



CITY UNIVERSITY
LONDON

tax justice
network

Discussion Workshop

Should Nation States Compete?

City University, London, 25th – 26th June 2015

PROGRAMME

DAY ONE – 25th June 2015

10h00 – 10h30

Registration and coffee

10h30 – 11h00

Welcome and introductions

11h00 – 12h30

Session One

Facilitator - David Quentin

Discussant - Anastasia Nesvetailova

Matthew Watson – *Ricardian Myth-Making: Comparative Advantage Theory as Ideologically Selective Historical Reconstruction*

Abstract - The economic justification for creating market arrangements in which states can compete by specialising in what they do best has moved on only fractionally since Ricardo outlined his arguments about comparative advantage in 1817. This theory has long been established as part of the common sense of economics and is crucial to the ideological reproduction of contemporary market society. However, it hinges entirely on the numbers that connote the abstract representations of why both 'England' and 'Portugal' would benefit from trading cloth for wine. These numbers, though, are not empirically derived in any genuinely meaningful economic sense.

As more recent historical scholarship has shown, this particular pattern of trade is more readily explained by intra-European alliance building. Britain wished to exploit the gold reserves of Portuguese South American colonies so that it could pay for the Napoleonic Wars, and guaranteeing the territorial integrity of Portuguese borders against Spanish threats was considered a price worth paying for access to new flows of bullion. Concessionary trade agreements did follow in a way that made sense for Britain to channel productive capacity into manufacturing and Portugal

into agriculture. Yet they had nothing to do with the supposed economic logic of comparative advantage.

Atul Shah – *Systemic Regulatory Arbitrage: the Role of KPMG*

Abstract - The power, size and reach of the Big 4 global accounting firms has been an increasing concern for public policy. Research has shown that rather than enforcing rules and protecting public interest, they help their clients undermine them. The Big 4 seem to have captured the regulatory process of multinational firms and strategically manoeuvred themselves beyond control. In this case study of the KPMG Audit Failure of HBOS, one of Britain's largest banks, we unravel the processes used to escape regulatory investigation and the proactive management of 'regulatory risk' by KPMG. Key evidence from a prominent whistle-blower is used to unravel the culture and operating methods. We also analyse public statements and the reports of regulatory investigations of the firm and expose the rhetoric used to disguise reality.

The findings critically question the motives and independence of the Big 4 and the extent of their public interest. KPMG's rhetoric of transparency, public interest and independence is shown to be flawed and contradictory. The audit licence is used to extract profits rather than to protect the public interest. The evidence suggests an endemic culture of regulatory arbitrage on behalf of multinational clients, and also applied by KPMG itself to prevent investigations and protect themselves. An extensive interview of KPMG UK's Head of Risk and Quality reveals the depth of the rhetoric and contradictions the firm lives with on a daily basis. When knowledge, size, status and influence are combined to undermine the very spirit of regulations, the public consequences are truly frightening.

Andres Arauz and Isabel Estevez - *A Minimum Cooperation Consensus for a South American Fordian Pact*

Abstract - The Union of South American Nations is a political union that is trying to implement a non-neoliberal economic integration. Conventional economic integration, summarised as the freedom of movement of goods, services, capital and labour, has promoted a race to the bottom where nations compete for foreign exchange. This paper offers a minimum consensus proposal for South American nations for a regional Fordian pact, where (transnational) industrial capital accumulation can occur without threatening the rights of workers or the provision of social goods. It is based on minimum royalties, a minimum effective tax rate, a regional minimum wage, minimum capital-flow management techniques, and common public procurement with minimum sanitary and technical regulations.

South America is endowed with sizable natural resources; the maximisation of this potential is the key to rapid industrialisation. The permanent shortage of foreign exchange pushes nations to compete to attract investors. The minimum royalties and effective tax rate would avoid tax competition in extractive and other industries. Competition for foreign investment in labour-intensive industries has kept (the share of) real wages stagnated; regional minimum labour conditions would launch a virtuous Fordian pact where workers earn enough to consume the goods they produce. Capital-flow management techniques, as part of a new financial architecture, can avoid capital flight and minimise non-desirable trade restrictions with neighbouring nations. Common public

procurement would improve conditions for negotiations with extra-regional providers. A common set of sanitary and technical regulations would protect consumers and the environment and establish a regional industrial accreditation and certification system.

12h30 - 13h30

Lunch

13h30 - 15h00

Session Two

Facilitator – Naomi Fowler

Discussant - Duncan Wigan

Darian Heim – *Justice, Migration, and the Competition for Talent*

Abstract - Many states apply selective admission policies to migrants. The rationale is to attract and keep ‘talent’ in-country and, ultimately, not to lose out on the corresponding tax revenues. But simultaneously do these policies become more restrictive towards ‘untalented’ and normal migrants. And this differential treatment comes at the cost of a coherent and fair immigration strategy. The paper has two parts to establish this conclusion. In the first, I analyse how some states exempt candidates holding certain diplomas or certificates from the usual admission and integration requirements – such as passing tests necessary to be granted long-term residence (e.g. the Netherlands). The same exemption applies to individuals who invest a substantial amount of money (six to seven digit) in the economy of countries which cede residence permits or even citizenship rights upon making such investments (e.g. Bulgaria, Malta, Montenegro, Portugal).

As the “usual” admission and integration procedures become increasingly insurmountable, such kind of policies – disguised as competitiveness-enhancing measures – replace an integral and just migration policy. And that latter, I argue in the second part, should address ‘sans-papiers’, ‘economic migrants’ and experienced managers alike on the basis of objective and fair criteria. The one criterion I shall discuss here is voluntariness. Endowment (e.g. wealth or education), I claim, is sufficient to ground voluntariness. Such voluntariness makes us responsible for the consequences of our actions as accepting the integration requirements in the receiving state upon migrating. The upshot is that the voluntary ‘talented’ should be subject to policies of integration whereas the involuntary ‘economic migrants’ should not. However, the political reality is just the opposite as the first part suggests.

Ali Saqer - *International Competitiveness and Economic Resilience: from Social Welfare to Corporate Welfare*

Abstract - Perhaps without much variance from other advanced economies, governments in the UK have internalised the concept of competitiveness into policy debates as early as 1961. Harold Macmillan then argued for a temporary wages pause in order to maintain the competitiveness of the British economy that was threatened by dawdling labour productivity. Competitiveness was defined then in productivity terms and is still largely so now. However, what has changed is the extent to which the term ‘competitiveness’ has penetrated policy debates and, most importantly, policymaking.

All major UK parties currently use the term to, allegedly, reach similar objectives; rising employment and higher economic growth and living

standards. They differ nonetheless in the way they operationalise the term which reflects conflicting understandings of economic resilience and sustainability. Thus, the resulting policy adaptations undertaken in its name differ and so does the impact this has on the country's social and corporate welfare. This paper will shed light on the politics of competitiveness in the UK with specific attention to the process of its institutionalisation and will argue that the UK's discourse of competitiveness is construed through various interactive channels within the UK and between the latter and external actors such as the WEF.

15h00 – 15h30

Tea break

15h30 – 17h00

Session Three

Facilitator - John Christensen

Discussant - Jim Henry

Juliette Schwak – *South Korean Nation Branding and the Building of a Competitiveness Society*

Abstract - The paper will be looking at the endogenous and exogenous origins of South Korean 'ideology of competitiveness'. It will then focus on the effects of new policies responding to renewed competitiveness pressures in South Korea. Nations are increasingly entering the realm of competitiveness, and thus adapting the tools of corporate competitiveness to boost their nation brands' success in the 'global market place of nations'. This is not only about finding policy responses to foster national companies' competitiveness. This also entails a more encompassing strategy of branding the nation for itself.

South Korean governments have attempted to build what is probably the world most sustained and encompassing nation branding strategy. But this nation branding strategy should also be linked to legal, economic and political transformations under the competitiveness imperative. Therefore I will also consider the changes in labour regulations, the market liberalisation policies, and the role of development diplomacy in this competitiveness framework. Finally, as South Korea as a nation is urged to fight its way in the paradigm of global competitiveness, briefly looking at the effects on South Korean citizens will lead me to assert that contemporary South Korea can be seen as the embodiment of a competitiveness society.

Jakob Engel – *Regulating the Commodity Trading Industry: Comparing firm strategies to evade stricter regulation at three levels of governance*

Abstract - In recent years commodity trading firms have grown in size and increased their level of vertical integration by acquiring further assets central to the extraction, production and retail processes. Trading firms have also increased their linkages to the financial sector through increasingly sophisticated trade finance and derivatives trading practices. Nonetheless, the trading desks of these firms specialised in the trade of grains, minerals and fuels remain concentrated in only a few global hubs, most notably Geneva, London and Singapore. In the past five years there have been increased efforts to more strongly regulate and supervise the activities of this industry, both under new post-crisis financial markets regulation and with regard to transparency in accounting in the jurisdictions where they operate. Unsurprisingly, the industry has

opposed these measures as interfering with, and even threatening its core operations.

This paper addresses the political and economic strategies of firms to limit regulatory oversight, as well as the outcome of their efforts. I argue that the effectiveness of these strategies depended significantly on the level of regulation (global, regional and national) and the respective regulatory institutions at these different scales of governance. Empirically this paper draws on interviews with regulators, industry actors and NGOs carried out in Switzerland, Brussels, the UK and the US.

Linda Arch - *Competition amongst the London Clearing Banks, 1946 to 1979*

ABSTRACT - In the several decades after the Second World War, the competitive environment within which the London Clearing Banks operated changed profoundly. The Bank of England Act, 1946 had brought that Bank under public control, and had set out an approach to regulating banks that relied upon tacit, implicit and informal constraints as much as codified, explicit and formal ones. Competition between the London Clearing Banks was intentionally moderated by collective, 'cartel' pricing agreements. By the 1970s, a different landscape had emerged in which the moderating influences upon competition in banking were beginning to disappear. When, in 1971, the Bank introduced its new policy of 'Competition and Credit Control', the curtain fell on the clearing banks' collective agreements, while the Banking Act, 1979 signalled a more formal and codified approach to supervising banks.

The impulse towards competition in clearing banking was shaped by deep ideological changes interacting with structural ones. In the earlier part of the period, the idea prevailed that banking had a special role in society. A monopoly market structure in banking needed to be guarded against, as did excessive competition: either structure could work against a stable banking system. The state was justified in regulating clearing banking to prevent, or eliminate, monopoly or excessive competition. This gave way to a quite different idea - the idea that competition in a free market was itself the best remedy for either monopoly or excessive competition. Regulation should therefore be less concerned with the structure of the market and more concerned with other impediments to an efficient banking system. Consequently, very large banks became less of a direct concern to the authorities. Furthermore, one of the principal impediments to efficiency was perceived to be the existence of the banks' collective agreements. Dismantling the cartel was a way of removing this impediment. This paper explores these ideological changes and their consequences.

17h30 – 20h00

Film Screening

Screening of Harold Crook's award-winning film documentary "*The Price We Pay*", followed by panel discussion with Nick Shaxson, Jim Henry, moderated by Ronen Palan

20h00

Dinner at BananaTree bananatree.co.uk/locations/angel/

DAY TWO – 26th June 2015

09h30 – 11h00

Session Four

Facilitator - Liz Nelson

Discussant – Prem Sikka

Michael Tyrala – *The Changing Role of the USA in the Regulation of the Offshore Economy*

ABSTRACT - The fiercest battle over the regulation of the 'offshore' economy to date took place between 1998-2002 and ended in a spectacularly embarrassing defeat for the OECD regulators when USA, initially a key driver of the initiative under Clinton, lifted its support under the Bush administration. Academic literature touts this success of what were mostly geopolitically insignificant island states as proof of the 'primacy of sovereignty' in international relations and the 'power of the weak', specifically their ability to 'rhetorically entrap' more powerful state and institutional actors by appealing and holding them to their own declared norms and ideas, such as the pervasive discourse of 'competitiveness'. Close examination of subsequent cases of USA's policies and conduct towards the 'offshore' economy between 1998-2014 puts the causal power of these concepts in serious doubt however. The post-9/11 clampdowns on practices conducive to the financing of terrorism, USA's destructive campaign against Antigua's online gambling industry, and the more recent passing of FATCA are just some of the examples strongly suggesting that the true causes lie with the differential alignments of interests between certain segments of the 'offshore' economy, individual US administrations, and their financial backers in Washington DC and elsewhere.

'Competitiveness', 'sovereignty', and other influential ideological constructs certainly play a role, but merely as tools to be used or temporarily discarded as and when it fits the prevailing interests.

Duncan Wigan - *The Finance Curse and Competition through Finance*

Abstract -

Anastasia Nesvetailova – *Russian Sanctions*

Abstract -

11h00 – 11h30

Coffee / tea break

11h30 – 13h00

Session Five

Facilitator - Alex Cobham

Discussant – Sol Picciotto TBC

Hagai Kalai– *Back to Source: From international corporate tax neutrality to efficient investment policy and its implication for a desirable international tax policy*

Abstract - The paper challenges the current international tax discourse, mainly known as neutrality theories, and highlight the hidden assumption of it, which is that business ventures are costless. In this regard, I will broaden the scope of the debate from the tax competition to investment competition. While tax scholars, neutrally, focus on tax competition, countries can compete in two other main commercial fields – spending

and publicly provided services, and regulation. Therefore, the question, from a worldwide perspective, is the desirability of investment competition rather than tax competition.

Following, I will show that in regard to direct investment through entities with no limited liability the international investment competition creates a problem of sup-optimal investment in pure and partial public goods. I will address this problem, which is unique only to international markets, as the first cross border externality problem. The second step will concern the problem of over-production due to externalities of limited liability entities. The problem of externalities exists in every market. Yet, in domestic markets countries have the incentive to minimise externalities, while in the international markets countries have no incentive to do so. I will address this unique phenomenon as the second cross border externality problem. This second cross border externality problem will shed new light on the international corporate tax debate. I will argue that both residency based taxation, and what is understood today as territorial (or "source") based taxation, will create extreme inefficiencies from a worldwide perspective, and have regressive affect in a world with non-equal initial distribution of capital. As an alternative I will offer to adopt a pure source based tax system, taxing both entities and distributed profits at source. Furthermore, I will argue that the sourcing rules should be redefined, in order to al

Matti Ylönen – Politics of Intra-Firm Trade: Corporate Price Planning and the Double Role of the Arm's Length Principle

Abstract - Intra-firm trade has increased its visibility within academia, media and non-governmental organisations. One of its key elements is the shifting of profits across national boundaries through transfer pricing and other mechanisms that big companies use to cross-subsidise their subsidiaries, primarily to avoid taxes. Much of the information about transfer pricing is hidden behind the veils of accounting rules that reproduce corporate secrecy and facilitate the use of non-market prices for intra-firm transactions. In light of increasing evidence about the prevalence of non-market price setting, a significant amount of international trade cannot be meaningfully analysed as genuine market transactions. This provokes serious questions about the validity of market assumptions in research on world trade in particular and global capitalism more generally.

Our specific contribution focuses on the role of the arm's length principle and the significance of cross-subsidisation and other forms of corporate planning in intra-firm trade. We suggest that under certain conditions, price planning by private corporations should be analysed as a dimension of political rule within the economic sphere. Politics of world-economy is not merely something related to governmental intervention, but corporations should also be theorised as potentially political entities. Crossing the disciplinary boundaries between political economy and normative political theory, we will also briefly explore the possibilities that the politicisation of intra-firm trade opens for applying democratic norms in the governance of global economy.

Diarmid O'Sullivan – Curbing tax competition: how can we get to a global consensus?

Abstract - This paper will explore the political dynamics of addressing corporate “tax competition”, as it affects developing countries in particular. The paper will argue, citing recent statements from the IMF, European governments and the African Union, that concern among intergovernmental institutions about the harmful effects of unbounded tax competition has revived. However, this revival has come too late to fundamentally affect the BEPS Project, which remains the predominant international response to the problems of corporate taxation. The outcomes of BEPS will be heavily inflected by the OECD’s view that no or low corporate taxation is not problematic in itself.

The paper will go on to argue that international consensus on concrete actions to curb corporate tax competition is needed, particularly in the light of the IMF’s recent findings that this problem is disproportionately harmful to developing countries. The paper will explore the possible features of such a consensus (and its institutional form). The paper will conclude, however, that the dominance of the ideology of “competitiveness” on official thinking, and the influence of vested corporate interests, is too great to make such a consensus feasible for the time being. So the paper will propose measures that could be considered at national level, and at the level of regional groupings, in developed and developing countries, as steps towards the creation of an international consensus in the longer term.

13h00 – 14h00

Lunch

14h00 – 15h30

Panel Discussion – The ‘Competitiveness’ Conundrum

Moderator – Naomi Fowler

Discussants – Will Davies, Ronen Palan, Matthew Watson

15h30

Workshop ends