WS.6 Accounting for the Economic Ownership and Depletion of Natural Resources discusses options for determining economic ownership of (non-renewable) natural resources and how to account for their depletion. Results of this guidance note and consultation may impact the guidance in this note.

payments for the use of natural resources only discusses those where ownership rights exist and can be established over an asset.[5]

28. **Natural resources can provide several sources of revenue for government.** As the owner of natural resources, and through use of its sovereign powers, governments are able to raise revenue from natural resources in a number of ways. Firstly, as an owner a government can lease a natural resource and receive payments in return for putting it at the disposal of another unit. These payments are usually called 'royalties' and are linked to the amounts extracted. Governments may also levy resource taxes - taxes on the profits of those corporations that extract natural resources (including windfall taxes). Other payments can include regulatory fees charged in the process of governments regulatory services[6], fines or penalties related to natural resource extraction; these examples are not exhaustive. Additionally, a country may have a public corporation involved in the extraction of a natural resource rather than a private corporation, in which case, payments to general government include dividends or possibly other transfers. An important question is how all of these payments should be recorded in the national accounts and government finance statistics.

29. **The issue of the delineation between resource taxes and rent has been discussed previously.** Eurostat have published guidance on the "Delineation between resource taxes and rent" which can be found on their website here. The paper discusses how proceeds of resource leases are currently treated in *ESA 2010* and *2008 SNA*, and proposes broad guidance on how to distinguish between taxes and rent when recording these payments. The key conclusions of this paper are:

> *"Taxes on natural resources, including when they are levied on the quantity extracted, exploited or produced, should be recorded as rents (D.45), provided that the conditions of requited payments as laid down in ESA 2010 are met. Thus:*
>
> - *If general government owns the natural resource, a rent should be recorded, particularly when the payments are proportional to the quantity extracted;*
> - *If general government does not own the natural resource, a tax needs to be recorded.*
>
> *Payments dependent on the value of production can be regarded as a proxy for quantity and should thus be classified as rent (D.45) if government is the owner of the resource and otherwise as a tax on production (D.29).*
>
> *Sur-taxes on the profits of corporations involved in the extraction of natural resources should also be considered as rent (D.45) rather than as taxes on the income or profits of corporations (D.51b), if government is the owner of the natural resource.*

[5] This definition currently excludes the atmosphere. GN WS.7 Treatment of Emissions Permits is relevant to note here as its options discuss the treatment of the atmosphere as an implicit asset. Results of this guidance note and consultation may impact the guidance in this note.

[6] For example, in the UK, the *North Sea Transition Authority (formerly Oil and Gas Authority)* charges several regulatory fees.

Any arrangement similar to fiscal monopolies are recorded as rent D.45 rather than taxes D.2122/D.214j, when concerning the exploitation of natural resources.

When a lease of natural resources extended to a 100% owned public corporation gives rise to large dividend payments compared to royalties or other surtaxes and seem disproportionate compared to the equity invested, a reclassification of the non-financial flow under rent should be envisaged."

30. **Rent is the revenue receivable by the owners of a natural resource for putting the natural resource at the disposal of another institutional unit.** In both the *2008 SNA* and *GFSM 2014*, payments for rent are made under resource leases; agreements whereby the legal owner of a natural resource makes it available to a lessee in return for a regular payment. As there is no change of economic ownership, the natural resource continues to be recorded in the balance sheet of the lessor. *2008 SNA* para. 7.160 notes *"the owners of the assets, whether private or government units, may grant leases to other institutional units permitting them to extract such deposits over a specified period of time in return for the payment of rent. These payments are often described as royalties, but they are essentially rent that accrues to owners of the assets in return for putting them at the disposal of other institutional units for specified periods of time and are treated as such in the SNA. The rent may take the form of periodic payments of fixed amounts, irrespective of the rate of extraction or, more commonly, they may be a function of the quantity or volume of asset extracted. Enterprises engaged in exploration may make payments to the owners of surface land in exchange for the right to make test drillings or investigate by other means the existence and location of subsoil resources. Such payments are to be treated as rent even though no extraction is taking place."*

31. **Can governments receive rent for assets for which they are not the economic owner?** The manuals discuss the recording of permits to use natural resources and acknowledge that the government is generally the owner of natural resources on behalf of the community at large. *2008 SNA* and *ESA 2010* both acknowledge that natural resources can be privately owned, and therefore the guidance on how to treat payments for these permits applies in these cases as well, while *GFSM 2014* specifically mentions that government may issue licenses when resources are privately owned:

- *2008 SNA para. 17.313 "As noted above, in many countries permits to use natural resources are generally issued by government since government claims ownership of the resources on behalf of the community at large. However, the same treatments apply if the resources are privately owned.*
- *ESA 2010 para. 15.26 "Permits to use a natural resource can be issued by government, but can also be issued by private owners, like farmers and business.*
- *GFSM 2014 para. A4.18 "In many countries, licenses and permits to use natural resources are issued by government because government claims ownership of the resources on behalf of the community. <u>However, government could also issue these licenses and permits if the resources are privately owned.</u>*

32. **The guidance in *2008 SNA* and *ESA 2010* can be understood to mean that if and when private owners issue permits to use natural resources the recording is the same as when a**

government issues a permit to use a natural resource. Only *GFSM 2014* acknowledges that government may issue permits to use natural resources for assets for which it is not the economic owner. As it is only the government that can issue a license or permit to extract or use a natural resource under regulatory rules, all three manuals would benefit from clarifying the distinction between this and a contract between two private parties. In the latter case an extractor may have a contract with the private owner of the natural resource and also needs to obtain permission from the government to extract or use the natural resource. As such, these payments may need to be recorded differently.

33. **When government is not the economic owner of a natural resource but is still receiving a payment for its use (as a license or other regulatory payment) then this cannot be considered rent.** This is clear from the definition of rent. For instance, according to *2008 SNA* para 7.107 *"property income accrues when the owners of financial assets and natural resources put them at the disposal of other institutional units."* In the situation where government is not the economic owner of the natural resource it may be necessary to record this payment as a tax, or perhaps to apply the guidance discussed in the previous section on payments for licenses. Care is required here, as in some jurisdictions the land asset and subsoil assets may have different economic owners. In this situation, there may for instance be a payment to a household or private business for access to (or use of) land and a separate payment to government for extraction of the natural resources – both payments may be recorded as rent but to the different economic owners.

34. **Should all payments to the government in relation to the extraction of natural resources be recorded as rent when it is the economic owner?** The *2008 SNA* para. A3.76 states *"Payments by an extractor to the owner of the mineral resources corresponding to a share of the resource rent should be shown as property income even if they are described as taxes and treated as such in the government's own accounts".* As noted in Eurostat's paper on the delineation between resource rents and taxes (see above), this implies that *"the purpose of resource rents is to capture the economic rent the extractor should be paying and to redirect this to the owner of the resource."* As such, according to this paragraph the payments to the owner of the resource should be shown as rent even if they are otherwise described.

35. **Statistical manuals used to compile government finance statistics or national accounts do not explicitly define resource rent.** However, the OECD glossary of statistical terms defines resource rent as: "*The economic rent of a natural resource equals the value of capital services flows rendered by the natural resources, or their share in the gross operating surplus; its value is given by the value of extraction. Resource rent may be divided between depletion and return to natural capital.".* The System of Environmental-Economic Account Central Framework (SEEA-CF) goes further by showing how resource rents can be derived from SNA aggregates. Under the SEEA-CF, resource rents are also known as economic rent: *"the surplus value accruing to the extractor or user of an asset calculated after all costs and normal returns have been taken into account"*. Table 5.5. of the SEEA-CF shows how resource rent can be derived, in particular, it notes that it is necessary to take into account the effects of any specific taxes and subsidies that relate to the extraction activity.[7] Given that government engages with natural

[7] In Table 5.5 of the SEEA-CF resource rent is derived as: output *less* (operating costs, intermediate consumption, compensation of employees, and other taxes on production plus other subsidies on production) *equals* (gross operating surplus – SNA basis) *less* (specific subsidies on extraction) *plus* (specific taxes on extraction) *equals* (gross operating surplus – for derivation of resource rent) *less* (user costs of produced assets) *equals* **resource rent**

resource extractors (or users) in a number of different capacities, and not just as the economic owner of the natural resource being extracted (or used) it can be challenging for national accounts and GFS compilers to identify which payments should be treated as rent. For this reason, *2008 SNA* para. A3.76 emphasizes that statistical compilers should not just look at the labelling of the payment.**At one extreme, any kind of payment to government – whether for permits to use the natural resource, additional taxes on profits, fees or fines specific to natural resource extraction etc. could be recorded as rent** on the basis that an extractor might factor in all costs to government when considering its economic rent. However, *SNA 2008* para. 7.160 and *GFSM 2014* 5.130 point out that rent payments are normally linked to the quantity or volume of natural resources extracted. As such, it may be reasonable to consider that payments linked to the value or volume of extraction should be recorded as rent; otherwise they should be recorded as a tax or other transfer. This definition of rent could further be expanded to encompass surtaxes as these are specifically applied to users/extractors of natural resources and represent an extra amount earned by the natural resource which is to be shared with the economic owner of the natural resources, and thus part of economic rent.

36. **A government may also use a public corporation to extract natural resources, which may result in further payments to government.** Although related to the extraction of natural resources, these payments should in the view of the authors of this note not be treated differently than if they were from another public corporation. For example, where the government owns shares and it is clear payments being received are dividends, these should be recorded as such.

37. **Should a resource lease, hence rent, also be recorded when a new permit asset is created for the right to use a natural resource?** All the statistical manuals recognize three different sets of conditions that apply to the use of a natural resource: i) the resource can be used to extinction; ii) the owner can extend or withhold permission to continued use of the asset from one year to the next; and iii) the owner may allow the resource to be used for an extended period of time in such a way that in effect the user controls the use of the resource during this time with little if any intervention from the legal owner. According to each manual, the first case results in the sale of the natural resource and is recorded as a disposal of a nonproduced asset in the form of a natural resource. In the second case, a resource lease is recorded, with payments received recorded as rent.

38. **However, under the third case, the resulting recording from the guidance varies somewhat between each manual.** *2008 SNA* para. 17.315 and *GFSM 2014* para. A4.19 both state that this *"…option leads to the creation of an asset for the user, distinct from the resource lease itself but where the value of the resource and the asset allowing use of it are linked".* Similarly, *ESA 2010* states that provided the license is finite and transferable, a new asset is recorded for the user, which is distinct from the resource itself. In all cases the asset being recognized is the creation of an intangible nonproduced asset classified as *contracts, leases, and licenses*. It should be noted that while all three paragraphs are very similar, neither *SNA 2008* or *GFSM 2014* make an explicit mention of rent being recorded, while ESA 2010 does. Regarding this option, *ESA 2010* para. 15.27 states that this *"…option may not only lead to a recording of rent but also the creation of an asset for the user, distinct from the resource itself but where the value of the resource asset and asset allowing use of it are linked."*

39. **It is clear from this text in *ESA 2010* and the subsequent Table 15.3 that *ESA 2010* envisages that under this third case rent will continue to be recorded as being paid to the economic owner** but an additional asset distinct from the resource lease will be created (the transferable permit) whose value can be realized if sold by the extractor (i.e. the permit is transferred). This asset

comes into existence through an other economic flow and enters the balance sheet of the initial owner at zero value, but this price is later subject to revaluation based on the market price of the underlying asset and the associated rents.

40. **However, 2008 SNA and GFSM 2014 imply that rent is not recorded in the case where a new contract, lease, and license asset is recognized.** GFSM 2014 para. 5.124 explains that, "*Also excluded from rent are amounts receivable by owners of natural resources when they allow the resource to be used for an extended period of time in such a way that, in effect, the user controls the use of the resource during this time with little, if any, intervention from the legal owner. This option leads to recording a transaction in an asset, classified as contracts, leases, and licenses (31441), for the user, distinct from the resource itself…*" This point is further supported by the flow chart in *GFSM 2014* Figure A4.1 which shows such payments as resulting in the recording of only a new asset, via a transaction, and not rent. While *2008 SNA* is apparently not so explicit in *2008 SNA* para. 17.322, where mobile phone licenses are discussed, it is noted that *"payment for a mobile phone licence constitutes the sale of an asset, not payment for rent, when the licensee acquires effective economic ownership rights over the use of the spectrum. To decide whether ownership is effectively transferred or not, the six criteria…"* para. 17.324 continues *"when a sale of an asset applies, and when the life span of the licence is different from the life span of the spectrum, the payment for a licence is treated as a sale of a permit to use a natural resource…"* While these paragraphs relate to mobile phone licenses and not extractable natural resources the principles of recording appear to be the same.

41. **In summary, under *ESA 20210* both rent and a new contract, lease, license asset are recorded while under *2008 SNA* and *GFSM 2014* it appears that only the latter is recorded.** It could be argued that the guidance in *2008 SNA* and *GFSM 2014* is inconsistent with the existence of an underlying natural resource in the balance sheet of the economic owner, as if there remains a natural resource being used/extracted by a party who are not the economic owners then this would imply that a resource lease is still in existence. While over the lifetime of the contract, net borrowing of both the extractor and economic owner is unaffected, the initial recording is different as the sale of the lease will be recorded at the point of sale whereas rent is accrued over the life of the contract (i.e. period of extraction/use).

OPTIONS

42. **Option 1: No change to current guidance.** The current guidance may be considered broadly adequate. Although it should be noted that if current proposals to introduce depletion accounting and allow the splitting of natural resource assets are agreed then there may be additional focus on what should be reported under rent.

43. **Option 2: Clarify the current guidance on the definition of rent.** The current guidance on rent could be usefully improved by reinforcing the fact that rent can only be received by the economic owner of a natural resource and clarifying which payments should be included in rent. This guidance might mention that any payments to the economic owner of a natural resource from a user/extractor of that resource which are linked to the use/extraction of that resource, in particular to the quantity and/or value of that resource should be recorded as rent (including royalties, sur-taxes, and permits). However, payments that are paid by the user/extractor on the same basis as other corporations who are not users/extractors of natural resources (e.g. standard rate corporation taxes, dividends, payments for services) should not be recorded as rent but under the relevant economic category.

44. **Option 3: Amend the current *2008 SNA* guidance on the treatment of right to use a natural resource licenses.** The current *2008 SNA* (and *GFSM 2014*) guidance differs from that in *ESA 2010*. Under this option the *ESA 2010* treatment could be adopted in the SNA to recognize both a resource lease and a right to use a natural resource license. This approach would recognize that the economic ownership of the underlying natural resource does not change on issuance of the right to use a natural resource license, and so rent payments to the economic owner are still required. It would also require that the licenses are created through an other economic flow rather than a transaction.

45. It should be noted that Options 2 and 3 are not mutually exclusive but both, only one, or neither could be agreed and taken forward.

SECTION III: REARRANGEMENT OF TRANSACTIONS RELATED TO REGULATORY POLICIES

BACKGROUND AND ISSUES

46. **Rearrangement of transactions involves either rerouting, partitioning, or reassignment.** All the statistical manuals contain similar descriptions of the three types of rearrangement although "reassignment", which is the term used in the GFSM 2014 is described in the 2008 SNA as "units facilitating a transaction on behalf of other parties" and in the ESA 2010 as "recognizing the principal party to a transaction".

47. **Where transactions are rearranged through government it is done to reflect both the economic substance and role of government in the transaction.** Examples include the rerouting of social contributions through the households who are the parties who are contributing and who will receive the associated social benefits, and the recognition of government as the "principal party" in imposing a tax when a public corporation or another level of government collects the tax. Similarly, some countries may rearrange the specific fiscal operations of development banks, where government has mandated them, to reflect them in the government accounts. It also should be mentioned that sometimes imputation is used to reflect the economic substance of a transaction, this for instance is done to reflect the borrowing of nonresident SPEs engaged in fiscal operations in the domestic government's accounts. Similarly, imputation is used under some circumstances to reflect government as the economic owner of assets in certain public private partnership arrangements.

48. **The existing guidance is relatively clear on when to partition a transaction or to reassign a transaction.** The SNA (paras. 3.61-3.74), GFSM (paras. 3.27-3.30), and ESA (paras. 1.72-1.78 and 20.204) all have consistent guidance on rearrangement of these types of transactions. However, what is less clear in the current guidance is when to reroute or impute a transaction.

49. **The focus of this paper is specifically on where government regulatory policies may mandate transactions between institutional units in the economy, which otherwise would not take place or would not take place at that price or volume.**

50. **In many cases the government regulation will require a household or business to acquire a license or permit to engage in an activity or own a good.** The treatment of these payments are discussed in Section I.

51. **In other cases, the government regulation requires similar payments for a license to an agency which is not a government unit, but may be a public corporation or a non-profit institution outside of government.** If the payment is deemed to be a tax (following the treatment suggested in Section I) then this payment needs to be reassigned to government, as only government units can levy and receive taxes, with the proceeds retained by the non-government body as a fee or transfer. Similarly, if the payment is considered to be a fee then it may still be appropriate to reroute it through the government accounts if the fee is set by government as part of its regulatory policy.

52. **In further cases, these regulatory transactions may not require any payment to government or a government designated agency, but instead mandate payments (or the terms of exchanges) between institutional units in a market or industry that the government is regulating, and/or their consumers.** Examples of this are where government obliges a corporation to buy something from another corporation at a price above the market price (e.g., renewable energy) or to sell a product to some or all consumers at a price below the market price (e.g. staple foods). This is a type of cross subsidization within and/or across industries.

53. **Governments intervene in a wide range of activities with the intention of influencing the behavior of other institutional units.** For example, companies in many countries are required to pay a minimum wage, or offer minimum levels of social benefits, price caps are imposed in many industries (transport, utilities), and new regulation is often introduced after economic crises. In many cases, the direct impacts of regulation are difficult to quantify, making rearrangement difficult and sometimes impractical.

54. **Regulation is used by some governments as a policy tool to drive behavioral and economic changes.** For example, a government which previously chose to reduce dependency on fossil fuels by taxing those electricity suppliers that use fossil fuels and redistributing the revenue received as a subsidy to renewable energy generators, may decide to deliver the same policy outcomes by requiring electricity suppliers to subsidize renewable energy generators directly by either (i) purchasing some of their electricity at above market prices (commonly referred to as “feed-in tariffs”) or through (ii) purchasing a required number of permits/certificates held by renewable energy generators. If there is no rerouting (as a tax on the electricity suppliers and a subsidy to the renewable energy generators) then the government tax revenues and subsidy expenses will have reduced, but with no change to the impact of government policy on the economy. These types of redistributive regulations which effectively indirectly tax one set of actors in the economy to subsidize another set of actors are most commonly found in environmental regulations aimed at reducing pollution or carbon emissions, but similar regulations could be envisaged within the transport and housing sectors.

55. **In cases like this, government effectively uses its regulatory powers to influence the behavior of market actors, mandating that certain transactions will take place – transactions which can thus be seen as compulsory and unrequited, as well as redistributive.** The purpose of government in these transactions is to benefit society, usually either by encouraging the use of goods and services which government views as beneficial (e.g. renewable energy and installation of energy saving goods), or by protecting households and small businesses from high prices (or low salaries) that the market may demand if left unregulated.

56. **A key challenge is in defining where the boundary should be for the rearrangement of transactions between non-government units mandated by government regulation.** There is a risk

that whenever government dictates a minimum or maximum price for a good or service (such as a minimum wage, price cap on staple goods, or limit on the rent that can be charged for social housing) that this is seen as government regulation which requires a tax and subsidy to be recognized and rerouted through the government accounts. Therefore, care needs to be taken when articulating when to rearrange transactions between non-government bodies mandated by government regulation. The only known existing guidance in this area within the statistical manuals is in Eurostat's *Manual on Government Deficit and Debt (MGDD 2019)* which addresses the issue in Section 1.2.4.5.4 noting that "*if a non-government unit carries out transactions that result de facto in the redistribution of income and wealth it is sufficient for rearrangement since this is a task of government*". However, the section goes on to note that goods and services provided at below-market terms are commonly observed in the private sector in the context of cross-subsidizing products and activities. Underlining the need to be careful in identifying which transactions should be considered to be redistributive within the wider economy, and so rearranged.

57. **Practical considerations may also be relevant when deciding whether to rearrange a transaction between two or more non-government units**. It would seem that if a government regulation mandates a particular transaction in such a way that the tax-element and subsidy-element (or social benefit / other transfer element) are clearly identifiable and measurable then this transaction is a better contender to rearrange than other cases where the mandated transactions are not so easily identified or quantified.

OPTIONS

58. **Option 1: No changes to existing guidance.** Some countries have more government regulation than others, and therefore the need for new guidance varies across countries. Some countries (such as the UK) already record certain energy schemes as taxes and subsidies, under the existing statistical guidance. Leaving the guidance unchanged means that countries can continue to rearrange transactions on an ad-hoc basis.

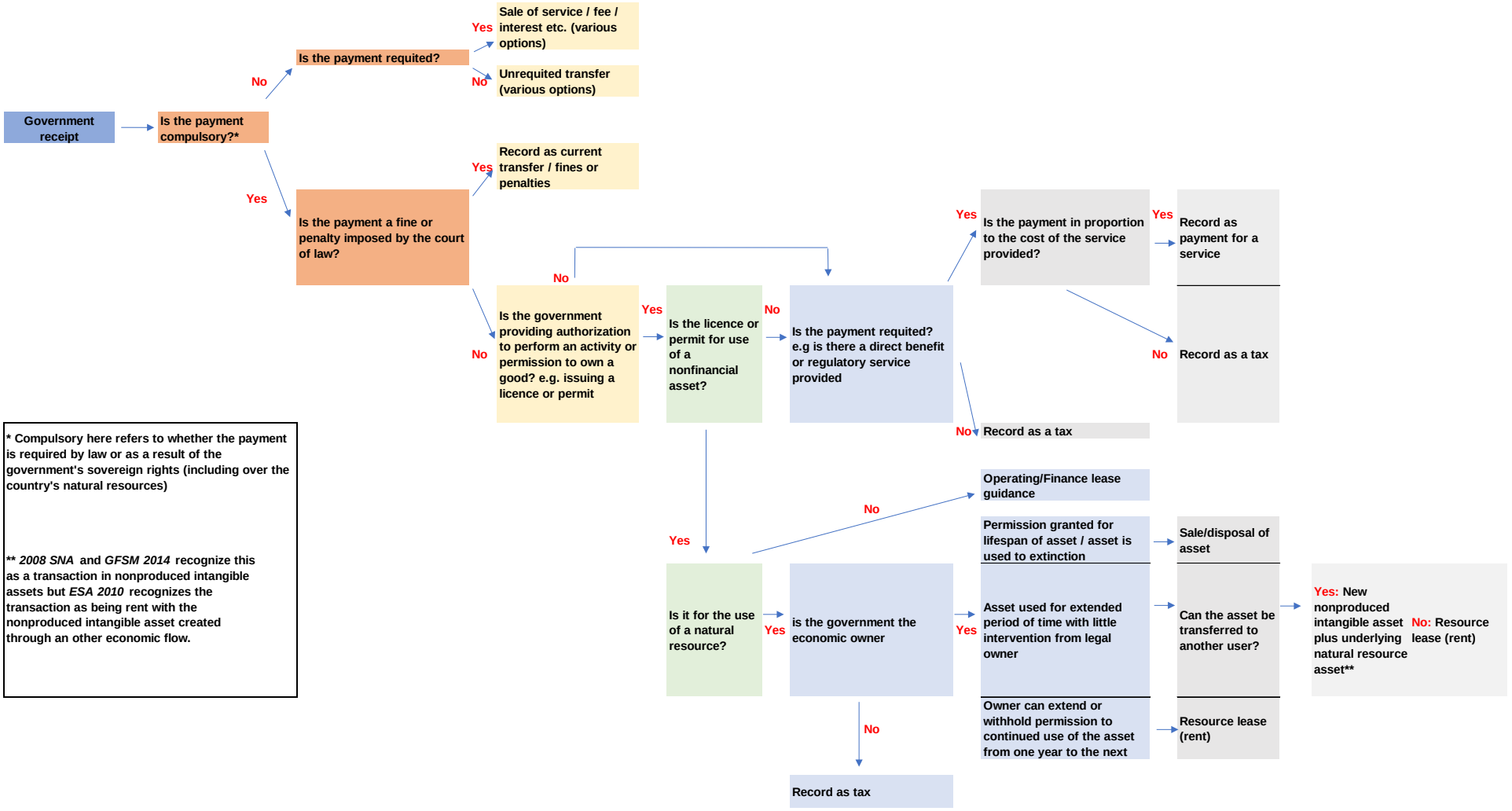
59. **Option 1b: Reinforce application of guidance on reassignment (i.e., recognizing the principal party) but keep guidance on rerouting unchanged.** Where government chooses to initiate a transaction as part of government fiscal policy but uses another entity to conduct that transaction then government should be recognized as the actor ("principal party") in that transaction. While the statistical guidance already encourages this recording it could be extended to give examples of the types of circumstances when such recognition of government as the "principal party" should be implemented.

60. **Option 2: Develop extended guidelines on when to rearrange transactions relating to government regulation, including rerouting.** The most detailed current guidance on when to reroute as a result of government policy is in Chapter 1.2 of the *MGDD 2019 (paras. 119-125).* This points out that transactions below market prices occur frequently and are not always related to government interventions. However, when government mandates transactions between non-government units, at prices, which are fundamentally loss-making and/or considerably below the usual terms of the unit, then rerouting as taxes and subsidies/social benefits/other transfers may be appropriate. Guidance could be developed which seeks to define when it is appropriate to reroute such government mandated transactions.

61. **Option 2b: Require the rearrangement of all transactions which are mandated by government regulation, and which in nature are redistributive of income or wealth.** Option 2b is a

more specific version of option 2 which targets the redistributive nature of a transaction as the characteristic which would lead to rerouting. This is based on the idea that only government has the redistribution of income and wealth as a core purpose.

APPENDIX I: POSSIBLE DECISION TREE FOR CLASSIFYING COMPULSORY PAYMENTS TO GOVERNMENT (BASED ON EXISTING GUIDANCE)



* Compulsory here refers to whether the payment is required by law or as a result of the government's sovereign rights (including over the country's natural resources)

** *2008 SNA* and *GFSM 2014* recognize this as a transaction in nonproduced intangible assets but *ESA 2010* recognizes the transaction as being rent with the nonproduced intangible asset created through an other economic flow.

APPENDIX II: RELEVANT EXISTING GUIDANCE IN 2008 SNA, GFSM 2014 AND BPM6

Section I: Payments to perform activities or to own or use goods/assets

2008 SNA

7.97c. *Business and professional licences*: these consist of taxes paid by enterprises in order to obtain a licence to carry on a particular kind of business or profession. Licences such as taxi and casino licences are included. In certain circumstances, licences to use a natural resource, however, are treated not as a tax but as the sale of an asset. These circumstances are described in part 5 of chapter 17. However, if the government carries out checks on the suitability, or safety of the business premises, on the reliability, or safety, of the equipment employed, on the professional competence of the staff employed, or on the quality or standard of goods or services produced as a condition for granting such a licence, the payments are not unrequited and should be treated as payments for services rendered, unless the amounts charged for the licences are out of all proportion to the costs of the checks carried out by governments (*GFSM2001*, 11452; OECD, 5210). (See also paragraph 8.64 (c) for the treatment of licences obtained by households for their own personal use.);

8.54 One of the regulatory functions of governments is to forbid the ownership or use of certain goods or the pursuit of certain activities, unless specific permission is granted by issuing a licence or other certificate for which a fee is demanded. If the issue of such licences involves little or no work on the part of government, the licences being granted automatically on payment of the amounts due, it is likely that they are simply a device to raise revenue, even though the government may provide some kind of certificate, or authorization, in return. However, if the government uses the issue of licences to exercise some proper regulatory function, for example, checking the competence, or qualifications, of the person concerned, checking the efficient and safe functioning of the equipment in question, or carrying out some other form of control that it would otherwise not be obliged to do, the payments made should be treated as purchases of services from government rather than payments of taxes, unless the payments are clearly out of all proportion to the costs of providing the services. The borderline between taxes and payments of fees for services rendered is not always clear-cut in practice (see paragraph 8.64 (c) for a further explanation of this matter in the case of households).

8.64c. *Payments by households to obtain certain licences:* Payments by persons or households for licences to own or use vehicles, boats or aircraft and for licences for recreational hunting, shooting or fishing are treated as current taxes. Payments for all other kinds of licences (for example, driving or pilot's licences, television or radio licences, firearm licences, etc.) or fees to government (for example, payments for passports, airport fees, court fees, etc.) are treated as purchases of services rendered by governments. The boundary between taxes and purchases of services is based on the practices actually followed in the majority of countries in their own accounts (*GFSM2001*, 11451 and 11452; OECD, 5200);

9.70 Households make payments to government units to obtain various kinds of licences, permits, certificates, passports, etc., and in some cases it is not clear whether the government units actually provide services in return, such as testing or inspection, or whether the payments are de facto taxes. As explained in paragraph 8.64 (c), the treatment of certain borderline cases has been decided by the following convention, based on the practices followed in the majority of countries: payments by households for licences to own or use vehicles, boats or aircraft and also licences for recreational hunting, shooting or fishing are treated as taxes. Payments for licences to undertake a specific activity, for example a taxi licence, are treated as a tax on production. Payments for all other kinds of licences,

permits, certificates, passports, etc., are treated as purchases of services and included in household consumption expenditure.

22.88 Taxes are compulsory unrequited payments, in cash or in kind, made by institutional units to the general government exercising its sovereign powers or to a supranational authority. They usually constitute the major part of government revenue, up to 90 per cent in some countries. Taxes are described as unrequited because, in most cases, the government provides nothing commensurate in exchange to the individual unit making the payment. However, there are cases where the government does provide something to the individual unit in return for a payment in the form of the direct granting of a permit or authorization. In this case, the payment is part of a mandatory process that ensures proper recognition of ownership or that activities are performed under the strict authorization by the law. The borderline between when such payments are to be treated as a tax and when as the sale of a service or as the sale of an asset by the government requires additional guidance.

22.89 As noted in chapters 7 and 8 when discussing the difference between a tax and a fee for a service, the borderline is not always clear-cut in practice. The following recommendations apply.

a. The payment is recorded as a tax when a licence or a permit is automatically granted by the government as a mandatory condition to perform an activity or acquire an asset and when the government unit performs little or no work other than a minimum control of the legal capacity of the acquirer to receive the permit (for instance, to confirm the applicant has not been convicted of a crime). The payment of the fee in such a case is not commensurate with the control function that the government exercises.

b. The payment is recorded as the purchase of a service when, for instance, issuing the licence or permit implies a proper regulatory function of the government by exercising control on the activity, checking the competence or qualifications of the persons concerned, etc. In such a case, the payment is taken to be proportion to the costs of producing the service for all or any of the entities benefiting from the services and is borne by those benefiting. Only if the payment is out of proportion to the costs of producing the services, is it treated as a tax.

GFSM 2014

5.72 ***Taxes on use of goods and on permission to use goods or perform activities*** *(1145)* are fees levied for the issuance of a license or permit that are not commensurate with the cost of the control function of government. There are cases where the government provides something to the individual unit directly in return for a payment in the form of the granting of a permit or authorization. In such instances, the payment is part of a mandatory process that ensures proper recognition of ownership or ensures that activities are performed under the authorization of the law. The boundary between when such payments are to be recorded as a tax and when they are to be recorded as the sale of a service or as the sale of an asset by the government requires additional guidance.

5.73 One of the regulatory functions of governments is to prohibit the ownership or use of certain goods or the pursuit of certain activities, unless specific permission is granted by issuing a license or other certificate for which a fee is demanded. To decide whether such a fee constitutes this tax category or *administrative fees* (1422), the following recommendations apply:

- The payment is recorded as a tax when a license or a permit is automatically granted by the government as a mandatory condition to perform an activity or acquire an asset. The government unit performs little or no work other than a minimum control of the legal capacity of the acquirer to receive

the permit (e.g., to confirm the applicant has not been convicted of a crime). The payment of the fee in such a case is not commensurate with the control function that the government exercises.

- The payment is recorded as the sale of a service when, for instance, issuing the license or permit involves a proper regulatory function of the government by exercising control on the activity, checking the competence or qualifications of the persons concerned, etc. In such a case, the payment is taken to be proportional to the costs of producing the service for all or any of the entities benefiting from the services and is borne by those benefiting. The payment is recorded as a tax only if it is out of proportion to the costs of producing the services.

5.74 More specifically, the following types of fees are considered taxes:

- Fees where the payer of the levy is not the receiver of the benefit, such as a fee collected from slaughterhouses to finance a service provided to farmers
- Fees where government is not providing a specific service commensurate with the levy even though a license may be issued to the payer, such as a hunting, fi shing, or shooting license that is not accompanied by the right to use specific government-owned natural resources
- Fees where benefits are received only by those paying the fee but the benefits received by each individual are not necessarily in proportion to the payments, such as a milk marketing levy paid by dairy farmers and used to promote the consumption of milk
- Fees paid to government for deposit insurance and other guarantee schemes if they are compulsory—that is, if beneficiaries cannot opt out of the scheme, if the payment is clearly out of proportion to the service provided, if the payment is not set aside in a fund, or if it can be used for other purposes.24

5.136 ***Sales of goods and services*** (142) consist of the sales by market establishments, administrative fees charged for services, incidental sales by nonmarket establishments, and imputed sales of goods and services. Sales of goods and services are recorded as revenue without deduction of the expenses incurred in generating that revenue…

5.138 ***Administrative fees*** (1422) include fees for compulsory licenses and other administrative fees that are sales of services. Examples are drivers' licenses, passports, visas, court fees, and radio and television licenses when public authorities provide general broadcasting services. Also included are fees payable for voluntary participation in deposit insurance or other guarantee schemes that do not qualify to be a standardized guarantee scheme. These fees are considered a sale of a service when, for instance, issuing the license or permit implies a proper regulatory function of the government. In this case, the payment is taken to be proportional to the cost of producing the service. For a detailed description on the boundary between taxes and the purchases of services, see paragraph 5.74. If a payment is clearly out of all proportion to such cost, then the fee is classified as *taxes on use of goods and on permission to use goods or perform activities* (1145).

BPM6

10.180 One of the regulatory functions of governments is to forbid the ownership or use of certain goods or the pursuit of certain activities, unless specific permission is granted by issuing a license or other certificate for a fee. If the issue of such licenses involves little or no work on the part of government, the licenses being granted automatically on payment, it is likely that they are simply a device to raise taxes, even though the government may provide some kind of certificate, or authorization, in return. However, if the government uses the issue of licenses to exercise some proper regulatory function, such as checking the competence or qualifications of the person concerned, checking the efficient and safe functioning of

equipment, or carrying out some other form of control that it would otherwise not be obliged to do, the payments made should be treated as purchases of services from government rather than payments of taxes, unless the payments are clearly out of all proportion to the costs of providing the services.

10.181 The borderline between taxes and payments of charges for services rendered is not always clear cut in practice. By convention, amounts payable by households for licenses to own or use vehicles, boats, or aircraft and also licenses for recreational hunting, shooting, or fishing are treated as taxes, whereas amounts payable by households for all other kinds of licenses, permits, certificates, passports, and so forth, are treated as purchases of services. (For more details on taxes, see paragraph 12.30.)

12.30 Specific permission is granted by governments through issuing a license or other certificate for which a fee is demanded. A "fee" that is a tax should be distinguished from a "fee" that is a payment in return for services provided by governments (see also paragraphs 10.180–10.181 for distinction between taxes and services). If the issue of such licenses involves little or no work on the part of government or the fee charged is clearly out of all proportion to the costs associated with the issuance of licenses, it is likely that the licenses being granted automatically on payment of the amounts due are simply a device to raise taxes, even though the government may provide some kind of certificate, or authorization, in return. However, if the government uses the issue of licenses to exercise some proper regulatory function—for example, checking the competence, or qualifications, of the person concerned, checking the efficient and safe functioning of the equipment in question, or carrying out some other form of control that it would otherwise not be obliged to do—the payments made should be treated as purchases of services from government rather than payments of taxes, unless the payments are not broadly proportional to the costs of providing the services.

Section II: Payments related to the use or extraction of natural resources

2008 SNA

7.107 Property income accrues when the owners of financial assets and natural resources put them at the disposal of other institutional units. The income payable for the use of financial assets is called investment income while that payable for the use of a natural resource is called rent. **Property income is the sum of investment income and rent.**

7.159 The ownership of subsoil assets in the form of deposits of minerals or fossil fuels (coal, oil or natural gas) depends upon the way in which property rights are defined by law and also on international agreements in the case of deposits below international waters. In some cases the assets may belong to the owner of the ground below which the deposits are located but in other cases they may belong to a local or central government unit.

7.160 The owners of the assets, whether private or government units, may grant leases to other institutional units permitting them to extract such deposits over a specified period of time in return for the payment of rent. These payments are often described as royalties, but they are essentially rent that accrues to owners of the assets in return for putting them at the disposal of other institutional units for specified periods of time and are treated as such in the SNA. The rent may take the form of periodic payments of fixed amounts, irrespective of the rate of extraction or, more commonly, they may be a function of the quantity or volume of the asset extracted. Enterprises engaged in exploration may make payments to the owners of surface land in exchange for the right to make test drillings or investigate by other means the existence and location of subsoil resources. Such payments are also to be treated as rent even though no extraction is taking place.

10.167 …Only those naturally occurring resources over which ownership rights have been established and are effectively enforced can therefore qualify as economic assets and be recorded in balance sheets.

They do not necessarily have to be owned by individual units, and may be owned collectively by groups of units or by governments on behalf of entire communities…

17.313 As noted above, in many countries permits to use natural resources are generally issued by government since government claims ownership of the resources on behalf of the community at large. However, the same treatments apply if the resources are privately owned.

17.314 There are basically three different sets of conditions that may apply to the use of a natural resource. The owner may permit the resource to be used to extinction. The owner may allow the resource to be used for an extended period of time in such a way that in effect the user controls the use of the resource during this time with little if any intervention from the legal owner. The third option is that the owner can extend or withhold permission to continued use of the asset from one year to the next.

17.315 The first option results in the sale (or possibly an expropriation) of the asset. The second option leads to the creation of an asset for the user, distinct from the resource itself but where the value of the resource and the asset allowing use of it are linked. The third option comes back to the treatment of the use as a resource lease….

17.322 Payment for a mobile phone licence constitutes the sale of an asset, not payment for rent, when the licensee acquires effective economic ownership rights over the use of the spectrum. To decide whether ownership is effectively transferred or not, the six criteria quoted above are to be considered.

17.323 When sale of an asset applies and when the life span of the licence and of the spectrum coincide, the payment for a licence is treated as the sale of the spectrum itself. The latter situation applies always when licences are granted indefinitely.

17.324 When sale of an asset applies, and when the life span of the licence is different from the life span of the spectrum, the payment for a licence is treated as the sale of a permit to use a natural resource by the legal owner (licensor) to the economic owner (licensee).

17.325 When the licence agreement is treated as the sale of an asset in its own right, its value is established at the time of its sale. It declines with the expiration of the period of validity to fall to a value of zero at the point of the expiry of the licence. Symmetrically, the value of the spectrum to the lessor falls when the licence acquires a value and is progressively re-established as the licence expires. This is consistent with a potential further sale of the right to use the spectrum for another period. This procedure also ensures a neutral effect on the net worth of the overall economy during the life of the licence.

A3.76 Payments by an extractor to the owner of the mineral resources corresponding to a share of the resource rent should be shown as property income even if they are described as taxes and treated as such in a government's own accounts.

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5.124 Rent excludes payments receivable by the owners of natural resources if such payments permit the resource to be used to extinction—such activity is regarded as a sale (see paragraphs 8.54 and A4.19) and possibly depletion (see paragraph 10.52) of the nonproduced asset. Also excluded from rent are amounts receivable by owners of natural resources when they allow the resource to be used for an extended period of time in such a way that, in effect, the user controls the use of the resource during this time with little, if any, intervention from the legal owner. Th is option leads to recording a transaction in an asset, classified as contracts, leases, and licenses (31441), for the user, distinct from the resource itself (see paragraphs 8.56 and A4.19).

5.130 General government units may grant leases to other institutional units that permit them to extract these deposits over a specified period of time in return for a payment or series of payments. These payments are often described as "royalties," but they are essentially rent that accrues to owners of natural resources in return for putting these assets at the disposal of other units for specified periods of time. The

rent may take the form of periodic payments of fixed amounts, irrespective of the rate of extraction, or, more commonly, they may be a function of the quantity, volume, or value of the asset extracted. Enterprises engaged in exploration on government land may make payments to general government units in exchange for the right to undertake test drilling or otherwise investigate the existence and location of subsoil assets. Such payments are also recorded as rents even though no extraction may take place.

A4.18 In many countries, licenses and permits to use natural resources are issued by government because government claims ownership of the resources on behalf of the community. However, government could also issue these licenses and permits if the resources are privately owned.

A4.19 As illustrated in Figure A4.1, there are three different sets of conditions that may apply to the use of a natural resource:

- The owner may permit the resource to be used to extinction. This option results in the sale (or possibly an expropriation) of the nonproduced resource asset itself.
- The owner may permit the resource to be used for an extended period of time in such a way that, in effect, the user controls the use of the resource during this time with little if any intervention from the legal owner. This permit leads to the creation of an intangible nonproduced asset classified as contracts, leases, and licenses (31441) for the user, distinct from the resource itself; however, the value of the resource and the value of the nonproduced asset in the form of contracts, leases, and licenses are linked. An inverse relationship will exist between the value of the resource itself and the value of the intangible asset.
- The owner can extend or withhold permission to continued use of the asset from one year to the next. This option corresponds to a resource lease on which rent is payable/receivable

Section III: Rearrangement of transactions related to regulatory policies

2008 SNA

3.62 Rerouting records a transaction as taking place through channels that differ from the actual ones or as taking place in an economic sense when it does not take place in fact. In the first kind of rerouting, a direct transaction between unit A and unit C is recorded as taking place indirectly through a third unit B, usually, however, with some change in the transaction category. In the second kind of rerouting, a transaction of one kind from unit A to unit B is recorded with a matching transaction of a different kind from unit B to unit A.

3.66 Partitioning records a transaction that is a single transaction from the perspective of the parties involved as two or more differently classified transactions. For example, the rental actually paid by the lessee under a financial lease is not recorded as a payment for a service; instead, it is partitioned into two transactions, a repayment of principal and a payment of interest. This partitioning of the rental payment is part of a treatment that implements an economic view of financial leasing in the SNA. Financial leasing is viewed as a method of financing the purchase of a fixed asset and a financial lease is shown in the SNA as a loan from the lessor to the lessee.

3.69 Many service activities consist of one unit arranging for a transaction to be carried out between two other units in return for a fee from one or both parties to the transaction. In such a case, the transaction is recorded exclusively in the accounts of the two parties engaging in the transaction and not in the accounts of the third party facilitating the transaction. Some service output may be recognized with the facilitator. For example, purchases a commercial agent makes under the orders of, and at the expense of, another party are directly attributed to the latter. The accounts of the agent only show the fee charged to the principal for the facilitation services rendered.

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3.27 Some transactions are not recorded in the form in which they appear to take place. Instead, they are modified in macroeconomic statistics to bring out their underlying economic relationships more clearly. There are three kinds of rearrangements employed in GFS: rerouting, partitioning, and reassignment.

3.28 Rerouting records a transaction as taking place through channels that diff er from the actual ones, or as taking place in an economic sense when no actual transactions take place. Rerouting is often required when a unit that is a party to a transaction does not appear in the actual accounting records because of administrative arrangements..…

3.29 Partitioning records a transaction that is a single transaction from the perspective of the parties involved as two or more differently classified transactions. For example, when a general government unit acquires an asset below or above its current market price, the division of the actual transaction into an exchange and a transfer is an example of partitioning...

3.30 Reassignment records a transaction arranged by a third party on behalf of others as taking place directly by the two principal parties involved. Reassignment is required when one unit arranges for a transaction to be carried out between two other units, generally in return for a fee from one or both parties to the transaction. In this case, one unit acts as an agent for another unit. In such a case, the transaction is recorded exclusively in the accounts of the two parties engaging in the transaction and not in the accounts of the third party facilitating the transaction. The accounts of the agent show only the fee charged for the facilitation services rendered. For example, reassignment may occur when one government unit collects taxes and then transfers some or all of the taxes to another government unit. In some arrangements of this nature, the collecting unit retains a small portion of the tax collected in return for its collection efforts. The amount retained is treated as the sale of a service by the collecting unit, while the total amount of taxes collected is shown as revenue for the beneficiary government unit…