Regulatory Capture in International Organizations: The Case of OECD Tax Evasion Regulations

Margaret Kenney[*]

April 30, 2024

Abstract

International organizations (IO) create regulations that affect non-state actors, such as firms. This paper outlines a theory and outcomes of firm lobbying in regulatory international organizations, with a focus on the OECD. I argue that firms and industry associations work to build positive reputations at IOs through frequent, costly, and unique written public comments to further their policy preferences. I present evidence in line with these expectations in the case of tax evasion regulations at the OECD from quantitative analysis of a new dataset of public comments, natural language processing methods, and qualitative interviews. The results indicate that well-resourced firms and associations are at an advantage in having their voice heard in regulatory IOs, but smaller firms that are willing to invest in the process can have an outsized influence.

---

[*]PhD Candidate, Travers Department of Political Science, University of California, Berkeley, margaret_kenney@berkeley.edu.

1 Introduction

In 2019, Booking.com (a vacation rental firm) participated in the public commenting process on OECD tax evasion regulations. These regulations were being discussed by states to ensure fairness in the international tax system and increase fiscal revenues. Booking.com stated unequivocally in their comment that the firm does not participate in tax evasion and supports the organization's efforts to create a unified international tax framework. The firm proceeded to make suggestions to the international organization (IO) with an emphasis on making certain provisions optional and flexible for taxpayers and firms. However, just two years later, Italian authorities reported that Booking.com had evaded "153 million euros of value added tax (VAT)" (Parodi 2021, p. 1).

When profit-maximizing firms and state governments have opposing preferences, to what extent do firms have an influence on IO regulations? How do IOs delineate between comments, knowing that a subset of private actors (like Booking.com) comment to achieve more favorable outcomes as profit maximizing entities? This paper focuses on the question of how, and to what extent, firms influence regulatory IOs. Abbott & Snidal (2009) state that "IGOs are ... more independent from particularistic interests and ... less subject than states to capture by private actors" (p. 67). While these organizations may be more independent, it is still important to assess when, how, and which firms shape IO decision making.

I argue that firms leverage the public consultation process to establish regularized and frequent interactions with IOs, so that they may develop a reputation for trusted expert information sharing. Firms that comment most often will have their comments implemented to a greater extent, as they provide a costly signal of their commitment to the overarching process (rather than commenting only on issues most related to their own interests). Given that IO bureaucrats are overworked and under-resourced, they will use this costly signal of firms' type to make decisions about which comments to implement. While the costly process

of public commenting undoubtedly privileges large, profitable private actors that have the resources to invest in their reputation at IOs, smaller private actors can leverage this process to outperform their market share and expected influence. I distinguish the reputational mechanism from three alternative mechanisms. First, according to the "informational mechanism," more information offered by the firm to the IO increases its credibility and influence. Second, the "backlash mechanism" argues that the largest and most profitable firms have the most influence as IO bureaucrats seek to maintain compliance. Finally, I consider the "flexing muscle" mechanism: firms comment frequently as a signal of their willingness to fight back against domestic implementation of the recommendation and the IO responds to these threats by accommodating their suggestions.

The case of the OECD base erosion and profit shifting (BEPS) framework offers a hard case to systematically assess the extent of firms' influence on IO decision-making. OECD BEPS discussions began in 2013 with the aim of decreasing tax evasion, preventing double taxation, and supporting economic recovery and fiscal revenues for states. Given that firm preferences are largely opposed to that of states in this context (US Trade Association Lobbyist, 2023), it would be surprising to find that firms' comments have a significant effect on regulations. Furthermore, the OECD is a hard case given that firms and associations do not have decision-making or voter powers – therefore, in comparison to regulatory IOs that offer greater firm integration, we would expect limited firm influence in the OECD. This case also allows for generalizability to other regulatory IOs given the OECD's representative stakeholder engagement process. The OECD's unregulated stakeholder consultation process is relatively lasseiz-faire, as in the majority of IOs in which lobbying takes place.[1] In addition, despite the relatively small scope of membership in the OECD, BEPS has integrated 145 countries in the negotiation and implementation of the standard. Therefore, this issue provides insight into how this process works when membership is inclusive of both developed and developing

---

[1]The EU is an exception. Please see Appendix E for more detail.

countries.

To test the implications of my theory, I use natural language processing methods and create a data set of the 3241 public comments on OECD BEPS. I find that private actors that comment frequently are more likely to have their comments implemented into the final regulation, even when controlling for industry, firm size, and country of origin. I find evidence that firms comment strategically with this in mind, producing unique comments that are costly to the firm. Finally, I leverage qualitative evidence from in-depth author-interviews with twenty-one tax professionals and fourteen OECD bureaucrats to delineate between the possible mechanisms. Amongst the four potential mechanisms, I conclude that the reputational argument is most plausible.

This paper contributes to our understanding of global governance and firms' influence at this level of analysis. With an increase in multinational corporations and international connectivity, policy making has shifted (to some extent) from the domestic to global governance level. States coordinate through these international institutions to address issues, such as corruption and climate change, in a way that can directly affect the profit margins of firms. These regulations have changed the behavior of firms in banking (Wilf 2016), corruption (Jensen & Malesky 2018), and terrorism financing (Morse 2019; 2022). Despite their lack of voting power, firms have the opportunity to provide information and feedback about international rules. IOs have increasingly prioritized stakeholder engagement and allowed access for non-state actors to participate (Tallberg, Sommerer, Squatrito, & Jönsson 2013; OECD 2021a). However, the effects of broader stakeholder engagement in practice have not been evaluated systematically.

This paper also speaks to the extensive literature on how private actors leverage their power and influence. Firms act strategically to create favorable outcomes under the conditions instituted by international and domestic actors (Betz & Pond 2019; Thrall 2021). At the domestic level, firms lobby governments to affect trade openness (Brutger 2023; Osgood

3

2017; 2021) and foreign policy (Kim & Milner 2021). In the context of the European Union, interest groups and firms participate in a public consultation process to affect policy making decisions (Bunea 2017). I expand these discussions to understand private actors' influence on IO decision making and regulation. The extent to which private actors affect regulations in IOs is relevant to questions of fairness and legitimacy, especially given that citizens seem to have coherent policy preferences even on international technical and economic issues (Arel-Bundock & Blais 2023).

In addition to theorizing and testing how private firms affect IO governance, this paper draws attention to the increasingly important issues of international tax evasion and international tax policy coordination. Prior to the OECD's attempts to limit international tax evasion, these "practices cost countries 100-240 billion USD in lost revenue annually, which is the equivalent to 4-10 percent of the global corporate income tax revenue" (OECD 2022). This lost tax revenue could have instead been channeled to provide public services to citizens and ultimately creates an unequal international distribution of taxes, which has been exacerbated by the rise of globalization and economic integration. As companies expand beyond their borders to operate in multiple jurisdictions, the international and domestic rules on tax compliance have not kept up. As a result, firms have been able to maintain compliance *de jure*, while exploiting gaps in legislation to lower their tax burden. In sum, this paper encourages a broader discussion of this topic in the IPE literature.

2   Private Actors, Reputation, and IO Lobbying

I argue that firms leverage the public consultation process to establish regularized and frequent interactions with IOs, so that they may create a positive reputation and increase their "focalness" to bureaucrats in the IO. By providing comments and information on many parts of the process, and not only those that are most important for their interests, they form a pattern of engagement and trust. IO bureaucrats and states, in turn, are then able

to focus on a subset of the universe of commenters. This is by no means a perfect sorting mechanism for quality information, but with the range of actors and opinions that engage in the public consultation process, public decision-makers form a heuristic by which to sort comments. In this case, I argue that IO bureaucrats use reputation to delineate between commenters. I therefore expect that the costly process of public commenting undoubtedly privileges large, profitable private actors that have the resources to invest in these processes. At the same time, smaller private actors can leverage this process to outperform their market share and expected influence.

There are three primary forms of stakeholder engagement in IOs. First, the most common form of stakeholder engagement in IOs is through written public comments (OECD 2016) – the OECD secretariat shares a draft of the proposed recommendation and non-state actors have the opportunity to share feedback on the precise language via a written contribution.[2] Second, IOs host annual forums in which external stakeholders are invited to provide more general feedback and insight on the IO (OECD Bureaucrat Interview 1, 2024). Finally, on a limited basis (especially compared to the domestic context), IO secretariats engage in private, bilateral meetings with stakeholders (OECD Bureaucrat Interview 3, 2024) – "most of the time, [these meetings] are just informational and go nowhere" (OECD Bureaucrat Interview 1, 2024). I focus on written public comments in this paper given that this form of engagement is the most common, transparent, and inclusive – making it a hard case for firm influence. In addition, written public comments offer unique empirical tractability.

---

[2]Numerous IOs solicit comments from the international community on draft frameworks, such as the World Bank (The World Bank 2019), the International Monetary Fund (IMF 2017), and the United Nations (United Nations 2022). 47 out of the 50 IOs surveyed by the OECD engage in public consultations (OECD 2016). For those IOs that do not commission a formal call for public comments, comments are often collected at the domestic level (via the US Trade Representative in the American context) (Office of USTR 2022) or the IO hosts an annual meeting to gauge the interests of firms to assist with agenda setting (WTO 2022).

2.1 IO Preferences in the Public Commenting Process

To understand IO's public commenting processes, and how IOs benefit from them, it is helpful to consider the commenting process in light of information asymmetries, blame shifting, and streamlining enforcement. These benefits to the IO outweigh firms' potentially divergent preferences with IOs and firms' potential to provide misleading information.

First, due to information asymmetries between IOs and firms on technical or economic issues, IOs prefer that firms offer insight into proposed regulations. IOs are "notoriously understaffed, pressed for time, and generally lack the policy expertise required for complex legislative decisions" (Chalmers 2019, p. 65). In the process of creating rules at the international level, states and IO bureaucrats need information from firms to anticipate the implications of their proposed economic policies and make decisions (Sell 2003). This information is often channeled through the public comment process. One example is firm's direct experience with domestic solutions to the issue. In the United States, after the *South Dakota v. Wayfair (2018)* case, businesses conducting online sales had to pay taxes to states in which they were conducting sales, even if they do not have a location there. After experiencing these effects in the U.S. context, some businesses learned about the effects and challenges of such policies, and the implications of similar policies at the international level. Firm-provided information can clarify the outcome of an international policy change at the IO level. Information sharing is particularly important in the global economy, in which changes to the system are more complicated (relative to the domestic realm) and have far reaching repercussions (Büthe & Mattli 2011). For these reasons, firms provide important information for IO decision-making. Therefore, IOs are willing to offer this avenue of influence, even with the knowledge that firms likely have incentives to maximize their profits over the public good.

Second, by offering the opportunity for public comment prior to finalizing a rule, IOs can

reduce blame. Incorporating diverse actors in the consultation process allows decisionmakers to preempt blame as the final policy was not created unilaterally (Kevins & Vis 2021; DeScioli & Bokemper 2014). In the domestic context, Malesky & Taussig (2019) find that soliciting public comments improves the public's views of the regulator. These processes have increased in popularity as the global participatory norm has spread, leading to increasing participation in IOs by transnational actors (Tallberg, Sommerer, Squatrito, & Jönsson 2014; OECD 2021a). Furthermore, there is internal encouragement to include broader perspectives via the public commenting process – directorates receive praise for engaging in more inclusive and democratic stakeholder engagement (OECD Bureuacrat Interview 6, 2024)

IOs, and their bureaucrats, also seek to ensure compliance with their rules. Peritz (2022) describes these preferences: "Compliance ... is essential if IOs are to survive and fulfill their promise of fostering cooperation among states." However, international issues are notoriously difficult to monitor and enforce. Therefore, IOs have to pursue unique strategies to enhance cooperation (Kucik, Peritz, & Puig 2023). By asking for firm input, IOs can enhance cooperation and potentially resolve collective action problems. For example, firms may prefer to limit tax evasion or corruption, if they could be sure that others in their industry would also do so, so as not to limit their comparative advantage. Brutger & Morse (2015) illustrate this logic in the case of the WTO judicial decisions. In addition, Malesky & Taussig (2019) find that allowing firms the opportunity to comment on regulations increases compliance in the domestic context. By inviting contributions from firms and subsequently clarifying expectations at the international level, firms' shared understanding about limiting tax evasion could bolster cooperation.

2.2 Firm Preferences in the Public Commenting Process

Firms are generally assumed to be profit maximizing actors. Decisions in lobbying, investment, and other corporate strategies are based on their potential to create the highest payoff

for shareholders and investors. This foundational assumption underlies many theoretical and formal models in both economics and political science. In IOs, firms, as profit-maximizing actors, participate in the public commenting process to limit the costs of adjustment or maximize their competitive advantage, as Kennard (2020); Perlman (2019; 2023) argue.

Firms prefer to limit adjustment costs associated with new IO regulations. Firms also have significant information about the potential adjustment costs associated with a policy and what is possible to implement. A trade association lobbyist explained that the high adjustment costs are part of private actors' motivation for lobbying: "we are involved... to try to let them understand that some of this stuff that they are asking of companies is just not doable" (US Trade Association Lobbyist 2023). New regulations can impose costs on firms through changes to internal processes or heightened reporting standards. To accommodate the changes made at the international regulatory level, firms often must hire additional employees, outsource their responsibilities, or purchase software developed to simplify reporting (Deloitte 2020). These costs are often better anticipated by the firms themselves, as they have information about how the proposed rules would affect their operations and whether these adjustment costs will be borne out unevenly in the international community. In technical fields, it is often difficult to anticipate the consequences without significant experience on the ground. Given that IO bureaucrats are not privy to the day-to-day business operations, they often do not reach this level of knowledge. In sum, limiting adjustment costs allows firms to maximize their profits. While firms may use lobbying for tighter regulations to their advantage (Kennard 2020), they will generally prefer not to experience a complete overhaul of the systems which they are using.

In addition, firms prefer to maintain their *de facto* compliance with international regulations at minimum penalty to their profits. To do so, firms capitalize on their private information, which they are not incentivized to share publicly (Perlman 2019). For example, some firms which are operating legally have disincentives to disclose loopholes that they are

utilizing under the current regulations. Firms may also advocate for policies that make it easier for them to continue participating in undesirable behavior or exempt them from certain provisions. Firms may advocate for flexible and non binding rules to continue evasive operations and protect their profit margins, without being held to account by the international community. As one interviewee highlighted when asked about the firm's preferences in the creation of a global tax framework: "Our preference is to remain in compliance with OECD regulations" (UK Tax Professional, 2023).

2.3 Firm Reputation Making

In general, firms work to build a positive corporate reputation among their own stakeholders and consumers. Reputation is defined as "how outsiders perceive an organization, including the combined information and assumptions that stakeholders have about it" (Chun, Argandoña, Choirat, & Siegel 2019). This "intangible resource" pays dividends, as a positive reputation can lead to a company's improved "competitive position and performance" (Sageder, Mitter, & Feldbauer-Durstmüller 2018). Several factors contribute to reputation-making in the business literature, including philanthropic activities, product reliability (Chun et al. 2019), financial success, and size (Sageder et al. 2018). However, the features that build this positive reputation in a commercial sense are not particularly informative inside the context of IOs (Eccles, Newquist, & Schatz 2007). For example, product reliability and strong earnings reports may create a positive corporate reputation, but offer limited insight into the type of information they provide IOs during the public commenting process. In addition, firms must establish unique reputations in the IO context given that "stakeholder engagement in international rulemaking is largely disconnected from their engagement at the domestic level so far" (OECD 2021a, p. 93).

The business literature also argues that repeated interaction and reputation are important determinants of a successful non-market strategy (Bonardi, Holburn, & Vanden Bergh 2006).

These attributes help firms resolve the high transaction costs that exist in the political marketplace. Similarly, Eggertsson (1990) argues that asymmetries in power and information give rise to investments in reputation building. Given that the prerequisites for reputation building are present for firms affected by IO regulations, given the asymmetry in information between firms and the IO, and that this behavior explains the success of other types of non-market strategy, I argue that firms would engage in similar behavior in the IO setting.

Firms have been proven to invest in their reputations in business and U.S. lobbying, and I argue that reputation is as important in the IO context. First, because of the complexity of international technical and economic issues and the wide swath of potential commenters, it is significantly more difficult for bureaucrats to delineate between biased and unbiased information. Second, there are high payoffs from forming relationships with policymakers given the relatively long tenure of IO bureaucrats. In the domestic context, personal lobbying relationships are limited as a result of "term limits, strict lobbying laws, and dense interest systems" (Newmark 2003, p. 128). In contrast, membership in international organizations change at a comparatively slow pace. Though the country's ambassadors to IOs may change cyclically with election cycles, not every country rotates their diplomats in this manner. Additionally, IO staff remain largely the same, resulting in the development of distinct bureaucratic cultures (Barnett & Finnemore 1999) and diplomatic capital (Arias 2023). Therefore, there are significant benefits to establishing a positive reputation in an IO.

I argue that firms and associations develop their reputation in the IO through frequent and unique public commenting. In IO lobbying, it is important to build relationships of trust with bureaucrats in areas where access is open (Shapovalova 2019). Given that there are limited opportunities to engage via other means, firms and associations therefore leverage the public commenting process to establish a reputation by submitting frequent and unique written comments.

I argue that firms build their reputation by commenting frequently and across all issue

areas. Rather than only engaging on specific issues that affect the firm's direct business interests, I argue that firms that are hoping to form a positive reputation will engage broadly across a swath of topics. This process allows firms / associations to send a costly signal of their "type" to bureaucrats. If commenting selectively only on issues that intimately affect their profit margins, firms' comments would be seen as "cheap talk" and appear as an effort to influence the IO regulation according to their personal interests. As a result, specific suggestions may not be implemented due to concerns about the comment merely reflecting their individual interest. One-off comments on specific issues likely do not provide enough engagement with the IO for bureaucrats to update their beliefs about the firm and form a coherent picture of their credibility as a stakeholder. If the firm simply copies the text written by another association / firm, these contributions will also not lead to significant updating in the minds of bureaucrats about the value of the firms' comment. The comment is not particularly informative about the firm's willingness to share information and does not offer any new insight for IO bureaucrats to take away from their comment.

In contrast, when firms comment more broadly and with unique information, their contributions act as a costly signal of their "type" to bureaucrats. These contributions are very resource intensive to the firm, and the efforts could have otherwise been allocated to other lobbying activities or internal efforts. By investing in the process across issue areas, it is more likely that frequently commenting firms are seen by the IO as prioritizing quality and expert information sharing. In this sense, their comments may be seen as more altruistic and representative of broad concerns faced by the business community that have not yet been taken into account as a result of a lack of information. Therefore, their viewpoint may be seen as contributing to make the regulation as complete as possible rather than for their particularistic interests. Furthermore, their breadth of contribution to the IO establishes them in the eyes of the international organization as an expert in international tax and increases the value of their contributions in the future. In addition, if the contributions are unique, they are significantly more costly given that the firm independently engaged with the draft

framework, conducted background research, and offered suggestions - rather than copying and pasting the text written by another group.

This argument is in opposition to the common approaches of lobbying outside of the IO context. First, firms do not generally have the resources or incentive to lobby on every topic or issue (Basedow 2019). Rather, their efforts are traditionally concentrated on "classic foreign economic policies," like tariffs, rather than lobbying on every topic or issue (Basedow 2019, p. 396). Second, in many instances of public commenting, firms will choose to submit duplicate comments, otherwise known as pre-formatting their comments. This process involves the coordination of comments amongst interest groups, submitting identical copies under different organization's names. In the case of the EU Investor State Dispute Settlement negotiations, 97 percent of the 150,000 submissions were duplicates of a comment written by the leading actors (Dialer & Richter 2019).

On the IO side, I argue that bureaucrats use reputation to make decisions about which comments should be integrated into each final framework. IO bureaucrats can assume that some subset of firms have opposing interests in their provision of public comments, as firms have a material stake in the policy outcome. Additionally, the universe of actors that can provide suggestions to IOs is quite large. The result is hundreds of pages of comments which bureaucrats must analyze and weigh their validity. At the same time, IO bureaucrats have limited time and resources to disaggregate between these comments (Chalmers 2019). These resource constraints are common amongst all regulatory IOs – "stakeholder engagement can be resource intensive and IO staff may encounter difficulties in investing the necessary time and human capital" (OECD 2021a, p. 80). The report concludes that these challenges commonly found at the domestic level are "amplified at the international level" (OECD 2021a, p. 91).

Because IOs are overworked and understaffed, it is thus more likely that they focus specifically on the comments from specific firms and associations that made a positive impression

in the past. While OECD bureaucrats carefully consider all comments that are received (OECD Bureaucrat Interviews, 2024), I argue that more attention and trust will be given to firms and associations that have been engaging in unique and frequent commenting. Bureaucrats may overestimate the credibility of firms that interact with the IO frequently as a result of the availability heuristic. The availability heuristic is a psychological concept which states that "frequent events are easier to recall or imagine than infrequent ones" (Tversky & Kahneman 1973). In other words, information that is most available to bureaucrats results in differential attention and trust given to that specific firm / association – as their greater participation makes the firm appear more likely to be a leader in international tax whose opinions should be considered more carefully. This heuristic can lead to potentially biased decision-making and overweighting of certain views, even though it is unintended and may operate without the individual's awareness. Therefore, firms' efforts to build a reputation for quality and expert information sharing translate to a greater likelihood of influencing the final regulation via public comments. From these theoretical expectations, I derive two hypotheses:

H1: Firms and associations that comment most often are more likely to have an influence on IO rules.

H2a: Firms and associations comment frequently as a costly signal of their reputation to enhance their influence with IO bureaucrats.

I also consider three alternative mechanisms that could be driving the relationship between frequent commenting and increased influence on IO rules.[3] First, the "information mechanism" argues that firms that offer a greater amount of information have a larger influence on the final regulations. There are two pathways by which this mechanism would result in greater influence. First, if the firm was to provide large amounts of information

---

[3] I consider a few additional alternatives in Appendix A.

in their comment, there may be more substantive material by which to judge the validity of the argument. As a result, the IO secretariat would be better able to judge whether the information shared aligns with the spirit of the OECD proposal. Second, a longer comment may propose a greater quantity of potential solutions to the issue that the firm / association describes. As a result, there is a greater likelihood that one of the solutions could be mutually agreeable by the secretariat, firms, and governments. Therefore, rather than a function of reputation, this mechanism instead proposes the IO secretariat may be responding to the overall amount of information that firms and associations provide.

H2b: Firms and associations that provide more information are more likely to have an influence on IO rules.

Second, the "backlash mechanism" could instead explain the pattern of firm influence. The IO secretariat could be more likely to defer to the interests and views of larger firms as they have the greatest amount of resources by which to lobby and provoke backlash against the international organization. In the American context, firm size and subsequent lobbying influence are highly correlated (Boddewyn & Brewer 1994; Salamon & Siegfried 1977; Chong & Gradstein 2010; Alt, Carlsen, Heum, & Johansen 1999). Therefore, we might expect that this relationship holds in the IO setting given the IO's interests of promoting compliance and ultimately the success of their regulations.

H2c: Larger firms are more likely to have an influence on IO rules.

Finally, I consider the "flexing muscle" mechanism. In the American context, Gordon & Hafer (2005) argue that corporations use political expenditures to "flex their muscles" to regulators and signal their willingness to fight back against stringent regulations and their subsequent enforcement.[4] Therefore, regulators subsequently monitor "large political donors" less (relative to small donors) (Gordon & Hafer 2005). In the IO context, with

---

[4]Thanks to Calvin Thrall for pointing to this potential alternative explanation.

monetary means (such as campaign contributions) not available to them, frequent public commenting could instead serve as a costly signal of the firms' willingness and capability to fight back against (unfavorable) IO regulations at the domestic level. Therefore, the IO secretariat may be more likely to integrate the comments of firms that are "flexing their muscles" given their potential to deter the domestic implementation process. The preemptive response to firm and associations' concerns in the final regulation by the IO secretariat would thus subsequently enhance the likelihood that the international agreement is successful.

H2d: Firms and associations comment frequently as a costly signal of their willingness to fight back against regulations at the domestic level.

3   The Case of the OECD Tax Evasion Regulations

OECD base erosion and profit shifting (BEPS) provides a setting to conduct careful empirical tests on the theory outlined above. First, in the case of OECD BEPS, public comments have been released to the public in full. While previous work has studied the public consultation process in the EU, there have been few opportunities to directly match the comments against the final framework (Quittkat 2011). I leverage text-as-data to offer new information about the influence of firms in the public commenting process. Second, OECD BEPS offers a case in which firm and state preferences are largely misaligned. Firms prefer to maximize profit and maintain convenient loopholes in international regulations, while states prefer to maximize public revenue and limit tax evasion (Tax Attorney Interview, 2023). Therefore, there is a relatively clean delineation by which to discern relative influence.

OECD and G20 countries began BEPS discussions in 2013. The 2008 financial crisis highlighted many issues with the financial system in a globalized economy. As public budgets were stretched during this period to support economic recovery, "ensuring fairness of the tax system and having sound fiscal revenues" became an important priority (OECD 2021b, p. 2).

Therefore, states decided to cooperate on tax evasion and avoidance at an international scale. States set out fifteen BEPS actions – the areas in which international agreement was most pertinent given the state of the global economy. These actions include a minimum digital services tax, recommendations for domestic law provisions, a dispute resolution mechanism, and a multilateral instrument (to replace bilateral agreements). A final report on these actions was published in 2015. Then, the OECD continued to develop these actions through their negotiation of the BEPS Inclusive Framework, which reflected the recognition that a broader set of countries should be included in the negotiation and implementation process. (Patel 2023).

The Inclusive Framework includes two main parts: Pillar 1 and 2. Pillar 1 establishes a digital services / sales tax (DST) for large multinational firms, which will re-allocate tax burdens to locations where technology firms do not have a physical presence (Ward 2021). Originally, states were projected to sign the Multilateral Convention to finalize Pillar One in 2022; however, negotiations are still ongoing (Ernst and Young 2022). Pillar 2 endeavors to create a global minimum tax that applies to large multinational corporations with cross border operations (Ernst and Young 2022). These rules entered into force in 2024 across 30 jursidictions, with many other countries working toward implementation (Ernst and Young 2022). With the project moving at a brisk pace, there are approximately ten times per year when the OECD offers draft recommendations for feedback via public comment or consultative meeting. Figure 4 illustrates the number of comments submitted in each commenting period. The final recommendations are not binding, but there is an expectation that countries implement the recommendations given that decision was made by consensus.

While firms cannot make decisions in state-centric IOs, non-state actors can offer their thoughts on draft rules through public comments. The OECD offers public consultation periods, in which firms and other transnational actors provide comments on the proposed framework documents. There is no required format for these comments, leaving contri-

16

Figure 1: OECD Commenting and Consultation Process
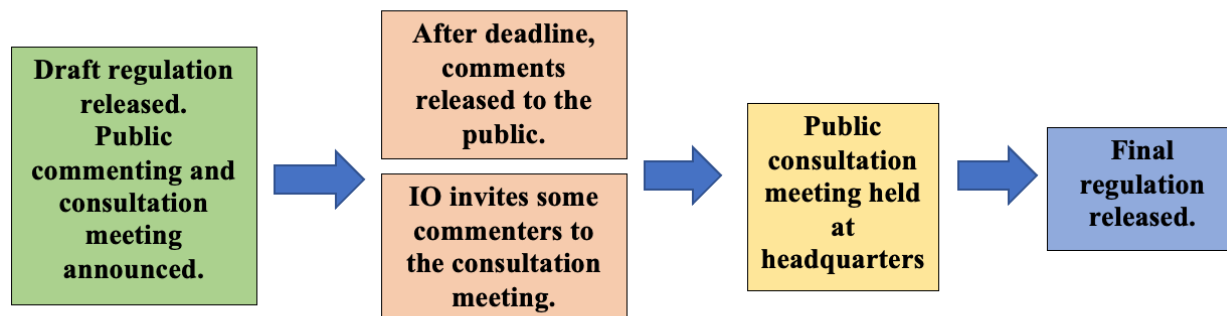
butions open-ended with the opportunity to encourage broad changes or specific wording changes. Figure 1 illustrates the public consultation process. First, the OECD publicizes the draft regulation and opportunity for comment via their website, social media, and a monthly OECD Civil Society Newsletter. Interviews suggest that the firms draft these comments themselves, often within an internal company working group.[5] All comments are uploaded simultaneously, so there is not dialogue between actors within the written comments themselves. Interviewees also confirmed that each public comment is drafted independently, rather than in conjunction with other firms or associations (Trade Association Lobbyist 2023).[6] While public commenting is important, it is not the only source of influence in IO's decision-making process. Firms may attempt to influence IO rules earlier in the process. In states where there are extremely close state-firm relationships, firms may never participate in directly influencing IOs and instead lobby at the domestic level. However, interviewees

---

[5]In some cases, the firm even provides their "suggested wording" for the standard. See https://www.oecd.org/ctp/transfer-pricing/Compilation-of-public-comments-BEPS-actions-8-10-transfer-pricing-financial-transactions-discussion-draft-part-1.pdf, p. 5.

[6]To clarify, when comments are prepared by associations, the association's members cooperate together to prepare the comment. However, interviewees stated that associations do not write comments in conjunction with other associations (or firms that are not a part of the association). Given that all of the comments are to be released publicly, this process is not explained by firm's desire to keep material non-public information private during the drafting process.

Figure 2: Types of Commenters

(a) Classification

(b) Commenter Nationality
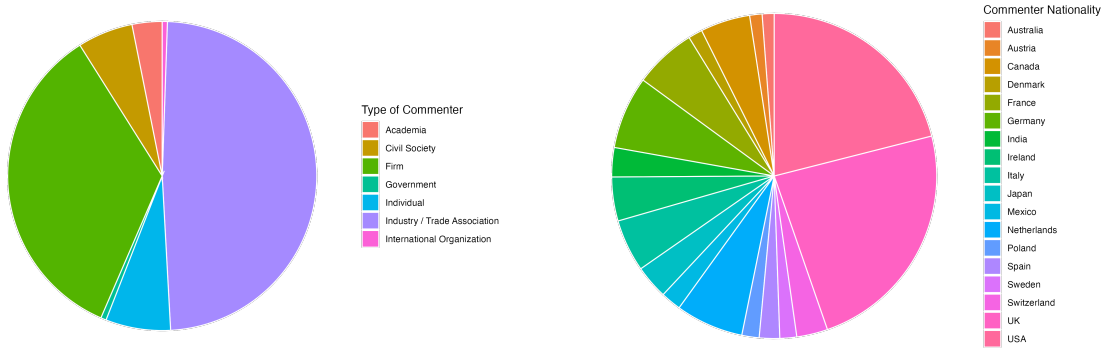
Data manually coded by the author using the full repository of public comments submitted to the OECD. The pie chart represents a count of comments, categorized by (a) the type of commenter and (b) the country / region the firm or association commenting is from. Figure B includes the 27 countries / regions from which non-state actors comment the most often, to make the figure readable. Those categorized as regions are explicitly from regional non-state actors (e.g. Business Europe / European Business Initiative on Taxation) that cannot be disaggregated to a particular state.

stressed that there was limited communication and coordination between firms and domestic governments, as their preferences diverged and they were not often advocating for similar policies (German Transfer Pricing Expert, 2023). In the case of OECD tax regulation, there seemed to be a consensus among interviewees that engagement was restricted primarily to written public comments. One interviewee stated: "our involvement was limited to working with member companies and their tax departments and drafting the comment letter. There's unfortunately no smokey back room or piles of cash" (US Trade Association Lobbyist, 2024). Therefore, it is clear that written commenting process is important to non-state actors[7] and they believe that participating can help in achieving their policy preferences.
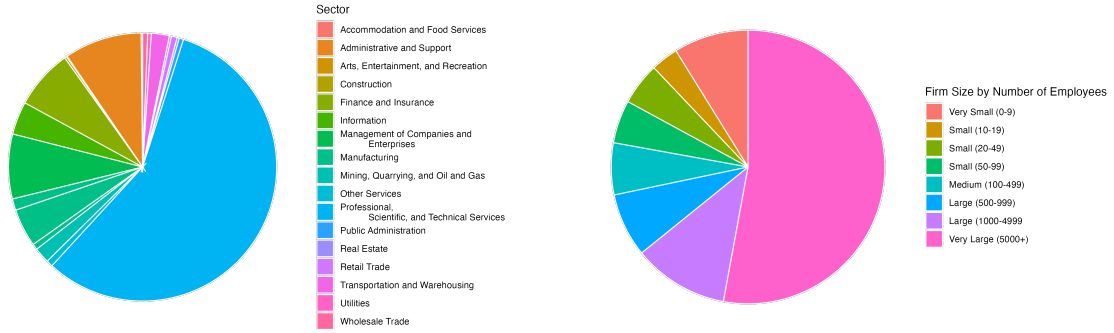
---

[7]States are also able to submit public comments, though this is a relatively rare occurrence as they have more direct channels through which to influence regulations.

Figure 3: Distribution of Comments

(a) Sector   (b) Firm Size
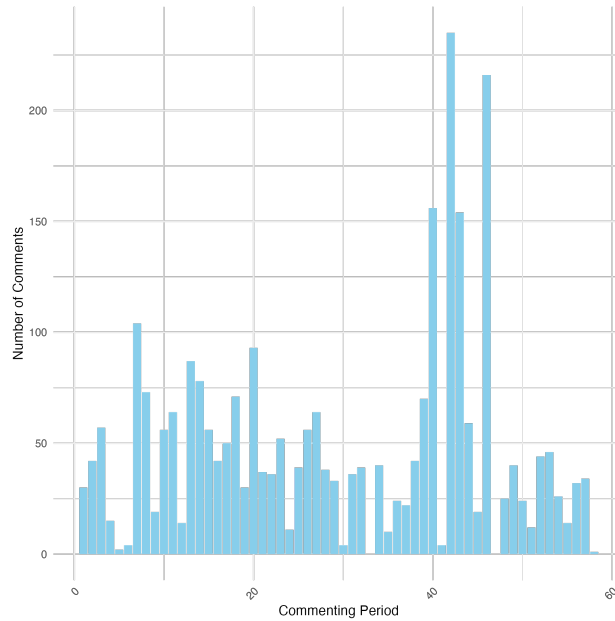

Data manually coded by the author using the full repository of public comments submitted to the OECD. The pie chart represents the number of comments by firm size (measured by the number of employees) and sector (2 digit NAICS codes).

Figure 4: Number of Comments by Commenting Period

Data manually coded by the author using the full repository of public comments submitted to the OECD.

The process has also been instituted informally, instead of via a highly legalistic process (e.g. U.S. regulatory commenting process). Due to its informal nature, the consultation process cannot be legally challenged in dispute resolution or a third party judicial body (Quitkatt 2011; Bouwen 2007). Any interested party is welcome to submit comments during the commenting period. The OECD then chooses the speakers for the public consultation meetings from amongst those that submit comments (OECD 2019). When associations submit comments, the OECD will invite either the association itself or a singular member to present at the public meeting (e.g. the Japan Association of New Economy commented, and the OECD invited one of their members - Rakuten, Inc - to present). Therefore, while OECD states can filter the voices that are heard at public consultation meetings, the compilation of written comments contains a wider range of actors and perspectives. There are no restrictions on who is able to submit comments, so individuals, firms, associations, academics, and international organizations have all made contributions. Figures 2 and 3 offer an illustration of the types and origins non-state actors that submit public comments to the OECD.

4   Empirical Evidence

4.1   Frequent Commenting Enhances Firm Influence

To test Hypothesis 1, I manually code each of the 3241 public comments submitted to the OECD in regard to BEPS. This dataset includes the name of the commenter, as well as their sector, size, nationality, and type of interest group (e.g. firm, association, civil society, etc). It also includes information about the comment itself (e.g. length of comment) and the commenting period, such as whether there was a follow-up public consultation meeting and whether each specific commenter was invited to said meeting.

I test whether more frequent commenting is associated with greater influence on the IO regulation. I compile the draft and final regulations for each public commenting period

from 2013 to 2020. Each draft framework considers a unique issue or topic in BEPS. After the public commenting period, the draft framework is updated and the final framework is issued. Therefore, each set of comments is specific to the draft framework and subsequent final framework. The most recent public commenting periods (2021-2022) are not included in the analysis, as these final frameworks have not been issued yet.

I use natural language processing methods to quantitatively parse the similarity between comments and the final framework. If there is a change from the draft to final framework in the direction of the firm's preferences (and the firm commented on the issue), this is suggestive of firms' influence over IO rule making processes. Similar to other text-as-data methodologies, I remove "idiosyncratic information" from the texts, convert to lower case, and remove symbols, numbers, and punctuation (Allee & Lugg 2016). To identify the influence of firms on the final framework, I use a natural language processing method: cosine similarity scores. This score measures the similarity between two vectors of an inner product space. Further, cosine similarity scores are "standard mathematical formula conducted by search engines that summarizes the similarity between two documents" (Hinkle 2015, p. 137). These scores are bounded between 0 and 1, with scores closer to 0 being orthogonal documents and closer to 1 being more similar documents. This method offers a broader view of the similarity between documents, and has been shown to be more accurate in capturing influence in the context of U.S. Supreme Court briefs, rather than simply identifying perfectly matching text (Hazelton, Hinkle, & Spriggs 2019).

When conceptualizing influence, I borrow from the judicial politics literature, which has examined amicus curiae briefs' influence on Supreme Court decisions. As such, influence is the extent to which firms' comments are reflected in the final copy of the framework, but were not present in the draft framework. Therefore, there must be explicit change between the two documents which can be attributed directly to a private actor's comments. In both the case of the OECD and the Supreme Court, interested parties cannot influence policy

through monetary contributions, and instead have to capitalize on their use of information, expertise, and reputation to influence the process. In the judicial politics literature, "similarity between a brief and the majority opinion does not necessarily establish a casual link, but such similarity is certainly suggestive of influence" (Hazelton et al. 2019, p. 128). Similar to the Supreme Court context, commenters at the OECD often propose specific language to include in the final framework (see Figure 5 for examples). This definition of influence offers conservative estimates, as private actors may make comments suggesting the preservation of language already in the draft framework or may exert influence before the draft framework is issued. Therefore, while this definition of influence does not capture every aspect of the comments' footprint, it allows for careful analysis that will not overestimate any firms' individual influence. The case of public commenting is well-suited for this type of analysis, given that firms and associations often offer sample text that the OECD implements wholesale (see Figure 5 below).

I further validate by hand coding a random set of public comments. The hand coding process requires reading the full comment (which varies in length from 1 to 50 pages) and comparing whether there were changes from the draft to final framework in line with their suggestions. This process is extremely time consuming, given the length of the comments and frameworks (80-100 pages), and thus hand coding is not feasible for the full sample. More detail about the hand coding can be found in Appendix G. There is a positive and statistically significant relationship between the hand coding scores for influence and similarity scores.

I use OLS regression to test whether there is a relationship between the frequency of commenting and the cosine similarity score. The results in Tables 1 and 2 show that there is a positive correlation between the number of commenting periods in which a private actor participates and that actors' influence on each final framework, which is significant at the 0.001 level. This relationship holds both in the full sample (includes both firms and associations), and the restricted sample of firms, controlling for firm size and comment

22

Table 1: OLS Regression with Full Sample

	Model 1	Model 2	Model 3	Model 4	Model 5
Number of Comments	0.0046***	0.0047***	0.0038***	0.0039***	0.0037**
	(0.0006)	(0.0006)	(7.701×10^{-4})	(8×10^{-4})	(0.0011)
Length of Comment		−0.0003		−0.0004	−0.0007
		(0.0004)		(4×10^{-4})	(0.0005)
Num.Obs.	2781	2781	2781	2781	2781
FE: country	No	No	Yes	Yes	Yes
FE: industry	No	No	No	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 1 provides the results of the linear regression model in the full sample (firms and associations). The dependent variable is the influence indicator, the difference between the cosine similarity score of the comment and the final framework, subtracted by the cosine similarity score of the comment and the draft framework. The independent variable is the number of comments submitted by the private actor during the BEPS public commenting process (logged). This model controls for the length of the comment (logged) – measured by number of words – with country and industry fixed effects.

Table 2: OLS Regression with Restricted Sample (Firms)

	Model 1	Model 2	Model 3	Model 4	Model 5
Number of Comments	0.0030***	0.0040***	0.0042***	0.0031**	0.0034***
	(0.0009)	(0.0010)	(0.0010)	(9×10^{-4})	(7×10^{-4})
Firm Size		−0.0005+	−0.0006+	−0.0003	−0.0005*
		(0.0003)	(0.0003)	(3×10^{-4})	(2×10^{-4})
Length of Comment			−0.0003	−0.0004	−0.0004
			(0.0005)	(5×10^{-4})	(3×10^{-4})
Num.Obs.	1155	1155	1155	1155	1155
FE: country	No	No	No	Yes	No
FE: sector	No	No	No	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 2 provides the results of the linear regression model in the sample of firms. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is the number of comments submitted by the private actor during the BEPS public commenting process (logged). This model includes the follow control variables: firm size (logged) and the length of the comment (logged) with country fixed effects.

length[8] with country of origin and sector fixed effects.

Figure 5: Example of Implemented Comments

KNAV Suggestions	OECD Final Report Text
Page 21-Para 2.3. "Non-distribution activities separate from the qualifying transaction. Distributors that engage in qualifying transactions sometimes engage in non-distribution activities. Where such tested party performs non-distribution activities, the qualifying transaction may only remain in scope where, based on an accurate delineation of the transaction, it can be adequately evaluated on a separate basis to any non-distribution transaction ..."	Page 22–Para 32 "Distributors that engage in qualifying transactions sometimes engage in non-distribution activities. Where such a tested party performs non-distribution activities, the qualifying transaction may only remain in scope where, based on an accurate delineation of the transaction, it can be adequately evaluated on a separate basis to any non-distribution transactions, and it can be reliably priced separately from any non-distribution transactions under the principles of paragraphs 3.9–3.12 of these Guidelines."
Page 38 – Para 95 "When the corresponding adjustment in paragraph 2 of Article 9 is invoked, the Commentary on Article 9 and Article 25 of the OECD Model Tax Convention, as well as the guidance in Chapter IV of the OECD Transfer Pricing Guidelines are relevant. Importantly, when the primary transfer pricing adjustment asserts the application of the simplified and streamlined approach, **the jurisdiction considering the corresponding adjustment has the ability to verify whether the qualifying transaction meets the conditions to apply the approach and whether the approach has been applied correctly in determining the amount of the primary adjustment."**	Page 36 – Para 75 "To remedy any resulting double taxation, a request for a corresponding adjustment should be analyzed under paragraph 2 of Article 9. Since the primary adjustment is made by a jurisdiction based on the remainder of the Guidelines, this request could be made to the jurisdiction where the simplified and streamlined approach applies. **In such a case, to the extent the primary adjustment can be substantiated under the remainder of these Guidelines, the competent authority of the jurisdiction where the simplified and streamlined approach applies shall provide relief from double taxation by making a corresponding adjustment"**

While the coefficient estimate is small, it is substantively large.[9] Even small changes to

---

[8]I log all count-based independent variables given that there declining marginal returns seem fairly likely in each case and a firm's position in the distribution should matter more than the raw count.

[9]Given that cosine similarity scores are a mathematical formula that upweights less frequent words, and downweights commons words, it is difficult to provide a precise substantive interpretation of this coefficient. However, if the percentages are similar to Hazelton et al. (2019)'s analysis discussed above, the coefficient

the text of a final regulation can have a profound influence on the tax consequences for firms. Additional examples of a firms' influence on the final regulation can be seen in Appendix G.

4.2   Reputation Mechanism

Next, I consider the potential mechanisms that could be driving the relationship between the frequency of commenting and firm / association influence. First, I probe the reputational mechanism, using evidence from qualitative interviews and validating the necessary background conditions. The evidence supports the hypothesis that reputation as a mechanism is at work, rather than the alternative mechanisms discussed above.

Figure 6: Firm Interviews

1. Tax Professional, United Kingdom	8. Trade Association Lobbyist, United States	15. Tax Professional, India
2. Tax Professional, Singapore	9. Tax Professional, Germany	16. Tax Professional, South Africa
3. Transfer Pricing Practitioner, Germany	10. Trade Association Lobbyist, United States	17. Tax Professional, Israel
4. Tax Professional, Global Industry Association	11. Tax Professional, India	18. Tax Professional, South Africa
5. Tax Professional, India	12. Tax Professional, South Africa	19. Tax Professional, European Trade Association
6. Tax Professional, South Africa	13. Tax Professional, South Africa	20. Trade Association Lobbyist, United States
7. Tax Professional, Netherlands	14. Tax Professional, China	21. Industry Association Representative, France

---

indicates that there were 7 significant words integrated into the final framework based on the firms' comment.

First, I conducted qualitative interviews with twenty-one tax professionals at firms and trade associations around the world, with the full list of interviews provided in Figure 6.[10] To preserve interviewee anonymity, individuals are identified by their current generic professional title and country of residence. I recruited interviewees from the list of individuals who had written public comments to the OECD in the last two years. In this process, I prioritized highlighting a range of geographical perspectives, with interviewees from Africa, Asia, North America, and Europe. In addition, the interviewees represented large multinational corporations, small firms, and trade associations in high, middle, and low income countries. More information about interview processes and recruitment can be found in Appendix F.

Interviewees explicitly stated the importance of frequent commenting in building their reputation to have an impact on the OECD regulations. A US Trade Association Lobbyist described their logic for commenting: "We comment on every discussion draft because we wanted to establish ourselves as the leader in that consultation process - and based on feedback from OECD, Treasury, and foreign governments - we were able to establish that. We just kept hearing, 'Oh you're the first letter that we read on this on this consultation.' That's your goal really to have that kind of reputation" (US Trade Association Lobbyist, 2024). In addition, a French industry association representative stated: "We regularly respond to consultation published by the OECD... it is very important for us to create communication channels... and [the organization] maximizes the impact of its public comment through ... direct and constant dialogues with the IO" (French Industry Association Representative, 2024). Even once a reputation has established, continual effort is needed to maintain it. Another interviewee stressed the following: "You have to establish your relationship [with the OECD] and then you have to maintain your relationships. It's not like something that just, it was handed over, and then, you know, once you establish it, you have to work to

---

[10]The qualitative interviews discussed here comply with the Principles and Guidance for Human Subjects Research outlined by APSA and was approved in IRB protocol 2022-10-15694 by the University of California, Berkeley.

maintain it through continued commenting" (US Trade Association Lobbyist, 2024).

Not only does this mechanism operate in developed economies and large industry associations, interviewees in middle income countries also expressed a similar logic to their public commenting. In India, a tax professional expressed that their effort in public commenting was to gain visibility and recognition within the international organization. The interviewee stated: "We have been regularly contributing since 2019. Our expectation is not of getting anything out of it like financial gain - we are giving back our knowledge and experience and hopefully it helps in a larger sense ... It gives us recognition and visibility. And that's the reason we contributed - to give back and to gain visibility" (Indian Tax Professional, 2024). In addition, interviewees stressed that they felt that their comments allowed them to enhance their status in the international organization and avoid being ignored on account of their size or country of origin. A South African Tax Professional stated: "That's not to say that our smaller organization goes into a black hole ... We like to think that the effort that is put [into commenting], we are standing in the crowd with similar views" [rather than being ignored].

In addition, if the reputational mechanism is at play, public comments must be (1) unique and (2) costly. I leverage text-as-data to evaluate how unique comments were, compiling and preparing the text of all public comments submitted to OECD BEPS. First, I evaluate whether comments are unique. For each set of comments that has been published by the OECD, I calculate cosine similarity scores to identify not unique / pre-formatted comments. As a conservative estimate, I code a comment as not unique if the comment contained greater or equal to 0.2 cosine similarity to another comment. This conservative threshold was chosen to capture those comments that shared even a copied section of another, rather than the full text. More concretely, in a comment with 0.2 cosine similarity, there might be approximately 1500 words (out of 4000 words) in common between the documents (Hinkle

2015).[11] Lowering the threshold might result in capturing the use of similar quotes from the draft framework, rather than exact language copied between comments. However, Appendix C provides varying thresholds and subsequent numbers of duplicate comments.

Figure 7: Proportion of Duplicate Comments

Proportion of Duplicate Comments
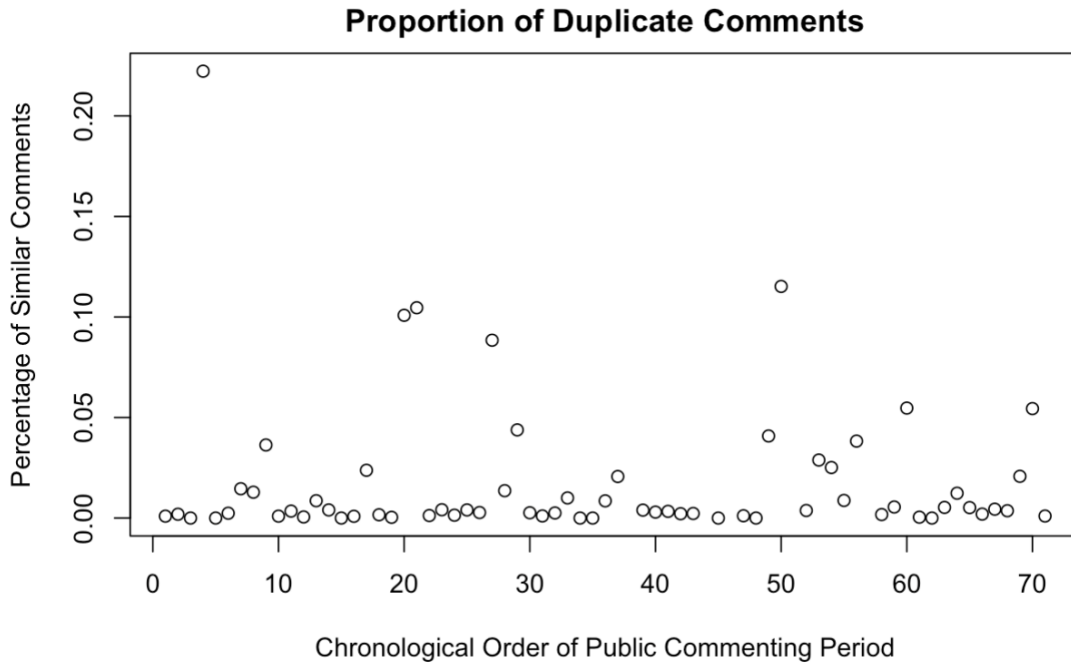
This figure demonstrates the percentage of comments in each commenting period that have over 0.2 cosine similarity with other comments (y-axis). The x-axis shows the chronological number of the commenting period (e.g. the first comment in 2009 is labeled as 1). The number of duplicate comments was extremely small (even with the conservative coding strategy), with a mean of 1.8 percent and a median of 0.3 percent.

Then, I computed the ratio of the duplicate comments to the total comments submitted. The number of duplicate comments was extremely small (even with the conservative coding strategy), with a mean of 1.8 percent and a median of 0.3 percent. As seen in Figure 7, the majority of the commenting periods have close to 0 percent duplicate comments. Therefore, this evidence supports this empirical background condition. In addition, I test whether there is a relationship between the uniqueness of a comment and the comment's influence on the

---

[11]I say approximately here because words that are more common "the", "of", "tax" are downweighted in cosine similarity scores, while uncommon words are upweighted.

final framework. There is a positive and statistically significant relationship between the uniqueness of the comment and the comment's influence on the final framework (see results in Appendix Section I).

Interviewees emphasized that participating in the public consultation process was costly in terms of both time and manpower. One interviewee at a firm stated: "if you could quantify how much time and money was being spent on this process, people would be shocked" (Singapore Tax Professional, 2023). At large industry associations, interviewees explained that the process was extremely complicated and time consuming given that they had to "send the letter to our members, participate in calls and meetings, and send it back to the attorneys" (US Trade Association Lobbyist, 2023). See Figure 8 for a summary of their comments when asked about how much time and manpower is associated with preparing each public comment. In addition, from both hand coding comments and interview evidence, it does not appear that firms submitted low quality or low effort comments. All of the hand coded comments exhibited a clear and detailed understanding of the draft and final frameworks, with specific written logic that expressed thought about the economic impact of the proposed policy. In addition, interviewees shared that effort was implicit in the subject area – "in essence, when you think about tax law, it gets complicated quickly - you can't fake a tax meeting" (US Trade Association Lobbyist, 2024). These characteristics are extremely different from some domestic contexts in which the majority of comments are extremely low quality (see Malesky & Taussig (2019) for an example).

5 Competing Mechanisms

Next, I consider three alternative mechanisms that could be driving the relationship between frequency of commenting and firm / association influence.[12] Drawing on both qualitative and quantitative evidence, I do not find evidence that these mechanisms are at work

---

[12]I consider two additional alternative mechanisms in Appendix A.

Costly Signal

"But it takes quite a while, so these documents are voluminous, and so I would say, given that I come in at 6am and I work until 7 at night, and then I work on weekends on this stuff… I would say 20 to 30 hours of drafting [one comment] and trying to resolve the issues between each of them. That's probably being low." (US Trade Association Lobbyist).	"Oh man, I would say I spend 3 days, approximately 3 days I would think. If you want a comment on the OECD level and you want to make a serious comment, you need to invest time.. and I'm quite convinced that a lot of people are not willing to make that effort" (German Transfer Pricing Practitioner).
"Say we will write a 3-to-5-page letter, then we will usually consult our members and they get back to us. And then if we work through our international body, we will send them our letters, and then they have to go through all of them and they will need the consent of all other national organizations … Quite a lot of people involved … For a 3-to-5-page letter, it would take 3-5 days for one person" (German Tax Professional).	"If you could quantify how much money is being spent on this process, it would shock you… To participate fully, we had to hire a new employee and spend 100s of hours on the process" (Singapore Tax Professional).
"For the OECD, each comment takes about 4 days of straight time. We send the letter to our members, participate in calls and meetings, and send it back to the attorneys. About 3-4 days of work" (US Trade Association Lobbyist).	"For each commenting period, usually spends 4-5 hours for reading 70 pager document, 3-4 Hours for analysis /interpretation, 2-3 Hours in drafting the comments and 1 Hour for discussion with Senior Partner. The analysis and interpretation time may be more if there are complexities" (Indian Tax Professional).
"I would guess about 20 hours for submission if I was to be very limited … It would take time to read through the proposal, formulate the comments, the committee meeting itself is 2-3 hours to engage on the topic, somebody on my team would file and review it and send it out" (South African Tax Professional).	"A lot more than I expected at the start, but I didn't keep track of time, but every letter that was submitted weeks and weeks were put in fine tuning everything, all the messages, making sure it's well balanced, and not only myself or people from my tax team but also people from communications, investor relations, our policy team, multiple disciplines within our firm were involved." (Netherlands Tax Professional).
"For each consultation, on average it took 2 people 3 days … the technical rule is new and complicated and needs a multiplicity of knowledge – not just about tax, but also knowledge of financial statements, accounting rules, and taxes... high level people are involved." (Chinese Tax Professional).	"We restrict our comments to 1-2 pages to make our points clearer… [it takes] a few hours to read and digest the proposal, two hours to write, and one hour to review and send" (Israeli Tax Professional).

rather than the reputational mechanism.

5.1 Information

The "information mechanism" argues that firms and associations have a greater influence as they provide more information to the IO. If the quantity of information is driving the relationship, there are two observable implications. First, longer comments would be associated with greater influence. Second, the greater the total amount of information, the greater influence of the firm / association. I use two measures of information: (1) the number of words in the comment and (2) the number of pages of the comment. The results in this section use the number of words as a measure, with alternate measures presented in Appendix B. There is a good deal of variance in comment length (see Figure 9), ranging from 1 to over 100 pages.[13]

Figure 9: Variance in Comment Length

---
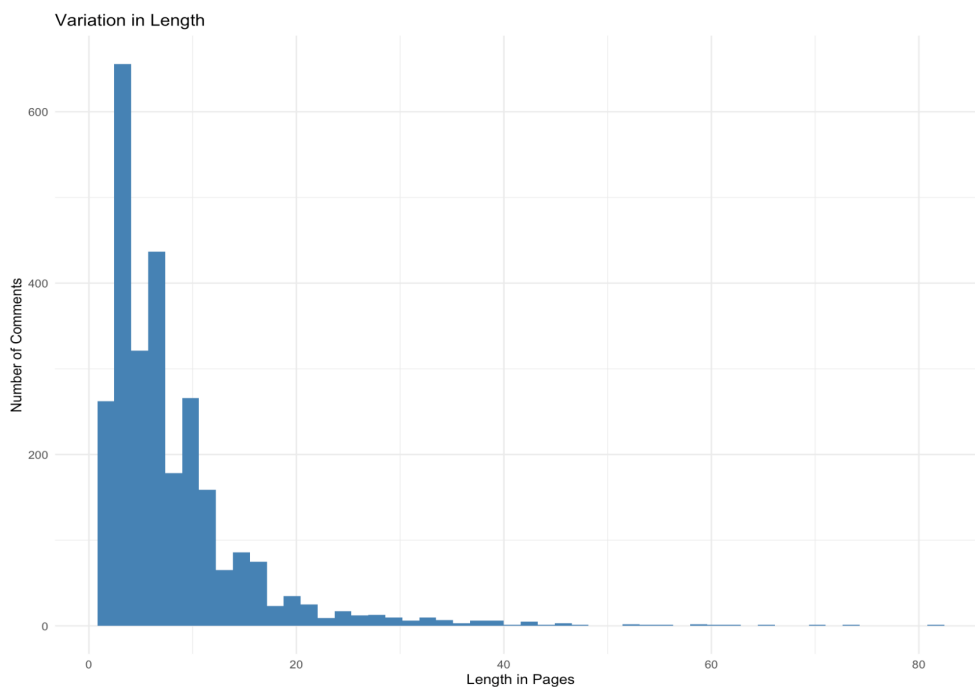
[13]Larger firms have a positive and statistically significant relationship with comment length. In other words, it seems that larger firms submit longer comments. See Appendix H for the full results.

Table 3: Length (Number of Words)

	Model 1	Model 2	Model 3	Model 4
Number of Words	0.000	0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Num.Obs.	2781	2781	2781	2781
FE: country	No	Yes	No	Yes
FE: industry	No	No	Yes	Yes

+ $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Table 3 provides the results of the linear regression model. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is the length of the comment, measured in the number of words (logged).

Table 4: Total Information Provided

	Model 1	Model 2	Model 3	Model 4
Summed Number of Words	0.000***	0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Number of Comments		0.006***	0.004***	0.004***
		(0.001)	(0.001)	(0.001)
Num.Obs.	2781	2781	2781	2781
FE: country	No	No	Yes	Yes
FE: industry	No	No	No	Yes

+ $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Table 4 provides the results of the linear regression model. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is the total number of words provided by the firm or association, summed across commenting periods (logged).

To test this mechanism, I use OLS regression with the independent variable as the comment's length and the dependent variable as the similarity score. There is no statistically significant relationship between the number of words in the comment and the cosine similarity score (see Table 3). This result holds with industry fixed effects, given that it may be possible that certain industries require more technical, nuanced, or longer language to make their point. These results run counter to expectations under the "information mechanism."

Next, I consider whether the total amount of information provided by a firm increases its influence. For example, Firm A could have submitted 2 comments with 20,000 words total while Firm B submitted 10 comments with 20,000 words total. Therefore, I test which

is driving firm influence: the total amount of information or the frequency of comment submission. Under the "information mechanism," we would expect that the total amount of information is driving this relationship, and that the frequency of commenting would not matter. I test this empirical implication with OLS regression. For each firm / association that commented, I calculate the sum of the words submitted across all commenting periods for the independent variable. Table 4 illustrates the results of this test. The total number of words provided by the firm / association is only significant when the frequency of commenting is not included in the model. Once controlling for frequency of commenting, the total number of words provided is no longer significant and the coefficient remains at 0. Therefore, the frequency of commenting seems to be driving the relationship – rather than the total amount of information provided by the firm across commenting periods.

Finally, none of those interviewed discussed providing more information in the hopes of increasing the impact of their comment. On the contrary, the only interviewee that mentioned the amount of information stated: "we restrict our comments to 1-2 pages to make our points clearer" (Israeli Tax Professional, 2024).[14] Therefore, there does not seem to be a coherent pattern of firm strategy in regard to information provision.

5.2   Backlash

Another possible mechanism is that the relationship between the number of comments and influence on IO regulations is merely orthogonal to reputation: wealthy private actors are more likely to have their preferences integrated because they are more important for the economy and participating countries. In addition, we might expect that if powerful private actors are dissatisfied with IO regulations, they will provoke significant backlash against IOs

---

[14]These conclusions may create questions about whether firms that offer summaries of their position make their comment easier to digest and read, and thus enhance their influence. While handcoding a subset of comments, I found very limited cases of this and those that included summaries were not more likely to have influence.

independently or in coordination with their domestic governments. As such, IO bureaucrats would be particularly responsive to the concerns that they raise in public comments and offer larger firms outsized influence.

None of the interviewees expressed that they believed that their size or status would guarantee the influence of their comment. Rather, even large and profitable companies shared that they were "unsure of the impact of their comment" (Singapore Tax Professional, 2023). To test this mechanism quantitatively, I proxy for firm size using the number of employees. This measure does not perfectly capture the extent of the firms' market power, given that the number of employees is not equivalent to the firm's revenue (especially across industries). However, revenue could not be used instead, given that many of the firms engaged in the public commenting process are not publicly traded and thus there is limited reliable information on their revenue generation. Given these concerns, the number of employees most closely proxies a firm's revenue and market power while limiting missingness in the data. In addition, this variable has been used in other contexts to proxy for firm size (e.g. Weymouth (2012)). The data also does not suggest that profitable firms are the only influential actors in the process. Table 5 displays OLS regression results, showing there is not a statistically significant relationship between firm size and the influence of that firm's public comment on IO regulations.

Second, there are firms that greatly out perform their market value because of the reputation that they have built throughout the commenting process. The following case demonstrates smaller firms' ability to form a reputation and enhance their influence. Maisto e Associati is a mid-sized Italian law firm with sixty employees. The firm's revenue is estimated around 20 million USD, and its boutique practice focuses on international taxation. The firm was able to leverage its detailed knowledge of the international tax landscape to participate regularly in the public commenting process. Maisto e Associati achieved a mean influence across commenting periods on par with the Intercontinental Hotels Group, a multi-

Table 5: Firm Size

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Firm Size	0.0001	−0.0005+	−0.0006+	−0.0003	−0.0004+	0.0000
	(0.0003)	(0.0003)	(0.0003)	(0.0003)	(0.0002)	(0.0004)
Number of Comments		0.0040***	0.0044***	0.0034***	0.0035***	0.0024
		(0.0010)	(0.0010)	(0.0009)	(0.0007)	(0.0016)
Length of Comment			−0.0035*	−0.0047**	−0.0039**	−0.0051**
			(0.0016)	(0.0016)	(0.0011)	(0.0016)
Num.Obs.	1155	1155	1155	1155	1155	1155
FE: country	No	No	No	Yes	No	Yes
FE: sector	No	No	No	No	Yes	Yes

+ $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Table 5 provides the results of the linear regression model. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is firm size (logged), measured by the number of employees at the firm. Data on firm size was collected from Pitchbook and LinkedIn.

national hospitality company with 3.8 billion USD in revenue. While Maisto e Associati's work on international tax may give the company a particular advantage in leveraging information in the process, this relationship holds in an additional case: a small software firm with 23 employees, ktMINE. This firm provided suggestions on how to improve and leverage market data for transfer pricing purposes. After the firm had already commented frequently in the preliminary phase of BEPS, they offered sample text to be integrated into the final framework. Again, this firm achieved significant influence despite its small size and underwhelming market power.

Furthermore, large and profitable firms that comment minimally (e.g. Microsoft and Johnson & Johnson)[15] do not have a significant influence on the subsequent regulation. However, if blame shifting was at work, we would expect IO bureaucrats to take feedback

---

[15]In the American context, scholars have documented that given the high costs of commenting (e.g. resources, technical expertise, etc), "the threshold for commenting may not be so low that all interest groups with some stake in a rule will comment" (McKay & Yackee 2007). Therefore, these large companies may find that their lobbying / commenting efforts may be better placed elsewhere in either international or domestic contexts.

from these actors seriously – regardless of the frequency of their participation in the process – to avoid pushback from highly resourced organizations and to encourage compliance. This evidence suggests that the frequency of commenting plays an important role in the public commenting process (rather than being purely epiphenomenal).

Next, if IOs' primary goal was to maximize compliance, the IO should be particularly responsive to firms on controversial issues. Therefore, in commenting periods on controversial issues, we should see greater (or at the very least, consistent) firm influence (relative to other periods. To evaluate this in the OECD context, I consider the difference in firm influence on the most controversial portion of the BEPS framework: Action 13 (Christensen 2021). This regulation requires firms to report substantial information about their revenue and activities in each jurisdiction in which they do business. I compare the influence of firms in commenting periods considering Action 13, with all other commenting periods considering seemingly less controversial issues. Firms had significantly less influence (relative to other commenting periods) during controversial commenting periods in which Action 13 was considered (see Appendix D for results). Therefore, it seems unlikely that IOs are primarily focused on promoting compliance when delineating between which comments should be implemented.

5.3   Flexing Muscle

Finally, I consider the "flexing muscle mechanism." As described above, IOs may use frequent commenting as a "costly signal" of firms' willingness to fight back during the domestic implementation of IO regulations. If the standard requires domestic legislation to be implemented, IOs may anticipate that if they implement regulations that are too stringent, firms that comment the most are likely to fight the regulations by lobbying their domestic government against legislative implementation. Therefore, we would expect that the IO would temper the stringency of the regulations and integrate a greater quantity of firm comments in anticipation.

Table 6: Flexing Muscle Test

	Model 1
Pillar 1 and 2 Commenting Period	−0.024***
	(0.001)
Num.Obs.	2781

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 6 provides the results of the linear regression model. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is a binary variable, with 1 being a commenting period that was related to Pillar 1 or 2 and 0 otherwise.

In the context of the OECD BEPS process, I test this mechanism by delineating between the different types of implementation: multilateral and domestic. Pillar 1 and 2 of the OECD BEPS process require domestic legislation to be implemented. In contrast, the other BEPS issues were implemented via the multilateral instrument which "supplements and modifies almost 2000 existing bilateral income tax treaties worldwide" rather than requiring states to amend each treaty individually at the domestic level (Bloomberg Tax 2024). Therefore, the "flexing muscle" mechanism is most likely in public commenting on Pillar 1 and 2 given that firms and associations would have the opportunity to deter domestic implementation via lobbying efforts in both their home countries and other countries in which they operate. If this mechanism is at work, we would expect IO bureaucrats to be particularly responsive to firm / association comments about Pillar 1 and 2 to prevent firms fighting back at another stage, relative to the other regulations that do not require domestic legislation. I use OLS regression to see if there was a difference in influence during commenting periods that discuss Pillar 1 and 2 and non-Pillar 1 and 2 periods. If the flexing muscle mechanism is at play, we would expect that influence would be greater in the Pillar 1 and 2 periods (as compared to the other public commenting periods). In contrast to this expectation, Table 6 demonstrates that firms and associations have less influence (relative to other commenting periods) in the Pillar 1 and 2 commenting periods. In addition, none of the interviewees suggested that their strategy for commenting regularly was to signal that they would lobby aggressively at the domestic level if their concerns were not addressed.

In addition, there are a few reasons why this mechanism seems less plausible logically. First, there are fewer avenues by which the firms can push back against IO regulations (relative to the domestic context). In the U.S. context, government agencies are required by law to consider every public comment on administrative regulations; if they do not appropriately respond, firms can file lawsuits against the agency. Therefore, there are significant costs to ignoring large companies who have the legal wherewithal to fight back. In contrast, IOs are not bound by similar rules and cannot be sued if firms are unhappy with the final regulations. Next, Gordon & Hafer (2005) argue that American regulators face significant costs in enforcing regulations; firms can impose costs through filing appeals to the court or Congress. In the IO context, it is not possible for firms to implement similar "costs of regulation," and thus the firm will be unlikely to be able to pressure the IO in the same way. Even if firms are successful in preventing domestic legislation, their home country will ultimately face "the Brussels Effect" or "California Effect" (Bradford 2020). In other words, the domestic legislation will presumably pass in some locations. With the multinational nature of many companies, they will not be able to fully disengage from compliance as some jurisdictions in which they operate will presumably pass these rules. In addition, once they have met these higher standards in one jurisdiction, they will have the infrastructure to apply it in all jurisdictions. Therefore, there seem to be lower payoffs for "fighting back" as the potential need to comply lingers even if the firm is successful in preventing this legislation in their home market.

6   Conclusion

I argue that firms participate in the public commenting process to build a positive reputation in IOs. By building a positive reputation, firms are able to advance their policy goals and preferences in IO regulations. Because of information asymmetry and the limited resources of IOs, IO bureaucrats use reputation as a heuristic to decide which comments to

implement into the final framework. As a result, firms that comment most often are significantly more likely to have their preferences integrated into the final regulations. While these processes are open to all, it undoubtedly privileges large and profitable private actors who have the ability to participate regularly in this costly process.

Understanding the internal processes of regulation formation in IOs has important implications for democracy, legitimacy, and fairness in the international system. In the increasingly globalized world, global governance mechanisms have far-reaching influence and utility. Furthermore, IO regulations are often viewed as a model to domestic governments, especially in cases of technical or economic policies which are costly to construct independently (US Trade Association Lobbyist, 2023). In the case of the OECD BEPS, these regulations have been adopted wholesale into domestic government's tax codes, especially in the Global South (Tax Attorney, 2023). Therefore, the results of these policies are far reaching and reverberate throughout the international community. Instead of treating IOs as epiphenomenal due to the primacy of state power and hegemony, scholars should instead consider and disaggregate all of the actors engaged in IOs to understand these processes. Future research should expand beyond the focus on firms and further disaggregate this process. Evaluating the relative influence of firms versus civil society could offer important insight into which voices are being heard within IO decision-making processes.

Second, this paper illustrates a case of potentially unintended firm influence. Even with the most transparent form of stakeholder engagement – relative to private meetings or soliciting comments from a small group of firms and associations – there are still active firm strategies to increase their influence through frequent commenting and the subsequent development of their reputation. This paper finds that IO stakeholder engagement might be a double edged sword. While intended to promote democratic processes and transparency, these forum seem to still be susceptible to strategic firm behavior to influence regulations. In another respect, this form of firm influence is unique in that does not depend inextricably

on firm size. Small firms that invest heavily in the process are able to have an outsized influence, which is unique from findings in the domestic lobbying context.

Additionally, the case of tax evasion in the OECD has long range implications for citizens' public services and the evolution of firm power in the international system. The ability of firms to shield themselves from appropriate levels of taxation has direct consequences on the public revenue of states, the social services offered to citizens, and the tax rates of low and middle income individuals. Tax regulations are very influential, and can be seen as one of the most important tools of state policy that affect the everyday lives of citizens. The case of OECD BEPS offers empirical leverage, as well as offering a clear rationale for why these types of issues are important to politics and society.

References

Abbott, K. W., & Snidal, D. (2009). The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State. In *The Politics of Global Regulation* (p. 46).

Allee, T., & Lugg, A. (2016, July). Who wrote the rules for the Trans-Pacific Partnership? *Research & Politics*, *3*(3), 2053168016658919. doi: 10.1177/2053168016658919

Alt, J. E., Carlsen, F., Heum, P., & Johansen, K. (1999). Asset Specificity and the Political Behavior of Firms: Lobbying for Subsidies in Norway. *International Organization*, *53*(1), 99–116.

Arel-Bundock, V., & Blais, A. (2023, June). Where Should Multinationals Pay Taxes? *International Studies Quarterly*, *67*(2), sqad012. doi: 10.1093/isq/sqad012

Barnett, M. N., & Finnemore, M. (1999). The Politics, Power, and Pathologies of International Organizations. *International Organization*, *53*(4), 699–732.

Basedow, R. (2019). Business Lobbying in International Investment Policy-Making in Europe. In D. Dialer & M. Richter (Eds.), *Lobbying in the European Union: Strategies, Dynamics and Trends.* Cham: Springer International Publishing. doi: 10.1007/978-3-319-98800-9

Betz, T., & Pond, A. (2019, July). Foreign Financing and the International Sources of Property Rights. *World Politics*, *71*(3), 503–541.

Bloomberg Tax. (2024, April). *What Is the OECD Multilateral Instrument?*

Boddewyn, J. J., & Brewer, T. L. (1994). International-Business Political Behavior: New Theoretical Directions. *The Academy of Management Review*, *19*(1), 119–143. doi: 10.2307/258837

Bonardi, J.-P., Holburn, G. L., & Vanden Bergh, R. G. (2006). Nonmarket strategy performance: Evidence from US electric utilities. *Academy of Management Journal*, *49*(6), 1209–1228.

Bouwen, P. (2007, March). Competing for consultation: Civil society and conflict between the European Commission and the European Parliament. *West European Politics*, *30*(2), 265–284. doi: 10.1080/01402380701239715

Bradford, A. (2020). *The Brussels Effect: How the European Union Rules the World.* Oxford University Press.

Brutger, R. (2023, September). Litigation for Sale: Private Firms and WTO Dispute Escalation. *American Political Science Review*, 1–18. doi: 10.1017/S0003055423000850

Brutger, R., & Morse, J. C. (2015, June). Balancing law and politics: Judicial incentives in WTO dispute settlement. *The Review of International Organizations*, *10*(2), 179–205. doi: 10.1007/s11558-015-9216-x

Bunea, A. (2014). Explaining Interest Groups' Articulation of Policy Preferences in the European Commission's Open Consultations: An Analysis of the Environmental Policy Area. *JCMS: Journal of Common Market Studies*, *52*(6), 1224–1241. doi: 10.1111/jcms.12151

Bunea, A. (2017). Designing stakeholder consultations: Reinforcing or alleviating bias in the European Union system of governance? *European Journal of Political Research*, *56*(1), 46–69. doi: 10.1111/1475-6765.12165

Büthe, T., & Mattli, W. (2011). *The New Global Rulers.* Princeton University Press.

Chalmers, A. W. (2019). Informational Lobbying in the EU: Mechanisms of Probity, Dissembling, and Transparency. In D. Dialer & M. Richter (Eds.), *Lobbying in the European*

Union: Strategies, Dynamics and Trends. Cham: Springer International Publishing. doi: 10.1007/978-3-319-98800-9

Chong, A., & Gradstein, M. (2010). Firm-Level Determinants of Political Influence. *Economics & Politics*, *22*(3), 233–256. doi: 10.1111/j.1468-0343.2009.00355.x

Christensen, R. C. (2021). Elite professionals in transnational tax governance. *Global Networks*, *21*(2), 265–293. doi: 10.1111/glob.12269

Chun, R., Argandoña, A., Choirat, C., & Siegel, D. S. (2019, July). Corporate Reputation: Being Good and Looking Good. *Business & Society*, *58*(6), 1132–1142. doi: 10.1177/0007650319826520

Deloitte. (2020). *Tax BEPS Survey* (Tech. Rep.).

DeScioli, P., & Bokemper, S. (2014). Voting as a counter-strategy in the blame game. *Psychological Inquiry*, *25*, 206–214. doi: 10.1080/1047840X.2014.901130

Dialer, D., & Richter, M. (Eds.). (2019). *Lobbying in the European Union: Strategies, Dynamics and Trends.* Cham: Springer International Publishing. doi: 10.1007/978-3-319-98800-9

Eccles, R., Newquist, S., & Schatz, R. (2007, March). Reputation and its risks. *Harvard business review*, *85*, 104–14, 156.

Eggertsson, T. (1990). *Economic Behavior and Institutions: Principles of Neoinstitutional Economics.* Cambridge: Cambridge University Press. doi: 10.1017/CBO9780511609404

Ernst and Young. (2022, July). *G20 Finance Ministers reiterate commitment to BEPS 2.0 two-pillar implementation and call for action to finalize work.* https://taxnews.ey.com/news/2022-1093-g20-finance-ministers-reiterate-commitment-to-beps-20-two-pillar-implementation-and-call-for-action-to-finalize-work.

European Commission. (2022). *Transparency register* [Text]. https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/transparency-register_en.

Gordon, S. C., & Hafer, C. (2005, May). Flexing Muscle: Corporate Political Expenditures as Signals to the Bureaucracy. *American Political Science Review*, *99*(2), 245–261. doi: 10.1017/S0003055405051634

Hazelton, M. L. W., Hinkle, R. K., & Spriggs, J. F. (2019, April). The Influence of Unique Information in Briefs on Supreme Court Opinion Content. *Justice System Journal*, *40*(2), 126–157. doi: 10.1080/0098261X.2019.1613202

Hinkle, R. K. (2015, July). Legal Constraint in the US Courts of Appeals. *The Journal of Politics*, *77*(3), 721–735. doi: 10.1086/681059

IMF. (2017, July). *IMF Invites Comments on Review of Fund's Policy Support Instrument.* https://www.imf.org/external/np/pdr/psi/index.htm.

Jensen, N. M., & Malesky, E. J. (2018). Nonstate Actors and Compliance with International Agreements: An Empirical Analysis of the OECD Anti-Bribery Convention. *International Organization*, *72*(1), 33–69. doi: 10.1017/S0020818317000443

Kennard, A. (2020). The Enemy of My Enemy: When Firms Support Climate Change Regulation. *International Organization*, *74*(2), 187–221. doi: 10.1017/S0020818320000107

Kevins, A., & Vis, B. (2021, September). Do Public Consultations Reduce Blame Attribution? The Impact of Consultation Characteristics, Gender, and Gender Attitudes. *Political Behavior*. doi: 10.1007/s11109-021-09751-5

Kim, I. S., & Milner, H. V. (2021). *Global Goliaths: Multinational Corporations in a Changing Global Economy.* Washington, DC: The Brookings Institution.

Kraus, F. (2019). The Food Sector: Mondelēz International in Brussels. In D. Dialer & M. Richter (Eds.), *Lobbying in the European Union: Strategies, Dynamics and Trends.* Cham: Springer International Publishing. doi: 10.1007/978-3-319-98800-9

Kucik, J., Peritz, L., & Puig, S. (2023, January). Legalization and Compliance: How Judicial Activity Undercuts the Global Trade Regime. *British Journal of Political Science*, *53*(1), 221–238. doi: 10.1017/S0007123422000163

Malesky, E., & Taussig, M. (2019, May). Participation, Government Legitimacy, and Regulatory Compliance in Emerging Economies: A Firm-Level Field Experiment in Vietnam. *American Political Science Review*, *113*(2), 530–551. doi: 10.1017/S0003055418000849

McKay, A., & Yackee, S. W. (2007, May). Interest Group Competition on Federal Agency Rules. *American Politics Research*, *35*(3), 336–357. doi: 10.1177/1532673X06296571

Morse, J. C. (2019). Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing. *International Organization*, *73*(3), 511–545. doi: 10.1017/S002081831900016X

Morse, J. C. (2022). *The Bankers' Blacklist: Unofficial Market Enforcement and the Global Fight against Illicit Financing.* Ithaca: Cornell University Press.

Newmark, A. J. (2003). *Personal relationships and information provision in state lobbying: The nature of relationships and the factors affecting them* (Unpublished doctoral dissertation). The University of North Carolina at Chapel Hill, United States – North Carolina.

OECD. (2016). *International Regulatory Co-operation: The Role of International Organisations in Fostering Better Rules of Globalisation,* (Tech. Rep.). Paris: OECD Publishing.

OECD. (2019). Public consultation document: Secretariat Proposal for a "Unified Approach" under Pillar One (9 October - 12 November 2019). , 21.

OECD. (2021a, September). *Compendium of International Organizations' Practices* (Tech. Rep.).

OECD. (2021b). OECD/G20 Inclusive Framework on BEPS: Progress report July 2020 - September 2021.

OECD. (2022). *Base erosion and profit shifting - OECD BEPS.* https://www.oecd.org/tax/beps/.

Office of USTR. (2022, August). *Request for Comments and Notice of Public Hearing Concerning Russia's Implementation of Its WTO Commitments.* https://www.federalregister.gov/documents/2022/08/24/2022-18253/request-for-comments-and-notice-of-public-hearing-concerning-russias-implementation-of-its-wto.

Osgood, I. (2017, January). The Breakdown of Industrial Opposition to Trade. *World Politics*, *69*(1), 184–231.

Osgood, I. (2021, March). Vanguards of globalization: Organization and political action among America's pro-trade firms. *Business and Politics*, *23*(1), 1–35.

Parodi, E. (2021, June). Italian police target Booking.com for alleged tax evasion. *Reuters*.

Patel, Z. (2023, June). *BEPS Actions: Base Erosion and Profit Shifting.* https://www2.deloitte.com/global/en/pages/tax/articles/beps-actions.html.

Peritz, L. (2022). *Delivering on Promises: The Domestic Politics of Compliance in International Courts.* University of Chicago Press.

Perlman, R. (2019, July). For Safety or Profit? How Science Serves the Strategic Interests of Private Actors - Perlman - 2020 - American Journal of Political Science - Wiley Online Library. *American Journal of Political Science*, *64*(2), 293–308.

Perlman, R. (2023). *Regulating Risk: How Private Information Shapes Global Safety Standards.* Cambridge University Press.

Quitkatt, C. (2011). The European Commission's Online Consultations: A Success Story? *Journal of Common Market Studies*, *49*(3), 653–674.

Quittkat, C. (2011). The European Commission's Online Consultations: A Success Story? *JCMS: Journal of Common Market Studies*, *49*(3), 653–674. doi: 10.1111/j.1468-5965.2010.02147.x

Sageder, M., Mitter, C., & Feldbauer-Durstmüller, B. (2018, January). Image and reputation of family firms: A systematic literature review of the state of research. *Review of Managerial Science*, *12*(1), 335–377. doi: 10.1007/s11846-016-0216-x

Salamon, L. M., & Siegfried, J. J. (1977, September). Economic Power and Political Influence: The Impact of Industry Structure on Public Policy. *American Political Science Review*, *71*(3), 1026–1043. doi: 10.1017/S0003055400265222

Sell, S. (2003). *Private Power, Public Law: The Globalization of Intellectual Property Rights.* Cambridge University Press.

Shapovalova, N. (2019). Lobbying and Interest Group Influence in EU Foreign Policy. In D. Dialer & M. Richter (Eds.), *Lobbying in the European Union: Strategies, Dynamics and Trends.* Cham: Springer International Publishing. doi: 10.1007/978-3-319-98800-9

Tallberg, J., Sommerer, T., Squatrito, T., & Jönsson, C. (2013). *The Opening Up of International Organizations: Transnational Access in Global Governance.* Cambridge: Cambridge University Press. doi: 10.1017/CBO9781107325135

Tallberg, J., Sommerer, T., Squatrito, T., & Jönsson, C. (2014). Explaining the Transnational Design of International Organizations. *International Organization*, *68*(4), 741–774.

The World Bank. (2019, December). *Public Comments on Draft IDA19 Deputies Report.* https://thedocs.worldbank.org/en/doc/76e37c7288d637bbb65e0bbeea418b76-0410012019/public-comments-on-draft-ida19-deputies-report-november-2019.

Thrall, C. (2021). Public-Private Governance Initiatives and Corporate Responses to Stakeholder Complaints. *International Organization*, *75*(3), 803–836.

Tversky, A., & Kahneman, D. (1973). Availability: A Heuristic for Judging Frequency and Probability. *Cognitive Psychology*, *5*, 207–232.

United Nations. (2022, June). *Public consultation on net-zero accountability.* https://www.un.org/en/climatechange/public-consultation-net-zero-accountability. United Nations.

Ward, D. M. (2021, October). *A step closer to agreement on taxation of the digital world.* https://www.proskauertaxtalks.com/2021/10/a-step-closer-to-agreement-on-taxation-of-the-digital-world/.

Weymouth, S. (2012, December). Firm lobbying and influence in developing countries: A multilevel approach. *Business and Politics*, *14*(4), 1–26. doi: 10.1515/bap-2012-0030

Wilf, M. (2016). Credibility and Distributional Effects of International Banking Regulations: Evidence from US Bank Stock Returns. *International Organization*, *70*(4), 763–796.

WTO. (2022). *WTO Public Forum.* https://www.wto.org/english/forums_e/public_forum_e/public_forum_e

A Other Alternative Mechanisms

A.0.1 Expertise

In addition to the mechanisms discussed in the main paper, I consider whether the relationship is driven by expertise. While expertise is likely playing a role in the reputation of companies and their ability to offer informative comments to the IO, I argue that the relationship between frequency of commenting and firm influence is not driven solely by expertise. While I include sector fixed effects in the paper to address this issue, I provide additional tests to demonstrate that expertise is not entirely driving the relationship between frequency of commenting and firm influence. First, I test whether the sector (Professional and Technical Services) which includes tax firms is more influential than other sectors commenting. I create a dummy variable for whether the firm is in the Professional and Technical Services sector. Then, I use OLS regression to test whether there is a statistically significant relationship. There is no discernible relationship between the Professional and Technical Services sector and the influence indicator, the signs change between the two models and the p-value does not reach standard levels of statistical significance.

	Model 1	Model 2
Professional and Technical Services Sector	0.0012	-5.033×10^{-4}
	(0.0020)	(0.0021)
Num.Obs.	1156	1156
FE: country	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Next, I also investigate whether the relationship between frequency of commenting and influence holds within the sector that likely has the most expertise – in other words, that this relationship persists even amongst the most likely firms to have expertise in this area. Therefore, I filter for only firms in the Professional and Technical Services sector and run an OLS regression with the same parameters as in the main model. The results hold, though

	Model 1	Model 2	Model 3
Number of Comments	0.0022+	0.0038*	0.0029*
	(0.0013)	(0.0016)	(0.0011)
Firm Size		−0.0004	−0.0001
		(0.0004)	(0.0004)
Length of Comment		−0.0009	−0.0008
		(0.0008)	(0.0011)
Num.Obs.	657	645	645
FE: country	No	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

the small sample size results in lower levels of significance than in the main models.

A.0.2 Summary

Furthermore, I consider whether firms / associations were more likely to have influence on the final recommendation if they included a short summary ahead of the full comment. I test this alternative in the sample of hand-coded comments. I coded summary as a binary variable: 1 if there was a summary at the beginning of the comment and 0 otherwise.

Table 7: Summary

	Model 1
Summary of Comment	0.006
	(0.004)
Num.Obs.	37
R2	0.053
F	1.957
RMSE	0.01

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

B Alternative Measure for Information

I consider the test of the "information mechanism," using the summed number of pages (rather than number of words). The results hold using this alternate measure.

Table 8

	Model 1	Model 2	Model 3	Model 4
Summed Number of Pages	0.000***	0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Number of Comments		0.005***	0.004***	0.003***
		(0.001)	(0.001)	(0.001)
Num.Obs.	2701	2701	2701	2701
FE: country	No	No	Yes	Yes
FE: industry	No	No	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 9 provides the results of the linear regression model. The dependent variable is the influence indicator, the difference between the cosine similarity score of the comment and the final framework, subtracted by the cosine similarity score of the comment and the draft framework. The independent variable is the total number of pages of comments (logged) provided by the firms and associations to the IO. Model 2 and 3 controls for the number of comments submitted. The results hold in the model without controls and fixed effects.

In the main regression tables to test Hypothesis 1, I use the number of words to measure the length of the comment. I replicate these tables instead using the number of pages below. The results hold.

Finally, I use the alternate measure of length to test Hypothesis 2b. The results hold.

Table 9: OLS Regression with Full Sample

	Model 1	Model 2	Model 3	Model 4	Model 5
Number of Comments	0.0039***	0.0041***	0.0032***	0.0035***	0.0033***
	(0.0005)	(0.0005)	(6.31×10^{-4})	(6×10^{-4})	(9×10^{-4})
Length of Comment		−0.0021*		−0.0027***	−0.0033***
		(0.0009)		(7×10^{-4})	(6×10^{-4})
Num.Obs.	2781	2779	2781	2779	2779
FE: country	No	No	Yes	Yes	Yes
FE: industry	No	No	No	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 10 provides the results of the linear regression model in the full sample (firms and associations). The dependent variable is the influence indicator, the difference between the cosine similarity score of the comment and the final framework, subtracted by the cosine similarity score of the comment and the draft framework. The independent variable is the number of comments submitted by the private actor during the BEPS public commenting process (logged). This model controls for the length of the comment (logged) – measured by the number of pages submitted by the private actor – with country fixed effects. The results hold in the model without controls and fixed effects.

Table 10: OLS Regression with Restricted Sample (Firms)

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Number of Comments	0.0027***	0.0036***	0.0040***	0.0030***	0.0034***	0.0023+
	(0.0007)	(0.0008)	(0.0009)	(0.0008)	(5×10^{-4})	(0.0014)
Firm Size		−0.0005+	−0.0005+	−0.0002	−0.0005*	0.0000
		(0.0003)	(0.0003)	(0.0003)	(2×10^{-4})	(0.0004)
Length of Comment			−0.0032*	−0.0041**	−0.0036**	−0.0046***
			(0.0014)	(0.0013)	(9×10^{-4})	(0.0013)
Num.Obs.	1156	1142	1141	1141	1141	1141
FE: country	No	No	No	Yes	No	Yes
FE: sector	No	No	No	No	Yes	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 11 provides the results of the linear regression model in the sample of firms. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is the number of comments submitted by the private actor during the BEPS public commenting process (logged). This model includes the follow control variables: firm size (logged) and the length of the comment (logged) – measured by the number of pages submitted by the private actor – with country and industry fixed effects.

Table 11: Length (Number of Pages)

	Model 1	Model 2	Model 3	Model 4
Length of Comment	−0.001	−0.002*	−0.002*	−0.003***
	(0.001)	(0.001)	(0.001)	(0.001)
Num.Obs.	2779	2779	2779	2779
FE: country	No	Yes	No	Yes
FE: industry	No	No	Yes	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Table 5 provides the results of the linear regression model. The dependent variable is the cosine similarity score of the comment and the final framework. The independent variable is the length of the comment (logged), measured in the number of pages.

C Duplicate Comments Alternative Thresholds

The results for the duplicate comment background condition are unchanged when using different thresholds of similarity. The 0.2 similarity threshold is used in the paper as a conservative estimate of duplicate comments. I provide the results if using a 0.05, 0.1, or 0.5 threshold for similarity between comments. Across all specifications, the mean number of duplicate comments across commenting periods is still extremely low.

Under the 0.5 similarity threshold, the mean number of duplicate comments per commenting period is 0.001 and the median is 0. The mean is still statistically significant from 0, at the 0.022 level. However, similar to the results above, the majority of the commenting periods had very few duplicate comments.

Under the 0.1 similarity threshold, the mean number of duplicate comments per commenting period is 0.088 and the median is 0.04. The mean is still statistically significant from 0, at the $4.11 * e^{-8}$ level. However, similar to the results above, the majority of the commenting periods had very few duplicate comments.

Under the 0.05 similarity threshold, the mean number of duplicate comments per commenting period is 0.127 and the median is 0.06. The mean is still statistically significant
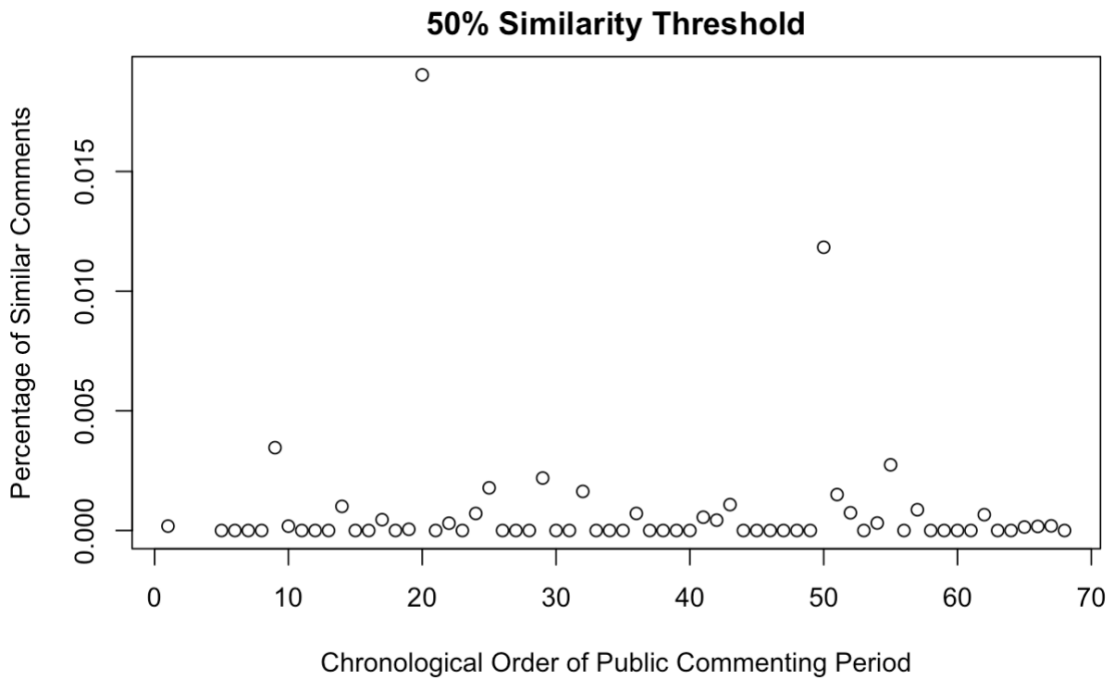
50% Similarity Threshold

Figure 10:

Under the 0.5 similarity threshold, the mean percentage of duplicate comments per commenting period is 0.001 and the median is 0. The mean is still statistically significant from 0, at the 0.022 level. However, similar to the results above, the majority of the commenting periods had very few duplicate comments.

from 0, at the $8.8 * e^{-10}$ level. However, even at the most conservative threshold, the majority of commenting periods are still clustered around 0. In my view, this threshold is too conservative to accurately estimate the question – namely, did firms / associations copy and paste the comments of another private actor and put their name on it. The 0.05 similarity threshold instead picks up on very small similarities. For example, if two firms chose to include the same quote or similar pleasantries at the start of their comment. However, this threshold is presented for the sake of completeness. It's also important to note that, even at this extremely conservative threshold, there are not similar levels of duplicate comments in the OECD context as in the EU.
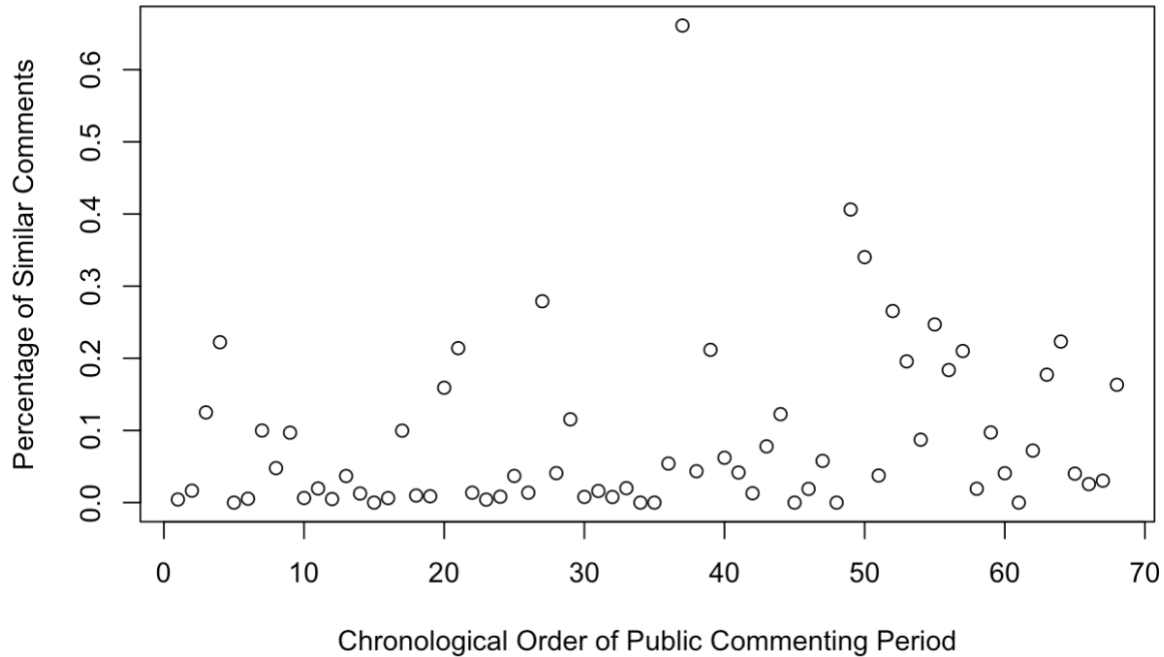
Figure 11:

Under the 0.1 similarity threshold, the mean number of duplicate comments per commenting period is 0.088 and the median is 0.04. The mean is still statistically significant from 0, at the $4.11 * e^{-8}$ level. However, similar to the results above, the majority of the commenting periods had very few duplicate comments.

D   Action 13 T-Test

Table 12

	Model 1
Action 13 Dummy Variable	−0.0230***
	(0.0033)
Num.Obs.	2781

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

E   Comparison to the EU Public Commenting System

The public consultation process in the OECD is borrowed from the structure of European

Union civil society engagement. However, the EU is a special case of IO lobbying in the
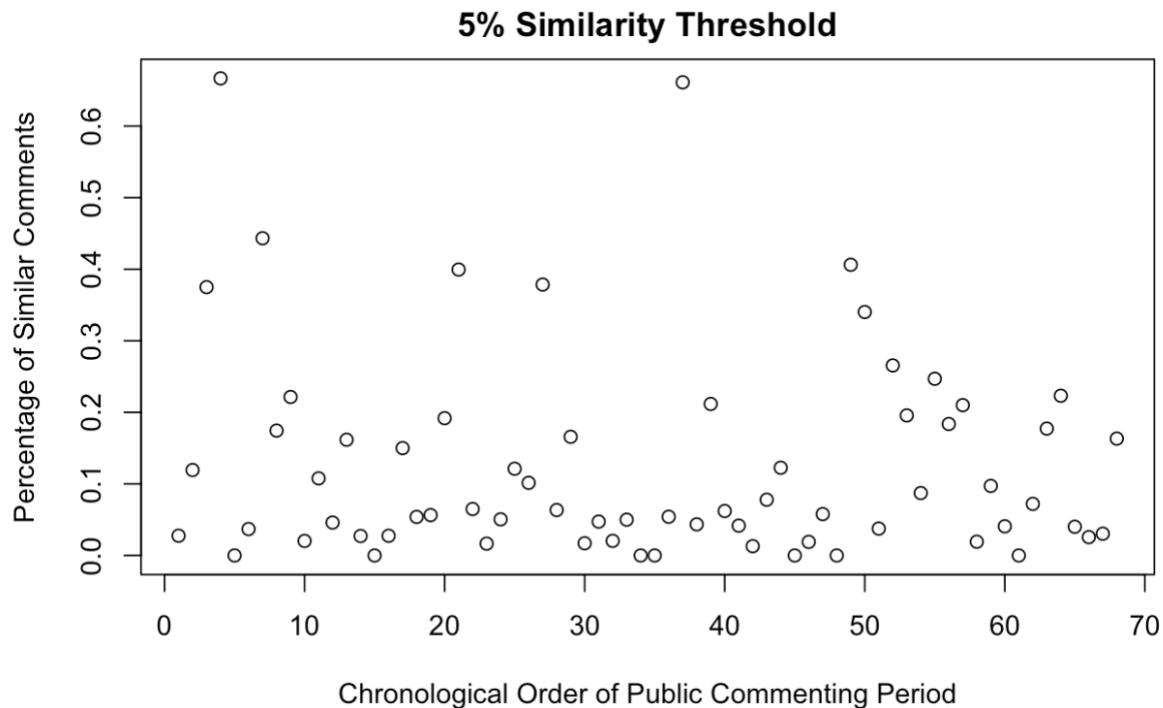
5% Similarity Threshold

Figure 12:

Under the 0.05 similarity threshold, the mean number of duplicate comments per commenting period is 0.127 and the median is 0.06. The mean is still statistically significant from 0, at the $8.8 * e^{-10}$ level. However, even at the most conservative threshold, the majority of commenting periods are still clustered around 0.

international community, as its unique rules and structure result in efficiency and quality information during the public consultation process (Bunea 2014). Defining the differences in institutional design between the EU and OECD helps us to understand why IOs without stringent lobbying regulations must be studied and understood differently. There are two key distinctions. First, to participate in EU lobbying, non-state actors must opt into the EU's Transparency Register (Kraus 2019). Non-state actors must supply information about their business, policy preferences, and lobbying budgets to the register and the information can be tracked by individuals or civil society (European Commission 2022). Registering to lobby in the EU simultaneously requires non-state actors to abide by a strict lobbying code of conduct. If non-state actors do not work within the legal bounds of the organization,

the EU can credibly threaten to remove their access to policymakers and processes that allow them to share their perspective. Furthermore, interest groups are funded by the EU, giving these groups a material interest in providing insight. With 43 percent of their income deriving from EU sources for some non-state actors, it is possible to conceptualize the public consultation process as a profit maximizing activity, as the non-state actors are expected to participate to continue receiving funding (Dialer & Richter 2019). The EU is unparalleled in its stringent regulation of lobbying at the IO level. Its developed processes allow for bureaucrats to receive accurate and quality information, even when firms might have an incentive to misrepresent. In contrast, most international organizations (the OECD included) do not have these stringent regulations that guarantee quality information. This may be due to the vast differences in IO budgets: in 2022, the EU's expenditures were reported as approximately 170 billion euros, whereas the OECD's budget was about 386 million euros. Close monitoring and material support of interest groups in the EU require significant monetary commitments, which may not be possible in IOs that are not well-funded. This paper argues that firms and associations must form a positive reputation about their provision of quality information at IOs without these safeguards.

F   Qualitative Interviews

F.1   Interview Sampling

I conduct semi-structured elite interviews to better understand and delineate between the proposed mechanisms. First, I interviewed firm and industry representatives to understand why firms choose to engage (or not) in the public consultation process, in addition to learning about their specific commenting and lobbying strategy. These interviews were conducted from November 2023 to February 2024. I sent outreach emails to 90 firm professionals and subsequently conducted 21 interviews. The primary group that was unwilling to participate

in interviews was individuals Big 4 Accounting Firms. Professionals in these roles responded that the firm would not allow them to participate in external interviews, even with anonymity provided to respondents.

The public comments are signed by the individual who prepared them (for example, the Vice President of Global Tax at Amazon). I compiled a list of the individuals at firms who participated in the ten most recent public comment sessions, in the hopes of acquiring a sample that is the most up to date. However, firms that make public comments have a specific set of motivations that differ from those who did not participate. Therefore, to identify the counterfactual, I locate a similarly situated, market competitor and that firm's equivalent employee. For example, Booking.com contributed to public comments, but Expedia (the companies' direct competitor) did not. To do so in a systematic manner, I utilize PitchBook which identifies the most similar firm. PitchBook also provides access to high level team members' contact information (e.g. email), which I used to conduct outreach.

Identifying the counterfactual is more difficult in the context of trade associations. However, there are often trade association equivalents in multiple countries which could interviewed as the counterfactual. As an example, the European Internet industry association commented on the "Unified Approach" under "Pillar One." There is an equivalent American association, the U.S. Internet Industry Association, that did not comment on the proposal.

Next, I conducted semi-structured interviews of OECD bureaucrats to understand their perspective in coordinating stakeholder engagement and reviewing public comments. To conduct outreach, I collected the names and emails of OECD bureaucrats that (1) had their information publicly available and (2) appeared to engage actively in stakeholder engagement. These interviews were conducted from April to June 2024. I contacted 120 bureaucrats, received 37 responses, and completed 16 interviews.

F.2 Interview Questions for Tax Professionals

Why did the firm / association choose to engage in public comment on base erosion and profit shifting (BEPS)?

Does the firm / association engage with other public international organizations (such as the WTO, OECD, World Bank, etc) when they propose international regulations?

(If yes) Which division of the firm / association participates in this engagement?

Does the firm /association regularly engage in public consultation periods with the OECD? Is there any effort to form a relationship or reputation within the IO?

To what extent does the firm / association collaborate with industry / sector / trade associations (or other firms) to influence the framework?

To what extent do you believe your written comments had an impact on the final regulation? Why do you think that certain pieces of the comment were successful?

How does the firm try to maximize the impact of their public comment at the IO?

Has the firm / association encountered any problems in gaining access to the IO or regulatory process?

Does the firm / association work with its national government to prepare these comments? Would the firm ever reach out directly to the ambassador to have them try to enact the firm / association requests?

Why did the firm / association choose these avenues rather than that of reaching out to state gov't?

How much time, effort, manpower was attributed to preparing public comments for the

OECD?

F.3 Interview Questions for OECD Bureaucrats

Please explain your role in the public commenting / consultation process.

In what ways is the public commenting process beneficial to the IO?

How can firms / civil society engage in the formation of the regulation?

Do firms seek out private meetings in addition to formal channels?

How do bureaucrats review comments? What are the most important parts of the comment that they look for?

Does the IO use the suggestions provided by the actors? If so, what makes for an informative and influential suggestion?

Given the potential for firms / NGOs to express biased opinions in the process, how do you delineate between helpful / unhelpful suggestions?

Are there concerns that some actors are commenting in a spirit antithetical to the OECD proposals?

When does a public consultation meeting follow the public commenting process? On the most important, most controversial issues, etc?

How does the IO choose which actors to invite to public consultation meetings?

What is their role there?

How much time, effort, manpower goes into reviewing the comments?

For bureaucrats involved in OECD tax:

Could you tell me about your involvement in the international tax process?

How did this experience compare to other OECD matters that you've worked on, specifically in regard to the level of consensus?

What were the primary areas of agreement / disagreement between states in the creation of the international tax framework?

In your view, how and why do you think states were able to achieve cooperation on international tax? Would a similar level of coordination been possible in a different period of time, under different US presidency, etc.

G Validating the cosine similarity indicator

To validate the cosine similarity indicator, I hand code a subset of the public comments. This process is only realistic for a very limited number of comments given that it requires deep knowledge and understanding of the lengthy draft and final frameworks, as well as reading each public comment and comparing the draft and final frameworks for changes that reflect the firm's comments. The hand coding process requires reading the full comment (which varies in length from 1 to 50 pages) and comparing whether there were changes from the draft to final framework in line with their suggestions. This process is extremely time consuming, given the length of the comments and frameworks (80-100 pages), and thus hand coding is not feasible for the full sample. I randomly selected a commenting period (rather than randomly selecting individual comments) to hand code as this allows me to have greater understanding of the specific commenting period, have a sense of the realm of comments on a particular draft, and is more tractable than switching between topics (and subsequently different draft and final frameworks).

In the hand coding process, I consider each suggestion made by the firm and association

Figure 13: Relationship between Hand Coding and Cosine Similarity Score
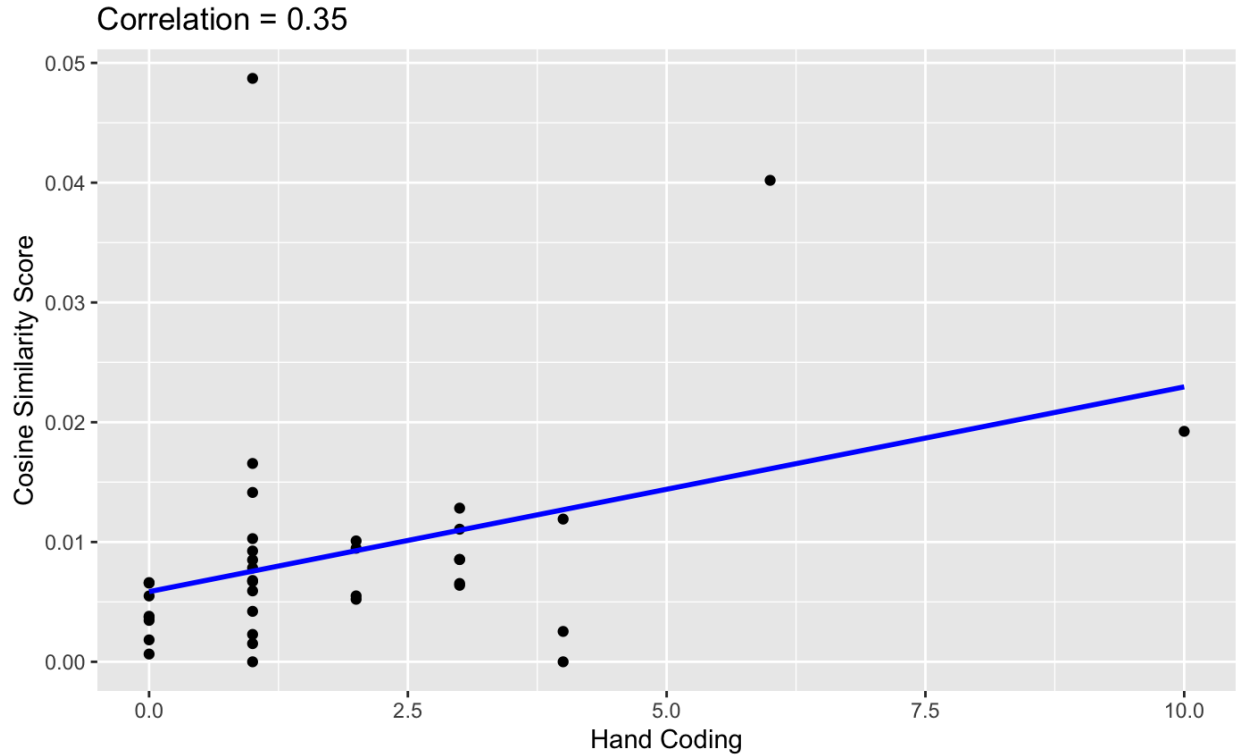
and consult the differences between the draft and final framework. If there is a change between the draft and final copy based on a specific suggestion that the firm included, I count this comment as implemented. I continue this method for every specific change suggested throughout the public comment draft. The end result is the total count of comments that were implemented into the final framework based on the firm's comment. This count variable ranges from 0 to 10 implemented comments.

Figure 13 plots the correlation between the hand coding and the cosine similarity score for the April 30, 2015 period (the period randomly selected). There is a positive correlation of 0.35. While this is not a perfect correlation, it is reasonably high given the differences between the two coding mechanisms. In particular, the hand coding method was a discrete counting method while the cosine similarity score is a continuous indicator bounded between 0 and 1. In addition, there is a positive and statistically significant relationship between the hand coding and similarity score indicator.

Table 13: OLS Model of Hand Coding and Cosine Similarity Score

	Model 1
Cosine Similarity Score	72.166*
	(32.515)
Num.Obs.	37
R2	0.123
F	4.926
RMSE	1.84

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Example of the IATA

I also consider examples in which there are high cosine similarity scores and look at whether there were subsequent changes to the final framework (in comparison the draft). One example of this relationship at work is the International Air Transport Association's (IATA) comment in November 2019. This commenting period considered the scope of Amount A, which provides taxing rights to jurisdictions in which large firms sell their products (even if they are not headquartered there). The IATA made a public comment, arguing that the air travel industry should be exempted from this rule. They began by reminding the OECD of their frequent interactions (see Figure 8).

Figure 14

On behalf of the members of the International Air Transport Association (IATA), the trade association for the world's airlines, I hereby submit our comments to the *Secretariat Proposal for a "Unified Approach" under Pillar One* on the allocation of taxing rights and review of the profit allocation and nexus rules associated with highly digitalized businesses. These comments complement our previous submissions made to the OECD during the public consultation held in March 2019 and more recently, in September, to the *Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy* (May 2019).

The organization went on to argue that they should be excluded from this tax regulation (see Figure 9). While the organization recognizes the legitimacy of their proposed inclusion in the tax regulations, they make a unique argument for why the OECD should include them in the "carve out." Their information and argument was seemingly well received by the OECD, and the subsequent final framework included air transport among the industries which were

While it is likely that Business to Consumer (B2C) transactions associated with the sale of international air transport services fall within the remit of Pillar One and, in theory are in scope, we believe that there are fundamental reasons for

International Air Transport Association, IATA Center, Route de l'Aéroport 33   iata.org
P.O. Box 416, Geneva 15 Airport 1215, Switzerland.   Tel +41 22 770 2889

the OECD to provide a carve-out from the new regime for international air transportation activities and thereto related services. We consider that such a carve-out would not undermine the policy intent and effectiveness of the current Unified Approach proposal.

Figure 16

2.2.3. Exclusions and carve-outs

105.   This section sets out the types of activities that are proposed to be specifically excluded from Amount A. These are: (i) natural resources; (ii) financial services (iii) construction, sale and leasing of residential property; and (iv) international airline and shipping businesses.

not subject to the increased taxing burden. This was a significant and meaningful change to the final text (rather than merely implementing MNC-generated technical content) as it fully exempted the industry from the increased reporting and taxation regulations from the OECD (see Figure 10). This example also provides validation for the influence indicator; the conservative estimate of influence of this comment on the final framework (after removing potential duplicate language) is 0.4.

H   Does firm size predict length of comment?

I consider whether firm size predicts the length of comment. While the results are somewhat mixed (depending on the inclusion of sectoral fixed effects when using the number of

pages to proxy for length / amount of information provided), there is a positive relationship between the amount of information provided (measured by number of words / pages in a coment) and the size of the firm, with large firms providing more information than small firms.

	Words (1)	Words (2)	Pages (1)	Pages (2)
Firm Size	0.0135**	0.0212**	0.0017	0.0371**
	(0.0047)	(0.0061)	(0.0164)	(0.0127)
Num.Obs.	1141	1141	1142	1142
FE: sector	No	Yes	No	Yes

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

I Does uniqueness predict influence of comment?

Table 14

	Model 1 (All)	Model 2 (Firms)	Model 3 (Firms)	Model 4 (Firms)
Uniqueness	0.2046***	0.2400***	0.2274***	0.2330*
	(0.0186)	(0.0301)	(0.0539)	(0.0971)
Firm Size		−0.0001	0.0000	0.0002
		(0.0003)	(0.0003)	(0.0002)
Comment Length		−0.0018	−0.0028*	−0.0030*
		(0.0017)	(0.0012)	(0.0014)
Num.Obs.	2665	1089	1089	1089
FE: country	No	No	No	Yes
FE: sector	No	No	Yes	No

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001