Measuring treaty shopping exposure over time

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GLOB**TAX**GOV
A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING

erc
European Research Council
Established by the European Commission

Constructing a dataset on domestic law regimes

- Main source: EY Global Corporate Tax Guide

- Years: 2004 - 2021

- Overlap with ICTD Dataset: 58 countries (all years)

- Automatic extraction and categorization with R language

→ reproducibility

A. At a glance

Corporate Profits Tax Rate (%)	15
Capital Gains Tax Rate (%)	15
Branch Tax Rate (%)	15
Withholding Tax (%)	
Dividends	8
Interest	15
Royalties from Patents, Know-how, etc.	15
Rent	15
Technical Services	15
Management Services	15
Financial Services	15
Insurance Services	15
Participation in Management and Administration Bodies	15
Construction, Installation or Assembly Projects and their Supervision	15
Payments for Entertainment, Artistic or Sporting Events	15
Gambling Gains	15
Branch Remittance Tax	0
Net Operating Losses (Years)	
Carryback	0
Carryforward	3 *

* Taxpayers who invest in business projects worth over ALL1 billion can carry forward losses up to five consecutive years.
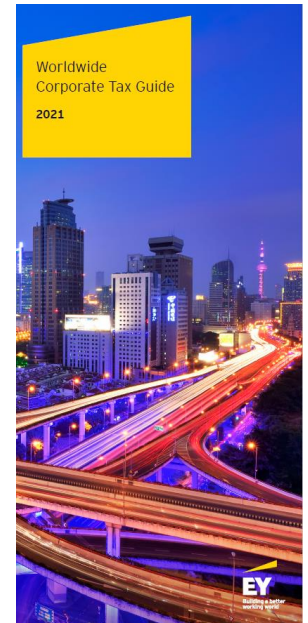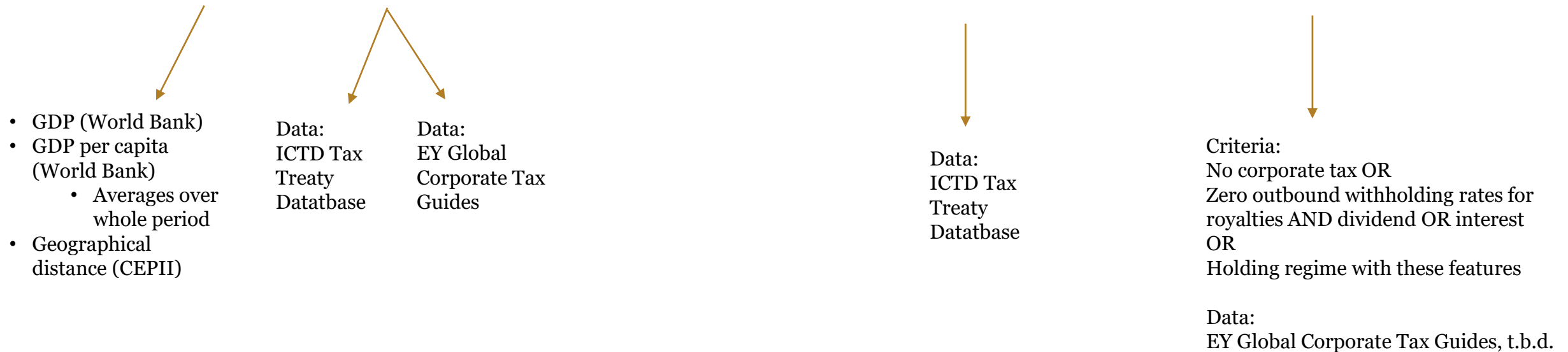
How to measure treaty shopping exposure?

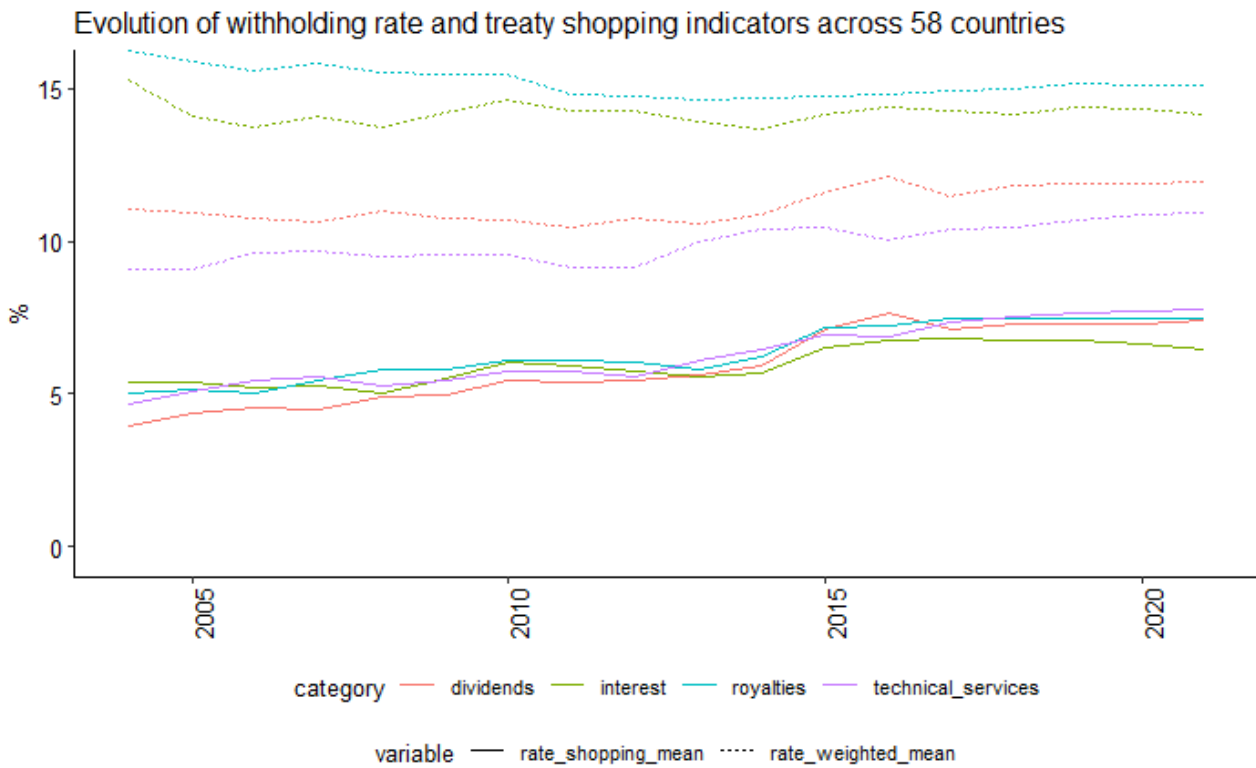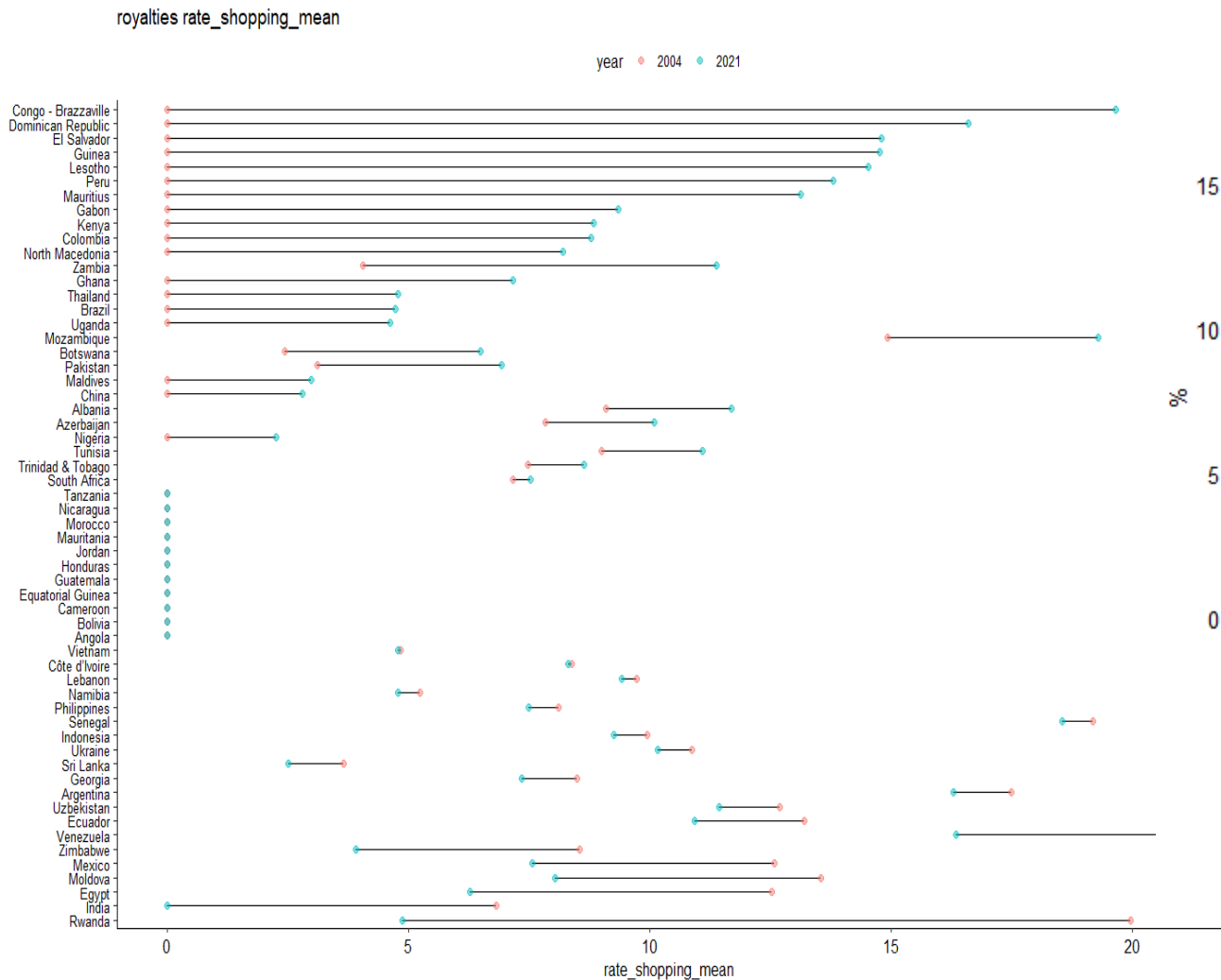For each type of withholding rate:

$$Exposure_{i,t,r} =$$

$$weighted\ mean\ rate\ across\ all\ residence\ jurisdictions_{i,t,r} - minimum\ rate\ for\ payments\ to\ conduit\ jurisdictions_{i,t,r}$$

- GDP (World Bank)
- GDP per capita (World Bank)
  - Averages over whole period
- Geographical distance (CEPII)

Data:
ICTD Tax Treaty Datatbase

Data:
EY Global Corporate Tax Guides

Data:
ICTD Tax Treaty Datatbase

Criteria:
No corporate tax OR
Zero outbound withholding rates for royalties AND dividend OR interest OR
Holding regime with these features

Data:
EY Global Corporate Tax Guides, t.b.d.

Why comparing exposure among countries and over time?

- Identifying how countries react to treaty shopping

- Impact of anti-treaty shopping clauses (PPT, LOB, domestic GAAR) on indirect investment into country (e.g. using SPE data)

  - Evolution of treaty shopping exposure over time important control variable

- Effectiveness of multilateral cooperation: Has the BEPS Project enabled countries to insert anti-treaty shopping clauses in treaties that expose country to treaty shopping?

- Tool for treaty negotiators to calculate impact on treaty shopping risk of potential new treaty

Intermediary results

royalties rate_shopping_mean

year ● 2004 ● 2021

Evolution of withholding rate and treaty shopping indicators across 58 countries

category — dividends — interest — royalties — technical_services

variable — rate_shopping_mean ⋯⋯ rate_weighted_mean

Challenges and open questions

- Data generation:
  - Residual categories (e.g. generic „payments to non-residents", „other payments")
  - Bilateral rates fixed through domestic rates (sometimes higher rates for payments to tax havens, sometimes lower rates for specifc countries, e.g. Senegal-France)
  - Relevant data on capital gains taxation cannot automatically be retrieved
  - Relevant data on conduit regimes
- Conceptual:
  - Do companies actually treaty shop for lower management/technical service fees?
  - Characteristics of tax regimes that can be used as conduits
  - Conduit jurisdictions: only considering those with zero outbound wth rates or also those with low rates?
  - Fungibility of flows (question of partial conduits)

Thank you!

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https://globtaxgov.weblog.leidenuniv.nl/

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