DOI: 10.55643/ser.4.58.2025.638

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Received: 16/10/2025
Accepted: 17/12/2025
Published: 31/12/2025

TRANSFER PRICING AS A REGULATORY MECHANISM FOR FOREIGN ECONOMIC ACTIVITY OF ENTERPRISES IN COUNTRIES WITH DIFFERENT TAX SYSTEMS: COMPARATIVE ANALYSIS

ABSTRACT

This article presents a comparative analysis of transfer pricing as a regulatory mechanism for enterprises engaged in foreign economic activity across countries with diverse tax systems, including the United States, the United Kingdom, Germany, China, Poland, and Ukraine. Transfer pricing is shown to play a crucial role in ensuring financial transparency, mitigating tax risks, and aligning the conditions of cross-border transactions between related parties. The study examines the application of the arm's length principle, documentation requirements, methods for determining market price ranges and profitability benchmarks, as well as dispute resolution mechanisms in different jurisdictions. Particular attention is given to Advance Pricing Agreements (APAs) and Mutual Agreement Procedures (MAPs) as key tools for minimizing double taxation and enhancing the predictability of tax outcomes for multinational enterprises.

The comparative analysis reveals significant differences in regulatory approaches: the United States and the United Kingdom are characterized by methodological flexibility and robust APA programs; Germany demonstrates high efficiency in MAP procedures and a balanced evaluation of intercompany transactions; China adopts stricter control measures and primarily unilateral adjustments; Poland has intensified its regulatory framework, imposing substantial sanctions while expanding APA usage. Ukraine, currently undergoing tax system reform, is striving to harmonize with international standards but requires improvements in MAP procedures, APA implementation, and a more flexible approach to method selection.

The findings support the development of policy recommendations aimed at strengthening Ukraine's institutional framework for transfer pricing regulation. These include enhancing transparency in foreign economic operations, reducing tax-related risks, encouraging investment activity, and aligning national practices with OECD standards and BEPS initiatives.

Keywords: transfer pricing, arm's length principle, foreign economic activity, Advance Pricing Agreement (APA), Mutual Agreement Procedure (MAP), tax regulation, comparative analysis, BEPS, international taxation, risks

JEL Classification: F23, H25, H26, H87, K34, L21, M48

INTRODUCTION

In the current conditions of global economic development, the transnationalization of business, the integration of national markets into global value chains, and the growth of foreign economic activity of enterprises create new challenges for taxation and financial control systems. One of the most sensitive and, at the same time, strategically important mechanisms for regulating the foreign economic activity (FEA) of enterprises is transfer pricing – a system for setting prices for goods, works, services, and intangible assets within a single group of companies operating in different countries.

In countries with different tax systems, transfer pricing becomes not only a tool for financial planning for enterprises, but also a subject of increased scrutiny by state fiscal authorities. Setting unreasonably low or high transfer prices can lead to the artificial redistribution of profits between jurisdictions in order to minimize tax liabilities, which in turn creates conditions for tax arbitration and the distortion of market competition.

In this regard, transfer pricing regulation is becoming an important component of countries' tax policies. International organizations, in particular the Organization for Economic Cooperation and Development (OECD), have developed a number of recommendations on the arm's length principle, which are designed to ensure a fair distribution of profits between countries. However, the effectiveness of the implementation of these recommendations varies significantly depending on the level of development of national tax systems, the availability of institutional capacity, and the overall economic strategy of countries.

In this context, a comparative analysis of transfer pricing in countries with different tax systems allows for a deeper understanding of the nature and consequences of applying this instrument, identifying the most effective regulatory models, and adapting best practices to Ukrainian realities. Such research is particularly relevant in the context of the reform of the Ukrainian tax system, the strengthening of international cooperation in the field of countering BEPS (Base Erosion and Profit Shifting), and the desire to harmonize domestic tax legislation with European standards (Karen B. Brown, 2017).

LITERATURE REVIEW

In contemporary academic discourse, the OECD's international transfer pricing standards continue to serve as a benchmark for legislative and administrative taxation models in many countries. As stated in the OECD guidelines, transfer pricing should ensure the arm's length principle, support the economic reality of transactions, and ensure a fair distribution of income between jurisdictions (Myskin et al., 2024).

Theoretical approaches and general models

According to domestic and foreign researchers, transfer pricing is not only an accounting or bookkeeping tool but also a strategic mechanism for tax planning and foreign economic activity regulation. Thus, in an article by Mykola Pasichnyi devoted to TP in the system of priorities of Ukraine's tax policy, the author emphasizes that transfer pricing should play the role of a "lever" for balancing the interests of business and the state, while protecting against tax evasion (Pasichnyi, M. 2024).

In the context of international business and multinational corporations, as noted by Mediaty Hasanuddin et al. (2025), TP is often used as a tool for transferring profits to jurisdictions with lower tax rates. They point out that low standardization and weak control by fiscal authorities in countries with limited institutional capacity significantly increase the tax aggressiveness of companies (Mediaty et al., 2025).

In turn, some studies demonstrate the ambiguity of the impact of transfer pricing on tax evasion. For example, the work of Ferry Irawan et al. (2020) showed that in the Indonesian companies studied, TP had a significant negative impact on tax evasion, indicating that companies did not use TP as a means of minimizing tax liabilities, but instead engaged in earnings management (Irawan, Kinanti, Suhendra, 2020).

Empirical research: Transfer pricing and tax avoidance

According to researchers Citra Traisma and Luk Fuadah (Triasma, Faudah, 2025), who reviewed the literature on transfer pricing practices and tax avoidance in Indonesian SMEs, transfer pricing is one of the leading strategies for corporate tax avoidance – through overpricing or underpricing in intra-group transactions between legal entities.

Other researchers support this position. For example, Berlin Barus et al. (2024) in their work on the impact of company multiplicity and transfer pricing on tax evasion found that multinational companies more often use transfer pricing as a means of minimizing their tax burden.

At the same time, as shown by the study by I Gusti Ayu Made Winda Maharani and Anak Agung Gde Putu Widanaputra (2025), the effect of transfer pricing on evasion can be modulated by factors such as the profitability of the enterprise: in their study, profitability weakened the impact of transfer pricing on tax evasion (Maharani, Widanaputra, 2025).

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The context of national regulation and challenges for countries with economies in transition

In his study on the historical stages of development of the international taxation system, I.V. Orlov (2024) emphasizes that transfer pricing plays a key role in the transformation of tax regimes and their harmonization with international standards (Orlov, Zakharov, 2024).

In a more recent work, V. Kraievskyi (2025) examines how global challenges – in particular ESG (environmental, social, and corporate responsibility) trends – are beginning to influence transfer pricing policy, indicating an expansion of the role of transfer pricing not only as a tax issue but also as an element of corporate governance (Cooper, Skopljak, (2014); Kraievskyi, Polishchuk, (2025)).

Critical remarks on traditional approaches

Classical theorists such as Stanley Langbein criticize the standard arm's-length approach, pointing to the so-called continuum price problem: in fact, if the market price range is wide or unclear, companies have considerable freedom to manipulate, which undermines the basic premises of fair taxation (Langbein, Fuss, 2018).

Similar questions are raised by recent theoretical models, particularly those published in 2025, which show that for companies with high-tech intangible assets, the choice between "markup" and "royalty" as a transfer price can significantly affect their after-tax profitability, even under strict control (Kang, Ma, Tian, Wu, 2025).

As we can see, a huge proportion of studies show that transfer pricing is one of the main tools for tax avoidance or profit shifting, especially for multinational companies operating in several jurisdictions.

Empirical results are ambiguous: the impact of transfer pricing on tax avoidance strongly depends on the context – the industry, the company's internal policy, profitability, the scale of the business, and the institutional capacity of the tax authorities. For countries with economies in transition (such as Ukraine, Poland, etc.), a comparative approach is particularly important, as it allows for the adaptation of international experience and takes into account national characteristics – legal, economic, and institutional.

In line with current challenges, transfer pricing regulation requires not only legislative changes, but also changes in corporate approach, improvement of administrative procedures, and enhancement of the fiscal capacity of states. In light of this literature review, our article, which aims to conduct a comparative analysis of transfer pricing as a regulatory mechanism for foreign economic activity in countries with different tax systems, is relevant and timely. It can fill gaps in research by combining theoretical approaches, international experience, and Ukrainian practice, as well as provide practical recommendations for the formation of an effective transfer pricing policy in the context of globalization.

AIMS AND OBJECTIVES

The purpose of this article is to conduct a comparative analysis of transfer pricing as a regulatory mechanism for foreign economic activity of enterprises in countries with different tax systems, identify the main risks and advantages of using transfer prices in the international business environment, and formulate recommendations for improving the relevant regulatory policy in Ukraine. The main objectives of the study are:

- to examine the peculiarities of transfer pricing regulation in countries with different tax systems, using the examples of the United States, the United Kingdom, China, Germany, and Poland;
- to identify key approaches to transfer pricing control in these countries, including methods for determining market prices, documentation requirements, and liability measures for violations;
- to identify best practices in transfer pricing that can be adapted to Ukrainian conditions;
- to formulate practical recommendations for improving Ukraine's national regulatory policy in the field of transfer pricing, taking into account international experience and the requirements of the BEPS initiative.

METHODS

To achieve the goals and objectives set out in the article, general scientific and specific scientific research methods were used in the work. In particular:

1. Comparative analysis was used to identify the advantages and weaknesses of using transfer pricing to stimulate the development of foreign economic activity of enterprises in different countries of the world; comparison and

generalization methods helped to establish the common and distinctive features of transfer pricing in foreign economic activity of enterprises.

2. Graphical interpretation methods were used to visualize financial and economic processes in the article.
3. Methods of analysis and synthesis, as well as induction and deduction, contributed to the formation of a synergistic research methodology.

The methodological approach for achieving the defined goals and objectives is based on the formal functional structure of transfer pricing as a mechanism for regulating the foreign economic activity of enterprises, which can be described using the following formula:

$$MTP = f(P, P_r, O_b, S_b, M, I) \quad (1)$$

where: P *– goals and objectives,* P_r *– principles,* O_b *– control objects,* S_b *– subjects,* M *– methods for determining market prices,* I *– implementation tools.*

The model is based on comparing the transfer price T_p with the range of market prices/indicators, i.e., the basic criterion for assessing the marketability of the transfer price T_p is its compliance with the range of independent prices:

$$T_p \in [P_{min};\ P_{max}] \quad (2)$$

where: $P_{min};\ P_{max}$ *– minimum and maximum values (lower and upper limits) of the market range.*

For profitability:

$$R_p \in \left[R_{Q1}; R_{Q3}\right] \quad (3)$$

where: $R_{Q1};\ R_{Q3}$ *– profitability quartile of comparable companies.*

The assessment of deviation must meet the following criteria:

- $\Delta T = T_p - P_{med}$
- $\Delta T \approx 0$ - *the transaction complies with the arm's length principle.*
- *If* $\Delta T > 0$ - the transfer price is higher than the market price;
- *If* $\Delta T < 0$ - the transfer price is lower than the market price.

P_{med} *- the median value of the market price or profitability range is determined on the basis of comparable (uncontrolled) transactions. This is the central value of the range, which is used as a benchmark when assessing the compliance of the transfer price with the arm's length principle.*

In international transfer pricing practice (OECD, BEPS, legislation of most countries), the median is a statistically stable and least distorted indicator among market values.

It is used in cases where:

- the range of profitability is wide;
- the data is uneven or contains “tails”;
- there are extreme values that distort the arithmetic mean.

In this article, the structural and functional model of transfer pricing is considered as an integrated system of foreign economic activity regulation, combining both regulatory and economic instruments to achieve the goal of ensuring that cross-border transactions are carried out under market conditions and that profits are distributed fairly between jurisdictions. Its implementation will make it possible to more effectively combat tax evasion and artificial profit reduction, especially in the context of complex transactions and the use of offshore schemes, as well as to integrate national approaches to transfer pricing into the international tax architecture.

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RESULTS

By conducting a comparative analysis of tax regimes in different countries and analyzing their impact on transfer pricing, we aim to compile a list of challenges faced by multinational companies and approaches used to minimize them and ensure the legality and fairness of foreign economic agreements.

One of the main problems of any country's tax policy is the development of transfer pricing mechanisms that are of priority importance for minimizing taxation and determining appropriate prices for transfer transactions established by different countries and international organizations (Zawadzka-Pąk, 2022).

It should be emphasized that control over compliance with transfer pricing requirements is usually exercised by tax authorities through audits and investigations. In the course of supervision, tax authorities analyze the validity of the prices applied, comparing them with market conditions in comparable transactions between independent parties, and use the transfer pricing methodology defined by the OECD guidelines. However, during audits, disagreements often arise between taxpayers and regulatory authorities regarding the correctness of transfer pricing, which leads to a significant number of international tax disputes and cases related to transfer pricing. To resolve these disputes, mutual agreement procedures (MAP) and advance pricing agreements (APA) are used, which provide a legal basis for reaching an agreement between the parties.

The Mutual Agreement Procedure (MAP) is a mechanism provided for in tax treaties to resolve disputes between countries regarding double taxation or transfer pricing. MAP allows the tax authorities of two jurisdictions to agree on the taxation of a particular transaction in order to avoid double taxation for the taxpayer.

An APA is an agreement between a taxpayer and a tax authority (or authorities) that determines in advance the pricing principles for transfer transactions between related parties. An APA reduces tax uncertainty and avoids future disputes.

Illustrative data on the results of closing MAP and APA transactions for transfer pricing are shown in Figure 1.

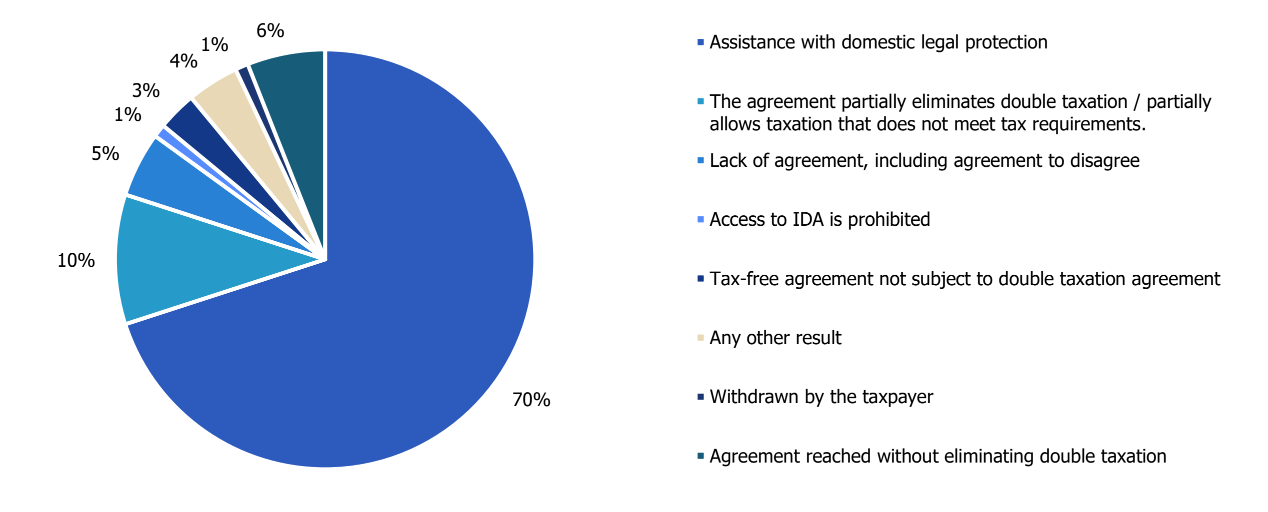

Figure 1. Results of closing MAP and APA transactions for transfer pricing, 2024. *(Source: compiled by the author based on Transfer Pricing Country Profile, 2025. OECD)*

The level of accessibility and practical application of advance pricing agreements (APAs) and mutual agreement procedures (MAPs) is largely determined by the specifics of national tax legislation and the institutional readiness of jurisdictions. For example, the US, the UK, Germany, as well as the Netherlands and Sweden, demonstrate a high level of implementation of APAs as a tool for reducing tax uncertainty and preventing transfer pricing disputes. France and Spain also actively use MAP and APA mechanisms, paying particular attention to the transparency and predictability of tax decisions for international companies. Poland and Lithuania, although they do not have such extensive practice, are gradually expanding the application of these procedures in line with EU standards. China, on the other hand, has so far shown limited activity in the field of APA, due to both internal regulatory barriers and less international cooperation in this area (Table 1).

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Table 1. Comparative analysis of approaches to transfer pricing implementation in Europe, Asia, and North America. *(Source: France: Baker McKenzie, 2025; Transfer Pricing Country Profile, 2025. OECD; Germany: Transfer Pricing Country Profile, 2025. OECD; Sweden: Transfer Pricing Country Profile, 2025. OECD; Ukraine: Transfer Pricing Country Profile, 2025. OECD; Netherlands: Transfer Pricing Country Profile, O2025. OECD; Latvia: Transfer Pricing Country Profile, 2025. OECD; Spain: Transfer Pricing Country Profile, 2025. OECD; Ofitsiinyi sait Grant Thornton International)*

Country	Legislatively enshrined arm's length principle	Legislatively established transfer pricing methods	Penalties provided for by law for late or complete failure to submit transfer pricing documentation	Specific guidelines or features of national regulation
France	Yes. Enshrined in the General Tax Code (Article 57)	Not directly specified in the code, but the OECD approach is applied; tighter regulation is expected	Yes. Penalties: at least EUR 10,000; 0.5% of the amount of unconfirmed controlled transactions; or 5% of revalued profits	The source of interpretation is the OECD guidelines; lack of documentation creates a presumption of profit shifting
Germany	Yes. Regulated in the Fiscal Code	Yes. All 5 TP methods are established	Yes. Authorities have the right to assess income in accordance with §162(3–4) AO; penalties can be significant	The approach is unified in accordance with OECD requirements; documentation is mandatory
Sweden	Yes. Enshrined in national legislation	No. The main focus on economic substance, flexible methods without clear typification are used	There are no specific penalties for failure to prepare, but a 40% additional tax applies for false data	Focus on OECD guidelines; priority is given to the economic reality of transactions
Ukraine	Yes. Specified in the Tax Code and international agreements	Yes. It is permitted to combine methods and use other approaches	Yes. 300 minimum subsistence levels for failure to submit a report; 3% of the amount without documentation, not exceeding 200 minimum subsistence levels	The Tax Code recommends CUP, allows the use of quotations when analyzing compliance with the arm's length principle
Netherlands	Yes. The principle is enshrined in legislation	Yes. All 5 methods, as recommended by the OECD	Yes. Penalties are provided for; in the absence of documentation, the burden of proof shifts to the taxpayer	The source of interpretation is the OECD guidelines; there is a clear requirement for documentation
Latvia	Yes. Provided for in the national tax code	Yes. All 5 methods, alternative techniques may be used within the scope of the analysis	Yes. 1% of the amount of controlled transactions; limit of EUR 100,000; additional penalties for serious violations	The use of quoted prices as a basis without confirmation of the facts of the transaction is prohibited
Spain	Yes. Enshrined in legislation	Yes. All 5 methods, other methods may be used in exceptional cases	Yes. Penalties are imposed for late or incomplete documentation; penalties are also provided for providing false data	Focus on OECD standards; a broad analysis of the economic substance of transactions is applied
United States	Yes. In accordance with IRC §482	Yes. Several methods are specified; the most appropriate method may be selected	Yes. Penalties of 20-40% of the underpaid tax in case of significant or gross errors in pricing	Documentation is not mandatory, but its availability minimizes the risk of financial sanctions
United Kingdom	Yes. Reflected in the HMRC Transfer Pricing Guidelines	Yes. All transfer pricing methods are specified, documentation is mandatory	Yes. GBP 3,000 penalty for failure to submit documentation; up to 100% of the amount evaded in case of deliberate inaccuracies	Reforms have been introduced (ICTS); preferential treatment for medium-sized companies will be abolished in 2025
China	Yes. Enshrined in the Enterprise Income Tax Law	Yes. The main methods and mandatory documentation (Local File, Master File, CbCR) are specified	Yes. Fines of RMB 2,000–10,000 for failure to submit documentation, up to RMB 50,000 in complex cases.	Tax authorities have the right to assess income themselves in the absence of documentation

Thus, based on the analysis, it can be concluded that the most severe penalties and special provisions in the legislation are found in countries with a high risk of corruption, transfer of funds to offshore zones, etc. Western European countries, on the other hand, need only adhere to the OECD rules and guidelines on transfer pricing regulation in their legislation.

Let us take a closer look at the specifics of implementing the structural-functional model, as well as the importance of implementing rules, principles, methods, and restrictions on the application of transfer pricing for the international business environment.

United States of America. The transfer pricing system in the United States of America is based on the provisions of the US Internal Revenue Code (IRC §482) and is consistent with the approaches recommended by the OECD. Legal entities

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and individuals, including non-residents, conducting economic activities in the United States using transfer pricing mechanisms, are not required to submit documentation in advance; it is prepared at the request of the tax authorities. At the same time, preparing such documentation on a voluntary basis is considered an important preventive step to reduce the likelihood of penalties and justify the terms of transactions between related parties.

US tax law does not establish a strictly regulated procedure for selecting transfer pricing methods. Instead, taxpayers must apply the approach that best suits the nature of their activities and the substance of their transactions, in line with the concept of the "most appropriate method." The arm's length principle is the foundation for determining transfer prices and is implemented through a number of methodologies, including the comparative uncontrolled price (CUP) method, the resale price method, the Cost-Plus method, the net margin method (TNMM), and the profit split method. Alternative approaches may be used if standard methods do not provide an adequate level of comparability or do not reflect the real economic substance of the transactions.

The United States has developed one of the most advanced systems for concluding advance pricing agreements (APAs), which is administered by the Internal Revenue Service (IRS). The APA institution in the US functions as a preventive mechanism for resolving transfer pricing issues and provides for the fixation of the taxpayer's methodology, factual circumstances, and business practices for a long-term perspective, usually for a five-year period. US law allows for unilateral APAs (between the taxpayer and the IRS), as well as bilateral and multilateral agreements involving one or more foreign competent authorities. This approach ensures a high degree of predictability of tax consequences and minimizes the likelihood of double taxation disputes.

Since the program's inception in 1991, more than 2,200 APA agreements have been concluded in the US. The cost of participating in the program varies significantly depending on the complexity of the case: for some situations, the fee may be around USD 54,000, and for complex cases, it may significantly exceed this amount.

In parallel with the APA, the US actively uses the mutual agreement procedure (MAP), which is used when there is a risk of double taxation or when intergovernmental agreements require further clarification. The use of MAP does not involve financial costs for taxpayers and can be initiated if the actions of the tax authorities of one or both contracting states contradict the provisions of an international agreement. Within the framework of MAP, the IRS interacts with the competent authorities of the other state to find an agreed solution for the taxation of relevant transactions.

It should also be noted that the US recognizes the possibility of applying arbitration procedures under certain tax conventions. Such provisions are enshrined, in particular, in agreements with Canada, France, Japan, and Switzerland, which increase the effectiveness of cross-border dispute resolution in the field of transfer pricing. Data on MAP transactions for the period from 2018 to 2024 are presented in Table 2.

Table 2. MAP transaction statistics in the US, 2018–2024. Note: *The data for 2022–2024 are indicative due to the lack of unified reporting in an open format. *(Sources: compiled based on OECD. MAP Statistics – United States (2022–2024); DLA Piper, (2024); MAP and APA trends report USA, 2025; Miller & Chevalier. Global Investigations Review, 2023; Prevention and cure: the OECD's APA and MAP statistics, KPMG, 2023)*

Name / Year	2018	2019	2020	2021	2022*	2023*	2024*
MAP deals	157	188	179	130	—	—	—
Closed MAP deals	181	142	209	308	≈ —	≈ 245+	—
Average MAP deal closure time, months	35.0	35.2	47.1	48.5	≈ 25.3	≈ 28.5	≈ 33.8
Closure ratio	23%	20%	28%	46%	≈ 73%	≈ 74%	—

MAP transactions in the United States are one of the key tools for settling transfer pricing transactions between related parties in order to prevent double taxation. According to the latest statistics, the upward trend in MAP requests continues, with the number of new cases involving transfer pricing (and other issues) increasing in 2022 compared to the previous period.

At the same time, the dynamics of case closure times are also changing. Whereas previously the average duration of proceedings could exceed 35–48 months, in 2022–2024, the average time for closing cases in the US has decreased: in 2024, for transfer pricing cases, the time is about 39.6 months, and for "other" cases, approximately 23–24 months. The overall effectiveness of the procedure has also increased: in 2023, about 74% of completed MAP cases were successfully resolved, which means a complete resolution of the dispute (Fox et al., 2024).

Thus, despite the growing workload and increase in the number of requests, the MAP program in the US demonstrates improved efficiency and reduced case closure times, which increases its attractiveness as a mechanism for resolving transfer disputes for corporations.

United Kingdom. In the United Kingdom, transfer pricing regulation is based on the implementation of the arm's length principle in accordance with the recommendations of the Organisation for Economic Co-operation and Development (OECD) and covers all legal entities conducting business activities within the jurisdiction. The reporting system is based on the requirements for the Master File and Local File set out in Section V of the OECD Guidelines and requires the mandatory submission of complete documentation by the time tax liabilities are declared. At the same time, all transfer price adjustments are allowed only in the direction of increasing taxable income, which forms the practice of the so-called "one-way street." The relevant documentation must be kept for at least six years from the date of submission.

The transfer pricing system in the United Kingdom, as in the United States, is flexible in its choice of methodology: taxpayers have the right to independently determine the most relevant method without adhering to a formalized hierarchy. The main requirement remains that the method complies with the arm's length principle. Full responsibility for the validity of the chosen method, the correctness of calculations, and the timely submission of reports rests with the taxpayer, reflecting a high level of self-regulation in the field of international taxation. In the UK, it is possible to apply different transfer pricing methods depending on the direction of the enterprise's activities without a specific hierarchy. All methods must comply with the basic principle, and the responsibility for the correct application of a specific calculation method, as well as for the timely and correct submission of reporting documentation, lies solely with the taxpayer.

The UK also has a mutual agreement procedure (MAP) that is available under bilateral tax treaties concluded by the country. This procedure allows taxpayers to challenge the actions of tax authorities in cases where, in their opinion, there is a violation of the terms of an international agreement, particularly in the context of transfer pricing. MAP is used to resolve disputes arising between tax jurisdictions and provides for cooperation between competent authorities to avoid double taxation or non-compliance with the arm's length principle.

Transfer pricing statistics in the United Kingdom from 2018 to 2023 are shown in Table 3.

Table 3. Statistics on MAP agreements in the United Kingdom, 2018–2023. Note: *The data for 2022–2023 are indicative due to the lack of unified reporting in an open format. *(Source: HM Revenue & Customs. Transfer Pricing and Diverted Profits Tax Statistics 2022 to 2023. (2024); HM Revenue & Customs. Transfer Pricing and Diverted Profits Tax Statistics 2023 to 2024. (2025); HM Revenue & Customs. Transfer Pricing and Diverted Profits Tax Statistics 2021 to 2022. (2023); OECD. Making Dispute Resolution Mechanisms More Effective – MAP Statistics United Kingdom)*

Name / Year	2018	2019	2020	2021	2022*	2023*
Transfer pricing profitability, £ million	1 169	1 454	2 162	1 482	1 635	1 786
APA applications submitted	24	29	24	40	45	45
APA transactions approved	30	26	24	20	15	27
Average time to reach APA agreement, months	33.6	47.9	55.5	58.3	45.5	53.0
ATCA transactions agreed	59	45	23	7	5	10
Average time to ATCA, months	26.3	24.4	28.1	44.0	58.0	37.3
MAP transactions agreed	91	80	128	96	99	82
Average time to reach MAP agreement, months	27.0	22.86	34.4	21.1	28.4	28.8

In the UK, advance pricing agreements (APAs) are implemented in the form of a special procedure called the Advance Thin Capitalisation Agreement (ATCA), which is mainly used in cases of insufficient capitalisation of companies. These agreements are free of charge for all categories of taxpayers but are subject to careful analysis by the tax authority – HM Revenue and Customs (HMRC). Applications for ATCA may be rejected if HMRC does not see a reasonable need for the agreement. In general, classic APAs are not widely used in the UK, as evidenced by the low number of agreements concluded (only 24 in 2021) and the high rate of refusals by the tax authorities due to strict eligibility criteria.

As for mutual agreement procedures (MAP), they are also free of charge and available under the provisions of international tax agreements. However, similar to APAs, HMRC reserves the right to reject applications if there are no grounds for them. UK legislation provides for certain exemptions from transfer pricing documentation requirements for small and medium-sized businesses, as well as for charitable and insurance organizations that meet the criteria of EU Recommendation 2003/361/EC. In addition, for companies involved in the digital economy (including online platforms, search engines, and social networks), a special Digital Services Tax has been introduced at a rate of 2% of global revenue, provided that the threshold of GBP 500 million is exceeded.

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Germany. Within the European context, the transfer pricing regulation model implemented in Germany is of particular importance. It is based on the arm's length principle, according to which economic transactions between related parties should be treated as if they were between independent market participants acting in an informed and market-oriented manner. Despite the country's membership in the OECD, its legislative system does not require the direct application of the organization's guidelines. At the same time, German transfer pricing legislation has been developed in the context of the provisions of the OECD tax conventions, taking into account the fundamental provisions on fair value and acceptable pricing methods.

The most acceptable approach in German transfer pricing practice is the use of comparability analysis, focused on the availability of relevant market data. In cases where comparable parameters cannot be obtained, economic modeling based on general valuation methods that take into account the economic substance of transactions between related parties is applied. Thus, German legislation does not restrict taxpayers in their choice of methodology, but instead encourages the use of the most relevant approach depending on the nature of the enterprise's activities. Documentation of controlled transactions is mandatory only for cross-border transactions and includes the preparation of a Master File and Local File in accordance with international standards. Tax reporting is submitted upon request and must be based on a detailed economic analysis confirming the logic and validity of the terms of controlled transactions.

Regarding MAP procedures: in 2023, Germany closed a significant portion of transfer MAP cases, with the majority completed with full elimination of double taxation, in 72% of cases. The average time to close transfer MAP cases that began on or after January 1, 2016, was approximately 21.7 months in 2023, which is significantly below the global average (Petersen, Qiu, 2023).

At the same time, analysts note that the growth rate of APA cases in 2023 showed that the resource efforts of the tax administration and the business community are leading to an increase in the workload, which emphasizes the importance of careful planning and timely recourse to the relevant procedures (Table 4).

Table 4. Statistics on MAP transactions in Germany, 2018–2024. Note: *The data for 2022-2024 are indicative. *(Source: compiled on the basis of analytical publications: David Evans. Year-End 2024 Automotive M&A Trends Report, Alvarez & Marsal, 2024; OECD Economic Outlook, A long unwinding road. Report, 2023, 1; Zvit pro prozorist za 2023 rik. PrAT «KPMG Audyt», 2023)*

Name / Year	2018	2019	2020	2021	2022*	2023	2024*
Deals on MAP (TP + others)	178	241	323	273	-	325	≈ 330
Closed deals on MAP (TP)	227	218	204	284	-	≈ 285	≈ 290
Average closing time, months	39.1	36.5	28.6	23.1	-	21.7	≈ 22
Closing ratio	36%	36%	30%	37%	≈ 68%	72%	≈ 73%

The APA mechanism serves as a tool for prior agreement between the taxpayer and the tax authorities on approaches to determining transfer prices in controlled transactions, particularly in cases where there is no unified methodology for assessing intercompany price parameters. The introduction of an APA requires the payment of an administrative fee, which in standard cases is EUR 30,000, and in the case of an agreement extension, EUR 5,000.

For transactions that do not exceed a certain volume criterion, preferential rates are provided: EUR 10,000 for the initial application and EUR 7,500 for subsequent renewals. This approach demonstrates the German government's desire to make the APA mechanism more accessible to small and medium-sized businesses, while ensuring effective pre-settlement of potential tax disputes and reducing the administrative burden on participants in international business transactions.

People's Republic of China. The experience of the People's Republic of China in the field of transfer pricing demonstrates a unique model of regulation based on national approaches and only partially correlating with the principles formulated by the OECD. Although Chinese legislation does not formally refer to the OECD Convention, a concept similar to the arm's length principle is applied, but with a characteristic unilateral nature of adjustments, allowing only for increases. This differs fundamentally from multilateral mechanisms such as APA and MAP, which allow for adjustments in both directions, increasing or decreasing the tax liability.

As part of its administration, the State Taxation Administration (STA) of China is actively developing the institution of advance pricing agreements (APAs), which can be concluded in the form of unilateral, bilateral, or multilateral agreements. Applications to participate in the APA program are considered if there is a confirmed history of transactions with related parties in excess of RMB 40 million annually over the past three years. The term of the agreement is usually 3-5 years and does not require the payment of an administrative fee. In addition, the PRC has a mutual agreement procedure (MAP) based on the provisions of bilateral tax agreements, which allows taxpayers to resolve transfer pricing disputes with the participation of the competent authorities of both partner countries.

As can be seen in Table 5, there was an increase in the number of agreements concluded in China in the period 2018-2024.

Table 5. MAP transaction statistics in China, 2018–2024. Note: *The data for 2024 are indicative. *(Source: compiled on the basis of: PwC China Tax News; China (People's Republic of) 2013-2015 (pre-MAP Statistics Reporting Framework) and 2016-2024 (post-MAP Statistics Reporting Framework), 2024, APA Statistics; Klimova et al., 2023)*

Name / Year	2018	2019	2020	2021	2022	2023	2024*
Deals on MAP	13	10	18	19	≈ 21	22	≈ 18
Closed deals on MAP	39	15	5	23	24	24	≈ 23
Average closing time (months)	32.0	47.4	46.7	48.1	~33.4	~29.3	~30–32
Closing ratio (%)	43	23	8	30	~53%	~55%	~55%

In Chinese tax practice, transfer pricing is based on the principle of independent assessment by enterprises of the compliance of controlled transactions with the arm's length principle. However, this approach does not exclude the possibility of a tax audit by state authorities. Chinese legislation does not establish a strict sequence or preference for specific methods of determining transfer prices, which allows companies to choose the optimal approach depending on the nature and specifics of the transactions carried out.

The obligation to prepare transfer pricing documentation rests with companies regardless of their financial condition, including in the event of losses. Taxpayers who reach the established income level must compile local and global (master) files, which are prepared exclusively in Chinese and are subject to submission at the request of the regulatory authorities. At the same time, if the company's ownership structure involves less than 51% foreign capital and all controlled transactions are domestic Chinese, such a company is exempt from the obligation to prepare the aforementioned documents.

Republic of Poland. The transfer pricing system (TPS) in Poland is currently one of the most structured among Central and Eastern European countries, reflecting both integration with international tax standards and the Polish state's growing attention to foreign economic activity regulation. A significant proportion of international groups use Polish jurisdiction as a transit or operational point, which reinforces the importance of controlling intercompany transactions in this particular field. Transfer pricing regulation in Poland is provided for in the provisions of the Corporate Income Tax Act (CIT Act) and the Personal Income Tax Act (PIT Act). Polish legislation is based on the arm's length principle, according to which financial and economic transactions between related parties should be assessed as if they were carried out between independent counterparties. Although formally the OECD guidelines are not directly reflected in Polish legislation, their methodological approaches are actively applied in the analysis of controlled transactions. This ensures the system's adaptability to international practice while preserving national sovereignty in tax regulation.

The Polish transfer pricing model provides for the use of a full set of OECD-approved methods without establishing a strict hierarchy, allowing taxpayers to choose the most appropriate method depending on the nature of the transaction and the availability of market data. Documentation requirements are structured according to a three-level system: at the company level (Local File), at the level of transnational companies (Master File), and at the global level (Country-by-Country Reporting (CbCR)) – with clear thresholds: for example, a threshold of PLN 10 million for goods/financial transactions or PLN 2 million for services (Transfer pricing in Poland, 2025). The penalties for violations are quite significant: the standard CIT rate of 19% applies to adjusted income, and additional penalty rates of +10%, +20% and even +30% depending on the severity of non-compliance with the applicable requirements (Aronsson, Hellberg, 2025). The obligation to prepare reports arises only if the established thresholds are exceeded, which ensures a balance between the fiscal needs of the state and the minimization of administrative pressure on business.

Analytical sources note a significant increase in control by the Polish tax administration. For example, according to data from the Krajowa Administracja Skarbowa (KAS) and the Ministry of Finance, in the first half of 2025, there were approximately 30% more cases of tax base understatement due to transfer pricing than in the whole of 2023 (Marciniak, Dymkowska, 2025).

According to an audit data review, the average amount of additional charges per audit in 2025 was ~ PLN 1.2 million in customs and fiscal audits and ~ PLN 195,000 in standard tax audits. It is also reported that the effectiveness of transfer pricing audits (i.e., the percentage of cases in which adjustments were identified) in 2024 reached 98% in tax audits and

 DOI: 10.55643/ser.4.58.2025.638

94% in customs and fiscal audits (Warnieło, Bulaszewska, 2025). According to KPMG, between 2020 and 2024, the effectiveness of transfer pricing audits (as a percentage of completed audits with adjustments) more than doubled. In 2023, 23% of audits resulted in adjustments, and in 2024, this figure reached about 70% (Aronsson, Hellberg, 2025).

In the area of foreign economic activity, Polish regulatory authorities pay particular attention to transactions involving intangible assets (IP), intra-group services, financing (cash pooling, loans), and reorganizations of value chains. Polish tax authorities plan to introduce periodic transfer pricing audits for the largest taxpayers (with revenues exceeding PLN 5 billion) at least once every three years. For foreign investors and multinational groups conducting foreign economic activity in Poland, these trends mean a significant increase in tax risk.

Particular attention should be paid to the Polish practice of applying transfer pricing dispute resolution tools, such as advance pricing agreements (APAs) and mutual agreement procedures (MAPs). APAs can be concluded in the form of unilateral, bilateral, or multilateral agreements and are an effective means of preventing conflicts with tax authorities. The introduction of transparent procedures, flexible approaches to the choice of valuation methods, and a combination of local and global reporting requirements allows Poland to provide a stable tax environment for transnational businesses while maintaining tax sovereignty.

DISCUSSION

The comparative analysis of transfer pricing as a mechanism for regulating foreign economic activity of enterprises in different countries presented in this article allows us to compare existing practices around the world, identify differences, and suggest opportunities for their implementation in Ukraine, which, in fact, distinguishes our article from the existing number of publications in this field in the domestic and international scientific community.

Unlike in the US, APA mechanisms have not yet been implemented in Ukraine, and the MAP procedure has limited application and low effectiveness. Transfer pricing documentation must be submitted within the established deadlines, regardless of the level of risk or the circumstances of the transactions. In this context, it is advisable to introduce a legally established APA mechanism, improve the MAP administrative procedure, and gradually transition to a more flexible approach to the selection of transfer pricing methods that takes into account the economic substance of transactions. Such adaptation will increase the effectiveness of tax control and bring Ukrainian regulation closer to international standards.

Taking into account the experience of the United Kingdom, Ukraine could introduce a limited form of advance pricing agreements (APA) similar to the British ATCA model, which is applied in cases of insufficient capitalization of enterprises. Such a mechanism, implemented on a voluntary and free basis, could become an effective tool for the preventive settlement of tax disputes, reducing administrative pressure and increasing the predictability of tax consequences for large taxpayers. In addition, it is worth considering the introduction of exemptions from transfer pricing reporting for small and medium-sized enterprises and non-profit organizations in accordance with the criteria of EU Recommendation 2003/361/EC, which would optimize state control without creating an excessive burden on business.

It is also relevant for Ukraine to review the current approach to the selection of transfer pricing methods in favor of a flexible model focused on the application of the "most appropriate method." This approach, based on the economic substance of transactions rather than just formal criteria, will allow for the individual characteristics of enterprises to be taken into account and will contribute to the harmonization of Ukrainian legislation with international standards, in particular the OECD principles.

Given Germany's experience, it would be advisable for Ukraine to review the current transfer pricing regulation model with a focus on flexibility in the choice of methods, guided by the principle of applying the "most appropriate method." The German approach involves the use of comparative analysis based on available market data and, in cases where such data is not available, the use of economic modeling (Mashiri, Eukeria, 2018). This model allows for the economic substance of transactions to be taken into account, rather than just formal criteria, which contributes to a more accurate reflection of market conditions and reduces the risk of unjustified adjustments. For Ukraine, the implementation of a similar practice could be a significant step towards harmonization with international standards and improving the quality of economic analysis in transfer pricing.

The German experience of implementing advance pricing agreements (APAs) with a differentiated approach to fees for their consideration deserves special attention, as it makes this tool accessible to businesses of all sizes. The introduction of a similar system in Ukraine with a moderate administrative fee could encourage small and medium-sized businesses to participate more in the formal settlement of transfer pricing issues. In addition, the positive dynamics of case completion within the MAP procedures in Germany confirm the expediency of strengthening the institutional capacity of the competent authority in Ukraine for more effective resolution of transfer disputes at the international level.

In the context of the experience of the People's Republic of China, it is advisable for Ukraine to expand the practice of concluding advance pricing agreements (APAs), in particular in the form of both unilateral and bilateral agreements. The Chinese model demonstrates the effectiveness of such agreements as a tool for reducing the number of transfer pricing disputes and increasing legal certainty for businesses. In the Ukrainian context, the introduction of a simplified APA procedure for taxpayers with a proven history of controlled transactions could encourage voluntary compliance with tax legislation and reduce the administrative burden on the controlling authorities.

At the same time, Ukraine should avoid implementing elements that contradict OECD principles, in particular the practice of unilateral adjustments exclusively in the direction of increasing tax liabilities, which is characteristic of the Chinese approach. Such an approach is inconsistent with the principles of fair taxation and may lead to an imbalance between the fiscal interests of the state and the rights of taxpayers. Instead, it is advisable to introduce a more flexible approach to the choice of transfer pricing methods, focusing on the principle of applying the "most appropriate method" in accordance with the economic substance of controlled transactions.

In the context of the Republic of Poland's experience, it is advisable for Ukraine to further develop transfer pricing approaches focused on practical flexibility in the choice of methods for evaluating controlled transactions. The Polish model does not provide for a mandatory hierarchy of transfer pricing methods, which allows taxpayers to apply the most appropriate method, taking into account the economic substance of transactions and the availability of market data. This approach could also be implemented in Ukrainian practice to improve the validity of transfer calculations and reduce the number of tax disputes.

It is also worth considering the Polish experience in the context of a three-tier documentation system (Local File, Master File, CbCR), which is adapted to the volume of transactions and the type of enterprise. The introduction of a flexible threshold mechanism for the preparation of documentation in Ukraine will optimize tax control without placing an excessive burden on small and medium-sized businesses. In addition, the practice of applying advance pricing agreements (APA) in Poland as a preventive tool for resolving transfer pricing issues could be useful for creating a stable tax environment in Ukraine. The implementation of a similar mechanism with predictable conditions and differentiated administrative fee rates will help reduce regulatory pressure and increase the level of voluntary tax compliance among taxpayers.

CONCLUSIONS

A comparative analysis of international experience in applying transfer pricing in foreign economic activity highlights the challenges and consequences of its implementation in countries with different tax systems. Understanding these differences is critical for multinational companies and tax authorities to effectively navigate the complex rules of transfer pricing. By implementing appropriate approaches and international standards, countries can improve the consistency and fairness of transfer pricing practices, creating a favorable environment for cross-border business operations.

A comparative analysis of transfer pricing practices in countries with different tax systems highlights the importance of understanding the specifics of each country's regulatory framework for international transactions. Multinational enterprises operating in these jurisdictions must navigate all possible nuances of transfer pricing rules to ensure compliance, mitigate risks, and avoid potential disputes with tax authorities. As most countries continue to refine their transfer pricing systems, enterprises must be very vigilant and adapt their transfer pricing strategies to maintain tax efficiency and comply with regulatory changes.

Future research should focus on developing a unified transfer pricing regulatory mechanism that is consistent with best international practices to stimulate foreign economic activity, harmonize tax legislation, and promote financial stability and growth in the national economy.

ADDITIONAL INFORMATION

FUNDING

The Author received no funding for this research.

DOI: 10.55643/ser.4.58.2025.638

CONFLICT OF INTEREST

The Author declares that there is no conflict of interest.

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ТРАНСФЕРТНЕ ЦІНОУТВОРЕННЯ ЯК РЕГУЛЯТИВНИЙ МЕХАНІЗМ ЗЕД ПІДПРИЄМСТВ У КРАЇНАХ ІЗ РІЗНИМИ ПОДАТКОВИМИ СИСТЕМАМИ: КОМПАРАТИВНИЙ АНАЛІЗ

У дослідженні здійснено компаративний аналіз трансфертного ціноутворення як регулятивного механізму зовнішньоекономічної діяльності підприємств у країнах із різними податковими системами, зокрема США, Великобританії, Німеччині, Китаї, Польщі та Україні. Показано, що трансфертне ціноутворення відіграє ключову роль у забезпеченні фінансової прозорості, мінімізації податкових ризиків та узгодженості умов транскордонних операцій між пов'язаними особами. Розглянуто особливості застосування принципу «витягнутої руки», вимог до документації, методів визначення ринкового діапазону цін і рентабельності, а також механізмів урегулювання податкових спорів у різних юрисдикціях. Особливу увагу приділено інститутам попередніх цінових угод (APA) та процедур взаємного узгодження (MAP), які є важливими інструментами мінімізації подвійного оподаткування та підвищення передбачуваності податкових наслідків для транснаціональних корпорацій.

Порівняльний аналіз показує суттєві відмінності в підходах до регулювання ТЦУ: США й Великобританія характеризуються високим рівнем гнучкості методології та розвиненими механізмами APA; Німеччина демонструє високу ефективність процедур MAP і збалансований підхід до оцінки контрольованих операцій; Китай застосовує жорсткіші форми контролю та переважно односторонні коригування; Польща активно посилює регуляторні вимоги, запроваджує жорстку систему санкцій та одночасно розширює використання APA. Україна, перебуваючи на етапі реформування податкової системи, демонструє прагнення до гармонізації з міжнародними стандартами, однак потребує вдосконалення процедур MAP, запровадження APA та більш гнучкого підходу до вибору методів ТЦУ.

Отримані результати дають підстави сформулювати рекомендації щодо посилення інституційних механізмів регулювання ТЦУ в Україні, спрямованих на підвищення прозорості ЗЕД, зменшення податкових ризиків, стимулювання інвестиційної активності й узгодження національної практики з вимогами ОЕСР та ініціативами BEPS.

Ключові слова: трансфертне ціноутворення, принцип «витягнутої руки», зовнішньоекономічна діяльність, APA, MAP, податкове регулювання, порівняльний аналіз, BEPS, міжнародне оподаткування, ризики

JEL Класифікація: F23, H25, H26, H87, K34, L21, M48