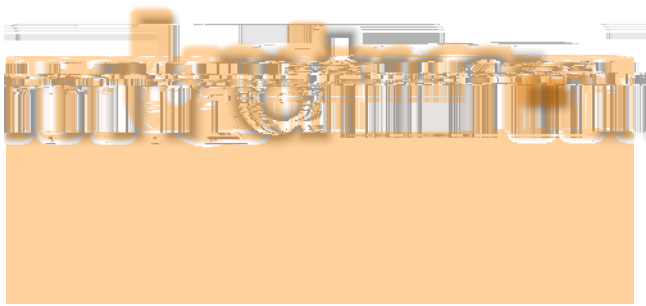


UN Practical Manual on TP for Developing Countries

Alien Aziz Abdul-Hamid





The Benefit Test

Service activities for the specific needs
of an associated enterprise

Centralized services
on call services

Non-chargeable activities

Shareholder activities

Duplication of activities

Passive association

Incidental benefits

Determining an arm's length charge

Functional analysis

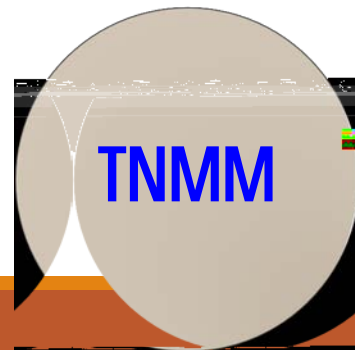
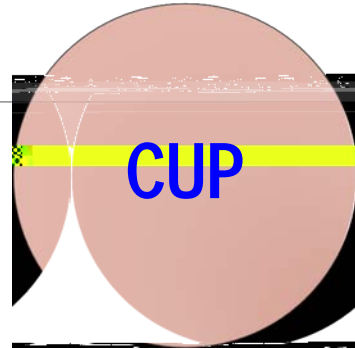
Functions performed, assets used and the risks borne by the service provider

Charging approaches

direct charging
indirect charging

Provision of assets
and ancillary
services

Calculating arm's length consideration



Safe harbours

Low value-adding services SH

- identification of the service within the scope of the safe harbour
- a fixed profit margin
- an assumption that the same gross profit margin is accepted in the other country
- documentation requirements

Minor expense SH

- a restriction on the relative value of the service
- a fixed profit margin
- the requirement that the same profit margin is used in the other country
- the documentation requirements that are expected

Practical Challenges (Malaysia)

Intra Group Services

A major BEPS challenge – excessive claims by service recipient; “management fees”

Documentation

- to demonstrate benefit test

- details and authenticity of cost base

- service recipient only submit info relevant to their claims; no info on allocation key, methodologies in other jurisdictions

IGS based on % or proportion of sales

Practical Challenges (Malaysia)

Benefit Test – easier from perspective of service provider

Lack of publicly available info on services comparables – e.g time/man hour costs

Safe harbor – future consideration

Rate, thresholds