Tax Havens of the British Empire

Development, Policy Responses, and Decolonization, 1961-1979

Kristine Sævold

Thesis for the degree of Philosophiae Doctor (PhD)
University of Bergen, Norway
2022

UNIVERSITY OF BERGEN

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Date of defense: 16.12.2022

Year: 2022

Title: Tax Havens of the British Empire

Name: Kristine Sævold

Print: Skipnes Kommunikasjon / University of Bergen

Acknowledgements

This project is indebted to several individuals and institutions. It is not possible to mention all who have generously provided me with input and their perspectives which have shaped the process towards the final result. However, some should be mentioned and thanked. The project was hosted by the Department of Archaeology, History, Cultural Studies and Religion (AHKR) at the Faculty of Humanities of the University of Bergen (Norway). Thanks to the institute for facilitating the project, assisting with financial recourses for a six months archival stay in London, and for providing a helpful and efficient administration. Thanks also to the supervisors Camilla Brautaset and Jan Heiret and the institute's research group 'for Transnational History and Cultural Encounters, 1850 – present' who have provided important and most valuable input to the study. Thanks also to Ronen Palan at The City, University of London who facilitated a stay as an Honorable Research Fellow at the Department of International Politics from August 2016 to June 2017. This resulted in the participation and presentation at the 59th Annual International Studies Association (ISA) conference in San Francisco in April 2018. Further, the staff at the archives in the British Library in Kew and the Bank of England Archive needs mention. They were approachable for questions and helpful in identifying what is introduced in this thesis as 'the open tax haven files of the National Archives and the Bank of England'. Funding from the institute has made possible the participation with papers at various conferences and workshops. This includes the European Business History Association 21st Annual Congress in Vienna in 2017, the XVIII World Economic History Congress in Boston in 2018, and the European Business History Association's 23rd Annual Congress in Rotterdam 2019. Contributions derived from this project were also accepted for the 2nd World Congress of Business History in Tokyo scheduled for September 2020, and the World Economic History Congress 2021 in Paris, but participation was disrupted by the Covid-19 situation. This thesis has also had input from multi-disciplinary research environments and tax practitioners' seminars that have invited the historical angle into a contemporary tax haven debate. One such was the Workshop on Tax Evasion, Tax Avoidance and Inequality in Copenhagen 2017 convened by Gabriel Zucman (the Berkeley University), Annette Alstadsæter from the Norwegian University of Life Sciences (NMBU), and Niels Johannesen (the University of Copenhagen). Another was the European Association of Development Research and Training Institutes (EADI) Nordic Conference 2017 by the invitation of Morten Bøås from the Norwegian Institute of International Affairs (NUPI) and Odd-Helge Fjeldstad from the Chr. Michelsen Institute (CMI). These dialogues in contemporary discussions have contributed to a deeper understanding of the significance of past sources.

Thanks also to Simon Mollan (University of York) for invaluable comments on a draft of the thesis. Pål Sandvik from the Norwegian university of science and technology (NTNU) needs mention, as he provided constructive criticism which resulted in further revisions towards the end. I also would like to thank my external examiners Neil Forbes (Coventry University), Ben Wubs (Erasmus University) and the head of the assessment commission Ines Prodöhl (University of Bergen) for their thorough reading and fruitful comments. Thanks also to Guttorm Schjelderup at the Norwegian School of Economics (NHH) and the environment at the Department of Business and Management Science for hosting me as a guest in the immediate afterlife of the hand in of the dissertation. Finally, but not the least, without the immense support from family and friends - Espen, Hanna and Lisa - this project would not be possible.

Bergen November 2022,

Kristine Sævold

Abstract

Despite the centrality of tax havens to the global political economy, up to this point historians have largely neglected in-depth research on the origin of the global phenomenon. Literature within an International Political Economy (IPE) tradition of the social sciences has placed the role of the British Empire at the centre of the formation of a British-based tax haven system within a broader offshore world of global reach. However, this literature does not fully explain how this British system came about with much historical detail. This thesis contributes with one historical assessment of the British administrative tax haven experience as the phenomenon unfolded in a formative stage during the 1960s and 1970s. The study brings together insights from IPE studies with historiographies relevant to the specific historical context and official records from British public archives to examine the central features of the role that the British administration played in tax haven formation in British dependencies. This study's primary focus is how the British administration allowed tax haven developments to proliferate within British dependencies, a focus that will extend to the responses of sub-institutions of the British state in the context of decolonization. Institutions operating under the authority of the Treasury and the Foreign and Commonwealth Office headed the negotiation of a formal UK tax haven policy established in 1971. The central argument presented in this thesis is that the British tax haven system was not the result of a strategically deployed master plan designed to serve the interests of the metropolitan power as formerly suggested. Rather, it was the end result of a complex process involving ad hoc practices, incoherent management of official policy, and indecision as tax havens developed. This more unstable process reflects a negotiation between the conflicting interests of those working to financially sustain the political independence movements in British dependencies and those working to maintain UK domestic interests. This study re-affirms the importance of semi-sovereignty to tax haven formation as a factor that allowed for an expansion in influence from private interests.

Abbreviations

Barclays DCO – Barclays Bank (Dominion, Colonial and Overseas)

BIS – Bank of International Settlements

BITCO – the Bahamas International Trust Company Ltd

BVI – the British Virgin Islands

CDC – the Commonwealth Development Corporation

EEC – European Economic Community

FCO – Foreign and Commonwealth Office

HMG – Her Majesty Government of the United Kingdom

HMT – Her Majesty's Treasury

IBC – International Business Company

ODM – the Ministry of Overseas Development

OECD – the Organization for Economic Co-operation and Development

OTC – Overseas Trading Companies

WID – the West Indian Department

WIAD – the West Indian and Atlantic Department

Contents

Chapter 1 Introduction

In May 1973, the financial publication *the Banker* published an observation made by Jean Doucet, a major tax haven operator of the 1960s and 1970s, that encapsulates the dilemma faced by regulators when confronted by the tax haven phenomenon:

> As more and more companies gravitate towards tax havens, individuals will follow. As more and more businesses become multinational, it simply was viewed to make good sense for them to have their trading headquarters in a tax free offshore financial centre. If the governments of the more sophisticated countries continue to take more power and controls and to impose more and more of a tax burden on their people tax havens will be increasingly busy and the influence of this business will be increasingly felt. There must be a point in the spiral of controls and taxes when either the people will stand no more, or there will be nothing left to tax.[1]

The quotation above reveals the long arc of continuity in contemporary concerns about economic agents evading regulatory control through tax havens. The gradual adaption of practices of avoidance among increasing segments of taxpayer groups, the hostage position of governments facing threats of 'flag outs', and the sense of powerlessness for rule makers wishing to turn the tide – all feed into a collective defencelessness that has dominated unilateral and multilateral efforts to curtail tax havens.

The international financial crisis of 2007-08 crystalized the capacity of tax havens to effectively obstruct transparency in global finance and taxation with implications for global inequalities and, ultimately, global networks of power. Despite their vital position to the global political economy, tax havens have proved resilient to multilateral efforts by the larger industrial states over the last century to combat externalities resulting from their existence.[2] The British government has received much criticism for, on the one hand, having fronted a Group of

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1 TNA T 295/1013, 'What makes a good tax haven?', Jean Doucet and Kenneth J. Good, in *The Banker: Offshore Investment Centres Annual Review*, p. 495, May 1973.

2 Christophe Farquet and Matthieu Leimgruber, "Explaining the failure of international tax regulations throughout the 20th century. Offshore Markets, Swiss Tax Haven's Diplomacy and Fiscal Debates in *International Organizations*, From the League of Nations to the Organization for Economic Cooperation and Development", *Working Papers of the Paul Bairoch Institute of Economic History* (6/2016).

Twenty (G20) anti-'tax haven' campaign since the London Summit in April 2009, while not using available means to regulate dependencies under international scrutiny for their tax haven status. Further, the City of London itself has been criticized for its tax haven features, adding to its contradictory stance on tax havens in contemporary times. This thesis contributes to a broader reflection on why powerful states, such as the British Empire, have allowed tax havens to develop among territories over which they had influence and control, and the entanglement of metropolitan and colonial interests behind this permissive stance.

There exists an extensive tax haven literature within the social sciences which focuses on regimes of low taxation, limited financial regulation, and minimal corporate oversight. An International Political Economy (IPE) tradition has placed the role of the British Empire at the centre of a burgeoning British-based 'tax haven system' in the post-war decades integral to a broader unregulated 'offshore world'.[3] This position does frequently appear in journalistic disseminations, and films which portray the British-based tax haven system as a 'Second Empire'.[4] The importance of the Caribbean basin (extending to the Atlantic coast of the US) as the post-war locus of tax havens is evident from the attention it receives in tax haven studies. An assessment from 2010 of the most influential tax haven lists from 1977 to 2008 finds nine of the top ten are historically related to the British Empire, with the Bahamas, Bermuda, and the Cayman Islands topping the lists.[5] However, the literature does not offer much historical detail to explain how this British 'system' came about. That absence justifies this thesis, which aims to increase our understanding of the role that the British government has played in the unfolding of British-based tax havens during the formative stage of the 1960s and 1970s.

One IPE contribution advances a 'tacit approval' interpretation suggesting that the Bank of England, the British central bank, allowed tax haven formation by turning a 'blind eye' to serve the interests of the City of London.[6] Central to this interpretation is a connection between the

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3 See Ronen Palan, *The Offshore World: Sovereign Markets, Virtual Places, and Nomad Millionaires* (Ithaca, New York: Cornell University Press, 2006), and Ronen Palan, Richard Murphy, and Christian Chavagneux, *Tax Havens: How Globalization Really Works* (Ithaca: Cornell University Press, 2010).

4 See Nicholas Shaxson, *Treasure Islands. Tax Havens and the Men who Stole the World* (London: Random House, 2011), and the documentary 'The Spider's Web: Britain's Second Empire' (Michael Oswald, 2018).

5 Palan, Murphy, and Chavagneux, *Tax Havens,* 41. This pattern is repeated in newer assessments, with the UK itself climbing the lists. See the Tax Justice Network's Financial Secrecy Index (2009-2022) (https://taxjustice.net/indexes-tools/, retrieved 22.05.2022) and the Corporate Tax haven Index (2019-2021) (https://cthi.taxjustice.net/en/, retrieved 22.05.2022); the EU list of non-cooperative jurisdictions for tax purposes (FISC 345 ECOFIN 1088, 5 December 2017); and "A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard." (Paris: OECD Publication, 2009).

6 Paul Sagar, John Christensen, and Nicholas Shaxson, "British Government Attitudes to British Tax Havens," in *Tax Justice and the Political Economy of Global Capitalism, 1945 to the Present*, ed. Jeremy Leaman and Attiya Waris (Brooklyn NY: Berghahn Books, 2013).

rapid pace at which the British Empire fell apart in the post-war decades and the need to restore the City of London as a financial centre after the 1950s. These developments seemingly created a great opportunity for the British administration to use colonial tax havens to serve UK interests. As will be discussed, this view suggests a return of the nineteenth-century traditional order of elite alliances with the instalment of tax havens in the 1960s and 1970s and is premised on the strategic actions of an imperial state. However, this interpretation contradicts an established view among imperial historians of the British empire's contraction, as will be discussed. This study examines the above interpretation through detailed empirical historical research to provide answers to the questions that arise within IPE studies concerning the historic role of the British administration in tax haven formation in the 1960s and 1970s.

The thesis is problem-driven based on a synthesis of insights from IPE studies, selections of historiographies relevant to the specific context at the end of empire, and archival documents. The study draws on a range of historiographies: business history; financial history; fiscal studies; imperial history; political history; and Nation studies (mainly from the Caribbean). Taken together, these historiographies noticeably lack any substantial focus on tax havens. This means the thesis engages in the intersection between political and economic history studies and the social sciences.

The focus of this thesis is the development of tax havens as they unfolded alongside negotiations of sub-institutions of the British state involved in tax haven policy formation. Central to these negotiations is how the sub-institutions interpreted the new tax haven phenomenon and its consequences, and how their responses to that phenomenon differently weighted the interests of four spheres: the British metropolitan central power; local administrations in British tax haven dependencies; economic agents; and a mixed group of service providers facilitating tax haven practices.

The official documents included in the study were drawn primarily from British public archives and are identified in the study as 'the open tax haven files of the National Archives (TNA) and the Bank of England'. Since the Caribbean region is central to early tax haven formation, the British West Indies serves as the core (but not exclusive) geographic focus of this study. The years covered here are limited to the two decades of the 1960s to the late 1970s. This selection is justified by the importance of this period as a formative stage of the phenomenon. It is also the period when tax haven files started to be recorded by the British administration.

The central findings presented here are as follows. The study provides insights into changing patterns in the tax haven typology and geography as the phenomenon developed and proliferated within and from the British West Indies into the peripheries of the British Empire. Furthermore, it develops an understanding of a dual interest in tax haven growth for the Empire. This arose from rising externality issues both in the metropole and in the dependencies, while at the same time serving as a potent solution for impoverished island economies to avoid aid dependency. Moreover, the thesis finds a significant alliance of tripartite interests between local administrations in the dependencies, the City of London operators, and British tax subjects seeking to avoid UK regulations. These findings support the conclusion that UK tax haven responses were not so much the result of a strategic policy design as they were the consequence of a chaotic experience based on ad hoc responses from desk-level operations as the tax haven phenomenon developed. The story which emerges from this thesis is how political institutions, with an inbuilt inertia, became open in a context of decolonization to facilitating private metropolitan interests in the name of colonial interests. The end result was an unstable and inconsistent UK tax haven position throughout the period.

The following discussion begins by providing a review of the literature relevant to this study to establish the theoretical approach of this thesis. This chapter proceeds as follows: Section (1.1) provides an overview of tax haven studies and circles in on the concept of the offshore world – a central framework for the particular tax haven activity of this thesis. The next section (1.2) establishes four sub-themes in the IPE literature from which the research questions of this thesis derive. Section (1.3) elaborates on some central contextual background of the political economy of the British Empire. The following section (1.4) situates the research questions in dialogue with an existing interpretation of tax haven formation. This is followed by section (1.5), which discusses the central premises of the thesis in connection with current accounts of imperial history at the end of empire. The methods and sources of the analysis is presented and discussed in (1.6). This is followed by an assessment of the study's intended contribution to and engagement with current scholarly discussions in section (1.7), and the chapter closes with (1.8), which lays out the structure of subsequent chapters.

1.1 Tax Havens of the Offshore World

A theory of the offshore world has emerged from tax haven studies, offering an important conceptual and contextual framework for this analysis. Before the 1950s, the term 'tax haven' rarely appeared in academic and journalistic writing. [7] This was before tax havens became a more widely used term, which is consistent with the findings of this thesis. The first academic works on tax havens were pioneered by economists in the early 1970s.[8] Since then, a growing interest in tax havens has gradually evolved into a distinct and rich multi-disciplinary field of study.[9] The subject became increasingly important from the mid-1990s, when the Organization for Economic Co-operation and Development (OECD) started what was the largest international coordinated action against tax havens up to that point in parallel with initiatives of the European Union (EU).[10]

The central themes of tax haven studies from the 1990s and 2000s were as follows: international tax competition; whitewashing practices; corruption; transnational crime; financing of terrorism; and shadow banking – all themes closely related to the low-tax and non-transparent features of tax havens. Tax havens resurged as an issue in the wake of the international financial crisis of 2007 and 2008 due to a failure among states to collect taxes from a wealthy global elite and multinational corporations. Along with almost fifteen years of press leaks concerning tax havens, new tax haven studies have emerged as part of renewed

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7 Palan, Murphy, and Chavagneux, *Tax Havens*, 17.

8 Central examples are Anthony Doggart and Caroline Doggart, "Tax Havens and Offshore Funds," *QER Special* No. 8 (London, 1971) and W. Diamond and D. Diamond, *Tax havens of the World* (New York: Matthew Bender Book, 1974).

9 Some central early examples are Richard Anthony Johns, *Tax havens and Offshore Finance: A Study of Transnational Economic Development* (New York: Frances Pinter, 1983); Tom Naylor, *Hot Money and the Politics of Debt* (London: Unwin Hyman, 1987); Sol Picciotto, *International Business Taxation: A study in the Internationalization of Business Regulation* (London: Weidenfeld and Nicolson, 1992); and Ronen Palan and Jason Abbott, *State Strategies in the Global Political Economy* (London: Pinter Publ., 1996). These were followed up by certain country studies such as Susan Roberts, "Confidence Men: Offshore Finance and Citizenship," in *Offshore Finance Centres and Tax Havens*, eds. Mark. P. Hampton and Jason P. Abbott (West Lafayette, Indiana: Purdue University Press, 1999); Mark. P. Hampton, "Creating Spaces. The Political Economy of Island Offshore Finance Centres: The Case of Jersey", *Geographische Zeitschrift*, Vol. 84, No. 2. (1996):103-113; Alan C. Hudson, "Reshaping the Regulatory Landscape: border skirmishes around the Bahamas and Cayman Offshore Financial Centres," *Review of International Political Economy*, (February, 2011): 534-564. For the most comprehensive existing tax haven literature oversight to date, see R. Palan, R. Murphy, and C. Chavagneux, *Tax Havens*, pp. 47-50, Newer theoretical contributions are from Anthony Van Fossen, *Tax Havens and Sovereignty in the Pacific Islands* (University of Queensland: Queensland Press, 2012), and William Vlcek*, Offshore Finance and Global Governance. Disciplining the Tax Nomad* (London: Macmillan Publishers Ltd., 2017).

10 See OECD (1998), Harmful Tax Competition: An Emerging Global Issue, and EU (1999), Code of Conduct (Business Taxation).

conversations about global inequalities in the field of economics.[11] More recently, the tax haven issue forms part of a global reflection on century-old principles underpinning tax regimes, global finance, and corporate organization.[12]

Despite its centrality to the global political economy, tax havens and offshore financial centres (OFCs) have until recently received little attention from historians. Roberts (1994) made efforts to develop a typology of OFCs.[13] There have been sporadic mentions of tax havens and OFCs in the periphery of other themes in economic history, but these have been discussed on an anecdotal level. Schenk (2011) offers one example with her argument that Hong Kong was not a tax haven based on her work on the colony's activity as a financial centre from the 1960s on.[14] Cassis (2010, 2016) has also touched upon tax havens briefly in relation to his work on international financial centres (IFSs).[15] Other studies closely related to the tax haven theme exist, such as work by Izawa (2020) on tax avoidance practices among multinationals, including the use of tax havens, and historical examples of British companies' avoidance strategies.[16] However, there are very few studies centred on the tax haven. One such example is Farquet (2012) on the rise of the Swiss tax haven from the interwar period.[17] Farquet has followed this work with the tracing of waves of multilateral efforts to maintain an international tax regime during the twentieth century.[18] Following the recent release of the 'Panama Papers' in 2016, one of the largest leaks of sensitive material in history, new research interest within

[11] See for instance Thomas Piketty, *Capital in the Twenty-first Century* (The Belknap Press of Harvard University Press, 2014) and Gabriel Zucman, *The Hidden Wealth of Nations: The Scourge of Tax Havens* (University of Chicago Press, 2015).

[12] See for instance "Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project." (Paris: OECD Publication, 2015).

[13] Richard Roberts, *International Financial Centres: Offshore Financial Centres* (USA: Edward Elgar Publishing, 1994).

[14] See Catherine R. Schenk, "The Re-emergence of Hong Kong as an International Financial Centre, 1960-1978: Contested Internationalization," in *Financial Centers and International Capital Flows in the Nineteenth and Twentieth Centuries*, L. Quennouelle-Corre and Y. Cassis eds. (Oxford/New York, Oxford University Press).

[15] See Youssef Cassis, *Capitals of Capital: The Rise and Fall of International Financial Centres 1780–2009* (New York: Cambridge University Press, 2010) and Youssef Cassis, Richard S. Grossman and Catherine R. Schenk, *The Oxford Handbook of Banking and Financial History* (Oxford: Oxford University Press, 2016).

[16] See for instance Ryo Izawa, "Corporate structural change for tax avoidance: British multinational enterprises and international double taxation between the First and Second World Wars" *Business History* (2020).

[17] Farquet, "The Rise of the Swiss Tax haven in the Interwar Period: An International Comparison", *EHES Working Paper* no 27, Lausanne University (October 2012).

[18] See Christophe Farquet, "Tax Avoidance, Collective Resistance, and International Negotiations: Foreign Tax Refusal by Swiss Banks and Industries Between the Two World Wars", *Journal of Policy History*, 25(03) 2013); "The Suisse Tax Haven, the Bretton Woods System Crisis and the Globalization of Offshore Finance", in *The Political Economy of Public Finance since the 1970s*, M. Buggeln, M. Daunton and A. Nützenadel (eds.) (Cambridge University Press, 2016 a), and Christophe Farquet and Matthieu Leimgruber, "Explaining the failure of international tax regulations throughout the 20th century. Offshore Markets, Swiss Tax Haven's Diplomacy and Fiscal Debates in International Organizations, From the League of Nations to the Organization for Economic Cooperation and Development", *Working Papers of the Paul Bairoch Institute of Economic History* (6/2016).

economic history studies has been emerging.[19] Ogle (2017) contributed an article that places central insights from tax haven studies on the rise of tax havens more firmly into the historical trajectory of capitalism.[20] Ogle (2020) continues this work, elaborating how capital held in the colonies sought out tax havens once the contraction of the empire began.[21] Moreover, Majereus and Zenner (2020) have applied a tax haven perspective to the Luxembourg historiography.[22]

Recent contributions aside, the study of tax havens still forms no part of conventional approaches within history. This applies to the study of broader themes of capitalism, as well as to treatments of internationally oriented financial centres more specifically. Despite this absence, a tax haven perspective can valuably complement more traditional approaches. Economists and economic historians have played a particularly important role in shaping traditional understandings of the 'success and failure' criteria that distinguish between different versions of capitalism, and the more specific features of (international) financial centres. Jao (1979) noted in his analysis of the rise of Hong Kong as a regional financial centre that theoretical discussions related to the formation of financial centres more generally were still in their 'embryonic stage'.[23] More than forty years on, scholars are still grappling with the development of a theoretical basis for how to analyse variations across financial centres and how to identify the determining factors of their origin and development.[24] Financial history on international financial centres (IFCs) and business history on 'host economies' have provided conventional historical approaches to centres attracting global capital and businesses. These historiographies have a shared focus on measurable, *material* economic conditions – as opposed to non-material conditions that are central to the scholarly discussion of "virtual" appearances in tax havens – when explaining competitive advantages or disadvantages in the global political economy, as will be discussed in the following.

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19 One example is the session 'Passage to Panama' at the World Economic History Congress (WEHC) in Boston (US) 2018.

20 Vanessa Ogle, "Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s." *The American Historical Review* 122, no. 5 (2017): 1431–58.

21 Vanessa Ogle, "'Funk Money': The End of Empires, the Expansion of Tax Havens, and Decolonization as an Economic and Financial Event." *Past & Present* 249, no. 1 (November 2020): 213–49.

22 Benoît Majerus and Benjamin Zenner, "Too small to be of interest, too large to grasp? Histories of the Luxembourg financial centre," *European Review of History* 27, no.4, (2020): 548-562.

23 Y.C. Jao, "The Rise of Hong Kong as a Financial Center," *Asian Survey* 19, no. 7 (1979): 684.

24 This is evident from the many different definitions which are provided by a broader literature within financial history to articulate the features of international centres. See for instance Roberts, *International Financial Centres*, Cassis, *Capitals of Capital*, and Quennouelle-Corre and Cassis, *Financial Centers and International Capital Flows*.

Financial historians have continued a tradition established by Charles Kindleberger in the early 1970s of working to understand and describe the features and functions of national financial centres, and later IFCs as they became more internationally oriented from the turn of the twentieth century.[25] This tradition has focused on centres defined by the physical clustering of financial institutions, workers, and related infrastructure. Important among this work is that of Cassis (2006), which defined IFCs as 'the grouping together, in a given urban space, of a certain number of financial services'[26]. The emphasis on *material* elements such as the physical forms of tangible measures adopted within urban spaces is also reflected in the later co-authored contribution of Cassis and Quennouëlle-Corre (2011), which emphasizes the presence of workers and related infrastructure.[27] This way of identifying IFCs has resulted in a focus on centres based in larger industrial states such as the City of London, New York, Tokyo, Paris, Frankfurt, and Amsterdam. As a result, financial history has established a detailed chronological overview and a picture of the hierarchical structure of the landscape of Western capitalist IFCs since their rise with the advent of the twentieth century. However, it has not succeeded in explaining for example how the Cayman Islands, an island economy of some 50 000 inhabitants, was ranked the sixth most attractive centre to global capital (bank's external assets) in 2007.[28]

In a similar vein, business history has followed a tradition that builds on the legacy of Mira Wilkins and Alfred D. Chandler, who each played a foundational role in the establishment of historical studies of multinational companies and the rise of modern managerial capitalism.[29] This tradition has traced substantial *material* economic conditions when identifying host economies measured by their stock of inward foreign direct investments (FDIs). One illustration of this approach is the list of host economies provided by Jones (2015), which presents the major recipients of FDIs through four periods from 1914 to 2010.[30] Again, this work has led to a strong emphasis on the larger and mid-sized industrial states. However, business history has largely overlooked how small states such as Samoa in the Pacific, the British Virgin Islands

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25 Charles P. Kindleberger, *The Formation of Financial Centers: A Study in Comparative Economic History.* Princeton, NJ: Princeton University, 1974.

26 Cassis, *Capitals of Capital*, 2.

27 Quennouëlle-Corre and Cassis, *Financial Centers and International Capital Flows*, 5.

28 Palan, Murphy, and Chavagneux, *Tax Havens*, 26.

29 Central contributions are Mira Wilkins, *The Emergence of Multinational Enterprise* (Cambridge, Mas.: Harvard University Press, 1970) and Alfred D. Chandler Jr., *The Visible Hand. The Managerial Revolution in American Business* (Cambridge, Mass., Harvard University Press, 1977), xvi + 608.

30 Geoffrey Jones, "Firms and Global Capitalism." In *The Cambridge History of Capitalism II: The Spread of Capitalism: From 1848 to the Present,* edited by Larry Neal and Jeffrey G. Williamson (Cambridge: Cambridge University Press, 2014), 173.

(BVI) of the Caribbean, or Mauritius in the Indian Ocean have managed to become major corporate centres. This means traditional ways of approaching attractive centres to business and finance combined have resulted in a neglect of those centres that do not by any meaningful standard reflect material economic conditions that derive from a substantial underlying economy. In relative terms, the physical manifestations of financial and corporate activities are less evident, or even non-existent, in countries that are at the centre of tax haven studies.

Existing studies of tax havens, however, emphasize the importance of other aspects of international competition such as attractive regulatory and legal conditions. In doing so, these studies move beyond the strong focus on economic substance. As such, this literature has much in common with studies emerging in the post-war years that focus on 'regulatory competition' with an interest in how states competed to attract businesses with lower taxes, advantageous labour conditions, or corporate and environmental laws.[31] Part of the tax haven field central to this study has addressed the importance of liberal legislation and lax practices of oversight implemented to attract global capital and businesses. These liberal conditions have led to artificial (manipulated) appearances in 'virtual places', following the terminology of Palan (2006), which refers to the ability to not physically relocate into a jurisdiction that has attractive conditions, as will be discussed in the following.[32]

Despite collective efforts to understand and describe the tax haven phenomenon, which brings the multi-disciplinary tax haven field together, the differences in disciplinary traditions, methods, and terminological habits are greater than the similarities. In consequence, there is no single definition of the characteristics of tax havens, a term that has become highly politicized following international pressure charging its application with controversy. Nevertheless, Van Fossen (2012) has identified two different branches within the tax haven literature and a related literature on OFCs: on the one hand, a state-centric approach dominated by economists; and on the other, an approach focusing on transnational relationships, which has dominated an IPE tradition with contributions from various disciplines.[33]

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[31] See for instance the introduction in the UK of the limited liability company, John Saville, "Sleeping partnership and limited liability, 1850-1856," *Economic History Review* (NS) (1956): 418-433.

[32] Ronen Palan, *The Offshore World: Sovereign Markets, Virtual Places, and Nomad Millionaires* (Ithaca, New York: Cornell University Press, 83.

[33] Van Fossen, *Tax Havens and Sovereignty*, vii. Van Fossen included himself in the IPE-tradition together with T. Naylor, R. Palan, M. Hampton, R. Murphy, J. Sharman, W. Vlcek, 'and a number of others'.

The classic approach favoured by economists represents the most common way of analysing tax havens through the application of a state-centric, 'one-size-fits-all' definition.[34] In this view, tax havens can be identified according to certain legislative and regulatory features found within one given jurisdiction. Accordingly, it is possible to distinguish sharply between *a haven* and *a non-haven*, and equally between *offshore* and *onshore* financial centres. This tradition has contributed extensive knowledge of the specific characteristics of centres that attract global capital. While there are differences, most definitions address conditions related to the tripartite of taxes, finance, and corporations. Sharman (2010) noted that most definitions of 'tax havens' or 'OFCs' include at least one or a combination of the following features: low or no taxes on individuals and businesses, tight financial secrecy, and light corporate regulations.[35] The 'one-size-fits-all' approach has influenced multilateral initiatives since the 1990s, and has resulted in tax haven lists varying from a handful to almost one hundred territories and countries. Following this approach, a typical 'tax haven' is a small island economy, a principality, or a city-state with less than one million inhabitants.[36]

While the state-centric tradition has contributed to the understanding of different features of various tax havens which encompass a strong comparative value, IPE analysts have instead emphasized transnational relationships with power implications. A broader IPE tradition evolved slowly in the 1960s. Robert Gilpin, one founder of the IPE study, defined it in 1975 as 'the reciprocal and dynamic interaction in international relations of the pursuit of wealth and the pursuit of power'.[37] Pursuing an interest in political implications and social consequences of economic structures and agency, IPE analysts have introduced the idea of an 'offshore system' in its own right. Overall, this approach focuses on practices among market and state agents that together have shaped a global web of unregulated juridical spaces. Consequently, the territorial aspect receives less emphasis while practices and functions are shifted to the foreground of analysis. A central insight of the analysis of practices and functions is how a strict formalism in legal systems (where the spirit of the law is subordinated to the letter of the law) allows 'paper shifting' activities to prevail in corporate and financial reporting. This conceals the real underlying substantial economic conditions such as ownership and asset

34 See J.R. Hines and E.M. Rice. "Fiscal Paradise: Foreign tax havens and American businesses", *Quarterly Journal of Economics*, 109:149-82, and W.H. Diamond and D.B. Diamond, *Tax Havens of the World* (New York: Matthew Bender Book, 2002).

35 Jason Sharman, "Offshore and the New International Political Economy", *Review of International Political Economy* 17, no. 1 (2010): 4.

36 See for instance Dharmapala, Dhammika and James R. Hines Jr, "Which Countries Become Tax Havens?", *Journal of public economics* Vol.93 (9), (October 2009):1058-1068.

37 B. J. Cohen, *Advanced Introduction to International Political Economy* (Cheltenham: Edward Elgar Publishing Limited, 2014), 3.

values – imperative preconditions for an assessment of tax positions and other obligations. As a result, centres such as the City of London can be viewed as tax havens depending on the context. The strong emphasis on the 'virtual' element is reflected in the creation of a new classificatory language with notable changes in the common terminology of economic history: 'companies' and 'capital', for example, are often replaced in offshore analysis with 'shells', 'stateless capital', 'nomad capital', 'refugee money', or 'funk money'.[38] Equally, 'investors' may be referred to as 'non-doms', 'tax nomads' or 'the one per cent', and 'tax lawyers' or 'private banks' are often addressed as 'service providers', a 'wealth management industry', or an 'avoidance industry'.[39]

The work of the political scientist Ronen Palan remains particularly important for building a strong conceptual basis for the introduced multi-faceted field of the IPE tax haven study.[40] Palan (2006) introduces the term 'offshore world'.[41] In this contribution, Palan built on former work on sovereignty by illustrating how he conceptualized 'juridical spaces' in relation to a failed sovereignty-based state system where loopholes appeared from the active (mis)use of jurisdictional differences. The key factor defining his concept of an offshore world is the opportunity that economic agents are given by arbitrage behaviour. This reflects a well-known business strategy that optimizes profits by exploiting price differences. In a world where the taxes and other obligations imposed by states differ, market agents have the opportunity to lower their 'costs' through a strategic structuring of ownership entities and financial transactions. This has, according to Palan, provided opportunities for individuals and businesses to operate in an 'in-between' status in relation to markets and states.[42]

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38 Examples of these are 'nomad capital' (Palan, *The Offshore World* and Vlcek, *Offshore Finance*); 'funk money' (Ogle, "Funk money"), and 'stateless capital' (Van Fossen, *Tax Havens and Sovereignty*).

39 Examples are: 'tax nomads' (Vlcek, *Offshore Finance*); 'one percent' (Ogle, "Archipelago Capitalism"); 'wealth management industry' (Brooke Harrington, *Capital Without Borders: Wealth Managers and the One Percent* (Cambridge: Harvard University Press, 2016); 'the avoidance industry' (Ogle, "Archipelago Capitalism"); 'non-doms' (which refers to individuals that live in the UK, but claim to have permanent home in another country (Ogle, "Funk money").

40 Examples of these are Ronen Palan and Jason Abbott, *State Strategies in the Global Political Economy* (London: Pinter Publ., 1996) where they developed the notion of tax havens as 'parasitic states'; Ronen Palan, "Tax Havens and the Commercialization of State Sovereignty", *International Organization*, 56, (1), 151-176 (2002) where he focused on the role of sovereignty aspect of tax havens; Ronen Palan, "The New Dependency Theory", *New Left* Project (August, 2012) where he develops the notion of tax havens as 'inequality machines'; and Sandra Halperin and Ronen Palan (eds.), *Legacies of Empire: Imperial Roots of the Contemporary Global Order* (Cambridge: Cambridge University Press, 2015) which took further the growing understanding of the centrality of the British Empire to the tax haven phenomenon.

41 Palan, *The Offshore World*.

42 Ibid., pp. x-xii, p. 2 and pp. 8-9.

The definition of tax havens in a later co-authored work, Palan, Murphy, and Chavagneux (2010) – the source of a central premise for IPE debates – then diverts from a traditional approach within economics to identify tax havens by a fixed set of legal features, instead identifying them according to their relative function in the global political economy as attractions for avoidance practices dependent on context:

> [t]ax havens are places or countries (not all of them are sovereign states) that have sufficient autonomy to write their own tax, finance, and other laws and regulations. They all take advantage of this autonomy to create legislation designed to assist non-resident persons or corporations to avoid the regulatory obligations imposed on them in the places where those non-resident people undertake the substance of their economic transaction. An additional characteristic that most tax havens share is an environment of secrecy that allows the user of structures created under local law to do so either completely anonymously, or largely so. The third characteristic is ease and affordability in gaining access to the entities incorporated in the territory.[43]

While still territorially based, this relativist definition is applicable to specific historical contexts, and captures the essence of what will be determined to have happened in many British dependencies in the 1960s and 1970s. As we shall see, the tax havens of this study sought to be unique and were used for different forms of avoidance (and evasion) practices. The understanding among British officials of tax havens changed as the phenomenon diversified. In the perspective of Palan, Murphy, and Chavagneux (2010), related phenomena such as tax havens, export processing zones, flags of convenience, and OFCs – all economic and financial centres seeking to attract global capital with different non-regulatory attractions – represent overlapping variations within a broader unregulated offshore economy.[44] Accordingly, local versions of tax havens in this study are viewed as 'varieties of the offshore world', which usefully captures interrelated phenomena in different forms. The view of an offshore world can help illuminate how the small open economies of this study, engaging in a competitive market, adapted economic models featured by liberal legislation and lax practice of law. For example, a territory could combine a unique set of tax haven legislation with, for example, a flag registry.

43 Palan, Murphy, and Chavagneux, *Tax Havens*, 8-9.
44 Palan, *The Offshore World*, 1-62. This is most clearly articulated on page 2.

This approach captures the relative feature of the tax haven phenomenon directed towards niche specialization and historical contexts.

The notion of an 'offshore world' has lately served as a central point of reference to tax haven studies. It has allowed for the amalgamation of currently separate strands of literature with relevance to the offshore world. One example of the result of this combination is the introduction of the concept of archipelago capitalism in Ogle (2017).[45] In essence, this may be viewed largely as a derivative of Palan's offshore world, while offering the added value of a way to visualize the historic connection of tax havens to old British trading entrepôts in archipelagos across the Empire. Another value is how Ogle's concept situates the history of tax havens more directly into the historical trajectory of capitalism, in line with Palan (2006), who argued that 'offshore (…) must be seen in the context of the general development of capitalism'.[46] Ogle saw these as 'limited experiments' where private interests based in the more regulated industrial states managed to insert 'elements of free-market capitalism' in a parallel socio-economic system she labelled 'the "other" international political economy'.[47] This referred to places free of regulations in a capitalist world otherwise dominated by embedded versions of capitalism. Further, Ogle called for a need to take a revisionist approach to the status of the 1970s as a breaking point of liberalism which has dominated economic history.[48] She finds support for this argument in the development of liberal economic theory from the 1930s and 1940s, which was installed in small island tax havens in the decades preceding the 1980s neo-liberalist era. A similar point has been raised by the anthropologist Patrick Neveling from his work on Export Processing Zones (EPZs) and Special Economic Zones (SEZs), featured by low regulatory environments to promote industrial growth.[49] In Neveling (2017), he argues that capitalism cannot be portrayed as a 'succession of eras' following a linear conceptualization.[50] Instead, Neveling examines the function that centres such as EPZs and SEZs have in relationships between the state, the market, and the citizen, or worker. This means this thesis is in conversation with an emergent stream of academic reflection on the

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[45] Vanessa Ogle, "Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s." *The American Historical Review* 122, no. 5 (2017): 1431–58.

[46] Palan, *The Offshore World,* 109.

[47] Ogle, "Archipelago Capitalism," 1433.

[48] Ibid, 1456.

[49] See Patrick Neveling, "Export processing zones, special economic zones and the long march of capitalist development policies during the Cold War," in *Negotiating independence: New directions in the histories of the Cold War & decolonisation*, ed. Leslie James and Elisabeth Leake (London: Bloomsbury, 2015) and Patrick Neveling, "The Global Spread of Export Processing Zones, and the 1970s as a Decade of Consolidation," in *Changes in Social regulation – State, Economy, and Social Protagonists since the 1970s*, ed. Knud Andersen and Stefan Müller (Oxford: Berghahn Books, 2017).

[50] Neveling, "The Global Spread of Export Processing Zones", 23.

role that a variety of offshore environments play in the broader narrative of the history of capitalism.

1.2 An IPE Theory of the Offshore World

The research design of this thesis is intended to feed into discussions within the IPE tradition described above. This section presents the central elements of what over time has developed into a theory of the offshore world, and which are central to the problem formulated by this thesis. The focus here is four areas of discussion defined by temporal and geographic limits. It also helps to place the sub-institutions of the British state within the spheres of agents most commonly associated with offshore contexts. Moreover, it emphasizes the important role played by sovereign positions in accounting for power relations in offshore contexts.

Palan, Murphy and Chavagneux (2010) build a cumulative theory of tax havens in what became a landmark contribution to the tax haven field.[51] This study sought coherence among scattered historical events across spatial, temporal, topical, and thematic lines over a time span of more than 130 years, resulting in a posited three-stage historical theory.[52] A first stage was described covering the late nineteenth century to the First World War, when the first tax haven mechanisms were established alongside the rise of the modern company. The USA is emphasized as an early example where sub-federal states started to engage in interstate competition. A second period then follows until the early 1970s, when Switzerland was considered the first country to adopt a deliberate state strategy to create especially attractive conditions for global capital. This included the first formalization of banking secrecy in 1934, which inspired small neighbouring economies. The rise of the Eurodollar market from the 1950s on is essential to the story of this stage, a development which initiated certain unregulated banking activities that moved into already established tax havens. A third phase was identified as beginning with the 1973 oil crisis, which resulted in excess capital from petroleum trade in the Middle East to flow into offshore markets. Fresh capital invigorated a development already in motion, the result of which was the heyday of tax havens throughout the 1990s when they proliferated globally.

[51] Palan, Murphy, and Chavagneux, *Tax Havens*, 107-123.
[52] Ibid.,108.

Ogle (2017, 2020) has contributed to the discussion of tax haven proliferation with more historical detail from a wide range of tax haven contexts. As a result, she has refined the existing theory with a more specific periodization. Ogle (2017) agrees with Palan, Murphy, and Chavagneux of the importance of the end of the nineteenth century to the creation of pillar tax haven mechanisms from which tax havens could evolve, and the importance of the interwar period to an early formation of a few modern tax havens.[53] She emphasizes the importance of the mid-twentieth century between the 1920s and the 1980s, when she sees a second phase begin at the end of the Second World War in 1945. This she argues lasted until 1975 and involved a significant growth in the offshore world. That growth activity then produces a third phase of maturation which was marked by 'the dramatic expansion of all varieties of archipelago capitalism'.[54] Further, she suggests that offshore economies had a contaminating effect on 'onshore' economies, initiating a 'race to the bottom' dynamic as the industrial world needed to compete with new conditions. Building on these accounts, this thesis assesses the 1960s and 1970s, which stand out as two decades particularly important to tax haven formation and proliferation.

The geographical question of the periphery and the core of empire has been increasingly important to tax haven studies. While an acknowledgement of the centrality of the British Empire to tax havens can be traced back to early tax haven scholarship, the role of empires to the existence of tax havens have become increasingly important. Palan (2015) elucidated the imperial aspect of the phenomenon by suggesting that Britain, by allowing the rise of a tax haven system among its dependencies, had established a 'Second Empire'.[55] Similarly, Sharman (2006) identifies a core-periphery dimension including in non-imperial contexts, noting how small tax havens have clustered around and in relation to significant economic blocs.[56] Sharman focused on the political and economic ties which existed between tax havens and their larger neighbouring economies: for example, between Liechtenstein and Switzerland (itself tied to France, Germany, and Italy); between Andorra and Spain and France; and between Monaco and France. However, the imperial connection has come further to the fore in recent tax haven analysis. Ogle (2017) concluded that tax havens ultimately were a historical

[53] Ogle, "Archipelago Capitalism," 1436.

[54] Ibid.

[55] Ronen Palan, "The Second British Empire: The British Empire and the re-emergence of global finance," in *Legacies of Empire Imperial Roots of the Contemporary Global Order*, eds. S. Halperin and R. Palan (Cambridge, UK: Cambridge University Press, 2015), 40-68.

[56] Jason Sharman, *Havens in a Storm: The Struggle for Global Tax Regulation* (Itacha: Cornell University Press, 2006), 22.

legacy of the nineteenth century's world of empires.[57] In this account, she relies on Picciotto (1992), who explained the centrality of the spread of seminal tax law cases within the British Common Law tradition practiced throughout the British Empire.[58] Furthermore, Wubs and Boon (unpublished, 2018) have identified the Dutch tax haven empire including the Dutch Antilles and Aruba, together with the Netherlands itself, as a global corporate centre for 'shell companies'.[59] While the literature has tied the British Empire to the heart of tax haven growth and proliferation, scholars still have relatively little knowledge of how that growth was viewed from positions within the metropolitan power. Therefore, this thesis seeks to identify which territories and mechanisms were considered to be tax havens from the perspective of various UK official institutions.

A further point relates to spheres of interests and agency. Tax haven and offshore studies have revealed a pattern of agency which often appears in offshore contexts. Economic geographer Susan Roberts already argued in 1999 that onshore-offshore relationships should be studied as 'relational' rather than 'oppositional'.[60] Roberts' intervention is meant to emphasize transnational relationships which shape onshore-offshore systems, rather than to treat them as binary opposites, as though offshore tax havens were disconnected from onshore economies. Recognizing the relational nature of these systems is precisely the aim of this study. Palan (2006) addressed three sets of important actors operating in the offshore world: (1) offshore jurisdictions; (2) advanced industrialized countries; and (3) users and consumers of the offshore economy.[61] With an expansion and maturation of the tax haven field, and with a newer emphasis in IPE studies on 'service providers', these last are separated from Palan's 'users and consumers' to form a fourth, independent category. 'Service providers' typically refers to tax specialists, corporate lawyers, auditing houses, accountants, private banks, and all other organizations specializing in offshore and tax haven utilities. In contemporary times, this category is dominated by agents such as the so-called "big four" accountancy firms (EY, PwC, KPMG and Deloitte) and the private banking industry. This thesis will use this categorization of spheres of agency as an analytical tool to identify and organize the plurality of interests that are present in the tax havens under study. The object is to identify

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57 Ogle, "Archipelago Capitalism," 1432.

58 Ibid.

59 Marten Boon and Ben Wubs, "Safe haven Curacao: the Origins of a Dutch Offshore Centre, 1915-1960", preliminary paper presented at the WEHC, Boston 2018.

60 Susan Roberts, "Confidence Men: Offshore Finance and Citizenship," in *Offshore Finance Centres and Tax Havens*, eds. M.P. Hampton and J.P. Abbott (West Lafayette, Indiana: Purdue University Press, 1999), 132.

61 Palan, *The Offshore World*, 65.

some of the most significant agents and structural underpinnings operating within these spheres.

In this project, the first sphere represents local authorities in the British dependencies considered to be tax havens. While it addresses a cluster of tax havens in the British West Indies, this thesis also addresses tax havens in other parts of the Empire such as in the Pacific, the Middle East, the Indian Ocean, the South China Sea, and Europe. The second sphere is represented here by sub-institutions of the British metropolitan state; the third, by the economic agents of this study: the companies and wealthy individuals who utilized the tax havens for legal (or licit), or illegal (or illicit) purposes, depending on the perspective and form of use; and the fourth, by the tax avoidance industry that grows in the relevant period. Palan, Murphy, and Chavagneux (2010) have addressed the quantitative rise in tax avoidance and tax evasion from the 1970s.[62] The 'service providers' of this thesis most frequently appear as tax lawyers, accountants, and British authorized banks (banks with the authority to carry out currency transactions that gave them reporting duties). These are understood here to represent an important moment when the 'service providing industry' established itself in British dependencies. In this study, this group is primarily financial and legal operators and institutions based in the City of London, New York, and Miami. References in this study to the City of London (or 'the City') refer to agents who may be viewed as 'service providers' based in the financial district of the 'Square Mile' in central London, a jurisdiction within the UK which has its own laws.[63]

A final point is the growing acknowledgement in IPE studies of the important role that sovereign status plays in tax haven formation. Ogle (2017) emphasized how a political 'lumpiness', a legal and political unevenness, characterized the political landscape during 'the age of empire', and created leeway for influence from business interests.[64] This 'lumpiness', she states, was continued during the long mid-century in times of decolonization when political relationships were still negotiable. This view is a new way of phrasing an enduring theme within the IPE literature: the crucial way that practices of sovereignty can inform our understanding of the power dynamics of the offshore world.[65]

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62 Palan, Murphy, and Chavagneux, *Tax Havens,* 108.

63 https://www.cityoflondon.gov.uk (retrieved 07.03.2022).

64 Ogle, "Archipelago Capitalism," 1432.

65 See for instance Sol Picciotto, "Offshore: The State as Legal Fiction.» In Offshore Finance Centres and Tax Havens, edited by M. P. Hampton and J.P. Abbott (Palgrave Macmillan: London, 1999) and Palan, *The Offshore World*.

Conventional theoretical definitions of sovereignty most commonly address the two principles of non-intervention and territorial rights, both developed during the settlement of the Peace of Westphalia in 1648.[66] Traditional approaches within International Relations recognize these twin principles as the basis of how the international system is organized and functions. These principles extend to semi-sovereign states, a constitutional position that defines most of the territories examined here and that forms the basis of the right to establish domestic legislation. Nevertheless, such a rationalist approach to sovereignty has a long history of being challenged – including in the tax haven and offshore finance literature[67] – and the approach here responds to its insufficient ability to address the power structures that underpin onshore-offshore relationships.

A pragmatic approach to tax haven and offshore contexts has provided a growing recognition of an interstitial status that follows from efforts to unpack the power structures embedded in the language of sovereignty. This approach is exemplified by notions of the 'commercializing of state sovereignty' (Palan 2002); reflections on 'constitutional in-betweenity' (Baldacchino 2007); the 'commodifying' of sovereignty (Van Fossen 2012); and 'sovereignty games' (Vlcek 2009 and Maurer 2013).[68] A central idea common to all of these contributions is the existence of a negotiable sovereign position – say, a fiscal sovereignty open to influences by transnational agents, including the spheres described above. Maurer (2013) has, for instance, argued that the BVI -a semi-sovereign territory under UK control- used the 'almost sovereign but not quite' character to its benefit in a 'game to attract international financial capital'.[69] Hampton and Christensen (2002) argued along the same lines with the idea of 'managed dependency', building on the work of Baldacchino (1993) who argued that successful microstates 'were able to manipulate the larger countries (or regional blocs)'.[70] This view has

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66 Vlcek, *Offshore Finance*, 22. On how this is about to change, see Luke Glanville, "The Myth of 'Traditional' Sovereignty." *International Studies Quarterly* 57, no. 1 (2013): 79–90.

67 See for instance Vlcek, *Offshore Finance*, 21-27.

68 Ronen Palan, "Tax Havens and the Commercialization of State Sovereignty", Godfrey Baldacchino, "A review of Extended Statehood in the Caribbean: Paradoxes of Quasi Colonialism, Local Autonomy and Extended Statehood," in *the USA, French, Dutch and British Caribbean*, Van Fossen, "Tax Havens and Sovereignty," *Island Studies Journal*, Vol.2(1): 150-176, William Vlcek, "Behind an Offshore Mask: sovereignty games in the global political economy", *Third World Quarterly*, 30:8, 1465-1481, Bill Maurer, "Jurisdiction in dialect. Sovereignty Games in the British Virgin Islands," in *European Integration and Postcolonial Sovereignty Games*, eds. Ulrik Gad and Rebecca Adler-Nissen (London and New York: Routledge, 2013),150-164.

69 Bill Maurer, "Jurisdiction in dialect," 131.

70 Mark Peter Hampton and John Christensen, "Offshore Pariahs? Small Island Economies, Tax Havens, and the Re-configuration of Global Finance," *World Development*, 30(9) (February 2002):1663, and Godfrey Baldacchino, "Bursting the Bubble: The Pseudo-Development Strategies of Microstates," *Development and Change*, 24 (1)(January 1993): 29-52.

also been developed in the work of Hudson (2014) on banking, which included the relationship between the UK and the Overseas Dependencies which he analysed to be examples of 'extended statehood'.[71] Hudson focused on how these relationships were shaped by historical, constitutional, political, and economic factors. Van Fossen (2012) argued that many Pacific Island states had used their postcolonial sovereignty status to become tax havens, with the most successful examples being historically related to the British Empire.[72] According to him, this has much in common with attempts to 'create sovereignty' described in relation to the secession by libertarians, adventurers, and ethnic nationalists in some Pacific Islands with the intention of building tax havens or OFCs. Vlcek (2017) took these insights further as he sought to analytically reconnect the artificial division between 'onshore' and 'offshore' through the study of 'sovereignty as a practice'.[73] The specific focus for this study is the negotiable space of sovereignty in the 'interstitial' status existing between the imperial power and the colonial territories operating at the margins of statehood.

The sovereign relationships among the territories included in this study and the metropolitan power centred in London shifted over time and were by no means predictable from the outset. The semi-sovereign status characterizing the dependencies had various and changing sovereign liberties with respect to four policy areas which were central here: fiscal, financial, corporate, and monetary (exchange regulation) policies of the 1960s and 1970s. The right of the dependencies to tax and regulate their citizens depended on the degree of autonomy within these policy fields and their ability to manoeuvre the metropolitan state.

While the combination of tax haven and offshore studies has built a conceptually strong platform for multi-disciplinary studies to engage and support the theory of offshore described above, considerable areas needing more historical research remain. Hence, this thesis explores the topic in detail with respect to the institutions creating tax haven policy, how they engaged with the major interests in play, and how these processes were related to practices of sovereignty.

The focus dominating the literature on the role of the British state in the establishment of a tax haven system is on this imperial-colonial connection. As noted, the UK-based tax haven system is often conveyed as the end result of 'intentional', 'strategic', and 'deliberate'

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71 Peter James Hudson, "On the History and Historiography of Banking in the Caribbean," *Small Axe*, 18 (1) No. 43 (March 2014): 22-37.

72 Van Fossen, *Tax Havens and Sovereignty*, 107.

73 Vlcek, *Offshore Finance*, 27.

government decisions and support. Palan, Murphy, and Chavagneux (2010) took the general view that tax haven legislation was the end result of a 'conscious intentional, and longterm developmental strategy'.[74] Shaxson (2011), as the first to comment more fully on the British based tax haven system, portrayed this as a deliberately constructed, London-centred 'spider´s web', consisting of 'lightly taxed, lightly regulated and secretive bolt holes for money'.[75] According to his assessment of some archival research, '[t]he archives from the 1960s and 1970s paint a clear picture of British interests, led by the Bank of England, pushing for the expansion of this new offshore web, though more research is needed on exactly when and how this thinking coalesced into the spider's web strategy'.[76] This interpretation, more centred on the gains of the City of London, was further developed in Michael Oswald´s wide-ranging documentary film from 2018, 'The Spider's Web', for which Shaxson was consulted and interviewed. The film portrays how the City of London financial interests have benefitted from light-touch regulations over time as the result of a British strategy.[77] The view of a strategic state was further conveyed in Ogle (2017), who argued that British 'government support for tax havens' was rooted in the development agenda to help former colonies out of aid dependency. She saw tax havens as, in her words, 'the product of concrete, conscious, and deliberate government decisions and support'.'[78]

All the above interpretations of British tax haven tolerance rest upon two underlying premises. First, since there is no documentation of an open strategic plan, and the UK government has never openly admitted government support for tax havens under their responsibilities, this implies that the British state has used its powers in more subtle ways. The question is then, how? Second, this unclear political space has created an opening for influences from economic interests, such as the City of London interests. However, it is still unclear if and how this actually happened.

There is one study that has had the ambition to gain a better understanding on exactly how the British administration made use of what is referred to here as the 'interstitial' space that existed between the British state and the dependencies involved. In Sagar, Christensen, and Shaxson (2013), Shaxson developed his analysis further with colleagues in connection with the Tax Justice Network (TJN), an NGO that works for global tax justice. The study was

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74 Palan, Murphy, and Chavagneux, *Tax Havens*, 22
75 Shaxson, *Treasure Islands*, 103.
76 Ibid, 119.
77 See trailer: https://www.youtube.com/watch?v=np_ylvc8Zj8 (20.02.2022).
78 Ogle, "Archipelago Capitalism," 1433.

motivated by an interest for the drivers of the 'British tax haven empire', and examined official British attitudes towards tax havens from 1967 to 1975. The central argument presented in the study was that tax haven tolerance was the result of 'tacit British acquiescence'.[79] This speaks directly to the imperial-colonial relationship and the related abstaining from the use of powers available under the Secretary of State of the Foreign and Commonwealth Office (FCO). Central to the analysis is how, in a context of imperial decline, in their words, 'the British state seemed happy enough that its colonial outposts, some of which were not prepared to opt for outright independence, were being used as conduits for capital from outside the Sterling Area headed towards the City of London'.[80] The 'tacit acquiescence' aspect then referred to how tax haven tolerance rested on a disinterest on the part of the Bank of England and the Treasury to stop tax haven developments despite awareness of compromising effects to UK domestic and international trading partners interests, such as revenue and exchange control concerns.

However, the study was careful not to draw overly firm conclusions. The study offered what comes through in the article as a less plausible but alternative theoretical explanation for tax haven tolerance that they referred to as 'the genie out of the bottle' hypothesis.[81] This interpretation weights how tax havens could develop "under the radar" of the government until the late 1960s, when revenue concerns and the Treasury's fears of exchange control leakages were 'too big to ignore'.[82] Further, they emphasize how the sources used for the study were featured by 'confusion, inter-departmental wrangling, and conflicting priorities'. As a result, tax haven tolerance was then potentially the result of "blind-zones" and internal conflict within the British bureaucracy. However, the contribution was, according to co-author John Christensen, a 'scratch in the surface' study, and the study called for 'a great deal of further research and enquiry'.[83] This thesis departs from these debates, focusing on the 'tacit acquiescence' interpretation (referred to in the following as the 'tacit approval' interpretation) that has the strongest support in the literature to determine if circulating views of British tax haven tolerance are historically verifiable or not.

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79 Sagar, Christensen, and Shaxson, "British Government Attitudes",129.
80 Ibid., 108.
81 Ibid.,108.
82 Ibid., 128.
83 Author's conversation with John Christensen, London, February 2014, and Sagar, Christensen, and Shaxson, "British Government Attitudes", 130.

1.3 The Political Economy of the British Empire

The IPE interpretation does not exist in a vacuum and draws on important lessons obtained from economic and political historiographies, which provide important backgrounds. The presented tacit approval interpretation resonates with central features of the political economy of the British Empire. This relates both to the decline of the UK economy on the whole, including the difficult position of the City of London, which had its heyday disrupted by war, and the loss of power following decolonization.

The UK economy did not see similar growth rates as experienced in other industrial economies after 1953, in the era labelled the 'Golden Age' for its unprecedented growth until the oil crisis in 1973.[84] The City of London, moreover, has been portrayed as practically "dead and buried" at the end of the Second World War.[85] It was bombed during the war, was heavily indebted and drained for capital by the 1950s, and could not sustain its position as a global leader in finance. Yet, we have little knowledge of how the City of London was connected to tax havens.

The fallen City was faced with the dual problems of a shrinking British economy paired with increased governmental interference.[86] This coincided with an innovative new era both in financial and corporate environments. The financial sector underwent a transformative shift in the 1960s and 1970s. Finance before the 1970s was viewed as an integral and almost "natural" element of industrial and commercial activities during the Golden Age.[87] Similarly, before the 1980s, the function of financial operators was commonly viewed as that of mere technical 'intermediators' of savings and investments serving 'the real economy'.[88] From this point on, analysts observed how finance had transformed over the last decade into a separate industry and an economic sector in its own right. This process is commonly referred to as 'financialization', a phenomenon reflecting a particular innovative moment in finance featured by predatory activities, diversification, internationalization, and financial restructuring.[89] Some

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[84] See Barry Eichengreen, *The European Economy since 1945: Coordinated Capitalism and Beyond* (Oxford: Princeton University Press, 2007), 15.

[85] David Kynaston, *The City of London Volume 4: A Club No More, 1945-2000* (Random House, 2002), 2-4.

[86] Cassis, *Capitals of Capital*, 209.

[87] The word 'natural' is used in this context by Cassis, *Capitals of Capital*, 201.

[88] Cassis, Grossman, and Schenk, *The Oxford Handbook*, 2.

[89] For a more specific discussion of the concept of 'financialization' in relation to the City of London, see Simon Mollan and Ranald Michie, "The City of London as an International Commercial and Financial Center since 1900", *Enterprise and Society* 13, no. 3 (January 27, 2012).

of the financial institutions covered here appear to form part of this broader trend that has yet to be studied in relation to tax havens.

Similarly, some of the business actors prominent in this thesis also operated in an era featuring the rapid proliferation of the multinational enterprise – a newly coined term of the 1960s.[90] Jones (2015) has defined multinational companies as 'firms owning and controlling assets in more than one country', which he deemed to be important agents in the spread of global capitalism.[91] This development was made possible by the advent in the 1950s and 1960s of a growing industry of management consultants.[92] While originating with the rise of the modern company in the late nineteenth century, the task of a company auditor had changed during the inter-war years from cost management to cost reduction. This started a tradition of creative structural planning of companies and assets which turned management consultants into 'conduits for decentralization' that radically changed the multinational's organizational model.[93] This is the era when 'to McKinsey' became an expression, with reference to the McKinsey company – one prominent agent of a strategic restructuring of companies.[94] The UK was the most important market for this new industry. With the change in business models from small business entities to complex multinational corporations, the distinction between savings and investments diminished and financial capitalism became one key feature of capitalism itself.[95] With the exception of a small number of studies, there is still limited knowledge on how British service providers were involved in tax haven formation.[96]

Another important aspect of the British political economy relates to the political situation of the falling imperial power. From 1946, when Transjordan had obtained independence, to 1997, when Britain transferred its last colony Hong Kong to Chinese control, the British Empire lost more than sixty territories.[97] This thesis includes more than forty territories that were related to the British metropolitan power at the peak of decolonisation from different constitutional

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[90] Geoffrey Jones, *Merchants to Multinationals: British Trading Companies in the Nineteenth and Twentieth Centuries* (Oxford University Press, 2000), 8.

[91] Jones, "Firms and Global Capitalism," 169.

[92] Ch. D. McKenna, *The World's Newest Profession: Management Consulting in the Twentieth Century* (New York: Cambridge University Press, 2006).

[93] Ibid, 167-170. On 'conduits for decentralization', see 176.

[94] On the details of McKinsey & Company in this Gilded Age of Consulting', see McKenna, *The World's Newest Profession*, 145-164. See also Jones, "Firms and Global Capitalism," 183.

[95] Ranald Michie, "Financial capitalism," in *The Cambridge History of Capitalism*, ed. L. Neal and J. Williamson (Cambridge: Cambridge University Press, 2014), 260-261.

[96] See for instance May Hooi Hen-Smith, "Gatekeepers for global wealth: Transnational legal orders of the Cayman Islands offshore financial centre" (Doctoral thesis, 2019).

[97] McIntyre, W. David, *British decolonization, 1946-1997: When, why and how did the British Empire fall?* (New York: St. Martin's Press, 1998), x.

arrangements (see oversight Appendix 1, Table 1). These stretch from the British West Indies, the Atlantic, the Middle East, the Mediterranean, Malaysia, the Indian Ocean, the China Coast, the Pacific, the Antarctic, the British Channel Islands and the Irish sea.

The British Empire consisted of a conglomerate of forms of rule and influence.[98] Most important here are the dependencies or newly independent Commonwealth members of the British West Indies in the Caribbean, eighteen territories altogether including Bermuda in the Atlantic[99]. This study also includes other forms of dependencies under British jurisdiction such as the Crown Dependencies[100] of Jersey, Guernsey and Isle of Man, which have a special constitutional relationship under the authority of Her Majesty the Queen enjoying more autonomy than the Caribbean dependencies.

The Caribbean had the longest-standing colonies of the British Empire which had lasted more than 400 years. Among these, all the British possessions that were colonies in 1815 were still colonies in 1945.[101] Four decades later, by 1983, almost all the British West Indian colonies were fully independent nations.[102] The constitutional legacy in the region was a system consisting of the pillars of the colonial system in all British territories where the Governor (who in some instances were replaced by 'Administrators' or 'Commissionaires') represented the Crown and functioned as the official Head of State. The Governor received instructions from the Colonial Office in London, appointed the local Council (the Executive), and could reject or approve the bills of the territory's Legislative Assembly. All the political institutions of the territories in the British West Indies had inherited some form of this model. However, there were some constitutional and local differences in how much scope for influence the British administration had.

[98] These are; colonies of rule; settlement colonies; protectorates; condominiums; mandates; naval and military fortresses; occupations; treaty ports and concessions; and informal colonies of commercial pre-eminence spheres of interference. See John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge: Cambridge University Press, 2009), 1.

[99] Bermuda was considered part of the Caribbean for administrative purposes even though the island is situated off the US coast in the Atlantic.

[100] A crown dependency is a self-governing direct possession of the Crown, different from the colonies that were possessions of the British government. This distinction was made in 1801, and the special constitutional relationship is commonly explained with a millennium of historic relationship to the British Crown, and proximity to Britain.

[101] Higman, *A Concise History of The Caribbean*, 267.

[102] The six territories of Anguilla, Bermuda, BVI, Cayman Islands, Montserrat and Turks and Caicos are currently the only territories in the region (including Bermuda in the Atlantic) under direct British control as British Overseas Dependencies (since 2002).

From the 1950s, the region saw the modification of the old Crown Colony regimes (which had prevailed since 1898) and the gradual formation of representative governments.[103] The idea to unite small territories into one regional federation had been floated in the nineteenth century.[104] However, this was not adapted before in 1958 with a British supported attempt to bring together eleven islands into the British West Indies Federation which failed by 1962. After the failure, most of the territories still under British rule in the Caribbean demanded either independence or more self-rule, and the West Indies Act of 1962 was established to form the legal basis of constitutional changes. Jamaica and Trinidad and Tobago were the first territories to develop into self-rule from 1962, with Barbados and British Guiana (Guyana) to follow in 1966. Following another failed attempt to install an Eastern Caribbean Federation, six small eastern islands moved into associated statehood with the passing of the West Indies Act of 1967, obliging the UK government to relinquish control over all matters except external affairs and defence.[105] This resulted in larger degree of independence among the unit territories, which by 1969 comprised Antigua and Barbuda, Dominica, Grenada, St-Kitts-Nevis-Anguilla, St. Lucia, and St. Vincent. The remaining territories in the British West Indies decided to maintain their colonial status under British rule, but had all obtained some form of increased self-rule by the 1960s. These were the Bahamas, Bermuda, British Honduras, BVI, the Cayman Islands, and the Turks and Caicos. These transitions in the 1960s had implications for the British administration's possibilities to interfere with tax haven developments in many of the involved territories.

Central to this study is how the British administration distinguished between three main categories of territories reflecting their constitutional positions. By 1967, following the Associated States Act, these were; (1) the Crown Colonies ('dependents') that still could be closely controlled from the governor's position; (2) the freer colonies ('semi-dependents') of the Bahamas, Bermuda, and the British Honduras that all had inherited a representative form of government and enjoyed more self-rule than their sister colonies[106]; and (3) the fully independent colonies ('independents') where influence had to be sustained through diplomatic or informal relations. This means the most immediate powers for British influence belonged to

[103] Derek O'Brien, *Constitutional Systems of the Commonwealth Caribbean* (Oxford, and Portland, Oregon: Hart Publishing, 2014), 16-26.

[104] Ibid., 21.

[105] Ibid., 27.

[106] British Honduras had elected representation already in the 1930s, and introduced a ministerial system in 1961. The Bahamas had enjoyed representative government since the nineteenth century, and inserted a ministerial government from 1964. After 1967, the Bahamas obtained full internal self-rule. Bermuda inserted its own constitution in 1968 limiting the power of the governor to internal external affairs, defence, internal security and police.

the governor, representing Her Majesty's Queen, and appointed by the British Prime Minister on behalf of the Crown.

The governor answered to the Secretary of State for the Colonies who held extensive reserve powers on the Queen's behalf which included to summon and dissolve Parliament, to appoint or dismiss ministers, and to assent (or ultimately reject) bills presented to Parliament.[107] On the other hand, the governor's function was restricted by local constitutions that rested on parliamentary democratic principles. This included a demand to act in accordance with the local will expressed by the Cabinet or a Minister. This last principle dominated British rule in the 1960s and 1970s, when reserve powers have been rarely used. This means that the operational management of British formal powers when controlling British territories sometimes was a delicate affair, as will be illustrated in this study.

Since British colonial policy was the responsibility of the FCO after 1968, all involved bodies of the British administration had to some extent to co-ordinate and clarify their engagement with British dependencies with the governors under the Secretary for Foreign and Commonwealth Affairs heading the new department. Important to this study is how different bodies of the British administrative and management system engaged with British dependencies that received attention as potential tax havens. The most central sub-departments and agencies involved were the ministerial departments of the FCO and Her Majesty the Treasury; the non-ministerial department of the Inland Revenue; and the non-departmental public agency of the central bank, the Bank of England. These bodies were all engaged with tax havens from their very different administrative responsibilities.

As will be argued further down, there were few political initiatives related to tax havens in the treated period. As a result, the tax haven issue was largely devoted to the managerial bodies of the British administration. This in turn led to the bureaucrats gaining immense influence both over the handling of the new policy issue and policy development. As such, this study largely aligns with the features of the British bureaucracy in the 1960s and 1970s, where a high educated class of professional British civil servants had much scope for influence from within the British administration. This requires a brief introduction to the central bodies involved.

Central to this thesis is the Foreign and Commonwealth Office (FCO) established in October 1968, and to some extent, its preceding offices involved with colonial affairs. During the first

[107] Derek O'Brien, *Constitutional Systems of the Commonwealth Caribbean*, 44.

years of the 1960s, the Colonial Office and the Commonwealth and Relations Office (CRO) co-ordinated colonial affairs in the British Empire. In 1966, these two departments merged into the Commonwealth Office. In 1968, another reorganization led to the fusion of the Commonwealth Office and the Foreign Office into the FCO. It was the FCO that had the most direct administrative responsibility towards the dependencies involved in this study. All colonial policy decisions, including those practiced from the employed civil servants of the department, were under the responsibility of the Secretary of State for Foreign and Commonwealth Affairs, a politically appointed Cabinet member. Representatives of the bodies of the FCO and its predecessors are in this study sometimes referred to as 'the political departments' reflecting their overall responsibilities for colonial affairs as opposed to the bodies of the British administration that were primarily engaged with economic affairs (such as the Treasury, the Bank of England and the Inland Revenue).

The Treasury, the administrative body most affected by tax haven developments from its responsibilities for economic affairs, was headed by the politically appointed Chancellor of the Exchequer who also was a Cabinet member. Treasury involvement with tax havens resulted from the Chancellor's responsibilities for taxes, exchange controls, banking and monetary affairs, all responsibilities largely delegated to the Inland Revenue and the Bank of England.

The Inland Revenue was the central unit of administration concerning organization and administration of provisions of the tax legislation under the responsibilities of the Financial Secretary for the Treasury, who in turn was responsible to Parliament. Central to this study was the Board of Inland Revenue consisting of high-level civil servants with the responsibility to provide advice to the sitting Chancellor in relation to income taxation. Daunton (2002) describes how the senior officials of the Revenue had 'immense authority' and influence of the British fiscal constitution.[108] The constitution was established in the years following the Second World War by a Budget Committee which settled the structure and level of taxation. It was the role of the Inland Revenue to take part in the Committee and together with high-level officials from the Treasury, the Customs and Excise, and the Board of Trade in dialogue with the Chancellor of the Exchequer to shape the fiscal system. The Chancellor of the Exchequer presented the result before the Parliament on the yearly Budget Day. From there, the budget would go through a process in the House of Commons, and end up as an annual Finance Act.

[108] Martin Daunton, *Just Taxes: The Politics of Taxation in Britain, 1914-1979* (Cambridge University Press, 2002), 18-19.

The Bank of England, nationalized under Labour rule in 1946, was given the responsibility under Treasury authority to effectuate exchange control and to oversee banking, including in British dependencies.[109] The Bank was headed by the Court consisting of the Governor, the Deputy Governor and Directors, and was organized into thematic departments. With relevance here, is the Bank of England's role from its delegated authority to oversee colonial banking and to manage the exchange control regime. While the Bank of England largely retained autonomy, it was subdued ultimate reserve powers of the Treasury.[110] A balance between the technical expertise in the Bank and the Treasury was settled in their relationship with the need for reciprocal approval in considerate matters.[111]

Colonial banking goes back to the 1830s with the rise of early forms of British multinational banks.[112] As territories gradually attained more self-rule, they obtained increasing levels of financial and monetary independence. By the 1960s, colonies held the power to develop forms of banking legislation in order to fit local circumstances, introduced as colonial Banking Ordinances. However, these relied on the approval of the Governor (or Administrator) under the surveillance and responsibilities of the FCO. It was the Bank of England's responsibility to oversee legislation and, in collaboration with the FCO, decide if legislation should be redrafted before passing through the legislature in the colony.

The responsibility of the Bank of England applied to the entire Sterling Area monetary cooperation that was a legacy of the British Empire. The Sterling Area was an informal monetary union comprising most Commonwealth countries and other countries economically related to the Empire, and is interchangeably referred to as the 'Scheduled Territory' or the 'Overseas Sterling Area' (OSA). The Sterling Area system in the post-war years rested upon the Bretton Woods arrangements established after the Second World War to secure financial stability. Cassis (2010) has summed up the principles guiding the Sterling Area in the period relevant here: a fixed exchange rate among the different currencies; a shared exchange control towards non-sterling countries; free circulation of capital within the Scheduled Area; and the pooling of exchange reserves.[113] The Sterling Area was a trust-based institution built from a hierarchy of delegated authorities. The Bank of England had delegated authority provided by

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109 Exchange Controls were operated under the 1947 Exchange Control Act. Forrest Capie, *The Bank of England: 1950s to 1979* (New York: Cambridge University Press, 2010), 39.

110 Capie, *The Bank of England*, 35.

111 Ibid.

112 Jones, *British Multinational Banking*, 109.

113 Cassis, *Capitals of Capital*, 212.

the Treasury to supervise transactions in and out of the Sterling Area. This regulation required Treasury consent for transactions outside the Area. The members were obligated to establish proper exchange regulations, and to effectuate these powers in order to sustain their sterling reserves which were pooled and supported from the Bank of England reserves. Central to this arrangement was the authorized dealers, often British respected banks, trusted with delegated authorities to effectuate exchange control functions on behalf of the Bank of England.

This means the administrative tax haven policy was shaped among a magnitude of different sub-bodies of the British administration. This invites for a rich portray of the tax haven phenomenon as it was discovered and dealt with from different perspectives across two decades.

1.4 Research Question – Contesting the Tacit Approval Interpretation

Based on the above survey, this thesis examines British administrative responses to, and institutional development of, tax havens in British dependencies during the 1960s and 1970s. In order to develop a broader understanding of the role of the British administration in establishing an environment of tax haven tolerance, four key research questions are designed for this study. These are based on the experiences of the official institutions most involved with tax havens and are as follows:

(1) Which territories were considered to be tax havens, what mechanisms were connected to these, and how did understandings of tax havens change over time?
(2) What impact were tax havens expected to have on interests in the UK metropole and in the dependencies?
(3) Which interest groups engaged in, or exerted influence over, British policies and practices towards tax havens?
(4) How did different bodies of the British administration respond to tax haven developments in British dependencies?

Following the discussion of the above questions, the study will conduct a qualitative analysis focusing on two aspects of the official British role in tax haven developments that I have previously alluded to. The thesis looks for signs in the sources of, first, favourable treatment of metropolitan economic interests (including the City of London interests); and, second, of a strategic position taken towards tax havens.

In essence, the research questions seek to establish whether or not the British administration encouraged or discouraged tax haven developments. The benefit of this research design is that it provides a mapping of historical understandings of the expansion of a British based tax haven system, patterns of interests involved, and a more detailed understanding of its consequences.

1.5 Empire Logic versus Ad Hoc Practices

The previously discussed IPE tacit approval interpretation is based on two premises. It places the City of London interests at the centre of analysis, and it suggests some level of strategic deliberate actions on behalf of the British imperial power in the formation of tax havens. As such, the interpretation echoes the paradigm-shifting interpretation of a metropole-centred imperialism set out by Cain and Hopkins (1986,1987) with their notion of 'gentlemanly capitalism'.[114] Cain and Hopkins offered with this discussion a new historiographical interpretation of British imperial history in the 1980s, which placed metropolitan economic interests at the centre of analysis of imperial expansion and control. Its central argument was that the British Empire before 1914 was controlled by the amalgamated interests of the aristocracy, landed gentry, and the emerging financial elite based in the City of London. Together they formed a "gentlemanly order", which controlled the Empire through association, informal connections, and alliances among the political and economic elites.

Cain and Hopkins (1993) emphasized three important premises of their work. The first involved their critique of a rationalist interpretation of the legal and constitutional constellation, which according to Cain and Hopkins resulted in a 'political and legal bias' which prevailed in empire analysis until the 1950s.[115] The second, drawing on Gallagher and Robinson (1953), was the distinction between the 'formal' and the 'informal' empire, making it possible to consider informal channels of influence and power steered by economic, cultural, or diplomatic interests

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[114] Peter J. Cain and Anthony G. Hopkins; "Gentlemanly Capitalism and British Expansion Overseas I. The Old Colonial System, 1688-1850," *The Economic History Review*, 39 (4) (1986): 501-525; and "Gentlemanly Capitalism and British Expansion Overseas II. New Imperialism, 1850-1945", *The Economic History Review* 40 (1) (1987).

[115] Peter J. Cain and Anthony G. Hopkins, *British Imperialism: Innovation and Expansion, 1688–1914* (New York: Longman, 1993), 6.

based in London.[116] Third, Cain and Hopkins bridged insights from imperial studies with new insights from economic history in order to reinstate the metropolitan economy at the centre of analysis. This change of focus challenged the previous emphasis on the political forms of empire, allowing a broader understanding of the impact of foreign presence and the intervention of 'collaborators'. This allowed for a clearer understanding of 'shades of influence', 'degrees of effective control', and 'measures of diminished sovereignty' – in which reflects some equivalent stance to contemporary offshore conversations of the role of 'sovereignty' discussed above.

Cain and Hopkins did not accept the isolation of the 'official mind' from business influences in Gallagher and Robinson's analysis.[117] Instead, they removed former conceptual barriers between political and economic spheres with a vision that fused political and financial elites – and, like the IPE tacit approval interpretation, placed finance rooted in the metropolitan power at the centre of analysis. For this reason, the gentlemanly capitalism theory, despite its origins in a different time, reflects the same premise that underpins the IPE tacit approval approach: the centrality of the City-colony axis. In essence, Cain and Hopkins suggested that the gentlemanly order was fractured by two world wars, the Great Depression, decolonization, and the rise of American capitalism. The referred IPE interpretation then raises the question of whether the political economy on which the gentlemanly order was based continued in a modernized form.

From the 1980s, there has been a growing interest in the relationship between business and the metropolitan power at the end of the Empire. Taken together, these studies have reviewed the Cain and Hopkins interpretation on the basis of studies of business in the Empire in a period of decolonization. For example, in one synthesis of the role of business in the process of imperial withdrawal, based on a selection of case studies, White (2000) rejected a close relationship between businesses and the state. He then concluded that 'the business and the politics of decolonization were rarely, if ever, reconciled'.[118] Stockwell (2004), in her assessment of British commercial interests and imperial policy-making, denied any 'conspiracy' between business and the state, but emphasized instead the creation of a business-friendly environment implemented by Conservative governments. Stockwell concluded that there were no signs that British businesses had the power, in her words, to

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[116] See Gallagher and Robinson, "The Imperialism of Free Trade", *Economic History Review,* 2nd series VI,1953.

[117] Cain and Hopkins, *British Imperialism,*12.

[118] Nicholas J. White, "The business and the politics of decolonization: the British experience in the twentieth century," *the Economic History Review*, Volume 53, Issue 3, (2000): 563.

'persuade policy makers to go out on a limb for them'.[119] Yet, Stockwell warned against two fallacies; first, the disregard of the continued relevance of the colonial-imperial economic order; and second, the neglect of continued British economic influence in new Commonwealth nations.[120] She emphasized the importance to the British state of maintaining Sterling Area balances, and of promoting British trade interests facing balance of payments pressures, while at the same time facing radical changes in a new era of international competition and regulatory multilateralism. These are all central elements to the UK tax haven phenomenon. This is not to say Stockwell return to a 'conspiracy' argument; however, it is a reminder of the economic significance to the UK metropole of the colonies, which should be taken into consideration when judging the UK tax haven position.

The IPE interpretation also challenges newer approaches to the strategic element of imperial-colonial relationships. Newer studies within imperial history have rejected the view of an 'empire logic' and the possibility of a deliberate and controlled policy-driven empire along with it. One central contribution, Darwin (2009), downplayed the importance of the formal territorial empire based on hegemonic powers.[121] He instead saw the Empire as a loosely defined project, of which each part plays different roles and works in different ways depending on the specific historical context and conditions. Darwin's central argument is that the British world system developed primarily as a 'chaotic expansion' beyond the planned interventions of power acting on behalf of the imperial government.[122] In his account, there is no strategic 'master-plan' or 'imperial logic'; instead, British expansion – and, by extension, the exercise of imperial power and imperial withdrawal – was not enacted primarily by 'official designs', but by the 'chaotic pluralism' of various interests. In Darwin's view, British imperial operations are better described as 'unfinished', 'untidy', and involving 'a mass of contradictions', 'aspirations and anomalies'.[123] He therefore rejects a planned, strategic management of the imperial project. In his analysis, British imperialism was a global system, upheld by constitutional, diplomatic, political, commercial, and cultural relationships.[124] Noting that the rapid and sudden political closure of the Empire was a 'painful surprise' to British leaders, Darwin viewed the dismantling of the 'Empire Project' as a patchy process built of ad hoc decisions. This

[119] Sarah Stockwell, "Trade, Empire, and the Fiscal Context of Imperial Business during Decolonization." *The Economic History Review*, 57, no. 1 (2004): 142.
[120] Ibid., 144.
[121] John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge: Cambridge University Press, 2009).
[122] Ibid., 3.
[123] Ibid, xi.
[124] Ibid, 1.

conclusion suggests that the demise of the British Empire was essentially a passive process, reducing the importance of official designs. This view has implications for UK tax haven policies since tax haven developments flourished alongside imperial contraction. This thesis will explore whether the British tax haven approach was a feature of a strategic metropolitan will, or of a set of ad hoc, unplanned processes following a more general pattern of imperial contraction.

1.6 Sources and Methods

Instead of a more common top-down analysis, the methodological approach here is to survey the unfolding of a phenomenon together with policy processes that played out on a bureaucratic level. This method is justified by the fact that tax havens did not arise as a high-policy concern in British politics until after the period treated here.[125] This is evidenced by a combination of factors that will be discussed here together with a presentation and discussion of the source material.

While this thesis refers to political leaders such as chancellors, financial secretaries, secretaries of state, and prime ministers, the narrative produced here largely comes through as a history of "faceless bureaucrats" within a professionally driven bureaucracy. This is substantiated by findings from sources derived both from the political level (of elected politicians) and the bureaucratic level (of unelected civil servants) of the British state administration.

One such finding is the lack of policy documents on tax havens in the Cabinet Papers, and only minimal reference to the issue in Parliamentary Papers, particularly in the 1960s. This conclusion is based on comprehensive, systematic and repetitive searches in the post war conclusions of the Cabinet Papers (see Appendix 2, list of British governments, Table 2 and Table 3), and searches in the Parliamentary Papers (Appendix 3, Table 4 and Table 5).[126] The

[125] One early example is the 'Gallagher report' that was delivered under the UK Department of Trade and Industry in 1990 with the stated intent to increase regulations in tax havens among Caribbean dependencies. See R. Gallagher, "The Survey of Offshore Finance Sectors in the Caribbean Dependent Territories", Session 1989-90 No. 121 (London: House of Commons).

[126] A systematic search was carried out within 'meetings and papers' of the digitized Cabinet Papers archive from 1961-1979. This was done in minutes of Cabinet meetings (CAB 128) and the Cabinet post war memoranda (CAB 129). The Cabinet's Secretary's Papers were also examined, but were not relevant since they only go up to 1965. Similar searches for tax haven appearances in the Parliament's discussions have been carried out in the Hansards (Commons and Lords) of the Parliamentary digitized archive.

conclusion to be drawn from these searches is that tax haven and offshore debates did not appear to any significant extent within the Cabinet or the Parliament from 1961-1978. Conclusions cannot be drawn from 1979 since the search engines of the digitized archives do not respond to searches. However, this is not considered a problem here since it is the last year of the treated period. If tax haven discussions appeared by then, it would not change the argument made here that tax haven policies initially evolved from the bureaucratic level. The emphasis here is therefore not on high-policy, but on the bureaucratic level of the British administration. However, the study is sensitive to policy signals, and will use sources from the Parliament and the Cabinet when there are strong indications in the material of directions or interference from the political level.

Derived from the problem-driven approach, the choice of the National Archive (TNA) and the Bank of England Archive (BEA) stood out as the two most intuitively targetable public archives for the study. The wealth of data accessible in these selected archives usefully narrowed the range of potential sources. It was not possible to include other archives due to format restrictions. For future study there are many archives with potential to supplement the selected archives, notably local archives in the British West Indies, UK business archives, and other UK public archives.[127] However, these are not critical for the present study.

The files included in this study were pulled together from a tax haven search in each archive's digital search engines and were selected based on the inclusion of the keyword 'tax haven' in their descriptions. This has resulted in the identification of a set of sources referred to here as 'the open tax haven files' of the TNA and the Bank of England. The justification for this method is that it seems to be the most efficient way to access files that were deemed to be relevant to the issue of tax havens by the record keepers of the represented institutions during the historical period in question. Importantly, the organization of the records was decided by the department or office of origin, and not by the archival staff, meaning that the archives do not alter the content or context of any record. All the files included here therefore otherwise belonged to different sets of records, and originated in different parts of the British administration. This research resulted in the identification of thirty-nine tax haven files from TNA and eleven files when adjusted for the time period of this thesis from the Bank of England.[128] Together, these contain files that are covering in various details the period from

[127] Examples are the Guildhall Library business history records; the Barclays Group Archive in Manchester; The Barbados National Archives, The Bermuda Archives, and the Cayman Islands National Archive.

[128] The results from TNA (Kew) only covers files which respond after the 1950s. Before the 1950s, there are a few files which respond to tax haven searches since they contain sources including both monograms of 'tax' and

1957 to 1979, which form the core of the source material used here. This method has allowed a new way of combining extant sources of which some are extensively used while others are still untouched.[129] Some of this material has informed the studies closest to the current thesis. However, while central studies such as Sagar, Christensen, and Shaxson (2013) included a minor segment of the tax haven files in one book chapter, Ogle (2017 and 2020) includes segments of the material to sustain a much wider temporal and spatial perspective that goes beyond the British context.[130] Nevertheless, the material on the whole is largely unexplored thus far as a source of knowledge about the British governmental tax haven experience.

The files themselves reveal which parts of the British administrative institutions that were involved, and need some introduction. The most extensive material collected from TNA is classified by departments and holds primarily records from so-called "Whitehall" institutions, that refers to the British civil service and administrative bodies of government. Included here are predominantly policy files from the Foreign and Commonwealth Office (FCO) which was the department most intimately related to the dependent territories from their responsibility of British colonial policies. The other institutions were engaged as the result of interference from tax havens with UK interests protected under these institutions' responsibilities.

Most of these (see attached source list), twenty-three files from the TNA, are FCO catalogues that are from five different series representing different sub-offices of the FCO. The *FCO 59* series is from the Financial Policy and Aid Department (FPAD) responsible for general financial policy and economic aid questions relating to dependencies. The *FCO 44* series contain records from the West Indian Department (WID), responsible for relations with the dependent territories in the British West Indies, and the later West Indian and Atlantic Department (WIAD) after a restructuring in 1972. The *FCO 63* series contains records from the Caribbean Department after it was established in 1969, and includes records that relate to North-American and Caribbean relations (including records on the Bahamas and Bermuda). The *FCO 86* series holds records that were produced by the Gibraltar and General Department

'haven' in the same catalogue. However, these files differ significantly from the post 1950s files, and do not reflect tax haven debates. It should also be noted that «tax haven files» are added in the archive as they are produced, but these were protected by the 30-year clause when collected (later changed to 20 years). The files from the Bank of England Archive were identified under the surveillance of archive's research service staff (Margherita Orlando), and were identified following a search in the digitized archive for the search word 'tax haven*'. Files added after December 2016 are not included in this study.

129 This conclusion is reached from dialogues with archival staff. The archives hold statistical information on how many times a file is opened. However, a full oversight of the use of the material would engage the staff in laborious and time-consuming exercises which was not regarded sufficiently important to be requested.

130 Sagar, Christensen, and Shaxson, "British Government Attitudes"; Ogle, "Archipelago Capitalism"; and Ogle, "Funk Money".

after it from 1972 had inherited the responsibility for the administrative staff and management of constitutional questions in the remaining British dependencies, in addition to its responsibility for Gibraltar. Finally, the *FCO 32* series includes records from the experiences of the Pacific and Indian Ocean Department (PIOD) from 1967-1971, and its successor from 1971, the Pacific Dependent Territories Department (PDTD). These offices were dealing with UK and Commonwealth relations with the South Pacific Commission, the West Pacific High Commission, and dependent territories in the Pacific region.

The two Colonial Office and Commonwealth Office files are both from the catalogue *CO 1031* that contains records of the West Indian Department before it was instituted under the FCO. The Department was still organized under the Colonial Office until 1966, and was removed to the Commonwealth Office as the 'West Indian Department 'A' and 'B' from 1966 to 1968. The files relate to the British West Indies and Caribbean as a whole, as well as to particular countries, and federations of the West Indies.

Eight files are derived from three different series of Treasury files. The *T 317* files include records from the Treasury's Overseas Finance Division which from 1966 formed part of the Treasury's Finance, Home and General Division, that was responsible for exchange control and overseas investment. After a restructuring in 1969, the office was also given the responsibilities of some aspects of balance of payments issues. The *T 295* files are gathered from the then Overseas Finance Exchange Control Division and centre on foreign currency concerns, protection of overseas investments, and of most relevance here, UK policy on exchange control and balance of payments considerations. The *T 328* files deal with affairs of the Fiscal and Incomes Policy Division under the Overseas Development Divisions that from 1962 was responsible for long term taxation policy.

The four files from the Board of Inland Revenue are from the main catalogue *IR 40* collected from the Stamps and Taxes Division of the Secretaries' Office. The office was concerned with questions of taxation policy and general oversight of the direct taxes, and provided assistance in complex cases. These files are dominated by sources from the Surtax Office and the Chief Inspector's Branch of the Board of Inland Revenue. These are all focused on tax haven developments and tax concessions, mainly in the British West Indies, problems arising from these developments, and discussions of policy responses involving the Board.

One catalogue, *OD 28*, is from one series collected from the Ministry of Overseas Development (ODM), a ministry that was established when the Labour administration came to power in 1964 to oversee all aspects of development policies.[131] The file contains records of the Caribbean and Latin America Department (1964-1970) on subjects including technical assistance and aid to the Commonwealth islands and Associated States together with the independent countries in the Caribbean. While the Commonwealth Office in its short-lived period from 1966 to 1968 did not collect tax haven files, some minor engagement with tax havens appears from these files.

The catalogue *PREM 16/8* is from the Prime Minister's Office and includes miscellaneous correspondence and papers of the Labour Administration from 1974 to 1979. The files focus on an Australian request that the UK should control the development of the New Hebrides as a tax haven.

The TNA files cover the years 1961 to 1977, but provide glimpses back to earlier tax haven developments, particularly in the case of the Crown Dependencies from the interwar period, and the Bahamas from the mid-1950s. This is useful for contextualizing the experiences of the period under study. There is a gradual increase in the amount of records from 1967, the year when tax havens became a broader issue to both the Inland Revenue and the Treasury, with a maximum production of records from 1969. By then, tax haven debates peaked on an administrative level after the newly inserted FCO had started to engage actively in the issue. The debates remained intense during 1970, the lead-up to the finalization of an internal tax haven report in September 1971, in which a confidential British tax haven policy was formulated in order to establish coherence among different parts of the British administration. The amount of records drops quite sharply in 1972 but intensifies again in 1973 and 1974, a period which coincides with the moment that tax havens become a topical issue for the British public, as will be addressed. The tax haven records then vanish from the TNA archive in 1977 for reasons which are not fully explained here but will be discussed in the analytical chapters.[132]

The Bank of England files, opening in 1957 before the treated period here, include records throughout the years until 1979. By and large, the material shows a similar temporal pattern as that observed in the TNA files. This series covers Sterling Area territories that were

[131] Owen Matthew Barder, "Reforming Development Assistance: Lessons from the UK Experience", Center for Global Development Working Paper No. 70, (October 2005): 7.

[132] Upon request, officials of the TNA could not find any obvious explanation as to why a line of clear and interrelated tax haven debates suddenly stops. This was dismissed as a potential result of any changes in archival practices.

discussed in relation to tax havens, and in that context discusses a variety of topics, including most frequently banking and exchange control matters.

The Bank of England files demonstrate a build-up within the bank of tax haven-related challenges from the early 1960s, with an increase in activity beginning in late 1967 aligning with participation in the interdepartmental co-operation that resulted in the aforementioned tax haven policy in 1971. This was followed by a decrease in involvement with the issue after changes in the currency exchange regime in 1972. The Bank of England files hold records predominantly from the Exchange Control Office which from 1964 formed part of the Overseas Department ('OV files'), and the later Exchange Control Department from 1972 following a restructuring, until exchange controls were abolished in 1979.[133] The Bank's files also include a very different set of files containing internal discussion papers of offshore financial centres collected under the Banking and Money Market Supervision Division (BAMMS) from 1977-1979. In addition of providing sources to the central bank's tax haven experiences from the early 1960s, its archival sources provide one nuance to the final years of the 1970s, illustrating how tax haven debates emerged alongside new international debates over offshore banking.

The files taken together contain a rich combination of internal reports, cablegrams, despatches, circular notes, formal letters, private and confidential letters, and news clips. British civil (and public) servants were not exclusive groups of record producers for this thesis. The official documents entail reports and letters written by legal advisors and tax lawyers on behalf of their clients. Also, there are incidents of direct dialogues with businesses or individuals interested in tax haven developments. Finally, the records hold communications with local administrations in the dependencies. This means the files cover correspondence with all the spheres of agency identified as important to this study. These groups combined, represent the competing and coinciding interests of which the sub-institutions of the British administration had to balance, and altogether form the basis of how to judge British official positions to tax haven developments.

A general feature of plurality and magnitude of sources has merits and challenges. The obvious merit, is the richness of detail. It has been the deliberate choice to bring in much detail which add to the specific tax haven developments in different territories. This is in accordance

[133] Exchange control was overseen from the Exchange Control and Overseas Section of the Bank of England, an office established in 1948 under the Cashier's Department, and the later Overseas Department after a restructuring in 1964. See Capie*, The Bank of England*, 38-39, 128 and 770.

with the discussed motivation of the study to better understand the specific features of the unfolding of the tax haven phenomenon. Further, this plurality has made possible the establishment of temporal shifts and the overarching themes as these stood out from the magnitude of discussions appearing from the sources. Analysis of the material places the tax haven policy report from 1971 at the centre of the British administrative tax haven experience. Sources largely either build up to this event, or show how tax havens could continue to grow in the aftermath of this policy. The records leave a trail of debates that makes it possible to reconstruct and follow certain rationales as the tax haven issue unfolded throughout the selected period. The files from the two archives mostly engage in the same debates and allow for cross-referencing over time. As such, they provide complementary understandings of the roles and different perspectives of the various sub-institutions of the British bureaucracy that engaged in tax haven debates and responses. The established timeline helps to organize a multifaceted material otherwise featured by numerous territories, mechanisms, problem complexes, interest spheres, and administrative bodies.

However, some aspects of the sources need further consideration. The material features complexities, sporadic absence of evidence, high levels of technicality, and sometimes unidentifiable signatures. One dilemma in the work with the sources has therefore been the potential fallacy of drawing conclusions from a perforated or deficient material. Another problem has been that the selection method may result in the exclusion of other sources that contain tax haven debates that were never classified as tax haven records. To take an example, the Board of Trade (BT) and the Foreign Office (FO), which from a business perspective or foreign-policy angle one would expect to have a stake in the matter, engaged in tax haven debates only to a negligible extent. This does not mean these institutions were oblivious to the growing tax haven phenomenon. Other examples can be records of working parties, commissioned reports or other records that potentially hold useful material that would further contextualize how tax havens were involved in broader policy issues.

The methodological approach used to overcome these difficulties has been to focus on the policy relevant signals that emerge most strongly from discussions across departments and over time as the result of cross-referencing, together with a focus on end reports that seek oversight rather than detail. Further, the strategy has been to use additional material such as governmental, parliamentary and media records, and the use of files found from outside the established tax haven files to complement and challenge the core material.[134] One qualifying feature of the selected core material is also its richness (containing a few thousand files), and how it provides cross-references and confirmations of the central issues across the timeline and across departments. Combined, the assembled material provides a unique window into the core elements of British administrative tax haven activity and responses. Therefore, this thesis focuses on the central events that dominated the experience, while certain aspects of this development may be lost from the choice of sources and methods underpinning the study.

In the trade-off between a vertical micro-study level versus a horizontal macro-level study, the intention here has been to focus on the most central elements of the expansion of a British-based tax haven phenomenon. The benefit is that this approach brings out the major trends over a lengthy period, while the downside is the limitations it adds to institutional and contextual depth and breadth. With these noted limitations in mind, the present study assumes that a cross-reading of the chosen material will allow the establishment of the main features of a collective tax haven approach negotiated across sub-institutions of the British administration in the 1960s and 1970s.

As discussed above, there are many subsets of actors who influenced UK tax haven approaches. Importantly, the study's objective is not to examine the administration in its own right. The aim is rather to capture the essence of how sub-institutions of the British administration negotiated interests derived from their different roles and concerns in the process of shaping a new policy area. Hence, the sub-institutions such as the Treasury, the FCO, the Inland Revenue, and the Bank of England comprise the primary units of analysis as influences on the spread of tax havens – the prime objective of this thesis. This objective justifies treating the involved administrative bodies as representatives of a unified intention. The institutions under study tend to assign a unified intent to each other in discussions among themselves. The study then follows the approach to examine sub-state institutions as unitary agents. This approach is consistent with authoritative studies of other parts of the British administration and tax haven studies.[135] It allows the identification of agency operating on a sub-institutional level (for instance 'the Treasury position was that..', the Inland Revenue wanted to see..', etc). An additional reason for placing the unit of analysis at the level of sub-

134 Examples of this is the use of files from TNA FCO 48 to follow up leads in the material that remained unclear in relation to banking issues in the Cayman Islands and BEA 3A 152/16.

135 See Martin Daunton, *Just Taxes*; Forrest Capie, *The Bank of England*; George C. Peden, "The Treasury and British public policy 1906-1959", *OUP Catalogue* (2000); Christophe Farquet,"Tax Avoidance, Collective Resistance, and International Negotiations", and Sagar, Christensen, and Shaxson, "British Government Attitudes".

state institutions was the participation of British government officials, from various levels and different organizations of the British state, in the formation of British tax haven policies. As will be evident from the study, British tax haven policies were the result of coordination and concert between these different actors.

That is not to imply that individual agency is not important. The present analysis will emphasize conflicting positions, including on individual levels, when these appear in the records and are relevant to the approach of the institution in question. Even though the focus on individual contributions and internal organization is less at the forefront, extensive efforts have been made to establish institutional positions. This has been a requiring exercise due to the many tens of officials who at some point and to different degrees were involved, and their shifting positions throughout the two decades. A further problem has been the lack of full names, individual titles, institutional positions, and internal roles in the source material. This means the individuals that are included in this thesis with names and titles have been checked against either the presented sources, literature searches and other searches such as in the Who's Who directories from the 1960s and 1970s. As a result of the above discussed combination of factors, the different departments will be judged by their overall approach to tax havens as it evolved over a lengthy period, while deviating internal positions and rivalries will be less central.

The strength of this approach is that it captures more fully the concerns of and the roles played by the major sub-institutions involved and sharpens their differences. Its limitation is that this picture comes at the expense of a more in-depth view at the institutional level. It obscures the relationships among different levels of the administration, and limits the ability to trace individual agency. Taken together, these arguments allow for the emphasis placed here on the question of agency in operations on a sub-institutional level. As a result, conclusions will be derived from an assessment of collective behaviours which had the strongest impact on the role of the British administration in tax haven developments in the 1960s and 1970s.

1.7 Contribution

This project can be placed in the camp of historians who draw from the use of theory in the social sciences; as such, it engages in an old debate within the discipline of history which saw a revival in the first decade of the 2000s.[136] Beyond the identification of a new set of empirical evidence regarding tax havens, three key aspects of its anticipated contributions follow below.

First, the study seeks to go beyond national frameworks. The broader object of study here, the tax haven phenomenon, is truly global in its reach, functions transnationally, is influenced by an imperial political economy dimension, and is grounded in national (sovereign) legal foundations. This leaves this study with a multi-level object that may be situated within various historiographical traditions. While the study is dominated by a national entity – from institutional bodies belonging to the British polity – and includes multiple dependencies, it is still oriented towards imperial and transnational connections. The British tax haven phenomenon feeds into a global offshore phenomenon that forms the broader context of this thesis. Accordingly, this study is located between imperial, transnational, and global history. This position aligns with a new trend in imperial history observed by Stockwell (2008), to search for 'the historical roots of globalism' and to write imperial history as a contribution to global history.[137] According to her, the focus of imperial studies has transcended national frameworks, encouraging instead a focus on networks and global interactions that is reflected in the approach taken by this thesis.

Second, this thesis bridges history with a broader multi-disciplinary tax haven field. While the home of this thesis is the history discipline, to some extent it operates in the blurry zone between the social sciences and history. It forms part of an emergent stream of scholarly contributions to a multi-disciplinary tax haven field, making its own particular contribution by injecting more historical detail into a broader theoretical reflection within tax haven studies. This effort communicates directly with core questions central to the previously noted IPE studies such as the features, dynamics, and power structures of the broader offshore world. In addition, the thesis advances an emerging methodology that accounts for agency in the offshore world, picking up on the recognition within IPE studies of market and state relations in tax haven conditions. It further applies lessons from IPE studies by recognizing the centrality of practices of sovereignty, practices that created an interstitial condition open to the entry of market interests during a crucial moment in modern state formation in the colonial world.

[136] For a discussion on the relationship between history and the social sciences, see for example Ian Hunter, "The History of Theory", *Critical Inquiry*, Vol. 33, No. 1 (Autumn 2006): 78-112.

[137] Sarah Stockwell, *The British Empire: Themes and Perspectives* (London: Blackwell Publishing, 2008), xi.

Finally, the thesis adds to a newer recognition in history of an offshore dimension involved in the end of the British Empire. In doing so, it strengthens the intersection between economic and political history – still distinguished more by differences than by similarities. Recent historical scholarship on related subjects such as international taxation and tax havens share with this study an interest in the international political economy dimension of the phenomenon and a common focus on the intersection between the political, economic, and social aspects of human endeavours.[138] International Relations studies of the social sciences saw the rise of what the IPE analyst Benjamin Cohen called an 'invisible college' during the 1960s.[139] The history discipline has still not gone through the same profound amalgamation of conversations. The economist Susan Strange, another early IPE analyst, visualized in 1971 the distance between political scientists and economists by picturing them 'standing back-to-back' while studying two seemingly isolated systems.[140] Later, the IPE field of the social sciences has developed a shared language of theory, premises, approaches, and concerns. It would be unfair to say that IPE study is non-existent among historians: such work is evident from the above discussion of market-state relationships at the end of the Empire, for instance. However, the worlds of the political and economic history communities still feature more division than shared language, theory, research agendas, or platforms of interaction (such as journals and conferences). This thesis has one leg in each camp. As a result, it joins a trend in financial history described in Cassis, Grossman, and Schenk (2016) of expanding theoretical and methodological approaches, new directions of research, and more responsiveness to social demands.[141]

The study engages primarily with the two subfields within political history of imperial studies and British Caribbean studies, and the subfields within economic history of business, financial, and fiscal history. None of these strands of scholarship have devoted much attention to the role and impact of tax havens. This means the thesis contributes a largely neglected aspect of political and economic decolonization, which has escaped studies that have treated imperial-colonial relationships in a British context.

One possible reason for this neglect may be the level of controversy that has become attached to the term 'tax haven' as a result of the international tensions that have distinguished tax

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[138] This applies for example to the introduced work of Vanessa Ogle.
[139] Cohen, *Advanced Introduction to International Political Economy*, 3.
[140] Susan Strange, *Sterling and British Policy: A Political Study of an International Currency in Decline* (London: Oxford University Press, 1971), 2-3.
[141] Cassis, Grossman, and Schenk, *The Oxford Handbook*, 30.

haven politics since the 1990s. In addition, the technological difficulty of identifying the phenomenon may have put up barriers to tax haven studies. However, some explanations may also be found in disciplinary traditions. The lack of the tax haven perspective in British Caribbean studies illustrates this point.[142] This tradition is marked by a community of scholars with tighter connections to the colonial world than those of 'Loxbridge' imperial historians based in the United Kingdom. That difference coincides with a stronger focus among analysts with a Caribbean connection on themes such as slavery and emancipation; nationalism; independence movements; national heroes and heroines; racial tensions; and class dimensions. This emphasis on the periphery has been subject to debate. Drayton (2011) has acknowledged its value as a useful corrective to a previous era of centrist colonial history, but has questioned the centrality of 'heroism' in master narratives constructed in postcolonial Caribbean historiography.[143] Drayton further argued: 'The postcolonial historiography of the Caribbean, with its focus on a kind of heroism, has in some ways ordered the past to meet the needs of the present in ways that resemble the old colonial history of the region. For Nation history, not just in the Caribbean, is strangely similar in its rhythms to empire history.'[144] The history of the Caribbean as a node for tax haven proliferation challenges contemporary objections to an apparent continuation of oppressive behaviour by international organizations that use contested "naming and shaming" tactics to target small tax haven countries on behalf of larger economies. Similar concerns to the controversy of the tax haven designation also apply to the British side of the story – often understood to be a story of shame. Perhaps as a consequence, the tax haven topic has not managed to establish itself in contemporary British history, colonial Nation studies, nor imperial history. As it adds to an emergent focus on the tax haven aspect of imperial and colonial relations, this project may be viewed as a response to Drayton's call for a post-patriotic approach, liberated from past taboos.

As discussed, financial, business, and fiscal history have not yet fully embraced the historical appearance of tax havens and the above treated 'varieties of offshore', with some exemptions as discussed. This means that knowledge of how tax havens interact with major sub-themes – such as financial markets, financial institutions, overseas business expansion, business

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142 Central contributions to Caribbean studies, among others, are an UNESCO supported history of the Caribbean region, as a wider attempt to write colonial regional histories from 'within', initiated in the 1980s, in which resulted in for instance B.W. Higman, *General History of the Caribbean: Methodology and Historiography of the Caribbean Vol VI* (Macmillan Caribbean,1999). Roy Bodden's critical analysis of the transformation of the Cayman Islands society along with the development of the financial industry is one exemption. See J.A.R. Bodden, *The Cayman Islands in Transition: The Politics, History, and Sociology of a Changing Society* (Ian Randen Publishers, 2007).

143 Richard Drayton, "The problem of the Hero(ine) in Caribbean History", *Small Axe* 15, no. 1, (2011): 26-45.

144 Ibid., 29.

organization, business strategies, public finances, and their place in the broader history of capitalism – is still poorly understood.

1.8 Structure of Dissertation

The structure of this thesis reflects the chronology of how the central elements of the British tax haven experience unfolded in the 1960s and 1970s. The chapters are also organized to highlight different institutional approaches and understandings of a growing phenomenon. The rest of the dissertation is structured, first, with three evidential chapters that establish how tax havens emerged separately within three different units of the British administration from 1961 to December 1970. Chapter 2*, Loopholes in the Foreign Tax Evasion Defence System 1961-1970*, describes the Inland Revenue response when tax havens had become an administrative issue to tackle due to new concerns over foreign tax avoidance and tax evasion practices. This became particularly important following changes in the British fiscal environment from 1965 on. Chapter 3*, A challenge to Sterling Integrity 1963-1970*, examines how tax havens became an issue for monetary and financial policies managed under the responsibility of the Bank of England, particularly following the sterling devaluation in November 1967. Chapter 4, *A Solution to Colonial Finance 1964-1970,* assesses how tax haven developments were viewed as a welcome element of strategy within the institutions involved with colonial and development issues. The chapter follows the evolution of the tax haven issue within the Colonial Office from 1964, and after the Foreign and Commonwealth Office was installed, when the issue became a more important priority from 1969 on.

These chapters combined form an important background for understanding the two following chapters. Chapter 5, *Towards a British Tax Haven Policy December 1970-1971*, follows a moment when the tax haven issue took Whitehall concerns to a new level of anxiety, and the administration saw a need to design a holistic tax haven policy. The chapter develops an understanding of the interdepartmental differences and frictions that followed the process towards the formulation of a British tax haven policy in September 1971. Chapter 6, *Collapse of the UK Tax Haven Policy 1971 to 1979*, treats the development of a regional shift of the tax haven business into Europe following a contraction in the sterling regime in 1972. It also investigates how the British light-touch policy was challenged when confronted both on the domestic scene and following increasing international pressures after UK entrance into the EEC in 1973. The chapter closes with a reflection on how tax haven debates dissolved and emerged with conversations of new developments in offshore banking in the last years of the 1970s. Chapter 7, *Conclusions: Ad Hoc Policies in a Context of Decolonization,* presents the main findings and conclusions of this thesis, and argues that the British approach towards tax havens in its dependencies was primarily distinguished by ad hoc responses rather than planning and strategic efforts.

Chapter 2 Loopholes in the Foreign Tax Evasion Defence System, 1961-1970

Central to the British tax haven experience, was the Inland Revenue, which under the Treasury responsibility managed the organization and administration of tax collection. This chapter outlines the broader trends in how tax havens developed as an administrative issue from a revenue point of view relating to revenue loss from 1961 to 1970. The purpose of this chapter is to provide insight into the revenue side of the British tax haven phenomenon leading up to negotiations among departments in 1971, which will be discussed in Chapter 5. The major questions raised here are: Which territories were viewed as tax havens and which mechanisms and avoidance techniques were in play? Which interests were involved, what were the Inland Revenue's concerns, and how did they respond to the growth in tax havens among British territories?

The chapter brings together sources from the tax haven files that the Inland Revenue began cataloguing in 1961 and complementary sources from Parliamentary Papers and media archives, with existing British and imperial fiscal studies. It adds more detail to what Picciotto (1992) describes as an era when a tax avoidance industry emerged because of the inability of domestic tax systems and international tax treaties to solve new problems for international taxation.[145] It particularly helps explain how private interests based in the UK managed to reinstall liberal conditions lost after Labour took power in 1964. The new Wilson government reshaped the UK fiscal structure, leading to higher tax burdens on British companies and wealthy individuals. The main argument developed here is that Inland Revenue moved from viewing tax havens as a limited problem to making it a more pressing policy issue after 1965 in recognition of its effect on UK fiscal domestic interests. This change marks the start of a new era of the British administrative tax haven experience.

The chapter proceeds as follows: Section (2.1) investigates how tax havens were initially a concern for tax competition with the UK's most important trading partner following US tax haven debates from 1961 on. Then (2.2) examines how the Revenue started to observe the growth of a professional tax avoidance industry emerging from the City of London after 1965 following the largest fiscal reform in the immediate post-war decades. This is followed by

[145] Picciotto, *International Business Taxation*, xii.

section (2.3), which lays out the new avoidance routes that the Inland Revenue needed to tackle. The next section (2.4) assesses the Revenue's responses to an increase in tax haven activity. Finally, as developed in the conclusion, the chapter argues that the Inland Revenue considered the situation to be largely out of control in 1967 when their formal powers to control foreign tax evasion had been thwarted by the deliberate creation of tax haven loopholes.

2.1 A Question of Tax Competition

As will be discussed below, the tax haven issue began to be addressed by the Inland Revenue in 1961 as an extension of fiscal debates begun in the 1950s. While tax havens were not an entirely new issue for the UK tax authorities, these began to attract more attention in the context of post-war fiscal debates of Western economies that were marked by the underlying theme of international tax competition. This happened just as tax havens became a more topical issue in Britain and in the US, the two dominant capital-exporting countries of the capitalist world.

2.1.1 A Growing Tax Haven Issue to the Inland Revenue, 1961

The Inland Revenue opened the first tax haven files in 1961 just as the issue was widely debated in the US. This was no coincidence as the US was the UK's most important trading partner together with the EEC. Just a few months after inauguration, the newly elected President John F. Kennedy had sent a special tax message before Congress with respect to the tax treatment of foreign income on 20 April 1961.[146] The speech reflected an attempt by the Kennedy administration to restrict abuse of the tax system through tax havens. A practice among companies to use certain Caribbean islands, just offshore the American mainland, to escape US income taxes had been growing. At this point, the Kennedy administration had initiated a tax haven policy proposal along with broader tax reform.[147]

The US tax haven debate was followed closely by the British Industrial Development Office, a department of the Board of Trade stationed in New York. The office had been instituted in 1960 to attract and support US businesses and manufacturers with an interest in investing in the UK under the authority of a senior official of the Board of Trade, Alex Currall. He informed selected

[146] Hearings Before the Committee on Ways and Means, House of Representatives, 87th Congress, April 20, 1961.
[147] For an outlay of this reform, see for instance Picciotto, *International Business Taxation*, Chapter 5.

departments and offices, among them the Inland Revenue and the Treasury, of the developments in the US. The day after the aforementioned Kennedy speech, Currall reported to the Inland Revenue and other departments that the upcoming US tax reform had no wider implications for UK interests.[148] This conclusion turned out to be a hasty one, as the next section addresses.

The Inland Revenue's engagement in these debates reflected its responsibility to oversee and give advice in the establishment of the British fiscal regime. The British post-war fiscal policies were shaped by two central forces: egalitarianism and business incentives in a competitive world.[149] The British tax system, like other Western capitalist systems, did base itself on the principles of *fairness* and *efficiency*.[150] These principles are intended to secure the largest possible degree of tax neutrality among investor groups and industries regardless of country of origin of the invested capital. Taxation was perceived as a *cost* to investors, and the aim for policy makers was to shape taxes in a way that did not interfere with business decisions or distort supply-and-demand cycles. Furthermore, it should to some degree protect against inequality, which was a concern in a post-war context.

One central feature of the international taxation environment in the immediate post-war decades involved unresolved tensions in the international tax regime.[151] Countries had to strike the balance between domestic needs for taxation and pressures from fiscal systems of the outside world. The US and the UK dominated as the world's leading capital exporters after the Second World War.[152] This made the two countries the most important contributors to FDIs and meant a significant part of their tax subjects operated abroad. Both countries needed to tax gains from overseas operations to not discriminate against domestic industries, while at the same time secure the competitive position of companies with foreign operations by not taxing these more than their international counterparts. British taxation was comparably higher than that of its trading partners with the exclusion of the US and Canada.[153] European countries relied much more on indirect taxes such as consumption taxes. This means the UK fiscal regime was relatively prepared for competition from the US. However, as we shall see, the use of tax havens started to interfere with this balance.

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148 TNA IR 40/ 15005, 'Memorandum by A. Currall, the director of the British Industrial Development Office', British Consulate-General, New York, 21 April 1961.

149 Daunton, *Just Taxes,* 270.

150 Picciotto, *International Business Taxation*, 97.

151 Ibid., 93-96

152 Ibid., 45.

153 Stockwell, "Trade, Empire, and the Fiscal Context,"147.

These tensions drove tax competition among countries – the antithesis of tax harmonization – and resulted in growing concerns over a traditional, unresolved double taxation problem. Double taxation arises when two countries claim tax for the same income of the same tax subject due to conflicting tax rules. As will be discussed below, tax havens emerged as an issue within the Inland Revenue alongside three parallel currents which help establish the broader context of a growing tax haven concern.

First, tax havens were about to become a more debated issue in the British public from the early 1960s on. The growing appearance of tax haven articles in central British newspapers illustrates this development, made evident by the first references to tax havens in British media archives statistically indicated by a selection of media sources (*The Financial Times*, *The Times, The Economist, The Guardian*, and *The Observer*).[154] When combining the search terms of *tax* and *havens* from the 1930s to the mid-1950s, there are very few early parallel appearances in articles. From the mid-1950s on, the tax haven term started to appear more frequently. To take one example, the first hit in the *Financial Times* archive is an article from August 1956 explaining how the shipping industry traditionally used Bermuda to avoid UK tax obligations.[155] The first appearance of any tax haven article in the *Times* is an assessment of funds in Bermuda and the Bahamas from 1958.[156] However, it is not until the mid-1960s that the appearance of tax haven articles steadily increases in all the selected British media archives, a trend which lasts throughout the 1970s with some fluctuations.[157]

Second, as previously mentioned, by the early 1960s tax havens had become a topical issue in the US and the UK administration followed this development with interest. Following Diamond and Diamond (2002), the United States Revenue Act of 1962 was the piece of legislation in the post-war decades which was the first major event that in their words 'set the stage for the initial crackdown on the use of tax havens'.[158] The Kennedy proposal was rooted in a broader assessment of the US fiscal regime, which had followed the Second World War

[154] See The Economist Historical Archive (1843-2014); the Financial Times Historical Archive; The Times Digital Archive; and the Pro Quest Historical Newspapers (*The Guardian* and *The Observer).*

[155] 'Tax and Bermuda', *The Financial Times*, 23 August 1956, p. 6.

[156] 'Why Companies Are Founded In Bahamas And Bermuda', *The Times*, 18 June 1958, p.14.

[157] Tax haven articles in the *Financial Times* rose from 1965 (5), to 1968 (36), and 1974 (79), followed by a downward trend in 1979 (37). A similar trend is observed in *The Times*, with the first upward trend started in 1964 (8), increased by 1968 (34), and increased again by 1972 (63), while falling to a low level in 1979 (3). Searches in the *Observer* and the *Guardian* archive shows a similar trend. The two newspapers combined had some appearances in the 1950s (164), with a sharp increase in the 1960s (471), and were almost tripling in the 1970s (1112).

[158] Diamond and Diamond, *Tax havens of the World*, 1.

and lasted throughout the 1950s.[159] Picciotto (1992) has described how the US approach was intended to solve the 'dilemma of tax deferral', a problem acute to the US tax system.[160] In the US Tax Code, profits arising outside the US were only levied if the profits were remitted back to the US. However, if a US corporation set up a subsidiary abroad, it would not be taxed before dividends were transferred home to the US. The opportunity to defer taxes, which could be reinvested instead, followed from tax incentives given to US companies that operated in Western Europe and Japan after the Second World War. The idea was to sustain the growth and rebuilding of these economies. This meant a company could choose not to repatriate profit, leading a significant number of companies to instead relocate taxable profits and assets into ownership entities, most frequently holding companies, in tax havens. From there, owners could defer the tax obligation and, in theory, postpone tax eternally by not bringing their profits back home. These arrangements were, in effect, interest-free loans from the government to businesses that equalled the amount of the deferred tax liability.[161] This policy resulted in large accumulation of untaxable wealth in tax haven holding companies, typically located in the Caribbean islands and Switzerland. The US Treasury perspective, which motivated the Kennedy administration's case against tax havens, was that tax deferral privileges were being abused and had turned into an unwanted tax avoidance device. The situation created unfavourable conditions for domestic companies and revenue collection with implications for issues of inequality. It was also believed to be maintaining credit imbalances in already dry capital markets and reinforced balance of payments difficulties stemming from the increased overseas operations by US companies from the late 1950s. The Kennedy administration wanted to solve these problems by strengthening taxation powers over US-controlled foreign subsidiaries.

Third, an already ongoing debate was taking place in the UK Parliament relating to the Overseas Trading Companies (OTCs)[*], which seems to mirror the fiscal problems discussed in the US. The Kennedy tax deferral debate had parallels to the central themes of the OTC debates in Britain. The UK Conservative government had established the OTCs company category with the 1957 Finance Act to inspire colonial investments. The Conservatives meant

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[159] Picciotto, *International Business Taxation*,109.

[160] Ibid, 97.

[161] Frank Barry, "Cut to the Chase: US Corporate Tax Reform – The Implications for Ireland", paper for the Institute of International and European Affairs (IIEA) (October 2018): 3.

[*] An Overseas Trading Company was defined in the 1957 Act as: 'a company owning not less than twenty-five per cent of the ordinary share capital of a company which is not resident and not carrying on a trade in the United Kingdom, but is carrying on a trade outside the United Kingdom where the shares are owned by the first-named company for the purpose of the active conduct of a trade by means of such ownership and not for the purpose of dealing in or holding such shares for investment purposes only.'

to correct some of the challenges following international tax competition after they took office in 1951.[162] Stockwell (2004) emphasizes how this resulted in liberal conditions supportive to British businesses that operated within the colonies and Commonwealth markets from 1953 on, of which the OTC arrangement was the most important.[163] The aim was to help UK businesses to operate within Commonwealth countries and dependencies and respond to the double taxation problems in the colonies. As a result, under the Financial Act, a company would not pay UK tax on the undistributed profits of British-resident OTCs similar to that adopted by the US for American companies. In effect, the US tax deferral practices had to some extent the same effect on US companies as the OTC had on UK companies. It provided tax freedom, which was increasingly viewed as an unjust abuse of loopholes in the American system and therefore a discriminatory arrangement.

This debate linked UK discussions of the OTCs with US tax haven debates. The year of 1961 saw the first appearance of the *tax haven* term used in Parliament in relation to debates over the taxation of British overseas activities. An observation made by one Conservative Member of Parliament (MP) and banker in a statement to the House of Commons illustrates this connection: 'President Kennedy refers to the abuse of tax havens, or the equivalent of what we call OTCs, whereby we grant tax reliefs to overseas trading companies'.[164] Another example is the statement of an MP in May 1962, leaning on Kennedy's notion of tax havens when debating the avoidance of death duties on property: 'In the world today there are what President Kennedy has described as "tax haven", and many American as well as British citizens have gone to them'.[165] Applying the keyword *tax haven(s)* in the Parliamentary Paper search engine produces only eight hits from 1961 to 1967, all from the House of Commons.[166] Judging by the few appearances in Parliament, the tax haven issue in isolation did not gain the political currency that it did in the US. This is viewed here as an indication that the 'tax haven' issue was not a very urgent policy issue for the government in the years before 1967.

Before 1961, tax haven searches in Parliament only respond to the keywords of *tax* and *haven*, indicating that tax havens were still no major policy issue. The first mention in Parliament appears in 1953 during a debate related to the taxation of nearby islands which formed part of

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[162] Daunton, *Just Taxes*, 229-237.

[163] Stockwell, "Trade, Empire, and the Fiscal Context," 144.

[164] Hansard, Economic Situation Debate in Common Chambre, 7 February 1961.

[165] Hansard, Clause 23 - Property Situate Out of Great Britain, Mr. Houghton, 23 May 1962.

[166] This figure is corrected for «false hits» which means here they are excluded when 'haven' is used as a metaphor in contexts non-related to business, or they form part of a name such as 'Milford Haven'. See www.parliament.uk.

the UK polity. The future British Prime Minister Harold Wilson (from 1964), then Labour MP for Huyton, was the first to mention 'a haven for tax dodgers' with reference to the introduction of income taxes to the Isles of Scilly.[167] This statement appeared just as Rab Butler, the Chancellor of the Exchequer (1951-1955) for the Conservatives, wanted to expand income taxation to the island territory, a minor farmland community of less than 2000 inhabitants off the southwest coast of Cornwall, with the Finance Bill of 1953. The representative from St. Ives dismissed fears of misuse of the islands and saw no grounds for, in his words, 'a repetition of that of the Channel Island where people went to evade Income Tax'.[168] Wilson was then concerned about the recent years of immunity from taxation which were provided to islands close to the UK coast.

These discussions have striking similarities with those which later took place concerning the modern tax havens arising much further away from the UK mainland in the 1960s. The Isles of Scilly issue formed part of a wider debate on the tax positions of small UK nearby islands. As evident from these conversations, the controversy centred around the need to alleviate some of the particular challenges for these communities with infrastructural restrictions resulting from small size and remote geographical location – challenges such as high cost of transportation, heavy weather, economic depression, and fragile societies. Island representatives suggested that the chancellor should instead start with the expansion of tax concessions in the Isle of Wight and 'work himself around the coast', including the Orkney Islands, the Shetland Islands, and the Western Isles.[169] There were also concerns over potential breaches of a ruling principle of equal treatment and fairness among the island communities which might result from a subsidy for Scilly Islands. Special treatment for some islands could lead to new claims by island economies such as the Orkneys and the Shetlands. The chancellor's efforts to balance the interests of the Scilly islanders against the interests of other islands and mainland taxpayers foreshadowed important aspects of the modern tax haven phenomenon about to appear in British territories, as will be developed later in this thesis.

[167] See Hansard, Assessments, Etc, In Isles of Scilly, 17 June 1953.
[168] Ibid.
[169] Ibid.

2.1.2 Influences from US Tax Deferral Policies, 1962

In January 1962, the Kennedy administration asked Congress to enact a revised Revenue Act and took forward what the US financial press reported to be the 'most far-reaching revision of the US Tax Code ever proposed in peacetime'.[170] By then, Currall of the British Industrial Development Office had distributed a revised memorandum of potential implications of the US proposal that needed to be assessed. Currall supported the US action against tax havens, which he saw as advantageous to UK revenue, with the following statement:

> Effective U.S. action against tax havens should be advantageous to the U.K. revenue. There is no doubt that at present Swiss holding and sales Companies in particular drain off some of the direct and indirect profits from U.S. manufacturing in Britain which would otherwise be subject to U.K. tax. The passage of the proposed legislation would lead to the winding up of a number of Swiss holding and sales Companies and would discourage the creation of such companies in the future.[171]

However, the reform was viewed as an unfortunate breach of taxation principles. The effect of the reform would be that the US Congress in fact legislated for taxation of British companies: those US-controlled companies operating in the UK. The revised clause would make companies in the UK taxable if they were classified as being arranged from tax haven subsidiaries or headquarters, often UK tax haven dependencies. The main concern was that changes in the US Tax Code would make the UK less attractive to a large amount of US companies operating in the UK, particularly those in manufacturing industries. This would have tax-based discriminatory effects on desired activity in the UK, which was of particular concern in the UK since US companies had proved particularly important to Northern Ireland and Scotland. That reasoning is evident in Currall's memorandum: 'Because American investment in Britain is now so important – it involves the employment of 1 out of every 20 workers in British manufacturing industry – future Congressional action, e.g. in raising U.S. company taxation above the British level, could have a material effect on the prosperity of an important section of British industry'.[172]

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[170] TNA IR 40/ 15005, 'President Asks For Tax Reform, $11 Billion Cut', by A.J. Glass, The Herald Tribune Bureau, 24 January 1962.
[171] TNA IR 40/15005, memorandum by A. Currall, British Consulate-General, New York, 2 January 1962.
[172] Ibid.

These considerations led the Treasury to ask the Inland Revenue, among other departments, to make a new assessment of whether the UK should make representation to the US government regarding the timing and content of the new changes to its tax code.[173] The correspondence related to these considerations, including collected newspaper clippings reporting on the focus of the Inland Revenue, strengthens the impression that initially tax havens were primarily of concern for tax competition. For example, the Ford Motor Company protested against the US legislation because of the company's operations in the automobile industry in the UK.[174] Ford objected on the grounds that its UK operations would be less competitive since the effective tax rate would increase. Since the clause potentially authorized the Inland Revenue Service (IRS), the US revenue, with necessary powers to tax US subsidiaries regardless of any British relationship, it could lead to a substantial extra tax burden. Ford reported that the implications for the British subsidiary of the Ford automobile company would be to go from paying 43% to the British state (after deductions of the nominal corporate tax rate of 53 ¾), to a 52% US tax rate.[175] A difference of nine per cent was a substantial rise in costs. The Act was accordingly considered to result in tax discrimination of US-controlled British subsidiary companies since tax obligations did not affect other UK-controlled automobile industries. Eventually, when the US Bill was revised, the proposal no longer affected earnings resulting from manufacturing and substantial processing operations conducted by US-controlled foreign subsidiaries in the UK, in line with Ford's argument.[176]

The Kennedy clause also had an imperial dimension since it affected US-controlled companies operating in developing countries, including British dependencies. The clause produced debates in the US congress over whether a right to defer taxes on profits arising in poor countries, some of which were tax havens, should continue to be recognized. In developing economies, the Kennedy Administration's plan intended to keep the tax deferral practice in place for US companies to inspire economic activity in depressed areas. This provided a competitive advantage for some countries classified under the category of 'developing countries'. Therefore, another aspect of the Kennedy clause for British interests related to the definition of developing countries that potentially would place British colonies under different US tax disposals. There were general fears on the UK side that double taxation would drive

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173 TNA IR 40/15005, W. Clowser (HMT) to H.B.C. Keeble (FO) with copies to J.D. Taylor Thompson (IR) and Jennings (BT), 21 February 1962.

174 TNA IR 40/15005, Reuter, 'Mr. H. Ford on U.S. Tax Bill. Disadvantage for the UK subsidiary', June 12 1962.

175 The tax rate of 53,75 of overseas businesses is verified in Stockwell, "Trade, Empire, and the Fiscal Context,"159.

176 TNA IR 40/15005, press release from the US Treasury, 'Treasury submits revised "tax haven" proposals to the House Ways & Means Committee', 31 January 1962.

capital away from the colonies and that capital raised in the colonies would go to non-Empire countries.[177] This issue related to conflicts between industrial states' taxation of capital exporters and the lower tax rates used by poor countries to attract investment. Illustrative of such concerns was some limited discussion across departments of the status of Bermuda and the Bahamas as either 'tax havens' or 'developing countries'.[178]

The fears of a radical measure in the US code eventually died out with the modification of the clause. The Inland Revenue concluded that there was no need to make any representation to the US. Derek Taylor Thompson, an Inland Revenue Board member who was the central official on the Revenue side of these conversations, added to this conclusion that he saw an avoidance route around the new US clause were it to be inserted against the UK's will: 'It has been represented to us by American businessmen that the proposals would constitute an effective deterrent to American companies by making use of the OTC scheme and thereby, they argue, to using the United Kingdom as a base for their operations on the Continent', he wrote.[179] It was expected that if the clause were to be enacted and affect British dependencies, and if the UK as expected became a member of the EEC (which it did not until 1973), US businesses would re-incorporate as British subsidiaries and the UK would become the main entrance to the EEC market. However, Taylor Thompson demonstrated sympathy for the US agenda to stop avoidance through tax havens as follows: 'The proposals do not seem unreasonable as a measure for countering avoidance of United States tax through storing profits in an overseas subsidiary and ultimately bringing them back in non-taxable form after liquidation of the subsidiary'.[180] Support for the US action against tax havens was also expressed from the Treasury side: 'we want United Kingdom companies overseas to remit their profits home, and as you point out, it has been agreed that we should reconsider our tax legislation if the United States took action. In fact, our attitude is very much like that of the United States.'[181] These quotations are early indications of an attitude that came to dominate the Inland Revenue as the tax haven issue unfolded.

This question was settled in sub-section 'F' of the new act.[182] The solution was to tax US shareholders of foreign companies without jeopardizing the favourable tax position for US

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[177] Simon Mollan and Kevin Tennent, "International Taxation and Corporate Strategy: Evidence from British Overseas Business, circa 1900–1965", *Business History* 57, no. 7 (2015): 1–28, 8.

[178] TNA IR 40/15005, W. Clowser (HMT) to H.B.C Keeble (FO), 3 April 1962.

[179] TNA IR 40/15005, J.D. Taylor Thompson (IR) to W. Clowser (HMT), 9 March 1962.

[180] Ibid.

[181] TNA IR 40/15005, W. Clowser (HMT) to H.B.C. Keeble (FO), 21 February 1962.

[182] Picciotto, *International Business Taxation*,112.

interests in developing countries. The clause was eventually instituted in a compromised form with the implementation of the United States 1962 Revenue Act and came into force from January 1963. The US Treasury required US taxpayers owning stocks of a foreign corporation to file a return on such holdings. However, the final Act omitted any income from international shipping and aircraft due to intense lobby and negotiation and allowed deferral in cases where profits were reinvested in developing countries. This meant the tax incentive was still going to be useful to less developed countries. Further, the Bahamas and Bermuda were by April 1962 placed on the 'developing country' list, making British concerns related to its dependencies less important.[183]

The Act turned out much later to be the first version of Controlled Foreign Corporation (CFC)* legislation, the central unilateral measure among industrialized countries to combat tax havens during the 1970s and 1980s, with the UK adopting it in 1984.[184] This later became a model that the UK was considered to follow, as will be discussed in Chapter 3.

2.2 The Rise of a Tax Avoidance Industry

A new stage in the Inland Revenue response to tax havens followed in the aftermath of the largest British fiscal reform in the post-war decades. This marks the point when, for the first time, tax havens became seen as a more central administrative issue to be tackled from within the Surtax Office and the Chief Inspector's Branch, both of which were involved with investigations of tax evasion and tax avoidance cases. This came along with a growing awareness within these offices of how the UK fiscal reform of 1965 contributed to the rise of a new tax avoidance industry in tax havens, developed in co-operation with the City of London institutions.

183 TNA IR 40/15005, from H.B.C Keeble (FO) to W. Clowser (HMT) 3 April 1962.

* A CFC was defined when introduced in the US legislation as "a foreign corporation over 50 % of whose voting power is owned by US persons, each of whom owns directly or indirectly over 10 %", Picciotto, *International Business Taxation*, 112.

184 During the 1970s and 1980s most OECD countries inserted CFC-legislation, see Michael Lang et al, *CFC legislation, tax treaties and EC law* (Kluwer Law International The Hague, 2004), 636.

2.2.1 Changes in the Fiscal Environment and Adaption Strategies

The start of an era of international tax avoidance is typically explained with reference to the limitations of national tax systems and the inability of international tax treaties to fully solve contradictions and complexities in tax systems.[185] However, an account of the Inland Revenue's response tells a broader story about how a combination of market and state actors came together and shaped a new tax avoidance industry, and in doing so, challenged the revenue collecting power.

In 1966, the Inland Revenue started to recognize new patterns in how British taxpayers used tax havens to avoid new British tax rules. This is indicated by the significant increase in desk level enquiries, reporting, and correspondence under tax haven headings that appears initially among revenue officials from the autumn 1966 through 1967. A new trend of avoidance strategies through the Bahamas was discovered after one such route was described in a Sunday Times article from October 1966 as involving 'labyrinthine complexities' in its network of tax haven trusts.[186] A trust is a fiduciary arrangement established in British Common Law where a beneficial owner can pass over legal ownership anonymously to a settlor (often a lawyer) while maintaining control of the trust's underlying assets. This allows the beneficial owner full anonymity by obscuring ownership and, consequently, tax obligations. The Sunday Times article, together with a pamphlet discovered among affluent circles in London, became particularly important to the Revenue's more detailed understanding of emerging tax avoidance routes. The pamphlet circulated in the City and offered a lead on the basis of which the Revenue started to investigate new avoidance routes in tax havens. Illustrative of this is an internal report developed within the Surtax Office responsible for the treatment of tax evasion cases in December 1966.[187] Referring to a 'considerable interest' of the article and the confidential pamphlet (reportedly obtained by an Inland Revenue official through 'some wizardry'), the official wrote: 'I have for some years suspected that avoidance by means of transfers of assets abroad has been on the increase, and with the introduction of the short-term and long-term capital gains taxes it was to be expected that this would gain momentum'[188].

[185] Picciotto, *International Business Taxation*, 97.

[186] TNA IR 40/ 16338, 'Bahamas: the Tax Free Haven', Sunday Times (Stephen Aries), 23 October 1966.

[187] TNA IR 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', (unclear signature),12 December 1966.

[188] Ibid.

The pamphlet, *Services for the United Kingdom Taxpayer (1965-1966)*, had been produced for potential clients by a new bank based in the Bahamas, the General Finance and Banking Ltd.[189] The circulation of recruitment letters was no rarity and was frequently adopted by lawyers and financial institutions in the City of London as a client recruiting strategy.[190] However, such material was not meant for the eyes of the revenue authorities. It is clear from the content of the pamphlet and the impact it had on the Inland Revenue that the Revenue stood before a new adaptation strategy. The new banking organization operated in an unprecedented manner through an ownership structure built from a network of interlocking trusts owned, in turn, by one alleged charitable trust. The business model of the General Finance and Banking Ltd was to act as a tax consultant and to devise, operate, and act as a vehicle for legal tax avoidance schemes for its clients. It aimed at attracting British customers to the Bahamas. The new bank was estimated to hold the amount of £5 million for 20 clients in late 1966.[191] The pamphlet outlined in broad terms a number of ways in which the bank itself, and other avenues available in the Bahamas, could be used to avoid British taxes. The Inland Revenue soon recognized how the bank had a tax-reduction function, suggested by the pamphlet's stated purpose to 'indicate the more sophisticated tax-saving schemes currently available in the Bahamas to clients of the Bank'.

Illustrating the mechanisms involved, the beneficial owner of all the shares of the General Finance and Banking entity collected those shares under another Bahamian company entitled the Rondon Trustees Limited. The bank comprised a complex structure of layer upon layer of anonymous trusts and was distinguished by manipulated transactions within the network that did not reflect the real underlying economic conditions. Complex relationships with other London-based or charitable trusts were established from (in name, at least) the Bahamas with eminent names such as 'The Aquarius Trust Limited' and 'the Phoenix Trust' reflecting the superiority of the structures.[192] However, the charitable dimension of these structures was experienced within the Revenue more as an artificial construct for tax purposes than a reflection of a substantial economic condition.

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[189] TNA IR 40/16338, 'The General Finance and Banking Ltd: 'Services for the United Kingdom Taxpayer, 1965-1966 edition'.

[190] Ogle, "Funk money," 29.

[191] TNA IR 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966

[192] TNA IR 40/16743, minute of the Inland Revenue), signature unclear, 4 October 1967.

As addressed above, the new information confirmed suspicions within the Surtax Office of growing tax avoidance activities following new pressures on British tax subjects after several changes made in 1965 and 1966. Labour came to power in October 1964, with a long-term fiscal policy shaped by their time in opposition that, when implemented, marked the most radical change in British fiscal history in the post-war era. Prime Minister Harold Wilson, with James Callaghan as chancellor, scrapped the Conservative fiscal policy based on the idea that personal gain and profit were the most important forces of economic growth.[193] In 1961, Wilson had demanded in Parliament the repeal of the provision in the 1957 Finance Act that, he claimed, 'provided an open incentive to business concerns to avoid United Kingdom taxation by setting up tax-free overseas trade corporations'.[194] The statement by Wilson was an early warning sign of what turned out to be a shift in tax policies away from the priority of overseas investments in favour of demands for egalitarian considerations relating to British class divides.

Labour's solution was to separate taxes applied to companies from those applied to individuals and to introduce a new corporate tax in combination with a new capital tax. Mollan and Tennent (2015) lay out three important changes to the general UK tax environment from 1965 relevant to British overseas companies.[195] The first of these was the introduction of a corporation tax. This meant that companies could no longer deduct dividends paid to shareholder from the company's taxable profits in order to reduce the tax bill. The second was the withdrawal of the OTC entity (discussed above), which had existed since 1957. This meant UK foreign companies would no longer enjoy tax freedom from their overseas investments. The third was the result of British companies engaging in an international environment increasingly distinguished by complexities in corporate taxation and a growing web of bilateral tax treaties. In addition, a Capital Gains Tax (CGT) was introduced in 1965 so that capital would not accumulate in corporations but instead would be reinvested to create growth.[196]

The trend of adding tax obligations to British businesses and wealthy continued throughout the 1960s. Relevant here was an increase in the estate duty, which was a progressive transfer tax particularly important in the case of generational shifts. These taxes combined increased pressures on British businesses in the 1960s, a condition which lasted until the Thatcher government reduced taxes in the 1980s. Moreover, the 1965 reform itself was generally

193 Daunton, *Just Taxes*, 281.
194 Hansard, Economic Situation, 26 July 1961.
195 Mollan and Tennent, "International Taxation and Corporate Strategy," 5-6.
196 Daunton, *Just Taxes*, 290.

perceived to be complex and has in retrospect been referred to as 'the most complicated fiscal reform for thirty years'[197]. As a consequence, the Inland Revenue was prepared for adaptation strategies. The autumn of 1966 was the first time that the Inland Revenue had access to details of what was referred to within the Inland Revenue as 'the first concrete indication we have have had that foreign avoidance has become an organised industry'[198].

2.2.2 New Foreign Tax Avoidance and Evasion Destinations

From this moment on, the Bahamas and Bermuda started to become more important destinations for British foreign avoidance and evasion practices. This happened in the context of a general trend among colonial governments from the 1940s on to implement modern forms of income tax for the first time.[199] However, some dependencies deviated from this general pattern, as was the case with the Bahamas and Bermuda. Neither of the governments relied significantly on direct taxation for their revenue. Instead, they collected revenue from indirect taxation such as value added tax (VAT) structures, various fees, and customs duties. Both islands were "natural" tax havens in the sense that there were no locally derived imperatives to impose direct taxation. This means the Bahamas and Bermuda were tax-free zones in comparison to the UK with its broad set of tax obligations such as income tax, surtax, sales tax, profits tax, corporate tax, and estate duty.[200] In addition, both islands had established free ports open to some investor environments. The Bahamas, an island community of some 800 islands off the US coast, established a free port in 1955 that gave extensive rights to foreign capital from a private deal with the local government, including tax freedom. The free port was already noted by Craton (1968) in his historical account of the Bahamas, both for its merits as a kick-start to the Bahamian economy and for its dubious connections to criminal elements and tax offenders.[201]

The Bahamas attracted the Revenue's attention after having effected changes in their trust law in 1965. It gained internal self-government in 1964 and was the first island group in the

[197] Ibid. Daunton cited Richard Crossman, *Minister of Housing, 1964-1966, Diaries of a Cabinet Minister Vol. 1* (London 1975): 228.

[198] TNA IR 40/16338, confidential internal report, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', unclear signature,12 December 1966.

[199] Stockwell, "Trade, Empire, and the Fiscal Context,"145. See examples of these in Dennis McFarlane, "A Comparative Study of Incentive Legislation in the Leeward Islands, Windward Islands, Barbados and Jamaica", Social and Economic Studies, Vol. 13, no. 3 (September, 1964).

[200] TNA IR 40/16338, 'Summary of Sunday Times' article (23.10.66) on the Bahamas', 12. December 1966.

[201] Michael Craton, *A history of the Bahamas* (London: Collins Clear-Type Press, 1968), 281-283.

British West Indies to install a modernized version of what was originally a British trust law with the Banks and Trust Companies Regulation Act in 1965. The law was directed towards foreign investor environments and formed the legal prerequisites for the controversial new bank of the General Finance and Banking Ltd to exist. It included lucrative tax concessions to trust and holding businesses and soon developed into an attractive model for neighbouring islands' legislation. It had been allowed under the diplomatic service before the UK government started to realize its implications.

The Revenue was aware of the active participation of local leaders in the Bahamas and Bermuda in the creation of mechanisms that, from a Revenue point of view, were hostile to UK fiscal interests. One example is from one official's observation within the Surtax Office, when summing up the state of affairs following the new information, of how the Bahamas government was believed to actively be turning the new tax avoidance industry into 'the second largest industry to tourism' in the territory.[202] The Bahamas was by then (until 1967) controlled by the 'Bay Street Boys', a nickname for a white elite which had controlled the United Bahamian Party and dominated Bahamian politics in the 1950s and 1960s.[203] A similar criticism also applied to the Bermudian leadership for its encouragement of the incorporation of exempted companies, another tax-free device for foreign interests.

It also attracted the attention of the Revenue that some of the most respected UK lawyers and accountants were heavily engaged in the careful and sophisticated elaboration of the complexities and artificialities observed to be arising in the islands. This is also illustrated with the above reflection note of the Surtax Office addressing how their participation was a deliberate effort to create loopholes against the UK Tax Code.[204] Particularly important to these new practices was a network of tax lawyers and accountants possessing very specialized competence based in London. Of these, Milton Grundy, a barrister in the City of London and pioneer of aggressive tax planning in the post-war period, stands out as the centre of the Revenue's interest. Later, in 1975, he would be a founding member and chairman of the International Tax Planning Association (ITPA), a globally oriented tax-planning society where he remains at the time of writing an active member.[205] His engagement in the tax haven

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[202] TNA 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966.

[203] See for instance Ogle, "Funk Money", 1442.

[204] TNA 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966.

[205] See https://www.itpa.org/ (retrieved 4 October 2021). Grundy has published widely on international taxation since the 1950s.

business has been noted in previous work on tax havens.[206] The Revenue's records add more detail concerning the centrality of his role in the establishment of some important initial structures. Following the Surtax Office note, Grundy who had founded the General Finance and Banking Ltd, was referred to as '*the* tax avoidance specialist' on Bermuda and the Bahamas. Further, it was realized that there was some sort of work division between Grundy, who specialized in and operated from the Bahamas, and Gordon Gutteridge, a British accountant who was based in Bermuda. Grundy was viewed to have taken on the role previously inhabited by another known senior City barrister, P. J. Brennan, who was no longer operational, after Grundy had worked (and shared barrister's chambers) with Brennan's son. These two individuals were at the centre of a circle of legal professionals who were unusually inventive in their tax-avoidance practices and active in the British West Indies: to take one example, the flying of wealthy British clients into the British West Indies as part of their service. Attached with the Surtax reflection note, was a summary of the Sunday Times article which referred to an instance when a team of eleven British tax lawyers and accountants together with five clients, mainly property developers, were reported to have gone to the Bahamas following the establishment of the General Finance and Banking Ltd.[207] Grundy and Gutteridge were connected through a series of cross-ownerships in what then was referred to as 'interlocking trusts' of which the new bank was one node. While Grundy was the chief consultant of the General Finance and Banking Ltd, Gutteridge was the manager. All sub-directors were members of the Bahamian-based law firm McKinney, Bancroft and Hughes[208], and all nominee shares were held by members of this same firm, which is still one of the major contemporary legal firms in the Bahamas. In this way, Grundy and his circle of colleagues were observed as to have contributed significantly to enhancing an already established low-tax attraction in the Bahamas and Bermuda.

It further came to the Inland Revenue's notice that respected international banks were among those most actively engaged in the opening of this new form of business. The Inland Revenue started to follow the one considered most important among these: the Bahamas International Trust Company Ltd (BITCO), a joint banking syndicate. BITCO was one among two early Bahamian trust companies active in the tax haven in Nassau, and was the joint creation of large and respected Correspondent Banks from the UK, US, and Canada, with Barclays Bank Dominion, Colonial and Overseas (DCO).[209] Barclays DCO formed part of the dominant British

[206] See for instance Shaxson, *Treasure Islands*, 106.
[207] TNA IR 40/16338, 'Summary of Sunday Times' article (23.10.66) on the Bahamas', 12. December 1966.
[208] TNA IR 40/16743, Minute on the position of the GFB, 4 October 1967.
[209] Ogle, "Funk money," 16.

clearing bank, Barclays Bank, that had been early to expand its operations overseas in the interwar years, particularly in the British West Indies.[210]

From the Revenue's perspective, the activities, structures, and transactions of the syndicate were viewed to be unusual in form and a potential facilitator of illegal conduct. This observation took place in a context where British multinational banking environments were otherwise characterized by organizational and structural changes.[211] This included geographic specialization and amalgamation upon facing new competition following economic and political decline of the Empire in the 1960s, which led to the expansion in overseas subsidiaries. Hence, the new structure seems to be one extreme example of financial innovation. It was dissatisfying from a Revenue perspective to learn in November 1967 that BITCO, as one Inland Revenue civil servant framed it, was 'the largest tax avoidance operator in the Bahamas'.[212] The director of BITCO was quoted expressing his intention with the new business: 'We like to think of ourselves as the future Zurich of the Western world'. This was also alarming from a Treasury point-of-view, not only regarding revenue, but also considering the role these banks played in the exchange control regime in collaboration with the Bank of England (which will be treated in more detail in the following chapter). Because of a series of court judgements in the 1920s, corporations could escape tax by ensuring that activities, management, and control appeared to take place abroad.[213] The establishment of a change of domicile was exactly what, in effect, the new industry did.

2.3 An Information Gap – a Fiscal Concern

The investigations which followed provide more detailed knowledge of how anti-avoidance measures were effectively disarmed by the strategic use of tax havens. In 1962, when following the US tax haven debates, the Treasury view was that the UK was well-equipped with powers to counteract foreign tax evasion and tax avoidance.[214] By the autumn of 1967, this assumption was up for revision. A new form of 'information gap' developed as new layers of complexities

[210] Monteith, *Depression to Decolonization*, 11.
[211] Jones, *British Multinational Banking*, 262-283.
[212] TNA IR 40/ 16338, 'Bitco's London Correspondents', 29 November 1967.
[213] Picciotto, *International Business Taxation*, 8.
[214] TNA IR 40/15005, W. Clowser (HMT) to H.B.C. Keeble (FO) with copies to J.D. Taylor Thompson (IR, Private Secretary to Minister) and Jennings (BT), 21 February 1962.

were deliberately inserted to obstruct financial and corporate information – crucial elements for fiscal controls to be efficient.

2.3.1 Anti-Avoidance Disarmament of the Revenue Collecting Power

After the Second World War, tax farming should as far as possible be based upon co-operation.[215] This means tax collection rested upon a principle of trust among the taxpayer and the revenue collecting authorities since individual privacy laws deprived the state from having full access to information on any individual's or company's assets, incomes, and transactions. The technicalities of judging a tax position had become increasingly difficult from a revenue point-of-view as a result of increased complexities. Furthermore, the important new role of FDIs as a source of capital for investments made it increasingly difficult to distinguish between profits taxable at source (in the country where it made profits) and profits taxable in the home country (the country where the capital originated).[216] This was made increasingly difficult following trust establishments.

From 1968 this was an increasing problem after various territories had established International Business Companies (IBCs), entities exempted from tax for foreign investors. IBCs were often referred to as 'brass-plate companies' within the Revenue, reflecting their features as artificial devices, and were often set up as a means to misuse loopholes in tax treaties. Many of these companies, while not all, were registered in the names of nominee shareholders and as such did not reflect real ownerships which were suspected to be British taxpayers. Places like Jamaica, Barbados, Grenada, St. Vincent, Antigua, and the non-sterling member in the Caribbean of the Netherlands Antilles, all implemented this form of company before 1970.[217] Hence, the Revenue increasingly depended on the correct assignment of data on behalf of the taxpayer. It was the responsibility of the taxpayer to provide detailed information on financial transactions, beneficial ownership, and residency information in tax returns for the Revenue to set the correct tax obligation to an individual tax subject. It was precisely the trust relationship that came to be distorted with the increasing use of tax havens and artificial techniques and devices by British taxpayers from the mid-1960s for tax-avoidance and tax-evasion purposes.

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[215] Daunton, *Just Taxes,* 6.
[216] Picciotto, *International Business Taxation*, 117.
[217] TNA FCO 44/360, 'Avoidance through tax havens, note by the Inland Revenue', December 1970.

A breach in responsibilities to fill in truthful tax information could potentially be deemed illegal tax evasion that could trigger punishment. The UK taxpayer was defined by residency and had obligations according to the principle of worldwide (global) income.[218] This means British residents were required to pay income tax regardless of the location of the source of the income. Any resident of the UK, a legal person or a company, was subject to UK tax law unless it was shielded by the provisions of a tax treaty. For the Revenue, then, the main challenge relating to cross-border economic activity was to identify the tax position of a UK tax subject. The territories included in the Sterling Area were bound to obtain exchange control permits required for sterling transactions out of the currency zone. However, these restrictions did not apply for transactions within the Sterling Area. As a result, capital that moved to tax havens within the Sterling Area were more difficult to regulate for tax purposes than capital sent to non-Sterling Area tax havens.

The central legal theme was to distinguish between legal and illegal adaptation strategies. Foreign *tax evasion* is a legal offence that most commonly resulted from a breach in the duty to provide relevant information on assets and income through tax returns. Foreign *tax avoidance* is a legal term for any practice of a taxpayer to avoid a tax liability through a legal arrangement of assets and income in accordance with the rule of law. The main challenge for the Revenue was that the new avoidance industry had managed to turn illegal foreign evasion into legal tax avoidance by exploiting loopholes in British taxation.

As the Inland Revenue started to better understand the activities in the British West Indies more generally, they remained focused on the Grundy loophole which was seen as particularly aggressive. This new device was a mechanism constructed with the sole objective of frustrating the main anti-avoidance measure of the Income Tax Act of 1952. The loophole that Grundy had found related to his interpretation of a legal *person* in the Income Tax Act. Income tax, including overseas income, only applied to a *person*, but the General Finance and Banking Ltd structure was legally arranged as a *partnership* that was not covered in the legislation.[219] With the establishment of the new bank, Grundy had successfully identified untaxable partnerships as a weakness in the British tax structure. To illustrate how this was received within the Revenue, one civil servant described these schemes as 'midsummer madness',

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[218] Picciotto, *International Business Taxation*, xi-xii.

[219] This reasoning was derived from an IR interpretation of Grundy (1958), Tax problems of the Family Company. TNA IR 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966.

‘new and dangerous’, and a ‘purely artificial’ device.[220] Grundy’s loophole is thus one example of how new practices paralyzed the Income Tax Act of 1952 (Section 468-469 and Section 412-414), the primary defence against UK tax avoidance and evasion. This finding is consistent with the argument put forward in Picciotto (1992) that anti-avoidance powers in a British context became more important after the end of the OTC arrangement.[221]

2.3.2 New Foreign Tax Avoidance Routes

An important lesson for the Revenue related to the change in traditional destinations for British tax avoidance and evasion practices. Foreign tax avoidance and tax evasion were old concerns for the Inland Revenue. However, a closer examination of the new tax avoidance industry offered a more systematic understanding of new forms of tax evasion and tax avoidance strategies related to the emerging tax haven business.

Historically, the Revenue had been concerned with more traditional tax evasion destinations in former Dominions and the Crown Dependencies.[222] Johns (1983) emphasized how the British Revenue was increasingly concerned from the 1920s and 1930s that wealthy individuals hid their assets in the nearby tourist islands of the Channel Islands.[223] This happened in a transitional phase, as noted in Daunton (2002), when the tax honesty that had prevailed in Britain before 1914 was about to suffer ‘a bad relapse’ with the general rise in income taxes.[224] This resulted, according to him, in extensive use of trusts, charities, and the use of foreign-holdings loopholes on the advice of accountants. These were known practices of which the use suddenly took off in the British West Indies after 1965.

The Surtax Office established that the Bahamas had sailed upwards to become the top destination for tax evasion, followed by Bermuda and other more well-known destinations such as Northern Ireland, South Africa, the Channel Islands, Canada, and the Isle of Man.[225] As a consequence, the Bahamas and Bermuda replaced the Crown Dependencies as the first

[220] TNA IR 40/16338, internal IR note (unclear signature), ‘Miss Wolters’, 9 November 1966.

[221] Picciotto, *International Business Taxation,* 102.

[222] Examples of actions are the Finance Acts of 1936 and 1938 which sought to take actions against individuals who allocated their wealth to companies and trusts abroad related to the so-called Vestey-case. See Picciotto, *International Business Taxation*, 100-102.

[223] Johns, *Tax havens and Offshore Finance,* 85.

[224] Daunton, *Just Taxes*, 110-111.

[225] TNA 40/16338, report from the Surtax office to Miller (the Secretary of Taxes), ‘Avoidance: Section 412 etc’, 1 November 1967.

choice of British tax avoidance and evasion, a preference that had prevailed since the interwar years.

The investigations which had followed the General Finance and Banking Ltd and the BITCO cases also revealed that avoidance and evasion practices were on a dramatic rise. It remained a challenge to establish any exact numbers for the obvious reason of the secrecy which surrounded these practices. However, the Revenue made efforts to find evidence to indicate the size of the new business. One such example is the detection of the figures of company registries in the Bahamas since 1939 that had been reported to be only 33, while this number had increased, mainly after 1964, to 11,903 in 1967.[226] In August 1967, the Inland Revenue predicted a rapid increase with 150 new company registrations monthly. By June 1968, a Working Party (that will be introduced below) review of the Balance of Payment situation in the Bahamas, a concern of the Treasury, revealed that the number of companies had grown to 13,000, with 10,000 of these expected to be 'offshore companies' controlled mostly by the new trust business established after 1965.[227] Also, the Bermuda government's efforts to attract the registration of new companies were observed to have yielded results, by the Revenue's account having resulted in the presence of several hundred new companies. At the end of 1967, more than half of the liabilities held in banks in Bermuda were 'external accounts'.[228]

The complexity and artificiality of the methods and strategies that were involved were also new. Mollan and Tennent (2015) have addressed a general increase in complexity of corporate adaptation and restructuring in the form of transfer pricing, thin capitalization, and debt-financing techniques that were features of the 1960s.[229] The observations made by the Inland Revenue reflect this trend and detail the most common new avoidance routes.

By August 1967, different bodies of the Revenue met under the chair of the Secretary of Taxes to discuss the new problems arising from tax avoidance through 'the Bahamas and similar havens abroad' and the 'skilful covering of tracks'.[230] Due to the combination of a lack of institutional studies of the Inland Revenue, incomplete signatures, and what appears to be no tradition to establish in the sources the full name involved in the discussions, it is hard to

[226] These figures were reported by the Governor of Bahamas in September 1967. TNA IR 40/16743, report from the Governors in respond to IR enquiries, August 1967.

[227] TNA IR 40/16743, 'Estimates of the Balance of Payments of the Bahamas', A.T. Bell (WID 'B'), 28 June 1968.

[228] TNA IR 40/16743, 'Report on an Enquiry into Bermuda's Banking Assets and Liabilities; and the Balance of Payments', A.T. Bell (WID 'B'), 15 March 1968.

[229] Mollan and Tennent, "International Taxation and Corporate Strategy," 6.

[230] TNA IR 40/16338, note of a meeting, 'Bahamas', 8 August 1967.

establish clearly which institutional level the officials represented. However, half of the ten officials present at this meeting represented the Chief Inspector's offices and the Surtax Office. Furthermore, the debate in the meeting reflects the experiences described in the internal conversations among these offices referred to above. This emphasizes the impression of how the tax haven issue developed in relation to the officials engaged in tax avoidance and evasion investigations.

The meeting identified four schemes directly linked to the 'problem of tax avoidance through the Bahamas and similar havens abroad'. The common denominator for all these was the difficulty for the Inland Revenue to establish the facts – the basis on which to judge tax obligations, which was a clear challenge from a regulatory perspective. The problems were particularly regarded as relating to the oil industry and the entertainment industry which transferred rights to income to the Bahamas. The first of these schemes was related to avoidance of the UK Income Tax of 1952 (under Section 412-414) by individuals who transferred income to persons abroad.

The second was a scheme aimed at transfers of trading assets abroad in what was referred to as 'offshore sales corporations'. These were regarded to be the same suitcase companies which had been debated before the changes in the US 1962 Act. UK taxation was based on a principle that a UK company was taxed in the jurisdiction where it was *managed* and *controlled*. In order to establish a non-residency status in the UK for a subsidiary held by a UK parent, the most effective solution was to appoint local directors of the subsidiary. This led individuals to set up a company in a sterling tax haven with no other friction than having to hold the directors' meetings in the territory concerned – in which the Inland Revenue was aware of, often happened in an airport lounge in the West Indies.

The third related to liabilities to pay the Capital Gains Tax. The provision required any UK capital holder to pay tax on any acquisition and disposal of a beneficial interest under a settlement. However, this was not possible to establish in a non-transparent environment dominated by secret trusts, banking secrecy, and complexities. As a consequence of Grundy's loophole, the Inland Revenue could not make cases against individuals who structured their income and assets as partnerships, as already mentioned.

The fourth related to avoidance of the Estate Duty. In the case of a death of an individual domiciled in the UK, all property transfers were chargeable to Estate Duty. This scheme was named the '"strip" and in-out trick', reflecting its deceptive nature. However, if the individual died while domiciled outside the UK, the Revenue could only charge based on assets in the UK. This created an incentive for British taxpayers, particularly retirees or others who were approaching a generational transference, to domicile outside the UK in a tax haven which did not have Estate Duty and hold their assets from there.

In addition, by late 1970, the Revenue had become increasingly concerned with three main conditions under which tax treaties were applied as tax avoidance schemes in relation to tax havens. These were where there were exempted International Business Companies such as those established in Antigua, Barbados, Jamaica, and St. Vincent; where general tax levels were low or non-existent as in the case of the BVI (12 %) and the Cayman Islands (zero tax); and where territories had normal tax levels but potential for generous tax deductions. [231] Tax treaties were used to route income into intermediary tax havens while technically dealing with two normal tax countries – through the exploitation of their differences.

In all the above schemes, avoidance activities were increasingly assisted by the use of middlemen's profit (nominee holders), artificial loans (that were never intended to be paid back), the rigging of prices, and the outsourcing of patent royalties – the same mechanisms known to tax authorities half a century later.[232] UK companies might have set up, for example, a Bahamian intermediary company, financed from an artificial loan of the UK parent, and take out dividends from international trade operations in tax free Bahamas instead of repatriating the dividends and paying taxes to the UK. The Bahamian intermediary could then pay back the loan without tax since the paying back of a loan was a tax-free transaction. Also, since companies have the powers to structure transactions between them, there were possibilities to manipulate the prices of goods and services offered by two ownership entities of one business structure in breach of the arm's length principle. This was exactly what happened in many British companies that relocated to the Bahamas and Bermuda. For instance, a UK company could sell a UK-manufactured taxable good at an artificially low price to a company within the same business structure in a low-tax jurisdiction, then resell the good to a customer in the UK for a higher price and thereby shift the profit from a high-tax to a low-tax environment.

[231] TNA FCO 44/360, 'Avoidance through tax havens, note by the Inland Revenue', December 1970.

[232] See "Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project." (Paris: OECD Publication, 2015).

The above-mentioned techniques reflect early versions and developments of what from a contemporary perspective circulates as traditional avoidance strategies commonly referred to as thin capitalization, abuses of transfer pricing rules, and treaty shopping.[233] These schemes shared the common feature of transforming the appearance of income and capital of individuals, companies, and trusts that in reality belonged to UK residents, giving them the *form* of financial activity connected to a resident of a tax-haven country and thereby avoiding UK tax obligations. In this way the schemes obscured financial and corporate information – the foundation of how to judge a tax position. These forms of loopholes had traditionally been the successful model of the shipping industry. After 1965, these techniques had been amplified, adapted by other industries, and become more sophisticated, making them more structurally important. The legal means available to the Inland Revenue did not sufficiently pierce these new veils of anonymity, making the assessment of returns difficult. This means that the new adaptation techniques discussed here created an information gap for the Inland Revenue and placed the main tax avoidance and evasion powers beyond their reach.

As a new generation of tax havens developed within British dependencies, the Revenue opened investigations targeting the central individuals, companies, and service providers most closely identified with the new tax avoidance industry. During 1967, the Research Division of the Surtax Office were looking into some 350 cases that were believed to only represent a minor fraction of the growing business.[234] Central to these investigations were the General Finance and Banking Ltd, the member banks related to BITCO, and the two central figures Milton Grundy and Gordon Gutteridge. These were under scrutiny for potential infractions from turning a blind-eye to illicit or illegal transactions to actively facilitating or engaging in such activities for personal gain. However, the lack of information to build solid cases was an obstacle to sanctioning this activity.

If BITCO had been a UK company, the Inland Revenue could approach the company and demand information relating to their customers without hesitation (under Section 414 of the Income Tax Act). However, because BITCO was a Bahamian company, at least in form, the Revenue could only approach the company through the UK representatives who had advertised themselves as correspondents of BITCO for the purpose of selling tax avoidance schemes. The Revenue had found evidence of the partnership's active role in the advertising

[233] Picciotto, *International Business Taxation,* 160-206.

[234] TNA IR 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966.

of tax avoidance schemes since 1960 in 19 out of 41 issues of the journal British Tax Review.[235] This tempted the Revenue to carry out so-called controversial "fishing expeditions" within the law firms and auditors working for this network that might have evidence of engagement in tax evasion practices, including requests for confidential client information held by lawyers.[236] However, this approach was prevented by a norm-based practice not to violate privacy rights and confidentiality relationships among a client and a lawyer that had prevailed within the Inland Revenue since 1939.[237]

With no rights to request relevant information as the result of the artificial shift to the Bahamas, and no other accessible financial information, the Inland Revenue was deprived of the opportunity to build strong cases before the courts, despite a strong sense that such a case should lead to conviction with respect to the spirit of the law. This means their central tax avoidance and evasion powers were no longer effective.

2.4 A Proactive Revenue

Since British dependencies were constitutionally responsible for virtually all internal matters, the British governors could exert limited influence over fiscal matters based on UK's formal powers. This left the Inland Revenue with little opportunity to change the fiscal environment in UK dependencies – an environment that depended on dialogue with the FCO (after 1968). However, what Daunton (2002) has portrayed as a conservative technocracy acted in this context in a proactive and creative way where political solutions were inaccessible.[238] The Revenue initiated what may be summarized as a "hunt for information" endeavouring to reinstall powers that were lost to new avoidance techniques. This was only partly successful.

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[235] TNA IR 40/16338, 'Tax havens – London Correspondents of Bitco', from the Surtaxes Office to Miller (Secretary of Taxes), 4 December 1967.

[236] Ibid. A 'fishing expedition' is a legal term that relates to exchange of information in tax matters which is based on three different principles. First, is the most liberal principle which is that of 'automatic exchange of information' among states. Second, is information given 'upon request' where the inquiring state needs to have a criminal case, and can document the need to access filling information related to a specific case under investigation. Third, is the 'fishing expedition' principle, of which one state can have a sample of a "blind test", say all residents of the requesting country starting with letter 'A'. These principles are based in different legal traditions rooted in different views of how extensive rights a government can have in the piercing of the private sphere.

[237] TNA IR 40/16338, 'Avoidance: Section 412, etc', IR note, 1 November 1967.

[238] Daunton, *Just Taxes,* see 98-102,106 and 278.

2.4.1 In Search of Information Gathering Powers

Following the Inland Revenue's experiences after their discovery of the new routes used in the Caribbean, it initiated an effort to access information that included some unorthodox methods. In August 1967, Alex Johnstone, the then-chair of the Board of the Inland Revenue, approached the Commonwealth Office for assistance. The Head of the Diplomatic service, the Permanent Under-Secretary Saville Garner, was asked to arrange for his employees in the Bahamas and Bermuda to report on British residents coming into the islands.[239] The inquiry included a reference to the previously mentioned Sunday Times article, asking the staff working under the duties of the Governors to implement what resembled a kind of informant system. The Inland Revenue was looking for information on individuals who came to the islands regularly but did not 'spend their time sunbathing'.[240] The Revenue expressed a particular interest in the network connected to the General Finance and Banking Ltd, the BITCO, and the associates and companies within this network.[241] However, this approach was seen within the diplomatic service to compromise the institute of the Governors and to be a breach of legal authorities restricted under confidentiality rules.[242] It was argued that the British Government's legal rights to obtain the requested information was constrained by confidentiality rules to concrete cases of offences against British law or under the exceptional circumstance where national interests were under threat. Further, it was confirmed that UK residents visited the islands frequently for reasons other than 'purely holiday'. This included some 'very well-known (and most respectable) London bankers, one unnamed former Minister of State at the Colonial Office, and one Bank of England director who all were reported to come in regularly. However, the Bahamian Governor had ensured that by no reasonable use of language could he confirm that there was 'a large-scale influx of visitors to the islands from the United Kingdom on short-term business visits'. As a result, attempts at using the Commonwealth Office as a source of information did not develop into what otherwise might have been a controversial tax collecting method.

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[239] TNA IR 40/16743, A. Johnston (IR) to S. Garner (Permanent Under-Secretary), 3 August 1967.

[240] TNA IR 40/16743, internal note (IR, unclear signature) to Miller (Secretary of Taxes), 1 September 1967.

[241] TNA IR 40/16743, A. Johnston (IR) to A.N. Galsworthy (Deputy Under-Secretary of the Commonwealth Office),14 September 1967.

[242] TNA IR 40/16743, A.N. Galsworthy (Deputy Under-Secretary, the Commonwealth Office) to A. Johnston (IR), 16 November 1967.

By October 1967, the Inland Revenue found the situation to be out of control and asked for Treasury help. The Inland Revenue urged Samuel Goldman, the then Third Secretary at the Treasury, to 'leave no stone unturned' and to be persistent in Treasury efforts to regain control with a central part of the revenue collecting function.[243] The Revenue also asked the Treasury for 'hints of information' and 'gossip' that might alleviate the information deficit that had appeared. Following this request, the Treasury opened its first tax haven file with reference to how the Inland Revenue had asked for help in 'smoking out tax avoidance through tax havens'.[244] From this moment on, the Treasury became more engaged with tax havens in dialogue with the Inland Revenue.

In the Treasury, the tax haven issue was assigned to the Assistant Secretary Anthony Rawlinson who would assist the Revenue in seeking out avenues for information that could effectuate existing tax evasion powers. He saw how tax havens might also have some bearing on other discussions of interest to the Financial Secretary about exempting euro-bond issues from tax.[245] The Treasury already had taken some minor interest in the issue. In July 1967, there is one reference to the Financial Secretary who had recently been 'asked about the tax concessions which are available in the Bahamas', and therefore the Treasury had asked for Revenue guidance on the issue to inform the Financial Secretary.[246] With this request, Rawlinson also asked for a judgement of the exchange control and balance of payments aspects of the issue, indicating the centre of their concern.

By November 1968, the Treasury initially revealed a somewhat innocent attitude to tax havens, illustrated in the initial Treasury correspondence in response to the Inland Revenue request. In the immediate response to Rawlinson from A.R.H. Glover, who had responsibilities for the Sterling Area, trusts and settlements. Glover wrote: 'I have never in the course of my work come across any evidence of tax evasion. But it seems to me quite possible that some transactions which come forward for exchange control approval are motivated at least in part by the desire to evade, or avoid, tax.'[247] However, Goldman promised that the Treasury would do 'all we can to help the Revenue'.[248]

[243] TNA IR 40/16743, letter to S. Goldman (HMT) from R. Brookes (IR),18 October 1967.

[244] TNA 295/587, minute signed I. de L. Radice, 19 October 1967.

[245] TNA 295/587, internal note (HMT),'Tax havens', A.K. Rawlinson (Ass. Sec., HMT,) to W. Clowser, D.A. Walker and A.R.H. Glover, 24 October 1967.

[246] TNA IR 40/16338, letter signed R. Hay (HMT), 4. July 1967.

[247] TNA 295/587, 'Tax havens', A.R.H Glover to A.K. Rawlinson (Ass. Sec., HMT), 1 November 1967.

[248] TNA 295/587, S. Goldman (HMT) to R. Brookes (IR), 28 November 1967.

Against this background, in December 1967 Rawlinson summoned officials from the Treasury, the Inland Revenue, and the Bank of England for the first time to address the tax haven question.[249] Jeremy Green, representing the Secretaries' office, was appointed from the Inland Revenue side to be their contact person on the issue. Green became one of the most experienced Revenue officials in the tax haven issue. He then presented the experiences of the Revenue up to that point, emphasizing the West Indies, particularly the Bahamas and Bermuda, but also Jamaica, Barbados, and St. Vincent, which recently had been observed to have established tax haven legislation. Based on the Revenue's need to understand better the devices in use and the money involved, Green passed on a request to the meeting for assistance in gathering relevant information – preferably from the exchange control, which assessed cross-border transactions. However, this request was initially declined after some internal discussion due to concerns that exchange control would be less effective if companies lost trust in that the Bank would treat the information they disclosed with full discretion.[250]

The meeting resulted in the establishment of a joint Working Party on the balance of payments aspect of taxation, initiated in April 1968. Internal correspondence following the first meeting shows that the Revenue had gotten through to the Treasury about the gravity of the lack of information for the effectuating of anti-avoidance powers. [251] The main areas of concern, suggesting the view at that moment of which tax havens were involved, were as follows: Andorra, Antigua, the Bahamas, Barbados, Bermuda, the Cayman Islands, the Channel Islands, Gibraltar, the Isle of Man, Jamaica, Liechtenstein, the Netherlands Antilles, Monaco, St. Vincent, Switzerland, and (prospectively) the Virgin Islands.

In its third meeting in June 1968, the Working Party investigated ways in which to proceed with policies against tax havens.[252] Present at the meeting were many of the central officials involved in developing an official British tax haven policy line, both from the Inland Revenue and the Treasury. Jeremy Green from the Secretary's Office of the Inland Revenue, and Geoffrey Littler from the Exchange Control Division of the Treasury, would be two central

[249] TNA 295/587, 'Record of a meeting in Rawlinson's room', 14 December 1967. Present at the meeting were from the Treasury; A.K. Rawlinson (Ass. Sec., HMT, chair), D.A. Walker and R.D. Simpson; from the IR; J.M. Green, O.P. Davies, Boyles and J.N. Wright, and from the Bank; S. Phillips.

[250] TNA 295/587, 'Tax havens', D.A. Walker (HMT) to J.M. Green (IR), 1 January 1968.

[251] TNA T 295/587, 'Tax havens', D.A. Walker to A.J. Gover Isaac, 26 April 1968. The meeting was attended by A.K. Rawlinson, D.F. Hubback (Under-Sec., HMT) and D. Walker, all from the Treasury.

[252] Present at the meeting at Somerset House: N.C. Price (IR) in the chair, D.A. Smith (IR), A. Lord (IR), J.M. Green (IR), D.G. Draper (IR, secretariat), A.C. Gray (IR, secretariat), N. Kaldor (HMT), D.F. Hubback (Under-Sec., HMT), J.G. Littler (HMT), and D.A. Walker (HMT). See TNA T 295/587 'Working Party on Balance of Payments aspects of taxation', 24 June 1968.

figures in the years ahead. Notably, Nicholas Kaldor, one of the masterminds of Labour's 1965 tax reform, was present. It is not clear in which capacity Kaldor was included in these debates. However, as a Cambridge economist, he had expressed interest in artificial and abusive structuring of business already in 1963.[253] His contribution, together with the anchoring of the tax haven issue among high-level officials from the Inland Revenue and the Treasury side, suggests that tax havens had by 1968 become an issue deemed to be a high priority at the bureaucratic level.

The June meeting gives insight into the various strategies that were seen to be available to the Revenue. The UK could press for coordinated action against tax havens internationally. The central argument for this strategy was that the creation of tax havens was judged to be an attempt to frustrate the laws of other countries and as such should be a concern to all countries with a normal tax regime. There were references to some initial discussions which had taken place in the OECD on the subject and the potential to push this agenda through the United Nation (UN) fiscal committee. However, one obstacle was that other political departments could oppose action if it was viewed as contrary to the government's policy of assisting developing countries.

Another potential strategy raised was to follow the US model with Kennedy's move in 1962 to introduce CFC-legislation – the taxing of undistributed income on foreign-controlled companies. However, the US approach was not judged to be very efficient. One central reason was its emphasis on corporations, while individual tax avoidance and evasion were suspected to be of greater importance in the UK context. Also, the US debates had demonstrated the controversies which could be expected to follow. The Kennedy administration's attempts to impose more comprehensive legislation had been severely diminished by pressure groups in Congress. Hence, it was expected to be a difficult case for British ministers to push through legislation restrictive enough to go beyond what had been achieved in the US. The UK could introduce more extensive information powers to effectuate existing anti-avoidance powers, as the US had in advance of the 1962 provisions. This last option was taken as the most viable strategy and remained the overarching approach to the new tax haven problem in the late 1960s.

The Treasury and the Revenue started to examine the operations of tax havens within the existing joint Working Party. It had in 1968 received some limited information from the Board

[253] Ogle, "Funk money," 30.

of Trade that was not viewed to be particularly helpful. The Revenue had also been provided with some information under the Companies Act of 1967, which required UK companies to publish lists of subsidiaries in which they had at least a ten per cent interest. However, the Revenue did not find this to be a particularly useful tool (because it included the information of half a million companies), making its administration in practice a challenge.[254] Moreover, the line taken by the Commissioners of Customs and Excise upon request for assistance was viewed from the Inland Revenue's perspective to have an 'alarming relaxed attitude' to the tax haven aspect of cross-border exchange controls.[255]

The Bank of England was, as discussed in Sagar, Christensen, and Shaxson (2013), reluctant to give away information available on British subsidiaries.[256] The Bank had information on British companies, transactions, and capital from its responsibilities over Exchange Controls (Section 30 of the Exchange Control Act of 1947) to non-Sterling Area countries and from its work under the Economic Intelligence Department (EID).[257] Thus, the issues of taxation and exchange controls were somewhat linked under Treasury responsibilities. However, it was only the Bank of England that had been delegated powers to administrate the above-mentioned powers and had access to an important channel of information that was inaccessible to the Inland Revenue. The hesitation of the Bank to share information was, as noted in the Sagar, Christensen, and Shaxson study foreseen by the Treasury, and the Revenue was warned that it would meet a 'brick-wall' in the Bank.[258] Sagar, Christensen, and Shaxson presented this as one argument to support the broader story of tacit approval practices on behalf of the Bank of England as follows: 'the impression of the Bank as a recalcitrant guardian of secret information only deepens'.[259]

The interpretation here is somewhat different. The argument provided for the unwillingness to share information was two-fold. First, as expressed by the then Private Secretary to the joint Permanent Secretary, David Walker, it was viewed to be an illegitimate act by the Bank of England to give away information protected by confidentiality rules since Parliament had declined to provide the Revenue with information obtained from exchange control regulations

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254 TNA T 295/587, 'Tax haven subsidiaries', D.R. Draper (IR) to D.A. Walker (HMT), 20 August 1968.

255 TNA T 295/587, 'BPT: Meeting 25th July', signed D.A. Walker, 25 July 1968. The requested information was from Section 23 of the Exchange Control Act to facilitate the use of Section 469 of the 1952 Tax Act.

256 Sagar, Christensen, and Shaxson, "British Government Attitudes," 112-113.

257 The EID was one of the last main departments to be added to the Bank of England administrative structure, and was inserted in 1964. See Capie, *The Bank of England*, 361.

258 Sagar, Christensen, and Shaxson, "British Government Attitudes," 112.

259 Ibid., 113.

in 1965.[260] This attitude had also to some extent changed after some Treasury investigations to obtain the information requested by the Revenue. One sign of this change is Littler's comment following a second meeting with the Working Party on balance and payments in May 1968: 'we may not be up against quite the brick-wall I had originally expected to meet in the Bank of England', suggesting the expectation of some kind of useful information to be obtained.[261]

As discussed in Sagar, Christensen, and Shaxson (2013), some limited information on non-sterling tax havens was provided by the exchange control on an aggregated level.[262] In answer to the request, the Bank carried out a sample study of British companies which under Section 30 of the Exchange Controls were examined for their positions in non-sterling tax havens such as Switzerland, Luxembourg, Liechtenstein, Monaco, and the Netherlands Antilles. An analysis of the selection of some 300 British companies in these countries indicated a 90% presence in Switzerland alone.[263] This meant that Switzerland, as expected, was one of the most important non-sterling tax havens against the UK. The hesitation of the Bank of England to continue this practice was related to general pressures in the Bank in the context of sterling pressures in November 1967. Piers Legh, the Deputy Chief of the Overseas Department in the Bank of England, expressed reluctance to carry on these kinds of laborious studies due to time pressures and restricted resources in the Bank.[264] As will become clearer from Chapter 3, the interpretation here is rather that what may read as an uncooperative attitude appears more likely to be an isolated incident based on institutional factors and does not fit with the overall approach to tax havens taken by the Bank of England in this period.

This means all channels of necessary information for the Revenue were blocked as a consequence of departmental barriers. This problem suggests that oversight carried out under the Bank of England's authority with tax haven implications was not coordinated – in the words of Picciotto (1992), 'despite the evident advantage that the Revenue would gain from information pooling'.[265]

[260] TNA T 295/587, 'Tax havens', D.A. Walker (HMT) to A.K. Rawlinson (Ass. Sec., HMT), 1 November 1967.

[261] TNA T 295/587, 'B.P.T.: "Tax havens", J.G. Littler (Overseas and Exchange Control, HMT) to W. Hubback, 17 June 1968.

[262] Sagar, Christensen, and Shaxson, "British Government Attitudes," 112.

[263] TNA T 295/587, P.R.W. Legh (BOE) to J.G. Littler (Overseas and Exchange Control, HMT), 27 September 1968.

[264] Ibid.

[265] Picciotto, *International Business Taxation*,129 with reference to similar conclusion in Johns, *Tax havens and Offshore Finance*, 98.

2.4.2 Unilateral and Bilateral Responses

The first clear policy response towards tax havens was the change in the Finance Act of 1969. The lack of any clear presence in the policy process leading to this change in the sources used for this thesis, combined with the clear line of rationale and discussion that can be traced back to the early discovery within the Surtax office and the Chief Inspector's from 1966, is here interpreted as indications that the first tax haven response in the 1960s was the result of bureaucratic efforts.

Following months of investigations and examinations, the Inland Revenue escalated initiatives against tax havens and monitored foreign tax avoidance practices more thoroughly. In the aforementioned meeting on August 1967, there were discussions on how to mend the main anti-avoidance power (Section 412-414). This question had already been addressed in 1966 as follows: 'If it is considered that Grundy's schemes warrant some tightening up of the C.G.T provisions', it was suggested to amend section 412.[266] By January 1967, there were discussions circulating about whether one 'counteraction of the avoidance schemes hinted at in the G.F.B. pamphlet' would be the extension of section 412 to cover capital gains.[267]

However, it was not until 1969 and 1970, there were substantial changes to the UK law and tax treaties that responded to the challenges in the tax avoidance and evasion defences. Roy Jenkins, the Chancellor (1967-1970) of Harold Wilson's Labour administration, announced in his budget speech of April 1969 that it was time to review tax avoidance practices with a view to impose stronger anti-avoidance legislation the following year. With reference to a necessary change to Section 412 of the Income Tax Act of 1952, on income arising from assets which have been transferred abroad, he said: 'This legislation is an important bulwark against the ingenious efforts of some wealthy individuals to escape their share of the common burden of taxation by sending their assets abroad though all the time retaining real control of the money'.[268] He then proposed to 'restore the basis of liability'. Jenkins referred to the 'Grundy clause' when proposing to go further: 'Countries attracted by the idea of setting themselves up as "tax havens", have had the idea of modifying their trust legislation so as to try to make

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[266] TNA IR 40/16338, 'Avoidance by transfers of assets abroad. General Finance and Banking Ltd., Bahamas', 12 December 1966.

[267] TNA IR 40/16338, 'Capital Gains Tax. Avoidance of transfers of assets abroad' (Chief Inspector), 13 January 1967.

[268] Hansards, Repairs to Farmhouses, and transfer abroad of Assets, Vol. 781, 15 April 1969.

impossible the application of Section 412 as it was meant to be applied. I shall bring forward provisions in the Finance Bill to counter these maneuvers'.[269]

This was followed by the insert of an anti-avoidance measure in the Finance Act 1969 to close the loophole resulting from the new trust business that, by then, had moved into the Cayman Islands. However, according to reports from the Inland Revenue in late 1970, this did not fully block the loophole due to the 'extreme length' that certain taxpayers would go in concealing their assets.[270]

Another response was a revision of particularly controversial tax treaties. By 1969, the St. Vincent and the Antigua agreements were both amended and others were examined for termination as a consequence of the new IBC industry and other tax haven related measures. The deals with the Netherlands Antilles and Barbados were set to be terminated with effect from 1970.[271] However, as will be treated in Chapter 5, this was not enough to curtail the treaty shopping problem.

This means the UK administration stood before a new fiscal problem following the development of a new tax avoidance industry from which tax havens, loopholes, and formalism dominated tax planning practices. In just five years after the fiscal reform in 1965, the UK had in effect largely lost its central power to control foreign operations within the Sterling Area.

2.5 Conclusions

The Inland Revenue's responses to tax havens during the 1960s show how the decade marked the start of a new era in which tax havens would be a more important revenue concern. It reveals how the conceptual understanding of tax havens changed with the modernization and expansion of tax haven mechanisms, when "natural" low-tax environments were supplemented by trusts and IBCs. This changed the environment of regular tax avoidance and evasion destinations from places like the Crown Dependencies to the Bahamas and Bermuda, and other islands in the British West Indies. Further, it reveals how the problems associated with the phenomenon changed as the activity developed. Early in the 1960s, tax havens appeared

269 Ibid.
270 TNA FCO 44/360, 'Avoidance through tax havens, note by the Inland Revenue', December 1970.
271 TNA IR 40/16744, 'Tax Havens', IR note, September 1969.

not only as a destination for wealthy tax avoiders and evaders in Jersey, but also of minor concern related to tax competition, particularly in relation to the US. Within a few years, this changed and a growing tax avoidance business based on tax havens had proved their capacity to largely disarm the central tax collecting powers regulating UK taxpayer groups operating within Sterling Area tax havens. As a result, this motivated closer intra-office co-operation and interdepartmental engagement.

This means the role of the Inland Revenue in tax haven formation was rather featured by the inability to fully understand a new phenomenon, difficulties resulting from departmental differences, and the lack of statistical evidence to build a solid political argument that could have influenced the political atmosphere. The City of London agents were clearly at the heart of tax haven formation in the British West Indies in the 1960s. However, as expected, there is no evidence based on the records assessed here that financial interest groups based in the City benefitted from tacit approval strategies accepted by the Inland Revenue. The Inland Revenue worked actively, and to the limits of their mandate, against such interests.

An assessment of the concerns and actions of the Inland Revenue suggests that the Revenue's tax haven approach was driven primarily by civil servants' engagement in day-to-day operations. Hence, the role of the Inland Revenue in this period was featured by ad hoc responses to practical problems.

This allows the conclusion, regarding the broader question of the role of the British government, that there was no support or encouragement of tax haven development on the part of the Inland Revenue – rather the contrary. The main concern was for the Revenue to reinstall powers to effectuate its responsibilities for regulating British taxpayers operating abroad. Significant, from the Revenue's perspective, was how tax haven formation resulted from an informal alliance of interests formed in a context of decolonization. This context created space for private market actors, such as the City of London interests, to engage with local authorities in colonies and to impose liberal arrangements. This professionalized system could not have materialized without the will and support of local leaders in UK dependencies and delayed responses from the central power caused by institutional inertia.

Chapter 3 A challenge to Sterling Integrity, 1963-1970

In addition to becoming a fiscal policy matter, tax havens had implications for vital aspects of the British monetary structure and financial system. This arose mainly from the Overseas Sterling Area connection. This chapter examines the central features of the Bank of England response to tax havens as these slowly emerged as an issue from 1963 to the end of 1970. This forms an important background for understanding the Bank of England's position and the concerns that it later brought to the processes that led to the formation of a British tax haven policy in 1971, discussed in Chapter 5.

Sources from the Bank of England tax haven files are here combined with a range of financial and tax haven studies to establish the role of the Bank of England in the growth of tax havens in British dependencies. The focus here is on the territories that were observed to be tax havens from the Bank of England's perspective, the mechanisms that were associated with these, and how tax havens challenged the sterling exchange control defence system. Further, it examines the central interests involved and the Bank of England's interference with these interests.

The structure of the chapter is as follows. The first section (3.1) develops how early evidence of the presence of tax havens began to appear in 1963 following the monitoring of colonial banking and exchange controls, and eventually came to be recognized as a major concern within the Bank of England by the end of 1967. Section (3.2) develops how this became more clearly articulated when tax haven laws proliferated in the economic periphery of the British West Indies and other regions from 1968. Section (3.3) elaborates how tax havens contributed to the deterioration of the sterling defence system and its feared consequences from the Bank of England's perspective. A final section (3.4) explains why the Bank of England did not utilize available powers such as the exclusion of tax haven territories from the Overseas Sterling Area system. The chapter closes by elaborating the central argument made here: that the Bank of England did not deliberately turn a blind eye to tax haven formation in this period.

3.1 The Tax haven Issue: A Feature of Colonial Banking

When the Bank of England became involved with the tax haven issue from late 1967, after the Inland Revenue had asked for assistance, the Bank already had its own tax haven experiences. All the cases presented in the following stand out as central examples in the tax haven files of how the Bank of England started to discover the implications of what, as will be discussed later, from 1968 developed into explicit tax haven conversations. This section develops how the tax haven issue slowly emerged from traditional relationships between the metropolitan power and the colonies of Gibraltar, Turks and Caicos, and Antigua and Barbuda in relation to the supervision of financial institutions and Overseas Sterling Area membership.

3.1.1 A Peripheral Event to Bank Licencing, Gibraltar 1963

In June 1963, Brian Bennett, an official in the Bank of England's Overseas Department, reported to his colleagues after revising a banking licence application from the Colony of Gibraltar at the mouth of the Mediterranean that 'the tax-haven idea (…) is in its infancy'.[272] The Colonial Office had by then informed the Bank that Gibraltar was out to attract international companies by offering tax concessions to non-residents in combination with strict banking secrecy and numbered accounts.

The application under review came from City Bank, an unfamiliar commercial bank to the Bank of England, that operated from Gibraltar to finance its international cigarette business with the ambition to expand its operations in the territory.[273] Traditionally, banking had only been a minor issue in the colonies, since the financial institutions operating in British colonies before the 1960s had been well-known banks with a British or Dominion heritage. However, there were in this period some rising concern for so-called "mushroom banking" with implications for financial stability. Mushroom banking normally refers to local banks that formed in colonies featuring weak institutions and unsound banking practices but that operated on favourable terms.[274] Thus, the application may be said to illustrate a newer version of this problem, with foreign and unknown interests backing banking applications in colonies.

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[272] BEA OV 151/2, Internal note, 'Gibraltar', signed E.B. Bennett (BOE), 12 June 1963.
[273] BEA OV 151/2, 'Gibraltar: City Bank Limited, 25 February 1964.
[274] Monteith, *Depression to Decolonization*,122.

This was a period when hazardous and fraudulent operators were suspected to seek new platforms to operate outside the regulatory eye. British officials were particularly aware of nearby Tangier in Morocco, whence dubious financial circles were known to operate. The central role of the International Zone of Tangier has been identified as a 'banker's haven' for 'funk money' (illicit or illegal money) from Northern Africa and the Mediterranean region in this period.[275] There were expectations in the Bank of England already in 1960 that some of the banks from Tangier would want to open banking presences in Gibraltar.[276] Thus, the application exemplified concerns for financial stability related to the entry into the banking sector of the colonies of new operators of foreign background.

Against this backdrop, after consulting the Bank of England, the Colonial Office eventually advised the Gibraltar authorities to refuse the application from City Bank in 1965.[277] The Bank of England, already alarmed by the exploitation of banks in the colonies, was reluctant to open up to new operators in Gibraltar. The main reason for the scepticism was the lack of specific knowledge of the interests behind the application and the transactions involved. The Bank of England examined the intensions of City Bank referred to as a 'relatively little-known institution'.[278] Further, the Bank remained sceptical in 1965, finding no compelling grounds to allow another banking institution to take part in local banking since there was no local demand for it.[279]

This decision must also be seen in the context of the tax haven aspirations in the territory. It is established that Gibraltar took steps to implement tax haven legislation in the 1960s.[280] However, the Bank of England's observations following new developments in colonial banking in the territory adds more detail to the origin of the Gibraltar tax haven, as well as the role of the Bank at an initial stage. The Gibraltar government had initiated a research group to investigate possible steps to turn the territory into a tax haven. Samuel Montagu & Co Limited, a British merchant bank involved in redevelopment in the territory, had been approached by the Gibraltar government in 1963 to form part of the research group together with Barclays DCO.[281] In February 1964, the Gibraltar research group had submitted the final tax haven

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[275] Ogle, "Funk money," 8.

[276] BEA OV 151/2, 'Gibraltar Banking Ordinance', 7 April 1960.

[277] BEA OV 151/2, 'Gibraltar: City Bank Limited', from H.J. Brimble to D.W.C. Allen (the Cashier's Dept., BOE), 26 March 1965.

[278] BEA OV 151/2, Gibraltar: City Bank Limited', D.W.C. Allen (the Cashier's Dept., BOE), 25 February 1964.

[279] BEA OV 151/2, 'Gibraltar: City Bank Limited', A.L. Ryan (BOE) to J.E. Whitelegg (CO), 2 June 1965.

[280] Palan, Murphy, and Chavagneux, *Tax Havens*, 128.

[281] BEA OV 151/2, Study report to C.J. Gomez (the Financial Secretary in Gibraltar), 3 April 1964.

report to the Gibraltar government and the Bank of England was asked by the Colonial Office to comment. The internal assessment that followed summarizes the details of the envisioned tax haven under debate. The report was developed from examinations of other known tax havens at the time, and provides insight into the central measures and features which were considered central to the tax haven model. This was expressed in the report as follows: 'we have assumed that by "international companies", you have in mind the types of company which have been attracted to places like the Bahamas, Bermuda, Jersey and other so-called tax havens.'[282] The report emphasized the importance of introducing freedom from taxes (and deriving base revenue from customs duties instead); stable political and economic conditions; availability of lawyers and accountants with expertise; attractive housing and social facilities for high-powered executives; ease of communication; simple and flexible company laws; good banking and financial facilities including banking secrecy; a satisfactory shipping law; a trust law; a free port; and – importantly from the Bank of England's perspective – absence from exchange controls.[283]

Internal discussions of the report foreshadowed some of the challenges that came to be more clearly articulated in the years ahead. In one exchange the report was complimented for acknowledging the potential mushroom banking problem but criticized for leaving out the dangers following from inadequate company laws and banking secrecy.[284] The benefits were expected to be marginal since professional firms related mainly to what was referred to as 'brass-plate' companies and local employment opportunities were judged to be limited. On this basis, the Bank rejected the idea of turning Gibraltar into a tax haven, as expressed to the Colonial Office in April 1964: 'Our view would be that Gibraltar has not much to expect from the creation of a tax haven'.[285]

The Colonial Office that had formerly declined the City proposal in 1963 took a U-turn in the matter and tried to convince the Bank of England to shift position in 1965. The Colonial Office argued in favour of the licence from a development point of view. This turn appeared as the Gibraltar economy was under increasing pressure due to a Spanish blockade in response to a territorial dispute between the UK and Spain. A visit of Queen Elizabeth II to Gibraltar in 1954 had provoked the Franco administration in Spain to restrict the supply of labour and Spanish

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282 BEA OV 151/2, study report to C.J. Gomez (the Financial Secretary in Gibraltar), 3 April 1964.
283 Ibid.
284 BEA OV 151/2, 'Gibraltar', J.H. Chetwin to D.W.C. Allen (the Cashier's Dept., BOE), 3 April 1964.
285 BEA OV 151/2, D.W.C. Allen (the Cashier's Dept., BOE) to W.G. Gathercole (CO), 8 April 1964.

exports into the territory, on both of which the Gibraltar economy was heavily dependent.[286] The intention was to pressure Gibraltar to become independent from the British Crown and surrender to Spanish dominance. This significantly impacted the Gibraltar economy and encouraged the Colonial Office to sustain the territory by developing its economic foundation. These colonial policy concerns are visible in a response from the Colonial Office to the Bank of England:

> [i]t would be difficult for us to suggest to Gibraltar that the Bank's application should be rejected, particularly since Selwyn, our Senior Economic Adviser, who recently visited Gibraltar to advise the Gibraltar Government on the steps to be taken to minimise the economic effects of the Spanish blockade, is of the view that the financial structure of the colony is such as to encourage the export of capital rather than to promote its local use. Any institution which is concerned to promote investment inside Gibraltar should therefore be welcomed so long as it is reputable and properly conducted.[287]

As will be discussed in Chapter 6, the Gibraltar tax haven question remained an issue into the 1970s. However, this early tax haven experience from Gibraltar exemplifies a constant bargain among offices under Treasury responsibility and political departments in questions related to a growing tax haven issue in the colonial world. These differences between the Bank of England and the Colonial Office positions were early manifestations of an ascending pattern that laid before Whitehall institutions in relation to new tax haven developments. Further, as will be discussed, the question of banking licences would come to be of major importance to a growing offshore banking business in the last part of the 1970s.

3.1.2 A Compromise of Modern Banking Laws, Turks and Caicos 1966

The tax haven issue also arose in connection with a new trend of modernization of banking laws in British dependencies. This was most clearly articulated in the case of the Colony of Turks and Caicos, a geographic tail of the Bahamas in the British West Indies. In September 1966, the Overseas Department of the Bank of England was asked by the newly inserted Commonwealth Office (from August), to assess a draft legislation of a new banking law in the

[286] Constantine and Blinkhorn, *Community and Identity*, 281-282.
[287] BEA OV 151/2, J.E. Whitelegg (CO) to D.W.C. Allen (the Cashier's Dept., BOE), 4 May 1965.

Turks and Caicos.[288] This formed part of a broader revision of the territory's entire currency, banking and exchange system that followed an administrative change in 1965. One former Bahamas law officer was appointed in 1967 under the Bahamas Governor Ralph Grey to redraft and revise the Turks and Caicos laws.[289]

With the Turks and Caicos revision, the Bank of England became aware of a new trend in the British West Indies that up to that point had escaped attention: the insert of controversial trusts in modernized banking laws. From a regulatory perspective, the Bank of England faced a situation where they started to foresee more economic integration not only of a territory that formerly had been in the periphery of economic activity in the region, but more activity in the region as a whole. This happened in a particularly important moment in the financial history of the British West Indies, when the region saw new demands for monetary sovereignty and local wishes to influence banking issues which followed independence and nationalism.[290]

The British West Indies, composed by a core of seventeen territories, was in practice divided into two different primary economic systems. One system was centred in the north-western islands from which the Bahamas formed a node. It connected the north-western islands of the Turks and Caicos, Jamaica, the Cayman Islands, the BVI, and Bermuda in the Atlantic, with all oriented towards the US economy. The other system consisted of the smaller and poorer areas in the eastern region more dependent on British support. The latter group had a closer connection to Barbados, the largest among them and with a stronger economic basis. Politically, the Turks and Caicos were closely related to the Bahamas because of its shared governor. In the context of negotiation of various styles of federal constellations, it was still an open question whether the Turks and Caicos would federate with the Bahamas as it gained more self-rule.[291] With the reform, the Turks and Caicos looked to its larger neighbours for inspiration as to how to modernize its banking law already inserted in the Bahamas and the Cayman Islands.

After the Bahamas in 1965 had put in place concessions for new trust and holding businesses with the Banks and Trust Companies Regulation Act, and the Cayman Islands followed with the Trust Companies Law of 1966, similar legislation was about to be enacted in the Turks and

288 BEA OV 132/1, W.G. Gathercole to G.E. Hall (BOE), 30 September 1966.

289 BEA OV 132/1, 'Turks and Caicos Islands: Revision of Laws', from the Commonwealth Office to G.E. Hall (BOE), 23 August 1967.

290 Hudson, "On the History and Historiography of Banking in the Caribbean," 30.

291 On different federal attempts in the region, see Higman, *A Concise History of The Caribbean*, 266-269.

Caicos legislature in preparation for the new banking and trust law. The problem with these new laws was that these were counterproductive to the Bank's efforts to insert harmonized legislation in the region. In October 1964, motivated by outdated legislation from the 1920s and 1930s, a model Banking Ordinance was crafted as a guide legislation designed to fit the specific circumstances of the small islands of the British West Indies.[292] This harmonization principle served the purposes of simplifying colonial banking administration and the objective of not obstructing inter-island trade and financial access. On the basis of the Turks and Caicos case, the Bank of England started to look into possibilities to halt the trend.

By 1966, there was a renewed interest in the territory by Barclays DCO, the first bank that came to operate in the Turks and Caicos.[293] Grey, the Governor, had discussed the legislation with Barclays DCO among other interested parties. He suggested a hybrid legislation to be introduced in the Turks and Caicos from a fusion between the Banking Ordinance of 1964 and the controversial Bahamas trust legislation. However, this suggestion was rejected by the Bank of England.[294] The hybrid legislation was considered to deviate from the model Banking Ordinance from 1964 and to include overly liberal conditions with regard to deposits of foreign currency securities and transactions in real estate property. It lacked important provisions such as any clear definition of what was accepted as a financial institution or a bank, and capital and auditing requirements – all important protections to safeguard against fragile institutions.[295] Due to resistance from the Bank of England, the Turks and Caicos eventually had to abandon the controversial hybrid version and passed the banking bill in line with the simpler model ordinance in November 1967.[296] This was a break with former practice to allow similar changes.

By the time the Bank of England was ready to oppose these developments, territories such as the Bahamas and the Cayman Islands had already received support from governors and administrators as well as the Treasury. For instance, as Shaxson (2011) has noted, the Cayman Island trust legislation was inserted as the result of an 'administrator error'.[297] More detail from internal discussions following modernisation of banking legislation in these

[292] BEA OV 121/21, 'Banking Legislations', 19 February 1968.
[293] BEA OV 132/1, internal circular, 'Turks and Caicos Islands', 1 December 1967.
[294] BEA OV 132/1, 'Turks and Caicos Islands', signed G.E. Hall (BOE), 20 October 1966.
[295] BEA OV 132/1, 'Turks and Caicos Islands: Revision of Laws, from the Commonwealth Office to G.E. Hall (BOE), 25 August 1967.
[296] BEA OV 132/1, internal note, 'Eastern Caribbean: Banking Legislation', R.J. Woodley (Overseas Dept, BOE), 13 November 1967.
[297] Shaxson, *Treasure Islands,* 107.

territories shows that this 'error' was not the result of 'tacit' agency on behalf of the Bank of England. In October 1967, there were some discussions among the Bank of England, the Treasury and the Commonwealth Office of attempts to have the new legislation in Cayman Islands withdrawn.[298] However, the Cayman legislature had made extensive efforts to establish the legislation already – with the consent of the Administrator John Cumber.[299] As a consequence, there was not much the Bank could do about it since this legislation formed part of internal established policies. Cumber was questioned in the Bank for his active promotion of the Cayman tax haven. In retrospect, after better understanding the implications of efforts to insert 'cut-and-paste' solutions in modern banking laws, the Treasury's consent for these provisions was also later regretted by the Treasury itself.[300]

As will become clear later on, the Turks and Caicos reform turned out to be an early manifestation of local ambitions to turn the territory into a full-fledged tax haven. This reflects the role of the Bahamas as a model for other islands in the region that was noticed already in Craton's history of the Bahamas in 1968.[301] It also reveals how the Bank of England did not deliberately encourage tax haven developments in the Turks and Caicos, or among the first territories to develop their tax haven legislation from the mid-1960s with the modernization of banking.

3.1.3 New Challenges to Exchange Controls, Antigua and Barbuda 1967

In the autumn of 1967, the Bank of England became aware of a new form of operator in the British West Indies that also raised concerns from an exchange control perspective. In September, the Bank assessed a proposal put forward to the Leeward Island Colony of Antigua and Barbuda that earlier in the year had moved to Associated statehood.[302] A group named the Global Risk Underwriters Inc, of US background, wanted to obtain a lucrative deal with the Antigua Government in return for development initiatives. Ogle (2017) has addressed how this case from Barbuda was one example of how British officials, in her words, 'received investors

298 This information is found from additional searches in the National Archive. TNA, FCO 48/63, signed C. Hall of the Commonwealth Financial Policy Department, 10 October 1967.

299 TNA, FCO 48/63, letter of assent provided by John A. Cumber on behalf of the Administrator's office in Grand Cayman of the Cayman Islands, 28 May 1966.

300 BEA 12A 10/2, 'Report on visit to the Cayman Islands 1st-7th October 1971: Exchange Control', 21 October 1971.

301 Craton, *A history of the Bahamas*, 283.

302 BEA OV 121/21, internal circular of the Overseas Department, 'Leeward Islands – Antigua/Barbuda', 4 September 1967.

with open arms' as long as development prospects were involved.[303] As she states, the Global Risk deal was received as a plan 'involving the virtual takeover of Antigua's satellite island of Barbuda'. Ogle elaborates how the deal involved the 'creating of a free port, establishing an investment bank that would be guaranteed the right to offer numbered accounts free from investigation, setting up a gold-refining and -trading facility, and opening casinos'. Further, she emphasizes how British officials also suspected that trafficking in drugs and arms was involved. However, the idea that British officials allowed controversial real estate operators to establish in British dependencies, such as in Antigua and Barbuda, cannot be fully explained by 'tacit allowance' behaviours such as implied with the above referred 'open arms' analogy. More detail of the Bank's response following the Global Risk deal leaves a picture of an increasingly sceptical attitude that emerged from within the Bank of England in dialogue with other parts of the administration.

A critical attitude is clearly manifested immediately after the Antigua and Barbuda case was known. It appears to have been important for the Overseas Department of the Bank of England to understand the new form of real estate business agents who negotiated private deals with extensive rights -including the right to avoid exchange controls- with local administrations in British territories. The Bank was first warned by the Development Division stationed in Barbados, a permanent advisory unit established in 1965 under the Ministry of Overseas Development, of the obscurity of this new type of developer. In September 1967, William Bell, the Head of the Development Division, viewed the proposal as an attempt at a virtual 'take-over' of Barbuda, and telling of its standing from his point of view, presented it as a 'financial pirates' nest'.[304] The deal was expected to have appeal to the Antigua government that had asked for advice as to how to approach the American group. The immediate problem with the deal was expressed as follows: 'there is the danger of undesirable developments taking place in this area, particularly with regard to exchange control and Sterling Area practice'.[305]

Based on the Barbuda case, and the observations of "cut and paste" implants of controversial trust legislation in various Caribbean territories, the Bank of England became increasingly concerned with two issues arising in the region. One was the fear of a build-up of sterling balances following the growing trust business. The other was the rise of the new form of real estate business that had been observed to be followed by 'banks and other financial

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[303] Ogle, "Archipelago Capitalism," 1443.

[304] BEA OV 121/21, 'Leeward Islands – Antigua/Barbuda', 4 September 1967.

[305] Ibid.

institutions, reputable and otherwise (…) tax havens, numbered banking accounts, gambling casinos and free ports' across Caribbean territories with implications to financial stability.[306] It was therefore concluded that the Bank should be aware of 'weak spots appearing in the outer sterling areas as small and ill-equipped territories gain internal self-government'. This immediately led Piers Legh, the Deputy Chief of the Overseas Department, to consider if the Bank of England should 'review the whole of the Caribbean area'.[307]

After the dissolution of the West Indian Federation in 1962, management of exchange controls in the remaining colonies was regulated by the imposition of exchange control ordinances by colonial administrations. The exchange control legislation was vetted by the Bank of England before being brought into effect, and the Financial Secretary in the territory acted as the exchange controller in collaboration with the authorized banks in which was monitored by the administrator. If sterling was to be converted to dollar, or any other currency, in the case of larger transfers, an application had to be sent via the administrator. The administrator in the Turks and Caicos, John Anthony Golding, was the first in the region who confessed his total ignorance of exchange controls.[308]

Within a week of the 14% devaluation of sterling in November 1967, Legh summed up the state of affairs before the Bank of England's governors, where he expressed concern for the Caribbean region in the context of sensitivity towards sterling pressures. Based on the last incoming reports of tax haven related businesses, he warned how exchange control in the British West Indies was 'scarcely noticeable' and that banks appeared to do 'much as they like'.[309] This illustrates how the Bank of England by November 1967 along with immense sterling pressures had absorbed a new exchange control danger that later was followed up. Jeremy Morse, the Executive Director of the Board of the Bank of England, then informed the Treasury:

> Reports coming out of the Caribbean suggest that the changes which are taking place in that area are creating problems for the local governments and their officials, and for the Colonial Administrators, which are straining their

306 BEA 12 A 10/1, 'The Caribbean', C.J. Morse (BOE) to D.H.F. Rickett (Second Sec. of HMT), 24 November 1967.
307 BEA OV 121/21, 'Leeward Islands – Antigua/Barbuda', P.R.W. Legh (BOE),12 September 1967.
308 BEA OV 121/21, 'The Caribbean', P.R.W. Legh (BOE) to the Governors, 22 November 1967.
309 Ibid.

> competence and which could open up serious gaps in the Exchange Control system of both the territories themselves and the United Kingdom.[310]

The reply from the Treasury's office for Overseas Finance was as follows: 'It is disturbing that there should apparently be developing grounds for concern about Exchange Control in the West Indies. We had in the past supposed that so long as Exchange Control was reasonably efficient in Bermuda and the Bahamas, we need not worry too much about gaps developing there. Your letter suggests that this may have been too sanguine a view'.[311] By December 1967, the Bank had approval from the Treasury to conduct visits to the Caribbean explore how an uncontrolled form of exchange gap arising there.[312] As a result, the Bank started to assess more closely developments in the Caribbean region with the goal of finding ways to protect sterling and safeguard against leaks in the currency regime.

3.2 Tax Haven Proliferation Across the Overseas Sterling Area

Following the above experiences, in January 1968 the Bank of England started to conduct regular trips to the British West Indies to observe the situation more closely. These trips formed the backbone of the Bank of England's effort to develop knowledge and expertise about the tax haven issue. This section explores how the Bank observed the tax haven business, first in the British West Indies following independence, then into the periphery of the Caribbean region, and from there into other parts of the British Empire such as the Pacific, the Indian Ocean, the Middle East, and Europe.

<u>3.2.1 The Fireman Technique, January 1968</u>

From January 1968, the Overseas Department had established a practice of organized trips into weak parts of the Overseas Sterling Area in order to be able to diagnose the gravity of the problem of Exchange Controls and to apply necessary influence. The aim was three-fold: to assist local financial ministries to improve the quality in their Exchange Control audits; to help establish a suitable system according to local needs; and to represent UK interests and

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310 BEA 12 A 10/1, C.J. Morse (BOE) to D.H.F. Rickett (Second Sec., HMT), 24 November 1967

311 BEA OV 121/21, D.H.F Rickett (Second Sec., HMT) to C.J. Morse (BOE), 'The Caribbean: Exchange Control', 15 December 1967.

312 Ibid.

concerns.[313] In this way they had instituted what officials from then on referred to internally as 'the fireman technique'.[314]

The Bank was aware of tax haven developments within various parts of the Sterling Area but decided to focus on the British West Indies. The reasons for this were a combination of the centrality of the region to the immediate danger for gaps to form, and how many of the territories involved were regarded as politically accessible based on their formal relationship to the UK. The general tendency of more self-rule in the region, especially after the passing of the Associates Act of 1967, had implications for the Bank's perception of how to conduct the Sterling Area and its norm-based system. This was acknowledged by Gordon Hall, one of the most prominent Exchange Control 'firemen' of the Overseas Department. When he reflected on the scope for action, Hall suggested that ''the problem is how to safeguard our position adequately in circumstances in which we effectively have little means of influencing'. [315]

The newly independent states of Jamaica (1962), Trinidad and Tobago (1962), and the former British Guiana (Guyana from 1966) – except Barbados (1966), had opened their own central banks and were considered relatively capable of conducting controls. The Bank was then left to focus on the associated states and the remaining Caribbean colonies. The associated states were all entirely self-governing, but were still under the formal rule of governors appointed from London. However, governor powers were normally restricted to the formal approval of legislative acts inserted by local governments. This meant the Bank of England had only limited channels of influence over the associated states in banking matters. Further, one consequence of the transition into more independent statehood was the establishment of a new currency cooperation among the less experienced small eastern islands. The newly formed associated states, with the exception of Grenada, were organized under the Eastern Caribbean Currency Authority (ECCA) to work out banking and currency issues in partnerships.[316] The most direct formal power was appreciated among the remaining dependents of the Turks and Caicos, the BVI, the Cayman Islands, Montserrat, St. Vincent (before 1969), Bermuda, the Bahamas, and British Honduras. However, they also needed to be treated cautiously by the Bank with regard to resentment of any perceived metropolitan interference in local monetary and banking issues. This meant the move to associated status, in combination with the potential rise in sterling

[313] BEA 12A 10/1, C.J. Morse (BOE) to D.H.F. Rickett (Second Sec., HMT), 5 December 1967.
[314] See for instance BEA 12A 10/2, 'Tax Havens', internal report to C.J. Morse (BOE).
[315] BEA OV 121/21, draft, 'Caribbean Exchange Control', signed G.E. Hall, 2 October 1967.
[316] Ibid.

presence in weak parts of the Sterling Area, complicated what had formerly been merely the technocratic exercises of administrative Exchange Control tasks.

Where formal powers were deemed insufficient from a control point of view, the Overseas Department instead inserted soft powers by conducting regular trips into the part of the region which posed a threat to Exchange Controls. This included norm-building activities based on co-operation, advice, and maintenance of personal relationships. The decision to send staff to the region in the context of sterling devaluation and a pressing need of in-house labour at a particularly difficult time indicates how quickly tax havens had become a priority. In November 1967, Jeremy Morse asked the Treasury on behalf of the Bank's governors to find support for travel in the Caribbean. The urgency of the new tax haven developments was expressed in the following way: 'I need hardly say that with the current pressure of work it is by no means easy to spare senior people. But in view of the United Kingdom's obligations to those territories and more particularly our own self-interest in averting major breaches of our own Control, we cannot ignore the difficult problems which are arising'.[317]

The Bank of England had otherwise a solid tradition in taking an active role in monetary and financial matters in the British West Indies. Sending of staff overseas to contribute to capacity building, assist in the running of financial institutions, and promote relations with political leaders was not a new approach. The secondment of staff started after the First World War and increased sharply with the need to assist new Commonwealth countries from the mid-1960s, particularly in the British West Indies.[318] This aligned with the general approach of the Bank to assist the transition into greater independence by establishing a financial system on a 'right footing' and by establishing 'the central banking doctrine early in Colonial minds'.[319] However, the officials involved feared that operating in the territories as specialist advisors could be viewed as a prolongation of colonial oppressive behaviours and, as such, an obstacle to continued influence in the monetary and financial policies of ex-colonies formerly open to them. One expression of this was when Piers Legh of the Overseas Department deliberated over whether to locate a 'fire brigade' station in the Caribbean or to institute dialogue through regular visits to the region in 1967: 'There might be some thoughts in Caribbean minds that the British were getting back into the federation business again or involved in some interference with their progress towards independence'.[320]

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[317] BEA 12 A 10/1, C.J. Morse (BOE) to D.H.F. Rickett (Second Sec. of HMT), 5 December 1967.
[318] Capie, *The Bank of England*, 338.
[319] Ibid, 335-339.
[320] BEA 12A 10/1, 'Caribbean Exchange Control', P.R.W. Legh, 21 September 1967.

Official visits to the region from January to the end of 1970 have left a trail of lengthy reports and internal letters of the main issues arising in the different territories. Taken together, these records show how the different islands each had their own issues connected to fiscal and financial arrangements. These trips were carried out irregularly, following the pattern of more or less quarterly visits. Among the officials who most frequently ended up travelling were Gordon Hall and John Howes, both of whom were Principals of the Overseas Department.[321] Reports from these trips, together with internal discussions across departments between 1968 and 1970, give new insights into the details of how tax havens emerged within different parts of the Sterling Area, and are described below.

3.2.2. The North-Western Experience of the British West Indies

It was initially the Bahamas and Bermuda that had received attention in the Bank of England for their tax haven features known to date back to the 1930s. The growth of tax haven business in these territories was observed to have continued, especially after 1965, as discussed in one early tax haven meeting in late 1968 among the Bank's Overseas Department, the Treasury, and the Inland Revenue.[322] By 1970, Bermuda was noted for the presence of numerous brass plates in which a Canadian interest was predominant.[323] In the Bahamas – a bigger player - the Bank of England counted 260 banks operating from the Bahamas in late 1970, of which only 15 were authorized dealers, telling of a total new banking environment.[324] The concerns that came along with this change were expressed in the Bank of England already in 1968 as 'a fear for funk money on Bahamas lines'.[325] This referred to the circulation of US dollar notes alongside local currencies in the region, producing a channel of uncontrolled conversion and a source of great concern related to the new trend in the north-western part of the British West Indies. However, as will be discussed later, these two tax havens were viewed to be fairly containable due to satisfactory exchange controls.

321 Other 'firemen' under the Overseas Department were R.H. Lusty, P.W. Ford, C.A. Barker, R.S. Boxer, R. I. Hallows, R.W. Marshall and Eric Davey.

322 TNA T 295/587, 'Caribbean tax havens', note of a meeting 10 December 1968. Present at the meeting were Gordon Hall (BOE), David Walker (HMT), and Jeremy Green (IR).

323 TNA FCO 44/360, 'Tax havens: balance of payments and exchange control aspects, note by the Treasury', December 1970.

324 BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

325 BEA OV 121/21, 'Banking Legislation', signed J.B. Loynes (BOE), 28 February 1968.

By 1968, the focus within the Overseas Department was more on the "second generation" of tax haven territories appearing in the region. Therefore, the first trip went into the British Honduras, the Cayman Islands, Jamaica, and the Turks and Caicos to identify 'whether or not there was cause for anxiety over the development of new gaps in our exchange control defence'.[326] After the first trip, the Bank's interest revolved around the Cayman Islands, the Turks and Caicos, and increasingly the BVI, all of which had deliberately tried to implement tax haven legislation, especially from the mid-1960s.

In the view of the Bank of England, the Cayman Islands had succeeded in its tax haven strategy and, by 1969, they were considered to have become one of the most significant tax havens. The trust business was at the centre of the Cayman success and was a major concern to the Bank from an Exchange Control perspective, as it was for the Inland Revenue from a tax angle. Cayman had chosen to return to being a British colony following the collapse of the British West Indies Federation in 1962. Thus, the Cayman Islands were forced to explore ways to handle a period characterized by 'a tide of change' and economic struggles.[327] The Cayman Islands, like the Bahamas and Bermuda, had never imposed any form of income taxation or any other form of relevant duties. The autobiography written by the island's Financial Secretary, Vassel Johnson, details the steps taken to create the Cayman Islands financial centre.[328] According to him, one important start of the Cayman international financial centre was the change in the Cayman Company Law in 1960. When the Cayman Islands inserted the trust legislation in 1966, the hope was to overtake some of the business from the Bahamas. Political turmoil was expected to follow the handover of power to the Bahamian black-led administration under Lynden Pindling. Signs of this can be seen in the first interdepartmental tax haven meeting among all Whitehall departments involved with tax havens in March 1969 (discussed further in Chapter 4). This emphasized the importance of higher costs in the 'matured' tax havens and how this had motivated companies to look for new bases:

> It is evident from developments in recent months that many companies at present registered in the Bahamas and Bermuda, which had been long established tax havens, were afraid that political development in these territories would lead to the imposition of taxation to raise additional revenue,

[326] BEA OV 121/21,G.E. Hall to S.H. Wright (HMT), 15 February 1968.

[327] Michael Craton, *Founded Upon the Seas: A History of the Cayman Islands and Their People* (Ian Randle Publishers, 2003), 300-302.

[328] See Vassel Johnson, *As I See It: How Cayman Became a Leading Financial Centre* (Temple House, Sussex: Book Build Book Guild Publishing Ltd, 2001).

> thus eroding the advantages at present enjoyed by the companies. The latter has therefore been searching for other territories where they could establish a tax-free base for their operations.[329]

In February 1969, upon assessing the activities in the Bahamas, Bermuda, and the Caymans, John Howes reported home of a view circulating among the business communities in the islands: 'One comment by a senior official of the Trust Corporation was that be it a private individual or a company, surely only fools could any longer be paying the penal rates of United Kingdom taxation while opportunities existed to put funds in the Bahamas'.[330] This was a testimony of a hostile sentiment that was flourishing among the tax haven operators and that increasingly worried the Bank. In line with this overall atmosphere, Howes further emphasized that it was difficult to get anyone to reveal the size of the business in the territories.[331] However, according to him, in the Caymans the manager of the Royal Bank Trust Company had provided a loose figure of £100 million. Since the Caymans had only operated in the trust business for two years, the businesses in the Bahamas and Bermuda were expected to be much greater. This led the Bank to conclude that the sterling balances in these three territories were much greater than anyone was ready to admit and clearly growing all the time.

The tax haven business had also reached the BVI, which by the end of 1970 was considered by the Bank of England to have developed into a tax haven.[332] By then, the Bank had followed a particular controversial real estate case in the territory from early 1969, when the BVI saw an influx of real estate developments. The case ended up being centred in a social uprising against the elites in the territory, and had major impact on the BVI social debates including uprising.[333] The BVI government had signed an agreement in 1967 with the Development Corporation of Anegada without the Bank of England being consulted.[334] The interest behind the agreement was the British football magnate Kenneth William Bates (profiled at a later point) and the entirety of Anegada, the northernmost BVI island, was leased to Bates's company. The corporation was a public company with more than one hundred shareholders and the

329 BEA 12 A 10/2, Note of a meeting held at the FCO, 'Tax havens and tax concessions', 25 March 1969.

330 BEA 12A 10/1, internal circular by J.S. Howes (BOE), 'Bahamas-Bermuda, Cayman Islands: Holdings of Sterling', 27 February 1969.

331 Ibid.

332 BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

333 Bill Maurer, "Jurisdiction in dialect: sovereignty games in the British Virgin Islands," in *European Integration and Postcolonial Sovereignty Games: The EU Overseas Countries and Territories*, ed. by Rebecca Adler-Nissen and Ulrik Pram Gad (London: Routledge, 2013),134.

334 TNA FCO 59/533, FCO circular prepared before a interdepartmental meeting 25th March 1969, 'Tax havens and tax concessions in the dependent territories'.

lease led to the formation of an investment bank called the Bank of Anegada.[335] All entities licenced by the corporation, were to be exempt from income tax, profit tax, and estate duty in the contract period of 199 years. The contract also included exemption from import duties on plants, equipment, and materials to be used for construction purposes. This was the first deal of this kind to be negotiated in the territory.

Following the assessments of the BVI, when taken together, they provide a more detailed knowledge on the early tax haven features of the territory, and how these were followed with concern from the Bank's perspective. In an economy otherwise predominantly based on tourism and remittances from migrant workers, it is clear the territory had managed to establish two specific attractions. One was a beneficial double taxation treaty, both against the UK and the US, which offered certain advantages for companies and trusts, in which will be treated later. The BVI was not a zero-tax environment like the Bahamas and Bermuda, even though there were no capital gains, no wealth tax, no gifts or estate duties, and no effective control over companies. However, it had a general company tax at the low rate of 12% on chargeable income.[336] This allowed the territory to have tax treaties that were not open to completely tax-free havens since there was no tax right to negotiate. This treaty position was of major importance to the BVI tax haven, as Chapter 5 will elaborate. The other attraction, particularly important to the Bank as we shall see, was that the BVI was in a unique position in that while it was found within the Sterling Area, the US dollar was the legal tender. Those territories allowing the circulation of the dollar had a competitive advantage because it meant that dollar and sterling could change hands freely. From a business perspective, these specific tax freedoms in combination with the ease with which one could obtain alleviation from currency risk and currency surrenders, turned the BVI into a new centre for holding companies, investment companies, and re-insurance business.

Further, the Bank started to take notice of a new presence of yachts in Tortola, which was interpreted as a potential sign of a significant new 'haven' for cruise ships to contemplate.[337] These features, combined with the lack of trust in a strong effectuation of Exchange Controls in Tortola, concerned the Bank for similar reasons as explained above. In addition, the BVI raised concerns in the Bank when in September 1969 the territory made preparations in the Local Council to legalize secret numbered bank accounts. It had received an application from

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335 BEA 12A 10/2, 'Caribbean visit January/February 1970', 16 March 1970.

336 TNA T 295/862, 'United Kingdom/British Virgin Islands Double Taxation Agreement', minute of the IR, 28 April 1971.

337 BEA OV 121/21, 'Report on Caribbean Visit 6th April-22nd May 1968, Exchange Control', July 1968.

interests in Puerto Rico, a US island territory in the Caribbean, who wished to establish a commercial bank in the BVI.[338] However, the outcome in 1970 was that the Bank of England did not allow it. Banking secrecy with numbered accounts was discouraged since there were no efficient Exchange Control in the territory, and there were fears of sterling funds to be converted into dollar unrestricted.[339]

By 1969, the Turks and Caicos, had regained the attention of the Bank of England for a second round as a result of what was observed by Roy Fenton, the then-Chief of the Overseas Department, as some 'dubious' real estate activities including investment banking.[340] This referred to some spill-over effects from the Bahamas in which involved a group of US real estate developers who wanted to establish in the territory under the South Caicos Holdings Ltd. The group was dominated by Clovis William McAlpin, an individual later documented to have links to US criminal networks and convicted for fraud by the US Securities and Exchange Commission.[341] McAlpin, also the President of the Capital Growth Fund, one Bahamas based investment trust, wanted to transfer parts of his interests into the Turks and Caicos due to fears that taxes would be raised in the Bahamas. The Capital Growth Fund was an investment trust that borrowed money from US capital holders and offered shareholders increased growth from new investments in high-risk US securities.[342] The fund, allegedly in control of $28 million, was an offspring of the Bahamian Arawak Trust Company Ltd, the other larger trust business which had been established in the late 1950s in the Bahamas.[343] Arawak was together with the formerly treated Bahamas International Trust Company (BITCO) among the earliest trust businesses to operate from Nassau.[344] The Bank of England's experiences with the trust fund from the Turks and Caicos, illustrate how tax haven operators moved across islands to negotiate lucrative tax deals for their businesses.

These combined features of the north-western economies were considered to potentially lead to major evasions of UK Exchange Controls. The increased popularity of places like the Cayman Islands and the Turks and Caicos was putting the local controllers under considerable

[338] TNA T 295/ 862, from C.G. Mortlock (West Indian Dept., FCO) to G.E. Hall (BOE), 29 September 1970.

[339] TNA T 295/ 862, J.D. Lewis (BOE) to to C.G. Mortlock (West Indian Dept., FCO), 19 October 1970.

[340] BEA 12A 10/2, R.P. Fenton (BOE) to A.D. Neale (HMT), 'Exchange Control – The Caribbean', 19 September 1969. Fenton was inserted in this position from March 1965. Capie, *The Bank of England*, 364.

[341] Alan A. Block, *Masters of Paradise: Organized Crime and the Internal Revenue Service in the Bahamas* (New York: Routledge, 1998), 140.

[342] TNA OD, 28/311, Dun and Bradstreet report of the Capital Growth Fund, Nassau Bahamas, 1968.

[343] Ogle, "Funk money," 16.

[344] Ibid.

pressures. This was disturbing seen from the Bank's perspective. While exchange controls were reported to be weak in the Cayman Islands, they were believed to be next to non-existent in the Turks and Caicos.[345]

In the spring of 1969, when tax haven concerns peaked for the Bank of England, Stanley Payton, a Bank official who knew the region well since he had served within the central bank in Jamaica,[346] reported:

> [t]o small islands whose development has not yet started the attraction of running a tax haven is that it might provide the take-off which they need. (…) The dependent territories and other non-dependencies in the Caribbean obviously look at Bahamas and Bermuda. (…) Finally, it is all very well to look at the situation in the "British" territories of the Caribbean but it must not be forgotten that they have to compete with other islands who offer a great variety of tax concessions. Any island which hopes to attract investment is bound to offer tax holidays at least to match those of its competitors. It does not make a great deal of sense but it is a fact of life.[347]

This observation seems to precisely sum up the dynamics that led tax haven businesses to push increasingly deeper into unexplored markets on the periphery of the British West Indies.

3.2.3 The Eastern Shift of the British West Indies

The Antigua and Barbuda application in 1967 turned out to reflect a tendency of a new interest in the smaller islands in the eastern part of the British West Indies. From 1968, the Bank of England started to witness a significant geographical shift into the smaller and poorer eastern islands, and the newly independent Barbados. In April and May 1968, a second trip was arranged in the eastern islands of Barbados, Grenada, Dominica, St. Lucia, St. Vincent, Montserrat, Antigua, St. Kitts, and Trinidad in addition to BVI and Cayman attached to the north-western system. After the trip, Gordon Hall reported of a region out of control with respect to monetary and banking issues.[348] Hall concluded from this trip that exchange control

[345] TNA, OD 28/311, J.S. Howes (BOE) to the West Indian Department (FCO), 10 July 1969.
[346] Capie, *The Bank of England*, 337.
[347] BEA 12 A 10/2, S. W. Payton (BOE) to T.J.O'Brien (FCO), 16 May 1969.
[348] BEA OV 121/21, Report on the 2nd Caribbean visit, by G. E. Hall (BOE), 4 July 1968.

in all the dependent and semi-dependent Caribbean territories was administered by people who had no real expertise in the subject and that any sort of control was greatly hampered by the existence of large sums of US dollars, which circulated in an uncontrolled way in all the islands.[349]

The general increase in prices in real estate, the administrative costs of tax haven services, and some risks of inflation combined had inspired market agents to seek new and cheaper opportunities in territories that still had not developed tax haven features but were open to doing so. One report back from one trip into the Eastern region, provides insight into the business side of the events: 'in particular local traders, hoteliers etc. are reluctant to convert their dollar earnings into local currency and to apply when they need foreign exchange to pay for imports; this they regard as something approaching daylight robbery as they have to pay two lots of bank charges on the conversions!'.[350]

Traditionally, the Windward and Leeward Islands had not attracted the attention of the Bank because they were based on sterling and no great balances had built up as they were still poor and economically remote islands. However, one new challenge was that property sales of real estate could be bought in sterling and sold in dollars, and as such offered a vehicle for the conversion of sterling into dollars. This new trend was evident from the sharp increase in applications received by colonial governments from foreign real estate operators from 1968 on. These were passed over to the Bank of England from the FCO. Throughout 1968 and 1969, real estate speculators were observed to move ever deeper into the periphery of the British West Indies. The tendency involved developers identifying opportunities to obtain wide personal and corporate rights where young governments, reliant on an economic foundation to sustain a newly attained independence, were open to new investors.

Montserrat was the first territory among the Eastern islands to pursue a strategy to become a tax haven. As we shall see in Chapter 4, it was the first territory to consider conducting a fiscal reform designed to attract international capital by creating a low-tax environment. Montserrat contemplated establishing trusts and international business companies as in the north-western islands' more successful economies. Surveying the territory after the trip in April and May 1968, the Bank of England was particularly concerned about the new US interest in it, meaning the

[349] Ibid.
[350] BEA 12 A 10/2, 'Report on Caribbean Visit 6 April-22 May 1968, Exchange Control', July 1968.

potential circulation of US dollars into Sterling Area territory.[351] Two years later in 1970, the conditions were still unsatisfactory from the Bank's perspective. The Bank's reviewer took particular notice of the combined interest among US developers, the banks in the territory, and the local Government. There was a reported incentive to cater to American interests since they were viewed as the only community which facilitated development.[352] By then, the local tourist board was actively involved in the promotion of the territory as an aspiring tax haven location and involved in the circulation of publication material within the island's business community.

Another territory which received much attention in the eastern region was St. Vincent due to its open attitude to a private deal about to be settled in 1968. This deal involved the later famous British aristocrat Colin Tennant, Lord Glenconner. Tennant had purchased the property in the Mustique Island, one island in the St. Vincent Island group, from a local family in 1959.[353] Since then, there had been negotiations with the local government over the conditions of Tennant's company, the Mustique Company Limited. The objective of the company was to promote the tourist industry and to initiate other commercial activities in the territory. By 1968, the St. Vincent government was about to conclude the deal, which included gambling rights and extensive tax and customs exemptions. This had tax exemption from all profits, including operations from outside the territory, no stamp duties, and duty-free imports, and was negotiated up to thirty-five years, a time-span that was reduced with time to twenty years. The deal resulted in much concern in the Bank of England, exemplified by a discussion of the deal in a meeting in December 1968 among representatives from the Bank, the Inland Revenue, the Treasury and the FCO and the Ministry of Overseas Development.[354]

This deal created an opening for Tennant's network to enjoy the same conditions as were obtained by him, either under his umbrella organization or from the precedent set by the Mustique arrangement. To take one example, Hugo Money-Coutts, later Lord Latymer from his inherited barony, an Eton contemporary of Tennant and a trained accountant, became the managing director of Tennant's Mustique Company.[355] He had emigrated from the UK some years earlier, and had announced his intentions of living in his yacht off the Mustique. This was

[351] Ibid.

[352] BEA, 12 A 10/2, 'Visit to the Associated States, Montserrat and Barbados (February/March) Record of E.C. arrangements in each territory and of discussions with officials', 13 April 1970.

[353] TNA T 295/587, C. Tennant to A. J. Fairclough (WID), 16 December 1968.

[354] TNA T 295/587, 'Interdepartmental meeting to discuss the draft agreement between the Government of St. Vincent and the Mustique Company Limited', 12 December 1968.

[355] BEA, 12A 10/2, 'Visit to the Associated States, Montserrat and Barbados (February/March) Record of E.C. arrangements in each territory and of discussions with officials', 13 April 1970.

believed in 1970 by the Bank to be an act of avoidance in order to escape resident status within the Sterling Area.[356] This concerned the Bank, especially since Money-Coutts was known to be about to establish a new hotel industry in the Canouan Island of the Grenadines, also part of the St. Vincent territory.

The companies involved were allowed by the St. Vincent government to incorporate with US dollars. However, the agreement was a breach of the sterling rules. Therefore, the visiting Bank official found it unsettling how surprisingly little the St. Vincent administration seemed to know, or were willing to report, about the actors involved, the projects underway, or the transactions related to activities on these very tiny islands.

A similar experience was observed in Dominica. The Bank became interested in one major real estate project on the island referred to as 'the Sunday Island Development', which was a development project of a holiday resort.[357] This also included a free port facility and a bank, established outside the laws of Dominica and with the support of the local governor. This was worrisome from the Bank's perspective: again, since considerable American interests were involved, estimated to include assets of $75 million, which was a considerable amount for a territory inexperienced in exchange controls. However, by April 1970, the Sunday Island project was reported by the visiting Bank official to be 'dead' as a result of developers falling out with the premier.[358]

Grenada and Barbados, both with otherwise normal tax structures, had taken steps to implement tax haven legislation. Barbados had, after independence in 1966, started to shape its economic structure after the models of the Bahamas and Bermuda, as will be touched upon in Chapter 4. Both territories had implemented international business company legislation which allowed tax concessions to foreign companies. Barbados had a high presence of Americans who took part in speculative dealings in properties. What concerned the Bank was the administration's allowance of 'dual standards' practices in order to satisfy foreign investors in their performance of exchange control.[359] Americans who lived in Barbados were treated as 'residents' if they needed funds from local sources and as 'non-residents' when this was convenient for the Americans. This selective treatment made it optional whether or not a

356 Ibid.

357 BEA 12A 10/2, 'Report on Caribbean Visit 6 April-22 May 1968, Exchange Control', July 1968.

358 BEA 12A 10/2, 'Visit to the Associated States, Montserrat and Barbados (February/March) Record of E.C. arrangements in each territory and of discussions with officials', 13 April 1970.

359 Ibid.

currency position should be regarded as internal or external to the sterling regime and was another breach of the sterling rules. In Grenada, the main challenge was that there was no banking legislation and, after visiting the territory in April 1970, the Bank's official reported home that Grenada was 'paddling its own canoe', suggesting a sense of the lack of control in the territory.

However, the newly independent Trinidad and Tobago, the richest island community in the Eastern region due to its possession of oil reserves, were not viewed to raise any major concerns. After independence in 1966, mainland Guyana, formerly British Guiana, had made a definitive move towards the political left. It had obtained adverse publicity for its nationalization of a Canadian-owned bauxite industry as part of a wave of economic nationalism.[360] As a result, the state was judged to be unattractive as a destination for any larger sterling positions and it did not seem likely for a tax haven to develop in the new state.

Anguilla, an Eastern outpost, had formed a small federation with St. Kitts and Nevis when obtaining associated state status in 1967, but soon saw a revolt that led to the separation of Anguilla, referred to after the 1968 April and May trip as the troublesome 'break-away' island.[361] Anguilla, like its many neighbouring islands, reflected the general problem of a US-based small economy that in effect had no satisfactory exchange controls. In addition, Anguilla was supposed to serve all connections with St. Kitts and Nevis, but after the political break there was very little official communication between the governments of St. Kitts and Anguilla, which had implications for the quality of exchange controls that relied on specific knowledge of the actors involved. It was hoped, however, that the two banks in Anguilla – Barclays DCO and the Bank of America – were unlikely to facilitate leaks in the sterling system.

By 1970, these dynamics in the Eastern region were interrupted by political riots in the region and an American recession dominated by inflation and souring interest rates. The 1970 riots in Trinidad rooted in racial tensions, known as the 'black power revolution', were in particular viewed to have harmed the region's tourist industry.[362] This had frozen the markets and scared risk-averse investors seeking political stability. The entire region was reported to lose activity, including within the real estate business, except the three smaller islands of Dominica, St. Kitts,

[360] BEA OV 121/23, 'Caribbean visit 7th February to 2nd March 1971',10 March 1971.

[361] BEA 12A 10/2, 'Report on Caribbean Visit 6 April-22 May 1968, Exchange Control', July 1968.

[362] BEA 12 A 10/2, 'Visits during April and May to the Associated States, Montserrat and Barbados', signed R.H. Lusty, 9 June 1971.

and Antigua.[363] In Antigua, a large American and Canadian presence connected to the uncontrolled circulation of US dollars due to a local US base in the territory was deemed worth monitoring. The territory was generally perceived to have fallen behind the other islands, but with a recession in other islands, it now received some enquiries from prospective business interests. The Bank observed with regret how a new black market, centred in a Syrian-Lebanese trading community, seemed to have expanded from Antigua and established itself in Dominica. St. Kitts was not believed to have many wealthy emigrants; however, the Bank noticed that there were some projects underway there while the exchange controls were not trusted to maintain any consistent sterling rules. This development illustrates how the tax haven business moved from the larger islands into ever smaller and more remote corners of the British West Indies in accordance with political and economic events

3.2.4 Beyond the British West Indies, from 1969

With the set-back in the Caribbean, the tax haven business was observed by the Bank to shift into new areas. From June 1969, there were signals of operators turning their attention to some of the most far-reaching islands in the Pacific and the Indian Ocean.[364] Before the closure of 1970, the Bank had examined every remote corner of the Sterling Area to get a picture of potential tax haven developments in a tax haven survey.[365] The survey, supported by other internal discussions, provides insight into how the Bank became aware of potential new tax haven leaks in new areas such as in the Southeast Asia, the Pacific, the Atlantic, the Middle East – and Europe.

The Bank of England started to follow more closely developments in the New Hebrides in the Pacific, a shared dominium with the French, after having been informed by the FCO of new activities in the territory. These activities, as in the British West Indies, featured new real estate developments, new enquires about the formation of holding companies, and a new interest of US banks in the territory. The New Hebrides was a low-tax environment, similar to the more sophisticated tax havens in the Caribbean, with no income or company tax. Following Rawling (2004), one important step to establish the New Hebrides tax haven, was the entrance into the territory of a legal British firm in 1967 that could establish companies there based in British

363 Ibid.
364 Ibid.
365 BEA 12A 10/2, 'Tax Havens – Exchange Control Aspects', 10 November 1970.

Common Law - 'many of them for land speculation purposes'.[366] Since 1968, the territory had started to attract a number of companies wishing to evade Australian taxation or to engage in land speculation.[367] The new information made the Bank aware that Australia treated the local banks there as foreign, while the UK treated the territory as part of the Sterling Area. As a consequence, funds went through the territory unrestricted both from the Australian side and the UK side. When Ronald Lusty, the newest 'fireman' within the Overseas Department, joined a meeting held at the FCO for the Australian authorities to discuss the New Hebrides tax haven facilities, it was explained how operators were 'priced out of the Caribbean' and looked for new opportunities in the Pacific.[368] In 1974, this issue developed into a theme that gained attention at the prime ministerial level in Britain, an event that will be further elaborated on in Chapter 6.

The Seychelles in the Indian Ocean was expected to emerge as a new tax haven after the New Hebrides. One indication of this is an internal exchange between the Bank of England and the Overseas Finance Exchange Control Division of the Treasury in March 1969 with reference to the Seychelles: 'Interests by non-resident investments sharpens the need to ensure that adequate legislation exists to control the possible development of the islands as a tax haven in the Indian Ocean'.[369] Some real estate developers wanted to introduce what was referred to internally as a 'West Indian-style tourist and property boom'.[370] US presence had by that point led to a steep rise in property prices. This differed from other tax haven spots since the main driver of the price inflation in real estate was believed to result from a common practice among US military officials to house their local mistresses, and not only tax haven-related real estate business. Tonga in the Pacific was expected to be the next big player after the Seychelles and the New Hebrides.[371]

By late 1970 it had become clear to the Overseas Department that the above discoveries over years reflected a broader tendency. The above-mentioned internal survey of tax haven developments within the Sterling Area in November 1970 reveals how tax haven clusters appeared in all regions, including in the furthest corners of the British Empire.[372] In the Pacific,

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366 Gregory Rawlings, "Laws, Liquidity and Eurobonds: The Making of the Vanuatu Tax Haven", The Journal of Pacific History, Vol. 39, No. 3 (Dec., 2004): 329.

367 BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

368 TNA FCO 44/356, 'Note of a meeting held at the FCO, Secretary of Financial Affairs', 1 April 1970

369 TNA T 295/588, 'Seychelles', J. W. Kennedy to H.J. Tomkins (BOE), 20 March 1969.

370 TNA T 295/588, 'Seychelles: January 1969', 10 March 1969.

371 TNA T 317/1453, E.B. Bennett (Overseas Department, BOE) to J.G. Littler (Overseas and Exchange Control, HMT), 14 July 1970.

372 BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

Fiji was reported to have attracted developers, leading the island's Secretary of Finance to ask for advice from London, while by late 1970 it was still not viewed as a mature tax haven. However, the territory had ongoing discussions between the local government and US interests over the potential establishment of US banks and the Bank believed it should be watched. Nauru (independent from 1968) was referred to as a 'usual case' with reference to property developments and trust businesses.

Similarly, in the Indian Ocean the Maldives (independent from 1965) was reported to have received interest from property developers and the trust business. Brunei was not considered a tax haven according to the Bank in 1970, but taxes were observed to be low and carried the potential to attract capital. It was noticed, for instance, that the petroleum company Shell had extensive oil interests in the country and that Japanese influence in the development of oil drilling was on the rise.[373] The Bank also took notice of how communication restrictions in the hinterland of Malaysia made Brunei an attractive route for Malaysian business interests. Importantly, a considerable Chinese population in Brunei was observed to use Brunei as a transaction route for frequent remittances to Hong Kong – a British territory that the Bank, by the end of 1970, considered to be a tax haven because of its low taxes for those who wished to carry out Asian operations.[374]

The Bank also became increasingly invested in developments in the Middle-East protectorates in the first months of 1970 following independence movements in the area. This followed the onset of the independence of Bahrain and the expectation of Qatar and the Trucial States becoming independent by the end of the year.[375] Bahrain, for instance, interested the Bank for its capacity to overtake some of the former activities that had gone through the failed tax haven of Beirut in Lebanon as a result of conflicts.[376]

By June 1970, Europe became an issue when Malta, also a sterling member, had implemented some tax haven legislation following independence from Britain in 1964.[377] This followed the creation of an economic development plan emerging from 1959 to turn the island into a tax haven after independence.[378] As an independent country, Malta was not considered the Bank's

[373] Ibid.
[374] Ibid.
[375] BEA 12A 10/2, 'Exchange Control', August 1971.
[376] BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.
[377] BEA, 12 A 10/2, 'Malta', signed P.W. Ford (BOE), 25 June 1970.
[378] Ogle, "Funk money," 26.

responsibility so long as no major sterling gap evolved. However, when some concerns arose relating to exchange control implications of the new tax haven developments in Malta, old tensions revived between the Maltese and UK governments. Upon efforts to assist with the situation, the Bank was met with warnings that their presence represented 'political dynamite' to local authorities as a result of historical colonial ties.[379] In consequence, collaboration in exchange control matters became politically difficult.

As previously mentioned, the Bank of England was aware of the Jersey tax haven. The 'tipping-point' in Jersey's tax haven history has formerly been set in 1962 with a repeal of a five per cent ceiling on banking interest rates.[380] Jersey had a distinct tax advantage in that the maximum and standard rate of tax on all income had remained low and unchanged since 1940, and it had no estate duty or capital gains tax. However, all the Channel Islands together with the UK formed part of the internal exchange control ring under the Bank's responsibility, and was therefore considered containable through the Bank's direct control. Furthermore, for UK source income, a double taxation treaty with the UK ensured that the tax liability was limited to the UK standard rate. This meant it was considered a less favourable tax regime than its competitors in the Caribbean. As we shall see in Chapter 6, Jersey did not appear on the Bank's radar before it made it a strategy to attract foreign banks engaged in non-resident transactions with implications for regulations in the early 1970s.

This revision process had led the Bank of England, by the end of 1970, to follow more closely areas that had not caused concern before. [381] The Bank even considered the positions of the remote Falkland Islands, the Gilberts and Ellice Islands, the Pitcairn Islands, St. Helena, Ascension and Tristan Da Cunha, and the small British Indian Overseas Territories (BIOTs) – but these were all judged by late 1970 to be too remote. The Falkland Islands was the only territory among these that, in practice, were viewed to carry the potential of developing into a tax haven if one existing on-site trading company acting as an agent for the banks of Lloyds and Hambros were to expand. As we shall see in Chapter 6, the Falkland Islands turned out to be the only location among these excessively remote areas to actually seek to establish as a tax haven in the 1970s. This means the Bank of England assessments provides a unique oversight of the Overseas Sterling Area tax havens and their central mechanisms before the end of 1970.

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[379] BEA 12 A 10/2, 'Malta', signed P.W. Ford (BOE), 25 June 1970.
[380] Colin Platt, *A Concise History of Jersey. A New Perspective* (St. Helier: Seaflower Books, 2009),135.
[381] BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

3.3. Compromised Sterling Rules

The research undertaken by the Bank of England after January 1968 into the weak parts of the Sterling Area had revealed how the attraction of tax havens and private tax deals with real estate developers lured fresh capital into formerly unexpected parts of the British Empire. Weak banking legislation and the dubious practice of exchange controls discovered in different forms of dependencies challenged above all the Bank of England's ability to manage and supervise the norm-based sterling regime. This section elaborates the immediate regulatory challenges which resulted from the new tax haven developments viewed from the Bank of England's perspective, and its feared implications for UK monetary and banking interests

3.3.1 Fears of a Third Exchange Control Gap

Initially, tax haven developments alarmed the Bank of England, since it was counterproductive to its main objective to establish coherence and harmonization within colonial banking, as exemplified with the banking ordinance from 1964 in the British West Indies. However, the central concern from 1967 was how the new tax haven developments disrupted an established balance in the management of the Sterling Area. The powers of the Bank of England to execute the Exchange Control Act of 1947 was severely compromised by the attraction that the tax havens had for sterling holders, and resulted in fears of a 'third gap' to arise in the sterling fence.

In the context of sterling decline in the 1960s,[382] the Bank witnessed with increasing concern how the potential for new exchange gaps continued to be a problem. The Overseas Sterling Area was as explained, managed under the Bank of England responsibilities in co-operation with the authorized dealers, local administrations and the present Administrator or Governor. It was required Treasury consent for certain types of transactions outside the Sterling Area, such as the migration of a UK company overseas, the transfer of its' overseas business to a non-resident company, and the transfer of shares in an overseas subsidiary.

This development challenged the exchange control defence system by targeting its weakest links. An initial front was, as discussed, the constitutional changes that gave the Bank lessened formal authority over banking in a larger part of the Overseas Sterling Area. The combination

[382] See Schenk, *The Decline of Sterling*, 117.

of moves into associated state status from 1967 and revision of old constitutions resulted in more local influence, and political sensitivity, over issues that had formerly remained under metropolitan control. This is illustrated with an insight obtained already in November 1967: 'Tactics would be important, particularly in relation to the newly-independent territories which, although they might be glad of help from London, would recent anything which savoured of interference with what were felt to be made through the Commonwealth Office'[383].

Second, the Bank was increasingly concerned with inexperienced personnel in the territories. Hall concluded already from one of the first trips in 1968 that exchange control in all the dependent and semi-dependent Caribbean territories was administered by people who had 'no real expertise' in the subject.[384] Inexperienced controllers were often confused by the numbers, magnitude, and complexity of the financial transactions which the tax haven operators put to them. Anonymous ownership entities added to the problem of segregating residents from non-residents, the foundational principle on which exchange controls rested. Constant shifts in the local staff further weakened the Bank's venue for dialogue and indirect controls. This was still a concern in 1969, when the administrations were referred to, in the area of exchange controls, as 'unsophisticated' with 'no expertise to deal with this type of activity'.[385]

A third front related to the concerns of the role of the service providers in the avoidance industry. The authorized dealers had an upward reporting obligation of dubious transactions under the Financial Secretary of the territory involved and an obligation to sort out more complicated applications that were supposed to go to the Bank of England for revision. From 1968, the authorized dealers were increasingly viewed to be unaware of their full responsibilities or, in some instances, suspected to deliberately turn a blind eye as a competitive strategy. This marks a break in a trust-based institutional arrangement traditionally served by what had been considered respectable merchant banks such as Barclays DCO and some other better-known institutions. The new business was increasingly complicating the regulatory environment. One example follows from Cayman in July 1969, where the focus was the growth in licensed banks that were reported to 'exist mostly in paper form'.[386] Expatriate solicitors had then raised from three to 17 in less than 12 months, and was reported to be 'unsettling' and to produce and 'atmosphere antagonistic to Exchange Control'. Also, the

383 BEA 12 A 10/1, C.J. Morse (BOE) to D.H.F. Rickett (Second Sec. of HMT), 24 November 1967.
384 BEA OV 121/21, 'Report on Caribbean Visit', April/May 1968, by G. E. Hall, 4 July 1968.
385 BEA 12 A 10/2, 'Tax havens', report written for the Chief of Overseas Department, July 1969.
386 Ibid.

presence in Cayman of non-British banks was viewed to form part of the problem as they had little knowledge or will to execute exchange control.

A fourth was the new and growing interference from under the diplomatic service and (F)CO responsibilities, who sometimes frustrated the Bank with their lack of understanding of exchange control issues and its implications for UK interests. The role of British administrators and governors, in some instances empowered to allow transactions to go through a territory, appeared to not always follow sterling rules and could act in ways counterproductive to UK interests, as in the example of the Caymans. By July 1969, the Bank's officials had learnt that the British Commissioner in Anguilla, John Cumber (who had enacted the controversial trust as the Administrator in Cayman in 1966), had sent officials into Cayman with the approval of the FCO to study 'the methods by which a small territory could become an economic success.'[387]

This meant the defence system of the Overseas Sterling Area net, only as strong as its weakest point, was virtually broken in all its important chains of control. As there was no exchange control barrier between the UK and the overseas Sterling Area, UK residents were able to transfer funds, securities, and real estate from the UK into tax haven names. A gap resulted from defaults in the management of the conversion of foreign currencies and the allowance of free trade of foreign currencies such as dollar for sterling without customers paying the required exchange fee or turning in the surrender.

The UK exchange control regime rested on two separate foreign currency markets, both subject to the provisions of the Exchange Control Act of 1947.[388] One was the official market through which most sales of currencies passed at the official rate set at a fixed parity against the US dollar. The other was the investment currency market available for foreign currency securities to shift hands among schedule area capital holders. The tax haven business presented issues for both markets, but concerns with respect to the investment currency market were particularly frequent. This was a market that functioned as a mechanism to enable the transaction of foreign securities such as portfolio investments, some direct investments, and real estate holdings. Private investment capital transferred outside the overseas Sterling Area had to go through the investment currency market and pay a dollar premium. Unlike the official currency market, which was regulated by a fixed parity rate, the investment currency

[387] BEA 12A10/2, 'Report on visit to the Cayman Islands', unclear signature, 28 July 1969.
[388] The Bank of England Quarterly Bulletin, 1967, 258.

market was driven by freely negotiated rates, settled as the dollar premium, that were normally higher than the fixed official rate.

From April 1965, the Bank of England increased the cost of entering this market by introducing a 25% surrender in order to sustain the sterling value.[389] This was an obligation placed upon the authorized dealers to see through that 25% of the sale of foreign currency securities went through the official market.[390] This meant the 25% surrender had to be offered for sale at the official market (at the official rate), leaving only the remaining 75% available for sales over the private market. Thus, if a Scheduled Territory resident sold, for example, a US security, the proceeds would be reduced by the difference between the official market rate and the currency premium at the time of the sale. The arrangement was operated by all Sterling Area members to ensure that foreign currency could not be acquired outside these rules.

With unexperienced administrations, and authorized dealers willing to bend the rules, funds could move on outside the Sterling Area without going through the investment currency market. Income from securities, often held in trusts or shell companies, could then be converted into US dollars if an authorized body decided to authorize the deal, and the proceeds could be freely used to purchase foreign currency securities. Similarly, land purchases settled in sterling could subsequently be sold for dollars to non-residents without going through the official currency market. In such a way, assets could slip from overseas Sterling Area residents into non-resident ownership without payment being properly made.

As a result, the Bank of England started to fear the rise of a 'third gap' in the British West Indies and other places. During discussions of the new developments in the British West Indies, the Bank referred to traditional 'gap countries' such as the Colony of Hong Kong in Asia and the British Protected State of Kuwait in the Middle East.[391] Both are documented 'gaps' in the financial literature.[392] Oil-rich Kuwait had been known since the late 1940s for sales of sterling related to the petroleum trade. Hong Kong was another known exchange gap from the 1950s related to its role in entrepot trade and its function as the doorway into the Asian market. The dominant position in the Bank of England in 1970 was still that these two areas were fairly in control since they had knowledge of the operators involved, the dealings at play, and the

[389] Ibid., 258.
[390] Capie, *The Bank of England*, 209.
[391] BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.
[392] See for instance Catherine R. Schenk, "British management of the Sterling Area", PhD thesis, London School of Economics and Political Science (United Kingdom, 1991), 28.

purposes of the trade.[393] However, the tax haven business was dominated by more heterogenous groups, following more foreign presence, scrambling the Bank of England's ability to verify the identity and intentions of the operators and the true scope of their business. The proximity to the US and the conjunction of activities by residents and non-residents in an unsophisticated part of the Sterling Area was a major cause of concern. Tax havens had proved to attract the very sort of funds and operators that were likely to exploit weaknesses in the control, and the size of the business was judged to be significant enough to challenge the existing exchange control machinery.

This had the potential of becoming important since tax haven growth happened in a context where more obligations were placed upon businesses and wealth from the mid-1960s, while the 'tax haven system' became increasingly accessible to internationally oriented economic agents. UK financiers, began in 1965 to be subject to increased regulations in the City, as discussed above, while simultaneously, the liberal Eurodollar market had grown since the late 1950s.[394] These markets could then develop out of London largely unrestricted, since investment banks and commercial banks were allowed by the Bank of England to carry out transactions unregulated as long as trade of capital involved third-party interests and not British citizens.[395] Jones (2015) has already noted how this 'loophole' led banks to engage in innovative practices.[396] Michie (2014) has argued that financial innovation reappeared in the post-war era, from a need of businesses to cope with instabilities and to evade government controls.[397] Central to adaptation strategies were relocation into new markets, diversification of financial institutions, reinvention of financial products, and predatory corporate environments. These are all features of the 1960s background to the operations of British-based financial institutions. While this study cannot identify exactly how these parallel phenomena of restrictions paired with freedoms were linked to tax haven developments, it is worth noting how adaptation was a feature of the world of international business and finance from the 1950s, preceding the observations of the Bank of England of new tax haven developments across the British Empire.

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393 BEA 3A 152/16, 'Exchange Controls in the Dependent Territories', November 1970.

394 Cassis has called it 'a turning point', *Capitals of Capital*, 219.

395 On the origin and workings of the Eurodollar market, see "The Origins of the Eurodollar Market in London: 1955–1963." *Explorations in Economic History* 35, no. 2 (1998): 221–38 and Gary Burn, "The State, the City and the Euromarkets," *Review of International Political Economy* 6, no. 2 (1999): 225–61.

396 Jones, "Firms and Global Capitalism," 184.

397 Ranald Michie, "Financial Capitalism", in *The Cambridge History of Capitalism, Vol II, The Spread of Capitalism: From 1948 to the Present*, eds. Larry Neal and Jeffrey .G. Williamson) (Cambridge: Cambridge University Press, 2014), 232.

The implications of new tax haven developments in the British West Indies tax havens were therefore a severe threat to the Bank of England's responsibilities. The emergence of new havens with inefficient control could eventually act on the willingness of other territories to co-operate and thus cause a general decline in standards. This fear increased as the tax haven circle was always widening and had reached not only the British West Indies, but also the Pacific, the Indian Ocean, the Middle East, and Europe.

3.3.2 Implications for Monetary and Financial Policies

While the above section described the tax havens' immediate exchange control effects, these also had broader indirect effects on the Sterling Area. In an era of fixed currencies, currency areas played a massive role in international competition. Strange (1971) has described how 'master currencies' such as the sterling and dollar were competing to uphold their positions as the first choice of trade and reserve currencies to sustain domestic business and finance.[398] This means that tax havens had consequences for central elements of monetary and financial policies.

Large scale capital outflow would cause the sterling pound to diminish in value, making payments for imports more expensive and UK exports less attractive on the international market. Further, sterling value had implications in the colonies as well since they were pegged to sterling. The rising prices in British exports which followed immediately after the devaluation in 1967 caused great local disappointment in the islands.[399]

Linked to the value of the currency, was also the worsening of an already pressured balance of payments situation. When Wilson came to power in 1964, the UK faced a severe balance of payments deficit which marked the 1960s.[400] The opening of a gap would add to these already severe balance of payment pressures. The success and failure criteria of banking and monetary policies were expressed in the balance of payments figures. The balance of payment account can ultimately be broken down to three elements: the current account measuring inflows and outflows of a country's goods and services; the capital account measuring capital flows; and finally, these have to be balanced out with the foreign exchange reserves in order

[398] Strange, *Sterling and British Policy*, 4-40.

[399] BEA OV 121/21, Letter from G. E. Hall to S. H. Wright (HMT), 15 February 1968. See also BEA 12A 10/1, Report by of the Bank of England, 'Visit by G.E. Hall and J.S. Howes to British Honduras, Jamaica, Cayman Islands and Turks and Caicos Islands', report, 8 February 1968.

[400] Capie, *The Bank of England*, 13.

to be optimal.[401] Hence, the balance of payments largely rests upon the value of the currency. What happened in the British West Indies, as in the Bahamas and Bermuda, was that funds moved out of the UK and appeared as an outflow on the balance of payments records, without being offset by an inflow of capital or of goods.

The colonies formed part of the solution to the balance of payment problem seen from a British perspective. The colonies had significant dollar surpluses with the US, different from the UK.[402] Hence, the local choice of currency regimes, the colonies' ability to effectuate exchange regulation, and the regulation of banks and financial institutions operating in the colonial territories were of vital interest to the metropolitan power in London as a means of access to the dollar in periods of dollar drains. As established in Sagar, Christensen, and Shaxson (2013), the Bank estimated an annual loss to the UK balance of payments budget of £10 to £20 million from outflows from the Overseas Sterling Area tax havens in October 1968.[403] However, these figures were recognized in the Bank to be uncertain and conservative as they were derived from the interrogation of banking operators considered to underestimate the size of the business.[404] Further, the trend in 1969 was expected to be on the rise and, as a consequence, was deemed to warrant careful attention. In the Bahamas, Bermuda, and Caymans alone, trusts and companies were expected to total £1,000 million, including dollar holdings, in which most were judged in the July report 1969 to 'simply pass through books'.[405]

This had another more indirect effect on the sterling's reserve role. This had in British dependencies, like in many other sterling member countries such as Australia, resulted in a re-thinking of the value of holding sterling as a reserve currency.[406] Britain had obtained multilateral support to sustain its role as the guarantor of the sterling's reserve role through sterling agreements.[407] These were concluded in the months between July and September 1968 among countries committing to hold a minimum of sterling in their respective reserve pools. The benefit to the UK was that the signatories would help maintain liquidity, important

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[401] Catherine R. Schenk, *International Economic Relations since 1945* (New York: Routledge, 2011), 4.

[402] B.R. Tomlinson, "Imperialism and After: The Economy of the Empire on the Periphery", in *The Oxford History of the British Empire, the Twentieth Century*, edt. Judith M. Brown and W. M. Roger Louis) (USA: Oxford University Press), 365.

[403] This is consistent with the findings in Sagar, Christensen, and Shaxson, "British Government Attitudes," 116. See BEA 2A 105/ 17, P.R.W. Legh's draft of the report of the OSA Working Party, 16 October 1968.

[404] BEA 2A 105/ 17, Her Majesty's Treasury Sterling Committee – terms of reference, 30 October 1968.

[405] BEA 12 A 10/2, 'Tax havens', report written for the Chief of Overseas Department, July 1969.

[406] Catherine R. Schenk, *The Decline of Sterling: Managing the Retreat of an International Currency, 1945–1992* (Cambridge University Press, 2010),122-123.

[407] Ibid., 273-285.

to commercial activity, inside the Sterling Area. The attraction for the signatory territories was some guaranteed backup for their own reserves and the advantages which followed from remaining inside the Sterling Area exchange control ring – especially in a context of UK diversion towards the EEC – a competitive economic bloc.[408] Tax havens and gap territories therefore risked deterring the attraction for larger economies, such as Australia, to continue these arrangements. Further, Sterling Agreements had been offered to all the Sterling Area territories in the Caribbean and had been accepted by most of the newly independent Commonwealth members in the region and the ECCA. The question arose as to what position the UK should take in Sterling Agreement discussions still not concluded with BVI, the Caymans, and the Turks and Caicos – all establishing themselves as tax havens.[409] More broadly, the developments challenged British monetary interests with the abandonment of sterling, which was a sign of a declining economic and political power. This was inconvenient from a business perspective and against the efforts of the metropole to re-establish its international role.

Hence, protection of the value of sterling, maintenance of balance of payments and the management of reserves formed a massive part of the Sterling Area political economy. As the Bank responded to a number of weak links and the exploitation of the existing currency arrangements, it recognized a clear need for action on the exchange control front – both to establish control over the current situation and to prepare against a situation which might get worse, possibly at a rapid rate. Consequently, the Bank of England viewed any flow of capital to tax havens with misgivings due to the constraints on the value of sterling, the balance of payments situation, and the Bank's reserves.

3.4 Politicized Exchange Controls

With the gradual build-up from the autumn of 1967 of a tax haven problem that was followed by a potent new danger of a third gap it became increasingly imperative to act. From a Bank of England and Treasury perspective, the remedy against new exchange control gaps was relatively straight forward: to expel members that did not adequately manage their obligations to protect the sterling. Exclusion would, with a single measure, have solved the three problems

[408] Ibid., 295.
[409] BEA 12 A 10/2, 'Tax havens', report written for the Chief of Overseas Department, July 1969.

of fears of gaps, balance of payments pressures, and restrictions on the reserves. This section develops some important reasons why this measure was never used.

3.4.1 The Question of Exclusion from the Overseas Sterling Area

The Bank of England's overall tax haven response since early 1968 was dialogue and guidance. By July 1969, this soft norm-building approach was under review. By then, the Bank had become serious about removing tax haven territories from the Sterling Area. This followed a broader assessment of the entire Overseas Sterling Area system linked to monetary debates of the 1960s.

From 1968, the questions of tax havens and gap countries had been drawn into a broader survey of the entire Sterling Area under the so-called 'Operation Brandon'. This was one among many different contingency exchange control schemes developed by the Bank of England and the Treasury in the aftermath of the devaluation of November 1967.[410] The monetary and banking debates of western economies in the 1960s were dominated by the insert of a new international financial order under the Bretton Woods arrangements to manage currency systems and maintain financial stability. The 1960s saw the need for international monetary reform, with the focus on reserve creation and balance of payments issues, and works were established within the Bank to assess alternative solutions for sterling arrangements.[411] The UK was under IMF pressures to settle the Sterling Area question, which in essence was a question of the legitimacy of the entire area as it had been operated since the 1930s.

The Brandon operation considered the consequences should the UK decide to extend worldwide exchange controls to reduce the current problem of large capital outflows – and, in so doing, in effect dissolving the Sterling Area. To support the Brandon survey, Her Majesty's Treasury Sterling Area Committee was put in place in October 1968. The group consisted of high-level officials of the Treasury and the Bank of England, including some of the most central individuals specializing in tax haven related issues.[412] Very soon tax havens and gap countries became side topics to the broader work within the Committee.

[410] Schenk, *The Decline of Sterling*, 221.

[411] Capie, *The Bank of England,* 419-420.

[412] The group was headed by S. Goldman (Second Sec. to HMT), to be handed over to F. Figgures (Second Permanent Secretary, HMT) as chairman from November, and the others present were: Geoffrey Littler (HMT, Exchange Controls), E.B. Bennett (Overseas Dept.,BOE), M.V. Posner (Economic Adviser, HMT), D.F.

By March 1969, tax havens had become topical, and a meeting was held among Jeremy Morse (representing the Governor's Board) and the Overseas Department to discussed an overall tax haven strategy that should guide the department.[413] The strategy meeting initiated a minor Working Party consisting of Gordon Hall and John Howes - the two most experienced 'firemen'. They should, based on the experiences from the British West Indies and the Atlantic, suggest whether or not exclusion of tax havens from the Sterling Area was an option.[414] Illustrative to how information went upstream within the Bank, Morse maintained dialogue on the Governor's level based on the tax haven experiences arising from within the Overseas Department. He then cleared the policy relevant decisions with the Governors before approaching the Treasury to find political anchoring of decisions related to tax havens.

In July 1969, the small Working Party headed by the Cashier's adviser Dudley William Crawford Allen, delivered a report to the Chief of the Overseas Department. The report provides a glimpse into the by then obtained understanding of the tax haven problem. It emphasized the Caribbean and the Atlantic as the two crucial parts of the Sterling Area that were particularly exposed to challenges following tax haven developments.[415] The problem was that funds could flow freely from the UK 'to the proliferation of financial enterprises which follow the tax haven system'.[416] In the view of Howes and Hall, the region had changed rapidly following sterling devaluation in 1967, and the subsequent public attention given to the region by the press that suggested how operators could avoid exchange control rules. Further, they reported: 'The smaller, less sophisticated islands are receiving almost constant attention and blandishments from operators who aspire to turn them into their own private empires'. Hall and Howes saw these operations as 'brass plates manipulating assets outside the islands', which they judged 'could quickly get out of hand and produce substantial gaps in the exchange control fence'.

The idea to insert exchange controls against the current Sterling Area was not new, but had been abandoned due to concerns that the Sterling Agreement system would collapse.[417] The

Hubback (Under-Sec., HMT), A.K. Rawlinson (Under- Sec., HMT), R.P. Fenton (Chief, Overseas Dept., BOE), and C.W. McMahon (Adviser to the Governors, BOE), and P.R. Gordon (Secretary).

413 BEA 12A10/1, signed S. W. Payton (BOE), 31 March 1969.

414 BEA 12A 10/1,'West Indies – tax havens', S. W. Payton to A.D. Neale (HMT), 11 April 1969.

415 BEA 12A 10/2, report written for the Chief of Overseas Department, 'Tax havens', D.W.C. Allen (Cashier's Dept., BOE), 14 July 1969.

416 Ibid.

417 Schenk, *The Decline of Sterling*, 123.

Bank of England, along with the Treasury, had continuously considered this possibility and traditionally made the case that this would not be of national interest due to the costs and expansion of bureaucracy that would result. Discussions within the Sterling Area Committee aligned with this argument: that this was not a viable solution since it would result in the need of 100 to 150 more staff members to conduct efficient exchange controls to more than 70 countries.[418] Another difficulty would be to establish any clear criteria of which territories could remain and which would be excluded.[419] However, the new tax haven developments within the Overseas Sterling Area, added one argument to extend the UK exchange control to the entire world.

With the July report, the question of exclusion of tax havens came to a head. Upon discussing viable strategies, the report saw three alternatives.[420] They could find ways of amending the existing exchange control position of the territories concerned with special administrative action inside the current rules; they could exclude territories from the Sterling Area; or, finally, they could advocate for a general change in the Sterling Area rules. The policy line adapted by the Overseas Department, was that no major action could be effectuated such as the exclusion of tax havens and recommended instead the strengthening of exchange controls in the areas. However, there was one exception with the possible exclusion of the BVI on the grounds that the territory used the US dollar as legal tender currency, which threatened major evasion from exchange control. The Overseas Department could accept to allow tax haven territories within the Sterling Area on the grounds that the territories were believed to have relatively satisfactory exchange controls, which had been built together with the Bank secondment over years. However, the Bank was interested in doing something about Montserrat, one of the ECCA members, due to its aspirations to establish tax haven legislation. This complicated the matter, since the ECCA area would need to be treated as one holistic entity for political and practical reasons and the Bank could not exclude the entire ECCA area due to what was referred to as 'one sinner'.[421]

Among the remaining dependencies, however, the Overseas Department did still not worry so much about the smaller tax havens so long as they held small sterling balances. British Honduras had obtained some self-government in 1961, but was not judged to be in danger of

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[418] BEA 2A 105/17, 'Her Majesty's Treasury Sterling Committee – terms of reference', 30 October 1968.
[419] BEA 2A 105/ 17, P.R.W. Legh, draft of the report of the Sterling Area Working Party, 16 October 1968.
[420] BEA 12A 10/2, report written for the Chief of Overseas Department, 'Tax havens', D.W.C. Allen (Cashier's Dept., BOE), 14 July 1969.
[421] Ibid.

developing into a tax haven due to a territorial conflict with Guatemala.[422] Taking into account political and practical considerations, the Bank concluded that exclusion was only possible in the case of Bermuda, the Bahamas, the Cayman Islands, the BVI, and Turks and Caicos.

At this point, the Bahamas and Bermuda were still the most significant areas. This was not so much for the quality in the exchange control management as it was a consequence of the sheer amount of sterling balances held in the islands. Another related consideration was the existence of other more important leaks causing embarrassment for the exchange control in the Overseas Sterling Area such as the Gulf States and Hong Kong. To exclude the tax havens alone would lead to risks of dangerous speculation about the Bank's intentions to exclude other areas know for exchange control difficulties. Also, the administrations of the Bahamas and Bermuda were expected to view their competence in running the exchange control as superior to that of Hong Kong or the Gulf States, and they were therefore expected to oppose this as discriminatory behaviour. If exclusion was to become an adopted policy of the Bank, it was argued this would have required a much broader assessment of other areas as well, such as the Persian Gulf members and Hong Kong, which raised similar problems.[423]

The Cayman Islands was judged to be in a special situation due to its orientation towards the US economy. Approximately 90% of earnings were reported to be in US dollars and almost 80% were imports from the US. By then, the local Cayman authorities had a desire to formally convert to US dollar.[424] The Cayman Islands was therefore expected to be easily persuaded into withdrawal from the Overseas Sterling Area. The cost to the UK's reserves of excluding the Caymans from the overseas Sterling Area would not be high if a scheme was introduced to restrict the convertibility of UK trust funds. However, the Overseas Department did not recommend the exclusion of the Cayman Islands unless the situation was further aggravated, or the territory converted to US dollars like the BVI.

The exclusion of the Turks and Caicos was judged along the same lines as the Cayman Islands. Their problem related to the close connection to the Bahamas system, on which they were dependent for employment and earnings. Hence, the Turks and Caicos was considered to be best included in any potential future action taken with the Bahamas. The result was many 'untouchable' tax havens. Only the BVI appeared to be a simple candidate for exclusion,

[422] W.D. McIntyre, *British Decolonization*, 74.

[423] BEA 12A 10/2, report written for the Chief of Overseas Department, 'Tax havens', D.W.C. Allen (Cashier's Dept., BOE), 14 July 1969.

[424] Ibid.

allowing the UK to get rid of at least one troublesome problem. The free circulation of US dollars was so incongruous with the Sterling Area rules that the rest of the Caribbean members were expected to accept the exclusion, importantly minimizing speculation about the possibility of further exclusions.

By August 1969, it was discussed on the Governor's level if the exclusion of the BVI was a justified decision due to its special dollar relationship and suggested encouraging Whitehall to reconsider its exclusion.[425] This conclusion was identical with the recommendation from an earlier joint Working Party of the Bank of England and the Treasury from 1967, otherwise unrelated to the new tax haven threat. This illustrates how the exclusion of territories from the Sterling Area had become more politically sensitive. Morse reported that this former work did not go forward because of opposition for political reasons.[426] In support of this observation, Piers Legh, the Deputy Chief of the Overseas Department, had argued similarly in 1967: 'The over-riding difficulty seen in Whitehall to excluding parts of the Overseas Sterling Area from the Areas is because the political departments, particularly the Commonwealth Office, associate Sterling Area membership with Commonwealth or with the proper relationship between the U.K. and the Colonies'.[427] This means exclusion was never effectuated because it was not considered politically viable to act against the newly independent territories due to considerations of untimely interference. In the case of the BVI, the end result was a special exchange control arrangement inserted with the co-operation of the administrator before the end of 1970 to prevent the opening of a gap.[428]

By 1970, the Bank had seriously considered the exclusion of the New Hebrides from the Sterling Area as a result of what the Bank referred to as its 'new "tax haven" problem'.[429] There were also talks of the possible exclusion of the Maldives and Nauru following a new interest in the Pacific area.[430] However, none of these exclusions were enacted for similar reasons as those noted in the case of the British West Indies.

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425 BEA OV 121/22, C.J. Morse (BOE) to Leslie O'Brian (Governor) and Maurice Parsons (Deputy Governor), 'tax havens', 8 August 1969.

426 Ibid.

427 BEA 12A 10/1, 'Caribbean Exchange Control', reference of P.R.W. Legh, 21 September 1967.

428 TNA FCO 44/360, 'Tax havens: balance of payments and Exchange Control aspects, note by the Treasury', December 1970.

429 TNA T 317/1453, D.A. Truman (Overseas Finance Division, HMT) to F.E.R. Butler (BOE), 'New Hebrides', 21 July 1970.

430 TNA T 317/1453, E.B. Bennett (Overseas Dept., BOE) to J.G. Littler (Overseas and Exchange Control, HMT), 14 July 1970.

This means almost all the major tax havens of the Caribbean and elsewhere that had caused the Bank of England and the Treasury concern were treated lightly and controls in Montserrat, the Cayman Islands, BVI, and the Turks and Caicos remained a concern of the Bank by the end of 1970. As the question of exclusion had turned out to be complicated by political considerations and practicalities, the extension of the fireman technique remained instead the central weapon against the opening of new gaps. This approach was later extended to the Middle East the autumn of 1971 in co-operation with the Arabian Department of the FCO.[431]

3.5 Conclusions

This chapter has illustrated how the Bank of England observed tax havens being replicated throughout the Empire through "cut and paste" insertion of laws in small island legislatures. This adds more knowledge on how tax haven proliferation happened in a formative stage of the phenomenon. The tax haven business expanded ever deeper into the periphery of the British West Indies, and from there into other parts of the British Empire such as the Pacific, the Indian Ocean, the Middle East, and Europe. Further, the Bank's experience adds to an understanding of the mechanisms involved. While the Inland Revenue was focused on the low tax arrangements, the International Business Companies and trusts, the Bank of England response centred on exchange control gaps resulting from poor management of the existent control system – a feature of the tax haven phenomenon which so far has been less addressed. The actors involved did not seek the British West Indian tax havens only for tax purposes, but avoidance of exchange control restrictions played a central role. The implications for UK monetary and banking interests also becomes clearer from the Bank of England point of view with Treasury backing, especially regarding the value of sterling, the balance of payments, and reserve implications. This means the consequences of tax haven formation challenged the UK metropolitan power at the heart of its international competitive position and was not restricted to its already discussed tax position. Finally, the above experiences also highlight the creativity involved that appeared on the supply side of the market. This was helped with the operations of the authorized dealers and swarming of lawyers and auditing houses seeking new market opportunities.

[431] See for instance BEA 12A 10/2, from R.W. Marshall (BOE) to A.A. Acland (Arabian Dept.), 5 November 1971.

As discussed in the introduction, previous tax haven studies have emphasized the importance of deliberate 'tacit approval' practices, including those of the Bank of England, to allow the establishment of a tax haven system. This chapter offers a somewhat different interpretation in which the role of the Bank of England is understood to have been more featured by "paralysis" than deliberate "blind-eye" practices.

There are various indications in the presented material that the role of the Bank of England in establishing tax havens was defined primarily by institutional and structural factors linked to its responsibilities to protect the Sterling Area. It is clear, and in support of the tacit approval interpretation, that the Bank of England did not utilize its power to exclude tax haven members of the Sterling Area. However, the explanation as to why the Bank did not exhaust its restrictive powers seem to be related to other factors than elite alliances with the City of London agents. The City operators do not appear to have had any major influence over the Bank's tax haven approach. One clear indication of this is how the Bank's approach was solidly anchored in the Overseas Department with support from the Governor's level of the Bank of England and the Treasury over time, together with the explicit intention to restrict tax haven growth to protect sterling. One possible counter argument against this is then the possibility that the entire environment of high-level officials responsible to tax haven relevant decisions in the Bank of England and the Treasury were so enrolled in liberal thinking that the Bank's tax haven approach in effect was defined by 'nod and winks' practices serving the interests of the financial business community. However, there are no such indications in the presented material. Of importance seem instead the Bank of England's monitoring role of monetary and financial policies, lack of resources, and political delicacies stemming from metropolitan interference in a period of decolonization.

The Bank of England had to deal with politically delicate issues such as anti-imperial sentiments. In the context of empire contraction and political transition traditional banking and monetary tasks became increasingly entangled with political considerations. The Bank's officials were formed of specialists within the economic fields, but were novices to political considerations usually dealt with by the FCO. From late 1967, the officials of the Bank became increasingly alert towards restrictions imposed from political considerations on tasks which formerly had been treated as mere technical issues. This is exemplified with the question of exclusion from the Sterling Area. Further, efforts to install harmonization policies as a principle in exchange controls and banking seems to have been obstructed by currents of monetary and financial independence which characterized the British West Indies region in the 1960s.

Further, the instituting of the ‘fire brigade’ meant a change in the Bank’s priorities and the diversion of much needed resources in a period when sterling was under immense pressure. Hence, one explanation of the forgiving approach on the part of the Bank–in allowing tax havens within the sterling regime– lies in material restrictions such as resources.

The Bank’s actions therefore had more to do with ‘ad hoc’ features than strategic thinking. Tax havens could develop according to patterns similar to those that emerged within the Inland Revenue. The issue emerged from the work and responsibilities of the Overseas Department and travelled upwards to a high-official level as the issue became more pressing from a regulatory view during the autumn of 1967, following sterling appreciation and devaluation. In this way, the tax haven issue interfered with responsibilities under the Bank, interests which collided with the responsibilities of the political departments and – as we shall see in Chapter 5 – formed a source of great controversy.

Chapter 4 A Solution to Colonial Finance, 1964-1970

Tax havens also unfolded as an issue attached to colonial finance, development, and aid. This chapter focuses on some minor engagement with tax havens under the Colonial Office from 1964, and how the issue emerged within the Foreign and Commonwealth Office (FCO) after it was established in 1968. These department's responses to tax haven developments offer historical detail which helps understand local perspectives in poor island economies in the British West Indies in the period treated here, from 1964 to 1970. Moreover, the perspectives of these institutions add to a larger story of how tax havens have functioned as a growth model.[432]

The chapter investigates which territories and mechanisms were central to the internal tax haven debates viewed from a development and colonial policy angle. It also extends current knowledge of the businesses and individuals involved and the main features of how the new tax haven business was considered to impact small island economies. More specifically, the chapter shows how a tension arose within the FCO from balancing UK's responsibility to support local interests in British dependencies against UK domestic interests. The central argument developed here is that this tension established a duality in the British approach to tax havens. This duality became more evident from 1969 following stronger interdepartmental involvement, particularly among offices under the FCO and the Treasury, related to an explosive growth of the real estate industry in the British West Indies in the late 1960s.

The chapter is structured in the following way: Section (4.1) investigates how tax havens initially emerged in 1964 as a solution to development problems in the case of Montserrat, which was still under the Colonial Office responsibilities at this time. Section (4.2) examines how the FCO from 1969, after it had been criticized from the Treasury of tax haven encouragement, sharpened its focus on tax havens. Section (4.3) lays out how tax havens led to unforeseen challenges to administrative, social, and political structures in the dependencies. Section (4.4) shows how the British administration failed in its stated goal to implement a clear tax haven policy, despite some progress in restricting the real estate business. Finally, the conclusion elaborates how the FCO experience – despite some support for tax haven measures to alleviate aid dependency – otherwise substantiates the impression of an

[432] See for instance Ronen Palan and Jason Abbott, *State Strategies in the Global Political Economy* (London: Pinter Publ., 1996).

unplanned and ad hoc administrative response to tax havens following practical problems as they appeared.

4.1 A New Method of Development Finance

The West Indian Department of the Colonial Office had some minor engagement with tax havens before its successor, the FCO, got more involved with the issue after its creation in 1968. Examining the few tax haven records kept by the Colonial Office reveals that the case of the colony of Montserrat in the Leeward Islands from 1964 and 1965 was the first dependent territory in the region that attracted attention from its colonial power for its aspirations to install a tax haven. The Montserrat case illustrates one early experience with a growing phenomenon in the British West Indies of how small and poor islands in the Eastern Caribbean started to imitate more successful tax haven islands in the central and north-western part of the region.

4.1.1 The First Tax Haven Fiscal Reform of the British West Indies, Montserrat 1964

Montserrat was the first territory in the British West Indies to apply to the Secretary of State for the Colonies for permission to turn the territory into a tax haven. After the dissolution of the West Indian Federation in 1962, Montserrat had a partly self-governing ministerial government obtained in 1960. After the Federation had collapsed, the West Indies Act of 1962 was passed, which allowed the gradual transfer of power to the dependencies.[433] This left Montserrat with some level of fiscal sovereignty, but the territory still needed consent from the British administrator under the authority of the Secretary of State for the Colonies to impose its own taxes.

William Bramble, the territory's first elected Chief Minister, requested the Colonial Office in 1964 the admission to insert a fiscal reform. In his first years as the Chief Minister, Bramble was seeking an economically sustainable route to economic growth for the by-then 12,500 inhabitants. In the immediate post-war years, Montserrat's cotton sales had dropped significantly as the result of new competition.[434] In addition, efforts to diversify the island's

[433] Derek O'Brien, *Constitutional Systems of the Commonwealth Caribbean*, 26-29.
[434] James Robertson, "Island Time," *Caribbean Quarterly* 63, no. 4 (November, 2017): 537-538.

economy within the banana trade and the tomato manufacturing industry had failed, and the island instead started to discover the commercial value of land. In this context, Bramble initiated a fiscal reform with the explicit ambition to set-up Montserrat as a tax haven. This strategy was closely attached with the related idea, as we shall see, to sell out parcels of unused land to incentivize local investments.

Already in 1963, Bramble had publicly stated that he would establish a tax haven in Montserrat. By then, the Eastern Federation, a group of British related Eastern Caribbean islands, was still under active consideration. These islands aspired to initiate a second generation of efforts to form a federation after the West Indian Federation had failed in 1962.[435] These were referred to as the 'Little Eight', consisting of the smaller and poorer islands in the region. Montserrat was one of these, together with Antigua and Barbuda, Dominica, Grenada, St. Kitts-Nevis-Anguilla, St. Lucia, and St. Vincent and the Grenadines, headed by the larger island of Barbados under the Regional Council of Ministers.

The initiatives to install a regional federation had so far been characterized by diversity and collaboration problems among the involved territories.[436] The difficult question of federal taxation had been postponed. Meanwhile, a fiscal commission was appointed to examine whether or not the federal government would retain authority over taxation. However, at a Regional Council meeting in May 1963, Bramble sought to persuade his colleagues in the Council that Montserrat deserved special treatment and should be forgiven for implementing special tax arrangements because, in his words, 'Montserrat was an inaccessible and depressed area'.[437] After the meeting, Bramble claimed before the British administration to have received permission from individual chief ministers of unit countries and the Premier of the Council of Ministers, Errol Barrow, also Barbados' First Premier. As a consequence, the local administration under Bramble took steps to abolish all personal and income taxes intended to be in place as of January 1965.

In June 1964, Bramble sought support in Montserrat's Executive Council to revise the tax structure.[438] Citing influence from business interests in the American mainland and inspiration from northern tax havens, Bramble then explained how his doubts about the change had been

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[435] Johnson, "The British Caribbean," 620.
[436] Higman, *A Concise History of The Caribbean*, 267.
[437] TNA, CO 1031/4633, Background brief no. 37, 'The Secretary of State's Visit to the West Indies' (WID), January/ February 1965.
[438] TNA, CO 1031/4633, 'New Fiscal Structure for Montserrat', W.H. Bramble,10 June 1964.

dispelled after a visit to Canada, the US, and Bermuda. The deliberate intention to attract foreign capital was expressed in the presented aim of the reform, which, as articulated before the Executive Council, was to 'attract overseas investment and settlement into Montserrat at a rate we could never hope to do otherwise'. The initial draft reform included the full abolition of income and corporate tax. This meant a shift away from the current system of direct taxation to indirect taxation (typically on consumption) which was a feature of other tax havens in the region.

It became clearer to the Colonial Office over time that Bramble intended to develop what he called a 'beachette type of tourism'.[439] This referred to the sell-out of parcels of land to real estate dealers for residential purposes – a business which came to flood the territories from 1968. Bramble wanted to combine 'beachette tourism' with the fiscal reform, making electricity supply and airstrip landing facilities additional priorities to attract foreign investment interest. Thus, the fiscal reform was one central feature of a broader plan to develop the entire economy.

Bramble was under some immediate pressure to speed up the process to reduce taxes in June 1964, not only for political reasons after having created expectations for some radical fiscal changes over time, but as a result of signals that important American interests were starting to withdraw their commitment due to delays. An example of this pressure appears in a letter from the managing director of one interested company who wrote to him in June:

> On the basis of assurances given to us by you and other members of Government, we have been advising our customers not only that there will be a reduction, but quoting the proposed reduced rates as well. (…) If income taxes are not substantially reduced, or better still, abolished altogether, we fear a widespread cancellation of present sales contracts and a slow down of new sales.[440]

By the end of July 1964, Bramble came to the Colonial Office with his Financial Secretary to convince the West Indian Department to approve the reform.[441] He then explained how a fall

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[439] TNA CO 1031/4633, background brief no. 36, 'The Secretary of State's Visit to the West Indies' (WID 'B'), January/ February 1965.

[440] TNA, CO 1031/4633, letter to W.H. Bramble from J.M. Willem (company director, unknown company), 26 June 1964.

[441] TNA, CO 1031/4634, C.G. Gibbs (Colonial Office) to J.A. Patterson (HMT), 31 March 1965.

in revenue would be substituted by higher rates of indirect taxation plus new taxes on house and land. However, despite strong local backing, Bramble's wish to turn Montserrat into a tax haven quickly met resistance from the Colonial Office. The plan clashed with continued UK federal ambitions for the region and consent from the central administration was therefore not easily obtained. This reflects the overall British policy when confronting decolonization from the 1950s which was to settle federations as had been tried in other regions such as in Africa.[442] This was particularly important in the cases where small territories were involved. The main concern of the Colonial Office was the potential jeopardizing of an already fragile process that was hoped to lead to a federation among the smallest eastern islands.[443] Bramble's reform was seen by the Colonial Office to be a breach of the UK position, which was that any unit government did not have the right to withhold the exercising powers of the Federation in respect of taxation.[444] Since this could then frustrate what was left of the efforts to establish a federation in the British West Indies, the Colonial Office was not ready to offer any clear answer to Bramble's proposal.

In early December 1964, the conflict came to a head after the Administrator in Plymouth, Dennis Raleigh Gibbs, wrote home suggesting the need for an immediate decision.[445] By then, a revised reform was still under consideration in the Colonial Office. This revised proposal had reintroduced the abolition of income and corporate tax. The expected fall in revenue in Montserrat was discussed to be substituted with increases in import duties and luxury items, some tax on land and buildings, and some luxury consumption taxation. The Administrator was concerned after Bramble had returned from the Ninth Regional Council Ministers' Meeting in Barbados in October where he had presented his revised reform and had taken some proactive steps to broadcast his forthcoming tax haven. He reported that Bramble in November had promoted the tax haven on Radio Montserrat, and that he had also placed promotional material in the London Times and Wall Street Journal in October. The Administrator therefore called for a rapid conclusion.

The Colonial Office argument to disallow a tax haven for the protection of the Federation was increasingly difficult to sustain. In September 1964, Carleen O'Loughlin, a profiled economist

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442 W. D. McIntyre, *British Decolonization, 1946–1997* (New York: St. Martin's Press, 1998),12.

443 TNA, CO 1031/4633, Background brief no. 36, 'The Secretary of State's Visit to the West Indies' (WID), January 1965.

444 TNA, CO 1031/4633, Background brief no. 37, 'The Secretary of State's Visit to the West Indies' (WID), January/ February 1965.

445 TNA, CO 1031/4633, (the Administrator's Office Plymouth to D. Williams (CO), 7 December 1964.

from the West Indies University who took an active part in consultations on economic aspects of the Federation, was by then involved in the creation of a harmonized customs union within the Federation. She approached the Colonial Office to declare her full support to Bramble's fiscal reform: 'I think the new taxation proposals could do a lot in the long run to increase government revenue', she stated, adding that she thought it was 'rather unfortunate' if the proposals would be delayed beyond the next financial year.[446] She continued: 'If a Customs Union is agreed Montserrat might gain from being a "tax haven" and even if this gave her only one industry to supply the whole market, might be worthwhile'. She did not think the approval of one tax haven would inhibit federation since she reported that four members did not agree to federal control of income. This meant that the prospects of harmonizing taxes in the Eastern Caribbean would probably not find the political support needed to be instituted anyway. O'Loughlin then asked if the Colonial Office could hasten the conclusion of the last revision in view of her points.

The Secretary of State for the Colonies, Anthony Greenwood – newly appointed by the Labour Government in October 1964 – feared that special treatment of Montserrat would create precedence if other territories wished to move in the same direction under a principle of equal treatment of colonies. He took the position taken so far by the Colonial Office, and on 23 December Bramble received a temporarily rejection of his reform. Greenwood upheld the decision to put the Federation first, stating: 'I have reluctantly come to the conclusion that a decision on the question of abolishing income tax in Montserrat must be deferred until after a definitive constitutional conference on the Little Seven'[447], in reference to all the federal members except Barbados. Recent events had inspired new hopes for the Federation to succeed, prompting his caution. Furthermore, he held doubts that the other unit territories actually had supported Bramble's reform beyond supporting the principle that Montserrat was not subject to the federal legislator in the field of company tax and personal allowances. He was also concerned about the effect on Montserrat's revenue.

The constant delays ending with a refusal caused great frustration in Montserrat. As follows from the quotation beneath, the harsh tone of Bramble's immediate personal response to Greenwood the day before Christmas Day illustrates his determination to achieve the reform. The message made clear that Bramble was ready to boycott the Federation with withdrawal if

[446] TNA, CO 1031/4633, C. O'Loughlin to D. Williams (CO), 30 September 1964.

[447] TNA, CO 1031/4633, A. Greenwood to W.H. Bramble via the Administrator's Office in Plymouth, 23 December 1964.

the Secretary of State did not accept his reform. He asked if the Secretary could reconsider the decision and expressed his disappointment that Greenwood had failed to take into account the local support he had. He concluded the letter as follows:

> [I] fail to appreciate the logic behind your stand. I will not permit Montserrat to join a Federation without this special provision. This being the case, the deferring of your decision in this matter could well prove more prejudicial to progress towards Federation than would your prompt agreement: moreover, delay puts off the economic growth which is even more important to this little island than it is to the United Kingdom itself.[448]

Bramble's resentment was followed up by action. On 10 January 1965, a telegram was received in the Colonial Office from the Administrator in Plymouth which stated that owing to the Secretary of State's reluctance to permit the fiscal reform, the Montserrat Government was regrettably 'unable' to participate in any further federal activities until permission was given.[449]

In January and February, Greenwood visited most islands in the Eastern part of the West Indies to absorb local sentiments of the Federation underway, and called upon Montserrat where a compromise was reached. His main concern over potential obstacles to federal success had been alleviated on his way to Montserrat. The circumstances had changed as Greenwood was assured by the Governor and Barrow in Barbados that Bramble was right in that the regional Council of Ministers were offering no objection to the Montserrat fiscal reform. Once Greenwood realized that permission for the reform would not preclude the Federation, the argument had, to quote a later background brief, 'shifted in Bramble's favor'.[450] This left Greenwood with only one objection – which was that of the risk of loss of revenue to one of the poorest islands in the region, which could lead to burdens on the British aid budget. In February, when meeting Bramble, Greenwood discussed how he could provide a conditional approval if Bramble could accept that the UK was not ready to take on further aid obligations if his reform failed. As a consequence, Bramble re-engaged in the Federation, as reported by the Administrator in Montserrat: 'In view of verbal assurance given by Secretary of State which

[448] TNA, CO 1031/4633, W.H. Bramble to A. Greenwood, 24 December 1964.
[449] TNA, CO 1031/4633, telegram from the Administrator's Office Plymouth to the Colonial Office, 10 January 1965.
[450] TNA, CO 1031/4634, C.G. Gibbs (CO) to J.A. Patterson (HMT), 31 March 1965.

indicates full support by Colonial Office for Montserrat's tax policy, this Government is now willing to resume active participation in Regional Council of Ministers' activities'[451].

Later in March of 1965, a Colonial Office official of the West Indian Department, C. G. Gibbs, who had followed the Montserrat tax haven process, offered a retrospective summary of the central considerations taken into account with regard to Bramble's fiscal reform:

> As we saw it the argument for and against proceeding with Bramble's proposals were nicely balanced. If Montserrat could be considered in isolation with its special problems of smallness, depopulation and relative isolation, and with its particular need to make a success of the "beachette" type of tourist development we saw a good prima facie case for fiscal reform in the direction proposed. It seemed to us that a strong argument in favor of the reform was the high cost of collection of income tax, its non-progressive character and its insignificant contribution to revenue in a predominantly peasant community. Nevertheless we were conscious that Montserrat could not be considered in isolation and that the overriding consideration was not to do anything at this stage which would prejudice or add to the difficulties of establishing the Eastern Caribbean Federation.[452]

The visit by Greenwood coincided with the simultaneous presence in the territory of a Canadian lawyer, Gerald Townsend, appointed by the government of Canada. He was an adviser on fiscal matters assigned to the authorities of the Islands of Montserrat under the Commonwealth Assistance Caribbean programme, a Canadian aid initiative. He delivered a report in February on the fiscal situation of Montserrat entitled 'Study on the Revenue Structure of the Colony of Montserrat'.[453] The study formed the backbone of the fiscal reform that was taken forward. Instead of abolishing income and corporate tax, Townsend considered the best path for establishing a tax haven in Montserrat to be the lowering of the tax rates to no higher tax rate than 20%, in combination with lucrative tax treaties. This he thought 'may well assist in establishment of Montserrat as a tax haven'.[454] According to Townsend, this approach should be coupled with lucrative tax allowances that would have the effect of removing

451 TNA CO 1031/4633, Inward telegram from the Administrator in Montserrat to the Secretary of State for Colonies, February 1965.
452 TNA CO 1031/4634, C.G. Gibbs (CO) to J.A. Patterson (HMT), 31 March 1965.
453 TNA CO 1031/4634, the G.F. Townsend report, February 1965.
454 Ibid.,13.

individuals from the income tax rolls by almost half. The fiscal reform was viewed to complete a broader package including some lenient tax holidays for real estate operators. This was expressed in the report as how a 'significant reduction in the rates of tax combined with appropriate incentive legislation to give tax-free holidays, etc, to new industries and hotels will give sufficient impetus to the residents and potential investors in the colony'.[455] Further, Townsend recommended efforts to harmonize tax within the planned Federation, and that the Leewards, Windwards, and Barbados should adopt uniform income tax legislation to be collected from Barbados.[456] This would mean turning the entire Federation into a tax haven. The justification for these recommendations was to ensure that 'adequate incentives can be offered to businessmen and individuals through a significant reduction in rates and appropriate incentive legislation.' The other aim was to obtain 'a balanced budget without grant-in-aid assistance'. Bramble accepted Townsend's recommendations and the reform was approved in March in the Legislative Council, but it still needed consent from the Colonial Office, which consulted with the Treasury that had the responsibility for colonial aid.

The source above supports the view that Bramble's reform represented a specific new form of economic growth model. When, on behalf of the Colonial Office, C.G. Gibbs sought Treasury approval of the fiscal reform in Montserrat along the 'Townsend line' in late March, he explained how Bramble's idea to move from direct to indirect taxation in particular was new to the region. Gibbs rewarded Montserrat the pioneering role in the already mentioned 'beachette' type of development.[457] Gibbs observed with the Montserrat reform an early example of a growing trend in the region, as will be developed further down. In April 1965, Bramble obtained a formal conditional yes from the Treasury provided that Bramble could accept the following: 'any loss of revenue resulting from these proposals would be made good by other forms of taxation and the Montserrat authorities understand that we can accept no increase in grant-in-aid'.[458]

This final consent is coherent with general currents shaping colonial financial policies at the outset of the 1960s. Colonial finance was then in a transformative period moving away from the traditional thinking of self-sustainable colonial economies towards a growing acknowledgment that the well-being of populations in the colonial world was a moral obligation of industrialized imperial powers. As a result, poverty alleviation policies of the industrial states had melded with conversations about trade and special treatment for developing economies

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455 Ibid., 7.
456 Ibid.,12.
457 TNA CO 1031/4634, C.G. Gibbs (CO) to J.A. Patterson (HMT), 31 March 1965.
458 TNA CO 1031/4634, J.A. Patterson (HMT) to C.G. Gibbs (CO), 7 April 1965.

towards the mid-1960s. Related to the change in international thinking around developing countries, tax haven solutions emerged in the context where the bridging of aid and business incentives became central to British aid policies. This is illustrated by the statement in March 1964 by the then UK Secretary of State for Industry, Trade, and Regional Development, Edward Heath, before the UK Parliament in preparations for the first United Nations Conference on Trade and Development (UNCTAD) in Geneva: 'The United Kingdom delegation will lay particular stress on the importance for the trade of the developing countries, and for world trade generally, of wider access to markets and the removal of barriers to trade'.[459] When Harold Wilson's Labour government took office later in 1964, his administration continued this line of development policy. The new government instituted important changes with the creation of an Overseas Development Ministry in 1965 and a White Paper to direct the UK aid policy. The new policy tied more firmly aid to economic conditions in the recipient country.[460]

In addition of a change in development thinking in the industrial world, intellectuals in the colonies developed economic models rooted in local needs and realities – often in pair with business communities. The historian Richard Drayton explained before his audience at the Sir Winston Scott Memorial Speech at the Central Bank of Barbados in 2017 how sentiments of political and economic nationalism in colonies drove new leaders of self-governing territories to find inspiration in a new growth strategy.[461] This model he said, was developed by Sir Arthur Lewis[*], a native of St. Lucia and later the 1979 Nobel Prize winner for economics. Lewis advocated in his work of 'industrialization by invitation' strategies that he developed in the 1940s and 1950s.[462] He addressed the issues of overpopulated islands and unemployment and stressed the needs for industrialization. According to Lewis, leaders should aggressively market the islands as suitable locations for manufacturing with incentives such as cheap labour and low taxes that could attract foreign investment and drive modern industrialization. His

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459 Hansard, Trade And Development (Geneva Conference). Vol. 691,19 March 1964.

460 See Howard White, "British Aid and the White Paper on International Development: Dressing a Wolf in Sheep's Clothing in the Emperor's New Clothes?," *Journal of International Development* 10, no. 2 (December, 1998): 151–66.

461 January 19, 2017, Google (retrieved December 7, 2021), https://www.youtube.com/watch?v=AQoNNbGknrw.

* Lewis was LSE-educated in Britain, had working experience from the Colonial Office, and played a major role in the establishment of a pan-Caribbean academic environment with the Lewis Institute named after him. He was also a central figure in the establishment of the British West Indian Federation.

462 See Arthur Lewis, *Industrialization of the British West Indies* (Barbados: Govt. Print. Office, 1949) and Lewis, W. Arthur*. The Industrial Development of the Caribbean* (Port of Spain: Kent House, 1951).

contribution has later been viewed to have initiated the start of the Caribbean political economy.[463] Lewis's ideas were adopted in the region to attract foreign investors to produce for the domestic market.[464] Contemporary economic literature from the region illustrates this, exemplified by Jamaica, the first territory to obtain independence in the British West Indies (1962), which the entire Anglo-speaking part of the region then followed by undertaking pioneering legislation, most before the end of the 1950s.[465] Under these acts, there were tax reliefs for development, and many industries enjoyed tax-free holidays that were normally provided up to ten years.

The immense influence commonly attributed to Lewis in Caribbean regional social and economic studies has to some extent been contested.[466] However, while no direct influence by Lewis is documented here, his line of thinking is reflected in the tax haven menu of mechanisms that were offered to attract foreign capital. One example is from a memorandum on the economic situation in Barbados from January 1965 that was sent from the Government House in Barbados to the Colonial Office 'in view of the recent discussions about abolishing income tax in Montserrat'.[467] The memo was developed by Kenneth R. Hunte, a prominent local businessman and Barbadian senator, in the context of preparations for independence in Barbados in 1966.[468] Hunte opened his memo with reference to Lewis, arguing for the implementation of a new economic approach in Barbados. He proposed employing what he called the 'Caribbean method', which in his words referred to 'the main methods used in the Caribbean to attract capital into industries', in which 'the offering of tax holiday concessions' was central. Just as pioneering legislation was replicated among poor territories, tax haven mechanisms to incentivize economic activity were inserted with "cut and paste" practices among territories inspired by neighbouring islands.

463 Rex A. Mckenzie, "Structuralist approaches to social & economic development in the English speaking Caribbean", in 6th Annual SALISES Conference: Governance, Institutions and Economic Growth: Reflections on Sir Arthur Lewis's Theory of Economic Growth (Mona, Jamaica, 2005, unpublished), 3-6.

464 Johnson, "The British Caribbean," 619.

465 Examples of these are Acts of the Jamaica Legislature, such as the Industrial Incentive Act, the Pioneer Incentive Act, the Hotel Act, the Export Act, the Petroleum Act and the Motion Picture Act, find reference. See Charles Victor Callender, "The Development of the Capital Market Institutions of Jamaica", Social and Economic Studies 14, no. 3, (September, 1965).

466 See Terrence Farrell, "Arthur Lewis and the Case for Caribbean Industrialisation," Social and Economic Studies 29, no. 4, (1980).

467 TNA, CO 1031/4634, from the Government House in Barbados to D. Williams (CO), 8 March 1965.

468 On Hunte's connection to the Barbadian business community, see Henderson Carter, "The Rise of Black Businesses in Barbados, 1900-1966," In *West Indian Business History. Enterprise and Entrepreneurship*, eds. B.W. Higman and Kathleen E.A. Monteith (Kingston: University of the West Indies Press, 2010), 218.

The British West Indies also saw the coming of trade unions and party organization in the 1950s, from which a generation of black middle-class reformist nationalists emerged and came to power.[469] Bramble was a central figure to the establishment of the Montserrat Labour Party that had emerged out of the Montserrat labour movement. Thus, with the Montserrat fiscal reform the Colonial Office witnessed not only the programme of one uniquely visionary leader, but one early example where new currents within development thinking melded with economic nationalism and processes of independence. This shaped a perfect environment for tax haven growth, which the Colonial Office had just started to discover.

4.2 The Discovery of a Structural Phenomenon

The two following years from 1966 to 1968 largely represent a "blind zone" in the source material collected under the political departments. This does not mean the newly instituted Commonwealth Office in 1966, after it had taken over the responsibilities of the Colonial Office (and the Commonwealth and Relations Office), was entirely ignorant of the issue. This is evidenced by some engagement with individual cases in dialogue with other departments or the Bank of England such as in the case of the Turks and Caicos (1966 and 1968), the Cayman Islands (1967), and the BVI (1967) as treated in previous chapters. The next set of tax havens sources does not appear until after the administrative restructuring in 1968 when the newly inserted FCO got more engaged with tax havens. As will be developed in the following, the first half of 1969 was important for the FCO to develop an understanding of the tax haven phenomenon and the challenges that followed.

4.2.1 Treasury Confrontation of the FCO

Just as tax havens were a growing concern under Treasury responsibilities, Treasury officials were surprised to find what they viewed as the active engagement from FCO departments to advise British dependencies in the creation of a tax haven in Montserrat. In March 1969, Terence O'Brien, the Head of the Financial Policy and Aid Department (FPAD) at the FCO, received a letter from the Treasury where he was questioned for their role in tax haven developments in British dependencies. Geoffrey Littler, representing the Treasury Exchange

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[469] Howard Johnson, "The British Caribbean From Demobilization to Constitutional Decolonization", in *The Oxford History of the British Empire, Vol. IV The Twentieth Century*, eds. J.M. Brown, and W.R. Louis (Oxford and New York: Oxford University Press,1999), 597-600.

Control in his letter, referred to the worry in his department, the Inland Revenue, and the Bank of England of 'some aspects of the development of tax havens'.[470] He conveyed how from the Treasury side, they felt 'disconcerted' after a representative of the Price Waterhouse & Company had explained how his firm, financed by the Ministry of Overseas Development under the aid programme, advised the Government of Montserrat on how to 'set Montserrat up as a tax haven'. Littler admitted that after some investigations, he had found their first impression to be an exaggeration. However, he passed on Treasury concerns over the matter, including the formerly mentioned potential losses of balance of payments conservatively estimated at some £10 to £20 million annually. He also emphasized the recent developments in the Cayman Islands, because, in his words, of 'the evidence they offer of growing competition among tax havens and potential tax havens'. He referred to Treasury efforts to work with the established tax havens of the Bahamas and Bermuda to ensure a collaborative environment, which he reported would be 'much more difficult when we move into the tinier islands', clearly addressing islands such as Montserrat. With this, Littler invited O'Brien along with relevant officials, including those involved with aid and technical assistance under the ODM, to meet for a discussion of the new tax haven developments.

Terence O'Brien responded positively and conveyed how they shared concerns based on their own recent experiences with the issue within the FCO.[471] However, he defended the involvement of the Price Waterhouse assignment in Montserrat for, in his words, its 'aim of increasing local revenue and reducing the budgetary subsidy provided by the H.M.G', which he reported was currently running at about £140,000 annually. Importantly, the FCO operated under an idealistic guiding principle to press for colonial interests even though they were known to compromise the interests of the UK.[472] His argument was consistent with this mandate, as the fiscal reform underway in Montserrat represented the symbiotic goals of satisfying local demands, while at the same time reducing the prospects of Montserrat remaining a part of the UK aid budget. Further, Price Waterhouse & Company was assigned in an era dubbed 'the development decade' in reference to development programs of this kind.[473] Included in the terms of reference of the Price Waterhouse & Company study were the objectives of encouraging the development of housing construction, the attraction of businesses, and the

[470] TNA T 295/588, J.G. Littler (Overseas and Exchange Control, HMT) to T.J. O'Brien (FPAD), 'Tax havens', 13 March 1969.

[471] TNA FCO 59/532, T.J. O'Brien (FPAD) to J.G Littler (Overseas and Exchange Control, HMT), 18 March 1969.

[472] Barder, "Reforming Development Assistance," 5.

[473] D. C. Unger Engerman and C. R. Unger, "Introduction: Towards a Global History of Modernization." Diplomatic History 33, no. 3 (2009): 376.

investment in hotels along with assessments of the effects of changes in tax legislation to increase the government's revenue.[474] As it was established aid policy both to reduce UK aid expenses in consideration of a tight UK financial budget and to use professional consultancy firms, O'Brien's position can hardly be considered a surprising one.

On the basis of recent experiences of a number of developments in the Caribbean, O'Brien reported that the FCO had decided to establish a set of general principles for the guidance of dependent administration for dealing with developers and other commercial organizations, including what he called 'some pretty fly operators'.[475] On this background, O'Brien arranged for a meeting in March 1969 that marks the beginning of the interdepartmental negotiations leading to the formation of a tax haven policy.

4.2.2 Beyond Pioneering Legislation in the Dependencies

In preparations of the planned meeting, the FCO produced a preparatory note which provides insights into the most central tax haven activity viewed from a FCO perspective. The focus was on eight territories, a trend which had started to be relevant from June 1968: the Bahamas, Bermuda, the Cayman Islands, the Turks and Caicos, the New Hebrides, the BVI, St. Vincent, and St. Helena.[476] The tax haven focus within the FCO related to how local governments in British dependencies were increasingly approached by private developers. The deals they sought shared the common feature of various concessions that went far beyond what had commonly been accepted as pioneering legislation to promote development. Considering the FCO description of the new phenomenon, it seems clear that there was interdepartmental consensus on the general features of the new fiscal environments in British territories:

> Almost all the dependent territories have some form of pioneer tax legislation for periods up to ten years to companies establishing manufacturing enterprises or hotels in the territories. Some territories have no income or company taxation or estate duty and there has been an increasing tendency in recent years for these territories to attract international companies, mainly American or British, which register their headquarters in these territories and thereby save considerable sums in income or corporation tax. These

[474] TNA T 295/588, 'Terms of Reference for Taxation Review of Montserrat', March 1969.
[475] TNA FCO 59/532, T.J. O'Brien (FPAD) to J.G. Littler (Overseas and Exchange Control, HMT), 18 March 1969.
[476] TNA T 295/588, 'Tax havens and tax concessions in the dependent territories', March 1969.

> companies do not normally carry on business in the territories in the normal sense and they are mainly financial institutions or trust companies. Furthermore, there have been a number of instances in the Caribbean recently where commercial organisations have negotiated agreements with the governments of various territories, whereby the organisation undertakes to carry out certain developments in return for substantial tax concessions. Some of these agreements appear to have given the governments a rather meagre return for the concessions provided, and it is arguable whether the primary motive of the organisation was development as such or the tax concessions.[477]

These insights were derived from recent cases experienced mainly within the West Indian department and the Finance, Policy and Aid department of the FCO, and followed from a broader examination of similar arrangements in other territories shortly before Treasury confrontation. The most pressing case in March 1969 within the FCO was in the Turks and Caicos. This was expressed in one communication from the Financial Policy and Aid Department to the Inland Revenue just before the meeting: 'In view of the discussions we have had recently about propositions put forward by developer and other commercial organisations for tax exemption arrangements with the governments of various Caribbean dependent territories, I think you should know of one which has just come to my notice concerning Mr. C. W. McAlpin who wishes to set up in business in the Turks and Caicos Islands'.[478]

In June 1968, a proposal was put to the governor of the Bahamas, Ralph Grey, in his capacity as the functioning governor of the Turks and Caicos. He reported to the then Commonwealth Office that McAlpin, already introduced in Chapter 3, had approached him to get approval for one deal in the Turks and Caicos Islands, in his words, 'akin in principle to the Hawksbill Creek Agreement given to the Grand Bahama Port Authority Ltd' – the Bahamas Freeport.[479] McAlpin, who had also attracted attention from the Treasury side from an exchange control point of view, had called on the Government House in Nassau in June 1968 to discuss developments in the Turks and Caicos, stating a wish to go beyond the Freeport deal with the implementation of tax freedom to the entire South Caicos.[480] A new feature of the proposed

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[477] Ibid.

[478] TNA FCO 59/532, 'Turks and Caicos', from W. Durbin (FPAD) to D.G. Draper (IR), March 1969.

[479] TNA FCO 59/532, 'Mr. C.W. McAlpin – Turks and Caicos Islands', internal FCO note, March 1969.

[480] TNA OD 28/311, R.F.A. Grey (the Government House, Bahamas) to T.C. Jerrom (Commonwealth Office), 12 June 1968.

deal, and different from the Freeport arrangement, was that instead of an obligation for the company to provide development projects in infrastructure and social institutions, he suggested a franchise model promising a guaranteed revenue to the local government of a minimum of $500,000 annually. Further, he suggested that the franchise would include the institute of a jet service, a brokerage house, and a bank. In return, McAlpin asked for personal tax freedom, as he sought to attract finance corporations 'of sound standing' to develop a project under his corporation if given an exclusive franchise to licence corporations. He referred to similar deals in Curacao. The Governor's immediate take on the deal was as follows: 'All this may sound very unorthodox and even fantastic', and he suggested further enquiries be carried out. McAlpin was reported to just have placed the two largest advertisements ever in TIME magazine with a twenty-page insert in May 1968 detailing the ambitions of the fund.

The new appearance of real estate operators in the region made the FCO look into older cases with fresh eyes, notably the 'mother' deal of the Hawksbill Creek Agreement from 1955, the foundation of the Bahamas Freeport. By October 1968, the FCO approached the Commonwealth Development Corporation (CDC) to analyse the content of the McAlpin deal in order to advise the Governor. The CDC was founded in 1948 to promote Britain's interests in the Empire in the post-war years, and had changed in an environment of decolonization to a growth-promoting instrument of the Commonwealth.[481] Therefore, the institution had first hand experience with development agents in British dependencies. With this request, the FCO conveyed a scepticism about the deal: 'We have considerable reservations about applying anything like this particular arrangement to the Turks and Caicos Islands since the Port Authority in Freeport has rights almost akin to those of a separate city state'.[482] Freeport's connections to dubious financial circles have been documented.[483] Important here were the conditions included in the Hawksbill Agreement, which were controlled by the US investor Wallace Groves. The deal included the right to lease 50,000 acres on the Grand Bahamas Island to establish a deep-water harbour that functioned as its own jurisdiction with a separate set of rules within the Bahamas jurisdiction.[484] Groves could enjoy a 99-year exemption from customs and stamp duties, no taxes on money remitted from outside the territory, the right to

481 Bromund, Ted R. "Michael McWilliam. The Development Business: A History of the Commonwealth Development Corporation," Enterprise & Society 3, no. 4 (2002): 728-730.

482 TNA FCO 59/532, J.C. Morgan (Ass. Under-Secretary, FCO) to W.R. Rendall (CDC), 10 October 1968.

483 See for instance Craton*, A history of the Bahamas* and Block, *Masters of Paradise: Organized Crime and the Internal Revenue Service in the Bahamas*.

484 TNA FCO 59/532, 'Freeport (Hawksbill Creek Agreement), undated.

licence companies, and the right to control immigration under the Freeport umbrella. Those concessions applied also to firms licenced by the Authority to carry on commercial activities. This meant the Bahamas Government had signed away extensive taxing rights and functions otherwise normally conducted by the government. As a consequence, the Hawksbill Creek Agreement, in light of the new trend, was changed from being viewed as a successful growth path to become a symbol of what the FCO did not want to see for other territories.

Just a few days before the March meeting in 1969 was about to take place, McAlpin was called to a meeting with the Finance Policy and Aid Department and the Economist Department at the FCO with representatives from the Bank of England, the ODM, and the CDC, to explain in more detail which activities he had in mind. At this meeting, it was noted that McAlpin had said frankly that the purpose was to avoid taxes that he foresaw arising in the Bahamas and that his intention was to 'establish a tax free base in some other territory'.[485] The deal had tempting aspects for the FCO. Internal debates from the FCO records reveal the realities viewed from a development perspective in the Turks and Caicos. The Turks and Caicos was a scattered island group with few natural resources, had at that point 6,000 inhabitants, many of whom lived in poverty, and was heavily aid dependent.[486] Internal reviews from the Finance Policy and Aid Department indicate that in 1969 the UK had promised the territory a total of about £370,000 in aid – a significant figure for a small territory.[487] Therefore, the main concern from a Finance Policy and Aid Department perspective was not to 'deter any reputable business activities' balanced against overly generous commitments that would not 'give the Islands a square deal and would operate against their best interest.'[488]

In February 1969, the West Indian Department approached the Administrator in the BVI, Ian Thomson, in relation to another important deal, the formerly mentioned deal in Anegada. A draft agreement was already under way from January 1967, the year BVI gained more independence, between the BVI government and the Development Corporation of Anegada.[489] The deal had been concluded without interference from the West Indian Department. Seemingly in response to recent scrutiny of this type of deal, Thomson was warned that the deal could not be permitted to lead the 'tax haven nature of Anegada' to attract "hot money",

[485] TNA T 295/588, 'Turks and Caicos Islands Mr. C. W. McAlpin's proposals', reference of meeting, March 1969.

[486] TNA 317/ 1452, L. Monson (Deputy Under-Sec. of State, FCO) to F. Cumming-Bruce (Governor, the Bahamas), 10 October 1969.

[487] TNA FCO 59/532, 'Turks and Caicos', from W. Durbin (FPAD) to D.G. Draper (IR), 5 March 1969.

[488] Ibid.

[489] TNA FCO 59/532, 'Her Majesty the Queen Elizabeth the Second and the The Government of the British Virgin Islands and the Development Corporation of Anegada Limited, 20 January 1967.

potentially resulting in an exchange control gap, and that he would ensure the development would benefit the entire BVI.[490] Under the deal, almost the whole of the island of Anegada was leased to the corporation for 199 years. The corporation undertook to build roads, a jetty, an airstrip and terminal, a police station, customs office, a small hospital, and a post office – all welcome contributions to the island community.[491] The costs were to be met by rent payable to the government rising to $30,000 a year in the fifth and subsequent years. In return, the corporation – and importantly, all companies and persons licensed under the corporation as resident in or conducting activities on Anegada – were to be fully exempt from income tax, profit tax, and estate duty, also for 199 years. This equalled close to twenty times the maximum normal period settled under pioneer agreements. In addition, the corporation was exempt for ten years from import duty on plants, equipment, and material used for construction purposes.

The third central deal was the previously discussed Mustique Agreement involving St. Vincent and Lord Tennant. One month before the meeting, in February 1969, the St. Vincent government had signed an agreement with the Mustique Company Ltd, whereby the company would promote tourist facilities and other commercial undertakings on the island of Mustique. The company was authorized to licence persons or companies to carry on business or acquire land in Mustique. The company would pay to the government $50,000 Eastern Caribbean dollars per annum.[492] In return, the government would grant twenty years exemption from all taxes on the profits of the company or any licensee of the company whether earned in Mustique or outside St. Vincent. No stamp duty was to be levied on money remitted outside St. Vincent. Materials and other goods imported for construction purposes were to be duty-free for twenty years, as would supplies needed for administrative medical and educational purposes. The agreement had been readily negotiated in mid-August of 1968, and the FCO had later asked the Administrator to delay the signature until the administration had the chance to respond. The St. Vincent government by then faced local pressure from those desiring to open new employment possibilities as other development projects in the Grenadines were due to be abandoned.[493] It was therefore tempting from a local perspective to proceed. The local authorities were reported to have little concerns about the lack of tax income since the Mustique had never provided any tax income anyway.[494] The Chief Minister of St. Vincent commented that the Mustique Agreement was likely to be a forerunner of agreements for the

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490 TNA FCO 59/532, signed L.S. Price (WID), 3 February 1969.
491 TNA T 295/588, 'Tax havens and tax concessions in the dependent territories', March 1969.
492 TNA T 295/587, 'Mustique Agreement', the WID to the St. Vincent Government, 7 November 1968.
493 TNA T 295/587, C. Hall (FPAD) to D.G. Draper (IR), 5 November 1968.
494 Ibid.

development of other Grenadines islands in the St. Vincent jurisdiction. He was preoccupied with getting their fair share of revenue, while simultaneously acknowledging that they did not have the expertise needed to deal with the operators, and they asked for assistance to finalize the deal.[495] The FCO was careful not to go beyond the will of the Executive Council in the context of expected movement into associated status. However, by November 1968, the UK administration started to threaten the St. Vincent government with the withdrawal of the tax treaty with the UK if the Mustique Agreement went through.[496]

The potential appeal viewed from a local perspective are made clear by Tennant's own appeal to Anthony Fairclough, the Head of the newly inserted West Indian Department from October 1968. Tennant urged the Department to allow the deal in December 1968.[497] He emphasized the long family history in the region, with his family holding property in the British West Indies for more than one hundred years. He had bought the Island of Mustique in 1959, when workers had lived under conditions, according to him, similar to 'serfdom'. He further emphasized his investment in developing the island with no assistance from government, which he reported to have cost more than one million Eastern Caribbean dollars. He referred to his broad engagement in developing the local community. This ranged from the creation of employment opportunities; safeguard of pensions; extension of school facilities; support of higher education and training schemes; construction of a modern village; the chartering of a schooner to the St. Vincent capital of Kingstown; and the saving of unique cotton strains from extinction.

Tennant's narrative contrasts with the message sent from the FCO when the St. Vincent government was warned that they risked jeopardizing their tax treaty with the UK were they to accept Tennant's application.[498] Also, the formerly mentioned central figure Jeremy Green of the Inland Revenue, who had spent New Year's Eve in 1968 to elaborate a solution to the Mustique tax agreement, took a more cynical view of these self-proclaimed achievements by Tennant. While he did not contest Tennant's contributions, in late January 1969 Green referred to Tennant in an exchange with the West Indian Department, stating: 'If he is genuine (….) he will appreciate the wisdom of keeping the international tax avoiders away from his Island'.[499]

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[495] TNA T 295/587, Telegram from St. Vincent, (WID representative) to the FCO, 26. November 1968.
[496] TNA T 295/587, 'St. Vincent – Mustique Agreement', C. Hall, (FPAD) to G.E. Hall (BOE), 15 November 1968.
[497] TNA T 295/587, C. Tennant to A. J. Fairclough (Head of the WID), 16 December 1968.
[498] TNA T 295/587, Telegram to the St. Vincent Government, 19 November 1968.
[499] TNA T 295/587, letter from J.M. Green (IR, Secretary's Office) to D.O Hay-Edie (WID), 31 January 1969.

Since the new form of deals were important to the FCO, they started to follow this model with highly similar arrangements in other dependent territories. This follows from the aforementioned assessment from 1969 in preparation to the interdepartmental meeting in March.[500] Bermuda was then noticed for its appeal as a territory with almost no income tax, no estate duty, and a free port inserted in 1956. However, it was referred to as a domicile for international companies that had 'not become a tax haven on the scale of the Bahamas' and was of less immediate interest to the FCO. The FCO had also started to observe the consequences of the tax haven business in the Cayman Islands. They followed its development based on its generally low-tax environment in combination with its Companies Law of 1963 and attractive trust law from 1967. Based on the experiences from the controversial deals introduced above, they had become alert to the new trend arising in the Caymans following some political unrest in other places, as expressed in a preparatory note: 'It is apparent that various companies are registering themselves in the Cayman Islands as a precaution against political developments which might affect the concessions they receive at present in the Bahamas and Bermuda'.[501] Similarly, a new interest in the New Hebrides had been reported by the Resident Commissioner in the Pacific, who was cited as having observed recently how 'one Australian lawyer seems to have gone into the business of arranging the registration of overseas companies in the Condominium'.[502] As a result, the FCO had concluded that a company registration fee was to be increased to take advantage of this new development, and had sent the Companies Law to be revised under the Board of Trade. St. Helena in the Atlantic became a subject of attention for similar reasons due to a signed agreement with Ultramar Company Ltd, a construction company that would construct and operate a marine bunkering terminal. Under the deal, the government would grant a 70-year lease of Crown land for a rental of $5,000 per annum. In lieu of taxes, the company would pay to the Government a fixed annual payment. All materials and equipment for the construction and maintenance of the terminal would be exempt from import duty.

This shows how by early 1969, just as the FCO had been approached by the Treasury, it was just starting to encounter a new policy area with new tax haven developments. However, it was not until confrontation with the Treasury that the FCO started to focus more on a growing issue.

[500] TNA FCO 59/533, 'Tax havens and tax concessions in the dependent territories', March 1969.
[501] Ibid.
[502] Ibid.

4.2.3 The First Interdepartmental Meeting, March 1969

Against this background, on 25 March 1969, fifteen officials from different departments and offices affected in various ways by the new tax haven developments in the Caribbean were summoned to a meeting chaired by Terence O'Brien at the FCO.[503] This was the first interdepartmental meeting which aimed to develop a British tax haven policy in dialogue among the FCO, the Treasury, the Bank of England, the Inland Revenue, the Board of Trade, the ODM, and the Colonial Development Corporation (CDC). The majority of the most central officials engaged in the tax haven issue over a lengthy period of time were present, in addition to O'Brien and the already introduced Geoffrey Littler of the Treasury's Exchange Control Division. Notably, Brian Bennett from the Overseas Department of the Bank of England, who we saw earlier had observed tax haven developments in Gibraltar in 1963, was present. So were his colleagues Gordon Hall, John Howes, and Ronald Lusty, who had all formed part of the formerly discussed fireman brigade, and Jeremy Green, the most involved official from the Revenue side representing the Board of Inland Revenue. The novelty of the issue for the FCO is confirmed by initial comments made when O'Brien opened the meeting by explaining its background:

> [t]he attention of the F.C.O. had recently been focussed on tax havens and tax concessions; firstly because a number of Caribbean dependencies had been approached by business organisations who were searching for places to carry on their activities free of taxation and other restrictions, and secondly because Treasury, Bank of England and Inland Revenue were concerned about the loss of U.K. revenue and the drain on the balance of payments which resulted from the establishment of international companies in overseas tax havens.[504]

The meeting reflects a broad consensus among the involved officials on the basic facts of the new tax haven phenomenon, the actors involved, mechanisms at play, and geographic focus. The main tax havens of interest were those within the Sterling Area, for which the most immediate protection was viewed to be the exchange control mechanism. One important driver of tax haven proliferation was viewed to be linked to currents of independence:

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[503] TNA OD 28/311, 'Tax havens and tax concessions', note of a meeting 25 March 1969, (FPAD), April 1969.
[504] BEA OV 121/22, internal reference note of the BOE, 26 March 1969.

> It was evident from developments in recent months that many companies at present registered in the Bahamas and Bermuda, which had been long established as tax havens, were afraid that political developments in these territories would lead to the imposition of taxation to raise additional revenue, thus eroding the advantages at present enjoyed by the companies. The latter was therefore searching for other territories where they could establish a tax free base for their operations, preferably guaranteed by agreements for a number of years.[505]

Bennet of the Bank of England added an economic business argument for tax haven drivers and pointed to how costs in existing tax havens had tended to rise with the result that 'companies looked for a cheaper base for their operations'.[506] The meeting further agreed that the administrations of the smaller territories lacked the expertise to deal with sophisticated organizations. It was decided to approach the tax haven issue from the perspective of UK domestic interests, those of the territories involved, and those of third-party countries – an important decision to balance UK obligations. Littler of the Treasury raised the question of 'whether and in what circumstances H.M.G could tolerate an addition to the number of tax havens', and whether it should 'continue to give aid to territories which had established themselves as tax havens'. Green, representing the Inland Revenue, argued that the government should discourage the dependent territories from setting up tax havens. The FCO initially supported the Treasury side in this key question, represented as follows:

> [t]hat the growth of tax havens should be discouraged where the British Government is in a position to exercise control over financial affairs or at least to offer advice. We should warn the Administrations of dependent territories of the disadvantages which have resulted from the establishment of international companies, which usually bring little revenue to the territory and provide very little employment.[507]

However, the meeting addressed some questions that later crystallized into more polarized positions. Central among these was a discussion of the benefits arising from the tax haven business in the dependencies. There was the discussed danger that brass plate activities

505 TNA OD 28/311, 'Tax havens and tax concessions', note of a meeting 25 March 1969, (FPAD), April 1969.
506 Ibid.
507 BEA OV 121/22, internal BOE reference note of the meeting 25 March, 26 March 1969.

tended to build up an artificial impression of wealth which was not based on actual resources and was not in the long-term interest of the territories to attract tax haven business. Bennett pointed to the dangers of relying on a volatile tax haven business and, in his words, how 'their whole brass plate complex could disappear in a very short time', as exemplified by the Bahamas.[508] It was not viewed to be worthwhile to set up there unless one had savings of above £100,000 compared to £30,000 in the competing Cayman Islands.

These Treasury positions were challenged in the meeting by those more closely engaged with the business communities operating in the colonies. The CDC pointed out that 'all developing countries had to mortgage their future to some extent in order to get off the ground at all'.[509] The CDC further emphasized that the British Government would need to consider very carefully what policies that were in the best interest of territories where 'brass plate activities seemed to provide the only potential source of wealth'. The Treasury then suggested a trade-off between aid and tax haven business, where 'in some cases it might be appropriate to increase development aid in order to deter territories from setting themselves up as tax havens'. This was addressed as a form of 'carrot and stick' approach to be used in negotiations with tax havens, as already noted in Sagar, Christensen, and Shaxson (2013).[510] The ODM rejected as an option using the threat of loss in development aid as a deterrent to satisfy UK interests. These were early signals of controversial topics that would persist alongside the process towards policy formulation in the years ahead.

The objective of the meeting was to establish a UK tax haven policy. The meeting concluded there was not much scope for concerted actions with other countries since the UK's tax system and interests were considered to be different from its trading partners.[511] The US, reported to be the country 'most closely concerned with the tax haven problem', was viewed to have failed with Kennedy's 1962 tax haven initiative. Furthermore, the meeting found that European countries were still not interested in the issue beyond the work with the OECD Model Convention (from 1963) to streamline tax treaties among countries. It was realized that the OECD had looked into the tax haven aspect of the model, but was making little progress 'because of blocking by Switzerland'. It was agreed that there was little the UK Government could do about already established tax havens in independent countries. Instead, they would concentrate on the dependencies where they had direct control over budgetary aided

508 TNA OD 28/311, 'Tax havens and tax concessions', note of a meeting 25 March 1969, (FPAD), April 1969.
509 Ibid.
510 Sagar, Christensen, and Shaxson, "British Government Attitudes," 118.
511 TNA OD 28/311, 'Tax havens and tax concessions', note of a meeting 25 March 1969, (FPAD), April 1969.

territories. As a result, the two objectives established were to define the UK government's attitude towards tax havens in dependent territories and to establish some guiding principles in order to support local governments feeling increasingly overwhelmed by property developers. The fulfilment of these objectives turned out to be more difficult than expected.

4.3 A Disputed Growth Model

The critique from institutions working under the responsibility of the Treasury and some new local experiences in the colonies had made the FCO more receptive to a critical stance on tax havens and tax concessions. It was recognized that these represented a systemic phenomenon that could no longer be dealt with as isolated events. However, these issues divided the Treasury side and the departments more involved with colonial and development affairs. With more experience with the issue, these 'political departments' developed a more nuanced view of the difficulties and possibilities which followed the new tax haven phenomenon.

4.3.1 The Contest of Economic Benefits

What had been treated somewhat uncritically as a possible solution to development finance and aid relief within the (F)CO and ODM was challenged during the spring and summer of 1969. The Treasury side also had to admit that there was a colonial side to the story to take into account. Central to these differences were the attitudes and experiences of the institutions involved regarding the economic benefits and costs resulting from the tax haven business.

The established tax haven business did not always yield sufficient revenue to sustain local welfare needs. The tax haven business in Bermuda, although less in focus from an FCO position, was noticed for its failure to provide the territory with sufficient revenue to meet its needs despite the business activities and tourists attracted to Bermuda. It was reported to have had to 'dip into its reserves in order to balance its budget'.[512] Bermuda was therefore expected to potentially need to devise new revenue measures in the future. Likewise, in the Cayman Islands, the Financial Secretary Vassel Johnson had reported that the territory was not receiving sufficient revenue and that additional taxation measures would be considered. As a

[512] TNA T 295/588, 'Tax havens and tax concessions in the dependent territories', March 1969.

consequence, the FCO concluded: 'It is evident therefore that the Caymans are not deriving a great deal of benefit from the establishment of these overseas companies.'[513]

Different positions on the question of economic benefits to arise from the tax haven business continued to crystalize in the correspondence which followed from April to July 1969 alongside efforts to reach agreement on a set of guidelines to control the real estate business and a coherent tax haven policy. This process was coordinated from the FCO's Financial Policy and Aid Department under the supervision of Terence O'Brien. The debate which followed illuminates the core differences that existed among the involved institutions which dominated their tax haven approaches, and therefore deserves to be treated in much detail. In April, Green of the Inland Revenue rejected the value of potential income from brass plates. He based his argument on the grounds that the competition among the tax havens was so stiff that in the moment a territory raised the establishment fees in order to gain any substantial value from a company, he thought the brass plate would move to a different tax haven. Green therefore suggested the insertion of a paragraph into the guidelines that would emphasize the empty shell aspect of the tax haven business:

> In general, brass plate activities do not bring much useful development to a territory. The activities are, of their essential nature, off-shore: little employment is afforded to the territory in running the brass plate companies and little or none of the companies' finance will pass through or remain in the territory. The connections of the brass plate company with the territory in which it is situated are very tenuous and the company will very quickly be removed elsewhere if its operations become expensive – that is if it starts to bring any significant benefit to the territory.[514]

In response to Green's position, J. E. Rednall, representing the ODM, wrote to O'Brien of the FCO on the same matter in defence of the colonial perspective: 'I think that we may be in danger of looking at this too much from the point of view of the interests of the British government and not sufficiently from the point of view of the interests of the dependent territories themselves.'[515] Further, he was not ready to 'dismiss out of hand' the possible benefits to be derived from brass plate companies in the form of commercial entrepreneurship.

513 Ibid.

514 TNA OD 28/311, J.M. Green (IR) to T.J. O'Brien (FPAD), 24 April 1969.

515 Sagar, Christensen, and Shaxson, "British Government Attitudes," 118. See TNA T 295/588, 'Tax havens and tax Concessions', J.E. Rednall (ODM), 2 May 1969.

He also argued that tax havens aimed at North American companies 'may have little adverse effect on the United Kingdom and could even benefit sterling area reserves'. This argument reflects the traditional role of colonies to contribute by providing the UK access to foreign currencies, notably the dollar. However, it went against the established principle at the March meeting to take into account third-party country interests – an approach much closer to the heart of the Inland Revenue's work on international tax issues. To advocate for the perspective of the dependencies, Rednall suggested adding to Green's formulation a sentence which emphasized the local economic benefits arising from attracting entrepreneurs and financiers to the territories.[516]

Green opposed the optimistic view of Rednall both when it came to the question of the impact on UK domestic interests and the question of the benefits which could arise from brass plates. Green thought the UK administration was right to draw attention to the effects on interests of the British Government that stemmed from tax haven developments, arguing as follows:

> This is not (…) a matter for which we need apologise. (…) Most, if not all, of the territories to which this document will be sent are receiving significant aid, and if we were to keep silent about certain developments in the tax haven field the conclusion could quite reasonably be drawn in the territories concerned that the U.K. was either prepared to turn a blind eye or indeed give its tacit approval, to the activities concerned.[517]

Green further reminded his colleagues of the particularly aggressive Cayman arrangement that was introduced, as noticed in Shaxson (2011): 'not only inimical to us but directly and blatantly seeks to frustrate our own law for dealing with our own taxpayers'.[518] Green found it 'deplorable' that the British government should encounter this in territories which derived assistance from the UK. Green did not support the view that restrictions on tax havens were solely in the interest of the British government. He thought genuine development projects, such as the hotel industry, would take place irrespective of the tax concessions and believed tax concessions could 'be directly against the interests of the developing territories to give up their tax revenue'. He claimed the territories had nothing to gain from 'out-bidding' the other in the field of tax concessions. He upheld the position that the benefits that could rise from the 'brass

[516] TNA T 295/588, 'Tax havens and tax Concessions', J.E. Rednall (ODM) to T.J. O'Brien (FPAD), 2 May 1969.
[517] TNA T 295/588, 'Tax havens and tax Concessions', J.M. Green (IR) to T.J. O'Brien (FPAD), 7 May 1969.
[518] Shaxson, *Treasure Islands,*106.

plates' were overrated. He referred to their own experience within the Inland Revenue and a recent visit to the British West Indies which had found the benefits derived from the IBC to be 'negligible'. He illustrated this with reference to a particular interview with the individual handling the affairs of the companies concerned in Barbados, concluding that 'apart from a proportion of his salary and that of his secretary there were no indirect benefits being obtained by Barbados from the benefits being given to companies he dealt with.' He added: 'Certainly there were no indirect benefits which would begin to outweigh the loss to the U.K. from the legislation'. Green also did not accept the argument that the tax haven business was solely oriented towards North America, and as such was not a UK concern. He referred to one example of one unnamed small Caribbean island that 'already had cost the U.K. Exchequer tens of thousands of pounds', which had resulted in the exchequer receiving one pound for every 20 that the UK lost. He concluded: 'this is hardly an economical form of aid'.

The Bank of England took a position somewhat in the middle ground. Generally, the Bank supported the Treasury and the Inland Revenue side, but on the question of economic gains, Stanley Payton, who had spent much time in the Caribbean helping to establish the Bank of Jamaica, supported Rednall's comment against Green. Payton acknowledged the potential for some activity to follow brass plates with reference to experience in other places that had some degree of impacts on tourism:

> We would join Rednall in his doubts (…) about Green's suggested paragraph for the general section. (…) We are well aware of the UK interests here: but in your meeting of the 25th March attention was given to the unpromising future in some of the territories for normal development. "Brass plates" do not in themselves attract development capital but experience elsewhere has shown that the ability to establish a tax free company generates activity and employment – particularly in the development of tourism. All this would look pretty attractive to some of the undeveloped islands around the world.[519]

In response to Payton's support to Rednall, Green sought to illuminate what he must have viewed as a misconception on the part of the Bank. He clarified the content of the 'brass plate' term to demonstrate that the entire idea behind it was to be decoupled from the local economy. This emphasized the artificial side of the brass plate entities, which he defined as 'a company

[519] TNA OD 28/311, S. W. Payton (BOE) to T.J. O'Brien (FPAD), 7 May 1969.

which is essentially an off-shore company as far as the tax haven is concerned'.[520] He illustrated this with the Barbados International Business Company from 1965, characterized by such a decoupling from the local economy in all important aspects: the company could not carry out any trade in the island; it could not be controlled by local residents; persons resident in the islands could not receive more than one-tenth of its earnings and assets upon liquidation, nor more than one-tenth of the interests and dividends. From this Green concluded: 'it will be agreed that any company fulfilling all these conditions will have a negligible effect on the local economy', and he therefore dismissed any indirect benefits to be derived from their existence.

However, Payton upheld his position that the islands could derive some benefits from brass plates. In answer to Green's objections, he wrote to O'Brien: 'All I was trying to say was that to small islands whose development has not yet started the attraction of running a tax haven is that it might provide the take-off which they need'.[521] Payton's position was somewhat unclear, from his next comment: 'This does not mean that I recommend the idea as a policy for dependent territories'. Yet, he pointed to a reality based on his observations from his long-term stay in the region: 'The dependent territories and other non-dependents in the Caribbean obviously look at Bahamas and Bermuda. The lesson to be learned from them, I suggest, is that the freedom from taxation has aroused the interest of business men – very largely from the North American Continent'. However, Payton was not blind to the points Green had made:

> There will also be banking and trust company developments which, as Green rightly says, pass through their books transactions directed from other parts of the world – policies being confirmed by short meetings of "professional local directors" acting for hundreds of locally-registered non-resident companies. This in itself brings little benefit to the territory beyond the employment, rents and services needed to maintain the enterprise; but I have been assured that when a worthwhile local project has been formulated, a spill-over into local investment is not at all unusual from the funds passing into the hands of the trust companies. From the point of view of the local administration there is nothing to lose by trying it (...). It carries with it, of course, a number of disadvantages, (…) but if the choice is between

520 TNA T 295/588, J.M. Green (IR) to T.J. O'Brien (FPAD), 14 May 1969.
521 TNA T 295/588, S. W. Payton (BOE) to T.J. O'Brien (FPAD), 16 May 1969.

> development with risks and no development at all, the result is not difficult to foresee.[522]

The question of economic benefits remained unresolved. In July 1969, Green also opposed the proposal put forward in the controversial Price Waterhouse & Company report to implement International Business Company legislation in Montserrat for the reasons elaborated on above, further emphasizing the competitive aspect among recent tax havens: 'we do not regard these supposed advantages as being of any significance. So many countries are competing in the tax-haven business that it is not possible to charge very large initial and annual fees and once these fees are raised above a certain point companies will move elsewhere'.[523] The same day Green also wrote to the West Indian Department with a more blunt statement of his view of the report: 'I am bound to say that it is in our view highly regrettable that a study financed by the U.K. Exchequer should, in the event, have led to the making of recommendations, many of which are designed to cause a substantial loss to the U.K. Exchequer through the opening up of new opportunities of avoidance of United Kingdom income tax.'[524] To make progress forming a tax haven policy in an environment dominated by different positions on basic assumptions proved impossible.

4.3.2 Undesired Local Consequences

While the FCO position in the spring and early summer of 1969 was less explicitly stated in the interdepartmental discussion, its position underwent its own internal process as it responded to pressure from the Treasury side, local administrations, and impatient business interests to make clear their attitude toward tax proposals following development projects. In just a few months, the FCO's otherwise relatively relaxed position towards changes in fiscal regimes, excessive pioneer legislation, and increased economic activities in the islands had changed into the handling of a controversial issue. An indication of this change appears in the summary that Anthony Fairclough in his capacity as the Head of the West Indian Department made of the state of affairs in June 1969: 'The problem in some of the smaller territories is not so much attracting investments as keeping at bay an insisting swarm of developers armed with multi-million dollar projects long enough to enable some sane overall policy to be evolved'.[525]

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522 Ibid.

523 TNA T 295/588, J.M Green (IR) to T. O'Brien (FPAD), 9 July 1969.

524 TNA T 295/588, J.M Green (IR) to D.O May-Edie (WID), 9 July 1969.

525 TNA FCO 59/532, A.J. Fairclough (Head of the WID), 26 June 1969.

The Bahamas was emphasized during the meeting in March 1969 as a success story, which, according to a note of the meeting, 'had undoubtedly encouraged development and the tourist trade in the Bahamas'.[526] A few months later, the focus was diverted towards the considerable internal difficulties that had followed the Hawksbill Creek Agreement in the Bahamas from 1955. Freeport had resulted in an unequal wealth creation, social disruptions, and a massive corruption problem, and had ended up in conflict.[527] Furthermore, the Anegada-case in the BVI had led to bitter political controversy within two years and was eventually investigated by a commission of enquiry then later handed back to the people. The Ken Bates arrangement with the Development Corporation of Anegada came to be referred to in the West Indian Department as the 'monstrous Anegada agreement', suggesting its standing within the FCO.[528]

In addition, local challenges started to resurge from the work of the ODM as a stronger feature following the new tax haven business and the real estate business. The new influx of propositions involving Crown land was put ceaselessly to the governments by private developers on a daily basis. This is evident after the Development Division in Barbados in April 1969 had visited the Cayman Islands with an investigative team for the first time after its creation in 1966. The team sought to establish the priority areas for future aid, aiming to find ways in which to maximize revenue without impairing the existing tax structure. The Cayman Islands needed new public buildings, a deep-water harbour, a new hospital, and a hydrological drilling programme for water supplies. The report of the team's visit by William Bell, a former colonial Administrator and the Head of the development division, reveals how the administrative challenges that followed the tax haven and real estate business became the central area of focus for aid in Cayman.[529] Bell concluded that the main problems facing the Cayman Government arose from the lack of professional and technical expertise. This applied to both maximizing revenue without impairing the existent tax structure in the fiscal field, and to solidifying the institutional arrangement underpinning development and real estate projects. The team emphasized as well the need to strengthen the local administrative staff, who were, according to the team's report, 'shockingly housed' and 'demonstrably underpaid'. This was a problem which had been entrenched following the entrance of the new real estate business.

[526] TNA OD 28/311, note of a meeting held at the FCO 25 March 1969, 'tax havens and tax concessions', April 1969.

[527] TNA FCO 59/533, A.J. Fairclough (Head of the WID), 'Guidance to Dependent Territories on Agreements with Commercial Organisations', 4 June 1969.

[528] TNA FCO 59/533, 'Property developments in the Caribbean', A.J. Fairclough (Head of the WID), 2 June 1969.

[529] TNA, 'Report on a team visit to the Cayman Islands, 14th-17th April 1969', signed W.L. Bell (Dev. Div.), 28 April 1969.

Bell expressed this as follows: 'The flood of private sector activities, progressively drowning basic Government functions, has placed an insupportable burden on senior staff. As a result, the planning and execution of public development programmes lag far behind normal requirements, let alone those newly derived from developments, startlingly rapid by contrast, in the private sector.'[530]

The team's visit had revealed that one central problem for the Administrator and his Civil Service staff in the Caymans was confusion over land ownership in a moment when land transactions – the most valuable assets of the dependencies – had multiplied at an astonishing rate. Judging a time- and resource-strangled civil service up against professional business persons backed by professionals and high promises, the power balance was clearly skewed. Bell described the private developers and their propositions as follows:

> These propositions (…) are inevitably propounded in an atmosphere of geniality, lavish hospitality, implied generosity, and overwhelming urgency. They are almost always in package form – the provision of a deep-water harbour in exchange for x acres of freehold; the construction of roads and schools in return for exclusive water-rights; the metamorphosis of unhealthy swamp-land in return for dredging and sea-reclamation monopolies, and so on. They are usually backed by flossy lay-outs, and declaimed by a team of business-men supported by consultants of all sorts. They are invariably staged against an impossibly tight deadline, with an implicit threat of jam – today or none – tomorrow.[531]

Bell's concern was the 'other side of the table', the administrator and local civil servants with 'no business expertise, no consultants, no economists, no statisticians, no specialists in any of the vital fields'. Bell saw this as 'gentlemen against players' and warned against the political long-term consequences of the current divide among the private professionalism and public constraints and raised the dangers of 'the private sector calling the Government's tune'.

The new business was considered to have taken the central public administrative functions to the brink of collapse and was treated as an issue of critical urgency. This is expressed in the need to make the handling of the new property developers the main priority of aid to British

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530 Ibid.
531 Ibid.

dependencies.[532] This included the strengthening of the civil service to handle the new amount of property developers, to provide professional advice to overview its long-term consequences, and to clean-up in ownership structures to better control Crown land sales as described in Bell's end report.[533] This means, somewhat ironically, that by the spring of 1969, instead of forming the solution to end aid dependency, tax havens and a promising real estate business had up to that point added to the burden on the UK aid budget as it dealt with the local effects of this activity.

After Fairclough of the West Indian Department returned from a trip to the British West Indies in the summer of 1969, he introduced a new dimension of social consequences in relation to tax haven dependencies. He was concerned with the, at that time, little studied political and social consequences of the new tax haven business, and its long-term social effects. When reporting on his conversations with the BVI Chief Minister, he emphasized this in the following way:

> One matter of major importance in the long term was a recurrent theme in all my discussions in B.V.I. with the Chief Minister; and the same point also arose in discussions in the Bahamas, the Turks and Caicos Islands and the Cayman Islands with a greater or lesser degree of force. This question concerned the impact which large scale property development, which is now going ahead apace, is likely to have in the long term, not merely on the economies of the territories in which it is occurring, but also on the structure of their societies, the relationship between the newcomers and the natives, and on social and political relationships generally.[534]

Fairclough reported of concerns that BVI islanders could be outnumbered in their own country by 'British subjects' entitled to vote and who might, in his words, 'in time in effect take over political control of the territory from the local people'.[535] One possible solution suggested to him by the BVI Chief Minister was to amend the Constitution so that it would take a prohibitively longer period of time before an individual could obtain the right to vote, proposing a tentative

[532] TNA OD 28/311, W. Durbin (FPAD), 30 April 1969.
[533] TNA FCO 59/532, 'Report on a team visit to the Cayman Islands, 14th-17th April 1969', signed W.L. Bell (Dev. Div.), 28 April 1969.
[534] TNA FCO 59/534, 'Extract from a minute to Mr. Price from Mr. Fairclough on Visit to the British Virgin Islands', signed A. J. Fairclough (Head of the WID), 6 June 1969.
[535] Ibid.

timeframe of 20 years. This question had also been raised in the Bahamas and Turks and Caicos and to some extent in the Cayman Islands. However, Fairclough saw this as a less immediate issue in the Cayman Islands due to their history as ‘sailors’ with a more ‘cosmopolitan’ attitude, and he added a racial aspect, suggesting that the Caymanians were nearer to Europeans ‘in racial origin’.[536] Similarly, the most pressing issue in the Turks and Caicos was the impact that the large numbers of North American and possibly British settlers were going to have on this territory with its tiny population. Evan Wood, the leading elected spokesman, was reported to be worried that the island would be ‘swamped by settlers’ and considered restrictions on the right of British subjects to acquire the vote. This suggestion was reported to have much local support, so that if no such change was made, it was feared that British settlers would not be desired while Americans, who were ineligible to vote, would be preferred. This same question had led to the conclusion in the Bahamas that such restrictions most certainly would be applied upon some future state of independence not yet settled. A hostility towards British presence in the Bahamas was reported to already have taken root. Americans, who did not have the same basis to obtain voter rights, were much more welcome. As a result, the constitutional voting rights were subject to some debate in relation to the new real estate development deals.[537]

Fairclough’s own perspective was direct towards a social level: ‘I also made the point that it is quite unrealistic to think that one could introduce into any small community large numbers of wealthy people of different racial and cultural backgrounds and expect that they will not have considerable influence on policy and practice in all fields’.[538] The fear was that ‘ghettos’ of foreign settlers in small communities would arise, producing social as well as security problems. Fairclough considered the retaining of some sort of control through the ballot box reasonable, however pointed to the obvious solution of perhaps reconsidering efforts to make the territories maximally attractive to foreign settlers: ‘The question inevitably arises as to how far a territory such as the Turks and Caicos Islands wished to see its whole way of life changed by large scale property development. If they wished to exercise any control over this aspect of the affair, then they may well have to consider limiting their ambitions as regards attraction of tourists and settlers’. Another concern was how the locals would fill unskilled job positions whilst the managerial and supervisory posts would go to outsiders. As a consequence, Fairclough saw how the educational systems would need to be oriented towards producing the

[536] Ibid.

[537] TNA OD 28/311, internal note signed A. J. Fairclough (Head of the WID), 4 June 1969.

[538] TNA FCO 59/534, ‘Extract from a minute to Mr. Price from Mr. Fairclough on Visit to the British Virgin Islands’, signed A. J. Fairclough (Head of the WID), 6 June 1969.

qualifications needed in the future by hotels, banks, commercial houses, and trusts. His concern was how this impacted virtually every aspect of governmental services. This meant there was an inequality dimension viewed to potentially have a quite radical impact on the social fabric in small populated islands.

With his comments on the draft guidelines circulating for internal discussion, Fairclough stressed before O'Brien in the Finance, Policy, and Aid department the importance of including the social and political aspects of the developments in play.[539] Fairclough pushed for all development investigations to broaden their focus and include in the future the social and political aspects of economic operators in their frame of reference.[540] In his opinion, official aid, comprehensive economic investigations, and the tax structure should be designed as integral to a more holistic thinking than observed in the Caribbean territories. However, Bell in the Development Division had a more pragmatic approach and saw these as 'two distinct questions', a difference which featured the dialogue between the technically and more pragmatic oriented ODM, versus the FCO. M. E. Maccoll, who had followed the deals from the Economic Department of the FCO, saw the potential revenue losses were 'serious' and agreed with Fairclough for the need to attend more to the political implications. Further, she explicitly stated that she 'opposed the Anegada and Mustique agreements', and thought they should state a clear policy that these kinds of deals were 'undesirable'.[541] Maccoll asked one essential question, telling of the circulating awareness of abuses of tax havens within the FCO: 'We must also perhaps ask ourselves in whose interests we are pouring development funds into some of these places – those of the wealthy white retirees?'.

Fairclough summed up the state of affairs in July 1969: 'I would start by saying that Mustique type proposals are symptomatic of the general lack of planning by Caribbean small island governments'.[542] The FCO was still under pressure to conclude incoming proposals of deals in the summer of 1969. More companies continued to approach the Government in the Turks and Caicos. By then, the London-based Morris Wigram and Company, a private banking organization, together with the Channel International Bank from Jersey, applied to open a development project including 11,000 acres of the island of Providenciales of the Turks and

539 TNA FCO 59/534, 'Guidance to Dependent Territories on Agreements with Commercial Organisations',10 June 1969.
540 TNA FCO 59/534, note of a meeting, 20 June 1969, ODM, July 1969.
541 TNA FCO 59/534, M.E. Maccoll (Econ. Dept) to T.J. O'Brien (FPAD), 13 June 1969.
542 TNA OD 28/311, A.J. Fairclough (Head of the WID), 8 July 1969.

Caicos.[543] Morris Wigram & Company contacted Fairclough directly in order to conclude the tax position in the Turks and Caicos. The company asked for 35 years of tax exemption and 99 years of tax-freedom in the case of trusts, even though the Turks and Caicos did not have any taxes and were not planning to impose any in the foreseeable future.[544] Lucrative deals continued to be a challenge in St. Vincent too, which was reported to have been approached by four oil companies in July 1969.[545] With reference to a similar case, the Treasury contacted the FCO in July, this time to warn against exactly this kind of arrangement: 'This proposal presents us with something of a dilemma. We have no wish to deprive the people of the Turks and Caicos Islands of a development of this kind which we would otherwise welcome but neither do we wish to open up the territory as a tax haven with its inevitable consequences and minimal benefits to the inhabitants'.[546] The Turks and Caicos was scheduled to receive 296,000 in aid, 200,000 in capital aid, and 12,000 in technical assistance for 1970, which made the territory a substantial aid recipient in a Caribbean context.[547]

The FCO feared a rapid spread of similar conditions into other parts of the Empire. In preparations to finalize the guidance note on the real estate business, the New Hebrides was referred to as 'the latest tax haven' to arise.[548] After the circulation of an initial warning from the FCO into various departments, reports came back to London from the Head of the Pacific and Indian Ocean Department (PIOD), Eleanor Emery, of dubious new American speculators which had started to operate in the New Hebrides.[549] There were also incoming reports of a 'spectacular' property deal in the tiny island of Rambi (the Bananbans), under the control of the Ministry of Finance of Suva and the Fiji Governor.[550] Tonga was also suggested, a territory on the verge of independence but also 'at the mercy of unscrupulous carpet-baggers and speculators'.[551] The PIOD therefore requested the immediate distribution of the guidelines 'since the problem apparently now acute in the Caribbean may soon develop in the Pacific'.[552]

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543 TNA OD 28/311, Agreement between HM Queen (by the administrator R. E. Wainwright) and Blue Caicos Ltd., 1969.

544 TNA OD 28/311, the Morris Wigram Company (signed David Heimann) to A.J. Fairclough (Head of the WID), 'Providenciales', 18 June 1969.

545 TNA OD 28/311, telegram from WID to the Administrator of St. Vincent, 30 July 1969.

546 TNA OD 28/311, R.H.J. Steel (HMT) to the WID, 4 July 1969.

547 TNA T 317/1453, 'Property and Tourist development in the Turks and Caicos', report 5 March 1970.

548 TNA FCO 59/533, 'Guidance to Dependent Territories on agreements with commercial organisations', T.J. O'Brien (FPAD), 2 June 1969.

549 TNA FCO 59/534, E.J. Emery (PIOD) to T.J. O'Brien (FPAD), 24 June 1969.

550 TNA FCO 59/534, internal note by E. J. Emery (PIOD),13 June 1969.

551 Ibid.

552 TNA FCO 59/534, E.J. Emery (PIOD) to T.J. O'Brien (FPAD), 24 June 1969.

However, there was one case which stands out as representing hope for a new direction of policy. This was the marriage of a planned tourist industry with tax haven features and the new real estate business in a controlled manner. This possibility was specifically raised in the case of the Seychelles under the examination of the Transport and Tourism Technicians Ltd (TTT), an investigative team, headed by Curtis Keeble -a British diplomat responsible for British commercial relations in the Pacific. The team, contracted under ODM assignment in the summer of 1969, was established to assist territories in developing their tourist industry. The Seychelles was by this point scheduled to be receiving £900,000 of a total of £205 million per annum in UK governmental aid.[553] To reduce aid dependency, the objective in the islands was to develop hotel facilities following one newly acquainted airport. The Seychelles was reported to have just started to attract some East African companies which moved their headquarters into the territory, and the FCO expected an influx of companies if the trend escalated.

Early in July, the FCO was in a hurry to conclude the guidelines, not only because of the negative impact locally, but also due to frustration felt among companies in some islands. One reference of an internal meeting held at the Finance Policy and Aid Department with the TTT officials on property developer's agreements, provides insights into how some of these property development projects, such as the hotel industry, formed part of a broader development goal to grow the tourist industry.[554] Keeble, also engaged in the preparation of the guidance document after a recent return from the Seychelles, explained how investments in tourist development in many parts of the world had posed difficult problems for the countries concerned.[555] He contrasted the experiences of Italy, which had resulted, in his words, in 'the present unattractive state of the Adriatic coast', with Tunisia, where he thought development had been 'very carefully planned and the tourist industry was now going ahead very successfully'. Keeble advised that the main solution to safeguard a healthy path for tourist industry growth would be to draw up development plans, invite offers from various developers, and pool finance to support long-term goals. To facilitate this, he recommended streamlining standards, improving land registries, and providing governments reasonable time to assess project proposals. On the question of tax concessions, he was of the opinion that 'some incentives were necessary to induce investors to put their money into projects in small developing countries'. However, he emphasized, based on his experience, that ten years tax concessions were considered generous – in contrast to the up to 199 years of tax freedom

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[553] TNA FCO 59/534, record of a talk between A.N. Galsworthy (Deputy Under-Secretary) and R.W. J. Overland (the Chairman of the Seychelles Dev. Corp.) on a visit to the Seychelles, 3 July 1969.
[554] TNA FCO 59/534, 'Note of a meeting at the FCO 11 July 1969', 18 July 1969.
[555] Ibid.

sometimes requested more recently. The meeting then agreed that the need for planning and long-term perspective should be given more emphasis in the guidelines.

After a few months of more in-depth experience with the tax haven issue, it became clear within FCO offices that what was expected to be a rather straightforward administrative matter from the outset early in 1969 turned out to be a much more controversial, complex, and politically sensitive issue than anticipated.

4.4 A Dual Position

The differences presented above, laid the foundation for a dual UK relationship to the tax haven question which dominated the UK tax haven approach after 1969. The only material solutions to the tax haven problem offered under the Secretary of State for Foreign and Commonwealth Affairs by late 1970 were some negotiable restrictions inserted with a set of guidelines for the administrators to be better prepared to deal with the new real estate business. The broader question of implementing a coherent tax haven policy, extending to fiscal, corporate, and financial legislation, turned out to be more difficult than foreseen and had to be postponed.

4.4.1 The Real Estate Guidelines, September 1969

The process of finalizing these discussions appeared in a context of growing interest within aid communities and industrial countries to couple private investments with growth in impoverished areas as a substitute for aid, as previously mentioned. The FCO was in a hurry to finalize the guidelines as they prepared for the Commonwealth Meeting of Finance Ministers held in Barbados in September 1969. The conference raised as a central theme the importance of private investments as a strategy for development and the tax haven question was another topic. As evident from one Inland Revenue note of the Ministers meeting, the most common British-based tax havens by September 1969 were Antigua, the Bahamas, Barbados, Bermuda, the Cayman Islands, the Channel Islands, Gibraltar, the Isle of Man, Jamaica, St. Vincent, and the BVI.[556] The interdepartmental group that had started out in March 1969 was not even close to concluding any comprehensive tax haven approach. However, they managed

[556] TNA 40/16744, 'Commonwealth Finance Ministers' Meeting Barbados: Tax havens, note by the Inland Revenue', September 1969. These were mentioned together with the non-British based tax havens of Andorra, Liechtenstein, the Netherlands Antilles, Monaco and Switzerland.

to institute a policy on the new real estate business with a set of guidelines to assist governors and administrators in their handling of future property deals.[557] The new policy did not abolish the new business but introduced stricter demands relating to the planning, effects, and economic implications for the territories. In line with Fairclough's concerns (on behalf of the West Indian Department), it was settled that for the governors to accept a property proposal, the long-term economic, political, and social benefits would need to be addressed, and the entire business needed to be more transparent. Moreover, the policy demanded that an overall development plan should be publicly available, and provided streamlined conditions to be followed by local legislatures to protect constitutional powers. These conditions were established in order to expose the potentially false benefits of deals and provided a working tool for the critical examination of the long-term consequences of deals for local public interests.

One central principle established to prevent Hawksbill Creek type of agreements was that governments had to retain their constitutional freedom of action such as governmental powers, functions, and responsibilities. Governments should reserve to themselves the registration of companies, the granting of licences, and retain full control over immigration. The territories should also derive a fair share of the financial profit. Powers should be secured to reserve the means for ensuring the fulfilment of the developers' promises and for regulating social effects and other consequences. Providing ample time for the preliminary consideration of deals and their conditions was also established as an important principle. Projects that involved the establishment of 'ghettos' of wealthy immigrants should be avoided on social as well as security grounds and developers should be encouraged to design schemes that integrated newcomers and local people. Governors should also take into account locally available skills and public rights of way and access to beaches should be preserved.

On the tax aspect, important to the Inland Revenue, governments were advised to exercise great caution in granting tax concessions. The guidelines advised abolishing entirely tax-free areas and limiting tax concessions to not exceed normal pioneer tax legislation, preferably up to five and not more than ten years. Proposals of the kind which allowed licensees or individuals other than the developer to enjoy tax exemption were declared undesirable. Also, the Treasury had succeeded in including the argument that developers seeking exemption from exchange control requirements should never be accommodated. If any exchange control

[557] TNA T 295/892, 'Agreements with Developers and Other Commercial Organisations – Guidance on General Principles', 12 September 1969.

gaps were allowed to develop, the guidelines warned that the UK Government would then have to take action to protect the interests of the Sterling Area. Also, of importance to the Treasury was making proper banking legislation essential if there was any likelihood of banks being established, a continuation of principles in the previously discussed model banking ordinance designed under Treasury supervision.

The guidelines applied to the entire Empire and were distributed to all regions that had experienced an entry of the controversial new real estate business. The wide range of distribution indicates the significance of the issue and the general view of its potential scope by the autumn of 1969. The guidelines were sent to the governors of British Honduras, the Falklands Islands, St. Helena, Fiji, the Seychelles; the administrators of Montserrat, the BVI, the Cayman Islands, and the Turks and Caicos; the resident commissioners in the Gilbert and Ellice Island Colony and the New Hebrides; and the governor of the Bahamas. Gibraltar was excluded since it was not considered to match the conditions of the colony, and St. Vincent was judged to be too late to approach since it was about to become an associated state in October 1969.[558] As of September 1969, the FCO had managed to settle guidelines to deal with real estate developers. However, the goal of establishing a general tax haven policy by March 1969 was still not accomplished by the release of the September guidelines.

4.4.2 A New Real Estate Policy, November 1969

In late October 1969, in a meeting of the Turks and Caicos State Council, the local will went clearly against the presented guiding principles, upsetting the already fragile agreement. This led to a demand for a firmer policy on the real estate business to be concluded on a ministerial level by the Secretary of State in November 1969. The then Secretary of State for Foreign and Commonwealth Affairs under the Wilson government, Malcolm Shepherd, had been informed for the first time about the situation relating to property developers in the dependent territories in July 1969. Fairclough had conveyed their concerns to Lord Shepherd, 'of the small territories towards over-generous tax exemptions in favour of large scale developers and over the pace at which large scale property development was proceeding without adequate thought being given to the longer term consequences in terms of political and social problems'.[559] This seems to be the moment when the Secretary of State started to be more involved in the issue of tax

[558] TNA FCO 59/532, 'Despatch on Agreement with Developers', comment from J.C. Morgan (Ass. Under-Secretary, FCO) to T.J. O'Brien (FPAD), 9 September 1969.
[559] TNA FCO 59/534, A.J. Fairclough (Head of the WID) to W. Durbin (FPAD), 3 July 1969.

havens and tax concessions in British dependencies, which he took further with direct involvement in November 1969. This development was important because it was expected to set precedence throughout the British Empire. The policy was settled with the most urgent case, the Turks and Caicos, which became the test case for the British stance on the new real estate business in British colonies.

The island group in the autumn of 1969 faced six real estate proposals of the controversial kind. These included major development initiatives put forward by, among others, the Morris Wigram Company Ltd, the Caicos Dredging Company, Axford and Associates, and Herbert Imbt Inc.[560] Due to the delay in the approval of the new schemes, a delegation came to the FCO in London from the Turks and Caicos in November 1969.[561] This included representatives of the State Council and the Administrator Robin Wainwright, who joined them to discuss the new real estate developments. The delegation made a strong plea to the FCO to be allowed to go ahead with the deals. The essence of the local argument was the overwhelming need to establish employment opportunities. Other potential merits were the opportunities to secure the construction of infrastructure developments that could not be financed from any other funding source – including British aid.

The challenge seen from the London side was that some of the deals were warned by the FCO to be of an 'exceptionally far-reaching nature', and on 'an extremely large scale'.[562] For the Turks and Caicos, the conditions would in fact deprive them from imposing any future taxation, in which caused some concern with regard to the precedent of such a settlement. With experiences such as the Anegada case from the BVI in mind, which had led to crisis within two years, the FCO viewed it as misguided to accept these deals.[563]

The FCO had two options under the constitutional conditions to either accept or deny the deals, and felt tempted to reject the deals – a move that would have satisfied the Treasury. However, a rejection was viewed as difficult from a political standpoint since the deals were so strongly backed by local interests and it was also the FCO's responsibility to act on behalf of local interests. The other position was to let the territory do as it wished, but to make it publicly clear

560 The others were Solar Enterprises and Vanguard Inc. of Nevada.

561 TNA T 295/588, 'Property Developments in the Turks and Caicos Islands', the WID to R.E. Wainwright (Administrator, the Turks and Caicos), 28 November 1969.

562 Ibid.

563 TNA T 317/1452, 'Turks and Caicos Islands – Discussions on property Development', chairman's notes in preparations to the meetings with the Turks and Caicos delegation, November 1969.

that it was against the advice of the UK government and that the UK would not commit itself to bear the consequences beyond independence.[564] Another aspect of the situation was viewed from a general decolonization perspective, and the UK position depended on the prospects of further constitutional advances. It was judged most desirable to see the Turks and Caicos ally with the Bahamas and seek independence together with it in the future. However, that outcome was not seen as very likely as the FCO believed the island group would instead like to remain a British dependency and prosper from new development projects (in which it did). This left the FCO with the conclusion that the consequences of the deals were to be borne by the UK government into the unforeseeable future.

This delicate balance of interests initially led the FCO to implement the previously unwanted strategy of using aid to bargain over a tax haven policy. Still, in November 1969, the FCO was ready to negotiate with the Turks and Caicos for either more favourable terms for the Wigram deal desired by the territory or an increase in UK aid of £250,000 per year.[565] However, the Turks and Caicos did not accept the buy-out of aid, which they thought was ridiculously unsatisfactory as a compensation for the loss of an enduring industry for the future.

Due to the potential long-term consequences of the deals affecting future generations, a third approach was necessary – and turned out to be the end result. This involved settling guiding principles that would generally apply in the territories, while keeping open the opportunity to make divergent decisions in specific cases. On 28 November 1969, Lord Shepherd arrived at a conclusion in a formal statement to be made public in the territory.[566] He formulated a conditional approval of the deals in an attempt to have it both ways – to publicly signal to new operators that these kinds of deals were unwanted from the UK's standpoint and, at the same time, to win over the local audience. The Morris Wigram agreement was held back due to its scale, inclusion of trusts, and tax concessions, but Turks and Caicos could proceed with the Caicos Dredging Company, Axford and Associates, and Herbert Imbt Inc. Shepherd agreed, due to the potential of securing employment in the North and Middle Caicos, to the relatively small size of the projects and their compatibility with local development plans.[567] The deals needed to be negotiated with the administrator, but under guidance of the ODM before conclusion. However, this solution was based on a hesitant decision as a result of the real

564 Ibid.

565 TNA T 295/588, 'Development in the Turks and Caicos Islands', A.F. Morris to the (FCO), 26 November 1969.

566 TNA T295/588, 'Turks and Caicos Islands - Property Developments, Statement by Minister of State to Representatives of the Turks and Caicos Islands State Council', 28 November 1969.

567 Ibid.

dangers that the Turks and Caicos would not receive the economic benefits it hoped for and expose itself to social and political risks. With this decision, Lord Shepherd to some extent departed from the interdepartmental consensus which had been reached under the guidelines established in September 1969. These were featured by a more cautious approach in order to protect indigenous societies, UK interests, and not to upset trading partners.

This means the Treasury side had managed to influence the FCO side but did not obtain the clear signal to real estate developers that was hoped for. Hence, concerns for colonial development had gained the most influence on this first round of negotiations among the Treasury and the FCO towards the gradual formulation of a British tax haven policy.

4.4.3 The Trust Controversy, July 1970

One meeting in July 1970 was referred to internally in the FCO as 'the next stage in the battle against Sterling Area tax havens', and the issue of trusts was under debate after the settlement of the real estate issue.[568] The next field of most immediate concern was reported by Fairclough of the West Indian Department in December 1969 to be the trust operations with tax concessions up to fifty years.[569] Fairclough argued that there were reasons to look into the Cayman case: 'The most worrying field of all, however, is that of financial and trust operations. The fact that in this year's Financial Act Britain had to legislate specifically to defeat a carefully drafted provision of a Cayman Islands law (in relation to which we had signified non-disallowance) really is ludicrous'.[570] In his analysis of the Caymans case, just one month after the settlement of the formulation of a real estate policy, he wrote to one colleague: 'I think that both we and the Cayman Islands would be well advised to look into the possibility of bringing this whole business of guarantees of tax exemptions to an end. This is not of course to say that we should argue that the territory should introduce direct taxes; but simply that it should give up denying its successors in office freedom of choice in the field.'[571] The implications of this line of argument was that the UK ought to interfere with dependencies to prevent tax haven legislation, an argument which did not get through.

[568] TNA T 317/1453, 'Cayman Islands', F.E.R. Butler (BOE) to D.A. Truman (Overseas Finance Division, HMT), 23 July 1970.
[569] TNA FCO 59/534, 'Cayman Islands', signed A.J. Fairclough (Head of the WID), 10 December 1969.
[570] Ibid.
[571] Ibid.

In 1970, it was still the policy of the Government of the Cayman Islands to continue the territory's tax haven status. In the summer of 1970, the territory was considering further amendments of their trust legislation to allow trusts to buy back their own shares, as was possible in the Bahamas. In July, the Cayman Administrator came to the FCO to discuss the prospects of the UK giving the arrangement their blessing. From a Treasury perspective, this was an obnoxious part of the trust legislation which they did not wish to see. It was recognized that the Finance Bill of 1969 only to some extent had managed to amend Grundy's loophole. In the meeting, there were talks of a trade-off with the Cayman Islands and of a package deal that could lead to the repeal of the trust law in question. If the Cayman Islands amended their trust legislation, they would be provided aid in order to offset the loss from registration fees of some £75,000 per year.[572] The Cayman Administrator was sceptical about the offer and reported that income had risen from £100,000 in 1960 to £1.3 million as a direct consequence of the new tax haven business. On these grounds, he pointed to the political difficulties of withdrawing the primary source contributing to the islanders' fortunes. The Administrator promised to try to sell this argument to local opinion, bringing with him the figures of potential losses to the UK revenue. The goals for aid of the time were, as mentioned, to move poor economies away from aid dependency and instead create growth opportunities by supporting economic activity. Paramount to this approach was to establish 'a level playing field', and the question of discriminatory behaviour was particularly sensitive. On that basis, the Administrator thought it would be problematic for the UK to deny the introduction of the legislation in the Cayman Islands that was already accepted in the Bahamas.

Also in July 1970, a Turks and Caicos delegation met with their Financial Secretary at the FCO in order to find the necessary support to implement pioneer legislation of tax freedom up to fifty years along with trust legislation that could compete with the existent Cayman trust law. The Turks and Caicos had some hopes of getting through their desired legislation. After the settlement of the 1969 real estate guidelines, the Secretary of State had asked Fairclough in December 1969 to put together an investigative team in Turks and Caicos to be headed by the West Indian Department.[573] This resulted in an examination of the new real estate business by a group headed by the British diplomat Derek Jakeway, the results of which were presented in March 1970.[574]

[572] TNA T 317/1453, 'Development of the Turks and Caicos as a tax haven', F.E.R. Butler (BOE) to D.A. Truman (Overseas Finance Division, HMT), 13 July 1970.
[573] The team consisted of officials of the ODM, the CDC, the FCO, the TTT, and the Dev. Div.
[574] Sagar, Christensen, and Shaxson, "British Government Attitudes," 121.

Johns (1983) acknowledged already in an early tax haven study that tax havens were encouraged by the Jakeway report.[575] However, the report only represented one stream of arguments feeding into the broader negotiation on the UK side of the policy line to be followed. The Jakeway report argued in favour of a cautious implementation of tax haven solutions in the Turks and Caicos and it was used locally to back tax haven aspirations.[576] The report concluded that there were 'real' benefits to be derived from tax haven status. However, it was still a controversial question what these 'real benefits' might be. Local politicians in the Turks and Caicos had already been inspired by one former investigation of the islands as a tourist destination conducted under the auspices of the ODM in 1965, referred to as the 'Trevallion recommendations'. The Jakeway report supported the main conclusions from the Trevallion study: 'if the governments and peoples of these islands are adequately to benefit materially and if HMG is to be expeditiously relieved of its dreary, recurrent financial obligation, then developments and investments must be undertaken jointly by Government and private enterprise'.[577] Further, the Jakeway report recommended that if the islands were to be denied the right to create similar tax concessions as its neighbours, it would seem only just that some off-setting advantages be offered. However, the Turks and Caicos government was not ready to accept the offer on the grounds that it was not anywhere near compensating for the loss of economic prosperity and the cumulative revenue that would follow the creation of a tax haven in the long run. Their argument was that the island had ambitions to making themselves independent of UK budgetary aid before 1975. The delegation did not understand why it mattered to the UK to allow another tax haven since there already was one in the Caymans.[578]

The reply to the Turks and Caicos in July 1970 was that the UK Government was very much in favour of these efforts in general and that they had no objections to tax holiday legislation for activities which genuinely brought investment and employment.[579] The delegation was informed that the FCO had nothing against normal pioneer legislation as long as it was consistent with the 1969 guidelines. However, a trust for tax avoidance purposes was less welcome. The Treasury position was articulated in the minutes of the July meeting, as noted in Sagar, Christensen, and Shaxson (2013): 'It would be crazy if we were to agree to the use of the islands for tax avoidance purposes which might result in the loss of say £1 million of UK

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575 Johns, *Tax havens and Offshore Finance,*192.

576 TNA T 317/1453, the report 'Property and Tourist Development in the Turks and Caicos Islands', 5 March 1970.

577 Ibid.

578 TNA T 317/1453, 'Development of the Turks and Caicos as a tax haven', F.E.R. Butler (BOE) to D.A. Truman (Overseas Finance Division, HMT), 13 July 1970.

579 Ibid.

tax revenue for every £10,000 which accrued to the Island Government'.[580] The UK denial of the trust was received on the Turks and Caicos side as a subversion of the principle of equal treatment traditionally guiding colonial and development policies – a central theme to many younger tax havens in which will be discussed in later chapters.

Based on the differences that had surfaced after the March meeting in 1969, Fairclough in October 1970 reflected before leaving his post: 'it has been a pretty amateur exercise conducted against the odds under the pressure of day-to-day business'.[581] He further expressed his impatience ('nothing whatever has so far happened') and thought the department had attempted to do something about tax havens, in his words, 'on a very ad hoc basis'. He had support in this from his successor Richard Posnett when he reflected back on Whitehall tax haven processes in late 1970: 'The other matter that bothers me is the tax haven exercise. We have been aware in W.I.D. since early 1969 of the acute potential embarrassment for HMG likely to arise from various property and tourist development "nonsenses" of the recent past. We have – on a very ad hoc basis – sought to do something about the worst of these'.[582] These reflections capture the dominant sentiment within the FCO, illustrated by Fairclough's suggestion before the Treasury to establish a standing interdepartmental Working Party to review and co-ordinate on a continuing basis the problems for the UK posed by the existence of tax havens.

4.5 Conclusions

The FCO and its preceding departments' experiences, show how the tax haven issue grew from disparate treatments of tax havens in the early 1960s. This chapter has traced the central events of an educational path, starting with the fiscal reform in Montserrat in 1964, until the FCO had developed a more sophisticated approach to tax havens by 1970. However, it was not until controversial tax holidays in the form of private deals with local administrations were more widely implemented from 1968 and 1969 that tax havens became a more important concern of the FCO. As this chapter shows, the FCO started to encounter an unprecedented

[580] Sagar, Christensen, and Shaxson, "British Government Attitudes," 122. See TNA T 317/1453, 'Development of the Turks and Caicos as a tax haven', F.E.R. Butler (BOE) to D.A. Truman (Overseas Finance Division, HMT) 13 July 1970.
[581] TNA FCO 44/360, signed A.J. Fairclough (Head of the WID), 2 October 1970.
[582] TNA 44/360, 'Tax havens', signed R.N. Posnett (Head of the WID), 30 November 1970.

rush of a new form of business developers into colonial territories – initially in the British West Indies, but, from 1969 on, in the Pacific and the Indian Ocean as well.

These developments came with two central dilemmas. The first relates to the UK policy to reduce aid dependency and the implementation of tax haven legislation emerging as one solution to this problem. However, tax havens did not always yield the hoped-for revenue and had some unwanted implications for administrative, constitutional, and social dimensions, which could add to instead of alleviate aid dependency. The second dilemma relates to official UK colonial policy to support colonies that wished to exit the British Empire. However, the allowance of the tax haven business resulted in, in some instances, a de facto delivery of power from local authorities with newly attained independence into private hands – including a wealthy, tax aversive elite and criminals. Ironically, independence from a colonial master risked being largely substituted with the hand-over of economic and political power to a private elite.

These underlying problems established a dual relationship to tax havens within the British administration that resulted in incoherent policy decisions. This means the presented sources here do not support the view of a strategic state operating solely on behalf of UK metropolitan interests. Before 1969, the involved political departments had by and large emphasized the growth opportunities which came along with the modernization of banking laws, fiscal changes, and tax deals, and they had largely overlooked adverse effects. After negotiations with the Treasury side, and thorough enquiries, the FCO became more aware of the concerns for both the domestic UK and local sides of the issue. However, the overall FCO approach, as judged from the guidelines for the real estate business, is viewed here to be best captured as a middle way: a less defined and pragmatic approach open to much negotiation. This approach rested on the prioritization of growth opportunities linked to the tax haven industry, the local will, the convenient effects on the British aid budget, and the tendency to view any Treasury concerns as exaggerated.

This is not to say the political departments were unanimously in agreement that tax havens should be allowed to develop. Institutional differences that derive from their role and proximity to the local social context can be observed. Some differences were also to some extent reliant on the personal affinities among the officials involved. This is most clearly evident with the representatives under ODM assignment, generally more sympathetic to tax haven developments, than their colleagues of the FCO.

The assembled picture of the administrative response suggests that the development perspective, coupled with the colonial principle of non-discriminatory treatment of colonies, remained strong arguments in Treasury negotiations. As a result, the question of tax havens remained a controversial and unresolved issue by 1970, and negotiations did not result in the coherent tax haven policy that was the stated goal of the interdepartmental meeting in March 1969.

Chapter 5 Towards a British Tax Haven Policy, December 1970-1971

This chapter brings in new sources showing that the UK administration developed a tax haven policy with the confidential report *British Dependent Territories and Tax Haven Business.* While this policy was developed within the administration, the report was accepted on the ministerial level in September 1971 with the signatures of the Financial Secretary of the Treasury and the Secretary of State for Foreign and Commonwealth Affairs. However, this policy was open to interpretation and resulted in a weak and unclear tax haven policy that will be discussed here.

This chapter examines the negotiations that followed the formation of an interdepartmental tax haven group from December 1970, which led to the finalization of the official British tax haven policy some months later. This policy was readily negotiated, mainly among the Inland Revenue and the Foreign and Commonwealth Office (FCO) in a group headed by the Exchange Control Division of the Treasury. The process leading to this policy was characterized by conflicting positions and institutional differences which peaked in a confrontation on the ministerial level in the summer of 1971. The most important aspect of the UK tax haven approach developed here is the way that political sensitivities relating to potential discrimination among territories in an environment of decolonization impacted policy formation.

A first section (5.1) recapitulates the central remaining elements of the Treasury to be resolved on FCO territory in order to settle the tax haven problem. Then follows (5.2), which investigates the moment when differences peaked on a ministerial level during the negotiation of the UK tax treaty with the BVI in the first half of 1971. Next, (5.3) analyses the finalized tax haven report which shows that the FCO had obtained considerable influence over the end result of a policy issue initiated by the Treasury from 1967 to that point. Finally, the central argument developed in the conclusion is how UK tax haven policy formation was followed by an administrative paralysis, as already addressed in former chapters, that resulted from the inability to reconcile interdepartmental differences and different tax haven attitudes.

5.1 The Treasury on FCO Territory

By late 1970, the Treasury had failed to provide the powers needed by the Inland Revenue to control avoidance and evasion in tax havens, and to help the Bank of England win the argument with the political departments over the question of exclusion of Overseas Sterling Area tax havens. However, the Treasury victories had been the installation of a policy area that transcended departmental boundaries, the increased understanding of Treasury concerns within FCO corridors, and the curtailment to some extent of the real estate business. As processes of decolonization unfolded, fears of discrimination and unequal treatment had proved sensitive issues. Hence, the Treasury was deep in FCO territory and in order to resolve tax haven issues, they now relied on constructive interdepartmental co-operation.

5.1.1 A Tax Haven Working Group, December 1970

A working group established in late 1970, endorsing at its first meeting on December 10 the further study of tax havens, was commissioned to fulfil the task of formulating a British tax haven policy as intended since the first intergovernmental March meeting in 1969.[583] The group was established under the Treasury chairmanship headed by Geoffrey Littler, the Treasury Assistant Secretary representing the Exchange Control Division. The group consisted of experienced officials in the tax haven issue, including members of the Treasury, the Inland Revenue, the ODM, and the FCO. Notably, the Bank of England was not represented in the group, but it had provided a full note detailing the Bank of England concerns, which reflected their experiences discussed in Chapter 3.

The FCO, as already shown, had proved in practice to be receptive towards tax haven developments as an alternative model to aid and a means to sustain colonial finance. This position seems to have annoyed the Treasury side. As emerges from the three former chapters, the Treasury and the FCO tended to take different sides on the question of how to treat the five key mechanisms most commonly associated with tax havens: (1) general low tax fiscal regimes; (2) private tax deals in return for development; (3) International Business Companies (IBCs) in combination with tax treaty loopholes; (4) exempted trusts; and (5) exchange control gaps. The Treasury side had met resistance on all fronts, including in the important question, from the Bank of England's perspective, of the exclusion of gap countries.

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[583] TNA FCO 44/360, 'Conclusions of a meeting in Mr Littler's room at 11 am on Thursday 10 December'.

Therefore, from a Treasury perspective there was still a need in December 1970 to amend tax treaties, to stop the spread of low tax reforms, to restrict damages from exempted IBCs and lucrative tax deals, and to hinder aggressive trust legislation that the UK had not succeeded in defending with amendments of the Financial Act of 1969. Relating to its responsibilities for monetary issues, there were still additional major challenges related to banking and the effectuating of exchange controls. The Bank had given up on expelling gap countries largely as a result of resistance from the political departments and instead continued to make available qualified staff to ensure reliable exchange controls.

The working group was given the widest possible terms of reference, allowing an approach to start out 'with the world as it is' and to report back to the Secretary of State for Foreign and Commonwealth Affairs and the Financial Secretary as soon as possible.[584] Policy formulation was intended to be of general application and not selective in order to establish coherence and equal treatment. The intention was to include all tax havens of the world, but to focus on those territories where the UK Government exercised political control. This objective turned out to be impossible.

5.2 A Ministerial Clash over Tax Havens

By May 1971, the differences that had prevailed between the FCO and the Treasury side peaked in an open confrontation between the Secretary of State for Foreign and Commonwealth Affairs Joseph Godber and the Financial Secretary Patrick Jenkin under the Edward Heath Administration. The confrontation reflected the slow build-up of frustration on both sides. The amendment of the UK tax treaty with the BVI became the catalyst of this long-running tension, coinciding with pressures on the FCO to conclude the Turks and Caicos question. At its earliest point, this tension can be traced back to the Price Waterhouse & Company dispute in Montserrat discussed in Chapter 4, which had motivated the first interdepartmental meeting in March 1969 to implement British tax haven policies.

[584] TNA FCO 44/480, 'Tax havens: skeleton of interdepartmental report', circular in preparation for an interdepartmental meeting in March 1971.

5.2.1 The Turks and Caicos Controversy, 1971

The immediate issue early in 1971 was the question of advances in the Turks and Caicos to undertake legislation to become a tax haven. The local authorities in the island group still claimed their right to freely implement tax haven legislation like their neighbours under the equal treatment criteria. The Turks and Caicos were asked in the previously discussed meeting in July 1970 to present before the FCO specific measures so that the FCO could examine their proposal. Instead, the FCO received in January 1971, just before the resignation in May of the then Administrator of the Turks and Caicos, Robin Wainwright, what was viewed in the West Indian Department as a clear pledge to allow the Turks and Caicos to insert a tax haven. His thoughts provide a valuable glimpse into the local perspective and illustrate the conflicting positions building within the FCO.

Wainwright approached the Secretary of State of the FCO with a request to settle the question if the Turks and Caicos could implement a Bahamian style trust legislation. In a lengthy despatch, just before leaving office, he argued for permitting the Turks and Caicos to implement the trust legislation applied for and consenting to the expansion of its general tax haven facilities.[585] The application came just one month after Whitehall had established the new tax haven group and the FCO was by then under considerable pressure to conclude the difficult tax haven question.

According to one cost-benefit assessment of aid dependency in British dependencies with tax haven ambitions from early 1971 – in respond to the December meeting's request of a policy document to work with - the Turks and Caicos were reported to be one of the more aid reliant territories. The Turks and Caicos were calculated to have received £198,000 in grant in aid, £20,000 in technical assistance, and £11,000 in overseas staff supplementation.[586] The background to these calculations was a souring economy within an increasingly competitive environment. As discussed in previous chapters, the aim was to engage in competition with existing tax havens in the nearby area with particular reference to the Bahamas, Bermuda, and the Cayman Islands.

[585] TNA FCO 44/608, 'Tax-Haven Status for the Islands', despatch signed R.E. Wainwright (Administrator's Office, the Turks and Caicos Islands), 14 January 1971.
[586] TNA FCO 44/480, 'Tax Havens', signed F.E.R. Butler (Assistant Secretary, HMT), 1 February 1971.

Wainwright delivered what in the FCO was perceived as a reproduction of the local tax haven perspective that did not respond to the Treasury's concerns nor entail any specific measures that the FCO could examine. The despatch was judged within the West Indian Department to too lightly dismiss the dangers to the UK.[587] In addition, it was clearly against the Treasury and Inland Revenue positions. The latter opposed the principle of extending tax havens, a position that had remained unchanged since tax havens became a more significant issue from 1967 on. However, the Bank of England was reported to have moved its position slightly and was referred to by the West Indian Department in February 1971 in the following way: 'the Bank of England has indicated that they have no strong objections to an extension of these privileges, provided there is an efficient exchange control organisation in the territory, which does not at present exist'.[588]

The Administrator emphasized in his despatch the steps already taken to become more attractive to tourism and global capital, such as the opening of a first-class air service with weekly departures to Nassau, and the awaited approval to fly into the US from January 1971. A network of roads had been provided on every inhabited island, the development of real estate property and tourism was underway, and improvements of telecommunications were about to begin in 1971. Greater incentives to business were in Wainwright's view the only way to expand the economy of the territory. According to him, there was a void in the existing legislation since it did not offer competitive incentives to banking or financial businesses, which was judged to form a barrier to foreign and British developers. He emphasized the new trust law, similar to the one implemented in the Bahamas, as the most important legislative change: 'this is an essential ingredient of its successful development to a stable and prosperous economic self-sufficiency'.

Wainwright was under pressure from local authorities since the UK was viewed to be discriminating against the Turks and Caicos because of the more permissive treatment of neighbouring tax haven territories at an earlier stage. He expressed an optimistic view on the prospects of obtaining local revenue in the following way: 'tax haven status will also contribute directly and substantially to the exchequer'. He further backed up his arguments by addressing figures from the Cayman Islands and elsewhere. Commercial banking figures in the Caribbean demonstrated increases in assets, loans, and deposits from 1961 to 1968 of well over 100%. In contrast to the Inland Revenue, he emphasized the income that Cayman companies' fees

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587 TNA FCO 44/608, signed C.A. Seller (WID), 3 February 1971.
588 Ibid.

had generated. He reported this to have yielded an increase in income of nearly 500% between 1967 and 1970 alone, and of a staggering 1500% in just five years. In addition, income from trust registration fees in Cayman was projected at $24,000 for 1970. These sources of income were considered to aggregate a marvellous growth of which Wainwright attributed the trust business to be the most important driver. Wainwright referred to the existence of at least sixteen tax haven territories internationally and deemed trusts and financial activities designed to avoid high taxation by then to be a normal feature of international finance. He expressed belief in the future of the tax haven business as follows: 'There can, I believe, be no argument but that tax havens are here to stay'. He could still not see how the formation of one small new tax haven would increase losses to Britain, since only a small proportion of tax avoiders would seek to avoid UK taxes. Britain was, in his view and contrary to the Inland Revenue's sense of the situation, one of the more successful countries to legislate to reduce tax losses arising from financial transactions in overseas tax havens. Wainwright's attitude was thus that this position should be exploited: 'it is obviously important that the maximum advantage is taken of this position'. Wainwright saw refusal to implement trust legislation and other tax haven provisions as a breach of the moral and political obligations which followed from the imperial connection, making Britain to blame for lost opportunities. The denial of these concessions was expected to inevitably lead to continuing criticism that Britain deliberately favoured herself to the disadvantage of the Turks and Caicos dependency.

Alexander Mitchell, the new Turks and Caicos Administrator from April 1971, took a more nuanced approach in line with the general sentiments dominating the FCO. Responding to the despatch from his forerunner, he did not believe the hoped-for advantages would accrue as a result of tax haven activities.[589] He did not foresee any great influx of income, nor did he expect that increased levels of money available for loans would necessarily find its way into the hand of small local business ventures. Rather, he emphasized the foreign and short-term aspect of tax haven capital, stating his expectation that investors were more likely to put this money into the bigger ventures with assured expatriate management. However, he was not entirely dismissive of the tax haven idea. He emphasized political stability as an important aspect of a tax haven's appeal, giving as an example the New Hebrides, where he had served, due to its special political hybrid status with an inherent resistance to rapid political change. Illustrations of his more cynical approach to the actors in play than his predecessor appear several times, as exemplified in the following observation: 'I regard it as evidence that the tax haven boys

[589] TNA FCO 44/608, A.G. Mitchell (Administrator, the Turks and Caicos) to R.N. Posnett (Head of the WID), 29 June 1971.

look primarily for stability – preferably with the union jack flying over it'. He deduced that these operators liked to have another tax haven identified in the right areas to which they could withdraw easily if their original choice proved less hospitable. In the British West Indies, the Turks and Caicos were one out of four zero-tax environments, together with the Bahamas, Bermuda, and the Cayman Islands. Mitchell had already received preliminary enquiries from people wishing to have a 'bolt-hole' to run to from the Pacific, as he explained: 'Clearly, on the basis of not having all their eggs in one basket tax haven operators are going in the not-too-distant future to see what the Turks and Caicos Islands have to offer'.

The Turks and Caicos had political stability and, importantly, a modern company law. Mitchell also emphasized the importance of its experienced bank, a firm of professional accountants who had moved in quickly with the intention of being on the ground when new facilities were established. Mitchell reported the presence of 231 companies on the register already, with more than 60 being non-operating, meaning potential shells – a figure expected to increase with new developments. Yet, Mitchell was concerned that these developments left the territory wide open to the less desirable type of operators. Therefore, the new administrator would like to see legislation that would deal with trust companies, trustees, and the prevention of fraud.

In January 1971, the FCO was still not clear on whether or not to allow tax haven developments in the Turks and Caicos. One reason for this was the inconclusive evidence for the remaining question of whether or not the economic gains outshined the burdens, expressed by the West Indian Department as follows: 'It is difficult to appreciate to what extent granting of tax haven status would boost the economy and speed up developments but there is the danger that it could lead to overdevelopment'.[590] The other unresolved problem was that of the political and moral side. On the one hand, the UK could accept the argument put forward by the Turks and Caicos to allow another tax haven. This would then establish the precedent to create new tax havens on the basis of equal treatment and provide the argument needed for aspiring tax havens throughout the Empire. On the other hand, unless the UK Government took a U-turn in relation to the established tax havens, demands for a 'level playing field' among colonies would prevail. This would have required a retrospective roll back of already approved tax havens – which seemed a politically unsustainable solution. These factors created a political deadlock difficult for the FCO to resolve. As will be elaborated in Chapter 6, the Turks and Caicos case remained unresolved, but forms an important background to understand how frustrations had built up under the FCO's management.

[590] TNA FCO 44/608, 'Turks and Caicos Islands- Tax Havens', E. A. Townsend (WID), 20 January 1971.

5.2.2 The British Virgin Island Tax Treaty Dispute, May 1971

The tax haven controversy came to a head in the case of the BVI. What generally would be routine treaty negotiations among tax bureaucrats and Financial Ministries, in the BVI case resulted in an open confrontation on the ministerial level. Like the Cayman Islands and the Turks and Caicos, the BVI was among the British territories that were most serious about advancing their tax haven ambitions in 1971. As discussed, the BVI was in a special currency situation with dollars and sterling floating aside, which was an extra risk for exchange control gaps to develop. This alone made the territory crucial to monitor and the general question of exclusion from the Scheduled Area had resurged with the preparations for and creation of the working group in December 1970.[591]

As discussed, the Treasury side had followed tax haven developments in the BVI since late 1967 and remained alarmed by the steadily growing business. This was exacerbated when the local Council in the BVI, under pressure from interests in Puerto Rico, had taken steps in autumn 1970 to implement exempted companies and banking secrecy legislation.[592] However, the BVI met resistance from the Inland Revenue and the Bank of England for reasons discussed in former chapters. The Inland Revenue upon commenting on the changes, wrote to the West Indian Department: 'We share your alarm at these proposals. They are steps towards the establishment of a very secure tax haven'.[593]

The UK negotiated its tax treaties with its dependencies as they transitioned to more independence and developing countries sought to maximize tax incentives for investor environments.[594] As observed in Stockwell (2004), the general problem related to colonial tax treaties from the 1950s was how double taxation treaties became an obstacle to local attempts to create incentives to economic activity in British dependencies.[595] However, in relation to tax havens, a new challenge dominated which was that of how the Inland Revenue observed abuses of loopholes in old tax treaties which needed to be repaired. The dependent territories, on their side, were concerned that amended tax treaties would increase the effective tax rates

591 See TNA T 295/862, 'The British Virgin Islands', F.E.R Butler (Assistant Secretary, HMT) to J.G. Littler (Overseas and Exchange Control, HMT), 16 October 1970.

592 TNA T 295/862, 'Virgin Islands: The Income Tax (Amendment Ordinance, 1970) signed the Attorney General',18 September 1970.

593 TNA T 295/862, from the J.A. Johnstone (IR) to C.G. Mortlock (WID)13 October 1970.

594 See Martin Hearson, "The UK's tax treaties with Developing Countries during the 1970s," in Studies in the History of Tax Law 8., ed. Peter Harris and Dominic de Cogan (Oxford: Hart Publishing, 2017).

595 Stockwell, "Trade, Empire, and the Fiscal Context,"147.

of foreign interests and lead to a relative decline in their competitive position. The BVI tax treaty with UK was concluded in 1947 and was seen to be outdated with reference to recent developments. The Revenue could not quantify the loss to the UK revenue, but estimated it in April 1971 to be around £2 million through the BVI alone.[596] The BVI's company tax rate was reduced from about 40% to 12% in 1963 – just before UK companies had to bear a larger tax burden in the UK from 1965 on. Since then, the Inland Revenue had renegotiated all their major agreements, but the BVI agreement remained unaltered due to a dispute on taxation on dividends. In this context, motivated largely by the growing tax haven business, the Inland Revenue sent a delegation into the BVI to finalize negotiations. The aim was to either amend or terminate their bilateral tax deal.

Under the terms in place at that time, the UK was required to give up the income tax which would normally be deducted from UK company dividends when they belonged to a resident of the BVI. British taxpayers could then obtain certain tax relief benefits from their UK income tax. Sometimes the Inland Revenue was slow to release withheld tax money to foreign companies. This had already created friction in the case of Montserrat. In the winter of 1971, there was an ongoing dispute between the Revenue and Montserrat. The Administrator had accused the Revenue of discriminatory behaviour against small territories in their deliberate holding back of refunds of paid UK tax which could be deducted in accordance with the double taxation agreement.[597] This reflected a general problem of the withholding of tax money, especially after the introduction of the 1965 corporate tax.[598] This problem created tension between the FCO and the Treasury.

The typical situation involved a company set up in a tax haven, such as the BVI, in order to hold UK investments that would normally have been held in the UK. One Inland Revenue minute from April 1971 provides a unique insight into the negotiation process between the UK and a tax haven in treaty negotiation.[599] If directors' meetings were held in the BVI, the company would be regarded as resident in the BVI for tax purposes and it would be entitled to receive its UK dividends tax free instead of paying the by then almost 39% UK tax. Paying instead the BVI's 12% would mean savings of almost 27%, which was considered from a UK

[596] TNA T 295/862, 'United Kingdom/British Virgin Islands Double Taxation Agreement', minute of the IR, 28 April 1971.

[597] TNA FCO 44/480, to C.A. Seller (WID) from the Government House of Montserrat, May 1971.

[598] Picciotto, *International Business Taxation*,17-18.

[599] TNA T 295/862, 'United Kingdom/British Virgin Islands Double Taxation Agreement', minute of the IR, 28 April 1971.

position to be a substantial incentive for a UK taxpayer to move their assets. In many instances, the Revenue had observed that assets were arranged in such a way that no tax was applied in the BVI at all. The UK had already started negotiations in the early part of 1970 for an amendment, but those negotiations had collapsed. The BVI Islands did not wish to see the amendment because it would affect the tax privileges of UK operators.

When negotiations were taken up again in the spring of 1971, the Inland Revenue had developed a strategy when renegotiating the BVI tax treaty that was judged to be of utmost importance since it would create expectations in other territories. The negotiators representing the Inland Revenue were aware that the tax avoidance industry was following closely the steps taken in this particular deal as was the influential journal *The Economist Intelligence Unit*. That awareness was articulated by one Revenue official as follows: 'In these circumstances we feel it is particularly important that we should now be seen to be taking effective action on the British Virgin Island agreement. If we fail to do so the encouragement given to avoiders could prove very costly in the long run'. It was judged to be vital to get this deal right in order to send a message to what was spoken of by the Inland Revenue as 'the avoidance fraternity' as a measure of the UK's readiness to deal with tax havens more generally. Thus, the BVI agreement was an important signal to both market operators and the British tax haven territories of the British stance towards tax havens even though no formal policy had yet to be clearly formulated.

One challenge was to find a watertight formula for giving relief to the very few genuine residents investing in the UK from the BVI while refusing these benefits to tax avoiders. The Inland Revenue now wanted to either deprive BVI companies from the benefits of the dividend and royalty articles or to amend the agreement of a minimum tax rate. Failing this, the Revenue was ready to terminate the whole agreement. The UK needed to see a tax rate close to its own standard rate. The magic line to be drawn in order to make tax avoidance relatively unattractive was estimated by the Inland Revenue to be effective at a minimum rate of 30% (the withholding tax plus the tax to the territory). That estimate took into account quite high expenses, inconvenience, and doubts on political and social stability which would normally be incurred in setting up and maintaining an avoidance scheme. Otherwise, the loss for the UK was believed to end up in private hands, as one Revenue official stated: 'the balance goes into the avoider's pockets and will only be spent in the territory if it suits him'.[600]

[600] Ibid.

When the Inland Revenue began preparing for negotiations with the BVI Government, the Parliament in the BVI had just dissolved on 22 April and the territory was in the middle of preparations for elections. If an agreement could not be reached, the ruling tax treaty agreement had to remain in place until at least April 1973 unless notice of termination was given before 30 June 1971. It was therefore essential to settle the question with finality before end June. The negotiators had obtained the Financial Secretary's authority to terminate the present agreement if necessary.[601] However, this was not accepted by the FCO, which was anxious that nothing should be done to hinder the chances of the present government of being returned. Because of the delicate political situation in the Caribbean territories in general, they were especially invested in achieving a negotiated settlement. The BVI government was aware of the differing positions between the Inland Revenue and the FCO based on experiences from the first round of negotiations in 1970, and they preferred to maintain the agreement in its current form due to its lucrative loophole.

Taking into considerations the concerns brought forward from the FCO, the best middle position was a negotiated deal. However, the Revenue insisted that the BVI should apply the combined 30% rate. This becomes evident in a letter from the law firm Dickinson, Rawlinson & Hunter, which operated out of the BVI and was involved in the negotiations on behalf of the territory, to Conservative MP Neil Marten of the House of Commons (and later the Development Minister under Thatcher's future government).[602] Besides providing one example of the active lobbying of UK Conservatives, the letter reveals how the UK demand for a combined 30% rate interfered with the BVI's locally established rate of 12%. Because the 15% UK withholding tax was the normal rate in tax deals, this left the territory no other option than implementing at least a 15% local tax – a tax hike of three per cent. The BVI's counter proposal was to retain its 12%, which, when added to the UK withholding tax from the tax treaty of 15%, would be 27%. The BVI did not find this particularly satisfactory, but was willing to compromise. The Revenue, on the other hand, was not ready to bargain on this point at all, viewing the counterproposal insufficient to deter the tax avoider. The BVI feared that the UK terms would lead to a withdrawal of the current tax haven activities, which were believed to have produced many collateral benefits economically. The end result was the decision to terminate the deal.

601 TNA T 295/862, P. Jenkin to J. Godber, May 1971.

602 TNA T 295/862, Stephen Dickinson to Neil Marten M.P. House of Commons, 'United Kingdom/British Virgin Islands Double Taxation Relief', 20 May 1971.

The UK's unshakable position was criticized for being discriminatory, since the UK had allowed other territories with better conditions. One counter argument put forward by the BVI government was the comparison with the agreement that the UK made with the Netherlands Antilles in December 1970.[603] The treaty produced a minimum effective overall rate of tax on dividends flowing from the UK to the territory of 27.75% – clearly below the 30% ultimatum set in the negotiations. However, this objection was rejected by the Inland Revenue as an invalid point since the Netherlands Antilles was outside the Sterling Area and, as such, less exposed to British investors. Therefore, the UK maintained the right to seek a higher overall tax burden from Sterling Area members.

The BVI also accused the negotiators of discrimination given the more lucrative deal with Montserrat which was inside the Sterling Area.[604] The Montserrat tax haven was believed to be ready to take over from the BVI if the treaty was terminated. The Inland Revenue already had indications that Montserrat was being used for avoidance, partly in anticipation of the BVI agreement. Instead of going with this argument, the Revenue thought they should very soon turn their attention to the Montserrat deal. After negotiation with the BVI, the Revenue wanted to make changes to the arrangements in Montserrat, and other similar tax deals, even in remote places like the Gilbert and Ellice Islands and the British Solomon Islands Protectorate – all open to avoidance of the same kind if operators started to discover them.[605]

After the FCO Minister of State Joseph Godber had taken over in 1970 with the formation of the Conservative government headed by Edward Heath, he came late into the tax haven discussions. After reviewing the proposals put forward by officials in the Inland Revenue for the re-negotiations of the tax treaty with the BVI Government, he did not like how the tax haven work was proceeding.[606] He expressed concerns about the general policy to be adopted towards those dependent territories sharing low taxes or enjoying tax haven status. He wrote to the Financial Secretary, Patrick Jenkin, in early May 1971 to complain that the joint Working Party set up under Treasury chairmanship to deal with the question of tax havens had not yet reported. As a consequence, he judged the UK to be negotiating on an ad hoc basis on matters without having agreed in advance on the basis of a common policy.[607] Like the BVI, he also

603 TNA T 295/862, 'United Kingdom/British Virgin Islands Double Taxation Agreement', minute of the IR, 28 April 1971.
604 Ibid.
605 TNA T 295/862, 'British Virgin Islands', signed M.A. Johns (IR), 12 May 1971.
606 TNA T 295/862, J. Godber to P. Jenkin, 6 May 1971.
607 Ibid.

used the discrimination argument and reminded the Financial Secretary that most other British dependent territories with which the UK had tax treaties were all lower than 30%, like Montserrat (20%), the Gilbert and Ellice Islands (22,5%), and the British Solomon Island Protectorate (22,5%).[608]

This infuriated the Treasury for various reasons, especially since the delegation from the Inland Revenue was already present in the BVI with permission from both the Treasury and the FCO to move on with their strategy – just when Godber intervened. The negotiators depended on the support of the highest levels of the FCO and the Inland Revenue to proceed, and a last-minute divergence of views on a ministerial level could confuse the negotiation strategy. In response to the sharp tone in the letter to the Financial Secretary from Godber, Jenkin replied:

> I had understood that subsequently my and your officials had managed to clear their differences and so more fully appreciate each other's problems. Hence your letter, which appears to be based on a misunderstanding of what the Revenue had proposed – and to which I had agreed – was a considerable disappointment and surprise since it puts the clock back to where we were a year ago.[609]

Another testimony of the tensions which had built up between the two departments is the annoyance that Godber's position caused Geoffrey Littler, the Head of the Working Party, who put forward a formal complaint to the FCO about the lack of knowledge of the Minister of State.[610] In his view, FCO officials had substantially and over time delayed the group by holding back their contributions. He judged the Secretary of State to demonstrate a complete lack of understanding of the factual details of the UK position. Godber was accused of being unfamiliar with the preceding conversations related to the negative effects of the imposition of tax havens – which was particularly evident in the case of the BVI. Instead, the Secretary of State was understood on the Treasury side to solely promote the tax haven side of the argument by emphasizing the merits of investment in the territory. Littler's discontent when commenting on Godber's critique is clear:

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608 Ibid.

609 TNA T 295/862, P. Jenkin to J. Godber, May 1971.

610 TNA T 295/862, J.G. Littler (Overseas and Exchange Control, HMT) to P.H.R. Marshall (FCO),11 May 1971.

> In any case – and this rather cuts the ground from under the feet of the FCO Minister of State in his argument in relation to the BVI – the most likely general conclusion of our work, which I am sure that at least some FCO representatives will in the light of our discussions endorse, is that the encouragement of tax haven operations is an undesirable way of assisting dependent territories.[611]

For his part, Godber warned against a climate which discouraged potential developers or residents from investing or purchasing real estate.[612] His position must be understood against a background of private solutions and business incentives forming the dominant feature of the UK approach to aid in the 1970s, later framed as an era of 'integrated development policy'.[613] In 1971, a joint group of civil servants from the FCO, the Treasury, and public servants from the Bank of England worked together to prepare an ODM report on private Overseas Investments to be presented before a cabinet aid committee. One preliminary report in March 1971, just a few months after the creation of the tax haven group, suggested the need of almost double the existing levels of private investments of about £100 million per year.[614] Illustrating a common way of thinking in the aid committee was one conclusion in the report: 'The main obstacles to such an increase in private investment are conditions and attitudes in the developing countries themselves, which at present make them relatively unattractive to private investors'.[615] As such, the report and the general objectives relating to aid at the time ran to some extent counter to the Treasury objectives of removing excessively liberal conditions in the case of tax havens.

In the midst of the debacle, Littler received the aforementioned request from the Caymans in 1970 to finalize the question of the trust business that permitted up to 50 years tax freedom. The Cayman's Financial Secretary, Vassel Johnson, was under pressure from banks and trust companies to clarify which trust rules the Cayman Islands would allow. Significant among these were pressures from the Kleinwort Benson bank, ready to move from the Bahamas to the Cayman Islands if they could be accorded the same special facilities in Grand Cayman as

[611] TNA T 295/862, J.G. Littler (Overseas and Exchange Control, HMT) to A.F. Chase, 'British Virgin Islands', 14 May 1971.

[612] TNA T 295/862, J. Gober to P. Jenkin, 6 May 1971.

[613] Peter Burnell, "Britain's New Government, New White Paper, New Aid? Eliminating World Poverty: A Challenge for the 21st Century," Third World Quarterly 19, no. 4 (1998): 787-802.

[614] TNA FCO 44/480, preliminary conclusions of the WP on Private Overseas Investments, 11 March 1971.

[615] Ibid.

they had enjoyed in Nassau.[616] This included exemption from the 25% surrender requirement on switching foreign currency securities.

In May 1971, Littler did not see any prospects for the UK government arriving at a coherent tax haven policy as promised in March 1969.[617] At this moment, the FCO and the Treasury were on opposite sides in their general approach to tax havens, and Littler did not foresee any possible solution to the tax haven question any time soon. One of the working group's members in the economist department of the FCO concluded by June, during the final revisional rounds: 'To sum up – it does not seem possible to have a uniform policy on tax havens in dependent territories, given the developments which have already taken place (although in theory it would no doubt be possible to use sanctions on financially weak territories)'.[618] Due to the controversies discussed above, the Treasury found it impossible to secure an official British tax haven policy.

5.3 A Compromised End Result

The end result had some merits in that the political and economic departments involved had come to a closer understanding of each other's concerns. Yet, the end result was a policy document open to interpretation and personal bias and lacking any force. As will be developed here, there had been some compromises and victories on both sides. However, it is clear that by the summer and autumn of 1971, the Treasury and the FCO stood on different sides of the tax haven question and that the FCO had managed to soften what otherwise would have been a more restrictive policy line if the Treasury had not needed to bargain with the FCO.

5.3.1 The British Administrative Tax Haven Report, September 1971

Despite the difficulties leading up to the summer of 1971, Geoffrey Littler was able to present in July the final draft of a British tax haven policy before the Financial Secretary and the Secretary of State. The final report, 'British Dependent Territories and Tax Haven Business', contained a compiled survey covering the general features of the tax haven business of British

[616] BEA 12 A 10/2, 'The Cayman', signed E.B. Bennet (BOE), 30 July 1971.
[617] TNA T 295/862, J.G. Littler (Overseas and Exchange Control, HMT) to A.F. Chase, 'British Virgin Islands', 14 May 1971.
[618] TNA FCO 44/481, M.E. Maccoll, (Econ. Dept.,FCO), 2 June 1971.

dependent territories, and an assessment of the benefits and disadvantages to the UK and the territories themselves of the various types of tax haven operations. Early in August, Littler was informed that the Secretary of State for the FCO had accepted the conclusions and was satisfied as a basis for future policy. It was complimented as a valuable contribution to increasing interdepartmental understanding on an issue that for years had generated tensions particularly between the FCO and the Inland Revenue. However, the presented report was watered down, heavily compromised, and open to multiple interpretations. From then on, the conclusions of the report, together with the formal guidelines to curtail the real estate business that were settled in September 1969, were held to be the official British tax haven policy and the accepted basis for future policies.[619]

Tax havens were defined in final version of the report from September as follows: ‘a territory which requires payment of relatively little or no tax in relation to assets or transactions which would attract tax elsewhere, and which thereby encourages tax avoidance through the artificial location of business and personal funds within its boundaries. Basic situations, motives and methods chosen, and experiences, vary from place to place’.[620] Accordingly, the report identified twelve British dependencies to be either ‘established tax havens’ or ‘potential tax havens’ depending on the maturity of the haven. The ‘established tax havens’ were the Bahamas, Bermuda, the BVI, the Cayman Islands, Gibraltar, Hong Kong, and Montserrat. The ‘potential tax havens’ were the Turks and Caicos, and the remote islands of the British Solomon Islands, the Falkland Islands, the Gilbert and Ellice Islands, and St. Helena. The report also refers to tax havens outside political reach assigned to three different categories: first, countries with special constitutional relationships like the Channel Islands and the Isle of Man, whose constitutional position is rather special and who operated within the UK’s own exchange controls framework; second, the independent countries of the Sterling Area such as Malta; and third, havens outside the Sterling Area, and therefore less accessible to UK residents, such as Switzerland, Liechtenstein, the Netherlands Antilles, and Panama.

This means the report took a narrow approach measured against the real challenges experienced under the responsibilities of the Treasury and the FCO. Territories in the Eastern Caribbean and the Pacific which had been debated as tax havens from a desk level were left off the list. This was a result of a combination of either small impact or constitutional status, as in the case of the Associated States. The Condominium of the New Hebrides was by then no

[619] TNA T 295/892, J.D.B. Shaw to J.G. Littler (Overseas and Exchange Control, HMT), 5 August 1971.
[620] TNA FCO 44/482, ‘British Dependent Territories and Tax Haven Business’, September 1971.

member of the Sterling Area and might have been excluded for this reason. However, that is not made clear from the report. It should be noted that Hong Kong was addressed already in 1971, indicating that it was about to become more relevant than before. The British view of Hong Kong as a tax haven contradicts Schenk (2004, 2011) in her analysis of the rise of Hong Kong as an international financial centre, in which she dismisses its tax haven features.[621]

The report acknowledged that the first tax havens to emerge were not fostered by a larger design but were much more the result of the exploitation of circumstances. Nevertheless, newcomers were understood to deliberately use their fiscal independence to establish tax freedom for global capital. The result was one category of territory with no income and corporate tax, in which the UK did not have tax treaties (Bahamas, Bermuda, Cayman Islands, and Turks and Caicos). The second category were the ones with some level of income and corporate taxation in combination with UK tax treaties (BVI, Falkland Islands, British Solomon Islands, Gilbert and Ellice Islands, and Montserrat). A third category had some income and corporate taxation but no tax treaty (Hong Kong, Gibraltar, and St. Helena).

The aim of the group was still to avoid targeting genuine, permanent or long-term investments encouraged by low pioneer taxes, while simultaneously hindering tax haven operations based on artificial transactions and appearances for the purpose of avoiding normal taxes. A general principle was to support measures which could improve sound economic development in so far as they were not at the same time likely to add substantially to UK burdens. However, this approach was not always so clear, as expressed in the report: 'there is a blurred area and the tax avoider share an interest in encouraging any confusion'.[622]

The tax haven report was supposed to be given a limited circulation within Whitehall – as stated by Littler, to 'people whose primary loyalty is to the United Kingdom, but we would be reluctant to extend this to people who happen to be of UK origin, as expatriate local officers, but whose loyalty is simply to the local territory'.[623] Beyond this circle, the paper was confidential. The secrecy reflected two concerns. First, the political controversy which had proved to adhere to the tax haven issue. There were fears of stimulating premature objection to its conclusions and the tax haven issue had already caused the administration considerable embarrassment.

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621 See Catherine R. Schenk, "The Empire Strikes Back: Hong Kong and the Decline of Sterling in the 1960s." The Economic History Review 57, no. 3 (2004): 551–80, and Catherine R. Schenk, "The Re-emergence of Hong Kong as an International Financial Centre, 1960-1978: Contested Internationalization".

622 TNA FCO 44/482, 'British Dependent Territories and Tax Haven Business', September 1971.

623 TNA T 295/892, 'Tax havens and dependent territories', J.G. Littler (Overseas and Exchange Control, HMT) to J.D.S. Shaw (Dependent Territories General Department (FCO), 13 September 1971.

Second, the danger of such a document becoming a working tool of operators who would use it to create new loopholes or to stimulate interest in tax haven activity where it did not exist on a significant scale.

The differences in the two departments' positions were reflected in a compromise among colonial, aid, financial, and fiscal policies. From the Treasury perspective, the report was seen as useful yet problematic. The report was viewed within the Inland Revenue as a thorough compromise between the FCO and the Inland Revenue standpoint. The result was an unclear report open to many interpretations and stances influenced by individual affinities in the practice of applying the long-awaited policy. The dual UK position to tax havens, evident from the previous chapters, was captured in the introductory section of the report: 'The UK Government has direct financial interests of its own in such developments, as well as interests flowing from its responsibility for the territories'.[624] This duality was reflected in the outcome.

These differences were foreshadowed in the core debates which had followed the negotiations towards the final policy. Different perceptions of the potential merits to be derived for the territories from tax haven activities, the implications for UK interests, and different weighting of the importance of the equal treatment of territories were the factors that most distinguished the two negotiating positions. These differences turned out to be irreconcilable when it came to developing a clear position on tax havens. The Financial Secretary seems to have foreseen this in July 1971 when the report was still in the making: 'This seems to be a most useful piece of work, though it would be overly optimistic to believe that it will provide an automatic solution when problems arise in the future'.[625]

5.3.2 FCO Victories

The FCO seems to have won the key contest over the question of tax haven business contributions to economic success in the territories. The September report left no doubt about the merits to small islands, particularly in the Caribbean, of imposing low taxes in the following way: 'The income derived from the promotion of tax haven operations and, more important, the stimulus afforded by low or nil tax rates to industrial investment, property development and tourism have had a significant effect on prosperity and economic growth.' It seems that the

[624] TNA FCO 44/482, 'British Dependent Territories and Tax Haven Business', September 1971.

[625] TNA T 295/892, 'British Dependent territories and tax haven business', A.F. Chase to J.G. Littler (Overseas and Exchange Control, HMT), 21 July 1971.

Treasury had got some support for the point that some of the operators flowing to dependent territories as a result of attractive tax structures had proven to be short-term investors and arguably liable to create an insecure basis for development. However, the FCO argument that territories which had long suffered from economic stagnation, even from a small contribution, could provide a stimulus to economic growth of permanent significance had been heard. In this question, the Secretary of State had emphasized the relationship between British aid to dependent territories and the advantages they could obtain from exploiting the tax system.[626] The report concluded, in line with the FCO position, that the benefits which had accrued in territories as a result of a low or nil tax structure had been substantial, and that it had been a practicable means of bringing the territories to a state of self-sufficiency. Thus, the tax incentives were considered advantageous from the viewpoint both of the territory and the UK. The combined assistance provided to the territories involved in the tax haven report, including budgetary aid, development, and technical assistance as of 1970, following FCO calculations, totalled almost £8 million.[627] The report recognized that the most mature tax havens received the least aid.

Littler accepted it as 'an undeniable fact that tax haven business had some spin-off effects in the form of local economic activity', although part of the Treasury and the Inland Revenue argument was that these merits were very small in relation to the volume of business.[628] The FCO still viewed even a small amount of economic activity as an opportunity to absorb more fully aid contributions and saw this as a welcome means to quicken the pace of a territory's economic development. Littler dismissed this argument as thin but could not entirely ignore it. Littler was still more concerned that revenue losses to the UK by far exceeded the financial gain to the tax havens.

Aligning with the FCO line of reasoning, the two among the dependencies which had caused the Treasury the most concern – the Bahamas and the Cayman Islands – were portrayed in the final report as 'success stories'. These were emphasized as examples of territories which had managed to create a self-sustainable economy and to end its dependency on the UK aid budget. The Bahamas Freeport, which had triggered a lot of controversy, was emphasized as an example of how a tax haven had managed to turn investments into a modern tourist resort

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626 TNA T 295/892, 'British Dependent Territories and Tax haven business', signed J.G. Littler (Overseas and Exchange Control, HMT), 3 September 1971.

627 TNA FCO 44/482, 'British Dependent Territories and Tax Haven Business', September 1971.

628 TNA T 295/892, 'British Dependent Territories and Tax haven business', signed J.G. Littler (Overseas and Exchange Control, HMT), 3 September 1971.

and industrial complex in just twelve years. Capital investment in industry was reported to exceed $100 million and was expected to double or even triple the capacity of their oil refinery. In addition, the territory had improved infrastructure, schools, hospitals, and the harbour at no cost to government.

The Cayman Islands was acknowledged for having developed their economy despite no substantial natural resources. The impacts of banks, hotels investments of millions of dollars in construction, local contractors, employees, and landowners were emphasized as significant contributions to the Cayman success. These activities had provided sufficient revenue to enable the territory itself to establish a basis for public finance without unbalancing its budget. This had contributed to releasing the territory from aid dependency, an issue which had become more precarious around 1969 when the tax haven business did not initially deliver as hoped.

The final report also acknowledged the contrast between the improved social conditions and standards of living in established tax havens and the relative poverty in those territories that had not achieved this status. However, it shows less concern for the controversies connected to the administrative, social, and political consequences experienced locally in the dependencies as a direct consequence of the tax haven business. In retrospect, considering the well documented presence of criminal elements in the British West Indies in the period treated here, the FCO did not seem to realize the extent to which dubious operators were actually present.[629] While the intention of the British policy was to support local efforts to find a basis for growth, there were clear instances of infiltration by criminals and mafia networks that seem to have largely escaped FCO attention. The Treasury side, more involved with criminal investigations, seems generally to have taken a more cynical view.

As mentioned, there had been some thought at the outset of formulating a coherent policy that could be applicable to every single case. Instead, the group landed on an ad hoc approach that took into consideration the extensive variations in conditions and needs among the territories. The judgement was that, for constitutional and practical reasons, no universal rule could be deployed. This meant new tax haven applications should be permitted or discouraged according to local conditions. Following the report, the difficulty of installing the principle of coherence was linked to the question of equal treatment among territories – an argument that

[629] See for instance Alan A. Block and Patricia Klausner, "Masters of Paradise Islands: Organized Crime, Neo-Colonialism, and the Bahamas" (1987), and Tom Naylor, Hot Money and the Politics of Debt.

was also won by the FCO. In the report's assessment of potential channels for UK political influence in the relevant dependencies, it was acknowledged that the British government was ultimately responsible for its dependencies. However, intervention was to some extent viewed to be precluded in the territories which had enjoyed some degree of internal self-government. More generally, the report concluded that elimination of existing tax haven facilities would be difficult since the level of taxation in a territory was generally regarded as a matter of domestic policy. Where major long-term tax concessions had been given, it was not generally practicable to withdraw them. In some cases, however, it was possible to negotiate modifications of existing legislation which provided excessive opportunities for tax avoidance. Requirements for equal treatment became the authoritative principle in the conduct of the tax haven policy. The Turks and Caicos argument – that it was not fair to discourage tax haven latecomers that introduced legislation similar to that of neighbouring islands and that only contributed to a marginal increase in the total tax haven business volume – turned out to be the winning argument.

5.3.3 Treasury Victories

From a Treasury perspective, the major accomplishment achieved – according to a reflection written by Littler in September 1971 – was the notion that aid should be coupled with tax haven developments.[630] This had been suggested with backing from the Financial Secretary already in the first interdepartmental meeting of March 1969 but had met severe resistance from the FCO. Littler saw the possibility that a marginal increase in aid might be a way of bargaining with a tax haven territory to amend its tax and related legal provisions and that in a case of extreme resistance on the part of a tax haven, the threat of withdrawal of aid could be used. A compromise had also been reached to satisfy Treasury concerns that territories which by that point had shown no strong aspirations to obtain tax haven status should be discouraged from moving in that direction.

In a separate note to the Financial Secretary, the Inland Revenue communicated the successes and failures of the report viewed from their side.[631] In return for letting tax haven legislation in Bermuda and the Bahamas slip through due to political considerations, the Inland Revenue had obtained FCO support in some important areas. Along with this, the Revenue

[630] TNA T 295/892, 'British Dependent Territories and Tax haven business', signed J.G. Littler (Overseas and Exchange Control, HMT), 3 September 1971.
[631] TNA T 295/892, note of the IR, 'British Dependent Territories and Tax haven business' '20 July 1971.

had to accept that not all direct investments in dependencies were avoidance, and that Bermuda, the Bahamas, Gibraltar, and Hong Kong were less amenable to British influence. This meant the UK still had to rely on central anti-avoidance measures – a feature of the British tax haven approach in which will be clearer in Chapter 6.[632] The Revenue had obtained some movement in important areas in which there was at least some prospect of influencing local tax environments.

First, was an initial support to do something about the case which had caused the most Treasury concern – the Cayman trust legislation. Initiatives taken to revise the Financial Act (section 412) of 1969 to close the trust gap had not proved sufficient.[633] An intergovernmental consensus now formed around the idea of making an exception to the rule of not interfering in internal affairs. This provided a green card for the Revenue to initiate processes to amend the Cayman trust legislation. The policy line chosen was to negotiate with the Caymans a package deal coupled with aid, even though negotiations were expected to be difficult based on earlier experiences. When the report was in its final phases in July 1971, the Inland Revenue did immediately initiate negotiation with the Cayman Islands.[634] However, the end result was that the Bank of England together with the Treasury allowed Cayman to have a modified version of the Bahaman trust law which, in the words of Brian Bennett, 'did not give everything away'.[635] This U-turn was explained by Bennett, somewhat oddly, with nothing more than a reference to pressures from the Financial Secretary Vassel Johnson who was 'unable to see why the Caymans should be less well treated' than Bahamas. Interestingly, a de facto defeat in the Cayman controversy seen from the point of view of the Revenue, Johnson thanked the Treasury's Geoffrey Littler in a later autobiography for allowing the Cayman Islands to continue its offshore business.[636]

A second area where some movement had been achieved was the approval the Inland Revenue gained to amend or withdraw some controversial tax treaties. There was a recognized need to pursue these changes with a uniform policy to avoid any impression of discrimination – as in the case of the BVI, which had resulted in the sharp confrontation

[632] Examples of these were the Income Tax legislation (section 478 on transfer of assets, section 482 on company migration and section 485 on transfer pricing).

[633] BEA 12A 10/2, 'Report on visit to the Cayman Islands 1st-7th October 1971 Exchange Control', 21 October 1971.

[634] TNA T 295/892, 'Cayman Islands', L.J.H. Beighton (Board of IR) to R.N. Posnett (Head of the WID), 28 July 1971.

[635] BEA 12A 10/2, 'The Caymans', signed E.B. Bennett (Overseas Dept., BOE), 30 July 1971.

[636] Vassel Johnson, *As I See It*, xiii.

between the Inland Revenue and the FCO. The BVI agreement had already been set to be terminated from 1972, and the Inland Revenue had initiated steps to start renegotiations with Montserrat. The Revenue had also obtained political backing for renegotiating their agreements with the British Solomon Islands and the Gilbert and Ellice Islands – and any other territory with tax haven aspirations, if considered necessary.

A third success was the establishment of a general principle that legislation whose main aim was to foster avoidance of UK tax should be actively discouraged. The hope was that a better mutual understanding between the FCO and the Inland Revenue would enable them to materially slow down the development of tax havens in British dependencies and prevent UK tax treaties to be misused as a means of tax avoidance.

The Bank of England, as already mentioned, did not play any active role in the Working Party. After the principle was settled in 1969 that no real estate deal could include any relief from exchange control obligations, the Bank of England lost most of its interest in the tax haven issue. The Bank upheld its fire brigade, which continued to be their central weapon against the effects of tax havens. This was extended into the Middle East in October 1971 when there were fears of new gaps forming in British Gulf states.[637] It is clear from internal correspondence within the Bank that this new interest in the region was, as in other regions, related to processes of independence. Bahrain was preparing for self-rule and was expected in the Bank to be followed by British protectorates such as Qatar, Abu Dhabi, and Dubai. The Bank sent first two of the Bank's exchange control experts to visit the Gulf to assess the prospects for suitable future exchange control arrangements in the area and initiated visits to Qatar, Kuwait, Dubai, Abu Dhabi, and Bahrain.[638] The Bank of England official who went in later in December, R.W. Marshall, referred to himself as one of the Sterling Area liaison 'firemen' in his preparations to assist the Ministry of Finance and Petroleum in Doha, among others.[639] As in the British West Indies, the main approach taken by the Bank was to implement uniform administration of exchange controls that would prevent its being treated as a state subject open to separate interpretations by unit countries.[640]

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[637] See for instance BOE 12 A 10/2, 'Report on the Exchange Control Aspects of the Visit by Hallows and Marshall to the Lower Gulf – 7th-15th October', 20 October 1971.

[638] BEA 12A 10/2, to R.P. Fenton (Chief, Overseas Dept., BOE) and C.J. Morse (BOE), signed R.I.Hallows, 'Tour Arrangement', 8 September 1971.

[639] BEA 12 A 10/2, R.W. Marshall (BOE) to the Director of Financial Affairs, the Ministry of Finance and Petroleum, Government of Qatar, 5 November 1971, and BEA 12 A 10/2, Davey 'Kit Allowance', 10 November 1971.

[640] BEA 12 A 10/2, 'The Exchange Control Aspects of the Visit by Hallows and Marshall to the Lower Gulf', 20 October 1971.

This means it had taken the Inland Revenue four years – from when it asked for Treasury assistance in the autumn of 1967 to deal with a new form of tax haven business arising in British Dependencies to this point – to formalize a British approach to tax havens. That delay is to some extent consistent with the finding in Sagar, Christensen, and Shaxson (2013) that they were unable 'to trace any clear evidence that during the period of decolonization the British government actually had a coherent policy regarding the development of its Crown Dependencies and former colonies as tax havens'.[641] It is true that the policy was not coherent; nevertheless, it is clearly the end result of an ambition to establish a coherent policy. From then on, the report served as the official UK policy on tax havens for internal use.

5.4 Conclusions

The central argument to be derived from the above overview is that the UK tax haven position was characterized by ad hoc responses to ongoing negotiations among bureaucrats. The inability to resolve institutional differences and personal biases in the process of shaping an official British tax haven policy resulted, however, in a form of administrative paralysis and dual policies open to interpretation.

If the British administration had decided to take a hard-line approach, particularly in response to the Treasury's concerns, the British government had the ability to deny territories the implementation of controversial trust and banking laws, low tax arrangements, and the exemptions of international business company legislation. It was also possible for the UK to expel territories unable to manage exchange controls from the Sterling Area. However, the British administration did not make use of available official powers to restrict tax haven developments. Instead, the British government ended up with a tax haven policy document in September 1971 that was unclear and open to multiple interpretation and that included very few hard-line measures apart from the ending of tax treaties and a subtle threat of utilizing aid as a means of pressure.

The British tax haven policy established in 1971 can therefore be interpreted as the result of interdepartmental bargaining among institutions responsible for colonial and aid policies in

[641] Sagar, Christensen, and Shaxson, "British Government Attitudes,"109.

conjunction with monetary and fiscal policies. The formerly separate questions of banking, exchange regulations, taxation, and development finance had merged in the new administrative tax haven issue, which had developed into a new policy area under shared Treasury and FCO responsibility. The FCO had managed to shift what, until March 1969, had emerged as a Treasury consensus and its concerted effort to take a firmer approach towards tax havens. After negotiation with the FCO, this position resulted in a policy line much more sensitive to the local demands for economic prosperity and political independence in the dependencies.

As institutional differences and different individual positions among the dominant figures of the institutions involved dominated the formation of the policy, colonial demands for equal treatment and self-sufficiency became the winning argument in the tax haven question. To some extent the FCO was held hostage by the discrimination issue and demands for equal treatment. The non-discrimination principle ruling colonial policies served as the most important obstacle to progress in developing UK policies against tax havens. The differences that had dominated the handling of tax havens still severely prevented any clear formulation of a British tax haven policy. The Treasury side would generally have liked to take a hard-line approach that would include the roll-back of legislation that they considered to be out of control. Once the early tax havens were established, however, it seemed politically impossible not to allow newer territories the same opportunities.

The final tax haven report had established a common point of reference and a more commonly held attitude towards the concerns involved. However, as an attempt to create a working tool for imposing any clear and coherent policy on the dependencies and the business interests involved, the report had largely failed. The same frictions that had built up within departments and agencies over years, as described in previous chapters appeared during this effort. As the new report did not entail the clarity to resolve these differences, it therefore had only limited impact – a point that the following chapter will make clearer.

Chapter 6 Tax Haven Policy Failures, 1971-1979

This chapter examines how the tax haven policy established in 1971 only to a limited degree impacted on tax haven developments in British dependencies, and how the policy eventually collapsed towards the end of the 1970s following increased international pressures.

The chapter combines the presented tax haven files from British records with Parliamentary Papers and existing studies on the British tax haven approach in the 1970s. In doing so, the chapter elaborates with more detail than previously provided the central events which are considered here to have shaped British tax haven policies in the 1970s. It is shown here how a series of events changed the tax haven landscape with a shift in regional and territorial focus, particularly after changes in the monetary system in 1972 attracted the tax haven business to British dependencies in Europe. While the British tax haven policy, as previous chapters have developed, was primarily the result of concerted efforts among bureaucrats, the issue to some extent climbed the political agenda both in the UK and internationally from 1973. Another feature of the 1970s was the movement of a modern offshore banking industry into established tax haven platforms. These events created a new environment for tax haven policy formation. Derived from these findings, the central argument developed here is that the role of the British government in tax haven formation in British dependencies in the 1970s was still dominated by ad hoc features related to economic and political events.

The structure of this discussion is as follows: Section (6.1) examines how sterling contraction in June 1972 radically changed the competitive position among tax havens and initiated a new era of opportunities mainly for European tax havens. Section (6.2) develops how one British business scandal (the ‘Lonrho Affair’) created a moment in which tax havens became a policy issue that connected to broader political debates on the power of multinational enterprises. Section (6.3) discusses how reactions from trading partners impacted on the UK tax haven policies from 1971, especially after the UK entrance into the EEC in 1973, leading eventually to the collapse of those policies by 1977. Section (6.4) elaborates how British dependencies, amongst other territories, by the late 1970s had established platforms for international banks, a development that coincides with a new era in the offshore world when tax havens were about to form part of business-as-usual practices. The chapter finally elaborates on its central conclusion, emphasizing how ambitions to establish a comprehensive tax haven policy ended with what may be viewed – again - as administrative paralysis following unresolved conflicts over tax havens that neither the administration nor politicians were able or willing to resolve.

6.1 The Impact of Sterling Contraction, June 1972

Sterling contraction following a shift from a fixed parity to free floating exchange rates in June 1972 has been extensively discussed in financial history and addressed as a pivotal moment for the UK's monetary history in the context of international reshape of the monetary system.[642] However, one aspect of this major event in the history of sterling remains underexamined; namely, its major impact on tax haven dynamics. Sterling contraction marked a significant change for anyone involved with the Sterling Area-based tax haven business. While this was hinted at by the Sagar, Christensen, and Shaxson (2013) study,[643] this section brings in more detail on exactly how contraction shaped new possibilities for a new generation of sterling-based tax havens, particularly those in Europe. This had implications for British tax haven approaches since it meant a shift into places where the British had less formal control.

6.1.1 Jersey – the new Bahamas of Europe

Following an investigative trip to the Channel Islands in December 1972, Thomas Burgner, the Head of the Exchange Control Division of the Treasury, was informed of the current status: 'Tax avoidance business for resident and non-resident account is growing very rapidly in Jersey and Guernsey and there is every sign of it spreading to the Isle of Man'.[644] Brian Bennett, by then promoted to the Head of the Exchange Control in the Bank of England, then reported of a new presence of a thousand newly registered companies in Jersey. This had doubled from the previous year, and a similar upsurge was observed in Guernsey. Bennett reported how some twenty well-known banks of various nationalities queued up to obtain a licence in Jersey with more expected to come. He explained this new development with three factors: an important change in the sterling regime from June 1972; a disenchantment with the West Indian havens for political reasons, driving trusts to seek a more stable home; and the aggressive marketing of their tax haven advantages that the Channel Islands had pursued in

[642] See for instance Schenk, *The Decline of Sterling* (Cambridge University Press, 2010), 335.
[643] Sagar, Christensen, and Shaxson, "British Government Attitudes," 127.
[644] TNA T 295/1013, 'The Channel Islands', to T.U. Burgner from E.B. Bennett (Head of Exchange Control, BOE), 7 December 1972.

EEC countries. These observations reflect some important changes which influenced the regional development of tax havens.

The background for Bennett's observation was that on 23 June 1972, the Bank of England had decided to expel most countries from the Sterling Area as a preparatory measure before entering the Common Market. Thenceforth, the UK Exchange Controls applied to all former members excluding the UK itself, Jersey, Guernsey, the Isle of Man, and the Republic of Ireland. With this move, the Sterling Area was in effect dissolved overnight.[645] Bank of England approval was from this point onward required for transfers to the outside world, including tax haven centres in the Caribbean, the Pacific, and the Middle East. Many people of British nationality living outside the British Isles suddenly found their bank accounts and assets re-designated as external accounts and had to repatriate, declare, and justify their offshore holdings.

This added to investor fears already provoked by the political unrest that followed the currents of independence in the British West Indies. In the Bahamas, there was concern that if Lynden Pindling won the vote to make the Bahamas independent (which he did), that would mean a loss of UK protection and possible changes to an otherwise stable tax environment. Supporting the attribution of this effect to these concerns, one Bank of England official reported after one fire-brigade visit into the region in December 1972 that 'The Bahamas have recently suffered in this context as a consequence of doubts about its stability'.[646] The changes contributed to an already developing movement towards the US market. As a result, tax havens in British dependencies were considered within the British administration to be basically run by US capital after June 1972.

Further, British gaining membership in the EEC in 1973 was followed by concerns in tax haven environments of EEC attitudes towards tax havens. It was also unclear how formally binding future actions by the EEC would be to UK dependencies. Taken together, these factors radically distorted the major competitive drivers in the world of tax havens. The Caribbean tax havens were expected to become less attractive. As late as July 1973, D. V. Roberts of the Board of Inland Revenue reported to D. B. Andren, the Head of the Fiscal Policy Division of

[645] See Schenk, *The Decline of Sterling*, 335.
[646] BOE OV 121/23, 'Tax havens', 11 December 1972.

the Treasury: ‘We hope that exclusion from the Scheduled Territories will demolish tax haven activities of the Islands for United Kingdom tax avoidance’.[647]

Since the decline in the tax haven business did not happen in the way that had been expected – largely because the tax haven business had become largely dollar reliant already – tax havens such as the Bahamas and Bermuda turned out to be more resilient than anticipated. By the end of 1973, the Bank’s own figures suggested that the Cayman Islands had 5,071 offshore companies and was the host to as many as 138 banks and trust companies – a considerable amount for a less populated island.[648] Yet, the British West Indies, particularly the Bahamas, saw some reduction in business to other regions. Quite quickly, the remaining Scheduled Territory members became new targets for tax haven operators. The financial press reported under the headline ‘Sterling’s tax havens struck off the map’ that the Channel Islands and the Isle of Man were now the only legal tax havens freely available to ‘suffering UK financiers’.[649] This shift particularly applied to Jersey with spill-over effects to Guernsey and Isle of Man. The importance of the Channel Islands to the tax haven business increased as a result.

6.1.2 A Regional Shift of the Tax Haven Business

This shift had profound implications for the UK tax haven approach. The moment following sterling contraction has been interpreted in Sagar, Christensen, and Shaxson (2013) as having initiated a new era of ‘disinterest’ on the part of the UK administration in tax havens.[650] This is largely consistent with the findings here; however, the consulted sources of this thesis produce a nuance to this picture. According to the Sagar, Christensen, and Shaxson argument, sterling contraction largely solved the problem with gaps in the sterling-based tax havens. Once exchange control applied to transactions from the UK to the British West Indies and other former Overseas Sterling Area tax havens, it efficiently blocked the exchange control gaps through which sterling formerly had been converted without being subject to controls. The loss of these gaps was again expected to reduce the attraction of these locations as tax avoidance and tax evasion destinations. As a consequence, the measure also resolved some of the UK

[647] TNA T 295/1013, ‘Tax havens: Cayman Islands, D.V. Roberts (IR) to D.B. Andren (Fiscal Division, HMT), 2 July 1973.

[648] BOE OV 121/24, ‘Visit to Trinidad, Barbados, Jamaica and Grand Cayman, 13 November-2 December 1973’, 21 December 1973.

[649] The Sunday Times, ‘Sterling’s tax havens struck off the map’, Richard Milner, July 1972.

[650] Sagar, Christensen, and Shaxson, “British Government Attitudes,” 128-129.

balance of payment issues. While tax havens were still expected to be magnets for funds, the tax avoider had to find a way through the exchange control. This affected their ability to attract investment and changed the economic argument to take down tax havens from a UK perspective.

The new geography of tax havens also weakened the political argument for the UK to go after tax havens. The recent changes had pushed tax haven activities into territories where the UK had less formal power. First, the Bahamas – the most important British-based tax haven – was no longer a UK responsibility after it had obtained independence in 1973. Second, the business moved first and foremost into the Crown Dependencies, which held more extensive constitutional rights and where there was a strong non-interference tradition. This is not necessarily to suggest that the UK administration was 'disinterested', but the conditions changed and the administration adapted to these changes. The Treasury, the Bank of England, and the Inland Revenue all upheld their normal functions to provide advice in monetary, banking, and fiscal questions. This included the assisting of dependencies in the British West Indies making the transition to new currencies and practical management of exchange control. Almost immediately after June 1972, the focus of the Bank of England changed to the Sterling Area members, and the Bank was quick to examine the tax implications of sterling contraction.

Somewhat ironically, a new concern over tax haven activities closer to home would result in decisions that helped the growth for the tax haven business within the Crown Dependencies. In October 1972, Tom Burgner in the Treasury arranged a meeting with the Inland Revenue and the Bank of England due to concerns following the observed growth in banking business and Eurodollar dealings in the Channel Islands. Present among these institutions' representatives were senior officials experienced with tax havens such as Brian Bennett from the Bank of England, and Derek Taylor Thompson representing the Inland Revenue. The central topic was the sharp rise in company and banking presence in Jersey. Bennett expressed concerns about potential tax avoidance activities as follows: 'I cannot help wondering if there was something more to the growth of the business in Jersey than just the natural development of jostling for a new share in a new market'. [651]

According to the minutes, the meeting delivered an important decision that would add to Jersey's appeal; namely, to give permission for foreign subsidiary banks to trade Eurodollar in

[651] TNA T 295/184, internal Treasury note of a meeting held at the Treasury on 26 October 1972.

a relatively unrestricted way without having to go through the exchange mechanism.[652] The Bank of England faced a new type of bank pressing for permission to do unlimited Eurodollar business, including US, Swiss, and UK banks. The question was whether or not the Treasury should allow business in what the meeting referred to as 'shell companies' to escape exchange control. There were concerns raised in the meeting that tighter regulations of exchange control in Jersey would affect the City of London. The Bank of England could withhold the permission to put Eurodollar business through the books of Jersey subsidiaries. However, banks were expected to react by moving the core of this business away from London. Bennett argued that all London business was worth having for its contribution to economic activity and from a balance of payments point of view. He therefore proposed that the Bank should allow the Channel Islands subsidiaries to take on Eurodollar business up to £50 million, which he thought was enough to keep all the interested parties satisfied with the conditions of operating in London. This meant that UK exchange control would not interfere with the activities of non-residents as long as there were no direct tax implications involved for UK activities.

Interestingly, the Inland Revenue did not object to the quite extensive freedoms given to sterling trade. The argument was that there was no UK tax payable on Eurodollar business conducted in Jersey. Moreover, the UK had anti-evasion powers that could be used. This attitude seems to break with an otherwise steady policy line taken by the Inland Revenue towards tax havens since they became actively engaged with the issue from 1967. In fact, this decision created a loophole from where Jersey's offshore banks, trusts, and companies could grow. The Bank of England appears to have been aware of the potentials for tax abuses and therefore invited the Inland Revenue to put forward any potential reservations regarding their policy line on Jersey offshore funds. However, the otherwise 'cynical' Inland Revenue, not easily deluded by formal powers in non-transparent environments, did not object to what may be viewed as an obvious vehicle for UK tax avoidance through Jersey funds. As a controlling measure, Bennett established by December 1972 a similar arrangement in the Channel Islands as had been inserted in the British West Indies with the introduction of the 'fire brigade' with what he called 'clinics' to deal with 'tax haven type problems' arising from exchange controls.[653] However, these do not stand out in the material as having played any significant controlling role.

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652 Ibid.

653 TNA T 295/1013, 'The Channel Islands', to T. U. Burgner from E.B. Bennett (Head of Exchange Control, BOE), 7 December 1972.

A second important decision from March 1973 allowed the Jersey Eurodollar loophole to evolve further with the entrance of what was referred to as 'sterling feeder funds'.[654] These were funds to which UK residents could subscribe without paying the premium. This policy was established in relation to an application from a fund institution (the Murray Sterling Fund Ltd) that wanted to establish itself in Jersey. In March 1973, this was conveyed within the Treasury as 'our new policy on offshore funds'.[655] Again, the Inland Revenue had no objections.

Taken together, these policies continued an already established practice within the Bank of England to allow UK banks in the City to trade currencies of third-party interests from the late 1950s, provided that holders of British sterling were not involved. This decision has been both celebrated and shamed as shaping the foundation of the unregulated Eurodollar market out of London. With this later decision, the Bank of England – with support from the Treasury and the Inland Revenue – seems to have established a similar arrangement for Jersey and all the Channel Islands on the basis of which the Eurodollar business could develop and thrive in symbiosis with the City from the inner circle of the Sterling Area. This description is consistent with Picciotto (1992), who argued that the UK decided 'to foster a specific role for the British offshore centers, in conjunction with the development of the City of London as a financial entrepot'.[656] This decision very much reflected the concerns of the Conservatives to consider City of London interests that became more clearly articulated after the tax haven issue was a more important political debate after May 1973, as will be developed later in this chapter.

6.1.3 Growing Discontent among the Tax havens

The new shift of tax haven business into the Crown Dependencies followed a growing discontent in dependencies that still had tax haven ambitions, and the old discrimination issue re-emerged. The dependencies still under active considerations to insert tax haven legislation after 1972 were Gibraltar and the Falklands Islands, both potential re-entrants into the Scheduled Territory; the newcomers in the British West Indies of the Turks and Caicos and BVI; and the New Hebrides in the Pacific. Different treatment for the case of these territories, the first generation of tax havens in the British West Indies, and the Crown Dependencies led to growing discontent with the incoherent practices of the established UK tax haven policy.

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654 TNA T 295/1013, 'Offshore funds', signed A.C. Pirie (HMT), 19 March 1973.
655 Ibid.
656 Picciotto, *International Business Taxation*, 129.

The UK had not only allowed Jersey to remain within the Scheduled Territory ring and provided it with a lucrative Eurodollar trade; Jersey had also been allowed to develop into a modern 'offshore financial centre' with many of the same tax haven features as those established in the Caribbean without UK interference. In addition, the UK Government had negotiated a special deal with the EEC on behalf of the Crown Dependencies. Following end negotiations in 1971, the European Communities Act of 1972 did not extend to the Crown Dependencies.[657] Jersey had thus obtained special terms that brought it inside the common market tariff wall while preserving its fiscal autonomy. This was important to the tax haven business since the EEC entry had seriously threatened the island's low-tax profile.[658] This meant that the EEC had accepted that the Accession Treaty specifically excluded Jersey from any future tax harmonization provisions under the Treaty of Rome. The arrangement also applied to the other Crown Dependencies. The Commission had in this way recognized the important principle that since the Crown Dependencies were not formally part of the UK, it would be entirely unconstitutional for the UK to intervene in matters relating to taxation. These arrangements combined – together with the proximity to the City of London and the EEC market – placed Jersey in an extraordinarily attractive position to welcome tax haven business.

On the other hand, Gibraltar, a colonial dependency, was treated differently. Even though the UK's approach to Jersey followed no formalized strategic or explicitly stated tax haven policy, it was considered de facto official support that was envied in Gibraltar. From January 1973, Gibraltar was readmitted into the Sterling Area ostensibly in its capacity as a former member and was from that point on associated with the EEC through its UK relationship – a lucrative position for a tax haven. However, the Bank of England had considered Gibraltar's tax haven status before readmitting it – an admission that was conditioned on Gibraltar's abstention from further developing tax haven features to keep it from becoming a tax problem for the UK revenue. Gibraltar, like all other UK colonial dependencies, was bound by the Treaty of Rome. This meant that it did not enjoy the same immunity against tax-harmonizing efforts in progress in the EEC like Jersey did. This made it difficult for Gibraltar to compete with the Channel Islands.

Resentment of this imbalance came to a head in March 1973 when Burgner of the Treasury was approached by the Financial and Development Secretary of Gibraltar, Alistair Mackay, to

[657] See Phillip Johnson, "The Channel Islands and the EEC", Jersey & Guernsey Law Review, the Genesis of Protocol 3 (October, 2013).
[658] Colin Platt, *A Concise History of Jersey*, 135.

discuss Gibraltar's tax haven business in response to what was referred to as 'some pressures on him locally to allow this to expand'.[659] Mackay then addressed how the thriving tax haven business of the Channel Islands was 'regarded jealously in Gibraltar'. Burgner reminded Mackay of the advantages of extending exchange control to most of the former Sterling Area and how this had helped to 'greatly diminish the outflow of UK money to Sterling Area tax havens'. Further, he conveyed a hesitant attitude with respect to the further development of the Gibraltar tax haven, in line with the previously mentioned tax haven policy of 1971: 'We would deplore new channels being opened up to Gibraltar'. In explaining the different treatment of Gibraltar from the Channel Islands, Burgner justified the difference on the basis of the Channel Islands' forming part of the UK balance of payments area, which Gibraltar did not.

In this context, an article on Jersey in *The Financial Times*, published 24 March 1973, became a catalyst for the Treasury to consider if the 1971 tax haven policy was up for review. The article elaborated how 'favoured tax havens such as the Bahamas, Bermuda and the Cayman Islands suddenly found themselves out of the Sterling Area' and emphasized how Jersey had become the favourite destination for the City financial institutions' bases for offshore funds and trust settlements.[660] Further, the article detailed new avoidance opportunities in nearby Crown Dependencies, particularly stressing how Jersey was used to avoid estate duty. In direct response to the article, Andren, responsible for fiscal matters of the Treasury, initiated an internal review of whether tax implications of the new change in the monetary regime in 1972 had been sufficiently considered.[661] Maccoll, representing the Economic Department of the FCO and formerly involved in the work leading to the tax haven policy in 1971, argued in support of a new assessment of the tax haven policy. She emphasized how new changes after 1972 should be taken into consideration and referred to how the new exchange control arrangement had, in her words, 'put the Sterling Area tax-havens on the same footing as the non-Sterling havens' and thus 'deprived them of their special advantages'.[662] She further recognized shifts in geographic focus, emphasizing Gibraltar as 'the only dependency which could be an "inner Sterling Areas" tax-haven'.

The discrimination issue also extended to the Falklands Islands. The tax haven question resurged in relation to the territory in late 1972 as the Treasury considered granting the island

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659 TNA T 295/1013, Note for the record, signed T.U. Burgner, 'Gibraltar', 6 March 1973.

660 TNA T 295/1013, 'Jersey as a financial centre', The Financial Times, by J. Chown and M. Edwardes-ker, 24 March 1973.

661 TNA T 295/1013, 'Tax havens', A.C. Pirie (HMT) to D.B. Andren (Fiscal Division, HMT), 6 April 1973.

662 TNA FCO 86/263, M.E. Maccoll (Econ. Dept.) to Hamylton-Jones (Gibraltar & General Dept.), 19 April 1973.

group reinstatement as a member of the Scheduled Territory. The Falkland authorities had in mind a Gibraltar-style tax haven model, as will be discussed below. The Treasury concluded that this was not an obstacle to readmission unless membership itself would encourage tax haven activity.[663] The Inland Revenue, however, warned that if the Falklands embarked on the tax haven model, the UK would not hesitate to renegotiate their tax treaty in order to make sure that brass plates did not receive UK benefits.[664] This was to pre-emptively kill the appeal of changing their legislation, which had remained an issue later in 1975.

Inconsistency also remained an issue within the British West Indies. The Bahamas and Bermuda (in the Atlantic), and to some extent the Cayman Islands, had never really met any substantial official resistance. This largely followed, as formerly treated, from their lucrative position as 'early entrants' preceding any official tax haven policy. However, the younger tax havens of the Turks and Caicos and the BVI continually failed to get a clear response from the West Indian and Atlantic Department (WIAD) after years of negotiations.

In April 1973, the WIAD was approached by Alexander Mitchell, then newly inserted as the first Governor of the Turks and Caicos, regarding the tax haven question. In March, the members of the Turks and Caicos State Council had decided to take further the work done in the formerly mentioned Jakeway report from 1970 to diversify their economy. The Council had, despite the tax haven report of 1971, persisted in its ambition to further develop its existing tax haven facilities and to couple this with a free port and a casino.[665] The Turks and Caicos Council had employed consultants experienced in the tax haven business from Bermuda to draft further tax haven legislation. Despite some scepticism on the part of local officials of the negative effects of attracting the crime that generally accompanied the introduction of the casino business, these ambitions retained a strong local backing. These ambitions were further supported by the primary expat interests representing the tax avoidance industry. One example of this was Miami-based tax lawyer, Marshall J. Langer, who attracted attention in the West Indian Department for promoting the Turks and Caicos tax haven through the financial press.[666] Another example, also noticed by the West Indian Department, were the efforts of Michael H. Buckmaster, a solicitor and investment consultant specializing in the UK and West

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[663] TNA T 295/892, 'The Falklands as a tax haven', internal circular among the Treasury, the Bank of England and the WIAD, November 1972.
[664] Ibid.
[665] TNA FCO 44/961, N.B.J. Huijsman (WIAD) to A.G. Mitchell (administrator, the Turks and Caicos), 18 April 1973.
[666] TNA FCO 44/795, 'Caribbean Tax Havens – 4: Turks and Caicos' and 'Caribbean Tax Havens Turks and Caicos', M. J. Langer, Caribbean Business News (CBN), January 1972.

Indies, to persuade the UK government to insert a tax haven in the Turks and Caicos. He was often assigned to the Overseas Development Administration (ODA), after the Conservatives had renamed the ODM and incorporated it into the Foreign Office from 1970, and had assisted in various British West Indian territories. In February 1972, Buckmaster offered his services to initiate a self-designed ten-point plan to establish a tax haven.[667] By April 1972, his offer was declined in accordance with the 1971 policy by the Parliamentary Under-Secretary of the FCO, Anthony Royle: 'The question of granting Tax Haven status to the Turks and Caicos Islands has been raised on various occasions in the past when development proposals were under consideration. There is however at the moment no intention by HMG to encourage any radical alteration to the fiscal structure of the Turks and Caicos Islands in order to create yet another West Indian tax haven'.[668]

When the WIAD responded to the Turks and Caicos Administrator one year later, in April 1973, the answer was somewhat still ambiguous. The department communicated that the UK attitude towards the establishment of a casino was not 'rejected', but 'discouraged' – not on moral grounds as the UK itself had casinos, but based on the experience in other territories that gambling attracted 'criminal elements'.[669] Further, the UK Government did not so much oppose a free port, but had reservations relating to the Board of Trade responsibilities not to go against the principles established internationally against flags of convenience with the 1958 Convention on the High Seas. However, the argument against a tax haven had changed into an economic argument. To establish a tax haven was at this point communicated to Mitchell to be 'more risky than the problems of casino and free port', with reference to the potential decline in tax haven business as a result of the 'recent amendments to UK exchange control regulation'. The warning noted that this had 'effectively dammed the outflow of sterling to tax havens, as they are now subject to the dollar premium', and the WIAD was neither ready to provide clear permission nor to refuse it. Thus, it continued an enduring 'dragging their feet' approach, as communicated in one answer in April 1973: 'As far as we are concerned we shall for the time being be content to be vaguely interested spectators.

This answer was passed on to the Turks and Caicos just one month after a Treasury commission headed by Professor G. Maynard had delivered a report supportive of the new tax haven business arising in the New Hebrides.[670] The report found that the industry had brought

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667 TNA FCO 44/795, M. H. Buckmaster to D. Searle, 8 February 1972.
668 TNA FCO 44/795, A. Royle to M. Buckmaster, 10 April 1972.
669 TNA FCO 44/961, N.B.J. Huijsman (WIAD) to A.G. Mitchell (administrator, the Turks and Caicos), 18 April 1973.
670 TNA FCO 86/263, Report on New Hebrides, signed G. Maynard, 27 April 1973.

significant revenue gains to the Condominium Government and emphasized the economic spin-off effects which could be derived for the New Hebrides economy. While the tax haven policy settled in 1971 still represented the official UK tax haven policy, the treatment of the active cases had demonstrated its inability to establish a coherent regulatory practice.

6.2 Increasing Domestic Pressures against Tax Havens

One particular case pushed the tax haven issue into the political arena of the UK Parliament in an unprecedented manner: the so-called 'Lonrho affair' in the spring 1973. However, this case only resulted in the creation of new protective measures against the consequences of tax havens, while British politicians did not establish any clear direction for a tax haven policy that would apply to its dependencies. However, as will be further developed here, new domestic pressures and a political awakening to the tax haven problem influenced a growing concern on the administrative level that the 1971 report was outdated.

6.2.1 The Impact of the Lonrho Affair, May 1973

Tax haven policies as they evolved from the 1960s had largely, as evident from previous chapters, been driven on an administrative level and not by politicians. This started to change after a high-profile scandal related to the Lonrho company exploded into the public view in May 1973. The case concerned a UK-based international mining and industrial business, chaired by the famous businessman Roland Walter ('Tiny') Rowland.[671] The subsequent proceedings following a dispute among directors exposed to the public how board members, including UK celebrities and one Conservative MP, had been exploiting remittances through tax havens. The schemes revealed how non-transparent payments, such as artificially high consultancy fees, went directly to directors through shell companies in the Cayman Islands.

Sagar, Christensen, and Shaxson (2013) have noticed how the Lonrho affair resulted in increased administrative activity to prepare politicians that had to answer questions in Parliament after the case brought attention to the tax haven question.[672] However, the way that the case made the tax haven issue into a political issue in the UK Parliament is less

[671] See for instance Paddy Ireland, "From Lonrho to BHS: The Changing Character of Corporate Governance in Contemporary Capitalism", King's Law Journal (2018).
[672] Sagar, Christensen, and Shaxson, "British Government Attitudes," 127.

understood. A search of the Parliamentary archives reveals that tax havens did not become topical among British politicians until after it was publicly known how Lonrho's directors used avoidance routes through the Cayman Islands. The affair was discussed in Parliament in May 1973 within the context of a broader reflection on the role and power of big business. Then Conservative Prime Minister Edward Heath famously referred to the Lonrho affair as 'the unpleasant and unacceptable face of capitalism'.[673] With this statement he called upon the Government to introduce legislation to stop the use of the facilities of the Cayman Islands and what he referred to as 'other tax-havens for the purpose of tax-avoidance'.[674] As a result, May 1973 stands out as the moment when the UK Parliament, as one collective body, discovered that the use of tax havens was more a systemic feature than a sideshow of capitalism.

By June, Labour questioned the sitting Chancellor of the Exchequer Anthony Barber on whether the Lonrho revelations had surprised the government and, if not, why the government had accepted for so long 'the unacceptable face of capitalism' that had been revealed by the Lonrho affair.[675] Illustrating how this was a moment of 'awakening', the Prime Minister was initially criticized for being ignorant about the tax avoidance industry, which, as we have seen, had primarily evolved following the UK 1965 tax reform. Questions raised in Parliament to the Prime Minister from one Labour MP demonstrate the criticism: 'Is he not aware that tax mitigation schemes now represent a very large growth industry in Britain and that tax havens are used on a widespread basis?'[676]. The Lonrho case made visible the wider implications of tax havens for social inequality and growing concerns over the power of larger multinationals. This reality was, as we have seen, well-known to the British bureaucracy and the general circle of financial and business environments that had been making use of a growing tax haven system.

The summer of 1973 also marks the moment when tax havens were simultaneously about to become a new focus within the European Commission from June on. By then, the EEC had on the table recommendations to initiate a joint action against tax havens seeking to harmonize taxes among member states.[677] As a consequence of the newly attained collective understanding that the tax haven was a policy issue of concern, there was consensus across the political spectrum that it was mandatory to act and initiatives were taken to change the

[673] Hansard, Cbi And Tuc (Talks), Vol. 856, 15 May 1973.
[674] Hansard, Business Of The House. Vol. 856, 17 May 1973, MP Handing.
[675] Hansard, Company Directors (Cayman Islands Residence). Vol. 857, 11 June 1973.
[676] Hansard, Conservative Women's Conference (Prime Minister's Speech), Vol. 858, 21 June 1973.
[677] Commission Report (1973) on the Tax Arrangements Applying to Holding Companies, COM (73) 1008 EEC.

Finance Bill to amend the loopholes relating to foreign remittances. In the context of increasing domestic and international demands, Heath and Barber were under immediate pressure to do something about tax avoidance and evasion through tax havens.

In May 1973, contemporaneous with the Lonrho debate in the Parliament, tax havens were referred to by one Treasury official at an interdepartmental meeting at the FCO as a 'topical subject'.[678] From then on, the administration got more actively involved with the political level of the tax haven issue. That Tom Burgner of the Treasury was approached by Downing Street to prepare an answer following the Lonrho scandal offers a clear illustration.[679] The problem from a regulatory point of view was that, as a general rule, funds had to be repatriated to the UK, but if a UK resident opened a bank account abroad and received payment through a foreign subsidiary of a British company, it was beyond the reach of the Inland Revenue. Jeremy Green, the aforementioned official most experienced in the tax haven issue on the Inland Revenue side, was called to assist the Treasury ministers to provide long-term provisions to be inserted in the Finance Bill as a response to the Lonrho affair.[680] The notes from meetings in this process reveal that the Inland Revenue had attempted to include this type of avoidance legislation in late 1972, but that the then Chancellor had denied it 'in view of the Government's wish for a short Finance Bill'.[681] By June, the Board of Inland Revenue had appointed a committee to carry out a review of the problems associated with the remittance basis of taxation, to be completed by October, so that any resulting recommendations to ministers for legislation in the 1974 Bill could be put forward.[682]

In October 1973, in direct response to the Prime Minister's call to do something about capitalism, there were debates over the amendment of the Income and Corporate Taxes Act of 1970 (ICTA). Denis Healey, when still in opposition before taking over as Labour's Chancellor of the Exchequer from 1974, complained during this debate about the legality of the schemes involved in the Lonrho affair and stated his concern over the inequality aspect: 'My complaint is that he acted legally and that it is possible for a wealthy man to avoid taxation in this way, whereas a poor man working for a weekly wage has no such opportunity to avoid tax. This is the whole point of the debate, that there is one law for the rich and another for the

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678 TNA T 295/1013, notes from a meeting 16 May 1973 at the FCO with the IR, Bank of England and the Treasury, 'New Hebrides – Tax haven development and monetary problems', G.P.L. Gwynn (T), 22 May 1973.

679 TNA T 295/1013, 'Lonrho – payment of salary, fees etc in the Cayman Islands: Exchange Control Aspects', T.U. Burgner, 17 May 1973.

680 TNA T 295/1013, note of a meeting, 21 May 1973.

681 Ibid.

682 TNA T 295/1013, 'The Board appoint', 11 June 1973.

poor'.[683] Healey went on to criticize the Conservatives' lack of will to do something about what he called '[o]ne of the biggest loopholes in our tax system'. The debate turned to some degree into a debate of systemic issues as exemplified in Healey's attack on the Conservatives: 'The fact is that the "unpleasant and unacceptable face of capitalism" is the face of the Conservative Party'.[684] Barber agreed the law should be reviewed, but answered these allegations with a traditional Conservative critique of the Labour side: 'What really lies behind his comments this evening is not merely an abhorrence of one aspect of capitalism but a barely suppressed hatred of the entire system of capitalism'. Barber's main concern was that suggested changes would compromise confidentiality rules and complicate the law. Further, he built a defence of the state of affairs which very much resembled the arguments which had created the Overseas Trading Company (OTC) arrangement from 1957 in defence of the competitive position of internationally oriented UK businesses.

This means the duality which we have seen characterized the UK administration's tax haven debates had through the Lonrho case reached the Parliament. Somewhat ironically, Healey provided a harsh critique of a system that had developed in the blind spot of politicians largely under Labour's watch after the 1965 tax reform and would end up on his desk in a few months ahead when he entered office in March 1974.

Regarding the acknowledged systemic challenge exposed in the debates surrounding the Lonrho affair, one might imagine tax haven discussions that would extend to a parallel discussion of the UK relationships with its dependencies. In Parliament in July 1973, when pushed on the UK's position on the Channel Islands in light of new EEC actions against tax havens, Patrick Jenkin, the then Chief Secretary to the Treasury for the Conservatives, defended Jersey's position: 'The recent EEC directive, to which we subscribe, was aimed primarily at the position of companies in Luxembourg. Jersey and Guernsey have their own tax system and their own systems of law and administration'.[685] He went on to argue for a light-touch approach: 'It would be entirely contrary to the normal constitutional relationship with the Channel Islands if we were to seek to intervene in their domestic affairs'. This represented a dominant view that was established by the results of the Kilbrandon Commission in October 1973. This was a royal commission had been created under Harold Wilson's first government in 1969 (as the Crowther Commission) to review if there was any case for structural changes

683 Hansard, Perquisites of Office – Anti-Tax Avoidance, Vol. 859, 7 October 1973.
684 Ibid.
685 Hansard, United Kingdom Companies (Channel Islands Registration), Vol. 859, 5 July 1973.

to the constitutional relationships among the UK and the British dependencies.[686] The report failed to bring together the tax haven question with the constitutional arrangement, which would have been one obvious and effective solution for the UK to stop tax haven proliferation within its own dependencies.

This failure was much later regretted in Parliament on at least in two occasions. One occurred in August 1976 when the House of Commons was summoned to discuss one Lonrho report delivered under the inspectors of the Department of Trade. In the ensuing debate, one Labour MP addressed the lack of UK policy on the Jersey tax haven: 'I draw my hon. Friend's attention to the fact that these tax havens still exist and that we have not got legislation through'. He continued: 'We need legislation to ensure that the Channel Islands do not continue to form a haven for the nefarious activities of people who are evading their communal responsibility of paying taxation to the British economy'.[687.] This debate made reference back to the Kilbrandon Minority Report's recommendation that 'there should be an urgent inquiry to make clear the position of these tax havens and to prevent their continuation'. This later came up after the period under discussion, when the moment was described as a 'lost opportunity' as the Crown Dependencies role as a destination for UK tax avoiders continued to be debated as late as October 1981. It was then lamented that the Kilbrandon Commission did not treat the tax haven aspect thoroughly when constitutional relationships of UK dependencies were up for revision. This point had been raised by the two commission members who dissented, as stated in 1981: 'The Kilbrandon Commission recognized the abuses in 1973 (…). Since then, the growth of the islands as tax havens has mushroomed, with the Isle of Man now in open competition with the Channel Islands to attract tax dodgers that bleed off vital revenue from the United Kingdom'.[688]

This means the UK followed the approach common among other European states until the mid-1970s, as explained in Farquet (2016b), to fight international tax evasion by 'strengthening internal legal provisions'.[689] Labour took up its ambitions to reform the fiscal system when the second Wilson government came to power in March 1974.[690] The new Chancellor, Denis Healey, who had criticized the former government for allowing a systemic tax haven business

[686] See "Royal Commission on the Constitution 1969-1973," Vol. I Report (Kilbrandon report, Cmnd. 5460), 101-118 (London: HMSO, 1973).
[687] Hansard, Lonrho, Vol.916, 4 August 1976.
[688] Hansard, Companies (Transfers To Channel Islands And Isle Of Man)
Vol. 10, 20 October 1981.
[689] Farquet, "Explaining the Failure of International Tax," 10.
[690] Daunton, *Just Taxes*, 328.

to grow, announced in his first Budget speech in March a wealth tax and a new capital transfer tax (CTT).[691] The CCT was intended to replace the avoidable real estate, which as Healey himself has called a 'laughing stock, since no one would who could afford an accountant ever paid it'.[692] Healey then proposed to introduce in the Finance Bill a tax on lifetime gifts with a comprehensive tax on all transmissions of personal wealth. The Chancellor then said, 'Nothing is more offensive to the vast majority of ordinary taxpayers, (…) than the knowledge that people far better off than themselves are avoiding taxation by exploiting loopholes in the existing law'.[693] As explained in Daunton (2002), a Select Committee failed politically to establish an acceptable basis for how the wealth tax would operate.[694] Labour's wish to use the tax as an instrument of redistribution was not compatible with the Conservatives' concerns for the competitive position of the City of London and UK businesses abroad.[695] However, the estate duty was already under scrutiny for its feature as an almost voluntary tax that could be easily avoided or substantially reduced, and for these reasons there was political consensus to amend it. As a result, efforts to close loopholes relating to the transfer of gifts were a priority and were done with a revision of the estate duty that introduced a CTT on any gift.

The Lonrho affair had given political momentum to Labour's ambition, in line with its overall fiscal program, to amend central loopholes in the UK fiscal regime that resulted in inequalities in a context of growing divide. A sign of this momentum appears in June 1974 when John Nott, the recent Minister of State at the Treasury for the Conservatives until the transfer of power a few months earlier, reflected on the process that had followed the Lonrho affair before Parliament: 'following Lonrho it was politically necessary to take action against the siphoning of income into tax havens and the growing use of this tax avoidance device which had become an affront to public opinion'.[696] By that point, a committee had suggested changing the remittance arrangement which had allowed the avoidance route in the Lonrho case.

The change under discussion in June 1974 affected two types of legal persons: someone living and working in the UK and UK citizens who worked or were paid abroad. The established rules required that a person paid UK tax only on sums remitted home on parts of the salary. If the clause was amended, UK tax would apply in the future on the whole salary, whether or not it

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[691] Hansards, Estate Duty, Volume 871, 26 March 1974.
[692] See Natalie Lee, "Inheritance tax–an equitable tax no longer: time for abolition?." *Legal Studies* 27.4 (2007): 683-684.
[693] Hansard, Estate Duty, Vol. 871, 26 March 1974.
[694] Daunton, *Just Taxes,* 131-133.
[695] Ibid., 327.
[696] Hansard, Cases I and Ii Of Schedule E, Vol. 874,13 June 1974.

was remitted. Nott's concern was that individuals working outside the UK would also have to pay tax in the country in which the income would arise (not taking into consideration that these were often low-tax jurisdictions). The other concern related to those domiciled abroad but living in the UK, typically working in management for a foreign company, who, if new legislation were introduced, were liable to UK tax not only if the salary was remitted to the UK.

Illustrating the implications of the change, Nott was concerned that the ending of the remittance basis would, in his words, 'seriously damage this country by discouraging enterprise, by discouraging new businesses from coming here from abroad and possibly by encouraging management here to think about emigrating'.[697] He thought this would be a counterproductive move which would only lead the tax system to 'be kept alive and breathing through its loopholes'. Further, he feared how 'the skirmish between the Inland Revenue and professional advisers' would continue and how this would 'provoke fraud and more rather than less evasion'. Nott also referred to February 1974, the days before the general election, when he and his colleagues, including Anthony Barber, were still seeking a solution to the tax haven problem but 'had not decided to remove the remittance basis'.[698] Indicating the importance of City interests, according to Nott, Barber was determined 'not to undermine the delicate position of London as a major financial centre'.

This point was also central to internal debates among the Treasury and the Bank of England officials, experienced with tax havens, when discussing the suggested wealth tax among themselves. As formulated by Brian Bennett of the Exchange Control Department in the Bank: 'hitherto the Channel Islands have served to a considerable extent as a safety valve in which wealthy people could avoid high rates of UK tax but their capital remained within the UK balance of payments area and there was no evasion of exchange controls'.[699] The idea was that a closure of this 'safety valve' most likely would increase both evasion of exchange control and tax evasion from adaption strategies.

Signs of heavy lobbying against the new arrangement also appeared in the debate. There were mentions of consultations in London of a consortium of Italian-owned banks described as 'boiling with indignation' and as having threatened to 'cease to function in the City'.[700] Nott, when summing up the case in protection of the City interests, emphasized the important role

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697 Ibid.

698 Hansard, Cases I and Ii Of Schedule E, Vol. 874,13 June 1974.

699 TNA T 295/1013, minute, 'Channel Islands as a tax haven', T.U. Burgner, 29 March 1974.

700 Hansard, Cases I and Ii Of Schedule E, Vol. 874,13 June 1974.

of the shipping and financial industry: 'It is because there are in the City of London and in areas where professional advice is very important an army of people who have spent more than 10 years here, non-residents of the United Kingdom, who may be experts in the shipping business or the Eurodollar market, and there are a great number of them who are not domiciled in the United Kingdom'.[701] Further, he was concerned about US competition: 'We do not want to lose the business of Lloyd's to New York'. He therefore argued strongly against a radical change in the remittances and to not change the conditions of non-residents in order to avoid policy that would be 'damaging'. This moment marks one of the clearest expression found in this thesis of how UK metropolitan economic interests, centring around City interests, impacted policy formation with respect to tax havens.

The end result was the introduction of the CTT that was concluded already and would be given the force of law in the autumn Finance Bill. Hence, the Lonrho affair had been instrumental in the implementation of the CTT, which was included in the 1975 Finance Bill. This was a tax on lifetime transfers and on death and functioned as a substitute for estate tax, which was the predecessor of the later inheritance tax from 1986.

6.2.2 An Outdated Tax Haven Policy

The new political interest both within UK politics and the EEC in the tax haven issue, strengthened an already growing argument to revise the UK tax haven policy from 1971. This was particularly evident in discussions of the Turks and Caicos, the BVI, and Gibraltar, with new factors given the clearest articulation in the case of Gibraltar.

There was a growing consensus both within the Treasury and the FCO that the tax haven policy established in 1971 was outdated; however, their motives and reasoning were different. The main concern from a Treasury perspective was that Gibraltar, if allowed to develop overly aggressive tax haven features, would antagonize the EEC.[702] This could again disturb the delicate political balance allowing the EEC to tolerate the tax haven features of the Crown Dependencies which very much resembled Luxembourg, the target for the the EEC directive that was in progress. Since the EEC could not touch the Crown Dependencies from its exclusive treaty position and protected constitutional arrangement with the UK, the

[701] Ibid.
[702] TNA, T 295/1013, 'Tax-Havenry in dependent territories', D.B. Andren (Fiscal Division, HMT), 18 February 1972.

Commission instead had turned to Gibraltar. As a consequence, Gibraltar became the central political test-case for UK dialogue with the international community.

As noted by Sagar, Christensen, and Shaxson (2013), the problem for the Treasury was that 'the EEC had an "awkward habit" of quoting Gibraltar in the "same breath" as Luxembourg'.[703] Luxembourg was under scrutiny for its exempted company legislation which allowed holding companies to operate from a Luxembourg platform. This had particularly irritated France and Germany; however, it was judged unlikely within the Treasury to seriously threaten Luxembourg's tax haven status. It would be inconsistent for the EEC to guarantee the Channel Islands' tax status and shortly afterwards to force the abolition of Luxembourg's favourable treatment of holding companies. In order to not upset the EEC, the Treasury was willing to restrict Gibraltar's tax haven ambitions.

This was in opposition to the FCO, which continued its protective approach as largely conducted in the British West Indies and defended Gibraltar's rights to move forward with its tax haven ambitions. In June 1973, the Gibraltar and General Department of the FCO contacted the UK permanent representative to the Community in Brussels to remind him that Gibraltar would have to bow under any 'future Community measures relating to the harmonisation of direct taxes'.[704] Accordingly, the FCO argued in favour of the territory that 'Gibraltar would, like Luxembourg, loose fiscal appeal if and when direct taxes are eventually harmonised within the Community'. However, the FCO could accept the overall aim guiding the EEC initiative, which included actions against Luxembourg: 'As to our view on these matters, we must surely start from the general proposition that it would be unacceptable to the Community itself, especially when capital movements are liberalised; since it would enable one territory to appropriate to itself revenues which other member countries would consider rightly to be their own'. However, the FCO diminished the importance of Gibraltar to the tax haven business with a reminder that Gibraltar's Companies (Taxation and Concession) Ordinance of 1967, under potential attack from the EEC, was used by the Gibraltar Government as a mere 'revenue raising measure' of which only 200 firms had taken advantage, while yielding revenue to the Gibraltar government of about £40,000 a year. This was conveyed in the same letter to Brussels as 'chicken feed' and when judged against Gibraltar's annual budget of £6m, it was downplayed as unimportant in the following way:

[703] Sagar, Christensen, and Shaxson, "British Government Attitudes," 126.

[704] TNA T 295/1013, E.G. Donohoe (Gibraltar and General Dept.) to B.J. Thomas (Office of the UK Permanent Representative) 'EEC Direct Tax Harmonisation and Gibraltar', 6 June 1973.

‘Measured by the normal yardsticks, the legislation has not been a resounding success either as a revenue raiser or a tax haven maker’. Gibraltar was further defended since there were other tax havens that were more ‘go-getting in their methods’ and had less attractive banking facilities than others. The inaccessibility of ‘the Rock’ due to its geographic position was emphasized as diminishing the overall significance of Gibraltar to tax haven activities.

By late 1973, Gibraltar was confronted by an application from a Bermudian company that wanted to relocate due to the political situation in Bermuda. The Gibraltar and General Department asked whether the UK ‘would wish to stop Gibraltar developing as a tax haven’.[705] The initial attitude communicated from the Treasury was that ‘the answer must surely be that we would’.[706] Following internal discussions, Gibraltar was considered to have two major attractions; a lower company tax than that of the UK and provisions under the tax exemption legislation for a company, typically a holding company, that would thereby be exempt from all income tax and estate duties for 25 years. Further, a company could apply the Bank of England for external exchange control status, which would be refused if company shares were held by UK residents. The concern from a UK point of view was outward investments where there was a UK resident interest. With reference to concerns for EEC attitudes to tax havens, particularly the Commissions’ harmonizing efforts in tax laws, one Treasury official reasoned ‘they could not be expected to look kindly upon the establishment of a further tax haven within the Community’.[707] There were also fears that the tax haven business could strain the exchange control, especially with the potential opening of borders with Spain, with the danger that leakage could increase.

This resulted in new demands for an overhaul of the UK tax haven policy established in 1971. In an illustration of those demands, the Gibraltar and General Department approached the Treasury in February 1974, arguing that ‘[r]ecent developments suggest that the report which was published in 1971 had become outmode[d]’, and that there ‘ought to be a review’.[708] The expectation was, in favour of Gibraltar, that a review would result in the UK needing to abandon the official policy of restricting tax havens.

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[705] TNA T 295/1013, R.K. Hinkley (HMT) to A.C. Pirie (HMT), 6 December 1973.

[706] Ibid.

[707] Ibid.

[708] TNA T 295/1013, ‘Tax-havenry in dependent territories’, F.J. McGinley to D. B. Andren (Fiscal Division, HMT), 12 February 1974.

The Treasury was divided on the question. Andren, representing the Fiscal Division, was concerned that a full-scale interdepartmental review could be ill-favoured since the Treasury was well aware that the EEC could chose to go after the Channel Islands, and that a review could make it difficult to overlook them: 'if one were to have a review of tax-havenry the main area of interest is obviously the Channel Islands'.[709] There were voices in these internal debates against this position, emphasizing instead how they had assumed, wrongly, that the extension of exchange control to the Overseas Sterling Area would have 'greatly diminished the avoidance problem'. [710] Further, it was argued how it was 'far too complacent' to disregard the continued effects on UK revenue and balance of payments interest, and therefore an update of the 1971 approach was timely.

A similar debate resurged in relation to the Turks and Caicos and the BVI in the West Indian and Atlantic Department. By late 1973, there were still moves in the Turks and Caicos to establish exempted companies and a modernized trust following the Caymans.[711] The Lonrho affair had already produced another obstacle to progress for the Turks and Caicos to create its tax haven, and in a response to Alexander Mitchell, the Governor in the Turks and Caicos, Nicolaas Huijsman, the then Head of the West Indian and Atlantic Department (WIAD), wrote: 'As you will have gathered from the press, the Lonrho affair has revived a certain amount of political interest in tax havens in British dependencies'.[712] By November 1973, Mitchell reported back from the Turks and Caicos: 'We are still under pressure locally to create the necessary legislation to make ourselves into a tax haven, but have so far managed to play the whole thing very quietly'.[713] By then, Turks and Caicos was overwhelmed by interested parties ready to engage in the tax haven business and had received an application to establish what was referred to as a 'shelf bank'. Mitchell attached a pamphlet designed by the aforementioned Miami lawyer Marshall J. Langer, referred to as someone known to be 'in and around tax havens' to inform the FCO of the developments in play. The pamphlet was assumed to circulate widely in US tax avoidance environments – as reflected by a significant increase in the number of people applying for shelf banks.[714] By then, the WIAD had recently confirmed

[709] TNA T 295/1013, 'Tax-havenry in Dependent territories', signed D.B. Andren (Fiscal Division, HMT), 18 February 1974.

[710] TNA T 295/1013, A.C. Pirie (HMT) to D.B. Andren (Fiscal Division, HMT), 28 February 1974.

[711] TNA FCO 44/961, A.G. Mitchell (Governor, the Turks and Caicos) to N.D. Matthews (WIAD), 10 December 1973.

[712] TNA FCO 44/961, N.B.J. Huijsman (WIAD) to A.G. Mitchell (Governor, the Turks and Caicos), 22 May 1973.

[713] FCO 44/961, A.G. Mitchell (Turks and Caicos Governor) to N.D. Matthews (WIAD), 5 November 1973.

[714] Ibid.

that the BVI exempted company draft legislation did not satisfy the UK government.[715] It attracted attention among officials that the same Milton Grundy behind the Cayman trust from 1967 had been involved in the drafting of the new exempted offshore company.[716] The Grundy version was viewed by the FCO to 'bristle with loophole opportunities' and to be 'precisely what Grundy intended when he described it as "simple, readable and attractive to prospective customers", although he himself denied that it contained any loopholes'. Grundy's own take on the bill was referred to as 'a salesman's draft intended to draw interests to the BVI'.[717.]

These conversations led the Treasury eventually to answer the FCO in April 1974 with a rejection of the suggested review.[718] Illustrating how the FCO continued its defence of the tax haven perspective, especially after the changes to the tax haven business from 1972, the Treasury's answer did not satisfy the FCO, and was contradicted by Richard Tallboys, the Assistant Head of the Gibraltar and General Department.[719] Tallboys agreed that a review was not necessary (though for a very different reason), and he argued that the Littler report from 1971 was so 'irrelevant as to be beyond mere review', with reference to 'the steady tightening up of UK controls' and 'the changes to come with the 1974 Finance Bill'. Tallboys was not concerned about the EEC since the UK retained constitutional control over Gibraltar's fiscal policy through the Governor and therefore had the statutory power to control it. He reminded the Treasury of a sequence in the 1971 report advocating the principle of equal treatment among territories, particularly 'latecomers' that only resulted in 'a marginal increasing in the total volume of tax haven business'. He was also sceptical of whether the UK Government could justify using 'its colonial powers to veto legislation wished for by a government formed from an elected representative legislature in a particular dependent territory'.[720] He reminded the Treasury that the responsibilities of the general principles governing finance and other matters affecting the dependent territories laid with his department. In the question of tax haven legislation, the department wanted to move forward the general principle that no discrimination of a territory should be allowed (as established in the 1971 report). Financial loss to the UK should no longer be accepted as an argument to justify suppression of economic advancement in the dependencies, he thought. Moreover, he argued – against the interest of the EEC – that

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[715] TNA FCO 44/961, N.D. Matthews (WIAD) to A.G. Mitchell (Governor, the Turks and Caicos), 23 November 1973.

[716] TNA FCO 44/961, D.G. Cudmore (WIAD) to acting Governor W.W. Hutton, 20 July 1973.

[717] Ibid.

[718] TNA T 295/1013, Tax-havenry in dependent territories', D.B. Andren (Fiscal Division, HMT) to McGinley, '18 April 1974.

[719] TNA T 295/1013, 'Tax havenry in dependent territories', R.G. Tallboys (Gibraltar & Gen., FCO) to D.B. Andren (Fiscal Division, HMT), 17 May 1974.

[720] Ibid.

if a tax haven was not sterling-based, it could benefit the UK. Tallboys also asked the Inland Revenue to change their position with respect to ambitions in the BVI and to allow the establishment of tax exempted companies. These discussions illustrate how new features following the changes from 1972 and 1973 treated above came to interfere with official tax haven attitudes within the UK administration, and produced arguments over the relevance of the 1971 policy.

6.3 New International Pressures

From 1973, the UK faced increasing pressure from the outside world on its tax haven dependencies from Australia, the EEC, and the OECD – and, from 1978, also from the Group of Ten (G10). As will be developed here, this eventually led to the collapse of the UK official tax haven policy from 1971. This was a result of international pressure that exposed the UK dual approach to tax havens, and the UK could no longer justify maintaining an incoherent policy that was read as official support from the outside world.

6.3.1 The Australian Problem, July 1974

In no other case was the UK position subjected to more exposure than in the case of the New Hebrides which led to confrontation with the Prime Minister of the distinguished Commonwealth member of Australia in the summer of 1974. This caused great embarrassment to the UK as it tried to balance its relationship to its OECD trading partners and its colleagues in the EEC.

On 23 July 1974, Prime Minister Harold Wilson received a personal letter from Australian Prime Minister Edward Whitlam (1972-1975) with a plea for assistance to take action against the new tax haven expanding in the New Hebrides.[721] Australia had just dealt promptly with their own tax haven, Norfolk, which was under Australian jurisdiction. Hence, the confrontation was sensitive for the UK as it revealed how the UK had omitted the political choice that had been open to them – to follow the Australian approach – and simply close down its tax havens using its formal powers.

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[721] TNA PREM 16/8, 'Prime Minister's Personal Message' from E.G. Whitlam to H. Wilson, 23 July 1974.

Whitlam emphasized in his letter how the rapid growth of business across national boundaries created problems that, in his words, caused 'considerable threat to taxation revenues which arises from the increasing use of tax havens'.[722] He referred to international concern within the UN, EEC, and OECD, to the number of countries which had enacted anti-tax-haven legislation, and appealed to UK's official stance against tax havens and its own efforts to eliminate tax loopholes. Moreover, Whitlam reminded Wilson that the Australian concerns with tax haven developments in the New Hebrides were conveyed to the British government already in 1972 and that the Australians at that time were given the assurance of a strict control, the implementation of comprehensive company and banking legislation, and 'careful vetting' to prevent the loss of Australian revenue. He complained that instead the New Hebrides had 'an extreme form of banking secrecy', which he saw was 'deliberately framed to ensure secrecy' that frustrated tax laws in Australia and obscured the fine distinction between a 'legal' planning adaptation and 'illegal' abuse. Whitlam also referred to the recent investigation by the UK-supported Maynard Commission mentioned above 'into the "investment" industry in the New Hebrides', which he put into quotation marks, possibly to signal that he was not ready to let the British get away with semantics. Whitlam noted that the report recommended the expansion of tax haven facilities in the Condominium. He did not shy away from expressing his dissent from the report's conclusions: 'it is clear that most of the benefits of tax haven activities go to people escaping tax and those assisting them to do so, and not to the New Hebrides or its residents'. His concern was the proximity to Australia, which stood to sustain substantial revenue losses that he judged to be out of proportion to the benefits conferred in the New Hebrides. Whitlam threatened to insert measures from the Australian side that could affect genuine business interests in the territory as well as the tax haven business. Based on these points, Whitlam asked for UK co-operation in shutting down the continued development of the New Hebrides as a tax haven.

A testimony of the embarrassment felt on the UK side can be found in the internal debates that followed this letter among departments working to help the UK Prime Minister formulate an answer that could satisfy the Australians while at the same time building a narrative that would work on the larger international stage. With the upcoming Commonwealth Financial Ministers Conference in Ottawa in September 1974, the UK was under pressure to answer the Australians and to prepare a defence as it was expected that the issue could be raised there. It took more than a month of internal discussion and deliberation before delivering the final answer.

[722] TNA T 295/1013, from E.G. Whitlam to H. Wilson, 23 July 1974.

The Gibraltar and General Department of the FCO provided one early draft of a reply to Whitlam's letter. Richard Tallboys, who we have seen otherwise took a clear stance on the tax haven side, suggested that Wilson should convey three central points that legitimated the UK position to tax havens.[723] First, that the UK government could not unilaterally close down a tax haven in a dependency. This was explained with the general point that UK influence depended on the 'stage of constitutional development of each territory'. In the case of the New Hebrides, Tallboys suggested to point to that the role of the UK was complicated by the shared responsibility with the French. Second, Tallboys emphasized that the UK had never actively encouraged the establishment of what he called 'finance industries' and that these were local initiatives. Third, he suggested making reference to advice that the UK might give towards the tightening Australian domestic anti-avoidance legislation. Tallboys also referred to the New Hebrides as a normal feature of international taxation and added: 'It is inevitable that private capital should seek a domicile with the lowest tax factor'. With this, he suggested that Wilson remind the Australians that the UK could in certain instances serve as a 'tax haven' to foreigners and that Australia in particular situations were also 'offering distinct tax advantages'. Tallboys expected that 'genuine development' would be generated and that the finance industry was likely to 'diminish' and 'drive out the purely superficial elements of the finance industry'. On this basis, Tallboys hoped the Australians would not hamper genuine investments or hold back Australian aid into the territory, which he saw as the best possible defensive measure against future tax abuse. He therefore recommended that 'in the absence of comprehensive international control, the only solution to the abuse of off-shore financial facilities by our own tax payers lies very firmly in the tightening of our domestic tax legislation'.

These views and arguments were quite bluntly rejected by the Inland Revenue, which, on their side, strongly promoted the taxpayer perspective of the wider public. The problem of the Inland Revenue was that they thought the Australians had a real grievance to the extent that their revenue was at risk because of the facilities available in the New Hebrides. As a result, M. H. Collins, representing the Secretaries Office of the Inland Revenue, wrote a lengthy complaint to Andren in the Treasury about what line of argument should be taken with the Australians.[724] Collins addressed the UK dilemma in the following way:

[723] TNA FCO 86/137, to Eilbeck (PDTD), 'New Hebrides: Letter to the Prime Minister from Mr Whitlam', 2 August 1974.

[724] TNA FCO 86/137, 'Australian Prime Minister's letter to Mr. Wilson about the New Hebrides tax haven',14 August 1974.

> I do not know how one answers all this, short of demonstrating that the object is to encourage business which does not flow from tax avoidance or evasion and saying that if the Island authorities become aware that their facilities are being used for the evasion or avoidance of other countries' taxes they will take steps to deny the operators the facilities, or perhaps by offering to require the publication of more information by the companies using the island. Presumably this is not possible but if one cannot promise something like this then the UK seems bound to look rather shifty unless it is prepared to say bluntly that it is in favour of tax havens as a means of financing its overseas dependencies no matter who else suffers by them.[725]

Further, Collins realized that the Australians would not be easily satisfied with diplomatic gestures or deluded by rhetoric since they were quite experienced in the tax haven issue themselves and were at the forefront internationally of combatting tax havens. The best line of defence the Inland Revenue could suggest was that the problem for the UK in the New Hebrides arose from the necessity to ensure the island's proper economic development. This was against the Revenue's own established position but seems to have been suggested as a way to avoid the embarrassment of the Prime Minister in a politically delicate matter.

Collins stated that he was 'not very happy about the way it is proposed to deal with the Australian complaint', while he did however realize that the Australians had asked what he called 'a very awkward question' – possibly because it greatly exposed the awkwardness of the UK tax haven approach. He referred to their own experience in the Revenue as expressed in the joint report produced under Geoffrey Littler in 1971. With reference to the common goals of international bodies, Collins thought the FCO draft was 'much less sympathetic than it ought to be'.[726] He reminded Andren of how the UK was facing pressure internationally as follows: 'We have often been pressed in EEC and OECD to do what we can to put down the tax havens which have grown up in our dependencies and ex-dependencies in the Caribbean and in the Channel Islands and the Isle of Man'.

Aware of the UK dilemma in this question, Collins supported the pragmatic approach suggested by Tallboys to refer to the special constitutional situation. 'We have to say that we

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[725] TNA FCO 86/137, 'Australian Prime Minister's letter to Mr. Wilson about the New Hebrides Tax havens', M.H. Collins (Secretaries Office, IR) to D.B. Andren (Fiscal Division, HMT), 14 August 1974.
[726] Ibid.

have no effective control over the fiscal systems of these territories'. However, he knew this was not entirely precise, and therefore put forward his reservations to Andren: 'It is not easy to convince other countries of this'. As already discussed, Collins was right to make this point since it was a political choice by the UK not to effectuate fully its constitutional powers. As we have seen, that decision was largely, but not exclusively, related to delicacies connected to the political atmosphere of independence movements and fears of unacceptable imperial interference.

Collins thought the Australians would have to admit that shutting down one tax haven would merely drive operators to another, but he saw that the Australians would argue that a roll-back had to start somewhere. Ironically, it was the same line of argument that had led the UK to accept tax haven developments in the first place – only in reverse. The Australians were expected to favour prevention of a dependency ever becoming a tax haven as a more sensible, as well as a more internationally courteous, way of dealing with the problem than to complicate tax laws with anti-avoidance legislation unlikely ever to be wholly effective. Furthermore, Collins did not think there was much the UK could do to 'pacify the Australians' by offering technical assistance, since the Australians, already experienced in the tax haven problem, had their own robust legislation.

The Pacific Dependent Territories Department (PDTD), involved with the New Hebrides, concluded that it would not be in accordance with the established policy from 1971 to take steps to close down the offshore investment industry in the New Hebrides. The Department was clear that the UK could not be expected to directly interfere: 'we cannot close down the investment industry in the New Hebrides in the way Mr Whitlam envisages'.[727] As opposed to Whitlam, the Pacific Department emphasized the economic benefits arising from the 'investment industry' in the territory, which they observed had made a useful contribution to the revenue over the past four years. It conveyed this attitude as follows: 'while it is not UK policy to encourage the growth of off-shore finance centres in British dependent territories', the UK had 'never taken direct action to close such a centre down'.[728] This argument was seldom substantiated beyond the comment, as that made in the internal circular from the Pacific department, that action 'would be impracticable' and that it would mean 'discrimination between one dependent territory and another'. In Vila, there were fears on the UK side already in June 1974 that it should become known to the business environment that the UK was in

[727] TNA FCO 86/137, 'New Hebrides "tax haven"', signed E.A.W. Bullock (PDTD), 21 August 1974.
[728] Ibid.

talks with tax haven-hostile Australia. This had in fact reduced the trust business after one visit by Australian officials.[729] The dispute aroused some public interest in the Australian press and the UK was described in a July journal article as 'hopping mad' due to its role in the set-up of New Hebrides.[730] The Pacific Department was aware that the UK Government was under pressure to allow the New Hebrides to be used to strain the Australian revenue – and was seen to be officially in support of tax havens as a result.[731] But their larger concern was that Whitlam would be persuaded to take measures that would hamper genuine Australian investment going to the New Hebrides. However, they did acknowledge that the Australians had a legitimate concern since their revenue was the most likely to suffer from abuse in the New Hebrides. Therefore, the Pacific department suggested that the Prime Minister should offer a visit to Canberra by the British Resident Commissioner for the exploration of mutual problems.

The final answer from Downing Street reflected the UK dual position, which was not easy to conceal despite efforts to avoid notice. The reply conveyed sympathy with the Australian's concerns: 'I need hardly tell you that our own authorities have similar problems, and I read your letter with a good deal of fellow feeling'. [732] However, the reply follow the 'political powerlessness' argument, noting that the 'initiatives lies largely with the authorities in the territories themselves', that UK control was 'constrained', and that in the case of the New Hebrides, UK influence was 'complicated' by the territory's condominium status. The letter emphasized the economic argument and supported the view that a country 'without taxes' always would be apt to become a 'tax haven' – as if there was no alternative. The reply followed this line of defence by stressing that it was 'difficult to prevent this trend without blocking the genuine development' in a country with 'few natural resources' such as the New Hebrides. Moreover, the letter conveyed the sanguine view, if measured against UK's own experiences with tax havens, that this development 'can be expected to become increasingly important, with the result that a worthwhile growth of genuine business activity (…) gradually replaces the more superficial elements of the finance industry'. It was added: 'This has occurred elsewhere and it is what we hope to see happening in the new Hebrides'. It is unclear exactly which example Wilson's letter refers to since this worldview does not precisely fit with the gradual

729 TNA FCO 32/1100, to J.R. Williams (PDTD) from the British Residency in Vila, 'New Hebrides Telex and Investment Centre', 28 June 1974.

730 TNA FCO 32/1100,'Avoidance is the name of this tax game', 5 July 1974.

731 TNA FCO 86/137, 'Australian Prime Minister's letter to Mr. Wilson about the New Hebrides Tax havens',M.H. Collins (Secretaries Office, IR) to D.B. Andren (Fiscal Division, HMT), 14 August 1974.

732 TNA FCO 86/137, H. Wilson to E. G. Whitlam, 30 August.

build-up of a tax haven problem taking place at home since 1967 at the latest. The letter also put forward an admonition that Australia should not undertake actions to hamper Australian business or communications with the territory.

The case ended in a controversy over telex installations. To facilitate the operations of the investment industry, the Condominium Administration had agreed in June 1972 that a telex service should be started and operated by the Condominium Radio and Postal and Telecommunications Departments. The UK had requested agreement to the transmission of telex messages from Vila via New Caledonia to Sydney and to destinations overseas. However, no reply was received from the Australian government.[733] This meant that the New Hebrides was not only prevented from receiving inward messages from Australia, but also from elsewhere such as Fiji and Singapore. The High Commissioner in Canberra reported that, according to the Australian Department of Foreign Affairs, these difficulties were rooted in the Australian Treasury and its resentment over the activities of the investment industry in the New Hebrides.[734] The Australians had not only blocked the installation of telex facilities but also threatened to end all aid to the New Hebrides. This was the first time the UK met what in effect was economic sanctions for what was viewed as its de facto official support to British reliant tax havens.

6.3.2 Actions against Brass Plate Companies, 1974-1975

The pressures from Australia did not appear in a vacuum. As established by Picciotto (1992) and others, international tax haven debates had re-emerged in the mid-1970s.[735] In this context, the UK worked with Australia and other industrial states to establish new thinking on tax harmonization. The OECD sought to curtail widespread tax evasion on the international capital market and were particularly involved in 1974 in work on withholding tax. The aim was to reach international agreement on measures to combat the threat to the tax systems of member states posed by the allowance of tax havens – a goal that directly addressed the UK situation. Increasing international engagement resulted in growing criticism of and attention to the UK allowance of the Jersey tax haven.

[733] TNA T 295/1013, background note (PDTD), 'New Hebrides «Tax haven»', 21 August 1974.
[734] Ibid.
[735] Picciotto, *International Business Taxation*, 104. See also Thomas Rixen, "The Political Economy of International Tax Governance" (2008), and Thomas Rixen, "From Double Tax Avoidance to Tax Competition: Explaining the Institutional Trajectory of International Tax Governance." Review of international political economy 18, no. 2 (2011): 197-227.

When David Healey, as Chancellor, was pushed on the EEC pressures on tax havens in Parliament in 1975, he referred to the changes in the Finance Bill and his efforts to close the loopholes.[736] With reference to the new focus among EEC finance ministers on the use of tax havens in general, and particularly in the Channel Islands, one Labour MP emphasized how the islands had by then 'developed to such an extent that already, even before the petroleum revenue tax has been introduced, oil companies are registering in Jersey'. He asked for the matter to be dealt with immediately. It seems clear from Healey's response that he did not see any immediate urgency for change: 'As for the use of the Channel Islands and other islands in the world of tax havens, my hon. Friend will be aware that I closed most of those loopholes—where they were open to British residents—in last year's Finance Bill'.[737]

However, the Capital Transfer Tax of the 1975 Finance Act had already some well-known loopholes widely in use. One example of this is found in a questioning of the role of the Bank of England in assisting a growing tax avoidance community in Jersey in exploiting UK loopholes. As explained in Sagar, Christensen, and Shaxson (2013), in May 1975, Denis Healey was informed that an article in *The Jersey Evening Post* had described how one official from the Bank of England allegedly had instructed a tax avoidance conference in Jersey on how to avoid UK taxes.[738] This followed an EEC resolution in February 1974, dealing with exchange of information among member states, that raised concerns among investors. The Bank of England's defence was that the information investors sought was required solely for UK exchange control purposes, and would not be divulged to third-party interests including the UK Inland Revenue.[739]

The new insights relating to loophole activities were followed by some internal reflection in August 1975 about whether it was time to do something about Jersey. Germany, France, and the EEC were increasingly concerned with tax avoidance through the use of 'letter-box' companies.[740] These were typically structured as holding companies often placed in a few addresses in Luxembourg, Switzerland, and Liechtenstein. In August 1975, there were discussions of whether the UK should end the toleration of non-resident status companies in

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736 Hansard, EEC Finance Ministers. Vol. 887, 27 February 1975.
737 Ibid.
738 Sagar, Christensen, and Shaxson, "British Government Attitudes," 127.
739 BOE 10A74/1, D. Healey to A.W. Benn (MP), July 1975.
740 Picciotto, *International Business Taxation*, 139-140.

Jersey.[741] The Treasury had considered whether it was possible to make these subject to exchange control in order to remove some of the most attractive and destructive features. Jersey companies were known to take advantage of their tax haven characteristics but did normally not trade in the UK. As discussed above, the Treasury noted that they had allowed this even though they were aware of the dangers of evasion of exchange control. The Treasury was then prompted to examine this policy when it was brought to their attention that one of these companies had applied for export credits guarantees with taxpayer cover under the Export Credits Guarantee Department. If the government was prepared to agree to deal with the company, the companies could no longer claim to have no dealings in the UK. The Treasury considered insisting in the future that companies which were residents for tax purposes in the Channel Islands were also residents for exchange control purposes.[742] However, a problem with this approach was that the UK was unable to override the problem of identifying residency in an environment of shell companies. In those cases, since the central management and control was outside the Scheduled Territories and the Channel Islands address was only a convenience, the Treasury position was that it would be difficult to designate the companies as residents and the issue did not result in any material change.

By March 1976, there were still voices pressuring the government in Parliament on tax havens, where the Crown Dependencies formed the centre of concern. 'When will the Chancellor of the Exchequer really look at evasion in tax havens?', demanded an opposition MP in one exchange, noting further: 'I am not now talking about the Cayman Islands, the Bahamas, and the rest. I am talking about the Isle of Man and Jersey'.[743] While the Crown Dependencies remained protected by gentle treatment despite new pressures, less important territories were affected by the new antagonistic atmosphere and its hostility towards tax havens. When the Falklands Islands wanted to follow Gibraltar in establishing a tax haven and asked for guidance from October 1975, they were met with a flat rejection. Thompson, representing the Secretaries Office of the Inland Revenue, referred to the new international engagement against exempted companies and asked the Falkland Islands to take into consideration, in his words, that the 'boom years for the "brass plate" field' could from May 1975 potentially be over and that it was rather too late for the islands to 'climb on the bandwagon'.[744] Thompson's prediction was supported by signs of a tougher attitude taken abroad, notably by Germany. He further

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[741] TNA T 328/1157, 'Non Resident Status Company', A.J. White (T) to G.L. Ayres (Chief Inspector's Branch, IR), 15 August 1975.
[742] Ibid.
[743] Hansard, Public Expenditure, Vol. 907, 10 March 1976.
[744] TNA T 328/1157, H.B. Thompson (IR) to B. Fox (HMT), 'Tax havens – Falkland Islands', 1 October 1975.

noted that even Liechtenstein, one of the pioneers of the brass plate industry, seemed to be taking a tougher line on 'mailbox' companies. The Treasury was therefore reluctant to pass over, upon request, the draft of the Gibraltar company legislation, referred to as a 'child's guide to the establishment and operation of a tax haven'.[745]

While Jersey remained protected and the Falklands were restricted, efforts to stop the Gibraltar tax haven seem rather half-hearted. The Gibraltar case provides a window into how the 1971 tax haven policy continued to be practiced in an incoherent manner largely dependent on the particular context and degree of political delicacy. Still in December 1975, the Chief Inspector's office of the Inland Revenue questioned activities in Gibraltar: 'we are concerned at the number of companies and trusts being registered and set up in Gibraltar which seem to have little purpose except as parts of some scheme to reduce the UK taxation'.[746] Gibraltar justified the activity by noting the Channel Islands had been allowed the same arrangements. According to one exchange between the Gibraltar and General Department and the Inland Revenue from April 1976, the Gibraltar policy had only been adopted to allow UK-owned companies to be granted exempted status if they were of a small family-type investment holding company and were only granted registration provided they could satisfy the authorities that they did not carry out business in the UK.[747] Gibraltar claimed to have pursued a policy of not advertising its tax haven facilities and to have maintained a low-profile approach to the subject. This argument, however, was questioned in the Gibraltar and General Department with reference to one major advertisement the Gibraltar Government had placed in *The Financial Times* for publication in May 1976.

Gibraltar still found it difficult to accept that similar undertakings required of them had not been required of the Channel Islands or the Isle of Man, where substantial UK avoidance was widely known to take place. Alan Collings, in his capacity as the Financial Secretary of Gibraltar, reminded the Treasury in May 1976 that Gibraltar was a small player in relation to Jersey. With 1,457 companies formed in the latter and 643 companies in Guernsey, it was seen as ineffective to treat Gibraltar in isolation.[748] Collings further expressed his disappointment: 'In my view it is totally incomprehensible that the UK Treasury should allow the UK to encourage

[745] TNA T 328/1157, Treasury to D.S. Keeling (Lat. Am. Dept., FCO), 17 October 1975.
[746] TNA FCO 86/407, Ayers (IR) to the Gibraltar and General Dept, 10 December 1975.
[747] TNA FCO 86/407, Gibraltar Tax haven activities, signed F.H. Brown (Gibraltar and General Dept), '28 April 1976.
[748] TNA FCO 86/407, 'Gibraltar tax haven activities', A. Collings (Fin. Sec., Gibraltar) to F.H. Brown (Gibr. & Gen. Dept.), 5 May 1976.

the formation of captive insurance companies in the Isle of Man, and yet impose restrictions on Gibraltar exempt companies which can only be to the detriment of our own financial sector'.[749] This happened as there had been signals from ministerial levels of the need for Gibraltar to diversify the economy. An attractive financial sector was viewed to be a useful source of growth for the economy. Collings also referred to the experiences of the Isle of Man with respect to the contribution made by this sector to the national income, which he reported to have increased from 12% in 1969 to 20% as of 1976. He therefore urged the UK Government to renegotiate the inequitable restriction imposed on Gibraltar's exempted companies.

The Special Investigations Division of the Inland Revenue and H. B. Thompson of their Policy Division had initiated a meeting with the Gibraltar and General Department in October 1976. According to minutes from the meeting, the amounts of losses to the UK revenue could not be quantified; however, it was suggested to exceed £2.5 million at least.[750] Gibraltar was typically used by an individual selling property in the UK who could sell it to a nominee in Gibraltar at an insignificant profit, thus attracting little UK tax; the nominee would then sell at a substantial profit to the real purchaser. The real profit was the sum of the profits in both transactions. The purpose of the Inland Revenue enquiry was to set up arrangements under which the revenue authorities of Gibraltar, under the Deputy Commissioner of Income Tax, would disclose to them information about transactions in Gibraltar that could lead to tax evasion court cases. The FCO explained that Collings's relationship with ministers in the Gibraltar Council and the Assembly depended on maintaining their confidence. On these grounds it would be risky to instruct the Revenue Department to provide information at the request of the Inland Revenue since Ministers were sensitive both to local pressures and to UK intervention in the domestic area. There was therefore not much the Inland Revenue could do to interfere and the tax haven business could continue. The request shows how the Inland Revenue, after a decade of tax haven experience, was still seeking channels of information within the administrative network to secure powers that they had not obtained from Parliament.

6.3.3 Collapse of the UK Tax Haven Policy, May 1977

Eventually, international pressures resulted in a final puncture of the established UK tax haven policy from 1971 under what Farquet (2016b) has established as 'a third cycle of multilateral

[749] Ibid.
[750] TNA FCO 86/407, 'Gibraltar Tax haven activities. Note of meeting with Inland Revenue', October 1976.

discussions on tax evasion' during the twentieth century.[751] This followed the process of implementing the Directive on Mutual Administrative Assistance in Direct Taxation from 1978, a joint project under the OECD and the EEC to enhance administrative assistance among competent authorities in tax matters.[752] When confronting the EEC directive in May 1977, the UK openly threatened for the first time to use its (reserve) powers to override local rule in the case of the BVI.

As already established, the FCO was under pressure to allow amendments of exempt company legislation in various territories. Instead of continuing the normal rounds of unclear answers and negotiation, in May 1977 the West Indian and Atlantic Department (WIAD) took a hard-line approach. The Department stated to the Governor in the BVI, Walter Wallace, that the UK Government would interfere if the BVI went against the UK decision to disallow exempted company legislation.[753] If the Legislative Council proceeded with the introduction of the controversial Bill, Wallace was told the government 'should have no alternative but to instruct you to reserve the Bill for signification of Her Majesty's pleasure on the grounds, provided for in the Constitution, that it is inconsistent with HMG's international obligations'.[754]

According to the rejection letter, this was a direct effect and a new policy that resulted from new international pressures and forced the UK administration to demonstrate an official resistance to tax havens. This was somewhat regretted in the WIAD, as communicated to Wallace: 'We have been very much the pig in the middle in this exercise, mindful of your interests but at the same time aware of the need to protect HMG's overall position'. The letter further referred to pressures the UK faced internationally to explain the breach in the established policy to not directly interfere: 'We seem to be almost the only country condoning tax havens in dependencies, with havens or potential havens in several territories which our EEC and OECD partners consider to be under our control'. Since the UK was what was referred to as 'an active and committed participant' in these discussions, it was explained that the UK subscribing to the EEC view would be viewed as *albion perfide* – diplomatic duplicity – if at the same time it was seen to be encouraging the development of tax havens. The WIAD, with general FCO backing, realized that approval of the BVI request to further enact a new exempt company legislation would be considered an aggressive stance since, whatever the

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751 Farquet, "Explaining the Failure of International Tax," 10.

752 See http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=14867&lang=en (09.02.2022).

753 TNA, FCO 44/1594, 'Exempt bodies legislation', P.C. Duff (WIAD) to W.W. Wallace (Governor, BVI), 27 May 1977.

754 Ibid.

legislation was called, the FCO acknowledged that it was designed to help people avoid other countries' taxes, noting: 'Currently we have no statutory obligations to either the EEC or the OECD. However, we do have a moral one'.[755]

In this context, the FCO again pressed for a review of the existent tax haven policy in May 1977 with reference to the continued demand in the Dependent Territories for the official UK position on 'tax havenry'.[756] The FCO asked the Treasury for a clear statement of the government's policy with regard to the encouragement and development of tax havens in the dependent territories. The FCO then referred to – not surprisingly – frustrated and irritated governors who needed clear policy direction in order to instruct their executive councils. In response to the request by the FCO, the Treasury answered – after more than a decade of internal and political negotiations – that they still were not ready to give a clear statement.[757] Four considerations were taken into account to back this conclusion. First, the well-known concerns over the UK balance of payments situation, even though these had been less pressing with the extension of exchange control in 1972. Second, was the conflicting goal of getting the colonies off the aid budget. Third, were new fears of upsetting its OECD trading partners. The fourth consideration related to a balance of EEC interests, which kept UK actions towards their tax haven dependencies under close watch. These points sum up the central reasons why the British administration had not by then managed to – or become willing to – establish any clear policy for its own management of tax haven activities.

The Inland Revenue was as clear now as it had been from the outset (with the exception of the case of Jersey). By June 1977, the policy division of the Inland Revenue communicated that 'the people who sponsor tax havenry, which is a massive international industry employing some of the best legal and financial brains, are becoming so sophisticated that we would rather have anything at all doubtful put to us for expert scrutiny'.[758] The Inland Revenue referred to the principles adapted in 1971 which they suggested still should apply; 'It would be contrary to the United Kingdom's commitments to EEC and OECD partners for Her Majesty's Government to condone any extension of facilities for avoidance or evasion of other countries' taxes in any territory for whose fiscal affairs they are responsible'.[759] The solution they suggested was to

[755] Ibid.

[756] TNA IR 40/16744, 'Tax havens in dependent territories', B.V. White (the Financial Relations Dept.,FCO) to C. Ward (HMT), 5 May 1977.

[757] TNA IR 40/16744, 'Tax havens in dependent territories', to B.V. White (the Financial Relations Dept., FCO) from C. Ward (HMT), 18 May 1977.

[758] TNA IR 40/16744, IR Policy Division to B.V. White (the Financial Relations Department, FCO), 14 June 1977.

[759] Ibid.

abandon the use of the vague 'tax haven' term, which could refer to anything from a territory that had no taxes for legitimate local reasons to a territory that 'blatantly offers a bolt-hole for law-breakers'; they would like to see instead a formulation which focused on tax avoidance and evasion.[760] They further suggested a clear British policy formulated as follows: 'Her Majesty's Government will not condone any extension of facilities for avoidance or evasion of United Kingdom taxes or the taxes of other countries in territories for whose fiscal affairs they are responsible'. This formulation did not, however, add more clarity to an already unclear policy line. It sums up how the British UK formal tax haven policy was dissolved by 1977 as the result of new conditions, unresolved tensions among competing UK interests, and international pressures. This had characterized the UK tax haven approach for more than one decade and never resulted in any clear stance on tax haven developments in British dependencies. Any attempt to shape a clear UK tax haven policy, or to manage it in any coherent manner, had failed. Although the Lonrho affair had contributed to raise the tax haven issue to the forefront of political discussion, it did not produce strong enough political momentum to develop a clear policy. This would have required difficult negotiations with competing interests in the territories, the UK, and third-party countries with which no one party in the UK was ready to move forward. As a consequence, the UK continued to manage its tax haven territories in an ad hoc manner rooted in pragmatism and changes in circumstance.

6.4 Offshore Finance Emerges, 1977-1979

As mentioned in the introduction, Whitehall institutions no longer collected tax haven files in the period after 1977 treated here, but the remaining tax haven files gathered by the Bank of England centred on a newer offshore banking phenomenon. One central theme emerging from these sources is how banks adopted the strategies of multinationals and investor communities to operate from tax haven platforms – largely from the same British dependencies that the UK administration had seen grow into tax havens. However, one new feature of this phenomenon was that from 1977 on the City of London was at the centre of the international offshore debate. This then, adds an offshore dimension to already established knowledge on processes leading to changes inserted with the Banking Act in 1979, and helps understand how the tax haven issue got increasingly complex as it merged with international offshore conversations.

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[760] Ibid.

6.4.1 Offshore Growth from Tax haven Platforms

Central to Capie (2010) in his detailed description of the events leading to the Banking Act of 1979 is the Bank of England's strong wish to continue a tradition of 'flexible' banking supervision in contrast to new demands from the UK's trading partners for stricter and harmonised supervision of deposit holding institutions.[761] This tradition was challenged from the mid-1970s by new international actions against unregulated banking environments. These actions followed large banking failures within Western economies in the first part of the 1970s and took the form of demands for more international co-operation in banking supervision as the decade went on.[762]

The largest industrial states, together with Switzerland and Luxembourg, gathered under the G10 umbrella to discuss international banking activities. The group, of which the UK was a member, had established a Standing Committee of Banking Supervisory Authorities that was set up in Basel under the Bank of International Settlements (BIS) from 1975. The Bank of England headed the Committee from the newly created Banking and Money Market Supervision (BAMMS), a new division established under the Cashier's Department to monitor the money markets and banking supervision in respond to banking crisis in late 1973 and early 1974.[763] From 1977, the Committee was referred to as the 'Cooke Committee' named after its Chair and Head of the BAMMS division, and the question of offshore banking emerged as an integral issue to international banking supervision. The Committee's first ambition was to ensure that no banking establishment could escape supervision. While the broader themes of the Committee were consolidation and risks,[764] questions of how responsibilities were to be divided among the host and parent countries of banking subsidiaries were at the centre of the offshore debates.

Following one preliminary report based on the feedback from unit member countries in 1978 the Cooke Committee distinguished between different types of 'offshore centres'.[765] The first was 'booking-centres' referring to book-keeping domiciles for business conducted elsewhere

[761] Capie, *The Bank of England*, 611-638.
[762] Ibid., 625.
[763] Ibid., 610.
[764] Ibid., 628.
[765] BEA 8A155/2, 'Problems for bank supervisory authorities in the Group of Ten countries and Switzerland raised by the existence of offshore banking centres elsewhere in the world', 1978.

like in the Cayman Islands. The other type was ‘transaction centres’, which contained at least some level of independent decision making (reflecting real activity), as in places like Singapore – also a former British colony that had inserted an internationally oriented financial centre after separation from Malaysia in 1965.[766] These centres were observed by the G10 countries to be increasingly used by commercial banking companies including insurance companies with subsidiaries and other financial firms dealing with trustee and investment business. A third type of ‘offshore centre’ was identified as accounting and tax domiciles for non-financial firms specializing in shipping registers, such as those appearing in Liechtenstein and Panama. All these may be viewed as a further indicator of niche specialization of different ‘varieties of offshore’ adapting to the needs of a modernizing international finance sector.

The committee also established a list of ‘offshore banking centres’, describing the most central offshore centres to the group (that interestingly did not include any member name). The list shows an overlap with jurisdictions that formerly had formed part of the interdepartmental tax haven debates, but were now treated as ‘offshore banking centres’.[767] These were the UK-related areas of the Bahamas, Barbados, Bermuda, the Cayman Islands, Hong Kong, the New Hebrides, Singapore, and Bahrain; along with the states, unrelated to Britain, of Panama, Lebanon, Liberia, and the Netherlands Antilles. It should be noticed that the Channel Islands, Isle of Man, and the other remaining Sterling Area members were excluded from the offshore list because the Bank of England considered these to be under some formal control due to its exchange control connection.[768]

Another signal of the merging of tax havens and offshore banking, replicating the patterns of diversification and innovation otherwise featuring the era of ‘financialization’, is manifested in the Committee’s definition of ‘offshore transactions’ in 1978: ‘one in which the currency in use is not the domestic currency and the bank’s customer is not a resident of the country, from a legal point of view, where the transaction takes place’.[769] The Committee then provided four reasons for the emergence of offshore banking centres. These were tax advantages; freedom from macro-economic control (like domestic monetary regulations, reserve requirements, and

[766] Cassis, *Capitals of Capital*, 276.

[767] BEA 8A155/2, ‘Problems for bank supervisory authorities in the Group of Ten countries and Switzerlnad raised by the existence of offshore banking centres elsewhere in the world’, 1978.

[768] BEA 8A 155/2, ‘Note by the United Kingdom. The control of relationships with off-shore centres’, September 1977.

[769] Ibid. On financialization of the City of London, see for instance Simon Mollan and Ranald Michie, “The City of London as an International Commercial and Financial Center since 1900.” Enterprise and Society 13, no. 3 (January 27, 2012): 538–87.

credit ceilings); relative freedom from legal regulation and prudential supervision like statistical reporting; and advantages of locations that kept in touch with important centres.[770] These features were very similar features of the tax haven phenomenon; however, they were directed towards the financial industry in a context of restructuring of an increasing internationally oriented financial industry.

In these discussions, the City of London itself ended up facing criticism for offshore banking features similar to those in the Bahamas and Bermuda. The problem from the UK side was that these offshore descriptions perfectly captured the main features of the Eurodollar trade that had emerged out of London, including certain other loopholes arising in the UK legislation that was abused from the outside world. These new features of international banking alerted banking supervisory authorities across the industrial world, including in the more regulated US, Canada, the EEC, Japan, and Australia.

An examination of the discussions makes it clear that the particular loophole under scrutiny by the G10 countries was a legacy of the Companies Act of 1948. The UK had its own recent experience with unregulated banks under the 'secondary banking crisis' in the early 1970s in which the problem with 'quasi banks' was a central factor. The Companies Act from 1948 had allowed that overseas companies could register a subsidiary or representative office in the UK. There was no specific banking legislation in the UK to limit the registration of a business name in the UK that had already been accepted in a foreign (parent) country – including a 'shell' financial corporation. This paved the way for quasi banks to establish in the UK, which referred to deposit taking companies with no other UK presence than a London address and a British banking name.

The UK Companies Act 1976 provided powers to redress against this anomaly. Additional measures were included to ensure better disclosure mechanisms.[771] However, the new Act still included the right to set up a corporate entity under a banking name. Under the BIS discussions, the UK reported in 1977 that their principal concerns regarding 'off-shore centres' were how to exercise effective control over UK enterprises wishing to establish a banking presence in unregulated centres and how to deal with the branching into the UK by non-resident entities already established in offshore centres.[772] With this, they admitted no controls

[770] BEA 8A155/2, 'Problems for bank supervisory authorities in the Group of Ten countries and Switzerland raised by the existence of offshore banking centres elsewhere in the world', 1978.

[771] See D. Prentice, "Companies Act 1976," The Modern Law Review,40 (3), (1977).

[772] BEA 8A 155/2, Confidential note (UK): the Control of relationships with off-shore centres, September 1977.

on current payments and banking transactions in foreign currency between some British banks and their counterparts in offshore centres. The Act was therefore still an active avoidance device for quasi banks which escaped their respective domestic regulations.

This loophole was excessively exploited by a number of brass-plate offshore companies with banking titles. This situation resulted in challenges to banking supervisory authorities in centres elsewhere in the world. In October 1977, the French, central in driving the offshore agenda, reported to the BIS of their problems related to offshore banking.[773] The Bank of France had observed how French banks had increasingly benefitted from the tax and regulatory advantages obtained through registration in areas such as in the Caribbean and other places. More often than not, the agencies or subsidiaries set up in offshore centres were seen to be merely 'letter-box' constructions and the operations entered in the books were in reality initiated in the traditional financial centres of New York, London, or Paris. The challenge was that even if it was possible to obtain from a bank's head office the accounting record of operations transacted in offshore centres, it was less easy to discover their nature and the real motives behind them and to evaluate their conclusions. The French therefore called for better safeguards with respect to banking operations transacted in the offshore territories.

Another example of the growing understanding of the centrality of the City of London to the offshore debate among G10 members appeared in April 1979 when one member of the Governors of the US Federal Reserves delivered a speech on offshore centres and banking oversight before a committee under the US House of Representatives.[774] This member singled out the City of London as 'the preeminent example of an operational offshore financial centre'. He saw the rise of offshore as a hybrid of the multinationals' demand for low tax and low exchange regulations and a general trend in the growth of international banking. Most important to the US were banks that set up in what he called 'shells', which he defined as 'a set of ledgers managed and kept by an agent rather than a physical location where business is transacted' – capturing the key features of the controversial IBCs formerly discussed.

These conversations peaked in July 1979 when the Bank of England sponsored the International Conference on Banking Supervision in co-operation with the Cooke Committee.

[773] BEA 8A155/2, to the Banking Control Commission Secretariat, 'The problem posed for the French supervisory authorities by the existence of tax and banking havens', 14 October 1977.

[774] BEA 8A 155/2, 'Statement by Henry C. Wallich, member Board of Governors of the Federal Reserve System before Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives'. 25 April 1979.

The conference was held in London, was the first of its kind, and the largest conference to assemble the banking surveillance community.[775] More than eighty countries were represented along with the most important organizations in international finance such as the International Monetary Fund (IMF) and the World Bank, and with the EEC holding an observatory status. Participants at the conference provide insights into perceptions of the new offshore banking phenomenon and how it related to the tax haven phenomenon that the British administration by then had battled with since the early 1960s. The perspective of Bahrain, a self-proclaimed offshore centre, illustrates how the different centres were perceived to have specialized in relation to different market factors, and provides a broader context for the City's position in an expanding world of offshore centres. The representative of the Bahrain Monetary Agency saw Bahrain's role as an important mediator between different markets: 'Singapore perhaps leads the list as a centre practicing offshore banking but on a largely regional basis. Bahrain is a half and half mixture of Middle East regional business and international offshore operations, while Bahamas and Cayman Islands are more concentrated on purely offshore dealing'.[776] The offshore phenomenon was viewed from Bahrain to be the direct consequence of the development of the Euro-currency market where banks outside the country of its origin 'based away' from any country in which upheld any significant monitoring of the activity. Reflecting on the meaning of the term 'offshore', his speech illustrates how the City of London could be viewed as an offshore centre together with former tax havens:

> Originally I think the name arose because banks located themselves off-the-shore of the country where business was expected to be done. (…) Subsequently the viewpoint has been reversed and now the definition is usually a location where banks or business off-the shore of the country where they are located, which indicates the much wider impact of offshore banking. The word is even used as a conceptual description rather than a physical one.[777]

The solutions that emerged from these discussions challenged a long-standing British banking tradition to build supervision on trust, as explained in Capie (2010): 'on the basis of the Bank's traditional approach through a voluntary system based on moral suasion'.[778] The central G10

[775] Capie, *The Bank of England*, 628.
[776] BEA 8A 155/2, International conference of banking supervisors 5th/6th July 1979: 'The phenomenon of the offshore centre', speech delivered by A.E. Moore, Advisor to the Board of the Bahrain Monetary Agency.
[777] Ibid.
[778] Capie, *The Bank of England*, 629.

solution to the offshore problem was to establish stricter and uniform authorising controls on licencing for all financial institutions. This means the offshore debate particularly spoke to the part of the Banking Bill that demanded the introduction of prior authorisation (from licencing) and greater control over deposit-taking institutions. The Bank of England had traditionally distinguished between the 'exempt' sectors (exempted from strict supervision) with reference to 'reputable British banks' as a genuinely different group from 'the licensed sector'.[779] The latter category was then often viewed as the more problematic group of offshore subsidiaries, which had benefitted from a general environment of light treatment based on trust and co-operation. It was feared in the Bank of England that stricter ruling of the licensed sector would upset the banking community in the City of London. However, the Treasury pushed to change the conditions for obtaining a banking license in the UK and did not want to see a differentiated set of regulatory conditions. In addition, the UK was under pressure to introduce proper legislation to authorize credit institutions and deposit-taking institutions that were not banks, and that had to be coherent with the EEC Banking Directive.[780] The end result of these discussions was introduced with the insertion of a compromise in the Banking Act of October 1979. According to the Act, any deposit-taking business needed the consent of the Bank of England to obtain authorization. However, they had managed to retain the flexibility they wanted to keep the banks satisfied in the operational management of this regulation.[781]

On the basis of these developments, these last few years of the 1970s illustrate a moment in the British experience with tax havens that reflects a more general trend established in the tax haven literature of a particularly blurry transitional phase in the evolution of the 'offshore world', as discussed in the introduction. The discussions of unregulated offshore banking environments might clarify why the tax haven issue remained more a low-profile administrative concern than a high-profile political issue. It was a controversial, conflicting and complex policy area to deal with. This may be captured in one paradox. On the one hand, the above discussions seem to have increased the international pressures against the UK – especially after the City of London gained attention for its offshore features. On the other hand, the complexities involved, and the gradual adaption of low-tax locations into 'business as usual' practices, may have helped the UK to minimize a politically difficult fact: that the UK was the most important facilitator of tax havens and offshore centres among the industrial countries still in the 1970s.

[779] Ibid., 630.
[780] Ibid., 633.
[781] Ibid., 635-638.

6.5 Conclusions

The British administrative experiences in the years following the establishment of a British formal tax haven policy in 1971 shows that it never had much impact on the tax haven developments of the 1970s. The British institutions involved continued to use the 1971 tax haven report as their main point of reference until May 1977. However, the policy was so flexible that it had been used as a justification for allowing tax haven developments just as often as an argument against them.

The dual position which had prevailed as the UK official tax haven policy became increasingly evident, particularly from 1973 on when tax havens had become an issue on a more public political level. On the one hand, the UK administration had, with a light regulatory touch and passive engagement, indirectly sustained the most successful tax havens in the British West Indies, the Atlantic, Europe, and the Pacific such as the Bahamas, Bermuda, the Cayman Islands, the New Hebrides, and the Crown Dependencies. On the other hand, the UK government had dragged their feet over the years on reaching a conclusive response. This applied to the cases of the second-generation of tax haven latecomers in the British West Indies, such as the Turks and Caicos and the BVI, and the late entrants into the Sterling Area after sterling contraction in 1972, Gibraltar and the Falklands Islands. At the same time, the anti-discriminatory principle became the winning argument that systematically paved the way for tax haven development regardless of its problematic features be it from a local perspective, a UK perspective with regard to domestic interests, or the perspective of UK trading partners.

As international offshore banking conversations in 1977 raised issues similar to those formerly experienced with tax havens and the City of London was placed at the centre of the problem of unregulated finance among the G10 economies, these new developments may have helped to keep the tax haven agenda low. While no clear conclusions may be drawn from the sudden stop in tax haven debates from 1977, it is an interesting signal from the archives of tax haven files that the same UK-related territories addressed as tax havens before 1977 reappear as 'offshore banking centres' in the late 1970s. One tentative explanation is the wider trend in the late 1970s how larger segments of Western capitalist states, including Britain, had by this point normalized the use of tax havens.

The sources presented here support the conclusion that tax haven policy formation in British dependencies in the 1970s was still very much dominated by ad hoc responses to shifting circumstances. Particularly important influences were sterling contraction in 1972, which impacted a structurally important condition driving tax haven competition; the Lonrho affair in 1973, which helped the wider public and political sphere realize the problematic consequences of tax havens; a closer relationship to European trading partners after EEC membership from 1973, which increased international pressures; and, finally, fears of political upheaval in the British West Indies early in the 1970s, which increased investor risks.

This thesis does not find signals in the sources to conclude in accordance with the 'tacit approval' interpretation that the dominant feature of the British tax haven approach from 1971 to 1979 was a strategic implementation of the City of London interests. Important influences seem to have been institutional differences, shifting conditions, and the complexity of the evolving phenomenon. However, the presented discussions illustrate how metropolitan interests, including City of London interests, became a more central feature of the tax haven debates as the phenomenon developed and became more integrated in political debate and 'business as usual' practices of increasingly larger segments of the British economy.

Nevertheless, the tacit approval theory raises a valid point since available powers were not used. A clear example of "sin of omission" is when in October 1973 the Parliament treated their relationship to its dependencies without including tax haven activities in the territories. However, this thesis cannot establish whether or not this form of political neglect was the result of deliberate agency, or a result of institutional roles and failures to respond to the consequences of a complex, shifty phenomenon. In order to move forward in this question, more research is needed on the cultures and networks of both the administrative and political level that is inaccessible through the material of this thesis.

Chapter 7 Conclusions: Ad Hoc Policies in a Context of Decolonization

As outlined in the introduction, this thesis set out to examine the role of the British administration in the creation of British tax havens in the 1960s and 1970s. This examination has been conducted through a deep empirical account of the administrative policy development that followed the unfolding of the tax haven phenomenon. In doing so, the contribution of this thesis is to provide a more historically detailed account than previously available along with a new interpretation of the main features of the British tax haven approach for the period under study.

The central argument developed here is that tax haven proliferation within the British Empire in the 1960s and 1970s was primarily the result of ad hoc decisions concerning the development of a policy area that emerged as a reaction to tax haven activity. Recognizing this is important because it refines the way to understand the role of the British central power in the set-up of a British based tax haven system. Previous interpretations have emphasized the political strategy in the UK approach and this strategy's relationship with UK economic interests, as discussed in the introduction. Such an emphasis has contributed to a narrative that tax haven formation in a British context was the result of a deliberate policy pursued by the central power to serve the interests of the British financial industry.

In contrast, this thesis emphasizes the importance of duality, incoherence, postponement, and reluctance to properly account for an emergent and controversial policy area in the context of decolonization and anti-imperialist criticism. As demonstrated here, the British authorities allowed the tax haven system to rise as the result of negotiated interests among colonial leaders, a professional consultancy industry, foreign investors, and an indecisive metropolitan state. This established an environment in which businesses, wealthy individuals, and financial institutions could take action without transparency or taxation, while UK civil servants and politicians remained unable and to some extent unwilling to settle on a clear tax haven approach. This speaks to a more general pattern of the patchy and ad hoc rule of empire developed in Darwin (2009), as discussed in the introduction.[782] Further, it nuances the 'tacit

[782] Darwin, *The Empire Project*, 1.

approval' interpretation to understand British tax haven tolerance as summarized in Sagar, Christensen and Shaxson (2013).[783]

The central argument put forward here is supported by four aspects of the central British administration's tax haven approach: the fragmented and disorganized way in which the British tax haven system unfolded; a constant process of the negotiation of conflicting interests; the time it took for the policy area to develop and find institutional anchoring; and a lack of administrative capacity and political will to address tax havens.

These arguments will be presented and discussed in the following. Section (7.1) details the unfolding of the British tax haven system as it evolved through two decades. Section (7.2) develops a more detailed account than formerly provided of the evolution in institutional concerns that established the grounds for Britain's conflicting, dual positions. This is followed by section (7.3), which identifies a pattern in the spheres of agents involved in tax haven policy formation. Finally, section (7.4) discusses how the British administration was neither clearly supportive nor dismissive of tax haven developments because of a combination of ad hoc features, leading to a form of administrative paralysis already addressed in the analytical chapters.

7.1 A Disorganized Development of the British Offshore World

The fragmented and disorganized way in which the British tax haven system developed is a factor that in itself added to the ad hoc feature of the policy process comprising the British tax haven approach. The extent to which tax havens eventually spread through the Empire was not foreseen from the outset.

As documented in this thesis, UK officials used the tax haven term to refer to a phenomenon that emerged over time and that changed with modernization and niche specialization. When the phenomenon was observed and discussed early in the 1960s, it was still a feature of very few British dependencies and the mechanisms involved were fairly modest. By the late 1970s, many tax haven dependencies were debated as complex and modernized 'offshore banking centres'.

[783] Sagar, Christensen, and Shaxson, "British Government Attitudes," 128.

The territories included in this study contained all the central features of tax havens following Ronen Palan's definition in 2010, as introduced in Chapter 1. Central to that definition is the 'sufficient autonomy' for a territory to write its own laws and regulations; the involvement of 'non-resident persons or corporations'; the purpose being to avoid 'regulatory obligations' imposed elsewhere; the operating within 'an environment of secrecy'; and a design to 'ease' and make incorporation affordable.[784] These characteristics closely fit the historical examples documented in this study. The tax haven features observed within official British sub-institutions were typically low or no territorial taxes; lucrative tax treaties; International Business Companies (often combined with beneficial tax treaties); and financial secrecy measures such as banking secrecy laws and trusts. These features were also sometimes implemented alongside free ports, casinos, flag registries, and gap countries —sites that may be perceived as different niches within the 'offshore world', following Palan's (2006) terminology as discussed in the introduction.[785]

This falls into a pattern of 'competitive emulation' that Palan (2006) argued characterized the second stage in the rise of the offshore world during the post-war years.[786] Palan further noted that 'it is difficult to make a fast and hard distinction between the stages of accidental innovation and competitive emulation'. However, the results here help identify how tax havens in a British context initially emerged from 'natural' low-tax environments (in the sense that they never inserted modern income taxation) and gradually evolved into more complex niches.

This thesis has elaborated how deliberate 'cut and paste' practices helped tax haven legislation to proliferate across islands and regions. This resulted in different centres such as the naturally low-tax Bermuda, the Bahamas' Freeport, the St. Vincent tax holiday centre for real estate interests, the trust profile of the Cayman Islands, the BVI tax treaty centre, the offshore banking centre of Jersey, and the offshore transaction centre of Singapore – all evolving specific features as the result of specific historical conditions. Beyond the more specific knowledge that this thesis contributes regarding the specific characteristics of the different British offshore niches, this result illustrates well why 'one-size-fits-all' definitions have their limits.

Further, the presented specifics of the historical examples included in this study, add detail to Palan's notion of the 'offshore world' in a British context, and Ogle's visualized 'archipelago

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784 Palan, Murphy, and Chavagneux, *Tax Havens*, 8-9.
785 Palan, *The Offshore World*, 2.
786 Ibid*,* 120-121.

capitalism' featured by small islands along old British trading ports.[787] As mentioned in the introduction, this study includes more than forty dependencies that at some point in time were under scrutiny for their potential tax haven status (see Appendix 4, Table 6). These spanned from *the British West Indies* (Anguilla, Antigua and Barbuda, Bahamas, Barbados, British Guiana, British Honduras, BVI, Cayman Islands, Dominica, Grenada, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago and the Turks and Caicos); *the Atlantic* (Ascension and Tristan Da Cunha, Bermuda and St. Helena); *the Middle East* (Abu Dhabi, Bahrain, Dubai, Kuwait, and Qatar); *the Mediterranean* (Gibraltar and Malta); *Malaysia* (Brunei and Singapore); *the Indian Ocean* (the Seychelles, the Maldives, and the BIOTs); *the China Coast* (Hong Kong); *the Pacific* (Fiji, the Gilbert and Ellice Islands, Nauru, the New Hebrides, Pitcairn, the Solomon Islands, and Tonga); and to *the Antarctic* (the Falkland Islands). Additionally, there were the three Crown Dependencies of Jersey, Guernsey, and the Isle of Man.

Finally, the UK may be viewed – in the widest sense of the meaning of offshore – to have had its own system of early offshore variants such as nearby islands exemplified by the Scilly Isles, Northern Ireland. Further, it may be said that the former Dominions of South Africa and Canada played a role in an early phase of the rise of a British offshore system as tax evasion destinations in the first part of the 1960s. By the late 1970s, the City of London itself was at the centre of the accelerating offshore phenomenon.

Far from all of these territories were concluded to be tax havens in the tax haven report from 1971, which included only a dozen potential and fully developed tax havens. Like most tax haven lists, it was compromised by political sensitivities; it reflected more the possible range for action deemed acceptable than the dominant understanding of a much broader and more complex phenomenon that circulated within the British administration. However, all these above-mentioned territories were at some point during the two decades of this study investigated, questioned, or debated for their potential tax haven status, their offshore features, or destinations as exchange gaps. In addition, many of these areas were also simultaneously referred to as free ports, flags of convenience, or casino centres – commonly considered to develop in association with the growing tax haven business. Thus, the broader debates that responded to tax haven developments provide insights into the broad outreach of the British offshore world and illustrates the ad hoc nature of the institutional response.

[787] Palan, *The Offshore World,* and Ogle, "Archipelago Capitalism".

The historical sources of this thesis also offer more specific insight into how and when the British offshore world of tax havens expanded. While not all developments fit perfectly into this pattern, it is possible to establish the main trends in tax haven proliferation based on the documented observations made mainly by British civil servants. This does not necessarily reflect the time a territory inserted tax haven legislation, but rather indicates the point in time when they were considered relevant from the perspective of the British administration.

Before 1965, the three early forerunners were Jersey, the Bahamas, and Bermuda, while Barbados, Gibraltar, Malta, and Montserrat were advancing as well as potential future tax havens. This study supports the existing view in the literature of the pioneering roles of the Bahamas and Bermuda and further enhances the understanding of the importance of the creation of the Bahamas Freeport from the mid-1950s, which increased foreign presence and activity.[788] This established an example for neighbouring islands to follow, what in the source material at some point was referred to – perhaps rightly – as a wider 'Caribbean method'.

From 1965 through 1967, after the UK fiscal reform, the tax haven model was expanded with the emergence of trusts as the most important feature of a general trend to modernize banking laws. By then, tax havens spread from the Bahamas and Bermuda to their nearest neighbours in the north-western and central Caribbean clustering in the Cayman Islands, the Turks and Caicos, and the BVI.

From 1968, the introduction of exempted IBCs and tax holidays became a more prominent feature of both established and new tax havens. A new form of private tax deal, based on arrangements put in place in the Bahamas Freeport in 1955, started to spread with a particularly evident new interest in the Eastern Caribbean. This new tax haven business reached the smaller and poorer territories such as Antigua and Barbuda, Dominica, and St. Vincent and the Grenadines. As a prolongation of this development, it even reached the distant tail of the Eastern region such as the tiny islands of St. Kitts and Nevis and Anguilla.

From 1969 to 1971, new regions started to receive spill-over effects. This was particularly evident in the cases of the New Hebrides in the Pacific, the Seychelles in the Indian Ocean, and some of the Middle Eastern protectorates.

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[788] Examples of these from the discussions above are Michael Craton, *A history of the Bahamas* and Palan, Murphy, and Chavagneux, *Tax Havens*.

After 1972, following sterling contraction, there was an observable shift of the tax haven business into European centres. This was particularly evident in the case of the modernization of Jersey, which transformed from a centre for wealthy individuals into a modern offshore centre attracting corporations and banks. This had trickle down effects in Guernsey, the Isle of Man, to some extent Gibraltar, while the Falklands failed. From this moment on, offshore finance developed largely from tax haven platforms. As a result, it became increasingly difficult to distinguish between traditional onshore financial centres and offshore centres by the late 1970s. In this context, the City of London started to attract attention internationally for its offshore features together with other established tax haven centres related to the British Empire.

With this, the tax haven phenomenon had moved from its localized association in the 1950s with nearby isles along the UK coast and in the English Channel, gravitating towards the City of London as a new competitive force towards the end of the 1970s. It had by this point undergone a maturation process after being developed and specialized in various spaces through the British Empire. Having changed in form, it nevertheless contained the same core function – to create lenient conditions for individuals and businesses that would allow the avoidance of taxes, exchange control restrictions, and other regulations.

The relatively rapid speed with which tax havens replicated themselves, and the varieties of offshore niches which developed through the proliferation process, became a factor in itself that complicated any policy response. This means that the British administration stood before a shifty phenomenon that it took time to recognize and fully understand. While former studies have not emphasized the significance of the fragmented and unorganized nature of the evolution of the tax haven phenomenon to policy formation, this thesis establishes it as an important basis for the ad hoc policy process.

7.2 An Emergent Policy Area

Another finding of this study that supports an emphasis on the ad hoc nature of the tax haven administrative policy process is the absence of any clear policy domain for confronting the tax havens issue. Outside of a short period when the Treasury had a clear mandate to co-ordinate the work from the Exchange Control Department from December 1970 until the 1971 tax haven report was finished, a tax haven response had evolved from multiple policy areas from within different parts of the UK administration. The novelty of the policy area itself seems to have been a factor in creating bureaucratic inertia.

Before 1967, tax havens were of minor concern to the British administration. Initially, from 1961, tax havens had raised some debate under the Board of Trade responsibilities. This related to the competitive position of US companies operating in the UK following the action taken against tax havens by the US Kennedy administration. However, tax havens did not gain currency as a political issue in the UK as it did in the US and was only sporadically and rarely debated in Parliament. As previously mentioned, the Colonial Office had some early involvement in sporadic tax haven developments from a development angle. The Bank of England performed some observation of the phenomenon by policing colonial banking and monetary regimes. In this way, the Bank saw the issue as a prolongation of old colonial problems but did not devote much energy to it. The Inland Revenue, experienced in foreign evasion, was no novice to hidden wealth in other countries. However, tax havens were not of major concern to British tax collection.

It was not until a couple of years after the UK tax reform of 1965 that the Inland Revenue began to understand in more detail the adaptation techniques used by a growing tax avoidance industry. The fear was that it would become big business to professionalize the act of turning illegal tax evasion into legal tax avoidance from aggressive adaptation through loopholes and trusts. Following the sterling devaluation in November 1967, and fears of exchange control gaps arising within the Sterling Area, the Bank of England also woke up to the potential negative impacts of tax havens. This meant that by the end of 1967, tax havens had become a policy issue for both the Inland Revenue and the Bank of England, though for different reasons. At this point the Treasury was involved with the tax haven issue which challenged very different policy areas that they were responsible for, with implications for fiscal income, balance of payments, reserves, and sterling value – issues treated in different sub-institutions of the British administration.

In 1968, the newly established FCO was still treating tax havens primarily as a growth opportunity to avoid aid dependency and was rather uncritical of its negative effects, despite some growing scepticism. However, this was reversed to some extent after the Treasury confronted the FCO during the winter and spring of 1969. From this point on, the FCO adopted a more critical view of some aspects of tax havens in their treatment of the phenomenon. One clear example of this change appears in the autumn of 1969, when the main goal for aid in the British West Indies was to mitigate the negative consequences experienced in the islands. By then, it was realized that tax havens did not only challenge UK domestic interests, but also carried with it administrative burdens, constitutional implications, and forms of social inequality in the tax haven territories themselves. This means the tax haven issue gradually became a more articulated feature of colonial and development policies.

It took a decade to move from tax havens becoming a more recognized topic early in the 1960s to the point where relevant departments managed to co-ordinate tax haven related issues under Treasury supervision in 1970 and to formulate a policy in September 1971.

Fears of gaps and tax evasion became less pressing in 1972, when the tax haven business in the British West Indies had become less relevant after being thrown out of the Scheduled Territory. However, this changed when the tax haven issue appeared for the first time as a separate and explicit policy problem to deal with in 1973, catalysed by the Lonrho affair, on the background of EEC membership and growing tax haven agony among British trading partners. From then on, the issue became a more politically debated issue. The issue was integrated in the conversations in Parliament about structural inequality and growing concerns over the clustering of power and wealth in MNEs. The result was, as in most other industrial countries, some amendments of tax avoidance protections to close tax haven loopholes. However, administrative responses to tax haven applications continued to feature ad hoc practices such as administrative negotiation, discriminatory treatment, and unclear policies. Tax havens also became a more complicated foreign policy area after international trading partners confronted the UK on the issue in 1974 after both the EEC and the OECD had established works against tax havens. These pressures coincide with another factor after 1973: the way in which the tax haven business, while still controversial, was increasingly represented as a normal feature of capitalism. These factors made the topic, on the one hand, increasingly politically difficult in the last part of the 1970s, while, on the other hand, less pressing from a regulatory point of view. Keeping in mind the political climate of neo-liberalism characterizing the late 1970s, with an incoming Conservative government, the lack of political interest in tax havens in British politics does not come as a surprise.

The spread of the new policy area has implications for an interpretation of the role of the British administration in tax haven growth. It produces a counter-argument against the view of a strategic state, supporting instead the ‘genie out of the bottle’ interpretation suggested in

Sagar, Christensen and Shaxson (2013).[789] As discussed in the introduction, this came through as a less plausible counter-hypothesis to the more "conspiracy"-oriented 'tacit approval' reading of British tax haven tolerance. It emphasized how tax havens, before 1967, had 'quietly accelerated without the FCO - or Treasury, or Revenue – taking much notice'.[790] Further, the sources used for this study confirms the emphasis they then placed on features such as 'confusion, inter-departmental wrangling, and conflicting priorities'.

In order to understand the role of the UK in the emergence and spread of tax havens within the confines of the British Empire, it is essential to understand how the tax haven phenomenon was encountered within very different policy areas and sub-institutions of the British administration. The tax haven issue had no clear institutional jurisdiction and the tax haven policy area was in effect a fusion of such different policy areas as fiscal policy, monetary and banking policy, and colonial and aid policy. As a result, the tax haven issue was a fluid policy area, in addition to becoming an ever more politically fraught problem.

7.3 Spheres of Influence under Decolonization – An Ascending Pattern

The ways in which the actors involved in this study interacted further emphasizes the ad hoc aspect of tax haven policy development. This relates to the context of decolonization, which provided non-state actors the latitude to further private interests in British dependencies. As will be established below, the British tax haven approach was subjected to the constant negotiation of competing interests, which happened in ad hoc fashion following important moments in the movement in many territories towards self-rule.

One main feature of this process was the movement of the tax haven business into territories that either were in the process of obtaining or had newly obtained more self-rule. Two central moments of this process can be derived from the examples of this study, each centred in the British West Indies in the 1960s.

The first followed the collapse of the British West Indian Federation in 1962. Following the defeat of the goal of confederation, it did not take many years before all the colonies had new colonial constitutional settlements with more autonomy. Some colonies chose independence,

[789] Sagar, Christensen, and Shaxson, "British Government Attitudes," 129.
[790] Ibid.

while others remained British colonies under the new constitutional arrangements of the British West Indies Act of 1962. This provided more self-rule than formerly attained before the Federation. Tax haven features developed first in the two colonies of the Bahamas and Bermuda, the territories that had enjoyed the most autonomy under the colonial arrangement. Their neighbours in the north and central British West Indies replicated the two islands' model of success after gaining more self-rule. The Cayman Islands, the Turks and Caicos, and to some extent the BVI started to develop tax haven features that peaked from 1965 to 1967. A similar model was also tried, unsuccessfully, in Montserrat from 1964 since it was expected to achieve independence (although it did not) within a few years after the dissolution of the Federation. Similar tax haven activity took root in the newly independent Barbados (1966).

The second moment involved the next cluster of tax haven conversations within the administration, occurring in relation to the transition of six territories into associated states with the West Indies Act 1967. With this Act, the smaller Associated states in the Eastern Caribbean shifted their status from colonies to association with the British state in an arrangement that provided more autonomy. Among these, tax haven features started to appear in Antigua and Barbuda, St. Vincent, Dominica, and some in St. Kitts-Nevis-Anguilla, while Grenada and St. Lucia were less involved.

This pattern also appears in other regions hosting small economies when demands for independence were increasingly voiced in the late 1960s. From 1969 through 1971, the tax haven business moved into islands that were expected to obtain more autonomy. The clearest examples of this were the New Hebrides in the Pacific, the Seychelles in the Indian Ocean, and some British possessions in the Middle East.

After 1972, following sterling contraction, the proliferation of offshore niches was less connected to political developments and increasingly dependent on market dynamics. This is reflected in the constitutional arrangements of centres hosting offshore banking activities, tax haven features, or a combination of these. For instance, the metropolitan City of London, the Crown Dependency of Jersey, the independent Bahamas, the dependent Hong Kong, and the shared territory of the New Hebrides – all took part in the 1970s in a global competition to attract businesses and financial institutions regardless of their different constitutional arrangements. Again, there were exceptions. A few territories such as the Falklands Islands, Gibraltar, and the BVI were still held back for political reasons related to their dependence on the UK.

These factors further emphasize that tax haven formation in a British context was closely entangled with processes of independence, characterized by the ad hoc decisions that led to more independence, and were not strategically planned by the UK administration – quite the contrary. Rumours of possible independence movements were enough to engage tax haven operators who were quick to examine prospects for potentially lucrative arrangements. This situation put into play a range of adaptation strategies for all interested parties and created an environment where any interference with tax haven development was necessarily ad hoc. All the territories that aspired to install tax havens were characterized by a strong presence of pioneering market interests assisted by a variety of different service providing organizations or individuals.

In any region in which they appeared, the same pattern emerges of close interplay among the four spheres of agents introduced in this thesis (local authorities; business interests; service providers; and the metropolitan power). Businesses, wealthy individuals, service providers, and local governments across the Empire – often supported by administrators – had significant influence in shaping all the tax haven and other versions of offshore territories in this study. Further, these sets of agents operated against the backdrop of four important structural currents that characterized the 1960s and 1970s.

The historical examples of this study illustrate how political processes of independence and decolonization collided with currents dominating the economy, such as financialization and an era featured by corporate restructuring and creative tax planning. These spheres of agents became more strongly articulated through the period under discussion, leaving the trajectory of a consistent pattern. Barclays DCO stands out as one strong example from this study. It was a prominent agent in dialogue with local authorities aspiring to insert tax haven legislation in the British West Indies and Gibraltar in the 1960s. Barclays DCO was also associated with the environment of British-based banks that sought to escape home regulations after the British fiscal reform from 1965 through the BITCO structure in the Bahamas. In some instances, most clearly exemplified in the smaller and poorer island communities, foreign individuals and businesses could in practice dictate to local authorities the conditions under which they wished to operate their business, because of a desperate need in the islands to finance welfare responsibilities. This is particularly evident with the private tax deals pushed forward by wealthy individuals in cases such as Ken Bates with the Anegada Company in the BVI. These agents were assisted by the service providers that were important drivers as designers of loopholes, as lobbyists of local authorities in the islands, and as suppliers of tax haven facilities. As described in Chapter 5, this group also had a strong channel of influence relating to their role as consultants to the departments involved with colonial affairs and development. However, often the tax haven ambition was rooted in local councils, such as in the case of Montserrat. There were even examples where local authorities gave away constitutional rights – and thus sovereignty – to private interests, in effect, shifting subordination from the imperial power to wealthy individuals.

One conclusion to be derived from these observations, is that the tax haven business was a product of unorganized developments and uncertainties. That lack of stability and clarity gave an upper hand to those interests that favoured tax haven development, producing a strong – however informal – alliance of interests. The tripartite alliance of interests among local authorities, businesses, and service providers benefited from a policy vacuum that appeared in an environment characterized by bureaucratic inertia.

7.4 Administrative Paralysis

As the introduction notes, previous studies have centred strategic policy and metropolitan interests in their analysis of the role that the British administration played in the formation of a British-based tax haven system. This thesis agrees that the British administration allowed a tax haven system to develop and abstained from using its available powers despite an awareness of external effects. However, it refines the view of the British administration as a strategic agent acting as an instrument for City of London interests in tax haven policy formation, as will be further discussed in the following.

As discussed, the dominant interpretation of British tax haven tolerance focuses on an intentional and strategic will on behalf of the British imperial power. As already addressed, Palan, Murphy, and Chavagneux (2010) saw this as the result of a 'longterm developmental strategy'[791]; Shaxson (2011) described it as a construct of a London-centred 'spider's web'[792]; Ogle (2017) saw tax havens as 'the product of concrete, conscious, and deliberate government decisions and support'[793]; and Sagar, Christensen, and Shaxson (2013) argued the likelihood

[791] Palan, Murphy, and Chavagneux, *Tax Havens*, 22
[792] Shaxson, *Treasure Islands*, 103.
[793] Ogle, "Archipelago Capitalism," 1433.

of tax haven tolerance being the result of 'tacit acquiescence'.[794] These analyses, in different ways, give support to a narrative of a British administration turning a blind eye to tax haven developments as deliberately in service to the interests of the financial elite in the City of London. In this way, that analysis mirrored the interpretation of imperial history offered in Cain and Hopkins' idea of 'gentlemanly capitalism', however, in a modernized form.

This thesis downplays the importance of strategic and planned policies to protect City of London interests, emphasizing instead the impacts of the ad hoc features described above. As evident from this thesis, there is little evidence of politically directed tax haven policy processes apart from those restricted to establishing protective measures in the 1970s. Except for the guideline principles implemented in September 1969 under the FCO, and the tax haven report from September 1971, there are no traces in the archives of any major strategic policy document which reveals a comprehensive tax haven policy.

There were clearly efforts to resolve institutional differences within the sub-institutions of the British state and to find compromises when competing interests seemed inconceivable. However, the involved institutions did not manage to overcome their institutional differences. An illustration of that failure can be found in 1967 when the Inland Revenue had strong influence over the Treasury views on tax havens and was pushing for a restrictive policy line. However, this approach was interrupted following negotiations with the FCO during spring 1969, that led to a more liberal approach. That change stemmed from an inability to resolve major controversial subjects, such as the intrusion of sovereignty rights in the territories and the anti-discrimination principle among British dependencies.

No political party took on the responsibility to fully address the tax haven issue in a comprehensive manner, even after the tax haven issue had become topical in British domestic politics following the Lonrho affair of 1973, and increasing international pressures. Although the event exposed how the use of tax havens by big business had implications for power and wealth, this did not create the momentum needed in British politics to take a clear stance on the tax haven question. The Parliament chose not to include tax havens in the constitutional debates about British territories in 1973, as discussed in Chapter 6. This could have led to a clear policy approach – to either explicitly allow tax haven developments under a clarification of their sovereign right to do so or the contrary, to dismiss such laws under a renewed

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794 Sagar, Christensen, and Shaxson, "British Government Attitudes," 129.

constitutional arrangement. This would have eliminated the state of inertia that allowed ongoing negotiation and lobbying activities.

If there was a strategic element in tax haven proliferation, it was to be found among the local administrations and within the professionalized tax haven business about to discover new market opportunities. Tax haven initiatives did not, as a general rule, come from the British central power. However, there are incidents when the role of administrators, without knowledge or backing from the FCO side, seem to operate autonomously to promote tax haven legislation. While more historical detail is needed, the sense arising from the sources used here is that this was a factor in the Turks and Caicos (under Robin Wainwright), and the Cayman Islands and Anguilla (under John Cumber).

This analysis also differs somewhat from previous interpretations which suggest that the British administration acted strategically to protect its own economic interests, particularly the City of London. Sagar, Christensen, and Shaxson (2013) argued that the Bank of England actively engaged in the formation of tax havens, pointing to its role in Jersey, as previously discussed.[795] Other presented incident for this concerns the reluctance of the Bank to pass on to the Inland Revenue information that they possessed from the exchange control powers.[796] While their argument is well-founded based on existing evidence, this thesis offers a different interpretation of these historical events while noting a danger of over-emphasizing the meaning of one, or a few, such incidents. As documented in this thesis, there were instances of strategic thinking that also included City of London interests, particularly in relation to the case of Jersey. This is further exemplified by the dominant attitude of the Bank of England, with Inland Revenue and Treasury backing, which was to allow the Eurodollar business to develop in the Channel Islands in 1972. Another example follows the Lonrho affair, when protective measures against tax havens were balanced against a desire to protect City interests that was explicitly stated in the parliamentary debates. Nevertheless, this thesis finds no signals in the sources that this was a commanding feature of tax haven policy formation in general through the two decades treated here.

However, the economic argument that the British tax haven tolerance was based on considerations for the aid budget, as suggested in Sagar, Christensen and Shaxson (2013)

[795] Sagar, Christensen, and Shaxson, "British Government Attitudes," 115.
[796] Ibid.

and Ogle (2017), seems stronger.[797] It was the development argument to assist poor dependencies out of aid dependencies that managed to change the direction of what seems to have moved towards a stricter policy line before negotiations with the FCO in 1969. Yet, this argument was not always accepted, as exemplified in the cases of the Turks and Caicos, BVI, and Gibraltar. Despite efforts to promote the development angle when applying for permission to insert tax haven legislation, these territories were met with resistance from the administration, or counter bids of aid in exchange for promises to abstain from the set-up of tax haven legislation. This means the aid aspect was a factor that mattered, but did not fully result in tax haven tolerance.

Instead, this thesis finds that the position and impact of City of London interests shifted with time and were not inserted primarily through links to the British administration. At first, while the Inland Revenue controlled the internal narrative in communication with the Treasury, the City of London's role was very much the antagonist in the administrative tax haven response and subject to criticism and scrutiny. It is true that business interests allied with service providers of the City to implement more liberal conditions in overseas territories. However, this was more often than not against the interests of the UK administration. It is also true that the British administration did not stop such activity even though they were aware of the consequences, but for reasons other than the manipulation of City interests. The overall policy attitude was to control the resurgence of a new tax (and exchange control) avoidance industry engineered from the City and elitist circles connected to it.

Thus, the interpretation offered here is that the policy formation process was primarily characterized by the *ad hoc* activity described above. Tax haven policy formation followed a rather inconsistent path of development much more than a strategic and deliberate development. Tax haven responses were vulnerable to other factors such as the complexity of the phenomenon, the immaturity of the policy area, the lack of any clear policy domain, institutional differences, lack of resources, lack of sustained investment from political parties, and political sensitivities in a context of decolonization and international pressures. As a consequence, UK tax haven policy responses were above all riddled with complexities, incoherencies, and changes of position. This laid the ground for a *duality* that dominated the UK tax haven approach through all its stages -- within separate departments; in

[797] Sagar, Christensen, and Shaxson, "British Government Attitudes," 128 and Ogle, "Archipelago Capitalism," 1441.

interdepartmental negotiations; and in relation to the dependencies and the international community.

This means the narrative of a cynical British state deliberately acting to privilege the interests of British financial business does not adequately address the complexities covered here. This thesis accordingly refines the view of this strategic element and the centrality of City interests in British-related tax haven formation, offering a new interpretation that recognizes the importance of ad hoc responses.

The UK metropolitan power was neither clearly supportive nor dismissive of tax haven developments. The role of the British administration may then be viewed as an example of administrative paralysis based first and foremost on an inability to resolve the tensions created by a new and complex phenomenon. This inability was manifested as practices of indecisiveness, contradiction, incoherence, injustice, and postponement – all main features of the presented tax haven policy formation process. These practices, following the semi-sovereign relationships among the metropolitan power and colonial remnants, created an optimum condition for the incursion of private interests.

As a consequence, the Bahamas, Bermuda, the Cayman Islands, the New Hebrides, and the Crown Dependencies could succeed, in symbiosis with private interests, because they enjoyed combinations of early entrants' benefits, higher levels of self-government, and to some extent the luck of good timing and favourable circumstances. However, the Turks and Caicos, the BVI, and Gibraltar – all to some degree latecomers – were more prone to political judgements and were to a lesser extent able to benefit from the "equal treatment" argument that resulted in some tax haven development despite resistance from the Treasury and the international community.

This interpretation emphasizes a pattern of spheres of interest which appeared in all the tax haven and offshore banking examples informing this study. Notably, these were able to insert legislation in small semi-independent territories in a context of ad hoc processes working towards the dismantling of the British Empire. This thesis therefore places the chaotic interplay among state and market agents in a context of decolonization at the heart of analysis. This reflects the view presented in Darwin (2009) of how imperial rule was characterized by ad hoc decisions and 'chaotic pluralism' of various interests more than it was enacted by 'official designs'.[798]

This is not to deny elite alliances central to the interpretations more aligned with Cain and Hopkins. However, these alliances do not seem to any considerable extent to have found a base through the channels of the British administration. Thus, increasing the knowledge of elite alliances shaped among business circles and political environments in British dependencies seems an interesting lead to follow. Further, the presented findings and conclusions strengthen the focus in IPE analysis on the importance of practices of semi-sovereignty in small (most often island) economies during a period of transition. This conclusion is consistent with a growing consensus in current tax haven literature of the important context of decolonization to tax haven formation.[799] As such, the British administrative tax haven experience fits into a broader story of diminishing British power in the 1960s and 1970s.

[798] Darwin, *The Empire Project*. xi-3.

[799] Palan, Murphy, and Chavagneux, *Tax Havens*; Shaxson, *Treasure Islands*; Sagar, Christensen, and Shaxson, "British Government Attitudes"; Ogle, "Archipelago Capitalism" and Ogle, "Funk money".

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1967-1969 IR 40/16744 Review of tax havens

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1973 FCO 86/137 Tax havens in Dependent Territories

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1973-1974 FCO 32/1101 Australian concerns about tax haven facilities in New Hebrides

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Appendix and Tables

Appendix 1

Table 1. Oversight of Constitutional Status for the involved Dependent Territories

Territory	**Constitutional Status***	**Year of Independence/ British Overseas Territory (from 2002)***
1. Abu Dhabi (United Arab Emirates)	Protected State	1971
2. Anguilla	Colony/ Ass. State (from 1967)	British Overseas Territory
3. Antigua and Barbuda	Colony/ Ass. State (from 1967)	1981
4. Bahamas	Colony	1973
5. Bahrain	Protected State	1971
6. Barbados	Colony	1966
7. Bermuda	Colony	British Overseas Territory
8. BIOT	Colony	British Overseas Territory
9. British Guiana (Guyana)	Colony	1966
10. British Honduras	Colony	1981 (Belize)
11. British Virgin Islands	Colony	British Overseas Territory
12. Brunei	Protected State	1984
13. Cayman Islands	Colony	British Overseas Territory
14. Dominica	Colony/ Ass. State (from 1967)	1978
15. Dubai (United Arab Emirates)	Protected State	1971
16. Falkland Islands	Colony	British Overseas Territory

∗ In a British context, a 'protectorate' differs from a 'protected state' in that the former includes the insert of government, while the latter builds on an existing established form of local government. The term 'protected states' was introduced in 1949 when the British government reorganized responsibilities over sheikhdoms in the Gulf. See W. D. McIntyre, *British Decolonization, 1946–1997* (New York: St. Martin's Press, 1998), 64.

∗ In 2002, the British government changed the old colony status to 'overseas territories' with the British Overseas Territory Act in an attempt to break with the colonial past. See Helen Hintjens and Dorothea Hodge, "The UK Caribbean Overseas Territories: Governing unruliness amidst the extra-territorial EU," *Commonwealth & Comparative Politics* 50, no.2 (April, 2012): 25.

17. Fiji	Colony	1970
18. Gibraltar	Colony	British Overseas Territory
19. Gilbert and Ellice Islands	Colony	1979 (Kiribati) 1978 (Tuvalu)
20. Grenada	Colony	1974
21. Guernsey	Crown Dependency	-
22. Hong Kong	Colony	1997
23. Isle of Man	Crown Dependency	-
24. Jamaica	Colony	1962
25. Jersey	Crown Dependency	-
26. Kuwait	Protected State	1961
27. Maldives	Protectorate	1965
28. Malta	Colony	1964
29. Montserrat	Colony	British Overseas Territory
30. Nauru	Australian-British-New Zealand Trust Territory	1968
31. New Hebrides	Anglo-French Condominium	1980 (Vanuatu)
32. Pitcairn	Colony	British Overseas Territory
33. Qatar	Protected State	1971
34. Seychelles	Colony	1976
35. Singapore	Colony	1963
36. Solomon Islands	Protectorate	1978
37. St. Helena (Ascension and Tristan de Cunha)	Colony	British Overseas Territory
38. St. Christopher and Nevis	Colony/ Ass. State (from 1967)	1983 (St. Kitts and Nevis)
39. St. Lucia	Colony/ Ass. State (from 1967)	1979
40. St. Vincent and the Grenadines	Colony/ Ass. State (from 1969)	1979
41. Tonga	Protected State	1970
42. Trinidad and Tobago	Colony	1962

43. Turks and Caicos	Colony	British Overseas Territory

Source: McIntyre, W. David, *British decolonization, 1946-1997: When, why and how did the British Empire fall?* (New York: St. Martin's Press, 1998).

Appendix 2

List of British Governments, 1960-1979

1. Harold Macmillan (Conservatives), 10.01.1957-13.10.1963
2. Alec Douglas-Home (Conservatives),18.10.1963-16.10.1964
3. Harold Wilson (Labour),16.10.1964-19.06.1970
4. Edward Heath (Conservatives), 19.06.1970-04.03.1974
5. Harold Wilson (Labour), 04.03.1974-05.04.1976
6. James Callaghan (Labour), 05.04.1976-04.05.1979
7. Margaret Thatcher (Conservatives), 04.05.1979- 09.06.1983

Table 2. Post War Conclusions (Minutes), 1961-1979 (CAB 128/35-64)

Year(s) / Search word	1961-1963	1963-1964	1964-1970	1970-1974	1974-1976	1976-1977	1978	1979 Unsearchable*
Tax(ation/payer)	105	136	493	420	244	310	97	
Haven	0	0	0	2[1]	0	0	0	
Offshore[2]	0	0	0	5	5	2	3	
Indies (British West)	26	1	2	3	0	0	0	
Cayman	0	0	1	0	0	0	0	
Bahamas	8	0	1	7	0	0	0	

The chosen search words reflect the expected key words that could lead to the identification of tax haven discussions in the Cabinet. The search words 'haven' and 'offshore' are considered the most important words to discover relevant discussions to this thesis. The search word 'Cayman' is selected for its significant position as the most central territory to the British tax haven experience. The search word 'Bahamas' is most relevant before independence 1973. However, it remained a reference word to other tax havens after its independence in the presented sources, and therefore has some limited value as a search

* The digitized archive does not respond to the search words for the records held in CAB 128/ 65 and CAB 128/ 66, and no conclusions can be drawn from 1979.
1 One of these hits refers to 'tax havens', which is the first finding of the use of the term in the Cabinet minutes. This was from 6th October 1970 in discussions of public expenditures, and the potential withdrawal of grants to the shipping industry.
2 These hits refer to either geographic dimensions or the petroleum industry.

word even after 1973. None of these searches led to the discovery of any tax haven debates on cabinet level.

Table 3. Post War Memoranda, 1961-1979 (CAB 129/104-207)

Year(s) / Search word	1961-1963	1963-1964	1964-1970	1970-1974	1974-1976	1976-1977	1978	1979 Unsearchable*
Haven[1]	3	1	60	22	1	2	0	
Offshore[2]	6	0	14	14	141	59	36	

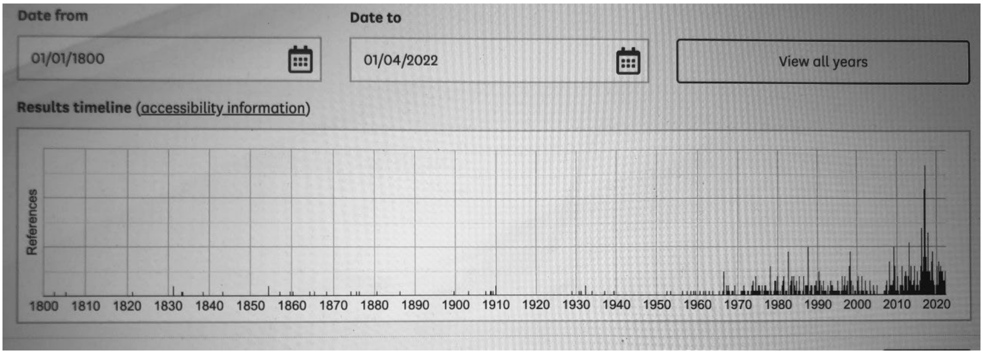
∗ The digitized archive does not respond to the search words for the records held in CAB 129/ 205, CAB 129/ 206 and CAB 129/ 207, and no conclusions can be drawn from 1979.

1 The first finding of the use of the 'tax haven' term appears in relation to the Lonrho case in July 1973, and reappears a second time in October 1973 as will be discussed in this thesis. Almost all other findings of 'havens' refer to geographic spaces such as 'Milford Haven' and Newhaven'.

2 The offshore term here exclusively refers to the establishment of 'abroad', 'foreign', or 'off the coast', and appears in discussions of the petroleum, mining and port industries.

Appendix 3

Table 4. Tax haven Appearances in the Hansard Papers, 1800-2022



Source: https://hansard.parliament.uk/search/ (retrieved 01.04.2022).

The table shows the result of a search in the Hansard Papers (Commons and Lords) on «tax havens», in which aggregates 558 hits from 1800 to 2022 (April). This search does not always distinguish between appearances of «tax havens» and parallel appearances of «tax» and «havens», and therefore does not give an accurate illustration of the unfolding of tax haven debates. However, it establishes a sketchy view of when tax havens started to become a relevant subject to some debate in the British Parliament. As the table indicates, the curve starts to grow from the 1950s.

Table 5. Tax haven Appearances in the Hansard Papers, 1957-1979

Governmental periods / Search word	Macmillan 1957-1963	Douglas-Home 1963-1964	Wilson 1964-1970	Heath 1970-1974	Wilson 1974-1976	Callaghan 1976-1979	Thatcher 1979-1983
tax haven	8	1	18	20	16	24	45
“tax haven”	0	0	4	13	13	18	29

Source: https://hansard.parliament.uk/search/ (retrieved 01.04.2022).

The table shows the total of 132 hits for the search word tax haven and 77 hits for the search word “tax haven” in the Hansard Papers digitized online search tool (Commons and Lords) from all the governmental periods involved in this study. These hits include parallel, but separate appearances in the debates of ‘tax’ and ‘haven’, and references to geographical spaces (most commonly Milford Haven). The hits refer to lose references to tax havens, and do only refer to policy responses to tax havens in the 1970s to any substantial degree, as will be further developed in this study. These figures therefore indicate that there were few tax haven debates in the British Parliament in the period treated here, especially in the 1960s.

Appendix 4

Table 6. The British 'Offshore World' during the 1960s and 1970s

The BWIs and the Bahamas	The Atlantic	The Middle East	The Medi-terranean	Malaysia	The Indian Ocean	The China Coast	The Pacific	The Antarctic	The Crown Dependencies
Trinidad and Tobago	Bermuda	Abu Dhabi	Gibraltar	Brunei	Maldives	Hong Kong	Gilbert and Ellice Islands	Falkland Islands	Jersey
Jamaica	St. Helena	Bahrain	Malta	Singapore	Seychelles		Solomon Islands		Guernsey
British Guiana		Dubai			BIOTs		Tonga		Isle of Man
Barbados		Kuwait					Fiji		
British Honduras		Qatar					Pitcairn		
Antigua and Barbuda							New Hebrides		
British Virgin Island							Nauru		
Cayman Islands									
Dominica									
Grenada									
Montserrat									
St.Kitts and Nevis									
Anguilla									
St. Lucia									
St. Vincent and the Grenadines									
Turks & Caicos									
Bahamas									

The table shows the forty-three British Dependencies that were discussed for their tax haven status in the 1960s and the 1970s within the British administration.

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Graphic design: Communication Division, UiB / Print: Skipnes Kommunikasjon AS

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ISBN: 9788230854976 (print)
9788230856864 (PDF)