




Multinational Tax Avoidance

AND THE OECD'S
BASE EROSION AND PROFIT SHIFTING (BEPS) PROCESS



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Why focus on MNE's?

- ▶ Tax is political
 - ▶ Technical answers only go so far
 - ▶ Aunt Sally's knitting
 - ▶ Size
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- ▶ We must simplify and focus on the injustice



How big is the problem?

- ▶ Recent cases, Starbucks and Apple – effectively no tax
- ▶ US estimates indicate that MNE's minimum tax evasion is 37 Billion US\$ (Klinter et al, 2010)
- ▶ Tax avoidance in Africa is larger than the total aid budget to Africa

Transfer Mispricing in Asia

(loss of tax revenue as a % of Government Revenue)

- ▶ Philippines 30.7%
- ▶ Malaysia 15.4%
- ▶ Cambodia 13.9%

DB1

DB2

DB3

How do they do it?

- ▶ Transfer pricing
- ▶ Intangibles mispricing
- ▶ Excessive debt/ interest deductions
- ▶ Tax havens
- ▶ Avoiding permanent residency status

Slide 4

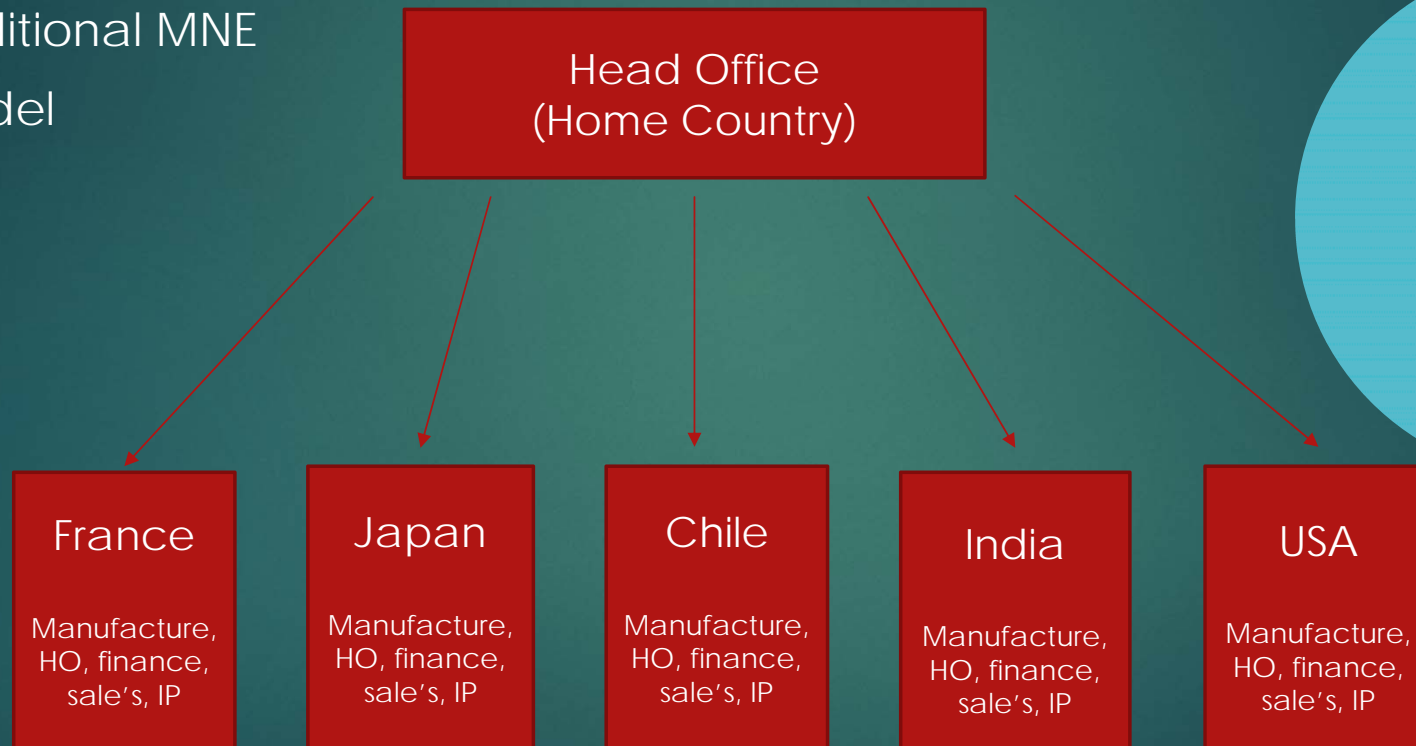
DB1 Daniel Bertossa, 14/10/2013

DB2 Daniel Bertossa, 14/10/2013

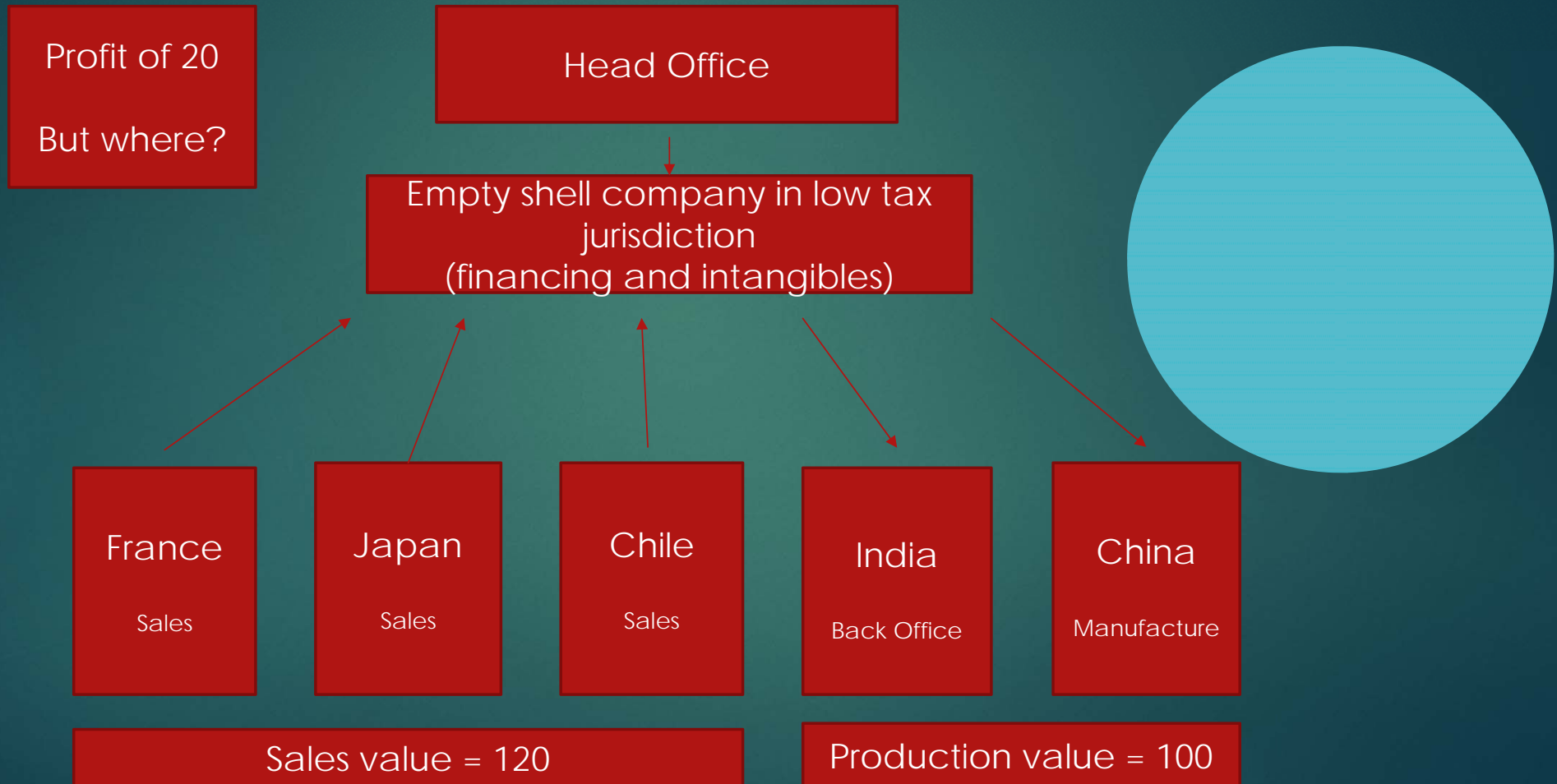
DB3 Daniel Bertossa, 14/10/2013

How does transfer pricing work?

Traditional MNE
Model



MNE Structure based on Global Value Chains



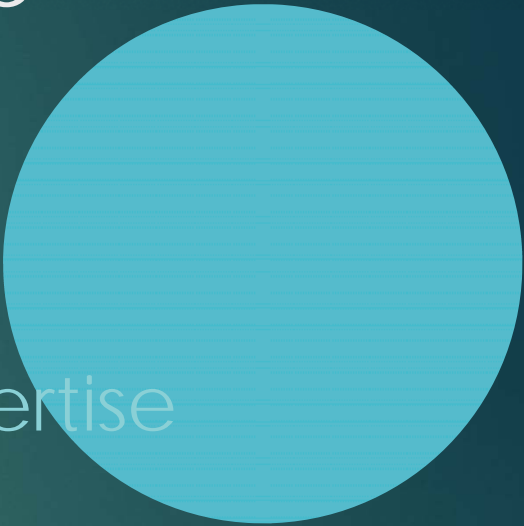
What do the rules say?

- ▶ Rules are 60 years old
- ▶ Arms length principle
- ▶ Must price goods as if they were in the market






Problems with the rules

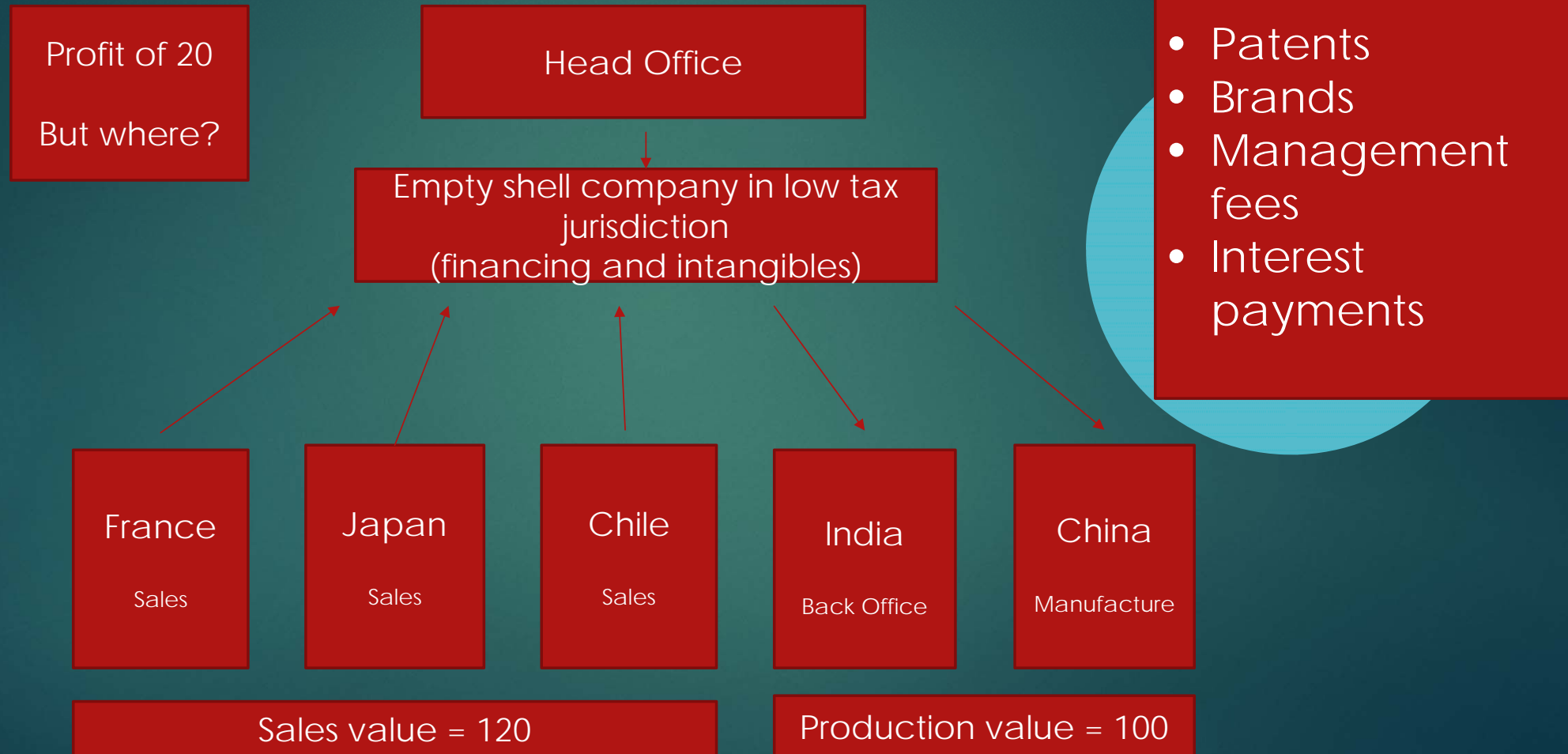
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- Which market?
 - Do local tax authorities have expertise and capacity to determine?
 - Political problems of prosecution?



More problems with the rules

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- Intangibles (brands, patents, methods)
 - Debt, loans and interest
 - Inflated deductions (management costs)

MNE Structure based on Global Value Chains



G20 and OECD



- ▶ Financial crisis and austerity
- ▶ G20 Statement
- ▶ OECD – Base Erosion and Profit Shifting (BEPS)
- ▶ Trying to address transfer pricing, costing intangibles, better debt rules, clamping down on secrecy jurisdictions
- ▶ Time frames – 30 months

“National tax laws have not kept pace with globalisation of corporations and the digital economy, leaving gaps that can be exploited by multi-national corporations to artificially reduce their taxes”

Fix the system or change the system?

- ▶ OECD makes rules
- ▶ UN Tax Committee
- ▶ Dysfunctional Global Tax Governance
- ▶ Current system is based on old global production model
- ▶ Is there an alternative?



Unitary taxation and formulary apportionment

- ▶ Calculate whole companies profit
 - ▶ Tax total amount of profit
 - ▶ Divide tax revenue amongst participating countries
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- ▶ FTT is interesting first mover

How do they do it?

- ▶ Transfer pricing 
- ▶ Intangibles mispricing 
- ▶ Excessive debt/ interest deductions 
- ▶ Tax havens
 - ▶ Beneficial Ownership
- ▶ Avoiding permanent residency status
 - ▶ Country by country reporting



Our job – create the political will

- ▶ Simplify arguments
- ▶ Expose the injustice
- ▶ Explain the alternative
- ▶ Pressure our governments
- ▶ Make sure our governments pressure the global rule makers

