

October 15, 2020

United Nations Tax Committee

21st Session of the Committee of Experts on International Cooperation in Tax Matters

October 20-29, 2020

taxcommittee@un.org

Dear UN Tax Committee:

Thank you for the invitation to provide written comments on the Sessions papers. I would like to provide comments on the Update of the *UN Practical Manual on Transfer Pricing for Developing Countries*, specifically on the section **“Additional Guidance on Centralized Sales Functions, B.4.2.10.1-7.”** I spoke on this topic as part of a panel on the transfer pricing of intangibles at UN Workshop on the Practical and Policy Aspects of Taxation in a Digitalized Economy on September 11, 2020. My PowerPoint Slide deck is attached to this document. Below, I would like to make some remarks about this section of the *UN Transfer Pricing Manual*.

I believe there are four main questions that should be considered in terms of centralized marketing and/or sales functions, from a developing country tax authority perspective:

1. Are centralized marketing and sales hubs abusive tax structures?
2. How should hubs be paid for the services they provide?
3. How should recipients in the multinational group be charged?
4. Are there issues that are specific to in-country marketing and sales activities?

I address each below.

Question 1: Are centralized hubs abusive tax structures?

1. Tax authorities often view centralized hub structures as abusive and “red flag” the structures for possible tax abuse. The hubs are typically small, mobile, and located in tax havens. Often the hubs are located in developing countries that have with good infrastructure and low tax rates (e.g., Singapore). There are exceptions, of course; one common example are centralized hubs in mining industry, where location near the extraction of the natural resource may be the key driver of location. The image therefore of centralized hubs as being highly mobile is not always accurate; the tax authority should therefore check for other drivers that could affect location.
2. Centralized hubs are very common now in MNE groups because centralization provides a wide variety of benefits to the MNE group at the country, region, and global levels. The most important is probably economies of scale and scope (EOSS); other benefits include bulk purchasing discounts; the provision of standardized services across the MNE group; gains from specialization of tasks within the MNE group; and the ability to exercise monopsony bargaining power. From an economics viewpoint, centralized hubs provide the ability to account for interdependencies on the demand and/or supply sides of the MNE group, generating synergies and gains from exchange. Centralized hubs are also found where the minimum efficient scale (MES) is much larger than the average size of plant within the MNE network so that having one entity within the group provide the activity on behalf of many sister affiliates generates substantial cost savings.

3. Centralized hubs can be located at any stage along the global value chain. There are at least seven types of centralized hub structures:
 - a. Purchasing/procurement: examples include purchasing of aluminium billet in the aluminium industry; purchases of core ingredients (e.g., coffee beans, flavourings) by agribusiness producers.
 - b. Shared services: examples include IT computer services, human resource management (HRM) services, call centres, customer relationship management (CRM) centres.
 - c. Finance: examples include international financial centres (IFCs) and cash pools.
 - d. Manufacturing: examples include parts suppliers that manufacture and provide auto parts to multiple assemblers; fine chemicals provided to downstream drug manufacturers.
 - e. Marketing, sales & distribution hubs: examples include global brand management hubs; super distributors at the regional level.
 - f. Technology: examples are R&D hubs and IP holding companies.
 - g. Management: Holding companies and principal structures, regional headquarters.
4. Overall, therefore, whether a centralized hub is an abusive conduit structure or a real entity is a “facts and circumstances matter.” My presumption is that they are NOT abusive conduits but rather have a real business purpose within the MNE group. My advice therefore would be to: (1) Trust but verify. (2) Check the location of the entity. If the hub is located in a tax haven, this is be a red flag but not decisive. (3) Collect more information on the hub’s role within the MNE group. Is the role primarily administrative (or worse simply a tax avoidance conduit to move money from place a to place b) or does the entity have a specific, specialized role to play within the MNE group. I believe centralized hubs have specific roles and responsibilities within the MNE group. Their functions, assets and risks (FAR profile) are tied to the role they are performing on behalf of the group.

Question 2: How should centralized hubs be paid for their services?

5. Centralized hubs charge for the services they provide to MNE group members. What the hub should be paid should depend on its role and responsibilities within the MNE group.
6. Here facts and circumstances matter in determining what an arm’s length return should be for the services that the hub provides to the MNE group. This is an evidentiary matter. Some questions that the tax authority should ask include:
 - a. Role/responsibility: Is the hub’s role primarily administrative or specialized?
 - b. How important is the hub’s activity to the MNE group? Is it peripheral or central? In terms of a procurement hub, it is responsible for core or non-core spend?
 - c. It is important to map out the global MNE and its core components (or have the MNE group provide that information through the CbCR reports). Situate the MNE’s affiliate in your jurisdiction within the MNE group. Situate the hub structure relative to your entity and the MNE group. Then perform a FAR analysis and look at the “three C’s: conduct, capacity, and control.
 - d. Since risks are typically tied to the functions performed by the entity, check for a mismatch between the risk profile and the entity’s functions.
7. Two examples for comparison
 - a. Assume the MNE group has three R&D labs, located in different regions. Each of the labs develops specialized trade intangibles that are patented and used by subsidiaries all over

the world. The centralized R&D hubs play an entrepreneurial role within the MNE group and assume entrepreneurial risk. These entities are thus likely to be high profit potential

- b. The MNE group has a group purchasing entity where its role is primarily administrative, and its purchases involve non-core spend. In this situation, the centralized hub has a low profit potential.
8. I also provide some comments on the Example in B.6. – Synergies and Procurement on page 12 (paragraphs 36-50):
- a. The example is written in terms of CUP versus Cost Plus. I think the use of the terms is unfortunate and should be changed - it's not helpful.
 - b. The key lesson from this case is not about CUP versus Cost Plus but rather about economies of scale (EOS) in terms of the centralized purchasing function. The ratio of Own Spend to Managed Spend falls as the MNE's size grows, reflecting economies of scale in Own Spend. Operating Expenses do not rise in proportion as turnover rises (due to economies of scale). Thus, if the centralized hub is paid a percent of its own costs (Cost Plus) you get a very different result than if the hub is paid a percent of Managed Spend.
 - c. This result is very similar to the difference between the TNMM method using a profit level indicator (PLI) based on sales (e.g. operating profit/net sales) versus a PLI based on the Berry Ratio (gross profit/operating expenses). The Berry Ratio is less affected by the size of the MNE than is ROS. Thus, when comparing MNEs of different sizes (in terms of sales) the Berry Ratio is superior to ROS as a profit level indicator.
 - d. The Berry Ratio is also instructive for this example in a second way. The first method (percent of own costs (cost plus)) should exclude purchases but include direct costs and a share of indirect costs. Otherwise the denominator will be double counting. The entity should be rewarded for the functions it performs (its value added), which should not include its purchases (COGS). The calculation for the PLI could be gross mark-up (Cost Plus) or net mark-up (Net Cost Plus). Basically, this method gives the centralized hub a reward for its roles and responsibilities based on what it would have cost to have contracted out that activity to an arm's length supplier. The second method (percent of managed spend) provides the centralize hub with a percent of what it manages. How big the percent should be should depend on its role within the MNE group and whether what the entity is managing is core or non-core spend.
 - e. An extension of this example could also be added to cover the case of a captive or "sandwich" hub, which is sandwiched between related party suppliers and buyers. The Berry Ratio is also instructive here. The return to the captive hub can be determined from what independent entities would have charged to provide the same service as provided by the centralized hub. Again, it is important to make sure that the Operating Expenses exclude COGS. Only direct and a share of indirect costs should be included and no capital (property, plant or equipment) costs should be included.

Question 3: How should the recipients be charged?

9. In my slide deck, I included an example of a branded consumer facing multinational enterprise and its marketing entities. Global MNEs that are consumer facing businesses (CFBs) typically organize their marketing activities into tiered levels: global, regional and local. Each level has different roles and responsibilities within the MNE group, in particular, in terms of the brands that they manage.
 - a. Headquarters: Typically, global CFB MNEs have a central marketing group at headquarters. This group is responsible for consumer marketing. It develops the marketing strategy for the MNE group worldwide; manages the core and global brands; establishes guidelines, templates and business plans; negotiates global agreements for core/global brands; develops and implements global marketing campaigns; and oversees the regional marketing hubs.
 - b. Regional marketing hubs. These entities are centralized within key regions. They are responsible for customer marketing. The hubs report to headquarters. The hubs modify headquarter marketing strategy to be “locally responsible” and implement it at the region level. The hubs develop and run regional marketing campaigns and oversee the in-country marketing teams.
 - c. Local in-country marketing teams. These are on-the-ground entities. They may be stand-alone entities, or the marketing staff may sit within strategic business units. They perform on-the-ground/supply chain marketing. Each team reports to its regional hub. The in-ground teams implement regional strategy at local level. They collect local information and feed it back to their regional hub. They develop and run local marketing campaigns. They have local AMP expenses.
10. The key question for the local tax authority is what the centralized hub should be charging for inbound services provided by the hub to the local entity. For most developing countries the centralized hub is offshore and charging the local affiliate for inbound services provided by the hub. These costs are deductible expenses that reduce the taxable income declared by local entity and thus the taxes paid in the developing country tax jurisdiction.
11. The typical charge is an allocation key, which should vary with the type of hub. Typically, individual entities are charged a pro-rata share of the services provided by the hub. For example, HRM services may be charged based on the number of local personnel.
12. The related questions are (1) whether this charge should be a deductible expense for the local subsidiary and if so (2) what should that charge be?
13. Whether the charges by the hub are deductible at local level for tax purposes depends on:
 - a. Whether there is a direct benefit (would the affiliate pay or perform the service itself? This is the “pay-perform” test.)
 - b. In some circumstances the charges should not be paid or not be deductible. Typically, duplicative services (unless justified) or for shareholders’ benefit are not accepted.

14. Other issues to consider include:

- a. Situations where both the headquarters and the regional hub charge the in-country business unit for trademark and other marketing intangibles provided to in-country entity. Are these duplicative? Is the allocation fee too high?
- b. Is the IP hub merely a holding company or a conduit company? If the role of the centralized hub within the group is minimal it is hard to justify a high allocation fee. Facts and circumstances investigation would be needed here.
- c. What about withholding taxes on these charges?

Question 4: What about in-country marketing, sales and distribution activities?

15. An important consideration is whether the local entity could have local intangibles. Often a local firm has developed local marketing intangibles and grown its own local brands. Could these justify local marketing intangibles? It depends. For example, if the firm is acquired by a foreign MNE then those brands are part of the acquisition and transferred to the MNE group. On the other hand, if the MNE group encourages entrepreneurial activity by the in-country marketing team, there could be development of local marketing intangibles; for example, the creation of a local product that is then licensed and sold throughout the region.

16. The profit potential of the local entity depends on its role within the MNE group, which could be limited or extensive.

17. I find it helpful to think of the profit potential of a local entity using a “layer-cake model” – not as “bright line” test or “fromage frère” (not over and above what “locals” are doing) – but rather what is the entity’s contribution to the group MNE profits?

- a. If its role is routine provision of services, the entity deserves an “m” (normal return plus a small mark-up)
- b. If its role is specialized or it provides location-specific services, the return should be m + (a bit more).
- c. If the entity contributes to brand build for the MNE group by engaging in some DAEMPE activities that contribute to IP, the entity should receive m ++
- d. If the local entity creates an in-country brand, engaging in brand build with its own DAEMPE activities then its IP deserves an m ++ for its marketing intangible.

18. It would be helpful to extend this section on marketing and sales hubs to consider the new proposals for taxing the digital economy, such as:

- e. In Pillar One for marketing intangibles, should the return on sales be based on Managed Spend or Own Spend? In Part B, should the “base” return to marketing and distribution be based on Sales or Own Spend?
- f. Platforms are centralized hubs - online markets can be B2B (within the MNE group or external), B2C or C2 B or P2P. Thinking about platforms as centralized digital hubs, many of the same issues should also apply. One key difference maybe that Own Spend is much lower (since most costs are fixed and not variable). In addition, the economies of scale and scope are much larger.

- g. The new UN proposals for taxing source based technical services (12A) and automated data services (12B) both involve what to pay centralized hubs for the services they provide to the local entity. They also raise the question whether the local entity itself may be providing marketing, sales or distribution services that are valuable to the MNE group.

Respectfully submitted by:

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UN Workshop on Practical and Policy Aspects of Taxation in a Digitalized Economy Virtual, New York time

**9-11 September 2020
15-17 September 2020**



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Offshore Marketing & Sales Hubs

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11 September 2020

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Guidance for Developing Country Tax Authorities

UN Tax Subcommittee Report (21 April 2020)

Attachment B.5 - Sales

Proposed Guidance on Centralised Sales Functions

Attachment B.6 – Procurement

Additional Guidance on Centralized Procurement Activities



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Outline

Purpose: Review UN Tax Subcommittee Report (21 April 2020) in terms of Offshore Marketing and Sales Hubs

I. Attachment B.5 - Sales

Proposed Guidance on Centralised Sales Functions

II. Attachment B.6 – Procurement

Additional Guidance on Centralized Procurement Activities



Offshore Marketing & Sales Hubs

B.5. Proposed Guidance on Centralised Sales Functions

- [current] B.4.2.9. Centralized Service Hub provides services to group, for which members pay an arm's length price based on direct benefits received. (1) Benefit Test: Evidence? Would pay or perform themselves. *[Also add? (2) services not duplicative or shareholder expenses]*.
- [current] B.4.2.10. Benefits to MNE (and group members) from centralizing services:
 - Economies of scale and scope (EOSS)
 - Specialization/efficiency cost savings
 - Creation of centers of excellence
 - If affiliate cannot provide service (Min Efficient Scale too high or missing inputs (skills, resources))
 - Back-stop role, fill in the holes, provide a “second pair of eyes”
 - Consistent quality across the group
- [current] Example 1: Centralized call center for airline bookings (EOSS, cost savings)



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B.5. Proposed Guidance on Centralised Sales Functions

[proposed] B.4.2.10.1-B.4.2.10.3

- New draft guidance on centralized sales and marketing activities.
- Offshore Sales/Marketing Hubs identified as red flag (C.3.3.2.19) because profit shifting potential significant. Also possible restructuring (shift of local/in-market activities to Hub)
- Hub functions can range from administrative (support for in-market entity) to full-fledged.
- Tax authority should clarify whether Sales or MKTG Hub (look to functions & risks).



B.5. Proposed Guidance on Centralised Sales Functions

[proposed] B.4.2.10.4-B.4.2.10.7

- Tax authority should determine whether role is admin/support or full-fledged/entrepreneurial.
 - **Example 1: Branded consumer goods case**: MKTG tiered (global/regional/local) & each level makes different contribution (local vs global brands)
 - **Example 2: Commodity sectors**: MKTG & Sales more likely to be specialized & centralized at HQ or region level with local in-market role more minimal.
- Evidentiary issue: Roles & responsibilities of Offshore Hub vs. Local M/S Entity. Functions? Risks? Who performs DAEMPE activities? PE issues?



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Example 1: Branded consumer goods case

- MKTG typically tiered (global/regional/local) within Branded Consumer Goods MNE Group
- Each level makes different contribution (local vs global brands)
- Evidentiary issue: Roles & responsibilities of Parent vs. Regional Hub vs. In-Country MKTG Entities.
 - Legal Contracts compared with Facts & Circumstances
 - Roles & responsibilities of various entities
 - Functions-Assets-Risks
 - Who performs DAEMPE activities?
 - Evidence on Conduct – Capacity – Control
 - PE issues?
- Centralized procurement may also provide relevant lessons for MKTG & Sales Hubs.



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Example 1



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Marketing Strategy for Global Brand MNEs

Marketing Team MNE Group Headquarters

HQ Role: Consumer MKTG: Develops MKTG strategy for MNE group. Manages Core and Global Brands. Establishes guidelines, templates & business plans for Group. Negotiates global agreements for Core/Global Brands. Develops & implements global marketing campaigns. Oversees Regional MKTG Hubs.

MKTG Hub Region 1

MKTG Hub Region 2

MKTG Hub Region 3

Regional MKTG Hubs: Customer MKTG: Hubs report to HQ. Modify HQ MKTG strategy to be “locally responsible” and implement at region level. Develop and run regional marketing campaigns. Oversee in-country MKTG teams.

Market 1

Market 2

Market 3

Market 4

Market 5

Market 6

Market 7

Market 8

Market 9

In-country MKTG Teams: On-Ground/Supply Chain MKTG: Each Team reports to its Regional Hub. Implements Regional strategy at local level. Collects local information for Regional Hub. Develops and runs local MKTG campaign.



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Offshore Sales & Marketing Hubs

Attachment B.6 – Procurement

Additional Guidance on Centralized Procurement Activities

Par 1-8: Overview of Procurement Hubs

- Purpose of section: guidance on procurement Hubs.
- Centralized procurement common activity in MNE groups.
- Potentially “red flag” activity: can be mobile, could locate in tax haven, profit shifting potential.
- Hub may be mobile or not - location could be tied to source of supply.
- Hubs generate “volume effect” (per-unit cost savings from bulk buying).
- Other benefits include discounts from group buying power, risk spreading across multiple vendors.
- Cost savings may be relevant for determining arm’s length fee paid to Hub but may be hard to determine and cost saving may be wrong metric if there are other benefits.
- If parent firm or group entities monitor Hub performance, that information may be useful.



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B.6. Additional Guidance on Centralized Procurement Activities

Par 5-6, 10-12: Benefits of Procurement Hubs

- Procurement Hubs generate “volume effect” (per-unit cost savings from bulk buying)
- Hub get discounts from group buying power
- Hub can spread risks across multiple vendors.
- Centralizing functions reduces admin costs.
- Hub can standardize buying terms.
- If infrastructure costs (fixed costs) for activity are high (e.g., electronic trading platforms, or transportation & storage of energy products). High fixed costs → high MES (minimum efficient scale)
→ want to spread costs over greater volume (get EOSS) → centralize functions in Hub



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B.6. Additional Guidance on Centralized Procurement Activities

Par 13-15: Role & Responsibilities of Procurement Hubs: Admin vs Strategic

- Procurement Hub may have more active/extensive/strategic role within MNE group.
- Examples: Hub could focus on group profitability, risk reduction, vendor relationships, rationalization across the group, skilled buying team.
- If Hub has more extensive/active role then Hub is not simply administrative → potential for higher compensation to Hub.
- If Hub is more than admin service provider, need more extensive transfer pricing analysis – roles, functions, assets, risks.



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B.6. Additional Guidance on Centralized Procurement Activities

Par 16-20: Compare Purchasing v. Source Role for Procurement Hub

- Procurement can cover range of functions so important to compare Hub that has a Purchasing role with Hub that has a Sourcing role.
 - Purchasing (mostly administrative role & responsibilities)
 - Sourcing (more extensive role & responsibilities)
- Since Sourcing requires more functionality and expertise than Purchasing → compensation likely higher.
- Caveat: Procurement may include elements of both Purchasing and Sourcing.



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B.6. Additional Guidance on Centralized Procurement Activities

Par 21-24: Role of Core v. Non-Core Spend in Determining Hub's Importance to MNE Group

- Important to determine whether goods or services procured through the Hub are “core/direct spend” or “non-core/indirect spend”.
- If non-core/indirect → Hub's role more likely to be administrative. Coordinator. Aggregator. EOSS. Efficiency seeking.
- If Hub purchases core/direct spend → responsibility and risk rise. Hub more important to group profits.
- Determining whether purchases are core/non-core helps determine compensation to Hub.



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B.6. Additional Guidance on Centralized Procurement Activities

Par 25-30: Red Flag Areas in Procurement Hubs #1: Mobile or Excessive Risk

- MNE may argue Hub should be paid more because takes on more risk – hard to prove this.
- Purchasing Hub unlikely to hold inventory – need to investigate claims if Hub says has inventory risk.
- Hub may assume contractual risks (e.g., price risk) but need to check facts & circumstances. Check for conduct, capacity & control over risk assumption and operation.
- Determine which entity controls the risk.
- Need to ensure that Hub does mitigate risk by performing risk control functions.
- Possible that Hub has its own specialized risk – proprietary tools and systems.



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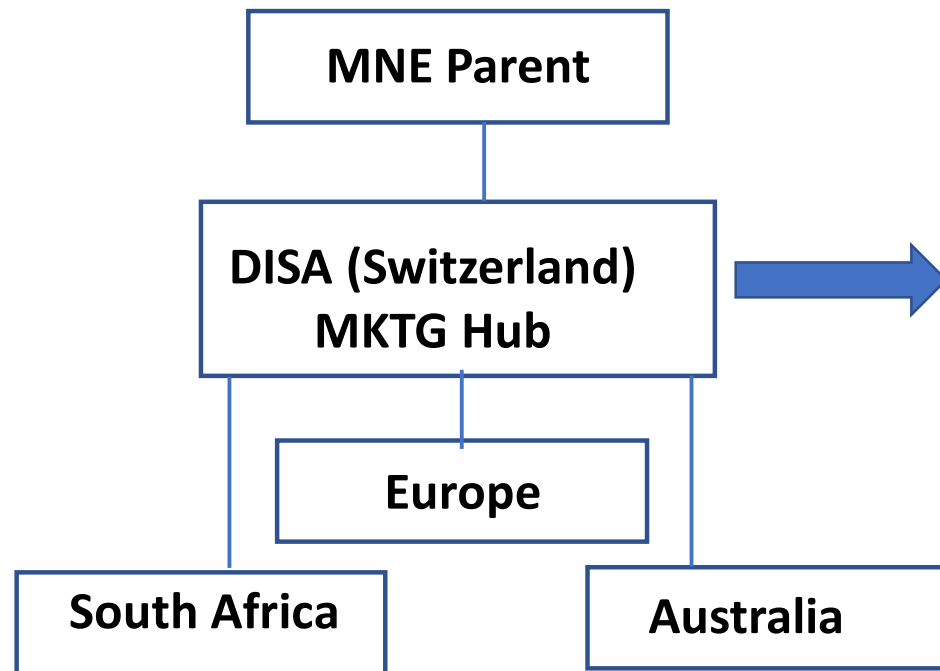
B.6. Additional Guidance on Centralized Procurement Activities

Par 25-30: Red Flag Areas in Procurement Hubs #2: Captive Hub

- Procurement Hub could be a captive plant – buying upstream from related parties and selling downstream to related parties.
- Captive procurement Hub most likely to be purchasing (admin role) not sourcing and thus warrant smaller compensation.
- *Note: Add DuPont Case (DISA - centralized MKTG Hub) – DISA captive Hub – performed three functions for MNE group. Charles Berry uses Berry Ratio (Gross Profit/Op EX) to determine arm's length compensation for each function based on entities performing comparable functions. Key issues: (1) OE defined correctly. (2) No high-valued intangibles. (3) No MFG or K-intensive activities.*



Centralized Marketing Hub/Super-Distributor – US v DuPont (1979)



DISA was paid approx 20% of Managed Spend (about 75% of DuPont + DISA Profits) → 280-400% of Own Spend (Operating Expenses)

DISA's Roles & Responsibilities

- Market Research/Management Consulting
- Advertiser
- Distributor

Berry Ratio: Gross Profit/Operating Expenses to assess arm's length returns to each role. DISA's transfer pricing policy was excessive.

Charles Berry. 1999. Berry Ratios: Their Use and Misuse. Journal of Global Transfer Pricing, April-May: 16-24.



B.6. Additional Guidance on Centralized Procurement Activities

Par 33-41: Example #1 Applying Transfer Pricing Methods to Procurement Hub with Purchasing Role

- Hub's role in MNE group is to control Managed Spend
- Hub can control three possible sizes of Managed Spend (small, medium, large)
- Hub's own costs (Operating Expenses (OE)) are relatively flat & not tied to Managed Spend
- How to compensate Hub for its activities? Example considers two possibilities:
 - Commission fee as % Managed Spend – assumed 2% [labeled as CUP method]
 - Markup over Own Costs (OE) – assumed 10% [labeled as CPLUS method]
- *Note: Labeling of CUP and CPLUS is arbitrary. Both methods could be TNMM with Profit Level Indicators.*
 - *CPLUS looks like Operating Profit/OE so $PLI = OP/OE$*
 - *CUP looks like $OP/Managed\ Spend = OP/Net\ Sales$ so $PLI = OP/NS$*



B.6. Additional Guidance on Centralized Procurement Activities

Pars 33-41 Example Comparing % Own Costs vs % Managed Spend as Compensation to Hub

Table 1

	Year 1	Year 2	Year 3
Own costs (A)	\$5m	\$10m	\$10m
Managed spend (B)	\$200m	\$800m	\$1600m
<i>Cost Plus approach</i>			
Illustrative fee based on Cost Plus Method (A plus 10% mark-up)	\$5.5m	\$11m	\$11m
Profit	\$0.5m	\$1m	\$1m
Fee expressed as a percentage of B	2.75%	1.375%	0.6875%
<i>CUP approach</i>			
Illustrative fee based on CUP (B x 2% commission)	\$4m	\$16m	\$32m
Profit	(\$1m)	\$6m	\$22m
Fee expressed as a mark-up on A	N/A	160%	320%



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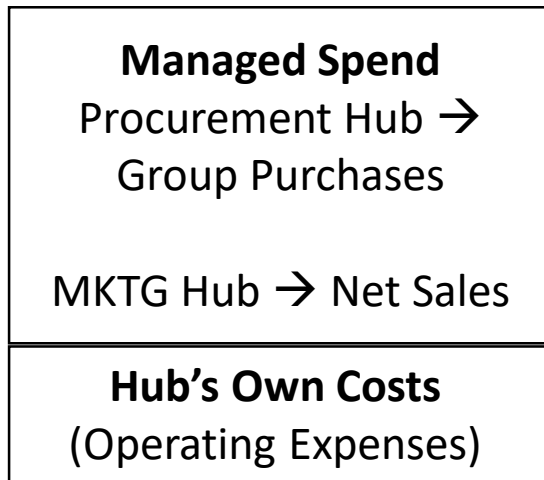
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The TP Method Does Matter! Does Hub Deserve More than a Markup on Own Costs?

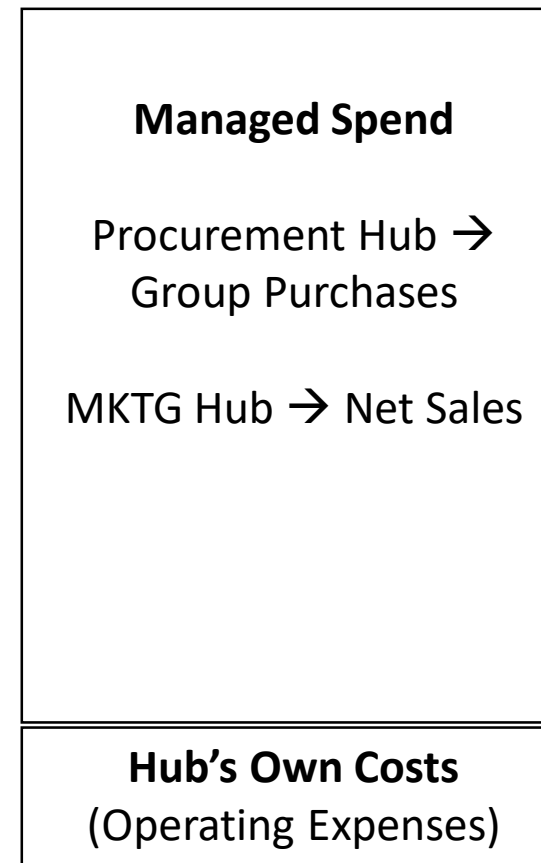
Small MNE Group



Average MNE Group



Large MNE Group



If TP method is
% of Managed
Group Spend –
grows with
MNE Group Size

If TP Method is
% Markup on
Own Costs –
not affected by
MNE Group Size



B.6. Additional Guidance on Centralized Procurement Activities

Par 42-50: Example #2: Procurement Hubs Has Sourcing Role

- MNE group = A (Hub) and B (Manufacturer)
- Hub's Managed Spend = 400 (= 80% of B's COGS – material core spend)
- Hub's Own Spend (OE) = 5 (very small)
- Routine procurement fee to Hub = Own Costs + 5% markup = TP would be 5.25
- Arm's length commission rates = 1%-7% of Managed Spend = TP lies between 4 and 28
- If Hub receives routine fee of 5.25 → residual profits for A+B = 14.75. Can be split between A and B depending on A's functions, assets & risks of HUB. If A has Sourcing Role + manages Core Spend → Transfer Price to Hub should be higher.

MNE Group Sales 1,000

**Residual Available
for Allocation
between A and B**

B's Direct Costs 100

**A's Managed Spend
B's COGS
400**

Hub's Own Costs 5



Par 51-58: Example #3: Two Procurement Hubs

- Hub A – larger entity – role is standardization of purchases and oversight of group costs – activities not specialized and Managed Spend is non-core. Role is useful but not highly valuable.
 - Hub A's role → Purchasing/Administrative
 - Transfer Pricing → compensation to Hub should be based on % Own Costs
- Hub B– smaller entity – focus is sustainability and quality of key ingredients – engages in forecasting, secure supplies – activities are more specialized than A's and Managed Spend is core spend for MNE group.
 - Hub B's role → Sourcing/More extensive and valuable
 - Transfer Pricing → compensation to Hub should be higher than to A.



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Conclusions

- Have reviewed UN Tax Subcommittee Report (21 April 2020) - Proposed and Additional Guidance on Centralized Sales and Procurement Activities
- New guidance on Marketing and Sales Hubs → compensation depends on:
 - Purchasing vs Sourcing Role
 - Core vs Non-Core Managed Spend
 - Captive or non-captive hub (DuPont case – Berry Ratio useful here)
 - Facts and circumstances matter
- Additional issues for consideration:
 - Limited Risk Entities → change to Limited ROLE Entities
 - Pillar One - Attribution of Marketing Intangibles to Market Jurisdictions based on In-Market Country Sales → links to Purchasing-v-Sourcing Role arguments.



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Thank you.