



United Nations
**Bilateral Advance Pricing
Agreement/Arrangement
Programmes—
Frequently Asked Questions**



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Background and Acknowledgements

About the Committee

The United Nations Committee of Experts on International Cooperation in Tax Matters (the “Committee”) comprises twenty-five members appointed by the Secretary-General, after notifying the Economic and Social Council, to serve in their personal capacity for a four-year term. Selected for their expertise in tax policy and administration, the members reflect diverse geographical regions and tax systems. The Committee is globally recognized for its normative and policy-shaping work and for the practical guidance it provides in tax policy and administration.

Committee Mission

The Committee develops tools and resources for governments, tax administrators, and taxpayers to help strengthen tax systems and mobilize financing for sustainable development, as well as strengthen international tax cooperation. The work aims to prevent double taxation and non-taxation while helping countries broaden their tax base, strengthen administration, and combat tax evasion and avoidance. The Committee places special emphasis on addressing the needs of least developed countries, small island developing States, and landlocked developing countries.

Committee Working Methods

The Committee meets twice annually—in spring (New York) and fall (Geneva). Between these sessions, Subcommittees work on specific topics under the Committee’s oversight. These Subcommittees, whose participants also serve in their personal capacity, prepare proposals and draft guidance for review and approval by the Committee. This collaborative approach ensures thorough, multi-disciplinary and multi-stakeholder examination of complex tax issues, while maintaining the Committee’s ultimate responsibility for all published guidance.

Transfer Pricing and the Sustainable Development Goals

At its Twenty-third Session in 2021, the Committee’s 2021–2025 membership decided to establish a Subcommittee on Transfer Pricing, with a mandate to consider, report on and propose guidance on transfer pricing issues that:

- Reflects Article 9 of the United Nations Model Convention and the arm’s length principle embodied in it, and is consistent with relevant commentaries of the Convention

- Identifies and considers transfer pricing topics where guidance from the Committees is most useful
- Reflects the realities and needs of developing countries at relevant stages of capacity development
- Gives due consideration to relevant work in other forums, such as the Inclusive Framework on Base Erosion and Profit Sharing (BEPS), including through broad consultation.

During its Twenty-fourth Session, the Committee approved the Subcommittee's ambitious workplan, consisting of guidance on the following topics:

- Transfer Pricing during the COVID-19 Economic Downturn
- Transfer Pricing Compliance Assurance—An End-to-End Toolkit
- Transfer Pricing of Carbon Offsets and Carbon Credits
- Transfer Pricing of Agricultural Products
- Transfer Pricing in the Pharmaceutical Industry
- Bilateral Advance Pricing Agreement/Arrangement Programmes—Frequently Asked Questions

This initiative served to develop guidance products to address priority challenges faced by developing countries in implementing effective transfer pricing regimes and make capacity development activities as practical, targeted and effective as possible. By strengthening their approach to transfer pricing, countries can reduce the risk of double taxation, thereby facilitating cross-border trade, fostering a more attractive investment climate, and increasing tax revenues. In turn, this can support greater domestic resource mobilization, enabling increased investment in achieving the Sustainable Development Goals (SDGs). The Subcommittee comprises a number of Committee members and other participants from tax administrations and policy-makers with wide and varied experiences related to transfer pricing, as well as people from academia, international and regional organizations, and the private sector.

This Publication

This publication, *“Bilateral Advance Pricing Agreement/Arrangement Programmes—Frequently Asked Questions”*, is part of a series of guidance products developed to strengthen transfer pricing capacities in developing countries. After a short introductory section on the basics of Advance Pricing Agreement/Arrangement (APA) programmes, typical questions that might be taken into consideration when implementing a bilateral APA programme are addressed in a simple and practical way. This publication, reviewed, refined, and approved by the Committee during its Twenty-eighth and Twenty-ninth Session in March 2024 and October 2024 provides countries with guidance APA programmes based on best practices and country experiences.

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Disclaimer

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1. Introduction

1.1. Purpose

This guidance was prepared in response to the need, often expressed by developing countries, for practical advice on Advance Pricing Agreement/Arrangement (APA) programmes. While the guidance focuses on bilateral programmes, parts of it may be valuable for implementing unilateral programmes. To provide meaningful and practical inputs, the guidance is structured as frequently asked questions (FAQs). After a short introductory section on the basics of APAs, it presents typical questions that arise while conducting a bilateral APA program. It addresses these based on best practices and country experiences.

The FAQs are structured under four categories as follows:

- 1) Why and when to implement a bilateral APA programme
- 2) How to embed bilateral APAs into a national legal system
- 3) How to integrate a bilateral APA program into the organizational structure of tax authorities
- 4) What to consider during a bilateral APA process

The guidance strives to answer difficult questions. Not all will be relevant to all countries and their particular challenges. This guidance is indicative only, complemented by the resources mentioned in section 3.1 and Appendix 3.

1.2. Introduction to Advance Pricing Agreements/Arrangements

Transfer pricing issues are frequently contentious and controversial. Tax authorities focusing on domestic revenue mobilization seek to avoid base erosion by assuring compliance with transfer pricing rules; taxpayers aim to operate their businesses as tax efficiently as possible. Traditional enforcement often polarizes the views of tax authorities and taxpayers, creating an adversarial environment that may be unfavourable to determining the arm's length price or return for a particular transaction. Enforcement alone is not necessarily the most effective means of ensuring overall taxpayer compliance with the arm's length principle. Alternative dispute prevention and resolution options are therefore worth exploring. APAs¹ can be a tool for dispute prevention and in some cases resolution, with programmes now successfully implemented in more than 60 countries.

¹ References to “agreements” and “arrangements” are common. The United Nations Practical Manual on Transfer Pricing for Developing Countries (UN TP Manual) in section 10.2.5 speaks of both. The UN Handbook on the Avoidance and Resolution of Tax Disputes in section 2.3.3 as well as the OECD Bilateral Advance Pricing Arrangement Manual refer to arrangements.

Tax certainty is important for tax authorities and taxpayers alike. The interpretation and application of tax treaties, domestic tax law and the interaction of the two can be sources of tax uncertainty.² Taxpayers and tax authorities are increasingly concerned about this issue,³ with evidence suggesting that it hinders investment.⁴ One way to avoid tax uncertainty stemming from tax audits is for taxpayers to request a tax ruling⁵ before entering into a transaction or arrangement (or filing the relevant return).⁶ In transfer pricing, bilateral APAs may be considered a kind of tax ruling that can provide a high degree of tax certainty for both taxpayers and tax authorities.

An APA is an agreement on certain transfer pricing aspects of a related party transaction or transactions. It determines in advance the appropriate criteria for determining transfer prices.⁷ The scope could be, for instance, remuneration for an inter-company transaction or function, including the method selection and the functional profile of involved parties. The APA applies for a fixed period of time.

To comply with domestic law and the requirements of applicable double tax treaties, the criteria described in the APA and the resulting prices or profits for transactions between associated enterprises need to comply with the arm's length principle. APA criteria set out the most appropriate transfer pricing method (or methods), the comparables to be used and any comparability adjustments to be applied. For example, the APA may define how to determine the arm's length price for the purchase of intermediate products from an associated enterprise or the arm's length remuneration for

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- 2 A. Chen, P. Hieber and C. Sureth-Sloane (2022). Pay for Tax Certainty? Advance Tax Rulings for Risky Investment Under Multi-Dimensional Tax Uncertainty. TAF Working Paper. University Paderborn.
 - 3 See: IMF and OECD (2019). Progress Report on Tax Certainty; IMF and OECD (2019). Report for the G20 Finance Ministers and Central Bank Governors; T.Hoppe, D.Schanz, S. Sturm et al. (2023). The Tax Complexity Index: A Survey-Based Country Measure of Tax, European Accounting Review Code and Framework Complexity. European Accounting Review.
 - 4 See: IMF and OECD, Progress Report on Tax Certainty; K.D. Edmiston (2004). Tax Uncertainty and Investment: A Cross-Country Empirical Examination. *Economic Inquiry* 42(3).
 - 5 The term “tax ruling” is sometimes used pejoratively to describe the practice of tax administrations granting a taxpayer unilateral tax relief or favourable tax treatment that is not in line with the arm's length principle or other international tax standards. Rather, a tax ruling is simply an instrument issued by a tax authority that sets out the authority's interpretation of the tax law or regulations in certain circumstances. For example, a taxpayer may be able to request a ruling to confirm an arm's length price or whether a payment is subject to withholding tax. Where a taxpayer is entitled to rely on the ruling, it can provide tax certainty. An APA can therefore be seen as a type of tax ruling. Provided the interpretation contained in the APA is in line with the arm's length principle, it would accord with international tax standards.
 - 6 S. Neuman, T. Omer and A. Schmidt (2020). Assessing Tax Risk: Practitioner Perspectives. *Contemporary Accounting Research* 37(3).
 - 7 See: United Nations (2021). United Nations Transfer Pricing (UN TP) Manual. New York, NY: United Nations.

certain services provided to or from an associated enterprise. An APA is formally initiated by a taxpayer.

An APA can be concluded unilaterally, bilaterally or multilaterally.⁸ Unilateral APAs involve a taxpayer and their tax authority. Bilateral or multilateral APAs are decided among tax authorities and implemented if taxpayers agree. Many countries have introduced legal measures to provide APA programmes, although they may have different legal forms. In some countries, an APA is a legally binding agreement between taxpayers and tax authorities; in other countries, it may be a more informal arrangement.⁹

For APA programmes to be attractive to taxpayers, the advantages (such as greater tax certainty) need to outweigh the disadvantages (such as increased upfront compliance costs¹⁰ and the potentially greater risk of inspection and detection in case of non-compliance).¹¹ To be attractive to tax authorities, APAs should provide structured and high-quality taxpayer information and allow simplified compliance checks. Ideally, APA programmes build trust between taxpayers and tax authorities, help to monitor and preserve audit resources, shorten audit periods, lead to overall lower compliance costs, and mitigate the risks of tax disputes and double taxation. These factors should be considered when designing an APA programme so it benefits both the tax administration and taxpayers.¹²

Appropriate tax administration capacity to handle APAs is important, including, for example, in terms of response times and managing the volume of requests and the complexity of cases. Taxpayers may be asked to pay a fee for an APA to cover associated costs.¹³

8 United Nations (2021). Handbook on Dispute Avoidance and Resolution. New York, NY: United Nations

9 See the UN TP Manual, section 10.2.5.1.

10 See: A. De Waegenaere, R. Sansing and J. Wielhouwer (2007). Using Bilateral Advance Pricing Agreements to Resolve Tax Transfer Pricing Disputes. *National Tax Journal* 60(2); J. Becker, R. Davies and G. Jakobs (2017). The Economics of Advance Pricing Agreements. *Journal of Economic Behavior & Organization* 134(C)

11 Y. Givati (2009). Resolving Legal Uncertainty. The Unfulfilled Promise of Advance Tax Rulings. *Virginia Tax Review* 29.

12 See the UN TP Manual, section 10.2.5.2.

13 This is discussed in more detail in section 3.

2. Why and When to Implement a Bilateral Advance Pricing Agreement/Arrangement Programme

2.1. What are the advantages and disadvantages?¹⁴

The APA process allows parties to discuss matters in advance in a non-adversarial setting (compared to an audit), with a view to coming to a mutually satisfactory solution that applies the arm's length principle and is tailored to the specific facts of the taxpayer. Importantly, an APA reduces the burden on the taxpayer of dealing separately with various teams of the tax authorities involved with transfer pricing.¹⁵ Thus, an APA may prevent costly and time-consuming examinations and the litigation of major transfer pricing issues for taxpayers and tax administrations.¹⁶

An APA programme requires qualified staff. Ideally, a bilateral APA team would be multidisciplinary with central coordination or oversight, composed of tax authority personnel with skills relevant to transfer pricing examinations (they may include economists, legal and/or accounting specialists), experience with competent authority negotiations and industry knowledge. The involvement of qualified staff can help to reduce administrative and compliance costs.¹⁷

For tax authorities, an APA can offer a “one-stop shop” approach that is an effective alternative to resolving transfer pricing disputes. APA negotiations should take place in an environment that encourages common understanding and cooperation between the taxpayer, respective tax authorities and the competent authorities. An APA is also a way for tax authorities to better understand business operations and industries that may be important contributors to the local economy. It may improve the technical skills of tax authority officials.

Through the APA submission and subsequent discussions, tax authorities and taxpayers should agree on what information is important for a thorough understanding of relevant aspects of the taxpayer's business. This can help to focus the efforts of tax authorities. APA discussions can also allow a more focused review of submitted data and information.

14 Office of Associate Chief Counsel (International) (1994). The Advance Pricing Agreement Program (APA): A Model Alternative Dispute Resolution Process.

15 See also question 4.1.

16 See the UN TP Manual, section 15.3.4.5.

17 The same applies to a unilateral APA team, although in that case, no current competent authority input is required.

An APA can “lock-in” future compliance and assist with resolving long-standing audit issues, taking the adversarial edge out of a taxpayer’s interaction with tax authorities. In doing so, an APA can help to avoid extended disputes and litigation. At the same time, the process allows a rigorous review of the taxpayer’s related party transactions and how they are priced. It may provide an opportunity to resolve issues in prior years by rolling back the agreed APA pricing methodology to those periods.

An APA does not shelter a taxpayer from a tax authority review of other activities or transactions not covered by it, or from a review of taxpayer compliance in good faith with the agreed terms of the APA. Tax authorities have no obligation to renew the APA after expiration, but they may do so if taxpayers apply for a renewal.

From the taxpayer’s perspective, obligations associated with an APA include a requirement to provide detailed industry as well as taxpayer- and transaction-specific information upfront. The process typically requires annual reports or information on how the APA was applied to taxable years covered by it, describing the taxpayer’s actual operations for any given year and demonstrating good faith compliance with APA terms and conditions.¹⁸

For a tax authority, one disadvantage of an APA programme may be limited discretion in the deployment of its resources. Since an APA request is initiated by taxpayers, the tax authority would need to respond to requests in accordance with established processes. National APA guidelines could make it clear that acceptance of an application will depend on several factors, including the complexity of the transaction and whether there is a high likelihood of tax controversy.

For many tax administrations, retaining experienced and well-trained officials may be a major challenge. A side effect of an APA programme may be that tax officials gain skills through more exposure to private sector participants in the negotiations. This may be a factor to consider as an organizational matter. It is not a weakness of APAs as such or an argument against developing APA skills and experience in tax administrations.

2.2. At what stage might a country benefit from having an Advance Pricing Agreement/Arrangement programme?

An APA programme potentially ties up resources at different levels of tax authorities at the same time. Some may prefer to implement an APA programme only once they have developed sufficient capacity. Others see the experience gained in concluding APAs as an important part of capacity development on transfer pricing. They may implement an APA programme earlier in their journey to develop transfer pricing teams.¹⁹

Some countries may be reluctant to implement APA programmes because they are often sought by multinational companies with a low transfer pricing risk, resulting

¹⁸ This applies regardless of whether the APA is bilateral or unilateral.

¹⁹ See the UN TP Manual, section 10.2.5.3.

in an unnecessary use of resources. Similar to tax dispute settlement mechanisms, checks and balances help to assure that the APA process is applied consistently across taxpayers and is not subject to abuse or integrity issues.²⁰

Tax administrations with severe resource limitations may wish to weigh the advantages of APAs against other resource needs. It may be difficult, for example, for a tax administration that is still developing its general audit capabilities to feel comfortable diverting substantial resources to an APA programme at that stage. Such countries may also be concerned that they will be at a disadvantage in negotiating APAs with multinational enterprises or other countries until they develop more experience, including with the Mutual Agreement Procedure (MAP). On the other hand, APAs can be useful on an interim basis as an efficient means of collecting tax in the short term, particularly in countries with a small number of large foreign multinational enterprises.

Where a tax authority has implemented an APA programme early in its journey to develop transfer pricing experience, a centralized approach to managing APAs, and/or a focus on particular sectors and industries can help develop knowledge, experience and best practices. The experience gained by tax administration staff may also be useful in designing additional transfer pricing regulations or other guidance. Since an APA can be a more efficient process than an audit, it can conserve audit resources, although it cannot replace the need for trained audit staff.

Countries with limited experience in transfer pricing may initially prefer to limit the types and terms of APAs. The tax authority can then evaluate its experience more quickly and further develop or adjust practices as needed.

On the term of APAs, five years is most commonly used by experienced tax administrations. The term could, after weighing pros and cons, be limited to three years in an introductory phase.²¹ An alternative is to launch a pilot APA programme before committing to a generally available, permanent programme.²²

2.3. What are the pros and cons of unilateral and bilateral Advance Pricing Agreement/Arrangement programmes?

Some countries issue unilateral APAs. These only involve the taxpayer and one tax administration. While they may be useful, they do not offer a comprehensive solution to double taxation as they include only an agreement within one country building on its factual and legal assessment, which other countries might not necessarily share.

Unilateral APAs involve an agreement between the tax authority and a taxpayer in the same country on essentially three aspects: relevant facts, the transfer pricing method used, and the application of that transfer pricing method to a certain

20 See the UN TP Manual. The issues involved in balancing resources and priorities with the potential benefits of APAs are discussed in more detail in section 15.3.4.

21 See also question 5.21 on APA length.

22 See the UN TP Manual, section 15.3.4.9.

number of years considering the relevant facts. Procedurally, a unilateral APA functions as a determination agreement or ruling on transfer pricing for the relevant taxpayer.

A unilateral APA does not bind any foreign government or foreign taxpayer that is also a party to, or may be affected by, related party transactions covered by the agreement. While Action 5 on Harmful Tax Practices of the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project requires the spontaneous exchange of information on unilateral APAs to relevant jurisdictions, unilateral APAs provide no rights to taxpayers in a foreign jurisdiction that is not a party to it. A unilateral APA therefore does not preclude discussion of the same matters under a MAP (where there is a treaty providing for such) should another tax authority challenge the agreed solution with a tax re-assessment. That said, unilateral APAs can provide certainty and dispute prevention in the issuing jurisdiction. Furthermore, many countries historically have started with unilateral APAs before creating a bilateral APA programme. Presently, however, most are moving away from unilateral agreements in favour of bilateral APA programs.

A benefit of unilateral APAs is that they tend to be finalized more swiftly, since bilateral agreements require a separate layer of review, negotiation and approval by the relevant competent authorities. Unilateral APAs can also be useful to avoid double taxation in the absence of a bilateral tax treaty. Taxpayers may choose to obtain matching unilateral agreements in both countries involved with the same cross-border transaction to reduce exposure to double taxation.

Bilateral APAs, on the other hand, provide greater certainty for the taxpayer on the taxation of certain cross-border transactions. They can mitigate double taxation because the competent authorities of the countries involved agree on a common understanding of the tax treaty in light of the United Nations Practical Manual on Transfer Pricing for Developing Countries (UN TP Manual) and the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines). Procedurally, bilateral APAs incorporate an agreement between the competent authorities setting out how to determine arm's length conditions for the covered transactions. This is mirrored in domestic determinations or rulings between the relevant taxpayers and their tax authorities.

A downside of bilateral APAs may be that they typically take longer to conclude. Progress depends on the agenda and resources of two separate tax authorities to analyse and negotiate. The time taken may also depend on the robustness of the tax treaty relationship between the relevant competent authorities. Furthermore, taxpayers might seek assurances on how information provided during an APA negotiation is used by national tax administrations.

3. Embedding Bilateral Advance Pricing Agreement/Arrangement Programmes Into a Country's Legal System

3.1. What international guidance is available and may be considered?

Guidance on APAs is provided in the UN TP Manual, sections 10.2.5. and 15.3.4., as well as in the United Nations Handbook on Dispute Resolution and Avoidance, section 2.3.3. The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations include guidance on APAs in chapter IV, section F. The Forum on Tax Administration's MAP Forum, in conjunction with the Forum on Tax Administration's Large Business International Programme, has developed the Bilateral Advance Pricing Arrangement Manual as a guide for streamlining the bilateral APA process.²³ The World Bank's Handbook on Transfer Pricing and Developing Economies also contains a section on APAs.²⁴

Statistics on APAs are currently published by the OECD for members of the BEPS Inclusive Framework and by the European Union (EU) for member States. These provide a good overview of the number of APAs granted and in force, and the average time needed to negotiate them.²⁵ Maintaining and analysing such statistics helps to evaluate and monitor APA performance and identify areas for improvement, irrespective of reporting obligations.

23 Organisation for Economic Co-operation and Development (OECD) (2022). Bilateral Advance Pricing Arrangement Manual. Paris: OECD Publishing.

24 J. Cooper, R. Fox, J. Loeprick et al. (2016). Transfer Pricing and Developing Economies: A Handbook for Policy Makers and Practitioners. Washington, DC: World Bank Group.

25 Reporting obligations differ between the OECD and the European Union. See Organisation for Economic Co-operation and Development (OECD) (2023). Advance Pricing Arrangement (APA) Statistics Reporting Framework. Paris: OECD. See statistics on pending APAs and MAPs in the European Union. Available at: https://taxation-customs.ec.europa.eu/archives-0/enhanced-administrative-cooperation-field-direct-taxation/statistics-pending-apas-and-maps-eu_en

3.2. Is a domestic legal basis required? If so, what should it cover?

The legal basis for APAs concluded under bilateral tax treaties are provisions that resemble Article 25(3) of the UN (or OECD) Model Tax Convention.²⁶ These provisions do not explicitly state the requirements and procedural rules for APAs but rather implicitly allow signatories to conclude them. As such, it may be advisable to provide details and the authority to enter into APAs in domestic law or administrative guidance. Common law jurisdictions, in particular, may require only administrative guidance. Further, a general provision allowing the issuance of rulings may be a sufficient legal basis for APAs.

Some jurisdictions may prefer having a specific provision in domestic law.²⁷ This provision could address:

- The circumstances under which an APA can be requested
- The taxpayers eligible to request an APA
- The application process, including form, deadlines and cost
- The responsible authority
- The time frame covered by an APA
- Whether rollbacks are possible

3.3. In implementing an Advance Pricing Agreement/Arrangement programme, should the tax administration provide administrative guidance?

As mentioned in section 3.2, a jurisdiction's APA programme may be implemented administratively. If there is a provision for APAs in a statute, further administrative guidance may still be helpful to define additional details or processes. Such guidance should be publicly available and accessible, ideally on the tax administration's webpage.

3.4. How should Advance Pricing Agreement/Arrangement programmes be financed? Should taxpayers pay an application fee, and if so, what amount?

In contrast to audits or other retrospective assessments, APAs are, to a large extent, not only in the interest of tax authorities but additionally serve taxpayers because they can achieve legal certainty for covered transactions.

²⁶ See para. 10 of the Commentary on Art. 25 of the UN Model Convention; para. 52 of the Commentary on Art. 25 of the OECD Model Convention.

²⁷ This would probably also be required for a unilateral APA programme.

APAs are voluntary compliance measures. As such, the benefits to taxpayers and the administrative costs to tax authorities could justify charging an application fee. While fees might deter taxpayers from applying for an APA, they could also reduce immaterial, frivolous and poorly prepared applications; experience shows that a fee leads taxpayers to be well-prepared.

Some jurisdictions do not charge application fees. Other tax authorities seek only a reimbursement for certain government expenses, such as for travel (e.g., Malaysia and New Zealand). Those that charge fees may apply a fixed amount, although there may be different fee brackets depending on the volume of the transaction or the turnover of the taxpayer. They may seek reimbursement of all direct costs incurred (e.g., hourly rates for officials assessing the application, travel costs, interpretation/translation costs, etc.). For details, see Appendix 1.

For small and medium-sized enterprises, a distinction may be drawn, including through lower fees that take the ability to pay into account.

3.5. Should tax administrations focus on particular types of transactions?

Many tax authorities prefer to limit the availability of APAs to certain kinds of transactions, particularly in the early stages of implementation. For instance, the tax authority may focus on simpler transaction types or particular industries to build experience and knowledge. On the other hand, many jurisdictions find that APAs can be particularly useful in complex²⁸ or novel transfer pricing cases that require maximum cooperation from the taxpayer.

Countries at the beginning of their APA programme may want to consider prioritizing cases in certain industries or sectors that are especially significant to their economy (for example, extractive industries for resource-rich countries) in order to gain or use industry-specific knowledge. Several countries with well-developed APA programmes started out with a limited scope. For example, The Netherlands introduced an APA programme in 1994 and only included financial transactions as of 2024.

It may seem logical to prioritize high-volume transactions because legal certainty may be considered more important with increasing transaction volumes with an expected efficiency benefit. Nevertheless, a one-dimensional approach may be subject to several shortcomings. First, the importance of a transaction for a single taxpayer/group rests on the ratio of a transaction's volume to the overall business of the taxpayer. Second, the importance of a transaction for a taxpayer not only depends on the volume but also on other factors, such as business restructuring considerations. Finally, the legal complexity of an issue may not correlate with the transaction volume.

²⁸ See the UN TP Manual, section 15.3.5.4.

3.6. What is the relationship between an Advance Pricing Agreement/Arrangement and a tax audit?

APAs involve future transactions. There should not be a direct interaction between tax audits in prior years and APAs. Some exceptions may arise, however.

- 1) APAs may in practice cover past transactions, either due to the time taken to negotiate the APA or where a rollback of APA terms can be agreed. In these cases, the APA should be concluded with the whole picture in mind. Well-developed transfer pricing documentation covering past and current transactions would be beneficial and could be requested by the tax authority, if it is not already provided by the taxpayer to understand past and future transactions.
- 2) Only a concluded APA provides protection from an audit. If an APA application is made during a current audit, the application should not affect the audit. A taxpayer should be able to confirm whether the proposed APA transaction is under audit before requesting an APA. Where permitted by law, the tax authority may agree in some cases to suspend a tax audit if the results of the APA can be reliably applied to the transaction scrutinized by the tax audit. This takes place by allowing a rollback of the APA term to prior years. Similarly, the tax authority may agree to suspend the roll forward of an audit (or refrain from the commencement of a new audit), pending the successful conclusion of the APA, where this takes significant time and results in an open year or years between the end of the existing audit period and the start of the period covered by the concluded APA.
- 3) APAs may be based on the outcomes of a tax audit—especially a joint tax audit—where agreed criteria for determining arm's length transfer prices would be relevant to future transactions.

3.7. What is the relationship between an Advance Pricing Agreement/Arrangement and administrative or judicial proceedings?

An APA application should have no direct effect on administrative or judicial proceedings. In some cases, however, administrative proceedings may be suspended with mutual consent where APA terms, by way of a rollback, can be reliably applied to matters subject to the administrative proceedings. Suspending APA negotiations in light of administrative or judicial proceedings should be considered very carefully and only occur in very exceptional cases as doing so endangers the conclusion of an APA before the transaction is performed.

4. Organizational Design: How to Integrate a Bilateral Advance Pricing Agreement/Arrangement Programme Into a Tax Administration's Organizational Structure

4.1. How should the programme be organized, and where should it be located?

As set out in the UN TP Manual, section 15.3.5.1, there are advantages to having APAs managed by a special team or unit within the tax authority. For instance, a centralized team may improve coordination. Many jurisdictions with established APA programmes have found that combining MAP and APA functions can be efficient because of their structural similarities. On the other hand, placing the APA function within audit teams can result in challenges related to the appropriate use of information.

Audit teams monitor a taxpayer's compliance with the APA. Typically, APAs require the taxpayer to report annually on compliance and to confirm that critical assumptions that are the basis for APA terms remain valid. The tax authority would need to undertake due diligence to verify these reports.²⁹

Centralized transfer pricing units in a tax administration may also be helpful. Centralization should ensure a consistent transfer pricing approach and the appropriate allocation of resources.

4.2. What should be considered in terms of taxpayer information?

As with all taxpayer information, it is important to ensure that information received during the APA process satisfies confidentiality requirements.

There is a further question around circumstances in which information provided during the APA may be shared with other parts of the tax administration, including audit teams. This depends on domestic law. Some tax administrations provide taxpayers with assurances that information provided for an APA will not be used for any other purpose, including audits or other compliance activities. Such assurances help to give taxpayers enough confidence to provide full and candid disclosures of information for the APA.

²⁹ APA terms should set out the available remedies if a critical assumption is no longer valid. These could include cancellation, amendment or renegotiation of the APA.

In other countries, factual information provided for an APA may be shared with other parts of the tax administration to administer relevant income tax law(s). Nevertheless, to maintain taxpayer confidence, the APA process should not be used as a “fishing expedition” to obtain information.

4.3. Are exchanges of experiences between authorities useful, and if so, how may this be approached?

Developing countries starting an APA programme may benefit from dialogues with countries with well-developed programmes, particularly on procedural aspects. Dialogues may be structured along the lines of the Tax Inspectors Without Borders programme,³⁰ with expert APA staff from experienced administrations assisting other administrations to build APA capacity.

4.4. Which meetings should be held virtually and which physically?

Meetings between the tax authorities and the taxpayer

The APA process may benefit from a pre-filing meeting where the taxpayer or its representatives and the tax authority meet to assess whether the envisaged APA request is appropriate for submission. In some countries, initial pre-filing discussions can take place anonymously. One purpose of a pre-filing meeting is to build trust. It is the first opportunity to discuss mutual expectations for the APA process. An in-person meeting may be preferred over a virtual meeting.

The APA process often involves at least one or two meetings where the entire APA team and the taxpayer, with representatives, are present. In these meetings, further questions may be asked, additional information requested and the taxpayer’s legal assessment discussed. These meetings can take place virtually but may benefit from in-person attendance.

Meetings of the competent authorities

Virtual meetings and conference calls save both time and expenses for travel and thus enable more frequent discussions among competent authorities. In-person meetings, however, may build trust and facilitate fruitful discussions. In this regard, it can be beneficial to have in-person meetings from time to time. Some administrations require taxpayers to pay necessary travel expenses for such meetings.

³⁰ Tax Inspectors Without Borders (TIWB) is a joint initiative of the OECD and the United Nations Development Programme (UNDP) designed to support developing countries to build tax audit capacity. Under TIWB, tax audit experts work alongside local officials of developing country tax administrations on tax audit and tax audit related issues. TIWB aims to transfer technical know-how and skills to developing countries’ tax auditors, as well as share general audit practices.

5. Procedural Issues: What Should Be Considered During a Bilateral Advance Pricing Agreement/Arrangement Process?

5.1. What are the typical phases?

Tax administrations may classify the phases of a bilateral APA differently. The following section therefore provides only general guidance based on eight typical phases:

- 1) Preliminary discussions between the taxpayer and tax authorities or pre-filing
- 2) Formal application by the taxpayer to both tax authorities
- 3) Decision on the acceptance of the application by both tax authorities
- 4) Information-gathering by both tax authorities
- 5) Analysis of information and preparation of position papers by both competent authorities
- 6) Negotiations and agreement between competent authorities
- 7) Presentation to and acceptance of an agreement by the taxpayer and implementation
- 8) Post-implementation and annual compliance monitoring³¹

5.2. Should the phases follow a particular timeline?

In establishing an APA programme, early APAs can take a longer time. The time required also depends on the complexity of a case. An ambitious but realistic time frame may be two to three years from application to agreement. In the beginning, a tentative timeline may be agreed between competent authorities and taxpayers to provide an incentive for all parties to negotiate and conclude the process in a timely manner.

³¹ For a unilateral APA, the same process is followed but by just one tax authority, usually without the involvement of the competent authority.

Phase 1: Preliminary discussions between the taxpayer and tax authorities or pre-filing

5.3. Should pre-filing meetings be mandatory?

A pre-filing meeting may help to improve the efficiency of the APA process and is obligatory in some countries. For less complex and ongoing transactions, a pre-filing meeting may be less important.

Where there is a fee for an APA application, pre-filing meetings are generally held free of charge. In this case, a pre-filing meeting is in the interest of taxpayers and will usually be requested. It can be a way to save resources as it allows both parties to explain their positions, provides an opportunity to clearly state expectations and ensures that the APA application has a reasonable chance of success.

5.4. What should preliminary discussions cover?

Preliminary discussions might expedite the subsequent formal process and identify whether an APA will be beneficial and/or successful. The discussions may include some of the following:

- The introduction of responsible individuals for both the taxpayer and tax authorities
- Expected APA outcomes
- The term of the proposed APA
- An overview of the facts, including the business model
- A high-level functional analysis and covered transactions
- Whether the transactions are or have been subject to an audit
- Expectations and objectives of tax authorities
- Foreseeable obstacles in the envisioned transfer pricing set-up and initial feedback by tax authorities
- Discussion on realistic timing, including resources and milestones as well as frequent touch-points or physical meetings
- Details on the formal APA procedure based on local legislation, including language and submission procedures
- Provision of further guidance for taxpayers

5.5. What should pre-filing meetings avoid?

To ensure a fair and symmetric information flow, information provided to one jurisdiction should also be provided to the corresponding jurisdiction. As a bilateral agreement between the authorities is required, competent authorities should not unilaterally agree to any position. This does not mean, however, that competent

authorities cannot highlight their “red lines” in a pre-filing meeting. These may stem from national law or other requirements in their jurisdiction (e.g., specific transfer pricing methods, types of information to provide and kinds of intragroup relationships).

5.6. How should preliminary discussions take place?

The regular use of emails, calls and videoconferences allows more flexible scheduling and faster processes. Frequent secure electronic communication can help to involve taxpayers and tax authorities from all relevant jurisdictions. Since physical meetings can build trust, they should be considered especially at the beginning of the process and for more complex cases.

5.7. Should the treaty partner be involved?

Pre-filing meetings may initially take place separately in the respective jurisdiction(s). The competent authorities generally only contact one another after the filing of the APA request. Where there is greater collaboration between authorities, informal discussions may take place at an earlier stage. For instance, after the pre-filing meetings, tax authorities may arrange for a call to agree whether to accept the APA in their respective APA programmes. Joint pre-filing meetings could be considered, although they are not a common practice.

Phase 2: Formal application by the taxpayer to both tax authorities

5.8. What information needs to be provided by the taxpayer when submitting an application?

The goal of the APA application is to provide the tax authorities with all relevant information on covered transactions and the proposed arm's length price or result. With that in mind, an application would typically include the following information:

- The accurately delineated covered transaction(s), including information on the underlying contracts; if applicable, information on transactions not covered by the APA and reasons why they are not intended to be covered
- Taxpayers involved (legal entities and permanent establishments), including respective countries and tax identification numbers
- General information regarding the global organizational structure and the group's activities, financial statements, products, functions, risks and assets
- Description of the industry and market conditions, including competition

- Description of the most appropriate transfer pricing methodology being proposed
- Information and analysis of how the proposed transfer pricing methodology would be applied, including a comparability study, any necessary adjustments and critical assumptions
- Reasoning for the proposed transfer pricing analysis
- Intended term of the APA
- Relevant contact persons and proof of their authority to negotiate on behalf of the taxpayer (e.g., a power of attorney if this is a common practice)

5.9. How can the application be submitted?

Digital submission of the application may be required or allowed depending on the legal and procedural requirements in the tax jurisdiction. These may include, for example, domestic laws on data protection and data privacy as well as the digital infrastructure of the tax authorities. Electronic submission either via an official portal or email may improve the process provided data are secure. To offer legal certainty to the taxpayer, it is recommended to define the submission procedure in national law or APA administrative guidance.

5.10. Which language can be used for filing?

Whether a language other than the official language(s) is allowed will depend on domestic law. Many tax authorities have had good experiences with an English submission while requiring a translation of the application, or parts thereof, upon request. To provide legal certainty to the taxpayer, it is recommended to define language requirements in national law or APA administrative guidance.

5.11. Does the application need to be filed simultaneously in all jurisdictions?

To avoid information asymmetry and delays, a simultaneous submission is preferable to sequentially submitted applications.

Phase 3: Decision on the acceptance of the application by both tax authorities

5.12. What should the acceptance process by tax authorities involve?

The acceptance of the application is usually at the discretion of the respective competent authorities. There is typically no obligation for a competent authority to accept an application. There should be good reasons not to accept an application, however.

If an application is rejected by a tax authority, an explanation is usually provided to maintain a collaborative environment with taxpayers. Taxpayers may also have an opportunity to amend and resubmit the application, possibly without incurring another application fee.

Acceptance can happen either automatically, without a detailed review, or after a review and potential discussion with taxpayers.

Taxpayers and tax authorities may agree on a project plan for next steps, including timing, after the formal acceptance.

5.13. What factors could have an impact on acceptance?

An incomplete application would typically result in a rejection. The following factors may have a positive impact on acceptance:

- The transfer pricing method proposed is in line with the arm's length principle and international transfer pricing practice for the proposed covered transaction(s) as accurately delineated
- The proposed arrangements are not merely contemplated but are very likely to be put in place or are already in place
- The proposed arrangements are unlikely to change significantly during the term of the APA
- The transfer pricing issues under discussion are complex and material enough to require advance guidance
- The planned transaction can be assessed with sufficient data and comparables
- The taxpayer has a history of consistent compliance, and tax authorities are comfortable with its corporate governance and control mechanisms
- Tax authorities have the resources and skills to assess the application
- The arrangements covered by the APA are not likely to be subject to the application of anti-avoidance rules, including anti-treaty shopping rules

Phase 4: Information-gathering by both tax authorities

5.14. What methods are available to collect information?

Tax authorities may want to gather further information by:

- Requesting additional documents
- Conducting functional analysis interviews
- Performing a site visit
- Involving industry or other experts

- Conducting their own research on the taxpayer/industry and running a data assessment, e.g., based on publicly available data sources

5.15. What documents can be requested during information-gathering?

Documents on the taxpayer requested during information-gathering could include:

- A legal chart
- Beneficial ownership information
- An organizational chart identifying key decision-makers
- Intragroup contracts, financial statements
- The group master file, together with the local files of associated enterprises
- Benchmarking studies
- Industry descriptions
- A description of the business model, including key value drivers
- A description of functions, assets and risks, and role descriptions of key decision-makers

Further details on relevant information, including guidance on potential questions during a transfer pricing audit, can be found in the guidance on transfer pricing compliance assurance.³² Industry-specific questionnaires are provided in the appendices of the guidance on transfer pricing in the pharmaceutical industry³³ and for agricultural products.³⁴

In general, information requested should be relevant or foreseeably relevant as defined under domestic law for a tax audit. It should be shared with all competent authorities involved, ideally simultaneously.

5.16. When is joint information-gathering appropriate?

Similar to the pre-filing meeting, fact-finding is typically country-specific and conducted by the respective tax authorities. Joint questionnaire(s), interviews, status meetings, discussions on complex questions or even site visits and industry studies can help to improve the APA process and avoid information asymmetry. Experience shows that asymmetric information will slow down the procedure and could result in a failed agreement. Information exchanges between authorities should be conducted

32 United Nations (2025). Transfer Pricing Compliance Assurance: An End-to-End Toolkit. New York, NY: United Nations.

33 United Nations (2025). Transfer Pricing in the Pharmaceutical Industry. New York, NY: United Nations. New York, NY: United Nations

34 United Nations (2025). Transfer Pricing of Agricultural Products. New York, NY: United Nations.

openly and in a timely fashion. To the greatest extent possible, information should be shared with both competent authorities at, or around, the same time through secure communication channels.

Phase 5: Analysis of information and preparation of position papers by both tax authorities

5.17. When should analysis of information and preparation of the position papers start?

Most authorities find it helpful to begin analysing information as soon as it becomes available as this may help to identify whether further information is needed.

Given that transfer pricing depends on a taxpayer's facts and circumstances, a competent authority should determine these at the outset. Where there are different views on the relevant facts and circumstances, it may be helpful to engage in further information-gathering (e.g., via joint questionnaires, site visits, industry studies, etc.) to reconcile differences.

Once the facts and circumstances have been established and analysis conducted, the findings should be summarized in position papers. There should be a first exchange on the most appropriate transfer pricing method before the competent authorities draft their position papers.

5.18. What should position papers include?

Position papers outline a jurisdiction's position on the covered transaction(s). They allow competent authorities to understand the treaty partner's position prior to discussions.

Position papers should include sufficient detail to enable the treaty partner to understand the relevant issues and the reasons why a position has been taken. Typically, position papers include the following information:³⁵

- Legal name and taxpayer identification number
- Contact details of competent authorities, including official(s) in charge
- A short description of the taxpayer's business, including functional, risk and asset analysis, bearing in mind that the goal is not to duplicate the APA request provided by the group but rather to summarize information relevant to the position of the tax administration
- A summary of financial data
- An outline of the taxpayer's position, including their selection of a transfer pricing method and its application

³⁵ See a similar overview in the OECD Bilateral Advance Pricing Arrangement Manual, annex C.

- A description of the competent authority's position, including their selection of a transfer pricing method and its application
- The relevant critical assumptions
- The suggested term of the APA

Depending on the complexity of the case, some aspects, especially regarding the taxpayer's business and economic analysis, including details on comparables, may be more detailed.

Phase 6: Negotiations and agreement between competent authorities

5.19. What should interaction with the taxpayer involve?

Taxpayers are not involved in the negotiation phase, including the drafting of the position papers and discussions between competent authorities. Nevertheless, in complex cases, competent authorities may seek additional information from the taxpayer to avoid misunderstanding and errors of fact. Furthermore, it may be beneficial to provide the taxpayer with regular updates on the status of discussions. Such taxpayer involvement is at the discretion of the competent authorities.

5.20. What elements need to be defined by the negotiation?

A successful APA process usually results in an APA with the following information:

- The relevant taxpayers
- A description and delineation of the covered transaction(s)
- The methodology, including its application, i.e., how to determine the exact pricing, as well as remedies if the agreed pricing/outcome is not met
- Critical assumptions
- The terms of the APA
- Compliance obligations
- The effect on previous years/interaction with ongoing dispute resolution, if relevant

5.21. What is a common term length?

Countries with limited experience in applying a transfer pricing regime may initially prefer to limit the terms of their APAs (e.g., to three years) so that they can then evaluate the experience more quickly and adjust their practices as needed. A more common term once some experience has been gathered would be five years. Agreement on the term length should consider the time it took to negotiate the APA.

5.22. How is an Advance Pricing Agreement/Arrangement concluded between tax authorities?

To conclude an APA, competent authorities from both parties sign a document to confirm the details of the agreement. This document is drafted by one of the authorities and revised as needed by the other to ensure mutual agreement. Once it is signed, the APA is binding on both tax authorities, provided the associated enterprises that constitute the respective taxpayers in the jurisdictions involved have also signed a matching agreement with their respective tax authorities. An exception occurs if a critical assumption is breached. A bilateral APA entails three separate agreements: one between the two competent authorities, and one agreement between each taxpayer and its tax authority.³⁶ Multilateral APAs in most cases combine several bilateral APAs.³⁷

Phase 7: Presentation to and acceptance of an agreement by the taxpayer and implementation

5.23. Should the taxpayer be contacted prior to the conclusion of the Advance Pricing Agreement/Arrangement?

Once the negotiation and agreement on the terms of the APA are concluded between the competent authorities, the taxpayer(s) must accept the terms of the agreement for it to take effect. If the competent authorities agree on terms that differ materially from those proposed by the taxpayer, it would be helpful to advise the taxpayer accordingly. Keeping taxpayers informed, as suggested above, can help them understand and accept terms agreed by the competent authorities.

5.24. How is the agreement formally accepted and implemented?

In many countries, the APA needs to be formally accepted by the taxpayer, at which point it is binding for tax authorities and taxpayers alike (subject to the critical assumptions remaining valid). Some countries require a formal domestic implementation agreement between each tax authority and its taxpayer, mirroring the bilateral APA between the competent authorities. The domestic implementation agreement should accurately reflect the relevant agreed wording of the APA.

5.25. Should the Advance Pricing Agreement/Arrangement be published or disclosed to interested parties?

APAs include confidential taxpayer information that can be competitively disadvantageous for the taxpayer if disclosed publicly. Publication of APAs is a sensitive topic,

³⁶ A unilateral APA entails just one agreement between the taxpayer and the tax authority.

³⁷ See OECD (2023). Manual on the Handling of Multilateral Mutual Agreement Procedures and Advance Pricing Arrangements, para. 26. Paris: OECD Forum on Tax Administration.

yet several countries publish redacted/anonymized summaries. They largely do this because other taxpayers will be interested in whether APAs have been issued, if they were bilateral or unilateral, what types of transactions were covered and what methods were agreed on. Such information may help other taxpayers gauge if they should move forward and file for an APA themselves. It may be used by other countries to learn whether a (unilateral) APA affecting their jurisdiction may potentially erode their tax base. Disclosure of APA data in a standardized anonymous and neutral format may help to stave off repeated public requests for disclosure of APA information under transparency provisions or freedom of information legislation. Responding to such requests may be time-consuming and politically sensitive.

Disclosure can be organized at a local country level (India and the United States of America publish annual statistics, for example). It may also be addressed at the international level. The OECD, for example, publishes annual information on MAPs including transfer pricing matters. The data cover APAs and regular transfer pricing adjustment-related agreements.

The EU annually discloses data on MAP and APA agreements between EU member States. To that end, the information disclosure format is streamlined across all relevant States and jurisdictions. Furthermore, APA disclosure is a common practice in the EU under the Directive for Administrative Cooperation.³⁸ It obliges member States to disclose to other jurisdictions that they have entered into an APA with a taxpayer and share relevant information. An exchange of information on unilateral APAs is also part of the BEPS Action 5 minimum standard.

The OECD and EU do not provide sensitive taxpayer information to the public. Disclosures usually outline the type of transaction involved (services, manufacturing, intellectual property licenses, cost-sharing, headquarters expenses, etc.) and the transfer pricing method used. Some countries disclose an APA with other jurisdictions directly affected by it, even if they are not a party to it.

In sum, disclosure or publication of APAs can be helpful to enhance trust in an APA programme among other jurisdictions and taxpayers. The disclosure format should be considered with great care to avoid sharing sensitive taxpayer information or putting a taxpayer into a competitively disadvantageous position as this would discourage taxpayers from pursuing APAs.

Phase 8: Post-implementation and annual compliance monitoring

5.26. How should a concluded agreement be monitored?

Ongoing monitoring helps to affirm that the critical assumptions underpinning APA terms remain valid and that the taxpayer is applying such terms appropriately. A best practice is to require the taxpayer to file an annual compliance report to their

³⁸ See the Council Directive (EU) 2015/2376 (DAC3).

respective tax authority, setting out how APA terms have been applied and confirming that critical assumptions remain valid. The report might be submitted together with the tax return or through alternative channels. Some countries require disclosure in the tax return that it is filed subject to an APA.

5.27. What should the compliance report include?

General guidance on the requirements for compliance reports may be specified in additional administrative APA guidance. In every case, taxpayers and tax authorities should agree on information that should be part of the compliance report, comprising detailed calculations required to implement APA terms (including the agreed transfer pricing method), financial statements and other relevant documents, together with translations if required. The compliance report should generally require information to verify compliance and should be considered together with information already provided by the taxpayer in the APA application process. The specific requirements are often set out in the APA terms.

5.28. What needs to be done if a taxpayer is in breach of a critical assumption?

Critical assumptions underpin APA terms intended to lead to an arm's length result. If a critical assumption is breached, the APA may no longer be valid. The APA itself may set out available remedies if a critical assumption is breached. Alternatively (or in addition), general guidance on available remedies may be provided in administrative APA guidance. Tax authorities and competent authorities may seek to discuss the impact of the breach with their taxpayers and with each other to determine if the APA terms are likely to still provide an arm's length result for the covered transactions. See United Nations Guidance on Transfer Pricing During the COVID-19 Economic Downturn³⁹ for examples of how to address APAs during extraordinary circumstances.

5.29. When and how should an agreement be renegotiated or renewed?

As outlined, an APA term of five years in many cases strikes the best balance between the efficient use of resources and the uncertainties associated with prospective agreements. The risks associated with uncertainties can be minimized by specifying critical assumptions. Based on these, the APA will be renegotiated if necessary.

An application for renewal should be submitted before the end of the APA term, and, in any case, before the end of the first fiscal year to which the renewal is supposed to apply.

³⁹ United Nations (2025). Transfer Pricing During the Covid-19 Economic Downturn. New York, NY: United Nations.

Renewal processes are often much faster than the initial APA process. Depending on the case, and especially if there are no material changes in the facts and circumstances or relevant economic conditions, renewals may be possible without substantive discussions with the treaty partner. In that case, a written procedure or videoconference may allow a quicker process.

5.30. Can Advance Pricing Agreements/Arrangements be terminated, and if so, by whom and under which circumstances?

An APA can generally be terminated by taxpayers and the tax administration. Taxpayers may decide to cancel an APA due to changes in the business model that affect the transaction(s) covered by the APA. The tax administration may cancel an APA due to changes in their domestic tax law or policy or based on non-compliance by the taxpayer. As an example, India's Advance Pricing Agreement Guidance stipulates that APAs can be cancelled based on the failure of the taxpayer to meet the terms of the agreement or to file the compliance report, or if the report contains material errors.⁴⁰ The tax administration may allow a hearing for the taxpayer prior to cancellation. For bilateral APAs, it is crucial to inform other involved competent authorities of the cancellation.

40 India, Ministry of Finance, Income Tax Department (2013). Advance Pricing Agreement Guidance with FAQs.

6. Appendices

Appendix 1: Advance Pricing Agreement/ Arrangement Fees Worldwide

The following information mostly come from MAP profiles published by the OECD as of 4 January 2024.⁴¹

Jurisdiction	Fee ⁴²
Albania	1,200,000 ALL (about \$14,000)
Argentina	-
Australia	No
Austria	No
Azerbaijan	No
Belgium	No
Botswana	No
Canada	No
Chile	No
China	No
Colombia	No
Croatia	Yes, depending on revenue
Czech Republic	10,000 CZK (\$450)
Denmark	No
Dominican Republic	No
Estonia	No
Finland	No
France	No
Gabon	No

⁴¹ See the OECD Mutual Agreement Procedure Profiles, available at <https://www.oecd.org/tax/dispute/country-map-profiles.html>

⁴² Exchange rates as of June 2025.

Germany	Transfer pricing cases: 30,000 EUR, 15,000 EUR for prolongation (\$34,950; \$17,500) Smaller transactions: 10,000 EUR, 7,500 EUR for prolongation (\$11,650; \$8,750) Other cases: EUR 7,500, 3,750 for prolongation (\$8,750; \$4,400)
Greece	Informal application: 1,000 EUR (\$1,150) Formal application: 5,000 EUR (\$5,850) To process contacts with each of the tax authorities involved: 10,000 EUR (\$11,500)
China (Hong Kong SAR)	Direct costs: 1,730-2,650 HKD/h depending on the official's seniority, capped at a total amount of 500,000 HKD (\$64,000)
Hungary	Filing fee for unilateral APAs: 2 million HUF (\$5,800) Bilateral APAs: 4 million HUF (\$11,500) Multilateral APAs: 2 million HUF (\$5,800) multiplied by the number of competent authorities involved
India	Depending on the value of the transaction 1 Mio. Rs. (\$12,000) to 2 Mio. Rs (\$24,000); 500,000 Rs. (\$6,000) for roll-back requests
Indonesia	No
Ireland	No
Israel	No
Italy	Yes
Jamaica	10,000 JMD (\$60)
Japan	No
Kazakhstan	No
Latvia	7,100 EUR (\$8,300)
Lithuania	No
Luxembourg	10,000 EUR (\$11,650)
Malaysia	Only officials' travel expenses 55,000 MYR or 10,000 MYR depending on the date of the application
Malta	New request: 5,000 EUR (\$5,850) Renewal of a request: 2,000 EUR (\$2,350)
Mexico	310,246.79 MXN (\$16,650) Annual review: 62,049.36 MXN (\$3,350)
Morocco	No
The Netherlands	No
New Zealand	Only officials' travel expenses
Norway	No

Poland	1 per cent of transaction value; at least 54,600 PLN (\$13,600) and no more than 200,000 PLN (\$54,600) When participating in the Cooperative Compliance Programme, 50 percent Renewal: 50 per cent of application fee
Portugal	At least 3,152.40 EUR and no more than 34,915.85 EUR (\$3,650; \$40,650) Renewal: 50 per cent of the amounts of the original fees
Qatar	No
Republic of Korea	No
Romania	Small and medium enterprises: 10,000 EUR for issuing an APA and 6,000 EUR for modifying it (about \$11,500; \$6,900) Large taxpayers or transaction value > 4 Million: 20,000 EUR for issuing an APA and 15,000 EUR for modifying it (about \$23,300; \$17,500)
Singapore	No
Slovak Republic	30,000 EUR (\$34,950)
Slovenia	Generally: 15,000 EUR (\$17,500) Extension of the application: 7,500 EUR (\$8,750) In case of the non-conclusion of an APA for reasons not due to the taxpayer, a refund of 5,000 EUR (\$5,850)
Spain	No
Sweden	New application: 150,000 SEK (\$15,700) per country Renewal with no changes: 100,000 SEK (\$10,500) per country Renewal with changes: 125,000 SEK (\$13,100) per country
Switzerland	No
Taiwan Province of China	No
Thailand	No
Türkiye	No
Ukraine	No
United Kingdom	No
United States of America	\$60,000; Renewal \$35,000 Small cases: \$30,000 Amendments of existing APAs: \$12,500
Uruguay	No
Viet Nam	No

Appendix 2:

Key Elements of Advance Pricing Agreement/Arrangement Guidance

APA guidance depends on whether a legal system has provisions on APAs. If not, guidance might include:

- A description of the aim and scope of the APA programme
- Details regarding the procedure for an APA, namely:
 - The main features
 - An explanation of the competent authority
 - Details on the pre-filing process
 - Information regarding fees (if any)
 - Where and how to formally apply
 - How and in which time frame the admissibility of the application is assessed
 - What actions the competent authority takes in case of an admissible application
 - When and how taxpayers are involved during the negotiation and in the context of an agreement
- What follows after an APA is concluded, such as:
 - How it is implemented
 - What the consequences are for taxpayers and tax authorities (especially in the context of an audit)
 - In which way and to whom taxpayers have to report on compliance with APA terms
 - What happens if the terms of an APA are not upheld
 - Whether and how an APA can be renewed.

Please also refer to the existing guidance of the following countries as examples:

- **China (Hong Kong SAR):** Inland Revenue Department, Departmental Interpretation And Practice Notes No. 48 (Revised), available at: <https://www.ird.gov.hk/eng/pdf/dipn48.pdf>
- **Germany:** Application Ordinance for the Fiscal Code Regarding Section 89a—Advance Mutual Agreements, available at: <https://www.bundesfinanzministerium.de/Content/EN/Downloads/Taxation/External-Tax-Relations/Advance-Pricing-Agreements-APA.html>.

- **India:** Advance Pricing Agreement Guidance with FAQs, available at: [https://www.indianembassyusa.gov.in/pdf/advance_pricing_agreement_guidance_with_faqs_\(tpi-43\).pdf](https://www.indianembassyusa.gov.in/pdf/advance_pricing_agreement_guidance_with_faqs_(tpi-43).pdf)
- **Ireland:** Bilateral Advance Pricing Agreement Guidelines Part 35-02-07, available at: <https://revenue.ie/en/tax-professionals/tadm/income-tax-capital-gains-tax-corporation-tax/part-35/35-02-07.pdf>
- **Malaysia:** Advance Pricing Arrangement Guidelines, available at: <https://www.hasil.gov.my/media/s24cwteh/malaysian-apa-guidelines-2024.pdf>
- **Nigeria:** Information Circular No. 2024/006, Guidelines On Advance Pricing Agreements (APAs), available at: https://firs.gov.ng/pdf/NIGERIA_APA_GUIDELINES-1.pdf
- **Singapore:** IRAS E-Tax Guide: Transfer Pricing Guidelines, sections 10, 12, available at: https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_cit_transfer-pricing-guidelines_7th.pdf?sfvrsn=26bfb1a6_18
- **South Africa:** Proposed Model for Establishing an Advance Pricing Agreement Programme in South Africa and Release of Draft Legislation, available at: <https://www.sars.gov.za/wp-content/uploads/Legal/DiscPapers/LPrep-DP-2021-02-Proposed-Model-for-Establishing-APA-Programme-in-SA-and-Release-of-Draft-Legislation.pdf>
- **United Kingdom:** INTM480000—Transfer Pricing: Operational Guidance: Contents, available at: <https://www.gov.uk/hmrc-internal-manuals/international-manual/intm480000>.
- **United States of America:** Memorandum for Treaty and Transfer Pricing Operations Employees, available at: <https://www.irs.gov/pub/foia/ig/lmsb/lbi-04-0425-0005-public.pdf>
Procedures for Advance Pricing Agreements, Internal Revenue Code § 482: Allocation of Income and Deductions Among Taxpayers, available at: <https://www.irs.gov/pub/irs-drop/rp-15-41.pdf>
Advance Pricing and Mutual Agreement Programme, available at: <https://www.irs.gov/businesses/corporations/apma>

Appendix 3:

Resources for Further Information

- E. Baistrocchi and I. Roxan (2014). *Resolving Transfer Pricing Disputes*. Cambridge University Press.
- M. Heimert, T.J. Michaelson (2018). *Guide to International Transfer Pricing*. Alphen aan den Rijn, Netherlands: Wolters Kluwer.
- M. Lang, G. Cottani, R. Petruzzi et al. (2019). *Fundamentals of Transfer Pricing*. Chapter 5.2. Alphen aan den Rijn, Netherlands: Wolters Kluwer.
- M. Levey and S. Wrappe (2020). *Transfer Pricing Rules: Rules, Compliance and Controversy*. Alphen aan den Rijn, Netherlands: Wolters Kluwer.
- M. Markham (2012). *Advance Pricing Arrangements: Past, Present and Future*. Alphen aan den Rijn, Netherlands: Wolters Kluwer.
- OECD (2022). *Bilateral Advance Pricing Arrangement Manual*. Paris, France: Forum on Tax Administration.
- K. Sharma (2021). *Evolution of APA Regime*. Alphen aan den Rijn, Netherlands: Wolters Kluwer.
- S. Sharma. (2019). *Advance Pricing Agreement – Indian Experience*. Asia-Pacific Tax Bulletin 25(6).



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