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Effectiveness Analysis Of The Mutual Agreement Procedure (MAP) As A Dispute Resolution Mechanism And The Advance Pricing Agreement (APA) As A Preventive Strategy For Transfer Pricing In Indonesia

Firgia Ekklesia Heilbron
Master's Program in Accounting, Universitas Padjadjaran
Firgifirgia@gmail.com

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ABSTRACT

This study aims to analyze the effectiveness of the Mutual Agreement Procedure (MAP) as a dispute resolution mechanism and the Advance Pricing Agreement (APA) as a preventive strategy for transfer pricing in Indonesia. This study employs a qualitative descriptive approach using secondary data in the form of tax regulations, OECD reports, and relevant academic literature. The findings indicate that, from a regulatory perspective, the implementation of MAP and APA in Indonesia is aligned with international standards, particularly following the issuance of PMK 172/PMK.03/2023. MAP has proven effective in reducing the risk of double taxation and providing a non-litigation alternative for dispute resolution, although it continues to face constraints such as lengthy processing times, the complexity of bilateral negotiations, and limited institutional capacity. Meanwhile, APA offers an advantage as a preventive instrument by providing legal certainty before transactions are carried out; however, its utilization remains relatively low due to administrative burdens, lengthy negotiation periods, and concerns regarding data confidentiality. Accordingly, the effectiveness of both mechanisms is strongly influenced by the quality of transfer pricing documentation, the preparedness of the tax authorities, and the level of taxpayer compliance. This study recommends strengthening institutional capacity, accelerating administrative procedures, and enhancing transparency to optimize the role of MAP and APA in supporting legal certainty and reducing international tax disputes in Indonesia.

INTRODUCTION

The development of globalization and the expansion of cross-border business have contributed significantly to increased investment flows and international trade activities. Multinational enterprises (MNEs) use global supply chain structures and operational integration among affiliated entities across jurisdictions to improve efficiency and optimize costs. However, these practices also create risks of base erosion and profit shifting through transfer pricing arrangements, particularly when the allocation of profits among entities does not reflect the arm's length principle. This situation may not only reduce government tax revenues but also trigger international tax disputes between the tax authorities of different countries.

In response to this phenomenon, the OECD and G20 member countries initiated the Base Erosion and Profit Shifting (BEPS) initiative, which comprises 15 Action Plans. Two Action Plans relevant to this study are Action 13 (Transfer Pricing Documentation and CbCR) and Action 14 (Making Dispute Resolution Mechanisms More Effective). Action 13 promotes greater transparency through mandatory Transfer Pricing Documentation and Country-by-Country Reporting (CbCR), whereas Action 14 emphasizes the importance of effective dispute resolution mechanisms, including the Mutual Agreement Procedure (MAP).Furthermore, the Advance Pricing Agreement (APA), which is recommended by the OECD and has been implemented in many jurisdictions, serves as a preventive strategy to reduce potential transfer pricing disputes from the outset. By reaching an agreement between taxpayers and tax authorities on the method for determining arm's length prices or profits before transactions are undertaken, this mechanism provides legal certainty and minimizes the risk of adjustments during tax audits.

Indonesia, as a developing country with increasing participation in international trade, also faces transfer pricing challenges. The Indonesian tax authority, the Directorate General of Taxes (DGT), has adopted international standards through several important regulations, including Minister of Finance Regulation No. 172 of 2023 concerning transfer pricing documentation and the implementation of MAP and APA. This implementation forms part of Indonesia's efforts to enhance legal certainty, strengthen international tax oversight, and reduce potential disputes that could affect the investment climate and foreign investor confidence.

Although Indonesia's regulatory framework is aligned with international practice, the effectiveness of MAP and APA implementation remains open to question. Several studies indicate that the MAP process can be lengthy and depends on negotiations between the tax authorities of treaty partner countries. Meanwhile, taxpayer interest in using APA remains relatively low compared with other countries, due, among other factors, to the length of the process, concerns regarding data confidentiality, and the lack of alignment between the APA process and rapidly changing business dynamics.Furthermore, although the regulatory framework for MAP and APA has formally been aligned with international practice through the adoption of BEPS Action 14 standards and the implementation of PMK 172/PMK.03/2023, its practical effectiveness still faces a range of challenges. The OECD's MAP Peer Review Stage 2 report indicates that the average time taken by the Indonesian tax authority to resolve disputes through MAP is approximately 25.12 months, slightly exceeding the OECD-recommended global target of 24 months. Although this figure reflects an improvement over previous periods, the OECD report also identifies several technical obstacles, including delays in submitting position papers, suboptimal cross-jurisdictional coordination, and the limited frequency of face-to-face discussions between Indonesia's competent authority and the tax authorities of treaty partner countries. These conditions reinforce the view that, although the regulations comply with global standards, the quality of implementation still needs to be strengthened at both the procedural and institutional-capacity levels.On the other hand, APA as a preventive instrument for transfer pricing disputes remains underutilized by taxpayers in Indonesia. Based on international studies and publications, APA negotiations are generally considered lengthy and intensive, highly complex, and associated with significant compliance costs for companies. Although APA can provide taxpayers with long-term tax certainty, some tax practitioners consider that the application process often requires disclosure of highly sensitive business information, raising concerns about the confidentiality of strategic corporate data. In addition, some multinational enterprises perceive the APA implementation process as insufficiently adaptive to rapidly changing business dynamics—such as changes in business models, business expansion, or global restructuring—resulting in a mismatch between the APA application timeline and the company's strategic needs. These factors may contribute to the limited level of taxpayer participation in Indonesia's APA mechanism compared with jurisdictions that developed APA systems earlier, such as Japan, Australia, and Singapore.In this context, successful implementation of MAP and APA depends not only on regulatory clarity but also on operational effectiveness and taxpayers' perceptions of the mechanisms' added value. Tax authorities need to ensure that MAP and APA processes are transparent, efficient, and accountable, taking into account the speed of case handling, the quality of international coordination, and the protection of the confidentiality of information submitted by taxpayers. In addition, strengthening competent-authority capacity, increasing the intensity of bilateral dialogue, and developing more comprehensive and practical technical guidelines are strategic priorities for increasing taxpayer confidence in both dispute-resolution and dispute-prevention mechanisms.

Considering these factors, this study is important for examining the effectiveness of MAP as a mechanism for resolving transfer pricing disputes and APA as a preventive instrument within Indonesia's tax environment. The study focuses on evaluating implementation against international standards, identifying practical obstacles, and analyzing taxpayers' perceptions and adoption levels. It is expected to make a scientific contribution by providing relevant policy recommendations for tax authorities, while offering practical insights for businesses in determining more effective and sustainable transfer pricing compliance strategies. Thus, this study not only reflects current implementation conditions but also identifies opportunities to improve the regulation and governance of cross-border tax dispute resolution in Indonesia in a more progressive direction aligned with the global framework.

LITERATURE REVIEW

The development of globalization and the expansion of cross-border business have contributed significantly to increased investment flows and international trade activities. Multinational enterprises (MNEs) use global supply chain structures and operational integration among affiliated entities across jurisdictions to improve efficiency and optimize costs. However, these practices also create risks of base erosion and profit shifting through transfer pricing arrangements, particularly when the allocation of profits among entities does not reflect the arm's length principle. This situation may not only reduce government tax revenues but also trigger international tax disputes between the tax authorities of different countries.

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Furthermore, although the regulatory framework for MAP and APA has formally been aligned with international practice through the adoption of BEPS Action 14 standards and the implementation of PMK 172/PMK.03/2023, its practical effectiveness still faces a range of challenges. The OECD's MAP Peer Review Stage 2 report indicates that the average time taken by the Indonesian tax authority to resolve disputes through MAP is approximately 25.12 months, slightly exceeding the OECD-recommended global target of 24 months. Although this figure reflects an improvement over previous periods, the OECD report also identifies several technical obstacles, including delays in submitting position papers, suboptimal cross-jurisdictional coordination, and the limited frequency of face-to-face discussions between Indonesia's competent authority and the tax authorities of treaty partner countries. These conditions reinforce the view that, although the regulations comply with global standards, the quality of implementation still needs to be strengthened at both the procedural and institutional-capacity levels.On the other hand, APA as a preventive instrument for transfer pricing disputes remains underutilized by taxpayers in Indonesia. Based on international studies and publications, APA negotiations are generally considered lengthy and intensive, highly complex, and associated with significant compliance costs for companies. In addition, some multinational enterprises perceive the APA implementation process as insufficiently adaptive to rapidly changing business dynamics—such as changes in business models, business expansion, or global restructuring—resulting in a mismatch between the APA application timeline and the company's strategic needs. These factors may contribute to the limited level of taxpayer participation in Indonesia's APA mechanism compared with jurisdictions that developed APA systems earlier, such as Japan, Australia, and Singapore.

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METHODS

Research Type and Approach

This study is descriptive research. Descriptive research portrays problems under particular conditions, procedures in specific situations, relationships between activities, and attitudes toward ongoing processes. According to Yusuf (2016), descriptive research is a type of research that clearly describes or explains the condition of the object under study. Nazir (2011) states that the descriptive method is used to examine the current status of a group of people, an object, a set of conditions, a system of thought, or a class of events.

A qualitative approach was selected because the study focuses on gaining an in-depth understanding of the implementation of MAP and APA in resolving and preventing transfer pricing disputes in Indonesia, based on the interpretation of regulations, tax administration practices, and the perspectives of experts and stakeholders. Qualitative descriptive research aims to describe the actual conditions of MAP and APA implementation without manipulating variables, while objectively presenting information based on document analysis, literature review, and available data.

Data Collection Techniques

According to Arikunto (2016), a data source in research is the subject from which data are obtained. In this context, the subject may be a person, matter, or object containing information. The principal data sources in qualitative research are words and actions, while the remainder consists of supplementary data, such as documents and other materials (Lofland, as cited in Moleong, 2018).

Secondary data in this study were obtained through a literature review using various relevant and reliable written sources. These sources include tax regulations, such as PMK 172/PMK.03/2023 concerning Procedures for Implementing Advance Pricing Agreements (APAs) and the Mutual Agreement Procedure (MAP), as well as international guidance such as the OECD Transfer Pricing Guidelines and provisions in Double Taxation Agreements (DTAs). The study also uses official statistical data published by the DGT and OECD on the number of applications, resolution timeframes, and success rates of MAP and APA. Academic literature from national and international journals was analyzed to identify previous findings concerning the effectiveness of mechanisms for resolving and preventing transfer pricing disputes. The secondary data also include the DGT's annual reports, publications by international organizations such as the IMF and UNCTAD, and tax policy review articles available through public databases, including the DGT portal, OECD, Google Scholar, ScienceDirect, and SINTA. All information was critically analyzed to support an understanding of the concepts and implementation of MAP and APA within the context of international taxation in Indonesia.

Data Analysis Techniques

The data were analyzed using thematic analysis, which identifies the main patterns and themes arising from the data collected regarding the effectiveness of MAP and APA implementation. The analysis followed the Miles and Huberman model, comprising:

1. Data Reduction
   Selecting and simplifying information from the literature, regulations, and statistical data related to MAP and APA.
2. Data Display
   The data are presented in narrative form, tables showing trends in MAP/APA statistics, and comparative matrices of implementation in Indonesia and other countries.
3. Conclusion Drawing
   Conclusions are drawn by comparing the findings with the theories used, including legal certainty theory, tax compliance theory, and dispute resolution theory.

RESULTS

Macro Overview of Transfer Pricing Disputes and the Role of MAP and APA in Indonesia

Transfer pricing disputes remain a strategic issue in international tax administration, particularly in developing countries such as Indonesia. The DGT has adopted MAP and APA as key instruments for resolving and preventing transfer-pricing-related disputes. According to the DGT's official website, MAP and APA are implemented as part of Indonesia's commitment to the BEPS Action 14 standard ("Making Dispute Resolution Mechanisms More Effective") to strengthen the resolution of cross-jurisdictional tax disputes. In addition, the latest PMK 172/PMK.03/2023 reinforces MAP and APA procedures while updating Indonesia's transfer pricing framework.

OECD MAP statistics also indicate that Indonesia's MAP caseload cannot be overlooked. According to the OECD's Mutual Agreement Procedure Statistics per Jurisdiction, Indonesia's inventory of MAP cases related to transfer pricing increased during certain periods, although several cases were successfully resolved. Meanwhile, the OECD reports that the global MAP resolution process has slowed: in 2023, the average time required to resolve transfer-pricing-related MAP cases reached 32 months, up from approximately 28.9 months in the previous year.

With regard to APA, according to an OECD report cited by DDTC, Indonesia "completed" 20 APA negotiations during 2023, while 48 APA negotiations remained unresolved at the end of the year. The average APA completion time in Indonesia was reported to be 42 months, considerably longer than in many other jurisdictions. This situation raises questions regarding the efficiency of APA as a preventive mechanism in Indonesia.These figures indicate that although MAP and APA are available within Indonesia's regulatory framework, their practical effectiveness still faces significant challenges. This highlights the need for an in-depth analysis of the obstacles, benefits, and stakeholder perceptions associated with both mechanisms.

Resolution Time and Process

One of the main constraints on MAP effectiveness is the relatively lengthy resolution period. OECD reports indicate a slowing trend: the average duration of transfer-pricing-related MAP cases reached 32 months in 2023. In the Indonesian context, according to DDTC News, the DGT resolved 10 MAP cases during 2022. Although the number was not large, this achievement demonstrates that the DGT actively uses MAP as an avenue for dispute resolution.

However, the lengthy duration reflects structural challenges: bilateral negotiations between the tax authorities of treaty partner countries, the position-paper process, and the preparation of complex economic documentation. Deloitte's Indonesia Transfer Pricing Alert also notes that PMK 172 confirms that MAP does not suspend tax payment and collection, while the mechanism must take account of its interaction with appeal or judicial review decisions. In other words, although MAP is an administrative mechanism, technical and bureaucratic burdens continue to impede timely resolution.

Success Rate and Agreement Outcomes

According to the DGT, MAP is used to resolve various issues, including transfer pricing adjustments, profit allocation to permanent establishments (PEs), and potential double taxation. Of the 10 MAP cases resolved in 2022 (according to the OECD), approximately 50% achieved full agreement to eliminate double taxation. This percentage is relatively significant because it demonstrates that MAP is not merely a formal process, but can also produce equitable solutions between tax authorities.

However, not all cases end in agreement. According to DDTC reports citing the OECD, some MAP cases were closed with partial solutions or even withdrawn applications. This indicates that, although MAP is effective in certain cases, not all disputes can be fully resolved through negotiation, possibly due to differences in technical interpretation, insufficient economic data, or fundamentally divergent positions between the authorities.

Administrative and Technical Obstacles

1. Limited Capacity of the Tax Authority
   Academic studies indicate that human resources within the DGT's Directorate of International Taxation remain limited in terms of economists, international auditors, and industry analysts. This insufficient capacity may delay the preparation of economic analyses (economic substance), FAR analyses (functions-assets-risks), and documents supporting the tax position.
2. Application and Documentation Requirements
   Under PMK 172/2023, the requirements for submitting a MAP request were revised. According to Pajak.com, taxpayers are required to submit a written request, attach identification documents, and explain the inconsistent application of the relevant DTA. This administrative process can create a substantial burden for companies, particularly when collecting data and preparing technical arguments.
3. Cross-Border Coordination
   Because MAP involves negotiations between competent authorities, its success depends heavily on response times, willingness to negotiate, and a shared interpretation of technical matters. MAP negotiations may stall because of miscommunication or differences in priorities between the tax authorities of treaty partner countries.

APA Utilization Statistics and Duration

According to an OECD report reviewed by DDTC, Indonesia completed 20 APA negotiations in 2023, while 48 negotiations remained unresolved. The average APA completion time was very long, at 42 months, far exceeding expectations when compared with the preventive benefits that should be obtained.The lengthy APA negotiation process may be one factor behind taxpayers' relatively low interest in the mechanism. Although APA offers certainty regarding transfer pricing and prevents future tax adjustments, preparing a proposal requires substantial time and resources.

Strategic Benefits

- According to the DGT website, APA helps taxpayers determine an arm's length method and arm's length profit in advance, thereby reducing potential differences in perception with the tax authority.
- GNV Consulting states that, through an advance agreement (APA), the DGT and taxpayers can align their expectations. This reflects the theory of cooperative compliance: collaboration between tax authorities and taxpayers to prevent future disputes.

Obstacles

- According to MUC.co.id, one reason for the low utilization of APA in Indonesia is taxpayers' concern regarding data confidentiality. During the APA process, companies are required to disclose highly sensitive commercial and financial information.
- In addition, academic sources indicate limitations in the DGT's capacity to handle APA negotiations, including a shortage of specialists (economists and international auditors) and an organizational structure that is not yet ideal.
- The APA application requirements stipulated in DGT regulations are relatively stringent. For example, the procedures and conditions under PMK 172 (or previously PMK 22) require transfer pricing documentation covering several years, as well as other administrative requirements.

Preventive Effectiveness

Despite these obstacles, APA retains significant potential as a dispute-prevention mechanism. By agreeing on prices in advance, companies can plan their business and tax activities more consistently, while tax authorities gain earlier visibility into profit structures and flows between affiliated entities. This approach supports the theory of legal certainty: companies can avoid substantial future tax adjustments and reduce the risk of double taxation.However, the lengthy APA process and administrative burden may reduce the mechanism's attractiveness to many taxpayers. When the process is too slow or complex, companies may opt for a conventional audit process or even avoid applying for APA despite its considerable potential benefits.

Comparison of MAP and APA Effectiveness
Time and Efficiency
1. MAP: The resolution process is relatively lengthy (an average of 24-32 months), but it remains an avenue for resolution after a dispute has arisen.
2. APA: The negotiation period is very lengthy (approximately 42 months in Indonesia), which may weaken its preventive value because of the substantial time burden.

Level of Legal Certainty
1. MAP: Provides certainty after negotiations, although the outcome depends on bilateral agreement.
2. APA: Provides certainty before transactions take place because the agreement is concluded in advance, which is particularly important for a company's long-term planning.

Risk of Dispute
1. MAP: The risk of litigation remains if negotiations fail or no agreement is reached.
2. APA: Highly effective in reducing the risk of disputes when the agreement is complied with; however, it does not provide a 100% guarantee because changes in business conditions may render the agreement less relevant.

Stakeholder Involvement
1. MAP: Depends more heavily on the tax authorities of two countries and their negotiating capacity.
2. APA: Requires more intensive taxpayer involvement because taxpayers must prepare financial analyses, FAR documentation, and profit projections.

Policy Implications and Recommendations
1. **Accelerating MAP Procedures**
   - The DGT needs to strengthen the capacity of its MAP team, including staff competence and economic expertise, to shorten resolution times.
   - More detailed MAP technical guidance on documentation, position papers, and templates could help accelerate negotiations between competent authorities.
2. **Improving APA Outreach**
   - The DGT and tax consultants should educate taxpayers about the long-term benefits of APA and how it can reduce the risk of future adjustments.
   - Transparency and guarantees of data confidentiality should be strengthened so that companies feel secure when applying for APA.
3. **Organizational Structure and Resources**
   - The DGT's Directorate of International Taxation should be strengthened with expert teams, including economists and industry analysts, to handle APA and MAP more professionally.
   - International cooperation through training and benchmarking could be expanded so that the DGT can conduct MAP and APA negotiations on an equal footing with tax authorities in developed countries.

4. **Periodic Regulatory Evaluation**
   - The government should periodically evaluate the effectiveness of PMK 172/2023 based on MAP and APA data.
   - Public data on MAP and APA, including resolution times, success rates, and types of disputes, should serve as the basis for policy improvement.

CONCLUSION

The findings indicate that, from a regulatory perspective, the implementation of the Mutual Agreement Procedure (MAP) and Advance Pricing Agreement (APA) in Indonesia is aligned with international practices as recommended by the OECD, particularly following the issuance of PMK 172/PMK.03/2023, which strengthens mechanisms for resolving and preventing transfer pricing disputes. MAP has proven effective in reducing the risk of double taxation and provides a more efficient alternative to litigation, although its implementation often takes considerable time due to the complexity of negotiations between the tax authorities of treaty partner countries and administrative limitations. By contrast, APA is considered more effective as a preventive mechanism because it provides legal certainty regarding transfer prices before transactions are conducted; however, its utilization remains low due to the perceived high administrative burden and limited taxpayer understanding. Accordingly, the effectiveness of MAP and APA implementation is strongly influenced by the quality of transfer pricing documentation, the preparedness of the tax authorities, and taxpayers' levels of compliance and awareness. Therefore, strengthening the capacity of tax institutions and optimizing collaboration among the government, taxpayers, and the tax authorities of treaty partner countries are key to maximizing the role of MAP and APA in reducing future transfer pricing disputes.

LIMITATIONS

The findings indicate that, from a regulatory perspective, the implementation of the Mutual Agreement Procedure (MAP) and Advance Pricing Agreement (APA) in Indonesia is aligned with international practices as recommended by the OECD, particularly following the issuance of PMK 172/PMK.03/2023, which strengthens mechanisms for resolving and preventing transfer pricing disputes. MAP has proven effective in reducing the risk of double taxation and provides a more efficient alternative to litigation, although its implementation often takes considerable time due to the complexity of negotiations between the tax authorities of treaty partner countries and administrative limitations. By contrast, APA is considered more effective as a preventive mechanism because it provides legal certainty regarding transfer prices before transactions are conducted; however, its utilization remains low due to the perceived high administrative burden and limited taxpayer understanding. Accordingly, the effectiveness of MAP and APA implementation is strongly influenced by the quality of transfer pricing documentation, the preparedness of the tax authorities, and taxpayers' levels of compliance and awareness. Therefore, strengthening the capacity of tax institutions and optimizing collaboration among the government, taxpayers, and the tax authorities of treaty partner countries are key to maximizing the role of MAP and APA in reducing future transfer pricing disputes.

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