

Paper for consideration from the Transfer Pricing
Subcommittee

**Bilateral Advance Pricing Agreement /
Arrangement Programs**
Frequently Asked Questions (FAQs)

Table of Contents

1.	Background	4
2.	Introduction to APAs	5
3.	Why and when to implement a bilateral APA program?	7
3.1	What are the advantages and disadvantages of an APA program?	7
3.2	When (at what stage) might a country benefit from having an APA program?	8
3.3	What are the pros and cons of unilateral vs. bilateral APAs?	9
4.	Legal framework: How to embed a bilateral APA program and APAs into a country's legal system?	11
4.1	What international guidance is available and may be taken into account?	11
4.2	Does there need to be a legal basis for an APA in national law? If so, what should it cover?11	
4.3	Should the tax administration provide administrative guidance on the APA process? 12	
4.4	How should APA programs be financed? Should taxpayers pay an application fee and if so, what amount?	12
4.5	Should tax administrations focus on particular types of transactions for APAs?	12
4.6	What is the relationship between an APA and a tax audit?	13
4.7	What is the relationship between an APA and litigation?	13
5.	Organizational design: How to integrate a bilateral APA program into a tax administration's organizational structure?	15
5.1	How should the APA function be organized and where should it be located?	15
5.2	What considerations need to be taken into account regarding taxpayer information? 15	
5.3	Are exchanges of experience between authorities useful, and if so, how could this be approached?	16
5.4	What kind of meetings should be held virtually and which physically?	16
	Meetings between the tax authorities and the taxpayer	16
	Meetings between the tax authorities	16
6.	Procedural issues: What to consider during a bilateral APA process?	17
6.1	What are the typical phases of an APA?	17
6.2	Should the phases follow a particular timeline?	17
	Phase 1: Preliminary discussions between taxpayer and tax authorities / pre-filing	17
6.3	Should pre-filing meetings be mandatory?	17
6.4	What should be covered by preliminary discussions?	18
6.5	What should be avoided during pre-filing meetings?	18
6.6	How should the preliminary discussions take place?	18

6.7	Should the treaty partner be involved?	18
	Phase 2: Formal application by the taxpayer.....	19
6.8	What information needs to be provided by the taxpayer when submitting a formal APA application?	19
6.9	How can the application be submitted?.....	19
6.10	Which language can be used for filing?.....	19
6.11	Does the application need to be filed simultaneously in all jurisdictions?	19
	Phase 3: Decision on the acceptance of the application by the tax authorities	20
6.12	What should the acceptance process by the tax authorities be like?.....	20
6.13	What factors could have an impact on acceptance?.....	20
	Phase 4: Information gathering by tax authorities	20
6.14	What methods are available to collect information?.....	20
6.15	What documents can be requested during the information gathering phase?.....	21
6.16	When is joint information gathering appropriate?	21
	Phase 5: Analysis of information and Preparation of position papers by the tax authorities	21
6.17	When should the analysis of the information and preparation of the position paper start?	21
6.18	How should position papers be prepared?	22
	Phase 6: Negotiations and agreement between competent authorities.....	22
6.19	What should be the process of interaction with the taxpayer during the negotiation stage?	22
6.20	What elements need to be defined as result of the negotiation?	23
6.21	What is a common term length for an APA?.....	23
6.22	How is the APA concluded between tax authorities?.....	23
	Phase 7: Presentation to and acceptance of agreement by taxpayer and implementation....	23
6.23	Should the taxpayer be contacted prior to the final conclusion of the APA?	23
6.24	How is the APA formally accepted and implemented?	24
	Phase 8: Post implementation and annual compliance monitoring.....	24
6.25	How should a concluded APA be monitored?.....	24
6.26	What should be part of the compliance report?	24
6.27	What needs to be done in case where a taxpayer is in breach of a critical assumption specified in the APA?.....	24
6.28	When and how should an APA be renegotiated / renewed?	25
7.	Appendix	26
	Appendix 1: APA fees worldwide.....	26

1. Background

This guidance was prepared by the UN Subcommittee on Transfer Pricing in response to the need, often expressed by developing countries, for practical advice in relation to Advance Pricing Agreement / Arrangement (APA) Programs. In order to provide meaningful and practical input, the guidance in this paper is structured in the form of frequently asked questions (FAQs). This means that, after a short introductory section on the basics of APAs, typical questions that might be taken into consideration when implementing a bilateral APA program are addressed in a simple and practical way 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 program;
- 2) How to embed bilateral APAs into the legal system of a country;
- 3) How to integrate the bilateral APA program into the organisational structure within the authorities); and
- 4) What to consider during an APA process.

This guidance focuses on bilateral APA programs. However, parts of this guidance may also be considered valuable for the implementation of unilateral APA programs.¹

It should also be noted that this guidance strives to give balanced answers to difficult questions. Not all questions / answers will be relevant to all countries and their particular challenges. As a result, this guidance should be taken only as an indicative guide.

¹ Especially sections 2 and 3 as well as phase 1 through 4 and phase 8 of section 4.

2. Introduction to APAs

Transfer pricing issues are frequently contentious and controversial. Tax authorities focusing on domestic revenue mobilization aim to avoid base erosion through abusive transfer pricing and taxpayers aim to operate their businesses as tax efficiently as possible. Traditional enforcement often polarizes the views of the tax authorities and taxpayers in this respect, creating an adversarial environment that may be unfavourable for determining the arm's length price or profit for a particular transfer pricing transaction or activity. Enforcement alone is not necessarily the most effective means of ensuring overall compliance with the arm's length principle by taxpayers. Alternative dispute prevention and resolution options are therefore worth exploring in the field of transfer pricing. Advance pricing agreements / arrangements (APAs) can be one such tool for dispute prevention and in some cases also resolution.

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 tax uncertainty.³ Evidence suggests that tax uncertainty hinders investment.⁴ One way to avoid tax uncertainty stemming from tax audits is for taxpayers to request a tax ruling⁵ in advance of pricing a controlled transaction (or filing a return based on such pricing).⁶ In the area of transfer pricing, APAs may be considered as a kind of tax ruling which, when binding on both taxpayers and tax authorities, can provide a high degree of tax certainty.

An APA is an agreement with respect to certain transfer pricing aspects of the related party transaction or transactions, which determines in advance the appropriate criteria for determining transfer prices.⁷ The scope of an APA could be, for instance, the remuneration for an intercompany transaction or function, including the method selection and the functional profile of involved parties (e.g. who is seen as least complex party). The APA applies for a fixed period of time.

In order to comply with international standards and the requirements of 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. The criteria included in the APA would set out the most appropriate transfer pricing method (or methods), the

² Chen, A., Hieber, P. & Sureth-Sloane, C. (2022). Pay for Tax Certainty? Advance Tax Rulings for Risky Investment under Multi-Dimensional Tax Uncertainty. TAF Working Paper, University Paderborn.

³ IMF and OECD (2019). Progress report on tax certainty, and Hoppe, T, Schanz, D., Sturm, S. & Sureth-Sloane, C. (2023). The Tax Complexity Index. A Survey-Based Country Measure of Tax, European Accounting Review Code and Framework Complexity, European Accounting Review.

⁴ IMF and OECD (2019). Progress report on tax certainty, and Edmiston (2004). Tax uncertainty and investment: A cross-country empirical examination, Economic Inquiry.

⁵ The term "tax ruling" is sometimes used pejoratively to describe the practice by tax administrations of 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 which 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; and provided the interpretation contained in the APA is in line with the arm's length principle, it would be in line with international tax standards.

⁶ Neuman, S., Omer, T. & Schmidt, A. (2020). Assessing Tax Risk: Practitioner Perspectives, Contemporary Accounting Research.

⁷ UN Manual on Transfer Pricing for Developing Countries (2021).

comparables used and any comparability adjustments applied. For example, the APA may set out 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 certain services provided to or from an associated enterprise. An APA is formally initiated by a taxpayer and requires discussions between the taxpayer, one or more associated enterprises, and the relevant tax administrations.

An APA can be concluded unilaterally, bilaterally or multilaterally.⁸ Unilateral APAs are concluded between a taxpayer and their tax authority. Bilateral or multilateral APAs are concluded between a taxpayer and two or more tax authorities. Many countries have introduced measures to provide for APA programs in their domestic laws although the programs may have different legal forms. In some countries, an APA is a legally binding agreement between taxpayers and tax authorities, while in other countries it may be a more informal arrangement between the tax authority and the taxpayer.⁹

In order for APA programs to be attractive for taxpayers, the advantages of an APA (such as greater tax certainty) need to outweigh the disadvantages (such as increased up-front compliance cost,¹⁰ and potentially increased risk of inspection and risk of detection in case of non-compliance).¹¹ To be attractive for tax authorities, APAs should provide them with structured and high quality taxpayer information up-front and allow for simplified audits of taxpayers that entered into an APA. Ideally, APA programs build trust between taxpayers and tax authorities, help to monitor/spare audit resources, shorten audit periods, lead to overall lower compliance cost, and mitigate the risk of tax disputes and double taxation. These factors should be taken into consideration when designing an APA program to ensure that APAs provide a benefit to the administration and are a service to taxpayers.¹² It is therefore important that appropriate capacity be available in the tax administration to handle APAs, including, for example, in terms of response time, volume of requests and complexity of cases. Taxpayers may be asked to pay a fee for an APA to cover the associated costs.¹³

⁸ United Nations (2021), Handbook on Dispute Avoidance and Resolution

⁹ United Nations (2021), Practical Manual on Transfer Pricing, No. 10.2.5.1

¹⁰ De Waegenaere, A., Sansing, R. & Wielhouwer, J. (2007). Using Bilateral Advance Pricing Agreements to Resolve Tax Transfer Pricing Disputes, National Tax Journal. Becker, J, Davies, R. & Jakobs, G. (2017). The economics of advance pricing agreements, Journal of Economic Behavior & Organization.

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

¹² United Nations (2021), Practical Manual on Transfer Pricing, No. 10.2.5.2

¹³ This is discussed in more detail below.

3. Why and when to implement a bilateral APA program?

3.1 What are the advantages and disadvantages of an APA program?¹⁴

The APA process allows parties to discuss matters in advance in a non-adversarial setting (in comparison to an audit), with a view to coming to a mutually satisfactory solution that applies the arm's length principle and is tailor-made to the specific facts of the taxpayer. Importantly, an APA reduces the burden on the taxpayer of dealing separately with various functions¹⁵ of the tax authorities involved with transfer pricing. Typically, countries do not oblige the taxpayer to have exhausted other remedies before applying for an APA.

Ideally, assuming there is sufficient personnel available to staff an APA program, a bilateral APA team would be a multidisciplinary team with central coordination or oversight, composed of tax authority personnel with experience in transfer pricing examination (who may also include economists, legal and/or accounting specialists); competent authority negotiation; and those with industry knowledge. The involvement of experienced and skilled staff up-front can help the process to run efficiently and reduce compliance costs for the taxpayer.¹⁶

For tax authorities, an APA can offer a "one-stop shop" approach that is an effective alternative for avoiding and/or transfer resolving pricing disputes. The APA negotiations can take place in an environment that encourages common understanding and cooperation between the taxpayer, tax authorities and the competent authorities in an expedited cost-effective fashion. The APA is also a way for tax authorities to better understand business operations and industries that may be important contributors to the local economy and help improve technical skills of authorities' teams.¹⁷

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

An APA can "lock-in" future compliance and assist with resolving long-standing audit issues, taking the adversarial edge out of taxpayer interaction with tax authorities. In doing so, the APA can also avoid extended disputes and litigation. At the same time, the process allows for a rigorous review of the taxpayer's related party transactions and how they are priced. The APA

¹⁴ The Advance Pricing Agreement Program (APA): A Model Alternative Dispute Resolution Process. Office of Associate Chief Counsel (International) May 11, 1994.

¹⁵ On this see also Question 3a.

¹⁶ The same applied for a unilateral APA team, although in that case, no current competent authority input will be required.

¹⁷ See also UN Practical Manual on Transfer Pricing, section 15.3.4.5: One of the key advantages of adopting an APA system is that uncertainty can be eliminated through enhancement of predictability of the taxation of international transactions. Developing countries thus have a good opportunity to obtain access to existing documentation that is relevant to their local operations. A second advantage is that APAs can provide an opportunity for both tax administrations and taxpayers to consult and cooperate in a non-adversarial spirit and environment. Thirdly, an APA may prevent costly and time-consuming examinations and litigation of major transfer pricing issues for taxpayers and tax administrations. Fourthly, the disclosure and information aspects of an APA programme, as well as the cooperative attitude under which an APA can be negotiated, may assist tax administrations in gaining insight into complex international transactions undertaken by MNEs.

process may also provide for an opportunity to resolve issues in prior years by rolling back the APA pricing methodology once agreed to those prior periods.

Furthermore, an APA does not shelter a taxpayer from tax authority review regarding other activities or transactions not covered by the APA, or from a review as to whether the taxpayer has complied in good faith with the agreed terms of the APA. APAs offer flexibility: there is no obligation for the tax authorities to renew the APA after expiration, although 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 and taxpayer specific information up-front. The APA process typically also requires the provision of annual reports or information on how the APA was applied to taxable years covered by the APA, describing the taxpayer's actual operations for the year and demonstrating good faith compliance with the terms and conditions of the APA.¹⁸

For tax authorities, a disadvantage of an APA program may be that the process may limit the tax authority's discretion in terms of the deployment of its resources, since an APA request is initiated by the taxpayer and the tax authority would need to respond to that request in accordance with established processes. On occasion, it is also mentioned that trained APA staff are difficult to retain for tax authorities as they are often recruited by taxpayers or private practice after having gained experience and successful APAs have been negotiated.

3.2 When (at what stage) might a country benefit from having an APA program?

An APA program potentially ties up resources at different levels of the tax authorities at the same time. Some tax authorities therefore may prefer to only implement an APA program once they have built up sufficient resource capacity. However, others see the experience gained in concluding APAs as an important part of capacity-building on transfer pricing issues and may thus prefer to implement an APA program earlier in their transfer pricing journey.¹⁹

Some countries might be reluctant to implement APA programs because they tend to be sought by multinational companies that are already willing to comply with local tax regulations, which therefore may divert scarce resources from the highest compliance priorities. Similar to tax dispute settlement mechanisms, checks and balances must be provided to ensure that the APA process is applied consistently between 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 MNEs or more experienced countries until they develop more experience, including experience with mutual agreement procedure (MAP) cases. On the other hand, APAs can be useful on an interim basis as an efficient means of

¹⁸ This is the same in the case of a unilateral APA.

¹⁹ See UN Practical Manual on Transfer Pricing 10.2.5.3.

²⁰ See UN Practical Manual on Transfer Pricing. The issues involved in balancing resource issues and priorities with the potential benefits of APAs are discussed in more detail at 15.3.4.

collecting tax in the short term, particularly in countries with a small number of large foreign investors.

It can also help, at an early stage of transfer pricing rules implementation, to have a consistent approach and to develop a single industry approach. Where a tax authority has implemented an APA program early in its transfer pricing journey, a centralised approach to managing APAs, or a focus on particular sectors/ industries can be a useful way to help develop and strengthen knowledge, experience and best practices and to ensure that they are disseminated across all relevant areas. The experience gained by tax administration staff may also be useful in the development of additional transfer pricing regulations or other guidance.

Since an APA can be a more efficient process than an audit, an APA can conserve audit resources, but cannot replace the need for trained audit staff.²¹

Countries with limited experience in applying a transfer pricing regime may initially prefer to limit the types of APAs and the term of their APAs; the tax authority can then evaluate its experience more quickly and further develop or adjust its practices as needed. In terms of APA length, a term of perhaps three years could be applied, rather than the five years more commonly used by experienced countries. A shorter term would mean that the taxpayer and tax authorities are bound by the agreement for a shorter period of time.²² Alternatively, it could be considered to launch a pilot APA programme before committing to a generally available, permanent programme.²³

3.3 What are the pros and cons of unilateral vs. bilateral APAs?

Some countries issue unilateral APAs. Unilateral APAs only involve the taxpayer and the local tax administration and, while they may be useful, do not offer a comprehensive solution for double taxation.²⁴

Unilateral APAs involve an agreement between the tax authority and a taxpayer in the same country on essentially three aspects: (1) the relevant facts, (2) the transfer pricing method used, and (3) the results from the application of that transfer pricing method to a certain number of years considering the relevant facts. Procedurally, the 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, the related party transactions covered by the unilateral APA. While Action 5 of the OECD BEPS project (the Transparency Framework under the Harmful Tax Practices action) requires the spontaneous exchange of information on unilateral APAs to relevant jurisdictions, unilateral APAs also provide no rights to taxpayers in a foreign jurisdiction that are not party to the APA. 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 reassessment. That said, unilateral APAs can provide for advance certainty and dispute prevention in the issuing jurisdiction.

²¹ See UN Practical Manual on Transfer Pricing 15.3.4.8.

²² See also Section 4 Phase 6 Question 6 on APA terms.

²³ See UN Practical Manual on Transfer Pricing 15.3.4.9.

²⁵ OECD (2022). Bilateral Advance Pricing Arrangement Manual. OECD Publishing, Paris, <https://doi.org/10.1787/4aa570e1-en>.

Furthermore, many countries historically have started with unilateral APAs before they established a bilateral APA program.

A benefit of unilateral APAs is that they tend to be agreed upon more swiftly than bilateral APAs, since the latter require a separate layer of review, negotiation and approval by the relevant competent authorities. Unilateral APAs can also be useful in the absence of a bilateral tax treaty for the avoidance of double taxation, as taxpayers may choose to obtain matching unilateral agreements in both countries involved with the same cross-border transaction, in that way reducing exposure to double taxation.

Bilateral APAs, on the other hand, provide greater certainty for the taxpayer on the taxation of certain cross-border transactions and can ensure double taxation is avoided. Procedurally, bilateral APAs incorporate an agreement between the competent authorities setting out how arm's length conditions are to be determined for the covered transactions, 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. This is because the progress of the APA is dependent on the agenda and resources of two separate tax authorities to dedicate resources for the analysis and negotiation of the APA request. The time taken may also depend on the robustness of the tax treaty relationship between the relevant competent authorities.

4. Legal framework: How to embed a bilateral APA program and APAs into a country's legal system?

4.1 What international guidance is available and may be taken into account?

Guidance on APAs is provided in the UN Transfer Pricing Manual in sections 10.2.5. and 15.3.4. f. as well as in the Dispute Resolution and Avoidance Handbook in section 2.3.3. The OECD Transfer Pricing Guidelines include guidance on APAs at Section F of Chapter IV. The Forum on Tax Administration's MAP Forum, in conjunction with the Forum on Tax Administration Large Business International Programme, has developed the Bilateral Advance Pricing Arrangement Manual which is intended as a guide for streamlining the bilateral APA process.²⁵

4.2 Does there need to be a legal basis for an APA in national law? 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 for the signatories to conclude APAs. As such it may be advisable to provide for details and authority to enter into APAs in national law/ regulations or in procedural guidance such as administrative circulars. Common law jurisdictions, in particular, may require only administrative guidance. Further, a general provision allowing for the issue of rulings may be a sufficient legal basis for APAs.

Alternatively, some jurisdictions may prefer to provide a specific provision in national law.²⁷ This provision could address:

- under which circumstances²⁸
- which taxpayers can
- in which way (especially with which information)
- under the guidance of which authority
- at which costs apply for an APA;
- under which requirements an APA is concluded; and
- under which requirements and with what consequences an APA is implemented.

²⁵ OECD (2022). Bilateral Advance Pricing Arrangement Manual. OECD Publishing, Paris, <https://doi.org/10.1787/4aa570e1-en>.

²⁶ See para. 10 of the Commentary on Art. 25 of the UN-MTC; para. 52 of the Commentary on Art. 25 of the OECD-MTC.

²⁷ This would probably also be required in case of a unilateral APA program.

²⁸ It is to note that APAs – or rather advance mutual agreements – do not necessarily need to be limited to transfer pricing cases. Germany, for example, allows for applications in all cases that concern the interpretation of tax treaties in which there is a risk of double taxation.

4.3 Should the tax administration provide administrative guidance on the APA process?

As mentioned in the answer to question 4.2, the details of a jurisdiction's APA program can be entirely set out in administrative guidance. Where there is instead a provision for APAs in a statute, further administrative guidance may still be helpful to set out additional details or processes. It is important to make sure that such guidance is publicly available, ideally on the tax administration's webpage.

4.4 How should APA programs 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 public interest but additionally serve the interest of taxpayers because they can achieve legal certainty for the covered transaction(s).

APAs are voluntary compliance products and as such, the benefits to taxpayers and the administrative cost to tax authorities could justify the charging of an application fee. While fees might be a deterrent to the taxpayer's applying for an APA, the fees could also have the effect of reducing applications in less material cases and from less prepared taxpayers (experience shows that a fee leads taxpayers to be well-prepared). Fees may also assist to avoid frivolous applications that are nothing more than "forum shopping" by taxpayers.

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

With respect to Small and Medium sized Enterprises (SMEs), a distinction may be drawn in particular as regards the fee for APA applications. Lower fees for SMEs take the taxpayers' ability to pay into account.

4.5 Should tax administrations focus on particular types of transactions for APAs?

Many tax authorities prefer to limit the availability of APAs to certain kinds of transactions, particularly in the early stages of implementing an APA programme. For instance, the tax authority may focus on certain, simpler transaction types, or particular industries, in order to build experience and knowledge. On the other hand, many jurisdictions find APAs can be particularly useful in complex²⁹ or novel transfer pricing cases, which require maximum cooperation from the taxpayer.

Countries at the beginning of their APA program might want to consider prioritizing cases in certain industries or sectors that are especially significant in their economy (for example, in the area of extractive industries) in order to gain or utilise industry-specific knowledge. Several

²⁹ 15.3.5.4 of the UN Manual

countries with well-developed APA programs today started out with a limited-scope APA program initially. For example, the Netherlands is only recently considering including financial transactions in its APA program.

It might seem logical to prioritize high-volume transactions because legal certainty may be considered more important with increasing transaction volumes and thus resources could be used more efficiently with these cases. Such an approach would be one-dimensional, however. First, with regard to transaction volume, the importance of a transaction for a single taxpayer/group depends on the ratio of a transaction's volume to the overall business of the taxpayer. Second, the importance of a transaction for a taxpayer does not only depend on the volume of a transaction but also on other factors, e.g., business restructuring considerations can be of special importance to taxpayers. Furthermore, the legal complexity of an issue does not necessarily correlate with the transaction volume.

4.6 What is the relationship between an APA and a tax audit?

APAs are concluded in respect of future transactions and, thus, there should not be a direct interaction between tax audits relating to prior years and APAs. However, APAs may in practice cover transactions that have taken place in the past, either due to the time taken to negotiate the APA, or where a roll-back of the APA terms has been agreed. In these cases, it is relevant that the APA is concluded with the whole picture in mind. Well-developed transfer pricing documentation covering the past transactions to the present is very beneficial and could be requested by the tax authority if not already provided by the taxpayer.

Only a concluded APA provides protection from audit. Thus, if an APA application is made during a current audit, the application should generally not hinder the audit from being completed. A taxpayer should be able to confirm whether the proposed APA transaction is under audit or not, before requesting an APA however, in order to prepare the APA team for that aspect. 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, which is the subject of the tax audit, but allowing a "roll-back" 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 in cases where an APA takes a significant time to conclude, resulting in an open year or years between the time of the APA application and the time when the APA is agreed.

APAs can also be based on the outcomes of a tax audit – especially a joint tax audit – where the agreed criteria for determining arm's length transfer prices would be relevant to future transactions.

An APA may be less resource-intensive than a tax audit, given its cooperative nature. However, this should not limit tax authorities' rights since the APA terms should state that the agreement is based on full disclosure of all the relevant facts and circumstances by the taxpayer and appropriate critical assumptions are included.

4.7 What is the relationship between an APA and litigation?

An APA application should have no direct effect on other administrative or judicial proceedings. However, in some cases, administrative proceedings may be suspended (with

mutual consent) where the APA terms can be reliably applied to the matters that are the subject of the administrative proceedings. Suspending APA negotiations in light of administrative or judicial proceedings, however, 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.

5. Organizational design: How to integrate a bilateral APA program into a tax administration's organizational structure?

5.1 How should the APA function be organized and where should it be located?

As set out in the UN TP Manual in section 15.3.5.1 f., there are advantages to having APAs managed by a special team or unit within the tax authority. Having a centralized team may allow for improved coordination. Many jurisdictions that have 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 to the appropriate use of information. (For example, it may not be permitted in some countries to use information collected for the APA for any other purpose (see 5.2 below) and/or there may be real or perceived conflicts of interest.) Other than in an audit, some facts cannot yet be investigated in detail but need to be presumed and become part of the critical assumptions. If it turns out later that the facts actually do not match those that were presumed, taxpayers cannot claim the consequences agreed upon in the APA for themselves.

Audit teams may step in later in the implementation and application of APAs, however, as they may be deployed to monitor the taxpayer's compliance with the APA. Typically, APAs will require the taxpayer to report on its compliance with the terms of the APA on an annual basis, and to confirm that the critical assumptions on which the APA terms are based, remain valid. The tax authority would need to undertake due diligence to verify these reports.³⁰

Centralized coordination at the level of the tax administration with respect to transfer pricing matters can also come in helpful. Centralization would help avoid that similar cases are resolved differently and allow for indirect management and avoidance of unnecessary conflicts between audit teams and APA teams.

5.2 What considerations need to be taken into account regarding taxpayer information?

As with all taxpayer information, it is important to ensure that information received in the course of the APA process is kept confidential.

Another question regards the circumstances in which information provided in the course of the APA may be shared with other parts of the tax administration, including audit teams. Some tax administrations provide taxpayers with assurances that information provided for the purposes of an APA will not be used for any other purpose, including audit or other compliance activity. Such assurances could be given in order to provide taxpayers with additional confidence to provide full and candid disclosures of information relevant to the APA, resulting in a more robust analysis and greater knowledge which could be used by the APA teams.

However, in many cases, factual information provided in the course of an APA process may indeed be shared (where relevant) with other parts of the tax administration, for the purpose of

³⁰ The APA terms should set out the available remedies in the event a critical assumption is no longer valid. These could include cancellation, amendment or renegotiation of the APA.

administering the relevant income tax law(s). Nevertheless, in order to maintain taxpayer confidence in the process, the APA process should not be used as a “fishing expedition” to obtain information specifically for audits.

These information issues are one reason why many tax administrations prefer to entrust APAs and audits to different teams.

5.3 Are exchanges of experience between authorities useful, and if so, how could this be approached?

Developing countries starting an APA program may benefit from a dialogue with countries that have well-developed APA programs, particularly with regards to the procedural aspects. This could be structured along the lines of the Tax Inspectors Without Borders program (TIWB) through which expert APA staff from experienced administrations can assist other administrations in order to build APA capacity.

5.4 What kind of 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, which is a meeting in which the taxpayer or its representatives and the APA team meet to assess whether the envisaged APA request is appropriate for submission. In some countries, initial pre-filing discussions can take place anonymously. Since the pre-filing meeting serves to generate trust between taxpayers and tax authorities, and it is the first opportunity to discuss in detail mutual expectations for the APA process to come, 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 to compare notes on the APA request and APA submission. These meetings can take place virtually but may benefit from in-person attendance.

Meetings between the tax authorities

The availability of virtual meetings has the huge benefit of efficiency in that they save both time and expenses for travel and thus enable a more frequent exchange between tax authorities. Arguably, frequent exchanges make it easier to discuss single cases. However, it should be kept in mind that a trusting and fruitful exchange of views and a collaboration between competent authorities may be facilitated by in-person meetings. In this regard, it can be very beneficial to have physical meetings from time to time (question 2d notes that some administrations require taxpayers to reimburse necessary travel expenses for such meetings).

6. Procedural issues: What to consider during a bilateral APA process?

6.1 What are the typical phases of an APA?

A bilateral APA process may differ in each case, and different administrations may classify the phases of the process differently. The following therefore provides only a guide:

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

6.2 Should the phases follow a particular timeline?

Acknowledging that the first APAs while establishing an APA program can take a longer time and the time needed depends on the complexity of a case, an ambitious but realistic timeframe for APAs might be two to three years from application to agreement. In the beginning of an APA process, a tentative timeline might be agreed upon between competent authorities and taxpayers to provide an incentive for all parties to progress the APA in a timely manner.

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

6.3 Should pre-filing meetings be mandatory?

A pre-filing meeting may help improve the efficiency of the APA process. It is obligatory in some countries, but not in others. For less complex and ongoing transactions, a pre-filing meeting might be less important.

Where there is a fee for an APA application, pre-filing meetings are generally held free of charge. In this case, having a pre-filing meeting is in the interest of taxpayers and will mostly be requested. Having such a preliminary discussion can be a way to spare resources as the pre-filing meeting will allow both parties to explain their positions, provide an opportunity to clearly state expectations and ensure that the APA application has a reasonable chance of success.

³¹ For a unilateral APA, the same process is followed, but by just one tax authority but usually without involvement of the competent authority (item 6).

6.4 What should be covered by preliminary discussions?

Preliminary discussions can help expedite the subsequent formal process and identify at an early stage if an APA might not be beneficial and / or successful. The discussions may include some of the following activities: the introduction of the responsible individuals for both the taxpayer and tax authorities, the relevant legal entities, a vision of what should be achieved with the APA (i.e. what is the desired goal of the APA), the term of the proposed APA, an overview of the facts including the business model, a high-level functional analysis (covering economically significant functions, assets and risks) and the identification of covered transactions, whether the transactions are or have been subject to an audit, expectations and objectives of tax authorities and taxpayers, foreseeable obstacles as regards the envisioned transfer pricing set-up and initial feedback by tax authorities, discussion on realistic timing including resources available and milestones as well as frequent touch-points / physical meetings, details on the formal APA procedure based on local legislation including language and submission procedures, and provision of further guidance for taxpayers.

6.5 What should be avoided during pre-filing meetings?

To ensure a fair and symmetric information flow, the information provided in one jurisdiction should also be provided to the corresponding jurisdiction, ideally simultaneously. As a bilateral agreement between the authorities is required, competent authorities are not to unilaterally agree to any position. This does not mean, however, that competent authorities cannot highlight their “red lines” in a pre-filing meeting, which stem from national law or other requirements in their jurisdiction (i.e. specific TP methods, type of information to provide, kind of intra-group relationships).

6.6 How should the preliminary discussions take place?

A regular use of emails, calls and videoconferences allows for more flexible scheduling and faster processes. In addition, frequent electronic communication can help to involve taxpayers and tax authorities from all involved countries. Nevertheless, physical meetings can help to build more trust and should be taken into consideration especially at the beginning of the process and for more complex cases.

6.7 Should the treaty partner be involved?

Pre-filing meetings may initially take place in only one jurisdiction. The competent authorities generally only contact one another after the filing of the APA request. However, in the light of greater collaboration between authorities, informal discussions may take place at an earlier stage. Joint pre-filing meetings could be considered, although they are not regularly observed in practice.

Phase 2: Formal application by the taxpayer

6.8 What information needs to be provided by the taxpayer when submitting a formal APA application?

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

- The accurately delineated covered transaction(s) including information on the underlying contracts;
- The taxpayers involved (legal entities and permanent establishments) including respective countries and tax identification numbers;
- General information regarding the global organisational structure and the group's activities, financial statements, products, functions, risks and assets;
- Description of market conditions including competitive situation;
- A description of the most appropriate transfer pricing methodology being proposed
- Information / analysis on how the proposed TP methodology would be applied, including a comparability study and any necessary adjustments;
- Reasoning for the proposed transfer pricing analysis;
- The intended term of the APA;
- The relevant contact persons and proof of their authority to negotiate on behalf of the taxpayer.

6.9 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, for example, with respect to domestic law including data protection and data privacy as well as the digital infrastructure of the tax authorities. That said, electronic submission either via an official portal or via email has the potential to improve the APA process provided the data is secure. In order to provide legal certainty for the taxpayer, it is recommended that the submission procedure is defined in national law or APA administrative guidance.

6.10 Which language can be used for filing?

Whether a language other than the official language(s) are 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. In order to provide legal certainty for the taxpayer, it is recommended that language requirements are defined in national law or in APA administrative guidance.

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

In order to avoid information asymmetry and a delay of the process, a simultaneous submission rather than sequentially submitted applications are preferable.

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

6.12 What should the acceptance process by the tax authorities be like?

The acceptance of the application is at the discretion of the respective competent authorities. There is no obligation for a competent authority to accept an application. That said, given that a rejection by one competent authority impacts the other, and in order to maintain a collaborative environment between competent authorities and with taxpayers, most administrations will explain why an application has been rejected. Taxpayers may also have the opportunity to amend and re-submit the application.

The acceptance can happen either automatically without detailed review or after review and potential back-and-forth with taxpayers.

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

6.13 What factors could have an impact on acceptance?

An incomplete application would typically result in a rejection of the application. Aside from that, 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;
- 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 application is likely to be suitable to the availability of resources and skills at the tax authorities;
- The arrangements to be covered by the APA are not likely to be the subject of the application of anti-avoidance rules, including anti-treaty shopping rules.

Phase 4: Information gathering by tax authorities

6.14 What methods are available to collect information?

In order to work on the case, tax authorities may want to gather further information by:

- Requesting further documents,
- Conducting functional interviews,
- Involving industry or other experts or
- Conducting their own research on the taxpayer / industry and running a data assessment e.g. based on publicly available data sources.

6.15 What documents can be requested during the information gathering phase?

The documents to be requested during the information gathering phase could include the following information on the taxpayer:

- a legal chart,
- an organizational chart including the identification of key decision makers,
- intra-group contracts, financial statements,
- the group Master file together with the Local files of the involved 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 UN Compliance Toolkit. Industry specific questionnaires are provided in the annexes of the Guidance for the pharmaceutical industry (forthcoming) and the agricultural products industry.

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

6.16 When is joint information gathering appropriate?

Similar to the pre-filing meeting, the fact finding is typically country specific and conducted by the respective tax authorities. However, joint questionnaire(s) and joint interviews, joint status meetings / discussions on complex questions, or even joint site visits and industry studies can help to improve the APA process and avoid information asymmetry. Experience shows that asymmetric information will lead to a slower procedure and the possible failure of the agreement. Information exchange between the authorities should be conducted openly and regularly.

Phase 5: Analysis of information and Preparation of position papers by the tax authorities

6.17 When should the analysis of the information and preparation of the position paper start?

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

Given that transfer pricing is highly dependent on facts and circumstances, it can be important to agree with the other competent authority on those facts at the outset. Where there are differences of views on the relevant facts, it may be helpful to engage in further information gathering (e.g. via joint questionnaires, site visits, industry studies etc.) in order to reconcile these.

Once the relevant facts have been established and an analysis of these facts conducted, the findings of this analysis should be summarised in a position paper. It can also be considered to have a first exchange regarding the most appropriate transfer pricing method before the competent authorities draft their position papers.

6.18 How should position papers be prepared?

Position papers outline a jurisdiction's position in relation to the covered transaction(s). Position papers are important to allow competent authorities to understand the treaty partner's position prior to discussions commencing.

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 will include the following information:

- 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, though bearing in mind the goal is not to duplicate the APA request provided by the group, but rather to summarise the 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 the transfer pricing method and its application,
- A description of the competent authority's position including their selection of the transfer pricing method, and its application,
- The relevant critical assumptions,
- The information to be provided by the taxpayer in compliance reports during the implementation period of the APA and
- The suggested term of the APA.

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

Phase 6: Negotiations and agreement between competent authorities

6.19 What should be the process of interaction with the taxpayer during the negotiation stage?

Taxpayers are not involved in the negotiation phase including the drafting of the position papers and discussions between competent authorities. That said, especially in complex cases it may help to involve taxpayers, particularly in the initial phases of negotiation, 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. Even where the taxpayer is invited to be involved in this manner,

there would be no participation in the negotiations by the taxpayer, which take place between the competent authorities.

6.20 What elements need to be defined as result of the negotiation?

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

- The parties to the APA,
- A description and a delineation of the transaction,
- The methodology including its application, i.e. how to determine the exact pricing, as well as the remedies that would apply in the event if the agreed pricing / outcome is not met,
- The critical assumptions,
- The term of the APA,
- Compliance obligations and
- The effect on previous years / interaction with ongoing dispute resolution, if relevant.

6.21 What is a common term length for an APA?

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 they can then evaluate the experience more quickly and adjust their practices as needed. A more common term to be used once some experience has been gathered would be five years. In agreeing on the term length, the time it took to negotiate the APA should also be considered.

6.22 How is the APA concluded between tax authorities?

As competent authorities conclude a MAP, a document is signed by both parties to confirm all the details of the agreement. This document is drafted by one or the other 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 unless a critical assumption is breached (see below under acceptance and implementation for the binding effect towards taxpayers). Technically, in the case of a bilateral APA, there will be three separate agreements: one between the two competent authorities, and one agreement between each taxpayer and its tax authority covering the APA.³²

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

6.23 Should the taxpayer be contacted prior to the final conclusion of the APA?

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 the APA to take effect. Therefore, if the competent authorities agree on APA terms that differ materially from those proposed by the taxpayer, it would be helpful to advise the taxpayer of this. Keeping

³² In case of a unilateral APA, there is just one agreement between the taxpayer and the tax authority.

taxpayers informed, as suggested above, can help them understand and agree to the terms of the APA as agreed between the competent authorities.

6.24 How is the APA formally accepted and implemented?

In many countries, the APA needs to be formally accepted by the taxpayer. Once the APA is accepted by the taxpayer, 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 their taxpayer, mirroring the bilateral APA between the competent authorities. Changes to the agreed wording of the APA should be avoided during the acceptance phase and especially within domestic implementation agreements.

Phase 8: Post implementation and annual compliance monitoring

6.25 How should a concluded APA be monitored?

Ongoing monitoring is needed to ensure that the critical assumptions that underpin the APA terms remain valid, and that the taxpayer is applying the APA terms in good faith. A best practice is to require the taxpayer to file an annual compliance report to the tax authority, setting out how the APA terms have been applied, and to confirm that the critical assumptions remain valid. It might be submitted together with the tax return, or through alternative channels. Other countries require disclosure in the tax return that it is filed subject to an APA.

6.26 What should be part of the compliance report?

Taxpayers and tax authorities should agree what information should be part of the compliance report including specific information, detailed calculations required to implement the APA terms (including the agreed transfer pricing method), financial statements, and other relevant documents (together with translations if required). That is, the compliance report should generally require information needed to verify the compliance with the APA terms 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. General guidance on the requirements for compliance reports could also be further specified in additional administrative APA guidance.

6.27 What needs to be done in case where a taxpayer is in breach of a critical assumption specified in the APA?

Critical assumptions set out those conditions which underpin the APA terms and which are assumed to apply in order to ensure that the APA leads to an arm's length result. If a critical assumption is breached, the APA is no longer valid. The APA itself may set out available remedies in the event of a breach of critical assumption. 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 be capable of

providing an arm's length outcome for the covered transactions. See the Guidance on Transfer Pricing and COVID-19 by the UN Tax Committee for examples of how to deal with APAs under extraordinary circumstances. Other extraordinary circumstances might be civil wars, earthquakes or other disasters.

6.28 When and how should an APA be renegotiated / renewed?

As outlined, an APA term of five future years in many cases strikes the best balance between 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 which the APA will be renegotiated if necessary.

A renewal should be applied for ideally before the end of the APA term and in any case before the end of the first fiscal year that the renewal is supposed to apply to.

Renewal processes are often much faster than the initial APA process. Depending on the case and especially in case of no changes in the fact pattern, or relevant economic conditions, renewals might be possible without substantive discussions with the treaty partner. In that case, a written procedure or a videoconference may be utilised for a quicker process.

7. Appendix

Appendix 1: APA fees worldwide

The data mostly stems from the jurisdictions' MAP profiles published with the OECD³³ as of 4 January 2024.

Jurisdiction	Bilateral APA Programme	Fee
Albania	Yes	1,200,000 ALL (about 12,000 USD)
Andorra	No	
Argentina	Not yet	
Aruba	No	
Australia	Yes	No
Austria	Yes	No
Azerbaijan	Yes	No
The Bahamas	No	
Bahrain	No	
Barbados	No	
Belgium	Yes	No
Benin	No	
Bermuda	No	
Botswana	Yes	No
Brazil	No	
British Virgin Islands	No	
Brunei	No	
Bulgaria	No	
Burkina Faso	No	
Cameroon	No	
Canada	Yes	No
Cayman Islands	No	
Chile	Yes	No
China (People's Republic)	Yes	No
Colombia	Yes	No
Cook Islands	No	
Costa Rica	No	
Côte d'Ivoire	No	
Croatia	Yes	Yes, depending on revenue
Curacao	No	
Czech Republic	Yes	10,000 CZK (about 450 USD)
Democratic Republic of Congo	No	
Denmark	Yes	No
Dominican Republic	Yes	No
Egypt	No	
Estonia	Yes	No

³³ <https://www.oecd.org/tax/dispute/country-map-profiles.htm>.

Faroe Islands	No	
Finland	Yes	No
France	Yes	No
Gabon	Yes	No
Georgia	No	
Germany	Yes	Transfer pricing cases: EUR 30,000 ³⁴ (15,000 for prolongation); Smaller transactions: EUR 10,000 (7,500 for prolongation); Other cases: EUR 7,500 (3,750 for prolongation)
Gibraltar	No	
Greece	Yes	1,000 EUR for the informal application 5,000 EUR for the formal application 10,000 EUR to process contacts with each of the tax authorities involved
Greenland	No	
Guernsey	No	
Hong Kong (China)	Yes	Direct costs: 1,730-2,650 HKD/h depending on the officials' seniority, capped at a total amount of 500,000 HKD (about 64,000 USD)
Hungary	Yes	Filing fee for unilateral APAs: 2,000,000 HUF (5,800 USD) Bilateral APAs: 4,000,000 HUF (11,500 USD) Multilateral APAs: 2,000,000 HUF (5,800 USD) multiplied by the number of competent authorities involved
Iceland	No	
India	Yes	Depending on the value of the transaction 1 Mio. Rs. (12,000 USD) to 2 Mio. Rs (24,000 USD); 500,000 Rs. (6,000 USD) for rollback requests
Indonesia	Yes	No
Ireland	Yes	No
Isle of Man	No	
Israel	Yes	No
Italy	Yes	Yes
Jamaica	Yes	10,000 JMD (65 USD)
Japan	Yes	No
Jersey	No	
Kazakhstan	Yes	No
Kenya	No	
Korea	Yes	No
Latvia	Yes	7,114 EUR
Liechtenstein	No	
Lithuania	Yes	No
Luxembourg	Yes	10,000 EUR
Macau (China)	No	

³⁴ The FX-rate for EUR-USD is around parity (early 2024, 1.10 USD / EUR)

Malaysia	Yes	Only officials' travel expenses
Maldives	Not yet	
Malta	Yes (even though not formally)	No
Mauritania	No	
Mauritius	No	
Mexico	Yes	297,399.15 MXN (17,450 USD); annual review 59,479.83 MXN (3,500 USD)
Monaco	No	
Morocco	Yes	No
The Netherlands	Yes	No
New Zealand	Yes	Only officials' travel expenses
Nigeria	No	
Republic of North Macedonia	No	
Norway	Yes	No
Oman	No	
Pakistan	No	
Panama	No	
Papua New Guinea	No	
Paraguay	No	
Peru	No	
Poland	Yes	1 % of transaction value; at least 50,000 PLN (12,600 USD) and no more than 200,000 PLN (50,400 USD) When participating in Cooperative Compliance Programme 50 %; Renewal 50 % of application fee
Portugal	Yes	Depending on transaction, at least 632,000 PTE (3,500 USD) and no more than 7,000,000 PTE (38,000 USD)
Qatar	Yes	No
Romania	Yes	Large Taxpayers or transaction value > 4 Mio. EUR: 20,000 EUR for issuing an APA and 15,000 EUR for modifying it SMEs: 10,000 Euro for issuing an APA and 6,000 Euro for modifying it
Saint Kitts and Nevis	No	
Samoa	No	
San Marino	No	
Saudi Arabia	No	
Senegal	No	
Serbia	No	
Seychelles	No	
Singapore	Yes	No
Slovak Republic	Yes	30,000 EUR
Slovenia	Yes	Generally: 15,000 EUR Extension of the application: 7,500 EUR

		In case of non-conclusion of an APA for reasons not due to the taxpayer refund of 5,000 EUR
South Africa	No	
Spain	Yes	No
Sri Lanka	No	
Sweden	Yes	New application 150,000 SEK (14,670 USD) per country, renewal with no changes 100,000 SEK (9,800 USD) per country and renewal with changes 125,000 SEK (12,200 USD) per country
Switzerland	Yes	No
Taiwan (China)	Yes	No
Thailand	Yes	No
Trinidad and Tobago	No	
Tunisia	No	
Türkiye	Yes	No
Ukraine	Yes	No
United Arab Emirates	No	
United Kingdom	Yes	No
United States	Yes	60,000 USD; renewal 35,000 USD Small cases: 30,000 USD, 12,500 for amendments of existing APAs
Uruguay	Yes	No
Viet Nam	Yes	No
Zambia	No	