

## Transfer pricing, un système chez ArcelorMittal

### Notes :

- 1 - Les directeurs d'ArcelorMittal admettent pratiquer le Transfer Pricing sur une large échelle organisée
- 2- Arcelor Mittal a son siège global à Luxembourg, destination privilégiée qui allie industrie métallurgique et paradis fiscal ( selon 2 guides de paradis fiscaux, teintés d'un humour au gout douteux...)

<http://www.arcelormittal.tv/2010/06/16/what-it-takes-to-be-a-good-tax-manager/>

**Javier Lasso Peña, Global Tax Director at ArcelorMittal, has recently been recognised as one of the most admired Tax Directors in Europe after a poll lead among International Tax Review's readers. But what is it exactly that makes a good tax director? We asked the awarded tax expert himself to give us his views...**

Javier Lasso Peña . Global Tax Director, ArcelorMittal

June 16, 2010

"A good tax manager realises that he or she is part of a team. Tax is like a symphony. You cannot play it alone. An orchestra is needed. Every player has his or her own talent, creative skills and responsibilities. But all players are well aware that they need to synchronise harmoniously their instruments to achieve a goal in common: bring value to their company and its shareholders in compliance with tax laws.

This is a major challenge in a world where multinationals are increasingly facing fragmented and conflicting tax landscapes. Thousands of intra-group transactions take place on a daily basis within ArcelorMittal. These intra-company dealings trigger diverse tax and transfer pricing implications.

Tax is not only a concern of tax and transfer pricing specialists. Tax is regularly part of business decisions. It requires sound corporate governance. Therefore, the engagement of the business is crucial. Tax follows the business. However, a good tax manager looks continuously at opportunities as how to influence the business positively. For this purpose, a good tax manager acts as a business partner exploring all possible management skills in addition to tax expertise.

Are taxes boring? Not at all! During my first 5 years dealing with taxes I seriously considered quitting this profession. In 2010, I am celebrating my 20th anniversary as a tax professional and I continue to enjoy the challenges involving taxes."

<http://tmagazine.ey.com/taking-a-global-view/>

## **Taking a global view**

**Following the merger of Arcelor and Mittal in 2006, senior management at the world's largest steel producer took the decision to create a global tax function that would have visibility across the company's entire operations.**

*By Fergal Byrne*

**T Magazine: What is the rationale for developing a global tax function?**

Egbert Jansen: Arcelor and Mittal were geographically very complementary to each other when the merger took place. We used this unique opportunity to develop a best-in-class tax function with a global perspective.

**What do you see as being the main benefits of a centralized tax model?**

Javier Lasso Peña: Having a lean centralized team that looks after all tax is a key source of added value, particularly within a company with so many intra-group transactions. At the same time, our tax colleagues at regional and country level play an instrumental role in developing best practice across different countries.

We have a genuinely multicultural, global tax department with different nationalities, cultures and ways of looking at problems. In a globalized economy this is a very important asset for us.

Jansen: Before the merger, tax wasn't always seen as a priority. Today, considering the complexity of a global but fragmented legal landscape, our senior leadership, particularly those who come from a financial background, understand and value what the tax department is doing.

We have been able to take a more prominent position within the company. For example, in close cooperation with treasury, the tax department structures the financial flows into the group, and decides how we structure the debt/equity structure of different entities. Changes in business models also require our involvement — as these can trigger a large number of tax implications.

Importantly, tax is now considered at an earlier stage, so we can give our perspective to top management before major decisions are taken.

**What is the key to successfully building and operating a centralized tax department in a company with such a diverse geographical footprint?**

Jansen: Over the past few years, we have won the trust of top management. This has been crucially important.

Top management understands and supports what we are doing — and we have a very good dialog. They have allowed us to build the tax team in what has been a difficult climate.

Communication is also vitally important. It's challenging but we are getting better at it. Within the tax department, for example, we have weekly meetings with the corporate tax team and calls with regional tax directors every 14 days.

We have a working group approach where members of the tax department from all around the world are invited to participate in all relevant initiatives that have an impact on the group as a whole. Even if we have a project at group or corporate level, we make sure to include regional or national tax leaders.

We also pay a lot of attention to communication across the rest of the company. We will start doing roadshows at a large scale, including presentations to the board and all relevant management committees and business leaders.

The goal is to have a dialog and explain what we do, how we can support them, why tax is important and how we can work together as business partners.

**Transfer pricing is increasingly a challenge for many multinationals. Can you tell me how you deal with this?**

Lasso Peña: Having a centralized tax function helps us to communicate with different parts of the group and explain the rationale for pricing policies in different countries. We can share knowledge.

But transfer pricing remains a challenge for us. In a group like ours, with thousands of intergroup transactions of a significant size, it requires lots of time, energy and resources.

Transfer pricing needs the support of the entire organization but this is not always easy to explain in a multinational with so many diverse business lines. With tax planning, you may see immediate benefits from investing in this area.

Transfer pricing is a longer-term issue and it's not always easy to see the benefits.

**ArcelorMittal's headquarters is in Luxembourg. Is this purely for tax purposes?**

Jansen: ArcelorMittal has longstanding roots in Luxembourg. The Luxembourg company "ARBED", founded in 1911, was one of the key predecessors of ArcelorMittal. In 2002, ARBED became part of Arcelor with its headquarters in Luxembourg.

Today, ArcelorMittal is one of the largest employers in Luxembourg with more than 6,000 employees working in more than 20 operational and commercial companies spread throughout the country. Luxembourg's stable and business-friendly investment environment was at least as important for our decision to locate headquarters here.

Of course tax matters. There is an attractive tax climate and a broad tax treaty network in Luxembourg. Individual taxes also play an important role here. However, there is scope for improvement.

Compared with other countries there is no special tax treatment for expatriates. Luxembourg residents, for example, are subject to net worth tax at a rate of 0.5% annually. This is very costly for companies in steel manufacturing and mining which, by their nature, are very capital-intensive industries.

Finally, it would be nice if Luxembourg could create a tax friendly regime for financial income like it exists in some EU countries.

### **What are the next steps in the development of ArcelorMittal's tax function?**

Jansen: As well as transfer pricing, there are other risk and compliance factors that we want to address.

We are, for example, developing a tax compliance network center, with leadership at a corporate level, starting in Europe. We have more than 1000 entities worldwide, as a result of the many mergers over recent years, and we want to harmonize and streamline the different practices.

Also, risk management is increasingly getting our attention – but this would not be a surprise to anyone in the tax community.

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[http://news.bbc.co.uk/2/hi/europe/country\\_profiles/1061821.stm](http://news.bbc.co.uk/2/hi/europe/country_profiles/1061821.stm)

## **BBC country profile - Luxembourg**

Luxembourg's prosperity was formerly based on steel manufacturing. With the decline of that industry, Luxembourg diversified and is now best known for its status as Europe's most powerful investment management centre.

<http://paradis-fiscal.fr/europe/luxembourg.html>

## **Paradis-Fiscal**

Le Guide des Paradis Fiscaux dans le monde

### **Paradis Fiscal Luxembourg - Secret Bancaire en question ?**

Paradis Fiscal - Le Luxembourg, est un État ducal de 2 590 Km<sup>2</sup> environ situé entre la Belgique, la France et l'Allemagne. Le Luxembourg est une monarchie constitutionnelle héréditaire de 450 000 habitants dont le système

juridique est fondé sur le Code Civil Français de 1804.

**Focus Bancaire** : le secteur bancaire luxembourgeois compte près de 190 banques dont moins de 5% sont luxembourgeoises. Il existe un secret bancaire sous forme de compte numériques à pseudonymes dont seul le commissaire de la banque connaît l'identité du déposant.

**Nota Bene** - Si une administration fiscale souhaite des renseignements sur un compte bancaire, celle-ci doit en obtenir l'autorisation auprès du Tribunal compétent luxembourgeois. Cette autorisation est donné uniquement si le déposant est accusé d'un crime ou délit reconnu comme tel au **Luxembourg** et s'il existe un lien de cause à effet entre le crime ou délit et le compte bancaire.

**Contrôle bancaire** : aucun contrôle des autorités luxembourgeoises ne s'applique aux non-résidents et ceux-ci peuvent disposer sans aucune limitation de comptes dans toutes les devises possibles. Ils peuvent également transférer les intérêts de leurs placements sans aucune retenue à la source (sous réserve de l'application de l'accord du 03 juin 2003).

**Permis de Séjour** : le **Luxembourg** étant intégré à l'Union Européenne, tous les citoyens européens peuvent y résider sans aucun permis de séjour.

Sous la pression des pays les plus riches, le Luxembourg sera-t-il obligé de réviser sa législation bancaire pour ses comptes numériques à pseudonymes ? Si tel est le cas, les titulaires de ces comptes bancaires devront trouver d'autres points de chute, eux-même surveillés.

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<http://www.ptclub.com/index.html>

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## **Luxembourg**

The RTL media empire which developed out of Radio Luxembourg has made entertainment the second largest industry in this rather staid but extremely beautiful principality. Its other claim to fame is that statistically it is the richest country in the world. Although they have taxes, nobody seems to work too hard on collecting them. The largest industry, of course, is finance. Luxembourg's history as a tax haven goes back to its 1929 holding company legislation, but as a founder member of the European Union it is under great pressure on bank secrecy issues and is having to readjust its role to compete with the likes of London and Frankfurt rather than Nassau and Road Town. Nonetheless, for non-EU residents Luxembourg gets our highest recommendation. Everything is super efficient, less snobbish than Switzerland, and personal accounts with internet banking can be opened by ptCLUB through the mail for just \$500. In this country banking secrecy is part of the national culture more than anywhere else we know. As a small, rich country it has avoided the socialist problems of Switzerland where some politicians want to abolish bank secrecy. And while the Swiss apply a 35% withholding tax, investments in Luxembourg are tax free for non residents.

And where else but in our beloved Luxembourg can you find the biggest banks disguising their plastic cards as guides to global time zones, or providing paper shredders for client use in branches? We recommend you to order a Luxembourg account today by contacting ptCLUB.

## Filiales Arcelor et firme d'avocats-conseil spécialisé transfer pricing - en Colombie

- 1- Arcelor est souvent représenté par la firme internationale d'avocats-conseils Baker&McKenzie
- 2- Baker&McKenzie décrit ses compétences dans le domaine des mines et métaux : «global tax structuring, transfer pricing and indirect taxation capabilities»...
- 3- Baker&McKenzie a un bureau en Colombie dont la sous-spécialité est le «transfer pricing».
- 4- Arcelor Mittal ouvre une filiale en Colombie en 2007, soit disant pour services et produits. Après 4 ans d'existence, aucune adresse, aucun téléphone, aucune description sur site d'Arcelor Colombie, ni description des produits....?!?

[http://www.steelbb.com/us/?PageID=157&article\\_id=24221](http://www.steelbb.com/us/?PageID=157&article_id=24221)

### Acesita plans new service centre in Colombia

Thursday, January 18 2007

The Brazilian stainless and special steel producer Acesita, an Arcelor Mittal subsidiary, has formed an alliance with Colombia's Corteceros S.A. to build a new service centre in the Barranquilla region, **Steel Business Briefing** understands. The investment at this new centre is thought to surpass US\$5m.

The project is part of Acesita's previously announced plan to expand sales in Latin American markets by buying or building service centres in Colombia, Argentina and other countries.

In addition, Arcelor Mittal has created a subsidiary of its Arcelor Stainless International in Colombia, which will manage the flat products sales in that country and the region.

### Colombia: Andean Headquarters for Arcelor

<http://www.bnamericas.com/research/en/Proexport - Colombia: Andean Headquarters for Arcelor>

It's subsidiary Acesita, in alliance with Corteceros S.A. constituted two marketing companies in the country.

The iron and steel group Arcelor Mittal \*\* the biggest iron and steel group in the world, not only wants to be part of the national market by acquiring Acerías Paz del Río (Colombian Steelworks Company) , but also, by expanding it's marketing and customer service activities in the country.

Acesita, it's Brazilian subsidiary that produces stainless steel, agreed on an alliance with Corteceros S.A. ( Cortesa Group) to create in Barranquilla, a service center to support buyers of the products imported from their (Arcelor) plants.

Off the record, it is known that the investment for this project amounts to Five million dollars.

Acesita, a Brazilian stainless steel producer for Arcelor Mittal, also foresees the purchase of distributors in Colombia and other South American countries since it aims at becoming one of the stainless steel supplying leaders in Latin America. Therefore, it will destine 50 percent of its annual production, near 200.000 tons, to markets of the region.

By the end of 2006, Arcelor also opened a branch in Bogotá of its French subsidiary Arcelor Stainless International (ASI), that besides marketing steel planes (sheets of steel) will work together with Arcelor on the Acesita project in Barranquilla.

Mr. José Anselmo Figueiredo Carvalho is the General Manager of the firm.

Arcelor's new office will cover the local market and will be the commercial coordination center of the transnational for the Andean region. Its main objective will be to commercialize plane steel products. Imports from this iron and steel segment cover most of the Colombian demand and 90 percent is supplied by Brazil and Venezuela.

ASI Colombia will also be the representative for Arcelor-Mittal before the service center of Barranquilla.

As part of the multinational's projects in the country, Arcelor Stainless Andina appears in Barranquilla. Until today in our country, Arcelor had been dedicated to importing and commercialization activities of products manufactured by companies belonging to the Group such as Belgo Siderurgia, Acesita, Ugine & Alz itself, Arcelor RPS, Aceralia (Spain), Acindar (Argentina) and Ventas Trading.

<http://www.bakermckenzie.com/Transfer-Pricing-Local-Practices/>

## **Transfer Pricing in Colombia**

At Baker & McKenzie we understand that an adequate transfer pricing analysis helps clients not only in fulfilling legal dispositions but in optimizing their operational procedures, creating more efficient and profitable corporate structures according to the proper appointment of functions, assets and risks from a global perspective.

Global resources and local knowledge enable our **Transfer Pricing Practice in Colombia** and Latin America to offer companies with international presence and transactions a consistent and sound approach in the establishment of the transfer pricing policies for their groups of companies.

We can help your company fulfill formal transfer pricing requirements in Colombia and Latin America. Coordinating across our regional team, and applying our certified ISO9001-2008 quality framework, we can prepare consistent



transfer pricing documentation across borders. Also detect eventualities in transfer pricing and respond in a timely manner to the possible amendment of local or regional policies. Since we do not offer auditing services, we are not limited by independence rules that become, throughout time, more numerous and stricter around the world.

We have an experienced team to defend clients in legal and administrative matters before transfer pricing reviews and audits, with the juridical support that only Baker & McKenzie can offer as one of the largest law firms of the world. We have a wide group of local and regional legal advisors, which will give your company counseling in order to prepare a sophisticated legal strategy on an integrated basis.

Site Arcelor Mittal Colombie

<http://arcelormittal-ssc-andino.com/History.htm>

### **History Arcelor Stainless Andino S.A.**

Arcelor Stainless Andino S.A. was born in October 29th of 2007 in Barranquilla Colombia, result of a joint venture between Arcelor Stainless International and Corteaceros S.A. company of the Cortesa Group, this Stainless Steel Service Center has as the principal objective the processing of stainless steel coils, offering the services of CTL (Cut To Length) and finishing of stainless steel sheets.

In the future Arcelor Stainless Andino S.A. provided services of longitudinal cut (Slitting Line).

# Évasion fiscale, Transfer Pricing et minières

- 1- Document du service de recherche du Congrès américain – identifie les différentes méthodes utilisées pour l'évasion fiscale
- 2- L'importance du **Transfer Pricing comme pièce maîtresse dans l'évasion fiscale** des corporation multinationale
- 3- L'importance des filiales (subsidiaries) pour organiser ces TP et sa prévalence dans les industries extractives. Les hydrocarbures et **les mines : leaders en évasion fiscale**

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<http://www.fas.org/sgp/crs/misc/R40623.pdf>

## Tax Havens: International Tax Avoidance and Evasion

**Jane G. Gravelle**  
 Senior Specialist in Economic Policy  
 September 3, 2010  
 Congressional Research Service  
 www.crs.gov

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### Allocation of Debt and Earnings Stripping

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 The possibility of earnings stripping received more attention after a number of U.S. firms inverted, that is, arranged to move their parent firm abroad so that U.S. operations became a subsidiary of that parent. ...., there is relatively straightforward evidence that U.S. multinationals allocate more interest to high-tax jurisdictions, but it is more difficult to assess earnings stripping by foreign parents of U.S. subsidiaries, because the entire firm's accounts are not available. The Treasury study focused on this issue and used an approach that had been used in the past of comparing these subsidiaries to U.S. firms. The study was not able to provide conclusive evidence about the shifting of profits out of the United States due to high leverage rates for U.S. subsidiaries of foreign firms but did find evidence of shifting for inverted firms.

### Transfer Pricing

The second major way that firms can shift profits from high-tax to low-tax jurisdictions is through the pricing of goods and services sold between affiliates. To properly reflect income, prices of goods and services sold by related companies should be the same as the prices that

would be paid by unrelated parties. By lowering the price of goods and services sold by parents and affiliates in high-tax jurisdictions and raising the price of purchases, income can be shifted.

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[http://www.bakermckenzie.com/files/Uploads/Documents/Locations/United%20Kingdom/Corporate%20Tax/pn\\_london\\_corporatetax\\_capabilitiesstatement.pdf](http://www.bakermckenzie.com/files/Uploads/Documents/Locations/United%20Kingdom/Corporate%20Tax/pn_london_corporatetax_capabilitiesstatement.pdf)

Baker & McKenzie is one of the world's largest international law firms with 67 offices in 39 countries. With more than 3,900 locally qualified, internationally experienced lawyers, we offer our clients a global service unrivalled by any other law firm.

### **Transfer Pricing**

Baker & McKenzie has long had a considerable reputation and expertise in transfer pricing, probably the single most important tax issue for multinational business today. As a result of the US-style self-assessment penalty-based transfer pricing regime in the UK, transfer pricing is a very important part of our international tax planning capability in London.

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<http://www.thebureauinvestigates.com/2011/09/19/revealed-the-secret-world-of-global-oil-and-mining-giants/>

## **Revealed: Secret world of global oil and mining giants**

*by Nick Mathiason, The Bureau of Investigative Journalism  
September 19th, 2011*

Ten of the world's most powerful oil, gas and mining companies own a staggering 6,038 subsidiaries with over a third located in 'secrecy jurisdictions'. As a growing number of international think-tanks and campaign groups demand action to prevent an estimated \$1 trillion flooding out of developing, but resource-rich countries, attention is focusing on states like Delaware in the US and the Netherlands.

Defined as secrecy jurisdictions, these are places where there are few requirements for companies to publish accounts and beneficial ownership details among a host of other key disclosures, which as a result can be kept hidden from public view. Trawling annual reports and stock exchange filings of companies such as BP, Glencore and ExxonMobil, a five month investigation by Publish What You Pay Norway (PWYPN) found that:

- 2,083 (34.5%) of the 6,038 subsidiaries belonging to just 10 of the world's most powerful extractive industry companies are incorporated in secrecy jurisdictions.

- The global extractive industry's favourite place to incorporate is by far the US state of Delaware with 15.2% of all subsidiaries located there.
- The second favourite extractive industry company secrecy jurisdiction is the Netherlands, where 358 subsidiaries belonging to oil and mining giants are based.
- Chevron is the most opaque extractive industry company in this study. 62% of Chevron's 77 subsidiaries are located in secrecy jurisdictions. ConocoPhillips is the second most opaque oil and gas major in this report with 57% of its 536 subsidiaries incorporated in secrecy jurisdictions.
- Glencore International AG is the most opaque mining company in the Piping Profits survey with 46% of its 46 subsidiaries incorporated in secrecy jurisdiction

None of the companies are breaking any laws nor any regulatory requirements of stock market listings. But the disclosure of the enormous scale of the \$1.8 trillion extractive industry's reliance on opaque locations comes as pressure mounts on US and EU policymakers to come up with so-called Country-by-Country Reporting (CBCR) measures to counter corruption and aggressive tax avoidance.

This would force companies to reveal key financial information – revenues, profits, taxes paid and reserved used – in every country where they do business. Currently EI giants 'consolidate' this information in one set of accounts. This makes it impossible for citizens in resource rich countries to get an accurate picture of how much oil, gas or minerals is extracted, how much is left and what kind of deal their country has struck for them.

In America, the Securities and Exchange Commission (SEC) is currently deciding how to adopt the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) that forces all US listed companies to report detailed payments to any state it operates on a project-by-project basis.

Next month, the European Commission is expected to introduce similar legislation in the EU parliament. But there are serious concerns that the measures will be watered down before they become law.

### **Corporate Secrecy Harms Poor Nations**

Mona Thowsen, national co-ordinator of Publish What You Pay Norway, said: 'What this study shows is that the extractive industry ownership structure and its huge use of secrecy jurisdictions may work against the urgent need to reduce corruption and aggressive tax avoidance in this sector.'

'This is why there is a large and growing body of opinion throughout the world now demanding the introduction of CBCR because it is a vital tool to reduce corruption, secrecy and aggressive tax avoidance that particularly harms people in developing and emerging economies.' The report, Piping Profits also involved journalists from Bolivia and Ecuador attempting to establish key financial and operational performance information from strategically important natural resource companies in their countries. However a month-long concerted attempt to gain information from companies yielded nothing, reflecting the veil of secrecy which citizens face in the campaign to find out what is happening to their resources.

'I always heard it was very complex – and sometimes even dangerous – to obtain financial information about Extractive Industry activities,' said Bolivian Marco Escalera, co-ordinator for major Southern Hemisphere campaign group Somos Sur, after spending six weeks attempting to draw out key financial information from EICs operating in his country.

'Whether it is the extractive industries or the state itself, they close ranks against the common enemy: civil society questions. The story is repeated over and over again: Access to timely and reliable information is not good enough.' Both Delaware and the Netherlands are attractive to corporations. Over 900,000 companies – more than its human population – choose Delaware as a place to incorporate. The Netherlands is the the largest host of conduit companies worldwide and is an important jurisdiction for shifting corporate debt around the same organisation.

*Nick Mathiason, Freelance for Guardian, is business correspondent at the Bureau of Investigative Journalism. He was previously a media and policy strategist at the Fairtrade Foundation and business correspondent at the Guardian and Observer newspapers for 10 years. The Bureau of Investigative Journalism is a not-for-profit organisation based at City University, London, that bolsters original journalism by producing high-quality investigations for press and broadcast media.*

*The first of its kind in the UK, it was established in April 2010 with a £2 million donation from The David & Elaine Potter Foundation. In the year since it launched the Bureau has secured over a dozen front-page stories and produced a number of award-winning web, radio and TV documentaries. The Bureau works in collaboration with other news groups to get its investigations published and distributed. To date, we have worked with BBC File On Four, BBC Panorama, BBC Newsnight, Channel4 Dispatches, Channel4 News, The Financial Times, The Daily Telegraph, The Sunday Times, Le Monde and numerous others.*