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Transfer Pricing Settlement in Indonesia: A Note for Tax Authority, Tax Court, and Taxpayers based on the Tax Court Decisions

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Abstract. Transfer pricing disputes have been quite high and have been considered as an important issue in taxation system in Indonesia. The high level of these disputes should be a common concern, especially to examine how the dispute process occurred and how to resolve it. This study aims to discuss the tax auditor, taxpayer, and tax court judge behavior's prior to the transfer pricing issue and how to reduce the dispute. This study uses tax court decisions settled year 2015-2019 as the locus of the study. The research uses qualitative approach and qualitative method. The data was collected from the study documentation, literature review and interview to the key informants. The research shows that the increase of transfer pricing disputes might be caused by the aggressive tax audit behavior. This aggressive tax audit behavior resulted the less reliable audit finding that lead the taxpayer to submit the appeal to the tax court. Unfortunately, for many cases, the tax court decision seemed inconsistent. No certain indicators stated by the judges that a transaction has or has not satisfied the arm's length principle. Thus, tax court decision could not sufficiently be considered as a reference for future potential case. With this phenomenon, the tax auditor needs to increase the competence and comply with the tax audit guideline. Similarly, the taxpayer also needs to fully disclose their transfer pricing documentation. Finally, the judges should improve their expertise on transfer pricing and follow the international business dynamics.

Keywords: Transfer pricing, Profit shifting, Corporate income tax, International tax law.

INTRODUCTION

Transfer pricing audit has become a common tax audit in Indonesia because tax administration found hundreds of MNEs did not pay taxes due to continuous losses, but these companies continued to operate in Indonesia (tempo.co.id, 2005). This fact has led to a significant effect on the changes of Indonesian transfer pricing (TP) regulation (Tambunan et.al, 2020). A research shows that tax audits for certain taxpayers indicated at risk of tax avoidance can increase their compliance in the next fiscal period (Primerdo, 2015). On the other hand, based on research conducted by Agustin, et., Al (2020) at KPP PMA 6 (Tax Office for Foreign Direct Investor), with an increase of Tax Assessment Letters for various types of tax obligation from fiscal year 2016 to 2018 (which increased by more than 110% of assessments each year), it was not followed by an increase in tax revenue at KPP PMA 6. In fact, with a fairly massive audit carried out since 2011, the realization of net revenue at KPP PMA 6 has never reached the target by 2019. Although basically, the motivation behind the fairly aggressive audit by the tax authorities is due to the achieving the targeted tax revenue. Therefore, it has been possible that the examination process carried out violates the procedures in the examination principle (Fatah, Wiratno & Ompusunggu, 2017). Therefore, it can be said that many corrections made by the tax authorities have not been in accordance with the provisions. With this practice, it might be distorting the business climate.

With regard to the fulfillment of transfer pricing documentation obligations, the transfer pricing guideline was release in 2010 through the issuance of Director General of Tax Regulation No. PER-43/2010 concerning the application of the arm's length price principle. Furthermore, the technical instructions for conducting a TP audit must be based on a Circular Letter of the Directorate General of Taxes No. SE-50/PJ/2013 (SE-50). The issuance of this Circular Letter has been intended to establish a standardized TP audit process (PricewaterhouseCoopers Indonesia, 2013). The basis for conducting a TP audit is the existence of transaction between the taxpayer and its affiliations that has been considered at risk. The following is the various indicators have been set to identify the extent

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of possible risks, for example:

a)the importance of affiliated transactions indicated by the proportion of sales or net income as a basis for risk assessment. b)transactions made specifically with related parties, including payments for the transfer of intangibles, royalty payments, payments for the supply of intra-group services and payment of interest. c)a significant lower difference between the taxpayer's net income compared to the profit of business entities in similar industries. d)the extent or significance of the affiliated transaction resulting in a profit for the taxpayer's audited net income. It is necessary to rationalize the components of net income derived from affiliated economic activities. e)The amount of interest expense paid to affiliates and/or non-affiliates. f)gain or loss from the sale of assets. g)gain or loss from foreign exchange differences. h) irregular affiliate transactions; non-routine transactions with affiliates can be in the form of business restructuring that involves or does not involve intangible assets, as well as sale of intangible property; and i)the taxpayer suffered losses for several years.

Before the transfer pricing has become an important concern lately, long before the enactment of previous regulations released and implemented, the Directorate General of Taxes (DGT) basically issued a Circular Letter No. SE-04/PJ.7/1993 (SE-04) concerning Guidelines for Handling Transfer Pricing Cases. In the circular letter, it was stated that a special relation might have implication for the unfairness of prices, costs or other remuneration realized in business transactions. The circular letter also explained that the practice of impropriety could be carried out through one or more of the following transactions a) selling price b) purchase price c) overhead costs d) shareholder loans e) payment of commissions, licenses, franchises, leases, royalties, management fees, technical fees and other payments for services to affiliates f) acquisitions of assets or shares by shareholders at prices below market prices g) sales of goods/services to entities in other jurisdictions that did not have economic substance such as payments to a dummy company, letter box company or reinvoicing center.

The explanation of SE-04 also highlighted that basically the business activities has increased quite fast which might bring the increasing of intra-group transnational transaction. With the development of the business, the establishment of new types of businesses might not be widely recognized in the taxation area, thus the forms transfer pricing scheme can be unlimited following the variety of transaction possibly undertaken. The existence of a regulation should aim to ensure that every transaction made among special relation entities was not solely for the purpose of minimizing the tax burden. Existing regulations should be aimed at reducing tax avoidance practices by means of transfer pricing, not solely to collect tax revenue through over-examination undertaken by tax authority which was counterproductive to the business climate. Transactions carried out by parties with special relationships must be assessed by underlaying the material principle, namely substance over form. Thus, the existence of a transfer pricing regulation should be aimed at ensuring that tax obligations are carried out following the prevailing rule and it should not distort business climate.

With current transfer pricing rules, transfer pricing disputes arose quite high. The high level of this dispute should be a common concern of related stakeholders, especially to examine in depth how the dispute process occurred and how to resolve it. This study aims to discuss i) the development of transfer pricing policy in Indonesia and ii) the tax auditor, taxpayer and tax court judge behavior's prior to transfer pricing issue and how to reduce the dispute This study uses tax decisions made in the 2015-2019 period related to transfer pricing disputes as a focus study to determine the trend of disputes occurred.

RESEARCH METHOD

This study uses a qualitative approach. With this approach the research is intended to understand social phenomena and community problems by forming a comprehensive and complex picture presented in words, reporting in detail from the source of information, and interpreting the phenomenon as it has occurred (Creswell, 1994). In this study, a qualitative approach is occupied to describe how the behavior of tax authorities, taxpayers and tax court judges in dealing with transfer pricing cases. This research uses qualitative method. Data collection was conducted by collecting the Tax Court Decisions which were decided during fiscal year 2015-2019 and subtracting the relevant information prior to the topic of the research. Those decisions were coming from the transfer pricing dispute within fiscal year 2006-2013. The selected Tax Court Decisions were abstracted to get the overview of cases, the behavior of taxpayer, the behavior of tax auditor and the behavior of judges. In addition, data collection was also carried out by means of literature studies and in-depth interviews with key informant consist of tax auditor, taxpayer and academics.

RESULT AND DISCUSSION

Development of Provisions regarding Transfer Pricing and Development of Transfer Pricing Audit in Indonesia

Basically, transfer pricing provisions have been adopted and implemented in Indonesia on three stages. The first stage was the presence of the concept of substance over form principle (1983-2010). The second stage was the adoption of the OECD Transfer Pricing Guidelines which were actually adopted since 2010. Finally, participation in the Base Erosion and Profit Shifting Project since 2015 and implemented in 2016 through the released of Ministry of Finance Regulation No. 213/PMK.03/2016 (Wardhana, 2018).

In the first phase (1983-2010), the Indonesian government, especially the tax authorities, introduced the concept of transfer pricing. However, how the concept of arm's length has been applied has not become the concern of tax authorities, even though at this time SE-04/PJ.7/1993 and KEP-01/PJ.7/1993 have been issued. Those regulations regulated the transactions between entities with special relations. At that time, around 1993, the tax authorities have realized the potential overstated or understated amount of income reported by corporate taxpayers. In assessing the taxpayer compliance, the tax authorities carried out their authority solely on the principle of substance over form based on the Corporate Income Tax Law and the technical provisions at that time (Wardhana, 2018). Based on the hierarchy of statutory regulations, SE-04/PJ.7/1993 was basically not an implementing regulation, but to reduce erosion of revenue during that period, the role of SE-04 was functioned like an implementing regulation.

During the second phase, the Indonesian tax authorities adopted the OECD Transfer Pricing Guidelines in 2010. The transfer pricing arm's length provisions adopted at that time constituted a transfer pricing regulatory regime that was used to date with various modifications. Basically, there was no formal statement that Indonesia adopts the OECD Transfer Pricing Guidelines in its domestic tax provisions. However, the adoption of the concept of arm's length and various concepts related to transfer pricing offered by the OECD (methods, documentation, limitations, existence of transactions, provisions related to advance pricing agreements) have showed that Indonesia has adopted the OECD Transfer Pricing Guidelines.

In the third phase, the government has adopted the BEPS Project since 2015. The Minister of Finance confirmed that Indonesia would implement the BEPS recommendations to avoid tax avoidance practices and patch gaps in tax avoidance due to insufficient regulations. Indonesia has adopted the provisions of Automatic Exchange of Information (AEOI), Mutual Agreement Procedure (MAP), Advance Pricing Agreement (APA) and Debt-to-Equity Ratio (DER) and implements Country-by-Country Reporting (Wardhana, 2018). The progress of the development of transfer pricing in Indonesia, citing Lohse (2012) as stated by Wardhana (2018), can be summarized as follows.

Lohse (2012) categorized transfer pricing dispute resolution in Indonesia into various levels. Lohse used tax court decisions as a proxy in this categorization. The levels were as follows:

1)There were cross-jurisdictional transactions with affiliates, but this has not yet become a specific problem related to transfer pricing practices. 2)There was a dispute over the practice of transfer pricing, but there were no solid provisions regarding this matter and how to apply the right arm's length. 3)Introduction to various transfer pricing provisions including related to the concept of arm's length, there have not been any complicated conflicts regarding the interpretation of the provisions and facts when the audit was carried out. 4)There were transactions related to the use of cross-jurisdictional intangibles, transfer pricing issues were resolved by using an administrative approach. 5)There was a litigation process in the settlement of transfer pricing disputes. 6)There was an option to resolve potential transfer pricing problems with a non-litigation option. 7)Arm's length becomes a basic principle and standard (standard-based concept) in the issue of transfer pricing regulation, apart from the litigation process, transfer pricing issues could be resolved by means of an advance pricing agreement (APA), mutual agreement procedure (MAP) and alternative dispute resolution (ADR).

The issue of transfer pricing has become a hot issue

Table 1. The development of Transfer Pricing in Indonesia

No.	Description	Category		
		1983-2001	2002-2009	2010-2017
1.	Existence and application	Transfer pricing rules applied to MNEs with special relation	Non- significant development of transfer pricing rule	Transfer pricing rule established referred to OECD Transfer Pricing Guidelines
2.	Method	CUP, RPM, Cost Plus, Profit Split, TNMM and others	CUP, RPM, Cost Plus, Profit Split, TNMM and others	Most appropriate method
3.	Required documents	No certain rules available	Transaction with related party	Transfer pricing documentation following certain rule
4.	Document submission	No certain rules available	The fourth month after the end of fiscal year	Four months after the end of fiscal year
5.	Sanction	No certain rules available	No special sanction with regard to transfer pricing, the adjustment that increase tax payable bear the interest payable 2%/month	No special sanction with regard to transfer pricing, the adjustment that increase tax payable bear the interest payable 2%/month
6.	Limitation of Documentation	10 years after fiscal year ended	5 years after fiscal year ended	5 years after fiscal year ended
7.	Advance Pricing Agreement	-	-	DGT regulation No. PER-69/2010.

Source: Lohse, (2012) in Wardhana (2018) within business and has always been an important topic in the Indonesian tax system, starting from 2005. This problem became increasingly prominent when the Ministry of Finance, especially the Directorate General of Taxation (DGT), found data showing that around 750 foreign investment companies did not pay taxes due to losses in 5-10 consecutive years. At that time, it was the beginning of testing whether the transaction was still considered reasonable (SGATAR, 2012). Indeed, since the enactment of the Income Tax Law in 1983, provisions relating to transfer pricing have been adopted in Article 18 (2) of the income tax law, which mentions, "The Director General of Taxes has the authority to re-determine the amount of income and/or deduction and determining debt as equity to calculate the amount of taxable income for taxpayers who have special relationships with other taxpayers. Furthermore, Article 18 (3) states that the special relationship as referred to (a) in the condition that the taxpayer is an entity (a.1) a relation between two or more taxpayers who are under the same ownership or control, either directly or indirectly; (a.2) the relation between taxpayers who have 25% (twenty-five percent) or more participation in other entity, or a relation between a taxpayer who has 25% (twenty-five percent) or more participation in two or more entities, thus also the relation between two or more entities ".

SGATAR (2012) noted that although in 1983 provisions related to transfer pricing had been formulated in the Indonesian Income Tax Law, at that time, the tax authorities did not yet have sufficient capability to assess whether transactions had followed market prices and to understand the nature of business transactions between related entities. Thus, the provisions in Article 18 (3) of the Income Tax Law have never been implemented until the issuance of KEP-01/1993 concerning Tax Audit Guidelines for Taxpayers with Special Relation and SE-04/1993, which regulated how to deal with transfer pricing cases. SE-04/1993 mentioned the method could be used to determine the fair price (arm's length) and that there were three approaches that could be used, namely a) transactional approach, b) profitable approach, and c) functional approach.

The research conducted by Kurniati (2014) found that a significant gap in taxation provisions related to transfer pricing was that there were no clear guidelines for taxpayers in applying the principle of fairness to related-party transactions, even though there were descriptions of methods for determining the fairness of prices. In addition, this provision has not considered the recommended aspects to be adopted in accordance with the international consensus regarding comparative analysis and comparative factors, which have been the spirit of the application of the arm's length principle.

Meanwhile, the provisions regarding documentation obligations related to transfer pricing have been established since 2002 in which taxpayers who were categorized as certain business entities have the obligation to disclose transactions with related entities in their Corporate Income Tax Return (SPT PPh Badan). Previously, the regulation related to transfer pricing was reaffirmed in 2001, with the existence of a statement in the Income Tax Law No. 17/2000, namely in Article 18 (3), "The Director General of Taxes has the authority to re-determine the amount of income and deduction and determine debt as capital to calculate the amount of taxable income for taxpayers who have a special relation with other entities in accordance with the fairness and normality of business, which is not influenced by a special relationship." In addition to reaffirming the statement, provisions related to the Advance Pricing Agreement (APA) were introduced, although the revision of the Income Tax Law has not brought significant changes due to the lack of guidance for taxpayers to apply the principle of justice.

The Law on General Provisions and Tax Procedures (UU KUP) in 2007 also mentioned the obligation to disclose transactions with related parties and to report these transactions to the tax authorities when submitting an Annual Corporate Income Tax Return. Furthermore, minor improvements were also made when the amendment to the 2008 Income Tax Law was undertaken with regard to tackling the transfer pricing issue. Following that new improvement Directorate General of Taxes has to perform higher measures to deal with the issue. . It established a certain unit to carry out a more intensive examination for entities considered might have performed transfer pricing abuse through the transaction made with its related party. This measure was underlie by the business characteristics and its historical transaction that tend to plan their tax payable management aggressively.

Referred to data related to tax audits for the fiscal year until 2007 aimed at testing the compliance of MNE taxpayers, there were two types of the tax audit, namely (a) tax audit on SPT, which was deemed to report less taxable income than it should be (understatement of taxable income) and (b) tax audit on SPT which was deemed to report taxable income higher than it should be (overstatement of taxable income) (Mulyani, 2010). Until the period of 2008, the tax authorities' interpretation regarding the arm's length was solely related to (i) the reasonableness of the taxable income reported in the SPT, (b) the fairness of the costs reported, especially for the payment for the use of intangibles (i.e., payment of royalties) and (c) report related to debt used as capital (Wardhana, 2018).

In the SGATAR Working Paper (2012), it was explained that in 2009, the government regulated more intensive disclosure of transactions with related parties. This arrangement was in the form of an obligation to fill out and submit documents related to the transaction attached to the Corporate Income Tax Return, which consists of:

a)Detailed information on all entities with which Indonesian resident Corporate Taxpayers have a special relation, followed by detailed transactions among them (Form 3A). b)Answers to several questions that were the questioned related to the completeness of Corporate Income Tax Return regarding fairness in carrying out transactions and various transactions made with entities that have a special relation as well as documents that identify the transactions were fair (Form 3A-1). c)Detailed information about transactions with entities located in tax haven countries (Form 3A-2).

Furthermore, in 2009 the DGT also published a circular letter regarding instructions and guidelines to establish a comparable report on transfer prices for certain industries. The selected industries were the entities considered to be the target groups that have the potential to face the issue of transfer pricing audit. As an implementation guide for documenting transfer prices and methods of testing, DGT in 2010 issued several regulations, whereby with the issuance of these regulations, the traditional method of testing the fairness of transaction was introduced. The regulations consisted of PER-43/2010 concerning the Application of Fairness Principles and Business Customary in Transactions between Taxpayers and Parties with Special Relations; PER-69/2010 concerning Advance Pricing Agreements. In 2011, PER-32/2011, concerning the Application of Fairness and Business Customary Principles in Transactions between Taxpayers and Parties with Special Relations, was issued to revise PER-43/2010 in which to conduct fair price testing, it did not have to be hierarchical but depends on the most appropriate method to the transaction circumstances. Most of these provisions were adopted guidelines from the OECD but with insufficient detailed implementing provisions, which often lead to different interpretations.

In 2013 the government issued the Minister of Finance Regulation No. 17/PMK.03/2013 concerning Audit Procedures. As an implementing guide, the Director General of Taxes Regulation PER-22/PJ/2013 was issued regarding the Audit Guidelines for Taxpayers with Special Relation as further technical provisions. The regulation described the special relation and the stages to carry out on testing of transfer pricing practices. Looking back at the history of transfer pricing arrangements in Indonesia, this provision has been known for a long time, but the progress in its implementation has not been significant enough. The historical terms of transfer pricing in Indonesia are as follows:

Based on research conducted by Dewi Lestari (2008), regarding the transfer pricing behavior of foreign-owned entities in Indonesia, the study stated that until the research was published, transfer pricing examinations in particular, were not yet widely known in Indonesia. If a general examination was conducted and it was found that the taxpayer has manipulated transfer pricing, the audit period would be extended to two years. In practice, there was no regulation that could become a specific reference regarding transfer pricing correction and determining the fair price. Then, this has an impact when a case was submitted to the tax court. The absence of provisions related to transfer pricing resulted in judges deciding a case based on existing provisions. Dewi Lestari (2008) compiled several lists of tax court decisions related to issues related to taxpayers and tax authorities related to transfer pricing disputes.

In this description, it can be seen that the judge's decision on disputes refers to a number of things such as related regulations relating to related disputes, supporting documents and the judge's knowledge. In addition, at that time, the DGT did not have any special expertise and experience related to transfer pricing examinations. Proofing that transfer pricing practices has existed was carried out by certain tax authorities who tried to make tax corrections according to the instructions mentioned in SE-04/PJ.7/1993 concerning Guidelines for Handling Transfer Pricing Cases. With the different level expertise of the tax

Table 2. The Milestone of Indonesia Transfer Pricing Regulation

Year	Explanation
1983	Transfer pricing rule was established in Indonesia Income Tax Law (Art. 18(3))
1993	DGT Stipulation (KEP-01) was released as the guideline to perform transfer pricing audit for transaction undertaken by entities with special relation. Then, the DGT Circular Letter (SE-04) was released as an instruction on how to deal with transfer pricing case. The tradition transfer pricing assessment method was introduced. It was consisting of Comparable Uncontrolled Price (CUP) Method, Resale Price Method (RPM) and Cost-Plus Method.
2001	In the explanation to Income Tax Law Art. 18(3), it was mentioned the method to assess the fairness in related-party transaction by using CUP, RPM, Cost Plus, Profit Split, Transactional Net Margin Method (TNMM) and other method.
2007	The establishment of regulation to disclose transaction undertaken with related party on Annual Corporate Income Tax Return
2008	The minor change on transfer pricing regulation in Income Tax Law
2010	The release of several regulation with regard to the method of assessment to examine transaction undertaken by the business with a special relation entity PER-43 The implementation of fair principle and business customary on the transaction undertaken by the taxpayer with a special related entities PER-48 with regard to Mutual Agreement Procedure (MAP) PER-69 with regard to Advance Price Agreement (APA)
2011	PER-32/2011 instructed that the assessment of arm's length prince was determined by using the most appropriate method to the circumstances of transaction.
2013	PER-22/PJ/2013 has become a guideline for transfer pricing audit to the taxpayer performed transactions with a special relation entity.
2015	PMK No.7/2015 has become a basis to adopt BEPS Project Action 13

Table 3. List of Tax Court Decision with regard to Transfer Pricing before the Existence of Applied Transfer Pricing Regulation in Indonesian

No.	No Tax Court Decision/ Date of Decision	Correction	Judges' Decision	Explanation
1.	Put-01265/PP/M.III/15/ 2003, dated 7/8/2003	Correction to the sales price of electronic goods supplied to the affiliation in Singapore, New Zealand and Saudi Arabia. The price was considered under market price	Accept the appeal	Correction made by DGT was rejected because the DGT has not considered the circumstances lead to the underprice (i. e. used goods, quality of goods, supply chain policy, discount, sales policy, etc.)
1	Put-00994/PP/M.III/16/2003, dated 5/9/2003	Correction to the sales price considered lower compared to market price	Accept the appeal	Correction made by DGT was rejected because the DGT has not considered the circumstances attached to the sales policy (Franco Port and Franco Warehouse)
3.	Put-01738/PP/M.III/12/2003 dated 17/10/2003	Correction to the interest expenses due to debt earned from affiliation	Accept the appeal	Correction made by DGT was rejected because the correction was based on DGT calculation/assumption. The taxpayer presented the loan agreement stated that the debt was injected without interest payment.
4.	Put-01340/PP/M.VIII/15/2003 dated 6/2/2003	Correction to the interest expenses paid to the affiliation	Accept the appeal	Correction made by DGT was rejected because the taxpayer was considered eligible to get the favor of S-165/1999 with regard non-interest loan.
5.	Put-01240/MPP/PPh/XII/95 dated 8/9/1995	Correction to the interest expenses paid to the affiliation	Accept the appeal	Correction made by DGT was rejected because the correction was based on DGT calculation/assumption. The taxpayer presented the loan agreement stated that the debt was injected without interest payment.

Source: Lestari (2008)

authorities in charge of examining transfer pricing as regulated in SE-04/PJ.7/1993, it has resulted in a lack of ability to provide arguments when conducting audits and the basis for corrections. Such examinations resulted in inaccurate examination finding so that these corrections also tend to be rejected by the panel of judges (Dewi Lestari, 2008).

In implementing PER-43/PJ/2010 (PER-43) although it was a step forward, it still has shortcomings. The disadvantage on the implementation of that regulation on taxpayers' perspective was due to a transaction with value more than of IDR. 10 million was obliged to prepare transfer pricing documentation. Such a nominal threshold on transactions was a limit for transactions that were generally carried out by small and medium entrepreneurs. The presence of PER-32/PJ/2011 (PER-32) as a revision of PER-43 has provided a clearer legal basis regarding (i) tax subjects who have a special relation whereby the application of fairness and business customary principles in special relation transactions was only applied between domestic taxpayers or permanent establishments with foreign taxpayers, (ii) tax objects, namely the application of fairness and business customary principles applied in the situation that the taxpayer conducts transaction with affiliation to take advantage of differences in tax rates due to the imposition of final or non-final income tax in certain business sectors, the treatment of tax on consumption, or transactions made with upstream oil and gas taxpayers and (iii) determination the acceptable price or acceptable profit must be performed following the most appropriate transfer pricing method and (iv) taxpayers whose undertook transactions with affiliation with the value of all transactions not exceeding Rp.10,000,000,000,- (ten billion rupiah) in one year for each counterparty was exempted from the obligation to apply fairness and business customary principle.

In fact, the issuance of PER-43, which was later revised by PER-32 was an early stage in the provision of transfer pricing implementation in Indonesia. In both regulations, the steps that have to be taken by taxpayers in documenting prices for transactions with affiliated parties have been described. This provision also regulated comparability analysis, selection of transfer pricing method, fair price determination, transfer pricing documentation formats, and other technical aspects which were actually needed by taxpayers and tax officials as a guideline. Based on research conducted by Stania K. (2014) regarding the implementation of transfer pricing provisions in Indonesia, in particular PER-43/2010 with the latest improvements to PER-32/2011, various records were obtained as follows:

1)A special relationship: The rules for determining transfer pricing in Indonesia have adopted provisions relating to special relations stipulated in the OECD TP Guidelines. The adoption of this provision in the Income Tax Law where it is considered to have a special relationship if an entity has at least 25% of shares directly or indirectly in another entity.

2)Scope of transfer pricing arrangements; The PER-43 provisions contain details of transactions carried out by taxpayers with related parties. Then, with the PER-32, this provision focused on the treatment of transactions that were considered to have the potential or motivation to take advantage due to differences in tax rates. This is not explicitly stated in the OECD Model Tax Convention.

3)The principle of justice and arm's length; the provisions in Indonesia have adopted the principle of arm's length as a principle in conducting a comparative analysis.

4)Comparative analysis; In the OECD TP Guideline 2010, the term "comparable" refers to a conditional situation in which there is no significant difference between affiliated and independent transaction conditions that could materially affect the transaction. If there were differences in the conditions, the differences could be eliminated by an accurate adjustment. Meanwhile, in Indonesian provisions, the meaning of "equal" and "comparable" are not clear because the two meanings are interchangeable. Unlike the OECD, Indonesia's transfer pricing provisions have not provided clear and detailed steps in carrying out a comparative analysis that should have facilitated taxpayers to apply the arm's length principle as referred to in the issuance of regulations.

5)Determination of the comparative analysis method, the OECD Guideline 2010 has recommended the application of the most appropriate method. With this initial regulation, PER-43/2010, a provision was issued to determine the hierarchy method of assessment, then changed it to the most appropriate method of assessment.

6)Provision of services; The OECD TP Guideline has shown that the assessment of the implementation of fairness in transactions for the provision of services was carried out based on the presence or absence of economic value that could increase the commercial value or capacity of the service recipient. Likewise, provisions in Indonesia have fully adopted OECD provisions. On the other hand, PER-32 also states that a transaction was deemed not fulfilling the principle of arm's length and generally accepted customary norm if the transaction occurred only because there was ownership of the parent company in one or several companies that existed in a business group.

7)Cost Contribution Agreement, Indonesia's provisions adopted a complete description in the OECD TP Guideline 2010. The OECD emphasizes that the determination of the fair contribution value was based on the transfer pricing analysis method. In Indonesia's PER-32 only emphasized the principles underlying in the OECD guideline without specifying the steps that must be taken to test the fairness of the transaction.

8)The documentation of transfer price adopted the descriptions provided by the OECD Guidelines.

Abstraction from various studies related to the implementation of transfer pricing in Indonesia refers to the conclusion that most Indonesian provisions have adopted the OECD TP Guideline without being accompanied by proportional adjustments taking into account Indonesia's economic conditions and taxation system. Apart from that, the provisions in Indonesia were also not accompanied by technical instructions, which were actually the first step towards the realization of the expected implementation of the regulations.

Research conducted by Meiliana (2014) with regard to transfer pricing documentation based on PER-32/2011 found that the implemented regulation still has created difficulties for tax authorities and taxpayers. The difficulties faced even though with the condition that PER-32 was an improvement from the previous provisions are the following (Meilina, 2014, 6-10):

1)Information in PER-32/PJ/2011 was not yet detailed. Practical problems occurred when taxpayers who have a special relation but did not attach data related to industry analysis and segmentation of company reports as part of supply chain management. PER-32 actually regulated supply chain management analysis on the analysis of functions, assets, and risks. However, there was no example of a report format available that guides companies be able to make supply chain management (SCM) analysis in accordance with the principles of fairness and business customary practice. Not a few companies did not include SCM analysis in the transfer pricing documentation report. The tax authorities faced difficulties when examining whether the price was reasonable and have met the principles of fairness and business customary practice in transactions with its affiliates.

2)The differences in interpretation between taxpayers and the Directorate General of Taxes regarding the content of the transfer pricing policy where the adoption of domestic regulations was also carried out by a group of parties involved in policy making.

3)Taxpayers' lack of understanding and the limited number of tax authorities who understood the constellation of transfer pricing issues. The practical aspect faced by the tax authorities who were in charge as auditors found out that not all taxpayers understood the transfer pricing documentation, so they relied on consultants. On the other hand, there were still many tax authorities who have not really understand how to monitor and examine documentation obligations.

In addition, citing Prastowo (2016), several challenges in implementing transfer pricing documentation in Indonesia, such as:

1)There is a need to implement regulations that ensure legal certainty and justice for taxpayers and tax officers. 2)The paradigm of implementing transfer pricing documentation should be based on mutual belief, that transfer pricing is an inseparable part of the development of the business world, thus it should not be viewed a priori as a mere tax avoidance tool. 3)availability of comparative data and compliance mechanisms that are more transparent, easy and inexpensive. 4)more transparent and professional dispute resolution with the tax authority of a special examination team and a special panel in the tax court.

Furthermore, as one of the G20 members who participated in signing the OECD recommendation in the form of the BEPS Project, in particular, the Action Plan 13 as one of the minimum standards for the Action Plan related to transfer pricing, the Indonesian government has adopted it into its domestic provisions. The adoption of the BEPS Action Plan 13 was carried out through the issuance of PMK No.7/2015, which was the basis for adopting recommendations from the BEPS Action Plan 13. Then, the implementation of the BEPS 13 Action Plan was carried out through the issuance of the Minister of Finance Regulation No. 213/PMK.03/2016 (PMK-213) regarding the types of documents and/or additional information that must be documented by taxpayers conducting transactions with related parties and special procedures which have been effective since 2016.

With the enforcement of PMK-213, the analysis of affiliated transactions in preparing transfer pricing documentation would use an arm's length price-setting approach or an ex-ante approach. In this provision, it is stated that the submitted documents are documents based on data and information available at the time of the affiliation transaction or with the arm's length price-setting approach. Thus, the approach to test the fairness of an affiliate transaction uses comparable data or information before or when the transaction is carried out. Information regarding comparable transactions used in applying the fairness principle in the ex-ante approach is sourced from information available when the transactions are made. This information can be in the form of information about comparable transactions in the year prior to the affiliated transaction, including information about changes in economic conditions that can be anticipated at the time the affiliated transaction is carried out that may affect the price agreed upon by independent parties (Aniqoh, 2018).

Before adopting BEPS Project Action 13 into Indonesia's domestic provisions through PMK-213, the previous domestic provisions related to transfer pricing applied an ex-post approach. In the ex-post or arm's length outcome-testing approach, taxpayers applied the fairness principle after performing an affiliate transaction. The purpose of implementing such an approach is to test the reasonableness of the agreed price among entities. In such an approach, the information used to test the reasonableness of price is information about comparative transactions available at the time the Corporate Income Tax Return is being prepared for submission. This information can be in the form of information relating to data related to comparable transactions performed, which have the same time period as the transaction being analyzed or information available before the affiliate transaction is carried out (Aniqoh, 2018).

The provisions stipulated in PMK-213 emphasize the obligation to document three types of documents consisting of:

a)Master file; is a document related to general information on the business activities of multinational companies and transfer pricing policies. b)Local file; is a document related to information on specific taxpayer business activities, financial information, and affiliated transactions, including analysis related to transactions between affiliates. c)Country-by-country report, the documentation must be adjusted to the format in the PMK-213 attachment. The per-country report is one of the transfer pricing documents which contains the allocation of income, taxes paid, and business activities of all members of the business group, which are presented in a special tabulation in accordance with international standards. This document can be exchanged with tax authorities of other countries in accordance with international tax treaties. Through this information exchange, Indonesia will also receive reciprocal information exchange related to Indonesian taxpayers whose parent entity is domiciled abroad from the country/jurisdiction where the parent entity is domiciled.

The country-by-country report contains information on (i) the allocation of income, taxes paid, and business activities per country or jurisdiction of all members of the business group both domestically and abroad, (ii) a list of group members and main business activities per country or jurisdiction, (iii) relevant explanation regarding each point. Entities covered and reported in the report per country, which are referred to as constituent entities, consist of (i) the ultimate parent entity (UPE), (ii) each member of the business group included in the consolidated financial statements of the parent entity (both UPE and non-UPE) for financial reporting purposes, (iii) any member of the business group that is not included in the parent entity's consolidated financial statements due to business size or materiality considerations; and/ or, (iv) permanent establishment (pajak.go.id).

On the other hand, with the application of documentation with a new ex-ante approach, tax audit procedures related to transfer pricing still use the old guidelines, namely based on PER-22/PJ/2013, so that in the audit process, the comparable after the transaction has been carried out (ex-post) was still often needed (Nurdiansyah, 2020). In addition, it is necessary to reemphasize that the adjustment of domestic transfer pricing provisions with international norms has intensified after Indonesia committed to participate in the BEPS Project. In practical, for the context of limiting interest payable in connection with the debt-to-equity ratio, it was implemented since September 2015 with the issuance of Minister of Finance Regulation No. 169/PMK.010/2015. Meanwhile, issues related to intangibles (Action 8), risk and capital (Action 9) and high-risk transactions (Action 10) have not been implemented.

Analysis of Transfer Pricing Dispute Resolution in Indonesia: A Note for Tax Authorities, Tax Courts and Taxpayers based on the 2015-2019 Tax Court Decisions

The examination for the fairness of the transaction has basically been initiated since the issuance of PER-43/PJ/2010 (PER-43), although in the Income Tax Law it has been stated that the DGT has the authority to redetermine the amount of income and deduction and determine debt as equity to calculate the amount of taxable income for companies that have a special relation. Before the issuance of this regulation, DGT had not yet regulated transfer pricing examination. The former research (Herawati, 2002) stated that there have not been any cases that have actually been decided with regard to corrections in connection with the issue of transfer pricing, even though DGT realizes that this issue has been existing and there have been an erosion of potential revenue. This research explains that in addition to insufficient regulations related to transfer pricing examination, DGT human resources are also inadequate, especially related to the competence of transfer pricing auditors to examine transfer pricing cases. Further, following the interview with several informants, the DGT database system is inadequate support. The data base was run with a manual system and has not yet been interconnected among tax offices. Thus, it can be said that transfer pricing examination has not become an actual concern. Likewise, the tax court rulings at that time did not clearly state that based on the results of the Income Tax Return examination, it was found guilty due to transactions related to the transfer pricing case (Dewi Lestari, 2008). Likewise, with regard to corrections, it merely stated, for example, that the taxpayer was too low in setting the selling price to affiliates.

Furthermore, with PER-32, it starts to regulate supply chain management, analysis of functions, assets, and risks, although how the analysis steps are carried out has not been clearly regulated. When this provision was implemented, due to the incomplete documentation of transfer pricing submitted, the DGT still faced difficulties in testing the fairness of the transaction. With these challenges, the tax auditor has tended to make corrections which have become the beginning of disputes (Meiliana, 2014).

In the internal DGT, technical guidelines have been set for conducting transfer pricing examinations that basically transfer pricing audit should be based on regulatory and documentation testing, for example, through S-153/PJ.04/2010 concerning Guidelines for Assessing Affiliated Transaction Justice. But in reality, this testing has not been carried out consistently, especially based on the findings of this study regarding the transfer pricing case for disputes decided within fiscal year 2015-2019 (the list of tax court decisions analyzed in this study is attached in the appendix). In some cases, disputes have been examined in detail, systematically and based on provisions relating to the case being examined. However, most cases arise because the audit was not in accordance with the provisions, was not consistent and the audit findings tend to be forced.

In most cases, inconsistent testing behavior exists. Certain behavior is categorized as inconsistency while it is reflected to the principle that the DGT should have made a correction only the DGT has found the evidence that the amount of tax payable according to the taxpayer's income tax return along with the attached documents is not correct in accordance with the provisions of taxation regulation. Thus, the correction could be made if the DGT has found facts and evidence that the taxpayer has undertaken considerable efforts to reduce the tax burden through transfer pricing schemes. The following is the finding of the inconsistency tax audit behavior carried out by DGT by reflecting on the current provisions of the TP.

1)In some disputes, especially disputes won by taxpayers, the DGT made inconsistent and aggressive corrections on the basis that was not sufficiently clearly stated, either related to the legal basis (policy content) or reported documentation by the taxpayer (evidence and context of the transaction) as part of the of tax liability. DGT deliberately created a correction by imposing an examination with a certain method for unclear reasons/argumentations. In addition, DGT also has choosed certain comparable data which lead the transactions reported by the taxpayers have failed to meet the arm’s length principle. Further, the use of comparable data was also selected by cherry picking so the audit process resulted in a correction/finding. The difference in time span for using comparable data (single year or multiple year) has been also DGT's strategy to force a correction. Due to the forced impropriety, a new tax debt is determined.

2)There are several disputes that have been corrected solely based on the assumption that the transaction has been considered violated arm’s length principle . Corrections were made by using equalization method on Corporate Income Tax Return (SPT PPh) and Value Added Tax Return (SPT PPN). The results of the equalization become audit findings. The audit findings were determined as a new tax payable.

3)In particular, for transactions related to intangibles payments, DGT has been often made corrections because they have not believed or has been based on a suspicion that the payment of intangibles has not significantly affected the profitability and business sustainability of taxpayers. For cases that are won by taxpayers after passing examination by judges, often the proof of documents submitted by taxpayers has not been enough to convince the DGT that the payment of intangibles was factual and was related to the taxpayer's business activities. On the other hand, the nature of intangibles has never easy to prove clearly how the contribution of intangibles has affected the business activity, especially for business activities that have been running for a long time. The assessment of intangibles, especially those related to value creation also has not have a standard that has been widely known and accepted by the public on which becoming the basis to determine the contribution in the context of taxation. International provision has suggested applying the DEMPE (development, enhancement, maintenance, protection and exploitation) concept as a basis of profit allocation among entities within a group. In addition, the technical guidelines for transfer pricing examination suggest examining the contribution of the use of intangibles to value creation, but there has been no definite formula for determining these intangibles. In this case, proof of documentation becomes the most important consideration of the settlement process in tax court.

4)Corrections related to intangibles have been also carried out if the DGT have considered that there has not been enough evidence to show the existence of delivery or used of intangibles. According to DGT, the document insufficiency is a sufficient consideration to make corrections. In this case, the formal aspects of documentation related to intangibles become the focus of corrections therefore in-depth discussion related to material aspects is ruled out. Such examination patterns tend to be repetitive.

5)However, it should also be emphasized that in some cases related to intangibles, the examination is carried out by the DGT carefully, systematically, based on the existing transfer pricing provisions and the audit process has been carried out in accordance with the general technical guidelines applicable in the DGT (for example in Put-84904/PP/M.XIA/15/2017 and Put-84904/PP/M.XIA/15/2017). The examination was able to show that the payment for intangibles was indeed unreasonable and that the choice of testing method was also chosen and carried out based on clear arguments.

6)Regarding corrections with respect to interest payments, in various cases related to interest payments, the DGT was able to show that the interest payments were in an unreasonable amount. The test has been based on the provisions related to transfer pricing - transactions with affiliated parties and examination of documents. This might be supported by the nature of the transaction which was quite easy easier to prove its reliability.

7)Corrections in connection with transactions for the supply of intra-group services and intra-group trading were initially based on the condition that transactions with affiliated parties occur quite frequent. Transactions with these affiliated parties were the basis for testing. The testing conducted by DGT was focused on the availability of supporting documents. According to DGT, the inadequacy of supporting documents would be resulted in a correction.

In testing for reasonableness, the use of the transactional net margin method (TNMM) has been the most frequently used. Meanwhile, the TNMM test is a test of reasonableness at the level of operating profit of the company without being affected by differences in transactions at the level of operational costs and functions. Thus, the selection of the most appropriate and reliable comparable data has become a crucial aspect in conducting fairness assessment using the TNMM method. Selecting comparative data carelessly or cherry-picking will certainly affect the test results.

On the other hand, there are various types of taxpayer behavior when submitting transfer pricing documentation. There have been several taxpayers who tried to comply with tax regulations related to transfer pricing, but there have also been some taxpayers who seek to gain economic benefits from shifting profits to their transaction partner jurisdictions by manipulating transfer pricing. In general, the taxpayer's behavior can be described as follows:

1)In most disputes, corrections were made due to technical testing of transfer pricing documentation. In the testing process, document completeness and its adequacy were very crucial. In addition, taxpayers must be able to explain the reasons for choosing comparable data, the reasons for choosing the test method, and the reasons for using single year - multiple-year data.

2)For taxpayers who have won the dispute, in general, documentation has been carried out in accordance with existing regulations. In addition, taxpayers also submit various types of legal documents and other supporting documents related to the transactions being tested. In general, taxpayers also submit arguments related to transfer pricing testing methods (for example FAR analysis, such as Put. 82925/PP/M.XVIIIB/15/2017) as well as comparative data selection techniques (for example in Put 60993/PP/M.IVA/15/2015). In addition, testing comparative data using a single year-multiple year has been also a concern of taxpayers (for example in Put-84911/PP/M.XIIIA/16/2017).

3)There were several taxpayers who have made efforts to compile transfer pricing documentation, with certain arguments regarding the selection of comparative data and the method of fairness testing, however, due to the opinion of the tax auditor and the judge that the document was insufficient, the taxpayer's appeal request was rejected (for example in Put.73689/PP/M.XA/15/2016).

4)Regarding disputes related to intangibles, for cases won by taxpayers, in general, taxpayers were able to demonstrate with sufficient arguments and evidence that there has been a significant relationship between payments for intangibles and business continuity. In addition, of course, proofs of the existence of intangibles have been complemented by adequate transfer pricing documentation which could show that payments for these intangibles were within a reasonable range (for example in Put.086980.15/2011/PP/M.XVIA/2018).

5)With regard to transactions related to interest payments, especially for shareholders and affiliates, all taxpayers' appeal requests were rejected by the court. In these cases, the taxpayer were unable to prove evidence that the taxpayers needed loans and proved that all the capital has been paid up by the shareholders. Thus, transfer pricing documentation prepared by taxpayers was not considered.

6)Regarding transactions related to intragroup service payments, the point of examination lies in the ability of the taxpayer to show that those services were truly required by taxpayers, taxpayers could not provide their own self-service and payments were within reasonable ranges. Even though the taxpayer has deducted Article 26 of Income Tax on payment of services, there were various corrections by the DGT which were maintained by the panel of judges because according to the DGT and the panel of judges that the documentation was not convincing enough.

7)Regarding transactions related to intragroup trade, the calculation of the COGS component was an important point. Taxpayers were expected to be able to show that the sales of goods have been in accordance with the reasonable range. In various cases, especially over disputes won by the DGT, the documentation submitted by the Taxpayers was still considered insufficient or inaccurate due to various adjustments made by taxpayers on the transfer pricing documentation.

In the transfer pricing examination, there has been a potential that the correction made by the tax authority will result in double taxation, which could be detrimental to the taxpayer. For example, in an intragroup trading transaction, business entity A sells products to B at a price of IDR. 10 where the cost of goods sold is IDR. 8. Then B sells the product to C, an independent entity, for IDR. 15, including packaging costs. Basically, the total profit is IDR. 6, allocated to A 2 and B 4. If the tax authority in country A corrects the sale value to IDR. 12, it means that the correction will attract IDR. 2 from country B to be taxed again in country A, while the tax has been paid in country B. So, the profit is IDR. 2, who have already been taxed in country B will be taxed again in country A. Therefore, the total profit does not become IDR. 6 but IDR. 8. Thus, any adjustments to the corrections made by the tax authorities are important in the issue of transfer pricing. To avoid double taxation due to correction, at least the tax authorities can choose 2 methods for its settlement. First, the corresponding adjustment method where the tax authority submits an adjustment to the tax authority B, if the tax authority in country B agrees with the correction in country A, then the correction will reduce taxable profit in country B. Another alternative is the appropriate adjustment method. Suppose country B does not make a profit correction, but on the income tax on the profit of taxpayer B is IDR. 2. In that case, the correction by the tax authority of country A can be deducted from the tax payable by Taxpayer B in country B.

Referring to the OECD Model, basically, the tax authorities in a country have the right to make corresponding adjustments to the tax authorities in the partner country if the corrections made will affect the resident's profit in the partner country. The OECD Model Tax Convention Art. 9 (2) states that "Where a Contracting State includes in the profit of an enterprise of that State – and taxes accordingly – profit on which an enterprise of the other Contracting State has been charged on tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprise had been those which would have made between independent enterprises, then that other States shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary, consult each other". However, specific methods related to their implementation have not been described by the OECD Model or OECD TP Guideline. In the context of non-litigation dispute resolution, settlement through negotiation, for example, by conducting MAP on corrections made by the DGT is an alternative option. In the OECD Model Tax Convention Art (25) regulates MAP where the fulfillment of obligations that cause problems, can be resolved by means of communication. Quoting the OECD Model Tax Convention Art (25) states that:

"Art(1) Where a person considers that the action of the one or both of the Contracting State result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespectively of the remedies provided by the domestic law of those States, present his case to the competent authority of either Contracting State. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provision of the Convention.

Art(2) The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State

Art(3) The competent authority of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

Art(4) The competent authorities of the Contracting State may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs".

Basically, an examination related to transfer pricing can be carried out by a tax authority in a country if a related party carries out a transaction that does not reflect a fair price. In other words, the tax authority in a country is authorized to make primary adjustments as long as (i) the transactions are not in accordance with fair market prices and (ii) are carried out by related parties. Thus, the definition and scope of a special relationship are very important in the context of transfer pricing. Inconsistencies in the definition of a special relationship between one country and another its contracting partner will have the potential to cause double taxation (Darussalam & Septriadi, 2008).

Correction related to transfer pricing basically does not only involve taxpayers and administration in one country but allows to involve tax residents and tax administrations in other countries. Transfer pricing provisions can provide coverage in the form of profit correction amounts that lead to the reallocation of profits between tax administrations in a different jurisdiction. This might happen if the treaty partner country does not agree to make a corresponding adjustment in the situation whereby the primary adjustment made is not in accordance with the definition of a special relation regulated in the domestic provisions of the country. For this reason, the definition of a special relationship is an important factor.

Countries that apply taxes on the basis of worldwide income will usually include the income earned by their residents worldwide into the overall taxable income but will provide a tax credit for taxes that have been paid abroad (in the source country). The tax credit given is not for the total tax paid abroad but only for the amount of tax if income is earned domestically. In addition, the country of residence will also recognize the separation between the parent company and its subsidiaries. So, the country of residence will not impose taxes on the subsidiary's income as long as the subsidiary's income is not attracted to the parent company.

Iff a group of multinational companies has business in several countries at the same timewithe different tax rates, it will be possible that the income originating from a countrywiths a high tax rate is transferred to another country with a lower tax rate. This will be possible especially if the country of origin of the taxpayer is a country that exempts tax obligation from income generating abroad that is, a country that adheres to a territorial tax system. If the resident country imposes tax on worldwide income, an incentive to transfer income to the country of origin may still occur. Reflecting on the transfer pricing case that was decided in the 2015-2019 , the taxpayer as transaction partner country whose case has been decided at the Tax Court consist of Japan, Singapore, South Korea, Hong Kong, Cayman Island, Mauritius, Germany, Netherlands.

With those countries partner, the definition and scope of the special relation between Indonesia and partner countries are quite different. Suppose a special relationship is associated with share ownership. In that case, most partner countries define a special relation with 50% share ownership both directly and indirectly, although some countries do not clearly define it such as Cayman Island, Mauritius and Hong Kong. In fact, in the cases being heard, most of the taxpayers in dispute were affiliates of multinational companies with 90% or more share ownership. On the other hand, related to the direct and indirect relationship related to the company between entities, Indonesia defines it as the existence of a management and technology relationship and a family relationship. Partner countries define management relationships with various variations, indicating that one entity has control over the business continuity of another entity in more detail.

However, this definition becomes crucial when the tax authority makes future corrections/adjustments and is related to the possibility of a corresponding adjustment. Corresponding adjustments can be made if the definition of a special relationship between jurisdictions is on the same basis as is the basis for testing the fairness of prices. The two elements, namely the definition of the special relationship for the treaty partner country and the clause regarding the corresponding adjustment, need to be the attention of the tax authorities in the future.

The interest regarding the recognition of income and tax expense also correlates with the partner country's tax collection system, which is the location/jurisdiction of an affiliate or parent of Indonesian taxpayers. For partner countries that apply a territorial tax system such as Mauritius and Hong Kong, where the income received by their residents from outside their jurisdiction will be subject to tax exemptions or even Cayman Island that does not impose a corporate tax on their taxpayers, then the corrections made by the Indonesia tax authorities would not be a problem. In fact, with such conditions, it will become an incentive to carry out transfer pricing practices so that a more detailed supervision is needed. However, for partner countries that impose a tax collection system on a worldwide basis, such as Japan, South Korea, Singapore, the Netherlands and Germany, the settlement related to a corresponding adjustment will be crucial because it relates to the occurrence of income recognition incidents in a jurisdiction or the withdrawal of income from a jurisdiction. If the corresponding adjustment is not resolved, there will be potential for double taxation.

In Indonesia's domestic provisions, provisions for making corresponding adjustments exist when corrections are made to transactions related to transfer pricing, as described in PER-22/PJ/2013. Apart from that, regarding the submission of a mutual agreement procedure (MAP), domestic provisions have also regulated the possibility for negotiations and agreements with partner countries, as outlined in PER-28/PJ/2010 jo. PMK 49/2019 (and then in DGT Regulation, PER-16/PJ/2020). Both tax authorities can hold MAP if in Double Tax Agreement (DTA) Indonesia and the counterparty country of the transaction, the taxpayer agrees to solve the problem through the MAP which is usually listed in Art 25 DTA. Based on research conducted on the dispute referred to in this study, the partner countries which are the jurisdictions of the counter transactions, consist of Japan, South Korea, Hong Kong, Singapore, Cayman Island, Mauritius, the Netherlands and Germany. The attachment Table 2 informs the provisions related to the corresponding adjustment in each DTA Indonesia and partner countries as listed in Article 9 (2) DTA, and provisions related to MAP as stated in Article 25 DTA. In the table, it is explained that there are countries that have DTA with Indonesia and there are several countries that do not have DTA with Indonesia, such as Cayman Island and Mauritius. For countries that have Tax Treaty with Indonesia, it means that there is still an opportunity to solve the problem by way of negotiation, including related to the submission of a corresponding adjustment by the Indonesian tax authority to the partner country authority.

On the other hand, for countries such as Japan, Singapore, and Germany there is no clause regarding the corresponding adjustment. Thus, by not opening the possibility for the corresponding adjustment, if a correction is made to the transaction reported by the taxpayer, it is possible that the attraction of profits from the counter-transaction country to Indonesia will be subject to double taxation. Such double taxation will certainly be an additional burden for taxpayers. For countries whose tax treaty in Indonesia has concluded a clause regarding the corresponding adjustment, it is expected that the correction made by the Indonesian tax authority can be made a corresponding adjustment or communication with the local tax authority regarding the fulfillment of the tax obligations of multinational entity taxpayers.

In practice, a correction to the transfer pricing report made by the tax authority means an attraction of profits from taxpayers in partner countries to their affiliates in Indonesia. From the tax authority's perspective, when the tax authority conducts an audit, the taxpayer can file an objection to the assessment submitted by the tax authority until the filing of legal remedies so that the dispute has permanent legal force. In the perspective of the tax authority, the opportunity to express disagreement with this provision has been provided to the taxpayers. With regard to transfer pricing corrections made by the tax authority, the domestic provisions have allowed the tax authority to submit information to tax authorities in partner countries to make corresponding adjustments, but basically, this is not a mandatory obligation. The nature of the corresponding adjustment that is not mandatory has led the Indonesia tax authorities to assume that it is not crucial enough to make a corresponding adjustment.

The Indonesian tax authorities also interpreted that when making corrections to reports submitted by Indonesian taxpayers, a corresponding adjustment must not be submitted, as domestic provisions do not oblige it, as well as in other references such as the OECD Model. The consideration on this matter is that it is still possible to file an objection, appeal or review by the taxpayer who is currently being examined. The tax authority is in a position to wait for a request from the tax authority of the Indonesian taxpayer's transaction partner for corrections to conduct negotiations, for example, through MAP for Indonesia's tax treaty partner country. In addition, from the perspective of the tax authority, the existence of tax treaty is solely intended to limit taxation rights not beyond the agreement, not to broaden the basis of taxation with the existence of corresponding mandatory adjustments. In addition, the DGT also believes that when there is no submission from partner countries with interest in withdrawing profits out of their jurisdiction, then the decision related to correction in Indonesia has been correct so that the Indonesian tax authority does not need to act actively to convey to the partner country authorities to make a corresponding adjustment. The condition reinforces this Thus, the Indonesian tax authority has also never submitted a corresponding adjustment based on the interview to the DGT. From the perspective of the DGT, each tax authority has an interest in revenue in their country.

With such conditions, where there has no detailed references or regulations related to corresponding adjustments, even though there have been regulatory tools that serve as the basis for negotiating tax issues through a mutual agreement procedure (MAP), this problem has not yet been clearly resolved. In fact, the existence of an MAP cannot yet be a guarantee that the existing problems will be resolved due to the lengthy agreement process and the possible complexity of the problems coupled with the condition that each tax authority will prioritize its interests. In such conditions, there is a condition that the taxpayer will experience double taxation losses due to corrections made. Conditions like this will actually be counterproductive for the business world.

In connection with the provisions agreed upon in the DTA regarding MAP, basically, if it refers to international legal norms as stipulated in the Vienna Convention on the Law of Treaties (VCLT) paragraph 26, namely "pacta sunt sevanda" where each treaty in effect binds the parties who entered into the agreement concerned is obliged to carry it out t in good faith. So, with the agreement in the tax treaty, the Indonesian tax authorities should have had good intentions to solve these problems by way of communication and two-way negotiations, for example, through MAP, especially considering that in the context of the potential for double taxation due to the taxation system with worldwide income which is also applied by several partner country.

Basically, by declaring Indonesia's commitment to adopt the BEPS Project, especially BEPS Action 14 "Making Dispute Resolution Mechanism More Effective", it seems that the Indonesian government, especially the tax authorities, on solving a problem should not focus solely and heavily on the litigation process. The commitment to adopt BEPS Action 14 and the existence of domestic provisions to ensure that the negotiation should be carried out optimally. On the contrary, excessive correction, regardless of the existing provisions has shown that the tax authorities who have committed an act have exceeded their authority.

On the other hand, research by Agustin et.al, (2020) related to general audit quality at KPP PMA 6 for the fiscal year 2017-2019 stated that the legal remedies filed by taxpayers due to audits conducted by tax authorities were mostly won by taxpayers. In other words, Tax Assessment Letter and audits conducted by tax authorities are not completely reliable. Corrections made by tax authorities tend to be aggressive and mostly be rejected when brought to the tax court. For some taxpayers, the tax audit is responded with hassle and reluctance behavior because the carried-out audit may be driven by the fulfillment of the state revenue target.

The existence of judges to ensure that the tax authorities and taxpayers comply with the applicable provisions should help select substantive truth in settlement of tax disputes. However, in reality this role has not been able to become a solid instrument to show the substantive truth of the disputed cases between taxpayers and tax authorities. The ability of the tax court to produce products that has provided ascertain justice on a clear basis have still been questionable (Handika, 2012, 365). Research related to the function of the tax court in fiscal year 2010 noted that judges' decisions often did not thoroughly consider the facts of the trial. Often, events at court were not completely recorded and properly understood the substance of the matter in dispute, as a result, in various cases, judges decided not based on complete facts and evidence so that the examination of corrections made by the tax authorities is not fully carried out (Handika, 2012, 365).

Basically, the judge will decide the case based on the assessment of the evidence, the applicable tax provisions in connection with the disputed case and the judge's conviction. In deciding transfer pricing cases during fiscal year 2015-2019 , the decisions made by judges have not been consistent . In various cases, there were cases that were decided based on the applicable transfer pricing provisions, based on a systematic assessment of evidence and based on the conviction of the judge who had considered the trial of the case to be decided. However, there were also many cases that were settled with an inconsistent flow. Several conclusions have been noted by the researcher related to the decision making by judges whose decisions have not been consistently and systematically made regarding the corrections filed by the taxpayer's appeal. The findings abstracted by the author based on the tax court decision attached in the appendix is the following.

1)Decisions to accept or reject an appeal were made mostly based on the adequacy of the documents for most of the judges' decisions. The arguments submitted by the appellant were taken into consideration by the judge if the supporting documents have been deemed complete by the judge. The judges tend not to consider explanations and arguments with documents that were deemed insufficient so that the assessment on the material aspects of the dispute was not very relevant. Due to such conditions, the judge generally would reject the appeal of the appellant. Thus, for similar types of cases, the judge's decision may be different, depending on the sufficiency condition of the documentation submitted during the trial.

2)In most disputes, the judge's interpretation of the dispute was not conveyed in a clear and detailed manner, so that the verdict of the judge's decision was not convincing enough to be used as a reference for similar transactions. Judges never have conveyed indicators that a transaction can be said to have met the fairness principle. The judge's opinion regarding the indicator that a transaction can be determined to be arm's length is quite crucial, especially for disputes related to royalty payments. Decisions submitted were solely the final verdict on corrections, for example whether an appeal would be fully accepted, partly or rejected. In this case, the judge tends to play a role in carrying out administrative duties rather than finding the law.

3)In various decisions, the judge did not even evaluate the details of the documents submitted by the appellant. The judge maintained the correction solely because the transaction filed for appeal was different from the taxpayer's transaction for the same type of transaction in the previous year (for example, referring to Put-79846/PP/M.XII/A/15/2017).

Regarding such conditions, judges and tax court institutions need to improve their capability and capacity, especially on dealing with transfer pricing issues. Quoting the statement of Madjono Reksodiputro in Handika's research (2012, 371), it was said that judges should play the role of norm enforcer and lawmaker on a case whose reference basis has been not clear enough, not just an administrator who examines the fulfillment of documentation and administration matters. Thus, the role of judges is not only law enforcer, but as justice enforcer. In the context of transfer pricing problems, it is advisable that the judge in his decision establish an indicator that a transaction can be declared has to satisfy the arm's length principle. The existence of such valid indicators can be a reference or a basis for taxpayers and tax authorities to assess the fulfillment of the arm’s length principle of particular transaction. Thus, judges can play a more essential function than just an administrative function that makes decisions solely by examining documents submitted by taxpayers. With this vital role that is carried out, things that judges decide can be followed and become a source of a new law for both tax authorities and taxpayers. In the current pattern of decision-making, when the judge is still solely carrying out an administrative role, it means that the decision made is only a solution to that particular case. It cannot be escalated to become a reference for potential similar cases.

With such judicial conditions not functioning optimally, several tax authorities who are in charge of examiners believe that there is still room to correct the taxpayer documents, which will lead to a dispute even though there has been a similar decision on dispute following the personal understanding of the tax authority who is in charge of examining a document. From the tax authorities’ perspective who was in charge of auditing, the argument that Indonesia does not adhere to a jurisprudential legal system is used as justification for making corrections.

The successful implementation of transfer pricing provisions will develop over time, which heavily depends on i) the level of economic development in a particular country, ii) tax administration practices iii) human resource capacity, iv) improving information technology and v) the level of taxpayer awareness (Abedellatif, 2019). With the current context in Indonesia, tax audits or compliance assessment which still tend to be non-automated using a manual system will not be able to optimally increase taxpayer compliance. Monitoring compliance by optimizing technology as a system that forces taxpayers to comply is an urgent need. This will be able to increase the scope of supervision of taxpayers compared to merely manual corrections which can only reach a small proportion of taxpayers. Monitoring of taxpayer's compliance with technology, for example, by injecting the inter-locking system on various tax obligations will create an effective and efficient supervisory process. It seems that with the modernization of the tax administration system, the assessment should be made on selective coverage. It means that the examination only be made to the taxpayers categorized as high-risk taxpayers by the proven modern system. The disputes should reduce if the tax authority perform the audit to the high-risk taxpayer.

In carrying out the provisions of transfer pricing in the post-BEPS era, in which Indonesia has been committed to carrying it out, the current transfer pricing policy direction should prioritize the principles offered in the BEPS Project. When a problem arises those results in uncertainty in business activities due to taxation issues, for example, a dispute that has the potential to cause double tax burden due to transfer pricing corrections, the settlement should not focus solely on litigation. The BEPS Action Plan as adopted into domestic provisions should optimize communication between interested parties, for example through negotiations such as through MAP or arbitration. With the non-litigation option, of course the settlement begins with good faith to resolve the problem as the basis for conducting the MAP.

CONCLUSION

Basically, Indonesia has adopted transfer pricing rules in the Income Tax Law since 1984 when tax reform began. However, the technical guidelines for assessing the fulfillment of the arm's length principle to be implemented by the tax authorities were formulated in 2010 and effectively implemented in 2011. There have been provisions regarding transfer pricing as regulated in PER-43/PJ/2010 jo. PER-32/PJ/2011 concerning the Application of the Principles of Fairness and Business Customary in Transactions between Taxpayers and Related Parties has become an implementing provision to test taxpayer compliance where the provisions are drawn up with reference to global transfer pricing guidelines. The trend of how the transfer pricing cases have also been settled quite variety through the periods.

In conducting the audit, it should be done to ensure that the taxpayers have fulfil their tax obligation following transfer pricing provision. In practice, on the tax audit process, the tax authority plays the role of ensuring that certain criteria have been met so that corrections and adjustments can be made for inaccuracies in compliance with the provisions. However, when the audit was conducted, the taxpayer was placed in a guilty condition so that the settlement will be led to the litigation process. Certainly, in submitting the transfer pricing documentation, the taxpayer must comply with the applicable regulations. However, reflecting to the cases, the, certain taxpayer seems not fully disclose the information regarding to the business and his tax obligation.

In many cases, disputes occur not solely due to the interpretation of the applicable provisions or examination of the existence of transactions. However, there have been various disputes due to matters related to treatment or assessment techniques. Disputes caused by this happen quite often and even take up a sizeable portion of the disputes that were decided in the year of 2015-2019. The current transfer pricing audit process has still not been integrated. The pattern of repeated disputes has not become an important concern. In addition, the disputes that have been decided and how the decisions related to the dispute have not become a meaningful reference when an examination was carried out.

The Directorate General of Taxes as a tax administration institution, needs to seek to increase the tax auditor knowledge related to transfer pricing so that in monitoring compliance and conducting audits has not solely related to technical audits. Similarly, the taxpayer in carrying out their obligations, should comply with prevailing regulations. Submission of information regarding transactions with related entities should be carried out based on actual conditions. Transfer pricing documentation should also be carried out by conveying information that emphasizes the principle of fairness by using reliable and trustworthy information. In deciding a case, the judge's decision should be a means to create legal certainty, and benefit from dispute resolution and justice enforcement. The judge's decision should be a reference for similar events that may occur in the future. Thus, judges as individuals who decide cases need to always improve their competence, follow scientific developments related to transfer pricing, and follow global business developments.

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APPENDICES

Appendix 1. Provisions regarding Income Recognition Mechanisms in Various Partner Countries in relation to Transfer Pricing Disputes (2015-2019)

No.	Country	Tax Collection System	Overseas Income Recognition Mechanism	Provisions regarding Special Relationships
1.	Japan	A corporate WPDN is an entity whose head office or main office is located in Japan. WPDN is taxed on worldwide income, and WPLN is taxed on the basis of income originating from Japan. Taxation on dividends gets special treatment.	Japan applies for a tax credit on income from abroad with a specific limit, which is proportional to the share of tax debt paid in Japan. Excess tax payments from income abroad that cannot be calculated in the same tax year can be compensated for up to the nextthree3 years. The effective income tax rate is around 23.2%	An entity is said to have a special relationship if the share ownership directly or indirectly is 50% or more over there is a substantial "control in substance" or "other special relationship" relationship (Delloitte, 2020). The 50% test on direct or indirect ownership is carried out on (a) the total shares issued (voting and non-voting) by other residents and (b) the amount invested in other residents. Other unique relationships in question are (PwC, 2014): • 50% or more of the employees of one entity are part of the employees of another entity • Representative Director of an entity is an employee of another entity • Most transactions related to the operational activities of an entity to other entities. Transactions for activities related to these operational activities take up the most significant portion of total income • Most of the debts of one entity are borrowed or guaranteed from other entities.

2.	South Korea	WPDN is taxed on a worldwide income basis. WPLN is subject to tax on income originating from South Korea.	South Korea applies for a tax credit on income earned by domestic taxpayers originating from abroad to a certain extent. Overpayment of tax from overseas income that cannot be calculated in the same tax year can be compensated for in the next tax year for up to 5 years.	A special relationship can be defined by following the following criteria: • Direct or indirect share ownership of 50% or more of voting stock in other entities. • There is a relationship between 2 entities where a third entity/third party owns 50% or more shares directly or indirectly from the share ownership of the two entities • The existence of a relationship between entities with the same interest in investment capital, trade in goods and services, providing loans, or other matters where one party has substantial power to determine the business decisions of the other entity. • The existence of a relationship between entities with the same interest in investment capital, trade in goods and services, providing loans, or other matters in which a third party has substantial power to determine the business decisions of other entities.
3.	Hongkong	Hong Kong adopted a territorial tax system. There are no provisions related to residents and non-residents, and there are initiating provisions between the two regarding tax obligations, except for applying P3B provisions. For P3B, residency determination is based on the entity established in Hong Kong and has a management and business control center in Hong Kong.	Hong Kong does not regulate income earned from abroad, including whether the income is sent to Hong Kong or not.	Associated person refers to the "participation condition" Participation condition refers to pada: • One of the affected persons was participating in the management, control, or capital of the other affected person, • The same person or persons was participating in the management or control
4.	Singapore	Singapore adopts a territorial system of income originating from Singapore and income from other jurisdictions sent (remittance or deemed remittance) to Singapore unless other provisions govern this matter.	Singapore applies a tax credit system on taxes paid by its residents based on income outside its jurisdiction. The credit system is normal. The standard tax option applies to income in the form of dividends; branch profits are revenue from services obtained by residents from abroad.	'The related party, about any entity, means any other entity which directly or indirectly controls that entity or is controlled, directly or indirectly, by that entity, or where both entities, directly or indirectly, are under the common control of a common entity".

4.	Singapore	Singapore adopts a territorial system of income originating from Singapore and income from other jurisdictions sent (remittance or deemed remittance) to Singapore unless other provisions govern this matter. A Singapore Entity WPDN is an entity established in Singapore or has a control center or management center in Singapore. It is generally considered a resident of Singapore if the strategic meeting of the board of directors is held in Singapore.	Singapore applies a tax credit system on taxes paid by its residents based on income outside its jurisdiction. The credit system is normal. The standard tax option applies to income in the form of dividends; branch profits are revenue from services obtained by residents from abroad. Income Tax Rates 17%. For WPLN, for example, branches, do not benefit from the Singapore tax system regarding unilateral tax relief and foreign income tax exemption.	'The related party, about any entity, means any other entity which directly or indirectly controls that entity or is controlled, directly or indirectly, by that entity, or where both entities, directly or indirectly, are under the common control of a common entity".
5.	Netherland	WPDN is taxed on a worldwide income basis. An entity is said to be a Dutch WPDN if it is established under Dutch law, or the place of effective management is in the Netherlands. Place of effective leadership can refer to: • Places where vital business decisions are made • The place where the director works and conducts various meetings • The place where all books related to business activities are kept and where financial reports are made/published • The place where the shareholders meet • Place where business activity is registered • • The place where the business entity is established	The Netherlands applies for a unilateral tax credit on dividends, interest, and royalties on a limited basis on income earned from outside its jurisdiction, both from countries that have a tax treaty with the Netherlands and countries that do not have a tax treaty with the Netherlands. In some instances, the tax received from the income is not credited in the Netherlands.	"Where an entity participates, directly or indirectly, in the management, control or capital of another entity, and conditions are made or imposed between these entities in their commercial and financial relation (transfer prices) which differ from conditions which would be made between independent parties, the profit of these entities will be determined as if the last-mentioned conditions were made."
6.	Mauritius	WPDN is taxed on a worldwide income basis. Non-residents (WPLN) are charged on income earned in Mauritius. An entity is categorized as a WPDN if it is established in Mauritius and has its effective management and control center located in Mauritius. However, entities shown in Mauritius but with management and consent from outside	Mauritius applies for a tax credit on income earned from abroad on the same income. However, up to 80%, the partial exemption can be used for certain income originating from abroad. If the exemption applies, then the tax that has been paid cannot be credited.	Mauritius has no provisions regarding transfer pricing. However, there are regulations governing the arm's length test if transactions between parties are considered to have a special relationship, even though there are no provisions regarding group entities in the Mauritius tax provisions. Provisions regarding arm's length are intended to reflect the objective commercial value of a transaction that is used to assess the size of the transaction if it is not carried out by an entity that

7.	Cayman Island	Cayman Island does not apply taxes on corporate income, capital gains, or other taxes imposed on corporations. Cayman Island corporations that carry out business activities outside of Cayman Island can register as an 'exempted company.' .		
8.	Germany	German WPDN is taxed on a worldwide income basis, except for the WPDN, the tax treaty mandates special treatment. An entity is said to be a WPDN if its head office is registered in Germany and where its effective management is located. Income in the form of dividends by the German WPDN obtained from income from abroad is exempt from taxation.	The tax paid on income earned from abroad can be a tax credit. Certain income, such as dividends and capital gains, are exempt from taxation.	A special relationship can be defined as follows: • The existence of an entity that has direct or indirect ownership of at least substantial participation over another entity in terms of influencing to control or vice versa; significant participation can also be in the form of an individual who exercises direct or indirect control or influence • A third party that has substantially participated in two parties, and the third-party influences or controls both parties directly or indirectly. • some parties or taxpayers can show influence on the business relationship between other taxpayers or parties that affect the provisions in a contract regarding the business relationship or parties who have their interests in the income earned by other parties. In Germany's domestic provisions, the arm's length principle also contains a hypothetical arm's length "the definition of arm's length principle, including the notion that also unrelated parties would have acknowledged on all relevant facts and circumstances of the transaction and would act as prudent and diligent business mergers. This definition is supplemented by the hypothetical arm's length principle that shall be applied if the comparable set does not meet limited comparability requirements".

Appendix 2. Comparison of Provisions related to MAP and Transfer Pricing in Several Partner Countries in connection with Transfer Pricing Disputes (2015-2019)

No.	Country Name	Terms in MAP	Art 9(2)
1.	Japan	Available, refer to the OECD Model Tax Convention	Not Available
2.	South Korea	Available, referring to the OECD Model Tax Convention with the addition of Art 25(5), *"The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Agreement and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, tax reliefs or exemptions on income referred to in Articles 10, 11 and 12, received from that other Contracting State".*	Available, refer to the OECD Model Tax Convention.
3.	Hongkong	Available, refer to the OECD Model Tax Convention	Available, refer to the OECD Model Tax Convention
4.	Singapore	Available, refer to the OECD Model Tax Convention	Not Available
5.	Cayman Island	No P3B	No P3B
6.	Mauritius	No P3B, discontinued 2005	No P3B, discontinued 2005
7.	Netherland	Available, refer to the OECD Model Tax Convention	Available, refer to the OECD Model Tax Convention
8.	Germany	Available, referring to the OECD Model Tax Convention, added Art 25(4), "*The provisions of this Agreement regarding the reduction or exemption from taxes on income in the Contracting States where it arises shall be applied by the laws of that State and the procedures to be agreed by the competent authorities of both Contracting State's.*	Not Available

Appendix 3. Summary of Tax Court Decisions Won by Taxpayers & Tax Administration

No	Case Won by Tax Authority	Year Established	Cases Won by Taxpayers	Year Established
	Payment for the use of Intangible Property (Royalty Payment)			
1	Put-089897.15/2011/PP/M.IIA/2018	2018	Put -086980.15/2011/PP/M.XVIA/2	2018
2	Put-82925/PP/M.XVIIIB/15/2017	2017	Put - 81509/PP/M.XVIIIA/15/2017	2017
3	Put -80603/PP/M.IIIB/15/2017	2017	Put. 68310/PP/M.IVB/15/2016	2016
4	Put.84903/PP/M.XIA/15/2017	2017	Put.59386/PP/M.XIA/15/2015	2015
5	Put-84904/PP/M.XIA/15/2017	2017	Put.70118/PP/M. IA/15/2016	2016
6	Put -80603/PP/M.IIIB/15/2017	2017	Put. 62911/PP/M.XVB/15/2015	2015
7	Put.79846/PP/M.XII/A/15/2017	2017	Put. 62911/PP/M.XVB/15/2015	2015
8	Put-79851/PP/M.XIIA/15/2017	2017		
9	Put-73689/PP/M.XA/15/2016	2016		
10	Put-60993/PP/M.IVA/15/2015	2015		
Interest Payments on Loans Recharacterized as Capital				
11	Put -063157.15/2008/PP/M.XVIB/ 20	2018		
12	Put -091982.15/2008/PP/M.VIIIB/20	2018		
13	Put -79851/PP/M.XIIA/15/2017	2017		
14	Put -80671/PP/M.XVIIIB/15/2017	2017		
Payment on Intragroup Service Provision				
15	Put - 109167.15/2013/PP/M.XVIIIB/	2018	Put.73689/PP/M.XA/15/2016	2016
16	Put -092163.13/2006/PP/M.IIA/2018	2018		
17	Put - 81638/PP/M. XA/15/2017	2017		
18	Put -79851/PP/M.XIIA/15/2017	2017		
19	Put -68310/PP/M.IVB/15/2016			
Payment for Intragroup Sales				
20	Put -82597/PP/M.XIIA/15/2017	2017	Put -87397/PP/M.VIB/15/2017	2017
21	Put -68106/PP/M.XIIB/15/2016		Put.62007/PP/M.IA/15/2015	2015
Payment for Intragroup Purchases				
22	Put. 82405/PP/M.XIVB/15/2017	2017		
23	Put - 73688/PP/M.XVIIIA/15/2016	2016		
Disputes due to Technical and Administrative Aspects				
Disputes due to Differences in the Selection of Comparative Data				
24	Put -59284/PP/M.VIA/15/2015	2015	Put-107348.15/2013/M.XIV.B/2018	2018
25	Put -61248/PP/M.XVA/15/2015	2015	Put -107945.15/2013/PP/M.IIIA/201	2018
Disputes due to Differences in Arm's Length Assessment Method				
26			Put-107348.15/2013/M.XIV.B/2018	2016
27			Put.69375/PP/M.XIIB/15/2016	2016
28			Put.68375/PP/M.XIIB/15/2016	2016
29			Put.69440/PP/M.IIIA/15/2016	2016
Disputes due to Improper Audit Process				
30			Put -81622/PP/X.XIVA/15/2017	2017
31			Put.84911/PP/M.XIIIA/16/2017	2017
32			Put.84911/PP/M.XIIIA/16/2017	2017
33			Put.84913/PP/M.XIIIA/16/2017	2017
34			Put.84914/PP/M.XIIIA/16/2017	2017
35			Put. 84915/PP/ M. XIIIA/ 16/2017	2017
36			Put. 84916/PP/M.XIIIA/16/2017	2017
37			Put. 84917/PP/M.XIIIA/16/2017	2017
38			Put. 84918/ PP/ M. XIIIA/16/2017	2017
39			Put. 84919/PP/M.XIIIA/16/2017 (	2017