

Navigating Global Transfer Pricing: Contemporary Regulations and Their Impact on Intercompany Transactions

Cornelia Nastase¹

Abstract. With the increasing scrutiny of multinational corporations' tax strategies, organizations such as the OECD have introduced regulatory measures to curb Base Erosion and Profit Shifting (BEPS). This article aims to explore the evolving regulatory landscape of global transfer pricing and its impact on intercompany transactions. The study examines key elements, including the OECD BEPS Action Plan, the arm's length principle, and Advance Pricing Agreements (APAs), assessing their effectiveness in fostering tax compliance and fairness. A particular focus is given to challenges the digital economy poses, where the mobility of intangible assets complicates traditional tax structures. The study also explores the role of bilateral and multilateral tax agreements in mitigating tax avoidance and facilitating cross-border cooperation. Additionally, it assesses the effectiveness of dispute resolution mechanisms in ensuring compliance without hindering global business operations. The study results provide a better understanding of how hybrid arrangements, controlled foreign companies (CFCs), and interest deductibility rules shape corporate tax behaviour. Recent developments analyzed in the work, including the OECD's 2023 update on digital economy taxation and the European Commission's latest transfer pricing report, underscore the necessity for adaptive and harmonized global tax regulations. While BEPS measures have led to increased information exchange and corporate tax compliance, loopholes persist, particularly in developing economies, which remain vulnerable to aggressive tax planning. The rise of complex financial instruments and multinational tax structures further complicates enforcement, requiring continuous global tax governance framework updates. Thus, the findings of this study indicate that coordinated international reform is essential to prevent profit shifting, enhance tax fairness, and support sustainable economic development.

Keywords: transfer pricing, BEPS, tax compliance, international taxation, bilateral and multilateral tax agreements.

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Навігація в глобальному трансфертному ціноутворенні: сучасні правила та їх вплив на внутрішньофірмові операції

Анотація. Приділяючи більше уваги податковим стратегіям транснаціональних корпорацій, такі організації, як Організація економічного співробітництва та розвитку (ОЕСР), запровадили регуляторні заходи для обмеження розмивання податкової бази та переміщення прибутку (BEPS). Мета цієї статті – вивчити мінливий нормативний ландшафт глобального трансфертного ціноутворення та його вплив на внутрішньофірмові операції. У дослідженні розглядаються ключові елементи, зокрема План дії ОЕСР щодо BEPS, принцип «втягнутої руки» та попередні угоди про ціноутворення (APA), а також оцінюється їхня ефективність у сприянні дотриманню податкового законодавства та справедливості. Особлива увага

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приділяється викликам, які створює цифрова економіка, де мобільність нематеріальних активів ускладнює традиційні податкові схеми. В роботі розкрито роль двосторонніх і багатосторонніх податкових угод у пом'якшенні ухилення від сплати податків і сприянні транскордонному співробітництву. Оцінено ефективність механізмів вирішення спорів у забезпеченні відповідності без перешкодження глобальним бізнес-операціям. Результати дослідження дають змогу краще зрозуміти, як гібридні угоди, контрольовані іноземні компанії і правила вирахування відсотків формують поведінку корпоративних податків. Останні події, проаналізовані в статті, зокрема оновлення ОЕСР за 2023 рік щодо оподаткування цифрової економіки та останній звіт Європейської комісії про трансфертне ціноутворення, підкреслюють необхідність адаптивного та гармонізованого глобального податкового законодавства. Незважаючи на те, що заходи BEPS призвели до збільшення обміну інформацією та дотримання корпоративного податкового законодавства, все ще існують лазівки, особливо в економіках, що розвиваються, які залишаються вразливими до агресивного податкового планування. Розвиток складних фінансових інструментів і багатонаціональних податкових схем ще більше ускладнює правозастосування, вимагаючи постійного оновлення системи глобального податкового управління. Таким чином, результати цього дослідження показують, що скоординована міжнародна реформа є важливою для запобігання переміщенню прибутку, підвищення справедливості оподаткування та підтримки сталого економічного розвитку.

Ключові слова: трансфертне ціноутворення, BEPS, дотримання податкового законодавства, міжнародне оподаткування, двосторонні та багатосторонні податкові угоди.

1. INTRODUCTION

Hirshleifer (1956) introduced the concept of transfer pricing in economic literature in the second half of the 20th century. According to the OECD, transfer pricing is a price adopted for accounting purposes and used to evaluate transactions between affiliated enterprises, either for revenue-related transactions or for transferring capital between them.

Researching the “Base Erosion and Profit Shifting” (BEPS) actions, their purpose and the international regulations on related party transactions are essential to understand how they will influence European and, subsequently, national policies. International regulatory strategies in this area predict the future actions of states in terms of regulation and the business models adopted by companies. The challenges generated by the accelerated pace of globalization and the new business models in terms of the collaborative economy and electronic services are key aspects targeted by the BEPS actions. They are the subject of current debates and future regulations.

2. LITERATURE REVIEW

The OECD’s Transfer Pricing Guidelines (1995, 1999, 2017) form the foundation of international best practices, emphasizing the arm’s length principle – which states that transactions between related entities should be priced as if they were independent third parties. Recent studies highlight the effectiveness of Country-by-Country (CbC) reporting and the Multilateral Instrument (MLI) in fostering tax compliance.

However, critics argue that enforcement disparities among jurisdictions create regulatory loopholes. A 2023 report by the European Commission underlines the need for harmonized taxation for the digital economy, as intangible assets and cross-border digital transactions challenge traditional tax frameworks. The literature also examines how Advance Pricing Agreements (APAs) and Mutual Agreement Procedures (MAPs) mitigate tax disputes, albeit with prolonged resolution timelines.

Choi’s (2020) study highlights the interdependence between transfer pricing regulations, tax rates, and

corporate tax planning behaviour. His findings indicate that countries with higher tax rates impose stricter transfer pricing controls, whereas low-tax jurisdictions (tax havens) tend to adopt more lenient regulatory frameworks to attract foreign investment. This disparity fosters an uneven global tax landscape, where small economies leverage tax incentives – such as Taiwan’s 7% lower tax rate for foreign companies – to encourage external capital inflows.

Mosquera Valderrama’s (2014) study shows that the feasibility of BEPS and its Action Plan, mainly Actions 6 and 12, to tackle aggressive tax planning should be revisited. The main argument is that in South America and Sub-Saharan Africa, the solutions depend upon the country’s economic development, tax administration capacity and resources, and the specific features of each tax system.

The regulations of the European Union and the Organization for Economic Cooperation and Development (OECD) governing transfer pricing are postulate in nature. Therefore, some countries apply their own tax laws regarding the taxation of profits from licenses, patents and trademarks (Podstawka, 2019).

3. RESEARCH OBJECTIVES AND METHODOLOGY

This study aims to:

- Analyze the effectiveness of the OECD BEPS framework in mitigating profit shifting.
- Evaluate the role of APAs, MAPs, and bilateral agreements in resolving transfer pricing disputes.
- Examine recent developments in digital economy taxation and their implications for multinational corporations.

This research employs a qualitative approach, analyzing OECD reports, EU policy documents, and empirical studies. Case studies on multinational corporations’ transfer pricing strategies provide insights into regulatory compliance trends and enforcement challenges.

4. RESULTS AND DISCUSSION

4.1 Understanding BEPS

BEPS refers to tax planning strategies used by multinational companies, which exploit legislative loopholes to avoid paying taxes. The most affected by this practice are emerging countries, whose national budgets are more dependent on corporate tax owed by multinational companies. According to information published by the OECD in 2015, at the time of the presentation of the OECD Action Plan against BEPS, the impact of these practices was between 100 and 240 billion USD (4-10% of global corporate tax revenues) (OECD, 2015).

Globalization has brought numerous benefits to the world economy, but one of the negative effects is the continuous increase in the number of transactions carried out between affiliated companies, with a major

impact on the erosion of the taxable base and the transfer of profits.

Although knowing the exact number and volume of transactions between affiliated parties carried out internationally is almost impossible, over time, there have been officially published statistics that attempted to analyze them and their share in total international transactions.

The first and most well-known statistic is the one published by the United Nations Conference on Trade and Development (UNCTAD) in 1995, the World Investment Report which shows that one third of total transactions are represented by those carried out between affiliated parties (Figure 1). However, this graph was generated by extrapolating transaction data to the United States of America, so some specialists have questioned this share.

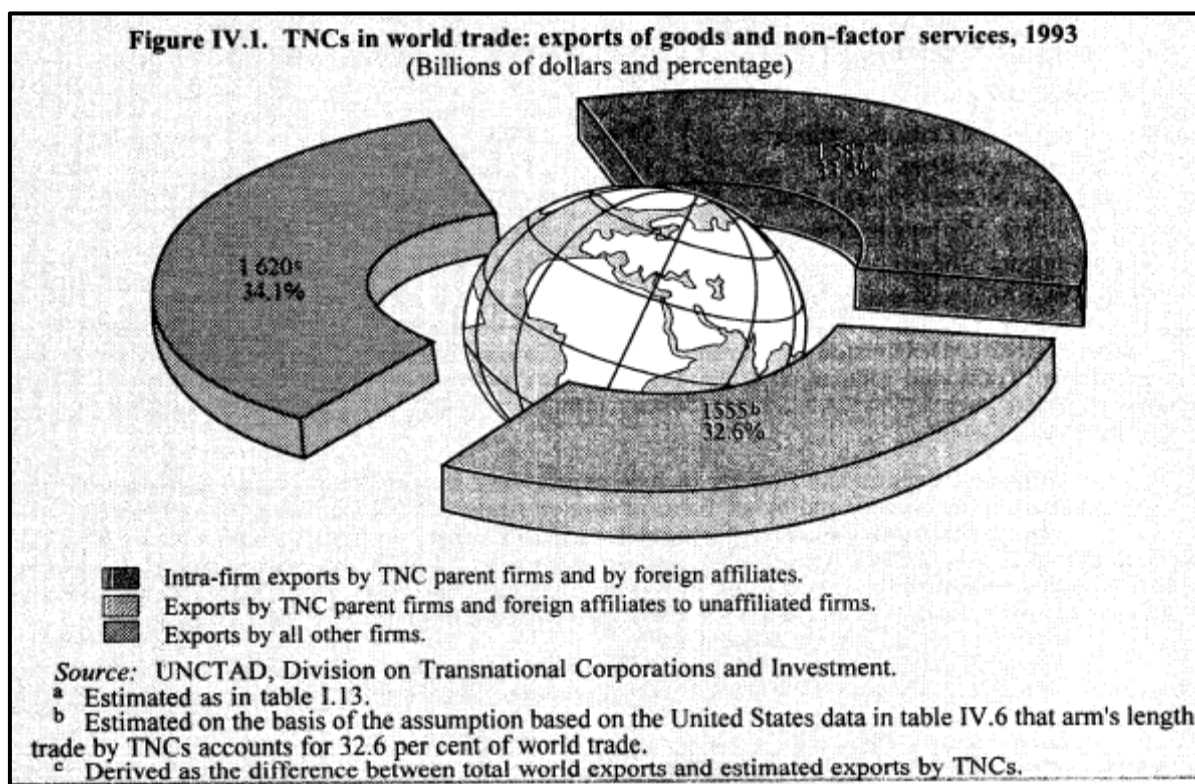


Figure 1. Transaction situation in the United States of America in 1993

Source: United Nations Conference on Trade and Development (1995).

A more recent study, published in 2017 by the World Bank, confirms the one-third share and shows that between 2002 and 2014 the share was on an upward trend in the United States (Figure 2).

4.2 OECD BEPS Action Plan

The OECD Action Plan against BEPS was first presented at the G20 Antalya Summit in 2015, comprising 15 measures, with the aim of reducing the phenomena of base erosion and profit shifting from one jurisdiction to another.

Action 1: “Addressing the tax challenges of the digital economy” addresses the specific issues of the digital economy and the measures needed to implement BEPS. The digital economy involves elements that make it difficult to prevent base erosion and profit shifting, such as mobility and flexibility (intangible assets), data reporting and credibility, complex business models, but also the volatility specific to the sector.

Although all BEPS actions also address the issue of the digital economy, it was considered necessary to provide for an action dedicated to this sector, with additional measures that countries can apply to prevent the artificial transfer of profits and the evasion of direct taxes and VAT.

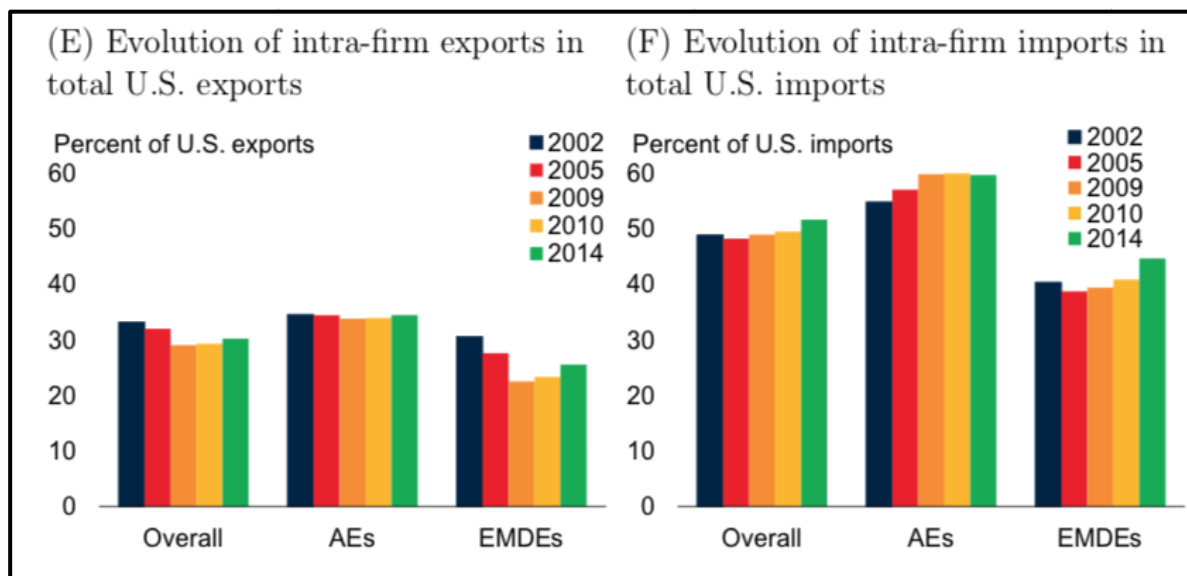


Figure 2. Evolution of exports within affiliated companies, compared to the value of exports from the USA

Source: World Bank (2017).

Action 2: “Neutralizing the effects of hybrid arrangements” aims to develop recommendations on double taxation treaties and local rules to neutralize mismatches generated by the use of “hybrid” instruments and entities. The final report recommends the introduction of rules on hybrid arrangements considered inappropriate and other provisions of each country’s legislation to counteract hybrid arrangements, together with a proposal for changes to the model double taxation treaty to ensure that hybrid entities are not used to obtain unjustified benefits under the treaty.

Action 3: “Tightening the rules for controlled foreign companies (“CFCs”) aims to create effective rules on controlled foreign companies (hereinafter referred to as “CFCs”). By taxing any transfers made by non-resident group companies (so-called “subsidiaries”) to resident shareholders, robust CFC rules could prevent groups from creating low-tax non-resident affiliates to which to transfer income that is often subject to indefinite deferrals.

Action 4: “Limiting base erosion by limiting the deductibility of interest expenses and financial payments” contains recommendations on the design of rules to limit the deductibility of interest expenses and other financial instruments, both between related parties and between third parties. The OECD recommends a combined approach, in which the fixed indicator rule is the default rule and a group indicator rule is applied at the discretion of each country.

Action 5: “Countering harmful tax practices, taking into account transparency of information and substance of transactions” aims to identify preferential tax regimes, introduce mandatory automatic exchange of information on tax rulings related to preferential tax

regimes. It also requires the existence of economic substance for any preferential tax regime, including with regard to intellectual property. The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations have already undergone changes with regard to transfer pricing related to transactions relating to intellectual property.

Action 6: “Preventing the abusive use of double taxation treaties”

The objectives of Action 6 are:

(i) Developing provisions and recommendations, within the framework of the model double taxation treaty, regarding the development of legislative provisions to prevent the granting of treaty benefits in inappropriate circumstances;

(ii) Clarification regarding tax treaties (to avoid double taxation), namely that they are not intended to be used to generate “double non-taxation”;

(iii) Identifying tax policy considerations that jurisdictions should take into account before entering into such treaties. Consistent with the recommendations set out in previous versions, the OECD concluded in its final report that the preferred approach to prevent treaty benefits from being granted in inappropriate circumstances is to include in treaties both a limitation of benefits article and a general anti-abuse rule in the form of a principal purpose test.

Action 7: “Preventing the abusive use of the Permanent Establishment (“PE”) status”

Beyond the standard transfer pricing documentation covering standard profitability, companies face a significant risk of being attributed additional profits as a result of the existence of a permanent establishment, generated by the supply chain within a group. Transfer pricing analysis should also carefully consider such

issues. The aim of Action 7 is to develop amendments to the definition of permanent establishment (hereinafter "PE"), to prevent abuse of this threshold, including through the use of commission-type arrangements/structures and activity-specific exemptions to avoid the existence of a PE where core activities are involved. In its final report, the OECD recommended the proposed amendments to the definition of PE and the related comments included in the draft revised version of the discussions.

Action 8: "Ensuring that transfer pricing outcomes are consistent with value creation: intangible assets."

Action 9: "The method of allocating risks and capital between affiliated persons"

Action 10: "High-risk transfer pricing transactions"

Actions 8, 9 and 10 of the BEPS Action Plan address several interrelated issues. These actions include the development of:

(i) Rules to prevent BEPS through the transfer of intangible assets between group members;

(ii) Rules to prevent BEPS through the transfer of risks between, and/or the allocation of excess capital to, group members which will involve the adoption of special transfer pricing rules and measures to ensure that inappropriate profits do not accrue to an entity within the group simply because it has contractually assumed risks or provided capital. It is required to align profits with value created;

(iii) Rules to prevent BEPS by engaging in transactions between affiliated persons that would not, or would very rarely, take place between third parties.

On 5 October 2015, the OECD issued final guidelines for Actions 8, 9 and 10 in a single report. These guidelines take the form of a series of amendments to different chapters of the OECD Transfer Pricing Guidelines. The report covers areas of risk and reclassification (Chapter I of the OECD Transfer Pricing Guidelines), intra-group transactions in goods (Chapter II of the OECD Transfer Pricing Guidelines), intangible assets, including those that are difficult to value (so-called "HTVIs") (Chapter VI of the OECD Transfer Pricing Guidelines), services, including intra-group services, with low value added (Chapter VII of the OECD Transfer Pricing Guidelines) and cost contribution arrangements (Chapter VIII of the OECD Transfer Pricing Guidelines).

Action 11: "Establish methodologies for collecting and analyzing BEPS data"

The BEPS Action Plan states that improving the availability and analysis of BEPS data is crucial, including monitoring the implementation of the action plan. In relation to the aim of Action 11, the action plan states the following: Establish methodologies for collecting and analysing data on BEPS and actions to address them. However, the report proposes six indicators

(such as: concentration of foreign direct investment in low-tax countries, separation of intangible assets from the location of their production) that, when considered together, could provide general indications of the existence of BEPS – especially when measured over time. The report also suggests potential future indicators – based on new data that will become available through Actions 5, 12, and 13 – that could provide further insights into the scale and economic impact of BEPS. While this report does not suggest any changes to countries' local laws, it does highlight a number of practices in the area of data collection and analysis, and offers some specific recommendations for more effective measurement in the future.

Action 12: "Establishing reporting rules for taxpayers' aggressive tax planning schemes"

The aim of Action 12 is to develop mandatory reporting rules for tax planning that is perceived to be aggressive or abusive. The OECD published a draft discussion paper on 31 March 2015, outlining the main objectives and principles for developing any mandatory reporting regime. The final report issued by the OECD provides a framework that allows countries without mandatory reporting rules to design a regime that suits their needs to obtain timely information on potential tax planning schemes perceived to be aggressive and their users.

Action 13: "Review transfer pricing documentation"

Action 13 recognises that increasing transparency for tax administrations, by providing them with adequate information to carry out transfer pricing risk assessments, is an essential component of addressing BEPS. The OECD has launched three reports under Action 13:

(i) Guidelines on transfer pricing documentation and country-by-country reporting (hereinafter "CbyC") – September 2014;

(ii) Guidelines on the implementation of transfer pricing documentation and CbyC Reporting – February 2015;

(iii) Implementation of the CbyC reporting set – June 2015.

The final form of Action 13 has not changed compared to the guidelines in the 3 reports prepared in late 2014 and early 2015, except for the addition of a summary.

Note: Several countries have recently announced that they intend to implement or have already implemented CbyC reporting and other transfer pricing disclosure requirements under Action 13 and the BEPS Action Plan. These countries include: France, the United Kingdom, Denmark, Australia, the Netherlands, Poland, Mexico, South Korea and Spain.

Action 14: "Improving the efficiency of dispute resolution mechanisms"

The aim of Action 14 is to improve the efficiency of the mutual agreement procedure (hereinafter referred to as "MAP") in resolving disputes arising under double

taxation treaties arising from transfer pricing adjustments made by local tax authorities. The OECD launched a discussion paper on 18 December 2014 in which it sought to identify obstacles that prevent countries from resolving disputes through MAP and to develop possible measures to overcome these obstacles. The final report reflects a commitment by all countries to adhere to a minimum standard for the resolution of such disputes, to establish and develop a monitoring mechanism to ensure that this minimum standard is met. In addition, the final report identifies best practices that complement the minimum standard, but are not part of it. Lastly, the final report notes that, although there is currently no consensus among all OECD and G-20 member countries on the adoption of binding arbitration, a significant group of countries have committed to adopting and implementing binding arbitration (to resolve double taxation cases).

Action 15: “Development of a multilateral legal instrument”

The purpose of Action 15 is to streamline the implementation of BEPS measures on double taxation treaties through a multilateral instrument (hereinafter referred to as “MLI”) to amend existing bilateral treaties. The OECD issued a report on 18 September 2014 concluding that an MLI is desirable and feasible and will be negotiated through an international conference of G20 member countries, OECD member countries and other interested countries. On 6 February 2015, the OECD published a mandate for the process of developing an MLI. On 27 May 2015, an ad hoc group was established to develop the MLI. The ad hoc group was open to all interested countries on an equal footing. There are currently 90 participating countries. The ad hoc group agreed on a number of procedural issues so that substantive work can begin on 5-6 November 2015. The OECD final report reiterates the conclusions and mandate included in previous Action 15 publications.

Over 60 countries directly involved in the technical working groups participated in the development of this plan, as well as international organizations such as the

International Monetary Fund, the World Bank and the United Nations. The latter highlights the challenges that disputes between tax administrations bring regarding the establishment of the jurisdiction that is competent to collect taxes. but also the procedures necessary to be followed in this process. The Practical Manual on Transfer Pricing for Developing Countries, developed by the United Nations, shows that resolving disputes can be more difficult for tax administrations in emerging countries due to resource limitations.

The United Nations has approached BEPS policies from the perspective of developing countries and has developed and analyzed a questionnaire on the difficulties encountered in implementing Actions 6 and 12 (Mosquera Valderrama, 2014). The responses showed that the most important problems are related to the lack of national regulations, the administrative capacity of tax authorities, but also to the lack of human resource expertise.

4.3 The Arm’s Length Principle and Its Implementation

To assist multinational companies and tax administrations, in 2009 the Organization for Economic Co-operation and Development (OECD) published a guide containing transfer pricing guidelines for multinational enterprises and tax administrations. It provides guidance on the application of the “arm’s length” principle, which is the international standard on transfer pricing, i.e. on the assessment for tax purposes of cross-border transactions between affiliated companies.

In a global economy in which multinational enterprises play an increasingly important role, transfer pricing continues to be a priority on the agenda of tax administrations and taxpayers, so this guide has been completed and reissued twice so far, in 2010 and 2017, the latest edition providing important guidance on the application and interpretation of this principle. The transfer pricing methods, also provided for in the OECD Guidelines, can be divided into two categories (Figure 2).

A. Transactional Methods	B. Traditional Methods
<ul style="list-style-type: none"> – <i>Comparable Uncontrolled Price (CUP)</i> – <i>Resale Price Method (RPM)</i> – <i>Cost Plus Method</i> 	<ul style="list-style-type: none"> – <i>Transactional Net Margin Method (TNMM)</i> – <i>Profit Split Method</i>

Figure 3. Classification of transfer pricing methods

Source: Developed by the author (2025).

The OECD defines the arm's length principle as follows: “This valuation principle is commonly applied to commercial and financial transactions between affiliated companies. It states that transactions should be valued as if they had been made between unrelated parties, each acting in its own best interest” (OECD, 2006).

The transfer pricing process can be summarized depending on the chosen method as follows:

- *the price comparison method* analyzes prices charged in similar transactions;
- *the cost plus method* compares the gross profit margin achieved over costs;

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- *the resale price method* studies the gross margin on sales;
- *the net margin method* compares the net profit margins obtained by the multinational company with the net profit margins obtained by independent individuals from similar activities;
- *the profit sharing method* starts from the aggregate profit obtained by affiliated persons as a result of the transactions carried out and divides this profit between the participants, depending on each one's contribution.

Additionally, the OECD Guidelines allow the use of other methods, provided that the transfer prices thus established comply with the arm's length principle and the taxpayer justifies through documentation the need to choose that method.

Governments must ensure that the taxable profits of multinational companies are not artificially shifted to other

jurisdictions and that the taxable base is taxed in the country of origin. For multinational companies, it is essential to limit the risks of economic double taxation that could result from a dispute between two countries over the taxation of cross-border transactions with affiliated companies.

The Organization for Economic Cooperation and Development has created a number of 41 programs designed to support new members in implementing BEPS by providing policy support, expertise and technical information to specialists in the field.

Another notable initiative is the joint OECD-United Nations initiative, Inspectors Without Borders. It was created in 2015 and has included over 80 programs internationally, training inspectors from over 45 countries, facilitating the exchange of information between tax authorities, the transfer of competence and actively contributing to the collection of over USD 532 million.

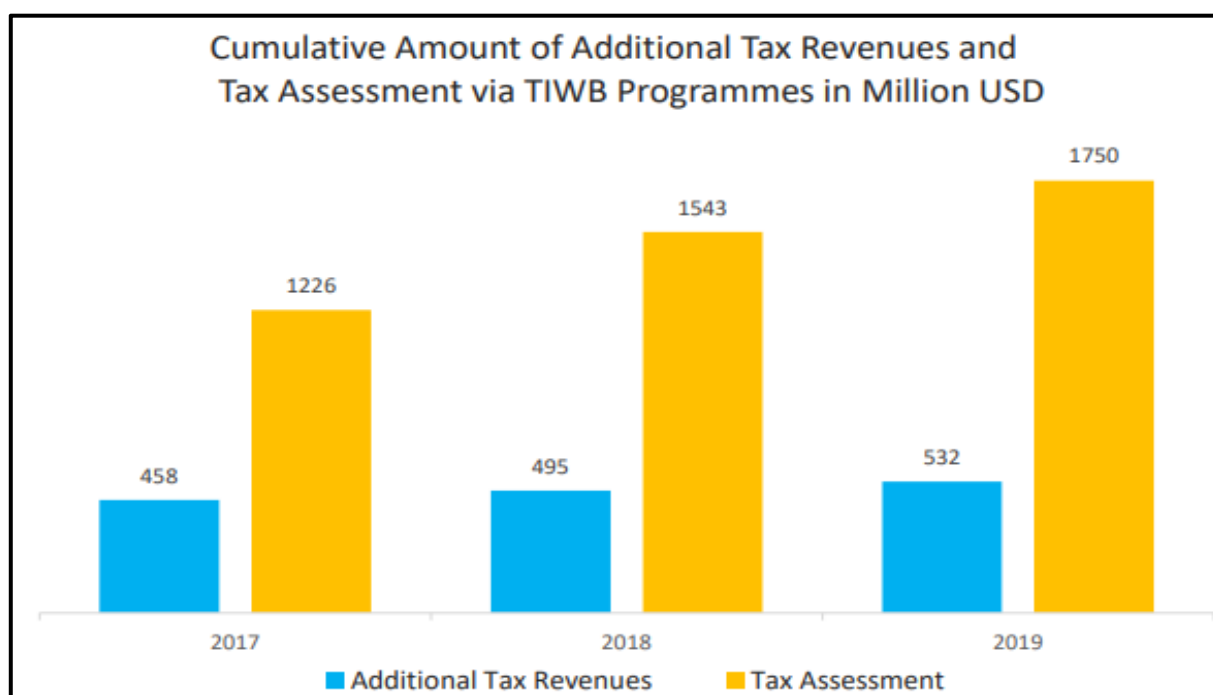


Figure 4. Impact of the OECD and United Nations initiative on collection

Source: OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors (2020).

The OECD's latest progress report on base erosion and profit shifting was published last July and highlights the challenges generated by the accelerated pace of globalization and sophisticated business models, especially in the field of electronic services.

The application of the transfer pricing concept is particularly difficult in intellectual property transactions. The "double Irish with a Dutch sandwich" technique is well known, being practiced by numerous American companies such as Apple, Dell, Google, Microsoft and others, through subsidiaries registered in Ireland and the Netherlands, but with tax residence in countries with low or even no taxation (Podstawka, 2019).

Since the first draft of the OECD Action Plan against BEPS, many non-OECD countries have joined this project, and the measures already implemented have

brought coherence and transparency to international tax practice. According to the progress report published this year at the G20, in 2019, the exchange of information between signatory countries increased by over 50% compared to the previous year, which helped tax authorities recover €102 billion from illegal transactions. In the immediate future, the OECD aims to adopt a multilateral agreement on the taxation of electronic services and the regulation of the collaborative economy, which has experienced accelerated development in recent years, the taxation of these transactions posing difficulties for both tax authorities and taxpayers.

According to a report published in 2019 by the International Monetary Fund, remarkable progress has been made following the implementation of BEPS actions so far, but attention is drawn to the fact that there

are still numerous situations in which companies can apply base erosion and profit shifting schemes, given that often establishing the source of income remains an issue to be resolved based on double taxation agreements concluded between countries.

In September 2019, GOOGLE Ireland Limited entered into a Public Interest Judicial Agreement (PIJA) with France, which established a public interest fine of 500 million euros plus additional taxes of 465 million euros (TPcases, 2019). This agreement essentially represents a negotiation between the taxpayer, prosecutors and the French state, and experts believe that it is possible that it will become a landmark in the resolution of disputes. By signing this agreement, both a criminal investigation for tax fraud and an ongoing dispute with the French tax authorities focused on the existence of a permanent French establishment of Google’s headquarters in Ireland are resolved.

Thus, it is obvious that the lack of implementation of globally applicable regulations, such as the Multilateral Convention to Implement Tax Treaty Related Measures

to Prevent Base Erosion Profit Shifting, distorts the international market, favours unfair competition and creates social inequities. The least developed countries are the most affected by this practice, as their national budgets are largely dependent on the corporate tax owed by multinational companies. According to an article recently published in the Journal of Critical, in the last 50 years African countries have been harmed by 50 billion USD. Abu et al. (2020) also draw attention to the fact that one of the effects of this practice on poor economies is the over-indebtedness of governments, which could lead to a slowdown in the global economy and an increase in trade wars in the near future. The low level of tax collection in developing countries is one of the reasons why the governments of these countries cannot ensure the population’s access to basic services, such as healthcare, drinking water, education or infrastructure.

According to the report published by the United Nations in 2020 on financing sustainable development, many developing countries do not participate in international tax cooperation instruments.

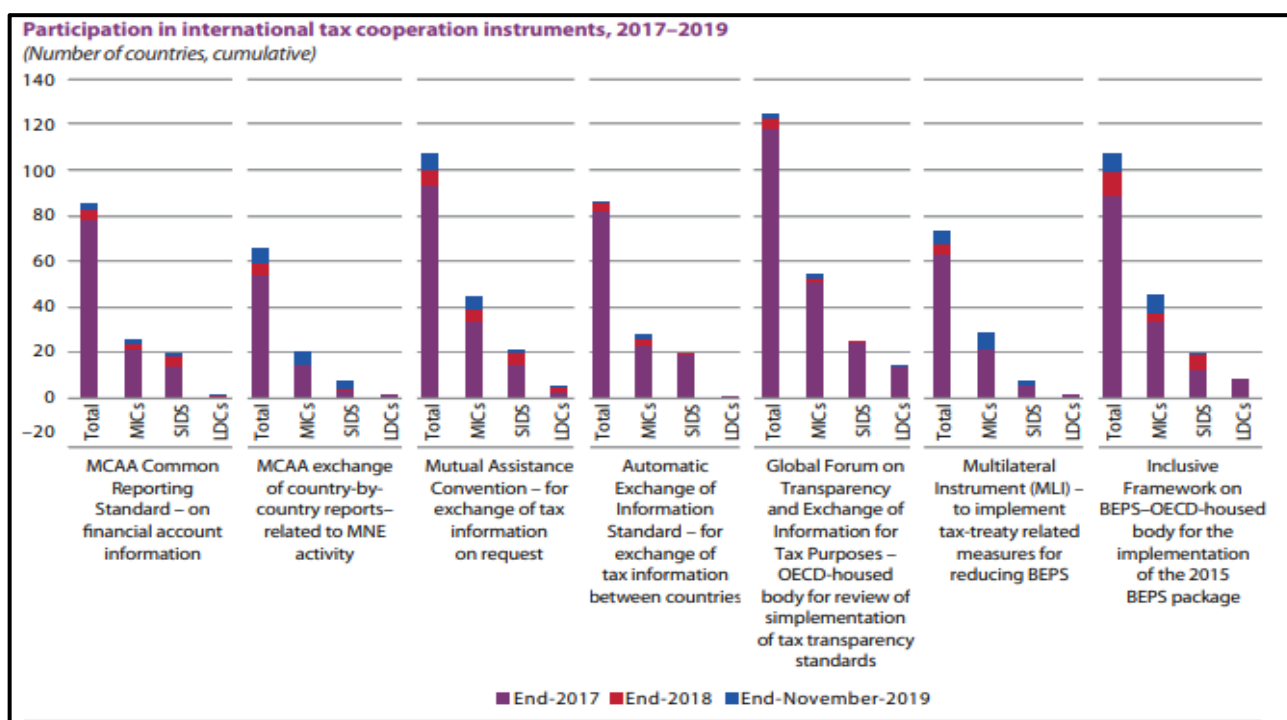


Figure 5. Participation in international tax cooperation instruments 2017-2019

Source: United Nations Report (2020).

However, improvements have been observed in recent years and over 95 members participate in the automatic exchange of financial information.

In 2018 alone, information on 47 million transactions, totaling €4.9 trillion, was transmitted in 4,500 information exchanges, and this number reached 6,000 in 2019.

By the end of 2019, over three-quarters of members had introduced the CountrybyCountry reporting requirement, with multinational companies with consolidated revenues of over €750 million being required to report to the tax authorities in their home country.

4.4 Advance Pricing Agreements (APAs) and Mutual Agreement Procedures (MAPs)

An alternative to the transfer pricing file is the advance pricing agreement (APA). This is an administrative act, a procedural agreement between the taxpayer and the tax authority, in order to establish the conditions and modalities in which the transfer prices are to be determined, during a fixed period, in the case of transactions carried out with affiliated persons. This instrument aims to avoid disputes between the taxpayer and the tax authority.

The main advantages brought by APA include the following:

- Avoiding tax inspections on transactions covered by the APA (reducing costs and internal administrative effort) and eliminating potential transfer pricing adjustments;
- Elimination of interest and late fees for any transfer pricing adjustments in relation to transactions subject to the APA;
- Elimination of costs for preparing transfer pricing documentation for transactions subject to APA (during the period in which the APA is valid);
- Avoidance of double taxation.

This approach to transfer pricing contrasts sharply with the transfer pricing case because, unlike the transfer pricing case, which analyzes compliance with the “arm’s length” principle in the case of ongoing transactions, the advance pricing agreement ensures compliance with this principle in future transactions.

The APA was first mentioned in the OECD guidelines in 1995, with the OECD’s Committee on Fiscal Affairs stating that it would closely monitor the use of the agreements and promote greater consistency in practice among those countries that choose to use them. Later, in the 1999 edition, the OECD already provided more clarifications on this procedure:

- defining the different types of APA;
- the objectives of the APA;
- eligibility criteria for APA;
- conclusion of multilateral APAs.

In recent years, taxpayers’ interest in advance pricing agreements has increased. Statistics published in 2019 by the European Commission showed that at the end of 2018, 726 such agreements were in force across the European Union, and 1,105 advance pricing agreement applications were submitted during the year.

A disadvantage of this instrument, however, is the long duration of negotiating such an agreement, which in the case of a bi- or multilateral agreement can take between 12 and 65 months, although the guidelines establish a maximum duration of the settlement term of 24 months.

4.5 Recent Developments and Emerging Insights

Recent developments have further enriched the debate on transfer pricing regulation. The OECD Secretary-General’s Tax Report (2022) provides updated guidelines that directly address the mounting challenges posed by digital business models. In this report, the OECD emphasizes the need for enhanced international cooperation and proposes innovative measures to combat base erosion and profit shifting (BEPS). The comprehensive nature of this report, which details revised regulatory recommendations, has significantly influenced current discussions on global tax reform.

Building on this, the OECD released an updated document in 2023 entitled “Tax Challenges Arising from the Digitalisation of the Economy: Update”. This report critically examines how the rapid digital transformation is reshaping transfer pricing practices, calling into question the adequacy of traditional frameworks in today’s technology-driven environment. It highlights specific

shortcomings in current tax systems and offers policy recommendations designed to ensure that tax frameworks remain effective despite ongoing technological and economic changes. The report’s insights underscore the urgency for tax authorities worldwide to adopt more adaptive approaches.

In parallel, the European Commission has contributed to the discussion with its 2023 report, “Transfer Pricing in the Digital Economy: Challenges and Perspectives”. This publication provides an in-depth analysis of the regulatory adjustments required to manage the complexities of digital commerce. It examines case studies and comparative data to reveal the impact of digitalization on profit shifting and the erosion of tax bases, thereby reinforcing the need for harmonized global standards. The findings from this report provide valuable insights for both policymakers and practitioners aiming to address the evolving challenges of the digital age.

Taken together, these recent reports and studies clearly underscore the dynamic nature of transfer pricing regulation in the digital era. They highlight not only the progress made since the introduction of earlier BEPS measures but also the pressing need for continuous research and dialogue among policymakers, tax authorities, and industry stakeholders. As the global economic landscape evolves, adaptive regulatory frameworks will be essential to maintain tax fairness and compliance. This emerging body of work reinforces the importance of updating our understanding of transfer pricing practices considering new economic realities.

6. CONCLUSION

A coordinated and adaptive reform of the international tax system is essential to prevent tax disputes, ensure fair competition, and provide a clear and stable legal framework for companies operating across multiple jurisdictions. The OECD’s BEPS Action Plan has made significant progress in curbing aggressive tax planning, yet gaps in enforcement and jurisdictional inconsistencies remain. As multinational corporations continue to leverage regulatory loopholes, particularly in digital taxation and intangible asset transfers, further policy refinements are required to enhance transparency and compliance.

A globalized economy requires harmonized regulatory efforts to ensure that corporate tax contributions reflect real economic activity. The growing reliance on multilateral agreements, such as the OECD’s Multilateral Instrument (MLI), signifies a shift towards a more unified approach to taxation, aiming to balance corporate interests with global tax equity while ensuring that emerging economies are not disproportionately disadvantaged in the evolving regulatory environment. Thus, strengthening enforcement mechanisms, closing legal loopholes, and fostering international cooperation will be critical in shaping a fairer, more transparent international tax system for the future.

Study Limitations

This study is limited by the availability of real-time enforcement data. Future research should examine industry-specific transfer pricing practices and evaluate post-BEPS compliance trends.

Recommendations for Future Research

Given the complex and evolving nature of transfer pricing, further research is imperative. Future studies should examine:

- The long-term impact of BEPS measures on multinational tax strategies and revenue collection.
- The effectiveness of digital taxation frameworks, particularly in the context of decentralized business models.
- The role of AI and data analytics in automating tax compliance and detecting aggressive transfer pricing schemes.

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