

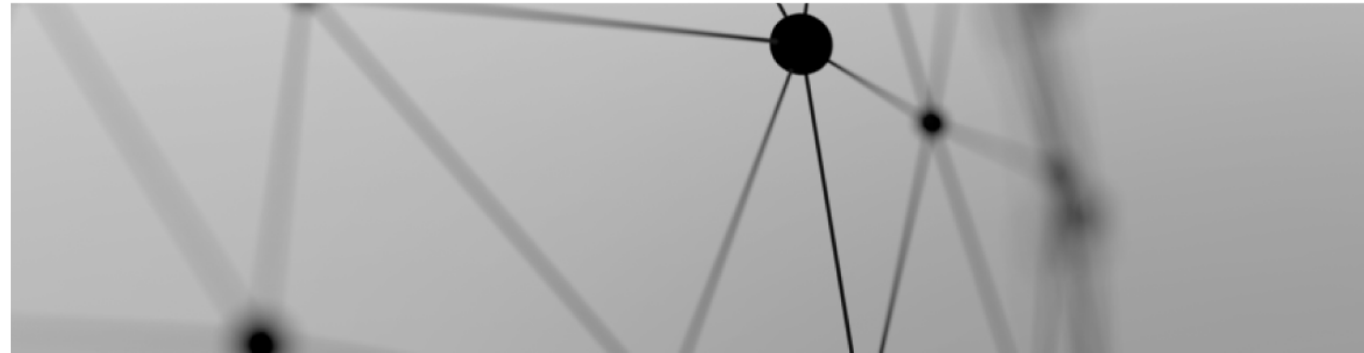
— MARVAL  
— O'FARRELL  
— MAIRAL

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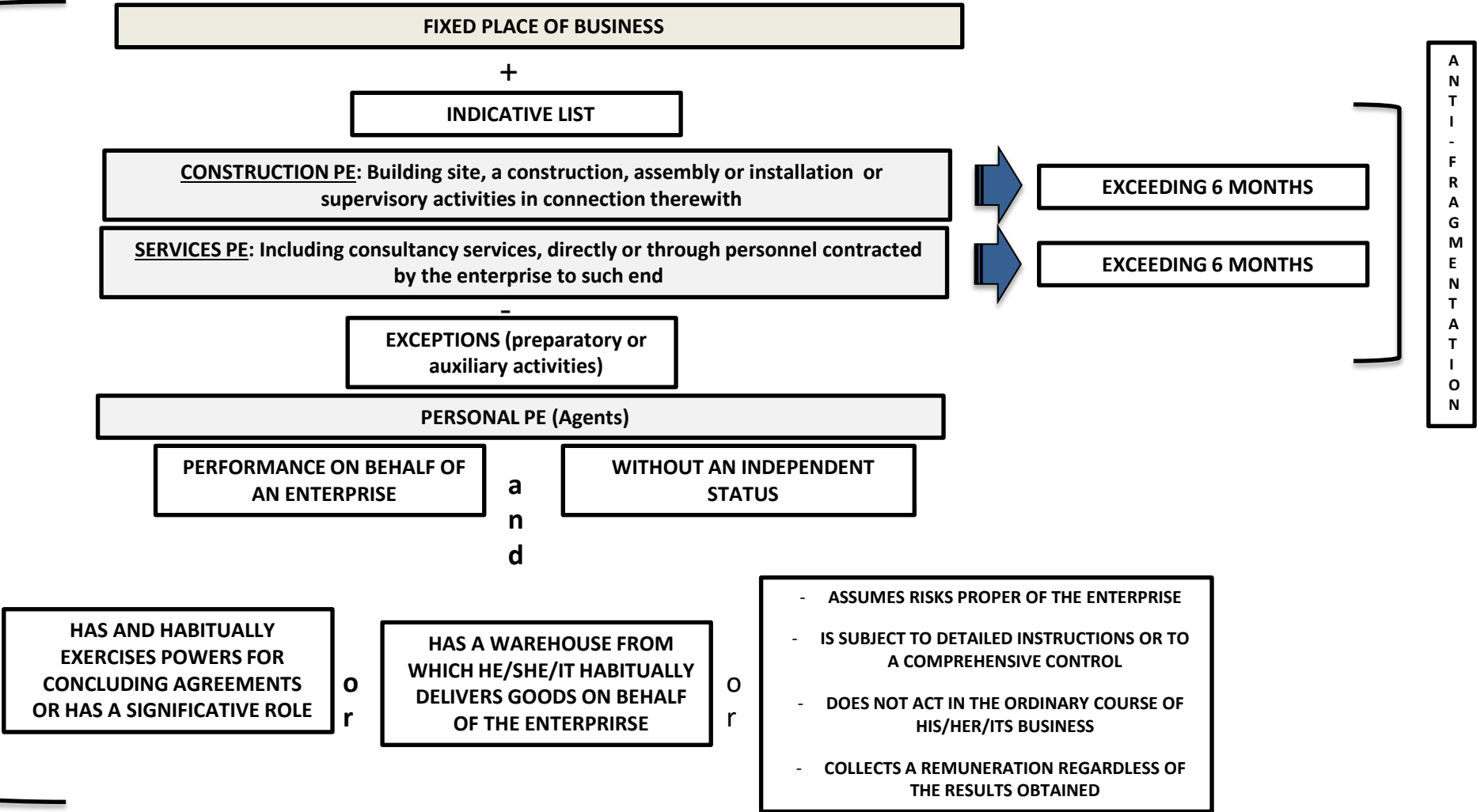


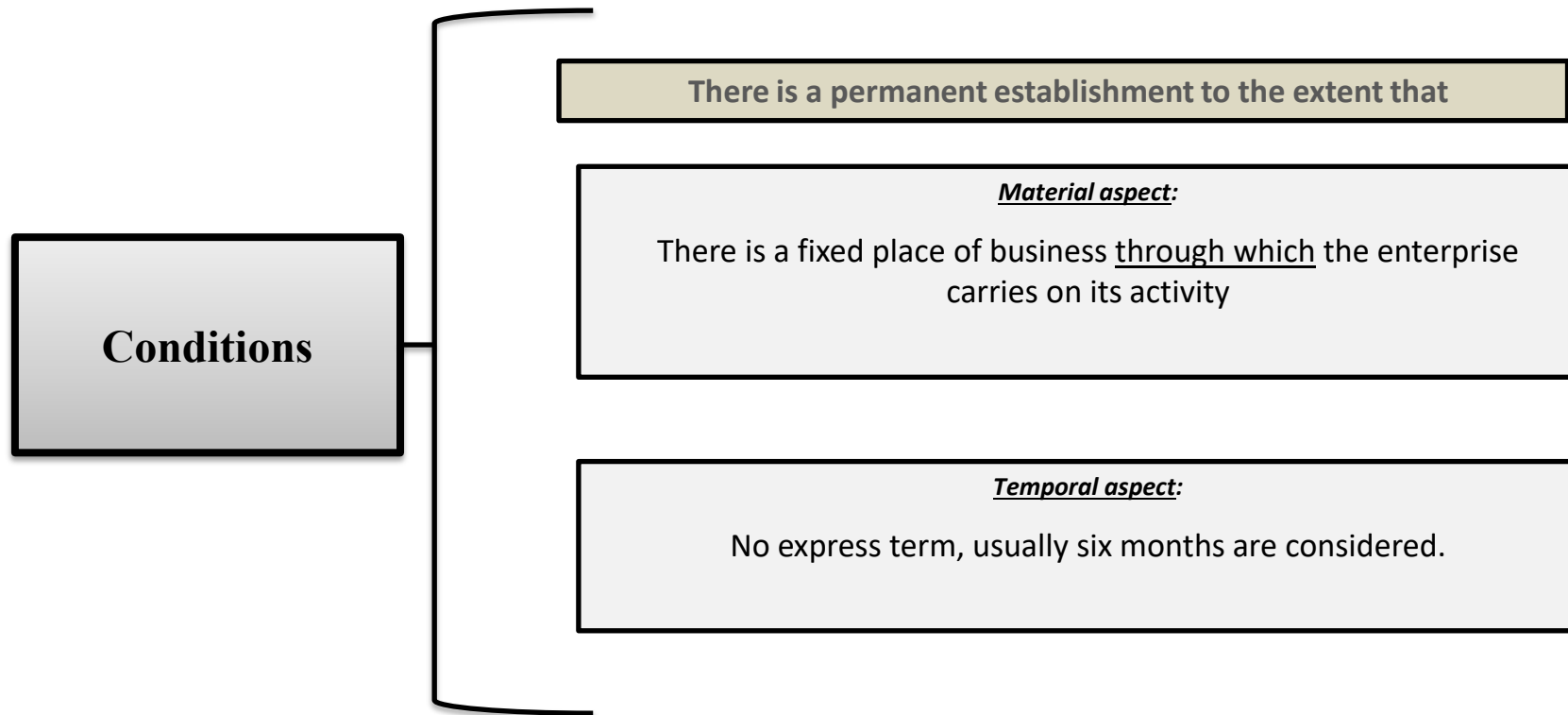
**PERMANENT ESTABLISHMENT**

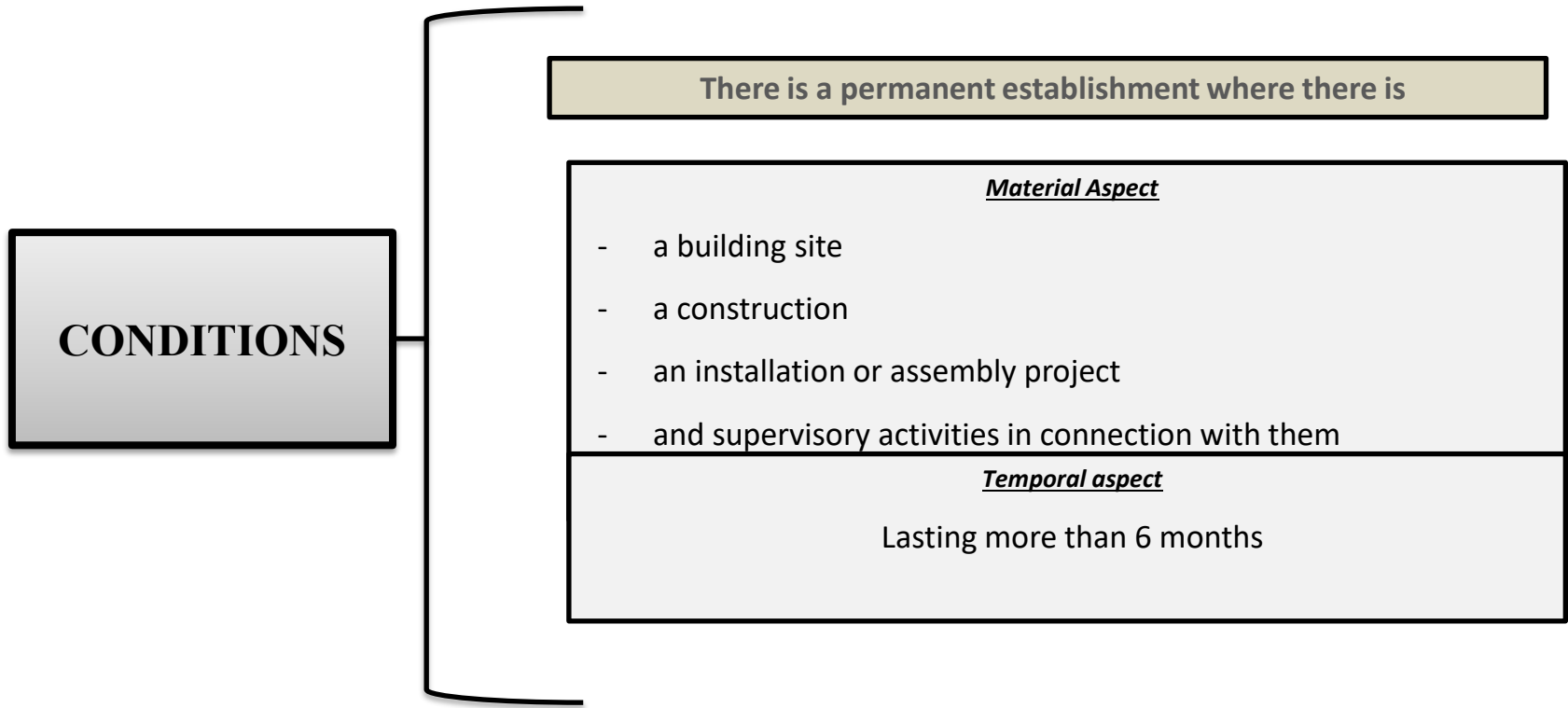


# OVERVIEW

## PE CONCEPT

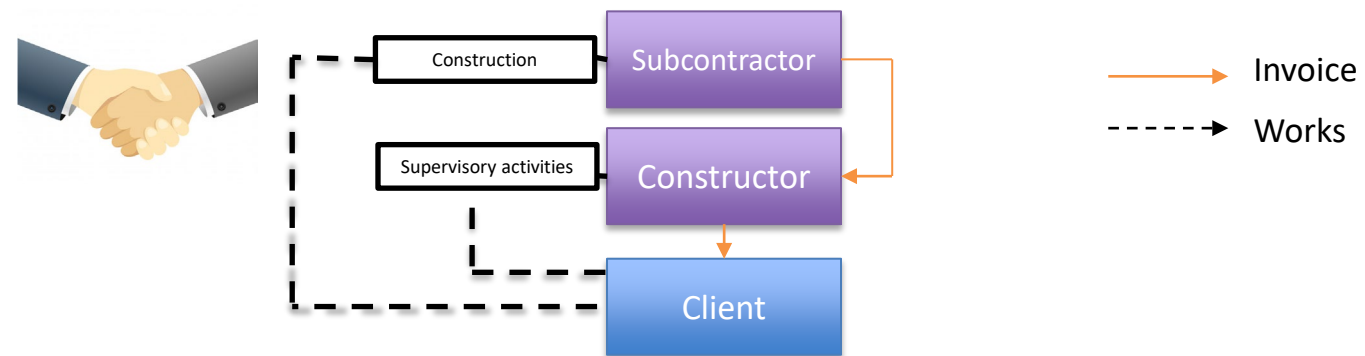






**SOURCE: Action 7 BEPS**

When the enterprise subcontracts related enterprises to perform the activities that would give rise to a PE, days used by the subcontractors should be summed up



**Differences**

**1- OCDE:**

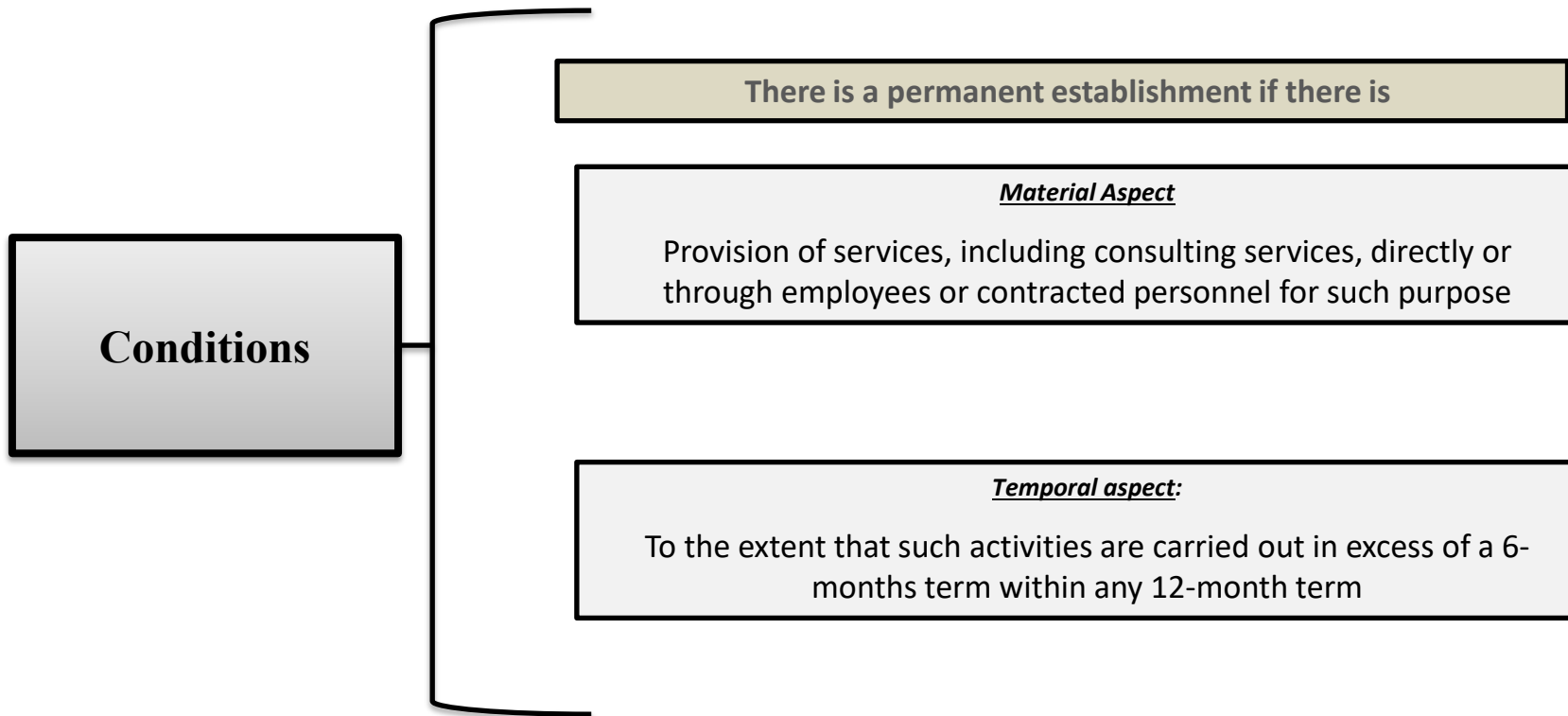
- (i) 12 months threshold
- (ii) Supervisory activities are not included

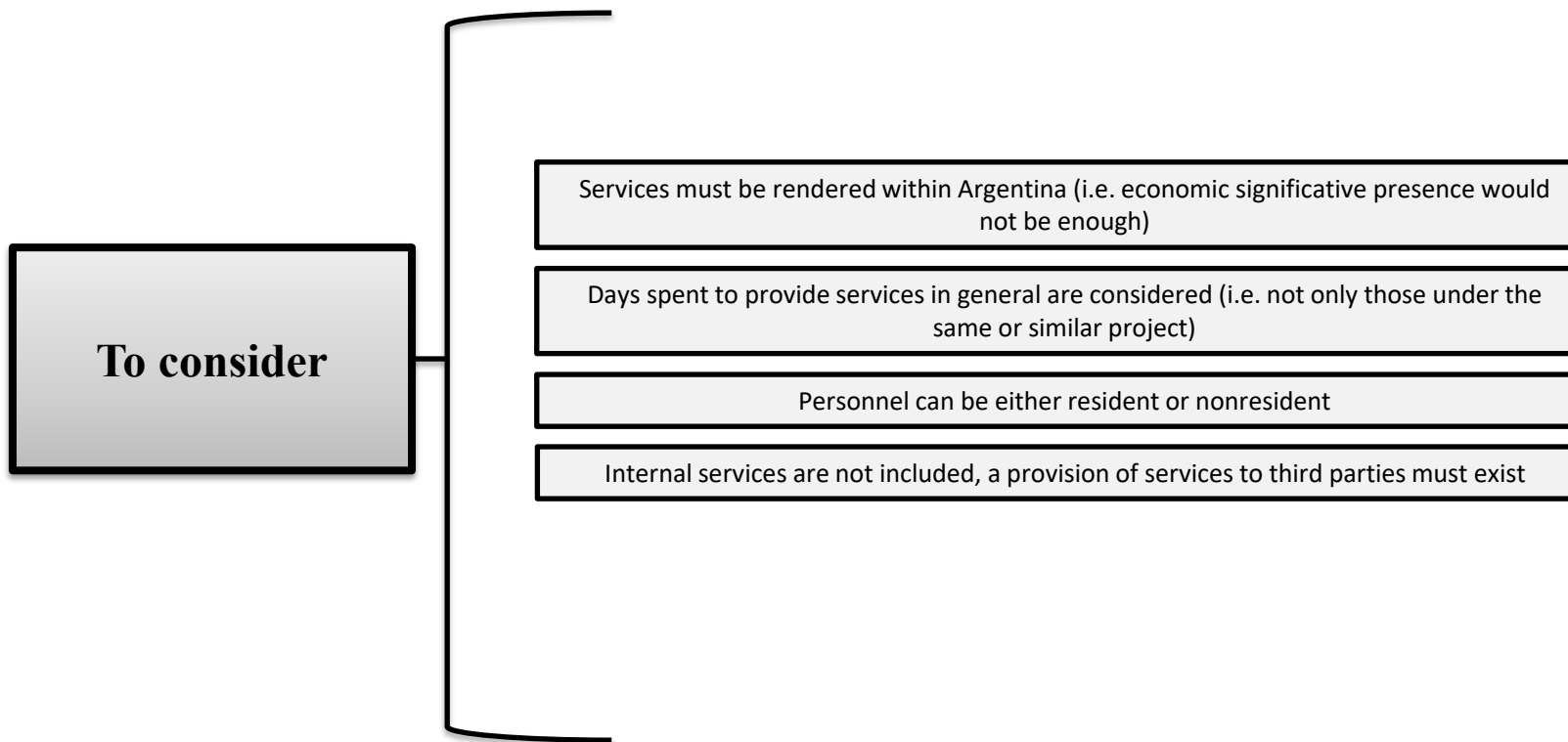
**2- UN:**

No substantial differences

**3- DTTs:**

- (i) In general, 6 months threshold
- (ii) Supervisory activities included in some







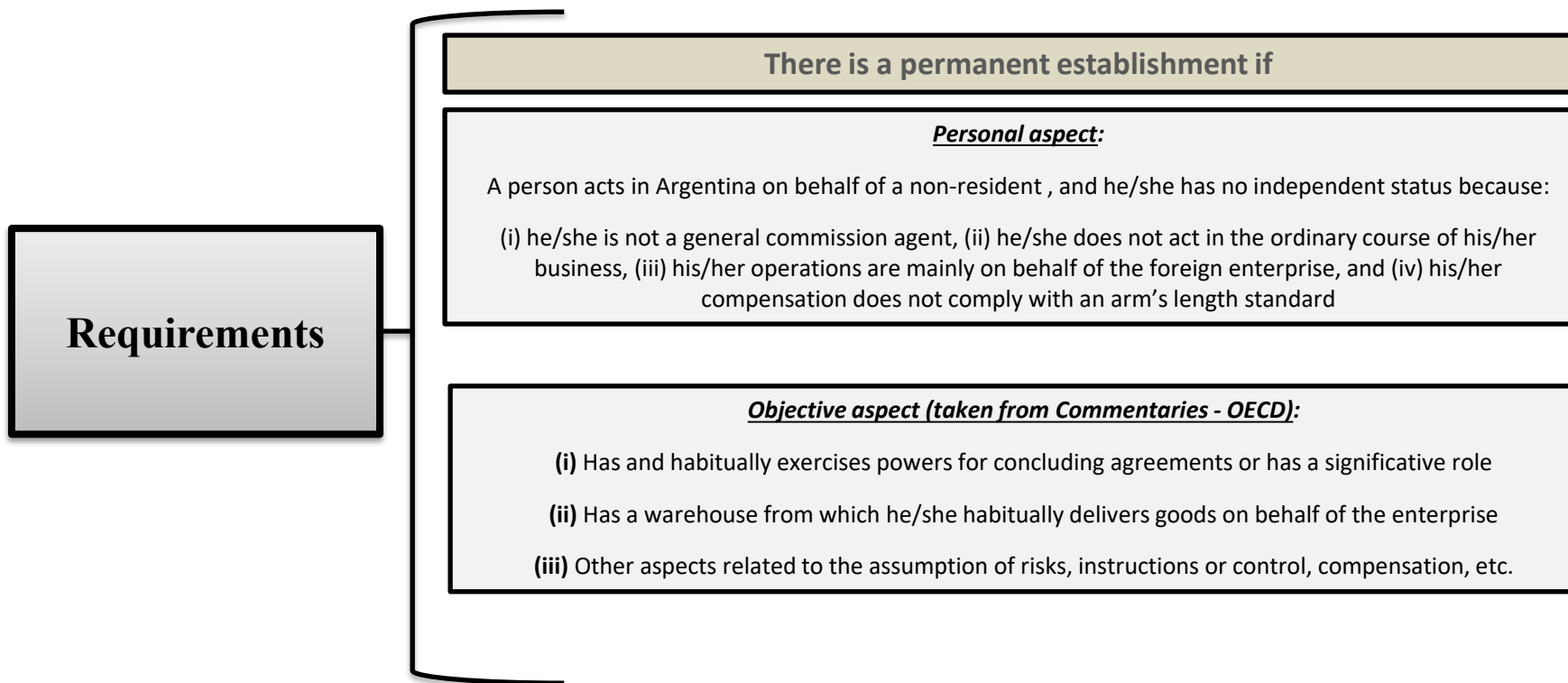
**Differences**

**1- OCDE:** *Not included but Commentaries provide the possibility*

**2- UN:** *183 days vs. 6 months*

**3- DTTs:**

- (i) Some do not include a provision at all (Brazil, Italy)*
- (ii) Some allow a split when counting the term (different projects: Switzerland)*
- (iii) The term is considered in months (Switzerland) or in days (Australia)*



**Differences**

**1- OCDE:** Agent PE is much broader under Argentine law

**2- UN:** Agent PE is much broader under Argentine law

**3- DTTs:** (i) Some treaties do not mention the “significant role” (e.g. Italy, the Netherlands, Switzerland), but a substance over form perspective may lead to the same conclusion.

CASE LAW "Solvay Indupa"  
National Tax Court - 2022

Residence  
Country  
(Belgium)

Solvay

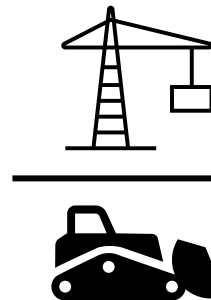


Technical  
assistance/  
know how

During 7 years, 58  
days per year

Source  
Country  
(Argentina)

Constructor



Indupa

