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SWEDEN: Failure of a Cooperative Compliance Project?

Lotta Björklund Larsen, Department of Thematic Studies, Technology and Social Change, Linköping University
E-mail: lotta.bjorklund.larsen@liu.se



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Abstract

This report outlines the Swedish cooperative compliance project *Fördjupad samverkan* - FS (enhanced collaboration) introduced in 2011 and the modified initiative relaunched as *Fördjupad dialog* – FD (enhanced dialogue) in 2014. It describes how the Swedish Tax Agency proposed an initiative that carried with it international success stories from similar projects, but in the Swedish version and context met with strong resistance and is now put on hold awaiting proposed changes in the law. This chronological trajectory teases out issues that impact tax compliance among large corporations and perhaps also among ordinary taxpayers in Swedish society. Based on these issues, I suggest eight aspects that have to be paid attention to when implementing cooperative compliance initiatives. These aspects seldom stand alone but are drawn upon in various combinations making criticism possible.

Keywords: Cooperative compliance; Swedish taxation practice; qualitative tax research method

1 Introduction

This report describes one Swedish initiative to engage proactively with large corporate taxpayers in so-called ‘cooperative compliance’ projects. It is part of a Nordic collaboration whose aim is to describe how ‘cooperative compliance’ initiatives are received and perceived in society, drawing on experiences in Denmark, Finland, Norway and Sweden. Our approach is qualitative, drawing on ethnographic fieldwork consisting of participant observation (when possible), interviews and document studies.

In order to describe the reception and perception of these initiatives, we aim to address four overarching questions: (1) How did the cooperative compliance initiative affect regulation of tax compliance? (2) What were the administrative processes that made it possible? (3) Did it change the relationships between tax administrations and stakeholders? (4) How did it influence tax compliance, e.g. issues that have an impact on tax compliance among corporations/the business sector in Swedish society?

However, this report’s aim is slightly different due to the development of the Swedish initiative during the research phase that underlines this report. FS (*Fördjupad Samverkan*) was initiated by SKV (*Skatteverket* or the Swedish Tax Agency) and transformed into FD (*Fördjupad dialog*); in Sweden it is for various reasons almost entirely put on hold. This report will therefore put more emphasis on identifying the key aspects that made this initiative problematic in Sweden and less on the administrative work in practice. I argue that these aspects are important to consider when implementing a cooperative compliance initiative. It is a step-stone for future work and a more thorough discussion engaging with existing research on such initiatives, the proposed aspects’ universal applicability and its implications on tax compliance will be developed elsewhere. The focus of this report is thus mainly on the launch of FS and what can be learned from the process regarding the implementation of cooperative compliance initiatives. The few FS/FD initiatives that were put in motion are described; but these do not provide enough material from which to draw any conclusions regarding what does and doesn’t work in the practical daily work of cooperative compliance.

FS/FD is a highly contested and a very political issue in the tax arena in Swedish society. This has to be kept in mind when listening to the different opinions. These opinions are often supported by legal arguments (cf. Hambre forthcoming), especially from those who are against such initiatives, but as we will see in the following story there are many other types of concern.

The emphasis of this report is on the empirical content. The report is organized as follows.

Section two describes the material and the analytical perspective on which this report is based; an approach that will also be used in the research on the other Nordic initiatives.

Section three follows a chronological outline of events: the start and development of FS, what made it change into FD, and its' now almost extinct existence. Through this story surges opinions, arguments and proposed ways of working as well as issues that made this way of working problematic in Sweden. The unfolding and order of events had an impact on how FS was received and thus on its apparent failure.

Section four illustrates the ways of working of the few corporations that came into existence both from the corporations' point of view as well as from SKV's and other stakeholders.

The fifth section concludes with a suggested eight aspects that made the Swedish collaboration/cooperation between large taxpayers and the tax agency problematic. These aspects are tentative and can be used for comparison with other Nordic experiences as well as with other Northern European countries. These aspects will be related to other research on tax compliance among large corporations elsewhere.

Names and genders of interviewees are anonymized in the report. For pedagogical reasons are issues that contribute to the aspects at stake for cooperative compliance initiatives underlined.

2 Method and Material

This project approaches cooperative compliance initiatives from a qualitative research perspective, more specifically drawing on interpretive taxation methods in analysing relevant information. Interpretive taxation methods mean that we approach taxation as an organizational, institutional, social and cultural phenomenon (Boden et al. 2010; Oats 2012). The qualitative and holistic approach is well suited to addressing and understanding the complex unfolding of events and manifold issues that made FS/FD unsuccessful in Sweden in contrast to many other places where cooperative compliance projects are working. More specifically, the research is conducted with an ethnographic gaze in order to understand the views and actions of all stakeholders (and address the four overarching questions).

Applying an ethnographic gaze means studying an issue from the point of view of the subjects participating. Various methods, often jointly, can be used but at the core is an ethnographic analysis often based on participant observation. The original aim was to participate in meetings between corporations and SKV; but due to the sensitive nature of FS/FD, this was not deemed possible. This analysis relies instead on an ethnographic reading of documents (Riles 2011; Björklund Larsen 2015) and on ethnographic interviews (Davies 1999). An ethnography of taxation practices has been described in detail elsewhere (Boll 2012; Björklund Larsen et al. forthcoming) but I want to underline the following points when performing interpretative research with an ethnographic gaze on such a contested issue.

The documents collected have been read and interpreted with the aim of understanding the views the authors propose (Björklund Larsen 2015, 80) and an apprehension for their analytical concerns (Riles 2006). Many of the documents are authored by legal scholars and thus propose reasoning within the realm of the law, yet quite a few of these simultaneously voice a specific – often negative – opinion on FS/FD. Media materials are written with another focus (e.g. news-worthiness and sometimes staging confrontations) and the SKV intranet articles inform (on) its' employees views, yet often conclude according to SKV strategies (supporting FS/FD).

An ethnographic interview explores a matter discussed, and I followed the questionnaire developed for all Nordic countries. The interviews were more or less formal, mainly taking place as conversations (cf. Spradley 1979, 58) in a casual and explorative tone (Fangen 2005; Kvale 1997, 94). I tried to stimulate the discussion (Wästerfors 2004, 20) using an increasingly intuitive knowledge for follow-up questions (cf. Flyvbjerg 2001, 21 citing Dreyfus and Dreyfus 1986; Kvale 1997, 102). I have posed questions, but also discussed issues at length

trying to probe into this delicate and manifold matter. Some of the interviewees have been contacted several times.

The material used for this report are thus interviews with various stakeholders, with employees working with this issue at SKV, at the Confederation of Swedish Enterprises and with financial officers/managers at corporations that participated or had declined to participate in FS/FD. There was unfortunately only one participating corporation that agreed to be interviewed – mainly due to the fact that the initiative slowly stalled to a halt during the fieldwork. In addition, diverse documents are also used: academic articles, newspaper articles, reports, correspondence made public, legal [court] decisions and a selection of SKV’s intranet articles. Some materials have been provided by SKV, and others by the Confederation of Swedish Enterprises, but most have been collected by the researcher where the criterion was that it addressed FS or FD.

Figure 1: Material

Material	Quantity
Interviews: Swedish Tax Agency employees Anna, Bertil, Carl, Daniel, Eva, Fredrik	6
Group interview: Swedish Tax Agency contact persons (5 participants)	1
Interviews: Non-participating corporations Gustav, Helen, Ivar and Jane	3
Interview: Participating corporation Kristian	1
Interview: Other stakeholders Lars, Marianne, Niklas, Ola	4
Media material	18
Articles, reports and presentations	22
SKV intranet articles	14

Note: Names and genders of interviewees are anonymized.

It was evident from the start that both FS and its follower FD were highly contested projects and thus a political issue in the tax arena in Swedish society. Although an ethnographic gaze means taking all participant positions and views seriously, stakeholder agendas have to be kept in mind when interpreting the different material. These ‘positionings’ can take place at all levels: arguing for the good of society; taking a stance inside organizations; being a result of inter-organizational politics and/or competitions; and even illustrating personal relations among stakeholders. It is thus essential to recall who draws which issues into the limelight and who voices which opinions. I note this caveat not to demean or agree with any stakeholder position; the aim here is to account for all issues that had an impact on how this particular cooperative compliance initiative played out in Sweden.

Researchers risk being used as a megaphone for stakeholder positions. As will be shown, this is not a simple a story of on the one hand FS/FD proponents among initiators and tax collectors (at SKV) and opponents among corporations, taxpayers and their interest organizations (a noteworthy example is the Confederation of Swedish Enterprises). The Swedish cooperative compliance project presents a more complex, and in my view, interesting mix of arguments from various perspectives.

The chronological outline of events addresses opinions, intentions and proposed ways of working. These opinions are often supported by legal argument, especially from those who are against such initiatives, but as we will see in the following story there are many other types of concerns.

3 Background: The Transition from FS to FD

3.1 Reasons to Create FS

Fördjupad Samverkan, FS – literally meaning enhanced collaboration¹ – is at SKV referred to as ‘cooperative compliance’² following the contemporary international OECD (Organisation for Economic Cooperation and Development) and IFA (International Fiscal Association) discourse.³ FS was launched in 2011 and was an initiative that has been in the making since at least 2008.⁴ There exist various stories of how it came about; these stories do overlap but in different ways have an impact on how FS was received by stakeholders:

- FS came about as part of the overall changed strategy work at SKV.
- FS was the result of developing a classification model of risky taxpayers (corporations).
- FS fitted well with ideas about finding ways to increase efficiency.
- FS was a response to the international development of new compliance strategies.

SKV changed strategies during the 2000s (Wittberg 2005). These are described in the publication *Right from the Start* where Wittberg argued that SKV would from then onwards work proactively with the aim of collecting the correct, not necessarily the maximum, tax from all taxpayers and in this way increase trust. These strategies⁵ were based on international research and followed a trend of working together with taxpayers to ensure that information, taxes and fees were to the largest extent correct as early as possible. Additionally trust in the tax collector depended on the attitude it has towards taxpayers (Wittberg 2005, 6). Trust and

¹ Samverkan can be translated in several ways. To cooperate is ‘to work jointly towards the same end’ or to ‘assist someone or comply with their requests’ whereas to collaborate is ‘to work jointly on an activity or project’ or ‘to cooperate traitorously with an enemy’ (Oxford English Dictionary (OED)). I will in the following refer to collaborate when discussing FS and cooperate when discussing FD, noting the slightly larger distance in the latter way of working together.

² Intranet article 4.3.2011.

³ Proposed by OECD’s Forum on Tax Administration, these initiatives were initially referred to as ‘Enhanced Relationships’ when proposed in 2008 (OECD 2008). The name was chosen to distinguish this way of working from the traditional obligation based relationship. Due to changing compliance risk evaluations by tax agencies, tax control frameworks developed by MNEs as well as a critique that an enhanced relationship could imply improper facets and unequal treatment in practice, it was proposed to change the term to cooperative compliance. The latter was deemed to emphasise the goal of compliance: paying the right tax at the right time (OECD 2013).

⁴ There were many different views on when the FS initiative started. Most interviewees recall the start to be 2010, yet 2008b is mentioned in one interview (14.4.2015). The diverse recollections are probably influenced by where and at what level you work in at SKV. The active start however took place in 2010 when two employees returned from a trip where they had been inspired by the Dutch working with ‘Horizontal Monitoring’.

⁵ Interview 14.1.2016.

compliance were described as reinforcing each other in a proficient group; trust would increase if all taxpayers were deemed to comply.

While this work went on, SKV also ran a large project where the aim was to identify massive tax planning on the fringes of licit behaviour among larger corporations.⁶ The project aimed to classify corporations based on risk evaluations, especially focusing on corporations active in tax planning schemes. Inspired by the UK's Her Majesty's Revenue and Customs (HMRC)'s and the Australian Taxation Office (ATO)'s work with classifications of risky taxpayers, Swedish corporations were to be divided into three different groups of taxpayers where audits and control measures were applied according to 'riskiness'. It was a challenging project as SKV auditors at the time often described the relation with corporations as a cat and mouse game; SKV and corporations were seen as opponents. These older strategies did not provide tools for SKV auditors either to develop or ameliorate the relationship with corporate taxpayers and the project was therefore abandoned.

In the constant urge to find more efficient and cost-saving ways of working, FS was argued to be such a solution both for corporations and for SKV. Participating in FS would provide a quicker response time for questions posed, there would be less uncertainty in tax positions as questionable tax issues would be resolved before reporting, and there would be fewer issues to be decided in court. At SKV this way of working with corporations was argued to release more resources which could be concentrated on fighting taxpayers deemed much more risky. In short it was seen as a modern and more efficient way of building relationships between large corporations and SKV. Yet the administration hosts internal critiques which voiced the opinion that SKV outsourced control to those who were supposed to be controlled. They questioned the efficiency aspect more broadly; what might be gained in the short term by being cost-effective and shorten response time for questionable tax issues, would be lost in the longer term with corporations' decreased compliance.

Finally, FS was a response to the international trend of new compliance strategies – working proactively with taxpayers to ensure that information, taxes and fees were to the largest extent correct as early as possible in the taxation process. More explicitly the OECD's Forum on Tax Administration had for some years advocated so-called 'Enhanced Relationship projects to take place among its member states' tax administrations. The 2007 financial crisis and the calls for diverse regulations that came about in its aftermath underlined the need for more control of corporations – which also came to include a tax perspective. OECD and other organizations such as IFA and Fiscalis (an EU programme where national tax administrations exchange information and expertise) held conferences where this way of working was

⁶ Interview 14.1.2016. It was the so-called SPA, *skatteplaneringsaktiva*, project.

discussed. A number of reports describing such projects and national experiences were authored (IFA 2012; OECD 2008, 2010, 2013, 2014). Member states' tax administrations were encouraged to start such initiatives and report on their experiences. SKV was of course also interested and visited for example the Netherlands and Ireland to learn from respective national tax administrations work with Enhanced Relationship. Most FS inspiration is said to come from the internationally acclaimed and 'well marketed' Dutch experience the 'Horizontal Monitoring'.⁷ As Bertil said: 'All of a sudden "everybody" organized conferences on this new topic'. Even among tax administrations there is a certain competition and no one wants to be seen to be left behind.

These ideas contributed to forming the FS project and are also reasons for why it was, in many stakeholders' opinions, too hastily launched. On all four accounts this cooperative compliance initiative was a sign of the time. Introducing and applying this working method was seen as being on top of compliance issues; it was a beacon of modernity that was hard to avoid for a modern and successful tax administration (cf. Ekonomistyrningsverket 2012; Skatteverket 2012).

3.2 SKV's mixed messages about FS

The years 2010–11 were quite hectic for *Storföretagsregionen*, the Department of Large Corporations at SKV, as it prepared for the launch of FS. A group of employees outlined a report on how FS would work, planned for the media launch and conducted information meetings with a selected number of Sweden's largest corporations as a preparation to inviting them to participate. Information about the project was communicated on several occasions on SKV's intranet.

The larger business community was introduced to FS in early March 2011 in an article in *Dagens industri*, Sweden's pink business journal signed by SKV's Director General and by the manager for the Department for Large Corporations.⁸ In the article, they describe the background for developing FS being the result of SKV's increased focus on multinational corporations' risk taking and their internal control procedures in the aftermath of the financial crisis. It was argued that the management of such corporations had difficulties foreseeing tax risks that could potentially result in drawn-out legal processes and costly tax reassessments. FS was argued to be a new way of working; it was formalized cooperation where large corporations would get a specified contact at SKV. Yet, the details of FS cooperation were not

⁷ Representatives from the Dutch Tax Authority also visited SKV in 2010 and presented their views on cooperative compliance and what was described as their success with it.

⁸ Interview 7.3.2011.

yet teased out as SKV would be perceptive to the wishes of participating corporations. A few large corporations would be invited to participate at the end of 2011, a group that would be enlarged to eventually encompass all larger multinationals.⁹ The aim with FS was thus a long-term commitment and both parties would sign a declaration of intent. These declarations would however not be legally binding.

The article describes ways of working within FS. SKV is committed to appointing a specific contact person and to openly declaring its judgement of a corporation's tax risk as well as proposing remedies to decrease tax risks. In addition, SKV would also use its knowledge and competence to ensure that the corporations' internal routines and control systems regarding tax issues are adequate. Participating corporations would on the other hand be expected to be open about their own judgement of taxation risks as well as to put difficult tax issues on the table at an early stage for discussion. In FS, SKV and the corporation would together make an inventory of internal procedures and control systems in order to make sure that correct information is delivered to SKV.

The article concluded that both SKV and participating corporations would benefit from FS. The corporation would lower taxation risks, costs and administrative burdens. The corporation could through collaboration prevent audits or other control measures that could lead to tax reassessments or drawn out legal processes. FS would make sure that divided opinions on tax issues became apparent at an early stage. For SKV it is beneficial to prevent errors instead of auditing and correcting them *a posteriori*. While cooperating with corporations in FS, SKV could be more efficient and use its control resources elsewhere.

Simultaneously with the publication of the article, SKV invited Sweden's largest corporations and the larger tax advisor firms to hold four information meetings in total about FS in Sweden's three largest cities.¹⁰ In those well-attended meetings where perhaps a total of 100 corporations participated, SKV outlined arguments for FS and how it was meant to work. SKV's presentation¹¹ described the new initiative as a development of the existing 'Dialogen' (dialogue) project. Dialogen is a way for corporations to pose questions to SKV either by email or by phone. The advantages with Dialogen are said to be several: the corporations obtain SKV's view on issues from a tax perspective prior to making doubtful transactions; and the possibility of quickly solving unclear issues. Corporations seemed pleased with Dialogen and it has made taxation issues less insecure and more predictable with the result that there was

⁹ How the large multinationals working in Sweden would be identified is a question in itself. Perhaps it is those with head offices in Sweden?

¹⁰ One was held in Göteborg, one in Malmö and two in Stockholm.

¹¹ Presentation 'Dialog och fördjupad samverkan', March 2011.

growing trust in relations between SKV and corporations. But in the presentations it was argued that a greater number of questions with increased complexity had been posed within Dialogen and that many corporations responded with follow-up questions through this forum. SKV concluded that other measures were needed.

FS was thus introduced into the meetings based on these experiences. The arguments were basically the same as in the article, although the benefits for participating corporations were further specified. Participating corporations were said to be able to:

- secure their tax position
- increase efficiency in their handling of taxes and fees
- be subject to fewer audits and other *a posteriori* controls
- have a specific contact person and thus just one 'entry' to SKV
- decrease compliance costs
- increase goodwill.

The benefit for SKV would be to:

- reduce the risk of tax errors for a participating corporation
- reduce costs of handling taxes and fees from corporations
- increase resources handling taxpayers deemed posing larger risks of making tax errors
- have a positive effect on societal tax compliance (at large).

Before describing the practical details, SKV noted that participation in FS required:

- a will to participate
- trust
- openness.

Following the four meetings, SKV's project leader felt that the response was quite positive although apprehensive.¹²

After the media launch and the debate that followed (see below) SKV published the report¹³ which described the context and background for this initiative, outlined the benefits of FS for

¹² Interview 19.3.2015.

¹³ Dnr 480-698289-10/1211, published 31.3.2011., that is, three weeks after the article that started the media debate.

both corporations and SKV¹⁴ and issued a draft of how the collaboration would work in practice (Skatteverket 2011).

In contrast to the article, the report is more explicit on SKV's strategies and how SKV intends to work with large corporations. Working with them does not always mean cooperating but also taking proper action with them. FS is described as a way of identifying that the correct measures would be taken towards the right corporations. For example does the report state that the aim is to decrease aggressive tax planning among all taxpayers. In addition to the earlier stated arguments of decreased tax risks and tax errors, FS would make possible an increased flow of information, transparency and thus trust between SKV and the participating corporations.

The report argued that large corporations,¹⁵ often referred to as MNEs, are of particular interest to SKV as they have considerable impact on the functionality of the tax system and their ways of working are often an inspiration for smaller corporations. Large corporations fiscal contribution is important as they pay corporate tax and VAT. In addition they have many employees and thus transfer large amounts of money consisting of social fees and preliminary individual income taxes. Corporations also face very real and complex issues over their international activities. It is thus difficult for them to foresee tax consequences. Based on these insights, SKV proposed two ways to address them – on one hand to legally enforce a duty to provide information according to the so-called 'disclosure rules'; and on the other to engage in voluntary cooperative compliance initiatives like FS. Such increased information exchanges between SKV and corporations as well as between tax administrations across borders would follow OECD's recommendations.

SKV also recognized in this report that there are varied attitudes among corporations towards taxation and that they have different ways of tackling them. These attitudes and ways of working were incorporated in SKV's strategic classification model at the time consisting of three categories of corporate taxpayers. The aim of the model was to intensify the control work where it is deemed most plausible to find taxpayers that engage in evasive tax planning and intentional errors. Group A consists of those who participate in FS and are thus willing to collaborate, *samarbeta*. Group B consists of corporations that do not want to collaborate or and are seen to pursue aggressive tax planning, skatteupplägg.¹⁶ The B group of corporations would be subject to individual judgement and risk analysis. The remaining corporations, including A and B, would be grouped into C and thus subject to collective auditing.

¹⁴ The report refers to SFR (*Storföretagsregionen*), but as it is part of SKV I will continue to use this term instead of SFR as the report states as having agency. SFR cannot act on its own account.

¹⁵ Report 480-698289-10.

¹⁶ Note that it is not talked about here as aggressive tax planning.

Corporations that do not participate would be treated as previously, yet the message in the report is somewhat contradictory as it could be read that if you do not collaborate, you would end up in group B (Skatteverket 2011, 7).

The implementation of FS would start with an invitation from SKV to a chosen corporation's board of directors or its top management. After initial meetings where expectations and preconditions would be discussed, discussions would continue to agree on how and in which timescale the corporation's tax handling and the minimization of risk would be addressed. The participating corporation and SKV would write and sign a declaration of intent. Although these declarations are not legally binding, the report argues that such a written statement underscores the will and commitment¹⁷ for both parties. Any of them can at any time end such declaration of intent.

The declaration of intent would be the starting point for the practical work between the corporation's tax department and SKV's designated contact person(s). Cooperation can vary depending on the declaration of intent, but it is said that SKV would always supply help, and support the corporations' aim to declare and pay the right tax and fees. The practical work outlined can mostly therefore from SKV's point of view be described as future expectations.¹⁸

SKV's report concludes that the FS concept was thoroughly looked into by SKV's legal department and that a definite clearance of the details would be completed before the actual launch. It was stated that FS is not contrary to the principle of equality or against uniform application of the law. All laws and tax rules apply to everybody and SKV, like other public authorities, adjusts its handling and measures depending on the subjects it serves, in this case large corporations. Thus, a need-based service can actually be a prerequisite for equal treatment, as different taxpayers are deemed to have different needs.

As a final point, SKV regarded a corporation's willingness to participate in FS/FD as a way of minimizing tax compliance risks. It was argued that to be a subject of audit or even worse, to be caught cheating with taxes, is bad for a corporation's trademark.¹⁹

¹⁷ Report 480-698289-10.

¹⁸ This will not be addressed here as the suggested cooperation in practice came to naught and was reformulated.

¹⁹ Interview 14.4.2015.

3.3 The public debate for and against FS

Following these events, and especially SKV's article published in *Dagens industri*, a quite hectic and high-pitched media debate ensued in the same newspaper. SKV obviously defended FS, whereas representatives of the Confederation of Swedish Enterprises and several law professors argued against it or at least recommended putting the initiative on hold awaiting legal decisions. The arguments against the initiative were mainly from a legal perspective, yet I argue that the resistance displays underlying emotional currents that for various reasons deny closer relations between SKV and large corporations.

In the following excerpts from the media debate and from a few seminars where FS was discussed, issues deemed of importance for the development of FS into FD are emphasized.

'Should SKV be a buddy'²⁰ asked a heading rhetorically. In this first responding article, written by Professor of Law Robert Pålsson, he questioned how well FS fitted with contemporary Swedish law especially concerning the issue of equal treatment before the law. Pålsson situated FS as one among many of SKV's changing strategies over the years – the tension between control on the one hand and information to taxpayers on the other. The FS initiative was argued to be two sides of the same coin. An interesting viewpoint in this article is the articulation of underlying sentiments among stakeholders that hides behind the rational legal arguments proposed by opponents of FS. Pålsson writes (author's translation): 'I choose to interpret SKV's initiative seriously and not at all as an insidious or conspiratorial way to undermine economic discretion or entrepreneurship. Although there is always a risk when roles coincide; when an institution that should control and make difficult decisions also aims to be a buddy.'

The response from SKV came four days later with an article under the heading 'SKV does not aim to cheat corporations'.²¹ In the article, the Director General and the head of Department for Large Corporations recognized Pålsson's legal apprehensions, yet argued for the need to change ways of working at governmental bureaucracies in general. 'Laws and taxation rules apply to all, yet bureaucracies have to adapt their service and administration to the users, in our case taxpayers, diverse needs'. FS was described to be just one of many adaptations that SKV had undertaken in its change of strategies and ways of working, e.g.: information in different languages; information directed towards newly registered corporations; and e-services. Countering the argument of unequal treatment of taxpayers, SKV argued that on the contrary different services are a necessity so that the law can be applied equitably.

²⁰ *Dagens industri* 11.3.2011.

²¹ *Dagens industri* 15.3.2011.

The FS proposal can thus also be seen in a wider context of SKV's ambition to change how the Swedish tax system should work in practice; that it should not only rest on the application of black letter law but be governed by the spirit of the law. The incumbent Director General, Ingemar Hansson, took the opportunity to pronounce this view three days later in yet another article, this time when he commented on the resignation by the chairman of one of Sweden's largest pension funds due to his tax planning scheme.²²

Hansson argued that this case was just one example of changing the tax moral in Swedish society. Taxpayers in general are today less forgiving towards tax planning; to pay tax is to show a concern for the society in which the taxpayer works and operates. Tax policy ought therefore to be part of a corporation's ethical guidelines and thus of the overall Corporate Social Responsibility, CSR, questions. The Director General compared taxation to environmental issues where many corporations have larger ambitions than just following the letter of the law; to be seen as not paying the right tax could diminish trust in a corporation and in its brand name. Participation in initiatives such as FS would thus be a way for corporations to show societal responsibility and also minimize the risks that uncertainty in taxation issues poses.

The negative response to this proposal came promptly the next day.²³ In yet another article a representative of the Confederation for Swedish Enterprises argued that it is public law which should govern any rulings by bureaucracies as well as relations between bureaucracies and taxpayers. Nothing else. If there are doubts of interpretation it is up to the courts to decide. Therefore SKV's employees should not consult with taxpayers on issues of ethics and morals. If the law has flaws, it should be up to democratically elected politicians to change it.

Public debate then moved on from newspaper articles to live debates. The Confederation for Swedish Enterprises organized a seminar to discuss FS entitled: 'SKV's invitation to large corporations – an offer you can't refuse' that took place end of May,²⁴ just two months after the launch of FS. It was a half-day event at its headquarter²⁵ and the list of speakers featured legal advisors, tax advisors, SKV's manager for the Department for Large Corporations as well as

²² *Dagens industri* 18.5.2011. The Chairman of AMF (which is a pension fund jointly owned by the confederation of unions, LO, and employers, Confederation of Swedish Enterprises), Bertil Villard, had through his private company used a so-called Peru scheme. The revelation of this scheme made for his resignation from AMF. The Peru scheme was based on a bilateral tax agreement from the 1960s between Peru and Sweden that made it possible to transfer profits from a Swedish company to a Peruvian one. Profits transferred to Peru were only taxed at 4.1 per cent. In a decision by *Högsta Förvaltningsdomstolen*, Supreme Administrative Court, in March 2012, such profit transfers were ruled illegal. If the activity generating the profit had taken place in Sweden, taxation on such profits would take place there.

²³ *Dagens industri* 19.5.2011.

²⁴ Interview 27.5.2011.

²⁵ *Skatteverket inbjuder storföretagen – 'an offer you can't refuse'?*

the head of SKV's legal department, the Confederations' tax experts, politicians and academics.

Dagens industri commented on this seminar the following day in an editorial discussing the so-called softer aspects of the FS.²⁶ The editorial argued that cooperative compliance initiatives have to rest on a foundation of trust and that there ought to be more advantages than drawbacks in such cooperations (following the prerequisites for cooperative compliance initiatives). This seems, it was said, to be missing on both SKV's and Confederation of Swedish Enterprise's – accounts in the proposed FS. Referring to the OECD recommendation to consider the cultural, administrative and legal environment when putting such initiatives to work (OECD 2010) it appeared there were a number of provisions applying in the Swedish context to this way of working. First, Sweden's legal constitution provides the right of public access to almost all documents, a fact that differs from many other OECD countries that have cooperative compliance initiatives. Second, commercial awareness for example at the Dutch tax administration²⁷ (seen as implementing a successful cooperative compliance project) is greater than at SKV. It has to be noted that this fact could be changed if FS took place and tax auditors learnt more about tax operations in large corporations. Finally, SKV needs to take an increasingly impartial role if it is to judge what ought to be subject to tax and what not. This impartiality seems difficult to connect with SKV's contemporary role as a judge of what the 'right tax' is.

The editorial suspected that SKV's intention with FS was to collect information about new tax planning schemes while offering a certification stamp with moral overtones for participating large corporations. SKV's motto of 'providing one's fair share' does not apply to corporations, it was argued. The overarching aim for a corporation is to run a profitable business and to keep costs down, one of which is corporate tax. Compliance emphasis should be on personal income tax as this, in financial terms, provides a much larger source of income for the Swedish state than corporate tax.²⁸ The editorial's concluding message was for Swedish institutions to keep their traditional roles: laws are passed by the *riksdag*, parliament; courts should decide when taxpayers and tax collector do not agree; and SKV should fulfil its mission of collecting tax. Full stop. In summing up the editorial did quote a tax advisor who voiced the following advice for a better tax system: speed up the response time for advance rulings at

²⁶ *Dagens industri* 28.5.2011.

²⁷ The Dutch tax administration paid much attention to broadening its employees skills while introducing horizontal monitoring. The focus was on the commercial structure of businesses beyond the tax function, and the commercial 'way of thinking' in general, but also on softer skills, such as how to interact with taxpayers in a friendlier, less hierarchical manner. They aimed to create a 'shift in mindset' which seems to have largely paid off, as proposed in interviews with Dennis de Widt 2015 and 2016.

²⁸ Income tax provides for about 2/3 of all Swedish tax revenue.

skatterättsnämnden (a board organized under SKV but whose members are nominated by the government); reinforce the Ministry of Finance's tax department so that new laws can be set in motion; and continue with existing cooperative schemes that work (such as Dialogen) between SKV and corporate taxpayers.

The next public event was the receipt of a letter addressed to SKV.²⁹ It was drafted by the Confederation of Swedish Enterprise and signed by tax managers, chief financial officers and other senior managers from 25 of Sweden's largest corporations.³⁰ Although the content of the letter is a compromise and the text is quite bland,³¹ as the signers had different views on the initiative,³² one cannot understate the importance of this letter. It stated that although the corporations were pleased with services like Dialogen, which was said to increase trust in their relations with SKV, they had numerous concerns with the collaboration suggested in FS. Corporations were already required to report on many and diverse types of risk and also had an obligation to provide an increasingly large amount of information to SKV. The administrative burden had thus increased, although the result was that they also have good control over tax risks and are very transparent regarding those. If engaging with FS, the benefits of it had to correspond to the increased administrative burden AND legal risks, especially concerning the secrecy of information. In addition, the letter argued that the tax law environment in Sweden does not provide proper prerequisites for FS (here the reference was to the OECD report) and Swedish law limits this type of cooperation.

The letter ended with declining to even be invited to participate in FS – the letter's very purpose. Sweden's 25 largest corporations did not want to be part of FS and did not even want to have to consider it. Although it is not explicitly mentioned in the letter, it is noteworthy to recall SKV's previous work with the classification scheme for large corporations.

This letter ended the public debate and attention in the media petered out. During the autumn of 2011 and into 2012, SKV continued its work on how to pursue FS. Invitations were sent out but the corporations that had signed *the* letter were of course not considered; instead 12 other corporations were welcomed to an information meeting. These corporations had either showed interest or were among the largest remaining on SKV's original list. Eight of these were willing to participate³³ and collaboration started in 2012. Most of the participants are

²⁹ The letter was written on the Confederation's letterhead and dated 6.7.2011.

³⁰ Among the signatories were Atlas Copco, Electrolux, H&M, IKEA, Investor, Volvo.

³¹ Interview 24.3.2015.

³² Interview 24.3.2015.

³³ Said in an interview to be zero, yet eight were reported to the Riksdag (Proposition 2013/14:1:8).

said to be government owned corporations or cooperatives, with a few exceptions. Today there is however just one collaboration active and this is for some very specific reasons (see below).

The Confederation of Swedish Enterprise had thus spearheaded the critique towards the cooperative compliance initiatives in Sweden and it was followed up with the report *Fördjupad samverkan/horizontal monitoring i svensk offentliggrättslig miljö* (FS in the Swedish public legal environment), presented at yet another public seminar in 2012.

Robert Pålsson, the law professor who early on participated in the public debate, had been commissioned by the confederation to investigate the legal status of FS. In the report, he compared the Dutch experience of Horizontal Monitoring with the plans for the Swedish variant. In essence he considered it a replica, yet there were noteworthy differences; especially FS was deemed more individualized yet also more contained. The report stated three main concerns (Pålsson 2012a):

First, any participating corporation was asked to share information and inform on dubious tax issues beyond a corporation's legal obligations. Second, there was the issue of equal treatment before the law. Being selected to participate in FS meant a special, positive treatment of tax issues that could not be substantiated compared to other corporate taxpayers. Third, FS is not adapted to the principle of legality that governs Swedish administrative law. For example agreements could be made behind closed doors and historical errors in previous tax returns would not be corrected within FS cooperation, something otherwise required. SKV could thus turn a blind eye for wrongdoing if not too evident.

Pålsson concluded that SKV's proposed way of working with FS was not according to Swedish public governance tradition, as it did not follow the basic legality requirements within Swedish administrative law.³⁴ FS should therefore be redesigned and SKV ought to await regulation of such cooperative initiatives into Swedish public law before continuing to develop and work with them.

The nail in the coffin for FS came when one person³⁵ challenged it, demanding information about participating corporations, referring to the principle of public access to official records, *offentlighetsprincipen*. He argued that this type of collaboration was more like counselling than having a specific relation to specific tax cases (which are excluded from public access). SKV denied this request and the case went to the Administrative Court of Appeal who ruled SKV to be correct (February 2013). The case was then taken to the Supreme Administrative Court, *Högsta förvaltningsdomstolen*, which ruled that SKV had to provide information about

³⁴ For the legal implications, please see Pålsson 2012a, 2012b and on FD Hambre forthcoming.

³⁵ This person is referred to as a journalist by one person interviewed, as a corporate representative by another.

participating corporations. The information that can be publicly disclosed did not stop there; it was also ruled that details about issues handled were not part of the secrecy if these did not refer to specific tax cases.³⁶ Given this ruling one corporation did decide to withdraw (July 2013).³⁷ ‘We still cooperate on smaller issues with SKV, yet given these circumstances it is not good’ said Helen, CFO at BBB, who continued: ‘We would like to work in this manner, with a handshake as we do in many other countries we operate in but in this country it is quite messy.’

3.4 Transforming FS to FD

All these events made SKV take the critique to heart and the initiative was redesigned. Instead of FS, FD³⁸ (*Fördjupad dialog*) was introduced with new guidelines published in March 2014. The FD guidelines were considerably shortened compared to those describing FS and cooperation ambitions were much lower key. The change of name displays the lesser ambition; it is now a dialogue instead of a collaboration emphasizing communication instead of working together. These guidelines describe two FD aims: to make corporations’ provision of taxes and fees to be ‘right from the start’ and to address the need for increased and continuous communication between corporations and SKV.

Both parties can ask to start such cooperation but SKV decides if it will take place. It is underlined that both parties should see benefits with FD compared to the other ways SKV offers support to corporations. According to the guidelines for FD, a (big) change is that SKV cannot within FD demand material or information or make any other type of control such as those discussed as a way of working within FS.³⁹ Instead SKV may account for its risk assessment of the corporation through questions, and help and support the corporation in its internal work so it can provide the right tax information at the right time. SKV also promises to help reduce the uncertainty of which taxes should be paid by giving precise and quick replies to questions.

The guidelines also state that the aim with FD is not to change faulty historical decisions but that the work should be future directed. The corporation conduces to FD on its own initiative

³⁶ Interview 30.11.2015.

³⁷ Interview 28.4.2015.

³⁸ Interview 10.3.2014.

³⁹ Guidelines for FS were never finalized, but there is a report describing the way of working. It was never specified that SKV would have the right to demand information from the corporation, yet the FS way of working meant that ‘SKV had to acquire a broad knowledge about the corporation and its conditions’ (p. 10) and that the cooperation would be based on ‘openness and trust where both parties would contribute with knowledge and information’.

providing information about issues that might impact the possibility of fulfilling its tax-legal responsibility which includes asking questions on how to ameliorate its internal tax systems and routines. All questions and answers within FD should be documented, but although the answers ought to be relevant, they are not legally binding. There are also other, more specific questions that are part of other regulations (e.g. about transfer pricing) but those cannot be addressed within FD. Finally, it is stated that SKV's contact person can only be appointed for four years at the most. Both parties can end the cooperation at any time.

Yet the criticisms against such cooperations continued and no additional corporations have signed up since the launch of FD. As an illustration, the Confederation of Swedish Enterprise again commissioned law professors, in this case Ulf Bernitz and Jane Reichel, to make a similar examination of FD as had been made with FS.⁴⁰ Their report, published in June 2015, renews the critical stance towards cooperative compliance initiatives in Sweden.

The report concludes that SKV's new ways of working are different from the generally accepted public management model in Sweden. As the information exchanged between participating corporations and SKV is not subject to tax confidentiality (as ruled by the Supreme Administrative Court), this way of working ends up in an 'informal greyzone', not previously encountered in Swedish administrative law. It is suggested that FS cannot be categorized for a Swedish administrative authority in the usual triangulation of activities, between the actual administration of issues, case handling and the exercise of public authority towards subjects. The implication is that formal warranties of legal certainty are lacking. The proposed ways of working within FD would mean SKV departing from the traditional and ordinary roles of public authorities as stated in administrative law (Bernitz and Reichel 2015). Noteworthy is the provocative usage of 'informal' and 'greyzone'; wordings that are usually associated with tax avoidance and evasion.

The report thus also points out a number of other implications of FD that are not supported by the Swedish tradition of how public administrations work; it identified this method of cooperation as 'foreign'.

⁴⁰ The report also addressed SKV's cooperation with FAR/SRS, an initiative that according to information at a meeting with SKV on 23.1.2015 has been phased out.

As Daniel, one of SKV's contact persons pointed out:

FS worked well for a while until the tax confidentiality issue surged. SKV had not done its homework properly⁴¹ and especially had failed to clear the issue of what type of taxpayer information could be treated as confidential. We did not get the legal back-up that we should have had. In hindsight it would have been better if we had run a pilot on the project.

⁴¹ Interview 14.1.2016.

4 Ways of Working

This section describes the various stakeholders' views on how FS/FD work in practice. There are a handful of existing agreements in the FD cooperation arrangements (as of 2015),⁴² yet some of those are dormant in practice. Both YYY and ZZZ have agreements in place and a (short) history of participation. They have not agreed to be interviewed so their views on the cooperation derive solely from SKV's contact person(s). The only currently active agreement SKV has is with XXX, a large Swedish nationally owned company going through very specific structural change. The information about this sole cooperation is based on interviews with XXX's tax manager Kristian and with former or current contact persons at SKV.

4.1 What is the infrastructure/network for cooperations?

ZZZ is a cooperatively owned corporation. Its core business activity has a very long-term focus, which is why it wanted to participate in FS. ZZZ wanted SKV to take the initiative on the issues to be discussed. The original idea was to go through all types of taxes, one after another. There have consistently been three or four open issues and in total perhaps seven or eight have been discussed, handled and closed. The issues were usually shared at a general level and specific details were seldom addressed. ZZZ have agreed to almost all of SKV's proposals for solutions. Following a presentation from a specialist from the IT department, the accounting system was for example up for discussion. Another issue was the cooperative's shipping facility to which there are some very specific tax issues connected.

SKV and ZZZ decided from the start to have two proper meetings a year; one held before the summer vacation and the other before the annual closing of the accounts. Usually the attendees were SKV's one or two contact person(s) and one or two employees from ZZZ. At special presentations, such as when the accounting system was under discussion, other people attended. It was beneficial to discuss the corporation's situation in general terms, said SKV's contact person Carl, as you are then able to recognize issues that might pose problems in the future. You do not always know beforehand what issues can be problematic. What is done in practice is often different from what is proposed in policies and guidelines.

With the change from FS to FD, SKV is not allowed to propose issues for discussion and there are no longer any overarching issues. Cooperation with FD has thus ceased and ZZZ has instead chosen to pose its very specific questions through Dialogen, although these must now

⁴² There are in all five different agreements signed, yet in reality there is only one really active cooperation, that with XXX.

be stated in general terms, as information generated this way is not protected by the secrecy clause.

YYY is another corporation with whom this contact person has been involved. This cooperation has been very different and been pursued at a different pace. Through its CFO YYY has posed some very specific questions regarding for example transfer pricing and the restructuring of businesses. YYY said it wanted to signal some specific challenges it has and get them sorted out. Such questions are now part of Dialogen so that SKV can provide YYY with a written answer.

About four to six such questions have been on the table and on each issue five or six people have been involved during the 18 months the cooperation has been in place. For example Carl asked if the Tax Control Framework for YYY had been discussed. There were different opinions on the outcome and after the corporation has already stated their position in the annual return, SKV might have a different opinion. Such an issue would then have to go to court and of course would take more time. 'As far as I am concerned, the cooperation has worked well in both cases even if we have had different opinions on certain specific taxation issues. This is the way it should work,' says Carl.

The only really active participant in the FD initiative is XXX. It is government owned and faces unique and new tax questions given the extraordinary circumstances that will prevail for the coming 25–30 years. Kristian indicated that these are the two reasons for its participation in FD. Ownership does not have anything to do with these issues, he says, but being owned by the government makes for special attention to tax issues. 'We cannot engage in any tax-planning schemes or activities,' he said, 'even though we operate in a highly competitive global environment.'

The issues they discuss within FD are everything from large questions concerning huge amounts of money to petty deductions. According to Daniel, SKV's contact person, 'XXX, is a perfect fit' for FD. He has been involved in the development of FS/FD since its very beginning. XXX constantly faces new taxation issues that need to be addressed fairly quickly. If the FD cooperation had not existed it would have been a much larger workload for SKV. 'It is really a win-win situation' he says.

The corporation and SKV meet four times a year for about a day or two each time. Participants are Kristian and his assistant and from SKV Daniel. Prior to the meeting they agree an agenda. Sometimes specialists, such as tax advisors or technical experts from the corporation's side attend and provide input when a specific issue is discussed. Apart from the face-to-face meetings they are in contact on average once a week. Daniel shows me his diary where he has made an average of weekly entries. For 2015 the printout had one to two lines of entry for each

contact time and was four pages long. He uses about a quarter of his working time as a contact person for XXX. The questions are mostly quite simple and his answers are both oral and written. If the questions are more difficult, they become part of Dialogen and then someone else will reply often engaging with SKV's legal department. It is noteworthy that in the era of electronic messaging, SKV is still not allowed to reply on email due to tax confidentiality.

Daniel finds it strange that this type of cooperation is, through court decisions, regarded as counselling and that the information provided is not considered subject to tax confidentiality, as it more resembles (tax) rulings in advance (*förhandsbesked*).

XXX took a sceptic stance when the initiative was originally proposed, yet Kristian felt they had nothing to lose given the earlier questions put to SKV. It had previously taken SKV 26 months to respond to the five unique but characteristic questions for this corporation's specific situation and even so the responses given were not adequate enough to be translated into practice. 'What did we have to lose?' asked Kristian 'We had to try FD out.'

For XXX, new tax issues continually spring up, given the extraordinary circumstances and it has a very long-term commitment to the local community where it operates. There is a lot of 'new' knowledge needed for interpreting existing tax laws. The overarching questions for XXX regarding who will pay for what: the corporation, other corporations, the municipality, the state or private individuals? An appropriate question is whether the costs imposed are tax deductible. The result is that in the end it is Swedish society, in fact all other taxpayers, that pay. It is appropriate to ask what this does to tax compliance at large in society but it is not a direct subject for this report and ought to be addressed elsewhere.

The accumulation of new knowledge regarding these taxation questions, both at XXX and at SKV, is the most important issue for the corporation. If possible, Kristian would like to keep Daniel as contact person for much longer than the stipulated four years. 'The only good thing about changing the initiative from FS to FD was that now we can keep Daniel for six years. He served for two years under FS and with FD we could start all over again'. Otherwise the change to FD means longer response times for questions posed by the corporation, as Daniel as the contact person cannot personally sign responses to questions under FD.

This way of working has thus been very advantageous for the corporation for several reasons, says Kristian and concludes:

FD resolves issues much quicker. XXX had decided not to deduct costs before being certain that they were allowed to do so. Due to the special circumstances the corporation faces there were many costs that had never occurred previously; costs that could perhaps be deducted from the tax owed.

FD has given them access to more specialists, and thus knowledge, at SKV. ‘We have a much larger cooperation range’ says Kristian and adds that he spends much of his working time trying to figure out how new issues should be addressed. SKV has now more knowledge about XXX, which is deemed positive and in turn has made opportunities for other ways of working together.⁴³

XXX has not been subject to any audit control since 2008. This is a very positive result as an audit control requires and takes up a lot of resources. These audits previously took place every two-three years. However, not all issues can be resolved within FD. Currently, there is one issue that the corporation has decided to bring to court against SKV; they have agreed to disagree. Both parties are fine with this; that there are certain issues that have to be resolved outside the cooperation (or in the traditional way), says Kristian. ‘Without FD I would have dreaded the challenge we have.’

4.2 Why is this approach chosen?

The architecture of FD can be seen as a response to the large critique FS received. But as the activity level within FD has dwindled and it is admittedly an unsuccessful cooperative compliance project, it is appropriate to ask why the project is not closed. SKV seems hesitant and one contact person with dormant cooperations voiced the opinion that perhaps SKV’s Director General would close projects at his up-coming visit to a regional office. Yet it is still alive although perhaps not kicking.

Three reasons for its survival can be proposed.

First, it functions relatively well for XXX, where both parties see large efficiency synergies (as described above).

Second, there is a certain amount of both national and international prestige. SKV was too quick to launch FS and even most of its proponents agree that SKV should have been more careful in introducing the initiative. Perhaps the Confederation of Swedish Enterprise and other stakeholders in the Swedish tax arena should have been invited prior to its launch and participated in the drafting of how FS should be working? Legal issues should also have been more properly investigated before the launch. However, dismantling the project could be seen as losing face in both the national and international tax arenas. In Sweden SKV would have to demur on both an organizational and personal stakeholder level; internationally SKV would be seen as unable to keep pace with the progression of other OECD countries. The Dutch tax

⁴³ For example SKV visited in order to check that the identification of workers at construction sites worked properly.

administration has for example ‘marketed’ its project successfully at conferences and in OECD, EU and IOTA (Inter-European Organization of Tax Administration) contexts. Even among tax organizations there is a certain competition and no one wants to be seen to be left behind. The Swedish well-esteemed tax agency has to show that it is also on this bandwagon.

Third, it is difficult to close down a way of working that is seen as the future; one that corresponds to agency strategies and which is working in most other OECD countries. ‘When I get the question why [we should work with] FD I usually counter with ‘Why not? We cannot continue to just do audit controls. It is the future to work proactively. But the obstacle is the Swedish principle of public access,’⁴⁴ said Daniel.⁴⁵

The proponents of FD hope and work for legal changes addressing the secrecy issue. According to one interviewee there is probably some lobbying going on aiming to change the law in favour of protecting more information using the tax secrecy clause. The issue is currently at SKV (November 2016) after a failed proposal to the Riksdag to make changes in the law as to what is protected in public data registers.⁴⁶ The result of failed FS/FD is that many corporations have reverted to posing questions through Dialogen. Such questions are anonymous which means that SKV cannot connect issues with actual tax returns. ‘The only winners are the tax advisors,’ claimed Eva.⁴⁷

What type of information is subject, or not, to tax confidentiality is an issue that concerned much of SKV’s proactive work during the last decades. Having to return to the seemingly old-fashioned ways of tax audits as the only means of control would be very unfortunate, counterproductive and costly, say proponents of the changed law. This issue thus encompasses information collected not only from FD but also from other ways of working with taxpayers.

4.3 How are stakeholders engaged?

As described earlier, FS would start with an invitation by SKV to a chosen corporation’s board of directors or its top management. After initial meetings where expectations and preconditions would be discussed, the conversations would continue by agreeing on how and in which timescale the corporation’s tax handling and the minimization of risk would be addressed. The participating corporation and SKV would write and sign a declaration of intent. Although these declarations are not legally binding, the report argues that such a

⁴⁴ *Offentlighetsprincipen*.

⁴⁵ Interview 14.1.2016.

⁴⁶ *Dataregisterlagen*. According to interview 30.11.2015.

⁴⁷ Interview 30.11.2015.

written statement underscores the will and commitment⁴⁸ for both parties. Any of them can at any time end such a declaration.

The declaration of intent would be the start of the more practical work between the corporation's tax department and SKV's designated contact person. The cooperation can appear different depending on the declaration of intent, but SKV would always supply help, and support the corporation's aim to declare and pay the correct tax and fees. The practical work is mostly described as expectations.⁴⁹

FD is more modest in its description about the engagement; the existing cooperation started with FS. In the current guidelines (Skatteverket 2014), it is stated that either a corporation or SKV can make the proposal to start a cooperation (FD) but it is solely SKV that decides on the start, after joint consultation. A corporation can at any stage ask to end FD; if SKV proposes an end to such an agreement it has to be followed by a reason. The corporation would then have three weeks to respond to the reason. It is solely SKV that decides on the ending.

4.4 How do stakeholders resist?

Gustav, CFO at AAA, was one of the 25 signatories of the now infamous letter. He had even declined an invitation to participate and said that AAA had felt early on that this type of collaboration was not for them; at least not from the start. The relationship they have with SKV is described as good, although it is difficult when it comes to the legal aspects of tax (*skatterättslig*). SKV then changes societal roles and becomes counterparty. The legal aspects of the different roles SKV has to play are said to prevent corporations from participating and require attention.

It is not uncommon that court decisions are challenged with a changed result in many instances. As Jane, one CCC's tax managers said, 'about 30% of SKV's decisions are reversed if taken to court. This is a large proportion and SKV needs to be more perceptive about [how to respond to] issues before taking them to court'. This statement has to be seen in the context of SKV's changed strategies. FS was seen as yet another example where the legal consequences had not been properly investigated. As she said, 'FS could even conflict with constitutional law'.

CCC's other tax manager, Ivar, had a similar reasoning; they were reluctant to engage in FS as he visualised SKV making decisions without legal support. SKV strategies are increasingly

⁴⁸ Report 480-698289-10.

⁴⁹ This will not be addressed here as the suggested cooperation in practice came to naught and was reformulated.

based on values, not on law. What is the ‘right tax’ that SKV should focus on? He argued that ‘it is not only SKV that can decide what is the correct tax’.

CCC did not want to risk being challenged in court by SKV if their views on a specific issue should differ. Through FS, SKV would have acquired much previously unknown information about CCC. As SKV is seen as having the upper hand in making legal decisions that are not always based on the law, cooperating within FS posed just too much uncertainty for CCC. Therefore this corporation not even want to risk being challenged in court by SKV should their views on a specific issue differ. Following CCC’s argument, not everybody is equal before the law in Sweden. SKV has the upper hand.

Trust is built on getting adequate answers to our questions, explained Jane. She meant that SKV often has a good view on what is right and reasonable when it comes to specific questions. There are always new commercial sectors and new techniques for which tax aspects need to be addressed. These statements contradict their previous arguments. CCC seems to want to steer away any communication it has with SKV unless directly stipulated by law; if CCC’s taxation practices are challenged it should be through working ways they know, e.g. control audits. ‘It is not only SKV that should have the goodies without listening to our concerns,’ concluded Jane.

Ivar said that he actually missed the audits; not for their own sake but as he sees it, it is the only way to thwart non-compliance among competitors. ‘Does SKV not have the resources [to perform audits anymore]’ he asked rhetorically. In addition he found working within FS time-consuming and questioned what all the knowledge amassed at SKV would be used for. All issues combined, he concluded that FS had not anything for CCC. Trust in SKV, described as a prerequisite for an enhanced relationship ways of working, was just not there.

BBB is a truly multi-international corporation. We work with cooperative compliance initiatives in many countries, says its tax manager, Helen; ‘with a handshake. We started collaborating within FS, but when the information that was up for discussion was not secret and could be made public, we ended the collaboration.’ The problem according to her is that SKV is afraid of creating their own precedents; it wants everything to be decided by courts.

The arguments against participating in FS offered by the few corporations that participated in these interviews could be easily seen as contradictory. On the one hand, CCC proposes that SKV often has a good view on what is right, and is reasonable when it comes to specific questions; on the other hand SKV is seen as making decisions without support of the law. BBB works with a handshake in many countries, yet it complains that SKV does not confirm oral advices in writing.

Overall, reluctance towards FS seems to be a lack of trust in SKV's decision-making process. Would SKV's decisions hold up in court? This is supported by the legal uncertainties within this way of working. This pronounced itself clearly when the court decision on information disclosed in FS/FD was seen as counselling and would therefore not be confidential but available to the public. This was also the reason for why SKV's cooperation with ZZZ and YYY has petered out. There is just too much at risk when information can be disclosed to competitors or to anyone else.

4.5 How do different stakeholders perceive the collaboration/cooperation?

At SKV there are both proponents and sceptics of FS/FD. Their opinions were voiced in numerous intranet articles about FS, especially published around its launch and following the development of FS into FD. *Intranätet* is the internal news feed for employees, it is not public, but is a good insight into discussions taking place inside SKV. *Intranätet* newsbits are written in a fairly informal manner with the aim of informing about work performed, anticipated changes in work at SKV and comments to media events where SKV figures. The text is often adorned with pictures of employees at work or in meetings, or with official portraits of persons figuring in the article.

Chronologically, the articles addressing the cooperative compliance initiatives start out by depicting the working activities with the FS project, describing how it is transferred to 'production' and the ensuing launch. It is a newsfeed both describing the development and providing counterarguments as well as corrections to criticisms posed in public media. One article depicts a meeting between SKV and employees from the Dutch tax agency working with Horizontal Monitoring; it is referred to as the cooperation project. Another comments on some of the criticism voiced by the Confederation of Swedish Enterprise especially. A third article mentions the letter described earlier stating that 'a number of Swedish corporations do not want to cooperate'.⁵⁰ Six months later it is reported that 13 corporations are engaged in discussions about FS and at least three of these show great interest in this type of cooperation although in very different ways.⁵¹ This particular article is somewhat triumphant in the way it conveys the message, ending with 'I am sure that our region is ready for this challenge'. Positive news about FS was also reported by a local SKV employee a.k.a as a contact person to one participating corporation. The article describes issues that have already been handled and

⁵⁰ Interview 13.9.2011.

⁵¹ Interview 3.7.2012.

the practical work within FS.⁵² Another article commented on Pålsson's very critical report on FS (2012a) and noted *Storföretagregionens* manager's response in the media to errors in the report.⁵³ It corrected the false view that had been voiced in public media that within FS SKV could offer tax exemption retrospectively, which is contrary to the principle of equal treatment.⁵⁴

Yet views among SKV employees on the FS/FD cooperation are divided.⁵⁵ 'I could not see this aggressive resistance coming,' said one of the project leaders. 'What we aim to do is to correct tax errors; errors that are often interpreted as cheating. This was not at all the intention with FS.'

There seems to be fairly widespread reluctance, although not publicly stated, towards the initiative. Although those working directly with FS/FD are positive, they also confirm the existing hesitation in interviews. There are several reasons. One concern is regarding what role SKV will have when it acts both as an arbiter and a consultant. Another concern poses the question of what will be the changing societal role of tax agency which is engaged in cooperation like FD with taxpayers; what will this do to the trust in SKV and to tax compliance in general?⁵⁶

A third opinion questioned the competence of auditors at SKV. Such disbeliefs were for example voiced in an article entitled *Mys med storföretagen*, 'Embrace the large corporations'. The reporting employee participated in an internal training session on communication skills and as he was involved in FS, he chose this subject as one of his presentation tasks on the course. In the ensuing discussions, one of the course leaders related to the project in terms of 'snuggling'. This somewhat humorous remark was said to reflect a fairly widespread view among SKV employees that the bureaucracy risked being subject to ridicule in such collaborations. Cooperative compliance initiatives provide a way for corporations to deceive SKV. However, the article is loyal to FS in its conclusion. It was argued that the possibility to deceive is much greater in regular audit controls and corporations that aim 'to deceive us', will not even engage in FS.

⁵² Interview 4.11.2013.

⁵³ Interview 18.4.2013.

⁵⁴ 'Principen om likabehandling' (2011:12) does not exist in the Swedish Courts' glossary.

⁵⁵ These opinions have been voiced in numerous discussions with other SKV employees and are not part of the formal interviews.

⁵⁶ Explorative interview with a SKV analyst 2013.

5 Concepts to Consider for a (Failed) Cooperative Compliance Project

The Swedish case shows hard resistance from some actors against cooperative compliance initiatives. The initial debate offered a plethora of arguments for and against the project in general, and more specifically against the proposed Swedish variety, first against FS, later transformed into FD. There are many things to learn at various levels from the apparent failure of the Swedish experience with such initiatives.

This report has so far described SKV's internal work preparing and launching the initiative. It has followed the unfolding of the media debate concerning FS and introduced the main stakeholders and reported on how the few engaged cooperations, FD, worked out in practice. There have been other events, organized both by academics⁵⁷ and by the Confederation of Swedish Enterprise. These however neither change the casting of who played the major parts in the failure of the Swedish experience, nor what issues were important, nor the arguments used for and against it/them (if we consider FS/FD two sides of the same coin). The initiative has also been discussed in several articles in *Skattenytt*, a leading journal for tax-legal scholars (cf. Kristoffersson 2014; Pålsson 2012b; Sörensson 2011). The merits of the resistance strategy will not be discussed here; instead in the following I will hone in on aspects that need to be addressed for the successful – or poor – implementation of cooperative compliance initiatives learning from the Swedish experience.

There are thus a number of arguments and issues that have escalated in articles, reports and other documents and also in interviews and discussions with various stakeholders. Sometimes these arguments appear alone, but most often are they supported by selected legal decisions and/or arguments; hard-core facts that are seldom disputable. The arguments are used in different set-ups which support the importance of observing the eight aspects I propose below, learning from the Swedish case. The empirical content of these aspects thus overlap by definition.

These aspects are important to consider if implementing a successful cooperative compliance initiative.

- confidential information – tax confidentiality
- legal culture
- unfairness (competition and legal equality)

⁵⁷ e.g. a one-day seminar 14.6.2014, at *Gävle Högskola* organized by Professors of Law Eleonor Kristoffersson and Börje Leidhammar (Kristoffersson 2014).

- societal roles and trust
- ways of working
- competence
- benefits for all involved
- project launch.

A more thorough discussion engaging with existing research on such initiatives and the proposed aspects' universal applicability will be discussed elsewhere. It is however suggested that these issues boil down to matters of trust, or rather distrust, in the relationship between SKV and large corporations. And perhaps it is the lack of trust in the first place, the very essence of relationships within cooperative compliance ways of working (OECD 2008, 2013), that rendered the Swedish case a failure?

5.1 Legal considerations

What has emerged as the most problematic issue within cooperative compliance initiative such as FS or FD is the legal status of documents regarding secrecy within the Swedish legal system.

Sweden poses a somewhat particular case concerning access to public records. Since 1766, with the first Freedom of the Press Act, it is stated that secrecy constitutes a restriction of public access to official documents (Hambre 2015, 122); 'public access is the main rule and secrecy is the exception' (ibid., 129). Yet there are instances when secrecy is needed for the protection of individuals and organizations. Taxation is one of these issues. Accordingly only decisions taken at SKV and documented in official documents are made public (ibid., 152);⁵⁸ for example decisions regarding annual tax returns. The key issue here is thus the transformation of any document into an official document under the Freedom of the Press Act. Note that documents encompass almost any matter that can provide information: written, pictorial, maps, drawing, recordings, films, etc.

Of all legal issues is the confidentiality argument the most pertinent and has been most discussed in the debate and used by critics of FS. The first case was not initially aimed at FS, but was a test of what type of information exchanged between the tax administration and taxpayers was protected by the confidentiality clause.⁵⁹ The case was tried in various courts.⁶⁰ Judges in the first instance, *Kammarrätten*, were not unanimous, as one of the judges

⁵⁸ Please see Hambre 2015, chap. 3 for a full discussion on the legal reasoning.

⁵⁹ Interview 14.1.2016.

⁶⁰ e.g. decision *Kammarrätten i Stockholm*. Mål nr 554-13.

considered such information of concern to an individual's tax affairs. From this view the issue should be seen as part of SKV's taxation work and therefore be encompassed by absolute secrecy. The court ruled that it was up to SKV to decide if there are other concerns preventing this information from being made public. This decision was raised in 2013 in the Supreme Administrative Court,⁶¹ *Högsta förvaltningsdomstolen*, which ruled that the documents produced within the auspice of FS could not be considered part of what should be protected by secrecy. This way of working, regardless of SKV's intention to make annual statements more correct, is instead seen as counselling. Information about who participates in FS and what the discussions address can thus be disclosed if requested.

The legal objections regarding tax confidentiality are those that stand against the continuation of FD in Sweden. There are thorough discussions of the legal intricacies (e.g. Bernitz and Reichel 2015; Hambre 2015; Kristoffersson 2014; Pålsson 2012a), but the main objections have been emphasized above. Yet there are ways to work around the secrecy. XXX described how they now pose questions through Dialogen in more general terms and perhaps supplement these questions with more informal discussions on the phone. From the opposite perspective it is valid to ask if cooperative compliance is not intended for a legal system like the Swedish one, which is built on the transparency of most taxation details?

But I argue that there are also other reasonings, just as strong and important for opponents of FS/FD. On their own, they have perhaps not so much clout but they underlie the trajectory that cooperative compliance projects have taken in Sweden. Tax confidentiality is the most pertinent issue right now, but there is more to the legal discussions and decisions on specific cases.

The experience from FS/FD also shows how different actors choose to relate to tax law. As Lars, a legal expert at the Confederation of Swedish Enterprise, argued:

We all ought to follow the law and it is above everything. The state makes certain claims on us and we all need to follow them. Then there are those who want to do more, like sorting waste. Some are exceptionally proper [in their treatment of waste] but it is not what the law says. When society changes, like it has done with sorting waste, then we have to change the laws. Like the tax law.

According to his view, SKV should not require more information or more work of taxpayers than what has been stated by law and enforced during decades. To get a cooperative compliance initiative to work successfully, the proper way to go is first to work for legal changes coming from parliament and then implement these ways of workings.

⁶¹ HFD 2013 ref 48.

The secrecy issue has been attempted to be addressed at several instances and is currently (November 2016) back at SKV's legal department. Otherwise, according to one contact person, SKV has to reconsider its entire communication strategies; these do not seem sustainable given the above court decisions. Yet, at SKV the view is that there is of course the application of tax law but in meeting the taxpayer there is much room for manoeuvre, which SKV uses to fulfil the governmental requirement of being more serviceable as well as treating taxpayers with respect and understanding, etc.⁶² SKV thus proposed a change of law making more information exchanged between taxpayers and SKV to be treated as confidential. It was suggested that such information should be included in *beskattningsdatabasen* (Skatteverket 2015, 39), the database that contains taxation information that is not public. It was included in a larger proposal of changes regarding public storage of data.⁶³ The proposed change was criticized by various societal institutions; for example did the Confederation for Swedish Enterprise (2015) argue that the proposed change was a slippery slope for making almost any tax-related issue confidential. The proposal was denied following widespread criticism.

5.2 Unequal treatment and unfair competition

Information exchanged in FS/FD is thus seen as a counselling practice and is not considered part of tax confidentiality under current laws. This is crucial for what is kept public and what is private. But the reason given for the issue brought to court was that one taxpayer had asked for such information, arguing that other taxpayers, engaged in FS, had had more advantageous decisions regarding VAT levels. The results were that the former had lost customers. Not only the issue of fair competition is at stake; these court decisions bring us to the issue of unequal treatment of taxpayers.

The implication of this critique is that not all taxpayers would be treated equally before the law, which goes against the constitution and also against values held in Swedish society. A related issue against FS/FD is *gräddfil*, a VIP lane for certain taxpayers.⁶⁴ Participants in FS/FD would get different – better – treatment that is not consistent with Swedish administrative law or practice. The problem of equality before the law rose, which is also

⁶² Interview 30.11.2015.

⁶³ What information can be publicly stored about citizens and how such data should be handled was recently subject to a large public review (SOU 2015). There are many laws that govern this area, which covers many diverse societal sectors, and its legal status was deemed complex and diffuse. The proposal was taken back after criticism from various public actors and a new proposed change is being prepared by SKV's legal department and will eventually be presented to the Swedish riksdag.

⁶⁴ Interview 14.1.2016.

appalling from the perspective of free competition, meant Marianne.⁶⁵ Corporations cannot compete on equal terms if they are subject to different legal treatment. A parallel initiative comparative to FS (and also initiated by SKV) was cooperation with the organization for authorized tax advisors, FAR/SRS. In this initiative, corporations using the services of FAR/SRS tax advisors would be exempt from certain types of audit. It was argued that this way of working would primarily benefit larger corporations.⁶⁶ The FS/FD initiatives provide another case for criticism of favouring larger corporations in Swedish society.

The counter-argument from SKV is that different taxpayers have to be met in different ways. FS/FD would just continue the long tradition SKV has developed; for example by providing different types of information material for various categories of taxpayers (in different languages, written in easily accessible language, etc.) and arranging information meetings for various types of taxpayers, e.g. small and medium-sized enterprises and the self-employed. This is an adaptation of SKV's insight that taxpayers are different and therefore have various needs. Not everybody has the capability to adequately pose tax-related questions for example.

That FS/FD made it possible to make agreements behind closed doors is one of the largest problems according to Niklas. Many decisions would be made in smaller meetings with a potential risk of accusations of cronyism and what has been referred to as sweetheart deals (*vänskapskorruption*). It was argued that professional integrity might be challenged when contacts are frequent and although all stakeholders agree that Sweden does not have a culture of monetary reimbursement corruption, there can be an issue of revolving doors between opposing tax institutions in society. It was also mentioned that SKV does not pay well and a contact person can build up a relation with the corporation s/he handles. Could a corporation be, more or less intentionally, treated more leniently in the tax audit handling if a better-paid job in the corporate sector was available? Although the contact person would be changed every four years, it does not resolve the concern about sweetheart deals.

Inequality and unfairness are thus issues that are accentuated by these three critiques.

5.3 Societal roles

Compared to many other nations, we in Sweden have well-defined roles between authorities and the private sector.⁶⁷ I think many other countries would love to have similar relations. The Netherlands for example, where the first attempts at Horizontal

⁶⁵ The membership clause was later changed to having a certification from FAR/SRS. See note 33.

⁶⁶ Interview 16.3.2015.

⁶⁷ Interview 16.3.2015.

Monitoring were made, has a culture of negotiation. They are an old trading nation and in the Netherlands a corporation negotiates with the tax administration as to how much tax should be paid. You get to know each other by giving and taking. Denmark [the Danish Tax Authority] has also tried this with three different corporations, each with diverse results. They apparently thought there was too much room for arbitrary decisions. (Lars)

It was not only the confederation that took a somewhat conservative view of different actors' roles and responsibilities on the tax arena in Swedish society. As we saw above, SKV employees also stated diverse concerns with SKV's role in society as both arbiter and adversary in such cooperations but were also concerned about the possibility of being cheated when audit controls were exceeded. FS is a variety of the OECD's proposed modern ways of working of co-producing, thus resulting in slight changes to stakeholders' traditional roles.

SKV should 'not be a buddy' as Pålsson stated in a media article. SKV and the taxpayer should instead retain their more separate and explicit roles on taxation issues. 'We have different roles in society; diverse interests, tasks, capabilities and responsibilities. We cannot blend roles and responsibilities in a big cuddle box'⁶⁸ said Niklas. Roles teased out over centuries by different societal institutions are important.

There are two issues at stake here. First, there were several taxpayers who spoke about the necessity to get 'the right person' at SKV. The right person is a knowledgeable employee; someone who is knowledgeable both about the issue at stake (e.g. VAT issues) but also about the corporation in question. Is the real issue here the concern to have these issues written out in policies and guidelines?

Second, it is doubtful that anyone participating in this debate wishes for a return to the times when SKV controlled and collected tax without much nuance in its practices. But is the implication also to retain the old-fashioned role of corporations as profit-making entities which sole purpose is to maximize profit and continue to hold down costs, of which one is taxes? Or should they continue to take on a more responsible role in society, as several tax managers said their corporations do? There has been a change over the last ten years in tax planning activities. Society around us is changing and so is the view on what is sustainable and fair taxation.

SKV thus awaits the legal solution so it can address the trust issue – or rather the lack of it. As the FD project leader said: 'This project addresses trust issues between SKV and large corporations. The project is there, but the tax confidentiality issue stands in the way. There

⁶⁸ Interview 24.3.2015.

are corporations who actually think positively about such cooperation however it is difficult in these circumstances to invite other corporations to FD.’

5.4 Unclear ways of working

The ways of working both within FS and FD are deemed unclear. SKV has efficiency goals to live up to and has to show results from the internal projects it undertakes. It was argued that it might then be easy to go after the low-hanging fruit and miss the more elaborate tax planning schemes. For example any audit only has so much allocated time, and SKV has to both collect the money and show that it has spent the time on the right issue; all according to the agenda of New Public Management. Lars argued that it was better for SKV to retain working with audits instead of these modern, so-called efficiency-creating cooperations. ‘We would prefer that they perform more of the old-fashioned audits to catch the real crooks.’

That cooperative compliance works well regarding different stakeholders in other countries can also be explained by ‘legal cultures’ (Sörensson 2011). He does not provide an exact definition of what legal culture is but I interpret it to encompass established praxis from interpretation of the law governing the relationship between all stakeholders. To what extent are taxpayers responsible for assessing the amount of taxes it should pay and the information it should provide? What is the national administrative tradition concerning these issues? In Sweden, where taxpayers already provide large amounts of information and where openness, proportionality and objectivity (three of the five issues stated in the OECD requirements for Enhanced Relationships) are regulated by law, Sörensson questions whether perhaps FS will be too much of an administrative burden. Reporting information in real time will require an increased workload that is not offset by fewer audit controls.

How much extra workload would the cooperative compliance initiative put on corporations? Would we do the work of SKV? asked several of the non-participating corporations. Does SKV aim to make corporations to do the work themselves; does SKV outsource the audit control? This stance suggests a view on tax compliance that if we just continue talking and keeping the discussion alive, things will be all right.⁶⁹ The implication for corporations is that it is nice to travel in the priority lane, as you are then considered as one of the good guys. Yet this provides for much criticism from non-participants; once admitted to the priority lane you could engage in all sorts of schemes that would have risked being detected in regular audit controls.

⁶⁹ Interview 16.3.2015.

Yet participation in FS did not exclude the corporation from being part of the Common Risk Evaluation⁷⁰ carried out at SKV. Thus any corporation could still be subject to audit – which however can be questioned, based on XXX’s favourable experience of not being subject to audit during participation in FS and then in FD. There is of course no proven causality, but XXX’s previous experience was in audits with a few years in between. Yet as Carl stated this is the whole purpose with FD: ‘We know the corporations better and thus know better when to audit them’.

5.5 Competence

The FS initiative was deemed naive from a legal, practical and policy perspective, noted all critical stakeholders. The reasoning went along the lines of how can one of SKV’s tax auditors help and/or teach a big corporation to ameliorate its extremely complex accounting system with regards to reporting and paying the ‘right tax’? SKV employees are helpful and friendly and this goes well with private citizens, qua taxpayers. When it comes to the more detailed, in-depth knowledge about complicated tax matters the issue is different. ‘SKV’s auditors fresh from university do not have the knowledge needed,’ proposed Marianne. This criticism seems somewhat unfounded. The contact persons at SKV are selected for their experience and communication capabilities; Carl suggested on the contrary ‘his’ corporation had adopted several of SKV’s proposals. The contact person is also *the* contact; it is not s/he who decides but instead forwards questions to specialists within SKV. What was missing in this simplified critique was not that SKV would solve all complicated tax issues but rather would help to identify those issues that make taxation in Sweden unnecessarily cumbersome. For example helping corporations to be timely in the manifold reporting deadlines or identify why certain errors are made repetitiously.

Antagonists to FS/FD also argued that these initiatives were a way for SKV’s relatively underpaid and inexperienced tax auditors to learn more about actual taxation practices; the same critique is also expressed as a reason for why SKV should not involve themselves in cooperative compliance initiatives! This is also where the largest corporations are able to negotiate advantages compared to the smaller ones that do not possess the same knowledge/clout – thus again a competitive issue.

⁷⁰ *Allmänna riskvärderingen.*

5.6 Benefits for all involved

We just do not see the benefits of being involved in a cooperative compliance initiative said representatives for the corporations.

Perhaps the Swedish cooperative compliance initiative did not address problems perceived by the corporations? Similarly, the Dutch version was created as a response to complaints by corporations; about the level of service and the numbers of decisive responses to questions posed by corporations (de Leeuw 2010; Sörensson 2011). In Denmark the Tax Governance project seems to work well resolving issues as they occur (Boll forthcoming; Elkjaer et al. 2013). In the Swedish case, it was SKV that was proactive and SKV was seen to be the main beneficiary of such a cooperation: learning more about contemporary tax planning, transferring certain of its workload to the corporations, thus increasing the taxation workload for corporations. For the corporations it was an initial investment of time and resources for which it was difficult to envision the ‘pay-back’. XXX received many benefits from this cooperation and Kristian, its tax manager, is thus very favourable towards FD.

5.7 Launch of project

It is important to launch a cooperative compliance initiative carefully. That this one was launched too quickly was almost unanimously agreed, yet the reasoning differed. Projects gone astray have often many different reasons.

In hindsight there seems to be consensus that the introduction of FS went too quickly and was somewhat sloppily executed.⁷¹ SKV was keen, like other internal revenue bodies, to implement cooperative compliance ways of working and as Anna said, ‘we did not get the proper attention we ought to have had from the legal department’; others suggested that the Department for Large Corporations just went too quickly in introducing FS, not paying enough attention to the legal checks although the report describing FS stated that it had been secured by SKV’s legal department.⁷² Perhaps SKV ought to have acted a little more cautiously, starting with a pilot project inviting just a very few corporations. There have also been several opinions voiced that SKV should perhaps have invited the Confederation of Swedish Enterprise and tax advisors to discuss the initiatives so that the ideas might have been supported by stakeholders? Perhaps the communication should have been more streamlined? FS was introduced as killing several birds with one stone.

⁷¹ Stated in a number of interviews by SKV employees.

⁷² Report 480-698289-10.

The legal issues should have been more thoroughly investigated by SKV's legal department and perhaps even been tried in court as now it is the legal issues that stand in its way. There should perhaps have been a working group involving various stakeholders teasing out the initiative. Another mistake was that when SKV launched FS it had not detailed the precise ways of working. The proposed guidelines stated that ways of working would be decided in cooperation with participating corporations. In the initial launch several issues were poorly described, such as that SKV promised that participating corporations would be excluded from audits and the like. This SKV can never do⁷³ and this criticism was well founded. The hurry can also be illustrated by three SKV documents where arguments did not align with each other: a media article, an internal report and an SKV presentation for the corporations at four information meetings. The contradictions in these three documents made FS an easy target for adversaries of the very idea of more cooperation between corporate taxpayers and SKV in Sweden.

After the first seminar held by SKV for corporations, quite a few of them raised concerns. The Confederation of Swedish Enterprises has regular meetings with SKV, but also regular meetings in what they refer to as *Storföretagsgruppen*, the group for large corporations. 'Do we dare to say no?' asked members of this group. SKV has all the power but if we say no, collectively, we will not even be able to respond to the question⁷⁴ that would automatically avoid us being put in the group of risky taxpayers. There were many mixed opinions among those signing the letter, received on 6 July 2011 by SKV. The opinions ranged from those seeing the initiative as inappropriate, to those who were very, very sceptical. The writing of this letter mirrored the diverse opinions. SKV tried to correct the numerous criticisms voiced against FS with the relaunch of FD but the damage was already done. 'We just do not see the difference between FS and FD,' said Ivar, yet as we know there are several.

⁷³ Interview 12.10.2015.

⁷⁴ Representatives of some corporations said that it was the Confederation of Swedish Enterprises who suggested the drafting of a collective letter.

6 Conclusion

This report outlines the Swedish cooperative compliance project *Fördjupad samverkan* - FS (enhanced collaboration) introduced in 2011 and the modified initiative relaunched as *Fördjupad dialog* – FD (enhanced dialogue) in 2014. The report describes how SKV proposed an initiative that carried with it international success stories from similar projects, but in the Swedish version and context met with strong resistance and is now put on hold awaiting proposed changes in the law. This chronological trajectory teases out issues that impact tax compliance among large corporations but perhaps also among ordinary taxpayers in Swedish society.⁷⁵

The report suggests eight aspects from the Swedish case for consideration for successful implementation of a cooperative compliance initiative. These aspects seldom stand alone but are drawn upon in various combinations making criticism possible. A cooperative compliance initiative has to be in accordance with existing laws; and in the Swedish case especially is regarding confidential information. Fair market competition and legal equality has to be ensured. Stakeholders' societal roles stakeholders cannot be drastically changed. Ways of working have to be explained carefully. The initiative has to be based on relevant competence among both participating tax authority and taxpayer. Clear benefits for both taxpayers and tax administration have to be evident and recognized. Finally such an initiative must be well planned and carefully launched. Many of these follow the prerequisites for those who advocate cooperative compliance projects e.g. OECD and the Institute for Austrian and International Tax Law at Wirtschaftsuniversität Vienna.

We have seen how many reasons against FS/FD could also be viewed as reasons for. Having an assigned contact person at SKV could make sweetheart deals possible; yet corporations simultaneously expressed their need to have someone who 'knows' them. SKV was accused of bringing badly prepared legal cases to court; but on the other hand it could be a sign that SKV is not as high-handed as its opponents want to present it. SKV's employees were said to lack commercial awareness yet there was criticism of the claim that the introduction of FS/FD would make them learn more about 'taxation in practice'. These few examples indicate that there is more at play here than just rational arguments for or against the initiative.

Was it perhaps that the entire issue of working along cooperative compliance lines in Sweden was illegal? The question can be asked as the initiative is put on hold awaiting changes in the law. Following this unfolding of events, there were continuous and various

⁷⁵ The distrust from corporations is not necessarily to SKV's disadvantage. There are many citizens who distrust the largest corporations. This is not however a question for this project.

combinations of legal issues arguing against FS and then against FD. Yet as we have seen how the opponents articulated one issue after another to counter the proposed corrections, such counter-arguments could in turn be said to display signs of deeper distrust. However, I doubt that the explanation for the Swedish failure is as simple as one of general (mis)trust that governs the relation between large corporations and SKV. The trust issue needs to be explored in detail; for example if governance of the relationship between large corporations and SKV is structured in such a way that changes to it could lead to greater distrust. The result would then be the opposite of what cooperative compliance initiatives were supposed to address. The Swedish case provides rich material to engage with earlier research on cooperative compliance initiatives and more explicitly issues that impact on tax compliance. The insights proposed in this report thus raise several issues to be further developed into a more conceptual and theoretical framework as well as in comparison with other Northern European experiences in order for us to draw any conclusions as to whether cooperative compliance actually increases tax compliance.

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9 Project information

FairTax is a cross-disciplinary four year H2020 EU project aiming to produce recommendations on how fair and sustainable taxation and social policy reforms can increase the economic stability of EU member states, promoting economic equality and security, enhancing coordination and harmonisation of tax, social inclusion, environmental, legitimacy, and compliance measures, support deepening of the European Monetary Union, and expanding the EU's own resource revenue bases. Under the coordination of Umeå University (Sweden), comparative and international policy fiscal experts from eleven universities in six EU countries and three non-EU countries (Brazil, Canada and Norway) contribute to FairTax research.

Contact for information

Åsa Gunnarsson
Dr. Professor Tax Law, Coordinator
Forum for Studies on Law and Society
S-901 87 Umeå University
Sweden
+46 70 595 3019

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