

18<sup>th</sup> March 2026**TRANSFER PRICING SERIES, ISSUE NR. 3****TRANSFER PRICING FUNDAMENTALS: COMPARABILITY, TRANSACTIONS MAPPING, AND METHODS**

*“As with any long journey, the important thing is to start off on the right foot.”*

by Gian Luca Nieddu<sup>1</sup>

*In the two contributions that preceded this article—from January to today—we sought to share some insights into the drivers to consider when reviewing the operational strategies of multinational groups, along with some reflections on the key elements that should underpin a value chain review project. This contribution, however, focuses on the fundamentals of transfer pricing, as they provide the foundation for all the subsequent developments in complexity that dynamic value chain management requires.<sup>2</sup>*

**1. The principle of free competition and comparability**

At the international level, transfer pricing is governed by the OECD Guidelines ("Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations"); it can be said that they are the result of an agreement reached within the OECD among member countries to address the sensitive issue of taxation of multinational groups. The core of these guidelines revolves around the arm's length principle (ALP), which is based on Article 9 of the OECD Model Tax Convention on Income and Capital. This principle, which applies to transactions between parties belonging to the same multinational group (associated enterprises) and headquarters in different countries, prescribes that intragroup transactions must be conducted under conditions consistent with those that would be applied by independent companies in similar (i.e., comparable) circumstances on the open market. It is important to note that the term "conditions" does not only refer to the intra-group price for goods or services but also includes all other contractual clauses that accompany and define every aspect of the intra-group transaction.

As regards the Italian regulatory framework, the reference standard for transfer pricing regulations is contained in Article 110, paragraph 7, of the TUIR<sup>3</sup> which establishes that the income components deriving from transactions with companies not resident in the territory of the State, which directly or indirectly control the company, are controlled by it or are controlled by the same company that controls the company, are determined with reference to the conditions and prices that would have been agreed between independent parties operating under conditions of free competition and in comparable circumstances.

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<sup>2</sup>Automatic English translation of the article published in the EC News review (<https://www.ecnews.it/>) on 18<sup>th</sup> March 2026.

<sup>3</sup>Presidential Decree no. 917 of 22.12.1986, Consolidated Law on Income Taxes.

The concept of comparability therefore plays a fundamental role in transfer pricing analyses and finds form – as well illustrated in the section “D. Guidance for applying the arm's length principle” of Chapter I of the OECD Transfer Pricing Guidelines<sup>4</sup>– in five factors that essentially represent the economically relevant characteristics that must be identified in commercial or financial relationships between associated companies in order to accurately outline the actual transaction:

- The contractual terms of the transaction (D.1.1).
- The functions performed by each party to the transaction, taking into account the assets used and risks assumed, including how those functions relate to the broader value generation of the multinational group to which the parties belong, the circumstances of the transaction and industry practices (D.1.2).
- The characteristics of the goods transferred or services provided (D.1.3).
- The economic circumstances of the parties and the market in which they operate (D.1.4).
- The business strategies pursued by the parties (D.1.5).

The same definition of comparability has been incorporated into the Italian provisions contained in Article 3 "Notion of Comparability" of the Ministerial Decree of May 14, 2018.

## 2. The Methods

Since an excessively high intragroup price for the sale of goods could hide tax evasion phenomena, for example the artificial shifting of the tax base from one country (with a high level of taxation) to another country (characterized by a decidedly milder or even absent level of taxation), to test the appropriateness of the prices, the OECD Guidelines identify five methodologies which have also been adopted by Italian legislation.<sup>5</sup>:

### – Traditional transaction methods:

- comparable uncontrolled price method (CUP): based on a comparison between the price charged in the supply of goods or the provision of services in a controlled transaction with the price charged in comparable uncontrolled transactions.
- resale price method (RPM): based on a comparison of the gross margin that a buyer in a controlled operation realizes in the subsequent resale in an uncontrolled operation with the gross margin realized in comparable uncontrolled operations.
- cost-plus method (CPM): based on a comparison of the gross margin earned on costs directly and indirectly incurred in a controlled operation with the gross margin earned in comparable uncontrolled operations.

### – Profit methods:

- transactional net margin method (TNMM): based on a comparison between the ratio of net margin to an appropriate measurement basis, which may be represented, depending on the circumstances, by costs, revenues or assets, achieved by an enterprise in a controlled operation and the ratio of net margin to the same basis achieved in comparable uncontrolled operations.

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<sup>4</sup>OECD, Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, January 2022.

<sup>5</sup>Decree of the Ministry of Economy and Finance of 14 May 2018, Art. 4 “Methods for determining transfer pricing”.

- transactional profit split method (PSM): based on the attribution to each associated enterprise participating in a controlled transaction of the share of the profit, or loss, resulting from that transaction, determined on the basis of the distribution that would have been agreed in comparable uncontrolled transactions, taking into account the contribution respectively offered to the realization of the controlled transaction by the associated enterprises or by attributing to each of them a share of the profit, or loss, that remains after some of the functions performed in relation to the controlled transaction have been valued on the basis of one of the methods described above.

Given these methodologies, multinational groups are called upon to adopt the one they deem most appropriate for the type of transaction being analyzed.

### 3. Final considerations

In conclusion of this brief review of some of the founding elements of transfer pricing analyses, it must necessarily be recalled that they must start from the "effective reality", that is, from an accurate description of the intra-group transaction that actually took place.<sup>6</sup>

The starting point for these activities is therefore what is known as the mapping of intercompany transactions: this aims to identify, for each foreign counterparty of the group with which the Italian company has had dealings, (i) the individual types of intragroup transactions that occurred, (ii) the related amount, (iii) the contractual terms, and (iv) the actual role played by the subsidiaries involved in the transactions in light of the functions performed, the capital goods used (tangible and intangible), and the risks assumed, also considering the broader value chain in which these transactions are part.

#### About MUSE Strategy

MUSE Strategy is an international consulting firm founded in 2022 to support multinational groups, families and individuals navigating the complexity of a globalised economic landscape. Based in Milan and with offices in London and Abu Dhabi, the firm is distinguished by an integrated, boutique approach in which business transformation, transfer pricing and wealth advisory intersect with corporate, operational, legal and international tax considerations.

MUSE Strategy's work extends beyond compliance to the design of long-term strategic frameworks, combining risk analysis, performance optimisation, corporate finance, sustainability and strategic venture development. With a focus on anticipation rather than reaction, the firm advises clients on aligning enterprise, capital and governance over time — supporting decisions that are durable, coherent and internationally resilient.

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<sup>6</sup>"Accurate delineation of the actual transaction," paragraph 1.35 of the OECD Guidelines.