

Comments on Part A: Transfer Pricing in a Global Environment

Rajat Bansal, Committee Member

A.4.12 : MNEs with shares listed on Stock Exchange may have published codes of conduct or set of business principles or both, violations of which may have consequences. The paragraph seems to be conveying that this reduces chances of deviation from transfer pricing arm's length principle considerably. In my view, there is not much interaction between the two. In any case, consequences are there under transfer pricing legislation or regulations under tax law but those do not create absolute deterrence. This paragraph needs discussion.

A.4.13: This paragraph states that even where MNEs invest in setting appropriate transfer prices and preparing documentation, there is always risk of tax authorities disagreeing with approach taken and there is risk of TP adjustment. This creates uncertainty for MNEs including potential cost of preparing additional documentation, managing tax audits and conducting litigation. At the end, it is stated that there could be cases of transfer price manipulation. The TP process is designed in this manner world over. Weightage is always given to properly set transfer prices and comprehensively prepared documentation. UN Manual should not give an impression that these practices of investing in maintaining documentation or setting transfer prices properly are not beneficial. I do not see purpose of this paragraph and recommend its deletion..