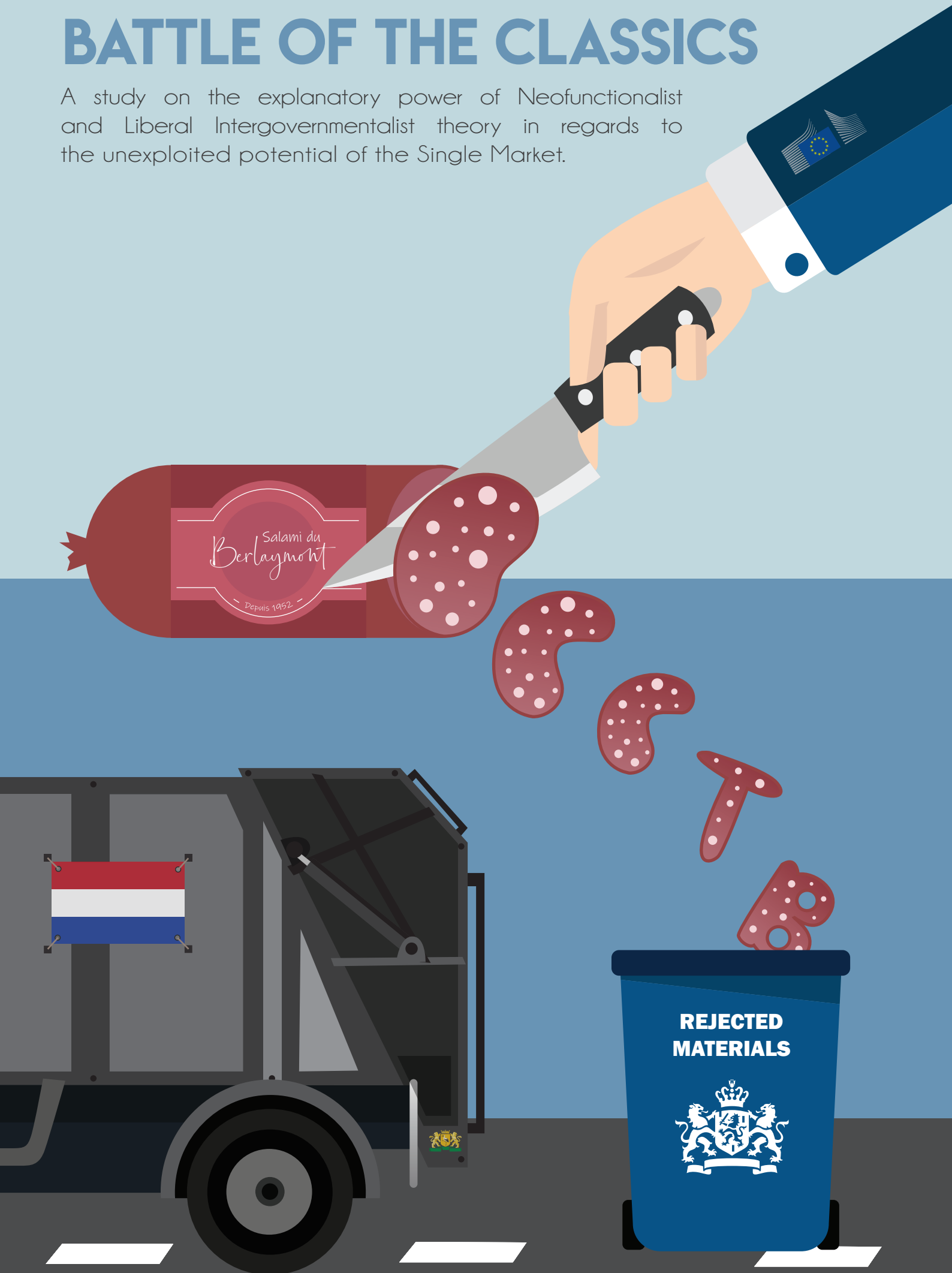


BATTLE OF THE CLASSICS

A study on the explanatory power of Neofunctionalist and Liberal Intergovernmentalist theory in regards to the unexploited potential of the Single Market.



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MA Thesis European Union Studies

BATTLE OF THE CLASSICS

A study on the explanatory power of Neofunctionalist and Liberal Intergovernmentalist theory in regards to the unexploited potential of the Single Market

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Abstract

Theories on European integration postulate what actors, processes and developments are central to the construction and functioning of the EU. Therefore, such theorization of integration can be used to explain, clarify and justify specific events. This thesis draws on the authentic arguments and assumptions of Neofunctionalism and Liberal Intergovernmentalism, *i.e.* two classic integration theories, to test their explanatory power by means of a case study. The context in which this study takes place is the completion of the Single Market, the barriers thereto and the subsequent potential of the Single Market that is left unexploited. One such barrier is the existence of different corporate tax regimes in and across the Single Market. The case used in this study is the proposed legislation on a Common (Consolidated) Corporate Tax Base (C(C)CTB), which is aimed at addressing this issue and to eliminate the negative consequences of tax regime disparities.

The research question that guides this thesis is as follows: *‘to what extent can Neofunctionalist and/or Liberal Intergovernmentalist theory explain the proposed legislation on a Common (Consolidated) Corporate Tax Base and associated processes and developments?’* In pursuance of rejecting the null hypothesis and supporting one of the three alternative hypotheses, this study derived six ‘expectations’ from both integration theories to assess their compatibility with what can be observed in practice. Subsequently, the theory with the most accurate presumptions, measured by the degree of compliance, is assumed to hold most explanatory power and, consequently, ‘wins this battle’. The data used for this study is composed of desk and field research, including but not limited to interviews with the European Commission, KPMG EU Tax Centre and the Permanent Representation of the Netherlands in Brussels.

With an average score of 4.2 against 2.2 (on a five-point scale), the outcome of the data analysis clearly indicates that the expectations derived from Neofunctionalist theory are significantly better capable of explaining relevant processes and developments underlying the C(C)CTB. Therefore, this study concludes that Neofunctionalism in this case holds more explanatory power than Liberal Intergovernmentalism. Nevertheless, it is acknowledged that due to low external validity the results of this study cannot or to a very limited extent be generalized to other situations. Accordingly, further research, for which this thesis could provide a methodological blueprint, is required to assess the explanatory power of both integration theories in regards to other issues that constitute barriers to the Single Market. Thereafter, it may be verified whether the findings presented in this study do indeed hold and are as such applicable to the broader context in which this study is situated.

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Acronyms

ATAD1	Anti-Tax Avoidance Directive 1
ATAD2	Anti-Tax Avoidance Directive 2
BEPS	Base Erosion and Profit Shifting
BNC	Working Group for the Assessment of New Commission Proposals (Beoordeling Nieuwe Commissievoorstellen)
C(C)CTB	Common (Consolidated) Corporate Tax Base
CCCTB	Common Consolidated Corporate Tax Base
CCTB	Common Corporate Tax Base
CFC	Controlled Foreign Company
Council	Council of the European Union
DST	Digital Service Tax
ECJ	Court of Justice of the European Union
EP	European Parliament
EU	European Union
Ex	Expectation
Ho	Null hypothesis
HA	Alternative hypothesis
IPO	Association of Provinces (Interprovinciaal Overleg)
MEPs	Members of the European Parliament
OECD	Organisation for Economic Co-operation and Development
SE	Societas Europaea
VNG	Association of Netherlands Municipalities (Vereniging van Nederlandse Gemeenten)

Case Law	Year	Case
Case 279/93	[1995]	<i>Finanzamt Köln-Altstadt v Schumacker</i>
Case 200/98	[1999]	<i>X AB and Y AB v Riksskatteverket</i>
Case 141/99	[2000]	<i>Algemene Maatschappij voor Investing en Dienstverlening NV (AMID) v Belgian State</i>
Joined Cases 397/98 & 410/98	[2001]	<i>Metallgesellschaft Ltd and Others and Hoechst AG</i>
Case 446/03	[2005]	<i>Marks & Spencer plc v HM Inspector of Taxes</i>
Case 196/04	[2006]	<i>Cadbury Schweppes plc v Commissioners of Inland Revenue</i>
Joined Cases 106/09 & 107/09	[2011]	<i>European Commission and Kingdom of Spain v Government of Gibraltar and United Kingdom of Great Britain and Northern Ireland</i>

1. Introduction

With its origin in the 1950s, the European Community and now the European Union increasingly engaged in regional integration by doing together what member states used to do alone (Lindberg & Scheingold, 1971). Over the years, European integration led to an increase in size by means of the accession of new member states to the Community, as well as in power by adding new policy areas to the EU level. A core element of the integration process has been the creation and development of the European Single Market (hereafter Single Market). Based on the Spaak Report in 1956 and the Treaty of Rome in 1957, the Community envisioned a common market with liberalized trade, coordinated economic policies and the four freedoms that would catalyse this. Roughly 70 years after the start of the European project, many powers, expressed in competences, have shifted from the national to the European level in order to achieve these objectives.

Yet, despite 70 years of integration, the Single Market has not reached its full potential. Quoting the Commission, ‘the Single Market is at the heart of the European project, but its benefits do not always materialise because Single Market rules are [...] undermined by other barriers’ (European Commission, n.d.-d). Such obstacles to or simply the unexploited potential of the Single Market are problematic for a number of reasons. The main reason is that the EU misses out on large economic gains, estimated by the European Parliamentary Research Service at €1.75 trillion per year (European Parliamentary Research Service, 2017). In order for all - or at least more - benefits of the Single Market to materialise, and thereby to further the European integration process, additional issues would need to be addressed at EU level. An example of such an issue, as expressed by a specific political party in a policy document of the Dutch House of Representatives, is ‘the differences between profit tax systems’ across the Single Market (Tweede Kamer, 2016). The problem however, is that states may not want to transfer their sovereignty on for instance tax issues to the EU level. Instead, it may be preferred to address these concerns at national level and take the consequences, e.g. a suboptimal Single Market, for granted.

Whether or not such sensitive issues will be tackled at EU level is, according to European integration theory, determined by and reliant on a plurality of factors, actors and/or (inter-) national strategy formation. The two most influential, prominent and comprehensive classic theories on European integration are Neofunctionalism and Liberal Intergovernmentalism (Moga, 2009). Both of these integration theories attempt to explain or provide explanatory determinants in the process of European integration. They reveal what forces drive the EU to further integration or, on the contrary, impede further integration. Furthermore, certain elements of one or both of the theories may provide insights in and understanding of some of the barriers to and unexploited potential of the Single Market. The objective of this thesis, then, is to examine whether Neofunctionalism or Liberal Intergovernmentalism, or a combination of both, is best capable of explaining a current and contemporary issue curbing (further) EU integration and the underlying and relevant processes. In pursuance of that objective, this thesis employs a case study, which is the aforementioned issue of different (corporate) tax systems within and across the Single Market.

The importance of this research is three-fold. In the first place, it contextualizes and provides explanation for a current, on-going issue that constitutes a major barrier to the Single Market and, as such, leaves much of its potential unused. Secondly, the outcome of this research may ameliorate our understanding of EU integration, its limits and the application of theoretical expectations to processes and developments in a specific area, namely that of corporate taxation. Such understanding is crucial to our ability to theorize and hypothesize what the future of the EU may hold, what to expect, and, subsequently, how practitioners in the field of EU affairs can respond to aforesaid expectations. The third argument underlining the importance of this research is related to the very essence of scientific theory. Vital to the existence and utility of scientific theory is its link between the abstract world of ideas and concepts and the concrete world of observations and real life events (Chibucos, Leite & Weis, 2005). The relevance and importance, then, are based on the conviction that testing regional integration theories such as Neofunctionalism and Liberal intergovernmentalism, which both date back to the previous century, will contribute to a contemporary and accurate reading and application of the theory for current and future research. Chapter two elaborates on the relative position of this study in the literature and explains what gap it attempts to fill.

Based on the research problem, objective and importance and the case study used in this research, the question that guides this thesis is: ***‘To what extent can Neofunctionalist and/or Liberal Intergovernmentalist theory explain the proposed legislation on a Common (Consolidated) Corporate Tax Base and associated processes and developments?’*** In order to answer the research question, this study draws on a null hypothesis and three alternative hypotheses. These are as follows:

The proposed legislation on a Common (Consolidated) Corporate Tax Base, including its processes and developments, ..

Ho: .. *Cannot or insufficiently be explained by Neofunctionalist or Liberal Intergovernmentalist theory.*

HA1: .. *Can be (predominantly) explained by Neofunctionalist theory.*

HA2: .. *Can be (predominantly) explained by Liberal Intergovernmentalist theory.*

HA3: .. *Can be explained by a combination of Neofunctionalist and Liberal Intergovernmentalist theory with an equal balance between elements of both theories.*

The following chapter presents the theories of Neofunctionalism and Liberal Intergovernmentalism. Subsequently, chapter three outlines the methodology of this research by presenting the design, the methodological approach and the structure of the data analysis. The latter is divided into three consecutive chapters: an introduction of the case study (chapter four), the position of member states (chapter five), and the role and influence of supranational institutions (chapter six). The data analysis is followed by the conclusion, which presents and discusses the findings emanating from this study. Lastly, the bibliography may provide the reader with further insights into the academic literature and sources used and the appendices elaborate on the data gathered, analysed and discussed in this study.

2. Theory and Literature review

Regional and European integration theories attempt to explain cooperation among states by identifying, explaining and clarifying intergovernmental or supranational processes, developments and outcomes of such cooperation (Cini, 2016). This study draws on two classic theories in this field, namely Neofunctionalism (section 2.1) and Liberal Intergovernmentalism (section 2.2). The context in which these theories arose and gained credibility in academic circles is not directly relevant for this study, but may be of complementary value and is therefore explained in appendix 1. In order to test the explanatory power of these classic integration theories, this chapter presents the authentic arguments, assumptions and hypotheses that constitute the core of their theoretical framework. Section 2.3 briefly explains the relative position of this study in the existing literature.

2.1 A first to European integration: Neofunctionalism

The overarching idea of Neofunctionalism is that economic integration would be beneficial to all states involved and would, as a result, incentivize (further) political integration (Haas, 1958). Within the integration process, supranational institutions are seen as the main drivers of integration, and the role of the state is envisioned to decline over time (Haas, 1975). The most important concepts of Neofunctionalist theory are the notion of spillover, elite socialization and the formation of supranational interest groups (Jensen, 2007). These concepts are discussed individually below.

2.1.1 Spillover

One of the most well-known, revered and yet contested concepts of Neofunctionalist theory is spillover. Used in many disciplines and contexts, spillover generally refers to the overflowing of X into Y. Within the field of international relations, spillover, introduced by Haas (1958) and further substantiated by Lindberg (1963: p. 10), refers to ‘a situation in which a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions’. According to Stone Sweet & Sandholtz (2013: p. 4), spillover in its most basic form ‘occurs when actors realize that the objectives of initial supranational policies cannot be achieved without extending supranational policy-making to additional, functionally related domains’. Schmitter (1969: p. 162) distinguishes between ‘expanding the scope of mutual commitment’, which means collaboration in another, related sector, and ‘increasing the intensity of mutual commitment’, which comes down to more collaboration in the original sector.

In the literature on Neofunctionalism three different kinds of spillover exist. The first is *functional spillover* and refers to a process where cooperation in one sector, for example coal, functionally leads to cooperation in adjacent sectors, for instance energy (Jensen, 2007; Obydenkova, 2011). Key to the concept of functional spillover is automaticity, which ‘propels forward integration’, sometimes as a result of unintended consequences of previously expressed commitments (Börzel, 2006: p. 136). The second type of spillover, *i.e. political spillover*, is marked by explicit political considerations and occurs when subnational actors,

such as (large) businesses and interest groups, transpose their efforts and loyalty from the national to the European level, creating further pressure for advanced integration (George, 1991; Turkina & Postnikov, 2012). The third kind of spillover is *cultivated spillover*, and refers to a situation where supranational institutions, such as the European Commission and the Court of Justice of the European Union (hereafter ECJ), stimulate and push integration by taking decisions or providing mediation that go beyond the commitments expressed by member states, but stay within the limits of EU law (Tranholm-Mikkelsen, 1991; Niemann, 2006; Stephenson, 2010).

2.1.2 Elite socialization

A second proposition central to Haas' theory of Neofunctionalism, quite akin to aforementioned political spillover, is the idea of elite socialization (Niemann, 2006). This entails that elites are expected to, over time, be 'persuaded to shift their [...] expectations and political activities toward a new centre', and, subsequently, develop 'European preferences and loyalties' (Haas, 1958: p. 16; Jensen, 2007: p. 89). Elite socialization, in Neofunctionalist interpretation, means the establishment of politicians and policy-makers who increasingly ascribe to, decide in favour of, and hold and express loyalty towards European institutions and the idea of further integration. From these assumptions the following two presumptions, or expectations, can be deduced. Firstly, it is expected that, 'due to the institutionalization of interactions', it becomes more arduous for member states to strictly adhere to their national positions without conceding in negotiations (Haas, 1958: 291; Fligstein & Stone Sweet, 2002). That is to say, national governments are expected to accept or even actively contribute to further integration by agreeing to proposals that, in principle, conflict with their initial national position (Jensen, 2007).

The second expectation deduced from elite socialization is that members of the European Parliament (hereafter MEPs) will develop allegiance 'to the European idea' and will devote to European rather than national interests (Jensen, 2007: p. 89). Duff (1994) and Newman (1996) assert that MEPs, along with other EU officials, are more pro-European than their national counterparts. Katz and Wessels (1999) point out that there are three possible sources for such dissimilarity; these are electoral bias, self-selection of candidates and the effects of holding office in the European Parliament (hereafter EP). Katz and Wessels' findings 'provide suggestive support for the notion that the EP exercises a rapid, though gentle, socializing effect on its members' (Katz & Wessels, 1999: p. 58). Already in 1949, this effect was identified and incorporated in so-called Miles' Law, which states: 'where you stand depends on where you sit' (Miles, 1978: p. 399).

2.1.3 Supranationalism

The third concept essential to Neofunctionalist theory is the movement towards supranational governance and can be divided into two separate though interrelated processes (Tallberg, 2003). The first is the emergence of a so-called 'transnational society' (Caporaso, 1998: p. 8). This 'society', according to contemporary literature, should be understood as non-state actors and groups that engage in cross-border activities, such as the commerce of products and services (Jensen, 2007; Stone Sweet, 2012). These 'transactors', as

Stone Sweet refers to them (2012: p. 9), are the ones that stand to gain or lose from rules, standards and mechanisms agreed upon during intergovernmental negotiations and through supranational governance (Haas, 1958). Hence, transnational society is expected to not only pressure national governments (Jensen, 2007), but to go beyond or bypass national level by mobilizing, lobbying and calling upon supranational institutions such as the European Commission and ECJ in order to defend their interests (Wallace, Wallace & Pollack, 2005).

The second process that increases the level of supranational governance includes the aforementioned cultivated spillover-effect and refers to a situation where supranational institutions act on their European loyalties and preferences (Jensen, 2007). Neofunctionalist theory argues that, as a result, these supranational agents, within their competences, produce and engender policies and rules that would not have been adopted by the member states if it were at their discretion (Stone Sweet & Sandholtz, 2013). An example of such supranational action is that the European Commission, often seen as ‘policy entrepreneur’ and ‘mediator’ (Schön-Quinlivan & Scipioni, 2017), takes an active role in processes that eventually advance integration (Wallace, Wallace & Pollack, 2005). Another example is that the ECJ, according to Neofunctionalist theory, frequently rules in favour of further political integration (Tallberg, 2002; Stone Sweet & Brunell, 2012). In the literature this is referred to as judicial activism (Rasmussen, 1986; Dawson, De Witte & Muir, 2013; Howart & Roos, 2017).

Based on these two processes of supranationalism, the following cycle, or ‘Haasian feedback loop’ (Stone Sweet, 2012: p. 11), can be modelled.

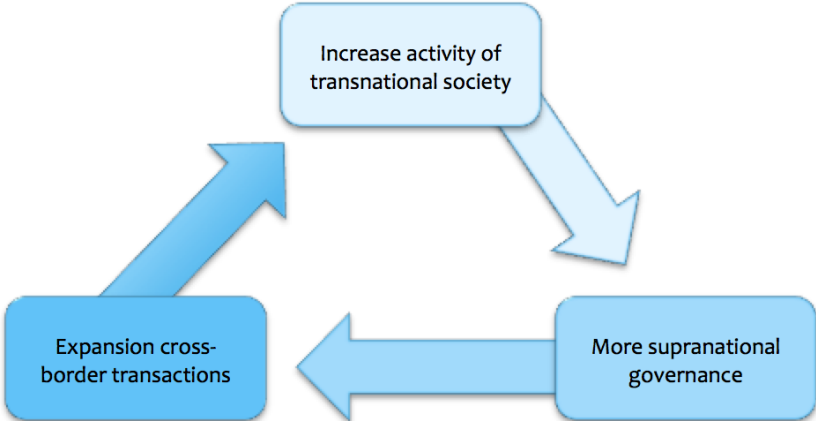


Figure 1. ‘Haasian feedback loop’

2.2 A stark contrast: Liberal Intergovernmentalism

The primary assumptions of Liberal Intergovernmentalism are that states behave rationally, state preferences are shaped by and reflect domestic politics, and integration takes place if and in so far as economic or commercial interests converge (Schimmelfennig, 2015). Furthermore, derived from its Intergovernmentalist and (neo-) realist underpinnings, Liberal Intergovernmentalism holds a state-centric view and, in regards to the international system, relies heavily on Putnam's (1988) perception of international bargaining as a 'two-level game' (Cini, 2016). Based on such theorization, Moravcsik presented two interdependent dimensions that would explain the dynamics of integration: on the one hand there is demand, which is constructed at the national level, and on the other hand there is supply, which emanates from intergovernmental bargaining at Community level (Moravcsik, 1993). In the interface between these two dimensions Moravcsik (1998) identified three consecutive steps of European integration. These are as follows and will be further explained below.

1. Domestic pressures and interactions shape national preferences (demand for cooperation).
2. National governments engage in interstate bargaining where they protect the national preferences as constructed in step 1 as much as possible (supply of integration).
3. Authority is pooled or delegated to international institutions in order to commit one another to cooperate (product of the dynamics between demand and supply).

2.2.1 Step 1: National preference formation

The first step of integration and arguably the most important concept to the theory of Liberal Intergovernmentalism is that of national preference formation (Rosamond, 2000). The theory argues that national preferences are determined by and shaped through internal pressures from, interaction between, and contention among domestic (political) groups and actors (Moravcsik, 1993). This means that domestic societal forces and factors, usually generated by economic groups and businesses, constitute the demand for international cooperation. That is to say, domestic socio-economic 'groups articulate preferences; governments aggregate them' (Moravcsik, 1993: p. 483).

According to Moravcsik (1993), the sources of national preferences, *i.e.* the societal groups that successfully influence the state apparatus, are dependent on economic structures. More precisely, economic concepts embedded in policy proposals, such as competitiveness and inflation or tax rates, are indicative for determining which groups are most likely to pressure their interests. Based on the rational underpinnings of Liberal Intergovernmentalist theory, Moravcsik and Schimmelfennig (2009: p. 68) argue that 'actors calculate the alternative courses of action and choose the one that maximizes (or satisfies) their utility under the [current or expected] circumstances'. The most important socio-economic actors, then, are the ones that either win or lose (financially) from a specific policy (Moravcsik, 1993). Vleuten (2012) adds that in the Netherlands these are Philips, Schiphol Airport, the Port of Rotterdam, Unilever and other multinational corporations that advocate liberalizing services.

In relation to the continuity of national preferences, and contrary to Hoffman's assertion that these are fixed and can be divided into high and low politics (O'Neill, 1996), Moravcsik (1998: p. 6 and p. 24) claims that 'there is no hierarchy of interests' and national preferences are 'stable within each position advanced on each issue [...], but not necessarily across issues'. That is to say, instead of fixed and uniform, national preferences are contingent on and constituted by domestic pressures and are, therefore, assumed to vary across time and issues (Moravcsik & Schimmelfennig, 2009). Furthermore, according to Kirchner and Sperling (2007) it is important to acknowledge the difference between national preferences and national strategies. Moravcsik (1998: p. 25) exemplifies this by posing the question of whether France accepted 'an autonomous ECB [...] because it had come to have a *preference* for monetary discipline or because this was the *strategic* policy concession imposed by Germany for the achievement of other French goals'. Whereas national preferences are exogenous to the European political environment, national strategy and tactics are not (Schimmelfennig and Rittberger, 2005). As such, geopolitical ambitions may incite states to strategically deviate from national preferences.

2.2.2 Step 2: Interstate bargaining

Following the formation of national preferences, the second step in Moravcsik's conceptualisation of integration is intergovernmental bargaining where states represent unitary actors, determined to protect their national preferences in intergovernmental institutions such as the Council of the European Union (hereafter Council). Moravcsik (1998: p. 60) describes such interstate bargaining as 'a noncoercive system of unanimous voting in which governments can and will reject agreements that would leave them worse off than unilateral policies'.

The outcome of interstate bargaining however, is not merely dependent on equilibrium outcomes where all states gain or lose equivalent values. Rather, Liberal Intergovernmentalist theory stresses the importance of relative power among states, which Keohane and Nye (1987: p. 728) called 'asymmetrical interdependence'. This means that the relative power of a state in interstate negotiations is contingent on, and arguably 'inversely proportional to' (Moravcsik, 1998: p. 62), the relative value it places on a certain policy outcome. In other words, a member state's 'preference intensity', relative to that of other states explains its position in and subsequent influence on the negotiations by means of the concessions it is willing to make (Binmore, Rubinstein & Wolinsky, 1986). This concept is referred to as the Nash bargaining solution. It anticipates that those states 'that most intensely favour a given agreement will make disproportionate concessions on the margin in order to achieve it' (Moravcsik, 1998: p. 62).

In addition to preference intensity, Liberal Intergovernmentalist theory provides three other factors that underlie interstate negotiations. The first is the formation of alternative coalitions, outside the institutionalized framework of the Council and the European Council and the inherent threat of exclusion (Moravcsik, 1998). The second is the 'natural' difference of power between individual states where the biggest and most influential members, such as France and Germany, preponderate in terms of political leverage, and are therefore most

likely to play first fiddle (Cini, 2016). According to Nugent (2017: p. 450), agreements are most likely to succeed when the national preferences of the ‘governments of large and powerful states’ align. The third is the concept of issue linkages, which, according to Mayer (1988) and Martin (1992), refers to a situation where marginal gains in some areas outweigh marginal losses in others, and where, due to divergence of national preferences among states, making concessions may be beneficial to all.

2.2.3 Step 3: Pooling and delegation of sovereignty

The third and last step of European integration, as theorized by Liberal Intergovernmentalism, is the transferring of sovereignty from governments to international institutions (Cini, 2016). Although such transfers clearly come at the expense of and ‘impinge on national sovereignty’ (Moravcsik, 1998: p. 67), they are assumed to improve the efficacy of decision-making, facilitate agreements that otherwise would not have been reached (Buchanan & Tullock, 1962) and, most importantly, to ensure credible commitments (Moravcsik, 1993).

Moravcsik distinguishes between the pooling and delegating of sovereignty (Pollack, 2001). The first, so-called pooled sovereignty refers to a situation where states decide to deviate from unanimity voting and, instead, take decisions by qualified majority voting in the Council (Moravcsik, 1998). The second type, delegated sovereignty, occurs when states authorize supranational institutions such as the European Commission to act autonomously in certain areas (Moravcsik, 1998), such as for example competition policy (Moravcsik, 2005). The main rationale for states to pool and delegate sovereignty, Moravcsik argues (1998: p. 9), is ‘to constrain and control one another [...] by their effort to enhance the credibility of commitments’. This especially applies to areas where it is tempting to defect from agreements that are otherwise loosely or not monitored or controlled (Pollack, 2001).

To summarize, the pooling and delegating of sovereignty occurs when states, based on their national preferences (step 1), find and codify agreement in interstate bargaining (step 2). In order to commit one another to the agreements made, states may decide to grant some authority to supranational institutions such as the European Commission (step 3).

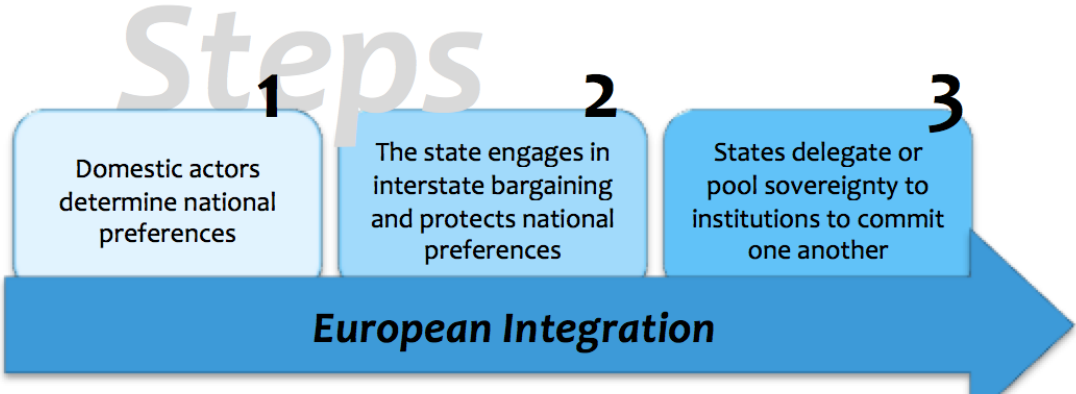


Figure 2. Three-step model Liberal Intergovernmentalism

2.3 Relative position of this study in the existing literature

It goes without saying that there is an abundance of studies on the applicability and explanatory power of regional integration theories, including Neofunctionalism and Liberal Intergovernmentalism. Most of this research however, of which Moga (2009) is an illustrative example, considers and evaluates the contribution of integration theories to the overall process of European integration. While at times such academic articles and studies review the applicability of several theories, e.g. Sangiovanni (2006), Schmidt (2008) and Wiener (2018), most only focus on the performance or development of a single integration theory, e.g. Forster (2002), Jensen (2002) and McGowan (2007). Nevertheless, when looking for comparative analyses where the explanatory power of two (or more) integration theories in the field of Single Market issues is assessed, the range of available and appropriate studies decreases significantly. The most relevant and comparable studies in regards to this research are those of Scheidt (2011), Lambert (2014) and Pelgrom (2017), who discussed the applicability of *inter alia* Neofunctionalism and Liberal Intergovernmentalism in regards to the European Stability Mechanism, the Fiscal Pact and a EU relocation system following the migration crisis.

All of these studies constitute good quality research and provide interesting contributions to the academic debate on and evolution of European integration theory as well as its application to real life situations. Additionally, the nature of these studies where integration theory is applied to issues that lie at the intersect of political decisions and the development of policy areas at EU level resemble, at least to some extent, the design and rationale of this research. However, without jeopardizing or compromising the merit of aforementioned studies, their methodological approaches do not or to a very limited degree provide a framework or model that can be extended or applied to other research. That means that the objective of this study is not only to assess the explanatory power of Neofunctionalism and Liberal Intergovernmentalism, but also to develop and provide a methodological approach to do so. As such, the contribution of this study to the existing literature is two-fold. Firstly, it builds upon earlier studies where the applicability of integration theory to issues related to the Single Market is assessed. Secondly, this study attempts to fill a gap in the literature by providing a blueprint for similar or follow-up research where the methodological approach of this study can be duplicated in order to assess and compare competing or complementary (integration) theories.

3. Research, methodology and methods

Theory, as a system of ideas intended to explain certain processes or phenomena, may help to decide what questions to ask and how to analyse constructs empirically. This thesis therefore employs a deductive approach in order to test the explanatory power of two integration theories in regards to the unexploited potential of the Single Market. The first section of this chapter discusses the research design including the use and selection of a case within the broader framework of this study. The second section covers the methodological approach in which theory from chapter two is translated into empirically observable variables. The third section explains the structure of the data analysis.

3.1 Research design: a case study

The application of deductive methods where theory is applied to a real life situation is, according to George and Bennett (2005), inextricably linked to a certain research design, namely case study research. It allows for various ‘mini-hypotheses’, which hereafter will be referred to as expectations, to be derived from the theory. Such expectations indicate what is expected to be observed in the selected case and they will help to test the degree of compliance between theory and data.

In order for the case study to be relevant to the research problem and the broader framework in which this study is conducted, it must fulfil the following three criteria. Firstly, the case must be related to an issue that constitutes or resembles a barrier to the Single Market. Secondly, the case must in principle be compatible with the theoretical presumptions of both integration theories and must not, in and of itself, be prejudiced towards or biased against one or the other. Therefore, in regards to Liberal Intergovernmentalism, it is crucial that the case concerns an issue that member states can in principle object to by using their veto. This means that the object of study must be an issue that falls within the remit of unanimity voting in the Council. Thirdly, for the relevance and importance of the research it is required that the case is of recent and preferably current concern. This not only ensures that the research contributes to theory development, but also creates the possibility to contribute to the understanding of an existing issue that is relevant in present-day.

The accumulation of these criteria can be incorporated into George and Bennett’s strategy for selecting cases for case study research. As displayed in figure 3, which incorporates the abovementioned criteria, George and Bennett argued (2005) that for each additional criterion the number of available cases decreases as we move from the so-called ‘universe’ to ‘class’ to ‘subclass’.

- A. All issues that represent barriers to the Single Market
- B. All issues that require unanimity voting in the Council
- C. All issues that are of recent/current concern

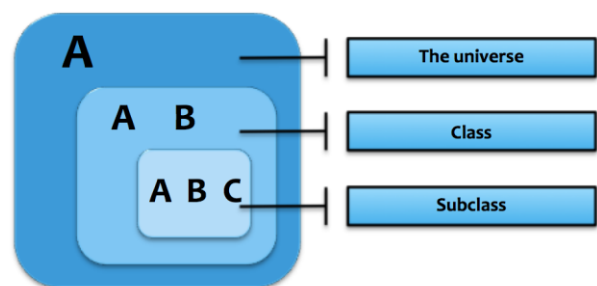


Figure 3. Selecting case study

The case that will be used for this study is the proposed legislation for a Common (Consolidated) Corporate Tax Base. The absence of coherent EU policy on the calculation of corporate taxation results in 28 different tax regimes; it therefore constitutes market distortions and it creates a breeding ground for tax avoidance, tax evasion and aggressive tax planning. Hence, the absence of a C(C)CTB, regardless of whether or not it would be desirable, forms a clear barrier to the completion of the Single Market and as such leaves some of its potential unexploited (criteria A). Additionally, taxation is an issue dealt with under article 115 TFEU and therefore requires unanimity in the Council (criteria B). Lastly, though formally proposed in 2011 and again in 2016, the proposal for a C(C)CTB remains an important issue that is still debated today.

3.2 Methodological approach

The methodological approach outlines how the researcher aims to conduct the study. This includes the identification and measurement of variables (section 3.2.1), the methods (section 3.2.2), and the validity, reliability and limitations of the research (section 3.2.3).

3.2.1 Identification and measurement of variables

The theory in chapter two explains the perspectives, assumptions and presumptions of Neofunctionalism and Liberal Intergovernmentalism in regards to (the process of) European integration. The theories explain what elements are essential and what processes, developments or outcomes the theories expect to be visible in practice. This study is confined to testing a total of twelve expectations, *i.e.* six per theory. In order to keep the study structured, the expectations are labelled and will be referred to as such in the data analysis (chapter 4 - 6)². Tables 1 and 2 show all expectations, what part of the theory they are derived from, and they describe the type of research and data collection.

Subsequently, this study employs a specific approach in order to express the degree to which the data constitutes supporting or opposing evidence in regards to the expectation at hand. This model, which contains five consecutive steps, is used to indicate to what extent each expectation is considered to be observed based on the data gathered and discussed in the data analysis. All five steps are explained in table 3. In the data analysis, the following figures will be used to refer to these steps and to indicate the degree to which an expectation is fulfilled.



Figure 4. Five-step model - figures

² When an expectation is referred to in the data analysis, a brief description will be provided in the footnotes of that page.

Theory: Neofunctionalism				
Label	Expectation	Derived from	Type of research	Data collection
N1	Potential or proposed integration in the field of CCCTB is the result of previous cooperation and must take place in order to achieve the goals and objectives of previously agreed commitments.	Functional spillover (section 2.1.1)	Desk and field	<ul style="list-style-type: none"> • Literature • Commission documents <ul style="list-style-type: none"> ○ 2001 proposal Societas Europaea • Interview European Commission
N2	Transnational actors such as large enterprises and interest groups bypass national level and provide input on the C(C)CTB directly at EU level, such as to the European Commission.	Political spillover and supranationalism (section 2.1.1 and 2.1.3)	Desk and field	<ul style="list-style-type: none"> • Literature • Documents private companies (position papers) • Commission documents <ul style="list-style-type: none"> ○ Working Group 2004-2008 ○ Platform Good Tax Governance ○ Public consultations • Interviews European Commission and business representative
N3	The European Commission takes decisions or provides mediation in the field of C(C)CTB, or corporate taxation in general that goes beyond the commitments expressed by member states or in which it neglects its presumed neutral role.	Cultivated spillover and supranationalism (section 2.1.1 and 2.1.3)	Desk and field	<ul style="list-style-type: none"> • Literature • Commission documents <ul style="list-style-type: none"> ○ 2011 proposal CCCTB ○ 2016 proposal ATAD ○ 2016 proposal C(C)CTB ○ State of the Union 2017/8
N4	The Court of Justice of the European Union pushes for further integration by taking decisions that stimulate, require or promote advanced action in the field of corporate taxation.	Cultivated spillover and supranationalism (section 2.1.1 and 2.1.3)	Desk	<ul style="list-style-type: none"> • Literature • Case law • Commission documents <ul style="list-style-type: none"> ○ 2016 impact assessment proposals C(C)CTB
N5	National governments accept or even actively contribute to further integration by agreeing to proposals that, in principle, conflict with their initial national position	Elite socialization (section 2.1.2)	Desk and field	<ul style="list-style-type: none"> • Conclusions of the Council of the EU • Commission documents <ul style="list-style-type: none"> ○ 2016 proposal ATAD1 ○ 2016 proposal ATAD2 ○ 2018 Proposal Digital Service Tax • Government documents (BNC-fiches) • Interview Ministry of Finance and Dutch Permanent Representation Brussels
N6	Members of the European Parliament develop and hold more pro-European ideas on CC(C)TB than their national counterparts.	Elite socialization (section 2.1.2)	Desk and field	<ul style="list-style-type: none"> • Literature • Interviews Dutch House of Representative • Government documents (reasoned opinions of House of Representative) • Votes casted by Dutch members of the Europeans Parliament

Table 1. Expectations Neofunctionalism

Theory: Liberal Intergovernmentalism				
Label	Expectation	Derived from	Type of research	Data collection
L1	The interests of the socio-economic (interest) groups and businesses in the Netherlands that stand to gain or lose most from CC(C)TB policy equal the national position of the Netherlands in CC(C)TB negotiations.	National preference formation (section 2.2.1)	Desk and field	<ul style="list-style-type: none"> Literature Documents private companies (position papers) Interview Ministry of Finance
L2	The Dutch national preferences in the case of CCCTB are not fixed and uniform and are assumed to vary across time and issues.	National preference formation (section 2.2.1)	Desk and field	<ul style="list-style-type: none"> Government documents (BNC-fiches 2011 and 2016) <ul style="list-style-type: none"> BNC-fiches 2011 and 2016 Reasoned opinions of Senate and House of Representatives Interview Ministry of Finance
L3	Strategy and pursuing geopolitical goals may explain why the Dutch government would deviate from its national preferences.	National preference formation (section 2.2.1)	Desk and field	<ul style="list-style-type: none"> Government documents <ul style="list-style-type: none"> BNC-fiche 2016 Interviews Ministry of Finance and Dutch Permanent Representation Brussels
L4	The Netherlands will reject the proposed CCCTB if the proposed policy would leave the Netherlands worse off than unilateral policies.	Interstate bargaining (section 2.2.2)	Desk and field	<ul style="list-style-type: none"> Public session of Council May 2017 Literature Interviews Ministry of Finance and Dutch Permanent Representation Brussels
L5	Asymmetrical interdependence, i.e. the relative value a national government places on a certain policy outcome, is proportionate to the (number and intensity of) concessions it is willing to make. <i>Alternative formulation:</i> Member states that gain most from CCCTB proposal will be most inclined to make concessions and compromises.	Interstate bargaining (section 2.2.2)	Desk and field	<ul style="list-style-type: none"> Literature Interviews European Commission and Dutch Permanent Representation Brussels
L6	If the preferences of the governments of large and powerful states align, agreement is most likely to succeed.	Interstate bargaining (section 2.2.2)	Desk and field	<ul style="list-style-type: none"> Literature Interviews European Commission and Dutch Permanent Representation Brussels

Table 2. Expectations Liberal Intergovernmentalism

Five-step model: classification for compliance between data and expectations		
Step	Percentage fulfilled/observed	Meaning
1	0-20%	Not observed
	Very little of what was expected can be identified in the case of the C(C)CTB. Indicators: <ul style="list-style-type: none"> ➤ No supporting evidence; or ➤ Opposing evidence. 	
2	20-40%	Poorly observed
	Some of the data found supports what was expected. Indicators: <ul style="list-style-type: none"> ➤ Very little supporting evidence; or ➤ The supporting data is overshadowed by more (quantitative) or more credible (qualitative) data that opposes what was expected. 	
3	40-60%	Observed balance
	Quite some data supports what was expected. However, equally important opposing data was found. Indicators: <ul style="list-style-type: none"> ➤ Neither the supporting nor the opposing evidence seems to be predominant in terms of credibility or importance; or ➤ It may be the case that the data found in respect of a specific expectation is rather nuanced. In that case, step 1 or 2 and step 4 or 5 may incorrectly imply predominance of either the supporting or opposing data. Therefore, step 3 indicates the presence of subtleties and nuances that underlie and account for the partial fulfilment of an expectation, while acknowledging the presence of opposing data. 	
4	60-80%	Predominantly observed
	Substantive data supports what was expected. Indicators: <ul style="list-style-type: none"> ➤ The data is not sufficient in quantity or quality to qualify as step 5-evidence; or ➤ There is some opposing data that contradicts the expected observation (though minor in quantity and/or quality). 	
5	80-100%	Fully observed
	The expected observation is clearly observed by supporting data. Indicators: <ul style="list-style-type: none"> ➤ Supported by multiple claims, sources and or data; or ➤ Firmly supported by a credible source with substantial authority on the expected phenomenon under consideration. 	

Table 3. Five-step model: classification and indicators

3.2.2 Methods

Based on the data collection shown in tables 1 and 2, this section presents an overview of the methods, it discusses the construction of instruments used for gathering empirical data and it explains how this data has been processed. Table 4 below identifies which data collection methods have been used for each expectation.

Interviews

In terms of field research, this study exclusively focuses on interviews with experts in the field of the C(C)CTB. The interviews that have been conducted were semi-structured, meaning that in preparation of the interview the researcher determined relevant topics and questions, but at the same time remained at liberty to deviate from what was prepared and ask any follow-up questions if appropriate and relevant. The predetermined topics and questions are based on table 5, which identifies ‘primary’ and ‘secondary’ items and thereby facilitates the construction of the interview instruments in the sense that it prioritizes and clarifies for each interview what data would be absolutely required and what data would not be essential but rather ‘nice to have’.

Methods		Neofunctionalism						Liberal Intergovernmentalism					
		N1	N2	N3	N4	N5	N6	L1	L2	L3	L4	L5	L6
Expectations													
Data collection													
Desk research	Literature												
	Commission documents												
	Documents private companies												
	Case law												
	Conclusions Council EU												
	Government documents												
	Remaining												
Field research (interviews)	Business Representative												
	European Commission												
	Ministry of Finance												
	Dutch Permanent Representation Brussels												
	EU specialist in House of Representatives												
	Policy officer of a member of the Dutch Parliament												

Table 4. Methods

Item Matrix		Legend											
		= Primary items						= Secondary items					
Expectations		Neofunctionalism						Liberal Intergovernmentalism					
Interview with		N1	N2	N3	N4	N5	N6	L1	L2	L3	L4	L5	L6
Interviewee 1: KPMG EU Tax Centre													
Interviewee 2: European Commission													
Interviewee 3: Dutch Ministry of Finance													
Interviewee 4: Dutch Permanent Representation Brussels													
Interviewee 5: EU Specialist in House of Representatives													
Interviewee 6: Policy officer of a member of the Dutch Parliament													

Table 5. Item matrix

Processing the data

The data derived from the interviews has been anonymised In order to protect the interviewees from excessive exposure. In doing so, Saunders, Kitzinger and Kitzinger argue (2015) that it is important to preserve the richness of the data while, at the same time, to respect and guarantee a certain level of protection of the interviewees' identities. Therefore, only the institution for which the interviewee works and his or her gender is provided while his or her name is replaced by *interviewee 1*, *interviewee 2* etc. Nevertheless, the names of the interviewees and the audio recordings of the interviews, for which all interviewees have granted their permission, will be available upon request. For each interview a so-called 'take away summary' was drafted, containing all the information gathered. These take away summaries are included in appendix 2. Subsequently, the data in these summaries have been labelled based on their relevance for the expectations (see appendix 3). In order to properly include, consider and balance all relevant data for the data analysis, an overview per expectation has been systematically listed and can be found in appendix 4.

3.2.3 Validity, reliability and limitations of the research

In regards to the quality of this study, the researcher attempted to ensure internal and construct validity, which would mean that the results are well founded, that correct inferences are made between the variables and that the interview instruments measure what they intend to measure (Fischer & Julsing, 2007). In order to secure such validity, it was decided to distinguish between primary and secondary items (see section 3.2.2). With clear vision on what data needed to be retrieved from the interviews, the researcher was able to divide topics or items into multiple questions, ensuring that claims and statements would be both corroborated and explained from a multitude of perspectives for correct interpretation of the data.

In relation to external validity, it must be pointed out that the results of this study cannot or to a very limited extent be generalized to other issues that constitute barriers to the completion of the Single Market. This is the so-called 'N = 1 issue' (Caporaso, Marks, Moravcsik & Pollack, 1997). That is to say, the case used in this thesis is unique in its own right and the results can therefore only provide rationale and motivation for future research where the performance of these (or other) integration theories is tested, potentially by providing a blueprint for the methodological approach (see section 2.3).

Furthermore, in regards to the reliability, the researcher decided to employ multiple data collection methods and to draw upon various sources for each expectation in order to ensure accuracy, consistency and replicability of the research and its outcomes (see table 6). In the literature this is called methodological triangulation and increases the reliability of the study (Verhoeven, 2011; Baarda et al., 2013).

Number of data collection methods	Expectations
2	N3, L2,
3	N1, N4, L1, L3, L5, L6
4	L4,
5	N2, N5, N6

Table 6. Data collection methods and expectations

A first limitation of this research is the aforementioned limited generalizability of the results, which requires a cautious approach in drawing conclusions. A second limitation is that the

data collected via desk research relied heavily on publically available documents. This means that classified documents containing strategic and geopolitical considerations may not have been included in the data analysis due to restricted and limited access to government documents. Such a constraint would, if any, have mostly impacted the analysis of expectations derived from Liberal Intergovernmentalism. Having said that, it should be noted that the quantity of data available was not insufficient and that interviews were conducted with all relevant governmental institutions. Therefore, the restricted access to documents may, presuming that the data retrieved from the interviews is correct, not have any substantial implications for the outcome of the research.

A third limitation of this study is that there is an inevitable weakness to the research design. That is to say, the use of expectations for methodologically guiding the study naturally leads to a biased starting point of the analysis. Partiality, however, is inevitable because the presence of bias is inherently linked to the discipline of theory testing. That is to say, the notion of testing a belief that is expected is in and of itself biased. In order to avoid imbalanced bias and to design the study as neutral as possible, an equal number of expectations for each integration theory was used.

The fourth and last limitation of this research is that, though not mandatory for the data analysis, it would have contributed to a more comprehensive analysis of all perspectives if the researcher had been able to conduct an interview with a Dutch MEP concerned with the C(C)CTB. Unfortunately, despite great efforts, this endeavour could not be pursued within the time frame of this study. On a similar note, the inclusion of NGO's could have added to a thorough and complete overview of all perspectives on the issue of the C(C)CTB. Regrettably, in view of the scope and narrow time frame of the study, the researcher was restricted in its possibilities.

3.3 Structure of the data analysis

The data analysis is structured thematically, meaning that the expectations are not discussed consecutively (N1, N2, N3 etc.). The structure follows a holistic approach where the topics of all expectations are considered altogether (see figure 5). Subsequently, based on the topical distribution of expectations, the data analysis is divided into three sections. These are the *C(C)CTB as an object of study* (chapter 4), *the positions of member states* (chapter 5), and *supranational institutions* (chapter 6).

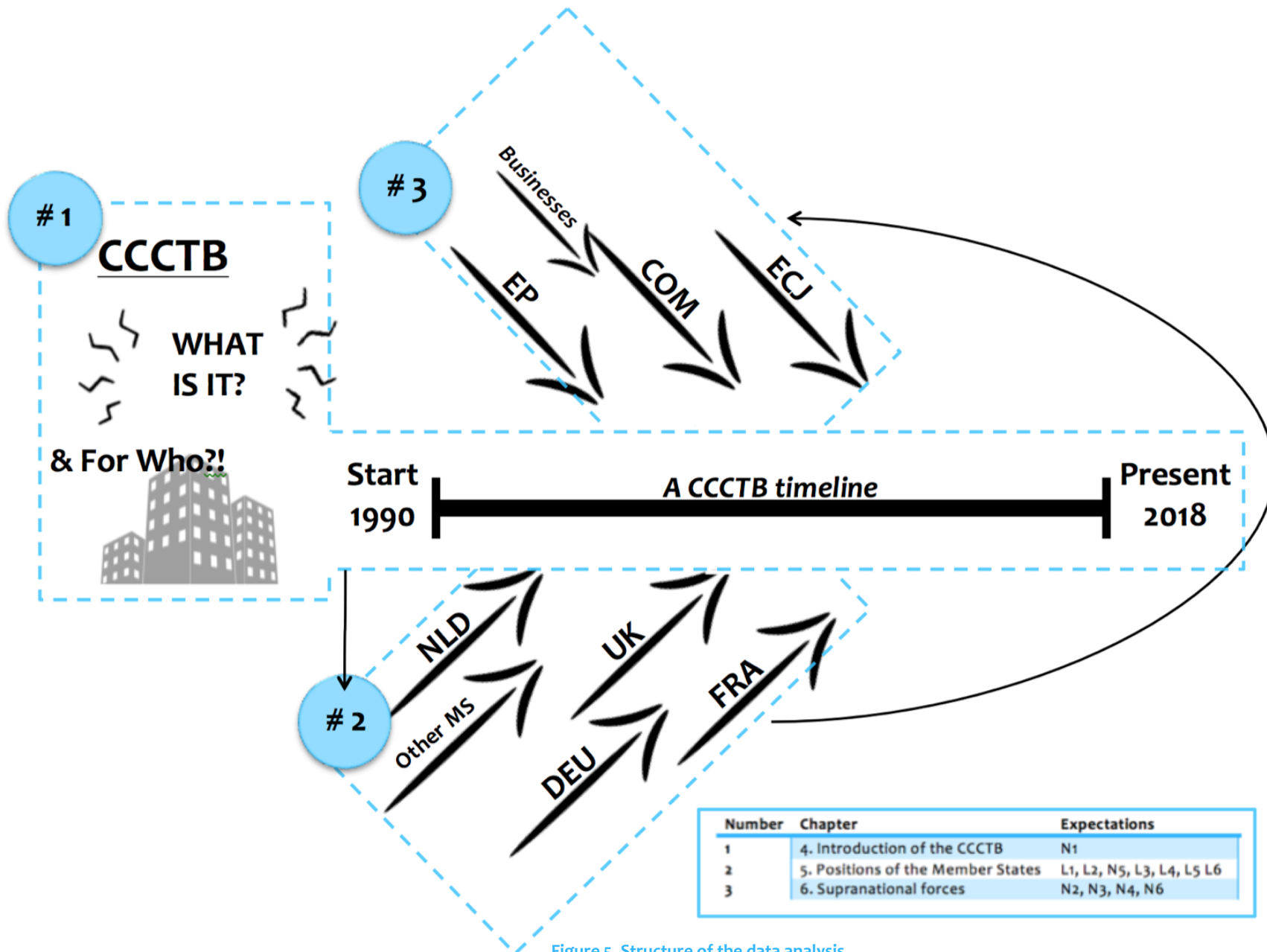


Figure 5. Structure of the data analysis

4. Introduction of the C(C)CTB

This chapter explains why the C(C)CTB has been proposed, what issues it is supposed to address and by what means, and it discusses how the C(C)CTB proposal has changed over time.

4.1 Rationale and substance C(C)CTB

In most of the world taxation, both direct and indirect, is a way for governments to be able to provide for public and common goods and services. Enterprises established and operating in a country or EU member state are required to pay taxes over their profits, income and capital in general. All over the EU this concept is referred to as corporate income tax³. However, the percentage of the tax and the way in which taxable profits are calculated is not the same in all EU member states. In fact, great differences exist not only in tax rates but also in how the net or taxable income of companies is calculated. This is problematic because the existence of these differences allows for and subsequently results in market distortions, harmful tax competition, and excessive losses of tax revenue (European Commission, 1992). Moreover, economic theory on efficacy dictates that economic choices are expected to be unbiased towards and separated from tax regimes. That is to say, the choice of establishment in EU member state X or Y should be based on or driven by efficiency and productivity considerations rather than tax incentives (European Commission, 2001-b). Based on these issues and arguments, the European Commission has proposed a policy that is aimed at mitigating said differences and thereby removing yet another barrier to the Single Market. The proposed policy is called the Common (Consolidated) Corporate Tax Base.

In order to acquire a general understanding of its substance without getting too involved in its technicalities, the current C(C)CTB proposal and its main provisions are briefly explained below. In 2016 the European Commission launched the Tax Reform Package, including the latest two interconnected proposals for a tax base: COM(2016)685 and COM(2016)683. Together, these proposals comprise a two-staged approach towards a full-fledged tax base that would address abovementioned issues. The first step, outlined in COM(2016)685, concerns a proposal for a Common Corporate Tax Base (hereafter CCTB), which aims to ‘establish [...] a common base [...] and lay down rules for the calculation of that base’ (European Commission, 2016-c: p. 18). As a result, there would be a single set of rules that determines how the taxable profits of companies all across the Single Market are calculated.

The second step is laid out in COM(2016)683 and will not be taken before the CCTB is implemented. It involves the ‘consolidation’ part, which turns the CCTB into a Common Consolidated Corporate Tax Base (hereafter CCCTB). It ensures that a company can “work with [its] domestic tax administration to file one tax return for all of [its] EU activities” (European Commission, 2016-a). This is referred to as the ‘one-stop-shop’ (European Commission, 2016-c: p. 2). Subsequently, via a so-called ‘apportionment formula’, it becomes possible to connect taxation directly to economic activity and, as a result, it becomes

³ Other words used to describe corporate income tax are corporation tax, capital tax or corporate taxation. All of these terms, at least within the scope of this thesis, refer to the same.

impossible for companies to create and use loopholes for profit-shifting with the purpose of gaining taxation benefits (European Parliament, 2018-a). Yet, the apportionment formula still enables member states to set, maintain and amend their own tax rates, and it ensures that the revenue of the taxable profits are shared *pro rata*.

In sum, by means of two proposals culminating into a single consolidated corporate tax system, the C(C)CTB is an attempt to, *inter alia*, reduce red tape and compliance costs; to fully consider a company's performance in the Single Market by offsetting profits against losses across states; to provide legal (tax) certainty and, most importantly, to combat tax avoidance and aggressive tax planning (European Commission, 2016-a).

4.2 A timeline: where did we start and where are we now?

The abovementioned 2016 proposals for a CCTB and a CCCTB did not just appear out of thin air. Instead, the origin of a C(C)CTB goes back to the early 1990s, where the Commission mandated the so-called Ruding Committee to assess 'whether existing differences in corporate taxation [...] lead to [...] distortions affecting the functioning of the internal market' (European Commission, 1992: p. 9-10). In the following Ruding report, major differences in corporate tax systems were identified as well as 'considerable variations in corporate tax bases' (European Commission, 1992: p. 11). Roughly 20 years later, these conclusions turned into an official proposal in 2011, which were to be revived by the aforementioned two new proposals in 2016. Today, early 2019, the proposal for a corporate tax base still has not been adopted. An extensive overview of all relevant developments from the Ruding committee until present-day is provided in table 7. The blue rows indicate developments at EU level and the white rows point to developments at member state level where it primarily focuses on the Netherlands due to the scope of this case study. A similar table including the sources to all cited developments is included in appendix 5.

What is rather interesting however, and what will also help to find an answer to the **first expectation**⁴ of this research, is how the initial steps taken by the Ruding committee seem to have naturally developed into or at least identified urgency for increased cooperation in the field of corporate taxation. In the aftermath of the Ruding report, discussions continued on how companies could operate within and across the Single Market without facing and further reinforcing market distortions. However, falling short of the required support and political will for the establishment of an actual corporate tax base, member states decided to adopt the European Company Statute on 8 October 2001 (Euractiv, 2001). With the establishment of a so-called *Societas Europaea* (hereafter SE), a company could be created under EU law instead of national law. As such, a company's performance in the Single Market would be subjected to a single set of rules and management rather than a plurality of laws, constraints and burdens in all member states in which it operates (European Commission, 2001-c).

⁴ Expectation 1 (N1): C(C)CTB as a spillover effect, see methodology p. 12.



Level	Date	Action
EU	25 Oct 1990	Onno Ruding Committee was created → Established to evaluate need greater harmonization business taxation
EU	March 1992	Ruding report → Identified differences corporation tax distorts Single Market
	8 October 2001	A Council regulation is adopted on the Statute for a European Company (Societas Europaea or SE) → Enables entrepreneurs or already existing companies to create a legal entity under EU law
EU	23 Oct 2001	Communication from COM on strategy for consolidated tax base
EU	2004 - 2008	Working Group consisting of national experts → WG provided technical assistance to COM in preparing 2011 proposal
EU	20 Oct 2010	Workshop for MS and stakeholders as part of a public consultation process on CCCTB
MS/ FRA & DEU	25 Feb 2011	France and Germany proposed EU competitiveness pact → Aimed at eliminating policy differences (including common assessment basis for corporate income tax)
EU	16 March 2011	COM proposal for Council directive on CCCTB - COM(2011)121
MS/ NL	11 April 2011	BNC Fiche NLD on COM(2011)121 → Argues the proposal does not comply with principles of subsidiarity and proportionality
MS/ NL	28 April 2011	Tweede Kamer submitted reasoned opinion on proposal COM(2011)121 → Echoes the position of the BNC fiche
EU	26 Oct 2011	European Economic and Social Committee published an opinion → Supporting the proposal COM(2011)121
EU	19 April 2012	European Parliament adopts resolution on proposal COM(2011)121 → Supports the proposal but suggests some amendments
EU	June 2013	ECOFIN Council endorsed CCCTB roadmap tabled by Irish Presidency → Proposal for division CCCTB into six blocks
EU	18 Dec 2014	European Council expressed need to continue to fight against tax avoidance and aggressive tax planning
EU	17 June 2015	COM presented Action Plan - COM(2015)302 → Action plan for Fair and Efficient Corporate Taxation, aimed at protecting the Single Market by, among other things, re-launching CCCTB in a two-staged approach.
EU	19 Oct 2015	COM published CCCTB inception impact assessment
EU	10 Jan 2016	COM carried out public consultation on the re-launch of CCCTB (between Oct 2015 and Jan 2016)
EU	28 Jan 2016	COM presented 'anti-tax-avoidance package' → Includes BEPS adopted by OECD (system for base erosion and profit shifting) and a proposal for a Council anti-tax avoidance directive (ATAD)
EU	12 July 2016	ECOFIN Council adopted ATAD
EU	25 Oct 2016	COM withdrew COM(2011)121 proposal and presented a Corporate Tax Reform Package, which includes: → Proposal for Council directive CCTB - COM(2016)685 → Proposal for Council directive CCCTB - COM(2016)683
MS/ NL	18 Nov 2016	BNC Fiche NLD on COM(2016)685 and COM(2016)683 → Argues the proposal does not comply with principles of subsidiarity and proportionality
EU	6 Dec 2016	ECOFIN Council presented conclusions on fair and stable corporate tax system
MS/ NL	15 Dec 2016	Tweede Kamer submitted reasoned opinion on proposal COM(2016)685 and COM(2016)683 → Echoes the position of the BNC fiche
EU	16 Dec 2016	ECOFIN Council report to European Council → Report states that consolidation will follow when CCTB is adopted and it briefly outlines differences 2011 and 2016 proposal
MS/ NL	21 Dec 2016	Eerste Kamer submitted reasoned opinion on proposal COM(2016)685 and COM(2016)683 → Echoes the position of the BNC fiche
MS/ FRA	15 Feb 2017	France adopted 'European resolution' in which it endorsed proposal for C(C)CTB
EU	17 Feb 2017	Presidency compromise on amendment ATAD
EU	23 May 2017	ECOFIN Council meeting on CCTB → Technical work shall continue, almost all MS seemed supportive except NLD
EU	2 June 2017	COM reply to Eerste Kamer's reasoned opinion on 2016 proposal
EU	8 June 2017	COM reply to Tweede Kamer's reasoned opinion on 2016 proposal
EU	13 July 2017	European Parliament presented draft report on CCCTB
EU	20 Sept 2017	European Economic and Social Committee published an opinion → Supporting the proposal COM(2016)685 and 683
EU	15 March 2018	European Parliament adopted opinion supporting Commission proposals - COM(2016)685 and 683
EU	21 March 2018	COM proposal for Council directive on digital services tax - COM(2018)148 → In principle this directive focuses on digital services tax, but it places the merit of the directive into a broader framework of the CCCTB.
MS/ NL	9 May 2018	BNC Fiche NLD on COM(2018)148 → Dutch government underlines that it is not in favour of the CCTB and CCCTB
MS/ NL	15 May 2018	Tweede Kamer submitted reasoned opinion on proposal COM(2018)148 → Echoes the position of the BNC fiche
MS/ FRA & DEU	19 June 2018	France and Germany published position paper on CCTB (Meseberg Declaration) → The position paper tries to fasten the CCTB project by including several suggestions/simplifications.
EU	2 July 2018	ECOFIN Council report to the European Council on tax issues → MS will individually evaluate the impact of C(C)CTB proposals on national tax revenues.

Table 7. A timeline with C(C)CTB related developments

However, even at the time of adoption, it was acknowledged that ‘the European Company Statute [was] not yet perfect: much work remain[ed] to be done on taxation matters’ (European Commission, 2001-c). More specifically, in regards to taxation the SE was treated in a similar way as any other (multinational) corporation in the sense that it had to deal with multiple national tax regimes. Therefore, in order to truly achieve the objectives of the Company Statute, additional legislation was necessary. As a matter of fact, it may even have increased the need for further cooperation in the field of taxation because it promoted Single Market-wide activities and thereby put more pressure on the already existing market distortions caused by tax disparities (Lenoir, 2008). On 23 October 2001, only fifteen days after the European Company Statute was adopted, the existing distortions and the creation of SE were used as rationale and justification in a Communication from the Commission for the consolidated corporate tax base. It said ‘the full benefits of establishing a European Company will only be achieved if existing companies can form such an entity without incurring additional tax set up costs, and avoid some of the existing tax obstacles of operating in more than one Member State’ (European Commission, 2001-b: p. 18).

This study argues that the C(C)CTB proposals can be identified as a spillover effect. The main reason for this is that the Single Market and the distortions within it require harmonisation of corporate tax systems. More specifically, the European Company Statute, the SE and the further promotion of enterprises operating and establishing across the Single Market *functionally* require a mechanism that can facilitate such activities. The proposed C(C)CTB would embody this mechanism and would as such help to achieve the objectives of earlier expressed objectives and commitments and therefore, is regarded a spill-over effect.

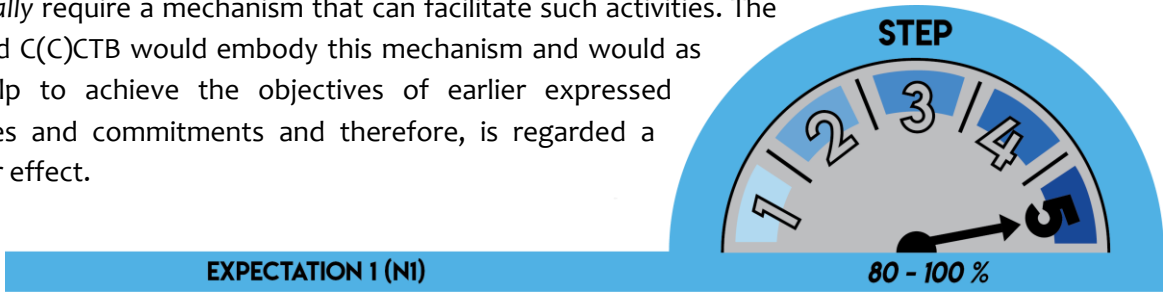


Figure 6. Result expectation 1 (N1)

5. National positions

This chapter focuses on the position of member states regarding the proposed C(C)CTB. It distinguishes between the position of the Netherlands and the position of other member states, mainly Germany and France.

5.1 Position of the Netherlands

Before elaborating on the position of the Netherlands, it is important to point out that, as explained by Interviewee 3, the position of the Netherlands can be divided in the position of parliament and that of government. Although both are public institutions engaged in policy-making, they perform different tasks, hold diverging responsibilities and should therefore be considered separate institutions that can, though not necessarily do, hold distinct views regarding proposed legislation and the adoption and implementation thereof. Accordingly, when referring to the position of the Netherlands (or any other member state), it should be interpreted as the position of the government because within the framework of this study, the views held and decisions taken by the government are decisive for the potential adoption of proposed EU legislation. In order to acknowledge and take into account the input and role of parliament within that process, rather than as a constitutional element of the position as such, the parliament's views and position is not entirely omitted, and will as such be referred to when appropriate and relevant.

Furthermore, the position of the Netherlands on all proposed EU legislation is clearly outlined in BNC-fiches. These are documents produced by the Working Group for the Assessment of New Commission Proposals, a group that consists of (specialists from) all ministries, the Association of Netherlands Municipalities (VNG) and the Association of Provinces (IPO). It discusses 'all European Commission regulatory and policy proposals' and thereafter develops and decides on a national position, which it then lays out in said BNC-fiche (OECD: p. 116). This document constitutes a major tool that enables citizens to learn about, understand and compare the government's position within or across certain time periods.

In the BNC-fiches⁵ following the 2011 and 2016 Commission proposals, the Dutch government explained that the proposals were incompatible with the principles of subsidiarity and proportionality. Although the government expressed its support for the underlying objectives of the proposals, it opposed the proposed approach and technicalities. Its main concerns were, and still are, the severe impact a dual system would have on the workload of the Dutch Tax Authority; the calculation of the tax base, which would have profound consequences for the government's domestic tax revenue; the loss of supervision and the subsequent decrease of certainty in regards to the collection of tax revenues in other member states; and last but not least, the proposed apportionment formula that would facilitate consolidation, which according to the Netherlands is skewed towards economies

⁵ 'Kamerstuk 32728 nr. 2' regarding proposal COM(2011)121, see bibliography Overheid (2011); and 'Kamerstuk 34604 nr. 4' regarding proposal COM(2016)685 and 683, see bibliography Overheid (2016).

that thrive on the industrial sector, such as Germany and France, vis-à-vis economies focused on the service sector and innovation, such as the Netherlands, Denmark and Ireland.

In regards to the **second expectation**⁶ of this study, a comparative analysis of the 2011 and 2016 BNC-fiches (see appendix 6) reveals that the position of the Dutch government has not changed over time. In fact, not only did the judgement on the principles of subsidiarity and proportionality remain the same, the government's arguments thereto did not change substantially either. Additionally, in the BNC-fiche on a recent proposal on a Digital Service Tax, hereafter DST, (COM(2018)148), which concerns a separate though not entirely unrelated issue, the government briefly yet clearly emphasized that it is unsupportive of the pending C(C)CTB proposal.



It could be argued however that the position of the Dutch Senate (hereafter *Eerste Kamer*) did change over time. While the House of Representatives (hereafter *Tweede Kamer*) submitted a reasoned opinion to the European Commission in 2011 and 2016, the *Eerste Kamer* only submitted a reasoned opinion in 2016. This could indicate that the *Eerste Kamer* did not have substantive concerns with the 2011 proposal. As explained by interviewees 5 and 6, the seemingly changed position of the *Eerste Kamer* could be a result of the 2011 and 2015 elections. When comparing the number of seats per political party in the *Eerste Kamer* between 2011⁹ and 2016, such explanation seems reasonable.

Party	Seats per year		Relative change
	2011 ⁷	2016 ⁸	
VVD	14	13	-7%
PvdA	14	8	-43%
CDA	21	12	-43%
PVV	0	9	+900%
SP	12	9	-25%
D66	2	10	+400%
GL	4	4	0%
CU	4	3	-25%
PvdD	1	2	+100%
SGP	2	2	0%
OSF	1	1	0%
50PLUS	0	2	+200%
Total	75	75	

Table 8. Distribution of seats 2011 and 2015 elections *Eerste Kamer*

However, even if the *Eerste Kamer* would have changed its position on the C(C)CTB, regardless of whether this is due to changing perspectives or simply a redistribution of seats, the position of the Dutch government, which is as explained before ultimately responsible for the negotiations and the approval or rejection of the C(C)CTB proposals in the Council, seems to not have changed. All interviewees steadily confirm this view. The interviewee from the European Commission even pointed out that it applies not only to the Netherlands, but also to the majority of other member states. Therefore, this study not only lacks supporting evidence of expectation L2, it even presents credible data and evidence opposing or even contending it.

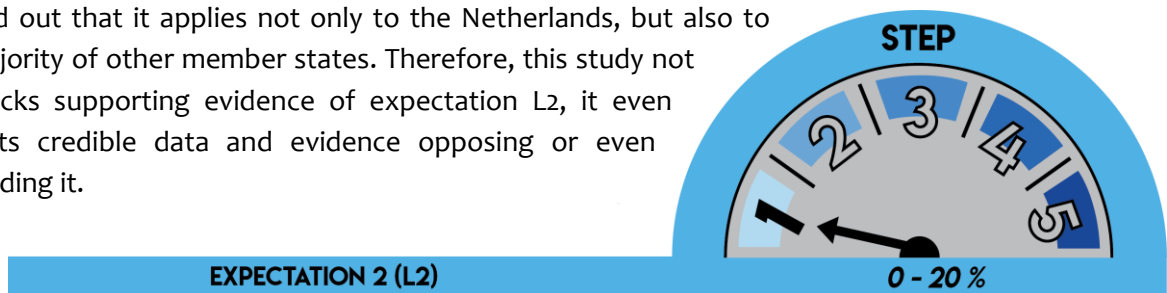


Figure 7. Result expectation 2 (L2)

⁶ Expectation 2 (L2): National preferences are not fixed and uniform, see methodology p. 13.

⁷ Data retrieved from PDC, see bibliography PDC (2011)

⁸ Data retrieved from *Eerste Kamer*, see bibliography *Eerste Kamer* (2015).

⁹ The number of seats for 2011 is taken from the outcome of the 2007 elections. The Commission proposal was published early March 2011, while the 2011 *Eerste Kamer* elections took place in May 2011.

Following the Dutch position on the C(C)CTB, it would be tempting to assume that the Netherlands would reject the proposal if it would come to a voting in the Council. Discussing this assumption naturally introduces the **third expectation**¹⁰, which concerns the potential rejection of the proposal if it would make the Netherlands worse off than unilateral policy. As pointed out by interviewee 4, the process of rejecting a proposal is more complicated than people often tend to believe. That is to say, most people assume that when a member state is unresponsive of a legislative proposal in an area where unanimity voting applies, it can and simply will exercise its veto power. However, in practice the use of a veto in voting procedures hardly occurs. Interviewee 5 explained that if the Netherlands was going to be the only member state to vote against a proposal, it would first seriously reconsider and re-evaluate if it would want to do so taking into account the potential implications of such action for future negotiations and the position of the Netherlands therein.



Ex3
L4

As an extension of that argument, Interviewee 4 referred to a recent example where France vetoed a proposal that would grant permission to the Czech Republic to conduct an experiment with reversed charge¹¹. Subsequently, the Czech Republic vetoed a proposal zealously pursued by the French, namely a proposal on equalizing VAT rates for e-publications. This situation culminated in a stalemate that lasted from May 2017 until October 2018. Exercising a veto similar to the Czech Republic and France in the abovementioned example is rare and is normally prevented at all costs. Moreover, Interviewee 4 quoted Mr Dijsselbloem who said during an informal meeting of the ECOFIN Council in Tallinn on 16 September 2017: ‘if you remain on your own and continue to say no, you will be held under water until you say yes’.

Obviously being in such a position is undesirable. Therefore, Interviewee 4 explained, instead of exercising veto power in the Council during voting procedures, the right to veto should be interpreted as a legitimate strategy of member states in the preliminary stages of the negotiations. As part of such a strategy, member states express their concerns regarding the proposal and seek alliances in order to prevent and stay away from a situation where a draft text has been adopted and they are left with only two options: accept or exercise the right to veto. Accordingly, going back to the C(C)CTB, Interviewee 4 asserted that those who are not in favour of the current proposal, e.g. Ireland, the Netherlands and Denmark, have been so expressive and explicit regarding their concerns that it becomes difficult for others, e.g. France and Germany, to ‘strong-arm’ them. A recent example of where the Netherlands expressed such a firm stance is the public session of the ECOFIN Council on 23th May 2017¹², where Mr Wiebes, former Dutch State Secretary for Finance, argued that the proposal is unacceptable in its current form (Van de Streek, 2018).

¹⁰ Expectation 3 (L4): NLD rejects proposal if worse off than unilateral action, see methodology p. 13.

¹¹ Reversed charge is a system where VAT is levied when the good or service goes to the customer. The Czech Republic wanted to conduct an experiment with this system because it would help to combat VAT carousel fraud, a phenomenon it had to deal with frequently. The French were opposed the proposal that would enable the Czech Republic to conduct said experiment, as it believed that it would hamper progress on a new VAT system the Community had been working on for a long time (called ‘the definite VAT system’).

¹² In order to view the public session, see bibliography Council of the EU (2017-b),

Although the Netherlands has not (yet) rejected the proposal in an official vote by exercising its veto right, the empirical data provides evidence and suggests that the Netherlands has taken equivalent steps appropriate to this stage of the negotiations and that it has been very clear that it is unsupportive of the current proposal. As such the Netherlands hitherto acted in accordance with its position, which if it continues to do so will lead to a rejection of the proposal. Whether it does so in the preliminary stages of the negotiations by using its negotiation skills, its ability to form alliances and by expressing its concerns such as in said public session or by ultimately exercising its veto right is an issue beyond the scope of expectation L4.

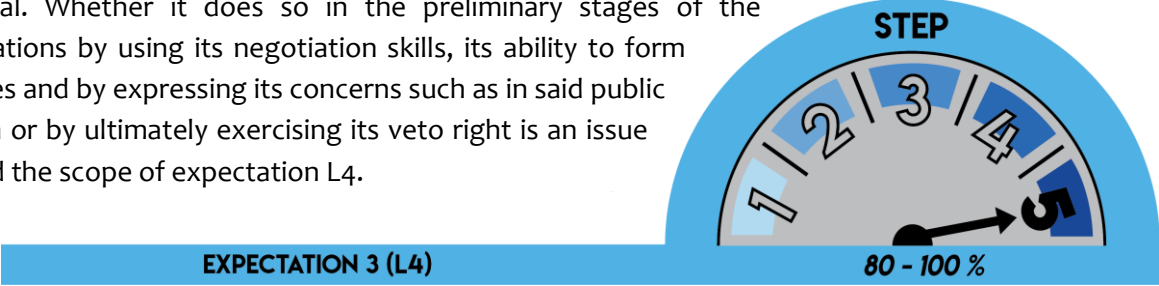


Figure 8. Result expectation 3 (L4)

Between formulating a member state’s position and adopting or rejecting a legislative proposal lies the process of negotiating, horse-trading and making concessions. These proceedings are captured in the **fourth expectation**¹³, which is focused on the extent to which strategy may move the Netherlands to deviate from its position in the negotiations in the Council. Interviewees 3 and 4 confirmed that usually, even when unanimity voting applies, bargaining among member states does take place. In fact, negotiating and exchanging elements of a proposal enables member states to voice their concerns, to safeguard their priorities and to ultimately come to a draft proposal that is palatable and acceptable to all member states. Inherent to this ‘game’ or ‘balancing act of pushing and pulling’, as interviewees 5 and 6 referred to it respectively, is the idea that the priorities that constitute a member state’s position may potentially be achieved at the expense of other objectives that were initially also part of the national position. A corollary of this is that indeed strategy, or geopolitical ambitions that lie parallel to or that are used in pursuance of the objectives underlying the strategy, may drive the Netherlands (or any other member state) to partially deviate from its national position.



However, Interviewees 2, 3 and 4 explained that in the case of the negotiations on a C(C)CTB, the point where such bargaining would be appropriate has not yet arrived. While the 2011 proposal never developed into a draft text, the 2016 proposal is still too premature both in terms of contents and details. Therefore, it would be senseless to make concessions while the details of the proposal are still to be discussed and debated. Moreover, the data gathered in this study contains evidence that even if the point where bargaining is appropriate would arrive, it should not be assumed that concessions will be made and that the Netherlands will deviate from its position by ceding (some of) its concerns. That is to say, Interviewee 4 explained that the Dutch government believes there is no substantive potential in the current proposal that would allow for bargaining. Interviewee 5 added that the government’s concerns are so fundamental that it is unlikely that removing one or two articles would make it an acceptable proposal. In fact, she continued, it would almost be necessary to rewrite it entirely.

¹³ Expectation 4 (L3): Strategy may explain deviation from national preferences, see methodology p. 13.

Altogether, there is currently no evidence that the Netherlands in the case of the C(C)CTB would be willing to bargain and compromise as part of a strategy where it deviates from its national position as expressed in the aforementioned BNC-fiche¹⁴.



Figure 9. Result expectation 4 (L3)

Related to the fourth expectation, the **fifth expectation**¹⁵ presumes that a government would, over time, passively accept or even actively contribute to further integration on corporate taxation by agreeing to proposals that conflict with their initial national position. Hypothetically, this could occur in two scenarios. First, the Netherlands could over time become more positive towards the proposal and ultimately accept a C(C)CTB compromise that, though amended substantially, would still conflict with its initial position. Secondly, the Council could adopt separate though interconnected legislative proposals including elements of the C(C)CTB, which run counter to the position of the Netherlands as expressed in the 2011 and 2016 BNC-fiches.



In regards to the first scenario, the foregoing subsections including expectations two, three and four clearly indicate that this has not happened yet. The only piece of evidence that would suggest otherwise is the Council conclusions adopted on 6 December 2016. In these conclusions the Council and thereby implicitly also the Netherlands take a rather positive stance on the C(C)CTB by *welcoming* the [new Commission] proposal; *recalling* prior efforts; *recognizing*, *reaffirming* and *underlining* the importance of and *endorsing* the view that the proposal would create a beneficial EU tax environment; and *calling for swift progress*¹⁶. However, Interviewee 3 argued that such conclusions are always constructed using positive and optimistic terminology and that they may suggest there is more agreement than that is actually the case. She explained that member states always examine the draft conclusions by looking for provisions that include binding agreement or explicit commitments. As long as such provisions are not present, member states tend not to fuss over their adoption.

In relation to the second scenario, there are three legislative proposals on corporate taxation that are relevant to the C(C)CTB. These are the Anti-Tax Avoidance Directive (ATAD1) adopted in 2016, its successor ATAD2, which was adopted a year later, and the 2018 proposal for a DST Directive¹⁷. ATAD1 and 2 however, do not contain elements or provisions that appear as concerns or objections in the 2011 and 2016 BNC-fiches on the C(C)CTB proposal. In fact, as mentioned before, the Netherlands ascribes to the objective of combatting tax avoidance,

¹⁴ 'Kamerstuk 34604 nr. 4' regarding proposal COM(2016)685 and 683, see bibliography Overheid (2016).

¹⁵ Expectation 5 (N5): Governments accept integration even if it conflicts national preferences, see methodology page 12.

¹⁶ See bibliography Council of the EU (2016-a); provisions 1 (welcoming), 2 (recalling), 4 (recognizing), 5 (reaffirming), 7 (underlining), 6 (endorsing) and 12 (calling).

¹⁷ These legislative proposals can be found in table 7.

which these proposals intend to do by means that differ from the C(C)CTB. As such, Interviewee 4 explained, ATAD1 and 2 are aimed at ‘translating’ and incorporating the 15 steps from OECD’s project on Base Erosion and Profit Shifting (BEPS) into EU law; an aim not covered by the concerns or objections of the Dutch government in relation to the C(C)CTB. The latest proposal for a DST has not yet been adopted. Moreover, in the BNC-fiche on this proposal¹⁸, the Dutch government reiterated its concerns on the C(C)CTB and condemned the proclaimed synergy between the DST and C(C)CTB in the long run.

In sum, so far the Netherlands does not seem to have grown more positive on (certain elements of) the C(C)CTB proposal. Additionally, no evidence was found that it had passively accepted or actively contributed to the adoption of separate legislation that is at variance with the concerns expressed in relation to the C(C)CTB.

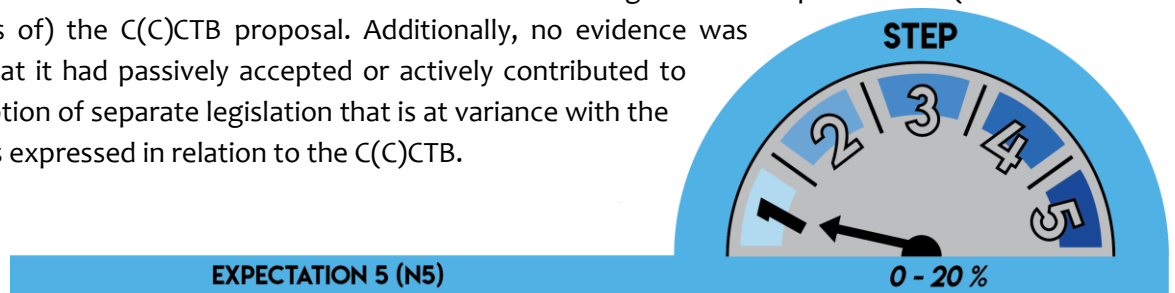


Figure 10. Result expectation 5 (N5)

A last issue in relation to the position of the Netherlands is incorporated in the **sixth expectation**¹⁹, which deals with national preference formation. It presumes that the national position is composed of and therefore equal to the preferences of the most relevant domestic socio-economic actors. In this case the most relevant actors would be large enterprises and multinational corporations established in the Netherlands. This is due to the fact that in the system underlying the C(C)CTB proposal would be mandatory only for large companies with a revenue exceeding €750 million. A brief analysis of position papers²⁰ of large enterprises clearly shows that the majority of potentially affected companies is opposed to such a system. The number one concern of businesses in regards to the C(C)CTB is that the system should remain optional instead of mandatory (Deloitte International Tax, 2016). So far, it seems that the positions of businesses and the Dutch government overlap. This is confirmed by interviewee 2, who explained that the Commission often notices correlation between a positive or negative stance of a member state and the position of businesses established in that member state.

Ex6
L1

Interviewee 6, who argued that there is a distinction between shared and individual interests, takes a more nuanced view. On the one hand, he argued, the Dutch government and large companies based in the Netherlands both benefit from the absence of a C(C)CTB. This is due to the fact that a competitive business environment generates fiscal and tax advantages for companies established in the Netherlands, which in turn increases economic activity and presumably employment rates. On the other hand however, the Dutch government has an individual interest, which is the collection of tax revenue in order to provide for public goods

¹⁸ ‘Kamerstuk 34941 nr. 4’ regarding COM(2018)147 and 148, see bibliography Overheid (2018).

¹⁹ Expectation 6 (L1): Interests large businesses equal national position, see methodology page 13.

²⁰ See position papers of VNO-NCW (2016), Cooperatives Europe (2013) and EBIT (2006). The latter includes the position of many large enterprises and multinational corporations, including PwC, HP, Oracle, Procter & Gamble, Microsoft and Rolls Royce.

and services. Interviewee 3 further elaborated on this point in order to explain that the position of the Dutch government is not at all similar to that of large companies. She illustrated this by the following example.

As shown in table 9, the taxable profits of Company X under the current Dutch system for corporate income tax are €100. With a tax rate of 25%, the total amount of taxes paid to the government equal €25. However, the contraction of the base for calculating the taxable profits of Company X in the Netherlands, which would be the effect of the C(C)CTB, means a decrease of tax revenue (€12,50 compared to €25). In order to maintain the level of public spending, the government would need to increase the tax rate to 50% or it would need to raise other taxes such as income tax. Such new measures are by definition undesirable. As a matter of course, these concerns are not shared by (large) companies, as the taxable profits they would have to pay under the C(C)CTB would decrease (in this example from €25 to €12,50). If (large) companies nevertheless hold a negative stance towards the C(C)CTB, Interviewee 3 concluded, that is presumably due to other aspects of the proposed C(C)CTB.

	Taxable profits of Company X	Tax rate (will remain competence of the member states)	Tax revenue paid to Dutch government
Dutch base for calculating corporation tax	€100	25%	€25
New tax base (C(C)CTB) - scenario 1	€50	25%	€12,50
New tax base (C(C)CTB) - scenario 2	€50	50%	€25

Table 9. Example corporation tax Company X

In sum, some data was found and presented in support of the expectation that the position of the most important socio-economic actors equals the position of the Dutch government. However, a closer look at the data and insightful arguments from the Dutch Ministry of Finance shows that the positions may be *equal in effect but dissimilar in nature*. That is to say, the outcome of the positions may be similar, *i.e.* whether in favour or against, but the arguments and motivations that constitute such a position have been convincingly argued to be distinct. Therefore, despite some confirmation (by Interviewee 2), it would be misleading and erroneous to conclude that the expectation was fulfilled by the data gathered and presented in this study.

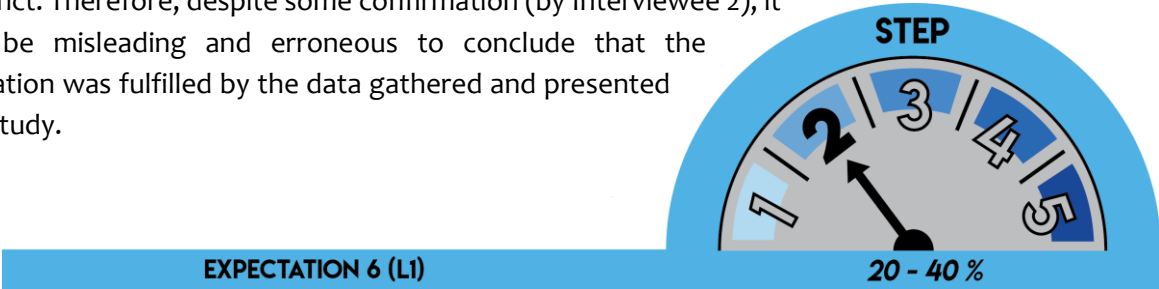


Figure 11. Result expectation 6 (L1)

5.2 Position of other member states

As with most proposed legislation, there are those in favour and those against. Having discussed the position of the Netherlands, which is similar to the position of some other small member states with similar economies and industries, this section now turns towards the position of other member states, with a particular focus on those who are supportive of the proposal. The **seventh expectation**²¹ postulates that the member states that gain most from the C(C)CTB will be most inclined to make concessions and compromises. Many studies²² on the effects of the C(C)CTB found that industrial economies would gain most from the proposed tax base. Not only do Interviewees 1 and 4 confirm this view, practice shows that Germany and France are in fact most supportive of the proposal and hence take active part in the discussions²³. However, Interviewees 2, 3, 4 and 5 claimed that so far, neither in the 2011 nor in the 2016 proposal real concessions have been made. In regards to the latest proposal and in line with the conclusion on expectation four (L3), Interviewee 3 suggested it might be too early to observe such concessions.

Interviewee 3 did give an example of the aforementioned DST Directive where France, highly in favour of the proposal in its entirety, in collaboration with Germany promoted a simplified version of the proposal. This simplified version only included approximately 40% of the initially proposed DST Directive. While France in the beginning maintained that the simplified version should be used as a basis for further work towards a more comprehensive proposal, it eventually conceded and agreed to continue with the simplified version. This is a clear example of where France, being the member state having the most interest in the proposal, was prepared, willing and committed to make most concessions in order to make progress on the DST Directive.

Even though the DST Directive is somewhat related to the C(C)CTB, the example does not provide credible evidence within the remit of *this* case study that would support expectation L5. Whether it may be observed sooner or later or perhaps not at all is to be confirmed in the future. Nevertheless, this study must conclude that in the absence of any supporting data, despite confirming views on the expectation's theoretical validity and an example in an area adjacent to the C(C)CTB, there is no evidence supporting expectation L5 within the scope of this case study.

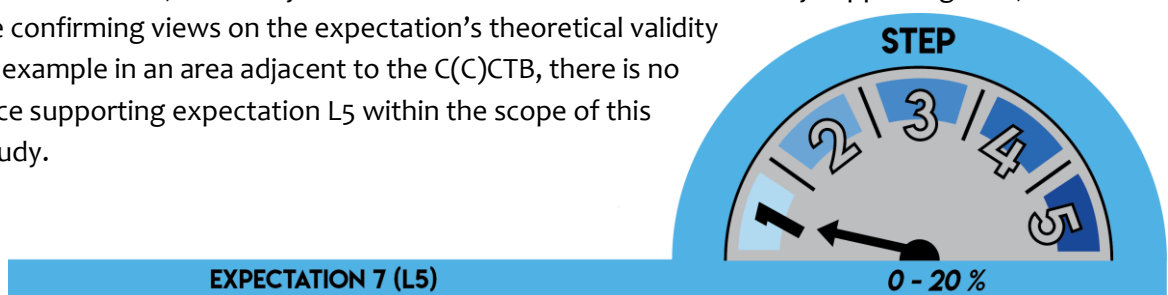


Figure 12. Result expectation 7 (L5)

²¹ Expectation 7 (L5): MS that gain most make most concessions, see methodology p. 13.

²² Examples of these studies are Parillo (2012: p. 3), Van de Streek (2018: p. 6/7) and KPMG (2016: p. 11).

²³ See for example the 'European Resolution' (also referred to as Meseberg Declaration), which was adopted by Germany and France on 19 June 2018.

Not only are Germany and France, the two largest and arguably the most powerful member states of the EU, generally supportive of the proposal, they also seem to have found a common position on some of the specifics of the C(C)CTB. This raises the question of whether progress and ultimately integration is more likely now that the largest and most powerful member states found agreement. This issue is captured in the **eighth expectation**²⁴ of this study. Two prime examples of where Germany and France seem to have aligned interests in the area of C(C)CTB are the competitiveness pact early 2011, which was followed by the first C(C)CTB proposal, and the Meseberg Declaration in June 2018²⁵. The latter incorporates quite explicitly the common position with which Germany and France hope to ‘adopt the CCTB Directive as soon as possible’ (Germany & France, 2018: p. 1).



Figure 13. Tweets Paul Tang - common position France & Germany

(EUTweets, 2018)

The question that remains is whether or not this actually led to progress in the discussions on the C(C)CTB. Based on the empirically gathered data, there seems to be a discrepancy in how the Meseberg Declaration and its effects were perceived by the Dutch government and the European Commission. On the one hand, Interviewee 2 argued that following the Declaration, ‘there has definitely been some movement towards more agreement’. He did add that the progress that followed concerned rather simple and trivial matters and that the sensitive issues still need to be addressed. On the other hand, Interviewees 3 and 4 firmly stated that the Meseberg Declaration did not result in any progress and that the fundamental concerns of *inter alia* the Netherlands have neither been addressed nor soothed.

In view of the somewhat antithetical data gathered and presented in this study, combined with the Council’s closed-door meetings, which make it complicated if not practically impossible to collect additional data, it would only seem appropriate to conclude that there is insufficient supporting evidence to argue that expectation L6 has been fulfilled. However, it would also be inaccurate to conclude that there is no supporting evidence at all. Moreover, it should be taken into account that the Meseberg Declaration as an observable point where

²⁴ Expectation 8 (L6): If preferences of large MS align, integration is likely to succeed, see methodology p. 13.

²⁵ The competitiveness pact and Meseberg Declaration can be found in table 7.

Germany and France found common grounds occurred only 7 months ago. Hence, perhaps it is too early to expect the Meseberg Declaration to bear fruits and as such, to rule the agreement useless in regards to advanced progress on the pending C(C)CTB proposal. Therefore, the fulfilment of expectation L6 is captured by step 3: nuanced and/or contradictory and as such neither observed nor unobserved.

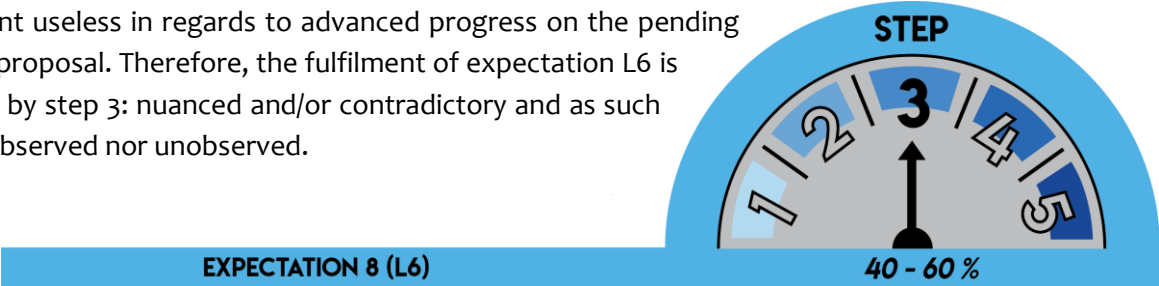


Figure 14. Result expectation 8 (L6)

6. Supranational institutions

This chapter is mostly focused on EU institutions. While the first section discusses the role of the European Commission, the second section focuses on the issue of judicial activism by discussing relevant case law of the ECJ. The last section looks at the European Parliament.

6.1 The role of the European Commission and its relation with private sector

Before the member states formulate and express their position, which was discussed in the previous chapter, the Commission is tasked with drafting legislative proposals and implementing the decisions of the EP and the Council. This section takes into consideration the private actors involved and the subsequent role of the European Commission in that process.

The **ninth expectation**²⁶ of this study presumes that large enterprises and transnational companies bypass national level and provide input directly at EU level. In the context of the C(C)CTB, this is evidently the case. Both in the early stages and in the subsequent development of the proposal, private companies, businesses and interest groups were actively involved and consulted. Examples related to the C(C)CTB are the Working Group between 2004 and 2008 in which experts from businesses and academia were included (European Commission, n.d.-c; Herzig & Kuhr, 2011); public consultations in 2010 and 2015 where the Commission engaged with more than 120 companies and interest groups (European Commission, 2016-c); and the so-called Platform for Tax Good Governance, which is a group of experts from businesses including but not limited to BusinessEurope, CESI and Oxfam International. This Platform for Tax Good Governance ‘assists the Commission in developing initiatives [in regards to] tax matters’ (European Commission, n.d.-b). Additionally, as established in chapter 5 (see expectation L1), many companies and umbrella organisations such as KPMG, Deloitte and VNO-NCW issued position papers, commonly directed to the Commission, in which they outline their position in regards to the C(C)CTB. Furthermore, Interviewees 1 and 2 confirmed that the Commission frequently engages with private sector in order to discuss, deliberate and find solutions for their concerns.

Regardless of what the effects and results of such actions are, i.e. without prejudice to whether or not the input of private companies is used by the Commission and has impact on the C(C)CTB proposal, the following can be concluded. The data presented in regards to the efforts of large enterprises and transnational companies in bypassing national level to provide input at EU level constitutes sufficient evidence to support expectation N2.

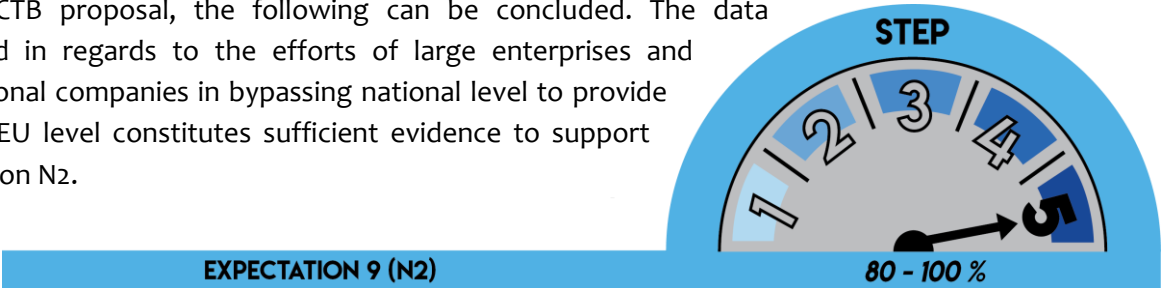
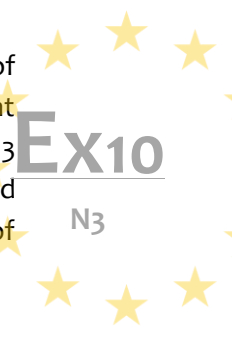


Figure 15. Result expectation 9 (N2)

²⁶ Expectation 9 (N2): Large businesses bypass national level and provide input at EU level, see methodology p. 12.



Leaving the private sector aside for a moment, the **tenth expectation**²⁷ focuses on the role of the Commission and presumes that it takes a more active role than a ‘politically independent and neutral executive branch’ would be expected to fulfil. Accordingly, expectation N3 postulates that the Commission, based on pro-European *thinking*, employs a *strategy* and *attempts* to actively promote, stimulate and push for further integration in the field of corporate taxation, of which the C(C)CTB would be a living example.

Strategy

According to Interviewee 5, it could be argued that the Commission applies ‘Salami tactics’, which is a political strategy to either gradually eliminate opposition or, in the case of the C(C)CTB, to exploit a weak redline and to deal with an issue too big to resolve as a whole. As such, an example inherently linked to the C(C)CTB would be its very (re)introduction. Here the Commission decided to, after the proposal for a full-fledged CCCTB in 2011 had not been received well, break down the proposal into portions and to present, discuss and suggest to adopt one ‘slice’ (CCTB in COM(2016)685) before presenting, discussing and suggesting to adopt subsequent ‘slices’ (CCCTB in COM(2016)683).

Attempt

A second example of the Commission as an active promoter of further integration in the field of corporate taxation is visible in a sequence of events between 2011 and 2016 regarding the C(C)CTB and ATAD proposals. In the 2011 CCCTB proposal the Commission included a ‘switch over provision’²⁸, which would ensure that economic benefits (dividends and capital gains) from subsidiaries established in low tax countries would not benefit from exemption (Deloitte International Tax, 2016). After the 2011 proposal seemed to have failed, the Commission included the same provision in the ATAD proposal²⁹. Following negotiations in the Council, Interviewee 4 noted, the member states had rejected the provision, resulting in an adopted ATAD in which the switch over provision was not included. Subsequently, in the proposal for a CCTB only two months later, the Commission *again* included the same switch over provision³⁰ (Stibbe, 2016). Clearly, as stated by Interviewee 3, the Commission is persistent and will go to great lengths to achieve (progress on) a comprehensive proposal including the switch over provision.

Thinking

A third example of where the Commission attempts to steer towards more integration in the field of corporate taxation is that it strongly advocates for more vigorous decision-making in the Council. In the 2017 State of the Union Address Jean-Claude Juncker explicitly said he is ‘strongly in favour of moving to qualified majority voting for decisions on the common consolidated corporate tax base’ (European Commission, 2017-c), a suggestion echoed in the State of the Union Address one year later (European Commission, 2018-c). In January 2019, ‘in a non-binding proposal on wider tax reform, the Commission recommended to end the practice that requires the backing of all members to approve EU tax rules’ and thus to adopt qualified majority voting (Euronews, 2019).

²⁷ Expectation 10 (N3): Commission pushes integration further, see methodology page 12.
²⁸ Included in article 73 of the 2011 CCCTB proposal, see bibliography European Commission (2011-b).
²⁹ Included in article 6 of the 2016 ATAD proposal, see bibliography European Commission (2016-d).
³⁰ Included in article 53 of the 2016 CCTB proposal, see bibliography European Commission (2016-c).

Although the Commission does not exceed its formal powers (*de jure*), the abovementioned examples do indicate that the Commission *de facto* deviates from its neutral role and pushes for further integration. Nevertheless, it should be noted that while the data reflects and illustrates the thinking, attempts and underlying strategy and thereby support for expectation N3, there is no evidence that the efforts of the Commission indeed led or will lead to progress on the C(C)CTB or further integration in the field of corporate taxation in general. Establishing such causation however goes well beyond the scope of this study.

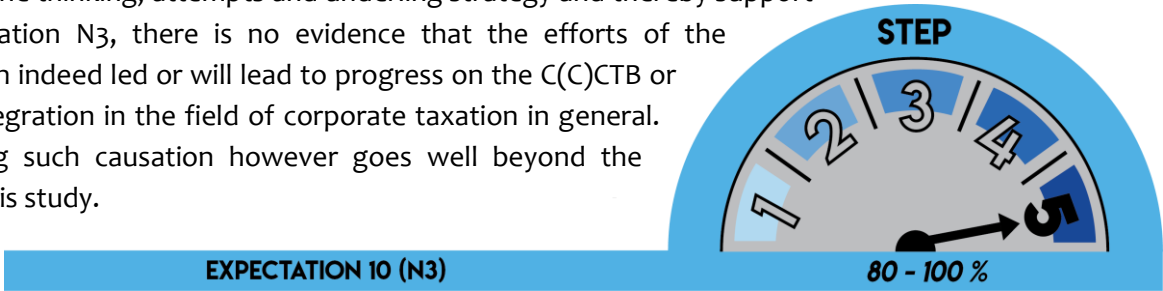


Figure 16. Result expectation 10 (N3)

6.2 The Court and judicial activism

The **eleventh expectation**³¹, similar to the previous section on the Commission, is focused on the role of the ECJ and presumes bias in the sense that Court rulings in this area would stimulate, require or promote further integration in the field of corporate taxation. Although corporate taxation remains a competence of the individual member states, the classic justification for ECJ rulings in this area is set out in *Schumacker*³²: ‘although, as Community law stands at present, direct taxation does not as such fall within the purview of the Community, the powers retained by the member states must nevertheless be exercised consistently with Community law’. From that moment onward, the ECJ increasingly decided on tax matters (see figure 17) and its judgements have had significant consequences for the background against which the C(C)CTB proposals are discussed in present day (Barry & Healy-Rae, 2010). The most groundbreaking cases are presented below.

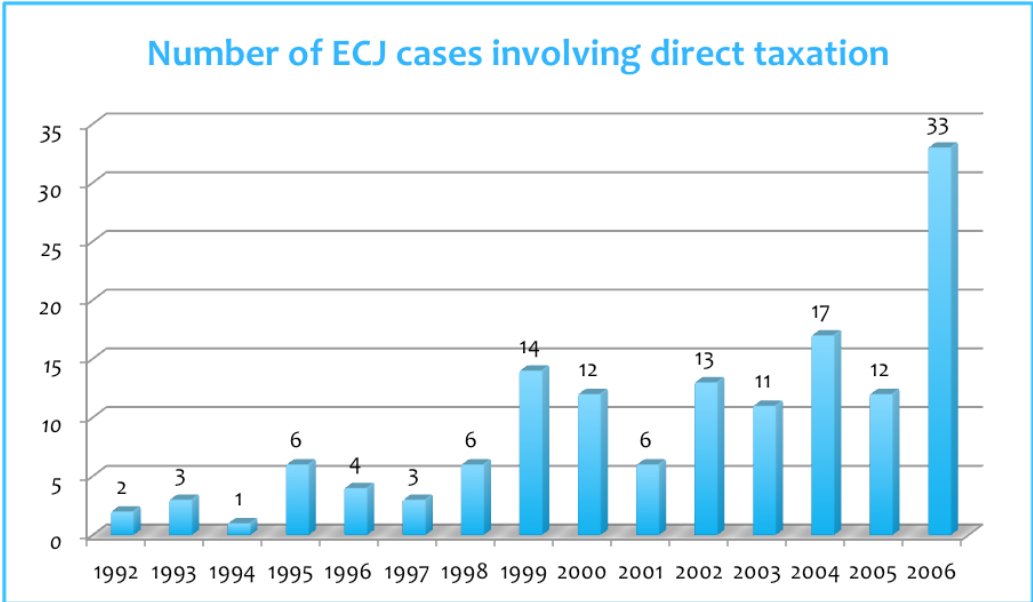


Figure 17. Number of ECJ cases involving direct taxation (European Commission, 2018-a)

³¹ Expectation 11 (N4): CoJ pushes integration further, see methodology p. 12.

³² Case 279/93 *Finanzamt Köln-Altstadt v Schumacker* [1995] paragraph 21, see bibliography Curia (1995)

Before 2006, many member states would use ‘controlled foreign company’ (CFC) legislation to collect taxes from a parent company on the profits of a subsidiary in other states, in particular low tax countries (Meussen, 2007). As such, the member state under consideration would attempt to prevent ‘artificial arrangements’ where companies would intend to circumvent taxation. However, in *Cadbury Schweppes*³³, the ECJ found that CFC legislation is in principle incompatible with the freedom of establishment and that the mere act of establishing a subsidiary in a lower-tax jurisdiction does not constitute a presumption of tax evasion and may therefore not be faced with CFC legislation (Ruf & Weichenrieder, 2013).

In *AMID*³⁴ and *Marks & Spencer*³⁵ the ECJ ruled and therefore created the possibility that cross-border losses between offices (*AMID*) and parent/subsidiaries (*Marks & Spencer*) in separate tax jurisdictions should be allowed to be offset against one another. According to Barry and Healy-Rae (2010: p. 135), these cases were ‘highly controversial and [...] closely watched by all member states with corporation tax systems containing similar [...] provisions’. Similarly, in *X AB and Y AB*³⁶ and in *Metallgesellschaft & Hoechst*³⁷, the ECJ decided that not only losses, as established in *AMID* and *Marks & Spencer*, but also assets (*X AB and Y AB*) and dividends (*Metallgesellschaft & Hoechst*) and the transfer thereof between cross-border establishments may not be treated differently from the treatment of companies established in only one tax jurisdiction.

Another landmark case with fundamental consequences for domestic systems of corporation tax is *Gibraltar and UK v Commission and Spain*³⁸. In this case the ECJ set aside an earlier judgement from 2008 and ruled that the tax regime proposed by the government of Gibraltar was ‘materially selective’, constituted unlawful state aid, and was as such considered and ruled incompatible with EU rules under article 107 TFEU (UK Government, 2012). This ruling resulted in a far stricter interpretation of selectivity, meaning that the ability of member states to provide tax incentives, regardless of whether for companies established domestically or offshore and whether discriminatory in law or in fact, is considered unlawful (Loyens & Loeff, 2011).

From the case law presented above, it can be concluded that the ECJ decisions have resulted in, on the one hand, a contraction of the capacity of member states to design and implement national corporate tax systems and, on the other hand, an increase in pressure for the harmonisation of corporation tax at EU level. The Commission even used this as a justification for the introduction of the C(C)CTB proposals in 2016: ‘[i]mprovements in the tax area to the functioning of the Single Market have brought some key advantages to multinational

³³ Case 196/04 *Cadbury Schweppes plc v Commissioners of Inland Revenue* [2006], see bibliography Curia (2006).

³⁴ Case 141/99 *Algemene Maatschappij voor Investering en Dienstverlening NV (AMID) v Belgian State* [2000], see bibliography Curia (2000).

³⁵ Case 446/03 *Marks & Spencer plc v HM Inspector of Taxes* [2005], see bibliography Curia (2005).

³⁶ Case 200/98 *X AB and Y AB v Riksskatteverket* [1999], see bibliography Curia (1999).

³⁷ Joined cases 397/98 and 410/98 *Metallgesellschaft Ltd and Others and Hoechst AG* [2001], see bibliography Curia (2001).

³⁸ Joined case 106/09 and 107/09 *European Commission and Kingdom of Spain v Government of Gibraltar and United Kingdom of Great Britain and Northern Ireland* [2011], see bibliography Curia (2011).

companies active in several EU countries. Notably, they benefit from withholding tax exemptions on intra-group interest, royalty and dividend payments and from tax-neutral cross-border reorganisations, as well as a fairly narrow application of [...] CFC rules between most EU Member States. In short, they are treated as if they were operating only domestically' (European Commission, 2016-e: p. 9).

Indeed, the 'improvements to the functioning of the Single Market', which are established by case law of the ECJ, led to a situation where the absence of a C(C)CTB creates serious issues for the member states. As such, in line with expectation N4, the decisions taken by the ECJ stimulate and promote further integration in the field of corporate taxation in the sense that a C(C)CTB, or a similar cross-border system based on multilateral agreement, is required to solve the issues that have now been enlarged and moved away from the legal ability of member states to act.

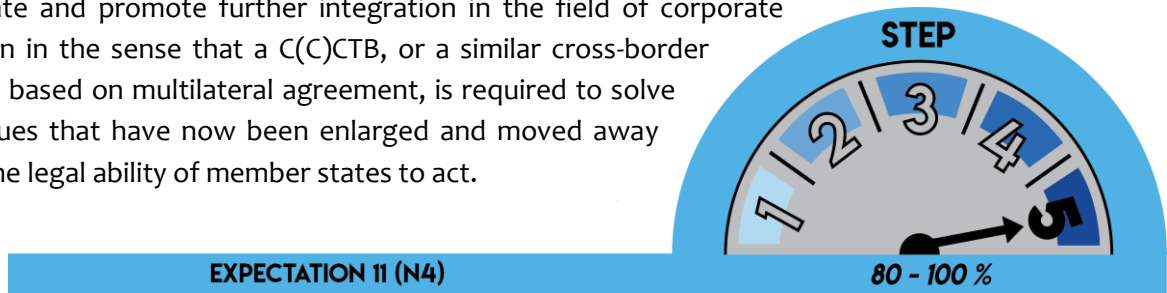


Figure 18. Result expectation 11 (N4)

6.3 Socialization of the members of the European Parliament

The *twelfth and last expectation*³⁹ of this study is related to the EP and postulates that MEPs hold more pro-European ideas than their national counterparts. In the literature on the C(C)CTB, a study by Roggeman, Verleyen, Van Clauwenberge and Coppens (2015: p. 19) provides that in 2012 'MEPs from new member states voted significantly more against [the proposal for a corporate tax base] than MEPs from old member states'. Using this finding, and the underlying data supporting it, the authors argued that MEPs that spent more time in the EU are more supportive of the proposal and therefore conclude that elite socialization does occur in the case of the C(C)CTB.



The finding of Roggeman et al. is confirmed by the empirical data derived from Interviewees 5 and 6. Both argue that based on their personal experience, they believe that indeed members of political parties in the EP tend to hold more pro-European ideas and show to have greater interest in the C(C)CTB and European policies in general than the members of that same political party at national level. Interviewees 5 and 6 individually classified all political parties represented in the Finance Committee of the Tweede Kamer⁴⁰ and all Dutch political parties represented in the Committee on Economic and Monetary Affairs of the EP⁴¹ according to their position on the C(C)CTB (see figure 19). Although subjective and methodologically questionable, the figure does indicate that, in line with the literature and in support of expectation N6, Dutch MEPs are perceived to be more supportive of the C(C)CTB than their respective colleagues of the same political party in the Tweede Kamer.

³⁹ Expectation 12 (N6): MEPs more pro-European than national counterparts, see methodology p. 12.

⁴⁰ In the Tweede Kamer, the Finance Committee is responsible for the C(C)CTB.

⁴¹ In the EP, the Committee on Economic and Monetary Affairs is responsible for the C(C)CTB.













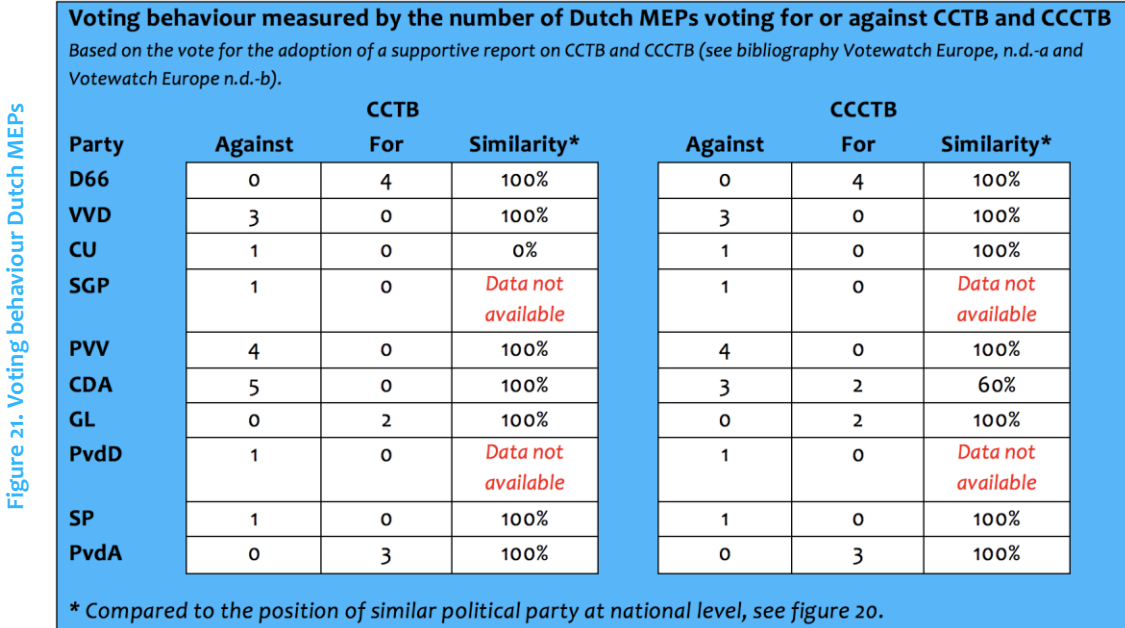
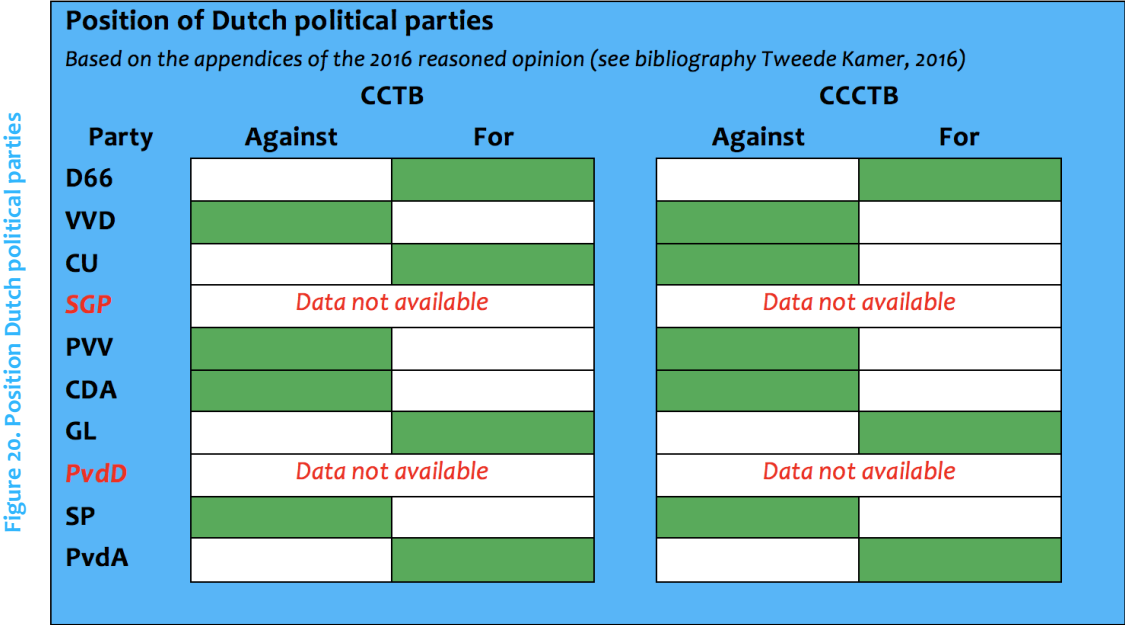
Level	Party	Interviewee	Negative		Neutral		Positive	
			1	2	3	4	5	
	GL	5						
		6						
		Average						5
	GL	5						
		6						
		Average						5
	D66	5						
		6						
		Average					4.5	
	D66	5						
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	CDA	5						
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	PVV	5						
		6						
		Average	1					
	PVV	5						
		6						
		Average	1					

Figure 19. Positions political parties in the Tweede Kamer and in the EP

At first sight, such a claim seems even more credible when taking into account that the EP has adopted supportive reports (with suggestions for amendments) on the 2011 and 2016 proposals, while the Dutch parliament has raised objections in both cases by submitting reasoned opinions. However, a comparative analysis of, on the one hand, the position of each political party at domestic level and, on the other hand, the voting behaviour of Dutch MEPs shows that in practice positions are by and large equal and significant divergences cannot be identified. For the purpose of the analysis, the positions of Dutch political parties are derived from the appendices of the 2016 reasoned opinion submitted by the Tweede Kamer (see Tweede Kamer, 2016). These positions are compared to the voting behaviour of Dutch MEPs on the CCTB and CCCTB in 2018. It should be pointed out that the figures below only include limited data derived from specific points in time, with a time gap of two years. As such, the data only provides insights and nuances but does not necessarily constitute compelling evidence opposing the supporting data derived from the literature and Interviewees 5 and 6.



In regards to expectation N6, this study argues the following. Based on the literature and the opinions of experts in the field (Interviewees 5 and 6), it seems that MEPs indeed hold more pro-European ideas than their national counterparts in the case of the C(C)CTB. However, the comparative analysis shows significant similarity between the position of political parties at national level and the actual voting behaviour of MEPs. In fact, only two MEPs voted in favour of the CCCTB while the position of that national party (CDA) was unsupportive. This means that based on the data from the analysis, the percentage of MEPs showing more positive towards the C(C)CTB than their national party is only 1%. Although based on only one document and two voting procedures (CCTB and CCCTB) and subject to methodological uncertainty (due to the time gap of two years), the abovementioned evidence does not support full observation of the expectation as such. Therefore this study concludes that expectation N6 is sufficiently though not fully observed (step 4).

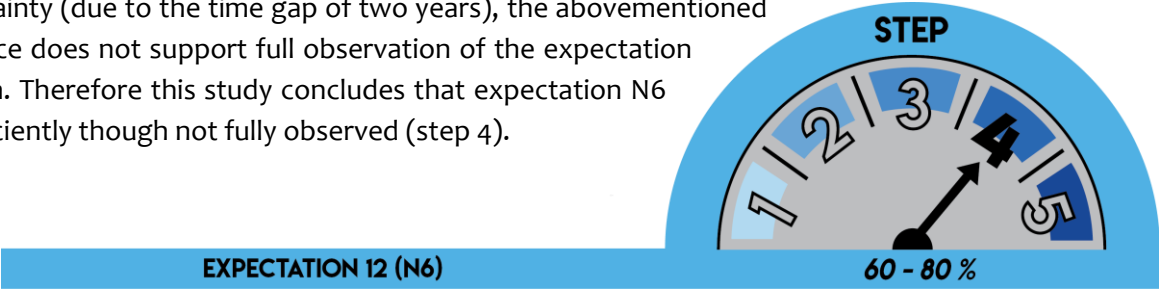


Figure 22. Result expectation 12 (N6)

7. Conclusion

This research is focused on the explanatory power of two classic integration theories. A case study is used in order to assess and discern between the extent to which Neofunctionalism and Liberal Intergovernmentalism prescribe relevant and accurate (f)actors, processes and developments. Building on the results from the data analysis in the preceding three chapters, this chapter concludes the study by aggregating the findings and answering the research question: ‘to what extent can Neofunctionalist and/or Liberal Intergovernmentalist theory explain the proposed legislation on a Common (Consolidated) Corporate Tax Base and associated processes and developments?’ In pursuance of answering said question, figure 23 provides an overview of the performance of the individual expectations as well as an average score indicating the overall explanatory power of both theories in the case of the C(C)CTB.

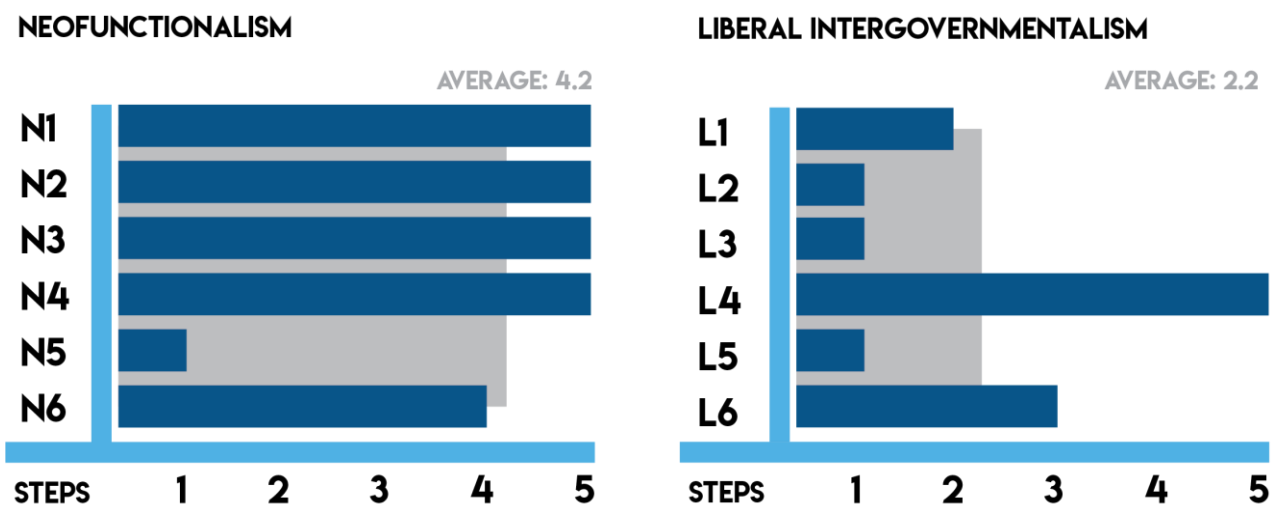


Figure 23. Overview performance expectations and explanatory power theories

Given the vast amount of data collected and presented and the (supportive) findings in relation to the observation of expectations, it would only stand to reason to reject the null hypothesis. Consequently, this raises the question of which of the three alternative hypotheses is supported by the data and would therefore be most appropriate to be accepted. As shown in figure 23, it is apparent that Neofunctionalist theory has the most explanatory power in regards to the proposed legislation on a C(C)CTB. In fact, with an average score of 4.2 versus 2.2, Neofunctionalism has proven significantly more successful than Liberal Intergovernmentalism in identifying explanatory determinants that can be observed in the case of the C(C)CTB. Therefore, this study concludes that HA3, which ascribes to predominant explanatory power of Neofunctionalism, is assumed to be correct.

Against this background it may be interesting to consider the following. Based on the aggregate results of this study presented in figure 23 it is concluded that Neofunctionalist expectations, which mainly contain processes and developments at EU level, are observed. At the same time, Liberal Intergovernmentalist expectations, which are for the most part concerned with national processes and developments, remain unobserved or are even faced with opposing evidence (L4 excluded). This could be explained in two different ways.

First of all, in 60% of the non-observed Liberal Intergovernmentalist expectations, *i.e.* L3, L5 and L6, it was noted that there is a chance that the C(C)CTB is currently in a premature stage and that the expected observation may potentially be observed at a later point in time. As such, Liberal Intergovernmentalist theory may simply require more time to become observable in practice. If accurate, hypothetically speaking, one could argue that the explanatory power of Liberal Intergovernmentalism in this case can only be identified *ex post*, which would still compromise the merit of such a theory. All the more so when taking into consideration the importance and objective of this and similar research, *i.e.* (1) to contextualize and ameliorate our understanding of *current* issues such as the C(C)CTB and (2) to determine or explain, at least from a theoretical point of view, how practitioners and expert in the field of EU affairs (can) respond to *on-going* events.

A second explanation, which deviates from the assumption of time bound applicability, is that Liberal Intergovernmentalist theory simply does not perform well in the broader framework of this study. In other words, perhaps the essence and core elements of Neofunctionalist theory, *e.g.* the influence of transnational actors and supranational institutions and developments, is by definition better observable in the context of Single Market issues. Similarly, perchance Liberal Intergovernmentalist theory thrives not in explaining barriers to the Single Market, but rather in clarifying or justifying, for instance, major Treaty changes, intra-Community development, or deeply conflicted or, contrarily, cordial and harmonious interstate negotiations. The point is that perhaps Liberal Intergovernmentalist theory has a weak explanatory power in regards to the barriers and unexploited potential of the Single Market in general, but vigorously explains and aptly accounts for events, processes and/or developments in other areas.

However, as explained in chapter three, the findings of this research cannot or to a very limited extent be generalized to other situations. Therefore, this study concludes that future research where other barriers to the completion of the Single Market are examined would be required. The methodological approach employed and explained in this thesis may then constitute a blueprint for such studies. The objective of said future research in this area would be to either confirm predominance of the explanatory power of Neofunctionalism or Liberal Intergovernmentalism or to strengthen or weaken one of the two aforementioned explanations for the discrepancy between the performance of both theories as shown in this study. However, until such *knockout* or *counter punch* takes place, this first round of **the battle of the classics** has elapsed, with Neofunctionalist theory clearly taking the lead.



Figure 24. Battle of the Classics

Bibliography

- Baarda, B., Bakker, E., Fischer, T., Julsing, M., Goede, M. de., Peters, V., Velden, T., van der. (2013). *Basisboek Kwalitatief Onderzoek: Handleiding voor het opzetten en uitvoeren van kwalitatief onderzoek*. Groningen/Houten: Noordhoff Uitgevers.
- Barry, F. & Healy-Rae, R. (2010). FDI Implications of Recent European Court of Justice Decisions on Corporation Tax Matters. *European Business Organization Law Review*, Volume 11, p. 125 - 146. DOI: 10.1017/S156675291010007X.
- BBC. (2011, 4 February). *France and Germany propose EU 'competitiveness pact'*. Retrieved from: <https://www.bbc.com/news/world-europe-12368401>
- Binmore, K., Rubinstein, A., & Wolinsky, A. (1986). The Nash Bargaining Solution in Economic Modelling. *The RAND Journal of Economics*, Volume 17(2), p. 176 - 188. DOI: 10.2307/2555382.
- Börzel, T. A. (2006). *The Disparity of European Integration: Revisiting Neofunctionalism in Honour of Ernst B. Haas*. New York: Routledge Taylor & Francis Group.
- Buchanan, J. M., & Tullock, G. (1962). *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press.
- Caporaso, J. (1998). Regional Integration Theory: Understanding our past and anticipating our future. *Journal of European Public Policy*, Volume 5(1), p. 1 - 16. DOI: 10.1080/13501768880000011.
- Caporaso, J.A., Marks, G., Moravcsik, A. & Pollack, M.A. (1997). Does the European Union Represent an n of 1? *ECSA Review (US)*, Volume X (3), fall 1997, p. 1 - 5.
- Chibucos, T.R., Leite, R.W., Weis, D.L. (2005). *Readings in Family Theory*. Thousand Oaks (California): Sage Publications.
- Cini, M., & Borragán, N. P. (2016). *European Union politics*. Oxford: Oxford University Press.
- Cooperatives Europe. (2013, 13 February). *Paper on the draft Directive on a Common Consolidated Corporate tax Base (CCCTB)*. Retrieved from: <https://coopseurope.coop/sites/default/files/CCCTB%20position%20paper-13%2002%20.pdf>
- Council of the EU. (2015, 1 December). *Interinstitutional File on State of Play: Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from: <http://data.consilium.europa.eu/doc/document/ST-14509-2015-INIT/en/pdf>

- Council of the EU. (2016-a, 6 December). *Conclusions on building a fair, competitive and stable corporate tax system for the EU*. Retrieved from:
<https://www.consilium.europa.eu/en/press/press-releases/2016/12/06/conclusions-corporate-tax-system/>
- Council of the EU. (2016-b, 16 December). *ECOFIN Report to the European Council on tax issues*. Retrieved from: <http://data.consilium.europa.eu/doc/document/ST-15254-2016-INIT/en/pdf>
- Council of the EU. (2017-a, 12 May). *Common Corporate Tax Base*. Retrieved from:
<http://data.consilium.europa.eu/doc/document/ST-9019-2017-INIT/en/pdf>
- Council of the EU. (2017-b, 23 May). *Economic and Financial Affairs Council: Public Session*. Retrieved from: <https://video.consilium.europa.eu/en/webcast/044d6f5d-a5ee-49e3-9d07-e7890b4103bb>
- Council of the EU. (2017-c, 17 February). *Presidency compromise: Proposal for a Council Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries*. Retrieved from: <http://data.consilium.europa.eu/doc/document/ST-6333-2017-INIT/en/pdf>
- Council of the EU. (2018, 27 June). *ECOFIN Report to the European Council on tax issues*. Retrieved from: <http://data.consilium.europa.eu/doc/document/ST-10322-2018-INIT/en/pdf>
- Curia. (1995). *Judgement of the Court in Case C-279/93*. Retrieved from:
<http://curia.europa.eu/juris/showPdf.jsf?jsessionid=1DC7FF5E71A1A42E6E9E281FA9BAFF79?text=&docid=99137&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=6648862>
- Curia. (1999). *Judgement of the Court in Case 200/98*. Retrieved from:
<http://curia.europa.eu/juris/showPdf.jsf?text=&docid=44847&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6742041>
- Curia. (2000). *Judgement of the Court in Case 141/99*. Retrieved from:
<http://curia.europa.eu/juris/showPdf.jsf?text=&docid=45445&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6740774>
- Curia. (2001). *Judgement of the Court in joined cases 397/98 and 410/98*. Retrieved from:
<http://curia.europa.eu/juris/showPdf.jsf?text=&docid=45879&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6742048>
- Curia. (2005). *Judgement of the Court in Case 446/03*. Retrieved from:
<http://curia.europa.eu/juris/showPdf.jsf?text=&docid=57067&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6740730>

- Curia. (2006). *Judgement of the Court in Case 196/04*. Retrieved from: <http://curia.europa.eu/juris/showPdf.jsf?text=&docid=63874&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6738305>
- Curia. (2011). *Judgement of the Court in joined cases 106/09 and 107/09*. Retrieved from: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-106/09>
- Dawson, M., De Witte, B., & Muir, E. (2013). *Judicial Activism at the Court of Justice*. Cheltenham: Edward Elgar
- Deloitte International Tax. (2016, 28 October). *EU Re-launches Common Consolidated Corporate Tax Base*. Retrieved from: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-european-union-28-october-2016.pdf>
- Duff, A. (1994). Building a Parliamentary Europe. *Government and Opposition*, Volume 29(2), p. 147 - 165. DOI: 10.1111/j.1477-7053.1994.tb01248.
- EBIT. (2006, November). *EBIT contribution to the Commission on the CCCTB*. Retrieved from: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/common_tax_base/ebit_contrib_nov_2006.pdf
- Eerste Kamer. (2015). *Kiesraad stelt uitslag Eerste Kamerverkiezingen vast*. Retrieved from: https://www.eerstekamer.nl/nieuws/20150528/kiesraad_stelt_uitslag_eerste
- Eerste Kamer. (2016, 21 December). *Reasoned opinion on EU proposals (COM(2016) 683), (COM(2016) 685) and (COM(2016) 687)*. Retrieved from: http://ec.europa.eu/dgs/secretariat_general/relation/relation_other/npo/docs/netherlands/2016/com20160683_685_687/com20160683_685_687_eerstekamer_opinion_en.pdf
- EESC. (2011, 26 October). *Opinion of the European Economic and Social Committee on the 'Proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB)' COM(2011) 121 final — 2011/0058 (CNS)*. Retrieved from: <https://publications.europa.eu/en/publication-detail/-/publication/585e59f6-c49f-47d8-970c-12dfdd985f79/language-en>
- EESC. (2017, 20 September). *EESC opinion: Common (Consolidated) Corporate Tax Base*. Retrieved from: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/common-consolidated-corporate-tax-base>
- EUR-Lex. (2001, 8 October). *Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE)*. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001R2157>

- EUR-Lex. (2016, 12 July). *Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market*. Retrieved from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.193.01.0001.01.ENG&toc=OJ:L:2016:193:TOC
- Euractiv. (2001, 9 October). *European Company Statute finally established*. Accessed on 12 December 2018, retrieved via: <https://www.euractiv.com/section/innovation-industry/news/european-company-statute-finally-established/>
- Euronews. (2019, 15 January). *EU plans to end individual states' veto power on taxes*. Retrieved from: <https://www.euronews.com/2019/01/15/eu-plans-to-end-individual-states-veto-power-on-taxes>
- European Commission. (1992). *Report of the Committee of Independent Experts on Company Taxation*. Retrieved from: <http://aei.pitt.edu/8702/1/8702.pdf>
- European Commission. (2001-a, 23 October). *Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee: Towards an Internal Market without tax obstacles, a strategy for providing companies with a consolidated corporate tax base for their EU-wide activities*. Retrieved from: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0582:FIN:EN:PDF>
- European Commission. (2001-b, 23 October). *Company Taxation in the Internal Market*. Commission Staff Working Paper. Retrieved from: https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/company_tax_study_en.pdf
- European Commission. (2001-c, 8 October). *European Company Statute: Commission welcomes formal adoption*. Commission Press Release. Retrieved via: http://europa.eu/rapid/press-release_IP-01-1376_en.htm?locale=en
- European Commission. (2010, 20 October). *Summary Record by the Chair of the Common Consolidated Corporate Tax Base Workshop*. Retrieved from: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/common_tax_base/summ-record-ccctb-workshop_20-10-2010.pdf
- European Commission. (2011-a, 16 March). *Press release: European corporate tax base: making business easier and cheaper*. Retrieved from: http://europa.eu/rapid/press-release_IP-11-319_en.htm?locale=en

- European Commission. (2011-b). *Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from:
https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/company_tax/common_tax_base/com_2011_121_en.pdf
- European Commission. (2015-a, 17 June). *Communication from the Commission to the European Parliament and the Council: A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action*. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0302>
- European Commission. (2015-b, 20 October). *Inception Impact Assessment on the Re-launch of the Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from:
http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_taxud_006_ccctb_rm_en.pdf
- European Commission. (2016-a, 25 October). *Commission proposes major corporate tax reform for the EU*. Commission Press Release. Retrieved from:
http://europa.eu/rapid/press-release_IP-16-3471_en.htm
- European Commission. (2016-b, 28 January). *Press release: Fair Taxation: Commission presents new measures against corporate tax avoidance*. Retrieved from:
http://europa.eu/rapid/press-release_IP-16-159_en.htm
- European Commission. (2016-c, 25 October). *Proposal for a Council Directive on a Common Corporate Tax Base COM(2016)685*. Retrieved from: https://eur-lex.europa.eu/resource.html?uri=cellar:50e07d41-9b7f-11e6-868c-01aa75ed71a1.0002.02/DOC_1&format=PDF
- European Commission. (2016-d, 28 January). *Proposal for a Council Directive on laying down rules against tax avoidance practices that directly affect the functioning of the internal market*. Retrieved from:
<https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-26-EN-F1-1.PDF>
- European Commission. (2016-e, 25 October). *Staff Working Document Impact Assessment Accompanying the document Proposals for a Council Directive on a Common Corporate Tax Base and a Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from:
https://ec.europa.eu/taxation_customs/sites/taxation/files/swd_2016_341_en.pdf
- European Commission. (2017-a, 2 June). *Reply to the Eerste Kamer's reasoned opinion on EU proposals (COM(2016) 683), (COM(2016) 685) and (COM(2016) 687)*. Retrieved from:
http://ec.europa.eu/dgs/secretariat_general/relation/relation_other/npo/docs/netherlands/2016/com20160683_685_687/com20160683_685_687_eerstekamer_reply_en.pdf

- European Commission. (2017-b, 8 June). *Reply to the Tweede Kamer's reasoned opinion regarding the EU proposals for a Common Corporate Tax Base (CCTB) - COM (2016) 685 and a Common Consolidated Corporate Tax Base (CCCTB) - COM (2016) 683*. Retrieved from: http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/np0/docs/netherlands/2016/com20160683_685/com20160683_685_tweedekamer_reply_en.pdf
- European Commission. (2017-c, 13 September). *Speech - President Jean-Claude Juncker's State of the Union Address 2017*. Retrieved from: http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm
- European Commission. (2018-a, 1 April). *CJEU cases in the area of, or of particular interest for, direct taxation*. Retrieved from: https://ec.europa.eu/taxation_customs/sites/taxation/files/20171116_court_cases_direct_taxation_en.pdf
- European Commission. (2018-b, 21 March). *Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services*. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A148%3AFIN>
- European Commission. (2018-c, 12 September). *State of the Union 2018: The hour of European sovereignty: Authorised version of the State of the Union Address 2018*. Retrieved from: https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-speech_en_o.pdf
- European Commission. (n.d.-a) *Common Consolidated Corporate Tax Base*. Retrieved from: https://ec.europa.eu/taxation_customs/business/company-tax/common-consolidated-corporate-tax-base-ccctb_en
- European Commission. (n.d.-b). *Platform for Tax Good Governance*. Retrieved from: https://ec.europa.eu/taxation_customs/business/company-tax/tax-good-governance/platform-tax-good-governance_en
- European Commission. (n.d.-c). *Preparation of the 2011 CCCTB Proposal*. Retrieved from: https://ec.europa.eu/taxation_customs/business/company-tax/common-consolidated-corporate-tax-base-ccctb/preparation-2011-ccctb-proposal_en
- European Commission. (n.d.-d). *Single European Market*. Retrieved from: https://ec.europa.eu/growth/single-market_en.
- European Council. (2014, 18 December). *European Council conclusions*. Retrieved from: <https://www.consilium.europa.eu/media/21623/euco-conclusions-18-dec-2014.pdf>
- European Parliament. (2012, 19 April). *European Parliament legislative resolution of 19 April 2012 on the proposal for a Council directive on a Common Consolidated Corporate Tax*

- Base (CCCTB) (COM(2011)0121 – C7-0092/2011 – 2011/0058(CNS)). Retrieved from: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-135>
- European Parliament. (2017-a, April). *Briefing: Common consolidated corporate tax base (CCCTB)*. Retrieved from: https://www.eerstekamer.nl/eu/documenteu/pe_599395_briefing_common/f=/vkd4dblg7dxs.pdf
- European Parliament. (2017-b, 13 July). *Draft Report on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from: <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&mode=XML&language=EN&reference=PE608.035>
- European Parliament. (2018-a, June 15). *Common Corporate Tax Base*. Published by European Parliament Think Tank. Accessed on 4 December 2018, Retrieved from: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2017\)595907](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2017)595907)
- European Parliament. (2018-b, 15 March). *European Parliament legislative resolution of 15 March 2018 on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))*. Retrieved from: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0087+0+DOC+XML+Vo//EN&language=EN>
- European Parliamentary Research Service. (2017, December). *Mapping the cost of non-Europe 2014-2019*, fourth edition. Retrieved from: http://www.europarl.europa.eu/EPRS/EPRS_Mapping_the_Cost_of_Non-Europe-June%202014.pdf
- EUTweets. (2018, 19 and 20 June). #Meseberg. Retrieved from: <https://www.eutweets.nl/zoek?q=%23meseberg>
- Fischer, T., & Julsing, M. (2007). *Onderzoek doen! Kwantitatief en kwalitatief onderzoek*. Groningen/Houten: Noordhoff Uitgevers.
- Fligstein, N., & Stone Sweet, A. (2002). Constructing Politics and Markets: An Institutional Account of European Integration. *American Journal of Sociology*, Volume 107(5), p. 1206 - 1243. DOI: 10.1086/341907
- Forster, A. (2002). Britain and the Negotiation of the Maastricht Treaty: A Critique of Liberal Intergovernmentalism. *Journal of Common Market Studies*, Volume 36(3), p. 347 - 368. DOI: 10.1111/1468-5965.00114.

- France & Germany. (2011, 25 February). *Enhanced Economic Policy Coordination in the Euro Area Main Features and Concepts*. Retrieved from:
<http://blogs.ft.com/brusselsblog/files/2011/03/Barroso-VanRompuuy.pdf>
- France & Germany. (2018, 19 June). *German-French Common Position Paper on CCTB Proposal*. Retrieved from:
https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Topics/Europe/Articles/2018-06-20-Meseberg-att2.pdf?__blob=publicationFile&v=3
- French National Assembly. (2017, 15 February). *Motion for a European Resolution*. Retrieved from:
https://www.eerstekamer.nl/eu/documenteu/no_4514_resolutie_franse_senaat/f=/vkd9jjjyaegp.pdf
- George, S. (1991). *Politics and policy in the European Community*. Oxford: Oxford University Press.
- George, A.L., Bennett, A. (2005). *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.
- Giersch, H. (1985). *Eurosclerosis*. Kiel Discussion Papers 112, Kiel Institute for the World Economy (IfW). Retrieved from:
<https://www.econstor.eu/bitstream/10419/48070/1/025296167.pdf>
- Haas, E. B. (1958). *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957*. London: Stevens & Sons Limited.
- Haas, E. B. (1975). *The obsolescence of Regional Integration Theory*. Berkeley: Institute of International Studies, University of California.
- Haas, E. B. (2000). *Conversations with History / Interviewer: H. Kreisler*. [Transcript]. Published by the Institute of International Studies, UC Berkeley. Retrieved from:
<http://globetrotter.berkeley.edu/conversations/people/Haas/haas-cono.html>
- Herzig, N. & Kuhr, J. (2011). Direct Taxation in the EU: The Common Corporate Tax Base as the next sub-step towards harmonization. *Wroclaw Review of Law, Administration & Economics, Volume 1(2)*, p. 1 - 12.
- Howart, D., & Roos, M. (2017). Pushing the Boundaries. New Research on the Activism of EU Supranational Institutions. *Journal of Contemporary European Research, Volume 13(2)*, p. 1007 - 1024.
- Jensen, C. S. (2002). Neofunctionalist Theories and the Development of European Social and Labour Market Policy. *Journal of Common Market Studies, Volume 38(1)*, p. 71 - 92. DOI: 10.1111/1468-5965.00209.

- Jensen, C. S. (2007). Neo-functionalism. In M. Cini (Ed.), *European Union Politics* (2 ed., pp. 85-99). Oxford: Oxford University Press.
- Katz, R. S., & Wessels, B. (1999). *The European Parliament, the National Parliaments, and European Integration*. Oxford: Oxford University Press.
- Keohane, R. O., & Nye, J. S. (1987). Power and Interdependence Revisited. *International Organization, Volume 41*(4), p. 725 - 753.
- Kirchner, E. J. Sperling, J. (2007). *Global Security Governance: Competing Perceptions of Security in the Twenty-First Century*. London: Routledge.
- KPMG. (2016). *The KPMG Guide to CCCTB: Part 3*. Retrieved from: <https://home.kpmg/xx/en/home/insights/2012/02/ccctb-guide-3.html>
- Lambert, F. (2014). Austerity for All: A Liberal Intergovernmentalist and Neofunctionalist Explanation of the Fiscal Pact. *Master thesis: International Relations at Radboud University Nijmegen, Political Science*.
- Lenoir, N. (2008). The *Societas Europaea* (SE) in Europe: A promising start and an option with good prospects. *Utrecht Law Review, Volume 4*(1), p. 13 - 21. DOI: 10.18352/ulr.57
- Leustean, L. N. (2009). What is the European Union? Religion between Neofunctionalism and Intergovernmentalism. *International Journal for the Study of the Christian Church, Volume 9*(3), p. 165 - 176. DOI: 10.1080/14742250903168149.
- Lindberg, L. N. (1963). *The Political Dynamics of European Economic Integration*. Stanford: Stanford University Press.
- Lindberg, L. N., & Scheingold, S. A. (1971). *Europe's Would-be Polity: Patterns of Change in the European Community*. Princeton: Prentice-Hall.
- Loyens & Loeff. (2011, December). *EU Tax Alert: edition 99*. Retrieved from: <https://www.loyensloeff.com/media/4426/eu-tax-alert-no-99-december-2011.pdf>
- Martin, L. L. (1992). Institutions and Cooperation: Sanctions during the Falkland Islands Conflict. *International Security, Volume 16*(4), p. 143 - 178. DOI: 10.2307/2539190.
- Mayer, F. W. (1988). *Bargains within bargains: Domestic politics and international negotiation* (Order No. 8901685). Available from ProQuest Dissertations & Theses Global. (303560107). Retrieved from <https://search-proquest-com.ezproxy.leidenuniv.nl:2443/docview/303560107?accountid=12045>.

- McGowan, L. (2007). Theorising European Integration: Revisiting Neo-Functionalism and Testing its Suitability for Explaining the Development of EC Competition Policy? *European Integration Online Papers*, Volum 11(3), p. 1 - 19.
- Meussen, G. (2007). Cadbury Schweppes: the ECJ significantly limits the application of CFC rules in the member states. *European Taxation*, Volume 47(1), p. 13 - 18.
- Miles, R. E. (1978). The Origin and Meaning of Miles' Law. *Public Administration Review*, Volume 38(5), p. 399 - 403. DOI: 10.2307/975497.
- Moga, T.L. (2009). The Contribution of the Neofunctionalist and Intergovernmentalist Theories to the Evolution of the European Integration Process. *Journal of Alternative Perspectives in the Social Sciences*, Volume 1 (3), p. 796 - 807.
- Moravcsik, A. (1993). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach. *Journal of Common Market Studies*, Volume 31(4), p. 473 - 519. DOI: 10.1111/j.1468-5965.1993.tb00477.x.
- Moravcsik, A. (1998). *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*. London: UCL Press.
- Moravcsik, A. (2005). The European Constitutional Compromise and the neofunctionalist legacy. *Journal of European Public Policy*, Volume 12(2), p. 349 - 386. DOI: 10.1080/13501760500044215
- Moravcsik, A., & Schimmelfennig, F. (2009). *Liberal intergovernmentalism*. In Wiener, A. & Diez, T. (eds) *European Integration Theory*. Oxford: Oxford University Press.
- Mutimer, D. (1989). 1992 and the political integration of Europe: neofunctionalism reconsidered. *Journal of European Integration*, Volume 13 (4), p. 75–101. DOI: 10.1080/07036338908428938.
- Newman, M. (1996). *Democracy, Sovereignty, and the European Union*. New York: St. Martin's Press.
- Niemann, A. (2006). *Explaining Decisions in the European Union*. Cambridge: Cambridge University Press.
- Nugent, N. (2017). *The Government and Politics of the European Union (Eight edition)*. London: Palgrave.
- O'Neill, M. (1996). *The Politics of European Integration: A Reader*. London: Routledge.

- Obydenkova, A. (2011). Comparative regionalism: Eurasian cooperation and European integration. The case for neofunctionalism? *Journal of Eurasian Studies*, Volume 2(2), p. 87 - 102. DOI: 10.1016/j.euras.2011.03.001
- OECD. (2010). Better Regulation in Europe: Netherlands 2010. Retrieved from: <https://www.oecd-ilibrary.org/docserver/9789264084568-en.pdf?expires=1546512736&id=id&accname=guest&checksum=AF6DCFA2152AB9614BA65A400D294CA6>
- Overheid. (2011, 11 April). Kamerstuk 32728 nr. 2: EU-voorstel – Richtlijn voor een gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB)- COM(2011). Retrieved from: <https://zoek.officielebekendmakingen.nl/kst-32728-2.html>
- Overheid. (2016, 18 November). Kamerstuk 34604 nr. 4: EU-voorstellen: Pakket vennootschapsbelasting COM (2016) 683, 685, 686 en 687. Retrieved from: <https://zoek.officielebekendmakingen.nl/kst-34604-4.html>
- Overheid. (2018, 17 May). Kamerstuk 34941 nr. 4: EU-voorstellen: Belastingheffing digitale economie COM (2018) 147 en 148. Retrieved from: <https://zoek.officielebekendmakingen.nl/kst-34941-4.html>
- Parillo, K. A. (2012). The Allowance for Corporate Equity And the CCCTB: More Efficient Ways to Tax Corporate Income? Published in the *Worldwide Tax Daily as: 2012 WTD 117-2*. Retrieved from: https://www.ideff.pt/xms/files/Iniciativas/Tax_Analyst_/2012_WTD_117-2_Parillo.pdf
- PDC. (2011). *Eerste Kamerverkiezingen 2011*. Retrieved from: https://www.parlement.com/id/vim5iryoezhs/eerste_kamerverkiezingen_2011
- Pelgrom, S. G. G. (2017). Scrutinizing European decision-making regarding the Temporary EU Relocation System: Testing neo-functionalism, liberal intergovernmentalism and post-functionalism. *Master thesis: International Management & Public Policy*, Erasmus University Rotterdam.
- Pollack, M. (2001). International Relations Theory and European Integration. *Journal of Common Market Studies*, Volume 39(2), p. 221 - 244. DOI: 10.1111/1468-5965.00286.
- Putnam, R. (1988). Diplomacy and domestic politics: The logic of two-level games. *International Organization*, Volume 42(3), p. 427 - 460. DOI: 10.1017/S0020818300027697.
- Rasmussen, H. (1986). *On Law and Policy in the European Court of Justice: A Comparative Study in Judicial Policymaking*. Dordrecht: Nijhoff.

- Roggeman, A., Verleyen, I., Van Cauwenberge, P., & Coppens, C. (2015). Did the Economic Impact of a Common Consolidated Corporate Tax Base Affect the Voting Behaviour of the Members of the European Parliament? *De Economist*, Volume 163(1), p. 1 - 23. DOI: 10.1007/s10645-014-9238-4.
- Rosamond, B. (2000). *Theories of European Integration*. Basingstoke: Palgrave Macmillan Ltd.
- Ruf, M., & Weichenrieder, A.J. (2013). CFC Legislation, Passive Assets and the Impact of the ECJ's Cadbury-Schweppes Decision. *Published as a CESinfo working paper series 4461*.
- Sangiovanni, M. (2006). *Debates on European Integration: A Reader*. London: Macmillan Education UK.
- Saunders, B., Kitzinger, J., & Kitzinger, C. (2015). Anonymising interview data: challenges and compromise in practice. *Journal of Qualitative research*, Volume 15(5), p. 616 - 632. DOI: 10.1177/1468794114550439.
- Scheidt, H. (2011). *Neofunctionalism Vs Liberal Intergovernmentalism; The Creation Of The European Stability Mechanism And The Limits Of Political Theory*. Master's thesis City University of New York.
- Schimmelfennig, F. (2015). Liberal intergovernmentalism and the euro area crisis. *Journal of European Public Policy*, Volume 22(2), p. 177 - 195. DOI: 10.1080/13501763.2014.994020.
- Schimmelfennig, F., Rittberger, B. (2005). Theories of European Integration: assumptions and hypotheses. In Richardson, J. (2006). *European Union: Power and policy-making*. New York: Routledge.
- Schmidt, S. K. (2008). Sterile Debates and Dubious Generalisations: European Integration Theory Tested by Telecommunications and Electricity. *Journal of Public Policy*, Volume 16(3), p. 233 - 271. DOI: 10.1017/S0143814X00007765.
- Schmitter, P.C. (1969). Three Neo-Functional Hypotheses About International Integration. *International Organization*, Volume 23(1), p. 161 - 166. DOI: 10.1017/S0020818300025601.
- Schön-Quinlivan, E., & Scipioni, M. (2017). The Commission as policy entrepreneur in European economic governance: a comparative multiple stream analysis of the 2005 and 2011 reform of the Stability and Growth Pact. *Journal of European Public Policy*, Volume 24(8), p. 1172 - 1190. DOI: 10.1080/13501763.2016.1206140

- Stephenson, P. (2010). Let's get physical: the European Commission and cultivated spillover in completing the single market's transport infrastructure. *Journal of European Public Policy*, Volume 17(7), p. 1039 - 1057. DOI: 10.1080/13501763.2010.499247.
- Stibbe. (2016, 7 November). *EU Commission introduces a Common (Consolidated) Corporate Tax Base*. Retrieved from: <https://www.stibbe.com/en/news/2016/november/eu-commission-introduces-a-common-consolidated-corporate-tax-base>
- Stone Sweet, A. (2012). *Neofunctionalism and Supranational Governance* (unabridged version). Paper (4628) Published by the Yale Law School Faculty Scholarship.
- Stone Sweet, A., & Brunell, T. (2012). The European Court of Justice, State Non-compliance, and the Politics of Override. *American Political Science Review*, Volume 106(1), p. 204 – 214. DOI: 10.1017/S0003055412000019
- Stone Sweet, A., & Sandholtz, W. (1997). European integration and supranational governance. *Journal of European Public Policy*, Volume 4(3), p. 297-317. DOI: 10.1080/13501769780000011
- Stone Sweet, A., & Sandholtz, W. (2013). *Neo-functionalism and Supranational Governance*. In E. Jones, A. Menon, & S. Weatherill (Eds.). *The Oxford Hand Book of the European Union*. Oxford: Oxford Hand Books Online.
- Tallberg, J. 2002. Delegation to Supranational Institutions: Why, How, and with What Consequences? *West European Politics*, Volume 25(1), p. 23 - 46. DOI: 10.1080/713601584
- Tallberg, J. (2003). *European Governance and Supranational Institutions: Making States Comply*. London: Routledge.
- Tranholm-Mikkelsen, J. (1991). Neo-functionalism: Obstinate or Obsolete? A Reappraisal in the Light of the New Dynamism of the EC. *Millennium: Journal of International Studies*, Volume 20(1), p. 1–22. DOI: 10.1177/03058298910200010201
- Turkina, E., Postnikov, E. (2012). Cross-border inter-firm networks in the European Union's Eastern neighbourhood: Integration via organizational learning. *Journal of Common Market Studies*, Volume 50(4), p. 632 - 652. DOI: 10.1111/j.1468-5965.2012.02253.x.
- Tweede Kamer. (2011, 28 April). *Reasoned opinion (subsidiarity) on the proposal for a Council Directive concerning a Common Consolidated Corporate Tax Base (CCCTB) - COM(2011)121*. Retrieved from: [http://ec.europa.eu/dgs/secretariat_general/rerelations/relations_other/npo/docs/netherlands/2011/com20110121/com20110121_tweedekamer_opinion_en.pdf](http://ec.europa.eu/dgs/secretariat_general/rerelations/rerelations_other/npo/docs/netherlands/2011/com20110121/com20110121_tweedekamer_opinion_en.pdf)

- Tweede Kamer. (2016, 15 December). *Reasoned opinion (subsidiarity) regarding the EU proposals for a Common Corporate Tax Base (CCTB) - COM (2016) 685 and a Common Consolidated Corporate Tax Base (CCCTB) - COM (2016) 683*. Retrieved from: http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/docs/netherlands/2016/com20160683_685/com20160683_685_tweedekamer_opinion_en.pdf
- Tweede Kamer. (2018, 15 May). *Gemotiveerd advies (subsidiariteit) over de EU-voorstellen Richtlijn vennootschapsbelasting significante digitale aanwezigheid COM (2018) 147, en Richtlijn gemeenschappelijk systeem voor belasting digitale diensten COM (2018) 148*. Retrieved from: http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/docs/netherlands/2018/com20180147_148/com20180147_148_tweedekamer_opinion_en.pdf
- UK Government. (2012, 12 January). *Statement on European Court Judgement on taxation in Gibraltar*. Retrieved from: <https://www.gov.uk/government/news/statement-on-european-court-judgement-on-taxation-in-gibraltar>
- Van de Streek, J. L. (2018) Some Introductory Remarks on the Relunched CCTB/CCCTB Proposals from a Policy Perspective. In Weber, D. M., & Van de Streek, J. L. (Eds). *The EU Common Consolidated Corporate Tax Base, Critical Analysis*. Alphen aan de Rijn: Kluwer Law International.
- Verhoeven, N. (2011). *Wat is onderzoek? Praktijkboek methoden en technieken voor het hoger onderwijs*. Den Haag: Boom Lemma Uitgevers.
- VNO-NCW. (2016). *Position paper on the proposals from the European Commission regarding the Common Consolidated Corporate Tax Base (CCCTB)*. Retrieved from: <https://www.vno-ncw.nl/brieven-en-commentaren/position-paper-proposals-european-commission-regarding-common-consolidated>
- Votewatch Europe. (n.d.-a). *Common Consolidated Corporate Tax Base*. Retrieved from: <https://www.votewatch.eu/en/term8-common-consolidated-corporate-tax-base-draft-legislative-resolution-vote-commission-proposal-consult.html###vote-tabs-list-1>
- Votewatch Europe. (n.d.-b). *Common Corporate Tax Base*. Retrieved from: <https://www.votewatch.eu/en/term8-common-corporate-tax-base-draft-legislative-resolution-vote-commission-proposal-consultation.html###vote-tabs-list-9>
- Wallace, H., Wallace, W., & Pollack, M. A. (2005). *Policy-making in the European Union (Vol. 5th ed)*. Oxford: Oxford University Press.
- Waltz, K. (1979). *Theory of International Politics*. New York: McGraw Hill.

Wiener, A. (2018). Taking Stock of Integration Theory. KFG Working Paper Series, No. 89, May 2018, Kolleg-For-schergruppe (KFG) "The Transformative Power of Europe", Freie Universität Berlin.

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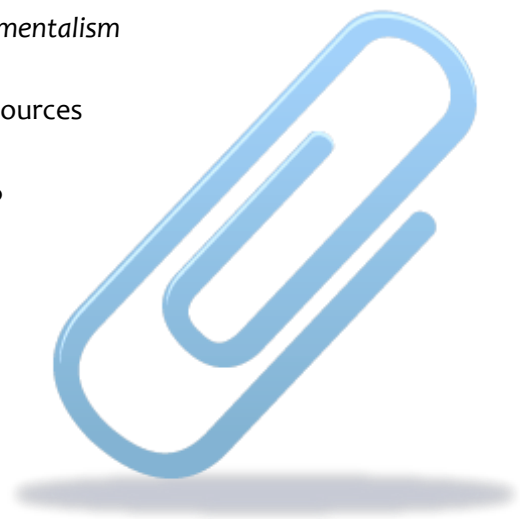
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Appendix 1. The outset of Neofunctionalism and Liberal Intergovernmentalism

1.1 Neofunctionalism

The roots of Neofunctionalism can be found roughly 70 years ago in the United States. Ernst B. Haas, who was a German-American political scientist, wanted to theorize ‘movement away from the nation state’ (Haas, 2000: 3). Considering his knowledge of a European language (German), Europe appeared both a logical and appropriate sample for his endeavour, *i.e.* to theorize regional integration (Haas, 2000). Subsequently, he published a book, *The Uniting of Europe: Political, Social, and Economic Forces 1950-1957*, in which he outlined Neofunctionalist theory by explaining the construction and development of supranational cooperation among the founders of the then European Coal and Steel Community (hereafter ECSC). Although Haas initially aimed at creating ‘a grand theory that would explain similar processes elsewhere in the world’ (Jensen, 2007: 86), his Neofunctionalist theory on the integration of the European Community became a field of study on its own, and would over the years be complemented with plentiful academic articles of other scholars and his own.

Founded in the 1950s, Neofunctionalist theory emerged in a time where economic and political integration developed at a fast pace, arguably as a product of and incentivised by the post-war period (Leustean, 2009). Up until the 1970s, the theory received wide support in academic circles. The following decade, however, was marked by sentiments of nationalism where the idea of political integration lost its allure. A mismatch between the theory and perceived reality was even acknowledged by Haas himself, he wrote that ‘the prognoses often do not match the diagnostic sophistication, and patients die when they should recover, while others recover even though all the vital signs look bad’ (Haas, 1975: 5). Despite the theory’s ‘diagnosis’, later referred to as ‘Euro-sclerosis’ (Giersch, 1985), it did not perish. Instead, from the late 1980s and beginning of the 1990s onward, in the context of the single market and in particular the Treaty of Maastricht, Neofunctionalism as a theory of European integration was revitalized and engendered new research adding to the theory’s framework (Mutimer, 1989; Tranholm-Mikkelsen, 1991; Stone Sweet & Sandholtz, 1997).

1.2 Liberal Intergovernmentalism

In the 1960s, as a critique on Neofunctionalist theory, Stanley Hoffman presented a new theory in which he sought to provide a better theoretical framework that could explain European integration (Nugent, 2017). Intergovernmentalism, as it was called, has its origins in and is directly drawn from realist or neo-realist theory, which regards states to coexist in an anarchical system (Waltz, 1979), and therefore also employs a strong state-centric view towards European integration (Cini, 2016). Yet, despite having laid the foundation of a theory that would resonate for decades within mainstream academic discourse, Intergovernmentalism, like Neofunctionalism, was quickly met by events that were incompatible with its theoretical presumptions (Cini, 2016). In the early 1990s, faced with a flawed Intergovernmentalist theory and, simultaneously, the resurgence of Neofunctionalism, Andrew Moravcsik attempted to adapt and re-theorize Hoffman’s Intergovernmentalism (Wallace, Wallace & Pollack, 2005). This resulted into the rise of Liberal Intergovernmentalism.

Appendix 2. Take away summaries interviews

2.1 Take away summary: KPMG EU Tax Centre - Interviewee 1

Interviewee: interviewee 1 works at the EU Tax Centre of KPMG.

Date: 6 December 2018

Topic: KPMG and the CCCTB

The KPMG EU Tax Centre carefully monitors what happens in Brussels in regards to legislative proposals for taxation, such as the proposed CCCTB. In response to the public consultation of the European Commission, KPMG published a position paper and a technical guide on the CCCTB. In this case it was quite difficult for the Tax Centre to find a common position, because some of its customers are in favour and some are against the CCCTB proposal.

Additionally, KPMG is a member of the Dutch Association of Tax Advisers (NOB). Following the 2016 proposal, the NOB has written an extensive response to that proposal, including some critical remarks. The main reason for these critical remarks is that the Netherlands is a small country with an open economy, which is economically doing very well at the moment. With the CCCTB, the Netherlands would lose its flexibility, which would be a considerable issue for a small country with an open economy. On the contrary, large countries such as France, Spain, and Italy are having a hard time at the moment. These countries find it difficult to control expenditures and to keep up with the globalizing economy, so these countries are in need of adjusting tax rules in order to be able to tax profits made in their jurisdictions.

Topic: (Large) member states, concessions and veto

Interviewee 1 said he believes the CCCTB requires a much more gradual approach. An example of such an approach is the recent bilateral initiative by Germany and France (Meseberg Declaration). The reason that these countries are supportive of the proposal is that the taxable profits are more advantageous for countries with a large industrial sector than for smaller countries with many intangible assets and a large service sector, such as the Netherlands, Ireland and Luxembourg. Interviewee 1 said he is convinced that if elements of the proposal do not significantly improve for Ireland or the Netherlands, they would definitely veto the draft proposal in the Council.

Topic: Role European Commission

It is very clear that the European Commission is supportive of the CCCTB proposal and it does anything within its powers to promote the CCCTB, e.g. launching big initiatives and legislative proposals such as ATAD 1, ATAD 2 and the recent Digital Service Tax Directive. The French Commissioner for Economic and Financial Affairs, Taxation and Customs, Pierre Moscovici, and even the President of the European Commission Jean Claude Juncker have been clear advocates of the CCCTB proposal. The Commission even tries to move from unanimity voting to QMV in some areas, including corporate taxation. In response, the Dutch minister of Finance Wopke Hoekstra said to the Dutch Parliament it does not agree with that proposal and he assured its Parliament that that will not happen.

Topic: Origin CCCTB

The idea of a CCCTB goes back to the 1990s with the Ruding report, so the endeavour of harmonising corporate taxation is already quite old. It is meant to solve distortions in the Single Market. For example, harmful tax planning and double taxation are clear disruptions of the market because they lead to an unequal playing field. With aggressive tax planning, enterprises can use disparities between national tax systems, which leads to unfair competition. The CCCTB seeks to solve all these issues and thus to solve or remove the distortions in the market.

Topic: Position of the Netherlands

Interviewee 1 explained that he feels the position of the Netherlands remains unchanged, also with the new government. However, he said, it may be the case that the government is a bit more careful and lenient, in particular with the recent Digital Service Tax Directive, because it wants to cast aside the image of facilitating aggressive tax planning. Having that said, there seems not to have been a significant change of position in regards to the CCCTB.

2.2 Take away summary: European Commission - Interviewee 2

Interviewee: Interviewee 2 is a policy officer at DG Taxation and Customs Union of the European Commission working on the Corporate Tax Directives and Common Consolidated Corporate Tax Base.

Date: 7 December 2018

Topic: Origin CCCTB

The idea for a CCCTB started with the Ruding Committee and Ruding Report somewhere in the early 1990s. More specifically, the absence of a common corporate tax base in the EU allows corporations to avoid or even evade taxation, which creates distortions in the Single Market. Following increased pressure from society, in particular expressed through and addressed by the European Parliament, fastened the processes of working towards an official proposal by the European Commission for a CCCTB in 2011. Now this proposed CCCTB is the flagship of the European Commission in the field of direct taxation. If adopted, it would be a major step towards further harmonisation and integration in the field of taxation.

Topic: Role of the Commission

After the European Commission has prepared and published the proposal, such as in 2011 and 2016 with the CCCTB, it supports the rotating presidency of the Council in mediating and brokering between member states. Primarily, this is the role and responsibility of the rotating presidency. The Commission only provides supports, especially technical support in regards to the (text of the) legislative proposal. In particular on this proposal or similar proposals that require unanimity, it is absolutely necessary to find common support in the end. Interviewee 2 gave an example of ATAD¹ (the first proposal for the Anti Tax-Avoidance Directive), where two member states disagreed, and the Netherlands, holding the rotating presidency, mediated between the two.

Topic: Commission & Salami tactics

Interviewee 2 said it is definitely possible to regard CCCTB as a salami tactic of the European Commission. However, it is important to note that salami tactics has a negative connotation to it, something that does not apply to the Commission approach. The negative connotation is that salami tactics assumes the process to be unclear, as single slices are being presented one at the time as a way to work towards the entire salami. The European Commission however is trying to be as transparent as possible. Having that said, it can definitely be seen as a salami tactic. After the CCCTB proposal in 2011 had failed, the Commission presented the CCTB in 2016 because it was easier to find agreement. Thereafter, the Commission and the member states would work towards a CCCTB, which is the ultimate goal of the proposed corporate tax base. Nevertheless, the discussions on the consolidation part will be extremely difficult because it concerns the distribution of money, tax money. This discussion includes much more diverse interests and is politically quite sensitive.

Topic: Involvement of enterprises and lobby groups

The European Commission always engages frequently with businesses, NGOs and interest groups, also with the CCCTB proposal. Examples of such organisations are Business Europe,

DBi Germany or MEDEF from France. However, such involvement is usually quite high level, meaning that there is little discussion on the details of the Commission Proposal. For example, Interviewee 2 said he had never experienced companies lobbying how to phrase an article of the proposal. Nevertheless, it is common for them to raise more general concerns, such as what would happen to their competitive position.

Furthermore, what the European Commission often notices, also in the case of the CCCTB, is that if member states have a positive stance on the proposal (which is the case with for example France, Germany, Spain and Italy), then the businesses and interest groups in those member states tend to be rather positive as well. Vice versa the same applies, so if member states are against a proposed policy (which is the case with the Netherlands and Ireland), then businesses, interest groups and NGOs tend to voice their concerns as well.

Topic: Flexibility of national positions

In general the positions of the member states have not changed between the first and the second proposal. The four largest member states, France, Germany, Spain and Italy are still supportive of the proposal, and Ireland and the Netherlands are still quite concerned. Most other member states have not voiced their positions very strongly; they are rather reserved and seem to await any further progress before they show support or concerns. This also makes sense in a way, because there are still a lot of technicalities that need to be discussed before the member states will show their true colours. However, in May 2017 there has been a public meeting of the Council of the European Union, where the member states did a ‘tour de table’.

Topic: Negotiations and strategy in the Council

With the CCCTB proposal it hasn't come to a point where member states start compromising and horse-trading. First, the technicalities of the 2016 proposal have to be discussed (the 2011 proposal was withdrawn by the Commission also before it got to that point), and then once there is a draft text, the actual negotiations including horse-trading take place. However, since it concerns a proposal that requires unanimity, it is likely if not inevitable that member states will make concessions and that horse-trading will take place.

Topic: Member states making concessions

So far there are no clear examples of member states that have made extensive concessions. There are member states that try to find common grounds (for example Germany and France with the Meseberg declaration), but those are not clear examples of concessions. Similar to the previous topic, it is a bit too early to identify which member states will make what concessions.

Topic: Likelihood of agreement after large member states found agreement

Following the Meseberg declaration by France and Germany there has definitely been some movement towards more agreement, but that concerns the more ‘light’ or manageable issues, such as the calculation of the taxable profits. The more tough nuts to crack still have to be debated, and complete agreement on a draft proposal will not be found without these

politically sensitive chapters/issues. Examples of these ‘tough nuts’ are the minimum effective taxation and rules on anti-abuse.

If, hypothetically, the Netherlands and Ireland would not change their position, it would in theory be possible to continue with the proposal under enhanced cooperation, but Interviewee 2 said he has not yet seen member states considering that as an option. Also, formally, then there would need to be a voting first. Based on that voting, the Commission could opt for a proposal under enhanced cooperation, but as of now that is not likely to happen any time soon.

2.3 Take away summary: Dutch Ministry of Finance - Interviewee 3

Interviewee: Interviewee 3 holds a leading/coordinating position of the Dutch delegation of the Ministry of Finance in Council of the EU meetings on C(C)CTB and Digital Service Tax Directive.

Date: 19 December 2018

Topic: Position of the Netherlands

The position of the Netherlands on the C(C)CTB can be divided in that of Parliament and that of the government. In regards to the position of the government, it would be fair to say that it has not changed significantly between the 2011 and 2016 proposals. Nevertheless, it seems as if the government has taken a more constructive stance towards the Commission proposals for C(C)CTB in the sense that the sentiments revolving around the topic are less negative than in 2011. This change may be the result of the elections, where the previous State Secretary for Finance was from the VVD party (Eric Wiebes), and the current State Secretary for Finance from the D66 party (Menno Snel), the latter in general being more pro-European than the former. That does not mean however, that the government is supportive of the current C(C)CTB proposals. The government is in favour of combatting tax avoidance. In this endeavour, it prefers more concise legislation specifically focused on tackling the issue, such as ATAD₁ and ATAD₂. The government considers such proposals more expedient, because once the Netherlands would commit to such broad legislation as the C(C)CTB, it also becomes more difficult to, in the future, adopt additional (national) legislation aimed at combatting tax avoidance. However, the Netherlands recognizes that in principle it is a cross-border issue and that, as such, an EU approach would be appropriate. Hence, the government takes a constructive stance in the negotiations, whilst it does not conceal that it is of the opinion that a lot needs to happen before the proposals would be acceptable.

Topic: Tensions in writing the BNC fiche

When you are taking the lead in writing a BNC fiche on a certain topic, you always try to construct it in a way that the interests of all ministries are being represented. The most fundamental issues of the BNC fiche are the assessment of the principle of subsidiarity and the principle of proportionality. In the case of the 2016 BNC fiche (and also of the 2011 fiche) the assessment for both principles was negative. As long as all parties involved agree on whether it should be positive or negative, which is often the case, there is no insurmountable problem. If conflicting interests between ministries exist, it will be most likely be visible in what is called in Dutch; 'kanttekeningen' (EN: 'footnotes'). For example in a recent fiche on the Digital Service Tax (COM(2017)147 and 148), a proposal not completely unrelated to the C(C)CTB, the Dutch government considered the principle of subsidiarity 'positive with footnotes'. It is often these footnotes where ministries express their concerns and where the person responsible for drafting the BNC fiches tries to settle conflicting interests, if necessary.

Topic: ECOFIN Council conclusions 6 December 2016

When reading Council conclusions it is important to keep in mind that member states will always behave in a constructive manner, and that is the message they want to convey. This

automatically means that the Council conclusions are often rather positive and welcoming, and that they may even suggest that there is more agreement than that is actually the case. However, if you critically read the conclusions and go through the provisions one by one, you will see that there are no (legally) binding agreements or provisions in which member states commit to do X or Y. As long as that is the case, member states commit to nothing more than to continue to talk on the issue and to try to come to agreement.

Topic: Rejecting a proposal and the right to veto in the Council

If, hypothetically, it would come to a voting on the proposal in its current form, the Netherlands would most likely reject the proposal. However, if for some reason all the other member states that are also critical of the proposal were planning to vote in favour, the Netherlands would definitely reconsider and re-evaluate whether or not it wants to be the only member state using its veto. Ideally, you do not find yourself in that position. If you do, you need to be politically strong and committed, because there would be a lot of pressure from other member states and the Commission that, in this hypothetical case, would want to see the proposal pass. It happens sometimes, but not often. The member states you would say no to are also the member states you will have to cooperate with on other issues in the future, so you must feel very confident and be very concerned with the topic if you want to push through your veto. Therefore, the government would definitely first reconsider whether it really wants to pursue that avenue.

Topic: Dutch position and Council negotiations

There are quite some member states, including the Netherlands, that are not supportive of the proposals for a C(C)CTB. Their concerns are so fundamental, that it is unlikely that removing one or two articles and some small modifications here and there would make it an acceptable proposal. In fact, you would almost need to rewrite the entire proposal in order for it to be acceptable for the Netherlands, and that feeling is shared by some other member states as well. That also means that we have not come to a point where the ‘real negotiations’ in the sense of bargaining and horse-trading begins.

Topic: Member states and concessions

Interviewee 3 explained that in principle it is true that member states that stand to gain most from a proposal are inclined to make most concessions in the negotiation process. Usually, it would be fair to assume that member states that are very much in favour of a certain proposal have, prior to the Council negotiations, determined some sort of ‘floor’ or ‘minimum’ up until where they would be willing to make concessions. However, in the case of the C(C)CTB, the point where that would happen has not yet been reached. The proposal is still in a preliminary stage where it would not make sense for member states to suggest, make and commit to major concessions.

An interesting example where the state of negotiations and the draft proposal are at a more advanced level is the directive for a digital service tax. Less than a year ago a few member states headed by France expressed the need for such a proposal. As a result, the European Commission drafted a proposal in March 2018. Subsequently, the proposal was discussed in the Council, where a considerable number of member states expressed their concerns. Then,

in the latest ECOFIN Council of 4 December 2018, Germany and France created and published a declaration in which they suggested to (temporarily) exclude parts of the proposal (roughly 60%) and to continue with a simplified version. Thereafter, the Council Presidency, based on that declaration, drafted a new proposal. France, clearly the member state having the strongest interest in the proposal, argued that the member states should use the new proposal as a basis for further work towards a more comprehensive proposal (similar to the one proposed by the Commission in March). Nevertheless, in the end France conceded and agreed to continue with the simplified version. This is a clear example where France, being the member state that had the most interest in said proposal, was prepared and willing to make most concessions in order to make progress on the dossier.

Topic: The Meseberg declaration: large member states and the likelihood of progress

Earlier this year Germany and France published a document, referred to as the Meseberg Declaration or a European resolution, in which they outlined certain articles of the C(C)CTB proposal and suggested some modifications. The document does not address all provisions of the proposal, but it sets out a framework on which at least Germany and France agree.

Subsequently, Interviewee 3 explained that usually, when it concerns non-tax related proposals where QMV applies, such agreement found by large member states yields a greater chance of progress being made and ultimately the proposal being adopted. Even when it concerns unanimity voting, agreement between large member states *may* increase the chances of progress, but it is in no way a guarantee. Especially in the case of the C(C)CTB, where there is still a number of (smaller) member states that bear strong concerns in regards to the proposal, agreement between large member states such as the Meseberg Declaration by Germany and France does not mean that the chances of integration on this topic increase. That is to say, if member states fundamentally disagree with a proposal in an area where unanimity voting applies, it will not pass, regardless of whether the interests of large member states align.

Topic: Position of the Netherlands and the interests of large companies

The interests of (large) companies and the Netherlands are not at all equal. The outcome, i.e. whether they are in favour or against the C(C)CTB, may be the same, but most likely for different reasons. The most important concern of the Dutch government is that the current CCTB proposal compared to the current tax base for corporate income tax in the Netherlands would mean a curtailment of taxable profits and thus lower tax revenue. In order to maintain the same level of public spending, the Dutch government would have to close the gap between pre-CCTB tax revenue and post-CCTB tax revenue. In order to do so, it would need to take measures such as increasing income tax or raising the tax rate (%) of corporate income tax (note: with the CCTB and CCCTB the tax base is harmonized, but member states remain the discretion to change their tax rates individually). In other words, the current CCTB proposal would decrease the tax revenue of the Dutch government, for which it would need to take new measures. Such new measures are by definition undesirable.

Obviously, said concern of the Netherlands would not be shared by (large) companies. The reason for this is that they would in principle profit from the CCTB in the sense that their

taxable profits and thus the taxes they would be required to pay in the Netherlands decrease. If (large) companies nevertheless hold a negative stance on the C(C)CTB, that is presumably due to other reasons/consequences of the proposed C(C)CTB.

Interviewee 3 explained that the Ministry does engage in conversations with the private sector, but primarily umbrella organisations such as VNO-NCW (Confederation of Netherlands Industry and Employers) and other employment organisations. In principle, it does not consult or engage in conversations with individual companies or businesses in order to discuss the details and consequences of the C(C)CTB.

Topic: Role of the European Commission

The Commission will always try to do everything within its powers to make progress on pending dossiers, and it makes sense that they do. Their primary objective is to serve the interest of the EU and to act accordingly. An example of where the Commission tries to push integration further is that it has mentioned several times, for example in the 2017 and 2018 State of the Union, that the Council should move from unanimity voting to qualified majority voting in the area of corporate taxation. Interviewee 3 explained that she believes this is not realistic; she would be highly surprised if the Dutch government would support the Commission in said endeavour.

Topic: More cooperation in the field of corporate taxation

In the long term a trend can be identified where member states increasingly cooperate on issues in the field of corporate taxation at EU level: first the Parent Subsidiary Directive addressing double taxation, followed by ATAD1 and ATAD2, the first two directives that were specifically aimed at tackling tax avoidance, and now, regardless of whether they will be adopted, the C(C)CTB and the Digital Service Tax Directive.

2.4 Take away summary: Permanent Representation of the Netherlands in Brussels- Interviewee 4

Interviewee: Interviewee 4 is policy officer working on the C(C)CTB at the Permanent Representation of the Kingdom of the Netherlands to the European Union in Brussels.

Date: 13 December 2018

Topic: CCCTB, ATAD1 and ATAD2 and the role of the Commission

In principle the C(C)CTB and ATAD1 and ATAD2 are all focused on or incorporate elements that are aimed at fighting tax avoidance. However, in substance, there is no overlap between the proposals. The CCCTB, so the consolidated version, tackles tax avoidance by addressing the issue of transfer pricing. This means that currently a corporation established in France (with the highest corporate income tax in the Single Market) and a subsidiary of that corporation in Hungary (with the lowest corporate income tax in the Single Market) can try to use internal transactions so that the costs of the whole company are taxed mostly in France, and the profits in Hungary. This is called transfer pricing and basically means moving capital and profits to jurisdictions where taxes are low. ATAD1 (and later ATAD2) does not include transfer pricing. Instead, it is legislation aimed at ‘translating’ and incorporating the 15 steps from OECD’s BEPS project, all focused on combatting tax avoidance, into EU law. However, in the 2016 C(C)CTB proposals the European Commission reintroduced some of the items/provisions that the Council had deliberately decided to remove from the ATAD1 text proposal due to lack of agreement.

Topic: Position of the Netherlands and the Council negotiations

The 2011 proposal for a CCCTB and the 2016 proposals for a CCTB and a CCCTB have remained the same. Minor differences are that the tax base would now be mandatory instead of voluntary, the proposal has been divided into two steps, and there are some minor newly introduced elements due to recent developments on the world stage on corporate taxation (for example with the BEPS project)). Since the proposals by and large have not changed, the position of the Netherlands also has not changed.

In the negotiations it is hardly if not rarely the case that all member states agree on the entire proposal. This means you are always looking for elements that you can exchange in order to come to a draft proposal that is acceptable to everyone. However, in the case of the C(C)CTB there are no substantive components that can be bargained. Nevertheless, the Netherlands stands constructive in the negotiations, although it does not really see any possibilities for this proposal to be adopted.

One of the serious deficiencies of the proposal, as explained by Interviewee 4, is that the CCTB proposal is aimed at harmonising the tax base, meaning that all member states would calculate the taxable profits of a company the same way. However, the rules set out in the proposal are so vague and broad, that even if adopted, there remains considerable room for member states to implement the rules in different ways which will still lead to disparities between tax regimes. That would mean that the CCTB will not, or at least not in an effective

manner, lead to harmonisation. An example of a tax related directive where details are such that harmonisation does in fact take place is the Sixth VAT Directive (77/388/EEC).

The CCCTB proposal aims at distributing the tax revenues to the member states by means of an apportionment formula. Since this apportionment formula favours industrial economies and to some extent excludes the service sector and innovation, it is disadvantageous for member states such as Denmark and the Netherlands.

Topic: the position of the Netherlands vs. Council conclusions 6 December 2016

Interviewee 4 explained that Council conclusions are always constructed in a polite, positive and forward-looking way and therefore contain phrases that seem rather amicable and harmonious. However, what matters in the end is if there are decisive provisions in the Council conclusions that do not merely express endorsement or a welcoming attitude, but that address explicit commitment or a specific approach towards certain issues. In this case, Interviewee 4 explained, such provisions are not present, meaning that the Council conclusions may seem promising, but in reality do not hold any significant value.

Topic: Germany and France and the probability of using a veto

In theory it is correct to assume that member states that gain the most from a proposed policy would be willing to make most concessions. In practice however, this is not something Interviewee 4 has observed in the case of the C(C)CTB. Also, it is interesting that the member states that are most supportive of the proposal are Germany and France, the largest member states. Despite the fact that they seem to have similar interests in regards to the C(C)CTB, there has not yet been a lot of progress. Interviewee 4 said he couldn't talk about the details of the interactions between the member states within Council negotiations. Nevertheless, he explained that when push comes to shove, those in favour (Germany and France) seem to have minor differences in viewpoints/interest, which slightly thwarts the creation of a strong, common position. In addition, those who are not in favour of the proposal, including the Netherlands, are so expressive and determined that it becomes difficult for France and Germany (and Spain and Italy) to strong-arm them. Interviewee 4 explained that the dynamics in unanimity decision-making is quite different from what people often tend to think. It rarely happens that member states use their actual veto right. When a member states anticipates a proposal or elements of a proposal it disagrees with and it recognizes it is the only one, it often chooses to let it go without raising or using its veto right. In theory the veto right is there, but in practice it is used in a different way. In practice, using your veto means coalition formation at an earlier stage, as a result of which you will not find yourself in a position where you actually have to be that one country that raises its veto.

Interviewee 4 gave an example of a related, recent example where it did happen that member states used their veto. It concerned the efforts of the EU member states to set up a new VAT system, referred to as 'the definite VAT system'. In the process, the Czech Republic suggested it would like to conduct a domestic experiment in order to combat VAT carousel fraud, a phenomenon it had to deal with frequently. The Czech Republic therefore requested permission to the Council to conduct a pilot with reversed charge, a system where VAT is levied when the good or service goes to the customer (officially called 'general sales tax'). After lots of discussions, the Council finally came to a draft text proposal that would enable

the Czech Republic to conduct said experiment. However, France was firmly opposed this idea, as it was afraid that it would obstruct the progress made on and a swift adoption of the definitive VAT system dossier. Subsequently, France used its veto. In response, the Czech Republic used its veto on a separate dossier that was very important for the French. This concerned a proposal that would equalize VAT rates for electronic publications and paper publications. This led to a stalemate, which lasted for over a year (from May 2017 until October 2018). The point of this example is that the actual use of veto rights in history is quite rare. Therefore, Interviewee 4 explained, it is very unlikely that it will come to a point where the Netherlands would in fact (need to) use its veto right, especially in the C(C)CTB dossier.

In concluding the interview Interviewee 4 quoted Jeroen Dijsselbloem in an informal ECOFIN Council in Tallinn on 16 September 2017: "If you remain on your own and you continue to say no, you will be held under water until you say yes".

2.5 Take away summary: EU Specialist in the Dutch House of Representatives - Interviewee 5

Interviewee: Interviewee 5 is an EU specialist who worked for many years on *inter alia* the C(C)CTB in the Tweede Kamer.

Date: 3 December 2018

Topic: Reasoned opinion Tweede Kamer

When the Commission proposes its annual work programme, parliamentary committees can indicate for which topics and items it would like to request a ‘parlementair behandelvoorbehoud’ or a subsidiarity test. When such a subsidiarity test is requested (or is suggested by the EU specialist supporting that parliamentary committee), all political parties are asked to submit a written text in which it outlines its position regarding the subsidiarity and proportionality of the Commission proposal (in this case the CCTB and CCCTB). EU specialists compare all these contributions and draft a letter to the Commission if the majority of the Tweede Kamer committee assesses the proposal incompatible with the principles of subsidiarity and proportionality. If it proves difficult to find a common position, a count of votes will be decisive in determining whether the TK rules the proposal ‘positive’ or ‘negative’.

Topic: In 2011 Eerste Kamer did not submit reasoned opinion

Usually the Eerste and Tweede Kamer frequently discuss whether one of them is considering submitting a reasoned opinion to the European Commission. Therefore, Interviewee 5 tends to believe that it was a conscious decision of the Eerste Kamer to not submit a reasoned opinion to the European Commission regarding the first proposal for a CCCTB, while the Tweede Kamer did submit such a letter. In 2016 the Eerste Kamer did submit a reasoned opinion, this can be due to two things: **1)** the Eerste Kamer changed its position regarding the CCCTB proposal, or **2)** due to the elections (in 2015, after the first proposal in 2011 where the Eerste Kamer did not submit a reasoned opinion but before the second proposal in 2016 where the Eerste Kamer did submit a reasoned opinion).

Topic: VETO of a member state (the Netherlands)

Since the CCTB and CCCTB are proposals that are decided on by unanimity in the Council, the Netherlands has the right to veto. If the proposal is and remains firmly opposed to the position and preferences of the Netherlands, then the Netherlands could use its veto right. However, Interviewee 5 explained that the minister and thus the government would always try to prevent using that option. The risk of using your veto right is that you distance yourself from the other EU member states. In doing so, you weaken your position for future negotiations because you have proven to be a weak negotiation/coalition partner. Therefore, the minister would always try to stay at the negotiation table in order to advocate for a proposal or amendments to the proposal that are more in line with the governments position. Also, using your veto right risks the option that other states choose for enhanced cooperation, where the interests of your country are bypassed and agreement is made between other member states (not including your country). Interviewee 5 gave the example of the European Public Prosecutor’s office.

In short: the Netherlands has a veto right, and under very limited circumstances and only if Parliament would be on the verge of issuing a motion of distrust, the Netherlands would use its veto right. In practice however, Interviewee 5 explained that the likelihood of this scenario is very small and that the Netherlands would most likely engage in discussions and negotiations in order to get the best deal possible.

Topic: Strategy, geopolitical goals and their effect on the national position/preferences

It is definitely the case that strategy may explain why a government deviates from its initial interests. That is part of the 'game', and in line with the previous point on using its veto right it explains how the Netherlands can ensure that the proposal becomes more palatable. In fact, if the Tweede Kamer raises strong concerns regarding a Commission proposal, that means the government has a stronger position in the Council as it can argue that it needs some concessions to convince 'the people at home' and bring back an amended proposal that it can present and defend in the Tweede Kamer.

Topic: Input and involvement of large companies and interests groups

Without a doubt (large) companies and interests groups have spoken with members of the Parliament and policy officers from the Ministry of Finance. It is very likely that they tried to exert some influence on the governments' position. However, it is difficult if not impossible to measure the influence this would have had. Moreover, Interviewee 5 was not a Member of Parliament himself and could therefore not indicate any examples of such involvement.

Topic: Companies and interests groups bypassing national level to the EU level

Interviewee 5 could not give specific examples, but he is convinced that large businesses and interest groups actively lobby for and try to promote their interests at EU level, for example with the European Commission.

Topic: MEPs and MPs

Interviewee 5 explained that he believed members of the European Parliament are or become naturally inclined to be a bit more Pro-European than their national counterparts. He explained that this is due to their environment as well as the fact that in the EP they are part of a larger faction, where they also commit to a certain ideology that sometimes may deviate a bit from the ideology, aims and beliefs of their national party. These discrepancies should not be exaggerated for the following two reasons: 1) if members of the European Parliament deviate too much from their national party position, they will be held accountable at national level, and 2) the media, today more than in earlier years, illuminates such discrepancies, so members of the EP are and should be careful when they deviate from their national party position. Having that said, Interviewee 5, also from his own experience in the European Parliament, confirmed that the EU political parties tend to hold more pro-European ideas compared to their national counterparts.

Additional issues discussed

Interviewee 5 supported the idea that the European Commission pushes for further cooperation on a certain topic, also in the field of CCCTB. As an example Interviewee 5

explained that the Commission first proposed the whole CCCTB (2011 proposal), but when it appeared to be unpalatable for most member states, it decided to divide the proposal into two separate proposals (CCTB and CCCTB, 2016 proposals) in order to pursue the same by taking incremental steps. Interviewee 5 drew a parallel between this example and the Commission proposal for the European Monetary Fund, in which it attempts to create backstop for the European Stability Mechanism (COM(2017)827)

Also, Interviewee 5 confirmed that in practice member states that have the most interest in a proposed policy are the ones that (are willing to) make most concessions on the proposal. He could not think of any examples of this in relation to the CCTB and CCCTB.

2.6 Take away summary: Policy officer of a member of the Dutch Parliament - Interviewee 6

Interviewee: Interviewee 6 is the personal advisor to a member of the Tweede Kamer who deals with the C(C)CTB. Before this position, Interviewee 6 was international tax lawyer at Deloitte.

Date: 18 December 2018

Topic: Introduction of the CCCTB in 2011 and 2016

Interviewee 6 was working as an international tax lawyer at Deloitte when the CCCTB was introduced in 2011. At Deloitte, the proposal was regarded interesting, but not realistic/attainable in the short term (within 10 years). When Interviewee 6 started his job at the Tweede Kamer, the 2011 proposal was just withdrawn by the Juncker Commission. The newly introduced proposal in 2016 seemed to be accompanied with better circumstances; tax avoidance was higher on the agenda and there was more commitment for addressing the issue at EU level. The reason for this is that in 2011 tax avoidance was not as much of a ‘hot topic’ in society as it was at the time of the second proposal in 2016. However, despite the commitment and social pressure for combatting tax avoidance, the Tweede Kamer and also the Eerste Kamer and the government were disappointed when the 2016 proposal was presented since it was so similar to the 2011 proposal.

Therefore, the Tweede Kamer (again) submitted a reasoned opinion to the Commission in which it addressed its concerns. Interviewee 6 explained that the process of submitting such a reasoned opinion, despite great differences in party positions, is not that exciting. That is to say, the political parties are simply asked for their opinion on the proposal and whether they consider it to comply with the principle of subsidiarity. If the majority considers it not to, a reasoned opinion is drafted and submitted to the Commission.

When asked about the absence of a reasoned opinion from the Eerste Kamer in 2011, Interviewee 6 argued that he thinks it was a conscious decision to not submit a reasoned opinion. He explained that the reason for changing its position between 2011 and 2016, when the Eerste Kamer did submit a reasoned opinion, is that the composition of the Eerste Kamer between the two proposals changed. The likelihood that the Eerste Kamer wanted to but could not submit a reasoned opinion for logistical reasons is not very high; parliament has eight weeks to submit it, ‘which for us is an eternity’.

Topic: MPs and MEPs

Interviewee 6 explained that he believes members of the European Parliament are biased in the sense that they hold and develop stronger pro-European ideas, and that they show greater interest in European policies than their national counterparts. Without providing any details or explicit examples, he explained that sometimes there are minor conflicts between members of the national party and members of the party at EU level.

Topic: VETO and strategy in the Council

The Council always tries to find consensus among all member states before moving into an official voting procedure, regardless of whether it decides by unanimity or qualified majority. In the case of the C(C)CTB, the Council decides by unanimity, so that naturally means that all member states must consider the draft text acceptable in order for it to pass. In theory that means that member states remain the right to veto legislation if they do not agree with it. In practice however, it means that it will not even come to a vote if it is clear that one or more member states disagree with the draft text. Therefore, the question of whether a veto right will be used is semantic, and difficult to answer. The use of an actual veto is very, very rare.

Related, though not the same, is the question of whether strategy may cause for member states to deviate from their initial position. The short answer is that it always happens. That is to say, the negotiations in the Council are always a balancing act of pulling and pushing in order to move around and exchange elements for the proposal to become palatable for all member states. A clear example of where this happened extensively is ATAD₁ and ATAD₂. The longer story of how and what exactly happens and who traded X for Y is more difficult to explain. The reason for this is that it is in no member state's interest to reveal what bargains have been made. Therefore, these negotiations take place behind closed doors. Interviewee 6 argued that this is not necessarily a bad thing, because it enables member states to make progress and find agreement in the end. If all bargains, deals and strategic considerations would be publicly available, it would become impossible for member states to engage in negotiations. Nevertheless, Interviewee 6, added, in the aftermath of such negotiations a government must explain and be transparent about the choices made, without giving away too much details of the negotiations.

Topic: The interests of large companies and the C(C)CTB proposal

Interviewee 6 explained that he does not precisely know who talks with who, and what input large companies provide to members of the Parliament. However, he said he assumes that large companies talk with members of the Parliament. Since the proposed policy on C(C)CTB would have an impact on those companies, it would only make sense if they are being consulted. Furthermore, the Netherlands and (large) companies in the Netherlands have a shared interest in the C(C)CTB because of the competitive position and business environment of the country compared to other member states. At the same time however, the Netherlands also has an individual interest, which deviates from that of (large) companies, and that is that fair taxation and higher revenues would enable government to provide for public goods. In between those shared and individual interests lies a field of tension, which is considered, approached and dealt with in a different manner depending on the place of the political party on the left-right spectrum.

Interviewee 6 gave an example of a similar case where such a field of tension exists, i.e. state aid. With state aid there also exist both shared interests of large companies and the member state (to have, create or foster a thriving business environment), and individual interests, which is to have and promote a fair and competitive market. Additionally, member states always seem happy when state aid in other member states is discovered and penalized, but sooner or later it may happen in that member state, too.

Topic: Future of the C(C)CTB

Interviewee 6 explained that he considers the current proposal too ambitious and all encompassing. Nevertheless, as long as the problem behind the C(C)CTB is not solved, there will remain friction and disagreement between member states on how to tackle specific issues. In the end, it is the EU's job to promote and strive towards a competitive market. That market does not exist today, as there is still unfair competition and an unequal playing field. Interviewee 6 argued that it would be much better to take a gradual approach, where the specific issues are addressed in small, clear and uncluttered steps. Similar to how ATAD₁ and ATAD₂ have been drafted and adopted.

Appendix 3. Labelled take away summaries interviews

3.1 Labelled take away summary: KPMG EU Tax Centre - Interviewee 1

Interviewee: Interviewee 1 works at the EU Tax Centre of KPMG.

Date: 6 December 2018

Topic: KPMG and the CCCTB

The KPMG EU Tax Centre carefully monitors what happens in Brussels in regards to legislative proposals for taxation, such as the proposed CCCTB. In response to the public consultation of the European Commission, KPMG published a position paper and a technical guide on the CCCTB. In this case it was quite difficult for the Tax Centre to find a common position, because some of its customers are in favour and some are against the CCCTB proposal.

Comment [1]: N2

Comment [2]: N2

Additionally, KPMG is a member of the Dutch Association of Tax Advisers (NOB). Following the 2016 proposal, the NOB has written an extensive response to that proposal, including some critical remarks. The main reason for these critical remarks is that the Netherlands is a small country with an open economy, which is economically doing very well at the moment. With the CCCTB, the Netherlands would lose its flexibility, which would be a considerable issue for a small country with an open economy. On the contrary, large countries such as France, Spain, and Italy are having a hard time at the moment. These countries find it difficult to control expenditures and to keep up with the globalizing economy, so these countries are in need of adjusting tax rules in order to be able to tax profits made in their jurisdictions.

Comment [3]: N2

Comment [4]: L2, L4

Comment [5]: L6

Topic: (Large) member states, concessions and veto

Interviewee 1 said he believes the CCCTB requires a much more gradual approach. An example of such an approach is the recent bilateral initiative by Germany and France (Meseberg Declaration). The reason that these countries are supportive of the proposal is that the taxable profits are more advantageous for countries with a large industrial sector than for smaller countries with many intangible assets and a large service sector, such as the Netherlands, Ireland and Luxembourg. Interviewee 1 said he is convinced that if elements of the proposal do not significantly improve for Ireland or the Netherlands, they would definitely veto the draft proposal in the Council.

Comment [6]: L4, L6

Topic: Role European Commission

It is very clear that the European Commission is supportive of the CCCTB proposal and it does anything within its powers to promote the CCCTB, e.g. launching big initiatives and legislative proposals such as ATAD 1, ATAD 2 and the recent Digital Service Tax Directive. The French Commissioner for Economic and Financial Affairs, Taxation and Customs, Pierre Moscovici, and even the President of the European Commission Jean Claude Juncker have been clear advocates of the CCCTB proposal. The Commission even tries to move from unanimity voting to QMV in some areas, including corporate taxation. In response, the Dutch minister of Finance Wopke Hoekstra said to the Dutch Parliament it does not agree with that proposal and he assured its Parliament that that will not happen.

Comment [7]: N3

Topic: Origin CCCTB

The idea of a CCCTB goes back to the 1990s with the Ruding report, so the endeavour of harmonising corporate taxation is already quite old. It is meant to solve distortions in the Single Market. For example, harmful tax planning and double taxation are clear disruptions of the market because they lead to an unequal playing field. With aggressive tax planning, enterprises can use disparities between national tax systems, which leads to unfair competition. The CCCTB seeks to solve all these issues and thus to solve or remove the distortions in the market.

Comment [8]: N1

Topic: Position of the Netherlands

Interviewee 1 explained that he feels the position of the Netherlands remains unchanged, also with the new government. However, he said, it may be the case that the government is a bit more careful and lenient, in particular with the recent Digital Service Tax Directive, because it wants to cast aside the image of facilitating aggressive tax planning. Having that said, there seems not to have been a significant change of position in regards to the CCCTB.

Comment [9]: L3

Comment [10]: L2

3.2 Labelled take away summary: European Commission - Interviewee 2

Interviewee: Interviewee 2 is a policy officer at DG Taxation and Customs Union of the European Commission working on the Corporate Tax Directives and Common Consolidated Corporate Tax Base.

Date: 7 December 2018

Topic: Origin CCCTB

The idea for a CCCTB started with the Ruding Committee and Ruding Report somewhere in the early 1990s. More specifically, the absence of a common corporate tax base in the EU allows corporations to avoid or even evade taxation, which creates distortions in the Single Market. Following increased pressure from society, in particular expressed through and addressed by the European Parliament, fastened the processes of working towards an official proposal by the European Commission for a CCCTB in 2011. Now this proposed CCCTB is the flagship of the European Commission in the field of direct taxation. If adopted, it would be a major step towards further harmonisation and integration in the field of taxation.

Comment [1]: N1

Comment [2]: N3

Topic: Role of the Commission

After the European Commission has prepared and published the proposal, such as in 2011 and 2016 with the CCCTB, it supports the rotating presidency of the Council in mediating and brokering between member states. Primarily, this is the role and responsibility of the rotating presidency. The Commission only provides supports, especially technical support in regards to the (text of the) legislative proposal. In particular on this proposal or similar proposals that require unanimity, it is absolutely necessary to find common support in the end. Interviewee 2 gave an example of ATAD¹ (the first proposal for the Anti Tax-Avoidance Directive), where two member states disagreed, and the Netherlands, holding the rotating presidency, mediated between the two.

Comment [3]: N3

Topic: Commission & Salami tactics

Interviewee 2 said it is definitely possible to regard CCCTB as a salami tactic of the European Commission. However, it is important to note that salami tactics has a negative connotation to it, something that does not apply to the Commission approach. The negative connotation is that salami tactics assumes the process to be unclear, as single slices are being presented one at the time as a way to work towards the entire salami. The European Commission however is trying to be as transparent as possible. Having that said, it can definitely be seen as a salami tactic. After the CCCTB proposal in 2011 had failed, the Commission presented the CCTB in 2016 because it was easier to find agreement. Thereafter, the Commission and the member states would work towards a CCCTB, which is the ultimate goal of the proposed corporate tax base. Nevertheless, the discussions on the consolidation part will be extremely difficult because it concerns the distribution of money, tax money. This discussion includes much more diverse interests and is politically quite sensitive.

Comment [4]: N3

Topic: Involvement of enterprises and lobby groups

The European Commission always engages frequently with businesses, NGOs and interest groups, also with the CCCTB proposal. Examples of such organisations are Business Europe, DBI Germany or MEDEF from France. However, such involvement is usually quite high level, meaning that there is little discussion on the details of the Commission Proposal. For example, Interviewee 2 said he had never experienced companies lobbying how to phrase an article of the proposal. Nevertheless, it is common for them to raise more general concerns, such as what would happen to their competitive position.

Comment [5]: N2

Furthermore, what the European Commission often notices, also in the case of the CCCTB, is that if member states have a positive stance on the proposal (which is the case with for example France, Germany, Spain and Italy), then the businesses and interest groups in those member states tend to be rather positive as well. Vice versa the same applies, so if member states are against a proposed policy (which is the case with the Netherlands and Ireland), then businesses, interest groups and NGOs tend to voice their concerns as well.

Comment [6]: L1

Topic: Flexibility of national positions

In general the positions of the member states have not changed between the first and the second proposal. The four largest member states, France, Germany, Spain and Italy are still supportive of the proposal, and Ireland and the Netherlands are still quite concerned. Most other member states have not voiced their positions very strongly; they are rather reserved and seem to await any further progress before they show support or concerns. This also makes sense in a way, because there are still a lot of technicalities that need to be discussed before the member states will show their true colours. However, in May 2017 there has been a public meeting of the Council of the European Union, where the member states did a 'tour de table'.

Comment [7]: L2

Topic: Negotiations and strategy in the Council

With the CCCTB proposal it hasn't come to a point where member states start compromising and horse-trading. First, the technicalities of the 2016 proposal have to be discussed (the 2011 proposal was withdrawn by the Commission also before it got to that point), and then once there is a draft text, the actual negotiations including horse-trading take place. However, since it concerns a proposal that requires unanimity, it is likely if not inevitable that member states will make concessions and that horse-trading will take place.

Comment [8]: L3

Topic: Member states making concessions

So far there are no clear examples of member states that have made extensive concessions. There are member states that try to find common grounds (for example Germany and France with the Meseberg declaration), but those are not clear examples of concessions. Similar to the previous topic, it is a bit too early to identify which member states will make what concessions.

Comment [9]: L5

Topic: Likelihood of agreement after large member states found agreement

Following the Meseberg declaration by France and Germany there has definitely been some movement towards more agreement, but that concerns the more 'light' or manageable issues, such as the calculation of the taxable profits. The more tough nuts to crack still have to be debated, and complete agreement on a draft proposal will not be found without these politically sensitive chapters/issues. Examples of these 'tough nuts' are the minimum effective taxation and rules on anti-abuse.

Comment [10]: L6

If, hypothetically, the Netherlands and Ireland would not change their position, it would in theory be possible to continue with the proposal under enhanced cooperation, but Interviewee 2 said he has not yet seen member states considering that as an option. Also, formally, then there would need to be a voting first. Based on that voting, the Commission could opt for a proposal under enhanced cooperation, but as of now that is not likely to happen any time soon.

Comment [11]: L4

3.3 Labelled take away summary: Dutch Ministry of Finance - Interviewee 3

Interviewee: Interviewee 3 holds a leading/coordinating position of the Dutch delegation of the Ministry of Finance in Council of the EU meetings on C(C)CTB and Digital Service Tax Directive.

Date: 19 December 2018

Topic: Position of the Netherlands

The position of the Netherlands on the C(C)CTB can be divided in that of Parliament and that of the government. In regards to the position of the government, it would be fair to say that it has not changed significantly between the 2011 and 2016 proposals. Nevertheless, it seems as if the government has taken a more constructive stance towards the Commission proposals for C(C)CTB in the sense that the sentiments revolving around the topic are less negative than in 2011. This change may be the result of the elections, where the previous State Secretary for Finance was from the VVD party (Eric Wiebes), and the current State Secretary for Finance from the D66 party (Menno Snel), the latter in general being more pro-European than the former. That does not mean however, that the government is supportive of the current C(C)CTB proposals. The government is in favour of combatting tax avoidance. In this endeavour, it prefers more concise legislation specifically focused on tackling the issue, such as ATAD1 and ATAD2. The government considers such proposals more expedient, because once the Netherlands would commit to such broad legislation as the C(C)CTB, it also becomes more difficult to, in the future, adopt additional (national) legislation aimed at combatting tax avoidance. However, the Netherlands recognizes that in principle it is a cross-border issue and that, as such, an EU approach would be appropriate. Hence, the government takes a constructive stance in the negotiations, whilst it does not conceal that it is of the opinion that a lot needs to happen before the proposals would be acceptable.

Comment [1]: L2

Comment [2]: L2

Comment [3]: L1, L2

Topic: Tensions in writing the BNC fiche

When you are taking the lead in writing a BNC fiche on a certain topic, you always try to construct it in a way that the interests of all ministries are being represented. The most fundamental issues of the BNC fiche are the assessment of the principle of subsidiarity and the principle of proportionality. In the case of the 2016 BNC fiche (and also of the 2011 fiche) the assessment for both principles was negative. As long as all parties involved agree on whether it should be positive or negative, which is often the case, there is no insurmountable problem. If conflicting interests between ministries exist, it will be most likely be visible in what is called in Dutch; 'kanttekeningen' (EN: 'footnotes'). For example in a recent fiche on the Digital Service Tax (COM(2017)147 and 148), a proposal not completely unrelated to the C(C)CTB, the Dutch government considered the principle of subsidiarity 'positive with footnotes'. It is often these footnotes where ministries express their concerns and where the person responsible for drafting the BNC fiches tries to settle conflicting interests, if necessary.

Topic: ECOFIN Council conclusions 6 December 2016

When reading Council conclusions it is important to keep in mind that member states will always behave in a constructive manner, and that is the message they want to convey. This automatically means that the Council conclusions are often rather positive and welcoming, and that they may even suggest that there is more agreement than that is actually the case. However, if you critically read the conclusions and go through the provisions one by one, you will see that there are no (legally) binding agreements or provisions in which member states commit to do X or Y. As long as that is the case, member states commit to nothing more than to continue to talk on the issue and to try to come to agreement.

Comment [4]: N5

Topic: Rejecting a proposal and the right to veto in the Council

If, hypothetically, it would come to a voting on the proposal in its current form, the Netherlands would most likely reject the proposal. However, if for some reason all the other member states that are also critical of the proposal were planning to vote in favour, the Netherlands would definitely reconsider and re-evaluate whether or not it wants to be the only member state using its veto. Ideally, you do not find yourself in that position. If you do, you need to be politically strong and committed, because there would be a lot of pressure from other member states and the Commission that, in this hypothetical case, would want to see the proposal pass. It happens sometimes, but not often. The member states you would say no to are also the member states you will have to cooperate with on other issues in the future, so you must feel very confident and be very concerned with the topic if you want to push through your veto. Therefore, the government would definitely first reconsider whether it really wants to pursue that avenue.

Comment [5]: L4

Topic: Dutch position and Council negotiations

There are quite some member states, including the Netherlands, that are not supportive of the proposals for a C(C)CTB. Their concerns are so fundamental, that it is unlikely that removing one or two articles and some small modifications here and there would make it an acceptable proposal. In fact, you would almost need to rewrite the entire proposal in order for it to be acceptable for the Netherlands, and that feeling is shared by some other member states as well. That also means that we have not come to a point where the 'real negotiations' in the sense of bargaining and horse-trading begins.

Comment [6]: L2, L3, L4

Topic: Member states and concessions

Interviewee 3 explained that in principle it is true that member states that stand to gain most from a proposal are inclined to make most concessions in the negotiation process. Usually, it would be fair to assume that member states that are very much in favour of a certain proposal have, prior to the Council negotiations, determined some sort of 'floor' or 'minimum' up until where they would be willing to make concessions. However, in the case of the C(C)CTB, the point where that would happen has not yet been reached. The proposal is still in a preliminary stage where it would not make sense for member states to suggest, make and commit to major concessions.

Comment [7]: L5

An interesting example where the state of negotiations and the draft proposal are at a more advanced level is the directive for a digital service tax. Less than a year ago a few member states headed by France expressed the need for such a proposal. As a result, the European Commission drafted a proposal in March 2018. Subsequently, the proposal was discussed in the Council, where a considerable number of member states expressed their concerns. Then, in the latest ECOFIN Council of 4 December 2018, Germany and France created and published a declaration in which they suggested to (temporarily) exclude parts of the proposal (roughly 60%) and to continue with a simplified version. Thereafter, the Council Presidency, based on that declaration, drafted a new proposal. France, clearly the member state having the strongest interest in the proposal, argued that the member states should use the new proposal as a basis for further work towards a more comprehensive proposal (similar to the one proposed by the Commission in March). Nevertheless, in the end France conceded and agreed to continue with the simplified version. This is a clear example where France, being the member state that had the most interest in said proposal, was prepared and willing to make most concessions in order to make progress on the dossier.

Comment [8]: L5

Topic: The Meseberg declaration: large member states and the likelihood of progress

Earlier this year Germany and France published a document, referred to as the Meseberg Declaration or a European resolution, in which they outlined certain articles of the C(C)CTB proposal and suggested some modifications. The document does not address all provisions of the proposal, but it sets out a framework on which at least Germany and France agree.

Subsequently, Interviewee 3 explained that usually, when it concerns non-tax related proposals where QMV applies, such agreement found by large member states yields a greater chance of progress being made and ultimately the proposal being adopted. Even when it concerns unanimity voting, agreement between large member states may increase the chances of progress, but it is in no way a guarantee. Especially in the case of the C(C)CTB, where there is still a number of (smaller) member states that bear strong concerns in regards to the proposal, agreement between large member states such as the Meseberg Declaration by Germany and France does not mean that the chances of integration on this topic increase. That is to say, if member states fundamentally disagree with a proposal in an area where unanimity voting applies, it will not pass, regardless of whether the interests of large member states align.

Comment [9]: L6

Topic: Position of the Netherlands and the interests of large companies

The interests of (large) companies and the Netherlands are not at all equal. The outcome, i.e. whether they are in favour or against the C(C)CTB, may be the same, but most likely for different reasons. The most important concern of the Dutch government is that the current CCTB proposal compared to the current tax base for corporate income tax in the Netherlands would mean a curtailment of taxable profits and thus lower tax revenue. In order to maintain the same level of public spending, the Dutch government would have to close the gap between pre-CCTB tax revenue and post-CCTB tax revenue. In order to do so, it would need to take measures such as increasing income tax or raising the tax rate (%) of corporate income tax (note: with the CCTB and CCCTB the tax base is harmonized, but member states remain the discretion to change their tax rates individually). In other words, the current CCTB proposal would decrease the tax revenue of the Dutch government, for which it would need to take new measures. Such new measures are by definition undesirable.

Obviously, said concern of the Netherlands would not be shared by (large) companies. The reason for this is that they would in principle profit from the CCTB in the sense that their taxable profits and thus the taxes they would be required to pay in the Netherlands decrease. If (large) companies nevertheless hold a negative stance on the C(C)CTB, that is presumably due to other reasons/consequences of the proposed C(C)CTB.

Comment [10]: L1

Interviewee 3 explained that the Ministry does engage in conversations with the private sector, but primarily umbrella organisations such as VNO-NCW (Confederation of Netherlands Industry and Employers) and other employment organisations. In principle, it does not consult or engage in conversations with individual companies or businesses in order to discuss the details and consequences of the C(C)CTB.

Comment [11]: L1

Topic: Role of the European Commission

The Commission will always try to do everything within its powers to make progress on pending dossiers, and it makes sense that they do. Their primary objective is to serve the interest of the EU and to act accordingly. An example of where the Commission tries to push integration further is that it has mentioned several times, for example in the 2017 and 2018 State of the Union, that the Council should move from unanimity voting to qualified majority voting in the area of corporate taxation. Interviewee 3 explained that she believes this is not realistic; she would be highly surprised if the Dutch government would support the Commission in said endeavour.

Comment [12]: N3

Topic: More cooperation in the field of corporate taxation

In the long term a trend can be identified where member states increasingly cooperate on issues in the field of corporate taxation at EU level: first the Parent Subsidiary Directive addressing double taxation, followed by ATAD1 and ATAD2, the first two directives that were specifically aimed at tackling tax avoidance, and now, regardless of whether they will be adopted, the C(C)CTB and the Digital Service Tax Directive.

3.4 Labelled take away summary: Permanent Representation of the Netherlands in Brussels- Interviewee 4

Interviewee: Interviewee 4 is policy officer working on the C(C)CTB at the Permanent Representation of the Kingdom of the Netherlands to the European Union in Brussels.

Date: 13 December 2018

Topic: CCCTB, ATAD1 and ATAD2 and the role of the Commission

In principle the C(C)CTB and ATAD1 and ATAD2 are all focused on or incorporate elements that are aimed at fighting tax avoidance. However, in substance, there is no overlap between the proposals. The CCCTB, so the consolidated version, tackles tax avoidance by addressing the issue of transfer pricing. This means that currently a corporation established in France (with the highest corporate income tax in the Single Market) and a subsidiary of that corporation in Hungary (with the lowest corporate income tax in the Single Market) can try to use internal transactions so that the costs of the whole company are taxed mostly in France, and the profits in Hungary. This is called transfer pricing and basically means moving capital and profits to jurisdictions where taxes are low. ATAD1 (and later ATAD2) does not include transfer pricing. Instead, it is legislation aimed at ‘translating’ and incorporating the 15 steps from OECD’s BEPS project, all focused on combatting tax avoidance, into EU law. However, in the 2016 C(C)CTB proposals the European Commission reintroduced some of the items/provisions that the Council had deliberately decided to remove from the ATAD1 text proposal due to lack of agreement.

Comment [1]: N5

Comment [2]: N3

Topic: Position of the Netherlands and the Council negotiations

The 2011 proposal for a CCCTB and the 2016 proposals for a CCTB and a CCCTB have remained the same. Minor differences are that the tax base would now be mandatory instead of voluntary, the proposal has been divided into two steps, and there are some minor newly introduced elements due to recent developments on the world stage on corporate taxation (for example with the BEPS project)). Since the proposals by and large have not changed, the position of the Netherlands also has not changed.

Comment [3]: L2

In the negotiations it is hardly if not rarely the case that all member states agree on the entire proposal. This means you are always looking for elements that you can exchange in order to come to a draft proposal that is acceptable to everyone. However, in the case of the C(C)CTB there are no substantive components that can be bargained. Nevertheless, the Netherlands stands constructive in the negotiations, although it does not really see any possibilities for this proposal to be adopted.

Comment [4]: L3

One of the serious deficiencies of the proposal, as explained by Interviewee 4, is that the CCTB proposal is aimed at harmonising the tax base, meaning that all member states would calculate the taxable profits of a company the same way. However, the rules set out in the proposal are so vague and broad, that even if adopted, there remains considerable room for member states to implement the rules in different ways which will still lead to disparities between tax regimes. That would mean that the CCTB will not, or at least not in an effective manner, lead to harmonisation. An example of a tax related directive where details are such that harmonisation does in fact take place is the Sixth VAT Directive (77/388/EEC).

Comment [5]: L4, L6

The CCCTB proposal aims at distributing the tax revenues to the member states by means of an apportionment formula. Since this apportionment formula favours industrial economies and to some extent excludes the service sector and innovation, it is disadvantageous for member states such as Denmark and the Netherlands.

Comment [6]: L4

Topic: the position of the Netherlands vs. Council conclusions 6 December 2016

Interviewee 4 explained that Council conclusions are always constructed in a polite, positive and forward-looking way and therefore contain phrases that seem rather amicable and harmonious. However, what matters in the end is if there are decisive provisions in the Council conclusions that do not merely express endorsement or a welcoming attitude, but that address explicit commitment or a specific approach towards certain issues. In this case, Interviewee 4 explained, such provisions are not present, meaning that the Council conclusions may seem promising, but in reality do not hold any significant value.

Comment [7]: N5

Topic: Germany and France and the probability of using a veto

In theory it is correct to assume that member states that gain the most from a proposed policy would be willing to make most concessions. In practice however, this is not something Interviewee 4 has observed in the case of the C(C)CTB. Also, it is interesting that the member states that are most supportive of the proposal are Germany and France, the largest member states. Despite the fact that they seem to have similar interests in regards to the C(C)CTB, there has not yet been a lot of progress. Interviewee 4 said he couldn't talk about the details of the interactions between the member states within Council negotiations. Nevertheless, he explained that when push comes to shove, those in favour (Germany and France) seem to have minor differences in viewpoints/interest, which slightly thwarts the creation of a strong, common position. In addition, those who are not in favour of the proposal, including the Netherlands, are so expressive and determined that it becomes difficult for France and Germany (and Spain and Italy) to strong-arm them. Interviewee 4 explained that the dynamics in unanimity decision-making is quite different from what people often tend to think. It rarely happens that member states use their actual veto right. When a member states anticipates a proposal or elements of a proposal it disagrees with and it recognizes it is the only one, it often chooses to let it go without raising or using its veto right. In theory the veto right is there, but in practice it is used in a different way. In practice, using your veto means coalition formation at an earlier stage, as a result of which you will not find yourself in a position where you actually have to be that one country that raises its veto.

Comment [8]: L5

Comment [9]: L6

Comment [10]: L4, L6

Comment [11]: N5

Comment [12]: L4

Interviewee 4 gave an example of a related, recent example where it did happen that member states used their veto. It concerned the efforts of the EU member states to set up a new VAT system, referred to as 'the definite VAT system'. In the process, the Czech Republic suggested it would like to conduct a domestic experiment in order to combat VAT carousel fraud, a phenomenon it had to deal with frequently. The Czech Republic therefore requested permission to the Council to conduct a pilot with reversed charge, a system where VAT is levied when the good or service goes to the customer (officially called 'general sales tax'). After lots of discussions, the Council finally came to a draft text proposal that would enable the Czech Republic to conduct said experiment. However, France was firmly opposed this idea, as it was afraid that it would obstruct the progress made on and a swift adoption of the definitive VAT system dossier. Subsequently, France used its veto. In response, the Czech Republic used its veto on a separate dossier that was very important for the French. This concerned a proposal that would equalize VAT rates for electronic publications and paper publications. This led to a stalemate, which lasted for over a year (from May 2017 until October 2018). The point of this example is that the actual use of veto rights in history is quite rare. Therefore, Interviewee 4 explained, it is very unlikely that it will come to a point where the Netherlands would in fact (need to) use its veto right, especially in the C(C)CTB dossier.

Comment [13]: L3, L4

In concluding the interview Interviewee 4 quoted Jeroen Dijsselbloem in an informal ECOFIN Council in Tallinn on 16 September 2017: "If you remain on your own and you continue to say no, you will be held under water until you say yes".

Comment [14]: L4

3.5 Labelled take away summary: EU Specialist in the Dutch House of Representatives - Interviewee 5

Interviewee: Interviewee 5 is an EU specialist who worked for many years on *inter alia* the C(C)CTB in the Tweede Kamer.

Date: 3 December 2018

Topic: Reasoned opinion Tweede Kamer

When the Commission proposes its annual work programme, parliamentary committees can indicate for which topics and items it would like to request a 'parlementair behandelvoorbehoud' or a subsidiarity test. When such a subsidiarity test is requested (or is suggested by the EU specialist supporting that parliamentary committee), all political parties are asked to submit a written text in which it outlines its position regarding the subsidiarity and proportionality of the Commission proposal (in this case the CCTB and CCCTB). EU specialists compare all these contributions and draft a letter to the Commission if the majority of the Tweede Kamer committee assesses the proposal incompatible with the principles of subsidiarity and proportionality. If it proves difficult to find a common position, a count of votes will be decisive in determining whether the TK rules the proposal 'positive' or 'negative'.

Comment [1]: N6

Topic: In 2011 Eerste Kamer did not submit reasoned opinion

Usually the Eerste and Tweede Kamer frequently discuss whether one of them is considering submitting a reasoned opinion to the European Commission. Therefore, Interviewee 5 tends to believe that it was a conscious decision of the Eerste Kamer to not submit a reasoned opinion to the European Commission regarding the first proposal for a CCCTB, while the Tweede Kamer did submit such a letter. In 2016 the Eerste Kamer did submit a reasoned opinion, this can be due to two things: 1) the Eerste Kamer changed its position regarding the CCCTB proposal, or 2) due to the elections (in 2015, after the first proposal in 2011 where the Eerste Kamer did not submit a reasoned opinion but before the second proposal in 2016 where the Eerste Kamer did submit a reasoned opinion).

Comment [2]: L2

Topic: VETO of a member state (the Netherlands)

Since the CCTB and CCCTB are proposals that are decided on by unanimity in the Council, the Netherlands has the right to veto. If the proposal is and remains firmly opposed to the position and preferences of the Netherlands, then the Netherlands could use its veto right. However, Interviewee 5 explained that the minister and thus the government would always try to prevent using that option. The risk of using your veto right is that you distance yourself from the other EU member states. In doing so, you weaken your position for future negotiations because you have proven to be a weak negotiation/coalition partner. Therefore, the minister would always try to stay at the negotiation table in order to advocate for a proposal or amendments to the proposal that are more in line with the governments position. Also, using your veto right risks the option that other states choose for enhanced cooperation, where the interests of your country are bypassed and agreement is made between other member states (not including your country). Interviewee 5 gave the example of the European Public Prosecutor's office.

In short: the Netherlands has a veto right, and under very limited circumstances and only if Parliament would be on the verge of issuing a motion of distrust, the Netherlands would use its veto right. In practice however, Interviewee 5 explained that the likelihood of this scenario very small and that the Netherlands would most likely engage in discussions and negotiations in order to get the best deal possible.

Comment [3]: L4

Topic: Strategy, geopolitical goals and their effect on the national position/preferences

It is definitely the case that strategy may explain why a government deviates from its initial interests. That is part of the 'game', and in line with the previous point on using its veto right it explains how the Netherlands can ensure that the proposal becomes more palatable. In fact, if the Tweede Kamer raises strong concerns regarding a Commission proposal, that means the government has a stronger position in the Council as it can argue that it needs some concessions to convince 'the people at home' and bring back an amended proposal that it can present and defend in the Tweede Kamer.

Comment [4]: L3

Topic: Input and involvement of large companies and interests groups

Without a doubt (large) companies and interests groups have spoken with members of the Parliament and policy officers from the Ministry of Finance. It is very likely that they tried to exert some influence on the governments' position. However, it is difficult if not impossible to measure the influence this would have had. Moreover, Interviewee 5 was not a Member of Parliament himself and could therefore not indicate any examples of such involvement.

Comment [5]: L1

Topic: Companies and interests groups bypassing national level to the EU level

Interviewee 5 could not give specific examples, but he is convinced that large businesses and interest groups actively lobby for and try to promote their interests at EU level, for example with the European Commission.

Comment [6]: N2

Topic: MEPs and MPs

Interviewee 5 explained that he believed members of the European Parliament are or become naturally inclined to be a bit more Pro-European than their national counterparts. He explained that this is due to their environment as well as the fact that in the EP they are part of a larger faction, where they also commit to a certain ideology that sometimes may deviate a bit from the ideology, aims and beliefs of their national party. These discrepancies should not be exaggerated for the following two reasons: 1) if members of the European Parliament deviate too much from their national party position, they will be held accountable at national level, and 2) the media, today more than in earlier years, illuminates such discrepancies, so members of the EP are and should be careful when they deviate from their national party position. Having that said, Interviewee 5, also from his own experience in the European Parliament, confirmed that the EU political parties tend to hold more pro-European ideas compared to their national counterparts.

Comment [7]: N6

Comment [8]: N6

Additional issues discussed

Interviewee 5 supported the idea that the European Commission pushes for further cooperation on a certain topic, also in the field of CCCTB. As an example Interviewee 5 explained that the Commission first proposed the whole CCCTB (2011 proposal), but when it appeared to be unpalatable for most member states, it decided to divide the proposal into two separate proposals (CCTB and CCCTB, 2016 proposals) in order to pursue the same by taking incremental steps. Interviewee 5 drew a parallel between this example and the Commission proposal for the European Monetary Fund, in which it attempts to create backstop for the European Stability Mechanism (COM(2017)827)

Comment [9]: N3

Also, Interviewee 5 confirmed that in practice member states that have the most interest in a proposed policy are the ones that (are willing to) make most concessions on the proposal. He could not think of any examples of this in relation to the CCTB and CCCTB.

Comment [10]: L5

3.6 Labelled take away summary: Policy officer of a member of the Dutch Parliament - Interviewee 6

Interviewee: Interviewee 6 is the personal advisor to a member of the Tweede Kamer who deals with the C(C)CTB. Before this position, Interviewee 6 was international tax lawyer at Deloitte.

Date: 18 December 2018

Topic: Introduction of the CCCTB in 2011 and 2016

Interviewee 6 was working as an international tax lawyer at Deloitte when the CCCTB was introduced in 2011. At Deloitte, the proposal was regarded interesting, but not realistic/attainable in the short term (within 10 years). When Interviewee 6 started his job at the Tweede Kamer, the 2011 proposal was just withdrawn by the Juncker Commission. The newly introduced proposal in 2016 seemed to be accompanied with better circumstances; tax avoidance was higher on the agenda and there was more commitment for addressing the issue at EU level. The reason for this is that in 2011 tax avoidance was not as much of a 'hot topic' in society as it was at the time of the second proposal in 2016. However, despite the commitment and social pressure for combatting tax avoidance, the Tweede Kamer and also the Eerste Kamer and the government were disappointed when the 2016 proposal was presented since it was so similar to the 2011 proposal.

Comment [1]: L1

Therefore, the Tweede Kamer (again) submitted a reasoned opinion to the Commission in which it addressed its concerns. Interviewee 6 explained that the process of submitting such a reasoned opinion, despite great differences in party positions, is not that exciting. That is to say, the political parties are simply asked for their opinion on the proposal and whether they consider it to comply with the principle of subsidiarity. If the majority considers it not to, a reasoned opinion is drafted and submitted to the Commission.

Comment [2]: L2

When asked about the absence of a reasoned opinion from the Eerste Kamer in 2011, Interviewee 6 argued that he thinks it was a conscious decision to not submit a reasoned opinion. He explained that the reason for changing its position between 2011 and 2016, when the Eerste Kamer did submit a reasoned opinion, is that the composition of the Eerste Kamer between the two proposals changed. The likelihood that the Eerste Kamer wanted to but could not submit a reasoned opinion for logistical reasons is not very high; parliament has eight weeks to submit it, 'which for us is an eternity'.

Comment [3]: L2

Topic: MPs and MEPs

Interviewee 6 explained that he believes members of the European Parliament are biased in the sense that they hold and develop stronger pro-European ideas, and that they show greater interest in European policies than their national counterparts. Without providing any details or explicit examples, he explained that sometimes there are minor conflicts between members of the national party and members of the party at EU level.

Comment [4]: N6

Topic: VETO and strategy in the Council

The Council always tries to find consensus among all member states before moving into an official voting procedure, regardless of whether it decides by unanimity or qualified majority. In the case of the C(C)CTB, the Council decides by unanimity, so that naturally means that all member states must consider the draft text acceptable in order for it to pass. In theory that means that member states remain the right to veto legislation if they do not agree with it. In practice however, it means that it will not even come to a vote if it is clear that one or more

member states disagree with the draft text. Therefore, the question of whether a veto right will be used is semantic, and difficult to answer. The use of an actual veto is very, very rare.

Comment [5]: L4

Related, though not the same, is the question of whether strategy may cause for member states to deviate from their initial position. The short answer is that it always happens. That is to say, the negotiations in the Council are always a balancing act of pulling and pushing in order to move around and exchange elements for the proposal to become palatable for all member states. A clear example of where this happened extensively is ATAD1 and ATAD2. The longer story of how and what exactly happens and who traded X for Y is more difficult to explain. The reason for this is that it is in no member state's interest to reveal what bargains have been made. Therefore, these negotiations take place behind closed doors. Interviewee 6 argued that this is not necessarily a bad thing, because it enables member states to make progress and find agreement in the end. If all bargains, deals and strategic considerations would be publicly available, it would become impossible for member states to engage in negotiations. Nevertheless, Interviewee 6, added, in the aftermath of such negotiations a government must explain and be transparent about the choices made, without giving away too much details of the negotiations.

Comment [6]: L3

Topic: The interests of large companies and the C(C)CTB proposal

Interviewee 6 explained that he does not precisely know who talks with who, and what input large companies provide to members of the Parliament. However, he said he assumes that large companies talk with members of the Parliament. Since the proposed policy on C(C)CTB would have an impact on those companies, it would only make sense if they are being consulted. Furthermore, the Netherlands and (large) companies in the Netherlands have a shared interest in the C(C)CTB because of the competitive position and business environment of the country compared to other member states. At the same time however, the Netherlands also has an individual interest, which deviates from that of (large) companies, and that is that fair taxation and higher revenues would enable government to provide for public goods. In between those shared and individual interests lies a field of tension, which is considered, approached and dealt with in a different manner depending on the place of the political party on the left-right spectrum.

Comment [7]: L1

Interviewee 6 gave an example of a similar case where such a field of tension exists, i.e. state aid. With state aid there also exist both shared interests of large companies and the member state (to have, create or foster a thriving business environment), and individual interests, which is to have and promote a fair and competitive market. Additionally, member states always seem happy when state aid in other member states is discovered and penalized, but sooner or later it may happen in that member state, too.

Topic: Future of the C(C)CTB

Interviewee 6 explained that he considers the current proposal too ambitious and all encompassing. Nevertheless, as long as the problem behind the C(C)CTB is not solved, there will remain friction and disagreement between member states on how to tackle specific issues. In the end, it is the EU's job to promote and strive towards a competitive market. That market does not exist today, as there is still unfair competition and an unequal playing field. Interviewee 6 argued that it would be much better to take a gradual approach, where the specific issues are addressed in small, clear and uncluttered steps. Similar to how ATAD1 and ATAD2 have been drafted and adopted.

Appendix 4. Overview data per expectation

4.1 Data overview expectations Neofunctionalism

Overview data expectation N1		
Interviewee	Expectation	Data
Interviewee 1	N1	The idea of a CCCTB goes back to the 1990s with the Ruding report, so the endeavour of harmonising corporate taxation is already quite old. It is meant to solve distortions in the Single Market. For example, harmful tax planning and double taxation are clear disruptions of the market because they lead to an unequal playing field. With aggressive tax planning, enterprises can use disparities between national tax systems, which leads to unfair competition. The CCCTB seeks to solve all these issues and thus to solve or remove the distortions in the market.
Interviewee 2	N1	The idea for a CCCTB started with the Ruding Committee and Ruding Report somewhere in the early 1990s. More specifically, the absence of a common corporate tax base in the EU allows corporations to avoid or even evade taxation, which creates distortions in the Single Market. Following increased pressure from society, in particular expressed through and addressed by the European Parliament, fastened the processes of working towards an official proposal by the European Commission for a CCCTB in 2011.

Overview data expectation N2		
Interviewee	Expectation	Data
Interviewee 5	N2	Interviewee 5 could not give specific examples, but he is convinced that large businesses and interest groups actively lobby for and try to promote their interests at EU level, for example with the European Commission.
Interviewee 1	N2	The KPMG EU Tax Centre carefully monitors what happens in Brussels in regards to legislative proposals for taxation, such as the proposed CCCTB
Interviewee 1	N2	In response to the public consultation of the European Commission, KPMG published a position paper and a technical guide on the CCCTB. In this case it was quite difficult for the Tax Centre to find a common position, because some of its customers are in favour and some are against the CCCTB proposal.
Interviewee 1	N2	Following the 2016 proposal, the NOB has written an extensive response to that proposal, including some critical remarks
Interviewee 2	N2	The European Commission always engages frequently with businesses, NGOs and interest groups, also with the CCCTB proposal. Examples of such organisations are Business Europe, DBI Germany or MEDEF from France. However, such involvement is usually quite high level, meaning that there is little discussion on the details of the Commission Proposal. For example, Interviewee 2 said he had never experienced companies lobbying how to phrase an article of the proposal. Nevertheless, it is common for them to raise more general concerns, such as what would happen to their competitive position.

Overview data expectation N3		
Interviewee	Expectation	Data
Interviewee 5	N3	Interviewee 5 supported the idea that the European Commission pushes for further cooperation on a certain topic, also in the field of CCCTB. As an example Interviewee 5 explained that the Commission first proposed the whole CCCTB (2011 proposal), but when it appeared to be unpalatable for most member states, it decided to divide the proposal into two separate proposals (CCTB and CCCTB, 2016 proposals) in order to pursue the same by taking incremental steps.
Interviewee 1	N3	It is very clear that the European Commission is supportive of the CCCTB proposal and it does anything within its powers to promote the CCCTB, e.g. launching big initiatives and legislative proposals such as ATAD 1, ATAD 2 and the recent Digital Service Tax Directive. The French Commissioner for Economic and Financial Affairs, Taxation and Customs, Pierre Moscovici, and even the President of the European Commission Jean Claude Juncker have been clear advocates of the CCCTB proposal. The Commission even tries to move from unanimity voting to QMV in some areas, including corporate taxation.
Interviewee 2	N3	Now this proposed CCCTB is the flagship of the European Commission in the field of direct taxation. If adopted, it would be a major step towards further harmonisation and integration in the field of taxation.
Interviewee 2	N3	After the European Commission has prepared and published the proposal, such as in 2011 and 2016 with the CCCTB, it supports the rotating presidency of the Council in mediating and brokering between member states. Primarily, this is the role and responsibility of the rotating presidency. The Commission only provides supports, especially technical support in regards to the (text of the) legislative proposal. In particular on this proposal or similar proposals that require unanimity, it is absolutely necessary to find common support in the end. Interviewee 2 gave an example of ATAD1 (the first proposal for the Anti Tax-Avoidance Directive), where two member states disagreed, and the Netherlands, holding the rotating presidency, mediated between the two.
Interviewee 2	N3	Interviewee 2 said it is definitely possible to regard CCCTB as a salami tactic of the European Commission. However, it is important to note that salami tactics has a negative connotation to it, something that does not apply to the Commission approach. The negative connotation is that salami tactics assumes the process to be unclear, as single slices are being presented one at the time as a way to work towards the entire salami. The European Commission however is trying to be as transparent as possible. Having that said, it can definitely be seen as a salami tactic. After the CCCTB proposal in 2011 had failed, the Commission presented the CCTB in 2016 because it was easier to find agreement. Thereafter, the Commission and the member states would work towards a CCCTB, which is the ultimate goal of the proposed corporate tax base. Nevertheless, the discussions on the consolidation part will be extremely difficult because it concerns the distribution of money, tax money. This discussion includes much more diverse interests and is politically quite sensitive.
Interviewee 4	N3	However, in the 2016 C(C)CTB proposals the European Commission reintroduced some of the items/provisions that the Council had deliberately decided to remove from the ATAD1 text proposal due to lack of agreement.
Interviewee 3	N3	The Commission will always try to do everything within its powers to make progress on pending dossiers, and it makes sense that they do. Their primary objective is to serve the interest of the EU and to act accordingly. An example of where the Commission tries to push integration further is that it has mentioned several times, for example in the 2017 and 2018 State of the Union, that the Council should move from unanimity voting to qualified majority voting in the area of corporate taxation. Interviewee 3 explained that she believes this is not realistic; she would be highly surprised if the Dutch government would support the Commission in said endeavour.

Overview data expectation N4		
Interviewee	Expectation	Data
	N4	No data

Overview data expectation N5		
Interviewee	Expectation	Data
Interviewee 4	N5	In principle the C(C)CTB and ATAD1 and ATAD2 are all focused on or incorporate elements that are aimed at fighting tax avoidance. However, in substance, there is no overlap between the proposals. The CCCTB, so the consolidated version, tackles tax avoidance by addressing the issue of transfer pricing. This means that currently a corporation established in France (with the highest corporate income tax in the Single Market) and a subsidiary of that corporation in Hungary (with the lowest corporate income tax in the Single Market) can try to use internal transactions so that the costs of the whole company are taxed mostly in France, and the profits in Hungary. This is called transfer pricing and basically means moving capital and profits to jurisdictions where taxes are low. ATAD1 (and later ATAD2) does not include transfer pricing. Instead, it is legislation aimed at 'translating' and incorporating the 15 steps from OECD's BEPS project, all focused on combatting tax avoidance, into EU law.
Interviewee 4	N5	Interviewee 4 explained that Council conclusions are always constructed in a polite, positive and forward-looking way and therefore contain phrases that seem rather amicable and harmonious. However, what matters in the end is if there are decisive provisions in the Council conclusions that do not merely express endorsement or a welcoming attitude, but that address explicit commitment or a specific approach towards certain issues. In this case, Interviewee 4 explained, such provisions are not present, meaning that the Council conclusions may seem promising, but in reality do not hold any significant value.
Interviewee 4	N5	When a member states anticipates a proposal or elements of a proposal it disagrees with and it recognizes it is the only one, it often chooses to let it go without raising or using its veto right.
Interviewee 3	N5	When reading Council conclusions it is important to keep in mind that member states will always behave in a constructive manner, and that is the message they want to convey. This automatically means that the Council conclusions are often rather positive and welcoming, and that they may even suggest that there is more agreement than that is actually the case. However, if you critically read the conclusions and go through the provisions one by one, you will see that there are no (legally) binding agreements or provisions in which member states commit to do X or Y. As long as that is the case, member states commit to nothing more than to continue to talk on the issue and to try to come to agreement.

Overview data expectation N6		
Interviewee	Expectation	Data
Interviewee 5	N6	EU specialists compare all these contributions and draft a letter to the Commission if the majority of the Tweede Kamer committee assesses the proposal incompatible with the principles of subsidiarity and proportionality. If it proves difficult to find a common position, a count of votes will be decisive in determining whether the TK rules the proposal 'positive' or 'negative'
Interviewee 5	N6	Interviewee 5 explained that he believed members of the European Parliament are or become naturally inclined to be a bit more Pro-European than their national counterparts. He explained that this is due to their environment as well as the fact that in the EP they are part of a larger faction, where they also commit to a certain ideology that sometimes may deviate a bit from the ideology, aims and beliefs of their national party.
Interviewee 5	N6	Interviewee 5, also from his own experience in the European Parliament, confirmed that the EU political parties tend to hold more pro-European ideas compared to their national counterparts.
Interviewee 6	N6	Interviewee 6 explained that he believes members of the European Parliament are biased in the sense that they hold and develop stronger pro-European ideas, and that they show greater interest in European policies than their national counterparts. Without providing any details or explicit examples, he explained that sometimes there are minor conflicts between members of the national party and members of the party at EU level.

4.2 Data overview expectations Liberal Intergovernmentalism

Overview data expectation L1		
Interviewee	Expectation	Data
Interviewee 5	L1	Without a doubt (large) companies and interests groups have spoken with members of the Parliament and policy officers from the Ministry of Finance. It is very likely that they tried to exert some influence on the governments' position. However, it is difficult if not impossible to measure the influence this would have had. Moreover, Interviewee 5 was not a Member of Parliament himself and could therefore not indicate any examples of such involvement.
Interviewee 6	L1	At Deloitte, the proposal was regarded interesting, but not realistic/attainable in the short term (within 10 years).
Interviewee 6	L1	Interviewee 6 explained that he does not precisely know who talks with who, and what input large companies provide to members of the Parliament. However, he said he assumes that large companies talk with members of the Parliament. Since the proposed policy on C(C)CTB would have an impact on those companies, it would only make sense if they are being consulted. Furthermore, the Netherlands and (large) companies in the Netherlands have a shared interest in the C(C)CTB because of the competitive position and business environment of the country compared to other member states. At the same time however, the Netherlands also has an individual interest, which deviates from that of (large) companies, and that is that fair taxation and higher revenues would enable government to provide for public goods. In between those shared and individual interests lies a field of tension, which is considered, approached and dealt with in a different manner depending on the place of the political party on the left-right spectrum.
Interviewee 2	L1	Furthermore, what the European Commission often notices, also in the case of the CCCTB, is that if member states have a positive stance on the proposal (which is the case with for example France, Germany, Spain and Italy), then the businesses and interest groups in those member states tend to be rather positive as well. Vice versa the same applies, so if member states are against a proposed policy (which is the case with the Netherlands and Ireland), then businesses, interest groups and NGOs tend to voice their concerns as well.
Interviewee 3	L1	The government is in favour of combatting tax avoidance. In this endeavour, it prefers more concise legislation specifically focused on tackling the issue, such as ATAD1 and ATAD2. The government considers such proposals more expedient, because once the Netherlands would commit to such broad legislation as the C(C)CTB, it also becomes more difficult to, in the future, adopt additional (national) legislation aimed at combatting tax avoidance. However, the Netherlands recognizes that in principle it is a cross-border issue and that, as such, an EU approach would be appropriate. Hence, the government takes a constructive stance in the negotiations, whilst it does not conceal that it is of the opinion that a lot needs to happen before the proposals would be acceptable.
Interviewee 3	L1	<p>The interests of (large) companies and the Netherlands are not at all equal. The outcome, i.e. whether they are in favour or against the C(C)CTB, may be the same, but most likely for different reasons. The most important concern of the Dutch government is that the current CCTB proposal compared to the current tax base for corporate income tax in the Netherlands would mean a curtailment of taxable profits and thus lower tax revenue. In order to maintain the same level of public spending, the Dutch government would have to close the gap between pre-CCTB tax revenue and post-CCTB tax revenue. In order to do so, it would need to take measures such as increasing income tax or raising the tax rate (%) of corporate income tax (note: with the CCTB and CCCTB the tax base is harmonized, but member states remain the discretion to change their tax rates individually). In other words, the current CCTB proposal would decrease the tax revenue of the Dutch government, for which it would need to take new measures. Such new measures are by definition undesirable.</p> <p>Obviously, said concern of the Netherlands would not be shared by (large) companies. The reason for this is that they would in principle profit from the CCTB in the sense that their taxable profits and thus the taxes they would be required to pay in the Netherlands decrease. If (large) companies nevertheless hold a negative stance on the C(C)CTB, that is presumably due to other reasons/consequences of the proposed C(C)CTB.</p>
Interviewee 3	L1	Interviewee 3 explained that the Ministry does engage in conversations with the private sector, but primarily umbrella organisations such as VNO-NCW (Confederation of Netherlands Industry and Employers) and other employment organisations. In principle, it does not consult or engage in conversations with individual companies or businesses in order to discuss the details and consequences of the C(C)CTB.

Overview data expectation L2		
Interviewee	Expectation	Data
Interviewee 5	L2	Therefore, Interviewee 5 tends to believe that it was a conscious decision of the Eerste Kamer to not submit a reasoned opinion to the European Commission regarding the first proposal for a CCCTB, while the Tweede Kamer did submit such a letter
Interviewee 1	L2	The main reason for these critical remarks is that the Netherlands is a small country with an open economy, which is economically doing very well at the moment. With the CCCTB, the Netherlands would lose its flexibility, which would be a considerable issue for a small country with an open economy
Interviewee 1	L2	Interviewee 1 explained that he feels the position of the Netherlands remains unchanged, also with the new government. However, he said, it may be the case that the government is a bit more careful and lenient, in particular with the recent Digital Service Tax Directive, because it wants to cast aside the image of facilitating aggressive tax planning. Having that said, there seems not to have been a significant change of position in regards to the CCCTB.
Interviewee 6	L2	The newly introduced proposal in 2016 seemed to be accompanied with better circumstances; tax avoidance was higher on the agenda and there was more commitment for addressing the issue at EU level. The reason for this is that in 2011 tax avoidance was not as much of a 'hot topic' in society as it was at the time of the second proposal in 2016. However, despite the commitment and social pressure for combatting tax avoidance, the Tweede Kamer and also the Eerste Kamer and the government were disappointed when the 2016 proposal was presented since it was so similar to the 2011 proposal.
Interviewee 6	L2	When asked about the absence of a reasoned opinion from the Eerste Kamer in 2011, Interviewee 6 argued that he thinks it was a conscious decision to not submit a reasoned opinion. He explained that the reason for changing its position between 2011 and 2016, when the Eerste Kamer did submit a reasoned opinion, is that the composition of the Eerste Kamer between the two proposals changed. The likelihood that the Eerste Kamer wanted to but could not submit a reasoned opinion for logistical reasons is not very high; parliament has eight weeks to submit it, 'which for us is an eternity'.
Interviewee 2	L2	In general the positions of the member states have not changed between the first and the second proposal. The four largest member states, France, Germany, Spain and Italy are still supportive of the proposal, and Ireland and the Netherlands are still quite concerned.
Interviewee 4	L2	The 2011 proposal for a CCCTB and the 2016 proposals for a CCTB and a CCCTB have remained the same. Minor differences are that the tax base would now be mandatory instead of voluntary, the proposal has been divided into two steps, and there are some minor newly introduced elements due to recent developments on the world stage on corporate taxation (for example with the BEPS project)). Since the proposals by and large have not changed, the position of the Netherlands also has not changed.
Interviewee 3	L2	In regards to the position of the government, it would be fair to say that it has not changed significantly between the 2011 and 2016 proposals.
Interviewee 3	L2	Nevertheless, it seems as if the government has taken a more constructive stance towards the Commission proposals for C(C)CTB in the sense that the sentiments revolving around the topic are less negative than in 2011. This change may be the result of the elections, where the previous State Secretary for Finance was from the VVD party (Eric Wiebes), and the current State Secretary for Finance from the D66 party (Menno Snel), the latter in general being more pro-European than the former. That does not mean however, that the government is supportive of the current C(C)CTB proposals.
Interviewee 3	L2	The government is in favour of combatting tax avoidance. In this endeavour, it prefers more concise legislation specifically focused on tackling the issue, such as ATAD1 and ATAD2. The government considers such proposals more expedient, because once the Netherlands would commit to such broad legislation as the C(C)CTB, it also becomes more difficult to, in the future, adopt additional (national) legislation aimed at combatting tax avoidance. However, the Netherlands recognizes that in principle it is a cross-border issue and that, as such, an EU approach would be appropriate. Hence, the government takes a constructive stance in the negotiations, whilst it does not conceal that it is of the opinion that a lot needs to happen before the proposals would be acceptable.
Interviewee 3	L2	There are quite some member states, including the Netherlands, that are not supportive of the proposals for a C(C)CTB. Their concerns are so fundamental, that it is unlikely that removing one or two articles and some small modifications here and there would make it an acceptable proposal. In fact, you would almost need to rewrite the entire proposal in order for it to be acceptable for the Netherlands, and that feeling is shared by some other member states as well. That also means that we have not come to a point where the 'real negotiations' in the sense of bargaining and horse-trading begins.

Overview data expectation L3

Interviewee	Expectation	Data
Interviewee 5	L3	It is definitely the case that strategy may explain why a government deviates from its initial interests. That is part of the 'game', and in line with the previous point on using its veto right it explains how the Netherlands can ensure that the proposal becomes more palatable. In fact, if the Tweede Kamer raises strong concerns regarding a Commission proposal, that means the government has a stronger position in the Council as it can argue that it needs some concessions to convince 'the people at home' and bring back an amended proposal that it can present and defend in the Tweede Kamer.
Interviewee 1	L3	However, he said, it may be the case that the government is a bit more careful and lenient, in particular with the recent Digital Service Tax Directive, because it wants to cast aside the image of facilitating aggressive tax planning.
Interviewee 6	L3	Related, though not the same, is the question of whether strategy may cause for member states to deviate from their initial position. The short answer is that it always happens. That is to say, the negotiations in the Council are always a balancing act of pulling and pushing in order to move around and exchange elements for the proposal to become palatable for all member states. A clear example of where this happened extensively is ATAD1 and ATAD2. The longer story of how and what exactly happens and who traded X for Y is more difficult to explain. The reason for this is that it is in no member state's interest to reveal what bargains have been made. Therefore, these negotiations take place behind closed doors. Interviewee 6 argued that this is not necessarily a bad thing, because it enables member states to make progress and find agreement in the end. If all bargains, deals and strategic considerations would be publicly available, it would become impossible for member states to engage in negotiations. Nevertheless, Interviewee 6, added, in the aftermath of such negotiations a government must explain and be transparent about the choices made, without giving away too much details of the negotiations.
Interviewee 2	L3	With the CCCTB proposal it hasn't come to a point where member states start compromising and horse-trading. First, the technicalities of the 2016 proposal have to be discussed (the 2011 proposal was withdrawn by the Commission also before it got to that point), and then once there is a draft text, the actual negotiations including horse-trading take place. However, since it concerns a proposal that requires unanimity, it is likely if not inevitable that member states will make concessions and that horse-trading will take place.
Interviewee 4	L3	In the negotiations it is hardly if not rarely the case that all member states agree on the entire proposal. This means you are always looking for elements that you can exchange in order to come to a draft proposal that is acceptable to everyone. However, in the case of the C(C)CTB there are no substantive components that can be bargained. Nevertheless, the Netherlands stands constructive in the negotiations, although it does not really see any possibilities for this proposal to be adopted.
Interviewee 4	L3	Interviewee 4 gave an example of a related, recent example where it did happen that member states used their veto. It concerned the efforts of the EU member states to set up a new VAT system, referred to as 'the definite VAT system'. In the process, the Czech Republic suggested it would like to conduct a domestic experiment in order to combat VAT carousel fraud, a phenomenon it had to deal with frequently. The Czech Republic therefore requested permission to the Council to conduct a pilot with reversed charge, a system where VAT is levied when the good or service goes to the customer (officially called 'general sales tax'). After lots of discussions, the Council finally came to a draft text proposal that would enable the Czech Republic to conduct said experiment. However, France was firmly opposed this idea, as it was afraid that it would obstruct the progress made on and a swift adoption of the definitive VAT system dossier. Subsequently, France used its veto. In response, the Czech Republic used its veto on a separate dossier that was very important for the French. This concerned a proposal that would equalize VAT rates for electronic publications and paper publications. This led to a stalemate, which lasted for over a year (from May 2017 until October 2018). The point of this example is that the actual use of veto rights in history is quite rare. Therefore, Interviewee 4 explained, it is very unlikely that it will come to a point where the Netherlands would in fact (need to) use its veto right, especially in the C(C)CTB dossier.
Interviewee 3	L3	There are quite some member states, including the Netherlands, that are not supportive of the proposals for a C(C)CTB. Their concerns are so fundamental, that it is unlikely that removing one or two articles and some small modifications here and there would make it an acceptable proposal. In fact, you would almost need to rewrite the entire proposal in order for it to be acceptable for the Netherlands, and that feeling is shared by some other member states as well. That also means that we have not come to a point where the 'real negotiations' in the sense of bargaining and horse-trading begins.

Overview data expectation L4

Interviewee	Expectation	Data
Interviewee 5	L4	<p>Since the CCTB and CCCTB are proposals that are decided on by unanimity in the Council, the Netherlands has the right to veto. If the proposal is and remains firmly opposed to the position and preferences of the Netherlands, then the Netherlands could use its veto right. However, Interviewee 5 explained that the minister and thus the government would always try to prevent using that option. The risk of using your veto right is that you distance yourself from the other EU member states. In doing so, you weaken your position for future negotiations because you have proven to be a weak negotiation/coalition partner. Therefore, the minister would always try to stay at the negotiation table in order to advocate for a proposal or amendments to the proposal that are more in line with the governments position. Also, using your veto right risks the option that other states choose for enhanced cooperation, where the interests of your country are bypassed and agreement is made between other member states (not including your country). Interviewee 5 gave the example of the European Public Prosecutor's office.</p> <p>In short: the Netherlands has a veto right, and under very limited circumstances and only if Parliament would be on the verge of issuing a motion of distrust, the Netherlands would use its veto right. In practice however, Interviewee 5 explained that the likelihood of this scenario very small and that the Netherlands would most likely engage in discussions and negotiations in order to get the best deal possible.</p>
Interviewee 1	L4	The main reason for these critical remarks is that the Netherlands is a small country with an open economy, which is economically doing very well at the moment. With the CCCTB, the Netherlands would lose its flexibility, which would be a considerable issue for a small country with an open economy
Interviewee 1	L4	An example of such an approach is the recent bilateral initiative by Germany and France (Meseberg Declaration). The reason that these countries are supportive of the proposal is that the taxable profits are more advantageous for countries with a large industrial sector than for smaller countries with many intangible assets and a large service sector, such as the Netherlands, Ireland and Luxembourg. Interviewee 1 said he is convinced that if elements of the proposal do not significantly improve for Ireland or the Netherlands, they would definitely veto the draft proposal in the Council.
Interviewee 6	L4	The Council always tries to find consensus among all member states before moving into an official voting procedure, regardless of whether it decides by unanimity or qualified majority. In the case of the C(C)CTB, the Council decides by unanimity, so that naturally means that all member states must consider the draft text acceptable in order for it to pass. In theory that means that member states remain the right to veto legislation if they do not agree with it. In practice however, it means that it will not even come to a vote if it is clear that one or more member states disagree with the draft text. Therefore, the question of whether a veto right will be used is semantic, and difficult to answer. The use of an actual veto is very, very rare.
Interviewee 2	L4	If, hypothetically, the Netherlands and Ireland would not change their position, it would in theory be possible to continue with the proposal under enhanced cooperation, but Interviewee 2 said he has not yet seen member states considering that as an option. Also, formally, then there would need to be a voting first. Based on that voting, the Commission could opt for a proposal under enhanced cooperation, but as of now that is not likely to happen any time soon.
Interviewee 4	L4	One of the serious deficiencies of the proposal, as explained by Interviewee 4, is that the CCTB proposal is aimed at harmonising the tax base, meaning that all member states would calculate the taxable profits of a company the same way. However, the rules set out in the proposal are so vague and broad, that even if adopted, there remains considerable room for member states to implement the rules in different ways which will still lead to disparities between tax regimes. That would mean that the CCTB will not, or at least not in an effective manner, lead to harmonisation. An example of a tax related directive where details are such that harmonisation does in fact take place is the Sixth VAT Directive (77/388/EEC).
Interviewee 4	L4	The CCCTB proposal aims at distributing the tax revenues to the member states by means of an apportionment formula. Since this apportionment formula favours industrial economies and to some extent excludes the service sector and innovation, it is disadvantageous for member states such as Denmark and the Netherlands.
Interviewee 4	L4	In addition, those who are not in favour of the proposal, including the Netherlands, are so expressive and determined that it becomes difficult for France and Germany (and Spain and Italy) to strong-arm them.

Interviewee 4	L4	Interviewee 4 explained that the dynamics in unanimity decision-making is quite different from what people often tend to think. It rarely happens that member states use their actual veto right. When a member states anticipates a proposal or elements of a proposal it disagrees with and it recognizes it is the only one, it often chooses to let it go without raising or using its veto right. In theory the veto right is there, but in practice it is used in a different way. In practice, using your veto means coalition formation at an earlier stage, as a result of which you will not find yourself in a position where you actually have to be that one country that raises its veto.
Interviewee 4	L4	Interviewee 4 gave an example of a related, recent example where it did happen that member states used their veto. It concerned the efforts of the EU member states to set up a new VAT system, referred to as 'the definite VAT system'. In the process, the Czech Republic suggested it would like to conduct a domestic experiment in order to combat VAT carousel fraud, a phenomenon it had to deal with frequently. The Czech Republic therefore requested permission to the Council to conduct a pilot with reversed charge, a system where VAT is levied when the good or service goes to the customer (officially called 'general sales tax'). After lots of discussions, the Council finally came to a draft text proposal that would enable the Czech Republic to conduct said experiment. However, France was firmly opposed this idea, as it was afraid that it would obstruct the progress made on and a swift adoption of the definitive VAT system dossier. Subsequently, France used its veto. In response, the Czech Republic used its veto on a separate dossier that was very important for the French. This concerned a proposal that would equalize VAT rates for electronic publications and paper publications. This led to a stalemate, which lasted for over a year (from May 2017 until October 2018). The point of this example is that the actual use of veto rights in history is quite rare. Therefore, Interviewee 4 explained, it is very unlikely that it will come to a point where the Netherlands would in fact (need to) use its veto right, especially in the C(C)CTB dossier.
Interviewee 4	L4	In concluding the interview Interviewee 4 quoted Jeroen Dijsselbloem in an informal ECOFIN Council in Tallinn on 16 September 2017: "If you remain on your own and you continue to say no, you will be held under water until you say yes".
Interviewee 3	L4	If, hypothetically, it would come to a voting on the proposal in its current form, the Netherlands would most likely reject the proposal. However, if for some reason all the other member states that are also critical of the proposal were planning to vote in favour, the Netherlands would definitely reconsider and re-evaluate whether or not it wants to be the only member state using its veto. Ideally, you do not find yourself in that position. If you do, you need to be politically strong and committed, because there would be a lot of pressure from other member states and the Commission that, in this hypothetical case, would want to see the proposal pass. It happens sometimes, but not often. The member states you would say no to are also the member states you will have to cooperate with on other issues in the future, so you must feel very confident and be very concerned with the topic if you want to push through your veto. Therefore, the government would definitely first reconsider whether it really wants to pursue that avenue.
Interviewee 3	L4	There are quite some member states, including the Netherlands, that are not supportive of the proposals for a C(C)CTB. Their concerns are so fundamental, that it is unlikely that removing one or two articles and some small modifications here and there would make it an acceptable proposal. In fact, you would almost need to rewrite the entire proposal in order for it to be acceptable for the Netherlands, and that feeling is shared by some other member states as well. That also means that we have not come to a point where the 'real negotiations' in the sense of bargaining and horse-trading begins.

Overview data expectation L5		
Interviewee	Expectation	Data
Interviewee 5	L5	Also, Interviewee 5 confirmed that in practice member states that have the most interest in a proposed policy are the ones that (are willing to) make most concessions on the proposal. He could not think of any examples of this in relation to the CCTB and CCCTB.
Interviewee 1	L5	An example of such an approach is the recent bilateral initiative by Germany and France (Meseberg Declaration). The reason that these countries are supportive of the proposal is that the taxable profits are more advantageous for countries with a large industrial sector than for smaller countries with many intangible assets and a large service sector, such as the Netherlands, Ireland and Luxembourg.
Interviewee 2	L5	So far there are no clear examples of member states that have made extensive concessions. There are member states that try to find common grounds (for example Germany and France with the Meseberg declaration), but those are not clear examples of concessions. Similar to the previous topic, it is a bit too early to identify which member states will make what concessions.
Interviewee 4	L5	In theory it is correct to assume that member states that gain the most from a proposed policy would be willing to make most concessions. In practice however, this is not something Interviewee 4 has observed in the case of the C(C)CTB.
Interviewee 3	L5	Interviewee 3 explained that in principle it is true that member states that stand to gain most from a proposal are inclined to make most concessions in the negotiation process. Usually, it would be fair to assume that member states that are very much in favour of a certain proposal have, prior to the Council negotiations, determined some sort of 'floor' or 'minimum' up until where they would be willing to make concessions. However, in the case of the C(C)CTB, the point where that would happen has not yet been reached. The proposal is still in a preliminary stage where it would not make sense for member states to suggest, make and commit to major concessions.
Interviewee 3	L5	An interesting example where the state of negotiations and the draft proposal are at a more advanced level is the directive for a digital service tax. Less than a year ago a few member states headed by France expressed the need for such a proposal. As a result, the European Commission drafted a proposal in March 2018. Subsequently, the proposal was discussed in the Council, where a considerable number of member states expressed their concerns. Then, in the latest ECOFIN Council of 4 December 2018, Germany and France created and published a declaration in which they suggested to (temporarily) exclude parts of the proposal (roughly 60%) and to continue with a simplified version. Thereafter, the Council Presidency, based on that declaration, drafted a new proposal. France, clearly the member state having the strongest interest in the proposal, argued that the member states should use the new proposal as a basis for further work towards a more comprehensive proposal (similar to the one proposed by the Commission in March). Nevertheless, in the end France conceded and agreed to continue with the simplified version. This is a clear example where France, being the member state that had the most interest in said proposal, was prepared and willing to make most concessions in order to make progress on the dossier.

Overview data expectation L6		
Interviewee	Expectation	Data
Interviewee 1	L6	large countries such as France, Spain, and Italy are having a hard time at the moment. These countries find it difficult to control expenditures and to keep up with the globalizing economy, so these countries are in need of adjusting tax rules in order to be able to tax profits made in their jurisdictions.
Interviewee 1	L6	An example of such an approach is the recent bilateral initiative by Germany and France (Meseberg Declaration). The reason that these countries are supportive of the proposal is that the taxable profits are more advantageous for countries with a large industrial sector than for smaller countries with many intangible assets and a large service sector, such as the Netherlands, Ireland and Luxembourg. Interviewee 1 said he is convinced that if elements of the proposal do not significantly improve for Ireland or the Netherlands, they would definitely veto the draft proposal in the Council.
Interviewee 2	L6	Following the Meseberg declaration by France and Germany there has definitely been some movement towards more agreement, but that concerns the more 'light' or manageable issues, such as the calculation of the taxable profits. The more tough nuts to crack still have to be debated, and complete agreement on a draft proposal will not be found without these politically sensitive chapters/issues. Examples of these 'tough nuts' are the minimum effective taxation and rules on anti-abuse.
Interviewee 4	L6	One of the serious deficiencies of the proposal, as explained by Interviewee 4, is that the CCTB proposal is aimed at harmonising the tax base, meaning that all member states would calculate the taxable profits of a company the same way. However, the rules set out in the proposal are so vague and broad, that even if adopted, there remains considerable room for member states to implement the rules in different ways which will still lead to disparities between tax regimes. That would mean that the CCTB will not, or at least not in an effective manner, lead to harmonisation. An example of a tax related directive where details are such that harmonisation does in fact take place is the Sixth VAT Directive (77/388/EEC).
Interviewee 4	L6	Also, it is interesting that the member states that are most supportive of the proposal are Germany and France, the largest member states. Despite the fact that they seem to have similar interests in regards to the C(C)CTB, there has not yet been a lot of progress. Interviewee 4 said he couldn't talk about the details of the interactions between the member states within Council negotiations. Nevertheless, he explained that when push comes to shove, those in favour (Germany and France) seem to have minor differences in viewpoints/interest, which slightly thwarts the creation of a strong, common position.
Interviewee 4	L6	In addition, those who are not in favour of the proposal, including the Netherlands, are so expressive and determined that it becomes difficult for France and Germany (and Spain and Italy) to strong-arm them.
Interviewee 3	L6	<p>Earlier this year Germany and France published a document, referred to as the Meseberg Declaration or a European resolution, in which they outlined certain articles of the C(C)CTB proposal and suggested some modifications. The document does not address all provisions of the proposal, but it sets out a framework on which at least Germany and France agree.</p> <p>Subsequently, Interviewee 3 explained that usually, when it concerns non-tax related proposals where QMV applies, such agreement found by large member states yields a greater chance of progress being made and ultimately the proposal being adopted. Even when it concerns unanimity voting, agreement between large member states may increase the chances of progress, but it is in no way a guarantee. Especially in the case of the C(C)CTB, where there is still a number of (smaller) member states that bear strong concerns in regards to the proposal, agreement between large member states such as the Meseberg Declaration by Germany and France does not mean that the chances of integration on this topic increase. That is to say, if member states fundamentally disagree with a proposal in an area where unanimity voting applies, it will not pass, regardless of whether the interests of large member states align.</p>

Appendix 5. Table with developments C(C)CTB including sources

Level	Date	Action	Source <i>See bibliography for source details</i>
EU	25 Oct 1990	Onno Ruding Committee was created → Established to evaluate need greater harmonization business taxation	European Commission, 1992
EU	March 1992	Ruding report → Identified differences corporation tax distorts Single Market	European Commission, 1992
EU	8 October 2001	A Council regulation is adopted on the Statute for a European Company (Societas Europaea or SE) → Enables entrepreneurs or already existing companies to create a legal entity under EU law	EUR-Lex, 2001
EU	23 Oct 2001	Communication from COM on strategy for consolidated tax base	European Commission, 2001-c
EU	2004 - 2008	Working Group consisting of national experts → WG provided technical assistance to COM in preparing 2011 proposal	European Commission, n.d.-c
EU	20 Oct 2010	Workshop for MS and stakeholders as part of a public consultation process on CCCTB	European Commission, 2010
MS/ FRA & DEU	25 Feb 2011	France and Germany proposed EU competitiveness pact → Aimed at eliminating policy differences (including common assessment basis for corporate income tax)	France & Germany, 2011; and BBC, 2011
EU	16 March 2011	COM proposal for Council directive on CCCTB - COM(2011)121	European Commission, 2011-a; and European Commission, 2011-b
MS/ NL	11 April 2011	BNC Fiche NLD on COM(2011)121 → Argues the proposal does not comply with principles of subsidiarity and proportionality	Overheid, 2011
MS/ NL	28 April 2011	Tweede Kamer submitted reasoned opinion on proposal COM(2011)121 → Echoes the position of the BNC fiche	Tweede Kamer, 2011
EU	26 Oct 2011	European Economic and Social Committee published an opinion → Supporting the proposal COM(2011)121	EESC, 2011
EU	19 April 2012	European Parliament adopts resolution on proposal COM(2011)121 → Supports the proposal but suggests some amendments	European Parliament, 2012
EU	June 2013	ECOFIN Council endorsed CCCTB roadmap tabled by Irish Presidency → Proposal for division CCCTB into six blocks	Council of the EU, 2015
EU	18 Dec 2014	European Council expressed need to continue to fight against tax avoidance and aggressive tax planning	European Council, 2014
EU	17 June 2015	COM presented Action Plan - COM(2015)302 → Action plan for Fair and Efficient Corporate Taxation, aimed at protecting the Single Market by, among other things, re-launching CCCTB in a two-staged approach.	European Commission, 2015-a
EU	19 Oct 2015	COM published CCCTB inception impact assessment	European Commission, 2015-b
EU	10 Jan 2016	COM carried out public consultation on the re-launch of CCCTB (between Oct 2015 and Jan 2016)	European Commission, n.d.-a
EU	28 Jan 2016	COM presented 'anti-tax-avoidance package' → Includes BEPS adopted by OECD (system for base erosion and profit shifting) and a proposal for a Council anti-tax avoidance directive (ATAD)	European Commission, 2016-b
EU	12 July 2016	ECOFIN Council adopted ATAD	EUR-Lex, 2016
EU	25 Oct 2016	COM withdrew COM(2011)121 proposal and presented a Corporate Tax Reform Package, which includes: → Proposal for Council directive CCTB - COM(2016)685 → Proposal for Council directive CCCTB - COM(2016)683	European Parliament, 2017-a
MS/ NL	18 Nov 2016	BNC Fiche NLD on COM(2016)685 and COM(2016)683 → Argues the proposal does not comply with principles of subsidiarity and proportionality	Overheid, 2016
EU	6 Dec 2016	ECOFIN Council presented conclusions on fair and stable corporate tax system	Council of the EU, 2016-a
MS/ NL	15 Dec 2016	Tweede Kamer submitted reasoned opinion on proposal COM(2016)685 and COM(2016)683 → Echoes the position of the BNC fiche	Tweede Kamer, 2016

EU	16 Dec 2016	ECOFIN Council report to European Council → Report states that consolidation will follow when CCTB is adopted and it briefly outlines differences 2011 and 2016 proposal	Council of the EU, 2016-b
MS/ NL	21 Dec 2016	Eerste Kamer submitted reasoned opinion on proposal COM(2016)685 and COM(2016)683 → Echoes the position of the BNC fiche	Eerste Kamer, 2016
MS/ FRA	15 Feb 2017	France adopted 'European resolution' in which it endorsed proposal for C(C)CTB	French National Assembly, 2017
EU	17 Feb 2017	Presidency compromise on amendment ATAD	Council of the EU, 2017-c
EU	23 May 2017	ECOFIN Council meeting on CCTB → Technical work shall continue, almost all MS seemed supportive except NLD	Council of the EU, 2017-a
EU	2 June 2017	COM reply to Eerste Kamer's reasoned opinion on 2016 proposal	European Commission, 2017-a
EU	8 June 2017	COM reply to Tweede Kamer's reasoned opinion on 2016 proposal	European Commission, 2017-b
EU	13 July 2017	European Parliament presented draft report on CCCTB	European Parliament, 2017-b
EU	20 Sept 2017	European Economic and Social Committee published an opinion → Supporting the proposal COM(2016)685 and 683	EESC, 2017
EU	15 March 2018	European Parliament adopted opinion supporting Commission proposals - COM(2016)685 and 683	European Parliament, 2018-b
EU	21 March 2018	COM proposal for Council directive on digital services tax - COM(2018)148 → In principle this directive focuses on digital services tax, but it places the merit of the directive into a broader framework of the CCCTB.	European Commission, 2018-b
MS/ NL	9 May 2018	BNC Fiche NLD on COM(2018)148 → Dutch government underlines that it is not in favour of the CCTB and CCCTB	Overheid, 2018
MS/ NL	15 May 2018	Tweede Kamer submitted reasoned opinion on proposal COM(2018)148 → Echoes the position of the BNC fiche	Tweede Kamer, 2018
MS/ FRA & DEU	19 June 2018	France and Germany published position paper on CCTB (Meseberg Declaration) → The position paper tries to fasten the CCTB project by including several suggestions/simplifications.	France & Germany, 2018
EU	2 July 2018	ECOFIN Council report to the European Council on tax issues → MS will individually evaluate the impact of C(C)CTB proposals on national tax revenues.	Council of the EU, 2018

Appendix 6: Comparative analysis BNC-fiche 2011 and 2016

The table below presents a comparative analysis of the 2011 and 2016 BNC-fiches on the proposal for a C(C)CTB. The BNC-fiches are compared on three topics: (A) the assessment of the principle of subsidiarity, (B) the assessment of the principle of proportionality and (C) the Dutch position. The arguments used for each topic are categorised, summarised and assessed on their similarity compared to the other BNC-fiche. For example, the arguments in the 2011 BNC-fiche on topic X can be similar or dissimilar to the arguments used to explain that same topic in the 2016 BNC-fiche. If it is similar, the table below states whether the similarity is explicit or implicit (meaning that it is referred to in the BNC-fiche but in the pretext of a different issue). If it is dissimilar, the table below states whether the arguments are contradictory or whether it is simply mentioned in one BNC-fiche while not in the other. The labels (A, A1 etc.) can be used to find the underlying arguments used in the BNC-fiches from which the Dutch position as presented in the table below is distilled (see appendix 6.1. and appendix 6.2 below).

Topics	Label	2011 BNC-fiche on the proposal for a CCCTB	2016 BNC-fiche on the proposal for a CCTB & CCCTB	Similarity
Subsidiarity	A	Negative	Negative	100%
Arguments & considerations	A1	<i>EU approach no added value</i>	<i>Proposed approach very limited contribution to underlying goals of proposal</i>	Yes, explicit
	A2	<i>Advantages do not outweigh disadvantages</i>		Yes, implicit (A2 = B3)
	A3		<i>OECD already provides for alternative measures on inter alia transfer pricing</i>	No (but time related and not contradictory)
Proportionality	B	Negative	Negative	100%
Arguments & considerations	B1	<i>Dual system results in disproportionate costs for the Tax Authority</i>	<i>Multiple tax systems within one country constitutes burden for Tax Authority</i>	Yes, explicit
	B2	<i>Consolidation as proposed has negative consequences for Dutch economy because of its large service sector</i>	<i>Apportionment formula is constructed in a way that neglects the strengths of the Dutch economy</i>	Yes, explicit
	B3		<i>Potential benefits at EU level do not outweigh negative consequences at national level</i>	Yes, implicit (B3 = A2)
Dutch position	C	Critical, concerned and unacceptable	Critical, concerned and unacceptable	100%

Arguments & considerations	C1	Effective implementation would require substantive implementation costs	Negative consequences for the Tax Authority	Yes, explicit
	C2	The proposal favours industrial economies over innovative economies with a large service sector	The provisions on the calculation of the tax base deviates from Dutch standards in a way that has profound consequences for the Dutch economy	Yes, explicit
	C3	Concerned about the provision that requires companies to pay corporation tax for all of its units/subsidiaries in the member state where the headquarters/Parent unit is established.	Following consolidation the Netherlands and the Tax Authority in particular would lose the ability to determine, check/control and tax the profits for some of the companies established and operating in the Netherlands (since that would happen in other member states)	Yes, explicit
	C4		The proposal would take away a substantive part of the Netherlands' sovereignty and liberty regarding the use of corporate income tax in response to (national) economic developments.	No (but not contradictory)
	C5		The proposal would have no or very little positive effect on the fight against tax avoidance	Yes, implicit (C5 = A1)
	C6		The envisioned economic growth on EU level following the proposal would most likely not outweigh the negative consequences of the proposal	Yes, implicit (C6 = A2)
	C7		The provision on addition or subtraction of costs is too dependent on a company's debt/equity.	No (but not contradictory)

Vergaderjaar 2010–2011

32 728

EU-voorstel – Richtlijn voor een gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB)- COM(2011)

22 112

Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie

Nr. 2

BRIEF VAN DE STAATSSECRETARIS VAN BUITENLANDSE ZAKEN

Aan de Voorzitter van de Tweede Kamer der Staten-Generaal

Den Haag, 11 april 2011

Overeenkomstig de bestaande afspraken heb ik de eer u hierbij vier fiches aan te bieden die werden opgesteld door de werkgroep Beoordeling Nieuwe Commissievoorstellen (BNC):

- Fiche: Mededeling energie efficiëntieplan 2011 (kamerstuk 22 112, nr. 1158);
- Fiche: Zevende kaderprogramma Euratom over de jaren 2012 en 2013 (kamerstuk 22 112, nr. 1159);
- Fiche: Maatregelen op het gebied van de gemeenschappelijke handelspolitiek (kamerstuk 22 112, nr. 1160);
- Fiche: Richtlijn gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB) (zie bijgaand).

Graag vestig ik hierbij uw aandacht op het volgende:

Op 24 maart jl. heeft de Tweede Kamer de motie Plasterk (kamerstuk 21 501-20, nr. 518) aangenomen (Handelingen II, 2010/11, nr. 65, stemmingen Europact), waarin de regering wordt verzocht de impact op de Nederlandse economie in kaart te brengen van het voorstel van de Europese Commissie voor een richtlijn gemeenschappelijke geconsolideerde heffingsgrondslag voor de Vennootschapsbelasting (CCCTB).

Fiche 4, waarin de regering haar eerste standpunt over dit voorstel inneemt, bevat tevens het antwoord op bovengenoemde motie. Ik verwijs u in het bijzonder naar paragraaf 2 b) van het fiche, waarin een samenvatting wordt gegeven van het *impact assessment* dat door de Europese Commissie over het voorstel is uitgebracht. Daarbij wordt in het bijzonder ingegaan op de gevolgen voor Nederland.

De staatssecretaris van Buitenlandse Zaken,
H. P. M. Knapen

Richtlijn gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB)

1. Algemene gegevens

Titel: Proposal for a Council Directive on a Common Consolidated Corporate Tax Base

Datum Commissiedocument: 16 maart 2011

Nr. Commissiedocument: COM(2011)121/3

Prelex: http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=200263

Nr. impact-assessment Commissie en Opinie Impact-assessment Board:
http://ec.europa.eu/governance/impact/ia_carried_out/cia_2011_en.htm#taxud

Behandelingstraject Raad: Raadswerkgroep Belastingvraagstukken Directe Belastingen en uiteindelijk de ECOFIN Raad. Eind april 2011 vindt de eerste bespreking plaats in de Raadswerkgroep.

Rechtsbasis: Artikel 115 VWEU

Besluitvormingsprocedure Raad en betrokkenheid Europees Parlement: De Raad besluit met unanimititeit. Het Europees Parlement heeft adviesrecht.

Eerstverantwoordelijk ministerie: Financiën

2. Essentie voorstel

a. Inhoud voorstel

De Common Consolidated Corporate Tax Base (CCCTB) wordt door de Europese Commissie als oplossing gepresenteerd om grote fiscale belemmeringen in de interne markt te elimineren voor bedrijven die in meerdere lidstaten actief zijn. Door het naast elkaar bestaan van verschillende belastingstelsels kan dubbele belasting ontstaan en zijn de administratieve lasten voor het bedrijfsleven hoog. Volgens de Europese Commissie remt deze situatie het investeringsniveau in de EU af en sluit het niet aan bij de Europa 2020 strategie waarin gestreefd wordt naar slimme, inclusieve en duurzame groei.

De CCCTB is een optioneel stelsel en zal dus naast de verschillende nationale belastingstelsels bestaan. Kiest een onderneming voor toepassing van de CCCTB dan zal de fiscale winst van de hele groep (dus inclusief alle EU dochters en filialen) worden vastgesteld volgens een nieuwe belastinggrondslag voor ondernemingswinsten: de CCCTB. Vervolgens wordt deze gezamenlijke geconsolideerde winst verdeeld over de lidstaten waar deze ondernemingen actief zijn volgens een verdeelsleutel. Deze verdeelsleutel is voor gelijke delen (1/3) gebaseerd op omzet, vaste activa en arbeid. Elke lidstaat kan op het aan hem toerekenbare deel van die gezamenlijke winst vervolgens afzonderlijk zijn eigen nationale tarief toepassen. De Commissie benadrukt dat het voorstel niet gericht is op harmonisatie van de tarieven.

Naast het vaststellen van de belastinggrondslag gaat het voorstel ook in op de administratieve aspecten. Wanneer gekozen wordt voor de CCCTB wordt de grondslagbelastingaangifte gedaan door de top houderster

(moeder) voor de hele groep in de lidstaat waar de top houdster gevestigd is (one-stop-shop). Belastingcontroles worden in principe uitgevoerd door de belastingautoriteiten van de lidstaat waar de top houdster gevestigd is, maar kunnen ook worden uitgevoerd door de belastingautoriteiten van de lidstaat waar een dochter is gevestigd. Belastinggeschillen worden behandeld volgens het recht van de lidstaat waar de top houdster is gevestigd.

b. Impact Assessment Commissie

Volgens de Commissie zal de CCCTB leiden tot een kleine afname van het BBP op EU-niveau van 0,2% Bruto Binnenlands Product (hierna BBP). Wanneer gekeken wordt naar afzonderlijke elementen, zoals de grootte en verdeling van de grondslag per lidstaat en de gevolgen voor het BBP, laat het impact assessment voor Nederland het volgende beeld zien. Doordat ondernemingen met het voorstel van de Commissie gebruik kunnen maken van grensoverschrijdende verliesverrekening zal de belastinggrondslag onder een CCCTB kleiner zijn dan onder de huidige situatie. Vooral voor Nederland betekent het, afhankelijk van het aantal bedrijven dat kiest voor de CCCTB, een substantiële verkleining van de grondslag. Een afname van meer dan 30% van de grondslag is hierbij denkbaar. Afhankelijk van het afschrijvingsregime, zal het totaaleffect een daling van het BBP in Nederland van 1,65% tot 1,69 % zijn. Opvallend is dat de CCCTB voor de meeste lidstaten een daling van het BBP betekent. Ook het investeringsniveau zal voor Nederland tussen de 1,84% en de 1,97% afnemen. De werkgelegenheid neemt minimaal (tussen de 0,05% en 0,08%) toe voor Nederland. Deze cijfers komen overeen met het beeld dat andere onderzoeken laten zien over de effecten van de CCCTB.

De Commissie concludeert dat de definitieve budgettaire gevolgen voor de lidstaten niet op voorhand vast te stellen zijn. Dit is afhankelijk van de nationale politieke keuzes die lidstaten maken over hun tarieven en eigen belastingmix. Volgens de Commissie zou het verlies van de Vpb opbrengst gecompenseerd kunnen worden door de introductie van een hoger Vpb tarief of door de verhoging van de opbrengst van andere belastingen zoals de BTW heffing of de Inkomsten Belasting.

3. Bevoegdheidsvaststelling en subsidiariteits en proportionaliteitsoordeel

a. Bevoegdheid

De EU kent op het gebied van de interne markt een gedeelde bevoegdheid met de lidstaten (artikel 4, lid 2 onder a VWEU). Artikel 114, lid 2 VWEU bepaalt uitdrukkelijk dat artikel 114, lid 1 VWEU (waarbij besloten wordt met gekwalificeerde meerderheid van stemmen) niet van toepassing is op fiscale bepalingen. Daarom kan alleen artikel 115 VWEU dienen als rechtsgrondslag, waarbij besloten wordt met eenparigheid van stemmen in de Raad. Nederland deelt deze inschatting.

b. Functionele toets

- A **Subsidiariteit: negatief**
 - B **Proportionaliteit: negatief**
- Onderbouwing**

De Commissie geeft aan dat het alleen op EU-niveau mogelijk is een gemeenschappelijke belastinggrondslag vast te stellen met het oog op het elimineren van de fiscale belemmeringen voor het bedrijfsleven op de interne markt. Het kabinet betwist de potentiële voordelen van een gemeenschappelijke aanpak voor het bedrijfsleven niet. **Evenwel blijkt uit**

A1 de impact assessment naar de mening van het kabinet niet dat een Europese oplossing toegevoegde waarde heeft voor alle actoren die bij dit vraagstuk zijn betrokken. Het gebruik van de CCCTB leidt juist tot negatieve gevolgen zoals een vermindering van de opbrengst van de vennootschapsbelasting en een negatief effect op de groei van de economie voor verreweg de meeste EU-lidstaten, waaronder ook Nederland. Het positieve welvaartseffect voor de hele EU is zo beperkt dat het niet opweegt tegen deze negatieve consequenties voor een groot aantal lidstaten. Verder betekent het hebben van een optioneel systeem dat de overheid twee verschillende belastingssystemen met betrekking tot de vennootschapsbelasting moet hanteren in plaats van één. Een Europese aanpak heeft dus duidelijke nadelen met betrekking tot de uitvoeringseffectiviteit.

A2 De voordelen van een Europese aanpak zoals in dit voorstel geformuleerd wegen naar de mening van het kabinet daarmee onvoldoende op tegen de nadelen. De subsidiariteit wordt daarom alles overwegende negatief beoordeeld.

B1 De proportionaliteit wordt negatief beoordeeld vanwege de hoge uitvoeringskosten van de Belastingdienst. De kosten die gemoeid gaan met het opzetten van een nieuw belastingstelsel en de handhaving van twee systemen zijn niet proportioneel ten opzichte van de gecreëerde voordelen die niet eens allemaal positief te noemen zijn omdat, zoals hierboven gesteld, als gevolg van de CCCTB de Vpb opbrengst en de groei van de economie er op achteruit zullen gaan.

B2 Zoals hierboven al gesteld leidt het voorstel naar verwachting tot een significante daling van de opbrengst uit de vennootschapsbelasting. Dit heeft te maken met de manier waarop de Commissie de verdeelsleutel voorstelt, wat in Nederland leidt tot een grondslagversmalling. Wanneer andere factoren dan arbeid, vaste activa en omzet in de verdeelsleutel worden meegenomen (zoals immateriële en financiële activa), kan wellicht meer winst toegerekend worden aan Nederland

c. Nederlands oordeel over de politieke opportuniteit

Het kabinet plaatst vraagtekens bij de timing van de publicatie van dit voorstel. Gezien de huidige budgettaire situaties van lidstaten, ligt het publiceren van een voorstel met grote budgettaire verschuivingen tussen lidstaten niet voor de hand.

4. Financiële implicaties

Het voorstel heeft geen gevolgen voor de EU-begroting. Het voorstel leidt tot zeer substantiële initiële (i.v.m. noodzaak tot ontwerp en bouw van een separaat VPB-systeem naast het huidige systeem) en structurele uitvoeringskosten (voor het beheer en onderhoud van het nieuwe systeem) voor de rijksoverheid (Belastingdienst). De budgettaire gevolgen dienen te worden ingepast via de reguliere procedure voor beleidswijzigingen op fiscaal gebied.

Voor het bedrijfsleven zullen de administratieve lasten afnemen indien een groep gekozen heeft voor toepassing van de CCCTB. De Commissie heeft in de impact assessment gesteld dat voor die groep de administratieve lasten tot 7% kunnen afnemen. Het is nog niet mogelijk kwantitatief vast te stellen wat precies de gevolgen op dit punt voor het Nederlands bedrijfsleven zullen zijn.

Op voorhand is wel aan te geven dat er een administratieve lasten reductie voor het Nederlands bedrijfsleven zal plaatsvinden gezien de voordelen die een geconsolideerd systeem met zich mee brengt. Hierbij

kan gedacht worden aan het gebruik aan één grondslag in de groep en het verdwijnen van mogelijke dubbele belastingheffing. Aan de andere kant is het nu lastig in te schatten of de CCCTB geen nieuwe administratieve lasten voor het Nederlandse bedrijfsleven met zich mee brengt. Op het moment dat er meer duidelijkheid is over de vormgeving van de richtlijn over de CCCTB zal hieraan verder aandacht worden besteed.

5. Juridische implicaties

Indien het richtlijnvoorstel wordt aangenomen, dient een aantal wetten te worden aangepast, waaronder de Wet op de vennootschapsbelasting 1969 en mogelijk de Algemene wet inzake rijksbelastingen. Het richtlijnvoorstel heeft nog een blanco inwerkingtredingsdatum en implementatietermijn.

6. Implicaties voor ontwikkelingslanden

Het voorstel heeft geen gevolgen voor de belangen voor ontwikkelingslanden.

7. Nederlandse positie

Nederlandse belangen en eerste algemene standpunt

- C Het kabinet staat kritisch tegenover het CCCTB voorstel van de Commissie, gezien de grote negatieve gevolgen. Dit voorstel is voor Nederland dan ook niet acceptabel. Nederland ziet weliswaar enige voordelen voor met name het internationale bedrijfsleven als de CCCTB wordt geïntroduceerd. Echter, er dient ook breder gekeken te worden naar de gevolgen van de invoering van de CCCTB. Zoals al eerder aangegeven in dit fiche heeft de CCCTB een aantal duidelijk negatieve gevolgen. Dit blijkt uit de evaluatie op basis van de belangrijkste randvoorwaarden die het kabinet eerder aan de invoering van een CCCTB heeft gesteld.
- C1 1) Vermindering van administratieve lasten voor bedrijfsleven en overheid
- C2 2) Voldoende zekerheid over budgettaire en economische gevolgen waarbij rekening gehouden wordt met budgetneutraliteit

- C1 Ad 1. Het impact assessment stelt dat de uitvoeringskosten voor het bedrijfsleven aanzienlijk zullen dalen als zij kiezen voor de CCCTB. Het feit dat de CCCTB een optioneel systeem is, leidt er echter toe dat de uitvoeringskosten voor de overheid wel toenemen. De Belastingdienst moet namelijk een nieuw systeem opzetten en twee belastingssystemen naast elkaar uitvoeren. Hierdoor zullen de uitvoeringskosten voor de overheid flink toenemen. Nederland is van mening dat de Commissie te gemakkelijk over deze gevolgen heen stapt.

- C2 Ad 2. Uitgaande van het impact assessment van de Commissie maakt het kabinet zich grote zorgen over de budgettaire uitwerking van dit voorstel voor Nederland. De verdeelsleutel voor de geconsolideerde winst is namelijk zo vormgegeven dat lidstaten met een grote «oude» industrie meer winst toebedeeld krijgen dan lidstaten met een grote dienstensector en veel innovatieve bedrijven. Dit komt omdat bijvoorbeeld immateriële activa en financiële activa niet meegenomen worden in de verdeelsleutel. Dit pakt nadelig uit voor Nederland. Het kabinet zet daarom in op een verdeelsleutel die een betere weergave is van wat er in de «werkelijke» economische wereld plaatsvindt. Budgetneutraliteit is hierbij voor Nederland een belangrijk uitgangspunt.

C3 Verder plaatst het kabinet vraagtekens bij het uitgangspunt dat het recht van de lidstaat waar de tophoudster is gevestigd bepalend is voor de te volgen rechtsgang. Indien bijvoorbeeld een bepaalde lidstaat niet of te soepel controleert, raakt dit de gemeenschappelijke grondslag en dus ook de grondslag die Nederland toekomt en daarmee de belastingopbrengst. Ook dient concurrentie tussen lidstaten op deze punten te worden voorkomen (denk aan boetesysteem, termijnen).

Nederland zal op basis van het hierboven neergelegde standpunt aan de discussie over het voorstel deelnemen.

Vergaderjaar 2016–2017

34 604

**EU-voorstellen: Pakket vennootschapsbelasting
COM (2016) 683, 685, 686 en 687**

Nr. 4

BRIEF VAN DE MINISTER VAN BUITENLANDSE ZAKEN

Aan de Voorzitter van de Tweede Kamer der Staten-Generaal

Den Haag, 18 november 2016

Overeenkomstig de bestaande afspraken ontvangt u hierbij vier fiches, die werden opgesteld door de werkgroep Beoordeling Nieuwe Commissie-voorstellen (BNC).

Fiche 1: Fiscale geschilbeslechting ter voorkoming van dubbele belasting (Kamerstuk 34 604, nr. 2)

Fiche 2: Richtlijn hybride mismatches met derde landen (Kamerstuk 34 604, nr. 3)

Fiche 3: Richtlijnen gemeenschappelijke (geconsolideerde) heffingsgrondslag voor de vennootschapsbelasting (CCTB en CCCTB)

Fiche 4: Verordening EU-certificeringssysteem apparatuur beveiligingsonderzoeken luchtvaart (Kamerstuk 22 112, nr. 2246)

De Minister van Buitenlandse Zaken,
A.G. Koenders

Fiche: Richtlijnen gemeenschappelijke (geconsolideerde) heffingsgrondslag voor de vennootschapsbelasting (CCTB en CCCTB)

1. Algemene gegevens

- a) *Titel voorstel*
Voorstel voor een richtlijn van de Raad betreffende een gemeenschappelijke heffingsgrondslag voor de vennootschapsbelasting (CCTB) en Voorstel voor een richtlijn van de Raad betreffende een gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB) en Mededeling van de Commissie aan het Europees Parlement en de Raad: bouwen aan een rechtvaardig, concurrerend en stabiel vennootschapsbelastingstelsel van de EU.
- b) *Datum ontvangst Commissiedocument*
26 oktober 2016
- c) *Nr. Commissiedocument*
COM(2016) 685, COM(2016) 683 en COM(2016) 682
- d) *EUR-Lex*
<http://eur-lex.europa.eu/legal-content/NL/TXT/?uri=COM:2016:685:FIN>
<http://eur-lex.europa.eu/legal-content/NL/TXT/?uri=COM:2016:683:FIN>
<http://eur-lex.europa.eu/legal-content/NL/TXT/?uri=COM:2016:682:FIN>
- e) *Nr. impact assessment Commissie en Opinie Impact-assessment Board*
SWD(2016) 342
- f) *Behandelingstraject Raad*
ECOFIN-raad
- g) *Eerstverantwoordelijk ministerie*
Ministerie van Financiën
- h) *Rechtsbasis*
Artikel 115 van het Verdrag betreffende de werking van de Europese Unie is de rechtsbasis voor beide richtlijnvoorstellen
- i) *Besluitvormingsprocedure Raad*
Unanimiteit
- j) *Rol Europees Parlement*
Raadpleging

2. Essentie voorstel

a) Inhoud voorstel

In juni 2015 heeft de Commissie een Actieplan gepresenteerd voor een eerlijk en doeltreffend vennootschapsbelastingstelsel in de Europese Unie. Daarin is betoogd dat een gezonde interne markt een eerlijk en efficiënt bedrijfsbelastingstelsel nodig heeft dat bijdraagt aan economische groei en dat is gebaseerd op het beginsel dat bedrijven belasting moeten betalen in het land waar de waarde wordt gecreëerd. De gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (Common Consolidated Corporate Tax Base: «CCCTB») wordt door de Commissie gepresenteerd als een overkoepelend initiatief dat op zeer effectieve wijze kan bijdragen aan het behalen van deze doelstelling. In het Actieplan wordt gepleit voor een stapsgewijze aanpak, waarbij allereerst overeenstemming zou moeten worden bereikt over de regels voor een gemeenschappelijke heffingsgrondslag voor de vennootschapsbelasting alvorens over te gaan tot regels voor consolidatie. Bij die consolidatie worden winsten en verliezen binnen een groep die actief is in de EU met elkaar verrekend en vallen onderlinge transacties binnen deze groep tegen elkaar weg.

In een mededeling van de Commissie worden vier richtlijnvoorstellen die op 25 oktober 2016 zijn gepubliceerd kort toegelicht. In dit BNC-fiche worden de voorstellen voor een CCTB en een CCCTB besproken. Over de twee andere richtlijnvoorstellen zijn aparte BNC fiches opgesteld, die de Kamer gelijktijdig ontvangt.

De gemeenschappelijke heffingsgrondslag voor de vennootschapsbelasting (Common Corporate Tax Base: «CCTB») en de consolidatie (CCCTB) worden in twee afzonderlijke richtlijnvoorstellen aangeboden, in overeenstemming met de stapsgewijze aanpak. Beide richtlijnvoorstellen zijn grotendeels gebaseerd op de oorspronkelijk voorgestelde CCCTB-richtlijn¹ uit 2011. Dit eerdere voorstel wordt als gevolg van de nieuwe Commissievoorstellen ingetrokken. De huidige richtlijnvoorstellen verschillen wel op enkele punten van het oorspronkelijke voorstel². De nieuwe richtlijnvoorstellen zijn verplicht van toepassing op EU-lichamen en in de EU gelegen vaste inrichtingen van multinationale groepen met een totale geconsolideerde groepsopbrengst van ten minste € 750 miljoen en zijn optioneel voor overige ondernemingen binnen de EU.

CCTB-voorstel

Dit richtlijnvoorstel is beperkt tot het vaststellen van de regels voor een gemeenschappelijke heffingsgrondslag voor de vennootschapbelasting, zoals de wijze waarop de winst wordt berekend, het voorkomen van misbruik en de grensoverschrijdende dimensie van het voorgestelde systeem. De consolidatie, die in 2011 deel uitmaakte van een overkoepelend voorstel, is nu losgekoppeld van de gemeenschappelijke heffingsgrondslag en in een apart voorstel ondergebracht.

Ten opzichte van het CCCTB-voorstel uit 2011 zijn een aantal anti-misbruikmaatregelen toegevoegd die in lijn zijn met de maatregelen uit de Richtlijn anti-belastingontwijking die in 2016 is aangenomen.³ Enkele keuzes die laatstgenoemde richtlijn aan de lidstaten laat, zijn in het CCTB-voorstel van de Commissie nader uitgewerkt. De zogenoemde switch-overbepaling, die na onderhandelingen niet in de uiteindelijke Richtlijn anti-belastingontwijking is opgenomen, komt wel terug in het CCTB-voorstel. Daarnaast wordt het verschil in behandeling van eigen vermogen en vreemd vermogen volgens de Commissie verkleind, door de introductie van een aftrek of een bijtelling die afhankelijk is van de mutatie van het eigen vermogen. De Commissie wil innovatie aanjagen door de introductie van een aftrek voor speur- en ontwikkelingswerk, terwijl geen ruimte lijkt voor een door veel lidstaten reeds in de belastingwetgeving opgenomen innovatiebox. Tot slot wordt een beperkte grensoverschrijdende verliesverrekening binnen de EU geïntroduceerd, vooruitlopend op de consolidatie uit het CCCTB-voorstel.

CCCTB-voorstel

Met dit voorstel wordt de winst geconsolideerd van alle EU-lichamen⁴ en in de EU gelegen vaste inrichtingen die is vastgesteld in overeenstemming met de gezamenlijke heffingsgrondslag. Op die manier worden

¹ Proposal for a Council Directive on a Common Consolidated Corporate Tax Base, 16 maart 2011, COM(2011)121/3.

² Zie ook het BNC-fiche bij het CCCTB-voorstel uit 2011. Fiche: Richtlijn gemeenschappelijke geconsolideerde heffingsgrondslag voor de vennootschapsbelasting (CCCTB) (Kamerstuk 32 728, nr. 2).

³ Richtlijn (EU) 2016/1164 van de Raad van 12 juli 2016 tot vaststelling van regels ter bestrijding van belastingontwijkingspraktijken welke rechtstreeks van invloed zijn op de werking van de interne markt.

⁴ (Rechts)personen die zelfstandig belastingplichtig zijn voor de toepassing van de Commissievoorstellen.

winsten en verliezen binnen een groep die actief is in de EU met elkaar verrekenend en worden bij het bepalen van de winst onderlinge transacties binnen deze groep genegeerd.

Vervolgens wordt deze gezamenlijke geconsolideerde winst verdeeld over de lidstaten waar deze ondernemingen actief zijn, volgens een in de richtlijn vastgestelde verdeelsleutel. Deze verdeelsleutel is voor gelijke delen (1/3) gebaseerd op omzet, materiële vaste activa en arbeid. De factor arbeid valt daarbij uiteen in twee gelijke delen (1/2) gebaseerd op de totale loonsom en het totaal aantal werknemers. Elke lidstaat kan op het aan hem toerekenbare deel van die gezamenlijke winst vervolgens afzonderlijk zijn eigen nationale tarief toepassen. De Commissie benadrukt dat het voorstel niet gericht is op harmonisatie van de tarieven.

Wanneer de CCCTB van toepassing is, doet de belastingplichtige moeder van de groep de belastingaangifte voor de gehele groep in de lidstaat waar deze moeder is gevestigd of – in het geval van een vaste inrichting – is gelegen (one-stop-shop). Belastingcontroles worden in principe gecoördineerd en uitgevoerd door en op initiatief van de belastingautoriteiten van de lidstaat waar de moeder gevestigd of gelegen is. Belastinggeschillen worden behandeld volgens het recht van de lidstaat waar de moeder gevestigd of gelegen is.

b) Impact assessment Commissie

In het impact assessment dat is uitgevoerd door de Commissie is gekeken naar verschillende alternatieve uitwerkingsopties van de stapsgewijze aanpak van de voorstellen van de Commissie. Als uitgangspunt zijn de door de Commissie voorgestelde richtlijnen gehanteerd. In het door de Commissie gebruikte evenwichtsmodel is de aanname gemaakt dat de CCCTB op een budgetneutrale wijze geïmplementeerd wordt, door middel van compensatie via de tarieven, die door de lidstaten zouden moeten worden aangepast. Daarbij wordt ook aangenomen dat lidstaten daadwerkelijk bereid zijn om hun tarieven te verhogen. Er wordt tevens verondersteld dat dit voorstel het schuiven van winsten door ondernemingen tussen de lidstaten tot nul reduceert, waardoor de kosten voor «tax planning» afnemen. In het impact assessment worden de economische gevolgen van CCTB en CCCTB vergeleken met de situatie voor de invoering van ATAD. De verlaging van nalevingskosten is daardoor waarschijnlijk een overschatting omdat een deel hiervan al via ATAD is gerealiseerd. Daarnaast nemen volgens de Commissie de administratieve lasten voor bedrijven af, omdat er een eenduidige set regels is op basis waarvan de heffingsgrondslag in de gehele EU berekend wordt. Vooral deze aanname zorgt ervoor dat kosten van kapitaal lager worden, waardoor de investeringen in de EU toenemen wat een positief effect heeft.

De economische impact van een deels verplichte en deels optionele CCCTB is volgens de Commissie licht positief, met een gemiddelde toename van 0,16 procent van het Bruto Binnenlands Product (BBP), uitgedrukt in een BBP-gewogen gemiddelde van de 28 lidstaten. Verder leidt dit voorstel volgens de berekeningen van de Commissie gemiddeld voor de lidstaten tot 0,04 procentpunt lagere kosten van kapitaalverschaffing, 0,57 procent meer investeringen, 0,40% hogere lonen, 0,19% hogere werkgelegenheid en een 0,07% hogere welvaart, allen uitgedrukt in een BBP-gewogen gemiddelde van de 28 lidstaten. De budgettaire effecten op EU-niveau zijn volgens de Commissie licht negatief: een verlaging van de totale belastinginkomsten van 0,08% van het BBP, wat neerkomt op 11 miljard euro op EU-niveau. In het scenario dat alleen

CCTB wordt ingevoerd zijn de resultaten ook positief voor de EU als geheel, maar ook met een verlaging van de belastinginkomsten.

Hoewel de Commissie aangeeft dat de budgettaire effecten op lidstaat-niveau lastig te voorspellen zijn, worden de effecten op lidstaatniveau geschat op hoofdlijnen geschat. Voor Nederland wordt daarbij een lichte verhoging van de totale belastinginkomsten geschat vanwege een verwachte toename van buitenlandse investeringen en de daarmee gepaarde hogere werkgelegenheid. Deze schattingen zijn gebaseerd op de aanname dat de lidstaten het tarief zo aanpassen dat de overgang naar de CCCTB budgetneutraal is. In dat scenario zullen 16 lidstaten hun tarief gaan verhogen, waaronder Nederland met 4%-punt. De Commissie houdt echter geen rekening met het feit dat lidstaten hun tariefsverhogingen niet zullen willen doorvoeren. De internationale trend is dat de tarieven naar beneden gaan en volledige harmonisering van de grondslag zal deze trend waarschijnlijk versnellen. Daarnaast wordt geen rekening gehouden met de effecten van het afschaffen van nationale patent- of innovatieboxen. In het CCTB-scenario zal Nederland het tarief met 2,7%-punt verhogen.

Ingeval de CCCTB verplicht zou zijn voor alle ondernemingen, zouden de resultaten op alle economische factoren volgens de Commissie positiever zijn. De verschillen in uitkomsten met het huidige voorstel zijn echter marginaal. De positieve economische gevolgen van beide opties volgen volgens de Commissie uit lagere kosten van kapitaalverschaffing, wat leidt tot hogere investeringen door multinationale ondernemingen. Wel merkt de Commissie op dat het gebruikte simulatiemodel (CORTAX) is uitgewerkt met de aanname dat multinationale ondernemingen in alle 28 lidstaten actief zijn, waardoor een verlies in de ene lidstaat altijd verrekend kan worden met een winst in een andere lidstaat. Dit leidt volgens de Commissie tot een overschatting van de positieve effecten voor multinationale ondernemingen en een onderschatting van de positieve effecten voor nationale ondernemingen. De reden daarvoor is dat volgens de Commissie dat de keuze voor toepassing van de CCCTB voor kleinere ondernemingen afhangt van de voor- of nadelen van de nationale vennootschapsbelasting.

In het impact assessment wordt niet diepgaand ingegaan op de economische effecten op lidstaatniveau. Zoals gezegd geeft de Commissie zelf aan dat deze effecten op lidstaatniveau lastig te voorspellen zijn. Het gebruikte algemeen evenwichtsmodel is een goede voorspeller op EU-niveau, maar kan voor individuele lidstaten afwijken. In 2011 werd wel uitgebreid ingegaan op de effecten voor de individuele lidstaten, waarbij de economische effecten voor Nederland negatief zouden uitpakken. Destijds heeft de Kamer een gele kaart uitgedeeld vanwege de onverenigbaarheid van het voorstel met het subsidiariteitsbeginsel. Aangezien de inhoud van het voorstel niet wezenlijk veranderd is, zullen verschillen qua economische impact vooral voortkomen uit de gehanteerde modelveronderstellingen. Een belangrijke factor hierin lijkt te zijn dat het effect van de afname van de nalevingskosten hoger wordt ingeschat dan in het eerdere model van 2011, waardoor het effect van zowel CCTB alsmede CCCTB op de investeringen en daarmee het BBP groter is. Er wordt in het huidige impact assessment ook niet ingegaan op de incidentele administratieve lasten voor belastingplichtigen en de incidentele uitvoeringskosten, alsmede niet op de duur van de aanlooperperiode. Het huidige voorstel wordt door de Commissie gepresenteerd als positief voor Nederland.

Aangezien de Commissie duidelijke kanttekeningen plaatst bij de gesimuleerde effecten per lidstaat, blijft een kwantificering van het effect van dit voorstel voor Nederland lastig. Daarnaast is beleidsaanneمة dat lidstaten hun tarieven zullen gaan verhogen, wat mogelijk niet zal gaan plaatsvinden. Voor Nederland is het effect op het BBP zowel bij CCTB als CCCTB kleiner dan het gemiddeld effect op EU-niveau. Een belangrijke veroorzaker van dit effect – de harmonisering van de grondslag en de elementen die gebruikt worden in de verdeelsleutel – blijft in de huidige voorstellen van de Commissie immers ongewijzigd. Uit het impact assessment bij het CCCTB-voorstel uit 2011 kwam duidelijk naar voren dat de investeringen in Nederland zouden afnemen bij een optionele CCCTB. Hoewel de huidige voorstellen van de Commissie en het voorstel uit 2011 niet identiek zijn, hebben ze beide naar verwachting een negatief effect op het Nederlandse vestigingsklimaat. Verschillende elementen van de Nederlandse grondslag zullen niet langer van toepassing zijn op ondernemingen waarop de C(C)CTB van toepassing is. Zo zal bijvoorbeeld de Nederlandse innovatiebox in zijn huidige vorm niet meer van toepassing zijn op ondernemingen waarop de C(C)CTB van toepassing is. Dit zal in beginsel leiden tot een toename van opbrengsten van de vennootschapsbelasting, maar waarschijnlijk ook tot uitstroom van ondernemingen en activiteiten leiden naar regimes die nog wel een dergelijk regime kennen zoals Zwitserland. Daarnaast elimineert het C(C)CTB-voorstel het onderscheidende karakter van de Nederlandse vennootschapsbelasting. Dit heeft voor Nederland naar verwachting een negatief effect, omdat dit ook kan meespelen in de vestigingsplaatskeuze van ondernemingen.

3. Nederlandse positie ten aanzien van het voorstel

a) Essentie Nederlands beleid op dit terrein

De voorstellen van de Commissie hebben als doel een eerlijk en efficiënt winstbelastingstelsel te creëren dat bijdraagt aan economische groei en dat is gebaseerd op het beginsel dat bedrijven belasting moeten betalen in het land waar de waarde wordt gecreëerd, mede door het voorkomen van misbruik.

Nederland onderschrijft deze doelstelling en het bestaande Nederlandse beleid is hier ook op gericht. Zo hanteert Nederland al jaren een systeem van verrekenprijzen tussen onderdelen van een multinationale groep, gebaseerd op de afspraken die door de Organisatie voor Economische Samenwerking en Ontwikkeling (OESO) zijn gemaakt. Op die manier wordt de winst daar belast waar de waarde wordt gecreëerd. Vanzelfsprekend vindt het kabinet dat de economische verstoring van een belastingstelsel tot een minimum moet worden beperkt, zodat de economische groei zo min mogelijk wordt belemmerd. Het kabinet heeft op 20 september 2016 in een brief⁵ het belang van een goed vestigingsklimaat benadrukt en om die reden het toekomstperspectief voor het Nederlandse vestigingsklimaat geschetst.

Op het terrein van het voorkomen van misbruik in internationaal verband vervult Nederland een voortrekkersrol. Nederland heeft naar aanleiding van het OESO-actieplan tegen belastingontwijking door «Base Erosion and Profit Shifting» (BEPS) bijvoorbeeld al voor aanvang van het Nederlandse voorzitterschap van de Raad van de Europese Unie de afspraken over country-by-country-reporting omgezet in nationale wetgeving. Het Nederlandse voorzitterschap heeft zich succesvol ingespannen om country-by-country-reporting EU-breed in een richtlijn

⁵ Kamerstuk 25 087, nr. 130.

vast te leggen. Vervolgens is in juni 2016 onder het Nederlandse voorzitterschap de Europese Richtlijn anti-belastingontwijking aangenomen⁶.

b) Beoordeling + inzet ten aanzien van dit voorstel

C De Commissie benadrukt dat de voorstellen tot doel hebben de interne markt te versterken en tevens belastingontwijking verder tegen te gaan. Nederland steunt deze doelen, maar plaatst serieuze kanttekeningen bij de door de Commissie voorgestelde uitwerking. De voorstellen leiden ertoe dat de mogelijkheden voor Nederland om zijn vennootschapsbelasting naar eigen inzicht in te richten, vergaand worden beperkt. Nederland kan alleen nog zelfstandig de tarieven vaststellen voor belastingplichtigen die onder het toepassingsbereik van de Commissievoorstellen vallen, maar de grondslag en verdeling van de winst worden op Europees niveau geregeld. Bovendien is het voorgestelde systeem «rule based», terwijl het C4 Nederlandse belastingstelsel «principle based» is. Hiermee raakt Nederland een deel van het fiscale instrumentarium en ruimte om eigen beleidsmatige keuzes te maken of te anticiperen op nationale ontwikkelingen kwijt. Het kabinet acht deze vergaande beperking van de Nederlandse beleidsvrijheid ongewenst. De mogelijkheid om later met wijzigingen van de grondslag in te spelen op toekomstige ontwikkelingen is ook beperkt aangezien daarover eerst unaniem overeenstemming moet worden bereikt. De huidige Nederlandse belastingverdragen zijn het resultaat van onderhandelingen die gebaseerd zijn op de nationale stelsels van Nederland en de andere verdragsluitende staat. De invoering van de voorstellen van de Commissie kan het evenwicht in deze belastingverdragen verstoren.

C5 Voor het bedrijfsleven moeten de voorstellen positieve gevolgen hebben, terwijl er tegelijkertijd geen nieuwe mogelijkheden voor belastingontwijking moeten ontstaan. Het lijkt erop dat met deze voorstellen misbruik niet of nauwelijks aanvullend kan worden bestreden. Indien door de voorstellen nieuwe mogelijkheden voor misbruik blijken te ontstaan, dan moet op dat moment opnieuw unanimitieit worden bereikt om de CCTB en de CCCTB daarop aan te passen.

C6 Naast het eerste doel van de Commissie (bestrijding van belastingontwijking) dient ook het tweede doel van deze voorstellen (bijdragen aan economische groei) te worden gezien. Zoals uit het impact assessment valt op te maken, blijft de bijdrage van deze voorstellen aan de economische groei zeer beperkt. Er zal dus moeten worden afgewogen of de zeer beperkte effecten op de economische groei in de EU als geheel opwegen tegen de nadelen van het voorstel.

B1 and C1 De impact van de Commissievoorstellen op het Nederlandse vestigingsklimaat, de bestaande regelingen in de vennootschapsbelasting en de uitvoerbaarheid voor de Belastingdienst zijn voor het kabinet van groot belang. De gevolgen voor de Belastingdienst zijn aanzienlijk. Naast dat een dergelijke wijziging van de huidige vennootschapsbelasting leidt tot een ingrijpende wijziging van bestaande systemen en werkprocessen zal een grote hoeveelheid extra capaciteit nodig zijn voor de inspanning die de in- en uitvoering van een extra systeem voor het belasten van winstinkomen zal vergen. Dit betekent bijvoorbeeld ook dat alle bestaande afspraken die zien op de huidige vennootschapsbelasting voor belastingplichtigen die de C(C)CTB gaan toepassen komen te vervallen. Bij het in overweging nemen van de CCTB en de CCCTB is voor het kabinet de impact van de voorstellen op belastingopbrengsten, investeringen,

⁶ Zie ook de brief van de Minister van Financiën van 21 juni 2016 over het verslag van de Eurogroep en Ecofinraad van 16 en 17 juni 2016 (Kamerstuk 21 501-07, nr. 1384).

werkgelegenheid en economische groei in de EU als geheel en in Nederland in het bijzonder van groot belang. Het is mooi als voorstellen bijdragen aan een goed werkende interne markt, wel moet worden voorkomen dat die interne markt door die voorstellen economisch kleiner wordt dan wel minder groeipotentieel heeft.

CCTB-voorstel

Het standpunt van het kabinet is dat in internationaal verband actief moet worden gewerkt aan het tegengaan van grondslagerosie, door op kritieke punten – daar waar verschillen tussen stelsels worden misbruikt – tot harmonisatie te komen, zonder dat daarmee een volledige grondslagharmonisatie wordt beoogd. Het kabinet steunt de aanpak van de Commissie om verder te werken aan de aspecten die verband houden met het BEPS-project van OESO/G20 en deze in wetgeving vast te leggen. Het kabinet betwijfelt of het CCTB-voorstel hieraan bijdraagt. Met de Richtlijn anti-belastingontwijking zijn de belangrijkste maatregelen tegen belastingontwijking al genomen. Vergelijkbare maatregelen komen terug in het CCTB-voorstel, maar de overige elementen van de gezamenlijke heffingsgrondslag dragen niet of nauwelijks bij aan het voorkomen van belastingontwijking. Bovendien valt niet uit te sluiten dat dit nieuwe systeem leidt tot nieuwe mogelijkheden voor belastingontwijking, waarbij aanpassing van het systeem steeds unanieme overeenstemming tussen de lidstaten vereist.

A1
and
A3

C1

Het CCTB-voorstel introduceert naast de bestaande Nederlandse systematiek voor het belasten van winst in de inkomstenbelasting en de vennootschapsbelasting een nieuw systeem voor het belasten van winst. Ondernemingen die nu zijn onderworpen aan de vennootschapsbelasting zullen verplicht (bij een totale geconsolideerde groepsopbrengst van meer dan € 750 miljoen) of optioneel (bij een lagere groepsopbrengst) onderworpen worden aan de regels uit het CCTB-voorstel. Een dermate ingrijpend nieuw systeem ontwerpen en implementeren is een omvangrijke taak en het vergt vervolgens vele jaren om die nieuwe systematiek in de praktijk te laten uitkristalliseren. Bovendien wijkt de CCTB te zeer af van de huidige Nederlandse systematiek van de vennootschapsbelasting. Aan de hand van een aantal concrete maatregelen zal dat hieronder nader worden toegelicht.

C2

Zo bevat het voorstel een met de deelnemingsvrijstelling vergelijkbare regeling, die op cruciale punten afwijkt van de deelnemingsvrijstelling in de vennootschapsbelasting. De vrijstelling op dividend of vervreemdingsresultaat kent een hogere grens: 10% deelname in plaats van 5%. Daarnaast dient het belang tenminste 12 maanden te worden gehouden, voordat deze vrijstelling van toepassing is. Deze regeling zou een forse inperking inhouden van de huidige deelnemingsvrijstelling. Deze vrijstelling wijkt volgens het kabinet te zeer af van de deelnemingsvrijstelling in de vennootschapsbelasting ter voorkoming van economisch dubbele belastingheffing.

Om speur- en ontwikkelingswerk (S&O of R&D) te stimuleren kent het CCTB-voorstel een aanvullende aftrek voor kosten die samenhangen met speur- en ontwikkelingswerk die voornamelijk afhankelijk is van het S&O-kostenniveau van de onderneming. Het kabinet onderschrijft de wenselijkheid van het fiscaal stimuleren van S&O, maar is voorstander van het Nederlandse systeem waarbij de hele S&O levenscyclus wordt gestimuleerd. Het Nederlandse systeem kent een afdrachtvermindering voor bepaalde S&O-kosten in de loonbelasting. Daarnaast kent de vennootschapsbelasting de innovatiebox, die van toepassing is als de S&O-werkzaamheden ook tot daarmee verbonden winst hebben geleid.

- C2 Ook hier wijkt het CCTB-voorstel in de ogen van het kabinet te zeer af van het Nederlandse systeem, waar recentelijk nog wijzigingen in zijn voorgesteld om te voldoen aan internationale afspraken. In het Belastingplan 2017 worden de nexusbenadering⁷ en de toegangscriteria, die volgen uit de afspraken die in OESO-verband hierover zijn gemaakt, geïmplementeerd in de Nederlandse innovatiebox. Ook andere lidstaten dienen hun preferentiële regimes voor intellectueel eigendom, zoals innovatie- en octrooi-boxen, aan te passen in lijn met deze afspraken.
- A3 Binnen de EU ziet de Europese Gedragscodegroep toe op de naleving ervan door de verschillende lidstaten van de EU. In grote lijnen zal de wetgeving van EU-lidstaten en OESO-landen met een preferentieel regime voor intellectueel eigendom dus op gelijke wijze bestendig zijn tegen de mogelijkheden voor belastingontwijking.

Voor het bepalen van de jaarwinst voor de toepassing van zowel de inkomstenbelasting als de vennootschapsbelasting, geldt in Nederland het beginsel van goed koopmansgebruik. Het beginsel van goed koopmansgebruik dat vaststelt in welk jaar het gedeelte van de totaalwinst van een onderneming in aanmerking moet worden genomen is vastgelegd in de wet en geldt voor zowel de inkomstenbelasting als de vennootschapsbelasting. Hoewel de wet slechts voorziet in een open norm – met enkele wettelijke afwijkingen – is het leerstuk van goed koopmansgebruik voornamelijk in de jurisprudentie nader uitgewerkt. Op dit moment is het nog onduidelijk hoe bepaalde begrippen, die niet nader zijn omschreven in het voorstel, zullen worden ingevuld. Dit zorgt voor onzekerheid voor zowel de lidstaten als het bedrijfsleven. Het Commissievoorstel voor de CCTB kent een eigen systematiek voor het bepalen van de jaarwinst. Behoud van de huidige Nederlandse systematiek is voor Nederland van groot belang.

- C7 Om de financiering van ondernemingen met eigen of vreemd vermogen meer gelijk te behandelen introduceert de Commissie in het CCTB-voorstel een aftrek of bijtelling die afhankelijk is van de mutatie van het eigen vermogen. Het principe van een meer gelijke behandeling van eigen en vreemd vermogen spreekt het kabinet aan. De voorgestelde regeling heeft echter een procyclisch karakter en is teveel afhankelijk van de mutatie van het eigen vermogen. De mutatie van het eigen vermogen ligt immers niet altijd binnen de invloedssfeer van de onderneming.

Het CCTB-voorstel voorziet vooruitlopend op volledige consolidatie in het CCCTB-voorstel in een beperkte mogelijkheid van verliesoverdracht. Als gevolg van deze verliesoverdracht zouden de vennootschapsbelastingopbrengsten voor Nederland (tijdelijk) kunnen afnemen als verliezen uit andere lidstaten – mogelijk op kunstmatige wijze – in Nederland in aanmerking worden genomen. Daarnaast is het, zonder een centrale database, voor belastingdiensten lastig om hier toezicht en controle op uit te oefenen.

CCCTB-voorstel

Het kabinet betwijfelt eveneens of het CCCTB-voorstel effectief is tegen belastingontwijking. Vanwege de consolidatie in het CCCTB-voorstel vallen onderlinge transacties binnen de EU tegen elkaar weg en wordt de winst tussen de lidstaten verdeeld op basis van een verdeelsleutel. Op deze onderlinge transacties zijn nu de richtlijnen voor verrekenprijzen van toepassing die in OESO-verband zijn afgesproken en op basis waarvan misbruik kan worden voorkomen. De Commissie maakt niet helder

⁷ De invulling van het vereiste van substantiële activiteiten in preferentiële regimes voor intellectueel eigendom, zoals de innovatiebox.

waarom op dit punt geen aansluiting is gezocht bij de bestaande OESO-systematiek voor verrekenprijzen, de staande praktijk voor belastingdiensten en belastingplichten wereldwijd. Bovendien ontstaat verdere complexiteit, omdat voor multinationale ondernemingen die binnen en buiten de EU opereren twee systemen⁸ voor de verdeling van de winst tussen staten van toepassing zullen zijn. Daarom verwacht het kabinet niet dat als gevolg van de CCCTB misbruik aanvullend zal kunnen worden bestreden.

Het kabinet kan zich niet vinden in de samenstelling van de verdeelsleutel in het CCCTB-voorstel. De verdeelsleutel voor de geconsolideerde winst is namelijk zo vormgegeven dat lidstaten met een grote, conventionele industrie meer winst toebedeeld krijgen dan lidstaten met een grote dienstensector en veel innovatieve bedrijven. Dit komt omdat bijvoorbeeld immateriële activa en financiële activa niet meegenomen worden in de verdeelsleutel. Dit pakt nadelig uit voor Nederland, omdat Nederland van oudsher een handelsland is met een grote dienstverleningssector. Daarom moet worden aangesloten bij de OESO-richtlijnen voor verrekenprijzen. Door aan te sluiten bij de bestaande internationale systematiek kan het aantal potentiële discussies beperkt blijven. Lidstaten moeten er immers op kunnen vertrouwen dat de belastingopbrengst die zij tot hun deel kunnen rekenen en die onderdeel is van hun begroting, zo stabiel mogelijk en zo min mogelijk onderwerp van discussie is.

Daarnaast moeten lidstaten moeten erop vertrouwen dat andere lidstaten de vennootschapsbelasting ook voor hen vaststellen, controleren en innen. Het CCCTB-voorstel heeft ook invloed op de huidige systematiek van het formele recht en de invordering. Het kabinet acht het van belang dat de Nederlandse Belastingdienst nauw betrokken blijft bij ondernemingen die substantiële activiteiten in Nederland hebben. Ook kijkt het kabinet naar de uitvoerbaarheid voor de Belastingdienst in zijn algemeenheid.

c) Eerste inschatting van krachtenveld

In 2011 heeft de Commissie eerder een richtlijnvoorstel voor de CCCTB ingediend. Dit voorstel is in de jaren daarna uitgebreid besproken in Raadsverband, maar het voorstel bleek te complex en te veel controversiële elementen te bevatten, waardoor er destijds geen unanimititeit is bereikt. Hoewel het meest controversiële element, namelijk de consolidatie, nu losgekoppeld is van de bepalingen over de grondslag en hoewel over maatregelen tegen belastingontwijking in de vorm van de Richtlijn anti-belastingontwijking al een akkoord is bereikt, wordt het ook nu naar verwachting erg lastig om alle lidstaten achter een akkoord over het CCTB-voorstel te krijgen.

Daarnaast is het zeer onwaarschijnlijk dat de lidstaten overeenstemming bereiken over het CCCTB-voorstel, voornamelijk vanwege de samenstelling van de verdeelsleutel en de economische effecten in verschillende lidstaten. Daarmee is het maar zeer de vraag of de consolidatie er uiteindelijk gaat komen.

Het is mogelijk dat, indien geen unanieme overeenstemming kan worden bereikt tussen alle lidstaten van de EU, een kleinere groep lidstaten op basis van versterkte samenwerking mogelijk wel probeert overeenstemming over de Commissievoorstellen te bereiken.

⁸ Binnen de EU de op basis van de door de Commissie voorgestelde verdeelsleutel en buiten de EU op basis van verrekenprijzen in lijn met de OESO-richtlijnen.

4. Beoordeling bevoegdheid, subsidiariteit en proportionaliteit

a) Bevoegdheid

De Commissie baseert de bevoegdheid voor de voorgestelde richtlijnen op artikel 115 van het Verdrag betreffende de werking van de Europese Unie. Nederland acht dit de juiste rechtsbasis. Dit artikel betreft de aanpassing van wettelijke bepalingen van de lidstaten die rechtstreeks van invloed zijn op de instelling of de werking van de interne markt. Wanneer de Commissie initiatieven neemt om te komen tot coördinatie op het gebied van belastingen wordt vaak voor deze grondslag gekozen. Deze grondslag kan naar de mening van het kabinet worden gebruikt voor beide richtlijnvoorstellen.

b) Subsidiariteit

CCTB-voorstel

- A** Het kabinet beoordeelt de subsidiariteit negatief. Het kabinet kan de doelen – versterking van de interne markt en het klimaat voor het bedrijfsleven binnen de EU en het aanpakken van belastingontwijking – die met dit voorstel worden beoogd onderschrijven. De voorstellen
- A1** dragen echter niet of nauwelijks bij aan deze doelstelling.

- De Commissie geeft aan dat het alleen op EU-niveau mogelijk is een gemeenschappelijke belastinggrondslag vast te stellen ter versterking van de interne markt. Uit de voorstellen blijkt naar de mening van het kabinet niet dat een Europese oplossing toegevoegde waarde heeft voor alle actoren die bij dit vraagstuk zijn betrokken. Het hebben van een gedeeltelijk optioneel systeem betekent dat de overheid twee verschillende belastingssystemen met betrekking tot de vennootschapsbelasting moet hanteren in plaats van één heeft duidelijke nadelen met betrekking tot de uitvoeringseffectiviteit. Verder heeft de onder het Nederlands EU-voorzitterschap aangenomen Richtlijn anti-belastingontwijking al grotendeels tot harmonisatie van de belastinggrondslag in de lidstaten geleid met als doel misbruik te voorkomen. De met de maatregelen uit de Richtlijn anti-belastingontwijking vergelijkbare maatregelen tegen misbruik komen terug in het CCTB-voorstel. De overige maatregelen uit het CCTB-voorstel dragen niet of nauwelijks aan dit doel bij. Het is dus maar de vraag of en in hoeverre met dit voorstel situaties van misbruik aanvullend kunnen worden bestreden.
- A1**

CCCTB-voorstel

- A** Het kabinet beoordeelt de subsidiariteit negatief. Het kabinet ziet de noodzaak om op Europees niveau over te gaan tot consolidatie en herverdeling van de winst niet goed in. Er bestaan in OESO-verband al – van deze verdeelsleutel afwijkende – afspraken over onderlinge verrekenprijzen op basis waarvan de winst internationaal wordt gealloceerd.
- A3**

c) Proportionaliteit

CCTB-voorstel

- B** Het kabinet beoordeelt de proportionaliteit negatief. Het kabinet kan de doelen – versterking van de interne markt en het klimaat voor het bedrijfsleven binnen de EU en het aanpakken van belastingontwijking – die met dit voorstel worden beoogd onderschrijven. De voorstellen dragen echter niet of nauwelijks bij aan deze doelstelling.

b) Financiële consequenties (incl. personele) voor rijksoverheid en/ of decentrale overheden

Eventuele budgettaire gevolgen worden ingepast op de begroting van de beleidsverantwoordelijke departementen, conform de regels van de budgetdiscipline.

De CCTB en CCCTB hebben zeer forse uitvoeringsgevolgen voor de Belastingdienst. Het voorstel is op zijn vroegst uitvoerbaar twee jaar na implementatie van de nationale regeling en slechts onder voorwaarde dat de daarvoor noodzakelijke extra capaciteit beschikbaar komt. De Belastingdienst kan de grote financiële gevolgen van de voorstellen CCTB en CCCTB niet inpassen binnen zijn begroting zonder maatregelen te nemen die politieke keuzes vergen en die gevolgen kunnen hebben voor de te leveren prestaties.

c) Financiële consequenties (incl. personele) voor bedrijfsleven en burger

Volgens de Commissie hebben de voorstellen voordelen voor multinationale ondernemingen die in meerdere lidstaten opereren aangezien de belastingwetgeving in de verschillende lidstaten uniformer en eenvoudiger wordt. De Commissie heeft berekend dat de kosten voor het starten van een dochteronderneming in een lidstaat met 62% tot 67% zullen afnemen. De tijd die gespendeerd dient te worden aan naleving neemt volgens de Commissie af met 8% als gevolg van deze voorstellen. Voor ondernemingen met een totale geconsolideerde groepsopbrengst van minder dan € 750 miljoen zullen de voordelen kleiner zijn en afhangen van de keuze die zij kunnen maken tussen de huidige nationale vennootschapsbelastingstelsels of het door de Commissie voorgestelde systeem. Daarnaast stelt de Commissie dat dit voorstel leidt tot een gelijk spelveld tussen multinationale ondernemingen en overige ondernemingen.

d) Gevolgen voor regeldruk/administratieve lasten voor rijksoverheid, decentrale overheden, bedrijfsleven en burger

Het is aannemelijk dat de administratieve lasten voor het internationale bedrijfsleven zullen afnemen als gevolg van de voorstellen van de Commissie. De precieze gevolgen voor het Nederlandse bedrijfsleven zijn op dit moment nog niet vast te stellen. Het is wel waarschijnlijk dat een reductie van de administratieve lasten voor het Nederlands bedrijfsleven zal plaatsvinden, bijvoorbeeld vanwege de gezamenlijke grondslag die voor de hele groep van toepassing is in de lidstaten waar deze groep actief is. Aan de andere kant is het nu lastig in te schatten of de voorstellen van de Commissie geen nieuwe administratieve lasten voor het Nederlandse bedrijfsleven met zich brengen. Het bedrijfsleven heeft hiervoor bij de raadpleging door de Commissie over de mogelijke effecten van de voorstellen ook aandacht voor gevraagd. Op het moment dat er meer duidelijkheid is over de vormgeving van de richtlijnvoorstellen zal hieraan verder aandacht worden besteed.

e) Gevolgen voor concurrentiekracht

Doordat een gezamenlijke heffingsgrondslag voor de vennootschapsbelasting (CCTB-voorstel) en de consolidatie van deze heffingsgrondslagen (CCCTB-voorstel) in Europese richtlijnen worden neergelegd, wordt een gelijk spelveld gecreëerd binnen de EU. Dit zou kunnen bijdragen aan de concurrentieverhoudingen binnen de EU. Hoewel de mogelijkheden voor lidstaten om hun eigen vennootschapsbelasting in te richten worden beperkt, blijven lidstaten vrij in de tariefstelling. De mogelijkheden om snel te reageren op ontwikkelingen zijn beperkt wanneer deze maatre-

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gelen van kracht zijn, omdat op Europees niveau steeds unanieme overeenstemming zal moeten worden bereikt om het systeem te wijzigen. De voorstellen van de Commissie zullen naar verwachting tot een relatieve verslechtering van het Nederlandse fiscale vestigingsklimaat leiden, afhankelijk van de Nederlandse tariefstelling. Aangezien de regeling uit de voorstellen niet verplicht van toepassing is op alle ondernemingen, zal dit concurrentienadeel voornamelijk optreden bij ondernemingen waarop CCTB of de CCCTB verplicht of facultatief van toepassing is.

6. Implicaties juridisch

a) Consequenties voor nationale en decentrale regelgeving en/of sanctionering beleid (inclusief toepassing van de lex silencio positivo)

Als een van de richtlijnvoorstellen wordt aangenomen dan zal de Wet op de vennootschapsbelasting 1969, de Wet op de dividendbelasting 1965 en mogelijk de Algemene wet inzake rijksbelastingen en de Invorderingswet 1990 moeten worden aangepast.

b) Gedelegeerde en/of uitvoeringshandelingen, incl. NL-beoordeling daarvan

CCTB-voorstel

Het CCTB-voorstel geeft de Commissie de bevoegdheid om gedelegeerde handelingen vast te stellen ten aanzien van (i) het vaststellen of wijzigingen van de rechtsvormen en belastingmiddelen waarop de CCTB van toepassing is, als gevolg van wijzigingen in de nationale wetgeving van lidstaten (artikel 2, lid 5); (ii) het bepalen van aanvullende definities (artikel 4); (iii) het vaststellen van gedetailleerde anti-misbruikregels die relevant zijn voor de aftrek of bijtelling die afhankelijk is van de mutatie van het eigen vermogen (artikel 11, lid 6); (iv) het definiëren van het concept van juridisch en economisch eigendom van geleasede bezittingen in meer detail (artikel 32, lid 6, sub a); (v) de berekening van de rente- en kapitaal-elementen van de leasebetalingen en de afschrijvingsbasis van geleasede bezittingen (artikel 32, lid 6, sub b en c); en (vi) het meer precies vaststellen van de categorieën van vaste activa die aan afschrijving onderhevig zijn (artikel 40). Daarnaast wordt aan de Commissie een uitvoeringsbevoegdheid verleend ten behoeve van de jaarlijkse vaststelling van een lijst van vennootschapsvormen van derde landen die vergelijkbaar zijn met de in bijlage I opgenomen vennootschapsvormen (artikel 2, lid 2).

CCCTB-voorstel

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Voorts worden aan de Commissie uitvoeringsbevoegdheden toegekend ten behoeve van (i) de jaarlijkse vaststelling van een lijst van vennootschapsvormen van derde landen die vergelijkbaar zijn met de in bijlage I genoemde vennootschapsvormen (artikel 2, lid 2); (ii) de vaststelling van nadere voorschriften voor de berekening van de factoren arbeid, activa en omzet, voor de toerekening van werknemers en loonkosten, activa en

omzet aan de respectieve factor, en voor de waardering van activa (artikel 39); (iii) de vaststelling van een handeling houdende een standaardformulier voor de kennisgeving van oprichting van een groep (artikel 48); en (iv) de vaststelling van regels voor de elektronische indiening van de geconsolideerde belastingaangifte, de vorm van de geconsolideerde belastingaangifte, de vorm van de aangifte van de afzonderlijk belastingplichtige en de vereiste bewijsstukken (artikel 55).

Nederland kan instemmen met de voorgestelde uitvoeringsbevoegdheden in de voorstellen omdat deze uniforme voorwaarden garanderen voor de tenuitvoerlegging van de richtlijnen. Voor de vaststelling van uitvoeringshandelingen door de Commissie is de onderzoeksprocedure van toepassing. Nederland acht deze procedure geschikt, omdat het de vaststelling van uitvoeringshandelingen van algemene strekking betreft.

Voor wat betreft de voorgestelde gedelegeerde bevoegdheden zal het kabinet inzetten op een heldere afbakening van deze bevoegdheden. Het vaststellen van aanvullende definities zou wat het kabinet betreft niet mogen leiden tot een uitbreiding van de reikwijdte van de regeling, aangezien dergelijke ingrijpende wijzigingen naar de mening van het kabinet behoren tot de essentiële elementen van de richtlijnvoorstellen die in de richtlijnen zelf zouden moeten worden geregeld. Naar het oordeel van het kabinet is het vaststellen van gedetailleerde regels over het bepalen van de jaarwinst niet noodzakelijk indien wordt aangesloten bij de huidige systematiek van goed koopmansgebruik. Deze open norm is flexibeler en voorkomt dat voor het bepalen van de jaarwinst een uitgebreide set (gedelegeerde) regels moet worden vastgesteld.

c) Voorgestelde implementatietermijn (bij richtlijnen), dan wel voorgestelde datum inwerkingtreding (bij verordeningen en besluiten) met commentaar t.a.v. haalbaarheid

De voorgestelde implementatiedatum voor het CCTB-voorstel is 1 januari 2019 en voor het CCCTB voorstel 1 januari 2021. Gelet op de omvang, aard en impact van de richtlijnvoorstellen zijn deze implementatiedata zeer krap. Naast de bestaande heffingswetten wordt een nieuwe heffingswet geïntroduceerd met alle sfeerovergangen van dien voor belastingplichtigen die verplicht of naar keuze overgaan op het nieuwe systeem. Nederland zal daarom inzetten op verruiming van de implementatietermijn naar ten minste vijf jaar vanaf het moment dat de richtlijnvoorstellen zijn aangenomen.

d) Wenselijkheid evaluatie-/horizonbepaling

Er is een evaluatiebepaling opgenomen in de voorstellen van de Commissie. De Commissie zal vijf jaar na inwerkingtreding van de richtlijnen de werking van de beide voorstellen evalueren. Deze evaluatiebepalingen zijn wenselijk, voornamelijk om te beoordelen of de beoogde doelen worden bereikt en wat de economische effecten van de voorstellen zijn voor zowel de EU als geheel als de individuele lidstaten. Het kabinet acht de door de Commissie gestelde termijn redelijk, aangezien pas na verloop van enkele jaren de eerste aanslagen vast zullen staan. Op dat moment kunnen de effecten ook beter worden beoordeeld.

7. Implicaties voor uitvoering en/of handhaving

De CCTB en CCCTB hebben zeer forse uitvoeringsgevolgen voor de Belastingdienst (eerste ruwe schatting betreft incidenteel ten minste 20 miljoen euro en daarnaast structurele uitvoeringskosten). Dit wordt nader

in kaart gebracht. De voorstellen zijn op zijn vroegst uitvoerbaar twee jaar na implementatie van de nationale regeling.

Onder het verscherpt toezicht vallen ook de mogelijke uitvoeringskosten van beleidsvoorstellen. De Belastingdienst kan de grote financiële gevolgen van de voorstellen CCTB en CCCTB niet inpassen binnen zijn begroting zonder maatregelen te nemen die politieke keuzes vergen en die gevolgen kunnen hebben voor de te leveren prestaties. Dit dient meegewogen te worden in de bepaling van het standpunt.

8. Implicaties voor ontwikkelingslanden

De voorstellen hebben geen implicaties voor ontwikkelingslanden.