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Emergent Influences in the EU Corporate Tax Ecology

Modes of Tax Governance in the CCCTB and Supranational Tax Reform

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List of Abbreviations

ACI: Actor-centered institutionalism
ALP: Arm's length principle
ATAD: Anti-Tax Avoidance Directive
BEPS: Base Erosion and Profit Shifting
CBCR: Country-by-country reporting
CCCTB: Common Consolidated Corporate Tax Base
CFC (rules): Controlled foreign corporation
CIT: Corporate income tax
COFFERS: Combating Fiscal Fraud and Empowering Regulators
DG: Directorate-General
DG TAXUD: Directorate-General for Taxation and Customs Union
DWT: Dividend withholding tax
EATR: Effective average tax rate
EC: European Commission
ECOFIN: Economic and Financial Affairs Council
EP: European Parliament
FA: Formula apportionment
FDI: Foreign direct investment
G20: Group of Twenty
HI: Historical Institutionalism
ICRICT: Independent Commission for Reform of International Corporate Taxation
IO: International organization
MEP: Member of the European Parliament
MNC: Multinational corporation
NGO: Non-governmental organization
OECD: Organization for Economic Cooperation and Development
SME: Small and medium enterprises
TFEU: Treaty on the Functioning of the European Union
TJN: Tax Justice Network
TP: Transfer pricing
VAT: Value-added tax
WHT: Withholding tax

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Abstract

In 2013, over 100 countries collaborated on the implementation of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Package to address profit shifting tax schemes. Following a series of failed legislative initiatives by the European Commission to tackle corporate tax planning strategies, the OECD's BEPS project triggered the re-launch of the Common Consolidated Corporate Tax Base (CCCTB) proposal in 2016, a directive which would create a single set of rules for corporations operating in the EU to calculate their taxable income. Though the former proposal had been tabled in 2011 due to a lack of consensus by European Member States, the new two-step approach of the CCCTB garnered more approval, consisting of a first step creating a *common* taxable base for corporations, and a second step adding an apportionment formula for corporations to distribute their *consolidated* tax base. The re-introduction of the proposal carries many implications for national tax regimes in the EU, reflected by the continued fragmentation of national tax initiatives across Member States.

In European tax governance, professional and institutional forces are increasingly shaping tax policy outcomes. Although traditional IPE literature ascribes an essential role to state actors as the principal policy-making organ, an increasing number of scholars argue that state power in the EU has diminished, leading to the emergence of other actors in national policy outcomes, namely supranational institutions (Commission, Parliament, Council) and professions in international organizations (IOs) and in the public, private, and academic sectors. European tax governance is increasingly characterized by emergent networks of influence, where policy formulation and bargaining processes occur in a 'realm of contestation' between actors and coalitions. To evaluate the influence of professionals and institutions on the CCCTB, this thesis employs a heuristic case study on the directive and a 'snapshot' of two recent national initiatives (in Latvia and the Netherlands) to draw feasible hypotheses about the policy-making process and policy content, in line with critical realist tradition.

Key words: Ecologies, institutions, linkages, networks, professions

1. Introduction

"Transnational corporations shall not, contrary to the laws and regulations of the countries in which they operate, use their corporate structure and modes of operation, such as the use of intra-corporate pricing which is not based on the arm's length principle, or other means, to modify the tax base on which their entities are assessed"

Draft United Nations Code of Conduct on Transnational Corporations, 1983

Over the past decade, European policymakers have increasingly confronted the weaknesses of existing corporate tax rules to manage the economic environment in which multinational corporations (MNCs) operate. Despite the globalized nature of corporate activity, corporate income is still taxed on a national level. This has important consequences for all European Union (EU) Member States, such as a decline in corporate tax revenues as MNCs shift their profits to low or no-tax jurisdictions, or downward pressure and increased competition on tax rates as countries incentivize MNCs to relocate with the prospect of cost-saving tax schemes (EP 2017). More recently, several public tax scandals (e.g. LuxLeaks, Panama Papers) have shed light on the profit-shifting practices of MNCs, coinciding with several initiatives on the exchange of tax information, transparency, and effectiveness in international tax governance. In 2013, the Organization for Economic Cooperation and Development (OECD) and G20 launched the Base Erosion and Profit Shifting (BEPS) Project, a global framework and an 'action plan' providing governments with instruments to address tax avoidance, implemented on a voluntary basis to mitigate country-by-country inconsistencies and tackle profit shifting and double taxation (OECD 2013).

Reforming the European corporate tax regime has taken longer than anticipated. An EC publication in 2001 proposed reform to develop a Single Market without tax obstacles, but never materialized (EC 2001). After a series of failed legislative initiatives on corporate tax, the establishment of an Inclusive Framework by the OECD BEPS project laid the groundwork for an overarching mechanism to tackle tax avoidance in 100+ jurisdictions globally, but it still faces many challenges of its own. This triggered the relaunch of a Common Consolidated Corporate Tax Base (CCCTB) in 2016 by the European Commission (EC)[1], the EU's main legislative body. The CCCTB's objective is to improve the efficiency of corporate income tax (CIT) systems in the EU through the establishment of a common tax scheme for all Member States and contribute to a better functioning Single Market. In line with the desire for financial transparency and a better tax regime, the flagship proposal in 2016 featured two key changes: an enforcement mechanism making it mandatory for corporations to apply the new rules, and creation of a two-step process postponing the 'consolidation' element for a future proposal (ibid).

[1] The specific entity responsible for the legislation is the Directorate-General for Taxation and Customs Union, or DG TAXUD.

Under the CCCTB, the *common* tax base would allow corporations operating in at least two Member States to compute their group taxable income according to one set of rules - those of the new EU tax base (EC 2004). The purpose is to reduce tax-related costs while tackling the tax obstacles, which are currently still hampering corporations in the development of their EU-wide activities. Currently, corporations that operate across the EU must adhere to accounting systems for each individual Member State. Many of those states have argued that separate accounting regimes allow for the exercising of national sovereignty in deciding which tax rules apply (Keser et al. 2014). The EC and the CCCTB's proponents, on the other hand, argue that decisions on Member States' tax bases are already dependent on each other and connected to such a degree that the CCCTB is effectively unable to limit state sovereignty (ibid). Moreover, they contend that the current system is "increasingly vulnerable to tax evasion and fraud which exploits precisely the weaknesses of separate accounting in the Internal Market's legal context" (EC 2004: 2). The common tax base thus seeks not only to tackle such issues, but also lessen administrative and compliance costs on corporations and tax authorities.

The second (and more controversial) element in the CCCTB is the issue of tax *consolidation*. Tax consolidation refers to a tax regime in which a group - either wholly-owned or majority-owned - is treated as a single entity (KPMG 2012). All profits and losses from a corporate group would be added up to reach a net profit or loss "for the entire EU activity. Based on the net figure, the common rules would be used to decide the final tax base for the group" (EC 2015). The goal is to provide a more holistic solution to the problems of corporate tax in the EU by standardizing tax policy and combating aggressive tax planning and tax avoidance (EP 2017). In practice, the responsibility for the group's consolidated tax returns would fall on the parent company, which would submit the group's taxes to tax authorities in the Member State of residence. This is known as a "one stop shop" system, whereby qualified groups are only accountable to a single tax administration (ibid). Under such a system, corporations can offset their losses in one tax jurisdiction against profits in another.

Yet, the EU and the EC are not uniform, non-conflictual actors that unanimously agree on design and strategic direction. Crafting policies and determining reform output are extensive processes that require, and rely on, input from professionals, organizations, and interest groups. The growing complexity of decision-making has led to the emergence of experts, technocrats, and bureaucrats in the EU legislative process (Banchoff & Smith 1999). Some argue that growth of external expertise in policy design has come at the expense of the nation-state, generating a 'democratic deficit', or the de-politicization of policy-making. In its place, DGs, expert committees, NGOs, and other interest groups have emerged and formed coalitions around certain issues and policies. Within these coalitions, there exist multiple professions that assist and advocate in policy-making (e.g. draft proposals). Economists, lawyers and accountants all have different opinions on policy, depending on who they represent and their respective areas of focus and expertise. Their opinions ultimately influence policy outcomes, either directly or indirectly, as their knowledge is increasingly drawn upon to solve complex matters. That being said, national governments (EU Member States) should not be neglected in the study of policy outcomes in the EU, given that individual Member States have the final say on supranational policies.

1.1. Research question

The CCCTB's significance makes it important to understand the effects it could have on EU tax governance in the long-term, the underlying mechanisms guiding the reform process (how the rules came about), and whether other factors might prevent its functioning in the near future. We approach this issue in the context of two phenomena in international political economy (IPE): state interests and professional expertise. On the one hand, the continued fragmentation of state initiatives on corporate income tax (CIT) and tax avoidance demonstrates there might never be broad consensus on a uniform tax methodology, and constant monitoring of the CCCTB process will be as essential as future bargaining processes in the EU tax environment. Explaining actor interests is a conventional IPE approach, and in this case necessary to make behavioral or structural policy suggestions. On the other hand, the weakening of state power has led to the emergence of professional networks in the EU policy arena and the CCCTB, exemplified by the emergence of professional competition and technical expertise. The interaction between policy and professionals is the main dynamic this thesis sets out to explain. To this end, we aim to answer the following research question:

How does the CCCTB proposal inform how professionals and institutions in the EU have influenced supranational tax policy outcomes?

This thesis argues that the supranational tax governance process in the EU has been shaped by forces in equal parts institutional and professional, and policy outcomes - in this case the CCCTB - are reflective of the interaction between these structures. To this end, we employ a critical realist philosophy of science to explain the (in)effectiveness of recent attempts to reform the EU corporate tax regime and the underlying mechanisms that encourage or prevent the EC's efforts to overhaul this process. In-depth qualitative interviews and observation - in tandem with a two-part heuristic case study - have been conducted to bolster our arguments, as the CCCTB process exhibits a mix of organizational influences, including international organizations (IOs) and the public, private, and academic sectors. Professionals in each of these distinct 'realms' have specific policy and/or technical knowledge that informs the drafting and negotiation process behind the CCCTB. We argue that their increased prevalence in tax governance is illustrative of a legitimation and accountability crisis in the EU, issues which is further strengthened by the 'revolving doors' phenomenon of professionals moving between public and private sectors from a desire for policy influence or prestige.

Meaningful EU corporate tax reform is thus contingent on a structural and behavioral shift in both institutions that set the agenda and professional involvement. In other words, the CCCTB is representative of the strengths and flaws inherent in policy content *and* the decision-making process. Instead of viewing supranational tax governance in terms of class dominance or political parties, this thesis characterises EU policies in terms of the role of expertise in shaping variable state interests. Unlike national tax initiatives and the OECD's Base Erosion and Profit Shifting (BEPS) Project, the CCCTB makes EU-wide corporate reporting mandatory and is a formal mechanism (e.g. hard law) that is binding and leaves little room for interpretation by states. The evolution of the CCCTB framework over time is also indicative of the backroom bargaining considered necessary to secure an agreement, albeit an imperfect one. Nevertheless, it remains the closest attempt to create a more fair and efficient tax regime in the EU and has been projected to boost investment in the region by 3.4% and growth by 1.2% in the near-term by "offering companies solid and predictable rules, a fair and level-playing field, and reduced costs and administration" (EC 2016a).

Evaluating the effects of the CCCTB is premature at this stage. The Members of the European Parliament (MEPs) approved the measure in March 2018 (alongside a 'digitax'), but institutional roadblocks remain on the road to tax harmonization (EP 2018). After the proposal takes effect, however, all Member States would have to apply a single set of tax rules, and multinational corporations would be accountable to a single administration rather than 28 different sets of tax regimes (ibid). This one-stop-shop holds considerable promise for changing the current regime by stamping out harmful tax practices and bolstering the Single Market for the EU. Making rules *mandatory* already places the CCCTB beyond OECD guidelines as it makes it more difficult for Member States to impose countervailing measures negating the effects of the one-stop shop or public country-by-country reporting (CBCR), both of which are very technical in nature. That being said, two-step process of the CCCTB has largely been derided as a means of delaying the more controversial 'consolidation' element, which has not been as widely backed by Member States.

1.2. A primer on corporate taxation

Taxation can be a quite complex topic with several moving parts. Box 1 below illustrates some of the key terms in relation to corporate taxation that will be frequently employed throughout this thesis.

Box 1: Key terminology

Arm's length principle (ALP): Principle according to which conditions imposed between a company's associated enterprises that differ from equivalent conditions between independent enterprises leads to a situation where "profits which would [...] have accrued to one of the enterprises, but by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly" (OECD 2017).

Corporate income tax (CIT): A form of direct taxation, CITs are taxes paid by corporations to national governments. Imposing CITs follows the benefit principle: companies consume public goods and benefit from public policy.

Debt-equity bias: The general tendency to discriminate between debt and equity by "treating interest payments as a deductible expense and equity returns as a reward for a company's owners" (EC 2015a: 45). Debt-equity bias can make companies more vulnerable to economic shocks and encourage firms to engage in profit-shifting activities.[2]

Residence-based vs. source-based taxation: Residence-based taxation is the taxation of firms on their worldwide income regardless of its source, in locations where the company is registered (their place of 'incorporation'). Source-based taxation is the taxation of firms based on the country where income is generated, even if the place of incorporation of a company is located in another country.

Spillover effects: The direct impact of a country's tax policy on either the tax base or policy of other states (IMF 2014). Core proposition of spillover analysis is that countries' tax regimes can produce profit shifting and tax base erosion, or "other forms of tax competition that erode the revenue-raising capacity of governments, while detrimentally affecting levels of real economic activity in other jurisdictions through various forms of capital flight" (Baker & Murphy 2017: 1).

Tax harmonization: Referring to the alignment of corporate tax structures (and related issue of taxing profits), harmonization is a frequently proposed solution to ensure the proper functioning of the European Single Market.

Transfer pricing (TP): The terms and conditions which dictate the transactions taking place in multinational corporations, namely inter-company transactions between associated enterprises in different countries. A rise in TP regulations reflect tax authorities' concerns that MNCs set transfer prices to lower taxable profits in their jurisdiction (EC 2015a).

1.3. Outline

Section 2 illustrates recent trends in the EU corporate tax regime, including the objectives and involvement of the EC in regulating supranational tax practices. Then, section 3 introduces recent work on the EU corporate tax system and relates IPE literature to the main actors in tax governance by reconciling traditional perspectives (realism, institutionalism) with an emergent framework (professional ecologies) to preface our analysis. We also explore additional work on corporate tax: international tax governance and the 'offshore world' of tax havens.

Section 4 outlines our methodological framework (critical realism) and discusses its origins and applicability. Our analysis is predicated on abductive and retroductive reasoning, and several qualitative methods including semi-structured interviews, participant observation, and a heuristic case study. In section 5, we introduce our

[2] For instance, shifting debt to affiliates in high-tax countries allows MNCs to deduct interest payments against higher marginal taxes and lower their tax burden.

twofold theoretical framework: the linked ecologies approach and actor-centered institutionalism. Both explain how the interaction between actors can influence institutional structures and wider EU policy developments.

Our case study in section 6 is twofold: first is the Common Consolidated Corporate Tax Base (CCCTB), where we illustrate its origins, evolution, prospects, and limitations. Then comes a comparative case study of recent tax reform measures in Latvia and the Netherlands, where we explore the effects of unilateral Member State policies and their relative degrees of success on the future of EU-wide reform. After this, section 7 will operationalize our two theories to demonstrate the effects of professions and expertise on the decision-making process and applies theoretical models to our case study, relating certain key terms to the EU tax ecology.

Following this, the discussion in section 8 will contextualize our central findings from the case study and make policy recommendations with respect to the CCCTB and beyond. Finally, section 9 will conclude.

2. Background: The EU corporate tax system

Corporate tax policy is a key part of the current EU tax environment, raising a number of business and policy considerations. This section introduces recent developments and trends across the region, and the institutional channels through which corporate tax policy is drafted and implemented in the EU.

2.1. Corporate tax trends in the EU

Corporate taxation can generate economic distortions on a global scale due to the location of a company, income shifting between capital, labor, and investment, and profit shifting across jurisdictions (Devereux 2008). MNCs confront several decisions which can alleviate or exacerbate these distortions, namely the location of production, how much to invest in a chosen country, and where to show taxable profit (Nicodème 2009). These decisions are influenced by the average effective tax rate in different countries, the marginal effective tax rate, and the statutory CIT rate (ibid). The tax treatment of capital gains, interests, and dividends can affect the financing choices of firms given their variability in access to debt-financing and equity-financing. For instance, in the EU:

> "...corporate tax systems are characterised by the deductibility of interest payments, whereas dividend payments do not reduce the tax base. Due to this tax discrimination, companies may favour debt-financing over equity-financing for their investments. This favours companies with high access to debt financing and leads to high leverage ratios. High leverage ratios make companies more vulnerable to financial market fluctuations." (EC 2011: 49)

Taxes are traditionally classified as direct or indirect, with *direct taxes* covering personal income tax (PIT) and corporate income tax (CIT) primarily, and *indirect taxes* covering VAT, consumption taxes, and excise duties (EC 2017). Although evidence is lacking on the impact of taxation on economic growth, tax rates for individuals and corporations reflect broader societal choices on tax revenue and government spending, with EU Member States differing substantially in their taxation structure. Certain states have a higher share of direct taxes in their total tax revenue (e.g. Denmark, Ireland, the United Kingdom), and often have correspondingly low shares of social security contributions (ibid). Others have a far lower share of direct taxes, often induced by the adoption of a flat rate system; this is counterbalanced in certain cases by higher proportions of indirect taxes (e.g. Bulgaria, Croatia, Hungary) or larger shares of social security contributions (e.g. Slovakia, Czech Republic) (ibid).

In the EU, revenues from taxes on capital - mainly MNCs - have risen since the financial crisis, increasing to 2.6% of GDP in 2015, but have not yet recovered from their pre-crisis levels (*see figure 2.1*).

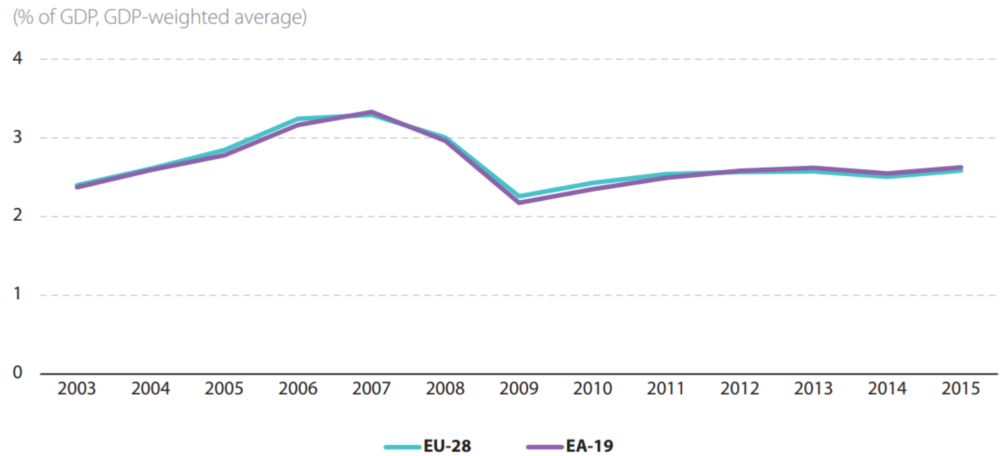


Figure 2.1 - CIT revenue, 2003-2015 (EC 2017)

Revenue from CIT has remained stable despite falling CIT rates across the EU. In the late 1990s, the Maastricht Treaty and the Stability and Growth Pact (SGP) encouraged states to adopt fiscal consolidation packages, which in a number of cases relied on scaling back public expenditures, and in others on a (temporary) increase in taxes (EC 2017). Many countries have taken advantage of high tax revenues to lower the tax burden by reducing PITs, social security contributions, and CITs. The latter has been in a constant decline since the late 1990s, but slowed shortly after the financial crisis (*see figure 2.2*). CIT rates also vary substantially across the EU-28, between a minimum of 9% in Hungary to a maximum of 35% in Malta (ibid).

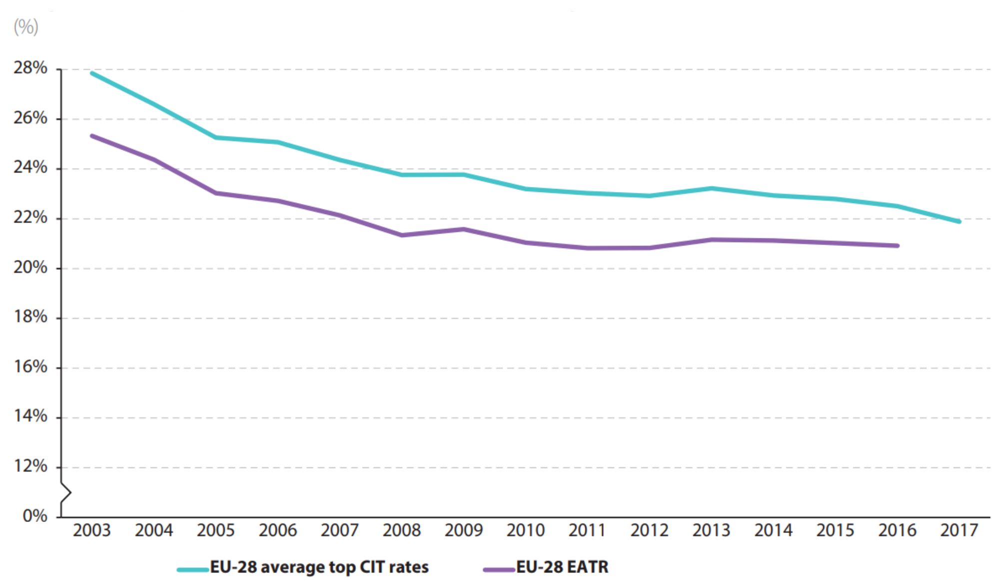


Figure 2.2 - Top CIT rate and effective average taxation indicators, 2003-2017 (EC 2017)

Figure 2.2 shows the top CIT rates in EU Member States as well as the effective average tax rate (EATR), a forward-looking indicator that measures the tax burden on MNCs by applying basic tax rules to hypothetical investments (Devereux and Griffith 1998; 2003). The basic approach of EATRs involves the consideration of hypothetical incremental investments in any given country taken by a resident company and using the tax code to determine the pre-tax real rate of return (cost of capital), based on the belief that companies undertake investments earning *at least* the required rate of return (ibid). EATRs are a “convenient theoretical framework for summarizing at a broad level the interaction of tax rules relating to capital investment” (EC 2017: 280). Over the past decade, EATRs have decreased in the EU, alongside a fall in CIT rates; but they have since stabilized around 21% and nevertheless considerably vary between Member States (ibid).

2.2. Corporate tax policy and the EC

In the EU corporate tax environment, the European Commission plays a key role in drafting and implementing tax policies. Though direct taxation is the sole responsibility of Member States, the EC has established several tax harmonization standards for individual countries to comply with. This section presents the EC’s objectives and role in corporate tax policy, its involvement in state aid cases, and drawbacks in the legislative process.

2.2.1. The EC’s structure and objectives

Historically, the objective of the EC has been to make legislative proposals and act as guardian for EU treaties, managing day-to-day affairs within the EU (Delors 1989). After the signature of the Single European Act (SEA) in 1985, the EC’s stated objective has been advancing integration through the implementation of harmonization standards and requirements, and the adoption of a mutual recognition of various norms and regulations (ibid). Although the EC makes proposals, its actions are largely confined to the *executive* realm - having the sole right to propose laws - with functions including the execution of policies and monitoring of directives (FCA 2011). The EC consists of 28 representatives - one delegate per Member State - which are appointed for five-year terms; in addition, the institution operates independently of national governments, but nevertheless upholds the interests of the region, allowing it to act as a representative in several IOs and other intergovernmental bodies (ibid). Moreover, the EC is divided into 28 Directorates-General (DG), each focusing on a specific policy area and headed by Commissioners from each Member State (*see figure 2.3*).

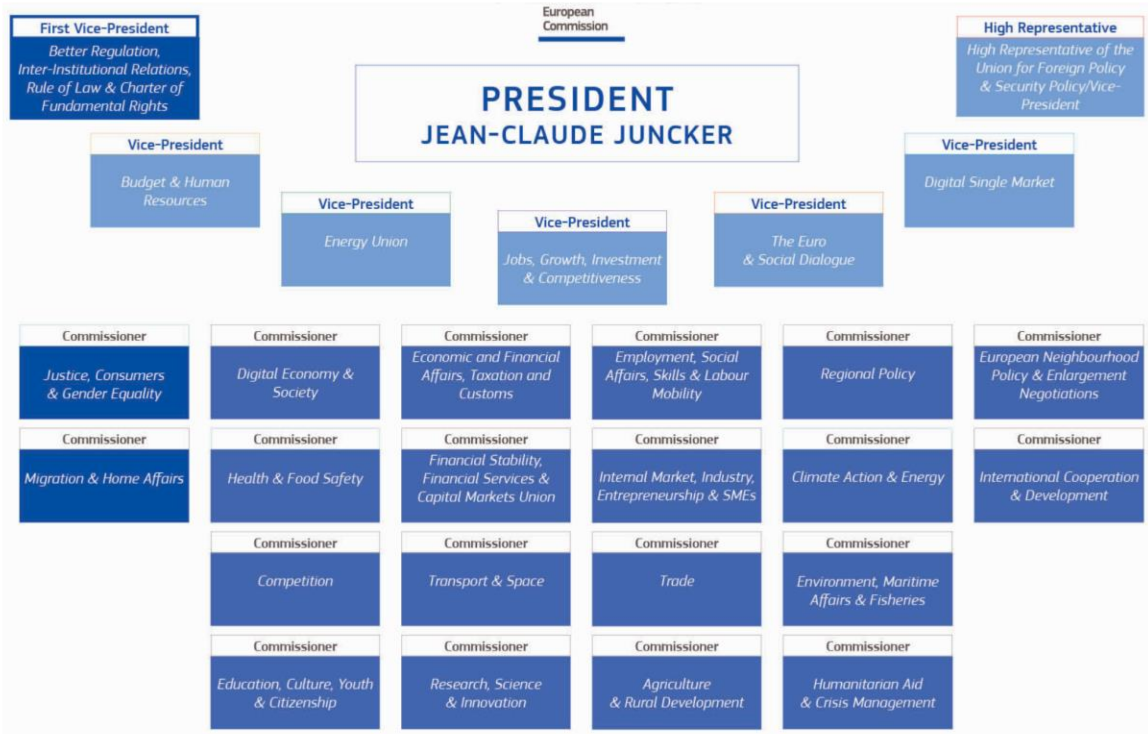


Figure 2.3 - The EC structure: The Juncker Commission (EC 2016b)

Figure 2.3 illustrates the structure of the Juncker Commission (2014-19). In corporate tax governance, the DG that is most pertinent in the tax policy-making process is Economic and Financial Affairs, Taxation and Customs (DG TAXUD), headed by Pierre Moscovici (EC 2016b). More recently, other DGs have been involved in the tax legislation process, namely DG Competition for state aid cases and tax rulings (*see section 2.2.2*), and the DG Digital Single Market for the taxation of digital business activities (ibid).

Another issue for the Commission is the enforcement of subjectively understood principles. One example of this is title VII of the Treaty on the Functioning of the European Union[3] (TFEU), which concerns common rules on competition, taxation, and the approximation of laws in the EU. According to title VII, any agreement or treaty signed between Member States must be *compatible* with the Single Market (TFEU 2008). The application of principles from articles 101/102 (e.g. prohibition of agreements that affect trade, distort competition, and firms abusing their dominant position in the Single Market) is relevant with respect to EU-wide tax governance. The EC is tasked with ensuring that these principles are adhered to, which it does by launching investigations into cases of suspected infringement, proposing appropriate measures in accordance with the TFEU, and publishing its decisions (ibid: 115/90).

[3] Although the TFEU originated as the treaty which established the European Economic Community (EEC) in the Treaty of Rome in 1957, it was formally re-introduced as part of the Lisbon treaty in 2007.

The EC undertakes many tasks in conjunction with the EU Council - in particular the Economic and Financial Affairs Council (ECOFIN) - to which the EC presents its findings and reports on various policy areas. The EC fulfills an agenda-setting role by issuing position papers, and the Council legitimizes these papers by advancing specific proposals building on their ideas (Nugent & Rhinard 2017). The EC's political role has been likened to *policy entrepreneurship*, or the "strategic formulation and creative mobilization of support of specific new initiatives" (ibid: 17) which are primarily legislative. Not only does the EC have significant legislative power (acts are only adopted on the basis of EC proposals), but also has the option to advance proposals in situations that are unclear or imprecise. More recently, the DG Competition has illustrated the widening influence of the EC in regional corporate tax regulation, with a focus on reining in national tax authorities that provide favorable treatment to certain corporations under measures known as state aid.

2.2.2. Involvement in tax rulings: EC state aid investigations

Article 107(1) of the Treaty on the Functioning of the European Union (TFEU) established the concept of *state aid* in reference to measures by which public authorities grant favorable tax treatment to undertakings that are compatible with the Single Market (EU 2008). Actions deemed compatible include the promotion of economic development (e.g. in areas with low standard of living or underemployment), contributing to an important project with a common European interest, or facilitating the development of economic activities when it does not adversely affect trading conditions (ibid). Member states are obliged to inform the EC of plans to grant state aid, and the EC's role in turn is to determine whether measures fulfill these conditions. Since the ratification of the TFEU, the Court of Justice of the EU has clarified that state aid cases cover all aspects of direct corporate taxation, enjoying primacy over domestic rules of member states (EC 2016c). In 2001, the EC began conducting investigations into the fiscal schemes of some member states that seemed to benefit only certain companies, adopting several negative decisions that selectively advantaged MNCs that were "pricing their intra-group transactions in a manner that does not reflect the conditions that apply between independent companies at arm's length" (EC 2016c: 1). These activities were in direct contravention of the arm's length principle (ALP), according to which all economic operators should be treated the same in determining their taxable base for CITs, regardless of the specific form they take (e.g. integrated corporate group, standalone companies). ALP is a good benchmark to determine if measures relating to MNCs lead to selective advantages, for instance in cases where corporate groups have reduced taxable profits and thus lower CIT liability (ibid). These cases, known as 'state aid', have become increasingly prevalent in recent years (*see box 2*).

Box 2: State aid investigations

Since 2013, the Directorate-General for Competition (DG Competition) has been responsible for inquiries into state aid, carrying out over 1,000 tax rulings during this period, many relating to transfer pricing arrangements for determining corporate tax bases or "confirmatory rulings" around the application of provisions in specific situations[4] (EC 2016c). Various countries have granted tax rulings in recent years, namely in Ireland (Apple), Luxembourg (Fiat, Amazon, McDonald's), and the Netherlands (Starbucks), to name a few; these decisions have been informative for national tax authorities about practical applications of state aid rulings, and for the DG Competition about corporate tax planning strategies in Member States. For example, the case of Starbucks illustrates the difficulties inherent in state aid rulings, especially for firms headquartered in the US (Petropoulos 2018). The EC's investigation concluded that the 2008 ruling issued by Dutch authorities allowed Starbucks to artificially lower its tax contributions, in that it could shift its profits to a UK-based company (Alki) forming part of its parent company, which was not liable to paying corporate taxes in the UK or the Netherlands. In addition, the ruling allowed Starbucks to reduce its taxable base "by inflating the price it pays for green coffee beans to its Swiss subsidiary," (ibid) further complicating the relationship between state aid and tax rulings.

According to the Brussels-based economic think tank Bruegel, the EC is facing several challenges to curb the loopholes in the international tax system (Petropoulos 2018). A common issue is the comparability of terms and conditions of intra-group transfers (or the profitability of an entity under investigation), with transactions by independent firms in similar situations to determine if selective economic advantages are being granted to certain corporations. For instance, in a number of cases investigated by the EC, different comparisons between national tax authorities and the EC have led to different conclusions, due to the difficulty of finding sufficiently similar economic characteristics (ibid). Another issue is the difficulty of differentiating between the tax measures which provide selective advantages and those which do not. One example is the case of institutional decisions and rulings on Spanish goodwill in recent years (*see box 3*).

Box 3: The Spanish goodwill case

A special tax scheme introduced by Spain in 2002 granted domestic firms corporate tax deductions if they arranged to acquire shares of at least 5% of a foreign company (EC 2016d: 16/4489). In particular, it allowed resident firms to deduct from their tax base *financial goodwill*, i.e. "the difference between the costs of acquisition of the shareholding of the target company and the market value of the underlying assets of that company" (ibid), a contentious measure that led the EC to open an investigation in 2007 after complaints that it would distort competition in the Single Market. Although the measure's stated objective was to encourage domestic companies in Spain to engage in business activity abroad and grow, the EC nevertheless concluded the measure was selective, applying only to companies that invested abroad and setting a lower threshold (5%) than the general reference system (Petropoulos 2018). In 2014, the EU General Court reversed this decision and judged that the Spanish tax scheme was not selective, and all undertakings covered by the law do not constitute state aid (ibid). After the EC referred the case to the European Court of Justice (ECJ) in 2016, the judgment was re-reversed:

[4] For example, if a corporation has a branch presence in any given jurisdiction, it is in principle taxable in that jurisdiction.

> "The court states that the only relevant criterion in order to establish the selectivity of a national tax measure consists in determining whether that measure is such as to favor certain undertakings over other undertakings which, in the light of the objective pursued by the general tax system concerned, are in a comparable factual and legal situation and who accordingly suffer different treatment that can, in essence, be classified as discriminatory" (ECJ, 2016).

In other words, irrespective of the form the measure takes, it can still be under scrutiny for selectivity if it places certain undertakings in a more favorable position than others. The actions brought forth by MNCs impacted by the ruling (e.g. Banco Santander, World Duty Free Group) were thus deemed null and void as the Commission and ECJ both contested the compatibility of these measures with state aid (ECJ 2016). A comprehensive case-by-case treatment of state aid measures is therefore required to overcome the varying institutional interpretations of national tax measures, but it nevertheless indicates a deeper challenge at the core of the EU's institutional structure.

2.2.3. Mandate and legitimacy: A 'democratic deficit' in the EU?

In recent decades, the growth of EU policy-making and transfer of policy competences from nation states to European institutions has raised concerns over representation and democratic accountability. Jacques Delors (1996), one of the most notable presidents of the Commission, noted that European citizenship is strongly associated with the weakening of democracy in member states, a weakening which "is worsened by the widening distance between the governed and their governments" (ibid). Although certain scholars contend that continued integration is strengthening member states by saddling the EU with a wide array of policy responsibilities (Milward 1992), others argue enhanced power has accrued to insulated executives (Moravcsik 1994), raising concerns over a *democratic deficit* and implications for legitimacy. However, Delors had not considered that the widening gap between European nationals and their governments may also apply to EU institutions, particularly as the EU moves away from a purely administrative role towards a supranational form of governance (Banchoff & Smith 1999).

A key development in the institutional history of the EC is the emergence of *committee-style governance*, or the consultation by small and insulated groups at different layers of government (Rhinard 2002). Entrenched in EC governance since the 1960s, this communal system covers an increasingly wider array of issues (environmental policy, consumer protection, antitrust laws, etc.) and frequently substitute for the role of formal coordination mechanisms, which are otherwise sparse (ibid). Although committees have proven an effective means of problem-solving, there has been mounting criticism over this model as prioritizing a technocratic style of governance "at the expense of democratic mechanisms which secure legitimacy and sustain public consent" (ibid: 188). Committee discussions also account for public interest considerations, but this has been attributed to factors from socialization to external pressure by Member States (Joerges & Vos 1999). Moravcsik (2002) claims that solving the problem of tax harmonization cannot be achieved by changing the constitutional structure of the EU when several governments remain deeply opposed. While conflicts of interest will not disappear entirely due to committee governance or institutional reform, such a form of governance might be legitimate by encouraging accountability "not through direct participation in majoritarian decision-making, but instead through complex systems of indirect representation, selection of representatives, professional socialization [and] *ex post* review" (ibid: 613). Majone (1998) outlines the 'illusion' of policy intelligibility of these committees as follows:

> "In fact, comitology committees exhibit the ironic trait of having too many rules, thus repelling both EU scholars and practitioners alike. This situation hides the actual implementation and rule-making authority of comitology behind a veil of complex rules and procedures. For comitology committees, as well as Council groups and Commission advisory committees, the system appears to be declining in comprehensibility as quickly as it is increasing in legislative importance." (Majone 1998: 200)

Another feature of the EC's democratic deficit which has become more pronounced in recent years is the lack of an *electoral mandate*. Commissioners are not directly (or even indirectly) elected, raising concerns over the EC's institutional accountability (Bogdanor 2007). Although some contend that this is offset by the Commission's legislative mandate and very minimal autonomous decision-making power, it is hardly surprising that the EC is still viewed by some as a remote institution (ibid).

3. Literature review

By investigating policy outcomes in the EU corporate tax field and competing professions in the CCCTB, this thesis aims to deconstruct and strengthen existing social science and IPE literature on tax governance and the complementary role of transnational communities in shaping existing (and emergent) institutional networks and structures. Although there is a broad literature from new institutionalist views, professionals are only recently gaining prominence in the policy arena as vessels of knowledge and expertise operating in conjunction with other actors in global tax ecologies, instead of instruments of institutions and states. Therefore, our thesis seeks to explain the CCCTB and explore potential paths for reform in the context of the interaction between composite actors from the EU tax arena (*actor-centered institutionalism*), and the attributes of professionals involved in drafting and influencing the tax reform proposal (*linked ecologies*). This section introduces and reviews the core literature on EU-wide tax governance through an elaboration of key terminology in corporate taxation, followed by an outline of the actors involved in tax policy and their role in shaping the European tax ecology. Finally, we introduce the wider literature on international corporate taxation and offshore tax havens, which partly overlaps with our discussion yet remains outside our core focus for EU reforms.

3.1. Corporate taxation in the EU

In the context of increased scrutiny from government and regulatory stakeholders, a dramatic rise in legal compliance obligations, and growing differences between national and EU-level regulation, reforming the EU's corporate tax regime has risen to the top of the political agenda. Tax regimes can influence any given country's economy, from ensuring stable public finances to a fair distribution of income (EC 2015). This section will review the literature on the EU tax regime, including institutional and professional influences.

3.1.1. The post-crisis EU corporate tax system

The financial crisis of 2008 raised many concerns around the sustainability of the European taxation system. Governments experienced a surge in deficits (with the EU-wide deficit peaking at 6.8% of GDP in 2009), leading to increased calls for fiscal reform in conjunction with the EU 2020 strategy for inclusive growth and employment. Tax literature experienced a surge of its own, with heightened focus on divergence of interests in member states (Hemmelgarn & Nicodème 2010; Lloyd 2012; Kudla 2015) and the role of taxation initiatives in spurring the financial crisis (Giamparachi 2012; Eugenia-Ramona 2012; Egidijus & Lina 2016). After the crisis, the EC recognized the need to strike a delicate balance between member states' fiscal self-determination and implementing a more effective mechanism to protect tax revenue (EC 2009). Meeting in Council in 2008, the

EU's Finance Ministers called for *good governance* in the Single Market, which they defined broadly to mean "the principles of transparency, exchange of information and fair tax competition" (ibid: 3). Prammer (2011) suggests some tax regimes are more conducive to growth than others, and that Member States' varying levels of reliance on consumption and environmental/property taxation reflects the need for EU-level cooperation on tax good governance. The EC argues that good governance in the EU tax environment should reflect Member States' own policies - both internally and in treaties with third countries - and act as a precursor for global tax governance:

> "...having full regard to the principle of subsidiarity, there is a need to ensure more coherence between member states' individual positions in the international tax arena, and the agreed good governance principles, such as in bilateral tax treaties with third countries and in international fora. This requires a greater degree of coordination at EU level so as to ensure that the momentum towards a more open and constructive tax cooperation continues at the global level." (EC 2009: 11-12)

Tax coordination (and harmonisation) has become a key feature of proposed EU-level reforms since 2009. Economic literature on tax coordination has tackled themes such as potential gains from developing a new cooperative framework (Brøchner et al. 2007; Rixen & Schwartz 2012), the strengths and weaknesses of existing institutional arrangements (Aujean 2010), and the principle of subsidiarity in EU versus national policy-making (Gelauff et al. 2008). In some sectors (e.g. energy or environment), tax and administrative coordination not only contributes to preventing tax competition, but also leads to social returns; enhanced efforts on Value Added Taxes (VAT) could also tackle tax fraud through 'carousel trading' - in which VAT and goods shift between jurisdictions and corporations - and generate welfare gains (Prammer 2011). The EC pointedly notes that the "difficulties currently faced in the EU Single Market specifically have arisen as a result of a fragmented and changing tax landscape" (EC 2015: 74). Although unilateral initiatives can lead to short-run gains through competitiveness effects, tackling EU-wide tax issues in the long run will require a coordinated approach.

Total tax revenue as a percentage of GDP, including indirect taxes, direct taxes, and social security contributions, has increased across EU member states since 2011. The trend of falling statutory CIT rates has slowed, a result of two competing trends in the design of tax legislation: states are narrowing their tax base to encourage investment (or reducing general tax rates altogether) or broadening their tax base to curb avoidance by repealing ineffective tax incentives (EC 2015). However, post-crisis debates around corporate tax reform in the EU are broader than simply choosing to raise or lower CITs, also exploring the benefits and drawbacks of corporate tax consolidation (Devereux & Fuest 2010), greater fiscal unification (Pirvu 2012), and the effects on foreign direct investment (FDI) (Blechová 2016). Additionally, in recent years, reforming the EU corporate tax system has emphasized transparency and accountability (e.g. overhaul of special provisions in specific tax regimes), declaring a need to amend corporate residency rules allowing some profit shifting tax schemes to continue. The extensive literature on the EU's corporate tax system has continued to grow in recent years, due in part to the OECD's introduction of a framework to address corporate tax avoidance: the Base Erosion and Profit Shifting (BEPS) action plan.

3.1.2. The OECD's Base Erosion and Profit Shifting (BEPS) Project

The increased interaction of domestic tax systems has shed light on the phenomenon of *double taxation*, or the imposition "of similar taxes in two or more states on the same taxpayer in respect to the same base" (UN 2001: vi). Given that double taxation discriminates between taxpayers and stymies trade, investment, and technological transfer, many global agreements have been made in order to curb it (ibid). The Independent Commission for the Reform of International Corporate Taxation, or ICRICT (2018), argues that these agreements have been mostly unsuccessful in preventing tax base erosion or taxing companies where substantive economic activities take place. To reform the EU's regulatory architecture, the OECD's 2013 *Base Erosion and Profit Shifting* (BEPS) package addresses important issues regarding the effectiveness of anti-tax avoidance measures through a detailed 15-point action plan, each with several corresponding initiatives in the EU (OECD 2015). Literature on BEPS has underlined the implications for transfer pricing (Henshall 2016; Collier & Andrus 2017), hybrid financial instruments (Bundgaard 2017), global tax governance (Zhu 2016), and the effect of institutionalising anti-avoidance measures in the EU (Devereux & Vella 2014; Scheffler & Herttrich 2016). Our thesis primarily focuses on the latter, and how BEPS has paved the way for the re-launch of the CCCTB and the rise of unilateral measures imposed by member states.

In the past few years, the EU has moved forward on BEPS by proposing legislation in areas that overlap with the plan (e.g. requiring corporate transparency, sector-based public country-by-country reporting (CBCR), or an EU process for non-cooperative tax jurisdictions). The EC's investigation into Member States' ruling practices is not strictly in the bounds of the OECD's mandate, but the BEPS plan is nevertheless a large part of the increased institutional focus on enforcing tax compliance (Kalloe 2017). BEPS is extremely ambitious in scope, trying to change legislative and administrative laws in Member States on an incremental basis. At the 2015 G20 Summit in Antalya (Turkey), the BEPS Inclusive Framework was developed to create and monitor the implementation of four "*minimum standards*"[5] in the following areas: harmful tax practices (action 5), treaty abuse (action 6), country-by-country reporting (action 13), and dispute resolution mechanisms (action 14). The framework also created a mechanism where countries can scrutinise other states' implementation of these standards, which the EC is encouraging through many EU-level initiatives (*see table 3.1*).

[5] These are 'minimum standards' since they are the four action items which received unanimous agreement by Member States.

OECD Action Plan on BEPS - action items	Corresponding EU initiatives
Action 5 Counter harmful tax practices more effectively, taking into account transparency and substance	EU Code of Conduct (CoC) - review of third-country regimes EC State aid investigations - ruling practices EU Mutual Assistance Directive - automatic exchange of information on cross-border rulings EC external strategy initiative to blacklist third countries based on lack of good tax governance principles
Action 6 Prevent treaty abuse	EU Parent-Subsidiary Directive - General Anti-Abuse Rule (GAAR) EU Interest and Royalty Directive - GAAR EU ATA Directive - GAAR EU member states opting in Multilateral Instrument's principal purpose test EC recommendation on tax treaty abuse
Action 13 Re-examine transfer pricing documentation	EU Accounting Directive - public disclosure of CbyC reports by companies in the extractive industry EU Capital Requirement Directive - public disclosure of CbyC reports by banks; EC consultation EU Mutual Assistance Directive - includes CbyC report template and exchange EU Accounting Directive - proposal for public disclosure of CbyC reports by all international companies
Action 14 Make dispute resolution mechanisms more effective	EU political agreement, on 21 May 2017, on an EU directive improving mechanisms for resolving double taxation disputes between member states, requiring dispute resolution mechanisms to be mandatory and binding, with clear time limits and an obligation to reach results

Table 3.1 - The four "minimum standards" of BEPS (Kalloe 2017)

In a statement from 2015, the EC says that although its initiatives are aligned with the BEPS reforms, they are nevertheless "shaped to meet the EU's own particular challenges and needs" (EC 2015), suggesting more tax complexity. Kalloe (2017) acknowledges that the interpretation and implementation of BEPS standards vary across EU member states, as "most European countries have committed to follow the OECD's recommendations in principle [yet] unilateral action taken to date suggests more 'shaping' of the proposals will occur among individual countries" (ibid: 5).[6]

BEPS has also accumulated its fair share of criticism. Alex Cobham from the Tax Justice Network (TJN), an advocacy group concerned with international tax avoidance and evasion issues, claims that BEPS has "failed to rescue international tax rules by somehow making the arm's length principle into a coherent, working approach; and failed to defuse the tensions over tax abuses, even among its own member states" (Tax Justice Network 2016). The lack of interstate coordination only worsens these problems, inciting the EU to instead pursue its own agenda (ibid). Vinod Kalloe, the Head of International Tax Policy for KPMG Netherlands, argues EU

[6] Opinions differ. The passage of the Tax Cuts and Jobs Act (TCJA) in the United States in 2017, which lowered the federal statutory corporate tax rate to 21%, was called a "triumph" of BEPS since it included several principles from the OECD package (Avi-Yonah 2017). But in other respects, the TCJA enforced several anti-BEPS provisions - like the territorial dividend participation exemption (Neubig 2018) - reflecting the difficulty of evaluating any unilateral actions by countries and their positive/negative effects on tax harmonization.

countries have diverging levels of commitment to the project, and that unilateral implementation of certain elements from the OECD package by some member states might undermine its intended aims (Kalloe 2017). Companies are concerned BEPS rules may herald double taxation, a rise in cross-border tax controversies, or increased operational risk from less time spent on financial reporting or tax planning, and more on basic compliance (Stanley-Smith 2016).

3.1.3. Revolving doors and policy influence: Regulatory capture or knowledge-sharing?

The literature on professional involvement in the EU policy-making process has also grown in recent years. The capacity of IOs to be independent of governments, for instance, is largely determined by the autonomy of international bureaucracies - and national civil servants - to act independently of Member States mandates (Cox et al. 1973; Barnett & Finnemore 1999; Trondal et al. 2014). A mechanism frequently invoked to explain the conditions under which the autonomy of national officials may become compromised is the '*revolving doors*' phenomenon, understood as the movement between legislators/regulators to members of industry, organically and "when they expect rewards in the form of future industry employment" (Dal Bó 2006: 203). Analysis of the revolving doors phenomenon underscores the risks of regulatory capture, a concept which refers to the extent to which state intervention and the agenda-setting process are affected by special interests in diverse areas like fiscal/monetary policy or taxation (Trondal et al. 2014). In the EU tax environment, the strategic career moves of professionals between the public and private sector have been interpreted by some as regulatory capture, whereby businesses and elites are viewed as 'capturing' regulation to their benefit (Johnson 1983; Baker 2010; Brezis & Cariolle 2015). Others argue instead that revolving doors are not a capture mechanism, representing instead a way for professionals to gain status and prestige rather than arrest meaningful legislation (Christensen 2016; Kempf 2016).

Baker (2010) argues that revolving doors led to the 'colonization' of certain regulatory agencies and incentive structures, distorting the incentives of regulators by encouraging compliance with industry wishes "through implicit promises of lucrative future careers in the regulated industry" (ibid: 652). This is more than just a form of regulatory capture, since it has come to dominate both intellectual and cognitive thinking in the financial policy-making community at large. As will be later illustrated in terms of the CCCTB (*see section 7.2*), expertise is playing an increasingly important role in EU tax policy-making, and the complex linkages across tax expert groups underpins the necessity to compromise on legislation. Examples of rules being 'written' by tax lobbyists abound. For instance, the case of a former Commissioner-turned-lobbyist, Algirdas Šemeta, went to the EC's ad hoc ethical committee, which in turn took four days to deliver a verdict that the special benefits confirmed by Mr. Šemeta's confirmation to become Ukrainian Business Ombudsman would not run counter to EC practices (Corporate Europe Observatory 2014). News that the UK's former chief tax collector, Dave Hartnett, had been hired by Deloitte was considered a worrying trend of private companies seeking influence in the policy process, but also an indication that the advantages conferred by revolving doors continue to increase as "the division between public administration and private enterprise is blurred by public-private partnerships and outsourcing" (Gapper 2013).

Yet, though regulators coming from industry are widely viewed as predisposed to pro-industry decisions from their socialization in an industry environment, this is not necessarily a given. Namely, the argument that revolving doors are a distorting variable over the economy and behaviour is not shared by everyone. Zheng (2015) adopts a human capital view that if professionals are hired primarily for their expertise in a given field, they will have more incentive to invest in industry qualifications and therefore signal their value: "According to this 'human capital' theory, when industry-employers could not perfectly observe regulators' human capital, revolving-door regulators would want to be more aggressive, not less aggressive, in their enforcement actions as a way of signaling their qualifications to industry employers" (ibid: 1268). There are several examples of this in financial services and tax. Cohen (1986) finds that private law firms often hire regulators who are less supportive of the industry, as accepting the position would encourage enforcement. Lucca et al. (2014) also concludes that higher gross worker outflows from the regulatory sector to the private sector may lead to higher enforcement activity. In terms of the CCCTB, private sector expertise is crucial, since it underpins key policy arguments and influences external perspectives through consultations/discussions which span from compliance practices and anti-abuse rules to tax treaties (PwC 2011). Although the 'human capital' view is that revolving doors can have positive effects, it is not necessarily mutually exclusive with the regulatory capture argument; experts may be conditioned by their socialization, yet less supportive of industry as a means of signaling their expertise.

3.2. Actors in EU corporate tax governance

To analyze the theoretico-practical implications of the EU corporate tax framework, we adopt an actor-oriented approach to potential reforms, outlining the key stakeholders involved in governing EU tax policy. Each actor (institutions, member states, and professionals) will be introduced in terms of their corresponding theoretical approaches in IPE literature and role in shaping supranational tax policies and structures.

3.2.1. European institutions

A frequent response to which actor governs international tax laws comes from the institutionalist strand of IPE, which is concerned with explaining how *institutions* and their evolutionary process affects economic behavior. Tax literature is invariably connected to institutionalist perspectives, according to which various institutional structures are responsible for rule-setting and shaping the context in which actors define their interests (Steinmo & Tolbert 1998; Hall & Taylor 1996). For instance, scholars in tax agree that states aim to expand their resources but are constrained by public resistance to tax increases. As Levi (1998) tells us, "rulers are predatory in the sense that they are revenue maximizers" (p. 3). In other words, the variation in tax policy is the result of the different institutional structures (e.g. autonomy, trust) that elites must work through. In the case of European-wide tax governance, the main institution responsible for proposing and implementing legislation - upholding treaties between member states - is the EC. The EC tax policy framework exhibits many of the features described above, but also places a constraint on national policies when required (OECD 1998). For example, the EC's initially stated priority was to eliminate tax obstacles to cross-border economic activity, including by fighting harmful tax practices (e.g. providing tax incentives for activities isolated from the domestic economy, granting tax advantages in the absence of economic activity, or lack of transparency) (ibid).

European institutions have been studied through several perspectives in IPE, with different interpretations of their function and influence in setting the EU agenda. We outline three perspectives: historical institutionalism, orchestration, and new institutionalism.

Historical institutionalists (HI) argue that historical events influence institutions through a path dependent dynamic, where certain institutional structures, behaviors, and outcomes are self-reinforcing (Hall 2003; Pierson and Skocpol 2002; Immergut 2006). In the HI framework, the interests of actors are determined by institutional forces, which lays the foundation for global rule-setting. The concept of "path dependency" also allows HI theorists to generate propositions around institutional (in)stability, given that "formal [path dependency] asserts that institutional reproduction is a function of the ways that those successor institutional mechanisms shape actors' interests" (Schwartz 2004: 1). The HI framework can also be used to explain variations in tax policies across states, which can result from a state's economic (labor) or political (constitutional/electoral) institutional structures shaping policymaking (Steinmo & Tolbert 1998). Steinmo (1993) uses this framework to compare the tax systems in Britain, Sweden, and the United States to illustrate how certain structures (e.g. fragmentation of political authority in the US, non-majoritarian political institutions in Sweden) can determine the effectiveness or stability of any given system.

Literature on *orchestration* builds on institutionalist theory by underscoring the importance of interaction between a wide range of actors. International organizations (IOs) and other actors engage in orchestration when they provide intermediary actors with ideational and/or material support to pursue governance goals (Abbott et al. 2014; Abbott & Snidal 2010; Verbruggen 2013). Orchestration scholars explore these 'soft' governance mechanisms applied by IOs, which create a form of indirect governance that allows the multi-actor systems to achieve shared goals which "neither orchestrators nor intermediaries could achieve on their own" (ibid: 4). In tax regimes, soft laws drafted by IOs like the OECD have often been important and incremental steps to reform (e.g. the BEPS project), and a key reason for the centrality of such organizations in global tax governance.

Old institutionalism discussed the role of influence, coalitions, power distribution, and coalitions in the context of the state and society, largely conceiving of organizations as adaptive systems embedded in (and responsive to) institutional or societal influences (Clark 1960, 1972; Selznick 1984). This contrasts with *new institutionalism*, which focuses instead on issues related to organizational embeddedness or legitimacy in a social context and gives priority to cognitive and cultural mechanisms of institutionalization (DiMaggio & Powell 1983; Meyer & Rowan 1977; Zucker 1977). New institutionalism places cognition over values and moral frames, and it pertains to organizations-in-sectors rather than the individual organization. The new institutionalist literature shares HI's path dependent outlook to institutional arrangements, given that it "encompasses any kind of sustained, reproduced social practice that may be relevant to organizations, including taken-for-granted practices, norms and values" (Djelic & Quack 2008).

3.2.2. National tax authorities

Another response to the issue of international tax governance comes from realists, who contend that *states* determine tax rules through bargaining in an anarchic and zero-sum framework (Keohane 1986; Grieco 1988; Krasner 1976). Realism has been a dominant force in tax literature, in part because of the role of taxation in reinforcing democracy through the creation of a fiscal contract between people and the state. According to Waltz (1988) - and in line with realist understanding of tax policy - causal forces only move in one direction, "from the interactions of individuals and states to the outcomes that their acts and interactions produce" (p. 616). As new international tax regimes emerge, realists attribute their spread to bargaining by industrialized nations and blocs, but also a shifting balance of power between states (Gilpin 1987; Krasner 1976). In *The False Promise of International Institutions*, Mearsheimer (1995) develops this argument, arguing that institutional structures are merely 'intervening variables' in the global distribution of power:

> "However, [realists] believe that those rules reflect state calculations of self-interest based primarily on the international distribution of power. The most powerful states in the system create and shape institutions so that they can maintain their share of world power, or even increase it." (Mearsheimer 1995: 13)

Therefore, although states *could* operate through institutions under a realist framework, institutions do not impose a check on power imbalances, but instead mirror the existing distribution of power (Mearsheimer 1995; Waltz 1993). Yet, realism's key shortcoming lies in its neglect of the role that non-state actors play in global tax governance. Although rule-making has historically been bilateral (hard laws created through intergovernmental negotiation), recent decades are characterized by multilateral action and soft laws through target-setting (Hall

& Biersteker 2002; Keck & Sikkink 1998). IOs, businesses, advocacy groups, and non-governmental organizations (NGOs) all influence the policy-making agenda, thereby removing power from traditional sources of authority: states.

At the opposite extreme, institutionalists suggest that including additional actors in the bargaining process (labor, business) creates a cohesive tax policy framework, highlighting the role of consensus in building a regime's legitimacy (Garrett & Lange 1987; Korpi & Shalev 1979). EU scholarship has long been divided between *intergovernmentalism*, which postulates that Member States are the ultimate decision-makers and thus define the limits of integration, and *neofunctionalism*, which studies the integration process (spillover effects) and attributes an independent role to supranational institutions (Corbey 1995; Tsebelis & Garrett 2001; Hooghe & Marks 2009; Stone Sweet & Brunell 2012). Recently, the school of *rational choice institutionalism* has been employed in EU literature in the form of principal-agent (PA) analysis to denote why Member States (the principal) have given supranational institutions (the agent) a mandate for independent action (Garrett 1992; Bearce 2003). Moravcsik (1999) expands on PA analysis with his theory of liberal intergovernmentalism, arguing in *The Choice for Europe* that supranational influence is possible under two conditions, when "national governments face high ex-ante transaction costs and significant informational (or ideational) asymmetries favour supranational entrepreneurs" (ibid: 173).

Finally, a concept in IR theory which can also exemplify this realist/institutionalist divide is *sovereignty*, or the self-determination (fiscal, political, administrative) of states. Constructivists argue that the importance of global norms can explain the behavior of states, in both a global and domestic sphere (Checkel 1997; Finnemore & Sikkink 1998). Moreover, Keck & Sikkink (1998) claim that the standards used to determine appropriate behavior for states have become global norms through the efforts of policy entrepreneurs like advocacy groups and NGOs. Dietsch (2015) has condemned global tax regimes as unjust because they limit the fiscal sovereignty of states, making the distinction between effective (*de facto*) sovereignty and formal (*de jure*) sovereignty: respectively, the ability to achieve policy through legislation versus the right to draft and enforce laws. In the realm of tax governance, Dietsch (2011) outlines a sovereignty spectrum for practical purposes:

> "The spectrum ranges from what has been called 'sovereignty-preserving cooperation' on the one hand to a world tax authority with substantial powers on the other. In the middle, and this is where, realistically, tax cooperation will be situated in the near future, we find what one might call 'sovereignty-compromising cooperation' [which] requires states to give up some of their fiscal sovereignty, but stops well short of establishing a supranational institution" (Dietsch 2011: 2108).

Dietsch draws on a global conception of justice which require that states be given effective fiscal sovereignty to achieve domestic distributive justice (Rawls 1999; Ronzoni 2009). The proposed reforms within BEPS - which aim to give Member States a toolkit for effective sovereign tax policies, create a level playing field between international and domestic corporations, and correct trade and investment distortions - are largely informed by the principle of *economic allegiance* which requires that people and corporations pay taxes in areas where they are economically active (OECD 2013). Drawing on Dietsch's analysis, van Apeldoorn (2016) emphasizes there is an inherent tension in the OECD's initiative on the economic allegiance principle, as it fails to protect states from tax competition - undermining their capacity for domestic redistribution - and is anathema to guaranteeing justice in the realm of fiscal policy (ibid: 16-17). Van Apeldoorn also argues that literature on global tax justice overwhelmingly demands targeted regulation of state action, yet proposals of an institutional mechanism to ensure this are far less prevalent.

3.2.3. Communities and professionals

Despite the strong insights of realism and institutionalism to define the field of actors and their respective roles, the political economy of corporate tax governance is not solely comprised of states and institutional actors. Many non-state actors (advocacy groups, NGOs) can also play an important role in tax governance by shaping the norms, culture, and ideas that dictate laws and regulations.

Scholarship on networks of expertise has distinguished between *epistemic communities* and *professionals*. Haas (1992) refers to epistemic communities in terms of international policy coordination, defining them as a network of professionals with domain-specific expertise, knowledge, and policy authority (ibid). Epistemic communities are characterized by a set of shared normative and causal beliefs, intersubjectively defined notions of validity, and "a common policy enterprise - that is, a common set of practices associated with a set of problems to which their professional competence is directed, presumably out of the conviction that human welfare will be enhanced as a consequence" (ibid: 3). Abbott (1988) distinguishes professionals as individual actors bound by specialized knowledge for whom long-term control over knowledge is crucial, but policy output and legislative outcomes are less important. Engaging in discussion with other professionals and issue areas therefore takes precedence over meeting immediate policy demands (ibid).

Barnett & Finnemore (1999) expand on the Weberian concept of *bureaucracies*, which create global rules and create social knowledge by agreeing on a set of shared tasks, create/redefine new actor categories and interests, and transfer political models e.g. markets or democracy (ibid). International bureaucracies refer to IOs whose rational-legal authority exists independent of the states that created them: "[IOs] create actors, specify responsibilities and authority among them, and define the work these actors should do, giving it meaning and normative value" (ibid: 700). This challenges the statist ontology of prevailing international relations theories like neoliberal institutionalism or regime theory (Krasner 1976; Keohane 1986; Waltz 1993) which interpret IOs as mechanisms through which other actors act (e.g. states), instead of independent agents. Literature on bureaucracies is pertinent to study global tax governance, as it finds that the OECD's institutionalization of practices through e.g. recording economic activity (Sharman 2012), the effects of its organizational culture on professional orientation (Porter & Webb 2007), and its bureaucratic nature (Eccleston & Woodward 2014) have all contributed to policy progress. The EC, which participates in several different IOs and fora (OECD, G20), illustrates the multifaceted nature of international rule-making as it goes beyond the confines of formal IOs.

3.3. Additional literature on tax governance

Although our thesis is primarily concerned with corporate tax in a supranational context, other categories in tax governance literature also overlap with our analysis, namely global tax governance and offshore tax havens and avoidance schemes.

In discussions of international tax governance, the concept of a *regime* if often employed to refer to institutional structures which give rise to prevalent rules and norms. The main focus of the global tax regime in the early 20th century was mitigating double taxation for states to benefit from economic liberalization, although today under-taxation (tax competition, evasion, and avoidance) has risen to the top of the agenda. Rixen (2011) argues the global tax regime's weaknesses have not been adequately addressed, and that actors instead have "mitigated some forms of under-taxation through indirect and incremental institutional reforms" (ibid: 198). The literature on international tax governance covers themes like administrative cooperation (Aucejo 2017; Lessambo 2015), state sovereignty (Biswas 2002; Martens & Jakobi 2010; Eccleston 2012; Vlcek 2017), and the self-replicating nature of some institutional structures (Armstrong et al. 2015; Rixen 2011). In the context of EU corporate tax, tax regimes refer to the alignment of rules that apply to all member states, namely the calculation methodology used by states or the institutional definition of certain terms (e.g. consolidation). International tax governance considerations can also overlap with work on tax professionals due to the role of certain expert groups - lawyers, accountants, economists - in configuring institutional rules and customs.

In recent years, revelations over corporate tax avoidance and money laundering schemes (e.g. LuxLeaks, Panama Papers) have rekindled public interest in tax havens and capital held offshore. Many firms use offshore subsidiary companies to exhibit high profit for investors and low (or even negative) profit to tax authorities, creating tax avoidance problems and weakening the overall legitimacy of the tax system; this creates spillover effects to other features of the tax code, such as compliance (Rawlings & Braithwaite 2003). Offshore finance has managed to escape international tax governance and state control, and today threatens to undermine the welfare state and democracies' ability to set rates independently (Avi-Yonah 2000). Existing literature on tax havens and the "offshore world" explores themes such as economic development and the commercialization of state sovereignty (Picciotto 1992; Palan 2003), risks to the existing financial system (Sharman 2010), and the rise of transnational regulatory networks and IOs (Slaughter 2004; Barnett & Finnemore 1999). There is a risk of overemphasizing the role of powerful states in setting global standards, as some scholars have done (Krasner 1991; Drezner 2008), due to the difficulty of states to exercise authority or influence over corporate tax schemes and offshore finance.

4. Methodology

Our thesis aims to analyze and deconstruct the interaction of professionals and policy around the CCCTB through an ecological and institutionalist perspective. In order to uncover the underlying mechanisms that give rise to corporate tax avoidance and harmful tax practices in the EU, our approach lends weight to the cognitive and normative features of professional competition around supranational agenda-setting, but our analysis is nonetheless rooted in policy content. Our methodology is centered on *critical realism*, which we operationalize in our research design through phenomenological research (semi-structured interviews and direct observation) and causal-comparative research (a heuristic case study). This mixed framework allows us to explore policy development and professional practices in conjunction and analyze the evolution of the existing EU corporate tax system, making recommendations for future policy content. In this section, we present the methodological origins of critical realism, and justify our methods, research design, and applications/limitations in the context of our chosen topic.

4.1. Choice of methodology

This section delves into the historical and ideological origins of critical realism, namely its two preceding philosophies of social science (naturalism and constructivism) in terms of their potential applicability to policy content analysis.

4.1.1. Methodological origins

Modern social science has long been dominated by *naturalism* (empiricism), a methodology attempting to discover and explain trends and patterns assumed to exist in nature (Moses & Knutsen 2012). Naturalists rely on knowledge generated through either observation or direct experience and make use of logic and reason in their approach to the reliability of knowledge produced (ibid). According to Bhaskar (1979), dominant naturalist tradition conceives of philosophy of social science as "consisting essentially in the registration of (or refutation of claims about) empirical invariances between discrete events, states of affairs and the like" (ibid: 18-19). In other words, there is a "real world" which exists independently of human presence and can be communicated or experienced directly through observation. Danermark et al. (2002) argue that the nature of experimentation, and that of human experience, results from a fundamental desire for *practical relevance* -- or, in other words, an understanding of knowledge as a central variable to explain our surroundings:

> "When the world in different ways makes our wishes, ambitions or expectations come to naught, we feel that we need to know something else or more about how the world functions, more about the reasons why our expectations are not fulfilled

> or why our actions have unwanted consequences. If we understood this better, we could try to take measures in order to be more successful. Knowledge, including that of science, can be seen as one instrument among others to help us deal with reality in a practical way." (Danermark et al. 2002: 24)

Therefore, if knowledge is an instrument, then its validity is derived by its usefulness in a practical setting (e.g. observation, experimentation). There are nevertheless many limitations to naturalist methodology. For instance, Immanuel Kant (1724-1804) shifted the ontological terrain from nature to the human mind by arguing that humans impose specific patterns on their social environment, and the "real world" therefore cannot be understood objectively. Other critiques of naturalism follow a similar line of reasoning: Nassim Taleb (2007) invokes the example of black swans to denote low-probability, high-impact events, claiming that ordinary experienced events are becoming more and more inconsequential. Taleb claims that the predominance of black swans demonstrates the reflexive and creative nature of human interaction with our social environment (ibid: xviii). Critics of materialism do not deny that nature can exhibit several law-like patterns, but instead argue that the social world should not be treated in the same manner since it is shaped in large part by human agency and activity.

These criticisms are largely reflected in *constructivism* (interpretivism). Constructivists claim that a gap separates the natural and social worlds, and that the observer plays a crucial role in constructing social patterns (Flyvbjerg 2001). Their adherents are not concerned with uncovering a 'common structure' for scientific explanations or the mix of objective human experience, but in mapping the different forms and origins of explanations (Moses & Knutsen 2012: 172). Through a more extensive set of epistemological tools (like authority or empathy), constructivists can employ more explanatory principles in the process of detecting patterns: for instance, the behavior of humans, explained not only in terms of their adaptation or function in their respective environments, but through other principles like meaning or interest (ibid). Yet, constructivism is not without its critics. Danermark et al. (2002) argue constructivism overemphasizes the transitive dimension of social science, making the point that certain statements about reality can be more truthful than others since knowledge is "a socially produced reality, not just a socially defined one" (ibid: 200). Post-structuralists like Foucault take an even more radical position, pointing out that even the most basic categories (e.g. male/female) are a social construct, reflecting the invariable relationship between knowledge and power (Mingers 2006). Finally, constructivism has been dismissed by an emergent faction of social scientists known as critical realists, who have objected to their denial of a world independent of human thought and perception (ibid: 15).

The study of professionals and policy in the EU corporate tax environment would seem to warrant a naturalist approach. Empirical foundations are reflected by the use of falsification to dispute policy content, or predictive capacity in the anticipation of long-term effectiveness of existing policy and/or upcoming reforms, like the CCCTB. Observational or experienced statements can be tested in accordance with these principles to come to a conception of 'truth' for any given issue (e.g. if Commission reports outline some failures of existing EU policy, it can be expected that future reforms will incorporate attempts at solving these failures). Many issues with adopting naturalism emerge in the study of professionals, since disparate perspectives of the observers in question (reflected by varying careers and experiences) can create an inconsistent and erratic analysis. On the other hand, constructivism allows researchers to understand this observational gap by accounting for bias and potentially value-laden statements. Through a set of interviews conducted between professionals in the public, private, and academic sectors, our case study can make sense of statements that may reflect social facts alone. In order to avoid treating tax ecologies as purely empirically or ideationally determined (and because both philosophies have strengths and limits in the research and investigative stages), this report instead employs an alternative philosophy to analyze the EU corporate tax arena: critical realism.

4.1.2. A new framework: Critical realism

Due to the wide array of positions in the naturalist and constructivist frameworks, both methodologies can be viewed as existing on opposite ends of an ideological spectrum. *Critical realism* (or scientific realism) strikes a balance between the two prior methodologies but comes closest to naturalism in its recognition of a real world independent of human observation or experience. While critical realists believe that truths are best uncovered through naturalist approaches (Wendt 1999), they also believe that gaining access to social reality is complicated, a realization shared with constructivists. Bhaskar (1979) coined the term 'critical realism' to provide an account of science "under which the proper and more or less specific methods of both the natural and social sciences can fall" (ibid: 3). Critical realists explore facets of philosophy of science (transcendental realism) and human sciences (critical materialism), recognizing that the patterns in our social reality are fixed but may be concealed under several ontological layers (Moses & Knutsen 2012). One the one hand, critical realism aims to establish that there exists an independent world of causal objectives or structures which generates events which "do and do not occur" (Mingers 2006: 19) and that human knowledge is not objectively pure or truthful but relative to our environment and culture. On the other hand, critical realism also postulates that the same process of science is applicable to the natural and social domain, but the inherent limitations of the social world (e.g. measuring social facts) can complicate this process (ibid; Bhaskar 1979).

The foundation of critical realism rests on a twofold conviction: that reality is composed of *causal mechanisms* that cause observable events to occur (and exist independently of human awareness), and that scientific methods remain the best way to better understand these mechanisms (Shapiro 2005). Although critical realism is used in the study of causal questions ruled out by interpretivist methodology, it does this "without dismissing behavior and subjective understanding as epiphenomenal or affirming a reductionist view that is impervious to the demands of evidence so characteristic of logicist ventures" (ibid: 9). In our thesis, we explore causal mechanisms like legitimacy, professional influence, and sovereignty as variables for the evolution of the EU corporate tax system and to assess the different levels of success of tax reform in individual Member States. Rather than delve into the CCCTB and preceding attempts at reform on a superficial level, we use these laws as a benchmark to investigate underlying reasons for stalled initiatives on behalf of each actor (e.g. EU institutions, governments, and non-state actors).

According to the notion of *transfactualism*, events can be explained beyond the empirically observable, through the process of uncovering underlying mechanisms which give rise to a phenomenon (Jackson 2010). Even though many phenomena are not quantifiable by any standard metric (e.g. structural inequality, poverty), they can still be responsible for producing and reproducing a set of legal/institutional structures through time. Fletcher (2017) introduces an iceberg metaphor (*see figure 4.1*) to depict a critical realist stratification of our social reality into three levels: the *empirical* where events are experienced and observed via human interpretation and frequently explained through 'common sense', the *actual* where events occur regardless of our experience of them, and the *real* where causal mechanisms or structures reside and produce empirical events (ibid; Danermark et al. 2002). And yet, all levels of the iceberg depicted below are nevertheless part of the same entity.

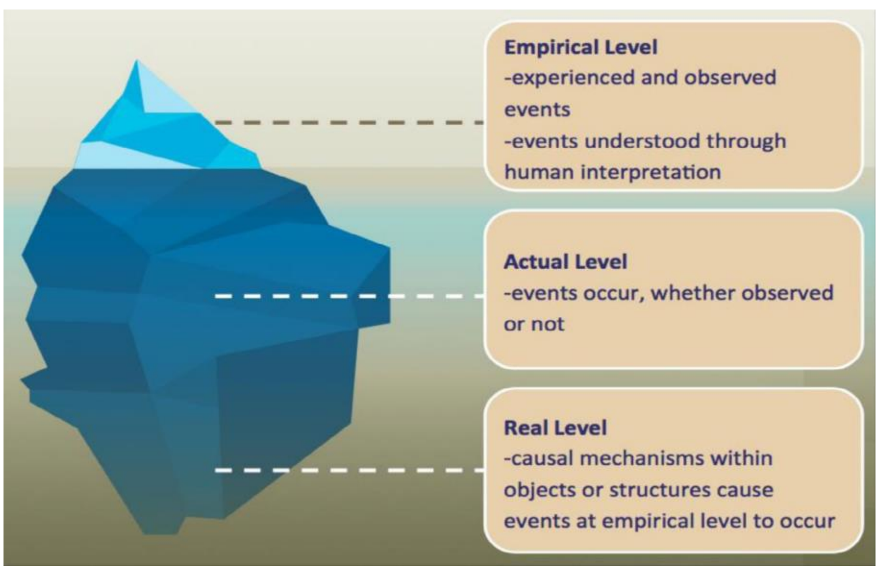


Figure 4.1 - The 'iceberg metaphor' for critical realist ontology (Fletcher 2017)

In social science research, the empirical level is just the tip of the iceberg: rather than engage in empirical description of a given problem or situation, critical realism allows us to analyze deep-rooted social issues, making recommendations for systemic (instead of superficial) change. However, the stratification of these levels does not imply a lack of interaction between them as causal mechanisms only exist "in virtue of the activities they govern and cannot be empirically identified independently of them" (Bhaskar 1979: 48). In social science literature, the causal advantages or liabilities of social structures are known as *potentialities* that benefit/constrain objects from acting in a certain way (Psillos 2007). In other words, conditions in our social reality (e.g. lack of transparency) can prevent or allow the actualization of a causal mechanism (e.g. economic reform), determining whether an event is observed and experienced at the empirical level (ibid; Fletcher 2017).

4.2. Methods

Our thesis operationalizes critical realist methodology using abduction and retroduction, two *modes of inference* that respectively allow us to draw hypotheses from general scientific patterns and uncover mechanisms at the real level which generate certain observable events in the EU tax ecology (e.g. falling CIT rates, transfer pricing reforms).

4.2.1. Abduction and retroduction

Conducting scientific methods per critical realist philosophy is contingent on several modes of inference (or thought operations): induction, deduction, and abduction. The first, *induction*, forms the basis of empirical extrapolation, referring to the process of drawing conclusions from a number of events or phenomena and generalizing them to a larger population (Danermark et al. 2002). Induction takes place at the empirical level (the tip of the iceberg), where knowledge derived from statistical samples or representative case studies allows researchers to draw universally applicable lessons. Then, *deduction* also takes place at the empirical level, but is used instead to test validity of findings - e.g. whether they "follow in a logically valid manner from the premises given to support the conclusion" (ibid: 75-6). Induction and deduction are core concepts in 'formal' logic, in that they follow a logical inference model rather than the substantive contents of some phenomena. Peirce (1932), an American philosopher, recognized that certain dimensions of social reality cannot be informed by formal logic, and therefore coined the term *abduction* to denote a process taking rules describing general patterns as a starting point, from which plausible - but not logically requisite - conclusions are drawn. In recent years, social scientists have referred to abduction through the lens of redescription and recontextualization, in that it can provide a new meaning to existing phenomena: in other words, they can encourage the discovery of (unobservable) networks and relations to better explain perceived occurrences (Jensen 1995; Giddens 1991).

There is a fourth mode of inference, and unique contribution of critical realism to social science research: *retroduction*. Retroductive reasoning moves from the concrete to the abstract, aiming to isolate the constituent elements in observable occurrences and events, therefore taking place in the domain of the real, unlike formal logic (Danermark et al. 2002). Whereas abduction is often used in social constructivist methodology as an interpretivist tool to understand events in a new conceptual framework, retroduction is a means of uncovering the qualities that must exist for something to be possible (ibid: 80). Retroduction is achieved through thought experiments and/or counterfactual reasoning to provide knowledge of the transfactual conditions that are not observable in the empirical domain. It is interconnected with the realist concept of *generality*, which Bhaskar (1978) argues "does not lie on the face of the world, but in the essence of things" (ibid: 227) in terms of a generally occurring event/phenomenon or their constituent properties and structures (*see figure 4.2*).

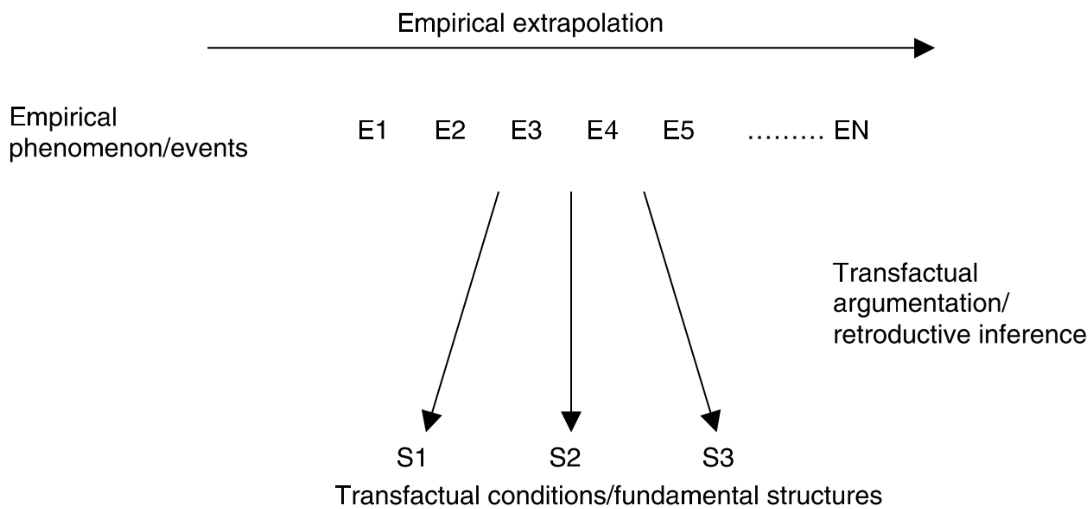


Figure 4.2 - Two types of generalization (Danermark et al. 2002)

Figure 4.2 illustrates that phenomena/events can be extrapolated empirically (inductively), but also through knowledge of transfactual properties or conditions (retroductively). Whereas empirical categories comprise a larger population of individual phenomena that share a similar property, transfactual concepts are abstract and describe universal mechanisms and structures - e.g. sovereignty, ideology, or domination (Danermark et al. 2002: 78). It should also be noted that all modes of inference are complementary (ibid), rather than substitutes, and we therefore rely both on abductive and retroductive reasoning in our analysis and interpretation of empirical and observable phenomena.

4.3. Research design

Qualitative data analysis generally proceeds on two levels: general data analysis (reading through, coding, laying out themes and descriptions) and interpretation of the data. Our critical realist methodology is operationalized through a design which follow this pattern: phenomenology and causal-comparative research. Phenomenology is founded on the experienced of stakeholders in the EU tax ecology and will allow a comprehensive overview of the CCCTB, whereas causal-comparative research will compare different groups in relation to these trends to analyze the evolution of EU corporate tax reform.

4.3.1. Phenomenological research

Phenomenology is a qualitative method for researchers to identify and explain human experiences around a given phenomenon as described by participants involved. This mode of research allows researchers to carry out a scrupulous account of phenomena through direct contact with relevant actors and it generally consists of conducting interviews or engaging in direct observation (Creswell 2014).

4.3.1.1. Open-ended interviews

In social science research, interviews are used to accumulate solid facts, mainly since they are a direct and convenient means of getting news from reliable and varied sources. Much like naturalists, critical realists conduct interviews with the objective of "securing reliable information that can usefully be plugged into comparative contexts, in order to infer general patterns" (Moses & Knutsen 2012: 131). Interviews can be conducted one-on-one or in focus groups, and the medium takes several forms: face-to-face, written Q&A, or over the phone (ibid). Our thesis is supported by *semi-structured* interviews that are open-ended since they consist of a standard set of questions asked of interview subjects (e.g. opinions about policy content differences between BEPS and CCCTB, institutional obstacles faced by the EC), but allows a divergence from these basic questions based on insights brought up during the interview.

In the process of conducting interviews for this report, we prepared an interview guide that combined the most prevalent matters in relation to our research question. The flexibility this provides is a core strength of semi-structured interviews, as questions are tailored to the situation or context of the interview and do not constrain the discussion to a certain format (Easton 2010). Though semi-structured interviews are a frequently employed tool for qualitative data collection, they can be complemented by other forms of data collection. In total, 11 in-depth interviews were conducted, most of them over the phone. Appendix I comprises a list of the interviewees, including their positions, the type of organization represented, and nationality. In the process of selecting subjects, and to mitigate potential biases, we strove to balance IOs with the public, private, and academic sector through interviews of professionals from a wide array of backgrounds and circumstances, including different fields in corporate tax governance (*see figure 4.3*). We have primarily reached out to European-based professionals given the subject matter, though a handful of interviews were also about broader notions of tax governance and corporate regulation.

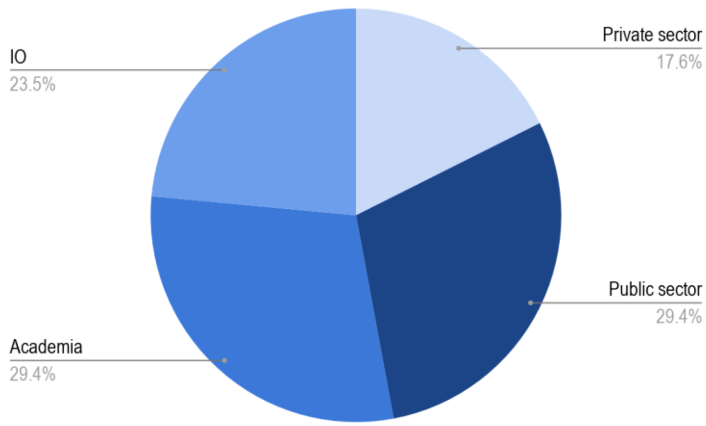


Figure 4.3 - Interview subjects: Sector breakdown

This cross-sectoral approach is necessary for our research of professional dynamics in the EU tax ecology, particularly since some subjects have presence in more than one sector during their professional career (*see table 4.1*). Though corporate tax policy is often understood through broad public perception, relevant actors in all sectors have subjective interpretations of developments and occurrences in tax governance and policy. We have conducted interviews with policymakers from the EC, private auditing and tax firms, advocacy groups, think tanks and policy institutes, and academics. This has allowed us to evaluate their respective roles in corporate tax governance, uncover the main drivers of tax policy, and make comprehensive policy recommendations.

Interview subject	Public	Private	Academic	IOs
Rasmus Christensen				
Uwe Ihli				
Vinod Kalloe				
Markus Meinzer				
Richard Murphy				
Thomas Rixen				
Tove Maria Ryding				
Brigitte Unger				
Margrethe Vestager				
Maruta Zorgenfreija				
Gabriel Zucman				

Table 4.1 - Interview subjects: Career breakdown

4.3.1.2. Direct participant observation

To obtain a first-hand perspective of professional and policy dynamics in the EU, we have also engaged in direct observation by participating in many EU- and tax-related activities in the fall of 2017 and spring of 2018 (*see table 4.2*). All events were selected based on subject matter relevance (e.g. issues relating to supranational legislation, corporate avoidance, state sovereignty) and relevance of participants, creating a valuable forum for discussions, interviews, and ideas.

Event	**Date**	**Organizer**	**Location**
Panel debate: EU going forward	15 September 2017	Danish Institute for Study Abroad (DIS)	Copenhagen, Denmark
Corporate tax reform seminar	19 October 2017	PKF International	Riga, Latvia
Margrethe Vestager - Democratic debate in a complex world	2 February 2018	Copenhagen Business School	Copenhagen, Denmark
COFFERS General Meeting	15 March 2018	University of Limerick	Limerick, Ireland
Panel debate: Nordic competitiveness	22 March 2018	Copenhagen Business School	Copenhagen, Denmark

Table 4.2 - Participatory research

Table 4.2 illustrates the different events attended, from panel debates on EU sovereignty or Nordic competition which included professionals from all sectors to a tax seminar coordinated by an independent accounting and advisory firm in Latvia, an address from the European Competition Commissioner in Denmark, and finally the EU Horizon 2020-funded COFFERS conference in Ireland. The insights of participant observation provide a basis for our subsequent classification of professionals, since it allows us to incorporate characteristics like expertise or career mobility to evaluate influences on the EU tax ecology.

4.3.2. Causal-comparative research

Causal-comparative research is used to identify causal relationships between an independent variable and a dependent variable (Gay & Airasian 2000; Brewer & Kuhn in Salkind 2010). This is a comparison between two or more groups to explain the differences between them in relation to a variable of interest (ibid). We employ a heuristic case study to explore the effects of the CCCTB on national tax initiatives, and vice-versa.

4.3.2.1. Heuristic case study

Case studies are a tool used by social scientists to illustrate the theoretical or practical concerns of specific issues, often in relation to a chosen theory. Most case study typologies reflect Lijphart's (1971) categories, including atheoretical, interpretive, theory-confirming, or theory-infirming case studies: these ideal-types lean heavily on formal logic (the inductive-deductive model) rather than attempting to build hypotheses or theories that can subsequently be tested. Drawing from Lijphart (1971) and Eckstein (1975), we make use of the *heuristic case study*, which strives to generate hypotheses by identifying new variables to explain an event or phenomenon. Heuristic case studies open up the possibility that additional (hitherto unnoticed) variables play a role, rather than inferring that only existing variables can influence phenomena:

> "The popular refrain that observations are theory-laden does not mean that they are theory-determined. When a case study researcher asks a participant, 'Were you thinking *x* when you did *y*,' and they get the answer, 'No, I was thinking *z*,' they may have a new variable demanding to be heard." (Bennett 2004: 35)

This thesis introduces a comparative case, looking at corporate tax developments in the Netherlands and Latvia in the context of the CCCTB to generate new knowledge on the structures that held back EU-wide tax reform, in order to generate broader hypotheses that are subsequently tested (Moses & Knutsen 2012). Our aim is threefold: introduce the problem as the fragmentation of member state initiatives; the relative degree of success from each country's corporate tax reforms; and the implications for the future of the CCCTB and institutional reform. This follows a broader analysis from the merits of the BEPS project and objectives of the 2016 iteration of the CCCTB. In our case, empirical material includes primary sources (e.g. speeches and firsthand accounts), though the bulk of the case relies on secondary sources like academic journals and articles.

4.4. Application and limitations

In line with our methods and research design, this section will introduce the mechanistic interactions featured in our analysis through the critical realist notion of an explanatory critique, followed by potential limitations of the thesis methodology and how these can be mitigated.

4.4.1. Tax reform and institutions: An explanatory critique

This thesis employs the critical realist notion of *explanatory critique* to analyze the numerous underlying social structures that give rise to the current EU corporate tax framework. Explanatory critiques are actor-oriented, referring to the process wherein actors can transform undesirable structures through knowledge that these exist (Danermark et al. 2002: 195), illustrating that actors in the EU have the agency to mitigate the effects of stalled reforms. Given that social practice may build on false beliefs, an explanatory critique allows us to analyze these beliefs, the structures that cause them to exist (and reproduced by them in turn), and their eventual effects on reality (ibid). Collier (1994) argues that criticism is an integral part of social science, but also an important element to enacting systemic change:

> "To say that some institution causes false beliefs is to criticize it. Given that (other things being equal) it is better to believe what is true than what is false, it is also better (other things being equal) that institutions that cause false beliefs should be replaced by, or transformed into, those that cause true ones. Further still, particular institutions and false beliefs about them may be in a *functional* relation, such that the false beliefs serve to preserve the institutions that they are about. Where institutions oppress a substantial number of people, they will only be stable if protected by such false beliefs" (Collier 1994: 172).

In our analysis, we operationalize the notion of an explanatory critique with an eye to removing the causal mechanisms which have prevented effective anti-avoidance corporate tax reforms from coming into effect in the EU. However, we must keep in mind that the removal of one problem does not immediately lead to an overall improvement (Danermark et al. 2002). For instance, if the current issue is lack of compromise among actors in the EU tax ecology, and corporate tax proposals begin to garner more political will in policy-making circles, this could be the result of undesirable (yet necessary) clauses which have been removed out of a concern of further obstruction. An explanatory critique should support actions that may prevent such problems while improving the situation with which the problem is replaced (ibid).

4.4.2. Limitations

There are several limitations to the methods we have introduced above. Though these methods should not be considered objectively better than others in their respective categories, they are more fitting in relation to our chosen methodology (critical realism) and subject matter. Each method produces different insights and disadvantages in comparison to alternatives, yet they remain the most appropriate mode of addressing every dimension of EU corporate taxation:

- *Interviews*: A common issue that arises is to ensure that information acquired is representative of the population at large, known as sampling error (Patton 2002). Our analysis overcomes this issue by treating interviews not as generalizable results, but a benchmark for hypothesis-generation that we intend to test through causal-comparative analysis (ibid). There is also a danger in generating invalid information through unclear or loaded questions, known as measurement error (Moses & Knutsen 2012). To avoid this, we have framed the questions in a clear and concise manner and ensured that our customary set of questions produces similar responses under different conditions.

- *Observation*: Like our interviews, field work was not extensive. Our findings are therefore not broadly generalizable to transnational corporate tax governance or equivalent institutions, nor can they be considered perfectly representative due to the limited time and resources to access a wide variety of backgrounds and viewpoints. Yet, as the organizational types from figure 4.3 illustrate, efforts were made to ensure a diverse data sample representative of competing explanations. This balance is necessary to deliver strong hypotheses and recommendations.

- *Case study*: Concrete evidence in relation to the 'actual' domain is lacking (e.g. measuring the tax losses from corporate activity), leading to counterfactual reasoning and a difficulty in offering advice on most effective ways of mitigating the impact of harmful tax practices. To avoid this problem, our case outlines concrete events and circumstances in the EU to uncover the underlying mechanisms in the real domain, allowing us to then explain how the data relates to specific institutional structures. Through abduction we can then contextualize these mechanisms, and retroduction to explain what transfactual conditions give rise to existing phenomena.

The limited scope of time and detail-orientation should not be considered inherent drawbacks, given that the purpose of this thesis is to generate plausible hypotheses surrounding the CCCTB and effects of institutions and professionals on EU tax policy outcomes. The heuristic case study should thus be understood as a building block of our analysis - rather than a generalizable case - from which we draw our recommendations for corporate tax reform in the EU.

5. Theoretical framework

Phillips (2003) argues that the proper functioning of organizations is contingent on their constituent parts: stakeholders. The contentious debate surrounding what a stakeholder *is* has considered the ethical obligations that organizations have towards their stakeholders, and the sources or justification of this duty (ibid). Although such concerns permeate organizational environments as businesses promote a belief that "a rising tide lifts all boats", they are not equivalently considered in an institutional policy setting. They should be. As the EU's principal policy-making and legislative body, the EC has a responsibility to the states it represents, but also the general interest of the region; however, several actors also play a significant role in influencing, drafting, and counteracting tax legislation. This section presents our theoretical framework to explore the linkages between, and attributes of, different professions in the EU tax environment (*linked ecologies*), and relations between the EC and national tax authorities (*actor-centered institutionalism*). We give an overview of both theories, define key theoretical terminology in the context of our topic, and outline the potential limitations of each.

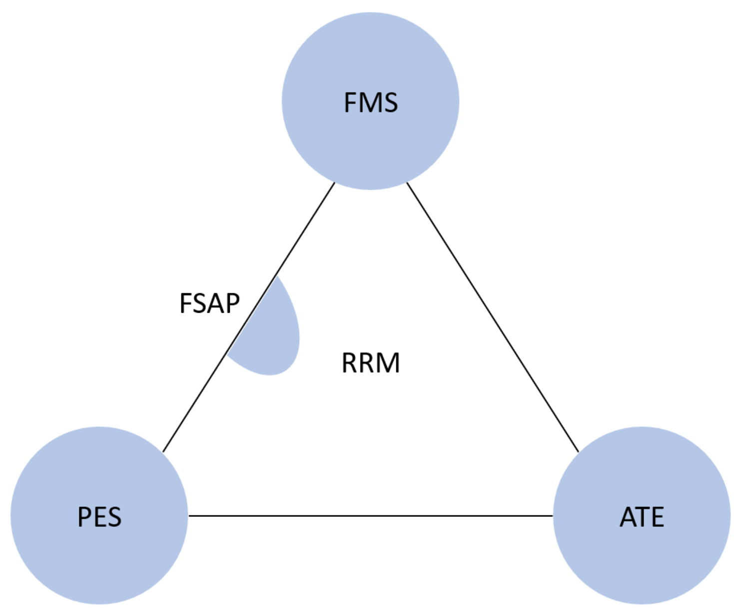
5.1. Tax ecologies in the EU: Professionals and policy

Our framework for studying policy and professions in the EU has two main features. Theoretically, it explores different practical and social conceptions of policy emergence and change, and actor mobility across overlapping environments. Analytically, it adopts a phenomenological approach to show ecological transformation through concrete policy practices like the CCCTB or national reform initiatives.

5.1.1. The linked ecologies approach

In sociology, two accounts of social systems stand radically opposed: individualists claim social systems are the sum of its constituent phenomenological parts (formed through structures like markets), while the emergentists argue these systems exist on an independent level, where social structures affect individual trends (Abbott 2005: 245). Among the intermediate accounts of social systems lies the notion of *ecology*, which has been frequently applied by the Chicago School of urban sociology to denote a form of social structure (e.g. professions or academia) that can affect individual actions (Fourcade & Khuruna 2008). Drawing on existing literature, this section expands on the conventional approach of a population ecology, according to which the mobilization of interest groups over any particular issue or jurisdiction is "not simply the result of individual incentives and resources of each group but is often conditioned by the environments in which interest groups find themselves" (Gray & Lowery 1996: 40 in Pagliari & Young 2016). Instead of an exploratory framework for the characteristics of individual actors, adopting an ecological approach is therefore helpful to understand the role of environmental conditions in influencing populations and their relationships.

In a similar vein to Bourdieu's concept of fields, ecologies are analytical constructions that represent the social world in a topological sense, where ecological boundaries are fluid, dynamic, and act as a "flexible surround for others" (Abbott 2005: 246; Fourcade & Khuruna 2008). Linkages play a crucial role in transforming the nature of professions or tasks across ecologies, and movement of professions from one ecology to another. American sociologist Andrew Abbott moves away from an understanding of professional ecologies as constituting 'audiences' in the private and state arenas to verify the claims made by actors, and towards a relational conception of social systems (Abbott 2005). Introducing the concept of *linked ecologies*, Abbott underscores that events which take place in "any particular ecology - changes in jurisdictional claims, settlement patterns, and political efficacy - are hostage in some sense to events in adjacent ecologies" (ibid: 254). The hostage relationship is more mutual in the linked ecologies approach, due to the need for compromise and negotiation to obtain results. The linked ecologies framework can be employed in a wide array of policy fields (e.g. healthcare, financial systems, tax) and used to visualize the stakeholders in respective ecologies; for example, figure 5.1 illustrates the ecologies approach used in the case of international financial reform.



The Ecologies: *FMS* – Fiscal and Monetary Systems; *PES* – Professional Economic Sciences; ATE – Asset Trading and Evaluation

Figure 5.1 - Linked ecologies on Financial Stability Reform (Seabrooke & Tsingou 2009)

All ecological systems constitute a combination of *actors* (individuals, firms, government agencies) and a set of *locations* in which they exist. In professional tax ecologies, locations are sites within the universe of policy and research and should not be defined positionally - like coordinates on a map - but relationally, as tasks to which resources are expected to adhere (Abbott 2005). For instance, resources can be material (legislation, financial), demographic (researchers, politicians, academics), even symbolic (dominance of certain ideological or academic views). The relation between actors and locations illustrates the link between professionals in a given field of study and the tasks being carried out (ibid). *Ligation*, referring to the relational process between actors and locations, holds analytical and empirical priority since actors and locations are endogenous to social interaction, and are constituted and delimited by this relational process (ibid: 248). This relational process is neither a form of atomistic competition nor a unified organic entity, but rather a 'realm of contestation' between actors and the coalitions or alliances formed within and across organizations (Seabrooke & Tsingou 2009: 11). The overall impact of ligation takes precedence over the capabilities of any individual actor, since actors are neither constrained nor fully independent - so linkages matter if actors want to achieve a specific result (e.g. policy) - and coalitions are necessary to effectively tackle any given problem or task.

The linked ecologies framework transcends the 'ecology/audience' model, where relations are conceived as the state and public judgment on accepting or rejecting professional jurisdictional claims made in the ecology, since both are ecologies and placed on a level playing field (Abbott 2005). In other words, both sides become ecologies and aim to benefit from the transaction, creating *hinges* or issues that provide dual rewards in separate ecologies (ibid). Alliances between actors and locations, manifest through contact and negotiations, can arise out of the patterns within and between ecologies, and generate hinges or strategies that work in each ecology. Also, because hinges are fundamentally different in terms of the rewards they provide and how they are viewed, ecologies are kept separate: "if two adjacent ecologies were squabbling over the same resources, and issues occupied similar axes in both of them, there would be little keeping the ecology from merging" (ibid: 255). Linked ecologies additionally require the presence of *avatars* (institutionalized hinges) to replicate the ideas or skills of a profession into a new ecology as an alternative to coalition-building (Fourcade & Khuruna 2008). In line with the conception of the relational process as a realm of contestation, hinges and avatars allow coalitions in a particular ecology to change the ideas and practices relating to any given task in another ecology (ibid).

Abbott (2005) identifies three important varying properties of ecologies. First is the relative comparability of size and qualities across actors in linked ecologies, and differences in ligation (e.g. varying degrees of exclusiveness). Unlike in healthcare, where medical actors are largely exclusive given their specialty in a certain issue-area, in EU tax ecologies political and academic actors can fill several professions at once. Someone can be simultaneously a Member of Parliament (MEP), leader of a political party, and a bureaucrat - all without forgoing any of their identities. Second, locations in one ecology can be understood as ligation in another: in other words, whereas it can represent the quality of exclusive jurisdiction for existing linkages in one ecology, it would be strictly interpreted as policy in another (ibid). For example, in international diplomacy, treaties are symbolic of linkages between actors and locations, affecting crucial properties like borders or employment. Yet, in professional tax ecologies, treaties are locations: incorporated directly into law, treaties create tax regimes for the taxpayers to whom these apply (ibid; Picciotto 2015: 166). Third, linked ecologies exhibit temporal grain, since "the mismatch of the rhythms of interests" (Abbott 2005: 264) in different spheres and between ecologies leads to changing alliances over the long-term. Temporal grain also applies here; in decades of conflict to reform the EU corporate tax system, varying priorities among leadership in the EC and member states, compounded with the short-sighted nature of the political ecology, have made long-term laws difficult to enact.

5.1.2. Fractal distinctions in the EU

In traditional social science literature, *professions* are the constituent parts of ecologies that wish to take over different 'jurisdictions' (or areas of work) through professional knowledge systems (Abbott 2005). To this end, professions in ecological frameworks act - proactively and reactively - in accordance with many internal/external forces, wherein "each jurisdictional event that happens to one profession leads adjacent professions into new openings or new defeats" (ibid: 246). There are elements of success in conceiving of adjacent professions being led into openings and defeats, but also legitimacy since professional claims for control undergo judgment from audiences like the public, the state, or co-workers (ibid).

Literature on professionals is concerned with explaining why some groups differ on the basis of policy proposals, professional contexts, and the process underlying policy outcomes. Abbott (2001) refers to *fractal distinctions*, or the iterative replication of distinctions over time, as particularly relevant in debates on professional group conflict. Fractal distinctions have been applied in studies of social sciences (ibid; Shwed & Bearman 2010), political science (Tarrow 2008), and financial reform (Seabrooke & Tsingou 2014; Mügge 2016). Debates on regulating the financial system have explored distinctions like national/international and segmented/universal, both of which can in part describe EU (de)regulatory uncertainty since the financial crisis; a third distinction, that which exists between *behavior* and *structure*, has been used as evidence of different levels inherent in financial reform, and allowing fractal distinctions to self-replicate (ibid). Seabrooke & Tsingou (2014) give the example of fractal distinctions in relation to banks, since it "covers recommendations targeting both behavior (capital requirements, bonus structures) and structure (too big to fail, utility vs. investment banking)" (ibid: 393). Additionally, they outline these basic distinctions in the context of financial reform (*see box 4*).

Box 4: Fractal distinctions

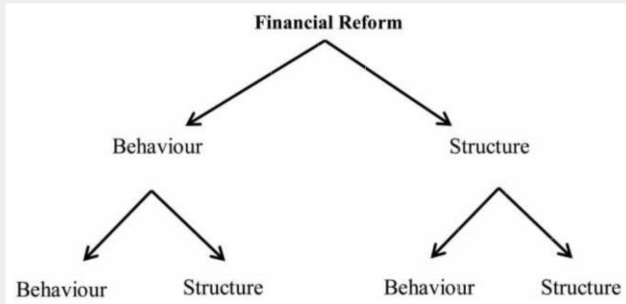


Figure 5.2 - Fractal distinctions on financial reform (Seabrooke & Tsingou 2014)

Figure 5.2, a non-exhaustive depiction of iterative distinctions, illustrates that professionals exhibiting the most extreme characteristics tend to follow one distinction, e.g. *behavior* > *behavior* (Seabrooke & Tsingou 2014). However, this is quite rare since members of expert groups usually have a more balanced mix of behavior and structure, given they have "a clear incentive to make sure they are not dismissed as extremists, while also addressing the intended policy audience with a clear position" (ibid: 393-394). This model is relevant to interpret tax reform, given the role of incentives in relation to convergence and variability on policy content (e.g. retention of reputation and credibility among peers).

Fractal distinctions will be operationalized in this thesis to illustrate when certain reports are more behaviorally or structurally oriented in the context of the CCCTB, comparing reports published early in the process at the upper layer of the fractal with more recent reports on the lower layer (*see section 7.2*).

5.1.3. Linkages in the EU tax ecology

There are extensive applications of the linked ecologies framework to the corporate tax system in the EU. For instance, recall the prior example of a hostage relationship across events in separate ecologies. When Commission policy officials implement changes to tax policy (e.g. adapting the list of non-cooperative tax jurisdictions), the positive impact of their decision will be contingent on policy content being beneficial to allies in adjacent ecologies. Abbott's (2005) concept of an *axis of hinges*, referring to the differences that keep ecologies separate, is applicable in the EU to political and professional ecologies, given the different resources and issues that motivate actors. A good example is the legal discipline, which came to influence the shared language and customs in EU tax reform discussions, whereas the EC is more concerned with implementation and practical application of its proposals - alternatively, there "would be little keeping the ecologies from merging" (ibid: 255). The linkages between professionals and the relevant expert groups is visualized in *affiliation networks*, which illustrate how working group members and authors of reports are related through mutual participation in proposals (Field et al. 2006). Our thesis will later operationalize affiliation networks to show connections between EU tax reform working group members with actors or institutions who published reports of a behavioral/structural nature.

Another relevant concept for understanding ecological linkages in the EU tax arena is the *revolving doors* phenomenon, referring to the movement of actors across the public and private sector (Kowalewski et al. 1991). From a sociological standpoint, this movement leads to the transfer of knowledge and skills across ecologies or the formation of locations, because tasks are redefined according to the new social or cultural space in which they are situated (Seabrooke & Tsingou 2009). Whereas the type of working environment in ecologies can foster agreement and negotiation, revolving doors promote specific hinges/strategies and the replication of skills and ideas in other ecologies to redefine the nature of tasks (ibid: 20-21). In the EU political ecology, for instance, the revolving doors phenomenon is an accelerating trend, as politicians and central bankers are increasingly transitioning into financial services (Financial Times 2016). The world's largest bond fund manager, Pimco, has hired top European policymakers, from former European Central Bank (ECB) President Jean-Claude Trichet to former UK Prime Minister Gordon Brown (ibid). Although this phenomenon has raised doubts about conflicts of interest in a given ecology, defenders of the practice argue that "the expertise of former government employees is useful for improving corporate performance" (Kowalewski et al. 1991: 98) and dismiss the notion that it corrupts economic or political ecologies (*see section 3.1*).

5.1.4. Limitations

There are also some shortcomings to employing linked ecologies as an all-purpose approach. Professional activity in some areas is characterized by an overabundance of linkages binding many ecologies together, a feature known as *overdetermination* (Abbott 2005). Overdetermination occurs when the network of production for strategic outputs in ecologies becomes "too dense to conceptualize" (ibid: 270) in terms of ecological segments that are competing for control over a service. When strategic outputs in a certain area become too complex, it can create a system that is "far too clogged with influence, alliance, and opposition to be seen as a relatively open system of ecological relations or competitions that govern actors in the security arena" (ibid: 270), and where ecological models are therefore less useful by default. However, this is not a particularly prevalent drawback in our thesis, since the networks of production involved in corporate tax governance offer clear divisions with respect to tasks and areas of expertise, such that none of the actors are enmeshed in too many ecologies at once.

Another limitation concerns the social process of *ecological emergence*, an understudied feature of existing literature on ecologies. This occurs when interecology alliances, composed of numerous different professions with a specific viewpoint (Sabatier 1998: 139), emerge. These alliances are not pre-existing belief systems or empirically verifiable, but rather 'emergent coalitions' that are produced and reproduced through interactions between actors in separate ecologies and become visible only when competing strategies are enacted (Friedberg 1997). This warrants further research.

5.2. New institutionalism: Institutional influence on policy

In addition to studying professional tax ecologies and their impact on policy formation, we aim to analyze the influence EU institutions have on tax policy. To do so, we look at actors (e.g. Member States, MEPs) and network formations (e.g. EP party groups, Member State coalitions) within these institutions and how they shape policy outcomes. To this end, this thesis applies the framework of *actor-centered institutionalism* (ACI). Taking an actor-centric approach to the study of policy, ACI allows us to explore how actors and networks seek to convert their goals and preferences into tax policy.

5.2.1. Actor-Centered Institutionalism

Actor-centered institutionalism is a subfield of New Institutionalism and adopts a sociological perspective to the study of institutions. A new form of institutional study, ACI was developed by Mayntz & Scharpf (1995) in an attempt to combine methodological individualism with institutionalism in a single, unified framework. The framework provides a "tailor-made approach for research on the problem of governance and self-organization on the level of entire social fields" (ibid: 39), particularly when state intervention is involved. The underlying assumption of ACI is that structures and actors are mutually dependent: in other words, an analysis of structures without a reference to actors is incomplete, and vice-versa (van Lieshoet 2008). Thus, instead of assuming an overriding role for either actors or institutions, the framework makes a distinction between both by integrating rational choice and structuralist perspectives (Mayntz & Scharpf 1995; Scharpf 1997). Hence, ACI connects individualism and institutionalism as it assumes that social phenomena can be explained by the outcome of interaction between actors, but, that "these interactions are structures - and the outcomes shaped - by the characteristics of the institutional settings within which they occur" (Scharpf 1997: 1).

Actor-centered institutionalism is a framework used in relation to empirical studies. The framework outlines the relationship between *institutions, actors,* and *networks* (van Lieshoet 2008). In the original framework by Scharpf (1997), 'networks' are defined as 'actor constellations'. However, actor constellations embody a broader definition of the relationship between actors. As such, we have chosen to apply a narrower description of that relationship as it better reflects the problem definition in this paper. While all its features are causal mechanisms, ACI views actors (either individual or composite) as proximate, and the institutional context as a remote cause (*see figure 5.3*).

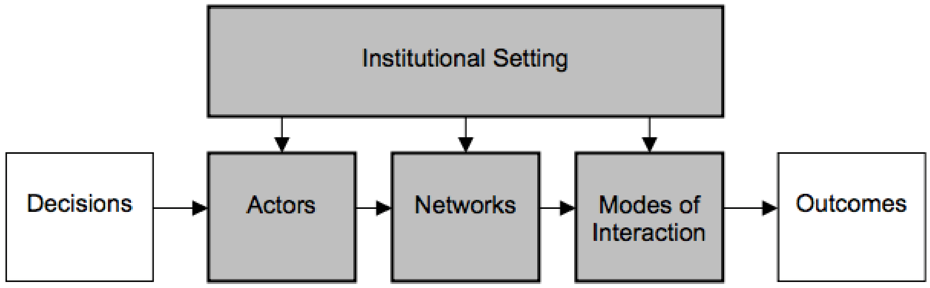


Figure 5.3 - A modified ACI framework (Scharpf 1997: 44)

Applying the ACI framework first requires one to identify the set of *interactions*, which in this case is our unit of analysis. This allows us to identify all actors involved, whose choices ultimately determine the outcome (Scharpf 1997). Actors are not perfectly rational but do attempt to maximize their self-interest (e.g. a Member State with a competitive corporate tax rate blocking the adoption of the CCCTB). In an analysis of global governance, it is thus necessary to focus on the interaction between the composite actors rather than the interest of the individual acting on its own behalf (though only individuals can act out their own intentions). The actions and decisions taken at the actor level are therefore a product of the internal interactions between individuals at the lower level (ibid).

The courses of action available to the actor - a result of the interactions between the individuals within the structure - comprise its strategies. Often, "these strategies available to different actors in the same field are interdependent, in the sense that the outcome of a particular strategy chosen by an actor will simultaneously depend upon the choices of other actors, and the other way around" (van Lieshoet 2008: 3). In that sense, outcomes reflect payoffs between the players involved. What then becomes crucial for the analysis is the networks: actors involved, their strategic options, the outcomes, and the preferences associated with these outcomes (Pancaldi 2012).

Moreover, Scharpf (1997) highlighted the importance of including *game theory* and equilibrium outcomes in the equation, in addition to independent strategic action. While strategic action implies that actors try to anticipate the choices of others before arriving at their own decisions, equilibrium outcomes occur when no actor can improve their standing by changing their strategy (ibid). Together these two concepts allow us to explore the outcomes that could have been, had the actors chosen another course of action. If the outcome is the result of strategic choices taken by the parties involved, and those choices were the best available option given the circumstances, then the researcher has a persuasive explanation (van Lieshoet 2008: 4). The ACI framework strives for explanatory precision that justifies pushing institutions 'to the background' as mere remote causes of policy outcomes, while pulling actors to the forefront as proximate causal factors (Pancaldi 2012). Institutions constrain and facilitate the range of choices and decide on the setting in which the actors interact, but they will also leave considerable scope for strategic choices. Hence, the framework contradicts the deterministic tendencies by institutional scholars of viewing actor behavior and preferences "as a direct consequence of the effects that institutions have on them" (ibid: 7).

5.2.2. The ACI Framework

ACI defines *institutions* as "systems of rules that structures the courses of actions that a set of actors may choose" (Scharpf 1997: 38). This definition embodies both formal legal rules and social norms. Actors are not constrained only by formal rules, but also by the pursuit of reputation and social acceptance. A failure to obtain the latter could result in a withdrawal of cooperation, should the actor break the norms of its institutional environment. The institution is therefore not only the result of evolutionary development, but intentionally created and altered through the actions of composite actors (van Lieshout 2008).

While leaving actors with room for maneuver, institutions and institutionalized rules will reduce the range of potential behaviour through specified permitted, restricted, and required actions. Incentives increase or decrease the payoffs attached with particular strategies, and thus the likelihood that actors (with self-interest in mind) ultimately choose them (Pancaldi 2012). In addition, institutions constrain or allow actor compositions:

> "Composite actors only exist to the extent that the individuals within them are able to coordinate their choices within a common frame of reference that is constituted by institutional rules. Such rules define the membership of composite actors, material and legal action resources they can draw upon, the purposes they are to serve and the values they are to consider; they are of particular interest within actor-centered institutionalism. Likewise, institutions create arenas where various actors could interact [and] occasions or reasons to do so" (Mayntz & Scharpf 1995 in van Lieshout 2008: 5).

Composite *actors* naturally figure prominently in an actor-centered institutional analysis. The application of the framework, however, cannot be appropriately applied to all units that constitute of several individuals (van Lieshout 2008). It might be tempting to ascribe any aggregate population that shares certain characteristics as a 'composite actor'. After all, the population will, in this case, be characterized by similarity in individual choice. Yet, the aggregate effect will result from "individual choices from individual actors acting from their individual action perspectives and with regards to their individual expected payoffs; but it is not in itself an object of anyone's purposeful choice" (ibid: 7). In other words, if the population is not capable of common strategic action it cannot be considered a 'composite actor'. Thus, to qualify as a composite actor, capacity for strategic action is a prerequisite.

The actors' strategic capacity increases as preferences and worldviews of the relevant individuals and subgroups converge on similar interpretations of a given situation. As strategic action presupposes the integration of preferences, for the actor to obtain overall gains, it is thus necessary that it possess the capacity to accept some losses. Hence, strategic action depends on the convergence of relevant preferences among the composite actors' members, and on the ability for conflict resolution within the network (Maggi 2016). An empirical phenomenon can therefore be analyzed from two perspectives: from the inside as a composite actor, and from the outside as an institutional structure where individual actors produce the actions ascribed to the composite actor. Moreover, composite actors can generally be divided into two groups: collective and corporate actors. The former are guided by the preferences of their members, while the latter operate with a higher degree of independence from the beneficiaries of their actions. Corporate actors see their activities carried out by neutral staff members residing in top-down organizations with a hierarchical leadership structure (Pancaldi 2012). The composite, corporate actor - the unit of analysis in this paper - consists of administrative bodies and organized groups capable of intentional action to achieve a set goal through normative orientations. That is, the individual Member States and the EP party groups that comprise composite actors in the tax reform and negotiations in the EU (*see section 7.3*).

Unlike neoclassical economics, actors are not motivated exclusively by economic self-interest. After all, they comprise of rational human beings that to some extent are guided by norms and rules. In contrast to neoclassical economics, ACI assumes that actors behave and act according to perceived reality and that they do not possess all relevant information about the situation they face (van Lieshout 2008). Action cannot be described without reference to subjective meaning. However, ACI simultaneously seeks to avoid the opposite extreme of a 'social construction of reality' that perceives norms and institutionalized rules as constraining the preferences of participants in social interaction. According to ACI, these two extremes are not mutually exclusive (Maggi 2016). The actions of actors cannot "exclusively be explained by reference to cultural beliefs and institutionalized rules of appropriate behavior, [self-interest] sometimes brings them to evade or violate the norms and rules they are supposed to adhere to" (van Lieshout 2008: 10). At the same time, actor knowledge is limited, and rationality bound. Consequently, human action is based on cultural and socially constructed beliefs. The actions of the actor, that is, actions within the many roles that together make up the composite actor, cannot be explained without reference to social and cultural definitions of those roles and the institutionalized rules that govern it. The two poles that simultaneously shape actors' choice are therefore - according to ACI - role definitions and self-interest maximization.

Policy *networks* are established through the context in which policy processes take place, e.g. the networks that form between Member States. Actors form networks with other actors to gain access to key political resources, like political influence, credibility, or information (Lubell et al. 2011). The context determines the information that is important to acquire, the type of credibility an actor must build up, and the political influence needed to maximize self-interest; the policy process thus reveals a lot about the institutional setting and actors involved in each policy arena. The networks therefore make it possible to analyze the relationship between context and the policy-making process (Kickert et al. 1997). In that sense, the networks connect the modes of interaction, that is, the interaction between actors in a network and the institutional setting (*see box 5*).

Box 5: Policy networks

Networks "can be defined as more or less stable social patterns of social relations between independent actors" (Heukels 2005: 17) and form the context through which policy-making processes (here the evolution of the CCCTB) occur. There are three main characteristics that define policy networks: (mutual) dependency, the variety of actors (and their goals) and relations. Mutual dependency comes about as actors need, and seek, resources from other actors to achieve their goals. The interaction that follows between the actors create an interdependency that sustain relational patterns (Pancaldi 2012). The interaction occurs in the first place as a result of common interests on a specific policy or topic. Moreover, the networks consist of multiple actors with a range of strategies and goals. Through different modes of interactions, the contact between the variety of strategies and goals cause certain outcomes. Together the interdependencies and interactions result in patterns of relations. The relations are characterized by frequency, directness and more importantly centrality of interaction and communication. The more central the position an actor occupies the more suited that actor is to reach its policy goal (Lubell et al. 2011). A central position allows better access to information and resources, and it improves the access to other actors.

Modes of interaction constitute the final element in Scharpf's framework and refers to the diverging avenues extant in conflict resolution (Boessen 2008). 'Modes' characterize the rules that define right of participation and describe at an abstract level the interrelationships between the actor in an institutional setting. Each institutional setting supports different modes and each mode "differ in their demands on institutional capacity for conflict resolution" (Heukels 2005: 17; Scharpf 1997). In EU corporate tax governance, there are three distinct modes: intergovernmental, joint-decision, and supranational-hierarchical (Boessen 2008). In the *intergovernmental* mode, "institutional conditions assure the binding force of a negotiated agreement" (ibid: 20). Agreement is reached by rational actors who view the outcome of the negotiations as more desirable than not agreement at all (ibid). This cannot be said for other modes. Under this mode, the problem-solving capacity of governments are limited by conflicts of interest and thus characterize policy negotiations such as Treaty revisions.

In the s*upranational-hierarchical* mode, decision-making power is located at the supranational level without the participation of national government participation or the EP. At this level policies are based on competition law and decisions taken by the EC or the ECJ in accordance with the spirit of 'neoliberalism'. The function of these institutions have been to advance economic integration by discourage barriers to free mobility and competition (Scharpf 2001). Finally, the mode of *joint-decision* "combines aspects of intergovernmental negotiations and supranational centralisation" (Boessen 2008: 20). This mode applies to most policy areas in the EU, the CCCTB included. Under a joint-decision mode, the EC would draw up a proposal before the decision on implementation is made in the Council by the Member States in cooperation with MEPs. This thesis will concentrate on tax policies developed within the joint-decision mode, as it focuses on conflict resolution and the divergence and convergence of preferences among actors.

5.2.3. ACI in the context of the EU corporate tax system

Actor-centered institutionalism does not represent one of the four institutionalisms (discursive, historical, rational-choice, sociological), but rather an empirical framework that goes beyond the primacy of structure and agency in policy development (Hall & Taylor 1996). By maintaining an analytical separation between institutional factors and actor interaction when exploring policy-making and outcomes, ACI puts empirical attention on "actor-related factors as possible explanatory variables" (Pancaldi 2012: 2). Applying ACI to the study of the EU corporate tax system and the CCCTB therefore allows for an in-depth investigation of how political actors – both individually and collectively – shape institutions and policy. In these negotiations (or reform processes), it is the individual Member States that hold the most influence. It is also these states that ultimately decide upon tax policy outcomes - that is, which version of the CCCTB is adopted, if any at all.

The actors involved in the process of policy-making also partake in separate networks (Bähr 2013). These networks are characterized by the relationship between actors and are formed (un)intentionally according to the actors' preferences with respect to available policy alternatives. Some of these networks have been made publicly visible during the CCCTB negotiations - most notably separating Member States that favor reform from those who do not. Networks are also formed on more specific issues, for example between advocates and critics of a minimum tax rate (Bertelsen 2017). Whether such an 'advocacy coalition' can transpose its belief system into tax policy depends on the constraints placed on it by external structures, e.g. the Council (legal structure), as well as socio-economic changes, changes in public opinion or the impact from other systems (Bähr 2013). Perhaps more visible are the network formations in the EP. At present, there are nine political groups in the EP, each with a stated policy mission. MEPs organize themselves into these ideological groupings based on national party membership; we will later explore how these actor coalitions and networks work within the institutional setting (EP) to affect policy (*see section 7.3*).

Besides individual Member States, other actors also exert their influence on policy debates and on the outcome of these processes. These external actors can be accounting firms (EY, Deloitte, KPMG), NGOs (Tax Justice Network), or academics (ICRICT), for example. Engaging in discussions, drafting reports, providing input and expertise in the EC, or advising Member States and corporations allows these actors to indirectly affect and encourage actor preferences. Accounting firms, for example, advise corporations on the effects of tax reforms and ways to respond to, and benefit from, structural changes. Some of these firms (e.g. KPMG) have come under scrutiny for their participation in tax shielding practices involving multinationals. NGOs, on the other hand, often find themselves lobbying for stronger enforcement of tax rules, or for more extensive reforms. TJN, an activist think tank, is one of the actors trying to push for systematic changes in global tax governance. Lastly, a group of prominent academics and political leaders, ICRICT seeks to bring about reform in the corporate tax system by advising politicians and institutions such as the EU on effective mechanisms to curb tax avoidance. This paper explores effects of these professional groups on tax reform and policy developments (*see section 7.1*).

5.2.4. Limitations

There are certain limitations to the use of ACI as an empirical framework. Firstly, ACI asserts that social phenomena occur because of interaction between (political) actors, and, that the institutional setting in which the actors operate influence that interaction by either reducing or allowing actor behavior. In order to employ the framework empirically it is necessary – naturally – to possess extensive information and data on networks, views, behaviors, and the institutional setting. Despite attempts by the EU and EC to be transparent and provide the public with information regarding the CCCTB, there is a lack of available information on the internal working of certain negotiations (e.g. actor interaction in the Council). Although sentiments on certain aspects regarding the CCCTB are available to the public, information on communication within and between actors (constellations) is limited. Likewise, the relationship between external actors and Member States might not be identifiable. Hence, applying the framework to analyze a phenomenon of limited transparency requires certain assumptions to be made based on the available information.

6. EU corporate tax reform: Moving towards harmonization?

The objective of our empirical section is twofold: introduce DG TAXUD's reform initiative to create a more efficient corporate tax regime through the *Common Consolidated Corporate Tax Base* (CCCTB) and engage in a comparative case study of unilateral reforms in two EU Member States (Latvia and the Netherlands) to illustrate the prospects and limitations of EU-wide corporate tax reform.

6.1. The Common Consolidated Corporate Tax Base

The CCCTB is the EC's attempt to strengthen the Single Market and make it more attractive to domestic and foreign investment (EC 2016). The proposal aims to fundamentally reform corporate taxation in the EU and provide solutions to the current challenges of corporate tax avoidance.

6.1.1. The 2011 Proposal

A Directive for a Common Consolidated Corporate Tax Base (CCCTB) was for the first time proposed by the EC in March 2011. Work on a CCCTB had begun ten years prior in 2001, at which time it had become clear to most in the international community that laws and regulations for corporate taxation no longer fit the modern context (EC 2015). As the economy had become more global during the 1990s, MNCs operating across borders could easily shift their profits to low or non-tax jurisdictions. At the same time, the corporate tax system in the EU was designed for a time when businesses had both a legal and physical presence in the local market. The realization that the current system could not account for cross-border activities coincided with worsening fiscal deficits in multiple Member States (EP 2017). The CCCTB was thus proposed in a context of mounting pressure for the EU to consolidate, simplify and modernize the corporate tax system to effectively curb tax avoidance and facilitate growth and investment.

To achieve this, the 2011 CCCTB proposal sought to achieve three specific objectives (KPMG 2012):

- ❑ Reduce compliance costs for corporations
- ❑ Eliminate over-taxation
- ❑ Eliminate double-taxation

Data released in 2011 suggested that the CCCTB would reduce compliance costs for recurring tax-related tasks of 7% on average for companies operating in the EU. The same data showed that approximately 17% of financial and 50% of non-financial groups would benefit from the over-taxation mechanisms introduced in the proposal. The numbers for double-taxation mirrored those of over-taxation (Iwin-Garzynska 2016). It was believed that these objectives would tackle some of the major fiscal impediments to growth in the Single Market and create incentives for investments in the EU, and as a result contribute to the priorities set in the Europe 2020 strategy – a plan for smarter, more sustainable, and inclusive growth (EC 2011). At the time, the EU encouraged competition on tax rates, arguing that fair competition offered more transparency and allowed Member States "to consider both their competitiveness and budgetary needs in fixing their tax rates" (ibid: 4). The direct impact the CCCTB would have on the revenues of Member States was therefore difficult to predict, as the effects of tax rate competition were dubious. Furthermore, the CCCTB forced tax administrations to oversee two separate tax systems: national CIT rules and the CCCTB for companies opting into the framework. The additional administrative burden would be offset by not having to monitor tax planning on transfer pricing by MNCs (EC 2014; KPMG 2012).

While tackling obstacles to growth and investment, the CCCTB would also address issues of tax avoidance; a topic which has received new found attention because of deteriorating public finances following the financial crisis. Research by the Tax Justice Network (TJN) indicate that several EU jurisdictions offers near-zero effective tax rates "to poach the taxable profit from their neighbors" (Turner 2016). Tax avoidance is made possible by mismatches in tax systems between Member States, which are exploited by MNCs seeking to shift profits from high- to low-tax jurisdictions. The consolidation mechanism mitigates such practices by re-establishing the link between taxation and jurisdiction where the profits are made (de Wilde 2014).

Despite internal and external pressures in favor of adoption, the CCCTB failed to receive approval in 2011 much due to vocal opposition from several Member States (Turner 2016; EU Council 2018). The strongest resistance came from the Member States viewing implementation as a threat to their competitive systems of corporate taxation. Eight countries voted against the proposal at the time, showing it a '*yellow card*': Ireland, UK, the Netherlands, Bulgaria, Sweden, Poland, Malta and Romania - the fiercest opponents being Ireland and the UK (ibid). France, Italy, and Germany spoke in favor of the proposal. The greatest divide was caused by the 'consolidation' mechanism. Ireland saw the mechanism as an attempt to harmonize tax rates 'by the back door'. The Dutch argued the CCCTB, "in its current form, may result in a reduction of its tax base with 30% due to cross-border loss compensation" (van Eck 2011). In addition, they argued, "the CCCTB ignores key value drivers such as intangibles and financial assets" (ibid). The UK rejected the proposal's usefulness altogether, stating that it did not believe a "CCCTB is necessary for the single market to function effectively" (ibid). Although principally in favor of the proposal, Germany voiced its concern on the lack of a minimum corporate tax rate and argued that it did not deal with transfer pricing and intangible assets to a sufficient extent (ibid).

6.1.1.1. Formula apportionment and unitary taxation

Companies opting into the CCCTB regime will compute consolidated profit under a common definition of the tax base. The profits will then be allocated to Member States through *formula apportionment* (FA) (*see box 6*).

Box 6: Formulary apportionment

According to article 28-42 of the directive, a formulary apportionment system would grant equal weight to three factors in the determination of allocated profits across Member States (Deloitte 2016):

- ❑ *Labor:* Based on the equal number of employees and payroll costs;
- ❑ *Assets:* Tangible fixed assets (whether owned, rented or leaser);
- ❑ *Sales (by destination)*: Sales of goods and services net of discounts, returns

The CCCTB proposal would allocate the consolidated tax base of 'taxable company A' according to the following formula:

$$\text{Taxbase Company A} = \frac{1}{3}\left[\frac{\text{Labour}^{A}}{\text{Labour}^{Group}} + \frac{\text{Assets}^{A}}{\text{Assets}^{Group}} + \frac{\text{Sales}^{A}}{\text{Sales}^{Group}}\right] * \text{CCCTB}$$

Formula apportionment (PwC 2011)

According to the EC, such a combination of factors ensures a more balanced approach to the distribution of taxable profits to eligible Member States (Deloitte 2016). Labor is divided into number of employees and payroll - to account for wage differences across the EU - which the Commission argues will allow for a fairer distribution than if only a single variable were included. Assets include tangible assets, while intangibles and financial assets are excluded due to their "mobile nature" (ibid). Finally, sales is considered to ensure fair participation of the Member State of destination, adopting a 'sales of destination' (customer location) rather than 'sales of origin' (seller location) basis due to the ease with which the location factor could be manipulated (ibid). Because corporations cannot control the location of consumers, 'sales of destination' provided fewer opportunities for tax planning (EC 2007, 2016; Deloitte 2016). Consequently, the EC argues these factors and their weightings will ensure profits are taxes where they are earned (KPMG 2012).

The rules embody certain exceptions. First and foremost, the corporate groups must own 75% or more of its subsidiary(ies) for the rules to apply, lest the subsidiary be treated as a separate entity requiring it to file a separate set of taxes in its jurisdiction (EC 2016f). Moreover, the rules of the CCCTB apply only to consolidated groups with total group revenue exceeding EUR 750m (ibid). In other words, the CCCTB is meant to target large corporate groups with significant decision-making power over its subsidiaries. Secondly, for transfer pricing purposes, a subsidiary is regarded as 'related' – meaning transfer pricing rules apply to transactions between parent and subsidiary – if ownership constitutes 20% or more (EY 2004, 2011).

Formula apportionment has been touted by many to be the most effective approach to unitary taxation. A notable FA proponent is the Independent Commission for the Reform of International Corporate Taxation (ICRICT), a broad coalition of experts in the public sector, academia, and IOs. The EC view remains that formula apportionment is the only method to allocate profits in a balanced way through factors reflecting supply and demand, e.g. assets, employees, and sales (ICRICT 2018). Such an approach has been referred to as *unitary taxation*, or the apportionment of MNCs' global income to different jurisdictions based on a series of "objectively verifiable factors" (ibid) such as

> "employment, sales, resources used, fixed assets, etc. should be chosen to reflect the [MNCs] real economic activity in each jurisdiction. Just as important, these factors can be easily moved around the group to avoid taxation. Relocating employees to a low-tax jurisdiction involves much more than transferring intangible assets to a letterbox company in such a jurisdiction, and a firm has even less power over the location of its customers" (ICRICT 2018: 6)

While FA is regarded as the most advantageous approach to unitary taxation, it does not come without criticism. Whilst the mechanism effectively eliminates profit shifting, Member States can still compete in a race to the bottom by lowering the corporate tax rate to incentivize investment or relocation (ICRICT 2018, de Wilde 2014). To forestall this competition, ICRICT argues that FA must be accompanied by a minimum rate for taxing all apportioned profits (and such a rate is not included in the CCCTB proposal). However, from a political perspective, it is considered challenging, if not unfeasible, to get all Member States to agree on one formula given that any formula would produce winners and losers. For example, Member States could lose important fiscal tools such as investment reliefs and tax credits, leaving the tax rate as the only viable fiscal policy instrument - it would thus be difficult to get states currently benefiting from such instruments to agree. The process, however, requires unanimity among Member States (KPMG 2012).

6.1.2. The Anti-Tax Avoidance Directive (ATAD)

While the CCCTB did not find the necessary support in 2011, technical work on anti-tax avoidance measures resulted in the adoption of the anti-tax avoidance directive (ATAD) in 2016 (EU Council 2018). The directive builds on OECD's recommendations to address tax base erosion and profit shifting, seeking to achieve many of the same objectives as the CCCTB, e.g. to prevent aggressive tax planning, increase transparency, and create a fairer business environment (EU Council 2018b). ATAD establishes several legally binding measures against tax planning, tackling situations where corporations exploit disparities between national tax systems to reduce their tax liability (ibid). To this end, ATAD provides six legal provisions, one of which is a framework to tackle *hybrid mismatches*, which "are the consequence of differences in the legal characterization of payments (financial instruments) or entities and those differences surface in the interaction between the legal systems of two jurisdictions" (EC 2016c: 13). The effects of these mismatches are often double deductions, one on each side of the border, which would be mitigated by one jurisdiction giving legal characterization to the hybrid entity while the other jurisdiction accepts it (PwC 2016).

One of ATAD's six legal provisions is BEPS Action 4 imposing an *interest deduction limitation* on corporations. Its aim is to discourage MNCs from financing entities in high-tax jurisdictions through debt. MNCs use such practices to shift interest from high to low-tax jurisdictions consequently reducing the tax base in the high-tax jurisdictions (EC 2016c). The provision places a cap on the allowed interest that an MNC can deduct in any given tax year. As such, it also seeks to limit bias against equity financing as the deduction makes it less lucrative for companies to choose debt financing. ATAD also establishes *general anti-abuse rules* (GAAR) to harmonize country-specific abuse rules and enable tax authorities to reject transactions which do not have commercial substance. Lastly, the directive includes *controlled foreign company* (CFC) rules. MNCs often shift profits by transferring ownership of intangible assets (e.g. intellectual property) to subsidiaries in low-tax jurisdictions, after which they shift royalty payments back to the parent company. CFC rules close these loopholes by treating MNCs and their subsidiaries as a single taxable base. ATAD aims to achieve a minimum degree of coordination "for the purpose of materializing its objectives" (ibid: 14). It thereby establishes a foundation for the CCTB proposal, which goes further by harmonizing these rules whereas ATAD only follows a *de minimis* approach.

6.1.3. The 2016 CCCTB Proposal

Amid ramped up investigations on transfer pricing arrangements on corporate taxation in some Member States (e.g. Starbucks in the Netherlands, Apple in Ireland), the EC increasingly began exploring how to make MNCs pay their 'fair share' of taxes and re-introduced the CCCTB in 2016. Effectively ruling that national tax authorities endorsed artificial tax avoidance methods through such arrangements, the EC argued it would discourage a level-playing field for businesses (EC 2015). In addition to BEPS, which created a framework from which the EC could introduce new tax legislation, various tax scandals (e.g. LuxLeaks and Panama Papers) raised public ire over corporate tax avoidance (ibid). However, the ensuing technical discussion in the Council yielded few results, and it was consequently realized that the CCCTB was too ambitious to be implemented in one step. To realize the re-launch, the proposal was divided into two subsequent steps: a CCTB and a CCCTB: this two-step approach would make the reform package more feasible for Member States to implement and manage.

6.1.3.1. The two-step approach

Instead of a "big-bang" approach to implementation, it was decided that the CCCTB had to be adopted in stages, and the framework split into two parts: one directive concerned with the Common Corporate Tax Base (CCTB), and a later directive adding 'consolidation' to the regulatory framework (Deloitte 2016b). As opposed to the previous attempt, the two-step framework will be mandatory for corporate groups with consolidated revenue exceeding EUR 750 million. For groups below the threshold, the common tax base would be voluntary, and a company belonging to that group could opt into the (C)CCTB for a five-year duration. After the adoption of the CCTB, the CCCTB "would introduce rules for consolidation, formula apportionment and a "one-stop-shop" for tax administration" (Deloitte 2016a). The two proposals are supposedly independent, and Member States can agree on the first without implementing the second. Although the CCCTB is dependent upon the CCTB, Member States can still oppose the consolidation aspect - even though the proposals are intended by the EC to be mutually exclusive (Bhogal 2016).

Consolidation – the second stage – will be postponed until an agreement on the first stage is secured and the proposal implemented. The two proposals however, will be submitted by the EC simultaneously and as part of a single and unified initiative (Bhogal 2016). This has resulted in questions being raised as to whether an agreement to the CCTB require an agreement on consolidation. The stage-model for raises other questions as well, namely the option for companies below the threshold to opt in for the regime (which, if a company decides to do so, would last for five years). The two directives are intended to enter into force two years apart, which could lead to corporations opting out of the common base while still having to consolidate their taxes (ibid; Cobham et al. 2017). If both directives receive approval, Member States will have to "adopt and publish legislation to comply with the CCTB directive by 31 December 2018" (Deloitte 2016b).

6.1.3.2. Key changes from the 2011 CCCTB proposal

In addition to the two-step approach and the mandatory adoption, the 2016 proposal includes a few additional changes. The EC hopes that these changes, alongside a deferral of some of the most controversial areas of the former package, will allow negotiations to move forward (Deloitte 2016). Firstly, the *objective of the proposal was broadened* from a "harmonized corporate tax system that favors cross-border trade and investment" (Luc De Broe 2017: 4) to include a stated anti-tax avoidance objective in line with ATAD, addressed in the first proposal's first step, the CCTB (EP 2017).

Moreover, Article 9 of the CCTB offer companies the opportunity to *deduct research and development (R&D) costs* (ibid). The EC thus seeks to respond to the pressing need for more R&D investments in the EU; while the world is becoming more R&D intensive, corporations in the EU underinvest compared to their counterparts in Asia and the US. Taxation measures are increasingly employed to incentivize investments in R&D, and this provision allow companies to deduct 50% of R&D costs up to EUR 20 million and 25% above that limit (Andria et al. 2017). A company spending EUR 30 million on R&D in a given year will be allowed to deduct EUR 42.5 million from its tax base (full costs of EUR 30 million + additional 50% of first EUR 20 million = EUR 10 million + additional 25% for remaining EUR 10 million = EUR 2.5 million) (Luc De Broe 2017). An assessment of the R&D provision by Andria et al. (2017) state that "a CCCTB without an R&D incentive would significantly deteriorate incentives to invest in R&D" (ibid: 9). The provision will therefore be necessary for the EU to strengthen its global competitiveness.

Lastly, the 2016 proposal includes an *allowance for equity financing* (Article 11) that addresses the current debt-bias in corporate taxation (Nicolay & Spengel 2017). The EC has previously criticized the way conventional tax systems distort financing decisions in favor of debt financing. By rewarding equity financing, the CCCTB seeks to encourages more stable financial structures and economic stability by disincentivizing the adoption of debt. The new mechanism, called 'Allowance for Growth and Investment', calculates a tax-deductible amount for debt-financed corporations (Nicolay & Spengel 2017). Critics claim the provision allow corporations to deduct expenses they have not incurred (Ryding & Ravenscroft 2016).

6.1.3.3. Impact of the re-launch

An impact assessment released by EC staff in 2016 evaluate the provisions and their effects on aggressive tax planning and the broader European economy. The report and its findings will be discussed in this section as it is the most comprehensive assessment of the CCCTB proposal to this date. Most of the report is devoted to the effects of the stage approach to implementation (a postponement of provisions on consolidation and FA across Member States). In this scenario, the report holds the allowance for equity financing and R&D incentives constant, as intended in the 2016 proposal. The report finds that a CCCTB produce better results than merely a common base. The findings are based on several economic models, which indicate that "GDP, investments, wages and employment all perform better" under a CCCTB (EC 2016b: 63). GDP would increase 1.17% with the CCCTB instead of 1.06% under a common base, investments 3.36% compared to 3.06%, wages 1.26% compared to 0.88%, and employment 0.65% compared to 0.40% (ibid). The differences in output are produced by a decrease in compliance costs in the case of a CCCTB, as it removes the necessity to comply with the ALP - which a common base would not do - and the immediate possibility to offset losses, effectively lowering the tax burden and the cost of capital and labor.

The report denotes a correlation between consolidation and apportionment in terms of a reduction in tax avoidance. A common base would discourage profit shifting by addressing mismatches in the tax system, but a

CCCTB goes further by rendering "profit shifting via transfer pricing and debt shifting unattractive" (EC 2016b: 65). However, the report asserts all anti-tax avoidance measures are dependent upon national tax administrations. Thus, the success of the provisions hinges on the ability of tax administrations to apply and enforce them. Surprisingly perhaps, the report finds that most business associations and consultancy firms view consolidation as essential, but that they would nonetheless accept a temporary 'cross-border loss relief' should consolidation meet too much resistance (ibid). Conversely, NGOs do not support such mechanisms, fearing it would reduce the taxable base for MNCs and facilitate other forms of aggressive tax planning. Furthermore, under the CCCTB, the impact on public finances will depend on the extent to which Member States adjust their tax rates. The report is not able to predict whether Member States engage in tax competition because of the CCCTB, yet the 'allowance for growth and investment' could cause changes in CIT rates and a "small decrease in tax revenues by 0.2% of GDP" (ibid: 67). The decrease is partly offset by an anticipated increase in other taxes due to heightened economic activity.

Moreover, the report argues that to effectively reduce tax avoidance by MNCs, the companies in question have to operate under the CCCTB framework. Although this may appear evident, it lends support to the EUR 750 million threshold for compulsory application. The threshold would capture 64% of generated turnover, while also preventing the inclusion of purely domestic groups. In other words, the threshold and the compulsory application is essential to realize the effects of the overall framework. The report goes on to examine the two additional elements to the 2016 proposal, namely an allowance for equity financing, and R&D incentives. A CCCTB with the former increases investments by up to 3.4% across the Single Market, depending on the rate of allowance. In addition to its economic merit, the provision also limits the risk of aggressive tax planning. Under the current system, which does not address debt bias, MNCs operating cross-border can shift profits via the debt instrument by decreasing their reported profits, and in doing so, effectively reduce their tax base (Fatica et al. 2012). Addressing the debt bias, on the other hand, suppresses such opportunities and "would reduce tax planning [...] via transfer price manipulations on interest rates as the deductible interest would not be based on the actual rate but on a defined one" (EC 2016b: 52).

The allowance for R&D investment is perhaps more controversial, at least from a Member State perspective, as the reduced tax base from granting the allowance would have to be weighed against the increase in R&D spending. With an allowance of 100% on top of full R&D expensing a 17% increase in total R&D spending is anticipated compared to the status quo. To reach the Europe 2020 target of R&D constituting 3% of GDP, an additional allowance of 200% would be required. An allowance of that size raises spending by 52%. In the first scenario (allowance of 100% on top), tax revenues decline by 5%. In the second scenario (allowance of 200% on top) the number is threefold, with a reduction of 15%. However, the report argues that the decrease in tax revenue would be offset, to some extent, by the elimination of the patent box regimes in Member States. Patent boxes have been proven not to stimulate R&D spending, used instead as profit-shifting instruments by MNCs to shift profits away from states where R&D took place, to those with patent boxes. The effects are harmful competition, a reduction in tax revenues and a way for MNCs to (partly) avoid taxation on the assets used in the R&D process.

6.1.4. Criticisms of the CCCTB

The CCCTB has been subject to considerable criticism – as would any supranational reform initiative of that size and magnitude. One stream of criticism relates to the timeframe mentioned above. On technical grounds, it appears highly ambitious and perhaps unrealistic for the CCTB to be adopted less than a year from now, and the CCCTB two years later. There are many technical questions that need to be answered before a common tax base can be implemented across the EU, and finding answers is likely to be impeded by the politicized and sensitive nature of the matter at hand (Deloitte 2016a).

The issue is also sensitive from its perceived infringement of national sovereignty. Several Member States criticise the CCCTB on the grounds that it dilutes tax sovereignty and their ability to design a tax systems in accordance with national interests. The UK and Ireland have gone so far as to suggest that the CCCTB violates fundamental legal underpinnings of the Lisbon Treaty, arguing the EU should only act insofar as the objectives in the law cannot be sufficiently achieved by states themselves (Cobham et al. 2017). Despite the EC's assurance that the CCCTB is not an attempt to harmonize tax rates, Member States that stand to lose the most remain sceptical. However, the most powerful and vocal opponent of the CCCTB, the UK, has (since the relaunch) left the EU. As the main advocate of the subsidiarity principle, the UK's departure could lend more support to the directive. Other Member States like Sweden and the Netherlands have also voiced their dissatisfaction with the CCCTB on subsidiary grounds, with Sweden arguing that the design of a corporate taxation scheme must consider special provisions for domestic business sectors. The Riksdag believes individual states are better suited to determine the specific design of their domestic corporate tax system (Bertelsen 2017). The Netherlands, on the other hand, worries that a race to the bottom could result from a common tax base, since it indirectly encourages tax competition. This, they argue, could hamper growth and job creation and result in tax revenue losses (ibid).

The CCTB has also been attacked on economic grounds. Critics warn the proposal would not only distort taxes, leaving some states worse off than others, but also negatively affect some companies and industries (EY 2011). A report by EY based on a study of potential winners and losers if the CCCTB is adopted - from both countries and companies - illustrates that the proposal could cause substantial changes in country-by-country tax collection. The results also reflect changes in employment, with some Member States standing to gain, while others experience a reduction in employment post-adoption (*see figure 6.1*).

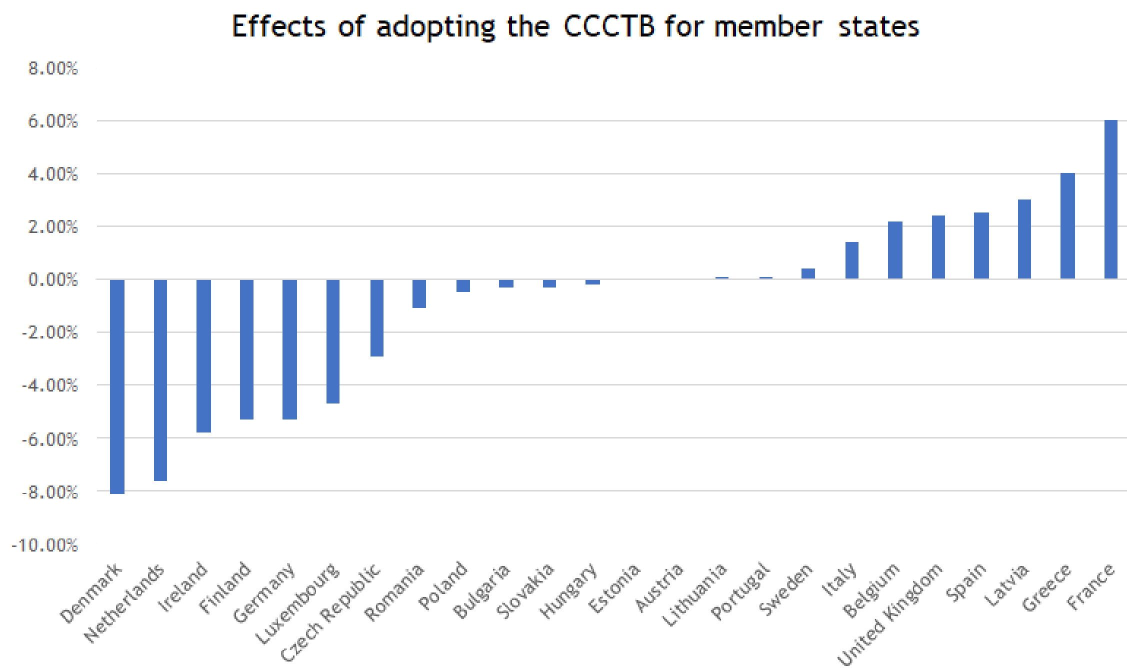


Figure 6.1 - Changes in corporate income tax and employment from adopting the CCCTB (EY 2011)

While the report and its findings relate to the 2011 CCCTB proposal, the 2016 proposal would yield the same results as the mechanisms for tax collection remain unchanged. Both proposals would produce a fundamentally different approach to taxing multinational corporations, and, in doing so, would adopt the same consolidated tax base, using the same uniform apportionment formula. Another study, by Nicolay & Spengel (2017), reach a similar conclusion. The authors find that the change in the EU-27 tax burden caused by the common tax base measures is a decrease of -6%. The effects would range from an increase of 3.1% in Romania to a decrease of 4% in Cyprus. For larger economies, most notably Germany and France, the tax burden on corporations would change only slightly, -0.16% and 0.15% respectively (Nicolay & Spengel 2017). The study therefore finds that the expected changes in the tax burden are moderate, but that certain Member States might experience substantial revenue losses that will have to be financed by tax increases - a concern expressed by several Member States.

A third stream of criticism is concerned with the administrative burden of two parallel tax systems: one national system and the additional CCCTB framework. Under the 2016 CCCTB proposal, mandatory adoption would only be required for corporate groups above the EUR 750 million threshold (Deloitte 2016). This poses a challenge for Member States and their tax administrations whom will have to maintain one tax system for large corporate groups above the threshold, and one for the SMEs below. On those grounds, several Member States and interest groups have argued the envisaged reduction of administrative costs are actually set to increase. The burden of maintaining and enforcing two systems could be elevated further by the costs associated with implementing an additional CIT system. This is a concern expressed primarily by smaller states that fear that more complex tax rules could overburden their administrations (Luc De Broe 2017). Magdalena Andersson, the Swedish Minister of Finance, expressed her concern, stating she believes "it could lead to a more expensive and difficult system", while the Austrian Finance Minister, Hartwig Loeger, specified he believed the system would increase costs without delivering urgently needed transparency (Bertelsen 2017; Marini 2017). Hence, an uncertainty remains as to whether a CCCTB would improve the current system.

6.2. National tax reform initiatives: A comparative study

The fragmentation of the EU into 28 disparate tax systems is not only an impediment to businesses active in more than one country at a time - and an incitement to take advantage of this disparity for illegitimate practices - but also an administrative burden that threatens the efficacy of international tax rules and other policy approaches, like soft law. Furthermore, an increasing number of state aid investigations have been launched by the EC on direct taxation in Member States as a "legal stick" to ensure compliance with EU tax laws (*see section 2.2*), and several countries decided to enact unilateral tax reform initiatives. In 2018, two Member States will oversee a change in their corporate tax regime: Latvia and the Netherlands. Each country has been plagued by money-laundering and the presence of letter-box or shell companies but are taking different approaches to tax reform through the CIT Law and DWT Act. To evaluate the impact of national initiatives in Member States, this section engages in a comparative case study between reforms in both countries, followed by an analysis of their implications for the future of the CCCTB proposal.

6.2.1. Tax reform in Latvia: From tax competition to the CIT Law

The Baltic countries have made remarkable developments in their tax regimes since the early 1990s, and again upon becoming members of the European Union on May 1st, 2004. Tax competition among several EU states has been fierce in the past two decades, and many countries (e.g. Ireland, Eastern Europe) have implemented low corporate tax rates as a core part of their economic development strategy (Gencs Valters 2009). In Latvia, the law on Corporate Income Tax (or CIT law) was adopted in 1995 and would come to establish the main principles of corporate taxation, undergoing several amendments since. The law applies to resident companies (taxable on their worldwide income) and non-resident companies (taxable on CIT source income in Latvia), and also non-resident companies operating through a permanent establishment by taxing the revenue independently obtained by this establishment (ibid). The tax base for corporations is corporate financial income adjusted according to the CIT law, and adjustment are made to ensure income is higher than expenses on which taxes are not levied (e.g. those unrelated to economic activity, like fines) or "to reduce the income by a specific amount in case the law envisages tax relief" (Baltic Legal 2018).

A key feature of the tax regime since 2004 has been the 15% CIT rate, which is one of the lowest in the EU and designed to make Latvia more attractive to foreign investment. A *withholding tax* (WHT) applied to payments made to all non-residents (e.g. consulting fee, dividends, royalties, interest to related party) at different rates until 2013, at which point WHTs were abolished except for payments to companies located in tax havens and, in some cases, management fees (PwC 2018). Transfer pricing rules covered under CIT law are wide-ranging. First, all transactions between associated companies will be adjusted if made below or above a 'fair' market price (Gencs Valters 2009). Then, companies are *associated* if: (i) they are parent and subsidiary; (ii) one company is 20-50% active in the other without a majority of the voting power; (iii) in cases when control is exercised by common ownership of an individual and relatives and (iv) when there is a contractual relationship between companies based on remuneration paid outside of the relationship, or there is concerted action to decrease payable taxes (ibid). In order to prevent the double taxation of foreign income, Latvia has enacted a 'credit method' where CIT taxable and payable in Latvia could be reduced by the amount of CIT paid in foreign countries (PKF 2017). Additionally, Latvia mandated that companies must calculate their taxable income based on financial profit and loss - P&L statements - adjusted for non-deductible expenses and tax relief measures (ibid). Taxpayers would thus have to submit CIT returns once every year when adjustments were made to yearly financial profits, and corporations would have to make advance payments based on the amount of taxes paid in preceding years (KPMG 2017).

Although representatives of some Member States (including Latvia) came out against CIT harmonization in 2006-08, claiming the need to maintain national sovereignty in taxation and potential tax losses which will be recorded, the re-introduction of the CCCTB in 2016 was more widely accepted in these countries. In mid-2017, the Latvian Parliament adopted the new Corporate Income Tax law, which went into effect on January 1st, 2018 (KPMG 2017). A key provision of the reform measure is the CIT rate increase from 15% to 20%. Although there was a sharp reduction in the statutory CIT rate in 2004 from 35% (making Latvia's rate one of the EU's lowest), it has since remained at the same level (*see figure 6.2*).

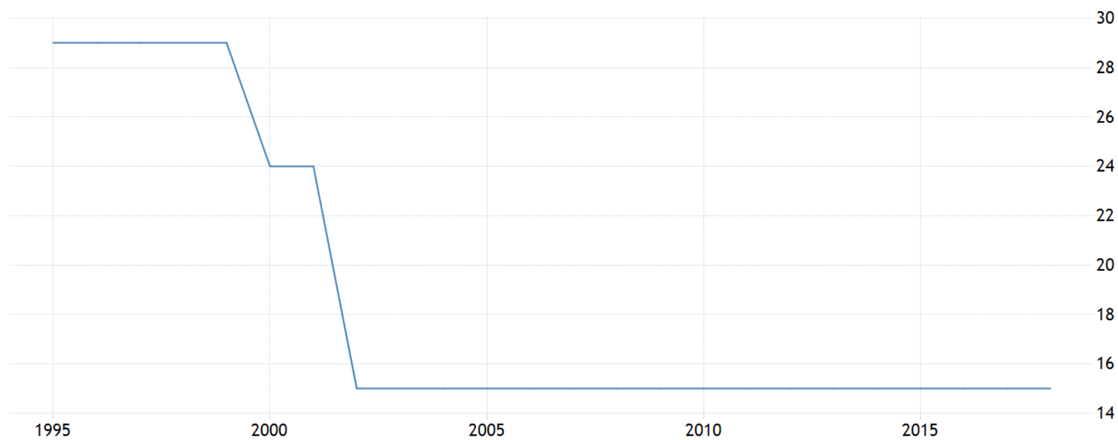


Figure 6.2 - Corporate tax rate in Latvia, 1995-2018 (Trading Economics 2018a)

The adoption of the CIT law represents a change towards a more accurate tax regime. While the former rate was 15% of *taxable profit* based on income tax return p.a., the new rate is 20% of the *taxable base* (or dividends payable), where the taxable object is divided by a coefficient of 0.8, which makes the effective tax rate 25% on dividends and 20% on profits (PKF 2017). For example, imagine a company earns EUR 100 profit and wanted to calculate both its tax and the dividends payable. It would multiply profit by the new tax rate (20%), resulting in EUR 80 dividends; following this,

> "if a company distributes EUR 80 dividends and wants to calculate the tax payable in addition to dividends, it divides EUR 80 by 0.8 and multiplies the result (EUR 100) by 20%, or it can simply multiply EUR 80 by 25% (= tax of EUR 20). The tax is not a withholding tax, but merely conventional corporate tax postponed to the moment of dividend distribution." (Taukacs et al. 2018)

In short, the objective of this methodology was to ensure that taxpayers did not extract profits by means other than dividends (Taukacs et al. 2018). According to Sorainen, an independent law firm in the Baltics, although Latvia had introduced CBCR with the first recorded year in 2016, the new tax regime improves the system by clarifying the scope of taxation (e.g. taxable base over taxable profit) and introducing new requirements for transactions (e.g. transfer pricing documentation), also noting that "preparing a proper transfer pricing analysis will become increasingly important as of 2018" (ibid).

The new framework introduced additional requirements to control related party transactions and placed an increased focus on transfer pricing (Taukacs et al. 2018). The CIT law portends many changes to the CIT treatment principles by creating a model whereby CIT is paid upon both profit distribution and deemed profit distributions (*see box 7*).

Box 7: The bifurcation of profit distribution

Profit distribution includes declared and interim dividends, payments treated as dividends, and deemed dividends of corporations - but also introduces new entities as taxpayers, i.e. cooperative societies, partnerships, and permanent establishments (ibid). These rules apply also to *deemed profit distribution*, which includes a number of non-business expenses, non-arm's length transactions with related parties, interest payments in excess of allowed interest, loans to related parties, and doubtful debts (subject to special rules); all of these elements are then included in calculations of companies' taxable base and for payment purposes, treated as net dividends, i.e. profit after tax (KPMG 2017). Table 6.1 below illustrates the component parts of both items covered by the CIT law.

Under the new system, items will be taxed as follows:

- ❑ *Profit distribution*: Declared (calculated) dividends including interim dividends, payments treated as dividends (applicable to other entities, e.g. cooperative partnerships), and deemed dividends (if share capital has been increased by capitalizing retained earnings, and later share capital is reduced and paid to shareholders).
- ❑ *Deemed profit distribution*: Non-business expenses (e.g. fines and penalties), doubtful debts (subject to special rules), non arm's length transactions with related parties, interest payments in excess of allowed interest, loans to related parties, liquidation quota.

Another key change that came into effect in 2018 is the 0% CIT rate on reinvested profits, which is aimed at incentivizing entrepreneurs, improving capitalization and fundraising for the development of firms, and improve the attraction of FDI by facilitating cash flow during the investment period (Leadell 2017). This exemption on reinvested profits will be payable only when corporations make payments considered profit distribution (e.g. dividends), illustrating a move towards a cash-flow based taxation approach, or taxation of earnings when they are distributed (PKF 2017).

The *rules of transition* are another element of the reform measure which warrant consideration. The set of rules includes ways of distributing profits earned before 2018 without charging the new CIT rate, creating a mechanism to utilize accumulated tax losses, make provisions for doubtful debts[7], and make provisions to mitigate the impact of the new CIT treatment on operators in special economic areas or free ports (PKF 2017). Although the new regime abolishes the concept of tax loss, it also sets in place a 5-year transitional period for all losses accumulated before January 1st, 2018 (ibid). Transition rules are crucial; not only do they account for all the actors involved (e.g. describing the steps necessary for certain entities to take, like for those whose financial year does not end on December 31st), but they are also indicative of the success of the reform process over time.

[7] Doubtful debts refer to debts that businesses or individuals are unlikely to collect, for various reasons.

6.2.2. Tax reform in the Netherlands: The Dutch Sandwich and the DWT Act

The Netherlands has long been considered an outward-oriented economy, where many of the first MNCs emerged, including Royal Dutch Shell and Philips. To avoid taxing corporations twice (in areas where the subsidiaries are located and their residence in the Netherlands), the Dutch government has been involved in arranging double tax treaties with countries where Dutch firms are active (van Dijk et al. 2006). When he Netherlands decided in the late 1970s to liberalize exchange controls of group financing companies of MNCs, the country began to garner a reputation as a channel for capital flows of corporations engaging in tax avoidance schemes, and several MNCs which "were exclusively involved in taking up and on-lending money abroad could obtain a general permit, as such creating the first official mailbox companies in the Netherlands" (ibid: 15). One structure involves multinationals connected between the Netherlands and the Dutch Antilles (a set of island territories located in the Caribbean) known as the 'Dutch Sandwich', which MNCs use when seeking to invest in third countries to reduce their dividend WHTs, taxes withheld from income paid to recipients (*see box 8*).

Box 8: The Dutch Sandwich

More recently, a cross-country tax planning scheme used by multinationals to reduce tax liability on their non-U.S. income is the 'Double Irish with a Dutch Sandwich', a structure consisting of two companies incorporated in Ireland - one IP-Holding and one Operating - and a Conduit company in the Netherlands[8] (Fuest et al. 2013) (*see figure 6.3*).

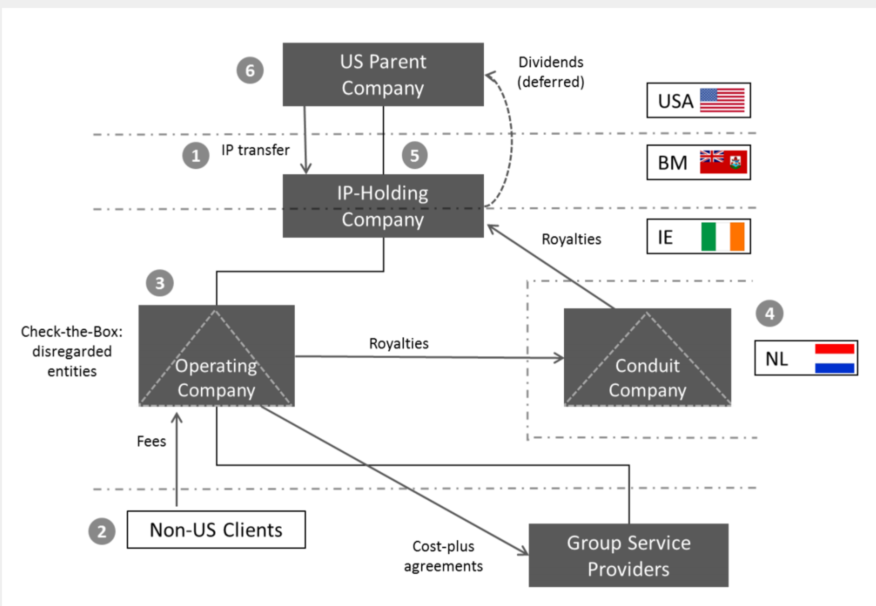


Figure 6.3 - The 'Double Irish with a Dutch Sandwich' structure (Fuest et al. 2013)

8 For a detailed description of the tax structure, see Fuest et al. 2013.

The IP-Holding company in Ireland is a subsidiary of the parent company in the U.S. and single owner of the other two companies, but managed and controlled in Bermuda for purposes in line with Irish tax law; however, the company is considered Irish by the U.S. since the tax code defines residency on the basis of jurisdiction of incorporation.

Royalties, or payments to states in return for permission to engage in activities in specific jurisdictions, are not transferred directly to the IP-Holding company, but rather the Conduit company in the Netherlands (Fuest et al. 2013), even though the Dutch firm does not perform any economic activity. This would allow multinationals to completely circumvent WHTs, in line with both the EU Interest and Royalty Directive and Dutch laws, which "do not impose withholding tax on any royalty payments, irrespective of the residence state of the receiving company" (ibid: 5-6). Another feature contributing to the reputation of the Netherlands as a tax haven is its *ruling practice*, such that multinationals can be certain in advance on how Dutch authorities deal with any given tax structure (van Dijk et al. 2006). This began when a lawsuit was filed in 1975 against the Dutch treasury over the taxation of a firm's German subsidiaries, after which it became common practice for the treasury "to write a recommendation on how certain structures would be taxed in the future" (ibid: 16). Fuest et al. (2013) suggest that to avoid profit shifting, one option is to tighten controlled foreign corporation (CFC) rules that would prevent the artificial deferral of royalties or interest income, and another to harmonize the criteria used to determine tax residence (preventing issues like double non-taxation). These initiatives would not only render the 'Dutch Sandwich' tax arrangement null and void but are broadly applicable by institutions like the EC and the OECD (ibid).

In light of these tax practices, recent reform laws enacted by the Dutch government should be considered. Following the 2017 general election in the Netherlands, the new coalitional government of Prime Minister Mark Rutte announced a sweeping overhaul of the tax regime by enacting the Dividend Withholding Tax (DWT) Act. The measures included a reduction in the corporate tax rate from 25% to 21%, the abolition of the 15% dividend tax, and the introduction of a WHT on all outbound interests and royalties to low-tax jurisdictions (Baker McKenzie 2017). According to the Dutch government, the Act aims to improve the business environment for companies with a substantial degree of economic activity in the Netherlands, but also tackle tax avoidance by discouraging the use of *letter-box companies*, or businesses "solely set up in the Netherlands to facilitate international flow of funds without taxation" (ibid). In addition, the law proposed the introduction of a blacklist for any non-cooperative tax jurisdictions, in conjunction with an obligation that corporations prepare a report on their activity in Member States and every country on the blacklist (Deloitte 2017). All elements of the law are explored in turn.

The first measure calls for a reduction in the CIT rate from 25% to 21% for all corporations with a taxable income over EUR 200,000, and 20% to 16% for those with a taxable income less than EUR 200,000. This CIT rate reduction will be implemented incrementally over the 2018-2021 period (*see table 6.1*).

Year	Taxable income EUR > 200,000	Taxable income < EUR 200,000
2018	25%	20%
2019	24%	19%
2020	22.5%	17.5%
2021	21%	16%

Table 6.1 - Phased reduction of headline CIT rate, 2018-2021 (Deloitte 2017)

The CIT rate reduction follows a trend of decreasing corporate tax rates in the Netherlands since the early 1980s (*see figure 6.4*).

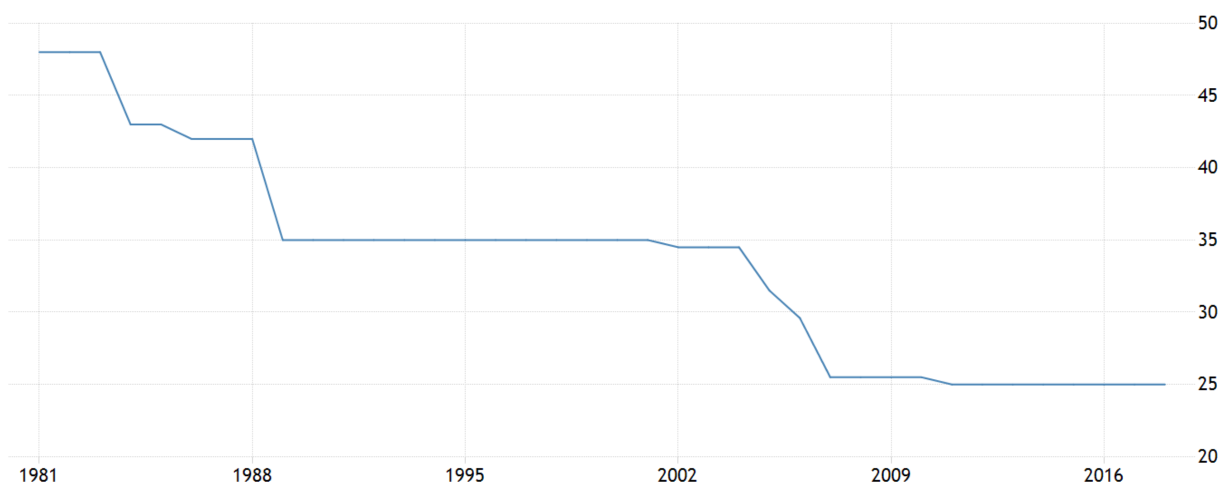


Figure 6.4 - Corporate tax rate in the Netherlands, 1981-2018 (Trading Economics 2018b)

The second element of the reform proposal is the abolition of the 15% dividend WHT - except in cases of abuse or payments to any low-tax jurisdictions - to attract foreign equity and reduce the vulnerability of firms to hostile takeovers (Molenaars et al. 2017; Baker McKenzie 2017). The legislative proposal would nevertheless subject qualifying membership rights in holding cooperatives to the 15% tax and extend the tax exemption for certain shareholders or members of Dutch companies to non-EU or EEA countries with whom the Netherlands has a double tax treaty including dividend provisions (ibid). Exemptions from the withholding tax apply to resident cooperatives when direct shareholders are a legal entity, have their tax residency in a tax treaty jurisdiction or the EU/EEA, hold interest of at least 5% in the distributing entity, or are in non-abusive situations (Buren 2018). According to a Deloitte report from 2017, the impact of the WHT abolition will be felt primarily on investment and financing:

> "The dividend withholding tax generally will be abolished with a view to making the Netherlands more attractive to foreign investors that use equity. The abolition of the dividend tax, accompanied by the introduction of withholding tax on interest and royalties, should ensure that equity financing is encouraged over debt capital financing. The withholding on interest will mean that debt capital financing will face heavier taxation, and [...] there will be restrictions on the deduction of interest expense" (Deloitte 2017)

Finally, the current DWT will be replaced in 2020 by a conditional withholding tax regime on intra-group dividends, outbound interests and royalty payments to low-tax jurisdictions - and jurisdictions named on the EU blacklist (Dresen & Swart 2018). The new regime will also put in place anti-abuse measures to address artificial arrangements, namely rerouted payments to blacklisted or low-taxed jurisdictions (ibid). However, since the conditional regime will only be applicable as of 2020, the effects of such measures (or whether they will even come to pass) cannot be evaluated at this stage.

7. Professionals and policy in the EU corporate tax ecology

The primary claim in this thesis is that institutional structures and professional competition in the EU influence supranational policy outcomes. The EC and national tax authorities' roles in shaping the European tax regime, shown in section 6, demonstrate why professionals are necessary to orchestrate across various networks and arrive at feasible policy outcomes. This section explores professional competition in the context of the CCCTB by outlining the professions and sectors at play, distinctions and affiliations in the EU tax ecology and the risks of technocratic trends for institutional legitimacy, and finally how institutions still have a wide mandate over policy outcomes despite these trends.

7.1. Professions and sectors

To determine the effects of professional competition on the reform process and the CCCTB, we introduce the professions and sectors involved in the EU. We argue that professional involvement, e.g. blocking professional access to jurisdictions or brokering across ecologies, gives professions significant influence over policy dynamics.

7.1.1. Professions in the EU tax ecology

Three professional groups in the field of international taxation (accountants, lawyers, and economists) constitute the primary influence on the overarching policy environment (Rosenbloom 2009) (*see figure 7.1*).

Figure 7.1 - Ecological representation of professional groups in EU tax policy

Figure 7.1 (cf. Rosenbloom 2009) illustrates the key professional groups contributing to the policy agenda in the EU tax ecology. These professions do not stay within the strict boundaries of their respective areas of expertise, however, because extending their reach into other jurisdictions allows them to wield influence. Policymakers are thus left having to make the most effective use of each discipline. Tax professionals lie at the intersection of the disciplines and comprise features from each ecology, and professions overlap in cases where they offer a combination of expertise or skills that apply to a given policy environment. Each professional group is considered in box 9 below.

Box 9: Professional groups in the EU tax ecology

Accountants are familiar with the compliance elements of tax law and the numerical aspects of rules, and the profession largely consists of preparing information for decision-making purposes through the recording and interpretation of information (James 2002). The EC employs tax accountants in several projects (e.g. the Fiscalis 2020 Programme), since one of its primary objectives is to ensure tax administration - collection of revenues in a fair and efficient way - through compliance with rules and provision of adequate resources (EC 2018). Interested parties can be internal (management) or external (shareholders and tax authorities), with immediate interests often shaping the approaches tax accountants take (Nobes & Parker 2008). In recent years, “the writings of accountants have appeared to be more preoccupied with parsing language and the literal meaning of words than with purposive or broad policy considerations” (Rosenbloom 2009: 501), but they are concerned with the collection, processing, and reporting of data in the EU, so this does not pose a problem. Tax accountants in the EU are viewed as technical advisers and their aim is to inform the debate and assist in executing solutions, instead of making suggestions (Macdonald 2002; FEE 2015). Accounting principles form the foundation of tax liability considerations, but the profession disregards the notion that cross-country circumstances may require different tax rules and practices.

The role of tax *lawyers* in global governance has also been extensively analyzed, from a perception of law as a binding framework that provides predictability and certainty (Goldstein et al. 2001) to law as a complex process which involves a wider range of participants and the interaction of overlapping normative systems (Brutsch & Lehmkuhl 2007; Finnemore & Toope 2001). The legal profession has expertise in formulating precise language and elaborate rules, which in global tax governance is manifested through principles like the ALP or tax treaties. Europe in particular has been a notable proponent of the ‘constitutionalization’ of global governance - look no further than the rapid adoption of competition law by the EC - and the spread of techniques across states “to avoid perceived regulatory burdens such as double taxation, by exploiting jurisdictional interactions and the legal personality of companies and trusts” (Picciotto 1992: 11). Tax law is first and foremost a technical profession, working to mitigate the harm of variable policy interpretations by connecting specific language to policy objectives. Rather than trying to change norms or beliefs which underlie existing rules, tax lawyers aim to frame existing rules and laws in language that can be understood and applied by policy-makers (ibid).

Economists are increasingly important in global rule-making and governance, existing in governmental and non-governmental entities that exercise control over various tax and economic policies (Fourcade 2006; Webb 2004). In the OECD, for instance, the Committee on Fiscal Affairs (CFA) employs several tax economists with a wealth of knowledge concerning developments in economic theory and expertise in international corporate taxation from the headquarters in Paris (Webb 2004). Institutional publications would often develop and promote these prevalent economic viewpoints, with issues framed in broad strokes and decision-making by actors subject to policies assumed rational or predictable (Rosenbloom 2009). For instance, tax economists argued in the 1980-90s that corporate tax avoidance and double taxation in the EU were the main obstacles to the Single Market, a claim that institutional reports would subsequently endorse. Economists are less interested in drafting rules than developing predictive models highlighting how policies might lead to a certain outcome and "generally appear to be more comfortable with broad tendencies and trends than with specific prescriptions that will work in practice for taxpayers and tax administrators" (ibid: 502). Still, many campaigns and institutional reports continue to be based on economic analysis and broad recommendations.

All professions thus contribute their respective skills and expertise to European tax governance, but in doing so, they overlap in terms of their respective tasks and areas of activity. The continual redefinition of the economics profession, for instance, illustrates that the involvement of economists in the policy and administrative processes is in constant flux. As institutions change, the way in which different professions are employed also differs; one example of this is the EC's delegation of tax policy decisions to both DG TAXUD and DG Competition, which has created an environment where even more refined skills are required. However, this can also create obstacles for the long-term situation of professionals in the EU, as these dynamics have blurred the conventional distinctions between jurisdictions:

> "A policy choice must be expressed in unambiguous language, with precise consequences that the tax administration can apply. In the weighing of policy alternatives, each of the professional competencies has something to contribute. But it is not clear that they all have equal value to contribute at each stage of policy making, or that the translation of policy into law should be a shared task." (Rosenbloom 2009: 502).

Transnational tax governance is more complex and harder to analyze than national laws: not only are substantive rules periodically reviewed and at times opposed, but so is the policy-making process itself. It therefore falls to policy-makers to effectively leverage the different disciplines, employing professionals in terms of their applicable skills rather than credentials. In the arena of international tax governance and in the EU, several obstacles posed by individual countries are difficult to overcome (e.g. national tax regimes reflect history, the specific needs of Member States), and instruments like tax treaties cannot solve this alone. Moving beyond the professions listed here, there should be more collaborative efforts between composite actors, and across various sectors.

7.1.2. Sector interaction in the EU tax ecology

Many professions outside of those previously listed are relevant in the context of EU corporate tax reform and should therefore be considered for analyzing the dynamics of professional competition in the region. Outside key professions, expertise can also be acquired in the public, private, and academic sectors, and IOs.

In global tax governance, *the public sector* is primarily comprised of national civil servants and officials, including professionals working in tax administrations (treasurers, economists). Often, they interact with ministers or special advisers in the policy-making process, translating their visions into specific proposals (Wales & Wales 2012). The objective of public sector workers is to ensure the viability of national tax regimes via compliance mechanisms or laws, observable in both BEPS and CCCTB processes where they exercise considerable formal power. National civil servants are ubiquitous players in EU tax governance, involved in expert groups, Council working parties, and advisory committees (Geuijen et al. 2008). Their roles vary from preparing decisions to offering recommendations on policy proposals but are also active outside EU-related structures in independent networks or ad hoc contacts with other state officials (ibid).

Expertise on tax legislation coming from the *private sector* is largely made up of large accounting and law firms involved in policy discussions with state officials and civil servants, but also special advisers (Wales & Wales 2012). Although drafting tax legislation varies on a case-by-case basis, several countries have experimented with external private sector firms to undertake drafting, an approach not much favored by national officials who prefer the private sector fills an informal or consultative/supportive role (ibid). Advisory, tax, and auditing firms create impact assessments to determine the effects of the proposal on the operations and tax strategies of resident and non-resident companies, which in turn largely focus on corporate compliance with laws in different tax regimes (PwC 2011). Companies impacted by the CCCTB often participate in the consulting process, since their concern is to adapt to newly established rules, e.g P&L statement requirements or formula apportionment (ibid). Finally, access to networks in (and beyond) the private sector allows professionals to sift through the most important information to ensure compliance with tax laws.

Professionals with influence in global tax governance also come from *the academic sector*, which can include lawyers, economics, and social scientists. Academics participate in an external fashion rather than through the prism of specific political beliefs, allowing them to provide an independent analysis of public policy. Governments have at times published reports in partnership with academia; for instance, in the UK Department for International Development's (DFID) work with the Oxford University Centre for Business Taxation, both actors reviewed literature on the tax gap in developing countries, encouraging knowledge- and resource-sharing (Wales & Wales 2012). Access to 'confidential' data for academic research on these tax policy issues is increasingly required for academic institutions (and think tanks) to provide early-stage analysis on proposals; yet, academic models on taxation do not always illuminate specific practices or issues in a way policy-makers can use (ibid).

Finally, *IOs* involved in governance are usually concerned with developing global rules and harmonizing tax regimes, providing extensive support to tax efforts in individual countries through capacity building, standard setting, and knowledge sharing. Significant progress has been made on information exchange in the past decade (culminating recently in the Inclusive Framework of the BEPS project), though IOs also have their own mandate for action in tax governance (OECD 2016). IOs support Member States in addressing tax challenges by pushing to create frameworks for joint projects, allowing countries to derive advantages conferred by all institutions (e.g. IMF work programs for fiscal reform) and strengthening the interaction between capacity building and technical assistance (ibid).

Although each sector offers their own expertise in policy-making, there are nevertheless overlaps between the areas in which they operate, and their tasks (*see figure 7.2*).

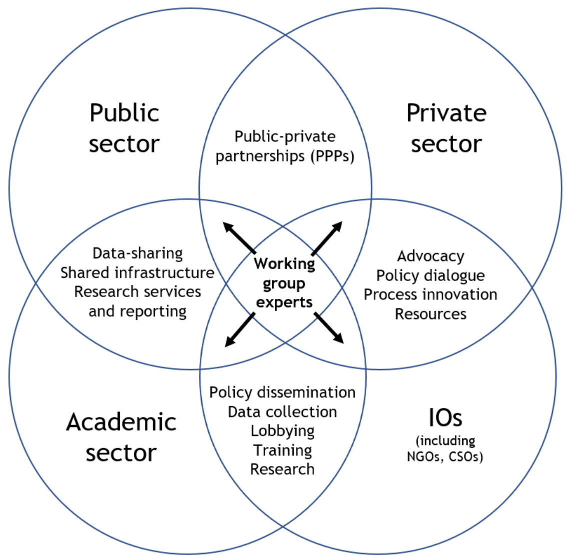


Figure 7.2 - Cross-sectoral interaction in EU corporate tax governance

Figure 7.2 demonstrates ligation in the EU tax ecology - the relationship between actors in distinct sectors (public, private, academic, IO) and their set of tasks in adjacent ecologies. The stakeholders in the EU tax reform process are part of a 'realm of contestation' whereby actors in each sector form alliances to tackle specific problems or tasks. For instance, public-private sector partnerships (PPPs) launched between EU institutions and firms often attempt to boost engagement in policy dialogue and find common ground over upcoming legislative initiatives. In May 2014, the EC adopted COM(2014)263, which gave a stronger role to the private sector in achieving inclusive and sustainable growth in developing countries, illustrating its desire to improve the business climate - especially for SMEs - at the policy formulation and implementation stages (EC 2014). There are also examples of intra-sector collaboration, for instance when a joint effort to create a Platform for Collaboration on Tax was launched by the IMF, OECD, the UN, and the World Bank to formalize discussions between the four IOs on standard-setting and global tax governance (OECD 2016). Working group experts in EU tax reform lie at the intersection of these sectors, given their role in brokering/blocking other actors' access to certain tasks and experience operating in several distinct policy realms.

The expertise gained from these sectors is thus highly relevant for EU-wide tax reform. In the process for drafting and implementing the CCCTB, national officials play a crucial role, building consensus between IOs, states, and multinationals. However, professionals in each sector retain different opinions on the effects of the proposed directive on the overall environment (EC 2016f). An EC study from 2016 attempted to gauge these differing views on policy direction, asking the following question:

> *The Commission believes that the CCCTB system can be an effective tool against aggressive tax planning and at the same time retain its attractiveness to the business. What are your views?*

The results from each respondent are shown below (*see table 7.1*).

Type of respondent	**Agree**	**Neutral**	**Don't agree**	**Other**
(1) Company	43%	30%	18%	9%
SMEs	54%	34%	11%	0%
Large enterprises	20%	25%	30%	25%
(2) NGOs, public authorities, others	68%	14%	4%	14%
(3) Academics	40%	0%	60%	0%

Table 7.1 - Respondents on the effects of the CCCTB by sector (cf. EC 2016)

Many companies agree with the notion that a common set of rules to calculate the corporate tax base may prevent profit shifting and provide greater transparency, although SMEs were unsurprisingly more likely to believe that the CCCTB constitutes the most effective tool against aggressive tax planning. Large enterprises, on the other hand, mostly argue that the CCCTB should focus on the removal of cross-border obstacles, which would be a more effective way to reduce compliance costs (EC 2016e). NGOs and public tax authorities largely agree that the CCCTB could remain attractive to businesses, whereas academics are more evenly split on the discussion. Many respondents with concerns believed that the CCCTB posed an administrative burden on business, created a risk of double taxation, or could even undermine the original purpose of the proposal to make the Single Market more business-friendly (ibid). And yet, about 30% of all companies had neutral views on the CCCTB's effectiveness on tax avoidance and flexibility for firms, demonstrating that a broader consensus could be achieved from minor adjustments to the directive.

7.2. The role of expertise in tax governance

Professionals and professional interaction undeniably play an important role in framing European policies and the dynamics of issue emergence across the EU. This section thus draws on key insights from linked ecologies and ACI to explain the influence of professionals in tax reform and how weakening state power has led to the emergence of a new set of influential actors.

7.2.1. Distinctions and affiliations in EU corporate tax reform

Work on tax reform expert groups was carried out by well-known professionals in the transnational policy community from the public and private sector. Many prominent figures in financial governance chosen to chair expert groups were selected based on their policy ideas and career orientation. Often, these are established leaders in tax governance, for instance involved in the OECD's BEPS project, and other times they operated in a conflicting role to conventional authorities. This is a source of professional competition in the EU tax ecology, given that close-knit communities can still be expected to generate "different forms of blocking and brokering behavior, as is common in all social networks" (Seabrooke & Tsingou 2014: 399). Although some professionals *block* access to certain tasks - such that other professions are unable to contribute or work on a specific problem - others *broker* between unaffiliated actors by spreading ideas or expertise to 'carve out' their own professional space (Abbott 1988; Goddard 2009).

These dynamics can also contribute to professional competition in the community, serving to maintain fractal distinctions across all expert groups (*see figure 7.3*).

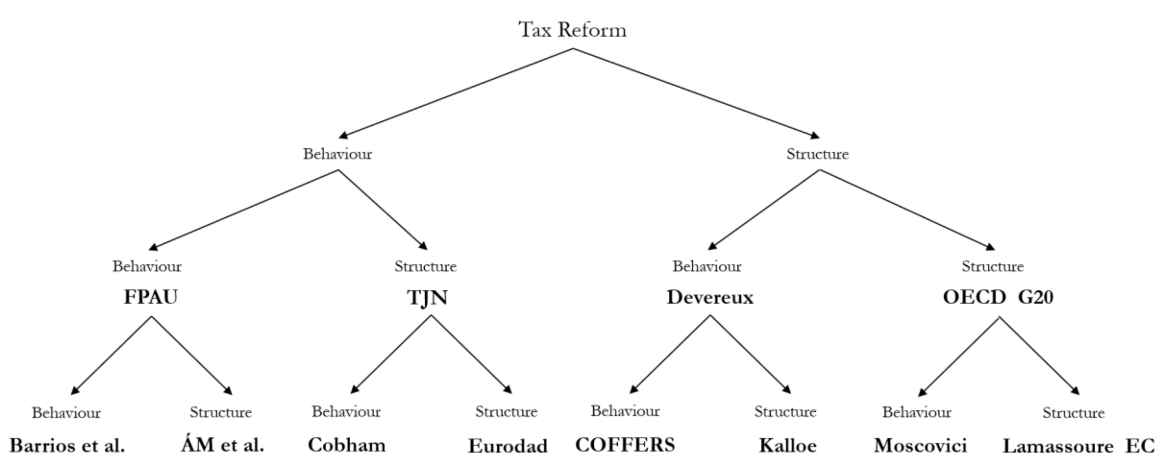


Figure 7.3 - Fractal distinctions in EU tax reform expert groups

The figure above distinguishes written reports in terms of the behavior/structure distinction in and across expert groups. All reports reviewed offer analysis and recommendations and exhibit a mix of both factors, but there is variance in the level of analysis on tax governance issues and institutional or structural reform proposals. For instance, the Eurodad report (2017), produced by civil society organizations across Europe, underscores the role of transparency to improve tax justice, and how different behavioral norms affect tax governance and policy-making. However, it also introduces country-specific findings and solutions which could be implemented to overcome institutional obstacles (*behavior > structure > structure*). The Kalloe report (2017), by contrast, introduces structural recommendations to reform the EU legislative agenda in detail through an overview of the BEPS action plan, then the implications of unilateral state action on the overarching debate around tax governance, and how to effectively manage the impact of these changing structures (*structure > behavior > structure*). Our placement of the reports into these distinctions follow from debates since the introduction of the BEPS project in 2015, with early reports represented on the upper layer of the fractal and subsequent reports represented on the lower layer.

The linkages between professionals in the EU tax ecology and expert groups can be visualized through an affiliation network (*see figure 7.4*), which illustrates both authors (grey circles), reports which favor behavior (white squares), and reports favoring structure (black squares). Field et al. (2006) note that such networks are particularly useful to show the relation between working group members and authors, which are related by reports on governance in any given issue-area.

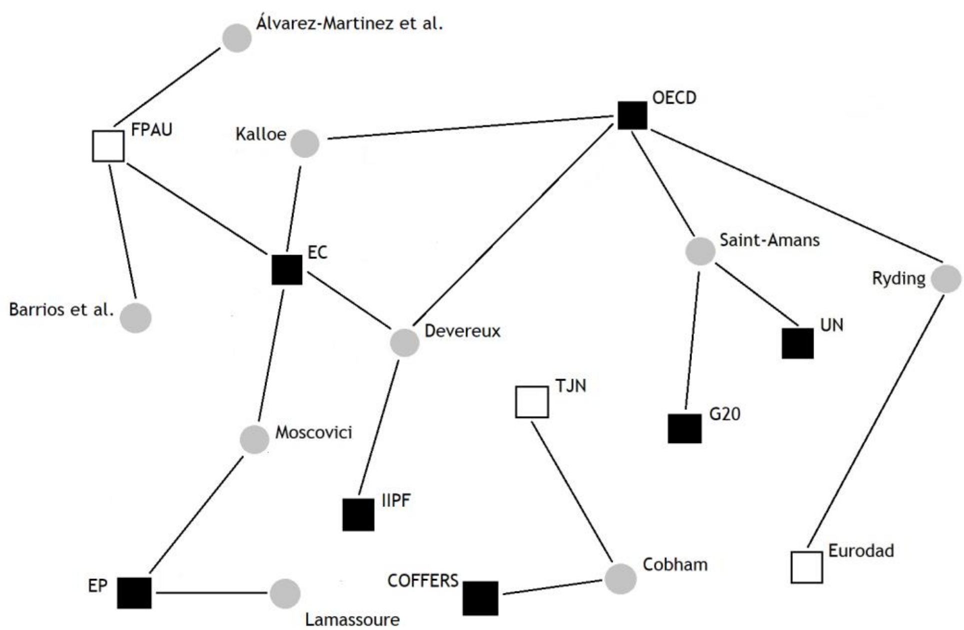


Figure 7.4 - Affiliation network of EU tax reform expert group members

As figure 7.4 illustrates, there are several common working group members in organizational reports, but policy recommendations may nonetheless differ despite their involvement. For instance, both OECD and EC reports share a group member (Kalloe), but the institutions have different approaches to tax governance execution or policy content. This is largely due to the environment in which group members operate, since there are "very distinct settings in which the transnational policy community operates, and where expectations and audiences differ accordingly" (Seabrooke & Tsingou 2014: 400). In line with Powell et al. (2005), similar professional logics apply to inter-organizational collaboration in various fields, and since attachments are in constant flux, participants must learn "how to exit from relationships gracefully" (ibid: 1187) such that they do not compromise potential partnerships.

Our study demonstrates professionals that both block access to tasks and broker between other actors. An example in our affiliation network is the position of Pascal Saint-Amans, the Director for the Centre for Tax Policy and Administration at the OECD, who adopted the role of broker across the OECD, G20, and UN to craft the common report. The brokerage role has been considered a central feature of policy entrepreneurship, helping to maintain otherwise nonexistent ties between disparate actors thanks to an ideological or organizational through-line (Goddard 2009). Carpenter (2011) further argues that scrutiny of the tax governance agenda is not attributable to organizations, but instead the product of "a relational construct dependent on relative network positions - between players most central to a particular issue network and issue entrepreneurs within or outside the network - in a given thematic area" (ibid: 78).

7.2.2. Technocracy, sovereignty, and the weakening of state power

Decision-making in the EU are often perceived as technocratic by nature. Many concerns have been raised, by governments and institutions alike, over a potential 'democratic deficit' in Europe (*see box 10*).

Box 10: Technocracy in the EU

Technocrats can be loosely defined as experts acquiring and exercising power, or inversely, "politicians who make decisions based on their expertise or specialist knowledge of a particular subject, rather than to please a particular interest group or political party" (Oltermann 2011). Jean Monnet, widely considered the 'Father of Europe' due to his pioneering work in the 1950s, envisioned growth as the product of expertise and knowledge exchange rather than party affiliation (ibid). Technocracy has long been understood as anathema to democracy since there is an 'inevitable tension' between democratic control of policy and expert regulation or intervention (Shapiro 2005). Former President of the EC Jacques Delors once noted that the weakening of democracy across nation-states and growing complexity of decisions in the EU "favors the emergence of experts, bureaucrats and technocrats" (Banchoff & Smith 1999: 99). Although this distinction can be applied to many modern polities, it is accentuated in the case of the EU, as the primary legislative institutions rely heavily on external knowledge and expertise in the policy design.

Though it is commonly argued that technocracy is inversely proportional to democracy in the case of the EU, this may oversimplify certain features of EU governance. For example, the de-politicization of policy-making can be interpreted as a positive democratic feature by helping to create a more deliberative environment (Pettit 2004). Yet, despite the increasingly political role assumed by the EC in the integration process, the institution is still perceived as technocratic actor reliant on 'apolitical' expert committees that hinder its legitimacy. Rosanvallon (2011) contends that technocratic non-majoritarian institutions (NMIs) are in fact a precondition for democratic legitimacy, and recent trends (e.g. the expansion of watchdog and regulatory committees, NGOs) indicate a reform of governance structures and a check on institutions. The same accountability is not also applicable to independent experts, whose attractiveness may be influenced by "a series of untrustworthy governments and institutional players" rather than their credentials (Bertsou & Pastorella 2017: 434). Finally, policy-making is organized around several functional areas in coalitions competing for power:

> "Fragmentation, coalition formation, bargaining, networking and negotiation in functional arenas are [a key] feature of bureaucratic politics. This has important consequences. One is that choices are insulated from macro-political scrutiny and public oversight. Another is that intense competition for power (as opposed to learning and more cooperative problem-solving styles) in the policy process" (Radaelli 1999: 761).

In the EU, these dynamics can be observed in the functional areas where national administrations, DGs, Commissioners, Parliamentary committees, Council advisory groups, and interest groups form coalitions in constant competition for power (Radaelli 1999). For instance, EC officials seem to be moving towards a system that brings together policy actors to create a debate between different belief systems, where the desire for credibility leads to "serious analysis of methodological assumptions, to the gradual elimination of the more improbable causal assertions and [...] to a greater convergence of views over time concerning the nature of the problem and the consequences of various policy alternatives" (Sabatier 1988: 156). The suggestion that policy-makers are mainly concerned with securing stability and agreement is thus feasible, given the EC commonly uses terms like 'stakeholder' in the context of consultation processes; identifying stakeholders also facilitates policy-making in the implementation phase given the importance of adjusting or changing course when issues emerge (Richardson 2005). The power of EU professionals is nonetheless constrained due to the involvement of other actors (e.g. conventional and interest groups), but also as "the 'glue' holding coalitions together might be rather weak - hence the common feature of temporary, ad hoc, coalitions of actors not sharing a common intellectual base, policy frame, or belief system" (ibid: 23).

The CCCTB legislative process further illustrates why some Member States believe there is an erosion of their sovereignty. In the case of the 2011 and 2016 proposals, several countries raised objections on the grounds that the directive infringed on the principles of subsidiarity and proportionality, both of which regulate the exercise of power by the EU. The *proportionality principle* is one of the oldest in the EU, and per Article 5(4) claims "the content and form of Union action shall not exceed what is necessary to achieve the objectives of the [Lisbon] Treaty" (Cimmerholm 2016: 15). In other words, Member States who believe the CCCTB goes beyond its aim can oppose it on grounds of proportionality. On the other hand, the *subsidiarity principle* has been referred to as a 'necessity-test' where the EU can only act in areas where it enjoys exclusive competence, and only if the aims of the proposal "cannot be sufficiently achieved by the Member States" themselves (ibid: 17). The subsidiarity principle is often invoked by states which believe unilateral action can achieve the aims laid out in the CCCTB. In the future, the EU therefore must balance the use of external knowledge to create a new policy environment and avoiding technocratic bias.

7.3. Institutions and networks in the CCCTB

The CCCTB has been lauded as a means of providing MNCs with a single system to calculate taxable income, from which will follow more legal certainty and a reduction in tax obstacles (*see section 6.1*). This section expands on the attributes of the directive, depicting the interactions of composite actors in relation to the CCCTB and networks between these actors, after which we elaborate on the influence of the Council and EP on the CCCTB to gain a broader understanding of how both institutions influence tax policy outcomes in the region.

7.3.1. Institutional actors in the EU: Formal and informal activity

An important distinction in ACI analysis is that between formal and informal institutions (*see section 5.2*) or written rules and systems versus cultural frameworks and cognitive schemes (Burns et al. 1985; Jepperson 1991). Institutional change in the EU can be illustrated similarly, since European institutions fulfil a set of legal-formal functions and attributes in the policy-making process, but also act through informal channels which can be equally effective (Maggi 2015). Table 7.3 provides an overview of the institutions in the EU in terms of their formal and informal mandate and activity.

Institutions	**Institutional mandate**	
	Formal	**Informal**
European Commission	Right of initiative	Network formation
European Parliament	Ordinary legislative procedure (OLP)	Intergroup activity
Council of the European Union	OLP, voting and policy coordination	Independent/impartial presidency

Table 7.3 - ACI overview of composite actors in the EU tax ecology

The main actors in the EU tax policy-making process are the EC, the EP, and the Council of the EU. The actors in table 7.3 are presented as monolithic entities, since individual self-interest is not an accurate predictor of their activity in the policy process, and because individuals "often act in the name of and interests of an organization with structured responsibilities and competencies" (Boessen 2008: 67). We conceptualize of EU institutions in terms of their activity both *formal*, referring to their roles and scope of activity in official legislative processes, and *informal*, or modes of institutional governance that are characteristic of uncodified rules of behaviour that run parallel to formal procedures. Box 11 below provides an example of the institutional mandate of such actors in the case of the EP.

Box 11: Mandate of the European Parliament

The EP engages in both formal and informal modes of supranational tax governance. Traditionally, the EP's formal mandate consists of the Ordinary Legislative Procedure (OLP), which refers to when legislative proposals submitted by the Commission are adopted either at a first or second reading by MEPs and the Council, in line with articles 289/294 of the TFEU (EU 2008). If no institution reaches a consensus after the second reading, a conciliation committee is convened to draft a text which, in principle, both institutions could agree on (ibid). Formal procedures, while legitimate, also run the risk of being unsuccessful if consensus is unlikely. Conversely, the EP's *informal* mandate includes the formation of Intergroups, which include MEPs from different political parties that convene to discuss a wide array of subjects in an informal manner (EP 1999). Although intergroups are not official organs of the EP, they can nevertheless advance the policy process through informal sessions, and members must declare any support they receive - financial or otherwise (ibid).

This conceptualization of European institutions assumes that the most relevant stakeholders act in the interest of larger units (policy) rather than themselves, even though institutional strategies are largely predicated on both internal and external influences (Scharpf 1997). And while EU actors are monolithic entities, they still engage in network formation to advance policy aims.

7.3.2. Networks of influence in EU policy-making

Focusing on voting behavior by Member States, MEPs, and EP political groups is a crucial part of the voting process in the EU, alongside interest groups and network formations advocating for adoption or non-adoption or specific policies. For our analysis, the 'yellow card' procedure from 2016 and the EP vote in March 2018 will be explored in regard to the 2016 CCCTB proposal.

EU institutions (EC, EP, Council) constitute the setting under which actors operate and interact. There are two "formal institutional conditions for interaction in the European policy-making process: [...] the rules concerning the interaction between the EC, the EP and the Council, and voting" (Boessen 2008: 22-23). The ability of actors to influence policy varies according to the different institutional characteristics. Likewise, the involvement of EU institutions in legislative decision-making depends on the institutional rules under which these decisions are made. Whether the CCCTB is adopted or not is based on *consultation procedures* (*see box 12*).

Box 12: The consultation procedure

The procedure begins with the EC's introduction of legislation, a Commission proposal, after which the Council and the EP conduct individual readings of the proposal. The EP can than suggest amendments on the legislation to the Council. Upon receiving the EP's suggestions, the Council decides on adoption either via unanimity or qualified majority (Aksoy 2008). Which mechanisms to choose depends on the Lisbon Treaty. The CCCTB directive is based on Article 115 of the TFEU and provides that the legislative act shall be adopted by the Council acting *unanimously* after consulting with the EP (KPMG 2012). This procedure largely determines which institutions and actors are involved in decision-making, as well as the rules concerning their interaction. To influence decision-making outcomes, Member States in the Council seek the support of the EP and the EC. Existing literature suggests that support from the EC is especially relevant for Member States when decisions are based on unanimous voting, since under unanimity rule, the policy is harder to amend than under qualified majority rule (Aksoy 2008). Hence, the more support an actor can gather for his/her policy preference(s), the more legitimate that claim becomes.

Besides seeking support from actors outside the Council, Member States "also need the support of actors inside the Council (i.e. other Member States) to influence EU policies" (Aksoy 2008: 49). Member States do so by forming coalitions, or networks, with other actors that support their preference. The importance of forming such coalitions is conditioned upon the voting rule applied in the Council. If decisions are taken via qualified majority voting, it is essential for Member States to establish a coalition that can secure enough votes to 'tip the scale'. On the other hand, as in the case of the CCCTB proposal, if the decision is based on unanimity rule and all Member States have one vote each, forming networks are of less importance (Staal 2017). However, Member State still seeks the support of others since - as suggested by ACI - actors (Member States) pursue reputation and social acceptance in addition to policy preferences. In less than one third of the votes in the Council does one or more Member State not support the EC's proposal with an unconditional 'yes' vote (ibid). Staal argues that the dissent expressed by a 'no' vote can cause a loss of support on future issues and - worst-case scenario - lead to isolation in the Council. In other words, Member States seek approval and wish to appear cooperative. Hence, they will attempt to form coalitions that increase the legitimacy of their preference. This is especially the case with smaller Member States. Given their size, these States more often seek out coalition partners and thus tend to vote more in line with each other and the majority in Council. The larger Member States, on the other hand (Germany, the UK), often position themselves against the majority and are outvoted to a greater extent than their smaller counterparts.

Although the CCCTB proposal has never made it to a vote in the Council due to Member State opposition, opinions regarding its adoption can still be analyzed by looking at the outcome of the '*yellow card'* procedure in 2016. The 'yellow card' procedure is an early-warning mechanism that allows national parliaments to object to EC proposals, claiming it breaches the principles of proportionality and subsidiarity (Bertelsen 2017).

Analyzing the reasoned opinions brought forward by Member States objecting to the CCCTB proposal in 2016 through the 'yellow card' procedure highlight network formations along certain policy issues. Most notable are statements made by smaller Member States expressing their concerns regarding potential declines in corporate tax revenues. Ireland, Malta, the Netherlands, Bulgaria, Romania, Sweden, and Slovakia all issued 'yellow cards' questioning the gains from the CCCTB proposal and argued that lower tax revenues would make it necessary to compensate with a higher tax rate, which would hurt their competitiveness (Bertelsen 2017; *see table 7.4*).

Member State	**2016 'Yellow Cards'**
Bulgaria	1
Denmark	2
Ireland	2
Luxembourg	2
Malta	2
The Netherlands	2
Poland	-
Romania	1
Slovakia	1
United Kingdom	-
Sweden	2
Total	15

Table 7.4 - The Yellow Card procedure for the 2016 CCCTB proposal (van der Streek 2018)

Several Member States contend that the CCCTB infringes on the principle of subsidiarity. The Netherlands and Ireland claim there are already international mechanisms in place that effectively supervise transfer-pricing schemes by MNCs, and argue alongside Malta, Romania, and Bulgaria that a reduction in compliance costs could be better achieved at the Member State level (ibid). Formations have ensued among Member States that chose not to issue 'yellow cards' as well. Most notable is the coalition between two of the largest Member States in the Union, France and Germany. Advocating for a more comprehensive proposal, both countries have sought to harmonize tax rates, claiming harmonization would eliminate tax avoidance loopholes.

To sum up, voting behavior by Council Member States during the 'yellow card' procedure ahead of the 2016 CCCTB proposal shows how actors seek to maximize self-interest by establishing informal networks. The networks depend on actor centrality, where smaller Member States are more inclined to seek out coalitions so as to increase the legitimacy of their preference. In addition to self-interest maximization, the actors are guided by role definition, i.e. the part the actor plays in the EU tax ecology. What that role represents is influenced by the ideology and subsequently the worldview of the actor. Networks form between composite actors with the same worldviews; for instance, the distinction between those actors viewing national autonomy over tax systems favorably (e.g. Ireland and The Netherlands) and actors believing such autonomy to be a hindrance to their own tax regime and the EU economy (e.g. Germany and France). In addition to the Council's capacity to block or accept legislation - its hard power - the institution also provides an arena for actors to influence policy that affects outcomes beyond the actor's single vote.

Voting behavior in the Parliament offers another interesting study of actor preferences and network formations. The EP comprises a more complex system than the Council. In 2012, the EP consisted of more than 700 MEPs representing 209 national parties and 27 Member States. In addition, the national parties formed eight EU party groups, ranging from the far-right and Eurosceptic EFDD to the extreme left GUE-NGL (Ceuppens 2016). The political groups are organized along ideological lines and can at times represent a European political party, and at other times a broader political coalition consisting of several parties. Hence, the groups are not parties per se, but rather loose coalitions within the institutional setting of the EP (Cedelle 2015). Each party group consists of MEPs that are elected directly from the Member States via universal suffrage. Since EP elections are held at the national base, MEPs respond to both the EP party group and the national parties from which they are elected (*see box 13*). Rasmussen (2008) argues that while MEPs answers to both national and EP group parties and appear to have a stronger connection to their national party, the EP party group is more effective at constraining or influencing the voting behavior of the MEPs (ibid). Analyzing the voting behavior of political groups is therefore a better indicator of the influence of actors and networks than votes by Member States (the nationality of MEPs).

Box 13: Parliamentary politics

As in national politics, policy preferences of the EP party groups and MEPs are guided by ideology. There are two ideological dimensions that set the premise for Parliamentary politics. The most influential dimension is the traditional left-right axis – the political spectrum constituting the basis for national politics. In the EP, "parties who are classified at the left of the political spectrum generally prefer a stricter market regulation and tax policy, while parties at the right end [tend to] oppose it" (Ceuppens 2016). Hence, we can assume parties on the left to be more favorable towards an implementation of the CCCTB. The second dimension concerns pro- or anti-EU sentiment among political groups: pro-EU parties usually favor deeper integration, and anti-EU parties view the EU project as a threat to national sovereignty and advocate for less power centralization in Brussels. Since the CCCTB implies more integration, we can assume pro-EU parties are likelier to support the proposal. Parties in the middle - centrists - are generally viewed as pro-EU, while far-right and far-left frequently harbor strong Eurosceptic sentiments (Lindberg et al. 2008).

There are eight political groups in the EP. The following table classifies these groups according to their standing on the two ideological dimensions: the left-right and pro- or anti-EU dimension (*see table 7.5*). Data is gathered from the homepage of each respective political group. The 'Dimension 1' column place the party groups along the political spectrum according to their stated ideological position. The next column, 'Dimension 2', identify each party group's view on EU integration. The last column combines the two, concluding whether the party groups, according to their placement along the two ideological dimensions, would favor a CCCTB or not.

Political Group	Dimension 1: left-right	Dimension 2: pro-anti	Favor CCCTB: Yes/No
ALDE/ADLE	Center left	Pro	Yes
ECR	Right	Anti	No
EFDD	Far right	Anti	No
ENF	Far right	Anti	No
EPP	Right	Pro	Y/N
Greens/ EFA	Left	Pro	Yes
GUE-NGL	Far left	Anti	No
NI	N/A	N/A	N/A
S&D	Center left	Pro	Yes

Table 7.5 - Parliamentary positions and ideology (cf. EP 2018)

From table 7.5 it is possible to analyze whether MEPs have voted in accordance with the ideological positioning of their group or not. To do so we use the outcome of the legislative vote on the CCCTB proposal in the EP from March 2018. Of the 652 MEPs that voted, 438 (67%) voted for, 145 against (22%), and 69 abstained (11%). According to the classification in table 7.5, the voting outcome of ALDE/ ADLE, the Greens/EFA, and S&D should indicate a clear majority in favor of implementation. Conversely, for the ECR, EFDD, ENF, and GUE-NGL, the majority should be against the proposal. For the EPP, the largest political group in the EP, the results are more ambiguous. The group is of a conservative and liberal-conservative orientation and are thus on the right side of the political spectrum. However, most of the group consists of center-right Europhiles that view European integration to achieve a "stronger and more responsive Europe" (EPP 2018). A smaller fraction of the EPP consists of Eurosceptics with a more critical view on EU-wide taxation.

Political Group	For	Against	Abstentions	Correlation Y/N
ALDE/ADLE	57	5	2	Yes
ECR	1	52	1	Yes
EFDD	14	25	0	Yes
ENF	0	17	17	Yes
EPP	156	19	16	No
Greens/ EFA	46	0	0	Yes
GUE-NGL	2	15	25	Yes
NI	2	7	5	N/A
S&D	160	5	3	Yes
Total	*438*	*145*	*69*	-

Table 7.6 - Voting behavior by group (EP 2018)

Table 7.6 shows whether there is a correlation between the results in table 7.5 and the MEPs voting behavior. Based on the vote, 372 MEPs vote in accordance with the ideological standing of their party group (93% of total MEP votes). If we include the EPP and assume that the larger fraction of the group favors a CCCTB, while the smaller Eurosceptic group are against the proposal, results are 528 MEPs in accordance (91% of total votes_. Conversely, 7% of MEPs vote against the ideological standing of their party group. If we include the EPP, the number rises to 9%.

In sum, similarly to developments in the Council, networks in the EP are established to increase the influence of its actors. Yet, networks in the EP are institutionalized and more formal than the subtle ties between Member States in the Council. Although the analysis of voting behavior in the EP conducted above is rudimentary, it highlights how that institutional setting structures the courses of action available to actors. EP party groups and MEPs are free to choose whichever course of action, and hence are not entirely constrained by the institution. As the results of the vote indicate, they nevertheless act according to the ideological standing of the network. While it is the interaction between the actors that determine the vote, the outcome is shaped by the institutional structure of the EP and networks that arise due to that structure.

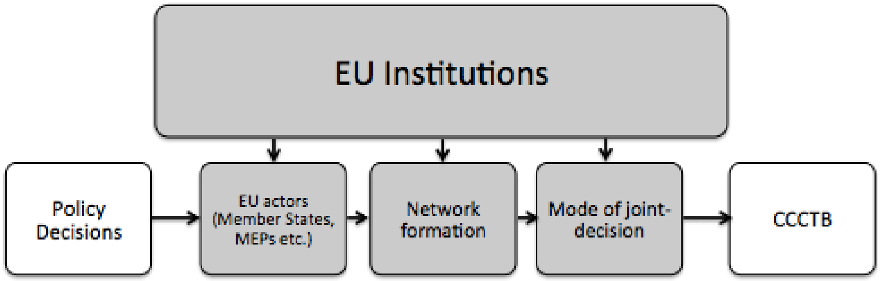


Figure 7.5 - The ACI framework applied to the EU tax ecology

In figure 7.5 above, we have applied the ACI framework to the EU tax ecology to explain how the variables of the framework influence tax policy outcomes. By studying how actor interaction is constrained or encouraged within the institutional setting of the EU, we can better understand how these institutions influence tax policy outcomes in the region.

8. Discussion

To evaluate the CCCTB proposal as a policy outcome and a framework for reform, it is necessary to highlight the influence of non-state actors over policies as state power has weaned. Professions are key to the functioning of EU tax governance, with tax professionals lying at the intersection of each ecology, and institutions drawing from the expertise of each profession when drafting and executing policies. Expertise in different areas and tasks (e.g. tax compliance, cognitive/language aspects of tax, economic reporting) all play an important role to change policy content; in the case of the CCCTB, the impact of professions on policy is in line with the redefinition of the professions themselves over time (*see section 7.1*). In addition, the different sectors, or 'realms', are yet another influence over EU tax policy, as increased cross-sectoral collaboration and contestation illustrates the need for consensus for a law to be politically feasible. For instance, since different sectors have varying attitudes towards the CCCTB (e.g. private sector slightly more opposed to the directive than NGOs), it is becoming increasingly necessary for these actors to broker between each other. Moreover, reports published since the 2011 CCCTB have been characterized in equal parts by behavior and structure in their policy recommendations for the harmonization of tax standards, as illustrated in the analysis (*see section 7.2*).

The CCCTB process is the latest instance in a trend of forming complex transnational coalitions of actors, which lessens the focus on states as the main policy-making venue. MNCs are increasingly seeking to participate in these coalitions, since the prospect of EU tax harmonization could render existing tax practices obsolete. Numerous EU countries have filed formal objections to the CCCTB and argue that the relaunched initiative (unlike its 2011 counterpart) does not meet the principle of subsidiarity, whereby proponents of centralization must prove that further integration is justified. In other words, unless the EC can make a convincing enough case for more tax harmonization to Member States, the default option will be the continued exercise of power in local jurisdictions (VoxEU 2017). In contrast with the policy arena of national governments, the EU legislative process presents all actors with a choice of venue for conflict resolution, as exemplified by the rise of expert groups or comitology committees. However, such a system could nevertheless risk creating unstable relationships between policy actors, alternating between periods of relative stability and deepening institutional change (cf. Richardson 2005).

A wide array of objections have been raised against the CCCTB. First, states contend that tax policies are an element of sovereignty, but also an expression of the social and economic policy choices reflecting the individual character of each state. Second, it has been argued the proposal would disproportionately affect smaller economies in the EU (e.g. Ireland, Luxembourg, Malta) which rely on tax competition given their competitive disadvantage. Third, the CCCTB could generate uncertainty for SMEs, and has been accused of including mechanisms aimed at reducing opportunities for tax avoidance which are already covered by other directives, like ATAD or the Code of Conduct on Business Taxation. Finally, some states believe the CCCTB's links with countering tax-avoidance are far-fetched and the proposal is unnecessarily complex, going even further than the BEPS Project. The European Policy Information Center (Caccavello 2017) argues that only three EU countries (Belgium, France, Spain) would benefit from the introduction of a mandatory CCCTB in their employment, GDP, and FDI. Despite these objections, the 2016 proposal's introduction of a two-step process - delaying the 'consolidation' feature - was more widely welcomed by Member States (*see section 7.3*). Yet, national initiatives on corporate tax in Member States differ substantially, as our comparative case study illustrates.

8.1. Comparative case study findings

Our comparative case study between Latvia and the Netherlands outlined the key differences in their tax regimes and implications of recent tax initiatives for EU-wide reform. There are elements of the Latvian reform which are considered a continuation of harmful tax practices (e.g. multinationals pay 0% on their retained or reinvested earnings), but the CIT Law largely runs counter to the trend of "race to the bottom" in global tax competition. Recently, the country introduced laws to tackle tax avoidance and money laundering through the disclosure of a public register of beneficial owners (unlike the Netherlands), where the management board of MNCs could be held liable for losses caused (Berlaus & Šestakova 2017). After criticism from the US that Latvian banks were still engaging in money laundering practices, the country committed to prohibiting shell companies operating in the country and tightening anti-money laundering rules (Gelzis 2018). In contrast, the Netherlands is widely considered the largest international conduit jurisdiction, with numerous letter-box companies and numerous advance pricing agreements with corporations. An element facilitating tax avoidance by MNCs operating in the Netherlands is the specific network of bilateral tax treaties, primarily with low- and middle-income countries outside the EU, most of which do not contain anti-abuse provisions for dividends, interest, or royalties (Weyzig 2013). Moreover, these tax treaties would "strongly reduce the treaty partners' standard withholding tax rates, or eliminate them, for payment to Dutch entities" (ibid: 8), which, in combination with the special treatment of certain entities, made the Netherlands very attractive for conduit structures involving such payments.

The recent tax reforms enacted in Latvia (CIT Law) and the Netherlands (DWT Act) are both significant in terms of their implications for each country, the CCCTB, and prospects for EU-wide tax harmonization. Their effects are explored in turn.

Following the 2018 reform, the approach to calculating CIT in Latvia has fundamentally changed. Prior to recent amendments, the Latvian tax regime was broadly viewed through the prism of its low corporate tax rate

(15%), ranking third most competitive in the OECD. Increasing investment and promoting economic development have been the guiding principles for the regime since the mid-1990s, and most reforms that have occurred since then have placed significant emphasis on these features. The amendments to the CIT Law (in particular, the CIT rate rise to 20% and clarification of which payments constitute the CIT base) were thus encouraging changes for small businesses and EU prospects for tax harmonization. Renewed focus on transfer pricing, exemplified by the law's specification of the terms under which corporations are considered 'associated' entities, is yet another element which intends to monitor related party transactions. Yet, although Latvia had introduced CBCR regulations in 2016, a fuller insight into the effects of the CIT Law will not be possible until Master and Local file requirements (e.g. respectively, an overview of corporate group business activities and the intra-corporate, cross-border business relationships) are introduced for MNCs, and until the amendments take effect over the coming years.

While not a polar opposite case, the recent reform in the Netherlands illustrates how widely it differs with Latvia with respect to central CCCTB principles. Long considered a tax haven, the Netherlands has come into conflict with the EU on a number of occasions, which in recent years has opted to use its 'legal stick' of launching state aid cases over suspected Dutch support of multinationals (e.g. Starbucks, Microsoft). It should therefore not be surprising that the government of the Netherlands would decry the CCCTB of conflicting with previous directives (e.g. ATAD) and the subsidiarity principle. The Dutch Ministry of Finance's proposed reform, the DWT Act, aligns with these trends by strengthening the investment climate in the Netherlands and lowering the CIT rate to 21% - slightly below EU average. Yet, it was the elimination of the dividend withholding tax which indicated a substantive shift in the Dutch tax regime, exempting companies in third countries that have entered into an agreement with the Netherlands regarding DWTs. More recently, the Dutch Ministry of Finance came under fire when it emerged some MNCs like Shell and Unilever had lobbied for the change, but indicated that the proposal would not be withdrawn to prevent triggering an infraction procedure for a breach of state aid rules (Molenaars et al. 2017). Although the reform has already been enacted, amendments can still be added to the DWT Act over the coming years.

On the one hand, the proposed tax regime in Latvia would raise the applicable CIT rate from 15% to 20% and list expenses to be treated as either profit distribution or deemed profit distribution, while abolishing a number of tax reliefs (e.g. depreciation for tax purposes, tax relief for large investments, and support for R&D), but also introduces a 0% tax rate on reinvested profits. The CIT Law is therefore a mixed bag for tax harmonization, but given the country's past focus on tax competition, an encouraging one overall. On the other hand, the reforms in the Netherlands would lower the CIT rate from 25% to 21% and abolish the withholding tax altogether, despite apparent attempts to address its history of tax havenry. Moreover, announcements by the Rutte administration indicate that the Dutch government supports the position of the EC on public reporting that requires MNCs to publish CBCR data for some countries but not all (Eurodad 2017), further exemplifying its opposition to full tax harmonization. Given that both measures were adopted as a direct result of the CCCTB, they reflect how professional and institutional forces on a supranational scale can manifest themselves over national tax policies, which struggle to retain previous behavioral and structural patterns.

8.2. Policy recommendations

We have chosen to focus the recommendations on the CCCTB as opposed to suggestions on wider institutional or regulatory reforms, as the knowledge accumulated throughout the research process (in-depth interviews and observation) has provided us with new insights on the extremely complex nature of European policy-making. First, we present alternatives to the CCCTB's adoption, followed by two technical recommendations on how to improve its reach and effectiveness. Feasible solutions to implementation are necessary, as our research indicates that full-scale adoption is unlikely in the current climate.

Given that a full-scale adoption of the CCCTB across the EU is unfeasible, we recommend a movement towards a *sector-based taxation model*. In March 2018, the EC issued two directives on taxing digital business activities in the EU, under which companies are required to pay CIT in all states where they have a digital presence (Deloitte 2018; EC 2018). The proposal is predicated on the issue of multinationals paying little or no taxes on their profits in the states where the value is generated, which is possible since they have no physical presence in the Member States where digital services are performed; several companies affected by the 'digital tax' are tech-giants like Google, Facebook, and Apple. Google reportedly saved $3.7 billion on taxes in 2016 by exploiting legal loopholes, involving a shell company in Ireland, Dutch subsidiaries, and a physical location in Bermuda (Rankin 2018; *see section 6.2*). The new tax is expected to raise €5 billion in revenue if implemented, by placing a 3% minimum tax on income from digital activities; this is a much-welcomed development from a Member State perspective, since it follows a period of declining CIT revenues and fiscal deficits across the EU (Deloitte 2018). The proposal's context highlights the need for a more wide-reaching corporate tax reform, one that takes the current digital and globalized economic environment into account.

An alternative approach would be to *establish the CCCTB across Member States who approve of the directive*. Though a less desirable alternative than an EU-wide tax base, this model is nonetheless an alternative that deserves discussion. According to Richard Murphy (2018), the EU could create a CCCTB area "where countries that want to participate can provide companies within their territories with the advantage of less tax filing [whereas] countries that choose not to be a part of it would then be treated as third countries" (ibid). Murphy further argues that although such a proposal has not been introduced yet (as the EU is still attempting to garner consensus), the creation of a sub-group of Member States without full EU endorsement has happened before, namely with the financial transaction tax (FTT) - 11 Member States are currently part of that initiative (ibid). Implementing the CCCTB across a subset of countries could push aside several of the obstacles discussed in this thesis but would be hard to realize politically as it contradicts the objective of the proposal, namely a unified EU tax regime. And yet, as Murphy suggests, this approach would nonetheless put substantial pressure on opposing countries. We agree.

Then, a *reconfiguration of the FA model* could be warranted. The EC's proposal has generated debate on the weighing of each factor, with some arguing that assets should include intangibles (Parillo 2012). Others have argued the weighing of labor is unnecessarily skewed, with the balance between employees and payroll being unnecessary (ibid). The EP argued in turn that the CCCTB should be mandatory for all companies other than SMEs, calling for stricter anti-abuse rules and an amendment of FA to give less weight to sales (ibid).

Finally, the CCCTB establishes a new EU-wide tax code for MNCs. However, the EU does not have a standard accounting practice, including a consistent accounting base. Critics have therefore pointed out that MNCs with operations in many Member States at once might incur double taxation and deter investment (Caccavello 2017). Given the CCCTB is not a consolidation process in an accounting sense - since there are differences in the cross-country valuation of revenues and expenses - *the EC should incorporate international accounting standards in the directive.* Those standards are currently regulated by the International Financial Reporting Standards (IFRS), an organization largely funded by the EU. Murphy (2018) thus argues that instead of onboarding Member States to adopt new accounting standards, the EU should incorporate its provisions in already existing standards from the IFRS. The EU could use the funding as a carrot or a stick (ibid).

9. Conclusion

Our thesis set out to investigate the institutional and professional influences in the CCCTB, and how they have shifted the nature of the directive since it was first introduced. Adopting a critical realist worldview, and through abductive and retroductive reasoning, we have generated feasible hypotheses to answer the RQ, and interpreted the CCCTB as an empirical case study indicative of broader trends in supranational policy-making. Moreover, our contributions are theoretical (role of individual and composite actors in the EU tax ecology) and empirical (comparative case study on state-level initiatives juxtaposing two EU Member States). Our analysis benefits from semi-structured interviews with professionals from various sectors and participant observation, allowing us to garner firsthand accounts of the policy-making and bargaining processes leading up to the CCCTB.

In line with renewed efforts by the OECD to tackle corporate tax avoidance, the European Commission's relaunch of the Common Consolidated Corporate Tax Base (CCCTB) reflected broader institutional and professional influences in the policy-making process. Although the EC argued the directive could ease the administrative burden of multinational corporations having to abide by an array of tax regimes across EU Member States, some national tax authorities remain opposed to the CCCTB, contending that it would be disadvantageous for smaller economies, and the apportionment formula for calculating corporate tax base (FA) is imperfect. In recent years, the EC has made concerted efforts to address profit shifting through the launch of state aid investigations into multinationals that obtained tax rulings from Member States, which threatens to distort competition by favoring undertakings deemed incompatible with the Single Market (e.g. selective tax advantages). To avoid this legal stick and address the presence of letter-box companies, a handful of states have launched unilateral tax reform initiatives, aiming to strike the delicate balance of tackling profit shifting and money laundering while remaining tax competitive. Moreover, the emergence of professionals in the legislative process, reflected by the importance of working groups and committees in the CCCTB, has coincided with a weakening in the influence of traditional state actors in the EU policy process. This has important implications for composite actors in the EU tax ecology (institutions), which have been forced to incorporate professional expertise into their legislative procedures.

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11. Appendix

Annex I. List of interviews

Interview	Position	Sector	Nationality
Rasmus Christensen	PhD Fellow at Copenhagen Business School	Academic	Denmark
Uwe Ihli	Head of Section Company Tax Directives and CCCTB at DG TAXUD	Public	Germany
Vinod Kalloe	Head of International Tax Policy at KPMG Meijburg & Co	Private	The Netherlands
Markus Meinzer	Director, Financial Secrecy	Public/IO	Germany
Richard Murphy	Professor of Practice in IPE at City University, London and Director of Tax Research UK	Academic/IO	UK
Thomas Rixen	Professor of Public Policy at the University of Bamberg	Academic	Germany
Tove Maria Ryding	Policy and Advocacy Manager, Tax Justice at Eurodad	IO	Denmark
Brigitte Unger	Chair of Economics of the Public Sector, Utrecht University	Public/Academic	Germany
Margrethe Vestager	European Commissioner for Competition	Public	Denmark
Maruta Zorgenfreija	Owner at PKF Latvia SIA	Private	Latvia
Gabriel Zucman	Assistant Professor of Economics at UC Berkeley	Academic	France