

## FURTHER RESEARCH ON CO-OPERATIVE COMPLIANCE

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The papers in this special issue are indicative of the scholarly interest in co-operative compliance programmes. Two particular centres of research activity are described below.

### 1. GLOBAL TAX POLICY CENTRE, VIENNA UNIVERSITY OF ECONOMICS AND BUSINESS (WU)

A team of researchers at WU are researching co-operative compliance in close collaboration with industry and several tax authorities. The project has been running for several years and examines the legal, administrative and political constraints on getting more countries to adopt a relationship between tax administrations and MNEs based on trust, openness and constructive dialogue. It examines why this is the case, how some countries have managed to overcome these constraints and what can be learned from their experiences. Particular attention is being paid to less developed countries and how they could benefit from taking a co-operative compliance approach, including how to deal with BEPS-related issues.

The research is supported by a number of pilot studies in Africa and Asia. This project brings together groups of researchers from all over the world, and includes governments, MNEs and representatives from international organisations. It is being carried out in co-operation with the Commonwealth Association of Tax Administrations (CATA) and the Inter-American Center of Tax Administrations (CIAT), and since 2019 has also been carried out in association with the International Chamber of Commerce (ICC).

An overview of the work can be found here: [https://www.wu.ac.at/fileadmin/wu/d/i/taxlaw/institute/WU\\_Global\\_Tax\\_Policy\\_Center/cc/Coperative\\_Compliance\\_Text.pdf](https://www.wu.ac.at/fileadmin/wu/d/i/taxlaw/institute/WU_Global_Tax_Policy_Center/cc/Coperative_Compliance_Text.pdf)

#### Related published work by WU researchers:

Leigh Pemberton, J., & Majdanska, A. (2016). Can Cooperative Compliance Help Developing Countries Address the Challenges of the OECD/G20 Base Erosion and Profit Shifting Initiative? *Bulletin for International Taxation*, 70(10), 595-600.

Szudoczky, R., & Majdanska, A. (2017). Designing Co-operative Compliance Programmes: Lessons from the EU State Aid Rules for Tax Administrations. *British Tax Review*, 2017(2), 204-229.

### 2. THE FAIRTAX PROJECT

Co-operative compliance is one of the topics being researched by an international consortium of researchers funded by the European Union's Horizon 2020 research and innovation programme, 2014-2018. Titled "Revisioning the Fiscal EU: Sustainable, and Coordinated Tax and Social Policies", FairTax, is a cross-disciplinary, four-year research project. The consortium consists of 10 partner universities from 8 countries and the project coordinator is Professor Åsa Gunnarson (Umeå University, Sweden). Two of the research strands within

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FairTax are concerned with co-operative compliance initiatives. One, led by Lotta Björklund Larsen, focusses on the implementation of co-operative compliance programmes in Nordic countries, and the funding covers research in Sweden, Denmark and Norway. This FairTax team is also collaborating with a group of Finnish researchers who are investigating the implementation of co-operative compliance in Finland. The other team, led by Professor Lynne Oats, examines developments in the UK and the Netherlands. Both use ethnographic techniques to investigate how developments in each jurisdiction are playing out in practice.

The following are abstracts from the working papers produced by project participants, which are available on the FairTax website (<https://www.umu.se/en/fairtax>).

**Björklund Larsen, L. (2015) *Sweden: failure of a cooperative compliance project?* (FairTax: Working Paper Series, 07).**

This report outlines the Swedish cooperative compliance project Fördjupad samverkan - FS (enhanced collaboration) introduced in 2011, and the modified initiative, relaunched as Fördjupad dialog – FD (enhanced dialogue) in 2014. It describes how the Swedish Tax Agency proposed an initiative that carried with it international success stories from similar projects, but in the Swedish version and context met with strong resistance and is now put on hold awaiting proposed changes in the law. This chronological trajectory teases out issues that impact tax compliance among large corporations and perhaps also among ordinary taxpayers in Swedish society. Based on these issues, I suggest eight aspects that have to be paid attention to when implementing cooperative compliance initiatives. These aspects seldom stand alone but are drawn upon in various combinations, making criticism possible.

**De Widt, D. (2017). *Dutch Horizontal Monitoring: The Handicap of a Head Start* (FairTax: Working Paper Series, 13).**

This report outlines the Dutch model of Horizontal Monitoring (HM), which is widely regarded as one of the first examples of a cooperative compliance program. It describes how, since 2005, the Netherlands Tax and Customs Administration (NTCA) developed a monitoring regime that has significantly altered the relationship between the Dutch tax authority and corporate taxpayers. The report demonstrates that under HM the attitude of both corporates and tax administrators has shifted from an adversarial ‘them and us’ relationship, to one stronger characterised by cooperation. Despite the widely identified benefits of HM, including increased ability of corporates to acquire fiscal certainty, the monitoring regime faces major challenges. It has proven particularly difficult to quantify the model’s impact on revenue collection and the tax authority’s administrative resources. The report concludes that if HM is to subsist, it is vital to increase formalisation and transparency of the risk monitoring techniques as applied by the tax authority, and develop more advanced metrics than have been available hitherto.

**Boll, K., & Brehm Johansen, M. (2018). *Tax Governance: Corporate experiences with Cooperative Compliance in Denmark* (FairTax: Working Paper Series, 17).**

This working paper presents an analysis of the experiences of Cooperative Compliance in Denmark. Cooperative Compliance denotes a specific kind of collaborative program for the regulation of large corporate taxpayers by the tax authorities. Cooperative Compliance programs have been implemented in several countries worldwide. In Denmark the program is called Tax Governance. Tax Governance has been studied using qualitative method and the analyses of the working paper build on an extensive base of in-depth interviews— primarily

with tax directors from corporations participating in the program. The working paper shows as a general stance that the corporations are supporting the ideas behind Tax Governance and are generally satisfied with their participation. However, the working paper also shows that most of them explain to be stretched between this willingness to participate and the different challenges and contradictions they told to experience in the everyday work practices related to the Tax Governance program. The working paper zooms in at these various everyday experiences from the corporations. Yet, it also zooms out and shows that the Tax Governance program in different ways relate to wider international trends within tax administration, especially concerning the development of risk assessments and internal control in the corporations and a greater focus on monitoring of these elements by the tax authorities. Overall, the working paper concludes that Tax Governance as a model for a collaborative regulatory relationship between Skat and large corporations comes with both possibilities and challenges.

**Brøgger, B., & Aziz, K. (2018) *The setting for collaboration about tax compliance in Norway* (FairTax: Working Paper Series, 18).**

The concept of “cooperative compliance” has been used by the Organisation for Economic Co-operation and Development (OECD) as a guideline for reform of tax administrative practices in many countries (OECD, 2013, 2014). The purpose of this working paper is to give a description of the institutional context for the adaptation of the guidelines in Norway, describing viewpoints from each stakeholder group.

The data is based on analyses of project documents from the Norwegian Tax administration, annual reports, white papers, tax memos and tax strategies from large companies and tax advisors, and 31 interviews with tax officials, tax managers and tax advisors.

Findings are that the motivations for paying or avoiding taxes vary, both within the stakeholder groups and between them. The national tax administration is concerned with compliance as the transparency and fairness of taxpayer treatment, measured in terms of the filing and assessment procedures. The companies are concerned with tax compliance as paying what it costs and fair competition, while the tax advisors balance commercial and legal aspects of different compliance alternatives. Regardless of differences in positions and tasks done, the infrastructure for collaboration and the normal process of work that feeds into it, the common denominator is pragmatism, working out a way to handle tax administration with as little fuss as possible and with as limited use of resources as possible.

**Potka-Soininen, T., Pellinen, J., & Kettunen, J. (2018) *Enhanced Customer Cooperation: Experiences with cooperative compliance in Finland* (FairTax: Working Paper Series, 19).**

This report examines the experiences with a collaborative compliance project – Enhanced Customer Cooperation (ECC) – introduced by the Finnish Tax Administration. The ECC was introduced by the Large Taxpayers’ Unit of the Finnish Tax Administration at the beginning of 2013, and it ran as a pilot until the end of 2015. Since the start of 2016, the ECC has been a part of the permanent operations of the Large Taxpayers’ Unit. Based on the interviews with tax officers, corporations participating in the ECC and tax lawyers and tax consultants, the ECC is bringing about a cultural change in the administrative practices and ways of communicating between tax authorities and taxpayers. In general, the ECC’s objective of increasing cooperation between tax administration and taxpayers has been welcomed. There were, however, some concerns about the impartiality towards taxpayers, efficiency in the use of human resources and the possible retrospective involvement of the Tax Recipients’ Legal

Services Unit. In addition, because predictability was described as one of the key aspects of taxation for companies, many questions have been raised regarding whether the ECC can deliver more predictability in taxation practices.

**Björklund Larsen, L., Boll, K., Brögger, B., Kettunen, J., Potka-Soininen, T., Pellinen, J., Brehm Johansen, M., & Aziz, K. (2018). *Nordic Experiences of Co-Operative Compliance Programmes: Comparisons and Recommendations (FairTax: Working Paper Series, 20)*.**

For the last decade a major trend within tax administrations has been to shift from a roughly one size fits all approach—where close to all taxpayers experience a deterrence approach—to a more responsive and collaborative approach as in co-operative compliance programmes. Such programmes build on the idea that the participating corporations disclose relevant information including their tax risks and are transparent to the tax administrations and in return will tax administrations provide real-time predictability and clarity concerning taxation issues of relevance for the corporation. In brief, co-operative-compliance builds on the slogan: “...certainty in exchange for transparency” (OECD 2016, 7). Co-operative compliance has increasingly become a core concern and way of organizing the relation between tax authorities and large corporate tax payers when it comes to securing tax compliance.

The aim of this working paper is to provide a comparison of the experiences in four of the Nordic countries: Denmark, Finland, Norway and Sweden and to propose recommendations.

The Nordic countries are considered similar and so were the co-operative compliance programmes that were implemented in each country, yet the outcomes were very different.

We thus dealt with various case characteristics (Flyvbjerg 2006) where the outcomes hinged on a complexity of elements. We argue that the Swedish case is an extreme case due to its turbulent life and concomitantly with only a handful of participants that have very little activity. The Norwegian case, in contrast, is an example of a maximum variation case because of the much longer history of collaborative relationships and the outcome of the work with tax risk. The combination of a collaborative way of working and systematic risk management and monitoring may either reflect a most likely scenario of future tax administration—or perhaps the least likely. Lastly, we argue that the Danish and Finnish cases represent paradigmatic cases because both of these align largely with the standards set by the OECD and because they therefore present more ordinary or regular ways of working with co-operative compliance. Analyzing a wide variety of case characteristics means that our findings can be of general interest, beyond the Nordic countries.

**Oats, L., & De Widt, D. (2019). *Co-operative Compliance: The UK case – playing the long game (FairTax: Working Paper Series, 22)*.**

The UK approach to interactions between HMRC and large businesses is incremental. The origins of co-operative compliance pre-date the merger between the former Inland Revenue and Her Majesty’s Customs and Excise to form HMRC, but were given impetus by the formation of the combined large business unit, now the Large Business Directorate.

Over the course of the last 13 years, a number of shifts have occurred including additional regulatory requirements and increased public scrutiny and political attention, all of which have influenced the trajectory of co-operative compliance regime. This study draws heavily on

information provided by knowledgeable interviewees who shared their views with us during 2015, 16 and 17.

We find that initial enthusiasm for co-operative compliance was shared by both HMRC and large businesses for whom speedier processes and more collaborative working represented efficiency gains. The increased publicity around the tax affairs of large corporates and the performance of HMRC subsequent to 2012, however, precipitated a number of legislative and procedural changes that served to dampen the enthusiasm, particularly from the business point of view. These include the Senior Accounting Officer regime and the requirement to publish a Tax Strategy, the former concerned with the internal control processes of large corporates and the latter to trigger behavioural change through public exposure with reputational consequences.

2018 sees a recalibration of the risk review process that will facilitate reconsideration of the terms of engagement between large business and HMRC. We anticipate that co-operative compliance, like many regulatory initiatives, will continue to evolve in response to pressures both internal and external to HMRC, and that the role of technology will be both a blessing and a curse in the quest for continued collaboration.

**De Widd, D., & Oats. L. (2019). *Co-operative compliance: views of large business in the Netherlands and the UK (FairTax: Working Paper Series, 23)*.**

This working paper presents the findings of a study of Co-operative Compliance in the Netherlands and the UK. These two countries were early adopters of Co-operative Compliance as a mechanism for managing the relationships between large business taxpayers and the tax authorities, mediated to various degrees by tax advisers. The juxtaposition of these two cases provides interesting insights into how policy initiatives come into being and evolve, as well as how regulators learn from each other in subtle, and not so subtle ways. Policy learning in this context is promoted by the intervention of the OECD as promulgator of best practices in tax administration.

Our focus is on Co-operative Compliance in these two jurisdictions in practice. We examine how highly skilled actors perceive the programme in retrospect and prospect, by reference to their lived experiences derived from interviews. We also chart the emergence and subsequent adaptations of the programmes through the lens of official pronouncements and policy documents. The project started in 2013 and is generously funded by Horizon 2020. Over the course of the project, the objects of study were constantly moving within and between the countries we study, as was the backdrop of global events and developments in other jurisdictions. Capturing the essence of such a dynamic environment has been challenging but rewarding.

Sections 2 and 3 of this report provides a brief background to the project and an explanation of our methodology respectively. This is followed by descriptions of the working practices in both jurisdictions in Sections 4 and 5. Section 6 is the heart of the report that builds on the background provided in earlier Sections and presents the views of large businesses of various dimensions of Co-operative Compliance in both countries. In Section 7 we offer a discussion of our findings together with our conclusions.

**Related published work by FairTax researchers:**

Björklund Larsen, L. (2018). Sweden: Failure of a Cooperative Compliance Project? In E. Mulligan & L. Oats (Eds.), *Contemporary Issues in Tax Research: Volume 3* (pp. 7-50). Birmingham, UK: Fiscal Publications.

Boll, K. (2018). Securing Tax Compliance with Collaboration: The Case of Co-operative Compliance in Denmark. In N. Hashimzade & Y. Epifantseva (Eds.), *The Routledge Companion to Tax Avoidance Research* (pp.212-224). Abingdon, UK: Routledge.

De Widt, D., & Oats, L. (2018). Cooperative Compliance in Action: A UK/Dutch Comparison. In E. Mulligan & L. Oats (Eds.), *Contemporary Issues in Tax Research: Volume 3* (pp. 260-277.) Birmingham, UK: Fiscal Publications.

De Widt, D., & Oats, L. (2017). Risk Assessment in a Cooperative Compliance Context: A Dutch-UK Comparison. *British Tax Review*, 2017(2), 230-248.