tax justice network

**Transfer Pricing, Tax Havens and Global Governance**
*By Ganapati Bhat, an officer of the Indian Revenue Service in the Directorate of Transfer Pricing. German Development Institute, 2009*

This study compares the specific advantages and disadvantages of a) the Arm's Length Principle and b) formula apportionment, and stresses that "Important though transfer pricing issues are for tax bases and tax collection, many developing countries do not have an administrative and legal framework to govern transfer price practices." The study discusses obstacles and limitations in current regimes (pp 20-21). As it notes:

> Plugging the holes caused by tax-related transfer pricing poses theoretical as well as practical problems. As mentioned earlier, many countries do not have any transfer-pricing-related regulations. International coordination is tortuous and time-consuming. Even developed countries do not have strong penal measures on their statute books to deter tax-motivated transfer pricing.
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> As many of the offshore centres are closely associated with major powers, it seems impossible to take coercive action against them if they fail to meet transparency and information exchange requirements. Disclosure norms should have teeth and be uniform across countries, so that MNCs come forward with information voluntarily. The possibility of information being exchanged discourages tax avoidance and evasion. Efforts are needed to enforce existing regulations with rigour so that precious resources are not lost to tax havens.

The study concludes and recommends that in order to resolve the transfer pricing problem, "an overarching agreement, giving national governments sufficient policy space, seems more cost-effective."

> The main obstacle to coordination through delegation at international level is, of course, the absence of global institutional structures. A global agency could calculate the profit of a multinational company worldwide and then allocate it to an individual country on the basis of a formula that reflected the firm's presence

> in that country. Countries could have their choice of tax rates and incentives, but the MNCs' tax base could be determined by the global agency, in a transparent manner, and allocated rationally and effectively
> . . .
> The creation of such an agency may go a long way to achieving a "level playing field" in international business and global governance as well as helping to mitigate the huge administrative cost to both governments and taxpayers.

However, the study concludes that "realistically, such an agency for the calculation of multinational corporations' tax base or the conclusion of an agreement is unlikely in the medium term."