



## Standard front page for projects, subject module projects and master thesis

Compulsory use for all projects and master theses on the following subjects:

- International Studies
- International Development Studies
- Global Studies
- Erasmus Mundus, Global Studies – A European Perspective
- Public Administration
- Social Science
- EU studies
- Public Administration, MPA.

<b>Project title:</b>		
Consolidating the Union: Tax Havens Repoliticised in the European Union		
<b>Project seminar</b>		
Global Studies Master Degree		
E14: Mandatory Course: Theme III: Global Political Economy - Globalization of goods, bads and welfare		
<b>Prepared by (Name(s) and study number):</b>	<b>Kind of project:</b>	<b>Module:</b>
Michael Britton - 53006	Master Module	E14
Henri Makkonen - 56100	Master Module	E14
<b>Name of Supervisor:</b>		
Laura Horn		
<b>Submission date:</b>		
18/12/2014		
<b>Number of keystrokes incl. spaces (Please look at the next page):</b>		
153,454		
<b>Permitted number of keystrokes incl. spaces cf. Supplementary Provisions (Please look at the next page):</b>		
180,000		

# Consolidating the Union: Tax Havens Repoliticised in the EU



Michael Britton

Henri Makkonen

Supervisor – Laura Horn

**Global Studies**

**E14: Mandatory Course Theme III**

**Global Political Economy: Globalisation of Goods, Bads & Welfare**

**Autumn Semester 2014**

## *Abstract*

*The issue of tax havens has re-emerged on the EU's political and economic agenda over the past several years. This year (2014) it has adopted two important directives that aim to protect the member states by reducing the impacts of tax evasion and tax fraud through the use of tax havens. This project reviews why and how this phenomenon has occurred using a combination of policy narrative analysis and the concepts of depoliticisation and repoliticisation. The aim of this project is to present the current policy narrative (which we name the Crucial Consolidation) used by the European Commission in order to explain the factors behind the repoliticisation of tax havens on their agenda.*

## Table of Contents

I. Introduction .....	1
I.I. Problem Area.....	1
I.II. Research Question .....	4
I.III. Working Questions .....	4
I.IV. Project Design.....	5
1. Methodology .....	6
1.1. Case Study.....	6
1.2. Data Collection .....	6
1.3. Delimitations.....	7
2. Theoretical Framework.....	9
2.1. Intro.....	9
2.2. Narrative policy analysis.....	9
2.3. Politicisation & Depoliticisation .....	11
3. Contextualisation .....	14
3.1. What is a Tax Haven? .....	14
3.2. Key and Controversial Characteristics.....	14
3.3. A Brief History of Tax Havens.....	15
3.4. The State of the Art: A literature review.....	16
4. The European Union and Taxation.....	20
4.1. The EU Institutions.....	20
4.2. Decision-making in the EU.....	21
4.3. Developments Regarding Taxation.....	22
4.4. The European Union and tax evasion and tax fraud.....	23
4.5. EU and responses to tax havens.....	24
5. Analysis .....	26
5.1. Introduction.....	26
5.2. The Crucial Consolidation Narrative .....	26
5.3. The Global Imperative.....	31
5.4. What explains the change?.....	33
5.5. De-/repoliticisation .....	34
6. Conclusion.....	38
7. Afterthought.....	41
Bibliography.....	42

Appendix 1 .....	49
Appendix 2 (Glossary) .....	50
Appendix 3 (A List of Tax Havens Compiled by the OECD in 2000) .....	51

## Abbreviations

EC	The European Commission
ECOFIN	Economic and Financial Affairs Council
ECSC	European Coal and Steel Community
EEC	European Economic Community
EP	The European Parliament
EU	The European Union
EUCO	The European Council
FDI	Foreign Direct Investment
HTC	(OECD's) Harmful Tax Competition
MEP	Member of the European Parliament
NAFTA	North American Free Trade Agreement
OECD	The Organisation of Economic Cooperation and Development
PwC	PricewaterhouseCoopers
STD	Savings Tax Directive
TFEU	Treaty on the Functioning of the European Union

# I. Introduction

## I.I. Problem Area

As a result of the growing pace and intensity of globalisation and digitalisation, an increasing number of economic processes have an international dimension. Technological advancement to a digital economy now mean that companies can serve markets in jurisdictions where they are not physically present. As Sharman (2006:3) notes, many observers believe that the economic change caused by globalisation, particularly the rise in cross-border trade and financial flows, has far outpaced states' capacities to control the process of globalisation itself subsequently raising fears surrounding global capitalism. Recent advances in communication, information and transport technology drive and combine with economic deregulation and liberalisation to provide the owners of capital with much more mobility than they previously had (Ibid). An increasing selection of services and goods are now produced in more locations, subsequently fostering competition between nations for investment. Consequently governments must now adopt market-friendly, or more narrowly, investor-friendly policies for fear of seeing capital relocate to other jurisdictions. As Sharman (Ibid) notes, not only does capital flight and disinvestment have serious ramifications on governments' macroeconomic plans but it also undermines their capacity by eroding the tax base. Taxation is vital to economic sovereignty since if a government cannot tax effectively it cannot do much else.

The extensive internationalisation of economic affairs, but in particular financial transactions has rendered individual nation states increasingly vulnerable to 'tax competition' between states as a means of encouraging transnational corporations to (re)locate their operations through foreign direct investment projects of simple profit-shifting (Genschel et al 2011; Rixen 2011 in Leaman and Waris 2013:4) The German Minister of Finance Wolfgang Schäuble (2014) argues that sources of income have become more mobile and there is an increasing focus on intangible assets and mobile investment income that can be easily 'optimised' from a tax point of view and transferred abroad. His perspective epitomises the attitude that European high tax countries have towards taxation today. Schäuble proceeds to argue that tax legislation has not kept pace with the progression of such economic developments. Most tax allocation principles that apply today date back to a time when doing business internationally primarily meant transporting goods across a border to a neighbouring country (Ibid). Legislation and rules that were formulated in the primary decades of the 20th century are no longer appropriate for today's international integration of economic processes and corporate structures. They need to be adapted to the economic reality of digital services (Ibid).

Germany is not the only example of a European country which feels legislation concerning taxation issues must be addressed. As Leaman and Waris note (2013:1) the issue of *tax justice* has moved up the agenda of the most powerful developed states in the wake of the 2008 global financial crisis. Along with recent tax evasion scandals, the crisis prompted calls for enhanced fairness and transparency in the global tax system. The issue of tax justice is now a hotly debated topic in European politics because of the actions that the European Commission (EC) and the Council of the European Union have implemented in order to combat both *tax evasion* and *tax avoidance*. Taxation in general is a topic that has gained increased attention all over the world. A prime example of this is Thomas Piketty's amazingly popular book *Capital in the Twenty-First Century*, which proposes rather drastic reforms in taxation systems in order to curb worldwide inequality. It seems that taxation is losing some of its old notoriety as a barrier for the functioning of free markets, and its positive effects have gained a greater emphasis.

Palan et al. (2010:9–10) define *tax evasion* as an illegal activity of failing to declare one's income whereas *tax avoidance* is a legal means of attempting to reduce one's tax levels by using several different methods (See our Appendix 2 for the full definition). Although the latter practice is legal it is also controversial as many consider it to be unethical. Defining these terms is problematic because different legal systems identify the two practices differently. Therefore there is no agreed, universal definitions of the terms.

Tax evasion and avoidance can be practiced on a national level by hiding income from the tax authorities. Introduction of free movement of capital and goods meant that both activities could be transferred to international level. Differentiated tax regimes of different countries create a situation where a corporation or an individual is able to exploit the weaknesses of the international tax system. Jurisdictions that provide low or zero levels of taxation provide the means for such exploitation and are common way of facilitating tax evasion and tax avoidance. These jurisdictions are commonly known as *tax havens*. Although this project is primarily concerned with tax havens, it is essential to consider the practices of tax evasion and tax avoidance as they are the actions which tax havens facilitate. This project is not concerned with the practices of evasion and avoidance *per se*, but with their facilitation through tax havens.

This facilitation of tax evasion has not remained a secret from the countries whose tax bases have been eroded by this activity. One of the first government initiatives launched against tax havens occurred in the US as early as during the Kennedy era (Rosenzweig 2010:97–5). However, more than half a century later there is still no effective solution to the problem of tax evasion through these controversial jurisdictions: tax havens are attracting vast amounts of investment (EC 2012a:10). Moreover, international cooperation on the issue has been historically weak. The Organisation of Economic Cooperation and Development (OECD) staged a campaign against harmful tax practices some 15 years ago but its results did not achieve what it had set out to do (Sharman 2006). Many authors such as Sharman (2006) and Palan (2013) suggest that the reason for the lack of international cooperation in the field of taxation is the hardships due to collective action problems. Even if a group of countries was able to initiate an agreement regarding cross border taxation policies, there would always be non-participants (free-riders) who seek to avoid such conformity and would see the situation as an opportunity that could be exploited for their own profitable gain. According to this logic, only a truly global approach to implementing tax policies would offer a realistic solution to these tax issues. However, this is not a likely outcome now or in the immediate future since there is no international body which could set up and reinforce an international tax system. However, the increased attention paid to the tax issues has been materialised in new international developments implemented by the US, the EU and the OECD.

This project focuses on the European Union's approach to tax havens. There are three main reasons why we choose to adopt the EU as the centerpiece of our work. First, the EU provides a unique platform for deep cooperation in the field of economic policies. The member states, especially the ones using the common currency, the Euro, are used to having more cooperation between them than anywhere else in the world. These countries have already given significant parts of their economic autonomy away. If one group of nations is to overcome the collective action problems entrenched in the issue of tax havens, it is the EU. Additionally, the sheer size of the EU must be considered instrumental in formulating a solution. As a huge economic power and the home for more than 500 million people, the EU's decisions have a significant global impact. However, 28 countries cannot make the rest of the world (over 150 countries) play by their rules. Even though the EU is a significant player in the global economy, it faces the same problems that any other country does, it has to compete with others.

Second, Europe is in crisis. It is hard to continue with the same policies when people and countries get poorer. The EU has until now maintained most of its economic policies that

favour the free market (and the rich) but it is finding it increasingly difficult to do so when the population by large starts to show their discontent. The latest demonstration against the austerity measures was held in the heart of Europe, Brussels in November 7th (Bland 2014, BBC article). This discontent has created a niche for policies for reregulation of finance such as the proposed Financial Transaction Tax and Banking union. Also the taxation issues have been noticed and The European Commission has come up with an action plan in order to reign in the tax havens and tax avoiders.

Third, many of the tax havens are situated inside the EU's borders or are somehow strongly affiliated with EU member states. Luxembourg provides an example of the former whilst Jersey and Guernsey exemplify the latter, being strongly affiliated with the City of London. This appears rather hypocritical considering the EU is one of the biggest supporters of international tax cooperation. The EU countries are predominantly considered to be 'high tax countries' but at the same time several member states face an acute sovereign debt crisis. Consequently this would lead you to believe that European member states would attempt to generate much needed funds through extra fiscal revenue. Addressing tax havens would be one way of doing this. One could say that finding a global solution for the tax haven problem is the real problem, but could the EU promote this possibility when tax havens are blooming inside its own borders, creating unequal competitive settings even between the member states. This is very much against the core idea of harmonised, common markets in Europe.

In order to trace and analyse the EU's actions concerning tax havens we will utilise the concept of policy narratives. Narratives convey how their users see the political situations and thus offer the means with which we can find the changes in their perception of the world. We are interested in these changes of perception in the EU and what kind of outcomes they have already have on the EU and international tax system. Our hypothesis is that the problems posed by tax havens were not considered as devastating and urgent before the economic crises than what they are now.

Another key concept for this project is depoliticisation. As stated earlier, tax havens are not a new phenomenon but they have not been at the centre of attention of the EU countries until recently. In other words the whole issue of tax havens was depoliticised, put out of reach of political decisions. However, this situation has changed with the newly sparked interested on tax issues on the EU level. What makes the issue even more relevant are the developments made on the international level by the OECD. Two months ago (October 2014) more than 50 countries agreed to implement a new standard on Automatic Exchange of Information for Tax Purposes by the end of 2018 at the 7th meeting of the Global Forum in Berlin. This is considered by many to represent a significant milestone in the fight against tax havens. Whether it has a significant influence on tax havens remains to be seen, however the announcement indicates that the international community is no longer ignoring them and the repercussions that many people claim that they create.

Taking these recent developments into consideration we feel that tax havens are an important issue to investigate and therefore we have devised the following research question and subsequent working questions:

## **I.II. Research Question**

*Why has the issue of tax havens been repoliticised on the European Union's economic and political agenda?*

## **I.III. Working Questions**

1. How has the EU changed the way it addresses the issue of tax evasion and tax havens (the way it frames the issues)?
2. What courses of action do the EU see as realistic and unrealistic?
3. What are the tangible actions the EU has already taken in order to address the issue?
4. Has the EU identified tax havens inside its own borders?

## I.IV. Project Design

Thus far our *Introduction* has discussed that the issue of tax justice, tax evasion and tax havens have been pushed back into both political and public consciousness. We have stated that we intend to examine why the the issue of tax havens specifically has been pushed back up the agenda of the European Union. We have devised a research question and four working questions in order to achieve this. This *Project Design* intends to provide the reader with an overview of what each chapter of the project entails.

Our first Chapter *Methodology* discusses the methods that we have employed and the approaches that we have taken in order to produce this project. It justifies why we have conducted an explorative case study as well as discussing some of the key texts that we have used and the dominant limitations that we have encountered whilst producing this work.

Our second chapter *Theoretical Framework* provides a detailed explanation of what a policy narrative is and discusses the work of Emery Roe and Claudio Radaelli. Furthermore we discuss the concepts of politicisation, repoliticisation and depoliticisation and the work of Bob Jessop. We demonstrate how we will use policy narrative analysis and the concepts of de/re-politicisation and the work of Roe, Radaelli and Jessop in order to consider why the issue of tax havens has been become more eminent on the agenda of the EU.

Our third chapter, *Contextualisation* is split into two sections. The first section asks *What is a Tax Haven?* and provides an overview as to what they are, how they have developed and why they are controversial. The section section our *State of the Art Literature Review* discusses some key perspectives and empirical studies on that have been conducted on tax havens thus far

Our fourth chapter, *The European Union and Taxation* gives a brief overview of the European Union discussing how it has evolved and how its influence have increased over time. It also gives a short introduction on how decision making occurs in the Union. Lastly, it provides a briefing on how the taxation issues, including the issues of tax evasion, tax avoidance and tax havens have developed in the EU.

Our fifth chapter *Analysis* is split into three sections. In the first section we analyse four EU documents produced by the Commission in order to describe the policy narrative of its stance on tax havens. In the second section we compare this narrative to the one described by Jason Sharman which he named the *Global Imperative*. This policy narrative was used by the EU from the turn of the millenium until the time of the writing if his article (2008). We end the *Analysis* by demonstrating how the EU has both depoliticised and repoliticised the issue of tax havens, using Jessop's work as a guideline in doing so.

In our *Conclusion* we re-visit the four working questions before answering our research question. We will then summarise how we could have improved our project or state what we could have done differently in our *Afterthought*.

## 1. Methodology

This project considers why the issue of tax havens has been repoliticised on the European Union's economic and political agenda. It attempts to answer the research question through addressing our specified working questions. These ask if the EU has changed the way it addresses the issue of tax havens and what actions it has taken in order to tackle the problems posed by them. We have adopted a case study using a qualitative approach. The information that we have collated is primarily secondary data obtained from various sources, however we have conducted some primary research using four policy documents produced by the European Commission obtained from a website that publishes all of its documents.

Using a qualitative approach for our project enables us to acquire an extensive understanding of tax havens including how and why they came into existence. It also enables us to understand what narratives are and the concepts of politicisation, repoliticisation and depoliticisation. Furthermore it enables us to understand how our case study (The European Union) came into existence and how it functions, especially in terms of taxation within the member states.

### 1.1. Case Study

A case study requires a detailed and intensive analysis of a specific case. *"The most common use of the term 'case' associates the case study with a location, such as a community or organization. The emphasis tends to be upon an intensive examination of the setting"* (Bryman 2008:53). In this project, the study of location is the European Union and the intensive analysis describes how changes in the EU's policy narrative on tax havens can be used to explain why the issue has been repoliticised on their political and economic agenda.

### 1.2. Data Collection

This project consists of collecting both primary and secondary data from a wide range of sources. We obtained our secondary data through a variety of books, e-books, journal articles and articles from both websites and blogs. For our primary data, we obtained documents from the European Union's website. Beneath is a brief summary of how we used some of our main sources.

Two books that were particularly useful for this project were Jason Sharman's *'Haven's in a Storm: The Struggle for Global Tax Regulation'* (2006) and Ronen Palan, Richard Murphy and Christian Chavagneux's *'Tax Havens: How Globalisation Really Works'* (2010). They provided comprehensive discussions on what tax havens are, how they evolved, and how they are seen in the wider context of tax competition. Therefore these texts were particularly relevant for our *Contextualisation* and its *State of the Art Literature Review*. Furthermore Dhammika Dharmapala's (2008) *'What Problems and Opportunities are created by Tax Havens?'* and Phillip Genschel and Peter Schwarz's (2011) *'Tax Competition: A Literature Review'* were also instrumental in the production of this chapter.

We obtained several journal articles that were particularly relevant for our *Analysis* as they discussed policy narratives in the context of taxation in the European Union. Claudio Radaelli's article *'Harmful Tax Competition in the EU: Policy Narratives and Advocacy Coalitions'* (1999) and Jason Sharman's (2008) *'Regional Deals and the Global Imperative: The External Dimension of the European Union Savings Tax Directive'* were particularly constructive.

In addition to the Radaelli text, Emery Roe's '*Narrative Policy Analysis: Theory and Practice*' (1994) also provided us with an overview as to what a policy narrative is. Radaelli cites Roe quite heavily and therefore we chose to obtain a copy of his text. These two texts serve as the foundations for our *Theoretical Framework*, as does Bob Jessop's (2014) '*Repoliticising Depoliticisation*'. Whilst we explored several journal articles on politicisation, depoliticisation and re-politicisation, we decided to use his text as we found it gave one of the more clearer and concise accounts of the three concepts.

For the *The European Union and Taxation* chapter we utilised many introductory texts to the EU. These included Bomberg et al. (2012), Hix (2005), McCormick (2008) and Moussis (2010). In addition to these texts we also used the EU websites. These included europa.eu, ec.europa.eu, europarl.europa.eu and consilium.europa.eu. The EU Treaties were used as the primary source regarding the legal basis for taxation issues in the EU and its member states. The EU Treaties are also available online.

Our primary sources came from the European Commission. We wanted to conduct analysis of their recent policy narrative ourselves. We analysed four EU documents that discussed tax havens and the issues that they facilitate, mainly tax fraud and evasion. The first document we discussed was the Commission's paper '*concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third parties*' (EC 2012a). The second document we analysed was the Commission's communication to the Parliament and the Council entitled '*An Action Plan to strengthen the fight against tax fraud and tax evasion*' (EC 2012b). The third document we examined was a recommendation '*regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters*' (EC 2012c) and the fourth a recommendation '*on aggressive tax planning*' (EC 2012d) These texts are discussed expansively in our *Analysis*.

The EU is remarkably transparent in its legislative processes and all the documents concerning specific legislative acts can be traced online using a website called Pre-Lex. When choosing relevant EU documents for our purposes we took into consideration the mode of legislative procedure concerning tax issues. As stated in our chapter called *The European Union and Taxation*, the European Parliament acts only in a consultative role in this issue and that is why we decided to give EP documents less attention. Nevertheless, the speeches made in the Parliament sessions by the MEPs and commissioners are interesting since they are acts of narration in a concrete way: different actors are trying to persuade others to follow their opinion through the means of telling a story. These speech acts would be an interesting primary resource for a more broader study on the issue, and could even provide an opportunity to use quantitative methods in order to track what kind of language politicians use in the EU setting. In an ideal case we would have constructed also the older narratives from primary resources but taking into consideration the time and resource constraints we decided to use earlier narrative analyses made of EU documents as the starting point for tracing the change. Articles by Radaelli (1999) and Sharman (2008) were especially useful in this regard.

### 1.3. Delimitations

By solely concentrating on the European Union opposed to other key actors who are trying to coordinate responses to tax havens we are able to provide a more comprehensive analysis within the specified time period and character limit. A comparison to other key actors such as the OECD and NGOs such as Tax Justice Network would have been very interesting, however the amount of resources and time that would have been required for this meant that such a study was not feasible.

Even though the EU is transparent in their legislative processes, the work of the Council still remains somewhat secretive. The Council meetings are recorded for the use of general

audience but it is the common practice for the Council (that is: the ministers representing member states) to do bulk of the 'political' work in informal settings (Bomberg et al. 2012:57). That is why a real primary insight to the change in the opinions in the Council would have required interviewing very high level politicians or their staff members.

Although we are aware that the university supplement students with funds in order to conduct fieldwork, we did not apply for these. In retrospect we feel that making contact with a journalist or EU political analyst who has a broad knowledge of taxation issues and access to employees of the Council may have been beneficial to us. However due to past unsuccessful experiences of trying to arrange such trips and therefore decided to invest this time into further secondary research.

## 2. Theoretical Framework

### 2.1. Intro

When states are facing a problem they cannot solve alone, they cooperate with other countries to form international regimes and institutions. The creation of such an entity provides a platform for discussion between jurisdictions, enabling them to address the problem together. However, building international institutions is not a simple process and the EU is a good example of that. European integration has been ongoing for almost 70 years and 'deeper economic integration' occurred in the 1990s. Nevertheless, there has still been no clear solution proposed for the issue of tax havens. The EU already has well developed institutional machinery and this is why we believe that it has the institutional framework to provide the first truly international and multilateral answer to the various international taxation problems. But since the solution for this problem has not happened earlier in the integration processes, we believe that looking into a de-/repoliticisation process within the EU provides a better explanation for our questions than a simplistic explanation deriving from national self interests.

In order to answer our research question and working questions effectively, we must first devise a way in which we can ascertain when, how and why the EU's taxation policies have changed. Only once we have seen how its views on taxation have altered can we start to consider the political and economical factors responsible for such adjustments and why the issue of tax havens has been reintroduced on to the EU's agenda. Therefore we must devise an empirical method which highlights such changes. By analysing policy narratives used by some of the EU institutions we are able to see how its view of tax havens have fluctuated over a specified time period. This section discusses what policy narratives are, how they are constructed and why they are important. We draw heavily on the work of Roe and Radaelli's (1999) article on harmful tax competition in the EU. Furthermore this chapter discusses the concepts of politicisation, depoliticisation and repoliticisation and the work of Bob Jessop (2014). It is essential that we demonstrate a good understanding of these concepts and how they intertwine in order to answer our research question.

### 2.2. Narrative policy analysis

Narrative policy analysis, as the name suggests, is a form of policy analysis that concentrates on the narratives created by policy makers. These narratives are used to persuade and convince the reader or hearer to conform to the reality explained in the narratives. According to Roe, all narrative policy analysis has its starting point in "the reality of uncertainty and complexity in the polarised issues and controversies of today" (1994:10). In other words, when the issue in question is too complex and ambiguous for decision makers to create reliable and simple facts a majority would agree to, they explain the issue to others (and themselves) in a form of a story. These stories are called policy narratives. The use of policy narrative analysis supports our aims well, since taxation, especially in its international form, is a complex and ambiguous issue. Furthermore, as noted in our *Contextualisation* chapter, tax havens are so ambiguous that there is still no agreed upon definition for the term.

#### 2.2.1. What is a policy narrative?

Radaelli (1999:663) argues that narratives represent a form in which knowledge about policy is cast. They usually adopt the form of a causal story (Stone 1989 in Ibid) and like all tales, consist of a beginning, middle and end. They can also exist in the form of an argument, in which case they have premises and conclusions (Roe 1994:155). The chronological order of events is of fundamental importance to the narrative as its plot hinges on its sequentiality

opposed to its truthful or fallacious elements. Roe (1994:36–7) argues that narratives are less “hortatory and normative than ideology” and that they “describe scenarios not so much by telling what should happen as about what will happen, according to their narrator”. This is an important perspective as pointing out to what *should* be done gives the narrative more normative characteristics, whereas by implicitly pointing out what *will* happen makes the narrative easier to understand as a factual statement.

Banerjee (1999:2 in Radaelli 1999:663) argues that “a narrative frames a situation in a way that makes one action and not others sensible”. Even when their value of trust has been called into deliberation, “these narratives are explicitly more programmatic than myths and have the objective of getting their hearers to assume to do something” (Roe 1994:37). The strength of policy narratives comes from their ability to give easily comprehensible explanation to current issues without having a thorough scientific analyses to stand by the explanations. In some cases they remain strong even if they are in opposition to empirical facts (Roe 1994:51).

The purpose of a policy narrative is to stabilise the policy process in times of ambiguity and insecurity. When conditions of uncertainty prevent the use of scientific methods of knowing, policy stories certify and stabilise “the assumptions needed for decision making in the face of what is genuinely uncertain and complex (Roe 1994:50–1). Nevertheless, Roe goes on to argue that it is also possible to create a policy narrative about the uncertainty itself in order to create more political will for making decisions (Ibid. 6).

At times of uncertainty, “policy narratives make problems amenable to human action” and they typically suggest one course of action instead of others by linking one course of action to the others set in the future (Radaelli 1999:663–4). Such doubtful and unclear times can allow policy narratives to persist and even flourish even though they may be inaccurate. Narratives transmit meaning and recommend action. By doing this they ‘objectify a course of action and make it as independent from a specific actor’s preferences as a text from a speaker’ (Czarniawska 1997:12–13 in Ibid. 664). As Banerjee (1999:2 in Radaelli 1999:664) explains, “narratives begin in the past and end in the future. By placing the present in the middle, interaction narratives are able to construct situations and generate actions.” Banerjee compares policy narratives to that of a dramatic film plot in explaining how tension and uncertainty leads to the favourite course of action in the future:

*If the present situation is the penultimate episode of a narrative, then it is fraught with the dramatic tension that occurs before the end of a story or a movie. The action to be committed is implicitly constrained in the narrative construction of a situation in the same way that the content of a happy ending of a movie is recognisable near its end.* (Banerjee 1998:196–197 in Radaelli 1999:664).

### **2.2.2. Replacing a presentation with another?**

Roe’s policy narrative analysis is based on literary theories and aims to finding a solution to a public policy problem when more conventional policy analysis theories are not helpful (Roe 1994:1). It combines critical approach to the way in which problem is presented but at the same time aims to give another presentation, which is supposedly better than the earlier ones. In order to avoid this cycle of presentations that might go even further from the reality of the problem we have decided to not give our own presentation of the problem. Instead, we want to compare the different kind of presentations the EU is making in its official documents and trace the changes with the concepts of politicisation and repoliticisation.

### 2.3. Politicisation & Depoliticisation

Palonen (2005:44 in Jessop 2014:207) defines the idea of politicisation in one sentence: “There are no naturally political questions, but only questions that have been politicised”. Many of the issues we deem automatically political can be questioned easily. Who decided that a relationship between two persons is political? A relationship is a personal and emotional phenomenon, and it is hard to think of it to belonging to the same realm as laws and regulations and other ‘political’ issues. However, issues such as same sex marriages are debated in national parliaments and politicians are making decisions that determine the definition of the relationship between people that they do not know. Western citizens live in deeply politicised societies and making decisions through political means and institutions feels perfectly natural to them. Paradoxically, when they take some issues to be political and others to be apolitical, they are actively contributing to depoliticisation.

Depoliticisation means that a formerly politicised issue has been removed from the realm of politics. For example this can occur when some specific areas are deemed to be so complex that it is better to have specially educated experts making decisions in these areas opposed to politicians. Being able to utilise expert help in the act of policy making is not necessarily depolitical. Members of parliament at national and EU level often consult experts of different fields when trying to reach solutions of specific problems that they have little knowledge of. However, when the power of making a decision is entirely transferred from the electoral body to experts, the issue has been successfully depoliticised.

#### 2.3.1. The interaction of Polity, Politics & Policy

‘Politics’ is a complex word in itself and that is why Jessop makes a useful distinction of three levels within the term: polity, politics and policy (2014:208–9). “‘Polity’ covers the institutional architecture of the political field, including its boundaries and boundary-maintenance vis-à-vis non-political spheres, and the asymmetric effects of this architecture on political practice.” (Jessop 2014:208). In other words, polity means the ways in which the political institutions have been built and what kind of issue areas they concern. How powerful these institutions are and how they can force other parts of society (non-political spheres) to conform to their will are questions at the level of polity. It is also important to pay attention to the constraints that these institutions have over policymakers: even if a politician wanted to profoundly change the society they live in, they have to work within the institutions of that society’s polity. The decisions made by the politicians before her on the structuring of the political institutions restrict the ways in which she can act as a policymaker.

“Politics refers to formally instituted, organised or informal practices that are directly oriented to, or otherwise shape, the exercise of state power” (Jessop 2014: 209). Whereas polity is a stable and structural concept, politics refers to the agency of actors and their activities in order to make changes to the polity in which they operate. On a national level this means transforming the scope of the political sphere, changing the balances of forces inside the state or exercising direct control over the state (military) powers. In this sense politics does not concern the day-to-day policy making of a polity, but is more about its deeper transformation.

“Policy concerns the overall strategic line of the state ... the aims and content of the particular decisions and non-decisions” (Jessop 2014:209). Policies are the day to day vehicles of the aims of politics in a polity. Even though it is relatively easy to make clear borders between the three Ps as Jessop calls them, he reminds that all of them have some kind of institutional and practical features. It is important to note that even though Jessop refers to the ‘state’ when he explains the workings of the three Ps, his concept can also be applied to a regional or international level such as the EU. (Jessop 2014:208–9).

### **2.3.2. Depoliticisation in Polity**

How does the depoliticisation work at the level of polity? In essence, polity means structuring a line between policy makers (state) and the rest of the society. Mitchell states that “The essence of modern politics is not policies formed on one side of this division being applied to or shaped by the other, but the producing and reproducing of this line of difference” (Mitchell 1991:95, referred in Jessop 2014:209). In practice this means deciding whether an issue belongs to the political sphere or not. Taking this decision can be either a conscious or unconscious act by the policy makers. Another aspect of de-/politicisation at the polity level is the shifting of a policy issue to another branch in the governance structure. At state level, this could mean shifting e.g. the unemployment policy from the ministry of labour to the ministry of finance. In the peculiar case of the EU, it is possible to shift the governance responsible for a specific issue from the member states to the EU.

### **2.3.3. Depoliticisation in Politics**

Jessop gives five examples of depoliticisation processes in the level of politics. The first form of depoliticisation differentiates between situations in the field of politics: normal and exceptional. In the normal situation political forces are engaged in self-limitation by thematising only some aspects of the society as political. When this situation changes to an exceptional one (times of economic/political crisis) the state can curtail its democratic activities and declare a state of emergency suspending and limiting the forms of political resistance. Whereas in the case of political crisis it is possible that coup d'états or one-party rule take place, during an economic crisis a state can shift from electorally chosen government to a technocratic government as was the case in Italy and Spain during the Eurozone crisis. At the time of crisis, it is easier for a state to make big reforms out of necessity as a means to end the occurring crisis situation. When done by an exceptional form of government (such as technocratic), these decisions are effectively depoliticised. (Jessop 2014:214).

In the second example the democratic self-limitation is formalised through re-writing the constitutional law. This constitutionalisation limits powers of politics and shifts issues out of the reach of political decision making. When this is done, it is hard to reverse the situation back to where it was, since amending constitution is usually politically very hard to achieve. The third example is using “non-political figures” when trying to reach a decision in a debated issue. This could mean commissions consisted of e.g. retired politicians, technocrats and quasi-non-governmental organisations. Using these commissions is a way to go “above politics” and the bickering of politicians concerned of electoral cycles. The fourth example is the act of governmentalisation, in other words “creating the conditions for technocratic decision making” (Jessop 2014:215). This is achieved through the inclusion of scientific expertise in decision making. We can use the example of rating different governments through various economic benchmarks, which can result in changes in credit rating of countries. Reducing the success/failure of a government and its country to this kind of numerical measure, it is easy to support certain kind of policies with ‘scientific’ backing of numbers. The fifth and final example made by Jessop is “sedimentation”. This is a more semantic way of depoliticisation and is linked with the depoliticisation process of policies. It covers the routinisation of politics that leads to taking the contentious issues as granted (Jessop 2014:216). We shall discuss it in more detail under the heading “Depoliticisation in Policies”.

### **2.3.4. Depoliticisation in Policies**

Depoliticisation on the level of policies is a resulting factor of depoliticisation in the two above levels of polity and politics. Policy level is seen as the pinnacle of policy making, the act of decision and non-decision making. If an issue is effectively depoliticised, it should never reach the policy level. However, while making policies the actors are able to demean the

importance of the policy in question and call for its removal from their fora of political decision making. This is done by what Jessop calls sedimentation, and which we link with Roe's policy narratives. With certain kind of construction of policy narratives, actors are able to achieve the goal of depoliticisation on the policy level and thematise issues as non-political, non-negotiable or simply non-possible. (Jessop 2014:216).

### **2.3.5. Implementing These Concepts**

By using the work of Roe and Radaelli in addition to Jessop, we intend to present and analyse the policy narratives of key EU documents concerning tax havens. We will trace possible changes within these narratives subsequently identifying instances of de-/repoliticisation apparent within them.

## 3. Contextualisation

### 3.1. What is a Tax Haven?

Although there is a general consensus to what they constitute, like with many other notions, a universal definition of the term has not been formulated. As Sharman (2006:21) notes, the application of the term is often controversial and contested and it has become increasingly 'pejorative'. As Palan et al (2009:17) note, the term has been used since the 1950s and various definitions have been created by actors from a wide range of backgrounds, however, a uniformed definition has never been agreed on.

Palan et al highlight how in the first ever in depth report into tax havens, the US Treasury's Gordon Report, concluded "there is no single, clear, objective test which permits the identification of a country as a tax haven" (1981:21 in Ibid.). Furthermore Sharman (2006:21) notes how the term's application is often controversial and contested. Aijaz (2013:125) simply defines a tax haven as "as a place that tries to attract non-resident funds by offering light regulation, low (or zero) taxation and secrecy". The OECD's 'harmful tax competition' project defined tax havens as jurisdictions that have:

- a. No or only nominal taxes (generally or in special circumstances) and offers itself, or is perceived to offer itself as a place to be used by non residents to escape tax in their country of residence;
- b. Laws or administrative practices which prevent the effective exchange of relevant information with other governments on taxpayers benefitting from the low or no tax jurisdictions;
- c. lack of transparency

(OECD 1998: 22-23)

Our project is primarily concerned with investigating why the issue of tax havens has been reintroduced to the EU's agenda. We do not intend to analyse the technical determinants of tax havens and therefore an expansive discussion of definitional problems is not required. Therefore, for the purpose of this project we have decided to adopt the OECD's definition as it is a well recognised one and has been adopted by the EU itself (see EC 2012a:11). As highlighted by Sharman because of the lack of a uniform definition, no two lists of tax havens would ever be identical and the number of entries range from anywhere from "around twenty to one hundred jurisdictions" (2006:21). The OECD compiled a list of tax havens two years after formulating its definition (Appendix 3). This list is now defunct, however many academics still cite it even in recent works and therefore we include it in our project to highlight the original group of jurisdictions that were labeled 'tax havens'.

### 3.2. Key and Controversial Characteristics

Tax havens are sovereign states or suzerain jurisdictions which possess the right to create their own domestic laws (Palan et al. 2010:3). Laws and legislation relating to certain issues may differ from jurisdiction to jurisdiction. Prostitution, gambling and the consumption of alcohol and drugs are all controversial issues that are legal in some jurisdictions whilst prohibited in others. The sovereign state possess the power to decide what it wants to legalise or criminalise. In a similar way it exercises the right to create tax codes and financial laws in ways that others may consider harmful. Legality has very little to do with either opinion or ethics and these jurisdictions are exercising their sovereign rights. International law enables them to do this.

One of the predominant characteristics of a tax havens is its national banking secrecy rules. These effectively enable investors to avoid paying the respective capital income taxes in

their country of residence. Such rules protect investors from the relevant tax authorities as they prevent the effective exchange of information on taxpayers benefitting from the low tax jurisdictions (Elsayyad & Konrad 2012:295). However as explained later on in this project, significant progress has been made in the area of information exchange in the past two months (October and November 2014).

Tax havens possess quite a distinct set of financial, demographic and geographical characteristics that distinguish them from other 'non-haven' jurisdictions. Empirical research conducted by Dharmapala and Hines (2009) shows that tax havens are on average substantially more affluent than non havens, smaller in population size and more intrinsically linked towards economic openness. Furthermore they tend to be located in close proximity to major capital exporters, and have a larger fraction of their population located within 100 km of the coast (Dharmapala and Hines 2009). Additionally they also tend to have substantially less natural resources than their higher tax counterparts (Ibid.:3).

Palan (2009b) argues that there are two dominant geo-political poles around which most of the world's significant tax havens have developed. The first one is the City of London and the second encompasses the Benelux countries (Belgium, Netherlands and Luxembourg) and Ireland, Switzerland and Liechtenstein. The former sees tax havens located in the British Crown dependencies (Channel Islands, Jersey, Guernsey and the Isle of Man) and in the British Overseas Territories (Cayman Islands, Bermuda, British Virgin Islands, Turks and Caicos and Gibraltar). Palan (2009b) further notes that the only two other significant tax havens which are not part of these two poles are Panama and Uruguay.

Sharman (2010:3) argues that although individually they may appear small and insignificant, when considering their combined effect, tax havens possess an important role in the world economy. Aijaz (2013:126) argues that global tax revenues lost to tax havens are said to exceed \$255 billion a year. Such figures lead many such as Sharman (2010:3) to argue that they undermine the regulatory and taxation processes of the mainstream and tip the balance of the distribution of costs and benefits of globalisation in favour of the global elite to the detriment of the vast majority of the global population. In that sense, tax havens are at the very heart of globalisation, or at the least the heart of the specific type of globalisation that we have witnessed since the 1980s (Sharman 2010:3).

### **3.3. A Brief History of Tax Havens**

The origins of avoidance, concealment and tax evasion can be mapped back to the times of the ancient Greeks and Romans when citizens were proficient at concealing their financial assets from the authorities (Doggart 2002 in Palan et al 2010:107). Tax havens, on the contrary are a more recent development and it is widely agreed that there are three key eras in their development. The first period, from approximately the late 19th century to the early 1920s saw the the most familiar instruments of tax havens come to prominence. The second period comprises of the years stretching from the end of World War I through to the 1970s when a small number of states began to develop tax havens as an international development strategy. The third period and final period are considered as the 'golden years' of the tax haven running from the early 1970s to the late 1990s. During this period the number of tax havens rose dramatically, as did the scope, planning and sheer volume of financial assets that passed through them. (Palan et al 2010:107–108).

Although tax havens have been developed sequentially in different locations over the course of the last century, both Palan (2009b) and Sharman (2006:21) note ironically they were not originally intended for exclusive strategical taxation purposes. Indeed the first tax haven is said to have been accidentally established in Monaco by Prince Charles III authorising the establishment of the jurisdiction's casino, subsequently generating enough income to allow him to abolish all forms of income tax, it was in America where the art of attracting foreign investors began. In the 19th Century the state of New Jersey generated much needed funds

by imposing a franchise tax on all corporations headquartered in New Jersey. Anglo-Saxon countries had highly restrictive laws of incorporations at that time and corporate headquarters were attracted to New Jersey primarily due to its liberal incorporation laws, and to some extent by its relatively low rate of corporate taxation (Palan 2009b).

Whilst the US invented the practice of offering amenable regulatory environments to attract investment from non nonresident companies, it was the Europeans who were responsible for initially deliberately shaping comprehensive taxation strategies in the post WWI period. The Swiss canton of Zug was the first polity to implement deliberate low levels of tax as it was in desperate need of finance following the large forced rebates it gave to two of the largest industrial enterprises who were threatening to leave the Canton (Palan et al 2010: 111). The Zugoise authorities lowered their tax levels in order to compete with their much more affluent neighbour Zurich. Although impoverished and with only a population of 100,000, Palan (2010: 112) notes how Zug was successfully transformed into an international trading area which is now home to 18,000 companies including major multi national corporations such as Shell. After Zug many jurisdictions duplicated their method in the hope of similar results. As these new forms of jurisdictions managed to attract more and more investment they also started to attract the attention of the public authorities. The first government initiative to combat them was launched in the USA during Kennedy's presidency, whilst the Bretton Woods system was still influential (Rosenzweig 2010:97–5).

### **3.4. The State of the Art: A literature review**

Due to the vast amounts of fiscal revenue that taxation generates for governments, there is a wealth of literature on the topic that spans across a wide range of sub- issues. As Keen and Konrad (2012:61) note, recent literature produced on tax havens has begun to focus on whether their existence and activities have beneficial effects. This question is closely related to the wider one of whether *tax competition* can be welfare-improving. One obvious impact of jurisdictions offering low or zero rates of taxation has been an exacerbation in tax competition amongst states (Palan et al 2010:153). The past two decades have been responsible for the intensification of research into international tax competition and the literature produced on tax evasion and tax havens can be seen to fall under this category. Whilst we do not have the scope to discuss tax competition models in depth (see Zodrow and Mieszkowski (1986) and Wilson (1986), this section gives a brief overview of the notion of tax competition before discussing some of the more significant perspectives and studies on tax havens.

#### **3.4.1. International Tax Competition**

Genschel and Schwarz (2011: 340) argue that tax competition is an old concept but political and academic interest in the issue has only recently arisen. The onset of deep economic integration in the 1980s saw the erosion of mobility barriers. Trade liberalization, capital decontrol and currency convertibility at the global level, regional integration schemes such as the EU's Single Market and NAFTA, as well as new communications and transport technologies greatly reduced the transaction costs of moving goods, services, capital and jobs across national borders (Ibid). Prior to this period of great economic transition, taxes were too low and cross-national tax differentials were too small to trigger significant cross-border movements of taxpayers and bases. In the earlier decades of the twentieth century, tax burdens increased dramatically but so did restrictions of cross-border mobility: high tariffs, strict capital controls, limited currency convertibility and tough visa and immigration laws (Ibid). These restrictions greatly reduced the scope for international tax avoidance and evasion. As documented in our *Contextualisation* tax havens did exist during this period prior to the onset of deep economic integration, however such restrictions prevented them from receiving vast amounts of foreign direct investment (FDI). Subsequently the political and

academic interest in the issues of tax havens, evasion, avoidance, competition and coordination was not as rife as it currently is today.

As a result of increased mobile international capital from the 1970s onwards, a growing number of states developed strategies in order to attract businesses to their domain. Targeting industrial policies, the provision of cheap research and development funds and infrastructural support were examples of such strategies that states began to employ (Palan 1998 in Palan et al 2010: 153). As a result, governments found themselves under growing pressure to lower taxes on capital and businesses.

Since the early 1990s, the statutory tax rate for corporate taxation declined almost everywhere in the world and in the EU the average rate declined by an average of ten points from 35% to 25% between 1995 and 2007 (Ibid:154). Susan Strange (1998:564) argued that 'states are now engaged increasingly in a different competitive game: they are competing for world market shares as the surest means to greater wealth and greater economic security' (Susan Strange (1998:564 in Ibid). Palan et al (2010:154) also note that studies conducted by Bestley and Case (1995) and LeRoy (2006) evidence that tax competition also occurs internally within states not just between them. Furthermore empirical research also suggests pervasive tax competition among countries and municipalities in Europe and the United States (Brueckner and Saavedra 2001; Heynedels and Vuchelen 1998 in Palan et al 2010: 154).

#### **3.4.2. Destructive Tax Havens**

Those critical of international tax competition tend to view tax havens as harmful and parasitic for the world economy. As Dharmapala (2008:2) notes, the popular image of tax havens is one that emphasises their role in facilitating tax evasion by individuals. Slemrod and Wilson (2006) portray tax havens as 'parasitic on the revenues of other countries' and are undesirable for several reasons. They argue that they lead to the wasteful expenditure of resources, both by firms in their participation in havens and by governments in their attempts to enforce their tax codes (Slemrod and Wilson 2006:5). In their framework, firms based in non-haven countries can choose to purchase "concealment services" from havens, thereby avoiding (or evading) home country taxes. In addition to the resource costs incurred by havens in providing concealment services, tax avoidance also induces non-havens to expend additional resources on enforcement (Dharmapala 2008:12). In the equilibrium of this model, small countries decide to become tax havens. The existence of havens intensifies tax competition and forces non-haven countries to set lower tax rates than they otherwise would, thereby reducing the supply of public goods. These welfare losses can be ameliorated in their model by the elimination of tax havens (Ibid).

The OECD view tax havens in a similar way to that of Slemrod and Wilson. Its 'harmful tax competition' (HTC) project launched in 1996 was the primary response to the erosion of tax bases of higher tax countries. The project highlighted two broad categories of unacceptable behaviour: 'harmful tax regimes' and 'tax havens' (Kudrle 2010: 75 in Martens and Jakobi 2010). The initiative intended to discourage the use of preferential tax regimes for foreign investors and to encourage effective information exchange among the tax authorities of different countries. As part of the initiative, the OECD produced a list of countries and territories that it deemed to be tax havens (Appendix 1) . In the years since, most of these havens have agreed to improve the transparency of their tax systems and to facilitate information exchange. However, the extent of information-sharing in practice is unclear and so is the impact of the HTC project as a whole.

Dharmapala (2008:11) notes how Kudrle (2008) examined the total foreign portfolio investment (as reported by the Bank for International Settlements) in the Cayman Islands and in a broader set of tax haven countries. His time-series analysis found no significant

impact of the OECD initiative. Furthermore, Dharmapala (Ibid) notes how evidence from other studies (although limited) suggests that the initiative has not had any significant impact on tax haven activity. However, when taking into consideration the differences between (legal) corporate tax planning and (illegal) individual evasion, information-sharing only threatens the latter. Thus, the OECD initiative cannot be expected to have much impact on corporate uses of tax havens, even if (or when) the initiative is fully implemented. (Ibid).

Studies investigating the relationship between information exchange and capital flight show that investors have not relocated their capital after the call for more transparency in tax havens, as was widely anticipated. Huizinga and Nicodeme (2004) concluded that capital flows between countries is not depressed by bilateral information exchange between fiscal authorities (Rixen and Schwarz 2012:154). Furthermore Rixen and Schwarz's (2012) study on the EU Savings Tax Directive concludes that the same phenomenon is evident on a multilateral scale within Europe.

There is also a large body of literature that highlights the negative impact that tax havens have on developing nations. There is a prolonged debate as to whether or not tax havens lower global welfare. Leaman and Waris (2013:4) argue that tax arrangements of states and the corporations of OECD states have critical effects on the development potential of the less powerful states in Africa, Asia, Latin America and even in Europe's own periphery. In direct relation to tax havens they argue that 'low-tax jurisdictions continue to represent a major obstacle to a recalibration of global economic affairs which would allow the sustainable modernisation and development of poorer states, combined with social justice' (Ibid).

Aijaz (2013:126) notes how the 'Enough for Everyone If' campaign headed by former UN Secretary General Kofi Annan concluded that tax havens cost Africa \$38 billion a year in lost revenue as multinational corporations transfer their profits out of the continent. Approximately \$1 trillion of capital has been exported from Africa in the last 30 years whereas inward investment in terms of FDI or aid is approximately \$300 million (African Progress Report 2013 in Ibid). According to Aijaz these statistics demonstrate the large scale detrimental effects that tax havens have on the global south (Ibid.).

### **3.4.3. Productive Tax Havens**

There is a growing body of literature that views tax havens in a more constructive light, arguing that under certain conditions they actually enhance efficiency and mitigate competition. This contrasts to the view that they are detrimental to the tax bases of high tax countries and hinder the progress of underdeveloped nations.

Palan et al (2010: 155) note how mainstream economists are generally supportive of tax havens arguing that international tax competition limits the natural expansionist tendencies of bureaucratic governments. Rose and Spiegel (2005) argue that tax havens are symbiotic opposed to parasitic (in response to Slemrod and Wilson 2006) (Palan et al (2010:155). Additionally Hong and Smart's work 'In praise of tax havens' argues that because companies shift fiscal activities to tax havens such as financing, insurance and intangibles, they are less likely to shift 'real' investment offshore (Palan et al 2010:155).

Whilst empirical research has repeatedly provided evidence to show that tax havens host a disproportionate fraction of the world's foreign direct investment (FDI), corporate tax revenue in the US and UK has actually increased, suggesting that the concerns over the detrimental effects may be exaggerated (Dharmapala (2008:2). Palan et al (2010:155) note how Desai, Foley and Hines (2004a, 2005) argue the use of conduits such as holding company or

subsidiaries in tax havens result in higher growth rates for company activities in non-tax havens.

## 4. The European Union and Taxation

The European Union is a unique political entity comprising of 28 member states and over 500 million citizens. Its history began in the early 1950s with creation of the European Coal and Steel Community (ECSC) comprising of six European countries. It was transformed to the European Economic Community (EEC) with the signing of the treaty of Rome in 1957. The treaty of Maastricht signed in 1993 saw the collection of members states re-named the European Union.

This European integration process has transformed itself in many different ways and changing the name few times has not been the biggest change. What started as a group of six countries concerned about the manufacturing levels of steel is now a union of 28 member states (December 2014). This political entity challenges the ways in which political scientists and practitioners of international relations see the world and the possibilities of transnational cooperation. It is impossible to delve into the history and workings of the EU more in depth within the scope of this project, but Bomberg et al. (2012), Hix (2005), McCormick (2008) and Moussis (2010) provide comprehensive introductions to the topic of the EU and the European integration in general. It is, however, important to have a short description of the main actors and institutions in the EU and how the policy making process works.

### 4.1. The EU Institutions

The four most important institutions in the EU are the European Council, the European Commission (EC), the Council of the European Union (the Council) and the European Parliament (EP).

Bomberg et al. (2012:60) call the *European Council* the “major agenda setter of the Union”. It is a council of the heads of member states and it meets at least every 6 months. Even though it sets the political direction for the EU, it does not have legislative power. The remaining three institutions (the Commission, the Parliament and the Council of the European Union) hold this responsibility.

The *European Commission* (EC) is the most powerful European institution and it represents the interests of the Union as a whole. Each member state nominates one Commissioner to serve the five year term, which is linked with the *European Parliament* (EP) elections, held every five years (last time in May 2014). The newly elected European Parliament elects in turn the Commission President. The Commission President is in charge of distributing policy responsibilities to the Commissioners, but the EP has to give their approval for the new Commissioners before the Commission can start its work. Besides representing the EU interests, the Commission drafts proposals for new European laws and ensures the correct application of EU legislation once it is passed. It manages the day-to-day implementation of EU policies and the spending of EU funds. It speaks on behalf of all EU countries and negotiates international treaties and agreements. Furthermore, it also acts as the guardian of the Treaties which form the legal basis for the EU. (Bomberg et al. 2012:48–53; europa.eu: European Commission).

The European Parliament represents the EU citizens and is directly elected by them. It debates and passes the EU laws and adopts the EU budget in cooperation with the Council. It also scrutinises other EU institutions, especially the EC. It is elected every five years and it consists of 751 Members of the European Parliament (MEP). The EP powers have increased gradually since 1979 (when the first EP was elected) through revision of Treaties. Now it co-decides nearly all EU legislation with the Council: both institutions have to agree on a text in identical terms before it becomes a law. Even though the budget issues are responsibilities of the EP, it only covers spending while taxation is still a competency of member states. (Bomberg et al. 2012:61–4; europa.eu: European Parliament).

The Council of the European Union (the Council) represents the governments of the member states. Its tasks are passing the EU law and approving the EU budget in cooperation with the EP, coordinating the broad economic policies of the member states, signing agreements between the EU and other countries, developing the EU's foreign and defence policies and coordinating cooperation between courts and police forces of member states. Even though it is called the Council in singular, it actually meets in 10 different configurations. Each member state is represented by its minister of the policy area in question. The configuration in the area of taxation is Economic and Financial Affairs Council (Ecofin). Meetings of different configurations are the places where the member states try to come to an agreement about EU legislation. Even though most areas of EU decision-making are now subject to Qualified Majority Voting, voting rarely takes place in the Council meetings. The member states seek for consensus, but know that unreasonable opposition can be countered with a vote. However, in some policy areas the practice of unanimous voting is still in place. One of these “sensitive matters” is tax harmonisation, which means that a single member state can block any decisions concerning tax issues. (Bomberg et al. 2012:54–9; europa.eu: Council of the European Union).

## 4.2. Decision-making in the EU

There are three different kind of legislative acts within the EU: regulations, directives and decisions. *Regulations* could be characterised as EU laws: they are binding and directly applicable in all member states. *Directives* are “binding in the terms of goals”, but the member states are free to select the means with which to achieve those goals, as long as they tell about their plans to the Commission. *Decisions* are only binding for the specific individuals of companies to whom they are addressed. On top of these acts, the EU can also give policy *recommendations* and *opinions* to the member states. These are not legally binding but are used to persuade the member states to change their legislation or give an interpretation about the application of e.g. directives. (Bomberg et al. 2012:124; McCormick 2008:73; TFEU 2012:§288).

The legislative procedure always begins with a proposal from the Commission which is the only institution that can initiate the procedures. The proposal does not come simply out of a vacuum. Even though the Commission is the official initiator, in the vast majority of the cases the original initiative for a proposal comes from somewhere else than the Commission (Bomberg et al. 2012:54). After the proposal has been drafted by the Commission, it will be sent to the Council and the EP. There are several different kind of procedures according to which a proposal will be passed as a regulation, directive or a decision. According to the Treaty on the Functioning of the European Union *the ordinary legislative procedure* consists of joint adoption of both the EP and the Council of the proposal made by the Commission. The ordinary legislative procedures is sometimes called codecision procedure (the name was officially changed to the former in Lisbon Treaty 2009). In other words, in most of the cases both the Council and the EP have to adopt the proposal in order to get it passed. However, there are exemptions to this rule. *Special legislative procedures* require the adoption by either the EP or the Council, but not both. This means that in some cases the EP acts only by giving advisory opinion but the final decision is made by the Council. This is called *the consultation procedure*. This is the procedure used in the field of taxation. Other procedures are the consent procedure, the budget procedure, enhanced cooperation and delegated powers (Bomberg et al. 2012:128[Box 6.3]). (Bomberg et al. 2012:127–30; TFEU 2012:§289; europa.eu: Legislative Powers).

To sum up this mosaic of institutions and legislative procedures, we can have a simplified formula of policy making in the EU:

1. (The European Council sets the broader objectives for EU policies)

2. The Commission is the only institution that can initiate the legislative process
3. The proposal made by the Commission has to be adopted by the Council of the European Union and/or the European Parliament depending on the policy area
4. Passed regulations, directives or decisions have a deadline before which the member states have to apply them to their national legislation

### 4.3. Developments Regarding Taxation

There are no regulations (EU laws) on the field of taxation. The responsibility of collecting tax off citizens sits with each member state. As stated earlier, tax harmonisation is deemed as a sensitive issue and therefore any decisions concerning this issue require unanimous support from the member states in the Council. This is why it is difficult to change or create new tax rules for the whole EU. We have also learned that the consultation procedure is used in the field of taxation, which decreases powers of the EP in this matter. Having solely national taxes is one of the key differences between EU member states and for example states in the USA, where on top of state taxes, federal taxes also exist. Even though the EU is unable to create new taxes or change the current tax levels in member states directly, it can create binding directives that the member states have to follow. However, the creation of new directives in the field of taxation requires the backing of all the 28 member states. The Commission can also give recommendations to the member states regarding tax matters, and even though they are not binding they can have a lot of persuasive and symbolic power. Due to the deadlocks in the tax issues between the member states, the Commission has resorted to use more “non-binding approaches ... as a way of making progress in the tax field” (ec.europa.eu: EU Tax Policy Strategy).

According to the EU’s tax strategy: “It is clear that there is no need for an across-the-board harmonisation of Member States’ tax systems. Provided that they respect Community rules, Member States are free to choose the tax systems that they consider most appropriate and according to their preferences.” (EC 2001). However, right from its formation, the EU (then the European Economic Community) made cooperation in the field of *indirect* taxation one of their prerogatives. Having differentiating indirect tax levels such as the value added tax threatened the workings of a single market and it was recognised in the treaty of Rome (Moussis 2010:221–4; EEC 1957:§95, §98, §99). The tax issues covered in this paper (tax evasion and avoidance through tax havens) fall under the bracket of *direct* taxation, which includes taxation of incomes and capital gains (savings tax). The issue of savings tax is particularly relevant to this project as capital gains are often not taxed or under taxed. Different types of tax planning schemes, both illegal or illicit (often through the use of tax havens) route capital through different tax and secrecy jurisdictions. The treaty of Rome did not address harmonising direct taxation levels in the member states but the issue of minimum level of harmonisation of direct taxes became apparent in the later years; the Commission tabled the first proposal to achieve these minimum levels but it was only approved by the Council in 1990 (Moussis 2010:229).

The EU’s special characteristics regarding the free movement of capital creates possibilities for its citizens to avoid taxes in their resident countries by legal means. This problem was first addressed in 1977 with the institution of mutual assistance by the competent authorities by member states (EEC 1977). This could be seen as the first line of directives furthering the information sharing in tax issues between member states. The following directives are introduced in the later part of this section. Tax evasion through capital movements was not a major issue in the first decades of the EEC, since it was regulated more than nowadays. Until the dissolving of the Bretton Woods, European states had capital controls in place and they were commonplace until the end of 1980s (Schwartz 2010:199; Helleiner 2011b:223–4;238–9). The liberalisation of capital movements in the beginning of the 1990s changed this situation and increased the risk of tax evasion (Moussis 2010:231). The Council approved a directive on June 24th 1988, which ensured the full liberalisation of capital movements

between the member states. Monetary and quasi-monetary operations became especially liberalised. The directive became effective on July 1st 1990 (Moussis 2010:98; EEC 1988). The treaty of Maastricht that replaced the treaty of Rome in 1993 marked even greater liberalisation of capital movement. Article 56 states that all restrictions on the movement of capital between the member states and the member states and the third countries are prohibited (EEC 1992). This article remains unchanged in the current consolidated treaty on the functioning of the European Union under a different number (TFEU 2012:§63). This is a momentous shift in the monetary policy of the union, freeing the movement of capital to and from any non-EU country to any EU country. Moreover, the movement of capital is not only freed, but its restriction is prohibited by the most important treaty governing the EU. The financial market has been completely liberalised in the EU since January 1st 1993 when the treaty of Maastricht came to effect (Moussis 2010:99).

#### **4.4. The European Union and tax evasion and tax fraud**

This liberalisation of the movement of capital posed a heightened threat to abuse of the differentiating tax systems within the EU. Citizens of the EU were free to move their capital across the borders without any restrictions. Whilst the member states did not have any kind of information sharing tool in place, it was relatively easy for a citizen of a high-tax country like Germany to shift her capital to a low-tax country like Luxembourg and enjoy low levels of taxation or no taxation at all on her interest income in there. After receiving the income in Luxembourg the individual would simply have to transfer the money back to their German bank account. It took more than ten years for the EU to start closing the gaps created by the liberalisation in the tax system. In 1997 ECOFIN adopted a Code of Conduct for business taxation and concluded that the Commission should come up with a directive proposal for taxation of savings (ECOFIN 1998). The Savings Tax Directive was agreed on in 2003 and came into effect in 2005 after years of preparation (ECOFIN 2003). Even though the EU's tax strategy stated already in 2001 (EC 2001) that the EU has to combat harmful tax competition (having parallels to OECD's campaign against harmful tax competition), it can be argued that the actions became more determined only after the financial crisis hit the EU in the latter part of the 2000s. When the EU used huge sums of public money in order to maintain the crisis, naturally questions and concerns of fairness within the tax system arose amongst the greater public. Whilst some member states were facing outright bankruptcy, increased tax revenues were desperately needed in every member state to increase investment subsequently kick starting economic activity once more. This meant more activity in the EU institutions in the years to come.

The quests for enhanced fairness and bigger tax revenues were intertwined in the Commission proposal for amending the three-year-old STD (EC 2008). The Commission tried to fill in the loopholes left by the original directive, which allowed ways for affluent individuals to circumvent the directive through holding companies and conduits. This was the catalyst for a more active European response to the issue of tax evasion and avoidance. Following the proposal for amending the STD, the Commission came up with a new proposal for greater administrative cooperation in the field of taxation (EC 2009). Slowly but steadily both proposals passed the long road of the EU legislation system. The Council passed the directive for greater administrative cooperation in 2011 (ECOFIN 2011) and it has already been revised to become more comprehensive agreement on exchanging tax information automatically instead of by request (ECOFIN 2014b). The revised STD was adopted by the Council in March 2014 (ECOFIN 2014a) and the revised directive on administrative cooperation in December 2014 (ECOFIN 2014b). Whilst taking the more coercive legislative steps of implementing new directives, the Commission was also busy writing recommendations and action plans for the Council, the European Parliament and the member states. Communication on concrete ways to reinforce the fight against tax fraud and evasion was published in the summer of 2012 and recommendations concerning aggressive tax planning and minimum standards of good governance in tax matters were published the

same day as the action plan in order to strengthen the fight against tax fraud, avoidance and evasion later in the year (EC 2012a, 2012b, 2012c, 2012d). Furthermore, the Commissioner for taxation, customs, statistics, audit and anti-fraud in 2010-2014, Algirdas Šemeta, relaunched the Tax Policy Group in 2010. The Group was originally established in the 1990s and its aim then and now is to provide “a regular fixed forum for high-level discussions to explore the scope and priorities for tax policy coordination within Europe” (EC 2010).

Some of the abovementioned policy papers are analysed in detail in the later part of the paper. For now, we want to point out the increased activity in the tax cooperation during the past five years. After a rather long time of passivity, the EU has taken big steps to reform the internal tax systems and more importantly cooperation between the member states.

#### **4.5. EU and responses to tax havens**

The EU has not undertaken a clear offensive stance against *tax havens*, instead it has called the activities of tax evasion and tax fraud into question. We will analyse this rareness of the term ‘tax haven’ in the official EU documents in our *Analysis* chapter. Whilst the EU occasionally uses the term tax haven, it never refers to one of its member states by using the term. However, it monitors harmful tax practices used in its member states through the Code of Conduct Group ([ec.europa.eu:Harmful Tax Competition](http://ec.europa.eu/Harmful_Tax_Competition)). The Group was established in 1998 and it gave its first report about harmful tax practices in the member states and their dependencies in 1999 (Primarolo report). Even though the Group has been working for 15 years, there are still major problems in making the tax regimes work equally well in the EU, as was recently demonstrated by the numerous tax deals that the government of Luxemburg is alleged to have done with big corporations (Wayne et al. 2014).

**Table 1. Timeline of the developments in the EU**

20.03.1996	Taxation in the European Union: Discussion Paper by the Commission
01.12.1997	Conclusions of the ECOFIN Council meeting concerning taxation policy: Code of Conduct for business taxation adopted, call for a STD
10.10.2001	Commission communication about tax policy in the EU
03.06.2003	Council Directive on taxation of savings income (STD)
01.07.2005	The Savings Tax Directive comes to an effect
13.11.2008	Commission proposes amendments to the STD
02.02.2009	Commission proposes administrative cooperation in the field of taxation
15.02.2011	Council Directive on administrative cooperation in the field of taxation (2011/16/EU) Includes income, savings income, director's fees, certain life insurance products, pensions and immovable property
04.03.2011	ECOFIN agrees to the proposal of revised STD
27.06.2012	Commission Communication on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries
06.12.2012	Commission Recommendation on aggressive tax planning Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters An action plan to strengthen the fight against tax fraud and tax evasion
01.01.2013	Administrative cooperation (2011/16/EU) implemented in national laws and regulations
12.06.2013	Commission proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation. This time also dividends, capital gains, and other financial income and account balances will be made part of the automatic exchange system.
24.03.2014	Council Directive of the revised STD (ECOFIN 2014a)
14.10.2014	ECOFIN agrees to Commission's proposal to extend the reach of automatic exchange of information to include dividends, capital gains, and other financial income and account balances.
01.12.2014	ECOFIN adopts revised directive on mandatory automatic exchange of information (ECOFIN 2014b)
01.01.2016	The revised STD comes to an effect
30.09.2017	Revised Directive on automatic exchange of information will come to an effect.

## 5. Analysis

### 5.1. Introduction

We shall begin the Analysis by introducing each of the documents that we are discussing and putting each one into context. We shall then proceed to discuss the policy narrative apparent in each of our chosen EU documents before comparing and contrasting their characteristics.

After considering the characteristics of recent EU documents we will compare them to an earlier narrative used by the EU. For this purpose we will use Sharman's (2008) narrative which he calls the 'Global Imperative'. Even though we are using Roe's framework for presenting the policy narrative, we would like to remind the reader that unlike in Roe's model type of narrative policy analysis (1994:Appendix 1) we are not finding the narratives through interviewing policy makers but by reviewing the official policy documents produced by the EU institutions. We are not making comparisons between current narratives, instead we are looking into how the official EU policy narrative has changed through the years.

Secondly we go on to ask why these changes have occurred. There are two different approaches to answer this question. Our first approach shall discuss the external factors that have been partially responsible for the renewed interest in tax havens. We will consider the narrative changes that have occurred because the EU has been forced to react to these external factors and position these alterations in the wider context of international taxation. For example we shall analyse how the sovereign debt crisis has impacted on the EU's tax policy narratives. The second approach to this problem focuses on de-/re-/politicisation. In order to do this we need to reject the idea that changes in the policy narratives have taken place solely because of external changes. We argue that the current situation is not an entirely unique political and economic environment for the EU. We will present some of the key developments within the EU that have caused active depoliticisation of taxation and other economic issues. In other words we will present the ways in which the issues regarding tax havens were depoliticised. Only then we can present the ways it has been currently repoliticised.

Finally, we also need to analyse what changes the EU are suggesting and if these suggestions have been addressed. Has only repoliticisation occurred or has there been further depoliticisation at the same time? These phenomena do not exclude each other and can occur simultaneously on the same topic but at different levels.

### 5.2. The Crucial Consolidation Narrative

This section discusses four documents that were published by the European Commission in 2012. These documents discuss tax fraud, tax evasion and tax havens and we shall highlight their key characteristics in order to analyse the policy narrative that has been recently constructed by the European Commission. We shall draw on the work of Roe and Radaelli as described in our *Theoretical Framework* in order to do this. Furthermore we shall discuss how the EU views the problem of tax havens and related issues such as tax evasion, fraud and avoidance. We shall also consider how it demonstrates actions that it has taken, are taking and will take, taking into Radaelli's argument that "[t]he temporal order of events (or sequentiality) is a fundamental property of narratives" and this is what determines the plot opposed to is truthful or fallacious elements (1999:663). So therefore it is important for us to consider how the EU depicts its actions over time.

As we stated in the *European Union and Taxation* chapter, the Commission represents the interests of the Union as a whole. Therefore we believe that a policy narrative analysis of

their communication and recommendation papers would give the closest representation of a recent unified EU policy narrative of the issue. For consistency purposes we only used documents from the Commission.

### **5.2.1. The Documents**

The first document we shall discuss is the European Commission's communication 'on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third parties'. This was published on 27.6.12 in response to the European Council's call on the Council and the Commission to develop new measures to improve the fight against tax fraud and tax evasion, including in relation to third countries and was produced for the Council and the Parliament. We shall refer to this document as EC 2012a.

The following three documents were all published on 06.12.12 elaborating on the content of EC 2012a. The mother document that was produced on this date was a communication to the Parliament and the Council entitled 'An Action Plan to strengthen the fight against tax fraud and tax evasion'. We shall refer to this document as EC 2012b. The third and fourth documents accompanied the action plan and are both recommendations by the Commission. The first one 'regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters' is referred to as EC 2012c and the second 'on aggressive tax planning' is referred to as EC 2012d.

### **5.2.2. Application of the term 'tax haven' within the documents**

Whilst we have set out to analyse the Commission's current policy narrative, with an emphasis on tax havens, this has been challenging to do as it is somewhat conservative with applying the term in their publications. Out of all the four documents that we analysed, the term is only used extensively in EC 2012a where it appears 11 times. In EC 2012b it is only used twice and in both 2014c and 2012d it does not appear at all. In the case of 2012c we feel that this is rather ironic as this document is intended to serve as a guideline for how the member states should behave in relation to third countries regarding tax issues.

In section 7 (EC 2012b:5) the Commission presents new initiatives that are part of the action plan. It recommends measures by which member states should interact with third parties including jurisdictions that do not 'comply with minimum standards of good governance in tax matters...commonly considered as *tax havens*' (EC 2012b:5). They depict such jurisdictions as potentially damaging to all member states, claiming that all the tax bases of the members are eroded when tax havens and member states with relaxed tax regulations interact. Whilst they apply the common label of 'tax havens' in the action plan (EC 2012b), in the actual recommendation paper (EC 2012c) the term is not used once. This recommendation uses very similar language and therefore it is obvious as to what the Commission is referring to. Whilst discussing states that offer low levels of income tax they argue that such jurisdictions often also lack transparency or information exchange with other states, providing them with "shelter" from the tax administration of their existing state (EC 2012c:2).

In contrast to how little they use the term 'tax haven' in the documents that we have analysed, we discovered that the Commission uses the term a lot more liberally on their relevant web pages. Furthermore the accompanying press release (EC 2012e) for documents EC 2012b, 2012c and 2012d uses the term explicitly. Its reluctance to use the term on official internal documents and its failure to address tax havens within the EU borders suggests that the issue is a sensitive one. Its liberal application of the term and clearly specified actions to the masses via the media suggests that it evidently wants to be perceived as addressing the tax haven issue actively.

Roe (1994:51) argues that “narratives can be representationally inaccurate and recognisably so - but still persist ...”. We appreciate that ‘tax havens’ may have detrimental effect on the EU member states. However the Commission appears to construct an ‘us vs them’ situation through the use of the term ‘third countries’, which subsequently suggests that member states do not adopt harmful tax practices. Indeed it argues (EC 2012c:2–3) “there is a consensus in the Union ... that harmful tax measures are not acceptable, which makes it difficult for Member States to maintain to or introduce such measures.” Whilst it does not categorically state that such taxation policies within the member states do not exist, it evidently tries to distance itself from such practices.

Furthermore, when it does refer to problems within its own jurisdictions, it does so very subtly and suggests that it must address its own issues in order to gain more bargaining power with third countries opposed to recognising the fact that the tax practices of its own member states may also have ramifications on third countries. This is epitomised in 2012a (p.7). When discussing how enhanced cooperation could be achieved it argues that initially, existing tools should be strengthened. It continues to argue that:

“The EU must demonstrate its ability to address these problems which will also put it in a stronger position to seek equivalent improvements from other countries.” (EC2012a:7).

Therefore the narrative the Commission has constructed is reminiscent of Roe’s view that policy narratives can still be persistent regardless of whether or not they are representative of reality.

### **5.2.3. Times of Instability**

Roe (1994:34) claims that the purpose of a policy narrative is to “underwrite” and “stabilize” the assumptions needed for decision-making in the face of what is genuinely uncertain and complex. This can be certainly seen in all four of the policy documents.

As Radaelli (1999: 664) argues narratives “convey meaning and suggest action”. The need for such transformation is demonstrated in the four documents that we analysed. EC 2012d and EC 2012c are ‘recommendations’ created by the Commission whilst the titles of the two communication documents also reflect that a change is needed. EC 2012a (‘concrete ways to reinforce the fight against tax fraud and tax evasion...’) suggests that the current practices that are in place are failing because of tax fraud and evasion and the solutions that they are proposing are unshakable foundations for a fairer tax system among the member states. Furthermore the name given to EC 2012b (‘An action plan to strengthen the fight against tax fraud and tax evasion’) suggests that is logical and detailed strategy that outlines the necessary requirements to enhance (‘strengthen’) the existing methods and procedures that aim to tackle tax fraud and evasion.

Whilst the overall narrative voice cannot be construed as negative, all four policy documents do emit a feeling that the union is enduring a time of instability and if changes are not implemented then major ramifications will occur. For example it argues that the efficiency and effectiveness of tax collection is ‘desperately’ needed. The word ‘desperately’ suggests that the member states are in somehow endangered by its current tax collection practices and if changes are not implemented to these methods then severe consequences shall arise.

Radaelli notes how Czarniawska (1997:12–13) claims that narratives “objectify a course of action and make it as independent from a specific actor’s preferences as a text from a speaker”. The Commission’s tone throughout the four policy documents is very much one of instruction and direction opposed to consideration. The Commission distances itself from the

earlier policies of the member states, and objectifies guidelines on how to leave the current situation of fiscal consolidation.

#### **5.2.4. References to the Past**

As highlighted in the introduction to this section, analysts stress the significance of a narrative's chronological order of events as it is this that determines the plot opposed to truthful or fallacious elements of the story (Radaelli 1999:663). Banerjee (1999:2 in Radaelli 1999:664) argues that "narratives begin in the past and end in the future". Whilst the Commission does not make an explicit claim that the member states are in a time of economic peril, it does make several subtle comments near the beginning of each document, suggesting that they have enjoyed times of more economic prosperity and that the various tax issues it now faces were not as problematic. This is epitomised when it argues that "[i]n recent years, the challenge posed by tax fraud and evasion has increased considerably." (EC 2012a:3). Furthermore it attributes this increased 'challenge' to the "globalisation of the economy, technological developments, the internationalisation of fraud and the resulting interdependence of Members States' tax authorities" (EC2012:3). In the first sentence of its document on aggressive tax planning (EC 2012d:1), the Commission contrasts the tax planning of countries today to that of more traditional approaches. By referring to how tax planning structures are becoming ever more 'sophisticated', across different jurisdictions, it indicates that the issue is relatively new, being born out of globalisation. Such references to the past and descriptions of technological and structural change as described in these to examples construct an idea that we are now in an age where globalisation has created new taxation issues that will have serious counter-productive impacts if they are not addressed.

In 2012a, the Commission makes an indirect reference to the past in its second sentence by implying that the EU is in "times of fiscal consolidation" (p. 2). Although they do not explicitly refer to the past and how member states enjoyed more significant economic prosperity, this reference implicitly suggests that this was the case. The term 'fiscal consolidation' signifies that the EU sees its member states as enduring a time of economic uncertainty and attributes this to "tax fraud and evasion", explaining that these two practices are "limiting the capacity of Member States" to "raise revenues and carry out economic policy" (Ibid.:2).

#### **5.2.5. International Cooperation**

Radaelli (1999:664) argues that policy narratives make "problems amenable to human action" and the Commission repeatedly state that in order to tackle contemporary tax issues created by tax havens, a coordinated effort between the member states and third countries is required. Phrases such as "Member States can only address this problem effectively if they work together" (EC 2012b:3) are common throughout the four documents, demonstrating that the issue of tax havens and the issues that they facilitate can only be addressed with a coordinated approach by the member states. They also place a large emphasis on standardising methods and approaches across the union, such as using the same information exchange forms (EC 2012a:12).

Furthermore they highlight the importance of extending this coordinated approach beyond the union to third countries. Referring to new initiatives employed by the US Foreign Account Tax Compliance Act (FATCA) and the OECD Global Forum, the commission states that "Recent developments at international level ... open new perspectives for strengthening automatic information exchange between Member States and third countries" (2012a:11). However, the Commission does not settle for the mere following of the international developments, instead it wants to be at the forefront of international tax coordination. Across the four documents it repeatedly stresses its desires to promote its standards and practices. A prime example is in EC 2012c (p.3) where it states:

*In its relations with third countries the Union has sought to convince them to subscribe to the Union principles concerning transparency and exchange of information (similar to the broadly accepted international standards for transparency and exchange of information) and the abolition of harmful tax measures as described in Commission Communication on promoting good governance in tax matters and Commission Communication on tax and development cooperation with developing countries on promoting good governance in tax matters.*

This demonstrates that the EU wants to lead by example in the field of international tax coordination and it wants to impose its own standards on the rest of the world, especially jurisdictions with 'harmful tax measures'. This paragraph encapsulates the image of right vs wrong that the EU seems to construct when discussing international tax issues. This is reminiscent of Banerjee's claim (1999:2) "a narrative frames a situation in a way that makes one action and not others sensible". For the jurisdictions who do not conform to the EU's ideals then they recommend that the member states place them on a blacklist (EC 2012c:4-5) until they comply with the EU's vision of acceptable practices. This further emphasises Banerjee's (1999:2) claim.

#### **5.2.6. Crucial Consolidation Narrative**

We shall name the narrative construed by the Commission in 2012 the 'Crucial Consolidation' narrative. It illustrates how member states are enduring times of economic turbulence and that the only way to tackle today's international tax issues is through enhanced unity between the member states and with third parties. Member states cannot address the issues of international tax fraud, evasion, avoidance and aggressive tax planning (facilitated by tax havens) alone. It is crucial that they exit these turbulent times otherwise even further ramifications shall transpire amongst the member states. Addressing its contemporary tax issues collectively and consolidating fiscal revenues will result in times of more economic prosperity. This will only be achieved if member states additionally work in conjunction with non member states.

Standardising practices across member states (such as in the case of information exchange) will enable subsequently to put the EU into a position where they can extend these uniform measures to jurisdictions outside of the member states. Only once this is achieved would it be able to implement its idea of imposing 'good governance' in tax matters outside of the Union.

The idea of being at the forefront of the international tax transformation is clearly important to the Commission. They highlight through the cases of FATCA and the OECD that international taxation measures are changing. It is important that the EU is a key actor in orchestrating such key transformations.

Key characteristics of the *Crucial Consolidation* Narrative:

- *globalised world*
- *member states cannot act alone*
- *need for unified action*
- *need for urgent action*
- *international developments are inevitable*
- *a way out of the crisis*

### 5.3. The Global Imperative

As stated earlier, we will use Sharman's (2008) article as the basis of our conception of policy narratives regarding tax havens used in the EU institutions prior to the set of documents that we analysed in our previous section. It needs to be noted that this narrative is not the narrative of the Commission, but the narrative followed by the member states. The narrative has its basis on a Commission Discussion Paper (EC 1996), but the policy outcomes coming out of this narrative were contrary to what the Commission had hoped for in its paper. This is the reason why the old narrative provides a good comparison point to the contemporary policy narrative. It could be seen as a learning experience for the Commission (even though the commissioners have changed twice between the narratives) for creating a narrative that resonates in other EU institutions (in this case, the Council).

According to the Global Imperative, a country cannot maintain high taxation levels in a world of mobile capital since the owner of the capital can simply move their assets to a different, low-taxation country. This idea is then brought to a regional level in the EU by stating that:

*unless non-Member States introduced equivalent [low] tax measures, investors would simply avoid new taxes and regulations by relocating their money outside the EU. Because of the mobility of capital, not only would the original tax evasion problem remain unresolved, but the competitiveness of EU financial industries would also be seriously damaged (Sharman 2008:1050).*

This approach results in the narrowing of policy options for political actors in the member states. If there is no truly global solution to the problem, a single member state simply cannot maintain its higher tax levels, let alone set them higher than before. On the contrary, it should consider lowering these levels in order to attract more capital from other member states and third countries. It implies that unless all the countries in the world apply the same taxation measures, it is impossible to react to the relocation of capital without having a negative impact on an actor's own economy. Hence, the EU cannot act on its own because the actions would not make the initial problem go away but instead it would further decrease collected tax revenues (Ibid.). The Global Imperative effectively tied the hands of any actor who wanted to make changes to the taxation system at the time since it is impossible to force other jurisdictions to lower their tax levels in an international system that is based on state sovereignty.

The Global Imperative's idea of globalisation is the same as in what Bruff (2005:262–5) refers to as the first wave of globalisation literature. According to that body of literature "the state is severely compromised as an actor in the domestic political economy" (Bruff 2005:263). Bruff argues that most of these compromises to state power were exaggerated, but by generating these arguments one could create more power for globalisation in the form of a strong narrative (Ibid. 269). This demonstrates what substantial influence a policy narrative can have on the real world. Sharman (2008) argues that the Global Imperative was influential in EU policy making from the onset of the millennium until 2008, the time he wrote his article. We agree with Sharman's argument, however, as we have demonstrated in the first part of our analysis we argue that the Commission has constructed a new narrative that has displaced Global Imperative in EU decision making bodies.

#### 5.3.1. Differences between the Global Imperative and Crucial Consolidation narratives

As the name suggests, the Global Imperative was an idea that forced states to follow a certain line of action. Sharman argues that there was no way for a single actor to address the problem of capital mobility alone. The only way to solve the problem would be to engage

in global cooperation but this option was depicted as unfeasible (Sharman 2008:1054–5). This resulted in a situation where there were only two possible outcomes. Either a perfect solution that included all the actors, or maintaining the status quo with the same systemic features of the global economy. Since there was nothing between these two options, it was extremely hard to imagine any changes to the situation.

The *Crucial Consolidation* narrative demonstrates that there is a possibility to move between these two options. It suggests that development in this area is a gradual process which occurs over prolonged period of time. The EU can act as the first mover, creating a possibility to other actors to follow suit. The Council conformed to the same narrative when presenting the new information exchange directive: the EU is “leading by example in the international arena” (ECOFIN 2014c). This means that even though the ultimate goal is global cooperation in tax matters, some countries have to take the first steps in order to achieve this. This circumvents the Global Imperative’s black-and-white perspective where there is either a perfect transition or no change at all.

It is important to point out here, that the Commission document on which Sharman bases the Global Imperative narrative has a strong call for European cooperation in the face of a globalised world (EC 1996:10–11). As Sharman notes, the Global Imperative “simultaneously represented an external economic imperative for the EU to act, while also invalidating the possibility of any EU response” (2008:1053). All the actors, then and now, seem to conform to the same conclusion that it is impossible for member states to act alone in a world of mobile capital. The Commission has consistently (from 1996-2012) flipped this argument to promote enhanced cooperation amongst member states, in order to have more room to manoeuvre in the globalised world. However, the policy decisions made by the member states (as seen in the work of the Council) conformed to the idea that regional cooperation is just as impossible as independent state action in a globalised world. The developments leading to the amendment of the STD and the information exchange directive however, show that the member states are now more willing to adhere to regional cooperation and step into the grey zone between the Global Imperative’s black and white options.

The second differentiating feature between the narratives is the relation to the past, future, and the current situation. Whereas the Global Imperative is passive, the *Crucial Consolidation* calls for change as a necessity. According to the Global Imperative change is not necessary, since the economic system functions properly enough even with some apparent flaws. Even the Commission, which promoted cooperation in tax issues, stated that markets have gained from the different tax regimes within the EU and there has not been overall losses in the economy (EC 1996:10). This links to the discussion of productive tax havens mentioned in our *Contextualisation*: even though the Global Imperative acknowledges that tax havens provide a way to avoid taxes, it does not automatically mean that they are a bad phenomenon. By avoiding full tax rates, individuals can choose where and how to invest the sum that a higher tax rate would have deducted from them. In other words, the economy does not lose as a whole, there is only a change in who is in the position to invest the money saved by the use of tax havens.

The *Crucial Consolidation* does not associate tax havens with any positive connotations. The current global economic climate is depicted as dangerous; unstable and unpredictable. It is important to make changes to the tax systems so that the governments of the member states are more prepared and better equipped to safeguard their citizens from this dangerous economy. Additionally, the use of tax havens is presented as an unfair activity and it is argued that tax havens cause direct damage to the member states (EC 2012b:5). The Commission states that it is not irrelevant who invests the money, since the states need to maintain a stable level of tax revenues: “all tax payers suffer when tax rates are raised to make up for eroding tax bases” (EC 2012a:12). They argue that such erosion occurs

because of investment in tax havens and any advantages that the member states enjoy must not be 'undermined through action taken by third parties' (EC 2012a: 12). According to the *Crucial Consolidation* the current economic reality is not only unpreferable, but it also calls for change. This change is already foreseeable and this is why the changes to the tax systems need to be implemented immediately, the member states cannot afford to wait any longer.

#### 5.4. What explains the change?

We have now concluded that there is a change in the way the EU addresses the issue of tax havens. The next step is to understand why this change came about. There are two different approaches to explain the changes: firstly, they can only be seen as responses to external developments. Secondly, one can argue that the EU or the forces in the EU effectively depoliticised the issue, which resulted in the maintenance of the status quo regarding tax havens. We shall begin by examining the exogenous factors before presenting the second approach in the next section of our analysis entitled *Possible De/Re-politicisation factors*.

##### 5.4.1. Progress made on the international level

The first external factor is the change taking place on the international level. Both the US and the OECD have made new initiatives in the area of international tax reform. The new US tax law called FATCA is said to "open new perspectives" in the ways in which the EU can tackle the tax haven problem (EC 2012a:11). Since the US has been able to do something unilaterally, it is not anymore possible to believe in the barriers for action set by the Global Imperative. The FATCA has shown that there is a way to address the problem without a global consent on how to do it (for more details about FATCA, see e.g. Kaye 2014).

Besides the developments in the US, the OECD is the second and arguably even more important concrete example of an actor in international development on tax issues. The Commission states that the OECD has been successful in launching the Global Forum on Transparency and Exchange of Information for Tax Purposes (EC 2012a:12). This success indicates that progressive change is occurring and the international taxation landscape is changing. This suggests that progression is being made on issue of tax havens and the problems that they facilitate. This makes it easier for the member states to agree with the short-term losses linked with creating more transparent and efficient taxation systems in the EU.

##### 5.4.2. The Sovereign Debt Crisis

The biggest change in the economic and political environment since the time the Commission wrote their Discussion Paper in 1996 was brought by the financial crisis in 2007. The crisis that started first as sub-prime crisis in the American mortgage market changed to financial crisis and inevitably impacted upon Europe. The European governments had to increase their debt levels in order to help the financial institutions that were about to fail. This approach made the European public economies fragile and by 2011 Europe faced a sovereign debt crisis that is still ongoing (Helleiner 2011a:69). This prolonged period of economic crisis is an exogenous factor that could cause changes in the policies made by the EU.

In 2012 when these documents were published the sovereign debt crisis was at its peak and this is consequently reflected in the *Crucial Consolidation* narrative. It is depicted as an external influence from which the EU has to defend itself. In order to exit the crises changes to the international economic system are required. Therefore changes in the taxation system are more imaginable. Furthermore the crisis also makes the argument for reinforcing

member states' tax bases more crucial since the majority of the EU member states are heavily indebted and struggle to maintain balanced budgets.

## 5.5. De-/repoliticisation

Our second approach to explaining the change in the narratives is to focus on the concepts of politicisation, depoliticisation and repoliticisation. This is a necessary approach if we want to reject the idea that external factors *automatically* cause a change in policies. For example the idea that restricted fiscal revenues is a unique phenomenon to the member states and thus urges them to conform to the need of change is incorrect: it is hard to imagine a situation where a country would not embrace bigger tax revenue, even if it was economically in a strong position. Instead of automatic causality there must be actors exploiting the new political environment and creating the initiative for change (Radaelli 1999:665–6). It also means focusing on why the change did not occur earlier. In other words we will examine the ways in which the issue of tax havens was depoliticised in this period before the change in narratives.

We have argued that there is a definite change in the EU's policy narrative concerning possibilities of action regarding tax havens. We now attempt to answer why this change occurred at that particular moment in time. We shall discuss how the need for reform was downplayed with the help of the Global Imperative narrative. Jessop's article about re-/de-/politicisation is important in this regard, since we intend to show how the problem was depoliticised before the change in the EU's narrative ensued.

### 5.5.1. Politicisation

Referring back to Palonen in the *Theoretical Framework* chapter, every issue needs to be politicised before we can start the analysis of depoliticisation. It is rather hard to define a moment when tax issues were politicised for the first time on the EU level but as Radaelli (1999:668) argues, harmful cross-border tax practices taking place within the EU were brought to wider attention in 1996 when Ecofin had an informal meeting in Verona. Radaelli refers to the discussion paper written for this meeting (EC 1996) and the subsequent Ecofin conclusions on tax policy (ECOFIN 1998) as "The Narrative of Harmful Tax Competition" and argues that it was used by the Commission until the time he wrote the article<sup>1</sup>. He states that the goal of the narrative was to create more co-operation on tax issues between the member states.

Interestingly, it is the exact same document (EC 1996) that Sharman (2008) uses when he argues that Global Imperative prevents the EU to make any decisive reforms to their tax policies. In other words, the same document had two effects: it politicised the issue on the EU level but at the same time it was depoliticised as the reforms were considered as outside the realm of possibility.

### 5.5.2. Depoliticisation

In the previous section we came to the conclusion that tax havens were politicised on the EU level at the turn of the millennium. Different methods of depoliticisation meant that it took almost 20 years for any real developments on tax havens and their associated issues to occur.

---

<sup>1</sup> This was a narrative used in the EU and is not to be confused with the OECD campaign against harmful tax competition which was ongoing at the time.

### Level of Polity: Shifting the Responsibility

According to Jessop, depoliticisation can be achieved by shifting the decision making power to another part of the polity, or even outside of it (2014:212–3). For years the EU struggled to implement a comprehensive information exchange system between the member states, aiming to remove the secrecy jurisdictions within its borders. These jurisdictions (namely Luxembourg, Belgium and Austria) refused to change their banking secrecy laws as long as some other countries (outside the EU) still had similar laws in place (Sharman 2008:1057). Luxembourg and Austria blocked automatic information exchange agreements until the beginning of 2014, when the EU negotiations with these third countries had proceeded to the stage of agreement on automatic information exchange (Fontanella-Khan & Barker 2014). Only after that was the Council able to adopt a more comprehensive information exchange directive (ECOFIN 2014b).

This condition was an efficient act of depoliticisation since it transferred the decision making authority outside the EU borders. At the same time Luxembourg and Austria rejected any EU sanctions against Switzerland (one of the third countries in question) for not joining the information agreement system (Shaman 2008:1064). These two member states were able to firstly shift the decision out of the reach of EU politicians and secondly prevent political pressure from the EU to these third countries.

### Level of Politics: Constitutionalism

According to the Global Imperative, capital is mobile in a globalised world and there is nothing the EU or its member states can do about it. Subsequently member states have no means to prevent tax avoiders from sending and receiving money to and from tax havens. The same member states are enforcing the mobility of capital in the Union through the most important legal document it has, the Treaty on the Functioning of the European Union (TFEU). This parallels a depoliticisation method called constitutionalism. As described in our *Theoretical Framework*, constitutionalism is the act of consolidating a deeply politicised issue by writing it into constitution (or in the case of the EU: into a treaty). Subsequently altering the issue becomes significantly harder than before, requiring special parliamentary procedures (Jessop 2014:214–5). By enforcing the TFEU the member states maintain the mobility of borderless capital. Therefore it is paradoxical that the member states see their room for manoeuvre in fiscal policies limited by the same global political economy they created. It is misleading to suggest that changing the current globalised reality is out of the reach of political actors in the EU member states. If there is a sufficient amount of political will, the agreements made by politicians can also be altered by them. However, since the free movement of capital is constitutionalised it is significantly harder to prevent or even hinder the movement of capital since it would mean breaking the Treaty.

The taxation issues are not the only ones depoliticised through constitutionalism. The creation of the Economic and Monetary Union (EMU) was responsible for an increase on literature written about constitutionalism in the EU (e.g. Bieler & Morton 2001). Gill uses his analogous concept of new constitutionalism to refer to the integration processes of the EU. By this he means the separation of “economic policies from broad political accountability in order to make governments more responsive to the discipline of market forces and correspondingly less responsive to popular-democratic forces and processes” (2001:47)<sup>2</sup>. This form of depoliticisation is also apparent in the formation of the European Central Bank (Gill 2001; Major 2012).

### Level of Politics: use of expert advice

Another measure of depoliticisation explained by Jessop is the use of expert help when trying to come to a conclusion in a political issue (2014:215). The reason for requesting

---

<sup>2</sup> Gill has written about new constitutionalism also in other settings than only the EU, see e.g. Gill 1992 and 1995.

assistance from non-political actors is to get a non-political opinion on the matter, therefore rendering the issue apolitical. Taxation policies are extremely important to the private sector since they have a significant influence on their business environment and creating taxation systems that are functional for business is important. The EU has asked the accounting and consulting company PricewaterhouseCoopers to “contribute to the debate on taxation in the European Union” (PwC 2012: Taxation paper No 31). However, this cannot be considered the wisest of selections as the the same company is alleged to have facilitated a massive tax evasion scheme in Luxembourg (Wayne et al. 2014). Regardless of whether the allegations are true or not, using one of the biggest accounting companies in the world in the process of creating new solutions to tax issues is an example of depoliticisation through the use of expert advice.

#### Level of Policies: Addressing tax havens

Our earlier part of analysis discussed the fact that the EU is reluctant to address the problem of tax havens *per se*. They are more focused on addressing tax evasion and tax fraud, concepts that are constantly repeated in the analysed policy papers. Whilst the EU is having a public campaign against tax evasion and tax fraud (see the EC website: Fight against tax fraud and tax evasion), it does not have one against tax havens. There is no official list of jurisdictions that the EU would consider tax havens<sup>3</sup>. The policy recommendation created by the Commission in order to deal with these jurisdictions does not apply the term ‘tax haven’ once. The recommended methods for sanctioning “third countries which do not meet minimum standards of good governance in tax matters” only include maintaining national blacklists and possibly re-negotiating bilateral double taxation conventions (EC 2012c:4–5). Not having an EU-wide campaign against tax havens is an act of depoliticisation on the policy level.

The OECD launched a campaign against harmful tax competition in 1998, but it was soon forgotten and let go by 2001. According to Sharman (2006) the biggest reason for the failure of the campaign is the way in which the OECD lost the rhetoric battle against tax havens. By attacking the tax havens’ preferential tax policies and demanding that they change, the OECD was presented as the club of rich and powerful countries that tried to force small and in some cases developing countries to change their policies. The only way the OECD was able to sanction the tax havens was to create a blacklist of jurisdictions that did not conform to good standards on tax policies. Whilst the OECD’s campaign was titled a ‘campaign against harmful tax competition’, the tax havens reversed the challenge and argued that the OECD countries are waging this campaign since they are not able to compete against tax havens’ more efficient tax policies. In addition, the tax havens had one more influential argument against the OECD’s campaign: it only addressed jurisdictions that were not OECD countries, even though the definition used by the OECD could have also been applied to some of the OECD countries such as Luxembourg and Switzerland. Not being able to address the problem inside the OECD before starting a campaign against countries outside of it made was a predominant factor in its failure (Sharman 2006:1–11)

The reasons why we deviated from the EU level to the OECD level are the apparent lessons the EU have learned from the OECD’s campaign. Firstly, the unsuccessful campaign depoliticised the concepts of tax havens and tax competition. The term ‘tax haven’ is so vague and controversial term that its use in official policy papers is still difficult. No jurisdiction would refer to itself as a tax haven, and since the OECD blacklists gradually emptied there is no agreed international definition or listing of jurisdictions considered to be ‘tax havens’. Hence a campaign against tax havens is a campaign against nobody. The second concept, tax competition, has also been forgotten from the official EU policy papers. The OECD stopped using the concept during their original campaign and switched to the

---

<sup>3</sup> An EU blacklist has been requested by the EP, but without a result this far (EP 2013).

concept of harmful tax *practices* (Shaman 2006:19). Secondly, waging a direct campaign against tax havens is risky and possibly backfires as long as some of the EU member states can be defined as tax havens themselves.

### 5.5.3. Repoliticisation

Earlier we discussed how the issue of tax havens was depoliticised on different levels on the EU agenda. As our research premise states, the issue has now been repoliticised. The key to repoliticising the issue was to persist with the same implicit methods used to depoliticise it. The Commission came up with an Action Plan and accompanying recommendations that did not address the tax havens directly, it focused upon the issues that they facilitate. They did not launch a specific campaign against these 'third countries that do not comply with good governance in tax matters'. They addressed the matter as part of a wider campaign against tax evasion and tax fraud. The Commission argues that these two problems must be tackled on three different levels:

- i) the tax collection within each Member State must be improved.
- ii) there is a need to enhance cross-border cooperation between Member States' tax administrations.
- iii) the EU needs to have a clear and coherent policy vis-à-vis third countries in order to promote its standards at international level and ensure a level playing field. Co-operating at EU level has an added value in each of these three fields. (EC 2012a:3).

As displayed above the issue of tax havens would fall on the third level. By ensuring that they have not placed an emphasis solely on tax havens, they are tackling them through a wider campaign on tax fraud and evasion and thus are able to repoliticise the issue on tax havens in a more subtle way than had they addressed them directly. Through these aims, coupled with a narrative that was based on the necessity for change and leaned heavily on the notion of international developments regarding the issue, the Commission was able to change the member states' perception of the matter and its possible solutions. The reason why regional cooperation was successfully transformed into a potential solution was the dissolution of the Global Imperative narrative. This happened through the aforementioned international developments: when the US introduced the FATCA it became apparent that the hypothesis of impossibility of unilateral (or regional) action to tackle the problem of tax evasion through tax havens was not accurate. The member states and other political actors in the EU that held onto the Global Imperative narrative were left with invalid arguments and the supporters of the Crucial Consolidation gained more leverage.

Since it was not politically amenable to fight the tax havens, the Commission turned to fighting tax evasion and tax fraud instead. The EU does not act as a unified front calling for a change in the tax policies of tax havens, instead it is trying to implement international systems and technical fixes (like the automatic information exchange systems), which would remove the predominant characteristics of tax havens such as secrecy. This approach is more implicit and less political than the OECD's campaign (1998–2001). The means to accomplish these new systems of information exchange are essentially political, including negotiating third countries to sign the agreement, pressurising member states to conform to the new tax practices, and working together with the OECD in designing an international information exchange agreement system.

## 6. Conclusion

This project has focused on jurisdictions that attract large amounts of foreign direct investment by offering low rates of taxation and/or strong banking secrecy laws. These jurisdictions are commonly known as 'tax havens'. High profile cases of corporate entities using tax havens in order to evade or avoid tax over the past several years (e.g. the case of Vodafone from 2009; see BBC 2010), has thrust the issue of tax justice into the public's consciousness. This has also resulted in the formation of non-governmental organisations highlighting the problems posed by tax havens, such as Tax Justice Network. This issue has gained more recognition on political agendas.

We set on a task to find out why and how the issue of tax havens has been repoliticised on the EU's political agenda. First we tracked the changes in the policy narratives used by the EU and especially the Commission. After ascertaining the change we indicated in which ways the issue was depoliticised and subsequently repoliticised in the EU policymaking institutions.

Our policy narrative analysis of the four EU documents highlighted how the Commission depicts the member states as being part of a globalised world which is enduring a time of instability and it is crucial to leave this stage behind. Only through coordination are they able to exit this prolonged period of economic turbulence. It is not possible for the member states to do this alone. The Commission argues that an increase in member states' fiscal revenue is an essential feature of achieving economic stability. One way of consolidating the fiscal revenue is the strengthening of tax bases by addressing the problems of tax evasion and tax fraud. This must be achieved through the creation of an EU-wide multi-level response. We have named this policy narrative the *Crucial Consolidation*.

Our first working question asked: *How has the EU changed the way it addresses the issue of tax evasion and tax havens?* In order to answer this we needed to find an earlier narrative that discusses tax havens and the issues associated with them. We achieved this by using the work of Jason Sharman (2008) where he argues that a policy narrative called Global Imperative was influential in the EU policy making institutions from the turn of the millennium up until the writing of the article in 2008. We presented the two key differences between the Global Imperative and the *Crucial Consolidation* narratives, which were the positioning of the EU in relation to the past, present and future, and the imagined possibility of a regional solution to a global problem. These differences explain the ways in which the EU has changed the way it addresses the issue of tax evasion and tax havens. Whilst the previous narrative argued that there was no way to address the tax haven dilemma regionally, the updated narrative depicts that such a change can be facilitated efficiently.

The differences between the two narratives provide us with the answers to our second working question: What courses of action do the EU see as realistic and unrealistic? Whereas the Global Imperative did not see a feasible regional solution, the *Crucial Consolidation* demonstrates that there is achievable middle ground between a perfect solution and no change at all. The fact that the Council has adopted directives ECOFIN 2014a and 2014b shows that they adhere to the *Crucial Consolidation* narrative. This justifies our argument that the EU is following the *Crucial Consolidation*, not only the Commission. The EU knows that it cannot have a direct influence on the tax policies of tax havens. Therefore they are pursuing strategies that gradually take their advantages away from them. For example the automatic information exchange agreement intend to eliminate the possibility to maintain secrecy jurisdictions. The Commission places lot of emphasis on the EU's role on the forefront of designing universal administrative methods and practices

that facilitate “good governance in tax matters”. Through encouragement they hope that non member states adopt these ideals and administrative methods and practices.

This leads us to answer our third working question: *What are the tangible actions the EU has already taken in order to address the issue?* The adoption of the directive ECOFIN 2104b will create a comprehensive and most importantly automatic information exchange system between the member states’ tax authorities. At the same time the EU has been designing a more international system with the OECD. The OECD system was signed by more than 50 countries, giving the information exchange agreement far wider international influence than what would be possible only through EU directives (OECD.org). The Commission has also been negotiating bilateral information exchange agreements with European third countries (Switzerland, Andorra, Monaco, Liechtenstein, and San Marino - these jurisdictions are commonly recognised as tax havens). When these agreements come to an effect in 2017 they will significantly decrease the possibilities for signatory countries to maintain strong secrecy jurisdictions.

Our fourth research question asked *has the EU identified tax havens inside its own borders?* As discussed in our policy narrative analysis, the Commission fails to mention that it has jurisdictions that do not comply with ‘minimum standards of good governance in tax matters’ within its boundaries. It is not surprising that it fails to disclose such jurisdictions as their message would appear somewhat hypocritical. Several calls for the need of unified front and unified actions give an impression that there are still some member states that do not comply with the minimum standards of tax policies

In conclusion, these working questions help us to answer our research question: *Why has the issue of tax havens been repoliticised on the European Union’s economic and political agenda?* As argued in our *Analysis*, the external factors had an impact on the way how the Commission compiled their *Crucial Consolidation* narrative. The sovereign debt crisis did not lead to calls for changes to international tax reform on its own, however it was certainly instrumental in creating stronger arguments for change.

The developments regarding international taxation were the crucial factors for a repoliticisation of the issue of tax havens. According to Sharman and the Global Imperative, it was impossible to have anything else other than a global solution to the problem. However as demonstrated by the FATCA in the US this hypothesis was incorrect. It was impossible to keep the issue depoliticised at an EU level when such developments were taking place on the other side of the Atlantic. By employing subtle strategies and tactics the Commission has been able to introduce the issues regarding tax havens onto the EU’s economic and political agenda. By creating a campaign that addresses the issues of tax fraud and evasion, which includes both member and non-member states, it does not over emphasise other jurisdictions’ harmful policies that facilitate the two crimes. Instead it shifts the emphasis to the actions of tax evasion and tax fraud, and focuses on the elimination of significant advantages of these jurisdictions, such as banking secrecy.

The EU has made undeniable progress in reforming the tax administrative and information systems within the member states. Starting from September 2017, all member states will automatically share information about taxable assets within each state’s jurisdiction (ECOFIN 2014b). In addition to the developments on the EU level, 2014 has also seen the creation of an OECD agreement on automatic information exchange that was signed by more than 50 countries. All this gives prospects for further development of international tax systems. However, not all the aspects relating to tax havens have been repoliticised. The EU still fails to firmly recognise the problems within its own borders and in the dependencies of its member states. Whilst they have chosen to tackle the problem with promoting greater transparency in the taxation systems inside and outside of the EU, they have not touched upon the root problems of tax havens. The EU nor the Commission do not try to unravel the

aspects of the global political economy which foster the birth and success of tax havens. Until these have been addressed, a definitive solution to the problem of tax havens will not be formulated and therefore we need to settle for the recent solutions that shall hopefully consolidate the EU against their threats.

## 7. Afterthought

The topic of this project is very contemporary. The latest developments in the different EU directives and international agreements on the OECD level occurred during the time of writing (September - December 2014). Since these agreements and directives have only recently been signed and do not come into effect for several more years (2017) we are unable to comment on their effectiveness. Naturally if we were to write a similar project in the future, we would examine their success.

As we stated in our *Methodology*, we feel that this topic could be enhanced by implementing a more comprehensive approach that investigates developments within each of the EU institutions. We only had the sufficient scope, time and resources to discuss the views of the European Commission. As we also mentioned previously, the Council meetings and work constructed in more informal settings would have served as a valuable addition to the study.

In retrospect, in a situation where the topic and research design would have been clarified months before the deadline, it would have been interesting to conduct a fieldwork trip to Brussels to interview actors who are well versed in the workings of the Council and who could have given more information about the opinions of single member states and their representatives. The European Parliament's sessions, opinions and remarks would have served as an interesting addition to the study. This would have enabled us to chart the opinions and developments inside the EU, possibly giving a more detailed account on how the topic progressed between the different institutions.

Even though we have argued that the issue of tax havens has been repoliticised on the EU agenda, it still remains depoliticised in many respects. The Commission has been able to create the framework of an international tax cooperation system that makes the activity of tax evasion through tax havens more difficult than it was previously. This does not mean that all the problems related to the tax havens will be solved. For example the information exchange agreement is only the beginning of the tax system reform: the tax departments will have more information at their disposal but they need to devise ways in which to use this efficiently.

As stated in our *Analysis*, the Commission depicts tax havens as potentially harmful to the member states by discussing how they erode their tax bases. However it does not recognise that such jurisdictions exist within its own borders, this is clearly a sensitive topic for the Commission and therefore it would be interesting area to investigate. We also discovered that it was reluctant to use the term 'tax haven' in some of the documents that we reviewed. However, on the contrary we discovered that the Commission used the term a lot more liberally on its website suggesting that it wants to be perceived by the public as being proactive on the matter. Therefore an extensive comparison of its public and private faces could also be a possible interesting area of study.

## Bibliography

- Aijaz, Aamir (2013) "Tax Haven: A Global Scenario", in *International Journal of Advances in Engineering Sciences* 3(3).
- Alvaredo, Facundo, Anthony Atkinson, Thomas Piketty and Emmanuel Saez (2013) "The top 1 percent in International and Historical Perspective", in *Journal of Economic Perspectives* 27(3):3–20.
- BBC News (2010) "Vodafone shops blockaded in tax protest", available on <http://www.bbc.co.uk/news/business-1165895>, accessed on 17/12/2014.
- Bieler, Andreas & Adam Morton, (eds) (2001) *Social forces in the making of the new Europe: the restructuring of European social relations in the global political economy*, Basingstoke: Palgrave.
- Bland, Ben (2014) "Brussels anti-austerity protest ends in clashes", in *BBC News* <http://www.bbc.com/news/world-europe-29944648> - Accessed on 7/11/2014.
- Bomberg, Elizabeth, John Peterson & Richard Corbett (2012) *The European Union - How does it work?*, 3. ed. New York: Oxford University Press.
- Bruff, Ian (2005) "Making sense of the globalisation debate when engaging in political economy analysis", in *The British Journal of Politics & International Relations* 7(2):261–280.
- Bryman, Alan (2008) *Social research methods*, 3. ed. Oxford: Oxford University Press.
- Dharmapala, Dhammika (2008) "What problems and Opportunities are Created by Tax Havens?", in *Oxford Review of Economic Policy* 24(4):661–679.
- Dharmapala, Dhammika & Hines James R (2009) "Which countries become tax havens?" in *Journal of Public Economics* 93:1058–1068.
- Elsayyad, May & Konrad, Kai (2012) "Fighting Multiple Tax Havens", *Journal of International Economics* 86:295–305.
- Fontanella-Khan, James & Alex Barker (2014) "Luxembourg and Austria lift veto to back tax plan", in *Financial Times*, available on <http://www.ft.com/intl/cms/s/0/018d3a86-b0f2-11e3-9f6f00144feab7de.html?siteedition=intl#axzz3Lnr9HVbB>, accessed on 13/12/2014.
- Genschel Phillip & Schwarz, Peter (2011) "State of the art - Tax competition: A literature review", in *Socio-Economic Review* 9:339–370.
- Gill, Stephen (2001) "Constitutionalising Capital: EMU and Disciplinary Neo-Liberalism", in Bieler, Andreas & Adam Morton (eds), *Social forces in the making of the new Europe: the restructuring of European social relations in the global political economy*, 47–69. Basingstoke: Palgrave.
- Gill, Stephen (1995) "The Global Panopticon? The Neoliberal State, Economic Life, and Democratic Surveillance", in *Alternatives: Global, Local, Political*, 20(1): 1–49.
- Gill, Stephen (1992) "Economic globalization and the internationalization of authority: Limits and contradictions", in *Geoforum*, 23(3): 269–283.

- Helleiner, Eric (2011a) "Understanding the 2007–2008 Global Financial Crisis: Lessons for Scholars of International Political Economy", in *Annual Review of Political Science*, 14:67–87.
- Helleiner, Eric (2011b) "The Evolution of the International Monetary and Financial System", in Ravenhill, John (2011) (ed.) *Global Political Economy*, 3. ed. New York: Oxford University Press.
- Hix, Simon (2005) *The Political System of the European Union*, 2. ed. Basingstoke: Palgrave Macmillan.
- Kaye, Tracy A. (2014) "Innovations in the War on Tax Evasion", in *Brigham Young University Law Review*, 2014(2).
- Keen, Michael & Kai Konrad (2012) "International Tax Competition and Coordination", Max Planck Institute for Tax Law and Public Finance – Working Paper 2012(6).
- Leaman, Jeremy & Warris Attiya (2013) *Tax Justice and the Political Economy of Global Capitalism, 1945 to the Present*, Berghahn Books.
- Jessop, Bob (2014) "Repoliticising depoliticisation: theoretical preliminaries on some responses to the American fiscal and Eurozone debt crises" in *Policy & Politics*, 42(2):207–23.
- Major, Aaron (2012) "Neoliberalism and the new international financial architecture", in *Review of International Political Economy*, 19(4):536–561.
- Martens, Kersten & A.P. Jakobi (2010) "Mechanisms of OECD Governance: International Incentives for National Policy-Making", Oxford University Press.
- Mansour, Mario & Grégoire-Rota Graziosi (2013) "Tax Coordination, Tax Competition, and Revenue Mobilization in the West African Economic and Monetary Union", *International Monetary Fund (Working Paper/13/163)*
- McCormick, John (2008) *Understanding the European Union: a concise introduction*, 4. ed. Basingstoke: Palgrave Macmillan.
- Moussis, Nicholas (2010) *Guide to European policies, 2009-2010* 15. updated edition Rixensart: European Study Service.
- OECD (2000) "Towards Global Tax Co-operation - Report to the 2000 Ministerial Council Meeting and recommendations by the committee of fiscal affairs: Progress in identifying and eliminating tax havens, available in <http://www.oecd.org/ctp/harmful/2090192.pdf>, accessed on 14/11/2014.
- OECD (1998) "Harmful Tax Competition: An emerging Global Issue", available in <http://www.oecd.org/tax/transparency/44430243.pdf>, accessed on 14/11 /2014.
- Palan, Ronen (2013) "Financial Crisis and Intangible Property", in *Capital and Class* 37(1):65-77.
- Palan, Ronen, Richard Murphy & Christian Chavagneux (2010) *Tax Havens: How Globalization Really Works*, Ithaca, NY: Cornell University Press.
- Palan, Ronen (2009) "History of Tax Havens", History & Policy, Policy Papers, available in <http://www.historyandpolicy.org/policy-papers/papers/history-of-tax-havens>, accessed on 29/12/2014.

Piketty, Thomas (2014) *Capital in the Twenty-First Century*, Cambridge: The Belknap Press of Harvard University Press.

Rixen, Thomas & Peter Schwarz (2012) "How Effective is the European Union's Savings Tax Directive? Evidence from Four EU Member States," *Journal of Common Market Studies*, Wiley Blackwell, 50(1):151–168.

Roe, Emery (1994) *Narrative Policy Analysis – Theory and Practice*, Durham and London: Duke University Press.

Rosenzweig Adam (2010) "Why are there tax havens?", in *William and Mary law review*, 52(3).

Schwartz, Herman (2010) *States Versus Markets: The Emergence of a Global Economy*, Basingstoke: Palgrave Macmillan.

Schäuble, Wolfgang (2014) "Why tax must go global," World Economic Forum <http://forumblog.org/2014/10/wolfgang-schauble-tax-evasion/> - Accessed 30/10/2014

Sharman, Jason (2008) "Regional Deals and the Global Imperative: The External Dimension of the European Union Savings Tax Directive", in *Journal of Common Market Studies*, 46(5): 1049–69.

Sharman, Jason (2006) *Havens in a Storm: The Struggle for Global Tax Regulation*, Ithaca, NY: Cornell University Press.

Slemrod, Joel & Wilson, John (2006) "Tax Competition With Parasitic Tax Havens", National Bureau of Economic Research.

Wayne, Leslie, Kelly Carr, Marina Walker Guevara, Mar Cabra & Michael Hudson (2014) "Leaked Documents Expose Global Companies' Secret Tax Deals in Luxembourg", in *The International Consortium of Investigate Journalists*, available in <http://www.icij.org/project/luxembourg-leaks/leaked-documents-expose-global-companies-secret-tax-deals-luxembourg>, accessed on 13/12/2014.

Zagler, Martin (2010) *International Tax Coordination : An Interdisciplinary Perspective on Virtues and Pitfalls*, Taylor and Francis.

## **EU & OECD Internet sources:**

ec.europa.eu: EU Tax Policy Strategy, available on [http://ec.europa.eu/taxation\\_customs/taxation/gen\\_info/tax\\_policy/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/gen_info/tax_policy/index_en.htm), accessed on 23/11/2014.

ec.europa.eu: Harmful Tax Competition, available on [http://ec.europa.eu/taxation\\_customs/taxation/company\\_tax/harmful\\_tax\\_practices/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/company_tax/harmful_tax_practices/index_en.htm), accessed on 15/12/2014.

europa.eu: European Commission, available on [http://europa.eu/about-eu/institutions-bodies/european-commission/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/european-commission/index_en.htm), accessed on 21/11/2014.

europa.eu: European Parliament, available on [http://europa.eu/about-eu/institutions-bodies/european-parliament/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/european-parliament/index_en.htm), accessed on 21/11/2014.

europa.eu: Council of the European Union, available on [http://europa.eu/about-eu/institutions-bodies/council-eu/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/council-eu/index_en.htm), accessed on 23/11/2014.

europarl.europa.eu: Legislative Powers, available on <http://www.europarl.europa.eu/aboutparliament/en/0081f4b3c7/Law-making-procedures-in-detail.html>, accessed on 23/11/2014.

OECD.org: Major new steps to boost international cooperation against tax evasion: Governments commit to implement automatic exchange of information beginning 2017, available on <http://www.oecd.org/newsroom/major-new-steps-to-boost-international-cooperation-against-tax-evasion-governments-commit-to-implement-automatic-exchange-of-information-beginning-2017.htm>, accessed on 15.12.2014.

## EU Documents:

EC (1996) Taxation in the European Union: Discussion Paper for the Informal Meeting of ECOFIN Ministers, SEC(96) 487, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation\\_sec%281996%29487\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation_sec%281996%29487_en.pdf), accessed on 13/12/2014.

EC (2001) *Tax policy in the European Union – priorities for the years ahead*, OJ C 284/6, available on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0260:FIN:EN:PDF>, accessed on 7/11/2014.

EC (2008) *Proposal for a council directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments*, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/personal\\_tax/savings\\_tax/savings\\_directive\\_review/com\(2008\)727\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/personal_tax/savings_tax/savings_directive_review/com(2008)727_en.pdf), accessed on 7/11/2014.

EC (2009) *Proposal for a council directive on administrative cooperation in the field of taxation*, available on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0029:FIN:EN:PDF>, accessed on 7/11/2014.

EC (2010) Press Release: Commissioner Šemeta launches Tax Policy Group to push forward fundamental issues in taxation, available on [http://europa.eu/rapid/press-release\\_IP-10-1312\\_en.htm](http://europa.eu/rapid/press-release_IP-10-1312_en.htm), accessed on 17/12/2014.

EC (2012a) *Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries*, COM(2012)351, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/common/publications/com\\_reports/taxation/com\(2012\)351\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/publications/com_reports/taxation/com(2012)351_en.pdf), accessed on 7/11/2014.

EC (2012b) *Communication from the Commission to the European Parliament and the Council: An Action Plan to strengthen the fight against tax fraud and tax evasion*, COM(2012)722, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/com\\_2012\\_722\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/com_2012_722_en.pdf), accessed on 7/11/2014.

EC (2012c) *Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters*, C(2012)8805, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/c\\_2012\\_8805\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf), accessed on 7/11/2014.

EC (2012d) *Commission Recommendation on aggressive tax planning*, C(2012)8806, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/c\\_2012\\_8806\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8806_en.pdf), accessed on 7/11/2014.

EC (2012e) *Tax Evasion & Avoidance: Questions and Answers* [http://europa.eu/rapid/press-release\\_MEMO-12-949\\_en.htm](http://europa.eu/rapid/press-release_MEMO-12-949_en.htm)

ECOFIN (1998) Conclusions of the ECOFIN Council Meeting on 1 December 1997 concerning taxation policy, OJ C 2/1, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/coc\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/coc_en.pdf), accessed on 26/11/2014.

ECOFIN (2003) Council directive 2003/48/EC on taxation of savings income in the form of interest payments, OJ L 157/38, available on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:157:0038:0048:en:PDF>, accessed on 7/11/2014.

ECOFIN (2011) Council directive on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, OJ L 64/1, available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0016&from=en>, accessed on 7/11/2014.

ECOFIN (2014a) Council directive 2014/48/EU amending Directive 2003/48/EC on taxation of savings income in the form of interest payments, OJ L 111/50, available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0048&from=EN>, accessed on 7/11/2014.

ECOFIN (2014b) Council directive 2014/.../EU amending Directive 2011/16/EU, available on <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014425%202014%20INIT>, accessed on 12/12/2014.

ECOFIN (2014c) Press Release: Preventing tax evasion and fraud: the scope for automatic exchange of information is extended, available on [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ecofin/146126.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/146126.pdf), accessed on 16/12/2014.

EEC (European Economic Community) (1957) *The Treaty of Rome*, available on [http://ec.europa.eu/archives/emu\\_history/documents/treaties/rometreaty2.pdf](http://ec.europa.eu/archives/emu_history/documents/treaties/rometreaty2.pdf), accessed on 7/11/2014.

EEC (1977) Council directive concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, OJ L 336/15, available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31977L0799&from=EN>, accessed on 7/11/2014.

EEC (1988) Council directive for the implementation of Article 67 of the Treaty, OJ L 178/5, available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31988L0361&rid=2>, accessed on 7/11/2014.

EEC (1992) *Treaty on European Union (The Maastricht Treaty)*, available on [http://europa.eu/eu-law/decision-making/treaties/pdf/treaty\\_on\\_european\\_union/treaty\\_on\\_european\\_union\\_en.pdf](http://europa.eu/eu-law/decision-making/treaties/pdf/treaty_on_european_union/treaty_on_european_union_en.pdf), accessed on 7/11/2014.

EUCO (2012) 4/3/12 REV 3 Conclusions of the 1/2 March 2012 Council Meeting, available on [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/128520.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/128520.pdf), accessed on 28/11/2014.

EP (2013) Report on on Fight against Tax Fraud, Tax Evasion and Tax Havens on 3/5/2013, available on <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0162+0+DOC+XML+V0//EN>, accessed on 17/12/2014.

Primarolo report (1999) Code of Conduct Group's report to the ECOFIN Council, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/primarolo\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/primarolo_en.pdf), accessed on 15/12/2014

PwC (2012) *Taxation paper No 31: Review of Current Practices for Taxation of Financial Instruments, Profits and Remuneration of the Financial Sector*, available on [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/gen\\_info/economic\\_analysis/tax\\_papers/taxation\\_paper\\_31\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_31_en.pdf), accessed on 13/12/2014.

TFEU (2012) *The Consolidated Version of the Treaty on the Functioning of the European Union*, available on [http://europa.eu/eu-law/decision-making/treaties/pdf/consolidated\\_versions\\_of\\_the\\_treaty\\_on\\_european\\_union\\_2012/consolidated\\_versions\\_of\\_the\\_treaty\\_on\\_european\\_union\\_2012\\_en.pdf](http://europa.eu/eu-law/decision-making/treaties/pdf/consolidated_versions_of_the_treaty_on_european_union_2012/consolidated_versions_of_the_treaty_on_european_union_2012_en.pdf), accessed on 7/11/2014.

## Appendix 1

### List of the EU Member States & Year of Entry

- [Austria](#) (1995)
- [Belgium](#) (1952)
- [Bulgaria](#) (2007)
- [Croatia](#) (2013)
- [Cyprus](#) (2004)
- [Czech Republic](#) (2004)
- [Denmark](#) (1973)
- [Estonia](#) (2004)
- [Finland](#) (1995)
- [France](#) (1952)
- [Germany](#) (1952)
- [Greece](#) (1981)
- [Hungary](#) (2004)
- [Ireland](#) (1973)
- [Italy](#) (1952)
- [Latvia](#) (2004)
- [Lithuania](#) (2004)
- [Luxembourg](#) (1952)
- [Malta](#) (2004)
- [Netherlands](#) (1952)
- [Poland](#) (2004)
- [Portugal](#) (1986)
- [Romania](#) (2007)
- [Slovakia](#) (2004)
- [Slovenia](#) (2004)
- [Spain](#) (1986)
- [Sweden](#) (1995)
- [United Kingdom](#) (1973)

### Candidate countries for Membership

- [Albania](#)
- [Iceland](#)
- [Montenegro](#)
- [Serbia](#)
- [The former Yugoslav Republic of Macedonia](#)
- [Turkey](#)

### Potential Candidates for Membership

- [Bosnia and Herzegovina](#)
- [Kosovo](#)

Source - European Union official website [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm)

## Appendix 2 (Glossary)

**Administrative Cooperation Directive:** From 2017, Member State tax authorities will automatically exchange information with each other on most categories of income and capital held by private individuals and certain entities. It is the widest possible scope of automatic exchange within Europe, to mirror the global standard of automatic information exchange agreed by the OECD. (ec.europa.eu)

**Aggressive tax planning:** “the use of complex schemes of uncertainty legality to exploit taxation loopholes for the benefit of taxpayers who can afford the fees charged by professional advisers to create such arrangements” (Palan et al. 2010:249)

**Automatic Information Exchange Agreement (OECD):** 51 jurisdictions signed a Multilateral Competent Authority Agreement on 29.10.14. This agreement provides for exchange of all financial information on an annual basis, automatically. Most jurisdictions have committed to implementing this Standard on a reciprocal basis with all interested jurisdictions. (OECD.org)

**OECD Harmful Tax Competition Campaign:** The Campaign was launched in 1996 as a response to the erosion of tax bases of higher tax countries. The project highlighted two broad categories of unacceptable behaviour: ‘harmful tax regimes’ and ‘tax havens’. The initiative intended to discourage the use of preferential tax regimes for foreign investors and to encourage effective information exchange among the tax authorities of different countries. As part of the initiative, the OECD produced a list of countries and territories that it deemed to be tax havens (Appendix 3).

**EU Savings Tax Directive (STD):** “was adopted to ensure the proper operation of the internal market and tackle the problem of tax evasion. It was approved in 2003 and came into effect on July 1, 2005. The main method is exchange of information between tax authorities. However, an alternative withholding tax arrangements has been allowed for some countries, which intended to be provisional (Palan et al. 2010:250)

**Tax avoidance:** “the gray area between tax compliance and tax evasion... [ ] ... Strictly speaking, a tax avoiding individual or a company seeks to ensure that one of three things happens. First, they might seek to pay less tax than might be required by a reasonable interpretation of a country’s law. Second, they might hope that tax is paid on profits declared in a country other than where they were really earned. Third, they might arrange to pay tax somewhat later than the profits were earned.” (Palan et al. 2010:10)

**Tax evasion:** “an illegal activity undertaken to reduce an individual or company’s tax bill. It occurs when a taxpayer fails to declare all or part of his or her income or makes a claim to offset an expense against taxable income that he or she did not incur or was not allowed to claim for tax purposes.” (Palan et al. 2010:9)

**Tax havens:** “considered generally countries that offer one of the three facilities or a combination of all three: zero taxation for nonresidents; robust secrecy provisions and anonymity; easy, speedily and flexible rules of incorporation” (Palan et al 2010:251)

### Appendix 3 (A List of Tax Havens Compiled by the OECD in 2000)

Andorra  
Anguilla – Overseas Territory of the United Kingdom  
Antigua and Barbuda  
Aruba – Kingdom of the Netherlands  
Commonwealth of the Bahamas  
Bahrain  
Barbados  
Belize  
British Virgin Islands – Overseas Territory of the United Kingdom  
Cook Islands – New Zealand  
The Commonwealth of Dominica  
Gibraltar – Overseas Territory of the United Kingdom  
Grenada  
Guernsey/Sark/Alderney– Dependency of the British Crown  
Isle of Man – Dependency of the British Crown  
Jersey – Dependency of the British Crown  
Liberia  
The Principality of Liechtenstein  
The Republic of the Maldives  
The Republic of the Marshall Islands  
The Principality of Monaco  
Montserrat – Overseas Territory of the United Kingdom  
The Republic of Nauru  
Netherlands Antilles – Kingdom of the Netherlands  
Niue – New Zealand  
Panama  
Samoa  
The Republic of the Seychelles  
St Lucia  
The Federation of St. Christopher & Nevis  
St. Vincent and the Grenadines  
Tonga  
Turks & Caicos – Overseas Territory of the United Kingdom  
US Virgin Islands – External Territory of the United States  
The Republic of Vanuatu

**(OECD 2000:17)** The list is based on the definition formulated for the OECD's 'Harmful Tax Competition' (1998:22-23)