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Country-by-country reporting: An assessment of its objective and scope

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Abstract

Australia has recently introduced what is known as country-by-country (CbC) reporting. CbC reporting will require certain multinationals to provide reports to the Australian Tax Office outlining their global financial activities. The introduction of CbC reporting is a result of the OECD's recommendations on Action 13 of the Base Erosion and Profit Shifting program. Despite its introduction, civil society groups, international organisations and businesses lack consensus as to the objective and scope of CbC reporting. This article utilises the extractives industry as a case study and then critically assesses the contradictory academic findings and views as to the objective and scope of CbC reporting. Using stakeholder theory, this article argues that a comprehensive CbC reporting framework should assist the numerous information users who engage with a multinational entity, whilst concurrently ensuring a multinational entity can be held accountable to those impacted by its business operations.

Keywords: Country-by-country reporting, stakeholder theory, tax transparency.

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1. INTRODUCTION

The Australian Federal Government recently introduced several measures aimed at addressing international tax avoidance by multinational corporations. In particular, on 11 December 2015, the *Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015* (Cth) received royal assent and introduced three significant measures: amendments to Part IVA of the *Income Tax Assessment Act 1936* (Cth), stronger penalties, and country-by-country (CbC) reporting. CbC reporting, the topic of this article, applies to large multinational corporations operating in Australia, defined as entities with annual global revenue of A\$1 billion or more. The new legislation requires large corporations to file an annual statement with the Commissioner of Taxation. The statement, which may require these corporations to include three reports, a CbC report, a master file and a local file, is designed to assist the Commissioner in carrying out transfer pricing risk assessments. CbC reporting is a comparatively new tool aimed at dealing with the problem of tax avoidance and aggressive tax planning facilitated by the non-transparent reporting practices of multinational corporations as enabled by existing regulations. However, as originally designed, CbC reporting is an accounting tool that requires multinational corporations to disclose information on their operations in different geographical destinations, and assists stakeholders to know more about the social responsibility performances of multinational corporations.

The Australian legislation introduces into domestic law Action 13 of the G20 and Organisation for Economic Cooperation and Development's (OECD) Action Plan on Base Erosion and Profit Shifting (BEPS). The BEPS Action Plan is a 15-point plan designed to ensure that the profits of multinational corporations are taxed where activities that generate profits are performed. Action 13 specifically addresses enhanced tax transparency by providing revenue authorities with information to conduct transfer pricing risk assessments. For Australia's purposes, a CbC report will contain information on the location of the economic activity undertaken by the multinational group, a master file will provide a high-level description of the multinational group's business operations, and a local file will describe the Australian entity's operations and cross border related party transactions. Ultimately, it is hoped that together, the three reports will provide a clear overview of key financial and operational metrics relevant to a global group, as well as their Australian operations. However, the proposed OECD reporting mechanisms vary from the original proposals for CbC reporting in three significant ways. First, the information contained in the OECD CbC report is more limited than the original proposal. Second, the reports will be confidential and available only to revenue authorities. Third, the reports will be part of tax compliance obligations rather than financial statements. Given this shift from the originally proposed purpose of CbC reporting, the purpose of this article is to consider the objective and scope of CbC reporting from a theoretical perspective.

This article specifically examines whether CbC reporting has the potential to achieve the broader objectives promoted by civil society groups by ensuring all stakeholders benefit. It is structured as follows. Part two defines CbC reporting and provides a discussion on the history and development of the concept. Part three discusses the potential goals of CbC reporting outlining both the narrow and broad approaches which underlie the rationale for its adoption. Taking into account an assessment of the current studies into CbC reporting, this part concludes that this reporting system is still in its nascent stages, there is no single standard and most importantly, there are

contradictions regarding the group that should benefit from this reporting. Part four argues that stakeholder theory provides an appropriate theoretical explanation for broad CbC reporting. In doing so, it makes suggestions as to the appropriate objectives and scope of this reporting by multinational entities. It then considers the final report of the OECD into CbC reporting and contrasts that with its original intent. Part five, which concludes the article comments on the future prospects of public disclosure of tax-based information.

2. THE EVOLUTION OF COUNTRY-BY-COUNTRY REPORTING

CbC reporting has been developed through both accounting practices and taxation policies. As we currently understand CbC reporting, it is the requirement of multinational entities to produce annual statements which provide information about where economic activity is undertaken and profits are reported by the multinational group (ATO, 2015). However, this description fails to highlight its objectives and scope, both of which have been discussed in the evolution of CbC reporting.

It has long been recognised that accounting information has the ability to influence the way people view and interpret the world and to influence their decision-making (Hines, 1998). However, accounting principles and practices have evolved over time. Traditional accounting was concerned with the measurement and reporting of economic facts by accountants who, due to their neutral roles, were responsible for 'telling it like it is' (Gallhofer and Haslam, 2007). In contrast, critical accounting literature argues that accounting constructs and reflects individual, organisational and social reality and is determined by political processes whereby accountants emphasise particular issues, whilst displacing or eliminating others (Francis, 1990; Suzuki, 2003; Gallhofer and Haslam, 2007). Hence, accounting serves an influential role in society. However, society itself has the potential to influence accounting practice. Society has increasingly questioned the validity of mere 'bottom line' or profit-focused reporting in assessing the performance of a business. As discussed below, CbC reporting has arguably originated from this influence.

CbC reporting has also evolved as a response to criticism from users of financial information. This criticism stems from questions around the quality and quantity of the geographical disclosures made by multinational entities in financial statements.

2.1 An original proposal

In its originally proposed form, CbC reporting is an accounting tool that requires multinational entities to disclose information on their operations in different geographical locations, and assists stakeholders to know more about the social responsibility performances of multinational entities. Richard Murphy, Chartered Accountant and co-founder of the Tax Justice Network, first proposed the idea of CbC reporting in 2003 (Murphy, 2012). In the years since, the Tax Justice Network has become a specialist in CbC reporting matters and has successfully transposed the issue into the campaign agendas of many other organisations and groups, including Christian Aid, Action Aid, Oxfam and Eurodad. The form of CbC reporting as originally proposed by the Tax Justice Network, and supported by civil society groups is deemed to be a 'comprehensive' or 'maximalist' approach due to its detailed reporting requirements. This broad approach to CbC reporting requires a multinational entity to publicly disclose the name of each subsidiary company,

financial performance figures (apportioned between third party and intra-firm), certain financial position figures (such as fixed assets), and detailed tax charges (including actual tax paid and deferred tax liabilities), all on an individual country basis (Murphy, 2009). Murphy's influence in both the UK and globally can be seen in subsequent legislative enactments.

In March 2011 Caroline Lucas, leader of the UK Green Party, introduced the Tax and Financial Transparency Bill into the House of Commons, which under Clause 3 would require all companies incorporated or operating in the UK to

publish in its annual financial statements prepared in accordance with the requirements of the *Companies Act 2006* [UK] an analysis of the consolidated turnover and profit made by it in each jurisdiction in which it has a permanent establishment for taxation purposes ... and the resulting taxation liability due and payment made by that company and its group (if applicable) in each such jurisdiction, without exception being made on the grounds of immateriality.

Although the Bill does not exhibit all of the reporting requirements to be considered a comprehensive version of CbC reporting, it notably represented a substantial step forward due to its application to companies operating in all industries and was consequently supported (and partially developed) by Richard Murphy, the founder of CbC reporting (Murphy, 2011). The Tax and Financial Transparency Bill failed to progress through Parliament (UK Parliament, nd), but it was soon followed by a similar Bill.

Murphy also contributed to the development of the UK Corporate and Individual Tax and Financial Transparency Bill, which was introduced by Michael Meacher MP to the House of Commons in June 2013 (Murphy, 2013). The disclosure requirements placed on large companies under the first clause of the Bill included:

- (a) the registered name;
- (b) jurisdiction of incorporation;
- (c) company number;
- (d) jurisdictions in which it trades;
- (e) the trading name it uses in each jurisdiction if different from its registered name;
- (f) the precise nature of its trade, sufficiently described to ensure its activities can be accurately identified;
- (g) the percentage of the related undertaking controlled by the company; and
- (h) a statement of the turnover, net profit before tax, current taxation liability owing, number of employees and their total employment cost and the net assets of the related entity for the period for which the company is reporting whether such data be audited or otherwise (UK Parliament, 2013).

The disclosure requirements contained within this Bill, which was not passed by the UK Parliament, represent a full version of CbC reporting.

Beyond the UK, wider acceptance of CbC reporting as a useful tool can be seen in consultations as early as 2010, such as that conducted by the European Commission. From 26 October 2010 to 22 December 2010, the European Union conducted a public consultation to gather stakeholders' opinions on CbC reporting for large companies operating internationally (European Commission, 2010). The consultation paper posed seven questions and considered 'general' CbC reporting requirements (being those stated in Murphy's 2009 report and applicable to multinational entities operating in all industries) and 'specific' CbC reporting obligations applicable solely to companies in the extractive industry (European Commission, 2010). The European Commission recognised the primary goals of general CbC reporting to be assisting investors evaluate the various national business activities undertaken by multinational entities and to enhance the transparency of capital flows to improve the enforcement of tax rules (European Commission, 2010). Most recently, on 12 April 2016, the European Commission adopted a proposal for a directive imposing obligations on multinational groups to publically report on an annual basis the profit and tax paid. This proposal will amend an accounting directive (2013/34/EU) and, as such, only a qualified majority (16 member states with a total 65% of the EU population) is required for the amendment to be introduced.

2.2 Publish what you pay

Founded in 2002 by a small number of UK-based non-governmental organisations, the Publish What You Pay (PWYP) coalition now has more than 800 member organisations throughout the world, with national coalitions existing in more than 40 countries (PWYP, 2011). The coalition's primary objective is to require extractive companies to publish what they pay to governments in the form of taxes, fees, royalties, bonuses and other financial transactions for each country of operation, which may be facilitated via changes to: national and international accounting standards; stock exchange disclosure rules; and financial institutions and export credit agencies information requirements for financing and insuring extraction projects (Van Oranje and Parham, 2009).

The PWYP coalition originally primarily campaigned 'for greater transparency and accountability in the management of revenues from the oil, gas and mining industries' (Van Oranje and Parham, 2009, 27). This work has extended beyond civil society groups and during a United Nations security briefing Kofi Annan, Chairperson of the Africa Progress Panel, highlighted the need to develop global transparency rules that reduce the opportunities for tax avoidance and limit the use of shell companies and tax havens, all of which currently contribute to secretive and exploitative deals in the extractive industry (UN, 2013). The importance of establishing transparency for extractive revenues was highlighted by Annan in his statement that 'Africa loses more money every year through a tax avoidance technique known as trade mispricing than it receives in international development assistance' (UN, 2013).

To better address the 'resource curse' and to encompass the expansion efforts of coalition members, PWYP updated its strategic framework in 2012 to incorporate transparency and accountability concerns at all points along the value chain, where previously revenues had been emphasised (PWYP, 2012). This renewed perspective is distributed amongst the following four pillars: publish what you pay and how you extract; publish what you pay; publish what you earn and how you spend; and practice what we preach (PWYP, 2012).

The first pillar enables stakeholders in resource-rich countries to make informed decisions concerning whether or not to extract and associated extraction rights, in addition to influencing and examining the terms and conditions of extraction contracts established between extractive companies and local governments (PWYP, 2012). The second pillar is the coalition's founding objective concerning revenue transparency, as discussed above. Primarily through budget monitoring, the third pillar achieves accountability from extractive companies and governments to ensure the revenues generated from natural resources benefit the local citizens (PWYP, 2012). The fourth pillar is aimed at Publish What You Pay's own governance and accountability (PWYP, 2012). The coalition campaigns for these four pillars to be considered in the development of international regulation and legislation.

2.3 Voluntary action in the extractive industries

PWYP has worked closely with companies, governments, investors, partner organisations and other civil society groups to develop and expand the Extractive Industries Transparency Initiative (EITI) following its launch in 2003 (PWYP, 2012). The EITI is a voluntary international standard adopted by countries and aimed at improving the transparency and accountability of the extractive industry by requiring public disclosure by governments of revenues and material payments made to them (EITI, 2013). To achieve accountability, the EITI process requires reconciliation by an independent party of the funds paid by companies to the funds received by the respective government (EITI, 2013). The following revenue streams are recommended to be included within the EITI reports of each country:

- (a) the host government's production entitlement (such as profit oil);
- (b) national state-owned enterprise production entitlement;
- (c) profits taxes;
- (d) royalties;
- (e) dividends;
- (f) bonuses (such as signature, discovery and production bonuses);
- (g) licence fees, rental fees, entry fees and other considerations for licences and/or concessions; and
- (h) any other significant payments and material benefit to government (EITI, 2013, 26).

As part of the 2013 EITI Global Convention Strategy Review, the EITI certification requirements were amended to require revenue stream payments be disclosed on a company-by-company basis in EITI reports, where previously countries had the choice to aggregate or disaggregate revenue streams from extractive companies (EITI, 2013). This amendment to the EITI Standard was supported on the basis of two key EITI Principles, being transparency by governments and extractive companies (Principle 5) and government accountability towards all citizens (Principle 8) (Revenue Watch Institute, 2012). Disaggregated company reporting within EITI reports is suggested to benefit multiple stakeholders, including: governments by enabling better management of their country's natural resource wealth; companies where increased public disclosure of contributions to public revenues may strengthen

companies' licence to operate; and citizens through the provision of additional information to facilitate public debate and enable informed decision-making, especially for local communities that are directly impacted by extractive companies operating in their area (Revenue Watch Institute, 2012).

A country must satisfy five application criteria to be recognised as an EITI Candidate, which is the temporary status prior to recognition as EITI Compliant, with the latter also requiring certain eligibility criteria to be met. EITI Compliant countries are required to publish timely and publicly available reports that contain contextual industry information (EITI, 2013). Although discretion is offered in the form and scope of disclosure, as a minimum, the EITI report requires: a summary of the legal framework and fiscal regime; an overview of the extractive industry and its contribution to the economy; production data; state participation; revenue allocations; and beneficial ownership and contracts if applicable (EITI, 2013). Currently, 31 countries are compliant with the EITI requirements with another 17 countries listed as EITI Candidates (EITI, 2015).

Further validation of the EITI's importance is evident in the OECD's 2011 publication of *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. The guidance report is intended to foster transparent mineral supply chains and prevent the extraction and trade of minerals from becoming a source of conflict and human rights abuses (Deloitte, 2011). An annex to that report includes a requirement that companies ensure that all taxes, fees and royalties associated with the extraction, trade and export of minerals sourced from conflict-affected and high-risk areas are paid to governments and the disclosure of such payments is in agreement with the EITI principles (Deloitte, 2011).

2.4 Legislative action in the extractive industries

The most prominent industry to adopt a form of CbC reporting is the extractive industry. This section highlights the importance of financial transparency in the extractive industry and explores how CbC reporting requirements specifically applicable to extractive companies have been introduced around the globe. Substantial focus has been placed on improving financial transparency within the extractive industry due to increased levels of poverty, corruption, social unrest and economic decline often caused by the exploitation of a country's abundant supply of natural resources, such as oil, gas and minerals. This phenomenon is often referred to as the 'resource curse' or the 'paradox of plenty' (IMF, 2007, 2). As highlighted by the International Monetary Fund (IMF), fiscal transparency plays a vital role in enhancing resource revenue management, which promotes the efficient use of community funds, reduces the risk of unsuitable macroeconomic policies and improves budgetary confidence by establishing credibility (IMF, 2007).

2.4.1 *Dodd-Frank Act*

In contrast to the voluntary disclosure initiatives and frameworks discussed above, s 1504 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (USA) (Dodd-Frank Act) requires all United States and foreign extractive entities that report to the Securities and Exchange Commission (SEC) to disclose all government payments on a CbC basis in a new annual filing to the SEC (SEC, 2012). Under s 13(q) of the Dodd-Frank Act, payments are defined to include taxes, royalties (including license fees), production entitlements, bonuses, and other material benefits

commonly recognised as part of the commercial development of oil, natural gas, or minerals. The Act requires extractive companies to report any payment of US\$100 000 or more made on every individual project they operate (SEC, 2012). Adopted into United States federal law in July 2010, the Act does not represent a comprehensive version of CbC reporting as it only demands oil, gas and mining companies to disclose payments made to United States and foreign governments. However, due to its mandatory legislative nature and the political significance attached to the United States as a country, it is often viewed as one of the most substantial successes of the CbC reporting movement to date. In a statement closely assimilated to the values of the PWYP coalition, the White House said of the Dodd-Frank Act:

This provision is an essential new tool in promoting transparency in the oil and mineral sectors. This legislation will immediately shed light on billions in payments between multinational corporations and governments, giving citizens the information they need to monitor companies and to hold governments accountable... This provision sets a new standard for corporate transparency. The challenge for us now is to make this a global standard (White House, 2010).

In addition to setting an example for other countries to follow in their CbC reporting implementation efforts, the Dodd-Frank Act is expected to substantially impact the extractive industry as a whole, due to 29 of the 32 largest international oil companies in the world, as of 2011, being registered with or required to report to the SEC (Jubilee Australia, 2011).

2.4.2 *European Union Directives*

In response to the implementation of the Dodd-Frank Act, the European Union revised the Transparency and Accounting Directives in June 2013 to include requirements for large extractive (oil, gas and mining) and logging companies to disclose payments made to governments on a country and project basis (Council Directive 2013/34/EU of the European Parliament and of the Council [2013] OJ L182/52). The Accounting Directive regulates financial information contained within the financial statements of all limited liability companies registered in the European Economic Area (European Commission, 2013). To extend the CbC disclosure requirements to entities registered outside the European Economic Area, revisions were also made to the Transparency Directive, which is applicable to all companies listed on European Union regulated markets (European Commission, 2013).

Disclosures are required in a separate report with the presentation requirements depending on implementation by each Member State (European Union, 2013). The report is to be published annually for government payments equal to or exceeding €100 000 made in a financial year (European Union, 2013). The reporting requirements encompass ‘types of payments comparable to those disclosed by an undertaking participating in the Extractive Industries Transparency Initiative (EITI)’ and therefore include production entitlements, profit taxes, royalties, dividends, bonuses, fees and other significant payments to governments (European Union, 2013, 24; EITI, 2013).

On 12 April 2016, the European Commission accepted a proposal to amend Directive 2013/34/EU to move towards mandatory public disclosure for multinationals

operating in the EU with global revenues exceeding €750 million a year. Multinationals affected would be required to publish key information on where they make their profits and where they pay tax in the EU on a CbC basis (European Commission 2016). While reporting for the extractives industry already exists in the European Union, this proposal introduces CbC reporting for a host of industry sectors not previously affected.

2.4.3 *Extractive Sector Transparency Measures Act*

Finally, in June 2013 Canadian Prime Minister Stephen Harper announced a commitment to introducing a mandatory reporting regime applicable to Canadian extractive companies to improve the transparency of material payments made to domestic and international governments (Harper, 2013). This pledge was followed by the introduction of the *Extractive Sector Transparency Measures Act*, which became law on 16 December 2014 after receiving royal assent by Canada's governor general (Natural Resource Governance Institute, 2014). The Act requires disclosure of payments made by extractive companies to governments in the form of taxes, royalties, fees, production entitlements, bonuses, dividends, infrastructure improvement payments and any other prescribed category of payment (s 2). The reporting requirements under the Act are applicable to companies listed on a stock exchange in Canada and entities that are located or conduct business in Canada that meet at least two of the following conditions: owns C\$20 million or more in assets; has generated C\$40 million or more in revenue; and/or employs an average of 250 or more employees (s 8).

2.5 The work of the OECD

Different countries, organisations and scholars have been working towards a generally agreed format for CbC reporting and a comprehensive framework for regulating this reporting. Stephen Timms, the UK's Financial Secretary to the Treasury, announced a comprehensive CbC reporting proposal at a 2009 Berlin international meeting of finance ministers gathered to assess the OECD's progress on standards for transparency and exchange of taxation information (Lesage and Kacar, 2013). This statement was shortly followed by that of President Nicolas Sarkozy and British Prime Minister Gordon Brown, who issued a declaration on global governance following their meeting in Evian-les-Bains on 6 July 2009 prior to the G-8 summit held in L'Aquila, Italy (Permanent Mission of France to the United Nations, 2009). In particular, the declaration states 'we also call on the OECD to look at country by country reporting and the benefits of this for tax transparency and reducing tax avoidance' (Permanent Mission of France to the United Nations, 2009).

Reference is made to the above request in the issues paper published by the OECD secretariat in January 2010, which outlines the objectives of comprehensive CbC reporting, the associated arguments for and against its implementation and an overview of CbC reporting within the extractive industry via the EITI (OECD, 2010a). The issues paper suggests the matter of CbC reporting could be addressed via the *OECD Guidelines for Multinational Enterprises* or the *OECD Principles of Corporate Governance* (OECD, 2010a).

The above issues paper was utilised in a Joint Meeting hosted by the OECD between the Committee on Fiscal Affairs and the Development Assistance Committee on 27 January 2010 (OECD, 2010b). To achieve the goals stated at this Joint Meeting, the

OECD's Informal Task Force on Tax and Development was formed. Task Force members, including OECD and developing countries, organisations and civil society groups, are responsible for advising the OECD committees on delivering a programme to enable fair and efficient tax collections by developing countries (OECD, 2013c). At the first annual Task Force meeting in May 2010, an ad hoc sub-group was established to analyse CbC reporting and to develop a scoping paper for presentation at the next meeting (OECD, 2010c). The report was discussed at a meeting of the sub-group in December 2010, submitted to the Task Force for its April 2011 meeting and published in July 2011 (OECD, 2013c).

CbC reporting has remained on the agenda of the Task Force, appearing in the minutes of annual meetings, in addition to the agenda of the OECD Committee on Fiscal Affairs. The Committee on Fiscal Affairs, through its subsidiary bodies, is undertaking the current technical work in relation to BEPS. In February 2013, the OECD published its report, *Addressing Base Erosion and Profit Shifting*, which was soon followed by the publication of the BEPS Action Plan in July 2013 that was commissioned by the G20 Finance Ministers (OECD, 2013a). The template under development for Action 13 is a form of CbC reporting, although it is not specifically referred to as such in the Action Plan. On 30 January 2014, the OECD released a Discussion Draft, which recommended the introduction of a two-tiered reporting regime consisting of a master file (relevant to the global operations of the multinational entity group) and a local file (referring to the local material operations of the taxpayer), whereby the CbC template was included within the master file (OECD, 2014b).

On 16 September 2014 the OECD released its report on Action 13, which contained the revised standards and model CbC reporting template to replace the entirety of Chapter V of the Transfer Pricing Guidelines (OECD, 2014a). In contrast to the initial template released on 30 January 2014, the OECD's recent report reduced the amount of information to be disclosed and provided flexible options for how multinational entities could provide that information, in response to substantial consultation efforts. The updated template requires disclosure on the allocation of income, taxes and business activities by tax jurisdiction and constituent entities on an individual, tax jurisdictional basis (OECD, 2014a). The CbC reporting proposal under development by the OECD is applicable to all industries, however, it is not considered to be a comprehensive version of CbC reporting as information is intended to be disclosed directly to tax administrations and not the public. This does not suggest that a fully comprehensive version of CbC reporting will never be developed and implemented. In fact, in addition to civil society groups, political members have shown their support for the implementation of a comprehensive CbC reporting requirement.

Implementing CbC reporting requirements for multinational entities in all industries remains a concept under consideration across the globe. Public consultation efforts in the European Union that evaluated the implementation of industry-wide and industry-specific CbC reporting resulted in the formulation of CbC reporting requirements for large companies in the extractive industry. Political recognition of the transparency and BEPS related benefits of a comprehensive CbC reporting framework has been evidenced in legislative proposals and most significantly, in the ongoing work of the OECD. Action 13 of the OECD's BEPS Action Plan requires the development of a CbC reporting template applicable to multinational entities operating in all industries. The OECD's CbC reporting template contains variances in the information to be

reported and the recipients of the information in comparison to a comprehensive version of CbC reporting. These variances are primarily attributable to the OECD recognising a more limited CbC reporting objective in comparison to a comprehensive approach, being the improvement of transfer pricing documentation for the benefit of tax administrations to conduct more informed risk assessments and audits. Irrespective of the more limited scope of CbC reporting under the OECD reporting model, the commitment expressed by the G20 and OECD countries via the BEPS project signifies widespread recognition of the need for CbC reporting and its eventual implementation, albeit as transfer pricing documentation, in the near future.

It is clear that civil society groups and international organisations have contradictory views regarding the scope of CbC reporting. While the civil society groups call for a wider scope of this reporting, business and the OECD support a more limited scope with only financial information reported. This contradiction has impacted the development of CbC reporting. More specifically, it has hindered the adoption of CbC reporting globally. The following section of this part discusses the contradictory views as to the scope of CbC reporting. Based on the stakeholder theory, it argues that CbC reporting should have a wide scope, and that failure to do so may result in this reporting falling short of meeting its objectives.

3. POTENTIAL GOALS OF CBC REPORTING

The various CbC reporting requirements for the extractives industry share an overarching objective, being to enhance the transparency of payments made by extractive companies to governments to ensure that the appropriate amount has been remitted, and that governments can be held accountable for the efficient allocation of revenues for the benefit of citizens. The achievement of this objective is primarily centred on requiring multinational entities to disclose how much they have paid to the respective government of a country, in the form of taxes, royalties, bonuses, etc. The addition of CbC reporting requirements within the extractive industry represents substantial progress towards enhanced transparency and accountability within an industry that faces unique challenges as a result of the resource curse, whilst further reinforcing the value of CbC reporting. However, the industry specific nature of the frameworks coupled with their structural variances indicate that further work is required to develop a comprehensive CbC reporting regime that applies equally to corporations within all industries thereby preventing unfair competitive advantages, whilst addressing BEPS through increased financial transparency. The advisory group of the European Commission highlighted similar concerns for CbC reporting in the extractive industry; it suggested that the CbC reporting should be well connected with the domestic accountability and governance systems in countries rich in non-renewable resources (European Commission, 2011).

From a narrow perspective the primary goal of CbC reporting is to enhance transparency regarding payments made to governments by multinational entities operating in different geographical destinations. From a broader perspective, CbC reporting is designed to enable informed economic decision-making on the part of the numerous information users who engage with a multinational entity within its course of trade, whilst concurrently ensuring a multinational entity can be held accountable to those impacted by its business operations (Murphy, 2012). Prior literature on the objective and scope of CbC reporting reveals inconsistent findings and tends to be

influenced by different motivations. This literature, analysed below, highlights many incongruities, primarily concerning the objective of CbC reporting, its potential benefits and costs, and where CbC information should be disclosed.

3.1 The goals of civil society groups

A 2010 study by ActionAid International revealed approximately half of the firms in the Financial Times Stock Exchange 100 Index were found to be non-compliant with s 409 of the United Kingdom's *Companies Act 2006*, which requires companies filing with the Companies House to disclose a complete list of subsidiary names and locations in the notes to their accounts, irrespective of subsidiary size or materiality. Following this discovery, ActionAid requested the United Kingdom Companies House to more strictly enforce the subsidiary disclosure requirement under the United Kingdom *Companies Act*, and pressured firms to comply, resulting in compliance levels almost reaching 100% within two years.

Dyreng, Hoopes and Wilde (2014) utilise this event as a natural experiment in their examination of whether the change in enforcement and compliance resulted in actual changes in firms' tax haven subsidiary use and corporate tax avoidance behaviours. The study finds firms that were required to make additional disclosures (non-compliant) avoided less tax following the change relative to firms that were not impacted by the change (compliant). Specifically, non-compliant firms were found to have decreased the proportion of subsidiaries located in tax havens relative to compliant firms. Although this study only considers disclosures of subsidiaries on a geographical basis, and not financial information as per CbC reporting, these results indirectly lend themselves to the CbC reporting debate by emphasising the need for enhanced geographical disclosure and the potential for multinational entities to alter their tax avoidance behaviour. Furthermore, this study highlights the influence the lobbying efforts of activist groups may have on the disclosure practices and tax avoidance behaviours of multinational entities.

3.2 The goals of accounting standards

Gallhofer and Haslam (2007) utilise the review processes of International Financial Reporting Standard (IFRS) 6 *Exploration for and Evaluation of Mineral Resources* and IFRS 8 *Segment Reporting* as case studies in their evaluation of the International Accounting Standard Board's (the Board) ability to fulfil its objective of developing high quality accounting standards *in the public interest*. To explore the politics of accounting disaggregation, Gallhofer and Haslam (2007) apply in-depth critical analysis of the Board's character, contextual location, stated principles and reasoning to the practical examples of the lobbying efforts of non-government organisational groups for IFRS reforms to include CbC reporting in accounting for extractive industries and operating segments.

Gallhofer and Haslam (2007) note that PWYP's submissions (as advised by Murphy) to the review process conducted by the Board for both IFRS 6 and IFRS 8, presented CbC reporting using the Board's own terms and reasoning. In relation to the review of segment reporting requirements PWYP stated 'we believe all multinational companies face risks at a national level which have to be understood if appropriate investment decisions are to be made' (PWYP, 2005). As highlighted by Gallhofer and Haslam (2007), the PWYP submission utilises the Board reasoning in that disaggregated geographical information is presented as accounting information that is useful to

investors that is too important to be left to voluntarism. The authors ultimately found the Board is hindered in its objective of serving the public interest as it ‘does not straightforwardly apply its principles. It is unable to abstract from its socio-economic and political context’ (Gallhofer and Haslam, 2007, 659). However, Gallhofer and Haslam (2007) further state that the Board has ‘not fully [been] captured’ by business interests, and thereby possesses the potential to ‘embrace accounting shaped by more progressive forces’ (2007, 656–657). By examining the key events to date for the inclusion of CbC reporting in IFRS standards this study provides insight as to potential obstacles for any future CbC reporting lobbying efforts to the Board.

Similar to the political economy perspective applied in Gallhofer and Haslam’s 2007 study, a current working paper by Wojcik (2012a) analyses CbC reporting within its economic, social and political environment, incorporating post-2006 developments. To encompass the multiple stakeholders involved and dimensions of the CbC reporting debate, the author utilises four complementary political economy perspectives: a structuralist approach, a realist approach, a constructivist approach and an institutionalist approach. Wojcik (2012a) suggests that this method enables the process and direction of the CbC reporting debate to be mapped in addition to associated contradictions to be emphasised. One such contradiction is identified as the United States and European Union enacting requirements in contrast to the ‘original intention of the creators of the idea that [CbC reporting] be applied to financial and extractive companies’ (Wojcik, 2012, 17). Although this statement is strictly true in that comprehensive CbC reporting is intended to be applicable to the extractive *and* finance sectors, it does not address the broader impact of recent developments in the European Union and United States, being that a CbC reporting requirement was not applied to multinational entities operating in *all* sectors, as suggested by comprehensive CbC reporting proposals.

3.3 The goals of the European Union

A complementary working paper by Wojcik (2012b) contrasts the European Union’s CbC disclosure requirements against Murphy’s comprehensive form of CbC reporting to determine the potential policy effectiveness of each respectively. The study makes an interesting contribution through its use of the conceptual framework developed by Fung, Graham and Weil (2007) for analysing policy effectiveness of transparency systems. The conceptual framework by Fung et al (2007) suggests that for a transparency policy to be effective, the information disclosed as a result of the policy must influence the decision-making routines and actions of users and disclosers (Wojcik, 2012b). As per Murphy’s definition of CbC reporting (2012), the author considers full CbC reporting as accounting information and therefore treats it as ‘an extension of corporate financial reporting or even a potential improvement of the existing system’ (Wojcik, 2012b). Under the first (of four) elements of the transparency model utilised, the policy objectives of the two forms of CbC reporting are compared and found to be incongruent. Wojcik (2012b, 7–8) identifies the objective of full CbC reporting is to ‘create more comprehensive, complete and comparable accounting data in order to help effective allocation of capital’, whilst the objective of European Union CbC reporting is deemed to be to ‘increase government revenues in [the] developing world’, with transparency and accountability mere vehicles to achieve this.

Under the second limb of the comprehensive framework, Wojcik (2012b) concludes that the disclosure requirements under full CbC reporting are more extensive than

European Union requirements. The third element considers the users' perception, calculation and actions in relation to this information, for which Wojcik (2012b) finds the potential value of full CbC reporting to exceed that of European Union CbC reporting. This conclusion is founded on the disclosure of information within 'simplified' financial statements prepared on a per country basis assimilating more closely with users existing routines, in addition to the greater number of users targeted by full CbC reporting (Wojcik, 2012b). The fourth and final element considers whether users' actions in response to CbC reporting would affect the actions of disclosers in line with CbC policy objectives. On this point, Wojcik (2012b) suggests the lack of reference data (ie revenues, assets, employment figures) disclosed within European Union CbC reporting does not assist users to assess reputational and country specific risks, whilst full CbC reporting would incentivise multinational entities to manage these risks, ultimately lowering the cost of capital for companies and enhancing capital allocation.

Wojcik (2012b) presents a thorough comparative analysis, ultimately finding in favour of the policy effectiveness of full CbC reporting. The author determines the potential value of a comprehensive approach to CbC reporting to exceed that of European Union CbC reporting. Wojcik (2012b) suggests comprehensive CbC disclosures may enhance risk assessment opportunities in relation to country-specific and reputational risks, in addition to enabling an assessment of corporate tax contributions to a domestic economy in comparison to employment levels and fixed assets located in a jurisdiction.

Despite this key finding, throughout the paper Wojcik detracts from the importance of certain key elements of full CbC reporting that are likely to have sourced a substantial percentage of non-government organisational campaigning support, primarily that of transparency and accountability. This is evidenced in the above stated objective regarding the efficient allocation of capital and in the lines 'the objectives [of full CbC reporting] of improving tax governance and accountability of [multinational corporations] are mentioned in the submission [to the European Commission in 2010]...but after investors and capital markets and in lesser detail' (Wojcik, 2012b, 8). This opinion may have been justified in the sole context of an analysis of Murphy's submission to the European Commission, which as Wojcik (2012b, 8) notes uses language that reflects the ultimate goal of incorporating CbC reporting into IFRS. However, Wojcik (2012b, 2) states that the analysis undertaken in this study is 'with the aid of other policy documents and research'. This partially limited objective of full CbC reporting is in contrast with other publications by Murphy and supportive civil society groups. For example, a 2009 report by Murphy emphasises that CbC reporting is important in light of the operations of multinational entities because transparency, corporate social responsibility, accountability, trade, people, tax, corruption, development, governance and location all 'matter' (Murphy, 2009, 12).

The notion of CbC reporting being part of accounting reporting is clearly supported by the most recent developments in the European Union (European Commission, 2016). While the current OECD recommendations limit reporting disclosure, the European Commission proposals, if accepted, will require public disclosure of the reported information. In addition to information on tax paid within and outside the European Union, affected multinationals would be required to disclose on a CbC basis the nature of their activities, number of employees, net turnover, profit or loss before income tax, income tax accrued, income tax paid and the amount of accumulated earnings

(European Commission, 2016). Despite opposition from businesses, which preferred the adoption of a narrow approach to CbC reporting by following the OECD/G20 BEPS Action Plan to disclose only to tax authorities, the current proposal goes much further.

3.4 Accountability of corporates

A recent discussion paper by Fuest et al (2014) considers the adequacy of CbC reporting to address profit shifting and tax avoidance by multinational entities. Fuest et al (2014) present a comprehensive version of CbC reporting for analysis, including disclosures on a multinational entity's financial performance, labour costs and employee numbers, asset information and current and deferred tax expense. The authors have only considered the tax related benefits of CbC reporting, potentially due to the aim of the paper being to address tax avoidance and profit shifting issues. The paper presents two objectives, stating they are the main objectives pursued by CbC reporting proponents. However, only the first strictly conforms to this description, being to ensure multinational entities may be held accountable for the amount of taxes they pay within each country they operate in. In contrast, the second objective within the paper is stated as holding governments and their tax administrations to account 'for the way in which they treat multinational investors' (Fuest et al, 2014, 17–18). Although this may be a potential outcome, CbC reporting has more so been promoted as holding governments and their tax administrations accountable for the revenues they receive to ensure funds are efficiently allocated for the benefit of the community, rather than their treatment of multinational investors.

Fuest et al (2014, 18) state CbC reporting 'was initially mainly discussed to increase transparency in the extractive industries,' with transparency identified as a potential method to address well-known corruption issues. The authors further question whether reducing corruption is sufficient justification to apply CbC reporting requirements in other industries. The first statement is arguably misleading, whilst the second is an over simplification. 'Initial' discussions concerning CbC reporting, which occurred in 2003, actually detail a comprehensive version of CbC reporting applicable to all sectors (Murphy, 2009). Second, proponents have seldom ever presented 'combating corruption' as the sole or primary justification for implementing sector-wide CbC reporting disclosures. In relation to the ability of CbC information disclosures to reveal instances of profit shifting and tax planning by multinational entities, Fuest et al (2014, 19) only suggest CbC reporting is less efficient than a 'disclosure of tax avoidance schemes regime' which requires disclosures by tax advisors of the tax planning structures sold to clients.

The authors note legal considerations that have been identified throughout critiques and studies of CbC reporting, primarily that of data confidentiality constraints and the potential for corporate competition to be hindered if CbC reporting were not applied universally (Fuest et al, 2014). As is common in the literature, the study considers the appropriate mechanism for disclosure of CbC information, with the authors concluding that there should be a report separate to the audited financial statements. This view is not a significant departure from the norm and, in fact, corresponds with Evers, Meier and Spengel (2014) (discussed below) and current work by the OECD. The justification for this conclusion by Evers, Meier and Spengel is based on 'accounting standards already prescrib[ing] considerable reporting requirements such as segmental reporting and the tax reconciliation'. Although the study is prepared solely from a taxation benefits perspective, it represents a unique contribution to the

literature in that it is one of few studies to consider information disclosures applicable to a comprehensive version of CbC reporting.

A literary contribution that is more closely aligned with the analysis undertaken in this article is a recent discussion paper by Evers et al (2014). Evers et al (2014) conduct a cost benefit analysis of CbC reporting, ultimately concluding it is not a convincing measure to combat aggressive international tax planning activities of multinational companies. The authors provide an outline of a relatively comprehensive template for CbC reporting for the purposes of their study. Furthermore, distinction is made between direct costs (ie the adjustment of current internal systems and processes and auditing fees) and indirect costs (ie competitive disadvantages). The analysis of expected benefits of CbC reporting were limited in scope to those relating to a taxation perspective.

Evers et al (2014, 10–11) conclude that CbC disclosures are not appropriate for inclusion in individual or consolidated financial accounts, but should rather be contained in a separate template, ‘if at all’. Furthermore, public disclosure is determined to be undesirable on the basis that sensitive information could cause competitive disadvantages for multinational entities, in addition to the potential for members of the public who do not possess ‘profound knowledge’ on international tax law not being able to interpret CbC disclosures (Evers et al, 2014, 12). It is also surmised by Evers et al (2014, 14) that CbC reporting is unlikely to reduce multinational entities utilising legislative loopholes and flaws as ‘public pressure resulting from CbCR would be expected in case[s] of illegal endeavours’. This opinion, which suggests the public will only act on news of tax evasion, is inconsistent with the recently publicised tax avoidance practices of well-known multinational entities such as Apple, Starbucks and Google.

As the associated costs are found to outweigh the benefits of CbC reporting, Evers et al (2014) recommend, as an alternative, that tax policy be reformed and enforcement strategies of national and international tax legislation be strengthened. Overall, the paper makes an important contribution to the academic field through its analysis of CbC reporting. Although Evers et al (2014) make a valid recommendation regarding the need for tax policy reforms, the validity of the conclusions made within the study specifically concerning CbC reporting is questionable. This is due to the non-consideration of the wider objectives of CbC reporting beyond tax information disclosure, such as accountability and financial integrity. As mentioned above, this limited scope is most evident in exploration of the benefits associated with CbC reporting, which is especially problematic due to the cost-benefit method utilised within the study. Furthermore, the authors’ suggestion that users of financial statements would need ‘profound knowledge’ of international taxation legislation to interpret CbC disclosures appears unrealistic in light of the nature and content of disclosures required under CbC reporting proposals. Murphy has labelled similar objections that users would not be able to understand financial accounts prepared in accordance with a comprehensive CbC reporting approach as ‘baseless’, due to CbC reporting (as proposed by Murphy) utilising the same basic format as income statements prepared on a consolidated basis (Murphy, 2014, 3).

A recent study by Ting (2014) was facilitated by a United States congressional hearing, held in 2013, providing information about Apple’s international tax structure that was not previously readily available or easily discernible from the corporation’s financial statements. Ting (2014) reveals Apple achieved non-taxation on US\$44

billion through an international tax structure that consisted of the following components:

- (a) complementary definitions of corporate tax residence in Ireland and the United States;
- (b) transfer pricing rules on intangibles;
- (c) controlled foreign corporation regime in the United States;
- (d) check-the-box regime in the United States; and
- (e) low-tax jurisdictions.

In addition to a detailed analysis of Apple's international tax structure, Ting (2014) evaluates the potential reforms to the United States tax legislation that may address the double non-taxation of its resident multinational entities, such as Apple. Specifically, Ting (2014) discusses the deficiencies within the United States' check-the-box regime, controlled foreign corporation regime and transfer pricing rules for cost sharing arrangements. In relation to the potential responses source countries may implement to counteract the adverse impacts of BEPS, Ting (2014) suggests two issues must be considered: the application of the enterprise doctrine, and enhancing transparency to reduce information asymmetries between tax administrations and taxpayers.

Ting (2014, 67) evaluates a comprehensive form of CbC reporting and suggests that if such disclosure requirements had already been implemented 'tax authorities in the United States as well as in the source countries would have been alerted to the questionable low effective tax rate in Ireland much earlier and may have taken appropriate action more promptly'. In addition to identifying potential subjects for tax audits, Ting (2014) suggests CbC reporting may provide deterrent effects to multinational entities that are conscious that their detailed CbC disclosures will be evaluated by tax authorities. It is also suggested that these deterrent effects may be enhanced should CbC data be disclosed to the public, on the basis that reputational concerns are 'effective in dampening the appetite of [multinational entities] for BEPS schemes' (Ting, 2014, 67).

The author discredits two common arguments against the implementation of CbC reporting requirements, that is, user information overload and increased compliance costs for businesses. In relation to the former objection, Ting (2014) suggests users should easily be able to interpret CbC disclosures if all essential information is presented, whilst in relation to the latter point, he suggests the cost to a multinational entity of compiling readily available CbC information would be insignificant in comparison to the costs of implementing the tax planning arrangements that contribute to BEPS.

The analysis of CbC reporting presented by Ting (2014) into Apple and CbC reporting offers a unique contribution to the literature due to its contemporary nature and pragmatic application to Vodafone's circumstances in the United Kingdom. In particular, Ting (2014) discusses the inadequacies of the voluntary CbC disclosures provided by Vodafone following public criticism received in relation to the company's failure to pay UK corporate taxes for an extended period. As revealed by Ting (2014, 70), Vodafone aggregated the amount of corporate income tax paid with 60 other taxes and charges, resulting in a total disclosure line item titled 'direct revenue contribution:

taxation'. Furthermore, Ting (2014) suggests Vodafone was not transparent in its disclosure of a subsidiary established in Luxembourg that contributed to BEPS, as figures were aggregated with those of other holding companies within the group. Based on the CbC disclosure practices of Vodafone, Ting suggests CbC reporting should be structured to mandate separate disclosure of the amount of corporate tax payment in each country and should prohibit the aggregation of country data.

3.5 A summary of the literature

A review of the associated literature that specifically examines CbC reporting highlights many incongruities, primarily concerning the objective of CbC reporting, its potential benefits and costs, and where CbC information should be disclosed. Wojcik (2012b) finds in favour of including a comprehensive form of CbC disclosures within the annual financial statements of multinational entities (as per suggestions by Murphy, 2009; 2012), whilst in contrast Fuest et al (2014) and Evers et al (2014) suggest CbC disclosures should be contained within a separate report, therefore aligning with the current work of the OECD BEPS project. In their analysis of the politics of accounting disaggregation, Gallhofer and Haslam (2007) do not comment on the adequacy of the inclusion or exclusion of CbC reporting requirements within IFRS. However, the findings of Gallhofer and Haslam (2007) imply the potential for future IFRS or amendments to contain CbC reporting requirements on the basis that their study finds the Board to possess the potential to serve civil society despite its standard setting process being partially captured by hegemonic forces.

All of the studies evaluated within this part considered the benefits of CbC reporting associated with potential reductions in tax avoidance and profit shifting by multinational entities, with Evers et al (2014) and Fuest et al (2014) solely restricting their analysis to tax related benefits. Of the studies that suggest multinational entities may reduce their tax avoidance behaviours as a result of CbC disclosures, the common causes identified included reduced information asymmetries between tax administrations and corporate reporters, in addition to associated deterrence effects engendered by reputational concerns (Ting, 2014; Wojcik, 2012b). In contrast, Evers et al (2014) and Fuest et al (2014) suggest alternative recommendations primarily relating to tax legislation reform to address tax avoidance and profit shifting.

Evers et al (2014, 12) suggest that members of the public lacking 'profound knowledge' in international tax law would not be able to interpret CbC disclosures, whilst Fuest et al (2014, 18) identify a similar concern relating to the potential for information to be 'misused'. In contrast, Wojcik (2012b) and Ting (2014) discredit these claims based on the perceived knowledge levels of users and the simplicity associated with the proposed content and structure of CbC disclosures. The inconsistent findings and recommendations of the academic studies evaluated within this section may be due to the varying objectives each assigned to the concept of CbC reporting.

Academic studies that examine CbC reporting generally identified differing objectives of disclosing CbC information, which may contribute to the inconsistent findings observed. In particular, the studies evaluated exhibited a lack of consensus concerning the potential benefits and associated costs of implementing and applying CbC reporting requirements, in addition to the ideal location for any such CbC disclosures to be made. Whilst there was general agreement on the potential for CbC information to enhance financial transparency, the literature lacked agreement as to whether it

could serve as a useful and efficient tool to identify profit-shifting activities by multinational entities, with some studies suggesting alternative recommendations primarily relating to tax legislation reform. Furthermore, whilst some studies referred to the benefits of public disclosure, others argued for confidential disclosures to tax administrations. Whilst the studies commonly highlighted concerns for 'information overload' and potential misuse of information, these concerns were disregarded by some authors on the basis of the perceived knowledge levels of users and the simplicity the authors associate with the proposed content and structure of CbC disclosures.

The need to consider the wider application of CbC reporting has become unavoidable due to the current CbC template by the OECD being applicable to multinational entities operating in all sectors. Although extant academic research on CbC reporting is limited, there appears to be consensus regarding the decision useful nature of geographic disclosures by multinational entities and the potential for enhanced financial transparency benefits resulting from CbC disclosures. However, there is no consensus on the regulation of this reporting within the corporate reporting system and the format global corporations should follow for this reporting. Taking these as the challenges in the development of this reporting culture, the following section critically assesses the effectiveness of the current format and trend in the CbC reporting.

4. EVALUATING THE OBJECTIVES AND SCOPE OF CbC REPORTING

The analysis within the previous section ascertains the current status of CbC reporting to be a progressive transparency initiative that is being utilised around the world and across industries, but one that lacks consensus regarding:

- (a) what specific information should be disclosed;
- (b) how the information should be delivered;
- (c) what kind of technology and reporting systems will be required for implementation by taxpayers and governments;
- (d) to whom will the information be disseminated; and
- (e) for what purpose should the information be used?

These questions, and others, must be considered in a CbC reporting model that promotes corporate accountability and concurrently protects a country's tax base from erosion and profit shifting. Below, the article considers why the scope of CbC reporting needs to be defined widely.

4.1 Stakeholder theory as a sound rationale for CbC reporting

A number of theories explain why the scope of a CbC reporting framework should be wide enough to allow stakeholders to make informed decisions about multinational entities. These theories include legitimacy theory, political economy theory, stakeholder theory, decision usefulness theory, agency theory, positive accounting, and new governance theory. As decision usefulness theory, positive accounting and agency theory focus on corporate motivations for disclosure, and do not consider a broader set of stakeholders and their interests, they are outside the scope of this article.

As functionalist economic theories, they concentrate on financial stakeholders and market outcomes. They do not consider the social responsibility practices of multinational entities (Gray, Kouhy and Lavers, 1995). Therefore, in this article, the focus is on social and political theories such as legitimacy theory, stakeholder theory, and new governance theory. These theories provide more interesting and insightful perspectives on the depth of CbC reporting. Essentially they underpin the idea that CbC reporting should respond to societal expectations. This article looks at stakeholder theory in particular to explain the reasons why and how multinational entities should use CbC reporting for disclosure. In this section, the article discusses the main principles of stakeholder theory and links it to the normative explanation of the objectives and scope of CbC reporting.

The manner in which corporations communicate with broader society has changed. Industrial structures and economic relationships are different now than in the past. Business entities and political bodies are compelled by the community to review approaches to corporate governance. Stakeholder theory, and in particular, the work of Edward Freeman, has become the dominant paradigm in research into the relationships between business and society. Freeman reconceptualised corporate management with stakeholder theory. His work helped to redefine the theoretical and strategic approaches to corporate management (Cannon, 1994).

Stakeholder theory places emphasis on the concepts of 'stake' and 'holder'. 'Stake' can be seen as the right to take some action in response to any act or attachment. Following from this, 'rights' can also include liabilities, and therefore a 'stake' can incorporate the liabilities a person may experience when exercising a right (Rahim, 2013). A stake can also be a legal share of something, for example, financial involvement with an act or entity. Carroll has identified the three sources of stakes from the perspective of an organisational stakeholder: ownership at one end, legal and moral rights at the other, and interest in between (Carroll and Buchholtz, 2008). The meaning of holder is easier to understand. A holder is a person or entity that may need to take action, or may face certain consequences, because of an act or event. From the organisation and management point of view, Freeman explains a stakeholder to be 'any group or individual who can affect or is affected by the achievement of the firm's objectives' (Freeman, 1984; Freeman, 1994). Carroll expands on this definition by noting that a stakeholder can be 'any individuals or groups who can affect or are affected by the actions, decisions, policies, practices or goals of an organisation' (Carroll and Buchholtz, 2008). Therefore, the list of potential stakeholders in a company is long, and can include employees, customers, owners, competitors, government and civil organisations. According to Gray et al, stakeholders can even include future generations and non-human life (Gray, Owen, & Carol, 1996; Rahim, 2011; Lee, 2008).

In contrast with the ideas of managerial capitalism, stakeholder theory encompasses the notion that corporations must consider the stakeholders in corporate self-regulation. Indeed, stakeholders have the right to be a part of this process, and business has the responsibility to facilitate this (Rahim, 2011). There are two arguments which support this belief. The first of these is that traditional notions of ownership have changed, and that companies are no longer exclusively private property (Freeman, 2001). This means that standard corporate governance is no longer relevant. The second argument focuses on the power relationship between business and society. Under this argument, social power and social responsibility are

inextricably linked; this means that it is now the responsibility of business to mitigate social costs (such as those resulting from industrial pollution, hazardous products, job dissatisfaction, etc) which raises questions about the exercise and limitations of corporate power (Hoffman and Moore, 1990).

Important questions within stakeholder theory are: 'For whose benefit, and at whose expense, should the firm be managed?' (Evan and Freeman, 1993). To answer these questions, the theory explains stakeholders to be all parties within an interest or claim in a company. This could include proprietors, management, suppliers, employees, customers and the local community (Evan and Freeman, 1993). Proponents of stakeholder theory believe that these parties cannot simply be treated as a means to an end; rather, they have the right (or even the obligation) to have a hand in the future of the company (Evan and Freeman, 1993). They believe that businesses do not have the right to decide on outcomes for constituents, and state that 'if the modern company requires treating others as means to an end, then these others must agree on, and hence participate (or choose not to participate) in, the decisions to be used as such' (Evan and Freeman, 1993). Stakeholder theory has also noted that the rights to property, which are legitimate, are not absolute. This is particularly true when those rights conflict with the rights of others. Reinforcing this notion is the belief that 'the property rights are not a license to ignore Kant's principle of respect for a person' (Bichta, 2003). Stakeholder theory also considers the impact of managerial capitalism. It looks at the way in which contemporary business affects the welfare of other parties. Thus, corporate decision makers who guide the activities of a company can be held liable for negative externalities and harmful actions (Rahim, 2013). Theories that try to justify the corporate form 'must be based at least partially on the idea that the company and its managers as moral agents can be the cause of and can be held accountable for their actions' (Bichta, 2003).

Stakeholder theory requires managers to distribute the fruits of organisational success (and failure) among all legitimate stakeholders and to communicate with stakeholders on *how* profits should be maximised (Phillips, Freeman and Wicks, 2003). Phillips et al (2003, 487) further state 'stakeholder theory is concerned with who has input in decision-making as well as with who benefits from the outcomes of such decisions. Procedure is as important ... as the final distribution.' Financial outputs are not the sole subject of organisational distributions to shareholders as information is considered another fundamental good that influences stakeholders' perceptions of fairness to the extent that complete information contributes to the decision-making process amongst stakeholders (Phillips et al, 2003).

The 'question of what management should do, and who should matter in their decision making, is a central question of stakeholder theory' and is considered in relation to the managers of multinational entities (Freeman et al, 2010, 209). To address this question, the normative stakeholders of a multinational entity must first be identified. Normative stakeholders are generally agreed to encompass capital providers, employees, customers, suppliers and local communities (Freeman et al, 2010).

In addition to these stakeholders, regulators and taxation authorities have been identified as stakeholders within the CbC reporting literature (Murphy, 2009). The roles served by both regulators and taxation authorities conform to the definition of a normative stakeholder as suggested by Freeman et al (2010, 209) as explained above. Legislation and standards as developed by regulators and taxation revenues collected by tax administrations are directly influenced by a multinational entity's ability to

generate a profit (in the case of for-profit organisations) and the methods used to achieve and distribute this profit. Trade unions, in their negotiations with management over employee's rates of remuneration and fair employment practices, would also satisfy the aforementioned definition of a normative stakeholder (Hadden, 2013). Finally, civil society organisations have the ability to impact the achievement of a multinational entity's objectives through publications and lobbying efforts aimed at altering or improving a particular corporate practice or behaviour.

Following the above identification of normative stakeholders, the substantive normative implications of stakeholder theory, as previously identified, are applied directly to multinational entities that prepare annual accounts of their business operations. The first implication is that multinational entities do not hold an exclusive fiduciary duty to stockholders, but rather are obligated to ensure the value created by the entity is distributed among the identified stakeholders. It has often been implied, and a significant point of literary criticism, that to 'balance' stakeholder interests prescribes that this distribution is determined by equal treatment of all stakeholders (Donaldson and Preston, 1995). However, Phillips et al (2003, 488) suggest a meritocratic interpretation of stakeholder balance whereby benefits are distributed according to the relative contribution to the organisation. For multinational entities under consideration within this article, capital providers would be seen to contribute the most to an organisation due to their funding facilitating the creation and continuation of the business. It is suggested that employees are the second highest contributor through their provision of human capital, followed by local communities who grant a multinational entity with their licence to operate. Suppliers and customers are equally as important as a business would fail to generate revenues with a lack of goods or services to sell or customers to purchase them. Regulators and tax administrators contribute through the provision of regulation and standards to which the business activities of the multinational entity must conform.

Therefore, under a stakeholder theory perspective that utilises a meritocratic interpretation, CbC reporting, as a distribution of information that aids in stakeholder decision-making, should be structured and implemented to primarily benefit investors but also (and to a lesser extent) employees, local communities, suppliers, customers, regulators and tax administrators. It is now considered how the previously identified stakeholders may find CbC reporting disclosures, and financial statement disclosures in general, useful.

Providers of capital, including investors and financial institutions via lending facilities, utilise corporate disclosures and financial reports to better assess firm value, strategy, future opportunities, risk, legal liabilities, compliance with laws and regulation and the stewardship role of management. Present and future employees are considered to be concerned with a corporation's rates of remuneration, job prospects, working conditions, health and safety, industrial relations, risk management, career development and advancement opportunities (UN Conference on Trade and Development, 2008). Former employees may also be interested in the ongoing financial performance of a corporation to ensure continued payment of pensions and retirement benefits (UN Conference on Trade and Development, 2008). Although trade unions have access to employee-related information for an associated corporation, they may utilise employment data disclosed by a corporation to benchmark against other enterprises, industries, or countries (UN Conference on Trade and Development, 2008).

Customers are concerned with product quality, potential associated health impacts, and the manufacturing process including information on how and where products are produced and under what working conditions (UN Conference on Trade and Development, 2008). Suppliers are concerned with the financial performance of a corporation to the extent the latter is able to repay outstanding credit amounts and continue the requisition of goods and/or services. Suppliers may also utilise information concerning a corporation's reputation to make informed decisions as to whom they should supply to and consequently be associated with. Local communities are concerned with a corporation's impact on jobs, contributions to the tax base and on other local businesses (eg, through local business connections and influence on local remuneration rates) in addition to local health, safety and security risks and how community complaints are processed (UN Conference on Trade and Development, 2008). Regulators utilise corporate disclosures to formulate social and economic policies and to identify and remedy any associated gaps within these policies or their enforcement. Similarly, tax administrations utilise information to determine if entities have correctly calculated and reported their taxation liability. Civil society groups utilise financial statement and reporting information to compare or benchmark an organisation's performance in a particular area, such as economic development, primarily focusing on policies and their implementation. As such, there is a wide group of stakeholders who benefit from CbC reporting and not just revenue authorities. Consequently, using stakeholder theory, the objective of CbC reporting is to meet the informational needs of all interested parties.

4.2 An analysis of the OECD CbC model

The OECD's recent revision of Chapter V of the Transfer Pricing Guidelines, which includes the addition of a CbC reporting format, is aimed at providing tax administrations with more focused and useful information to undertake transfer pricing risk assessments and audits. It limits its CbC reporting format to a tax administration perspective as 'the overarching consideration in developing such rules is to balance the usefulness of data to tax administrations for risk assessment and other purposes with any increased compliance burdens placed on taxpayers'. User groups other than tax administrations are not considered in the OECD's discussion draft or deliverable publications, with the CbC report only to be made available to tax administrations.

In contrast, the Tax Justice Network (TJN) has advocated a broader notion of CbC reporting as a method for improving financial reporting transparency. The TJN considers the role of CbC reporting to extend beyond exclusively informing tax administrations, to ensure multinational entities can be held accountable to their shareholders and a broader network of stakeholders in their host country (TJN, 2014). To achieve this, multinational entities would be required to publicly disclose the names of companies operating in each country, labour expenses and employee numbers and financial figures (apportioned between third party and intra-firm), in addition to tax related information (Murphy, 2009). To date, countries like Australia have announced the adoption of the OECD recommendations. However, the current proposed amendments to the European Union Accounting Directive 2013/34/EU suggest an approach which more closely resembles the original proposal by Murphy, especially in terms of public disclosure and the dissemination of the report.

The core differences between the formats prepared by the TJN and the OECD relate to the dissemination of the report and the reporting location. The table below provides a synopsis of the differences in these two CbC reporting formats.

Table 1: TJN and OECD CbC Reporting Templates

Template	Sector	Dissemination	Compulsory/ Voluntary	Template Location	External Assurance
Tax Justice Network (TJN)	All industry sectors	Financial statements are publicly disclosed.	Compulsory	International Accounting Standards (IFRS)	As part of audited financial statements in countries where auditing is required for publicly listed companies.
OECD	All industry sectors	Available to tax administrators only	Voluntary Guidelines with jurisdictions deciding whether they are legally binding	Chapter V of the Transfer Pricing Guidelines	External audits are not recommended.

Both the TJN and OECD models require multinational entities to disclose the names of all subsidiary companies and the names of all the countries in which they operate. This information must be encompassed within a reporting model to satisfy one of the basic principles of CbC reporting – to hold a corporation accountable for its (in)actions, information users must be able to identify which corporations are operating and where they are operating. In other words, the anonymity facilitated by current reporting standards must be removed in order to clearly identify a corporate group structure, its geographic spread and its associated geo-political risk and potential associated reputational damage. A corporation's pattern of geographical spread may be indicative of diversity or lack thereof, in addition to potential dependencies on subsidiaries located in tax havens, the latter of which is further informed through the provision of sales data.

Both proposals require the disclosure of third party, infra-firm and total sales on a per country basis. This information enables the assessment of the direction of sales flows, the extent of intra-group sales and whether they have been routed through or relocated to secrecy jurisdictions for a reason beyond the economic reality. Tax authorities investigating transfer mispricing disputes would have access to information on profit allocations to determine if a systematic bias towards low or tax free jurisdictions is evident, in addition to information on the volume and flows of intra-group trades which may suggest profit allocations are a result of trade mispricing (Murphy, 2009). The disaggregation of sales data between third party and intra-firm would theoretically enable an investor to more accurately assess the geographic external sales diversity and the associated risk of this diversity. For example, if a significant percentage of a

multinational entity's sales were identified as originating from a politically unstable or generally risky jurisdiction, an investor may question the probability of the income stream's continuance.

Sales data is also relevant in reference to any purchases information to be disclosed. Notably, the OECD proposal does not suggest multinational entities disclose any purchase data, whilst the TJN proposes both third party and intra-group purchases be disclosed. Purchase information, apportioned between third party and intra-firm, may increase the decision usefulness of the report without significantly increasing the compliance costs of corporations, as purchase transaction information should be readily available and would already be collected for internal management purposes. The inclusion of purchases data may enable an assessment of the vulnerability of supply chains such as those that obtain products or services from jurisdictions with high political risk. The disclosure of intra-group sales and purchases in each location enables an investor to assess the level of trade in any country that is dependent upon the corporate group, in addition to the potential risk of a transfer price challenge occurring should profit to sales ratios be high in low tax jurisdictions, or low in high tax jurisdictions (Global Witness, 2005). Furthermore, when compared to external sales, high intra-group purchases for a jurisdiction may indicate re-invoicing practices, whilst a comparison of intra-group purchases and intra-group sales may enable internal supply chains to be determined.

The inclusion of employee-related data is suggested to assist information users in multiple ways. Originally both the OECD and TJN proposals required employee numbers and labour costs to be disclosed on an entity and individual country basis respectively. However, following the public consultation period for the Discussion Draft the OECD removed requirements for employee costs to be reported. This removal was likely founded on objections concerning employee confidentiality and compliance efforts, such as the following:

Employee compensation information often is not maintained by all entities in a [multinational entity] group in the same manner, valuation of non-cash compensation would be difficult, and compensation information could be quite sensitive in situations involving only a relatively small number of employees in a particular country so that the total could reveal personal information (Ernst and Young, vol 2, 82).

In contrast, other respondents recognised that employee information disclosure by multinational entities may be beneficial, such as the following statement by PricewaterhouseCoopers Global (vol 3, 137):

We recognise that data on the number of employees may be seen as useful information for risk assessment purposes and that employee expense will be generally indicative of value. However, detailed guidance regarding the definition of 'employee' and the calculation of employee expense will be necessary before these items can meaningfully be reported on by taxpayers.

The requirement for a clear definition of 'employee' and the associated calculation of employee expense is also recognised as important. The OECD framework provides a sound basis for the determination of employee numbers, being either the actual number of staff employed on a full-time equivalent basis at the end of the reporting year, or alternatively, the average employment levels for the reporting year. The

provision of a choice for multinational entities to report a yearly average or actual year-end figure would still result in users receiving useful information whilst also potentially reducing the compliance burdens for multinational entities. However, corporations should be required to implement a consistent approach from year to year. Unlike the OECD model, rounding or approximation of employee numbers is not recommended as it may provide opportunity to distort the geographical distribution of employees and hinder cross company comparisons.

Furthermore, rounding or approximation of the number of employed staff would be an unnecessary extra step, as actual or average figures should be readily attainable. Distinction should be made between individuals directly employed by the multinational entity and individuals who are formally employed by another organisation but act under the supervision and management of the multinational entity, such as subcontractors. Such a distinction could be communicated through an additional note to the financial statements. The primary stakeholders expected to benefit from the disclosure of employee-related data include investors, employees (existing and potential), customers and trade union groups.

By requiring companies to disclose the number of employees and the associated costs on a CbC basis, investors are able to determine *where* a multinational employs its staff and whether employees are receiving an average pay when compared to similar undertakings in the geographical area. Despite the obvious benefits to a corporation's profitability, many investors may be disinclined to invest in a company that has been identified as subjecting its employees to less than fair working conditions, such as remuneration levels below social or regulatory standards or norms. A similar statement may be made regarding customers who consciously choose to not engage with a corporation due to unfair employment practices. Furthermore, CbC data may help inform an employee's decision to work for a particular company and may further assist with employment negotiations. The comparative nature of CbC reporting may assist employees to determine if a corporation deals with employees consistently and fairly.

As would be expected, both the OECD and TJN include requirements for disclosure of income tax expense and profit (loss) before income tax. Whilst the OECD's template disaggregates tax expense between income tax paid (cash basis) and income tax accrued in the current year, the TJN proposal requires tax information to be disclosed on a per country basis in the profit and loss statement and the balance sheet. It is recommended that an ideal model should follow a similar format to that recommended by the TJN as this would be consistent with existing accounting standard presentation, yet more detailed. Specifically, International Accounting Standard 1 *Presentation of Financial Statements* requires tax expense (tax income) to be disclosed in the statement of comprehensive income, in addition to requiring the current tax assets and liabilities, and deferred tax assets and liabilities, to be disclosed in the statement of financial position. Expanding these requirements to include individual country presentation of tax expense (income) and tax assets and liabilities, is expected to be advantageous to financial statement users due to the consistent use of information presentation formatting. Disclosure of tax expense and liabilities/assets on a current and deferred basis would enable the effectiveness of a jurisdiction's ability to collect taxes to be determined by clarifying the amount a multinational entity actually pays in taxes to each jurisdiction it has operations in.

Furthermore, the detailed disclosure of tax charges applicable to individual countries enables investors to better assess the potential impact of the reversal of deferred taxes on future cash flows, in addition to the extent to which deferred taxes are used as a source of finance in each jurisdiction. CbC reporting would enable investors to assess the sustainability of tax rates by determining if a corporation's reported tax rate was dependent upon basing activities in secrecy jurisdictions (ie tax havens) (Murphy, 2009). This would also influence an investor's perception of share value due to the use of after tax earnings in common valuation ratios. The disclosure of taxes paid to governments, on a cash basis as suggested under both frameworks, is necessary to determine multinational entities' economic contributions to jurisdictions in which they operate and to hold the governments themselves accountable. Furthermore, tax administrations and other interested stakeholders may detect the presence of tax planning arrangements more easily in CbC reports in cases where the cash taxes paid are less than the reported liability of the prior year. To facilitate the transparent reporting of taxes due and paid, it is suggested that separate line items be disclosed, as per the TJN proposal, for current and deferred income tax expense, local government taxes due, and other payments due to governments.

Once again, the balance sheet items included in the TJN's proposal are more detailed than the OECD's proposal, the latter being limited to stated capital and tangible assets other than cash and cash equivalents for each tax jurisdiction. The inclusion of tangible asset information is beneficial to multiple stakeholder groups. For example, the disclosure of balance sheet data such as tangible assets may inform investors on the rate of return on capital by jurisdiction, and thereby whether management has efficiently allocated resources to the locations where a multinational entity operates.

However, it is suggested that multinational entities should also disclose total intangible assets and fixed assets as part of a CbC report. If a subsidiary were to employ minimal staff, conduct all of its sales on an intra-group basis and only own intangible assets or very minimal physical assets, financial statement users could, via the CbC report, question the economic substance of such an entity. Additionally, if investors know of the geographical location of corporate assets they may then be aware of any potential risk of capital loss for assets located in politically unstable areas. Such disclosures by multinational entities would enable local suppliers to more accurately assess the level of risk associated with supplying a corporation with credit based on the value of physical assets a corporation locates within that jurisdiction. For example, if a subsidiary of a multinational entity with a low amount of assets located in a specific country fails financially, the risk of local suppliers failing to be paid increases.

5. CONCLUSION

The aim of this article was to propose a theoretically sound objective and scope for CbC reporting by multinational entities. It has done so by assessing whether current CbC reporting is appropriate within a corporate reporting system. Based on stakeholder theory, it suggests that CbC reports should be prepared for the benefit of a broad stakeholder group and made publicly available through financial statements. The review of the literature on geographical disclosure requirements asserts that CbC reporting has gained adequate theoretical basis and multinational entities have started incorporating this reporting within their self-regulation systems. Further, public focus

on this reporting has increased following the focused attention of the G20, the ongoing work of the OECD as part of the BEPS project, and through lobbying efforts of civil society groups. Despite its increasing acceptance, civil society groups, international organisations and businesses lack consensus as to the objective of CbC reporting, its potential benefits and costs, and the location for CbC information to be disclosed.

An evaluation of real world CbC reporting developments and existing industry-specific implementation efforts shows that CbC reporting has been suggested as a tool to provide decision-useful geographical information. The unique attributes of the extractive industry have resulted in the development of CbC reporting requirements to enhance the financial transparency and accountability of entities operating within this sector. The reporting requirements that currently exist within this industry, as explored within this article, illustrate the practical significance and feasibility of CbC disclosures by multinational entities. However, it must be noted that due to their industry specific nature, disclosure initiatives and requirements do not represent a comprehensive form of CbC reporting.

From a stakeholder theory perspective, CbC reports represent information capable of influencing the decision making process of stakeholders. Public disclosure of CbC reports, as required under the TJN's proposal, and as currently proposed by the European Commission, would benefit a broad range of normative stakeholders such as capital providers, employees, customers and suppliers, local communities, regulators and taxation administrations, trade unions and civil society organisations. Publishing CbC data is generally expected to benefit these stakeholders through the provision of relevant information beyond what is currently available for evaluation and general risk assessment purposes. Direct disclosure to tax administrators seemingly ignores the legitimate claims to information of the above stakeholder groups, with the exception of tax administrations, and therefore fails to balance stakeholder interests as prescribed under stakeholder theory. A meritocratic stakeholder theory approach to CbC reporting would suggest public disclosure of CbC data that is structured to primarily benefit investors, and additionally (but to a lesser extent) employees, local communities, suppliers, customers, regulators and tax administrators.

CbC reporting is a tool to provide decision-useful geographical information. It enhances the financial transparency and accountability of entities operating within this sector. A comprehensive format for this reporting would further develop this practice. The OECD format for this reporting is a worthy initiative to this end, but the focus of this organization regarding this development should be broadened. The OECD can consider this reporting as a means to disclose information to the public. The European Union seems to be moving beyond the narrow disclosure requirements to a model which accepts the benefits of greater public transparency. Given the influence of the European Union, it is likely that other jurisdictions will follow. Such a move would absolve the issues associated with sharing information between tax administrators whilst concurrently ensuring the needs of a broader stakeholder group are satisfied. As different stakeholders (e.g. tax administrators and investors) can use the same CbC data to meet their varying evaluation and assessment needs, multinational entities would not be required to adjust the report or submit multiple filings.

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