Case Study – Permanent Establishments

OnlineCo is a company resident in Country R that sells goods through an online platform directly to customers in various markets including Country S. The goods are purchased from unrelated suppliers. OnlineCo operates a warehouse in Country S which is staffed by 25 employees of OnlineCo.

OnlineCo leases the warehouse from an unrelated owner. The employees handle the receipt of shipments from suppliers, the stocking of the goods, and the execution of deliveries to customers in Country S, using independent delivery service providers, in accordance with instructions from OnlineCo's head office.

OnlineCo also has an office in Country S which is located in a different place than the warehouse. OnlineCo's office is staffed by 15 people, which are responsible for the merchandising of OnlineCo's products and the collection of information from OnlineCo's customers in Country S.

There is a tax treaty in effect between Country R and Country S that prevents Country S from taxing the business profits of an enterprise resident in Country R, except for profits attributable to a PE of that enterprise in Country S. Under the treaty, the profits attributable to a PE are the profits that the PE would have derived if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through other parts of the enterprise. The treaty's definition of PE includes the changes to Article 5(4) of the MTC recommended in the Report on Action 7, including the addition of paragraph 4.1.

Required

Please analyse the case herein in the context of our discussion today (Types, issues under Action plan & the possible consideration of attribution of profits.