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A methodology to appraise the quality of case studies in corporate tax avoidance. Anna Gunn*, Dirk-Jan Koch** & Francis Weyzig***.

Abstract

Developing countries’ governments are struggling to increase their tax revenues, as multinational enterprises are still engaged in tax avoidance. Mediatized case studies conducted by NGOs aim to give voice to these marginalized players in the international tax debate, yet they have been criticized for lacking quality. This paper has developed, in a participatory way, a methodology to assess the quality of tax avoidance case studies. This method provides avenues for NGOs to demonstrate expertise that needs to be included in the debate on international tax avoidance. As the second step, 14 case studies involving Dutch corporate entities have been analysed using these quality standard guidelines. The lack of adequate data affects the quality of the case studies negatively. Greater transparency from companies and governments is necessary to address this issue. In addition, the outcomes suggest that NGOs can increase the quality of their case studies by improving their technical expertise and their own accountability. The first indications imply that, since the method has been developed and applied, researchers have started to take the quality standards into consideration.

Keywords: tax avoidance, the Netherlands, NGOs, research quality, data availability

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The opinions expressed in this article are the author's own and do not reflect the view of any of the institutions the authors are affiliated to. This paper contributed to the inaugural address ‘Invented, Ignored and Invisible, the Unintended Effects of International Cooperation’ (inaugural address Prof. Koch) and was hence included as part of the special working paper series.

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1. Introduction

Developing countries face major problems in raising enough taxes, which contribute to their low investments in public services, such as health and education. The tax over GDP ratios in developing countries are significantly lower on average in developing countries than in prosperous nations (Besley & Persson, 2014). International financial institutions, such as the International Monetary Fund, have proposed new taxes for these developing countries, such as value-added taxes (Crivelli & Gupta, 2016). Despite the regressive nature of these taxes (they often hurt the poor the most), they are in vogue as they are easily administered (Inchauste & Lustig, 2017). Other taxes, such as taxation on multinationals, are often considered to be too complicated for developing countries, as they are easily avoided. In their review of articles in *Critical perspectives on accounting* (CPA), the first question that the authors sought to answer is: which injustice does the article address? (Dillard & Vinnari, 2017). This paper hence deals with the following issue: tax avoidance by multinational firms that disenfranchises local populations.

Dillard and Vinnari's second question that needs answering in articles on critical accounting is 'what values and interests are associated with the injustice?' (ibid.). In studying tax avoidance, the conflicting values and interests surface clearly. The interests of multinational firms are to maximize shareholder returns: the shareholders are not the citizens of developing countries but often reside in the home countries. These interests often push multinational firms to adopt various types of artificial tax structures to reduce their effective tax rates (Khan, Srinivasan, & Tan, 2017). This makes it difficult for companies to stick to the letter and the spirit of the OECD guidelines for multinational enterprises (PWC, 2017), which espouse for instance the value that multinationals should set their transfer prices in an equitable way (Organisation for Economic Cooperation and Development, 2011).

Their third question relates to the power relations between the disadvantaged group and the group responsible for the injustice: how are they instantiated? This paper focuses on one key element that keeps this relationship between multinationals and governments unequal: a lack of transparency. Whereas multinational firms know exactly where they are, for instance, shifting which profits, this is not clear for governments. This paper focuses on actors that aim to challenge this status quo: international non-governmental organizations (NGOs) that seek to stimulate the emancipation of affected governments through mediatized case studies on tax avoidance. The articles in CPA focus on marginalization processes (Gendron, 2018); marginalization processes, which can be better understood as the efforts of actors that aim to demarginalize negatively affected groups, are analysed.

This paper also provides recommendations arising from practical rationality and judgement (praxis), as suggested by Dillard and Vinnari (2017, p. 90). The research on which this paper builds aims to be 'social science that matters' (Flyvbjerg, 2001) and falls into the tradition of phronetic research. Research in a phronetic tradition is pragmatic and requires engagement between the theoretical and the concrete. As Flyvbjerg pointed out with respect to phronetic research (p. 60), it is concerned with carrying out analysis and making interpretations of the status of values and interests in society aimed at social commentary and social action. This paper does exactly that: it navigates between the theoretical and the concrete as it analyses the quality of the case studies performed by international NGOs that shed light on the tax practices of multinational firms. The need for a better understanding is relevant, as these studies have been critiqued for lacking quality. This research analyses the quality of these case studies and provides concrete suggestions on how it can be improved.

This paper hence aims to contribute to the critical accounting literature not only by focusing on one of the underrepresented groups in accounting research, namely 'developing nations' (Dillard & Vinnari, 2017, p. 88), but by 'the promotion of peripheral and alternative thinking regarding accounting and accounting research' (Gendron, 2018, p. 10): in this case, the thinking of non-governmental organizations. To achieve this enhanced pluralism, and in line with phronetic traditions, this study espouses as a key ingredient of its methodology the need 'to learn from constituencies through dialogue, debate and reflection' (Dillard & Vinnari, 2017, p. 101).

In addition to a focus on underrepresented groups, on promoting alternative thinking, and on contributing to improved praxis, this paper aims to contribute to the field of critical accounting by making use of a novel participatory quantitative case study approach (Everett, Neu, Rahaman, & Maharaj, 2015). Especially with respect to assessing (and combatting) tax avoidance, research methods with quantitative elements have clear added value (Everett et al., 2015, p. 41). While focusing on quantitative aspects, this paper aims to find the sweet spot of social science research, as explained in the founding issue of this journal: it ‘will be critical without assuming the disingenuous pretensions of positivism, without courting a revanchist retreat back to the idealism of normative theorizing, and without disappearing into a fog of statistics or philosophical scholasticism’ (The Editors, 1990).

To enable sufficient depth, the authors limited the testing of the methodology to case studies, which included the Netherlands as one of the tax avoidance locations. The debate in and on the Netherlands and its role in tax avoidance is very topical. A high number of debates in both the national Parliament and the European Parliament indicate that issues such as the use of mailbox companies, confidential tax rulings, and unlawful state aid in and by the Netherlands are especially hotly contested. The public debate in the Netherlands has also been shaped in part by case studies of NGOs, such as Oxfam, ActionAid, and SOMO.

To be able to determine the quality of these case studies, we developed new quality control guidance together with fiscal experts, governmental officials, and NGO researchers. The contribution of this paper hence also lies in developing a shared language that will enable both the academic and the activist community to converse. It will enable NGOs to combine claims to moral authority with solid ways to demonstrate expertise (Seabrooke & Wigan, 2016). Currently, the debate between the two communities is often hampered by a lack of common understanding of what constitutes quality. To arrive at such an assessment grid, an inclusive and iterative methodology was followed, which is useful for appraising not only studies focusing on tax avoidance through the Netherlands but also studies on tax avoidance through other countries and even – with modifications – activist research focusing on other domains.

The paper’s structure is as follows. Section 2 outlines the analytical starting points and starts with the definition of the term ‘tax avoidance’, moves on to describe the current international tax debate, and continues by describing the role of the case studies in the international tax debate as well as the relevance of the quality of these case studies to NGOs’ effectiveness. Section 2 closes with an overview of the debate on the quality of these case studies. Based on this overview, the participative, inclusive, and iterative quantitative case study methodology is developed in section 3. Section 4 systematically analyses the 14 case studies that involve the Netherlands on the basis of the methodology. The quality of the case studies is appraised regarding three elements in detail (the lack of adequate data, the lack of expertise, and the lack of accountability). Section 5 discusses the findings and provides some recommendations to increase the quality of the case studies. This section, in line with critical thinking, as propagated by Bourdieu (Bonnewitz, 1998), aims to provide specific suggestions for praxis, as the article aims to be useful for actors engaged in dealing with forms of domination. One of the main recommendations concerns the availability of data, in which companies and governments have a role to play. Section 6 provides concluding remarks on the role of these case studies in the future. Interestingly, since the methodology was developed and applied to the case studies in the Netherlands, some of the quality standards that were within the sphere of control of the NGOs appear to have been partially adopted.

2. Analytical starting points: The significance of case studies and areas of criticism

2.1 The controversial concept of ‘tax avoidance’

Since tax avoidance is such a key term in the current article, it is relevant to explain the definition that it uses. There is currently no exact consensus among tax experts on the meaning of the term of ‘tax avoidance’ and a number of related terms, such as ‘aggressive tax planning’ and ‘tax dodging’. In its

Glossary of tax terms, the OECD described tax avoidance as follows (Organization for Economic Cooperation and Development, n.d.):

a term that is difficult to define but which is generally used to describe the arrangement of a taxpayer's affairs that is intended to reduce his tax liability and that although the arrangement could be strictly legal it is usually in contradiction with the intent of the law it purports to follow.

We consider this to be a useful starting point for this paper, although it should be made clear that the OECD description is not comprehensive, universally accepted, or indeed unambiguous. Even assuming that the line between legal and illegal situations is obvious (something that in practise is not a given), establishing whether a taxpayer has acted contrary to the 'intent' (also: 'spirit' or 'object and purpose') of the law can be highly problematic. In various countries, the notion that a taxpayer has a right to structure his tax affairs in the most advantageous manner is recognized as part of the tax system (Happé, 2015). Providing that they stay within the law, taxpayers have a right to order their affairs as they see fit. Taxpayers are not obliged either to take or to refrain from taking a particular approach to their tax matters – that is, as long as the approach is illegal. The following problem arises: Where then does calculated but legal use of the possibilities offered by the tax system become tax avoidance? Viewed from the perspective of tax law, the concept of tax avoidance is problematic (Piantavigna, 2017). It is therefore noticeable that the issues described above seem to be much less problematic for certain other actors in the international tax debate. In the present case of NGOs and case studies written by NGOs, the concept of 'tax avoidance' does not appear to be problematic. Indeed, although the selection of case studies analysed in this paper shows that the meaning of the concept is assumed to be non-controversial (Section 4.2), this is not the case.

Some scholars have argued that it is important to provide a further definition of tax avoidance in scholarly articles. Oats and Morris (2017) identified, for instance, an 'elision of tax avoidance and tax evasion', which has hindered a robust debate on taxation and tax reform. In their view, this is problematic, as:

In the scholarly sphere, it is entirely conceivable that well-meaning commentators from outside 'tax world' about tax avoidance in the context of CSR, ethics, human rights, are muddying the waters. By conflating and decontextualizing issues, by accepting without question the politically motivated rhetoric of similarly well-meaning tax campaigners, these scholars may well be creating an environment where governments can eschew their responsibility for creating and enforcing robust tax laws and funding tax authorities sufficiently well to equip them to deal with misconduct – in the true sense of misconduct, and not just what tax campaigners label as misconduct. (Oats & Morris, 2018)

While appreciating the concerns of Oats and Morris, in this paper, the present authors do not develop a more detailed definition of 'tax avoidance' beyond the OECD definition. For the aim of this paper (the development of a methodology to assess the quality of case studies), it suffices to check whether the case studies defined the key concepts (such as tax avoidance), whether they were used in accordance with the current dominant terminology (in this case the OECD), and whether the study included a legal analysis of applicable tax rules. By using this prudent approach, it is possible to determine whether the studies adhered to minimum standards with respect to the usage of current terminologies and to avoid judging case studies ex post on specific definitions that they cannot reasonably be expected to have used.

2.2 The international tax debate

To start with an obvious point, the international tax debate is a technical one. In a relatively short period of time, issues that were previously the main interest of specialists have become 'topics of public interest and popular media reporting', which have resulted in 'new political initiatives [which] have also progressed at an unexpected high pace' (Forstater & Christensen, 2017). This is evidenced by, for example, the OECD's ongoing work on base erosion and profit shifting (BEPS), which was launched in

2013 and which seeks to combat certain forms of harmful or otherwise undesirable international tax planning by MNEs.

The EU provides another interesting example. In 2012, the European Commission announced a clampdown on tax evasion and tax avoidance (European Commission, 2012). To date, this has resulted in a series of new measures, including the automatic exchange of tax rulings between Member States and the Anti-Tax Avoidance Directives, requiring the phased introduction of a selection of anti-abuse measures from 2019 onwards. Since 2013, the European Commission has also been countering tax avoidance via the EU state aid rules.

There has been considerable media attention. A series of data leaks (e.g. LuxLeaks, Panama Papers, and Paradise Papers) based on research by the International Consortium of Investigative Journalists (ICIJ) has been vital in this respect, revealing the scale of offshore tax planning and providing a number of concrete cases involving high-profile persons and companies (Oei & Ring, 2018). The hearings held by the 2012 British Public Accounts Committee (PAC) under the chairmanship of Margaret Hodge MP and the US Senate hearings on taxation in 2013 offer high-profile examples of the political discussion surrounding tax planning and MNEs.

2.3 Significance of case studies in the international tax debate

The international tax debate mentioned above is characterized by a high degree of complexity. States, international organizations such as the OECD and the EU, as well as the G20 and the UN, and other stakeholders (e.g. businesses, civil society, NGOs, and the media) interact in different ways and at different levels. The BEPS Project, which can serve as an example of this, was initiated by the OECD, with the support of the G20, and involved extensive negotiations between states (both members and non-members of the OECD) as well as extensive public consultations on draft texts over a period of a number of years.

It is clear that NGOs play a role in the international tax debate. This includes participation by NGOs in public consultations (Seabrooke & Wigan, 2016, p. 367) as well as other types of lobbying and advocacy activities. NGOs also have a degree of media presence, not seldom as a result of the research (case studies) that they publish. The rise in the number of times that the Tax Justice Network has been cited in the press has been phenomenal (Dallyn, 2017). Although such outwardly observable facts do not reveal the *exact* impact and influence of NGOs on the tax debate, it is clear that their role in, for example, the BEPS Project has been significant. It is also worth noting that two of the European Commission's recent investigations into unlawful state aid and multinationals were the direct result of case studies by trade unions and the Greens (European Commission, 2015; The Greens / European Free Alliance, 2016c).

Without seeking to quantify their effect, it is apparent that case studies contribute to the effectiveness of NGOs in the international tax debate. Hendrix and Wong (2014) distinguished 'information politics' from 'salient politics'. The former involves 'in depth research papers and background reports, in contrast to press releases and blog posts which are intended for quick dissemination' (Dallyn, 2017, p. 338). NGOs make strategic choices regarding the *types* of information that they communicate and the manner in which they do so. 'Advocacy NGOs may focus their attention on information politics by producing work intended principally for specialist audiences, such as policy makers and other campaigners; but they may also be able to target their efforts at generating broader political salience, for example by engaging with the mainstream media through television and radio appearances' (ibid.).

2.4 Quality of case studies as a factor in NGOs' effectiveness

The case studies on tax avoidance, which are the subject of the present study, offer an example of information politics. Although the issue of tax avoidance can be described as salient, the effectiveness of the case studies will depend to a great extent on whether they are regarded as being sufficiently authoritative by other actors in the international tax debate (cf. Seabrooke & Wigan, 2016). This makes the quality of the case studies extremely important; if other actors in the debate – for example policy makers, the media, or the general public – do not accept the validity of the claims made in a particular

case study, that study may be less successful as an exercise in information politics. Indeed, case studies that either lack or are considered to lack quality can potentially undermine the credibility of the relevant NGO and hence its effectiveness.

While there is some support for the quality of the case studies (Gunn, 2015), there are also concerns about them. In the next section, we will provide an overview of these criticisms. While there are potentially other yardsticks with which to assess the quality of the case studies, we will focus primarily on these criticisms to avoid developing, from an ivory tower, criteria that are not deemed to be important by the actors involved.

2.5 Three areas of criticism of case studies

Against this background, it is significant that case studies by NGOs have been subject to criticism. This is relevant from the perspective of critical accounting, as it can affect the salience of the issues raised by NGOs. Based on a high-level analysis of the Dutch media coverage of the international tax debate, the authors distinguished three main areas of criticism of case studies. The authors do not claim that this is a comprehensive overview; other types of criticism have been voiced but – in the view of the authors – less systematically. For the present purpose, that is, the development of an assessment methodology, the identification of three types of criticism should suffice. The three areas of criticism are: (1) a lack of in-depth information and data; (2) a lack of objectivity; (3) methodological errors and a lack of technical expertise.

2.5.1 *Lack of in-depth information and data about the case (area 1)*

The first area of criticism involves claims regarding the researchers' alleged understanding of the case as a result of a lack of in-depth information. Taxpayers do not typically publish their (entire) tax structure themselves, and relevant information in this regard is often not made public. For example, the Netherlands considers tax rulings (agreements between taxpayers and the Tax Authority) to be confidential, although summaries of these agreements are set to be published from mid-2019 (Snel, 2018). Rules on confidentiality and privacy can prevent researchers from obtaining the information needed to obtain a full picture of a particular case (Finer & Ylonen, 2017). Hence, researchers may be able to identify a certain level of tax planning; it may not be possible to pinpoint exactly how a particular structure works. Notwithstanding large data leaks, which have occurred in recent years and which have shed light on certain aspects of the tax planning of a range of companies (Oei & Ring, 2018), in-depth information can be lacking. The access to Dutch tax rulings, mentioned above, illustrates this situation.

The lack of in-depth information has given rise to criticism of case studies. For example, Profundo (Profundo; Offshore Kenniscentrum, 2016), executed a case study on the tax avoidance of international mining firms through the Netherlands. This study included the following caveat:

This study was limited by the fact that we were unable to gain access to the tax data from the Tax Offices and the Customs Services in the Netherlands, the selected developing countries and relevant third countries. This is because tax authorities are largely required to guarantee the confidentiality of the data provided to them in tax filings. Furthermore, we did not have access to the administration of relevant Dutch trust and company service providers. (Profundo; Offshore Kenniscentrum, 2016)

The present authors noted that the limitations experienced by the researchers in the Profundo case occurred regardless of the fact that Profundo was acting on the request of a Dutch government body. Difficulties with the acquisition of in-depth data can, in the view of the present authors, also be expected in relation to other case studies.

2.5.2 *Lack of objectivity on the side of the researchers (area 2)*

The second area of criticism concerns the objectivity of the researchers. As noted in section 2.3 above, case studies by NGOs can be viewed as an exercise in information politics. The effectiveness of the case studies is tied to the (perceived) expertise of the researchers, which in turn is linked to notions such as objectivity. The fact remains that case studies by NGOs are written in a specific political context and for a

particular purpose. It has been suggested that researchers sometimes lack objectivity and that they may try to find evidence that matches their preconceived conclusion (e.g. that the Netherlands is a tax haven). Instead of promoting ‘evidence-based policy making’, these researchers are thought to be engaged in ‘policy-based evidence making’ (Seay, 2015).

The criticism of a lack of objectivity is sometimes made by the companies that are the subject of case studies (as became clear from analysing the reactions to the case studies researched for this study). These companies clearly have an interest in the outcomes of the case studies; that is, they may have an interest in discrediting the findings of the report. Having said this, companies may have a different perspective on their own tax position, as they have recourse to all the relevant facts and circumstances (often in contrast to the researchers who wrote the case study). It is possible that errors and misunderstandings, due to a lack of in-depth information on the side of researchers, are construed by companies as being the result of a lack of objectivity.

One example is the reaction of a company of which the tax practices have been scrutinized by Global Witness, the Fleurette Group (headquartered in Amsterdam when Global Witness was researching it) (Global Witness, 2016). The Fleurette Group prides itself, at least on its website (before it was taken down because of the US sanctions against its owner), on the contribution that it makes to the DR Congo and the fight against corruption. Responding to the Global Witness report, the Fleurette Group issued a public statement to the extent that Global Witness had failed to use basic valuation techniques:

Global Witness’s financial calculations are amateurish to the point of bogus. They do not follow even the basic valuation techniques used by all professionals in this field, and fail to include further discounts (such as withholding tax payments) that are both obvious and important. Global Witness has no excuse for making these mistakes. The manipulation of data seems wilful in nature, and designed to support a pre-ordained conclusion. It is difficult not to infer that Global Witness is trying to mislead journalists, the general public and other stakeholders at Fleurette’s expense. (Fleurette Group, 2016)

2.5.3 *Methodological errors and lack of expertise (area 3)*

The third area of criticism concerns the (perceived) methodological shortcomings of case studies, in particular the (perceived) lack of expertise on the side of the researchers of the case study. Tax law is a specialized field of law, characterized by highly complicated national legislation, tax treaties and other international agreements, case law, and jurisprudence, as well as unwritten principles of law and national practice. In particular, international tax law is a specialist field that requires training and experience to navigate. Whilst it is often impossible to establish the extent to which a particular researcher grasps those aspects of the tax rules that are relevant to a particular case study, the perceived lack of technical skills on the part of the researchers has been flagged as an area of criticism. When discussing a research article by Sikka (2010) on tax avoidance, Hasseldine and Morris (2013) stated: ‘We also suspect that the researcher does not fully understand some of the tax arrangements that are discussed.’

In other instances, it has been suggested that the assumptions or extrapolations made by the researchers were inadequate. This is illustrated by an ActionAid report regarding the company Paladin (ActionAid, 2015). In this case, Paladin challenged the core underlying assumption of the study:

We regard the fundamental premise of the supposition that Malawi has foregone revenue as a result of the royalty rate ... to be flawed. Action Aid assumes that Paladin’s US\$620M investment ... would have proceeded if a 5% royalty had been in place. This is a false assumption. (Paladin Energy’s Ltd, 2015)

3. Methodology

This methodological section first explains why and how a participatory quantitative case study methodology was developed. The second section highlights how generic quality criteria were developed. This section is followed by an explanation of how the researchers developed and applied a scoring methodology. The fourth section focuses on how and which case studies were selected and why and how these case studies were grouped. This methodological chapter closes by indicating how the feedback of

the researchers and NGOs was included to strengthen the quality of the appraisal methodology and outcomes.

3.1 Development of a participatory quantitative case study methodology

One of the main challenges of the present study was to develop a meaningful method with which to assess case study reports. Most of the case studies considered in this study claimed to be not academic studies but rather policy style documents for advocacy or a form of investigative journalism. Is it hence even possible to develop a uniform set of quality criteria? Is quality not socially constructed in context-specific ways? After all, the intended functions and audiences of the case studies vary. This can have different consequences; for example, an NGO might select its case not on academic grounds, such as representativeness, but because of the scope to propel ‘emancipatory action’.¹ Relying on a framework of knowledge interests by Habermas (1981), one could indeed argue that reports and research articles aim for different kinds of knowledge production, meaning that different assessment criteria should apply. In extremis, no generic quality control should hence exist.

We are, however, of the opinion that it is justified and important to develop a quality control. The case studies have had a signification impact (see section 2) on the public debate and have aimed to influence policy. If documents with positivists’ claims are used to develop more inclusive policies for marginalized groups, not collaborating to enhance the quality of these case studies would be a missed opportunity. Seabrooke and Wigan (2016) demonstrated that international tax debate experts, such as NGOs, can have an effective influence if they can combine claims to moral authority with demonstrations of expertise. The aim of developing this quality control methodology is to enable experts to strengthen their (demonstrations of) expertise further and hence to contribute more effectively to emancipatory action.

To assess the quality of case studies (referred to as field research in their article), Malsch and Salterio (2016) suggested the importance of determining whether a case study is interpretive or positivist. The two types of studies need to be analysed in different ways. In our view, the case studies fall largely into the positivist tradition (in section 4, we will highlight a case study that has some interpretive elements). All of the case studies presented quantitative and verifiable claims about how much tax has been avoided. In addition, the case studies themselves did not claim that their estimations about tax avoided were socially constructed. To the contrary, in substantiating their calculations, they often referred to international norms and the definitions of the OECD. In line with the case studies that it probes, this article also employs a largely positivist approach, yet it aims to overcome some of the pitfalls of a dogmatic positivist methodology.

This article is enshrined in a largely positivist tradition, as it conceptualizes a standard, which serves as a ‘normative theory of how practice should be done, which is used as a baseline against which to evaluate practice’ (Malsch & Salterio, 2016, p. 6). It is also positivist, as we, as the authors, ‘are called upon to do independent readings of the material [interviews] and make observations and then discuss with co-authors until a common interpretation is reached’ (Malsch & Salterio, 2016, p. 6). The article does not go as far as to make predictions (a standard feature of positivist research; *ibid.*, p. 4), nor does it aim to make empirical generalizations by theorizing about the cause and effects (another feature of positivist research), as we found this neither to fit with the aim of this article nor to be feasible. Instead, we aimed to learn from interpretive methods (without blending the two approaches), and we favoured showing diversity over conciseness. For instance, instead of treating the 14 case studies as a homogeneous group, we clustered the case studies into 3 different subgroups, based on the specific objectives of the researchers as well as their publishers.

In line with phronetic traditions, this study espoused, as a key ingredient of its methodology, the need ‘to learn from constituencies through dialogue, debate and reflection’ (Dillard & Vinnari, 2017, p. 101). Concretely, this means that, in every step of the process, NGOs were substantially involved in this research. Firstly, one member of the three-headed research team works for an international NGO and is

¹ We would like to thank one of the NGO case studies’ researchers for pointing this out to us.

leading its tax research work in the Netherlands. Secondly, as a starting point for quality guidance, the codes of conduct of the NGOs themselves were used. Thirdly, the draft quality standard and scoring methodology were shared with the relevant experts and NGOs, and feedback was requested and incorporated. Fourthly, draft quality appraisals were sent to the various NGOs and experts who had conducted the case studies and their feedback was solicited and, when pertinent, used to adjust the appraisals. Lastly, workshops were offered to the NGOs and experts to acquaint them further with the quality standard.

The methodology in this research is a mix between a quantitative and a qualitative approach. It is quantitative as it critically examines quantitative statements in reports from NGOs and employs neither interviews nor participant observation as a method. The methodology is qualitative in the sense that it takes case studies as the starting point, with a focus on an in-depth understanding, and the number of observations is limited (14). In short, this paper aims to contribute to the field of critical accounting by making use of a novel participatory quantitative case study approach (Everett, Neu, Rahaman, & Maharaj, 2015). Especially with respect to assessing tax avoidance research, methods with quantitative elements have clear added value, amongst other reasons because they – rightly or wrongly – tend to have more symbolic capital (Everett et al., 2015, p. 41).

As explained in the introduction, while focusing on quantitative aspects, this paper aims to find the sweet spot of social science research, as described in the founding issue of this journal, as it ‘will be critical without assuming the disingenuous pretensions of positivism, without courting a revanchist retreat back to the idealism of normative theorizing, and without disappearing into a fog of statistics or philosophical scholasticism’ (The Editors, 1990).

3.2. Development of generic quality criteria

It is important to assess each study in the appropriate light whilst at the same time providing an analytical framework that allows for a comparison of the studies. To achieve this delicate balance, the present authors designed a set of quality criteria, which, firstly, are based on (A) the standards that the NGOs themselves have set in their own codes of conduct; these standards have, secondly, been combined with (B) a number of more general scientific research norms, based inter alia on Popper’s falsifiability premise (Popper, 1959). At the same time, as will become clear in section 2.4, the objectives of the case studies differed, and hence it is relevant to group the case studies and interpret the outcomes of the quality appraisals separately.

3.2.1. *NGOs’ own standards (codes of conduct)*

To arrive at a reliable quality assurance framework, the standards that the researchers had set for themselves were taken as a starting point. The researchers belong to organizations that have, or are a signatory to associations that have, codes of conduct for their research and publications. SOMO, for instance, has a code of conduct that outlines the minimum transparency requirements for its research; for example, ‘SOMO provides insight into the methods of research applied, the sources consulted, the objectives of the research, the internal SOMO operations, the commissioning parties and the sources of funding for research assignments’ (SOMO, 2006, p.5) [indicator 1]. On ‘the right to reply’, it stipulates that ‘If the research relates to a specific company or organization, this organization in principle receives a draft version of the research findings to be published, with the opportunity to respond to these. If a report contains specific allegations, the organization in question is given the opportunity to respond to these accusations, to identify factual inaccuracies and to provide additional information’ (ibid.) [indicator 2]. Partos, the association of Dutch NGOs focusing on development issues, of which Oxfam and ActionAid are members, has a code of conduct along similar lines (Partos, 2012).

3.2.2. *General research norms*

In addition to the quality guidelines derived from the codes of conduct, general scientific research norms –largely based on Popper’s falsifiability premise–were added (Popper, 1959). In his epistemological approach, for research to be scientific, it needs to be able to be falsified. Falsification strives to question, or falsify, hypotheses instead of proving them. For a statement to be questioned using observation, it needs to be at least theoretically possible that it can conflict with observation. In this case, a statement such as ‘company X is avoiding taxes in country Y by using an intermediary in the Netherlands’ can only be falsified if the underlying methodology and data are made explicit [indicator 1]. This is already part of the code of conduct-driven criteria, but it also entails the need for a clear counterfactual to be established [indicator 9]. After all, even if the taxes in the Netherlands for some reason are low, one can only speak of avoidance if the taxes would be higher in the alternative scenario. For the counterfactual to be valid, it needs to include all the relevant steps in the company’s structure. For falsifiability purposes, and to reduce bias, a peer review mechanism is important. Other epistemological approaches, for instance the less positivist approaches proposed by Kuhn, also support the importance of transparency in methods and the need for independent reviews (Kuhn, 1996). The peer reviewers ought to be knowledgeable and independent resource persons [indicator 3]. The need for external reviewers is also mentioned in the research code of conduct of SOMO (article 5).

In addition to the falsifiability premise, in quantitative methods, three main quality scientific criteria are used: internal validity, external validity, and construct validity (Trochim, 2006). To determine whether a research study has internal validity, a research consumer ought to ask whether changes in the outcome could be attributed to alternative explanations that are not explored in the study (Girden, 2001). For example, while assessing the presence of multinational firms in the Netherlands through the lens of tax avoidance, other factors that might have stimulated firms to set up in the Netherlands (good flight connections or a well-educated workforce) might be overlooked. To strengthen the internal validity, the quality of quantitative estimation techniques needs to be reliable [also indicator 9]. Furthermore, data need to be cross-checked if possible, and uncertainty needs to be made explicit [indicator 10]. To ensure good internal validity, concepts need to be defined clearly and applied consistently [indicator 8].

To ascertain whether a study has external validity, the question is whether the findings apply to individuals whose place, times, and circumstances differ from those of the study participants (Research Connections, 2016). A study’s external validity is closely related to the generalizability of the findings. Even if it is found that one international firm is avoiding taxes through the Netherlands by using specialized financial institutions, it does not mean that the same applies to all companies. Therefore, it is important that the research explains how the case has been selected, as for instance done by Finér and Ylönen (2017, p.7) [indicator 7].

To investigate whether a study has construct validity, a research consumer is required to determine whether the study has adequately measured the key concepts in the study (Research Connections, 2016). Like external validity, construct validity is related to generalization. However, whereas external validity involves generalizing from the case study (company level) to the wider level (industry level), construct validity involves generalizing from the programme or measures to the concept of one’s own programme or measures. In the case of the theme of this research, does the absence of workers in special purpose entities in the Netherlands mean that there is tax avoidance? From a construct validity perspective, this is not correct reasoning. For sufficient construct validity, the quality and the quantity of data are quintessential [indicator 5 and indicator 6]. With respect to tax avoidance, the key questions are: did the researchers have access to the annual statements, the tax files, and/or country-by-country reporting? Construct validity also relates to whether the statements made in the research area are actually based on the research (although some would call this conclusion validity) (Trochim, 2006) [indicator 4].

Table 1: Assessment grid for quality determinants

| Determinant of quality | Indicator | Review question |
|------------------------|---|---|
| Lack of objectivity | 1. Transparency on methods, techniques, and data | 1a Are the methods, techniques, and data explicit? 1b Are the (underlying) data available in an accessible format? |
| | 2. Subjects' right to reply (and integrated) | 2a Did the company researched have the right to reply? 2b Did the company have enough time to reply? 2c Is the reply integrated? 2d Is the reply available? |
| | 3. Peer review | 3a Was the research reviewed by independent experts? |
| | 4. Findings are based on research | 4a Are the conclusions limited to the research itself? 4b Are the limits to the research made explicit? 4c Are the recommendations a logical follow-up from the findings? |
| Lack of adequate data | 5. Quantity of data | 5a Did the researchers have access to the data that were needed? |
| | 6. Data quality | 6a Are there issues with the quality of the data? |
| Lack of expertise | 7. Selection of case study explained | 7a Is it explained how the case study was selected? 7b Is the representativeness of the case study discussed? |
| | 8. Definition of concepts and consistency of reasoning | 8a. Are the key concepts defined? 8b. Are the key concepts used in accordance with current terminology? 8c. Does the case study include a legal analysis of applicable tax rules? |
| | 9. Quality of quantitative estimation techniques and counterfactual | 9a Are the calculations correct and sufficiently substantiated? 9b Is the counterfactual made explicit? 9c Is the counterfactual reasonable and complete? 9d Do the researchers have an explicit and correct strategy for dealing with missing data? |
| | 10. Quality control | 10a Do the researchers indicate a degree of uncertainty? 10b Do the researchers attempt to triangulate the data with other sources? |

3.3. Development of detailed appraisal guidelines

The 14 case studies were analysed on the basis of questions for all the indicators, using a point system (0–0.5–1 point). The function of this appraisal system for each question is to provide insights into the quality of the reports. The 3 core elements by which (a lack of) quality is appraised (lack of objectivity, lack of adequate data, and lack of technical capacity) are broken down into 10 indicators. The 10 indicators are subdivided into 23 questions. Detailed descriptions were developed for each potential score to facilitate an equitable appraisal method for all the reports. The detailed guidelines are available in Annex A.

The aim of this study is to gain insights into the quality of the case studies and not to rank the individual case studies. Annex B therefore includes the average scores and frequency tables for all 23 questions. The individual scores for the case studies are available on request. Once the first version of the research methodology had been developed, it was tested and further developed in three ways. First, the methodology and the appraisal guidelines were shared with the researchers and the organizations that had performed the case studies. Based on their responses, the methodology was refined. For instance, some of the researchers argued that their studies could not meaningfully be analysed exclusively through an academic lens, as other factors (such as the emancipatory objective) of the studies also needed to be taken into consideration. This was subsequently taken on board, for example by changing the question on recommendations to allow for policy recommendations that follow logically from the findings even if they extend beyond the case study itself (4c). Another change concerned the discussion of the representativeness of the case study, for which the scoring guidance was changed from a quantitative discussion, as is common for academic studies, to a detailed discussion (7b). Moreover, two questions about robustness checks and margins of error were dropped and replaced with

one new question asking whether the researchers had indicated a degree of uncertainty (10a).

Second, the evaluative questions were answered by two authors independently for all the cases studies to determine whether there were any discrepancies between the two authors. As some discrepancies were found between the appraisals, the scores linked to the answers to the questions were made more detailed, and it was decided that all the remaining studies would continue to be assessed by the two authors independently from each other. The differences were reconciled afterwards.

Third, a round-table discussion was organized with fiscal experts to discuss the methodology and initial findings and to develop recommendations, which are presented in section 4. Based on this discussion, for some questions (4b, 7a, and 9c) that were initially scored either as 1 or as 0, an intermediate scoring possibility of 0.5 with corresponding guidance was added. Furthermore, a new question was added about the legal analysis of the applicable tax rules in the case study (8c).

3.4. Selection of the case studies

To be included in this review, studies needed to fulfil the following four criteria: (1) a standalone case study focusing on tax avoidance or aggressive tax planning; (2) in the relevant company structure, a Dutch entity needed to be included, contributing to a reduction in taxes; (3) the study needed to have been executed between 2013 and 2017; and (4) the study included a quantitative estimate of revenue foregone. Three types of searches were performed: one in the academic literature, one in the policy literature, and one in newspaper articles by investigative journalists. For the academic literature, this led among others to the studies by Finér and Ylönen, which focused on Finland but demonstrated an important role for the Netherlands in the tax avoidance practices of the mining firms involved. For the policy literature, the research reports of all the major NGOs and other relevant institutions in this regard were analysed to determine whether they referred to a case study that focused on tax avoidance involving a Dutch entity. As it turned out that the articles by investigative journalists did not include estimates of revenue foregone, this third category was dropped.

This research focuses on the Netherlands, as there is widespread concern about the problematic role that the Netherlands plays in aggressive tax planning and tax avoidance. The European Commission took a negative decision on state aid given by the Netherlands to a subsidiary of Starbucks (resulting in the recovery of an amount between EUR 20 and 30 million) (European Commission, 2015). More recently, the European Commission opened an investigation into possible state aid granted by the Netherlands to Inter IKEA (European Commission, 2017). Dutch legal entities featured prominently in the tax-planning structures made public by LuxLeaks (2014), the Panama Papers (2016), and the Paradise Papers (2017). Studies from international NGOs have also put the Netherlands in the top three countries contributing to tax avoidance (Oxfam, 2016) (Publish What You Pay Norway, 2011). The Dutch Government, however, has vigorously denied those claims (Accountantweek, 2015). Nevertheless, in 2018, the Netherlands felt compelled to take measures to combat its reputation as a tax haven, as the bad press was negatively affecting the national investment climate (Kahn, 2018).

A total of 41 case studies were found on companies that were allegedly making use of the Netherlands because of its tax climate. The 4 above-mentioned criteria were applied to these 41 cases. Table 2 shows the selection of 14 case studies that matched all 4 criteria. Annex C summarizes the claims that were researched for each study about foregone tax revenues. Annex D provides an overview of the selection criteria applied to all 41 potentially relevant case studies.

Table 2: Overview of the selected case studies

| Publisher or journal | Researcher | Year | Title | Researched companies |
|---|---|---------|---|--|
| Cluster 1: NGO report + academic publication | | | | |
| <i>Critical Perspectives on Accounting</i> | L. Finér and M. Ylönen | 2017 | Tax-driven wealth chains: A multiple case study of tax avoidance in the Finnish mining sector | 1. Agnico EagleMines 2. FQM(Inmet)Pyhäsalmi |
| <i>Critical Perspectives on Accounting</i> | M. Ylönen and M. Laine | 2015 | For logistical reasons only? A case study of tax planning and corporate social responsibility reporting | 3. Stora Enso |
| Cluster 2: NGO report alone | | | | |
| ActionAid | A. Dahlbeck | 2015 | An extractive affair | 4. Paladin |
| ActionAid | M. Lewis | 2013 | Sweet nothings | 5. Associated British Foods |
| ActionAid | M. Hearson and R. Brooks | 2010 | Calling time | 6. SAB Miller |
| Oxfam GB (author: O. Pearce) | M. Curtis, L. Finér, and M. Ylönen | 2017 | Making tax vanish | 7. RB |
| SOMO | V. Kiezebrink and K. McGauran | 2017 | Verborgen belastingpraktijken van Nederlandse bedrijven [Hidden tax practices of Dutch firms] | 8. BCD 9. G-Star |
| SOMO | I. Römgens, I. Hartlief, R. van Os, and K. McGauran | 2015 | Fool's gold | 10. Eldorado Gold |
| SOMO | R. Fernandez, K. McGauran, and J. Frederik | 2013 | Belasting Ontwijken in Tijden van Crisis [Dodging taxes in times of crisis] | 11. Energias de Portugal |
| Cluster 3: political party report | | | | |
| Greens/EFA | M. Tataré Batalla | (2016a) | Tax shopping; Exploring Zara's tax business | 12. Zara |
| Greens/EFA | M. Auerbach | (2016b) | Toxic tax deals | 13. BASF |
| Greens/EFA | M. Auerbach | (2016c) | Ikea flat pack tax avoidance TAAKS AVOYD | 14. Ikea |

The fourteen case studies could be clustered into three subgroups based on their authors, where they were published, and their (implicit) objectives. Three of the studies were commissioned by a political party, the Greens/European Free Alliance. This is a relatively small political party in the European Union, which has tax justice as one of its priorities. The studies were presented on the website of the political party. The main objectives of the studies appear to have been to stimulate a debate in the European Parliament and obtain stricter rules against tax avoidance at the EU level. The second group of case studies consisted of three case studies that were eventually published in *Critical perspectives on accounting*. We included these studies here because they are based on reports that were written for NGOs. The objective of these articles was to contribute academically to the research field on tax avoidance, while the objective of the underlying reports was similar to that of other NGO reports. The assessments were based on the combined publications, thus treating the academic articles as a complement to the original NGO reports. The last and largest cluster consisted of those reports that were written for NGOs and published on their website without an accompanying academic paper. The main objective of these studies was to create public awareness of the problems of tax avoidance. As will become clear, a fine-grained analysis of the quality of the case studies shows substantial differences between the three different clusters of case studies on elements of the appraisal.

3.5 Appraisal of the quality of case studies and verification of the findings

After the initial appraisals had been performed, they were shared with the researchers and the organizations, and they were given the opportunity to respond. In line with the suggestion by Malsch and Salterio (sending draft reports to objects of research for feedback (2016, p. 13)) for positivist research to learn from the interpretive tradition, this interpretive tool was included as a quality assurance step. Nearly all the researchers responded.

In some instances, the researchers nuanced some of the elements of their appraisal, for example regarding the availability of the underlying data used by the researchers (appraisal question 1b) or of the reply of the company (2d). Where appropriate, these nuances were included in the appraisals. Various researchers also provided additional information that was not mentioned in the case study itself, mainly because NGOs sometimes leave out methodological details to improve the readability of their reports. This frequently concerned the reply from the company (2a), the reply period (2b), the review by independent experts (3a), and the selection of the case study (7a). One researcher responded by sharing a comprehensive methodological background report and all the underlying company accounts. When such additional information was verifiable or credible, and the quality appraisal guidance did not require the information to be publicly accessible or included in the case study itself, the appraisal was reviewed. In a few cases, this had a substantial impact on the assessment of the case study. This led to an important finding in itself: sometimes the quality of a case study is higher than it seems, because some NGO reports omit details about the methodology and research process.

4. Appraisal of the quality of the case studies

4.1 Lack of adequate data

The first area of criticism to be considered is the availability of information (data) for the report. The central issue here is whether the case studies were based on sufficient information to merit the conclusions reached. Relevant information includes corporate structures, the activities of a company, and the characteristics of financing instruments (e.g. the interest charged on a loan) as well as fiscal information (e.g. the use of a particular tax regime or the content of a tax ruling). In some instances, information is available in the public domain, either via the state (e.g. the land registry, chamber of commerce, or a company register) or via the company (e.g. a section in the consolidated annual accounts on tax or on the website). If this is not the case, the researchers might approach the company concerned with their questions. Alternatively, the researchers may resort to the use of assumptions and/or extrapolations. Note that data constraints are an external factor and not the fault of the researchers. The way in which researchers deal with missing data was captured by another indicator.

Table 3 shows the average scores for the availability of data indicators for each of the three clusters of case studies. For all the indicators, a higher score means higher research quality. The assessment for each indicator is described in more detail below.

Table 3 Average scores on access to data and quality of data (maximum score = 1)

| Indicator | NGO report + academic paper | NGO report | Political party report |
|-----------------|-----------------------------|------------|------------------------|
| Access to data | 0.7 | 0.3 | 0.2 |
| Quality of data | 0.8 | 0.4 | 0.5 |

Access to data. Regarding the access to data, most of the cases surveyed signalled limitations in terms of information. An important source of information is the annual accounts of individual subsidiaries of multinational enterprises. Such accounts are more readily available in some jurisdictions, such as the

Netherlands and Luxembourg, than in others, such as Switzerland and Curacao. Therefore, an NGO may have access to information for one part of the structure but not for another part. In some cases, the researchers highlighted the absence of information about specific aspects of structures. For example, in the case of G-Star, the specific issue that the beneficiaries of the Dutch innovation box are not available was noted. There is also evidence of NGOs using alternative sources of information to supplement the information already available. Stora Enso is an example of this: whereas data on internal trade are limited in the company accounts, the researchers could supplement them using statistical information. This was sufficient for the purpose of the study, even though the statistical information did not allow an exact calculation of tax benefits or the effective tax rate.

Access to all the necessary data was available only for Stora Enso, which explains the higher score for the cluster of case studies that were also published as an academic paper. Stora Enso is exceptional, because aggregate trade statistics could be traced back to the individual company and therefore provided information about intra-group trade. In all the other cases, at least some relevant data were not available. Note that some more complex case studies, notably the Inditex report, which included five different tax avoidance elements, suffered less from unavailability of data than other studies, such as BCD, which described just one tax avoidance mechanism. Overall, the jurisdictions involved were the main factor determining the accessibility of data.

Quality of data. As regards the gathering of information, in most of the cases surveyed, the researchers indicated some difficulties vis-à-vis the quality of the information available. A recurrent theme concerns the level of detail available in subsidiary accounts. In the case of IKEA, for example, a breakdown of the ‘other expenses’ was not included in the annual accounts. In some cases, it was not possible to establish the effective tax rate on the basis of the information. In a number of cases, the researchers specifically mentioned the lack of information about tax rulings (e.g. Eldorado and SABMiller). There are also cases in which the information from different sources was conflicting. For example, in the case of ABF, the company claimed that there was an error in the Zambian accounts and that it had 20 employees in Ireland, whereas the accounts of its Irish subsidiary mentioned 0 employees. The average score for the NGO cluster is the lowest, because it included a few cases with major quality issues, such as ABF.

Hence, for most studies, the score with respect to the data quality and quantity is 0.5 or below, indicating that data limitations are a major element influencing the quality of these studies negatively. Looking beyond the selected case studies, the data limitations are even larger, because cases with more severe data constraints typically did not allow for quantitative estimates and were therefore not selected for review (see Annex D). Moreover, NGO researchers indicated that they had sometimes explored potential cases of other companies as well but had not developed those into case studies for publication because of insufficient data. The lack of adequate data is therefore not a result of NGOs and political parties choosing certain companies as examples for which the data availability happens to be poor. Instead, the possibilities for high-quality case studies are limited by the data constraints. Researchers decided to pursue cases with data issues because it is quite exceptional to find examples of tax avoidance without any problems regarding data access and quality.

4.2 Lack of expertise

The second element that was analysed is the lack of expertise, broken down into four indicators. Table 2 shows the average scores of each indicator per cluster, with a higher score indicating higher research quality. The assessments for each indicator are based on two to four questions, and these are described in more detail below.

Table 4: Average scores for ‘lack of expertise’ indicators per cluster (maximum score = 1)

| Indicator: | NGO report + academic paper | NGO report | Political party report |
|---|-----------------------------|------------|------------------------|
| Explanation of the choice for a case particular study | 1.0 | 0.3 | 0.3 |
| Definition of concepts and legal analysis | 0.8 | 0.8 | 0.3 |
| Calculations and counterfactual of tax avoidance estimate | 1.0 | 0.8 | 0.6 |
| Quality control and robustness | 0.5 | 0.5 | 0.4 |

4.2.1. Explanation of the choice for a particular case study

This indicator consists of two questions: was it explained how the case study was selected, and was the representativeness of the case study explained?

Selection of case studies. The majority of the case studies surveyed contained some explanation of the selection of the case. In some cases, the trigger was a public statement by a company (e.g. a statement by IKEA Group in the European Parliament). In other instances, the selection was linked to a public outcry over tax avoidance (Inditex and Eldorado). Some of the cases were chosen as a follow-up to a previous investigation (BCD and G-Star). The availability of information was also cited as a reason for selection (Stora Enso). Our review included four case studies that form part of broader publications. BCD and G-Star were described in one SOMO report together with two more cases, and FQM/Inmet and Agnico Eagle Mines were described in one academic article together with a third case; the other cases were not part of our review. Both broader publications provided a good overall explanation of how the various case studies were selected, thus leading to maximum scores for this question. By contrast, some stand-alone studies did not provide any explanation for why a certain case was chosen, including the three ActionAid reports (Paladin, ABF, and SABMiller).

Representativeness. Of all the questions, this one shows by far the largest difference between academic articles and other publications. All of the academic articles included a detailed discussion of the representativeness of the cases, whereas all of the other publications contained only a brief discussion or, more often, none at all. On this specific aspect, the different nature of academic publications is clearly conducive to higher quality. It would be appropriate for NGOs or political parties to make a statement about the representativeness of the cases in their reports as well. The cases that provided at least some explanation were chosen as illustrations or examples of a particular type of tax planning (e.g. BASF, FQM/Inmet, and Agnico Eagle Mines). None of the case studies discussed the representativeness of the case on the basis of a comparison between the multinational company and its peer companies.

4.2.2. Definition of concepts and legal analysis

The second indicator concerns the use of concepts and legal analysis in the case studies. It consists of three questions: are the key concepts defined, are they used in accordance with the current terminology, and does the study include a legal analysis of the applicable tax rules? The term ‘current terminology’ refers to international usage, for example in the context of the OECD’s work on taxation. For all three questions, on average, the reports published by the Greens/EFA fraction scored much lower than the other studies.

Definition of concepts. Almost all of the case studies paid specific attention to technical terms (e.g. hybrid loans, tax ruling, and tax haven). Most studies defined or explained the key concept in the main text, boxes, or footnotes, sometimes with illustrations; a few NGO reports also included a separate glossary. The specific terms that the researchers chose to address vary. This includes the use of the term ‘tax

avoidance’, which is regarded as conceptually problematic in fiscal scholarship. However, some studies explained only more technical terms, such as hybrid loans or thin capitalization, and not tax avoidance itself (BASF, Agnico Eagle Mines). The IKEA case study did not explicitly define any key concept.

Use is in line with the current terminology. In the majority of cases, the concepts used in the case studies surveyed are fully in line with the common usage of these terms in the field of tax law. However, there are some exceptions. In the case of IKEA, the researchers referred to the UK as a ‘fiscal paradise’ (p. 42), which is – again from the tax law perspective – not a common approach in the sense that the UK would not usually be grouped with ‘traditional’ corporate tax havens, such as Bermuda or the Cayman Islands.² Note that, in the IKEA case, other key terms were used appropriately, even though they were not explicitly defined. In the case of BASF, tax concepts such as hybrid loans and notional interest deductions were explained in too superficial a manner. In the case of RB, it was alleged that transfer pricing is an important method for multinationals to shift profits. This claim was not further substantiated. This is problematic from the tax law perspective, as the function of transfer pricing rules is to establish the appropriate remuneration of different parts of the business of a multinational enterprise in accordance with the ‘arm’s length’ standard. This, however, is not the same as ‘profit shifting’. Other reports used the term ‘transfer mispricing’ in this context, which is more appropriate.

Legal analysis. Regarding this sub-question, there were strong contrasts between different studies. Most case studies provided either a comprehensive and detailed analysis of the applicable tax legislation or none at all. The Stora Enso case is an example of the former. It discussed the transfer pricing rules applicable to relevant trade transactions and the allocation of profits between Brazil, the Netherlands, and Finland. Similarly, the ABF case analysed how the functions and substance of an Irish subsidiary compared with the profits attributed to it. The BASF case, by contrast, is an example of the latter. It did not distinguish properly between aggressive tax avoidance and intended tax benefits – which is of fundamental importance for tax law. A few studies analysed only some of the relevant legal aspects, such as the overall internal funding structure of a company but not the fiscal treatment of a specific interest-free loan.

4.2.3 *Calculations and counterfactual of tax avoidance estimates*

The third indicator concerns the techniques applied to the quantification of tax avoidance used by NGOs. Whereas the previous indicator focused on legal aspects, this indicator concentrates on economic aspects. As discussed in section 3.4, one of the selection criteria for the case studies was the inclusion of an analysis of the amount of tax involved in a certain situation (referred to here as ‘quantification’). It can be noted that case studies may quantify different amounts according to diverging methodologies. The quality of the quantitative techniques was assessed using the following four questions:

- Are the calculations correct and sufficiently substantiated?
- Is the counterfactual made explicit?
- Is the counterfactual reasonable and complete?
- Do the researchers have an explicit and correct strategy for dealing with missing data?

Correct calculation methods. There was variation between the case studies regarding the methods used for quantifying tax. It was noticeable that, in a limited number of cases, it was not possible to reconstruct the calculations made by the researchers (BASF and BCD). Certain case studies contained minor errors in calculation (Paladin) or followed a questionable methodology for assessing tax avoidance (RB). In some cases, assumptions were made that the present authors consider to be untenable. An example of this is the case of IKEA, in which it was assumed that the effective tax rate on a franchise fee (earned by a related yet separate multinational, called Inter IKEA) is 0%. Surprisingly, in the case of Energias de Portugal, the researchers made a calculation error that suggested a less beneficial outcome for the company, and

² Such as the EU and the OECD’s list of uncooperative tax havens.

therefore their estimate of untaxed Dutch profits was too low. They overlooked the fact that some tax benefits were preserved after an advance pricing agreement was withdrawn.

Explicit counterfactual. Nearly all the case studies contained a clear counterfactual for each tax avoidance element. Counterfactuals were described in the text of the report or directly apparent from tables or Excel sheets (e.g. ABF). Only in two cases was the counterfactual not presented clearly or was clear only for part of the calculations.

Reasonable and complete counterfactual. For this sub-question, claims about different types of tax avoidance structures need to be distinguished. Overall, for the cluster of reports published by the Greens/EFA, the quality of the counterfactuals is much lower than that for the other two clusters. In part, this might be explained by the higher number of tax avoidance elements in the Greens/EFA reports. For example, the BASF case included 7 different tax avoidance structures. For some of these structures the counterfactual was credible and complete, but for others it was not, so, for the case as a whole, the quality of the counterfactual was poor.

For claims about the avoidance of withholding taxes, the counterfactual needs to be supported with information about the foreign entity directly receiving the payments, showing that it is most likely to be a conduit company. In addition, a lower withholding tax should apply to the actual payments compared with the counterfactual, but the applicable corporate tax rate at the final destination of the payment is not relevant. Some case studies presented a credible counterfactual despite contestation by the company. For example, in the ABF case, the counterfactual that management fees should not be paid to Ireland, and therefore higher withholding taxes should apply, is reasonable. ABF stated that the Irish subsidiary had employees and provided real services, but this was contradicted by the Zambian subsidiary and not supported by the Irish entity's accounts.

For claims about the avoidance of corporate income tax, information is usually also required about the tax treatment of the entity ultimately receiving the payments. If the total corporate tax benefit of a structure remains unclear, the counterfactual is incomplete. The FQM/Inmet case is a good example of a strong counterfactual, in which the interest payments of a Finnish subsidiary would have been lower than in the actual situation. The researchers compared the subsidiary's equity ratio with the group ratio, considering only the disproportionate part of the interest payments, and showed that the ultimate recipient of the interest in Luxembourg was subject to a very low effective tax rate. The RB case considered a change in the corporate structure; hence, the situation before the change provided an observable counterfactual (there were some issues regarding the interpretation of the restructuring, though). In various cases, the counterfactual was not complete. The Inditex case consisted of five different tax avoidance elements; one of these involved a counterfactual that simply seems to be incorrect, assuming that the non-taxed income of a Swiss holding company consisted of active income instead of exempt passive income.

Finally, EDP is a case apart, because the quantitative estimate explicitly referred to a tax benefit, due to the non-taxation of certain interest income in the Netherlands, instead of an amount of corporate tax avoided, through corresponding interest deductions elsewhere. The counterfactual was reasonable, though, because it could actually be observed, similar to the RB case.

Strategy for missing data. Almost all of the case studies surveyed had an explicit and correct strategy for dealing with missing data. In one case (Stora Enso), the question was not applicable because there was sufficient information. Missing information was often linked to the lack of annual reports for certain parties of the group. The pricing of intergroup royalties was also an issue (e.g. Inditex and SABMiller). Different strategies were used for dealing with the lack of information. These included the use of assumptions and the extrapolation of existing data (e.g. SABMiller, for which it was assumed that the royalties paid by entities in different African countries are the same). An alternative strategy was not to quantify tax amounts in situations in which data were missing (e.g. BCD) or to make a calculation whilst

explicitly excluding missing information (e.g. in the Paladin case, a missing amount of royalties over FY2009 was excluded from the calculation).

4.2.4 *Quality control and robustness*

The fourth and final indicator on the expertise of the researchers is the quality control of the case studies. This indicator was considered with reference to the degree of uncertainty mentioned in the case studies and the triangulation of data with other sources.

Degree of uncertainty. The degree of uncertainty can be based on alternative assumptions or calculation methods, thus involving robustness checks that use different specifications to estimate the amount of tax avoidance. Although the case studies did not use econometric models that could be run with alternative specifications, some studies contained calculations that could be performed using alternative assumptions. The Eldorado case stood out as a good practice, presenting two different estimates based on alternative assumptions. The phrasing in many studies was cautious; the findings were often presented as estimates. Various studies explicitly mentioned that these estimates were a minimum (e.g. Inditex, BCD), a maximum (SABMiller), or ‘not exact’ (Stora Enso). However, six case studies presented an amount without any such qualifications, even though none of them explicitly claimed that it was an exact amount either. None of the case studies sought to quantify an exact margin of error.

Triangulation of data. The triangulation of financial accounts is not always possible, because there may be only one source. However, it often makes sense to triangulate interpretations of financial accounts, using interviews or collecting other types of data that may support or rule out certain interpretations. Most of the case studies sought to triangulate their data in some way. Different sources were used for this, including trade statistics of national governments and UNCTAD; macro data from the IMF and OECD databases; annual account figures from the ORBIS database; a prospectus issued by one of the multinationals; questions posed to affiliated firms and service providers of the multinational; and a LinkedIn profile of a company manager.

The efforts to triangulate data for the SABMiller case were rather impressive, involving interviews with government officials in various countries and even undercover research to investigate the provision of intra-group services. Therefore, this case study also had some interpretive elements. For interviews and undercover research in a case study, the trustworthiness of the research process is relevant, because the findings depend on the behaviour of the researchers. The findings may be influenced by how they ask questions or conduct their undercover observations. These methods are mainly intended to complement the data from annual accounts and to verify assumptions and interpretations. Thus, they seek to address certain weaknesses of a purely positivist approach, without departing from the positivist perspective as such.

Some researchers described their attempts to collect additional information from other sources but stated that they were unsuccessful (e.g. ABF). Only a few case studies, such as G-Star and Inditex, did not mention any attempts to obtain other sources.

4.3 Lack of objectivity

The last set of indicators used to analyse the quality of the research of the case studies concerns the issue of objectivity in a wide sense, including openness to external scrutiny. This last factor is again broken down into four indicators with up to four questions each. The present authors view these indicators as general scientific criteria but note that the commitment already follows from the codes of conduct of the NGOs themselves. Table 3 shows the average scores of each indicator per cluster of case studies, with a higher score indicating higher research quality. The section below describes the assessments in more detail. Overall, the scores are relatively high. Of the three constraining factors identified in the methodology, a potential lack of objectivity has the smallest impact on the research quality of the selected case studies. Still, some elements leave room for improvement, especially the right of reply for case studies published by a political party.

Table 5: Average scores for 'lack of objectivity' indicators per cluster (maximum score = 1)

| Indicator: | NGO report + academic paper | NGO report | Political party report |
|---|-----------------------------|------------|------------------------|
| Transparency on methods, techniques and data | 0.8 | 0.6 | 0.6 |
| Right to reply and processing of the reply | 0.8 | 0.7 | 0.3 |
| Review by independent experts | 1.0 | 0.7 | 0.5 |
| Conclusions and recommendations are based on the research | 0.7 | 0.7 | 0.7 |

4.3.1. Transparency on methods, techniques, and data

The first indicator of objectivity concerns the transparency of the research, allowing readers to ascertain whether the data have been used and interpreted in an unbiased way. It consists of two questions: are the methods and techniques made explicit, and are the (underlying) data available in an accessible format? The latter sub-question is about the primary data used and whether these are in the public domain or obtainable on request. A few individual case studies stood out regarding both questions.

Explicit methods, techniques, and data. All of the case studies contained at least an indication of the methods, techniques, and data used. Information about the methods, techniques, and data used have been incorporated into the reports in various ways, for example in the main text of the report, as a table, in footnotes, or as a special section of the report. Sometimes the full calculations can be obtained on request. The level of detail varied considerably. Most reports included a full description. Some reports included an explanation of only some specific aspects of the calculation. In the Inditex case study, the calculations for several tax avoidance elements were not explained at all. Two of the NGO case studies surveyed referred to the methodology used in a previous study carried out by the researchers.

Availability of the underlying data. All of the case studies surveyed documented their sources. In around half of the case studies, footnotes and/or endnotes sufficed. There were also studies in which the sources (primary materials) were available directly, which greatly simplified the process of understanding the case studies. Different approaches were used in this regard. Eldorado Gold stood out, with the publication of materials as a pdf document on the NGO's website and the use of a free internet portal. The BASF case study was also highly transparent, with full references to the online sources of all the underlying data. Sometimes the data can be provided on request. Access to information can be limited in cases in which the NGO provides a link to a website requiring payment. Language difficulties can also be relevant (e.g. source material written in Finnish).

4.3.2. Right to reply

The second indicator of a lack of objectivity is the right to reply for the subjects of case studies. The 'right to reply' is understood to mean the possibility for a company to have insights into a case study prior to publication and to have the possibility of submitting additional information. The right to reply is assessed using the following questions:

- Did the company have the right to reply?
- If a company had the right to reply, did it have at least two weeks to reply?
- If the company provided a reply, was it integrated into the case study?
- If the company provided a reply, is it publicly available?

Right to reply. Eleven of the case studies included either a reference to the right to reply or an indication that the companies were approached for a reaction. In the case of ABF, the researchers sent a detailed list of questions and requested a meeting with the company. Both opportunities were declined. This was

followed by further correspondence, and the company eventually provided detailed comments. In the case of Eldorado, the researchers notified the group headquarters and two subsidiary companies under investigation; Eldorado did not provide comments. Lastly, in the present study, the authors identified three instances in which a case study did not refer to the right to reply. Interestingly, these were all the case studies published by the Greens/European Free Alliance. In one of these cases (Inditex), however, a reply was received after the publication of the study. Maybe the political party did not ask for a reply because its reports were only intended to draw attention to a broader problem, illustrated by the case studies, and to move it higher up the political agenda. By contrast, some of the NGOs also aimed to influence the behaviour of the company involved or even supported legal challenges against the company's tax structure. Moreover, for NGOs, it may be more important to demonstrate their objectivity, and they may have fewer time constraints on their reports, because the moment of publication is usually not linked to a political agenda. Nonetheless, for future studies, allowing a company the right to reply would be an obvious way to improve the quality of the research.

Sufficient time to reply. This indicator was only relevant to eleven of the case studies (in the remaining three cases, there was no right to reply). It was noticeable that none of the studies included a clear deadline within which a company should respond. We identified two cases in which the amount of time allowed for a reaction seemed to be too short, namely the cases of Eldorado and ABF. In the latter case, the researchers extended the deadline for input, as explained above. In the majority of the remaining cases, the amount of time allowed appears to have been sufficient, given the detailed reaction submitted by the company.

Reply available to third parties. This indicator was only relevant to the eleven case studies in which a reply was received (either before or after publication). The possibility of company responses to third parties varied between the studies. In seven cases, the reports made reference to a website containing the replies of the companies. By 2018, however, the links included for three of the seven studies were not operational or did not provide the relevant information. ABF stood out, with full publication of six letters sent between the NGO and the company. In one case (RB), the company input was included as an annex to the study. In another case (G-Star), the study included the questions that the researchers had asked the company but not the answers that they had received. In the case of Inditex, a reply from the company received after the publication of the report was published online. In the case of IKEA, the study resulted in questions posed by a third party (namely the TAX2 committee) to IKEA; the reply to these questions was published online.

Integration of the reply. This indicator was only relevant to eleven of the case studies (see above). The extent to which replies from companies were included in the reports obviously depended on the nature and level of detail of the replies. The most important observation in this regard is that the majority of studies that expressly dealt with the replies of companies did not address all of the issues raised in the replies. Furthermore, in some cases (e.g. SABMiller and EDP), it was unclear whether all the aspects had been covered, as the underlying correspondence with the company was not fully available. The study of RB offers an example in which the relevant sections of the company's reply were quoted and then convincingly refuted.

4.3.3. Review by independent experts

The third indicator is the extent to which the case studies have been reviewed by independent tax experts. In the case of academic studies, this is likely to be via a peer-reviewed journal. In other cases, the indicator is applied with reference to a suitable third party. This indicator is not broken down into different questions.

Expert review. Ten of the case studies explicitly referred to some form of expert review. In two other cases, information on an expert review was provided later by the researchers in response to the draft

findings of the current study. Not surprisingly, the cluster of case studies that were also published as an academic paper scored higher than the other clusters. Because of the peer review process, it can be assumed that these three case studies also properly addressed most of the important comments from experts. For some of the reports published by an NGO or political party, a wider group of independent reviewers was involved (incl. BASF, BCD, and G-Star). In the case of Eldorado, the researchers also discussed the study at a conference involving other NGOs, but it is a matter for debate whether the participants should be regarded as ‘independent’ experts. It is also possible that inconvenient comments have been disregarded. In other cases, the review was carried out by one or a limited number of independent persons (incl. EDP and RB).

4.3.4. Conclusions and recommendations are based on the research

The fourth and final indicator regarding the issue of objectivity concerns the conclusions and recommendations of the case studies. It consists of three questions: are the conclusions based on the research itself, are the limits to the research made explicit, and are the recommendations a logical follow-up from the findings? For each sub-question, there was little difference between the average scores of the studies published as academic papers, as NGO reports only, and as reports of the Greens/EFA fraction.

Conclusions based on the research. The present authors analysed whether the conclusions reached in the case studies were in fact fully supported by the studies themselves. In four cases, the conclusions were indeed limited to the research; in the remaining ten cases, however, claims were made that were not substantiated by the research itself. In particular, these included claims concerning tax avoidance and the prevalence of harmful tax competition; for example, it was suggested that ‘If Ikea is doing it, many other companies are doing it’ (p. 25). In the case of Stora Enso, it was stated that the ‘only sustainable way of dealing with tax avoidance’ is via mandatory disclosure requirements (p. 20). In the cases of FQM and Agnico Eagle Mines, the researchers concluded that the OECD’s current policy initiative against tax avoidance may not fix the underlying problems (p. 21). The research reports did not substantiate these claims. The same holds true for a series of claims made with regard to SABMiller, ABF, and Paladin regarding the ‘human cost’ of the amount of tax (allegedly) avoided by the companies (i.e. how many children could have been sent to school had the tax been paid).

Limitations of the research. Almost all of the case studies mentioned the limitations of (certain aspects of) the research. This can take the form of general limitations (FQM) or more specific limitations vis-à-vis specific aspects of the analysis. For example, in the Eldorado study, it was noted that the research has a geographical limitation (only data from the Netherlands and Greece were considered). The limitations were sometimes associated with gaps in the legal information available to the researchers: in the G-Star study, uncertainty regarding the content of a possible tax ruling issued by the Netherlands was mentioned. In the BCD case, uncertainty over the use of a tax regime in Curacao was made explicit.

Logical recommendations. The case studies, or the broader reports of which they form part, contained a broad variety of recommendations, directed at host country governments, other governments, the companies themselves, and international organizations, such as the OECD. In many studies, most recommendations followed logically from the case but were generalized to other comparable situations. For example, the Paladin case provided the Government of Malawi, as well as the governments of other developing countries at risk of tax treaty abuse, with specific recommendations against tax treaty abuse. However, sometimes studies also presented unrelated recommendations. For example, the EDP case study called for public transparency about the ultimate beneficiary owners of companies, and the BCD case study demanded a common consolidated corporate tax base in the EU, whereas it showed profit shifting to countries outside the EU. As an exception, the Stora Enso case did not contain any explicit recommendations.

5. Discussion and conclusion

5.1 Discussion on and recommendations for the quality of the case studies

What does this first usage of the methodology tell us? Which of the elements of quality (data, expertise, or objectivity) is already well taken care of and which area might of concern? Whereas all the factors had an impact on the overall quality, the data availability and quality are the only factor that scored an average below 0.5 when all the studies were combined (0.45). Objectivity scored the highest, with an average of 0.68 and none of the individual indicators scoring on average below the 0.5 mark. According to our quality guidance, the technical expertise demonstrated in the studies lies somewhere between the quality with respect to data and the objectivity. This does not mean that no improvements can be made to increase the objectivity of the case studies: it is recommended that all researchers provide companies with the opportunity to respond and give them enough time to do so. It is also suggested that researchers make the responses from companies available and show how they have integrated them. These are relatively quick wins.

The individual indicators that scored below 0.5 on average across all the types of studies are the data availability, the discussion on the selection of case studies, and the indication of a degree of uncertainty. More scores would be below 0.5 if they had been based on the public information only; it is hence recommended that researchers make more of the data and methodology available to the public, for example in separate background papers. The three scores that are below 0.5 are the focus of our recommendations.

With respect to data availability, both governments and companies have a role to play. The quality of the case studies could be strengthened if more and better information were available and more easily obtainable by researchers. Crucially, governments should require the filing of unconsolidated annual accounts of individual entities, with explanatory notes, and ensure that these can be obtained easily for free or at a low cost (Koch, 2017). This applies to all countries, including developing countries as well as countries used in corporate tax structures. For countries where this is usually the case, such as the Netherlands and Luxembourg, the data availability in the case studies is relatively good. For countries where such filings are not available, such as Switzerland and Curacao, the data availability is highly problematic.

Furthermore, companies themselves could publish key data, such as a country-by-country breakdown of the effective tax rate (ETR). They could also provide relevant explanations about transfer pricing, group financing, intellectual property (IP), the use of tax treaties, the level of transparency with foreign tax authorities, and the use of tax holidays, tax rulings, and advice by tax advisors (e.g. position papers, memoranda, and legal opinions). The present authors note that the nature of the information needed will obviously depend on the research objectives of a particular study. Combined with companies' legitimate concerns about confidentiality and issues of efficiency, a good approach to increasing the availability of data is for companies to provide information on request, allowing researchers the chance to ask questions. This would also increase the efficiency of the research process. All of the case studies would have benefitted, to varying degrees, from more and more readily available information.

With respect to the selection of the case studies and a discussion of their representativeness, researchers can improve their approach. While it can be logical for researchers to select cases on the basis of their emancipatory potential, instead of their representativeness, they could make more efforts actually to describe and document the degree to which the selected case is exceptional or could be exemplary of a broader situation. This could be achieved by systematically comparing the global ETR with that of peer companies, for example. This could enhance the external validity of the case study.

Lastly, with respect to the control of the quality of case studies, more use could be made of alternative estimates to highlight the sources of uncertainty and indicate a range of tax revenues forgone rather than a single figure. This would also reduce the risk of misinterpretation or exaggeration from treating an estimate as a hard figure.

In short, and maybe counterintuitively, for the quality of the case studies to be improved, the companies and the governments are in the driving seat. Nevertheless, NGOs can also become accountable themselves and be more transparent about, for instance, the methods and data that they used. Sometimes this information could only be accessed because of direct communication with the researchers instead of being publicly available.

5.2 Discussion on the usability of the quality guidance for other NGO research

The NGOs of which the reports were analysed for this research are involved in research in many other fields than just tax avoidance, from trade in weapons to corporate grievance mechanisms. To what extent can the method developed for this article on tax avoidance research be used for other research by NGOs?

The three main elements of quality in this research – data, expertise, and objectivity – are in theory all relevant to other types of research. However, there is a difference between the degree to which the various indicators and the underlying questions can be used. Interestingly, all the indicators with respect to objectivity (1. transparency on methods, techniques, and data; 2. right to reply; 3. peer review; and 4. findings based on the research) are also pertinent to other types of research. With respect to data (access to data and quality of data), both indicators can be maintained. However, when it comes to technical expertise, the indicators cannot be transferred one-to-one. Whereas the selection of case studies and the quality control remain important, the quality of the legal analysis and the quality of calculations are in all likelihood less applicable. Conversely, while some indicators need to be taken out, it can also be possible that, for other types of research, quality control indicators need to be added. For instance, if more usage is made of interviews in the research, indicators with respect to research ethics, such as prior informed consent, need to be included.

In sum, the quality assurance guidelines that were developed for this paper – with slight modifications depending on the type of NGO research – can be used to analyse the quality of other NGO research. This includes tax avoidance research focused on other countries than the Netherlands. We hence suggest continuing to work with the standard developed in this paper and applying it to other research. This could enhance the effectiveness of the discussion between NGOs and other stakeholders. Since the NGOs represent – or are supposed to represent – marginalized voices in international debates, increasing the quality of the research on which they base their interactions can contribute to enhancing the voice of disenfranchised communities.

5.3 Reflections on the research

This research was quite successful in developing a methodology in a participatory way and gaining access to relevant data. The composition of the research team (one fiscal expert, one NGO researcher, and one government researcher) contributed to this success. The advantage was that it was relatively easy to gain access to both fiscal experts and NGO researchers. The collaboration by the NGOs was achieved not by focusing on a ranking of the case studies based on their individual quality scores but by looking at the various indicators across various types of studies.

The multidisciplinary nature of the research could have been strengthened further by including tax officials themselves as well as active financial tax planners from international firms. By including these actors, the ‘shared’ language developed for this research would have gained even broader support. In addition, by participating in such a research endeavour, norms that are not necessarily within the thinking of tax planners and tax officials themselves would gradually become internalized, increasing the credibility (and effectiveness) of NGO research. A discussion between deaf people would then become a discussion based on shared language.

5.4 The future of tax avoidance research by NGOs

While the case study approach was developed to circumvent data problems (Finér & Ylönen, 2017), our research shows that the case study approach also has to deal with serious data issues. It was argued in this paper that governments and companies could be pressured to become more transparent. While we were in certain respects quite critical of the quality of the research, it also became evident that the research is essential to further the debate on international tax issues. By continuing to engage in information politics, albeit with higher quality standards, NGOs can force the international tax debate to become more pluralistic, hold multinationals and governments to account, and ensure that marginalized voices will be included to a greater extent.

In the current polarized political context, it appears to be easier to destroy bridges than to build them. International fora, such as the OECD, are critical, enabling countries to come together to discuss, and tackle, tax avoidance. However, in the current climate, quite a number of these international endeavours are seen as ‘elitist’ and lack popular support. By making discussions in these fora more inclusive, and by including NGOs and civil society, they can in their turn engage the wider public in the discussions. This role of NGOs as an intermediary between the public and the large institutions necessitates their research to be of good quality.

Interestingly, one of the organizations of which the reports were assessed as part of this research in 2017 (SOMO) has already published a tax avoidance case study in 2018 (SOMO, 2018xx). In this new case study, some of the recommendations resulting from the quality guidelines already appear to have been taken to heart: the researched company received a month to respond to the report, and its response letter was published on the website of SOMO. Instead of discontinuing the conducting of tax avoidance case studies, which some NGOs seem to be doing, it is suggested that they continue to improve their quality and inform the public debate.

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Annex A: Detailed scoring guidelines

| Indicator | Review question | Scoring guidance |
|--|---|---|
| 1. Transparency on methods, techniques and data | 1a Are the methods, techniques explicit? | <p>1: there is a separate section on methodology which outlines key methods used and/or there is an online portal with all data/documentation and calculations</p> <p>0.5: there is no separate section on methodology but at critical decision points in the research choices are substantiated</p> <p>0: there are hardly or no explanations on the methodological choices that are made</p> |
| | 1b Are the (underlying) data available in an accessible format? | <p>1: the data and calculations are available (online)</p> <p>0.5: the study includes references to all underlying data and these can be obtained from online sources (at a cost)</p> <p>0: the only data that are available are those that are in the PDF version of the study</p> |
| 2. Subjects of study right to reply (and integrated) | 2a Did the company have the right to reply ? | <p>1: It was made explicit in the study that the company had the right to reply and received a draft copy of this study to this end</p> <p>0.5: the company was asked various questions to understand their version</p> <p>0: The company did not get an opportunity or not clear</p> |
| | 2b. Did the company get enough time to reply? | <p>1: The company had at least 2 weeks to reply, was able to provide a comprehensive and detailed reply, or chose not to provide a reply</p> <p>0.5: No comprehensive and detailed reply is available and the company had been notified well in advance but had less than 2 weeks to reply</p> <p>0: No comprehensive and detailed reply is available and response period is not clear or less than 2 weeks without advance notification</p> <p>n.a.: if the answer to 2a was '0'</p> |
| | 2c Was the reply integrated ? | <p>1: all major remarks of the company are mentioned and accommodated or refuted</p> <p>0.5: about half of the major remarks of the company are mentioned and accommodated or refuted</p> <p>0: none, or almost none of the major remarks of the company are mentioned and accommodated or refuted</p> <p>n.a.: if the answer to 2a was '0' or if the company did not comment on the contents of the report</p> |
| | 2d Was the reply available ? | <p>1: the reply of the company was available in the original format (except for track changes response)</p> <p>0.5 the reply of the company was available – but not in the original format</p> <p>0: the reply of the company was not made available</p> <p>n.a.: if the answer to 2a was '0' or if the company did not comment on the contents of the report</p> |

| | | |
|--------------------------------------|---|---|
| 3. Peer review | 3a Was the research reviewed by independent experts ? | <p>1: the research appears in a peer-reviewed journal or it is made otherwise explicit that the entire paper has been peer reviewed by at least two external experts</p> <p>0.5: parts of the research have been peer reviewed, the paper has been peer reviewed by one external expert, or peer review took place in a workshop format</p> <p>0: no mention is made of peer review</p> |
| 4. Findings are based on research | 4a Are the conclusions limited to the research itself? | <p>1: No claims are made unrelated to the research</p> <p>0.5: Occasionally a claim is made that is not substantiated by the research</p> <p>0: Repeatedly claims are made that are not substantiated by the research</p> |
| | 4b Are limits to the research made explicit ? | <p>1: The research highlights key limitations of the paper by mentioning the levels of uncertainty, highlighting where extrapolations or assumptions have been made, or making clear which conclusions can't be drawn</p> <p>0.5: The research highlights some limitations, but in a general manner only or it fails to point out a key limitation</p> <p>0: the research doesn't highlight limitations</p> |
| | 4c Were the recommendations a logical follow-up from the findings ? | <p>1: All recommendations are a logical follow-up from the findings</p> <p>0.5: Some of the recommendations were not a logical follow-up from the findings.</p> <p>0: Most recommendations were not a logical follow-up from the findings.</p> <p>n.a.: The case study does not contain explicit recommendations</p> |
| 5. Quantity of data | 5a Did the researchers have access to the data that were needed ? | <p>1: All relevant data sources were available to the researchers</p> <p>0.5: Some relevant data sources were missing for parts of the research (for instance those needed for cross-checking)</p> <p>0: Important data sources are missing</p> |
| 6. Data quality | 6a Were there issues with the quality of data? | <p>1: There were no or minor issues with the quality of the data.</p> <p>0.5: Some issues with the quality of the data existed, for example minor data discrepancies or some lack of explanation about financial figures</p> <p>0: There were major issues with the quality of the data</p> |
| 7. Selection of case study explained | 7a Was it explained how the case study was selected ? | <p>1: It was made explicit how the case study was selected.</p> <p>0.5: It was made explicit why the case study was researched, but not how it was selected from potential alternative case studies</p> <p>0: It wasn't made explicit why the case study was chosen or how it was selected</p> |
| | 7b Was the representativeness of the case study discussed ? | <p>1: The representativeness is discussed in detail</p> <p>0.5: The representativeness is mentioned briefly but not discussed in detail</p> <p>0: the representativeness is not discussed</p> |

| | | |
|---|--|---|
| 8. Definition of concepts and legal analysis | 8a. Were the key concepts defined ? | <p>1: There is a glossary or another key-section in which all key terms are defined, including tax avoidance.</p> <p>0.5 throughout the research some key terms, such as tax avoidance, are defined.</p> <p>0: Key terms that are used in the research, such as tax avoidance, are not defined.</p> |
| | 8b. Were key concepts used in accordance with current terminology? | <p>1: All key terms were used according to current terminology</p> <p>0.5 Most key terms were used according to current terminology</p> <p>0: Major deficiencies exist with respect to the usage of current terminologies</p> |
| | 8c. Does the case study include a legal analysis of applicable tax rules? | <p>1: There is a proper discussion of the application of relevant tax rules and/or treaties or of the tax treatment of key transactions, assets and/or functions;</p> <p>0.5: There is a legal analysis, but there are minor deficiencies or a key element is missing in the discussion</p> <p>0: There is no analysis of legal aspects or the legal analysis has major deficiencies or omissions</p> |
| 9. Quality of calculations and counterfactual | 9a Were the calculations correct and sufficiently substantiated ? | <p>1: There is no unaddressed contestation from the company on the techniques, no over-reliance on extrapolations (>50%), and there are no calculation mistakes.</p> <p>0.5: A technical contestation is only partly addressed or there are minor calculation errors or other weaknesses</p> <p>0: There is a substantial technical contestation from a company that is not addressed, there is an overreliance on extrapolations, or, there are substantial calculation errors</p> |
| | 9b Was the counterfactual made explicit? | <p>1: The research makes explicit what the alternative scenario is against which potential tax losses are calculated and quantifies the tax avoidance against this benchmark</p> <p>0.5: The counterfactual is implied in the text only, or it is mentioned explicitly but insufficiently explained</p> <p>0: The counterfactual is not explicit and unclear</p> |
| | 9c Was the counterfactual reasonable and complete ? | <p>1. The counterfactual was complete, there were no deficiencies, and it was not contested by the company or relevant claims by the company were sufficiently addressed</p> <p>0.5: The counterfactual was not contested by the company but had some deficiencies, or the counterfactual was complete and did not have obvious deficiencies but it contested by the company and this was insufficiently addressed</p> <p>0: The counterfactual is has major deficiencies, or it is incomplete and contested by the company and this was insufficiently addressed</p> |
| | 9d Did the researchers have an explicit and correct strategy how to deal with missing data ? | <p>1: The researchers made explicit how missing data were treated and did so in a correct manner.</p> <p>0.5 The method of how missing data were treated was not made explicit and/or not done fully correctly.</p> <p>0: It was not made explicit how the missing data were being dealt with and/or the quality of treatment of missing data was incorrect.</p> |

n.a.: The main calculations were not affected by missing data

| | | |
|---------------------|--|--|
| 10. Quality control | 10a Did the researchers indicate a degree of uncertainty? | 1: the research provides a range of potential tax avoidance that is likely 0.5: the research comes with a specific amount, but highlights that this is a minimum or the findings were presented in a hypothetical way ('could be', 'might be') 0: the research presents specific figures of tax avoidance, without reservations |
| | 10b Did the researchers triangulate the data with other sources? | 1: The researchers are explicit in how they compared or combined various data sources as to strengthen the quality of the research 0.5: The researchers aimed to triangulate the data but weren't successful, or they used triangulation only for some data and could have attempted it for other parts of the data as well 0: it wasn't made explicit if and how the data were triangulated |

Annex B: Frequency tables for the 14 case studies (23 questions)

| | Average | Frequency count | | | |
|--|---------|-----------------|-----|---|------|
| | | 1 | 0.5 | 0 | n.a. |
| 1a Are the methods, techniques explicit? | 0.75 | 8 | 5 | 1 | |
| 1b Are the (underlying) data available in an accessible format? | 0.54 | 2 | 11 | 1 | |
| 2a Did the company have the right to reply ? | 0.68 | 8 | 3 | 3 | |
| 2b. Did the company get enough time to reply? | 0.86 | 9 | 1 | 1 | 3 |
| 2c Was the reply integrated ? | 0.55 | 2 | 8 | 1 | 3 |
| 2d Was the reply available ? | 0.59 | 5 | 3 | 3 | 3 |
| 3a Was the research reviewed by independent experts ? | 0.71 | 8 | 4 | 2 | |
| 4a Are the conclusions limited to the research itself? | 0.61 | 5 | 7 | 2 | |
| 4b Are limits to the research made explicit ? | 0.86 | 11 | 2 | 1 | |
| 4c Were the recommendations a logical follow-up from the findings ? | 0.65 | 4 | 9 | 0 | 1 |
| 5a Did the researchers have access to the data that were needed ? | 0.36 | 1 | 8 | 5 | |
| 6a Were there issues with the quality of data? | 0.54 | 3 | 9 | 2 | |
| 7a Was it explained how the case study was selected ? | 0.57 | 6 | 4 | 4 | |
| 7b Was the representativeness of the case study discussed ? | 0.32 | 3 | 3 | 8 | |
| 8a. Were the key concepts defined ? | 0.64 | 6 | 6 | 2 | |
| 8b. Were key concepts used in accordance with current terminology? | 0.82 | 10 | 3 | 1 | |
| 8c. Does the case study include a legal analysis of applicable tax rules? | 0.54 | 6 | 3 | 5 | |
| 9a Were the calculations correct and sufficiently substantiated ? | 0.58 | 5 | 6 | 3 | |
| 9b Was the counterfactual made explicit? | 0.96 | 12 | 2 | 0 | |
| 9c Was the counterfactual reasonable and complete ? | 0.64 | 6 | 6 | 2 | |
| 9d Did the researchers have an explicit and correct strategy how to deal with missing data ? | 0.88 | 10 | 3 | 0 | 1 |
| 10a Did the researchers indicate a degree of uncertainty? | 0.31 | 1 | 7 | 6 | |
| 10b Did the researchers triangulate the data with other sources ? | 0.64 | 7 | 4 | 3 | |

Annex C: Assessed estimates of tax revenue foregone

| Researched companies | Assessed estimate |
|-----------------------------|--|
| 1. Paladin | Malawi lost USD 43M revenue in the period FY2008-2014, including 15.6M due to lower mineral royalties, 7.3M due to avoidance of interest withholding tax via the Netherlands, and 20.2M due to avoidance of withholding tax on management fees via the Netherlands. |
| 2. Associated British Foods | USD 17.7M withholding tax avoided in Zambia in the period 2007- 2012, including USD 7.4M due to dividend routed via a Dutch cooperative, USD 7.4M due to services fees paid to Ireland and USD 3M due to interest paid via Ireland. |
| 3. SAB Miller | Tax avoidance by the company in Africa and India of as much as GBP 20M per year, mainly consisting of GBP 10M in Africa due to royalties paid to the Netherlands, and GBP 9.5M in Africa and India due to management fees paid to or via Switzerland. |
| 4. Agnico EagleMines | EUR 10.7M tax avoided in Finland due to excessive interest payments and EUR 2.7M due to avoidance of dividend withholding tax in the period 2002-2014 |
| 5. FQM(Inmet) Pyhäsalmi | EUR 20.7M tax avoided in Finland due to excessive interest payments to Luxembourg and EUR 29.7 due to avoidance of dividend withholding tax via the Netherlands in the period 2002-2014. |
| 6. BCD | In the period 2011-2013, BCD avoided at least EUR 15.3M corporate tax in the Netherlands through intra-group interest payments to Curacao. |
| 7. G-Star | in the period 2011-2014, G-star avoided approximately EUR 3M tax per year in the Netherlands through tax deductions for intangible assets (without a corresponding tax charge elsewhere). |
| 8. RB | Around GBP 200 million in tax avoidance worldwide for the period 2014-2016, including up to GBP 60 million in developing markets. |
| 9. Eldorado Gold | The Greek government lost over EUR 0.7M in withholding taxes during 2009-2013 and/or EUR 1.7M in corporate tax during 2012-2013 because of interest payments to/via the Netherlands (these two figures cannot be added up). |
| 10. Energias de Portugal | In the period 2008-mid 2012, before the advance pricing agreement was withdrawn, EDP reported more than EUR 140M profits in the Netherlands and paid effectively 5.36% corporate tax on these profits, resulting in a tax benefit; when the agreement was withdrawn, the tax charge over this period retroactively increased by EUR 34.7M. |
| 11. Zara | In the period 2011-2014, the firm avoided at least EUR 585M by reporting certain profits in the Netherlands, Ireland and Switzerland instead of Spain. |
| 12. BASF | In the period FY2010-2014, EUR 923M tax avoided, including EUR 73M due to avoidance of German dividend tax via Dutch holding, EUR 178M due to Dutch hybrid loan, EUR 72M due to Dutch deductions for unrealized capital losses, EUR 376M due to intra-group trading profits shifted to low-tax branches in Puerto Rico and Switzerland, and EUR 202M due to Belgian notional interest deduction. |
| 13. Ikea | Approximately EUR 1 billion in tax avoidance in EU countries for the period 2009-2014 through license fees paid to Dutch entity for trademark owned in Liechtenstein (up to 2012) and then the Netherlands (from 2012). The section on IKEA Group's Belgian loan structures is not assessed because it does not estimate an amount of tax avoided due to missing data. |
| 14. Stora Enso | In the period 2005-2010, Stora Enso avoided EUR 47M tax in Finland by routing purchases of pulp from Brazil through a low-taxed Dutch entity with a tax ruling (while the pulp was shipped from Brazil to Finland via Belgium). |

Annex D: Overview of longlist of case studies

| Publisher or journal | Year | Title | Researched companies | Selection criteria | | | | Selected ? |
|---|------|--|------------------------------|--------------------|----------------|---------------------|--------------------------|------------|
| | | | | 1: tax avoidance | 2: Netherlands | 3: publication date | 4: quantitative estimate | |
| Action Aid | 2015 | An extractive affair | Paladin | 1 | 1 | 1 | 1 | 1 |
| | | | Associated British Foods | 1 | 1 | 1 | 1 | 1 |
| | | | SAB Miller | 1 | 1 | 1 | 1 | 1 |
| Finér, L., & Ylönen, M. - Critical Perspectives on Accounting | 2017 | Tax-driven wealth chains: A multiple case study of tax avoidance in the Finnish mining sector | Agnico Eagle Mines | 1 | 1 | 1 | 1 | 1 |
| | | | FQM(Inmet) Pyhäsalmi | 1 | 1 | 1 | 1 | 1 |
| FNV and SOMO | 2017 | Verborgen belastingpraktijken van Nederlandse bedrijven [Hidden tax practices of Dutch firms] | BCD | 1 | 1 | 1 | 1 | 1 |
| | | | G-Star | 1 | 1 | 1 | 1 | 1 |
| | | | Aegon | 0 | 1 | 1 | 1 | 0 |
| | | | Ahold Delhaize | 1 | 1 | 1 | 0 | 0 |
| Global Witness | 2014 | Glencore And The Gatekeeper. How the world's largest commodities trader made a friend of Congo's president \$67 million richer | Fleurette | 0 | 0 | 1 | 1 | 0 |
| | | | Glencore | 0 | 0 | 1 | 1 | 0 |
| | | | ERNC/ERG | 0 | 0 | 1 | 1 | 0 |
| Global Witness | 2016 | Out of Africa | Fleurette | 0 | 1 | 1 | 1 | 0 |
| | | | Glencore | 0 | 0 | 1 | 1 | 0 |
| | | | ERNC/ERG | 0 | 0 | 1 | 1 | 0 |
| Oxfam | 2017 | Making Tax Vanish | RB | 1 | 1 | 1 | 1 | 1 |
| Profundo | 2016 | Tax avoidance by mining companies in developing countries - An analysis of potential Dutch policy initiatives | Asia Coal Energy Ventures | 1 | 1 | 1 | 0 | 0 |
| | | | Bumi Resources | 1 | 1 | 1 | 0 | 0 |
| | | | Central Asia Metals | 1 | 1 | 1 | 0 | 0 |
| | | | China Investment Corporation | 1 | 1 | 1 | 0 | 0 |
| | | | Eurasian Resources | 1 | 1 | 1 | 0 | 0 |
| | | | Glencore | 1 | 1 | 1 | 0 | 0 |
| | | | Gold Fields | 1 | 1 | 1 | 0 | 0 |
| Newmont Mining | 1 | 1 | 1 | 0 | 0 | | | |

| | | | | | | | | |
|--|------|---|----------------------|---|---|---|---|-----------|
| | | | Peabody Energy | 1 | 1 | 1 | 0 | 0 |
| | | | Rio Tinto | 1 | 1 | 1 | 0 | 0 |
| | | | Trafigura | 1 | 1 | 1 | 0 | 0 |
| SOMO | 2015 | Fool's gold | Eldorado Gold | 1 | 1 | 1 | 1 | 1 |
| SOMO | 2013 | Belasting Ontwijken in Tijden van Crisis [Dodging taxes in times of crisis] | Energias de Portugal | 1 | 1 | 1 | 1 | 1 |
| The Greens / European Free Alliance | 2016 | Tax shopping; Exploring Zara's tax business | Zara | 1 | 1 | 1 | 1 | 1 |
| The Greens / European Free Alliance | 2016 | Toxic Tax Deals | BASF | 1 | 1 | 1 | 1 | 1 |
| The Greens / European Free Alliance | 2016 | Ikea: flat pack tax avoidance TAAKS AVOYD | Ikea | 1 | 1 | 1 | 1 | 1 |
| | | | Lockheed Martin | 1 | 1 | 1 | 0 | 0 |
| | | | Boeing | 1 | 1 | 1 | 0 | 0 |
| | | | BAE Systems | 1 | 1 | 1 | 0 | 0 |
| TNI and Stop Wapenhandel | 2015 | Tax evasion and weapon production Mailbox arms companies in the Netherlands | General Dynamics | 1 | 1 | 1 | 0 | 0 |
| | | | Northrop Grumman | 1 | 1 | 1 | 0 | 0 |
| | | | Airbus Group | 1 | 1 | 1 | 0 | 0 |
| | | | United technologies | 1 | 1 | 1 | 0 | 0 |
| | | | Finmeccanica | 1 | 1 | 1 | 0 | 0 |
| Ylönen, M & Matias Laine - Critical Perspectives on Accounting | 2015 | For logistical reasons only? A case study of tax planning and corporate social responsibility reporting | Stora Enso | 1 | 1 | 1 | 1 | 1 |
| Total cases included | | | | | | | | 14 |

