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For discussion

Treatment of Intellectual Property Products in Balance of Payments: Discussion Note

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SECTION I: THE ISSUE

CURRENT GUIDANCE FROM *BPM6/2008 SNA* AND GLOBALIZATION TASK TEAM GUIDANCE NOTES

1. The treatment of cross-border transactions in intellectual property products (IPPs) is provided in paragraphs 10.137–140 and Table 10.4 of the *Balance of Payments and International Investment Position Manual, sixth edition (BPM6)*. As indicated in the Annotated Outline of *BPM7* Chapter 11 (Services Account), the updated guidance will include the following definition of IPPs² and the treatment of cross-border transactions in IPP assets will be made consistent with the *2008/2025 System of National Accounts (SNA)*:

IPPs are the result of research, development, investigation, innovation, or marketing,³ leading to knowledge, reputation, or the creation of artificial intelligence systems that the developers can market or use to their own benefit in production because the use of this knowledge or system is restricted by means of legal or other protection. They are considered produced non-financial assets, when used in production.

2. With this background, this Discussion Note focuses on the following three issues:

- i) **Services category for recording the sale/purchase of marketing assets:** As marketing assets will be treated as produced nonfinancial assets, sale/purchase of these assets should be recorded in the services account instead of the capital account (*BPM6* treats marketing assets and goodwill as nonproduced nonfinancial assets—see paragraphs 13.17–13.18). Therefore, this note makes a proposal for the new services category for recording the sale/purchase of rights to these assets.
- ii) **Scope of computer services, and audio visual and related services in *BPM6*,⁴ and consistency of their treatment vis-à-vis the service categories of other IPPs:** As per *BPM6*, the license to use in the case of computer software and audio visual and related service products (e.g., sound recordings, cinematographic works) are recorded under computer services and audio

¹ Prepared by Venkat Josyula and Patrick Quill (Balance of Payments Division, Statistics Department, IMF).

² This definition was presented at the July 13, 2023, joint AEG/BOPCOM meeting and included in the Common Glossary of Macroeconomic Statistics (see the related [BOPCOM VM2 23/01 and SNA/M2.23/11](#) paper for specific details).

³ Following the decision of the joint AEG/BOPCOM meeting in March 2023 on Guidance Note “G.9 Treatment of Marketing Assets”, marketing assets will be treated as produced nonfinancial assets.

⁴ Computer services are included under standard first-level service category of Telecommunications, computer, and information services, and audio visual and related services are included under standard first-level service category of personal, cultural, and recreational services in *BPM6*. Following GN C.6 (and Annotated Outline of *BPM7* Chapter 11), computer services are included under standard first-level service category of computer and information services, and audio visual and related services continue to be included under standard first-level service category of personal, cultural, and recreational services in *BPM7*.

visual and related services, respectively (see Table 10.4 and paragraphs 10.143 and 10.164). For the other IPPs (R&D services and marketing asset services⁵), license to use the outcomes of these assets (also known as charges for the use of proprietary rights) are recorded under standard first-level service category of charges for the use of intellectual property products n.i.e.⁶

iii) **Treatment of licenses to use and licenses to reproduce:** In addition, guidance is also required to ensure consistent recording of the cross-border transactions in IPPs with the SNA recording, in the following cases, based on the paragraphs 10.100 and A3.63–3.66, *2008 SNA*:

- Copies sold under license to use may be treated as fixed assets⁷ if they will be used in production for more than one year and the licensee assumes all the risks and rewards of ownership; and
- A license that allows the licensee to reproduce the original and subsequently assume responsibility for the distribution, support, and maintenance of these copies, should be regarded as the sale of part or whole of the original to the unit holding the license to reproduce. License to reproduce is referred to as sub-licensing in the case of marketing assets—see Guidance Note “G.9 Treatment of Marketing Assets”—and treated as fixed assets if they satisfy asset requirements. Otherwise, the costs for acquiring the licenses are recorded as intermediate consumption.

3. While *BPM6* provides guidance on the treatment of sale/purchase of licenses to use and licenses to reproduce IPPs, no distinction is made in their treatment based on whether they will be used in production for more than one year or less, and whether the licensee assumes risks and rewards of ownership. The concept of the sale of part of the original also does not exist in *BPM6*. Further, license to reproduce is also applicable to marketing assets (this was not mentioned in *BPM6*) and, therefore, the appropriate services classification for recording the cross-border transaction in such licenses should be clarified. As these aspects are likely to have an impact on the services classification of IPPs in *BPM6*, this note provides guidance on this issue.

SECTION II: PROPOSED RECOMMENDATIONS

SERVICES CATEGORY FOR RECORDING THE SALE/PURCHASE TRANSACTIONS OF MARKETING ASSETS

4. The note proposes two options for recording the cross-border transactions in sale/purchase of marketing assets in services account.

- Option 1: On the lines of a separate standard first-level service category for research and development (R&D) services,⁸ a new standard first-level category of “marketing asset services” to

⁵ Marketing asset services will be introduced as a standard first-level service category or second-level category in *BPM7*, depending on the decision on the first issue (see paragraph 2 (i)).

⁶ This is a standard first-level service category in *BPM6* and will be maintained without any change in *BPM7*.

⁷ Fixed assets are produced assets that are used repeatedly or continuously in production for more than one year.

⁸ In this note, we refer to standard services categories of *BPM7* (and not *BPM6*) as per the annotated outline of *BPM7* [Chapter 11 “Services Account”](#).

record such transactions is proposed. Assigning a first-level service category makes sense as the services in these assets are likely to increase in the coming years and therefore, this option should be seen as a forward looking one considering the future expectations related to transactions in these assets.

- Option 2 (preferred option): As these services are not significant at this stage for most of the countries, they may be recorded under *technical and other business services* as a standard second-level category of “marketing asset services”.

TREATMENT OF LICENSE TO USE COMPUTER SOFTWARE AND AUDIO VISUAL AND RELATED SERVICE PRODUCTS VS LICENSE TO USE MARKETING ASSETS AND OUTCOMES OF R&D

5. The current treatment of licenses to use IPP in the case of computer software/audio visual and related services products is based on the nature of the product. As *BPM6* paragraph 10.138 explains, “the production of books, recordings, films, software, disks, and so forth is a two-stage process of which the first stage is the production of the original and the second stage the production and use of copies of the original.” In the case of right to use (also known as license to use) or outright sale, the buyer purchases the *original or a copy of the original*, such as software or music and film, whereas in the case of rights to reproduce/distribute, the buyer purchases a *license* giving them the right to reproduce/distribute the product. Thus, the products are classified in the respective services category, while the licenses to reproduce are classified in charges for the use of intellectual property n.i.e.

6. The need to update the treatment of IPPs in BPM to account for the change in treatment of marketing assets presents an opportunity to review the current treatment of computer software and audiovisual and related services products. The note proposes two options for recording the cross-border transactions in license to use the IPPs in services account:

- Option 1: This option proposes maintaining the status quo—that is, licenses to use IPP in the case of computer services/audio visual are classified in the relevant service item, and licenses to use other IPPs (outcomes of R&D or marketing assets) are classified in Charges for the use of intellectual property n.i.e. As the services classification will undergo important changes with the introduction of additional first-level standard service categories, implementing additional changes could be avoided to minimize the transition costs for users and compilers.
- Option 2: Record the payments for licenses to use the IPPs under charges for the use of intellectual property n.i.e. (irrespective of the underlying IPP). This alternative—to align the treatment of rights to use computer software/audiovisual with the treatment of the right to use the outcomes of R&D/marketing assets—can be considered to simplify the recording of IPP. It becomes further relevant to consider this option with the possible introduction of a new service category “marketing asset services”.⁹ While the rationale for this option could be easily explained to users and compilers, implementation of this option would result in transition costs in terms of

⁹ As marketing assets are treated as produced nonfinancial assets (GN G.9), there is no longer an element of property income to franchise fee payments. The entire franchise fee payment would be recorded as output in the form of the sale of a service in national accounts. On the same lines, it is proposed to record the entire franchise fees, trademark revenue, payments for use of brand names, etc., as charges for the use of intellectual property n.i.e. in the balance of payments services account (*BPM6* paragraph 10.140 will be updated accordingly).

revisions to the back series of computer services/audio visual and related services. This should not be considered a major concern as the updated classification of services with additional first-level standard service categories (following GN C.6 and the AO of Chapter 11) will also have important impact on transition costs.

TREATMENT OF LICENSE TO USE, LICENSE TO PRODUCE, AND OTHER TRANSACTIONS IN IPP

7. There are five standard service categories (including the “marketing asset services”) in *BPM7* for recording IPP related transactions. Table 1 provides the mapping between standard service category (first- or second-level, depending on the outcome of Question 2 below) and possible IPP related transactions which may be either transactions in fixed assets or consumptions items in SNA.

Table 1. Services categories for IPPs vs Possible Assets/Consumption Categories

Standard Service Category (<i>BPM7</i>)	Fixed assets/Consumption Categories (SNA)
Computer and information services	(i) Customized software; and (ii) licenses to reproduce and distribute software that may meet the asset requirements. ¹⁰ In addition: licenses to use non-customized software or databases (Issue 2-Option 1)
Marketing asset services	(i) Marketing assets; and (ii) license to reproduce marketing assets (sub-licensing); and payments for the use of marketing assets that may meet the asset requirements.
Personal, cultural, and recreational services	(i) Entertainment, literary and artistic originals; and (ii) licenses to reproduce and distribute artistic originals that may meet the asset requirements. In addition: licenses to use artistic originals (Issue 2-Option 1)
Research and development (R&D) services	(i) Expenditure on R&D services; (ii) patents; and (iii) and payments for the use of the outcomes of R&D that may meet the asset requirements.
Charges for the use of intellectual property n.i.e.	Payments for use of proprietary rights (patents, trademarks, franchise, copyrights, etc.) and charges for license to reproduces and/or distribute (copyrights, trademarks, franchise, computer software, etc.) not meeting asset requirements. In addition: licenses to use non-customized software or databases; and licenses to use artistic originals (Issue 2-Option 2)

¹⁰ (a) Licensee expects to use the product in production for more than one year and assume all the risks and rewards; and (b) in the case of licenses to reproduce and distribute, licensee assumes responsibility for the distribution, support and maintenance (see paragraph 2 (ii)).

8. The BPM services classification consistent with SNA can be derived by distinguishing the items in the right column into fixed assets and consumption categories. In general, while items that are classified as fixed assets in national accounts (i.e., meeting the asset requirements) will be classified in one of the first four standard service components in the left column, items that are classified as intermediate consumption in the right column (with the exception—depending on the outcome of Issue 2—of the licenses to use computer software and artistic originals as explained in paragraph 14) will be classified under the last standard service component (i.e., charges for the use of intellectual property n.i.e.). **This is further explained in detail below.**

Transactions in IPPs (Concerning the IPP Assets)

9. If the buyer of an IPP-related service (franchise, trademarks, outcomes of R&D, copyrights, software, etc.) intends to use the knowledge, rights, or other features embedded in that service in production for more than one year, and also assumes the risks and rewards, then such payment is treated as a fixed asset in national accounts, and the cross-border transaction of such license should be classified in one of the first four standard service components in Table 1.

10. If a license allows the licensee to reproduce the original IPP asset (copyrights, software, marketing assets, etc.) and the licensee assumes responsibility for the distribution, support, and maintenance, such license is treated as a fixed asset in national accounts, and the cross-border transaction of such license should be classified in one of the first four standard service components in Table 1.

11. The outright sale of an IPP asset where the seller relinquishes all rights would be considered as an acquisition of a fixed asset in national accounts and the cross-border transaction of such asset should be classified in one of the first four standard service components in Table 1.

12. Companies may pay for R&D activities undertaken on a systematic basis by third parties or subsidiaries increasing the paying company's stock of knowledge. (Multinationals may employ a cost-share approach where several companies pay for R&D activities in an affiliated research center, and then share ownership rights to the outcomes of R&D). Such payments are usually considered as an acquisition of a fixed asset in national accounts and cross-border payments are classified under R&D services.

Other Transactions in IPPs (Concerning Intermediate Consumption of IPPs)

13. In the case of a license that gives the licensee rights to reproduce or distribute the IPP where the licensee does not assume the risks and rewards or responsibility associated with the reproduction and distribution, such as support and maintenance, payment for such license would be considered as intermediate consumption in the national accounts. In the balance of payments services account, this license is classified under payments for the use of intellectual property n.i.e. (regardless of the underlying asset).

14. In case of a license to use IPP in production for less than one year, or where the licensee does not assume the risks and rewards of using the IPP (i.e., no economic change of ownership), it would be considered as intermediate consumption in the national accounts. In the balance of payments services account, such license should be classified under the last standard service component in Table 1 (i.e., Charges for use of intellectual property n.i.e.) in the case marketing assets and R&D. If the underlying

asset is software or literary and artistic originals, then either the payment is classified under the relevant service item (i.e., computer and information services or personal, cultural, and recreational services), provided Option 1 is recommended under Issue 2, or the payment is classified as the charges for use of intellectual property n.i.e., provided Option 2 is recommended under Issue 2.

15. **Annex I** provides a summary of the proposed treatment of transactions related to IPPs in the balance of payments services account to be consistent with the national accounts. **The items which are in bold are those for which the recording in balance of payments has been updated to be consistent with the SNA.**

Questions for the Committee:

- 1) *Do Committee members agree with Option 2 proposed by the drafting team for recording the “marketing asset services” as a standard second-level category in the balance of payments services account?*
- 2) *Considering the pros and cons of both the options in paragraph 6, which option do committee members recommend for recording the cross-border transactions in license to use computer software and audio visual and related products in services account?*
- 3) *Do Committee members agree with the proposed updates in Section II (summarized in Annex I and subject to the option recommended in paragraph 6) for recording the IPP related transactions in balance of payments services account?*
- 4) *Do Committee members support further consultation with the drafting editors of the update of the Manual on Statistics of International Trade in Services (MSITS) so that a uniform treatment and terminology can be provided in BPM7 and the next edition of MSITS.*
- 5) *Do Committee members have any other comments on the Discussion Note?*

Annex I. Transactions related to IPPs and BPM Services Classification

Type	Intellectual property	Fixed asset in SNA*	<i>BPM7</i> Service Classification
Software and databases	Payments for the provision of, or the license to use, customized or non-customized computer software and databases (except where classified as goods (see 10.17c, <i>BPM6</i>))	Yes	Computer and information services
		No	Computer and information services or charges for the use of intellectual property n.i.e. (depending on the option recommended in paragraph 6)
	Payments for license to reproduce and distribute copies	Yes	Computer and information services
		No	Charges for the use of intellectual property n.i.e.
	Sales and purchases of originals and ownership rights for software systems and applications	Yes	Computer and information services
R&D	Payments for R&D services	Yes	R&D services
		No	R&D services
	Payment for the use of the outcomes of R&D	Yes	R&D services
		No	Charges for the use of intellectual property n.i.e.
Sales and purchases and ownership rights of an R&D patent	Yes	R&D services	
Marketing assets	Payments for use of marketing assets (franchise fee, trademark revenue, etc.)	Yes	Marketing asset services
		No	Charges for the use of intellectual property n.i.e.
	Payments for licenses to reproduce or distribute franchises or trademarks, brand names, etc.	Yes	Marketing asset services
		No	Charges for the use of intellectual property n.i.e.
Outright sale/purchase of marketing assets	Yes	Marketing asset services	
Other: entertainment, literary and artistic originals	Payments for license to use	Yes	Personal, cultural, and recreational services
		No	Personal, cultural, and recreational services or charges for the use of intellectual property n.i.e. (depending on the option recommended in paragraph 6)
	Payments for licenses to reproduce or distribute artistic originals	Yes	Personal, cultural, and recreational services
		No	Charges for the use of intellectual property n.i.e.
	Outright sale/purchase of artistic originals	Yes	Personal, cultural, and recreational services

* Fixed asset is defined in footnote 4. As indicated in paragraph 4, (a) if the licensee expects to use the product in production for more than one year and assume all the risks and rewards; and (b) in the case of licenses to reproduce and distribute, if the licensee assume responsibility for the distribution, support and maintenance, the products are treated as fixed assets. R&D that does not provide an economic benefit to its owner is treated as intermediate consumption.