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Secrecy Jurisdictions

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Abstract

This paper surveys tax haven legislation and links the literature on tax havens to the literature on asymmetric information. I argue that the core aim of tax haven legislation is to create private information (secrecy) for the users of tax havens. This leads to moral hazard and transaction costs in non-havens. The business model of tax havens is illustrated by using Mauritius and Jersey as case studies. I also provide several real world examples of how secrecy jurisdictions lead to inefficient market outcomes and breach of regulations in non-haven countries. Both developed and developing countries are harmed, but the consequences seem most detrimental to developing countries.

JEL-Code: H250, F230, O100.

Keywords: tax havens, secrecy, private information, moral hazard.

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1 Introduction

Recently, states that previously have not been associated with the term tax haven have become a target of scrutiny. In their latest Financial Secrecy Index, Tax Justice Networks mentions the United Kingdom as the most important global player in the financial secrecy world due to their network of tax havens (such as the Cayman Islands, British Virgin Islands and the Channel Islands).[1] In 2012, the state of Delaware in the US landed at the top of National Geographic magazine's published list of the most secretive tax havens in the world. Likewise, Nevada and Wyoming have been mentioned as states that may deserve the label tax haven (see Dyreng et al. 2013). There are no generally accepted criteria for determining what a tax haven is; yet the term "tax haven" is a well-known and frequently used expression. It is also often used synonymously with or as an alternative to "offshore financial center" (OFC) and "secrecy jurisdiction," although neither of these terms has a generally accepted definition. In the literature, tax havens are often associated with low or nil taxes; lack of transparency (in the operation of legislative, legal or administrative provisions), and no requirement for a substantive local presence.

This paper attempts to obtain a clearer understanding of how a tax haven works and to find the common traits among these jurisdictions. I do so by describing the legislation in two tax havens; showing that despite material differences they essentially achieve the same end outcome. One common feature is the preferential treatment of foreigners. Another is the creation of secrecy (private information) that leads to moral hazard and ultimately higher transaction costs. I show that a key feature of tax haven legislation is to divert such costs to non-haven countries. In the following I use the terms tax haven and secrecy jurisdiction interchangeably.

Asymmetric information and moral hazard are hardly mentioned in relation to tax havens despite the fact that the Nobel Prize in economics in 2001 was awarded jointly to G.A. Akerlof, M. Spence and J. Stiglitz for their work on how information asymmetries impose transaction costs that impede market efficiency. One example of transaction costs related to tax havens is hidden bank accounts. Tax haven legislation prevents the disclosure of information to third parties. This lowers the costs of tax evasion and presents an income opportunity for individuals. Hidden bank accounts increase the excess burden of taxation and leads to higher compliance cost in non-haven countries.[2]

The secrecy and anonymity that tax havens offer also make it harder to repatriate stolen funds thereby lowering the costs of economic crime and theft from society. There are many examples in developing countries of public funds being concealed in tax havens

[1] http://www.financialsecrecyindex.com/

[2] Of course, information asymmetries may also create business opportunities (an example of which, is trading in derivatives and futures), but these are of a different kind than the income opportunities offered by tax havens.

to enrich corrupt bureaucrats and politicians.[3] Since tax havens make it more profitable to commit economic crimes, tax havens may lead to a deterioration of institutional quality in countries where power is in the hands of a small elite. This is so because a small elite can more easily weaken a country's "checks and balances", thereby making it less difficult to steal from society. As will become clear later this is typically a problem in developing countries.

The examples of hidden bank accounts and theft from society are examples of tax evasion and economic crime, that is, illegal activities. Tax havens, however, also play an important role in legal tax planning. Companies use holding firms in tax havens to defer home taxation, to earn capital gains tax free, to send money in and out tax free, and to govern their other companies and financing. These are legal activities, but they may also impose transaction costs on non-haven countries if they make the capital tax base of non-haven states more tax sensitive. Multinationals that work through tax havens and are engaged in tax avoidance may be monitored by their home country (where the parent firm is located). But information about corporate transactions in tax havens is still private unless the firm provides all relevant information. The firm may not know that some information is relevant or it may want to hide it (typically in corruption cases). Hence, the tax authorities may be given incomplete or misleading information in tax planning cases. Recent high profile cases related to multinationals are the bribery investigations of Yara and Telenor, and the Norwegian court case involving the drilling company Transocean where incomplete information is an aspect of the trial.[4] Aggressive tax planning may cross the line from tax avoidance into tax evasion, and there is a fine line between conduct that gives rise to a potential charge for tax evasion and conduct that does not. The fact that information can be hidden in tax havens makes this line even finer.

Another aspect of secrecy that has received scant attention in the economic literature is the use of untraceable (anonymous) shell companies. These are companies that can be set up without proof of identity, which can then be used to avoid responsibility for both non-criminal and criminal activity. Although the international community has laid out rules that require adequate and timely information on beneficial ownership through the Financial Action Task Force (FATF), there is mounting evidence that corporate service providers, not only in secrecy jurisdictions, but also in countries such as Britain and the United States, do not comply with these rules. Numerous examples exists of anonymous shell companies used to launder drug money, hide bribes, finance illegal arms shipments, and in general to escape responsibility for acts that ultimately impose grave costs on

[3] See NOU 2009: 19, appendix 1.

[4] The bribery investigation in Yara and Telenor are detailed here (see e.g., http://www.newsinenglish.no/2014/03/13/telenor-tied-to-corruption-probe/)) and the Transocean case here (see; http://www.reuters.com/article/2014/07/16/transocean-fraud-idUSL6N0PR38P20140716))

society.[5] Results from experiments in Sharman (2010) and Sharman et al. (2015) suggest that traditional tax haven countries may have higher standards of corporate transparency and disclosure than those found in the United States and the United Kingdom. Sharman (2010), for example, states: "*In the United States and the United Kingdom, anonymous companies are freely available to anyone with an Internet connection and a few thousand dollars.*" Against this background it is perhaps not unjustified that the U.K. and certain U.S. states to an increasing degree are being identified as secrecy jurisdictions. The implication is that international efforts to increase transparency face formidable obstacles.

The paper provides insights through examples and case studies about how the legislation in secrecy jurisdictions work. The examples are all documented and referenced. Tax havens are by definition opaque, and it is precisely for this reason that the OECD has forced them to sign information exchange treaties (TIEAs). These do not eliminate the externalities that follow from legislation in secrecy jurisdictions. A requirement for using a TIEA is that the tax authorities can link a tax evader to a specific tax haven. In order to do so someone must have spilled evidence. Moreover, even when the requirements for using a TIEA are satisfied, it may be the case that information does not exist or is inadequate.

The information that is the backbone of this paper was obtained during my period as the head of a Norwegian government commission that studied tax havens and their effects on developing countries.[6] Much of the information would otherwise have been hard to come by. The paper starts by looking at how the legal system in "tax haven" jurisdictions works. In a next step I provide examples of how this leads to inefficient outcomes in markets and breech of regulations. The last part of the paper brings together research from various scientific disciplines on how tax havens foster moral hazard and invoke transaction costs in a wide range of settings.

2 The business model of secrecy jurisdictions

Many countries may be labeled as low tax countries in the sense that they offer low or zero taxes on certain activities. Such states could be named tax havens if one only considers the tax aspect. However, the set of rules that govern secrecy jurisdictions (and that are often associated with the term tax haven) differ considerably from just offering low taxes. I argue that there are at least three features that set secrecy jurisdictions apart from states with just low taxes. These are:

1. A ring-fenced system of law and taxation

[5] Evidence of this is detailed inSharman et al. (2012) and in NOU (2009).

[6] The report delivered by the commission is NOU 2009: 19 Tax havens and development and is obtainable as a pdf here: http://www.regjeringen.no/pages/2223780/pdfs/nou200920090019000en_pdfs.pdf

2. A special regime to ensure tax domicile for firms that are exempt from tax
3. Private information (secrecy) and lack of effective supervision.

Normal states have elements of all these features, but they are used and implemented in a very different way, as shall become clear in the continuation. Recently, the public has become aware of the fact that countries perceived to be low-tax countries only, have offered special tax deals to multinationals. A prominent example is Ireland and its agreement with Apple.[7] The fact that countries enter into secret deals with companies can be seen as a form of ring-fencing, but such practices make it harder to classify countries especially since information about them is private. Even Luxemburg by many defined as a secrecy jurisdiction, has hidden its extensive network of special tax deals with companies in fear of the EU clamping down on them as illegal state support and/or harmful tax competition. Both the Irish and the Luxemburg case are now under consideration by the EU for breach of EU-legislation.[8]

2.1 A ring-fenced system of law and taxation

Tax havens apply different legal and tax rules to foreign investors and their firms than to local firms and residents. This is called ring-fencing. A common denominator for these rules is that they are designed to make it attractive for foreign investors (non-residents) to set up firms that are tax domiciled in the tax haven. A common feature when it comes to these firms is that they are prevented from undertaking local operations or activities over and above the formal activities associated with their registration and board membership. Rules related to reporting and auditing that apply to domestic firms, do in general or to a lesser extent apply to such firms. The reason is that they are exempted from taxes or only face nominal taxes. Since the rules that govern these enterprises are very favorable but bans them from operating locally, they are often called exempted companies or international business companies.

Non-haven states may also have ring-fenced tax systems. The difference, however, is that ring-fenced tax systems in normal states have been created to attract firms to invest in the local e conomy. In tax havens, the ring-fenced legislation is designed so that foreign investors find it attractive to set up holding companies in the secrecy jurisdiction that invests elsewhere (in non-haven states). An example is a tax haven holding company that finances subsidiaries abroad and receives dividends from these in order to defer home taxation.

[7] On Ireland see: http://www.reuters.com/article/2014/09/30/us-apple-ireland-tax-idUSKCN0HP0QT20140930

[8] The Luxemburg case is described here: http://www.icij.org/project/luxembourg-leaks

Ring-fencing also has a wider application. Tax fraud is a criminal offense if you are a resident of a tax haven, but not if you are a foreign investor. The reason is that foreign investors (in general) do not pay tax in the tax haven so by definition they cannot evade taxes. And tax evasion elsewhere is not a concern for the tax haven even if its legislation may encourage tax evasion. Before the OECD started its work on information exchange treaties, tax havens would only exchange information if the action taken by an individual was a criminal offense in both states in question. Since tax fraud was not a criminal offense in the tax haven, no information was disclosed. With the information exchange treaties this has changed, but the change was not brought forward voluntarily.

In order to see how ring-fencing work in practice and differ among so called tax haven jurisdictions, I shall survey two jurisdictions that have been associated with the term tax haven namely Jersey and Mauritius.

2.1.1 Mauritius

In Mauritius, neither residents nor non-residents pay capital gains tax, inheritance or wealth tax. In order to attract foreign investors, Mauritius offers two types of companies that are only accessible to non-residents. These companies, called Global Business Company 1 and 2 (hereafter GBC1 and GBC2), cannot use local currency and their business must be conducted elsewhere. GBC1 companies must use locals for company registration purposes and as board members in order to ensure that the company is managed from Mauritius and thus tax domiciled there.

The corporate tax rate in Mauritius is 15% and applies to both domestic (local) companies and GBC1 companies. GBC1 companies are given an automatic foreign tax credit which yields an 80% reduction in the 15% rate irrespective of whether foreign taxes are incurred or not. This means that the nominal tax rate is 3% for GBC1 companies, which should be contrasted to non-haven countries, where tax credits are only given based on documented source taxes falling on repatriated income. GBC1 companies can also claim an actual tax credit for any tax paid abroad, and will use whatever rule is most favorable. In reality, as the Norwegian Capital flight Commission found, GBC1 companies do not pay tax (see NOU 2009, ch 7).

GBC2 companies are exempt from Mauritius tax law and face a zero tax rate. They can be set up on a very short notice. A GBC2 company should file accounts, but there are no audits, nor is the firm's accounts publicly available and a GBC2 company is exempted from the duty to preserve important corporate documents. Beneficial ownership is not disclosed to the authorities. The total sum of all the liberal provisions applied to GBC2 companies makes it very hard to obtain any form of information about these companies.

Mauritius also allows so-called protected cell companies (PCC), which can only be used by non-residents. Such companies can divide their assets and liabilities into different

cells, each of which has its own name. The total number of cells comprises the entire company, which provides very good protection against third parties attempting to obtain information on or seize these assets.

In sum, there are no publicly accessible records of beneficial owners or shareholders for GBC-companies in Mauritius, and shares may be held by a nominee on behalf of a beneficial owner. There is no requirement to file an annual company return, and GBC companies can use a corporate shareholder.

2.1.2 Jersey

Before 2008 companies tax domiciled in Jersey paid a statutory corporate tax rate of 20%. Foreign owned companies that did not have any activity on Jersey, could pay a fee (between GBP 200 – 600) and obtain tax-exempt status. International pressure on Jersey lead to a corporate tax reform on June 3, 2008.

The new system abolished the category of exempt company. It invoked a standard corporate tax rate of 0%, but included two other non-zero corporate tax brackets. Financial service companies faced a tax rate of 10%; whereas utility companies and income specifically derived from Jersey property rentals or Jersey property development faced a rate of 20%.

The new system ensures ring-fencing since all the important local businesses pay tax, whereas foreign investor companies are still tax exempt. Furthermore, companies that have shareholders who are Jersey residents fall into a special category. Jersey shareholders are taxed at 20% for their share in the company's income. This increases compliance demands for foreign controlled companies with Jersey residents shareholders and, therefore, imply that Jersey residents are less desirable as shareholders in these companies.

In Jersey, unlisted companies that face the 0% rate do not need to submit financial records or have an audit. Such companies must keep annual records, but these records often only contain information about the shareholding capital, the number of shares and who the owners are. Real beneficial owners may remain hidden (an example is provided later in this section).

The examples of Jersey and Mauritius show that while foreigners and their firms are tax exempt, local residents and businesses face tax. Jersey and Mauritius have achieved this through different types of arrangements, but to the same end effect. Both jurisdictions derive income from registration fees, licence fees and annual fees for maintaining registration. Service providers and nominees are also paid for their services.

Similar rules are in place in other tax havens. In Delaware, for example, limited liability companies (LLC companies) must have a Delaware Registered Office, a secretary, and at least one director. The director can be a corporation, meetings can be held anywhere, the public file need only contain the name of the company, incorporation

number, date of incorporation and details of registered agent, and no records of the company's business need be kept in Delaware. These rules apply if no business activity is carried out in the US. LLC companies pay $100 annual tax and are otherwise tax free. As is clear from the above, Delaware does not collect any information about who the real beneficial owners of a company are. From a transparency point of view this is worrisome and it obviously creates private information.

An important part of making a tax haven attractive for foreign investors is to ensure that a foreign owned firm can be tax domiciled there despite the fact that the company is merely a shell company, that is, the company does not have any significant assets or operations in the tax haven. I will discuss tax domicile in the continuation.

2.2 Tax domicile

A crucial element in the business model of tax havens is that of tax domicile. In most countries, a company is generally treated as a resident for tax purposes based on where its central management and control are exercised. The term "central management and control" refers to the highest level of oversight, usually as exercised by the board, rather than day-to-day management. Since the ring-fenced legislation of most tax havens forbids local activity, tax domicile is ensured by the requirement that a firm appoints a sufficient number of local residents as board members. In addition, it is recommended that a number of board meetings are held in the tax haven. Incorporation only does not guarantee tax domicile. A major question related to tax domicile is if local board members are straw men instructed from elsewhere so that the central management and control and thus the "real board" is in another state altogether.

There are many examples that highlight the problem of tax domicile. In the 1980s, the Channel Islands became famous for the "Sark Lark." Under the laws of Guernsey and Jersey in existence at the time, all companies were liable for corporate taxes unless the annual directors' meetings were held outside of Guernsey and Jersey, i.e. offshore from the main Channel Isles. As a result, thousands of Jersey and Guernsey companies appointed Sark directors and held board meetings in Sark or in nearby French towns where companies bought Sark addresses without any physical presence on the island. The case against Phil Crowshaw is illustrative of this. He was a Sark resident who rented out his name to 3,378 companies that needed a director or a board member, each firm paying between 50 and 400 pounds for the use of his name. When some of the companies for which Crowshaw was legally responsible committed criminal offenses, the UK took action against him and the high court of Manchester disqualified him from acting as a director of any UK company.[9]

[9] For a description of this case see http://www.independent.co.uk/news/business/stamping-out-the-sark-lark-1102707.html

In general, the amount of responsibility that falls on a limited number of board members in tax havens is overwhelming. For example, no less than 830,000 companies were registered in the British Virgin Islands (BVI) in 2012. BVI had in 2012 approximately 31,000 inhabitants. On average each inhabitant holds approximately 27 Directorships. In comparison, a country like Norway with five million inhabitants had approximately 270,000 limited liability companies in 2012, averaging 0,05 directorships per capita. On average a BVI resident had 540 times as many directorships as a Norwegian in 2012. Given that some of these must be locals to ensure tax domicile, it is natural to worry about whether they are directors in name only.

The issue of tax domicile in tax havens has lead to the perception that the highest level of oversight occurs outside the tax haven and that many directors are directors in name only, not in substance, and that the real directors are other people altogether in other jurisdictions. This perception has gained force from reports that directors in tax haven firms sometimes assign their powers as directors by general power of attorney to others and provide undated letters of resignation. Jersey, for example, allows such letters.[10] These letters are often kept by service providers who represent the shareholders. A frequent argument for this practice is administrative ease, but such letters also provide a powerful tool for instilling obedience into local board members who derive a significant part of their income from board service.[11] The implication is that someone else than the directors may make decisions. Who these people are is private information.

In many tax havens a response to the critique about board members has been to allow corporations to be a board member. A corporate board member may be a service provider or a law firm that acts as a director. Corporate board members often register their phone calls and correspondence with the company owners in order to charge them for their services, though it is often very difficult to establish whether a corporate board member has been instructed or simply sought information before making a decision.

Where decisions are taken is often private information. Are decisions made prior to the board meeting in another jurisdiction so that the real seat of the board is there? If so the firm should be tax domiciled where these decisions are taken. The difference between tax havens and normal states is the requirement in tax havens to use local residents as board members and directors in order to ensure tax domicile. Since it is private information where decisions are taken, tax havens can use such an arrangement to establish tax domicile. Countries incur costs to reveal the true nature of such arrangements and they come in the form of domestic law or controlled foreign corporation (CFC) rules. The use of domestic law imply that the tax authorities must establish that the board level functions are performed somewhere else other than in the tax haven. This invokes admin-

[10] To meet the criticism of being a director only in name, directors now need a license in Jersey.

[11] This argument was made in the Edward Report (2009). Review of Financial Regulation in the Crown Dependencies – Part 1, section 13.2. Jersey Financial Service Commission.

istrative and investigative costs CFC rules vary across states, but the basic enforcement mechanism is that taxpayers resident in a non-haven, who have a controlling interest in foreign companies located in low-tax jurisdictions are taxed on their share of the foreign company's "attributable income." For CFC rules to apply, the tax authorities must be informed by the taxpayers that they hold a controlling share in such companies. Taxpayers who want to avoid taxation can do so by either not reporting their shareholding, or by making arrangements through the use of nominee shareholders in tax havens so that it appears as if they no longer hold a controlling stake. This means that resources are used to conceal the realities. For CFC rules to be effective, truthful self-reporting is required. One of the lessons learned from the last decade of research into tax compliance is that tax payers are more prone to misreport income when they self-report (see Kleven et al. 2011).

2.3 Private information (secrecy) and lack of effective supervision

It is not obvious how one should define secrecy. Hines and Rice (1994) define this as legislation that supports banking and business secrecy. In its report on the use of secrecy jurisdictions by American corporations, the U.S. Government Accountability Office (2008) similarly describes it as a lack of effective exchange of tax information with foreign tax authorities and a lack of transparency in the operation of legislative, legal or administrative provisions. As part of its harmful tax competition initiative, the OECD (1998) characterizes secrecy as the existence of laws or administrative practices that prevent the distribution of effective information for tax purposes with other governments.

Secrecy takes many forms in tax havens. The most common one, and the one that most people associate with tax havens, is an unwillingness to comply with information requests from third parties. In most non-haven countries, there is a public registry that requires companies to file financial accounts. In tax havens, firms may be required to file annual records. These are often limited to recording the names of the shareholders, the number of shares and the amount of capital invested. Often the real beneficial owners are not disclosed to the public or the authorities. Public supervision and audits are not necessary when there is no taxation and no local creditors since the firm cannot operate locally.

In normal states, favored industries are monitored and supervised in order to ensure that privileges do not spill over. In tax havens, it is the opposite. Supervision and the enforcement of rules and regulation are costly, particularly in a small population and have no income side, since foreign investor firms do not pay tax and cannot operate locally. In addition, supervision implies transparency, which goes against the desire of many tax haven users. The case of Cyprus is revealing. Despite international regulation (such as

the Financial Action Task Force and being a member of the EU), the main Norwegian business newspaper, Dagens Næringsliv, was denied access to the public Cyprus company registry. After a court order that granted the newspaper access, its investigation revealed that the registry was at least 10 years behind in firm registration, and that firms could leave out important financial records in their filings without any risk of detection or penalty.[12]

2.3.1 Information Exchange Treaties

In order to avoid being blacklisted by the OECD, secrecy jurisdictions have been forced to sign tax information exchange tax treaties (TIEAs). Under TIEAs, the requesting jurisdiction must provide significant accurate information in the letter of request to identify a specific person, transaction, account, trust or company linked to the suspicion in question, and the tax purpose for seeking this information. It must also provide evidence of why it believes the requested jurisdiction holds the information in question, and demonstrate that it has exhausted all other means of information (within reason).[13]

TIEAs imply that only when the tax authorities in a given country have obtained information from elsewhere that links a tax evader to a tax haven jurisdiction, can a TIEA request be submitted. TIEAs give tax havens incentives not to spill evidence and to guard their secrecy. Paradoxically, then, TIEAs may lead to less transparency. On the other hand, TIEAs may create the perception among taxpayers that the risk of being caught has increased. If so, this may lead to less tax evasion. The need for TIEAs, however, has arisen from moral hazard and asymmetric information that follow from tax haven legislation. Not only is it costly to sign such treaties, but a requesting jurisdiction needs to divert substantial resources in order to comply with the details of such requests.

2.3.2 Trusts

Government reports, non-governmental organizations, and court cases in various countries point to that individual can evade taxes by using trusts in tax havens.[14] A trust is a collection of assets where a person (the trust settlor) gives up the asset(s) for the benefit of someone else (the beneficiary) under a trust deed. The trustees formally hold the (collection of) assets on trust and for the benefit of the beneficiaries. Court cases have shown that certain tax havens allow the settlor to merely pretend to have given away the

[12]See Dagens Næringsliv 8.11.2012. A picture of the archive and the feature article can be found at: http://www.dn.no/forsiden/naringsliv/article2503986.ece

[13]Under a TIEA agreement, it does not suffice for a requesting country to provide evidence that a certain tax payer has evaded taxes at home, and, based on this evidence, request information about deposits in another jurisdiction. Such requests are labeled “fishing expeditions” since the requesting jurisdiction does not have evidence that links the taxpayer to the requested jurisdiction.

[14]See Gravelle (2013) and Tax Justice Network (http://nl.tackletaxhavens.com/wat-is-een-belastingparadijs/the-lingo/)

asset (thus potentially escaping the tax bill on its income, for example), while in reality still controlling it.[15] The US Internal Revenue Service describes the problem as follows: "*The foreign trust schemes usually start off as a series of domestic trusts layered upon one another. This set up is used to give the appearance that the taxpayer has turned his/her business and assets over to a trust and is no longer in control of the business or its assets. Once transferred to the domestic trust, the income and expenses are passed to one or more foreign trusts, typically in tax haven countries.*"[16]

In many normal states (but not all) the ability to conceal the existence of a trust and to hide distributions from trusts has been thwarted by the setting up of public trust registries. In tax haven jurisdictions, but also in many countries based on English law, a trust is normally a private agreement. The implication is that the trust is not known to the general public or for the tax authorities. Although there are rules that guard against the misuse of trusts, there is no effective enforcement of these rules in secrecy jurisdictions, since those who benefit from the rules do not reside in the tax haven or pay tax there. In essence then, such structures are an open invitation to abuse. It is for such reasons that The European Parliament's economics committee and justice committee on February 2014 voted to bring trusts fully into the Fourth Money Laundering Directive's transparency requirements by setting up a public registry for all EU member states.[17]

Public trust registries may exists in secrecy jurisdictions, but are either voluntary, only apply to locals, or can be set up so that the public cannot get access to information. An example is Liechtenstein, which has a Public Register. However, one can avoid registration by depositing the trust deed with the Land and Public Register Office. The benefit of such an arrangement is that a deposited trust does then not exist in any register accessible to the public. Inspection of information provided is possible only if evidence of a justified interest can be produced.[18]

2.4 Tax haven benefits

Tax havens earn income from the financial sector that serves foreign investors; they earn fees from maintaining company registration and accounts; and they derive income from local service providers and law firms that set up and administrate foreign investor affairs. In Jersey, for example, approximately 50 percent of GDP comes from the financial sector and firms that can broadly be described as servicing foreign investors and their Jersey firms.

[15] One of many examples is a seller of baby equipment who had set up trusts in Liechtenstein The court case revealed that he controlled the trusts and had used them to channel income and hide bank deposits. See http://www.bt.no/nyheter/okonomi/Babykos-grnder-domt-til-fengsel-2569039.html

[16] See: http://www.irs.gov/uac/What-are-some-of-the-Most-Common-Abusive-Tax-Schemes%3F

[17] See http://www.step.org/meps-vote-name-trust-beneficiaries-public-registries

[18] For the rules guarding trusts in Lichtenstein see e.g.; http://www.atrium-incorporators.com/trust-formation-in-liechtenstein/

The amount of capital that passes through secrecy jurisdictions is large and the tax haven jurisdictions are often small countries. The spin-offs are therefore considerable. According to Hines (2010): "Tax havens are small: most are islands, all but a few have populations below one million: and they have above-average incomes." Of course, the statement by Hines is meant to reflect averages, and larger countries such as Belgium, Ireland, the Netherlands and Switzerland have also been listed as tax havens by various organizations (see NOU 2009, chapter 2).

For foreign investors the attraction of a tax haven is nil or only nominal taxes, deferral of home taxation, lax regulation, almost no costs related to compliance, and the ability to conceal information. Investment through tax havens are also safe. According to Hines and Dharmapala (2009) who controls for other relevant factors, governance quality has a statistically significant and qualitatively large association with the probability of being a tax haven. The fact that governance quality is important implies that foreign investors care very much about whether their money is safe or not.

There is a literature that discusses the benefits of tax havens in the context of global tax competition. Desai, Foley and Hines (2006) argue that while tax planning may reduce revenues of high-tax jurisdictions, it may have offsetting effects on real investment that are attractive to governments. If, for some reason, a government is restricted from taxing mobile and immobile capital differently, a tax haven may allow mobile capital to avoid a tax that would otherwise have been fully shifted onto immobile production factors. Hong and Smart (2010) show that debt shifting by a multinational with a financing subsidiary located in a tax haven and an operational subsidiary located in a high-tax host country, increases welfare in the country that hosts the operational subsidiary. The argument is that the multinational firm is able to avoid an inefficient tax on mobile capital. Gresik, Schindler and Schjelderup (2015) show that the welfare optimum in the Hong and Smart paper is a tax rate of 100% and that the multinational affiliate must be 100% debt financed. They also show that adding profit shifting to the Hong and Smart model may facilitate aggressive transfer pricing that results in lower host country welfare. Slemrod and Wilson (2009) demonstrate that the presence of tax havens that sell "concealment services" to firms in non-haven countries increases the social costs that a country incurs when raising its capital tax. They find that this aggravates the tax competition problem and that eliminating tax havens raises the equilibrium taxes and public good supplies, thereby increasing welfare in all countries. There is a substantial literature on how the profit-shifting activities of tax havens affect tax competition and welfare between countries. This literature is surveyed in Wilson (2015), who concludes that there remain conflicting answers to the question of whether tax havens add to or diminish the inefficiencies associated with tax competition.

From the perspective of someone who uses a tax haven, it is the combined effects of a ring-fenced legislation, rules for tax domicile, and secrecy that make tax havens attractive.

The way ring-fencing works means that secrecy jurisdictions do not have any incentives to enforce regulations and supervision. When this is paired with confidentiality, a string of externalities follows. Since firms registered in tax havens must operate in other states, the implication is that the externalities that follow from tax haven legislation occur in non-haven states. By applying a revealed preference argument, it follows that tax havens view their own ring-fenced legislation as harmful or they would otherwise have allowed the legislation to apply to all firms including those that operate domestically.

3 Tax havens and the costs of asymmetric information

Tax havens create asymmetric information because it is not clear who owns assets, who really act as board members, and who is ultimately responsible. This imposes costs on third parties because they must exert more effort than usual to obtain information, if at all possible, and they must invest in safeguards to combat the moral hazard incentives that tax havens create. The ability to conceal information from third parties also lowers the costs of committing crimes and violating regulation because the likelihood of detection is lowered.

The company registries are also not opaque. The case of Cyprus mentioned earlier shows that the registries are not up to date, and that they fail to check whether all required information has been submitted. Generally, there are no strict penalties for not adhering to reporting requirements in tax havens (in the case of Cyprus they admitted to no such costs), and if such requirements are in place, they are rarely enforced (see NOU 2009). Furthermore, the information that firms are required to submit to tax haven company registries is minimized so as to give very little away. An example of this is involves the world's largest sovereign wealth fund, Norwegian Government Pension Fund Global. In 2013, the fund invested 1,8 billion NOK in the Formula 1 business through a Jersey company called Jura Ltd. Investigating journalists could not obtain annual records of Jura Ltd nor ascertain who the real beneficial owners of the company were. In the firm's annual accounts a Jersey service provider was listed as the owner. No information about board members (if any) existed, and the company did not have a contact person.[19]

Jersey is one of the jurisdictions I have described in detail above. Because of the "Sark Lark" and related scandals that tainted the reputation of the British Channel Islands, Treasury official Andrew Edwards was appointed to write a report and suggest legislative changes. In his report Edwards made a number of suggestions aimed at increasing transparency.[20] However, most of the proposals were rejected by then British

[19]The case is descirbed in detail in Dagens Næringsliv 16.03.2013. See http://www.dn.no/nyheter/2014/03/16/Oljefondet-i-Formel-1/formel-1-et-korthus

[20]See the Edward Report (2009). Review of Financial Regulation in the Crown Dependencies –. Jersey

prime minister, Tony Blair.[21] A quote from the Edwards report illustrates one type of cost related to opacity: "If public policy emphasizes privacy above transparency, the greatest beneficiaries are likely to be criminals."

Secrecy jurisdictions make it harder to identify the ultimate owner of an asset and therefore provide the means to avoid detection and penalties for wrongdoing. In combination with the lack of regulation and/or effective supervision, the legislation creates asymmetric information that leads to moral hazard and transactions costs. Below I present some examples.

3.1 Tax evasion and the financial sector

The ability to conceal wealth and income is one of the attractions that tax havens offer at lowers costs than non-haven states. The United States allegedly loses in excess of USD 100 billion annually in tax revenue due to undeclared bank deposits offshore, tax evasion and avoidance by multinational corporations.[22] The Norwegian tax authority estimates that its taxpayers have undeclared bank deposits in excess of USD 35 billion in tax havens.[23] Norway has 5 million inhabitants.

Financial secrecy and offshore tax evasion are widespread and ingrained in the financial system in some tax haven countries. Two examples are UBS, the largest Swiss bank, and Wegelin, the oldest bank in Switzerland. In 2009, UBS accepted a fine of USD 780 million on charges of conspiring to defraud the United States by impeding the Internal Revenue Service.[24] UBS had secretly sent its employees into the United States where they engaged in illegal banking activities that included soliciting U.S. taxpayers to open secret bank accounts with full knowledge that it was helping them commit tax evasion. Wegelin, the oldest bank in Switzerland, pleaded guilty in New York City in 2013 to criminal charges for helping wealthy American customers evade taxes by hiding more than $1.2 billion in secret accounts. Wegelin bank officials admitted that the bank had campaigned UBS' departing customers to move their secret accounts to Wegelin where they would continue to be hidden and free of tax. Wegelin pleaded guilty to the criminal charges by the US state attorney and paid $74 million in fines, restitution and forfeited funds, which ultimately lead the bank to close its doors.

In 2014, the Swiss Bank Credit Suisse AG pleaded guilty to helping wealthy Americans avoid paying taxes through secret offshore accounts. The bank has agreed to pay about

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Financial Service Commission.

[21] Blairs failure to implement such changes to Jersey Law was highlihted in the Guradian, see http://www.theguardian.com/uk/2012/nov/28/offshore-secrets-government-act-disclosures

[22] U.S. Senate Permanent Subcommittee on Investigations: Tax haven banks and U.S. tax compliance, July 17, 2008 and http://www.justice.gov/tax/UBS_Signed_Deferred_Prosecution_Agreement.pdf, http://www.irs.gov/pub/irs-drop/bank_agreement.pdf

[23] See http://www.skatteetaten.no/upload/PDFer/Skatteetatens_analysenytt/Hva_vet_vi_bruk_skatteparadis.pdf

[24] NOU (2009), page 25.

$2.6 billion in fines to the U.S. government. According to US officials, the bank had been operating this tax evasion fraud for decades. The US Senate subcommittee of investigations who investigated the case found the bank provided accounts in Switzerland for more than 22,000 U.S. clients totaling $10 billion to $12 billion.[25] Another well known case mainly involving European tax payers is the so called LTG Scandal. It involved hidden accounts held by the LGT Group, a bank managed by the principality of Liechtenstein.

The ability to conceal income and wealth in tax haven bank accounts is an example where tax haven legislation lead to moral hazard actions by banks that in turn fosters tax evasion. It is ability to make information about bank deposits private information that lowers the costs of tax evasion. For society, lower evasion costs imply that the tax base becomes more tax sensitive. It also implies a narrower tax base, which in turn increases the excess burden of taxation rises. There are also administrative costs to tax evasion and these costs can substantial. One example is the Norwegian Tax authorities' investigation into tax evasion by the ship-owner Anders Jahre and his hidden wealth in the Cayman Islands. The case was investigated continuously for 35 years by the Norwegian tax authorities and the costs amount to 63 million euro just for this case.[26]

3.2 Illegal, Unreported and Unregulated (IUU) Fishing[27]

A large number of scientific studies have shown a very significant decline in important fish stocks around the world and have pointed out that a major reason for this is excessive fishing, of which a substantial part is illegal fishing.[28] It is widely acknowledged that ship registration in states that offer flags of convenience, among them typical tax havens, is integral to the problem of illegal, unreported and unregulated fishing (IUU), see OECD (2004). Recent reports assess the worldwide value of IUU catches at USD 10–23.5 billion a year. In perspective, this comprises between 13-31% of global catches.[29]

Vessels that sail under a flag of convenience do not have to pay for fishing licenses and vessel monitoring systems, or abide by national or international regulations and rules meant to preserve fish stocks, safety, worker conditions or the environment. These low-cost advantages may be combined with owner anonymity, particularly if the vessel

[25] Details of this case and others are found in "Offshore Tax Evasion : The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts. United States Subcommittee on Investigations, February 26, 2014.Home page: http://www.hsgac.senate.gov/subcommittees/investigations

[26] The case is described in detail in NOU (2009; page 29).

[27] Illegal fishing takes place where ships operate in violation of the fishery laws. Unreported fishing is fishing that is unreported or misreported to the relevant authority in contravention of applicable laws and regulations. Unregulated fishing is fishing carried out by vessels without nationality, or vessels flying the flag of a state that is not party to the regional organization governing the particular fishing areas or fishing for fish stocks where there are no conservation and management measures in place.

[28] A detailes are given by the Swedish FAO Committee (2009) and in Stølsvik (2007).

[29] The various estimates are given in FAO (2010), EJF (2010), and High Sea Task Force (2006).

is owned by an anonymous shell company - making it possible to violate national and international rules without facing the consequences of evading national and international regulation of fish stocks.

There are many types of costs arising from asymmetric information about ownership of these vessels. One type of cost is related to food safety, since fish stocks cannot be managed properly.[30] The ability to obtain anonymity also means that safety is disregarded. The term "floating coffin" has been used to reflect the poor condition of many IUU vessels, some of which have been allowed to deteriorate to the point of not being seaworthy, with no life rafts, flares, radio or radar.[31]

One of the darker sides of IUU fishing is the abuse of human rights. IUU fishing vessels draft workers on contracts (if a contract exists at all) signed by fictitious companies, which are described as grossly unfair.[32] In a report from the World Wildlife Foundation and the Australian government (see Gianni and Simpson, 2005), physical and psychological mistreatment of crew on board IUU vessels is mentioned as a frequent occurrence, and Asian crew members have been known to work as forced labor sometimes chained while at sea or in port.[33]

3.3 Safety

The ability to hide who the beneficial owner is provides weak incentives to adhere to regulation in transport. One example of this is the Scandinavian Star accident. On the night of April 7, 1990, a fire broke out on the ferry known as the Scandinavian Star, which was on its way from Oslo (Norway) to Fredrikshavn (Denmark). The fire killed 158 people and two persons died later as a result of injuries related to the fire. The investigation of the fire showed that the ship had some serious defects and that security regulations had not been followed. Since the ship was registered in the Bahamas, it has thus far not been possible to establish who the real owners of the ship are, so they can therefore not be brought to court. In this case the ability to hide from the authorities who the real owner was, also lowers the costs of non-compliance to regulation. For society and the passengers, the costs related to asymmetric information in this case were devastating.

It is not only sea transport that is affected by tax havens. In 2009, the main business newspaper in Norway revealed that the airline company Scandinavian Airline Systems (SAS) leased passenger planes from anonymous companies in the Cayman Islands (i.e. the beneficial owner could not be established). According to Gjernes and Kibar (2009), SAS did not lease the airplanes directly from Cayman companies, but instead used a

[30] The Environmental Justice Foundation (EJF, 2010) lists some flags of convenience states that often are labelled tax havens. These are Bermuda, the Cayman Islands, Cyprus, Gibraltar, Hong Kong, the Isle of Man, Mauritius, Panama, and Singapore.

[31] For the use of this term see EJF (2010; p. 9).

[32] These contracts are described in OECD, (2004) and High Sea Task Force (2006; pp. 33-34).

[33] See Gianni and Simpson 2005, p. 34.

go-between company called Babcock and Brown, which was located outside the Cayman Islands. Gjernes and Kibar (2009) found that the Norwegian aviation authorities had registered 383 incidents on SAS flights in the last five years leading up to 2009, and 274 of these had not been investigated. Many of these incidents pertained to the Cayman Island planes, while investigations carried out by Gjernes and Kibar (2009) showed that it was not possible to establish the identity of the beneficial owners of these planes.

The main point in relation to these two stories is twofold. First, the use of secrecy jurisdictions makes it possible for owners to hide information about assets of importance to public safety. Second, if an accident occurs and it turns out that the owner is wholly or partially to blame, the owner will remain hidden. Consequently, the owner does not bear the full cost of negligence and this leads to a moral hazard problem.

In industries such as the airline industry, in which safety is a major concern, national authorities respond to asymmetric information by setting up their own safety regulating bodies to unravel asymmetric information and ensure that service and maintenance are undertaken according to high standards. The ability to keep information private, however, gives owners weaker incentives for care and maintenance than if their identities were visible and increases regulatory costs.

3.4 Tax havens and developing countries

In the subsections above, I have given examples of harm caused by tax haven legislation. These costs arise because tax havens provide an economic opportunity to enrich oneself at the expense of others due to the income opportunities created by the ability to hide information. In this section I shall argue that the costs of moral hazard and asymmetric information are more harmful to developing countries than industrialized countries. One obvious reason is that lower tax revenue due to tax evasion, has a greater social cost in developing countries, since their need for public spending is greater. Developing countries also sets themselves apart from rich countries in that their institutions are weaker and corruption more rampant. This makes developing countries more vulnerable to the income opportunities that tax havens present. The costs that follows take various forms, and I shall discuss some of them below. In doing so I build on existing theory.[34]

3.4.1 Theft of government money

The misuse of power and theft of state money combined with the use of tax havens among the political elite is widespread and well documented. The Democratic Republic of Congo, Zaire (DRC), is a well-known example. Mobutu Sese Seko was in power in the DRC from 1965 to 1997. His political position enabled him to steal from society and tax havens were helping him to conceal his theft. As shown by Acemoglu, Robinson and

[34] Parts of the following subsection builds on Torvik (2009).

Verdier (2004), the consequences were devastating. Income in the DRC per capita in 1992 was half of what it was at independence in 1960.

Another example is that of Nigeria. Sani Abacha was the de facto head of state in Nigeria during 1993-98. He misappropriated between USD 3-5 billion from Nigeria's currency reserves, hiding the money in Jersey, Liechtenstein, Switzerland and the UK. With the help of the UK lawyer Tim Daniels, Nigeria has had close to USD 3 bn repatriated. The president of Pakistan, Asif Ali Zardari, previously married to Benazir Bhutto, has been tried and found guilty of corruption in Pakistan, Switzerland and the Isle of Man and tax haven jurisdictions have been involved in these cases.[35] A final example is Daniels (2012), who lists 14 cases of presidents and government officials who have stolen money from their countries.[36] Their crimes have all been facilitated by the use of tax havens.

3.4.2 Tearing down institutions

Over the past decade, it has become clear that institutional quality is one of the most important drivers for economic growth. Acemoglu, Johnson and Robinson (2001) estimate that a country located in the 25% percentile for institutional quality could increase its national income sevenfold if it were able to improve its institutional quality sufficiently to move into the 75% percentile.

Among the most damaging aspects of secrecy jurisdictions is the fact that they contribute to the weakening of institutional quality and democracy in poor countries. This is so because secrecy jurisdictions enable the ruling elite in poor countries to conceal income derived from corruption, development aid, natural resources or the budget. This makes such crimes more attractive. Secrecy jurisdictions also offer escape clauses that allow funds quickly to be moved to other tax havens. Such arrangement makes it much harder to repatriate stolen funds. More importantly, the incentives that tax havens provide also make it more attractive to dismantle institutions and weaken the workings and control of the political system.

Theft of state funds is a one way of dismantling institutional quality since these funds otherwise could have been used to improve institutions. As a case in point, Nigeria, one of the most corrupt states in the world according to Transparency International, had up until 2004 not convicted anyone for corruption. When the leader of the corruption unit, Nuhu Ribadu, had the Nigeria's police inspector general imprisoned for corruption and then went after Nigeria's powerful governors, he was sacked. Ribadu also narrowly escaped an assassination attempt.[37]

Maxwell Nkole who lead the anti-corruption unit in Zambia under the reform friendly

[35] See NOU (2009) for a detailed description of these cases.
[36] http://www.pwyp.no/sites/all/files/TimDaniel.pdf
[37] A description of this is given in http://international.cgdev.org/article/corruption-fighters-form-close-knit-club-wall-street-journal

president Levy Mvanawasa, investigated former president Frederick Chiluba. The investigation revealed that Chiluba had used tax havens to conceal bribes and stolen assets. He was convicted in London in 2007 and sentenced to pay back 55 million USD to Zambia. When president Mvanawasa died in 2008, the new president in Zambia, Rupiah Banda, acquitted Chiluba. When Nkole took the case to the high court he was sacked.[38] These examples show that institutions that are there to keep politicians in check are weakened in order to facilitate theft. The misuse of power would have been lower if tax havens did not provide the opportunity to conceal crimes.

Even more worrisome is the possibility that secrecy jurisdictions may affect the political system in poor countries. Ross (2001) finds that, ceteris paribus, countries with large oil deposits tend to become less democratic because democracy carries a cost to politicians who prevent them from using government revenue as they please. Thus, resource rents can give the political elite incentives to weaken democracy. In the same vein, secrecy jurisdictions offer income opportunities to the ruling elite in poor countries which can lead to less democratic control of those in power. These perspectives are worrisome especially since, as shown by Collier and Hoeffler, (2009), institutional rules that limit the potential for the political abuse of power enhance growth. Particularly in developing countries rich in resources, Collier and Hoeffler (2009) find that "balances and checks" to limit the power of politicians are undermined by politicians.

A commonly held belief among academics and policymakers has been that the choice of political system (presidential or parliamentary) is formed by historical choices. However, Robinson and Torvik (2009) show that this explanation is inadequate. For example, at independence there were 27 countries south of the Sahara and five out of 27 were presidential, while the rest were parliamentary. In 2009, only three out of the 27 countries were parliamentary (Botswana, Mauritius, and South Africa), two of which (Botswana and Mauritius) have done much better in economic terms than the rest. Torvik (2009) makes the point that the transition to presidential rule in southern Africa has given a narrower political elite greater political power, which has led to a less democratic system in these countries. Given the substantial amount of evidence showing that presidents in newly constituted presidential regimes in Africa have abused their power and used secrecy jurisdictions to hide stolen funds, it is clear that secrecy jurisdictions provide incentives for personal enrichment through a political career. These incentives may even have consequences for the types of people who seek a political career.

3.4.3 Tax haven income opportunities and economic growth

In developed and developing countries tax havens represent a private income opportunity. An interesting question is if the private income opportunity that tax havens offer may

[38] See http://www.ft.com/cms/s/0/47e03a88-00ac-11df-ae8d-00144feabdc0.html#axzz2RBeaVC5a and http://www.ft.com/intl/cms/s/0/47e03a88-00ac-11df-ae8d-00144feabdc0.html#axzz2RHcFNnsH

harm income in poor countries. Torvik (2002) makes the point that developing countries to a larger extent than developed countries are characterized by a high crime rate, rampant corruption and a weak political system. In such a setting, it will be attractive for people to engage in banditry, tax evasion, corruption and other destructive activities. Tax havens increase the returns to these activities and makes it more attractive for people who engage in legal activity to become involved in illegal activity that is destructive for the economy. The end outcome may be that private income in equilibrium falls (see Torvik 2009).

It is impossible to study the effect tax havens have on private income in poor countries because of secrecy. An indirect way of finding out how tax havens may affect poor countries is to study how income opportunities that arise in both developing and developed countries affect income. Natural resources such as gas, oil, and diamonds represents income opportunities. It is well-known in the economic literature that countries that derive large revenues from the extraction of natural resources have on average a lower level of GDP growth than countries without income from such resources.[39] This paradoxical phenomenon is often referred to as the "resource curse" or the "paradox of the plenty". Studying this paradox is an indirect way of estimating how the income opportunities arising from secrecy jurisdictions affect different countries. Income from natural resources, however, give rise to activities that create value related to the extraction of natural resources. This is not the case with the income opportunities created by tax havens. Thus, the effect on growth from resources probably underestimates possible negative effects of tax haven. As shall be clear in the continuation, tax havens are part of the explanation why income from natural resources can be harmful to a country.

Mehlum et al. (2006 a,b) control for an entire range of factors that may explain why resource abundance may lead to lower growth. They find that resource-abundant countries become growth winners or losers depending on the quality of their public institutions. In countries where the government does not effectively support property rights and is unable to provide basic security, and where corruption is widespread in the public bureaucracy, growth is low despite resource richness. Similarly, Boschini et al. (2007) studied how different types of natural resources influence growth – and how this depends on institutional quality. They find that the decisive factor for the effect on growth is the combination of institutional quality and the ease with which various natural resources can be seized.[40] Therefore, diamonds are more harmful than oil since they are more easily extracted.

Secrecy jurisdictions provide incentives to weaken institutional quality (as exemplified above) so tax havens are part of the explanation for the resource curse. Again it is the

[39] See Auty (2001) for a survey of these findings.

[40] The studies by Mehlum, Moene and Torvik (2006a,b) and Boschini, Pettersson and Roine (2007) contrast the popular perception that Dutch disease explains the resource curse. In doing so, they point out that it is not clear why the crowding out of the traded goods sector should affect institutional quality.

ability to conceal information that leads to moral hazard and causes harmful effects.

Recently the link between politics and the paradox of the plenty has been illuminated. Andersen and Aslaksen (2008) study whether the democratic system matters for the resource curse. They show that the resource curse is relevant in democracies with presidential rule, though not in countries with parliamentary rule. There is no link between resource abundance and growth in countries with parliamentary rule. Hence, it is not easy to assess why the resource curse should be more closely linked to presidential rule, except for the fact that in many developing countries, the type of presidential rule that has come into play yields much more concentrated power to the president than in rich countries (see Torvik 2009). This means that a wider circle of the ruling elite depends to a much greater extent on the president, whereas the reverse is often true in developed countries. As a result, the president in such regimes can pursue policies that are in his interest, rather than in that of the nation. Secrecy jurisdictions make such selfish strategies a much more attractive proposition.

4 Some concluding remarks

This paper has provided a survey of tax haven legislation pointing out common core characteristics. It argues that the legislation in tax havens creates private information for the users of tax havens that give rise to moral hazard, and it has detailed some of the costs related to tax havens and moral hazard in different markets. In a final step the paper has argued that developing countries are more harmed by secrecy jurisdictions than developed countries due to their weak institutions and greater need for tax revenue.

It is worrisome that some major OECD economies like the United States and the United Kingdom are associated with the term tax havens. Field experiments by Sharman (2010) and Sharman et al. (2015) show that in these countries standards for corporate transparency and disclosure are lower than in many tax havens. One reason for this may be that tax havens have been in the public eye for some time and have been forced to a higher degree of compliance.

Despite the harmful effects caused by tax havens, the international community has not clamped down hard on the business model of tax havens. Information exchange treaties, which is the most severe step taken against tax havens, do not affect their business model. These treaties allow the exchange of information once a culprit is identified and linked to a specific tax haven. One can speculate on why the international community do not address the business model of tax havens more directly. One reason may be that key countries needed to create political cohesion do benefit from the existence of tax havens.

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References

Acemoglu, D., Johnson, S. & Robinson, J.A. (2001). The colonial origins of comparative development: An empirical investigation. *American Economic Review,* 91, 1369-1401.

Acemoglu, D., Robinson, J.A., & Verdier, T.(2004). Kleptocracy and divide-and-rule: a theory of personal rule. *Journal of the European Economic Association* 2, 162-192.

Andersen, J.J. & Aslaksen, S. (2008). Constitutions and the resource curse. *Journal of Development Economics* 87, 227 – 246.

Auty, R.M. (2001). Resource abundance and economic development. *Oxford University press.*

Boschini, A.D., Pettersson, J. & Roine, J. (2007). Resource curse or not: A question of appropriability. *Scandinavian Journal of Economics* 109, 593-617.

Collier, P. & Hoeffler, A. (2009). Testing the neocon agenda: Democracy in resource-rich societies. *European Economic Review*, 53 (3), 293-308.

Daniels, T. (2012). Abacha: the Kleptocrat's legacy and James Ibori, Nigeria's president Manque. Presentation at the *conference Financial Secrecy, Society and Vested Interests, Bergen, Norway. See http://www.pwyp.no/sites/all/files/TimDaniel.pdf*

Desai, M., Foley, F. & Hines, J. (2006). The demand for tax havens. *Journal of Public Economics*, 90; 513-531

Dharmapala, D. & Hines, J.R. jr.(2009). Which Countries Become Tax Havens? *Journal of Public Economics* 93, 1058-1068.

Dyreng D., Lindsay, B. P., & Thornock J.R. (2013). Exploring the role Delaware plays as a domestic tax haven. Journal of Financial Economics 108, 751-772.

Edward Report, (2009). Review of Financial Regulation in the Crown Dependencies – Part 1, section 13.2. *Jersey Financial Service Commission.*

EJF (2010). All at Sea – The Abuse of Human Rights aboard Illegal Fishing Vessels. *Environmental Justice Foundation: London.*

FAO, 2010. 'Shining a spotlight on illegal fishing'.http://www.fao.org/news/story/en/item/47812/icod

Gianni, M. & Simpson, W. (2005). The Changing Nature of High Seas Fishing: how flags of convenience provide cover for illegal, unreported and unregulated fishing. *Report by the Australian Department of Agriculture, Fisheries and Forestry, International Transport Workers' Federation, and WWF International.*

Gjernes, G. & Kibar, O. (2009). Punger ut til skatteparadis' (translation: Pays out to tax havens). *Dagens Næringsliv*, June 15th.

Gordon, R. K. (2009). Laundering the proceeds of public sector corruption. *Washington D.C: World Bank.*

Gravelle, J.,G. (2013). Tax Havens: International Tax Avoidance and Evasion. *CRS Report for Congress, R40623.*

Gresik, T.A, Schindler, D. & Schjelderup, G. (2015), The effect of tax havens on host country welfare. *Mimeo University of Notre Dame and Norwegian School of Economics.*

High Seas Task Force (2006). Closing the net: Stopping illegal fishing on the high seas. *Governments of Australia, Canada, Chile, Namibia, New Zealand, and the Earth Institute at Colombia University.*

Hines, J. R. jr. (2010). Treasure Islands. *Journal of Economic Perspectives,* 24 (4), 103 – 126.

Hines, J. R. jr. & Rice, E.M. (1994). Fiscal Paradise: Foreign Tax Havens and American Business. *Quarterly Journal of Economics*, 109(1): 149–82.

Hong, Q & Smart, M. (2010). In praise of tax havens: International tax planning and foreign direct investment. *European Economic Review*, 54 82-95.

Kleven, H., Knudsen, M., Thustrup Kreiner, C., Pedersen, S. & E. Saez (2011). Unwilling or unable to cheat? Evidence from a tax audit experiment in Denmark. *Econometrica* 79, 651-692.

Mehlum, H., Moene, K. & Torvik, R. (2006a). Institutions and the resource curse. *Economic Journal* 116, 1-20.

Mehlum, H., Moene, K. and Torvik, R. (2006b). Cursed by resources or institutions? *World Economy 29* 1117-1131.

NOU (2009). Tax Havens and Development. *Official Norwegian Reports* #19 (http://www.regjeringen.

OECD (2004). The social dimension of IUU fishing. *OECD Memorandum JT00162108.*

OECD (1998). Harmful Tax Competition: An Emerging Global Issue. *OECD, Paris.*

Robinson, J.A. & Torvik, R. (2008). Endogenous presidentialism. *NBER paper 14603.*

Ross, M.L. (2001b). Does oil hinder democracy? *World Politics* 53, 325-361.

Sharman, J.C. (2010). Shopping for Anonymous Shell Companies: An Audit Study of Anonymity and Crime in the International Financial System. *Journal of Economic Perspectives* 24(4), 127-140.

Sharman, J.C., Findley, M.G., & Nielson, D.L. (2015). Causes of Non-Compliance with International Law: A Field Experiment in Anonymous Incorporation," *American Journal of Political Science* (forthcoming).

Slemrod, J. & Wilson J. (2009). Tax competition with parasitic tax havens. Journal of Publi Economics 93, 1261-1270.

Stølsvik, G. (2007). Flags of convenience as a complicating factor at combating crime at sea. *Maritime Security in Southeast Asia, Edited by Kwa Chong Guan and John K. Skogan, Routledge 2007.*

Swedish FAO Committee (chaired by R. Eriksson), (2009). Rowing Bandits in Modern Fisheries.' *Swedish FAO Committee Publication Series #5, ISSN; 1652-9316.*

Torvik, R. (2002). Natural resources, rent-seeking and welfare. *Journal of Development Economics.* 67, 455-470.

Torvik, R., (2009). Why are tax havens more harmful to developing countries than other countries. Appendix 1, *NOU (200):19, appendix 1, 114- 136.*

U.S. Government Accountability Office. 2008. Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions. GAO-09-157. Washington, DC: U.S. Government Accountability Office.

Wilson, J.D. (2015). Tax havens in a world of competing countries. *CESifo Dice Report* 4/20 14 (forthcoming)