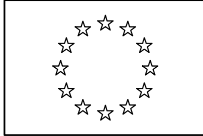

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Direct Taxation, Tax Coordination, Econimic Analysis and Evaluation
Unit D1 Company Taxation Initiatives

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Taxud/D1/

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EU JOINT TRANSFER PRICING FORUM

Background information on CCAs

Meeting of 8 th June 2010

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This issue was, by consensus, put on the work programme of the JTPF and specific contributions were received from Business members, Germany, Poland and Spain. (see doc. JTPF/007/BACK/2006 and doc JTPF/030 –REV1 and REV2/ BACK/2006).

German contribution:

We find it difficult that CCAs, which by nature involve at least two countries, are governed by different rules in the EU. In our view the situation can be compared with bilateral/multilateral APAs where a common approach in the EU, e.g. best practice, seems to be very useful.

In addition, there are significant discrepancies between Member States' rules on CCAs. For example, some Member States require a profit mark up on the allocated cost, some other Member States disallow such a profit element in the context of certain administrative services. Double taxation is the inevitable consequence.

An issue related to CCAs is the influence of (commercial/tax) accounting on transfer pricing. The cost basis to be applied in a cost plus situation, e.g. for a CCA, differs from Member State to Member State because the accounting systems are not harmonised. In addition, some Member States require their national tax accounting system to be the basis for the cost plus method whereas others accept the commercial accounting system.

Poland: (relevant extract of contribution made on the issue of future work programme)
It would be especially vital to discuss issues relating to:
a) Cost contribution arrangements and other agreements involving intangible property.

Spanish contribution:

MNEs have to deal with different CCA rules in the EU if they want to conclude a CCA. And there are significant discrepancies such as:

Some member States require a profit mark up on the allocated costs, some other disallow such a profit element in most cases.

The cost basis to be applied in a cost plus situation differs from MS to MS.

Influence of national accounting systems. Our aim is not to influence on national accounting systems but to develop further a common classification which could be applied for TP issues, mainly CCA.

All these may lead to double taxation and the Forum could explore practical ways to overcome these problems.

Although our proposal is initially focused on CCA s we understand there is room for further common guidance which may go beyond CCA. Therefore we could discuss the scope for this work.

Business contribution

Cost Allocation Agreements.

There is an increasing trend in tax audits that cost allocation systems are challenged and there are significant differences which documentation has to be prepared to justify a certain cost allocation system. The EU TPD does not help in this respect since it only provides an abstract approach how to prepare documentation.

Further Contributions received in 2010:

Business contribution:

Overview of Cost Sharing in MNEs and associated issues

By Business Members

1. Introduction

A Cost Sharing Arrangement ("CSA[1]"), is a framework between business enterprises ("related parties" or "parties") in an NME to incorporate a mechanism to share the costs and risks of developing, producing or obtaining assets, services, or rights, and to determine the nature and extent of the interests of each participant in those assets, services, or rights.

2. Rationale for cost sharing

A MNE may choose to operate a cost sharing business model for some or all of the following reasons:

- For economies of scale and global corporate efficiency of commonly required services: Cost Sharing enables reduction of duplication and increase operational effectiveness through shared activities.

- Sharing of risks:
  In certain cases projects may involve such significant risks that an individual entity would not be willing (or able) to bear. In such instances an MNE can opt to share these risks between parties. There may be instances where the risks are shared between the related parties and a third party(ies).

[1] At this point we do not distinguish between a CCA or CSA; merely the concept of a costs sharing system is addressed.

The risks incurred could be related to large R&D projects that require significant investments and also to very capital intensive long term projects of which the successful outcome is uncertain.

- For the development of intellectual property (IP) and the subsequent free flow of that IP amongst the related parties:
  An MNE may opt to use cost sharing as the model to structure the development IP in the company. This can provide significant advantages:
  - Costs (and risks) of R&D are shared between the participants.
  - The IP developed under the CSA is available to all the participants, without the requirement for an additional charge. Any IP that cannot be transferred due to national of legal restrictions should not be the subject of the CSA.
  - The ability to leverage the knowledge of each party through the sharing of know-how and best practices, and the cross fertilisation of technology among participants.

3. Key Features of cost sharing

Common elements in a CSA:

- A cost sharing system agreement will have 2 or more participants
- Each of the Participants should have a reasonable expectation to benefit from taking part in the arrangement
- Contributions in the arrangement should be in line with the expected benefits for each of the participants individually. ***Please refer to par. 8.9 of the OECD guidelines.***
- The potential benefit for the participant is a consequence of being part of the arrangement. It should merely be necessary for the participant to demonstrate an expectation of benefit from the overall arrangement rather than from each individual component of expenditure.
- A CSA also allows for sharing of risks among the participants; hence even if any individual piece of expenditure under the CSA is deemed to give rise to an unsuccessful outcome, those costs should still be shared. ***Please refer to par. 8.11 of the OECD guidelines***
- There will be an allocation key to apportion the shared costs between the parties based on anticipated benefits. The allocation key could, for example, take account of the different scale of the businesses (e.g. turnover, number of people or computers) that would provide an appropriate estimation of the expected benefit of each partyThe CSA should set out what costs of each of the parties to the CSA are to be shared, as clearly only costs that relate to the “common purpose” should be included. This should include direct costs as well as indirect costs

Commercial exploitation (to non participants) of IP and other intangibles that are created by activities subject to the CSA

If one of the parties is able to exploit some of its IP that has been the subject of a CSA (by a sale, or licensing, to a third party), then, because the other parties have an economic interest in

that IP through the CSA, an appropriate mechanism must be incorporated into the CSA to enable the other parties to share in the benefits of that exploitation.

Buy-ins and buy-outs

A buy-in payment may be appropriate when a new related party joins the CSA and begins to share in the benefits of existing IP generated under the CSA. This may arise with an acquisition or in a start-up situation. Any IP contributed by the joining party needs to be taken into account.

A buy-out payment may be appropriate when a party leaves a CSA. This may arise through a disposal or a cessation of trade.

The CSA may simply refer to buy-in or buy-out payments or may provide for specific methods for their calculation, but the ALP should be respected.

Other Issues

- Documentation: Relevant information is listed in the OCED Guidelines para 8.42 and 8.43 (the lists are neither exhaustive nor minimum compliance standards). The information relevant for any particular CSA depends on the facts and circumstances.
- The "Benefit test" is actually a test based on expected exploitation or usage. The taxpayer should not be expected to provide detailed or quantitative evidence about the future benefits. Neither should the taxpayer be required to guarantee that results of a CSA will be exploited (even if the results of the CSA are deemed successful). It should be accepted that a party may take what, with hindsight, proves to be a bad decision at the time they entered into the CSA. For example, market changes could render the results of the CSA worthless for one or more of the parties.

  Similarly hindsight should not be used to adjust a CSA when one party receives greater than expected benefits through its participation in the CSA.

- The cost allocation should be based on expected benefits, which will be based on subjective evaluation criteria. It is important that tax authorities accept well justified subjective evaluation criteria, although they may be difficult to audit.

7th May 2010

Member State	
Austria	
Belgium	**Audit experience** Limited experience only **MAP experience** Limited experience only **Ruling / Advanced decision** Limited experience only In light of the limited experience, Belgium has not identified specific issues relating to CCAs and cost sharing arrangements.
Bulgaria	We do not have any practical experience with CCAs so no relevant contribution could be made in this respect
Cyprus	
Czech Republic	We consider this topic very important to discuss within the JTPF
Denmark	
Estonia	
Finland	
France	
Germany	See annex
Greece	There is no specific legislation on CCAs. We only have limited experience.
Hungary	
Italy	
Ireland	In relation to Cost Sharing Agreements the area of greatest difficulty we have encountered is the valuation of buy-in payments. We think that valuation issues are more appropriate for the OECD to cover and valuation has already been identified as an issue that should be covered by the possible new OECD project on intangibles.
Latvia	
Lithuania	No specific rules or practices concerning CCAs
Luxembourg	
Malta	
Netherlands	The Netherlands does not have a lot of experience with CCAs under MAPs and we do not have particular concerns.
Poland	
Portugal	
Romania	
Slovak Republic	
Slovenia	
Spain	
Sweden	We see a trend that many companies want to terminate their existing CCAs and instead centralize the owning of intangible property to one or a few companies within the group.
United Kingdom	

Annex 1: NL regulation on CCAs

NL regulation regarding CCAs

(paragraph 4 of the Decision of 21 August 2004, No. IFZ2004/680M)

"Cost Contribution Arrangement (CCA)

Section 7 of the Transfer Pricing Decision has given cause for discussions on whether this section is in accordance with Chapter 8 of the OECD Guidelines (CCAs). In order to prevent the possibility of a lack of clarity and of misunderstandings, Section 7 of the Transfer Pricing Decision is hereby revoked. Instead, guidance should be sought with respect to CCAs in the arm's length principle as elaborated in the OECD Guidelines and in particular Chapter 8 of the OECD Guidelines. The arm's length principle entails that the consideration must be in relation to the functions performed (taking into account the risk borne and the assets used). This means that the amount of the consideration for participants in a CCA may not (in essence) be different from the consideration that the enterprises in question would receive if they were to cooperate in a non-CCA framework, with the exception of the possible synergetic advantages that they achieve through their CCA cooperation.

Chapter 8 of the OECD Guidelines prescribes that the proportionate share of each participant in the overall contributions to a CCA must be consistent with the proportionate share of the overall expected benefits. In practice, whether this is the case has to be determined on a case-by-case basis. In the Netherlands view, the arm's length principle entails that both the proportionate share of each participant in the overall contributions to a CCA and the proportionate share of that participant in the overall expected benefits are determined on the basis of the market value. Nevertheless, if it can be shown that the average proportionate added value of the individual contributions that the various participants make to the CCA is about the same, it is consistent with the arm's length principle to use the cost price of the contributions as starting point in determining whether each participant's share in the overall expected benefits is in accordance with each participant's share in the contributions. On this point, see example 16 below. If the interested parties choose to allocate the expected benefits on the basis of the cost price of the contribution, this will have to be substantiated, in order to show that the average proportionate added value of the participants' contributions is the same.

The final paragraph of section 7 of the Transfer Pricing Decision dealt with the situation in which some countries do not accept the charging of a profit mark-up, although they do accept the charging of remuneration for the capital used for those activities. Both methods can lead to the same result. Although section 7 of the Transfer Pricing Decision has been revoked, it is acceptable for Netherlands tax purposes to choose a method based on the acceptability for certain countries of the amounts charged, provided the result is in accordance with the OECD Guidelines.

Below a number of examples of CCAs with respect to R&D activities are given to illustrate the above premises[1)].

....

1)

For simplicity's sake, no account is taken in the examples of the differences in timing of the contributions of each participant. In a business relationship, when determining the valuation, account would be taken of such differences, to the extent relevant for the value of the contribution. This means that in practice attention has to be paid to this aspect in the determination of an arm's length price where a CCA is agreed between associated parties.

Examples

1. The headquarters of group member A is located in continent A and the headquarters of group member B is located in continent B. Both are involved in the production and sale of group member products. Both have an R&D centre. The MNE group decides to do research on the development of a new product. The market outlook for the product is good, but major research has to be conducted before the product is ready to be produced and sold. The product has market potential in continent A and in continent B.

Group members A and B agree to conclude a cost contribution arrangement on carrying out the necessary research. A provides research capacity and the initial development results and B provides knowledge, know how and researchers. A and B agree on a number of points in time at which group members A and B will make decisions together on the next phase of the project. The ratio of the market value of A's contribution to that of B is 1:1. The overall expected value of the product development is the same in continent A as in continent B. A and B agree that each of the participants will bear the costs of its own contribution. In addition, group member A will be both legal and economic owner of the product development with regard to continent A, and group member B will be legal and economic owner of the product development with regard to continent B. The strategic planning of the project and the management (including control and decision-making with regard to the project) will take place on the basis of equality.

Conclusion: The cost contribution arrangement leads to an arm's length result. Both A and B can be considered to be participants in the CCA because in exchange for their contribution both participants receive an interest in the rights that are developed, an interest, moreover, that they can exploit (see sub-section 8.10 of the OECD Guidelines). Finally, the proportionate share of both participants in the contributions is equal to the proportionate share of the expected overall benefits (in other words, in the rights to be assigned to the participants).

2. Group member A is involved in the development, production and sales of consumer goods in continent A. Group member A has conducted the initial research on the feasibility of developing a new product. Its conclusion is that the product can probably be developed successfully. The market prospects for the product are good. The product is also very suitable for the markets in continents B and C. Group members B and C are involved in developing, producing and marketing similar products for markets in continent B and C.

Group members A, B and C decide to conclude a cost contribution arrangement in order to carry out the research needed to develop the new product. In order to ensure that the development of the product is successful, the following is agreed:

- *all parties will make an equal contribution*: setting up a research programme and making decisions during the phases identified in the research programme to be used to check the progress of the project (strategic project planning and management (including control and decision-making)).
- *contribution by A*: Results of the initial research. Costs for the development: €1 million. Market value of the research results: €2 million.
- *contribution by B*: capacity for development activities (personnel and fixed assets). The estimated costs with respect to the development capacity are €1.8 million. If such development capacity were to be hired from third parties on the basis of contract research, it would cost €2 million (= market value).

- *contribution by C*: liquid resources in the amount of €2 million for anticipated additional expenditure (purchase of materials from third parties and hiring of third parties).

The participants agree that each of the participants will bear the costs of its own contribution. The expected overall benefit from the product development in continent A, B and C is expected to be the same so that the value of the rights arising is expected to be the same for each of the continents. The group members agree that A, B and C will become legal and economic owners of the product development with regard to continents A, B and C, respectively.

Conclusion: the cost contribution arrangement leads to an arm's length result. A, B and C can all be considered to be participants in the CCA because in exchange for their contributions the participants receive an interest in the rights that are developed, rights, moreover, that they can exploit (see sub-section 8.10 of the OECD Guidelines). Finally, the proportionate share of the participants in the contributions is in accordance with the proportionate share in the expected overall benefit (in other words, the rights the participants are assigned).

3. Group member A, group member B and group member C are involved in the production and sales of similar consumer goods in continent A, continent B and continent C, respectively. Group member A has an R&D centre. Group members B and C employ a number of product specialists who are also knowledgeable about product development, but they do not have their own R&D centre. Group member A has done the initial research on the development of a new product. The market prospects for the product on continent B and C are good, but major research needs to be done before the product is ready to be produced and sold. The expected overall value of the product development is the same in continent B and in continent C. The product does not seem to be interesting in continent A.

Group members A, B and C decide to conclude a cost contribution arrangement containing the following conditions:

- Together, B and C set up a development programme with each contributing equally to the (further) development of the product. In addition, they make the same amount of capacity available with regard to the management of the project (strategic planning and management (including control and decision-making) of the project).
- *Contribution by A:* Results of the initial research. Costs incurred for development: €1 million. Market value of the results of the research: €2 million.
- *Contribution by A:* Development capacity (personnel and capital): The R&D department of A makes a plan for the project and submits it to B and C. The R&D department of A then starts work on the research. In doing so, the R&D department of A regularly reports to B and C on its progress. The costs that are expected to be incurred for this development capacity are €1.8 million. Market value of the development capacity if the work were done for a client: €2 million.
- *Contributions by B and C:* each makes a payment to A in the amount of €2 million as the fee for A's contribution. In addition, each bears the burden of half of the additional expenditure paid to third parties (purchase of materials, hiring of third parties) in the amount of €2 million.
- Each of the participants bears the costs of its own contribution.

- B and C are assigned legal and economic ownership of the product development for continent B and continent C, respectively.

Conclusion: A is not a participant in the cost-contribution arrangement because A itself does not benefit from the product development (see sub-section 8.10 of the OECD Guidelines). A actually sells the initial product development result to B and C in combination with the conducting of contract research activities for B and C. B and C may, however, be considered participants in the CCA because in exchange for their contribution (money and management) they are assigned an interest in the rights that are to be developed, rights that they, moreover, can independently exploit (see sub-section 8.10 of the OECD Guidelines). A makes development capacity and the initial product development available having a total market value of €4 million and receives as consideration an amount of €4 million in cash. A consideration like this one is at arm's length. The contribution of both participants in the CCA (B and C) and the expected benefit (the rights they are assigned) are balanced. Although for A the contract cannot be considered to be a CCA, the consideration under the contract can be considered as being at arm's length for all the participants.

4. Group member A is involved in the development, production and sale of consumer goods.

Group member B employs 2 people who have an administrative and financial background. Group member A has done the initial research on the development of a new product. The market prospects are good in continent A and continent B, but extra research has to be done before the product is ready for production and sales. The expected overall value of the product development is the same for continents A and B. Group members A and B decide to conclude a cost contribution agreement under the following conditions:

- *contribution by A:* initial development results and development capacity. Total costs involved: €5 million. Total market value: €10 million.
- B pays A €5 million and 50% of the costs if these exceed the estimated costs of € 5 million.
- A and B become economic owners of the product development for continent A and continent B, respectively.
- A becomes the legal owner.

In addition to the terms under the contract, A is to manage the project (including control and decision-making).

Conclusion: A's functions include the entire R&D activity (from making a decision as to which research will be done to the actual execution of the research itself). Moreover, A manages the R&D activity totally independently. The contractual terms provide that the risk connected to this R&D activity is 50% at the expense of B (B pays €5 million and 50% of the costs if these exceed the estimated costs and it becomes economic owner of the rights developed). B does not, however, have the necessary functional expertise to manage the risk that it bears in connection with the R&D activity. In actuality, the entire risk is managed by A, so that the whole risk thus has to be attributed to A.

The consideration A receives has to be in line with the functions A exercises and the risk involved in these functions. Because of the fee agreed under the contract with B, A – wrongly – is paid only for its development activities to the extent they do *not* involve management and the risk that management entails. The conditions in the contract between A and B are therefore not at arm's length.

5. Group member A and group member B are involved in the development, production and sale of similar consumer goods in continent A and continent B, respectively. A and B decide to develop a new product together. Their development departments are comparable, in other words the quality level (know how and experience) and the cost structure are comparable. The costs connected to the contributions during the entire development trajectory are in a ratio of 1:1. The expected benefit from the product development in continent A and continent B is also 1:1. A and B decide to enter into a cost contribution arrangement under the following conditions:
   - together, A and B set up a research programme with each contributing equally to the (further) development of the product. In addition, they make the same amount of capacity available with regard to the management of the project (strategic project planning and management (including control and decision-making)).
   - the participants each bear the costs of their own contribution.
   - A and B are assigned legal and economic ownership of the product development on continent A and continent B, respectively.

Conclusion: A and B can be considered participants in the CCA because in exchange for their contribution they receive an interest in the rights developed, rights that they can, moreover, exploit (see sub-section 8.10 of the OECD Guidelines). The participants have further substantiated the fact that the average proportionate added value of the performance that they are contributing is comparable. In determining the proportion of each share in the expected overall benefit, A and B may use the cost price of these contributions as the point of departure.

If the average proportionate value added of the performance contributed by A and B were not comparable, for example because A's and B's knowledge and experience are very different, the cost price of the contributions may not be used as the point of departure for the determination of the proportion of the expected overall benefit, but instead the market value of the contributions should be used.

The examples given above are based on an abstract description of actual situations. In practice, it will be difficult to determine the exact market value of the contributions of the participants in a CCA and to determine the exact market value of the benefits arising from the CCA. When looking at whether the proportion of the expected overall benefits from the CCA may be looked at in relation to the costs that are to be attributed to the participants instead of using the market value of these contributions, it will be difficult in practice to determine whether the contributions of both participants have a comparable proportionate added value. When assessing CCAs in particular, the Tax Administration should take into account the fact that transfer pricing is not an exact science. This does not, however, alter the fact the taxpayers may be expected to substantiate their claim that in comparable circumstances independent parties would conclude a similar agreement.

Transitional measure
Bottlenecks with respect to the application of CCAs have become evident during the Tax Administrations' control of multinational enterprises. This has led to the decision to revoke section 7 of the Transfer Pricing Decision. The tax treatment of R&D is being reviewed during the discussions on the modernization of the corporate tax and it cannot be ruled out at this point that the outcome of these discussion may have repercussions for the use of CCAs. It

is expected that the modernization of the corporate tax will be given form by 1 January 2007. As a result, a situation may arise in which an existing CCA will have to be adapted on the basis of the clarifications in this decision and that this may lead to an adaptation of the conditions and/or transfer pricing system applied by an MNE group. If the corporate tax is modernized, the conditions and/or transfer pricing system used by an MNE group might have to be adapted once again.

I therefore consider it to be fair that the tax treatment of CCAs that existed on 30 March 2001 and which have been approved on the basis of the OECD Guidelines and the then valid supplementary regulations on the interpretation of the arm's length principle, or which should have been approved, will be continued until 1 January 2007. By that date the modernization of the corporate tax system will probably be given form. It goes without saying that, in accordance with the general principles of sound administration, a reasonable term will be granted, as from 1 January 2007, in which the MNE group can bring, to the extent necessary, the conditions and/or the transfer pricing system it uses in line with the regulations."

Annex 2 German regulation on CCAs

German transfer pricing rules regarding Cost Contribution Agreements ("CCA")
1. basic concept and legal basis
Services that one enterprise performs for the benefit of other related enterprises are governed by the general transfer pricing rules as laid out in the Foreign Taxes Act. As there is no specific
reference to such services in that Act; the general rules (based on the arm's length principle) of the Act apply.
In order to give further guidance on the application of these general rules to specific kinds of transactions, the Federal Ministry of Finance has issued a curricular which contains detailed rules on the transfer pricing treatment of services delivered under a CCA.
It must be differentiated between services that are performed solely for the benefit of **other** related enterprises, and services that are also for the benefit of the performing enterprise **itself**.
The former kind of services is regarded as a normal transaction. It follows from content of the curricular that for such services the price must be charged that would have been agreed upon between unrelated parties including a profit element. If no reliable third party price can be shown, the cost plus method seems to be appropriate.
The latter kind of services is governed by CCA. These CCAs are the main subject of the aforementioned curricular. The rules of the curricular on CCA can be summarized as follows:
2. definition/scope
CCA are defined as contracts
- entered into by multinational enterprises that are related to each other
- in order to perform or receive services by way of cooperation in a pool
- for no short period of time
- hereby serving their common interest.

The services must be performed in the interest of the receiving enterprises and the enterprises must expect to gain a benefit (e.g. an overall reduction of costs or rise of proceeds). Pool members must pursue common interests, i.e. they must use the services economically in a similar way like other pool members. At the same time, pool members must use the services for their own benefit; therefore providers of services that do not benefit from the services for their other businesses are excluded as participants of the pool. Services performed by a pool member do not lead to an exchange of services because the costs that are passed on to the pool are treated as own costs of the pool members. Any services that are performed by nonpool
members must be charged to the pool at arm's length prices and such prices are then to be attributed to the pool members in accordance with their benefit from such services.
3. calculation of costs
Costs to be passed on to the pool must be calculated on the basis of the actual direct and indirect
costs that are economically related with the respective services. In principle, they are to be calculated according to the accounting rules of the state in which the respective enterprise performs the service. Any proceeds (including subsidies) and special tax benefits must be deducted from the costs. License receipts from the licensing of an asset that was created in the pool are to be deducted from the costs. Because of the common purpose of the pool and because of the lack of entrepreneurial risk for the performer of the service, no profit mark-up is to be accepted for tax purposes (in contrast to a rather usual transaction concerning services, cf. 1. above). If several kinds of services are performed, the costs must be calculated for each kind of service separately and consistently.

4. attribution of costs
The ratio of attributing the costs to the pool members must be based on the benefit that each pool member expects for itself. Such benefit is to be calculated on the basis of economic principles, considering all circumstances and developments that can reasonably be expected at the time when the CCA is entered into. No prudent business manager would enter into a CCA if it were foreseeable from the beginning that he could receive comparable services in an easier and cheaper way without pooling. Likewise, a prudent business manager would terminate a CCA if it turns out after an appropriate period of time that the costs attributed according to the CCA are higher than they would be without pooling.
The ratio that must be chosen is the most economically appropriate in the individual case. If several ratios are equally appropriate the choice is in the respective business manager's discretion.
As long as the CCA is in force it must be reassessed from time to time whether the chosen ratio is still appropriate. If the initial assessment of costs and benefits is based on assumptions such reassessment must take place rather earlier than later. If significant changes become evident under the reassessment they must be reflected in a change of the ratio.
5. documentation obligations
In order to be accepted for tax purposes, CCAs must be entered into prior to the start of the pool, they must be in writing and must contain the following minimum information:
- identification of pool members and their related economic beneficiaries
- exact description of the services to be performed/received under the CCA
- calculation of the costs to be passed on to the pool
- description how the incurred costs of the service provider are calculated
- calculation of the benefit expected by the respective pool members
- calculation of the attribution ratio
- description how the value of performed services has to be calculated and charged to the pool members
- method and scope of control of invoices
- provision for amendments to CCA in case of subsequent changes of the circumstances
- duration of CCA
- provision on the termination of CCA and conditions for/consequences of subsequent entry/exit of pool members
- agreement on the access to the documents about costs incurred and services performed by the service providing entrepreneur
- attribution of legal title derived from central research and development activities of the pool

The documentation on the performed services and the related costs incurred must be open to verification. Further, the recipient of a service must document the following:
- CCA with all annexes, schedules and amendments,
- explanation of the costs under the CCA (especially with regard to expected services and expected costs and with regard to attribution ratio), if not already contained in CCA
- agreements regarding prepayments
- annual calculation of the actual costs incurred
- services actually received and benefits received

6. various issues
Enterprises subsequently joining the CCA must pay an entrance fee if they are allowed access to the material/immaterial assets so far created in the pool unless the new enterprises make equivalent contributions to the pool. Such entrance fee has to be calculated on the basis of the arm's length principle.
Pool members that leave the CCA prematurely may have to pay an exit fee if they gain additional

benefits from the assets created so far or if the remaining pool members have to shoulder an additional burden. This will be the case if the respective pool member's exit significantly reduces the value of the ongoing CCA, e.g. because the remaining pool members cede assets created in the pool to the leaving enterprise. On the other hand, if the assets created in the pool only belong to the remaining pool members, the leaving enterprise may be entitled to an exit fee. This will be the case if the leaving enterprise transfers its title to the created assets to the other pool members. Such exit fees are to be calculated on the basis of the arm's length principle. In applying the curricular in practice, the German tax administration has noted that the calculation of entrance fees and exit fees raises very difficult questions on the evaluation of pool intangibles and intangibles not yet finalised (especially in the area of research and development).

If the pool members terminate the pool completely, each enterprise is entitled to the assets created in the pool in the same ratio as its respective payments to the