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Agenda item : 3.1

Treatment of Royalty and Licencing SPEs in Dutch National Accounts

Introduction

The Task Force on global production (TFGP) was created by the Conference of European Statisticians (CES) Bureau in November 2011. TFGP is preparing a Guide to measuring Global Production, which aims to assist national accounts and balance of payments compilers in recording global production related activities in their accounts. The current paper is written on request of the TFGP by Statistics Netherlands to provide additional insights with respect to the treatment of Special Purpose Entities (SPEs).

The paper presents the research issues and conclusions of Statistics Netherlands with respect to the classification and methodology of Dutch royalty and licencing SPEs. Special attention is given to the issues related to the recording of output and related transactions of this type of SPEs in the national accounts.

Guidance on documentation provided

This paper is prepared following a request by the TFGP.

Main issues to be discussed

The AEG is requested to express their views on the decisions made by Statistics Netherlands with respect to the classification and methodology of royalty and licencing SPEs as formulated in the suggested discussion points presented in section six of the paper.

Treatment of Royalty and Licencing SPEs in Dutch National Accounts

Statistics Netherlands[1]

1. Introduction

1. With the introduction of the European System of Accounts 2010 (ESA 2010) guidelines for the compilation of the national accounts, Statistics Netherlands has commenced on a major benchmark revision of the Dutch national accounts. During this major benchmark revision – devised on the reporting year 2010 – the methodologies and sector classification of entities have been reassessed to ensure compliance with the ESA 2010 guidelines. As part of this endeavour, research has been carried out directed at developing concrete standards with respect to the classification and methodology of royalty and licencing special purpose entities (R&L SPEs).

2. R&L SPEs are defined as entities that are specialized in the collection of worldwide revenues derived from the usage of intellectual property rights or trademarks (IPRs) by affiliated or unaffiliated entities.[2] These companies act as a cashier on behalf of their parent company in the invoice of the royalties and licence fees (on the basis of sublicences), or collect these royalties and licence fees on their own account. The latter group normally owns the IPRs themselves, whereas in the first case the SPE only owns sublicences.[3] What makes these entities special purpose entities is the fact that these entities are regarded as brass plate entities. They most commonly do not have any employees and the revenues are redirected (in the form of profits or royalty payments) to a parent company outside the economical territory.

3. The research issues and conclusions of Statistics Netherlands with respect to the classification and methodology of Dutch R&L SPEs are presented in this paper. Special attention will be given to the issues related to the recording of output and related transactions of royalty and licencing SPEs in the national accounts. First the conceptual framework within which the research has been carried out is outlined by providing background information on the properties of Dutch R&L SPEs and the methodology that was applied to compile the national account statistics of R&L SPEs before the major benchmark revision of 2010. Thereafter, the international guidelines available at the time of the research and the resulting conclusions with respect to the sector classification of R&L SPEs are presented in section three.[4] Subsequently, section four presents the methodology developed by Statistics Netherlands to compile the output and related transactions of R&L SPEs. A summary of the results is provided in section five. The paper concludes in section six with the presentation of several discussion points.

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[1] Prepared by Bram de Boo and Tom van Venrooij. The authors thank Mark de Haan for his comments on the draft version of this paper.

[2] In this paper the term intellectual property rights and trademarks (IPRs) is used when the intellectual property assets referred to can be either produced – intellectual property products (IPPs) – or non-produced – intellectual property (IP) – assets.

[3] Three types of R&L SPEs can be distinguished: (1) R&L entities that own the IPRs, (2) R&L entities that own a licence to collect revenue from IPRs, and (3) R&L entities that collect R&L revenues on IPRs owned by another company on the basis of sublicences. The last group of R&L entities are solely a cashier in the invoicing of revenue on account of another entity.

[4] This research has been carried out in early 2013 and therefor the references to the sources used for this research include only literature available at that time. Several of the sources that have been used – e.g. the report of the Task Force on Holding Companies, Head Offices and SPEs – are not the final version of the reports as these had not been produced by then.

2. Background

4. This section of the paper provides background information with regards to the (potential) motives and properties of Dutch R&L SPEs and the previously applied methodologies to compile the national account statistics of these entities. This section aims to provide the outline of the conceptual framework within which the current research has been carried out.

Properties of R&L SPEs in the Netherlands

5. Since the major benchmark revision of 2001 SPEs are included in the Dutch national accounts. During the revision of 2001 a decision three has been developed by which three types of SPEs can be identified: financing/holding, factoring and R&L SPEs. On the basis of theoretical as well as practical views, the decision was made to classify all SPEs in the sector Other financial institutions (ESA 1995 sector S.123). With respect to R&L SPEs, the theoretical argumentation for the classification of these entities as financial corporation was, among others, the fact that this type of SPE is essentially an investment vehicle – although only investing on behalf of the parent company and not, as is the case with for example mutual funds that are also included in S.123, for a large public –, owning licences and copyrights or sublicences to the assets. Given their special nature, this type of SPE could be included in S.123 as well. From a practical point of view, too, it was more convenient to classify all SPEs within the same (sub)sector, because an integral registration of SPEs is used to compile the SPE statistics and it would be difficult to make a split in this source data on type of SPEs. Even if it would have been possible to make the breakdown by type of SPE for the sample population, this information was not available for the benchmark population and this would have required annual surveys – as the size and type of transactions of SPEs can change overnight –, which would have been cost intensive.

6. Further reasons to classify Dutch R&L SPEs as financial institutions can be found by taking a closer look at the nature and motives of these entities. The main reasons for multinationals to set up R&L SPEs in the Netherlands can be found in the large amount of tax treaties that the Netherlands has with other countries and the tax laws specifically aimed at fostering innovation by offering tax redemptions on royalties. The combination of these tax treaties and specific R&L regulations make the Netherlands an attractive location for the throughput of R&L flows. These R&L flows are then directed to tax havens in which the profits derived from these R&L services are subject to limited taxes – the so-called 'Double Irish/Bermuda' structures.[5] The Dutch tax laws do not make it particularly attractive to report high profits in the Netherlands. This modus operandi of a typical Dutch R&L SPEs, shows that the Dutch entity is likely to merely act as a royalty conduit within the international structure of the multinational and hence does not generate revenue from the exploitation of non-financial assets like typical non-financial entities do.

Previous methodology

7. At the time of the introduction of (R&L) SPEs in the Dutch national accounts in 2001, the source data available was limited. Information on cross-border transactions of SPEs was obtained from the Balance of Payments (BoP) survey conducted by the Dutch central bank. However, the level of detail was much more limited than information on regular corporations and the sample of SPEs was small. However, on the basis of the available data and additional estimations based on assumptions, a full set of

[5] A 'Double Irish/Bermuda' structure implies royalty payments from the Irish company based in Ireland which are routed to the other Irish company based in Bermuda via the Netherlands. The royalty payment from Ireland to the Netherlands is covered by tax treaties that prohibit Ireland to levy a royalty withholding tax. In the Netherlands a relatively small spread can be taken out from which the Dutch entity pays its operating expenses (e.g. 1%). The onward payment of the other 99% of the royalty income of the entity in the Netherlands to Bermuda is not subject to any withholding since the Netherlands has no royalty withholding tax.

accounts for the (R&L) SPEs was compiled. This section will provide some insights in the developed method to compile the output and related transactions of R&L SPEs. This method was used to compile the R&L SPE statistics up to the major benchmark revision of 2010.

8. With respect to the R&L SPEs, it was concluded that these SPEs hold non-financial assets and provide services on the basis of their royalties and licences, which are to be recognized as output in the national accounts. The production value of royalty and licence fees was determined as the exports of these services for the account of the SPEs.[6] Not all exports are regarded as production of the SPE, because part of the exports originates from imports. For this type of flows, the SPE was considered as merely a link in the transit of royalty and licence fees on behalf of their parent company. The parent company provides services on the basis of royalties and licences to the SPE, whereas the SPE (on the basis of sublicences) passes these services on to the ultimate customers/users. This part of the imports and exports is regarded as re-exports in the Dutch National Accounts. These re-exports do not form part of the production or intermediate consumption of SPEs.

9. In addition to the methodology to compile the output of R&L SPEs, a method had to be developed to compile statistics on the gross fixed capital formation, since no source data was available for this variable. Based on the notion that Dutch R&L SPEs function as mere conduits of R&L services, the assumption was made that the gap between imports and exports of R&L services cannot show too much fluctuation as any fluctuation in exports will normally also be reflected in fluctuations in imports. Therefore, the assumption was made that incidental fluctuations in the gap between imports and exports are the result of acquisitions (or disposals) of IPRs or (sub)licences. When such a gap occurs, the assumption was made that this was caused by an acquisition of non-financial assets. Instead of recording these amounts as imports of services, these amounts will be recorded as gross fixed capital formation. This methodology, however, resulted in implausible results of gross fixed capital formation, because the exports continuously exceeded the imports and this resulted in constant disinvestment in IPR assets. This was implausible, because the R&L services based on these underlying assets increased over time. Consequently, additional imputations had to be made. Statistics Netherlands aimed at improving the methodology with the benchmark revision of 2010.

3. Sector classification R&L SPEs

10. With respect to the sector classification of R&L SPEs, Statistics Netherlands has not only used the guidelines in ESA 2010, but also interpreted the guidelines offered by the Task Force on the Recording of Certain Activities of Multinationals in the National Accounts (TF MUNA) and the Task Force on Holding Companies, Head Offices ad SPEs (TF HC-HO-SPE). These additional references were helpful as the ESA 2010 guidelines were considered insufficient for this specific type of SPEs.

11. This section first presents the concrete classification criteria developed by Statistics Netherlands. Thereafter, on the basis of these classification criteria, three main types of Dutch R&L SPEs are identified. Finally the results of the research with respect to the sector classification of R&L SPEs are presented.

Classification criteria for R&L SPEs

12. Regarding the classification of different types of SPEs, the TF MUNA concludes in table 1 of its final report that SPEs that are the owner of non-financial intangible assets should be classified is a non-

[6] In the total production of R&L services by SPEs an estimation of the R&L services that are produced for national entities was included. However, the value of the output for the national economy is insignificant in comparison to the export and therefore for simplification is not included in the argumentation of this paper.

financial corporation (S.11).[7] The TF HC-HO-SPE updated this table in accordance with the ESA 2010 guidelines and concluded that the new guidelines have not changed the preferred classification of SPEs that are the owner of non-financial intangible assets. However, both papers fail to specify the definition of economic ownership of the IPRs. The final paper of the TF HC-HO-SPE specifically mentions this issue as being unsolved. In this respect, the AEG requested the Task Force on Global Production to put forward more concrete proposals.[8]

13. The issue of economic ownership is relevant with respect to the classification of R&L SPEs, because the sector classification of an R&L SPE as financial or non-financial entity depends on whether or not the SPE has economic ownership of the IPRs. This issue becomes especially relevant when an SPE holds both financial and non-financial assets. In the course of the benchmark revision focussing on the reporting year 2010, the available guidelines were too ambiguous to properly determine the sector classification of the Dutch R&L SPEs and Statistics Netherland had to develop criteria to identify and classify (potential) R&L SPEs as either financial or non-financial institutions.

14. Statistics Netherlands employs two criteria which an SPE has to satisfy in order to be classified as a non-financial R&L SPE are:

a. *Ownership criterion*: the SPE is considered the economic owner of the IPRs when these assets are represented on its balance sheet in the annual accounts;

b. *Primary activity criterion*: the SPEs primary activity is regarded the exploitation of IPR when the revenue generated by the assets dictates the overall revenue reported on the profit and loss account in the annual accounts.

15. The ownership criterion tests – in line with the guidelines explicated by the TFs – whether or not the SPE has the economic ownership over the IPRs and assures that an SPE is only classified as a non-financial corporation when it generates revenue from non-financial assets. With this criterion Statistics Netherlands follows the perspective that the legal owner is also the economic owner. This line of reasoning is based on paragraphs 4.27, 10.100 and 17.300 of SNA 2008, which all state that the entity which carries the risks and rewards of assets should be regarded the economic owner of the asset. The only practically applicable measure to decide which entity carries the risks and rewards is to investigate which entity is the legal owner of the assets and to assert that this entity also has the economic ownership of the asset.

16. The primary activity criterion assures that an entity which functions both as a collector of royalty and licencing fees and as a holding company within a multinational corporation, is only classified as a non-financial corporation when the revenue from IPRs exceeds the revenues from the holding activities. If the revenues of the IPRs do not dominate the profit and loss account, then the SPE is classified according to its primary activity – for example as a holding SPE in the sector Captive financial institutions and money lenders (S.127) when the profit and loss account mainly consists of revenues from holding activities.

17. When both criteria are satisfied, the SPE is classified a non-financial corporation (S.11). When one of the criteria is not satisfied, the SPE is considered a financial hub in the multinational corporation, since its main purpose is not to generate revenue based on the ownership of non-financial assets and the entity is classified as a financial SPE (S.127).

Results application classification criteria

[7] See Annex 1 for a full overview of the table in the final report of the TF MUNA.

[8] In its concluding paper of the 8th meeting of the AEG – which was held in September 2013 and therefor the results of this meeting are not incorporated in this research –, the AEG requested for further clarification from the TFGP in paragraph 14 and 15.

18. In the Dutch business register no identifying variable for R&L SPEs exists and therefore there was no population of IPR holding SPEs available at the start of the research. However, the source data of the SPEs –gathered by the Dutch central bank (DNB) – has improved in comparison to the data available at the time of the previous major benchmark revision of 2001. The improved quality and quantity of variables in the source data is used to assemble the population of potential R&L. This population of potential R&L SPEs is constructed by compiling a list of all SPEs that report imports or exports of royalty and licencing services to DNB.

19. The characteristics of this population of potential R&L SPEs are as follows. The size of the population of R&L SPEs relative to the total amount of SPEs in the Netherlands is less than 1%. Of the total SPE population of around 14.000 entities, less than 50 entities report imports or exports of royalty and licencing services. The total amount of exports of R&L services reported in 2010 amounts to just over 1.4 billion euro. Only 20 entities report a significant amount of imports or exports of R&L services (>10 million euro). The 7 major reporting entities are responsible for almost 95% of the total reported exports and imports of these services.[9] Another relevant figure with respect to the R&L SPEs is the level of transactions in IPR assets. In 2010 the population of potential R&L SPEs reported a net acquisition of IPR assets of 75 million euro. From the figures in this paragraph, the conclusion can be drawn that there is a relatively small amount of potential R&L SPEs and that only a few entities report a significant amount of R&L services.

20. To decide on the classification, data from public annual reports has been analysed to test whether the potential non-financial R&L SPEs satisfy the ownership and primary activity criterion. The results of this analysis provided Statistics Netherlands with three types of different R&L entities, of which one type satisfies the criteria to be classified as a non-financial corporation and two types do not satisfy these criteria. Below these three types are presented with the aid of examples[10]:

a. *No ownership of IPR*: This group of entities fails to satisfy the ownership criterion, because the IPR is not presented on the balance sheet in the annual report. The entity Google Netherlands Holding B.V. (GNH) is an example of this kind of entity. From the balance sheet in the annual reports, it becomes clear that this entity does not have the ownership rights on the IPR even though a detailed table of the profit and loss account reports an income of over 5.7 billion euro from R&L services. A further indication of the lack of ownership of the IPR can be found in the fact that GNH also reports an expense of R&L services, roughly equal to the income. If the company would be the owner of the IPR, the profit generated from the exploitation of the asset would be transferred to the affiliated company abroad through dividend payments or reinvested earnings.

b. *Ownership of IPR but not primary activity*: This group of entities does have ownership of the IPRs, but fails to satisfy the primary activity criterion. An example of this kind of entity is Mosaic Global Netherlands B.V. (MGN). The balance sheet of this entity reports non-financial intangible assets and the profit and loss account presents income from these assets. However, the income from these assets is relatively small compared to the income from the financial assets (dividend income).The entity should not be classified as a non-financial institution, because its main activity cannot be considered to be generating income from non-financial assets.

c. *Ownership of IPR and primary activity*: This group of entities satisfied both criteria and should be classified as a non-financial corporation. It is challenging to find an entity that satisfies both criteria, since most entities that present the IPR assets on their balance sheet also report substantial financial assets on their balance sheet – generally intercompany loans or receivables –, which also leads to income from these financial

[9] From this top 7, the largest exporter and importer of R&L services is responsible for almost 40% of the total exports and imports reported by the entire SPE population.

[10] Annex 2 presents the relevant data from the annual reports of these examples.

assets on the profit and loss account. The most appropriate example of this kind of entity is U2 Limited (U2L). The IPRs are recorded on the balance sheet and the income from the exploitation of these IPRs makes up the majority of the income presented on the profit and loss account – the income from the substantial amount of financial assets (interest and similar income) is only limited compared to the relative size of these financial assets on the balance sheet.

Conclusions on sector classification

21. The entities which reported substantial amounts of exports and imports of R&L services did not satisfy the criteria to be classified as non-financial corporations. The gross amount of the population of R&L SPEs could be classified in class a and b with respect to the division presented in paragraph 20 above. The extensive research of the annual reports resulted in the identification of less than five true non-financial R&L SPEs according to the developed criteria (type c in paragraph 20 above). Of these five entities, none recorded significant amounts of exports in R&L services or acquisitions of non-financial assets, as can be seen from the data for U2L in Annex 2.

22. On the basis of these results, Statistics Netherlands has decided that all suspected R&L SPEs are in fact financial SPEs in anticipation of the development of concrete guidelines by either the AEG or the TFGP. In this way all Dutch R&L SPEs are recognized as royalty conduits, which provide services to the parent company. The strongest indication that the Dutch R&L SPEs do not own the intellectual property assets and therefore are not non-financial entities that generate revenue from the exploitation of these non-financial IPRs, can be found in the fact that almost all R&L SPEs reports an expense of R&L services roughly equal to the income of these services (type a and b in paragraph 20 above). This shows that the Dutch entity does not generate a substantial profit from the royalty transactions, which is an indication that the rewards (and risks) of the assets are not carried by the Dutch entity and therefore the Dutch entity cannot be identified as the economic owner of the IPR. If the company would be the owner of the IPR, the Dutch entity would transfer the profit generated from the exploitation of the asset to the affiliated company abroad through dividend payments or reinvested earnings and this is not the case.[11]

4. Methodology

23. In this section the applied methodology with respect to the recording of output and related transactions of royalty and licencing SPEs in the national accounts is presented.

24. Statistics Netherlands compiles the data of SPEs in the national accounts with the aid of data from the Dutch central bank. Since SPEs are able to report exports and imports of R&L services, this data is used directly in the national accounts. The rationale behind the measure of output and intermediate consumption that is provided in this paragraph is similar to the one applied before the major benchmark revision of 2010. The production value of royalty and licence fees is determined as the exports of these services for the account of the SPEs. Not all exports are regarded as production of the SPE, because part of the exports originates from imports. For this type of flows, the SPE is merely a link in the transit of royalty and licence fees on behalf of their parent company. The parent company provides services on the basis of royalties and licences to the SPE, whereas the SPE (on the basis of sublicences) passes these services on to the ultimate customers/users. This part of the imports and exports is regarded as re-exports in the Dutch national accounts. These re-exports do not form part of the production or intermediate consumption of SPEs. This approach can be called a net approach, since only the revenue from services

[11] This conclusion reached on the basis of the research of the annual accounts, confirms the postulated expectations with respect to the motives and properties of Dutch R&L SPEs set out in section 2.

that exceed the costs charged by the parent company to the Dutch SPE is regarded as production of the Dutch SPE.

25. Since the R&L SPEs are not recognized as independent non-financial institutions, but are classified as financial SPEs (as their activities are similar to invoicing or holding SPEs), the guidelines from the AEG table (see annex 1) prescribe a sum of costs approach to measure overall production of the sector. To enable both the incorporation of the source statistics with respect to the production of R&L services and the sum of costs approach to measure the total output of the SPE sector, Statistics Netherlands makes an imputation on the production from the source data when the total production in the source data – including the production of R&L services as explained in paragraph 24 above – exceeds the sum of costs. This imputation is made at the macro-level and consists of a correction of the reported intercompany services. In this way, the source statistics with respect to R&L service do not have to be imputed and the weaker source data with respect to intercompany services can be imputed. The imputation is made at the macro-level and not for individual R&L SPEs due to the fact that the source statistics do not allow Statistics Netherlands to identify the R&L SPEs and hence cannot make imputations at the micro-level.[12] Research is however being set up to gain more information concerning the R&L SPEs and possibly enable an identification of these entities in the future.

26. With respect to the capital account formation, research of the annual accounts of (R&L) SPEs that reported significant levels non-financial assets to the Dutch central bank has shown that these non-financial assets mostly concerned non-produced assets such as goodwill, trademarks and brands. Only an insignificant amount of these non-financial assets concerned produced non-financial assets such as the output of research and development and artistic originals.[13] Statistics Netherlands used two arguments to record all reported acquisitions and disposals of IPR assets as non-produced assets. First, the research of the annual accounts provided sufficient evidence that the reported acquisitions and disposals of non-financial assets had to concern non-produced assets. Secondly, the SPE questionnaire of the Dutch central bank does not provide (R&L) SPEs with the possibility to differentiate between different types of assets and hence Statistics Netherlands is practically unable split the assets into produced and non-produced assets. Since all reported changes in non-financial assets are regarded as non-produced assets, no gross fixed capital formation is recorded in the national accounts for SPEs, but the source data is used to compile statistics on acquisitions less disposals of non-produced assets (NP). The research has brought to light the importance of the possibility to differentiate between produced and non-produced assets and hence Statistics Netherlands and the Dutch central bank have worked together on a new questionnaire design with different variables, which enables the division between produced and non-produced assets. The results from this new questionnaire will be used in the future to test the assumption that all reported values concern non-produced assets.

27. All profits/losses of the SPE are attributed to the foreign parent company and therefore the net lending/net borrowing of the SPE will, apart from its gross fixed capital formation and acquisitions less disposals of non-produced assets (NP), equal zero. It is assumed that all acquisitions of (non-produced) assets are financed by the foreign parent company via financial transactions (and are not covered by current receipts and expenditures), which in practice implies that net lending/net borrowing equals the acquisitions less disposals of non-produced assets.

5. Conclusions

28. This paper has presented the research issues and conclusion of Statistics Netherlands with respect to the classification and methodology of Dutch R&L SPEs after the major benchmark revision of 2010. The

[12] In Annex 3 two simplified numerical examples of the imputation on the source data are provided.
[13] An example can be found in the annual accounts of U2L in Annex 2, whose reported intangible assets can be assumed to be artistic originals. The value of these assets amounts to approximately 500.000 euro.

first section focussed on the applied classification and methodology before the major benchmark revision of 2010 and showed that the Dutch IPR holding SPEs were classified in ESA 1995 sector S.123. The methodology for the compilation of output and related transactions was based on limited source data that was accommodated with estimations. Thereafter the focus shifted towards the research of R&L SPEs that was aimed at improving the classification and methodology in line with the new international guidelines in ESA 2010.

29. With respect to the classification, in line with the interpretation of the ESA 2010 guidelines two criteria have been developed to test whether or not a potential R&L SPE should be classified as a non-financial or financial entity. These criteria are the ownership criterion and the primary activity criterion. The ownership criterion aims at determining whether or not the Dutch entity has the ownership of the non-financial IPRs. Because of the absence of a better measure of the decisive facet to measure ownership in the international guidelines, namely whether or not the entity carries the risks and rewards of the assets, Statistics Netherlands has concluded that the ownership criterion should test whether or not the IPRs are represented on the balance sheet in the annual accounts. The primary activity criterion assesses whether the revenue generated by the IPR assets dictates the overall revenue reported on the profit and loss account in the annual accounts, and is included to assure that an entity which functions as both a collector of R&L services and as a holding company within a multinational organization is only classified as a non-financial entity when the revenues from the R&L activities exceed the revenues from the holding activities.

30. Research of the annual accounts of approximately 40 potential R&L SPEs concluded that all but four of the approximately 40 entities did not satisfy the criteria to be classified as non-financial corporations. Of these four none reported significant amounts of exports of R&L services or net acquisitions of IPRs. On the basis of these results, Statistics Netherlands has decided to classify all R&L SPEs in ESA 2010 sector S.127 as financial SPEs in anticipation of the development of concrete guidelines by either the AEG or the TFGP. In this way all Dutch R&L SPEs are recognized as royalty conduits, which provide services to the parent company. The strongest indication that the Dutch R&L SPEs do not own the intellectual property assets and therefore are not non-financial entities that generate revenue from the exploitation of these non-financial IPRs, can be found in the fact that almost all R&L SPEs reports an expense of R&L services roughly equal to the income of these services. This shows that the Dutch entity does not generate a substantial profit from the royalty transactions, which is an indication that the rewards (and risks) of the assets are not carried by the Dutch entity and therefore the Dutch entity cannot be identified as the economic owner of the IPR. If the company would be the owner of the IPR, the Dutch entity would transfer the profit generated from the exploitation of the asset to the affiliated company abroad through dividend payments or reinvested earnings and this is not the case.

31. The methodology applied to compile the statistics on output and related transactions of R&L SPEs has been presented in this paper. With respect to output, a net approach is applied. Only the revenue from R&L services that exceed the costs charged by the parent company to the Dutch SPE is regarded as production of the Dutch SPE. A portion of the exports of R&L services, equal to the imports of these services, is regarded as re-exports in the Dutch national accounts. Since the R&L SPEs are not recognized as independent non-financial institutions, but are classified as financial SPEs (as their activities are similar to invoicing or holding SPEs), a sum of costs approach is used to measure overall production of the sector. To align the source data of the production with the sum of costs from the source data, Statistics Netherlands makes an imputation on the reported intercompany services. Finally, all reported changes in non-financial assets are regarded as changes non-produced assets, and hence no gross fixed capital formation is recorded in the national accounts for SPEs, but the source data on changes in non-financial assets is used to compile statistics on acquisitions less disposals of non-produced assets (NP).

32. Although Statistics Netherland has cooperated closely with the Dutch central bank to improve the source data and methodology of the (R&L) SPEs, new areas of research to enable future clarifications or improvement have been addressed in this paper. The main areas of future research are: (1) international harmonisation of decision criteria with respect to the classification of R&L SPEs, (2) increasing the level

of detail in the source data to enable further improvements in the methodology with respect to the measurement of output and (3) the division of produced and non-produced assets in the new questionnaire to test the assumption that Dutch SPEs focus mainly on non-produced assets.

5. Suggested discussion points

33. The AEG is invited to express their views on the decision rules as applied by Statistics Netherlands with respect to the classification and methodology of R&L SPEs as formulated in this paper.

34. The following discussion points are suggested for guiding the discussion:

a. Does the AEG support the classification of those SPEs mainly engaged in the re-routing of R&L services (i.e. showing corresponding levels of IPP import and export service flows) as financial institutions instead of R&L SPEs (and thus non-financial corporations), implying measurement of their output should follow a sum of costs approach?

b. Does the AEG support the pragmatic approach followed by Statistics Netherlands in which balance sheet information is being considered crucial in determining economic ownership of intellectual property, meaning that economic ownership is assumed to follow legal ownership?

c. In relation to point b, does the recording of significant receipts of royalties, however without the observation any of IPPs or brand names etc. in its balance sheet, imply that maybe the observed unit ought to be categorised as a R&L SPE? If so, what additional decision rules can be formulated to properly assist national accounts compilers?

Annex 1. Table 1 final report TF MUNA

	Type	Institutional sector	Activity		Purpose	Valuation of production
			NACE Rev. 1.1	NACE Rev. 2		
	Ownership of financial assets *(Captive financial institutions)*					
1a	Holding companies	Other financial intermediaries, except insurance corporations and pension funds (S.123)	65.23 Other financial intermediation n.e.c.	64.20 Activities of holding companies	owning subsidiaries, concentration of group profits in favourable countries/jurisdictions, group financing	sum of costs
1b	Holding companies owning claims on notional units abroad (buildings, natural resources)	Other financial intermediaries, except insurance corporations and pension funds (S.123)	65.23 Other financial intermediation n.e.c.	64.20 Activities of holding companies	owning subsidiaries, concentration of group profits in favourable countries/jurisdictions, group financing	sum of costs
2a	Trusts, funds and similar financial entities	Other monetary financial institutions (S.122)	65.23 Other financial intermediation n.e.c.	64.30 Trusts, funds and similar financial entities	return on financial investment with fiscal advantages	sum of costs
2b	Trusts, funds and similar financial entities	Other financial intermediaries (S.123)	65.23 Other financial intermediation n.e.c.	64.30 Trusts, funds and similar financial entities	return on financial investment with fiscal advantages	sum of costs
3	Securitization companies (*)	Other financial intermediaries (S.123)	65.23 Other financial intermediation n.e.c.	64.99 Other financial service activities, except insurance and pension funding n.e.c.	assets securisation for fund raising	sum of costs
4	Captive financial leasing companies (usually, for aircrafts and vessels)	Other financial intermediaries (S.123)	65.21 Financial leasing	64.91 Financial leasing	financial leasing within a group (the SPE is not considered the economic owner of the equipment).	sum of costs
5	Captive insurance and re-insurance companies	Insurance corporations and pension funds (S.125)	66.03 Non-life insurance	65.12 Non-life insurance 65.20 Reinsurance	insurance and re-insurance within a group	sum of costs
6	Invoicing companies	Other financial intermediaries (S.123)	65.23 Other financial intermediation n.e.c.	64.99 Other financial service activities, except insurance and pension funding n.e.c.	invoicing sales of the group worldwide	sum of costs
	Ownership of non-financial tangible assets					
7	Renting of mobile equipment	Non-financial corporations (S.11)	71.00 Renting of machinery and equipment without operator (exclud. 71.40)	77.00 Renting of machinery and equipment without operator (exclud. 77.20)	register the ownership of the asset and the rents in low tax jurisdictions	These cases are treated as financial leasing if the SPE is not the economic owner of the asset and they are valued at cost (row 4). If conditions for such treatment are not satisfied, the unit is treated as operational leasing producer and output valued with rentals received
8	Merchanting companies	Non-financial corporations (S.11)	51.00 Wholesale trade and commission trade	46.00 Wholesale trade	distribution company for a group without goods going through the territory of the SPE	margin
9	Trading companies	Non-financial corporations (S.11)	51.00 Wholesale trade and commission trade	46.00 Wholesale trade	distribution company for a group	margin
	Ownership of non-financial intangible assets					
10	Licensing and royalty companies	Non-financial corporations (S.11)	74.8 Miscellaneous business activities n.e.c.	74.90 Other professional, scientific and technical activities n.e.c.	concentration of group receipts concerning royalties and similar flows received from intellectual property rights and trademarks.	margin
	Others					
11	Offices of airlines in airport hubs abroad	Non-financial corporations (S.11) if a branch is identified	62.10 Scheduled air-transport	51.10 Passenger air transport	transfer locus used by airline carriers to get passengers to their intended destination	prorata of airline output if no branch is identified

Annex 2. Information from annual reports

20.a. GHN

The Company's activities are to finance and participate in affiliated companies. The Company is a wholly owned subsidiary of Google Ireland Holdings.

Assets	Note	31 December 2010 EUR	31 December 2010 EUR	31 December 2009 EUR	31 December 2009 EUR
Current assets					
Accounts receivable	4.	162,321,169		1,148,044,193	
Cash at bank and in hand	5.	958,963		1,204,680	
			163,280,132		1,149,248,873
			163,280,132		1,149,248,873

	Note	2010 EUR	2010 EUR	2009 EUR	2009 EUR
Net turnover	12.		9,517,543		9,105,404

Net turnover represents the amounts charged as royalty income to group companies minus the royalties paid to group companies according to the royalty agreement.

	2010 EUR	2009 EUR
Royalty income Google Ireland Limited	5,725,145,781	4,351,348,293
Royalties paid Google Ireland Holdings Limited	(5,715,628,238)	(4,342,242,889)
	9,517,543	9,105,404

20.b. MGH

The principal business activities of the Company are investing in and financing of related companies, managing assets and acting as a royalty company.

BALANCE SHEET AS AT 31 DECEMBER 2010

(Before appropriation of result and expressed in Canadian dollars)

	Notes	31 December 2010	31 December 2009
FIXED ASSETS			
Intangible fixed assets			
Intellectual property rights	(3)	69,275,269	74,860,890
		69,275,269	74,860,890
Financial fixed assets			
Interest in group company	(4)	736,195,377	736,195,377
Loans to related companies	(5)	706,587,146	625,618,528
		1,442,782,523	1,361,813,905
CURRENT ASSETS			
Royalty receivable	(6)	14,070,895	9,065,908
Amounts due from related companies		268,435	240,311
Taxation		3,284,256	8,160,233
Interest receivable taxation		-	258,109
Cash at bank		124,445	84,600
		17,748,031	17,809,161

	Notes	2010	2009
Net turnover			
Net royalty income	(6)	44,789,086	31,677,025
Total net turnover		**44,789,086**	**31,677,025**
Cost of Sales			
Technology fees		(64,880)	(522,591)
GROSS MARGIN ON TURNOVER		**44,724,206**	**31,154,434**
Dividend income	(8)	244,280,144	635,257,210
Corporate income tax previous year	(11)	-	4,558,154
Corporate income tax	(11)	-	3,703,448
PROFIT / (LOSS) AFTER TAXATION	(9)	**264,255,333**	**631,013,257**

20.c. U2L

The principal activity of the Company is the creation, protection and licensing of intellectual property.

	Notes	31 December 2009 €	31 December 2008 €
Fixed assets			
Intangible assets	5	482,550	514,720
Tangible assets	6	672,147	750,204
		1,154,697	1,264,924
Current assets			
Debtors	7	6,953,550	7,727,543
Cash at bank and in hand		822,912	467,999
		7,776,462	8,195,542

	Notes	Year ended 31 December 2009 €	Year ended 31 December 2008 €
Gross profit		2,282,167	618,415
Distribution and administrative expenses		(1,674,497)	(1,456,912)
Amortisation of music copyright		(32,170)	(32,170)
Operating profit / (loss)	3	575,500	(870,667)
Movement in provision against amount due from related parties		(576,990)	791,140
Interest receivable and similar income		1,355	14,485
Loss on ordinary activities before taxation		(135)	(65,042)
Tax on profit on ordinary activities	4	(143,558)	(95,256)
Retained loss for the year	11	(143,693)	(160,298)

Turnover and operating profit / (loss) arose solely from continuing operations.

Annex 3. Two simplified numerical examples

In this annex two examples of the imputations on the source data to make the output equal to the sum of costs are provided. In example A the reported exports and imports of R&L-services are unequal and in example B the imports and exports of R&L-services are equal. The figures used in these examples are fictional and are only used to exemplify the impact of the applied sum of costs methodology.

Example A:

Source data

Services	Exports	Imports
R&L	1000	800
Financial	100	90
Intercompany	500	400
Salary		Expense
Compensation of employees		10

National accounts

	Source	Imputation	Result
Intermediate Consumption	*490*	-	*490*
R&L services	0	-	0
Financial services	90	-	90
Intercompany services	400	-	400
Output	*800*		*500*
R&L services	200	-	200
Financial services	100	-	100
Intercompany services	500	-300	200
Value Added	*10*	-	*10*

(Re)Exports & Imports	Exports	Imports	Re-exports
R&L services	200	800	800
Financial services	100	90	-
Intercompany services	500	400	-

Example B:

Source data

Services	Exports	Imports
R&L	1000	1000
Financial	100	90
Intercompany	500	400
Salary		Expense
Compensation of employees		10

National accounts

	Source	Imputation	Result
Intermediate Consumption	*490*	-	*490*
R&L services	0	-	0
Financial services	90	-	90
Intercompany services	400	-	400
Output	*600*		*500*
R&L services	0	-	0
Financial services	100	-	100
Intercompany services	500	-100	400
Value Added	*10*	-	*10*

(Re)Exports & Imports	Exports	Imports	Re-exports
R&L services	0	1000	1000
Financial services	100	90	-
Intercompany services	500	400	-