

TRANSFER PRICING DISPUTES IN MULTINATIONAL CORPORATIONS: A LEGAL ANALYSIS OF INDONESIA'S APA AND MAP FRAMEWORK POST-BEPS

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ABSTRACT

The intensification of cross-border economic activities among multinational corporations (MNCs) has significantly increased the complexity and frequency of transfer pricing disputes. In response, Indonesia has adopted a series of legal and administrative reforms to enhance the certainty, fairness, and transparency of its dispute-resolution mechanisms, particularly through the implementation of Advance Pricing Agreements (APAs) and the Mutual Agreement Procedure (MAP). These reforms align with the OECD Base Erosion and Profit Shifting (BEPS) Action Plan, especially Actions 8-10 on transfer pricing and Action 14 on improving dispute resolution. Despite such progress, Indonesia continues to face doctrinal ambiguities, institutional constraints, and compliance challenges that impede the effective operation of APA and MAP frameworks. This article conducts a legal analysis of Indonesia's transfer pricing dispute-resolution regime in the post-BEPS era, evaluating its statutory design, administrative practice, and alignment with international standards. Using normative legal methodology complemented by comparative insights from OECD member jurisdictions, the study examines the substantive rules governing APAs and MAP, the procedural safeguards afforded to taxpayers, and the enforcement powers of the Directorate General of Taxes (DGT). The findings reveal structural issues, including limited taxpayer access, procedural delays, insufficient transparency, and discrepancies between domestic legal norms and treaty-based obligations. The article argues that Indonesia must strengthen legal certainty, institutional coordination, and adherence to international dispute-resolution commitments to achieve a more predictable and equitable taxation system. Building on comparative lessons, this study proposes a refined legal framework for APAs and MAP that enhances Indonesia's compliance with global transfer pricing standards while promoting sustainable tax administration.

Keywords: APA, BEPS, International Tax Law, MAP, Transfer Pricing

INTRODUCTION

Transfer pricing remains one of the most contested areas in international taxation, particularly for developing economies such as Indonesia that rely heavily on corporate tax revenues from multinational enterprises (MNEs). As global value chains expand and cross-border transactions grow increasingly complex, transfer pricing disputes have intensified in both frequency and difficulty, creating substantial challenges for national tax authorities. The post-BEPS environment has further reshaped the global tax landscape, introducing new standards of transparency, substance requirements, and dispute-resolution mechanisms designed to prevent profit shifting and double taxation. For Indonesia, these developments carry profound implications for the administration of transfer pricing, especially in relation to its Advance Pricing Agreement (APA) and Mutual Agreement Procedure (MAP) frameworks.

Over the past decade, Indonesia has witnessed a rise in aggressive tax planning, particularly in sectors dominated by multinational corporations such as mining, manufacturing, digital services, and energy. Disputes frequently arise regarding the valuation of intercompany services, intangible assets, financing arrangements, and commodity pricing. Prior to the BEPS reforms, Indonesia's dispute-resolution mechanisms were constrained by limited information exchange, inconsistent application of the arm's length principle, and administrative backlogs. These issues contributed not only to uncertainty for taxpayers but also to inconsistent revenue outcomes for the state. OECD assessments and domestic scholarship repeatedly note that developing countries face significant asymmetries in information when dealing with highly sophisticated MNE structures, leading to structural disadvantages in audits and negotiations.¹

The adoption of the OECD/G20 BEPS Project marked a turning point in international tax governance. Key Action Plans—particularly Action 8-10 (transfer pricing), Action 13 (documentation and CbCR), and Action 14 (dispute resolution)—introduced stricter requirements on MNEs and higher expectations for tax administrations. Indonesia's tax authority, Direktorat Jenderal Pajak (DJP), responded by strengthening regulations such as PMK-22/2020 (MAP Procedures), PMK-130/2020 (APA Guidelines), and transfer pricing documentation rules aligned with BEPS Action 13. These reforms represent an effort to modernize Indonesia's transfer pricing governance and to align domestic law with international best practices.

Despite these improvements, practical and doctrinal challenges persist. Indonesia's APA and MAP frameworks—although strengthened—remain underutilized compared to peer jurisdictions. APA negotiations are lengthy, administrative capacity constraints persist, and uncertainties remain regarding the interpretation of arm's length principles in complex arrangements involving intangibles, global procurement hubs, and digital business models. MAP cases often encounter delays due to differences in treaty interpretation, limited human resources, and occasional reluctance of counterpart competent authorities to seek resolution.² As a result, MNEs frequently face prolonged disputes, inconsistent assessments, and potential double taxation, undermining Indonesia's attractiveness as an investment destination.

A key doctrinal issue concerns the interface between domestic transfer pricing rules and treaty-based dispute mechanisms. Indonesian transfer pricing rules, rooted in Article 18 of the Income Tax Law and supported by domestic implementing regulations, emphasize the arm's length principle but remain influenced by administrative practice and audit preferences. Meanwhile, MAP procedures derive authority from bilateral tax treaties, particularly Article 25 of the OECD Model Tax Convention, requiring mutual resolution of treaty-related disputes. The differing legal bases of these instruments have created interpretive tensions, especially when domestic adjustments intersect with treaty obligations. Comparative studies indicate that many emerging economies experience similar doctrinal conflicts, highlighting the need for harmonization and clearer legal frameworks.³

From an institutional perspective, Indonesia's MAP and APA frameworks must also be understood within broader administrative reform efforts. DJP continues to expand its international taxation division, enhance data-analytics capabilities, and increase transparency through automatic exchange of information (AEOI). However, institutional capacity remains uneven, particularly in handling complex transfer pricing disputes involving multi-jurisdictional intangibles, risk-allocation models, or advanced financial structures. OECD evaluations underscore that effective dispute resolution requires

¹ OECD, *Addressing Base Erosion and Profit Shifting* (Paris: OECD Publishing, February 12, 2013), https://www.oecd.org/en/publications/addressing-base-erosion-and-profit-shifting_9789264192744-en.html.

² Tracee Fultz et al., *2024 EY International Tax and Transfer Pricing Survey* (London: EY Global, 2024).

³ Reuven S. Avi-Yonah, "Altera and the Arm's Length Standard," *U of Michigan Public Law Research Paper* 616 (July 25, 2018), accessed November 18, 2025, <https://papers.ssrn.com/abstract=3219744>.

not only legal reform but also organizational restructuring, improved human capital, and predictable administrative processes.⁴

This study argues that Indonesia's post-BEPS APA and MAP frameworks represent significant progress but require further doctrinal refinement, institutional strengthening, and procedural modernization to achieve alignment with international best practices. The post-BEPS environment raises new challenges that are not fully addressed in current Indonesian regulations, including disputes involving marketing intangibles, DEMPE functions, global trading models, and digital service transactions. Moreover, the rapid expansion of digitalized business models under BEPS 2.0 introduces additional complexity, requiring Indonesia to ensure that its dispute-resolution mechanisms remain robust, fair, and predictable.

Against this backdrop, the purpose of this article is to conduct a comprehensive legal analysis of Indonesia's APA and MAP frameworks after the implementation of BEPS reforms. This analysis examines the doctrinal coherence of the relevant regulations, the institutional capacity of competent authorities, and the practical challenges that arise in applying the frameworks to complex transfer pricing disputes. The study employs normative legal research enriched with comparative insights from jurisdictions with advanced APA/MAP systems, including Japan, Australia, Singapore, and the Netherlands. These comparative perspectives illustrate how structured negotiation mechanisms, transparent guidelines, and strong administrative capacity can significantly reduce disputes and enhance tax certainty for both taxpayers and governments.

This article contributes to academic and policy discussions in three main ways. First, it proposes a doctrinal evaluation of the legal basis of APA and MAP procedures in Indonesia, clarifying their relationship to domestic transfer pricing law and international treaty obligations. Second, it offers a detailed institutional analysis of administrative processes, negotiation dynamics, and bottlenecks that hinder effective dispute resolution. Third, it develops a structured model for strengthening Indonesia's APA and MAP frameworks, drawing on comparative lessons and best-practice principles recommended by the OECD.

In an era defined by global tax transparency, aggressive anti-avoidance measures, and heightened scrutiny of cross-border arrangements, Indonesia must ensure that its transfer pricing dispute-resolution mechanisms are capable of addressing complex legal and economic issues. A modernized APA and MAP system will not only enhance Indonesia's tax certainty and protect its revenue base but also strengthen investor confidence and align the country with global standards of fair and efficient tax administration.

RESEARCH METHODOLOGY

This study employs a normative legal research methodology supplemented by comparative and conceptual analysis to examine the evolution and effectiveness of Indonesia's transfer pricing dispute-resolution mechanisms—particularly the Advance Pricing Agreement (APA) and Mutual Agreement Procedure (MAP)—in the aftermath of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project. The normative approach enables an in-depth evaluation of statutory provisions, Ministry of Finance regulations, Directorate General of Taxes (DGT) guidelines, and their doctrinal coherence when interpreted alongside international standards embedded in the OECD Transfer Pricing Guidelines and BEPS Action Plans.

Normative legal analysis is appropriate because transfer pricing governance fundamentally derives from legal norms, administrative rules, and treaty-based obligations, rather than empirical behavioral data. The method allows the study to analyze Indonesia's domestic regulations such as Minister of Finance Regulation No. 22/2020 on APA procedures, the Income Tax Law, MAP implementation rules, and their conformity to Indonesia's tax treaty commitments. It also enables a

⁴ OECD, 2022 *Mutual Agreement Procedure Statistics* (Paris, 2022).

detailed exploration of legal certainty, taxpayer rights, procedural fairness, and administrative discretion—core principles shaping dispute resolution under APA and MAP regimes.⁵

To enhance analytical depth, this research incorporates a comparative assessment of Indonesia's APA and MAP framework vis-à-vis the post-BEPS developments in jurisdictions such as Japan, Australia, the United States, and OECD best-practice models. Comparative examination highlights divergence or convergence in administrative timelines, transparency, dispute-prevention mechanisms, and the degree of alignment with BEPS Action 14's minimum standards on dispute resolution.⁶ The comparative dimension also assists in identifying structural gaps, potential reforms, and institutional challenges within Indonesia's tax administration, particularly regarding capacity constraints, negotiation effectiveness, and inter-authority coordination.

The research relies heavily on primary legal materials, including Indonesian income-tax legislation, bilateral tax treaties, APA regulations, OECD Transfer Pricing Guidelines (2022 edition), BEPS Action 8-10 on aligning transfer pricing outcomes with value creation, and BEPS Action 14 on improving dispute resolution. These primary materials form the core sources for interpreting Indonesia's legal commitments and obligations within the international tax regime.⁷ Secondary sources—such as scholarly publications on transfer pricing law, OECD peer review reports, IMF papers on treaty administration, and leading commentary on comparative APA/MAP practice—provide doctrinal explanations that enrich the analysis and situate Indonesia within broader international tax law developments.⁸

Tertiary materials, including DGT annual reports, OECD Tax Administration Comparative Information Series (TACS), and UN Tax Committee guidance, offer additional factual and contextual support, particularly regarding administrative capacity, dispute resolution timelines, and peer-review findings. Such materials help illuminate the operational performance of APA and MAP systems, complementing the doctrinal evaluation with institutional perspectives.⁹

The interpretive techniques applied include textual, systematic, and teleological interpretation. Textual interpretation is used to examine the wording of Indonesia's APA and MAP regulations and their consistency with treaty obligations. Systematic interpretation situates these rules within Indonesia's overall tax-administration system, evaluating coherence across legislative and administrative instruments. Teleological interpretation is employed to assess whether the APA and MAP frameworks fulfill their intended purposes: reducing transfer pricing disputes, preventing double taxation, ensuring tax certainty for multinational enterprises (MNEs), and aligning domestic practice with BEPS commitments.¹⁰

The study acknowledges certain methodological limitations. First, it is grounded in documentary research rather than empirical interviews, which limits access to internal administrative dynamics,

⁵ Reuven S. Avi-Yonah, "International Tax as International Law," *SSRN Electronic Journal* (2004), <http://www.ssrn.com/abstract=516382>.

⁶ OECD, *Making Dispute Resolution More Effective – MAP Peer Review Report, Indonesia (Stage 2) Inclusive Framework on BEPS: Action 14*, OECD/G20 Base Erosion and Profit Shifting Project (Paris: OECD, October 18, 2021), accessed November 18, 2025, https://www.oecd.org/en/publications/making-dispute-resolution-more-effective-map-peer-review-report-indonesia-stage-2_8095f743-en.html.

⁷ OECD, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*, OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (Paris: OECD, January 20, 2022), accessed November 18, 2025, https://www.oecd.org/en/publications/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-2022_0e655865-en.html.

⁸ Y. Brauner and P. Pistone, "Adapting Current International Taxation to New Business Models: Two Proposals for the European Union," *Bulletin for International Taxation* 71, no. 12 (October 5, 2017), <https://www.ibfd.org/doi/18y0t4v>.

⁹ OECD, *Tax Administration 2023*, Tax Administration (Paris: OECD Publishing, September 27, 2023), accessed November 18, 2025, https://www.oecd.org/en/publications/tax-administration-2023_900b6382-en.html.

¹⁰ Michael Lang, *Introduction to the Law of Double Taxation Conventions*, 3rd Edition. (Austria: Linde International, 2021).

negotiation strategies, and detailed case-level outcomes. Second, transparency challenges surrounding APA negotiations and MAP proceedings—due to confidentiality requirements—restrict the availability of granular data. Nevertheless, normative and comparative analysis remains the most suitable method for evaluating the legal design and treaty-based obligations that shape Indonesia's transfer pricing dispute-resolution framework.

Overall, this methodological approach provides a rigorous foundation for assessing the extent to which Indonesia's APA and MAP regimes reflect international best practices, comply with BEPS minimum standards, and offer meaningful legal certainty for taxpayers operating in multinational structures.

RESULT AND DISCUSSION

Indonesia's Transfer Pricing Disputes Landscape After BEPS: Legal and Administrative Challenges

Transfer pricing disputes remain one of the most persistent challenges for Indonesia's tax administration, particularly in the context of multinational enterprises (MNEs) whose complex cross-border transactions blur the boundaries of taxable value creation. Following Indonesia's commitment to implement the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action Plan, the regulatory landscape governing transfer pricing has undergone fundamental reforms. Nonetheless, empirical evidence continues to show a significant rise in the number, complexity, and financial impacts of transfer pricing disputes handled by the Directorate General of Taxes (DGT). This section provides a legal and administrative analysis of Indonesia's post-BEPS transfer pricing environment, examining why disputes remain frequent despite regulatory improvements and how structural weaknesses contribute to prolonged and costly controversy resolution.

Indonesia's transfer pricing regime is anchored in Article 18(3) of the Income Tax Law, which authorizes the DGT to adjust related-party transactions that do not reflect arm's-length pricing. Post-BEPS reforms further solidified the legal framework through the issuance of Minister of Finance Regulation No. 213/PMK.03/2016 on transfer pricing documentation. The regulation introduced a three-tiered documentation structure aligned with BEPS Action 13—comprising a master file, local file, and country-by-country report (CbCR). These reforms aimed to enhance transparency, harmonize Indonesia's practices with global standards, and provide tax certainty for compliant MNEs.¹¹ Yet, despite these advancements, transfer pricing disputes have intensified, revealing gaps between formal legal rules and administrative enforcement.

A major source of dispute lies in Indonesia's broad interpretation of the arm's-length principle (ALP). While Indonesia adheres to OECD Transfer Pricing Guidelines, the DGT often relies on domestic administrative interpretations that deviate from international norms, especially regarding comparability adjustments, selection of tested parties, and the use of secret comparables. The OECD discourages secret comparables due to concerns over transparency and taxpayer rights, yet Indonesian auditors continue to rely on undisclosed internal data, leading to disputes over procedural fairness.¹² MNEs argue that such practices undermine predictability, while the DGT defends them as necessary due to limitations in publicly available comparable data, particularly within developing economies.

Another challenge involves disagreements over functional analysis and risk allocation. The BEPS framework emphasizes accurate delineation of transactions and substance-over-form analysis. However, in practice, DGT auditors frequently recharacterize transactions or disregard contractual risk allocation without sufficient demonstration of economic inconsistency. This discrepancy reflects

¹¹ OECD, *Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project (Paris: OECD, October 5, 2015), accessed November 18, 2025, https://www.oecd.org/en/publications/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report_9789264241480-en.html.

¹² OECD, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* 2022.

a structural tension between Indonesia's desire to safeguard revenue and the OECD's emphasis on respecting real economic behavior. Empirical studies on Southeast Asian tax administrations show similar tensions, especially in jurisdictions with limited access to high-quality economic databases.¹³

A further issue arises from audit practices. Transfer pricing audits in Indonesia are often prolonged, sometimes exceeding statutory timeframes, and tend to adopt aggressive adjustments. The “audit-first, negotiate later” culture increases the likelihood of disputes escalating to objection and appeal stages. Data from the Indonesian Tax Court indicates that transfer pricing cases constitute one of the most frequently litigated categories, with a significant percentage overturned in favor of taxpayers—suggesting inconsistencies in DGT's application of the ALP.¹⁴ These reversals highlight the need for more rigorous internal audit quality controls and specialized training for transfer pricing auditors.

Indonesia's post-BEPS environment also reveals challenges related to the availability and reliability of comparables. Due to the lack of domestic databases, the DGT often uses regional or global comparables that do not reflect Indonesia's economic context. MNEs counter by presenting alternative datasets or economic adjustments, which the DGT may reject, creating methodological disputes that frequently escalate to litigation. OECD Guidelines acknowledge that developing countries face data scarcity issues, but also stress that consistent methodology and transparency are essential for dispute prevention.¹⁵ Indonesia's lack of clear guidance on acceptable data sources contributes to uncertainty.

A further systemic issue relates to the absence of early certainty mechanisms in pre-audit stages. Although advance pricing agreements (APAs) exist in Indonesia, their practical utilization remains low due to administrative bottlenecks, lengthy processing times, and limited internal capacity. As a result, MNEs often avoid APA applications and remain vulnerable to audits. Meanwhile, conventional audit mechanisms, lacking early certainty frameworks, create an adversarial environment rather than a cooperative compliance model. The OECD recommends expanding cooperative compliance programs to reduce disputes; however, Indonesia's implementation remains limited.¹⁶

Additionally, structural asymmetries in information access between tax authorities and MNEs exacerbate disputes. While CbCR submissions provide high-level global information, the DGT frequently lacks detailed visibility into intra-group pricing justifications or real-time financial data. This imbalance leads to reliance on assumptions, resulting in controversial audit findings. The problem is compounded by limited use of modern risk assessment tools and digital audit technologies, despite Indonesia's ongoing tax administration modernization efforts.¹⁷

In the broader post-BEPS context, Indonesia's transfer pricing disputes are also influenced by its policy preference for revenue mobilization. As a developing economy, Indonesia faces significant pressure to secure its tax base against perceived profit-shifting practices. BEPS Action Plans, while globally adopted, may be interpreted differently across jurisdictions depending on economic priorities. Studies show that developing countries tend to apply more conservative or protective

¹³ Favourate Yelesedzani Sebele-Mpofu, Eukeria Mashiri, and Patrick Korera, “Transfer Pricing Audit Challenges and Dispute Resolution Effectiveness in Developing Countries with Specific Focus on Zimbabwe,” *Accounting, Economics, and Law: A Convivium* 15, no. 2 (May 29, 2025): 223–269, <https://www.degruyterbrill.com/document/doi/10.1515/ael-2021-0026/html>.

¹⁴ Indonesian Tax Court, *Laporan Tahunan 2022* (Jakarta, 2023).

¹⁵ OECD, *Tax Challenges Arising from the Digitalisation of the Economy – Consolidated Commentary to the Global Anti-Base Erosion Model Rules* (2023), OECD/G20 Base Erosion and Profit Shifting Project (OECD, April 2024).

¹⁶ OECD, *Co-Operative Tax Compliance*, *Co-Operative Tax Compliance* (Paris: OECD, May 13, 2016), accessed November 18, 2025, https://www.oecd.org/en/publications/co-operative-tax-compliance_9789264253384-en.html.

¹⁷ Ministry of Finance, *Directorate General of Taxes Annual Report 2020 OPTIMIZING OPPORTUNITIES Annual 2020 Report* (Jakarta, 2020).

approaches during audits to prevent base erosion.¹⁸ This broader policy orientation shapes administrative behavior and contributes to the persistence of disputes.

Finally, the dispute environment is shaped by prolonged litigation pathways. Tax objection processes, appeals to the Tax Court, and potential judicial review proceedings can extend transfer pricing disputes for 3-7 years or longer. Such delays increase uncertainty, discourage foreign investment, and undermine the objectives of BEPS reforms, which emphasize dispute prevention and early resolution mechanisms such as APAs and MAPs.¹⁹ Indonesia's dispute resolution architecture thus requires systematic reform, integrating legal certainty, administrative streamlining, and international cooperation.

Overall, Indonesia's post-BEPS transfer pricing dispute landscape reflects a complex interaction between evolving legal standards, administrative constraints, data limitations, policy priorities, and institutional capacity. These factors collectively hinder the effectiveness of transfer pricing regulation and highlight the need for a stronger APA and MAP framework as a means to prevent, manage, and resolve disputes more effectively.

Legal and Institutional Challenges in Indonesia's APA-MAP Regime Post-BEPS

Indonesia's transfer pricing dispute resolution framework has evolved substantially in the past decade, driven by the need to harmonize domestic tax enforcement with international standards, particularly following the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project. Despite significant reforms—including enhancements to the Advance Pricing Agreement (APA) mechanism and the Mutual Agreement Procedure (MAP)—Indonesia continues to face doctrinal, administrative, and institutional challenges that hamper its ability to manage complex multinational transfer pricing disputes. This section analyzes these constraints in a comprehensive and integrated manner, focusing on the interplay between legal norms, regulatory capacity, administrative practice, and Indonesia's alignment with post-BEPS standards.

Indonesia's transfer pricing system historically functions within an adversarial audit model, with heavy reliance on ex-post enforcement rather than ex-ante certainty mechanisms. Before BEPS-inspired reforms, taxpayers often faced large adjustments based on perceived deviations from the arm's length principle, while dispute resolution mechanisms lacked consistency and predictability. The BEPS Project—particularly Actions 8-10 (Aligning Transfer Pricing Outcomes with Value Creation) and Action 14 (Improving Dispute Resolution Mechanisms)—fundamentally challenged Indonesia's prior approach by demanding greater transparency, rigorous economic analysis, improved documentation standards, and more effective cross-border dispute settlement processes.²⁰ These changes compelled Indonesia to reassess both legislative coherence and institutional readiness.

A critical challenge lies in the doctrinal structure of Indonesia's transfer pricing norms. Although Article 18 of the Income Tax Law grants the Directorate General of Taxes (DGT) wide authority to adjust related-party transactions, its language remains broad, and implementing rules depend heavily on ministerial regulations and DGT circulars. This produces interpretive inconsistencies, especially regarding comparability standards, intangible asset valuation, cost contribution arrangements, and the delineation of actual economic conduct—core elements emphasized in the post-BEPS OECD Transfer Pricing Guidelines.²¹ The absence of statutory precision leads to variability in audit

¹⁸ United Nations, *United Nations Practical Manual on Transfer Pricing for Developing Countries 2021* (New York: UN, 2021), accessed November 18, 2025, <https://digitallibrary.un.org/record/3929019>.

¹⁹ Ann-Marie Schrie Pinkney, "Taxation of the Digital Economy: The Challenges of Distinguishing Business Income from Royalty," *Queen Maru Law Journal* 10 (2019): 157–174.

²⁰ OECD, *Aligning Transfer Pricing Outcomes with Value Creation, Actions 8-10 - 2015 Final Reports*, OECD/G20 Base Erosion and Profit Shifting Project (Paris: OECD, October 5, 2015), accessed November 18, 2025, https://www.oecd.org/en/publications/aligning-transfer-pricing-outcomes-with-value-creation-actions-8-10-2015-final-reports_9789264241244-en.html.

²¹ OECD, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*.

approaches across regional tax offices, leading many multinational corporations (MNCs) to view Indonesia as a high-risk jurisdiction.

The APA mechanism, introduced in 2010 and refined through Directorate General of Taxes Regulation No. PER-17/PJ/2015, was intended to provide certainty and reduce disputes. Nonetheless, the uptake of APAs in Indonesia remains comparatively low by regional standards. Several doctrinal and procedural issues explain this. First, the APA process is burdened by prolonged negotiation timelines, partly due to resource constraints and partly due to Indonesia's cautious stance in validating taxpayer economic analyses. This includes questions regarding reliability of comparables, treatment of location-specific advantages, and recognition of limited-risk distributor models—topics heavily scrutinized under BEPS Actions 8-10.²² Second, Indonesia maintains a relatively conservative position in bilateral APA negotiations, often insisting on outcomes aligned with domestic audit practices rather than adopting more flexible interpretations common in OECD economies. While this approach strengthens tax revenue protection, it simultaneously decreases the attractiveness of the APA program for MNCs seeking certainty.

A related doctrinal tension concerns Indonesia's increasing use of secret comparables—data not disclosed to taxpayers—in transfer pricing audits. Although permitted under Indonesian law, this practice conflicts with post-BEPS transparency expectations and may undermine trust in APA negotiations. The OECD Transfer Pricing Guidelines emphasize taxpayer access to relevant information to ensure fairness and consistency in dispute resolution.²³ Limited transparency hinders effective APA discussions and increases reliance on traditional audit adjustments.

The Mutual Agreement Procedure (MAP) mechanism faces similar constraints. MAP is a treaty-based process designed to eliminate double taxation arising from transfer pricing adjustments or inconsistent treaty interpretation. Indonesia's MAP framework, updated through Minister of Finance Regulation No. 49/PMK.03/2019, aligns nominally with BEPS Action 14 minimum standards. Nevertheless, several institutional issues affect MAP performance. Indonesia's competent authority function, housed within the DGT, struggles with case backlogs, limited staffing, and the growing complexity of cross-border profit allocation disputes. The number of MAP cases involving Indonesia continues to rise, particularly in disputes with Japan, South Korea, Singapore, and Australia—countries with deep bilateral investment ties. Longer MAP timelines undermine taxpayer confidence and create prolonged periods of uncertainty, often discouraging investment.

Institutional fragmentation adds further complexity. Indonesia's tax dispute resolution ecosystem—composed of the DGT, the Ministry of Finance, the Tax Court, and competent authority teams—operates in silos. The Tax Court's ability to issue decisions contradicting outcomes sought under MAP negotiations creates structural tensions. Although taxpayers may withdraw court cases to pursue MAP, the lack of synchronization between administrative and judicial processes increases the risk of inconsistent outcomes.²⁴ International best practices recommend institutional integration that separates litigative and negotiative functions. Indonesia has yet to establish such structural coherence, making the MAP environment more challenging than in jurisdictions such as Japan or Singapore.

A further challenge arises from differences between Indonesia's domestic transfer pricing doctrine and OECD BEPS-aligned standards. While Indonesia generally adheres to the arm's length principle, its administrative practices often prioritize revenue safeguards over alignment with global norms.

²² Direktorat Jenderal Pajak, "APA MAP," last modified 2022, accessed November 18, 2025, <https://www.pajak.go.id/en/node/34204>.

²³ OECD, *Making Dispute Resolution Mechanisms More Effective, Action 14 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project (Paris: OECD, October 5, 2015), accessed November 18, 2025, https://www.oecd.org/en/publications/making-dispute-resolution-mechanisms-more-effective-action-14-2015-final-report_9789264241633-en.html.

²⁴ Indonesian Tax Court, *Laporan Tahunan 2022*.

Examples include greater skepticism toward taxpayer-selected methods, reluctance to accept low-risk characterizations, and more assertive adjustments in intangible asset transactions. These tendencies, though understandable within a developing-country context concerned about profit shifting, create doctrinal divergence that complicates bilateral APA or MAP outcomes. When Indonesia insists on unilateral interpretations of arm's length conditions, partner countries may be unwilling to accept the resulting economic analyses, thereby prolonging negotiations and increasing the risk of unresolved double taxation.²⁵

Capacity constraints remain a structural obstacle. The post-BEPS landscape requires sophisticated economic modelling, deeper functional analysis, and stronger understanding of global value chains. Many tax administrations in emerging economies face shortages of transfer pricing economists, data analytics specialists, and treaty negotiation experts. Indonesia is no exception. Although DGT has invested significantly in staff training and capacity building, gaps remain when compared to mature OECD jurisdictions. More complex disputes—especially those involving intangible assets, hard-to-value intangibles (HTVI), digitalized business models, and multi-tiered supply chains—often surpass domestic analytical capacity, slowing APA and MAP proceedings.²⁶

Another institutional weakness concerns Indonesia's access to reliable financial and comparable data. The absence of a domestic database that meets OECD comparability standards forces reliance on foreign commercial databases, which may not accurately reflect local market conditions. Disputes frequently arise regarding the appropriate level of comparability adjustments, leading to disagreements in APA and MAP negotiations. Estonia, Singapore, and Japan mitigate this problem through robust national data access programs and inter-agency information-sharing systems—mechanisms Indonesia has yet to develop at scale.²⁷

Uncertainties surrounding Indonesia's domestic anti-avoidance rules further complicate transfer pricing governance. While Indonesia has introduced a General Anti-Avoidance Rule (GAAR) through Article 18(3) of the Income Tax Law, its operationalization remains inconsistent. Some tax auditors apply GAAR aggressively in transfer pricing cases, challenging business restructurings, cost-sharing arrangements, and intercompany financing structures without fully integrating BEPS guidance concerning commercial justification and economic substance.¹⁰ This creates the perception of unpredictable enforcement, discouraging APA applications and increasing MAP caseloads.

Compounding these issues is the limited degree of taxpayer engagement in Indonesia's dispute resolution framework. Unlike the practice in many OECD jurisdictions, taxpayers in Indonesia often hesitate to initiate APA discussions early due to concerns about triggering audits or disclosing sensitive information. Indonesia's administrative culture—historically shaped by hierarchical decision-making and revenue-target orientation—reinforces these perceptions. BEPS Action 14 emphasizes cooperative compliance and mutual trust, values crucial for effective APA and MAP processes but still developing in Indonesia.²⁸

The introduction of the BEPS 2.0 reform framework, especially Pillar One and Pillar Two, will impose additional institutional pressures. Pillar One's Amount A demands enhanced multilateral dispute prevention mechanisms, while Pillar Two's Global Minimum Tax requires coordinated administration, sophisticated data reporting, and cross-border risk management. Without reforms to Indonesia's APA-

²⁵ National Tax Agency Japan, *NATIONAL TAX AGENCY REPORT 2020*, 2020.

²⁶ IMF, *BUILD FORWARD BETTER IMF ANNUAL REPORT 2021* (Washington DC, 2021).

²⁷ IRAS, *IRAS E-Tax Guide Transfer Pricing Guidelines*, Seventh Edition. (Singapore: Inland Revenue Authority of Singapore, 2024).

²⁸ Pemerintahan Republik Indonesia, *PMK No. 49/PMK.03/2019 Tentang Tata Cara Pelaksanaan Prosedur Persetujuan Bersama, Sekretariat Negara*, 2019, accessed November 18, 2025, <https://peraturan.bpk.go.id/Details/128035/pmk-no-49pmk032019>.

MAP structure, the complexity introduced by BEPS 2.0 will exacerbate existing challenges and widen the gap between Indonesia and its treaty partners.²⁹

Taken together, these legal and institutional weaknesses reveal structural constraints within Indonesia's transfer pricing dispute resolution system. Doctrinal ambiguities limit interpretive consistency, institutional fragmentation hampers coordination, capacity shortages slow down negotiations, and incomplete post-BEPS alignment undermines Indonesia's credibility in bilateral and multilateral settings. A stronger APA and MAP framework—supported by statutory clarity, adequate resources, and administrative reforms—is necessary to ensure fairness, prevent double taxation, and reinforce Indonesia's attractiveness as an investment destination. The next section develops a comprehensive legal framework and policy model aimed at reforming Indonesia's APA-MAP system to align with post-BEPS global standards.

Implications of Indonesia's APA-MAP Framework for Post-BEPS Transfer Pricing Governance

The evolution of Indonesia's transfer pricing dispute resolution framework—particularly through the refinement of the Advance Pricing Agreement (APA) and Mutual Agreement Procedure (MAP) mechanisms—must be understood not merely as administrative tools but as instruments of international tax governance shaped by post-BEPS norms. In the aftermath of the OECD's Base Erosion and Profit Shifting (BEPS) Project, multinational corporations (MNCs) have increasingly faced heightened scrutiny regarding intra-group transactions, intangible asset valuation, and profit allocation. Indonesia's APA-MAP reforms therefore constitute an important transformation toward aligning its tax governance with global standards. This section analyzes the implications of these reforms for certainty, transparency, dispute mitigation, and Indonesia's broader participation in the international tax architecture.

One of the primary implications of Indonesia's enhanced APA regime is the improvement of tax certainty for MNCs operating within the jurisdiction. In the post-BEPS landscape, where documentation, comparability standards, and substance requirements have become more stringent, APAs serve as ex-ante tools that reduce audit exposure and limit future controversies. The introduction of clearer procedural guidelines under Minister of Finance Regulation No. 22/2020 provides detailed criteria for eligibility, critical assumptions, rollback mechanisms, and renewal cycles. These provisions demonstrate Indonesia's effort to align with OECD's guidance on APAs, particularly regarding transparency, bilateral cooperation, and prospective risk reduction.³⁰ Tax certainty is further enhanced by Indonesia's expansion of bilateral APA arrangements, which allow MNCs to mitigate the risk of double taxation and ensure harmonized transfer pricing positions between Indonesia and partner jurisdictions.

MAP improvements similarly contribute to dispute reduction by providing a post-audit remedy consistent with Article 25 of the OECD Model Tax Convention. The issuance of Director General of Taxes Regulation No. PER-17/PJ/2021, which refines MAP timelines, documentation requirements, and negotiation protocols, demonstrates Indonesia's adherence to BEPS Action 14 Minimum Standards. These reforms introduce procedural guarantees, including access to MAP irrespective of domestic remedies, mandatory competent authority engagement, and publication of MAP profiles for transparency.³¹ As a result, Indonesia has begun to demonstrate improved resolution times and greater engagement in bilateral negotiations, aligning with OECD expectations for fair and efficient dispute resolution.

²⁹ OECD, *Tax Administration 2022: Comparative Information on OECD and Other Advanced and Emerging Economies*, Tax Administration (Paris: OECD Publishing, June 23, 2022), accessed November 18, 2025, https://www.oecd.org/en/publications/tax-administration-2022_1e797131-en.html.

³⁰ OECD, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*.

³¹ Direktorat Jenderal Pajak, "APA MAP."

Another significant implication concerns the shift toward substance-oriented evaluation, which has become a cornerstone of the BEPS framework. Both APA and MAP negotiations increasingly require detailed functional analyses, value chain mapping, and substance verification to assess whether profits attributed to Indonesian entities are commensurate with economic activities performed domestically. This aligns with global trends in transfer pricing governance, particularly the relocation of emphasis from contractual arrangements to actual conduct and economic contributions. Studies show that Indonesia's tax authority has intensified examinations of DEMPE (development, enhancement, maintenance, protection, and exploitation) functions, intangible asset location, and risk control. This aligns Indonesia with OECD Guidelines 2022 and enhances its capacity to challenge artificial profit shifting arrangements.³²

However, the implementation of these reforms also raises challenges. First, the high administrative burden associated with preparing APA proposals—especially bilateral APAs involving multiple tax authorities—may discourage participation among MNCs lacking robust tax governance structures. Documentation requirements, critical assumption monitoring, and post-filing compliance obligations are complex and resource-intensive. Although APAs reduce long-term risk, the initial time and cost commitment may remain prohibitive for some taxpayers, particularly medium-sized enterprises within large corporate groups.³³

Second, capacity constraints within Indonesia's competent authority remain a significant issue. Negotiating bilateral APAs and MAP cases requires specialized expertise in international tax law, economics, and transfer pricing methodologies. OECD peer reviews under BEPS Action 14 have repeatedly highlighted that developing countries often face shortages of experienced officials capable of managing sophisticated cross-border disputes.³⁴ Indonesia has initiated capacity-building programs, but the volume and complexity of cases continue to grow faster than administrative resources. Without sustained investment in expertise, Indonesia's APA-MAP framework may not achieve its full potential.

A further implication concerns Indonesia's position within global tax diplomacy. As MNCs increasingly rely on bilateral MAP and APA mechanisms, Indonesia's effectiveness in cross-border negotiations directly affects its reputation as a cooperative and reliable treaty partner. The international tax community has underscored the strategic importance of MAP efficiency for enhancing a jurisdiction's investment climate. Countries such as Singapore, Japan, and Australia have strengthened their tax treaty networks by demonstrating rapid MAP closure rates and professionalism in competent authority engagements. Indonesia's continued improvement in MAP timelines and transparency has the potential to elevate its standing within global tax governance networks.³⁵

At the same time, the APA-MAP framework serves Indonesia's domestic revenue interests by reducing opportunities for aggressive transfer pricing. APAs allow Indonesia's tax authority to influence pricing methodologies in advance, preventing profit misallocation, while MAP ensures that post-audit corrections align with treaty rules and international standards. This dual function supports both revenue protection and international cooperation. In the era of digitalization and intangible-driven business models, where profit attribution is increasingly contested, Indonesia's reliance on APA-MAP tools becomes even more critical for safeguarding its tax base while maintaining fairness toward foreign investors.³⁶

³² OECD, *Aligning Transfer Pricing Outcomes with Value Creation, Actions 8-10 - 2015 Final Reports*.

³³ Albert Baker, *Global BEPS Survey* (London, 2021), accessed November 18, 2025, <https://www.deloitte.com/an/en/services/tax/research/beps-global-survey.html>.

³⁴ OECD, *Making Dispute Resolution More Effective – MAP Peer Review Report, Indonesia (Stage 2) Inclusive Framework on BEPS: Action 14*.

³⁵ David Bischof et al., *2020 ICC GLOBAL SURVEY ON TRADE FINANCE* (Paris, 2020).

³⁶ PwC, *Pocket Tax Book Indonesian 2022 Tax Services* (Jakarta: PwC Indonesia, 2022).

The reforms also have significant implications for administrative fairness and taxpayer rights. By providing structured, transparent procedures for dispute prevention and resolution, the APA-MAP framework contributes to a more predictable and balanced tax environment. The existence of clear procedures reduces discretionary interpretations by auditors, mitigates the risk of inconsistent adjustments, and fosters a rules-based tax administration system. Legal certainty is widely recognized as a fundamental component of equitable taxation, and Indonesia's alignment with OECD standards in this area represents meaningful progress toward modern administrative governance.³⁷

Nevertheless, the APA-MAP framework must be evaluated in tandem with Indonesia's broader transfer pricing enforcement strategy. Indonesia continues to employ aggressive audit approaches in high-risk sectors, including mining, digital services, pharmaceuticals, and consumer goods. The coexistence of proactive APA mechanisms and assertive audit positions may create strategic dilemmas for MNCs, particularly in cases where past transactions become subject to scrutiny while future ones may fall under APA coverage. A coherent integration of APA and audit strategies is required to avoid contradictory approaches that undermine taxpayer confidence.³⁸

Finally, the post-BEPS environment places increased emphasis on international coordination, especially as the global tax landscape moves toward the implementation of Pillar One and Pillar Two under the OECD Inclusive Framework. Indonesia's preparedness for this transition depends partly on the capacity of its APA and MAP frameworks to handle complex multilateral disputes. While APAs and MAPs are traditionally bilateral, there is emerging discussion within the OECD regarding multilateral APAs and coordinated MAPs to address disputes involving integrated global value chains. Indonesia's active participation in such mechanisms will be essential for managing future cross-border tax controversies effectively.

In summary, Indonesia's APA-MAP reforms post-BEPS carry extensive implications for tax certainty, administrative fairness, revenue protection, and international cooperation. They represent a significant step toward embedding Indonesia within the global transfer pricing governance framework. Yet, the impact of these reforms will depend on capacity-building, administrative integration, and sustained legal refinement. The post-BEPS transfer pricing landscape is one defined by complexity, transparency, and cooperation, and Indonesia's ability to navigate this environment will shape the effectiveness and credibility of its tax governance in the coming decade.

CONCLUSION

The evolution of Indonesia's transfer pricing dispute resolution regime reflects a broader global movement toward transparency, coherence, and fairness in international taxation. Following the OECD/G20 BEPS Project, Indonesia has significantly restructured its legal and administrative framework through the enhancement of Advance Pricing Agreements (APA) and Mutual Agreement Procedures (MAP). This article has shown that the post-BEPS environment has brought substantial doctrinal, procedural, and institutional changes that reshape the landscape of transfer pricing governance for multinational corporations operating in Indonesia.

The analysis illustrates that the APA framework—both unilateral and bilateral—has emerged as an increasingly strategic instrument for providing legal certainty, reducing audit risks, and promoting cooperative tax compliance. The regulatory strengthening under Minister of Finance Regulation No. 22/2020 reflects Indonesia's commitment to align APA procedures with BEPS Action 14, emphasizing transparency, adequate documentation, and multilayered review mechanisms. Nevertheless, the implementation challenges remain significant. Capacity limitations, inconsistent interpretations, long processing times, and bureaucratic inertia still obstruct the effectiveness of APA administration.

³⁷ Michael Kobetsky, *International Taxation of Permanent Establishments* (New York: Cambridge University Press, 2011).

³⁸ EY Singapore, "Transfer Pricing University 2022," last modified 2022, accessed November 18, 2025, https://www.ey.com/en_sg/events/ey-events/transfer-pricing-university-2022.

While the APA program's normative design aligns well with global best practices, its practical execution continues to fall short of the efficiency standards observed in more advanced jurisdictions such as Japan, Australia, and the United States.

Similarly, Indonesia's MAP framework has undergone structural improvements to enhance treaty-based dispute resolution. The adoption of OECD's minimum standards under BEPS Action 14 has compelled Indonesia to reform its competent authority procedures, encourage timely consultations, and provide clearer guidance to taxpayers. Despite these developments, the Indonesian MAP process is still constrained by limited competent authority staffing, treaty asymmetries, and protracted negotiation timelines with treaty partners. These constraints often compromise Indonesia's ability to deliver MAP outcomes that are timely, principled, and aligned with international expectations. Moreover, unresolved cases risk undermining taxpayer trust, creating legal uncertainty for multinational enterprises (MNEs). Comparative experiences from the Netherlands, Singapore, and Canada demonstrate that efficient MAP administration requires a combination of competent authority independence, negotiation specialization, and strong institutional continuity—features that Indonesia continues to strengthen gradually.

A key finding of this article is the persistent tension between administrative discretion and legal certainty. Transfer pricing disputes frequently arise at the intersection of complex economic analyses and broad anti-avoidance doctrines. Indonesia's reliance on subjective interpretations of the arm's-length principle, coupled with aggressive tax audit practices, has historically contributed to inconsistent dispute outcomes. The APA and MAP frameworks were intended to mitigate these uncertainties, yet their effectiveness is ultimately contingent upon doctrinal clarity, institutional sophistication, and procedural predictability. Without adequate administrative professionalism, dispute risks persist even under reformed rules.

SUGGESTION

Based on the findings, this article proposes several recommendations. First, Indonesia should further strengthen the statutory foundation of APA and MAP governance to reduce interpretive fragmentation. Clearer legislative mandates would limit administrative discretion and improve certainty for MNEs. Second, the competent authority must be institutionally fortified through increased staffing, specialized training, and digitalized case management systems to accelerate APA/MAP processing and enhance negotiation capabilities. Third, Indonesia should deepen bilateral tax cooperation with major treaty partners by expanding bilateral APA capacity and establishing joint-consultation mechanisms to preemptively address recurring transfer pricing issues. Fourth, transparency and accountability should be heightened through public reporting of APA/MAP statistics, anonymized case summaries, and clearer performance indicators, consistent with practices in OECD member states.

Ultimately, the consolidation of Indonesia's APA and MAP systems post-BEPS is a promising development, yet its success depends on sustained regulatory refinement, institutional modernization, and international cooperation. If effectively implemented, these reforms hold the potential to reduce disputes, enhance compliance, promote investment stability, and position Indonesia as a jurisdiction aligned with global tax governance standards.

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