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EXPLAINING THE FAILURE OF INTERNATIONAL TAX REGULATIONS THROUGHOUT THE 20th CENTURY

OFFSHORE MARKETS, SWISS TAX HAVEN'S DIPLOMACY AND FISCAL DEBATES IN INTERNATIONAL ORGANIZATIONS, FROM THE LEAGUE OF NATIONS TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

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Abstract

Based on original sources from national and international organizations archives, this paper offers a new perspective on debates on tax evasion in multilateral arenas during the whole 20th Century. A closer look at the cycles of emergence and disappearance of this topic enables to understand why these discussions were raised inside international organizations and why they constantly failed. This paper focuses in particular on the foundation of tax multilateralism at the League of Nations (1922-1928) and the early activities of the OEEC Fiscal Committee (1956-1963), as well as on OECD efforts to increase international cooperation against tax evasion practices from the mid-1970s to the mid-1980s. In three cases, multilateral initiatives against tax evasion faced unyielding opposition by business interests and tax haven countries such as Switzerland. However, in order to explain the failure of the regulations, we have also to take into account the interests of big countries in maintaining offshore activities. Ultimately, the paper demonstrates how international organizations served as multipliers for dominant power relations on issues of international taxation.

Keywords

History; taxation; tax havens; Switzerland; international organizations; OECD.

I. Introduction

The current financial crisis marked a decisive break in attempts to regulate tax evasion. After decades of offshore finance growth, to which authorities had responded with only very limited regulatory measures, it had become fashionable among seasoned observers to analyze each new statement of intent against tax havens with an indifference tinged with cynicism. Yet, amid an acute crisis of public finances, international initiatives against harmful tax practices have multiplied and, combined with great powers' unilateral efforts, have upset the rules of the game of tax competition. Since the London G20 summit emphatically pronounced in 2009 the «*end of the era of banking secrecy*», a number of innovative regulations have been passed. It is within the Organization for Economic Cooperation and Development (OECD) – the main platform for international tax discussions since the post-war period – that this turnaround has been the most visible: while the Parisian organization had been very cautious about condemning banking secrecy and tax havens in previous decades, it is becoming now the main advocate for a generalization of the automatic exchange of tax information between industrialized countries. Even if the implementation of these new legal standards in administrative practices must still be appreciated with skepticism, there is no doubt that the 2007-2008 crisis has transformed the regulators' procrastination into a remarkable activism (Palan and Wigan, 2014).

The history of tax regulation within international organizations, however, cannot be summarized as a transformation from the ataxia that characterized neoliberal golden years to the proactive attitude of the present crisis. Actually, its origins date back to the end of WWI, when war and reconstruction costs led to a rise of tax burdens in Western Europe and consequently to the emergence of a tax avoidance in market neutral financial centers such as Switzerland and the Netherlands. The League of Nations (LON) was charged in the early 1920s to set up measures against international tax evasion. Since then, according to the evolution of the balance of power and the economic environment, the issue of offshore finance regulation experienced cycles of appearance and disappearance in

multilateral organizations throughout the 20th Century, from the United Nations (UN) at the end of WWII to the European Union, the G20, the Financial Action Task Force (FATF) and of course the OECD, preceded by its ancestor, the Organization for European Economic Cooperation (OEEC) (Farquet, 2014).

However, the genesis of tax cooperation debates remains a quasi terra incognita. Existing books on the history of international tax regulation are based mainly on published sources and most academic studies on this issue do not delve on the genealogy of current debates – which can be dated with the creation of the OEEC Fiscal Committee in 1956 – and deal only fleetingly with the pre-1990 period (Eccleston, 2012; Eden and Kudrle, 2005; Picciotto, 1992; Rixen, 2008; Rixen 2011; Sharman, 2006; Webb, 2004; Woodward, 2006; Eccleston, 2012). This scientific gap reinforces the widespread and mistaken conception according to which offshore finance is a recent problem resulting from financial markets' excesses during the neoliberal period (against this view: Farquet, 2012; Palan et al., 2010). Based on archival materials about international tax evasion debates since the 1920s¹, this article attempts to correct this misinterpretation by showing the structural nature of offshore finance within capitalism. Taking into account this long-term trajectory of multilateral mobilization against tax havens also questions the reasons for repeated regulatory failure throughout the last century in contrast to its current progress.

This paper charts the ebbs and flows of three cycles of international mobilization against tax havens and offshore finance from 1922 to 1987. After recounting the first attempts to regulate offshore finance in the 1920s and underscoring the disappearance of international debates on tax evasion during the 1930s and after WWII (*Section I*), we identify the period 1956-1963 as a key moment for international tax regulation during the post-war years, which can be considered as the early roots of current tax discussions (*Section II*). With the increase of offshore practices, amid early financial liberalization, the United States and several other European countries attempted to prevent tax evasion. However, these early efforts brought only very narrow outcomes. After this brief flourish of regulatory attempts, pressure on tax havens again subsided for almost a decade. During the third cycle of mobilization (*Section III*), spanning the mid-1970s and the mid-1980s, which coincided with a growing budgetary crisis in Western countries and a globalization of offshore practices among the main financial centers, an increasing number of multilateral initiatives against harmful tax practices emerged. Yet, beyond rhetorical threats, tax havens remained largely untouched: at the turn of the 21st century, a paradigmatic tax haven such as Switzerland could still easily brush off international actions against tax evasion. Explaining such resilience is a key puzzle we would like to address in this contribution.

II. The birth of offshore finance and international tax regulation, 1922-1928

The first attempts to introduce international fiscal regulation date back from the second half of the 19th Century (Jogarajan, 2011). During the Second Industrial Revolution, two fundamental problems of international taxation had emerged in interstate discussions due to the antagonism between the expansion of financial globalization, which was characterized by a remarkable intensification of cross-border capital flows, and the consolidation of nation-states and modern tax systems. On the one hand, investments by transnational companies were potentially subjected to double taxation, both by the States where the investor was domiciled and by the States which were the recipients of the investments. On the other hand, because of the lack of exchange of information between tax authorities and given the weak regulation of financial systems, other types of foreign investments, such as bearer bonds or deposits in current accounts, usually succeeded in evading taxes in the country of source of incomes as well as in the country of residence of its beneficiary.² To overcome these problems of over- and under-taxation, a few bilateral agreements were concluded between European countries from 1843 to 1913. International tax law, however, remained embryonic: due to the limited contribution of direct taxes to public budgets before WWI – tariffs provided the bulk of revenue – incentives for signing bilateral agreements on double taxation and tax evasion remained limited for both governments and investors.

Marking a sharp break after decades of «*peaceful accumulation*» of capital (Piketty, 2001: 234), the financial consequences of WWI placed international taxation issues at the center of the diplomatic arena. The costs of war and reconstruction led to a very significant increase in state intervention: even if the arbitration between inflation and taxation to reduce public debt differed greatly among Western powers, the overall tax burden related to the GDP increased everywhere. In less than a decade, this index roughly doubled in Britain, while it grew about 70% in Germany and 40% in France.³ The quantitative leap induced by the conflict was especially remarkable for the taxation of high incomes and large fortunes: in order to have all social strata participating – at least apparently – to monetary and financial stabilization efforts, the top marginal rate of progressive taxes literally surged in the early 1920s. In France, top rates increased from 2% in 1914 to 62.5% in 1920. The trend was the same elsewhere: between 1913 and 1920, top rates surged from 8.3 to 60% in Germany, 17.1% to 60% in Britain and 7 to 73% in the United States.⁴ After a relative roll-back in the second half of the 1920s, the Great Depression and the arms race revived budgetary expansion so that on the eve of WWII the maximum tax rates could theoretically eat up almost all incomes of very rich taxpayers in the Allied countries.

In this context, the issue of international tax evasion entailed high political salience. Given the sharp increases in tax burden, capital holders' resistance to new taxes was fierce and produced, among others, massive capital flight towards countries that were suffering from the same financial and political troubles as the former belligerent – first and foremost for Europe, in neutral countries such as Switzerland and the Netherlands, where assets were imported before being re-invested in foreign markets (Cassis, 2011; Euwe, 2010; Perrenoud et al., 2002: 44-71). As far as taxation is concerned, the expatriation of wealth in these tax havens ensured an almost total tax exemption: most non-residents assets were tax free, while the banking secrecy that prevailed in Switzerland, the Netherlands, but also to a large extent in the UK, coupled with the porosity of European countries' currency exchange controls and the general lack of international cooperation between tax administrations, very much hindered attempts to identify exported assets in the residence country of the investor (On banking secrets: Guex, 2000; Farquet, 2014: 519-523; Sichtermann, 1957). In addition to political and monetary factors, this double non-taxation – both at source and domicile – was a major incentive for capital flight in the 1920s and the 1930s. Moreover, as capital flight triggered a race to the bottom in tax practices, the opportunities of circumventing the taxes via the export of capital represented a constant barrier to the consolidation of Western European fiscal administrations.

Given the shortcomings of existing statistics, it is difficult to assess the magnitude of this first boom of international tax evasion and tax havens. However, estimations suggest it was very significant. Swiss Finance Minister Jean-Marie Musy, a diehard fiscal conservative, estimated foreign assets in Switzerland in 1920 at a minimum of CHF 10 billions, i.e. \$2 billions or the equivalent of all British long-term investments in Europe.⁵ In the heyday of the 1920s, when political and monetary stability had returned, estimates of securities deposits in Swiss banks became properly staggering: they tripled between 1924 and 1930 from CHF 10.8 to CHF 29.3 billions (Mazbouri et al. 2012: 477). The latter figure equaled almost all German foreign debts on the eve of the 1931 financial crisis (Born, 1967: 18) and represented about three times the Swiss GDP, a level that would be reached again in the Confederation only in the 1970s. Meanwhile, tax evasion incentives were developed in European financial centers that allowed multinational companies to set up affordable tax domicile in their territory, and subject repatriated profits to a minimal tax burden. First created at the turn of the century in small Swiss cantons, tax benefits granted to holding companies were emulated in the majority of Swiss cantonal legislations during the 1920s, as well as in Liechtenstein and Luxembourg in 1929. The number of holding companies registered in these offshore centers increased thereafter, from 158 to 2017 in Switzerland between 1921 and 1939 and from 360 to 1110 in the Grand Duchy between 1933 and 1939.⁶

Consequently, the problem of tax evasion made a first foray into multilateral discussions. In the early 1920s, a complex diplomatic game was played between Entente governments on the issue of the taxation of exported assets. On the one hand, though very conservative, the French and Belgian executive branch, led by Raymond Poincaré and Georges Theunis, advocated in 1922 an

international arrangement against international tax evasion. Following their tax authorities, which estimate that tax evasion on securities exceeded 50%⁷, these governments, plagued by a rampant fiscal and monetary crisis due to the importance of their public debt, pursued both financial and diplomatic objectives. France and Belgium were not only trying to increase the very low yields of their new income taxes by pursuing expatriate wealth, they were also paving the way for a consolidation of their own domestic tax practices and controls by eliminating the usual objection to this reinforcement: it would inevitably induce massive capital flights. However, an even more important diplomatic goal presided over the combative attitude of these right-wing governments against international tax evasion. French and Belgian ruling circles were trying to hamper massive German capital flows towards neutral countries, which, in generating currency depreciation, was the best excuse for the Reich to demonstrate its inability to fulfill its War Reparations obligations.⁸

On the other side, however, the British government vetoed Franco-Belgian ambitions. Supported by the Neutrals, as part of the economic *retour à la normale* supposed to re-establish the dominant position of the City, the UK condemned in post-war conferences any state intervention in international financial relations and advocated balanced budget and monetary stability by the use of austerity plans and the restoring of markets' confidence. Equally hostile to a settlement of Reparations primarily intended to supply cash to the Hexagon, the British openly and successfully opposed any foreign interference on German finances despite hyperinflation. French attempted tutelage over German finances in order to secure War Reparations failed quickly, which contributed in triggering the occupation of the Ruhr in early 1923 (Trachtenberg, 1980: 220-242). A year later, during the Dawes Plan negotiations, the McKenna Committee, chaired by the eponymous leader of the largest English bank, condemned capital flight controls in order to stabilize the mark. On the contrary, the Committee favored a liberal policy to repatriate previously exported German assets through tax amnesties and international loans.⁹

Since 1923, the Franco-Belgian camp had also gradually retreated from its initial campaign against international tax evasion perpetrated by its own residents. Ambiguously passed on in 1922 by the Genoa Conference to the LON, the treatment of this issue was coupled to the elimination of double taxation with a formal guarantee for the preservation of banking secrecy.¹⁰ In Geneva, a Committee of Experts that included tax representatives from major LON economic powers discussed tax evasion. While French and Belgian officials were trying to promote extensive international exchange of information as well as a multilateral implementation of new domestic tax control techniques, the director of the Swiss federal tax administration, following the desiderata of the Swiss Bankers Association (SBA), countered these initiatives with moderate support of his British counterpart.¹¹ Indeed, in Switzerland, the close alliance between the government and the business circles for the protection of the banking secrecy was strengthened by the fact that in December 1922 an attempt by the Swiss Socialist Party to implement a capital levy met a very wide opposition: after more than 85% of the voters refused this project in a popular vote (Guex, 1994), the Swiss conservative elite could legitimately adopt an aggressive line of defense of its tax haven.

During the winter 1924-1925, while the *Cartel des Gauches* was weakened by a financial crisis directly correlated to its fiscal program and the distrust of French capitalists and foreign banks (Jeanneney, 1977: 70-77), the LON Committee of Experts brought therefore forth a mouse: its recommendation against double taxation and tax evasion was broadly in line with tax havens interests. Interstate exchange of information to fight tax evasion was to be limited to information relying on the current tax practices of national administrations and should integrate the greatest possible number, if not the unanimity, of member states. With these words, banking secrecy was legitimized and the possibility of an international agreement became a chimera.¹² In his assessment of the report, the Swiss government could brazenly claim that «*all reserves contained in the text will allow Switzerland to stay away of any international agreements on fight against tax evasion*».¹³

From 1926 to 1928, the LON Committee of Experts, extended to non-European delegates, accentuated his liberal tendencies by sidelining the issue of tax evasion in favor of the treatment of double taxation.¹⁴ This move was typical of the international context of the Roaring Twenties. From the summer 1926 onwards Western conservative governments promoted tax relief on incomes and, more generally, a roll-back to the liberalism of the pre-war period. Poincaré's return to power and the

formation in Belgium of a national union government led to a financial recovery with the help of international loans, placed notably in Switzerland, and hence to the end of pressures against offshore finance (Mouré, 1991; Van der Wee and Tavernier, 1975). But the fading of tax evasion debates in Geneva was also part of the internal evolution of the LON. After the success of its monetary stabilization plans in Austria and Eastern Europe, the Financial Committee – the tutelary authority of the Committee of Experts on taxation and a paragon of liberal orthodoxy dominated by the City (Fior, 2008) – defended a program of capital flows liberalization that was detrimental to international tax cooperation. It was no accident that on the recommendation of the Financial Committee, the Committee of Experts invited in 1926 a representative of the International Chamber of Commerce (ICC) and a prominent advocate of banking secrecy, Geneva banker Robert Julliard, to join its ranks.¹⁵ Finally and perhaps most importantly, the participation of the United States in the Economic and Financial Organization of the League from 1926-1927 led to the increasing presence in Geneva of close advisers of the Secretary of the Treasury, the ultraconservative Andrew Mellon, who was strongly opposed to any improvement in tax controls.¹⁶

Bringing together 27 States, the October 1928 Geneva Tax Conference certainly validated a series of standard agreements intended to serve as models in inter-state bilateral negotiations on double taxation as much as on administrative and legal assistance against tax evasion.¹⁷ Nevertheless, this compromise embedded in very clear liberal tendencies. Tax avoidance issues were hardly addressed during the discussions and the conference endorsed model conventions on fiscal assistance that offered even greater respect for banking secrecy than the 1925 recommendation. Moreover, American delegates managed to impose after four days of backroom negotiations a competing standard to the original model agreement against double taxation that had been drafted and negotiated during five years by the Committee of Experts. Because it legitimated taxes on interests and dividends by the country of residence of the income recipients rather than at source of profits, this Anglo-Saxon model convention strongly favored creditor powers (i.e. the United States and Great Britain). In other words, the agreement sought to reduce the tax burden on exported capital by carrying the cost of relief forward to the debtor States.¹⁸

Although the Conference extended tax discussions inside the League by creating a permanent Fiscal Committee, the 1928 meeting marked, with this dilution of regulatory power in different conflicting standard agreements, the end of the first cycle of multilateral tax regulation. Still dominated by US experts and supported by the Rockefeller Foundation, the new Fiscal Committee of the LON mainly discussed during the first half of the 1930s common principles to assess taxes on multinational corporations.¹⁹ During an overseas trip organized by the American Chamber of Commerce in the mid-1930s²⁰, the Fiscal Committee prepared a model agreement on the ventilation of profits that legitimized the taxation of subsidiaries as separate companies (arm's-length principle) – and not as a share of the overall profits of the group – a principle which left wide opportunities to circumvent taxes via transfer pricing and other accounting manipulations.²¹ These tricks were so prevalent during the inter-war years that the Swiss delegate to the Fiscal Committee remarked that *«It is easy for a company encompassing several branches to establish its accounts so that the benefit appears where it wants to appear; in creating bills accordingly, one can obtain, for example, that there is no benefit to a sale office or to another subsidiary»*. In 1927, CIBA, one of the biggest Swiss pharmaceutical companies, thus reduced artificially the profits of six foreign establishments by 78.5% thanks to transfer pricing.²²

From the early 1930s, after the failure of these first multilateral tax debates and with the widespread bilateralization of international economic relations and the marginalization of the League, negotiations on double taxation and tax evasion took place mainly outside Geneva. But surprisingly, despite budgetary constraints, with shrinking public revenues and the rise of state intervention during the Great Depression, these negotiations were again very favorable for offshore finance. Less than half of the more than thirty double taxation agreements signed between 1928 and 1939 incorporated tax assistance measures (moreover most of the time in a very limited way). The case of Switzerland – the tax haven par excellence – is the most obvious illustration of this process. From 1927 to 1939, the Confederation negotiated four double taxation conventions and a series of informal agreements that not only contained no measures against tax evasion, but also offered significant tax reliefs at the

source for monies exported or re-exported from Switzerland (Farquet, 2013). As demonstrated by its relations with France, the Swiss financial center was able to grant loans to States in crisis as a compensation for these generous exemptions. As these loans were subscribed in large part through foreign evaded assets, this meant that holders of fraudulent capital received a dividend for their financial contribution to the national budget rather than paying taxes (Perrenoud, 2011: 209-214; Schaufelbuehl, 2009: 316-330). In addition, the Confederation had strong support within European countries from business elites who used the services of the Swiss tax haven.

III. The postwar revival of offshore finance and the timid denunciation of tax havens, 1956-1963

It is quite surprising to consider that the post-WWII years marked an eclipse of tax multilateralism. During a period of expansion of welfare states and Keynesian economics, tax burdens in Western countries reached a second quantitative threshold and continued to grow over the following three decades. In contrast to their interwar deficiencies, direct tax systems were renovated: the tax base increased and improved control and perception techniques were introduced. In addition, after fifteen years of economic crisis and war, the free movement of capital dogma was severely shaken. For instance, and contrary to previous LON precepts, Article 6 of the International Monetary Fund Agreement (IMF) of Bretton Woods allowed countries, to restrict capital flows (James, 2012: 411-430). But, if international tax cooperation was hardly resumed in such a conducive environment for financial regulation, it might be precisely because unilateral barriers to capital movements were adopted by all major European countries and because they proved to be much more efficient than during the 1920s and 1930s. Faced with the threat to economic stability due to the potential conflict between, on the hand, the adoption of a fixed exchange-rate system and, on other hand, expansive monetary and fiscal policies implemented to ensure full employment, capital flight was prevented by external currency inconvertibility and permanent restrictions on assets export (Eichengreen, 2008: 91-133).

In this context, also characterized by the relative eclipse of pre-war wealth, offshore finance declined significantly. Even in Switzerland, preserved by the damages of the conflict and a stronghold of financial liberalism at the heart of Europe (Longchamp, 2014), transnational wealth management slowed down in the immediate post-war period. Securities deposits in Swiss banks declined by 20% (in real terms) between 1944 and 1949, and their volume corresponded to only 40% of the peak amount reached before the financial crisis of 1931. Similarly, and although there were no real alternative platform for the domiciliation of companies in Europe, the number of holding companies based in Switzerland declined by 25% between 1938 and 1953 (Mazbouri et al, 2012: 477; *Annuaire statistique*). Under the era of post-war financial repression, offshore operations thus experienced a contraction, which probably calmed down advocates of international tax cooperation. We should maybe add to this picture another important factor: European hot money fled mainly at the end of the conflict towards the United States and became the preserve of American banks. As US investors and government simultaneously and massively supported European economies through the Marshall Plan, this kind of balance in transatlantic capital flows was perhaps conducive to the status quo (Helleiner, 1994: 51-77).

Whereas tax evasion conflicts faded within international organizations, the UN Tax Committee, which pursued the activities of the LON from 1947 onwards, became a battleground between Northern powers and the emerging post-colonial South. Rather than capital flight and tax evasion, issues related to the taxation of international investments concentrated the main antagonisms. The divergence between the Mexico and London models was reactivated within the UN: the creditor powers – pushing for the liberalization of capital without causing a loss of tax revenue for their States – favored taxes on the income from capital invested abroad at the residence (and tax exemption at the source), while debtor countries argued for the opposite in order to extract more tax revenue at the source of incomes and profits (Carroll, 1951; Carroll, 1952). Following political scientist Sol Picciotto – but we need more archival research to confirm this assertion and we know that the Cold War played also a major role – this antagonism was the main cause of the paralysis of the UN

Committee and, ultimately, of its dissolution in 1954 (Picciotto 1992: 51). After this episode, the UN focused on technical tax assistance and advised Southern countries on how to set up and consolidate their own tax systems, a task to which the IMF also participated from 1964 onwards within its Fiscal Affairs Department (Goode, 1993: 37-53).

During this temporary pause of fiscal multilateralism, international business circles around the ICC lobbied to confine international debates to a narrower circle of Western powers. The ICC – which had already participated in the creation of LON tax regulations – passed a resolution in late 1954 promoting, «*in the interest of the development of intra-European trade and investments*», the conclusion of a multilateral agreement between OEEC countries to reduce double taxation following the 1946 London model convention.²³ Relayed by the Swiss and Dutch financial centers, and associated more surprisingly by Germany, the ICC initiative contributed to the creation in 1956 of a Fiscal Committee within the Paris-based organization.²⁴ Composed mainly of national Treasury representatives, the Committee immediately pursued a less ambitious project than the ICC: elaborating principles that might lead to the standardization of bilateral double taxation agreements and to summarize these standards in a new model convention.²⁵ Until the late 1950s, these discussions closely resembled the LON debates of the second half of the 1920s. Despite minor dissensions on clauses against double taxation, a strong consensus emerged among the major powers (Britain, Germany and to some extent also France): the discussions should finally contribute to financial liberalization, a paramount aim for the OEEC.²⁶ With the exception of isolated statements, there was no room for tax evasion issues in this program.²⁷ We should then be not surprised to hear the Swiss delegate applauding the early outcomes of OEEC work as «*more satisfactory than [...] expected*»²⁸ and as «*proposals [that] match the Swiss principles applied to the elimination of international double taxation*».²⁹

However, in September 1961, the transformation of the OEEC into the OECD, and the inclusion of the United States as full member, changed the tone of the Parisian tax debates. Since the mid-1930s, a turning point had occurred in US international tax policy with the Roosevelt administration: the government broke with the Mellon era and supported interstate cooperation against tax evasion (Farquet, 2014: 460-461). Even if American initiatives in this area remained confined to the bilateral level until the 1950s, several factors encouraged the US government to use the OECD Fiscal Committee against tax havens. First, the liberalization of capital flows accelerated by the 1957 emergence of the Eurodollar market and the return to convertibility of major European currencies the following year – led to a marked increase in offshore activities. The number of holding companies, the evolution of bank balances and securities deposits in Switzerland, shot up exactly at this time, while exotic tax havens proliferated in former English and Dutch colonies (Palan et al., 2010). Second, the American economy was specifically vulnerable to damages caused by tax havens because of its increased presence on foreign markets. From the mid-1950s, American multinationals settled en masse to Western Europe, and took advantage of the tax credits offered by countries such as Switzerland to establish there special subsidiaries, or «base companies» whose purpose was not only to manage and coordinate their European operations, but also to use Switzerland as a platform to repatriate and recirculate profits and investments (Müller, 2009: 105-128). Third, in the late 1950s, the negative evolution of the US balance of payments, with large deficits, raised the threat of a vicious circle that would combine destabilization of the dollar and capital flight.

The Kennedy administration therefore immediately reactivated discussions on tax evasion at the OECD. The first note submitted by the American delegation to the Fiscal Committee suggested setting up a Working Party against the misuse of double taxation agreements.³⁰ The Treasury explicitly aimed through this action at hindering the relocation of multinationals headquarters in countries (such as Switzerland) with a dense network of fiscal conventions that facilitated the repatriation of profits to their territory. Within the Committee, US representative Richard Gordon became a staunch supporters of an assistance clause against tax evasion without loopholes in the future OECD model convention against double taxation.³¹ As it had been the case during the 1944-1946 difficult negotiations with the Allied powers, the years between 1958 and 1963 constituted a tense period for Swiss banking secrecy and tax practices. Pressure emanated almost exclusively from the United States: while a relentless media campaign was conducted across the Atlantic against banking secrecy-

criticism against the Swiss financial center was becoming «*an almost daily phenomenon*» in US newspapers according to a prominent Swiss banker³² – the US Treasury unsuccessfully attempted to obtain information from the Swiss administration on the use of holding companies by American firms.³³ These tensions arose alongside other bilateral disputes that had their origins in unsolved WWII issues, such as Jewish unclaimed assets in Swiss banks and American claims against Interhandel, the Swiss holding company of the former Nazi *Konzern*, IG Farben (Bonhage et al., 2001; König, 2001).

Within the Swiss diplomatic corps and the SBA, which closely worked together to stifle these pressures, the tension became acute when fronts against banking secrecy opened on all sides in 1962-1963. In addition to conflicts within the OECD during the imminent adoption of the tax model convention, increasing European integration threatened to create a multilateral alliance on the Continent against the parasitic practices of the Swiss tax haven.³⁴ The increase in offshore activities also encouraged the governments of neighboring countries to react unilaterally. This was the case in Germany – which denounced the growing use of «base companies» and holdings in Switzerland and established a parliamentary committee on tax havens.³⁵ The same pattern was replicated in Italy where the recycling of banknotes via Swiss banks –which might have reached CHF 4.5 billions CHF (more than \$1 billion) during the first semester 1963 – was publicly denounced by Giulio Andreotti.³⁶ Last but not least, the consensus on tax competitiveness seemed to crumble within Switzerland itself when, to the dismay and furor of business circles, the Christian-Democrat Finance Minister, Jean Bourgknecht, endorsed in the spring of 1962 the most virulent official report against tax fraud in the Confederation since the early 20th Century. This embarrassing report also mentioned explicitly the issue of foreign tax evasion in Switzerland and mentioned easier exchange of fiscal information between Switzerland and its foreign partners as a path to be considered.³⁷

But in the end this flare up amounted to no more than a flash in the pan. The OECD Fiscal Committee finally published in 1963 his model convention against double taxation, including one article on the exchange of tax information that contained safeguards for banking secrecy in line with the 1925 LON report.³⁸ Switzerland was the only country to express its reservation against this clause and this obstruction was probably not unrelated to the timid outcome of OECD debates on tax evasion.³⁹ More importantly, the combative attitude of the US Treasury delegates was hardly relayed by their European counterparts. In July 1962, a survey of the Swiss Ministry of Foreign Affairs already identified large cracks in the apparently unified foreign front against banking secrecy.⁴⁰ In Paris, for example, given the extensive use of Swiss accounts by the French ruling circles, the Swiss Ambassador wrote that «*no contrary trend to banking secrecy is perceptible in France in 1962. On the contrary all leaders secretly wished that it should be maintained*».⁴¹ Alongside the discreet support of European elites, the Swiss offshore center benefited also from the international financial environment. The European powers had generated balance of payments surpluses since the second half of the 1950s, encouraging even some central banks to promote capital exports to prevent economic overheating. In other words, despite the revival of offshore finance in the early 1960s, the situation was far from the explosive configuration of the first half of the 1920s, marked by a direct correlation between capital flight and currency crises (Katz, 1969). US business circles also mobilized in Congress to defang Kennedy's international tax policy efforts.⁴² The US government seemed to acknowledge the difficulties of an international alliance against tax havens in this context and moved towards the adoption in of a series of unilateral measures to prevent flight from the dollar. In 1963-1964, for example, the introduction of a surtax on foreign securities' income earned by US residents – the Equalization Tax – limited the attractiveness of investments abroad, which ultimately boosted the offshore Eurodollar market (Palan, 2010: 163-164). Despite heated business opposition, the Kennedy administration was also able to slow down the installation of new «base companies» within countries such as Switzerland.

The 1963 OECD standard agreement was in line with the various model conventions developed under the auspices of the LON in the 1920s with an inclination to favor the taxation of incomes from *capital exports in the country of the taxpayer's domicile*. Regarding the taxes on multinational corporations, also in accordance with previous measures, their subsidiaries were specifically excluded from the list of the permanent establishments that were taxable on the basis of an apportionment of

the total profits of the firm, offering ample room for maneuver to these companies to reduce artificially their profits. As for interests and dividends, they were certainly taxed at source, but at a relatively low maximum level of respectively 10% and 15%. In short, the road was now free for a decade of accumulation of fraudulent capital. The evolution of Swiss policies confirms this trend. In December 1962, when pressures against banking secrecy multiplied, the federal government had taken some token measures to prove its good will to the United States, in the form of a federal decree on the return of unclaimed assets and another decree against the misuse of double taxation agreements which modestly restricted treaty shopping opportunities (however this decree was not retroactive and thus did not impact existing US base companies that had settled *en masse* around 1960).⁴³ After 1963, Swiss leaders did not even need anymore to make such acts of contrition. Inside Switzerland, Bourgknecht's vehement report against tax fraud led ironically, after a vigorous lobbying campaign of the banking world and the replacement of the Minister of Finance⁴⁴, to a popular vote in favor a general tax amnesty in 1968 (Fehr, 2015). In international relations, the OECD model convention facilitated the conclusion of a number of double taxation agreements without assistance clauses against tax evasion. Between the turbulent years that spanned from 1957 to 1964, only one such agreement was signed by the Confederation. However, over the next fifteen years, around twenty conventions were signed and none of them contained any restrictions on banking secrecy.⁴⁵

IV. Globalization of offshore economy and the changing rules of fiscal multilateralism, 1977-1987

In the 1970s, two factors were responsible for the re-emergence of issues of tax havens and offshore finance in multilateral arenas. On the one hand, the Western countries faced deep fiscal crises with the slowdown in the global economy following the first oil shock of 1973. The decline in budget revenues due to tax evasion became a sensitive issue especially because this deterioration of public accounts occurred when the inflationary policies of deficit spending had lost its appeal resulting from the ineffectiveness of Keynesian remedies on the phenomenon of stagflation. On the other hand, the breakdown of Bretton Woods system and the transition towards flexible exchange rates marked a second step in the liberalization of financial movements and international markets. This step stimulated offshore activities. The United States abandoned capital controls in 1974 and Thatcher's government did the same in Britain in 1979, before the large European countries followed suite in the next decade. This therefore accelerated the expansion of the international market for tax evasion after its reappearance in the late 1950s. In fact, between 1975 and 1985, bank deposits owned by non-residents other than banks quintupled globally, from \$149.1 billion to \$796.1 billion according to statistics recorded by the IMF.⁴⁶ London, which dominated the market for Eurodollars, intensively participated in these booming of offshore transactions, with the volume of investments on it mounting to \$583 billion in 1981.⁴⁷ The use of tax havens by multinational companies equally increased: between 1968 and 1978, direct investments in tax havens by the US companies increased from \$4.697 billion to \$23.022 billion.⁴⁸ Finally, the traditional activities of international tax evasion in Switzerland rapidly expanded. The securities administered by Swiss banks increased from about \$120-140 to \$770 billion between 1975 and 1986.⁴⁹

Along with the liberalization of capital movements and the progressive reconstitution of large fortunes after the war, this expansion of offshore transactions was stimulated by globalization of the tax evasion practices. For instance, banking secrecy – i.e. the respect for the confidentiality of bank accounts by the tax authorities – was reintroduced in several medium-sized centers. In 1979 and 1981, Austria and Luxembourg adopted relatively similar legislations that were already in force in Switzerland.⁵⁰ In taxation procedures, banking secrecy was even given further prominence in some European countries such as Ireland and Portugal, where this protection extended not only to the case of tax evasion but also to active fraud.⁵¹ Similarly, new tax benefits were granted to foreign assets. A typical case of this offer of deregulation was the implementation of the International Banking Facilities in the United States in December 1981. To repatriate the Eurodollar market in the US, the International Banking Facilities consisted of a set of privileges offered to foreign bank transactions, including the abolition or reduction of local state taxes.⁵² While the tax evasion offer expanded, new

customers emerged simultaneously from non-European countries and fueled the growth of the tax evasion market. A significant share of oil revenues of OPEC countries was for example placed on the Eurodollar market and the exodus of Latin American assets to Western countries considerably increased in the years 1970/1980.⁵³

Despite this substantial expansion of the markets for tax evasion, governments of major Western countries showed the least efforts in their regulations against offshore activities until the mid-1970s. At the OECD, the post-war consensus within international organizations was only slightly shattered again until 1977: tax multilateralism remained primarily intended to lower burdens on foreign investments. It is true that several working parties of the Committee of Fiscal Affairs (CFA) – the former Fiscal Committee – oriented their works on topics related to capital flight. This was particularly the case in transfers of profits in areas of low taxation by multinational corporations, which were subject to a series of recommendations for tax administrations by Working Party No. 6. Nevertheless, the revision of the bilateral agreement model of 1963, which ended in 1977, was not accompanied by a major overhaul of Article 26 in the exchange of information between national administrations, which by respecting practices and internal legislations recommended by assistance procedures, offered a wide guarantee of banking secrecy.⁵⁴ In fact, until the mid- 1970s, European states fought international tax evasion mainly by strengthening internal legal provisions. For instance, keeping Switzerland and Liechtenstein in mind, Germany, on 8th September 1972, passed a law to prevent the domiciliation of German firms with the use of letterbox companies. Soon after, Belgium and France adopted innovative legislation, in 1973 and 1974, respectively, so that they could surcharge multinational groups having activities in territories offering tax privileges.⁵⁵

In the late 1970s, however, a third cycle of multilateral discussions on tax evasion was once again initiated, mainly driven by the German and French leaders, and initially supported by the US Treasury. In 1977, after three years of debate and despite a reiteration of attempted obstruction by Swiss delegates,⁵⁶ a Working Party No. 8, specifically dedicated to tax evasion and methods to counteract it, was set up by the CFA.⁵⁷ A double-break then occurred in comparison to the rules of tax multilateralism as they were constantly engaged since the 1920s within international organizations. On the one hand, CFA's goals went far beyond the creation of standards of cooperation between tax administrations, which were likely to shape later the outcome of inter-state negotiations. The program pursued by OECD was ambitious as it aimed to influence the legislation and internal practices of the States to restrict any opportunities for international tax evasion. On the other hand, the multilateral scope widened through the involvement of diverse international organizations in the fight against fraud. By the mid-90s, the acceleration of European economic integration promoted tax harmonization efforts between the States of the Community, as well as larger cooperation between national administrations to combat tax evasion.⁵⁸ The idea was very quickly emitted within European Finance Ministries to couple these discussions with those simultaneously led by the OECD. Towards the end of 1980, a multilateral convention on administrative assistance was jointly developed by the CFA and the Council of Europe.⁵⁹

These new forms of international action against tax evasion resulted in three outcomes, which were once again all hypothetical rather than practical. The first outcome drawn by the Working Party No. 8, which reactivated a project previously defended by the LON during the 1920s, was a model convention on recovery of tax debts to be completed in 1981 by the OECD. Whereas this agreement did not really affect offshore finance, the two main issues concerning the practices against tax avoidance by the Working Party were not resolved until very late. Monopolizing the debate in early 1980, work on the abuse of banking secrecy and safe havens were completed in 1987 and presented in an OECD publication entitled "*International Tax Avoidance and Evasion: Four Related Studies*". Although the published work recommended (1) the extension of the cooperation against tax avoidance, (2) the restriction of privileges granted to shell companies, and even (3) lifting banking secrecy in dealing with tax authorities, the four studies that constituted this report were academic theories without practical implementation.⁶⁰ Instead, the main innovation in international regulation came from the joint development between OECD and the Council of Europe on a multilateral convention for administrative assistance. This collaboration, however, culminated only after six years. Open to ratification in 1988, without legally binding any of the member states, it came into effect for

the signatory countries in 1995 (Godefroy, Lascoumes 2004: 140; Picciotto 1992: 256). In short, the 1980s did not see any significant progress in the multilateral fight against tax havens. To understand the extremely limited scope of these results, at the same time when the offshore experienced unprecedented growth, one could invoke of course the recurrent difficulties of multilateral discussions as in the previous decades. In fact, the cooperation between the OECD and the Council of Europe in the early 1980s proved to be very tedious and slow, every decision going back and forth between the two institutions before reaching a consensus. However, during the 1970s and the 1980s, these obstacles were further enhanced by the greater obstructive capacity of tax havens within international organizations, owing to their proliferation and integration into multilateral discussions.

The Swiss leaders remained at OECD at the forefront of the resistance against international tax regulation. Inside the Confederation, the budget crisis, the rise in the CHF and in 1977 a huge scandal of tax fraud involving a subsidiary of Credit Suisse in Chiasso, certainly opened a debate on the need to restrict the supply of tax evasion by Swiss banks in the second half of the 1970s (Farquet 2016). The Swiss leaders then set up a dual strategy for preserving the attractiveness of their offshore market. Domestically, the Swiss government made only minor adjustments as preventive measures of banking secrecy to fight the most aggressive and the most explicitly illegal Swiss bank practices without affecting their competitiveness on the tax evasion market. Due to the Chiasso scandal, a Gentlemen's Agreement was passed in July 1977 between the Swiss National Bank (SNB) and the SBA forcing financial institutions to identify holders of bank accounts as well as hindering the active solicitation of illegal funds.⁶¹ The Swiss law also undertook a clarification between the concept of tax avoidance or evasion (*soustraction fiscale*) and actively committed tax fraud (*escroquerie fiscale*), wherein only the latter could lead the court to lifting of banking secrecy. This distinction was then translated into an international law: following an agreement on mutual legal assistance signed with the United States in 1973, the Federal Act on international mutual assistance in criminal matters of March 1981 required the Swiss authorities to provide assistance to their foreign counterparts in cases of active tax fraud.⁶²

Internationally, the defense strategy of banking secrecy was less sophisticated. The Swiss delegates operated with a systematic diplomatic barrage against any discussions linked directly or indirectly to the fight against tax evasion. The inventory of these actions against the OECD is remarkable for its length. The Swiss delegates tried to slow down the discussions of the Working Party No. 6 in 1979 after the enactment of regulations against manipulation of transfer prices by multinational corporations.⁶³ In June 1981, the Swiss delegates refrained from supporting the standard agreement for the recovery of tax claims.⁶⁴ They did the same two years later on against a recommendation by the OECD Council in favor for creating a convention of administrative assistance in 1982, and during its final drafting in 1986.⁶⁵ In May 1984, a popular initiative, launched by the Socialist Party, to limit the confidentiality of the assets of Swiss banks and regulate their practices of attracting foreign funds failed.⁶⁶ The Swiss representatives were thus allowed to fully reject the requirements against the abuse of banking secrecy and to oppose the clauses against the use of shell companies and tax havens in 1985.⁶⁷ Nevertheless, it would be a mistake to overestimate the exceptionality of the Swiss policy. Due to the globalization of the offshore, the allies of Switzerland were increasingly proliferating in the international spheres. In terms of the issues of administrative assistance and the limitations of banking secrecy for instance, Austria, Portugal and Luxembourg also emitted very large reserves.⁶⁸

Besides the obstructive capacities of tax havens, it is clear that the neo-liberal turn that occurred at the time in all major Western countries was making international tax evasion more tolerable. The globalization of offshore activities was actually at the head of a more general phenomenon: the decline of tax rates on high incomes and corporate profits via international tax competition that began precisely at the start of the 1980s (Tanzi, 1987). In this context, the tolerance towards tax havens tended to increase as these were key vectors for the spread of this race to the bottom. In September 1983, a report by the OECD Secretariat stated very explicitly that within member countries « *no clear trend towards a relaxing of bank secrecy seems to emerge, however undesirable, for tax and non-tax reasons, some effects of the situation may be* ».⁶⁹ In parallel of the OECD debates, in bilateral relations, the Swiss tax haven thus did not suffer from a growing pressure of neighboring countries and did not sign any agreement on administrative assistance against tax

evasion during this period. One of the most paradigmatic example of this shift to the widespread acceptance of the rules of the tax competition game was perhaps the policy pursued by the Socialist government of François Mitterrand. After the flight of French fortunes and the failure of the Keynesian policy program between 1981 and 1982, the government began its "*tournant de la rigueur*" to an austerity policy in March 1983, which allowed him among others to obtain an international credit from European countries. During this process, Mitterrand went to Switzerland in April to pacify relations with the Swiss bankers and gave reassurance of his respect for banking secrecy, even though his administration had previously attacked it for the purpose of renegotiating an agreement on double taxation (Farquet, 2016). In summary, it appeared that in the early 1980s, the configuration of the mid-1920s was repeated again on the issues of international taxation. The inability or the unwillingness of big governments in international cooperation was strengthened by the obstruction of tax havens that were more powerful precisely because of this liberalization; all these participated in the transformation of multilateral negotiations on tax evasion to harmless discussions of expertise.

V. Concluding remarks: beyond the struggle for tax justice

Far from being a recent product of the excesses of neoliberalism or from advancing in a linear fashion, attempts to regulate international tax evasion experienced various cycles of emergence and disappearance throughout the 20th century. Beyond the contingency of these debates and their insertion in changing contexts, we would like to stress here two key features. First, tax evasion emerged in the multilateral arena linked to a recurring condition: regulation was invariably triggered by governments affected by capital flight and used as a substitute or complement to unilateral controls when the latter proved to be insufficient to prevent a crisis in international balance of payments. This was true in the inflation of the early 1920s as well as during the 1977-1987 period – marked by the dissolution of the Bretton Woods system and the subsequent acceleration of financial liberalization –, as well as, but to a lesser extent, for the period 1956-1963 when the US balance of payments went haywire. By contrast, the years 1930-1955, characterized by unilateral restrictions on financial flows, witnessed a withdrawal from tax multilateralism, and this despite heightened state interventionism. Second, it is striking to note the obstructionist capacities of Swiss representatives in all these international debates. This impact was partly the result of the cohesiveness of Swiss financial diplomacy, dominated by the most internationalized fringes of financial capitalism, as well as the breadth of its economic and diplomatic power, which was far beyond that of the other small offshore centres. But this influence resulted also from the cross-border alliances with foreign elites who routinely used the amenities of the Swiss financial centre, or at least whose own interests did not contradict the race to the bottom that the Swiss tax haven generated on their own domestic tax systems.

The unwarranted influence of an average economic power such as the Confederation during all these discussions raises ultimately the question of why big countries decided to launch campaigns against tax evasion from within international organizations. On the one hand, governments' and administrations' motivations to yield the menace of tax multilateralism were very diverse and went far beyond a hypothetical struggle to increase tax revenue or ensure a fairer distribution of tax burdens on various social strata. Quite paradoxically, calls for tax cooperation within international bodies were actually often linked to domestic policies' aims, such as the strengthening of tax controls inside France after WWI. However, besides these domestic considerations, governments pursued other objectives linked to international economic competition. Pressure against tax havens could aim at weakening the attractiveness of these centres in order to either keep investments within national borders and to reinforce economic development and monetary stability, or, and this was key for major financial centres, in order to redirect floating foreign assets towards their own financial markets.

On the other hand, while these multilateral games are very intricate due to the diverse cumulative or contradictory interests they reveal, their analysis becomes even more muddled when we take into account a last but undeniable phenomenon: launching debates on tax evasion within international

organizations can sometimes be a way for a government to divest itself of a very sensitive domestic topic while publicly demonstrating his willingness to tackle it on a seemingly higher international arena. Considering the sluggishness of multilateral policy processes, the very strong obstructionist capacities mentioned above, as well as, at least in the case of the LON and the OEEC, the reluctance of the organization itself against any regulation efforts, the placement of tax evasion on the agenda of international bodies proved throughout the 20th Century to be an effective way to deflate and deflect mobilization against tax havens – a strategy actually noticeable at the very beginning of such mobilization, namely at the Genoa Conference in 1922. Rather than analysing the failure of the multilateral fight against tax havens in the 20th Century in contrast to its relative success in the current crisis, it might be perhaps more fruitful to consider how international organizations proved to be flexible structures and eventually served as multipliers for dominant power relations. The LON discussions ultimately allowed Great Britain to shrewdly stifle attempts to regulate tax evasion, whereas the multilateral debates offered the United States between 2009 and 2014 a useful fulcrum, likely to serve as a support of unilateral attacks against banking secrecy.

¹ This paper mainly uses LON and, OEEC/OECD archives, as well as sources from the emblematic tax haven throughout the 20th Century, namely Switzerland.

² See for instance the contemporary studies on French tax evasion like Brion, M. (1912) *L'exode des capitaux français à l'étranger*, Paris: Arthur Rousseau.

³ These figures take into account the taxes of central governments and local state bodies. For the statistics, see Farquet 2014: 72.

⁴ For these figures, see Piketty 2001: 255, 263; Daunton, M. (2002) *Just Taxes. The Politics of Taxation in Britain, 1914-1979*, Cambridge: Cambridge University Press: 47, 138; Ullmann H.-P. (2005) *Der deutsche Steuerstaat. Geschichte der öffentlichen Finanzen vom 18. Jahrhundert bis heute*, München: C. H. Beck: 88, 103; Smiley, G. and Keehn, R. (1995) « Federal Personal Income Tax Policy in the 1920s », *Journal of Economic History* 55(2): 286.

⁵ See Minutes of the Swiss National Council, 3.02.1920, in *Bulletin officiel de l'Assemblée fédérale*, 1, 1920: 34.

⁶ For Swiss figures, see *Annuaire statistique de la Suisse*. For Luxembourg, see Delvaux, B. (1938) *Les sociétés «holding» au Grand-Duché de Luxembourg. Etude théorique et pratique de la loi du 31 juillet 1929*, Paris: Recueil Sirey, Luxembourg: Victor Buck: 7-8.

⁷ An official French report estimated that in 1921 no less than 71% the amount of incomes derived from securities evaded the general income. See Centre des archives économiques et financières, B 58613, « Evaluation de la perte résultant de l'insuffisance des déclarations en ce qui concerne les revenus des valeurs mobilières », Note transmitted by the *Contributions directes* to Maurice Bokanowski, *Rapporteur de la Commission des finances*, 17.02.1923. For other estimations, see Hautcoeur, P.-C. and Sicsic, P. (1999) « Threat of a Capital Levy, Expected Devaluation and Interest Rates in France during the Interwar Period », *European Review of Economic History* 3: 40. In Belgium, the administration estimated at 66% the income of securities that evaded illegally the progressive income tax between 1919 and 1924. See Archives générales du Royaume, T 122: 601, Appendix Table of a Report by Charles Clavier, Director of the Belgian *Contributions directes*, « La surtaxe. Ses principes, ses résultats, sa révision », 1925.

⁸ Report of the French Delegation, 15.03.1922, cited in Commission des Réparations, *Rapport sur les Travaux de la Commission des Réparations de 1920 à 1922*, vol. 2, Paris: Félix Alcan, 1923: 66-68.

⁹ Rapport du second comité d'experts, Paris, 1924.

¹⁰ Archives of the LON (ALON), R 1609, Report of the Financial Commission in Genoa, April 1922.

¹¹ ALON, EFS/DT/Session 1-5/PV, Minutes of the Committee of Experts on double taxation and tax evasion, 1923-1925. See also Farquet 2014: 197-240.

¹² Double Taxation and Tax Evasion: Report and Resolutions submitted by the Technical Experts to the Financial Committee of the League of Nations, Geneva: League of Nations, 1925.

¹³ Swiss Federal Archives (SFA), E 2001 B, 1000/1508, vol. 34, Minutes of the Federal Council, 19.03.1925.

¹⁴ ALON, EFS/DT/Session 6-8/PV, Minutes of the Committee of Experts on double taxation and tax evasion of the LON, 1926-1927.

¹⁵ ALON, F/21^e session/PV6, Minutes of the Financial Committee of the LON, 8.03.1926; EFS/DT/8^e session/PV5, Minutes of the Committee of Experts on double taxation and tax evasion of the LON, 8.04.1927.

¹⁶ ALON, EFS/DT/8^e session/PV, Minutes of the Committee of Experts on double taxation and tax evasion of the LON, 5-12.04.1927.

¹⁷ ALON, DT/Réunion/PV, Minutes of the Meeting of Government Experts on double taxation and tax evasion, 22-31.10.1928.

- ¹⁸ *Double Taxation and Tax Evasion. Report Presented by the General Meeting of Government Experts on Double Taxation and Tax Evasion*, Geneva: League of Nations, 1928.
- ¹⁹ ALON, F/Fiscal/Session/PV, Minutes of the Fiscal Committee of the LON, 1929-1931; F/Fiscal/1-132, Working papers of the Fiscal Committee of the LON, 1929-1946.
- ²⁰ ALON, F/Fiscal/75, Report of the Sub-Committee on the Allocation of Profits on Its Session held in the United States (20-30.03.1933), 4.05.1933.
- ²¹ ALON, F/Fiscal/83, « Texte révisé du projet de convention relatif à la répartition du revenu industriel et commercial entre les Etats aux fins de l'imposition », Appendix 1 of the Report of the 5th session of the Fiscal Committee (12-17.06.1935). See for the same interpretation: Picciotto 1992: 31-32.
- ²² ALON, R 363, Letter from H. Blau, Director of the Swiss Federal Tax Administration, to B. Léon-Dufour, Secretary of the Committee of Experts on double taxation and tax evasion of the LON, 18.05.1925. On the CIBA case, see Archives of Novartis, Minutes of the Board of CIBA, 22.09.1927: 8-9.
- ²³ OECD Historical Archives (OECD-HA), C(54)294F, Note of the OEEC Secretariat, 12.11.1954.
- ²⁴ OECD-HA, C(55)307F, Memorandum by the Delegations for the Netherlands, Switzerland and Germany, 9.12.1955; C(56)49finalF, Resolution of the Council, 2131956; FC-M(56)1provF, OEEC Fiscal Committee, Minutes of the 1st session, 23-24.05.1956.
- ²⁵ OECD-HA, C(58)118finalF, Recommendation of the Council of the OEEC, 11.07.1958.
- ²⁶ See for instance OECD-HA, FC-M(57)2, Fiscal Committee of the OEEC. Minutes of the 4th session, 4-7.06.1957.
- ²⁷ See for short statements: OECD-HA, FC-M(60)1F, Fiscal Committee of the OEEC. Minutes of the 16th session, 2-5.02.1960; FC-M(61)1F, Fiscal Committee of the OEEC. Minutes of the 22nd session, 17-20.01.1961.
- ²⁸ SFA, E 7111 B, 1972/168, vol. 135, Confidential Report of Kurt Locher, Swiss Delegate to the Fiscal Committee of the OEEC, 31.10.1958.
- ²⁹ SFA, E 7111 B, 1972/168, vol. 135, Confidential Report of K. Locher, 10.03.1960.
- ³⁰ OECD-HA, TFD-FC-135F, Note by the United States Delegation on Tax Avoidance through the Improper use or Abuse of tax Conventions, 14.11.1961; FC/M(61)1, Fiscal Committee of OECD. Minutes of the 1st session, 21-24.11.1961.
- ³¹ See for instance OECD-HA, F/M(62)5, Fiscal Committee of the OECD. Minutes of the 6th session, 25-28.09.1962.
- ³² SFA, E 2001 E, 1976/17, vol. 155, Letter from Samuel Schweizer, Chairman of the Board of the *Société de Banque Suisse*, to Friedrich Wahlen, Federal Councilor (Federal Political Department), 12.07.1962.
- ³³ See for instance SFA, E 2001 E, 1976/17, vol. 313, Minutes of a discussion with L. Harold Moss, delegate of the Internal Revenue Service in Europe, 4.06.1958; Minutes of a discussion with L. H. Moss and R. Gordon, 25.10.1961.
- ³⁴ See for instance SFA, E 2001 E, 1976/17, vol. 155, Letter from the SBA to Division of Commerce, the Federal Political Department and the Swiss National Bank, 9.07.1962.
- ³⁵ « Bericht der Bundesregierung an den Deutschen Bundestag über Wettbewerbsverfälschungen, die sich aus Sitzverlagerungen in das Ausland und aus dem zwischenstaatlichen Steuergeschehen ergeben », 23.06.1964.
- ³⁶ For this affair, see SFA, E 2001 E, 1976/17, vol. 155, Letters of the Swiss Embassy in Rom to the Federal Political Department, 4.07.1963 and 25.09.1963.
- ³⁷ See Report of the Federal Council to the Federal Assembly « sur la motion Eggenberger concernant une lutte plus efficace contre la fraude fiscale », 25.05.1962.
- ³⁸ For the text, see *Draft double taxation convention on income and capital. Report of the OECD Fiscal Committee*, Paris: OECD, 1963. The Article 26 gave a guarantee to professional secrecyes as well as usual tax practices. For Switzerland, these two mentions tended to validate its banking secrecy.
- ³⁹ OECD-HA, FC(63)1, Final Report on the Article on Exchange of information, 7021963. The Swiss economic circles influenced the Swiss tax administration. See for instance, SFA, E 2001 E, 1976/17, vol. 253, Letter from the SBA to Roger Bonvin, Federal Councilor (Finance), 10.12.1962; Letter from the *Groupeement des Holdings industrielles* to the Swiss Federal Tax Administration, 19.12.1962.
- ⁴⁰ SFA, E 2001 E 1976/17, vol. 155, Confidential Letter from Pierre Micheli, General Secretary of the Federal Political Department, to the Swiss Embassy in Washington, London, Paris, Köln, Brussels, Rome and The Hague, 16.07.1962.
- ⁴¹ SFA, E 2001 E, 1976/17, vol. 155, Confidential letter from Agostino Soldati, Swiss Ambassador in Paris, to P. Micheli, 20.07.1962.
- ⁴² See SFA, E 2001 E, 1976/17, vol. 313, Note for Rudolf Bindschedler, Federal Political Department, 7.05.1962.
- ⁴³ « Arrêté fédéral sur les avoirs en Suisse d'étrangers ou d'apatrides persécutés pour des raisons raciales, religieuses ou politiques », 20.12.1962; « Arrêté du Conseil fédéral instituant des mesures contre l'utilisation sans cause légitime des conventions conclues par la Confédération en vue d'éviter la double imposition », 14.12.1962.
- ⁴⁴ On the SBA pressures, for instance see SFA, E 7001 C, 1975/63, vol. 9, Telegram of the SBA to the Federal Council, 5.06.1962. Then, the new Minister of Finance, R. Bonvin, was much more on the line of the SBA on this

issue. See for instance, SFA, E 1070(-), 1974/32, vol. 69, Confidential Minutes of the Commission of the State Council, 30.04.1963; SFA, E 6100 B-02, 1989/75, vol. 26, Letter from the SBA to R. Bonvin, 24.04.1967.

⁴⁵ Between 1957 and 1964, one agreement with Pakistan was signed in 1960. Double taxation agreements were concluded between 1965 and 1980 with the following 19 countries: Sweden, Spain, France, Ireland, South Africa, Japan, Germany, Trinidad and Tobago, Denmark, Austria, Portugal, Malaysia, Italy, Canada, Great Britain, Belgium, Korea, Australia, New Zealand. See *Feuille fédérale* [www.amtsdruckschriften.bar.admin.ch].

⁴⁶ International Monetary Fund (1986) *International financial statistics, Yearbook*, Washington: International Monetary Fund: 78-81.

⁴⁷ Archives of the Swiss National Bank (ASNB), Minutes of the Bankrat of the SNB, 12.03.1982. The SNB considers that the Eurocurrency market reached \$ 821.2 billion in September 1981, of which 71% denominated in dollars. However, since this market is essentially an interbank market, these huge amounts accounted for a good part of multiple counting of the same capital. The SNB estimates that the Eurocurrency stock fluctuates between \$130-140 billion.

⁴⁸ *Tax Havens and Their Use By United States Taxpayers - An Overview. A report to the Commissioner of Internal Revenue, the Assistant Attorney General and the Assistant Secretary of the Treasury, submitted by Richard Gordon, Special Counsel for International Taxation*, 12.01.1981: 38.

⁴⁹ The first figure is derived from an estimate by the General Director of the UBS, which estimates the amounts of securities under management of CHF 300-350 billion, half in foreign hands. See *Notice économique de l'UBS*, 11.1975. The second amount is derived from the evaluation of the available reference, evaluating the securities to CHF 1387 billion in 1986 (Mazbouri et al. 2012: 477).

⁵⁰ On Austrian legislation, see SFA, E 2010(A), 1995/313, vol. 577, Report of the Austrian Minister of Finance, 27.6.1983. On Luxembourg, see Schmitt, C. and Weides-Schaeffer, M.-P. (1984) *Le secret bancaire en droit luxembourgeois*, Luxembourg: Banque internationale à Luxembourg: 38-47.

⁵¹ OECD-HA, DAF/CFA/WP8/81.8, Note by the Secretariat, 4.9.1981.

⁵² Within 6 years, this market expanded, the IBF transactions increased from \$79.8 billion to \$578.9 billion between 1981 and 1987. See Moffett, M. (1989) « International Banking Facilities Revisited », *Journal of International Financial Management and Accounting* 1(1): 92.

⁵³ The OPEC investments in the Euromoney deposits in London were estimated at \$14.8 billion in 1980. See Bank for International Settlements (1982) *Fifty-second Annual Report, 1st April 1981 - 31st March 1982*, Basle: BIS: 98. Some informed estimates quantified the net capital flight from Argentina, Mexico and Venezuela between 1980 and 1982 to \$ 55.7 billion. John T. Cuddington, « Capital Flight : Estimates, Issues, and Explanations », *Princeton Studies in International Finance*, 58, 1986: 6-7.

⁵⁴ OECD-HA, CFA(76)7, Note by the Secretariat, 11.03.1977.

⁵⁵ For a comparison between these laws, see OECD-HA, CFA(75)16, Note by the Secretariat, 15.12.1975.

⁵⁶ See SFA E 2001 E, 1988/16, vol. 399, Report by the Federal Tax Administration, 5.07.1976.

⁵⁷ See OECD-HA, CFA(76/10), Note by the Secretariat, 13.12.1976.

⁵⁸ See for instance « Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member State in the field of direct taxation (77/799/EEC) », *Official Journal of the European Communities*, 27.12.1977

⁵⁹ See OECD-HA, DAF/CFA/WP8/80.23, Summary Record of the 10th Meeting of Working Party no 8, 6-8.10.1980.

⁶⁰ See Organisation for Economic Cooperation and Development, *International Tax Avoidance and Evasion: Four Related Studies*, Paris: OECD, 1987. The results had been the same, three years earlier, for the works on transfer pricing. See Organisation for Economic Cooperation and Development, *Transfer Pricing and Multinational Enterprises: Three Taxation Issues*, Paris: OECD, 1984.

⁶¹ ASNB, Minutes of the Governing Board of the SNB, 438, 16.6.1977.

⁶² See « Loi fédérale sur l'entraide internationale en matière pénale », 20 mars 1981, *Feuille fédérale*, 1, 1981: 807-838.

⁶³ See SFA, E 7113(A), 1990/157, vol. 36, Report by the Federal Tax Administration, 5.07.1979: 5.

⁶⁴ See SFA, E 7113(A), 1991/172, vol. 29, Report by the Federal Tax Administration, 22.07.1980.

⁶⁵ See OECD-HA, CFA/WP8/82.3, A Summary of discussions in the Committee on Fiscal Affairs on the Draft Multilateral Convention, 20-21st January 1982; CFA/WP8/82.14, Summary Record of the 10th Meeting of Working Party no 8, 25-27.5.1982; CFA/M(86)2, Summary Record of the 31^{ème} Meeting of the Committee on Fiscal Affairs, 9-10.07.1986.

⁶⁶ See OECD-HA, CFA/WP8/85.9, Summary Record of the 22nd Meeting of Working Party no 8, 1-4.10.1985.

⁶⁷ See OECD-HA, CFA/WP8/85.6, Draft Report, 25.09.1985.

⁶⁸ See OECD-HA, CFA/WP8/82.3, « A summary of discussions in the Committee of Fiscal Affairs on the Draft Multilateral Convention », 26.01.1982.

⁶⁹ OECD-HA, CFA/WP8/83.6, Note by the Secretariat, « Bank Secrecy and Taxation », 5.09.1983.

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