

# APA Program Report

September 2003

National Tax Agency

Office of Mutual Agreement Procedures

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## 1 Foreword

This report is the National Taxation Agency (NTA)'s first report on its Advance Pricing Arrangement (APA) administration. It provides an explanation of APA as it has been applied from the period following its introduction in 1987 until 2002<sup>1</sup>.

Japan introduced APA in 1987, and it was the first in the world. When transfer pricing taxation was first introduced, there were Mutual Agreement Procedures (MAP) as problem-solving mechanism as problems that arose. Since calculation of arm's length prices often involved considerable difficult issues, APA was introduced in order to ensure taxpayer's predictability through confirmation with regard to transfer pricing methods and to help realize the proper and smooth enforcement of transfer pricing legislation. Following trends of the times, APA outgrew the national framework and became a bilateral, and eventually multilateral procedure. However, despite its growing complexity, its fundamental objectives remain unchanged.

Various international forums have long discussed the resolution of disputes arising out of transfer pricing taxation, including the OECD, the Pacific Association of Tax Administrators (PATA), and the Study Group on Asian Tax Administration and Research (SGATAR).

As described in the OECD Guidelines, APA is considered the most useful in supplementing the traditional mechanisms such as appeals, litigation and MAP for resolving transfer pricing issues<sup>2</sup>. In order to realize the smoother enforcement of transfer pricing taxation and to ensure predictability for the taxpayer, the NTA has been continually seeking to develop more proactive APA procedures. With this report, we would like to assist taxpayer understanding of APA administration in Japan and we hope this report will be of some help in promoting APA furthermore.

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<sup>1</sup> July 1, 2002 – June 30, 2003

<sup>2</sup> 1995 OECD Guidelines Paragraph 4.124

## 2 What is Advance Pricing Arrangement (APA)?

APA is the system that the tax administration gives administrative commitment to refrain from transfer pricing taxation if the tax administration confirms the transfer pricing method proposed by the taxpayer and the taxpayer files its tax return in accordance with the agreed APA conditions for the APA covered years.

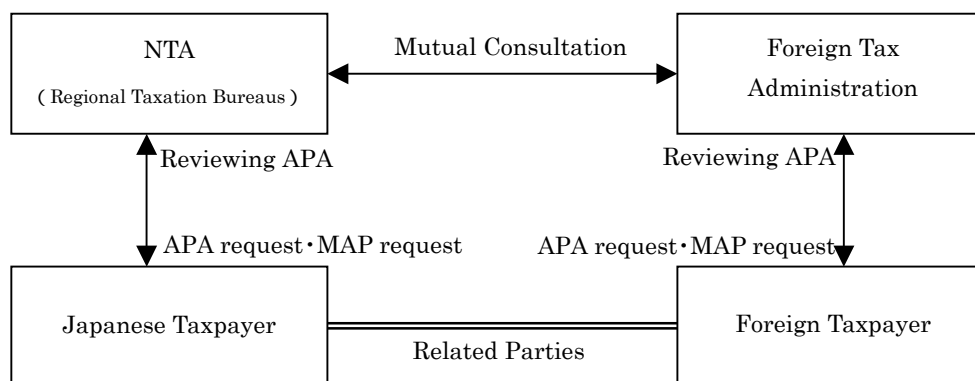
The objective of APA is to ensure the predictability of transfer pricing taxation for the taxpayer by confirming in advance the calculation methods of arm's length prices between the tax administration and the taxpayer. This ensures the proper and smooth enforcement of the transfer pricing taxation. Transfer pricing taxation is in many cases considerably high, and once the taxpayer has undergone the possible transfer pricing examination by the tax administration, a great length of time is often required for the examination and the MAP in order to resolve the issue. Thus, the risks of transfer pricing taxation for the taxpayer are generally quite high. APA allows taxpayers involved in foreign-related transactions to avail themselves of the opportunity to avoid the risk of such transfer pricing taxation in advance.

APA may involve either one country only (unilateral APA), or two or more countries (bilateral APA or multilateral APA, hereinafter referred to as MAP/APA).

Unilateral APA seeks confirmation of calculation methods of arm's length prices by the NTA for the taxpayer within Japan. Accordingly, unilateral APA does not allow the taxpayer to avoid the risk of taxation by foreign tax administrations.

MAP/APA on the other hand allows for consultation regarding methods of calculation of arm's length prices between the two or more tax administrations that have jurisdiction over the related taxpayers. Its objective is to ensure the predictability of transfer pricing taxation and to reduce the risk of double taxation. With MAP/APA, the taxpayer is ensured the legal stability of both countries (or all countries, in multilateral cases). This is the reason that Japan endorses MAP/APA, and many countries concur.

### 《Image of MAP/APA》



### 3 Background of APA in Japan and the World

APA was first introduced in Japan in 1987<sup>3</sup>. Its objective was to ensure the proper and smooth enforcement of transfer pricing legislation by giving administrative confirmation as to the most rational methods of calculation of arm's length prices for corporations<sup>4</sup>.

Thereafter, the United States Internal Revenue Service (IRS) also formally adopted APA (known as Advance Pricing Agreement in the U.S.) in 1991 with its Procedure 91-22. Subsequently, Canada (1994), New Zealand (1994), Australia (1995), and Mexico (1995), among other countries, all participated in APA. After a 1995 OECD report on transfer pricing further promoted APA, Korea (1996), Brazil (1997), China (1998), the U.K. (1999), France (1999), the Netherlands (1999), Germany (2000) all joined the system, and APA truly became the focus of global interest<sup>5</sup>.

With increased global recognition, the number of APA requests has risen, and since around 1994, MAP/APA request in Japan also increased. Due to this increase of requests for MAP/APA, the 1987 Directive was revised in 1999, and the *Commissioner's Directive on Methods of Calculation of Arm's Length Prices (Administrative Guidelines)* endorsing MAP/APA was released. The content of this document was taken over by the *Commissioner's Directive on the Operation of Transfer Pricing (Administrative Guidelines)* <sup>6</sup> ( hereafter referred to as Transfer Pricing Administrative Guidelines ) dated June 1, 2001, and is still in effect.

Comprehensive guidelines of MAP on which MAP/APA cases are addressed were announced as the *Commissioner's Directive on Mutual Agreement Procedures(Administrative Guidelines)* ( hereafter referred to as MAP Administrative Guidelines ) dated June 25, 2001<sup>7</sup>. The MAP Administrative Guidelines (English version) are also available on the NTA homepage ([www.nta.go.jp](http://www.nta.go.jp)).

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<sup>3</sup> "Guidance on Calculation of Arm's Length Prices, April 24, 1987" (hereafter referred to as 1987 Directive)

<sup>4</sup> *ibid.*

<sup>5</sup> OECD issued the OECD/APA Guidelines in 1999, committing to promoting MAP/APA.

<sup>6</sup> Document ID : Examination Division 7-1 etc. dated June 1, 2001

<sup>7</sup> Document ID : Office of Mutual Agreement Procedures 1-39 etc. dated June 25, 2001  
MAP as related to APA is regulated in the MAP Administrative Guidelines.

## 4 APA Enforcement System

In Japan, APA oversight and jurisdiction differs according to size of corporation. As a rule, the Corporation Taxation Division of the Regional Taxation Bureaus (RTBs) is responsible for reviewing APA requests filed by corporations under the jurisdiction of the Tax Office; and the Examination Division of the RTBs is in charge of reviewing APA requests filed by corporations under the jurisdiction of the Examination Division of the RTBs. However, in actuality, many of the APA requests filed by the corporations under the jurisdiction of the Tax Office are transferred, in conformance with given procedures, to the Examination Division of the RTBs and the APA review team takes charge of the cases. MAP for both types of corporations are exclusively addressed by the Office of Mutual Agreement Procedures in the NTA.

### (1) Corporations under the jurisdiction of the Tax Office

The corporations submit the APA requests and MAP requests to the Examination Group (Corporation) of the jurisdictional Tax Office. The Corporation Taxation Division of the RTBs<sup>8</sup> holds an APA pre-filing conference (described later) and carries out a review of the APA requests, in which the Corporation Taxation Division of the NTA may join as necessary.

### (2) Corporations under the jurisdiction of the Examination Division of the RTBs

The corporations submit APA requests to the jurisdictional RTB and MAP requests to the jurisdictional Tax Office. The Examination Division of the RTBs<sup>9</sup> holds the APA pre-filing conference (described later) and carries out a review of the APA requests, and the Examination Division of the NTA may join as necessary<sup>10</sup>.

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<sup>8</sup> Corporation Taxation Divisions of Second Taxation Departments of RTB (or of Taxation Departments in the cases of the Kanazawa, Takamatsu, Kumamoto RTBs); or Corporation Taxation Division of the Okinawa Regional Taxation Office.

<sup>9</sup> The Transfer Pricing Division, First Examination Department of the Tokyo and Osaka RTBs; the International Examination Division, Examination Department of the Nagoya RTB; the International Examination Division, Examination and Criminal Investigation Department of the Kanto-Shin-Etsu RTB; the Management Division (Examination), Examination and Criminal Investigation Department of the Sapporo, Sendai, Kanazawa, Hiroshima, Takamatsu, Fukuoka and Kumamoto RTBs; and the Examination Division of the Okinawa Regional Taxation Office.

<sup>10</sup> The Corporation Taxation Division (the division in charge of corporations under the jurisdiction of the Tax Office) or Examination Division (the division in charge of corporations under the jurisdiction of the Examination Division of the RTBs) of the RTBs are hereafter referred to as the division in charge of the RTBs, and the Corporation Taxation Division, the Taxation Department (the division in charge of corporations under the jurisdiction of the Tax Office) or the Examination Division, the Examination and Criminal Investigation Department (the division in charge of corporations under the jurisdiction of the Examination Division of the RTBs) of the NTA are hereafter referred to as the division in charge of the NTA.

## 5 An Overview of APA in Japan

Japan's APA procedures are regulated by the aforementioned Transfer Pricing Administrative Guidelines and the MAP Administrative Guidelines.

An overview of the procedures is as follows.

### (1) Definition of APA

APA is defined as the confirmation made by a District Director of Tax Office or a Regional Commissioner of a RTB with regard to the methods of calculation of arm's length prices and the specific details thereof deemed to be the most reasonable to be adopted by a corporation

### (2) The relationship between APA and MAP

#### Elimination of double taxation

MAP/APA is a means to eliminate double taxation before the transactions are conducted by implementing Competent Authority (CA) negotiations and to aim for an agreement as to adequate transfer pricing methods between the countries concerned.

#### Endorsement of MAP request when APA is filed<sup>11</sup>

To avoid double taxation and to ensure predictability, the division in charge of the RTBs shall recommend the applicant for APA to file a MAP request in the case where the corporation has not filed one.

#### Collaboration between APA review teams of RTBs and MAP section<sup>12</sup>

The APA review teams (the divisions in charge of the RTBs) and the MAP section (the Office of Mutual Agreement Procedures) collaborate together and closely exchange ideas from the pre-filing conference stage to the conclusion of MAP, in order to resolve the APA case as prompt as possible.

### (3) Relationship between APA and transfer pricing examination

#### Confirmation of future years' transfer pricing

APA examines the adequacy of the calculation methods of arm's length prices and the level of profit rate based on past financial data. This is in order to grant confirmation for the future transactions, which differs from transfer pricing examinations that deal

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<sup>11</sup> Transfer Pricing Administrative Guidelines 5 - 11.

<sup>12</sup> Ibid 5 - 12.

with past years' transactions.

#### Use of range

In transfer pricing examinations, arm's length prices are calculated as a particular level of point. On the other hand there are many cases of APA being confirmed with a range that determines there is no income transfer.

#### Comparable transactions

APA is a system that involves the recognition of calculation methods proffered by the taxpayer himself, and so the selection of comparative transactions is based only on information the taxpayer is able to gather (public data, internal data, etc.).

#### Relationship between APA request and examination<sup>13</sup>

- Filing an APA request does not put into abeyance any examination of the same taxpayer and transactions.
- In order to ensure trust in the system, information obtained from the taxpayer in the APA review process should not be used in the examination, except for factual information such as financial statements, capital relationship diagrams, summary statement of business, etc.

### (4) Request and review procedures

#### Due date of filing APA request<sup>14</sup>

Special Application Form ("Request for APA of the Transfer Pricing Methodology") must be filed with necessary documents no later than the due date for filing the taxpayer's final tax return for the first business year to be covered by the APA. When MAP is requested, a MAP Request Form must also be submitted separately. Though there is no deadline for requesting MAP regarding the APA cases, the MAP Request Form is usually submitted together with APA request.

#### Documents to be attached with APA request<sup>15</sup>

- Outline of organization carrying out foreign-related transaction for confirmation and/or details of the transaction
- Transfer pricing method to be confirmed and the specific details thereof, and explanation of why this method is the most rational
- Material business and economic conditions essential to APA
- Cash flow and currency types of the transaction to be confirmed

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<sup>13</sup> Transfer Pricing Administrative Guidelines 2 - 13.

<sup>14</sup> Ibid 5 - 1.

<sup>15</sup> Ibid 5 - 2.

- Capital relations and substantial control relationship with foreign-related person
- Functions performed by transaction parties
- Operational and accounting information for the prior three years
- Outline of any transfer pricing examinations, appeals, lawsuits and so on pertaining to applicable foreign-related persons, and details of past taxation in their country
- Results determined by applying the requested transfer pricing methods to the prior three years

Terms to be confirmed<sup>16</sup>

Under the Transfer Pricing Administrative Guidelines, in principle APA is applicable to three years. However, this may be extended flexibly to the content of the APA request.

#### (5) Review of APA request

The review is carried out based on the following items

Understanding of the business conditions of the APA requesting taxpayer and foreign-related company, and particulars of the foreign-related transactions

Analysis of probability of past years' income transfer, which constitute the basic data for review

Analysis of the adequacy of calculation methods of arm's length prices

Analysis of the comparability of the comparable transactions

- Types of inventories and service rendered, etc.
- Stage of transaction
- Volume of transactions
- Terms and conditions for the transaction
- Functions performed and risks to be assumed by the parties concerned
- Intangible assets
- Business strategy
- Timing of entry into the market
- Market conditions

#### (6) Effects of APA <sup>17</sup>

When the taxpayer files tax returns in accordance with the APA confirmation, the confirmed transaction is treated as having conducted arm's length prices.

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<sup>16</sup> Transfer Pricing Administrative Guidelines 5 - 7.

<sup>17</sup> Ibid 5 - 16.

(7) Examination of compliance conditions<sup>18</sup>

The taxpayer receiving APA confirmation (hereafter referred to as confirmed corporation) must submit reports (annual compliance reports) explaining that the filed income is in accordance with the APA confirmation, by the due date for filing the taxpayer's final tax return for each year covered by the APA or the deadline predetermined by the District Director of the Tax Office. The division in charge of the RTBs will examine the content of those reports.

(8) Compensating adjustment<sup>19</sup>

In case incomes (actual figures) derived from the confirmed transactions during the APA covered year do not comply with the conditions of the confirmed APA, the taxpayer must make necessary adjustments for the year. If the confirmed corporation makes any adjustments required to comply with the contents of APA in the financial statements, the adjustments are treated as legitimate transactions for the purpose of transfer pricing.

Correction on the final returns

The confirmed corporation must correct the taxable income on the final returns if it turns out that income was understated in the financial statements pertaining to the confirmed taxable years due to an inconsistency between the actual transaction and the results of applying the confirmed transfer pricing method after the closing date of the reporting financial statements, and before the due date for final tax returns.

Amended returns

The confirmed corporation must promptly file amended tax returns if it turns out that income was understated in the tax returns pertaining to the confirmed taxable years due to an inconsistency between the actual transaction and the results of applying the confirmed transfer pricing method after filing tax returns.

When APA is MAP/APA, the confirmed corporation must be adjusted by      and      as well as the following:

Correction on the final returns

The confirmed corporation may correct the taxable income on the final returns based on the mutual agreement if it turns out that income in the financial statements pertaining to the confirmed taxable years was overstated due to a difference between

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<sup>18</sup> Transfer Pricing Administrative Guidelines 5 - 14.

<sup>19</sup> Ibid 5 - 17.

the actual transaction and the results of applying the confirmed transfer pricing method after the closing date of the reporting financial statements, and before the due date of final tax returns.

#### Requests for correction for the tax return

The confirmed corporation may file a request for correction for the tax return based on the mutual agreement if it turns out that income was overstated due to a difference between the actual transaction and the results of applying the confirmed transfer pricing method in the tax reruns after filing final tax returns pertaining to the confirmed taxable years.

### (9) Revisions, cancellations and renewals

#### Revisions<sup>20</sup>

In the event that there arise a situation that causes material differences to business and economic conditions essential to the continuation of APA and critical assumptions differ drastically from those at the time of confirmation, the taxpayer must file a request for revision to APA .

#### Cancellations<sup>21</sup>

APA shall be cancelled under any of the following circumstances:

- The confirmed corporation does not submit the request for revision even when material differences to critical assumptions arise.
- The confirmed corporation fails to comply with the contents of APA in its tax returns.
- The confirmed corporation fails to submit the annual compliance report.
- Any of the facts based on the APA request are revealed to be false.

#### Renewals<sup>22</sup>

If a request for renewal of APA for the business years following confirmed years, it shall be processed in accordance with the procedures for a new APA request.

### (10) Rollback<sup>23</sup>

When the taxpayer propose to rollback the transfer pricing method to years prior to the confirmed years and the confirmed transfer pricing method is regarded as the most

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<sup>20</sup> Transfer Pricing Administrative Guidelines 5 - 18.

<sup>21</sup> Ibid 5 - 19.

<sup>22</sup> Ibid 5 - 20.

<sup>23</sup> Ibid 5 - 21.

reasonable even for the years prior to the confirmed years, the rollback shall be approved.

## 6 APA Process

In Japan, APA commences at the request of the taxpayer. The NTA does not charge any fee for APA proceedings. APA procedures, as a rule, can be divided into the following 4 steps: (1) submission of APA requests, (2) case review by the APA review groups of RTBs, (3) MAP negotiation and agreement, and (4) review of annual compliance reports, etc.

### (1) Submission of an APA request

The taxpayer may have a pre-filing conference with the Tax Authority before determining whether he applies for APA. Where MAP proceedings are likely to be requested at a later date, the relevant divisions of the RTBs and the NTA Head Office in charge of APA program may attend the meeting, and the Office of Mutual Agreement Procedures may participate in the consultation. Further, there may be cases where the taxpayers apply for an APA after experiencing a transfer pricing examination in order to avoid future risk of taxation and to ensure predictability for his business. In such cases, if a MAP is underway regarding the former transfer pricing taxation cases, the taxpayer can express a request for APA to the CA analysts and then arrange for a pre-filing conference.

When a unilateral APA request is submitted, the NTA encourages the taxpayer to apply for MAP too.<sup>24</sup>

An APA request should be submitted to the Tax Office or RTBs depending on the size of the applicant corporation. With the request form, the taxpayer is required to attach necessary documents which sufficiently illustrate the transactions (see 5(4) ). The APA review group of the RTBs helps with the smooth review of requests.

### (2) Case review by the APA review group of the RTBs

When the APA request is submitted, the relevant division in the RTBs designates a person to be responsible for the request and commence the review immediately. The APA review staff requests documents necessary for their review in addition to documents attached to the APA request. The APA review group of the RTBs then reports its review results to the division of the NTA Head Office. The division of the NTA Head Office reviews the report internally and circulates the report to the Office of Mutual Agreement Procedures.

The APA review group of the RTB conducts their review in accordance with the Transfer Pricing Administrative Guidelines 5-10 (Evaluation of an APA requests).

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<sup>24</sup> Transfer Pricing Administrative Guidelines 5 - 11

(3) MAP negotiation and agreement

In the case of MAP/APA, the CA analysts draft a Position Paper respecting the conclusion reached by the APA review staff of the RTBs. Face-to-face negotiations by CA staff of countries involved are generally held several times a year. In addition, communication between CAs by telephone, fax, and other means is encouraged and exchanges of opinion are conducted on certain specific cases where necessary. The CA staff and APA review staff keep in regular contact and exchange views on the material facts. When the APA agreement reached differs from content of the APA applications, the taxpayer is required to submit a modified APA request. The APA review group of the RTBs then sends a notice of APA confirmation to the taxpayer.

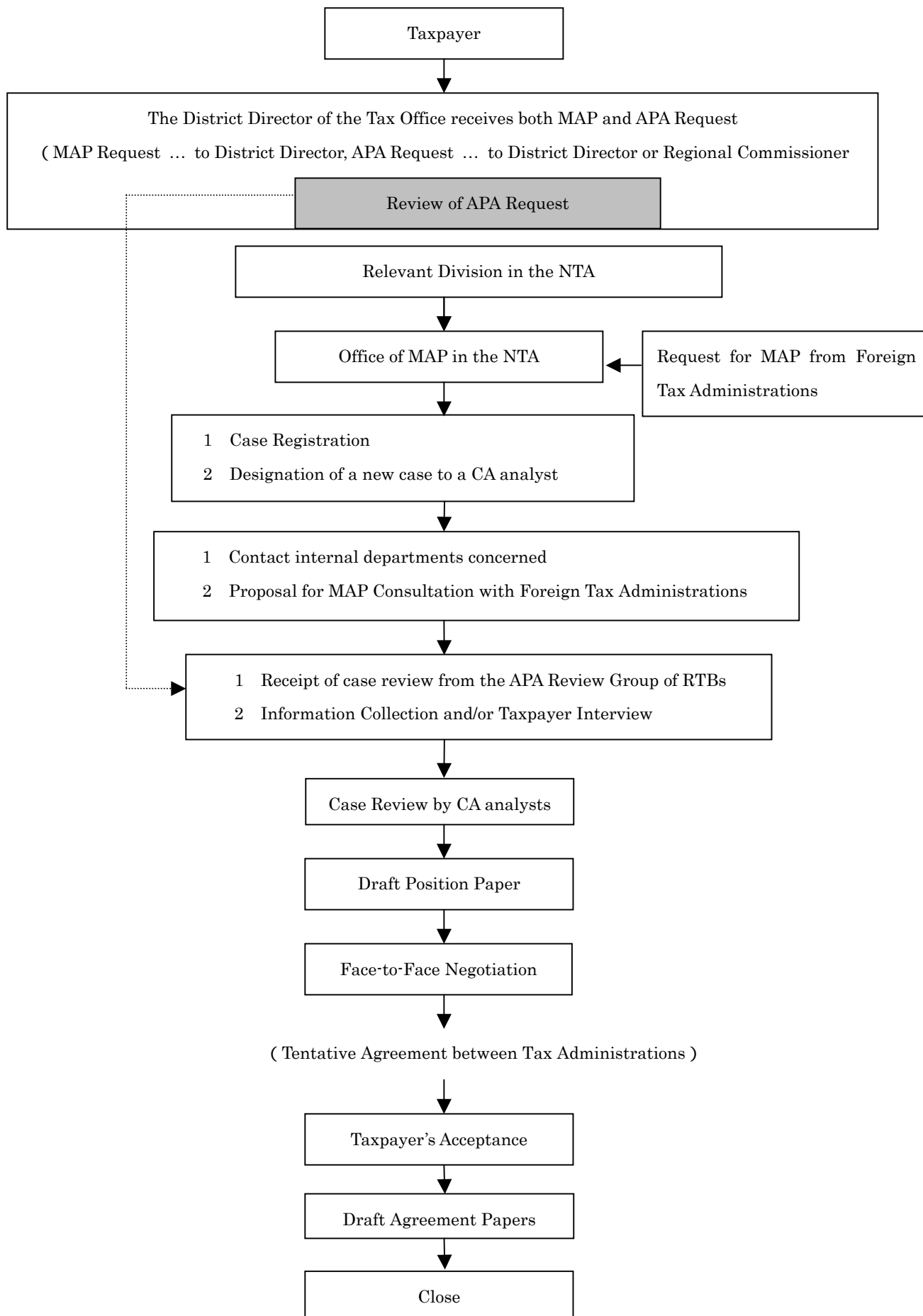
In the case of a unilateral APA, a modified APA request may be requested when the APA review group of the RTBs judges the original APA request not to be reasonable. If the taxpayer does not accept the request for modification from the APA review group, the APA review group of the RTBs sends a notice of non-confirmation. When the content of the APA request is approved, or when the taxpayer accepts the required modification, the APA review group of the RTBs sends a notice of confirmation to the taxpayers.

(4) Examination of annual compliance reports, etc.

After the APA confirmation notice is received, the taxpayer are required to submit, by the due date of the final tax return or by the newly designated date, an annual compliance report which for each business year explains whether the business result reported in the tax return meets the agreement. In the case that income figures are under-reported compared with the figures agreed, they must be adjusted upward in the modified APA request. Conversely, when income figures are over-reported, MAP negotiation has to be held. The taxpayer have to submit the MAP request, and according to the agreement of the MAP, the taxpayer conducts the compensating adjustment (request for recovery).

Further, when the conditions provided in critical assumptions are changed, a request for new MAP consultation is necessary.

Flowchart of Mutual Agreement Procedures (Bilateral APA Cases)



## 7 Cooperation from Taxpayer regarding APA

The APA program is structured based upon the initiative of the taxpayer. The cooperation of the taxpayer in order to ensure smooth proceedings of APA is therefore indispensable. In particular, timely submission of the relevant documents and other information may contribute greatly to efficient case reviews and CA discussions. Prompt submission is thus essential.

Further, when an APA request is submitted to a foreign tax administration, an application should be submitted simultaneously to the NTA in order to enable more effective case review and CA discussions.

Moreover, the CA analysts concerned quite often request additional information for the purpose of, for example, verifying facts. On such occasions the taxpayer's quick response is highly appreciated.

## 8 APA Status

As noted before, APA was introduced in Japan in 1987. The following chart indicates the MAP/APA and unilateral APA cases received and disposed of in the 16 years from 1987 through 2002. It shows clearly that the majority of cases in Japan are MAP/APA. (MAP/APA cases are counted by the number of tax treaty countries involved in a specific case; Unilateral APA cases are counted by number of domestic corporations involved<sup>25</sup>.)

( Unit : Case )

	Cases Received		Cases Disposed	
MAP/APA	258	85.4%	170	83.7%
Unilateral	44	14.6%	33	16.3%

Below, MAP/APA is explained in greater detail.

### (1) Yearly data of the number of cases received

The number of MAP/APA cases received increased after around 1994, when the MAP/APA program started to gain recognition worldwide. From 2000, 12 years after the system began, the average number of cases (previously 10 annually) grew fourfold.

( Unit : Case )

Cases Received	1987 – 99	2000	2001	2002	Total
MAP/APA	121	48	42	47	258

### (2) Yearly data of the number of cases disposed

The total number of cases disposed since the introduction of the program in 1987 to 1999 was 69, but 47 cases were completed in 2002.

( Unit : Case )

Cases Disposed	1987 - 1999	2000	2001	2002	Total
MAP/APA	69	29	25	47	170

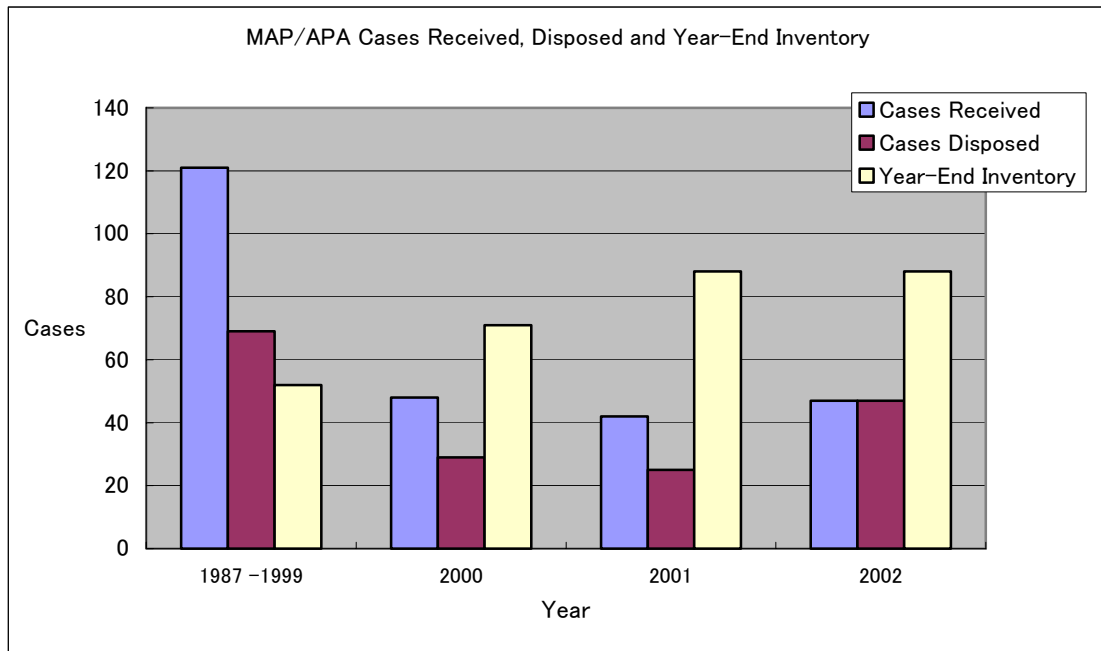
<sup>25</sup> MAP/APA cases are counted by the number of MAP requests submitted (or requests by a partner country). Each case received is counted as one case. That is, they are properly defined as cases of MAP based on APA. MAP related to compensating adjustments and revisions following APA agreement are included. Therefore, cases disposed are also counted based on MAP/APA agreement. (However, analysis by industry type, transaction types, and transfer pricing methods all reflect the number of cases not including compensating adjustment, etc., cases. There were 11 compensating adjustment cases in 2000, 9 in 2001, and 19 in 2002.) According to the NTA's "Corporate taxation tax earnings from corporations under the jurisdiction of the Examination Division", each APA application is counted as one case, and cases disposed are counted by the number of confirmation notices sent to taxpayers or the number of case withdrawals by the taxpayer. Thus, it is possible that case counts may not agree. Hereafter, a year is defined as July 1 to June 30 of the following year. Thus, July 1, 2002 -June 30, 2003, is considered one year.

(3) Yearly data of the number of cases carried over

Notwithstanding the increase in the number of cases disposed, the number of newly received cases is also growing, with the result being an increase in the number of cases carried over.

( Unit : Case )

Year-End Inventory	1999	2000	2001	2002
MAP/APA	52	71	88	88



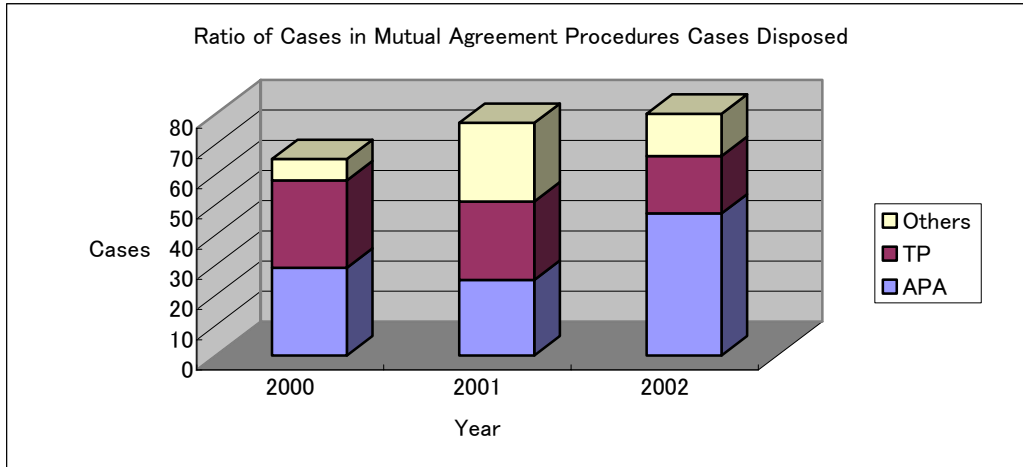
(4) Analysis of MAP/APA cases for the past tree years

- Proportion of MAP/APA cases in MAP cases

MAP cases over the past three years are as outlined below. In 2002, MAP/APA accounted for approximately half of all cases received, cases disposed, and the year-end inventory.

( Unit : Case )

		MAP/APA		Transfer Price Taxation		Others		Total	
		Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
2000	Cases Received	48	64.9%	14	18.9%	12	16.2%	74	100.0%
	Cases Disposed	29	44.6%	29	44.6%	7	10.8%	65	100.0%
	Year-End Inventory	71	51.1%	33	23.7%	35	25.2%	139	100.0%
2001	Cases Received	42	47.7%	30	34.1%	16	18.2%	88	100.0%
	Cases Disposed	25	32.4%	26	33.8%	26	33.8%	77	100.0%
	Year-End Inventory	88	58.6%	37	24.7%	25	16.7%	150	100.0%
2002	Cases Received	47	50.0%	19	20.2%	28	29.8%	94	100.0%
	Cases Disposed	47	58.7%	19	23.8%	14	17.5%	80	100.0%
	Year-End Inventory	88	53.6%	37	22.6%	39	23.8%	164	100.0%



- MAP/APA cases disposed, by Industry

Corporation industry related to MAP/APA cases disposed are as follows <sup>26</sup>.

Following indicates the MAP/APA user corporations by industry type.

( Unit : Corporation )

	2000	2001	2002
Manufacturing	11	11	12
Wholesaling · Retailing	4	2	8
Others	2	-	3

- MAP/APA cases disposed, by transaction types

Transactions involving MAP/APA cases disposed are categorized by transaction types as follows<sup>27</sup> <sup>28</sup>. Approximately 50% are inventory transactions; the rest are split by service offers and others.

(Unit : Case )

	2000	2001	2002
Inventory Transactions	15	16	21
Service Offers	8	7	10
Others <sup>29</sup>	9	7	10

- Transfer pricing methods for MAP/APA cases disposed

Transfer pricing methods are as follows<sup>30</sup> <sup>31</sup>:

(Unit : Case)

	2000	2001	2002
Three Basic Methods <sup>32</sup>	16	15	24
Other Means	7	6	10

<sup>26</sup> Not including compensating adjustment, etc.

<sup>27</sup> Not including compensating adjustments, etc.

<sup>28</sup> Some of the cases disposed counted as one involved more than one transaction for APA.

<sup>29</sup> 'Others' refers to royalty- and global trading-related transactions.

<sup>30</sup> Not including compensating adjustments, etc.

<sup>31</sup> More than one calculation method may be used in some of the cases disposed

<sup>32</sup> Three Basic Methods include Comparable Uncontrolled Price method, Resale Price method, and Cost Plus method, and their equivalents as well as identical methods thereof.

- MAP/APA cases disposed - by region

( Unit : Country )

Counterpart Countries	2000	2001	2002
Americas	20	18	24
Asia / Oceania	4	5	17
Others	5	2	6

- (5) Time spent for disposition of a MAP/APA case

The average time spent for disposition of a MAP/APA case is around two years, though it varies according to whether, for example, a case is a new type, whether it merely involves the renewal of the former APA, or whether it is a compensating adjustment case.

## 9 Staff in charge of MAP/APA cases

### (1) Staff for the MAP program

The section in charge of MAP was initially placed under the Councilor of the Minister's Secretariat (Deputy Commissioner (International Affairs)) and the Director (Head of the Office for the Deputy Commissioner (International Affairs)) in June 1982. The Deputy Commissioner and the Director take charge of international conferences. The Office of International Operations was established in 1986. Subsequently, the positions of the Director overseeing MAP (1995), and the Director (Mutual Agreement Procedures) overseeing MAP (1997) were created. And the Office of Mutual Agreement Procedures were established in July 1999.

The staff of the Office of Mutual Agreement Procedures is responsible for the entire MAP, and so they address not only MAP/APA cases, but also Transfer Pricing Taxation Cases, Withholding Cases, PE Cases, etc. However, APA Cases have become the center of the cases addressed as they occupy approximately one half of all Office of Mutual Agreement Procedures cases in recent years.

### (2) Staff of APA review groups

The Examination Division of Examination and Criminal Investigation Department in the NTA established the Director (International Examination), Research and Information Section No.1-3 (Currently renamed International Information Section No. 1-3) in 1987. They supervise and guide RTBs in transfer pricing taxation and implementation of the APA program. The composition of the Examination Division of the NTA Head Office and the Examination Division of the RTB in charge of APA are as follows.

National Tax Agency			
Assistant Commissioner (Examination and Criminal Investigation)	Director, Examination Division	Director (International Examination)	International Information Section No. 1-3

Regional Taxation Bureau (Office)			
Tokyo RTB	First Examination Department	Deputy Assistant Regional Commissioner (International)	Transfer Pricing Division
Osaka RTB	First Examination Department		Transfer Pricing Division
Nagoya RTB	Examination Department		International Examination Division
Kanto-Shin-Etsu RTB	Examination and Criminal Investigation Department		International Examination Division
Other RTBs	Examination and Criminal Investigation Department		Management Division (Examination)
Okinawa Regional Taxation Office			Examination Division