



# Towards operational clarity

Transfer pricing trends in Africa  
– 2025 and beyond



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Michael Hewson

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## NAVIGATING OUR REPORT

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**In 2025 – our fifth year of surveying transfer pricing (TP) professionals about trends in Africa – it's encouraging to see that African multinationals report a maturing TP environment, although this brings its own challenges.**

While compliance remains the bedrock, the Graphene Economics TP Matters 2025 survey results show a decisive shift toward operational TP, where intra-group services, head office allocations, and procurement processes dominate both focus and friction.

This year's findings, drawn from practitioners across the continent, show key trends defining TP in Africa include data quality, authority behaviour, and business restructuring.



# A Graphene Economics perspective

by Michael Hewson

Founder and Director

**It's clear we are entering a new phase of African transfer pricing. None of the individual trends we are seeing are new on their own. What is different is the way they are converging. Economic pressure on governments, improved technical capacity at revenue authorities, business model changes within multinationals, the growth of information sharing and rapid advances in technology are all reinforcing each other. Together, they are reshaping how transfer pricing is applied and challenged in practice.**

## Intensifying pressure

Many countries across Africa are under acute fiscal pressure. Slower growth, currency volatility, electricity constraints in many markets and liquidity challenges are straining public finances. That naturally pushes revenue authorities to focus on collections. Given the reliance on multinational enterprises as a tax base, it is not surprising that cross-border transactions and transfer pricing have become a central focus area.

At the same time, we are seeing a step change in the depth and technical complexity of cases brought by revenue authorities. Support and training from a range of international organisations, together with regional initiatives, are bearing fruit. Countries that barely had TP audit activity a few years ago are now running more audits, asking more targeted questions and testing more complex issues.

On the other side of the table, many companies have also experienced financial strain for the same macroeconomic reasons that are driving governments to raise more revenue. The difference is that businesses must create demand and compete for customers, while revenue authorities can focus on a relatively small number of corporate taxpayers to close the gap. This creates an environment where taxpayers are under commercial pressure at the same time as their TP arrangements are facing greater scrutiny.

Overlaying all of this is a steady increase in information sharing between authorities. Country-by-country reports, exchange of information mechanisms and a broader move towards transparency mean that revenue authorities can form a more complete picture of a group's footprint and profitability across countries. That information is increasingly being used to risk profile taxpayers and identify cases that warrant detailed audit.

## What AI changes, and what it does not

On top of these structural trends sits technology, and in particular artificial intelligence. My personal view is that AI is already a game changer, but perhaps not in the way some expect.

In the short term, AI can make all of us look smarter. For a while, that can feel like a competitive advantage. But because these tools are widely available, that edge does not last very long.

Instead, I expect AI to raise expectations. Boards, audit committees and other stakeholders will assume that tax and TP teams have quicker access to information and precedent than before. They will ask more detailed, better-informed questions. The same is true on the other side. Revenue authorities can use AI to analyse large volumes of data, compare trends across industries and countries, and identify outliers in a taxpayer's profile far more efficiently than before.



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Crucially, AI does not remove the need for substance. If anything, it increases the importance of robust systems and consistent implementation. If authorities can test data across multiple years and entities at the click of a button, inconsistencies and gaps will be easier to spot. That will drive a stronger need for automation and reliable internal systems. There is a cost to putting those in place, but in our view, it is likely to be the most effective defence against a potential barrage of detailed audit questions in future.

### The new audit dynamic

Historically, one of the factors that seemed to be behind revenue authorities taking a long time to build up their audit capabilities is the fact that TP requires a person to confidently analyse transactions and ask the right questions. Now, it doesn't require people with many years of experience. It requires someone curious and with a sharp mind who has access to a laptop and Wi-Fi who can access international cases and literature and apply it to a particular country in a particular industry and look very knowledgeable.

We are already seeing glimpses of how this plays out in practice. Not long ago, someone phoned me out of the blue to ask for advice. They had run a benchmarking study using AI, obtained a set of results, and then realised they had no idea how to apply those results to the company they were analysing. That conversation was a useful reminder. Technology can accelerate parts of the process, but it cannot replace the underlying economic thinking that sits behind a defensible TP position.

### What this means for TP professionals

It would be easy to look at these developments and worry that there will be less work for TP professionals. My view is the opposite. The nature of the work will change. There will be less value in simply repeating standard templates or running generic benchmarks that anyone can produce with a few prompts.

Where TP professionals will add the most value is in thinking. The ability to interrogate facts, identify weaknesses in logic, understand how complex businesses really operate and apply the rules in a way that reflects economic reality will become even more important. As companies adapt their operating models to meet customer needs across multiple, often challenging markets, TP professionals will need to keep pace with that complexity.

That requires more than technical knowledge or clever use of AI. It requires awareness of the potential issues, an appreciation of the commercial context, a solid understanding of the rules and a determination to find the right answer, not just a quick one.

This report aims to provide a snapshot of how TP professionals across Africa are experiencing these shifts, and to offer practical insights to help multinationals navigate what we expect will be an increasingly demanding environment for transfer pricing in the years ahead.

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# About the 2025 report

**The purpose of the Graphene Economics annual TP survey and report is to track and share key industry developments, emerging trends, and meaningful insights with our clients, associates, and the wider TP community across Africa.**

## New this year

For the first time, our 2025 survey introduced a **Tax Friction Index**, aimed at gauging how both taxpayers and revenue authorities experience common sources of friction, offering a glimpse into where tension (and opportunity for collaboration) lie across the continent.

[Read more on page 15.](#)

The 2025 edition drew responses from 51 participants, the majority of whom work within multinational enterprises.

Half of all respondents reported having more than 10 years of TP experience, compared to just 13% in the first survey. This demonstrates that the dataset increasingly reflects the perspectives of seasoned practitioners actively managing TP across multiple jurisdictions.

Participants represented 9 African countries, with South Africa, Kenya, Nigeria, and Zambia the most prominent.

**Together, these insights provide a continental snapshot of how transfer pricing practice and policy continue to evolve across Africa.**





# Top TP takeaways from 2025



## From rules to real operations

TP is moving beyond paperwork and compliance. Companies are focusing more on how their services, head-office charges, and procurement processes actually work in practice.



## Data is the new bottleneck

Inaccurate or incomplete data causes more TP problems than the rules themselves. Better data systems and clear internal processes are becoming essential safeguards.



## Tax authorities have the data advantage

Revenue authorities are sharing more information and using smarter tools. Businesses need to keep better records and ensure their numbers can be traced and explained.



## Disputes are becoming routine

Audits and challenges are on the rise. Recent Kenyan, Tanzanian and Zambian examples show how frequent TP audits are becoming, with almost annual audits for many taxpayers.



## APAs are in demand but hard to get

Many companies want advanced pricing agreements for certainty, but limited capacity and lack of implemented regulations currently make them a limited option.



## AI adoption remains cautious

Some companies are testing automation and AI tools, while authorities are already using them. Simple uses (like gathering data or preparing reports) can help close that gap.



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# 1 | TP trends snapshot



## TP trends snapshot

### External environment: audits, revenue authority alignment and AI

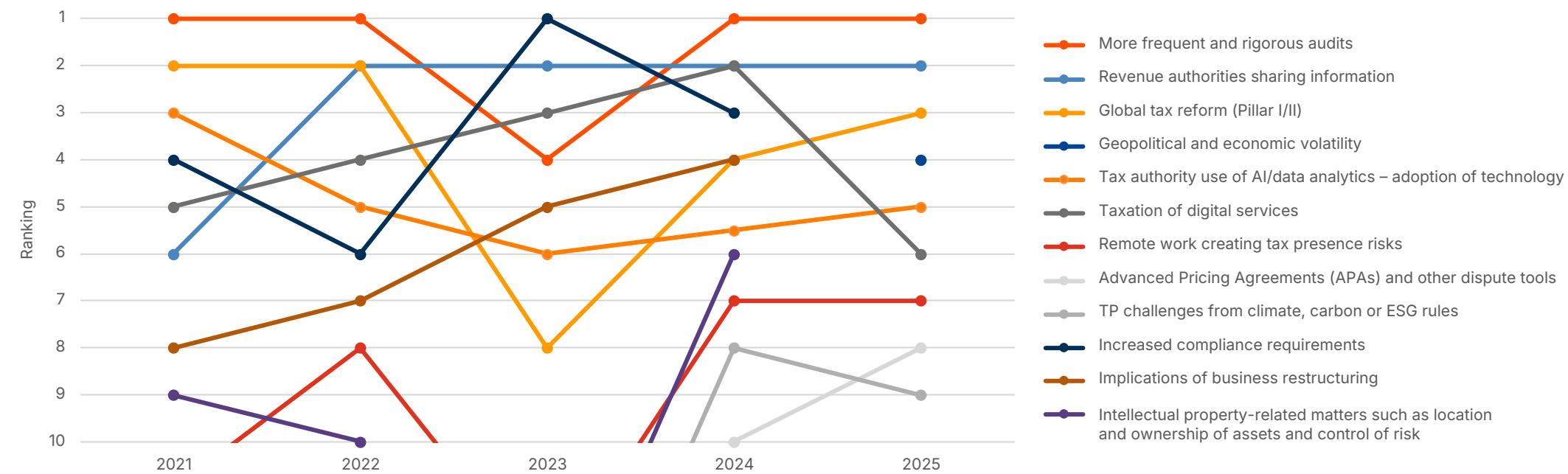
Respondents again ranked more frequent audits and information sharing between authorities as the most significant external drivers of TP activity, a pattern consistent with previous years.

However, 2025 marks the return of global tax reform (Pillar I/II) to the top three, after dropping slightly in 2023. This is probably because the rules for Pillar Two were formally introduced in South Africa earlier this calendar year. Large companies (with revenue >Euro 750m) are evaluating the impact on their business. This is turning out to be quite complex and even SARS has moved certain deadlines out to 2026.

Also moving up are revenue authorities' use of AI and data analytics and the impact of geopolitical volatility, both of which respondents now see as key influences on African TP policy and enforcement.

Emerging pressures include taxation of digital services, climate- and ESG-linked TP challenges.

**Figure 1:**  
TP trends over time / 2021 – 2025





## Internal business trends: intra-group services still tops

As in previous surveys, intra-group services (which may or may not include headquarter and management services) remain the single most significant internal TP issue. This is followed by intellectual property (IP).

In Graphene Economics' work over the past year, we've definitely seen an uptick in restructuring

activity due to a wave of corporate unbundlings, mergers and acquisitions (across many different sectors), all of which complicate intercompany pricing and asset attribution.

Marketing and distribution arrangements also remain relevant, though less so than in 2024, while low-value services and work-from-anywhere policies have fallen slightly lower in the list.

**Figure 2:**  
Top three internal business trends 2022-2025

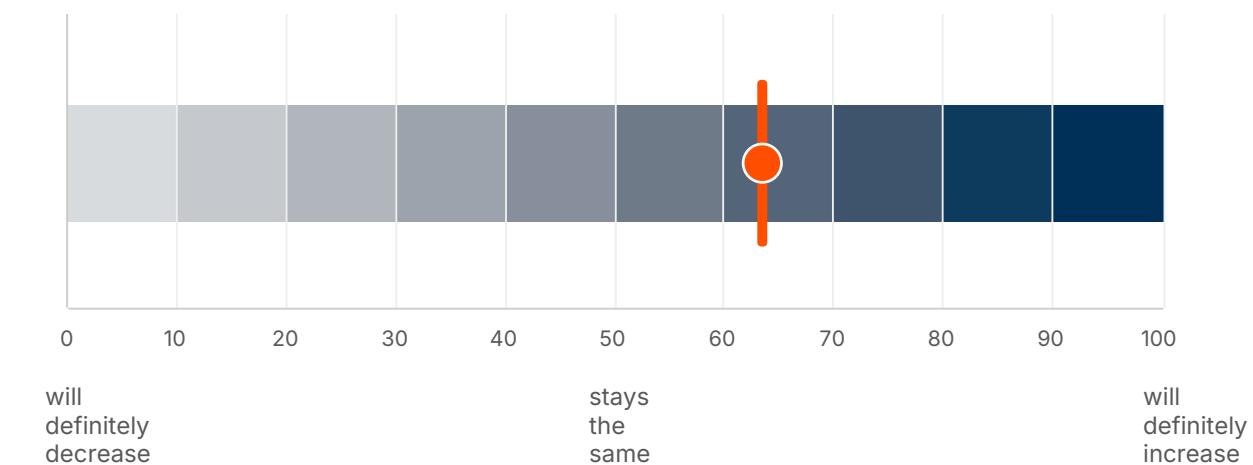
BUSINESS TRENDS	RANKING			
	2022	2023	2024	2025
Intra-group services	1		1	1
Headquarters and management services	2	2		2
Intellectual property issues (location, ownership, risk control)				3
Permanent establishment		2	2	
Group procurement operations		2		
Level of substance in offshore entities		1		
Group procurement operations			3	
Business restructuring impacts	3			

## Compliance and data challenges: growing complexity

Respondents expect TP compliance costs to rise modestly rather than dramatically. But the bigger story lies in data quality. Across almost every question and discussion thread, poor or fragmented data systems emerged as a significant operational challenge. Many firms reported difficulties retrieving consistent, auditable data from ERPs, especially in multi-country groups.

**“Expect to see a growing investment focus on data lakes, consolidation tools, and workflow systems to improve documentation quality and audit preparedness.”**

**Figure 3:**  
Over the next 12 months, how do you expect your TP compliance costs to change (assuming no significant business changes)?





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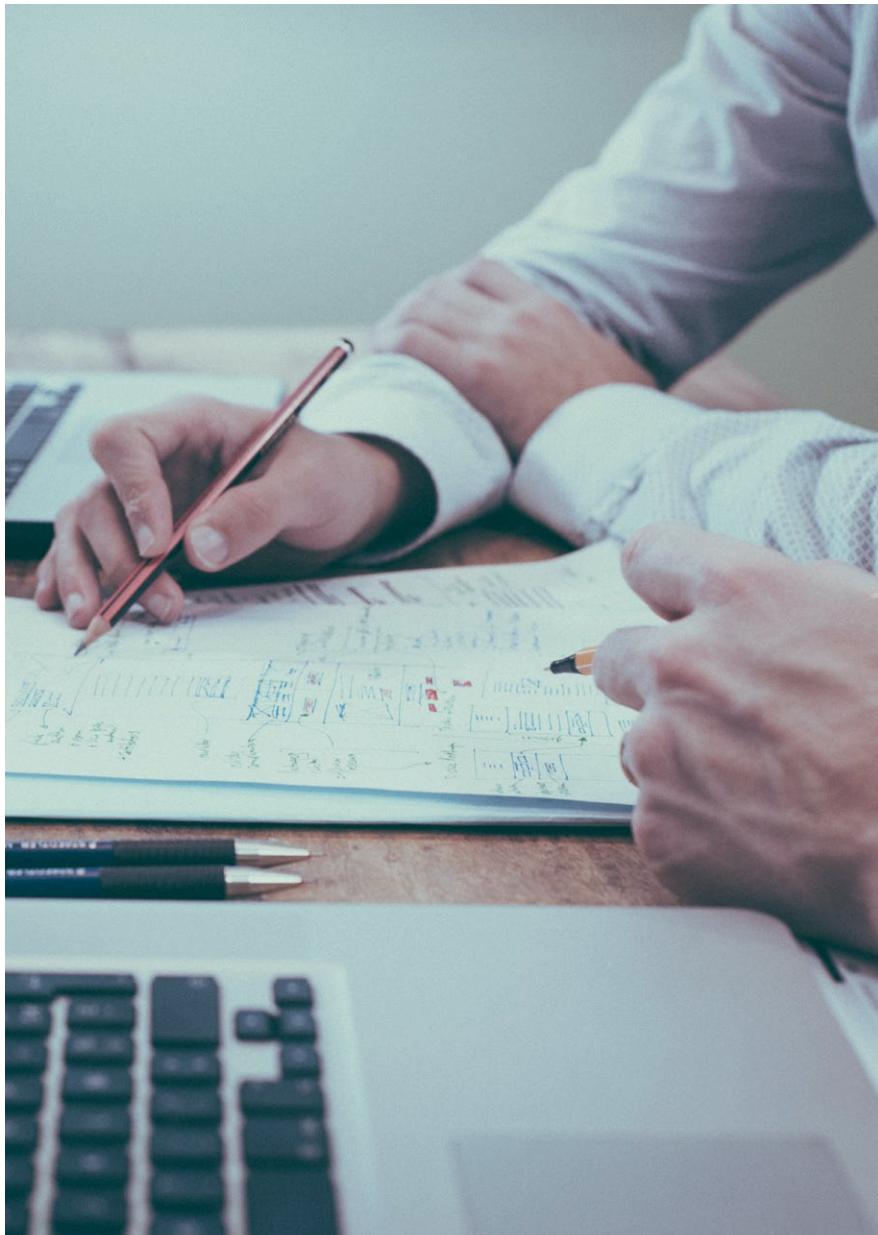
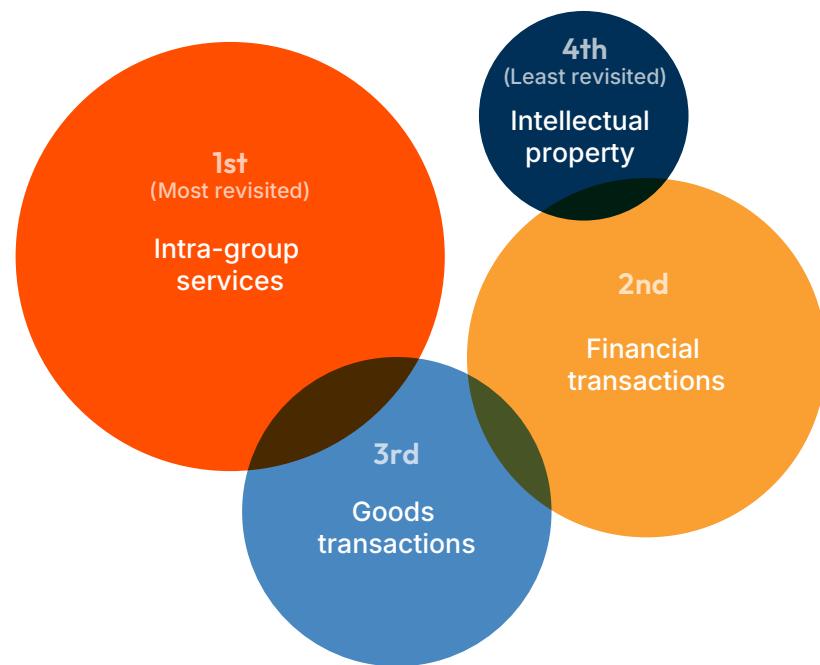
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## Repricing trends: operational transactions under review

In the past 12 months, respondents most often revisited pricing for intra-group services, financial transactions, and goods transactions.

IP-related pricing was reviewed less frequently than expected, despite being one of the most scrutinised areas. This mismatch suggests that while IP remains conceptually high-risk, it's less often re-tested in practice.

**Figure 4:**  
Has your organisation revisited pricing for the following  
in the past 12 months?



## Predicted scrutiny

Looking ahead, respondents expect continued focus on familiar pressure points, though their relative importance has shifted slightly.

**The top five predicted areas of scrutiny are:**

- 1 Intra-group services
- 2 Group procurement operations (up sharply)
- 3 Intellectual property (location and ownership)
- 4 Permanent establishment risks (re-emerging)
- 5 Transparency, stakeholder pressure, and data quality

These results suggest that while the themes are unchanged from last year, their order reflects a growing emphasis on the practical execution of intercompany services and the transparency expected by both regulators and stakeholders. Inflation, interest-rate impacts, and internal carbon pricing remain on the radar but are not yet central concerns.



## Disputes, controversy and resolution

Two-thirds of respondents report at least one dispute or controversy in the past year (typically between one and three cases) while about a third report none. None expect a decline in the number of disputes in the year ahead. Around 80% foresee more disputes in the next 12 months.

Kenya and Zambia are the most frequently mentioned hotspots, reflecting increased enforcement capacity and cross-border data access.

[Read more about lessons from recent TP court cases on page 21.](#)

The tone of engagement has improved slightly, but the volume and complexity of queries are increasing.

The 2025 data suggests that disputes are now routine. Companies therefore need dispute readiness frameworks that combine technical accuracy with contemporaneous, accessible documentation. For example, in Tanzania some Graphene Economics clients have literally seen one TP audit ending and shortly thereafter the audit for the next year commencing. It will become increasingly important for countries to introduce APA rules (or where they have rules, to start implementing them) so that taxpayers and tax authorities can agree on the arm's length price for certain transactions for a few years at a time. This will benefit both taxpayers and tax

authorities who will otherwise have this lengthy annual process that is costly and time-consuming to both.

When it comes to resolution, engagement by correspondence remains the dominant approach, followed by settlement and mediation. Formal mechanisms such as APAs and MAPs are still used infrequently, but roughly two-thirds of respondents say they would like to use APAs more regularly or plan to explore them in future. Interest continues to outpace implementation, largely due to limited administrative capacity, cost, and uncertainty about timelines.

Interestingly, in 2025, far fewer people said "we don't use APAs at all" and far more said they use them occasionally or regularly. Given the limited opportunity for APAs in Africa at present, this seems to imply that the MNE Groups they are part of routinely seek to use APAs where available.

**It seems more African multinationals are exploring the opportunity to use APAs as a practical tool to manage their transfer pricing risks, possibly because tax authorities are becoming more open to them, or because businesses want greater certainty amid rising audits and disputes. This is the first clear sign in our data over the past several years that points to growing adoption.**

Figure 5:

How many TP disputes or controversies has your organisation been involved in during the last 12 months?

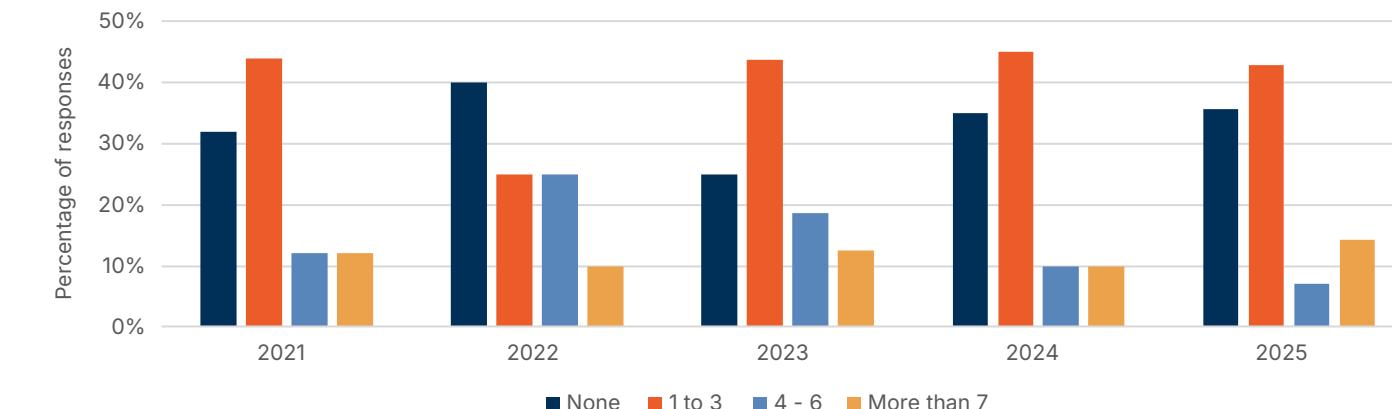


Figure 6:

In the next 12 months, do you think the number of TP disputes and controversies will...

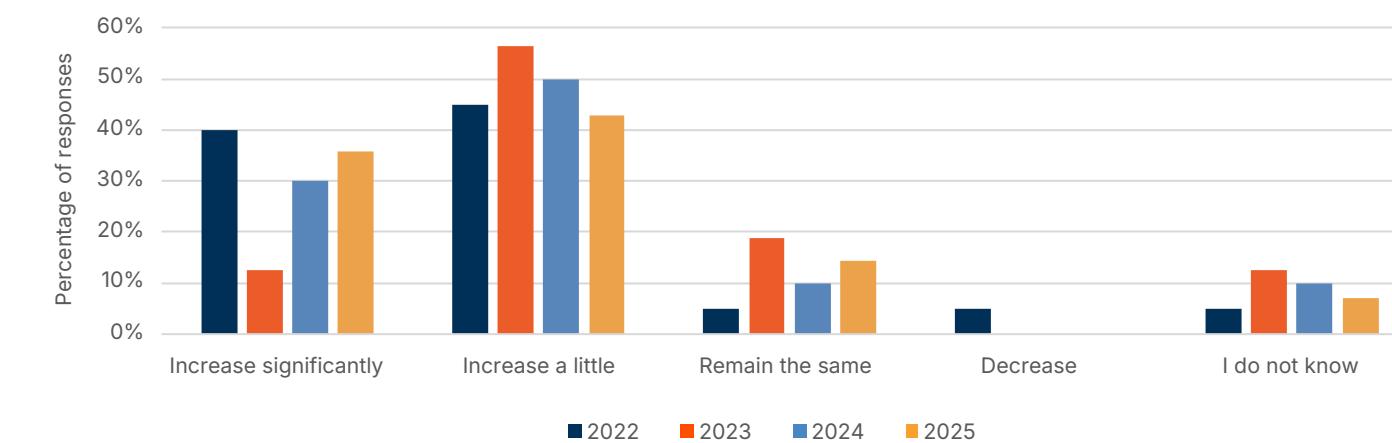




Figure 7:

To what extent have you used the following TP dispute resolution mechanisms in the last 12 months?

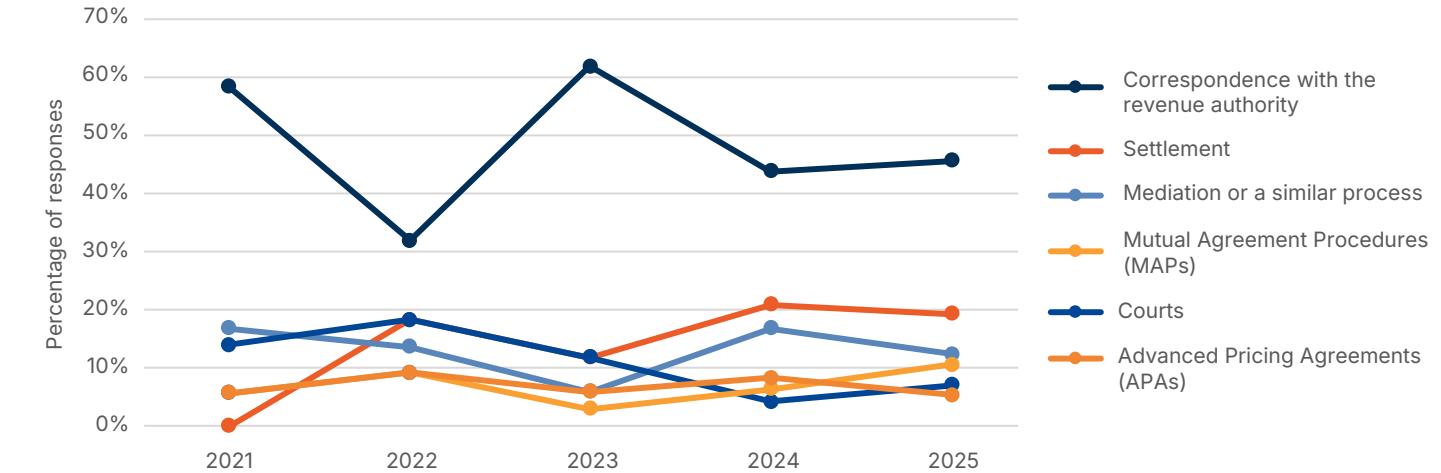
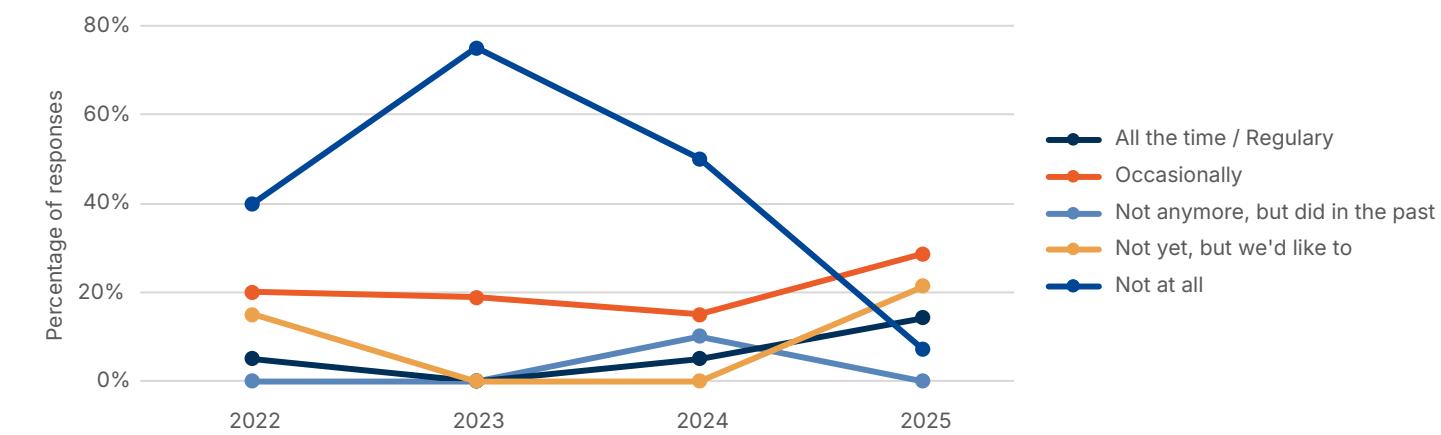


Figure 8:

To what extent would your organisation like to use Advanced Pricing Agreements (APAs) to resolve and avoid disputes?





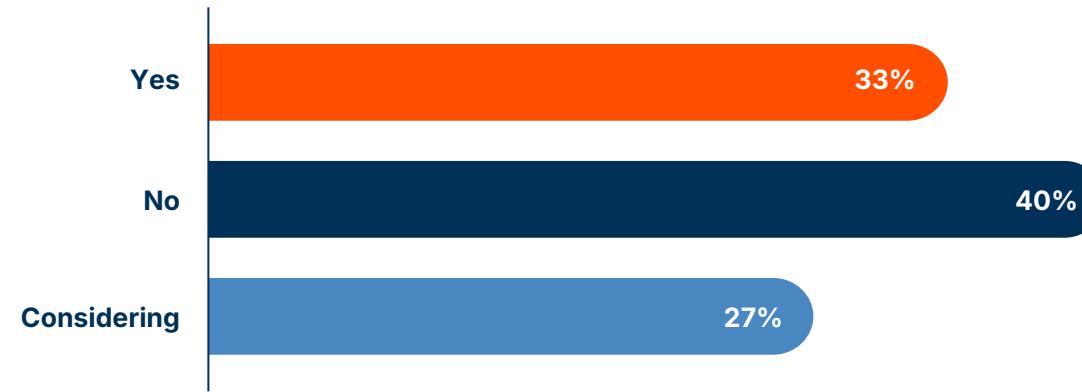
## Technology and automation

When asked about tools used to manage TP processes, respondents said Excel remains the default platform, followed by external enterprise systems (SAP, Oracle) and internally developed tools. The OECD Amount B pricing tool and AI-enabled TP analytics are still being explored.

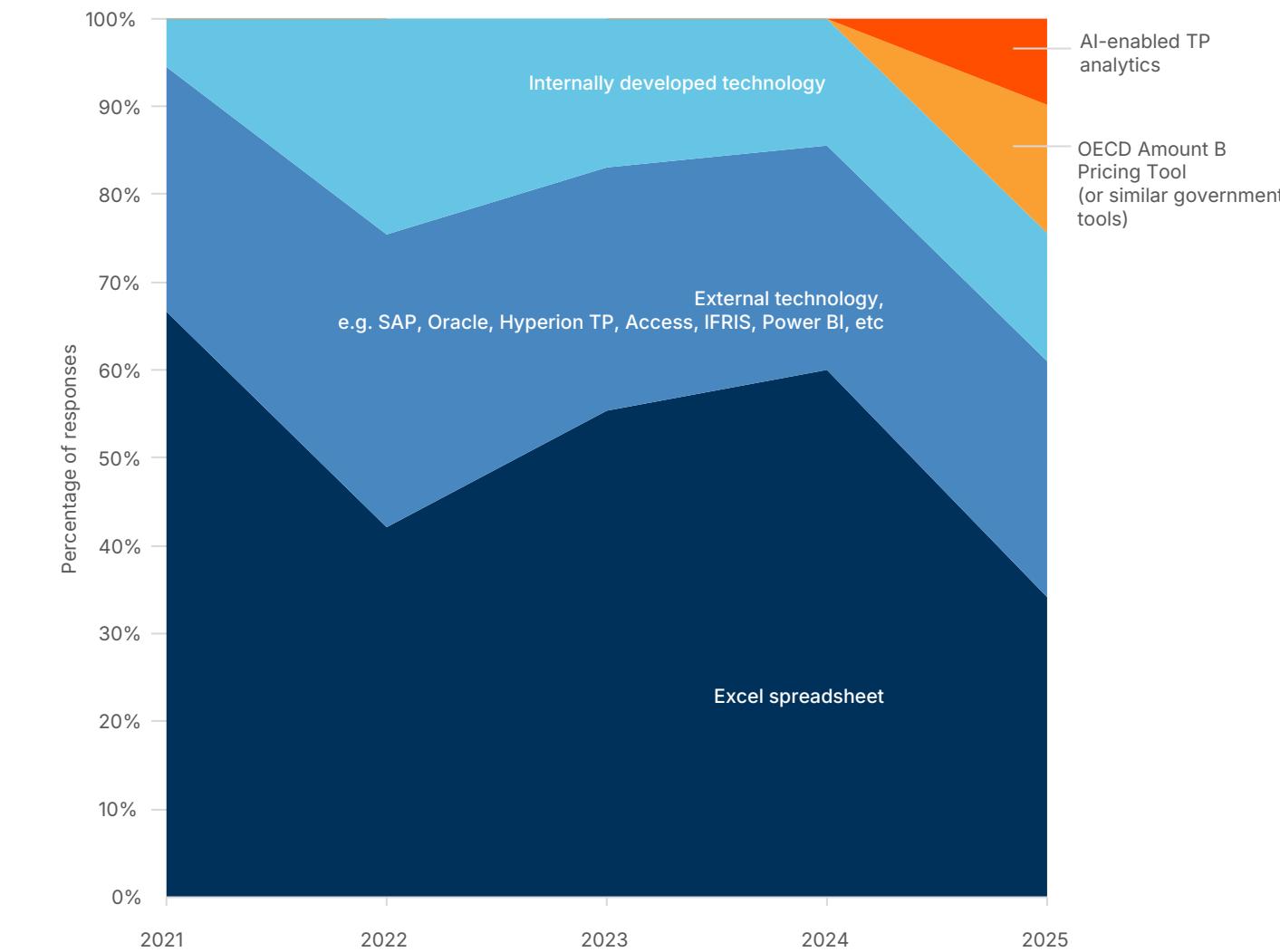
Around one-quarter of respondents say they are currently using or piloting AI/automation. Others are considering adoption but remain cautious.

Regulatory restrictions, privacy concerns, and generational comfort levels were cited as key barriers during the research.

**Figure 9:**  
Are you using any AI or automation tools for TP analysis?



**Figure 10:**  
To what extent do you use the following to manage and calculate TP?





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# Africa's 2025 macroeconomic environment



# Africa's macroeconomic environment in 2025

## Global macroeconomic conditions in 2025 created a mixed environment for cross-border businesses.

Inflation continued to moderate worldwide, compelling central banks to lower interest rates and ease financing conditions. This downward trend in the cost of capital, which is now extending to many African economies, has brightened investment prospects and consumer demand. However, profitability remains constrained by persistent global uncertainty and geopolitical instability, with conflicts in Ukraine, the Middle East, and parts of Africa, amplifying volatility in markets and policy direction.

Adding to global uncertainty has been the re-emergence in 2025 of the USA trade tariffs on many countries and certain specific industries. These tariffs have disrupted supply chains, raised input costs, and contributed to weaker global trade growth. The spillovers to African economies include greater commodity price volatility, shifting investment flows, decline in the value of financial assets, and the potential diversion or rerouting of manufacturing and sourcing opportunities. Multinationals with global supply chains now face higher logistics and compliance costs but also potential benefits from "friend-shoring" and regionalisation of production within Africa.

[Read more about USA trade tariffs on page 18.](#)

For African economies, macroeconomic interdependence has become increasingly evident. Political transitions and regional challenges, such as South Africa's government of national unity and unrest in Mozambique, intersect with external influences like the policy shifts in the USA and global investor sentiment. Meanwhile, high public debt burdens across much of the continent continue to limit fiscal space and infrastructure investment, putting pressure on governments to increase revenue collection through stricter tax enforcement. However, the anticipated positive trends demonstrate the continued resilience of some African economies even under recurrent and compounding shocks.

The implementation of the OECD's Base Erosion and Profit Shifting (BEPS) reforms and the global minimum corporate tax (Pillar Two) are reshaping corporate taxation, raising compliance costs while reducing opportunities for tax arbitrage.

Looking forward, competitiveness rather than tax incentives alone will define investment attractiveness. Cross-border businesses must therefore balance opportunity and risk by prioritising financial resilience, regulatory compliance, and sustainability in their regional and global strategies.





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# Graphene Economics Tax Friction Index



# Graphene Economics Tax Friction Index

**New to this year's report, the Tax Friction Index measures the level of perceived difficulty in interactions between taxpayers and revenue authorities across Africa (with feedback from both sets of stakeholders included). It offers a snapshot of how each party experiences the tax relationship, from day-to-day engagement to dispute resolution, and highlights where greater mutual understanding could reduce tension.**

**The aim of the index is to identify key challenges and bring awareness to them in the hope that this facilitates engagement and ultimately increases business certainty and lowers costs for all stakeholders.**

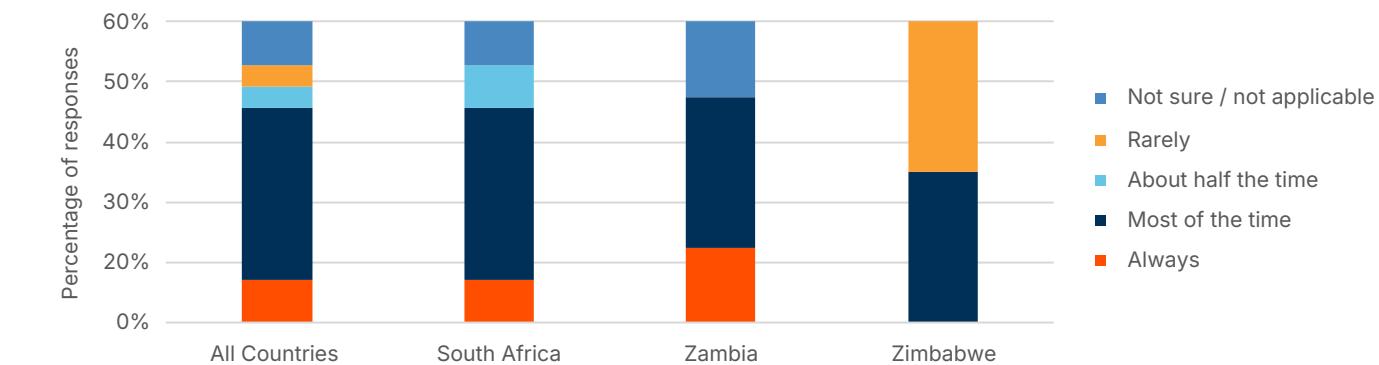
Overall, respondents rated tax friction at a moderate to high level, underscoring that while cooperation is improving in some markets, challenges remain widespread.

## When asked about the main causes of friction, the top responses were:

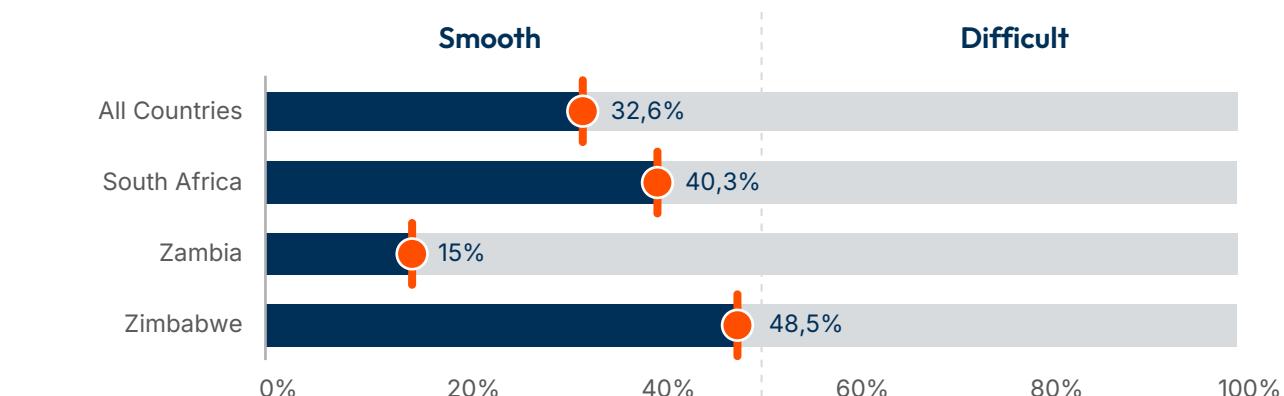
- **Poor or incomplete data**, cited as the single most common source of frustration, both for taxpayers and authorities
- **Differences in interpretation** of TP rules and documentation requirements
- **Resource constraints** on both sides, leading to delays in audits or responses
- **Limited communication** channels or inconsistent points of contact within revenue authorities

Encouragingly, some respondents noted positive engagement trends, including faster response times, more specialised TP audit teams, and a growing willingness by authorities to seek dialogue before issuing assessments.

**Figure 11:**  
**How consistently are tax laws and regulations applied as written in your country of primary focus?**



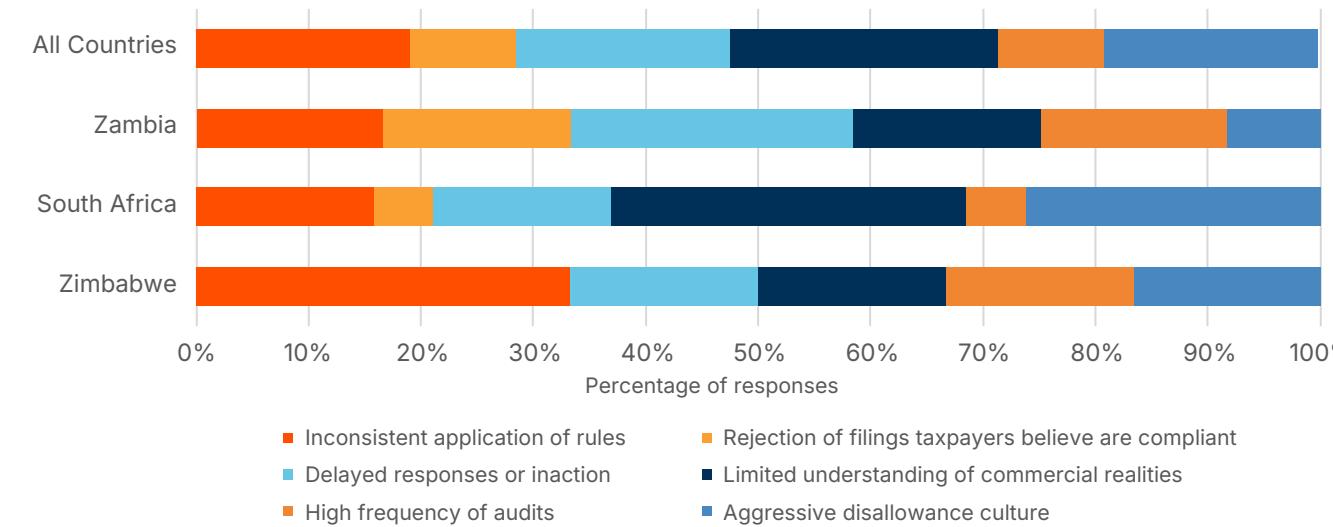
**Figure 12:**  
**How smooth or difficult are interactions between taxpayers and the revenue authority in your country?**





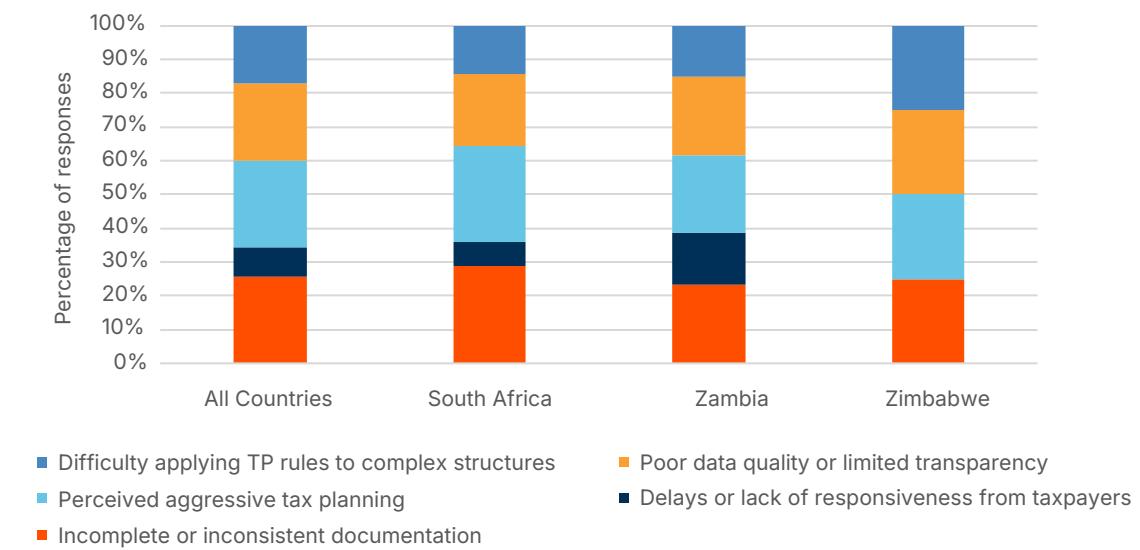
**Figure 13:**

**What do you think are the main causes of taxpayer frustration when dealing with the revenue authority?**



**Figure 14:**

**What do you think are the main causes of revenue authority concern when dealing with taxpayers?**





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# Trump-era tariffs and African TP



# Trump-era tariffs and African TP



**Donald Trump's second term continues to be defined by renewed tariff surges and protectionist trade policies.**

MNEs face complex questions about supply chains, profit allocations, and the overall structuring of their global value chains. Since early 2025, several of these proposed tariff measures have been enacted, particularly on electric vehicles, steel, and solar components, adding pressure on MNEs to revisit their global pricing and sourcing models.

This trend echoes our survey findings, where respondents ranked global trade tensions and geopolitical volatility among the top five external pressures shaping their TP strategies.

## Tariffs and trade policy

"Tariffs, which tend to be used to shield domestic industries from foreign competition, act as a tax on imports," explains Michael Hewson, director at Graphene Economics. "Trump's focus on introducing new tariffs and his swift changes of direction regarding implementation of these tariffs have triggered retaliatory actions from certain trade partners and injected fresh uncertainty into global markets. For African-based MNEs, or those routing goods through Africa to the USA, the impact could be substantial."

"MNEs that are manufacturing in Africa and then distributing into the USA will need to consider their value chains. For example, imagine a South African company that manufactures automotive components and sells them to its sister company in the United States, which then sells the completed vehicles to American customers. The price at which the South African company sells the parts to its US counterpart is the 'transfer price'."

He explains that revenue authorities in both South Africa and the USA want to ensure that the price of these components reflects what independent businesses would charge each other (this is known

as the arm's length principle). "If the price is deemed not to be arms-length, one country might claim it's losing out on tax revenue, which can lead to audits, penalties, or even double taxation," he says. "If the USA levies high tariffs on South African goods, including these car parts, the multinational group may need to ask whether it makes sense to continue manufacturing in South Africa, or to use one of the other plants in the world that may have lower duties imposed, or it might ultimately decide it's better to build a plant in the USA. These decisions have potential tax consequences. For example, if the profitability of the South African entity reduces because production is shifted to another company within the group, it may be considered as a business restructuring for transfer pricing purposes."

"Similarly, a member of an MNE based in South Africa that was selling into the USA may now no longer be competitive in the USA with higher tariffs. If the multinational wants to maintain its market share in the USA (just in case tariffs reduce in this world of volatile trade policy), then its South African company may consider subsidising the pricing into the USA. But that could raise questions from SARS if it is now selling to a USA-related party at subsidised prices. In such a case, the South African entity will need to be able to demonstrate the commercial rationale of its pricing decisions. Therefore, the decision of how to manage the risks relating to these looming increased trade tariffs is as much an issue of the quantum of the tariffs, as it is a question of how long the tariffs may be in place for."



Hewson says that when tariffs raise input costs or make cross-border goods less competitive, traditional intercompany pricing structures may no longer reflect economic reality. This affects MNEs on many levels, from shrinking margins to costly compliance breaches. However, the knock-on effects on African economies can also be substantial.

"The ripple effects of tariff-driven supply chain realignments and TP adjustments can be significant for African economies," says Hewson. "If, for example, the car manufacturer decides to shut down its local car parts plant in favour of producing in a lower-tariff country or relocating operations to the US, this could lead to significant job losses in a country already grappling with high unemployment and widespread poverty. Reduced industrial activity also means lower tax revenues for African governments and diminished demand for local suppliers and service providers. In economies where multinationals play a crucial role in employment and development, these decisions (while financially prudent from the MNE's global business perspective) can have negative local consequences."

## TP challenges facing African multinationals

Hewson says that in the event of a trade war, intra-group sales from Africa to the USA (particularly in key sectors like manufacturing, minerals, and agriculture) are likely to face heightened scrutiny. "Customs and tax authorities will expect pricing policies to account for tariff-inflated costs, foreign exchange exposure, and shifting risk allocations," he says.

One consequence of this volatility is the need for rapid scenario planning. Hewson warns that "if there is a restructuring or realignment of a group's value chain, the group needs to ensure the restructuring itself is arm's length by considering how an independent third party would approach it." Exclusive distribution arrangements or long-term supply contracts may limit flexibility and add legal complexity.

### Hewson's advice to MNE's in terms of TP is to focus on:

- **Reviewing intercompany pricing models to consider the impact of tariff-related cost increases and potential demand drops;**
- **Determining which entity bears foreign exchange risk, especially given the rand's volatility amid global uncertainty;**
- **Maintaining strong TP documentation, especially as authorities ramp up audit activity and require consistency between customs values and intercompany pricing.**

"Tariffs don't just affect profits; they ripple through the entire value chain," Hewson says. "If US demand falls for a tariff-affected product, MNEs may dump excess supply in other countries, impacting local pricing and profitability. This may impact profitability of local producers."

He suggests that customised, country-specific approaches are needed. "As with Covid-19, the impact of tariffs varies by jurisdiction. Some countries retaliate aggressively; others take a wait-and-see approach. MNEs operating in Africa must consider these asymmetries in designing their TP policies. Understanding the implications for an MNE requires considering the consequences in each country where it operates," says Hewson.

Ultimately, he says, MNEs need to demonstrate agility and integrated decision-making to weather the tariff storm. "I firmly believe that transfer pricing can no longer be treated as a compliance afterthought," he says. "It's a strategic lever and one that needs to be tightly aligned with procurement, production, and commercial strategies if African MNEs are to navigate this turbulent new trade era."



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# Lessons from recent TP controversies



## Lessons from recent TP controversies

**TP disputes are intensifying worldwide, with courts now playing a central role in shaping how the arm's length principle is applied.**

Over the past few years, three significant judgments – Apple in the European Union, Glencore in Australia, and Nestlé in Zambia – have highlighted the growing alignment in judicial reasoning across regions. Each reflects a broader shift from form to substance, and from documentation to defensible evidence.

For African multinationals, the most instructive of these is the Nestlé Zambia case, which offers one of the continent's most detailed judicial examinations of TP principles to date. As Michael Hewson, Director at Graphene Economics, and Patrick Mawire, Principal and Co-founder at Hepta Advisory Services, note, the judgment underscores a maturing legal environment in Africa – one in which taxpayers must now demonstrate not only compliance, but economic credibility.



1

### **ZAMBIA: Evidentiary standards and evolving judicial reasoning**

The Nestlé Zambia Limited v Commissioner General, Zambia Revenue Authority (ZRA) dispute dates back more than a decade, originating in TP audits of the company's early operating years (2010–2014). Nestlé Zambia had been established as a distributor of group products sourced mainly from South Africa, with additional related-party transactions involving entities in Zimbabwe, Brazil, Switzerland, and Ghana. Persistent losses triggered a ZRA audit, leading to one of the longest-running and most closely observed TP cases on the continent.

#### **Burden of proof**

At the heart of the dispute was Section 106 of Zambia's Income Tax Act, which presumes that an assessment issued by the Commissioner is correct unless disproved by the taxpayer. The Supreme Court upheld this principle, placing the burden of proof squarely on the taxpayer.

According to Hewson, this position "effectively raises the standard for taxpayers in Africa, who must now not

only select and defend an appropriate method but also disprove any alternative approach the authority considers valid."

Mawire adds that the judgment confirms a practical reality: "Taxpayers need to expect that ZRA will continue to approach audits with the assumption that their assessment stands unless shown otherwise. That means evidentiary readiness becomes as important as the method itself."

#### **Aggregation of transactions**

Nestlé argued that its related-party transactions should be tested individually, consistent with OECD guidance. The Tribunal initially agreed, but the Supreme Court sided with ZRA, permitting aggregation of all related-party transactions where they were deemed to emanate from a common source.

This interpretation departs from the transaction-by-transaction approach traditionally favoured by African authorities, introducing uncertainty but also flexibility. Mawire cautions that this precedent "cuts both ways": authorities may use it to support broader adjustments, but taxpayers might equally invoke it



where aggregation provides a fairer reflection of overall results.

## Documentation and retrospective obligations

Perhaps the most consequential finding was that taxpayers must produce requested TP documentation for prior years even if such documentation was not legally required at the time. The court ruled that the obligation to respond to a ZRA information request overrides the absence of contemporaneous filing rules.

"This effectively creates a retrospective compliance burden," says Hewson. "Taxpayers must now retain detailed records for up to 10 years – Zambia's prescription period – regardless of how local TP rules have evolved."

## Characterisation and comparables

Both the Tribunal and Supreme Court found Nestlé Zambia to be a limited-risk distributor, noting its lean staffing, dependence on group services, and limited decision-making authority. The court also upheld the use of European comparables, despite Nestlé's argument that market conditions differed substantially.

The acceptance of foreign benchmarks, says Mawire, "highlights the limited availability of reliable local data – but also the willingness of courts to allow authorities to rely on whatever data they can justify as relevant."

## Treatment of losses

Finally, the court rejected Nestlé's claim that its sustained losses reflected normal start-up conditions, concluding instead that persistent unprofitability was inconsistent with the behaviour of an independent distributor.

This signals that, for African taxpayers, continuous losses remain a red flag. "Authorities view profitability trends as a proxy for arm's length behaviour," Hewson explains. "Commercial explanations must be clearly documented and supported by evidence."



**“** The message is that functional analysis is no longer a compliance exercise – it's the foundation of credibility. **”**

2

## EUROPE: Apple and the reach of functional analysis

When the Court of Justice of the European Union (CJEU) revived the European Commission's case against Apple, it did more than reopen a procedural debate – it reasserted that substance trumps form.

At issue were Irish tax rulings that had enabled Apple's Irish branches to report minimal taxable profits on the basis that key decisions were made outside Ireland. The CJEU found this inconsistent with the arm's length principle, confirming that taxable profits must align with the functions actually performed, assets used, and risks borne within the jurisdiction.

The ruling also strengthened the Commission's authority to challenge national tax rulings under EU state aid law, blending transfer pricing and competition principles.

For multinationals, Hewson says, "the message is that functional analysis is no longer a compliance exercise – it's the foundation of credibility. Courts are testing whether the economic substance matches the narrative companies present."



# 3

## AUSTRALIA: Glencore and commercial judgment under scrutiny

The Glencore International AG v Commissioner of Taxation case in Australia dealt with related-party copper concentrate sales during a period of extreme commodity price volatility. The key question was whether Glencore's pricing reflected arm's length terms.

The Federal Court ultimately sided with Glencore, recognising that the arrangements reflected genuine commercial decisions rather than tax avoidance. However, the judgment only came after exhaustive examination of risk allocation, comparability, and the rationale for deviating from market benchmarks.

For African resource-based economies, the lesson is particularly relevant. "Courts are open to accepting commercial judgment," Hewson notes, "but only when taxpayers can demonstrate contemporaneous evidence that supports their reasoning. Without that, even sound decisions look suspect."

### A converging pattern: substance, evidence and proportionality

Viewed collectively, the Apple, Glencore, and Nestlé decisions reveal a growing convergence in judicial reasoning across jurisdictions:

- Substance over form:** Courts are prioritising actual economic activity over contractual representations.
- Evidence as the new frontier:** Taxpayers must substantiate every assumption with verifiable data.
- Risk allocation under scrutiny:** Authorities are analysing who truly controls and bears risk – not who contractually assumes it.

This convergence signals a new era in transfer pricing – one in which disputes are less about methods and more about governance, transparency, and credibility.

### What this means for African multinationals

African tax authorities are building capacity, expanding information-sharing networks, and drawing on international precedent. The Nestlé Zambia case shows that local courts are now confident in interpreting OECD guidance within domestic contexts – and are willing to set new benchmarks for compliance expectations.

"Across Africa, we're seeing tax authorities become more assertive, and courts more comfortable with complex TP principles," says Mawire. "For taxpayers, that means the quality of evidence and the coherence of their story matter more than ever."

Hewson agrees. "Transfer pricing is no longer a technical documentation exercise," he concludes. "It's a governance issue. Multinationals must ensure that their operating realities, financial data, and documentation all tell the same story – one that can withstand courtroom-level scrutiny."

### Key takeaways for taxpayers

- Be prepared to defend methods and disprove alternatives raised by authorities.
- Maintain comprehensive, historic documentation – even for periods predating local TP rules.
- Expect possible aggregation of transactions where authorities argue a common source.
- Align characterisation with operational substance and decision-making authority.
- Document commercial rationale for losses and deviations from benchmarks.
- Anticipate a higher bar for evidentiary rigour as African courts evolve.



# 6

## An African credit ratings agency: will it shift risk perspective?



## An African credit ratings agency: will it shift risk perspective?

As African leaders prepared for the G20 Summit, the conversation around a new African credit ratings agency gained momentum. The proposal has broad political appeal: many argue that global agencies such as Moody's, S&P and Fitch systematically under-rate African economies, forcing them to borrow at higher costs.

**But a key question remains: will a home-grown agency meaningfully change outcomes, or will it simply measure the same realities in different units?**



According to Michael Hewson, Director at African transfer pricing firm Graphene Economics, this debate isn't just about sovereign debt. "Credit ratings affect the cost of borrowing for governments and corporates alike – and by extension, the intercompany lending rates multinationals apply across Africa. If perceptions of risk shift, it could influence how transfer pricing analyses are benchmarked."

In other words, when a nation is seen as high-risk, lenders charge higher interest rates. Those same perceptions filter down to private companies operating there, even affecting how multinationals operating in a country price loans between their own group companies.

If an African ratings agency were to help improve the continent's perceived creditworthiness, borrowing could become cheaper across the board, from governments and banks to businesses and their subsidiaries. That would make it easier to invest, grow and create jobs.

### Why credit ratings matter

A sovereign rating acts as the ceiling for all borrowers within that country. If a government's creditworthiness is considered poor, no local company can be rated higher – even if it has sound fundamentals.

That matters because large companies often lend money between their own subsidiaries, just like a bank would. To make sure those internal loans are fairly priced, they use credit ratings to see what interest rate an independent lender would charge. If a country or company has a low rating, the cost of borrowing rises – and that affects how much interest the business pays and reports for tax purposes.

"It's a circular problem," notes Hewson. "A perception of sovereign risk filters through to company-level financing, raising costs for business and potentially reducing profitability. An African ratings agency could, in theory, change that dynamic – but only if it's credible."



## The African proposition

The proposed Africa Credit Rating Agency (AfCRA), to be headquartered in Mauritius under the African Union's umbrella, aims to provide that alternative view. Backed by Afreximbank and several African development institutions, it promises a methodology better suited to African realities.

Ian Macleod, Co-Founder and Head of Strategic Narrative at Boundless World, believes that new thinking is overdue. "We typically look at African markets with a long-term view – years, decades, even generations," he says. "That requires understanding foundational factors like demographics, early education and savings levels. These are powerful forces that shape a society and an economy. Importantly, they tend only to change gradually. While one needs to monitor and account for variables that can change by the day, week or month, it is useful to read these against the backdrop of these heavy foundations."

The Boundless World team has developed analytical frameworks that can add nuance to a ratings methodology.

"The Six Factor Model is a big data tool that quantitatively evaluates the strongest contributors to long-term prosperity," Macleod explains. "It incorporates millions of data points over several decades, interrogating them to distil the ones with greatest significance for economic growth. Consider

demographics as an example. A society with more young people entering the workforce than older ones leaving it is well positioned to grow over a generational time span. Similar reasoning applies to places with sound foundation phase education, primary healthcare and elevated savings levels."

The Africa Investment Navigator framework has a shorter time horizon and evaluates 31 African countries on 20 metrics. "We standardise these publicly available data, enabling us to score each country for overall investability. Additionally, it allows us to compare countries on particular pillars. This lets us apply it at an industry or company level of granularity. For example, Seychelles and Mauritius have been the top two overall scorers for the last two years. However, they have small populations. So they offer little scope for mass consumption. For a firm looking to sell large volumes at a low margin, we would then elevate the weighting of population size and growth," he explains.

Beyond data, Macleod argues, narrative itself plays a measurable role. "The Nobel Prize winning economist Prof. Bob Shiller has championed the field of narrative economics. This body of work makes explicit the fact that the stories people share are drivers of the economy. We have seen evidence of this with so-called 'meme stocks'. From coffee shops to online discussion boards, narratives in many shapes can move markets. When assessing creditworthiness, this must be accounted for. One must have a finger on the pulse of the national dialogue to appreciate political and economic risks."

## Credibility is the real currency

Henry Dicks, advocate and TP Manager at Graphene Economics, points out that international investors are unlikely to accept ratings they perceive as lenient.

"Credit ratings underpin real financial decisions," he says. "If AfCRA systematically produces higher scores than Moody's or S&P, the question becomes: why? What's different in the methodology, the data, or the weighting of qualitative factors? Furthermore, we need to ask whether the market will accept the difference or 'recalibrate itself'. If an entity credit rating is calculated using an African rating system, will financial institutions pay any attention to this, or will they rely on and default back to the known ratings agencies? Unless there are compelling reasons not to do so, I would think this would be the case."

He notes that the OECD Transfer Pricing Guidelines highlight similar issues when multinationals use "publicly available tools" to approximate credit ratings. "Transparency is everything," he says. "Market participants need to see the algorithmic inputs, the peer-review process and the governance safeguards. Without that, they'll revert to what they know."

Global agencies follow a rigorous, auditable process: data collection, management interviews,

**If an African ratings agency were to help improve the continent's perceived creditworthiness, borrowing could become cheaper across the board.**



peer comparisons and multi-layered credit committees. "If AfCRA wants to be trusted, it will have to match that discipline – and show how its model addresses perceived bias rather than just producing different numbers," Dicks says.

Macleod agrees that reliability is earned over time. "There's no quick route," he says. "Independence, acumen and resilience will need to be demonstrated year after year. The currency of this industry is consistency."

## Risk, perception and reality

The question, then, is whether Africa's problem is the way risk is measured, or the underlying fundamentals? Hewson believes the latter still dominate. "At the end of the day, macroeconomic realities drive ratings: fiscal deficits, inflation, governance and policy stability. Unless those improve, perception can only shift so far."

Macleod takes a complementary view. "Narrative should not be seen as an alternative to data. Rather, narratives can be measured as data points. From central bank meeting minutes to social media trends, we can monitor narratives with the help of quantitative tools."

Macleod suggests that a credible African agency would need to balance both – grounding its models in data but also recognising the social, institutional and demographic tailwinds that global models overlook.

The risk for AfCRA is being politically satisfying but economically redundant. To conquer this, it needs to prove it can offer a truer reflection of real, evolving African risk.

## Implications for transfer pricing

For TP practitioners, an African credit ratings agency could have tangible consequences.

If AfCRA's ratings are accepted by lenders and tax authorities, Hewson explains, the indicative credit ratings used for intercompany loan benchmarking could rise. That would lower arm's-length interest rates, reduce tax deductions, and potentially improve after-tax profitability for African subsidiaries.

However, if global investors disregard AfCRA's outputs, little will change. "Transfer pricing always tracks the market," says Hewson. "If the market doesn't move, neither will the benchmarks. The benefit only materialises if genuine perceptions of credit risk – and therefore pricing in third-party loans – shift."

Ultimately, this ties back to fundamentals. "Better governance, consistent fiscal policy and transparent institutions reduce real risk," he adds. "That's what rating agencies, local or global, respond to. Improved metrics will follow improved reality."

For success, AfCRA must operate with absolute independence, publish its methodologies openly, and build partnerships with regional and global peers. Over time, a consistent track record could help normalise an African perspective within global capital markets.

"For Africa's economies – and for companies navigating intercompany financing and tax compliance across the continent – accuracy will matter far more than sentiment," Hewson concludes.



# 7

# Notable cross-border tax and related developments 2025



## Notable cross-border tax and related developments in 2025

Several international and domestic developments shaped the cross-border tax landscape in 2025.

From continued progress on the OECD's two-pillar solution to new guidance on dispute resolution, documentation, and transparency, this year saw tangible movement toward greater global tax alignment.

Across Africa, governments advanced their own policy agendas, introducing or refining measures on Pillar Two implementation, APAs, and transfer pricing penalties – underscoring the continent's growing participation in international tax reform.

The following summary highlights the most significant updates, drawn from OECD releases, government publications, and reputable tax news platforms including Orbitax and MNE Tax.

### Global reforms and OECD updates

#### **OECD Secretary-General's Tax Report to G20 Finance Ministers and Central Bank Governors (February 2025)**

The OECD presented a comprehensive report ahead of the G20 Finance Minister's meeting in Cape Town, covering progress on the two-pillar solution, BEPS implementation, and global tax transparency. The report emphasised work on Pillar One (Amount A and B), the ongoing fight against harmful tax practices, and the growing use of digital tools in tax administration. It also highlighted support for developing countries through technical assistance and training.

#### **OECD published Consolidated Report on Amount B under Pillar One (February 2025)**

The Consolidated Report introduced a simplified method for pricing baseline marketing and distribution transactions, especially for low-capacity jurisdictions. Amount B applies to routine distributors and sales agents for fiscal years beginning on or

after 1 January 2025 and is now incorporated into the OECD Transfer Pricing Guidelines.

#### **OECD BEPS Action 14 update (March 2025)**

The OECD released the latest peer review results on dispute resolution effectiveness. The third batch of simplified peer reviews covered ten jurisdictions, including several African countries such as Burkina Faso and Senegal. Findings show progress in aligning treaties with BEPS standards, improving access to the Mutual Agreement Procedure (MAP), and resolving cases within 24 months in some jurisdictions.

#### **OECD updated Main Documentation Package for ICAP (January 2025)**

Revised templates and guidance were published for MNEs participating in the International Compliance Assurance Programme (ICAP). Key updates include new standardised templates and checklists, removal of the Country-by-Country Reporting (CbCR) self-assessment, and clearer requirements for covered transaction schedules.

### **Pillar One update: progress on implementation**

Further progress was made on finalising the Pillar One framework, including refinement of the Multilateral Convention (MLC) to implement Amount A and integration of Amount B into the OECD Transfer Pricing Guidelines. Discussions continue regarding the interaction between Amount B and the MLC, dispute resolution filters, and optional qualitative tests.

### **Practical implications of Pillar Two compliance (January 2025)**

The OECD released updated guidance on the Global Anti-Base Erosion (GloBE) rules, clarifying scope, effective tax rate calculations, and safe harbour provisions. Administrative instructions were issued on filing, data collection, and documentation requirements for MNEs with consolidated revenues of at least €750 million.



## Global Forum reported record-breaking capacity-building and outreach in 2024

The Global Forum on Transparency and Exchange of Information reported unprecedented levels of training and technical assistance in 2024, expanding engagement with non-member countries and reinforcing international cooperation against tax evasion.

## Tax co-operation for development: progress report on 2024

The OECD highlighted rising demand for tax capacity support in developing countries and measurable revenue gains from transparency initiatives, including the expansion of the Tax Inspectors Without Borders programme.

## African country developments

### Kenya introduced domestic minimum top-up tax under BEPS Pillar Two (December 2024 / effective January 2025)

Kenya enacted the Qualified Domestic Minimum Top-Up Tax (QDMTT) to ensure in-scope MNEs (revenues above €750 million) pay a minimum effective rate of 15% on domestic income. Guidance from the Kenya Revenue Authority (KRA) will clarify implementation.

### Kenya ratified OECD Multilateral Instrument (February 2025)

Kenya deposited its instrument of ratification for the MLI, which entered into force on 1 May 2025. This strengthens Kenya's treaty network and aligns it with BEPS measures against treaty abuse.

### Kenya Revenue Authority tax amnesty programme (2025)

The KRA continued encouraging taxpayers to regularise outstanding liabilities through its amnesty programme, which waives penalties and interest upon settlement of principal tax amounts.

### Kenya Revenue Authority adjusted tax-related interest rates (July–December 2025)

KRA set the market and deemed interest rate at 8% for July–September 2025 and prescribed a low-interest benefit rate of 9% for July–December 2025.

### Nigeria issued Advanced Pricing Agreement (APA) Guidelines (effective January 2025)

Nigeria's Federal Inland Revenue Service (FIRS) issued comprehensive APA Guidelines providing for unilateral, bilateral, and multilateral APAs. The guidelines include eligibility thresholds (USD 10 million per transaction, USD 50 million for groups), a five-stage process, defined timelines (24–36 months), and application and renewal fees.

### South Africa: SARS updated official interest rate (September 2025)

SARS updated its official rate for low-interest or interest-free loans to 8.00%, following a repo rate cut on 31 July 2025. The rate applies from 1 September 2025 and determines taxable fringe benefits for loans below the official rate.

### Tanzania: Finance Act, 2025 (enacted 30 June 2025)

The Act introduced several measures affecting corporate tax and TP:

- Redefinition of equity for thin capitalisation purposes.
- A 10% withholding tax on 30% of retained earnings undistributed after 12 months.
- A new TP penalty for loss-making companies equal to 30% of the adjusted overstated loss.
- Increases to withholding tax on certain cross-border payments (insurance/reinsurance, professional and management services).
- VAT adjustments and sector-specific limits on loss carry-forwards in mining and petroleum.

## Additional OECD and international items

### GloBE Information Return (Pillar Two) – Status Message XML Schema User Guide

The OECD released a technical user guide explaining how tax administrations can report file- and record-level errors in GloBE information exchanges.

### Consultation: transfer pricing framework for copper

The OECD/IGF launched a public consultation on applying the Determining the Price of Minerals framework to copper, with submissions closing 17 September 2025.

### Additional OECD news

- Expansion of the Tax Inspectors Without Borders (TIWB) programme announced at FFD4.
- OECD Steel Outlook 2025 and Global Drought Outlook published.
- OECD Economic Outlook 2025-1 and Supply Chain Resilience Review released.
- Launch of OECD beta AI capability indicators.

Together, these developments reflect a tax environment that is evolving on multiple fronts, both globally, through OECD-led reforms, and locally, as African jurisdictions embed these standards into domestic law. For MNEs operating across the continent, staying informed and agile has never been more important. The pace of change underscores the need for strategic, data-driven transfer pricing management, a theme echoed throughout this year's TP in Africa report.



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# Conclusion



## Conclusion

**While the fundamentals of TP remain unchanged, the context in which multinationals operate is becoming more complex and more data-centric.**

Revenue authorities across Africa are becoming increasingly assertive, supported by deeper information-sharing networks, stronger audit capacity, and adoption of AI-driven tools. At the same time, many organisations are shifting from a compliance-only mindset to an operational TP focus, ensuring that their pricing reflects how services, headquarters costs, and procurement activities actually function within the business.

The persistent rise in TP disputes and controversies underlines the need for a proactive approach. Our belief is that multinationals that embed TP oversight at board or CFO level are better positioned to respond swiftly and strategically to this environment.

In essence, MNEs that view TP not merely as a compliance requirement but as a strategic lens on their business will be best equipped to navigate regulatory change, manage risk, and identify opportunity.

At Graphene Economics, we remain committed to helping our clients do exactly that, at every stage of the cross-border transaction journey, from planning and implementation to ongoing support.

### Our recommendations for 2026 and beyond...



#### Invest in data and documentation quality

Strengthen internal data systems to ensure accuracy, traceability, and audit-readiness. Poor or fragmented data now drives more TP risk than the rules themselves.



#### Anticipate controversy

Monitor risk indicators early, including known scrutiny areas, such as services, HQ allocations, and procurement, to allow timely, evidence-based responses before audits escalate.



#### Collaborate across functions

Build stronger links between finance, operations, and tax teams. Clear communication at transaction level helps prevent inconsistencies that lead to post-audit adjustments.



#### Pursue certainty where possible

Explore APAs or other cooperative mechanisms where possible.



#### Leverage technology and automation

Use digital tools to streamline compliance, enhance accuracy, and free tax teams to focus on analysis.



## Guest contributors

We would like to thank the following individuals for contributing their time and immense expertise:



Patrick's professional background spans over 27 years, covering work across Africa, the Middle East, Brazil, and the United States. He was until recently Tax Partner and Country Managing Partner for EY Zambia a big 4 professional services firm.

His expertise includes tax and transaction structuring, tax advisory and compliance, and business advisory services. Internationally, Patrick is recognised as a 'Highly Regarded' tax practitioner by the International Tax Review (ITR). This distinction is awarded in acknowledgment of his adeptness in guiding clients to minimise potential risks and to optimize their tax efficiencies.

Patrick possesses a Master of Commerce in Taxation from Nelson Mandela Metropolitan University. He is also a fellow of both the Association of Chartered Certified Accountants (ACCA) and the Zambia Institute of Chartered Accountants (ZICA). He is also a member of the Institute of Chartered Accountants in England and Wales (ICAEW) and is Chartered Tax Advisor with the South African Institute of Taxation (SAIT). Patrick is also registered Insolvency (business rescue) Practitioner.



**Ian Macleod**  
Co-Founder and Head  
of Strategic Narrative at  
Boundless World

Ian has an eclectic background, ranging from Big Four consulting to feature writing. He studied Business Science in Law at the University of Cape Town before winning a full scholarship from the South African Reserve Bank to read Journalism at Rhodes University. Ian completed his MBA at GIBS in 2017 where his research explored the challenges and opportunities of private equity investment in family businesses. Ian has a passion for the power of narrative to drive commerce and markets and writes regularly for a variety of publications on business economics and popular culture. Ian is a founding member of the GIBS Centre for African Management and Markets, where he continues his role conducting research on African markets and how to generate long-term prosperity.

**Thank you also to the  
Graphene Economics  
internal team for all your  
hard work to deliver the  
survey and this report.**



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# About Graphene Economics



**Many multinational entities operating in Africa find transfer pricing complex and high risk. Graphene Economics® helps them navigate cross-border transactions on the continent with clarity and confidence.**

Founded in 2017, Graphene Economics is a specialist African transfer pricing advisory firm that approaches transfer pricing through an economic lens. The firm provides strategic advice, industry and regulatory insights, benchmarking, risk analysis, controversy support and documentation, tailored to each client's unique operating environment across Africa.

The Graphene Economics team pairs more than 70 years of combined technical expertise with a deep understanding of the realities shaping African economies. This allows them to design and implement transfer pricing solutions that align commercial outcomes with compliance requirements.

Awarded South African Transfer Pricing Firm of the Year in 2025 and 2021 by International Tax Review, and African Transfer Pricing Firm of the Year in 2023, Graphene Economics is recognised as a trusted voice in international tax and transfer pricing matters across the continent.

