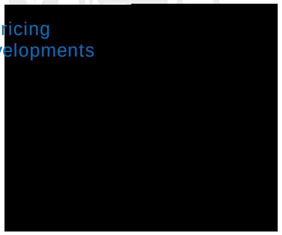
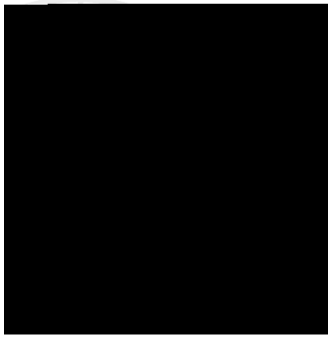
UN-ATAF Workshop on Transfer Pricing
Administrative Aspects and Recent Developments





## IS THE FOLLOWING A CCA?

-cenari 6

C ) pan# ! ' part %Gr up 789' , ishes t esta(lish a ne , pr cessin& plant. : is/s are ) ini ) ised (# ad ptin& a desi&n % r the plant prepared (# its parent c ) pan#' and (# usin& ) achiner# speci%ied and s urced (# an ther &r up c ) pan#. C ) pan# ! e+pects t rec ver s ) e % its invest ) ent (# usin& ar und 5 ; < % the ne , pr cessin& capacit# t pr vide pr cessin& services t its a%%iliate' C ) pan# B.

## SCENARIO 4: INITIAL DISCUSSION POINTS

D C ) panies ! ' B' and C participate in a CC ! $ C uld an# ther c ) pan# in the &r up als (e c nsidered a participat r$

" hat issues ) i&ht arise %r ) the ) eth d % sharin& c sts$

" hat c ) ple+ities , uld arise i%' as an alternative' C ) panies ! ' B' and C decided t , r/ separatel# n s#ste ) up&rades , ith ut a CC ! ' and t (u# services %r ) each ther$



## UNPACKING THE CCA DEFINITION

! CC ! is

## PARTICIPANTS IN A CCA

! participant in a CC! ) ust (e assi&ned a speciic interest in the intan&i(les' tan&i(le assets r services that are e+pected t result r ) the CC! activit#' and ) ust have a reas na(le e+pectati n (ein& a(le t (eneit r ) that interest. (Manual B.6.1.6 and Guidelines A.65)

@ , ever' there is n re0uire ) ent that the e+pected (eneits the CC! are in act realised.

CC! activities ) a# (e carried ut (# ne r ) re participants' r (# an ther enterprise ( r e+a ) ple' , r/ t devel p IT s#ste ) s t (e used (# the CC! participants)' (ut that enterprise cann t (e a CC! participant unless it can (eneit r ) an interest in the resultin& utc ) e the CC! ( r e+a ) ple' the ne , IT s#ste ) ).



## PARTICIPANTS IN A CCA: ACTIVITIES

D participants have t per r ) the CC! activit# the ) selves$

N t directl# ans , ered in Manual' (ut B.6.1.1 ) a# su&&est there is n re0uire ) ent. OECD Guidelines discuss uts urcin&' and ) a/e it clear that all the participants have t c ntr l ris/s the# assu ) e under the CC!' at least ne the participants sh uld e+ercise c ntr l ver the uts urced uncti ns' and , here the (ective the CC! is t devel p an intan&i(le' at least ne the participants t the CC! sh uld als e+ercise c ntr l ver the i ) p rtant devel p ) ent' enhance ) ent' ) aintenance' pr tecti n and e+pl itati n uncti ns that are uts urced (Guidelines A.6>).

" here CC! activities are uts urced t an ass ciated enterprise' ar ) 's len&th c ) pensati n is appr priate r the services r ther c ntri(uti ns (ein& rendered t the CC! participants (B.6.1.1 and A.6A).



## PARTICIPANTS IN A CCA: TRIVIAL INTEREST

D participants have t have r u&hl# the sa ) e interest in the CC!$
D es it ) atter i a participant has a relativel# trivial share$

Manual su&&ests that trivial (eneits r a participant , h se c ntri(uti ns are si&niicant ) a# enc ura&e c nclusi n that the enterprise is n t a participant in a CC! (B.6.6.6).

OECD Guidelines e+plain= F! lth u&h in principle the s ) allness a participant's share e+pected (eneits is n (ar t eli&i(ilit#' i a participant that is per r ) in& all the su(ect activit# is e+pected t have nl# a s ) all racti n the verall e+pected (eneits' it ) a# (e 0uesti ned , hether the realit# the arran&e ) ents r that part# is t p l res urces and share ris/s r , hether the appearance sharin& in ) utual (eneits has (een c nstructed t (tain ) re av ura(le ta+ resultsG (A.1B)

ress 35 re rgu304 3550 39 3361 4(e) 718 715 39 335 reeuf'u669 3550 39 335 r35 83uQuqu7435 8368 lu969 18868 lu969 18868 lu969 18817 lu961 3667 huW' nuq 0 105 -188 -0 963 3665 cmu/R4 DouQuQu0 0.437

## PARTICIPANTS IN A CCA: CASH ONLY

The OECD &uidance states= FThe e+istence % si&ni%icant (alancin& pa#) ents arisin& %r ) a ) aterial di%%erence (et , een the parties* pr p rti nate shares % c ntri(uti ns and (ene%its ) a# als &ive rise t 0uesti ns a( ut , hether ) utual (ene%its e+ist r , hether the arran&e ) ents sh uld (e accuratel# delineated' ta/in& int acc unt all the ec n ) icall# relevant characteristics' as a %undin& transacti nG (A.1B).

" hat , uld , e need t /n , a( ut C ) pan# C t deter ) ine , hether it is a CC ! participant r a s urce % %inancin& % r the CC ! participants ! and B$

6>

## WHAT CONTRIBUTIONS MAY BE MADE BY PARTICIPANTS IN SCENARIOS 4 &   ?

- cenari   4

Gr  up 789 devel  ps seeds and cr  p pr  tecti  n techn  l  &#.

## CONTRIBUTIONS AND GOVERNMENT SUBSIDIES

The Manual (B.6.5.B) n tes alternative appr aches , hen a participant (ene%its %r ) & vern ) ent ta+ incentives r su(sidies in respect % its activities (% r e+a ) ple' % r : JD activities).

! ppr ach ! is t value the participant's c ntri(uti n and disre&ard the su(sid#.

The alternative' ! ppr ach B' is t reduce the c ntri(uti n (# ta/in& int acc unt the su(sid#.

" hat are the c nse0uences % the di%%erent appr aches$



## CONTRIBUTIONS AND GOVERNMENT SUBSIDIES

C nsider a CC ! , here t , participants are e+pected t share e0uall# in the utc ) e and the# ( th ) a/e e0ual c ntri(uti ns % : JD activities (valued at 6 ; ; each). One participant receives a & vern ) ent su(sid# e0ual t 4 ; < % its : JD c sts.

Under ! ppr ach ! there is n e%%ect % the su(sid# n the CC ! ' and the participant retains %ull (ene%it % the su(sid#.

Under ! ppr ach B the t tal c sts % the CC ! activit# are reduced' and ( th participants (ene%it. But in additi n' alth u&h the t tal c sts have reduced t 64 ; ' ne participant n , c ntri(utes 4 ; ' , hile the ther c ntri(utes 6 ; ; as (e% re. The participant (ene%itin& %r ) the su(sid# ) a# n , have t pa# a (alancin& pa# ) ent su(s(e ) 331(u ) 2.1415595( ) 1.07422(%) 1.07422( ) 2.155

Ur3.0333 04eh74.7184 e(t.3070518(i ) 4.051 ) - - 13.0333 04.6ch6731.71584e(e ) 6 14.71842r3.0333

## CHANGES IN EXPECTED BENEFITS

E+a ) ple= Devel p ) ent % ne , techn l &#

! ssu ) e that C ) pan# ! and C ) pan# B enter int a CC ! in 8ear 6 t devel p ne , techn l &#. ! t the incepti n % the CC ! it is pr 2ected that the devel p ) ent pr cess , ill ta / e %ive #ears and that nce the ne , techn l &# is c ) ) ercialised in 8ear 6 C ) pan# ! , ill receive >4 < % the (ene%its and C ) pan# B , ill receive 34 < % the (ene%its. T tal devel p ) ent c sts are 6 ; ; each #ear.

In #ears 6' 3 and 1' C ) pan# ! pa#s >4 in CC ! related c sts and C ) pan# B pa#s 34 in CC ! related c sts. ! t the end % 8ear 1' re&ulat r# chan&es ta / e place in the e+pected ) ar / et % r the ne , techn l &# in C ) pan# ! 's territ r#. ! s a result % th se chan&es' it is pr 2ected in #ear 5 and therea%ter that C ) pan# ! , ill derive 4 ; < % the t tal (ene%its and C ) pan# B , ill als derive 4 ; < % the pr 2ected (ene%its ver the use%ul li%e % the techn l &# (ein& devel ped. ! s a result % the chan&es in t tal pr 2ected (ene%it shares' C ) pan# B sh uld ) a / e (alancin& pa# ) ents t C ) pan# ! e0ual t >4 (the di%%erence (et , een 34 < and 4 ; < % the c sts incurred in 8ears 6' 3 and 1). This (alancin& pa# ) ent sh uld (e ) ade in 8ear 5. ! ls in 8ear 5 and 8ear 4' (ased n the ne , (ene%it rati calculati n' C ) pan# ! and C ) pan# B sh uld each pa# 4 ; % the current annual CC ! related c sts.



## CHANGES IN EXPECTED BENEFITS

Thus' at the end % the devel p ) ent peri d' ( th C ) pan# ! and C ) pan# B , uld have paid 4 ; < % the CC ! devel p ) ent c sts and each , uld anticipate receivin& 4 ; < % the (ene%its % e+pl itin& the ne , techn l &#' as % ll , s=

| 8ear 6 | 8ear 3 | 8ear 1 | Balancin& Ca# ) ent 8ear 5 | 8ear 5 | 8ear 4 | T tal |
|---|---|---|---|---|---|---|
| >4 | >4 | >4 | (>4) | 4 ; | 4 ; | 34 ; |
| 34 | 34 | 34 | >4 | 4 ; | 4 ; | 34 ; |

Do you agree with this analysis? Is it possible to take a different view?



## CHANGES TO PARTICIPANTS IN A CCA

?r ) ti ) e t ti ) e ne , participants ) a# 2 in the CC ! ' and participants ) a# , ithdra , %r ) the CC ! .

" hen an ass ciated enterprise 2 ins a CC ! ' that CC ! ) a#

## SUMMARY OF CCA RE#UIREMENTS

a) The participants , uld include nl# enterprises e+pected t derive ) utual and pr p rti nate (ene%its %r ) the CC ! activit# itsel% (and n t ?ust %r ) per% r ) in& part r all % that activit#).

() The arran&e ) ent , uld speci%# the nature and e+tent % each participant's interest in the results % the CC ! activit#' as , ell its e+pected respective share % (ene%its.

c) N pa# ) ent ther than the CC ! c ntri(uti ns' appr priate (alancin& pa# ) ents and (u#.in pa# ) ents , uld (e ) ade % r the particular interest r ri&hts in intan&i(les' tan&i(le assets r services (tained thr u&h the CC ! .

d) The value % participants' c ntri(uti ns , uld (e deter ) ined in acc rdance , ith the OECD Guidelines and' , here necessar#' (alancin& pa# ) ents sh uld (e ) ade t ensure the pr p rti nate shares % c ntri(uti ns ali&n , ith the pr p rti nate shares % e+pected (ene%its %r ) the arran&e ) ent.

e) The arran&e ) ent ) a# speci%# pr visi n % r (alancin& pa# ) ents and( r chan&es in the all cati n % c ntri(uti ns pr spectivel# a%ter a reas na(le peri d % ti ) e t re%lect ) aterial chan&es in pr p rti nate shares % e+pected (ene%its a ) n& the participants.

%) ! d?ust ) ents , uld (e ) ade as necessar# (includin& the p ssi(ilit# % (u#.in and (u#. ut pa# ) ents) up n the entrance r , ithdra , al % a participant and up n ter ) inati n % the CC ! .

(B.6.A.3 and A.4 ; )



## DOCUMENTATION

D cu ) entati n standards appl# t CC ! s' and in particular sh uld include in% r ) ati n n

- the participantsI
- an# ther ass ciated enterprises , hich , ill (e inv lvedI
- an# ther ass ciated enterprises that ) a# (e e+pected t (ene%it %r ) the CC ! I
- the activities % the CC ! I
- the durati n % the CC ! I
- the ) easure ) ent % the participants' shares % e+pected (ene%itsI
- the c ntri(uti ns % each participantI
- the c nse0uences % a participant enterin& the CC ! ' leavin& the CC ! r % ter ) inati n % the CC ! I and
- (alancin& pa# ) ents and ad?ust ) ents t the ter ) s % the CC ! t re%lect chan&es in ec n ) ic circu ) stances % the participants.

In additi n' the OECD Trans%er Cricin& Guidelines enc ura&e participants t ) nit r the perati n % a CC ! and=

- rec rd chan&es t the arran&e ) entI
- c ) pare pr ?ecti ns n e+pected (ene%its , ith realised (ene%itsI and
- rec rd the annual e+penditure % the participants t the CC ! ' the % r ) % cash c ntri(uti n and the valuati n ) eth ds used' and the c nsistent applicati n % acc untin& principles t the participants.

(B.6.A.1 and A.43)



## CCAs: SUMMARY

CC ! s are use%ul % r (usinesses since the# can replace a , e( % separate intra.&r up ar ) 's len&th pa# ) ents % r services , ith strea ) lined net pa# ) ents (ased n a&&re&ated (ene%its and a&&re&ated c sts ass ciated , ith the services.

- i ) ilarl#' a CC ! % r sharin& in intan&i(les devel p ) ent can eli ) in al p %l l p
a& (n ) ?.15407 (t (i ) 6.616?1 (n ) ?.15407 (ee ) ?.15407 ( ) ?.154063se ) ?.15407 (s ) -14.3066 ( ) ?.1553 (i ) 6.616?1 (c ) ?.15407 (rc ) ?.15407 (r ) 16.467