Transfer pricing: what have we learned in three days in...

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Today is the third, and last, day of the Tax Justice Network transfer pricing conference in Finland.

I guess the first thing to note is thanks to the Finnish government for sponsoring this conference. Like all the Nordic countries they appreciate the cost to the world at large and developing countries in particular of transfer pricing abuse that, above all else, is used to shift profits out of countries where they could provide essential public services, such as education, healthcare, pensions and the provision of essential public infrastructure like schhols, hospitals, roads and more into tax havens.

But what have we learned? After many presentations, much discussion, three late nights and numerous conversations its always hard to summarise such things and yet three things stand out.

The first is that the OECD's arm's length pricing system that supposedly regulates the tranfer pricing used by multinational corporations in 180 countries simply does not work. We heard from India, China, Tanzania, Indonesia, Nigeria, South Africa, the Dominican Republic and other countries. They all said the same thing: they have systems called arm's length pricing because that's what the OECD says they must have but the reality is that none of the data needed to make such systems work exists. So the supposed use of such systems is purely notional. They have to work round the system to get whatever revenue they can.

Second, to be candid, the OECD were helpless in replying to that charge. The defence that "this is all we've got, we've invested a lot of effort into it and because we all say we use it even if there are problems in making it work that means it must be the best way forward" is not an argument; it is an act of desperation.

Third, there really are alternatives. Some arrangements, such as those in Brazil and India candidly look like blunt sticks with some get out clauses to try to recover some tax. I'm not sure they're the way forward. There is risk of double taxation in these cases, and that's not something I support any more than I support non-taxation.

Alternatively, some countries are coming up with special schemes (the Dominican Republic tackling the hotel trade and package tours was one great example) and these may well have merit as they are in effect based on profit splitting arrangements, and those make economic sense.

And that, importantly, suggests the direction of travel in which we must go and which the conference signalled. This is that the time has come to tax multinational companies as if they are just one company and not the hundreds or thousands of seperate entities that the group can decide to create to undertake its trade - many of them existing solely to own "intellectual property" such as patents and copyrights, many of which have limited intellectual purpose but almost all of which are located in tax havens where they are used to divert profit to such places.

Europe has realised this: the proposed Common Consolidated Corporate Tax Base for Europe does this. It would mean a European multinational would submit all its accounts for Europe to one country who would then, using a formula, allocate the profit to the state where it was most likely that it arose. I say 'most likely' with good reason. Nothing will be precise or even 'right' in this process. What we are seeking is the best possible and fairest achievable outcome that taxes once and once only in the place that is most likely to approximate to the place where the profit the company, as a whole, has really made. That is as good as it will ever get - and we want that at low cost.

Many believe this idea - already in use between many US states - is the direction for travel on this issue. I am inclined to agree. I readily admit that country-by-country reporting - my contribution to this debate - is designed to assist tax calculations on this basis.

I don't expect over night change.

But I do think there will be change. Apple, Google, Amazon and others have proved how easy it is to abuse the rules.

And tax revenue is the scarcest and most valuable commodity to politicians in Europe now.

Put that together and I think change is likely. That's why ths has been worthwhile.