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# What do politicians think of the common consolidated corporate tax base? A Belgian case study

## ABSTRACT

*This paper analyzes the views of Belgian politicians on the Common Consolidated Corporate Tax Base (CCCTB), an ambitious project to harmonize corporate taxation in the EU. Applying case study methodology, the results show that most politicians were proponents of this new tax system. During the discussions in several political institutions, the politicians referred to the macro-economic impact, the legal certainty and their party's view to found their opinion. Besides several agreements, certain aspects of CCCTB like the optionality and the applied tax rate involved clear differences in view between left and right-wing politicians, which could hamper a political agreement on CCCTB.*

*Dit artikel analyseert de visie van Belgische politici m.b.t. de Common Consolidated Corporate Tax Base, een ambitieus Europees project om de vennootschapsbelasting te harmoniseren. Gebruikmakend van case studie methodologie, toont deze studie aan dat de meerderheid van de Belgische politici voorstander is van dit nieuwe belastingsysteem. Tijdens de discussies in talrijke politieke instellingen, hanteerden de politici economische, juridische en partijpolitieke argumenten om hun visie te onderbouwen. Ondanks de vele overeenkomsten, waren er o.a. duidelijke links-rechts tegenstellingen m.b.t. de optionaliteit van CCCTB en het toepasselijk tarief, wat een compromis m.b.t. CCCTB kan bemoeilijken.*

**Keywords: CCCTB – corporate tax harmonization – European Union – Belgian politicians – case study**

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## 1. INTRODUCTION

On 16 March 2011, the European Commission (EC) launched its proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB). According to this proposal, the implementation of CCCTB would be optional for groups, *i.e.* they would be able to choose between the CCCTB and the existing national corporate tax system. In the EU, each group company opting for CCCTB would use

a common set of rules to calculate its individual taxable profit. These individual tax bases would then be summed up to the consolidated tax base. This consolidation of tax bases would result in the elimination of intra-group transactions and off-set of losses. Thereafter, the consolidated tax base would be allocated among the individual companies according to their proportions in the group's total of labour, sales, and tangible assets, *i.e.* 'formula apportionment'. Finally, as the Commission would not have the intention to introduce a harmonised corporate tax rate, each member state would preserve the right to apply its own tax rate to the obtained share of the overall tax base. Under CCCTB, groups of companies would be able to use a 'one-stop-shop' system, *i.e.* they could file a single consolidated tax return for all their activities in the EU with the principal tax authority (EC, 2011).

# What do politicians think of the common consolidated corporate tax base?

Since the launch of the CCCTB proposal in 2011, further developments took place at the political level. Within eight weeks from the publication of the CCCTB proposal, all national parliaments had the right to assess whether the CCCTB proposal complied with the general principles of subsidiarity and proportionality (EU, 2012). About one year later, on 19 April 2012, the Members of the European Parliament (MEPs) casted their votes on the EC's proposal for a CCCTB (EP, 2012a). At present, the proposal is negotiated in the Council which has final decision power on the adoption of a CCCTB (Council of the European Union, 2016). Very recently, the Commission re-launched CCCTB as it believes the tax system needs a stepwise approach to reach an agreement (EC, 2016). This relaunch will be assessed again by the national parliaments, the European Parliament and the Council.

Using documentation and archival records, this paper discusses the views of Belgian politicians on the 2011 CCCTB proposal in the Belgian Parliament, the European Parliament and the Council of the European Union. In general, this research is useful to gain insight in the political feasibility of the (re-launched) CCCTB and its future developments. Elaborating on the development of CCCTB from a Belgian point of view, this paper contributes to the literature in three more ways. First, although exceptional in the CCCTB literature, the case study methodology was chosen for this purpose. As CCCTB implies a complex political process of negotiations at several levels, the use of case study methodology was considered as more opportune in terms of gaining insights compared to other methodologies (Yin, 2003). Second, to the best of our knowledge, studies examining the political views on CCCTB in one particular country are lacking<sup>1</sup>. In addition, Belgium is a likely candidate for the procedure of 'enhanced cooperation' where a minimum number of nine member states would introduce CCCTB (Belgian Chamber of Representatives, 2011b). So, studying the Belgian point of view is interesting as this view will be relevant in further developments of CCCTB. Third, current literature approaches this new tax system from an economic or legal perspective only. This case study attempts to draw a full picture by combining literature from the fields of economics, tax law and political science.

**“CCCTB is one of the most ambitious projects to harmonize corporate taxation in the EU.”**

The paper is organized as follows. Section 2 theoretically describes which factors could play a role in the politicians' opinion about CCCTB. Section 3 explains the methodology used in this paper. Section 4 discusses the findings and section 5 concludes.

## 2. THEORETICAL FRAMEWORK

### 2.1. Macro-economic effects

The economic principle of 'efficiency' is widely recognized for evaluating the desirability of tax systems (Desai & Hines, 2003). An efficient tax system implies that taxes should not influence the taxpayer's economic decisions. However, if taxation at the micro-level is not efficient, this would also lead to an allocation which is not Pareto-optimal (Musgrave & Musgrave, 1989; Schäfer, 2006). In the context of the introduction of a CCCTB, only a limited number of macro-economic studies investigated if this new corporate tax system would be more efficient or Pareto improving compared to the current twenty-eight national corporate tax systems in the EU (e.g. Runkel & Schjelderup, 2011). Otherwise said, these studies investigated if CCCTB would make member states better off without making other member states worse off. In the literature, however, no consensus is reached on how such a Pareto improvement should be measured (Avi-Yonah & Clausing, 2008). Most studies only considered the corporate tax revenues of member states, while other studies also took into account other criteria like welfare, GDP, investments and employment.

Table 1 summarizes the results of three empirical studies<sup>2</sup> which appeared after the publication of the CCCTB proposal (EC, 2011). At the country level, we only report the results for Belgium as this is the focus of our paper.

<sup>1</sup> Roggeman, Verleyen, Van Cauwenberge & Coppens (2015) covered for 28 EU member states the relationship between the voting behaviour of members of the European Parliament on CCCTB and the estimated economic impact of CCCTB. However, this large-scale study does not give insight into the discussions, reasonings and personal beliefs of these politicians.

<sup>2</sup> Despite the merits of the empirical studies of Fuest, Hemmelgarn, & Ramb (2007) and Devereux & Loretz (2008), we do not consider these older studies as they substantially deviate from the proposal.

**Table 1. Summary results of empirical impact studies CCCTB (in %)**

		Oestreicher and Koch (2011)		EC Bettendorf <i>et al.</i> (2011)		E&Y Cline <i>et al.</i> (2011)	
		optional	compulsory	optional	compulsory	optional	compulsory
<u>revenues</u>							
	BE	-10.66 (-)	-3.33 (-)	n.a.	0.27 (+)	-1.10 (-)	2.10 (+)
	EU	-4.65 (-)	-4.56 (-)	0.00	0.06 (+)	-0.60 (-)	0.20 (+)
<u>welfare</u>							
	BE			1.21 (+)	1.11 (+)		
	EU			0.02 (+)	0.02 (+)		
<u>employment</u>							
	BE			-0.16 (-)	-0.50 (-)	0.00 (+)	0.10 (+)
	EU			0.00	-0.05 (-)	-0.10 (-)	-0.30 (-)
<u>GDP</u>							
	BE			2.10 (+)	0.92 (+)	-0.10 (-)	0.10 (+)
	EU			-0.15 (-)	-0.25 (-)	-0.10 (-)	-0.20 (-)
<u>investments</u>							
	BE			-2.89 (-)	-4.82 (-)	-0.20 (-)	0.50 (+)
	EU			-0.74 (-)	-1.25 (-)	-0.50 (-)	-1.10 (-)

The findings show that the EU as a whole would mostly lose from introducing CCCTB, which suggests that it would be rather unlikely that a move towards CCCTB would be Pareto-improving. All three studies agree that the EU would not be better off in terms of employment, GDP and investments. However, the studies disagree with respect to the change in corporate tax revenues. Looking at the economic impact measures for Belgium, significant differences can be observed between the three studies, so that it is difficult to draw general conclusions. Although it is not the purpose of this paper to explain these differences between the three impact studies, they could be attributed to divergent databases, different parameters underlying the simulations, various approaches to proxy for taxable income, deviations in the applied formula apportionment or the choice of a static versus a behavioural approach.

## 2.2. Party ideology

Studies of Bowler & Farrell (1995) and Corbett, Jacobs, & Shakleton (2011) have shown that politicians with functions like chair, vice-chair, rapporteur, expert or party group coordinator play a key role in the opinion formation of legislative procedures. However, these initiators are subject to 'party discipline'. Party discipline implies that party leaders are able to impose sanctions on politicians who deviate from the party position. Strong party leaders could enforce this discipline by controlling the (re)election prospects and future leadership positions of politicians (Faas, 2003; Hix, Noury, & Roland, 2005).

With respect to voting behaviour in the EP, Hix (2002) found that Members of the European Parliament (MEPs) were exposed to national party discipline as well as European party discipline. In particular, MEPs had to follow the instructions of the principal who controlled their EP election, *i.e.* the national party, and the instructions of the principal who controlled their influence in the EP, *i.e.* the EP party. Long term studies in the EP revealed that the extent to which party members vote in the same way, *i.e.* 'cohesion', has become stronger over time, both at the national and European party level. Further, these studies showed that national cohesion was higher for Euro-sceptical parties and topics of great national importance (Faas, 2003; Hix *et al.*, 2005).

In the literature, two ideological dimensions can be distinguished with respect to the position of the party. First, the pro/anti Europe dimension deals with the party's attitude towards European integration. In particular, this dimension concerns the question how fast and far-reaching European integration should proceed. Centrist parties like the socialist, liberals and conservatives are typically the ardent supporters of integration while more left and right oriented parties in Europe are more hesitant to give up national autonomy (Aspinwall, 2002; Hix, Noury, & Roland, 2007; Hix & Noury, 2009). Second, a traditional left-right dimension can be distinguished among parties. In general, left parties favour more strict government regulation whereas right parties prefer a more liberal 'laissez faire' economic policy (Aspinwall, 2002; Hix *et al.*, 2007; Hix & Noury, 2009; Osterloh & Debus, 2012).

# What do politicians think of the common consolidated corporate tax base?

## 2.3. Legal certainty

Legal certainty is one of the most fundamental legal values which also applies to taxation. According to the legal philosopher Fuller (1969), laws should be clear, stable and enforceable in order to achieve legal certainty. Clear and transparent rules would ensure that laws would have an accurate meaning and that they would be unambiguous by those who are subject to it. The requirement of stability would imply that laws should not be changed too frequently as this would make it hard for citizens to behave in accordance with these laws. Finally, the enforcement of laws would deal with the use of public agents to detect and sanction violators of legal rules and this should occur in a cost-effective way (Fuller, 1969; Raitio, 2003).

In the context of the CCCTB proposal, the legal certainty of the proposed rules was assessed in several tax law studies. Freedman & McDonald (2008) evaluated the preliminary documents of CCCTB with respect to the common tax base. They argued that CCCTB should explicitly refer to IFRS and combine this reference point with an autonomous set of tax principles. The study of de La Feria & Dorado (2008) assessed the introduction of a thin capitalization rule<sup>3</sup> in the context of a CCCTB. According to the authors, the introduction of a specific instead of a general anti-abuse rule would increase the legal certainty of thin capitalization. In addition, the rule should be compatible with EC law and the EC provisions on the fundamental freedoms like the free movement of capital. The recent studies of Lang (2012) and Lang, Pistone, Schuch, Staringer, & Storck (2013) evaluated the legal impact of CCCTB in relationship to third countries. In particular, the authors discussed the articles of the proposal with respect to, for example, interest deductibility, transfer of assets, transparent entities, withholding taxation, and double taxation conventions. In general<sup>4</sup>, it was concluded that the CCCTB proposal represented an impressive legal achievement. However, the legal certainty was problematic in several aspects.

First, difficulties with interpretation appeared as the definition of dividends, for example, was not aligned with other international tax law. In order to increase clarity, the authors suggested that CCCTB would follow the wording of provisions of an already existing Directive, for example the Parent-Subsidiary Directive. Second, conflicts existed between the rules of CCCTB and Double Tax Conventions (DTCs). For example, a DTC could avoid double taxation of dividends by the credit method where-

as CCCTB would apply the exemption method<sup>5</sup>. In this respect, Lang *et al.* (2013) are advocates of a European Union-wide DTC. Such an EU DTC would harmonize all existing bilateral tax treaties and would be a promising way to apply CCCTB in a correct way. The study of Panayi (2013) stressed that it would be very likely that the enforcement of CCCTB would entail high administrative costs for tax authorities. In particular, tax authorities would be faced with two distinct tax systems, namely CCCTB and the applicable national corporate tax system. Also, the cross-border nature of tax audits and the frequent interactions with other tax authorities would result in additional costs.

## 3. RESEARCH QUESTIONS AND METHODOLOGY

Referring to the findings in the literature (*cf.* section 2), we examine the following research questions:

- To what extent and how did Belgian politicians refer to the macro-economic impacts of CCCTB as an argument to support or refuse CCCTB?
- To what extent and how were Belgian politicians influenced by party ideology?
- To what extent and how did Belgian politicians attach importance to legal certainty when expressing their views about CCCTB?

As in-depth studies concerning the political view about CCCTB are lacking, a case study approach was chosen to produce more detailed information on this topic. Moreover, to describe the political view in relation to the macro-economic, ideological and legal perspectives, the use of a case study would be more opportune in terms of gaining insights into this relationship. Or as Yin (2003) generally declares: "case studies are the preferred strategy when 'how' or 'why' questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context" (Yin, 2003).

Our Belgian case study employs an embedded design (Eisenhardt, 1989) as three levels of analysis are involved in the case. In particular, we discuss the Belgian position at the level of the politician, the party level and at the country level. However, as our research questions are defined at the individual level, the politician is considered as our primary unit of analysis (Yin, 2003). In the context of CCCTB, an embedded design is preferred above a holistic design as CCCTB implies a complex po-

3 Thin capitalization rules limit a firm's debt-to-equity ratio to control highly leveraged financing structures.

4 A detailed discussion of all considered articles is beyond the scope of this paper. For more details we refer to Lang (2012) and Lang *et al.* (2013).

5 Under the exemption method the country of residence exempts the received income of the source country. Under the credit method both countries tax the income, but the country of residence grants a credit for the tax paid in the source country.

litical process of negotiations at several levels. For that reason, our case study not only focuses on the primary unit of analysis, but also considers the larger units of analysis.

In order to enhance the reliability of the findings, multiple sources of data<sup>6</sup> were obtained and analyzed (Patton, 2002; Silverman, 2005). First, documentation – like letters, minutes of meetings, written reports, articles – were collected and put into a database. Second, archival records were collected and these records contained vote outcomes, party names, personal names and other personal data like gender and age. Further, the theoretical framework was replicated as the Belgian politicians' views were analyzed at three different development stages of CCCTB, namely the developments in the Belgian Parliament, the European Parliament and the Council. Finally, to enhance the validity of our study, a key informant reviewed the accuracy of the actual facts presented in the case report. Also, this review was useful as new materials and alternative interpretations of the findings could be added.

**“The Belgian politicians referred to macro-economic, legal and party related arguments to found their opinion about CCCTB.”**

minimum number of yellow cards, notably 18 votes (*i.e.* one third of 54 votes) was not reached. In total, 13 negative votes were counted coming from Bulgaria, Malta, the Netherlands, Poland, Romania, Slovakia, Ireland, the United Kingdom and Sweden (Belgian Chamber of Representatives, 2011a).

The Commission of Finance and Budget of the Belgian Parliament (CFB) examined the subsidiarity and proportionality principle of the CCCTB proposal on the 11<sup>th</sup> and 17<sup>th</sup> of May, 2011. Each party<sup>8</sup> disposed of a fixed number of members in the CFB who put forward their opinion. Table 2 gives an overview of the arguments used by the members of the CFB. For practical reasons, we only mention the names of the political parties in the text and no personal names. The personal names of the CFB members are reported in Appendix 1. As the CFB members examined if CCCTB complied with the principles of subsidiarity and proportionality, it could be argued that this opinion would not include a comprehensive judgment about CCCTB. However, as CCCTB was very broadly discussed the evaluation of this new tax system was not limited to these principles.

In general, most members were positive about the CCCTB proposal and found that the principles of subsidiarity and proportionality were not violated. However, the members of the Walloon liberal (MR) and christian-democratic party (cdH) did not agree with this position. According to them, more information was needed to take this decision (Belgian Chamber of Representatives, 2011a). When analyzing the discussions of the members into more detail, we could distinguish five subjects of discussion: (i) macro-economic effects, (ii) corporate tax rate, (iii) optionality, (iv) characteristics country and (v) other issues (Belgian Chamber of Representatives, 2011a).

## 4. FINDINGS CASE STUDY

### 4.1. Belgian Parliament

According to Protocol nr. 2 of the Lisbon Treaty, member states have the right to assess whether legislative proposals by the European Commission comply with the general principles of 'subsidiarity' and 'proportionality'. The subsidiarity principle means that in areas of shared competence, as is the case with CCCTB, the EU can only act insofar the objectives of the proposed action cannot be sufficiently achieved by the member states themselves. Proportionality entails that the least onerous measure should be chosen and that the disadvantages may not be disproportionate to the aims pursued (EU, 2012). Within eight weeks from the publication of the CCCTB proposal, all national parliaments could send their reasoned opinions to the Commission. Each unicameral national Parliament disposed of two votes and if a bicameral system applied<sup>7</sup>, each chamber had one vote. If the number of reasoned opinions represented at least one-third of the total votes, the so-called 'yellow card procedure' had to be applied. In that case the Commission should re-consider the proposal and decide whether to maintain, amend or withdraw it (EU, 2012). However, the CCCTB proposal could escape this yellow card procedure. The

<sup>6</sup> The collection of information from multiple sources is called 'data triangulation' (Patton, 2002).

<sup>7</sup> The Belgian Federal Parliament is a bicameral parliament consisting of the Chamber of Representatives and the Senate.

<sup>8</sup> In the federal parliament of Belgium most political families consist of a Flemish and Walloon party.

## What do politicians think of the common consolidated corporate tax base?

**Table 2. Summary of Belgian views about CCCTB in the CFB (Belgian Chamber of Representatives, 2011a)**

Party	Subsidiarity and proportionality	(i) Macro-economic effects	(ii) Corporate Tax Rate
<u>Greens</u> Ecolo-Groen!	Doubts about principles of proportionality and subsidiarity.	Reference to EC impact study (SEC(2011) 315); taxable basis (-25%), employment (-1.12%) and foreign investments (-5.92%) for Belgium.	Introduce harmonized tax rate to avoid fiscal shopping of companies.
<u>Socialists</u> sp.a	CCCTB in accordance with proportionality and subsidiarity.	Reference to E&Y study Robert <i>et al.</i> (2011). Positive impact of compulsory CCCTB concerning tax revenues and employment for Belgium.	Introduce minimum tax rate or tax fork to avoid tax competition between countries.
PS		CCCTB can contribute to efficiency.	Introduce a tax fork to avoid fiscal dumping.
<u>Liberals</u> Open VLD		Belgian government has to study the impact of CCCTB on the Belgian economy.	Introduce a tax fork.
MR	Not in line with proportionality and subsidiarity. More information needed.	CCCTB will lead to smaller tax revenues and less competitive companies. Reference to EC impact study (SEC(2011) 315) for EU with respect to GDP (-0.2%).	
<u>Christian Democrats</u> CD&V			
cdH	Not in line with proportionality and subsidiarity. More information needed.	CCCTB will lead to smaller tax revenues and less competitive companies.	
<u>Conservatives</u> N-VA	Doubts about proportionality.	CCCTB must be competitive and increase GDP. Reference to EC impact study (SEC(2011) 315); welfare (+1.21%), employment (-0.16%), investments (-2.89%) and GDP (+2.10%) for Belgium.	Tax rate competition could be positive. Tax rate should stay under the sovereignty of individual countries.
<u>Far Rights</u> VB		CCCTB can contribute to a more efficient market.	Tax rate should stay under the sovereignty of countries; competition could improve competitiveness of the EU.

Table 2. Continued Summary of Belgian views about CCCTB in the CFB (Belgian Chamber of Representatives, 2011a)

Party	(iii) Optionality	(iv) Characteristics country	(v) Other issues
<b>Greens</b>			
Ecolo-Groen!	Introduce a mandatory CCCTB. Two corporate tax systems imply high compliance costs for tax administrations.	AF favours old industrial economies at the expense of knowledge based open economies. Factors assets and sales can be shifted by companies.	Better cooperation between tax administrations is necessary to control and collect corporate income taxes.
<b>Socialists</b>			
sp.a	Introduce a mandatory CCCTB. Two corporate tax systems imply high compliance costs for tax administrations.		Belgian Minister does not inform about development CCCTB, e.g. view of Belgian government and other countries? Prohibition of NID and patent deduction is positive for tax revenues.
PS	Introduce a mandatory CCCTB with transition period of optionality. Two systems imply high costs for tax administrations.	Small countries need to be protected against big countries.	The administrative one-shop system involves uncertainty. Control of tax administrations needs to be efficient. The aspects of social protection and social achievements are very important, for example employment.
<b>Liberals</b>			
Open VLD	Introduce mandatory CCCTB, not for SMEs. SME do not have resources for optimization. Study needed on compliance costs.		What is the opinion of the Belgian Minister of Finance about CCCTB?
MR	Two corporate tax systems imply high compliance costs for tax administrations and companies.	CCCTB is negative for service-based economies. Intangible assets and financial assets are not included in the formula.	Countries should be able to choose for CCCTB or not.
<b>Christian Democrats</b>			
CD&V	Two corporate tax systems imply high compliance costs tax administrations and companies.		Harmonization with respect to social security is also important to achieve economic growth and employment.
cdH		CCCTB is negative for small and open economies.	Countries should be able to choose for CCCTB or not.

## What do politicians think of the common consolidated corporate tax base?

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### Conservatives

N-VA

AF favours old economies at the expense of knowledge and service-based economies. Intangible assets and financial assets are not included in the formula.

Consolidation and tax declaration in country of parent company could be negative for Belgium. The NID has increased equity of Belgian companies. High compliance costs for companies as a result of a separate bookkeeping system and corporate tax system.

Belgian Minister of Finance does not inform about development of CCCTB at European level.

### Far Rights

VB

CCCTB can contribute to administrative simplification and more legal certainty.



A striking finding is that all members referred to the macro-economic impact of CCCTB (i) to defend their interests. Some spoke in general terms, whereas others picked out results of specific impact studies. For example, a representative of the socialist party referred to the E&Y study by Cline, Neubig, Philips, Sanger, & Walsh (2011) and informed that under a compulsory CCCTB tax revenues and employment would increase for Belgium. A member of the conservative party N-VA mentioned the EC study by Bettendorf, van der Horst, de Mooij, Devereux, & Loretz (2011) and quoted the impact for Belgium in terms of welfare (+1.21%), employment (-0.16%), investments (-2.89%) and GDP (+2.10%) (Belgian Chamber of Representatives, 2011a). The literature review under section 2 showed that we could not draw general conclusions for Belgium. However, the members of the CFB did not sketch the full picture as they limited themselves to a selection of certain results. In some respect, the findings suggest that the CFB members were cherry picking to defend their interests.

Further, all members agreed that CCCTB should be mandatory as the legal enforcement of an optional system (iii) would imply high compliance costs for tax administrations. However, a socialist member would provide for a transition period, whereas a liberal member would only impose a mandatory CCCTB for big companies. Further, members from centrist parties stressed that under an optional system, not only tax administrations but also companies, would suffer from high compliance costs. In particular, in order to make their choice companies should call in professional advice. Further, green and socialist members feared that the cooperation between the different tax administrations (v) would be problematic. However, an efficient collection and control of the different corporate income taxes would be essential to achieve legal certainty. By contrast, a member of VB argued that CCCTB would give the opportunity to achieve administrative simplification (Belgian Chamber of Representatives, 2011a).

Another discussion dealt with the applied tax rate under CCCTB. According to the CCCTB proposal, each member state would apply its own national tax rate (ii) to the received part of the consolidated tax base (EC, 2011). During the discussions in the CFB, a clear difference in view appeared between members of the left and right parties. Members of left parties preferred to extend European integration by introducing a harmonized tax rate, a minimum tax rate or range of tax rates to tackle the harmful effects of tax competition. By contrast, members of right parties argued that tax rate competition would improve the competitiveness of the EU and therefore the determination of the corporate tax rate should stay under the sovereignty of the individual countries. Further, right oriented members regretted the prohibition to apply (v) the notional interest de-

ductions (NID), whereas left oriented members welcomed this decision (Belgian Chamber of Representatives, 2011a).

An element which we did not anticipate in the theoretical section, is that all members evaluated CCCTB not only in terms of efficiency, but also in terms of equity. In an international context, equity means that the source country has the right to tax the profits which are generated within its jurisdiction (Musgrave, 2000). According to the EC, the factors tangible assets, labour and sales are the dominant factors in the generation of profit and considered as fair factors to include in the apportionment formula (EC, 2011). However, during the discussions in the CFB all members agreed that the apportionment formula would not be fair as it would favour old industrial economies at the expense of knowledge and service based open economies (iv). Some politicians proposed to include intangible assets and financial assets in the formula (Belgian Chamber of Representatives, 2011a).

Eventually, the CFB reached a consensus on the advice of the Belgian Parliament concerning the subsidiarity and proportionality of the CCCTB proposal. The advice of the CFB was approved with 12 votes in favour and 4 abstentions<sup>9</sup>. In the text, it was mentioned that the subsidiarity principle was not violated as the EU would be more appropriate to achieve the objectives of CCCTB compared to Belgium. In particular, when applying a CCCTB the EU would be able to abolish fiscal obstacles hampering growth in the internal market and limit the negative impacts of tax competition. With respect to the principle of proportionality, the CFB did not express its view yet. Pending its decision, it asked for a detailed impact study carried out by the Belgian federal government. In particular, the study should look to what extent the impact of CCCTB would be related to the openness and size of a country as well as the size of companies opting for CCCTB. The study should also examine to what extent the introduction of CCCTB would lead to additional costs resulting from the existence of two different corporate tax systems and the need to keep separate fiscal accounts. Moreover, the CFB stressed the importance of studying the impact of CCCTB on Belgium's economic growth, employment and social protection. Also, the advantages and disadvantages of the optionality of CCCTB should be examined in detail, as well as the opportunity to harmonize national corporate tax rates (Belgian Chamber of Representatives, 2011a).

### 4.2. European Parliament

Immediately after the announcement of the EC's proposal for a CCCTB in March 2011, the proposal was transferred to the

<sup>9</sup> No individual vote outcomes were made public.

## What do politicians think of the common consolidated corporate tax base?

European Parliament (EP). At that moment, the EP consisted of 754 elected members spread over seven European political parties and a group of independents<sup>10</sup>. According to Article 115 of the Treaty on the functioning of the European Union (TFEU), the consultation procedure applies to decisions concerning direct taxation such as the CCCTB. This 'special legislative' procedure describes the EP's role as a consultative one. So, it could be argued that the EP's opinion about CCCTB is not binding<sup>11</sup>. However, the consultation procedure would also imply that the members of the EP were not inhibited to express their real opinion.

Each member of the EP (MEP) was invited to introduce amendments to the proposal. In total, 425 amendments were submitted. As Belgium is the focus of this paper, we only mention the 14 amendments which were submitted by the Belgian member Philippe Lamberts. At that time, he was vice-chairman of the Greens-European Free Alliance (EP, 2011). In summary, these 14 amendments dealt with five subjects. First, the Belgian member was a proponent to introduce a minimum tax rate of 15% in 2013, 20% in 2015 and 25% in 2017. Second, CCCTB should be compulsory except for SMEs. Third, CCCTB should provide for an additional EU corporate income tax of 5% applied to big companies as a resource to support poor regions within the EU. Fourth, losses incurred before the introduction of CCCTB should be disregarded and the carry forward of new losses should be limited to five years. Finally, a third country would be considered as a tax heaven if its tax rate would be below 100% of the average statutory rate in the EU (EP, 2011). The demands to introduce a minimum tax rate and mandatory CCCTB were also claimed by the representative of the Belgian Green party in the CFB (see section 4.1).

Considering all 425 amendments submitted in the EP's Committee on Economic and Monetary Affairs, Belgian rapporteur Marianne Thyssen finally adapted the initial EC's proposal by including 38 amendments<sup>12</sup>. We mention the most striking amendments of Thyssen's text<sup>13</sup> (EP, 2012a). First, a mandatory CCCTB was recommended for all companies except SMEs, whereas the EC originally proposed an optional system for all companies. Another remarkable amendment was the introduction of a more strict general anti-abuse rule. In particular, Article 80 of the EC's proposal was adjusted by formulating that "artificial transactions carried out *mainly* instead of solely for the purpose of avoiding taxation should be ignored for purposes of calculating the tax base" (EP, 2012a, p. 20). A third amendment dealt with the design of the apportionment formula. A formula was proposed where sales by destination, labour and assets were weighted at 10%, 45% and 45% respectively, while the EC proposed a sharing formula in which these factors were equally weighted. It was argued that the adjusted formula would guarantee that exporting countries would not be disadvantaged in the apportionment. In the text of Thyssen, it was also written that the procedure for 'enhanced cooperation' should be started up if the Council failed to decide unanimously on CCCTB (EP, 2012a).

10 Parties of the seventh European Parliament: European United Left-Nordic Green Left (GUE-NGL), the Greens-European Free Alliance (Greens/EFA), Progressive Alliance of Socialists and Democrats (S&D), Alliance of Liberals and Democrats for Europe (ALDE/ADLE), European People's Party (EPP), European Conservatives and Reformists (ECR), Europe of Freedom and Democracy (EFD) and the Non-Inscrits or independents (NI).

11 Kardasheva (2009) studied consultation procedures in the EP over the period 1999-2007. The results showed that the EP would become more influential when it gets support from the EC. On 19 April 2012, the EC largely agreed with the amended CCCTB proposal of the EP.

12 No information was made public on the selection (discussions and voting results in the EP) of the individual submitted amendments. The third and fourth demand of the Belgian member of the European Greens party was not taken into consideration in the final text of Marianne Thyssen.

13 For a complete overview we refer to EP (2012a).

Table 3. Summary of views about CCCTB proposal in the EP (EP, 2012b)

	Arguments	Vote Advice
Greens-European Free Alliance (Greens/EFA)	Mandatory CCCTB for big companies is good decision. Companies will use optionality to optimize tax payments Important that proposal will also be adopted in the Council.	positive
Progressive Alliance of Socialists and Democrats (S&D)	Mandatory CCCTB for big companies is good decision. Companies will use optionality to optimize tax payments Harmonization of tax bases is good to avoid harmful tax competition in the EU. Proposal does not include a minimum tax rate, which is a pity. However, a clause is included stating that this will be re-examined.	positive
Alliance of Liberals and Democrats for Europe (ALDE/ADLE)	Harmonization of tax bases will improve efficiency of internal market. Proposal will ease administrative burden for companies to invest cross-border. Doubts if mandatory CCCTB is the right decision No big weight on sales by destination is good decision. This is more fair for countries with big export sector.	positive
European People's Party (EPP)	Mandatory CCCTB for big companies is good decision. CCCTB will remove tax obstacles and will lead to a healthier tax competition between member states.	positive
European Conservatives and Reformists (ECR)	Tax competition is good. A clause to harmonize tax rates is unacceptable. CCCTB should be voluntary.	negative
Europe of Freedom and Democracy (EFD)	Harmonization is stealing from wealth-creating sectors. CCCTB is like a vampire sucking the lifeblood of the economy. CCCTB would banish manufacturing to the Far East and the Indian subcontinent.	negative

## What do politicians think of the common consolidated corporate tax base?

During the debates on 18 April 2012, the representatives of the European parties recommended how to vote on the proposal of rapporteur Thyssen on the next day. Thyssen opened the debate as follows (EP, 2012b):

weight on the sales by destination factor would create a more fair allocation for countries with a big export sector (EP, 2012b).

**Table 4. Voting results CCCTB of Belgian MEPs**

N=22	Total	GUE-NGL	Greens/EFA	S&D	ALDE/ADLE	EPP	ECR	EFD	NI
Vote									
<i>yes (82%)</i>	18	0	3	5	5	5	0	0	0
<i>no (9%)</i>	2	0	0	0	0	0	1	0	1
<i>abstain (0%)</i>	0	0	0	0	0	0	0	0	0
<i>absent (9%)</i>	2	0	1	0	0	0	0	1	0
Party left-right		1	2	3	4	5	6	7	7

“... With this CCCTB, we will be making it fiscally simpler and administratively cheaper for companies to develop transnationally, which will definitely open up new opportunities for SMEs. Moreover, we will be making taxation more transparent. We will be preventing overtaxation and double taxation, as well as manipulation undertaken for the purpose of tax evasion. And, we will undoubtedly be making Europe more attractive for foreign investors ...”

Table 3 gives an overview of the opinions of the several European parties. In line with the study of Hix & Noury (2009), we rank the political parties from the most left to the most right party. In general, representatives of the Greens, S&D, ALDE and EPP advised to vote positively on the proposal. By contrast, representatives of the right parties ECR and EFD advised to vote negatively on the proposal. The opposition of the right parties suggests evidence for the aversion of right parties to more European integration and a more strict government regulation. Going into more detail, all parties discussed the impact of tax competition under CCCTB. According to the left and centrist parties, a harmonization of the tax bases would lead to a healthier tax competition, thereby increasing the efficiency of the internal market. However, the S&D stressed that the disregarding of a minimum tax rate was a lost opportunity. Right parties declared that the EU should not intervene as tax base competition between member states would be good in terms of efficiency. During the debate, no reference was made to the results of specific economic impact studies. The Greens, S&D and EPP agreed that the introduction of a mandatory CCCTB would increase the legal certainty as tax minimizing behaviour of companies would be decreased and the administrative burden for member states reduced. By contrast, ALDE casted doubts on this decision and ECR and EFD were opponents of a mandatory system. Finally, ALDE mentioned that a smaller

On 19 April 2012, this proposal was approved in the EP with 452 votes in favour (68%), 172 against (26%) and 36 abstentions (5%) (VoteWatch Europe, 2012). Members from Bulgaria, the Czech Republic, Hungary, Ireland, Malta, Poland and Great Britain were the most sceptical about the amended CCCTB proposal as more than 50% of their votes were ‘no’ votes. When looking at Table 4, 18 of a total of 22 Belgian MEPs voted ‘yes’, 2 voted ‘no’ and 2 were absent. In general, 82% of the Belgian MEPs were positive about CCCTB. In line with the study of Hix & Noury (2009), the variable ‘party left right’ ranks the political parties from 1 being the most left and 7 being the most right party<sup>14</sup>. Table 4 shows that all present MEPs followed the European parties’ advice (see Table 3) on how to vote on the CCCTB proposal. In particular, Belgian MEPs of the Greens, S&D, ALDE and EPP voted positively, whereas a member of the ECR voted negatively. Two members were absent at the day of the voting, namely one member of the Greens and one member of the EFD party. The personal names of the Belgian MEPs are reported in Appendix 1.

Beside the declarations of the European parties’ representatives, two Belgian members made an additional statement during the debates in the EP. Vice-chairman of the Greens party Philippe Lamberts declared (EP, 2012b):

“I believe, Ms Thyssen that you have gone as far as you can if you wish to gain a large majority for CCCTB in this Parliament ... it is unthinkable for us to establish a voluntary 28<sup>th</sup> corporate tax system alongside the 27 Member State systems, as evidently who will use it if it is optional, other than companies for whom it would constitute a lower effective tax rate than if they were to use their national sys-

14 Independent MEPs are considered as far right oriented (Hix & Noury, 2009).

tem? Indeed, I think that it is essential to make this system obligatory for large companies.”

Derk Jan Eppink, the Belgian vice-chairman of the ECR who voted negatively, explained his choice as follows (EP, 2012b):

“...When Member States collect corporation tax from companies operating in several Member States, they have to divide the revenues between them. The allocation key which the Commission has devised for this purpose adversely affects competitive and exporting countries. They are fiscally punished and lose revenue from corporate tax ... and, yet, we have not carried out any thorough research into the fiscal effects of the allocation key proposed by the Commission ... I therefore say: I am not going with this ...”

#### 4.3. Council of the European Union

The final decision on the adoption of a CCCTB, however, rests with the Council of Ministers of the European Union. Under the Irish Presidency in 2013, all member states committed to engage in the technical discussions even if they were opponents of corporate tax harmonization. Since then, general issues (e.g. scope, definitions) and elements of the common tax base (e.g. calculation, timing, depreciation, losses) have been extensively discussed. At the end of 2014, discussions were shifted towards the anti-abuse rules (e.g. interest limitation rule, switch-over clause) included in the CCCTB proposal. In general, the debates in the Council have advanced with difficulty and hot potatoes like tax consolidation have been postponed. Important to mention is that the published compromise texts of the Council should on no account be considered to be the final views of member states. Because of confidentiality, those texts do not elaborate on the individual positions adopted by member states (Council of the European Union, 2013, 2014, 2015).

With respect to the position of the Belgian government, explanations by the previous and current Ministers of Finance (christian-democrats and liberals) are scarce. Several parties in the Belgian Parliament criticized the lack of communication of the Belgian government concerning its position on CCCTB and the lack of information on the developments taking place in the Council. However, in line with previous declarations (Belgian Senate, 2013) current Minister of Finance Johan Van Overtveldt pronounced the following in 2015 (Belgian Chamber of Representatives, 2015a: 112):

“... The Belgian government defends the principle of a Common Consolidated Corporate Tax Base and will support more fiscal harmonization, but on condition that it will not prevent a balanced budget ...”

Other explanations in the Parliament show that the Belgian government rather takes a wait and see attitude and looks at the positions of big countries, especially France and Germany, by which it maintains close economic relations (Belgian Senate, 2012; Belgian Chamber of Representatives, 2015a).

Documents of Ihli (2011) and De Vos (2012) give a more detailed insight into the Belgian views at the level of the articles mentioned in the 2011 EC's proposal. In spite of its supportive attitude, the Belgian tax administration made several comments to the proposal, which are summarized in Table 5. For a detailed technical explanation, we refer to Appendix 2.

## What do politicians think of the common consolidated corporate tax base?

**Table 5. Objections of Belgian government to CCCTB proposal (Ihli, 2011; De Vos, 2012)**

<u>Proposal on a CCCTB Directive (EC,2011)</u>	<u>Belgian comments</u>
<i>Articles conflicting with Belgian DTA</i>	
Art. 5 Foreign PE definition	incompatible with existing DTAs
Art. 11(e) Exempt income foreign PE	unclear article
Art 14(1) g) Non-deductible costs foreign PE	unclear article
Art.31 Transfer of assets to foreign PE	unclear article
Art. 73 Switch-Over clause	overruled by existing DTAs
Income foreign PE	
Foreign dividend income	
<i>Other articles</i>	
Art. 11 Exempt income; subsidies a) and proceeds of pooled assets b)	remove articles a) and b)
Art. 14(1) j) Non-deductible taxes listed in Annex III	remove article j)
Art. 26 Pension provisions	apply national deduction to apportioned tax base
Art. 76 Interest and royalties income taxed at source	introduce specific anti-abuse rules
Art. 102 and 103	
Items deductible against the apportioned share	no room for national deductions like NID

Current tax law literature on CCCTB has shown that several difficulties appear with the interpretation of concepts and that many conflicts exist between CCCTB and the DTCs, which would be problematic to ensure legal certainty. The majority of Belgian comments in Table 5 are dealing with these problems. In particular, incompatibilities occur with respect to articles concerning foreign permanent establishments (PEs). In response to these conflicts, the Commission obliged member states to renegotiate all DTCs in order to align them with the CCCTB rules (EU, 2012, Art. 351). For Belgium, this would imply that almost all DTCs would have to be renegotiated, leading to a considerable amount of compliance costs (De Vos, 2012). In addition, Belgium seems to worry about the preservation of the corporate income tax revenues (see e.g. Art. 26 and Art. 76) and its attractiveness for domestic and foreign investments (see e.g. Art. 14 and Art. 102-103). In 2006, previous Belgian Minister of Finance Didier Reynders already expressed these concerns (Belgian Senate, 2006: 6500):

“... several member states like Belgium fear that the introduction of a CCCTB will have a negative impact on the national corporate tax rates and on the national budget of several member states. In addition, it would not be allowed for member states to apply fiscal incentives like the notional interest deduction to enhance the competitiveness of their economy. In the long run, this would harm

a healthy tax competition ... also, Belgium wonders if the national tax administrations are able to cooperate in an efficient way to collect and control corporate taxes ...”

Several years later, these concerns are still present (Belgian Chamber of Representatives, 2015a: 112; 2015b: 216):

“... In order to obtain an efficient and fair internal market in the EU, more fiscal transparency should take absolute priority ... however, it is necessary that member states can pursue their own policy sufficiently in order to secure a healthy tax competition ... In all respects, Belgium will insist on a detailed impact assessment of CCCTB”.

In order to adopt CCCTB, unanimity by the Council is required but the Treaty on the functioning of the European Union (TFEU) includes articles (Art. 20(2), 82, 329(1)) which allow CCCTB to be introduced under the ‘enhanced co-operation procedure’. Enhanced cooperation is a procedure where a minimum number of nine member states could introduce CCCTB. In 2011, the Belgian government declared that it would like to participate at such an enhanced cooperation, but only if its neighbouring countries would join the system (Belgian Chamber of Representatives, 2011b: 32).

“... if not all countries of the EU could reach a consensus, a fiscal harmonisation between a limited number of countries would already be a positive evolution ... if it would be possible to reach a fiscal harmonisation with Germany and France, so why not for the Benelux? ...”

### 5. CONCLUSIONS

On 16 March 2011, the European Commission (EC) launched its long-expected proposal for a CCCTB. By introducing corporate tax harmonization in the EU, the EC had the intention to remove the tax obstacles currently harming the international competitiveness of European companies. Applying case study methodology, this study investigated the views of Belgian politicians on the CCCTB in the Belgian Parliament, the European Parliament and the Council. The findings indicate that the majority of Belgian politicians were proponents of CCCTB. During the discussions in each of the political institutions, the politicians referred to the macro-economic impact, legal certainty and party ideology to found their opinion. The same discussion items reappeared and only slightly differed in form and content. Figure 1 synthesises the determinants which played a role in the Belgian politicians' support or resistance to CCCTB.

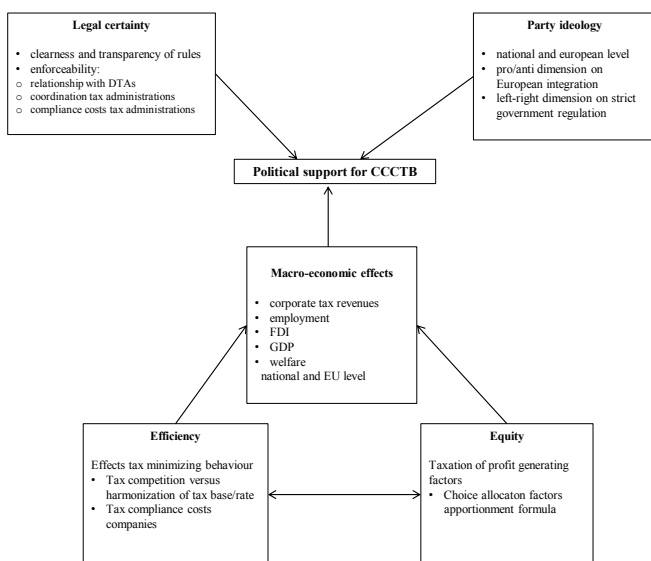
**“Most Belgian politicians are pro CCCTB. However, left-right differences appeared concerning items like the optionality and the applied tax rate. This could hamper an univocal Belgian position on CCCTB.”**

Certain item of CCCTB like the optionality of the system, the applied tax rate and the notional interest deduction involved clear differences in view between left and right-wing politicians. These differences could hinder the formulation of a clear Belgian position on CCCTB.

Like other studies, this research suffers from a few shortcomings. First, we assumed that the politicians' personal ideological beliefs corresponded to those of their party. However, Hines (2002) showed that these beliefs could deviate from each other. Moreover, we did not take into account other individual characteristics like age, gender or education. Surveys investigating individual factors influencing the opinion about CCCTB would be an interesting contribution to the literature. Second, even though case studies are difficult to generalize, we are convinced that these findings are applicable to most of the EU countries. Nevertheless, similar case studies in other EU-countries could investigate the robustness of our findings.

Finally, we like to mention that very recently the Commission re-launched CCCTB as it believes the Council will not be able to reach an agreement without a staged approach (EC, 2016). The new proposal would first apply the rules for calculating the common corporate tax base (CCTB) and postpone the consolidation and allocation (CCCTB) until agreement would be secured on the common corporate tax base. One of the striking differences with the 2011 proposal, is that the re-launched initiative would be mandatory for big groups, introduce rules against debt bias in the form of an allowance for corporate equity and provide a super-deduction for R&D (EC, 2016). The revised proposal will again be assessed by the national parliaments, the European Parliament and the Council. In the light of the findings of this study, we believe this revised proposal would give rise to similar discussions as the old one.

**Figure 1. Determinants of political support for CCCTB**



## What do politicians think of the common consolidated corporate tax base?

### Appendix 1 CFC members participating in CCCCTB debates (Belgian Chamber of Representatives, 2011a)

Ecolo-Groen!	Muriël Gerkens
sp.a	Dirk Van der Maelen
PS	Christianne Vienne, Guy Coëme, Olivier Henry
Open Vld	Gwendolyn Rutten
MR	Philippe Goffin, Damien Thiéry
CD&V	Servais Verherstraeten
cdH	Josy Arens
N-VA	Veerle Wouters, Peter Dedecker, Steven Vandeput
VB	Hagen Goyvaerts

### Belgian MEPs voting on amended CCCTB proposal (EP, 2012b)

Green/EFA	S&D	ALDE/ADLE	EPP
Frieda Bepoels	Frédéric Daerden	Philippe De Backer	Ivo Belet
Isabelle Durant	Véronique De Keyser	Louis Michel	Jean-Luc Dehaene
Philippe Lamberts	Saïd El Khadraoui	Annemie Neyts	Anne Delvaux
Bart Staes	Marc Tarabella	Frédérique Ries	Mathieu Grosch
	Kathleen Van Brempt	Guy Verhofstadt	Marianne Thyssen
ECR	EFD	NI	
Derk Jan Eppink	Frank Vanhecke	Philip Claeys	

### Appendix 2. Technical explanation of Table 5

The Belgian tax administration has the opinion that the definition of a permanent establishment (PE) could lead to difficulties in relation with third countries when taking into account the existing network of Double Tax Agreements (DTAs). For example, according to *Article 5* of the EC's proposal "A building site or construction or installation project should constitute a PE only if it lasts more than twelve months" (EC, 2011, p. 20). A DTA between Belgium and a third country, however, could determine a PE if it lasts more than six months. According to *Article 11(e)* of the EC proposal all "income of a PE in a third country would be exempt from corporate tax" (EC, 2011, p. 23). For Belgium it is unclear if exempted income would relate to the gross or net income of the foreign PE. Another problem deals with the application of the switch-over clause as described in *Article 73*. Article 73 states that received profit distributions, proceeds from a disposal of shares and income of a PE in a third country cannot be exempt if it originates from a third country where "tax on profits are taxed at a statutory rate lower than 40% of the average statutory corporate tax rate applicable in the Member States" (EC, 2011, p. 43). However, several Belgian DTAs will only refuse exemption if no effective taxation has taken place in the third country, *i.e.* the 'subject to tax rule'. Further, *Article 14(1) g* mentions that "costs incurred by a company for the purpose of deriving foreign PE income which is exempt to Article 11; such costs shall be treated as non-deductible and be fixed at a flat rate of 5% of that income" (EC, 2011, p. 23). The Belgian tax administrator wonders how the 5% of income would be calculated. Also, the prohibition to deduct expenses related to foreign PE would be in conflict with the double tax treaties. Belgium agrees with *Article 31* stating that a transfer of an asset towards a third country should be taxable. However, it remains unclear if a transfer of an asset from a PE outside the EU towards another PE outside the EU would be covered by the current article (Ihli, 2011; De Vos, 2012).



The Belgian tax authority also criticises articles which are not dealing with foreign PEs. According to *Article 11* subsidies of fixed assets subject to depreciation (*a*) and proceeds from the disposal of pooled assets (*b*) are exempt from corporate tax. However, Belgium has the opinion that they are effectively taxed over the depreciation period as the amount of the subsidies and proceeds diminishes the basis on which the depreciations of the assets are calculated. *Article 14(1) j*) mentions that all local taxes which raise more than 20 % of the total amount of corporate tax in the member state are non-deductible expenses. For Belgium, this implies that registration duties are non-deductible. Nevertheless, Belgium doubts whether registration duties paid by corporations are more than 20% of the total corporate tax. It believes that the Commission has taken into account the total amount of registration duties. According to *Article 26* pension provisions will be estimated using actuarial techniques and by reference discounted to Euribor for obligations with a maturity of 12 months. These provisions can be deducted without any limitation. As several European countries disallow pension deductions or limit these deductions, the Belgian tax administration believes the national legislation should apply. In case of a CCCTB group, the deduction of pension provisions should be applied to the apportioned share of the group members resident in that country. *Article 76* mentions that received interest and royalties may be deducted from the tax liability when they have been taxed in another member state or third country. Belgium finds this article too generous and proposes to introduce specific anti-abuse provisions which prohibit the creation of artificial constructions between CCCTB companies and third parties with the sole aim to obtain the tax deduction. Finally, *Articles 102* and *103* of the EC proposal forbid any additional deductions from the apportioned profit. For Belgium, this means that national tax incentives like the notional interest deduction, patent income deduction and investment deduction are lost for CCCTB groups (Ihli, 2011; De Vos, 2012).

## BIOGRAPHY

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