HOW TO SELECT THE MOST APPROPRIATE TRANSFER PRICING METHOD?

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1. Introduction

Under Transfer Pricing Bylaws of Saudi Arabia (KSA) - and most of the Countries in the World - we have to compute the price (Transfer Price) of transactions between Related Persons at Arm's Length Price. The Arm's Length Price is the price at which a comparable transaction (Comparable Uncontrolled Transaction) is carried out by Independent Persons. To compute the Arm's Length Price, the Transfer Pricing Bylaws of KSA approve of five Transfer Pricing Methods. These are the same methods which are recommended by the OECD and are discussed below.

2. Approved Transfer Pricing Methods

The KSA Transfer Pricing Bylaws approve of five Transfer Pricing Methods to determine Arm's Length Price of a controlled transaction between Related Parties[1]. These methods are:

i. Comparable Uncontrolled Price (CUP)
ii. Resale Price Method (RPM)
iii. Cost Plus Method (CPM)
iv. Transactional Net Margin Method (TNMM)
v. Transactional Profit Split Method (PSM)

The first three methods (CUP, RPM and CPM) are known as Traditional Transaction Methods while the fourth (TNMM) and fifth methods (PSM) are known as Traditional Profit Methods[2].

The five methods set forth above are not enumerated in any particular order of preference.[3]

[1] Article 7 (Para A) of the KSA Transfer Pricing Bylaws
[2] Para 4.2 of KSA Transfer Pricing Guidelines
[3] Article 7 (Para B) of the KSA Transfer Pricing Bylaws

It is not necessary to apply more than one method to determine the arm's length remuneration for a given controlled Transaction[4].

3. Brief Description of the Approved Transfer Pricing Methods

i. Comparable Uncontrolled Price (CUP)

The CUP compares the price charged for property or services transferred in Controlled Transaction to the price charged in Comparable Uncontrolled Transactions in comparable circumstances. When it is possible to identify Comparable Uncontrolled Transactions, CUP is the most direct and reliable way to apply the Arm's Length Principle. The CUP requires a high degree of comparability of products and functions. The CUP is generally suitable for establishing an Arm's Length Price for transfer of commodities between Related Persons.

ii. Resale Price Method (RPM)

The RPM evaluates whether the amount charged in a Controlled Transaction is at Arm's Length by taking into consideration the gross profit margin that is realized in Comparable Uncontrolled Transactions.

The starting point to apply RPM is the price at which a product purchased from a Related Person and then is resold to an Independent Person. This price (the resale price) is then reduced by an appropriate gross margin (resale price margin). This gross margin represents the amount from which the reseller would seek to cover its selling and other operating expenses and considering the FAR (Functions performed, Assets used and Risks assumed) Profile, makes an appropriate profit at the gross profit level. The remaining amount left after subtracting the gross margin can be regarded, after adjustments for other costs associated with the purchase of the product (for example, custom duties), an Arm's Length Price for original transfer of property between the Related Persons.

This method is generally most useful when it is applied to distribution and marketing operations performed by Related Persons.

[4] Article 8 (Para A) of the KSA Transfer Pricing Bylaws

iii. Cost Plus Method (CPM)

The CPM determines Arm's Length Price by adding an appropriate mark-up to the costs. The CPM begins with the costs incurred by the supplier of property (or services) in a Controlled Transaction for property transferred or services provided to a Related Purchaser. An appropriate cost plus mark-up (being a gross margin) is then added to this cost, so that the Related Supplier makes an appropriate profit in light of the functions performed and the market conditions. The amount arrived at after adding the cost plus mark-up to the cost incurred by the Related Supplier is regarded as an Arm's Length Price of the original Controlled Transaction (supply of goods or services). Thus, CPM determines Arm's Length Price by adding an appropriate mark-up to the costs.

The CPM is most useful when semi-finished goods are sold between Related Persons, when Related Persons have concluded joint facility agreements or long term buy-and-supply arrangements, or when the Controlled Transaction is provision of services by one Related Person to another.

iv. Transactional Net Margin Method (TNMM)

The TNMM compares the net profit level between the Controlled Transaction and Uncontrolled Transactions. As such, TNMM examines the net profit relative to an appropriate net margin indicator.

The TNMM applies in a manner similar to RPM and CPM, and therefore must be applied in a manner consistent with the manner in which RPM or CPM is applied – the only difference is that TNMM examines net profit, while RMP and CPM examine gross profit.

To apply TNMM, a Profit Level Indicator (PLI) should be selected to determine the appropriate net margin indicator for the Controlled Transaction.

The TNMM is not reliable if each person to a transaction makes unique and valuable contributions. In such cases, generally PSM will be the more appropriate method. However, TNMM may be applied if only one of the Related Person makes all unique and valuable contributions involved in a Controlled Transaction while the other Related Person makes no unique and valuable contribution (such as using goods that are not unique, or providing services that are routine distribution services).

v. Transactional Profit Split Method (PSM)

The PSM identifies the combined profits realised by the Related Persons from a Controlled Transaction. After identifying the combined profits, PSM splits those profits between Related Persons on an economically valid basis. The resulting split should approximate the division of profits that would have been anticipated and reflected in an agreement made at Arm's Length between Independent Persons.

There are two approaches most adopted to divide the combined profits: (a) Contribution Analysis and (b) Residual Analysis.

The Contribution Analysis divides combined profits on the basis of the relative contributions of the Related Persons. The contribution of each person is determined on basis of functions performed, assets used and risks assumed by each of the Related Person engaged in the Controlled Transaction. After that, the division of combined profits can be supported by external market data that reveal how Independent Persons would have divided the profits under similar circumstances.

The Residual Analysis is a two-step process. In the first step the Related Person that contributes non-unique elements should receive a routine return. This return for non-unique elements would in general be tested based on TNMM (or RPM or CPM). In the second step the remining profits are split using a contribution analysis or other allocation approaches based on the underlying facts and circumstances of the Controlled Transaction.

The PSM is the Most Appropriate Method when –

a. Each Related Person makes unique and valuable contributions to the Controlled Transaction.

b. The business operations of the Related Persons are so highly integrated that the persons' contributions cannot be reliably evaluated in isolation from each other.

c. The Related Persons share economically significant risks or separately assume closely related risks.

The term "unique and valuable contributions" includes functions performed and assets used, or contributed, which are not comparable to contributions made by Independent

Persons in comparable situations, and they are the key source of economic benefits in business operations.

4. Other Method

The KSA Transfer Pricing Bylaws state that –

> A Taxable Person may apply a Transfer Pricing method other than the five Approved Transfer Pricing Methods if the Taxable Person is able to demonstrate that under the facts and circumstances, none of those five methods provides a reliable measure of an Arm's Length Price and that the suggested Other Method satisfies the provisions under Article 6 of the Bylaws[5].

So, for transactions which are not common, such as transfer of business, transfer of valuable intangible or tangible property, we can apply Other Method because none of the approved five methods can be applied.

5. We need to select any one method as the Most Appropriate Transfer Pricing Method

There are five Transfer Pricing methods that are approved. But we need to select any one method to find the Arm's Length Price of a particular Controlled Transaction between Related Persons. That one method is known as the Most Appropriate Transfer Pricing Method, and generally it will depend upon the nature of Controlled Transaction and availability of reliable data to apply a particular method.

As the Bylaws state, the Arm's Length remuneration of a Controlled Transaction shall be determined by applying the method that, under the facts and circumstances, provides the most reliable measure of an Arm's Length Price. The Most Appropriate Transfer Pricing Method shall be selected from the Approved Transfer Pricing Methods. In each case, the Most Appropriate Transfer Pricing Method shall be selected taking into consideration the following criteria[6]:

i. The respective strengths and weaknesses of the Approved Methods;

[5] Article 9 of the KSA Transfer Pricing Bylaws
[6] Article 6 of the KSA Transfer Pricing Bylaws

ii. The appropriateness of an Approved Method to the nature of the Controlled Transaction between Related Parties, determined through Functions, Assets and Risks (FAR) analysis;

iii. The availability of reliable information needed to apply the selected Transfer Pricing Method; and

iv. The degree of comparability between the Controlled and Uncontrolled Transactions, including the reliability of comparability adjustments - if any - that may be required to eliminate material differences between the two types of transactions.

The Traditional Transaction Methods (CUP, RPM and CPM) are considered to be the most direct means of determining the Arm's Length Price. If we can apply a Traditional Transaction Method and a Traditional Profit Method (TNMM and PSM), both in an equally reliable manner, then we should prefer the Traditional Transaction Method[7]. If, however, a Traditional Transaction Method is not considered to be the Most Appropriate Method, because of lack of reliable data of Comparable Uncontrolled Transactions, then we may select a Traditional Profit Method as the Most Appropriate Method (MAM). Generally, which Traditional Profit Method can be considered as MAM depends on facts and circumstances. For example, the TNMM is not likely to be appropriate where each party to the Controlled Transaction makes unique and valuable contribution. In such a case PSM will be appropriate[8]. No one method, however, is suitable in every possible situation.

The Traditional Profit Methods could also be preferable to Traditional Transaction Methods when there is no or limited publicly available data (due to differences in accounting standards or accounting policies) on the treatment of revenue or expenses which determine the gross profit in Comparable Uncontrolled Transactions between Independent Parties. But the rationale to use Traditional Profit Methods should not be based merely upon the reason that it is difficult to obtain data[9]. All the four factors stated in Article 6 of the Bylaws (the four factors are mentioned above) should be taken

[7] Para 4.2 of KSA Transfer Pricing Guidelines
[8] Para 4.2 of KSA Transfer Pricing Guidelines
[9] Para 4.2 of KSA Transfer Pricing Guidelines

into account to evaluate which Transfer Pricing Method can be regarded as MAM in a particular case[10].

Moreover, where the Comparable Uncontrolled Price (CUP) Method and another Transfer Pricing Method can be applied in an equally reliable manner, the CUP method is to be preferred[11].

Once an appropriate method is selected, and reliable Comparable Uncontrolled Transactions are found, Arm's Length Price can be calculated.

6. Meaning of Reliable Data (or Information)

Now we deal with this question: What is meant by reliable data?

- By reliable data we mean data of 'Independent Uncontrolled Comparable Transactions' undertaken by 'Independent Uncontrolled Comparable Enterprises' - data which shows price or profit margins of such transactions.
- To be reliable, such data should be of 'Independent Uncontrolled Comparable Enterprises' which have FAR profile (Functions performed, Assets employed and Risks assumed) comparable to the Tested Party. The line of business and industry should also be comparable.
- Further, the specific characteristics of the goods transferred or services provided in the 'Independent Uncontrolled Comparable Transactions', and the Controlled Transaction between Related Persons, must be comparable, especially when CUP is sought to be applied.
- Besides, the contractual terms and market conditions of the 'Independent Uncontrolled Comparable Transactions' should be comparable to that of the Controlled Transaction between Related Persons.
- Thus, there should be high degree of comparability between the Controlled Transaction between Related Persons and the 'Independent Uncontrolled Comparable Transactions'.
- TNMM is tolerant to some functional differences between the Tested Party and Comparable Uncontrolled Enterprises. So TNMM requires only broad

[10] Para 4.2 of KSA Transfer Pricing Guidelines
[11] OECD Transfer Pricing Guidelines 2017 – Chapter II, Para 2.3

functional and product/services comparability; TNMM is less dependent on product comparability and functional comparability than the traditional transaction methods. Product comparability, however, makes the comparison more reliable.

- Additionally, the data or information of 'Independent Uncontrolled Comparable Transactions' undertaken by 'Independent Uncontrolled Comparable Enterprises' should be such that it also enables us to determine whether or not any differences exist between the 'Independent Uncontrolled Comparable Transactions' and the controlled transaction, or between the 'Independent Uncontrolled Comparable Enterprises' and the Tested Party. The data should enable us to identify such differences (like differences in working capital deployed, differences in utilization of capacity, differences in risk assumed, etc.) if any.
- And then, having identified the differences, we should be able to make accurate adjustments to eliminate the effect of such differences on price or profit margins.

It should be noted that the selection of Most Appropriate Method (MAM), out of two or more appropriate methods, is heavily influenced by availability of reliable data to apply any one of the appropriate methods.

7. Tested Party

The Tested Party is the Related Person who will be assessed when applying the Transfer Pricing Method selected as the MAM. This means that prices or profit margins reported by the Tested Party will be checked against the prices or profit margins reported by uncontrolled comparable enterprises in comparable transactions.

Thus, comparability is checked from the point of view of the Tested Party in a one-sided comparability analysis. We need reliable data of Comparable Uncontrolled Transactions to make comparability analysis from the viewpoint of the Tested Party.

In practice, the Tested Party is the least complex party - as determined from FAR (Functions performed, Assets employed and Risks assumed) Analysis - among the Related Parties, involved in a Controlled Transaction. So, the Tested Party does not

own valuable intangible property or unique assets[12]. This is because the least complex party allows for easier comparison with independent uncontrolled enterprises (or transactions) than a complex entity[13].

Take for example, Related Person 1 buying goods from Related Person 2 and then reselling those goods to Independent Persons. From the viewpoint of Related Person 1 the Controlled Transaction is purchase of goods. But, from the viewpoint of Related Person 2 the Controlled Transaction is sale of goods. The Transfer Pricing Methods suitable to purchase transaction (CUP, RPM or TNMM) are different from Methods which are suitable to sale transaction (CUP, CPM or TNMM).

If Related Person 1 is least complex, then Related Person 1 will be the Tested Party, and from its viewpoint the Controlled Transaction is purchase of goods. In that situation the appropriate Transfer Pricing Methods will be CUP, RPM and TNMM. Out of these three methods, the MAM will be that method, which can be applied by using reliable information (or data). If reliable information is available to apply all three methods, then CUP (the most direct method) is to be preferred. And if reliable information is available to apply both RPM and TNMM, then RPM (a Traditional Transaction Method) is to be preferred. Otherwise, TNMM (a Traditional Profit Method) will be applied - generally, in practice, most of the times reliable information is available to apply TNMM.

On the other hand, if Related Person 2 is least complex, then Related Person 2 will be the Tested Party and from its viewpoint the Controlled Transaction is sale of goods. In that situation the appropriate Transfer Pricing Methods will be CUP, CPM and TNMM. And out of these three methods, the MAM will be that method, which can be applied by using reliable information (or data). If reliable information is available to apply all three methods, then CUP (the most direct method) is to be preferred. And if reliable information is available to apply both CPM and TNMM, then CPM (a Traditional Transaction Method) is to be preferred. Otherwise, TNMM (a Traditional Profit Method) will be applied - generally, in practice, most of the times reliable information is available to apply TNMM.

[12] Para 4.2.4.3 of KSA Transfer Pricing Guidelines
[13] Para 4.3.1 of KSA Transfer Pricing Guidelines

8. Examples

A. Example 1: Sale of Commodities (like metal, oil, foodgrains, etc.) to Related Party

Let us take example of *A Company* which sells commodity product to its related Party *B Company*. In this case, to determine the Arm's Length Price, we can select the Most Appropriate Transfer Pricing Method in the manner explained below.

The FAR Analysis and actual delineation of controlled transaction between *A Company* and *B Company* shows that it is a transaction where *A Company* acts as a supplier of commodity product to *B Company*. Being a supplier, *A Company* is the least complex party. So, we can select *A Company* as the Tested Party.

From the viewpoint of the Tested Party (*A Company)* it is a controlled sale transaction.

Coming to suitability of various Transfer Pricing Methods, CUP and TNMM are suitable methods for all types of transactions, if reliable data is available. RPM is suitable when a Related Person purchases goods from another Related Person and then resells those goods to third party customers. CPM is suitable when a Related Person sells or supplies goods or services to another Related Person. And PSM is suitable when both the Related Persons entering into a Controlled Transaction (*A Company* and the *B Company)* contribute valuable intangible properties.

In this case, to determine the Arm's Length Price of sale of commodity product by the Tested Party (*A Company)*, CUP, CPM and TNMM are suitable methods. Here, RPM is not suitable, because the Related Person does not purchase from another Related Person and then resells it to third party customers. PSM too is not suitable because both Related Persons (*A Company* as well as the *B Company)* do not contribute valuable intangible properties.

Among CUP, CPM and TNMM, the CUP Method is to be preferred[14] if reliable data of Uncontrolled Transactions between Independent Parties is available. Further, we should be in a position to identify the differences between the Controlled Transaction (sale of commodity product) between Related Parties and Uncontrolled Transactions

[14] OECD Transfer Pricing Guidelines 2017 – Chapter II, Para 2.3

between Independent Parties, and be able to make necessary comparability adjustments (like adjustment for volume discount, adjustment for payment terms, adjustment for delivery terms, etc.)

If, to apply CUP, we are not able to find reliable data of Uncontrolled Transactions then we may next consider CPM, a Traditional Transaction Method. But, again, data of Uncontrolled Transactions showing Gross Profit earned by comparable distributors of comparable commodity products must be available. Only then can we apply CPM. Otherwise, we will have to choose TNMM, a Transactional Profit Method, as the Most Appropriate Method. Normally, data of Net Profit earned by comparable resellers of comparable commodity products will be publicly available, and so we may be able to choose TNMM as a last resort.

However, market quotes of commodity products on Commodity Exchanges (like Dubai gold and Commodity Exchange, New York Mercantile Exchange, London Metal Exchange, Chicago Board of Trade, etc.) are likely to be available to enable us to apply CUP. The information about discounts, terms and conditions of transactions will also be generally available on Commodity Exchanges to enable us to make reliable adjustments while arriving at the Arm's Length Price. In such a situation we may select CUP as MAM, and discard RPM and TNMM.

B. Example 2: Purchase of Medical Devices from Related Party and reselling the Devices to Third Party Customers

In this case *M Company* buys medical devices from *N Company*. After buying, the *M Company* resells the devices to independent (uncontrolled) third party customers in GCC Countries. The FAR Analysis and actual delineation of controlled transaction between *M Company* and *N Company* shows that it is a transaction where *M Company* acts as a reseller (or distributor) of medical devices manufactured by *N Company*. After buying the devices, *M Company* does not do any further processing or value addition except repackaging. The FAR profile shows that *M Company,* being a reseller, is the least complex party - *N Company* being a manufacturer is a complex party. So, we can select *M Company* as the Tested Party.

From the viewpoint of the Tested Party (*M Company)* it is a Controlled Transaction of resale of devices.

For such a transaction CUP is an appropriate method if reliable data (price) of Uncontrolled Transactions between Independent Parties is available. If such data of price is not available then we will have to next consider RPM. When a Taxpayer purchases goods from a Related Party and resells those goods to third parties, without value-addition, then RPM is an appropriate method. But, data of gross profit earned by uncontrolled comparable enterprises, in similar resale transactions, should be available. When such reliable data is available, we can apply RPM as MAM. Or else we will have to consider TNMM.

Here CPM is not suitable because the Related Person does not sell or supply goods or services to another Related Person. PSM too is not suitable because both Related Persons *(M Company* and the *N Company)* do not contribute valuable intangible properties.

C. Example 3: Rendering of Intra-Group Service to Related Party

Say, *X Company* renders Back Office Support Services to *Y Company*, a Related Party. Here, the nature of controlled transaction - determined from FAR analysis and delineation of actual controlled transaction – is provision of services by *X Company* to *Y Company.* Further, *X Company* being a support service provider is the least complex party. So, we can select *X Company* as the Tested Party.

From the viewpoint of the Tested Party (*X Company)* it is a Controlled Transaction of provision of services.

For such a controlled transaction CUP, CPM and TNMM are suitable methods. Here, RPM is not suitable, because the Related Person does not purchase from another Related Person and then resells it to third party customers. PSM too is not suitable because both Related Persons (*X Company* as well as the *Y Company)* do not contribute valuable intangible properties.

As already stated, among CUP, RPM and TNMM, the CUP Method is to be preferred[15] if reliable data of uncontrolled transactions between independent parties is available. But if such reliable data of uncontrolled transactions is not available then we may consider CPM. But, again, data of uncontrolled transactions showing Gross Profit

[15] OECD Transfer Transfer Pricing Guidelines 2017 – Chapter II, Para 2.3

earned by comparable distributors of comparable commodity products must be available. Only then can we apply CPM. Otherwise, we will have to choose TNMM as the Most Appropriate Method. Normally, data of Net Profit earned by comparable service providers will be publicly available, and so we may be able to choose TNMM as a last resort.

In practice, for determining Arm's Length Price of service transaction between Related Parties, TNMM is generally found to be MAM because of lack of data to apply CUP or CPM.

D. Example 4: Subsidiary Company receives management services from its Parent Company

Now consider a case where *S Company,* a Subsidiary Company, receives management services from *P Company,* the Parent Company. The FAR Analysis and actual delineation of controlled transaction between *S Company* and *P Company* shows that it is a transaction where *P Company* acts as a management service provider to *S Company*. The FAR profile shows that *S Company*, being a Subsidiary and receiver of management services, is the least complex party - *P Company* being the Parent Company is a complex party. So, we can select *S Company* as the Tested Party.

From the viewpoint of the Tested Party (*S Company)* it is a Controlled Transaction of receipt of services.

For such a controlled transaction CUP and TNMM are suitable methods. Here, RPM is not suitable, because the Related Person does not purchase from another Related Person and then resells it to third party customers. Also, CPM is not suitable because the Related Person does not sell or supply goods or services to another Related Person. PSM too is not suitable because both Related Persons (*S Company* as well as the *P Company)* do not contribute valuable intangible properties.

As already stated, among CUP and TNMM, the CUP Method is to be preferred[16] if reliable data of uncontrolled transactions between independent parties is available. But, if such reliable data of uncontrolled transactions is not available then we may

[16] OECD Transfer Transfer Pricing Guidelines 2017 – Chapter II, Para 2.3

consider TNMM. Normally, data of price of comparable services will not be publicly available, and so we may be not be able to choose CUP. However, data of Net Profit earned by comparable service providers will generally be publicly available, and so we may be able to choose TNMM as MAM.

E. Example 5: A Company purchases laptops from its Related Person and resells those laptops in GCC Countries

In this case *E Company* purchases laptops from its Related Person *F Company* and resells those laptops in GCC Countries. *F Company* manufactures the laptops by using the manufacturing technology and patents developed by it. And *E Company* has registered trademark, logo and brand name in GCC Countries. Here, both *E Company* as well as *F Company* deploy valuable intangible properties: *E Company* deploys valuable marketing intangibles *(*trademark, logo and brand name) and *F Company* deploys valuable manufacturing intangibles (manufacturing technology and patents). This is shown by the FAR Analysis and delineation of the actual controlled transaction.

The nature of Controlled Transaction between *E Company* and *F Company* is purchase by *E Company* of laptops manufactured by *F Company,* and both companies putting to use valuable intangible properties. To determine Arm's Length Price of such a transaction PSM is most appropriate. Other methods, that is, CUP, RPM, CPM and TNMM are not appropriate in such a case.

F. Example 6: A Company transfers marketing intangible property (brand name, trademark, logo and customer lists) to its Related Person

T Company is part of a MNC Group. *T Company* has developed, through advertising, marketing and promotion, its own marketing intangible property such as brand name, trademark, logo and customer lists.

The MNC Group decides to centralize all its intangible property in one Group Company *(C Company)* for better management of intangible property. To facilitate such centralization *T Company* transfers its marketing intangible property (brand name, trademark, logo and customer lists) to *C Company.* For such transfer what should be the Arm's Length Price?

The FAR Analysis and delineation of the actual controlled transaction shows that the controlled transaction between *T Company* and *C Company* is sale of marketing intangible property by *T Company* to *C Company.* For this kind of transaction, the Approved Transfer Pricing Methods (CUP, RPM, CPM, TNMM or PSM) are not appropriate. Rather, the appropriate Transfer Pricing Method for determining Arm's Length Price of such a controlled transaction is a method other than the Approved Transfer Pricing Methods.

To determine Arm's Length Price of transfer of marketing intangible property, valuation of such property can be done. So, valuation is the MAM in this case. Valuation is a Transfer Pricing method other than the Approved Transfer Pricing Methods. When an intangible property is transferred to a Related Person the Approved Transfer Pricing Methods (CUP, RPM, CPM, TNMM or PSM) do not provide a reliable measure of an Arm's-Length result. Further, independent parties generally, in an arm's length situation, adopt valuation of intangible property, to determine the purchase or sale price.

So, in this case valuation, as the Other Method, is the MAM.

9. Summing Up

The Transfer Pricing Bylaws of KSA approve of five Transfer Pricing Methods to determine Arm's Length Price of Controlled Transactions. In exceptional situations, a method other than the approved five methods can also be considered. For a particular Controlled Transaction between Related Persons, we need to apply any one method as the MAM. Generally, the selection of MAM depends upon the nature of Controlled Transaction (sale, purchase, rendering of service, loan, etc.) viewed from the perspective of Tested Party, and the availability of reliable information to apply one of the suitable methods.

We should prefer CUP, being the most direct method, over other methods if reliable information to apply CUP is available. The next choice is one of Traditional Transaction Methods (RPM or CPM). But if we do not find reliable information to apply RPM or CPM, then we will have to choose TNMM (a Traditional Profit Method). If both Related Persons contribute valuable and unique intangible

properties then PSM is MAM. For uncommon transactions, Other Method (a method other than the approved five methods) is MAM.

Depending on the nature of Controlled Transaction and the availability of data of Comparable Uncontrolled Transactions, we can select the MAM among CUP, RPM, CPM, TNMM, PSM or Other Method. Once we select the MAM, we can determine Arm's Length Price of Controlled Transaction on basis of reliable data of Comparable Uncontrolled Transactions.
