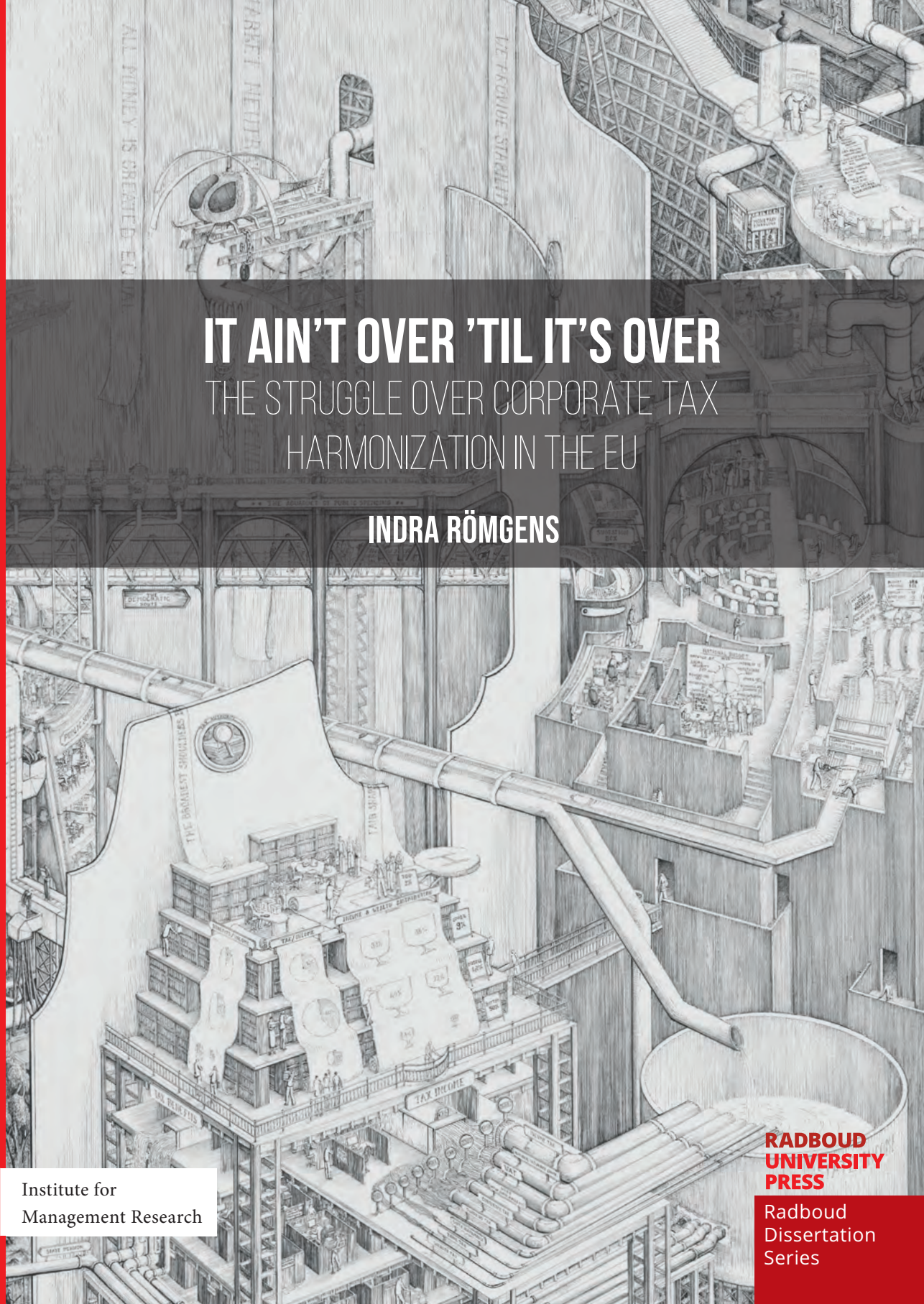




IT AIN'T OVER 'TIL IT'S OVER

THE STRUGGLE OVER CORPORATE TAX HARMONIZATION IN THE EU

INDRA RÖMGENS

Institute for
Management Research

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It ain't over 'til it's over

The struggle over corporate tax harmonization in the EU

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Indra Dorothé Jozefien Römgens

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It ain't over 'til it's over

The struggle over corporate tax harmonization in the EU

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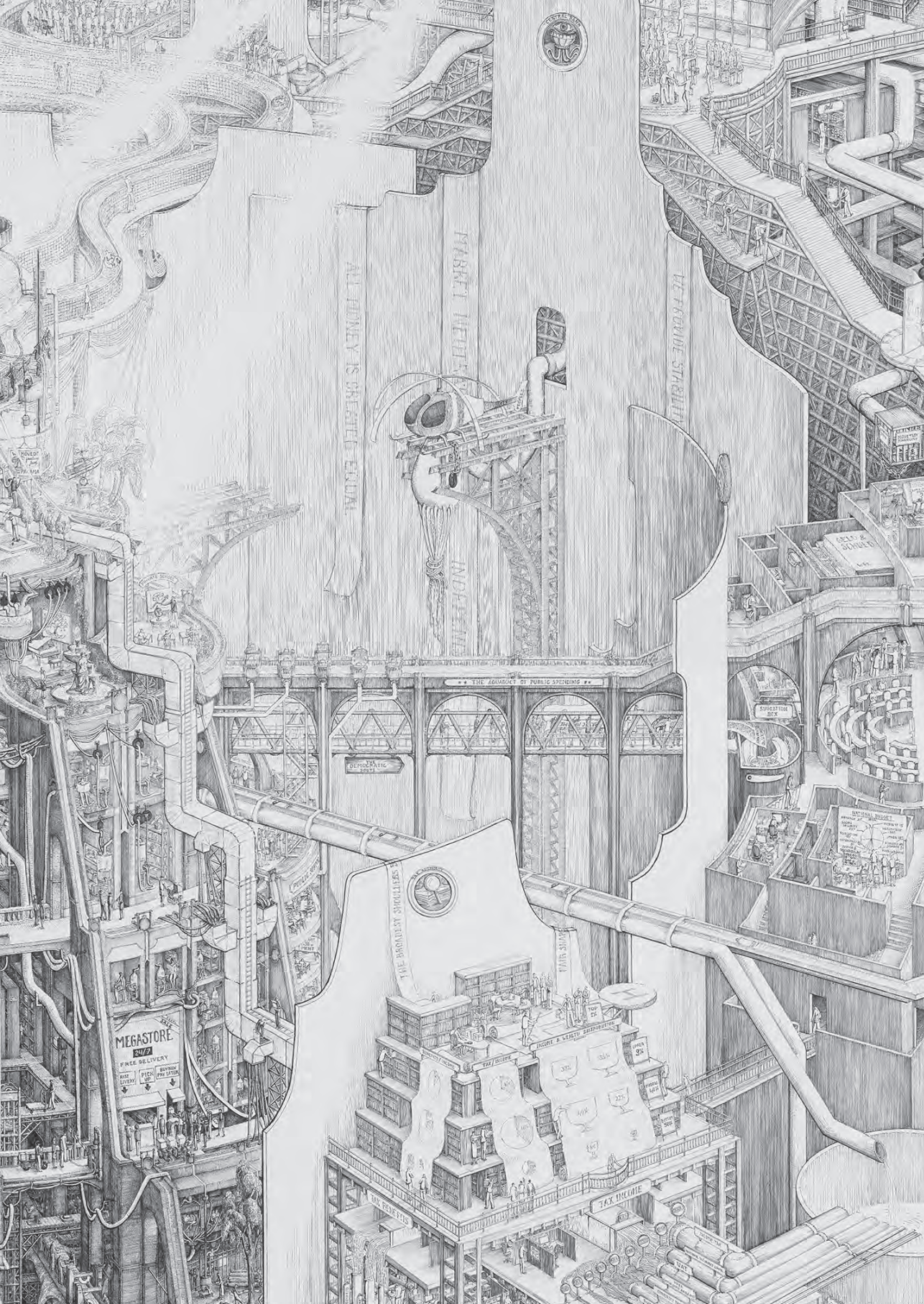
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List of abbreviations

AGI	Allowance for Growth and Innovation
AmCham	American Chamber of Commerce
ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CbCR	Country-by-country reporting
CCTB	Common Corporate Tax Base
CCCTB	Common Consolidated Corporate Tax Base
CFC	controlled foreign company
COCG	Code of Conduct Group on Business Taxation
CTPA	Centre for Tax Policy and administration
ECOFIN	Economic and Financial Affairs Council
ETUC	European Trade Union Confederation
EU	European Union
FATCA	Foreign Account Tax Compliance Act
HLWP	High Level Working Party on Tax Questions
HMPA	Historical material policy analysis
ICC	International Chamber of Commerce
JFTP	Joint Forum on Transfer Pricing
NGO	non-governmental organization
OECD	Organisation for Economic Cooperation and Development
TJN	Tax Justice Network
TNC	Transnational corporation
UNICE	Union des Industries de la Communauté européenne / Union of Industrial and Employers' Confederations of Europe (now BusinessEurope)
WPTQ	Working Party on Tax Questions



1. Introduction

Revenue losses of European Union (EU) member states due to corporate profit shifting amounted to EUR 100 billion in 2022, estimated by the most recent European Commission's (hereafter: the Commission) annual report on taxation (2024, p. 17). Profit shifting by corporations refers to corporations' strategies to artificially shift profits from high-tax countries to low-tax countries with the purpose of avoiding taxes. A damaging consequence is the loss of government revenues. Ending profit shifting by corporations requires radically different ways of taxing corporate profits. In 2011, the Commission put forward a legislative proposal that held this potential: the common consolidated corporate tax base (CCCTB). The proposal was relaunched in 2016. However, over ten years after the CCCTB was first presented, an EU official shared that the CCCTB had become like the Loch Ness monster, 'where no one dares saying that it's dead, but no one wants it to really be alive' (Interview EU Official #1). What happened?

First launched in March 2011, the CCCTB was the most far-reaching cross-border legislative tax proposal under negotiation worldwide at the time. Although it would apply solely to corporations within the EU, the CCCTB represented a significant departure from the foundational principles of the current international tax system. For the purpose of taxation, a transnational corporation (TNC) is currently viewed as a collection of separate entities, which are individually taxed in the state where they are legally incorporated. The CCCTB, instead, entailed that a corporation would be seen as a unified whole through the harmonization and consolidation of the corporate tax base in the EU.

The CCCTB directive in 2011 proposed to calculate the corporate tax base – a corporation's taxable income – in the EU according to a single set of rules rather than the rules of the 27 member states and subsequently attribute a part of the tax base to individual member states. This first step of harmonizing the tax base in accordance with common EU rules would allow a TNC to file only one tax return, regardless of the location of its activities in the EU. The second step of consolidation entailed apportioning the corporate tax base to the different member states with a right to tax part of the TNC's income. The right to tax, as the CCCTB directive proposed, would depend on a corporation's

economic activities in terms of sales, employees and assets. In other words, a member state in which a TNC employs people, sells its goods or services and locates its tangible assets had a right to tax part of the corporate tax base. The combination of the first step of harmonization and the second step of consolidation meant that a corporation would no longer be treated as a collection of separate entities but as a unified entity – thereby ending important channels for corporate profit shifting. The unique character of the CCCTB therefore lies in prioritizing economic substance over legal presence.

The radical potential of the CCCTB and the possible redistributive revenue impact it could have had on EU member states led to fierce political opposition. After the initial launch of the CCCTB in 2011, the European Parliament (hereafter: the Parliament) amended and adopted the Commission's proposal in April 2012, with 463 votes 'for', and 174 'against' (with 30 abstentions). The proposal was eventually stalled in the Council of the European Union – specifically the Economic and Financial Affairs Council (ECOFIN) – due to profound disagreements on several issues in the proposal. The Irish government, for instance, stated that its position was 'one of scepticism', while also pointing out that it was not the only member state skeptical about the CCCTB proposal (Government of Ireland, 2012). National parliaments also loudly voiced opposition to the CCCTB and threatened to invoke the 'yellow card procedure' under subsidiarity rules, which requires the Commission to reconsider a legislative proposal if at least one-third of national parliaments deems that an EU proposal breaches the principle of subsidiarity. Although the procedure was not triggered in the case of the CCCTB, parliaments from nine countries – Bulgaria, Ireland, Malta, the Netherlands, Poland, Romania, Slovakia, Sweden and the UK – reasoned that the proposal did not (sufficiently) comply with the principle of subsidiarity, arguing that corporate tax policies fall within national competence.¹ Not only was this the highest number of reasoned opinions that the Commission had received up until that point, but several other national parliaments also expressed concerns without issuing an official reasoned opinion (Weber & Van de Streek, 2018).

¹ All reasoned opinions in response to the CCCTB legislative proposal in 2011 can be found here: European Parliament, webpage 'Relations with National Parliaments', Procedure 2011/0058(CNS), accessed 14 January 2020: <http://www.connefop.europarl.europa.eu/connefop/app/1106?lang=en&p=2>. Note that for the purpose of the so-called subsidiarity control mechanism, each of the 27 national parliaments is allocated two votes. If there are two chambers, each has one vote. When reasoned opinions represent at least one third of all the votes allocated to the national Parliaments, the Commission must review its proposal.

Staunch opposition to the CCCTB did not stop the Commission from relaunching it, with significant changes in the *content, form and scope* of the proposal. Compared to the 2011 proposal, which sought to establish ‘a more efficient’ corporate tax system to enhance the competitiveness of the EU as a whole, with the relaunch in October 2016, the policy objectives of the CCCTB were broadened significantly (European Commission, 2011c). The Commission argued that the new proposal would counter ‘aggressive tax planning’ (European Commission, 2016a). Two of the most important and contested changes were in the *form* and *scope* of the proposal: the CCCTB was split into two separate directives – the first concerning harmonization of the corporate tax base and the second concerning consolidation – and was proposed as a mandatory system. Whereas the original proposal was designed as an optional system, under the new proposal all TNCs with a revenue above EUR 750 million would be subject to the CCCTB. As regards its *content*, the majority of the legislative text remained unchanged, including the absence of the harmonization of tax rates. However, the inclusion of two new tax incentives as well as a number of anti-abuse rules were important exceptions and were heavily contested.

The CCCTB in 2011 and its relaunch in 2016 comprised a radical new way of taxing profits in the EU. Outright opposition to the proposal after 2011 could have led to the idea of corporate tax harmonization slowly fizzling out. The Commission could have plausibly withdrawn the CCCTB proposal. Instead, it was relaunched in 2016. Whereas the 2011 CCCTB as an optional system received support from large parts of the business community, the change to a mandatory system severely diminished the support for the Commission’s re-launch of the CCCTB. The following research question therefore guides this dissertation:

What explains the timing as well as the changes in content, form and scope of the relaunch of the proposal for corporate tax harmonization and consolidation in the EU in 2016?

Why this research question matters

This dissertation thus analyses the political struggle over corporate tax harmonization in the EU, which culminated in an unsuccessful proposal for a CCCTB in 2011 and a subsequent relaunch only five years later. There are three ways in which this analysis leads to valuable insights.

First, investigating proposed policies that were ultimately not adopted exposes who stands to benefit from the lack of policy change. The critical political economy (CPE) framework developed in this dissertation centers the question of *cui bono?* – who benefits? – and in turn, *cui malo?* – who loses? Who wins or loses implies material costs and benefits, but also includes ideational gains or losses, for example the extent to which ideas or policy demands can become increasingly problematized or normalized. This guiding question of *cui bono* is an important part of answering the research question, offering insights into the asymmetric power relations that shape negotiations over corporate tax policies. The explanatory analysis focuses on contestation between key agents and the formation of (shifting) coalitions before and after the relaunch of the CCCTB in 2016. It locates these struggles in the broader changes in global capitalism, in particular since the 2008 economic and financial crises. In doing so, the research findings will not only help to understand who stands to gain or lose from a harmonized European corporate tax system but also explain the persistent opposition to fair corporate tax regimes on both a regional *and* an international level.

Second, through tracing the political contestation and dynamics between and across both institutional and non-governmental forces within the domain of corporate tax policymaking, this research contributes to understanding EU politics and integration in areas conditioned by unanimity. Supranational taxation has been a bone of contention since the outset of European integration. As a result, the EU has very little power to tax. There is no EU tax authority to levy and collect taxes. The design and implementation of tax policies remains formally a prerequisite of the member states. The development of an EU tax law is subject to the so-called 'special legislating procedure', which stipulates that the Council is the sole legislator while the Parliament is merely being consulted. Laws can be adopted only with unanimous approval by the Council, effectively granting each government a veto over the process. Still, since the start of the European Community in 1957, the harmonization of taxes has always featured on the political agenda. Tax laws and proposals have been initiated, negotiated and, in some cases, even adopted. Regarding corporate taxation, a limited set of measures was successful, meaning that EU corporate tax directives have harmonized only a small part of corporate tax systems in the EU. As this research demonstrates, the principles of unanimity and subsidiarity are not static institutional decision-making features but rather continuously politically contested and strategically used instruments in negotiation processes. This finding is also of importance to European integration in policy fields subjected

to Council decision-making based on unanimity. Beyond corporate taxation, unanimity endures in areas considered to be of national importance: foreign and defense policy, the accession of new member states and social protection.

Last, the struggle over corporate tax harmonization continues, both in the EU and on a global scale, and this dissertation holds valuable lessons that can help explain corporate tax policy change or the lack thereof and even articulate expectations with regard to current negotiations. Two developments are of particular importance. The first is the Commission's most recent idea for corporate tax harmonization in the EU entitled 'Business in Europe: Framework for Taxation' (BEFIT). In September 2023, the Commission withdrew the 2016 CCCTB proposals as it put forward a new legislative text that proposed, again, the harmonization and consolidation of the corporate tax base. Although it can be seen as the relaunch of the relaunch, BEFIT is in many aspects a much watered-down version of the 2016 CCCTB, as the degree to which harmonization and consolidation are envisioned differs starkly. While the development of BEFIT is beyond the scope of this dissertation, understanding the decades of deliberation and Council negotiations on corporate tax harmonization offers crucial pointers to what can be expected of the BEFIT negotiations. A second development concerns the ongoing negotiations about an international tax system within the Organisation for Economic Cooperation and Development (OECD) framework. In the OECD, the most recent initiative addressing corporate tax abuse and inequality in taxing rights is the so-called 'Two-Pillar solution', in which the first pillar refers to profit reallocation between states and the second to a global minimum tax. Formulary apportionment – the use of a formula based on real economic activities that directs which state gets to tax which part of a TNC's corporate income – is central to the consolidation aspect of the CCCTB and Pillar 1. Negotiations on such proposals are characterized by redistributive or budgetary concerns and opposing interests of 'winners and losers'. An analysis of the decades-long development of and negotiations about the CCCTB offers useful insights into regional as well as international negotiations on corporate tax reform on the basis of formulary apportionment.

1.1 A critical political economy of corporate taxation: A theoretical and methodological approach

In the emerging scholarly field of fiscal sociology, taxation is understood as 'the obligation to contribute money or goods to the state in exchange for nothing in

particular' (Martin et al., 2009, p. 3). Taxation belongs to the core functions of the state. Taxes constitute an important revenue source for state institutions; they are a key instrument in any government's fiscal policy. Tax policy can be wielded as a redistributive mechanism, leading to either a more progressive or a more regressive division of income within society. State institutions also use taxes to reward or punish certain behavior. Taxation thus creates an important relationship between state institutions and taxpayers. In the political science literature, taxation is often associated with war and processes of democratization. The expectation that (higher) taxes lead to (more demands for) representation is not necessarily always true, but research has found that relative to government services, higher taxes do tend to make states more democratic (Ross, 2004, p. 247). Citizens do not necessarily object to higher taxes but, in combination with a decrease in (the quality of) public services, they tend to demand more representation. In line with this research, others have more recently found that progressive taxation systems exist more often in democratic regimes than in authoritarian ones (Seelkopf & Lierse, 2020).

The relations arising from taxation are inherently conflictual. Taxes are often challenged. Although new compromises might be made, the conflictual nature of taxation as a relationship between those who are obliged to pay taxes and the state institutions that levy and collect these taxes is continuously reproduced. Periods of crisis in particular can result in conjunctural moments in which pressures for change arise. The push for a corporate tax policy change is often embedded in a broader agenda for reform. A relevant example is the strategy of UK Uncut to embed tax avoidance within their broader anti-austerity challenge from 2010 onwards (Birks, 2017). Levying more taxes on corporations and rich individuals is posed as a fairer alternative than budget cuts. Other research also shows that the demand for fairness increased in the wake of the financial crisis: in particular in countries that suffered from the financial crisis, people expressed a stronger demand for progressive taxation (Limberg, 2020). While the demand for fairness was articulated by various organizations, government policies did not necessarily move in a progressive direction. An extensive study of EU member states' tax policy changes between 2008 and 2010 shows that only pressures of international capital markets imposed structural limitations on governments' choices for tax policy change, leading most to opt for a more regressive approach instead of a redistributive one that, for example, UK Uncut pleaded for (Lierse & Seelkopf, 2016).

The interwovenness of taxation and statehood, the conflictual nature of the relations that taxation creates, the structural limitations in the shaping of tax policies and the central role of agency in making tax policy change happen all led to the adoption of a CPE perspective in this dissertation. Explaining the political struggle over corporate tax harmonization in the EU requires an approach that centers both structure and agency and assumes both material and ideational ontological dimensions. This dissertation primarily builds on CPE perspectives on European integration (Bieler & Morton, 2001; Buch-Hansen & Wigger, 2012; Bulmer & Joseph, 2016; Cafruny & Ryner, 2003, 2012; Jäger & Springler, 2015; Ryner & Cafruny, 2017; Van Apeldoorn, 2002; Van Apeldoorn & Horn, 2018). European integration is understood as an open-ended historical process that takes place against a background of globalization processes. Integration trajectories are consistently linked to changes and continuities in global capitalism and the social forces it engenders. CPE perspectives share a focus on class or social forces, although this does not 'exclude analysis of state institutions' (Bieler & Morton, 2001, p. 19). The state is seen as the materialization of social struggle that emanates from how production is organized. Investigating social struggle, therefore, inherently includes a study of state institutions. Translating this into the research question at hand, an analysis of the struggle over corporate tax harmonization, culminating in a CCCTB proposal in 2011 and a subsequent relaunch in 2016, will therefore account for changes and continuities by continuously referring to the broader trajectory of European integration and engage with questions of EU statehood.

The state is not seen as a neutral arena or a mediating actor in itself; instead, state institutions are the strategic terrain on and through which opposing groups of agents continuously struggle for dominance. This important notion is informed by the strategic-relational approach developed, in first instance, by Bob Jessop (2005a, 2008) and Colin Hay (2001). Because the state is not a neutral arena, policy processes are not expected to be neutral processes to which everyone has equal access and in which all interests are weighed equally. State institutions are the terrain of social struggle and are therefore shaped by the history of contestation between social forces. This affects which organizations, whose interests and what ideas institutional structures are susceptible to, as well as the extent to which they are susceptible to these. Moreover, because state institutions are the terrain through which hegemonic struggle is articulated, shifting policy goals and new ambitions reflect changes

in power relations, for example as a result of counter-hegemonic challenges posed to a dominant project.

Across the aforementioned CPE perspectives on European integration, general agreement exists that the 'revival' or 'extended relaunch' of EU integration that started in the 1980s and took shape in the form of the single market, the Economic and Monetary Union (EMU) thereafter and general EU enlargement has been driven by (global) forces that seek to restructure capitalist production. EU integration is a time- and space-specific expression of this, dominated by a neoliberal project, discourse or policies: 'Neo-liberal economics was the underlying driving force of the revival of European integration' (Bieler, 2002, p. 577). The point of departure of the CPE perspective developed in this dissertation is a historical materialist ontology, which understands capitalism as being prone to crises that are inherent to the underlying expansionary logic, or capital's 'quest for infinite growth on a finite planet' (Wigger & Horn, 2023, p. 93). A conjunctural analysis centers on crises and the potential for change that such moments or periods hold. The current European political economy – including corporate taxation – is therefore understood as having been significantly shaped by the 2008 crisis. It should be noted that when this dissertation speaks of 'the crisis', this refers to the global financial and economic crisis in 2008 and the associated sovereign debt crises and austerity policies in the EU.

Methodological approach to the European political economy of corporate taxation

Expanding the framework for analysis, this dissertation develops a historical materialist policy analysis (HMPA) to trace the struggle over corporate tax harmonization leading to the launch and subsequent relaunch of the CCCTB in the EU. A historical materialist understanding of the state as the material condensation of social relations and a neo-Gramscian understanding of integration – following CPE perspectives – leads this dissertation to assume that European integration is ultimately the result of continuous struggle between hegemony projects, whose core agents' interests are directly rooted in the social relations of production (Van Apeldoorn, 2002, 2004). HMPA is an innovative methodological approach that bridges the gap between concepts and the nitty-gritty of (EU) policy processes. Built on the three core elements of context, agency and process, HMPA offers a helpful and theoretically informed framework for policy analysis that guides the empirical analysis of political struggle over corporate tax harmonization in this dissertation. Central

to this analysis is the conceptualization of agency through hegemony projects, defined as a 'myriad' of actions, practices and strategies of a variety of actors that share a distinct, common direction (Brand, 2013; Brand et al., 2022; Buckel et al., 2017; Kannankulam & Georgi, 2014).

Three core hegemony projects are identified, first as ideal-types and then in the empirical analysis: a neoliberal, a neomercantilist and a center-left project. The detailed operationalization of HMPA makes it possible to not only identify these projects but also position them in relation to each other based on power resources and – informed by the strategic-relational approach – strategic selectivities. In doing so, the analysis center-stages how projects differ or overlap, how they strategically co-opt elements of another project and the extent to which a project can pose a counter-hegemonic challenge. Because context analysis is an integral part of HMPA, the approach successfully includes both structure and agency as dimensions with important explanatory power. While HMPA carries a promising potential to build a framework for policy analysis grounded in historical materialist ontology, the methodological approach remains abstract and at times imprecise in its application. The comprehensive operationalization developed in chapter 3 contributes to the wider use of HMPA in EU policy analysis.

The empirical analysis rests on a vast range of primary and secondary sources. First, 23 semi-structured expert interviews were conducted between 2018 and 2022. The center-staging of agency through the concept of hegemony projects informed the selection of interviewees, which include experts within organizations representing corporate interests, NGOs, labor unions and EU institutional bodies. Second, the empirical analysis was informed by an examination of a wide variety of documents, including reports obtained through a request for information to the Commission. With access to the not publicly available meeting reports of Council discussions on the CCCTB between 2011 to 2017, the analysis offers unique insights into behind-closed-doors negotiations between member states' governments.

1.2 Corporate tax harmonization and European integration: State of the art

The EU as a particular form of continuously evolving statehood lacks important taxing powers. After shortly addressing the legal basis for corporate tax

harmonization in the EU, this section situates the dissertation within the broader literature on the political economy of corporate tax harmonization in the EU.

The treaties that form the constitutional basis of what today constitutes the EU include a number of articles that empower EU institutions to formulate common tax law (see Articles 110–116 of the Treaty on the Functioning of the European Union, TFEU). The stipulations have remained unchanged since the Treaty of Rome of 1957, when the focus of the original six member states of the European Economic Community (EEC) mostly lay on removing fiscal barriers to the cross-border trade of goods. While Article 113 offers an explicit legal basis for the harmonization of indirect taxes, such as turnover taxes and excise duties, the Treaty does not include an explicit reference to the direct taxation of personal and corporate income. The legal basis for corporate tax harmonization is found in Article 115, which stipulates that the EU should work towards ‘the approximation of such laws, regulations or administrative provisions of the member states as directly affect the establishment or functioning of the internal market’. Article 115 specifies that the special legislative procedure applies in these decisions, which is why unanimity is required for the Council to adopt or amend a law. Under the special legislative procedure, the Parliament is merely consulted, and the Council has no obligation to take the Parliament’s position into account. The Commission is the legislative initiator and thus develops and initiates new legislative proposals. It therefore has a powerful and important role in determining the content, form and scope of tax proposals. Additionally, the EU’s legal framework assigns an important role to the European Court of Justice (ECJ), which has the power to review the consistency of national tax laws with the *acquis communautaire*. In a landmark case from 1986, the ECJ ruled that the principles of community law also apply to the direct tax systems – including corporate taxation – of member states, which has led to extensive ECJ jurisprudence on taxation, with non-discrimination as the leading legal principle (S. Schmidt, 2018, pp. 154, 158).

The principle of unanimity explains why most analyses of EU corporate tax policymaking have so far focused on either the role of member states or the intricacies of governance dynamics in the case of a special legislative procedure. More comprehensive explanations for the changes and continuities in EU corporate tax policymaking can be found in Claudio Radaelli’s work (1995, 1997, 1999) as well as in more recent literature that addresses the

effects of politicization in the wake of the financial crisis. These three strands of literature are discussed in the remainder of this section.

The state of the art below builds on publications that I (co-)authored during this PhD project. In particular the chapter 'The politics of taxation in the European Union', co-authored with Aanor Roland for the *Handbook on the Politics of Taxation* (Römgens & Roland, 2021; handbook edited by Hakelberg & Seelkopf) and the article 'Policy Change in Times of Politicization: The Case of Corporate Taxation in the European Union' published in the *Journal of Common Market Studies* (Roland & Römgens, 2022) have informed this section 1.2 as well as the analysis, especially chapter 8. Two other publications that also resulted from the PhD project are the Dutch article 'De aanpak van belastingontwijking door de EU: gerichte maatregelen zonder structurele verandering' for *Beleid en Maatschappij* (Römgens, 2019) and the recently published and co-authored 'What do citizens in tax havens think? The EU blacklist and public opinion in Switzerland' in the *Journal of European Integration* (Roland et al., 2025).

Centering the state: Tax sovereignty and hegemonic power as key explanatory concepts

The assumption that tax competences are either non-existent or unlikely to develop at an EU level has led many scholars to neglect corporate taxation in their studies on European integration. This conclusion was often drawn based on the redistributive nature of tax issues, the unanimity principle in the Council and conflicting member states' interests. From the state-centered perspective of liberal intergovernmentalism, Andrew Moravcsik (2001, p. 164) characterizes EU institutions by 'the near-total absence of the power to tax and coerce'. Similarly, leading regulatory governance scholar Giandomenico Majone (1998, p. 10) claims that the EU had 'no general taxing and spending powers similar to those held by national governments'. In an analysis at the crossroads of law and political science, Alec Stone Sweet (2004, p. 239) argues, for instance, that the EU has 'little capacity to govern through taxation'. The assumption that the EU's power to tax is virtually non-existent and that this legitimizes the vast scholarly neglect of the topic is easily empirically refuted. The first directive on a common value-added tax (VAT) was adopted in 1967 to replace the existing national turnover taxes with a common VAT system (Haffert & Schulz, 2019). Indirect taxation played an essential role in the establishment of the single market, and significant steps have been taken towards harmonization since the first VAT directive. Scholars have demonstrated that the EU 'exerts considerable regulatory power over taxation'

(Genschel & Jachtenfuchs, 2011, p. 294), including corporate taxation, and there is 'much more harmonization in tax matters than is often claimed' (Uhl, 2006, p. 567).

Liberal-intergovernmentalist in-depth analyses of corporate taxation are virtually non-existent. Still, other approaches that share assumptions about the central role of the state as a rational and unitary actor driven by cost-benefit analyses have tackled the topic of corporate taxation, focusing mostly on the heterogeneity of member states' preferences, their reluctance to transfer competences to EU institutions and the continuous pressure of inter-state tax competition (Dehejia & Genschel, 1999). Efforts to explain why certain tax policies have been adopted by the Council identified the influence of a great power or hegemon as a crucial or even the only condition under which states can be pressured to internationally cooperate (Dehejia & Genschel, 1999; Hakelberg, 2015; Holzinger, 2005; Wasserfallen, 2014).

An important case was the adoption of the Savings Tax Directive in 2003, aimed at coordinating capital income taxation in the EU through a system of automatic exchange of information between member states on cross-border savings income payments made to EU individuals. Katharina Holzinger (2005), like Dehejia and Genschel (1999), employs a game-theoretical approach and concludes that the adoption of the directive would not have occurred without pressure from the US and a cooperative scheme with European tax havens that involved a degree of compensation. Lukas Hakelberg (2015), inspired by neorealist scholars, argues even more strongly that the hegemonic power of the US was decisive in getting long-resisting member states Luxembourg and Austria to commit to participate in the automatic exchange of information. In recent work, Hakelberg (2024, p. 18) argues, again, that US power – deriving from 'a unique combination of structural power, market power, and regulatory capacity' – was the driving force behind EU agreement on a directive for effective minimum taxation. In its emphasis on the role of states, this strand of literature leaves very little room for ideational factors, such as changes in discourse and the role of non-state agents in that respect. The latter have, for instance, contributed to the politicized context in which a proposal as minimum taxation could arise (Roland & Römgens, 2022). Moreover, state-centric approaches' understanding of state and state power does not take into account power asymmetries built into state institutions; instead, states are seen as the key actors with clear interests and demonstrating rational behavior. As a result, not all EU corporate tax policy change can be explained by this literature.

Multilevel governance approaches: Corporate taxation as a case of the joint-decision trap

In a contribution to the study of EU tax policies, by Fabio Wasserfallen (2014) looks into why the introduction of quality majority voting failed every time it was proposed – such as during the Maastricht, Nice and Lisbon Treaty negotiations. The analysis found that low-tax jurisdictions continuously resist tax harmonization and therefore also any move to qualified majority voting. This elucidates a paradox, because by opposing more tax harmonization to protect their tax sovereignty, member states have facilitated the erosion of their tax sovereignty. This paradox has been pointed out by various scholars and, following Fritz Scharpf (1988, 2006), often been identified as a case of the ‘joint-decision trap’. This refers to a situation where ‘central government decisions are directly dependent upon the agreement of constituent governments’ and ‘the agreement of constituent governments must be unanimous or nearly unanimous’ (Scharpf, 1988, p. 254). In the context of European integration, this means that once member state governments have agreed on binding rules, individual member state action is no longer permitted, while amending or abolishing the rules to respond to changes in interests or circumstances is immensely difficult due to the veto right of each member state government (Scharpf, 2006, p. 848). Such a situation is likely to result in either a stalemate or inadequate policy outcomes.

Scholarly work that has highlighted the joint-decision trap can be mostly situated within multilevel governance approaches. Governance approaches do not negate the state as such but challenge the (limits of) autonomy and sovereignty of the state in European-level policymaking, where ‘decision-making competencies are shared by actors at different levels rather than monopolized by national governments’ (Hooghe & Marks, 2001, p. 3). Their focus on the EU’s institutional framework, highlighting the roles of different institutional bodies, leads to valuable insights into the institutional context of the EU’s corporate tax policymaking. The concerns about sovereignty, competition and the heterogeneity of interests central to the state-centric approaches identified above are still considered relevant for explaining policy outcomes.

The joint-decision trap in direct taxation emerges due to the lack of an explicit legal basis: the idea that EU competences would not include direct taxes in reality meant that direct taxation – including corporate taxation – ‘would be dealt with under the general provisions of the EC-Treaty, including,

most importantly, the provisions on non-discrimination, the four freedoms, competition policy, and general policy harmonization' (Genschel, 2011, p. 55). The primacy of market integration, inscribed into the EU through the treaties and *acquis communautaire*, thus shapes direct tax policies, even more so because unanimity prevents member states from (easily) agreeing on any market-correcting policies and amendments. As such, the problem-solving gap in direct taxation is often seen as a prime example of the joint-decision trap (Genschel, 2011).

An important part of the scholarly work on corporate taxation throughout European integration has been dedicated to analyzing how the joint-decision trap has been reinforced and further institutionalized. It has concluded that two mechanisms reinforced and further institutionalized the joint-decision trap: market integration through secondary legislation and judicialization (Genschel et al., 2011; Genschel & Jachtenfuchs, 2011; Kemmerling & Seils, 2009). This work exposed in particular the role of the ECJ, which limited the extent to which member states' governments can take unilateral measures to sufficiently protect their tax base from harmful competition: 'The ECJ tends to accord higher priority to the protection of taxpayers' Treaty-based rights of mobility than to member states' public policy requirements' (Genschel et al., 2011, p. 600). In addition to judicialization, the various tax directives adopted since the 1990s, with the explicit goal to further integrate the EU's internal market, fostered tax competition between member states, as they facilitate cross-border movements of firms, capital owners and wealthy individuals (Kemmerling, 2010). Contributions from economics scholars have demonstrated how these developments led to an acceleration of corporate tax competition in the EU, up to the point that this race to the bottom became stronger within the EU than in the rest of the world (Davies & Voget, 2008; Genschel et al., 2011; Redoano, 2014).

Although multilevel governance literature does address or pose critical questions, for example on the limitations to democratic choices for more progressive national tax systems as a result of accelerated tax competition (Ganghof & Genschel, 2008), much of this scholarly work remains descriptive. Like other multilevel governance approaches, its focus is almost entirely on the institutional framework and resulting governance dynamics. By giving priority to the process rather than the content, such research often describes rather than explains policy change (Börzel, 2010; Scharpf, 2001). At the same time, emphasizing the autonomy of EU institutions as well as the broadening

of relevant actors beyond states are helpful contributions to understanding EU integration processes.

EU policy analysis: The explanatory power of ideational factors

Beyond the 'grand theories' of European integration lie approaches that seek conceptual frameworks and models to understand and explain the concrete policy processes of the EU. EU policy analysis is characterized by a wide variety of theoretical assumptions, but until very recently few studies explored EU corporate tax policies. The most notable exception is the corporate tax policy research of Claudio Radaelli (1997, 1999; 2008), who demonstrated the importance of putting ideational factors such as knowledge and narratives at the center of explaining corporate tax policy change. To explain the 30-year policy process that started in the 1960s and ended with the adoption of the Merger and Parent-Subsidiary Directives in 1990, Radaelli built on three interrelated dynamics: a changing policy environment, the redefinition of policy problems and the new role of an emerging epistemic community. In a context characterized by far-reaching economic and monetary integration, discussions about taxation were connected to the overarching goal of market integration and the 'commitment to remove barriers to the free movement of individuals, goods and capital' (Radaelli, 1995, p. 165). A small epistemic community, consisting of a few research institutes and policy fora that played a key role in 'transmitting knowledge' into the policy process, enabled the Commission to change its framing of problems concerning taxation. Together with the Commission and business representatives, this epistemic community built a supranational advocacy coalition that successfully 'promoted the transmission of new shared beliefs and public policy paradigms into the European tax policy process' (Radaelli, 1995, p. 174). Radaelli argued that the policy change eventually occurred because the new framing of tax issues by the Commission aligned with the arguments and ideas supported by the epistemic community.

Radaelli's in-depth empirical research has been complemented by more recent case studies that – like his work – attribute explanatory power to the agency of non-state agents, ideational factors and an ambitious Commission. The adoption of a financial reporting proposal that requires corporations to publish certain financial data per country in addition to consolidated accounts was attributed to an increasingly influential network of NGOs, who indeed had been advocating for this transparency measure (R. Christensen, 2021). Christensen also points to the susceptibility of both the Commission and the Parliament to

these relatively new actors and their demands in explaining EU corporate tax policy change. The entrepreneurship of the Commission also takes center-stage in Lips's analysis (2020) of developments in the taxation of the digital economy. Because international discussions coordinated by the OECD were not moving forward, the Commission reacted with two legislative proposals in March 2018. Lips (2020) argues that, despite both proposals stranding in the Council's negotiations, the Commission's aims to avoid fragmentation in national interim digital tax measures for single-market reasons and to provide an impulse to concurrent international negotiations were achieved.

Similarly, with their comparison of EU corporate tax policy before and after the financial crisis, Roland and Römgens (2022) provide an in-depth analysis of policy change, from a narrow focus on market-making measures to the inclusion of market-correcting provisions targeting tax evasion and tax avoidance since 2012. Corporate taxation evolved from a depoliticized to a politicized issue due to the impact of the financial crisis on government budgets and international economic governance frameworks, a series of tax scandals carefully orchestrated by a global network of investigative journalists and an expanding range of actors involved in EU tax policymaking, now including NGOs and tax activists. Strategically responding to these developments, forces within the Commission and the Parliament capitalized on opportunities for policy change that opened up by interacting with NGOs and other civil society actors, adopting their tax ideas and using discursive strategies of framing and naming-and-shaming.

A CPE perspective on corporate tax policy has not been sufficiently developed yet. Critical approaches to European integration have largely overlooked the policy area of taxation, focusing instead predominantly on competition, macroeconomic, industrial and corporate governance, migration and monetary policies – which are characterized by the supranational powers of the Commission or the European Central Bank (ECB). An exception is a conference contribution from Henk Overbeek that uses the case of tax harmonization to develop a neo-Gramscian theory of European integration. After reviewing 'the debate on tax harmonization in the EU' at the end of the 1990s, he identifies several 'building blocks for a more comprehensive "critical", transnational historical materialist theory of European integration' (Overbeek, 2000, p. 76). In particular, there was a need to address the agency of subordinated groups, to put European integration in a context of transnational processes and to

fundamentally rethink 'the concepts of sovereignty, governance and statehood in the era of globalization' (ibid. 2000, p. 77).

The EU policy analyses discussed here have broadened the existing literature in important ways through the inclusion of ideational factors and their focus on the limiting and enabling impact of institutional conditions on EU corporate tax policymaking. However, the explicit embedding of EU policymaking in the wider changes and continuities of global capitalism is often missing, leading to an incomplete explanation of why some ideas and narratives become dominant over others.

What is still missing: A critique of existing literature

The literature review above informs this dissertation in various ways. State-centric approaches to the European political economy of corporate taxation demonstrate that state institutions remain important in matters of taxation and that material interests need to be included in the analysis. Approaches under the broad umbrella of multilevel governance shine a light on how the EU institutional framework limits EU (and national) corporate tax policymaking and highlight in particular the role of the Court of Justice in this. Research that relies heavily on ideational factors such as frames and narratives offers useful insights into the agential power of non-state actors in pushing for certain ideas or narratives.

This dissertation adds to this body of literature by integrating *both* material interests and ideational factors in its analysis and by center-staging the continuous interplay between structure and agency. In doing so, it avoids the trap of relying too heavily on structural constraints or over-emphasizing the role of ideas and narratives. Moreover, the inclusion of both structure and agency – while not prioritizing one over the other – enables this dissertation to explain why certain policies were successfully adopted while others were not. The latter can also be the case because the social relations of production are at the root of any historical materialist analysis and are understood to be inherently asymmetric and unequal. The theoretical framework therefore assumes that forces within state institutions and non-state organizations are at the core of explaining policy change or continuity. Only by assuming this is it possible to explain why policy change occurred or did not occur.

This is closely related to an important question that most studies above insufficiently address: who benefits? At various occasions, scholars have

referred to the answer to this question, for example by pointing out that mobile firms tend to benefit from inter-state tax competition (Scharpf, 2001, p. 7) or by describing how the ECJ favors market integration over national revenue concerns (Genschel & Jachtenfuchs, 2011). Martin Höpner and Armin Schäfer (2012, p. 438) have more explicitly concluded that 'proponents of liberalization asymmetrically profit from the supremacy of European law' – i.e., in situations where integration occurs predominantly through judicialization instead of secondary legislation. They argue that, 'unlike political integration that can easily fall prey to conflicting interests and political blockades, "integration through law" is not negatively affected by increasing heterogeneity. In fact, the opposite may hold true' (Höpner & Schäfer, 2012, p. 445).

Generally, the question of who benefits is ignored or the answer to it is interpreted as unforeseen or unintended side effects; the wish for market integration, for instance, has just come true perhaps a bit too much. However, far-reaching market integration, limiting the taxing powers of national governments and shielding 'redistributive implications from public scrutiny' (Genschel & Jachtenfuchs, 2011, p. 305) is not a game without winners. As empirical research has shown, statutory and effective corporate tax income rates have decreased globally (Bretschger & Hettich, 2002; Devereux et al., 2008; Genschel & Schwarz, 2011; Leibrecht & Hochgatterer, 2012), and some find even more intensified effects of tax competition in the EU (Davies & Voget, 2008; Gorter & de Mooij, 2001; Overesch & Rincke, 2011; Redoano, 2014). This benefits mobile capital, mostly TNCs and in particular those whose profits are derived to a large extent from intangible assets that are more easily moved.

This situation in which member state governments refuse to jointly act in order to preserve tax sovereignty and, precisely because of this inaction, further erode sovereignty as a result of existing EU treaties and forces of globalization, is the so-called sovereignty paradox (Panayi, 2013, p. 80). The sovereignty paradox is not an unintended side effect but indeed the outcome of strategic actions. In an analysis of the EU's management of the Eurozone crisis, Stockhammer (2016, p. 373) concludes, 'The crisis is, in our view, due to the fact that Europe has built half a European state, while seriously damaging the ability of nation-states to counter an economic crisis (and by implication to underwrite social compromises). This is not an accident, but a part of the neoliberal agenda'. Such analysis is currently missing in the area of corporate tax policymaking in the EU. Therefore, this dissertation builds a CPE approach in which the question of who benefits leads to an analysis of power relations

not (solely) between member states but between those who own capital and those who are subjugated to it.

This dissertation contributes to the CPE literature by adding to it the case of corporate taxation as a policy area *not* subject to supranational powers and decision-making. Deviating slightly from other CPE analyses of EU integration, this dissertation explores in particular EU institutional bodies as important strategic terrains through which the hegemonic struggle over corporate taxation materializes. While not ignoring the role of member state governments, the analysis focuses predominantly on the contestations and contradictions, changes and continuities that arise through corporate tax policy processes within the EU institutional framework.

Last, although the literature review demonstrates that corporate tax policymaking has increasingly become a research subject within the scholarly field of European integration, the CCCTB itself has by and large remained outside the scope of research. The CCCTB is a highly significant phenomenon in need of an explanation, having been in the making for over a decade and launched and relaunched as a legislative text twice, with continuous negotiations. Corporate tax harmonization is part and parcel of the EU's political economy, as the CCCTB constituted the politically very ambitious purpose of replacing the entire corporate tax systems of all EU member states.

1.3 Global tax governance

While this dissertation speaks first and foremost to the growing body of literature on the European political economy of corporate taxation, a second body of literature that studies the political economy of *global* corporate taxation is relevant as well. In her seminal work *States and Markets* (new edition 1988/2015, pp. 94, 96), Susan Strange wrote already at the end of the 1980s: 'The fiscal question in a nutshell is whether the TNCs have been poaching on the state's right to tax', and that this tax issue 'is a basic one of international political economy on which much more research is needed'. Fortunately, research efforts on particularly the international and global efforts to coordinate and cooperate in matters of corporate taxation have since increased.

After the financial crisis and in particular with the start of international negotiations on curbing corporate profit shifting in 2013, political science and political economy scholars have increasingly addressed questions of power and politics in global taxation. The resulting literature constitutes the relatively new field of 'global tax governance'; this dissertation relies in its analysis on the excellent empirical work on global tax processes within the OECD framework (for example Büttner & Thiemann, 2017; Eccleston, 2013). Moreover, recent corporate tax reform proposals to introduce formulary apportionment on a global level with the aim to distribute part of corporate profits amongst so-called 'market jurisdictions' make the findings of this dissertation relevant to the global tax governance literature as well. Formulary apportionment is key to the consolidation phase of the CCCTB; negotiations within the EU can shed light on how to explain or what to expect regarding negotiations on a global level.

Global tax governance is mostly situated within the global political economy (GPE) literature and comprises of two domains of focus. The first researches, quantifies and exposes the role of offshore centers and tax havens. One of the earliest scholars to draw attention to tax havens was Ronen Palan (2002), who argued that tax havens are states that have perfected the strategy to commercialize sovereignty and, as such, enable TNCs to avoid regulation and taxes or find secrecy. The argument that tax havens therefore perform an essential function in an increasingly globalized economy is further worked out in a joint book with Richard Murphy and Christian Chavagneux (Palan et al., 2010). The existence of tax havens is thus not simply a result of the sovereign choice of mostly small jurisdictions but endemic to global capitalism: 'Tax havens are not working on the margins of the world economy, but are an integral part of modern business practice. (...) They have become one of the most important instruments in the contemporary, globalized financial system, and one of the principal causes of financial instability' (ibid., p. 4). More recently, several studies have exposed networks of tax havens or offshore centers (Alstadsæter et al., 2019; Garcia-Bernardo et al., 2017; Zucman et al., 2015) and quantified the impact of the existence of tax havens through estimations of associated profit shifting by TNCs (Clausing, 2020; Cobham & Janský, 2018; Crivelli et al., 2015; Garcia-Bernardo & Janský, 2024; Laffitte & Toubal, 2022; Tørsløv et al., 2023). This important body of work has had impacts far beyond the academic community. It serves as an important source for the analysis of structural power in this dissertation (see section 8.3).

The global governance literature is, additionally, concerned with understanding and explaining the changes and continuities in international and global corporate tax regimes. Core changes over the past two decades include the expanding agreements on automatic exchange of information between tax authorities and the efforts to curb tax base erosion as a result of profit shifting by TNCs. The OECD has been the main platform through which these new agreements have been negotiated and institutionalized. On the one hand, there are neorealist or rationalist explanations of why international tax reform occurred, such as Hakelberg (2016), who employs hegemonic stability theory to account for the role of the US in pushing for the global automatic exchange of information on individual bank account holders. There is a greater variety of scholars who have used constructivist frameworks to explain the fight against tax havens (Sharman, 2006) or at least relied on ideational factors such as ideas, narratives and expertise to explain global corporate tax policy change (Seabrooke & Wigan, 2016, 2024).

The global governance literature, compared to the scholarly work on corporate taxation within the field of European integration, benefits from more empirical cases of corporate tax policy change and a greater variety in theoretical and conceptual approaches. The role of non-state actors in particular has received more serious attention; research findings on the impact of civil society on global corporate tax policies serve as a crucial source for the empirical analysis.

The GPE subdiscipline of global tax governance has the same tendency as either state-centric approaches to ignore the explanatory powers of ideational elements or shares the tendency of constructivist or normative accounts with a focus on the role of non-state actors to overlook underlying structural asymmetric power relations. Historical materialist or otherwise critical theory approaches are missing in the growing global tax governance literature.

1.4 Central argument and outline of the dissertation

This dissertation argues that the *timing of the relaunch* of the CCCTB in 2016 can be explained in the context of a conjunctural moment that arose after the global financial crisis in 2008. From 2012 onwards, NGOs, labor unions, social movements and left-wing forces in the Parliament – as key drivers of what this dissertation identifies as a center-left project – successfully challenged the power of dominant neoliberal ideas and their proponents. At the same time, the

analysis finds structural limitations to the possibilities of a center-left project to successfully see its demands cemented into policies. The structural power of capital, manifested amongst other things in the material reality of tax havens and the continued ability of mobile capital to shift profits, also materializes in the EU's institutional setting for corporate tax policymaking: the principle of unanimity ensures veto power for all member states' governments, including infamous EU tax havens.

Furthermore, this dissertation argues that key *changes in content, form and scope* in the CCCTB are the result of the counter-hegemonic challenge posed through the center-left project. The shift in policy goals and the framing of the CCCTB as an anti-avoidance tool, for example, cannot be understood without accounting for the influence of center-left forces in EU corporate tax policymaking, in particular through the Commission and the Parliament. However, the detailed analysis of the intergovernmental CCCTB negotiations shows that three additional factors were important in explaining the key *changes in content, form and scope* in the CCCTB between 2011 and 2016. First, the hegemonic struggle between projects, which materialized in Council negotiations, showed the continued dominance of neoliberal ideas through the objections and strategies of delay of an important group of member states' governments, led by Luxembourg, the Netherlands and Ireland. Second, negotiations in the Council were not only shaped by the aforementioned institutional framework primed on the principle of unanimity but also by concurrent global corporate tax negotiations that influenced the direction and process of negotiations. Last, member state governments expressed concerns specific to them as state institutions that will have to implement and carry out new tax systems and, moreover, are dependent on tax revenues as an important source of income. Practical and budget concerns therefore also shaped certain key changes, most notably the mandatory character of the CCCTB as proposed in the 2016 relaunch.

In order to make these arguments, this dissertation is split into four parts: Part I presents the theoretical framework and the research design, part II covers the historical period up to 2011, part III analyses the rise of a center-left project and part IV centers on the negotiations in the Council on the CCCTB between the first proposal in 2011 and the first discussions on the relaunched proposals in 2017.

Part I begins with chapter 2, which, first, presents the critical realist assumptions that guide this dissertation. The ontological considerations

that follow from critical realism are then further substantiated through the historical materialist conceptualizations of class, state and the EU. These theoretical notions are explicitly related to corporate taxation. The theoretical framework is then embedded in the broader field of CPE perspectives on European integration, which in turn are used as building blocks for an approach to theorize the struggle between hegemony projects over corporate tax harmonization. Chapters 3 and 4 together constitute the research design. Chapter 3 is mostly dedicated to introducing and refining HMPA via a thorough operationalization of this methodological approach. The extensive discussions, in particular on hegemony projects, aim to contribute to building an approach that is still in its infancy and could benefit from empirical analyses that are as explicit as possible about how HMPA was applied. Document analysis and expert interviews were crucial to the quality of the empirical analysis that follows, and chapter 4 is dedicated to the underlying considerations, the choices that were made and the limitations of both data sources.

The empirical analysis follows the chronology of corporate tax harmonization throughout European integration, highlighting conjunctural moments in which strategic action of agents was possible and subsequently affected the context in which corporate tax policy was developed.

Part II of the thesis consists of chapters 5, 6 and 7 and covers the period up to the launch of the first CCCTB proposal in 2011. It includes a detailed comparison of the 2011 and 2016 proposals. Chapter 5 offers a historical overview of corporate tax harmonization developments from the late 1950s until 2011. Its central argument is that the rise of an embedded neoliberal project during the 1980s and 1990s, enabled by a global crisis and the associated crisis of European capitalism, explains why and how organized corporate interests were able to insert themselves more strongly as active participants in the corporate tax policymaking process. Particular attention is paid to the role of the Union of Industrial and Employers' Confederations of Europe (UNICE), currently BusinessEurope. The period before 2011 is crucial in explaining why the CCCTB was eventually the chosen form for harmonizing corporate taxes in the EU: because of the dominance of a neoliberal project that subsumed neomercantilist interests – a position that long went unchallenged. The purpose of chapter 6 is to detail the CCCTB proposal and highlight the changes made in the relaunched proposals in 2016, laying out the key points of contestation in the struggle over corporate tax harmonization. Chapter 6 also clarifies the extent to which the 2011 CCCTB proposal was indeed aligned with

the interests of key agents driving the neoliberal project and in what ways this changed in the 2016 proposals.

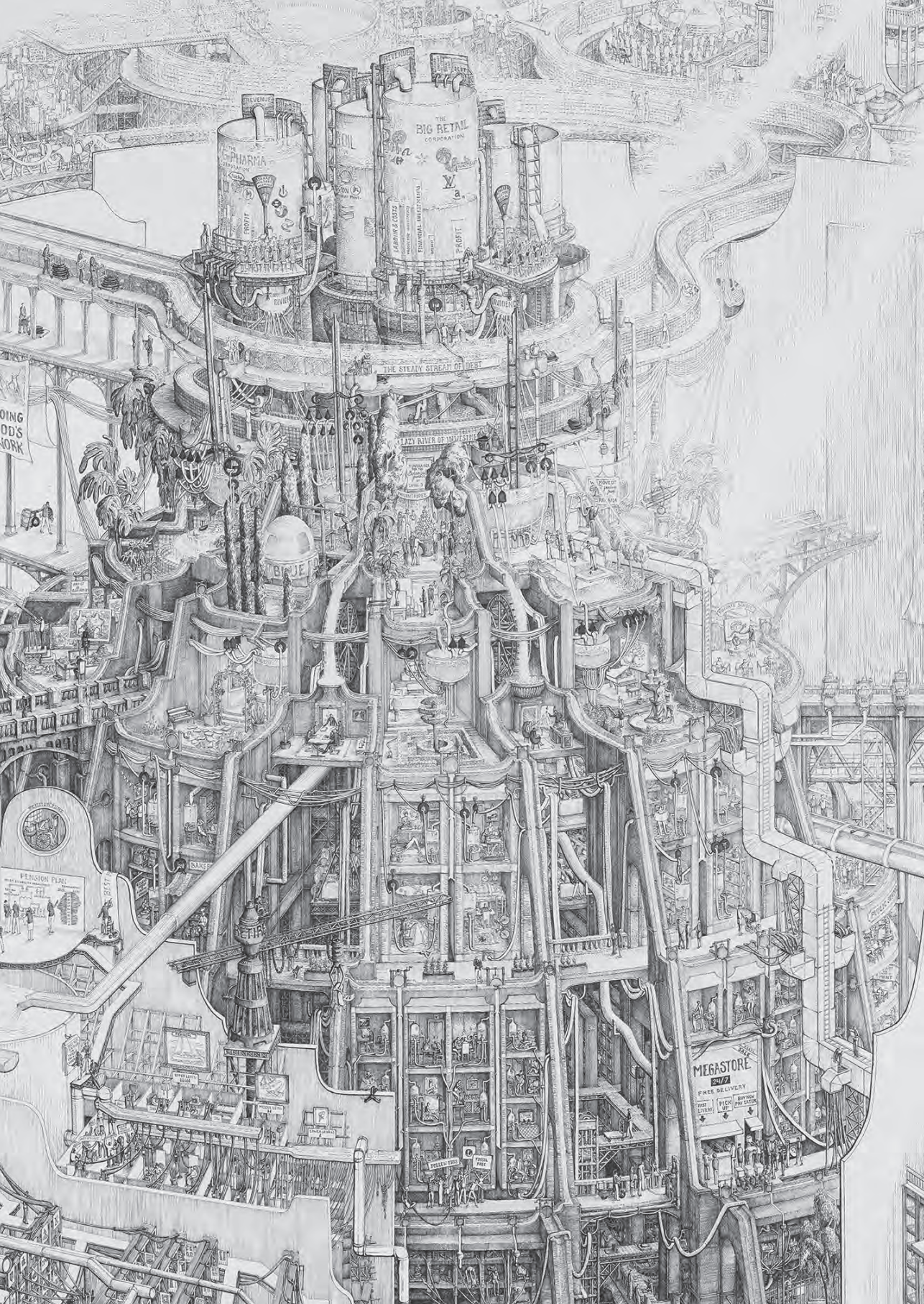
The explanatory importance attributed to agency in this dissertation leads to a detailed analysis of two key hegemony projects in chapter 7. Guided by the ideal-types of neoliberal and neomercantilist projects operationalized in Part I, chapter 7 identifies a dominant neoliberal project that successfully subsumed influential fractions of industrial capital while also partly co-opting a key neomercantilist demand for a strong EU market in the global economy. It also finds that the reality of hegemony projects is more diffuse than the ideal-typical projects make it seem: neoliberal and neomercantilist projects overlap to a great extent, and divergence in interests was shaped more by size and scale orientation. Organizations representing SMEs and cooperatives, who are often predominantly based in one member state, were identified as the key agents of a weakened neomercantilist project. Chapter 7 ends with an overview of neoliberal and neomercantilist views on the CCCTB and the key changes in its content, form and scope.

Part III details the conjunctural moment that arose after the financial crisis, explaining why it changed certain structural limitations for counter-hegemonic forces and how strategic actions from NGOs, activists, politicians, labor unions and journalists were collectively aggregated into a center-left project that successfully challenged the status quo. Chapter 8 argues that changes in material, ideational and institutional structural dimensions were made possible by the effects of the crisis and the politicization that followed. With respect to the latter, it also shows that the role of journalists and NGOs was crucial. While discursive changes are an important reflection of a successful counter-hegemonic challenge, chapter 8 also finds that continued asymmetric power relations have significantly limited that success. Chapter 9, like chapter 7, centers on hegemony projects. After explaining how key agents such as NGOs and labor unions were able to pose a center-left challenge to the hegemonic position of neoliberal ideas and forces, chapter 9 depicts the power relations between the three hegemony projects by juxtaposing their differences in expertise, resources, networks and media outreach capabilities. Guided by the strategic-relational approach, this chapter finds important changes in institutional selectivities with regard to EU institutions. Whereas certain organizations representing TNCs or global-oriented industries encountered limitations on access, doors and opportunities opened for NGOs and others that voiced center-left critique and ideas. Chapter 9 argues, overall, that a

center-left project successfully posed a serious challenge in a policy field dominated by a neoliberal project but that its ideas were only partly reflected in policy changes. While the rise of the center-left project helps explain the timing of the 2016 relaunch of the CCCTB, it can therefore not sufficiently explain all changes that were proposed.

Part IV consists only of chapter 10 and is key in arriving at a sufficient explanation for these changes in content, form and scope. The chapter traces Council negotiations on the CCCTB between 2011 and 2017, covering the key period after the first launch in 2011 and the relaunch in 2016. The focus on key points of contestation between member state governments and the strategies they employed during negotiations demonstrates that the struggle between hegemony projects was also articulated here. At the same time, center-left interests or ideas were brought forward significantly less, while neoliberal arguments were more explicitly used to hinder and obstruct any progress towards a CCCTB. The process analysis of Council negotiations also reveals the importance of concurrent global developments in corporate taxation and how these intertwined with EU policymaking. Moreover, budget and practicality concerns of member state governments led them to regularly deviate from hegemony projects' positions. Together, these factors help explain why the proposal was split into two, why it was made mandatory and why new anti-abuse rules were added. They also help explain why the CCCTB negotiations were eventually derailed, which enabled the quick development and adoption of the Anti-Tax Avoidance Directive (ATAD) in 2016 – which was claimed to be a success but simultaneously prevented the CCCTB from moving towards any degree of political agreement.

A last chapter then concludes and answers the research question. Here, I also reflect on the theoretical and methodological choices I made and discuss the implications of the research findings.



2. Theoretical framework: A critical political economy perspective on European integration

Theory is central for understanding and explaining social reality. Theory enables researchers to navigate from the abstract to the concrete and to move towards a 'condensed, focused space' (Ferguson, 2008, para. 4). Theory embodies an ontology, defining 'what is' or what we can expect to exist. Ontology regulates – but does not determine – the content of theory, whereas epistemology, or 'what and how we can know', regulates the form of theory (Buch-Hansen, 2009, p. 22). Theory also selects and filters. The result is that theory also includes bias and distortion: there will always be ontological dimensions and explanations that a theoretical lens excludes.

The aim of this chapter is therefore to set out a theoretical framework and to be explicit about the underlying ontological assumptions. The theoretical framework here can be regarded as a 'useful set of guidelines' pointing towards the most important explanatory factors while leaving room for the emancipatory power of agents and the open-ended nature of history, leading to processes characterized by contingencies (Buch-Hansen, 2009, pp. 46–47).

This chapter is the first pillar laying the foundation for answering the research question. The following chapters, 3 and 4, together compose the second pillar, as they present the research design of this dissertation. The theory chapter and the research design chapters rely on critical realism as the ontological and epistemological starting point. This chapter therefore starts with presenting a critical realist philosophy of science that gives primacy to ontology and assumes a complex and layered reality in which structure and agency as well as the material and the ideational are all important dimensions that shape this reality. The strategic-relational approach, which builds on a critical realist foundation, is introduced in the first section as well. Understanding structure and agency as continuously in relation to one another, the strategic-relational approach assumes that structures are the result of past actions and therefore operate selectively – enabling the actions and ideas of some, while limiting

others. Agents, simultaneously, are capable of strategically adapting or reformulating – to a certain extent – their identities and interests.

The second section elaborates the historical materialist assumptions at the root of this dissertation's theoretical framework. This concerns, first, the mode of production and the social relations engendered by it as the starting point of analysis. The social relations of production are inherently asymmetric and unequal and result in continuous social struggle, which occurs within and through state institutions. The state is therefore understood to be the materialization of social struggle. Instead of neutral or political arenas, state institutions are expected to function to the benefit of dominant capitalist class fractions. At the same time, this section also introduces the Poulantzian concept of relative autonomy, which explains how state institutions can act autonomously from dominant forces, which is especially relevant in the case of (corporate) taxation. Understood as an extra-economic means of appropriating an amount of surplus value from the economic process, taxes are closely associated with the state. As a final assumption, this section addresses the importance of simultaneous workings of global capitalism on different scales. Although the focus of this dissertation is on the level of the EU, historical materialism guides the analysis to consistently embed EU developments in broader global capitalist changes and continuities.

The third and fourth section detail more specifically how critical realist and historical materialist conceptualizations can help study trajectories of European integration by, first, explaining how this research is situated within the growing literature of CPE perspectives on European integration. Integration is regarded as an open-ended historical process, taking place against the background of globalization processes and shaped by social struggle. The latter is conceptualized in this dissertation through hegemony projects, which is the focus of the fourth and last section of this chapter. After introducing a Gramscian understanding of hegemony, that section details how hegemony projects embody the transformational power of agency in this dissertation, while accounting for the differences in structural limitations between groups of agents. Three hegemony projects are identified – a neoliberal, a neomercantilist and a center-left project – and the struggle within and between those projects is expected to help explain EU policy outcomes. How hegemony projects relate to member state and EU institutions is another important explanatory factor and is addressed in the final section as well.

2.1 Critical realism: A philosophy of science

Primacy of ontology

Critical realism is both an ontology and a philosophy of science. Roy Bhaskar's classic '*A realist theory of science*' (1975) has outlined some central tenets. To begin with, critical realism gives primacy to ontology – that which *is*, or 'what the world must be like for science to be possible' – over epistemology (Bhaskar, 2013, p. 23). Ontology is to be made explicit from the start; not doing so results in adopting an implicit ontology that will prevent, or at the very least obstruct, scientific criticism. Bhaskar further argues we must separate transitive objects of knowledge from intransitive objects of knowledge. In science, knowledge is produced and expressed in models, theories or facts. This is the transitive dimension of knowledge. Its production depends on the effectiveness of scientists, who build on the knowledge and works of predecessors. However, the objects that scientists study are separate from them. As Bhaskar (2013, p. 22) puts it:

the intransitive objects of knowledge are in general invariant to our knowledge of them: they are the real things and structures, mechanisms and processes, events and possibilities of this world; and for the most part they are quite independent of us.

The distinction between transitive and intransitive objects of knowledge is further articulated in a separation of three 'domains' of reality: the real, the actual and the empirical, which correspond to causal mechanisms, events and experiences (Bhaskar, 2013, p. 56). Whereas empiricism reduces the real to the actual, and the actual to the empirical, critical realism upholds the distinction between these separate levels. The 'real' is ontologically the deepest layer, or the most abstract. These are generative or causal mechanisms that produce the phenomena that constitute the actual states and happenings of the world. The mechanisms rarely manifest themselves and are difficult to empirically observe directly: they are the 'intransitive objects of scientific theory' (Bhaskar, 2013, p. 47). This deeper layer comprehends underlying mechanisms, structures and powers that generate the occurrences we can directly see or experience (the empirical). It is 'the arduous task' of scientists to produce knowledge on these mechanisms (*ibid.*). Reality – through its overlapping domains of the real, the actual and the empirical – is thus understood to be complex and multilayered or stratified, but this does not mean that it is randomly structured. Since critical realism attributes importance to agency, the causal effects of

underlying mechanisms and structures are not deterministic but understood as tendencies (Dean et al., 2006, p. 8). They order social reality in a certain way, but their operation is of a tendential, not deterministic, nature.

In explicitly separating ontology from epistemology, Bhaskar opposed his theory of science to what he calls 'classical empiricism' and 'transcendental idealism'. The former equates that which we can know to that which *is*, which he dubs 'the epistemic fallacy'. The latter approaches knowledge as a human construct 'imposed upon the phenomena' (Bhaskar, 2013, p. 25). Hence, both approaches deny reality outside of observation and experience, or expression: they suffer from what has been coined 'anti-realism' (Patomäki & Wight, 2000). A positivist approach is rejected by critical realists, because – like classical empiricism – its reliance on empirical evidence privileges methodological considerations over ontological ones (Wight, 2006a, p. 19). Although positivism claims to be a type of realism, it essentially denies that there is anything real beyond what we can observe and measure. On a different basis, an idealist approach will not consider anything to be 'real' or existing beyond what we socially construct or give meaning to as 'the objects of which knowledge is obtained do not exist independently of human activity in general' (Bhaskar, 2013, p. 27). Hence, a realist approach entails the acknowledgment that 'to be' is more than what is 'to be perceived' (Wight, 2006a, p. 27).

A strategic-relational understanding of structure and agency

Philosophical ontology, discussed above, is concerned with abstract questions of what is real and what is not. That differs from social ontology that is relevant to the social sciences, and that relates to the nature of the social world (Buch-Hansen, 2009, p. 21). Social ontology has four dimensions: structure, agency, the material and the ideational.

Critical realism's emphasis on underlying structures implies for the social sciences that, ontologically, social forms (structures) are logically prior to individuals (agency) (Dessler, 1989). In other words, agency presupposes structure. Following Colin Hay (2002, p. 94), structure is 'context and refers to the setting within which social, political and economic events occur and acquire meaning', while agency can be understood as the ability of an actor to act consciously and, in doing so, attempt to realize their intentions. The causal and transformational power of agency is key in critical realist approaches. Structure is continuously reproduced, upheld, challenged and changed through the actions – purposeful or not – of agents. As the workings of causal

mechanisms (structure) are only tendential, human agency is required to actualize these causal powers (Jessop, 2005a, p. 42). Or, to put it differently, what the level of the real makes possible is not necessarily actualized on the levels of the actual and the empirical. The actions, or lack thereof, of agents in specific historical and spatial situations make a difference. Non-actualized possibilities and unexercised powers of the real world explain critical realism's assumption that multiple futures are possible; reality and future realities therefore emerge as open-ended (Patomäki, 2006; Wigger & Horn, 2016a).

Detailing the relationship between structure and agency is relevant, as differences in ontological understandings of how these dimensions relate to each other can lead to very different theoretical expectations. This thesis adopts a strategic-relational understanding of the interlinkages between structure and agency, building on the works of Jessop and Hay.² Although the strategic-relational approach is associated with theories on the state and state power (Jessop, 1990, 2005a, 2008, 2015), the approach has a clear critical realist foundation.

The novelty of the strategic-relational approach, as presented by Jessop, was to 'theoretically relativize' the concepts of structure and agency. Analytically, there might be a clear distinction between structure and agency, but they are interdependent and not to be isolated from each other. Building on a relational understanding of state and power, a strategic-relational approach focuses on the relational interaction between structure and agency (Hay, 2001). Jessop proposes to dialectically relativize the analytical categories through the concept of 'structurally inscribed strategic selectivity', which means that social structures in this view select for certain strategies and constrain others (Jessop, 1996, p. 124). Agents have a 'strategically calculating structural orientation', meaning that their action is always shaped by structures they encounter and their capability to re-strategize in response. It follows that the constraints and opportunities inherent to a social structure vary depending on place, time and agent. Hence, structures operate selectively. Agents are capable of adapting or reformulating – to a certain extent – their identities and interests and strategically (re)calculating within their situation. The structural positions that agents occupy, which shape the structurally inscribed

² It should be noted that the development and application of a strategic-relational approach has been limited neither to these debates nor to Jessop's writings (Jessop, 2008, p. 49). Indeed, others have employed and in doing so (through strategic selectivity) advanced such an approach (See for example Pastras & Bramwell, 2013 who combine a strategic-relational approach with a new institutionalist perspective).

constraints and opportunities they face, are not assumed to be static. Moreover, persons who hold a similar institutional position, for instance, are not expected to behave in the same way. Unlike in rationalist philosophy, agents are not expected to be rational utility maximizers. While critical realism does assume that actions are intentional, agents can have multiple qualities that influence the actions associated with certain structural positions. They can be charismatic or boring, patient or quickly annoyed, capable or incompetent. How agents act is an empirical question that cannot be answered at the ontological level (Buch-Hansen, 2009, p. 41).

At any moment, a social structure can pose a selectively inscribed constraint to some and an opportunity to others. A distinction can be made here between a 'structural' and a 'conjunctural' moment (Jessop, 1996, pp. 124–125). The first is a moment in which a particular agent cannot change anything about the temporal-spatial context, while the latter is a moment in which there is an opportunity to modify elements of that context. Depending on who the agent is and their structural position, time, place and so on, a moment can be either structural or conjunctural.

In this way, a strategic-relational approach aims to overcome a dualist account of structure and agency in which these concepts are juxtaposed and merely mechanically and statically linked. A strategic-relational approach also goes beyond structuralism and agentialism: structure does not determine all actions, and agents are not able to overcome structural constraints at all times. Indeed, an important reason to adopt a strategic-relational approach in this thesis is that it emphasizes both structural constraints in any context *and* possibilities for strategic action and change, while stressing the importance of accounting for the selectivities inscribed in such constraints. A strategic-relational analysis acknowledges, moreover, the spatial-temporal character of the strategic selectivity of structural constraints; structural constraints are not eternal nor do they operate in the same way in all places and at all times. As a consequence, agents can adapt their strategies or hold long-term strategies that will turn a short-term constraint into a conjunctural opportunity at a later stage.

Moreover, a strategic-relational approach is very useful for analyzing a *process*, in and through which struggles and changes as well as continuities in power relations are continuously expressed. It makes sense to conduct a process analysis because the strategic selectivity of structures depends on

agents' past strategic actions and the possibility of readapting over time is assumed. Since this research project focuses explicitly on a certain political process through which a policy proposal for corporate tax harmonization is developed, a strategic-relational approach is helpful for analyzing the continuous interaction between structural constraints and the strategic action of agents. Last, a strategic-relational approach makes it possible to continuously locate (changing) power relations. Power is understood here as 'the ability to shape the contexts within which others formulate strategy' (Hay, 2001). Therefore, power lies with those who shape both the material and the ideational dimensions of these contexts.

Understanding the material and ideational dimensions of social ontology

Ontologically, critical realism considers both ideational factors – such as ideas, norms, discourses – and non-ideational or material factors to be important parts of reality. To analyze and explain social phenomena means to include the ideational and the material, without reducing one to a by-product of the other. As Colin Wight (2006a, p. 162) notes: 'If meanings and beliefs are caused, it would seem legitimate to ask how and why this particular meaning here and now? And answers to this question may require a material, or objectivist, basis'. To illustrate this, Wight points out that there is a material basis for explaining why Inuit communities have 12 words for snow whereas some nomadic tribes in African deserts have none.

As in the case of structure and agency, these ontological dimensions of the material and the ideational are not regarded as separate 'variables' or factors. Instead, they are understood to be in continuous dialectic interplay, and the causal power of material and ideational factors is directly shaped by each factor.

Agents make sense of the world around them through ideas and norms they carry. Material dimensions of the structural positions people find themselves in shape – but do not determine – their ideational stance. Agents often or even mostly act based on internalized ideas and imaginaries that will go unquestioned in daily life (Sum & Jessop, 2014). Not all ideas will be appropriated by everyone or anyone at any given time and in any given space. This is directly related to an actor's circumstances and their past – which also shape their future expectations.

In turn, ideational factors can take on a material form through the action of agents. Ideas, as intersubjective meanings, can become normalized to the extent that they are regarded as common sense. As such, they influence how people can understand their own position and the (im)possibilities for change (Bieler & Morton, 2008, p. 121). This means that those who are able to 'provide cognitive filters' hold power, which leads Colin Hay (2001) to conclude that:

in the same way that a given context is strategically-selective – selecting for, but never determining, certain strategies over others – it is also discursively-selective – selecting for, but never determining, the discourses through which it might be appropriated.

How can we understand this discursive selectivity in relation to corporate taxation? The explicit or implicit threat of large TNCs to move (the mobile part of) their business elsewhere only works because it fits the discursive lens of policymakers. These same actors are less likely to adopt an opposing idea – for example that all types of tax avoidance or flight are abuse and should be stopped and the tax-free mobility of such transnational capital limited – since it does not fit their circumstances or the way they interpret these circumstances.

We could also imagine that there is an idea about societal contributions of corporations that translates into a norm that the tax levied on corporate profits should be a minimum of 50%. Corporations can only function because of their direct access to educated personnel, infrastructure, judicial systems, subsidy programs, a government-guaranteed banking system and indirectly a functioning society, including affordable housing and well-maintained public spaces. Income resulting from their corporate activities could therefore be argued to 'belong' for a large part to society as a whole instead of a limited number of shareholders. Still, this idea is far from normalized. To explain why this is so, a critical realist philosophy holds that this scenario was possible (and still is) but that another outcome was realized, which was contingent both on how structural elements have shaped and were shaped by agents and on the material and ideational dimensions of social reality.

2.2 Historical materialism: Ontology

The open-ended character of history and the explicit possibility of change through the transformative power of agency that Bhaskar's critical realism

assumes means that his work can be interpreted as a clarification of the philosophical dimensions of Marx's work, 'so as to counter the many reductive interpretations to which it has been subjected' (Dean et al., 2006, p. 13). This dissertation therefore now turns to historical materialism to further develop its social ontology in order to understand why some agents are more powerful than others, why certain ideas tend to take hold more strongly and thus why certain outcomes are possible but less probable.

The ontological primacy of social relations of production

To develop a historical materialist approach, we first turn to the *material*. At the very foundation of a materialist approach is the body. As Ian Bruff (2011, p. 393) put it in straightforward terms: 'the physical *materiality* of the human body makes production a necessity, forming in the process the foundation for how human life is sustained' (*italics added*). Production takes place through the interaction with and transformation of nature – another *material* reality – as well as labor. Reasoning from these 'material conditions of life', historical materialist analyses explore how humans (re)produce the necessities they need to survive and live and through which they enter 'into definite relations that are indispensable and independent of their will' (Marx, 1859/2000, p. 425). These relations are understood to be social, since humans cooperate in organizing the (re)production of goods and services to sustain their material life. They are assumed to be inherently asymmetric, because they constitute a power relationship between those who control the means of production and those who execute the tasks of production (Cox, 1981, p. 135). Because the mode of production of material life 'conditions the social, political, and intellectual life process in general' (Marx, 1859/2000, p. 426), historical materialism assigns ontological primacy to social relations of production. Developments of and within these power asymmetries across different spatiotemporal contexts are the leading *explanans* for political-economic questions.

The *historical* in the approach set out here emphasizes the historicity of all social phenomena. It focuses on the spatiotemporal specificities of the *explanandum*, or that which is in need of an explanation. Stephen Gill (1993, p. 29) points out that for the study of international relations, this implies that the inter-state system as a structure, as a core unit of analysis, 'is a particular configuration of states and social forces, corresponding to a particular epoch and having certain conditions of existence which are corporeal and transitory'. Both the material and the ideational dimensions of structures are therefore not viewed as perpetual but analyzed in their specific spatiotemporal constellation.

Hence, we need to understand the historically specific *capitalist* mode of production that engenders certain social relations, which constitute the main unit of historical materialist analysis. Capitalism has had a beginning, developed in specific historical and spatial conditions and therefore also has a conceivable end: 'Capitalism was not the product of some inevitable natural process, nor was it the end of history' (Wood, 1999, p. 37). History is open-ended; there is no inevitable outcome we move towards. A historical materialist approach centers change, or at least the possibility of change, resulting from the conflicts that are inherent to the social relations of production.

In the capitalist mode of production, these power relations are inherently asymmetrical: the dominant social relation under the capitalist mode of production is that between wage labor and capital (Harvey, 1982/2018, p. 22). Capitalists own the means of production, control the production process and possess the final products, whereas workers, in turn, sell their labor power in exchange for wages. Acquiring volumes of labor power enables capitalists to ensure, through the organization of production processes, that workers produce a greater value than they receive: surplus value. The surplus value is entirely to the benefit of capitalists and directly depends on the exploitation of labor (ibid., p. 23).

The mediating role of the market is central in capital as a social relation: every individual needs to enter the market to fulfill their material needs and aims for social reproduction. Everyone – those who own, control or execute the tasks of production – is dependent on the market. What they get out of it differs, however. Workers need to sell the only thing they possess on the market, their labor power, in return for a wage. Capitalists buy labor power on the market and subsequently sell the outputs for profit, as capitalism's basic objective is to produce for profit (not for the use of the produced output). As Ellen Meiskins Wood put it:

This unique system of market-dependence means that the dictates of the capitalist market – its imperatives of competition, accumulation, profit-maximization, and increasing labour-productivity – regulate not only all economic transactions but social relations in general (Wood, 1999, p. 7).

Markets are not specific to capitalism – markets existed before a capitalist system and still exist on a smaller scale to trade goods and services. But

the *imperative* for the vast majority of people to enter the market to make a livelihood is specific to capitalism, including the resulting consequences of people's dependency on the market in their daily life and social interactions.

Workers are dispossessed of any direct access to the means necessary for production and of the results of their labor, which are appropriated by capitalists. Through the exploitation of workers' labor power, surplus value is produced and subsequently accumulated. Capitalists are driven by the need for accumulation. This leads to competition, as those who are unable to accumulate as quickly as others tend to be put out of business. Always pursuing a competitive edge in relation to others, capitalists seek to reinvest the surplus they appropriate in technological innovations and other resources that can increase productivity and, in turn, profits. Such competitive battles can result in further exploitation of both labor and nature, 'which is why capitalist competition is essentially antagonizing' (Wigger, 2023). At the same time, the drive for more profits is also, as Harvey (1982/2018, p. 29) argues, what 'binds all capitalists together, for they all have a common need: to promote the conditions for progressive accumulation'.

The limits of capital have been pushed again and again to sustain accumulation. The so-called 'digital economy', which has led to international discussion on taxing rights, is an example of how capitalists employ technological innovations to commodify new sources and turn these into profits. Nick Srnicek (2017) argue that 'platform capitalism' centers on a new kind of raw material: data. Data serve 'a number of key capitalist functions: they educate and give competitive advantage to algorithms; they enable the coordination and outsourcing of workers; they allow for optimization and flexibility of productive processes; they make possible the transformation of low-margin goods into high-margin services; and data analysis is itself generative of data, in a virtuous cycle' (Srnicek, 2017, pp. 41–42). Innovation or technological changes, even those as impactful as data as a new raw material, do not fundamentally change capitalism itself. While under capitalism now – compared to when Marx published his writings – more services and fewer goods are produced, the core features of capitalism remain in place (Stanford, 2008, p. 39). For instance, the digitalization of corporations and associated issues involved in taxing their corporate income have only exposed and exacerbated already existing gaps or flaws in the international tax system; gaps rooted in the difference between the economic activities from which capitalists' profits derive and the legal reality on whose basis these profits are taxed.

Because conflicts and compromises, opposing interests and shared goals, contestation and agreement are all engendered by the inherently unequal and antagonizing relations that result from how production is organized, historical materialism assigns ontological primacy to these social relations of production.

Class struggle and class fractions

The conflicts inherent to social relations of production materialize through the continuous struggle between and within *classes*. Class can be defined as follows:

Class denotes the aspect of agency producing and reproducing the structures of a society based on exploitation; put otherwise, by embodying the structural inequalities of the social order, classes constitute the living reality of these structures (Van der Pijl, 1998, p. 31).

In any mode of production – and thus not only in capitalism – ruling classes and subordinate classes exist. In the capitalist mode of production specifically, the dichotomy between capital and labor – presented above as the most important asymmetric relation engendered by production processes – is in reality far more intricate and fragmented. Competition as a necessary condition for the continuous accumulation of capital inherently leads to opposing interests within the capitalist class. Simultaneously, labor cannot be seen as a monolithic group either. It can be expected that interests diverge and converge within capital and labor. Class bears *both* agency and structure (Van Apeldoorn, 2002, p. 22). The social relations of production structure each person's position in a specific class and shape their opportunities and possibilities for action. Class agency materializes in moments where class fractions are able to articulate 'common positions, identities, and demands', and it is in these instances that a class in itself becomes a class *for* itself (Wigger, 2023). These instances of class agency are more likely to arise when there is a common enemy. The 'Amsterdam Project', with its emphasis on the formation of a transnational capitalist class, expects capitalists to become conscious of themselves as members of a class or class fraction when confronted with other social groups and classes, in particular labor (Van Apeldoorn, 2004, p. 154).

Thus, through the articulation of common positions and ideas by members of class fractions, agency can be identified and expected to have transformative

power. The shared, general interest of the capitalist class as whole – the reproduction of the capitalist system itself – is not necessarily experienced as such by its members at all times, let alone consciously acted on. Different fractions of capital will rival for hegemony in formulating capital's general interest, in line with their own specific interests. Capital fractions participate in this process of 'interest aggregation' with the aim to, from their perspective, 'build the momentum to direct the course of society at large' (Van der Pijl, 1998, p. 50).

Capital fractions are directly related to the circulatory movement of capital, as Van der Pijl (1998, pp. 51–52) explains. Capital, or the value of capital, first assumes its money form. Capitalists need money to acquire factors needed for production: money is exchanged for commodities. The commodity form is thus the subsequent step in the circuit of capital. Commodities include both labor power and other means of production. With these elements in the capitalist's possession, the production process can commence. Here, value is added. Capital then assumes the commodity form again, which now contains 'the metamorphosed value increment', and through the process of selling finally reassumes its money form. Van der Pijl (1998, p. 52) concludes that 'around each of these forms, fractions crystallize to which we can ascribe a certain ideal-typical perspective which will make itself felt in the formulation of class strategy.'

As a result, an important division within the capitalist class arises between financial and industrial capital fractions (Van Apeldoorn, 2002). The financial capital fraction is further removed from the production process than the industrial capital one; the latter's fate is therefore 'more directly tied to the fate of the populations who live in the spaces where industrial capital is located, and of the states that exercise political rule within those spaces' (Van Apeldoorn, 2002, p. 28). As a result, the industrial capital fraction can articulate demands for social protection – in particular those elements of industrial capital still entrenched nationally (Van Apeldoorn, 2002, p. 29; Van der Pijl, 1998, p. 54). Financial capitalists, on the other hand, are generally more in favor of economic liberalism and laissez-faire policies.

It is important to note that a historical materialist approach does not reduce every social conflict to a class struggle or deny that other power asymmetries (religion, gender, race and others) matter. But 'to deny the power of capitalism as a "central governor" is to explore the world only through its appearances

without considering how these levels are generated' (Dean et al. 2006, p. 17). Class matters, with class struggles taking on different forms across time and space, which means that the interests and ideas of the agents involved in EU policy processes are understood to be related to their material position in the global capitalist economy.

Class struggle in this dissertation is conceptualized through the concept of hegemony projects detailed below, whose operationalization in the following chapter 3 refers to agents' class base. The advantage of using hegemony projects over class fractions is that the former includes a greater variety of agents not directly tied to a joint class position but able to articulate common positions challenging the ruling class.

The state as the material condensation of social relations

Class struggle directly relates to, or is expressed through, state power. As Andreas Bieler and Adam David Morton (2004, p. 102) explain, 'capital is not simply something that is footloose, beyond the power of the state, but is represented by classes and fractions of classes within the very constitution of the state'. Moreover, the state is a central entity in issues of taxation, European integration and power in general.

Reasoning from a critical realist philosophy of science, in which primacy is given to ontology over epistemology, and from historical materialism – which assumes that the social relations engendered by production processes have ontological primacy and are thus the starting point for any analysis of social reality – what then is the state? This dissertation follows the definition by Nicos Poulantzas (1978, p. 39), who wrote:

the State marks out the field of struggles, including that of the relations of production: it organizes the market and property relations; it institutes political domination and establishes the politically dominant class; and it stamps and codifies all forms of the social division of labour – all social reality – within the framework of a class-divided society.

To be sure, this refers to the *capitalist* state, as Poulantzas denied that a general theory of the state is possible and instead tasked himself with advancing a theory of (changes in) the capitalist state (ibid., p. 19). He further defined the state as 'a specific material condensation of a given relationship

of forces' (ibid., p. 73). This entails that the state is not an a priori entity – already out there, waiting to be occupied by dominant forces – but the embodiment, condensation or articulation of a *relationship* between dominant and dominated forces. At the same time, although the relations of production exist outside or beyond the state, political domination is constructed *through* the state. To analyze the state, including its institutions and policies, is thus to analyze the relations between social forces that are – in a capitalist state – characterized by struggle.

At the same time, the state is relatively separate(d) from the relations of production under capitalism. It acquires a relative autonomy from dominant forces of a power bloc 'in order to organize their unity under the hegemony of a given class or fraction' (ibid., p. 91). Indeed, different fractions of the ruling are expected to have, at times, diverging interests; class fractions will therefore not always be in agreement. The state is autonomous from these disagreements to the extent that it represents the general, long-term political interests of the entire power bloc, 'the capitalist collective' (ibid., p. 128). From this, it follows that 'agents of the economically dominant class (the bourgeoisie) do not directly coincide with the occupiers and agents of the State' (ibid., p. 91) and that the state is characterized by contradictions. Following this relational definition of the state, Poulantzas points out that the laws and policies of the state result from contradictions between, and within, its various branches and institutions (ibid., p. 134). Policies are thus the outcome of political struggle rooted in the social relations of production. They can therefore be contradictory and are not necessarily coherent, or, as Poulantzas (1978, p. 136) formulates it:

governmental policy is continually constructed out of accelerations and brakings, about-turns, hesitations, and changes of course. This is not due to a native incapacity of bourgeois representatives and top-level personnel, but is the necessary expression of the structure of the State.

The strategic-relational approach as developed and applied by Jessop is firmly rooted in a Poulantzian understanding of the state. Jessop therefore defines state and state power in *relational* terms, arguing that Marx himself already pointed in this direction by defining capital as a social relation (Jessop, 2008, p. 54). As the material condensation of a relationship between forces, the state is made of past and current political struggles and already bears the possibilities

for future struggles. However, this does not mean that all possibilities are just as likely to occur. Strategies that social forces employ in this struggle are key in understanding the state, because according to Poulantzas, the power of a class (or its capacities to realize its interest) depends at least partly on its strategies towards opposing forces that are pursuing their own interests. This power is exercised through the state (Poulantzas, 1978, p. 148):

the State is rather the strategic site of organization of the dominant class in its relationship to the dominated classes. It is a *site* and a *centre* of the exercise of power, but it possesses no power of its own.

This directly informed the strategic-relational approach definition of the state as ‘the site, the generator, and the product of strategies’ (Jessop, 2008, p. 37). The state and (state) power are regarded as relational, in which ‘relations’ refer to the social relations of production that are inherently unequal and uneven in capitalism. The state is therefore not a neutral and cohesive unity but instead a contradictory collection of state institutions, branches and laws that organizes and cements the political power of dominant forces. Institutions are historically marked by the inequality and exploitation inherent to the social relations of production and the struggles for hegemony between social forces they engender. This results in institutions and processes that strategically select for certain interests, priorities, discourses, compromises, problematizations and mechanisms for conflict management. In terms of EU policymaking, the possibility or invitation to join expert groups is an example of access that is not available to all actors or groups.

Taxing the corporation in a capitalist state

It is important to emphasize that the state remains an important analytical category (Bieler & Morton, 2001, p. 18), especially because taxation is interwoven with the state form. The powers to set tax laws, to levy and collect taxes and to spend tax revenues are seen as state powers. These do not have to be national – taxes can be levied by municipalities, and tax rules are increasingly made on the international level – but they are associated with state institutions. In fact, Schumpeter (1918, p. 110) stated that ‘the expression “tax state” might almost be considered a pleonasm’. He argued that the emergence of ‘the modern state’ was intricately connected to taxation developments, and that the latter even helped form the state. The origins of taxation are commonly associated with war: when the costs of warfare became too high for European

royalty, they raised taxes on elites and estates. As Charles Tilly (1975, p. 42) famously claimed: 'war made the state, and the state made war'.³ Schumpeter argues that this was a consequence of social change in the feudal system, in which the nobility provided military support to monarchs. The elite members of feudal society became less willing to provide military support, leading to an increase in the use of mercenary armies – and thus in the costs of war. The requests for revenues through taxation, to which the nobility agreed, were accompanied by a demand for representation. According to Deborah Bräutigam (2008), for example, this resulted in the rise of parliaments and professional state bureaucracies.

This implies that the origins of taxation are aligned with the origins of the capitalist state, as the transition from a precapitalist to a capitalist system took place around the same time – in the 16th/17th centuries. Wood explains that the (precapitalist) 'tax/office' structure of absolutism was an extra-economic means 'of extracting surplus labour from peasants by means of taxation' (Wood, 1999, p. 92). The increase in capacity and professionalization of state bureaucracies meant, in the words of Wood, that 'the state, which became a source of great private wealth, co-opted and incorporated growing numbers of appropriators from among the old nobility as well as newer "bourgeois" officeholders' (ibid., p. 96). One of the main reasons the nobility agreed to becoming taxpayers was the rule of law to protect private property rights (Bräutigam, 2008, p. 2), fundamental to (a transition to) capitalism. The belief that taxation forms states should be nuanced and led by the question of who benefits, because as Margaret Levi (as cited in Bräutigam, 2008, p. 13) argues, 'representative government arose in part because it was useful to rulers', as it 'enabled rulers to raise more revenue'.

Taxation, in a capitalist system, is thus an extra-economic means of appropriating an amount of surplus value, usually in money form, from the economic process. Indeed, a state government has the power to tax surplus value production (Harvey, 1982/2018, p. 278); taxation is not mediated by the market and is therefore 'extra-economic'. As discussed in chapter 1, a key function of taxation is to raise revenues. From a historical materialist point of view, this results in an increase in resources and capacities of the capitalist

³ See Emmenegger and Walter (2021) for a literature overview of the theoretical underpinnings and empirical contributions exploring the relation between state-building and taxation, which leads them to conclude that the findings differ depending on time periods and geographies under investigation.

state that, among other matters, will employ these to guarantee the conditions necessary for the circulation of capital. For example, it will uphold and protect private property rights. This could be why the issue of taxation does not feature much in the works of Marx, although in *The Communist Manifesto* he and Engels (1848/2012) plead for 'a heavy progressive or graduated income tax'. It was not a standalone demand and should be seen in a wider context of overhauling capitalism including, for example, the abolition of landownership and inheritance rights as well as the guarantee of free education for all. Elsewhere, in his analysis of how Napoleon Bonaparte could rise to power due to the circumstances created by class struggle in France in the 19th century, Marx notes: 'Taxes are the life source of the bureaucracy, the army, the priests, and the court – in short, of the entire apparatus of the executive power. Strong government and heavy taxes are identical' (Marx, 1852, Chapter VII). From this perspective, the executive power of the state apparatus maintains a capitalist system based on exploitation of workers; taxes in this sense only weaken the position of the latter as they are used to uphold and further institutionalize asymmetric power relations.

However, tax also has a function of redistribution. As they consist of some of the profit after it is made but before it is appropriated by shareholders, tax revenues can be circulated back to the latter or redirected to the benefit of others. With regard to the former, states can choose to invest in projects that capital deems too risky – for example the trend in development assistance, which transformed 'from aid to trade' 'but which nevertheless expand[s] the basis for local circulation of capital' (Harvey, 1982/2018, p. 395). Other examples are fossil fuel subsidies or innovation incentives. Examples of redirecting revenues to the benefit of others are investments in education systems, health-care improvements and social benefits in case of unemployment or illness.

Because these latter examples help guarantee a productive and stable population, such government spending still benefits capital. It is therefore not strange or unexpected for the state to levy taxes on the dominant class. Moreover, the conditions under which people work are improved and, by providing a minimum of financial resources to everyone, stable demand is maintained (Harvey, 1982/2018, p. 401). Additionally, the services paid for by tax revenues are often performed by private actors. As Andrew Sayer (2015, pp. 202–203) points out, in debt-driven economies, where public services are increasingly privatized, we are *paying* the rich to deliver services and

borrow money – instead of *taxing* them. Hence, tax reforms with progressive, redistributive effects are possible and can even be desirable from the perspective of opposing class fractions. Indeed, taxation can be an instrument in realizing a more equitable society: the taxing and spending activities of governments can substantially narrow the gap between rich and poor under capitalism, ‘despite the regressive effect of neoliberal fiscal policies’ (Stanford, 2008, p. 252).

There is a wide variation in taxation systems worldwide. State institutions can tax a multitude of ‘things’ – personal income, corporate income, sales, wealth (including inheritance), labor, pollution, capital gains – and in doing so not only redistribute revenues but also regulate certain behaviors. Different types of taxation carry with them different degrees of progressiveness or regressiveness. Taxation *within* a capitalist system could – through a progressive taxation of profits, wealth and pollution – redirect an amount of surplus profit from the ruling classes to subordinate groups. However, there is a limit. If we understand capitalist social relations to be ‘relations of domination bound up with an unequal distribution of material capabilities resulting from an unequal control over the means of production’ (Van Apeldoorn, 2004, p. 154), then taxation can change the unequal distribution of material capabilities, but it will *not* change the unequal control over the means of production. Governments of capitalist states can seemingly not tax anything they want if it threatens the guarantees and stability required for the functioning of the capitalist system. Harvey (1982/2018, p. 153) explained the limit of ‘taking a slice out of surplus value’ as follows:

states that stray too far from organizational forms and from policies that are consistent with the circulation of capital, the preservation of the distributional arrangements of capitalism and the sustained production of surplus value soon find themselves in financial difficulty. Fiscal crisis, in short, turns out to be the means whereby the discipline of capital can ultimately be imposed on any state apparatus that remains within the orbit of capitalist relations of production.

With regard to the relation between people and the state as mediated by taxation – which many have argued leads to some form and degree of representation – Marx offers a peek into what this entails for him. The levying of taxes by a state apparatus means that the state is directly inserting itself

into the life of all people, thereby destroying 'the aristocratic intermediate steps between the mass of the people and the power of the state' (Marx, 1852, Chapter VII). This emphasizes, again, the relationship that taxation creates between people and the state – a relationship that can be based partly on coercion and partly on consent, but which is never without contestation.

Central in this dissertation are corporate taxes. The corporation itself has remained a marginal subject in mainstream political science, and *if* it is the subject of research, the focus is mostly on the politics of regulating corporations, the corporation as a political actor within society and in relation to the state, or on the politics between corporations and corporate networks (Van Apeldoorn & De Graaff, 2017, pp. 134–135). Instead, the corporation needs to be understood as a core institution in contemporary capitalism; a 'vehicle for capital accumulation' (Soederberg, 2010, p. 12). The corporation serves a central function in capitalist society: production takes place through the corporation, meaning that those who own (parts of) corporations own the means of production. The separation of ownership and management in the modern corporation has resulted in a layer of professional managers who mediate between capital owners and those who produce surplus value – between shareholders and workers. As such, the modern corporate form made relations between capital and labor more indirect and impersonal (Van Apeldoorn & Horn, 2007, p. 216). The distinction between ownership and management also led to subgroups within the capitalist class but not to the latter's dissolution; the corporation transformed capitalist social relations, but did not transcend their 'intrinsic class nature' (Van Apeldoorn & De Graaff, 2017, p. 137).

The corporation as it is today was created by governments to fulfill those tasks that were deemed too risky, expensive or unprofitable by 'rational businessmen' (Roy, 1997, p. 41). It was the state, and in the case of William Roy's historical account, the American state specifically, that 'actively established and capitalized corporations' (ibid.) in the early 19th century. After this, the corporation developed from a quasi-governmental agency to a private institution in the 20th century, again through the state's active involvement in entrenching the corporation further into law (Roy, 1997, p. 17). The rise of corporations operating internationally was accompanied by a general trend of introducing direct taxes on corporate income in the years during and following the First World War, including measures that taxed profits made abroad (see Picciotto, 1992, pp. 4–14 for a detailed historical account in the UK, Germany, France and the US). The key struggle between states over taxing

rights and over how profits were allocated within corporations ultimately led to a compromise that restricted taxation at the source – in the country where income is generated – while giving primacy to taxing by the residence country, the so-called ‘home jurisdiction’ of a corporation (Picciotto, 1992).

Changes in global political economy, importantly in the monetary, trade and investment regimes after the collapse of Bretton Woods in the early 1970s, led to the rise of corporations that operated increasingly globally. These TNCs are characterized by ‘intricate continental and often global divisions of labour blending internal and outsourced production’, reflected in their often complex legal structure (Schwartz, 2022, p. 229). The increase in TNCs – and in their size and the complexity of ownership and financing structures – and the accompanying increase in foreign direct investments (FDI) after the Second World War did not match the compromise on taxing rights by source and residence countries, which Sol Picciotto (1992, p. 1) argues was ‘inappropriate or ambiguous’. Moreover, the allocation of profits within a TNC is guided by so-called ‘transfer pricing guidelines’ – institutionalized through the OECD framework since the 1980s – that are based on the legal fiction that a TNC consists of separate entities that carry out transactions with each other. The development of the international tax regime has led to a situation in which TNCs, with the help of their tax advisers and accountants, are able to exploit differences in corporate tax systems (Picciotto, 2018).

The primary concern of this dissertation is transnationally operating corporations, or TNCs, but for the purposes of the CCCTB this does not need to equate to the largest firms in size. Increasingly, small and medium-sized companies (SMEs) operate across borders and, as Susan Strange (1988/2015, p. 71) argues, SMEs are increasingly ‘engaged in production directed by a *global* strategy for design, production and selling to a world market’ (*italics added*).

Locating state power: national, regional and global scales

Understanding states as the materialization of the struggle between social forces is to understand the state as a form; its substance or social purpose originates elsewhere. A historical materialist analysis does not only expand the range of agents beyond state institutions but also takes these social forces as a starting point for analysis – deviating in that sense from mainstream international relations and EU integration theories. Such forces are not necessarily limited by national boundaries but (can) transcend them. As

Overbeek points out (2013, p. 163), this also implies 'that the national-international dichotomy (so central to mainstream theories of IPE) is seen as subordinate to the dynamics of social relations'. Rather, the transnationalization of capital has increasingly become the focus of historical materialist political economy, due to the transnationalization of production primarily through TNCs (Robinson, 2004). At the same time, the previous section pointed out the continued importance of the national state for the purpose of taxation. The nation-state still 'performs vital functions' for transnational capital, including economic policies, infrastructure and the provision of property laws, argues William Robinson (2007, p. 82).

The same should be said of tax policies; it is vital for transnational capital to preserve tax sovereignty of national governments as it allows for inter-state tax competition. David Harvey (1982/2018, p. 405) clarifies the importance of national boundaries well in *Limits to Capital*:

[A]t any particular moment, the territorial organization of state powers forms the fixed geographical environment within which investment processes operate. States are then forced to compete with each other for the provision of social infrastructural conditions which are attractive to capital. They are also forced to compete for money capital to fund their debt. The state, as a consequence, loses its power to dominate capital politically and is forced into a subservient, competitive posture.

The pressure to compete with other states has led to global trends of lowering the tax burdens on capitalists' income, which include taxes on corporate income, dividends, capital gains, inheritance, real estate and other forms of wealth. Jurisdictions develop into tax havens, facilitating tax and regulatory arbitrage (see for instance Palan et al., 2010; Shaxson, 2016). As the state-of-the-art overview in chapter 1 demonstrated, the widespread abuse of tax laws and loopholes by transnational capital is increasingly researched and reported on by both academics and international organizations. It exposes what Harvey notes: states are pushed into a position of subservience. Or, to turn it around, the fragmentation of the world into sovereign jurisdictions with specific territorial boundaries is 'a major source of the structural power of capital as it can exit from national regimes not sufficiently accommodating' (Van Apeldoorn & De Graaff, 2017, p. 141). This is the context of the increasingly necessary fiction of the concept of 'tax sovereignty', generally defined as 'the exclusive right of national

governments to make tax law (legal sovereignty), to administer and enforce tax law (administrative sovereignty), and to claim all tax revenue for the national budget (revenue sovereignty)' (Genschel & Rixen, 2015, p. 156).

The power of capital impedes and simultaneously benefits from states' tax sovereignty, as the concept is often used or weaponized to object to regional or global coordination and cooperation. This is relevant as this dissertation explicitly focuses on the struggle over corporate tax harmonization on a *regional* level against the background of *global* changes and continuities. We can understand the concurrent importance of national, regional and global processes through Jessop's approach to capitalist state power as a *scalar* exercise. Building on Antonio Gramsci's 'sensitivity' to issues of scale, Jessop (2005b, p. 425) defines scale as the 'nested hierarchy of bounded spaces of differing size', including local, national, regional and global spaces. A scalar approach to understanding the differentiation of state power does not need to attribute dominance to one scale or another, because political processes are a continuing dialectic interplay in which scale dominance varies and switches. Global capitalism operates across various spatial scales, and as Adam David Morton (2007, p. 148) helpfully explains:

The point is not to assume the supplanting of one spatial scale for another – or to take the dominance of one spatial scale over another as given – but to appreciate the manner in which capitalism operates through nodal rather than dominant points.

Concerning corporate taxation, the EU is a rather important nodal point. Chapter 1 has already demonstrated the ways in which existing EU corporate tax directives and the ECJ's jurisprudence affects and enables the mobility of capital within the EU. At the same time, unlike its members, the EU does not directly levy taxes, nor does it have a tax authority. The EU's *form* of statehood is different in that sense compared to its member states. Following the scalar approach set out above, Jessop (2008, p. 177) sees the EU

as a major and, indeed, increasingly important, supranational instance of multiscale metagovernance in relation to a wide range of complex and interrelated problems. While the sources and reach of these problems go well beyond the territorial space occupied by its member states, the EU is an important, if complex,

point of intersection (or node) in the emerging, hypercomplex, and chaotic system of global governance.

The concept of multiscalar metagovernance builds on various so-called multilevel governance approaches within European integration theories, but departs from such approaches in the emphasis on global economic processes and power relations that materialize in the specific EU governance framework. Moreover, it emphasizes 'the irreducible plurality of levels, scales, areas and sites' through which EU institutions and processes work, as well as the range and heterogeneity of agents involved that 'stretch well beyond different tiers of government' (Jessop, 2008, p. 220). To understand the EU as an important nodal point in the wider and complex web of metagovernance does not imply that the nation-state is replaced or sovereignty is 're-scaled' to a different level. Rather, governments as well as non-governmental agents – against the backdrop of transnationalization of capital – increasingly have to relate to wider range of sites, arenas and scales through which policymaking takes place.

From the perspective of strategic-relational approach that also means that new opportunities open up in terms of strategies. In their understanding of the multiscalar character of what they call 'the European state project', Sune Sandbeck and Etienne Schneider (2014, p. 864) emphasize that the EU should not be situated in the dichotomy between the national and the transnational level. Instead, EU integration analyses need to account for of the EU's multiscalar nature and associated scalar strategies, which can be associated with the quite abstract notion of 'metagovernance'. It entails that the EU as a state project 'allows for strategies which operate flexibly within a matrix of scales and arenas', such as the Commission, the Council, the ECJ and national governments and ministries (Sandbeck & Schneider, 2014, p. 865). In Sandbeck and Schneider's article on the sovereign debt crisis, they identify the use of scalar strategies as facilitating a 'hardening' of authoritarian statism, as 'scale jumping' is used to bypass democratic oversight.

Different from the EU's sovereign debt crisis management, corporate taxation is subject to unanimous decision-making in the Council. It largely bypasses the European Parliament as well, but does not go hand in hand with supranational powers of the Commission, as it does in the case of enforcement of monetary or macroeconomic policies. In addition to member state governments and non-governmental agents continuously trying to use the variety in sites, arenas and

scales to their benefit, we can also expect instances where forces within the Commission contest or navigate the framework of EU corporate tax governance.

2.3 Critical political economy perspectives on European integration

2

Mainstream EU integration theories have a difficult time accounting for developments in corporate tax harmonization, as the introduction chapter already briefly alluded to. Neofunctionalist thinking approaches EU integration as a process with a clear end: a European state. A continuous process of integration towards supranationalism entails that the effects of spillovers ensure that integration will 'spread' from one policy area to the next (Haas, 1958). The automatic or straightforward working of spillover effects has been theoretically and empirically refuted, leading to new interpretations of neofunctionalism, such as Corbey's (1995) proposal for dialectical functionalism. Although it accounts for periods of stagnation, dialectical functionalism remains characterized by the assumption that European integration will progress, one policy area at a time. More recent neofunctionalist scholars have adapted their understanding of how different types of spillovers can drive European integration and found the framework to be able to explain, for instance, EU crisis management and (further) completing of the EMU; at the same time, they recognize that patterns of halting integration or even disintegration are a challenge for the theory of neofunctionalism to explain (Niemann & Ioannou, 2015). Despite the degrees of economic interdependence between EU member states, the possible driving force of a spill-over effect has not led to an EU-wide system for corporate taxation.

In opposition to this view sits liberal intergovernmentalism, which would be apt to account for exactly the absence of such a common EU corporate tax system. This theory of European integration draws – and departs slightly – from realist approaches in international relations theory. Integration is expected when national preferences converge; the EU is seen as an institution through which nation-states enter into bargaining processes to secure their own national interests (intergovernmentalism). And since small states might have interests that diverge from those of large states, interests do not necessarily converge. Hence, member states will not reach agreement on coordination. This is in line with Moravcsik's view that the EU is characterized, amongst other things, by 'the near-total absence of the power to tax and coerce' (Moravcsik, 2001, p. 164).

As the brief state-of-the-art overview in the introduction demonstrated, this observation and expectation from a liberal-intergovernmentalist perspective is easily empirically refuted by the existing EU corporate tax directives.

More substantial critique from CPE perspectives is that a neofunctionalist approach suffers from a structuralist explanatory bias, making deeper integration seem inevitable and, as such, leading to a false sense of determinism. Liberal intergovernmentalism mistakenly centers the nation-state, regarding it as the main or even sole actor of importance. Theorizing integration becomes a close-ended, ahistorical exercise in which there is no or insufficient inclusion of the transnational nature of processes and agents and an over-emphasis on the form of integration rather than on its content (Bieler & Morton, 2001, pp. 13–17).

CPE perspectives share a historical materialist perspective on the state and social forces, which have been elaborated in previous sections of this chapter. In their work, they build on writings of Karl Marx, Antonio Gramsci and Robert Cox. Consequently, despite differences, this leads to shared assumptions in their theorization and analysis of EU integration. Integration is understood as an open-ended historical process, which takes place against the background of processes of globalization. There is a focus on class or social forces, but this does not 'exclude analysis of state institutions' (Bieler & Morton, 2001, p. 19). There is general agreement that the 'revival' or 'extended relaunch' of EU integration that started in the 1980s and took shape in the form of the single market, the EMU thereafter and general EU enlargement, is driven by (global) forces that seek to restructure capitalist production. EU integration is a time- and space-specific expression of this, dominated by a neoliberal project, discourse or policies: 'neo-liberal economics was the underlying driving force of the revival of European integration' (Bieler, 2002, p. 577). Ryner and Cafruny (2017, p. 82) explain the development of EU integration in the context of transatlantic capitalism, which 'expressed the interests of European capital organized both nationally and transnationally, itself embedded in a transatlantic system rapidly moving towards a new post-Fordist regulatory phase of finance-led growth'. Through an empirical analysis investigating the European Roundtable of Industrialists (ERT) within the context of transnational class formation, Van Apeldoorn (2002) found that the development of EU integration was dominated by a neoliberal project that consolidated its hegemony by incorporating elements of social-democratic and neomercantilist projects in a European socioeconomic order characterized

by what he dubs 'embedded neoliberalism' (see also Van Apeldoorn & Horn, 2018).

Integration processes are consistently linked to developments and changes in the global mode of production and the social forces it engenders. Differences arise in the extent to which researchers attribute importance and autonomy to the politics of and within the EU itself. By way of example, Van Apeldoorn and colleagues (2003, p. 34) define EU integration as 'a phenomenon that is a relatively autonomous regional expression of an emerging capitalist global political economy'. Bulmer and Joseph (2016), drawing on insights from critical political economists, although they do not define themselves as such, locate the primary driving forces of integration within domestic politics.

CPE perspectives have so far most often focused on applying historical materialist and neo-Gramscian theories to broad trajectories of European integration (Apeldoorn et al., 2009; Bieler & Morton, 2001; Jäger & Springler, 2015; Van Apeldoorn et al., 2003), on 'grand themes' of EU integration such as enlargement through expanding membership (Bieler, 2002) or on internal market policy areas where the European manifestations of the restructuring of global capitalism are most obvious or relevant (see for example Miró, 2017; Oberndorfer, 2015). The latter are also exactly, and not coincidentally, those policy areas in which EU institutions gained supranational powers, such as competition (Buch-Hansen & Wigger, 2011; Wigger, 2008) and monetary policies (Bieler et al., 2019; Ryner & Cafruny, 2017).

There are exceptions, such as Hazel Smith's (2002) analysis of the promotion of individuals' rights by way of 'the rights agenda' institutionalized through the Amsterdam Treaty of 1997. Smith argues that a historical materialist approach assesses the institutionalization of individuals' rights – a seemingly positive development that potentially poses a problem for capitalists – as part of the politics of regulated liberalism that characterizes EU integration; as such, it allows for 'the pursuit of rights within the context of some version of democracy' but simultaneously severely limits the 'possibilities of a counter-offensive against the alienating tendencies of the European integration project'. Smith's account is a remarkable example of the emancipatory commitment inherent to CPE research and researchers.

In line with CPE contributions, taxation is part and parcel of the EU's internal market. Deviating from these contributions so far, the research subject at

hand is not subject to supranational decision-making. Taxation, as explained earlier, is formally a national competence and therefore subject to the special legislative procedure that reduces the role of the European Parliament to consultation. This dissertation therefore focuses mainly on the Commission and the Council as the primary EU institutional bodies through which the struggle over corporate tax harmonization materializes. In doing so, this dissertation contributes to CPE perspectives on European integration, which rarely dive into the nitty-gritty of processes and negotiations that occur within EU institutional bodies. Whereas CPE perspectives commonly take both material and ideational dimensions of structures and practices into account, often only little attention is paid to the institutional set-ups, which can make CPE perspectives 'overlook the possibilities for change within existing institutional forms' (Bieler, 2005, p. 522). Bieler relates this to a broader point of criticism of CPE perspectives on EU integration, which is the neglect of potential resistance to neoliberalism. A reason for this is that CPE perspectives aim to avoid the so-called institutionalist bias that non-critical EU integration approaches often suffer from, which limits investigations of EU integration to how institutions make decisions or the institutional practices as defined by policymakers (Smith, 2002). Because EU institutions are important sites of struggle where contestation and contradictions arise, this dissertation – without falling into the trap of an institutionalist bias – *does* investigate how forces within and through EU institutional bodies strategically act concerning corporate tax harmonization. In order to do that, the following and last section turns to the struggle for hegemony and the conceptualization of agency through hegemony projects, which is central to this dissertation's analysis.

2.4 The struggle for hegemony through EU integration

To explain struggles over corporate taxation, we turn to Gramsci and a number of scholars who work in a neo-Gramscian tradition, and specifically to the concept of 'hegemony'. A Gramscian understanding of hegemony has a historical materialist basis: it centers the social forces engendered by the dominant, capitalist mode of production. Gramsci lived and worked in early 20th-century Italy. In his efforts to explain the revolutions in Russia of his time, the lack thereof in Italy and the transition towards a fascist regime in his country, he explicitly built on the works of Marx. Although many who have used Gramsci's ideas in their own work (for example Ernesto Laclau and Chantal Mouffe) ignore these origins, this thesis explicitly does not intend to do so.

As Morton (2007, p. 80) explains: 'Gramsci still remained within a Marxist orientation that was preoccupied with issues of cultural-political-economic class struggle and a refusal to accept the capitalist order.' This purpose went beyond his theoretical and journalistic writings, as dictated by his 'philosophy of praxis', demonstrated for example by his work with Factory Councils, his journalism and his involvement in the Italian Communist Party (Gramsci, 1971, pp. xxxiii–xxxvii). It also led to Gramsci being imprisoned from 1926 until his death in 1937. His most famous writings were produced during imprisonment and translated into English decades later as *Selections from the Prison Notebooks of Antonio Gramsci* (Gramsci, 1971). Most of the following initial discussion of the concept of hegemony is derived from this work and from the interpretation of Morton as set out in *Unravelling Gramsci* (2007).

First, hegemony is understood as a process that is 'constantly constructed as well as contested through different forms of class struggle or "counter" hegemonic initiatives' (Morton, 2007, p. 80). A substantial part of this struggle takes place in the sphere of civil society, or 'the ensemble of organisms commonly called "private"' (Gramsci, 1971, p. 12). It exists alongside what Gramsci calls 'political society', comprising public institutions such as the government, police, military and courts, which together form the state's coercive apparatus (Bates, 1975, p. 353). The spheres of civil society and political society form the 'integral state', which Gramsci (1971, p. 263) describes as 'hegemony protected by the armour of coercion'.⁴ Gramsci argues that establishing and maintaining hegemony by the ruling class requires more than control over the state's coercive apparatus and also involves consent, created through 'the sturdy structure of civil society' (Gramsci, 1971, p. 238). Civil society included unions, political parties, churches and the media for Gramsci; we can imagine that it would now also include NGOs. The role of intellectual activity in particular is key in the struggle around 'shaping intersubjective forms of consciousness in civil society' (Morton, 2007, p. 93). Indeed, hegemony entails that certain ideas or norms become common sense: 'taken-for-granted' 'beliefs, superstitions, opinions, ways of seeing things and of acting' (Gramsci, 1971, p. 323; Morton, 2007, p. 61). Common sense is 'not something rigid and immobile, but is continually transforming itself, enriching itself with scientific ideas and with philosophical opinions which have entered

⁴ There are several contradictory conceptions of the state in Gramsci's *Notebooks*, which, as (for example) Jonathan Joseph explains – while referring to Perry Anderson (1976) – 'poses real problems if we are to try and understand where hegemony is located and how it operates. In fact it leads to three different conceptions of hegemony' (Joseph, 2002, p. 30).

ordinary life' (Gramsci, 1971, p. 326). In the naturalized character of common sense, when intersubjective meanings are unquestioned and establish wider frameworks of thought, the ideational takes on a material structure (Bieler & Morton, 2008, p. 121). Successfully establishing hegemony thus involves both shaping intersubjective forms of consciousness in civil society and taking into account the material basis at stake in class struggle (Morton, 2007, pp. 93–95).

Conceptualizing hegemonic struggle through projects

The concept of hegemony that Gramsci put forward and that has been developed through the work of numerous scholars since offers insights into who has power and the sources of this power. However, the concept remains quite abstract. As Robert Cox (1983, p. 125) argues, while contextualizing the concept of hegemony in Gramsci's historicism:

A concept, in Gramsci's thought, is loose and elastic and attains precision only when brought into contact with a particular situation which it helps to explain, a contact which also develops the meaning of the concept.

This dissertation uses the concept of *hegemony projects* to enable the concrete study of hegemonic struggle taking place over corporate tax harmonization in the EU, incorporating the limitations and latitudes posed by structural conditions while centering the emancipatory power of agency. The concept of hegemony project also accounts for the material basis of key agents driving a hegemony project as well as the ideational resources these agents have and the strategies they employ to achieve their common goals. The remainder of this section details the conceptualization of hegemony projects in this dissertation, drawing from the writings on hegemony and hegemony projects of Jonathan Joseph (2002, 2003b) Bob Jessop (1990, 2015), and HMPA scholars such as Sonja Buckel, Fabian Georgi and John Kannankulam (Buckel et al., 2017).

To arrive at his notion of hegemonic concepts, Jonathan Joseph first distinguishes between structural and surface hegemony. Hegemony on a structural level refers to the ensuring and securing of social unity and cohesion and the 'reproduction of social structures and structural ensembles' (Joseph, 2002, p. 131). Although of great importance, this level of hegemony is difficult to 'see' or analyze. Emerging from this structural, deeper level of hegemony is what Joseph calls the 'surface' level of hegemony, considered to be a manifestation of these structural, underlying conditions – 'albeit,

with its own character and dynamics' (ibid.). The manifestation of hegemony occurs through hegemonic projects⁵ and struggles, defined by Joseph (2002, p. 132) as 'conscious political activity linked to the defence, development or transformation of a given situation'. This 'surface' level is where agents develop strategies and act, where they elaborate points of contestation within a project and where they consolidate consent. The level of consciousness of political activity can differ, Joseph argues, and can therefore also have differing degrees of unintended consequences (Joseph, 2002, p. 132).

In line with a strategic-relational approach, hegemony projects can differ in given situations and should therefore also be studied in their spatial-temporal specificities. The structural and the superficial are inextricably linked; like structure and agency, they presuppose each other. This has two consequences for the analysis in this dissertation. First, hegemony projects emerge from, but are not reducible to, the underlying conditions in which they are rooted. To study hegemony projects isolated from this deeper, structural level would strip them from their deeper, structural purpose and content. Therefore, in this dissertation hegemony projects are related to the structural level of hegemony – meaning specifically the underlying social relations of production – and to what extent the projects are successful in their efforts to reproduce or transform these. Second, it means that in this dissertation's conclusion I need to return to the question of 'real transformation': have the struggles between projects in this case affected the hegemony on its structural level in any way or are the underlying structures undisturbed?

Jessop (1990) describes hegemonic projects in a similar fashion (in later works, Jessop refers to them as 'hegemonic visions', see Jessop, 2015). Positioning them as the efforts of a particular class or class fraction to generate broader interest or create 'a general interest' favorable to capital, hegemonic projects are in his view also concrete practices, similar to Joseph's notion of surface hegemony:

the mobilization of support behind a concrete, national-popular program of action which asserts a general interest in the pursuit of objectives that explicitly or implicitly advance the long-term interests of the hegemonic class (fraction) and which also privileges particular 'economic-corporate' interests compatible with this programme (Jessop, 1990, p. 208).

⁵. Some scholars use the concept of hegemonic project, but this dissertation will use hegemony project as explained in the following section.

The concept of hegemony projects is central to HMPA, the methodological approach adopted in this dissertation and worked out in detail in the subsequent chapter. Sonja Buckel and colleagues (2017), who adopted and further developed HMPA in their research on EU migration policies, make a useful distinction between hegemony and hegemonic projects. In their view, the struggle for hegemony between projects takes place on a microlevel of concrete political projects. Political projects are concrete political initiatives put forward by hegemony projects that present a solution to what they consider to be pressing social, economic and political problems (Buckel et al., 2017, p. 18). If a hegemony project is to become hegemonic, it must succeed in 'positioning a number of such limited political projects in such a way that they become the politically strategic "terrain" on which a hegemonic project can condense'. The hegemony project thereby creates 'a new selectivity of the ensemble of apparatuses' (Buckel et al., 2017, p. 18). Examples of such political projects are generally the single market, EMU and financial liberalization (Bieling et al., 2016; Wissel & Wolff, 2017). Buckel and colleagues (2017, p. 32) find that 'migration management' emerged as a hegemonic political project. Success occurs when a political project presents 'a "solution" to a situation of crisis that combines as many strategies, discourses and subject positions as possible – especially those which are supported by opposing strategies' (ibid.) Following a Gramscian notion of hegemony, the consent of opposing forces is required for a project to become hegemonic. Thus, it is highly likely that a successful political project will include elements from the demands formulated through other, contesting hegemony projects.

The political projects mentioned above refer to hegemonic successes or outcomes, but political projects can also be used to study counter-hegemonic alternatives, or 'concrete alternative political projects which are able to initiate both convincing transnational or European solutions to urgent economic problems and a discursive and material transformation of given power relations' (Bieling, 2012, p. 268). The concrete political projects as the single market or the EMU are large, overarching projects, consisting of multiple directives, regulations, other legislative structures and so on. The harmonization and consolidation of corporate tax bases in the EU is regarded here, in this dissertation, as a political project. Although it comprises 'only' one – and later in 2016 two – proposed directives, the CCCTB did aim to replace the current 27 different national systems taxing corporate profits in the EU. Therefore, I deemed the size of its impact sufficient for it to account as a political project. The main empirical question the analysis addresses is

the extent to which the political project reflects the goals and strategies of different hegemony projects.

Within HMPA scholarship, four possible sets of strategies are identified that indicate a hegemony project's overall response to the hegemonic order: counter-hegemonic strategies, anti-hegemonic strategies, escape strategies and resignation/passive strategies (Buckel et al., 2017, p. 19). The anti-hegemonic and escape strategies seem less relevant for this study than for studying EU migration practices and policies. However, an explicit affirming/strengthening hegemony strategy needs to be added. Hegemony projects can have the aim of (radically) reforming a hegemonic order (counter-hegemony), resign themselves to a hegemonic order and thereby not actively but passively consent to it or actively affirm or strengthen the current order. Last but not least, the key agents driving the different hegemony projects will be listed: organized corporate interests, non-governmental (branch) organizations, EU bodies and state institutions, political parties, movements and unions that have taken a position on corporate taxation and corporate tax harmonization in the EU.

Analyzing European integration through hegemony projects

Situated mostly within CPE perspectives, a number of scholars have used the concept of hegemonic or hegemony projects to explain trajectories of European integration: Bastiaan van Apeldoorn (2002), Jonathan Joseph with Simon Bulmer (2016) and John Kannakulam and Fabian Georgi (at times in cooperation with others) (Buckel et al., 2017; Kannakulam & Georgi, 2014).

Building on his earlier works on hegemony, Joseph, with Bulmer, applies the notion of hegemonic project to European integration processes. In a worthwhile attempt to contribute to a growing body of critical European integration literature, Bulmer and Joseph aim to build a bridge between, on one side, liberal intergovernmentalism as a mainstream integration theory that emphasizes the role of the nation-state and the domestic scale within the EU, and on the other CPE approaches that, according to Bulmer and Joseph, 'reduce' integration processes to class struggle (Bulmer & Joseph, 2016, p. 729). They use hegemonic projects to find a middle ground between these approaches, acknowledging both the role of the domestic and the complex and often contradictory interrelationship between the economic and the political. This leads them to see integration as 'the *outcome* of various projects that compete across the political and economic terrain' (Bulmer & Joseph, 2016, p. 735).

In a (short) empirical analysis, Bulmer and Joseph identify four hegemonic projects: neoliberal, national-social, national-conservative and pro-European social-democratic. They call the outcomes of integration, such as the Maastricht Treaty, 'a historic compromise between these projects' (Bulmer & Joseph, 2016, p. 740). Importantly, they argue that contestation between hegemonic projects is rooted in *domestic* politics. The emphasis on the particularities of domestic politics and their influence on European policies and projects should make it clear that European integration processes cannot be simply explained by looking at EU-level politics only. Instead, the analysis has to include the 'domestic politicization of European policy' (Bulmer & Joseph, 2016, p. 742).

Here lies a difference with CPE approaches that are firmly rooted in historical materialism, such as Bastiaan van Apeldoorn's (2000, 2002) analysis of the ERT. He analyzes European integration as consisting of processes of class struggle – as Marx wrote: the history of all hitherto existing society is the history of class struggles – and conceptualizes hegemonic projects as class strategies towards constructing (aspired) hegemony. They are 'strategic orientations' and 'integrated political programmes' that aim to, first, unite diverging views, identities and interests of rival groups within the capitalists class and, second, transcend this class-bound perspective towards a more universal level (Van Apeldoorn, 2002, p. 30).

Following Bulmer and Joseph's assessment of CPE perspectives, Van Apeldoorn could be expected to interpret European integration as solely the materialization of a neoliberal project pushed for by globally dominant capitalist class fractions. Instead, Van Apeldoorn's (2002, p. 158) conclusion that European integration is shaped by 'embedded neo-liberalism' is more nuanced, reflecting the efforts of projects to co-opt elements of rival projects to establish hegemony:

Embedded neo-liberalism is on the one hand interpreted as the outcome of the transnational struggle over European order, i.e., the struggle between the rival capitalist class strategies of neo-mercantilism and neo-liberalism, as well as between a supranational social-democratic project and a business elite united, in this context, behind a largely neo-liberal concept.

The 'embeddedness' of this project entails that its articulation had to include 'some elements of opposing projects in order to become hegemonic' (Van Apeldoorn, 2002, p. 160). Thus, the dominant hegemonic project that was emerging in the 1980s and 1990s was a neoliberal project that did indeed incorporate some elements of other projects in terms of, for example, social protection so as to construct and solidify its hegemony in and through European integration. In this way, Van Apeldoorn's conclusion does not actually diverge that strongly from Bulmer and Joseph's, although the former differs in that he conducted a very extensive empirical *class* analysis, which led him to focus on *global* aspects of hegemonic projects.

Another recent application of the notion of hegemony projects in the European integration literature is the work of Sonja Buckel, John Kannankulam and Fabian Georgi (2017; 2014), which are defined as

the myriad of actions, practices, tactics and strategies that are pursued by an often unaccountable number of actors in any given societal conflict, and that are chosen by actors before the background of their vastly different, specific power resources (...). In distinguishing different hegemony projects, a claim is made that the practices comprised therein share a distinct, common direction (Kannankulam & Georgi, 2014, p. 64).

The distinction between hegemonic and hegemony projects is made to emphasize continuous struggle. Hegemony projects are those that have not (yet) achieved hegemonic status: the particular interests of their leading factions have not yet been adopted as general interests by other hegemony projects (Kannankulam & Georgi, 2014, p. 64). This dissertation follows this distinction and will hereinafter refer to hegemony projects. A hegemony project can be driven by civil society actors, trade unions, corporations or corporate representatives, political parties, social movement groups and institutional actors such as the European Commission's DGs or national ministries. The assumption is not that a group comes together in a meeting room and establishes itself as a hegemony project, but that through both theoretical insights and empirical analysis a shared common direction and strategies pursued in that direction can be identified and aggregated into a hegemony project. In this sense, it is an analytical tool that helps reduce complexity without losing sight of the differences amongst agents within and across hegemony projects (Buckel et al., 2017, p. 21). While a hegemony

project is assumed to share a certain common direction, it is not expected that the different agents within such a project regard themselves to be part of the same project, in particular when it did not yet achieve hegemonic status (Buckel et al., 2017, p. 17).

The identification of hegemony projects takes center-stage in the approach of Buckel and colleagues (2017). Arguably the most extensive part of their policy analysis is the actor analysis, which culminates in the aggregation of actors and their strategies in hegemony projects (see also Kannankulam & Georgi, 2014, pp. 63–67). They identify five different projects in their research on migration: a neoliberal, a conservative, a national-social and pro-European-social, a left-liberal alternative and a radical-leftist project (Buckel et al., 2017, pp. 24–32). An important difference between their approach and those discussed above is that Buckel and colleagues seemingly arrive at identifying hegemony projects in an inductive manner, whereas the former approaches regard hegemonic projects as articulations of a deeper, structural level of hegemony (Joseph and Bulmer) or global class struggles (Van Apeldoorn). This means that their explanations of shifts in the hegemonic positions of different projects are largely reduced to agential influences. This risks leaving out the influence of and effects on structural conditions, such as changes in the global economy or institutional frameworks. The operationalization of hegemony projects in chapter 3 demonstrates how this dissertation's understanding of hegemony projects aims to account for both agency and structure.

Three ideal-types of hegemony projects

The CPE perspectives discussed so far constitute the main inspiration for the initial identification of three relevant hegemony projects in this dissertation: a neoliberal project, a neomercantilist project and a center-left project. While the operationalization of hegemony projects is situated in the following chapter, the first step in the identification of hegemony project is more of a theoretical one and therefore included here. It concerns *ideal-types* of the three projects, outlining general expectations about a common direction that ties a group of agents together in terms of European integration.

Within the *neoliberal* project, the European Union is mainly seen as an important internal market that is – or should be – embedded in (or even subordinated to, see Van Apeldoorn 2002, p. 81) global markets. It is essential that an efficient allocation of resources is guaranteed as much as possible. To achieve this, market mechanisms are key. The EU, therefore, should have a

clear market-making purpose. For an efficient allocation of resources, the EU's internal market should be liberalized; any obstacles to cross-border activities need to be removed. Proponents of neoliberalism reject, as much as possible, the regulating of capital and instead advocate for the 'near absolute freedom of capital to accumulate' (Vliegenthart & Overbeek, 2009, p. 146). It is often assumed that neoliberalism believes in the market above all; that is not to say that the market is seen as a natural phenomenon. There is an awareness that markets and their functioning need to be 'encased' by 'the political construction of institutions' (Slobodian, 2020, p. 7). A 'free' market then does not necessarily mean little intervention by state institutions but entails a distinct preference for politically independent institutions that guarantee the functioning of markets, offering high levels of certainty to capital and emphasizing depoliticization. A core function of state institutions, according to the neoliberal project's general common direction, is guaranteeing a level playing field for corporations in order to achieve 'pure' and objective competition within the internal market (Buch-Hansen & Wigger, 2011).

The neoliberal project is dominated by fractions of money capital and transnational capital. These represent capital that is often (highly) mobile and export-oriented. Because of the neoliberal project's mostly global orientation, its dominant capital fractions focus on their competitiveness on a global scale. Although the competitiveness of the EU as an internal market in relation to other large markets is not *unimportant*, global competitiveness will ultimately serve these capital fractions the most. Main agents in this respect are TNCs, in particular those generating the core of their profits through financial, commercial and digital services. Financial services here are understood to comprise banking and investment services as well as accounting, (tax) advice and other corporate services.

Within a *neomercantilist* project, the shared view is that the EU is an internal market in need of a defensive regionalization strategy in order to stay competitive with regard to other regional and global markets. The project's common direction is aimed at protectionist measures that 'insulate European capital from the pressures of globalization' (Vliegenthart & Overbeek, 2009, p. 145). There is definitely a purpose of market-making, but this differs from that of the neoliberal project as it concerns mainly the EU's internal market, and market-correcting measures that benefit the nation or the EU's 'own' corporations are allowed and seen as strategic. Indeed, domestic- or regional-oriented corporations or 'champions' need to be protected from

foreign competitors that thrive in a global liberalized economy, and industrial policies are key in attaining this goal. Essentially, 'the internal market project is thus interpreted as the creation of a strong "home market" that could serve as a launching pad to conquer the world market and at the same time as a protective shield against outside competition' (Van Apeldoorn, 2002, p. 80). Neomercantilists thus value the competitiveness of certain sectors and corporations that are of strategic importance to a country or to the EU as a whole; *their* competitiveness in relation to foreign competitors is prioritized over all.

The neomercantilist project is driven by fractions of productive capital, its profits generated largely from labor and immobile assets. Fractions of productive capital can be firmly embedded in a national context but can also produce (predominantly) for European markets. The latter includes manufacturing firms with their main basis of employment and assets in Europe as 'main pillars of support' (Vliegenthart & Overbeek, 2009, p. 145). The former consists mainly of SMEs, whose production and sales are predominantly national-based. We can thus distinguish between national-mercantilist and Euro-mercantilist interests, which differ mainly in scope (Buch-Hansen & Wigger, 2011, p. 23). However, since they have a common direction with regard to corporate taxation, the neomercantilist project is considered in its totality.

It should be noted that within the neomercantilist project, views can also differ on the extent to which it is the government's or EU's task to combine a strong home market with social and distributional goals in order to increase the well-being of their citizens (Helleiner, 2021, p. 231). Institutions are seen as key in making and correcting markets as well as implementing strategic policies to promote and defend its industries. With regard to the EU, this translates into a preference for strong and supranational institutions.

Although opposing neoliberal ideas in various ways, key proponents of the *center-left* project do not necessarily reject capitalism or market mechanisms. There is no inherent objection to the EU internal market and its completion, but an emphasis on the needs for sufficient social protection measures and institutions. Van Apeldoorn (2002, p. 79) identifies this as 'a project of positive integration ensuring a strong regulatory political framework to embed the new single market' – although he refers to it as a 'supranational social-democratic project'. The center-left project has social-democratic roots, but – for the purposes of the policy conflict under investigation – it has co-opted a broader

range of interests and voices. The project's common direction therefore moves beyond the social protection of workers and consumers from the internal market to also include human rights, environmental protection and issues of justice, peace and equality.

The center-left project's class base is indeed more diffused. Including center-left political parties, unions, NGOs and social movements, the project's base cannot simply be traced to traditional working-class forces. Social movement scholars have pointed out that studies of protests and movements need to take into account their class base and the changes that occurred in periods of capitalist transformations (Della Porta, 2017). Those who protest austerity measures or neoliberal policies more broadly are often affected through their positions, not as a traditional worker but as a precarious worker, unemployed citizen, poor citizen or migrant (worker). As Della Porta (2017, p. 460) writes: 'Sometimes called the "multitude" or the "precariat", those protesting against austerity represented new coalitions of various classes and social groups that perceived themselves as the losers in neoliberal development and its subsequent crisis'. This aligns, to an extent, with the distinction scholars make between primary and secondary exploitation. While primary exploitation refers to the exploitation of wage labor by capitalists to extract surplus value, 'secondary exploitation takes place in the sphere of exchange, and refers to the ability of capital owners to capitalise on their investments, such as by appropriating interest for mortgages and consumer credit, or rental payments, thereby modifying work-related income' (Wigger, 2021, p. 452). Broadening the understanding of exploitation thus enables us to see that the class base for a center-left project moves beyond what can be understood as the traditional working class. Indeed what has been called 'accumulation by dispossession' – essentially 'the loss of rights' by the many to the benefit of the few – intensified under neoliberal policies through mechanisms of privatization and commodification, financialization, the management and manipulation of crises, and state redistributions (Harvey, 2005, p. 178). Accumulation by dispossession and the ways in which it accelerated under neoliberal policies can also explain the rise of NGOs and advocacy groups as well as 'the turn to a universalistic rhetoric of human rights, dignity, sustainable ecological practices, environmental rights and the like, as the basis for unified oppositional politics' (ibid.). This universalistic turn means that the center-left project's key agents are not limited to unionized labor but include groups, movements and organizations concerned with a broader range of rights and issues, which they directly relate to corporate taxation.

The center-left project is seen as one project because of its common base in the social relations of production and a shared general program. The name of the project already indicates, however, that key differences exist. Most importantly, this is related to scalar focus, specifically to whether the EU itself can and should be the scale on which social protection from the market is demanded and achieved. Indeed, certain forces within this project regard the EU as unfit to provide such protection for various reasons, such as the inherently neoliberal character of (current) European integration or the heterogeneity amongst and within EU member states. Priority is given to preserving 'national sovereignty'. A distinction is therefore sometimes made – amongst others by Bulmer and Joseph (2016), and Buckel et al. (2017) – between a national-social and a pro-European social project. Although these differences in scalar focus will be detailed in the empirical chapters, the center-left project is seen as one for the reasons given above.

Overlapping projects

The distinction between different hegemony projects exposes some level of necessary fiction of these delineations. Neomercantilist and center-left projects have certain commonalities in the creation or functioning of a strong EU home market, which is at least partly complemented with protectionist measures. Although differences arise in *what* or *who* needs protection, the well-being of (the EU's or state's own) citizens is not disregarded. There are also clearly overlapping interests and strategies between neoliberal and neomercantilist projects, which can be (at least partly) traced back to a distinction Van Apeldoorn (2002, p. 81) makes on the basis of 'the relative degree of globalization'. Not all TNCs are necessarily global in nature if most of their production serves the EU's home market. This 'Europeanist fraction' is associated mostly with large industrial corporations competing against cheaper foreign (i.e., non-EU) alternatives. This fraction is linked to the neomercantilist project. At the same time, other large industrial corporations are producing for and exporting to the world market. This globalist outlook can have more in common with fractions that are included (above) in the neoliberal project, namely global financial capital. Twenty years ago, Van Apeldoorn (2002, p. 61) already concluded that 'we should not exaggerate the divergence of interests between global financial and global industrial capital'. His research centered on the struggle between Europeanist (industrial) fractions and global (industrial *and* financial) fractions over the European order. This dissertation will offer more insights into the extent to which this distinction still holds where corporate income taxation is concerned.

Hegemony projects and EU institutions

The state is considered a mediating factor between a hegemony project and its actual success in achieving or reinforcing hegemony. Considered a strategic terrain as explained earlier in this chapter, the state is inscribed with privileges for some groups of agents at the expense of others. Strategic selectivities express the success of a hegemonic project that was able to include subordinate forces without risking its own long-term interests, which, at that point, will have been inscribed in the state form. Following Jessop (2015, p. 67), a long-term shift in hegemony then requires a hegemony project that challenges dominant ideas and interests; it also entails 'the reorganization of the state system towards underwriting a more durable shift in the balance of forces'. Hegemonic struggle between projects materializes on various levels, and this dissertation focuses on the EU. The theoretical framework set up so far has a number of implications for how the EU is understood in terms of statehood and its institutions.

First, although the EU is not considered to be a state similar to its members, who have the power to directly levy and collect taxes, EU institutions here are still understood as strategic sites of hegemonic struggle. A shared consensus within CPE perspectives is that the national state remains 'the fundamental instance ensuring the reproduction of social cohesion' (Tsoukalas, 2002, p. 243). The national state is still the core node in the materialization of class struggle as conceptualized by Poulantzas. Durand and Keucheyan (2015, pp. 130, 141) argue that the EU is 'not a sufficiently open political space to be able to allow different social forces to enter into conflict and establish compromises, as historically the modern nation-state has done'; the near absence of strong labor unions and powerful social movements signifies this and also prevents a reorientation of social and economic policies away from neoliberalism.

However, the inherent risk of *not* viewing the EU as a strategic terrain where hegemonic struggle between social forces takes place is that the potential of resistance to neoliberalism, or to the EU as a neoliberal project, is neglected, as is often the case in CPE perspectives on EU integration (Bieler, 2005). Laura Horn's (2012) analysis of the role of organized labor in the process of European integration offers a number of helpful insights in that respect. The EU is in the process of emerging state formation. Although this might entail that the space offered to organized labor is limited in terms of structural-institutional power, the EU as a terrain for social struggle still offers 'crucial avenues for contestation and formulation of alternative strategies' (Horn, 2012, p. 589).

Moreover, a CPE perspective, which inherently focuses on existing structural asymmetries, views European integration as a continuously contested project. Even though resistance or the formulation of alternative strategies is limited, analyzing such strategies makes it possible to evaluate whether they alter underlying power relations or largely underwrite and thus strengthen the dominant neoliberal orientation of the EU.

Second, as EU institutions are still understood as strategic sites of struggles, they are expected to be inscribed with strategic selectivities – similar to other state institutions. In this sense, institutions as strategic terrains are pre-structured through the history of social struggle that shaped EU integration, and ‘are increasingly neoliberal and therefore hostile’ to labor (Bruff & Horn, 2012, pp. 165–166). This directs the research project to focus on the strategic selectivities that agents experience and on how they accordingly act strategically, assuming that agents have the possibility to either conform and strengthen existing selectivities or challenge and contest them.

Third, like other state institutions, EU institutions have a degree of autonomy that enables their departments to formulate strategies and carry out actions. EU institutions are thus neither mere vehicles or shells for the establishment or articulation of a global hegemonic project nor neutral and apolitical fora where member states negotiate compromises. The people working in or leading EU institutional departments are real agents, not puppets of any higher goal. They may not always act in line with prevailing power relations. Recall here the discussion of Poulantzas’s (1978, p. 136) quote above, which explains how policy outcomes can indeed be contradictory and confusing as they are ‘continually constructed out of accelerations and brakings, about-turns, hesitations, and changes of course’.

In the same vein, EU institutions are not expected to be unitary, rational actors. Instead, the analysis draws attention to the differences within EU institutions – between different units within a Directorate-General (DG) or between DGs, between different forces within the Parliament, between bureaucracy and politicians – and the contradictions that inevitably arise as a result. Therefore, the analysis of this dissertation will specify as much as possible in or through which departments, individuals, policy units, secretariat or other groups specific strategies were carried out or ideas formulated. This is also essential for identifying the particular hegemony projects these can be associated with or to which hegemony project’s common direction they relate the most. For

specific national governments it will be made clear which administration was in government at that time (see for a recent historical materialist analysis that is an inspiring example in this respect Alami, 2019).

In specifying the particular actors at play, this thesis aims to explore the hegemonic affiliation of the respective actors and their transformational agency/power in the reproduction or challenging of hegemonic ideas and practices in the area of corporate tax harmonization. In doing so, it aims to move past seeing the state as a static, black box and instead provide tools for studying the state (or statehood) as a social relation whose content and form can and do change.

The most important institutions for this thesis are the European Commission, the Council and the Parliament. Although the ECJ has increased its influence in the field of direct taxation (see for example Ganghof & Genschel, 2008; Graetz & Warren, 2007; S. Schmidt, 2018), it is not a direct institutional player in the political decision-making on harmonization. What follows is a brief overview of the key tasks and rights of these three key institutions.

European Council

The Council consists of the heads of state or government of all EU member states. Its key task is to 'define the general political directions and priorities' of the EU (TFEU, art. 15). The Council convenes in different compositions, depending on the matters on the agenda. Each member state sends a representative from the ministerial level. In the case of this dissertation, the most relevant is the Economic and Financial Affairs Council (ECOFIN). In matters of taxation, the Council holds the sole power to legislate. Laid down in the Treaty (TFEU), the Council decides on new tax legislation or adaptations of existing legislation by way of unanimity.

Since the Treaty of Lisbon entered into force in 2009, the Council has been headed by a President, who is elected by the Council for 2.5 years (for a maximum of two terms) based on a qualified majority. The President closely cooperates with the Council's Presidency, which rotates every six months amongst member state governments. The Presidency is responsible for driving legislative processes, maintaining the continuity of the EU's agenda and fostering cooperation between member states. The member state government that holds the position of Presidency can thus have an influential, agenda-setting role. A multiscale understanding of the EU and associated 'scalar

strategies' discussed earlier directs the analysis to account for the influence this position bestows on the function of Presidency and for how member state governments use this position to either pull issues towards Council decision-making or refer them to a different scale and institutional body.

Practically, this means that the Presidency chairs all Council meetings, including those of preparatory bodies. Indeed, a substantial part of negotiations takes place on 'lower' levels. Permanent representatives of each member state participate in these (high-level) working parties. The Presidency is supported in its work by the Council's secretariat, which comprises administrative, political and legal advisory departments.

European Commission

The Commission is the 'Guardian of the Treaties', meaning that it 'shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties' (TFEU, art. 17). Moreover, with the exception of (at least) the common foreign and security policy, the Commission represents the EU externally. The Commission is formally the sole institution with legislative initiative. By Council decision, the Commission is now governed by a number of Commissioners, which is equivalent to the number of member states. The Council has the right to propose all Commissioners (based on the suggestions of member states) and its President, but this 'shall be subject as a body to a vote of consent by the European Parliament' (TFEU, art. 17).

The Commission is the main executive institution of the EU. It is therefore arguably also the most visible. Recent changes, since the Juncker Commission started in 2014, include a system of Vice-Presidents accompanied by dividing the work of the Commission into 'clusters' to ensure more efficient decision-making. These and other changes – such as the changing relation between the Commission and the Parliament, mediated for instance through the new Spitzenkandidaten procedure – have led some to claim that the Commission has become 'more political' (Dinan, 2016) or stronger (Nugent & Rhinard, 2016). However, when one understands EU institutions as a strategic terrain for social struggle, the Commission and other institutions are inherently

political. Its departments and Commissioners can *present* themselves as more political as opposed to mere neutral executives.

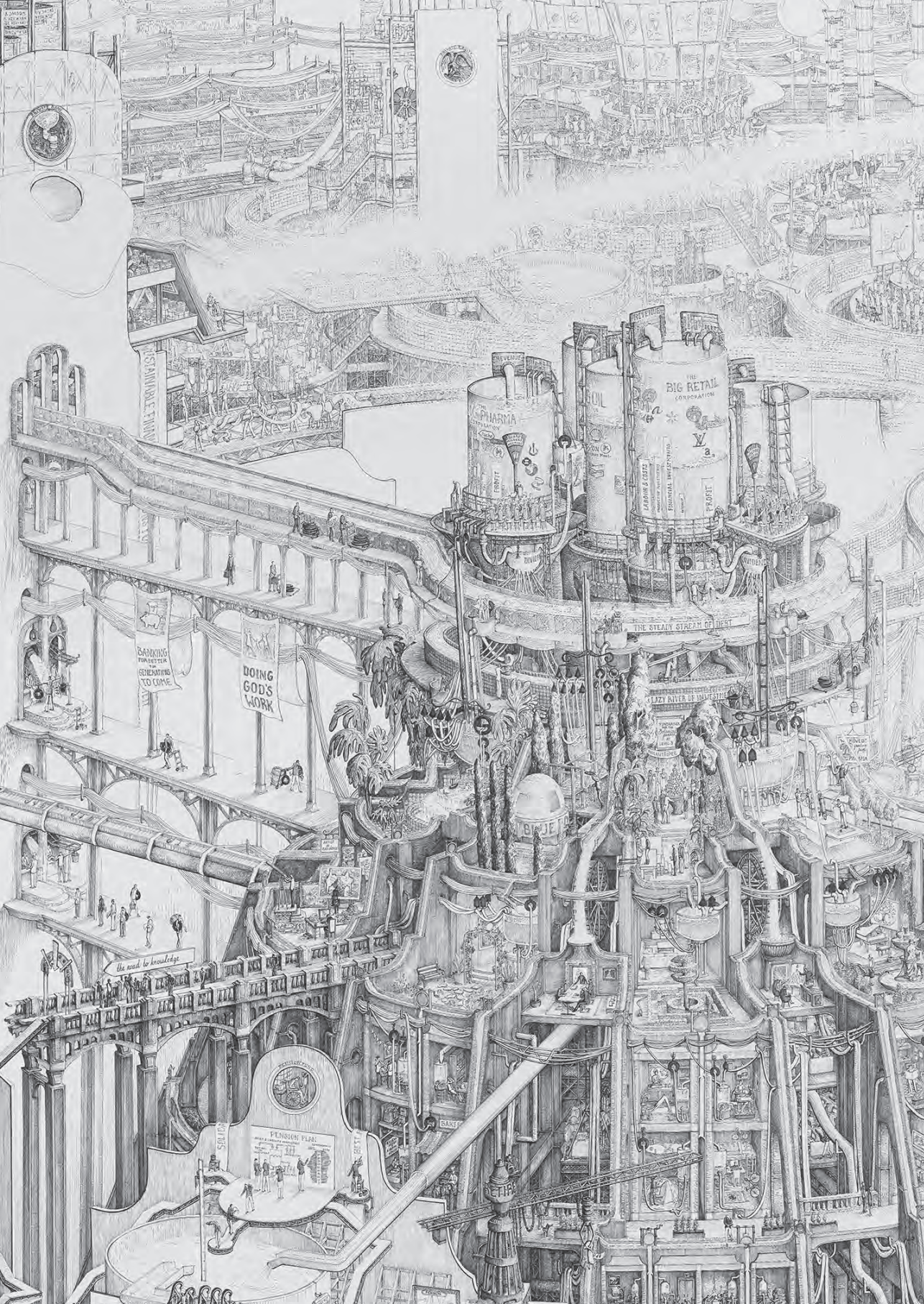
The Commission's powers in matters of taxation are limited in the sense that apart from the legislative initiative, the Council is the sole decision-maker. The Commission does have power in terms of implementing and delegating acts. Moreover, under state aid rules, the Commission can investigate whether national tax rules are forms of illegal state aid and subsequently fine member state governments if this is the case. This form of supranational authority means that the Commission's DG Competition has increasingly intervened in matters of taxation as well, making it a relevant Commission department in the empirical analysis apart from the lead DG on Taxation and the Customs Union (TAXUD). In addition, each Commissioner has a cabinet that supports the Commissioner's policymaking. Moving away from seeing the European Commission as a unitary actor thus entails taking into account the contestation taking place through forces within the Commission, which retains the possibility of contradictory policies or statements.

European Parliament

The Parliament is made up of 751 members – 750 members and its President. The members are directly elected by citizens of the EU, and the number of seats is proportional to every member state's population size, with a minimum of six seats. The Parliament consists of different political cross-country groups. Since the Treaty of Lisbon, the Parliament's rights and mandate have expanded. The Parliament has the right to vote – by majority – for the Commission's President and the Commission as a whole. It also has a vote on the EU's budget. In matters of taxation, the Parliament can only give its opinion to the Council – which the latter has to hear before taking a decision – but it can ignore this in its entirety. Each Member of the European Parliament (MEP) chooses to be in one or more parliamentary committees that cover different matters.

Most taxation issues are dealt with by the Committee on Economic and Monetary Affairs (ECON). Besides the committee 'responsible' for the file, other committees – such as the Committee on Internal Market and Consumer Protection (IMCO) and the Committee on Legal Affairs (JURI) – are involved as well as they are allowed to give an opinion. The committees have a secretariat for support, both individual MEPs and political groups have (policy) support staff and the Parliament has its own research service. The Parliament has limited legislative powers, especially with regard to taxation. However, it finds

ways to expand its influence beyond formal powers (see for example Héritier, 2019). This dissertation explores the strategies that forces in the European Parliament use to expand their powers or to overcome institutional limits, in particular in the analysis of the rise of a center-left project that challenges neoliberal dominance.



3. A historical materialist policy analysis

This chapter presents HMPA as the leading methodological approach of this dissertation. Together with the following chapter on the methods of document analysis and expert interviews, this chapter constitutes this dissertation's overall research design.

The first section addresses a number of epistemological and methodological implications of the critical realist approach that was introduced in the theoretical framework in chapter 2. Critical realism lies at the foundation of the research approach and emphasizes the social or human facets of knowledge production. Moreover, consistent with a historical materialist ontology, the purpose of doing research and being a researcher is emancipatory. Research is done not only to build knowledge but also to enable social change. Producing knowledge about the causal mechanisms that underly our reality is not an easy task; therefore, the method of production that proposes a continuous iterative movement between the abstract and the concrete is introduced in this chapter as a helpful instrument.

The remainder of this chapter presents HMPA, justifies why this approach was chosen and offers an extensive operationalization that also slightly adapts HMPA for the purpose of answering the research question at hand. As a methodological approach, HMPA forms a strong bridge between the theoretical notions of the former chapter and a systemic and consistent analysis of the data sources and interview material. While introducing HMPA, this chapter lays out its key foundational assumptions. Therefore, some theoretical considerations from the previous chapter are replicated – but only in relation to the reasoning for choosing HMPA, which is exactly its closeness to the historical materialist ontological core set out in chapter 2. The foundational assumptions of HMPA lead to important expectations with regard to policies and policymaking. Policies are seen as unstable compromises between social forces and state institutions are expected to be characterized by heterogeneity rather than unity. The latter are inscribed by strategic selectivities – making institutional bodies more accessible to some agents than others and more susceptible to some ideas than others. Moreover, the transformative power of agency is centered in HMPA. These four assumptions regarding policy and policymaking

guide the subsequent operationalization of HMPA as well as the empirical analysis that follows in chapters 5–10.

HMPA consists of three steps: context, agency and process analysis. The context analysis, first, focuses on the set of historical conditions and processes that have brought about the policy conflict under investigation, explaining the spatial and historical dynamics of the circumstances in which policymaking takes place. The role of agency, second, is central to HMPA. An extensive section of this chapter is therefore dedicated to the operationalization of the key concept of hegemony projects. In doing so, this dissertation builds on the growing HMPA scholarship while also making a conscious effort to move HMPA insights to a more concrete framework fit for empirical analysis.

The operationalization of hegemony projects consists of five steps. First, the presentation of ideal-types of three hegemony projects, which was included in the previous chapter, and their expected ideas and interests with regard to corporate taxation, which is shared in this chapter. Second, hegemony projects will be identified based on empirical material, uncovering the situation analysis, scalar focus, central strategy and key agents that together are aggregated into a hegemony project. In a third move, the operationalization sets out how these hegemony projects will be positioned in relation to one another. A focus on organizational capabilities, outreach capabilities, systemic resources and institutional selectivities makes it possible to conduct a power analysis between key social forces in subsequent chapters. The operationalization also explains, fourth, how the empirical analysis will relate the hegemony projects to key positions on the CCCTB and, fifth, how the conclusion will reflect on the notion of hegemony projects.

The last key element of HMPA is the process analysis. This chapter therefore ends with explaining how the process of the development of the CCCTB will be traced. It first emphasizes the contingent character of a process and explains that the importance of studying processes is to uncover changes and continuities in power relations. The purpose of the process analysis is to 'reconstruct the dynamic process in which the investigated conflict between the identified hegemony projects unfolded through different phases and turning points, and against the background of its broader historical context' (Kannankulam & Georgi, 2014, p. 67). Therefore, the last section of this chapter also includes an overview of important conjunctural moments and key events and decisions that characterized the launch and relaunch of the CCCTB.

3.1 Epistemological implications of a critical realist approach

The critical realist distinction between transitive and intransitive knowledge and the primacy assigned to ontology have several epistemological consequences for social science in terms of what it can be and should do and for the limits of any explanation. It is therefore useful to briefly touch on critical realism's view on knowledge, knowledge production and the role of the researcher.

The limits to knowledge and the emancipatory possibilities of doing research

Critical realism stipulates that on the 'real' level, mechanisms are at work that structure our reality – even if they are beyond our current means of observation. An explanation can only strive to approximate the actual mechanisms. They are intransitive in nature. The knowledge that is accessible to humans is of a transitive dimension. An explanation based on this knowledge is inherently limited, as it is always mediated in its analysis, interpretation and expression. Moving beyond the level of the empirical is not considered to be easy or without pitfalls, because even though the existence of 'things' is independent from human activity, knowledge production is not. In fact, Bhaskar emphasizes the *social* character of science. We can only observe, express and understand reality within our human limits. Not only do we not have 'a "direct" access to this complex reality', 'all our understanding of reality is mediated by abstract concepts which are a historical product' (Jäger et al., 2016, p. 107).

In this sense, knowledge is 'situated', to draw on insights from Donna Haraway (1991) and other feminist scholars. This notion questions what is regarded as 'objective knowledge', emphasizing the partiality of 'material, technical, social, semiotic, and embodied means' of acquiring and sharing scientific knowledge (Thompson, 2015, p. 1). Our observations are mediated, as all 'eyes, including our own organic ones, are active perceptual systems, building in translations and specific ways of seeing, that is, ways of life' (Haraway, 1991, p. 190). In line with a critical realist understanding, this explicitly moves away from a positivist or rationalist perspective, in which epistemology is equal to ontology, i.e., what we observe is equal to what *is*. The idea of a limitless vision that enables us to observe 'everything from nowhere' is rejected (Haraway, 1991, p. 189). However, this does not mean that we surrender to what Jessop (2005b, p. 43) calls judgmental relativism or radical constructivism, which

sees every judgment or knowledge as equally good or objective. The specific role and position of the researcher is therefore of utmost importance.

Assuming that knowledge is situated entails, first, acknowledging the power of observing: what and whom we (do not) see, and from what perspective, matters. Our knowledge claims either uphold or challenge power structures – and the critical realist lens adopted in this dissertation intends to do the latter. Second, it entails acknowledging that partial perspectives and located knowledge are a strength instead of a limit. Assuming that the researcher's own perspective – as well as that of those whose words and perspectives are used as research material – is partial, located and embodied in specific ways opens 'the possibility of sustained, rational, objective enquiry' (Haraway, 1991, p. 191). This is also where accountability of the researcher can be found. Third, and this directly relates to the potential for change that is inscribed in critical realism, knowledge goes hand in hand with imagination. To avoid being a 'disinterested scientist' or defender of the status quo, the researcher can rely explicitly on their own experience and imagination – including imagining walking in someone else's shoes – because 'here lies rooted the possibility and indeterminacy of (or else the "freedom" to) social change' (Stoetzler & Yuval-Davis, 2002, p. 326).

The emphasis on change is pertinent to critical realism's emancipatory research aim. If knowledge production is a human activity, it is necessarily limited by the economic, political and social circumstances of those who are involved. Also, without acknowledging and understanding them, one's own (theoretical) perspective and concepts inherently mean that one identifies with the perspectives of some groups in society more closely than with those of others. Subsequent claims of truth can become naturalized and legitimized and inform social practices (Wigger & Horn, 2016b, p. 40). Social science needs to analyze social phenomena, critique existing knowledge claims and imagine alternatives. What this means will differ for various critical approaches. From a Marxist perspective, as explained by Dean et al. (2006, p. 18), the role of science is to offer knowledge that opens doors to new kinds of practices in order to 'encourage the constitution of a collective actor with the power to replace capitalism by a superior form of life in which the human potential for freedom, praxis and sociality would be realized to its fullest and most diverse extent'. The type of change sought will differ when employing a feminist, postcolonial or other critical perspective. But in general, from a critical realist perspective, research should contribute to an improved situation in particular for marginal

groups (Jäger et al., 2016, p. 108). Knowledge is key in this movement towards emancipation, as we need to know what the situation is, why it is or might be unwanted and for whom, and what possibilities for change exist.

Specifically for this research, whose starting point is a concrete policy proposal on corporate taxation, it is thus important to understand the structural configurations within which this proposal came into being so as to understand if it is an adequate policy to deal with the social practices that we would like to change (Wight, 2006b, p. 53). These practices include the tax-abusive behaviors of avoidance and evasion by transnational capital, the facilitating legal and political measures taken by state institutions and, more generally, existing power asymmetries that prioritize the 'free' movement of capital over the protection of workers, consumers and others. In providing a detailed analysis of corporate tax harmonization in the EU, and the 'prevailing structural configurations' in which it is coming into being, this research intends to generate knowledge on the adequacy of a proposal for the harmonization and consolidation of corporate tax systems in the EU to counter the abovementioned practices.

The conduct of 'sustained, rational, objective enquiry' requires the researcher to be reflective with regard to their own theoretical perspective, social positioning and biases that might impact the interpretation and analysis of research data. As Cox (1981, p. 128) has famously stated, 'theory is always for someone and for some purpose', and beyond mere reflections, the researcher needs to be explicit about their perspective. My commitment to just, egalitarian societies – which underpins all critical theory – initiated this research project in the first place. As one of the few proposals that could radically change the way corporate profits are taxed, the CCCTB carries the potential to end forms of corporate tax abuse. A previous position in a research NGO in which I investigated such corporate tax abuses first spiked my interest in the CCCTB and the puzzle of why it seemed to have support from actors that usually find themselves in opposing positions. The potential bias following my own commitment and (former) position has pushed me to consciously imagine being 'situated' in such an opposing position. Through interviews and extensive document analysis, I have familiarized myself with the nuances of opposing beliefs.

Knowledge production through retroduction

If the critical realist purpose is to produce knowledge beyond what we can immediately observe (the level of the empirical) to underlying mechanisms

and structures, while acknowledging the human limits of doing so, how can we go about doing research? A critical realist approach

insists on the need to move beyond regularities, experiences and events and to study the underlying causal structures and generative mechanisms that produce these. In open systems a whole number of these structures and mechanisms operate together and determine things in various combinations, giving the world a multi-layered character (Joseph, 2003a, p. 6)

The starting point of a scientific endeavor – or the *explanandum*, that which needs to be explained – consists of social phenomena, such as certain events that we can observe or experience in other ways. Scientific research, however, is always tasked with uncovering layer after layer to reveal intersecting mechanisms at work; this is the *explanans*, or that which explains. This is not a merely inductive or deductive approach; it is called ‘retroduction’, which is the movement from a ‘phenomenon of interest’ to a structure or mechanism that ‘at least in part, is responsible for the given phenomenon’ (Patomäki & Wight, 2000, p. 224). A leading question then becomes: What must the conditions on the level of ‘the real’ be like for a specific explanandum to be actualized (Jessop, 2005a, p. 43)? Retroduction is a continuing movement between the abstract and the concrete, between explanans and explanandum, between theory-informed concepts and empirical data. As such, it contains both inductive and deductive moments. The deductive moment consists of applying existing theoretical concepts to the research topic to ‘generate initial conceptualizations’ that guide the researcher’s interpretation of data and interviews with experts, while the inductive moment consists of ‘immersing’ oneself in the specific policy field at hand through desk research as well as fieldwork and, as a result, adapt interpretations, refine concepts and arrive at different, improved explanations (Belfrage & Hauf, 2017, p. 260). Figure 3.1 below offers a visualization of the retroductive research process over time.

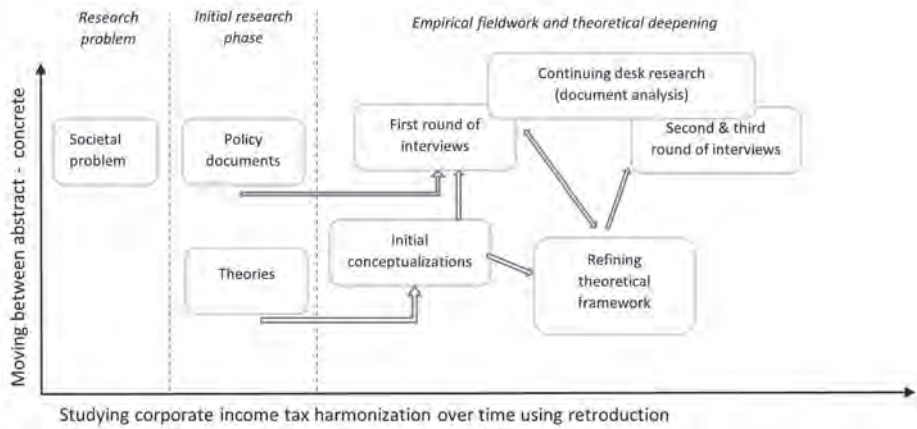


Figure 3.1: The retroductive research process (inspired by Belfrage & Hauf, p. 261).

The use of retroduction in this research further appears in HMPA, set out in the following section. The concepts underlying HMPA have a preeminently highly abstract character, which is why some of HMPA's key proponents argue that the 'methodological approach of retroduction can serve as a bridge between theoretical concepts and adequate tools to investigate policies' (Brand et al., 2022, p. 286). The assumption is not that retroduction will lead to a final, complete explanation. Instead, no explanation will ever be complete, and science is never-ending. Moreover, as Joseph's quote above also clarifies, critical realism does not claim that observing correlations and regularities is equal to building scientific knowledge; its purpose is exactly to go beyond the empirical layer.

As a result of understanding both social reality and science as open-ended, and absolute or eternal knowledge as impossible to obtain, there is no point for social sciences in drawing law-like conclusions or making predictions about the phenomena that we experience; the contingent nature of such phenomena makes this impossible. In this thesis – in which the *explanandum* is the relaunch of a legislative proposal for the harmonization of corporate taxes in the EU, including (non-)changes to its content, form and scope – I will not claim that the *explanans* is the same as in previous, simultaneous or future EU political processes. The research can offer insights into the struggle over corporate tax harmonization, which could contribute to explaining other EU policy struggles or global tax governance, but the spatiotemporal details of each outcome

require their own detailed empirical analysis. The purpose of research is thus to discover tendencies, provide explanations for social phenomena and explore or imagine pathways to a different future reality.

3.2 Historical materialist policy analysis

A historical materialist policy analysis allows for a more concrete understanding of the processes of hegemony production (Brand et al., 2022, p. 282)

By virtue of the broad holistic ontology of historical materialism, conventional methodological approaches fall short of dealing with both agency and structure, the ideational and the material dimensions of reality. In response to the more mainstream methodological approaches situated in a rationalist, positivist research paradigm and interpretative approaches rooted in a constructivist paradigm, Ulrich Brand (2013) and others in German academia developed a tailored methodology called a HMPA (Brand et al., 2022; Buckel et al., 2017; Caterina, 2018, 2019; Kannankulam & Georgi, 2014; Schneider et al., 2023; Wissel & Wolff, 2017). This dissertation adopts HMPA to arrive at a concrete operationalization that enables the application of the abstract conceptual model, which is visualized below, to a concrete policy conflict characterized by contestation and contradictions. The visualization shows how the relaunch of the CCTB is expected to be explained by a continuous struggle between hegemony projects, which is shaped by *and* simultaneously shapes the changes and continuities in the structural dimensions in which they exist.

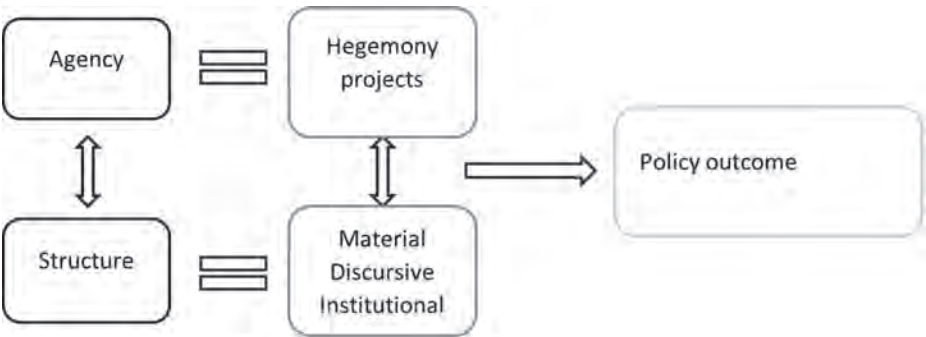


Figure 3.2: Conceptual model.

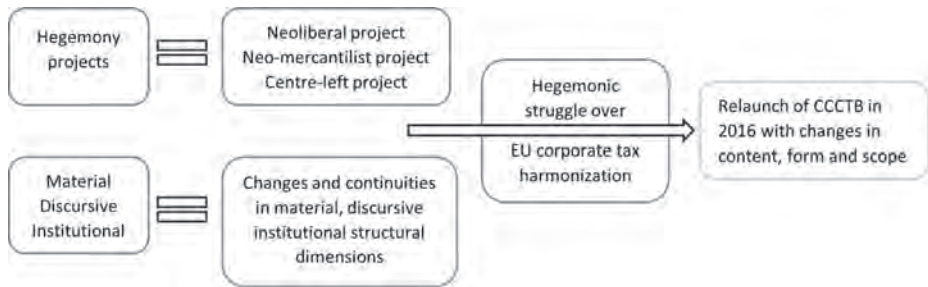


Figure 3.3: Conceptual model applied to research question.

Three main reasons motivate the adoption of HMPA in this dissertation. The first reason concerns the important similarities between HMPA and the theoretical framework of this dissertation; both are grounded in the writings of Marx, Poulantzas and Gramsci and share their theorizing of capitalist social relations, state and hegemony. Second, HMPA perceives policymaking as a contingent and non-linear process, embedded in broader power structures and part of a larger struggle for hegemony – in this case, over the trajectory of EU integration. These assumptions are in line with the critical realist foundation of this dissertation. Based on its theoretical assumptions, third, HMPA cannot only *explain* apparent contradictions and instability in policies and policymaking processes but also actually *expects* them to be there, due to the ontological primacy assigned to structural conditions that are ‘contradictory, dynamic, crisis-prone and lead to latent or manifest policy conflicts’ (Brand et al., 2022, p. 280).

The implications of HMPA’s theoretical underpinnings for understanding and analyzing policy and policymaking

The main purpose of HMPA is to uncover

how specific policies are formulated against the background of essentially competing and contradictory interests of different social forces and how, if at all, they contribute to societal reproduction and the regulation of contradictory social relations and crisis tendencies (Brand et al., 2022, p. 279).

This key aim reveals that HMPA is *historical* because it understands policy conflicts to be embedded within historically developed social relations. A policy or a policymaking process is not regarded as an isolated event. Instead, a policy conflict is contextualized within historical trajectories. The approach is also *materialist* – and thereby departs from interpretative policy analysis

approaches – because of its focus on material structures and interests that arise from the social relations of production and reproduction. At the same time, however, HMPA retains an interpretative focus on knowledge production, discourse, meaning, language and argumentation within policymaking is highly valued (Brand, 2013, p. 430; Brand et al., 2022). HMPA and interpretative policy analysis approaches also share an emancipatory commitment as well as the need to embed policy and policymaking in wider societal power structures (Paul & Haddad, 2015, p. 50). There is less interest in the extent to which policies are 'effective' or create 'output', which is more prevalent in rationalist approaches to policy analysis. HMPA was developed partly as a response to the latter, which often neglect relational power structures and reproduce a top-down model of policymaking (Brand, 2013, p. 429).

A focus on state institutions and their policies is justified as it uncovers hegemonic struggle and changes or continuities in underlying social relations. HMPA firmly roots its arguments in Marxist assumptions on the antagonistic social relations of production and how these materialize and result in capitalist societies are inherently contradictory and crisis-prone (Brand et al., 2022, p. 283). State institutions can regulate, mediate and temporarily stabilize conflicts, 'thereby reproducing the whole of capitalist society and, for a while, the distinct modes of capitalist accumulation' (Kannankulam & Georgi, 2014, p. 62). The function of state institutions is thus to reproduce capitalist society through policymaking, which includes both the 'problematization' of issues and the formulation, implementation and evaluation of public policies (Brand et al., 2022, p. 284).

These theoretical underpinnings have four crucial consequences for a historical materialist understanding of policies and policymaking. First, public policies are regarded as unstable compromises between class fractions. As the state is a social relation between antagonistic forces, conflicting interests are reflected in policies, which therefore can be or seem (partly) incoherent and contradictory. Policies can even be characterized by non-decisions and failures and, in doing so, fulfill their function of successfully regulating antagonistic and contradictory relations amongst social forces (Brand, 2013, p. 434). In other words, policies do not always have to be effective or even adopted to strengthen or maintain a project's hegemonic position.

Second, contradictions and instability also arise because of the heterogeneity of state institutions as a central feature of policy processes (Brand et al., 2022,

p. 286). No 'grand strategies' or unity amongst and within state institutions is expected; rather the opposite. Tensions within and between institutions are, again, an anticipated result of understanding the state as a social relation: 'The policies within an apparatus, as well as between one apparatus and another, can be contradictory – along one or more lines of conflict. The unity of these policies is certainly not secured a priori but has to be produced repeatedly through a process of unification and generalization' (Demirović, 2011, p. 44). There might be only a degree of unity to temporarily stabilize contradictions and tensions for the purpose of the abovementioned overarching function of state institutions and their policies. Concretely for this dissertation, this means that the European Commission is understood as a constellation of different departments, agents, hierarchies and processes.

A third tenet of HMPA purports that institutional structures will differ with respect to their susceptibility to certain agents, interests, discourses and so on. Following insights from a strategic-relational approach, inscribed strategic selectivities can differ across and within state institutions. Some agents can access the policymaking process more easily through one department than through another. A head of a unit within the DG for Taxation can be more susceptible to an idea than their colleague heading another unit.

The center-staging of agency is a fourth important implication of HMPA's theoretical assumptions, since. Because the struggle for hegemony materializes (also) on the terrain of state institutions that are, in turn, shaped by past struggles, the ways in which agents strategize and act matters. HMPA thus moves away from a purely structuralist analysis and adds to it a focus on the struggles between social forces (Buckel et al., 2017, p. 12). The expectations of the contradictory nature of policies, the strategic selectivities inscribed in institutional structures, the lack of unity within EU institutional bodies and the centering of agency are all reflected and further operationalized in the following sections, which detail how the three concrete steps of HMPA are operationalized in this dissertation.

The first step of HMPA: Context analysis

HMPA proposes an iterative research process, in line with the methodological notion of retroduction. It contains both inductive and deductive moments, and the moves between theory and empirics are vital steps to arrive at a sufficient and satisfactory answer to the research question. Moving from the abstract to the concrete and back again, HMPA defines three guiding elements

in an empirical study: context, agency and process analysis. There is a general consensus on these three core steps of policy analysis within the small but growing HMPA scholarship. This dissertation subscribes to this consensus. Researchers diverge in their approaches to the concrete application of and the importance attributed to the three parts of analysis; indeed, there is no ‘ready-made template for HMPA that can be reproduced’ (Schneider et al., 2023, p. 118).

Instead of representing the steps in a linear sequence of carrying out an empirical analysis, these three elements should be understood as the core of ‘an essentially circular, iterative research process, and each of the three steps can be the entry point for analysis’ (Brand et al., 2022, p. 287). The manner in which the research findings are ultimately presented therefore does not need to follow the three steps in a linear fashion either. Figure 3.4 visualizes how the conceptual model, which carries theoretical expectations, relates to these three steps of HMPA.

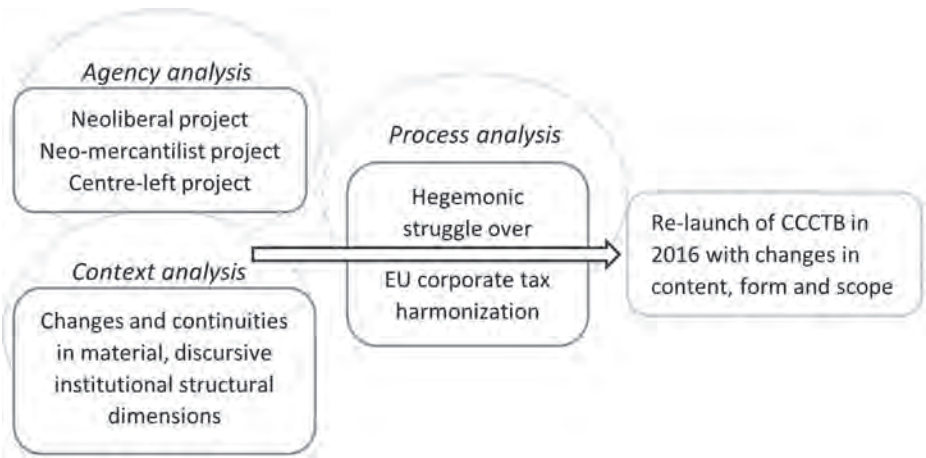


Figure 3.4: relation between conceptual model and HMPA.

The purpose of the first step, context analysis, is to focus on the set of historical conditions and processes that have brought about the (policy) conflict under investigation (Kannankulam & Georgi, 2014, p. 63). The context analysis explains the spatial and historical dynamics of the circumstances in which policymaking takes place. This part of the analysis is essentially led by the question: ‘Why and due to which circumstances did a specific policy conflict emerge at a specific moment in time and in a specific form?’ (Brand et al., 2022, p. 288). A context analysis addresses the underlying – and therefore not necessarily directly observable or noticeable – dynamics and changes in capitalist social relations

of production and reproduction on the one hand, and the structuring conditions in a specific policy field on the other. The former consists mostly of deductive, theoretical insights, while the latter is arrived at through empirical research (Kannankulam & Georgi, 2014, p. 63). The context analysis in this dissertation focuses heavily on the structuring conditions in the field of EU corporate taxation through empirical research relying on both primary research material and secondary literature. I emphasize what Caterina (2019, p. 49) calls the intermediate and immediate contexts of a policy conflict, and to a lesser extent on the wider ('far-ranging') context.

The analysis in chapters 5-10 is presented in chronological order. Context analysis is therefore not limited to one chapter but will appear throughout the dissertation. Discussing the changes and continuities in structured conditions during different periods, the context analysis throughout the dissertation pertains to material, ideational and institutional dimensions of structure that we need to understand to be able to explain the transformative power of agency in conjunctural moments.

Taking Schneider et al.'s (2023, p. 119) operationalization of the integration of negative emissions technologies (NETs) into EU climate policy as a leading example, the context analysis in this dissertation traces why and how the CCCTB occurred in corporate tax policy policymaking in the context of the global economy as well as major developments in international and EU corporate tax policy. The context analysis considers main trajectories of international corporate tax policy, focusing on how concerns about double taxation were construed as a problem and on the dominant international corporate tax policy terrains through which these concerns were articulated and addressed. Context analysis should go beyond listing adopted policies and dive under the surface to a deeper understanding of specific social relations, interests and structures at the heart of political contestation over corporate taxation. Key are the institutional terrains, including their 'specific knowledge apparatuses with respective selectivities' that help us understand how certain forms of corporate tax policymaking became hegemonic (Schneider et al., 2023, p. 116). Global processes are of utmost importance, but the focus will be on how these have informed and shaped EU corporate tax policy. Context analysis therefore also includes an exploration of the role of the main institutional terrains and apparatuses in EU corporate tax policies, as well as their specific selectivities (*ibid.*, p. 119). Particular events and their impact – at least on which concerns are construed as problems and which committee solutions are considered (feasible) – are also crucial parts of the context analysis.

Following this operationalization, the context analysis is set out in two chapters in this dissertation, chapter 5 and chapter 8, both analyzing the important conjunctural moments that arose in two periods: one in the 1990s and early 2000s, due to the strengthening of an embedded neoliberal trajectory of European integration, and one after the global financial crisis. The analysis of the historical trajectory that led to the launch of the CCCTB in 2011 (chapter 5, which covers the period 1957–2011) details how European integration and specifically discussions on corporate tax harmonization developed in the postwar global economy, characterized by a transition from post-Fordist ways of production towards an increase in neoliberal policies. The role of the OECD will be highlighted as the key institutional terrain on which the struggle for corporate taxation materialized, instead of materializing in United Nations (UN) institutions – who have a substantially broader member base. Thus, this occurred at the expense of (emerging) economies relying on exports of raw materials and semi-finished products, with relatively few large TNCs headquarters (i.e., source countries). The continuous strain of the unanimity principle in decision-making, the enlargement of the EU with numerous member states, changes in political majorities and constellations in Parliament and the Commission and the development of corporate tax jurisprudence by the ECJ are important contextual factors in the role of the main institutional terrains and apparatuses in EU corporate tax policies and their specific selectivities. The explanation of the struggle over corporate tax harmonization throughout the history of the EU and the development of the CCCTB up until 2011 specifically is therefore firmly embedded within these structured conditions, consisting of changes as well as continuities.

The second chapter centering the context analysis is chapter 8, which explains why a center-left project could emerge and challenge dominant ideas and perceptions about corporate taxation from around 2012 onwards. The chapter discusses in detail the global financial crisis and its impact on corporate tax policymaking through EU crisis management, and the role of investigative reporting exposing and quantifying the implications of the existing international corporate tax system, with a focus on the opportunities that opened up or shifted accordingly. The OECD, again, is a crucial strategic terrain through which international corporate policy change was proposed, challenged and, eventually, adopted. Importantly, this institutional contextual dimension crucially shaped EU corporate tax policymaking in general and CCCTB developments specifically. Within the EU, the change of Commission leadership from Barroso to Juncker in 2014 is a significant factor in explaining

the emergence of possibilities that a center-left project could strategically act on. Context is not separate from agency and process; the process of the politicization of corporate taxation central in this chapter cannot be explained without the increasing importance of NGOs and other not-for-profit organizations that challenged dominant ideas on corporate taxation and, in this way, helped create a discursive shift that shaped subsequent EU corporate tax policy.

The second step of HMPA: Agency analysis

Central to HMPA is the analysis of agency, which includes identifying key agents, their articulation of ideas and interests and their strategies. The theoretical framework of this dissertation explained that agents are understood as social forces engendered by the capitalist mode of production. The inherently antagonistic relations between groups of agents do not originate in the institutional structures of EU and member state bodies but do materialize through and are shaped by them. To emphasize the struggle for hegemony between social forces, most HMPA scholars conceptualize agency through hegemonic and hegemony projects (Brand et al., 2022, p. 289). This dissertation's theoretical framework in chapter 2 already explained how the concept of hegemony projects emphasizes the distinct, common direction of groups of organizations and people that can have different practices, tactics and strategies (Kannankulam & Georgi, 2014, p. 64). Subsequently, the three ideal-types of a neoliberal, a neomercantilist and a center-left project were presented. This section details the further operationalization of agency through hegemony projects; after discussing a few important considerations on how to adapt HMPA's agency analysis, five steps of operationalization of hegemony projects are detailed.

Operationalization of hegemony projects: a few considerations

Agency in the form of hegemony projects is operationalized within HMPA scholarship into three key elements, namely an analysis of actors' strategies, the aggregation of actors into hegemony projects and the juxtaposing of those hegemony projects according to several aspects, of which power resources and institutional (or strategic) selectivities are key.

In analyzing hegemony projects, the HMPA scholarly community largely follows an inductive approach. Empirical research or primary research and a 'profound knowledge' of the policy conflict under investigation are leading in the identification of strategies and the aggregation of actors into hegemony

projects (Buckel et al., 2017, p. 21; Kannankulam & Georgi, 2014, p. 64). Secondary sources are considered an alternative only when there are limits in terms of capacity or time. The use of hegemony projects as the leading conceptualization of agency is also criticized, importantly by Brand et al. (2022, p. 290), who warn about neglecting complexities and microstruggles in policy processes and criticize the aggregation of agents into hegemony projects. Their solution is still of an inductive nature: they propose to ‘identify different groups of actors with their respective strategic orientation’ as they emerge in specific policy processes, and in a possible – but not necessary – second step, these groups can be related to hegemonic constellations (ibid.). The predominantly inductive approach is critiqued for insufficiently embedding constellations of agents in a particular policy field within broader social forces (Bieler, 2014). In response to this critique, this dissertation modified HMPA and started out deductively; based on secondary sources, chapter 2 identified three relevant ideal-type hegemony projects, before moving to the empirical analysis in the following chapters that aggregate relevant agents into hegemony projects based on vast primary research material including public statements, position papers, interview expressions, consultation responses.

Ideal-type projects are often not easily or straightforwardly discernible in specific policy fields. Social reality is messier than the theorized struggle between expected hegemony projects, as other HMPA scholars also experienced: ‘Specific positions and policy demands do not always relate directly to overarching hegemony projects’ (Brand et al., 2022, p. 290). There are instances in which organizations or individuals contradict the identified common direction of a hegemony project, or moments where their policy demands align with other projects to a greater extent than theoretically expected. These findings are anticipated, and instead of regarding them as a challenge to theoretical assumptions, this dissertation will see such ‘anomalies’ as a contribution of the empirical analysis to how we understand hegemonic struggle over the trajectory of European integration. The complexities of ‘fitting’ concrete policy behavior of agents with overarching hegemony projects, the questions this raises about how we delineate such hegemony projects and the manner in which this exposes more overlapping or diverging interests than expected offer valuable insights exactly into changes in power relations – not only in the specific policy process itself but also in the broader, underlying power structures in which the HMPA perspective is particularly interested. Therefore, the approach taken here is to move from

theory to empirical analysis and back, starting deductively *before* continuing inductively – in true iterative fashion.

As the theoretical framework explained, hegemonic struggle takes place through numerous policy terrains at the same time. Becoming hegemonic entails the successful positioning of political projects, because a hegemonic project can condense through the alignment of policies with their leading factions' own interests. This dissertation views the harmonization and consolidation of the corporate tax base in the EU as a political project. Although it comprises 'only' one (or two) proposed directives, it aims to replace 27 different national systems now in place to tax corporate profits. In this way, the size of its impact is deemed sufficient for it to be a political project. The outcome in the form of a political project is not expected to fully or only reflect one hegemony project, as hegemonic struggle inherently entails the subsuming or co-opting of interests of competing hegemony projects.

With these considerations in mind, the remainder of this section operationalizes five steps of agency analysis taken in this dissertation, building on insights and experiences from HMPA scholarship. Table 3.1 summarizes these five steps, which are subsequently detailed.

Step 1: Ideas on corporate taxation within the ideal-type neoliberal, neomercantilist and center-left projects

The **first** step was partly included in the previous chapter that laid out ideal-types of three hegemony projects: a neoliberal, a neomercantilist and a center-left project. The considerations on ideal-type projects led to an effort to link hegemony projects to 'the underlying interests of social classes and other social forces that significantly shape the conflicts between individual actors or coalitions of actors' (Brand et al., 2022, p. 289). Based on CPE perspectives in European integration literature, the ideal-types specify the common direction of these hegemony projects in terms of the course of European integration. Additionally, the ideas and policy demands concerning corporate income taxation within all three projects, are detailed here. Table 3.2 summarizes both elements of hegemony projects.

Table 3.1: Operationalization of hegemony projects in five steps.

Analysis in steps	Key elements	Approach	Sources	Chapter
1. Ideal-types of hegemony projects	• Common direction regarding (1) European integration and (2) corporate income taxation • Positioning in class struggle (class fractions)	Deductive	• Secondary literature	3
2. Identifying hegemony projects	• Situation analysis (problemization) • Scalar focus (priority given to national, regional and/or global) • Central strategy (including main policy demands and envisioned role of state institutions) • Type of response to the hegemonic order (counter-hegemony, passive consent, active confirmation/strengthening) • Main agents	Inductive	• Expert interviews • Position papers • Consultation responses • Public statements	7 and 9
3. Positioning of hegemony projects: relative power and strategic selectivities	• Organizational capabilities • Outreach capabilities • Systemic resources • Institutional selectivities	Inductive	• Expert interviews • Position papers • Consultation responses • Public statements • Annual reports • Website/web pages	9
4. Hegemony projects and the CCCTB	• Content • Form & scope	Inductive	• Expert interviews • Position papers • Consultation responses • Public statements	7 and 9
5. Reflection	• Ideal-types versus hegemony projects identified in the policy conflict under investigation	Inductive meets deductive		Conclusion

Table 3.2: Overview of ideal-types hegemony projects.

Hegemony project	Fractions	General common direction/program of action	Common direction in corporate income taxation
Neoliberal	Dominated by fractions of money capital and transnational capital → mobile, export-oriented	Content EU as an internal market, embedded in global markets (market-making)/opening up of the European market to global market forces Efficient allocation of resources is key Market liberalization, i.e., no obstacles to market access and no obstacles to cross-border activities within the internal market (or: encasement of the market – ‘the neoliberal idea that markets are not natural but are products of the political construction of institutions to encase them’ (Slobodian, 2020, p. 7)) ‘Pure’ and objective competition (Buch-Hansen & Wigger, 2011, p. 21) → a level playing field for all corporations Competitiveness of the EU as a whole <i>and</i> global competitiveness of (EU-headquartered) TNCs <i>Form:</i> politically independent institutions, as they offer higher levels of certainty and depoliticization <i>Scalar focus:</i> Global	Guided by principles of efficiency and neutrality. Low tax burden on capital Purpose of unfettered mobility of capital: the tax burden on capital should be low. Neoliberal proponents thus advocate for low statutory and effective rates on corporate income Corporate taxation is seen as a policy instrument to increase global competitiveness

Table 3.2: Continued

Hegemony project	Fractions	General common direction/program of action	Common direction in corporate income taxation
Neomercantilist	Dominated by fractions of productive capital EU regionally and/or nationally oriented capital fractions (production for European or national market) Less mobile or immobile capital fractions SMEs	Content: EU as internal market with a defensive regionalization strategy vis-à-vis other regional and global markets (strong home free market; market-making internally and correcting externally) Protection of domestic and regional corporations and sectors from global markets and foreign competitors Strategic trade protectionism, emphasis on industrial policy Competitiveness of EU as a whole and competitiveness of national industries or companies within the EU → possible distinction between national-mercantilist and Euro-mercantilist <i>Can be combined with domestic social and distributional goals (Helleiner, 2021, p. 231)</i> <i>Form:</i> Strong, supranational institutions <i>Scalar focus:</i> Europe/national	Corporate tax as a policy instrument to stimulate domestic or EU-based corporations and industries More lenient towards expanding (a range of) tax exemptions and benefits to protect corporations from external competitive pressures Advocates for low statutory and effective rates on corporate income Seeking level playing field with (highly) mobile capital
Center-left	Dominated by social-democrat and green/left political groups, organized labor, not-for-profit civil society organizations, social movements	Content EU as internal market with – or in need of – a social dimension and protection (market-correcting) Promotion and protection of social, environmental and human rights European state-building/supranational social democracy 'strategy or preserving national sovereignty with the purpose of social protection' <i>Form:</i> Strong EU democracy/democratic institutions <i>Scalar focus:</i> National/global	Corporate taxes are an important tax revenue stream that needs to be maintained Corporate taxation should be used as a powerful redistributive tool Corporate tax systems need to be fair: corporations need to pay their 'fair share'

Neoliberal ideas on taxation policies are typically associated with efficiency and neutrality, resulting in low rates and base-broadening measures (Steinmo, 2003; Swank, 2006). The latter entails cutting expenditures such as tax exemptions, but it should be pointed out that tax reforms that lower rates *and* expand deductions (thereby reducing the 'neutrality' of tax systems) can still be labeled neoliberal (Christensen 2013, pp. 564–565). With the purposes of unfettered capital mobility and enabling capital accumulation in mind, the tax burden on capital owners should be low, reflected in relatively low rates on dividends, interest and top incomes (Hakelberg & Rixen, 2021, p. 1145). Corporate income tax specifically is seen as a barrier to capital mobility and accumulation; thus, neoliberal proponents advocate for low statutory and effective rates on corporate income.

As such, corporate taxation is seen as a policy instrument for increasing global competitiveness. Low corporate (income) tax burdens are typically associated with becoming or remaining competitive in inter-state rivalry for foreign investments. Neoliberal policy demands can go beyond low corporate income statutory tax rates and include a base-narrowing introduction of tax breaks and exemptions for corporations or specific industries that lower the effective tax burden. The aim of global competitiveness is also reflected in other types of taxation, most importantly taxes that affect rich individuals, such property taxes, inheritance taxes and taxes for the top brackets of personal income.

To compensate for lowering the effective taxation of capital, neoliberal policies generally entail a shift in tax burdens from capital to labor. With the 'trickle-down' myth firmly in place, corporate tax cuts are generally sold with the promise that tax cuts for powerful corporations and people will, ultimately, serve the greater good through wider economic growth, resulting in more jobs. Although influential scholars on tax reform (Steinmo, 2003; Swank, 2006) argue that neoliberal policymakers in the 1980s and 1990s moved away from the common-sense idea that taxes should be used for redistributive ends, Harvey (2005, p. 159) shows that 'the main substantive achievement of neoliberalization, however, has been to redistribute, rather than to generate, wealth and income'.

Last, it is relevant that due to the neoliberal project's aim for liberalized global markets, macroeconomic policy instruments available to states become limited, as regulation of capital flows is 'willingly surrendered' to global markets (Harvey, 2005, p. 66). It is therefore in interest of key agents

driving the neoliberal project that the authority to design tax policies remains on a national level as a weapon to wield in inter-state competition and for (national *and* global) purposes of redistribution between capital and labor. Ultimately, this benefits global fractions of (mobile) capital: barriers to the free mobility of capital partly remain, but those barriers simultaneously enable the remunerative shifting of profits and other corporate income to tax havens.

Corporate income taxation, from the viewpoint of the neomercantilist project, can be used as a policy instrument to stimulate domestic corporations and industries. This often results in policies that are similar to those that a neoliberal project would support, most importantly decreases in statutory tax rates. Neomercantilist proponents can be expected to be more lenient towards expanding (a range of) tax exemptions and benefits with the purpose of protecting European or national industries from external competitive pressures. Another important difference with neoliberal proponents is that crucial assets for productive capital are often tangible, which entails a lower mobility of these capital fractions compared to those of the neoliberal project. This impacts the common direction for corporate income taxation within the neomercantilist project. A level playing field in taxation is often lacking concerning corporations whose profits derive mainly from intangible – and thus more mobile – assets. The extent to which profits can be shifted is limited for corporations relying on production, who generate profits mainly from immobile assets and labor. With the above in mind, it can therefore be imagined that key drivers of the neomercantilist project – diverging from the neoliberal project – would demand (to a certain extent) stronger or more anti-abuse rules, support new forms of corporate taxation on digital corporations or activities and address the existence of tax regimes that exist mainly for the benefit of foreign corporations.

Corporate taxation is a key policy field for the center-left's project in various ways. First, it is a revenue stream that should be maintained or increased to finance public services, social protection and environmental and climate-related policies. It is seen as central to the achievement of human rights (Cobham, Mohiuddin, et al., 2021, p. 168). Second, it can be a powerful redistributive tool to reverse the trend of increasing the tax burden on labor to the benefit of capital. Third, corporate taxation is often directly related to discourses of (in)equality and democracy; corporations need to pay their 'fair share' to create more equal economies (Elbra & Eccleston, 2018). Beyond raising revenues and redistributing wealth, it is argued that fair corporate

taxation also contributes to a functioning democracy. A progressive tax system 'also offers the means to curb and regulate the political and economic power of elites, which can capture political and economic institutions' (Cobham, Mohiuddin, et al., 2021, p. 177).

Unlike in other policy fields – such as migration, as Buckel et al. (2017) have analyzed – there is no radical-leftist project relevant to the struggle over EU corporate tax harmonization. Although there are different levels of (radical) reform demanded by agents within the center-left project, key agents rarely structurally challenge capitalism itself. A complicating factor here is the representativity of NGOs, which are seen as some of the project's key agents. The 'precariat', those affected most by neoliberal policies globally, are least often in a position to speak out or pursue their rights and demands, resulting in often Northern-based NGOs speaking on their behalf. Such NGOs 'tend to be elitist, unaccountable (except to their donors), and by definition distant from those they seek to protect or help, no matter how well-meaning or progressive they may be' and despite their efforts to reverse these characteristics (Harvey, 2005, p. 177).

Ultimately, the question of different forces within a project as well as the compromises that arise both within and across hegemony projects is an empirical one due to spatiotemporal specifics. An important purpose of the analytical chapters is thus to identify such moments and points of struggle throughout the process of corporate tax harmonization in the EU.

Step 2: Identifying hegemony projects and strategies

In a **second** step, this dissertation identifies and analyzes hegemony projects based on empirical material, embedded within a profound knowledge of the policy conflict under investigation. Strategies are central to this step in the analysis, as hegemonic projects are viewed as 'bundles of strategies that pursue similar goals' (Buckel et al., 2017, p. 17); 'strategy' is essential in both a strategic-relational approach and a historical materialist analysis of hegemony projects. A strategy is the intention to achieve certain outcomes and goals, 'oriented towards the environment in which it is to occur' (Hay, 2002, p. 129). Past strategies set the scene for what is possible in terms of current and future strategies. HMPA puts strategies center-stage in an analysis of hegemonic struggle. Agents need not always be purposeful in the strategies that they employ nor be reflective at all times about the impact of

their strategic behavior. Still, we can aggregate agents into hegemony projects when it appears that there is a common direction.

The operationalization of hegemony projects' strategies entails a number of different elements. Strategies derive from a *situation analysis*, or 'what is identified as the basic problem and which causes are ascribed to it' (Caterina, 2018, p. 216). This includes the *scalar focus* of a hegemony project: at what scale – national, regional or global – should this problem, ideally, be resolved? The analysis of the situation when it comes to issues within international taxation can, for example, point to the existence of double taxation of corporate profits or the opposite issue of double non-taxation. These issues are often multiscalar themselves. For international taxation, it is therefore unrealistic to expect that a hegemony project will acknowledge only one scale. However, it is still possible to identify the primary, or preferred, scale on which solutions to such issues are articulated through the different projects. This is typically an element where the heterogeneity within projects appears, as agents can share a common direction but diverge in their priorities with regard to scalar focus. A third element is *the central strategy* of a hegemony project, which includes main demands related to the policy conflict under investigation and aligns with the chosen scalar orientation (Buckel et al., 2017, p. 21). The central strategy will also indicate the envisioned role of state institutions in matters of (international) corporate taxation. The relevant distinction in this dissertation is between an envisioned welfare state or a competition state: Does the hegemony project envision that state institutions have a role in ensuring social protection, reducing inequality and conducting market interventions, or should state institutions ensure the (uninterrupted) working of market mechanisms, promote innovation and facilitate competition and competitiveness? Taxation is a key feature in both these 'ideal-type' states, as it can be used as a redistributive and a repricing tool that changes behaviors. Moreover, taxation generates revenues, which all state institutions rely on (see for an extensive discussion on taxation as an essential feature of both the welfare state and the competition state Genschel & Seelkopf, 2015). A hegemony project's central strategy thus centers on main policy demands, which includes the envisioned role of state institutions with regard to (international) corporate taxation.

Taking into account all elements of hegemony projects and their strategies, the analysis will then evaluate the project's *overall response to the hegemonic order*. HMPA scholarship identifies four possible responses, as explained in the previous chapter, which are counter-hegemonic strategies, anti-hegemonic

strategies, escape strategies and resignation/passive strategies (Buckel et al., 2017, p. 19). The anti-hegemonic and escape strategies seem less relevant in this study than in Buckel et al.'s (2017) study of EU migration policies. However, this dissertation includes an explicitly affirming/strengthening hegemony strategy. Hegemony projects can strategize to (radically) reform a hegemonic order (counter-hegemonic strategy), can resign themselves to a hegemonic order and thereby passively consent to it (resignation/passive strategy) or actively affirm and strengthen the current order (affirming/strengthening strategy). As an important last element of identifying hegemony projects, their *main agents* will be listed: the relevant corporations or corporate representatives, non-governmental (branch) organizations, EU bodies and state institutions, political parties, movements and unions that have taken a position on the matter of corporate taxation and corporate tax harmonization in the EU.

Step 3: Positioning of hegemony projects based on relative power and strategic selectivities

In a **third** step, the analysis of agency involves the positioning or juxtaposing of hegemony projects in the observed conflict by identifying resources and strategic selectivities. The different types of resources detailed below can give an indication of the power of a hegemony project in relation to other(s). From a strategic-relational perspective, such resources are important as they are part of the constraints and possibilities that agents face: structural selectivities. Not all resources are easy to quantify, and their assessment will often make sense in a relative manner only. For example, the tax law expertise that a hegemony project has access to through tax advisors, law and accountancy firms and fiscal experts within corporations will be significant only in comparison to the access of another hegemony project. Buckel et al. (2017, pp. 18–19) differentiate between organizational resources, systemic resources, discursive, ideological and symbolic resources, and institutional resources. It should be noted that these authors – and any HMPA analysis for that matter – do not ‘measure’ or exhaustively investigate all such power resources for all hegemony projects: ‘In spite of the prominent position of the concept of “relationships of forces” in materialist approaches, hardly any systematic investigation has been carried out that would elucidate the sources of these forces, or how exactly the relational position in a power relation can be determined’ (Buckel et al., 2017, p. 22).

In an effort to systematically assess the relative position of hegemony projects with respect to the policy conflict around corporate income taxation in the EU, this dissertation discusses resources and strategic selectivities of hegemony projects in the following number of categories. Organizational capabilities include information about relevant staff (number and qualifications of staff), physical presence in terms of offices or branches, financial resources (specifying funding) and level of expertise or knowledge. The purpose is not to offer exhaustive lists but, where relevant, to compare organizational capabilities that enable or limit strategic action of main agents. Second, I will look at a project's outreach capabilities: networks associated with the project and media outreach capabilities. Last according to the HMPA approach are systemic resources, defined as the ability of agents 'to make decisions that have system-relevant consequences' (ibid., p. 18). The latter is not straightforwardly measured. It is of importance here because in the struggle over hegemony in the area of corporate taxation, threats with a systemic impact are made regularly, in particular by forces of mobile capital, and entail redirecting investments elsewhere. Buckel et al. (2017, p. 18) are inspired here by Claus Offe's notion of conflict capability, entailing that agents who can credibly threaten to withhold a system-relevant service are capable of conflict.

Last, the operationalization of power resources includes an assessment of institutional selectivities, which are defined mostly in terms of institutional access to EU bodies. The following are particularly relevant in this thesis: political parties in the European Parliament, policymakers in the European Commission, the secretariat of the Council and representatives of member state governments involved in EU corporate tax negotiations. Institutional access was assessed through interviewing experts. Leading questions were: to what extent are they invited to seminars? Is it easy to arrange meetings? In case they are members of relevant expert groups, questions were asked about their experiences. Institutional access also has a discursive component: to what extent do agents 'feel heard', and are decision-makers susceptible to their ideas?

Steps 4 and 5: Hegemony projects positioning on the CCCTB and reflections

The **fourth** step of the agency analysis situates the hegemony projects in relation to the policy conflict on corporate tax harmonization in the EU – specifically the proposals for a CCCTB. Situated at the most concrete level of agency analysis, this step details the key points of contestation with regard

to the CCCTB, highlighting the differences and similarities in positions of the identified hegemony projects. In doing so, it also allows for an in-depth description of the key elements of the CCCTB that are redistributive in nature; although these are often presented as technical details, these key elements are in fact at the core of the policy conflict.

Moving back from the concrete to the abstract level, following the retroduction method, the conclusion – in a **fifth** and last step – reflects on what insights the empirical research offers about the ideal-types of hegemony projects. How can the struggle over corporate tax harmonization inform future research on hegemony projects specifically and critical EU integration more generally? As Table 3.1 shows, the agency analysis consists of both inductive and deductive moments. To meet the HMPA challenge of continuously embedding the hegemony projects, their main agents and their concrete strategies in the policy process in the broader ‘analysis of open-ended class struggle’ (Bieler, 2014, p. 307), the conclusion therefore will return to the deductive start of the agency analysis.

The third step of HMPA: Process analysis

After operationalizing the tools for analyzing (changes and continuities in) structured conditions of corporate tax policymaking in the EU and their implications for agency – in the context and actor analyses – this section dives into the third and last step: the process analysis. Before discussing the operationalization of process analysis, I need to make two brief points about a *critical realist* analysis of political processes.

First, why should we be looking at a process? This thesis seeks to explain the 2016 relaunch of a proposal for corporate tax base harmonization in the EU in the form of the CCTB and CCCTB legislative proposals. As Colin Hay (2002, p. 73) elucidates, political inquiry is not interested in a policy outcome or political decision in itself; it is concerned with the process, or ‘more specifically, with the (uneven) distribution of power, wealth and resources’. Many empirical studies on EU policies prioritize the arena or locus of policy outcomes: the EU. While this dissertation acknowledges the importance of the ‘EU arena’ and its particular institutional dynamics, it rather focuses on the *process* of hegemonic struggle over corporate tax harmonization in the EU. As a critical realist philosophy sets out, history is open-ended. An event like a policy initiative is thus only ever a temporary, dialectically constituted outcome in a continuous process – a process that has been ongoing from before the relaunch

in 2016 and that will continue after the finalization of this research project. The underlying expectation here is that studying the policy process makes it possible to explain change, or the lack thereof, which would not be possible if we studied a policy in an isolated moment in time. Moreover, uncovering underlying causal mechanisms requires a study of how the process unfolded. This moves beyond chronologically describing events, as Sayer (1992, p. 107) puts it: 'Merely knowing that "C" has generally been followed by "E" is not enough: we want to understand the continuous process by which "C" produced "E", if it did'.

Second, we need to be aware of the contingent character of a process. Empirically tracing the fingerprints of a causal mechanism does not entail that the process *had to* unfold the way it did. It might well have turned out differently. With the benefit of hindsight, a process might seem predetermined. Or we might come to associate certain phenomena so closely – the relation between transnational companies and corporate tax avoidance, for example – that a necessary link seems to be in place. The contingency in such processes thus needs to be emphasized: a certain object might have an effect on another, but this does not imply a necessary or internal connection, as the existence of one object does not have to be dependent on another (Sayer, 1992, pp. 103–116).

The purpose of the process analysis is to 'reconstruct the dynamic process in which the investigated conflict between the identified hegemony projects unfolded through different phases and turning points, and against the background of its broader historical context' (Kannankulam & Georgi, 2014, p. 67). Reconstructing or tracing the process can be done through identifying important events, decisions and moments in the policy process, resulting in a periodization (Schneider et al., 2023, p. 120). These moments in the process can be understood as conjunctural moments, in which a particular agent can change elements of the temporal-spatial context they find themselves in through strategic action. Such conjunctural moments offer openings for alternative or counter-hegemonic projects and strategies (Wigger & Horn, 2023, p. 95).

Figure 3.5 presents an overview of the timeline, identifying two types of moments or periods. The first (outlined in black) represents specific key events, such as the launch and relaunch of the CCCTB. The second type (outlined in red) consists of conjunctural moments in which the material, ideational and/or institutional dimensions of the structured conditions in which agents operate were altered such that opportunities opened to strategically

act on. Strategies employed during these moments or periods have shaped the policy trajectory of corporate tax harmonization and thereby, specifically, the content, form and scope of the CCCTB when it was relaunched in 2016. It should be noted here that – in line with the critical realist understanding of agency and structure – these conjunctural moments did not ‘happen’ magically but often also required strategic action, for instance of investigative reporters in the case of LuxLeaks, or were the result of shifting material conditions, such as the global financial crisis.

The moments in themselves as they are visualized below do not yet contain information on relevant conflicts, shifts in power relations, compromises and positions. As a second step, Schneider et al. (2023, p. 120) argue that central questions need to be answered that center on the struggle over corporate tax harmonization between and within hegemony projects, the articulations of conflicting positions and possible compromises and the institutional terrains through which these struggles and articulations took place. For instance, it is crucial to ask: which selectivities of institutional terrains were crucial in the process, in that they determined priorities and favored certain paths of action over others? (Schneider et al., 2023, p. 120). Strategic selectivity is important in assessing why certain (groups of) agents were ‘capable of asserting themselves over others’ in terms of positioning themselves, articulating compromises and mediating conflicting interests (Brand et al., 2022, p. 291).

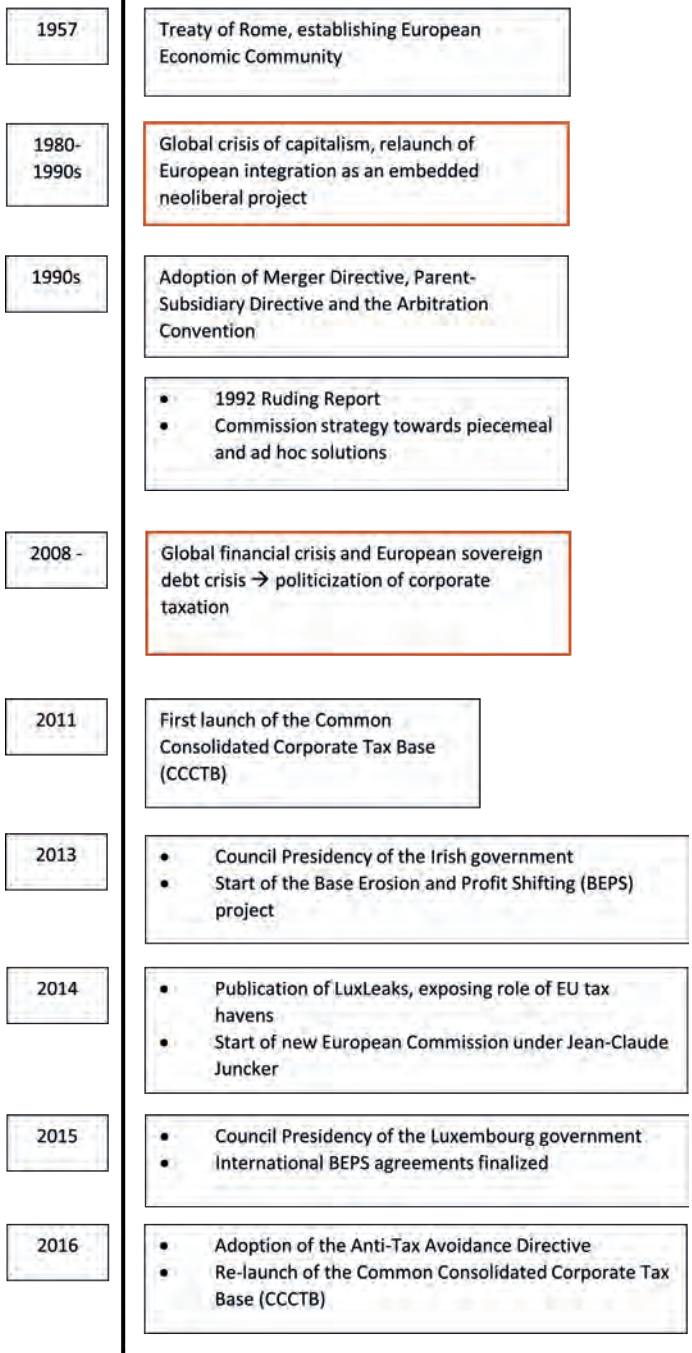
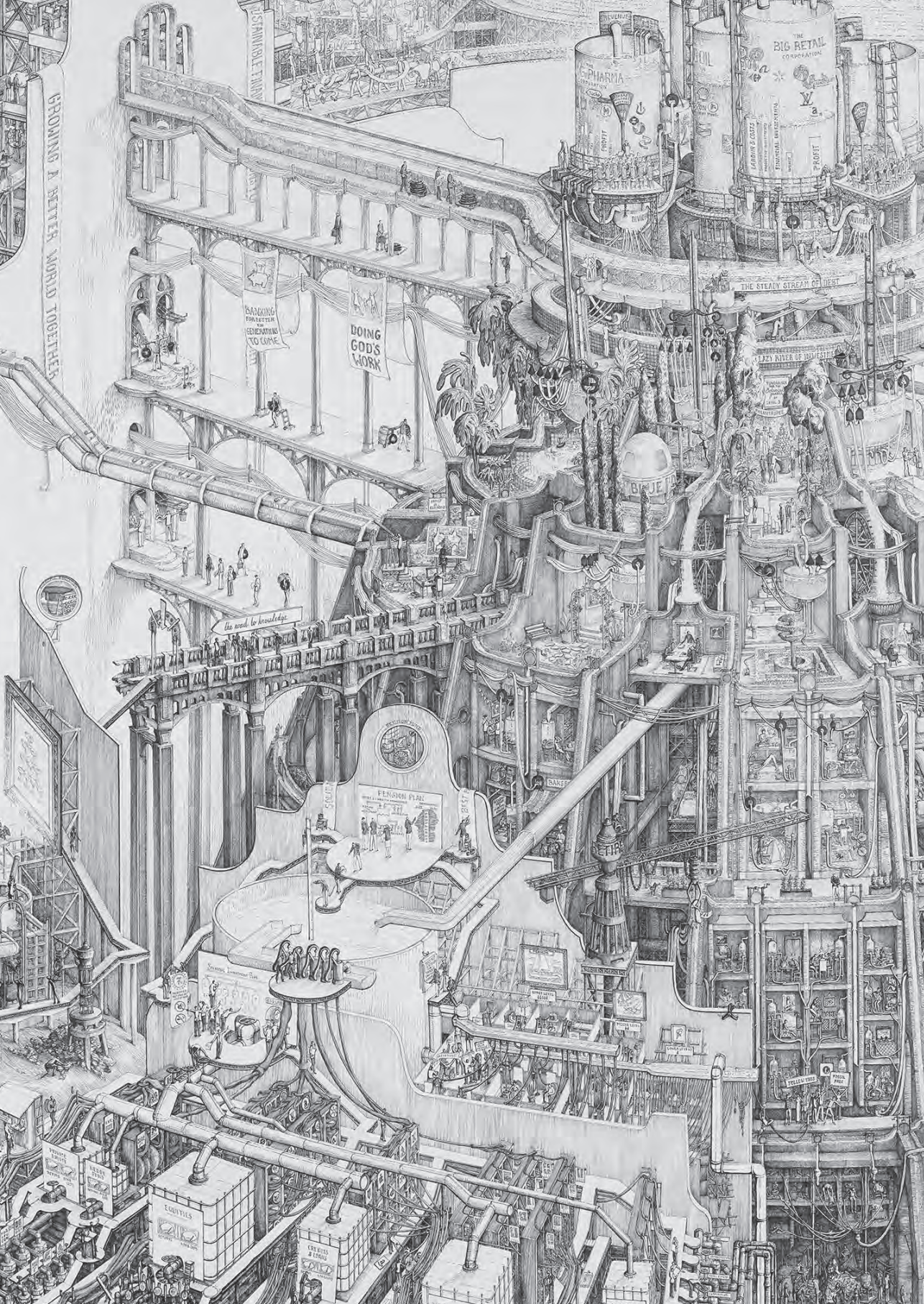


Figure 3.5: Tracing the process of corporate tax harmonization up to the relaunch of the CCCTB in 2016.



4. Document analysis and expert interviews

Whereas the previous chapter has detailed the methodological approach of HMPA, this chapter elaborates on the second part of the research design: the sources on which the empirical analysis is based. In order to arrive at a comprehensive analysis, this dissertation relies on in-depth qualitative document analysis and expert interviews. This chapter discusses the details, choices and limits of both methods in this dissertation.

4.1 Document analysis

The purpose of in-depth qualitative document analysis in this research project is multifold. First, documents serve to understand and compare the details (content, form and scope) of legislative proposals for a CCCTB. Second, documents are central in tracing the process that led to the launch of the CCCTB in 2011 and its relaunch in 2016. Third, documents can help us identify the contesting interests and logics at play with regard to a harmonized corporate tax base in the EU. These aims are interlinked, involving both descriptive and explanatory analysis. Thus, documents are analyzed for the 'evidence' or information they contain with regard to the research subject – 'document as resource' (Prior, 2011). In addition, when documents are analyzed to uncover the process and context in and through which CCCTB proposals were developed, they are approached as a 'document as topic', as they focus on how the content in such documents came into being. The assumption here is that the documents under analysis are the result (or articulation) of power relations, because, as Espeland states, documents are 'crucial means for exerting and sustaining power. Texts are complicit in power relations and their significance is not simply for the information they contain' (Espeland, 1993, p. 298). It is therefore important to also be aware of what is missing in documents, in particular documents produced by EU institutional bodies, since the stripping of assumptions, context, selection criteria, alternative policies etc. can be a deliberate move that 'detaches and obliterates social relationships' (ibid.).

In this dissertation, document analysis involves different types of documents. The first group of documents might be called 'official documents': documents pertaining to the Commission's proposal for corporate tax base harmonization as well as documents on the involvement of other EU institutions, such as the Parliament, Council and ECJ. These documents include laws, legislative proposals, amendments, minutes from meetings, reports, impact assessments, press releases, web pages and fact sheets. These documents are partly publicly available. There is one notable exception that requires more detail here: meeting reports and room documents from the Council's High Level Working Party on Tax Questions (HLWP) and the Working Party on Direct Tax Questions (WPTQ). These are preparatory bodies of the Council concerned with negotiations on legislative proposals put forward by the Commission that take place before a text is discussed and decided on between ministers within the Economic and Financial Affairs Council (ECOFIN). The function and impact of HLWP and WPTQ meetings will be further discussed in chapter ten. For my purposes here, it should be noted that staff from the Commission also attends these meetings. This made it possible to request documents from the Commission in cooperation with Martijn Nouwen from Leiden University. The request was sent on July 5, 2021, and formulated as follows:

Dear Madam, dear Sir,

On the basis of Regulation 1049/2001, we would like to request access to meetings minutes – including but not limited to flash reports, informal minutes – of the Working Party on Direct Tax Questions and the High Level Working Party on Taxation related to the period 01-01-2011 until 31-12-2020 about the proposals for the Common Consolidate Corporate Tax Base (COM(2011) 121/4), the Common Corporate Tax Base (COM(2016) 685 final) and the Common Consolidate Corporate Tax Base (COM(2016) 683 final).

Thank you very much for processing this information request.

Kind regards,

The Commission delivered the requested documentation in two batches during August 2021, sharing first 21 and later 32 documents. These were either meeting reports or flash reports; both types of documents are the Commission's meeting minutes of WPTQ and HLWP meetings, but meeting reports contain more details than flash reports. A complete list of disclosed

documents is included in Annex I. These documents are not publicly available. The Commission noted the following in its response to our request:

In view of the nature of the documents (flash reports, meeting minutes), we would like to stress that Commission officials draft these reports for internal use. Our internal notes give a subjective description of the discussions at the working parties and reflect solely the author's interpretation of the interventions made during the meetings and do not set any official position of the institutions and the Member States' representatives involved in the discussions. These reports have the sole purpose of informing internally on work in progress, are usually of value only for a limited time and have not been agreed upon or discussed with any of the other participants at the meeting. Therefore, they constitute a subjective view of the contents of the meetings covered and cannot in any way be regarded as official minutes of the meeting.

For the purpose of this research, the subjectivity of the written meeting minutes is a benefit in the sense that the reports also reflect the strategic considerations, irritations and orientations of Commission staff. In other words, more than only providing information on the content and pace of negotiations, they contain information on meanings attributed to this information by a relevant agent. At the same time, there is a risk of bias in interpreting these documents for analysis, which is countered by triangulation with other sources, importantly interviews.

A second group of documents might be called 'non-official documents'. These are regarded here as documents from non-government sources pertaining to the CCCTB and corporate taxation in the EU more broadly. They reflect the opinion of certain organizations or people, or constitute news coverage of the CCCTB process. These documents can be position papers, media output, research reports, opinion articles, briefings, minutes of meetings and written statements/speeches. A key source in this regard were the consultation responses to the public consultation issued by the Commission in 2015 in preparation of the relaunch of the CCCTB. The responses to the consultation as well as the additional position papers shared by respondents were a crucial source in uncovering the specific policy demands of hegemony projects with regard to the CCCTB.

4.2 Expert interviews

The purposes of interviewing experts

Within the context of this research project, 23 semi-structured expert interviews were conducted during three rounds of interviews. Following Meuser and Nagel (2009, pp. 23–24), my understanding of experts and expertise moves beyond the traditional definition of experts as ‘professionals’ towards an understanding of experts as active participants. People can be considered experts when they hold a certain position or have authority but also when they are actively involved in the issue at hand. The latter include experts who acquire a special knowledge through their activity – which can include but is not limited to their training – that grants them privileged access to information (*ibid.*, p. 24). Experts in this dissertation are thus considered active participants in the policy process towards the relaunch of the C(C) CTB proposals in 2016. Most interviewees acquired their expert knowledge through their profession and training, for example in their (former) positions within EU institutions and academia, and additionally through their activity and practical experiences.

The purpose of conducting interviews with experts in this research project was twofold. First, interview material was used to verify and triangulate information collected through documents. This concerned mainly information on the content, form and scope of the CCCTB as well as the policymaking process leading up to both the launch in 2011 and the relaunch in 2016, and the positions that organizations and institutions have taken on the CCCTB. This purpose of expert interviewing aligns with what is called ‘technical knowledge’, comprising facts about operations and events, bureaucratic competences and rules and the application of such rules to a specific field (Bogner et al., 2018, p. 657).

The second purpose of interviewing experts is to learn about interviewees’ experiences with and interpretation of the policymaking process and about how they position themselves in this process in relation to other people and groups. Expert interviews thus contributed to the analysis of both process and agency. The actual policy process from before 2011 until 2017 can be traced through documents to the extent that it is clear what the stated policy goals were, when meetings were held, which topics were discussed and so on. Interviews, in addition, can clarify what those involved in the process thought were key points of contestation, important moments of change and relevant actors. Moreover, the operationalization of hegemony projects showed

that interviews with experts are central to identifying and positioning such projects. I therefore asked interviewees about their interpretation of problems that corporate tax harmonization should tackle and whether they thought the CCCTB was the right solution, what they thought of their own organization's capabilities – in relation to others – to be or get involved in the formal policymaking process, in what ways they were able to use networks and media to have their voices heard and what kind of institutional opportunities and barriers they encountered in the CCCTB policymaking process. These types of questions directly reflect elements of the operationalization of hegemony projects, such as situation analysis, scalar focus, strategy, organizational and outreach capabilities and institutional selectivities. This second purpose of interviewing experts relates to both process knowledge and interpretative knowledge. The former is knowledge about sequences of actions, interaction routines and organizational constellations, which the interviewee bases on their experience and position in a specific field of action (Bogner et al., 2018, p. 658). Interpretative knowledge concerns the interviewee's interpretations, perceptions, ideas and normative dispositions. The distinction between the three different types of knowledge – technical, process and interpretative – is not always straightforward and, as Bogner et al. (ibid.) argue, is 'primarily a construction of the social scientist interpreting it'.

An example might make this more concrete. The TFEU dictates that the area of corporate taxation is subject to the special decision-making procedure, which includes a requirement of unanimity amongst member states in the Council and a very limited role for the European Parliament. These facts can be easily retrieved through documents. When asked about obstacles encountered in the CCCTB policy process, the majority of interviewees referred to the principle of unanimity. This can be regarded as technical knowledge, verifying a fact that was obtained through document analysis as well, or as process knowledge of organizational constellations. Interviewees' view on the principle of unanimity as a *problem* is their interpretation, which often also informed the strategy they used to have their policy demands heard and met. In this sense, the interviewees' answer is also interpretative knowledge.

Technical knowledge is helpful in particular when publicly available documents did not offer specific details, but the focus of interviewing experts for this dissertation was on process and interpretative knowledge. The information on the intricacies of the policy process interviewees shared and their interpretation of important moments of change and points of contestation

were crucial to the analysis. There are many facts and details in a policy process. Interviews help establish what those involved considered to be of actual importance. Or, as Hermanowicz (2002, p. 484) states in his elaboration on what constitutes a great interview: 'the search for meaning is the major reason to use the interview method and qualitative methods generally'.

Overall, triangulating facts and uncovering meaning and interpretation through interviewing reflect elements mostly of what Bogner and Menz (2009, pp. 46–47) have coined the 'systematizing expert interview', which focuses on 'knowledge of action and experience, which has been derived from practice, is reflexively accessible, and can be spontaneously communicated'. To a lesser extent, expert interviews here serve exploratory or theory-generating aims, which are the other two types of expert interviews Bogner and Menz distinguish. The relation between knowledge and practice is important and precisely why interviewing *experts* is increasingly vital in social sciences. Knowledge that experts have – theoretical, process and interpretative knowledge – can achieve hegemonic status in the expert's field of action; their knowledge can become common sense. Experts' knowledge can have an effect on and through practice, structuring 'conditions of action of other actors in the expert's field in a relevant way' (Bogner & Menz, 2009, p. 55). To explain policy outcomes through the struggle between hegemony projects, the role and knowledge of experts are key in learning their interpretation of the policy process and outcome and in understanding how these experts shape others' possibilities of action.

The material that results from such interviews is not simply extracted data, as if the respondent were 'a passive vessel of answers' (Faircloth, 2012, p. 2). The critical realist epistemology highlights the role of an emancipatory researcher. This implies that the researcher as an interviewer is not a neutral outsider who can access all necessary knowledge through objective questions posed to the interviewee as a 'passive vessel'; instead, the results from an interview are a joint production by the interviewee and the interviewer. Interview material can therefore be of a 'reflexive, problematic, and, at times, contradictory' nature (Fontana & Frey, 1994, p. 372). To ensure the quality of research based on interview material, this dissertation implements a number of measures (Roulston, 2010, pp. 206–207). Whenever possible, interview data was verified with other sources, mostly documents. For each relevant hegemony project and EU institutional body, multiple driving agents were interviewed, which enabled comparing certain statements made by interviewees with others. Transparency

of the interview process was obtained while also ensuring that guarantees of pseudonymity given to interviewees were upheld. In the context of transparency of the research process, Table 4.1 lists all interviewees, including information on the place and date of the interview. In case interviewees did not consent to sharing their name and organization, their name was omitted and replaced with the category of experts they belonged to. The list shows that this is the case for several experts working at EU institutional bodies. My commitment to transparency and quality also led to an extensive discussion of the interview guided (see further below). Together with my subjectivity statement in the previous chapter, these measures ensure that the interview material can be regarded as a valid data source of high quality.

Interview strategy: Selection and access

Selecting interviewees means that the researcher attributes expert status to those who – in this particular research project – can be considered experts with regard to corporate tax harmonization in the EU. Because the research question addresses a law proposal and the related negotiation and decision-making processes, ‘the civil servants, party functionaries, assessors and – where applicable – representatives of affected citizens’ action groups, and so on are the experts to interview’ (Littig, 2009, p. 103). The first step of operationalization, based on critical EU integration literature and my immersion in the policy field at hand, led to the first round of sampling relevant interviewees, which were divided into four categories of experts: those within organizations that represent corporate interests, both industry-specific and broad industry-transcending organizations; those within not-for-profit NGOs and labor unions; those within EU institutional bodies; and representatives of member state governments. The first round of interviews was also used for the ‘snowball effect’, as each interview ended with a request for recommendations for other interviewees. The specific question was: ‘Looking back on this interview and having an idea of what my research aims to do – who would you advise me to interview?’ The recommendations, combined with the ongoing theoretical and empirical research process, led to the selection of interviewees for a second and third round during the research project.

Table 4.1: List of interviewees.

#	Name interviewee	Position	Organization	Date and Place	Category
1	EU official			18 October 2018, Brussels	EU official
2	Johan Barros & Paul Gisby	Advocacy Manager & Senior Manager	Accountancy Europe	22 October 2018, Brussels	Business representative
3	Roger Kaiser	Senior Policy Adviser at European Banking Federation	European Banking Federation (EBF)	24 October 2018, Brussels	Business representative
4	Tove Maria Ryding	Policy and Advocacy Manager - Tax Justice	Eurodad	25 October 2018, Brussels	NGO/union staff
5	Hannah Morrison Brehnholt Tranberg	Tax Policy and Programme Manager/Senior financing for development advisor	Action Aid (until end 2019) & Oxfam/Ibis (until 2021)	22 March 2019, Copenhagen	NGO/union staff
6	Sune Hein Bertelsen	Head of Tax Law & International Tax, Attorney	Dansk Industri (+ in BE tax policy group)	29 March 2019, Copenhagen	Business representative
7	EU official			12 June 2019, Brussels	EU official
8	Catherine Olier	Economic and Financial Affairs Advisor	The Greens, EP (before 2015 at Oxfam International)	17 June 2019, Brussels	EP member/staff
9	EU official			17 June 2019, Brussels	EU official
10	Alain Lamassoure	Former MEP, CCCTB rapporteur	European Parliament (EPP)	18 June 2019, Paris	EP member/staff
11	Achim Pross	Head, International Co-operation and Tax Administration Division Centre for Tax Policy and Administration	OECD	18 June 2019, Paris	Other
12	Richard Murphy	Director	Tax Research UK, co-founder of TJN	10 July 2019, UK	NGO/union staff
13	John Cullinane &	Public Policy Director	Chartered Institute of Taxation (CIOT)	10 July 2019, UK	Business representative

Table 4.1: Continued

#	Name interviewee	Position	Organization	Date and Place	Category
14	Matthieu Meulle	Senior Advisor	European Trade Union Confederation (ETUC)	12 November 2019, Brussels	NGO/union staff
15	Bob van der Made	Secretariat	European Business Initiative for Taxation	12 November 2019, Brussels	Business representative
16	Aurore Chardonnet	Political Advisor on Tax	S&D, EP (before 2018 at Oxfam International)	19 November 2019, Brussels	EP member/staff
17	Paul Tang	MEP, CCTB rapporteur	European Parliament (S&D)	21 November, 2019, Amsterdam	EP member/staff
18	Business representative			21 January 2021, online	Business representative
19	Gerhard Huemer	Director Economic & Fiscal Policy - Study Unit	SME United	26 January 2021, online	Business representative
20	Marianne Thyssen	Former Eurocommissioneer and former MEP	European Commission / European Parliament (EPP)	16 June 2022, online	EU official
21	Johan Langerock	Advisor to ECON and FISC Committees for Greens	The Greens, EP (before 2020 at Oxfam International)	14 June 2022, Brussels	EP member/staff
22	EU official			24 June 2022, online	EU official
23	Alex Cobham	Chief Executive	Tax Justice Network	28 June 2022, online	NGO/union staff

Note: the list is based on the position of the interviewees held at the time of the interview. For the purpose of pseudonymization, the numbers in the in-text references to interviews throughout this dissertation do not correspond with the numbers in this table.

Interviewees were approached, first, through email. To facilitate consistency and transparency, all interviewees received a note attached to the email informing them about the purpose and content of the research project, the possibility of participating anonymously and data management considerations. The information note was checked by the data management coordinators at both Roskilde University and Radboud University. The first invitation also included a request: in case the addressed expert was unable to participate or deemed themselves to not be in a relevant position for the interview, they were asked to share the contact information of colleagues who would possibly be better suited.

When a first invitation was met with silence or a refusal – for example a response indicating that the expert thought they were irrelevant for my research project – subsequent efforts were made through email or a phone call. Overall, the response of approached experts was open and interested. The list of interviews also reflects representation of the first three groups selected for interviews: business experts, NGO or labor union experts and experts within EU institutional bodies. The main issue in terms of access was the fourth group of experts: representatives of member state governments. Because of the importance of the Council in the policy area of corporate taxation, member state representatives were identified as key interviewees. Numerous efforts to reach representatives from German, French, Dutch and Irish governments did not yield results. The lack of interviewees in this category is the main reason that documents were obtained through the request for information at the Commission, as explained in the previous section. Although these cannot replace interview material, they do offer a unique data source with insights into member state governments' positions and strategies in CCCTB negotiations.

Upon a positive response, an interview was set up. Whenever possible, I traveled to the interviewee's workplace, as the office surroundings – including chance meetings with their colleagues – contributed to observational data that enriched the interview material (Mikecz, 2012, p. 488). This was not possible during Covid-19-related lockdowns; therefore, the last round of interviews was conducted mostly online. This is also why the third round of interviews spans a longer period (2021–2022), as I was waiting for lockdowns to pass and travel to be once more possible, to no avail.

The interviewee selection process ultimately resulted in 23 interviews in three different periods. The first round of interviews took place in the fall of 2018 in

Brussels, and the second round of interviews throughout 2019 in Copenhagen, Brussels, Paris, London and Amsterdam. The third and last round of interviews was conducted in 2021–2022, mostly online. The splitting of interviews to match different stages of the research was a conscious choice and part of the iterative process, which enriches the analysis. The first round was planned at the initial stage, when I had started to immerse myself in the policy field of corporate tax harmonization. These first interviews had a slightly more exploratory character. It was crucial to have an EU official close to the policy process be part of this first round of interviews. The second round of interviews was conducted with a sound theoretical framework established and a deeper knowledge of the policy field and the power relations that characterize it. The third round of interviews was carried out largely after obtaining the meeting reports of Council meetings on the CCCTB. The list of interviews included in this chapter shows that all categories of interviewees (except for member state representatives) were included in each round of interviews; a choice that, again, was inspired by the iterative nature of the research process.

The list of interviewees – although representative in terms of the defined relevant categories of interviewees – shows a gender and racial bias. The vast majority (18 out of 23) of interviewees was male, and all interviewees were white. Although we have to be aware of potential bias in their answers, this selection bias was very difficult to prevent. Due to the way experts are defined in this dissertation, interviewees being ‘active participants’ in the policy process was prioritized. The bias in interviewees selected for this research project represents (sadly) the bias in the corporate tax policy field and corporate tax practice. In particular the category of business experts lacks any variety in gender and race, in spite of conscious efforts to approach female business experts, who either did not respond or referred me to male colleagues.

Interview strategy: Consent and interview guide

Three relevant aspects of the preparation of the expert interviews are discussed here: consent, the interview guide and actual conduct during interviews. At the start of every interview, a consent form was shared with the interviewee with the main purpose to acquire informed consent from interviewees to the use of interview material for any publications related to this research project. The consent form also included key information on the research project and how it was financed, the assurance that only pseudonymized quotes would be included in the dissertation and any other publications, and the option

for the interviewee to not have their name and position included in the list of interviewees. This option was used by all interviewees working at either the European Commission or the Council. Last, the consent form informed interviewees of their rights with respect to the handling of their personal data and listed the contact details of the Data Protection Officers of both Roskilde University (Denmark) and Radboud University (the Netherlands). All interviewees signed the consent form. Not included in the consent form but present in the information note attached with every interview invitation was a request to audiotape the interview, with the sole purpose of increasing the quality of the interview material. Without a recording, data such as the narrative itself, intonation, nuance, sequence and meaning can easily get lost (Hermanowicz, 2002, p. 496). Permission to record the interview was asked at the start of each interview, and almost all interviewees agreed to this.

The semi-structured character of the interviews was expressed through the use of an extensive interview guide. The expert interviews conducted within this research project are semi-structured (Fontana & Frey, 1994, pp. 363–366), situated between structured interviews – in which the interviewer uses a preestablished set of questions that each have a limited number of response types – and unstructured interviews, which are open-ended and often used in ethnographic research. Semi-structured means that the interview was led by themes and questions and informed by theoretical expectations and preparatory research, while also ‘allowing the interview to shape the order in which questions are asked, and the issues which are covered’ (Ercan & Marsh, 2016, p. 314). Nevertheless, the sequence of the interview guide was well thought-out and purposefully drafted, consisting of both main themes and follow-up questions, like most semi-structured interview guides (Kallio et al., 2016, p. 2960).

The interview started with a brief introduction from the researcher, including the presentation and signing of the consent form. Because a description of the research project was already included in the information note accompanying the interview invite, this part of the interview was kept short. However, it was detailed enough to set the stage and demonstrate the researcher’s knowledge of the policy conflict at hand. The interview guide was divided into different main themes. The first theme, ‘introduction’, included questions about the educational and professional background of the interviewee as well as their involvement in the CCCTB in their current position. The purpose here was to create ‘rapport’ by asking questions that were more personal than

the remainder of the questions and to learn more about the interviewee's background and motivations. The second theme regarded their views on corporate tax harmonization broadly and the CCCTB proposals specifically, focused on their views on what constituted the most important changes in the content, form and scope of the CCCTB between the 2011 and 2016 proposals. A third group of questions explored strategies and resources, including on how experts arrived at their policy position, how they made their position known, existing cooperation with other organizations and connections to the media. Moreover, they were asked about their views on which other agents mattered in the struggle over EU corporate tax harmonization, inquiring how they positioned themselves toward other organizations, people or institutional bodies. The fourth theme grouped questions that targeted the policymaking process. They focused on interviewees' perspectives on who was involved in the policymaking process, what institutional opportunities and barriers they faced and to what extent other EU or global policies (in development or adopted) interfered with the process.

Questions belonging to the last two themes – on strategies, resources and process – were drafted to draw out interviewees' interpretative knowledge. These questions were inspired by the strategic-relational approach adopted in this dissertation. A strategic-relational analysis requires knowledge that is difficult to derive only from publicly available documents. Such questions directly reflect elements of the operationalization of hegemony projects, namely strategy, organizational and outreach capabilities, and institutional selectivities. It should be noted that such theoretical concepts were not part of the questions themselves; instead, questions were formulated as briefly and simply as possible.

Moreover, the interview guide included follow-up questions and probing questions in case interviewees' answers remained superficial or were unclear, contained new ideas or unanticipated themes or omitted some information (Kvale & Brinkmann, 2015, pp. 160–161; Rubin & Rubin, 2005). During interviews, the interview guide helped to provide structure and focus so as to guarantee that key issues were brought up, but it remained a 'thematic guideline' rather than an 'inflexible list' to be followed rigidly (Hermanowicz, 2002, p. 483; Meuser & Nagel, 2009, p. 483). Indeed, the interview guide was used throughout the three rounds of interviews as exactly that: a guide. Insights during interviews led to adaptations in the formulation of questions and their prioritization during interviews.

Interview preparation and techniques

The preparation for and techniques of interviewing experts consisted of a number of steps besides drafting the interview guide. It is widely acknowledged that interviewing experts or elites requires an in-depth knowledge of the topic at hand of the researcher, so that the interviewee sees them as competent, trust can be established and useful follow-up and probing questions asked (Kvale & Brinkmann, 2015, p. 171; Littig, 2009, p. 109; Mikecz, 2012, p. 487; Pfadenhauer, 2009). Pfadenhauer (2009, pp. 84–90) in particular makes a convincing argument that for an expert interview to be successful and the resulting material of high quality, it needs to come as close as possible to a conversation held at 'eye level', characterized by familiarity. For this purpose, and as a first step of preparation, the interviewer needs to have as much knowledge as possible about the research topic. Although they will not achieve the status of 'expert' themselves, the interviewer must try to become a 'quasi-expert' so that the interview can take place on an equal footing.

This proved to be difficult at times, as I learned already in the very first interview I conducted for this research project. While I was fully prepared and knowledgeable about the legislative proposals at the center of my research, the interviewee took around ten minutes at the start of the interview to explain to me what the aims of the CCCTB were. Valuable time of this 1.5-hour interview was spent on basic details and thus lost, which can be attributed at least partly to my line of questioning, which I adapted afterward to improve the interview material during this first round of interviews. This did not completely solve the issue, as I was also a (somewhat) young female scholar interviewing mostly men, which did in some instances seem to create a dynamic where quite basic things were explained to me. Having introduced myself as a scholar and outlined the scope of my research project, it could reasonably be assumed that I was knowledgeable of at least these basic details. Although it can be assumed that for some interviewees this might merely have been a way of talking, we must also take into account that I was interviewing what Pine called 'knowledgeable men', who can have a tendency to hold long monologues on how an organization or a process works. Her reflection on such a situation resonated with some of my own experiences: 'These were like mini-lectures, which I found difficult to interrupt in order to move the interviewee to a different subject' (Pini, 2005, p. 209). Moreover, at times, I did not want to interrupt these 'mini-lectures', expecting that they might reveal relevant details that were either not publicly available or showed me the importance or meaning the interviewee attributed to specific facts. Contrary to these experiences were interviews with experts I

knew from my own professional background working in an NGO. Here, I had to be mindful of not letting the interview become too familiar. Although these are two very different dynamics, they lead to a similar issue in balancing, which Hermanowicz (2002, p. 491) pointed out in designing the 'great' interview, in which 'the interviewer maintains a sense of equality but possesses authority over how the interview will run, which questions are asked, when they are asked, how they are asked, and so on'. Finding the balance between achieving equal footing and maintaining my authority over the course of the interview was a skill I developed throughout the process of interviewing experts; awareness of my own positioning and the resulting dynamics described above – including how to strategically employ these when relevant and how to counter them when they impacted the quality of the interview material – helped my learning process immensely.

These examples of interview experiences also demonstrate that, second, preparation for interviewing should include rehearsing. The conduct of interviewing itself is a learning process, but practice can also take place through role-playing exercises. The PhD course 'Qualitative Interviews', which I took in May 2018, offered many such opportunities and taught me to be mindful about my facial expressions, how to also listen to the things that were *not* being said and how to be comfortable in strategically creating moments of silence during an interview (also known as the "silent probe", see Hermanowicz, 2002, p. 485).

I took a third preparatory step shortly before each interview. Based on the interview guide, I wrote down the specific questions for the expert I was going to interview. The interview guide included several questions for each theme described above, but not all were relevant for each category of experts. For instance, during interviews with business representatives or NGO staff, questions on how they perceived their access to EU institutional bodies were important, while these were left out when interviewing experts at EU institutional bodies themselves. Writing the questions down by hand helped me learn them 'by heart' and meant that I needed only my notebook on the table during the interview and no printed pages in front of me – both of which contributed to creating a setting of a quasi-conversation instead of a dynamic of interrogation.

Interview analysis

A first step of the interview analysis, which could also be considered a fourth step in conducting the interview, was to find a moment directly after each interview to jot down initial thoughts and impressions. To ensure as few disruptions or distractions as possible, note-taking during the interview was very limited. Therefore, I found it very helpful to reflect on the 'relationship between researcher and researched and to ascertain the accuracy of transcriptions' with the interview still 'fresh' on my mind (Mikecz, 2012, p. 489).

Transcriptions of the interviews were possible, as almost all interviewees consented to audio-taping the interview. A digital voice recorder was used to ensure good audio quality; only if the interview took place in a public space (once in a restaurant and once outside at a railway station café) was the quality impacted. I transcribed most of the interviews myself, but the last round of interviews was transcribed with the help of external transcription services. The benefits of me transcribing the recorded interviews myself were the lessons I learned about my interview style, and starting the analysis via transcription can lead to a 'reawakening' of the interview situation and what was said (Kvale & Brinkmann, 2015, p. 207). Transcription was of a 'denaturalized' character in the sense that interviews were not transcribed verbatim or word by word; rather, it excluded repetitions, emotional expressions, pauses, accents and other 'involuntary vocalizations' in order to focus on the substance or informational content of the interview (Oliver et al., 2005, p. 1277).

The analysis of the interview material does not simply take place 'after the interview', as Faircloth (2012) has argued; due to the reflexive nature of the interviewing method, choices made in terms of analysis are already shaped by the researcher's approach to interviewing and the moment of the interview itself. Moreover, the analysis of transcribed interviews is a continuation of the conversation that started during the interview, 'unfolding its horizon of possible meanings' (Kvale & Brinkmann, 2015, p. 219). Indeed, because the purpose of interviewing experts was to explore their process and interpretative knowledge, the analysis of interview material also focused on meaning (Kvale & Brinkmann, 2015, pp. 231–247). The researcher here becomes not only the interviewer but also an interpreter. The operationalization of hegemony projects – split into the identification and the relative positioning of such projects – was leading in the analysis of the interview material. Hegemony projects can be seen as so-called 'sensitive concepts', which 'point analytic

attention to important features of social interaction and provide guidelines for interpretation of research' (Faircloth, 2012, p. 272).

The notion of institutional selectivities is a helpful example in discussing the types of meaning that were constructed during the interview and throughout the analysis of the interview material. Institutional selectivities were introduced in the dissertation as a strategic-relational notion intertwined with unequal power relations and how these materialize through state institutions and, thus, policy processes. Questions asked during the interview did not use the concept itself but were directed towards the regularity of meetings with policymakers, the difficulty of arranging meetings or initiating contact and whether this had changed in recent years, and to what events or expert groups an interviewee was invited. While interpreting this during the stages of analysis, I attributed meanings to interviewees' answers that went beyond the meanings that interviewees themselves might have assigned to their statements. I moved towards an understanding led by the theoretical lens of this dissertation. Kvale and Brinkmann (2015, pp. 242–244) distinguish here between so-called 'contexts of interpretations', including self-understanding (the former) and theoretical understanding (the latter).

4.3 Scope and limitations of the research design

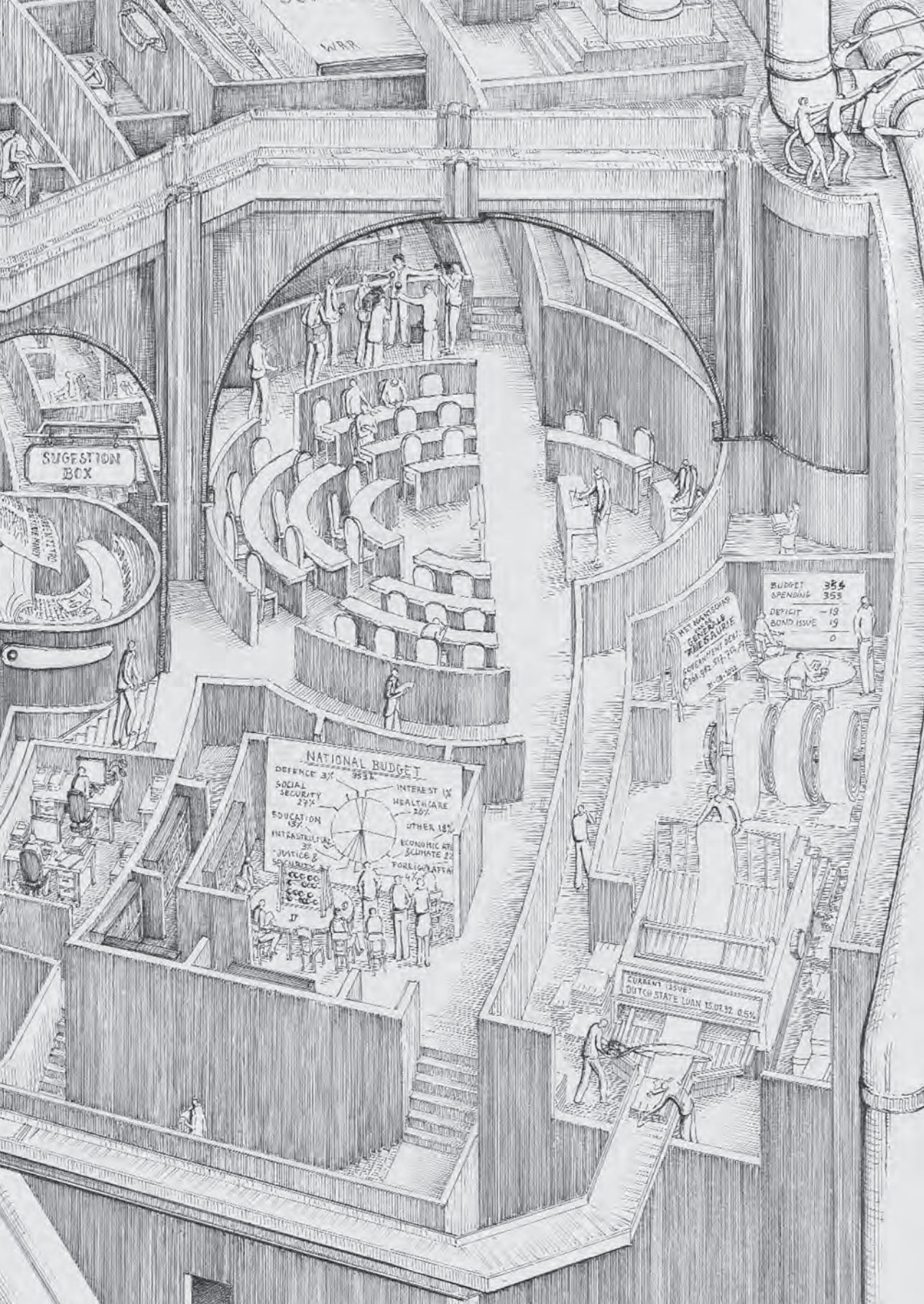
No research project is without its limitations. These need to be acknowledged, as they potentially affect the extent to which conclusions can be drawn about the research question. A number of possible limitations resulting from theoretical and methodological choices stand out.

First, the data that informs the core of the analysis of agency – through the concept of hegemony projects – was retrieved and created in the years after 2011, while a substantial first part of the analysis that is set up chronologically focuses on the period before 2011. The interviews with selected experts were held from fall 2018 until spring 2022. Core documents that informed the agency analysis were created in the second half of 2015, when the European Commission launched a public consultation on the CCCTB that yielded very specific comments by a wide range of organizations on corporate tax base harmonization in the EU as well as additional extensive position papers. Although other documents – most importantly position papers, speeches and statements from before 2011 – co-constitute the basis for agency analysis, my

understanding of neoliberal and neomercantilist projects from before 2011 is largely based on secondary literature instead of primary material.

Another issue regarding time is that the three rounds of interviews were conducted over a long period. Although the research focuses on the relaunch of the CCCTB in 2016 and the period preceding it, during the years in which experts were interviewed for this research, negotiations were ongoing. In a sense, the research topic was a moving target, into which interviewees were potentially still gaining new insights or about which they were still receiving information. Although I did not expect that this would radically change their position, there is a chance that interviewees in 2018 stated matters more apprehensively than interviewees in 2022 – or the other way around.

The analysis that follows, set up by this chapter and previous chapters, focuses predominantly on processes, struggles and contestation within and through EU institutions. Although I adopted a multiscalar understanding of the EU and thus grasp that EU institutions are nodes in a larger hierarchy of scales, I prioritized the analysis of organizations and voices that sought to participate in, influence, contest and challenge EU decision-making processes. These processes were – following the theoretical framework – seen as a strategic terrain for social struggle. To analyze them is therefore to uncover power asymmetries, contesting policy ideas and evolving institutional opportunities and, in that way, answer the research question. With the majority of tax governance literature focused on either national or global developments, this dissertation hopes to make a contribution through its focus on the EU level. However, this also means that local or national nodes in the multiscalar dynamic, as important spaces through which proponents of projects can forge or challenge a hegemonic position, were analyzed less in depth. The conclusion will return to the possibilities for further research in these respects.



WARR

SUGGESTION
BOX

NATIONAL BUDGET



BUDGET	354
SPENDING	353
DEFICIT	-18
BOND ISSUE	19
	0

NET NATIONAL
GRASSROOTS
TREASURY
CONSTITUTION 2017
CASH 100, 000, 000, 000
10-12-2017

CURRENT ISSUE:
DUTCH STATE LOAN 150132.05%

5. Corporate tax harmonization throughout European integration until 2011

This chapter traces the historical trajectory that led to the development of the CCCTB in the early 2000s and the subsequent presentation of the first legislative proposal in 2011. It identifies a major shift in EU corporate tax policymaking that occurred within the broader context of European integration. In a conjunctural moment of the global restructuring of power relations in times of capitalist crisis, European integration was increasingly shaped by what has been dubbed 'embedded neoliberalism'.

The first section of this chapter starts out with an analysis of the first decades after the Treaty of Rome, in which corporate tax harmonization was predominantly subject to discussions and reports of expert committees that were led by the purpose of establishing and improving an internal market in which cross-border investments would be made without obstacles. Although partly translated into policy initiatives by the Commission, these ideas hardly ever materialized into law. That changed around the 1990s with the adoption of important corporate tax directives. The Commission's two-track strategy in which the urgency of targeted, smaller measures was continuously prioritized over ambitions for comprehensive harmonization aligned with organized corporate interests. The latter became more vocal and visible, explicitly and actively taking a position in the formal policymaking process, in particular through the Union of Industrial and Employers' Confederations of Europe (UNICE). Although tax neutrality, efficiency, the common market and competitiveness had been core principles and goals guiding the Commission's policy initiatives since the 1960s, during the 1990s these policy proposals were to a lesser extent the result of a theoretical exercise of what an internal market should look like, but rather a political project supported and articulated through organizations representing corporate interests in Brussels. The latter became more actively involved through newly opened-up institutional opportunities compared to previous decades.

Within this context, the CCCTB was developed. The idea for a CCCTB came directly from UNICE and was quickly considered by all parties involved as the only viable policy option on the table. The Commission strategically set up a working group of member state representatives to further develop the proposal, and explicitly invited and enabled the participation of UNICE and a number of other influential organizations representing mainly global-oriented corporations and the tax-advising industry. The functioning of the CCCTB working group in terms of process – how it led to the institutionalization of corporate interests’ involvement in corporate tax policymaking – and in terms of content – how it informed the eventual CCCTB proposal in 2011 – is the subject of the second section of this chapter.

5.1 The history of corporate tax harmonization throughout European integration

Decades of reports and grand ambitions, but little action: corporate tax harmonization from the Treaty of Rome to the single market

Since the start of the European Economic Community (EEC) in the late 1950s, cooperation in the area of taxation has been discussed in the context of achieving a common market. The Treaty of Rome (1957) in Article 99 included an explicit legal basis for the harmonization of indirect taxes ‘to the extent that such harmonization is necessary to ensure the establishment and the functioning of the internal market’. The article did not change in wording (now Article 113 TFEU) and neither did the absence of an explicit legal basis for the harmonization of *direct* taxation. Article 100 of the Treaty of Rome (now Article 115 TFEU) offered a more general legal basis for harmonization of ‘such laws, regulations or administrative provisions’ that affect the establishment or functioning of the internal market (in 1957: the Common Market). It led the Head of Indirect Taxation Division of the (then) Commission of the European Community in 1968 to conclude that it was ‘clear’ that ‘the authors of the Rome Treaty regarded harmonization of turnover taxes and excise duties as a matter of primary importance. The Commission has therefore from the outset given high priority to the harmonization of indirect taxes, and particularly of turnover taxes’ (European Community, 1968, p. 3). The priority of harmonizing indirect taxes reflects the EEC’s shared economic interests at that time of creating a customs union and a common market, since the administration of indirect taxes at that time depended on the existence of border controls (International Monetary Fund, 1990, p. 49).

In 1960, the Commission set up a committee of experts led by German economist Professor Fritz Neumark, which was tasked with investigating which taxation aspects stood in the way of achieving a common market. The Neumark Report is the starting point of corporate tax harmonization in European integration. In response to key questions included in the committee's mandate that centered on how to create conditions of competition 'analogous to those of an internal market' (IBFD, 1963, p. 98), the committee summed up central tensions that are still present in the politics of corporate tax harmonization today:

Consequently one of the most important tasks of the [committee] – at the same time one of the most delicate – consisted of finding solutions of fiscal and financial policy which represent a kind of rational compromise between the necessity of eliminating or at least strongly reducing, in the interest of the optimum functioning of the Common Market, the fiscal or financial disparities hindering the free play of competition between the Member States on the one hand, and the expediency of not interfering in the policy of Member States anxious to maintain national peculiarities arising from natural conditions and/or historical evolution on the other hand (IBFD, 1963, p. 99).

The resulting report in 1962 advised to harmonize a number of taxes in a three-staged approach (IBFD, 1963). Priority was given to the introduction of a VAT, included in the proposed first stage, as the way forward regarding the harmonization of turnover taxes in the EEC. The Commission, following this advice, presented a VAT proposal in 1962. At that time, France was the only country out of the six EEC member states that already had such a VAT in place. After years of negotiations, the Council adopted the First and Second VAT Directive in 1967, following German support that pushed opposing member state governments (notably the Netherlands) to agree (Haffert & Schulz, 2019). Haffert and Schulz (2019, p. 441) argue that German support occurred only when export-oriented capital in Germany started to turn against existing turnover taxes that could be used as a protectionist tool; their interest in to remove such trade barriers through the Commission's VAT proposal arose after the German economy integrated in the common market. Once VAT was in place, and 'once the border-adjustment had been made mercantilism proof', their findings show that pressure for further tax harmonization declined because export-oriented capital fractions had now secured that they could compete on an equal footing both at home and abroad (Haffert & Schulz, 2019, p. 450).

This then also helps explain why the EEC did not move beyond the first phase of the suggested timeline of tax harmonization measures as set out by the Neumark Report. The remaining phases – entailing measures regarding the harmonization of taxes on company income, capital gains, personal income and wealth – were, at that point, not a priority for the EEC member states. The international economic order after the Second World War was characterized by a compromise of ‘embedded liberalism’, navigating between economic liberalism and domestic interventionism (Ruggie, 1982). Postwar Fordist production regimes, built on the rise of mass-producing industrial capital, were accompanied by a compromise between capital and labor that enabled high levels of consumption through high wages. Along with it, through demand-driven Keynesian macroeconomic policies, welfare states developed and grew. European integration as a regional materialization and strengthening of these global developments was ‘on the one hand premised on a regime of trade liberalisation, opening up the national economies of Europe, but, on the other hand, went together with a build-up of the (Keynesian) welfare state’ (Van Apeldoorn, 2002, p. 64). Welfare state institutions came into being on a national scale, not a supranational, European scale; the EEC was not a fiscal state. To ensure domestic intervention necessary to uphold national-social compromises of which the welfare state was a key pillar, the autonomy of European economies was considerable still and liberalization was largely restricted to trade liberalization (*ibid.*). The introduction of a common VAT system was therefore the maximum extent that member state governments were willing to harmonize taxes.

Although far from becoming a policy reality, the aforementioned Neumark Report did recommend a degree of the harmonization of corporate taxation, emphasizing differences in effective tax burdens: The ‘methods of assessments’ or ‘the computation of profits’ were seen in need of harmonization as the existing differences at that time ‘have the consequence that the “transparency” of taxation is greatly reduced’ (IBFD, 1963, p. 138). In addition to this recommendation for harmonizing rules to calculate the corporate tax base, the expert committee led by Professor Neumark advised to set a tax rate similar to the maximum rate of personal income – in order to prevent corporate income to be declared through specific company types, chosen ‘solely for tax reasons’ that would then be subject to personal income tax – and therefore concluded a rate of 50% to be considered with respect to undistributed profits (i.e. not dividends) (*ibid.*, p. 139). Harmonization, in the Neumark Report, was regarded as necessary to the extent that it facilitated

free movement of capital in the common market. It was not meant to prevent tax competition between member states all together:

differences in the taxation of industrial and commercial income will only have an unfavourable influence on freedom of movement and/or the competitive situation in trade between Member States of the EEC if they reach a notable extent, taking into account the public services financed by tax receipts (*ibid.*, p. 138).

A subsequent report under the coordination of Prof. C. Segré, Director for Studies, DG for Economic and Financial Affairs of the Commission, explored in the 1960s 'what needs to be done to develop a European capital market' (Commission of the European Communities, 1966). The committee of experts consisted mostly of directors or other high-level management at large financial institutions. The last chapter of their resulting report in 1966 addressed tax obstacles to a European capital market and focused on creating 'tax neutrality', which would have been achieved 'when the tax system no longer affects the choice of the place where the investment is made or the transaction carried out and does not influence the saver's choice between making the investment direct or relying on an intermediary acting as a collector of savings' (Commission of the European Communities, 1966, pp. 33–34). The committee identified the double taxation of investment income as a core problem as well as differences in tax advantages and fiscal treatment of investment income that led to 'discrimination between residents and non-residents' (*ibid.*). The report suggested, amongst other things, to replace existing bilateral double taxation agreements with a multilateral convention, harmonizing and extending tax benefits on dividends paid by foreign companies, and the abolition of withholding tax on interest payments. Because of the limited scope of its report, the Segré Committee did not propose comprehensive harmonization of corporate tax base and or rates, but did hint at it.

The work of both expert committees had no direct legislative impact, but their influence was reflected in the Commission's 'Tax Harmonization Programme' in 1967. First, the Programme demonstrated that taxation was seen as a major obstacle to the free movement of capital (Easson, 1992). Second, it emphasized the perceived need for tax neutrality in order to facilitate 'industrial combination' within the Community; the setting up of foreign subsidiaries and cross-border mergers and acquisitions needed to be facilitated. Tax neutrality was seen as 'indispensable for the free play of

the forces of competition' (Commission of the European Communities, 1967, p. 9). Third, differences in investment incentives could lead to distortions of competition. The Commission made a clear distinction between long-term objectives and what it termed 'practical solutions' for the most urgent problems (*ibid.*). The practical solutions concerned forms of passive income – dividends and interest payments, mostly – and the harmonization of tax arrangements applicable to investment companies, holding companies and mergers and transfer of assets between companies in different member states (Commission of the European Communities, 1967, p. 4). In the long term, the Commission (1967, p. 8) argued,

it will be necessary to arrive at a common definition of taxable company profits and a common method of calculating them so that the basis of assessment is harmonized to the greatest possible extent.

This is a close description at least of the common corporate tax base – the set of rules to calculate a common tax base across the EU that was eventually put forward in 2011. The 1967 Commission's Tax Harmonization Programme envisioned more, however. Ultimately, it stated, there should be a general tax on company profits, with the same structure throughout the Community and based on similar methods of assessment and rates (*ibid.*).

At the end of the 1960s, the Commission thus argued for harmonization of taxes on capital, but it also explicitly left room for differences between national tax systems. Leading in their thinking was the consideration that 'if firms of the Community are to hold their own against competition on the world market', certain obstacles – mainly (the risk of) double taxation on capital flows and income – needed to be eliminated while other tax policies needed to be harmonized to the greatest extent possible (Commission of the European Communities, 1967, p. 7).

The end of the 1960s were also characterized by the Commission's initiative to coordinate economic policies and monetary cooperation within the Community as a 1969 memorandum set out (Commission of the European Communities, 1969). Under the chairmanship of Pierre Werner, Prime Minister and Minister of Finance of the Luxembourg government at that time, a report was commissioned by the Council on various aspects of the realization of an EMU in stages. The final so-called Werner Report suggested a parallel process of

both economic convergence and monetary policy coordination (Dinan, 2014, p. 133). Its focus on economic convergence then explains why part of the first stage that the Werner Report set out, was the standardization of taxes with a direct influence on the movement of capital within the Community – most importantly taxes on interest payments and dividends – and, second, to initiate and promote harmonization of corporate taxation (Werner, 1970, p. 20).

Adopting the Werner Report's advice almost completely, the Council of the European Communities in 1971 expressed its political will to establish an economic and monetary union 'during the coming decade' (Council of the European Communities, 1971). In the context of creating a single currency area and an area within which persons, goods, services and capital were to move 'freely and without distortion of competition', the resolution called for measures to harmonize (withholding) taxes on interest and dividend as well as 'the further harmonization of the taxation of companies and firms' (Council of the European Communities, 1971, p. 42).

Harmonization of corporate taxation was thus firmly embedded within broader objectives of economic and monetary integration. A Commission's proposal in 1975 for a Council Directive concerning the harmonization of systems of company taxation and of withholding taxes on dividends was a response to the Council's request for tax harmonization (Commission of the European Communities, 1975). The directive was limited to two matters of harmonization: it proposed a tax rate on corporate profits between 45-55%, and an imputation system (through tax credits) to prevent the double taxation of dividends. The limits of the proposed corporate tax harmonization were recognized by the European Parliament that refused to deliver a final opinion on the legislative proposal as it did not include harmonization of the corporate tax base (European Parliament, 1979). In line with the conclusions of the Neumark Report (above), harmonizing rules to calculate the corporate tax base was seen as an essential element of a more comprehensive approach. Following internal discussions as well as with the Commission, the European Parliament's ECON committee still forcefully opposed the proposal and therefore did not adopt a position on the level of corporate income tax rates 'on the present inadequate basis' (European Parliament, 1979, p. 11). Interestingly, the Parliament's ECON committee argued already at the end of the 1970s – taking tax neutrality as its overall policy objective – that *if* the corporate tax base and the rate would have to be harmonized at different times, the tax base should be harmonized

first instead of the rate as the Commission proposed in 1975 (*ibid.*). Only 41 years later, this was exactly what the Commission proposed.

The Commission in 1980 did acknowledge the European Parliament's position by expressing the intention to submit proposals that related to 'the bases of assessment for taxes on company profits' (Commission of the European Communities, 1980, p. 14). Indeed, it started to develop a draft to harmonize the rules for the determination of the corporate taxable base in the 1980s that would ensure a more uniform and transparent tax treatment of corporate income, eventually leading to harmonization in line with the 1975 proposed directive (Patterson & Alicia, 2000, p. 4), but the proposal was never tabled 'due to reluctance of most Member States' (European Commission, 2001c). The 1975 proposal was eventually also withdrawn, which can be seen as characteristic for the lack of developments in the area of direct taxes in the 1970s and long into the 1980s (Easson, 1992, p. 608).

Explaining the lack of tax harmonization progress in the context of European integration slowing down

While the broader context of European integration and in particular the intention towards an economic and monetary union could have potentially moved plans for corporate tax harmonization forward, the opposite occurred. There are a number of reasons why the harmonization of direct taxes – whether withholding taxes on passive income as interest and dividends, or taxes on corporate profits – saw very little progress during the 1970s and the first half of the 1980s. First, enlargement of the Community. Denmark, Ireland and the United Kingdom joined as members in 1973. After a period of impasse due to the French President Charles de Gaulle who vetoed British membership during the 1960s, negotiations with new members concluded promptly in 1971 after the General's departure from politics in 1970. In terms of taxation, especially the United Kingdom was seen as a 'problematic' country with regard to its attitude towards harmonization in general (Radaelli, 1997, p. 87). Simultaneous discussions on the Community's budget as well as negotiations on the accession of Spain and Portugal often stood in the way of fruitful negotiations on taxes (Easson, 1992, p. 609). A new agreement on the Community's budget entailed the creation of its own resources of which a small proportion of national revenues derived from VAT would be part.

Last, global macroeconomic developments had significant impacts on European integration as a whole – including tax harmonization. The Bretton

Woods system collapsed after the US government under Reagan decided unilaterally to end the convertibility of the dollar into gold, initiating a period of floating exchange rates. Combined with the oil embargo in 1973-74 by OPEC countries and resulting increase in oil prices, a situation arose in which inflation as well as unemployment were high – so-called stagflation. The EMU was designed in such a way that it took the Bretton Woods system for granted; with the latter's collapse, it became more difficult for EC member states to move towards an EMU. Efforts to move towards a regional 'floating-peg' system within the Community after the collapse of Bretton Woods were in vain as member states did not agree on their responses to stagflation (Griffiths, 2014, p. 180). Under circumstances of economic turmoil and recession, a climate of 'new protectionism' arose in member states (Wigger, 2008, p. 173). At the Community level, this led to a period of 'rampant intergovernmentalism' in which the Commission took on a more pragmatic role in the background, and member state governments were more inclined to respond to pressures of domestic corporate interests to resist harmonization (Dinan, 2014, p. 147). Moreover, the great variety in which member states unilaterally responded to economic and monetary crisis in the 1970s led to greater differentiation of the tax base (through amongst other things capital allowances and tax expenditures) which increased the distance towards tax harmonization at Community level even further (Radaelli, 1997, p. 87).

Van Apeldoorn (2002, pp. 65–68) argued that the slowdown of European integration in the 1970s has to be partially understood in this context of crisis of European capitalism. Contesting views between on the one hand global financial capital and global industrial TNCs associated with neoliberal ideas, and on the other hand European-oriented industrial capital associated with neomercantilist ideas, were defining for the direction in which European integration evolved with the primary goal of getting out of the crisis. Neoliberal policy solutions of the former centered around the maintenance of price stability, liberalized markets and labor market reforms based on flexibility that eroded workers' rights; neomercantilist policy solutions of the latter were directed towards ensuring a strong European home market for European corporations to compete with American, Japanese and other firms outside of Europe. The period of 'rampant intergovernmentalism' and the failing national strategies for economic recovery came to an end as the structural forces of the global economy heavily constrained member state governments; the relaunching of the European economy became therefore tied up to the relaunching of European integration and the struggle between the

abovementioned contesting ideas ultimately shaped this European strategy (ibid., p. 70).

A change in the 1980s: Letting go of comprehensive harmonization ambitions while getting some results that benefit corporations in the EU

The 1985 *White Paper Completing the Internal Market* presented by the Commission to the Council on steps 'to complete the internal market' was a corner stone in the relaunching of European integration and, with it, gave a new impetus to the tax harmonization debate (Commission of the European Communities, 1985). The white paper itself attributed little attention to taxes, but did state that the highest priority would be given to further harmonizing indirect taxes. The Commission promised a follow-up white paper on corporate taxation in the Community to address 'a widespread feeling in private enterprise in Europe that our fiscal environment for risk capital and for innovation compares badly with that of our major competitors' (ibid., p. 38). The promised white paper did not materialize until 1990 (see below), but the broader framework in 1985 firmly embedded any future tax measures within the establishment of the single market.

In stark contrast with the preceding decades – at least in terms of quantity – three corporate direct tax measures were adopted in 1990: the Merger Directive (Council Directive 90/434/EEC), the Parent-Subsidiary Directive (Council Directive 90/435/EEC) and the Arbitration Convention (90/463/EEC) (see for detailed discussion of all three measures Easson p. 610-617). Already decades in the making, the measures were announced in the 1967 Commission's 'Tax Harmonization Programme' and were officially proposed in 1969 (Easson, 1992, p. 609). Two other proposals were introduced on interest- and royalty payments and on intra-group losses. This period of corporate tax policymaking in European integration is characterized by a retained focus on achieving tax neutrality and the functioning of the internal market, the introduction of the principle of subsidiarity, and the associated acknowledgment of the Commission to be less ambitious in terms of a single European corporation tax and instead aim for smaller steps and more targeted measures.

The first document to lay down this revised approach was the Commission's 'Guidelines to company taxation in 1990' (Commission of the European Communities, 1990), presented over a year the second Commission under the leadership of Jacques Delors had commenced in January 1989. Christiane

Scrivener, a French politician from the liberal-conservative Republican Party served as the Commissioner for Taxes, Revenue Harmonization and Consumer Policies (1989-1994). She explained that the first guideline was the principle to subsidiarity, meaning that the Commission would not interfere in every field of economic life but 'to intervene only when it is necessary to attain the specific objectives agreed by the Member States. (...) For the rest, the market forces play' (Scrivener, 1990, p. 207). The second guideline was the objective of the single market, to be in place at the end of 1992 as the previous white paper had set out. Third, the Commission intended to work in 'concertation' – meaning in close cooperation with member states 'and with those who fight everyday to be more competitive in order to face world competition successfully' (ibid.). The competitiveness of European corporations was a leading objective.

The question is to what extent these objectives really differ from the period beforehand when tax neutrality, efficiency, the common market and competitiveness were explicitly leading in the European Community's efforts to harmonize corporate taxes up until 1990 as well. The principle of subsidiarity, introduced in 1992 in the Maastricht Treaty (or the Treaty on European Union, TEU), seems to be the largest departure from previous institutional conditions of corporate tax policymaking. Subsidiarity was deliberately designed as an ambiguous concept, continuously reframed and re-interpreted to fit an agent's – be it forces within the Commission or member state governments – strategy at a certain moment in time (Van Kersbergen & Verbeek, 2007, p. 225). In itself an 'empty and meaningless' principle, the introduction of subsidiarity into European integration was a response to member state governments' concern with regard to supranational powers of the Commission (Sinn, 1994, p. 86). With regard to taxation, the principle of unanimity within the Council already ensured to a large extent that no measures would be adopted that were not absolutely necessary to take on Community level. Easson therefore argued that the 'Commission's new "strategy" apparently means that it will attempt to be more realistic in its expectations in the future' (Easson, 1992, p. 626). This is underlined by Commissioner Scrivener's own assessment that the Commission so far perhaps had been 'overambitious' in some of its old proposals (Scrivener, 1990, p. 207). Similarly, in Radaelli's view subsidiarity functioned as a symbolic resource that was instrumental in moving negotiations in Council away from a framing of harmonization towards one of subsidiarity, neutrality and mutual recognition (Radaelli, 1997, p. 92). Subsidiarity, then, functioned as a concept strategically employed by the Commission mostly to accommodate member states governments' fear of losing tax sovereignty and

the heterogeneity of corporate tax systems (such as the difference between classic and imputation systems, see James & Oats, 1998, p. 49), while creating opportunities to not only propose Community action on corporate taxation but to also get them adopted.

Substantively, the new guidelines resulted in a number of tax measures to be implemented before 1993 to contribute to the removal of tax obstacles to cross-border business activity within the Community. In line with a broader approach that shifted from centralization and harmonization to coordination and approximation of economic and monetary policies, the explicit primacy was given to short-term and smaller steps, arguably more regulatory in nature than redistributive (Radaelli, 1997, p. 104). The two directives and the convention mentioned above were part of these measures that the Commission attributed priority to. The offsetting of losses across borders within the Community and the abolition of withholding taxes on interest and royalty payments within corporate groups were mentioned as two additional priorities; these constituted measures yet to be proposed by the Commission. The Commission stressed that the adoption of these measures 'should be facilitated by the fact that they do not affect the essence of national tax systems and their budgetary consequences are relatively limited' (Commission of the European Communities, 1990, p. 6). Notwithstanding the urgency attributed to short-term objectives and smaller coordination steps, the Commission did not entirely let go of long-term ambitions. Its new strategy led the Commission to withdraw its 1975 proposal; it concluded a 'fresh study' was necessary to evaluate which future measures would be necessary (*ibid.*, p. 11-12). The study would investigate to what extent disparities between national tax systems led to distortions in investment decision, whether these would be 'simply eliminated through the interplay of market forces and competition' or whether Community measures were necessary; if so, what measures exactly, including their expected impact – similar to current impact assessments that accompany most proposed directives.

The expert committee was led by former Dutch Minister of Finance Onno Ruding, who published its report in 1992 (Commission of the European Communities, 1992b). The committee consisted of four business executives, two tax lawyers and one international civil servant from the OECD and was supported by a secretariat housed at the Commission itself as well as a number of experts and academics that prepared background papers, analyses and surveys (*ibid.*, pp. 6-7). The committee was, according to Radaelli, 'a group of influential members

of the European business community and people operating in the area between international civil service, policy for a, universities, and the professions' – assisted by an 'emerging epistemic community' (Radaelli, 1997, p. 97).

In its quest to respond to its specific mandate stated above, the Ruding Report concluded, first, that major differences between national tax systems existed and caused distortions in cross-border investment within the common market. This conclusion did not differ from earlier Neumark and Segré reports, but included more evidence: A survey held amongst European businesses – 965 replies, with the help of the UNICE – suggested that taxation had a significant impact on the location of real activities of transnational capital and to a much larger extent on the 'financial and legal structure of companies' (Commission of the European Communities, 1992b, pp. 108–109). The mechanisms of the (common) market had thus not solved the issue of tax neutrality – a situation in which a firm's foreign location decisions would not be affected by tax differences between member states. This appeared to be the case in particular for financial capital (*ibid.*, p. 12). The report found that *some* convergence of corporate tax policies had occurred amongst the member states, mostly in terms of cutting corporate and personal statutory tax rates (*ibid.*, p. 12). Overall, the experts led by Ruding arrived at the conclusion that Community coordinated action was necessary to counter market distortions – *also* due to 'the tendency of member states to introduce special tax regimes designed to attract internationally mobile business, particularly in the financial sector' (*ibid.*, p. 13).

The report – published two years after the Commission's company taxation guidelines in 1990 – can be seen as a confirmation of the Commission's goals and re-strategizing. The expert committee recommended to focus on a number of priorities as to remove those discriminatory and distortionary features of national tax arrangements that impeded cross-border business investment and shareholding (the first phase). Beyond these targeted measures, it advised member states' governments to agree on a minimum and maximum corporate tax rate (30–40%) and a set of minimum standards for the tax base (second phase) explicitly with the goal to limit 'excessive' tax competition between member states that potentially could erode the tax base of the Community as a whole (Commission of the European Communities, 1992b, p. 13). Only in a last instance, the report advised an examination of alternative approaches to determine the most appropriate common corporation tax system for the Community (*ibid.*, p. 15).

Specifically with regard to the future CCCTB, a number of considerations stand out. First, the full harmonization of the corporate tax base is not within the scope of the report's advice. The suggested common rules for the tax base should take the form of minimum standards, different from the CCCTB that would start to be developed less than a decade later. Second, consolidation of the tax base was not seen as a feasible option. In other words, a community-wide system of unitary taxation with revenues apportioned to member states based on a formula – as the future CCCTB would be – was not part of the Ruding Committee's suggestions (Easson, 1992, p. 636). In its summary of the survey amongst European businesses, the report mentioned that the introduction of some form of formula apportionment was 'clearly unpopular' as only 5% found it highly desirable (Commission of the European Communities, 1992b, pp. 107–108). Meanwhile, two-thirds of respondents favored coordination at Community level, in particular with regard to 1) the abolition of withholding taxes on transfers of income of any kind between companies in the EC, 2) allowing of losses made in one country to be offset against profits in another country and 3) dividends exemption method (dividends from foreign subsidiary in EC are exempt from corporate tax in parent's country). There was little variation between different types of respondents, including based on the size of businesses.

The Ruding Report, in the end, did not lead to alterations in the Commission's work plan; in fact, certain key recommendations were already present in newly adopted directives and drafts-in-progress. The function of the Ruding Report was to confirm the plans and re-strategizing of the Commission ('political ammunition', according to Radaelli, 1997, p. 99). Indeed, the Commission interpreted the report as 'unconditional support' to its approach, 'which was that priority should be given to eliminating all forms of double taxation of cross-border income flows within the Community' (Commission of the European Communities, 1992c). At the same time, the Commission expressed 'reservations' with regard to recommendations regarding the rate, base and system of corporation tax – and noted that the minimum rate of 30% seemed too high (*ibid.*). It should be noted that the Commission used the Ruding Report to spur the Council into action and also adopt the two proposals on interest- and royalty payments and on intra-group losses, which did not happen (Commission of the European Communities, 1992a). The Commission's response to the Ruding Report demonstrated its departure from full and comprehensive harmonization proposals towards an endorsement of piecemeal and ad hoc solutions (Panayi, 2013, p. 20). A greater and explicit reliance on market

solutions accompanied this approach as Scrivener's statements above and the Commission's mandate to the Ruding Committee illustrate.

How the Commission's new strategy in the 1990s aligned with organized corporate interests and the role of UNICE

Radaelli (1995, 1997) has argued that, in this period and through the work of the Ruding Committee and its associated emerging epistemic community, a new frame arose of 'subsidiarity, tax wedges, international tax neutrality (i.e. the paradigm of capital export neutrality and capital import neutrality), and a specific attack on tax obstacles' (Radaelli, 1997, p. 101). However, the discussion of earlier reports by the committees led by Neumark and Segré and discussions on corporate taxation show that the issues of tax neutrality and eliminating tax obstacles have been central to the political economy of corporate taxation in the Community since its origin; the Ruding Report further cemented them as a key issues to be solved by the Community. It did, however, co-constitute a shift in priorities. Full harmonization was no longer the priority; instead the principle of subsidiarity resulted in prioritizing smaller coordination steps to address distortions that were identified as urgent for the purpose of cross-border business activities to solve. This aligned with a broader debate in tax law and economics literature at that time concerning the economic aims versus the political feasibility of tax harmonization, which acknowledges that more limited aims might lead towards more (policy) progress (see for example James & Oats, 1998, p. 52).

This shift in strategy of the Commission, the directives adopted in 1990, and the conclusions of the Ruding Report all aligned with the preferences of transnational capital to such an extent that we can conclude that in particular interests of a neoliberal project were articulated by and through forces within the Commission. This is corroborated by a number of observations. First, the business community responded with 'extremely positive comments' to the 1990 policy change (Radaelli, 1997, p. 89). Additionally, UNICE interpreted the new approach of the Commission as 'more selective', and supported it 'wholeheartedly' – subsequently offering a full list of preferred measures for the Community to adopt that showed many similarities with both the 1990 Commission's intended plans as well as the yet-to-be-published conclusions of the Ruding Report (UNICE, 1991, p. 585). Led by its objectives of a (better) functioning internal market and an improved competitive position for European business 'vis-à-vis non-EC based companies', UNICE concluded that any harmonization efforts should result in an overall decreased tax burden

for those corporations operating within the Community (*ibis.*, p. 588). The following quote summarizes UNICE's point of view with regard to corporate tax harmonization in the early 1990s and demonstrates how the Commission's strategy is an almost perfect articulation of these interests:

In UNICE's view, proposals for a comprehensive harmonization of corporation taxes under the current circumstances would indeed have been over-ambitious and even counterproductive in that they would have diverted attention and focus from the much more urgently needed short-term removal of specific fiscal obstacle to cross-border activities. To UNICE it seems in any event questionable whether the effective functioning of the internal market will ever require a total harmonization of corporation taxes (UNICE, 1992, p. 520).

Third, the survey conducted by the Ruding Committee as discussed above shows that priorities identified by business respondents are reflected in the report's recommendations. UNICE indeed reacted most positively to the report and, more importantly, UNICE's assessment of the Ruding Report shows striking similarities with Commissioner's Scrivener's response. Where the Commission saw unconditional support for its strategy in the Ruding Report, UNICE noted 'with great satisfaction' that most of the recommendations were 'in line with its own thinking' (UNICE, 1992, p. 519). UNICE referred here explicitly to a paper that the organization shared with the Ruding Committee a year earlier in 1991, which included UNICE's relevant priorities concerning company taxation. At the same time, both UNICE and Commissioner Scrivener expressed 'reservations' – using that exact term – with regard to proposed harmonization of the rates, base and system of corporation tax (Commission of the European Communities, 1992c; UNICE, 1992).

Last, the early 1990s as a turning point in EU corporate tax policymaking were also strategically used by organized corporate interests to insert themselves as a more permanent feature into the EU policymaking process. In its assessment of the Ruding Report, UNICE (1992, p. 2) claimed that it

regards it as absolutely essential that it should be involved in the forthcoming decision-making and implementation process and its prepared to make a constructive contribution in this respect. In UNICE's view this also implies that, where committees

and working groups are established to elaborate certain recommendations, representatives of business and industries will be invited to join them.

UNICE's subsequent role in designing the CCCTB appears as a direct consequence of the acceptance of Commission and Council of UNICE's demands stated here.

The close involvement and influence of organized corporate interests in the policymaking process corroborates earlier critical analyses of European integration. As discussed earlier the relaunch of European integration was, as argued by Van Apeldoorn (2000, 2002) and followed by others, shaped by a struggle between mainly neoliberal and neomercantilist proponents for which the ERT was the key space through which this struggle took place and increasingly converging interests between class fractions were defined and articulated. He convincingly argued that the ERT had 'an initiating role' in the EU's future internal market program (Van Apeldoorn, 2000, p. 169). Formulated policy goals that ERT reports set out in the second half of the 1980s subsequently appeared in Commissioners' speeches and in Commission's policy initiatives (Bieler, 2005, p. 520). The ERT, however, was not the entity through which detailed policy initiatives were formulated or commented on. CEOs and chairs of Europe's biggest transnational and industrial corporations convened in the ERT and are concerned with broad political strategies and visions for European integration, whereas UNICE as the formal official European federation of national employers' associations and partner in the social dialogue with the Commission is concerned with the details of proposed policies (Van Apeldoorn, 2000, p. 164). The alignment of organized corporate interests with Commission's policymaking, in particular all policies related to the internal market, can therefore help explain why UNICE in the case of corporate taxation both demanded and received new institutional opportunities in the Community's corporate tax policymaking process.

Towards the end of the 1990s: Full harmonization abandoned and tackling harmful tax competition to complete the internal market

In 1993, the Commission presented the *White Paper on Growth, Competitiveness, Employment*. Published to offer European solutions to unemployment, in the paper the Delors Commission sought to combine – or 'find a new synthesis' between – competitiveness, job creation and equality of opportunity (European Commission, 1993, p. 3). It was a reflection of

supranational forces in the Commission that clashed over the ongoing neoliberalization of the European integration project (Wigger, 2008, p. 213). While the paper dedicated an entire chapter to a new social development model for the Community, the core was dedicated to arriving at a more competitive economy in the context of the recently established internal market, because 'the truth is that although we have changed, the rest of the world has changed even faster' (European Commission, 1993, p. 10). To increase competitiveness, and 'make the most of the internal market', a key priority of the member states as identified by the Commission included 'removing tax barriers and harmonizing certain taxes' (ibid., p. 82).

In 1995, a new Commission came into office led by Jacques Santer, the former prime minister of Luxemburg and much less of a federalist than his predecessor Delors. Mario Monti was the Commissioner appointed for Internal Market, Services, Customs and Taxation. Previously President of Bocconi University and professor in economics, Monti became a known agent for neoliberal capital who later, between 2011 and 2013, led the non-elected 'technocrat' government in Italy (Gallo, 2022). Monti's portfolio in the 1990s at the Commission, compared to that of his predecessor Commissioner Scrivener, was not limited to Customs and Taxation only but extended to the Internal Market. Despite promises of the Commission to present new proposals on company taxation after the Ruding Report, no relevant corporate tax developments took place under Scrivener's term. Commissioner Monti kicked off his Commissionership with a discussion paper to the ECOFIN Ministers in March 1996 (Commission of the European Communities, 1996b). The paper aimed to re-incentivize the corporate tax debate in the Council and identified three main challenges. First, the paper drew attention to the stabilization of member states' tax revenues (ibid., p. 2-6). Highlighting shifting tax burdens from capital to labor, the discussion paper pointed out that although tax revenues have remained stabilized, this has come at the cost of the progressiveness of tax systems in member states. Moreover, the Commission argued in the paper that globalization and the liberalization of financial and capital markets – although beneficial in terms of efficiency of resource allocation – had led to increased opportunities for tax avoidance and evasion and thus contributed to tax base erosion around the world. The Commission identified internationally mobile business and capital as a threat in that regard. The issue of unfair tax competition within the European Union was raised, the discussion of which would only intensify with enlargement; Austria, Finland and Sweden would become members at the start of 1995, bringing the total of member states of the European Union to 15.

Second, the functioning of the single market was still impeded by tax obstacles (Commission of the European Communities, 1996b, pp. 6–7). Third, and building upon the 1993 *White Paper on Growth, Competitiveness, Employment* under the Delors Commission, Commissioner Monti argued that the promotion of employment required attention from member states in terms the relative over-taxation of labor (*ibid.*, p. 8). The latter two challenges of the functioning of the internal market and employment are a continuation of the Community's tax policy agenda, whereas the first issue of tax competition constitutes a relatively new one, with Commissioner Monti emphasizing the need to counter 'unfair tax competition' to the extent that it impacted member states' tax revenues.

The Commission's strategy of piecemeal legislation and ad hoc solutions was reaffirmed: the discussion paper did not propose comprehensive tax harmonization. Instead, 'fully respecting the subsidiarity principle', the Commission intended to only propose some degree of harmonization when necessary and resort to 'other tools' when possible (Commission of the European Communities, 1996b, p. 11). However, as a the period after the turning point of 1990 was characterized by an ineffectiveness of the Council to adopt subsequent corporate tax directives, Commissioner Monti in his discussion paper more explicitly called upon member state governments to arrive at 'a deliberate and limited pooling of fiscal sovereignty', arguing that if they had done so earlier they would have 'avoided an unconscious surrender of sovereignty by each of them to market forces, in a field that should remain the prerogative of public policy' (*ibid.*, p. 11). The approach Commissioner Monti took here – cautious in terms of the actual points of action suggested while also stressing that inactivity was no longer an option – was successful (Nouwen, 2021, p. 19). The Finance Ministers had welcomed the discussion paper at an informal ECOFIN meeting in Verona on 13 April (the discussion paper is therefore often referred to as the Verona Memorandum). The most important concrete result of their agreement was the setting up of a High Level Group composed of personal representatives of all Finance Ministers, which culminated in a second paper published by the Commission known as the Monti Report (Hinneken, 1997). The group met four times and also consulted with the European Trade Union Confederation (ETUC) and the UNICE (Commission of the European Communities, 1996a, p. 1b). The Monti Report itself was followed by a tax package presented in 1997 titled *Towards tax co-ordination in the European Union - A package to tackle harmful tax competition* (Commission of the European Communities, 1997).

The Monti Report, the subsequent tax package and the processes leading up to it as well as in the years following, have shaped the content and process of corporate tax policymaking in the EU to this day. The remainder of this section will discuss the Report's impact. In terms of *content*, the High Level Group of member state representatives followed Commissioner Monti's earlier identified main challenges of the functioning of the internal market and employment. The single market was seen as central to creating an environment 'which enables enterprise to flourish', which in turn would 'maintain' and enhance the Union's competitiveness world-wide' (Commission of the European Communities, 1996a, p. 3). In their widely-shared view, corporate tax systems needed to be coordinated to the extent that they would not impede the functioning of the single market. The High Level Group recognized that the introduction of EMU might make tax distortions even more visible, and some representatives expressed concern that the Court judgments would lead to piecemeal development of tax systems (*ibid.*, p. 4). In other words, coordination was seen as necessary and an immediate priority according to the High Level Group was the removal of tax disincentives to cross-border income flows, highlighting in particular the absence of common rules on interest and royalty payments between companies in the Union (*ibid.*). The group also reiterated the issue of employment, identifying unemployment as the biggest challenge the Community faced at that time, and raised a new issue its concern: the environment. It was suggested that increased use of environmental and energy taxes could be used to lift some of the tax burden on labor (*ibid.*, p. 9).

The member states' governments, through their representatives in the High Level Group, downplayed the issue of stabilization of tax revenues that was raised as a key challenge by Commissioner Monti in the Verona Memorandum earlier that year. The Group noted but did not problematize in a similar manner shifting tax burdens from labor to capital, and was much more cautious in signaling the 'progressive erosion of certain fiscal bases' as a definite causal factor (*ibid.*, p. 2).

In terms of the move away from comprehensive harmonization, the member states' governments largely agreed that harmonization was not a goal in and of itself. Indeed, the Monti Report noted that the High Level Group generally gave little support to minimum corporation tax rates or bases at that stage, 'even within the framework of the overall objective of ensuring some minimum degree of effective taxation within the Union' (*ibid.*, p. 5).

Besides the *content* of EU corporate policymaking, the Monti Report also signals a change in *process*. The Monti Report, first, reflects how global political negotiations and the trajectory of European integration are different articulations of similar struggles. Over the course of 1996-1997, 'unfair' tax competition became 'harmful' competition in European lingo – a discursive change that can only be understood through developments within the OECD framework happening simultaneously. The Ruding Committee had already alluded to this issue, but the rhetoric against unfair tax competition and double non-taxation began to arise more clearly at the end of the 1990s, in parallel with the OECD's harmful tax competition project in 1998 that deemed it 'an emerging global issue' (OECD, 1998; Panayi, 2013, p. 20). The OECD's focus was limited, however, to unfair competition for highly mobile capital through financial service centers or portfolio investments (Rixen, 2008, p. 133). The two processes were intertwined: Commissioner Monti had already approached the head of the OECD to discuss their common concerns for tax competition in April 1996 (Sharman, 2006, p. 29). The views on harmful competition amongst member states' representatives did vary on 'the perceived threat' of harmful competition for tax revenues and on the understanding of what an unfair or harmful measure was (Commission of the European Communities, 1996a, p. 5). What was at stake? Competition on the base, through incentives and so on, is often seen as 'distorting' the market and potentially as illegal state aid. Competition on the rate is often seen as more transparent and legitimate, but also as a cause of shifting tax burdens from capital to labor. Member state governments had clear opposing interests with regard to tax competition; a hard law, binding instrument would not have been acceptable to proponents of neoliberal ideas Ireland, the Netherlands and Luxembourg, that functioned as important tax havens for global capital; while governments of Germany, France, Italy and Belgium 'rallied' together against harmful tax competition in 1996-1997 (Sharman, 2006, p. 29). The tax bases of these countries with relatively high tax rates were at risk of erosion due to the tax policies of their Community partners.

A second important institutional change that followed from the Monti Report was the decision to make the High Level Group a permanent body: a taxation policy group in which member state representatives and the Commission could exchange views on tax policies on a more regular basis (Commission of the European Communities, 1996a, pp. 9-10). The group reconvened a number of times over the course of the subsequent year, before Commissioner Monti, based on those discussions, to present a *Communication to the Council*

Towards tax co-ordination in the European Union - A package to tackle harmful tax competition (Commission of the European Communities, 1997). Martijn Nouwen (2021), based on acquired internal documents of the taxation policy group, traced the negotiations towards the tax package presented in 1997 that centered on the founding of the Code of Conduct Group for Business Taxation (COCG). The Code sets out which tax measures are deemed harmful – e.g. tax benefits granted to corporations without real economic activity – and gathers all member states in the COCG to oversee implementation of the Code, in order to roll back such harmful measures while refraining from introducing new ones (Council of the EU, 1998). Although the option for the Code to be a legally binding instrument was on the table, the non-binding character of the instrument was one of the first matters on which member states reached agreement (Nouwen, 2021, p. 23). The Code included an exchange of information and review process that member states ultimately decided should be carried out by a Council working party, *not* by the Commission as the latter had proposed itself (Nouwen, 2021, p. 31). Under Commissioner Monti, the Commission had put itself in a position of coordination – albeit with more cautious approach in terms of substantive proposals. The COCG as a body that was both prepared by and accountable to the Council only, showed that member state governments wanted to retain power regarding which national tax measures would be deemed 'harmful' or not. The Commission was given a technical and advisory role that has become important in certain instances (see Nouwen 2021, chapters 7 and 8). The Council working party was chaired by Dawn Primarolo, a British Labour Party politician and Financial Secretary of the Treasury under Tony Blair, since the start in 1998 until 2007 (she served as the longest-standing chair of the COCG and was succeeded by Wolfgang Nolz, Director-General of the Ministry of Finance of Austria). The COCG, informally known as the Primarolo group under her chairmanship, identified in its first report 66 instances of member states' tax measures that violated the set criteria; only Sweden did not appear on the list. The list was adopted by the Council in 2003, meaning member states committed themselves to eliminate the measures on the list and refraining from introducing new, similar ones in the future. The non-binding, or soft law, character of the Code was not as straightforward as it appeared: with its adoption in 2003 the Council made compliance with the Code a condition for EU membership, making it hard law for accession states, while the Commission re-examined all existing potentially harmful tax measures and opened 15 investigations under state aid law (Genschel et al., 2011, pp. 596–597). Furthermore, Kemmerling and Seils (2009, pp. 769–770) have demonstrated that the focus of the Code on

preferential tax regimes might have been successful in curbing targeted tax competition, but fostered general tax competition at the same time. In fact, the Code on the one hand curbed certain forms of tax competition but in doing so it also legitimized forms of tax competition. For instance, several types of so-called standard rulings that the Dutch tax authority has been issuing since the 1970s with the purpose of providing corporations 'certainty in advance' regarding their possible future tax situation, were deemed as harmful measures by the Primarolo Report (Code of Conduct Group (Business Taxation), 1999). The Dutch ruling practice was therefore reformed, but not before the Primarolo findings were heavily contested by the then Dutch coalition government; Dutch contestation was one of the reasons it took the Council five years to agree the list of harmful measures identified by the Primarolo group (Wolters, 2008, p. 68). The ruling practice was reformed by the Dutch government, and although it became more strict in demanding economic substance in order to be eligible for a tax ruling, it also became less transparent as rulings were no longer published (Van Dijk et al., 2006, p. 36). Moreover, some argued that the new Dutch ruling practice made the Netherlands an even more attractive tax haven than before (Van Geest et al., 2013, p. 84). In other words, the Code led not to the abolishment of the tax ruling practice in the Netherlands, but to its institutionalization, ultimately to the benefit of (mobile) capital fractions.

The tax package presented by Commissioner Monti in 1997 was also of significance for another tax policy that developed through the 1990s: the taxation of capital income, or individual savings. Its origins can be found in the 1967 Tax Harmonization Programme; the road to its adoption in 2003 was long and bumpy, but the 1997 Tax Package revived efforts to seek consensus on how the taxing of this income should take place. Proposals of the Commission in 1998 and 2001 followed and the adoption of the directive eventually occurred due to pressure from the US government as well as built-in exceptions for those countries with large financial services industries that relied on national banking secrecy laws – Luxembourg, Austria and Switzerland (Hakelberg, 2016; Holzinger, 2005). Savy negotiating by the Commission helped the Savings Directive eventually come into being (Sharman, 2006, p. 31). Additionally, the tax package included the abolishment of withholding taxes on interest and royalties within the Union. The Interest and Royalty Directive – first proposed in tandem with the adopted Parent-Subsidiary Directive in 1990 – was adopted in 2003 (Council Directive 2003/49/EC of 3 June 2003 on a Common System of Taxation Applicable to Interest and Royalty Payments Made between Associated Companies of Different Member States, 2003).

The European Community's approach since the end of the 1980s under Commissioners Scrivener and Monti had been to move away from comprehensive harmonization approaches towards a collection of hard law targeted measures (the adopted directives) and soft law instruments (the Code of Conduct Group for Business Taxation). It shaped both the content and process of European corporate tax policymaking in the decades to follow, as did the role of the ECJ as the next section explains.

The growing role of the ECJ in entrenching corporations' freedoms over the necessity to protect tax revenues

The constructed 'necessity' for targeted measures, constituting a limited degree of harmonization, also stemmed from continuous development of corporate tax jurisprudence by the ECJ. Because the harmonization of direct taxation does not have a legal basis in the Treaty and taxes were regarded as an importance instance of national autonomy, for the first 30 years of European integration no ECJ rulings disregarded this paradigm. That changed in 1986 with the Court's decision in the case '*Avoir Fiscale*' which ruled that the principles of community law could be applied to direct tax policies of member states (S. Schmidt, 2018, p. 154). The ECJ has since reviewed the consistency of national tax law mostly with the general non-discrimination principle and the four freedoms – of goods, people, capital and establishment – laid down in the Treaty (Genschel & Jachtenfuchs, 2011). Governments of member states, the Commission and private taxpayers can bring a case to the ECJ. The number of cases has increased in the last decades and broadened to multiple taxation areas, in particular to direct taxation with 20 judgments during 1988–1997, compared to 101 judgments during 1998–2007 (Genschel & Jachtenfuchs, 2011, p. 301). Of all corporate tax cases before the ECJ in the period between 1986–2003, almost all corporate tax cases were brought by a taxpayer through the so-called preliminary reference procedure. Member states 'lost' 80% of these cases, with the ECJ most often ruling that national protective arrangements were inconsistent with the four freedoms of the Treaty (Genschel et al., 2011, p. 599). In particular in the period between early 1990s until mid-2000s, the ECJ routinely applied internal market principles in the direct tax area, while it was more 'prudent' in its decisions before that particular period (Van Thiel, 2008, p. 147).

The ECJ's case law anchored the adherence of national tax measures to non-discrimination and the four freedoms – in this case most relevant the free movement of capital – further into law. Simultaneously, the ECJ has refused

to take into account any concerns for revenue losses, nor did it distinguish between 'harmful' or general/less harmful tax competition in its rulings on tax advantages offered by member states (Genschel et al., 2011, p. 600). Indeed, an extensive legal analysis of the ECJ's direct income tax case law of the ECJ found that it routinely rejected member states' arguments of a need to avoid loss of revenue or to prevent the erosion of the tax base (Van Thiel, 2008, p. 170). Importantly, the direct tax cases also included instances of national anti-abuse tax measures, which are rules in place to counter corporate tax abuse. In most of these cases, the ECJ found that such anti-abuse rules were not compatible with the freedom of establishment (Cerioni, 2015, pp. 117–122). Unless proven that a corporate arrangement was 'wholly artificial' and thus not reflecting economic reality, the ECJ was not inclined to rule in favor of member states. An important example is the landmark ruling *Cadbury Schweppes* in which the ECJ ruled that the UK controlled foreign companies (CFC) law, which is an anti-abuse rule to prevent low or non-taxation on a corporation's foreign income, was a restriction to the outbound freedom of establishment. Although ECJ reviewed one case of the application of UK CFC law, the *Cadbury Schweppes* ruling had a larger effect on CFC rules in the EU; it effectively turned 'the freedom of establishment into a saving clause for tax-saving practices' (Cerioni, 2015, p. 120).

The ECJ's direct tax case law is in line with its general internal market case law in that respect as the ECJ 'has never been too impressed by the potential budgetary impact of its decisions' (Cordewener et al., 2009, p. 1957). As such, the corporate taxpayers' Treaty-based rights to mobility were prioritized over public interests in high and stable tax revenues. Moreover, it legitimized shopping between national tax advantages, which 'has been elevated to the status of a constitutional right' (Genschel et al., 2011, p. 600). Through its direct tax case law, it is widely believed the ECJ ruled the way it did to pressure the Commission and Council towards corporate tax harmonization (Avi-Yonah, 2006, p. 67). Susanne Schmidt (2018, p. 163) has argued that this context explains why the CCCTB has been developed and launched by the Commission. At the very least, the harmonization of corporate tax bases would indeed potentially reduce the number of cases before the ECJ, in particular those involving the principle of non-discrimination (Warren & Graetz, 2006, pp. 1229–1230).

Section 5.1 has shown that a number of material, ideational and institutional elements have shaped corporate tax policymaking and enabled the steps set in

the direction of the CCCTB that are central to the subsequent period discussed in the next section. First, overall European integration – especially through the design of the EMU – followed global restructuring of power relations and moved towards a trajectory characterized by embedded *neoliberalism*. In this context discussions on corporate tax harmonization increasingly emphasized a ‘necessity’ to eliminate tax obstacles, which had been discussed for a long time but had never materialized into legislative action. The Commission’s two-track strategy in which the urgency of targeted, smaller measures was continuously prioritized over ambitions for comprehensive harmonization aligned with organized corporate interests. The latter became more vocal and visible, explicitly and actively taking a position in the formal policymaking process, in particular through UNICE. Although tax neutrality, efficiency, the common market and competitiveness had been core principles and goals guiding the Commission’s policy initiatives since the 1960s, during the 1990s these policy proposals were to a lesser extent the result of a theoretical exercise of what an internal market should look like, but rather a political project supported and articulated through organizations representing corporate interests in Brussels. The influential role of the ERT in shaping the broader internal market program can help explain why organized corporate interests were now more actively involved and offered institutional opportunities compared to previous decades. The move to increasingly neoliberal trajectory of European integration was further entrenched through ECJ case law that – bound by the Treaty – decides predominantly in favor of corporate interests. The institutionalization of tackling harmful tax competition in the EU, which was undeniably bound up with simultaneous international initiatives within the OECD, demonstrated that the only way in which member state governments accepted action against the so-called harmful tax regimes was through a soft law instrument notorious for its lack of transparency, with very little power for the Commission, and more often than not actually not curbing harmful tax competition at all. This is the context in which the so-called Company Study was carried out by the Commission in 2001 and that further consolidated the approach of decoupling the ‘necessity’ of targeted measures to be implemented swiftly from more comprehensive and politically contested proposals (Panayi, 2013, p. 25). The study was requested by the ECOFIN Council at the end of 1998 and reviewed both targeted and comprehensive solutions to obstacles that had been identified by earlier reports and to new ones – such as posed by globalization processes (European Commission, 2001c). Here, for the first time, the CCCTB was proposed as one of four options for a future, comprehensive EU corporate tax system.

5.2 The origins and development of the CCCTB, 2000–2011

A new Commission took office in 1999 under the Italian center-left Romano Prodi. Mario Monti remained Commissioner but exchanged his portfolio of the single market and taxation for competition. He was succeeded by Frits Bolkestein, the previous leader of the right-wing liberal party (VVD) in the Netherlands. His party had just experienced an election victory at home and his departure from Dutch politics was unexpected, but he 'vowed to continue his fight for free markets there' (Oudenampsen, 2018, p. 160).

Under Bolkestein's Commissionership the Company Tax Study was published in 2001 which can be considered the founding document for the CCCTB. The Council had asked the Commission to conduct a study to investigate further measures in the field of company taxation already in 1998, before Bolkestein took office (European Commission, 2001c, p. 3). The result was a Commission staff working paper entitled 'Company Taxation in the Internal Market' – but commonly referred to as the Company Tax Study – published in October of 2001. The mandate for the study was as follows and is a culmination of prevailing issues discussed so far – the functioning of the internal market and the associated concern for harmful tax competition, national autonomy, competitiveness and employment:

This study will be undertaken in the general context of the Vienna European Council conclusions emphasizing the need to combat harmful tax competition whilst taking into account that cooperation in the tax policy area is not aiming at uniform tax rates and is not inconsistent with fair tax competition but is called for to reduce the continuing distortions in the single market also in view of stimulating economic growth, and enhancing the international competitiveness of the Community, to prevent excessive losses of tax revenue or to get tax structures to develop in a more employment-friendly way (ibid., p. 2).

Importantly, the Commission staff was assisted by two different panels in preparing and writing the study. One panel consisted mostly of academic

and experts¹ and one panel of experts 'from among the business community and social partners at Community level' (European Commission, 2001c, p. 4). In terms of representation, organized corporate interests were articulated through the participation of seven organizations: Confédération Fiscale Européenne (CFE), European Federation of Financial Executives Institutes (EFFEI), Eurochambres, Eurocommerce, European Round Table of Industrialists (ERT), International Fiscal Association (IFA), and UNICE. Smaller corporations were represented through the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME, now SMEunited), European Centre of Enterprises with Public Participation (CEEP) and Trans European Policy Study Association (TEPSA) were members of the panel as well. The center-left project can be considered represented through ETUC only. Two additional studies on effective taxation across the Community were outsourced to the Institute for Fiscal Studies (IFS – London), the Centre for European Economic Research (ZEW –Mannheim) and the University of Mannheim. The panels met separately as well as jointly during the period July 1999–January 2001, with a total of 16 times.

The report took stock of corporate tax developments in the Community since the Ruding Report a decade earlier, taking into account influential changes in global political economy: globalization and the associated growing international competition as well as an increase in TNCs and international mergers and acquisitions, the increasing use of electronic commerce, and the use of offshore centers which had expanded during the 1990s (*ibid.*, p. 20-21). The largest change since 1990 was of course the establishment of the Internal Market, and the report concluded that the then 15 separate national tax systems still constituted barriers to cross-border trade, establishment and investment. From the perspective of business, therefore, the (administrative) burden of transfer pricing, the near impossibility of cross-border loss relief, tax charges associated with cross-border reorganizations and instances of double taxation were identified as the core problematic consequences of the situation (*ibid.*, p. 8).

The Company Tax Study suggested two concurrent approaches of targeted solutions seeking 'to remedy individual obstacles' as well as 'more

^{1.} Members of the panel of academics and experts: Prof. Krister Andersson (Swedish Institute for Economic Research), Prof. Jacques Le Cacheux (Université de Pau and OFCE), Prof. Michael Devereux (Warwick University), Prof. Silvia Giannini (Università degli Studi di Bologna), Dr. Christoph Spengel (Universität Mannheim), Maître Jean Marc Tirard, Prof. Frans Vanistendael (Universiteit Leuven).

comprehensive solutions which seek to address the underlying causes of the obstacles', whereby it pointed out that the first 'piecemeal' approach alone would not address most or all tax obstacles (ibid., p. 11). The Commission staff explicitly related the need for a joint approach to the jurisprudence of the ECJ, noting that '[w]hile the ECJ has made a significant contribution to the removal of tax obstacles for companies, it is unlikely that the interpretation of the Treaty is sufficient to address all tax obstacles to cross-border activity' (ibid., p. 12). The two-track strategy discussed earlier was thus still in place, but the emphasis on comprehensive solutions was now stronger.

The more comprehensive or 'all-embracing approaches' were, according to the Commission staff, more in line with the philosophy of a single market (ibid., p. 306). To that end, the Company Tax Study evaluated four different options for such comprehensive approach: Home State Taxation, a CCCTB, a European Union Company Income Tax, a Single Compulsory Harmonized Tax Base in the EU. Home State Taxation entailed that corporations would compute their tax base according to the rules of the member state where in which they are headquartered, their home state. This approach would be especially beneficial to SMEs (Interview Business representative #6; Interview Business representative #7). The European Union Company Income Tax would include a harmonized corporate tax base like the CCCTB, but 'in its purest form' also be administered by a new single tax authority and with one single EU tax rate (ibid., p. 377). The tax would thus be levied by a new EU institution and its revenues would first be used for EU funding and any left-overs would be allocated between member states. This option of essentially a federal EU tax was regarded as politically contentious (Panayi, 2013, p. 24). The final option of a Single Compulsory Harmonized Tax Base differed from the other three in that it would be compulsory for all corporations in the EU, whether they are operating only domestically or not. All national tax systems would cease to exist, and national tax authorities would administer the same harmonized tax system (a new EU tax authority is thus not included in this scenario). Because it required member states to give up the power to set their own rules to tax corporation, the Company Tax Study did not discuss this option in substantial detail (European Commission, 2001c, p. 379).

That then left Home State Taxation and the CCCTB as the two only options that were seriously considered. Business representatives had expressed their preference for the creation of a single set of rules (or: a harmonized tax base), the optionality of the system – whichever system was eventually adopted, and the

retention of the power for member states to set national tax rates (ibid., p. 378). These preferences reflected broader corporate interests in certainty through one set of rules; flexibility, because as long as the EU-wide system was optional, corporations could opt for domestic law to apply in case this would result in a lower tax burden; and preserving inter-state (tax) competition. The CCCTB was the only of four options that fit the bill. In fact, the Company Tax Study also stated that the CCCTB approach 'is advocated in particular by some business representatives' (ibid., p. 14), and that specifically 'UNICE, amongst others has floated the concept of a 'Common Base' for taxation across the EU' (ibid., p. 370). UNICE itself had, since the Ruding Report, become somewhat impatient with the lack of any progress on corporate tax policy – particularly regarding the abolition of withholding taxes on interest and royalties – and noted that: 'This situation is not satisfactory for the European business community' (UNICE, 1999, p. 76). In a position paper in 1999, timed in line with a new Commission and the launch of the euro, UNICE repeated its core interests and concerns again. In response mostly to the work of the COCG as well as the 1997 tax package, its proposed suggestions can be interpreted mostly as targeted solutions. In terms of comprehensive approaches, 'UNICE does not believe that full harmonization of company taxation will ever be needed in the EU', but saw 'the possibility of introducing an optional single European Corporation Tax – applicable on a consolidated result and levied by a single body – deserves to be studied' (ibid., p. 79). A year later, in 2000, its continuing frustration with the EU tax agenda that 'takes little or no account of real business needs for measures to remove tax obstacles' apparently led it to re-evaluate this earlier caution regarding a more comprehensive approach. Now seeing the 'urgent need' for such an approach, a memorandum was published as 'an initial contribution to a debate on the introduction of an optional European system of taxation aimed at enterprises, of all sizes, with business activities in different Member States' (UNICE, 2000, p. 4). UNICE was very clear and explicit in its preference: optional common tax base taxation should be the target to solve cross-border company taxation problems (ibid., p. 11 & 13).

Legal tax scholar Christiania Panayi (2013, p. 24) argued that the Company Tax Study shaped future developments in the area of corporate tax law as most of the proposed targeted solutions were implemented either voluntarily or as a result of ECJ rulings. In terms of comprehensive approaches, the Company Tax Study was accompanied by the Communication *Towards an Internal Market without tax obstacles. A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities*. The title already revealed the

Commission's preference – the system as proposed by UNICE. The Commission (2001a, p. 16) believed it to be 'only logical' to move company taxation towards this goal:

A consolidated corporate tax base for the EU-wide activities of companies would contribute to greater efficiency, effectiveness, simplicity and transparency in company tax systems and remove the hiatuses between national systems which provide fertile ground for avoidance and abuse. It would reduce compliance costs, allow the EU to reap the full benefits of the Internal Market, thus increase the competitiveness of EU business and lay the foundations for achieving the goals set by the Lisbon European Council.

It is noteworthy that already here countering corporate tax avoidance and abuse was included in the potential aims a CCCTB could achieve. The Company Tax Study did not offer enough detail for the Commission to draft an actual legislative proposal. As a first step therefore to follow its 'endorsement of the fundamental concept of a common company taxation system in the form of a consolidated corporate tax base for the Internal Market as the most promising way to increase efficiency and company competitiveness' was structured dialogue (ibid., p. 19). The dialogue would involve governments of both member states and candidate countries, business representatives and economic operators, senior tax professionals and academics, as well as the social partners. To start of the dialogue, the Commission organized the European Company Tax Conference in April of 2002.

The European Company Tax Conference exemplifies the common-sense ideas about corporate taxation are hardly challenged

The importance of the European Company Tax Conference was that it signified the start of a policymaking process that explicitly and increasingly relied on the active involvement and input of corporate interests. As an attending journalist reported: 'the Commission is to be congratulated for opening its internal debate to a wide audience. It took a big risk and should be commended for opening to the public a process that for too long has been closed to the parties that are most affected' (Weiner, 2002b, p. 8). The conference in 2002 also reflected that there was little difference in views on a consolidated corporate tax base between different corporate industries or sectors. Partly the reason for this is that no details were yet known as an actual legislative proposal was

not tabled, but importantly there were virtually no disagreements on core elements of the idea so far.

The conference was opened by Bolkestein who claimed that 'Without determined action on the tax front, the EU will fail to achieve its self-imposed objective of becoming, in this decade, "the most competitive and dynamic knowledge-based economy in the world"' (Bolkestein, 2002). Bolkestein framed the consolidated corporate tax base for the EU-wide activities of companies as advantageous for corporations, foremostly, in terms of compliance costs and competitiveness – while also claiming that it would 'allow the EU to reap the full benefits of the Internal Market'. The Commission interpreted the high degree of interest and participation from corporations, member states including tax authorities, and academics as a sign that the proposal for comprehensive harmonization was seriously considered by all.

The conference also confirmed the indicated preference of the Commission itself, and amongst participants the consolidated corporate tax base was most-favored as the way forward as well. At the time, this carried significance also because it indicated a move away from the view that the arm's-length principle as 'the only legitimate basis for taxing foreign companies' towards endorsement of consolidation of the corporate tax base on the basis of formulary apportionment, at least within the EU (European Commission, 2002). It was seen as a 'bold step' in comparison to the Ruding Report almost a decade earlier where 'the word apportionment was still a devil's word' (Albert Radler, a member of the Ruding Committee as quoted in Weiner, 2002a). The acceptance of a system based on unitary taxation and formulary apportionment – what the CCCTB embodied – was in opposition to the institutionalization of the arm's-length principle through the OECD and its 1995 Transfer Pricing Guidelines (Rixen, 2008, p. 129). The possible mismatches between the arm's-length principle applied internationally through the OECD guidelines and formulary apportionment possibly to be implemented in the EU, were therefore pointed out by the head of the Centre for Tax Policy and Administration at the OECD, Jeffrey Owens, during the conference (Weiner, 2002b, p. 6). The argument of potential difficulties between an EU formulary apportionment system and policies in the rest of the world was quickly repeated by several corporate representatives.

The latter also shared firm agreement that the future EU system – whatever it would turn out to be – should be optional. The secretary-general of UNICE,

Philippe de Buck, reiterated their joint position – reached ‘after a great deal of internal debate’ – supporting the strategy of addressing specific tax obstacles in the short term and a more comprehensive approach in the long term, while emphasizing the urgency behind that first track (de Buck, 2002). Tax authorities, ‘not surprisingly’ voiced an opposing opinion, concerned that it would require them to retain expertise in the arm’s-length system *and* develop new expertise in formulary apportionment methods (Weiner, 2002b, p. 3). Moreover, it could intensify tax competition and lead to budgetary problems for member states’ governments. We see here how the relative autonomy of state institutions is articulated through budgetary and expertise concerns and leads to contestation between state and non-state agents, in spite of shared common-sense ideas on competitiveness of the EU.

The Commission, represented by the (then) director of the Tax and Customs Union directorate Michel Aujean, already lifted a tip of the veil on which direction the Commission’s legislative proposal would take when noting that: ‘the optional component (...) is the only reason EU businesses accepted the idea of moving toward a common base’ (Weiner, 2002b, p. 3) – demonstrating that the Commission’s choices followed the articulated corporate demands for the direction of EU corporate tax reform.

There were few voices present at the conference, or in the subsequent policymaking process for that matter, challenging dominant ideas on corporate taxation generally and agreements on the CCCTB specifically. A notable exception was ETUC whose secretary-general emphasized the shift in tax burden from capital to labor resulting in its ‘socially unjust distribution’ within the EU (Weiner, 2002b, p. 7). Moreover, he pleaded for ending harmful tax competition, harmonization of rates in tandem with the corporate tax base, and decision-making based on majority voting, calling out the ‘phoniness’ of national sovereignty arguments by member states and corporations (Gabaglio, 2002). He directly related corporate taxation to wider ‘overall societal responsibilities of companies’, but was the only participant doing so (*ibid.*).

Such counter-hegemonic ideas were not articulated by the representative of the European Parliament, rapporteur Benedetto Della Vedova under whose lead a majority of the Parliament had adopted a resolution on the Commission’s views on Company taxation in the EU (European Parliament, 2002). Although merely an advice, it is relevant to note that despite the fact that the center-left forces in the Parliament (a combination of the Social Democrats, Greens and

GUE/NGL) accounted for 42% of the seats, which is 8% more than in the period 2019-2024 that will be under detailed investigation in subsequent chapters, the position of the Parliament largely followed that of the Commission and UNICE. Repeating much of the Parliament's resolution, Della Vedova in his speech emphasized the benefits of tax competition in the EU and that tax policies – particularly the tax rate – must remain a national competence (Della Vedova, 2002).

The Commission's strategies to overcome the institutional obstacle of unanimity

In the following period, the Commission – thus supported in its two-track strategy by the Parliament as well as by influential business organizations – strategized on how to navigate the formal decision-making process in which its powers were severely limited due to the unanimity principle. Although member states' governments seemed unanimous in 'broadly welcoming' the targeted solutions in the short- and mid-term, their views diverged on 'the long term solution' of a single consolidated corporate tax base (European Council, 2002, p. 5). The Commission used policy documents to publicly emphasize the need for member state governments to act and demonstrate commitment to cooperation and it sought intra-institutional cooperation with the Parliament to strengthen its position.

A 2003 communication entitled '*An Internal Market without company tax obstacles. Achievements, ongoing initiatives and remaining challenges*' emphasized the noticeable skepticism, hesitancy and reluctance of member state governments in regard to the long-term goal of harmonization (European Commission, 2003, p. 5). In its communication, the Commission pointed towards continued unanimity in taxation and the ECJ to spur governments into cooperative action, arguing that 'in the absence of political coordination, tax obstacles will be addressed by the ECJ' (ibid., p. 6). It used the opportunity, moreover, to stress the support for the long-term goal from 'the business community', which the Commission argued could also be seen through the debates organized by business organizations in Brussels following the 2002 European Company Tax Conference (ibid., p. 11).

Although the Commission acknowledged that slow progress on their long-term goal of a harmonized corporate tax base was to be expected, a non-paper on the CCCTB in the following year, again, aimed to draw out member state governments and get them to take position on the matter. In line with the

argument voiced by Commissioner Bolkestein above, the non-paper directed at ECOFIN Council emphasized the importance of a strong EU market: 'in order to take full advantage of the Internal Market companies need to have the possibility of using a CCCTB for their economic activities in the EU. Without such a tax base their rivals from the USA and also Japan will retain a distinct competitive advantage' (European Commission, 2004a, p. 1). Underlining, again, the wide support from 'the European business community', the non-paper presented a number of core, conceptual issues relating to the CCCTB and asked the ECOFIN Council to indicate their degree of support and share any views on the specific issues raised here. Among these core issues were the compulsory or optional character of the CCCTB system with the Commission expressing a slight preference for the latter; whether the CCCTB should apply to all companies including SMEs or larger companies only; whether the IFRS accountant standards as developed within the private International Accounting Standards Board (IASB) should be the starting point of calculating the tax base or a set of guiding tax principles; and, last, if the possibility of enhanced cooperation should be considered. Consistent with its approach so far, the Commission found it important to stress towards the Council that tax rates are not included in harmonization efforts and, instead, highlighted the benefits of tax competition which 'may strengthen fiscal discipline to the extent that it encourages Member States to streamline their public expenditure, thus allowing a durable reduction in the overall tax burden' (European Commission, 2004a, p. 3).

The interests of large business organizations in having a harmonized and consolidated corporate tax base were thus actively put forward by the Commission at the time, as well as explicitly supported by the Parliament. At its own initiative, the Parliament adopted a resolution in 2005 to respond to discussions on corporate tax harmonization, including the Company Tax Study, as well as the subsequent Commission's proposals on the CCCTB in its 2003 Communication and 2004 non-paper. The main aim of the resolution, also referred to as the 'Bersani report' after its rapporteur Pier Luigi Bersani who was a member of the Socialist Group (now Socialists & Democrats [S&D]), was to express support for the Commission's work so far and to spur on member states towards closer cooperation. The Parliament (2005, para. 7) expressed its regret that

some Member States still reject the need for greater cooperation on tax matters, in particular with regard to the tax bases applicable to companies, bearing in mind the fact that coordination between

the Member States with regard to company taxation is one of the instruments laid down in the integrated guidelines for implementing the new Lisbon Strategy.

Throughout its report, the Parliament consistently linked corporate tax base harmonization to the Lisbon agenda of competitiveness, growth and jobs. It reiterated its above discussed position that tax competition is beneficial to the internal market and that 'the claim that tax competition may be harmful is contentious' (European Parliament, 2005, Section III).

In doing so the Parliament followed the Commission that earlier in the same year (2005) firmly embedded its work on taxation policies broadly, as well as the CCCTB specifically, within the EU's overall Lisbon Strategy (European Commission, 2005b, para. 2.1.1). However, the Commission's DG TAXUD took a somewhat more nuanced position than the Parliament on tax competition, noting that some degree of it is 'healthy and can have positive economic effects', but the main purpose of a tax system was to bring in revenues that finance public services (European Commission, 2005b, p. 4). In that same vein, the Commission warned for non-taxation and erosion of tax revenues as the 'unintended' effects of the lack of coordination in taxation within the EU (European Commission, 2006a). Even though the issue of non-taxation and resulting erosion of tax revenues was mentioned in the context of corporate taxation, it was always firmly associated with principles of efficiency, competitiveness and the functioning of the internal market; fairness or justice were not considered in this respect. Moreover, the concerns for base erosion were never leading arguments for EU corporate tax coordination generally and a CCCTB specifically, but merely mentioned by the Commission strategically to appeal to member state governments with possible revenue concerns.

The CCCTB working group: a strategy to push member state governments and to institutionalize the influence of organized corporate interests

The consensus that started to form around the CCCTB as the desired long-term goal for the EU's corporate tax policy still faced a lack of unanimous agreement in Council. The setting up of a working group, on the one hand, brought governments regularly together to discuss the details of a possible CCCTB and, on the other hand, created a new institutional opportunity for business organizations and representatives to voice their demands and shape future policy. This section first describes the functioning of the working group

itself and how the Commission used the working group to push member states to help develop a legislative proposal following the increasing consensus on the CCCTB. Second, this section argues that organized corporate interests, articulated in particular through BusinessEurope (known as UNICE up until 2007), were present and heard to such an extent that it ultimately shaped the key elements of the 2011 CCCTB proposal.

Anticipating weak commitments or a lack of concrete input from governments with regard to its non-paper on the CCCTB in 2004, the Commission expressed its intent to set up a working group of member state representatives, because the 'possible alternative, an independent expert committee ('wise men group'), is unlikely to be successful and would risk resulting in a report outlining a possible common base which would simply be ignored' (European Commission, 2004a, p. 4). It fit the Commission's strategy of pushing governments to go into debate on the actual details of a CCCTB, without demanding outright political commitment to its implementation. With the work of the working group well underway, the Commission officially announced in 2005 that it planned to present a fully developed CCCTB proposal in 2008 (European Commission, 2005b, p. 5).

After the Council gave its support to the commencement of the working group, it held its first meeting in November 2004 (European Commission, 2004c). The approach mandated by the Council was shaped by a number of considerations, most importantly that the purpose was 'not to change the current level of taxation', the International Accounting Standards and International Financial Reporting Standards (IAS/IFRS) should be used as a tool for defining the base, and the work should be guided by an established set of tax principles reflecting the Lisbon Strategy (European Commission, 2006b, p. 4).

The working group was composed primarily of representatives or experts from member state governments and was chaired by an official from DG TAXUD. The terms of reference set out that the Commission could hold meetings in 'extended formation' and invite 'up to twenty individual experts from business federations and associations and academic institutions' (European Commission, 2004b, p. 2). Other non-state agents, such as labor unions or civil society organizations were not anticipated to join. There was some disagreement about the role of the so-called 'non-governmental experts', with some member state representatives expressing hesitance of non-governmental experts present during discussions between governments (European Commission, 2004c, p. 4).

The Commission concluded that 'non- governmental experts may be invited on specific occasions for clearly defined purposes' (ibid., p. 5). The terms of reference were, moreover, explicit in the role of the working group to provide technical assistance, not political (European Commission, 2004b, p. 2).

Ultimately, the working group met 14 times over the course of 2004–2010, with most meetings held in the years 2004–2007 in which the working group met on average four times a year. Out of the 14 meetings, five were held in 'extended formation', meaning that non-governmental organizations were invited to participate. An overview in Annex II offers details on each of the 14 meetings, including the involvement of non-governmental groups – as the Commission defines them. The working group met around four times per year up until April 2008, with sub-groups on specific issues more often.

The CCCTB working group started with a focus centered on four issues (European Commission, 2006b, p. 6): General issues, structural technical elements of the tax base, structural legal aspects, and consolidation at group level and allocation of the tax base (ibid. p. 5). The second issue covered the entire harmonization of the base; because of its wide range, this issue was further divided into different categories and subgroups were set up to discuss them separately into more detail before reporting back to the working group ((1) Assets and their depreciation, (2) Reserves, provisions and liabilities, (3) Taxable income and (4) the International aspects of the CCCTB). Later on, two new subgroups on dealings with group taxation and the sharing mechanism had been set up (European Commission, 2007c, p. 4).

In an update on the functioning of the working group halfway through 2006, the Commission noted that participation by member states in the group 'so far been encouraging' (European Commission, 2006b, p. 5). In the update, the Commission remarkably noted that it envisioned the CCCTB to lead to a broader corporate tax base (which according to its impact assessments at the time of launch in 2011, would not be the case). Seeking to strengthen the intra-institutional support for the CCCTB, the Commission's update also took explicit note that the Parliament was in agreement with Commission staff on the necessity of consolidation from the start rather than postponing it until after tax base harmonization, and on the idea to start with the CCCTB as a voluntary system that could potentially transition into a compulsory one later on (p. 7-8). These two issues as well as the consideration on accountancy standards were presented as key issues in further development of the CCCTB.

Besides the update, the Commission used the moment to spur on, again, member state governments to demonstrate 'more commitment', identifying as most important signs of a lack of commitment the continuous defense of national tax systems, postponement of discussions of contested elements and a growing discrepancy amongst member states in their resources committed to the working group (p. 8-9).

In response to the Commission's explicit demand for more concrete commitment, the ECOFIN Council in May of 2006 concluded that the work coordinated by the Commission on the CCCTB should continue, but that any political decisions could only be made once a formal legislative proposal accompanied by an impact assessment were published. In other words, member state governments refrained from taking a position in full support or opposite regarding the CCCTB, instead choosing to wait until working group discussions had been finalized and a legislative proposal was on the negotiating table. The only agreement governments were apparently able to reach was that the CCCTB working group should 'aim for a simple, transparent and broad tax base' (European Council, 2006).

Five of the 14 working group meetings were held in so-called 'extended formation', which included business representatives and academics. According to the Commission, the purpose of such meetings was to ensure adequate consultation and to 'benefit from the collective expertise of business practitioners' (European Commission, 2007c, p. 4). One 'more specialized' meeting was dedicated entirely to the application of the CCCTB on the financial sector, with business experts to 'discuss the particularities of this sector' (ibid.). The overview of the working group meetings in Annex II shows that for each extended meeting, far more than the 20 'non-governmental experts' included in the terms of reference attended. Representatives from a variety of organized corporate interests organizations participated: UNICE, FEE (Fédération des Experts Comptables Européens, now Accountancy Europe), CFE (Confédération Fiscale Européenne), EUROCHAMBRES (Association of European Chambers of Commerce), EBF (European Banking Federation), AmCham (American Chamber of Commerce), EBIT (European Business Initiative on taxation), UEAPME and CEA (European Federation of National Insurance Associations). Academics that joined were mostly associated with the EATLP (European Association of Tax Law Professors) or CEPS (Centre for European Policy Studies). The OECD Secretariat also participated in most 'extended formation' meetings.

Besides attendance of the working group meetings, non-governmental groups were also invited to share written comments. The only organization to submit written comments for the majority of meetings of the working group was UNICE, with at least 15 papers with comments on issues that were on the group's agenda. The comments shared by UNICE were characterized by a high level of detail and increased in volume over the course of the working group's process.

Attendance of meetings and submitting written comments, although explicitly invited to do so, do not necessarily equal influence. Towards the end of the working group's work, in 2007, it became more and more clear how the envisioned elements of the CCCTB by the Commission incorporated the points made by organized corporate interests throughout the process. First, the Commission explicitly stated that the choices that it needed to make for the eventual proposal – which at that point was still planned for 2008 – would be based on the work of the working group as well as consultation with business and academia, and on 'the best interests of the European Community' particularly 'the programme for improved growth and employment and enhanced EU business competitiveness' (European Commission, 2007c, p. 6).

Second, key documents at the end of the working group process explicitly include preferences of organized corporate interests on important issues. It concerns two important documents the Commission drafted in 2006 and 2007 to explain the progress of the CCCTB working group (European Commission, 2006b, 2007c) and the presentation of possible elements of a technical outline (European Commission, 2007b, 2007a). At one of the last meetings at the end of December 2007, which took place in extended format, the business community had expressed:

their support for a comprehensive and long term solution to the tax obstacles business is facing in the EU which are: double taxation, increasing transfer pricing requirements, lack of cross border loss relief and administrative complexities. More specifically, the business community restated their preference for optionality, consolidation and the one-stop shop approach. They also referred to a recent KPMG survey, which provides evidence that companies are not satisfied with the current corporate tax system within the EU and would welcome a new comprehensive pan-European company tax system (European Commission, 2007d, p. 2)

The preference for an optional system, the intention to include consolidation immediately in the legislative proposal and the idea of a 'one-stop shop' that 'some sections of business have strongly advocated' were all part of the Commission's position towards the CCCTB as well (e.g. European Commission, 2007c, p. 7). This intervention of 'the business community' also demonstrates little difference existed in the points of view of the various business organizations listed earlier; there seemed to be mostly consensus on the key parts of a CCCTB. The position papers shared in preparation for this working group meeting at the end of 2007 by UNICE, EBIT, Eurochambres, the Federation of German Industries (BDI), Association of Foreign Banks in Germany and Tax Executives Institute (TEI) show indeed high degree of agreement (all position papers can be found through the CCCTB working group website via European Commission, 2010b).

Third, the input of in particular UNICE seemed to be valued equally to that of member state governments. The Commission's 'possible elements of a technical outline' was in fact the document closest to the eventual CCCTB proposal in 2011. In an annotated version of the document drafted for the purpose of the working group's last meeting, the Commission listed points of agreement and contestation between member states' representatives in the working group as well as BusinessEurope (which had by then officially changed its name). For example, the document noted the opposition of a number of member states regarding the optionality of the CCCTB system 'as a potential danger in terms of compliance costs and of tax panning' (p. 7), juxtaposing this with Business Europe's strong endorsement for an optional system for business.

From the CCCTB working group to the CCCTB proposal

The analysis of the work of the CCCTB working group showed that around the early 2000s a consensus within organized corporate interests on the CCCTB had led the Commission to make work of the CCCTB as *the* long-term solution for corporate taxation in the EU's internal market. The setting up of a working group was a strategy of the Commission to involve member state experts as much as possible in developing the CCCTB proposal, increasing chances of agreement in the Council negotiations that would follow the presentation of the actual legislative proposal. The strategy can be identified through the Commission's continuous emphasis on the role of member state

governments with respect "to both the CCCTB as well as targeted measures,² for example: 'The success of these initiatives will depend on Member States' willingness to co-operate and to invest in co-ordinated solutions' (European Commission, 2006a, p. 8). Part of this strategy was also repeatedly pointing out that cooperation in the working group was not interpreted as political commitment, and that harmonization of tax rates were not under discussion – both issues important conditions for most member states to participate. At the same time, the working group was a direct result of in particular UNICE inserting itself into the EU's corporate tax policymaking process earlier on and the institutionalization of organized corporate interests with regard to the development of the CCCTB specifically.

In terms of content, at the end of the working group's mandate and visible in particular in the Commission's envisioned elements for a possible CCCTB proposal, decisions seemed to have been made that ultimately also defined the CCCTB proposal in 2011: an optional system, no formal link between the corporate tax base and the accounting standards³, the inclusion of financial institutions in the system, rules for the pooling of assets for the purpose of depreciation, rules for the consolidation of a corporate group, the inclusion of assets, labor and sales as the three factors in sharing the corporate tax base amongst member states for the purpose of levying taxes. Interestingly, an element that did not make it to the CCCTB proposals years later was the Commission's effort to increase its own power in taxation. It had proposed that the future directive should contain as little detailed provisions as possible as such details could be placed in implementing measures adopted through a so-called 'Comitology' procedure (European Commission, 2007b, p. 4). Essentially, that procedure would offer more power to the Commission as these measures needed to be adopted by a Committee of member state representatives based on qualified majority voting instead of unanimity. The opposition to this mechanism voiced by MS in the working group is reflected in the ultimate CCCTB proposal in 2011 that did not mention the Comitology procedure and only very limited instances of Commission's right to delegated acts (European Commission, 2007a, p. 5).

² One of these targeted measures proposed is the proposal to allow for cross-border loss relief within a corporate group in the EU. (2006 824 final), which is regarded as 'an intermediate solution pending the adoption of a CCCTB' (p. 7).

³ Having been subject to debate since the commencement of developing the CCCTB, this result derived mainly from the fact that too many companies across member states did not or were not able to use IFRS as accounting standards (CCCTB/WP/68/en, p. 1)

In terms of scope, at this point the CCCTB was regarded as a system for all companies. An earlier proposed pilot experiment for the Home State Taxation system for SMEs only by the Commission (COM(2005)702 final) – intended to develop in tandem with development of CCCTB for larger companies – was not carried through (European Commission, 2005a). In was, in the end, ‘rejected by the Finance Ministers’ around 2005 (Interview Business representative #6). Only in September 2023, the Commission formally referred to it, noting that ‘Member States never implemented the recommended solutions of the pilot project’ when it launched a similar but more limited initiative ‘Head Office Tax system for micro, small and medium sized enterprises’ (European Commission, 2023a).

A number of issues were also left undecided, such as anti-abuse rules. A period of over two years passed by without the working group convening again. The intended date for the first legislative proposal in 2008 passed without news from the Commission. The legislative drafting of the proposal took longer than expected, with the Commission signaling in 2010 that the new date of a CCCTB proposal was the first quarter of 2011 (European Commission, 2010c, p. 2). At a follow-up workshop in 2010 – in which 76 representatives of organized corporate interests participated besides member states’ governments – a number of these outstanding issues were discussed.

5.3 Concluding remarks

During the first decades of European integration, discussions on corporate tax harmonization took place mostly through expert committees led by academics that proposed both grand and small measures to harmonize corporate taxes with the purpose of establishing and improving an internal market in which cross-border investments would be made without obstacles – as if it were a national market. Although many ideas and policy proposals were discussed, no legislative proposal for the harmonization and consolidation of the corporate tax base was negotiated in the Council in detail.

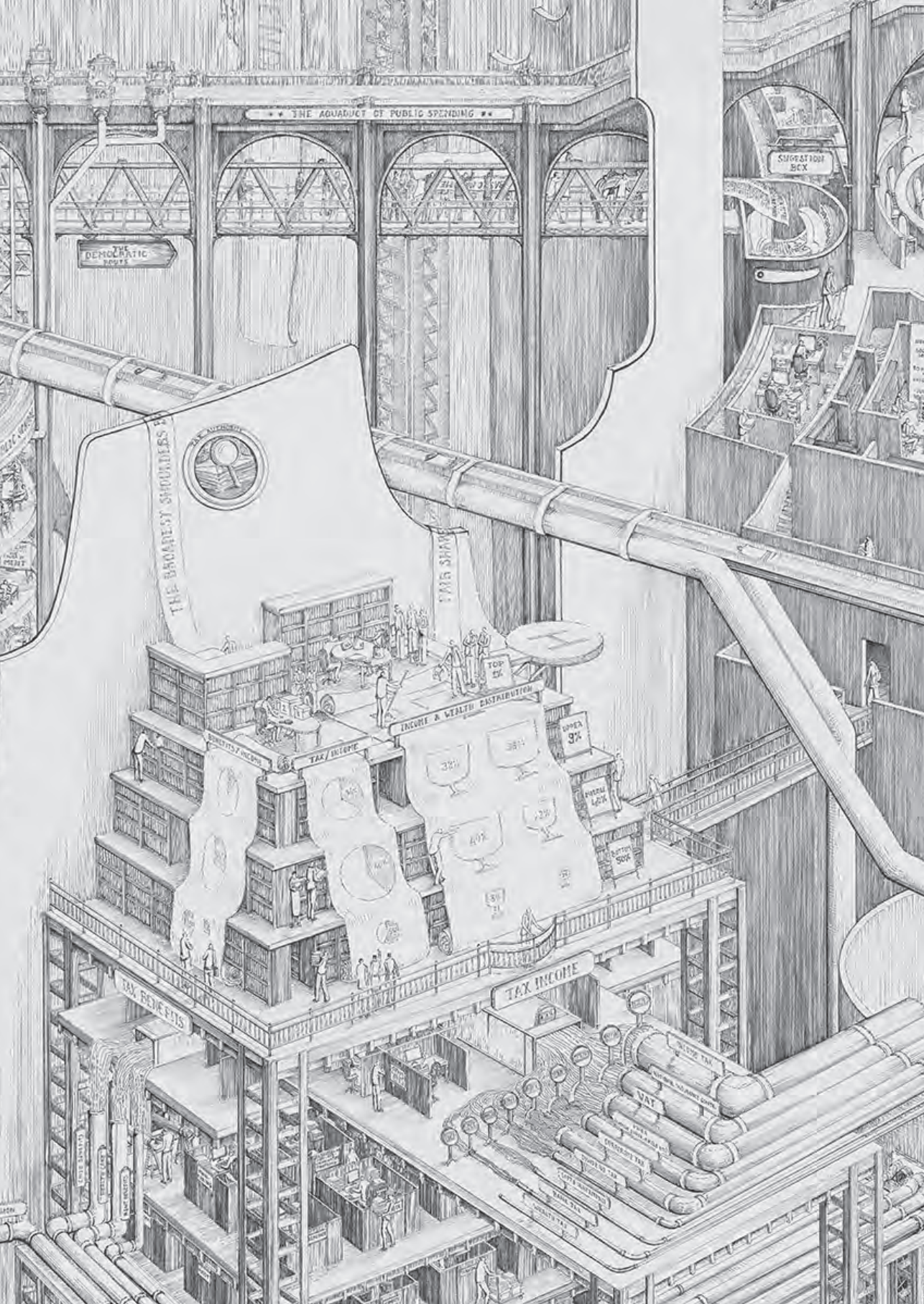
Assuming that the ensemble of state institutions that make up the EU are strategically inscribed to select for ideas and actions in the interest of dominant social forces can help explain both continuities and changes in the direction of the EU’s corporate tax policies since its establishment. The functioning of the internal market as the primary goal, which was cemented into the EU’s

legal and institutional framework, ensured that consecutive expert reports as well as policy proposals focused on eliminating tax obstacles to cross-border investments within the EU.

Changes in strategically inscribed institutional structures are the result of material changes and strategic action. The rise of an embedded neoliberal project during the 1980s and 1990s was enabled by the global crisis of capitalism and the associated crisis of European capitalism, as well as the actions of social and political forces bound up with transnational European capital. This period was used to relaunch European integration as an embedded neoliberal project (Van Apeldoorn, 2002). In the context of this conjunctural moment, organized corporate interests were able to more strongly insert themselves as active participants in the corporate tax policymaking process. Throughout the 1990s and early 2000s, the Commission created space and – in the case of the CCCTB working group – institutionalized participation for business organizations well beyond its traditional social partners.

This chapter demonstrated how key agents – most importantly through UNICE – strategically acted through writing position papers, developing policy proposals, making public statements and holding meetings. As a result, their interests and the consensus amongst them were reflected in EU corporate tax policies. The development of the CCCTB with UNICE's proposal and their active involvement in the subsequent working group is an important case of this dynamic. It resulted in UNICE's proposal for a CCCTB that was ultimately selected as the only viable policy option and the establishment of a CCCTB working group that was not merely lobbied by interest groups; instead, the participation of organized corporate interests was part of the core of its functioning.

The following chapter, 6, details the CCCTB proposal from 2011 and the key changes in content, form and scope compared to the relaunched CCCTB in 2016. Chapter 7 then dives into the diverging and overlapping interests of the relevant corporate agents through an exploration of how the ideal-types of the neoliberal and neomercantilist hegemony projects (first laid out in chapter 2.4) can be recognized throughout this struggle over corporate tax harmonization. Based on the detailed operationalization presented in chapter 3, the focus is on each hegemony project's situation analysis, scalar focus, central strategy and key agents.



6. The details of a changed CCCTB: A comparison between the CCCTB proposals in 2011 and 2016

The leading research question of this dissertation is: what explains the timing of the relaunch of the CCCTB in 2016 and the changes in content form and scope? This chapter compares the CCCTB proposal published in 2011 with the relaunched CCCTB in the form of two legislative proposals in 2016.¹ In doing so, it offers a detailed analysis of the explanandum of this dissertation. Without the policy details, it is impossible to understand what exactly is contested and what it at stake in the struggle over corporate tax harmonization. Because the chapter does not actually aim to explain – it is not part of the explanans – it can be interpreted as an intermezzo.

The remainder of this section details the key changes in the content, form and scope of the CCCTB between the 2011 and 2016 proposals. The order in which this chapter discusses key changes in content, form and scope reflects the degree of contestation they were met with. That includes the change in policy objectives; the changes in form and scope – from a one-stage to a two-staged approach and from an optional to a mandatory system; and the addition of tax incentives and anti-abuse rules. Certain elements of the CCCTB remained the same, but they are still included in this chapter as they remained important points of contestation – primarily the consolidation of the corporate tax base and the formula it would be based on, as well as the absence of the harmonization of corporate tax rates. Table 6.1 summarizes these key changes in the content, form and scope of the CCCTB between the 2011 and 2016 proposals in the exact order as they are discussed in this chapter.

^{1.} These cover 85 and 99 pages, respectively. This chapter does not discuss every article of the proposed Directives, but highlights those elements of the CCCTB that are subject to most contestation.

Table 6.1: Key differences between common consolidated corporate tax base proposals in 2011 and 2016.

	CCCTB 2011	C(C)CTB 2016
Policy goals	Efficiency, competitiveness and improving the functioning of the internal market through: Lowering administrative burden for business, creating a one-stop shop for tax returns, facilitating cross-border activities	2011 goals remained and were expanded with fairness. The anti-avoidance function of the CCCTB – through taxing where value is created and minimizing mismatches between national tax systems – is emphasized
Form	One proposed directive for harmonization and consolidation of tax base	Two-staged approach leads to two proposed directives: CCTB and CCCTB. The CCTB now includes a temporary (until CCCTB is in place) cross-border loss relief, which was unnecessary in 2011
Scope	Voluntary for corporations to opt in	Mandatory for corporations with group revenues >750 million EUR
	Permanent establishments also includes entities/activities outside of the Union (third countries)	Definition 'covers only permanent establishments situated within the Union and belonging to a taxpayer who is resident for tax purposes within the Union' (CCTB 2016)
Content	Debt bias (no deductions for increasing equity) Research and Development: immediate deduction scheme, i.e. all costs of research and development are deductible (art. 12) Includes CFC rules, general anti-abuse rule (GAAR), interest limitation, exit tax, switch-over clause	Allowance for Growth and Investment (AGI) Research and Development: immediate deduction scheme (art. 9.2), and additional allowance scheme (additional deductions possible of 50% (<20,000,000), 25% (>20,000,000), and 100% (in case of small start-up companies) Anti-tax avoidance rules have been aligned with ATAD: CFC, GAAR, exit taxation, interest limitation, switch-over clause, hybrid mismatches

6.1 Changing policy goals

The CCCTB will make it easier, cheaper and more convenient to do business in the EU. It will also open doors for SMEs looking to grow beyond their domestic market. Today's proposal is good for business and good for the EU's global competitiveness (European Commission, 2011d).

With these words the Commissioner for Taxation, Customs, Anti-Fraud and Audit, Algirdas Šemeta, presented the first legislative proposal for the harmonization and consolidation of corporate tax bases in the EU, in March 2011. Indeed, the CCCTB in 2011 was presented as a tool to 'make business easier and cheaper' (European Commission, 2011d). In the proposed directive in 2011, the Commission problematized over-taxation and double taxation as issues that corporations with cross-border activities face. Identifying different national tax systems at the root of these issues, the Commission proposed common tax base rules. Harmonization and consolidation of corporate tax bases in the EU, the Commission argued, would reduce over-taxation in cross-border situations and thus help improve 'the tax neutrality conditions between domestic and cross-border activities to better exploit the potential of the Internal Market' (European Commission, 2011c, p. 5). Lowering 'heavy' administrative burdens and 'high' tax compliance costs were also explicit policy goals of the CCCTB in 2011 (ibid., p. 4). Overall, these specific CCCTB policy goals were intended by the Commission (2011c, p. 4) to contribute to overarching objective of 'smart, sustainable and inclusive growth':

The CCCTB is an important initiative on the path towards removing obstacles to the completion of the Single and was identified in the Annual Growth Market Survey as a growth-enhancing initiative to be frontloaded to stimulate growth and job creation.

This firmly embedded the CCCTB within the EU's competitiveness agenda in the wake of the financial crisis that centers export-led growth and was premised on the neoliberal idea that 'Eurozone economies can compete themselves out of the crisis through 'pro-competition' reforms' (Wigger, 2015, p. 118). Part of those reforms were lowering corporate tax burdens. The CCCTB did not directly ensure this, but contributes indirectly. The CCCTB proposal in 2011 emphasized that member states' governments retain the power to set rules for financial accounting as well as their own tax rates. In particular the latter

is of importance as it does not eliminate tax competition between EU member states; rather, the lack of harmonization of tax rates is expected to increase tax rate competition (Davies & Voget, 2008; Genschel et al., 2011; Redoano, 2014), thus lowering taxes on corporate income. The Commission framed this as 'fair tax competition', which was explicitly encouraged by the CCCTB proposal (European Commission, 2011c, p. 4). Moreover, the CCCTB was expected to result in a smaller total corporate tax base as the impact assessment by the Commission (2011a) as well as academic research estimates (Cobham, Janský, et al., 2021; Cobham & Loretz, 2014; Fuest et al., 2007). A decreasing corporate tax base and intensified corporate tax rate competition within the together potentially increase the EU's global competitiveness, but to the detriment of public revenues collected by member states.

Whereas the word 'fair' occurred seven times and mostly in combination with (fair) tax competition or (fair) value in the CCCTB proposal in 2011, tax fairness was a leading policy goal of the CCCTB proposals in 2016. Importantly, fairness was reframed as a leading objective directed towards countering tax avoidance and other abuse. When introducing the objectives of the proposal, the Commission argued that in a more globalized, mobile and digital global economy, business models and corporate structures are increasingly complex and profit shifting by TNCs has therefore become easier (European Commission, 2016a, p. 2). The Commission noted that the mismatch between the workings of the global economy and the taxation of corporate income on national level is further deepened due to the divergence of national corporate tax systems, which has such 'allowed aggressive tax planning to flourish over the last decade' (European Commission, 2016a, p. 2).² The Commission related the problematization of these facts (indirectly) to the politicization of corporate taxation as well as global corporate tax reform negotiations under the auspices of the G20/OECD, as the CCCTB proposals in 2016 stated: 'It has lately become clear to the international community that the current rules for corporate taxation no longer fit the modern context' (ibid.). This is

² This context was not unknown to the Commission in 2011; it was, however, not identified as a problem as such. The CCCTB proposal in 2011 noted the potential difficulties for national tax authorities to manage two tax schemes: the CCCTB and their national corporate income tax. However, the proposal argued that this 'is compensated by the fact that the CCCTB will mean fewer opportunities for tax planning by companies using transfer pricing or mismatches in Member State tax systems' (European Commission, 2011c, p. 6). Tax planning was only referred to in this context. It was not dubbed as 'aggressive', nor was tackling it one of the key aims of corporate tax harmonization and consolidation in 2011.

the context that the Commission offered for its expansion of policy goals of the CCCTB in 2016. Constituting a change compared to the CCCTB proposal in 2011, there were now two main objectives. The CCCTB proposals were, first, presented to contribute to fair taxation of corporate profits. The Commission argued that the CCCTB is a tool to attribute income where value is created as it moves away from transfer pricing methods and the arm's length principle to attribute taxable profits to various jurisdictions. Instead, the CCCTB uses three equally weighted factors (assets, labor and sales) to attribute income to EU member states. As such, the Commission argued, the CCCTB is more 'resilient' to aggressive tax planning practices (European Commission, 2016a, p. 2). Fairness was not the only leading principle for the Commission to relaunch the CCCTB in 2016. Efficiency, or efficient taxation, was the second objective of the CCCTB proposals. Like in 2011, considerations of a high administrative burden for corporations as well as the possibilities of instances of double taxation were problematized by the Commission. The CCCTB, in its relaunched form, therefore 'would also retain its features as a corporate tax system which facilitates cross-border trade and investment in the internal market' (European Commission, 2016a, p. 2). The harmonization and consolidation of corporate tax bases in the EU were presented to create a fair *and* efficient system of taxation. Rather than contradictory, the two policy objectives were emphasized by the Commission to go hand in hand. As 'guardian' of the Treaties, this can be explained by the Commission's overarching goals. The legal basis of harmonizing corporate taxation is dictated by Article 115, which relates any such efforts directly to the establishment or functioning of the internal market (Treaty on the Functioning of the European Union. Article 115 (Ex Article 94 TEC)., 2016). Indeed, the Commission legitimized its proposal for a CCCTB in 2016 with the argument that current tax systems cause both the risk of double taxation and of double *non*-taxation, and therefore 'distort the functioning of the internal market' (European Commission, 2016b, p. 2). As guiding principles for the CCCTB in 2016, fairness and efficiency are reiterated in a broader context than taxation alone. At the start of his election as President of the Commission, Jean-Claude Juncker presented his Agenda for Jobs, Growth, Fairness and Democratic Change (Juncker, 2014), in which he singled out 'A Deeper and Fairer Internal Market' as one the ten policy areas of his focus. These so-called political guidelines of Juncker were worked out into detail in the Commission's work program in 2015 that stated: 'we will focus on the 'big things' like jobs and growth' (European Commission, 2014a, p. 2). This broader agenda explains why the CCCTB was presented as contributing to fair and efficient taxation specifically, and to 'sustainable growth and

investment within a fair and better integrated market' more broadly (European Commission, 2016a, p. 2). The continued prioritizing of the (functioning of) the internal market by the Commission to under Juncker's Presidency, demonstrate that the expanding principle of tax fairness is still entrenched in the same neoliberal adage of the EU's primary purpose.

6.2 Changes in form and scope: splitting the CCCTB in two stages and abandoning optionality

The proposed form for tax harmonization and consolidation are directives. The legal basis of the CCCTB proposals stipulates that the Council can adopt only a directive and not a regulation (Treaty on the Functioning of the European Union. Article 115 (Ex Article 94 TEC)., 2016). After adoption by the Council, a regulation is directly applicable in EU member states whereas a directive first needs to be transposed into national law in each member state. Another possible form for harmonization would be legally non-binding soft law measures, by way of recommendations of the Commission, Council agreements within the Code of Conduct group or other instruments. The Commission, in the 2016 explanatory memorandum as well as in the accompanied impact assessments in 2011 and 2016, stated that soft law is an inappropriate means as it would not lead to harmonization but instead to approximation of laws at best (European Commission, 2016a, p. 6). The Commission feared that member states' governments would not implement recommendations or agreements in similar vein, or not implement them at all, undermining one of the main stated aims of a CCCTB – lowering administrative burdens for companies. Moreover, the Commission argued that it would increase legal uncertainty compared to the current situation (European Commission, 2016a, p. 6). Similar to 2011, the harmonization and consolidation of corporate tax bases in 2016 was therefore proposed in form of a directive rather than a soft law instrument.

One of the most important changes between 2011 and 2016 was the move to a two-staged approach. Where the 2011 proposed directive included both harmonization and consolidation of the tax base, these were split up into two separate directives in 2016. The Commission, in its Action Plan for 'A Fair and Efficient Corporate Tax System in the European Union' in 2015, identified the CCCTB as one of key five actions of 'a more comprehensive European approach to corporate taxation' (European Commission, 2015c, p. 2). The Action Plan argued that difficult debates in the Council, in particular regarding

consolidation of the tax base, were 'holding back potential progress on other important elements of the proposal' (European Commission, 2015c, p. 8). The Commission therefore proposed a step-by-step approach, which entailed that discussions on consolidation were postponed until after agreement on a common tax base. This materialized in the form of a two-staged approach, in which two directives were presented 'simultaneously and as part of a single initiative' (European Commission, 2016b, p. 3). Nonetheless, only when agreement was secured on the common base would discussions have moved to the second 'C' – that of consolidation. There was, however, no legal obligation for the Council to adopt directive(s) implementing the second stage once a common base is adopted. This means that the Council and Commission were negotiating solely elements of the common corporate tax base, at least until the Commission's communication on *Business Taxation for the 21st Century* in which it announced a new directive titled Business in Europe: Framework for Income Taxation (BEFIT), presented in September 2023 (European Commission, 2023b).

The 2016 proposed directives also changed the scope of the CCCTB. Participation in the new tax system for all corporations with consolidated group revenues of more than €750 million would be mandatory, whereas this was not the case in 2011. This was argued to be proportional, as 'groups with high revenues tend to own sufficient resources which would allow them to engage in aggressive tax planning strategies' (European Commission, 2016b, p. 5). For those corporations an optional CCCTB – as the one proposed in 2011 – would allow them to continue their tax avoidance practices. Moreover, this threshold was in line with other EU directives and OECD standards. In terms of the scope, it meant that 'the vast majority (ca. 64%) of turnover generated by groups' was captured while not risking that 'purely domestic groups' were included (European Commission, 2016b, p. 8). Smaller companies that fall outside of this scope could choose to opt in when they met certain conditions. These conditions aligned with those for consolidation in order to create alignment between the CCTB and CCCTB proposes directives: 'This will ensure that once the full initiative materializes with the adoption of consolidation and the apportionment formula, all taxpayers under the rules of the common base will automatically move into the CCCTB scheme' (European Commission, 2016b, p. 9). Tax incentives were included in the CCTB in order to, amongst other things, stimulate start-up companies in particular to opt in.

The corporate groups to which the 2016 CCCTB proposed directives would apply consisted of parent companies, qualifying subsidiaries and permanent establishments (PEs). In particular the latter are often subject to discussion. If a corporate group does not own a subsidiary in a certain state while conducting activities there, the activities might be considered to be a PE for tax purposes. That would mean that the host state, in which the PE is located, can tax its income. What counts as a PE is dependent on applicable national law, bilateral treaties, and/or international agreements. The PE definition included in the 2016 proposals was aligned with the recommended definition of a PE in the OECD Model Tax Convention that was adapted based on the OCED's BEPS project. Different from the proposal in 2011, the PE definition in 2016 only covered establishments within the EU and belonging to a taxpayer resident in the EU.

6.3 The harmonization of the corporate tax base: key differences and similarities

An exercise in 'copy-paste'; that is what the 2016 CCCTB proposed directives largely were according to a business representative (Interview Business representative #5). Indeed, it is true that many elements in terms of harmonization and consolidation from the 2011 proposed directive remained the same or very similar in 2016. This applies also the calculation of the tax base, which is at the core of harmonization of the corporate tax base.

The tax base was defined broadly, which means that all corporate revenues are taxable, unless explicitly exempted in the directive. The tax base was defined as revenues, less exempt revenues, deductible expenses and other deductible items. Deductible expenses included the costs of sales and all expenses incurred with a view to obtaining or securing income, including the depreciation of fixed assets. Fixed assets were identified in the CCCTB proposals; they have to be subject to 'wear and tear', which excludes land and fine art for example. Financial assets were excluded in this regard. Office and industrial buildings, machinery, certain intangible assets were all depreciable assets. The directive also identifies category of fixed assets that were not depreciable individually, but only in a pool of assets. The Commission was empowered here to adopt delegated acts to set more precisely certain definitions, categories and calculations (Art. 32(6), 40). Besides minor changes, the depreciation regime remained largely similar 2011 and 2016.

Deductible expenses and items included many elements; the most heavily contested in the struggle between hegemony projects over the CCCTB concerned two tax incentives introduced in the 2016 proposals.

The first was a tax incentive for research and development (European Commission, 2016b, Article 9). Such incentives are very common, although not uncontested. Both the CCTB proposal in 2016 and the earlier 2011 proposal included the possibility of immediate deduction of all research and development costs (in the year they are incurred). However, the 2016 CCTB proposals also allowed for additional deductions that can annually amount to 150%, instead of 100%, of the incurred research and development costs. If such costs were below a threshold of EUR 20 000 000, an additional 50% might be deducted. Of all costs beyond this threshold, 25% might be deducted. If a corporation met certain requirements (a small start-up company) it could even deduct an additional 100% of such costs, which means that the deducted amount is twice as much as the actual research and development expenses.

6

The second was the Allowance for Growth and Investment (AGI). This element aimed to reduce the debt bias, as expenses for taking on debt (interest) are generally deductible, whereas a deductible equivalent for taking on (more) equity is often not – and at least not in the 2011 version of the CCCTB. AGI entailed a deduction of the taxable base equal to a notional yield on the increase of the AGI equity base. The equity base was ‘the difference between the equity of a tax payer and the tax value of its participation in the capital of associated enterprises’ (European Commission, 2016b, Article 11.1). On the increase of this equity base, an annual notional yield might be calculated (‘equal to the yield of the euro area 10-year government benchmark bond in December of the year preceding the relevant tax year’, Art 11.5) which subsequently might be deducted from the taxable base. In this manner, AGI was supposed to ‘neutralize’ the bias for debt-financing and against equity financing. To achieve this in another way, the CCTB could have excluded the deductibility of interest altogether. The AGI risked to be abused by taxpayers with the purpose of tax avoidance. The 2016 proposals did not include AGI specific anti-tax avoidance rules (“AGI SAARs”), but did empower the Commission to adopt such rules in potential future delegated acts (see Grilli, 2018 for an elaboration on the SAARs included in the Italian allowance for corporate equity).

Related to the calculation of the tax base, and a key point on which hegemony projects differ in their view, concerned the relation between the CCCTB and

accounting standards. The previous chapter demonstrated that this has been a key topic of discussion throughout the development of the CCCTB proposal since the 2000s. Both the CCCTB proposals in 2011 and 2016 did not take as its basis a corporate group's financial statements drawn up in line with accounting standards. TNCs are required to file financial statements that convey their business activities and financial performance. EU-listed corporations are obliged to draw up financial statements in line with the IFRS, which are the accounting standards most commonly adhered to globally with the US as a major exception (Regulation (EC) No 1606/2002, 2002). Both the 2011 and 2016 CCCTB proposals did not refer to the IFRS, which means that for the purpose of the CCCTB, a corporate group needed to calculate its tax base following rules set out in the proposals, instead of extracting figures from their IFRS financial statements.

Changes in anti-abuse rules: the CCCTB 'going beyond' BEPS

The expansion of the relaunched CCCTB's policy objectives was reflected in the emphasis on anti-abuse measures. These affected the calculation of the corporate tax base (harmonization). The CCTB in 2016 included a number anti-avoidance of measures, or anti-abuse rules, that *limited* deductible expenses and items. This section discusses both specific anti-abuse rules (SAARs) and the general anti-abuse rule (GAAR) proposed in the CCTB proposal and how they differ, or not, from the CCCTB proposal in 2011.³

With regard to these measures, another directive needs to be briefly discussed. A few months before the relaunch of the CCCTB proposals, the Anti-Tax Avoidance Directive (ATAD I, and later on ATAD II) was adopted on 12 July 2016. This directive was the result of the EU's intention to jointly implement minimum standards that were agreed upon within the context of the BEPS project, coordinated by the OECD (chapter 9.4 will return to the politics of BEPS). In some ways, ATAD goes beyond the minimum standards (Ginevra, 2017). ATAD constitutes five 'rules against tax avoidance practices that directly affect the functioning of the internal market' (EU, 2016) – one general and four specific rules. Member states were required to introduce all five rules into national law by 1 January 2020. Anti-abuse rules were also included in the CCTB proposal in 2016. It was expected that in the case of adoption, these anti-abuse rules would have been adapted to align with the adopted and amended ATAD.

³ A more detailed discussion of these anti-avoidance measures that were included in the 2016 CCTB proposal and the extent to which they differ from the 2011 proposal is included in Annex III.

The specific anti-abuse measures in the CCTB in 2016 included an interest limitation that was in line with the minimum standard agreed upon within the OECD in the context of the BEPS project. This rule differed from the 2011 CCCTB proposal. Generally speaking, corporate tax regimes allow for the deduction of interest from taxable income. This type of deduction can be abused by corporate groups in order to avoid paying taxes: by setting up financing structures between entities of the same corporate group that result in large interest payments, a corporate group can artificially lower its taxable income in one (high-tax) country while increasing its income in another (low-tax) country.

The interest limitation rule in the CCTB proposal entailed that borrowing costs were deductible up to the amount of interest or other taxable financial revenues a corporation received. As such, taking on debt was stimulated. However, all borrowing costs that exceeded a corporation's financial revenues, the interest deductibility was limited. The interest limitation rule was presented in the context of an approach against profit shifting towards low-tax jurisdictions (European Commission, 2016b, p. 10).

A second new anti-abuse measure in the 2016 CCTB proposal was an exit tax (European Commission, 2016b, Article 29). Essentially, it proposed that a member state would tax a transaction when it concerned the transfer of assets, tax residence or business from its jurisdiction to another member state or third country, while its ownership did not change – for example from a head office in country X to a PE in country Y. In cases of such transfers, the member state in question might lose its right to tax income that was created within its territory. To protect its taxing right, a state can tax such transactions. According to tax law scholars, the exit tax was another case where the changing narrative of EU tax policy became evident (Peeters, 2017; Szudoczky, 2018). Although the 2011 CCCTB proposal included a similar measure, its scope was broadened under the 2016 CCTB proposal, presumably due to its aim to counter tax avoidance as well as to adjust to a two-staged approach.

Two other related measures had the purpose of combating avoidance: a switch-over clause and a rule on CFC. Both target foreign income that has been little or not taxed elsewhere. This situation often leads to double non-taxation, as such income is generally exempt from taxation in the resident country of the taxpayer. Although the 2011 proposal was not presented to have an explicit anti-tax avoidance aim, these two rules were also included

at that time. A key difference between the switch-over clause and CFC-rule is that the former targets distributed profits originating third countries, while the latter aims to tax undistributed profits within the EU as well as in third countries. Within the CCTB proposal, the switch-over clause only applied to income from entities in which the taxpayer in EU had a minimum holding of 10% in the capital or 10% of the voting rights (subsidiaries), and not to PEs. The CFC-rule did take into account income from the latter category. A CFC-rule is now in place, due to the adoption of ATAD in 2016, whereas a proposed switch-over clause in that same directive was ultimately not agreed upon in Council negotiations.

Last, the GAAR was argued by the Commission (2016b, p. 15) to 'have the function of tackling abusive practices that have not yet been dealt with through specifically targeted provisions', meaning it addressed gaps between specific anti-abuse measures that already exist and new tax avoidance practices that are constantly invented by corporations and their advisors. Compared to 2011, the GAAR in 2016 was broader defined. It stipulated that non-genuine arrangements – or arrangements that 'are not put in place for valid commercial reasons that reflect economic reality' (European Commission, 2016b, Article 58(2)) – were to be ignored by member states in the calculation of the tax base. The 2011 anti-abuse rule explicitly stated that in case the taxpayer is able to choose between two or more possible transactions which have the same commercial result but that produce different taxable amounts, it is allowed to choose the most beneficial one. According to Vanistendael (2018), who offers a detailed comparison between the GAARs of 2011 and 2016 proposals and ATAD, this definition derived from the Court's case law, whereas the changed formulation in 2016 is derived from the OECD BEPS agreements and its joint EU implementation through ATAD.

6.4 The consolidation of a harmonized corporate tax base: key differences and similarities

The second step of the CCCTB, after harmonization, is consolidation. In 2011, this was included in the overall CCCTB proposal. In 2016, the second step was a separate legislative proposal. Consolidation essentially means that the tax bases of all members of a group are added together into a consolidated tax

base (European Commission, 2011c, Article 57(1), 2016a, Article 7(1)).⁴ This means that the tax base would be calculated not for one corporate entity only but for a CCCTB group as a whole. Transactions between group entities as a result of trading goods and services or financing and ownership structures would cease to matter for tax purposes. That radically changes possibilities of profit shifting that depend on using such intra-group transactions to lower profits in high-tax countries and increase profits in low-tax countries. Subsequently, after consolidation, the common tax base would be shared between group members based on a formula. The formulary apportionment mechanism was thus decisive concerning which member state tax authorities got to tax how much of the corporate tax base of a corporate group.

There are two key matters to the consolidation of a common corporate tax base at the core of why hegemony projects – although with different, opposing interests – were in favor of a CCCTB. The first is that consolidation allows corporations to offset profits and losses across the EU, which benefits any corporation active in more than one EU member state. The second is the formula that can potentially ensure a division of taxing rights that reflects real economic activity.

In the absence of a common consolidated tax base, which is the current situation of 27 national tax systems, options for cross-border offsetting of profits and losses are very limited. Consolidation constitutes a clear advantage for corporations as their taxable profits in one country can be offset against potential losses in another country. At the same time, it negatively impacts government revenues as this mechanism would decrease the total taxable corporate base in the EU based on estimations that greatly vary due to the used methodology and available data: 3% (European Commission, 2011a, p. 26), 4.2% (Nerudová & Solilová, 2019, p. 162), 12% (Cobham & Loretz, 2014, p. 29), 21% (Cobham, Janský, et al., 2021, p. 41), or 22% (Fuest et al., 2007, p. 619). Despite these differences, all studies find that the driving factor behind the decrease in the tax base is due to the cross-border loss relief mechanism.

⁴ Consolidation also comprised of Articles on how a group under the CCCTB regime (a CCCTB group) would be defined, what the effect of leaving and entering of a group on different elements, such as depreciation, provisions, losses, the effect of business reorganizations, the rules on dealings between the group and other entities and between associated entities (CCCTB 2011, Chapter 8-13, 15; CCCTB 2016, Chapter 3-7). These elements of consolidation remained largely the same. Moreover, this research did not find these elements to be points of contestation and therefore does not discuss their details.

The separation of the harmonization of the corporate tax base and the subsequent consolidation into two proposals in 2016 raised the question of what would happen in terms of cross-border offsetting of profits and losses during the negotiation and adoption of the first step, which was harmonization through the CCTB proposal. According to Article 40 of the CCTB proposal, a company under the CCTB regime was allowed to offset losses with future profits, as long as it would not result in a negative amount. But an EU common tax system should also foresee in offsetting losses *across* borders as the 2011 CCCTB proposal already did. The Commission therefore included in its two-staged approach of 2016 a temporary transition rule that allows cross-border loss relief in the first stage (harmonization) while the second stage (consolidation) was under negotiation. At the moment, there is no common comprehensive system within the EU for cross-border loss relief, in spite of efforts of the Commission during previous decades (Da Silva, 2018, pp. 80–85). Article 42 of the proposed CCCTB directive in 2016 therefore stipulated that a company would be allowed to deduct the incurred losses of its immediate qualifying subsidiaries⁵ and PEs. The offset losses would be ‘recaptured’ in following profitable years, which entailed that subsequent profits made by immediate subsidiaries and PEs would be added back to the company’s tax base up to the amount previously deducted as a loss. In order to counter abuse of this rule through forever loss-making subsidiaries, the Article directed that if no profits were made five years after the offset of such losses, these would be automatically ‘reincorporated’ into the company’s tax base. The proposed Article was intended to be temporary as the second stage of consolidation would have automatically included cross-border loss relief.

A second crucial element of the CCCTB and an important point of contestation was the formula, or apportionment mechanism. It defined how the EU-wide corporate tax base of a group is apportioned among group members and, thus, to different member states for the purpose of levying corporate income taxes. It contained a shift in taxing rights of states and therefore constituted a potential structural change in international taxation, even if it would be ‘only’ implemented in the EU. The formula proposed by the CCCTB consisted of three factors that were equally weighed: assets, employment and sales (CCCTB

⁵ An immediate qualifying subsidiary was defined by Article 3(1) as follows: ‘A qualifying subsidiary means every immediate and lower-tier subsidiary in which the parent company holds the following rights: (a) it has a right to exercise more than 50 % of the voting rights; and (b) it has an ownership right amounting to more than 75 % of the subsidiary’s capital or owns more than 75 % of the rights giving entitlement to profit’.

2016, Article 28; CCCTB 2011, Article 86). Importantly, this was the same formula as proposed in 2011.

$$\text{Share A} = \left(\frac{1}{3} \frac{\text{Sales}^A}{\text{Sales}_{\text{Group}}} + \frac{1}{3} \left(\frac{1}{2} \frac{\text{Payroll}^A}{\text{Payroll}_{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^A}{\text{No of employees}_{\text{Group}}} \right) + \frac{1}{3} \frac{\text{Assets}^A}{\text{Assets}_{\text{Group}}} \right) * \text{Con'd Tax Base}$$

The sales factor consisted of ‘the proceeds of all sales of goods and supplies of services after discounts and returns, excluding value-added tax, other taxes and duties’ (European Commission, 2011c, Article 95(2), 2016a, Article 37(2)). It did not include revenues that are exempt from the tax base, interest, dividends, royalties and proceeds from the disposal of fixed assets, unless they were revenues earned in the ordinary course of trade or business. Following the consolidation of all group member’s tax bases, intra-group sales of goods and supplies of services would not be included in the sales factor either. The sales factor was attributed to the group member in the country of destination, which means that a group member’s tax base was allocated to the place ‘where the dispatch or transport of the goods to the person acquiring them ends’, or the last identifiable location of the goods (European Commission, 2011c, Article 96(1), 2016a, Article 38(1)). When it comes to the sales of services, these would be allocated on the basis of where the services were physically carried out or actually supplied goods (European Commission, 2011c, Article 96(2), 2016a, Article 38(2)). However, some services are carried out in a different state than where most of the recipients or users of such services are located, for example in the case of consultancy, financial services, advertising, information providers, telecommunications; in particular in the context of digitalization of business models, these services are of importance, highly profitable and easy to operate from afar. Indeed, this directly relates to recent political negotiations on ‘digital taxes’ (Lips, 2020). The CCCTB formula did not reflect these services in its sales factor.

The labor factor was constituted by the amount of payroll (50%) and the number of employees (50%). As such, the labor factor took into account the differences in wages, pensions and social securities across member states. It also covered persons who are indirectly hired by a group member (i.e. independent contractors) that perform similar tasks to those performed by employees (European Commission, 2011c, Article 91(3), 2016a, Article 33(3)). The assets factor included only tangible assets as the Commission’s proposal argued that ‘intangibles and financial assets will be excluded from the formula due to their mobile nature and risks of circumventing the system’ (European

Commission, 2016a, p. 10). The Commission highlighted that the aim of the formula was to include immobile factors as they are less easily manipulated for the purpose of shifting profits and avoiding taxes. There remain several ways in which (new forms of) tax abuse are possible under formulary apportionment. For instance, corporations can shift operations and assets that directly impact the division of (one of) the three apportionment factors, from a high-tax state to a low-tax state within the EU. The proposal included various measures to prevent abuse, for instance the abovementioned inclusion of independent contractors. This led some to conclude that 'the drafters of the CCCTB deserve high grades for designing an apportionment mechanism that generally is resistant to tax-motivated factor shifting that does not entail real shifts in economic activity' (Hellerstein, 2012, p. 252).

The harmonization and consolidation proposals in 2011 and 2016 concerned only the corporate tax *base*. The CCCTB proposals explicitly did not harmonize corporate tax rates or set a minimum. Aiming to comply with the principle of proportionality, both the CCTB and the CCCTB proposed directives in 2016 stated that 'it does not affect Member States' right to set their own corporate tax rates' (European Commission, 2016b, p. 5). The Action Plan that announced the CCCTB relaunch extensively explained the problem and impact of harmful tax rate competition between EU member states, but still concluded that 'the harmonization of corporate tax rates is not part of this agenda' (European Commission, 2015c, p. 14). Simultaneously, the Commission's Action Plan also stated that, 'the legitimacy of tax competition is weakening, if such competition is abused for corporate tax avoidance, fragments the Single Market and prevents fair and efficient taxation' (European Commission, 2015c, p. 5). In terms of tax rates, the Commission's argument was that a common tax base will provide more transparency in terms of effective taxation across the EU. As all member states would be obliged to calculate the tax base similarly, the tax rate remained as the main policy instrument for governments to wield. Differences in tax exemptions, deductions and credits would not exist in the same way as is the case now. Therefore, corporation's effective tax rates should become more transparent.

6.5 Concluding remarks

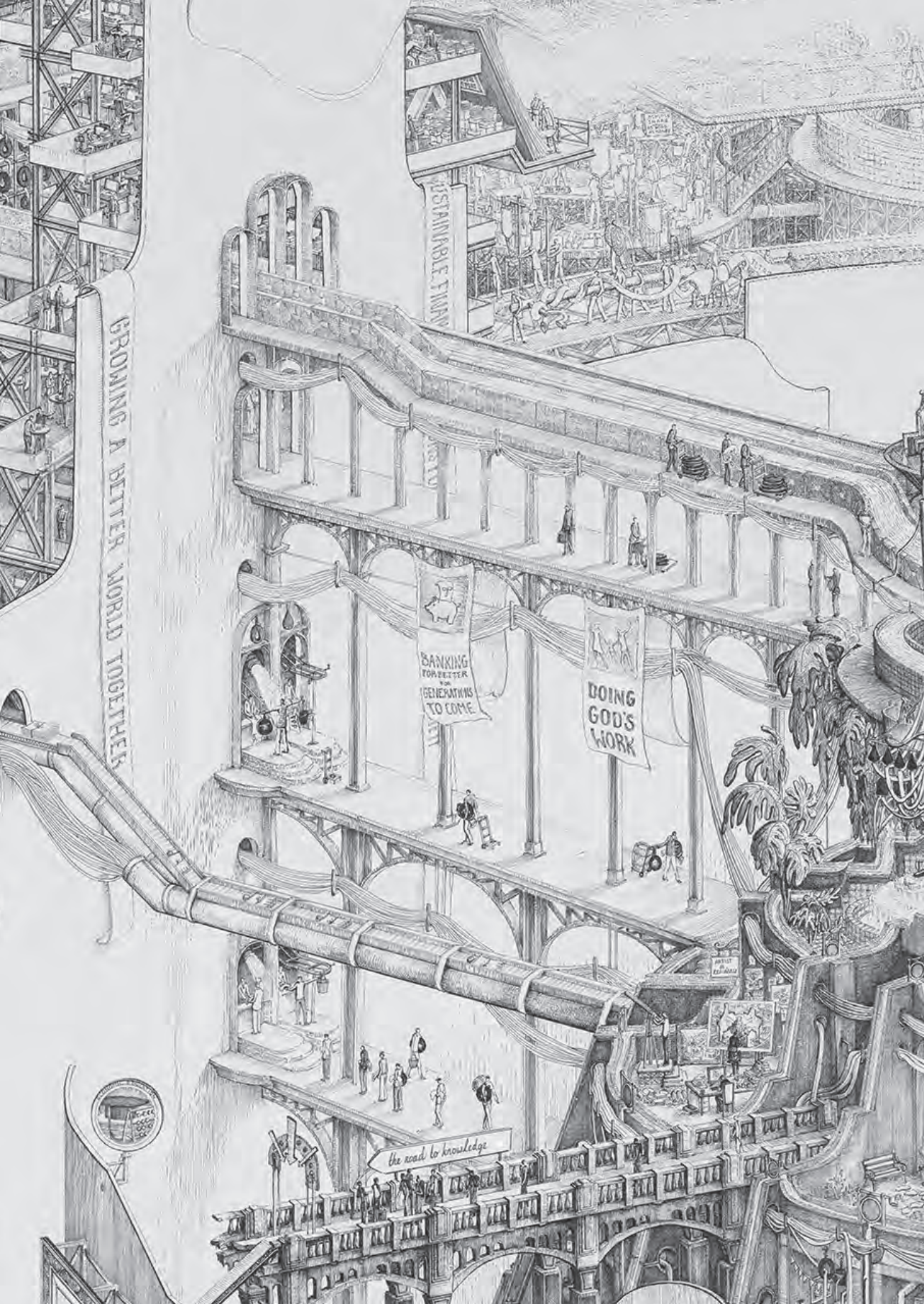
This chapter centered on the explanandum, offering a detailed comparison of the CCCTB proposals in 2011 and 2016 to clarify which most contested

elements changed and which remained the same. The underlying theoretical assumption was that a (proposed) policy change is a reflection of changing power dynamics. Before the analysis could proceed to explain which material, ideational and institutional changes were the enabling factors – as well as the result – of these changes in power relations, HMPA required an in-depth understanding of the policy under conflict. The emphasis on possible redistributive effects of changes as well as similarities between the 2011 and 2016 proposals can help assess whose interests were reflected most strongly.

The CCCTB was first presented in 2011 and then relaunched in 2016. The largest change was not content-related but was mostly discursive, namely the shifted emphasis in terms of policy objectives from a sole focus on increasing competitiveness and efficiency for corporations towards a broader set of objectives, including a fair system to tax corporate profits. In the renewed effort of the Commission to achieve corporate tax base harmonization, the CCCTB was split into two directives. Its scope widened, primarily through the envisioned mandatory character of the tax system. In 2016, the CCCTB included two tax incentives that were absent from the original proposal in 2011. These reflected the Commission's intention to stimulate research and development activities and address the debt-equity bias – both through offering generous tax base deductions to corporations. An expansion of anti-abuse measures characterized the 2016 CCCTB proposals as well. Importantly, certain key elements of the CCCTB remained the same. The formula according to which corporate taxable income would be apportioned to member states did not change, and the harmonization of corporate tax rates remained outside of the CCCTB's scope.

With respect to the previous chapter and specifically the opinions on the CCCTB voiced by organized corporate interests through UNICE and others – from the start of the idea for a CCCTB in 2001 until the subsequent working group and its final workshop in 2010 – it can be concluded that the initial CCCTB proposal in 2011 largely reflected those articulated corporate interests. The CCCTB was designed as an optional system: it enabled corporations to opt in to a system that allowed for cross-border loss relief and functioned as a one-stop shop for their tax return – only if they decided this would be in their benefit. Purely aimed at improving the functioning of the internal market and making life easier for business, the CCCTB in 2011 was a materialization of long-standing corporate wishes to eliminate tax obstacles to cross-border activities and investments. The changes made in the 2016 proposals are in direct conflict with a number of

key policy demands articulated by dominant corporate interests. The following three chapters explain why this happened. They do so through the concept of hegemony projects and their struggle over corporate tax harmonization as well as the politicization of corporate taxation in a changing material and ideational context.



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7. Neoliberal and neomercantilist projects' dominance over EU corporate tax policymaking

The theoretical framework of this dissertation conceptualized agency through hegemony projects, of which ideal-types were already presented in the theoretical framework in chapter 2. The history of corporate tax harmonization broadly and the origins of the CCCTB specifically, within the broader context of European integration up until 2011, revealed key demands articulated by organized corporate interests. The history of the struggle over corporate tax harmonization so far showed how large organizations representing corporations, or specific industries such as the tax-advising industry, inserted themselves in the corporate policymaking process as well as how they were invited to this process through institutional opportunities created by the Commission. Subsequently, the intermezzo chapter that detailed the content, form and scope of the 2011 and 2016 proposals showed the extent to which at least the first proposal in 2011 largely reflected their core demands.

This chapter now turns to the diverging and converging interests of hegemony projects through a discussion of the main relevant agents, situation diagnosis, scalar focus and overall strategy concerning corporate taxation in the EU. It identifies a dominant neoliberal project that subsumed influential fractions of industrial capital and co-opted a key neomercantilist argument by center-staging the importance of a strong EU market in the global economy. Other expected neomercantilist demands with respect to corporate taxation, such as support for domestic-oriented tax regimes in order to stimulate industries and corporations at home as well as an emphasis on unfair level playing field between types of corporations, were still expressed but by a much smaller and less united group of organizations. The agency analysis finds therefore that a neomercantilist project – albeit weakened – exists consisting mainly of domestic-oriented smaller-sized corporations.

The differences between agents driving neoliberal and neomercantilist projects also arise with respect to the CCCTB, although the neoliberal project was articulated in a better organized and more vocal way, especially in its

contestation to certain changes. The second part of the chapter details the positions of key agents on the changes made in the 2011 and 2016 CCCTB proposals with the purpose of demonstrating to what extent the relaunched CCCTB no longer reflected their core demands.

Note that the consultation that is referred to at times in the text concerns the public consultation the Commission issued in 2015 after it announced the CCCTB relaunch. The purpose of the consultation was to 'gather information and analyze the necessary evidence, in order to determine possible options for attaining the objectives of the relaunch of the CCCTB' (European Commission, 2015f). Because it included specific questions on those elements that have been identified in this dissertation as main subject to contestation, the consultation serves as an important source for this section.

7.1 Identifying hegemony projects: a dominant neoliberal project and a weakened neomercantilist project

In the struggle over corporate tax harmonization, we can identify key agents and their situation analysis, scalar focus, and central strategy together are aggregated into a hegemony project that is characterized by a common direction. This section is guided by the operationalization set out in chapter 3.2, specifically step 2.

A neoliberal situation analysis: The fear of double taxation and a focus on competitiveness, legal certainty and a level playing field

Fractions of mobile and globally-oriented capital have traditionally been the main agents driving the neoliberal project. This includes fractions of financial capital as well as globally-oriented productive capital, and highly mobile non-financial capital. Relevant agents that have taken position on the matter of corporate income tax harmonization in the EU can be found within the industries of finance, accounting, tax advisors, law firms and other corporate service providers, as well as digital and platform corporations and global manufacturing corporations, all of which are being represented through Brussels-based organizations at EU level. The previous chapter showed the importance of BusinessEurope (previously UNICE) that represents national business federations of all EU member states as well as other European countries and is a social partner representing private firms in the dialogue

between EU institutions, employers and employees. Besides BusinessEurope, a number of other organizations can be seen as agents driving neoliberal ideas on corporate taxation: Tax Advisers Europe (formerly CFE), EBIT, EBF, Accountancy Europe, AmCham – as well as all their members, consisting of both individual TNCs or national-based representative organizations. Proponents for neoliberal solutions tend to operate on a global scale and make use of regulatory arbitrage (Picciotto, 2018). Liberalized and open access to production, labor and consumer markets and global competitiveness are key to their continued capital accumulation and profit maximization. To that end, corporate income tax should preferably be low and tax regimes should facilitate unhindered trade and investment flows across borders.

The situational analysis of the main agents driving a neoliberal project appeared throughout the previous historical analysis of corporate tax harmonization. One business representative summed up key elements for the neoliberal project's situation analysis succinctly:

if you look at what's important for businesses, it's usually rather common features: it is important that losses are recognized, that you're not taxed twice for the same profit, and that you have transparent and as simple rules as possible (Interview Business representative #7).

The presence and possibility of double taxation is a major thorn for all transnationally operating capital. Accordingly, central to the neoliberal project's situation analysis is the risk that corporations profits are or can be taxed multiple time in different jurisdictions. Indeed, concerns of double taxation have been driving efforts for harmonization throughout European integration. As a result primary and secondary legislation as well as the ECJ's case law have largely ensured that corporations are not subject to double or multiple taxation within the internal market of the EU. Notwithstanding this, corporate income tax systems diverge among member states with regard to the tax base and rate, and as a result, cross-border return on investments are not without risk of double taxation. From the neoliberal project's perspective, therefore, tax neutrality is currently lacking in the EU. At the same time, an important contradiction arises here: divergences between these systems also allow for what the neoliberal project would dub as 'tax planning' – to create the lowest effective corporate income tax burden as possible. The ability to shift profits to the most beneficial jurisdiction is directly in the interest of

transnationally mobile capital to increase higher profits and generate higher returns for shareholders or allowing for a further corporate expansion through reinvestments. Although transnationally operating capital most certainly benefits from the internal market, the absence of a harmonized tax regime also imposes an administrative hassle: corporations whose operations stretch across national boundaries have to file tax returns at several tax authorities within and beyond the EU. This requires hiring tax professionals or developing in-house expertise with regard to various tax regimes. Cross-border transaction moreover require the application of transfer pricing guidelines, which is often seen as a costly and time-consuming activity.

Besides concerns of double taxation and compliance, a third common interest for the neoliberal project is tax certainty. Negotiations on reform of the international corporate tax system take place on various scales – national, regional and global – which, from the perspective of corporations that operate beyond one state, can create more layers of complexity and uncertainty. Throughout publicly stated positions as well as interviews, tax certainty serves as an often-repeated mantra, or as a member state-based corporate representative stated: ‘a lot of businesses, as long as they are not completely certain what they’ll get, then they prefer to keep what they know’ (Interview Business representative #3). To have certainty is closely related with a level playing field: when there are clear rules in place, it is also easier to know how competitors are taxed.

With respect to concerns of compliance and certainty, diverging interests exists between agents driving the neoliberal project. The professional services industry – accountancy, law and tax-advising firms as well as other corporate service providers – thrive on transnationally mobile capital. The presence of a network of jurisdictions, each with different tax and regulatory regimes, constitutes their bread and butter. Such firms generate profits precisely through assisting corporations in complying with the multitude of these regimes, as well as finding loopholes in the law (Sikka, 2008). Compliance and tax certainty, in that sense, is less important for them than TNCs.

Contradictions in scalar focus: who benefits?

In response to this situation analysis, harmonization and consolidation of the corporate tax base in the EU, by way of the CCCTB proposals in 2011 and 2016, could potentially be a solution to some of these concerns. The CCCTB would, however, create a common tax base within the EU *only*.

By virtue of the global orientation of mobile capital fractions, the neoliberal project has a global strategic focus. Therefore, TNCs with operations also outside of the EU will still deal with tax systems in third countries and the interplay between a CCCTB and the international tax system that remains based on different principles: a system of unitary taxation with formulary apportionment in the EU and a system of transfer pricing based on the arm's length principle outside of the EU. As the consultation response of Tax Advisers Europe (formerly CFE) exemplifies:

A CCCTB will only eliminate transfer pricing for those entities that solely do business within the CCCTB-area; the vast majority of multinationals will do business outside that limited area and would find the adoption of a CCCTB even more complex than the current position. In addition, arm's length transfer pricing will still be required for accounting or commercial purposes (Confédération Fiscale Européenne, 2016, p. 3).

Following this analysis, a solution to the articulated situation analysis would be global in nature. However, the strategic global focus of the neoliberal project is less straightforward and more complex. Theoretically, this is to be expected. The national scale, by way of the state as an important terrain of hegemonic struggle, matters. Regionally, EU institutions function as a similar terrain of struggle. To facilitate free movement of capital – including the lowest possible effective tax burden – state institutions on all scales need to implement policies to this end. The global orientation of the neoliberal project as a whole therefore requires regional and national involvement from agents across all hegemony projects. As Bruff (Bruff, 2010, p. 625) explains, 'the national state is pivotal in the attempt to realize shifts in human social practice and the version of common sense that such practice embodies'.

The continued importance of the national scale carries with it the potential of divergence between member state-based organizations. In the case of corporate taxation and specifically the CCCTB, this materialized in the struggles that Brussels-based European representative organizations face in reaching a common position amongst their national-based members.

Business Europe, with a wide variety of different industries within its member base, stated in a position paper in 2017 after the CCCTB relaunch that: 'While some businesses have welcomed the Commission's CCCTB

proposal, others believe it needs to be further developed in order to better support competitiveness and growth given the loss in flexibility for Member States particularly for smaller countries' (BusinessEurope, 2017, p. 1). One of BusinessEurope's members explained that, in spite of long internal discussions, it was difficult to reach a position as corporations have different views depending on 'which country they are from' as well as the type and size of their corporation (Interview Business representative #3).

In particular industries of accountants and tax advisors are characterized by national cleavages in their positioning on corporate taxation. The views of tax advisors often largely align with the views of their government, 'remarkably so, actually', as one interviewed expert noted (Interview Business representative #2). From the point of view of a national tax advisors organization, there are tensions between the EU-based representatives of the tax advisor industry and their members, or as one interviewee voiced with respect to the organization Tax Advisers Europe (formerly CFE): they are 'very prone to making great declarations, like: "we took a vote on this and all tax advisors in Europe, they all think this" – well, I don't know, if they really all do think the same' (Interview Business representative #2). This is not a standalone sentiment, as the 2015 consultation response of Tax Advisers Europe demonstrates. The response starts out by making the disclaimer that there is no unanimous position within the CFE on a common tax base, as members in Latvia, Malta, the Netherlands and the UK (amongst others) are opposing a CCCTB altogether (Confédération Fiscale Européenne, 2016, p. 2).

The accountancy industry reveals a similar position. Disagreements amongst national-based members prevent the representatives of the industry in Brussels to formulate a strong, common position. An internal poll had showed a clear lack of agreement amongst the members, which is partly attributed to members following their government's position: 'even though we tried to get our members to think about European bodies, predominantly they still think from a national basis' (Interview Business representative #5). One of the members in Ireland even published a press release when the 2011 proposal was launched that directly opposed the position of the Brussels-based organization Accountancy Europe that was presented the day before.

The banking industry seems to not be so much characterized by national differences when it comes to corporate income taxation, but more so by their

activities compared to other industries. The claims of an interviewed expert familiar with the industry exemplify this:

We have some specificities... politicians hate it when we say that, but it's true. (...) There are some aspects that are very important, which are specific to financial instruments. And they should be addressed. Maybe more generally, one of the problems for the banking industry, is the complexity of our operations. It's also the fact that we have a lot of cross-border activities, global operations. So we are very concerned by a CCCTB, the implementation of CCCTB would affect any bank, because we all have cross-border activities. A banking group has subsidiaries and branches, sometimes in countries all over the world (Interview Business representative #4).

The ideal-type neoliberal project is, in reality, composed of a constellation of agents with different interests, which is why a common position on the CCCTB was difficult to reach. Disagreement within the organizations discussed here did mostly not derive from clashing interests between capital fractions between productive or financial capital, but from the anchoredness of corporate interests within member states. An aspect that is quite particular to the area of taxation is that tax system design varies widely across Europe. One of the interviewees pointed out that Northern European countries usually create a very broad tax base, whereas countries in Eastern- and Southern Europe often have a narrower tax base (Interview Business representative #3). The issues at the heart of disagreement between agents of different member states are often echoed by their respective governments. In the case of Ireland, where many corporate taxpayers benefit from low taxation, representatives for TNCs, tax advisors, accountants and the Irish government all vehemently opposed the CCCTB (or any form of harmonization and consolidation of the corporate tax base).

Because neoliberal ideas and policies are most often associated with liberalization, globalization and open-ness, these disagreements might seem at first a contradiction. However, the political fragmentation of the world into sovereign jurisdictions are 'a major source of the structural power of capital as it can exit from national regimes not sufficiently accommodating' (Van Apeldoorn & De Graaff, 2017, p. 141). Similarly, Quin Slobodian (2020, p. 9) argued that neoliberal thinking did not entail an abandonment of state sovereignty as long

as it remained embedded in an international order that safeguarded capital and 'its right to move throughout the world'. From this perspective, not just the existence of sovereign jurisdictions but the proliferation of formally sovereign territories – often small islands part of a larger state but with the autonomy to develop its own tax regime with the purpose of attracting investment – could lead to pressure on states to create attractive climates for capital is beneficial (Slobodian, 2020, p. 261). The resulting inter-state tax competition benefits in particular highly mobile fractions of capital. Regarding corporate income that is generated across the world, sovereignty of states does not so much hinder capital's movements; rather it offers possibilities for capital to navigate between tax systems and, as such, find the least taxed pathway. The appearance of a state's tax sovereignty is key in that respect.

Clashing of interests within European business organizations along member state-anchoredness can therefore be understood to actually facilitate the interests of agents driving a global-oriented neoliberal project. What seems contradictory at first sight – a global orientation in terms of a situation analysis while simultaneously clinging to the existence of sovereign jurisdictions that retain the competence to develop tax policies – is consistent with the neoliberal project strengthening its hegemonic position. This explains why the members of European organizations can disagree on matters of corporate income taxation without endangering the unity of the neoliberal project as a whole.

Still, the contradictory dynamic discussed here can give the impression that the unity of the neoliberal project as a whole is affected. This also serves to hide the beneficiaries in a similar way that ultimate owners like to hide behind complex corporate structures. As long as the current situation is more beneficial than having global or regional systems, this will be preferred independent of the global character of neoliberal agents' operations. As one interviewed business representative stated, for example:

There are many aspects that have to be harmonized. I am a proponent of the level playing field in as many aspects as possible. But at a certain point in time, on some topics, we have to also be realistic. We also need flexibility so that the government can luckily adapt to their own constraint, their own reality. So we have to find a balance between the need for harmonization, the need for a level playing field – but also to keep some flexibility' (Interview Business representative #4).

The defense of governments' tax sovereignty is thus also to the benefit of proponents of the neoliberal project, because it is a necessary condition as well as a push for those same governments' engagement in tax competition, which in this era of neoliberal dominance has come to be seen as an inevitable phenomenon.

Achieving hegemony: neoliberal project's dominance through co-option leaves a weakened neomercantilist project with a domestic focus

The emphasis on the importance of tax sovereignty and inter-state tax competition is shared with a neomercantilist project. The latter is less prominently articulated than the neoliberal project, because the interests of global- as well as European-oriented fractions of industrial capital align to a large extent with fractions of financial capital – together constituting the material basis for a neoliberal project. At the same time, as the previous historical analysis has shown us, traditional neomercantilist discourse on strengthening of a European home market vis-à-vis other large economies such as the US and Japan, has been co-opted by neoliberal proponents as well. A clear distinction between a neoliberal and neomercantilist project, as the ideal-types presented in the methodology chapter of this dissertation, does not exist in empirics. Instead,

With influential capital fractions subsumed within the neoliberal project, what can be identified as a neomercantilist project with respect to the case of corporate taxation is articulated mostly through a small number of key agents that represent SMEs and cooperatives: SME United (formerly UEAPME), Cooperatives Europe, the General Confederation of Agricultural Cooperatives in the European Union (COPA-COGECA).

That is not to say that SMEs are united, or speaking as a class fraction for itself. Different class fractions are represented in the prevailing notion of 'SMEs', while it is in fact a 'mixed bag'. Industry-specific differences, but most of all national divergences, ensure that it is difficult for this SMEs to speak and act united. According to an expert regarding SMEs positioning on the CCCTB proposals, the issue stems not so much from regional differences, but the closeness and cooperation between and SME association and 'big business' on national level (Interview Business representative #6). Such global-oriented large corporations, at the core of a neoliberal project, have often successfully ensures that their interests have been internalized by a broader population

of corporations, including SMEs. As the theoretical framework set out, in order for a project to become hegemonic, it needs consent of opposing forces because hegemony is 'as much about the containment of dissent as it is about the granting of consent' (Bruff, 2010, p. 625). A key way of doing this, the interviewed expert asserts, is to merge SME organizations with organizations traditionally representing large corporations, as has happened for instance in Austria and the Netherlands. The effect in case of the CCCTB is summarized as follows: 'the more independent they are from big business, the more they are for CCCTB' (Interview Business representative #6). The neoliberal project has in this sense, at least partly, successfully submerged neomercantilist interests into its project and thereby broadening consent for its hegemonic status. SMEs and cooperatives are a small group, whose interests might diverge in certain ways from large corporations, but they do also converge on important points.

The neomercantilist project's situation analysis aligns with a neoliberal's perspective in many ways. There is a shared aversion to the possibility of double taxation that can arise due to cross-border business operations. Tax certainty and simplicity are key demands as well. Simplicity from the perspective of smaller-sized corporations matters more than it does for larger corporations who have the (financial) resources to cope with complexity, and also the means exploit differences and to abuse it. The 2015 research report *SME taxation in Europe* (Spengel & Centre for European Economic Research (ZEW), 2015, p. 17), commissioned by the Commission, found that SMEs are more affected than larger corporations by administrative and compliance costs regarding corporate income taxation:

The vast majority of SMEs rely on outside professional assistance to comply with their corporate income tax (CIT), because they are usually too small in terms of human resources to have the necessary knowledge and expertise available internally.

This leads to an important difference between neoliberal and neomercantilist project: in the current situation, there is no fair level playing field between SMEs and TNCs in the possibilities they have to exploit differences between national tax regimes. SMEs, with less cross-border activities and less (financial) resources to either hire external tax advisers or develop in-house expertise, are not able to shift profits to the same extent that TNCs can. Moreover, the size of their operations and resulting vulnerability to economic volatility leads to demands for tailor-made tax rules or special treatment in terms of taxes. The

abovementioned study finds that in most EU countries SMEs actually do not enjoy more favorable tax regimes than larger corporations. Of the 20 countries included in the research, only five had special tax treatment in place for SMEs; often by way of lower tax rates, for instance a lower statutory tax rate for profits below a certain threshold (Spengel & Centre for European Economic Research (ZEW), 2015, p. 12). Medium-sized corporations incidentally benefit less from tax incentives set up for SMEs compared to small and microcorporations. Finally, a quantitative comparison included in the study found that – taking into account ‘tax-minimizing strategies’ – larger corporations benefit from a smaller effective tax burden than SMEs in the vast majority of the countries included in the study (ibid., p. 16). This leads to the conclusion that, indeed, ‘SMEs – not being able to utilize international tax planning strategies as well as suffering a comparatively high compliance burden – can be expected to be at a competitive disadvantage in these countries.’ (ibid., p. 17). The scalar focus of a neomercantilist project that we can identify here, to the extent that it can be seen as separate from a neoliberal project, has a predominantly domestic orientation.

A common tax system in the EU could potentially be seen as a solution to this perceived unfairness from the perspective of SMEs. It would also make it easier for cooperatives and SMEs operating only domestically to expand their business across borders within the EU. An interviewed expert representing SME interests argued that the main reasons for having a common tax base for SMEs are to reduce the administrative burden in admin costs and to create a level playing field with large companies (Interview Business representative #6).

The reasons for a weakly articulated neomercantilist project are thus that influential global-oriented industrial capital fraction expected to articulate neomercantilist ideas and policy goals – based on the ideal-types developed earlier in this dissertation – is largely subsumed by the neoliberal project. Smaller-sized regional- and domestic-oriented corporations, including cooperatives, are less strongly organized and united when it concerns EU corporate tax policies. An important reason for this are the close ties between SMEs and larger corporations within a national context. Moreover, when it comes to tax policies, SMEs often prioritize indirect taxes (VAT) in their advocacy work (Interview Business representative #6).

7.2 Neoliberal view on key changes in the CCCTB

The presentation of ideal-types of a neoliberal and a neomercantilist project in this dissertation carried expectations that – in terms of corporate taxation – policy demands of the first would center on efficiency, global competitiveness and an overall low tax burden on capital. Neomercantilist demands were not expected to differ radically, but to emphasize the importance of corporate tax' domestic context for corporations or industries predominantly based in one member state. There could potentially be more support towards an expanding (range of) tax exemptions and benefits with the purpose of protecting European or national industries from external competitive pressures, as well as the problematization of tax regimes existing mainly for the benefit of foreign corporations. With respect to the CCCTB specifically, most of these expectations are true, especially as the interests of large TNCs overlapped as the previous section demonstrated. Even the remaining forces that still voiced neomercantilist ideas – predominantly the organizations representing SMEs and cooperatives operating primarily within one member state -- were largely in agreement on the CCCTB with BusinessEurope and other key drivers of the neoliberal project. This section 7.2 focuses on both these agreements as well as disagreements that unite and fragment neoliberal and neomercantilist projects.

A neoliberal perspective on changing policy goals: The CCCTB is not meant to fight aggressive tax planning

A first uniting factor in the neoliberal stance on the CCCTB was the critique on expansion of policy goals, which included in 2016 the explicit aim to counter aggressive tax planning by corporations. The perceived change in policy goals of the CCCTB was met with great apprehension or even outright rejection. When asked directly in the Commission's public consultation in 2015, most organizations representing large corporations regarded the CCCTB not as the right instrument to address aggressive tax planning. As Business Europe, Danske Industri, Confindustria and Federation of Enterprises in Belgium all stated in a their coordinated response: 'It should be noted that the CCCTB in and of itself is not a tool against aggressive tax planning, nor should it be positioned that way' (BusinessEurope, 2016, Section 4.2). The BEPS project that was initiated in 2013 within the OECD framework is regarded as the process that addressed possible issues of aggressive tax planning. To adapt the CCCTB with this purpose in mind, instigated a fear that the Commission intended to 'go beyond' what was agreed upon at an international (OECD) level

- with perceived competitive disadvantages for corporations in the EU as a result. The International Chamber of Commerce (2016, Section 4.2) expressed this widely-shared concern as follows:

The political desire to use CCCTB to address aggressive tax planning cannot and should not go further nor faster than agreed by G20/OECD. If it were to do so, CCCTB will reduce growth in the EU rather than stimulate; other trade blocks will be more attractive from an FDI and competition angle.

Many organizations representing large corporations pointed out that they supported the EU's – particularly the Commission's – efforts in tackling the issue of base erosion and profit shifting, but were also quick to emphasize 'the essential role that European companies play in generating growth, creating jobs and fostering prosperity for our citizens' (Confederation of German Employers' Associations (BDA), 2016; Federation of Austrian Industries, 2016; The Federation of German Industries (BDI), 2016 section 4.2). The change between 2011 and 2016 in terms of changing policy goals was thus heavily criticized. The idea that tax systems and tax competition between states should be fair, was problematized. According to drivers of the neoliberal project, a main purpose of the CCCTB in 2011 was to enhance tax competition in a transparent way. As competition on the base would no longer be possible, competition between national governments would focus on tax rates, which is regarded as more transparent and therefore fair. However, as a business expert argued,

now fair has become a much more political term. It is much harder to interpret. (...) So I think one should be very skeptical in using those concepts, as they are used for political reasons. It sounds good. I mean, who is against a fair tax system? No one is against a fair tax system. You cannot be against it. But no one really know what it is. (Interview Business representative #7).

Moreover, the argument detailed how the CCCTB did not entirely get rid of possibilities for aggressive tax planning, and that new possibilities will arise. Profits could still be shifted *out of* the EU's internal market since the arm's length principle will still rule intra-group transactions with corporate entities that are located outside of the EU. In addition, the same corporate representatives emphasized the CCCTB would create new possibilities for tax

avoidance. The formula that would replace the arm's length principle as the basis on which taxable profits are apportioned to member states was meant to represent economic value of business activities. The factors it consisted of – labor, sales and tangible assets – could, neoliberal proponents argued, also be manipulated. Depending on how the formula looks like, it could lead to a situation where the movement of labor to lower-tax countries is encouraged (Interview Business representative #2). As stated above, one of the original purposes of the CCCTB for the neoliberal project was to have transparent tax competition in the EU through the harmonization of the corporate tax base. However, many expected that options for competition would either remain or shift to other policy areas. For example, after the consolidation of taxable profits amongst member states, governments could introduce 'post-apportionment incentives', which do not have to be limited to tax incentives but could for instance also be incentives related to accounting standards (Interview Business representative #5). Others argued that tax competition would endure as competition between governments on especially trade was 'scaled back' through the World Trade Organization (WTO), turning taxes into the new trade war, or as one interviewed business representative contended (Interview Business representative #7):

You use taxes to achieve the same objectives as you previously achieved with tariffs. And therefore taxation has become much more important. (...) But they are not openly declared in the same way. It's done under the radar. But it is still there very vigorously. They fight, they fight tremendously.

Hence, in case of an implementation of the CCCTB, a shared assumption within the neoliberal project was that taxation had become a too important policy instrument that national governments would not easily give up. Above all, the neoliberal project was united in its belief that addressing aggressive tax planning went beyond what the CCCTB was *supposed* to be doing: create a more business-friendly tax system in the EU.

This relates to a second element that unified the neoliberal stance on CCCTB. Harmonization and consolidation of the corporate tax base were supported as a theoretical or abstract endeavor. A majority within the neoliberal project expressed support for the CCCTB as a 'one-stop shop' for their EU tax return. Having one set of EU rules to determine the tax base is beneficial to corporations in terms of compliance costs and lower complexity. In this sense,

the overall CCCTB was perceived as a well-designed, thought-out, well-reasoned and logical system that was 'better than some national systems' (Interview Business representative #5; Interview Business representative #7).¹ An important exception to this unity was the outright rejection of the idea of a common corporate tax base, in particular from organizations situated in Ireland and a significant part – though certainly not all – of the accounting and tax advisors industry. For instance, the Chartered Accountants Ireland responded to the public consultation (2016, Section 4.2) as follows: 'However, we do not believe the CCTB/CCCTB to be proportionate or attractive to business and we are fundamentally opposed to the CCCTB'. The attractiveness for corporations and the concern for competitive disadvantages vis-à-vis other markets were leading considerations in the view of those who explicitly opposed the CCCTB. Importantly, from this perspective, the CCCTB potentially robbed corporations of the possibility to benefit from and shop between lucrative tax policies in different member states, as echoed in Eurochambres' comment (2016, Section 4.2):

The CCCTB (particularly mandatory) might prove unattractive to businesses by removing the flexibility to reap the benefits provided by competitive and efficient tax regimes.

Third, a shared attitude of indifference or neutrality resulted either from disbelief that a CCCTB would materialize or from differences between industries and within member-based organizations. This disbelief that the CCCTB would become political reality stemmed from a combination of the institutional decision-making process based on unanimity – and, hence, the power position of the Council in that respect – a strict cost-benefit analysis from the point of view of member state governments, and a perceived lack of overall political will. One interviewed business representative referred to a meeting with Commission staff on the VAT regime in this respect, stating that the same argument could be used for any comprehensive tax proposal (Interview Business representative #5):

The head of Indirect Tax, came up with a great statement during a meeting where we discussed the proposed changes to the VAT regime, she said: "member states are much happier with the disease they know, than with the cure they don't know". (...) No

¹ It should be noted that these specific comments were in relation to the first CCCTB proposal in 2011.

one knows what impact that would have, so no one wants to take the risk. All you know is there will be winners and losers.

A combination of the neoliberal project's general support of the idea of a CCCTB and the belief that the chances of the CCCTB being realized were regarded as minimal, resulted in a predominantly passive attitude with regard to the CCCTB within the neoliberal project. With the exception of explicit opposition by certain organizations as discussed above, there was little pressure or urgency for most neoliberal proponents to have a strong position and spend their time and resources extensively on the CCCTB proposals (Interview Business representative #5; Interview Business representative #2). The assumption that the CCCTB was unlikely to be adopted, also made it easier for anyone involved – including those within the neoliberal project – to agree with the proposal or its underlying principles. A business representative explained this strategic miscalculation: 'You could say that a lot of multinationals are in support [of a CCCTB], sure, but if it would come close to reality, the situation will be more difficult' (Interview Business representative #1). This was underlined by another interviewed expert, stating 'In an ideal world, in the EU we should have harmonized system, but there are a lot of preconditions', pointing out that these preconditions might vary on the size and profile of a corporation (Interview Business representative #4).

The relatively neutral position expressed by accountancy, law and tax-advising professions also stemmed from the fact that their professions benefit from *any* new law, since it generates work – and thus profit – for them. The absence of a strong position was interpreted by one of the representatives from these industries as follows (Interview Business representative #5):

We don't even have any strong feelings about it in the house, because at the end of the day... for the profession, it's neutral. Someone's got to learn a bit more new legislation, but it's all very similar what most of the profession is used to anyway. And if you're being cynical about this, business-orientated: it's more work. (...) That's not to say we support legislation for legislation sake. We are firm believers that the tax system should be as simple as possible – but no simpler.

For those who are the clients of these professions, as many TNCs are, the view is different. Policy change for them means an increase of compliance costs (Interview Business representative #1).

The expressed neutrality can also be attributed to differences *within* the neoliberal project. As the previous section demonstrated, member state-based counterparts often prevented a coherent position for Brussels-based representatives of a European umbrella organization. In addition, cross-industry organizations ran into similar issues of arriving at a common position, which led them to position themselves along the lines of neutral, or 'constructive' as well (Interview Business representative #1).

A mandatory CCCTB perceived as unacceptable: unity within the neoliberal project on the change in the CCCTB's scope

Beyond the general, shared support for a CCCTB on an abstract level, those driving the neoliberal project voiced many objections, doubts and questions with regard to the relaunched CCCTB in 2016. In particular the mandatory character, the splitting up of the CCCTB and therefore endangering the possibilities for cross-border loss relief, as well as new anti-abuse rules were subject to critique as these changes directly threatened the perceived benefits of the CCCTB as it was pushed for within the neoliberal project in the period up to 2011.

Organized corporate interests pushing for and supporting a CCCTB up until the proposal in 2011 were clear in their stance that the system should be optional in order to be the most beneficial to cross-border operating corporations. The change to a mandatory system in 2016 was therefore seen as 'a mistake, it's an error; because we need flexibility' (Interview Business representative #4). This position was shared widely amongst agents driving the neoliberal project. Indeed, their common opinion was that a corporate group should be able to choose what is most 'appropriate' to them. In their opposition, neoliberal proponents referred to many 'practical' considerations, most prominently that corporations in a CCCTB system would still have to comply with transfer pricing rules for non-EU intra-group transactions. Besides this, in the public consultation concerns were expressed regarding differences in implementation across EU, the ability of national tax authorities to administer two different CIT systems, a costly transition period for corporations, the CCCTB relation to accountancy standards, and alignment with taxes at a local state and municipal level. Such issues will always arise in a period of transition to new (tax)

rules. The wide variety of such 'practical' considerations, again, illustrates the project's abstract support of a CCCTB, which diminished quickly when confronted with the actual and changed legislative proposal. Because inherent opposition to CCCTB is difficult to state outright, the strategy of translating such opposition into critiquing the details of the proposed directives, was also seen rampant amongst the member state governments who aligned with the neoliberal project as the last chapter of the analysis argues.

Although the vast majority objects to the mandatory character of a CCCTB, there were some notable exceptions. A number – but not all – of financial industry members argued in favor of a mandatory system. According to the French Banking Federation (2016, Section 5.1.2) a mandatory system helped 'to not create any distortions within the EU'. Indeed, if the argument of a level playing field is to be taken seriously, the result would actually be to support a mandatory system. The Swedish Banking Association (2016, Section 5.1.2) was of the opinion that 'parallel systems creates complications for application and tax administration'. The industry of tax advisors, as represented by CFE Tax Advisers Europe, was divided on the matter of CCCTB entirely including its mandatory character, stating that: 'We expect that a mandatory 3CTB will hardly be accepted' (CFE Tax Advisers Europe, 2016b, p. 5.1.2). It is unclear whether they were referring to member states' governments or tax advisers.

Objections to a two-staged approach

One of the most important changes between 2011 and 2016 was the move to a two-staged approach.

Key agents within the neoliberal project largely aligned in their understanding of why a two-staged approach was presented by the Commission in 2016: having witnessed difficulties in negotiations after the 2011 CCCTB proposal was launched, many respondents to the public consultation viewed a staged approach seems a strategic choice made by the Commission. At the same time, the two-staged approach was said to be a 'bad idea' as the benefit for (large) corporations operating in more than one EU member state lies with the consolidation of the tax base, which is the second stage, because only then cross-border loss relief is certain (Interview Business representative #7).

Understanding for the decision to split up the CCCTB proposal into two stages was therefore accompanied by the condition that the EU and its member states would ultimately move towards the second stage. The first

stage of harmonization should not be the end goal. In their comments to the public consultation, many organizations representing corporate interests ask for certain guarantees, an agreed timeline or even a safeguard clause that member states' governments will indeed subsequently move towards consolidation (for example BusinessEurope, 2016, Section 4.4 as well as BusinessEurope's members).

A key concern shared within the neoliberal project is the current lack of cross-border loss relief as well as obstacles many corporations face in terms of transfer pricing of intra-group transactions and administrative burden. Some suggested already in 2015 that an intermediary or temporary solution for cross-border loss relief would be 'critical' during the first stage of harmonization (American Chamber of Commerce EU, 2016, Section 4.4). In line with this demand, a temporary mechanism for cross-border loss relief was proposed by the Commission in 2016. However, from the perspective of tax certainty for corporations – which they 'urgently need', a temporary mechanism was seen as suboptimal at best (International Chamber of Commerce (ICC), 2016, Section 4.4).

Unitedly, agents driving the neoliberal project emphasized an expected rise in complexity and uncertainty following a two-staged approach, or as BusinessEurope and a number of its member responded to the public consultation (2016, Section 4.4): 'The initial stage of the re-launched CCCTB without consolidation would be of limited interest for businesses because it will not provide stability and certainty'. This was exacerbated by a fear for national unilateral measures to deal with tax obstacles in the internal market that could create more complexity and cases of double taxation. A common *and* consolidated corporate tax base, on the other hand, could create 'a level playing field'. The reason that complexity and uncertainty for corporations was repeated so often in this respect is that there was a shared view that the first stage of the proposal has some chance of success. Although seen as incredibly difficult, member states could have possibly agreed on rules to calculate a common corporate tax base. The second stage, consolidation – which included the necessity of agreeing on a formula that apportions taxable income to member states – was seen as nearly impossible for 27 member states to unanimously agree on. A great concern therefore was to get stuck with stage one, without ever getting to stage two. The staged approach was seen as a way to postpone or delay – 'perhaps permanently' – negotiations on the stage of consolidation and the allocation formula, seen as the 'really difficult issues'

(Institute of Chartered Accountants in England & Wales (ICAEW), 2016, Section 4.4; Tax Executives Inc., 2016, Section 4.4).

In that situation, a temporary mechanism for cross-border loss relief could even cease to exist, while at the same time former possibilities for tax avoidance by exploiting differences in national tax systems would disappear. In response to a question on why corporations were mostly not supporting a standalone CCTB, one business representative explicitly referred to tax planning possibilities (Interview Business representative #3):

Well, I think there is no doubt that if countries insist on having national tax regimes, it is still possible to do tax planning within tax systems. And the larger business you are, the more resources you can use to do tax planning. So I think some of the big multinationals who kind of use the European countries tax systems within the kind of limits can still do quite a bit of tax planning. And it seems the countries are still – luckily – doing quite a bit to attract its national business to their country. (...) they still adopt tax rules that might be more beneficial without that you can see it.

Several strands within the neoliberal project reject a CCCTB altogether and therefore also opposes a two-staged approach. These include leading organizations from Ireland and the UK. Deloitte LLP (UK), Ibec (Ireland), Chartered Accountants Ireland, Chambers Ireland, Chartered Institute of Taxation (CIOT, UK), Irish Exporters Association, and Irish Tax Institute are very outspoken in their criticism on CCTB/CCCTB. Especially in the case of Ireland, this seems to transcend capital fractions and sectoral boundaries as all Irish respondents unite in their opposition to the CCCTB. As the Irish Exporters Association (2016, Section 4.4) expresses by way of example: 'The adoption of a 2 stage approach to achieve a system which is inherently flawed is not worthwhile'. UK industries of tax advisors and accountants express similar sentiments (whereas UK-headquartered fractions of productive capital do not necessarily), regarding the CCCTB as 'a fundamentally flawed idea' (The Chartered Institute of Taxation (CIOT), 2016, Section 8.1). Often, this is traced back to staunch opposition that the CCCTB is used as an anti-aggressive tax planning instrument (e.g. The Irish Tax Institute, 4.4: 'In our view, efforts are better focused on dealing with the targeted BEPS reform above, so that the international tax framework which emerges from the BEPS process can

restore public trust and importantly so that attention can also turn to the very important issue of supporting EU trade and investment').

Concluding, a two-staged approach did not satisfy a large group of agents within the neoliberal project that – at least in theory – favored a harmonized and consolidated corporate tax base, nor did it satisfy those who object to any kind of European tax system. This is illustrated well by the members of CFE Tax Advisers Europe (formerly CFE) who failed to reach a joint position on the CCCTB (2016a, pp. 2–3):

There is no unanimous position within the CFE on a common tax base. Several members are opposed to both a 2CTB and a 3CTB2. None of our members support a 2CTB as a permanent solution. Those members who are in favour of a common tax base are in favour of a 3CTB. They consider a 2CTB to be incomplete, as it does not solve important issues, e.g., related to transfer pricing, and ask the Commission to come up with a clear political commitment on the introduction and the timing of a 3CTB.

Changes in the harmonization of the corporate tax base: corporations' rejection of new tax incentives

The changes in scope and form – a mandatory system designed in a two-staged approach – were not adherent to a neoliberal idea of an efficient new corporate tax system to which corporations would have the freedom to opt in. In terms of the content of the CCCTB proposals in 2016, three important changes in the rules to compute the common corporate tax base, were largely objected to as well. These concerned the tax incentives addressing research and development activities and the debt-equity bias (AGI), as well as the newly included anti-abuse measures.

In general, all organized corporate interests supported the full deductibility of research and development costs within the CCCTB, which was also included in the 2011 proposal. Most also supported new, additional research and development deductions or regimes. A commonly shared view within the neoliberal project associates innovation closely with competitiveness in the global economy. Exemplifying this, the umbrella organizations of German and Austrian industries (Federation of Austrian Industries, 2016; The Federation of German Industries (BDI), 2016, Section 6.2.4) argued that

Innovation, the generation of new ideas and their transformation into economic value in market, is crucial to maintaining and strengthening Europe's global competitiveness. Rendering the CCCTB more favourable to promote R&D [research and development] is an important way to ensure a level playing field for Europe's companies in competing worldwide.

The additional research and development incentive by way of the 'super deduction' proposed in 2016, was not necessarily welcomed by all. Those who expressed doubts or opposition did so mostly out of concern that similar national incentives would have been eliminated or limited in the process. This argument was expressed by three groups: those organizations representing Irish business (Chartered Accountants Ireland per Consultative Committee of Accountancy Bodies – Ireland, Irish Exporters Association, Chambers Ireland and the Irish Tax Institute), those representing the tax-advising and accountancy industry (Institute of Chartered Accountants in England & Wales (ICAEW), PricewaterhouseCoopers International Limited, Tax Executives Institute, Inc., CFE Tax Advisers Europe, The Chartered Institute of Taxation), and associations representing cooperatives throughout the EU (Cooperatives Europe asbl, Confederazione Cooperative Italiane, Lega Nazionale Cooperative e Mutue – Legacoop). With regard to the first group, the reason is clear: the Irish tax regime is characterized by beneficial research and development exemptions and incentives for corporations. Many of those are foreign-owned subsidiaries, according to an OECD working paper on fiscal incentives for innovation (Neubig et al., 2016, p. 7), making it a key element of the Irish tax regime to attract foreign investments as illustrated by the words of the Irish Exporters Association (2016, Section 6.2.4): 'The existing tax framework for R&D in Ireland is already very attractive and should be preserved'. With regard to the second group of tax advisors and accountants – although not all concurred with this view – the argument was that the sovereignty to introduce tax incentives lies with member states. Such arguments often referred to the BEPS project within the OECD framework that has indeed legitimized the use of R&D incentives such as patent boxes. As Tax Executives Inc, a large association of in-house business tax executives worldwide, explained: 'The OECD BEPS project has endorsed the understanding that individual countries have a sovereign right to introduce tax incentives, provided they are not considered 'harmful' (Tax Executives Inc., 2016, Section 6.2.4). The industry of tax advisors and accountants is crucial in assisting corporations in structuring their ownership and financing structures in such a way that the corporate tax

burden is as low as possible; their profits depend on these services. Research and development incentives are often key elements in such (re)structuring and the benefits of having 27 different research and development regimes could outweigh the benefit of one EU 'superdeduction'. The International Chamber of Commerce (2016, Section 5.1.4) summed this argument up succinctly: 'Having a choice is evidently attractive to taxpayers'.

The second key change in the CCTB and CCCTB proposals in 2016, concerned the AGI, a tax measure to treat – for tax purposes – the costs of equity financing similar to the costs of taking on debt. The debt-equity tax bias concerns essentially all corporations. In the public consultation, organized corporate interests were unified in their opinion that the bias should not be addressed by (further) limiting the deductibility of interest as this would have 'a negative impact on the cost of capital' in particular because 'equity financing is typically more expensive' and corporations thus tend to take on more debt relatively (BusinessEurope, 2016, Section 7.1.2).

Large corporations, compared to SMEs, tended to be more hesitant that tax incentives for equity financing should be included in the CCTB, or in EU law at all. Member states governments should, in their view, retain the autonomy to decide on how to address debt-equity bias, for instance through a notional interest deduction. Because financing of business can differ greatly across sectors and national contexts, several skeptical respondents with regard to this issue argued that it was too difficult to include this as a 'one-size-fits-all' approach within the CCCTB framework. Others, such as VNO-NCW and AmCham EU (2016, Section 7.1.2; 2016, Section 7.1.2), questioned 'the very existence' of a corporate debt-equity bias. Resulting from these different views, the idea of the Commission to include AGI in the CCCTB was critiqued. A shared concern for corporations of all sizes and industries was that such measures could potentially lead to higher corporate income tax rates, as member state governments might have needed to achieve some sort of revenue neutrality in case AGI would lead to revenue losses.

The inclusion of these 'two sweeteners' – the R&D 'super deduction' and AGI tax incentives – in the 2016 proposals was generally seen as a strategy of the Commission to create support from business representatives for the CCCTB in 2016 (Interview Business representative #5). Instead, these incentives did not actually do a good job of persuasion as they were seen as 'difficulties' in the proposal or the wrong place to introduce such incentives (Interview Business

representative #5; Interview Business representative #4). The incentives were regarded to constitute yet another obstacle for achieving political agreement in the Council between member states' governments:

'In 2016 the Commission also wanted to make some political adjustments, to add some special features like R&D provisions. It got much more politicized. Of course the Commission did that, I assume, because it would be more acceptable to member states. I am not convinced about that' (Interview Business representative #7).

The neoliberal idea that capital should be able to move freely across borders and to follow the lowest-taxed path, benefits from the existence of separate territorial jurisdictions that have the possibility to set their own tax policies; exploiting the differences between tax policies, then, helps in particular mobile capital to become more profitable. The former section has explained this as well and here, again, it becomes clear that the importance of the CCCTB within a neoliberal view is not harmonization of all corporate tax incentives – but to limit harmonization to the extent that it facilitates both capital's freedom of movement and possibilities for a lower tax burden. The harmonization of research and development incentives might not necessarily do that.

Anti-abuse rules: a fear of 'going beyond' rooted in the neoliberal adage of competitiveness

A last key element that changed with respect to the content of the CCCTB in 2016 are the anti-abuse measures that were adapted or newly included. As the CCCTB intermezzo chapter explained, these were closely related to the BEPS project within the OECD framework. With regard to the implementation of BEPS agreements, organized corporate interests shared a strong common position: the EU should in no way 'go beyond' what was agreed within the OECD framework. This is a much-repeated mantra that across capital fractions, uniting agents driving both neoliberal and neomercantilist projects. Business Europe and its member associations (2016, Section 4.6) argued, for instance, that any additional initiative to counter BEPS 'could lead to a separate, different – and possibly stricter – standard being applied in the EU than in the rest of the world. Such a scenario is not beneficial for the competitiveness of the EU and would not improve the international tax system'. From both neoliberal and neomercantilist reasoning, the competitiveness of EU-based corporations in the global economy and maintaining an international level playing field are at the core of these projects' common direction. Any corporate

tax proposal that threatens competitiveness can therefore be expected to be heavily contested. The CCCTB proposals in 2016 did indeed include certain measures that intended to enforce stricter anti-avoidance rules than agreed upon by member state governments within the OECD's BEPS project and its eventual implementation into EU law through the ATAD in early 2016. For instance, the switch-over clause disappeared from ATAD in negotiations, but was and reintroduced to the CCCTB, which according to an expert within the financial industry was 'an issue in the current proposals' (Interview Business representative #4).

The discussion around the implementation of the BEPS agreements demonstrated, again, how neoliberal priorities of efficiency and competitiveness were made dependent on the idea of what organized corporate interests mostly referred to as flexibility; the possibilities for member states to set their own tax policies. With respect to the joint EU-wide implementation of BEPS agreements, key agents whose member base lies with large TNCs (AmCham Germany & AmCham EU, Eurochambres, Con-industria, Federation of Enterprises in Belgium (FEB - VBO), Confederation of Danish Industry), within tax havens (Malta Business Bureau, Confederation of British Industry, Confederation of Netherlands' Industry and Employers VNO-NCW, Irish Tax Institute) as well as tax advisors and accountancy industry (Deloitte, CIOT, KPMG, PWC) emphasized the differences between member states. It is best demonstrated by KMPG's position (2016, Section 4.6) that stated:

It is important to recognize the different economic and commercial environments existing between EU Member States and similar differences that exist between different types of businesses. Just as discrimination can arise by applying the same rules to objectively different situations so can an overly rigid insistence on common tax rules create barriers to doing business in the internal market. This calls for a degree of flexibility in the rules that recognizes and caters for such differences.

Tax havens indeed benefit greatly from the flexibility to make and adjust tax rules, which in turn directly benefits large global- as well as EU-oriented corporations and their tax advisors.

Accountancy standards, tax rates and consolidation: neoliberal concerns over CCCTB elements that remained the same

Three important elements of the CCCTB remained the same – the absence of tax rates and reference to accountancy standards, and consolidation – and concerns regarding these elements from different forces within the neoliberal project therefore also persisted. A minimum tax rate constituted a major fear for corporations across all industries, and was considered ‘a step too far’ (Interview Business representative #4). Concerns existed that despite the explicit exclusion of tax rates from corporate tax harmonization, the CCCTB would still result in a minimum rate. As explained earlier, tax base harmonization is expected to lead to intensified tax rate competition, and in order to stop declining government revenues as a result, organized corporate interests expected governments to move towards a minimum rate. A TNC representative stated in an interview that ‘of course business are very clear that if you got CCTB it would be very easy to compare the tax rates and there will be a higher risk from a business perspective that you’ll get a minimum tax in the EU’ (Interview Business representative #3).²

Last, the calculation of the corporate tax base both in 2011 and in 2016 was not based upon a corporation’s financial accounts drawn up in line with accountancy standards (most commonly IFRS). A consequence for corporations would be the drafting of two sets of accounts, which was ‘crazy’ according to one expert (Interview Business representative #4). The absence of accountancy standards was therefore considered an oversight of the proposals. Moreover, in their view, potentially opening up the negotiations on drawing up the financial data on which the tax base will be calculated, is an enormous task. Developing IFRS 9 took over 12 years, for example. Interestingly, for the accounting profession, the issue seemed much less concerning. The potential for accountancy arbitrage that could occur with implementation of CCCTB – a concern expressed within the center-left project – was seen a limited and unconvincing (Interview Business representative #5).

Two key issues regarding the second stage of the CCCTB, consolidation, concerned corporations particularly. The first was the need for a temporary

² Note that the neoliberal’s fears for a minimum tax rate were closer to reality than center-left’s prediction that it was ‘extremely unrealistic’: A global minimum effective tax rate has been agreed upon in international OECD negotiations in October 2021. A Directive to implement it in the EU was proposed by the Commission a few months later in December 2021. At the end of 2022, EU member states adopted the Directive. The Directive required member states to transpose the rules into domestic law by 31 December 2023.

mechanism, which was a result of splitting the CCCTB in two proposals. The temporary mechanism allowed corporations to offset losses with future profits. This would automatically be the case if the CCCTB was adopted at once, but until that time this temporary solution was included in the 2016 CCTB. It is therefore closely related to the change in form of the CCCTB that was discussed above. The temporary mechanism was welcomed by drivers of both the neoliberal and neomercantilist projects to the extent that it was regarded better than nothing at all. As a suboptimal solution, the temporary mechanism did not offer the certainty and simplification that corporations generally claim to desire. A temporary cross-border loss relief mechanism 'cannot be compared to a system of consolidation and is far from sufficient' (BusinessEurope, 2016, Section 7.2.3 and their members).

The formula, which had not changed since 2011, remained a second point of contestation. The neoliberal position essentially consists of two elements. The first is that the step of consolidation and formula apportionment was not expected to get anywhere near political agreement between EU member states. Therefore, many agents did not concern themselves strongly with the formula.

When they did speak out, and this is the second element to the neoliberal position, they largely agreed that the formula did not sufficiently fit the global economy (or 'where value is created'), nor that it sufficiently took into account differences between national economies and sectors. The fact that intangible assets were missing from the formula – which took into account sales, labor and tangible assets – was regarded by the neoliberal project as outdated as 'digital companies' or 'modern business' were not reflected in the formula. As one business representative explained, the formula was 'certainly not 21st century', because 'in the modern economy – especially looking at the big American companies – the value is all in the intangibles' (Interview Business representative #5). Conveniently, this would facilitate new avenues for corporate tax avoidance. An interviewed tax advisor (Interview Business representative #2) pointed out that profit shifting through the relocation of intangibles is indeed very likely and even easier within the EU than it is to a third country:

You look at where the lowest possible rate for your profits is, and you move all of your intellectual property into that state. That's much easier to do within the EU than it is... It's much easier to do it now to move your intellectual property into Ireland or

Luxembourg than it is to move it to the Cayman Islands. You've got no treaty requirement. So, actually, you are reintroducing the opportunities for profit shifting, but within the European Union.

Others argued that there is no 'sensible formula' that can take into account economic differences (Deloitte, 2016, Section 4.2). The formula proposed in the CCCTB was said to 'discriminate small countries, particularly those leveraged towards the service industry' (CFE Tax Advisers Europe, 2016b, Section 4.2). This argument is endorsed also by agents driving a weakened neomercantilist project, whose position on formulary apportionment does not differ from neoliberal project.

There is agreement within the neoliberal project that formulary apportionment is difficult – if not impossible according to some – to combine with transfer pricing and the arm's length principle. The latter has been a guiding principle in international taxation for almost a century (Picciotto, 1992, p. 31). The neoliberal argument is that the international negotiations on the BEPS project within the OECD framework (2013-2015) had not abandoned the arm's length principle, but rather further legitimized it. Formulary apportionment was discussed at the start of the BEPS project but not considered to be 'a solution worth pursuing' (Deloitte, 2016, Section 4.2). The EU – by way of the CCCTB – should then not move away from the arm's length principle as the interaction between formulary apportionment (CCCTB in the EU) and transfer pricing according to the arm's length principle (outside of the EU) will be problematic. Global-oriented large corporations in particular had an interest here to maintain the arm's length principle and avoid any difficulties that would arise in case the CCCTB is adopted, as a statement by the American Chamber of Commerce (2016, Section 4.2) clarified: 'We believe that a mandatory CCCTB will result in disagreements over the formulary concept with countries outside the EU, leading inevitably to mismatches and double tax in third-country situations, including with the USA'. Moreover, such corporations found it difficult to see 'how, politically, EU Member States can reconcile a CCCTB with the principles they have agreed at the OECD' (European Business Initiative on Taxation (EBIT), 2016, Section 8.1).

7.3 The neomercantilist project diverging from dominant neoliberal ideas opened up space for counter-hegemonic challenges

Neomercantilist policy ideas were mainly articulated through organizations representing SMEs and cooperatives operating predominantly domestically, as this chapter has argued earlier. Global-oriented and EU-oriented large corporations' interests aligned to a large extent along the lines of neoliberal ideas on corporate tax policy. Moreover, the expected neomercantilist argument of a strong 'home market' allowing corporations to be competitive in the global economy was co-opted by drivers of the neoliberal project. The case of the CCCTB further reinforces the finding that a separate neomercantilist project challenging neoliberal dominance is barely-existing. The positioning of main agents with regard to the CCCTB shows that, indeed, there are no visible large disagreement between global-oriented financial or industrial capital. Counter-arguments are only voiced, in this respect, by predominantly domestic-oriented SMEs and cooperatives. Although these agents themselves were organized well, there was less unity or cooperation in their advocacy or articulating of policy demands. Still, there are several shared concerns, driven by two main factors.

First, corporations with revenues less than 750 million euros were outside of the scope of a mandatory CCCTB in the 2016 proposals. The fact that SMEs would thus be exempt from the CCCTB – while retaining the option to opt in – led to a somewhat neutral attitude towards the CCCTB; if a proposal will not apply to you, then why bother with it too much? (Interview Business representative #6) This neutral position within neomercantilist project translated into a general support for the CCCTB, with the inclusion of anti-aggressive tax planning as one of the CCCTB's main policy goals seen as not particularly relevant, and a broad understanding for the Commission's decision to split the CCCTB into two stages. One SME representative argued that it would be 'better to have a two-step approach than nothing at all', and assumed that the split could help to explore the revenue effects of the CCCTB into two steps and, as such, offer a greater chance to get sufficient support amongst member state governments (Interview Business representative #6). Organizations representing cooperatives in their public consultation responses show the most support for the Commission's proposed two-staged approach, calling it a 'reasonable and pragmatic' choice (Cooperatives Europe,

2016; General Confederation of Agricultural Cooperatives in the European Union (COPA-COGECA), 2016, Section 4.4).

Second, SMEs and cooperatives share an interest in tax exemptions or tailor-made rules, which they often rely on in their domestic context. Therefore, while there is a general support amongst SMEs and cooperatives for the idea of a CCCTB, an SME representative argued that existing special treatment within a domestic context was one reason why they simultaneously shied away from a new EU-wide system (Interview Business representative #6). The heterogeneity within the SME category also leads to different interests and views on corporate taxation. While most SMEs are microcompanies operating mainly domestically, middle-sized corporations can have substantial cross-border activities and potentially use ownership and financing structures to shift profits as well. Regarding cooperatives, specific national tax regimes are often set up to tax this type of corporation that is not owned by shareholders but stakeholders. In a 2013 position paper, Cooperatives Europe deemed the first CCCTB proposal therefore to be unacceptably discriminatory towards cooperatives as the proposal did not include 'specific provisions for cooperative enterprises' to opt in (Cooperatives Europe, 2013, p. 2).

From this second shared concern followed that organizations representing SMEs and cooperatives expressed a heavy-weighted interest to retain special regimes set up for their size or type of corporation linked to their domestic market, and therefore did not outright support the new tax incentives included in the CCCTB in 2016. Cooperatives Europe remarked that their concern was to not lose 'special fiscal rules applicable to cooperatives at the national level' (Cooperatives Europe, 2016, Section 6.2.4). Other organizations representing cooperatives, amongst which COPA-COGECA, repeated the same sentiment. Not opposing the proposed R&D incentives in the 2016 CCCTB proposals, cooperatives mainly wanted to ensure that national tax incentives simultaneously remained in place. SMEs expressed similar interests to keep 'their specific SME rules which they fought for, for years' (Interview Business representative #6). Moreover, the proposed research and design incentive only worked for corporations already generating a profit, which smaller corporations in an innovation- or starting phase often do not make yet. This led one expert to conclude that the 'super deduction' 'is only for the Philips and Siemens of this world' (Interview Business representative #6).

This perceived divide between large, global-oriented corporations – both associated with financial and industrial capital – and smaller, predominantly domestic-oriented corporations also informed SMEs' stance on the mandatory character of the CCCTB. The abilities to artificially shift profits or large corporations are substantially higher than SMEs, and organizations representing SMEs therefore tend to be more in favor of a mandatory CCCTB (European Commission, 2015b, p. 7). SMEunited (then still UEAPME) expressed its hesitancy on the optionality of a CCCTB in 2011 already, arguing that it created an extra opportunity to practice "tax engineering" (UEAPME, 2011). Consistent also with their position that smaller-sized corporations as well as specific corporations as cooperatives should be exempted from the CCCTB, neomercantilist proponents believed the CCCTB should not be mandatory for corporations only active within one member state (Cooperatives Europe, 2016; General Confederation of Agricultural Cooperatives in the European Union (COPA-COGECA), 2016, Section 5.1.2). At the same time, an interviewed expert did assume that if the CCCTB would ever be implemented, it would likely apply to all corporations as running two separate systems in parallel would be extremely difficult for national tax authorities (Interview Business representative #6).

The tensions expressed towards large global-oriented corporations and the concerns for profit shifting potentially opened up a possibility to challenge neoliberal dominance. Although there were also many overlaps with regard to their positioning on corporate taxation generally and the CCCTB specifically, one SME representative also expressed apprehension towards the position of larger corporations. As demonstrated in the precious section, support from large corporations seemed to remain quite abstract and many 'technical' objections arose regarding concrete legislative proposals for a CCCTB. The interviewed expert explained this as follows:

If you earn millions and billions every year in the current system, then you can make some efforts to give the impression you support the idea but also make sure it will never fly. (Interview Business representative #6)

7.4 Concluding remarks

The CCCTB proposals in 2016 no longer reflected the core demands of the main drivers of a neoliberal project. The changes towards a mandatory system for large corporations, without the absolute certainty of cross-border loss relief and with the inclusion of two new contested tax incentives, cannot be explained through the enduring dominance of a neoliberal project – which was reflected in the first CCCTB proposal in 2011.

The chapter found, first, a dominant neoliberal project that subsumed influential fractions of industrial capital and partly co-opted a key neomercantilist argument that center-staged the competitiveness of a strong EU market in the global economy. It explored the tension between the neoliberal project's global focus – stemming from the global orientation of powerful financial and industrial capital – and the continued importance of a world divided into separate territorial jurisdictions. Achieving the lowest possible effective tax burden is at the core of neoliberal ideas on corporate taxation. For that purpose, states' ability to set tax policies and the resulting inter-state competition are crucial. The paradox of global-oriented forces pleading for the protection of states' tax sovereignty and 'flexibility' is therefore no contradiction but directly benefits (highly) mobile capital.

The drivers of the neoliberal project were united in their stance towards the CCCTB in important aspects: their opposition to the reframing of the CCCTB as an anti-avoidance policy instrument and their continued support for harmonization and consolidation of the corporate tax base on an abstract level, accompanied by a neutral or even distant attitude towards the actual realization of the CCCTB. Indeed, general support for the CCCTB as an idea turned out to be more complex where it concerned the details of key policy elements, and some differences surfaced based on diverging domestic or industry-specific interests.

Expected neomercantilist demands with respect to corporate taxation, such as support for domestic-oriented tax regimes to stimulate industries and corporations at home as well as an emphasis on the unfair playing field between types of corporations, were still articulated but by a much smaller and less united group of organizations: those representing SMEs and cooperatives. While many SMEs and cooperatives operate predominantly domestically, they still to an extent share interests with larger corporations. The case

of the CCCTB showed where disagreements and contestation arise: about existing special tax treatment and regimes in a domestic context and about the perceived inequality vis-à-vis large corporations operating across borders that have the resources to exploit tax differences and shift profits. In this way, there was a potential opening for countering dominant neoliberal ideas and policy demands. However, the following two chapters will argue that the rise of a center-left project was unable to sufficiently mobilize this potential of neomercantilist voices.



8. Launching and relaunching the CCCTB in a context of crisis and politicization of corporate taxation in the EU

Explaining the relaunch of the CCCTB five years later by a different Commissioner requires an understanding of relevant material and ideational changes in the decade since the financial crisis starting in 2007. Because the initial CCCTB launch, subsequent negotiations and the relaunch fall within the period between 2007 and 2017, this decade is the core period under investigation in this dissertation. It is characterized by the impact of the austerity measures adopted after the financial crisis as well as the associated politicization of corporate taxation. This chapter helps explain the specific timing of the CCCTB's relaunch in 2016 as well as the changes in terms of content, form and scope.

The chapter first outlines how the EU institutional response in the years after the outbreak of the financial crisis embedded the CCCTB in its crisis management framework, while also opening up ideational opportunities for predominantly NGOs and investigative journalists to problematize and address structures of inequality. This also occurred on a global scale, enabling the institutionalization of efforts to counter corporate tax evasion and avoidance through the OECD.

In the second section, this chapter explores how the concurrent politicization of corporate taxation is closely associated with moments of crises, as these enable the enhanced issue salience of corporate taxation. Increasing issue salience is a key dimension of the process of politicization. The role of investigative journalists in publishing a number of tax scandals from 2013 onwards was decisive in that respect, as well as in shaping the context for EU's corporate tax policymaking. The section argues through an analysis of the impact of media reports of investigative journalists particularly, that the politicization of corporate taxation in the EU would not have taken place to the extent that it has without their publication.

The politicization of corporate taxation resulted in corporate tax policy change in the EU. The last section of this chapter offers an overview of these changes in policy and subsequently contextualizes these changes within broader power relations. The effects of the crisis-politicization dynamic should not be overestimated as structural power relations remained largely intact.

8.1 Corporate tax harmonization in a context of crisis

The embedding of the CCCTB in the EU's crisis management

The CCCTB was launched in 2011 at a time of multiple interrelated crises. The global financial crisis and subsequent economic crises were still looming large and remained at the top of the political agenda globally. The sovereign debt crisis that hit mainly Southern European countries and Ireland was still ongoing. This impacted the launch in 2011 and subsequent negotiations on the CCCTB in the years after in several ways: changing economic governance in the EU and the CCCTB's place in it, governments' need for tax revenues, and the opening up of opportunities on multiple scales to problematize and discuss corporate tax evasion and avoidance.

The EU's economic governance was primed on crisis management, with a focus on competitiveness and growth of EU economies in their recovery of the global financial crisis and subsequent sovereign debt crises. With elements characterized as authoritarian, the neoliberal direction of policies strengthened and intensified throughout the EU's crisis management (Bruff, 2014; Oberndorfer, 2015). A collection of Treaties, mechanisms, Regulations and Directives, Pacts, Packs, frameworks, programmes and other policy measures were set up to a large extent without accompanying democratic control. This 'undeniable shift of power to the executive state apparatuses of the EU' is understood as part of scalar strategies employed to 'seal off popular forces from decision-making processes by flexibly altering the scalar nodal points of policy elaboration so as to take the line of least resistance' (Sandbeck & Schneider, 2014, p. 865). Crucial in a historical materialist analysis, and different from rationalist or constructivist accounts of politicization, the (constitutional) set-up of the EU that limits the ability of its member state government to counter an economic crisis alone, is regarded not as an accident, but as part of a neoliberal project (Stockhammer, 2016, p. 373). Because the state reflects capitalist social relations, capitalist contradictions are inscribed in state institutions. During a crisis, such contradictions may resurface when

state power increasingly relies on coercion instead of consent; the example of governments bailing out banks being a prime example of state institutions privileging 'class agents associated with descending accumulation patterns without making material concessions to achieve consent from contesting groups' (Wigger & Horn, 2023). The EU's corporate tax policymaking itself is less so characterized by a strong shift towards authoritarian state power, due to the principle of unanimity that governs EU tax decision-making. However, the authoritarian character of the framework of economic governance shaped by the EU's crisis management in 2010-2012 is still contextually relevant to the proposal for a CCCTB in two important ways. First, the institutional response to the crisis offered an opportunity to emphasize the competitiveness goals of the CCCTB. From the start of its design in 2001, the Commission presented a common corporate tax system with the purpose of increasing the competitiveness of EU corporations and the EU as a whole (see for example European Commission, 2001b, p. 15 and see chapter five for an extensive discussion of this period). Second, the surveillance and monitoring systems set up as part of the EU's economic governance framework normalized the Commission's direct interference with national policies, including taxation.

Austerity measures and other neoliberal adjustment policies in exchange for 'saving' banks and sovereign defaults, with a maintained focus on growth, competitiveness and fiscal discipline show that the neoliberal project's hegemonic position did not weaken but rather strengthen. Sandbeck and Schneider (2014, p. 851) identify four pillars around which institutional shifts and austerity measures have been pushed through during the crisis: the European Financial Stability Facility (EFSF), the 'tightening' of the SGP, the Euro Plus Pact and the Fiscal Compact (FC), of which the second and third pillar enabled EU institutions to re-assert and emphasize the significance of the CCCTB. The Euro Plus Pact with its main aim 'of improving competitiveness and thereby leading to a higher degree of convergence reinforcing our social market economy' was particularly well suited for the participating member states to emphasize the importance of a harmonized and consolidated corporate tax base in the EU. In March 2011, the same month in which the CCCTB directive was proposed, the European Council presented for the first time the Euro Plus Pact, which was adopted by a group of in total 23 member states' governments (European Council, 2011). Pushed by France and Germany in particular on the Eurozone member states at first, six others member states joined the Pact as well. The aim was, with sovereign debt crises unfolding at that time, to strengthen policy coordination for 'competitiveness and convergence'

(European Council, 2011, p. 13). The Pact centered on four specific goals to be carried out on national levels – foster competitiveness, foster employment, sustainability of public finances, reinforce financial stability – which translated into more concrete but non-binding recommendations on monitoring and comparing unit labor costs, lowering wages, restricting early retirement, promoting R&D, and transposing fiscal rules of the Stability and Growth Pact into national legislation. It did not entail new mechanisms, but intended for more alignment of national economic policy, firmly rooted in a neoliberal discourse of fiscal consolidation and ‘sustainable’ public finances. As an explicit addition to the four goals, the Pact proposed coordination of tax policies as an important element of ‘a stronger economic policy coordination in the euro area’ (European Council, 2011, p. 20). To that end, it included an explicit reference to the then recently published proposal for a CCCTB:

Developing a common corporate tax base could be a revenue neutral way forward to ensure consistency among national tax systems while respecting national tax strategies, and to contribute to fiscal sustainability and the competitiveness of European businesses (ibid.).

Hence, the ECOFIN Council, two weeks after the Commission’s launch of the CCCTB in March 2011, underlined the importance attributed to a common tax system firmly embedded in a neoliberal discourse of competitiveness and consolidation. The Euro Plus Pact is directly integrated in National Reform Programmes and the European Semester, part of the second pillar identified by Sandbeck and Schneider – strengthening the SGP. The European Semester, an ‘annual cycle of coordination and surveillance’, was introduced in 2010 and first reports were published by the Commission in 2011 (European Commission, 2011e). This institutional mechanism constitutes a recurring one-year policy-cycle in which a number of EU (primarily economic and social) governance instruments with different legal bases are integrated, including the SGP and the Macroeconomic Imbalance Procedure (MIP). The European Semester involves no legal transfer of sovereignty from member states governments to EU institutions, but it has given the latter – and particularly the Commission – ‘a more visible and authoritative role than ever before in monitoring, scrutinizing and guiding national economic, fiscal and social policies, especially within the euro area’ (Verdun & Zeitlin, 2018, p. 138). The Commission as the key EU institution in the Semester, gained new powers to set priorities, review national policies and propose sanctions. This is relevant in area of corporate taxation

as the Commission cannot impose binding commitments on member state governments as taxation remains formally a national competence. However, the European Semester offers a basis for the Commission to normalize interference with nationally-set tax policies, predominantly through the Country Specific Recommendations the Commission drafts annually. Here, the Commission can spur member state governments to adjust tax policies in order to create more convergence amongst EU member states, which is another form of harmonization albeit not in form of common tax system.

In 2012 the European Semester recommendations for all euro area member states included the following (European Commission, 2012c, p. 3):

Appropriate tax policy, such as shifting the tax burden away from labour, broadening the tax bases and more effective action to combat tax evasion could contribute to consolidation while increasing competitiveness and creating better conditions for growth.

The recommendation reflects an abstract commitment within the Euro Plus Pact to 'structured discussions' on 'avoidance of harmful practices and proposals to fight against fraud and tax evasion' (European Council, 2011, p. 20). The European Semester of 2012 included recommendations to various member states governments on the need to strengthen tax collection.¹

The Commission has subsequently also referred to the Country Specific Recommendations elsewhere. An Action Plan to strengthen the fight against tax fraud and tax evasion, developed by the Commission after the Council requested it earlier in 2012 (European Council, 2012, p. 3), included 'practical actions which can deliver concrete results to all Member States and lend support in particular to those Member States to whom Country Specific Recommendations on the need to strengthen tax collection have been addressed, in the context of the 2012 European Semester exercise' (European Commission, 2012a, p. 2). The following section dives into the details of the Action Plan to argue that in the context of crisis, space opened up on multiple scales to problematize and discuss tax evasion and avoidance.

^{1.} Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Italy, Lithuania, Malta, Poland and Slovakia.

Shifting policy goals and an increased need for revenues on multiple scales

The Action Plan in 2012 signified a shift in the Commission's priorities to the extent that there were broadened to include more explicitly the fight against tax fraud and tax evasion (Panayi, 2015; Roland & Römgens, 2022). A wide range of measures – from strengthening existing instruments to new initiatives and from short-term to long-term plans – were included in the Action Plan. A substantial part was concerned with improving administrative cooperation between member states, addressing VAT fraud and other VAT-related issues, and the exchange of information between tax administrations. Most relevant to this research were the intention to create the Platform for Tax Good Governance and the two non-binding Recommendations that accompanied the Action Plan (European Commission, 2012a, pp. 5–7). The first concerned a recommendation for member states to take action against 'jurisdictions not complying with minimum standards of good governance in tax matters, among which jurisdictions commonly considered as tax havens', for instance through blacklisting those jurisdictions and renegotiating double tax conventions (tax treaties). The second recommendation concerned aggressive tax planning, signifying the start of the problematization of corporate tax avoidance. The Commission acknowledged here that 'some taxpayers may use complex, sometimes artificial, arrangements which have the effect of relocating their tax base to other jurisdictions within or outside the Union' (European Commission, 2012a, p. 6). Addressing these practices would 'have an important positive impact on the rest of society', while also improving 'the operation of the internal market' (ibid.).

What is surfacing here already is the Commission's efforts to combine the two seemingly opposing policy goals of competitiveness and fairness, reflected also in the relaunch of the CCCTB later on in 2016 – thereby co-opting growing demands for fair corporate taxation pushed for by a center-left project. Illustrative in that regard is that the Action Plan was preceded by a Communication of the Commission on Double Taxation in the Single Market (European Commission, 2011b) as well as a public consultation 'on factual examples and possible ways to tackle double non-taxation cases' (European Commission, 2012b). Only in the Action Plan in 2012, this culminated in what had to appear at least as a coherent approach to taxation in the EU where the sole focus on 'market-making' measures was now accompanied by 'market-correcting' provisions (Roland & Römgens, 2022).

Fairness as a new leading principle for corporate tax reform started to emerge around 2012-2013 (Roland, 2020, p. 86). Besides this change, ideational in nature, the multiple interrelated crises in Europe also drove a change that was of material character: governments needed revenues. The conclusion of the Action Plan (European Commission, 2012a, p. 15) directly related the increased emphasis on fairness with the aim of increasing revenues:

The Commission believes that the combination of these actions can provide a comprehensive and effective response to the various challenges posed by tax fraud and evasion and can thus contribute to increasing the fairness of Member States' tax systems, to securing much needed tax revenues and ultimately to improve the proper functioning of the internal market'.

The need for revenues was a direct result of the initial responses to the global financial crisis that prioritized bail-out packages for those banks deemed 'too big to fail'; public funds were mobilized to stabilize banking systems and to absorb the risks taken on through highly complex financial instruments for private gains. Whereas European banks and large (multinational) corporations from export and retail sectors were among the main beneficiaries of the public support measures taken in the EU between 2008-2012 that amounted to almost 600 billion, governments faced enormous budget deficits (Heinrich, 2015, pp. 689-690). Deficits were exacerbated by growing expenses for economic stimulus programs and social security services. The subsequent institutionalization of austerity frameworks from 2011 onwards contributed to consolidation of a new cycle of authoritarian-neoliberal integration in the EU (Bonfert, 2020, p. 95; Sandbeck & Schneider, 2014, p. 853). However, budget deficits were not 'solved' by cutting expenses only but also by taking on debt, with high levels of public debt as a result. Another way of increasing income is raising more revenues, with taxes being a key instrument for revenue mobilization. The Action Plan of 2012 already acknowledged this and aimed for a coherent approach without member states implementing unilateral measures that would impede the functioning of the internal market. The Commission used the Action Plan in 2012 to reiterate its Europe 2020 strategy (European Commission, 2010a), the successor strategy of the Lisbon Agenda of 2000, that intended to achieve 'smart, sustainable and inclusive growth' in the wake of the crisis:

The revenue side of the budget also matters and particular attention should also be given to the quality of the revenue/tax system. Where taxes may have to rise, this should, where possible, be done in conjunction with making the tax systems more "growth-friendly". For example, raising taxes on labour, as has occurred in the past at great costs to jobs, should be avoided. Rather Member States should seek to shift the tax burden from labour to energy and environmental taxes as part of a "greening" of taxation systems. (European Commission, 2010a, p. 26)

The Europe 2020 strategy did not propose to raise taxes on corporate income. Although it recommended member states to not increase taxes on labor with the Commission here seemingly not a proponent of a structural shift in the tax burden from labor to capital, it should be noted that 'the logic of competition leading to competitiveness' was entrenched in the overall Europe 2020 strategy (Wigger, 2019, p. 359).

Governments continued to face an acute need for public revenues in subsequent years, as well as growing feelings of injustice and public outcry over tax abuse during times of significant budget cuts and other austerity programs (Lesage et al., 2014). As an EU official confirmed: 'after the 2008 crisis, there was more and more pressure to fight against tax fraud and avoidance' (Interview EU Official #2). Both the need for revenues and the increased issue salience of fairness in corporate taxation were considerations that materialized on various scales, including in European Council. In its Conclusions of the meeting on 22 May 2013 (European Council, 2013), it was noted that:

Tax fraud and tax evasion limit countries' capacity to raise revenue and carry out their economic policies. In times of tight budgetary constraints, combating tax fraud and tax evasion is more than an issue of tax fairness – it becomes essential for the political and social acceptability of fiscal consolidation. The European Council agreed to accelerate work in the fight against tax fraud, tax evasion and aggressive tax planning. In particular, work will be taken forward as a matter of priority on promoting and broadening the scope of the automatic exchange of information at all levels.

Changing economic governance, governments' need for revenues, and the opening up of policy space to discuss corporate tax reform also materialized on a global scale.

Institutionalizing the international fight against tax evasion: the role of the G20 and the OECD

The crisis gave rise to discussions on the purpose and regulation of the financial system as a whole, thereby tangentially touching upon taxation. Although traditional banks were the most prominent actors in the financial crisis, shadow-banking entities, offshore financial centers and tax havens were seen as part of the systemic risks to the global financial system and framed as enablers of the risky and complex financial operations that were at the core of the crisis (Fernandez & Wigger, 2016; Palan et al., 2009). The G20, 'the premier forum for international economic cooperation' (G20, 2024), took the global lead in this respect. The G20's rise and consolidation 'is the most obvious institutional consequence of the financial crisis with significant implications for the global tax regime' (Eccleston, 2013, p. 86). In 2009, in the immediate aftermath of the financial crisis, the G20 committed to improving regulation for the global financial system by way of an Action Plan. It declared in war-like terms that '[w]e stand ready to deploy sanctions to protect our public finances and financial systems' from non-cooperative jurisdictions, including tax havens (G20, 2009). In no uncertain terms, the G20 announced the era of banking secrecy to be over (ibid.). It was a direct response to the exposing of two banks, LTG Liechtenstein and UBS in the US, facilitating their clients in various forms of tax evasion.

Up until that point, the standard was information exchange on request, which allowed one country's tax authority to request information about its own residents' foreign accounts at another country's tax authority. As a number of OECD members – Austria, Luxembourg, Switzerland and Belgium – refused to exchange such information because this would be in violation with their banking secrecy laws, the information-upon-request standard failed to actually combat tax evasion (Grinberg, 2012, pp. 315–316). Estimations of the world's rich individual's 'hidden' wealth range from \$7 trillion to \$21 trillion (Damgaard et al., 2018; Henry, 2012); and the wealth hidden offshore is highly concentrated amongst the very richest on this planet (Alstadsæter et al., 2019).

Under the Obama administration in March 2010, the US Congress passed the Foreign Account Tax Compliance Act (FATCA) which is recognized as a game changer towards global automatic exchange of information (Emmenegger, 2015; Hakelberg, 2016). FATCA obliges foreign financial institutions (FFIs) to disclose information on accounts of US persons or of entities that are (largely) owned by US persons, to the Internal Revenue Service (IRS, the US' tax authority). In case of non-participation, a withholding tax would be levied on payments made from the US to FFIs. This unilateral measure only worked – at least partly – because of the structural dependence of FFIs on the US-controlled, dollar-based financial system (Emmenegger, 2015; Grinberg, 2012, p. 336). However, there was no reciprocity included in this system: US banks were not required to provide similar information to foreign tax authorities. FATCA was therefore beneficial to the US' domestic financial sector, which Hakelberg (2016) argues is a key reason FATCA was approved by the US Congress.

The lack of reciprocity combined with the issue that FFIs – in some instances – needed to violate national laws of banking secrecy in order to comply with FATCA, led to a joint approach within the OECD. After a formal request by the G20 in 2013, the Common Reporting Standard (CRS) was developed through the OECD framework, which has been signed on to by over a hundred jurisdictions in a multilateral framework, called the Convention on Mutual Administrative Assistance in Tax Matters (OECD, 2017). The group of countries adopting and implementing automatic exchange of information became larger than the initial group of G20 and OECD member states, even though many of those countries signing onto the multilateral framework were not part of developing the standard. Within the OECD's backed Global Forum on Transparency and Exchange of Information for Taxation Purposes – commonly referred to as the Global Forum – over 160 countries and jurisdictions come together to continuously monitor and review standards for information exchange. With a particular focus on developing economies, who make up the majority of the Global Forum's members, there is also a large emphasis on technical assistance. The latter is a necessity as the web of different standards – FATCA, CRS and other standards for information exchange on request or automatic basis – leads to a fragmented regime, which Grinberg (2016, pp. 18–19) argued 'would ensure that the benefits of automatic information exchange are largely limited to the developed economies, with little or no benefit for tax administrations in emerging and developing economies'.

The development of and commitment to the new standard of automatic information exchange, through the CRS and the Global Forum, was a defining moment for the OECD and its position in international tax matters. Due to the expertise in international taxation built up by its secretariat, its 'unique symbiotic relationship' with the G20, and the growing relationships with emerging and developing economies, the OECD managed to consolidate its lead position as the global forum for international tax matters (Lesage & Van de Graaf, 2013). The financial crisis proved to be 'a structural break' for the politics of global tax governance with the G20/OECD tandem firmly positioned as the leading tax platform (R. Christensen & Hearson, 2019, p. 26). This only reinforced with the start of the BEPS project that commenced in 2013, which had a major impact on the CCCTB negotiations as will be demonstrated in section 9.4.

8.2 The politicization of corporate taxation and the indispensable role of investigative journalism

An exploration of the crisis-politicization dynamic

The concept of politicization is understood as a process of issue salience, an expanding range of collective actors involved in the specific issue and increasing polarization of positions (Börzel & Risse, 2018; de Wilde et al., 2016; Grande & Hutter, 2016). The different aspects of the interplay between crisis and politicization have been extensively analyzed in particular within EU integration literature. A special issue dedicated entirely to 'the politicisation of permanent crisis in Europe', offered case studies of both 'how the politics of permanent crisis in Europe impact on the politicisation of the process of European integration' and 'how the emerging patterns of politicisation shape the dynamics of crisis' (Voltolini et al., 2020, p. 610). Key to the debate is whether politicization leads to a 'constraining dissensus' on European integration, or not (Hooghe & Marks, 2009). Hooghe and Marks in their formulation of a postfunctionalist theory of European integration claimed that identity, and particularly conflicts over identity, are decisive for (the direction of) regional integration (Hooghe & Marks, 2009, p. 2). In the subsequent academic debate, moments and dynamics of crisis have been used as cases to explore the different causes and effects of politicization, in particular the euro crisis and crises of EU migration policy.

The case of the euro crisis is characterized by deepening levels of integration instead of adding to patterns of disintegration as postfunctionalist theory would expect. Several scholars showed that despite de-politicizing efforts of supranational agents, the euro crisis was highly politicized. Börzel and Risse (2018, pp. 101–102) argued that in the case of the eurocrisis, which they deem to be ‘about identity politics’, decisions by EU institutions were ‘shielded’ against ‘the forces of politicization’ but the process of supranational delegation led, in the end, to more politicization. Statham and Trenz (2015, p. 303) regarded the conflict over the euro crisis to be of redistributive nature but find similarly that de-politicization strategies of conflict avoidance by political actors were unsuccessful. Their explanation rests with the role of mass media. Others, such as Moreira Ramalho (2020), demonstrated that EU supranational agents as part of the Troika actively responded to the politicization of the EU at the time, by integrating its framing of the crisis into public discourse. Within the politicization literature it is generally accepted that the ways in which politicization occurs and what it leads to are contingent upon spatial-temporal dimensions as well as the opportunities that agents strategically use to either politicize or de-politicize (see for example Kriesi, 2016 on the different types of politicization experienced in different regions).

Adding to this debate a case of politicization of corporate taxation in the EU, politicization was found to be a key factor in explaining ‘the rhetoric and partially substantive reorientation of EU corporate tax policy’ in times of crisis, between 2008 and 2020 (Roland & Römgens, 2022, p. 368). This analysis showed the important role of supranational agents in politicizing corporate taxation – following Schmidt’s (2019) notion of politicization at the top – and how a process of politicization does not need to function as a constraining dissensus but enable more progressive policies. Politicization scholarship, drawing from different theoretical perspectives, emphasizes discursive elements as framing and public opinion as crucial explanatory factors. The analysis in this dissertation additionally draws attention to crucial material changes and continuities. Dynamics of politicization are relevant, but they do not necessarily change structural power relations.

Investigative journalism, Leaks and a Luxembourgish Commission President

In 2010, 28-year old Antoine Deltour left his position as an auditor at PWC in Luxembourg. The day before leaving, he copied documents that included PWC training material as well as tax rulings and shared them with a French journalist

(Chenoweth, 2014). A program broadcasted in France in 2012 only focused on two corporations. The documents were also shared with the International Consortium of Investigative Journalists (ICIJ), a global network of journalists from more than 80 countries who published their findings in renowned media outlets such as the Guardian, The Washington Post and the Süddeutsche Zeitung. The coverage became known as LuxLeaks. Deltour claimed that part of his motivation was for the tax ruling practice to be exposed 'which was widely unknown, especially in terms of scale' (Chenoweth, 2014). The political repercussions of the leak were beyond what he had hoped for, claiming 'there will finally be talk of tax harmonization in Europe' (Gallego, 2014).

The importance of LuxLeaks and subsequent investigate reporting through Swiss Leaks (2015), Panama Papers (2016), Paradise Papers (2017) and Pandora Papers (2021) for corporate tax policymaking in the EU – including the relaunch of the CCCTB – cannot be overstated. Not only Deltour but other whistleblowers that had 'privileged access to aggressive tax planning processes' and the high profile investigations, or tax scandals, they made possible are seen as a key factor in increased issue salience of corporate taxation, besides the financial crisis (Dover, 2016, p. 40). Several studies have analyzed in particular the impact of the Panama Papers released throughout 2016, a Pulitzer Prize-winning investigation that was based on a leak of more than 11.5 million financial and legal records from a Panamanian law firm, Mossack Fonseca (Molina Acosta, 2023). It even inspired a Hollywood film, the Laundromat, in which Gary Oldman figures as Jürgen Mossack and Antonio Banderas as Ramón Fonseca. The Panama Papers (as well as the following Paradise Papers) were 'enormously successful in grabbing media attention'; much more so than NGO campaigns, a comparative analysis of both media and social media attention showed (Gonçalves et al., 2023, p. 27).

The stories resulting from the Panama Papers were published simultaneously in 76 countries; one-third of those countries people or companies implicated in the Papers were penalized in one way or another, and in one-fifth of those countries policy reforms were introduced as a direct response to the Papers (Graves & Shabbir, 2019). One of the most widely-reported direct results from publishing the Panama Papers was the resignation of Icelandic prime minister, Sigmundur Davíð Gunnlaugsson. An in-depth case study of Icelandic reporting by journalists Konieczna and Graves (2020) associated with the ICIJ showed that even though the impact of the Panama Papers was bigger in their country than in any other, the journalists still distanced themselves from

the impact of their reporting. Their case-study research shows, however, the ways in which the journalists made strategic choices in terms of the timing of their reporting as well as how their reports would be published in order to increase the impact (Konieczna & Graves, 2020, p. 2357). This is in line with assessments of the entire ICIJ as a 'well-resourced, transboundary, digital media organization' (Johnson, 2018, p. 279) with a sophisticated *modus operandi* (Roland, 2020). Particular attention was given to the collection and analysis of the data (with high-end technology), to the publication of user-friendly editions (with dedicated websites, infographics and documentaries) and to the global character of the publications (Roland & Römgens, 2022). Although the agency of investigative journalists had an undeniable impact on corporate tax policymaking, and their goals might at times have overlapped, this dissertation separates them from a center-left project as their strategic action was not generally working towards a common direction.

Although the Panama Papers might have had a larger impact – as academic scholarship above has pointed out – LuxLeaks was arguably more important for the context in which contestation between hegemony projects over corporate tax harmonization occurred in the EU. The main reason is the timing of the LuxLeaks reports and its not-so-accidental coinciding with the start of the Commission under President Jean-Claude Juncker, who was the former prime minister of Luxembourg (Roland & Römgens, 2022, p. 362). The ICIJ consortium published LuxLeaks in November 2014, only a few days after Jean-Claude Juncker – considered by many as the mastermind behind the Luxembourg tax system – took office as President of the Commission. For many of the experts interviewed within this research project, LuxLeaks was a game changer. The revelations exposed both the wrongdoings of the usual suspects – TNCs and their tax advisors – *and* EU member state governments, legislators and tax authorities, who were no longer seen as victims but as partners in crime. One NGO expert argued that the tax scandals functioned as a 'trigger' for the main discursive change in the Commission's policymaking at that time (Interview EP member/staff #4):

LuxLeaks is *the* moment where everybody reads about multinationals that can just easily decide how much they want to pay in taxes in Luxembourg. Of course before that you had NGOs, some trade unions, some citizens, some researchers that were working on this, but it was not known as publicly as that. For me it is before and after LuxLeaks.

The assumption that LuxLeaks changed corporate tax policymaking within the EU is shared amongst hegemony projects. A business representative claimed that the Commissioner responsible for taxation in the Juncker Commission, which was Pierre Moscovici, was only so active in the area of corporate taxation to 'save' Juncker's Commission Presidency (Interview Business representative #1):

Moscovici had to ensure that Juncker was able to say "we have developed 13 or 14 new laws, no one has ever done that before!". Well duh, but that is not because he wanted to from the start, I don't believe that. But damn, after three weeks he had to figure out: what can we do to save my Presidency?

The impact of LuxLeaks specifically had several institutional and ideational dimensions. First, it led directly to the set-up of 'a special committee on tax rulings and other measures similar in nature or effect' investigate the tax rulings of EU member states and their compatibility with EU law (European Parliament, 2015). Second, it opened a window of opportunity for many corporate tax policy initiatives – including the CCCTB – to be discussed, (re-) launched and/or adopted. The crisis opened up discursive opportunities to problematize in first instance tax evasion and fraud as the international reform in terms of automatic information exchange shows. Subsequent intensified politicization of corporate tax broadened these opportunities to also include the avoidance of taxes. Corporate tax avoidance, different from evasion, is formally often seen as practices that occur within the letter of the law – albeit not necessarily within the spirit of the law – but in fact only a judge can ultimately rule on the legality of avoidance practices.

8.3 The limits to policy change: structural power

Due to the crisis-politicization dynamic as discussed so far, the salience of corporate taxation – in particular the increased emphasis on fairness of tax systems – remained high during the period under investigation (2011-2017). This section, first, offers an overview of the broader EU corporate tax policy change that occurred. Second, it argues that the limits to that policy change are explained by structural power relations that were largely unaltered.

In November 2018, Pierre Moscovici was invited by the Parliamentary Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) for an exchange of views. Evaluating the 'joint work we've done to fight tax evasion and avoidance', he claimed the following:

I think we can be proud of the progress that's been achieved under this Parliament. More has been done in the last four years than in the 20 years preceding that. Together, we've shown that it's possible to make significant progress despite the lack of unanimity, which in the past often brought us to a standstill. In fact, since 2014 we've been able to adopt 13 proposals unanimously. (...) and it shows that member states are changing. Of course it wasn't overnight; there's been public pressure, there's been the pressure of the scandals, from international institutions, and also pressure from the EP [European Parliament]. In light of the major tax scandals it was no longer possible to just have business as usual and do nothing.

(Exchange of Views with Pierre Moscovici, Member of the European Commission Responsible for Economic and Financial Affairs, Taxations and Customs, 2018).

He claimed the policy change as an enormous success – for the Commission themselves as well as the Parliament – and linked it directly to the tax scandals and leaks as well as to public pressure. Moscovici also emphasized the inter-institutional cooperation as vital for breaking through the unanimity stalemate, which a later chapter will explore further. The policy change that he referred to was indeed characterized by a quantity and pace not matched by corporate tax policymaking in the decades prior, as Table 8.1 shows (Roland & Römgens, 2022, p. 360).

Table 8.1: Secondary tax legislation before and after the crisis.

1990s–2008	2008–2019
1990: • Parent-Subsidiary Directive • Merger Directive 2003: • Interest and Royalty Directive • Savings Tax Directive • 2004: • reform of 1977 Mutual Assistance Directive	2011: • Directive on administrative cooperation in the field of taxation (DAC I; repealing Mutual Assistance Directive) • Recast of the Interest and Royalty Directive (proposal to eliminate tax evasion via hybrid financial instruments, <i>blocked</i>) 2013: Public country-by-country reporting (CbCR) • for the financial sector (Capital Requirements Directive IV) • for the extractive and logging industries (Transparency and Accounting Directives) 2014: • Automatic exchange of information (AEoI) of financial account information (Directive on Administrative Cooperation (DAC) II; repealing Savings Tax Directive) 2015: • Inclusion of anti-abuse rule in the Parent-Subsidiary Directive • Automatic exchange of tax rulings and advance pricing agreements (DAC III) 2016: • Automatic exchange of CbCR (DAC IV) • Automatic exchange of beneficial ownership information (DAC V) • Anti-Tax Avoidance Directive (ATAD I) • Proposal for public CbCR for multinational companies (<i>adopted in 2021</i>) • Proposal for common consolidated corporate tax base (CCCTB, <i>withdrawn September 2023 with tabling of BEFIT proposal</i>) 2017: • ATAD II • Directive on tax dispute resolution mechanisms 2018: • AEoI on cross-border arrangements (DAC VI) • Proposal for two directives on corporate taxation of a significant digital presence and a Digital Services Tax (<i>blocked</i>) 2019: • Communication with roadmap for transition to qualified majority voting in taxation (<i>no formal proposal was tabled</i>)

Legend: This table includes only 1) adopted (amended) directives and 2) (amendments to existing) directives currently under negotiation. It does not include soft law instruments, such as the Code of Conduct on Business Taxation, or changes in decision-making procedures (such as proposals to move to qualified majority voting). Source: the table is an updated version from an earlier study (Roland & Römogens, 2022, p. 360)

Country-by-country reporting (CbCR) is one of the key tax transparency issues that is reflected in a number of directives in the overview. Credit institutions were the first sector obliged to publish such financial information data on their activities *per country*, in line with the fourth Capital Requirements Directive (CRD IV) (Directive 2013/36/EU). They were followed by major corporations in the extractive and forestry industries that were required to publish certain financial information on their payments to governments for every country they are active in, through revisions of the Accounting and Transparency Directives (Directive 2013/34/EU; Directive 2013/50/EU). The Commission proposed similar transparency requirements for all multinational corporations in 2016. After years of negotiations, a majority in the Council supported public CbCR for multinational corporations in February 2021 – considered a major breakthrough in the fight against corporate tax avoidance.

As a consequence of the global agreements discussed above on automatic exchange of information (AEOI), a directive was adopted in December 2014 (Council Directive 2014/107/EU). Its adoption and subsequent expansion represented another implementation of the transparency discourse (albeit only with respect to the exchange of information amongst tax authorities, not publicly available information). Other directives or amendments to existing directives that were adopted are good examples of measures targeting a specific practice. The automatic exchange of tax rulings and advance pricing agreements (Council Directive (EU) 2015/2376) was adopted at the end of 2015, and is a direct result of LuxLeaks. It requires tax authorities that issue tax rulings or pricing arrangements to the benefit of corporate taxpayers, to automatically exchange them with other member states through registering them in a central directory database accessible to all member states.

Another measure requires so-called ‘intermediaries’ – such as tax advisors, lawyers and accountants – to report to their tax authorities cross-border arrangements might have been put in place by their clients to ‘obtain a tax advantage’ (Council Directive (EU) 2018/822). In particular the Panama Papers and the Paradise Papers highlighted the role the industry of advisors, accountants, lawyers and corporate service providers in assisting TNCs and rich persons to avoid and evade taxes, as well as their role in influencing tax policies.

In addition to corporate tax policy changes led by the Commissioner Moscovici, his cabinet and the DG TAXUD, the policy shift also materialized through state

aid investigations conducted by DG Competition. Used extensively at the end of the 1990s to create and uphold competition in the single market, these investigations are not new. However, the addition of tax fairness to the otherwise competitiveness-driven discourse of DG Competition is now omnipresent and can best be illustrated with a quote from the then Commissioner for Competition Margrethe Vestager: 'All companies, big and small, should pay their fair share of tax. If Member States give certain multinational companies tax advantages not available to their rivals, this harms fair competition in the EU' (European Commission, 2019b). DG Competition initiated formal investigations into the compatibility of tax arrangements and tax rulings with EU state aid rules in the Netherlands (Starbucks, Nike, IKEA,), Luxembourg (Fiat, McDonald's, Amazon, ENGIE, Huhtamäki), Belgium and Ireland (Apple). Most of the cases targeted individual rulings between national tax authorities and TNCs, but in the case of the UK and Belgium the state aid cases focused on specific tax rules: Control Foreign Company rules and the Excess Profit exemption, respectively. In numerous cases where the Commission indeed found the selective tax advantages to be illegal under its state aid rules, the member state in question have appealed the decisions (which included the mandatory 'recovery' of the illegally given aid) and courts of the EU – either the ECJ or the General Court of the European Union – ruled in their favor. This was the case for tax advantages received by Starbucks in the Netherlands, and by Fiat, ENGIE and Amazon in Luxembourg. In the case of McDonald's, the Commission itself ruled that the tax advantage did not constitute illegal state aid (European Commission, 2018). Other formal investigations are still ongoing. The state aid case that arguably received most attention, of the tax ruling between Apple and the Irish government because it was one of the first investigations launched and it involved the largest sum of money (€13 billion), is still awaiting a the ECJ's final judgment (O'Carroll, 2023).

The measures adopted in the period of 2008-2019 are impressive in terms of quantity and pace, as Moscovici's speech indicated; however, they consisted of measures that targeted a very specific form of tax abuse or a tax practice that became controversial due to the politicization of corporate taxation. None of the measures ensured either ending corporate tax avoidance entirely, nor represented an entirely different way that corporate income is taxed. Politicization offers a part of the explanation that targeted measures were adopted. Institutional limitations help explain why moving beyond such measures, such as comprehensive proposals as the CCCTB, did not succeed after all.

Tax havens and decreasing corporate tax rates: structural power of capital

Institutional limitations, in this case mostly unanimity, exist not by way of accident but because the structural power of transnational capital that remains entrenched in legal framework on various scales (national, EU, global), which ‘freezes a political-geographic mismatch between market promotion and market correction’ (Lesage et al., 2014, p. 199). Lesage and colleagues (2014, p. 200) argued, moreover, that – although the material and ideological consequences of the crisis have to a certain extent increased the possibilities of higher taxation of transnational capital – neo-liberal hegemony remained deeply embedded in common-sense assumptions. Their analysis stressed that the structural power of transnational capital remained ‘largely intact’. With regard to the political economy of EU corporate tax harmonization, this is perhaps best exemplified in the continued existence of European tax havens. Despite the G20s declaration of war on tax havens, the reliance of transnational capital on existing networks on such jurisdictions for profit shifting (and thus profit maximization) is undiminished.

The empirical literature on profit shifting, first reviewed by Dharmapala (2014), has been growing since around 2010 and able to draw from ‘new and richer sources of data’ (Dharmapala, 2014, p. 446). Early studies of profit shifting from several international organizations have focused on the effects on developing economies. UNCTAD’s World Investment Report of 2015 estimated that developing economies lose \$100 billion in annual tax revenue due to tax-avoiding practices facilitated by ‘offshore investment hubs’ (UNCTAD, 2015, p. 200). An IMF report in the same year, offers ‘tentative’ estimates that non-OECD countries lose out at around 1.3% of GDP (Crivelli et al., 2015, p. 21). Although estimated revenue losses due to profit shifting are higher for OECD countries (over \$400 million versus \$200 million), the relative impact is larger for developing economies. The latter is further confirmed in a subsequent study based on expanding the same data set to estimate lost revenues on country level for the period 1980–2013; it found that ‘the intensity of losses is substantially greater in low- and lower middle-income countries’ (Cobham & Janský, 2018, p. 221).

Several studies since have exposed the jurisdictions that are center to TNCs’ profit shifting globally and have used increasingly firm-level data (as opposed to aggregated macroeconomic data) in order to arrive at more precise estimates. A study into offshore centers identifies the Netherlands, United

Kingdom, Switzerland and Ireland as among the top five 'conduit-OFCs' for foreign capital (Garcia-Bernardo et al., 2017, p. 6). Functioning as 'attractive intermediate destinations' for investments, the so-called conduit-OFCs often lead foreign capital to the more traditionally known tax havens (or 'sink-OFCs') of which the study identifies Luxembourg, Lichtenstein and Malta and to be relevant European nodes in the wider complex network of international capital flows. British Crown Dependencies (Jersey, Guernsey), British Overseas Territories (most importantly the British Virgin Islands, Bermuda and the Cayman Islands) are also identified as important offshore centers for foreign capital (Garcia-Bernardo et al., 2017, pp. 1, 6). Using foreign affiliates statistics and national account data, Tørsløv and colleagues (2023) estimate (for the year 2015) that 36% of multinational's foreign profits – which amounts to \$600 billion – were shifted to tax havens (Tørsløv et al., 2023, p. 1515). EU member states are key tax havens for TNCs to shift their profits through or to: Ireland, the Netherlands, Luxembourg and Malta account for over one-third of all shifted profits (\$222 billion) (Tørsløv et al., 2023, p. 1518). Both an academic and a political issue is the availability of data. Because more data is available for US TNCs, estimates on their profits shifted to tax havens are numerous (see for example Clausing, 2015; Dowd et al., 2017). These studies all point to the importance of tax havens for US TNCs profitability. Besides the Cayman Islands and Bermuda, the Netherlands, Ireland, Luxembourg and Switzerland are central to US TNCs' profit shifting.

More appropriate data to arrive at more precise calculations of profits shifted and associated revenue losses has only recently become available in the form of CbCR. The latter has been a key policy demand in terms of tax transparency from the center-left project (will be extensively discussed later on). A recent study that was able to draw from CbCR datasets estimates that \$862 billion in profits were artificially shifted to tax havens in 2017 with the UK, Luxembourg and the Netherlands among the top ten destination countries for shifted profits (Garcia-Bernardo & Janský, 2024, pp. 10–11). Associated global revenue losses are estimated to be between \$200–300 million, with lower-income countries losing more tax revenue relative to total tax revenue (Garcia-Bernardo & Janský, 2024, p. 13). Using a CbCR dataset as well, another recent study found that large German TNCs report 9% of their global profits in tax havens, most of which is shifted to European tax havens like Switzerland, Ireland and the Netherlands (Fuest et al., 2022, p. 455). They estimate that the German Treasury lost out EUR 1.6 billion annually (in 2016 and 2017) due to the profit shifting of large German TNCs and the European tax havens facilitating

this. The recent CbCR data shows that in 2017 US TNCs 'reported \$4.2 trillion in offshore accumulated earnings, \$3 trillion of which is in tax havens. But just nine havens account for \$2.8 trillion of that \$3 trillion. Of those nine, four are independent European jurisdictions (Ireland, Luxembourg, the Netherlands and Switzerland), four are island jurisdictions with close affiliations to the United Kingdom (Bermuda, Jersey and the Caymans) or the United States (Puerto Rico), and the other is Singapore' (Clausing, 2020, p. 927).

This review of existing literature on profit shifting by TNCs demonstrates that across studies that use different methodologies and draw from different data sets, European tax havens are central nodes in the global political economy that facilitates large corporations to avoid (amongst other things) taxes. Tax havens in general are, as Palan et al. (2009, p. 236) argued, one of the key pillars of neoliberal globalization – the latter also characterized by a decades-long trend of decreasing statutory tax rates. The EU Tax Observatory notes that, on average, statutory corporate income tax rates in the EU declined 'significantly' from approximately 35% in 1995 to nearly 21% in 2021 (Godar et al., 2021, p. 19). Historical data is available for a smaller set of countries (13), which shows that the average rate in 1981 was as high as 48% (ibid.). The study finds that a decline in statutory rates is associated with a decline in effective tax rates for TNCs – a finding that is corroborated by others, such as Garcia-Bernardo et al. (2022, p. 340) who conclude that the effective tax rate for EU TNCs has declined with 8.7% between 2005 and 2015.

Relevant to this thesis is particularly the role of EU member states – the Netherlands, Ireland and Luxembourg as well as smaller economies Malta and Cyprus – and their retained function as tax haven for transnational capital. The state aid investigations by Competition Commissioner Vestager reflect the role of these member states as well. Telling in that regard was the response of all member state governments to immediately appeal the Commission's decision on the illegality of their tax rulings, instead of recovering the associated lost tax revenues. In conclusion, although the effects of the financial crisis and politicization by investigative journalists on EU corporate tax policymaking are undeniable, this does not negate the fact that EU member states continued to have policies in place that facilitate corporate tax avoidance. Their positions as tax havens emerge in their government representatives' strategies during CCCTB negotiations.

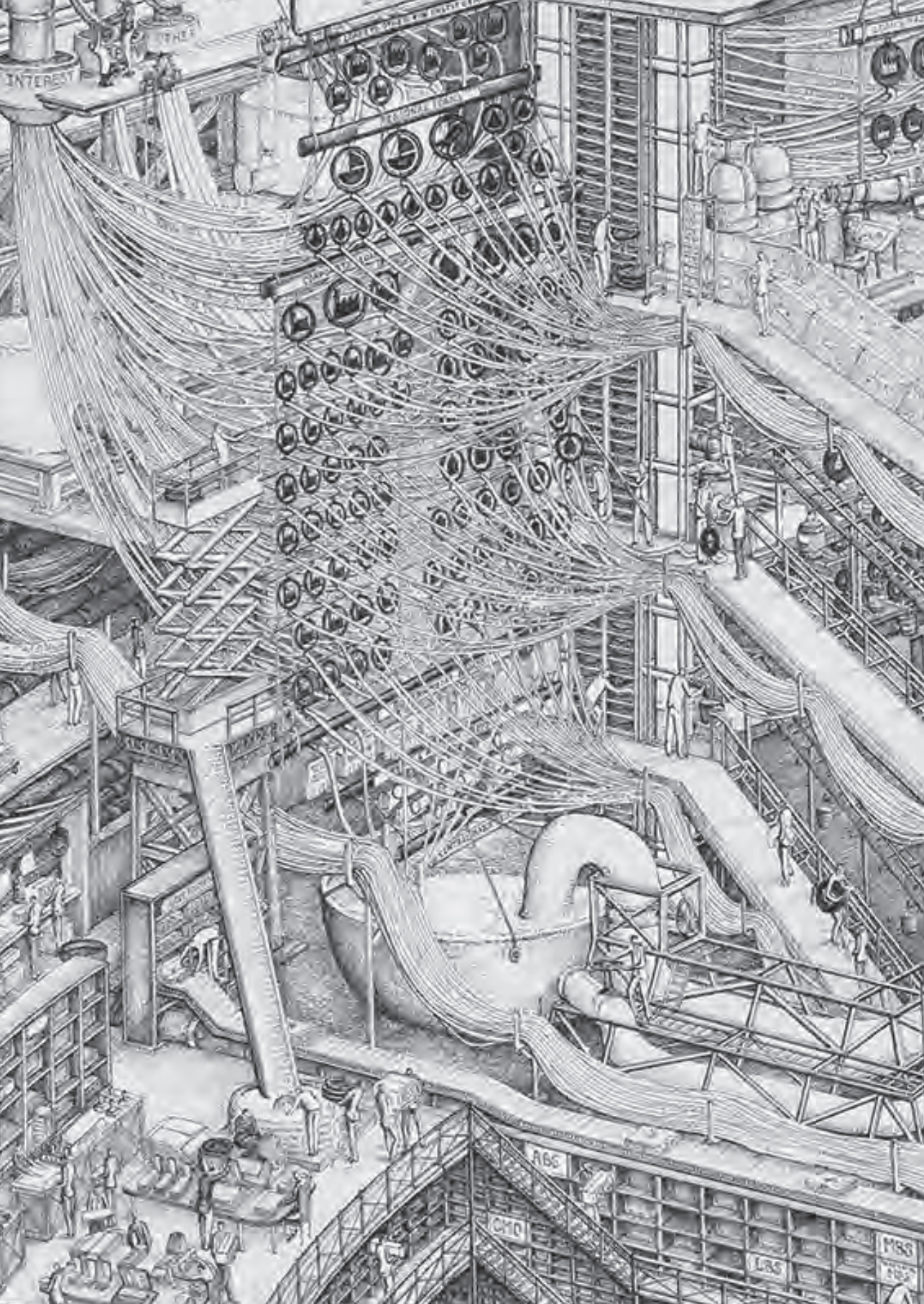
8.4 Concluding remarks

The core decade under investigation, 2007–2017, in which the CCCTB was first presented and then relaunched, was characterized by a crisis of global capitalism culminating in the global financial crisis in 2008. Its impact on the struggle over corporate tax harmonization had – sometimes contradictory – material, institutional and ideational dimensions. This chapter discussed both the potential for change that this conjunctural moment carried and the evidence for continued asymmetric power relations.

The crisis did not lead to a radical overthrow of power relations. As a result of the massive government bail-outs, transnational financial capital continued to be dominant, leaving the precrisis social configuration of power largely intact. The same bail-outs forced governments to look for new revenues, which was also reflected in the EU's changing economic governance framework set up to 'manage' the crisis. On the one hand, EU institutions used this framework to embed the newly launched CCCTB proposal in the leading competitiveness discourse and normalize EU interference in national tax policies. On the other hand, the crisis dynamics opened up ideational opportunities to intensify the problematization of corporate tax abuse, which contributed to ideational shifts in policy initiatives such as the relaunched CCCTB. The politicization of corporate taxation since around 2012 is crucial in understanding why this ideational shift strengthened in the ensuing years. In particular, the work of investigative journalists assembled in the ICIJ immensely contributed to the high salience of the issue of corporate taxation, with LuxLeaks as a game changer in 2014, coinciding with the start of the new Commission led by Jean-Claude Juncker.

The institutionalization of a global process to address tax evasion and, later, tax avoidance through the OECD framework embodied a similar contradiction: while being predicated on a largely unchanged power configuration, new opportunities also opened up to problematize the unfairness of corporate tax abuse. However, representation through the OECD – with 36 highly developed economies as its members – was often criticized on the basis of fairness and legitimacy. Moreover, OECD processes did not include proposals that would radically change the burden on capital or the way corporate profits are taxed. Tax havens around the world – some of them OECD members – continued to function as such, facilitating tax-avoiding or secrecy-seeking capital flows.

The central argument of this chapter is therefore that while the center-left challenge to the dominant neoliberal project went beyond discursive changes and was reflected in significant policy change, this change needs to be nuanced to the extent that these targeted measures did not threaten the actual profitability of dominant capital fractions. Certain structures or practices of corporate tax abuse were limited, and tax transparency as well as information exchange between tax authorities increased. However, the overwhelming academic evidence of an enduring network of tax havens or offshore centers and the associated estimates of profit shifting and lost tax revenues demonstrates that the asymmetry in power relations is a persistent structured condition that restricts strategic action and policy change. The changes this chapter identified could not have occurred without the rise of a center-left project; the structural limits this chapter identified, on the other hand, help explain the obstacles that the drivers of a center-left project encountered.



9. The rise of a center-left project and counter-hegemonic strategy: The struggle over corporate tax harmonization after the launch of the CCCTB in 2011

In the 1990s, Radaelli (1995, p. 156) observed that there were 'no citizens' movements advocating European tax reforms' throughout the 1990s, and therefore, the 'contribution of public interest or common cause groups' was absent from the European scene. After the global financial crisis, this changed – not only in the European Union but globally (Elbra, 2018). Chapter eight has already set out the crisis-politicization dynamic that opened up discursive and institutional opportunities. The rise of a center-left project, articulated by a group of NGOs, labor unions, activists, academics, journalists and political forces has played a significant part in creating this dynamic as well as using opportunities to further their goals. This chapter, first, details who the key agents within the center-left project are, what views and goals they share, and how they collectively posed a counter-hegemonic challenge to the dominance of a neoliberal project. The subsequent section sets out the articulated center-left view on the key changes in the comparison of the 2011 and 2016 proposals, concluding that the changed policy goals of the CCCTB as well as its mandatory character reflected some of their key demands. The introduction of new tax incentives, further narrowing the corporate tax base, as well as lack of a minimum rate were amongst core points that were heavily contested from a center-left view.

In a third step, this chapter juxtaposed the relative power positions and strategic selectivities between proponents of all three projects – neoliberal, neomercantilist and center-left – and demonstrates the extent to which a center-left project is limited in posing a counter-hegemonic challenge. Although discursive changes are observed in the EU corporate tax policymaking context, underlying power relations remain asymmetric.

Finally, this chapter analyses how the struggle between projects over corporate taxation is also articulated on a global scale. The BEPS project, coordinated by the OECD and negotiated by its members, took place from 2013–2015 – precisely in the period that the CCCTB was under negotiation. The impact of the BEPS project on the CCCTB policymaking and negotiation process cannot be overstated.

9.1 A center-left project: Who, what and why?

A center-left project finds its social basis in organized labor and not-for-profit NGOs. Although their membership have little overlap, there is a common direction in challenging existing power asymmetries, including shared goals and demands with regard to corporate income taxation. Amongst the main relevant NGOs that have taken position on the matter of corporate taxation in the EU and corporate income tax harmonization specifically are Oxfam International, the Tax Justice Network, ChristianAid, ActionAid, Eurodad, the BEPS Monitoring Group, and the Global Alliance for Tax Justice (GATJ). The first three have been speaking out on the issue of corporate tax avoidance, Oxfam publishing their first report in 2000 and the Tax Justice Network establishing in 2003, but it was only after the global financial crisis that their efforts were 'reinvigorated' (Elbra, 2018, p. 77). Broader social justice movements have often also included corporate taxation into their program, such as anti-austerity movements as UK Uncut, Occupy and Attac (Elbra & Eccleston, 2018, p. 11). Besides NGOs and social movements, organized labor concerned with corporate taxation is represented at EU level through the ETUC, European Federation of Public Service Unions (EPSU), European Confederation of Independent Trade Unions (CESI), and IndustriAll. ETUC is also social partner, formally representing the interests of workers in the European social dialogue. Center-left forces are also present in the European Parliament's center-left and left-wing political parties. This concerns the Greens, S&D and The Left (before January 2021 known as the GUE/NGL Group).

The key concern for the center-left project is that corporate tax abuse currently leads to lost government revenues and exacerbates inequality between rich and poor countries, large and small companies, as well as between capital and labor (European Trade Union Confederation (ETUC), 2020; Oxfam International, 2016b). NGOs generally emphasize that already marginalized communities in low-income and lower middle-income countries are the most

disadvantaged in relative terms. Structural power of transnational capital is at the heart of the problem, and its perpetual search for the lowest effective tax burden, with the staunch help of an industry of tax avoiders – accountants, law firms and advisors, corporate tax service providers (see for example Corporate Europe Observatory, 2018 and the annual State of Tax Justice reports by the Tax Justice Network). The role of governments, subject to the powerful lobbies of all of the aforementioned, is problematized as well. Governments have been engaging in a race to the bottom, through decreasing statutory and effective corporate income tax rates globally and offering too generous tax incentives. It has led to the existence of a global network of tax havens and secrecy jurisdictions that enable the profit shifting by TNCs (Garcia-Bernardo et al., 2021; Tax Justice Network, 2023). Amongst center-left agents there is a broad belief that tax competition is harmful (Eurodad, 2017). One interviewed expert explained that tax competition is not like ‘competition in general, and by using the same narrative that competition is always good, it was less clear for a lot of the political groups here in the European Parliament that tax competition is not a good thing’, but instead comes ‘at the expense of the less mobile stakeholders of a country, usually the workforce’ (Interview EP member/staff #5).

The degree to which tax competition is seen as harmful differs somewhat between drivers of the center-left project. Labor unions tend to underline neoliberal ideas on tax competition to a larger extent, stating – for example – ‘let’s put it in a business way – we are not against competition. We just want to have fair competition’ (Interview NGO/union staff #4). This entails competition on the basis of innovative capabilities and hard workers, but not on social and fiscal issues (ibid.).

Center-left global solutions to problems of corporate tax abuse and shifting tax burdens

In countering corporate tax abuse, maintaining a ‘fair’ level of effective taxation on corporate profits is necessary for the purpose of equality (including tax morale), redistribution of returns on capital, discouraging aggressive tax behavior and protection against market imperative. Tax justice and tax transparency are key objectives and principles shared within the center-left project. Fair corporate income tax rules are the leading goal. As EPSU (2016, Section 4.2) formulated,

We are concerned by the long term shift of taxation from capital to labour and consumption, epitomised by the decline in both

nominal and effective corporate tax rates. The principle that the broadest shoulders should bear the greatest weight is central to the European social model and is something that should be promoted and safeguarded.

Unitary taxation is widely regarded and recurrently suggested as a key solution to corporate tax abuse within the center-left project. The approach entails to assess a corporation not as a collection of separate entities that transfer goods and services to each other, but to regard and tax a corporate group as a whole. Unitary taxation in combination with formulary apportionment is defined as a long-term goal that radically changes the way corporate profits are taxed (Avi-Yonah, 2016; Picciotto, 2012). It is broadly supported by the entire center-left project as a policy demand to counter or complement the more short-term and ad hoc policy initiatives that have been proposed or adopted and that do not address the structural flaws of the current international tax system. With regard to the EU, this translates into support for harmonization and consolidation of the corporate tax base (CCCTB). The support for the CCCTB is shared and drivers of the center-left project are in agreement on the vast majority of elements in the CCCTB as section 9.2 demonstrates.

However, there are differences in priorities and strategy concerning the search and demands for solutions to corporate tax abuse more broadly. Some demand more radical reform than others. A good example is the EU list of non-cooperative jurisdictions for tax purposes, commonly called the EU tax haven blacklist. Many NGOs criticized the existence of the list itself; they considering it to be a hypocrite and racist policy instrument that they do not intend to legitimize in any way (Turner, 2017). The blacklist problematizes and punishes tax havens outside of the EU and in doing so not only neglects the existence and functioning of tax havens within the EU but even strengthens their competitive position in network of offshore centers. Simultaneously, some and in particular Oxfam International remained involved as the only – albeit very critical – stakeholder engaging in the policy debate (Interview EP member/staff #1). The ideal-type presentation of the center-left project explained that there are no powerful agents demanding radical anti-capitalist reform. The exception here are the social movements such as Attac and Occupy that in fact questioned and opened up a debate about the legitimacy of the global capitalist system – but unlike NGOs concerned with tax justice, these movements were not able to leverage the overall dissatisfaction into corporate tax policy change (Elbra, 2018, pp. 74–75). This is substantiated in

this empirical analysis. One NGO staff member exemplifies this as follows: 'I think, on companies: we don't necessarily disagree with them. They generally want to get on with their business and not do too much paperwork' (Interview NGO/union staff #2).

NGOs often prioritize a global focus, while union representatives are prone to emphasize domestic or regional orientations. Based on the problem definition as well as its vision of unitary taxation, the scalar focus of the center-left's approach is, however, largely a global one. Unitary taxation as radical reform of the current corporate tax system is mostly propagated by NGOs on a global scale, amongst other things through active involvement within the stakeholder frameworks of the OECD and United Nations regarding matters of corporate taxation. NGOs identified above as relevant regarding corporate taxation, operate on a global scale with members or partner organizations worldwide, often rooted in a specific mandate that requires their work to benefit of communities in the Global South. As one NGO staff member explained: 'My closest colleagues are not in Denmark; I have my closest tax colleagues in Kenya, and in Myanmar, and in Zambia' (Interview NGO/union staff #2). Involvement in EU policy processes is therefore legitimized when issues and policies at stake will have a direct or indirect impact on global scale, with an emphasis on local communities in the Global South. As such, the scalar focus of NGOs could also be understood as 'glocal'.

Their mandate explains why, from an NGO perspective concerned with fair corporate taxation, any EU corporate tax policy or law is generally seen as a stepping stone to a global solution, or at the very least seen as contributing to that. Therefore, tax transparency, particularly public CbCR by TNCs, has been key demand over two decades now (Murphy, 2012; Seabrooke & Wigan, 2016). Such public transparency would offer people worldwide information on which TNCs are paying in (corporate) taxes in their countries and how this compares to TNCs' local activities and profits. Importantly, their mandate is a key reason many NGOs did not prioritize the CCCTB in their advocacy and campaigning activities in the core period under investigation (2011-2017). As former NGO staff members explain, the CCCTB is 'a very EU centered reform' that was not regarded as one of the biggest reforms for countries in the Global South, leading to a 'lack of civil society representation' (Interview EP member/staff #5; Interview EP member/staff #4). This has resulted in what an interviewee dubs a strategy of 'defensive advocacy', meaning there *will* be a position taken on the CCCTB after internal discussion – but based more on principle than on

specific policy details (Interview EP member/staff #5). It explains why most NGOs during the period under research knew of the CCCTB, but were not knowledgeable on the nitty-gritty of the legislative proposals (Interview EP member/staff #4).

Although ideally unitary taxation is applied on global scale, a regional initiative for a similar system by way of the CCCTB in the EU will make a difference. For the center-left project, the CCCTB is thus not only regarded as a regional stepping stone to a global reform, but an interesting preview of discussions on formulary apportionment as it is directly relevant to what can be expected when similar initiatives would be under negotiation globally (Interview NGO/union staff #5). In addition, the EU is also seen certain center-left tax researchers as the most efficient organization, at least for now, through which change can materialize:

Like everything about the EU, you could wish for there to be something better than we've got. Like everything with the EU, you can't actually think of what that might be and get it to happen. So the EU is sort of not the lowest common denominator; they're is the highest common factor of achievement we can reach. (...) It's not perfect but is a step in the right direction. (Interview NGO/union staff #1)

In conclusion, the priority of center-left NGOs lies with global governance and local communities, while the EU is regarded as a powerful in-between scale. This differs from other agents in the center-left project, mainly MEPs as well as labor unions. Their primary scalar focus, based on their voters and members, is regional and national. Although there are disagreements between national-based members of labor unions, according to one interviewee these can be strategically dealt with in order to avoid internal conflict and subsequently enable united strategic action: 'Look, for them, it all depends also on the way you present it. If you are pointing one member state on his own (...) then you will have complaints. If you have a group of countries, who are behaving the same and mentioning all of them, then that's fine' (Interview NGO/union staff #4). Less so than in the case of neoliberal agents, disagreement along national lines seems to be less of an issue for organized labor in positioning on CCCTB, or corporate income taxation more broadly.

9.2 The center-left view on key changes in the CCCTB

The CCCTB as a first step towards global unitary taxation: a center-left perspective on changing policy goals

Within the center-left project, organizations were united in its support for the idea of unitary taxation that underlies the CCCTB. To tax TNCs as unitary actors rather than a constellation of separate entities is a key reason that the CCCTB appeals to the center-left project (Turner, 2016). Although there are different degrees as to how 'strongly wed' to the idea of unitary taxation the different center-left agents are, it is not contested (Interview NGO/union staff #3). Unitary taxation on a broad scale seemed like an utopia or 'a figment of imagination of few academics' for a long time and the CCCTB demonstrated that a real possibility existed for it to materialize (Interview NGO/union staff #1). Some NGO experts believed the CCCTB was key in normalizing the idea of unitary taxation as the future of corporate taxation; as such, the EU putting forward this idea allowed many more than the few academics to really discuss it as 'a potential direction of travel' (Interview NGO/union staff #5).

Second, and following the support for unitary taxation as a long-term ideal, harmonization and consolidation by way of the CCCTB were perceived as key to tackling tax avoidance and profit shifting (Oxfam International, 2016c). The CCCTB would abolish transfer pricing within the EU and in that way end an important channel of profit shifting for TNCs. The CCCTB was also seen as a proposal that would be a partial solution to harmful tax competition. As ActionAid (2016, Section 4.2) for instance stated, the CCCTB 'is the only effective way to ensure fairness in corporate taxation within a single market'. Moreover, a common conviction within the center-left project was that public CbCR – one of its key tax policy demands – directly related to the CCCTB (ETUC, 2016). Essentially, CbCR requires corporations to publish financial data per country. This type of transparency is strongly aligned with the idea of unitary taxation. Indeed, the CCCTB would tax corporate profits in the EU based on a corporation's activities per country, instead of every separate corporate entity. Also commonly pointed out was that a mandatory CCCTB will lead to a fairer level playing field for business between mostly nationally oriented business and TNCs as well as those corporations seeking to avoid taxes and those adopting more responsible policies.

The change in policy goals of the CCCTB proposals in 2016 thus aligned with several long-term goals and policy demands of center-left NGOs, labor

unions and political forces. Their overall support of the CCCTB was not without concerns and conditions, however. Only a 'good' design of CCCTB was able to achieve these purposes. The CCCTB was feared to increase other forms of (tax) competition, which led many to advocate for a minimum tax rate to be included in the CCCTB. In their demand for a minimum tax rate, there was no consistent agreement on the exact rate and whether it should have concerned a statutory or effective tax rate. Labor unions agreed it should be a statutory rate of 25%, whereas the Social Democrats in the European Parliament proposed 18% (ETUC, 2016; Socialists and Democrats, 2019). A center-left solution to the fear that setting a minimum tax rate would lead to member state governments reducing their tax rate to the minimum level and thus racing to the defined bottom, would be to have a relatively high minimum rate, but this was regarded as 'politically extremely unrealistic' at that time (Interview NGO/union staff #3).

Impact studies have shown that the CCCTB will lead to a decreased corporate tax base. Agents within the center-left project pointed out that the corporate tax base should remain broad and that special treatment for particular groups of assets needed be avoided. European and member state-based unions (European Trade Union Confederation (ETUC), 2016; General Labour Federation of Belgium (FGTB), 2016, Section 4.2) stated that they:

will not accept that any scheme retained could decrease the global amount of corporate taxes collected. In other case, such a scheme would not reach its goals as revenues lost by aggressive tax planning in the former system would not recaptured in the new scheme.

Indeed, center-left forces also warned for new avoidance strategies to arise in a new system and therefore pleads for appropriate anti-avoidance rules. The CCCTB was thus supported as a key step in the right direction of tax justice, but not as a holy grail. According to a former NGO staff member, the CCCTB would at least make 'life harder for companies that do tax avoidance' (Interview EP member/staff #4).

Following the center-left project's broad support and concerns regarding the CCCTB proposals, the change in policy goals was considered to be a positive development. The CCCTB proposals in 2016 were perceived to have a 'very satisfactory angle' to it and seen as 'a very good example of shift of mentality in DG TAXUD in the Commission about how they approach tax policies' – from business driven to also include tax fairness (Interview EP member/staff #4).

Center-left support for the change towards a mandatory CCCTB, but questions on the motive

The key center-left aim to see the CCCTB realized was curbing tax avoidance. To that end, there was broad support amongst center-left forces that the CCCTB needed to be mandatory. An optional system is not effective as corporations can still choose to employ avoidance strategies under the 'old' system. Moreover, NGOs argued that a mandatory CCCTB aligned with goals of simplification, not in the least for national tax authorities (Eurodad, 2016; Oxfam IBIS Denmark, 2016; Oxfam International, 2016a, Section 5.1.2). One expert argued that the latter was the real reason the Commission proposed a mandatory system. Although it was 'sold' as a tax justice argument, the reason why the Commission opted for a mandatory CCCTB is because an optional system in which companies can choose to opt in or out would be 'a nightmare to deal with it' (Interview EP member/staff #4). The process analysis in the following chapter corroborates this view.

A somewhat more contested issue within the center-left project was whether corporations that operate solely within a national context needed comply with CCCTB as well, or have the choice under which tax system to operate. Although there was agreement within the center-left project that such choices should not be left to corporations itself, NGOs generally were of the opinion that member states should make this decision. Labor unions, such as ETUC and EPSU, believed that the CCCTB should simply apply to all corporations; a mandatory CCCTB for all prevents unfair competition between corporations having to comply with CCCTB and corporations having to comply with national-based systems (European Federation of Public Service Unions (EPSU), 2016; European Trade Union Confederation (ETUC), 2016, Section 5.1.2).

In terms of scope, several European labor unions emphasized the need to look at corporate groups that employ franchise models. These do not always constitute ownership relationships, but imply high degree of interdependence in any case. With a focus on TNCs who run European activities on a franchising model, for unions it was 'very important to note that several major companies under the spotlight for aggressive tax planning have employed franchise models that would seem to facilitate that end' (European Federation of Public Service Unions (EPSU), 2016; European Trade Union Confederation (ETUC), 2016; General Labour Federation of Belgium (FGTB), 2016, Section 5.1.2).

Skepticism on the Commission's choice to split the CCCTB in two proposals

The center-left project's position on splitting up the CCCTB into two proposals in 2016 is similar to the neoliberal and neomercantilist projects to the extent that the change was seen as a strategic move by the Commission and that both NGOs and unions feared that it would (eternally) postpone the second stage of consolidation. The underlying interests differed, however. Within a center-left view, support for a CCCTB hinged upon the consolidation of the corporate tax base, because only consolidation will abolish the (ab)use of transfer pricing and end an important avenue of profit shifting. The major concern for center-left forces was that the first proposal – harmonization of the corporate tax base – would be agreed, while the second proposal for consolidation would not see the light of day. This concern was exacerbated as the harmonization of the tax base contained elements as the research and development super deduction that were firmly opposed. As one NGO expert explained it (Interview NGO/union staff #3):

So not only are we now in the situation where we risk that we do not get anything out of the process; we also risk that it can be harmful and we do not get to the stage that it can be beneficial. (...) We were quite united as a civil society movement in saying: this is horrible idea, let's just get to the good news!

The change into two proposals in 2016 was generally regarded as a purely strategical move by the Commission 'for political reasons' (Interview EP member/staff #4) and perhaps to 'unlock some of the questions within the Council' (Interview EP member/staff #5). The move was seen as not in line with the Commission's own policy goals as harmonization without consolidation would not address the aims of the Commission's own Action Plan to tackle tax abuse, ensure sustainable revenues and support a better business environment in the single market (Eurodad, 2016, Section 4.4). Moreover, the strategy was not expected to work. Drivers of center-left project saw no indications that member states governments would agree on this staged approach rather than on the comprehensive CCCTB approach (Chamber of Labour Austria, 2016, Section 4.4). Rather, there was a fear that a stage approach provided opponents of the CCCTB with 'reasons to defer the essential step towards consolidation and apportionment' (Tax Justice Network, 2016, Section 4.4). The Commission's strategy, one expert concluded, was therefore nothing more than 'a PR-exercise'. According to them, the Commission itself was 'very

skeptical', knowing 'that there was nothing in there that would push Ireland or even the Nordic countries to support this proposal for different reasons' (Interview EP member/staff #5).

Harmonization of the corporate tax base: center-left view on key changes

There were three important changes in the rules to compute the common corporate tax base in the 2016 proposals, compared to 2011. The first concerned tax incentives to stimulate innovation through research and development activities. The second was AGI, a measure to address the debt-equity bias in corporate taxation that generally entails the possibility to deduct the costs of taking on debt (interest) but of equity. The third were adapted as well as newly included anti-abuse measures.

The center-left position on the research and development tax incentive was twofold. First, only actual or genuine costs for research and development should be allowed to be deducted from a corporation's tax base. There was agreement that genuine research and development activities boost innovation in the economy. Second, however, any tax incentive going beyond this were rejected. The 'superdeduction' proposed in 2016 – as well as the AGI – were dubbed by interviewees as 'schemes' and 'cookies for the businesses' (Interview EP member/staff #4; Interview EP member/staff #5). Such incentives contribute to unfair tax competition, as well as to aggressive tax planning practices that abuse research and development incentives. As an alliance of NGOs (11.11.11, 2016; ActionAid, 2016; BEPS Monitoring Group, 2016; Eurodad, 2016; Tax Justice Network Netherlands (TJNL), 2016; Tax Justice Network Norway, 2016, Section 6.2.4) stated in their consultation response:

We strongly oppose special tax regimes, such as the so-called 'patent boxes' and 'innovation boxes' which have proliferated in the EU, and are now being taken up elsewhere. We see no justification for giving favourable tax treatment to one source of corporate income over others, or one type of innovation such as that producing patents rather than others. Such incentives are simply an encouragement to BEPS behaviour.

As this statement illustrates, the project's critique on the CCTB's 'super deduction' echoed their critique of the OECD BEPS agreements, which were seen as legitimizing patent or innovation boxes that offer low tax rates on

profits associated with innovation (i.e. different than deduction of actual research and development costs). Instead of copying the OECD BEPS project that the center-left project believed will not mitigate the downward pull of tax competition that research and development incentives generate, the CCCTB needed to 'seek to phase out such patent or knowledge boxes' (European Federation of Public Service Unions (EPSU), 2016, Section 6.2.4). From the perspective shared within the center-left project, the CCCTB should be an instrument that abolishes patent and innovation boxes; something that BEPS had failed to do. In short, agents driving the center-left project were in agreement that innovation is of importance to the EU's economy but emphasized that there are better ways of going about it than tax incentives.

Center-left objections against AGI aligned with the shared position on the 'super deduction' for research and development costs. Both incentives were seen as a strategic move to lure in the support of corporations and member states' governments. A 'solution' to the debt-equity tax bias is essentially supported, but should not lead to a decrease of the corporate tax base, nor should it open up new opportunities for tax avoidance. The AGI was expected to do both; it would 'make the tax system more sick', as one NGO staff member said (Interview NGO/union staff #3). Deductions should be limited and tax avoidance loopholes should be fixed instead of presenting another tax incentive for equity payments, because 'it is basically just handing out money to corporations, and that is a bad thing' (Interview NGO/union staff #3). To address the debt-equity bias in tax systems, the preference therefore is to limit or abolish the deductibility of interest. Instead of a decreasing corporate tax base through AGI, limiting interest deductibility broadens the base. The Tax Justice Network even argues that adopting such rules 'along with a lower general tax rate would yield the same amount of governmental tax revenues' (Tax Justice Network Netherlands (TJNL), 2016, Section 7.1.5). Last, through limiting interest deductibility the CCTB could also target the inequality in terms of tax incentives for taking on debt between corporations and individuals (Interview EP member/staff #4).

With tax justice as the leading principle, the adapted or newly included anti-abuse measures, were of key importance behind center-left forces' support for a CCCTB. There was broad agreement that the CCCTB needed to protect the EU's corporate tax base, avoid artificial shifting of profits in and out of the EU – in particular to the detriment of low and lower middle-income countries (see for example Eurodad, 2016, Section 5.2.2).

Within the center-left project, organizations expressed a shared interest in a joint implementation of the BEPS agreements by EU member states as it ensured more consistent new anti-avoidance rules across the EU, therefore leaving less room for national differences that potentially constitute opportunities for corporations to shift profits to those countries implementing the weakest rules. However, in particular NGOs have been very vocal in their objections of the BEPS agreements themselves (see BEPS Monitoring Group, n.d.-b). The CCCTB was therefore an opportunity to demand more radical corporate tax reform than the BEPS framework facilitated between 2013-2015 (see for example Eurodad, 2016; Tax Justice Network Netherlands (TJNL), 2016, Section 8.1). Rooted in their global mandate with particular concern for lower and low-income countries, NGOs specifically have a great interest in more and broader anti-avoidance rules in the EU due to their expected (in) direct global impact. That explains the calls for stronger CFC rules and more transparency by way of public CbCR with regard to the CCCTB's anti-avoidance measures (Tax Justice Network, 2016, Section 4.6). Organized labor agreed with the demand for stronger anti-avoidance measures than BEPS contained, in order to counter the trend of shifting tax burdens from capital to labor. Labor unions also tend to take into account tax authorities' workers, such as the Belgian union FGTB (2016, Section 4.6) who argued that:

we would like that BEPS actions are transposed at EU/national level by legally binding requirements subject to regular monitoring coupled with sufficiently staffed and resourced tax administrations and other tax enforcement administrations with strong political backing and genuine mandatory, obligatory cooperation between countries.

There is one issue that did not change between 2011 and 2016, which was the absence of accountancy standards in the CCCTB. The calculation of the corporate tax base was not based upon a corporation's financial accounts drawn up in line with accountancy standards (most commonly IFRS). Within the center-left project there was one tax researcher in particular that concerned themselves with this issue specifically. As one of the Tax Justice Network's founders, Richard Murphy is a vocal tax and accounting expert, mostly expressing views in line with what is identified here as a center-left project. He made the argument that the CCCTB could potentially be of great benefit in improving financial accounts for tax purposes, for which dominant IFRS accountancy standards are insufficient as that was never what they

were designed for. The following sums up his position (Interview NGO/union staff #1).:

The CCCTB is a deeply radical accounting document, which very few people understand how radical it is in accounting terms. Because the CCCTB manages to do something which I never seen done anywhere else. (...) It basically says: the CCCTB will tax realized profits. And it defines a realized profit as taxable income less allowable deduction. So far it doesn't even define profit at all. It actually avoids the whole issue of 'what the hell is profit?' which is fantastic. (...) And the CCCTB is one of the very, very, very few documents that I have seen that understands that. I have no idea whether it was deliberate move, it was probably an accident. (...) It is a definition of taxation, which is almost beyond surpass in my view. Because it lets you focus on what is key: is this income taxable? If it is, then let's include. If it's not: then why isn't it, what is it, how do we subject it to any form of tax of we wish to or is it out of the scope of tax? The scope of the questions it lets you ask, is enormous.

The CCCTB, by not referring to existing accounting standards that are mainly drafted by dominant capital fractions and out of public sight, opened up space for political questions: what do we wish to tax and what not? In case it would refer to existing accounting standards, it would have been relegated to a technical, accounting practice that prevented such questions from being asked.

Consolidation of the common corporate tax base

The temporary mechanism for cross-border loss relief and the formula are the two key consolidation-related issues that concern key agents driving the center-left project. The first was widely objected to within the center-left project. In line with their opposition to the two-staged approach in general, the temporary mechanism was expected to increase opportunities for tax avoidance. Transnational corporations would be in a position to report profits and losses in countries that are beneficial to them tax-wise and, as such, shift profits (Eurodad, 2016; Oxfam IBIS Denmark, 2016; Oxfam International, 2016a, Section 7.2.3). Moreover, a temporary mechanism was believed to make adoption of the second stage – consolidation – even less likely. Labor union IndustriAll (2016, Section 7.2.2) argued for instance that a temporary mechanism had to be 'avoided absolutely', because it was complex and 'it would

remove political momentum and support for the final, consolidated stage of the CCCTB approach'. The fear that the second stage will not materialize was thus shared amongst all three hegemony projects, albeit for different reasons.

The formula, which did not change since 2011, remained an important point of contestation. The center-left project was united in its position that intangibles should not be included in the formula as it would indeed encourage profit shifting. However, center-left agents agreed that taxing the digital economy was not sufficiently addressed by the CCCTB. The proposals needed to ensure that profits deriving from digital activities were properly taxed in the EU, by including them in the corporate tax base. Although they were not surprised the Commission did not include it in 2016, the lack of taxing the digital economy was regarded as a clear omission (Interview EP member/staff #4; Interview NGO/union staff #4; Interview EP member/staff #5). Beyond this, the formula was not subject to much critique from within the center-left project. The proposed formula was generally seen as 'all right' (Interview EP member/staff #5). There was encouragement to have labor as a factor carry more weight than sales and assets (Oxfam IBIS Denmark, 2016; Oxfam International, 2016a, Section 8.1). Many center-left agents explicitly contested the positions of neoliberal and neomercantilist projects that often reject formulary apportionment on a 'technical' basis. Or as one NGO staff member (Interview NGO/union staff #5) stated with regard to the formula:

We're not pretending in the way that defenders of the arm's length principle have pretended for decades. We're not pretending that this is sort of a purely technical, objective basis. This is a political decision.

9.3 Positioning of hegemony projects: relative power and strategic selectivities

The following section explores the power asymmetries between hegemony projects, emphasizing similarities and changes over the key period under research. Guided by the operationalization of relative power and strategic selectivities set out in chapter 3, this chapter compares the organizational capabilities, outreach capabilities, systemic resources and institutional selectivities of all three projects identified. It finds that an increase in expertise and institutional opportunities for the center-left project challenge dominance

of neoliberal agents – both within and outside state institutions – but material, ideational and institutional obstacles remain.

Asymmetries in expertise and resources (organizational capabilities)

In terms of organizational capabilities, which includes information on relevant staff, resources, physical presence or offices and expertise, drivers of the neoliberal project are enormously capable. Relevant to the CCCTB case at hand, following chapter 7, are BusinessEurope, International and American Chambers of Commerce (ICC and AmCham), EBIT, CFE Tax Advisers Europe, Accountancy Europe, Tax Executives Institute, and the EBF. Working in similar ways, these organizations have members across the EU as well as outside of the EU. Often these members themselves are representative organizations or branch associations within a national context, but – for instance in the case of EBIT – individual corporations can be members, too. Besides constituting a support base and providing a mandate, members offer expertise through committees or working groups facilitated by the Brussels-based offices of these organizations. The committees or groups are usually chaired by a representative from one of their members. These members-based organizational structures and the expertise that they hold are key to their access to EU institutions, as one EU official stated: ‘They are important because from them we need to get data. We have no tax information’ (Interview EU Official #4). All organizations have full-time staff working in Brussels to facilitate the work of its committees in terms of informing them as well as lobbying EU institutions based on the committees’ work. For instance, BusinessEurope has an Economic & Financial Affairs Committee that includes three tax-related working groups (tax policy, VAT and green taxation). The working groups are the basis for BusinessEurope’s position on these matters: ‘The Economic and Financial Affairs Committee draws on the work of its working groups to develop BusinessEurope’s policy in key areas of macroeconomics, economic governance, structural reform, taxation and financial regulation’ (BusinessEurope, n.d.). There is one policy adviser in Brussels working on matters of taxation only. EBIT, with 20 individual corporations as its member base – amongst which PepsiCo, Pfizer, BP, Huawei and Caterpillar – has one expert full-time working at its office in Brussels. AmCham has an EU office, lobbying for American TNCs within the EU ‘on trade, investment and competitiveness issues’ (AmCham EU, n.d.-a). AmCham EU has a tax committee that brings together tax experts amongst its members from a broad range of sectors. As its website states: ‘Through regular contact

with the EU and other international institutions, the Committee contributes constructively to the development of effective tax policy which preserves the Single Market and fosters a prosperous investment climate in the EU' (AmCham EU, n.d.-b). One Brussels-based policy advisor assists both AmCham EU's tax and competition committees.

BusinessEurope, AmCham EU and EBIT represent corporations within and outside the EU. Corporations commonly consult tax advisors and accountants for matters of taxation. CFE Tax Advisers Europe represents more than 200,000 advisers at EU level. The organization has four technical committees, which includes a fiscal committee on direct taxes and a tax technology committee (CFE Tax Advisers Europe, n.d.). Two policy advisors work at their Brussels' office. Accountancy Europe, representing one million qualified accountants, auditors and advisors, works with expert groups in which members participate based on their expertise. In their Brussels office, two policy advisors work on tax policy who both cover more than only tax policy (Accountancy Europe, n.d.). Large TNCs commonly do not hire external advisers and accountants, but have in-house tax experts. Tax Executives Inc. unites these in-house tax professionals. Although based in the US, TEI aims 'to promote and support the improvement of the tax laws, and of their administration, at all levels of government throughout the world'. For that purpose, TEI has a committee that 'covers income-based tax aspects of European operations, including tax treaty matters, and develops the Institute's positions and submissions to taxing authorities in European countries, as well as the European Union and OECD' (Tax Executives Institute, Inc., n.d.). The committee is supported by one of TEI's staff members. Besides organizations representing corporations and the professions of tax advisers and accountants, many industry-representing organizations in Brussels also have staff members and committees working on direct tax issues. For instance, the EBF has two policy advisors that cover both Fiscal and Anti-Money Laundering issues. EBF also works with working groups in which experts from their members convene, including a VAT working group, a corporate income taxation working group, and working groups on WHT procedures, tax reporting and the financial transaction tax (Interview Business representative #4).

Built around their members' expertise, these Brussels-based organizations facilitate the exchange of ideas and information, provide channels for joint lobbying, and aggregate interests into common positions. These organizational practices increase their power relative to other projects.

Concerning the neomercantilist project, both large and small corporations are officially represented through organizations as BusinessEurope and several chambers of commerce. According to an expert involved, however, they typically like to claim to also represent SMEs but in reality large corporations define their agenda (Interview Business representative #6). There are fewer organizations representing SMEs only, and relevant to the CCCTB here is SMEunited as others have not publicly made any position on the CCCTB. SMEunited has around 70 member organizations from over 30 European countries, representing 22,5 million SMEs in Europe which employ almost 82,4 million people. Recognized as an employers' organization and European Social Partner, it acts on behalf of crafts and SMEs in the European Social Dialogue and in discussions with the EU institutions (SMEunited, n.d.). Amongst a team of five policy advisors based in Brussels, one advisor works on tax, albeit not full-time as their portfolio includes macroeconomic policy and finance more broadly. Cooperatives Europe has 84 member from 33 European countries, amounting to a total of 141 million individual member cooperators owning 176,000 cooperative enterprises and providing jobs to 4.7 million European citizens across all business sectors (Cooperatives Europe, n.d.). There is just one advocacy officer in the organization's Brussels-based office. The General Confederation of Agricultural Cooperatives in the European Union (Cogeca) – organized together with the Committee of Professional Agricultural Organisations (COPA) – has a team of six policy advisors, none of whom cover taxation in their portfolio. Cogeca represents around 22,000 farmers' cooperatives with a global annual of over 300 billion euros. Moreover, 'since it was founded, Cogeca has been recognized by the European institutions as the main representative body and indeed the mouthpiece of the entire agricultural and fishery cooperative sector' (Copa Cogeca, n.d.).

The center-left project's main agents have less resources and expertise available in terms of organizational capabilities. Relevant NGOs in terms of corporate income taxation as Oxfam International and ActionAid have offices in Brussels, but very limited staff members. Oxfam International – with around 300 staff at its global Secretariat, and 10,000 staff and nearly 50,000 interns and volunteers at its Oxfam affiliates in 87 countries (Oxfam International, n.d.) – have one staff member in Brussels office that covers tax justice as part of Oxfam's work on inequality (LinkedIn, n.d.). ActionAid has 43 members across Africa, the Americas, Asia and Europe, with 3,149 staff and interns and an additional 4,000 volunteers (ActionAid International, 2020, pp. 5–6). At the time of interviews for this research project, ActionAid had one staff member in

its EU office. Eurodad, the network on debt and development of 60 civil society organizations from 28 European countries, has a coordinating role within the GATJ and GATJ's regional member Tax Justice Europe (Eurodad, n.d.). Two policy officers within Eurodad work on tax justice, which thus includes the coordination of the networks.

For labor unions, of which ETUC and EPSU speak out most regarding corporate income taxation, the situation is not much different. Although representing 45 million members from 93 trade union organizations in 41 European countries, plus 10 European Trade Union Federations (this includes EPSU's 8 million public service workers across Europe), both ETUC and EPSU have one policy adviser who spends only a part of their time on taxation policy (ETUC, n.d.). To illustrate that little time was available to them to work on issues of corporate income taxation, a labor union interviewee listed all areas they worked on: 'taxation issues, fiscal policy, monetary policy, tax avoidance, investment policy, wage policy' (Interview NGO/union staff #4). Because policy advisers are often required to be knowledgeable on different policy areas, they need to make choices – more so than policy advisers within the neoliberal project. The result, as one former NGO staff member explained is that 'you have very few people in those organizations in the end who have the capacity to follow, and contribute, and be part of meetings. If you look at the business community, they have much more capacity to follow everything. It's not more a matter of interest, it's more a matter of they need to prioritize' (Interview EP member/staff #4).

While across the center-left project there are physical offices in Brussels as well as policy advisers dedicated to taxation issues, they cannot draw on the same level of tax expertise as the neoliberal project. Expert or working groups consisting of tax professionals (specialists, advisers, accountants, lawyers) that are part of the neoliberal agents' organizational structure are largely absent within the center-left project. This inequality in power is further exacerbated by information asymmetries regarding tax regulations and practices (R. Christensen et al., 2022). It is widely acknowledged, however, that expertise amongst drivers of the center-left project has been growing (R. Christensen, 2021; Mérand, 2024; Roland, 2024; Seabrooke & Wigan, 2016). Over the last decade, amongst others, the number of NGOs working on corporate taxation has increased, knowledge of MEPs and their staff through special tax committees has developed, and ongoing international tax reform negotiations within the OECD framework contributed to growth of

expertise (Roland & Römogens, 2022). According to one interviewed experts (Interview EP member/staff #5), the latter in fact has a direct impact on CCCTB discussions:

now that you have the discussion at an international stage on all those issues of allocating profits (...). Even though it's not exactly the same debate as CCCTB, tomorrow NGOs will also be able to come up with more developed ideas on the allocation of taxing rights and defensive measures.

Ongoing negotiations on corporate tax policy proposals, both on EU as well as global scales, thus enable the development of expertise within the center-left project. Collectively, still, this cannot measure up to the depth and types of expertise amongst neoliberal and neomercantilist projects that include tax professionals as accountants, tax lawyers and corporate service providers, whose professional actions continuously help them 'exploit opportunity structures through information gaps' (R. Christensen et al., 2022, p. 1). The function of these agents and their expertise in the dynamics of capital accumulation results in structures that inherently select for the ideas and demands of those agents; the center-left project can therefore at once be deemed successful in the extent to which it has been able to influence policy narratives while at the same time not have been able yet to see their interests materialize into actual policy change.

Most organizations – across all projects – commonly do not prioritize the CCCTB in their work, for similar reasons. Because the CCCTB proposals did not move quickly in the Council, there was little reason to spend valuable time on it whereas other corporate income taxation policy initiatives required immediate attention. A business representative shared that (Interview Business representative #3):

you would be surprised how little discussion there actually is because I think a lot of businesses and a lot of countries – as long as these proposals are only in the proposal process – are not sending that much resources to follow it. (...) there are not many politicians that pay that much interest.

This does not diverge that much from how center-left agents have interpreted the CCCTB policy process. As an NGO staff member argued, the CCCTB did not

have real momentum at any point in time: it was 'un-winnable' and therefore – although 'it should be part of my identity to be a CCCTB advocate', they saw actual advocacy work on the CCCTB as a waste of time (Interview EP member/staff #1). The fact that the CCCTB proposals did not come close to political agreement in the Council also discouraged center-left agents to dive into the details of the proposal and develop a critical analysis (Interview EP member/staff #1). As negotiations and political momentum figure as an important driver of NGOs' expertise, this also means that the information asymmetry on the CCCTB can be expected to be bigger than on other corporate tax issues as tax transparency. Corroborated by one tax research who believed that there is 'a real technical deficiency at the moment amongst tax justice campaigners' due to the complexity of the issue, especially when it concerns multidimensional issues as is the case for the CCCTB and related accounting rules (Interview NGO/union staff #1). Only a few 'top people' within NGOs can really grasp the complexity of the implementation of a CCCTB proposal (Interview EP member/staff #1).

Networks and (non-)cooperation (outreach)

Within both the neoliberal and the center-left project, strength in terms of outreach is found in networks or alliances. Within the neoliberal project, this emerges in the form of various cross-pollinations by way of overlapping memberships between the organizations discussed above. Many corporations that have in-house tax expertise are also member of EBIT or BusinessEurope, for example. Corporations that are member of AmCham EU are also member of EBIT, and so on. Another illustration of this intricate web of overlapping memberships is that certain people take leading positions within multiple organizations: Shell's global tax policy manager is currently (June 2023) chairing the European Direct Tax Committee with TEI as well as BusinessEurope's Green Taxation Group. Many neoliberal agents function as networks themselves through facilitating meetings between members, and the exchange of knowledge and ideas. The organizational structure of having expert or working groups ensures high regularity of such meetings. The Tax policy working group of BusinessEurope, for instance, meets about eight times per year (Interview Business representative #3). From a national point of view, the Brussels-based networks are an entrance into EU policymaking. As a national-based tax advisor stated regarding CFE Tax Advisers Europe, they 'got better contacts, and about three times a year, they'll arrange a meeting, and we'll go and participate, but amongst a very large table' (Interview Business representative #2). It should be noted that large TNCs, if the issue is relevant

to them, will also lobby for their interests individually. Position (papers) of individual TNCs and the organizations they are a member are often highly aligned – whether through purposeful cooperation or not, or as an interviewed expert put it: ‘the Big Four are often very close in their positions, even without checking with each other beforehand’ (Interview Business representative #1). This strategy of overlapping memberships, crosslinks between networks and organizations, and TNCs lobbying individually in addition, is put in place in order to have as much influence as possible by voicing similar interests via different channels (Interview Business representative #1). Another illustration of this strategy and the cooperation between neoliberal agents is the similarities in responses to the public consultation on the CCCTB in 2015. The center-left projects has done the same, coordinating their consultation responses, but the difference in numbers shows, again, the power asymmetry between the projects.

Similar to the neoliberal project, networks are key in center-left project’s strategy. Most relevant for the CCCTB case is the regional branch of the GATJ, which is Tax Justice Europe, coordinated by Eurodad. The Tax Justice Network, although the name implies differently, functions as a research organization that supports the global and regional networks through research and advocacy. National-based organizations often function in both national as well as the regional Tax Justice Europe networks. The Brussels-based offices of NGOs as well as labor unions are dependent on national members for advocacy on national level, crucial in taxation debates due to the required unanimity in Council decision. In turn, national-based organizations depend on their European network for information as well as advocacy in Brussels. This is relevant in the case of the CCCTB, because it is a complex dossier for national-based members that – as explained before – does not necessarily constitute a priority. In such cases, national members depend on Tax Justice Europe and Eurodad for how and where to engage with the CCCTB proposals (Interview NGO/union staff #2). In short, NGOs ‘are linked in very many ways’ (Interview NGO/union staff #3). Cooperation moves beyond networks, particularly in relations between NGOs and political forces in the EP within the S&D, the Greens and The Left (GUE/NGL) groups. Cooperation with labor unions is seen as important and takes the form of a ‘close dialogue’ (Interview NGO/union staff #3). It is also challenging because of labor unions’ capacity on issue of corporate income taxation. With regard to recent negotiations on digital taxes, one expert detailed that (Interview EP member/staff #5):

we have the support on principle on all those issues by trade unions, but we don't have proactive support. Meaning, they don't put capacity on it to do research that could help advance the debate, and they don't have a lot of advocacy resources there to push for that. (...) I don't know what the reasoning behind. Is it not a priority they prefer to work on the working condition, or is it because they're afraid of retaliation from the private sector and that they are not so vocal about this?

Corroborated by labor union representatives themselves, cooperation with NGOs on corporate income taxation is the preferred option instead of 'going alone', but the time available to participate in network meetings and activities is very limited (Interview NGO/union staff #4).

The operationalization of outreach also included outreach through media. Although media is generally a channel used by agents of all projects to make their position known, it is less relevant here. The CCCTB is not a topic for which neoliberal, neomercantilist and center-left projects have actively used media as part of their lobbying strategies. This can be explained by the fact that the CCCTB did not come close to political agreement nor was it the main focus of any project as discussed previously. Moreover, a center-left agent argues that media outreach regarding the CCCTB was 'a bit hampered by the fact that it is very difficult to communicate about' (Interview NGO/union staff #3).

Institutional selectivities: changing institutional access and information asymmetries

Concerns for the neoliberal project: is institutional access diminishing?

Organizations representing corporate interests were a driving force in the development of the CCCTB since 2000 up until the presentation of the legislative proposal in 2011. As chapter five explained, other organizations representing labor or NGOs were hardly involved. The explicit invitations to business representatives to share their views and experience has continued ever since and is a practice that agents within both neoliberal and neomercantilist projects are accustomed to and for which they hardly have to push. The decision-making or institutional frameworks of the EU are strategically inscribed in such a way that corporate interests are included and taken into account; their ideas, interests and concerns are accepted as common sense. For the drivers of neoliberal and neomercantilist projects, being

included and giving input is viewed as part of their work. They interpret this as a contribution to the policymaking process, or as a business representative noted: 'I was helping the Commission' (Interview Business representative #7). Believing themselves as outside of the political process, these organizations consider that they are merely offering technical advice and sharing their expertise, and are 'happy to do so' (Interview Business representative #5). A representative for tax advisors summarized this point as follows (Interview Business representative #2):

We do not take a political view. In terms of CCCTB, broadly, we would not say outright we're against it, or outright, we're for it. That's a matter we would see as being reserved for the policy of our national government, but we would comment on whether it's technically sound and whether it would have practical implementation difficulties. (...) Our only authority is that our members have expertise in running the system.

Besides invitations to the formal side of the process in the form of working and expert groups, (bilateral) meetings and seminars, informal meetings and personal relationships are regarded as important as well. For instance, an interviewee pointed out that it was helpful to have a membership at the same fitness gym as staff from the Commission and journalists, noting that is it all about building 'sustainable relationships' (Interview Business representative #1). This type of contact helps to acquire information on political processes going on behind closed doors.

However, since well after the financial crisis, organizations driving the neoliberal project are experiencing changes in terms of institutional access. Specifically with regard to the CCCTB process, the process leading up to the proposals in 2011 was regarded as 'a very broad approach, a very good, academic approach', while the period between 2011 and 2016 was experienced as more closed-off; this change is regarded as the result of a 'very politicized' landscape with less space for 'open discussion' (Interview Business representative #7). This experience is similar with regard to the broader field of corporate taxation, as the 'business voice' is perceived to be

taken less serious and diminishing space to express their perspectives.¹ Since the LuxLeaks investigative journalist project was published in 2014 and the Juncker Cabinet came into office, it became more difficult to 'get in' with the Commission (Interview Business representative #1). This was confirmed by EU officials, one of them noting that in the years between the first launch of the CCCTB and the relaunch in 2016, 'the world of taxation has partly changed. The pendulum was really going for, "We are tougher to business"' (Interview EU official #4). The change in institutional selectivities was encountered in several ways.

The organization of public consultations – both by the Commission as well as at the OECD – was experienced as different in terms of response time as well as the leading character of consultation questions where these used to be 'less orchestrated' (Interview Business representative #1). Membership and participation in expert groups on corporate taxation set up by the Commission are no longer exclusively available to corporate interests and academics. Some interviewees note that they were 'no longer accepted in expert groups' at all, which is not an explicit policy by the Commission, but a 'de facto' practice. (Interview Business representative #4). A relevant case in this respect is the Platform for Tax Good Governance, which held its first meetings in 2013 and 'brings together expert representatives from business, tax professional and civil society organizations and enables a structured dialogue and exchange of expertise which can feed into a more coordinated and effective EU approach against tax evasion and avoidance' – according to the Commission that initiated the set-up of the expert group in its 2012 'Action Plan to strengthen the fight against tax fraud and tax evasion' (European Commission, 2012a). The expert group is 'massively disappointing' – seemingly for both those who are a member as for those who were not invited to be part of the group. The views range from 'it was basically just an opportunity for people to read out prepared statements and not listen to anyone else' (Interview Business representative

1. Some regard this not so much as a recent phenomenon, but more something that pertains to the area of taxation in general: 'And in these matters we are not having such a close dialogue with the minister of taxation. I think it is the same in most countries, I've heard it from other colleagues in other countries, that the people in ministries of Finance or wherever dealing with tax are the most closed. Because when we are talking to the Minister of commerce, or.. they are kind of business friendly because it is not costing anything. It's more like, do you want better regulation, well why not? Whereas if you're discussing with the tax people in the minister of Finance or taxation, it is typically about tax revenue and I think for that reason, for good reasons, they are much more closed. It is way more strategic communication. (...) To obtain resources, they do it their way. It is a bit of bluntly put, but this is roughly the way I see it' (Interview Business representative #3, min 54).

#5) to 'it's for NGOs to speak about tax evasion, but no possibility to have any constructive discussion, so I cannot understand the objective then' (Interview Business representative #4).

Center-left project on the rise: changing inscribed structural selectivities

The center-left project posed a challenge to common-sense ideas and practices through a counter-hegemonic strategy primed on new ideas. The agents driving a center-left project on corporate taxation were 'new' in the sense that their involvement in matters of corporate taxation was almost non-existent until around 2003 when the Tax Justice Network was set up. The center-left challenge to the hegemonic neoliberal view on corporate taxation grew exponentially after 2012 (Roland, 2020). In terms of institutional access, the center-left project – in line with the discontent of organized corporate interests above – experienced increasing opportunities. The Platform for Tax Good Governance demonstrates how institutional and discursive opportunities have opened up. NGOs and labor unions have been members of the Platform since its foundation in 2013. Currently, ActionAid, the BEPS Monitoring Group, Eurodad, the European Confederation of Independent Trade Unions (CESI), Oxfam International and the Tax Justice Network have seats in the platform. The BEPS Monitoring Group and Eurodad, together with the Financial Transparency Coalition, are also members of expert group the Joint Forum on Transfer Pricing, which has been meeting since 2002 but opened up to NGOs only in 2015.²

The existence of the Platform for Tax Good Governance and the inclusion of NGOs, labor unions and others into the Joint Forum on Transfer Pricing is seen as progress in itself; it is regarded 'a proof of the change of mentality' – although participation is not on equal footing as agents driving the center-left project remain outnumbered in these groups by both governmental and non-governmental neoliberal agents (Interview EP member/staff #4). The Platform also includes representatives from all member state governments. Although it is considered a useful space for the center-left project to advocate and present ideas, there is little real interaction with member state representatives as they often remain silent, reserving their discussions for the closed meetings of the Council working parties (Interview NGO/union staff #2; Interview EP member/staff #5).

² The Commission chose to not only include 'private sector representatives' as its 2011 decision (2011/C 24/03) prescribed, but to extend this to organizations more broadly; this opened up space for NGOs and labor unions amongst others (European Commission, 2015a).

Center-left agents consider that the Pla'form is not meant for corporate interests as 'the private sector doesn't need that because they have their direct entrance with the Council, which is found within member states, which is harder for NGOs' (Interview EP member/staff #5). The Platform for Tax Good Governance is seen mostly as an instrument benefiting the Commission, which uses it to test ideas and initiatives and see how 'society is reacting' as well as to ensure that member state governments are aware of ongoing societal debates (Interview EP member/staff #5). According to them, it is a way for the Commission to ensure that the member states are aware of the debates between different stakeholders, although government representatives generally remain 'completely silent' (ibid.).

The imbalance encountered by NGOs is greater in the Joint Forum on Transfer Pricing (JFTP). Whereas in the Platform for Tax Good Governance 6 out of 15 organizations are agents considered driving the center-left project (the other 9 being: Accountancy Europe, AmCham, BusinessEurope, EATLP, The European Centre for International Political Economy (ECIPE), ICC, SMEunited, CFE Tax Advisers Europe and the Tax Executives Institute), 3 out of 17 organizations in the JFTP represent center-left project. The other 14 organizations are either corporations or business representatives, and academics in the field of tax law and/or transfer pricing. Regarding to the CCCTB, the JFTP could be more influential expert group than the Platform, but an NGO expert that attended JFTP meetings stated that the 'CCCTB is not taken seriously, especially the consolidation part. My sense is there is no feeling that that it will ever happen. So I don't think the JFTP sees this as even the vaguest form of threat (...) it's a laughing matter, no one really things it's going to happen' (Interview NGO/union staff #3).

Both expert groups related to corporate taxation thus constitute simultaneously increased institutional access for agents posing a center-left challenge, as well as a continued power asymmetry to the benefit of neoliberal and neomercantilist projects. Access to the Commission goes beyond the participation in expert group, and for NGOs institutional opportunities opened up also in terms of meetings – both with staff at the Commission and the Parliament. As one former NGO staff member explained: 'when you represent an NGO that is well known and have direct access to the media and the people, they don't refuse to meet with you' (Interview EP member/staff #5; Interview EP member/staff #1). Having research reports and a 'proper position' helps to get access as well (Interview NGO/union staff #2). Similar to agents of neoliberal and neomercantilist

projects, there is a belief that geographical closeness – being based in Brussels – is a benefit. One NGO staff member explained this as follows (Interview NGO/union staff #3):

and then there is a lot of face-to-face in this city; there is a lot of events and debates. You do not even have to actively pursue advocacy meetings; we get invited to a lot of things and that is part of the democratic culture in this city: there will be a lot of events where different actors get invited.

In case of labor unions, and in particular ETUC, involvement is to a greater extent based on automatic invitation as being a social partner guarantees membership and participation in certain formal consultations, for instance the Macroeconomic dialogue. Although there is a general experience in getting access to policymakers in Commission and Parliament and even permanent representatives, and having them take seriously the positions and voices of the center-left project, it is from their own perspective very much the question to what extent this leads to influence. For example, one expert explained (Interview NGO/union staff #4):

It might be easy in the sense that if I take my phone, I'm saying: 'I want to see you, I want to meet you, I want to invite you to a seminar': yes, you're welcome'. But whether it's easy for me to know what's exactly in the pipeline right now? Then no, I don't have access.

An NGO expert noted similarly that his communications with the (then) Director-General of the DG TAXUD did not necessarily lead to results: 'every time I write to him, it's always 'Hi, good to hear from you. Let's talk about this'. (...) So yeah, we've had discussions but has it resulted in anything? No. Do I know if anything has had impact? No.' (Interview NGO/union staff #1)

Not knowing what is happening behind closed doors is another way in which power asymmetry between the projects manifests itself. For drivers of the center-left project, there is a general consensus that 'everything is secret and complex' (Interview EP member/staff #5). In particular when it concerns the Council, whether they convene in ECOFIN and its preparatory working parties or in the Code of Conduct Group on Business Taxation (COCG). Whereas the COCG is known for its secrecy, ECOFIN Council offers more transparency.

Although agendas are available, full minutes of meetings are very rarely publicly available. This has various consequences. First, it makes it more difficult to hold obstructing member state governments to account: 'when we do not have any minutes, we cannot see the meetings, we don't actually know what is going on. That is why an individual member state can actually become even more powerful than if it was only the Council but it would at least be transparent' (Interview NGO/union staff #3). The lack of access to information is frustrating for many, because in spite of expertise on the subject, 'if you don't have access to information, there's nothing you can do' (Interview EP member/staff #5). Like within the neoliberal project, center-left organizations also rely on their relations with 'people closer to the negotiations' to acquire information, or through their bosses that can contact persons on a 'higher' level (Interview EP member/staff #4; Interview NGO/union staff #4).

Where projects find common ground: unanimity as a key institutional obstacle

All projects find common ground in identifying required unanimity as a large institutional obstacle in achieving corporate tax policy changes. Unanimity means consensus in the Council is needed on any decision in matters of (corporate) taxation. The European Parliament's role is relegated to a consultative one. It is common sense to most agents that unanimity is a key reason why corporate tax reform is difficult to achieve and it is not expected to change in spite of several proposals the Commission has put forward to move to majority voting on taxation issues (European Commission, 2019a). Or as one interviewee shared, 'I'm not holding my breath on that one' (Interview Business representative #5).

For the neoliberal project, the main risk inherent to unanimity decision-making is what Scharpf has called the joint-decision trap (Römgens & Roland, 2021, p. 283). Once there is corporate tax law in place, it is binding and at the same time very difficult to adapt as one veto of one member state is enough to prevent any reform. Whether 'too attractive, or too weak', it is difficult to amend rules that 'were not very good to begin with' (Interview Business representative #3). Whether this works to the benefit or disadvantage to the neoliberal and neomercantilist projects, depends in their view very much on the subject under negotiation. Preventing reform from being agreed on is easier if only one government needs to be convinced to veto a certain proposal, rather than in the case of qualified majority voting.

From the center-left project's point of view, this works to the benefit of TNCs as they are often much stronger, well-organized and influential within a national context than the main agents of the center-left project identified in this research. In particular NGOs are seen as less powerful and visible in a domestic context, compared to corporations and the tax-advising and accounting industry (Interview EP member/staff #1; Interview EP member/staff #5). In addition to being less influential on a national scale, the center-left's position on European scale is less significant as the European Parliament's consultation role means that NGOs 'easy access' to MEPs is less relevant here (Interview NGO/union staff #3). The European Parliament is unable to pose a serious counterweight to the Council's decision-making. This lack of democratic control on a European scale is problematized, as it leaves the Commission 'at the mercy of the member states' Interview NGO/union staff #3; Interview EP member/staff #1). There is agreement amongst center-left agents that the European Parliament should have more decision-making power in these instances, and this would also lead to a strengthening of expertise in the Parliament (Interview EP member/staff #1). However, the abandonment of unanimity is, in fact, not unanimously supported within the project. There is broad support for countries to set their own tax rules, reasoned from NGOs' mandate to support communities in the Global South. With regard to the CCCTB specifically, an NGO expert explains this point of view (Interview NGO/union staff #3):

When it comes to very fundamental tax decision, it is a healthy exercise to make sure that the governments and populations that are to implement these rules, support it somehow. (...) Having a new tax system imposed on you, it would not be ideal. (...) the CCTB and CCCTB would change a lot – for example for some countries these huge tax deductions will mean that they lose a lot of money – so to have that vote down over a country where the government and population do not want to give such deduction... and then have the EU overrule that, it would be problematic.

The success of a counter-hegemonic challenge posed by the center-left project both affects and materializes through the strategic selectivities of the EU's institutional framework. The perception of organized corporate interests that their institutional access diminished in the period under investigation is accompanied by an increase in institutional opportunities for NGOs. This development is closely associated with the politicization of corporate

taxation in which those same NGOs were a driving force. Doubts remained whether these changes in institutional selectivities resulted in material or policy change.

Systemic resources

In addition to the neoliberal project's capabilities, resources and access discussed so far, the project is in a position of high structural power. Decisions made by neoliberal agents impact available jobs, investments and working conditions. Corporations' threats to 'leave' certain countries – through moving manufacturing facilities, head offices, intangible assets – affect national economies as a whole. The neoliberal idea that 'taxes are bad' is indeed pervasive as experienced by center-left agents who consider it an obstacle to advocating for (progressive) increase of corporate taxation levels (Interview NGO/union staff #4). Governments are susceptible to TNCs' threats of leaving their country, and simultaneously extremely eager to have TNCs move into their territory. The inter-state competition for investments, jobs and economic wealth facilitates the structural power TNCs have over national governments. The neoliberal project is characterized by capital fractions that are highly mobile – both in terms of assets and people – compared to other hegemony projects. This provides them with a powerful position in which their threats to leave and suggestions to move are interpreted to be realistic and, as such, a continuous weapon in their favor. Tax policies are at the center of this inter-state competition; both as policy instruments for governments to lure TNCs in or seduce them to stay, and as a key element for TNCs to structure their corporate ownership and financing structure around. The ability of TNCs to 'pick and choose' the way their corporate group is structured demonstrates its relative power towards other projects. UNCTAD has demonstrated that in terms of complexity in ownership structures, relative power is in the hands of a few: 'Less than 1 per cent of multinational enterprises (MNEs) have more than 100 affiliates, but this group accounts for more than 30 per cent of the total number of foreign affiliates, and more than 60 per cent of total MNE value added' (UNCTAD, 2016, p. 134). A small group of large TNCs (the top 100, according to UNCTAD) thus has enormous power over governments as complexity in ownership allows them to shift profits avoid taxes more easily, but also circumvent regulation, hide ultimate beneficiaries, seek benefits of investment treaties, and exercise foreign control over national assets (*ibid.*, p. 166). Moreover, it allows them to generate material resources in the form of high profit margins that cannot be accomplished by smaller, more nationally oriented (productive) capital fractions.

The center-left's systemic resources, which were defined as 'the ability of actors to make decisions that have system-relevant consequences' (Buckel et al., 2017, p. 18), are small in comparison. Organized labor has power to obstruct decision-making through social dialogues and strikes. NGOs and social movements have impact through demonstrations, campaigns and acts of civil disobedience but such actions rarely have system-relevant consequences.

In terms of systemic resources and the resulting structural power, neoliberal project, having subsumed influential fractions of productive capital as well, cannot be outpaced by either a smaller-sized neomercantilist project nor a center-left project. This section demonstrated that the organizational capabilities of a neoliberal project also outnumber contesting projects. Whereas the remnants of a neomercantilist project are not especially organized in a counter-hegemonic strategy, a center-left project is. Increasing expertise, tight-knit networks and a growth in institutional opportunities has increased the center-left project's relative power and poses a serious challenge to dominant views on corporate taxation.

9.4 Counter-hegemonic challenge on global scale

Alongside the rise of a center-left project, the BEPS project commenced within the OECD framework in 2013. The BEPS project is partly the result of the articulation of center-left ideas challenging neoliberal common-sense notions on corporate taxation, as well as an international process through which agents were – for the first time – *able* to participate and articulate new policy demands. The crisis-politicization dynamic discussed earlier materialized on a global scale through the BEPS project, demonstrating also there how opportunities for new ideas and agents opened up, while also running into structural limits imposed upon any tax reform processes by the dominance of global-oriented capital fractions. Moreover, the BEPS project led to a number of agreements that the EU subsequently jointly implemented through ATAD I and ATAD II. The latter enormously impacted negotiations on the CCCTB; therefore an understanding of the BEPS project is required to explain the path of CCCTB negotiations and, ultimately, the relaunch of the CCCTB in 2016.

BEPS launched by way of an Action Plan presented by the OECD in 2013 (OECD, 2013). A year before, the G20 had reiterated their commitment to 'strengthen transparency and comprehensive exchange of information' spurred on the

OECD to expand their work addressing 'the need to prevent base erosion and profit shifting' (G20, 2012). The institutionalization of the international efforts to counter tax evasion was broadened here to also include broader concerns of base erosion as a result of profit shifting. Although supported by the G20, the BEPS project was initiated by the OECD, in particular the Centre for Tax Policy and administration (CTPA). Pascal St-Amans started in February of 2012 as the new CTPA Director and 'arrived with intentions to initiate reforms' with regard to tax practices of TNCs (Picciotto, 2017, pp. 18–19). A joint statement of the British and German governments – dubbed in the media as a 'a rare example of Anglo-German co-operation' – during a G20 meeting in late 2012, further strengthened the G20's endorsement of the OECD's work (Wintour, 2012). The G20 summit in the following year 2013 consolidated the broadening agenda of international tax reform by 'fully endorsing the ambitious and comprehensive Action Plan, originated in the OECD' (G20, 2013). In doing so, the G20 directly linked the importance of addressing profit shifting to their bail-out programs and austerity policies:

In a context of severe fiscal consolidation and social hardship, in many countries ensuring that all taxpayers pay their fair share of taxes is more than ever a priority. Tax avoidance, harmful practices and aggressive tax planning have to be tackled. (...) Profits should be taxed where economic activities deriving the profits are performed and where value is created.

The last sentence came to be known as the mantra of the BEPS project that would come to dominate – for better or for worse – the discourse around international tax reform for the years to follow (Quentin, 2021).

Assessing the outcomes of BEPS: continued power asymmetries and the consolidation of the OECD as the central node of the international tax regime

The concept of BEPS addressed tax policy concerns that arose 'due to gaps in the interaction of different tax systems, and in some cases because of the application of bilateral tax treaties, income from cross-border activities may go untaxed anywhere, or be only unduly lowly taxed' (OECD, 2013, p. 10). In its analysis, the OECD exposed the issues associated with the mismatch between the century old international tax system and the global economy and business models of the 21st century. In particular 'the digital economy' was presented as a major challenge (ibid.). While the problem analysis was far-reaching,

the OECD made clear from the start that a radical overthrow of the existing principles on which the system is based, should not be expected: the proposed actions were 'not directly aimed at changing the existing international standards on the allocation of taxing rights on cross-border income' (OECD, 2013, p. 11).

The process resulted in three different types of outcomes across the 15 Actions that were formulated in the initial report: minimum standards, common approaches and guidance. Minimum standards represent the highest form of agreement that the participating countries were able to achieve under the coordination of the OECD; these are not directly binding, but expected to be implemented into national law. The minimum standards that have been agreed upon target specific harmful tax practices. First, these include measures addressing regimes that benefit accumulation through intellectual property, such as patent boxes, by developing a stricter definition of what substantive activity a company needs to conduct in order to be eligible for the benefit of a patent box. Second, the minimum standards addressed tax treaty abuse through the agreement on two possible anti-abuse rules. The minimum standards also included a requirement for CbCR for TNCs and an improved dispute resolution. Other issues on which some level of agreement was found and that are relevant to the content and scope of the CCCTB are limitations to the deductibility of interest, CFC rules and measure addressing hybrid mismatches (see also section 6.3).

The BEPS project resulted in agreements that tackled specific structures and practices of tax abuse; in that regard it is argued to be successful in promoting the necessity of a collaborative tax regime (Brauner, 2014, p. 69). At the same time, it is widely acknowledged that BEPS did not address the root causes of the issue of profit shifting, nor did it reconsider the principles underlying the century old international tax system (see for example Avi-Yonah & Xu, 2017; Lips, 2019). The inability of BEPS due to the political unwillingness of the G20 and the OECD to include in this international process of reform actual new approaches to taxing corporate profits, was at the core of center-left critique of both the process and the results of BEPS. An important platform through which this critique was articulated was the BEPS Monitoring Group, 'a global network of independent researchers on international taxation, sponsored by tax justice organizations, concerned with the effects of tax avoidance by TNCs, especially on development' (BEPS Monitoring Group, n.d.-a). The Group responded to and participated in the public consultations held by the

OECD during the BEPS project, drawing on the expertise of a wide group of academics, researchers and activists. At the end of the BEPS project, the BEPS Monitoring Group concluded that due to retaining the separate entity principle and reaffirming the 'dysfunctional' arm's length principle as well as the practice of transfer pricing, the BEPS agreements 'offer a patch-up of existing rules, making them even more complex and in many cases contradictory, and do not provide a coherent and comprehensive set of reforms' (BEPS Monitoring Group, 2015, p. 2).

Besides the content, the BEPS project was also contested in terms of process. With members of the G20 and the OECD as initiators and key negotiators on proposals for international tax reform, most governments around the world were excluded from the process. As both the problems of base erosion and profit shifting, *and* possible solutions directly affected them, the legitimacy of BEPS was questioned (Mosquera Valderrama, 2018). Highly developed, rich economies decided to first negotiate amongst themselves before imposing common standards upon others. Opposition came from governments themselves, most importantly through the G77 and G24 (G77, 2015). Drivers of the center-left project have been vocal in this respect as well. The Independent Commission for the Reform of International Corporate Taxation (ICRICT) is important in this respect, set up especially to 'promote the international corporate tax reform debate through a wider and more inclusive discussion of international tax rules than is possible through any other existing forum' (ICRICT, n.d.).

Within the BEPS project, the OECD made efforts to make the process more inclusive, which did not only include non-member governments but also participation by NGOs. It enabled access to an institutional terrain that was 'previously restricted to technical experts, who were for the most part complicit in designing and maintaining the complex structures that enabled firms and individuals to reduce their taxable income' (Elbra, 2018, p. 84). While the politicization of corporate taxation thus also opened up institutional opportunities at a global scale, the resources of the powerful forces NGOs were up against were enormous. As the BEPS Monitoring Group reported, in their efforts to articulate tax justice principles throughout the BEPS process, they were 'vastly outnumbered by the army of paid tax advisers and representatives of multinational enterprises' (BEPS Monitoring Group, 2015, p. 1).

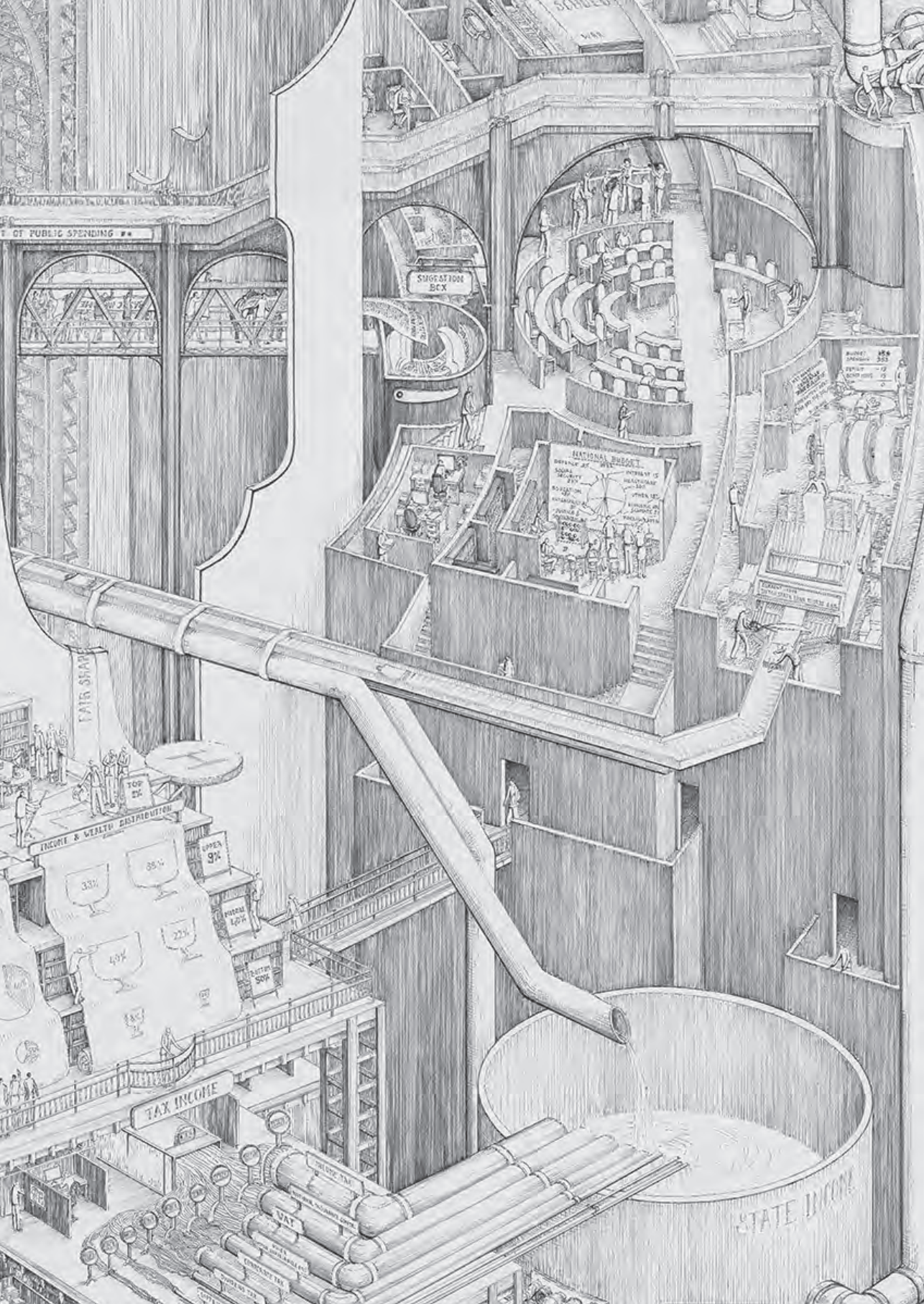
The BEPS project also reaffirmed the OECD as *the* global forum for matters of international taxation. The OECD has actively manifested itself as being technically able to coordinate political tax negotiations. Although other international fora – IMF, UN, the World Bank – have published their own reports and recommendations, conducted research and set up or continued tax committees, the OECD has nearly monopolized international tax politics. The BEPS project was a new impetus in this institutional dynamic; as Herzfeld (2017, p. 28) argued, it ‘provided a vehicle for the OECD tax committee, which was arguably becoming less relevant in a world where economic power was shifting to the East, to take on a role as key arbiter of global tax rules’. Büttner and Thiemann (2017) suggest that the OECD was only able to maintain its authority in this area by *not* proposing radical change, but rather incremental reform. The highly institutionalized setting of international tax system and negotiations of its reform through the OECD framework was thus accompanied by inscribed strategic selectivities that worked to the benefit of the rich economies as members of the OECD as well as technical experts that had been accustomed to being directly involved, but to the detriment of non-OECD members as well as ‘new’ actors on the scene such as NGOs. This echoes to an extent the institutional selectivities and the changes therein as a result of politicization within the EU, as discussed previously. The BEPS project, because of its timing, took place alongside the key period of negotiations on the CCCTB after its initial launch in 2011; the consolidation of the OECD’s powers in corporate tax matters through the BEPS project therefore had direct material, ideational and institutional consequences for corporate tax policymaking in the EU.

9.5 Concluding remarks

The center-left project identified here posed a counter-hegemonic challenge to dominant neoliberal project driven by global-oriented fractions of financial and industrial capital. Hegemonic struggle over corporate tax harmonization does not occur on equal footing; this chapter found that power asymmetries in organizational capabilities, institutional selectivities and systemic resources impact the extent to which a center-left project could alter underlying power relations. Dominated by neoliberal logic, the EU’s institutional framework strategically selects for ideas resonating with the interests of global-oriented capital. The ways in which decisions are made within EU institutions – the ideas considered common sense, the arguments seen as valid, the organizations

taken seriously – are determined by the underlying struggle for hegemony. In line with this theoretical underpinning, within the neoliberal project it is considered as self-evident that many key agents are closely involved in policymaking processes, including the CCCTB process. Since after the global financial crisis, a center-left project successfully demanded space as well and thereby challenged the neoliberal hegemonic position, exemplified by changes in institutional opportunities and access, and by some key center-left demands that were reflected in the relaunched CCCTB. Still, drivers of the centre-left project have not sufficiently been able to merge interests with a neo-mercantilist project, nor have their demands been subsumed within neoliberal project.

The final section turned to the global level, for two reasons. First, the rise of a center-left project did not occur in an EU vacuum. The OECD's BEPS project is seen here as both the result of a center-left challenge to dominant ideas on corporate taxation as well as a strategic terrain where the center-left further articulated its interests and demands as part of a multiscale strategy. Similar to this chapter's findings on EU level, new institutional opportunities opened up, discursive changes as well as remaining power asymmetries – best exemplified by the power of the tax advising industry, enormous in size and resources – are noted on a global scale. The BEPS project was detailed in terms of content and process, too, because served as a relevant delaying and derailing factor in CCCTB negotiations as the next chapter explains.



10. Tracing CCCTB negotiations 2011-2017. Hegemonic struggle through EU corporate tax policymaking

This last chapter traces the CCCTB negotiations after the launch of the first CCCTB proposal in 2011 until a year after the relaunch of the CCTB and CCCTB proposal in 2016, with the purpose of explaining the changes in content, form and scope. It focuses mainly on EU institutions as the strategic terrain through which the struggle over corporate tax harmonization between hegemony projects materialized, while also accounting for diverging positions and strategic actions. The latter are expected as state institutions – both member states' governments and EU institutions – have a degree of relative autonomy, as the theoretical framework of this dissertation explained. A key data sources for this chapter are reports drafted by Commission staff of meetings of the Council's preparatory bodies (see also chapter 4.1 and Annex I).

The chapter finds that opposing groups emerge in discussions between member state government representatives, which can be associated with neoliberal and neomercantilist projects respectively. Led by British, Dutch and Irish governments, a group of member states voiced arguments and employed delaying tactics similar to proponents of the neoliberal project in previous chapters. Led by the French and German representatives, a group of governments that generally supported the CCCTB, tried to find ways to make progress and were supported by Commission staff in doing so. While neomercantilist arguments emerge through their interventions, this group at times also voiced center-left demands. Besides uncovering the specific points of contestation and subsequent strategies of relevant governments, the process analysis also discusses the particularities and possibilities of the position of the (rotating) Presidency.

Throughout the period between 2011 and 2017, forces within the Commission as well as the Parliament strategically acted in response to shifting dynamics as a result of the rise of the center-left project. In various ways, members of

Parliament articulated center-left ideas like transparency and fairness and proposed policies guided by these ideas. The special committees set up within the Parliament in the context of the politicization of corporate taxation, had an impact on the relaunch of the CCCTB and are therefore discussed in this chapter as well. The strategic decisions made by the Commission are recurring throughout the chapter, while the last section specifically explores the dynamics between EU institutions as well as between the Commission and the OECD.

10.1 Contesting positions in Council discussions, 2011–2012

The new CCCTB proposal was first discussed in the High Level Working Party on Tax Questions (hereafter referred to as HLWP), a preparatory body for the Economic and Financial Affairs Council (ECOFIN). In April 2011, the group reported that ‘most delegations were still in the process of studying the proposal and were assessing its potential impact on the existing tax systems in Member States and its consequences for corporate tax income’ (HLWP, 28 April 2011). Very early on in the negotiations, a majority of member states representatives was of the opinion that discussions should start on the harmonization of the corporate tax base and leave the ‘more complex’ issue of consolidation for later (HLWP, 28 April 2011). After this initial meeting of the HLWP, negotiations were referred to the politically lower level of the subgroup Direct Taxation of the Working Party on Tax Questions (hereafter referred to as WPTQ). Discussions on the CCCTB proposal took place mostly on within this subgroup in the years after the first launch. Like ECOFIN, meetings of the HLWP and the WPTQ are chaired by the rotating presidency, which was held by the Hungarian government in the first half of 2011. It took more than one and a half years for member states representatives to go through the entire proposal on an article-by-article basis, until this first ‘technical examination’ was finalized. Following the Hungarian government, this first examination of the text occurred under the Presidency of respectively the Polish, Danish and Cypriot governments.

Figure 10.1 below visualizes the relation between ECOFIN and the Council preparatory bodies and their responsibilities.

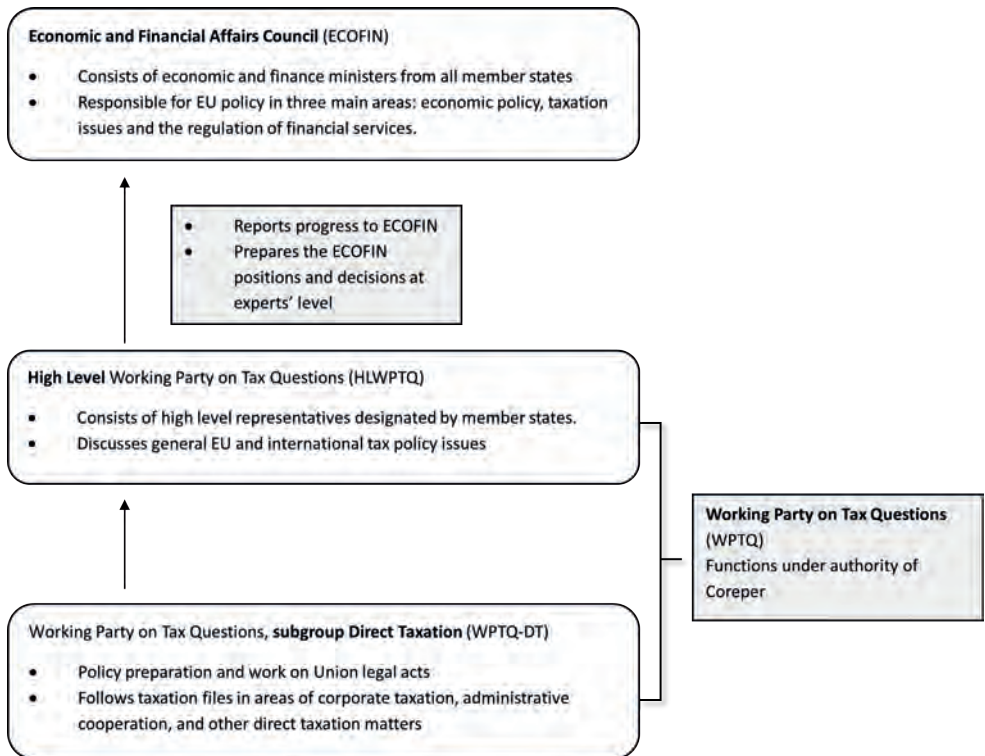


Figure 10.1: Overview of ECOFIN Council's preparatory bodies relevant to corporate taxation

Contesting positions and forming alliances

In these two years of discussions between member states representatives, three groups of member states can be identified. The first supported the initiative for a CCCTB, at least in principle. Led by Germany and France, it consisted of economies that depend to a large extent on productive capital and included Spain, Italy, Portugal, Belgium, Denmark and Greece as well (WPTQ meetings reports; Interview EU Official #3). These economies rely to a greater extent on SMEs. Neomercantilist ideas on corporate taxation as a policy instrument to create a strong EU home market that strengthened competitiveness of both cross-border and largely domestic corporations, were articulated by these governments. Still, their positions can also be argued to overlap with or represent neoliberal ideas. Although no government representative outright opposed the CCCTB in the working party negotiations, another identified group consisted of members who were deemed 'skeptical' by Commission staff (Report of Meeting HLWP 28 April 2011). This group comprised of economies that rely on services more than manufacturing

industries, in particular financial, accounting and law services. Led by the Netherlands and the United Kingdom, these countries encompassed important tax havens for capital – most importantly Ireland and Luxembourg. Eastern European member states representatives from Hungary, the Czech Republic and Slovakia as well as from Baltic states Lithuania and Latvia, often associated with this group as well. By way of exception – as it is not a tax haven – member state representatives from Sweden often and loudly critiqued the CCCTB as well, and was considered ‘a very difficult client’ (Interview EU Official #2). This ‘skeptical’ group was most prominent in articulating neoliberal ideas, reflecting the interests of the earlier identified dominant neoliberal project. A number of countries hardly ever took a clear position in negotiations, opting to remain mostly silent; this group included Romanian, Bulgarian, Slovenian, Greek, Hungarian, Latvian government representatives.

In this first period of discussions on the CCCTB, the group led by Germany and France preferred to examine the entire the proposed legislative text on a structured basis (WPTQ, 31 May 2011). In particular France was in explicit support of the CCCTB throughout the process (Interview EU Official #2). A ‘technical in-depth discussion of the elements of the tax base’ should prelude a political debate (WPTQ, 19 July 2011). This aligned with the Commission, whose staff was present during the discussions in the Council’s preparatory bodies. Voiced most prominently through government representatives from the UK and the Netherlands, the group associated with the neoliberal project advocated for broader discussions on the impact assessment and ‘general impact’ on member states (WPTQ, 5 May 2011).

Positions within Council discussions were largely consistent over time as well as in relation to hegemony projects. Both German and French government representatives repeatedly disagreed with the optionality of the proposed CCCTB directive as it ‘is likely to distort competition in the single market, especially to the disadvantage of SMEs’ (WPTQ, 24 October 2012; WPTQ, 31 May 2011). Irish, Dutch, Austrian and British governments voiced concerns about the effects of a CCCTB on national corporate tax rates. Even though the harmonization of rates was explicitly not part of the proposed directive, member states representatives – much like neoliberal agents – feared that a minimum tax rate could follow. The formula consisting of three factors of equal weight was not seen as fair by many government representatives. The Dutch government, for instance, felt ‘this disadvantages innovative economies in favour of more traditional economies not in step with EU2020’ (HLWP, 28 April

2011). The factor of labor includes payroll as well as the number of employees; representatives from member states (Romania, Czech Republic, Greece) where wages are lower on average were of the opinion only the actual number of employees should count. The opposite opinion was voiced by governments of states with high wages, such as Sweden and Austria (Report of Meeting WPTQ 28 September 2012).

In most cases, however, the groups identified above were not united and clear boundaries between their positions are difficult to decipher. In discussions on all elements of the CCCTB on an article-by-article base, nearly all government representatives expressed concerns regarding the differences between their national tax systems and the CCCTB. This is corroborated by an EU official: 'it is not necessarily the same groups on every political issue' (Interview EU Official #3). By way of example, although the French government remained one of the most important supporters of the CCCTB, it had great concern regarding the deductibility of pension provisions. The French tax system does not allow for it, so this change would have had big impact on the government's revenues. Together with other member state governments, the French representatives repeatedly asked whether it would be possible to offer national tax credits to corporations *after* apportionment of the tax base – meaning after harmonization and consolidation of the corporate tax base. This would undermine the effects of harmonization and continue forms of tax competition that the CCCTB intended to end. In response to such a question from the French and Spanish government representatives, the Commission argued this is 'against the spirit of the directive and hoped MS would refrain from it' (WPTQ, 28 September 2012).

Discussion on anti-abuse rules also blurred boundaries between contesting groups within Council discussions. The original proposal had – according to many member state governments – a too narrow disallowance of interest deductions; the vast majority of governments were in agreement that broader limitations of the deductibility of interest was in fact necessary (WPTQ, 15 November 2011; WPTQ, 16 February 2012). It remained a recurring topic of discussion throughout the years until the proposals for a CCCTB were relaunched in 2016, which did indeed include a broader interest limitation rule. Similarly, the Commission noted early on that a majority of states supported a GAAR and the broadening of this rule – in order to cover more instances of possible abuse – was extensively discussed. A variety of member state governments supported broadening the scope of the GAAR, including

representatives from the Dutch and British governments, but ECJ case law was an obstacle in the precise re-formulation of the article. Contestation between different economies was thus less straightforward and more nuanced, which can be explained by the particularities of national tax systems. Still, known tax havens within the EU as the Netherlands, Luxembourg and the UK were generally less in favor of strict anti-abuse rules, arguing against firm limitations to interest deductibility (WPTQ, 14 March 2012), a higher minimum tax rate in case of the switch-over clause and CFC-taxation that would broaden their scope as proposed by French and German governments¹ (WPTQ, 25 April 2012), and a proposed article to address hybrid mismatches (WPTQ, 14 March 2012).

The stage of consolidation to a much lesser extent subject to negotiation than the stage of harmonization. Whereas anti-abuse rules were often discussed as well as other tax base related elements – such as depreciation regimes, the (non-)deductibility of certain expenses, the relation between the CCCTB and double taxation agreements with third countries, and accounting standards – this was much less the case for the formula based on which the corporate tax base would be apportioned to each member state. Due to its redistributive impact amongst EU economies, the formula always has been a highly sensitive issue. The Commission staff noted that ‘Not a single MS has supported consolidation (previous meeting) or the formula method for sharing the base’ (WPTQ, 28 September 2012). Most government representatives were ‘at best skeptical’, according to Commission staff. Fears of a decrease in their corporate tax base and uncertainties about possible decreases led many to ask for more analysis, whereas the Commission held on to its argument that the formula is simple, fair and ‘difficult to manipulate’ (ibid.).

Obstructing negotiations or pushing for progress: strategies expose opposing blocks in Council

During the technical debates on the corporate tax base in WPTQ, the boundaries between contesting groups in Council discussions became less clear. All member states governments, to different degrees, questioned and criticized parts of the legislative proposal. Important differences between the groups of states arose in *how* the critique was presented, which can be traced back to the common directions associated with hegemony projects. Member state representatives that in principle supported the CCCTB and whose input can be understood to include neomercantilist ideas and aims – like French

¹ The 2016 proposals reflected the French-German position in this regard.

and German representatives – offered ‘useful comments in connection with specific points’ and were generally regarded by the Commission as making a constructive contributions (WPTQ, 6 September 2011). Proponents associated with neoliberal project often times sought to obstruct progress towards agreement on a CCCTB and thus strategically acted to that end. They were perceived by Commission staff to be ‘less constructive than others’ (WPTQ, 15 November 2011).

The latter group of neoliberal proponents led most visibly by member states representatives from the UK and the Netherlands had various strategies to obstruct in-depth talks. While not willing to move discussions to a political level either, representatives from this group problematized aspects of the impact assessment to delay. Budgetary concerns are generally pressing issues for any government and the impact assessment offered little detail on the impact of the CCCTB on individual member states’ treasuries. Continuously questioning the assessment and demanding a new or extended assessment was, however, a strategy to delay the process. As noted by Commission staff in one of the meeting reports (WPTQ, 19 July 2011):

Those with the strongest so far views against the project (i.e. IE, NL, UK) (...) stressed that, throughout the examination, due attention should be paid to the Impact Assessment Report (IAR).

Precise estimations of budgetary impacts require that national state institutions need to cooperate and offer relevant data. The meeting reports provide no indication that this was done; on the contrary, Commission staff noted in the case of the impact assessment that ‘MS experts did not bring significant new evidence’ themselves (WPTQ, 29 June 2011). Another strategy of member states representatives was to focus on definitions in the CCCTB proposal, for example by the UK whose representative ‘asked for definitions and clarifications of certain terms which could easily appear self-explanatory’ (WPTQ, 6 September 2011).

Neoliberal proponents often contradicted themselves in that way, through a continued effort to problematize the CCCTB and its potential revenue impact as a whole, while at the same time zooming in on very technical details of the proposed text. Both efforts obstructed in-depth discussions designed to reach (slow) agreement. Other member states governments associated with the neoliberal project, in particular Irish representatives, strategically

remained quiet during large parts of the WPTQ meetings. A recurring theme, as perceived by the Commission, was that barely any of the critique was accompanied by alternatives or even 'material arguments to support their criticism' (WPTQ, 11 October 2011). At times, the Presidency called out government representatives when their obstructing strategies became too obvious. The Dutch and Luxembourgian government representatives tried to defer discussions on hybrid mismatches to the Code of Conduct Group on Business Taxation (COCG) that had also been dealing with the matter for some time. The Danish Presidency reminded the Dutch representative that, within the COCG, the Netherlands insisted on dealing with this matter in the context of CCCTB discussions (WPTQ, 14 March 2012). The objections to the CCCTB also materialized in yellow cards raised by national parliaments. In turn, the issued yellow cards served as additional munition for neoliberal proponents in Council discussions to problematize the CCCTB on subsidiarity and proportionality arguments.

Before discussing the yellow cards' arguments in more detail, it should be noted that strategies to push for or delay progress towards agreement on a CCCTB do not need to be limited to discussions behind closed doors. Several times during the entire period between 2011 and 2016, key supporters of a CCCTB spoke out publicly. At the end of 2011, French President Nicolas Sarkozy and German Chancellor Angela Merkel together sent a letter to the European Council President Herman Van Rompuy which proposed new rules to strengthen budget discipline in the Eurozone (Reuters, 2011). Looking to increase economic stability and increased competitiveness, Sarkozy and Merkel suggested 'a comprehensive framework on prevention consisting of strengthened co-ordination, surveillance and enforcement as well as positive incentives, building on current arrangements'. That framework was to include convergence and harmonization of corporate tax base and creation of a financial transaction tax.

Yellow cards: why the CCCTB was not considered an appropriate policy instrument

From discussions en marge with various MS and from comments made at the meeting there appears to be an effort among MS Parliaments to obtain the necessary 18 votes in accordance with the Lisbon Treaty under the Yellow Card procedure. (WPTQ, 5 May 2011)

The member states are represented in the Council through their government representatives. Additionally, since the Treaty of Lisbon, member states have another way of voicing concerns through their national parliaments. In case a national parliament believes a proposal breaches the principle of subsidiarity, they have the opportunity to give a reasoned opinion. In the case of meeting a certain threshold, this mechanism invokes the so-called 'yellow card procedure' which forces the Commission to reconsider the legislative proposal. The CCCTB in 2011 was one of the first occasions in which member states used this – then novel – right (Szudoczky, 2012, p. 95). Indeed, parliaments from nine countries – Bulgaria, Ireland, Malta, the Netherlands, Poland, Romania, Slovakia, Sweden and the UK – were of the opinion that the proposal did not sufficiently comply with the principle of subsidiarity (European Parliament, n.d.-b). It was the highest number of reasoned opinions that the Commission received with respect to one legislative proposal, and 14% of the total reasoned opinions in 2011 (European Commission, 2012d, p. 8). However, as the number of reasoned opinions did not meet the minimum votes necessary, the yellow card procedure was not triggered.

Among the main arguments were that Article 115 (TFEU) does not provide a legal basis for the Commission to propose direct tax harmonization as it interferes with national fiscal sovereignty, the statement of subsidiarity and proportionality was not detailed enough, the impact assessment did not specify the budgetary consequences for each individual member state, and that there was insufficient consideration how the identified problems can be dealt with in a different manner, such as through bilateral agreements or informal coordination. Most of the arguments of national parliaments considered not (only) the principle of subsidiarity, but the principle of proportionality – questioning whether the proposed measures were in proportion to the identified problems (Szudoczky, 2012).

The reasoned opinions from the Dutch House of Representatives (*Tweede Kamer*) and the Irish lower house (*Dáil Éireann*) are representative for the critique of national parliaments on the CCCTB. Moreover, they reflected their respective government position. A majority of the Dutch House of Representatives in 2011 was of the opinion that the proposed CCCTB directive would 'reduce the general level of prosperity', and expected the Dutch GDP to drop with up to 1.69% because of it (Tweede Kamer, 2011). It believed that the Commission indirectly aims to influence tax rates and interpreted this as a threat to national fiscal sovereignty. The expected financial and administrative

burdens for national tax authorities did not outweigh the estimated advantages, in the House's opinion. Last, it deemed that the formula 'would place at a disadvantage Member States with large services sectors, because such factors as non-material and financial assets are not included in the apportionment model' (ibid.). An increased burden on its tax authority, budgetary concerns and the unfairness of the formula were also leading arguments for the Dutch government to label the proposal as 'not acceptable' in 2011 (Dutch Ministry of Finance, 2011). The Dutch government, which was at that time a right-wing minority government led by the center-right liberal party VVD and Christian-democrat party CDA with support from the nationalist and right-wing populist PVV, noted in its position that:

The formula for the consolidated corporate tax base is designed in such a way that member states with large, "old" industries will be apportioned a larger part of the taxable corporate profit than member states with a large services sector and many innovative corporations.

The expected inequal budget impact amongst EU member states was also one of the leading reasons for the Irish lower House (*Dáil Éireann*) to express its view in a reasoned opinion. According to the Irish parliamentarians, a new system parallel to 27 national tax systems would not improve the simplicity and efficiency of corporate tax systems in the EU. Moreover, the Irish lower House is concerned that the proposed directive will endanger national fiscal sovereignty, reminding the Commission that under the Treaties, it 'does not have competence in the area of direct corporate tax' (*Dáil Éireann* of the Republic of Ireland, 2011). The Irish government agreed with the country's parliament. Because it expected a reduction in employment and FDI, a change in the EU's relative competitiveness in the global economy, and 'significant' winners and losers following the introduction of both an optional or mandatory CCCTB, it summarized its position and strategy as follows (Irish Department of Finance, 2012b):

Our scepticism about the CCCTB is well known. Our key message is that we, like a number of other Member States, are totally opposed to tax harmonisation, but are nonetheless willing to engage with the European Commission and other Member States on the issue. In fact, under the Euro Plus Pact we are committed to constructive engagement in the negotiations.

The Irish government at that time was a coalition of liberal-conservative and Christian-democratic party *Fine Gael* and the social-democrat Labour Party. The same government was in office when the Irish government held Presidency of the European Council in the first half of 2013.

The role of Presidencies and a proactive Commission

The case of the CCCTB demonstrates that the government who holds the Presidency can have substantial influence on the direction of discussions within the Council's preparatory bodies. The Presidency, together with the Council's secretariat and relevant staff from the Commission's TAXUD department, prepares the meetings in terms of agenda. Depending on their commitment and expertise, as well as their political vision and the extent to which they consider the dossier to be important, the Presidency can be decisive in terms of the direction and progress of Council discussions (Interview EU Official #3). During 2011, the Hungarian and Polish governments respectively held the Presidency of the European Council. Both served to an extent the interests of governments that were critical of the CCCTB. The CCCTB was not considered a priority by the Hungarian Presidency at that time; it was neither mentioned in its Presidency priorities beforehand, nor in its conclusions afterward. During three meetings chaired by the Hungarian Presidency, discussions covered the entire proposal and remained general in nature. This lack of direction ensured an approach that 'makes structured discussion difficult', according to the Commission staff who were unhappy with the way negotiations started out (WPTQ, 5 May 2011). The Hungarian Presidency also allowed for many questions from member states representatives about the Impact Assessment, a key concern at the center of neoliberal proponents' strategies to delay the start of discussions on the elements of the tax base and going into details of the proposed legislative text. To avoid exactly that, the subsequent Presidency under the Polish government, proposed 'an orientation debate at ECOFIN on the aspects of optimality and consolidation' first (WPTQ, 19 July 2011). Because this initiative did not receive sufficient support, in-depth discussion only commenced at the end of 2011.

Table 10.1 offers an overview of the number of meetings on both working party level and high level that were chaired by each Presidency, as well as the topics that were covered in each meeting. It would be a mistake to relate the number of meetings organized to a Presidency's commitment. No meetings would lead to criticism. In case of a disinterested Presidency, the Council secretariat will advise a Presidency to allocate a number of meetings on the CCCTB in order to

'protect' a Presidency from any criticism in that regard (Interview EU Official #3). A Presidency is supposed to be neutral and the work in Council needs to continue; the secretariat has a major role to ensure both.

Table 10.1 offers an overview of the government who held Presidency of the European Council in 2011-2012, including the amount of meetings organized on the CCCTB and the results that were achieved.

The technical examination of the proposed directive for a CCCTB continued under Danish and Cyprus Presidencies. The Danish government chaired more WPTQ meetings than average and seemingly rotated more adapted texts in preparation of meetings, resulting in a compromise text that is actually more strict than the Commission's proposal, at least in terms of losses carried forward and anti-abuse rules (Council of the EU, 2012b WPTQ, 14 March 2012). The proactive approach of the Danish Presidency was in fact appreciated by many other government representatives in the WPTQ (Council of the EU, 2013b). The Danish Presidency decided early on that WPTQ meetings would only concern the corporate tax base, leaving discussions on consolidation and formulary apportionment to the following Presidency of the Cyprus government.

The latter was less committed to the dossier, with the Commission staff noting before the start of the Cyprus Presidency that they have 'been unable to ascertain the plans of the Cypriot Presidency on the CCCTB. It is therefore currently not known when the next WPTQ meeting on the CCCTB will be' (WPTQ, 25 April 2012). Still, at the end of the Cyprus Presidency, the first complete reading of the proposed directive was finalized. There was insufficient agreement to bring it to debate within ECOFIN. Since the launch in March 2011, the CCCTB was only discussed within the HLWP twice (April 2011 and November 2012); the discussions remained on level of the subgroup WPTQ. The Cyprus Presidency prepared a report for the European Council at the end of 2012 that therefore concluded (Council of the EU, 2012a):

Based on discussions in the Working Party, some Member States expressed substantial objections to the proposal, while some Member States had specific reservations. Discussions revealed that a number of Member States see a need for orientations in order to carry forward work at the technical level, before a decision or agreement can be reached.

Table 10.1: Overview of Presidencies 2011–2012.

Timeline	Presidency	# of meetings	Covered content	Results
2011				
January - June	Hungary	1 HLW- 3 WPTQ	Entire proposal and impact assessment, general discussion.	
July - December	Poland	4 WPTQ	First technical examination on the calculation of tax base, (Chapter IV, Art. 9-14) and Timing and Quantification (Chapter V, Art. 17-31).	Proposal for an orientation debate at ECOFIN on optionality and consolidation – did not receive sufficient support at working party level.
2012				
January - June	Denmark	4 WPTQ	Technical examination of Depreciation of Fixed Assets (Chapters VI, Art. 32-42), Losses (Chapter VII, Art. 43), Dealings between the group and other entities (Chapter XII), Transactions between associated enterprises (Chapter XIII), Anti-abuse rules (Chapter XIV) and Transparent Entities (Chapter XV). These discussions covered important elements of the CCCTB as the switch-over, GAAR, CFC, PEs, interest limitation rule, limiting losses carry forward.	Compromise text (8387/12 FISC 49) in which Danish Presidency included adapted articles based on discussions in WPTQ meetings.
July - December	Cyprus	3 WPTQ	Technical examination of Consolidation (Chapter IX), rules for entering and leaving the system (Chapter VIII) and entering and leaving the group (Chapter X), business reorganizations (Chapter XI, Articles 70-71), and elements of consolidation (Chapter XII, Art. 75-77), Apportionment of the consolidated tax base (Chapter XVI Art. 86-103), Administration (Chapter XVII Articles 104-126), Scope (Chapter 1, Art. 1-3) and Opting for the CCCTB system (Chapter III, Art. 6-8).	Finalized first full technical examination of the full CCCTB proposal. Progress report to ECOFIN, merely to update not in search for agreement.

During the years 2011-2012, political agreement did not seem feasible. All reports of WPTQ meetings state that 'the Presidency did not seek to obtain agreement on the issues which were debated during the meeting.' While many member state government representatives actively participated in discussions and several regularly submitted technical input, most avoided making explicit statements on their (dis)agreement with regard to the issues that are discussed (e.g., WPTQ, 6 September 2011). Presidencies rarely pushed them to do so either.

The Commission's staff present at meetings of the WPTQ was often agitated by those member state representatives that obstructed a detailed examination of the proposed directive. The Hungarian and Polish Presidencies were seen by the Commission staff as hindering progress in various ways, including by allowing for extensive discussions without a clear direction on the impact assessment, fundamental concepts underlying the proposal and discussions on certain definitions. Moreover, it was often unclear about when the next WPTQ meeting will be planned, or what will be discussed (WPTQ, 19 July 2011). The Commission staff noted for instance with regard to the incoming Polish Presidency (WPTQ, 5 May 2011):

We must persuade them that this will mean no progress and we must start work on the base. In the words of the DE delegate after the meeting 'We cannot waste a whole Presidency making no progress as that would leave only DK before CY and IE take over who are unlikely to progress positively'.

It shows that the Commission's expectations were low regarding the Cypriot and Irish governments, both leading European tax havens (Tørsløv et al., 2018).

The Commission staff, mainly from the DG TAXUD, acted strategically in various ways to create progress in the Working Party discussions. To counter the strategy of problematizing the Impact Assessment, the Commission prepared a meeting solely dedicated to the concerns and questions on this issue (Report of Meeting WPTQ 29 June 2011). Staff also pointed out that weaknesses in the Impact Assessment were partly caused by lack of input by member state governments themselves, for instance regarding administrative costs of introducing a new tax system (WPTQ, 5 May 2011). At the end of 2011, the Commission, specifically the Department of Direct Taxation, initiated bilateral meetings with member states representatives that often expressed skepticism

towards the CCCTB proposal to discuss their comments and most pressing concerns (WPTQ, 15 November 2011). Moreover, the Commission increasingly asked member states representatives to deliver input and suggestions for alternatives in response to continuous stream of critique – in particular from those governments functioning as proponents for the neoliberal project. Their critique was typically not accompanied by suggesting any alternatives, ‘which became even more evident after the Commission specifically invited them to do so’ (WPTQ, 6 September 2011). A French government representative explicitly supported this strategy by suggesting that those asking for more detailed drafting and more definitions of concepts, should ‘provide constructive proposals to COM’, to which its staff agreed this would be more helpful than ‘simply claiming there is a lack of details and definitions in the proposed CCCTB’ (WPTQ, 15 November 2011).

The Parliament’s support for the CCCTB

Under the special legislative procedure, the Parliament gives an opinion to Commission and Council. Possible amendments are sent to the Council for its consideration, but the latter is not legally required to take these into account. The Parliament thus consults, but does not legislate. In case of the CCCTB proposal of 2011, ECON tabled its report, which included 38 amendments to the Commission’s proposal, in March 2012. A month later, the report was adopted by the plenary with 463 votes, 174 against and 30 abstentions (European Parliament, 2012).

The Parliamentary response to the Commission’s legislative proposal was led by rapporteur Marianne Thyssen, a Belgian Christian-democrat and member of the European People’s Party (EPP) group. She was a member of Parliament (MEP) for 23 years, before becoming Commissioner of Employment, Social Affairs, Skills and Labour Mobility as part of the Juncker Commission (2014-2019). The report drafted under her coordination did not alter the Commission’s proposal radically, or as she put it during the debate in Parliament with Commissioner Šemeta, in April 2012: ‘our report retains the architecture of the excellent proposal drafted by the Commission, but it shows more ambition’ (*Common Consolidated Corporate Tax Base (Debate)*, 2012).

In terms of policy goals, the Parliament made more explicit the contribution expected from the CCCTB in terms of economic growth and increase of jobs (Amendment 5). It also emphasized the use of the CCCTB as an instrument of accessibility to the internal market for SMEs, repeating on several occasions

how SMEs that operate cross-border can be supported to join the common tax system of the EU (e.g. Amendment 8). The Parliament made an explicit referral to the Euro Plus Pact and framed the CCCTB – more than the Commission did in its original proposal – as an instrument for member states to generate tax revenues. It directly related this use of the CCCTB to the euro members' obligation to 'meet their budgetary commitments' in the context of the SGP and 'fiscal discipline' (Amendment 7). Hence, the Parliament emphasized the tax neutrality of the CCCTB (less market distortions, i.e. tax avoidance) that would support the goal of raising tax revenues, 'in order to safeguard the stability of the euro area as a whole' (ibid.). According to the rapporteur Marianne Thyssen, the crisis should be a catalyst for the Council to make progress on adoption and implementation of the CCCTB (EP Committee on Economic and Monetary Affairs, 2012).

The main concrete amendments of the Parliament regarded the calculation of the corporate tax base itself as well as the formula. It proposed recurring costs relating to environmental protection and reduction of carbon emissions to be deductible, whereas certain excise duties should not. It proposed a strengthening of the switch-over clause, CFC rules (statutory rate of 70% instead of 40%) and anti-abuse clause (main purpose, not 'sole'). To an extent, this reflects the direction in which discussions in the Council's WPTQ were going as well. The formula was amended to the extent that the three factors – sales, labor and assets – were not weighed equally but 10%, 45% and 45% respectively – mainly with the purpose of protecting the tax base of smaller member states with limited domestic markets (i.e. no sizable consumer mass).

Most amendments of the Parliament focused not on the proposed directive's content, but its form and scope, as well as the political process towards agreement. In its opinion, the optional character of the common tax base should be abandoned; the majority of the Parliament preferred the system to be mandatory (with the exception of SMEs) within 2-5 years after implementation (Amendment 14). Foreseeing that agreement within the Council would be challenging, the Parliament pushed for enhanced cooperation, stating that 'it is appropriate to initiate without delay the procedure for a Council decision authorising enhanced cooperation in the area of the CCCTB. Such enhanced cooperation should be initiated by the Member States whose currency is the euro' (Amendment 6).

Last, the Parliament was more forward-looking, detailing an impact assessment to be conducted by the Commission after five years. Although, like the Commission, it refrains from proposing a harmonization of corporate tax rates, the Parliament asks the Commission to review after five years the advantages and disadvantages of setting a minimum rate. Balancing opposing interests in the Parliament, the resolution states that 'Fair competition in relation to tax rates should be encouraged at Member State level and also at regional level for regions with fiscal and legislative powers' (Amendment 4). The antagonistic dynamic between policy goals of competition and coordination, between 'protecting' fiscal sovereignty of member states' governments while eliminating obstacles to the internal market, materialized here in the Parliament's resolution. In terms of follow-up process, the Parliamentary resolution also included a suggestion to set-up of a CCCTB Forum, 'similar to the Joint Transfer Pricing Forum, to which companies and Member States can address issues and disputes relating to the CCCTB and which shall provide guidance' (Amendment 19).

With these amendments, the majority of the Parliament effectively supported the Commission's proposal and proposed amendments in the direction of the center-left project's main demands: stricter anti-abuse rules, shifting the weight of the formula towards labor factor, opening the door to harmonization of tax rates and moving towards a mandatory system. Parliamentary groups functioning as agents of the center-left project – S&D, Greens/EFA and the Left – wanted more, however, and preferred to include actual minimum tax rates. In particular the first two groups also explicitly refer to the purpose of anti-evasion, tax havens or more general 'the evils of tax competition' as MEP Liem Hoang Ngoc, member of the French Socialist Party and S&D Group stated (*Common Consolidated Corporate Tax Base (Debate)*, 2012). At that time, this was not how the Commission framed the CCCTB, nor was it pushed for by a majority of the Parliament's. Liberal(-conservative) and center(-right) groups, the EPP and ALDE, largely supported the Parliament's resolution on the CCCTB, but some elements were contested within the groups. The gradual implementation of the CCCTB as a mandatory tax system as well as (even the mentioning of) harmonization of tax rates was heavily opposed by particularly EPP members from Ireland, Czech, Bulgaria and Romania who interpret this as (possible) 'breaching' of national competence and thus refer to the principle of subsidiarity.

Opposing forces to the Parliament's majority consisted of right-wing nationalist forces. The groups of Europe of Freedom and Democracy and European Conservatives and Reformists represent Eurosceptic voices that oppose any form of tax harmonization (or European integration for that matter). The harmonization of taxation is seen as 'a ploy to enable bureaucrats to steal even more money from the wealth-creating sector', and 'tax competition is a good and healthy thing, and any attempt to harmonize tax rates is unacceptable to us' (MEPs Godfrey Bloom, British member of the EFD Group and MEP; Ivo Strejček, Czech member of the ECR Group, during the EP's Plenary Debate on the CCCTB, 18 April 2012). The belief that tax competition is good, harmonization is a 'very bad idea', and the focus on the competitiveness of the EU aligns most with the neoliberal project and its proponents in Council discussions (e.g. Irish, Luxembourgian, British and Dutch representatives).

10.2 Council discussions, 2013-2014: continued contestation leads to 'sluggish progress'

'The way of negotiation in the Council takes a lot of time, especially by unanimity.' (Interview EU Official #3)

It is no surprise that it took almost two years to discuss all articles of the proposed directive for a CCCTB. As an EU official explained, it is the task of working party meetings to go through all technical comments until these are solved and only a few political issues remain. Only at that point, when there is a 'clean' text free from technical issues, does it make sense to refer the negotiations to a higher level (Interview EU Official #3). This is particular the case under unanimity rule: 'every comment is important because every comment can make the whole deal derail' (ibid.). this is exactly the dynamic that leads another EU official to call the unanimity procedure 'toxic' (Interview EU Official #1). At the start of 2013, although a first technical examination was finished, discussions were nowhere near unanimity.

The Irish Presidency chaired its first WPTQ meeting in January, and was met with great apprehension on the side of the Commission that noted:

IE's commitment to progress via an orientation debate at ECOFIN is questionable – at several instances it was clear that there is a tendency to emphasise the difficulties and possibly delay

progress by further technical discussion – e.g. at the meeting a list of definitional problems was suddenly circulated by the Presidency (WPTQ, 15 January 2013).

The Irish Presidency proved to be decisive for the future of Council negotiations on the CCCTB, however. Based on bilateral meetings with all member states governments, it drafted a 'synthesis' report setting out the points of agreement as well as contestation amongst member states' representatives (Council of the EU, 2013b).

First, agreement was limited to issues of process and form. An 'overwhelming' majority favored a step-by-step technical discussion of the common tax base first, and 'technical work on the elements dealing with consolidation could be envisaged as appropriate in due course' (ibid., p. 4). Splitting the CCCTB in two stages, which had already been alluded to over the past years, was now firmly entrenched within negotiations. To that end, the Irish government designed a road map that effectively postponed work on the step of consolidation indefinitely (Council of the EU, 2013a). Government representatives also seemed to largely agree on the form of the directive; a prescriptive directive (rather than principled directive) would avoid 27 different systems on top of 27 national systems. In this regard, the administrative burden for national tax authorities was problematized, in particular by governments with small administrations who would 'suffer disproportionately if they chose to retain their existing system alongside the CCCTB' (Council of the EU, 2013b, p. 6). Last, regarding the form of the CCCTB, the Commission's proposal would provide it with the power to set certain delegated acts. However, the synthesis emphasized that 'generally speaking', delegations expressed 'their desire to retain the principle of unanimity in tax matters' and opposed the use of delegated acts.

Second, disagreement centered on the content of the proposed directive. In line with discussions in the Council in the previous two years, the main conclusion from the Irish Presidency's synthesis was that many issues remain unresolved and diverging interests ('some', 'a few', 'others', 'a number') remained on elements of the corporate tax base. With regard to the changes made between the proposed directives in 2011 and 2016 respectively, three developments stand out. First, a number of MS preferred 'a special focus on anti-avoidance rules' (HLWP, 13 March 2013). The Commission staff itself noted that it still believed 'that CCCTB is the answer to a lot of problems' (ibid.). It seems the

politicization of corporate taxation and the work within the OECD's BEPS project emerged here in Council discussions, with member state governments from Germany and France (and Austria, Italy, Portugal, Belgium and Poland) voicing and integrating into the discussion center-left policy goals. Second, the discussion on the formula shows a divide between those 'with lower cost bases and smaller populations' and larger economies, as well as between those economies relying on 'traditional factors of production' and those who are 'knowledge intensive' (Council of the EU, 2013b, p. 8). This does not differ from previous Council discussions, but relevant to note as proponents of the neoliberal project – often those defined as 'knowledge intensive' – were not able in the years between 2011 and 2016 to achieve change in that matter, for example through the incorporation of intangible assets into the formula. As the Head of the Business Tax Unit of the Irish Ministry of Finance (Gary Tobin) stated in a national parliamentary debate in November 2012:

Given that the financial crisis has engulfed the whole eurozone and the wider community, it is fair to say that most countries are now more reluctant than they have ever been to potentially give away part of their tax base and allow a new system to reallocate it based on a formula that probably has not been fully worked out.

A third relevant development was a general tendency for government representatives to suggest adaptations of rules that would lead to a broader tax base. The interest limitation rule is a good example; several versions are discussed that were more strict than most member states had at that time. In that respect, the Commission staff notes that more stricter rules 'will create problems if the base remains optional' (WPTQ, 6 September 2013). No corporation will voluntarily choose a tax system with a broader base as it would increase their tax burden. It is concluded that 'the base will have to be compulsory rather than optional' (WPTQ, 23 October 2013). This can partly explain why the CCCTB as proposed in 2016 was no longer optional, but mandatory at least for corporations of a certain size – or as an interviewed expert noted, 'therefore, our 2016 proposal changed from what you call business friendly in a protective measure' (Interview EU official #4).

The remainder of discussions in the Council's working party in 2013 and 2014 followed the roadmap as drafted by the Irish Presidency. The second reading of the proposed directive clarified to a larger extent which specific elements were dividing member state governments most. According to the Commission

this offered a good starting point for reaching compromises on those elements, 'if there is political commitment to progress (which there is not from most MS)' (WPTQ, 6 September 2013).

A number of recurring issues emerged as key points of contestation between member state governments. The opposing groups differed on these subject, clear delineation in terms of pro- and con camps are often difficult to identify. The first was the element of depreciation. As a main element of the corporate tax base, the Irish government dedicated last WPTQ meeting they chaired as Presidency completely to depreciation. Central to the debate was the pooling system that was proposed by the Commission and the system many member state governments employ of individually depreciable assets. Mainly for France this was an issue with a possibly large revenue impact. Although a compromise option between those two systems were 'seen as a step in the right direction by various members states', they were still 'far from reaching an agreement' (WPTQ, 24 May 2013). As discussed before, a rule for limiting the deduction of interest continued to be a key topic of discussion. So was the restriction of loss offsetting, with the main point of debate being whether to set percentage and whether to couple it with de minimis fixed deductible amount (which smaller markets are not in favor of) (WPTQ, 5 December 2013).

The scope of the GAAR was another issue on which member state governments diverge. The proposed scope within the original proposal was deemed too narrow by many. The Commission had tried to align its formulation with ECJ case law, which was problematized mainly by the French government who preferred a broader scope as to cover more abusive arrangements. Commission staff, 'in close consultation with Commission Legal Service', was of the opinion that it was necessary to follow the jurisprudence of the ECJ 'on the grounds that potential discrimination remains' as long as CCCTB would be optional (WPTQ, 5 December 2013). Pension provisions and the differences between national systems that allow for deductibility for (in-house) pension contributions (Germany, Netherlands) and those who do not (larger group, amongst which France and UK), remained on the agenda. It was confirmed by governments to be a 'critical matter' (WPTQ, 23 October 2013). Last, a recurring topic of debate was the tax treatment of gifts and donations. Commission staff noted that 'once again', it 'proved to be one of those thorny topics where one can record the least of willingness to arrive at a common rule' (WPTQ, 6 September 2013).

Changing strategies

The earlier identified groups and to what extent they articulate core demands of hegemony projects did not substantially change in the period 2013-2015. Their strategies did, however. In particular proponents of neoliberal project had to adjust as the problematization of the impact assessment was no longer a believable strategy. Instead, they now used the commencement of the BEPS project to their advantage. Throughout the period in which BEPS action were negotiated under the auspices of the OECD (2013-2015), member states representatives from predominantly the Netherlands, Ireland, Luxembourg and the UK continuously referred to this process. It helped them delay certain decision in the CCCTB discussions, mostly on 'international aspects' of the CCCTB including anti-abuse rules. Moreover, they continuously warned that the EU should remain consistent with what would be agreed within the BEPS project and not move beyond those standards. This first appeared in the HLWP meeting in March of 2013 where 'some called for a consistent approach reaching beyond the EU' on the issue of avoidance and the GAAR in the CCCTB (Council of the EU, 2013b, p. 7). This strategy is close to what drivers of the neoliberal project continued to emphasize, as discussed in an earlier chapter: many organized corporate interests advocated for waiting on the result of the BEPS project before any agreements within the CCCTB negotiations and continuously warned to not go 'beyond' BEPS.

A second strategy emerging at the start of 2013 was a partial reversal in the approaches taken at the start of negotiations in 2011. The group of member states representatives led by French and German government initially shied away from political discussion within ECOFIN and instead preferred a detailed examination of the directive. After two years of negotiating, the Commission noted the following (WPTQ, 15 January 2013):

For the first time in for many meetings several MS 'traditionally supportive in general' – (e.g. FR and DE on definitions and depreciation) seemed to realise that there is a real danger that the project may be substantially delayed if they support calls for more details and expressed support for Com/willingness to find a compromise – this more open 'support' is crucial.

The French government representatives were the most concrete in their intention to move the CCCTB dossier to ECOFIN for a political discussion (as demonstrated at HLWP meeting on 13 March 2013). They and others believed

that 'guidance from Ministers was necessary to prioritise the discussions' (Council of the EU, 2013b, p. 9). The reversal in strategies entailed that proponents of the neoliberal project held off on political discussion and instead continuously asked for more details, thereby delaying progress towards any agreement. It should be noted that 24 member state representatives agreed that, in the first half of 2013 at least, it was 'premature' to have a discussion at ECOFIN; this majority then also explains why such meeting did not take place (Meeting HLWP, 13 March 2013). Staff of the Commission clearly sided with the French government *et suis*, expressing disappointment at the lack of political discussion so far (ibid.).

The not so voluntary commitment of the Irish Presidency and the Commission losing hope

The Irish Presidency invited MS, especially those who did not take the floor, to send written comments in order to have a full picture of the MS' position on the issues discussed. The Presidency announced that they will circulate the comments received among the other MS, to facilitate the exchange of views, unless a MS expressly objects to circulation. (WPTQ, 24 May 2013)

Commission staff did not report this type of Presidency approach before. The Irish government took on a proactive role in its Presidency on the CCCTB dossier: bilateral discussions feeding into a synthesis report and a road map for future negotiations, a compromise text in order to discuss the issue of depreciation and losses. Ireland's official position of skepticism has already been noted, and its persistent opposition to harmonization of corporate tax rates is well known. In November 2012, for instance, and right before the start of its Presidency of the European Council, the Irish Department of Finance reported to the Irish Parliament that 'Ireland could not accept harmonization of rates' (Irish Department of Finance, 2012c). The Irish government's approach during its Presidency can be explained by the economic adjust program that accompanied the financial assistance the Irish government received in the years 2011-2013 in order to face its sovereign debt crisis at the time. In exchange for the EUR 85 billion bail-out package and similar to the structural adjustment programs of the 1980s and 1990s, the Troika (of the IMF, ECB, and European Commission) imposed reforms onto the Irish government (Greer, 2014). In that context, the heads of state of the Eurozone 'welcome Ireland and Portugal's resolve to strictly implement their programmes and reiterate our

strong commitment to the success of these programmes' and 'note Ireland's willingness to participate constructively in the discussions on the CCCTB draft directive and in the structured discussions on tax policy issues in the framework of the Euro+ Pact framework' (Council of the EU, 2011). It became important to publicize how this willingness translated into 'constructive engagement' in CCCTB discussions. In a policy update prepared by the Tax Policy Unit of the Irish Department of Finance (2012a), at the end of 2012, its strategy of engagement is explicated in three parts: A focus on impact in terms of budget impact and compliance costs, the participation of Irish officials in WPTQ meetings 'as appropriate and when necessary' and last its engagement with Irish business representatives and EU partners. In particular the latter is significant in relation to its Presidency:

the Irish approach is to engage with Irish business representatives and our EU partners on the dossier and ascertain their opinions on how the CCCTB proposal may impact on them. Engagement with our EU partners allows us to build a pan-European picture of the potential impact of the current proposal and areas where there may be some difficulties. This last aspect will be important in the run-up to and during the Irish Presidency of the European Council from 1 January 2013.

The approach of the Irish government, both when it held the Presidency at the start of 2013 and as participant in WPTQ discussions, did not bring the Council closer to any agreement. 'Constructive engagement' does not have to lead to agreement, which was evidently not in the interest of the self-proclaimed skeptical Irish government. As illustrated by a tax policy official from its Department of Finance during a national parliamentary debate on the CCCTB in 2012: 'We believe the best way to influence the discussions is by being in the room at the time' (*Scrutiny of EU Legislative Proposals*, 2012). The synthesis report outlining all the remaining differences between member states' official positions is a suitable strategy from that perspective as well.

The Lithuanian Presidency continued the path set out by its predecessor, following both the roadmap and the compromise text drafted by the Irish government. Although the Lithuanian government did not seem to prioritize any tax matter (based on its priorities and achievement reports in 2013), it did manage to make some progress, draft a new compromise text and push

government representatives to actively contribute to the discussions (WPTQ, 23 October 2013).

The tone in reports of the meetings – written by Commission staff – turned a bit more positive and hopeful that ‘with the right political support’ progress on the CCCTB dossier was possible (WPTQ, 23 October 2013). The key points of contestation were clear at this point, many other technical details were solved or not brought into discussion anymore. To that end, the Commission also noted that it would support agreement amongst governments even if this would diverge from the original proposal (*ibid.*). However, during Council discussions under the Presidency of the Greek government, the Commission’s careful optimism evaporated completely and made way for pessimism.

The Greek Presidency prioritized ‘a way out of the crisis’ through a focus on growth, fiscal consolidation and deeper (EMU) integration (Government of Greece, 2014). Taxation did not feature in its priorities, which was reflected in their approach to the CCCTB dossier as well. Under its Presidency, the working party revisited those articles that had been discussed numerous times at that point – depreciation, interest limitation rule, provisions, losses, definitions – but allowed the debates to remain superficial rather than substantive, leaving any real progress towards agreement out of sight. In this first half of 2014, Commission staff took note of ‘endless discussion of the same issues with delegations repeating their preference for their own current different rules’ (WPTQ, 7 January 2014), with most key topics already ‘exhaustively debated’ (WPTQ, 8 April 2014). The lack of constructive engagement from most member state governments led the Commission to re-evaluate the process entirely leading to two strategic options for its internal consideration. First, a push for political input in order to avoid that the ‘debate’ continued for years to come (WPTQ, 8 April 2014). Second, in combination with the ongoing BEPS project and a new incoming Commission, the Commission for the first time saw an opportunity ‘for the whole strategy on the CCCTB to be re-considered and perhaps re-launched’ (*ibid.*). At the end of the Greek Presidency, the following quote is included in the meeting report, which represents the culmination of frustration after three years of negotiations and is relevant to answering the research question, and therefore copied in full (WPTQ 6 June 2014):

The overall impression from the discussion on the CCCTB is that a lot of the initial enthusiasm is lost. After more than three years of technical debate, it seems that the project cannot move forward

in its current shape and perception as an optional system. Thus, Member States may have lately shown some willingness for compromise on certain detailed technical features of the system but several of them remain skeptical on a point of principle. Each time that Member States seem to be close to a compromise, it is almost always in the direction of broadening the tax base, which results in rendering the CCCTB less and less competitive vis-à-vis national corporate tax systems. It is now clear that a political initiative (possibly, from the new Commissioner) is necessary in order to provide some impetus. There is also a tendency for several delegates to simply describe their current rules and insist on incorporating these into the CCCTB.

The quote signifies an important moment in the period under research for several reasons. First, the Commission staff from DG TAXUD were the first ones to initiate a relaunch; the idea (probably) did not come from the Commissioner himself. Second, the choice to *not* relaunch *nor* continue CCCTB negotiations was not mentioned as a reasonable option in spite of the negative associations with the process so far. Third, the optional character of the CCCTB was regarded as obsolete at this point. The discussions in the Council's working party had shown that the corporate tax base would have to be broadened to meet the many concerns from governments, so that an optional system would never be voluntarily chosen over national systems by corporations. The change from an optional to a mandatory system can be explained by objections voiced by member states in Council working party meetings, *not* because of the idea that a mandatory system would be better appropriate to counter corporate tax abuse.

CCCTB negotiations hijacked by BEPS project under the Italian Presidency

Under the Italian Presidency, another key moment in the process between the first launch in 2011 and the relaunch in 2016 took place. The roadmap designed by the Irish government one and a half years earlier directed the Italian Presidency to the 'international aspects' of the proposed directive. The Italian government chose to expand this focus with those aspects of the CCCTB proposal closely linked to the BEPS process, which was in full swing at that point. The Presidency capitalized on this moment in time to 'orient discussions on the main EU initiative in the corporate tax area towards BEPS objectives and results, with a view to ensuring maximum consistency between EU and OECD

work' (Council of the EU, 2014b). Combined with the Italian government's ambition to focus on several tax matters during its Presidency and its strong opinion on certain international aspects, the Italian Presidency took a clear lead in the discussions in the second half of 2014. Their drafted compromise text included an interest limitation rule that was formerly known as 'the Italian proposal' that aligned with the agreed upon rule within the BEPS project, a switch-over rule with a wider scope and a GAAR that identifies abuse in a wider range of situations. All changes broadened the corporate tax base (Council of the EU, 2014a).

At the end of its Presidency, Italian Minister of Finance Pier Carlo Padoan wrote a letter to Commissioner Moscovici, together with his French and German counterparts (Schäuble et al., 2014). The publicly shared letter was a direct push for the EU to adopt a 'comprehensive anti-BEPS directive' before end 2015 and without any delay. The Ministers identified the lack of tax harmonization as one of the main causes of aggressive tax planning and BEPS within the internal market. With a reference to the (then) recent investigative journalist reports – most importantly LuxLeaks – the ministers of Finance of Italy, Germany and France concluded that 'the limits of permissible tax competition between Member States have shifted. This development is irreversible'. Their search for corporate tax harmonization led them to advocate for a common anti-BEPS directive, more transparency for tax authorities, revisions of the existing EU laws on withholding taxes² as well as a 'common general anti-abuse provision' to be incorporated into the EU law. In a response, Commissioner Moscovici reminded the ministers of the CCCTB, which would address many of the issues they raised (Naumann, 2015).

The letter marks a development in the process where CCCTB negotiations were no longer about the CCCTB. During the second half of 2014 under the Italian Presidency, the agenda of Working Party meetings on the CCCTB were starting to narrow to those elements that related to the ongoing BEPS project. A number of things surface at this point. First, negotiations on the CCCTB itself seemed fruitless, leading the Commission staff – again – to conclude that new Commissioner Pierre Moscovici should reflect on the Commission's approach to the CCCTB file (WPTQ, 17 September 2014). Instead, the meetings focused on the CCCTB elements related to the BEPS project: interest limitations rule, CFC rules, switch-over clause, exit taxation, definition of a PE and

². The Interest and Royalty Directive and the Parent-Subsidiary Directive. In particular the first dossier had been stuck in Council negotiations since 2011.

hybrid mismatches. Here, second, there often was a majority of government representatives in agreement – at least on the principle. Views continued to differ with respect to the details of these rules.

Third, a new key point of contestation arrived, regarding the approach of the EU and member state governments towards the BEPS project. One argument voiced by Germany, France and Italy amongst others – as demonstrated also by the letter discussed above – was to ensure a coherent EU-wide implementation of BEPS agreements *and* possibly already initiate EU action on the short term to address ‘BEPS-related topics’ (HLWP, 2 October 2014). In this perspective that leaned towards measures going ‘beyond BEPS’, the ongoing CCCTB negotiations were the perfect place to create an EU-coordinated approach with regard to both the implementation and the current positioning in OECD negotiations. Most distinctly propagated by the German government, this argument was also strongly supported by the Commission itself. A majority of member state governments contested this view. Virtually all those considered to be proponents of the neoliberal project – governments of Netherlands, Ireland, the UK, Austria, Czech Republic – joined by a few others held the view that CCCTB negotiations should continue with the Irish roadmap. That entailed continuing exasperatingly slow discussions on elements of the corporate tax base. The neoliberal position meant rejecting any possible measure that would go beyond what was agreed on internationally within the OECD framework; hence, keeping CCCTB negotiations separate as much as possible from discussions on EU-wide BEPS implementation was a logical strategic choice. The Dutch government even went so far as claiming it ‘did not see the link between the CCCTB and BEPS as the proposal has always pursued different objectives from those being a priority under BEPS’ (HLWP, 2 October 2014). This reflects the resistance expressed by key drivers of the neoliberal project against the changing policy goals of the CCCTB in 2016. As CCCTB negotiations were as far from agreement as possible, continuing them did not constitute any threat to neoliberal project’s interests. In the end, negotiations from this point onwards were no longer guided by the roadmap, but did not lead to an EU-coordinated manner to influence OECD negotiations either.

Fourth and last, at the CCCTB-BEPS crossroads at the end of 2014, the second policy goal of the CCCTB emerged more and more. The Italian government and the Commission both ‘stressed that the CCCTB system was proposed in a world where priorities were different than today but the project seems to remain relevant even today when it is considered by reference to the BEPS objectives.’

(ibid.) Belgium was one of the few governments explicitly voicing center-left argument that most of the issues which are dealt with under BEPS are resolved through consolidation.

10.3 Special committees and action plans: strategic action within and between the European Parliament and the Commission

The Parliament and its special committees

In May 2014, parliamentary elections were held in the EU. The results reflected growing Eurosceptic sentiments, with victories across the EU for right-wing nationalistic parties. The EPP (Christian democrats) remained largest parliamentary group in EP, but lost seats. So did the second largest group, S&D (social democrats). the EP elected in 2014 was the first that, deriving from the Treaty of Lisbon, would endorse or veto the President of the European Commission. This led EP groups to 'elect' candidates for this position – the Spitzenkandidaten. Juncker, candidate for the EPP and thus the largest group, indeed became President of the 2014-2019 Commission. The Council had to nominate him first officially, UK and Hungary opposed this. He was supported by 422 votes (out of 729), gaining support mostly from his own EPP, the S&D, ALDE and Green groups.

The Juncker Commission came into office on 1 November 2014, for the subsequent five years. Under this Commission, the CCCTB was relaunched. Pierre Moscovici (French, S&D, former MinFin) was appointed Commissioner of Economic and Financial Affairs, Taxation and Customs. Importantly, his Lithuanian predecessor Šemeta was Commissioner of 'only' Taxation and Customs. Under the Barosso Commission, Economic and Financial Affairs was for a separate Commissioner, Joaquín Almunia from Spain. The fact that Moscovici had a broader portfolio helped his negotiating position, according to an interviewed expert (Interview EU Official #2):

He's in charge of economic affairs at a time when economic affairs are really important. He has a direct access to all ministers. He sees them every month in ECOFIN and a lot also in bilaterals and in international meetings. He has really very regular exchanges with ministers of finance. From there, he can push also the tax agenda.

Margrethe Vestager (Dansk, ALDE, former Deputy Prime minister) was appointed Commissioner of Competition in the Juncker cabinet. Moscovici and Vestager are leading figures in area of taxation – and Juncker himself had a major interest here after the LuxLeaks were published in November 2014 and he came under scrutiny for his role as prime minister in developing Luxembourg into a tax haven with a controversial tax ruling practice.

With the establishment of special committees, the Parliament strategically widened its own institutional venues to address issues of corporate taxation. The first committee, TAXE 1, was launched in 2015 after Lux Leaks to investigate the tax rulings of EU member states and their compatibility with EU law. According to a member of the committee, this led to a clear improvement in almost all of the countries under scrutiny. Although the Parliament had no legal power, its investigations had significance because, as one MEP expressed, ‘as a Parliament elected by the citizens, we had moral authority’ (Interview EP member/staff #3). Moreover, ‘against the background of the scandal, it was impossible for the governments to brush off all the recommendations of the European Parliament’ (ibid.). Since then, three more committees followed (TAXE 2, PANA and TAX3), and the long-awaited permanent subcommittee on tax and financial crime (FISC) began its work in September 2020.

There is general acknowledgment, from various perspectives, that the Parliament has been influential in corporate tax policymaking despite its limited formal role, in particular in politicizing the issue during the core period under investigation here (Interview EU Official #2). Precisely because of the unanimity principle and the Parliament’s role of mere consultation, members of parliament felt they needed ‘to reach out to stakeholders themselves, because they cannot vote on these issues. That means adding some political pressure. That’s what they did with the Special Committee on taxes. That’s just very high-level political lobbying where they have done. (...) Knowledge building increased the pressure that was helpful for the Commission’ (Interview EP member/staff #5). The work and commitment of the Parliament has also led to Commission staff feeling supported, for example in their relaunch of the CCCTB (Interview EU Official #5).

The politicizing influence of the Parliament and specifically the special tax committees were not interpreted by all to lead to a sufficient level of knowledge on a highly complex issue. One business representative shared that people involved in Council negotiations doubted whether MEPs had knowledge

about the ins and outs of corporate taxation; they called MEPs “monkeys with guns”, because you know... because of social media and those investigative committees, they actually did have a lot of influence’ (Interview Business representative #1).

The Commission re-strategized

After the global publications following LuxLeaks in 2014, the European Commission headed by Jean-Claude Juncker presented its first annual work program in December 2014 – aptly named ‘A New Start’ – including ‘A Fairer Approach to Taxation’ as one of its priorities (European Commission, 2014b). In order to ‘respond to our societies’ call for fairness and tax transparency’, the Commission (2015e, 2015c) presented the *Tax Transparency Package* on 18 March 2015, and an *Action Plan for Fair and Efficient Corporate Tax System in the European Union* on 17 June 2015.

Key in the Tax Transparency Package was a legislative proposal for the AEOI on cross-border tax rulings between member states (see Panayi, 2015, pp. 188–192 for an elaborate description of the details of the Package). The intention was to provide member states’ tax authorities with information on such tax rulings (bilateral agreements between corporate taxpayers and tax authorities) that might potentially impact their tax base. LuxLeaks highlighted specifically the central role of tax rulings in many corporate tax avoidance structures. The proposal was considered relatively low hanging fruit as it pertained to transparency between national tax authorities and not the public. Moreover, it was a targeted measure covering one specific tax practice that was common mostly in well-known EU tax havens. Watered down in Council negotiations to the automatic exchange of limited information, it was implemented through amending the Directive Administrative Cooperation (Council Directive (EU) 2015/2376 of 8 December 2015 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation, 2015). Included in the Tax Transparency Package was an announcement to the forthcoming Action Plan and the intended relaunch of the CCCTB, as well as ‘ideas for integrating new OECD/G20 actions to combat base erosion and profit shifting (BEPS) at EU level’ (European Commission, 2015e).

The Action Plan in June 2015 centered the CCCTB as a ‘holistic solution to profit shifting’ (European Commission, 2015c, p. 7). The change in policy goals compared to the original proposal for a CCCTB in 2011 are clear. Competitiveness, tax certainty, efficiency and addressing double taxation

remained leading concepts in the context of relaunching the CCCTB. In addition, the CCCTB was now also regarded to 'be highly effective in tackling profit shifting and corporate tax abuse in the EU' and 'help defend the Single Market against aggressive tax planning' (ibid.). The Commission presented the expanding of policy goals firmly in the context of harmful tax competition and the resulting decrease in statutory rates, the lack of increasing corporate tax revenues in the EU, and corporate tax avoidance (European Commission, 2015c, pp. 3–5, 2015b). It also used the opportunity of a relaunch to problematize and address corporate tax debt bias. The overarching EU focus on growth and jobs, moreover, led the Commission to consider additional beneficial treatment for research and development activities. Importantly, the Commission argued that the leading concepts of fairness and efficiency are not contradicting but in fact strengthening each other in the CCCTB, as reflected in the Action Plan's title. Critique from different agents within opposing hegemony projects demonstrated that the Commission was quite alone in this point of view.

These discursive changes materialized in several changes that the Commission suggested already here in the 2015 Action Plan, which later were indeed reflected in the relaunched CCCTB proposals in 2016. First, it is argued that discussions in Council are the direct reason to introduce a two-step approach. Even though meeting reports of those Council discussions did not show a preference for such a divide in two legislative proposals, the negotiations so far had indeed concentrated on the first stage of harmonization and largely neglected the second stage of consolidation. Second, the compulsory character of the CCCTB is already announced as well. The Commission argued that this resulted from the CCCTB's new policy goal to counter profit shifting. An EU official confirmed that the choice to make it mandatory came from the Commissioner's cabinet rather than the considered less political DG TAXUD and was the result of pressure for more tax fairness from the Parliament as well as NGOs (Interview EU Official #2). However, analysis of Council negotiations demonstrated that the compulsory character was proposed repeatedly by several member state governments and the Commission itself as discussions over the past years had led to potential broadening of the tax base (see also section 10.2). Fearing that no corporation would then voluntarily choose the CCCTB system, making the CCCTB compulsory seemed inevitable.

As a last point with regard to the announced CCCTB relaunch in the Action Plan, the Commission directly (but implicitly) reacted to the state of play in Council discussions through its emphasis that the relaunch should not delay or

impede negotiations 'in the framework of the proposal currently on the table of the Council on some international aspects of the common base which are linked to the BEPS project' (p. 9). Underlining its commitment to a coherent EU approach to implementing the BEPS agreements, the Commission stated that these elements should be agreed upon within 12 months and should legally binding before the revised CCCTB is agreed upon (ibid.). It was a strategic move in order to prevent forces within the Council using the announced relaunch of the CCCTB to obstruct negotiations on BEPS-related items on the CCCTB that were, at that point, in full swing.

Although the Action Plan highlighted the CCCTB in numerous ways as a comprehensive path forward for the EU in terms of corporate taxation, it also suggested numerous more narrow reforms and initiatives. It included announcements regarding an attempt to revive discussions on reforming the Interest and Royalty Directive (to no avail) with the purpose of countering situations of double non-taxation, suggestions to reform the Code of Conduct Group on Business Taxation to be able to better and more effectively respond to harmful regimes, the prolonged mandate of the Platform for Tax Good Governance, a proposal for changing existing dispute resolution mechanism to resolve double taxation disputes, the launch of a public consultation on country-by-country reporting, and suggestions for improving cooperation between MS on tax audits of cross-border companies. The Action Plan also for the first time announced the introduction of an EU list of non-cooperative tax jurisdictions outside of the EU (see Roland et al., 2025 for a discussion on the blacklist as a political instrument).

The Commission (2015d) presented the relaunch as a broadly supported measure, also from many member state governments. However, that is not what Council discussions show as the following section will detail.

10.4 The only agreement is to disagree: Council negotiations under Latvian and Luxembourg Presidencies

The abandonment of CCCTB negotiations in favor of a common EU approach to implementation of the outcomes of the OECD BEPS project was further consolidated in 2015. Overall, negotiations within the WPTQ meetings on the CCCTB were to a large extent shaped by the process at the OECD that

was expected to be finalized in the second half of the year. This section demonstrates that the dynamics of global tax negotiations explain to a large extent why the Latvian government – that held the Presidency in the first half year of 2015 – was in less of a position to move negotiations forward, both on the CCCTB as well as on EU-wide implementation of BEPS-related measures. This changed in the second half of 2015, under the Luxembourg government's EU Presidency. Moreover, through detailing the continued contestation between proponents of hegemony projects that materialized through opposing strategies in Council discussions, this section shows that XX benefits.

The Latvian Presidency chaired only one WPTQ meeting on the CCCTB. Commission staff noted the following key take way from this meeting (WPTQ, 12 March 2015):

After 4 years of negotiations without any concrete progress, Member States seem to have lost their interest in debating the CCCTB. The only remaining impetus relates to the BEPS-related elements.

During the meeting, member states were asked to respond to a circulated state of play that reflected the multiple remaining points of contestation with regard to the CCCTB articles after four years of negotiations (WPTQ, 12 March 2015, Room Document #1 'Overview State of Play on the CCCTB'. Origin: Presidency). It noted points that would require further analysis and emphasized the many persisting open-ends. Member states hardly commented.

The meeting constitutes a key moment in the process of CCCTB negotiations as it marked the end of serious or genuine negotiations of the proposal as presented in 2011. Despite contesting interests, member state governments had – up until that point – remained in their places at the negotiating table, negotiating on an article-by-article basis in an often agonizingly slow manner. Although the state of play reflected the latest compromise text achieved through that process, the Commission staff noted that 'delegations felt reticent about taking a position in favour' (WPTQ, 12 March 2015). The Commission's interpretation is crucial here, because it would announce the relaunch of the CCCTB only three months later, which is why their concluding remarks are quoted here:

By way of conclusion, one can observe that, after years of negotiations and joint efforts by the Commission and rotating Presidencies to accommodate Member States' positions in the tabled Compromises, there is still not a single area where there is a majority in favour. (ibid.)

Ceasing CCCTB negotiations was thus not subject to disagreement. However, at that time, a point of contestation was when and in what ways EU member states should jointly negotiate the implementation of BEPS agreements. From the start of its Presidency, the Latvian government stated its focus in the area of direct taxation was to continue the discussions on the CCCTB 'in the light of the EU dimension of BEPS' (Council of the EU, 2015c) and to 'pay particular attention to consistency between EU work and OECD actions in the area of BEPS' (Council of the EU, 2015a). The concrete link between the BEPS project and the CCCTB lies in what was dubbed 'international aspects' in the roadmap drafted by the Irish government during its Presidency two years before (in 2013). In 2015, these 'international aspects' became the 'BEPS-related items' or 'international anti-BEPS aspects' of the CCCTB. This is important, because it allowed for legitimizing the use of the CCCTB's policy process to discuss and move towards agreements on implementation of BEPS measures including anti-abuse rules that were part of the 2011 CCCTB proposal but not under discussion in the BEPS project.

The hijacking of the CCCTB process in this way opened up the possibility for the EU as a whole to move 'beyond BEPS'. It constituted at that time in 2015 a key point of contestation where, predominantly German and French governments, but also including Italian, Spanish Austrian and Finnish government representatives – were in favor of debating the 'BEPS-related elements' within the CCCTB framework, articulating elements of both neomercantilist and center-left arguments. These, in the words of Commission staff, 'primarily high-tax countries' are opposed by a group of member state governments that employ a 'procrastination strategy' (WPTQ, 12 March 2015). The latter concern mostly proponents of the neoliberal project that are concerned that a potential agreement on 'BEPS-related items' is considered by the Commission (and others) to be a first step towards a full CCCTB (WPTQ, 9 July 2015). Their interest was therefore to have a separate, new legislative proposal around BEPS, instead of a 'split off' consisting of certain articles of the CCCTB. Importantly, a split off would not require a (full) new impact assessment.

However, a political administrator at that time who wrote an analysis of the adoption of the ATAD (the EU-wide implementation of BEPS agreements), noted that the Latvian Presidency was not able to achieve much progress on most of these items 'given ongoing parallel discussions at the OECD level on its BEPS reports' (Rigaut, 2016, p. 498). 'Technical work' on the CCCTB proposal was put on hold (*ibid.*), explaining why the Latvian Presidency chaired only one meeting dedicated to the CCCTB.

The dynamics during the second half of 2015 changed as the OECD BEPS project was in its final stages and the resulting 15-point Action Plan was published in October of that year. As one expert close to the negotiations stated, by that time 'we were in full BEPS mode' (Interview EU Official #3). The Luxembourg government at the start of its Presidency anticipated the impetus this will constitute to EU corporate tax policymaking and emphasized the neoliberal goal of having a 'level playing field', deeming it a 'pre-condition for the effectiveness' of the 'fight against tax fraud and tax evasion in a global context' (Luxembourg government, 2015, p. 24). Although the Luxembourg government expressed the intention to 'progress with work on the CCCTB' (*ibid.*), the four WPTQ meetings on the CCCTB during their Presidency were dedicated solely to the so-called international anti-BEPS aspects of the CCCTB. The Commission staff indeed noted at the first WPTQ meeting under Luxembourg Presidency in July that member state governments supported the use of 'the framework of the CCCTB as a forum' for BEPS-related topics (WPTQ, 9 July 2015).

The Council's Legal Service, which is part of the Council's overall secretariat, clarified that a 'split' of certain articles of the CCCTB is according to them not necessarily linked to a first step towards agreeing on the CCCTB as a whole; a 'split' would more likely lead to a standalone proposal (WPTQ, 10 September 2015). This paved the way for the abovementioned point of contestation to be partly resolved. Because the WPTQ meetings seemed so far to be 'losing momentum', the Commission staff was of the opinion that ambition needed to be agreed upon at political level, which presumably took place at the HLWP meeting on 20 October 2015 where ongoing work related to BEPS was discussed amongst member states (Council of the EU, 2015f). In the following WPTQ meetings at the end of 2015, a standalone anti-BEPS Directive was thus discussed. On the one hand, this led to confusion as several member states governments asked the Commission to clarify on which legal basis they were convening and to

make a clear distinction between discussing a pending proposal (CCCTB) and a proposal that was not yet published (an anti-BEPS Directive).

In the end, the last two WPTQ meetings were used to discuss seven elements of this anti-BEPS Directive, both those that derived from the BEPS project and those that were split from the CCCTB proposal. Member states' governments were largely in agreement on the scope, the GAAR interest limitation rule, and the application of CFC rules. Although views diverged still most importantly on exit taxation, hybrid mismatches and the switch-over rule (the latter was indeed never included in ATAD. Hybrid mismatches were only included after additional negotiations in ATAD II), the Luxembourg Presidency drafted a compromise text that served as the basis for the Commission's official proposal for an ATAD in January 2016 (Council of the EU, 2015f, p. 5, 2015e, 2015d). Ironically, the compromise text was legally still called 'a proposal for a CCCTB'. Rigaut (2016, p. 499) clarified that the Council negotiations at the end of 2015 accelerated when it became clear that 'the Commission services were preparing what would become the ATAD proposal' and governments wanted to 'contribute' to this upcoming proposal as much as possible. This is confirmed through the Commission staff that noted its aim to 'fast-track' an anti-BEPS Directive (WPTQ, 10 September 2015).

Concluding, a number of interests aligned at this point. First, by now most member states' governments had a preference for a joint implementation of BEPS measures into EU law, most outspoken in this respect – based on the letter discussed above – were the French, Italian and German governments. The Commission also repeatedly voiced its interest to have an EU-BEPS Directive. Both the Luxembourg and Dutch governments that held EU Presidency in the second half of 2015 and the first half of 2016, respectively, had a clear reputational interest to show their commitment to anti-tax avoidance measures. Last, neoliberal proponents such as Ireland and the UK benefited to an extent from a new proposal, separate from the CCCTB, as it allowed them to revert to strategies of delay by demanding a new impact assessment (WPTQ, 28 October 2015).

These aligned interests culminated in the ECOFIN's support for 'an effective, swift and coordinated implementation by Member States of the anti-BEPS measures to be adopted at EU level' with a directive being the 'preferred vehicle' (Council of the EU, 2015b). The Commission was invited to draft a proposal that 'takes fully into account the work done on these issues in the frame of the

on-going legislative files, notably CCCTB' (ibid.). The Commission's Anti-Tax Avoidance Package, which included a proposal for ATAD, was then published on 28 January 2016 (for specific differences between the last Council compromise text and the Commission's ATAD proposal, as well as a comparison between OECD BEPS outcomes and the adopted ATAD, see Rigaut, 2016, pp. 500–505). The negotiations undertaken in the context of the CCCTB during 2015 were a major factor in the rapid adoption of ATAD in less than six months. For a corporate tax directive, this is regarded as 'a record' by an expert involved in negotiations, who further claimed that these were 'incredible negotiations' in which 'the Dutch put a lot of efforts' (Interview EU Official #3).

10.5 Inter-institutional dynamics

This last section of the process analysis turns to multiscalar dynamics that were taking place simultaneously. The different scales through which corporate tax reform was negotiated has shaped the CCCTB process in a number of ways, both opening up and closing opportunities.

First, the dynamics between simultaneous corporate tax politics at the OECD and the EU, was twofold. On the one hand, the BEPS project and its culmination into a 15-point Action Plan incentivized ongoing but increasingly stalling negotiations on a CCCTB towards an agreement on a small set of articles of the original proposal. On the other hand, the core of the CCCTB that also had been under negotiation at least up until the end of 2014, was pushed to the background. In that sense, the BEPS project delayed possibilities of political agreement on the CCCTB as a whole. The urgency of agreeing on an anti-BEPS directive was not shaped only through this multiscalar governance dynamic, but also a result of the politicization of corporate taxation at that moment.

Seen in the Action Plan as well as through reports of meetings noted down by Commission staff, the Commission actively supported that the CCCTB process was used by member state governments to agree upon BEPS-related items with the purpose of having a coherent and swift common implementation across the EU. Commission staff seemed aware that member state governments could also successfully use OECD processes to delay EU negotiations and had to navigate around that and find ways to have OECD process function as incentives for progress in EU corporate tax policymaking. As one EU official claimed (Interview EU Official #2):

Well, we're trying very hard not to work against each other because member states like to play OECD against EU and sometimes they succeed. Fortunately, we can work with the OECD and we exchange a lot with the OECD because if they play one against each other, we usually both lose. We speak with the OECD. We're fully engaged in the works of the OECD on international taxation that are taking place

The engagement between the EU and the OECD materializes at the very least in the former's presence during meetings within the OECD: both staff from the Commission as well as the Council's Presidency participated, which made it sometimes 'completely incomprehensible for non-European people' to understand who represents whom and what interests (Interview Other #1).

With regard to the relaunch of the CCCTB specifically, processes within the Council and the Commission were to an extent taking place separately. In public documents, Council members did not seem to respond to the relaunch. For instance, a member of the EP Hugues Bayet of S&D sent a written question explicitly asking the Council position on the Commission's intention to relaunch the CCCTB in June 2015, but in its answer the Council only referred to its on ongoing work on BEPS-related items (EP 2015, Question to the Council 12119/15 PE-QE 454).

In the reports of WPTQ meetings, Commission staff first noted down the possible need to consider relaunching the initiative, considering the incoming Commission (Juncker) to be a strategic moment to do so (WPTQ, 8 April 2014). None of the Council meetings that took place after the presentation of the Action Plan in June 2015 show that member state governments discussed the announced relaunch except on what the legal basis now was on which they convened (WPTQ, 28 October 2015). Under the Luxembourg Presidency, the relaunch barely received any acknowledgment (Council 2015 10649/15). An expert involved with Council negotiations stated that the Council did not need the Commission to insert tax incentives and anti-tax avoidance measures, claiming that (Interview EU Official #3):

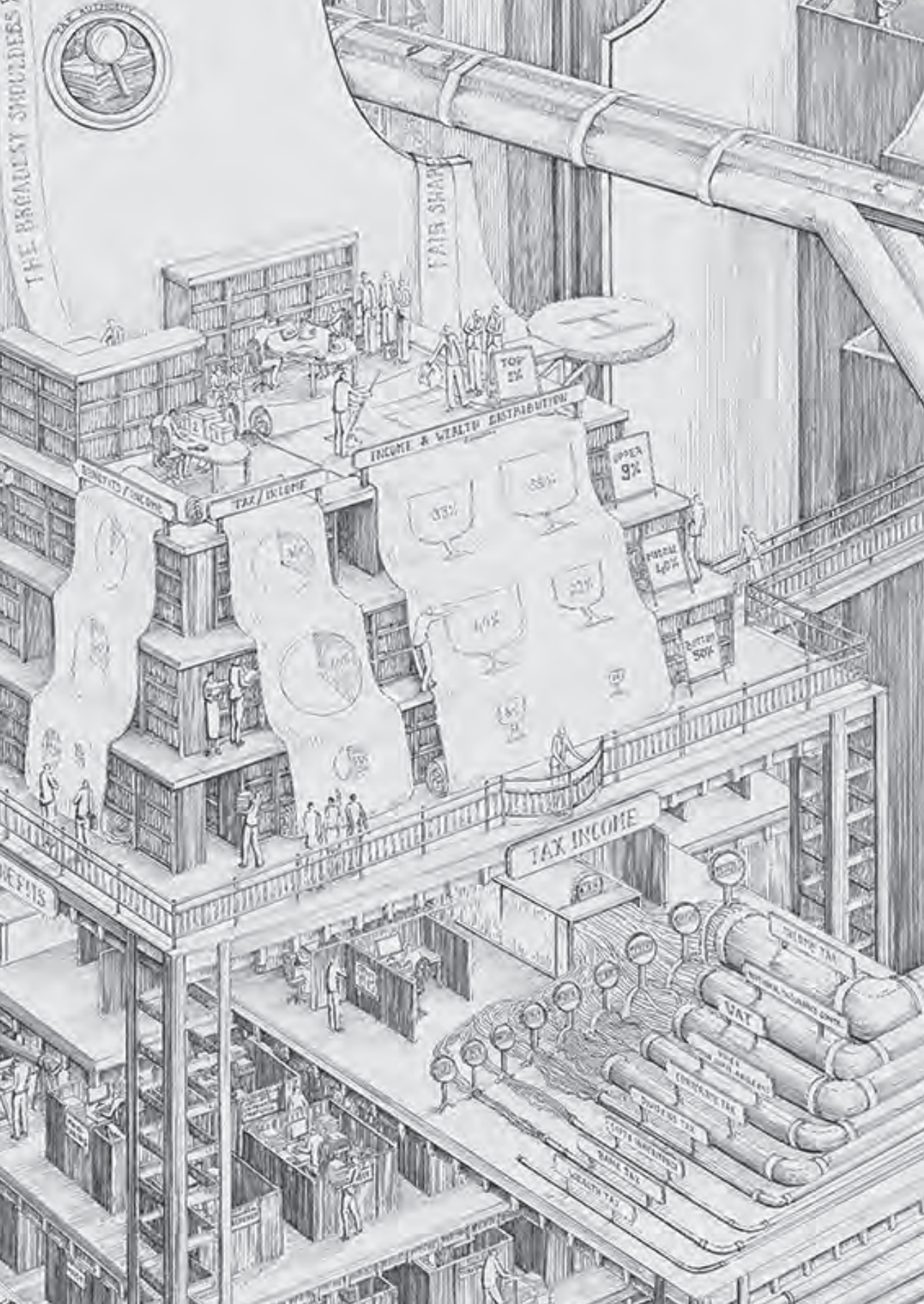
The relaunch did not help. (...) From our side, it certainly created more confusion than good.

At the same time, the Council increasingly co-opted the problematization of aggressive tax planning pushed for by the Commission. In the state of play drafted by the Luxembourg Presidency for member state governments at the end of 2015, the CCCTB was stated to be not only addressing tax obstacles for EU corporations, but also 'aimed at avoiding risks of double taxation and reducing opportunities of aggressive tax planning' (Council of the EU, 2015f, p. 1). Based on the of meeting reports, discussions in Council working party did not center around this purpose of the CCCTB at all, however. Although the CCCTB included certain anti-abuse measures as any corporate tax system does, the Council by way of any Presidency up until that point had not presented the CCCTB as an instrument countering aggressive tax planning. That narrative was co-opted from the Commission's agenda – it is only to lesser extent a BEPS phrase (see for example European Commission. Directorate General for Taxation and Customs Union., 2017). The competitive dynamic between the Commission and the Council also arose when the Commission took over the initiative from Council and used its last compromise text as a basis to present the legislative proposal for ATAD.

10.6 Concluding remarks

The state is the material condensation of social relations, which this dissertation conceptualized as hegemony projects. The last chapter focused entirely on how the struggle between the three hegemony projects is articulated and mediated through state institutions, specifically in the preparatory bodies of the ECOFIN Council and its members. Proponents of neoliberal and neomercantilist projects can be identified, as well as the occasional centre-left argument; however, the chapter also found that government representatives are not one-on-one spokespersons for a hegemony project. Contradictions, incoherency and hesitations are expected in a historical materialist analysis of policy, as these are part of 'the necessary expression of the structure of the State' (Poulantzas, 1978, p. 136). Considerations centering on revenues and practicality also informed governments' positions; the relative autonomy of state institutions can help explain why governments can deviate from the interests and arguments of social forces. The state is crucial in organizing unity of a power-bloc 'under the hegemony of a given class or fraction' and in order to maintain unity, state institutions have to be somewhat autonomous from these social forces (ibid., p. 91). This chapter demonstrated that concerns regarding revenues, which are essential for the state to function, and practicality – often

voiced by national tax authorities – can influence government positions on corporate taxation.



11. Conclusions

This dissertation researches the struggle over corporate tax harmonization throughout European integration, with a focus on the period between 2000 and 2017. The conclusion starts out with restating the research problem and subsequently answers the leading research question. The following section summarizes the key findings. In a third and fourth step, the conclusion reflects on theoretical and methodological choices made in this dissertation by discussing benefits as well as challenges, usefulness as well as limitations. These reflections culminate into a research agenda that offers ideas for bringing CPE perspectives into the realm of studying (corporate) taxation – both within and outside of the EU. Last, the conclusion looks to the future of corporate tax harmonization in the EU and points to a glimmer of hope on the global level.

11.1 Explaining why the CCCTB was relaunched in 2016 with changes in content, form and scope

In 2011, the Commission presented a legislative proposal for the harmonization and consolidation of the corporate tax base in the EU for the first time, which dramatically failed due to the firm political opposition of member state governments and national parliaments. After 2011, the organized corporate interests – that this dissertation identifies as drivers of a hegemonic neoliberal project – did not clearly push for reinvigorating the CCCTB. However, five years later, the CCCTB was relaunched with important changes in its content, form and scope. The Commission proposed the CCCTB as a mandatory rather than optional system and presented it as an anti-tax avoidance instrument. Importantly, these changes directly opposed the interests of dominant neoliberal proponents, who were behind the development of the CCCTB leading up to 2011. Therefore, the main question driving this dissertation is why the relaunch of the CCCTB occurred at all and why the changes made in content, form and scope were included, as they starkly diverged from the position of organized corporate interests, who remained dominant in EU corporate tax policymaking.

To solve this puzzle, this dissertation developed a CPE perspective that conceptualizes the strategic-relational understanding of structure and agency through the notion of hegemony projects. The trajectory of European integration as well as specific policy outcomes are the result of contestation between hegemony projects. Three projects are identified in this case of European corporate tax harmonization: a neoliberal project, a neomercantilist project and a center-left project. The hegemonic struggle between these three projects is shaped by power asymmetries and institutional frameworks. Through developing a CPE perspective to study corporate taxation, this dissertation explicitly allows for the possibility of change through a conjunctural analysis: it focuses on opportunities and moments for alternatives that challenge hegemonic forces and ideas, while accounting for the changes and continuities in global capitalism that limit such counter-hegemonic strategies. In addition, a CPE perspective requires delving into the historic specifics of the struggle over corporate tax harmonization that led to the first CCCTB proposal in 2011. Understanding the preceding period is an essential part of the analysis of the relaunch in 2016, as it identifies the institutional, material and ideational dimensions that shaped the counter-hegemonic possibilities after 2011.

In sum, the purpose of this dissertation is therefore to explain, first, the timing and changes in content, form and scope of the relaunch in 2016 and, second, to account for why and how the CCCTB was first presented in 2011 and why this proposal failed to reach agreement then. In addition, the dissertation maps the first responses of the key agents involved to the relaunched CCCTB proposal in 2016.

Succinctly put, the rise of a center-left project, driven by a group of NGOs, labor unions, social movements and left-wing forces in the Parliament, challenged hegemonic forces and ideas on corporate taxation. In a conjuncture after the global financial and economic crisis in 2008 and the following sovereign debt crises, this new set of agents successfully problematized corporate tax abuse and proposed policies in line with their ideas on tax justice. The rise of this counter-hegemonic strategy by the center-left project explains two essential elements of the research puzzle driving this dissertation: the timing of the relaunch of the CCCTB in 2016 and some of the changes in content, form and scope. In terms of substance, the most important proposed changes aligned with key demands of NGOs, left-wing members of the Parliament and labor unions. These changes entailed a mandatory system rather than the originally

proposed optional system as well as an emphasis on the CCCTB as a crucial anti-tax avoidance tool.

These changes were in direct opposition to the interests of the neoliberal project, which is driven by organized corporate interests, particularly those representing EU- and transnational-oriented capital fractions. Articulated by BusinessEurope, amongst others, crucial features of the 2011 CCCTB were its optional character – giving corporations the possibility to opt in if they deemed it to be in their favor – and the ability to offset profits and losses across borders, the so-called cross-border loss relief. The analysis of the period from the late 1990s to 2011 shows how the neoliberal project came to dominate EU corporate tax policymaking and, specifically, how the CCCTB originated within BusinessEurope and was subsequently developed by the Commission, in close alignment with BusinessEurope and other key neoliberal proponents. Understanding how the CCCTB came about in 2011 exposes the institutionalized privileged access of these key agents and the extent to which a neoliberal project was entrenched within EU corporate tax policymaking. As such, it helps explain why the rise of a center-left project was limited, because – although the relaunched CCCTB included some important changes – center-left forces did not see their preferred CCCTB realized. The continued dominance of a neoliberal project, articulated also through member state governments and EU institutional bodies, blocked the adoption of a mandatory CCCTB.

11.2 Key findings

The CPE perspective adopted here leads to a conjunctural analysis of corporate tax harmonization in the EU. The key findings of this dissertation center on two important conjunctural moments: periods in which opportunities for strategic action and change opened up, both preluded by a crisis of global capitalism. The first conjunctural moment arose during the late 1980s and 1990s within the context of the broader reorientation of European integration towards what has been identified as an ‘embedded neoliberal’ order. In the context of this conjunctural moment, opportunities opened up for organized corporate interests to insert themselves more prominently and actively into the corporate tax policymaking process. In particular, the policymaking role of BusinessEurope (back then still called ‘UNICE’) is of importance here, as it floated concrete ideas for an EU-wide ‘common base taxation’ at the start of

the century, when the European Commission started a renewed policy process for corporate tax harmonization in the EU. BusinessEurope as well as other representatives of EU-based corporations had institutionalized, privileged access to the ensuing process through their participation in the CCCTB working group, through which the idea of a common base taxation developed into the first CCCTB proposal in 2011.

The content, form and scope of the CCCTB as it was proposed in 2011 therefore closely reflected the interests of organized corporate interests. Besides BusinessEurope, these were represented by the European and American Chambers of Commerce, EBIT and various organizations representing the tax-advising and financial sectors. Together, these were identified in this dissertation as the key drivers of the neoliberal project. Mostly global-oriented, their core interests in the CCCTB were the optionality of a new EU corporate tax system, cross-border loss relief and the absence of a harmonization of the corporate tax rate. These features were pivotal for the support of global-oriented capital, most vocally in the formation of BusinessEurope, for the envisaged CCCTB as the specific form of EU corporate tax harmonization. The optional character of the CCCTB in particular was appealing, as it would enable corporations to opt in only if – according to their own calculations – the CCCTB system would lead to a lower tax burden than the status quo.

Support within the neoliberal project was not straightforward or unequivocal to begin with, as the prospects of harmonization made some member-state-based corporate representative organizations take different positions than their EU-wide, Brussels-based counterparts. Overall support for the CCCTB diminished more starkly, however, with the relaunch in 2016. Discontent with the proposed change towards a mandatory character of the CCCTB system and the uncertainty about cross-border loss relief that arose with splitting the CCCTB into two legislative proposals led to the crumbling of global-oriented capital's outright support. The relaunch of a changed CCCTB can thus not be explained by a clear push from within the dominant neoliberal project; instead, the rise of a center-left project that challenged hegemonic ideas and forces within corporate tax policymaking can help explain why the CCCTB was adapted and relaunched and, therefore, why support within the neoliberal project diminished or even evaporated.

The rise of the center-left project was possible only due to a second conjunctural moment that this dissertation identified as pivotal, which

occurred in the wake of the global financial and economic crisis in 2008 and the subsequent sovereign debt crises in the EU. A group of NGOs, labor unions, social movements and left-wing forces in the Parliament emerged in a context of harsh austerity policies in the EU, forging new alliances and networks. Sharing a common direction in their demands for tax justice, they propelled a center-left project that challenged ideas on corporate tax planning by problematizing profit shifting and corporate tax abuse, exposed who benefited from the status quo, and put forward clear new policy alternatives. Notably, the work of investigative journalists – such as in the publication of LuxLeaks in 2014, which exposed the practices of tax rulings between the Luxembourg government and TNCs with a crucial mediating role for PWC and other tax advisors – fueled a sense of urgency about corporate tax-abusing practices.

The center-left project was successful in highlighting the scale of economic injustices associated with corporate tax abuse in public debates and the need for politicians to act. Several concrete policy demands within the center-left project materialized into policy change. These were policies that increased tax transparency, especially country-by-country reporting, and measures that countered specific tax abuse practices. This is the context in which Commissioner Moscovici presented the relaunch of the CCCTB in 2016, two years after the aforementioned LuxLeaks scandal, in which the Commission's president (2014–2019) and former prime minister of Luxembourg Jean-Claude Juncker was called out. The rise of a successful counter-hegemonic strategy by the center-left project from around 2013, fueled by influential investigative reporting on corporate tax abuse, explains why the CCCTB was relaunched. Moreover, it explains why in 2016, the CCCTB was presented as an important policy tool to counter corporate tax avoidance and why anti-abuse rules were sharpened in the relaunched proposals.

While the counter-hegemonic challenge posed by the center-left project went beyond discursive changes and thus resulted in policy changes, the desired complete overhaul of the international corporate tax system failed to materialize. Powerful allies were found within the Parliament and even within the Commission, but the center-left project was not able to forge powerful alliances with those driving the neomercantilist or even the neoliberal project, nor was it able to generate the necessary support within EU institutions and, more importantly, within member states' governments. Several structural dimensions limited the possibilities for strategic action, even in this conjunctural moment. Mobile capital was still able to shift profits and avoid

taxes, the network of tax havens continued to exist and even develop, and dominant neoliberal ideas about competitiveness and efficiency continued to characterize EU corporate tax policymaking.

The limits to the success of the rise of a center-left project are also visible in the CCCTB. While the center-left forces successfully managed to have the CCCTB relaunched as an anti-tax avoidance tool, the proposals still included cross-border loss relief that would lead to an overall narrower corporate tax base in the EU and still excluded the harmonization of rates. Moreover, newly introduced tax incentives were in complete opposition to how center-left forces envisioned the CCCTB.

Key forces within both the center-left and the neoliberal project thus had serious objections to the relaunched CCCTB in 2016, albeit with regard to very different elements of the proposals. While the mandatory character of the CCCTB was simply unacceptable to large or global-oriented corporations, organizations representing SMEs and cooperatives were more in favor of this new aspect. The latter group of agents were the main articulators of what this dissertation found to be a weakened neomercantilist project. In their view, a mandatory system would create a much-needed level playing field between large and small(er) corporations – although SMEs and cooperatives kept emphasizing the need for exceptions and tailor-made solutions to their specific contexts. In sum, the changes made in content, form and scope in the relaunch did not increase the CCCTB's chances to be adopted.

The struggle over corporate tax harmonization and its materialization through EU institutions

While the struggle over corporate tax harmonization in the EU between hegemony projects can explain to a large extent why the CCCTB was relaunched and why certain changes were made, this dissertation turned to EU institutions as the strategic terrain in which this struggle materialized so as to arrive at a full explanation. The strategic actions of the Commission, as well as the Council negotiations on the CCCTB between 2011 and 2017, reflected the limited shift in power dynamics as a result of the rise of a center-left project. Moreover, the contesting interests and arguments articulated through the three hegemony projects were also reflected in Commission's strategic actions and Council negotiations. However, this dissertation also found that some concerns and motivations expressed within the Commission or through member states' governments in the Council were shaped by the particularities

of (being part of) state institutions. The concept of relative autonomy proved helpful here.

The analysis of how hegemonic struggle over corporate tax harmonization materialized within the Council was based on an in-depth investigation of the CCCTB negotiations between 2011 and 2017, which took place behind closed doors and for which meeting reports were obtained. Neoliberal arguments, importantly the optionality of the CCCTB and the possibilities of cross-border loss relief, were articulated mostly by member state governments of infamous tax havens that accommodate large swatches of mobile capital. This group, led by Luxembourg, the Netherlands, the UK and Ireland, employed strategies to delay or obstruct Council negotiations. These strategies were similar to the lobbying strategies of organized corporate interests that drove the neoliberal project – such as a tenacious focus on details, which included never-ending questions on technicalities and definitions, as well as a persistent emphasis on the impact assessment. Another group of member state governments expressed more general support for the CCCTB, led by large economies France and Germany. Their support was not straightforward, and many governments simultaneously emphasized the particularities or uniqueness of specific tax rules that were of importance to their domestic context and that they were not necessarily willing to give up – similar to the arguments of the weakened neomercantilist project.

Importantly, this dissertation found that discussions in the Council did not directly reflect positions articulated within the three hegemony projects, as intergovernmental negotiations were limited by material and institutional conditions. Budget concerns and doubts about the practical execution of a new corporate tax system partly shaped the positions of member state governments: the uncertainties associated with a new corporate tax system meant that governments feared losing revenues that partially financed their own state institutions. Additionally, the veto power of each government – inherent to decision-making on the basis of unanimity – reinforced the position of those governments already opposing the CCCTB.

The dynamics and points of contestation in the Council's intergovernmental negotiations help explain two important changes: the CCCTB's split into two proposals and its relaunch as a mandatory system. First, splitting the CCCTB into two parts followed decisions already made within the Council, specifically under the Irish Presidency of the Council in 2013, to organize the negotiations

in steps. While this was presented as a merely procedural consideration, it did mean that the chances of the second step of consolidation on the basis of formulary apportionment decreased as a result of almost perpetual postponement. The relaunch of the CCCTB in 2016 in the form of two proposals further anchored this postponement, which was beneficial to member state governments, like the Irish, that had been skeptical about the CCCTB since the start. Second, the executive task of levying taxes lies with state institutions; the doubts of national tax authorities when confronted with new legislative proposals were repeatedly reflected in Council negotiations. A crucial concern, in case of an optional CCCTB, was that tax authorities would have to coordinate two corporate tax systems simultaneously: the CCCTB and their national tax system. The meeting reports showed that this was a key reason that the CCCTB was made mandatory, in addition to the influence of the rising center-left project.

The second important EU institution where the struggle between hegemony projects materialized is the Commission. Center-left arguments were less visible in the positions of member states' governments during CCCTB negotiations. However, the statements and policy initiatives of the Commission explicitly included ideas on fairness and transparency that aligned with arguments and demands made by NGOs, labor unions and members of the Parliament. The Commission is, however, not a unitary actor. DG TAXUD did not always have the same position as the Commissioner and his cabinet. The CCCTB's shift in policy goals, reflecting the rise of a center-left project, occurred under the influence of Commissioner Pierre Moscovici and his cabinet. The Commission, and thus particularly the Commissioner and his cabinet, proved to be more susceptible to center-left demands than the member states' governments negotiating the CCCTB within the ECOFIN Council. In the broader context of corporate tax policymaking, the Commission – in its role as mediator between the interests of all projects – responded to the rise of a center-left project by increasing institutional access for the project's key drivers, for instance through expert groups, and by co-opting ideas and narratives on fairness, transparency and the problematization of corporate tax avoidance. This positioning has to be understood in the context of investigative reporting on corporate tax abuse and in particular the timing of LuxLeaks, which coincided with the commencement of the Commission under Jean-Claude Juncker, former prime minister of Luxembourg, in 2014.

Together – the reflection of center-left demands in the relaunch of the CCCTB in 2016, the dynamics and points of contestation in Council negotiations and the strategic action by and within the Commission – did *not* make the adoption of the CCCTB more likely. Informed by historical materialist ontology, this dissertation claims that the CCCTB was unlikely to materialize, as it opposed the interests of dominant forces, especially in its mandatory form. This explains the lack of push from within the neoliberal project for the CCCTB as a political project, which would have required a process in which key agents made conscious efforts to include articulated demands within the neomercantilist and center-left projects. It also explains the lack of political will in Council negotiations: there was not a single moment during the years of negotiation between 2011 and 2017 in which member state governments reached a majority in favor of adopting the CCCTB, let alone unanimity. Like in the case of the Loch Ness monster, there were not enough stakeholders who wanted to see the CCCTB ‘alive’, but neither did any stakeholder have a clear interest in killing the initiative.

11.3 Reflections on theory

A key reason to choose a CPE perspective to study the European political economy in general and corporate taxation in particular is its ontological depth. Its strength is to combine both the material *and* the ideational, as well as structure *and* agency, without prioritizing one ontological dimension over the other. Instead, CPE perspectives focus on how these dimensions interact and on when the realm of the ideational translates into a material reality. Contrary to approaches others have taken to analyze EU corporate tax policymaking, this dissertation does not assume that structure determines the interests and behavior of agents, nor does it over-emphasize the role of knowledge, ideas and discourses. The CPE perspective developed in this dissertation helped explain how the center-left project made the relaunch a viable option in 2016, and how it influenced the changes in the CCCTB proposals, in particular pertaining to the shift in the Commission’s policy goals. At the same time, informed by the theoretical framework, the analysis centered the asymmetry of power relations shaped by global capitalism, showing that the ideational shifts and limited policy changes enabled by the center-left project were not overestimated.

As such, the CPE perspective adopted in this dissertation proved to be capable of properly answering the research question. Liberal-intergovernmentalist, neorealist and other state-centric approaches often ignore the role of non-state agents and the importance of ideational struggle and therefore have more difficulty arriving at a plausible explanation for the CCCTB relaunch in 2016. Such a state-centric focus, limited to the interests and actions of member states, would draw attention to strong political opposition and heterogeneity amongst member states. Coupled with the veto power of each member state, it would be very challenging to explain why the CCCTB was ever relaunched. At the same time, EU policy analysis approaches centering the role of knowledge, ideas and narratives would be better able to account for moments of change; however, they might erroneously observe a diminishing power of the neoliberal project. A narrow focus on the influence of a new center-left project on discourses and ideas on corporate taxation would help explain changes in policies and the policymaking context but simultaneously risk underestimating the power of dominant forces pushing for neoliberal policies.

Challenges of conceptualizing agency through hegemony projects

The conceptualization of the social relations of production as a hegemony project has been helpful and simultaneously challenging. Hegemony projects as a way to analyze the transformative power of agency help aggregate groups of agents into one project with a common direction, even if these groups do not explicitly cooperate. Moreover, with the concept of hegemony project, an explicit effort is made to relate key agents to their material bases in the overarching class struggle or, put differently, to relate them to their class positions. The analysis showed that the reality of hegemony projects is often more diffuse than the ideal-types formulated in the methodology chapter, which seldom appear in a clear-cut fashion. This finding is not unexpected. In the struggle over hegemony, it is expected that key agents seek to formulate their interests or ideas in such a way as to garner support to forge, maintain, reinforce or challenge hegemony. They need to co-opt or include demands from contesting hegemony projects – which could even lead them to go beyond their own immediate interest – to ensure their long-term interests. The historical materialist understanding of social struggle is therefore characterized by contradictions, shifts and turns. The overlapping interests of global-oriented capital fractions regarding corporate taxation made a strong neoliberal project possible, which explains the co-opting of neomercantilist arguments, such as a strong EU home market, into neoliberal narratives. The inability of the weakened neomercantilist and center-left projects to pose a serious counter-

hegemonic challenge by forging alliances enabled the continued dominance of neoliberal forces and ideas.

More surprising, initially, was the division along national borders within key groups driving the neoliberal project. In several instances, various EU-wide organizations representing corporate interests – both large transnational corporations and SMEs – encountered obstacles in arriving at a unified position on the CCCTB. Such disagreement was mentioned in the footnotes of position papers or was clear due to the lack of a joint position paper. It also came up repeatedly in the interviews I held with interviewed experts. Here, again, the CPE perspective helped disentangle the positions by locating agents against the backdrop of often competing accumulation patterns. The lack of unity or agreement did not imply a weakening of the neoliberal project or a decline in cooperation and networking amongst the domestic-based members of these EU-wide organizations. Instead, it helped prevent the CCCTB from becoming a policy reality that would limit the profit-shifting options for mobile capital. In a grander scheme, national borders do not always function as obstacles to mobile capital but can exist to their benefit, as they constitute a world divided into sovereign entities that benefits mobile capital. This apparent contradiction also appears in the case of EU corporate tax policymaking. On the one hand, the CCCTB – and all EU corporate tax policies for that matter – were presented in similar vein: to strengthen the internal market, there should be as few tax obstacles to cross-border investments as possible, such as withholding taxes on dividends and royalties or complex tax treatments of cross-border mergers and acquisitions, because these obstacles lead to a higher tax *burden* for corporations. On the other hand, profit shifting with the purpose of avoiding taxation rests on the existence of different national tax systems. Different types of tax havens are needed to allow for complex structures of ownership and intra-firm financing and for mobile capital to shop between the different tax benefits of these systems. This leads to tax *relief* for corporations.

As Van Apeldoorn and De Graaff (2017, p. 141) argue, the world's political fragmentation into sovereign jurisdictions is 'a major source of the structural power of capital as it can exit from national regimes not sufficiently accommodating'. This is the context in which we need to subsequently understand the necessary fiction of 'tax sovereignty'. The notion is eagerly used by governments in Council negotiations to block even fruitful discussions on proposed corporate tax policy, as the case of the CCCTB illustrates. But who benefits from member states 'keeping' their tax sovereignty? Not citizens,

who need to compensate for the continued decrease in statutory and effective corporate tax rates through increased taxes on labor and consumption. Rather, the inter-state tax competition that rests on the political fragmentation of the world into sovereign jurisdictions clearly benefits mobile capital. The numerous studies discussed in this dissertation that have quantified profit shifting and associated revenue losses prove this. It is therefore not surprising that neoliberal forces, on the one hand, claim to want no tax obstacles in the internal market, while on the other, they argue that member states' governments need to retain 'flexibility' to accommodate the specificities of their national economies. A CPE perspective then explains the government positions of Ireland, the Netherlands or Luxembourg, which oppose the CCCTB not simply by referring to the powerful Irish corporate lobby, for example, but through its understanding of the state. The state's function of guaranteeing that systems and policies are in place so capital can freely move, compete and accumulate helps us see that questions of power transcend an analysis of inter-state competition. The Irish, Dutch and Luxembourgian tax regimes function as important nodes in the larger global political economy that enable mobile capital fractions to exploit the differences in national tax systems.

EU institutions and relative autonomy: Challenges for CPE perspectives on European integration

The theoretical framework emphasized that this dissertation sees EU institutions as strategic sites of struggle, meaning they are not regarded as neutral or apolitical fora. It argued furthermore that like state institutions, EU institutions are not mere vehicles for the establishment of a global hegemonic project but have a degree of autonomy that leads them to, at times, act *not* in line with dominant forces. However, CPE perspectives in general regard when or under which conditions this occurs as an empirical question rather than a theoretical expectation. The empirical analysis has shown that, on the one hand, the politicization of corporate taxation strengthened the position of the Commission to respond to political outcry. In a recent article, Frédéric Mérand (2024) confirms this, based on ethnographic research during the five years that Pierre Moscovici was the Commissioner responsible for taxation. From his position as a researcher in the room, he concludes in his constructivist analysis that the Commissioner and his staff 'had fun with taxation' (p. 19) but that their motivation 'had less to do with well thought-out policy objectives than with a desire to "do politics", to enlarge the scope for political agency' (Mérand, 2024, pp. 2, 19). Importantly, Mérand argues that the space for 'fun with taxation' became smaller after 2017, when the politicization of corporate taxation

diminished. There is thus reason to believe that politicization emboldened the Commissioner and his cabinet but not necessarily the policymakers of DG TAXUD, leading to the inclusion of tax incentives that turned out to be desired by virtually no one.

The under-theorization of EU institutions within CPE perspectives on European integration results in findings that are, at times, difficult to explain. In this case, the introduction of two new tax incentives for corporations in the relaunched CCCTB remains puzzling. For key agents driving the center-left project, these incentives were unacceptable, as they were regarded as 'sweeteners' for corporations. However, hardly any organization representing corporate interests – whether large or small corporations, or industry-specific ones – expressed enthusiasm for these incentives, neither in public nor in the expert interviews. They were much keener on member states retaining the autonomy to develop such tax incentives, in line with the 'flexibility' argument. The meeting reports of Council negotiations showed similar arguments in opposition to these incentives. The introduction of the two tax incentives seems to have originated within the Commissioner's cabinet, with the intention to increase EU competitiveness. The CPE theoretical framework of this dissertation suggests that this can be explained by the fact that policies, as the outcome of political struggle rooted in the social relations of production, can be contradictory and are not necessarily coherent. Poulantzas (1978, p. 136) argued that this should not be attributed to the 'incapacity of bourgeois representatives and top-level personnel' but instead seen as 'the necessary expression of the structure of the State'. However, this could be used to explain all 'miscalculations', like the tax incentives that no one wanted.

The empirical analysis also demonstrated the explanatory importance of key differences between the Commission and member state institutions. First, the absence of a tax authority not only means that the EU does not levy taxes but also leads to less information. Because national tax authorities administer corporate tax returns, including the discussions, communication or even legal procedures that tax returns might lead to, they have a wealth of information on corporate taxation that the Commission does not have. The only corporate information that they have direct access to is that shared by the corporations themselves. Moreover, the Commission has very limited supranational powers in corporate taxation but continuously challenges these institutional boundaries, which seem to be less straightforward in practice. This could be understood as part of the process of emerging EU statehood. Taxation is a

particular policy field, like foreign policy, defense and social protection, where cooperation is heavily contested.

European integration within global capitalism

Corporate tax policy is a multilevel issue in the sense that national, regional and global processes take place simultaneously and are intertwined. This dissertation has centered on the regional, EU level. Global negotiations and member state positioning have been prominently included in the analysis because of the concurrency of relevant developments and the continuous and at times contradictory interaction between these scales. The analysis of the center-left project also demonstrated how the multilevel strategy of hegemony projects can result in policy success. It was not within the research scope of this dissertation to address the relevant global corporate tax negotiations in more detail. These are ongoing, with the two-pillar solution developed within the OECD framework, including a global minimum tax, and the more recent start of a process aimed at developing a UN tax convention. It would be an insightful addition to the global tax governance literature to analyze recent developments from a CPE perspective, including the multilevel strategies of key agents that are simultaneously involved in global and EU policymaking processes.

11.4 Reflections on methodology

HMPA was designed to offer a concrete methodological approach to policy analysis as an alternative to existing mainstream approaches, which prioritize either structural elements or ideational factors as explanations for policy (non-)change. Although HMPA constitutes a great opportunity to make historical materialism a more accessible theoretical framework for analyzing policy, this dissertation has chosen to adapt the approach in a number of ways to make it more suitable for the research question at hand because, at times, HMPA suffers from a lack of clear tools.

First, HMPA reproduces theoretical concepts without taking sufficient steps towards operationalization or clear policy analysis tools. While this dissertation may reflect this tendency as well, it also includes genuine efforts to create a detailed operationalization of hegemony projects – illustrated at least by the length of the methodology chapter. This refinement of HMPA helped in identifying hegemony projects and, importantly, position them in

relation to each other in a systemic way, based on relative power resources and institutional selectivities. In an innovative move, in its elaboration of HMPA to include concrete steps for conducting policy research, this dissertation has tried to match HMPA's ontological depth with methodological profoundness.

Second, there is more work to be done within HMPA scholarship on the relation between hegemony projects and member states. This specific relation made the writing up of the process analysis a struggle at times. If governments are regarded as part of the strategic terrain for social struggle, how do we assess their positioning? In what ways can we identify similarities and differences between hegemony projects and government positions, and what claims can we subsequently make? These are questions that HMPA scholars could work on. Otherwise, HMPA publications risk continuing to speak of EU policy outcomes as the result of power struggles between 'Germany' or 'France', obfuscating the differences with liberal-intergovernmentalist or state-centric approaches.

Moreover, the three steps of analysis – context, agency and process – are useful in the analytical process but challenging in the writing process. In the end, this dissertation does not follow the context-agency-process structure; the analysis is mostly structured chronologically as this was more helpful in making the key arguments clear.

HMPA leaves the door open for using different types of data sources and even additional methods of analysis. Although this dissertation did not link process tracing and HMPA, I believe that process tracing could be a useful addition to HMPA's limited guidance on the step of process analysis. The latter could benefit from the concrete tools developed within process tracing literature (for example by Beach & Pedersen, 2013). The differences in ontological and epistemological assumptions between process tracing and HMPA were the main reason why this dissertation chose not to rely on process tracing as an additional method. However, a more eclectic approach making a different choice could be valid – if accounting for these foundational differences.

Document analysis and expert interviews served as the most important sources for the empirical analysis. The documents obtained during the research period via an access-to-information request have been invaluable in assessing member state positions on the CCCTB, strategies for forming alliances, and either the pushing for or obstructing of progress towards a CCCTB. They

were invaluable because the member states' policymakers I approached for expert interviews either refused or did not respond at all. Still, interviews with member state officials would have been an important data source. The expert interviews conducted with EU policymakers, politicians, NGOs, labor unions and corporate representatives were guided by the HMPA operationalization. The interviews proved to be particularly crucial with regard to institutional selectivities but also for identifying interests and priorities of key agents in the CCCTB and corporate taxation more broadly. Despite efforts to seek out women for expert interviews, this turned out to be impossible with regard to EU policymakers and corporate representatives.

This research project started in 2017, quite soon after the relaunch of the CCCTB, a year prior. In order to prevent the study of a moving target, I decided to limit the period under investigation to 2017. The CCCTB and the related corporate tax developments on both the EU and the global scale did not end, however. Moreover, I interviewed relevant experts between 2018 and 2022, and they would of course often refer to ongoing developments. Without a doubt, this informed my knowledge, but I made a conscious effort to limit the analysis to up until 2017. The reports of Council meetings served a very useful purpose in that regard, as they reflected only the developments at that time.

11.5 A CPE research agenda for corporate taxation

The merits of a CPE perspective lie in studying social reality in all its complexity. Without surrendering to the theoretical reflex of simplification, a CPE perspective helps to make sense of the world by emphasizing the agency of people and organizations while accounting for the structural conditions that limit or enable them in capitalist societies. Through a conjunctural analysis, we see the changes and continuities that characterize policymaking. Social forces – however they are conceptualized – are at the heart and start of a CPE analysis. While that still leads to an analysis of the state – its power and its institutions – it differs from more mainstream approaches in emphasizing the ways in which state institutions are used as a strategic terrain for the struggle between social forces. As such, institutions are expected to function in support of dominant forces, but also as places and spaces in which ideas and power can be challenged.

With this in mind, I want to offer X exciting avenues for future research, expanding the array of topics that CPE perspectives should concern themselves with as well as improving the understanding of

Staying close to European integration, first, would be a research that delves into the member state level of the politics of corporate taxation. This dissertation showed the importance of Luxembourg, Ireland, the Netherlands and other member states that were vocal or persistent in their objections and delaying strategies in Council negotiations. The ways in which key drivers of mainly the neoliberal project are also anchored within a national context deserve more attention than this dissertation was able to do. An in-depth comparative analysis of the different ways in which these projects are articulated in various (EU member) states would, for example, make it possible to explain the differences in strategies between the governments of EU tax havens.

Second, research looking within EU institutions could help improve CPE perspectives' theorization of these institutional bodies. The reflections above give inspiration for a number of things to be included in such research. The concept of relative autonomy that until now, has been primarily understood in relation to the state, could be helpful in explaining the behavior of forces within EU institutions. This dissertation found in particular that people and departments within the Commission strategically acted on numerous occasions thereby both responding to conjunctural moments as well as enabling a further politicization of corporate taxation. Especially in areas characterized by the veto power of member states' governments – like corporate taxation – it is also worth to shift focus to the Council, but not only to member states' governments. The secretariat of the Council as well as the position of the Presidency, held by a different member state government every six months, can both function as important strategic terrains inscribed with structural selectivities. In other words, this dissertation found that the dynamics between the secretariat and the government holding the position of Presidency shape the extent to which dominant ideas are replicated. As a last element, a future CPE research focusing on EU institutions could also literally look within. Inspired by Mérand's research approach, ethnographic observations – rarely, if ever, done within CPE perspectives on European integration – could be an invaluable source in studying how the struggle between social forces materializes within EU institutions.

Moving away from the EU, a research approach that develops a CPE perspective to study global corporate taxation would be an insightful addition to the global tax governance literature. This would be an excellent research project to explore the conflicting interests within a neoliberal project. Whereas this dissertation focused on financial and industrial capital fractions as the key drivers of the neoliberal project due to the core time period under investigation, recent developments emphasize the need to shift focus. In particular the rise of 'big tech' in terms of profits and power leads to the necessity to explore to what extent the common direction of a neoliberal projects is shifting in terms of corporate taxation and, if there is a change in power relations, whether a new dominant capital fraction is able to strategically subsume other fractions. CPE perspective also lend themselves perfectly to research forms of resistance and alternatives to current tax systems. Recently, a majority of the UN's General Assembly voted to commence the process to develop a United Nations Framework Convention on International Tax Cooperation. This process offers space for alternatives and CPE perspectives could be helpful in researching the intricacies of global tax policymaking. It would be well worth to include in a CPE analysis into global corporate taxation to explicitly include the role of gender. As disappointing as it was to not have more women included amongst the interviewees for this research, it also points to the need of including the role of women in research, both in their role of policymakers as well as tax researchers, as Laura Seelkopf (2021, pp. 200–201) has rightfully argued.

11.6 It ain't over 'til it's over

The conclusion is also a place for the researcher to reflect on themselves and their positioning throughout the project. My own view on the CCCTB changed during the research project. My familiarity with the CCCTB originated from my research position within an NGO, the Center for Research on Multinational Corporations (SOMO), where I worked as a corporate tax researcher. This PhD project has tremendously deepened my knowledge of the CCCTB and corporate taxation. Previously, it was difficult for me to assess to what extent the CCCTB would be the positive change that many said it was, and I now have a more nuanced view. To end profit shifting, we need to radically rethink how corporate profits are taxed. As unitary taxation directs, this also entails viewing corporations differently than they are currently viewed. It entails prioritizing economic activities and substance over legal presence and moving away from taxing a corporation as a collection of separate entities. The importance of

the CCCTB lies in presenting a legislative proposal that does this. However, in doing so, it also exposes the problematic feature of a decreasing overall corporate tax base. A CCCTB would serve its tax justice purpose only by simultaneously broadening the corporate tax base – for example by limiting the deduction of interest or reforming depreciation rules – and imposing a fair minimum tax rate.

With the emancipatory aim of doing research in mind, I want to end this conclusion with heeding a warning and pointing towards hopeful possibilities. The first concerns BEFIT and the second involves the potential of global tax negotiations.

The at times seemingly endless discussions on corporate tax harmonization did not prevent the Commission from launching a new harmonization initiative. ‘Business in Europe: Framework for Income Taxation (BEFIT)’ was presented in September 2023. The proposal has been ‘welcomed’ by the Council and is currently being analyzed by member states in the WPTQ. The Parliament’s ECON committee has recently appointed a rapporteur and is now preparing its opinion report (European Parliament, n.d.-a).

BEFIT differs from the CCCTB in important aspects. Although countering aggressive tax planning and profit shifting as a policy goal did not disappear from the BEFIT proposal, it is no longer regarded as one of the main purposes of harmonization and consolidation of the corporate tax base. The main rationale presented by the Commission (2023c) is:

Simplification is crucial to growth and competitiveness in the EU. However, dealing with 27 different national tax systems makes tax compliance difficult and costly for companies. This discourages cross-border investment in the EU, putting European businesses at a competitive disadvantage compared to companies elsewhere in the world.

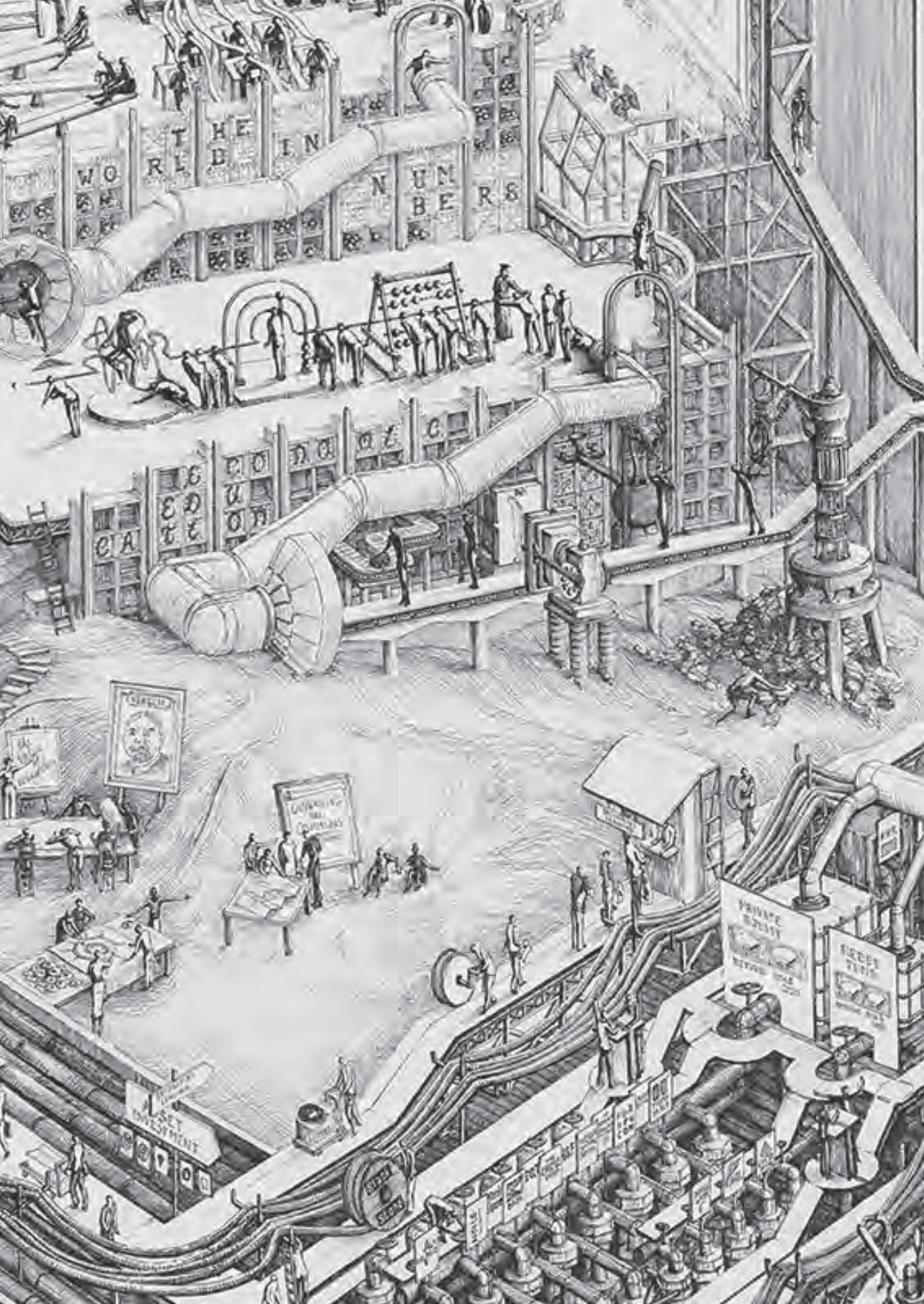
The prioritization reflects a clear return to the CCCTB in 2011, with a slightly new emphasis on simplification as a buzzword. In a departure from the CCCTB, accounting standards are proposed as the basis on which a common corporate tax base is calculated. Tax incentives such as R&D super deduction and AGI are no longer included, but, importantly, BEFIT allows ‘additional adjustments after allocation’ by governments. After the estimation of the

common corporate tax base and the apportionment, member states can still impose 'technical corrections' that could narrow the tax base. This goes directly against the idea of harmonization. Moreover, BEFIT possibly opens up new opportunities for profit shifting and tax base competition between EU member states. In another remarkable move, the formula based on factors of sales, labor and assets has disappeared. Instead, a 'transition allocation rule' is proposed to apportion corporate tax base amongst member states, which is based on a corporation's taxable results over the past three years. BEFIT still proposes a mandatory system for large corporations, while remaining optional for smaller corporations. It also still includes cross-border loss relief. Cui bono? Key benefits for (large) corporations thus remain, while the core center-left policy demand for formulary apportionment is absent and could be postponed indefinitely.

The research findings of this dissertation indicate that a possible explanation for this shift in corporate tax harmonization is that the conjunctural moment in which a counter-hegemonic center-left challenge was most likely to succeed has ended. Instead, with the most recent EP elections and the start of a new Commission, we will have to see whether extreme and radical-right forces constitute a separate project that the dominant neoliberal project needs to tailor to. Existing CPE research on authoritarian neoliberalism has showed that increasingly authoritarian elements and dynamics characterize EU policies. The co-opting of extreme or radical-right demands is viable, and arguably thus already happening. What does this mean for corporate taxation? In my view, it diminishes the chances of political agreement on and implementation of BEFIT. Although further research would have to detail any possible differences in their positioning on EU corporate taxation, extreme and radical-right forces are characterized by their nationalism and disdain for anything EU-related. The fact that BusinessEurope has not expressed outright support for BEFIT and, again, pleads for optionality, further supports that it is unlikely BEFIT will succeed.

Still, it ain't over 'til it's over. Center-left forces have become a steadfast feature in corporate tax policymaking, both in- and outside the EU. With the start of negotiations for a UN convention planned for February 2025, a long-awaited demand originating within the center-left project, also articulated and driven by the governments of low-income countries and emerging economies, materialized. A new terrain for struggle over a fairer and more just corporate tax system has opened up.

Ending profit shifting by corporations is central to the fight for tax justice, which needs to be fought on all levels – including the UN and the EU. In an era where authoritarianism is on the rise, so is the power of a group of corporations that is small in numbers but large in profits. Not coincidentally, these are the same corporations that are among the largest corporate tax avoiders – their digital business activities enable them to do so. Therefore, fighting corporate tax avoidance becomes part of broader actions to counter the power of large corporations taking hold of our societies. Additionally, corporate tax avoidance undermines fairness and global economic stability, thereby depriving societies of revenues that finance public services. If we are committed to democratic and fair societies, the need for a strong center-left project thus remains.



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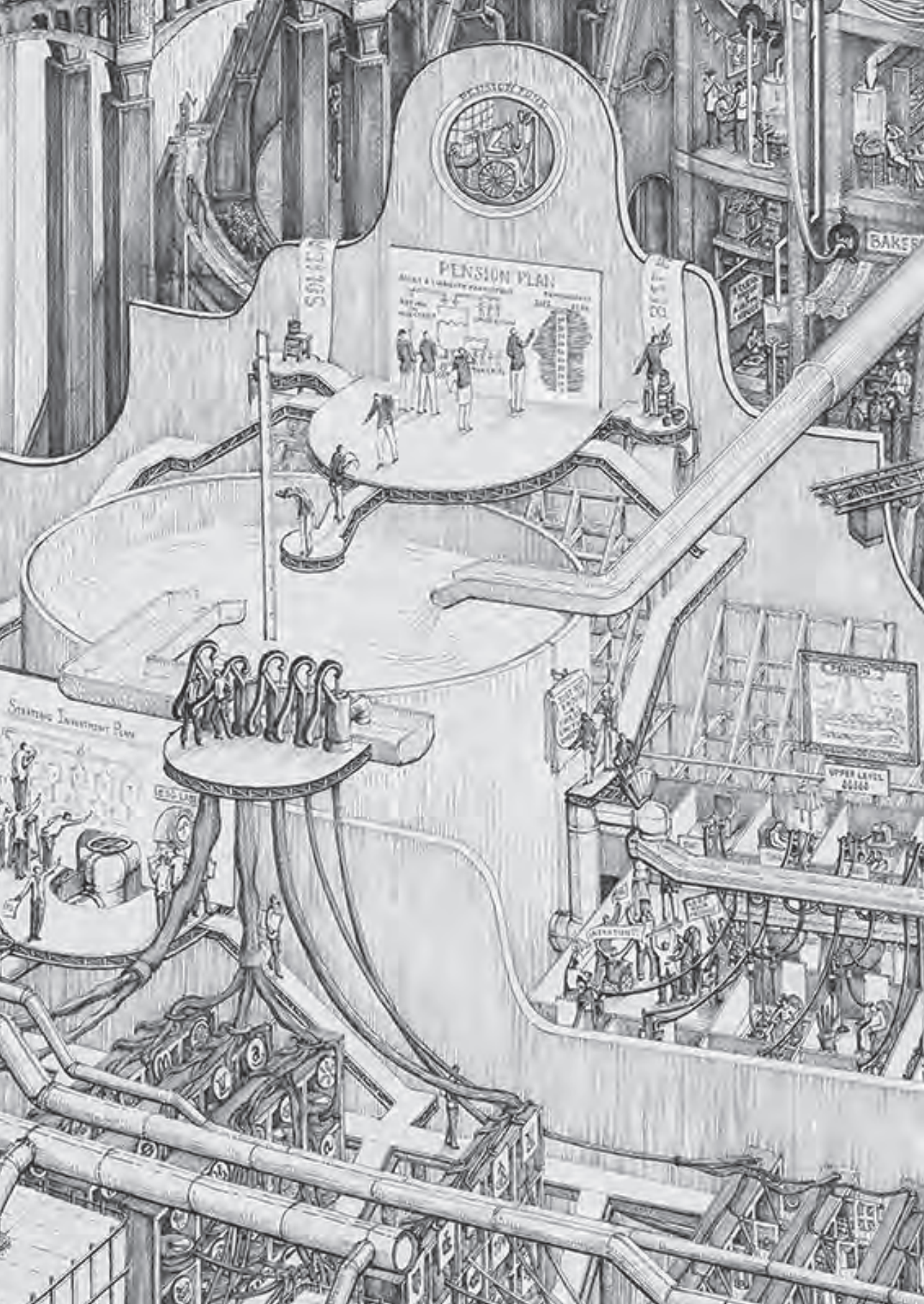
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Annex I: List of disclosed documents of the Working Party on Direct Tax Questions (WPTQ) and the High Level Working Party on Taxation (HLWP) related to the CCCTB

The following list displays all documents that were disclosed by the Commission upon the request under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents for: *meetings minutes – including but not limited to flash reports, informal minutes – of the Working Party on Direct Tax Questions (WPTQ) and the High Level Working Party (HLWP) on Taxation related to the period 01-01-2011 until 31-12-2020 about the proposals for the Common Consolidate Corporate Tax Base (COM(2011) 121/4), the Common Corporate Tax Base (COM(2016) 685 final) and the Common Consolidate Corporate Tax Base (COM(2016) 683 final).*

The in-text references to these documents note which working party it concerns (WPTQ or HLWP) and the date of the meeting. Note that the author of all reports is DG TAXUD of the Commission, specifically the Unit Direct Taxation, Tax Coordination, Economic Analysis and Evaluation.

Documents for 2011:

- 1) Meeting report CCCTB (WPTQ) – 5 May 2011 (Ares(2011)499033)
- 2) Meeting report CCCTB (WPTQ) – 31 May 2011 (Ares(2021)4732893)
- 3) Meeting report CCCTB (HLWP) – 28 April 2011 (Ares(2021)4733784)
- 4) Meeting report CCCTB (WPTQ) – 27 June 2011 (Ares(2021)4733109)
- 5) Meeting report CCCTB (WPTQ) – 19 July 2011 (Ares(2021)4733245)
- 6) Meeting report CCCTB (WPTQ) – 6 September 2011 (Ares(2021)4733245)
- 7) Meeting report CCCTB (WPTQ) – 11 October 2011 (Ares(2021)4733496)
- 8) Meeting report CCCTB (WPTQ) – 15 November 2011 (Ares(2021)4733579)

Documents for 2012:

- 1) Meeting report CCCTB (WPTQ) – 16 January 2012 - Ares(2021)4775897
- 2) Meeting report CCCTB (WPTQ) – 16 February 2012 - Ares(2021)4775991
- 3) Meeting report CCCTB (WPTQ) – 14 March 2012 - Ares(2021)4776180
- 4) Meeting report CCCTB (WPTQ) – 25 April 2012 - Ares(2021)4776276
- 5) Meeting report CCCTB (WPTQ) – 16 July 2012 - Ares(2021)4776374
- 6) Meeting report CCCTB (WPTQ) – 28 September 2012 - Ares(2021)4776471
- 7) Meeting report CCCTB (WPTQ) – 24 October 2012 - Ares(2021)4776543

Documents for 2013:

- 1) Meeting report CCCTB (WPTQ) – 15 January 2013 - Ares(2013)55781
- 2) Meeting report CCCTB (HLWP) – 13 March 2013 - Ares(2021)483101
- 3) Meeting report CCCTB (WPTQ) - 24 May 2013 - Ares(2013)1410381
- 4) Meeting report CCCTB (WPTQ) - 6 September 2013 - Ares(2013)3030475
- 5) Meeting report CCCTB (WPTQ) - 25 October 2013 - Ares(2021)4831120
- 6) Meeting report CCCTB (WPTQ) - 5 December 2013 - Ares(2021)4831193

Documents year 2014

- 1) Meeting – 7 January 2014 – taxud.d.1.(2014)33954
- 2) Meeting – 8 April 2014 - Ares(2014)1127823
- 3) Meeting – 6 June 2014 - Ares(2014)1900105
- 4) Meeting – 3 July 2014 - Ares(2014)2265844
- 5) Meeting – 17 September 2014 - taxud.d.1.(2014)3385294
- 6) Meeting – HLWP 2 October 2014 - taxud.d.1.(2014)3607333
- 7) Meeting – 16 October 2014 - taxud.d.1.(2014) 3913307
- 8) Meeting – 16 October 2014 - taxud.d.1.(2014) 3910907
- 9) Meeting – 24 November 2014 - taxud.d.1.(2014)4307828

Documents year 2015

1. Meeting – 12 March 2015 - taxud.d.1.(2015)1262430
2. Meeting – 9 July 2015 - taxud.d.1.(2015)3259402
3. Meeting – 10 September 2015 - taxud.d.1.(2015)4206233
4. Meeting – 28 October 2015 - taxud.d.1.
5. Meeting – 20 November 2015 - taxud.d.1.

Documents years 2016 -2017

1. Flash report related to the Working Party on Tax Questions of 3 November 2016 taxud.d.1.(2016)6836292
2. Flash report related to the Working Party on Tax Questions of 16 February 2017 Ares(2017)912953
3. Flash report related to the Working Party on Tax Questions of 23 March 2017 Ares(2017)1617364
4. Flash report related to the Working Party on Tax Questions of 26 April 2017 Ares(2017)2172583
5. Flash report related to the Working Party on Tax Questions of 12 July 2017 Ares(2017)3997450
6. Flash report related to the Working Party on Tax Questions of 21 September 2017 Ares(2017)4635033

7. Flash report related to the Working Party on Tax Questions of 3 October 2017 Ares(2017)4868804
8. Flash report related to the Working Party on Tax Questions of 16 October 2017 Ares(2017)5132532

Together with the disclosing of these documents, the Commission issued the following **disclaimer**:

In view of the nature of the documents (flash reports, meeting minutes), we would like to stress that Commission officials draft these reports for internal use. Our internal notes give a subjective description of the discussions at the working parties and reflect solely the author's interpretation of the interventions made during the meetings and do not set any official position of the institutions and the Member State's representatives involved in the discussions. These reports have the sole purpose of informing internally on work in progress, are usually of value only for a limited time and have not been agreed upon or discussed with any of the other participants at the meeting. Therefore, they constitute a subjective view of the contents of the meetings covered and cannot in any way be regarded as official minutes of the meeting.

Annex II: The functioning of the CCCTB working group 2004–2010

The table below is an overview of the meetings of the CCCTB working group that had its first meeting in November of 2004 and a closing workshop in October 2010.¹ For each meeting, the table includes the specific date, the items that were on the (draft) agenda and the type of involvement of non-governmental groups. On average, once a year the working group extended the meeting to also include participants from non-governmental groups. In addition the working group invited and received written comments from these groups, particularly UNICE (later BusinessEurope). A more detailed analysis of the content of each meeting, including the prepared working documents by the Commission and the sub-groups of the working group for each meeting, was outside the scope of this research project.

^{1.} The overview below is based on documents made publicly available by the Commission via the following webpage: https://taxation-customs.ec.europa.eu/preparation-2011-ccctb-proposal_en. Due to the high number of documents, references to specific draft agendas, working documents, summary records and comments from non-governmental groups are not included.

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
1	23 November 2004	Terms of reference and work plan	Some disagreements on participation of non-governmental experts (from business and academia), fears of discussions to be not open and clear.
2	10 March 2005	General tax principles (working doc), Assets and Tax Depreciation (sub-group report), Intangible assets (working doc), Liabilities, Reserves and Provisions (working doc)	UNICE was not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on • General Tax Principles (working doc), welcoming the discussion on general principles while expressing its disappointment on the absence or weakness of some of the principles discussed. For example, "competitiveness" is not explicitly discussed, even though it remains one of the major objectives agreed upon in Lisbon.' • Asset and Tax Depreciation (sub-group report)
3	2 June 2005	Assets and Tax Depreciation (sub-group progress report), Liabilities, Reserves and Provisions (sub-group progress report), Capital gains and losses (working doc)	UNICE was not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on • Liabilities, Reserves and Provisions (sub-group progress report) • Intangible assets and tax depreciation
4	23 September 2005	Assets and Tax Depreciation (sub-group progress report), Liabilities, Reserves and Provisions (sub-group progress report), Calculation of Taxable Income (working doc), Tax Balance sheet (working doc)	UNICE was not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on • concepts of pooling and individualized tax depreciation Commission announced extended meeting for December, announcing the invitations for 'European Federations such as EATLP (European Association of Tax Law Professors), UNICE (Union des Industries de la Communauté Européenne), FEE (Fédération des Experts Comptables Européens), CFE (Confédération Fiscale Européenne), EUROCHAMBRES (Association of European Chambers of Commerce), FBE (European Banking Federation), ERT (The European Round Table of Industrialists), CEPS (Centre for European Policy Studies), AMCHAM (American Chamber of Commerce), UEAPME (European Association of Craft & small and medium sized enterprises.'

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
5	7 December 2005	<i>Extended meeting:</i> • General Principles • Assets and tax depreciation and capital gains on depreciable assets • Liabilities, provisions and reserves • Taxable Income • Future work of the CCCTB WG	42 Representatives from the following interested parties participated in the meeting: EATLP (European Association of Tax Law Professors), UNICE (Union des Industries de la Communauté Européenne), FEE (Fédération des Experts Comptables Européens), CFE (Confédération Fiscale Européenne), EUROCHAMBRES (Association of European Chambers of Commerce), FBE (European Banking Federation), CEPS (Centre for European Policy Studies), AMCHAM (American Chamber of Commerce), UEAPME (European Association of craft & small and medium sized enterprises and CEA (European Federation of National Insurance Associations). Note: the record of the meeting does not identify speakers by name or association; therefore it is not possible to trace the input of non-governmental experts during the meeting. The Commission noted with regard to the extended meeting with non-governmental experts the day before that 'Experts from several Member States commented that they had found this 'extended format' meeting very useful'.
6	8 December 2005	Liabilities, Reserves and Provisions (sub-group progress report), Taxable Income (sub-group progress report), International aspects in the CCCTB (working doc), Financial assets (working doc)	
	9 March 2006	Taxable Income (sub-group progress report), International aspects (sub-group progress report), Territorial Scope (working doc), Tax treatment of Financial Institutions (working doc), Administrative and Legal Framework (working doc)	Non-governmental experts were not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on: • concepts of pooling and individualized tax depreciation • AmCham commented on: • International aspects (Non-Discrimination and Other Treaty Issues Working group discussed inviting representatives of financial sector for future meeting.

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
7	1 June 2006	Assets and tax depreciation (sub-group progress report), Taxable Income (sub-group progress report), International aspects (sub-group progress report), Issues related to Group Taxation (working doc), Administrative and Legal Framework (working doc)	Non-governmental experts were not invited to participate, but offered the opportunity to express comments on working documents.
	2 June 2006	<i>Extended meeting:</i> Tax treatment of Financial Institutions	UNICE commented on: - Administrative and Legal Framework - Issues related to Group Taxation 15 Representatives from the following interested parties participated in the morning session of the meeting: FBE (European Banking Federation), EFAMA (European Fund and Asset Management Association), CEA (European Federation of National Insurance Associations), ESBG (European Savings Banks Group), EFRP (European Federation for Retirement Provisions), and EACB (European Association of Co-operative Banks).²
8	12 September 2006	Taxable Income (sub-group progress report), Issues related to Group Taxation (sub-group progress report), Personal Scope of the CCTB (working doc), Dividends (working doc), Issues related to business reorganisations (working doc)	Non-governmental experts were not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on: - Personal Scope - Dividend distributions

² The chair record of this meeting (CCCTB\WP1038\en) does include details on presentations made by representatives of FBE and CEA, as well as interventions of other non-governmental participants. However, it is outside of the scope of this research project to detail their various input.

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
9	12 December 2006	Extended meeting • Taxable Income • International Aspects • Personal Scope • Consolidation/Group Taxation • Financial Assets (including participation exemption and dividends) • Administrative and Legal Framework • Consolidated Tax Base • Sharing Mechanism • Future work of the CCCTB WG Future work of the CCCTB WG (based on discussions previous day), CCCTB Sharing Mechanism (working doc), International aspects (sub-group progress report), Issues related to Group Taxation (sub-group progress report), Issues related to business reorganisations (working doc), Dividends, Personal Scope of the CCCTB	Representatives from the following interested parties participated in the meeting: AMCHAM (American Chamber of Commerce), CEA (Comité européen des assurances), CEPS (Centre for European Policy Studies), CFE (Confédération Fiscale Européenne), EATLP (European Association of Tax Law Professors), EBIT (European Business Initiative on taxation), EUROCHAMBRES (Association of European Chambers of Commerce), FBE (European Banking Federation), FEE (Fédération des Experts Comptables Européens), UEAPME (European Association of craft & small and medium sized enterprises), UNICE (Union des Industries de la Communauté Européenne) and the OECD secretariat Non-governmental experts were not invited to participate, but offered the opportunity to express comments on working documents. UNICE commented on: • Sharing Mechanism EBIT commented on their position on the CCCTB in general: 'This paper forms the contribution of the European Business Initiative on Taxation (EBIT) to the request by the Commission for EBIT's views on the development of the Common Consolidated Corporate Tax Base (CCCTB).'
10	13 march 2007	Sharing Mechanism (sub-group progress report), Personal Scope, Issues related to Group Taxation (sub-group progress report), Related Parties in the CCCTB (working doc and comments), International Aspects (sub-group progress report and comments)	

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
11	27 September 2007	CCCTB: possible elements of a technical outline (working doc), Sharing Mechanism (sub-group progress report), Discussion on the data to be requested from national tax administrations for the Impact Assessment of the CCCTB	
12	10 and 11 December 2007	<i>Extended meeting on three working documents:</i> • possible elements of the administrative Framework, • possible elements of the sharing mechanism, • possible elements of a technical outline	76 Representatives from the following interested parties participated in the meeting: EU AMCHAM (American Chamber of Commerce), CEA (Comité européen des assurances), CEPs (Centre for European Policy Studies), CFE (Confédération Fiscale Européenne), EATLP (European Association of Tax Law Professors), EBIT (European Business Initiative on taxation), EUROCHAMBRES (Association of European Chambers of Commerce), FBE (European Banking Federation), FEE (Fédération des Experts Comptables Européens), UEAPME (European Association of craft & small and medium sized enterprises), BUSINESSEUROPE and the OECD secretariat. In addition to participating in the extended meeting, the following non-governmental groups sent in written comments in response to the working doc setting out the possible elements of a technical outline (CCCTB/WP057): • Association of Foreign Banks in Germany • Federation of German Industries (BDI) • Comité européen des assurances (CEA) • EUROCHAMBRES (Association of European Chambers of Commerce) The following organizations commented on the possible elements of a technical outline, as well on the specifics of the sharing mechanism and administrative framework: • BusinessEurope (formerly UNICE) • European Business Initiative on Tax (EBIT)
	12 December 2007	CCCTB: possible elements of the administrative Framework, the sharing mechanism, and a technical outline (three separate working docs)	

Meeting #	Date	Agenda items	Note on involvement non-governmental experts
13	14 April 2008	Anti-abuse rules (working doc CCCTB/WP/065), Financial Sector (tax base rules and sharing mechanism), Various detailed aspects of the CCCTB' (working doc CCCTB/WP/066), Possible Elements of the Administrative Framework (working doc CCCCTB/WP/061 and comments), Commission's request for data from national tax administrations for impact assessment.	Non-governmental experts were not invited to participate, but offered the opportunity to express comments on working documents. Tax Executives Institute commented on all aspects of the CCCTB.
14	20 October 2010 (workshop)	Extended meeting • Eligibility Tests for Companies and Definition for a CCCTB Group • Business Reorganisations in the CCCTB • Transactions and Dealings between the Group and Entities outside the Group • Anti-Abuse Rules in the CCCTB	76 Representatives from the following interested parties participated in the meeting: EU AMCHAM (American Chamber of Commerce), BUSINESSEUROPE, CEA (Comité européen des assurances), CEPS (Centre for European Policy Studies), CFE (Confédération Fiscale Européenne), EATLP (European Association of Tax Law Professors), EBIT (European Business Initiative on taxation), EUROCHAMBRES (Association of European Chambers of Commerce), FBE (European Banking Federation), FEE (Fédération des Experts Comptables Européens), UEAPME (European Association of craft & small and medium sized enterprises), Tax Executives Institute (TEI), the Association of Italian Joint Stock Companies (Assonime), Bundessteuerberaterkammer (BSTBK), European Trade Union Confederation (ETUC), and the OECD secretariat. In addition to participation, BusinessEurope and EBIT also submitted written comments on all four issues on the agenda.

Nederlandse Samenvatting

De harmonisatie van de vennootschapsbelasting binnen de Europese Unie (EU) is al sinds de jaren 1960 een politieke kwestie. Het duurde echter tot 2011 voordat de Europese Commissie een wetsvoorstel presenteerde voor de harmonisatie en consolidatie van de regels op basis waarvan het inkomen van bedrijven wordt belast. Deze zogeheten gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (*Common Consolidated Corporate Tax Base*, afgekort tot CCCTB) werd gepresenteerd als een bedrijfsvriendelijk systeem dat belemmeringen zou wegnemen voor bedrijven met grensoverschrijdende activiteiten binnen de EU. Het wetsvoorstel werd niet aangenomen wegens felle weerstand onder overheden en nationale parlementen van de EU lidstaten. Vijf jaar later lanceerde de Europese Commissie, ondanks de eerdere tegenstand, de CCCTB opnieuw – mét belangrijke wijzigingen. De Europese Commissie presenteerde de CCCTB nu als een instrument om belastingontwijking tegen te gaan en stelde de CCCTB voor als een verplicht in plaats van een optioneel systeem. Deze veranderingen stonden lijnrecht tegenover de belangen van dominante neoliberale voorstanders, waaronder transnationale bedrijven en de belastingadviessector, die de ontwikkeling van de CCCTB vóór 2011 hadden beïnvloed. Dit proefschrift onderzoekt waarom de CCCTB opnieuw werd gelanceerd en waarom de inhoud, vorm en reikwijdte ervan veranderden.

Het proefschrift hanteert een kritisch politiek-economisch perspectief, waarbij Europese integratie en beleidsuitkomsten worden gezien als het resultaat van sociale strijd. Met behulp van een historisch materialistische beleidsanalyse (HMPA) wordt deze strijd geconceptualiseerd aan de hand van concurrerende 'hegemonieprojecten', die de belangrijkste actoren, ideeën, beleidseisen en strategieën groeperen. In de strijd om de harmonisatie van de vennootschapsbelasting binnen de EU worden drie hegemoniale projecten geïdentificeerd: een liberaal project, een neomercantilistisch project en een centrum-links project. De strijd tussen deze drie projecten wordt vormgegeven door machtsasymmetrieën en institutionele kaders. Het onderzoek is gebaseerd op semigestructureerde interviews met experts en diepgaande documentanalyse.

Vier factoren verklaren de herlancering van de CCCTB in 2016: de opkomst van een centrum-links project na de wereldwijde financiële crisis, de aanhoudende macht van het neoliberale project, specifieke zorgen over het budget en

praktische bezwaren van de instituties van de lidstaten, en strategische acties van actoren binnen de Europese Commissie.

Na de financiële crisis van 2008 en de daaropvolgende staatsschuldencrises heeft een groep actoren met succes belastingmisbruik door bedrijven geproblematiseerd en gepleit voor meer rechtvaardigheid in belastingssystemen. Dit centrum-linkse project, voortgestuwd door ngo's, vakbonden en linkse krachten in het Europees Parlement, daagde de dominante krachten uit. De opkomst van deze *counter-hegemonic* strategie door het centrum-linkse project verklaart de timing van de herlancering van de CCCTB in 2016. De belangrijkste veranderingen – de CCCTB als een instrument tegen belastingontwijking en het verplichte karakter van de CCCTB – kwamen overeen met de eisen van centrum-linkse actoren.

Deze veranderingen stonden lijnrecht tegenover het neoliberale project, dat werd aangedreven door georganiseerde bedrijfsbelangen, in het bijzonder actoren die EU- en transnationaal georiënteerde kapitaalfracties vertegenwoordigen. Tussen eind jaren 1990 en 2011 domineerde het neoliberale project de EU-beleidsontwikkeling op het gebied van vennootschapsbelasting. De Europese Commissie ontwikkelde de CCCTB in nauwe consultatie met koepelorganisatie *BusinessEurope* en andere neoliberale actoren. Het CCCTB-voorstel van 2011 was optioneel, zodat bedrijven zelf konden kiezen of de CCCTB-regels op hen werden toegepast, en omvatte grensoverschrijdende verliesverrekening. De verankering van het neoliberale project in het EU-beleidsproces inzake vennootschapsbelasting – naast de structurele macht van (mobiel) kapitaal, die bijvoorbeeld tot uiting komt in het voortbestaan van belastingparadijzen – verklaart waarom de invloed van het centrum-linkse project beperkt bleef. Daarom bereikten centrum-linkse actoren niet het door hen gewenste resultaat betreffende de CCCTB.

De onderhandelingen van zowel de Europese Commissie als tussen de lidstaten (binnen de Raad Economische en Financiële Zaken) over de CCCTB in de periode 2011-2017 weerspiegelden deze beperkte machtsverschuiving. Terwijl de Commissie, met name de betreffende eurocommissaris Pierre Moscovici en zijn '*cabinet*', ontvankelijk bleken voor centrum-linkse beleidsideeën, waren de regeringen van de lidstaten dat veel minder. Centrum-linkse argumenten verschenen in verklaringen en beleidsinitiatieven van de Commissie waarin de nadruk werd gelegd op eerlijkheid en transparantie en waarin aansluiting werd gezocht bij ngo's, vakbonden en parlementsleden.

De onderhandelingen in de Raad bleven echter gedomineerd door neoliberale en neomercantilistische ideeën. Neoliberale argumenten – zoals het belang van het optionele karakter van de CCCTB en de mogelijkheden voor grensoverschrijdende verliesverrekening – werden vooral naar voren geschoven door regeringen van lidstaten van beruchte belastingparadijzen die grote delen van het mobiele kapitaal faciliteren. Deze groep, geleid door de regeringen van Luxemburg, Nederland, het Verenigd Koninkrijk en Ierland, hanteerde obstructietactieken. Ondertussen boden grotere economieën zoals Frankrijk en Duitsland voorwaardelijke steun voor de CCCTB, maar benadrukten ze regelmatig de bijzonderheden of het unieke karakter van hun binnenlandse belastingregels.

Budgettaire en praktische zorgen beïnvloedden bijna alle regeringen van de lidstaten, aangezien onzekerheden rond de budgettaire impact van de CCCTB de vrees voor inkomstverliezen deden toenemen. De unanimiteitsvereiste in EU belastingbeleid versterkte de positie van CCCTB-tegenstanders nog meer. Deze dynamiek en twistpunten in de intergouvernementele onderhandelingen van de Raad leidden tussen 2011 en 2016 tot belangrijke wijzigingen, waaronder de opsplitsing van de CCCTB in twee wetgevingsvoorstellen.

Het gehoor geven aan centrum-linkse eisen in de herlancering van de CCCTB in 2016, de twistpunten tussen de regeringen van de lidstaten in de Raad, en de strategische actie door en binnen de Commissie maakten de goedkeuring van de CCCTB niet waarschijnlijk. Het bleef onwaarschijnlijk dat het voorstel in zijn verplichte vorm zou worden aangenomen, omdat het in strijd was met dominante bedrijfsbelangen. Tijdens de onderhandelingen tussen 2011 en 2017 was er dan ook nooit een meerderheid – laat staan unanieme consensus – onder de regeringen van de lidstaten voor aanneming.

English Summary

The harmonization of corporate taxes in the European Union (EU) has been a political issue since the 1960s. However, it was not until 2011 that the European Commission proposed legislation for harmonizing and consolidating the corporate tax base. The Common Consolidated Corporate Tax Base (CCCTB) was presented as a business-friendly system that would eliminate obstacles for corporations with cross-border activities within the EU. The legislative proposal failed to reach political agreement due to firm opposition from member state governments and national parliaments. Five years later, despite the earlier resistance, the European Commission relaunched the CCCTB with significant changes. The European Commission now presented the CCCTB as an anti-tax avoidance instrument and proposed the CCCTB as a mandatory rather than optional system. These changes directly opposed the interests of dominant neoliberal proponents, including transnational corporations and the tax advising industry, who had influenced the CCCTB's development before 2011. This dissertation examines why the CCCTB was relaunched and why its content, form, and scope changed.

The dissertation adopts a critical political economy (CPE) perspective, viewing European integration and policy outcomes as the result of social struggle. Using the historical materialist policy analysis (HMPA) framework, it conceptualizes this struggle through competing 'hegemony projects', which group together key actors, ideas, policy demands, and strategies. Three hegemony projects are identified in the struggle over corporate tax harmonization within the EU: a neoliberal project, a neomercantilist project, and a center-left project. The struggle between these three projects is shaped by power asymmetries and institutional frameworks. The research is based on semi-structured interviews with experts as well as in-depth document analysis.

Four factors explain the CCCTB's relaunch in 2016: the rise of a center-left project after the global financial crisis, the enduring power of the neoliberal project, specific concerns regarding budget and practicality concerns of member state apparatuses, and strategic actions of forces within the European Commission.

Following the 2008 financial crisis and subsequent sovereign debt crises, a group of agents successfully problematized corporate tax abuse and advocated for tax justice. This center-left project, driven by NGOs, labor unions, and left-

wing forces in the European Parliament, challenged dominant forces. The rise of this counter-hegemonic strategy by the center-left project explains the timing of the relaunch of the CCCTB in 2016. Key changes—framing the CCCTB as an anti-tax avoidance tool and making it mandatory—aligned with center-left demands.

These changes directly opposed the neoliberal project, driven by organized corporate interests, particularly those representing EU- and transnational-oriented capital fractions. Between the late 1990s and 2011, the neoliberal project dominated EU corporate tax policymaking. The European Commission developed the CCCTB in alignment with *BusinessEurope* and other neoliberal agents. The 2011 CCCTB proposal was optional, allowing corporations to opt in if beneficial, and included cross-border profit and loss offsetting. The entrenchment of the neoliberal project within EU corporate tax policymaking — alongside the structural power of (mobile) capital, expressed for instance in the continued existence of tax havens—explains why the influence of the center-left project remained limited. Consequently, center-left forces did not achieve their preferred CCCTB outcome.

The European Commission as well as Council negotiations on the CCCTB (2011–2017) reflected this limited shift in power. While the Commission, particularly the relevant Commissioner Pierre Moscovici and his cabinet, proved receptive to center-left demands, member state governments were less so. Center-left arguments appeared in Commission statements and policy initiatives emphasizing fairness and transparency, aligning with NGOs, labor unions, and parliamentary members. However, Council negotiations remained dominated by neoliberal and neomercantilist ideas. Neoliberal arguments—such as the importance of CCCTB’s optionality and possibilities for cross-border loss relief—were primarily pushed by member state governments of infamous tax havens that accommodate large swaths of mobile capital. This group, led by the governments of Luxembourg, the Netherlands, the UK, and Ireland, employed obstructionist tactics. Meanwhile, larger economies like France and Germany offered conditional support but regularly emphasized the particularities or uniqueness of their domestic tax rules.

Budgetary and practicality concerns influenced nearly all member state governments, as uncertainties around the CCCTB raised fears of revenue losses. The unanimity requirement further strengthened the position of CCCTB opponents. These dynamics and points of contestation in the Council’s



intergovernmental negotiations led to key modifications between 2011 and 2016, including the CCCTB's division into two legislative proposals.

The inclusion of center-left demands in the relaunch of the CCCTB in 2016, the dynamics and points of contestation between member state governments in the Council, and the strategic action by and within the Commission, did *not* make the adoption of the CCCTB more likely. The proposal remained unlikely to materialize in its mandatory form, as it conflicted with dominant corporate interests. Indeed, throughout negotiations between 2011 and 2017, there was never a majority – let alone unanimity – among member state governments in favor of adoption.

Dansk Resumé

Harmoniseringen af selskabsskatten i Den Europæiske Union (EU) har været et politisk spørgsmål siden 1960'erne. Men det var først i 2011, at Europa-Kommissionen foreslog lovgivning om harmonisering og konsolidering af selskabsskattegrundlaget. Det fælles konsoliderede selskabsskattegrundlag (*Common Consolidated Corporate Tax Base*, forkortet til CCCTB) blev præsenteret som et erhvervsvenligt system, der ville fjerne hindringer for virksomheder med grænseoverskridende aktiviteter inden for EU. Lovforslaget nåede ikke til politisk enighed på grund af stærk modstand fra medlemslandenes regeringer og nationale parlamenter. Fem år senere relancerede Europa-Kommissionen CCCTB med betydelige ændringer på trods af den tidligere modstand. Europa-Kommissionen præsenterede nu CCCTB som et instrument til bekæmpelse af skatteundgåelse og foreslog FKSSG som et obligatorisk snarere end et frivilligt system. Disse ændringer gik direkte imod interesserne hos de dominerende neoliberale fortalere, herunder transnationale selskaber og skatterådgivningsbranchen, som havde påvirket udviklingen af CCCTB før 2011. Denne afhandling undersøger, hvorfor CCCTB blev relanceret, og hvorfor dets indhold, form og omfang blev ændret.

Afhandlingen anlægger et kritisk politisk økonomiperspektiv og betragter europæisk integration og politiske resultater som et resultat af social kamp. Ved hjælp af den historiske materialistiske politikanalyse konceptualiserer den denne kamp gennem konkurrerende 'hegemoniprojekter', som grupperer nøgleaktører, ideer, politiske krav og strategier. Der identificeres tre hegemoniprojekter i kampen om harmonisering af selskabsskatten i EU: et neoliberalt projekt, et neomerkantilistisk projekt og et centrum-venstre-projekt. Kampen mellem disse tre projekter er formet af magt-asymmetrier og institutionelle rammer. Forskningen er baseret på semistrukturerede interviews med eksperter samt dybdegående dokumentanalyse.

Fire faktorer forklarer CCCTB's relancering i 2016: fremkomsten af et centrum-venstre-projekt efter den globale finanskrisen, det neoliberale projekts vedvarende magt, specifikke bekymringer vedrørende budget og praktiske forhold i medlemslandenes embedsværk og strategiske handlinger fra kræfter inden for Europa-Kommissionen.

Efter finanskrisen i 2008 og de efterfølgende statsgældskrises lykkedes det en gruppe aktører at problematisere misbrug af selskabsskat og slå til lyd

for skatteretfærdighed. Dette centrum-venstre-projekt, der blev drevet af NGO'er, fagforeninger og venstreorienterede kræfter i Europa-Parlamentet, udfordrede de dominerende kræfter. Fremkomsten af denne modhegemoniske strategi fra centrum-venstre-projektet forklarer timingen for relanceringen af CCCTB i 2016. De vigtigste ændringer - at indramme FKSSG som et værktøj mod skatteundgåelse og gøre det obligatorisk - var i overensstemmelse med centrum-venstre-kravene.

Disse ændringer gik direkte imod det neoliberale projekt, der var drevet af organiserede virksomhedsinteresser, især dem, der repræsenterede EU- og transnationalt orienterede kapitalfraktioner. Mellem slutningen af 1990'erne og 2011 dominerede det neoliberale projekt EU's selskabsskattepolitik. Europa-Kommissionen udviklede FKSSG i overensstemmelse med BusinessEurope og andre neoliberale aktører. CCCTB-forslaget fra 2011 var frivilligt, så virksomheder kunne vælge at deltage, hvis det var fordelagtigt, og omfattede grænseoverskridende udligning af overskud og underskud. Det neoliberale projekts forankring i EU's selskabsskattepolitik - sammen med den (mobile) kapitals strukturelle magt, som f.eks. kommer til udtryk i den fortsatte eksistens af skattely - forklarer, hvorfor centrum-venstre-projektets indflydelse forblev begrænset. Derfor opnåede centrum-venstre-kræfterne ikke deres foretrukne CCCTB-resultat.

Både Europa-Kommissionens og Rådets forhandlinger om FKSSG (2011-2017) afspejlede dette begrænsede magtskifte. Mens Kommissionen, især den relevante Eurokommissær Pierre Moscovici og hans kabinet, viste sig at være modtagelig for centrum-venstre-krav, var medlemslandenes regeringer det i mindre grad. Centrum-venstre-argumenter dukkede op i Kommissionens erklæringer og politiske initiativer, der lagde vægt på retfærdighed og gennemsigtighed og var på linje med NGO'er, fagforeninger og parlamentsmedlemmer. Men forhandlingerne i Rådet forblev domineret af neoliberale og neomerkantilistiske ideer. Neoliberale argumenter - såsom vigtigheden af CCCTB's frivillighed og muligheder for grænseoverskridende tabsudligning - blev primært fremført af medlemslandenes regeringer i berygtede skattely, der huser store dele af den mobile kapital. Denne gruppe, anført af regeringerne i Luxembourg, Holland, Storbritannien og Irland, brugte taktikker for blokering af vedtagelse. I mellemtiden tilbød større økonomier som Frankrig og Tyskland betinget støtte, men understregede regelmæssigt det særlige eller unikke ved deres nationale skatteregler.

Budgetmæssige og praktiske bekymringer påvirkede næsten alle medlemslandenes regeringer, da usikkerheden omkring FKSSG skabte frygt for indtægtstab. Kravet om enstemmighed styrkede yderligere CCCTB-modstandernes position. Denne dynamik og disse stridspunkter i Rådets mellemstatslige forhandlinger førte til vigtige ændringer mellem 2011 og 2016, herunder CCCTB's opdeling i to lovforslag.

Inddragelsen af centrum-venstre-krav i relanceringen af FKSSG i 2016, dynamikken og stridspunkterne mellem medlemslandenes regeringer i Rådet og den strategiske indsats fra og inden for Kommissionen gjorde ikke vedtagelsen af FKSSG mere sandsynlig. Det var usandsynligt, at forslaget ville blive realiseret i sin obligatoriske form, da det var i konflikt med dominerende virksomhedsinteresser. I løbet af forhandlingerne mellem 2011 og 2017 var der faktisk aldrig et flertal - endsige enstemmighed - blandt medlemslandenes regeringer til fordel for en vedtagelse.

Description of the Research Data Management

Title project: It ain't over 'til it's over. The struggle over corporate tax harmonization in the EU

Researcher: Indra Römgens

Data processing

Two key primary data sources informed this dissertation: documents and in-depth interviews. Chapter 4.1 explains into detail what type of documents were collected and how they were obtained. Special attention was paid to the reports of meetings on the Common Consolidated Corporate Tax Base (CCCTB) of the Council's preparatory bodies, which were obtained through a request for access to these documents.

The interview data included in my thesis have been collected with the consent of participants. Privacy sensitive data have been pseudonymized. Chapter 4.2 informs the reader how interviewees were asked to give consent. In case the interviewee gave permission, the interview was recorded with an audio recorder. During and after the interview, I took notes. Moreover, most interviews were transcribed. The interview data therefore consists of signed consent forms, audio recordings, transcriptions, and notes. For the purposes of transparency, a list of interviewees is included in the dissertation in chapter 4.2. Only those who consented to being mentioned are included with their name and position, while those who did not consent to being mentioned are only referred to by the category of interviewees they belong to (e.g. 'EU official') as well as the date and place of the interview. For the purpose of protecting the privacy of interviewees, the quotes of interviewees are all pseudonymized in the remainder of the dissertation.

Data Storing

The collected interview data include audio recordings, transcriptions, notes and consent forms. During research, privacy sensitive data as well as already existing non-public data have been stored on a university-provided protected computer or server environment.

After completion of my PhD, interview recordings, transcriptions and consent forms will be securely stored for reasons of scientific integrity for at least 10 years, for the purposes of complying with data regulation policies as well as

offering the possibility to check the scientific integrity of this research project. The research data will be archived in the Radboud Data Repository, after finalizing the PhD research project.

Data re-use

The interview data cannot be made (publicly) available, because this is beyond the scope of consent that was given by interviewees within the context of this research project. However, the interview guide, consent form template, and the information note for interviewees will be available for re-use through the Radboud Data Repository.

The data management procedures implemented in this dissertation adhere to the regulatory frameworks and guidelines stipulated by Radboud University.

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Researching corporate taxation can be an isolating experience, as it is hardly everyone's favourite topic. Luckily, I found many nerdy people to share the joy with – more than I can unfortunately mention here. Aanor, my tax BFF, I am so happy I never have to find out what it's like to do a PhD on EU corporate taxes

without you. Working, publishing, and conferencing together has made all the difference. More than any of that, I am grateful for our friendship. Now let's call Jean-Claude and set up that interview we still plan to do together. Sara, we reconnected in Copenhagen through a small tax justice group and found common ground in writing a dissertation on corporate taxation, and having two babies while doing so. I feel lucky we have been cheering each other on during this journey. Another big thank you to Laura Seelkopf and Lukas Hakelberg for giving me, together with Aanor, a chance to publish in the brilliant Handbook on Taxation. I immensely enjoyed building bridges across disciplines together with Tim Brederode and all the participants in our corporate taxation workshop for young scholars; a special thanks to Aidan Regan for joining as lead discussant then and as member of my defence committee now. To all members of the defence committee: I deeply appreciate the time you put in reading and engaging with my research.

So many other colleagues have also helped in making the journey of research and teaching a wonderful one. The first one and a half years in Roskilde and Copenhagen were significantly less lonely and more inspiring because of Liv; the way you combined your research and commitment to political activists in Myanmar remains extraordinary to me (all the walks, coffees, and beers are also not forgotten). I was warmly welcomed back in Nijmegen in 2019 thanks to the amazing group that is Radboud's political science department. Especially the fun political science PhD(+) community – thanks in particular to Chris, Joep, Rosa, Vera, Gijs, Puck, Rikke, Tjidde, Stella, and many more! Special shout-out to the best office mate I could have wished for: Gaard. I am so happy I got to witness your growth from finishing your PhD to becoming an awesome assistant professor. Our conversations on research, activism, politics, and teaching were often highlights of my days in the office (as well as exchanging cute videos of our kids, of course). To have great colleagues is a blessing; to have them turn into good friends is something else entirely. Lema, inviting you for a guest lecture during the International Organisations course in 2021 was one of the best teaching decisions I made. It led to countless conversations, coffee and cinnamon buns, voice messages, meme exchanges, therapy sessions, laughs and hugs. Melisa, I think our connection was instant. We bonded over combining parenthood and PhD-ing, and over being great at procrastination. Not sure whether our many online working sessions sped up or delayed our PhD projects, but I am very certain they made long days behind the screen more bearable.



Many thanks to Marieke Krijnen for improving the grammar and readability of this dissertation. Thank you to Carlijn Kingma for allowing me to use her absolutely beautiful and informative artwork *The Waterworks of Money*.

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Ik draag dit proefschrift op aan mijn mama, wiens moed, nieuwsgierigheid, creativiteit en humor nog elke dag een inspiratie zijn.

Curriculum vitae

Indra Römgens was born on January 6, 1986, in Heerlen, the Netherlands. She completed a bachelor's and master's program in Political Science at Radboud University in Nijmegen, accompanied by minor programs in Religious Studies (Radboud University) and Public Administration and Organization Science (Utrecht University). Following the master specialization in International Relations, her master's thesis investigated the 2006 policy shift from privatization to renationalization in Bolivia.

Her interest in political economy, particularly the power of corporations, led her to pursue a position as a researcher at *Stichting Onderzoek Multinationale Ondernemingen* (SOMO, Centre for Research on Multinational Corporations). During her five years at SOMO, Indra contributed to research projects on fair tax systems, a financial system that serves society, and sustainable global value chains.

Indra embarked on a PhD trajectory at the end of 2017. The PhD project was a collaboration between Roskilde University in Denmark and Radboud University Nijmegen in the Netherlands. During the first part of her PhD trajectory in Denmark, Indra participated in PhD courses organized by Roskilde University and contributed as a teacher in various bachelor's and master's courses. The second part of her PhD project took place at Radboud University Nijmegen from 2019 onwards. Indra was a member of the PhD Council at the Institute for Management Research from 2020 to 2022. Alongside her PhD, she took on a position as a lecturer from 2021 to 2024 within the Radboud's Department of Political Science. She coordinated and taught courses on global political economy and international organizations, and successfully supervised over twenty students in writing their bachelor's theses.

The research presented in this dissertation was shared at various international conferences, including conferences of the Critical Political Economy Research Network (CPERN, 2018), the Centre for Tax Law at the University of Cambridge (2019); the Dutch Political Science Association (NKWP, 2019), and the German Political Science Association (DVPW) workshop for Political Economy (2022). Indra was invited to speak at several non-academic conferences, such as the Parliamentary Platform for Tax Justice in Brussels (2018) and at a public hearing of the European Parliament's FISC committee on BEFIT (2023).

While the PhD project resulted in a monograph, her research findings were also published in a handbook chapter as well as multiple journals, including the *Journal of Common Market Studies*, *Journal of European Integration*, and *Beleid & Maatschappij*. Radboud University awarded Indra a Christine Mohrmann Stipend in 2022. The €5,000 stipend was used to organize an interdisciplinary workshop on corporate taxation for young scholars.

Currently, Indra works at *CNV Internationaal*, focusing on improving labor and living conditions for workers in the nickel and palm oil sectors in Indonesia.



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