Bachelor Thesis

Creating a new international tax policy regime – the presence of European stakeholders in the OECD/G20's BEPS project.

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Abstract

This article analyses the presence of European stakeholders in the project against Base Erosion and Profit Shifting led by the OECD and the G20. Using qualitative data, the impact of the internal dimension of EU policy-making, conceptualized as internal policies, policy-goals and interests, on the presence of European stakeholders in the BEPS project is examined. While observing that generally international and EU tax policy is hampered by a prisoner's dilemma and divergent policy preferences between states, European interests succeed on the international level as EU Member States and the supranational institutions agree jointly to pursue an approach that is based on soft-law, leaving countries the discretion to implement the recommendations that are issued by the OECD/G20. The European Commission makes use of international fora to circumvent internal decision-making complexities in order to push through its internal policy-objective to go beyond the BEPS project without challenging the national tax-setting sovereignty.

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List of Abbreviations

ACD	Administrative Cooperation Directive
AML	Anti-Money Laundering
ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CBCR	Country-by-Country Reporting
CCCTB	Common Consolidated Corporate Tax Base
CEU	Council of the European Union
CFC	Controlled Foreign Company
EC	European Commission
ECOFIN	Economic and Financial Affairs Council Configuration
ECON	Committee for Economic and Monetary Affairs
EP	European Parliament
EU	European Union
G20	Group of Twenty
IO	International Organization
IR	International Relations
MEP	Member of European Parliament
MNE	Multinational Enterprise
OECD	Organization for Economic Cooperation and Development
OLP	Ordinary Legislative Procedure
PD	Prisoner's dilemma
SLP	Special Legislative Procedure
TAXE	Special Committee on Tax Rulings and other Measures Similar in Nature or Effect
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
VAT	Value Added Tax

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Introduction

The global financial crisis was followed by a public debts crisis, especially in the European Union (EU). Both triggered a call by politicians and media to raise public revenues, *inter alia*, by probing into tax avoidance practices of multinational enterprises (MNEs). In this context, the Group of Twenty (G20) decided in 2012 to advise the Organization for Economic Cooperation and Development (OECD) to draft recommendations for actions against Base Erosion and Profit Shifting (BEPS) by multinational companies. The project was concluded in 2015 with a set of soft-law proposals that are to be transformed into legally binding instruments by OECD and G20 member states. This case study sheds light on two related aspects: the process of soft-law adoption on EU level as well as the presence of the European Union (EU) and European stakeholders in the BEPS project as members in OECD and G20.

The EU's involvement on the international level within a growing number of international organizations (IOs) has been subject to change and debate since its foundation in 1952 (Nugent, 2010). Scholars emphasize the unique, sui-generis status of the EU in the traditionally state-centred international relations (IR), being neither a mere IO, nor a fully-fledged nation (see Özoğuz-Bolgi (2013) for a comprehensive literature review). The Union's market size is considered as a strong cause for its international actorness and power (Drezner, 2005; Posner, 2009; Simmons, 2001). Also with regard to global financial and economic governance, researchers argue that the establishment of the internal market, a single currency and more supranationalization (Mügge, 2014) explain the EU's increasing influence on the international level. Meanwhile, scholars are developing a more nuanced conception of the Union's international power, going beyond market size as the sole explanatory variable (Bach & Newman, 2007). Considering the EU as a normative actor (Rosecrance, 1997), it is widely accepted that the EU's internal policies and conditions shape its external actorness (Bretherton & Vogler, 2005) and affect third parties (Nugent, 2010). The EU's anti-tax avoidance policies that aim against BEPS practices clearly have an effect on international actors such as MNEs that are based in a third country. It is acknowledged that the distinction between the internal dimension of EU policies and the external dimension is blurring due to the many interactions between both levels (Lavenex & Wichmann, 2009; Van Vooren & Wessel, 2014).

In examining both, the adoption of the OECD/G20's BEPS proposals on the Union level, and the EU's influence on the BEPS project, this thesis contributes to the scientific debate outlined above by adding recent developments in tax policy as a new perspective of analysis. It sheds light on the EU's role in a new global tax regime and examines EU level decision-making in tax policies. While tax policy is often scrutinized to understand decreasing tax rates (Dreher,

2006; Hallerberg & Basinger, 1998) this work focuses on decision-making and international cooperation and thereby contributes to the refinement of literature on the EU as an international actor.

The so-called LuxLeak scandal exposed loopholes in the tax systems of EU Member States that were used by MNEs to avoid tax payments in the EU in an aggregated magnitude of 50 to 70 billion Euros per annum, according to an estimation by the European Parliamentary Research Service (Dover, Ferrett, Gravino, Jones, & Merler, 2015). Next to the revelations about tax evasion in the context of the Panama Papers, the LuxLeak scandal raised public interest in the tax planning strategies by businesses and individuals. The international soft-law was designed by the OECD/G20 members in order to limit the negative impacts of BEPS practices on revenues. Societally, this research shows to what extent the EU and the relevant IOs engaged actively and concretely in the establishment of a revised tax regime. Additionally, the study spotlights the EU decision-making processes by tracing the concrete procedures that shape Union legislation. It produces insights into the complex structure of EU tax policy going beyond the tax level only.

A congruence analysis is used to discover the relation between the EU's internal policies and their consequences on its external influence. In line with theoretical and empirical evidence, it is argued that the adoption of the BEPS proposals on EU level is closely connected to the EU's international involvement in the OECD/G20's fight against tax avoidance because the EU defines itself and strengthens its international influence through a faithful transformation of international soft-law (Mitsilegas & Gilmore, 2007; Tsingou, 2014) and is itself an initiator for international tax regulation (Wigan, 2014). Furthermore, the composition of competences and the unity of European stakeholders on the internal and external level is seen as a predictor for European influence on global politics (Mügge, 2011). Having identified theoretical expectations, the congruence analysis is conducted in order to test their applicability to the case of the fight against BEPS. The congruence analysis is augmented with a process tracing approach to explain the decision-making outcome of the BEPS implementation on EU level. For the analysis, qualitative data obtained from official policy documents, newspaper articles, press releases and other sources of political communication, is used. The data-set is enriched with information from legal documents to clarify the distribution of competences and the legal aspects of EU decision-making in comparison with the initial soft-law. In doing so, the following research question is answered: *To what extent does the internal dimension of EU policy-making affect the EU's external presence in the OECD/G20's BEPS project?*

In the first section, literature on the Union's external policies is reviewed to derive theoretical hypotheses. Subsequently, the EU's decision-making processes in the adoption of four tax policy initiatives, the Anti-Tax Avoidance Directive (ATAD), the Administrative Cooperation Directive (ACD), the Information Exchange Scheme on Tax Rulings (IETR) and the public Country-by-Country Reporting (CBCR) proposal are examined with a view to the rigidities of collective tax decision-making. Furthermore, the competences and interests of European stakeholders are scrutinized. The thesis continues by evaluating the European presence in the BEPS project based on the analyses of the EU's internal conditions and policy reforms. To check the faithfulness and the ambition of the EU legislation, the BEPS proposals are compared with the decision-making outcomes of the four named policies on EU level. The study is concluded with a reflection on the current and future role of European stakeholders in the global combat of tax avoidance and evasion.

Theories and Hypotheses

This section presents theoretical and empirical evidence on the relation between the EU's internal and external policy dimensions to derive hypotheses that can be tested in the context of a congruence analysis. The hypotheses focus on the relation between the Union's internal conditions of policy-making and its role on the international level.

Dependent variable

According to the conceptualization by Bretherton and Vogler (2005) the actorness of the Union on IO level depends on three factors: opportunity, presence and capability. Opportunity refers to the environment in which the EU is situated internationally, encompassing all pressures and incentives for action. Applying a social-constructivist approach, the authors suggest to measure opportunity, taking into account thoughts and occasions that hamper or encourage EU action. Presence is understood as the capacity to influence third actors, especially with regard to the consequences of the EU's "internal priorities and policies" (ibid.). They show that these consequences vary between policy fields, stressing the importance of the Union's economic impact. The ability to address problems with available and effectively formulated policies and appropriate measures is the capability of EU international actorness. Yet, this research focusses on the presence of European stakeholders in international fora. The other two factors, opportunity and capability, are less relevant to the study of a specific policy as they refer to more general understandings, ideas and beliefs about the EU. Opportunity and capability are rather long-term concepts that are not fully suitable to the exploration of a short-term policy

development. Moreover, capability intersects partly with presence since both factors take into account the necessity of a consistent external policy (ibid.). Consequently, the study opts for the former point of the suggestion by Lavenex (2014) to distinguish between the analysis of the EU's interactions and influences on the international level and the wider considerations on the EU's identity as an international actor.

Mügge (2011) defines European presence as the strength of European stakeholders to represent European interests or "as the presence or otherwise of actors who represent European stakeholders and have the authority and necessary discretion to negotiate on their behalf." Stakeholders are any government or agency that embodies European interests on the international level. European interests are the position of at least one and potentially more member states, of the supranational institutions or a common motivation of countries and supranational actors. Stakeholders have the capacity and authority to conclude agreements with international partners. This conceptualization of European presence is examined as the exogenous variable of internal policy developments. In doing so, this study follows suggestions by many academic contributors that investigate the consequences of the EU's internal dimension for its external role (Bach & Newman, 2007; Bretherton & Vogler, 2005; Mügge, 2011, 2014).

As the reference to international actors, understood as stakeholders implies, Mügge, but also Bretherton and Vogler, go beyond the state-centric approach of traditional IR theory. Realist conceptions of IR argue that only nations can be international actors whereas IOs such as the EU have no power or very limited influence (Keohane & Nye, 1974; Toje, 2011). In line with empirical evidence and liberal theories of IR, the possibility that the EU can make an observable and influential contribution to international politics is not excluded (Özoğuz-Bolgi, 2013).

Independent Variables

In this section, explanatory variables that refer to the EU's internal conditions are developed. As argued above, the influence of the internal dimension on the Union is not limited to market size (Bach & Newman, 2007; Posner, 2009) but is more nuanced as shown, *inter alia*, by the evidence presented below. Theory and empirics confirm that the EU's "internal make-up has ramifications both for its global role and for the way in which it accommodates extra-European developments" (Mügge, 2014). In other words, there is a mutual relation between the internal and the external dimension. This study concentrates generally on internal factors as the independent variable but it is also shown that the connections between both dimensions are

reciprocal. The distinction between the internal and the external dimension is increasingly blurred by the inter-connectedness of both areas.

Decision-making in tax policy – on the international and EU level – is constrained by conflicting national interests. T. Rixen (2011) explores the factors that shape international and EU tax policy, observing that globalization leads to enhanced international tax competition while, in spite of gradually evolving international cooperation, tax sovereignty remains a national competence. Tax policy is under external pressure to decrease tax rates on mobile assets such as capital and under internal strains to reduce the tax burden for immobile factors such as labour (Philipp Genschel & Schwarz, 2011). It is argued that there is a prisoner's dilemma (PD) between big and small countries that can only be resolved through coordinative, harmonizing and enforcing measures. States could gain higher tax revenues if they act together, however, this would mean that countries have to transfer some parts of their sovereignty to the international level. As larger states are more likely to support international cooperation than small states which use tax competition for their benefit, researchers characterize the PD as asymmetric (Philipp Genschel & Schwarz, 2011; T. Rixen, 2011). While this hampers international cooperation, also unilateral, bilateral or EU initiatives are regularly constrained by states' worries to lose competitiveness *vis-à-vis* third states that do not take action (Philipp Genschel & Schwarz, 2011; S. Rixen & Uhl, 2007). Even though the EU produced the most significant developments in tax harmonization compared to other multilateral settings, progress is limited to immobile assets, VAT and excises, where external competitive strain is low. Regarding corporate taxation EU policy is merely coordinative and conditioned by member states' fears to lose competitiveness and sovereignty as well as demands to conclude in parallel bilateral agreements between the EU and third states (Philipp Genschel & Schwarz, 2011). Despite the PD of international tax policy, states engage in international networks against tax avoidance to ensure their competitiveness and to regain control of corporate taxes. However, states agree more likely on international soft-law whereas binding rules develop more regularly on bilateral or unilateral level and create only incremental change to the existing tax regimes (T. Rixen, 2011). Additionally, tax cooperation seems to be more likely when it addresses specific types of competition rather than general competition (Philipp Genschel & Schwarz, 2011).

Research by Mitsilegas and Gilmore (2007) and Tsingou (2014) reveals that the EU tries to strengthen its presence in the OECD's anti-money laundering (AML) actions, including tax evasion and avoidance policies, by translating coherently and faithfully international decisions into EU law. This corresponds with the legal doctrine of Neo-Monism set up by the

European Court of Justice which obliges the EU institutions to adopt international law into EU law as close as possible, yet without prejudice to the Treaties (Cannizzaro, 2012). Using the example of the EU's Money Laundering Directives, the EU is depicted as a "microcosm of the global regime" (Tsingou, 2014). The EU updated its law soon after the OECD issued new recommendations against money laundering (ibid.). Tsingou argues that this approach reveals the importance of the Union's and the EU countries' membership in the OECD and concludes: "The EU has thus been negotiating its own AML rules from a position of 'rule-maker' and 'rule-taker'." (Tsingou, 2014). According to Tsingou's argument, the reaction of the Union to newly issued international recommendations can be observed in order to draw conclusions on the European presence in the OECD. A coherent implementation of international soft-law into EU law is considered to indicate that the European presence in IOs was strong (ibid.). Since AML policies are closely connected to international tax policies, the statement is assumed to apply to the BEPS project as well. Yet, the described relation is more complex as denoted by Van Vooren and Wessel (2014) and Mitsilegas and Gilmore (2007) who emphasize potential negative consequences of soft-law implementation for the EU's constitutional principles. This reminds again that also the internal dimension is affected by external policies.

Bretherton and Vogler (2005) suggest that European presence is shaped by external consequences of internal policies. Internal policies and conditions affect the presence of the EU on the international level. The researchers argue that for instance opt-outs of member states in a policy area weaken the Union's influence. Furthermore, they argue that internal policies have an external dimension, i.e., an (occasionally unplanned) effect on third parties. Internal policies can have positive or negative consequences for third actors, producing a political response by the partners and thus creating an interaction with the EU. Similarly, Wigan (2014) analyses interactions between policy novelties concerning anti-tax avoidance and evasion policies on OECD level as well as on EU and U.S. level. The author shows that reforms by the U.S. and the EU spurred international activity resulting in the OECD/G20's BEPS project and argues that interventions by the U.S. and the EU create interdependencies which again motivate global partners to choose an international approach. The work of the U.S. and the EU is, thus, the basis for international agreements. Wigan expects a more coordinated approach to international tax policy from the BEPS project as the political climate calls for action against BEPS. Hence, internal policies motivated the foundation of the BEPS project and provided a template for international soft-law (ibid.). Prior policy novelties by the EU and the U.S. influence the work within the OECD/G20 and increase their presence within the project. According to Wigan, the EU is not a mere policy-taker but increasingly influences international tax (soft-) law through

its own actions. This evidence corresponds to the notion of "external governance" as used by Lavenex and Schimmelfennig (2009) to denote the EU's efforts to internationalize its internal rules. Lavenex (2014) categorizes between different types of "rule extension" from the internal to the external level. Employing a hierarchical mode of governance, the EU uses conditionality for instance in the context of its neighbourhood policy *vis-à-vis* neighbouring states or legal authority, most notably *vis-à-vis* countries that are member of the European Economic Area but not of the EU. Indirect types of external governance are more applicable to study the EU's efforts in the BEPS project. Here, Lavenex (2014) distinguishes between network-, community- and market-based modes of projection. In the case of networking, the EU exerts influence through learning and socialization processes for example in the context of new political developments (learning) or through dialogic involvement with third states to induce their norms (socialization). Regarding communitarian extension, third states accept EU rules as they consider them to be superior and more legitimate – a process which is denoted as "emulation" (ibid.). The market-based mode refers to competition as the mechanism of rule extension. International actors approximate to EU regulations in order to reduce costs for economic interaction (Bradford, 2012). Wigan (2014) found that the EU's and U.S.'s market sizes as well as the political climate trigger the BEPS project. This complies with the EU's network- and market-strategies to project its rules on the international level which is achieved through learning and socialization processes as well as rule-competition (Lavenex, 2014).

A further condition for an effective presence of European stakeholder within IOs is presented by Mügge (2011) who stresses the importance of competences. The author argues that the member states and the EU are related as principals (former) and agents (latter) characterized by the delegation of power from principal to agent. Countries and the Union construct complicated governance networks in which competences can be completely or partly delegated to the EU or they can rest on the national level but also on independent or private agencies (Donnelly, 2008). This perception of the relation between the member states and the EU reflects the legal reality in which member states confer competences upon the EU (art 4 and 5 TEU).

The distribution of competences that results from the principal-agent relation influences the European presence within IOs in a U-shaped manner. The European presence is higher if competences are more clearly distributed, i.e., if either member states have or the EU only has exclusive powers. However, the representation of European interests is more difficult if the EU shares competences with its members (Bach & Newman, 2007; Van Vooren & Wessel, 2014). On one hand, a stronger involvement of the supranational institutions weakens the voice of the

countries. On the other hand, a predominance of member states decreases the influence of the supranational level. *Vis-à-vis* non-EU countries and within IOs, the role of both stakeholders is weak if competences are shared between EU and member states because there is not one but 29 representatives of European interests which (potentially) complicates external communication and internal coherence and consistency (Van Vooren & Wessel, 2014).

This expectation is largely confirmed by empirical evidence (Horwarth & Quaglia, 2014; Mügge, 2011; Quaglia, 2014), also in the context of tax policy (Wigan, 2014). Additionally, the scholars stress not only the legal perspective of competences but refer to the importance of a common European interest, instead of fragmented national and supranational positions. This is in line with Mügge's argument as he conceptualizes the presence of European stakeholders in terms of the influence of European interests. Yet, as argued by Bretherton and Vogler (2005) European stakeholders use occasionally internal plurality in order to influence external decision-making. In negotiations stakeholders uphold an internal agreement between the EU and its member states stating that changes to this position are hardly possible without endangering the support of all European actors. In this case, different European interests and complex competence constellations can support the European presence. This suggestion is taken into account in the analysis.

On the basis of the evidence presented above, the following three theoretical expectations can be deduced: (1) Assuming that the transformation of the BEPS proposals is related to the EU's impact on the international project, it is hypothesized: *The more coherent the adoption of international soft-law into the EU's legal framework, the higher the presence of European stakeholders on the international level.* This hypothesis also captures the inter-connectedness of the internal and international level showing that there is a reciprocal policy-transfer between the internal and external dimension. (2) Another argument refers to a connection between internal tax policy innovations and the strength of European stakeholders in the BEPS project. It suggests: *The more ambitious supplementary internal EU policies to internationally agreed soft-law, the higher the presence of European stakeholders on the international level.* This hypothesis refers to the mechanisms of policy-extension from the internal to the external level. The presented evidence suggests that network- or market-based modes of external governance are employed. (3) Furthermore, the impact of the competence distribution in tax policy within the EU on the representation of European interests in the BEPS project is analysed by testing the following assumption: *The more complex the constellation of competences and interests between the EU and its member states, the weaker the presence of*

European stakeholders on the international level. This hypothesis refers to the internal conditions that shape the EU's influence on the international level.

Methodology and Research Design

In order to analyse these hypotheses a small-n-study is most appropriate for two reasons. First, the anti-tax avoidance policy-set is new, and has not yet been scientifically discussed. There is no research or quantitative data on the topic, and hence, a more detailed scrutiny based on qualitative information is necessary. Second, a congruence analysis offers strong tools to conduct a comprehensive research approach. Thus, focussing on only one or few cases is advisable to ensure a high degree of accuracy.

George and Bennett (2005) characterize a congruence analysis as a test of theoretical assumptions on the basis of observations in order to "explain or predict the outcome in a particular case". The authors refer to the possibility of combining a congruence analysis with a process tracing examination (ibid.). Process-tracing can unmask the implementation of the BEPS proposals by identifying the intervening causal process which led to the decision-making outcome (ibid.). Specifically, a multidimensional stakeholder analysis as described by Shepsle (2010) is conducted to understand EU internal decision-making. It assumes rational legislators who interact with other decision-makers in a given process to achieve a policy-outcome. The enriched congruence analysis is similar to the general design of a quantitative cross-sectional research: theoretical hypotheses are formulated (see above), variables are conceptualized and operationalized in order to analyse data and to test the hypotheses. In doing so, the explanatory power of the aforementioned theories to the internal and external dimension of EU anti-tax avoidance policies is tested.

Cross-sectional research designs imply potential threats to the internal validity of the study. Internal validity encompasses the conditions of non-spuriousness (i.e., effects of an omitted third variable are excluded) and correct time-order between the independent and dependent variable. It is possibly hard to establish the correct time-order: synergies between the EU's internal policy and its external effects OECD/G20 may exist prior to the BEPS project in other policy areas. The European Commission refers to the anti-BEPS measures already in the context of its Action Plan on Corporate Taxation (COM(2015)302) that was published in June 2015, and hence, earlier than the conclusion of the BEPS project. The measures proposed in the Action plan that are adopted or in the legislative process before June 2016 are included in the analysis to understand prior synergies. Third variables such as the influence of other related policy fields, e.g., AML policies which are not addressed in the BEPS project and the

scrutinized EU's internal reforms, are also considerable. Thus, the results of the study are limited to anti-tax avoidance policy.

Problematic to cross-sectional research are also other types of validity, especially statistical conclusion validity and external validity. However, this study does not seek to draw statistically significant conclusions on a larger population. Instead, it aims to understand the influence of the EU on the OECD/G20's BEPS project by analysing the relation between internal and external policy dimensions. The study is deliberately limited to this case as a trade-off to use the advantage of an in-depth scrutiny. Measurement and sampling validity are carefully considered in order to guarantee a coherent relation between the theories, concepts, and operationalization with regard to the data analysis.

The unit of analysis is the EU and its internal and external policy actions between 2012, the start of the BEPS project, and June 2016. To get more meaningful and relevant data, the positions of the most powerful institutions, namely the European Commission (EC), the Council of the European Union (CEU), the European Parliament (EP) and the OECD/G20, are analysed. The Action Plan on Corporate Taxation (COM(2015)302) presents the Commission's considerations and proposals against tax avoidance. The following policies are, respectively were, in the legislative process: The ATAD, the revision of the ACD, the IETR, and the proposal for public CBCR.

Data Analysis

In this section, the outlined methodology is applied to check the hypotheses and, finally, to answer the research question. The data analysis is divided into two parts. First, data for the independent variables is analysed to estimate the strength of the predictors. The independent variables are 1) the coherency of international soft-law adoption into the EU's legal framework, 2) the ambition of supplementary EU anti-tax avoidance policies and 3) the complexity of the distribution of competences between the EU and the member states in tax policy. The EU's decision-making process with regard to the ATAD, the revision of the ACD, the IETR, and the public CBCR proposal is examined to conclude on all three independent variables. The ATAD and the ACD are direct responses of the EU to the BEPS recommendations, the IETR as well as the public CBCR proposals are supplementary legislations. All four policies alter competences of the EU and its member states in tax policy. To get a more accurate picture of the power distribution, also existent laws and Treaty provisions are taken into account. Second, the consequences of the independent variables for the dependent variable, European presence in the OECD/G20's fight against BEPS, are scrutinized.

Independent Variables

Decision-making Analysis. The process tracing analysis of the EU's decision-making follows the methodological suggestions of Shepsle (2010), by using a rational-choice approach to policy making. Rational-choice theory assumes that legislators choose rationally between different options to find an outcome. The suggested understanding of rationality is that decision-makers are aware of their preferences and pursue them in the legislative process to achieve a policy-outcome that is as close as possible to their preferred option. Due to the involvement of different actors with different policy positions and salience levels as well as the existence of various policy dimensions, compromises developed in bargaining processes are captured by the analysis.

This brief summary of Shepsle's conceptualization reveals that the most important information for the process tracing analysis are: (1) the involved actors, (2) the dimensions of the policies, and (3) the actor's policy positions and salience levels. On the basis of the decision-making rule applied by the legislators, an analytical model is developed to understand the decision-making outcomes. Typically, in EU tax policy, the decision-making rule is the Special Legislative Procedure (SLP) as codified in art. 113 TFEU – more information is provided below. The process tracing analysis is structured as follows: First, the relevant legislators are introduced. Second, the dimensions of the different policies are outlined. Third, an analytical model is developed and finally, the actor's policy positions and salience levels are analysed to explain retrospectively or to predict the policy-outcome.

Involved Legislators. A process tracing analysis potentially involves all legislators and stakeholders that contributed in any given way to the policy-outcome. However, as media and research shows, anti-tax avoidance policies are heavily lobbied by different interest groups with different suggestions (Kramer & Norrisjuly, 2013; T. Rixen, 2011; Wigan, 2014). Stakeholders encompass international partners and international organizations, MNEs and their subsidiaries in Europe, Non-Governmental Organizations such as transparency advocates and more. Note that this list is not claimed to be exhaustive. This research is limited to the most relevant legislators due to time and space constraints.

Decision-makers on EU level are the EC as the initiator as well as the CEU and the EP as legislators. The actors are introduced in the following section together with information on the data-collection. Newspapers that cover EU politics such as Politico and Euractiv are the main sources together with official documents and policy papers by the EU institutions.

In summer 2015, the Commission released its Action Plan (COM(2015)302) to combat tax avoidance in Europe and identified five key areas: a renewed proposal for a Common Consolidated Corporate Tax Base (CCCTB), the goal to tax profits where they are generated, measures for a better tax environment for companies, greater tax transparency and finally, better coordination within the EU. So far, the EC concentrated on three areas: transparency, coordination and taxation where profits are generated. In doing so, four legislative procedures were initiated: the ACD-revision, the IETR and the public CBCR-proposal fall under the realm of increased tax transparency by MNEs and enhanced coordination between member states. The ATAD proposal addresses the policy-objective to achieve a unity of profit-generation and taxation. Pierre Moskovici, Commissioner for Economic and Financial Affairs, Taxation and Customs and the Directorate General for Taxation and Customs Union as well as Jonathan Hill and his successor Valdis Dombrovskis, Commissioner for Financial Stability, Financial Services and Capital Markets Union and the eponymous Directorate General are the key decision-makers in the EC for the named proposals. Additionally, President Jean-Claude Juncker is said to be particularly interested in anti-tax avoidance policy as he is publicly and politically associated with the LuxLeak scandal. In addition to official documents, the positions and statements (expressed in public meetings and newspaper quotes) of these decision-makers are considered as the main determinants of the EC's positions and saliences. Furthermore, Commissioners Valdis Dombrovskis (for the Euro and Social Dialogue) and Margarethe Vestager (for Competition) are involved in anti-tax avoidance policy.

Generally, the Council has a strong voice in tax affairs as decisions are adopted under the SLP which requires unanimity between the member states. However, it is shown below that there are exemptions to the SLP. The countries' Finance Ministers organized as the Economic and Financial Affairs Council (ECOFIN) configuration are the responsible decision-makers in the CEU. Since data on the member states' concrete bargaining positions is only in one circumstance available, this information is obtained mainly through newspaper articles including statements by government representatives or diplomats. It is assumed that newspaper articles reveal the relevant areas of conflict and information that is necessary to trace the decision-making in ECOFIN. As unanimity is generally required, countries are, formally speaking, equally powerful. Hence, even though it is helpful to have data on the position of the member states that are considered to be informally powerful it is more important to the analysis to focus on conflicting issues in the CEU. Moreover, the position of the Council's presidency can be relevant to the scrutiny as it plans the meetings and organizes compromises. The analysed policies fall in a period in which the ECOFIN was chaired by the Finance Minister of

Luxembourg, Pierre Gramegna (from June 2015 to December 2015) and the Dutch Minister Jeroen Dijsselbloem (from January 2016 to June 2016). Also the Slovakian presidency with Finance Minister Peter Kažimír is involved (from July 2016).

In tax policy and the SLP, the EP's role is consultative. This means that it is not a co-legislator together with the CEU but lacks legislative competence. The Parliament influences decision-making through its consultation reports and by public statements of the political Groups and individual Members of Parliament (MEPs). The parliamentary reports are the main source for the EP's position. As shown below, the Parliament is equally powerful in the Ordinary Legislative Procedure (OLP).

Policy Dimensions. Policies evolve usually around multiple inter-connected issues (Shepsle, 2010). In other words, in political decision-making there is in most cases more than one area of conflict between the legislators. This section identifies the dimensions and conflict lines of the four policies analysed as part of the independent variable: the ATAD, the ACD, the IETR and the proposal for a public CBCR.

The Anti-Tax Avoidance Directive was proposed by the Commission together with the ACD on 28 January 2016 in the context of its Anti-Tax Avoidance Package with the explicit aim to transform the soft-law of the BEPS proposal into EU law. With the ATAD, the Commission proposed a new Directive that comprises six individual measures to ensure that profits are taxed where they are generated by enabling member states' administrations to collect profits before they are shifted abroad: (1) a Controlled Foreign Company (CFC) rule designed to help member states to tax subsidiaries of a domestic parent company which moves profits to subsidiaries in low-tax countries, (2) a switchover rule, supposed to avoid double non-taxation which can be a negative effect of anti-double-taxation agreements, (3) an exit taxation measure which asks member states to introduce a tax on assets such as patents or intellectual property that are not taxed so far when they are shifted to a third country, (4) an interest limitation instrument aimed to prevent artificial debt-arrangements created by companies to subtract debts from profits to reduce the tax level, (5) a hybrids rule which prevents MNEs to exploit different rules in EU countries on taxable income, and (6) a general anti-abuse rule that comes into practice when no other rule of the above applies (EC, 2016a). While all six measures can be considered as an individual policy dimension, this research focusses on the switchover and CFC rules as the most controversial aspects of this legislation.

The proposal for a revision of the Administrative Cooperation Directive foresees to enhance transparency between member states' treasuries and proposes to amend Council

Directive 2014/107/EU. It obliges MNEs to share information on revenues, profits, taxes paid and accrued, accumulated earnings, number of employees and assets of each company in its group. Tax authorities are required to exchange these data annually. Yet, there are two main areas of conflict in the Council which are analysed as the policy dimensions: (1) whether subsidiaries of parent companies should be included and (2) whether the information exchange should start with immediate application or in 2017. The proposal for a new ACD belongs to the column of greater tax transparency as set out in the Commission's Action Plan. The law was adopted by the CEU on 25 May 2016.

Similar to the ACD-revision is also the Information Exchange on Tax Rulings which is in fact also an amendment of Council Directive 2014/107/EU proposed on 15 March 2015. Hence, both ACD-revision and IETR belong to the same EU Directive but are two distinct legislative acts. Under the IETR member states are obliged to share among each other information on their tax rulings with MNEs. There are various conflicts between decision-makers with two central topics: (1) the retrospectivity and (2) the frequency of the exchange is debated. Retrospectivity is related to the question how far back in time the exchange should reach, whereas frequency means the regularity of information sharing. The IETR has been adopted by the CEU in December 2015 meaning that the legislative process is finalized.

On 12 April 2016 Commissioner Jonathan Hill proposed an initiative for public Country-by-Country-Reporting as an amendment to the EU Accounting Directive 2013/34/EU. The EC's plan is to go beyond its ACD proposals and to oblige MNEs not only to share tax related information with tax authorities but to make them publicly available for five years on a country-by-country basis. As in the context of the ACD, the Commission defines MNEs as companies with an annual net income larger than €750 million and demands the same amount of data from businesses. Furthermore, under the public CBCR initiative which also applies to subsidiaries, MNEs would be obliged to share information on the total amount of taxes paid outside the EU. The proposal is controversially discussed between member states with the main conflict to what extent the public should have access to potentially sensitive corporate information. There are two main policy issues that can be deduced: (1) the amount of information published and (2) the public accessibility to the data. Regarding public CBCR, member states are not exclusively legislators as the Commission chose with the Accounting Directive a different legal basis – art. 50 TFEU on the free movement of persons, services and capital in which the Ordinary Legislative Procedure (OLP) as defined in art. 294 TFEU applies. Thus, the EP has an equal standing to the CEU regarding the legislation of public CBCR.

Analytical Model. In order to develop an analytical model, first, the decision-making rules are summarized. On this basis a suitable model is deduced which is then applied to the cases of interest. The decision-making rule is the procedure applied by the legislators in order to transform divergent preferences into a policy-outcome. In other words, it includes the actors as well as the voting mechanism to trace the decision-making process correctly. Shepsle (2010) shows that different decision-making procedures affect the outcome even under the same constant conditions (such as actor's policy positions) which makes a careful analysis of the decision-making rule inevitable. As laid out above, in EU tax policy, generally, the SLP is the method of decision-finding. This is explained by the member states' reluctance to conclude tax policies internationally and their ambition to maintain tax sovereignty. If countries agree to give up some coordinative powers, they still try to keep control over the political processes as far as possible. In the case of the public CBCR proposal however, the OLP is applied.

In both SLP and OLP the EC has the role as an initiator and gatekeeper of policy proposals. The Commission's monopoly to initiate does not only imply the power to start legislative processes but also to withdraw the initiative. This gives the Commission considerable power over the law-making procedure in an environment of rational actors. The EC is characterized as a gatekeeper as it is expected to submit a proposal that is different from the status quo and that matches its preferences. After the submittal the gatekeeper has no power to amend the file – this is up to the legislators. Yet, in case the legislators alter the initiative very fundamentally so that the Commission would prefer the status quo over the amended file, the gatekeeper is expected to withdraw the initiative. This is the mechanism which makes the Commission powerful in both legislative procedures.

In the SLP which applies in the decision-making of ATAD, ACD and IETR, the Council has exclusive legislative power whereas the EP's role is consultative. The CEU can adopt, reject and amend initiatives by the EC. National Finance Ministers form the Council's position by unanimity. This means that the CEU can amend the proposal so that it suits to a compromise achieved internally between member states. Thus, the analytical model of the SLP states that the internal compromise between governments is adopted and the Commission's proposal is amended accordingly. This discretion however is limited by the expectation that the gatekeeper withdraws the proposal if it is altered too radically. Moreover, it is assumed that the consultation report by the Parliament has only low or even no impact on the legislation.

With regard to the OLP that is relevant in the context of the public CBCR proposal, legislation is more complex as the Parliament and the Council share the power to adopt, reject and amend initiatives whereas the EC's role stays equal. Both legislators form an internal

majority position first, i.e., between MEPs and between Finance Ministers. Subsequently, representatives of both legislative chambers negotiate an inter-institutional compromise. In the OLP a qualified majority in the CEU is possible meaning that some member states can be outvoted to simplify internal position finding. Council, Parliament and Commission are generally in steady contacts to negotiate a common position through informal and formal trilogues. The OLP is more complex and fragile as the legislators need to find a compromise which fulfils two conditions: the inter-institutional compromise is preferred by an internal majority in the Council and the Parliament compared to the status quo and it also has to be preferred by the EC over the status quo. These conditions are the relevant factors of the analytical model.

Multidimensional Analysis. In order to trace the process of decision-making, policy positions and salience levels of the actors are analysed. Policy positions indicate the actors' preferred options whereas salience levels quantify the importance a decision-maker attaches to its positions. The data allows to determine the positions and saliences with the highest possible accuracy for an outsider who did not observe the interactions of the decision-makers personally. While the conclusions might be biased by subjective interpretation and misleading data, the inclusion of as many sources as possible helps to reduce potential preconceptions. The policy positions and salience levels are entered into a policy scale for each dimension. The information is examined according to the analytical model outlined above and taking into account the inter-connectedness of the different dimensions. At the time of writing, ATAD and public CBCR are in the legislative process which means that the outcome of the decision-making analysis is a prediction. IETR (adopted in December 2015) and ACD (concluded in May 2016) are retrospective analyses. ATAD, ACD and IETR are scrutinized using the analytical model that traces the SLP whereas public CBCR proposal is based on the OLP model.

The Dutch Council Presidency pushed hard to achieve a compromise on the ATAD during the ECOFIN meeting of 25 May 2016, yet ministers postponed the adoption as they were not able to find a compromise (CEU, 2016b). Dispute evolved around the switchover rule as the first policy dimension and around the CFC rule, the second dimension. Whereas some countries questioned the necessity of the switchover rules, more member states raised concerns about the CFC rule. On this second dimension, three options were discussed. (1) CFC rules that apply to company arrangements within the EU and outside. This approach was proposed in the draft compromise by the Dutch presidency on 25 May 2016. (2) Some countries preferred that only artificial arrangements within the EU and all external arrangements fall under the scope of

the Directive, in line with the original initiative by the Commission. (3) CFC clauses are proposed that are limited to companies from third countries.

The first dimension, the switchover rule, ranges between inclusion in the Directive or exclusion. These options are transferred into a policy scale (see figure 1 below) that varies between 0 (representing exclusion) and 100 (representing inclusion). Similarly, a policy scale for the second dimension can be deduced that takes a value of 0 for external CFC only, a value of 50 for external and artificial arrangements and a value of 100 for both internally and externally applicable CFC rules. The following table represents the positions and saliences of each stakeholder and is based on the public session of ECOFIN on 25 May 2016. Note that Slovenia did not participate in the exchange of views.

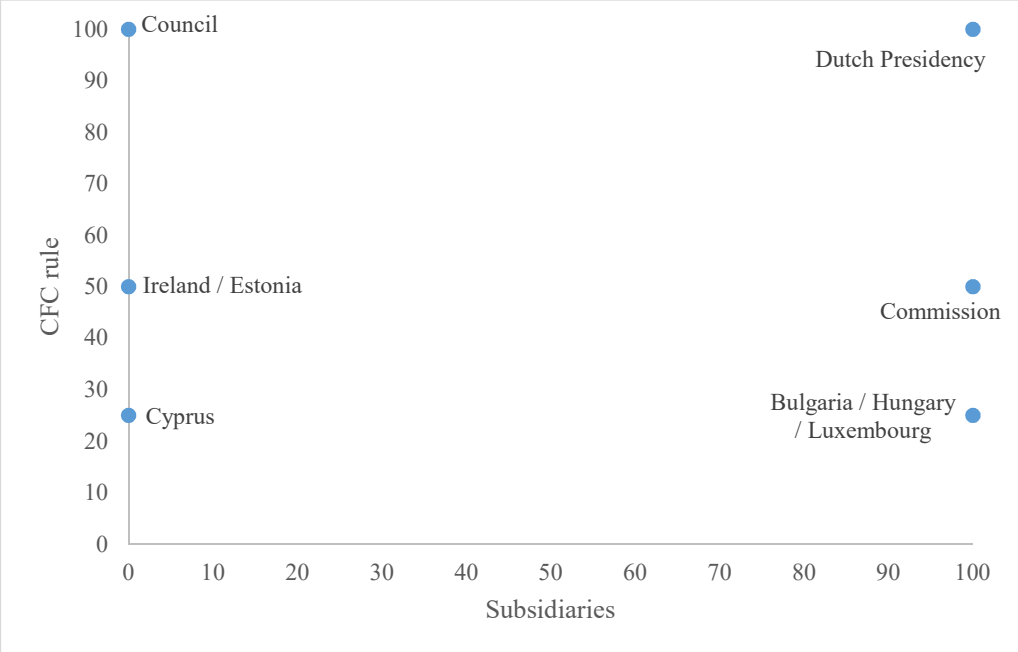
Table 1: ATAD Positions and Saliences

	Position		Salience	
	Switchover	CFC rule	Switchover	CFC rule
Commission	100	50		
Dutch Presidency	100	100	50	95
Ireland	0	50	40	80
France	100	100	60	75
Italy	100	100	40	60
Bulgaria	100	25	40	80
Czech Republic	100	100	70	50
Hungary	100	25	30	80
Luxembourg	100	25	30	80
Germany	100	100	70	70
Spain	100	100	70	70
Cyprus	0	25	70	70
UK	100	100	70	70
Malta	100	50	30	80
Romania	100	0	70	70
Sweden	0	100	80	40
Poland	0	100	85	40
Latvia	0	25	70	70
Denmark	100	90	70	65
Austria	100	100	60	60
Finland	100	100	70	70
Belgium	100	50	30	85
Estonia	0	50	70	70
Croatia	100	100	70	50
Greece	100	100	80	80
Portugal	100	100	70	70
Lithuania	100	100	65	65
Slovakia	100	100	70	70

Positions are presented in the second and third column whereas the legislator's saliences are shown in the fourth and fifth column. A lower salience indicates that the decision-maker is

more likely to make concessions to partners with a different policy position whereas a higher salience level means that the actor is more likely to insist on its own position. As the EC is not a legislator, it is not actively involved in the negotiations between member states and therefore, the Commission's salience levels are not important to the analysis of the internal compromise reached by the governments. In line with the analytical model the gatekeeper's position is relevant to check whether the EC is likely to make use of its power to withdraw a proposal or not. It can be deduced from the table that especially smaller countries have objections against the switchover clause or the CFC rule (or against both). Belgium for instance defends its position hinting at the intention of third countries not to go as far as the EU and raises concerns about a loss of competitiveness if a strong version of the CFC rules is adopted. In line with the Presidency and the Commission, larger states underline the ambition to go beyond BEPS. These positions are in accordance with the theoretical arguments about the constraints and conflict lines of collective tax policy. Finally, the disagreement led to a postponement of the adoption of the ATAD. Eventually, at the ECOFIN meeting of 17 June 2016 the conflicts between member states were solved after Belgium gave its final consent. The political compromise (denoted as "Council") is illustrated in the graph below. Next to the positions of the Dutch Presidency and the Commission, the graph presents some preferences of the member states to display the divergence in the CEU.

Figure 1: ATAD Policy-Scale



The governments agreed to leave out the switchover clause due to the pressure of smaller countries (taking a policy position of 0) but accepted that CFC rules apply to all companies if national tax authorities find objective proof that a business' nature is artificial which corresponds to a position of 100 in the scale (CEU, 2016a). Ireland led the opposition against the switchover rule, arguing that it could introduce a minimum tax rate through the backdoor. This mirrors small countries' resistance against any form of tax harmonization and Ireland's preference not to go beyond BEPS (Lynch & Keena, 2015). The political compromise is expected to determine the final conclusion.

Finance Ministers found a compromise on the ACD proposal in the ECOFIN meeting of 8 March 2016, shortly after the release of the initiative on 28 January 2016 and adopted the Directive on 25 May 2016 formally. This shows that, generally, the file is rather consensual between member states and the EC as the decision-making was rapid and as the Council's conclusions are close to the text of the proposal (Simon, 2016). Yet, as identified above, the inclusion of subsidiaries in the mandatory information exchange between tax authorities within the ACD and the start of the Directive's application are the most controversial conflict areas between Finance Ministers. The Commission's proposal foresees to extend the MNEs' obligation to provide information also to subsidiaries that operate in the EU. Germany opposed this inclusion whereas other member states such as France supported the Commission's approach (ibid.). Thus, the policy-scale for the first dimension of the ACD is "subsidiaries" and varies between "against-inclusion" and "pro-inclusion". On the second dimension the EC proposed to start the information exchange in 2017. Some member states are more eager to apply the Directive and take the position that MNEs should report their tax information already for 2016. The policy-scale for the second dimension varies, therefore, between "2016" and "2017". The compromise reached by Finance Ministers on both dimensions resolved a dispute between two coalitions represented by France and Germany. France supported the inclusion of subsidiaries and an earlier rule-application attaching a higher salience on the first dimension than on the second one. Germany preferred to exclude subsidiaries and to start the exchange in 2017 focussing predominantly on the later application. This shows that not only small states oppose tax coordination but that fragmented interests exist also between larger countries as there are more factors than a state's size that explain support for or opposition against international tax policy such as partisan interests and lobby pressure (T. Rixen, 2011). German government officials explain objections against far-reaching information exchanges with the complexities of the federal system of tax administrations in which the *Bundesländer* exert authority (Ziedler, 2015). France's preferences are explained by the PD. As a larger state, the

country suffered major revenue losses through tax avoidance by MNEs and, consequently, decided to tackle these practices and companies (Chrisafis & Garside, 2016) especially in the light of its high deficit. The positions and salience are expressed in quantitative terms in order to get a better picture of the decision-making process.

Table 2: ACD Positions and Saliences

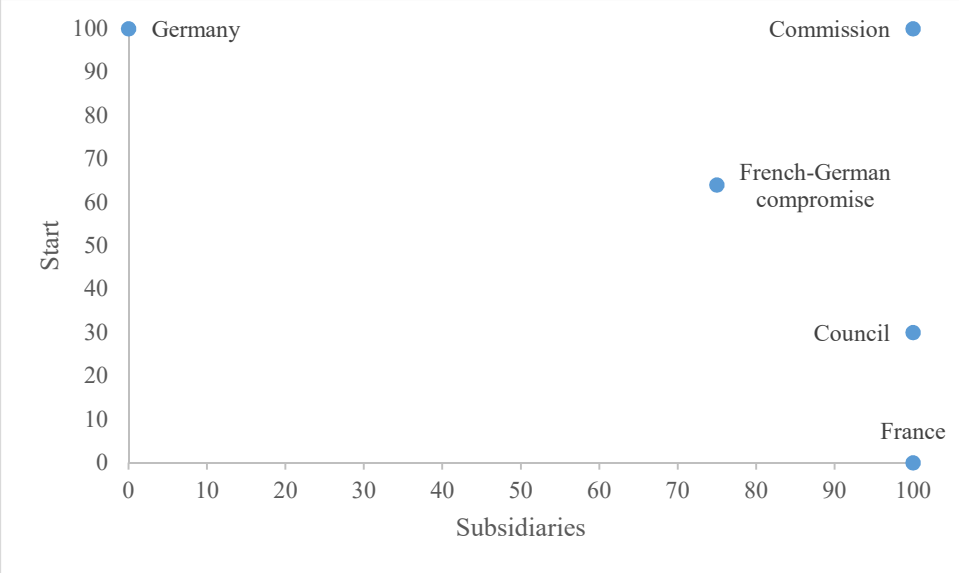
	Position		Salience	
	Subsidiaries	Start	Subsidiaries	Start
Commission	100	100		
France	100	0	90	45
Germany	0	100	30	80

A value of 100 on the first dimension represents the policy position "pro-inclusion" whereas a value of 0 is associated with "against-inclusion". The second column shows that the Commission and France support the obligation for subsidiaries to exchange information whereas Germany opposes. The third column shows the actor's positions on the second dimension and indicates that the Commission and Germany are in favour of an application starting in 2017 (representing a value of 100) whereas France prefers to start in 2016 (representing a value of 0). The fourth and fifth column show the salience levels of the legislators. As outlined above, France attaches higher importance to the inclusion of subsidiaries than to the start of the Directive's application. These salience levels are represented by the values 90 (for the first dimension) and 45 (for the second dimension). Contrastingly, Germany highlights the second dimension with a value of 80 over the first dimension with a value of 30. These estimates are used to understand the internal compromise between member states which is defined as the Council's position in the legislative process. From an analytical perspective a compromise between France and Germany is facilitated through the opposing salience levels on the two policy dimensions. According to the attached values, Germany is likely to make concessions to France on the first dimension if France reduces its demand on the second dimension.

On the basis of the numbers and the analytical model a compromise can be calculated to estimate the Council's position. The computation (which can be found in full length in the annex) weighs the quantified policy positions with the salience levels to achieve a weighted average position – the compromise outcome. The result suggests that France and Germany influenced the dimension to which they attach the highest salience most strongly, however both

actors concede slightly to the negotiation partner. The position of the calculated compromise on a policy scale (denoted as "French-German compromise" below) is 75 on the first dimension (x-axis) and 64 on the second dimension (y-axis). Note however, that this calculation does not take into account the positions of all actors in the Council as there is no data on this and that it is not sensitive to strategic bargaining. In order to avoid wrong conclusions, the political outcome in the CEU as agreed in the ECOFIN meeting of 8 March 2016 is analysed and represented as "Council" in the scale below. France was able to push its position on subsidiaries through but agreed that the application of this additional element is delayed until 2017. Yet, not the whole Directive has been postponed until 2017 as parent companies have to report tax information for the information exchange already for 2016 (Simon, 2016). Therefore, a value of 100 is attached to the first dimension and a value of 30 to the second dimension. The policy positions can be summarized in the following graph that represents the policy scale.

Figure 2: ACD Policy Scale



The decision-making outcome in the Council differs in both policy-dimensions from the estimated compromise between France and Germany as illustrated in the graph. The difference between the results can be explained by the mentioned lack of data for all member states and possible impacts of strategic bargaining. Finance Ministers eventually decided to start the application of the ACD earlier than proposed by the Commission (as illustrated by the distance between Council and Commission in the policy scale) with the exemption of subsidiaries: Even though, this part of the initiative is controversial, France pushed its position through but allowed a delayed application. In other parts Finance Ministers approved the EC's proposal as the quantity and nature of information, the frequency of information exchange as well as the

definition of MNEs that are concerned by the obligation is not amended by governments. Except for banks, prior to the ACD there was no information exchange between member states on companies' tax data, therefore, a position of the status quo is not compiled and the Commission has no incentive to withdraw the proposal. The timing of the legislation also confirms the assumption that the Parliament has no or very limited influence on the Council's decision-making as the internal agreement between Finance Ministers (8 March 2016) predates the adoption of the EP's consultation report (12 May 2016).

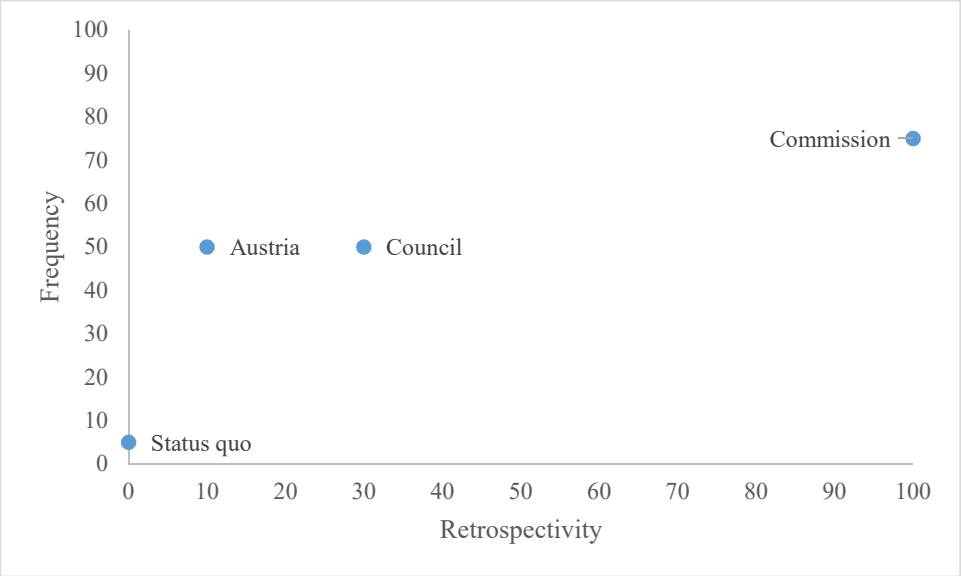
The revision of the ACD is not the first attempt to increase tax transparency between member states by obliging MNEs to provide the information. Less than two months before the release of the initiative for a revision of the ACD, the Council adopted the IETR on 6 December 2015 following an internal compromise reached on 6 October 2015. Tax rulings are issued by a country to help a company to determine the amount of taxes to be paid prior to the receipt of the official tax bill. Tax rulings were at the heart of the LuxLeak scandal as some countries used these comfort letters to make special tax deals with MNEs allowing them to pay lower rates. The EC proposed to oblige member states to share information on their tax rulings with fellow member states' tax authorities. The initiative had two dimensions: the retrospectivity and the regularity were controversial between decision-makers (Turner, 2015). The first dimension, retrospectivity, refers to the question how many years should the Directive reach back. Also, the Commission proposed to exchange information on a regular basis, however it was contested in which frequencies member states should report their tax rulings and, therefore, regularity is the second dimension. The IETR initiative foresaw that member states should report tax rulings with a retroactivity of ten years. Information on new tax rulings were supposed to be shared every three months. In the Council, Austria has been amongst the criticizers of the Commission's proposal as it opposed retrospective reporting. The following table provides data on the policy positions and Austria's salience:

Table 3: IETR Positions and Saliences

	Position		Salience	
	Retrospectivity	Frequency	Retrospectivity	Frequency
Commission	100	75		
Council	30	50		
Austria	10	50	40	50
Status quo	0	5		

Ten years of retrospectivity was the highest number of retroactivity discussed between the European institutions, therefore a value of 100 is attached to the Commission's position on the first dimension. Regarding the second dimension the EP called for a "spontaneous" i.e., real-time exchange in the consultation report (P8_TA-PROV(2015)0369), thus, the Commission's position of a frequency of three months is more moderate with a value of 75. The Parliament's view is not listed as Finance Ministers reached an internal deal prior to the adoption of the parliamentary report. Eventually, the CEU struck a compromise as Austria gave up its opposition and offered to limit retroactivity to five years and to reduce regularity to six months (ibid.). Austria's doubts can be explained by the country's size and tax levels. Being a smaller jurisdiction with low tax levels on mobile assets (withholding and corporate tax rates are 25% while fortunes are not taxed at all) and strong banking secrecy laws (Attac, 2013), Austria benefits from tax competition with larger states, is more attractive to MNEs and, thus, profits from the PD between bigger and smaller countries. However, this explanation is not sufficient in this case. Together with Germany, Austrian officials criticized a far-reaching approach due to the federal structure of the domestic tax systems while Austria showed at the same time increased own-initiative in the fight against tax avoidance by taking premature action inspired by the BEPS project (Moser, 2015). Hence, Austria's policy preference and its compromise-move is better understood as a consequence of the domestic conditions, i.e., a fragmented tax system and policy priorities. For the compromise position of the Council, a value of 30 on the first and a value of 50 on the second dimension is attached. As Austria shifted its position to achieve a compromise a rather low salience on both dimensions is assumed. Even though, there was some information exchange on tax rulings before in the context of the first version of the Administrative Cooperation Directive of 2011 2011/16/EU, governments had the discretion to provide only the data they considered to be relevant. This limited status quo has not incentivized the Commission to withdraw its proposal despite the amendments made by the Council. The following graph illustrates the policy positions:

Figure 3: IETR Policy Scale



The graph shows that Austria shifted its position on the first dimension from a value of ten to 30 as the government did not intend to block the initiative but to protect the federal tax authorities. The policy scale also pictures why the EC did not make use of its gatekeeper authority to withdraw the proposal: The proximity of the Council's position to the Commission's point in the policy scale indicates that the Commission prefers the Council option to the status quo (located at the bottom-left corner of the scale) and explains why the Commission does not make use of its power to withdraw the proposal.

With the proposal for a public CBCR, the EC started a third tax transparency initiative which goes beyond information exchange between tax authorities by involving the public. Similar to the ACD, companies would be required to share data on the business nature, the number of staff, the net turnover, profits before tax, the amount of tax actually paid and total taxes paid outside the EU. The Commission defines MNEs as companies with a total annual revenue higher than €750 million and includes subsidiaries in the proposal – again in line with the ACD approach (EC, 2016b). Whereas a value of zero is associated with no information provided, a value of 100 is identified as the Commission's policy position on the first dimension, the amount of reported data. Additionally, the EC suggests broad public access by requiring MNEs to publish information on their websites for five years. Thus, a value of 85 is attached to the Commission's position on the second dimension which varies between zero for no public access and 100 for full public access. From the data available it can be inferred that decision-making will be controversial and complex. The EP which has full decision-making powers regarding public CBCR is keen to achieve an even more ambitious outcome as expressed by many MEPs during a plenary debate on 12 April 2016 (EP, 2016). Despite the

fact that there is no report by the Parliament on this legislative file available at the time of writing, MEPs used other opportunities to give their support for a public CBCR, for instance in the consultation report on the ACD (T8-0221/2016). The Parliament pushed for an approach which enables the public to get full access to a high amount of information provided by MNEs. In doing so, the EP'S policy positions can be quantified as 100 for the first dimension and 95 for the second dimension. It is assumed that the Parliament has a high salience on both dimensions as MEPs are keen to make active progress against tax avoidance. Therefore, values of 80 for the first dimension and 95 for the second dimension are attached. Public access to the data is especially relevant for the Parliament as it increases its powers to probe into suspicious tax arrangements and to realize its powers of inquiry.

Newspaper articles and public statements by politicians suggest that there are mixed opinions towards public CBCR in the Council. Whereas some member states such as Great Britain and the Netherlands announced their support, other government officials for instance of Spain, Germany, Malta and Austria were less enthusiastic (Riegert, 2016). It is observed that country size alone is not a sufficient predictor for support or disagreement with tax coordination policy. While Malta's objections suit to the PD as it is small state, German, Austrian and Spanish reservations are the result of a decentral organization of tax administrations. From a more general perspective, countries issued concerns about the additional element of publicity in the CBCR initiative. The Netherland's support is explained by changed policy priorities after the LuxLeak scandal and the fact that the proposal fell into the time of the Dutch Presidency. It is predicted that Finance minister's compromise-finding will be controversial. For this reason, three possible Council positions are created in order to account for the internal diversity and the possibility of a qualified majority in which some member states can be outvoted. The first option (labelled as "Council 1" in table 4) suggests a balanced compromise supported by all governments. In quantitative terms, a policy position of 60 is attached to the first dimension and for the second dimension a value of 50. In this context, the Council will try to reduce the claims by Parliament and Commission for broad public access and a high amount of information, without blocking the initiative actively. The second alternative (denoted as "Council 2") assumes that the opponents of the initiative gain the control of the internal compromise which would lead to difficult trilogues with the Parliament and the EC as member states represent divergent positions: a position of 30 for the first dimension and 25 for the second dimension. The third scenario ("Council 3") presumes that countries who are in favour of the proposal outvote the opponents forming a Council position of 80 on the first issue and 75 on the second one. The Council's salience levels remain equal in all three options with 70

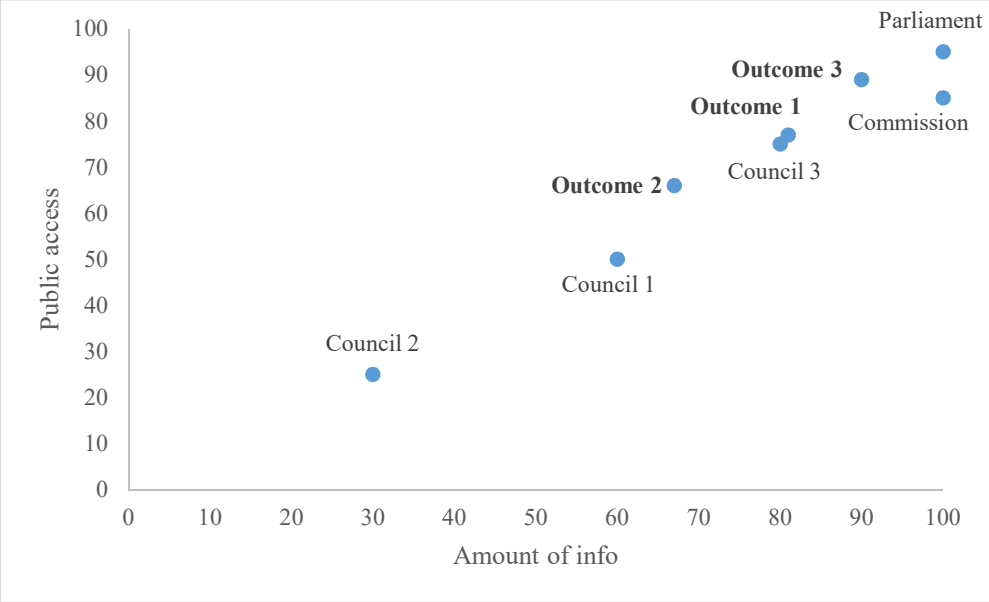
for the amount of information and 80 for public accessibility. Member states' interest in public CBCR is expected to be at a lower level than the Parliament's as national treasuries will receive the information anyway through the ACD.

Table 4: Public CBCR Positions and Saliences

	Position		Salience	
	Amount of info	Public access	Amount of info	Public access
Commission	100	85		
Council 1	60	50	70	80
Council 2	30	25	70	80
Council 3	80	75	70	80
Parliament	100	95	80	95

As there are three different options regarding the position of the Council, three different decision-making outcomes are calculated using the method of the weighted average laid out above. The predicted inter-institutional outcomes take values of 90, 81 and 67 on the first dimension and 89, 66 and 77 on the second issue (the calculations can be found in the annex). The results are presented in the graph below:

Figure 4: Public CBCR Policy Scale



The graph shows the different possible outcomes under different constellations in the Council. Due to the expectation that the EP insists on a public CBCR that is both informative and

accessible, outcomes are located in the top-right area of the graph closer to the positions of Parliament and Council. It is assumed that negotiations in the CEU can be difficult and that the Slovakian Presidency will be an important player in compromise-finding. As long as member states remain divided an inter-institutional deal is unlikely. Depending on the final Council position, the outcome of public CBCR is predicted to be between outcome 2 (point 67/66) and outcome 3 (point 90/89). This suggests that there will be some kind of public access (albeit not as transparent as proposed by the EC) to at least 66 to 89 percent (see the calculated decision-making outcomes of the second dimension) of the information the Commission wants to have published.

Competence and Interest Distribution in EU Tax Policies. Next to the internal EU policies, the theoretical section discovered the distribution of interests and competences as an explanatory variable for the European presence in the BEPS project. This part builds upon the analysis of internal EU policies to examine legal powers and political positions of both member states as principals and the supranational bodies as agents. The analysis starts from the observation that direct taxation is a competence of the national governments whereas the EU has some power to impose indirect taxes (especially excise duty and VAT). The Commission uses different legal bases for policies to coordinate member states' different tax systems: such as art. 115 TFEU on the functioning of the internal market which requires the SLP. But as exemplified by the public CBCR proposal, art. 50 TFEU on the free movement of persons, services and capital, the OLP can also be applicable. This shows that tax policies are multifaceted and that a closer look into the tasks and powers of principals and agents is necessary.

As set out in the Tax Strategy (COM(2001)260), the EC rather pursues a coordination of national tax policies than a harmonization into a single EU tax system. In doing so, its focus is on the functioning of the internal market and the fight against tax evasion and avoidance, leaving the concrete design of the tax systems to member states and in some contexts to sub-national governments. The common VAT-system in Europe is an attentive example of the EU's tax coordination under supranational authority. The EU does not harmonize the VAT level but provides common coordinative rules while setting the scope for member states' implementation. The Commission also acts in its role as guardian of the Treaties to probe into the tax arrangements of its members. It is competent to check the compatibility of national tax systems with principles of Union law, i.e., the freedoms of the internal market and the principle of non-discrimination, most notably through state aid investigations against tax deals between

countries and MNEs. Since decisions on tax policy are usually made under the SLP, the Commission proposed member states in the Constitutional Convent to apply the OLP in order to avoid the unanimity-requirement within the Council (COM(2003)548). As this was rejected by member states, the Commission seeks ways to circumvent the SLP using different legal bases as in the public CBCR initiative or focusses on soft modes of governance such as non-binding recommendations by promoting values of good governance (COM(2009)201). Externally, the EU concludes agreements with neighbouring countries to achieve enhanced tax cooperation also *vis-à-vis* third countries such as Switzerland, Andorra, Liechtenstein, San Marino and Monaco. The Commission is also active in IOs and most notably the OECD and G20 to fight tax avoidance.

The policies as analysed above conferred or are about to shift slightly more powers to the supranational level, however, conceivably less than demanded by the EC or the Parliament. Regarding the legislation on IETR, the Council stood against the suggestion that the Commission could be the supervisor of the information exchange and evaluator of tax rulings. Even though the Parliament's report foresaw a watchdog function for the Union's executive (P8_TA-PROV(2015)0369), according to the member states' decision, the Commission can only scrutinize tax rulings upon reasoned request but is not automatically involved in the exchange.

Member states are the most important stakeholders in tax policy as they are represented in the CEU as the most powerful tax policy-making institution on EU level and as they have safeguarded in the Treaties the authority over their tax systems. Over the past, divergent national interests and coalitions within the Council hampered EU decision-making. Some member states created actively a tax environment that breached Union's state aid rule as the ongoing investigations by Commissioner Vestager show. Whereas especially these countries opposed tax coordination, other countries were more interested in an EU approach. Tax policy-making in the EU follows a PD between small and large states. Additionally, the multidimensional analysis of EU policies has shown that domestic factors such as the degree of decentralization and policy priorities explain the rational preferences of actors. This collective action problem is mirrored in the EC's first attempt to introduce a Common Consolidated Corporate Tax Base (CCCTB) which failed as member states were not able to find a common position. The observation holds that EU tax policy, is (deliberately) limited to coordination and constrained by a collective action problem within the Council. Different constellations of interests are an essential feature of EU tax policy. That being said, especially the adoption of the policies analysed above was quicker and less constrained by divergent interest formations

than the CCCTB. In the words of Commissioner Pierre Moskovici as cited by Knox and Hirst (2016): “The tide is clearly turning when it comes to corporate tax avoidance. There is growing consensus that the aggressive tax planning-measures by some large multinationals must end.”

European Presence in the BEPS project

This section analyses the effects of the independent variables on the presence of European stakeholders in the BEPS project. In order to check for the coherency of the EU’s policies with the international soft-law, the internal decision-making outcomes of the ATAD and the ACD which are meant to internalize the proposals are compared to the content of the recommendations by the OECD/G20. In a second step, the ambition of supplementary internal policies, IETR and public CBCR, is scrutinized by checking if and how far the EU goes beyond anti-BEPS measures. Third, the impact of interest and competence constellations in the EU on the BEPS project is examined to draw conclusions on the presence of European stakeholders taking into account the idea of a U-shaped distribution of powers and interests (Mügge, 2011).

The BEPS Proposals. In October 2015, the leaders of the G20 endorsed the recommendations of the BEPS project that were elaborated by the OECD. The countries agreed on a set of international soft-law. This unbinding approach is in line with the expectations by T. Rixen (2011) as well as Philipp Genschel and Schwarz (2011) who argue that international progress is in general incremental and constrained by the PD between small and large states. Countries tend to be unwilling to change domestic rules and, thus, prefer soft-law which leaves sufficient room for manoeuvre in the transformation of the recommended policies.

To identify the areas for a comparison between the ATAD and the ACD with the BEPS proposals, the conclusions of the project that are laid out in the Action on Base Erosion and Profit Shifting by the OECD (2013) are scrutinized. The OECD recommended 15 actions that are briefly summarized in the table below which presents the action and its content:

Table 5: Summary BEPS Action Plan (OECD, 2013)

Action	Content
Action 1: Digital economy	Update current regulations to the increasing volume of the digital economy characterized by a company's presence in a country without tax liability
Action 2: Hybrid mismatch arrangements	A clause against the abuse of tax treaties and domestic laws against exemption, non-recognition or deduction of payments
Action 3: CFC rules	Design CFC with a view on potential BEPS implications
Action 4: Interest deduction and financial payments	Counter-act base erosion through interest expenses or the finance of the production of exempted or deferred income
Action 5: Transparency and substance	Spontaneous and compulsory exchange of information on tax rulings and preferential regimes
Action 6: Treaty abuse	Modelling of a treaty template between countries and recommendations for domestic rules to prevent double non-taxation
Action 7: Permanent establishment status	Re-define permanent establishment status with a view to potential abuse
Actions 8, 9, 10: Transfer pricing arrangements	Instruments to prevent BEPS by moving intangibles (action 8), risks, capital (action 9) and high-risk transactions (action 10) between parent companies and subsidiaries
Action 11: Collect and analyse data on BEPS	Develop an economic impact assessment on BEPS and the effectiveness of the counter-measures
Action 12: Disclosure of aggressive tax planning	MNEs shall report on their aggressive tax planning strategies and tax authorities shall share this information with international colleagues
Action 13: Country-by-country documentation	MNEs shall be obliged to report to tax authorities the global allocation of income, economic activity and taxes paid
Action 14: Dispute resolution mechanisms	The current mutual agreement procedure needs to be changed to achieve a better forum for dispute resolution between countries
Action 15: Multilateral instrument	Enhance an internationally coordinated approach to improve the effectiveness of the other actions

The BEPS project was initiated by the leaders of the G20 states in 2012 at their summit in Los Cabos and concretized by G20 Finance Ministers in February 2013 at their meeting in Moscow where the BEPS Action Plan was endorsed. After the conclusion of the Action Plan, OECD and G20 member states elaborated the details of the 15 measures and concluded the project in October 2015 at the heads of government's summit in Antalya.

Action 1 on the implications of the digital economy for tax avoidance encourages countries to revise their tax rules with regard to the increasing importance of digital services. For instance, traditional permanent establishment rules refer to the physical presence of an enterprise in a jurisdiction. However, digital services are frequently provided by companies that do not have a representation in the country concerned. Reportedly, the United States opposed a more sophisticated revision of the permanent establishment rules in order to protect domestic MNEs (Brauner, 2014). As shown below, also the EU does not regard the proposals of action 1 as pressing. Similar to the OECD's Model Convention on anti-double-taxation agreements that are applied by a large number of countries in bilateral tax agreements, the BEPS project foresees the adoption of a general anti-abuse clause. This anti-abuse clause is aimed to prevent double non-taxation as a result of the exploitation of bilateral anti-double-taxation agreements and to coordinate different applications of the anti-abuse clause. To address BEPS practices related to CFC rules, the OECD/G20 propose to re-design the domestic rules in action 3. The revision of the national provisions is encouraged and supervised by the OECD on the basis of a best practice exchange. European stakeholders such as Britain that profit from generous CFC rules have successfully lobbied in favour of this soft approach as shown below. In action 4 the BEPS project seeks to achieve a coordinated approach by optimizing domestic best practices regarding interest deductions for tax avoidance practices. In doing so, OECD/G20 encourage rule-making in an area that is traditionally not covered by bi- or multilateral tax treaties, meaning that there is a variety of different national approaches to this action. The recommendations of action 4 are largely inspired by the United States' domestic rules. Action 5 introduces an information exchange, possibly not only between the OECD/G20 members but one that is open to third countries as well. It promotes transparency in order to undermine tax competition between states and to avoid the negative consequences of the PD. The insertion of this action has been promoted by bigger and more powerful jurisdictions such as the United Kingdom which already has an effective information exchange scheme in place (Ernst&Young, 2015). Furthermore, action 5 provides an updated definition of the harmfulness of a tax regime. Building upon the success of the OECD's model convention for double non-taxation agreements is also action 6 which introduces a treaty template for bilateral tax deals. It raises

the issue of treaty abuse from the bilateral to the international level arguing that breaches of bilateral agreements are no longer an issue between the countries concerned but affect the decisions of the BEPS project (Brauner, 2014). A revision of the permanent establishment status is proposed in action 7. It foresees to strengthen the standards for permanent establishment and to increase the importance of residence taxation in contrast to source taxation. Residence and source taxation refer to the question were income in cross-border activities is taxed. If it is taxed at the place where the income is generated it is called source taxation. If income is taxed where the profiteer is located, it is named residence taxation (Avi-Yonah, 2005). The struggle about permanent establishment rules revealed the general conflict line between developed and emerging countries. Emerging countries are more likely to oppose residence-based taxation as they often host foreign investors that make profits on their territory. Whereas India and China lobbied against the strengthening of the permanent establishment status in the G20, developed countries used their dominance especially in the OECD to standardize residence taxation. Transfer pricing arrangements which enable MNEs to shift revenues from high-tax to low-tax jurisdiction are addressed in actions 8, 9 and 10. The BEPS recommendations seek to find common definitions for assets that are exchanged between the parent company and its subsidiaries and to ensure that assets are taxed at an appropriate level. Again, this set of measures reflects the PD between bigger and smaller states. Action 11 calls upon members to collect data and to study the effects of BEPS practices in order to enhance accountability. However, this action does not add a great deal of substance to the project and was rather uncontested (Brauner, 2014). Similar to action 5, action 12 and 13 propose an information exchange scheme between countries in order to achieve transparency between national treasuries and to obtain information from MNEs. The actions also encourage third countries to engage in the information exchange which broadens the scope of the recommendations. The inclusion of states that are not part of the OECD/G20 addresses the worries by some states that an international approach potentially undermines their competitiveness *vis-à-vis* non-participating countries. Commission President Jean-Claude Juncker supported actions 12 and 13 (Hirst, 2014a) which confirms evidence that the EU goes beyond the OECD/G20's approach to country-by-country reporting. The dispute resolution mechanism proposed in action 14 seeks to enhance international discourse and interaction in case of disagreement between two or more countries on issues related to a tax treaty. Hence, also action 14 raises the conflicts between countries from the bilateral to the international level. The success of the BEPS project depends crucially on the success of the multilateral instrument that is laid out in action 15 (Brauner, 2014). A focus on countries that are not directly related to the BEPS project is necessary in

order to ensure the effectiveness and durability of the proposed measures and to address fears of some states to lose competitiveness. Hence, the OECD/G20 concluded an inclusive framework that allows the involvement of further countries.

Comparing ATAD and ACD with BEPS proposals. The following section shows to what extent these proposals are mirrored in the EU's policies, most notably, the ACD and the ATAD that are understood as implementing acts of the soft-law. As the recommendations leave leverage to policy-makers to define how exactly the rules are transformed, it is checked how close and faithful the EU's policies are to the BEPS measures.

The ATAD, as concluded by the CEU, encompasses six different measures: a CFC rule, an exit taxation measure, an interest limitation instrument, a hybrids rule and a general anti-abuse rule. Thus, the ATAD matches with OECD/G20 actions 2, 3, 4 and 8 but a closer look is necessary to understand if policies' substances are coherent. The EU's goal is to achieve common rules for its member states in order to get a common rule-application and to avoid divergent national implementations of the soft-law. The following table contrasts and summarizes the main points of both EU and international law.

Table 6: Comparison BEPS and EU ATAD

BEPS Action / EU Policy	OECD/G20	EU
Action 2 / hybrids rule	Rules against hybrid mismatches such as the exemption or non-recognition of payments, the deduction of payments that are not labelled as income and payments that are also deduced in another jurisdiction	In case of mismatches the instrument is defined by the Member State where a payment starts from
Action 3 / CFC rule	Design and define CFC with a view on potential BEPS implications	CFC rule is applied if the effective tax rate in a third company where profits are parked is 40% lower than of the EU Member State that hosts the parent company
Action 4 / interest limitation instrument	Develop rules to prevent base erosion by means of interest expense that reduces interest payments in the context of transfer pricing	The amount of net interest that is deductible from the taxable income is restricted to a fixed ratio of a company's revenues
Actions 8 / exit taxation measure	Joint definition of intangibles, the transfer of intangibles connected to value creation and create rules for intangibles that are hard to value economically by providing guidance on cost contribution	Member states are encouraged to tax assets moved by companies from their territory based on the economic value of that time and taking into account the companies' balance sheets

The implementation of actions 2, 3 and 4 is achieved through the hybrids, CFC and interest limitation rule. With the ATAD the leverage of the international soft-law, which is left to the implementers, is defined, however, the Council refuted the switchover rule, arguing that the remaining instruments are sufficient. Next to the influence of the ATAD on action 8, the Commission issued recommendations on tax treaties to combat treaty shopping. These

recommendations to the member states are part of the Anti-Tax Avoidance Package but not of the ATAD. To improve transfer pricing rules, the EC also wants to build upon ongoing work of the Joint Transfer Pricing Forum which is subordinated to the Directorate General for Taxation and Customs Union. Furthermore, the Commission announced in its Action Plan (COM(2015)302) to come up with a proposal for new transfer pricing standards in 2017 which will also cover action 9 and 10. Additionally, a renewed CCCTB approach could reduce harmful transfer pricing practices. Thus, the ATAD transforms anti-BEPS actions 2,3, and 4 comprehensively, setting common rules of application for its member states. Action 8 is not completely adopted as more initiatives on transfer pricing are expected in 2017 (see below). The EU deviates from the BEPS recommendation regarding action 6 as member states were not able to agree on the switchover rule due to internal diversity.

Through the ACD, anti-BEPS action 13 on the documentation of transfer pricing is transformed into EU law. The following table compares the OECD/G20's proposal with the EU approach.

Table 7: Comparison BEPS and EU ACD

BEPS Action / EU Policy	OECD/G20	EU
Action 13 / ACD	To make information better available to tax administration, companies report on the basis of a common template relevant data on their global allocations of the income, economic activity and taxes paid among countries to relevant governments	Companies (or their subsidiaries operating in the EU) with a consolidated group revenue of more than €750 million report country-by-country information on revenues, profits, taxes paid, capital, earnings, tangible assets and the number of employees to member states' tax authorities that will exchange the data automatically

To implement the OECD/G20's recommendation outlined in action 13, the EU started a legislative procedure of an internal mandatory information exchange on tax information provided by MNEs on a country-by-country basis. In doing so, the EU stuck to the details elaborated by the OECD/G20 (EC, 2016b). As shown in the decision-making analysis of the

ACD, the EU included subsidiaries operating in the internal market to the exchange scheme. Thereby, the EU wants to get behind complex company structures of MNEs and their subsidiaries and goes beyond the BEPS proposals which do not refer to affiliates.

Comparing IETR and Public CBCR with BEPS proposals. Prior to the conclusion of the BEPS project, the EC initiated a legislative procedure for an IETR on 15 March 2015. Although, the OECD/G20's work on the project was already in its final steps, the EU was eager to make faster progress with an eye on the LuxLeak scandal and the pressure on Commission President Jean-Claude Juncker who was held responsible for the Luxembourgish tax deals. The following comparison of the IETR and action 5 shows to what extent the EU's work is coherent to the international approach.

Table 8: Comparison BEPS and EU IETR

BEPS Action / EU Policy	OECD/G20	EU
Action 5 / IETR	Spontaneous and compulsory exchange of information on tax rulings and preferential regimes between countries including non-OECD-members	EU Member States exchange mandatorily information on their tax rulings 5 years retrospectively and every 6 months starting in 2017

The OECD/G20 proposes a multilateral instrument that is not limited to membership and encompasses 101 jurisdictions whereas the EU implemented an internal exchange between its member states. The Union's information sharing is not spontaneous but periodical and retrospective as shown in the analysis above. With the IETR, the EU adopted an instrument that is taken up by the OECD/G20 on the international level. By recommending an international and spontaneous approach, the BEPS project goes further than the IETR legislated by the EU. European stakeholders such as Luxembourg and Austria demanded a comprehensive and complementary international approach to make information exchanges more effective also with an eye to the countries' attractiveness to investors.

Public CBCR was proposed by the Commission after the conclusion of the BEPS project and as a complementary action to the information exchanges agreed within the EU and on the international level. As the legislative process is not finished at the time of writing, the EC's

initiative (and not the legislative outcome) is compared to the anti-BEPS actions. Nevertheless, action 12 refers to the disclosure of aggressive tax planning strategies.

Table 9: Comparison BEPS and EU public CBCR

BEPS Action / EU Policy	OECD/G20	EU
Action 12 / Public CBCR	Rule that requires MNEs to disclose aggressive or abusive tax benefits (using a broad definition of tax benefits)	The EC proposes to oblige MNEs (and their subsidiaries operating in the EU) with a consolidated group revenue higher than €750 million to publish annually and on a country-by-country basis information on its business nature, number of staff, net turnover, profits before tax, the amount of tax actually paid and total taxes paid outside EU for five years on its website

The Commission's initiative for a public CBCR goes beyond the information exchanges issued by the OECD/G20. Public CBCR defines action 12 closer than the requirements set out in the BEPS project. Whereas the OECD/G20's recommendations are limited to the disclosure of aggressive or abusive tax planning strategies by companies, the Commission wants all MNEs with a consolidated group revenue higher than €750 million to report business information regardless if they receive tax benefits or not. Moreover, according to the EC's initiative, information has to be reported openly while the OECD/G20 neither defines if companies have to disclose tax strategies publicly nor which kind of data is required. In doing so, the Commission also goes further than action 13 as compared to ACD above by requiring public reporting.

Further Action and Prospects. The comparisons of the BEPS recommendations with the EU's internal policies show that the EU tries to keep close to the international soft-law while encouraging an international approach through the premature legislation of IETR and while making policies that go beyond BEPS actions. However, not all suggested actions are addressed

by the EU's internal legislation as the Commission makes further use of its soft powers by issuing recommendations and studies. In the context of the Anti-Tax Avoidance Package the Commission released a set of recommendations to the member states that refer to actions 6, 7 and 15 of the BEPS action plan. In order to tackle the abuse of tax treaties, the EC advises national governments on how to include the general anti-abuse clause which is introduced by the ATAD in compliance with EU law. Moreover, the Commission provides guidance for member states to revise their rules on permanent establishment in line with the BEPS action 7. An external strategy is developed by the Commission to achieve a more consistent and coordinated external policy approach having regard to EU policy priorities and member states' interests as well as the positions of third states and IOs. The strategy includes new good governance standards that reflect the work of the BEPS project and are supposed to enhance a consistent policy of EU and member states. The strategy also applies to EU funds and includes a clause for international tax agreements that reflect the EU's policy priorities, an assistance-strategy for developing countries and finally a strategy *vis-à-vis* third countries that refuse to comply with international tax good governance standards. The external strategy guides member states also in negotiations of the multilateral instrument proposed by the OECD/G20 in anti-BEPS action 15.

In order to address action 11, the EU is conducting a study on the effects of tax avoidance. According to the EC's Action Plan, a proposal for a dispute resolution mechanism between EU Member States is expected in the second half of 2016. This initiative would correspond to anti-BEPS recommendation 14. Further action against tax avoidance encompasses a revision of the Interest and Royalties Directive (2003/49/EC) by the CEU, a re-launch of the CCCTB proposal in mid-2016, an improvement of transfer pricing rules and patent boxes in the EU, a reform of the Council's Code of Conduct Group and a common blacklist of tax havens. These measures are expected to be finalized until the end of 2017. Though, the Commission decided not to initiate legislation to address anti-BEPS action 1, saying that it will rather monitor the sufficiency of existing rules that cover the tax implications of the digital economy.

European Stakeholders in the BEPS project. Having compared EU policies and international soft-law on tax avoidance, this section examines the role of European stakeholders in the BEPS project. In doing so, public positions and statements of European stakeholders reported in newspaper articles are analysed to find out about the actor's interests and powers.

In order to identify the distribution of competences in the BEPS project, first the membership of European stakeholders is scrutinized. As two IOs are in charge of the project, membership is complex because not all EU members are also member of the G20 or the OECD and only few are members of both. Moreover, G20 and EU are in a principal-agent relation: The G20 assigned the OECD to draft the recommendations while the countries of the G20 kept the power to endorse the OECD's proposals. As the IOs have different tasks in the making of the soft-law, the question of membership has an impact on the distribution of competences. The Commission represents the EU in the OECD as a quasi-member. This means that the EU enjoys most formal powers but cannot be regarded as a full formal member as the OECD treaties do not foresee the participation of an international organization. On G20 level the EU is represented as a permanent formal member by the Commission President and the President of the European Council (currently Donald Tusk). From 28 countries, 21 are organized in the OECD but 7 EU Member States – Croatia, Romania, Latvia, Lithuania, Bulgaria, Malta and Cyprus – are not members of the OECD. Hence, most EU Member States were involved in the production of the soft-law but fewer member states took a decision on the outcome as only, France, Germany, Italy, the UK and the EU are members of the OECD and the G20. Next to their power to adopt or reject the proposals in the G20 it is expected that these stakeholders have a higher bargaining power in the OECD and, thus, were the crucial representatives of European interests in both IOs.

According to Hirst (2014b), Commission President Juncker lobbied in favour of a strong crackdown on tax avoidance. With regard to the limited success of previous tax coordination initiatives such as the first CCCTB approach, the EC tried to use its membership in OECD and G20 to push for an international approach. The commonly agreed set of international soft-law is used by the Commission to promote internal reforms. Hence, the Commission relies on a different decision-making forum to pursue its domestic policy priorities and to overcome internal stand-still. The internal decision-making complexities are the result of the SLP as well as the PD and domestic peculiarities such as decentralized national tax systems that explain rational policy preferences. British Prime Minister David Cameron is repeatedly quoted in favour of the policy goals pursued by the BEPS project. Great Britain and David Cameron are said to be at the forefront of the international approach and publicly backed the outcome (Aldrick, 2013). Bowers (2015) underlies Britain's opposition against binding BEPS rule and its preference for soft recommendations that are compatible with UK's generous CFC rules. Finance Ministers of France (Michel Sapin), Germany (Wolfgang Schäuble) and Italy (Pier Carlo Padoan) spoke at a meeting of the Parliament's TAXE Committee on 22 September 2015

about their positions on the EU's and the international anti-tax avoidance efforts (EP, 2015). They stressed their support for the work of the OECD/G20 but said that additional and more ambitious work on EU level is necessary. They agreed that internationally, soft-law is the appropriate method for coordination, however, that eventually only binding laws can bring substantial change. These positions reflect the Commission's view to be active internally and externally as it favours simultaneous internal and external activity based on international soft-law and binding Directives on Union level. The EC's preference for unbinding agreements can be explained by its eagerness to initiate own internal rules that (partly) go beyond the global efforts. It opposes binding world-wide rules as these would undermine the Commission's internal gatekeeping-power.

Yet, also other non-G20 EU Member States have an impact on the international anti-tax avoidance work. According to a report by the OECD, Cyprus and Luxembourg implemented international counter-BEPS instruments insufficiently (Hirst, 2013). This lack of action potentially undermines the EU's ability to speak with one voice and to push through its own policy priorities. Ireland was part of the OECD's task force that was commissioned to draft the recommendations and, thus, Finance minister Michael Noonan welcomed the proposals as being advantageous for Ireland (Lynch & Keena, 2015). However, he stated opposition against EU efforts to go beyond the international soft-law.

In the end, the BEPS proposals were quite consensual between all OECD and G20 members. There was considerable opposition against binding international law and objections by poorer countries that feared to be blacklisted while tax revenues are shifted to richer countries, however, decision-makers shared the opinion that a common international approach was necessary (Guerrera, Hirst, & Eder, 2016). According to the article, American initiatives against tax avoidance spurred the awareness that such regulation needs to be implemented internationally. This consensus is also reflected on EU level: even though there are different national conditions and tax arrangements, the general understanding was that tax avoidance needs to be tackled internationally. The Commission, in the light of failed internal tax coordination, exploited this momentum to use the international forum in order to achieve internal reforms. Thus, the EC pursued EU policy priorities internationally, especially together with EU Member States present in the G20. This is reflected also in the faithful implementation of the proposals and ambition of complementary initiatives.

Effect of the Independent Variables on the Dependent Variable

The presented data allows conclusions on the hypotheses laid out above. On the basis of the analysis, this section presents results that indicate the expected impact of the coherency of the soft-law transformation, the ambition of supplementary legislation as well as the distribution of competences and the constellation of interests on the European presence in the BEPS project.

According to the theoretical arguments a positive relation between the coherency of soft-law adoption and the European presence is suggested. As the comparison of the BEPS recommendations with the EU's ACD and ATAD shows, 5 out of 15 anti-BEPS actions are timely and accurately transformed. Further soft-legal measures announced by the Commission in the Anti-Tax Avoidance Package contributed to the implementation of the other BEPS proposals. The exemption is that no legislation is planned for action 1 and Finance minister rejected to introduce a switchover clause. Regarding the ACD and the inclusion of subsidiaries in the information exchange, the EU partly goes beyond the international recommendations. Overall, the EU implemented the soft-law coherently and quickly after the formal conclusion of the BEPS project using hard and soft modes of governance. The overall readiness to adopt the proposals indicates that the presence and the influence of European stakeholders on the BEPS project has been high and confirms the argument by Tsingou (2014). Hence, the first hypothesis is accepted. The evidence also supports the idea of a mutual relation between internal and external policies, since the ATAD and the ACD are direct reactions to the BEPS proposals. At the same time, EU policy-makers have the ambition to strengthen their international role and to showcase activity to the constituents through the faithful implementation.

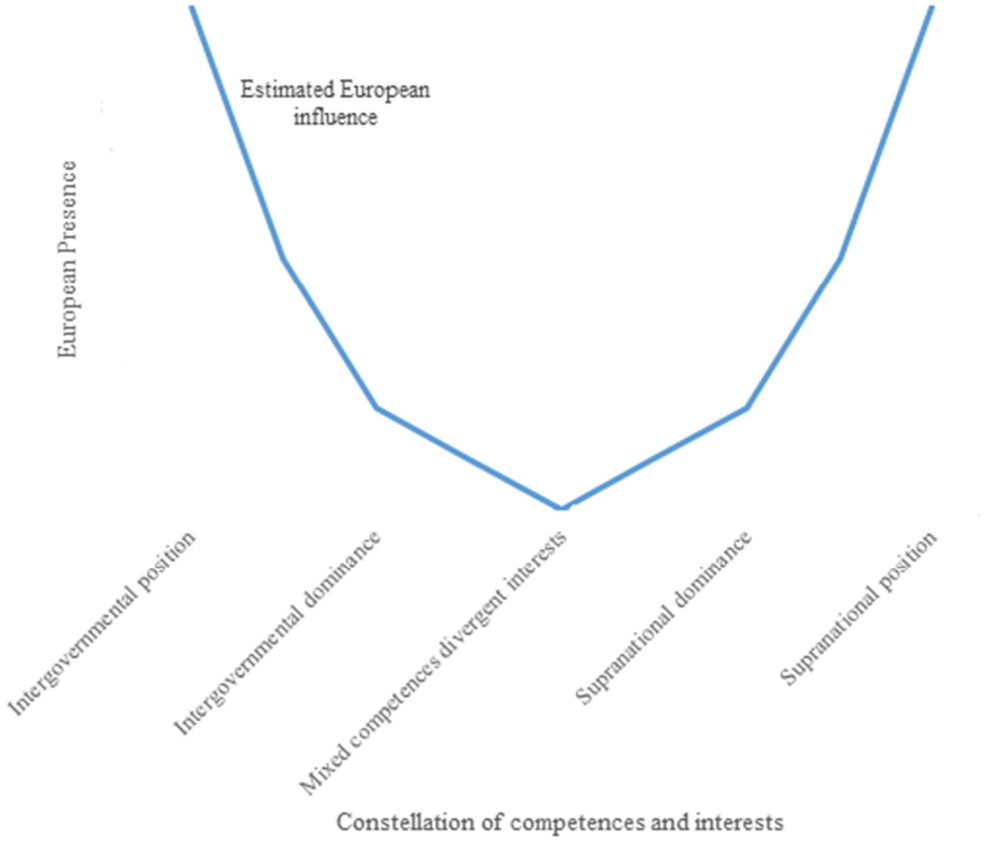
Furthermore, the EU adopted the IETR already prior to the OECD/G20's recommendations and, thus, addressed the proposed action 5 before it was officially issued. This kind of supplementary action is expected to be positively associated with European presence. Likely, the IETR influenced the international negotiations on an information exchange on tax rulings which confirms the idea that there is a policy transfer from the internal to the external level. This influence corresponds to the type of external governance denoted as the indirect network mode of rule projection as described by Lavenex (2014) in which international partners accept EU rules through learning and socialization processes. The history of the BEPS project, paced by financial and economic crises as well as tax scandals but also international interaction reflects the learning and socialization processes. Here, learning is understood as a common reaction to these crises and scandals, whereas socialization is based on the lengthy negotiations on the project between 2012 and 2015. Note however, that the idea

of an information exchange on tax rulings has been discussed on OECD/G20 level prior to the release of the initiative by the Commission as shown in the BEPS Action Plan. While the IETR is thus not really innovative, it is still supplementary as it concretized the BEPS proposal and establishes a European approach that works parallel to the international one. While there is a policy transfer from the internal to the external level, it is reaffirmed that the relation between the EU and the OECD/G20 is reciprocal as also the BEPS Action Plan likely spurred EU activity on the IETR. Further supplementary measures evolve from the EC's public CBCR initiative that is expected to go significantly beyond BEPS as information exchange is carried out on a public level. However, data suggests that predominantly the American Foreign Accounts Tax Compliance Act of 2010 spurred international action as countries realized the necessity of an international coordinated approach (Guerrera et al., 2016). Hence, the European presence in the BEPS project has been strengthened through the EU's premature commitment to the IETR, yet, the impact of the United States' external governance on the BEPS project was stronger. This finding confirms empirical evidence by Wigan (2014) who scrutinized the impact of EU and U.S. legislation on international tax policy. Potentially, the presence of European stakeholders will increase and challenge the American influence due to awaited legislation, most notably the public CBCR and possibly the EU's CCCTB. That being said, while the EU's presence is expected to grow through the public CBCR, the effect of supplementary Union policies on the BEPS project was merely technocratic and is characterized by the reciprocity of internal and external policies. Hence, the second hypothesis describes only a marginal effect.

According to the theoretical expectations, there is a negative relation between the complexity of competences and the European presence in the BEPS project. The analysis shows that in the past, the EU has achieved only limited progress in the coordination of its member states' tax systems due to the PD which produces divergent interests between governments and explains the unanimity-requirement in the Council. With regard to the BEPS project the complexity of the competence distribution has been lower for two reasons. First, as not all EU countries are also members of the OECD and the G20, there were fewer national interests which simplifies the formulation of a common European position. Also, the Commission as representative of the EU is obligated to incorporate the positions of the absent member states which increases the significance of the EU. Second, the European stakeholders that represented European interests in the G20, i.e., the EU, the UK, France, Germany and Italy, followed similar policy positions as they all supported the work and the outcome of the BEPS project. Even though, they had different motivations to do so – the Commission wanted to use the international forum in order to circumvent internal decision-making complexities whereas

countries such as Great Britain influenced the project to fight binding international law and to avoid competitive disadvantages – the common position increased the European presence. The legal constraints, the shared tax competences between the EU and the member states as well as the opposing national interests that hampered EU tax policy in the past did not apply to the representation of European interests in the BEPS project. This confirms the third hypothesis that is inspired by the argument by Müggе (2011) who predicts a U-shaped European presence depending on competence and interests. The constellation of competences and interests of European stakeholders in the BEPS project can be graphically illustrated.

Figure 5: Presence of European stakeholders in the BEPS project



The graph shows the constellation of competences and interests on the x-axis as the explanatory variable for European presence on the y-axis. In the graph on the y-axis, a higher position is associated with a stronger presence of European stakeholders, whereas a lower position is connected to a weaker European presence. The constellation varies between two extremes in which either member states or supranational institutions have exclusive decision-making power and as such determine the European position and represent it without contestation on the international level. These extremes are considered as less complex constellations of

competences and interests in contrast to constellations in which member states and the supranational level have mixed powers and divergent interests. Intergovernmental and supranational dominance are intermediary characteristics. In these cases, competences are clearly more intergovernmental or supranational, albeit not exclusive, and there is a rather stable compromise between stakeholders.

As the analysis has shown, countries safeguarded their tax sovereignty while the supranational fora have limited powers regarding tax coordination. Additionally, even in the areas in which competences are conferred upon the EU, member states dominate the legislative process through the SLP and sustain power as their domestic bureaucracies are responsible for the implementation of the EU Directives. Thus, even though the BEPS project introduced international tax coordination, member states are more powerful than the supranational institutions. However, as EU institutions are members of the OECD and the G20, not alone member states form and represent a European position but share this power with the Commission and the European Council. As not all EU Member States are also members of these IOs, the number of stakeholders and, hence, potential conflicts of interests are reduced. This simplifies the representation of a common position which is, nevertheless, dominated by national views. It is argued that European stakeholders had a strong impact on the OECD/G20's work, taking into account the here described effects of the independent variables on the European presence in the BEPS project. Graphically, this influence is estimated to be on the left side of the U-curve as figure 4 shows. While internal supplementary tax reforms had a low effect on the EU's positions, the timely and accurate adoption of the soft-law reveals the EU's eagerness to combat tax avoidance. Yet, the changed composition of competences and interests in the OECD/G20 had the strongest impact on the European presence as the representation of European interests was significantly simplified.

The theoretical section refers to an argument by Bretherton and Vogler (2005) who state that the EU's international strength evolves occasionally from internal diversity. European stakeholders build an internal position and use disagreement to limit the room for manoeuvre which means that the EU presents itself as inflexible to make concessions to the internal position. While this pattern cannot be observed in the negotiations of the BEPS project, the argument as such, which seemingly contradicts the notion that clear-cut competences increase the presence of European stakeholders, can be included in the idea of a U-shaped influence if not only competences but also interests are analysed. In doing so, it is argued, in accordance to Bretherton and Vogler, that the ability to form a stable internal compromise matters crucially to the strength of European interests on the international level. Legal competences, such as

membership in IOs, are one important factor that potentially facilitates internal compromise-finding. As noted by Mitsilegas and Gilmore (2007) the transformation of international soft-law into the Union's legal corpus potentially endangers constitutional principles. In the context of the BEPS recommendations, member states issued concerns that the CFC rule introduces a minimum tax rate through the backdoor. The Commission's initiative and the Presidency's compromise proposal foresee that the CFC clause applies if the effective tax rate in a country where profits are shifted is 40% lower than in the Member State where the profit is generated. If and to what extent constitutional principles are infringed has to be evaluated at a later stage.

Conclusion

This section reflects on the results identified above and examines the prospects for the European presence in the global fight against tax avoidance. As shown above there are a number of EU initiatives that will be negotiated in the near future. Following up to the Commission's proposal for a public CBCR, now Parliament and Council as co-legislators take up the floor. Very relevant to the future of the initiative is the decision-making in the Council since national governmental representatives seem to have divergent opinions. Meanwhile, the Parliament is expected to push for an ambitious approach. Furthermore, the re-launch of the CCCTB is coming in 2016. Here, the Council legislates without the Parliament in the SLP and compromise-finding between member states will most likely be very difficult as the foregoing initiatives have shown. As long as the EC does not change its policy priorities, it is expected to lobby for further ambitious internal and international innovations, especially due to the personal ambition of Commission President Juncker to clean up the EU's position as a host of tax havens and MNEs that exploit the 28 different tax systems. Additionally, the common blacklist of tax havens compiled by Commissioner Moskovici is awaited by observers. While the supranational EU institutions pursue an ambitious agenda to tackle tax avoidance, they challenge member states' authority in tax legislation only reluctantly. The implementation of EU laws and – with the exemption of the ACD –the legislation of directives is left to the national governments while claims for a stronger involvement of the supranational institutions are either relatively quiet or ignored by member states. The EU rather focusses on setting ambitious internal and external standards. Notwithstanding the observed strong presence of European stakeholders on the international level, there is also evidence that supports the argument that the international level influenced EU policies. It is suggested in this thesis that the closeness of EU policies to the BEPS project and supplementary Union initiatives explain an increasing international presence of European stakeholders. Future research could look into the effects of international

approaches on EU actions to get a more accurate picture of the reciprocal relation between the external and internal level (Mügge, 2014).

Internationally, the next steps will be the complete implementation of the BEPS proposals by all members and third countries that want to engage in the new regime. It will be decisive that the OECD monitors the progress made in the process of adoption. Another important aspect for the OECD/G20 is to convince as many countries as possible to participate in the international information exchange scheme under the inclusive framework. A first meeting of the framework is planned for mid-2016 in Kyoto. Even though, the framework might not abolish tax havens, it potentially spreads information between national treasuries on harmful low-tax regimes and the operations of MNEs in other countries. An ambitious international information exchange will decrease the effect of the PD and will create spill-over effects by opening the floor to further tax coordination. Administrations can thus obtain information on incidents of tax avoidance. Future research could check the applicability of this expectation using functionalist and realist theories.

The results also allow some cautious conclusions on the future of the EU's role in the global fight against tax avoidance. It is argued that the constellation of competences and interests facilitated the EU's ability to form a common position and, hence, strongly impacted the European presence in the BEPS project. The EU's importance in international tax coordination will remain to depend on the construction of an internal consensus. If there is agreement on the international level, further internal reforms can be expected which again increases the influence of European stakeholders. In other words, a common position will enable the EU to continue successfully an ambitious approach, for example by the adoption of a public CBCR and a CCCTB. In doing so, the EU can be at the forefront of the global fight against tax avoidance and promote further international action. Thereby, the international forum is a tool for the EU to promote internal reforms by circumventing the decision-making complexities in the Council. Hence, the main observation of this paper is that in tax policy for the EU international action and internal policy-making go hand in hand.

Bibliography

Aldrick, P. (2013). OECD unveils plan to end "golden era" of tax avoidance. *telegraph.co.uk*. Retrieved from http://www.telegraph.co.uk/finance/personalfinance/tax/10190406/OECD-unveils-plan-to-end-golden-era-of-tax-avoidance.html

Attac. (2013). 7 Gründe warum Österreich eine Steueroase ist. Retrieved from http://www.attac.at/kampagnen/2013/steueroasen0/7gruende0.html

Avi-Yonah, R. (2005). *Tax Justice Briefing - Source and Residence Taxation*. Retrieved from http://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf

Bach, D., & Newman, A. L. (2007). The European regulatory state and global public policy: micro-institutions, macro-influence. *Journal of European Public Policy, 14*(6), 827-846.

Bowers, S. (2015). OECD hopes tax reforms will end era of aggressive avoidance. *theguardian.com*. Retrieved from https://www.theguardian.com/business/2015/oct/05/oecd-hopes-reforms-will-end-era-of-aggressive-tax-avoidance

Bradford, A. (2012). Brussels Effect, The. *Nw. UL Rev., 107*, 1.

Brauner, Y. (2014). What the BEPS? *University of Florida Levin College of Law Research Paper*(15-40).

Bretherton, C., & Vogler, J. (2005). *The European Union as a global actor: Second edition*.

Cannizzaro, E. (2012). The Neo-Monism of the European Legal Order. In E. Cannizzaro, P. Palchetti, & R. A. Wessel (Eds.), *International law as Law of the European Union* (pp. 35). Boston/Leiden: Martinus Nijhoff Publishers.

CEU (Council of the European Union). (2016a). Economic and Financial Affairs Council. *Public Session, Friday, 17 June 2016 10:05 CET*: Council of the European Union.

CEU. (2016b). Economic and Financial Affairs Council, 25 May 2016. *Photos and videos of the meeting*: Council of the European Union.

Chrisafis, A., & Garside, J. (2016). Google offices raided in Paris as prosecutors announce fraud probe. *theguardian.com*. Retrieved from https://www.theguardian.com/technology/2016/may/24/google-offices-paris-raided-french-tax-authorities

Donnelly, S. (2008). Regime der Finanzmarkt-und Unternehmensregulierung in Europa: die Bestimmung gesetzlicher Strukturen und Regulierungsprozesse *Die Europäische Union* (pp. 253-271): Springer.

Dover, R., Ferrett, B., Gravino, D., Jones, E., & Merler, S. (2015). Bringing transparency, coordination and convergence to corporate tax policies in the European Union. *European Parliamentary Research Service*(Part I: Assessment of the magnitude of aggressive corporate tax planning).

Dreher, A. (2006). The influence of globalization on taxes and social policy: An empirical analysis for OECD countries. *European Journal of Political Economy, 22*(1), 179-201.

Drezner, D. W. (2005). Globalization, harmonization, and competition: the different pathways to policy convergence. *Journal of European Public Policy, 12*(5), 841-859.

EC (European Commission). (2016a). The Anti Tax Avoidance Package – Questions and Answers. Retrieved from http://europa.eu/rapid/press-release_MEMO-16-160_en.htm

EC. (2016b). Corporate Tax Transparency - Country by Country Reporting: European Commission Audiovisual Services.

EP (European Parliament). (2015). Exchange of views with Finance Ministers of France, Germany, Italy and Spain: extracts the meeting of the Special Committee on Tax Rulings European Parliament Audiovisual Services for Media.

EP. (2016). Plenary session from 11/04/2016 to 14/04/2016. *Effectiveness of existing measures against tax evasion and money laundering in light of recent Panama papers revelations (debate)*: EPTV.

Ernst&Young. (2015). *OECD releases final report on mandatory disclosure rules under Action 12*. Retrieved from http://www.ey.com/Publication/vwLUAssets/OECD_releases_final_report_on_mandatory_disclosure_rules_under_Action_12/$FILE/2015G_CM5828_OECD%20releases%20final%20report%20on%20Action%2012.pdf

Genschel, P. (2005). 3 Globalization and the transformation of the tax state. *European Review, 13*(S1), 53-71.

Genschel, P., & Schwarz, P. (2011). Tax competition: a literature review. *Socio-Economic Review, 9*(2), 339-370.

George, A. L., & Bennett, A. (2005). *Case studies and theory development in the social sciences*: Mit Press.

Guerrera, F., Hirst, N., & Eder, F. (2016). Why the Panama Papers might not lead to a tax crackdown. *politico.eu*. Retrieved from http://www.politico.eu/article/why-the-panama-papers-might-not-lead-to-a-tax-crackdown/

Hallerberg, M., & Basinger, S. (1998). Internationalization and Changes in Tax Policy in OECD Countries The Importance of Domestic Veto Players. *Comparative Political Studies, 31*(3), 321-352.

Hirst, N. (2013). Embarrassing results for EU in tax transparency reports. *politico.eu*. Retrieved from http://www.politico.eu/article/embarrassing-results-for-eu-in-tax-transparency-report/

Hirst, N. (2014a). Juncker launches tax fightback. *politico.eu*. Retrieved from http://www.politico.eu/article/juncker-launches-tax-fightback/

Hirst, N. (2014b). Tax reform plans gather momentum. *politico.eu*. Retrieved from http://www.politico.eu/article/tax-reform-plans-gather-momentum/

Horwarth, D., & Quaglia, L. (2014). Hedge Funds. In D. Mügge (Ed.), *Europe and the Governance of Global Finance* (pp. 113).

Keohane, R. O., & Nye, J. S. (1974). Transgovernmental relations and international organizations. *World Politics, 27*(01), 39-62.

Knox, N., & Hirst, N. (2016). Europe cracks down on tax dodgers. *politico.eu*. Retrieved from http://www.politico.eu/article/europe-cracks-down-on-tax-dodgers/

Kramer, A. E., & Norrisjuly, F. (2013). G-20 Backs Plan to Curb Tax Avoidance by Large Corporations. *nytimes.com*. Retrieved from http://www.nytimes.com/2013/07/20/business/global/g-20-nations-back-plan-to-curb-corporate-tax-evasion.html?_r=0

Lavenex, S. (2014). The power of functionalist extension: how EU rules travel. *Journal of European Public Policy, 21*(6), 885-903.

Lavenex, S., & Schimmelfennig, F. (2009). EU rules beyond EU borders: theorizing external governance in European politics. *Journal of European Public Policy, 16*(6), 791-812.

Lavenex, S., & Wichmann, N. (2009). The external governance of EU internal security. *European Integration, 31*(1), 83-102.

Lynch, S., & Keena, C. (2015). Government warns EU against tougher tax rules. *irishtimes.com*. Retrieved from http://www.irishtimes.com/business/economy/government-warns-eu-against-tougher-tax-rules-1.2380111

Mitsilegas, V., & Gilmore, B. (2007). The EU legislative framework against money laundering and terrorist finance: a critical analysis in the light of evolving global standards. *International and comparative law quarterly, 56*(01), 119-140.

Moser, S. (2015). Kampf gegen Steuerflucht im Schritttempo. *derstandard.at*. Retrieved from http://derstandard.at/2000023315391/Kampf-gegen-Steuerbetrug-Lueckenschluss-im-Schritttempo

Mügge, D. (2011). The European presence in global financial governance: a principal–agent perspective. *Journal of European Public Policy, 18*(3), 383-402.

Mügge, D. (2014). *Europe and the governance of global finance*: Oxford University Press, USA.

Nugent, N. (2010). *The government and politics of the European Union*: Palgrave Macmillan.

OECD. (2013). *Action Plan on Base Erosion and Profit Shifting*. OECD Publishing Retrieved from http://dx.doi.org/10.1787/9789264202719-en.

Özoğuz-Bolgi, S. (2013). Is the EU Becoming a Global Power After the Treaty of Lisbon? In A. K. Boening, Jan-Frederik; van Loon, Aukje (Ed.), *Global Power Europe-Vol. 1* (pp. 3-18): Springer.

Posner, E. (2009). Making rules for global finance: transatlantic regulatory cooperation at the turn of the millennium. *International Organization, 63*(04), 665-699.

Quaglia, L. (2014). Insurance. In D. Mügge (Ed.), *Europe and the Governance of Global Finance* (pp. 67).

Riegert, B. (2016). Panama Papiere: EU sucht nach Antworten. *dw.com*. Retrieved from http://www.dw.com/de/panama-papiere-eu-sucht-nach-antworten/a-19209822

Rixen, S., & Uhl, S. (2007). Europeanising Company Taxation–Regaining National Tax Policy Autonomy. *Friedrich Ebert Stiftung, International Policy Analysis*.

Rixen, T. (2011). From double tax avoidance to tax competition: Explaining the institutional trajectory of international tax governance. *Review of International Political Economy, 18*(2), 197-227.

Rosecrance, R. (1997). *The European Union: a new type of international actor*: European University Institute.

Shepsle, K. A. (2010). *Analyzing politics: Rationality, behavior, and institutions*. New York: W.W. Norton.

Simmons, B. A. (2001). The international politics of harmonization: the case of capital market regulation. *International Organization, 55*(03), 589-620.

Simon, F. (2016). EU tax initiative "insufficient first step", activists say. *euractiv.com*. Retrieved from http://www.euractiv.com/section/euro-finance/news/eu-tax-transparency-directive-insufficient-first-step-activists-say/

Toje, A. (2011). The European Union as a small power. *JCMS: Journal of common market studies, 49*(1), 43-60.

Tsingou, E. (2014). Money laundering. In D. Mügge (Ed.), *Europe and the Governance of Global Finance* (pp. 141).

Turner, Z. (2015). Europe's tax crusade. *politico.eu*. Retrieved from http://www.politico.eu/article/europes-tax-crusade-luxembourg-evasion-corporate-receipts/

Van Vooren, B., & Wessel, R. A. (2014). *EU external relations law: text, cases and materials*: Cambridge University Press.

Wigan, D. (2014). Offshore Financial Centres. In D. Mügge (Ed.), *Europe and the Governance of Global Finance* (pp. 156).

Ziedler, C. (2015). EU-Staaten vernebeln Steuertransparenz. *derstandard.at*. Retrieved from http://derstandard.at/2000023193480/EU-Staaten-vernebeln-Steuertransparenz

Annex

Calculations decision-making analysis:

Formula:

$$o = \frac{x_1 * s_1 + x_2 * s_2 + x_3 * s_3 + x_n * s_n}{s_1 + s_2 + s_3 + s_n}$$

o: outcome

x: policy position

s: level of salience

Calculation French-German-Compromise in the ACD

Dimension 1 – Subsidiaries

$$\frac{100 * 90 + 0 * 30}{90 + 30} = \frac{9000}{120} = 75$$

Dimension 2 - Start

$$\frac{0 * 45 + 100 * 80}{45 + 80} = \frac{800}{125} = 64$$

Calculation Council Compromises in the Public CBCR

1) Council 1

Dimension 1 – Amount of Information

$$\frac{60 * 70 + 100 * 80}{70 + 80} = \frac{12200}{150} \approx 81{,}5$$

Dimension 2 – Public Access

$$\frac{50 * 80 + 100 * 95}{80 + 95} = \frac{13500}{175} \approx 77{,}1$$

2) Council 2

Dimension 1 – Amount of Information

$$\frac{30 * 70 + 100 * 80}{70 + 80} = \frac{10100}{150} \approx 67{,}3$$

Dimension 2 – Public Access

$$\frac{25 * 80 + 100 * 95}{80 + 95} = \frac{11500}{175} \approx 65{,}7$$

3) Council 3

Dimension 1 – Amount of Information

$$\frac{80 * 70 + 100 * 80}{70 * 80} = \frac{13600}{150} \approx 90{,}6$$

Dimension 2 – Public Access

$$\frac{75 * 80 + 100 * 95}{80 + 95} = \frac{15500}{175} \approx 88{,}6$$