Fair and Efficient Corporate Taxation

5 Key Areas for Action

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Presentation at the Platform for Tax Good Governance
Brussels, 24 September 2015

Two main projects in 2015:

Transparency Proposal from 18.3.2015

(http://ec.europa.eu/taxation_customs/taxation/company_tax/transparency/index_en.htm#tax_rulings)

Action Plan for A Fair and Efficient Corporate Taxation - 5 Key Areas for Action from 17.6.2015

- **Communication (COM(2015)302) and SWD (2015/121)**

PROBLEMS

- **Tax systems conceived in 1930s, based on ALP, bilateral treaties, for classical business models and tangible products**
- **Harmful tax competition (increasingly less transparent), tax avoidance, compliance costs, etc.**
- **Aggressive tax planning**
- **MNEs vs SMEs**
- **Need for more coherent and competitive approach to business taxation (Single Market, BEPS, etc.)**

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OBJECTIVES

- Re-establishing the link between taxation and where the economic activity takes place
- Ensuring that Member States can correctly value corporate activity in their jurisdiction
- Creating a competitive and growth-friendly corporate tax environment for the EU, resulting in a more resilient corporate sector, in line with the recommendations of the European Semester
- Protecting the Single Market and securing a strong EU approach to external corporate tax issues, including measures to implement OECD BEPS, to deal with non-cooperative tax jurisdictions and to increase tax transparency

ACTIONS

Action 1: CCCTB as holistic solution to profit shifting

Action 2: Ensuring effective taxation where profits are generated

Action 3: Business environment (cross-border loss offset, dispute resolution mechanisms, etc.)

Action 4: Further progress on transparency

Action 5: EU tools for coordination (DAC, CoC, Platform)

POLICY CONTEXT

- *Increasingly complex business models and increasing difficulty to determine where profits are generated*
- *Evidence of profit shifting (e.g. US: 20 to 25% of CIT revenue)*
- *More general debate on fairness and equity: pay fair share*
- *OECD BEPS Agenda – international cooperation*

EU CONTEXT

- *Goes beyond closing loopholes*
- *Tax avoidance and ATP distort the allocation of resources (levelled playing field)*
- *Increased mobility of factors of production*
- *Need to ensure goals of Single Market, CMU and overall attractiveness of Europe*
- *Mismatch between a tax base that becomes truly international and tax administrations that remain domestic*

The roots of tax competition

We live in an age of industrial complexity and differentiation. In former times property rights were simple, and the little capital that existed was largely owned by the producer.

Today not only does the same capitalist invest in different enterprises, not only is the producer often dependent for a part of his capital on sums that belong to others, but the old geographical unity has been dissolved, and there is no necessary connection between the residence of the capitalist and the place where his capital is employed.

A system of taxation, therefore, which may have been perfectly just under the older and simpler conditions, may now be entirely inadequate because of the failure of government to take account of these new complications in property rights.

Edwin R. A Seligman (1895), Essays in Taxation

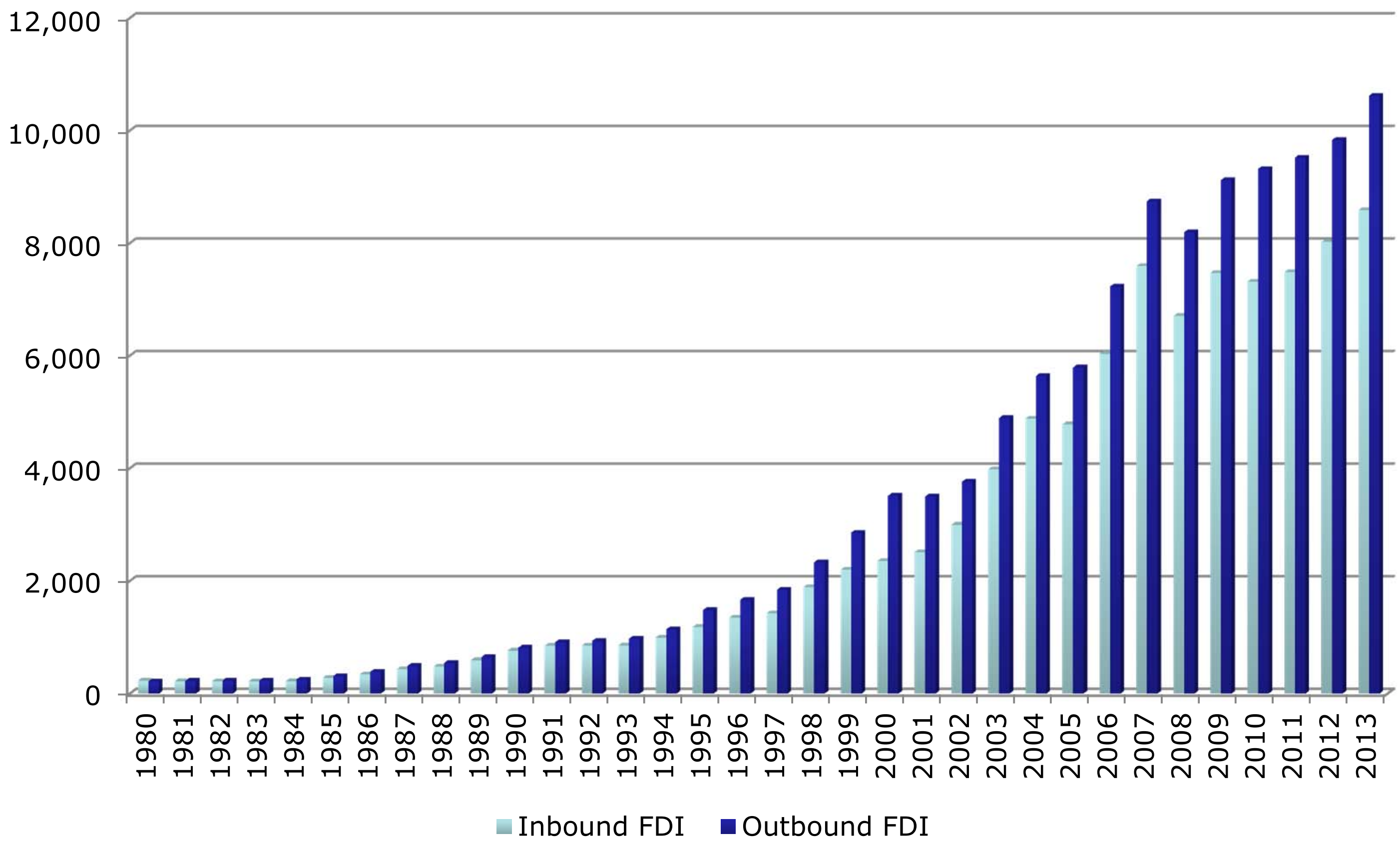
The roots of tax competition

Current solution to the problem described by Seligman is based on League of Nations work in the 1920s and OECD after World War II

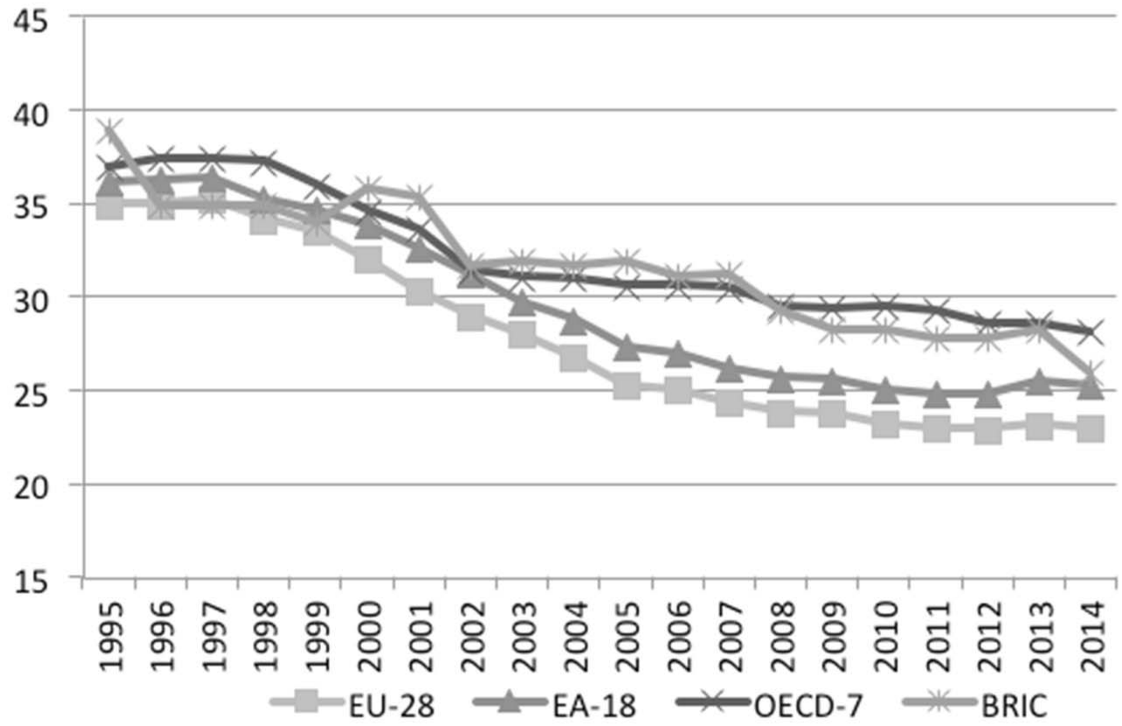
- **Taxation of profits at source**
- **Separate accounting (incl. transfer pricing)**
- **Bilateral tax agreements**

Challenged by new business models with IP, intangibles, etc.

FDI stocks, EU-28 in billion USD



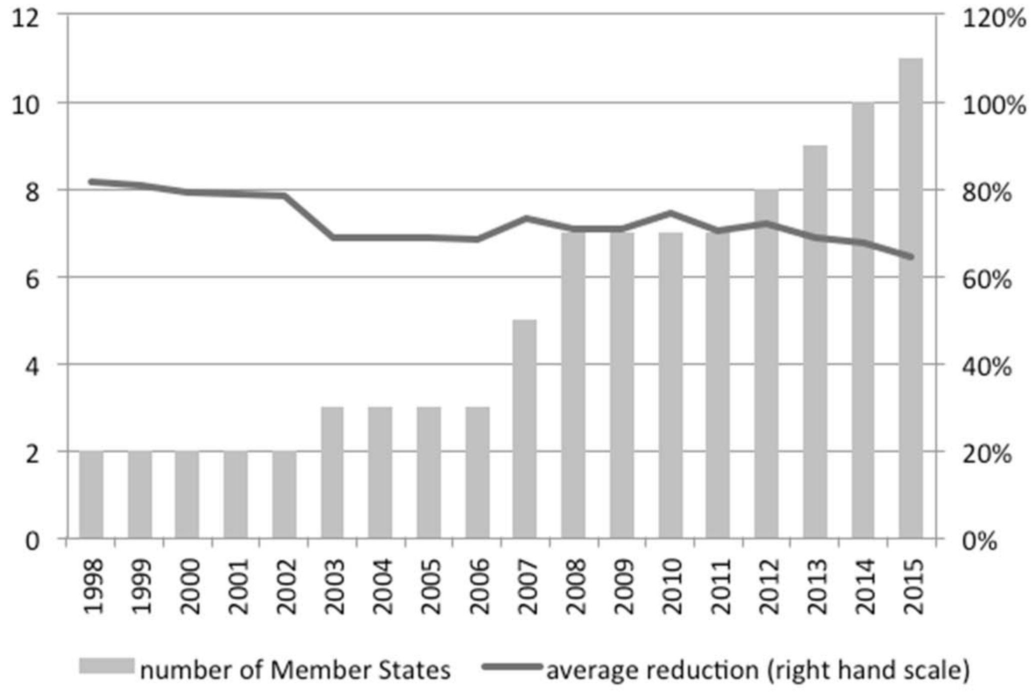
STATUTORY CIT RATES, 1995-2014



Effective taxation

EU28	1998-2000	2000-2005	2005-2010	2010-2014	Total 1998-2014
CIT rate	-2.0	-6.1	-2.1	-0.3	-10.4
EATR	-1.7	-4.3	-2.0	0.1	-8.0
EMTR	-1.9	-1.4	-2.5	0.8	-4.9

But preferential regimes (e.g. Patent Boxes)

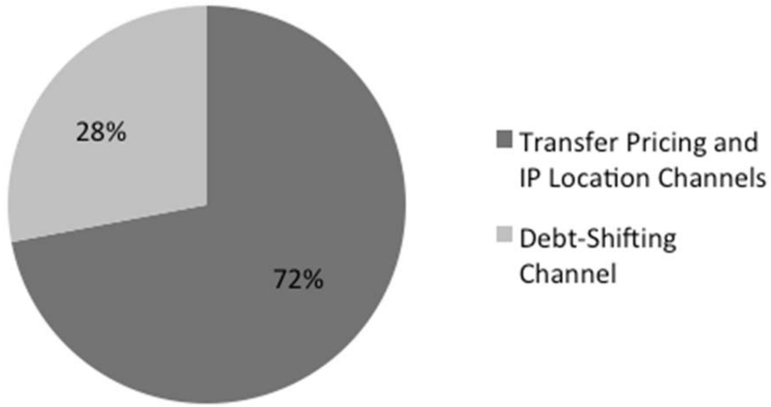


EMPIRICAL EVIDENCE

- *FDI sensitive to corporate taxation (semi-elasticity of about 3 in de Mooij and Ederveen 2006)*
- *Burden of CIT shifted to immobile factor*
- *Profit-shifting (semi-elasticity of tax base 0.8 in meta-study by Heckemeyer and Overesch, 2013)*
- *Difference of about 30% in tax burden between MNEs and domestic companies (Egger et al. 2010; Finke, 2013)*

PROFIT SHIFTING: 3 CHANNELS

- *Transfer pricing*
- *Location of IP*
- *Debt-shifting*



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OPTIONS AND AREAS FOR ACTION

- ***Seek to replace the current system of distributing taxable profits and create a more stable allocation rule*** *(e.g. CCCTB)*
- ***Measures to close loopholes and fix issues in the current system of separate accounting, arm's length pricing and bilateral tax agreements*** *(BEPS, Effective taxation)*
- ***Improve the current way of working together at the EU level on tax issues by reforming the governance structure and improve the overall exchange of information***