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IPP PAPERS : NETHERLANDS, SWEDEN, US,
HUNGARY AND EUROSTAT/OECD

Discussant's Comments
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Overview - Economic Ownership of IPPs

- 5 presentations with 3 related papers to consider
- Hungary - SPEs and Quasi Corporations : ownership of IPPs
- US - BEA Cost Sharing Agreements within MNEs for development of IPPs (R&D) and evidence of transfer pricing
- NL - Economic ownership of IPPs conceptual and empirical discussion with recommendations
- Sweden - cases considered by LCU and outcomes
- Report of OECD ESTAT Task Force on Intellectual Property Products



Where is the common ground

- Clearly IPP and R&D
- Swedish case - could this be a CSA
- US case - who is the owner of the IPP
- NL – should we be looking to the parent as the owner
- Hungary - Who owns the IPP in the SPE and where is it being used



Economic Ownership of IPP in MNE Groups

- TFGP Recommendations

- IPP producers are owners of IPP
 - Unless sale of original to parent or subsidiary
 - Unless no IP related turnover generated - control by parent
 - Without conclusive evidence assign ownership to IP producer
- Rerouting of ownership away from SPE /Royalty companies not recommended
- Assign economic ownership to these units
- A separate institutional unit is recognised and consequently de facto owner of IP assets – case of non-resident SPE
- Record these SPE related transactions separately



Answers Questions, Questions Answers

- Basic question where is the IPP and who owns it
- For the CSA - is it a genuine transaction?
- For the SPEs with IP - is it in the quasi corporation or at the SPE itself
- In Sweden where is it?
- In Netherlands it is in NL but should it really be attributed to HQ



BEA - Cost Sharing Agreements (1)

- You do the work, together we will share the costs and the resulting asset (if any)
- Search for evidence of transfer pricing -
 - CSAs between US and low tax economies
 - MNEs with and without CSAs - profit performance
 - Is Denmark a tax heaven?



BEA - CSAs (2)

- Evidence is mixed from the empirical work using linked data
- Would it have been useful to review country imports of R&D from US ?
- Given the highly mobile nature of these intellectual property products - are CSAs that important or are they simply part of a broader story?



Hungary - SPEs and Quasi Corporations or Imputed Branches (1)

- SPEs part of a long standing and ongoing debate
- What exactly is an SPE and how do we define them?
- Residency concept discussed in detail together with ownership - should they not amount to the same thing?
- In this case we are ultimately considering SPEs holding IPP being used elsewhere in another economy
- Need to create a quasi corporation in certain cases
- But if being used to provide cross border services no Quasi need be imputed



Hungary - SPEs and Quasi Corporations or Imputed Branches (2)

- SPEs do hold Non-financial assets - Dutch case
- SPEs are considered Institutional Units where there is no other resident entity that is part of the same MNE group
- SPE is a channel while Branch (Quasi corp) is a port ?
Consequently they are mutually exclusive??



Sweden – MNE affiliate engaged in R&D

- Employees mainly engaged in R&D : where are the assets ?
- Turnover related to merchandising
- Is this a CSA with a foreign affiliate? (probably not)
- Could the solution be to record/classify the entity as engaged Manufacturing and that the merchandising is in reality contract manufacturing(a common



Task Force IPPs - OECD and Eurostat

Recommendations :

- Separately identify intra MNE flows of IPP
- Both Domestic and Cross Border
- Funding between affiliates and between non-affiliates
- Revenues from sales of R&D
- Guidance on estimating own account output (R&D?) will be updated



Task Force IPPs - OECD and Eurostat

- Asset categories considered - IPPs, Software and Databases
- Few countries use Guide to measuring Global Production and instead use Frascati
- IC distinguished from Cap Formation



Part 1 - research projects in public domain

- Govt Scientific research – agriculture – environment - circular economy - yes
- Defence research - secrecy - yes
- Scientific university research - pure public good - no owner - no future benefits for a particular individual/ institution - no
- In practice – difficult to identify separately – campus



companies – pharma - genetic etc papers published abroad

R&D in MNEs

- Due to international fragmentation of production chains R&D and IP development disconnected from physical transformation
- FGPs - classification and types of transactions not concluded in UNECE TF
- Valuation of R&D is due to obsolescence not wear and tear
- SNA 2008 R&D capitalisation increased not caused National Accounts vulnerability to globalisation
- Location and relocation of IP – artificial reality rather than true production linked economic reality

Two Major Recommendations

- Case for data sharing between countries is clear and well articulated
 - Need to start with consistent National data across Business Stats, National Accounts, Balance of Payments for this approach to be successful
 - Confidentiality regime within which data sharing takes place must have the confidence of the participant NSIs



Any reallocation of IP would entail significant imputations

Spaghetti Junction - rerouting of flows

Reroute:

Royalties

Licenses

IPPs

Profits

Equity

Creditors

Debtors

Loans - Financing

Entire SPEs

Formulary apportionment

Etc, etc



Questions and Observations (1)

- Support choice of capitalising R&D
- Was the approach reckless? Or are these the unintended consequences of SNA2008
- Whether knowledge capital should be identified at level of establishment, enterprises, enterprise groups, Corporate HQ?
- KLEMS analysis – establishment level - can it deliver



meaningful results?

Questions and Observations (2)

- Is any of this related to measurement issues rather than conceptual ones?
- If we correctly measured GDP in Bermuda or Netherlands do we address the question ?
- The importance of Net macroeconomic measures is also clear NNI, NDP, NDI etc
- Number of initiatives currently in progress – BEPS, EU Legislation, National Legislation in Ireland and Netherlands - overall outcome is unclear



Should we await the outcome of these changes in the regulatory environment before proposing major changes?