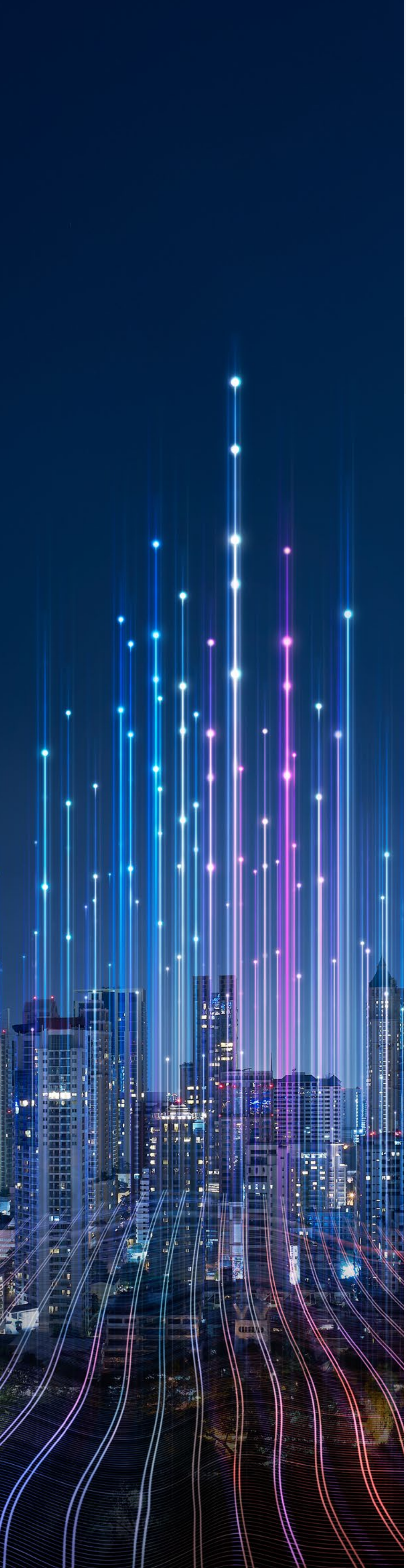
Grant Thornton
Société d'Avocats

Grant Thornton

Transfer Pricing Diagnosis

Ensure that your transfer pricing policy complies with the arm's length principle.



Intragroup flows

The compliance of the transfer pricing method(s) with the arm's length principle must be demonstrated.

Intragroup flows now represent 60% of all world trade,

making transfer pricing management **a major issue in international taxation and operational value chain management.**

Although transfer pricing remains by large a significant tax issue reserved for specialists, it has been brought into the public eye recently by "cases" that have made the headlines. Beyond the fiscal risks that they may face, multinational companies, regardless of their size also have to consider their reputational risk management and ensure that their transfer pricing complies with the arm's length principle.

It is likely that in the years to come, the highly probable risk of a company or its executives being held criminally liable for non-compliance of such matters in the future will further add to challenges.

Although it remains the responsibility of the French Tax Authorities to prove that a company's transfer prices do not comply with the arm's length principle, **certain businesses** (subject to Article L. 13 AA of the French Tax Procedure Book ("FTPB") **do have an obligation to justify this in a specific document** (Master File and Local File).

For other companies concerned (under Article L. 13 B of the FTPB) they will have to at the very least be prepared to face the numerous questions and critical reviews carried out by inspectors.

Which **companies and flows are concerned**?

An entity is concerned by transfer pricing from the moment it engages in a **cross-border intragroup transaction** with foreign related entities.

All cross-border intragroup transactions **involving goods** (goods and raw materials), **services, intangibles** (patents and trademarks), and **financial transactions** (loans guarantees, cash pooling, etc.) can be subject to controls.

Proof of the validity of the method and its application by reference to the social accounting

In addition to justifying the validity of their transfer pricing method(s), particularly by reference to the methods recommended by the OECD guidelines, **companies must be able to demonstrate that their social accounting perfectly reflects both the methods applied and the contractual agreements in place.**

Indeed, during a tax audit, **the tax authorities may ask** companies **for specific information and justifications,** as well as the provision of tables which clearly demonstrate:

1. **the arithmetic consequences** of the application of transfer pricing policies in the social accounting together with the identification of the accounts concerned,
2. **the correspondence between the financial statements** used to determine the prices and those that the company is required to keep.

What are the **risks of non-compliance** with the arm's length principle?

Companies are potentially exposed to consequences that are not only fiscal such as:

Adjustments being made to the taxable base in France (corporate income tax, CVAE, etc.) resulting in a **double taxation** (the adjusted profits having already been taxed abroad)

Penalties for misconduct (up to 80%) and interest on late payment

Penalties for the non-compliance of the documents required

The correction of employee participation and profit-sharing plans, etc.

How can we help you?

In addition to the optimization of your transfer pricing policy, **the diagnosis allows** (i) **to validate the methods** used by the group, (ii) **to identify your legal and regulatory compliance obligations** (in particular financial reconciliation) and also (iii) **to propose a complete review of your company's practices** (including risk assessments and potential optimizations to be made)

The diagnosis provided by Grant Thornton will allow your company to obtain compliance, optimization, and real support in the defining of a real transfer pricing strategy. Our approach typically consists of four distinct steps.

Step 1

Analysis of the company's applicable documentary and declarative obligations

Even if the OECD recommendations are widely used in industrialized countries, **legal provisions differ from one country to another.** The diagnosis we establish typically focuses on the situation of the parent company and each of its foreign subsidiaries and is carried out by our experts, all members of the Grant Thornton International Ltd network. **In order to anticipate all the risks, it is essential that companies are fully aware of the obligations incumbent on all their legal entities.**

Step 2

Analysis of compliance with the current laws in force, specifically the arm's length principle

Taking into account the operational organization implemented by the company, we perform an exhaustive assessments of potential **risks and identify potential optimizations** by analyzing the documents and information made available to us and by performing **functional analyses** (with key operationals) and economic analyses.

Step 3

Identification of deviations and quantification of risks/ optimizations

Our methodology will allow us **to evaluate the consistency of the methods applied** by your company, and to exhaustively and automatically identify and quantify discrepancies in the financial data that exist between both the company's chosen policy and its implementation, and between the policy applied and the policy that should be applied.

Step 4

Recommendations on the relevance of the transfer pricing methods used, the limitation of tax risks, and where possible tax optimization

Our diagnostic report enables us to **adapt or even establish a transfer pricing policy for your company that is consistent** with all applicable legislation, and which is more particularly, adapted to the group's organizational constraints.

The analysis of discrepancies or gaps between the chosen policy and its accounting application, or between the policy applied and the policy that should be implemented, is enhanced by a data analysis which provides **an interactive visualization of the situation by fiscal year**, type of margin, product family, and country of destination/source.

We also verify **the reconciliation between your company's accounting statements** and the determined transfer prices.

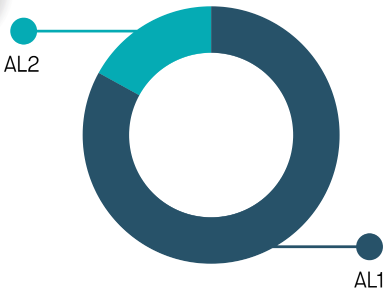
Analysis year

2017 — 2019

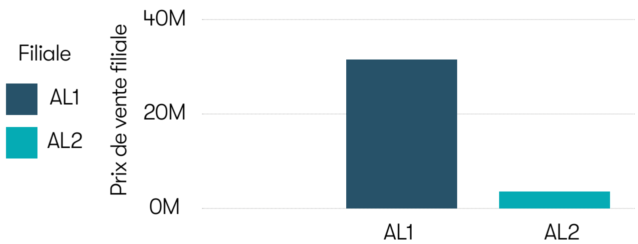
Article type

- ☐ Trading article
- ☐ Raw material
- ☐ Finished product
- ☐ Semi-finished product

Sales amount per subsidiary



Sales amount per subsidiary



Type of margin

- ☐ Margin on cost of goods sold
- ☐ Margin on purchase price
- ☐ Margin on selling price

Customer/country type

Customer/country	Average margin rate calculated in %
Germany	3,82 %
England	4,11 %
Brazil	5,16 %
China	4,00 %
France	3,89 %
Great Britain	2,88 %
Hong Kong	4,40 %
Italy	3,56 %
USA	4,09 %
Total	4,12 %

Grant Thornton France

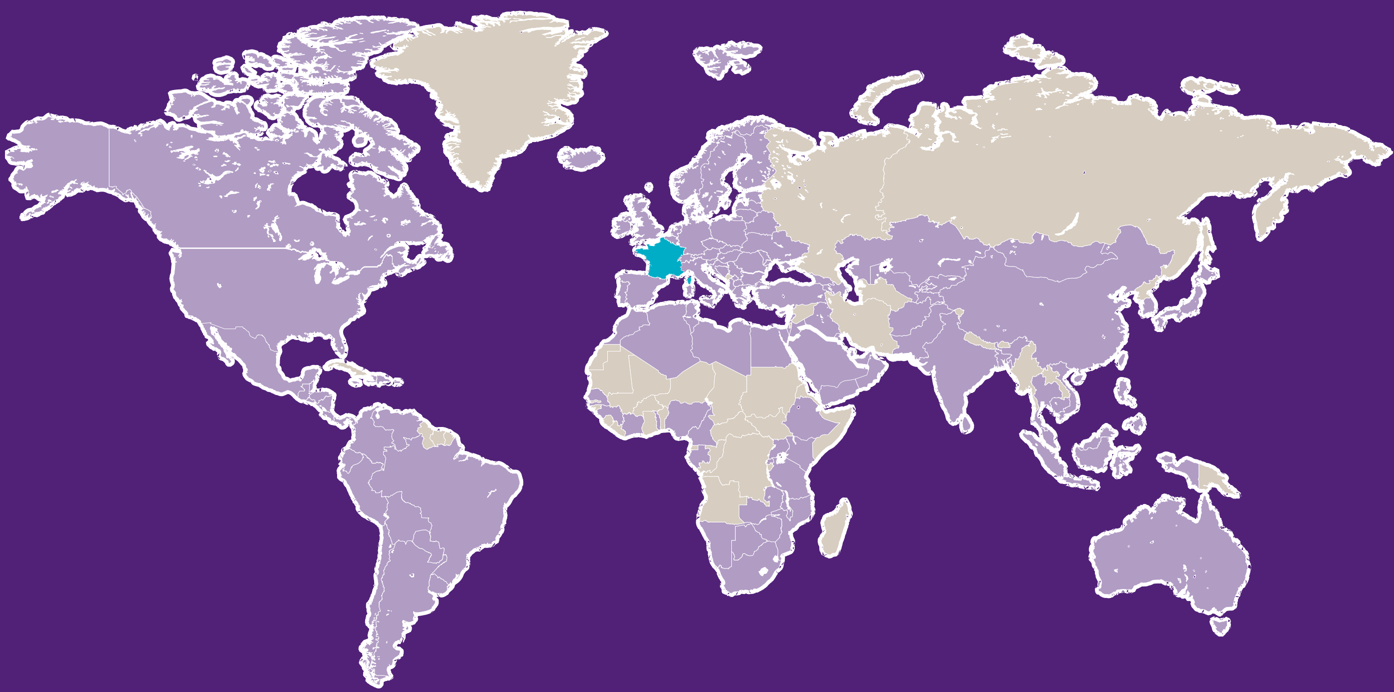
€235
million revenue

5th country
of the GTIL network

24
offices

2 504
employees

136
partners



Grant Thornton worldwide

$US 7,2
billion revenue in 2022

+140
countries

13,7%
annual growth

+750
offices

+68 000
employees

3 978
partners

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