

How to tackle transfer pricing abuse

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Raymond Baker has suggested the following as ways to tackle transfer mispricing during a talk today at the [Task Force conference](#):

Actions to Curtail Abusive Transfer Pricing - Industrialized Countries

- ¬? Bring imports and exports under the same regulatory regime. They're not in many places.
- ¬? Educate employees dealing with international trade about laws against mail fraud, wire fraud, and schemes to defraud.
- ¬? Educate auditors about the risk of advising on or observing abusive transfer pricing.
- ¬? Require auditors to note on audited accounts evidence seen of abusive transfer pricing.
- ¬? Require CEOs and CFOs to attest that there has been no violation of statutes against mail fraud, wire fraud, and schemes to defraud.
- ¬? Include evaluations of abusive transfer pricing in corporate responsibility ratings.
- ¬? Request that the World Trade Organization address the issue of abusive transfer pricing.

Actions to Curtail Abusive Transfer Pricing - Developing Countries

- ¬? Adopt legislation requiring that imports and exports are to be transacted at fair world market prices.;
- ¬? Adopt legislation making it a felony offense to offer abusive transfer pricing, tax evading, or money laundering services.
- ¬? Require auditors to note evidence of abusive transfer pricing on audited accounts.

- ? Require companies doing business with government to attest that there has been no use of abusive transfer pricing.;
- ? Require transactions above a designated value to be conducted via confirmed, irrevocable letters of credit.;
- ? Consider utilizing pre-shipment inspection and price checking services. This might prove the goods invoiced are the goods shipped.
- ? Consider utilizing online pricing data by customs authorities. This is available.

→? Two signatures on a paragraph in the standard commercial invoice form, as follows:

- A) All items covered by this invoice are at fair world market prices and contain no element of mispricing for the purpose of manipulating VAT taxes, customs duties, or income taxes.;
- B) This transaction conforms to all banking statutes, exchange control regulations, and anti-money laundering laws of all countries where the transaction originated, through which it passed, and into which it arrived.;
- C) No commissions or third-party payments are paid or payable to any domestic or foreign account except as noted in a written statement.

Much of the last few days have been spent discussing arm's length pricing. Many argue that there is no alternative. I don't agree. But I am also pragmatic: change takes time and the Big 4 are as wedded to the arm's length pricing model as are the OECD; they make a great deal of money from it.

The above recommendations are different. The reality is that whatever the rule it can be abused. I know that. The above all have one goal: penalise those who abuse.

And I applaud that.

Compliance increases when some go to prison with good reason. I suspect that's a fact on which we can all agree.