

France

Transfer Pricing Country Profile

Updated November 2017

	SUMMARY	REFERENCE
The Arm's Length Principle		
1	<p>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Section 57 of the General Tax Code (Code général des Impôts) is the equivalent in domestic law of Article 9 of the OECD Model Tax Convention.</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000029355359</p>
2	<p>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</p> <p>The OECD Transfer Pricing Guidelines are not prescriptive under the French domestic law or regulation. However, administrative doctrine makes expressly references to them.</p>	<p>Le Bulletin Officiel des Finances Publiques (Official Public Finances Bulletin) BOI-SJ-RES-20-20120912 of the 19th of September 2012, on APAs.</p> <p>http://bofip.appli.impots/bofip/1097-PGP</p> <p>Le Bulletin Officiel des Finances Publiques BOI-INT-DG-20-40-20120912 of the 12th of September 2012, on general transfer pricing guidances, treaty provisions and practical issues.</p> <p>http://bofip.appli.impots/bofip/5341-PGP</p> <p>Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-20140218 of the 18th of February 2014, on definition, calculation, documentation, control and procedure about transfer pricing between associated enterprises.</p> <p>http://bofip.appli.impots/bofip/5513-PGP</p>

3	<p>Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>In the context of transfer pricing, associated enterprises are those that depend on or control enterprises outside France.</p> <p>Section 57 of the General Tax Code refers to the notion of dependence but does not define it; dependence can be either de jure or simply de facto. Moreover, Section 57 dispenses the tax authorities from having to prove the relationship of dependence or control in respect of profit transfers to enterprises located in a foreign State or territory outside France that has a preferential tax regime, or incorporated or constituted in a non-cooperative jurisdiction or territory as it is determined by the French law.</p> <p>Administrative doctrine stipulates that:</p> <ul style="list-style-type: none"> De jure dependence is established if a French enterprise is dependent on a foreign enterprise, which is the case if the foreign enterprise holds a preponderant share of the French enterprise's equity or an absolute majority of the voting rights at its shareholders' meetings. The same holds true if, within the French enterprise, the foreign enterprise is empowered to perform functions that include decision-making, either directly or through intermediaries. De facto dependence may either be contractual or stem from conditions underlying the dealings between the two enterprises (there is abundant case law illustrating this notion of de facto dependence). 	<p>Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-20-20150902 of the 2nd of September 2015 on indirect transfer of profits between dependent enterprises about control and transfer pricing audit procedures.</p> <p>http://bofip.appli.impots/bofip/5533-PGP</p>
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Transfer Pricing Methods

4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="683 1173 1534 1332"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>There is no specific legislation or regulation on transfer pricing methods to be used but the French administrative doctrine provides that TP OECD guidances should be followed.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218 of the 18th of February 2014 on indirect transfer of profits between dependent enterprises about definitions and principles on determining transfer pricing.</p> <p>http://bofip.appli.impots/bofip/5549-PGP</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>										

5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (<i>if so, please explain</i>) There is no specific legislation or regulation on transfer pricing methods to be used but the French administrative doctrine provides that TP OECD guidances should be followed.	Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218 of the 18th of February 2014 http://bofip.appli.impots/bofip/5549-PGP
6	If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.	<input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>) <input type="checkbox"/> Other (<i>if so, please explain</i>) There is no specific guidance on commodity transactions.	
Comparability Analysis			
7	Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	Is there a preference in your jurisdiction for domestic comparables over foreign comparables?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No There is no preference defined in the French domestic law or regulation. However, in practice, because of the specificities of each domestic market, national comparables are deemed to better meet the requirement of comparability. Then, in the absence of usable national comparables, the use of foreign comparables does not present difficulties.	
9	Does your tax administration use secret comparables for transfer pricing assessment purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

10	Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		France follows the guidance described in Chapter III of the OECD TPG.	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no specific legislation or regulation on transactions involving intangibles but the French administrative doctrine provides some general guidances.	Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218 of the 18th of February 2014 http://bofip.appli.impots/bofip/5549-PGP
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No When it comes to transactions involving capital gains on the transfer of patents, patentable inventions or improvements made therein, as well as to the net profits of the licensing of the same elements, a reduced tax rate is applicable.	Section 39 terdecies of the General Tax Code (Code Général des Impôts). https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000006307690&dateTexte=&categorieLien=cid
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No There is no specific legislation or regulation on intra-group services but the French administrative doctrine provides some general guidances.	Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218 of the 18th of February 2014 on indirect transfer of profits between dependent enterprises about definitions and principles on determining transfer pricing. http://bofip.appli.impots/bofip/5549-PGP

16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes	
		<input type="checkbox"/> No	
		The French tax administration does take into account the EU Joint Transfer Pricing Forum recommendations regarding the simplified approach for low value-adding intra-group services.	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes	
		<input checked="" type="checkbox"/> No	

Cost Contribution Agreements

18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes	Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-10-10-20140218 of the 18th of February 2014 http://bofip.appli.impots/bofip/5549-PGP
		<input checked="" type="checkbox"/> No	
		There is no specific legislation or regulation on cost contribution agreements but the French administrative doctrine provides some general guidances.	

Transfer Pricing Documentation

19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes	
		<input type="checkbox"/> No	
		<i>If affirmative, please check all that apply:</i>	
		<input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG	
		<input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG	
		<input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG	
		<input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)	
		<input type="checkbox"/> Other (specify):	

20	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>The documentary transfer pricing requirements in the French tax law covers all transactions between associated companies.</p> <p>Under article L 13 AA of the Tax procedure code (TPC), any entity which belongs to a group, whose annual turnover or balance sheet assets is at least 400 millions euros, is required to keep available for the tax administration services both a master and a local file.</p> <p>The first document provides background information about the related companies group whereas the second contains additional information about the company under tax audit.</p> <p>Entities dealing with related parties located in non-cooperative jurisdictions are subject to additional requirements (Article L 13 AB of the TPC). It involves providing documents that are required from corporations liable to the corporation tax under the French law, including balance sheet and income statement.</p> <p>Article 223 quinquies B of the General tax code (GTC) requires from companies whose turnover or balance sheet assets is at least 50 millions euros to file every year a simplified version of the master and local form. Furthermore, companies that do not exceed the threshold above mentioned of 400 millions euros can be required, in case of control, to produce targeted and lightened information (article L 13 B of the TPC)</p> <p>Finally, article 223 quinquies C of the GTC faithfully transposes the OECD recommendations regarding the country by country reporting, for MNE exceeding the threshold of 750 millions euros.</p> <p>Declarations must be filled on the tax forms provided by the administration and electronically sent.</p> <p>The administration has the possibility to request the documents written in a foreign language to be translated in French.</p> <p>Where an enterprise does not produce the required documentation, or when it produces it partially, the administration shall send a formal notice to produce it or to complete it within a period of thirty days.</p> <p>Some specific information could be asked.</p>	<p>Article L 13 AA of the Tax procedure code (TPC)</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069583&idArticle=LEGIARTI000021648183&dateTexte=&categorieLien=cid</p> <p>Article L 13 AB of the TPC</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=82CF4E689D2D5147CCB4A33B304748DE.tplgfr32s_3?idArticle=LEGIARTI000022177772&cidTexte=LEGITEXT000006069583&dateTexte=20171106&categorieLien=id&oldAction=&nbResultRech=</p> <p>Article 223 quinquies B and quinquies C of the General tax code (GTC)</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000033613616&dateTexte=&categorieLien=id</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=82CF4E689D2D5147CCB4A33B304748DE.tplgfr32s_3?idArticle=LEGIARTI000031753378&cidTexte=LEGITEXT000006069577&dateTexte=20171106&categorieLien=id&oldAction=&nbResultRech=</p> <p>For more information, please refer to:</p> <p>http://bofip.impots.gouv.fr/bofip/9389-PGP.html?identifiant=BOI-BIC-BASE-80-10-20-20170301</p>
21	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>An audited enterprise that fails to produce the required documentation or produces partial documentation provided for in articles L 13 AA and L 13 AB of the TPC can be liable to a fine provided by article 1735 ter of the GTC. This fine, that cannot be less than 10 000 euros, may reach to 0.5 % of the amount of</p>	<p>Article 1735 ter of the GTC</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000021648107&dateTexte=&categorieLien=cid</p>

		<p>transactions covered by the documents undelivered, or 5 % of the profits reassessment. In case an enterprise does not fulfill the conditions provided under article L 13 B of the TPC, article 1735 of the GCT provides it is liable to a fine of 10 000 euros per tax year.</p> <p>With regard to article 223 quinquies B of the GTC, the common penalties mechanism is applicable, as provided by article 1729 B of the GCT.</p> <p>Finally, as far as the country by country report is concerned, the fine provided in article 1729 F of the GCT cannot exceed 100 000 euros.</p>	<p>Articles 1729B and 1729 F and 1735 of the GCT</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000006313747&dateTexte=&categorieLien=cid</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=82CF4E689D2D5147CCB4A33B304748DE.tplgfr32s_3?idArticle=LEGIARTI00031753398&cidTexte=LEGITEXT000006069577&dateTexte=20171106&categorieLien=id&oldAction=&nbResultRech=</p> <p>https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000006314326</p>
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	The French tax law does not provide any exemption other than those resulting from turnover and/or assets balance thresholds.	
Administrative Approaches to Avoiding and Resolving Disputes			
23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input checked="" type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>):</p>	
		Regarding MAP, the French tax administration does apply the procedure of arbitration with partners that France has an agreement containing it with.	

Safe Harbours and Other Simplification Measures

24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Simplified APA's procedure for SMEs Simplified TPG application for SMEs	For more information, please refer to : http://bofip.impots.gouv.fr/bofip/1049-PGP.html Transfer pricing guideline for SMEs http://www.impots.gouv.fr/portal/deploiement/p1/fichedescriptive_4176/fichedescriptive_4176.pdf

Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No France considers year-end adjustments as a possibility to reach an arm's length price for economic and financial transactions when the circumstances are appropriate.	Le Bulletin Officiel des Finances Publiques BOI-BIC-BASE-80-20140218 of the 18th of February 2014, on definition, calculation, documentation, control and procedure about transfer pricing between associated enterprises. http://bofip.appli.impots/bofip/5513-PGP
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No France makes secondary adjustments when the conditions exposed in the doctrine are met.	Le Bulletin Officiel des Finances Publiques BOI-INT-DG-20-30-10-20170201 of the 1st of February 2017 on Mutual agreement procedures http://bofip.appli.impots/bofip/5344-PGP.html

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing	For more information on the MAP and APA procedures, please refer to the OECD MAP Portal.	http://www.oecd.org/fr/fiscalite/resolution/pa-fiches-par-pays.htm
29	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)		