Accounting (f)or Tax:

The Global Battle for Corporate Transparency

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Executive Summary

A growing number of leaks and scandals from tax havens have put tax avoidance by big multinationals into public focus and on the political agenda. For years, a few big corporations managed to obtain special advantages at the cost of society using their privileged access to technical expertise and the complexity of international tax law. They have influenced politics, tax agencies and the rules in their favour. Detailed, country-specific information on economic activity, profits and tax payments are an important instrument to make their tax avoidance publicly visible and to enable public control of tax agencies and democratic discussion on the political reform efforts. Intensive lobbying at all levels has ensured that after more than forty years, we have not reached this milestone. The long history of the emergence of CBCR illustrates the challenges in holding powerful multinationals to account.

First proposals for more detailed public reporting by a UN commission in 1977 were rejected because of coordinated protest by business groups from the industrialized countries. On their behalf, OECD countries in the negotiation room forced consensual voting in the commission, which was later dissolved without progress. At the same time of the UN commission, another business-driven institution tasked with developing reporting standards was founded under the lead of the big accounting companies. Its first relevant draft standards of 1980 contained at least a weak geographical segmentation of reported figures.

Despite strong conflicts of interest at the creation of these business-driven standards, they obtained quasi-legal status in the EU in 2001 and have spread globally since then. The discussion about removing the segmental reporting obligation between 2006 and 2008 showed the fundamental differences between the interests of corporations as information providers and investors as well as the wider public. In the end, the EU abolished the obligation without sufficiently accounting for the counter-arguments. The Big Four accounting companies played a problematic role as advisor of both corporations and politics.

Partly thanks to pressure from civil society, country-by-country reporting (CBCR) entered the political agenda from 2003 onwards, starting with extractive industries, then covering the EU banking sector and leading to comprehensive proposals from the OECD in 2013 and later the EU in 2014. Yet, the high degree of technicality and the focus on business interests at the OECD led to a limitation of access to selected tax agencies. In comparison, the EU negotiations were more open and discussions more diverse despite strong pressure from business interest, mainly from Germany. Through repeated consultations, reviews and attempts to shift discussion to the tax area with its requirement of unanimity, the process was delayed until today despite the European Parliament voting in favour of more transparency twice – in July 2015 and July 2017.

The history of the emergence of CBCR shows that there are fundamentally different perspectives between corporations and accountants, investors and the public; and between developing countries and capital exporting OECD economies. Accounting standards should therefore not be left to technical experts. They should instead be subject of an open political process and be negotiated in an international forum in which private and national interest take second stage behind the global public good.

The fierce opposition against public disclosure of country level financial information by business lobby groups, seconded by respective governments, illustrates the importance of CBCR disclosure in a context of growing scales of tax avoidance since the mid-1990s.

Contents

1. Introduction

Tax competition between states has caused havoc. States try to outbid each other with generous tax holidays and loopholes for foreign companies. The argument is often made that tax competition: secures investment, creates jobs and stimulates growth. However, the reality is often very different. The tax breaks offered to foreign firms creates unfair competition for smaller companies who can't access the tax breaks offered. Greenfield investments with new job creation fail to materialise. Successive tax cuts erode the corporate tax base and instead taxes increase for employees and consumers. Public services are cut.

Whether it is Google, FIAT, Starbucks, BASF, SAP or Amazon, since the 2007/2008 global financial crisis journalists have increasingly reported on the tricks multinationals use to reduce their tax payments; however, it is not only these companies that are operating in a legal grey area. The Lux Leaks scandal in 2014 and the subsequent investigations by the European Commissioner for Competition have shown that even some tax authorities help companies make tax savings if not illegally but at least questionably. Apple alone allegedly avoided €13billion in taxes due through a structure agreed with the Irish tax agency.[2] Estimates put global tax losses to profit shifting by multinationals at around $500billion per year (Cobham/Janskỳ 2017).

In 1965 Mancur Olsen argued that it's much easier to organise lobby groups for clearly delineated and profitable interests - such as subsidies or tax privileges - than for the majoritarian interest of fair and good governance. This makes the relative influence of a group bigger the more specific their interest is and those groups can obtain advantages at the cost of society as a whole. Tax avoidance increases the profits for a few, while leading to higher tax rates and unfair competition for the majority. Nevertheless, it is only countered slowly and insufficiently. Well organized lobby groups profit from the complexity of tax law and negotiations on reforms of the tax system are often dominated by experts and hidden from or inaccessible to public scrutiny.

Multinational corporations often consist of several hundred subsidiaries and the rules regulating transactions between these entities span thousands of pages. In the consolidated balance sheets of global corporations, the distribution of economic activity, profits and tax payments around the world remains obscure for investors, business partners, consumers, citizens, journalists and NGOs, tax agencies and oversight bodies.

Public country-by-country reporting (CBCR) is vital in tackling this obscurity and enable public accountability of corporations, the work of tax agencies and the democratic evaluation of the success of political reforms. These reports would disaggregate relevant data including turnover, employees, profits and tax

[2] http://www.zeit.de/wirtschaft/unternehmen/2016-09/apple-steuern-eu-kommission-transparenz; 12.10.2016.

payments at the level of countries, subsidiaries or projects instead of consolidating it globally. A study of the European banking sector – where CBCR has been obligatory since 2015 – shows for example that a large part of the profit of the 20 biggest banks (29% or €4,9billion) is booked in Luxemburg and €628million of profits appear in tax havens without any employees there (Aubry/Dauphin, Thomas 2017).

The following chapters illustrate the high stakes in the battle over corporate transparency, and show how lobbying influenced more than 40 years of efforts towards CBCR. Chapter 2 describes how negotiations shifted from the UN to business-driven accounting experts. Chapter 3 looks at the EU's recognition of privately set accounting standards, the removal of the geographical reporting obligation and the resistance of civil society to that change. Chapter 4 compares the parallel regulation efforts in the OECD and the EU with regards to influence and methods used by different lobbyists. An overview of the existing proposals around CBCR (including by OECD, EU and civil society) can be found in **Annex A** (Cobham et al. 2017).

2. Forum-shifting – from the United Nations to the Big Four

"Forum shifting" is a central lobbying technique used by states or key business interests where they shift decision making and standard setting into an alternative forum whenever their interests are better represented there (Braithwaite/Drahos 2000: 28-29). In the case of accounting standards, this technique is exemplified by the shift from the UN to the International Accounting Standards Committee – a business-led initiative.

2.1 A first proposal and the disempowerment of the United Nations

After a US-supported but failed coup against Chile's president Salvador Allende, Chile requested the establishment of a UN committee for transnational enterprises in 1972. A group of Eminent Persons, personally selected by the UN Secretary General, began investigating financial and other affairs of multinational companies in 1972. After long and intense negotiations the UN Commission for Transnational Corporations was founded in 1975. Within this commission, a Group of Experts on International Standards of Accounting and Reporting (GEISAR) was convened to increase financial transparency of transnational corporations.

Among the experts there was a consensus that public reporting requirements should shed more light into the corporate networks and finances of multinational corporations. Accordingly, the GEISAR recommendations issued in 1977 contained the requirement to publish financial reports for each company a multinational corporation operated, including information on intra-group trade (Ylonen 2017: 45-46; Rahman 1998: 600, 611) which is particularly vulnerable to tax avoidance.[3] These far reaching proposals were unanimously adopted by GEISAR and passed on to the Commission on Transnational Corporations for ratification. If ratified, these recommendations would have become binding and implemented by ECOSOC.

Yet, the publication of GEISAR's recommendations in 1977 attracted the attention of two powerful lobby groups. The reaction of the International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE) to the proposal was fierce and hostile. They formed a working group to enable multinationals to speak with one voice in opposition and subsequently published a detailed letter of protest just ahead of the meeting of the UN Commission for Transnational Corporations, where their recommendations were due to be considered and voted upon (16-27 May 1978). The likelihood of endorsement of the report was high because the Commission operated under the principle of majority voting, and developing countries supported the report's endorsement and had an absolute majority in the Commission (Rahman 1998: 601).

In order to block progress, the lobbyists successfully mobilised support from within the negotiation room. The OECD representatives threatened to quit the UN Commission, not to accept nor to implement its recommendations, and to stop financial support if majority voting was not abandoned and replaced with unanimous decision making. In practice, this might have implied that the Commission's recommendations would have remained without effect as most multinational companies were headquartered in OECD countries. Ultimately, the OECD countries were successful: the principle of consensus was introduced and the far-reaching recommendations of the GEISAR report were not adopted. Instead, the Commission recommended launching a new Ad hoc Intergovernmental Group of Experts on International Standards of Accounting and Reporting. Power to nominate the experts was yielded to governments, and for the next 15 years, until the dissolution of the UN commission, that effort did not reach any consensus on binding standards, because OECD members rejected disclosure proposals by developing countries. Sometimes, "[…] the USA and Japan alone have exercised such de-facto veto in order to block many decisions otherwise agreed upon by all other nations" (ibid.: 616, 609-611).

2.2 The alternative proposal by auditors and companies from the OECD

Shortly after the Group of Eminent Persons had taken up their initial investigation of multinational company affairs, an alternative body was set up in June 1973. The International Accounting Standards Committee (IASC) was founded as a federation between audit associations from 10 OECD countries and Mexico which in turn were strongly influenced by the big audit companies. Within

[3] The difference between revenues in related and unrelated parties can be found in the OECD agreed CBCR rules, see pages 29-30, in: OECD 2015.

the first 13 months of its existence this body produced 26 accounting standards (Rahman 1998: 605; Obenland 2010: 1). This enabled the creation of an alternative set of business-led standards in competition with the UN proposals.

In March 1980, less than two years after OECD countries had introduced the consensus principle in the UN commission, the IASC presented a draft for an accounting standard on segmental reporting (IAS 14). Even though it didn't contain full country specific publication obligations it introduced financial segment reporting per geographic area, which could be groups of countries[4] (Giunti 2015: 22, 40-41).

3. Regulatory Capture – private self-government with public support

From its beginning the IASC (later renamed to IASB) was headed by executives from those auditing companies that today make up the 'Big Four' of world market dominating companies (Deloitte, Ernst & Young, KPMG, PricewaterhouseCoopers).[5]

The Big Four today have a combined turnover of EUR 120 billion globally and employ 750,000 people. In Germany they audit the books of 142 of the 160 largest listed companies.[6] At the same time they work as tax advisors and consultants to political institutions and oversight bodies. They themselves are organized as networks of separate companies and don't publish any consolidated accounts – in a way deviating from the rules they made themselves.

This form of influence on international accounting standards while having strong self-interest can be seen as **regulatory capture** (Rügemer 2013: 69) or **embedded lobbying**.[7] Disguised as self-regulation, private business actors take on specific regulatory tasks on behalf of the state and influence the standards as well as their implementation.

3.1 The end of segment reporting

The big break-through for the business-led accounting standards came around the turn of the millennium. As part of the action plan for integrating financial services, the EU made the then renamed IFRS standards binding for around 7.000 publicly listed companies in the EU, giving them quasi-legal character

[4] https://www.iasplus.com/de/standards/ias/standard10; 13.6.2017.
[5] See: https://www.iasplus.com/de/resources/ifrsf/iasb-ifrs-ic/resource25; https://de.wikipedia.org/wiki/Henry_Benson,_Baron_Benson; 13.6.2017. See also, page 22, in: Christensen, Mark/Newberry, Susan/Potter, Bradley N. 2010: The role of global epistemic communities in enabling accounting change creating a more business like public sector, in: https://epubs.scu.edu.au/bus_pubs/841/;http://epubs.scu.edu.au/bus_pubs/841/; 13.6.2017.
[6] For German figures (2013) see: https://web.archive.org/web/20160810225506/http:/www1.wdr.de/nachrichten/monitor-big-four-100.html; 13.6.2017. International figures, see: http://www.deutschlandfunk.de/wirtschaftspruefungsgesellschaften-die-macht-der-insider.724.de.html?dram:article_id=319526; 13.6.2017.
[7] https://www.lobbycontrol.de/2014/05/was-darf-lobbying-genannt-werden/; 14.6.2017.

(Obenland 2010; Nölke/Perry 2007: 1). To become law within the EU, the standards have to be approved by the EU Commission. This is done with the support of the European Financial Reporting Advisory Group (EFRAG) that was founded in 2001 and is again dominated by the Big Four (Perry/Nöelke 2005: 15).[8]

Shortly after adoption as binding standards for the EU and in the wake of consolidation with US standards, the IASB replaced IAS 14 with IFRS 8 in 2006.[9] The requirement for geographic segment reporting was largely replaced by a reporting system that allowed management of a company greater leeway in determining the details of financial reporting.[10] The segments could be defined largely by the company; a breakdown by individual countries, subsidiaries or at least unclear geographic criteria was no longer required (Giunti 2015: 14-22).

This decision and the rise of the IASB in general[11] was not without critique. Leading investment associations, for example, described the new IFRS 8 as 'idiotic' as the financial information of listed companies was to become even harder to trace for individual countries.[12] In a survey by the Certified Financial Analyst Institute 82% of respondents were in favour of geographical reporting. In the consultation of IASB even the European Financial Reporting Advisory Group was still critical, even though it still went on to recommend that the EU adopt the new standard, while only noting some internal dissent.[13]

Civil Society organisations added to, if not organized the resistance against this shift. This resistance emerged out of the earlier campaign for an international financial reporting standard to require extractive companies (IFRS 6) to disclose payments to governments on a country-by-country basis.[14]

Due to the criticisms raised, the European Parliament called on the European Commission to carry out an analysis of the impact of the new IFRS 8 in April

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[8] 2017 kamen noch 5 der 17 Vertreter aus den Big 4: https://www.efrag.org/About/Governance/9/EFRAG-Board; 15.6.2017.

[9] https://web.archive.org/web/20160826002523/http:/www.ifrs.org/current-projects/iasb-projects/segment-reporting/Pages/Segment-Reporting.aspx; 13.06.2017.

[10] This development was due to complementary efforts with the standards produced by the Financial Accounting Standards Board (FASB) in the USA. In the USA in 1976, FASB introduced the SFAS (Statement of Financial Accounting Standards) 14 for segment reporting. This required segment reporting by geographic area. In the new SFAS 131 for segment reporting, introduced by FASB in 1997 to replace SFAS 14, this requirement was no longer included (Giunti 2015:38). The management approach in determining the details for segment reporting was strengthened in the new SFAS 131 in contrast to the old industry approach (ibid.: 14, 39).

[11] The International Accounting Standards Board replaced the IASC and the IASC Board in 2000. The IASB is organised under the International Financial Reporting Standards Foundation. For further information about the history and current structures, see:https://www.iasplus.com/en/resources/ifrsf/history/resource25; https://www.iasplus.com/en/resources/ifrsf/history/resource25; 02.11.2017.

[12] https://www.theguardian.com/commentisfree/2007/sep/04/unaccountable; 02.06.2017.

[13] http://bruegel.org/2007/09/eu-adoption-of-the-ifrs-8-standard-on-operating-segments/; 4.11.2017

[14] https://www.globalwitness.org/en/archive/extracting-transparency/; 19.4.2018.

2007.[15] The EC carried out this consultation, but it was again dominated by large companies (with little interest in further reporting obligations) and, according to independent observers, the concluding report of the EC was flawed and insufficient for decision making.[16]

Shortly after, another IASB standard for the assessment of financial instruments (IAS 39) came under scrutiny for its responsibility in accelerating the financial crash (Obenland 2010: 5). Even from conservative quarters, the IASB received significant criticism in the wake of the financial crisis. The Bavarian Minister of Finance Georg Fahrenschon criticised the IASB's lack of transparency and internal governance systems.[17] At the height of IASB resistance against these challenges, the chairman of the IASB threatened to resign, himself partner of one of the Big Four for many years. Ultimately, a supplementary committee was frantically established in January 2009 – a "monitoring board" which gave seven representatives of international and national authorities rights to participate in the decision making about the composition of an IASB body.[18]

Despite the apparent reduction in financial and personnel interconnections with the Big Four and the chair being taken by a former government official from the Netherlands, still 4 out of 12 members of IASB looked back onto long careers in the Big Four in 2017.[19] The direct financial contribution by the Big Four to the IASB was reduced from 60% in 2007 (Nölke/Perry 2007: 1) to 32% in 2010. In 2016, contributions for the IASB's work were made to the IFRS Foundation. These were in the realm of GBP 24 million of which 7.6 million (32%) came directly from international audit firms, almost entirely from the Big Four.[20] In Germany, no public funding is available for the IFRS Foundation, but 69 companies contributed in total GBP 743,200 and none of these more than GBP 25,0000. The total contribution of the Big Four is most likely is bigger as many of the national accounting standards boards that finance the IASB's work still have

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[15]http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B6-2007-0157&language=EN; 14.6.2017.

[16] This was partially because the EC's report used fuzzy classifications of respondents; presented the majority opinion without clearly separating different user groups; relied on a majority of preparers of financial accounts among respondents; omitted that the majority of users of accounts (NGOs, investors, public institutions, etc.) opposed the introduction of the weakened standard; and the EC dispensed with publishing the responses on the website against usual practice. See http://bruegel.org/2007/09/eu-adoption-of-the-ifrs-8-standard-on-operating-segments/; http://bruegel.org/2007/09/eu-adoption-of-the-ifrs-8-standard-on-operating-segments/; 4.11.2017 (p. 9f).

[17] http://www.handelsblatt.com/politik/deutschland/bilanzierungsregeln-bayerischer-finanzminister-attackiert-bilanzexperten/3115150.html; 02.06.2017.

[18] https://www.ft.com/content/e737973e-b02b-11dd-a795-0000779fd18c; https://www.ft.com/content/0d14f81c-d217-11de-a0f0-00144feabdc0; http://www.ifrs.org/groups/ifrs-foundation-monitoring-board/; 14.6.2017; Obenland 2010: 6, op. cit.

[19] http://www.ifrs.org/groups/international-accounting-standards-board/#members; 15.6.2017.

[20] Pages 40-48, in: http://www.ifrs.org/-/media/feature/about-us/funding/annual-report-2016.pdf; 18.4.2018.

close ties with the Big Four.[21] For example, the accounting standards boards in South Korea and Japan are peppered with representatives of the Big Four as well as former Big Four managers.[22] In South Korea, the Korean Accounting Standards Board's annual report explicitly mentions the pro bono hours of ten individuals, eight of whom work for the Big Four[23].

In the end, the Big Four still play an important role in most, if not all, key bodies that develop international accounting standards even though their advisory services on tax avoidance is the core of the global tax avoidance industry. At the same time, the Big Four often monitor compliance with accounting rules, while they and their predecessors have been centre stage in the large financial scandals and bankruptcies in recent history[24] (Eaton 2005: 9). Furthermore, they are part of many expert groups in the EU and through these directly advise EU institutions on how to combat aggressive tax planning, e.g. in the Joint Transfer Pricing Forum, in the EU VAT Forum, or the VAT Expert Group. PwC is even a member of the 'Platform for Tax Good Governance', an advisory body in the European Commission.[25]

3.2 Civil society organisations (re)invent CBCR

After the failure by the international accounting bodies to create robust requirements for geographical reporting, civil society organizations like the anti-corruption organisation Global Witness and the recently established Tax Justice Network (TJN, formed in 2002-2003) started demanding better standards of transparency. In 2002, Global Witness published a first call to make oversight bodies demand publication of all payments by listed companies from the extractive industries to foreign government under the slogan "Publish What You Pay" – the basis for the intergovernmental Extractive Industry Transparency Initiative (EITI).[26] A campaign ensued for an international financial reporting

[21] However, a direct financial dependency of national accounting standards bodies on the Big Four cannot be shown with evidence. In Italy and Japan, there are no financial statements or information about origins of annual income on the website of both national bodies, see: http://www.fondazioneoic.eu/?lang=en and https://www.asb.or.jp/asb/asb_e/fasf/outline.jsp; 2.6.2017. The URL is no longer accessible. Instead, it is https://www.asb.or.jp/en/; 18.4.2018.

[22] See for example Korea, http://eng.kasb.or.kr/fe/org/NR_view.do?deptCd=DEPT00019&highDeptCd=DEPT00035; or Japan, https://www.asb.or.jp/asb/asb_e/asbj/member.jsp; 2.6.2017. See note above about the Japanese website.

[23] Page 13, in: http://eng.kasb.or.kr/common/file/NR_download.do?id=a14f9d65-0fc6-4396-a1b8-8b24b16ebfa3; 18.4.2018. Annual statements can be accessed here: http://eng.kasb.or.kr/fe/bbs/NR_view.do?bbsCd=1074&bbsSeq=11967&currentPage=1&rowPerPage=10&ctgCd=&sortCds=&startDt=&endDt=&searchKey=1000&searchVal=; 18.4.2018.

[24] https://www.reuters.com/article/parmalat-auditors-settlement/ex-parmalat-auditors-settle-us-investor-lawsuit-idUSN1919012720091119; 15.6.2017.

[25] https://www.lobbycontrol.de/2015/05/luxleaks-swissleaks-steuertrickser-beraten-eu-kommission/; https://www.blog-steuergerechtigkeit.de/2015/06/publikationshinweis-lobbying-in-europe/; 16.6.2017.

[26] https://www.ft.com/content/d55926e8-bfea-11de-aed2-00144feab49a; 15.6.2017.

standard to require extractive companies (IFRS 6) to disclose payments to governments on a country-by-country basis.[27]

Yet, these efforts were directed mainly at disclosing tax payments to government on a country-by-country basis and dispensed with other sectors, and broader country level breakdowns of other financial data. After a conversation between two of TJN's co-founders in October 2002, one of them, Richard Murphy, published the first proposal for an accounting standard for "Reporting Turnover and Tax by Location" in January 2003[28] (Murphy 2003). This work broadened the narrow tax payment and sectorial focus on the extractive industries towards a comprehensive accounting standard which later became the basis for the work by OECD and EU (Murphy 2012: 2).[29] This idea was further elaborated and spread through a number of reports published afterwards (Tax Justice Network 2005), and the civil society umbrella organisation Task Force on Financial Integrity and Economic Development[30] adopted public CBCR as one of five key demands in 2007.

Between 2009 and 2010, after the adoption of IFRS 8 that by and large removed the obligation for geographical reporting, civil society organisations targeted the IASB to adopt a broad CBCR disclosure requirement in the extractive industries, eventually replacing IFRS 6.[31] This attempt never made it beyond a IASB discussion paper and has been on hold since 2011.[32]

4. Regulatory reframing and competition – EU vs. OECD

After pressure from civil society, CBCR was placed on the G8 and G20's agenda and was discussed globally by decision makers.[33] As early as in 2010, and in reaction to the financial crisis, the first rules were approved in the United States as part of the Dodd-Frank Act, requiring listed companies from the extractive industries to publish their tax payments and payments to governments on a country or project basis. While this demand was taken on by the European Parliament in September 2010, the corresponding implementing regulation by the Securities Exchange Commission (SEC) was annulled by the courts in the United States shortly after adoption in 2012. In May 2013, the EITI reformed its criteria to include more detailed country reports and the EU passed the new

[27] http://www.taxresearch.org.uk/Documents/IFRSforEI905.pdf; https://www.globalwitness.org/en/archive/extracting-transparency/; 19.4.2018.

[28] This proposal was published by the Association for Accountancy and Business Affairs, encouraged by Prem Sikka.

[29] https://www.taxjustice.net/5828-2/; 15.6.2017.

[30] Now renamed to Financial Transparency Coalition, https://financialtransparency.org/.

[31] Pages 145ff, in: https://web.archive.org/web/*/http:/www.ifrs.org/Current-Projects/IASB-Projects/Extractive-Activities/DPAp10/Documents/DPExtractiveActivitiesApr10.pdf; 15.6.2017.

[32] https://web.archive.org/web/20160706214807/http:/www.ifrs.org/Current-Projects/IASB-Projects/Extractive-Activities/Pages/Summary.aspx; 15.6.2017.

[33] https://www.taxjournal.com/articles/growing-calls-country-country-reporting-23052013;15.6.2017.

accounting directive that included reporting obligations for extractive industries starting in 2016.[34]

4.1 OECD – Forum Shifting and Redefining CBCR as tax data

In the OECD's 2013 Action Plan to combat Base Erosion and Profit Shifting (BEPS), CBCR appears for the first time although it does not go by that name. It stated that the organisation would:

> Develop rules regarding transfer pricing documentation to enhance transparency for tax administration, taking into consideration the compliance costs for business. The rules to be developed will include a requirement that MNE's [multi-national enterprises] provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries according to a common template. (Organisation for Economic Co-Operation and Development 2013: 23)

On behalf of the G8, the OECD developed a standard for CBCR which in its final version closely resembled the original proposal by Richard Murphy and TJN (G8 2013: 6)[35] except in two key areas. Instead of requiring consolidation at the country level, and consistency with the global financial accounts, it allowed country level aggregation of individual subsidiaries (OECD 2015: 32). Second, instead of creating transparency for investors, consumers, journalists, and tax authorities alike, the CBCR was reinterpreted as an instrument of transparency for tax authorities alone. An OECD memorandum from October 2013 confirms that the OECD sees the data for the exclusive use by tax authorities.[36] This reframing implied that the data would be covered by tax secrecy and thus hidden from public view.

Following the OECD's call for written comments on the first draft of CBCR at the beginning of 2014, 135 submissions were made. 87% of these were from the private sector. Of these, Deloitte and PwC made two submissions each, and KPMG made one submission. Apart from two, all private sector submissions rejected public CBCR. Of the responses, 130 came from rich countries, with the largest proportion from the USA and the UK (43%) and not one from tax authorities in developing countries (Godfrey 2014: 11). In contrast, in a survey conducted by PwC at the beginning of 2014, out of 1344 surveyed CEOs of corporations from 68 different countries, 59% were in favour of public

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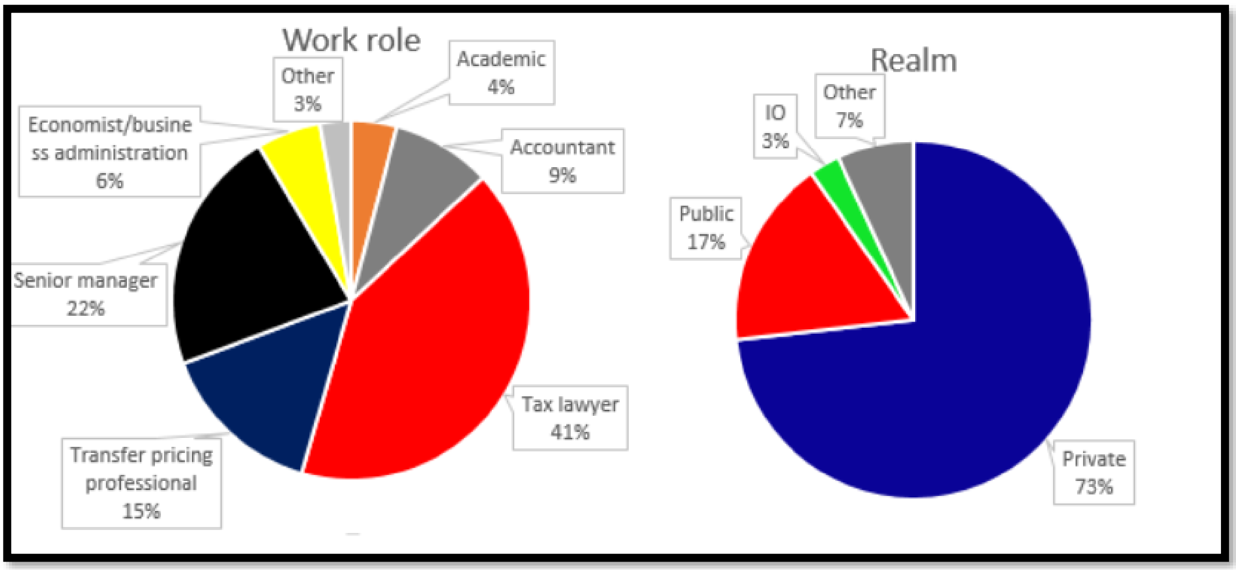
[34] An overview of the different regulations can be found here: https://www.pwc.com/gx/en/tax/publications/assets/pwc_tax_transparency_and-country_by_country_reporting.pdf; 4.11.2017.
[35] https://www.taxjustice.net/2016/11/11/tax-justice-network-transition/; ; 15.6.2017.
[36] On page 5 of a memorandum from October 2013, the OECD presented for discussion an information exchange mechanism for CBCR data between tax authorities. See page 5, in: https://www.oecd-ilibrary.org/taxation/guidance-on-transfer-pricing-documentation-and-country-by-country-reporting_9789264219236-en; 15.6.2017.

reporting.[37] A detailed analysis of the OECD discussion confirms the fact that it was focused very narrowly on people with technical expertise from the private sector and excluded the voices of other interests. [38]

Graph 1: Career paths of experts involved in the OECD process on BEPS Action 13 in years.



Source: Christensen 2015: 46.

Following the consultations, KPMG Switzerland welcomed the weakened CBCR proposals on 4 April 2014, and in particular, the intention not to make the data public.[39] Just one day before, a KPMG Partner from the UK had been appointed as head of the OECD Transfer Pricing Unit[40], which has been responsible for CBCR through the OECD BEPS Action Plan since 2013. Also in May 2014, the Business Roundtable, a powerful US business association, wrote to the US Secretary of the Treasury and warned about the consequences of the OECD's actions on BEPS and possible reporting requirements.[41] At the end of 2014, Ernst & Young captured on film the head of the OECD Tax Department where he stated:

> We strongly believe that tax secrecy is even more important than bank secrecy. Tax secrecy is a great value [...]. Now to come back to the country by country reporting, the agreement clearly – and that was a

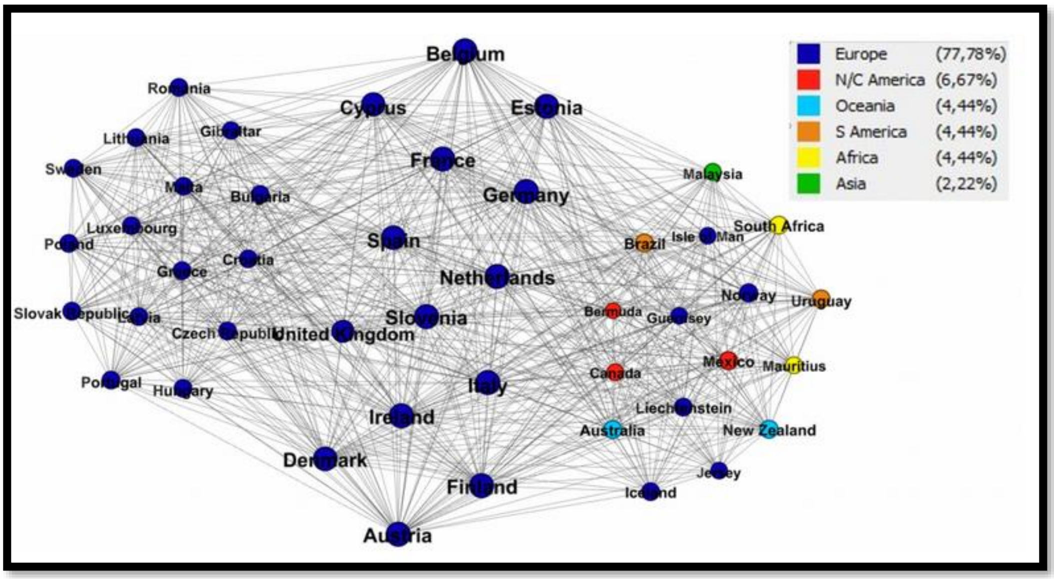
[37] Page 17, in:https://www.pwc.com/gx/en/tax/publications/assets/ceo-survey-tax-perspectives.pdf; 25.4.2014.
[38] http://studenttheses.cbs.dk/bitstream/handle/10417/5132/rasmus_corlin_christensen.pdf?sequence=1; 4.11.2017.
[39] https://blog.kpmg.ch/beps-cbc-reporting-good-news/; 15.6.2017.
[40] https://economia.icaew.com/news/april2014/kpmg-partner-appointed-new-head-of-oecd-transfer-pricing-unit; 15.6.2017.
[41] https://www.businessroundtable.org/resources/brt-letter-treasury-secretary-lew-oecd-beps-project; 15.6.2017.

condition to the agreement – is that this information will remain confidential. It's to be used by the tax administration... it is not designed to be publicly released. Otherwise there would be no agreement... That's something I know a number of businesses were concerned about. This solution makes unhappy a number of people, particularly the NGOs...[42]

According to reports from the negotiations, it was above all the USA and Germany along with the Big Four that insisted the data should not be made public.

With the decision of 2015 the data is to be reported to the tax authorities in the in the country where the multinational company is headquartered and then exchanged with selected tax authorities. This data is subject to strict tax secrecy – and interested countries have to fulfil demanding technical requirements to participate in the exchange. As a consequence, almost the entire global South remains excluded despite international and European obligations, such as the UN Sustainable Development Goals and the Lisbon Treaty, which call for all policy areas to be consistent with and complement poverty reduction targets.[43] The following graph visualizes the problem – with the majority of recipients of CbCR information being from the EU and no developing country included:

Graph 2 –Bilateral exchange relationships of CBCR reports as of May 2017[44] - Size & position by degree (number of exchange relationships), colour by region.



[42] https://www.youtube.com/watch?v=0f_MJKpuHEM; 15.6.2017. Or see live link: http://www.ey.com/gl/en/issues/webcast_2014-10-13-1700_an-interview-with-pascal-saint-amans-director-of-the-oecd-ctpahttp://www.ey.com/gl/en/issues/webcast_2014-10-13-1700_an-interview-with-pascal-saint-amans-director-of-the-oecd-ctpa; 3.11.2017.

[43] https://www.taxjustice.net/2017/05/05/developing-countries-access-to-cbcr-guess-whos-not-coming-oecd-dinner/; http://www.taxjustice.net/2017/05/05/developing-countries-access-to-cbcr-guess-whos-not-coming-oecd-dinner/2.6.2017.

[44] https://www.taxjustice.net/2017/05/05/developing-countries-access-to-cbcr-guess-whos-not-coming-oecd-dinner/; https://www.taxjustice.net/2017/05/05/developing-countries-access-to-cbcr-guess-whos-not-coming-oecd-dinner/4.11.2017.

Source: Rasmus Christensen, by kind permission.[45]

4.2 EU – public CbCR for banks and other companies

Nearly at the same time of the OECD proposals, the Green Party in the European Parliament managed to insert public CBCR into the Capital Requirements Directive. Article 89 successfully navigated the many institutional cliffs and was adopted on 26 June 2013.[46] Over 200,000 people signed a petition on Avaaz in support of the proposals. However, they still met with opposition, led by the German federal government in the European Council.[47] In the tug-of-war between the Council and Parliament, a backdoor was put in place that gave room to the European Commission before the release of country level reports to assess through a study whether the European economy would be disadvantaged. In case the study would find disadvantages, the European Commission could have postponed the release of reports and make Parliament vote again on the issue.[48]

As part of the process agreed, the European Commission solicited expert opinion on whether releasing CBCR would be damaging to the European Economy. The Commission awarded PricewaterhouseCoopers (PwC) the contract to prepare an opinion for EUR 395,000 in June 2014 although PwC consultants had already revealed their hand in February 2014 during the OECD consultation process on BEPS: they expressed their opposition to public CBCR. In response to this contract, a number of NGOs, supported by members of the European Parliament, subsequently formally requested the European Commission to withdraw the contract from PwC due to the conflict of interest. The Commissioner responsible, Michel Barnier, made a formal statement that the PwC opinion would be but one contribution to the final report. Although the contract was not re-tendered, the results that were produced a short while later were surprising. PwC's econometric analysis of public reporting requirements not only showed no negative effects on the European economy, but also confirmed a potentially positive effect.[49] From then on, banks' country-by-country reports were to be made public; 2015 was the first year in which these requirements apply without restriction.[50]

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[45] https://twitter.com/phdskat/status/860093952992608256?s=09; 18.4.2018.

[46] http://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:32013L0036; 4.11.2017.

[47] https://www.theguardian.com/business/2013/feb/27/eu-tax-transparency-avaaz-petition; 20.3.2015.

[48] https://www.financialsecrecyindex.com/PDF/6-C-b-C-Reporting.pdf; 20.3.2015.

[49] In the PwC report, it read that pCBCR according to Art. 89 in CRD IV 'is not expected to have significant negative economic impact' and that 'there could be some limited positive impact' (page 9, in: ec.europa.eu/internal_market/company/docs/modern/141030-cbcr-crd-report_en.pdf; 3.11.2017).

[50] See http://ec.europa.eu/internal_market/company/docs/modern/141030-cbcr-report_en.pdf, S. 3; http://ec.europa.eu/internal_market/company/docs/modern/141030-cbcr-crd-report_de.pdf, S. 10; Letter from Michel Barnier from 10.7.2014, forwarded on the same day by Tove Ryding through e-mail; https://www.euractiv.com/section/euro-finance/news/commission-urged-to-fire-auditors-pwc-from-bank-

Even though implementation met several stumbling blocks in Germany and several questionable interpretations entered the rules by the Federal Financial Supervisory Authority (BaFin),[51] the obligations were an international signal that clearly alerted the business community. This became more apparent when the European Parliament prepared to repeat the same for all other economic sectors. The European Union negotiated the Shareholders' Rights Directive for 2015/16. Again, on the initiative of the Greens in the European Parliament, CBCR requirements were adopted early on in the rules, which would now apply to all listed companies.

At the end of February 2015, the Parliamentary Committee on Economic and Monetary Affairs voted by two votes in favour of including the reporting requirements in the directive,[52] and on 7 May 2015, the Legal Affairs Committee adopted it with a three vote majority. In the 8 July 2015 plenary vote, 404 voted for transparency and 127 against it. This was followed by trialogue negotiations between the European Parliament, Commission and member governments (the Council). These negotiations started on 14 September 2015 and a first technical meeting was held in November. Germany was once again leading the front of opponents.[53]

4.3 The EU Commission's tactics to delay CBCR

The prospect to enact the CBCR provisions in the Shareholder Directive however was thwarted by the incoming President of the European Commission. After Jean-Claude Juncker became European Commission president on 1 November 2014, new initiatives for CBCR were not long in coming. By March 2015, the Commission had presented its 'tax transparency package'. Among other things, the Commission announced that it 'will examine the feasibility of new transparency requirements for companies, such as the public disclosure of certain tax information by multinationals'.[54] It is noteworthy that the European Commission describes CBCR as a tax topic even though the aforementioned banking and shareholders' directives do not treat it as a tax topic. The result would have been the requirement for unanimity in the EU Council. Therefore, the manoeuvres to describe CBCR as a tax theme as well as the announcement to

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transparency-study/; https://www.pwc.com/gx/en/services/tax/tax-policy-administration/beps/transfer-pricing-documentation.html; 18.3.2015.

[51] For example, in the first year Deutsche Bank had allegedly subsumed many countries as 'others' because of unclear guidelines from Germany's Central Bank. The Central Bank and Deutsche Bank announced that they would fix this error of 2015. Up until February 2015, BaFin required only the recognised tax expense in its interpretative notes instead of the taxes actually paid from the cash flow statement. See: http://www.bafin.de/SharedDocs/Downloads/DE/Protokoll/dl_protokoll_141127_fg_offenlegung_ba.pdf;jsessionid=F42F8FD12F9EE4B8411D988052BA2610.1_cid363?__blob=publicationFile&v=1; http://www2.weed-online.org/uploads/infoblatt_laenderberichte_banken.pdf, S. 2; 18.3.2015.

[52] Supported by Social Democrats, Lefts and a number of Liberals.

[53] https://www.blog-steuergerechtigkeit.de/2015/09/deutschland-blockiert-weiterhin/; http://steuergerechtigkeit.blogspot.de/2015/09/deutschland-blockiert-weiterhin.html; 6.6.2017.

[54] http://europa.eu/rapid/press-release_IP-15-4610_en.htm; 23.10.2017

first examine the feasibility of CBCR appear to be in fact an attempt to put the brakes on public CBCR, if not to stop it all together.

On 17 June 2015, less than a month before the European Parliament's vote on the introduction of CBCR within the framework of the Shareholders' Rights Directive, the Commission presented its 'Action Plan for Fair and Efficient Corporate Taxation in the EU'.[55] The action plan included 'launching a public consultation to assess whether companies should have to publicly disclose certain tax information'.[56] The deadline for submission was 9 September 2015.[57]

Contrary to the OECD consultations the supporters of more transparency were in a majority. Of the 282 respondents, 66% supported the statement that the EU should lead the way and require public disclosure of tax information for all economic sectors.[58] Just 10% (30) respondents disagreed with the following statement: '*enterprises should structure their investments based on real economic reasons, not just to avoid taxes*'. Strikingly, ten of these 30 responses were from German business representatives.

Of the 33 responses from Germany, 20 came from private sector organisations, including 12 business associations, and eight from companies including three of the largest stock market listed companies (Allianz SE, Bayer AG, Siemens AG). All 20 submissions from German companies or business associations rejected the proposal that the EU should pioneer public CBCR – in contrast to the remaining responses from Germany (eight from the remaining 13 were in favour of the proposal). Overall, the results from Germany – only eight of 33 responses (24%) in favour of the EU taking a leading role in public CBCR – stand in stark contrast with the EU average which is over 66% in favour. This illustrates the central role German businesses have played in obstructing CBCR on a European level.

The Federation of German Industries (BDI), Siemens AG and Bayer AG explicitly mention in their submissions that third-party states could use the information to strengthen their domestic taxation.[59] They also argued that additional taxation in

[55] http://europa.eu/rapid/press-release_IP-15-5188_en.htm; 23.10.2017

[56] http://europa.eu/rapid/press-release_IP-15-5188_en.htm; http://europa.eu/rapid/press-release_IP-15-5188_en.htm23.10.2017

[57] http://europa.eu/rapid/press-release_IP-15-5156_en.htm?locale=en; 23.10.2017

[58] *'The EU should be in the forefront and possibly go beyond the current initiatives at international level, for example by extending the current requirements to disclose tax information to the public to all other sectors'.*

[59] Sections of Siemens AG's responses to Question 1: 'Additional reporting requirements would therefore not lead to an improvement of the information situation in the European financial authorities, rather they run the risk that other countries – at the expense of double taxation – try to use the obtained information for a stronger tax grip in their respective country'; in addition, comments on Question 7: 'It is assumed that a number of countries are attempting to use the information contained in the Country-by-Country Reports to exercise a stronger tax grip on enterprises which are active in their country. This would in many cases lead to a reduction of the taxes paid in Europe, since a considerable number of internationally successful companies have their headquarters in a European Member State. Alternatively, the increase in taxes abroad will lead to an increase in cases of undesirable double taxation'; Bayer AG also wrote about this: 'In particular, countries

these countries would in many cases lead to lower tax revenues in Germany and an increase in undesirable double taxation of corporate profits. There was no mention of the fact that enormous sums – instead of being taxed merely once – go untaxed not only in Germany but also worldwide, and that taxation of those untaxed profits outside Germany would not threaten tax revenues in Germany. Public CBCR appears to be a thorn in the side of business associations and companies in Germany in particular. It is therefore of no surprise that opposition to public CBCR is high across the German political spectrum and Siemens and Bayer's arguments were repeated later by the Minister of Finance Wolfgang Schäuble, the Secretary to the Treasury, several SPD financial policy makers as well as business associations (see below).

Given the success of Amazon's tax avoidance schemes and the related rapid decline in book shops, it is not surprising that the only companies and business associations (total of 62 respondents), alongside one law firm, that supported the EU taking a leading role in introducing public CBCR rules were European and international book sellers and publishers (European & International Booksellers Federation and Federation of European Publishers).

The Big Four, of course, participated in the consultations and all rejected the proposal for the EU to pioneer public CBCR. That said, they did not share the expectations of the German private sector that the results of such rules would reduce the tax base in the EU. It is striking that PwC avoids sharing a clear position:

> In our opinion, the decision on whether or not to extend public CBCR is clearly one for governments and regulators. It would therefore not be appropriate for us to comment in our consultation response on any matters of policy around the possible extension of tax transparency.[60]

In the end, however, PwC remained with the status quo and recommended that the EU does not take any further legislative action regarding CBCR.

In reaction to a letter by 30 civil society organisations highlighting the importance of CBCR within the Shareholders' Rights Directive[61], the European Commission indicated that it was preparing a new study on the potential effects

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outside the EU have an interest to substantially increase their tax base and will use the data obtained under CbCR to this end. Through this, profit-sharing are increasing – with the result that the existing European tax base and thus the financing of the national budget would be threatened' [translation]; BDI wrote: 'It can be expected that a number of countries also outside the EU would use the CbCR data to increase tax obligations for enterprises operating within their jurisdiction. This would lead to a decrease to taxes paid in the EU, as many globally successful companies are based in EU Member States. We are concerned that this would also happen without adequately considering the increased risk for double taxation'; see https://ec.europa.eu/eusurvey/publication/further-corporate-tax-transparency-2015?language=en; 7.6.2017.

[60] https://ec.europa.eu/eusurvey/publication/further-corporate-tax-transparency-2015?surveylanguage=en; 16.6.2017.

[61] Email 22 December 2015, from Transparency International, Liaison Office to the EU.

of CBCR. Unlike the study for Capital Requirements Directive (CRD IV), this study would be carried out internally rather than awarded to an audit firm. However, it was unclear whether a separate proposal from the Commission would actually be made.

Before the European Commission even presented the results of this study jointly with the new proposal in April 2016, Germany's acting Finance Minister Wolfgang Schäuble reaffirmed, with colleagues from Malta, in March 2016 at the Economic and Financial Affairs Council that he categorically rejects public CBCR.[62] In the new proposal put forward in April 2016, much of the original CBCR plans had been lost.[63] The scope of the reporting was limited to EU member states. For non-EU member states, companies could group the data for all countries in a single number, except for a handful of not-yet-identified tax havens. Profit shifting outside the EU would therefore remain in the shadows.[64]

In April 2016, Mr Schäuble claimed that Germany's federal states would oppose public CBCR – which the then Finance Minister of Northrhine-Westphalia Norbert Walter-Borjans immediately objected.[65] The Finance and Europe committee of the Bundesrat, Germany's upper parliamentary chamber, recommended early May 2016 to welcome the introduction of public CBCR "in principle".[66] This wording was softened in the version adopted on 13 May 2016. Yet the final adopted text of the position of the Bundesrat did not reject the EU Commission's proposal for public CBCR, but spoke of a coexistence of public and non-public CBCR.[67]

Austria and Malta shared Mr Schäuble's concerns, while the UK and the European Parliament would support the rules (Brunsden 2016). In his position, Schäuble was actively supported by the German Chamber of Commerce[68], German tax advisers chamber[69], the Association of Family Businesses[70] and other actors in

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[62] https://mnetax.com/0954-eu-country-by-country-reporting-public-13972; 6.6.2017.
[63] http://ec.europa.eu/finance/company-reporting/country-by-country-reporting/index_de.htm#cbcr-tax; 7.6.2017.
[64] https://www.blog-steuergerechtigkeit.de/2016/03/eu-kommission-zieht-landerspezifischen/; http://www.eurodad.org/Commissions-selective-tax-transparency-proposal-leaves-most-of-the-world-in-the-dark; 6.6.2017.
[65] https://www.ft.com/content/ba80ecde-0a2a-11e6-9456-444ab5211a2f; https://twitter.com/NowaboFM/status/724498837696602112; 3.11.2017.
[66] https://www.bundesrat.de/SharedDocs/drucksachen/2016/0101-0200/176-1-16.pdf?__blob=publicationFile&v=1; 20.2.2018.
[67] http://dipbt.bundestag.de/dip21/brd/2016/0176-16B.pdf#search=%22%22; 20.2.2018.
[68] https://www.duesseldorf.ihk.de/Sorry--diese-Seite-konnte-leider-nicht-gefunden-werden/3451480; 6.6.2017.
[69] https://www.bstbk.de/export/sites/standard/de/ressourcen/Dokumente/04_presse/publikationen/01_presse/01_kammerreport/2016/KammerReport_0416_web.pdf 6.6.2017.
[70] Positionspapier „Base Erosion and Profit Shifting (BEPS)", von „Die Familienunternehmer – ASU e.V.", Stand 15. September 2016.

Germany's private sector. These became the most important opponents of public CBCR.

German Minister of Finance Schäuble made an open attempt to shift decision making during the meeting of European finance ministers on 6 December 2016 in Brussels. He teamed up with Cyprus, Ireland, Luxembourg and Estonia to thwart the European Commission's plans for the file on CBCR being treated and decided by the Ministers of Justice, and not by the finance ministers.[71] An informal meeting was held at breakfast – this had the advantage that no coverage on the internet was necessary which is normally mandatory when advising on legislation.[72] Previously, the German Federal Government commissioned a legal opinion from the legal service of a Council Working Group, which confirmed Schäuble's negative views on public CBCR.[73] The European Commission responded with an opinion produced by its own legal services; this reached the opposite conclusion.[74] As late as mid-March 2017, the German Chamber of Commerce spoke of having this question assessed by the highest court in the European Union.[75]

On 4 July 2017 the European Parliament removed the limitation of scope to EU countries as proposed by the EC – which would mean that companies would have to report their figures for every country where they operate, not just EU countries. But they also added an exception for cases where business secrets are under threat. Without having settled the question of responsibility and with two years delay, the EC proposal entered the trilogue negotiations initially started at the end of 2015.[76] The German foundation of family businesses reacted with a study done for them by the Zentrum für Europäische Wirtschaftsforschung (ZEW), an economic think tank, which quotes and supports the main arguments of the business associations. The publication was accompanied by an article in one of the main business journals with the title "Attack on the German economy" as well as two letters to the Ministry of Justice (SPD) and Finance (CDU) which had held differing positions in the past.[77]

The debate among ministers in the trialogue process at the European Council level is ongoing (as of April 2018).

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[71] Accounting rules come under the comptence of the Justice Ministers of the European Council, whereas tax policy is decided by Finance Ministers

[72] http://www.consilium.europa.eu/en/council-eu/configurations/; 6.6.2017.

[73] http://www.spiegel.de/wirtschaft/soziales/eu-kommission-schaeuble-will-konzern-steuern-geheim-halten-a-1126544.html; 6.6.2017.

[74] http://www.spiegel.de/wirtschaft/soziales/eu-kommission-schaeuble-will-konzern-steuern-geheim-halten-a-1126544.html; 6.6.2017.

[75] See pages 36-37, in: https://www.duesseldorf.ihk.de/blob/dihk24/Recht_und_Steuern/downloads/3674702/ff3fa11675989ef3bd67e34248ad8e5a/M4_DIHK_Steuerinfo_2017_03-data.pdf; 6.6.2017.

[76] http://www.eurodad.org/files/pdf/59d3586c02962.pdf; 3.11.2017.

[77] http://www.familienunternehmen.de/de/pressebereich/meldungen/2017/2017-09-18/country-by-country-reporting; 4.11.2017.

5. Conclusions and outlook

This paper has shown that first attempts for holding multinational companies accountable through precursors of country-by-country reporting date back to the 1970s and were blocked back then by OECD countries on behalf of business interests. This first attempt to increase corporate transparency was led by developing countries. Since then, corporate interests, supported by certain Western governments, have successfully delayed, derailed or watered-down initiatives for greater financial corporate transparency, employing a massive lobby machinery and diverse tactics.

First, forum shifting tactics were employed to push the United Nations aside. Accounting firms rushed to create a parallel structure of private accounting standard setting early in the 1970s. The precursor organisation to the International Accounting Standards Board began the creation of financial reporting standards in 1973. These standards created an alternative, parallel set of standards to the United Nations led initiative, yet in the beginning incorporated and accommodated some demands for certain geographical reporting extant in the UN initiative.

The UN initiative was increasingly pushed aside after OECD countries effectively wrestled control over the UN led process by blackmailing the introduction of consensual voting over the GEISAR report in 1978. The UN work effectively stalled after this, with frequent vetoes by OECD countries, sometimes by the United States and Japan alone, against proposals that were supported by the majority of voting countries. The relevant UN Commission for Transnational Corporations was dissolved in 1993.

Second, the tactic of regulatory capture or embedded lobbying became paramount. As the only remaining game in town for international accounting standard setting was a self-regulating body, the IASC, precursor to the IASB, this tactic was easy to implement in the beginning. Dominated by accounting firms, who were at the same rule-makers and rule-takers, the European Union ennobled the resulting private accounting standards into the rank of binding laws within the European Union as of 2005. In 2006, the private standard setting body abolished the remnants of geographical reporting in their standards.

Public country-by-country financial reporting (re)entered the agenda of international policy makers after the global financial crises. This time, the initiative was led not developing country governments, but by civil society and some responsible investors. While the IASB proved immune to requests for geographical reporting, the pressure for reform to hold multinational companies and banks to account grew. In a new instance of forum shifting, the OECD and the European Union began engaging.

In the case of the OECD, the forum shifting went hand in hand with a reframing tactic. Country-by-country reporting was suddenly treated as a tax matter, and no longer as a public interest and accounting matter. Due to the pressure from Germany and the United States, CBCR became subject to tax secrecy, and access to the reports was henceforth regulated by a complex web of exchange relationships and subject to restrictions on data usages imposed by the OECD.

In the ongoing European Union led initiative to introduce public CBCR, a far advanced process for introducing public CBCR was countered by delaying tactics and then substituted through a parallel initiative led by new European Commission Presidency of Jean-Claude Juncker since 2014. The watered-down proposal set forth has been revamped in the meantime by the European Parliament and as of April 2018 is stalled in the negotiations between European governments, EU-Parliament and the EU-Commission.

In the EU negotiations, attempts are made similar to the OECD process to reframe the entire subject as a tax matter instead of an accounting matter. If these attempts, led by Germany, were successful, public CBCR would very likely face the same fate as the UN initiative after 1978 – it would never get adopted, held up by the requirement for unanimous decision making in tax matters in the European Union. Or it would be watered down to the point of becoming meaningless.

Unsurprisingly, the western governments leading the OECD opposition against the UN's push for corporate transparency in the 1970s were Japan and the United States, home of most multinational companies, and known for decades as capital exporting nations. The third large capital exporting nation, Germany, supported the OECD position.

35 years later, the same countries, jointly with Germany, successfully stripped CBCR of meaningful corporate transparency through the OECD process, by controlling access to and uses of the data, excluding most developing countries.

40 years later, at the ECOFIN meeting on 25 May 2018, the European Union stands at the doorstep of a historic decision to continue what has been interrupted through their government's intervention during the fourth session of the United Nations Commission on Transnational Corporations between 16-27 May 1978. The stakes are high.

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Annex A: Comparison of data fields in CBCR standards

Comparison of data fields in CBCR standards

	Civil Society Proposal	OECD CBCR	CRD IV	Dodd Frank	Canada	EITI	EU
Identity	Group name	Group name	Group name	Group name	Payee name	Payee name	Group name
	Countries	Countries	Countries	Countries	Countries	Legal and institutional framework	Countries
	Nature of activities	Nature of activities	Nature of activities	Projects (as in: by contract)	Same data required per project as well as per country	Allocation of contracts and licenses	Projects (as in: by contract)
	Names of constituent companies	Names of constituent companies		Receiving body in government	Subsidiaries if qualifying reporting entities	Exploration and production	
Activity	Third party sales	Third party sales				Social and economic spending	
	Turonover	By the process of addition	Turnover				
	Number of employees FTE	Number of employees FTE	Number of employees				
	Total employee pay						
	ASSETS??						
Intra-group transactions	Intra-group sales	Intra-group sales					
	Intra-group purchases						
	Intra-group royalties rec'd						
	Intra-group royalties paid						
	Intra-group interest rec'd						
	Intra-group interest paid						
Key financials	Profit or loss before tax	Profit or loss before tax	Profit or loss before tax				
Payments to/from governments	Tax accrued	Tax accrued					
	Tax paid	Tax paid	Tax paid	Income taxes paid	Tax paid	Profits taxes	taxes levied on the income, production or profits of companies
	Any public subsidies received		Any public subsidies received				

Source: Cobham et al 2017: 23