Annex A: Example of a disclosure form

TRANSFER PRICING DISCLOSURE FORM

This form provides a broad level disclosure of taxpayer's related party transaction(s) and the analysis performed to demonstrate compliance with arm's length principle.

Please refer to the instruction sheet for completing this form

Section A – Basic Information

1	Name of the taxpayer	
2	Tax ID	☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
3	Address	
4	Country of residence	
5	Fiscal year	
6	Standard Industry Classification ('SIC') code of the taxpayer *(refer instruction 1)*	
7	Brief business overview of the ultimate parent company *(refer instruction 2)*	
8	Brief business overview / functional profile of the taxpayer	
9	Has there been any change in the functional profile of the taxpayer? *(refer instruction 3)*	☐ Yes ☐ No
10	If yes, please provide an overview of the change in the functional profile *(refer instruction 3)*	
11	Gross revenue of the taxpayer for current year and immediately two preceding years (in local currency)*(refer instruction 4)*	Current year: ___ Preceding year 1: ___ Preceding year 2: ___
12	Has there been any change in the ownership structure of the taxpayer?	☐ Yes ☐ No
13	If yes, please provide an overview of the change in the ownership structure	

Annex B: Examples of Country Rules on Documentation

B.1 Korea[1]

B.1.1. Reporting of the method of determining an arm's length price to the tax authorities

- A taxpayer should select the most reasonable method of determining an arm's length price in accordance with the criteria provided in the legislation and report the selected method and the reason for the selection to the district tax office at the time of filing a tax return.
- When filing the tax return, the taxpayer entering into an international transaction with a related party overseas should submit to the district tax office a detailed statement of the international transaction specified in the Ministerial decree (Form No.8) together with the simplified profit and loss statements or financial statements of the overseas related party.
- This is not the case, however, if the total value of international transactions of goods and that of international transactions of services of the taxpayer for the taxable year concerned is 5 billion Korean Won or less and 500 million Korean Won or less, respectively.

B.1.2. Taxpayers' obligation to submit the requested information on international transactions

- The tax authorities may request a taxpayer to submit the relevant information necessary for applying the transfer pricing rules including the TP method used for determining the transaction price in question.
- The information to be requested includes the following:
- Various contracts regarding the transfer or purchase of properties;
    1. Price list of the products;
    2. Details of manufacturing costs of the products;
    3. Details of transactions made with related and unrelated parties for each line of products;
    4. In the case of the supply of services or other transaction, the documents similar to those listed above;
    5. Organization chart and job description of the concerned corporations;
    6. Data used for the determination of international transaction prices;
    7. Price determination policy between and among related parties;
    8. Accounting standards and methods related to the transactions in question;
    9. Details of business activities performed by the parties connected to the transaction in question;
    10. Ownership relations among the related parties;

[1] TP documentation is provided in the Law for Coordination of International Tax Affairs (LCITA) and its Enforcement Decrees.

11. Forms or items not submitted to the district tax office in filing tax return;
12. Other data necessary for computing an arm's length price.

- The above data must be prepared and submitted in Korean. However, they can be prepared and submitted in English if tax authorities permit it.
- A taxpayer who is requested to submit information should submit such information within 60 days of the date the request is received. However, if the taxpayer files an application for an extension of the due date with a justifiable reason as prescribed by the Enforcement Decree, the tax authorities may allow an extension for up to 60 days.

B.1.3. Sanctions against the noncompliance with the request for submission of information

- If a taxpayer who is requested to submit information fails to submit the requested information by the due date without a justifiable reason, and instead submits the information at a later stage where filing a tax appeal or in the course of a mutual agreement procedure provided in a tax treaty, the tax authority or other related authorities may decide not to use such documents as evidence for taxation purposes.
- If a taxpayer who is requested to submit information fails to submit the requested information by the due date without a justifiable reason, the taxpayer shall be subject to a fine for negligence up to an amount of 100 million Won (approximately USD 100,000).

B.1.4. Exemption from under-reporting penalty in case of contemporaneous documentation

- Tax authorities should not impose a penalty for the under-reporting of income (10% of the additional tax amount due) if it confirmed through competent authorities' mutual agreement procedures that the taxpayer did not commit a fault with regard to the difference between the reported transaction price and the arm's length price. It shall not be deemed that the taxpayer was at fault if the following conditions are met:
    1. The taxpayer presents the procedure through which the most reasonable method was selected out of the methods of determining an arm's length price with documentation prepared at the time of filing tax return;
    2. The taxpayer actually used the selected method;
    3. The taxpayer has kept necessary data and information related to the selected method.
- Tax authorities should not impose a penalty for the under-reporting of income (10% of the additional tax amount due) if a taxpayer has prepared and maintained contemporaneous TP documentation for the TP methods applied to the cross-border intercompany transactions reported in the corporate income tax return, and such documentation substantiates the reasonableness of the selected TP methods and the application thereof. A taxpayer shall prepare and maintain the following documentation at the time of reporting corporate or income tax and submit it within 30 days upon request by the concerned tax authorities:

1. Outline of the business (including an analysis of factors influencing prices of its assets and services)
2. Business organizational chart (illustrating related parties to which TP may be applicable)
3. Documents illustrating the process by which the applied TP method was selected:
    i. Economic analysis and projections that served as the basis for selecting the particular TP method;
    ii. Documents describing the details of adjustments made in determining the arm's length price range using comparables' data;
    iii. Alternative TP methods and the reasons for which those were not selected;
    iv. Relevant documents concerning the time period from the end of the taxable period until the filing of the tax returns.

– Criteria applied in determining the above-mentioned "reasonableness" are as follows

1. With the end of the concerned taxable period as the basis, whether the collected data on the comparables are adequately representative. Particularly, it should be examined whether an omission of data of a certain comparable led to an outcome advantageous to the taxpayer;
2. Whether the selection and application of the concerned TP method is supported by systematic analysis of the collected data.
3. If a certain TP method was agreed upon through an APA process in a prior taxable year or was selected by the tax authorities during an audit, whether there are reasonable grounds for applying or not applying the said TP method for the concerned taxable year.

B.2. <u>India</u>

B.2.1. Documentation to be maintained

– Sec. 92D of the Finance Act read with Rule 10D(1) of the Income Tax (IT) Rules lays down thirteen different types of information / documents that a person, entering into international transactions with associated enterprise(s), is required to maintain. Broadly, these information / documents can be classified as:
    - Enterprise-wise documents;
    - Transaction-specific documents; and
    - Computation related documents.

B.2.2. Enterprise-wise documents

- These documents describe the enterprise, the relationship with other associated enterprises, nature of business carried out, etc. This information is largely descriptive [Clauses (a) to (c) of Rule 10D(1) of the IT Rules]. An illustrative list of information / documents to be maintained under this classification is provided below.
  - Ownership / shareholding pattern of the taxpayer;
  - Business profile of the multinational group;
  - Details of associated enterprise(s) with whom international transactions are entered into;
  - Business of the taxpayer and the associated enterprise(s); and
  - Broad industry profile in which the taxpayer operates.
- The above documentation would provide the tax authorities with the preliminary information of the taxpayer's group profile, function in the group and the industry in which it operates. The broad industry profile, if well documented, will provide the tax authorities with an overview of the demand and the business drivers within the industry as well as the taxpayer's position in the industry. The documentation can also provide an overview of the taxpayer's growth objectives, given the evaluation of the industry sector and the competitive dynamics within industry in which the taxpayer operates.

B.2.3. Transaction-specific documents

- These documents explain each international transaction in detail e.g. the nature and terms of contracts, description of the functions performed, assets employed and risks assumed by each party to the transaction, economic and market analyses, etc. [Clauses (d) to (h) of Rule 10D(1) of the IT Rules]. An illustrative list of information/ documents to be maintained under this classification is provided below.
  - Details of each international transaction e.g. name of the associated enterprise, product transferred / service provided, quantity, price; shipment and credit terms, etc.;
  - Functional analysis of the taxpayer and associated enterprise(s) listing the functions performed, assets employed and risks assumed for undertaking the international transaction;
  - Pricing policy adopted for the international transaction;
  - Budget / forecasts for the taxpayer's business;
  - Reports of market research studies carried out and technical publications brought out by institutions of national or international repute;
  - Record of uncontrolled transactions (internal and external comparables) for each international transaction including nature and terms of the uncontrolled transactions; and
  - Economic analysis to provide details of data used and data rejected with reasons thereof.
- The above information would capture the relevant information about the taxpayer and the concerned associated enterprise(s). The documentation of the precise functions performed by the parties (taxpayer and associated enterprise) and the economic characterisation (e.g.: integrated manufacturer, contract manufacturer, indenting agent, support service provider, etc.) of the

respective parties would be relevant here. The economic characterisation of parties would assist the taxpayer to determine the tested party.

- In case the foreign associated enterprise is considered as the tested party for a particular international transaction, the relevant documents regarding the foreign associated enterprise should be maintained. The Income Tax Appellate Tribunal in the case of Ranbaxy Laboratories Ltd.[2] observed that if taxpayer wishes to take a foreign associated enterprise as the tested party it must ensure that the relevant data for comparison is available in public domain or is furnished to tax administration.

B.2.4. Computation related documents

- These documents detail the methods considered, actual working assumptions, adjustments made to the transfer prices and any other relevant information / data relied for determining the ALP **[Clauses (i) to (m) of Rule 10D(1) of the IT Rules].**
- An illustrative list of information / documents to be maintained under this classification is provided below.
    - Nature of each international transaction and the rationale for selecting the most appropriate method for each international transaction. The taxpayer is required to substantiate the selection by proper documentation and the manner in which the method was applied to each international transaction;
    - Actual working / computation of the arm length's price i.e. recording the calculations i.e. comparability analysis performed to determine whether or not uncontrolled transactions are comparable to the international transactions with reasons for adjustments made to make the comparability analysis more reliable.
    - Critical factors and assumptions influencing the determination of the ALP;
    - Adjustments made (along with reasons) to the taxpayer's transfer prices so as to align it with ALPs; and
    - Any other information relevant for the determination of the ALP

- One of the aspects of documentation is to capture the group policies and the pricing methodology of the international transaction. For instance, pricing methodology could be either on cost plus mark-up basis, percentage on sales basis, bilateral negotiations basis, etc. to appropriately substantiate the arm's length nature of the transaction.

B.2.5. Contemporaneous documentation

- Rule 10D(4) of the IT Rules require that the information and documents maintained by an taxpayer to demonstrate that the transaction price meets with the arm's length principle should be contemporaneous to the extent possible and should exist latest by the due date for filing the return of income.

[2] *Ranbaxy Laboratories Ltd. vs Additional Commissioner of Income Tax*, 2008 299 ITR 175 Delhi; (2008) 114 TTJ Delhi 1.

- A question that arises is what is meant by contemporaneous documentation. The Oxford Dictionary defines the term 'contemporaneous' as '*Existing or occurring in the same period of time'.* Possibly, the contemporaneous documentation can be documentation that -
  - exists or is brought into existence at the time (by the due date for filing the return of income) the taxpayer is developing or implementing any arrangement that might raise transfer pricing issues; and
  - records all relevant information that was necessary for the management to make transfer pricing decisions. The documentation may be electronic or in written form, which includes books, records, contracts, studies, periodic activity reports, budgets, plans, projections, analysis, conclusion and other material.

- Further, contemporaneous documentation maintained could have the following characteristics:
  - Completeness;
  - Accuracy i.e. true and proper information; and
  - Timeliness - information is maintained as and when the international transactions take place. This may not always be possible to comply with, e.g., when subsequent benchmarking under the TNMM alone would show whether or not the international transactions have been carried out at prices which have yielded an arm's length margin.
- Transfer pricing documentation is generated at various stages. For example, there could be the documentation which is maintained by a taxpayer as part of its ordinary business operations and used by it to set the prices (e.g. in case of cost plus based pricing, definition of 'costs') of its international dealings with associated enterprise(s) (e.g. invoices, orders, etc.). Another form of documentation could be the one which is maintained by the taxpayer for establishing whether such prices comply with the arm's length principle.
- The TPR do not clearly provide what is the nature of documentation to be maintained for each international transaction. Further, the TPR do not distinguish between the different nature of transactions for the purpose of maintaining documentation i.e. the normal transactions and the transactions in exceptional circumstances e.g. market penetration, distress sale, pricing strategy, etc. In such cases, the taxpayer should endeavour, as far as possible, to record all relevant information (available at the time of entering into the international transaction) that is critical for the management to determine the pricing / other factors of the international transaction. The information / documents maintained could be in the form of minutes of Board of Directors meeting, emails, faxes, agreements, quotations, independent valuations, market surveys, etc.
- The ensuing paragraphs illustrate the documentation to be maintained while entering into certain exceptional transactions like market penetration and distress sale. However, specific information and documentation may vary in each case depending on the type of business and size of business operations of the enterprise.

B.2.6. Documenting market penetration strategies

- Market penetration is a business strategy adopted which involves reduction in current profits in anticipation of an increase in future profits. The key element here is to analyse whether a third party would be prepared to trade off its current profits in expectation of increased future profits under same / similar conditions.

- Hence, if a taxpayer intends to implement such a strategy, it is imperative, on its part to document all the key facts / circumstances under which such a strategy is implemented and how the implementation of such a strategy meets with the arm's length principle. Documents for this purpose could be market feasibility report, document highlighting broad outline of the strategy, benefits sought to be achieved, future profitability outcome/budgets that would demonstrate assumptions for adopting this strategy, etc.

B.2.7. Documenting "distress sales"

- A distress sale is a forced sale of an asset / investment at significantly reduced price because of certain necessity / crisis.
- To illustrate, a project office which is abruptly closing down sells its assets to group companies. In cases of distress sale, the documentation for such a transaction should demonstrate the rationale behind a distress sale and the justification on how the said international transaction meets with the arm's length principle. Documents for this purpose could be minutes of the board, shareholders meeting, Government approval, market survey reports or asset valuation reports, etc.

B.2.8. Documenting receipt of intra-group services

- An intra-group service is a service performed by one member of a multi-national group for the benefit of one or more members of the group. The services offered / performed can be of administrative, technical, financial or commercial nature and may include management, co-ordination and control functions for the entire group. The key element here is to analyse the arm's length nature of intra-group services would be whether an independent enterprise (service recipient) in similar circumstances would have been willing to pay for or perform such services itself.
- The documentation for such a transaction (from a service recipient perspective) should demonstrate actual receipt of services and the benefits derived therefrom. The benefits received may be quantified to the extent possible. Documentation for this purpose could be minutes of meeting / telephone calls, detailed description of the benefits received demonstrated by way of correspondences, memoranda, manuals, etc. Further, a certificate from an independent accountant of the service providing entity may be obtained certifying the method of allocation of costs and authenticity of the cost apportioned to each entity. It may also be beneficial to document that the services could not have been rendered internally (by the service recipient) or by third parties.

B.2.9. Documenting reimbursement / recovery of expenses

- In certain circumstances one of the associated enterprises (Company 'X') incurs routine expenditure (e.g.: travel, hotel, freight, courier charges etc.) on behalf of another associated enterprise (Company 'Y'). The primary liability to incur the expenditure and make payments to the concerned third party vendors is that of Company Y and it is purely for administrative convenience that the said payment is made by Company X and subsequently recovered from Company Y (without any mark-up).

- The parties to the transaction should maintain internal documentation like internal memos, email correspondences, etc. to demonstrate that the expenses were disbursed by Company X on behalf of Company Y and that all such expenses has been duly recovered.
- The invoices raised by the third party vendors on Company X would form part of the documentation to substantiate that Company X has recovered the entire amount (at cost) from Company Y.
- To the extent possible, one should attempt to maintain transfer pricing documentation at the time of entering into the international transaction. Further, in any case, the same should exist latest by the due date for filing the Return of Income.

B.2.10. Need for Fresh Documentation

- A proviso to Rule 10D(4) of the IT Rules require that if an international transaction continues to have effect over more than one previous year, fresh documentation need not be maintained separately in respect of each year, unless there is any significant change in the following:
    - Nature or terms of the international transaction; or
    - Assumptions made; or
    - Any other factor which would influence the transfer price.
- However, if there has been a significant change in any of the above, fresh documentation (as may be necessary) should be maintained bringing out the impact of the above change on the pricing of the international transaction.
- It is therefore important for each taxpayer to scrutinize, on yearly basis, whether any fresh documentation is required to be maintained for any continuing transaction.

B.3. Nigeria

Nigeria tax laws provide for documents to be provided for national tax administration this documentation will form the basis for the transfer pricing documentation. Some of the documentation required that are applicable to both corporate and individuals are stated below:

B.3.1. Call for returns, books, documents and information for tax purposes

(1) Companies Income Tax Act

(I) Every company including a company granted exemption from incorporation shall, whether or not a company is liable to pay tax under this Act for a year of assessment, with or without notice from the Service, file a self-assessment return with the Service in the prescribed form at least once a year and such return shall contain -

(a) The audited accounts, tax and capital allowances computation for the year of assessment and a true and correct statement in writing containing the amount of profit from each and every source computed;

(b) A duly completed self-assessment form as may be prescribed by the Service, from time to time, attested to by a director or secretary of the company and such attestation shall contain a declaration that it contains a true and correct statement of the amount of its profits computed in respect of all sources in accordance with this Act and any rule made and that the particulars given in such return are true and complete; and

(c) Evidence of payment of the whole or part of the tax due into a bank designated for the collection of the tax,

(1) For the purpose of obtaining full information in respect of the profits or income of any person, body corporate or organization the Service may give notice to that person, body corporate or organization requiring him or it within the time specified by the notice to-

(a) Complete and deliver to the Service any return specified in such notice;

(b) Appear personally before an officer or the Service for examination with respect to any matter relating to such profits or income;

(c) produce or cause to be produced examination .books, documents and any other information at the place and time stated in the notice which, time may be from day-to-day, for such period as the Service may deem necessary; or

(d) Give orally or in writing any other information including name and address specified in such notice.

(2) for the purpose of paragraph *(a)* to *(d)* of subsection (l) of this section, the time specified by such notice shall not be less than 7 days from the date of service of such notice except that an officer of the Service, not below the rank of a Chief Inspector of Taxes or its equivalent, may act in any of the cases stipulated in paragraphs *(a)* to (d) of subsection (1); without giving any of the required notices set out in this section.

(3) A person who contravenes the provisions of this section is, in respect of each offence, liable on conviction to a fine equivalent to 100per cent of the amount of the tax liability.

(4) Nothing in the foregoing provision of this section or in any other provision of this Act shall be construed as precluding the Service from verifying by tax audit or investigation into any matter relating to any return or entry in any book, document, accounts including those stored on a computer, in digital, magnetic, optical or electronic media as may, from time to time, be specified in any guideline by the Service.

(5) A person may apply in writing to the Board for an extension of time within which to comply with the provisions of this section and section 27 of this Act, provided that the person

(a) Makes the application before the expiration of the time stipulated in this section for making the returns; and

(b) Shows good cause for his inability to comply with this provision.

(6) If the Board is satisfied with the cause shown in the application under paragraph *(b)* of subsection (5), it may in writing grant the extension of the time or limit the time as it may consider appropriate.

B.3.2. Call for further returns and payment of tax due

(1) The Service may give notice in writing to any person it considers necessary requiring such person to deliver within a reasonable time specified in such notice, fuller or further returns in respect of any matter relating to the functions of the Service under the relevant Act.

B.3.3. Documentation specific to banks

Information to be delivered by bankers

(1) Every bank shall prepare upon demand by the Service, quarterly returns specifying.

(a) in the case of an individual, all transactions involving the sum of N5,000,000.00 and above; or

(b) in the case of a body corporate all transactions involving the sum of N10,000,000.00 and above, the names and addresses of all customers of the bank connected with the transaction and deliver the 'returns to the Service;

(c) the names and addresses of new customers of the bank and shall not later than the seventh day of the succeeding month deliver the returns to the Service.

(2) For the purpose of obtaining information relative to taxation, the Service may give notice to any person including a person engaged in banking business in Nigeria to provide within the time stipulated in the notice, information including the name and address of any person specified in the notice.

Provided that a person engaged in banking business in Nigeria, shall not be required to disclose any additional information about his customer or his bank under this section unless such additional disclosure is required by a notice signed by the Executive Chairman of the Service on the advice of the Technical Committee of the Board.

(3) Any bank that contravene the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding N500,000.00 on corporate customers and not exceeding N50,000.00 in the case of individual customer.

NOTE: The law in Nigeria allows regulations to prescribe the type of documentation that can be demanded from companies.

Annex C: Sample Transfer Pricing Study - International Chamber of Commerce (2008)

The following is a sample documentation package prepared by the International Chamber of Commerce's Taxation Commission, as part of a 2008 Policy Statement on the issue.[3]

[3] Available at http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2007/Transfer-Pricing-Documentation-Model/

Sample Documentation Package

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Please note that annexes 1, 2, 6, 7 and 9 are not included in the sample documentation package, as they are specific to each company.

I. OECD Transfer Pricing Requirements

A) Purpose of the Report

This report compiles the transfer pricing documentation in support of the related party transactions between Parent Company and its subsidiaries (collectively the "Company") for the taxable year ended 31 December 20XX. This report was prepared with respect to the application of the arm's length principle pursuant to the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations published by the Organisation for Economic Cooperation and Development (the OECD Guidelines).

B) Business Description

1. General Corporate Background

The Company was incorporated on 1 January 19XX in country. It is publicly traded on the exchange. The Company is a leading provider of products and services. It offers its products and services through four business segments: Segment #1, Segment #2, Segment #3 and Segment #4. Attached hereto as Annex 1 is a copy of the Company's Annual Report/Public Security Market Disclosure Reports which provides additional information about the Company's business.

An organizational chart for the Company and its subsidiaries is attached hereto as Annex 2. The Company has a network of offices extending across more than 50 countries and had more than 50,000 employees by the end of 20XX.

2. General Business Activity

Brief description of the Company's business activities. For additional information, see pages x-xx of Annex 1.

Segment #1. Brief description of the Company's segment #1 activities. For additional information, see pages x-xx of Annex 1.

Additional Segments. Add similar descriptions and references for additional business segments.

C) Financial Results

Included in the Company's Annual Report/Public Security Market Disclosure Reports for the tax year ended 31 December 20XX, a copy of which is attached as Annex 1, are audited financial statements. During 20XX, the Company generated approximately 46% from American operations, 33% from European, Middle East and African Operations, and 21% from Asian and Pacific operations. The Company generated approximately 40% from Segment #1, 30% from Segment #2, 20% from Segment #3 and 10% from Segment #4. The Company's 20XX financial results are also summarized, by business segment and country, in a chart attached as Annex 3.

1. Related Party Transactions

During 20XX, the Company had related party transactions of approximately XXX million. A summary schedule showing the related party transaction is attached hereto as Annex 4.

D) Functional Analysis.

A chart summarizing the Company's risks and functions is attached as Annex 5. In addition, a description of the Company's business operations as well as a description of the risks and functions of the Company and its pertinent subsidiaries is attached hereto as Annex 6.

E) Transfer Pricing Analysis under the OECD Guidelines

1. Background

The OECD Guidelines prescribe specified methodologies for determining the arm's length terms for the transfer of tangible property, intangible property, services, and capital between controlled taxpayers. In addition, the OECD Guidelines allow for the use of unspecified pricing methodologies where the specified methodologies set forth in the regulations are not applicable.[2] The arm's length result of a controlled transaction must be determined under the method that, under the circumstances, provides the most reliable measure of an arm's length result. The OECD Guidelines provide that the traditional transaction methods (i.e., comparable uncontrolled price, resale price, and cost plus methods) are preferable to other methods.[3] However, the OECD Guidelines provide that, if the traditional transaction methods cannot be reliably applied alone or cannot be applied at all, the "transactional profit methods" (i.e., the profit split or the transactional net margin methods) should be applied.[4] The discussion set forth in this paragraph E of the Transfer Pricing Report addresses which method is the best method for purposes of determining the related party transfer pricing of the Company.

2. Transfer Pricing Method Selection

The OECD Guidelines provide that an appropriate method must be selected to evaluate the arm's-length nature of the intercompany transfer prices. The selected method should be the method that provides the most reliable result and takes two primary factors into account: (i) the degree of comparability between the controlled transaction (or taxpayer) and any uncontrolled comparables; and (ii) the quality of the data and assumptions used in the analysis.

[2] OECD Guidelines ¶ 1.68.
[3] OECD Guidelines ¶¶ 2.49 and 3.49.
[4] OECD Guidelines ¶ 3.1.

The following analysis discusses the methods available for determining the reasonableness of the transfer pricing associated with the inter-company transactions between and among the Company and its foreign affiliates and documents the reasons for the selection of the transfer pricing method.

Important criteria for selecting an appropriate method involve the degree of comparability between the controlled and uncontrolled transactions, the reliability of assumptions used in the analysis, and the reliability of data.

As detailed in the next paragraph, the method was selected for the analysis of all related party transactions in this case.

Transfer Pricing Method Selection. Brief description of the selected method.

3. Review of Other Transfer Pricing Methods

Prior to selecting the transfer pricing method as discussed in paragraph E.2., we considered whether other transfer pricing methods set forth in the OECD Guidelines should be applied to determine whether the related party transactions between the Company and the Controlled Foreign Company (CFC) meet the arm's length criteria.

A summary of this analysis is set forth in the following table:

Best Method Analysis	
Method	**Reasons for Rejection**
Comparable Uncontrolled Price Method	Absence of comparable uncontrolled transactions.
Resale Price Method	Add brief explanation for rejection.
Cost Plus Method	Add brief explanation for rejection.
Transactional Net Margin Method	Add brief explanation for rejection.
Profit Split	Add brief explanation for rejection.

Comparable Uncontrolled Price Method. The Comparable Uncontrolled Price (CUP) method evaluates whether the amount charged in a controlled transaction is arm's length by reference to the amount charged in a comparable uncontrolled transaction.[5] To utilize the CUP method, the taxpayer must establish that the products, contractual terms and economic conditions associated with the controlled transaction bear a close similarity to the products, contractual terms and economic conditions associated with the uncontrolled transaction.[6]

5 OECD Guidelines paragraph 2.6.
6 OECD Guidelines paragraphs 2.6 through 2.13.

Since the CUP method involves a direct comparison of related party prices with arm's length prices, the CUP method is normally preferred as a way to evaluate whether related parties transact at arm's length. In this case, any third-party transactions engaged in by the Company and its CFCs are either (1) not sufficiently similar to apply the CUP method or (2) reliable comparable uncontrolled transaction data were not available. Consequently, the CUP analysis was not selected as the best method for analyzing the majority of intercompany transfers in this case.

Resale Price Method. Brief description similar to paragraph E.3.a.

Cost Plus Method. Brief description similar to paragraph E.3.a.

Transactional Net Margin Method. Brief description similar to paragraph E.3.a.

Profit Split Method. Brief description similar to paragraph E.3.a.

F) Economic Analysis.

As noted above, the transfer pricing policy of the Company is to charge ____. As can be seen from Annex 2, the Company had the following related party transactions.

The Company has engaged XYZ Economics to conduct a search for independent, publicly listed firms comparable to the Company in terms of its operations and functions. A copy of the report titled "The Company's Transfer Pricing Analysis" is attached as Annex 7.

Based on the analysis, XYZ Economics concludes that the financial results for the selected companies are a comparable and reliable measure of transactions similar to that of the tested party. The 3-year average results for these companies are set forth in the following Table:

Table Comparison of the Company's Related Party Transactions and Comparable Companies	
Returns Earned by Comparable Companies	
Lower Quartile	2.5%
Median	5.0%
Upper Quartile	8.8%
3-Year Return Earned by the Company	**5.5%**

The 3-year return earned by the Company of 5.5% is within the inter-quartile range of the three year average mark-up established by comparable companies. Consequently, because the transfer pricing results for the related party transactions are within the range of comparable companies, we conclude that the transfer pricing of the Company and its related subsidiaries satisfies the arm's length principle of the OECD Guidelines.

G) Conclusion

Based on the review of the financial information and documentation provided by the Company, we conclude that all related party transactions comply with the arm's length principle under the OECD Guidelines and local country law.

II. Local Country Transfer Pricing Requirements

A) Local Country Transfer Pricing Legislation

1. Transfer Pricing Law and Administrative Guidelines

Brief overview of local country transfer pricing legislation. If applicable add language similar to "the local country transfer pricing rules generally conform to the transfer pricing guidelines of the OECD."

2. Documentation Requirements

Brief overview of local country contemporaneous documentation requirements.

3. Transfer Pricing Penalties

Brief overview of any applicable transfer pricing penalties.

4. Analysis and Conclusions

Company Foreign is a foreign subsidiary of the Company ("CompFor"). To the extent that CompFor purchases or leases goods, or utilizes services from other group affiliates, the results for those aggregated transactions are described above and detailed in Annex 8, Local Country Financial Statement Information. In addition, a copy of the CompFor's Audited Financial Statements is attached as Annex 9.

As noted above, the XYZ Economics report concludes that the range of returns should be between 2.5% and 8.8%, with a median of 5.5%. CompFor's returns are 4.8% for 20XX as illustrated in Annex 8. CompFor's returns are well within the arm's length range of comparable companies. Therefore we conclude that the aggregated transactions involving purchase or lease of goods or services by CompFor satisfy the arm's length principle under local country law.

Given that the local country transfer pricing guidelines are substantially similar to the OECD Guidelines, the analysis in section I is directly applicable and addresses these matters in greater detail. In addition, as noted above, the analysis set out in this report meets the documentation requirements of local country.

ANNEX 3

SAMPLE INC.					
YE 12/31/XX					
	TOTAL PER		GEOGRAPHIC SEGMENT		
	ANNUAL				
	REPORT		AMERICAS	APJ	EMEA
REVENUE	49,971		22,940	10,478	16,553
COST OF SALES	35,684				
GROSS PROFIT	14,287				
OPERATING EXPENSE	9,866				
OPERATING INCOME	4,421		2,074	876	1,471
OTHER INCOME/EXP	228				
EBIT	4,649				
OPERATING MARGIN	8.85%		9.04%	8.36%	8.89%
REVENUE BY PRODUCT/					
SERVICE SEGMENT:					
	DOLLARS		% OF REV		
CAT # 1	20,021		40.07%		
CAT # 2	14,817		29.65%		
CAT # 3	9,797		19.61%		
CAT # 4	5,336		10.68%		
TOTAL REVENUE	49,971		100.00%		

SAMPLE INC						
SEGMENT SUMMARY						
12/31/XX						
						ELIM &
	TOTAL	**SEG # 1**	**SEG # 2**	**SEG # 3**	**SEG # 4**	**ADJ**
SALES	49,971	20,021	14,817	9,797	5,336	-
COST OF SALES	35,684	15,032	10,160	6,156	4,336	-
GROSS PROFIT	14,287	4,989	4,657	3,641	1,000	-
OPERATING EXP	9,866	3,588	3,221	2,585	472	-
OPERATING INCOME	4,421	1,401	1,436	1,056	528	-
OTHER INC/(EXP)	228	152	79	(43)	40	-
EBT	4,649	1,553	1,515	1,013	568	-
TOTAL ASSETS	45,211	20,202	12,551	9,785	2,673	-
CURR LIABILITIES	8,098	4,009	3,123	584	382	-
OP.INC./SALES	***8.85%***	***7.00%***	***9.69%***	***10.78%***	***9.90%***	***0.00%***
I/C REVENUE:						
TANGIBLE PROPERTY	8,268	6,587	222	1,315	144	-
SERVICES	10,415	1,437	5,780	2,859	339	-
ROYALTY	542	542	-	-	-	-
INTEREST	121	121	-	-	-	-
DIVIDENDS	-	-	-	-	-	-
OTHER I/C REVENUE	-	-	-	-	-	-
	19,346	8,687	6,002	4,174	483	

SAMPLE INC									
SEGMENT # 1									
12/31/XX									
TYPE OF ENTITY				MFG, SP DIST	DIST	C MFG	DIST SP	DIST	MFG, SP DIST
		ELIM &	TOTAL						
	TOTAL	ADJ	BEF ADJ	COUNTRY # 1	C # 2	C # 3	C # 4	C # 5	C # 6
SALES	20,021	(8,758)	28,779	11,312	3,021	944	2,810	910	9,782
COST OF SALES	15,032	(8,062)	23,094	8,723	2,846	829	2,165	622	7,909
GROSS PROFIT	4,989	(696)	5,685	2,589	175	115	645	288	1,873
OPERATING EXP	3,588	(1,496)	5,084	2,779	97	68	523	273	1,344
OPERATING INCOME	1,401	800	601	(190)	78	47	122	15	529
OTHER INC/(EXP)	152	(126)	278	151	(12)	5	57	19	58
EBT	1,553	674	879	(39)	66	52	179	34	587
TOTAL ASSETS	20,202		20,202	8,210	786	1,149	903	553	8,601
CURR LIABILITIES	4,009		4,009	1,620	224	378	466	231	1,090
OP.INC./SALES	*7.00%*		*2.09%*	*-1.68%*	*2.58%*	*4.98%*	*4.34%*	*1.65%*	*5.41%*
I/C REVENUE:									
TANGIBLE PROPERTY	6,587			3,277	-	921	-	-	2,389
SERVICES	1,437			1,117	-	-	320	-	-
ROYALTY	542			542	-	-	-	-	-
INTEREST	121			92	-	-	-	-	29
DIVIDENDS	-			-	-	-	-	-	-
OTHER I/C REVENUE	-			-	-	-	-	-	-

ANNEX 4

	Income from inter-group transactions	TPM	Tested Party	Expenditure paid for inter-group transactions	TPM	Tested Party
Tangible Property	8,268					
Services	10,415					
Royalties	542					
R&D	-					
Interest	121					
Dividend	-					
Other (specify)	-					
Total I/C	19,346					
Total Sales	49,971					
IC / Sales	38.7%					

ANNEX 5

	Risk-Function Summary			
	Risk-Function Summary			
		Company 1	**Company 2**	**Company 3**
	Name of Company	**SCA**	**SGM**	**SUK**
	Country of Residency	**Canada**	**Germany**	**U.K**
	Relationship with Company (Parent/ Subsidiary/Associate/JV/Other-Specify)	**Subsidiary**	**Subsidiary**	**Subsidiary**
	Classification of Entity (Manufacturer/ Distributor/Service Provider/etc.)	**Distributor**	**Distributor, Svc Prov**	**Mfg, Dist., Svc Prov**
A.	**Manufacturing**			
	Manufacture of tangible goods			X
	Assembly of tangible goods			X
	Product development			X
	Research and development of manufacturing intangibles			X
	Inventory risk (including write-down, obsolescence and other adjustments)	X		X
	Warranty risk	X		X
	Ownership of manufacturing facilities and equipment			X
B.	**Marketing, Sales and Distribution**			
	Marketing activities in local market	X	X	X
	Marketing development for local market	X	X	X
	Marketing intangibles (for example, brand development and protection)			X
	Sales	X	X	X
	Training procedures	X		X
	Customer support	X		X
	Logistics			X
	Warehousing	X		X
	Ownership of distribution facilities	X		X
	Product market/price risk	X	X	X
C.	**Intellectual Property Ownership**			
	Brands -owned outright			X
	Brands - jointly owned/CCA			
	Technology			X
	Other (specify)			
D.	**Financial Responsibilities**			
	Currency risk for local market	X	X	X
	Bad debt risk for local market			X
	Currency exposure			X
	Obligations to external lenders			X
E.	**Administrative Support**			
	Public relations	X		X
	Human resources	X		X
	IT			X
	Accounting/Finance		X	X
	Legal			X
	Tax			X
	Regulatory risk			X
F.	**Financing**			
	Inter-group lending			X
	Inter-group guarantee fees			X

ANNEX 8

SAMPLE INC						
FOREIGN COUNTRY						
12/31/XX						
TYPE OF ENTITY	GLOBAL		DIST	DIST	SP	DIST
	per ANNUAL	TOTAL				
	REPORT	COUNTRY	SEG # 1	SEG # 2	SEG # 3	SEG # 4
SALES	49,971	2,009	910	459	341	299
COST OF SALES	35,684	1,605	622	376	294	313
GROSS PROFIT	14,287	404	288	83	47	(14)
OPERATING EXP	9,866	378	273	60	28	17
OPERATING INCOME	4,421	26	15	23	19	(31)
OTHER INC/(EXP)	228	105	90	13	(15)	17
EBT	4,649	131	105	36	4	(14)
TOTAL ASSETS	45,211	1,017	553	251	87	126
CURR LIABILITIES	8,098	374	231	46	40	57
OP.EARN./SALES	*8.85%*	*1.29%*	*1.65%*	*5.01%*	*5.57%*	*-10.37%*
I/C REVENUE:						
TANGIBLE PROPERTY	8,268	-	-	-	-	-
SERVICES	10,415	622	-	281	341	-
ROYALTY	542	-	-	-	-	-
INTEREST	121	-	-	-	-	-
DIVIDENDS	0	-	-	-	-	-
OTHER I/C REVENUE	0	-	-	-	-	-
TOTAL	19,346	622	0	281	341	0