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For logistical reasons only? A case study of tax planning and corporate social responsibility reporting

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ABSTRACT

The relationship between corporate taxation and corporate social responsibility (CSR) has become a much discussed topic in recent times. We offer insights into this debate by presenting a qualitative case study of the tax planning arrangements of one multinational company that uses transfer pricing to achieve significant tax savings. We contrast this arrangement with an analysis of how the company discussed taxation in its disclosures over a 10-year period, and set its arrangements against the CSR claims made by the company during this time. Despite its claimed commitment to accurate and transparent communication, the company has made only limited disclosures on taxation, and issues such as tax planning, tax risks and tax compliance have been omitted completely. By juxtaposing the legal tax planning arrangements of the company being studied with its lack of tax disclosures and apparent neglect of its own CSR commitments, we highlight how corporate taxation needs to be considered to be a CSR issue. Moreover, given that the disclosures of powerful social actors affect how issues such as corporate tax avoidance and responsible taxation are understood and subsequently acted upon in society, we consider it essential to analyse in detail what corporations actually say in their disclosures.

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1. Introduction

[Our] sales office is located in the Netherlands for its superior logistical location and proximity of our customers. . . (Stora Enso CCO, quoted in Talouselämä, 2012: 43).²

Tax planning has been an everyday practice in the business world for decades (Murphy, 2012; Sikka & Willmott, 2010) and multinational companies in particular now have a vast number of options for minimising their tax liabilities to nation states (OECD, 2013, 1998; Sikka & Hampton, 2005; Strange, 1999: 54). However, in an increasing number of situations the nature of tax planning arrangements is no longer entirely clear (e.g. KPMG, 2006). While the difference between tax

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² The tax planning arrangement employed by Stora Enso Group in its internal pulp trade from Veracel, Brazil, to its paper mills in Finland has been described in the leading Finnish business weekly *Talouselämä* (Finér, Laine, & Ylönen, 2012). The study reported here elaborates substantially on the previous version: whereas the article published in *Talouselämä* focused solely on the Veracel pulp trade, in the present study we analyse Stora Enso's disclosures and combine this analysis with a broader discussion of tax planning and tax avoidance in multinational corporations.

avoidance (usually referring to arrangements allowed by the law) and tax evasion (activities that break the law), is theoretically a clearly defined legal distinction, in practice this is something of a grey area, sparking debate about how corporate tax planning, avoidance, and evasion should be interpreted and understood (Christensen, 2011; Hasseldine & Morris, 2013; Leite, 2012; Sikka, 2013).

Simultaneously, corporate social responsibility (hereafter CSR) has become a dominant feature of the contemporary business world, and today most multinational companies publish annual sustainability reports in which they emphasise their dedication to high ethical values and CSR (KPMG, 2011). It is evident, however, that CSR is an ambiguous concept and both its contents and subsequent implications are perceived differently by various sectors of society (see Joutsenvirta, 2011; Milne, Tregidga, & Walton, 2009). Similarly, in both the academic literature and the broader social debate, there are major disagreements with regard to whether corporate taxation should be considered an element of CSR or how the relationship between these two should be interpreted otherwise. In other words, there is an on-going discursive struggle around the interface of corporate taxation and CSR.

Drawing on the tradition of discourse studies (Gergen, 1999; Phillips & Hardy, 2002), we maintain that the way in which powerful social actors (for instance, multinational corporations) discuss corporate tax avoidance, CSR and responsible taxation has an effect on how these issues are understood and, subsequently, are acted upon in society. Therefore, and given the contested nature of tax avoidance as a social issue, we consider it essential to analyse in detail what corporations actually say about taxation in their disclosures. Likewise, as connections between CSR and corporate taxation have attracted increasing attention in academic literature (Lanis & Richardson, in press; Muller & Kolk, in press; Preuss, 2012), there is also an appetite for studies that contrast the tax planning activities of corporations with their CSR disclosures (Boden, Killian, Mulligan, & Oats, 2010; Gray & Laughlin, 2012; Lanis & Richardson, 2013; Sikka, 2013, 2010). Moreover, given the lack of publicly available information on the taxation of individual corporations (Sikka & Willmott, 2010) and the acknowledged limitations of using financial databases to identify corporate tax shelters (Lisowsky, 2010), scholars have also proposed the use of creativity (Graham & Tucker, 2006) and “some other” data sources (Hanlon & Heitzman, 2010: 157) to provide information about corporate-tax-shelter activity.³

Accordingly, in this paper, we turn to qualitative research methods (Gendron, 2009; Patton, 1990) and offer a single case study (Yin, 2009) of Stora Enso Group (registered name: Stora Enso Oyj; hereafter “Stora Enso”, “SE” or “the Group”), one of the world’s leading pulp and paper companies. Stora Enso is renowned for its public commitment to sustainability and has been included regularly in indices such as the Dow Jones Sustainability Index and FTSE4Good. In broad terms, the aim of this paper is to use Stora Enso as a critical case (Patton, 1990) through which to offer insights into emerging discussions on the relationship between corporate tax avoidance, CSR and corporate disclosures. We seek to achieve this through the empirical juxtaposition of a transfer pricing-related tax avoidance scheme that Stora Enso has used in its internal pulp trade with the claims and commitments the company has made simultaneously in its CSR disclosures.

In respect of case selection, it is proposed that a detailed investigation of Stora Enso presents a “critical case” (Patton, 1990) for discussing the relationship between corporate taxation, CSR and corporate disclosures. This selection is based on two key criteria. Firstly, information regarding the transfer pricing arrangement that Stora Enso employs in its internal pulp trade, from the Veracel pulp plant in Brazil to its paper mills in Northern Finland, is accessible to some extent; this is rarely the case for multinational organisations (Clausing, 2003; Swenson, 2001). Secondly, for years, Stora Enso has emphasised the importance of CSR for the organisation and has received external acclaim both for its CSR performance and for its approach to disclosure (see section 5.1.). As Patton (1990: 174) observes, critical cases are those that can “make the point dramatically”, often characterised by the statement “if it happens there, it will happen anywhere”. He also notes that picking a critical case is important if one can study only a single site, in which circumstance “it makes strategic sense to pick the site that would provide the most information and have the greatest impact on the development of knowledge” (ibid.).

In this paper, we seek to elaborate on previous studies at both empirical and theoretical levels. Our empirical objective is to examine how multinational corporations use transfer pricing for tax avoidance. Even though the misuse of transfer pricing has frequently been identified as an important tool for tax avoidance (e.g. Richardson, Taylor, & Lanis, 2013), detailed scholarly accounts of how transfer pricing is used in intra-firm trade are virtually non-existent, probably because “corporate financial reports rarely provide any meaningful information about their transfer pricing practices” (Tang & Zhao, 2001, quoted in Sikka & Willmott, 2010: 353; see also Muller & Kolk, in press).⁴ We thus maintain that a detailed, longitudinal description of how Stora Enso, a multinational industry leader, uses transfer pricing arrangements for tax avoidance can be considered a “revelatory case” (Yin, 2009), highlighting in detail how transfer pricing – a phenomenon usually inaccessible to social science research at the level of the individual firm (Clausing, 2003: 2208; Swenson, 2001; but see ActionAid, 2010) – is used for tax avoidance in “the real world” (see Oats, 2012: 5; Boll, 2014).

³ OECD (2014) defines “tax shelter” as follows: (1) An opportunity to use, quite legitimately, a relief or exemption from tax to pay less tax than one might otherwise have to pay in respect of similar activities, or the deferment of tax; (2) The polite term usually given to a contrived scheme to avoid or reduce a liability to taxation.

⁴ The case studies usually referred to in academic articles focus either on tax avoidance using immaterial rights (e.g. Google, Apple, Microsoft, Starbucks) or on thin capitalization (e.g. SABMiller).

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