WHEN A BLACKLIST IS, UNFORTUNATELY, JUST THAT.

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"The current [corporate taxation] situation is especially harmful to low-income countries, depriving them of much-needed revenue to help them achieve higher economic growth, reduce poverty, and meet the 2030 Sustainable Development Goals"

-IMF Managing Director, Christine Lagarde

The Organization for Economic Co-operation and Development (OECD)[1] established the Global Forum on Transparency and Exchange of Information for Tax Purposes which now has 154 members and is recognized as the global tax policy authority. The mission of the OECD is to promote policies that will improve the economic and social well-being of people around the world.

Most recently, the OECD sought to address "Base erosion and profit shifting (BEPS) (which) refers to tax planning strategies that exploit gaps in the architecture of the international tax system to artificially shift profits to places where there is little or no economic activity or taxation" (also known as 'tax havens').

The BEPS framework seeks to ensure that profits are taxed where economic activities generating the profits are performed, and where value is created. Importantly, since 2009, "no jurisdiction is currently listed as an unco-operative tax haven by the Committee on Fiscal Affairs" of the OECD.

However, OECD Global Forum peer reviews as at March 2019 lists Anguilla, Sint Maarten, Turkey, Curacao, Ghana and Kazakhstan as "Partially Compliant", Marshall Islands as "Provisionally Partially Compliant", and only Trinidad and Tobago as "Non-Compliant", while the remainder are listed as "Provisionally Largely Compliant", "Largely Compliant", or "Compliant" with the OECD's requirements as the table on the next page shows.

[1]OECD's 36 Members - Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israël, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States

OVERALL OECD RATING FOLLOWING PEER REVIEWS AGAINST THE STANDARD OF EXCHANGE OF INFORMATION RATING AND EU BLACKLIST (AT MARCH 2019)

OECD Ratings based on First round of reviews	OECD Ratings based on Second round of reviews	OECD Overall Rating	EU Blacklist
China (People's Republic of), Colombia, Finland, Iceland, Korea, Lithuania, Mexico, Slovenia, South Africa, Sweden	Bahrain, Estonia, France, Guernsey, Ireland, Isle of Man, Italy, Jersey, Mauritius, Monaco, New Zealand, Norway, San Marino, Singapore	Compliant	
Albania, Argentina, Azerbaijan, Barbados, Belize, Botswana, British Virgin Islands, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Chile, Cook Islands, Cyprus, Czech Republic, El Salvador, Gabon, Georgia, Gibraltar, Greece, Grenada, Israel, Kenya, Latvia, Lesotho, Macao (China), Malaysia, Malta, Mauritania, Montse-rrat, Morocco, Nigeria, Niue, Pakistan, Poland, Portugal, Romania, Russia, Senegal, Slovak Republic, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Switzerland, Uganda, Uruguay	Aruba, Australia, Austria, The Bahamas, Belgium, Bermuda, Brazil, Canada, Cayman Islands, Denmark, Germany, Hong Kong (China), Hungary, India, Indonesia, Jamaica, Japan, Liechtenstein, Luxembourg, North Macedonia, Netherlands, Philippines, Qatar, Saint Kitts and Nevis, Spain, Turks and Caicos Islands, United Kingdom, United States	Largely Compliant	American Samoa*, Aruba, Barbados, Belize, Bermuda, Guam*, US Virgin Islands*
Andorra, Antigua and Barbuda, Costa Rica, Dominica, Dominican Republic, Guatemala, Federated States of Micronesia, Lebanon, Nauru, Panama, Samoa, United Arab Emirates, Vanuatu		Provisionally Largely Compliant	Dominica, Samoa, United Arab Emirates, Vanatu
Anguilla, Sint Maarten, Turkey	Curaçao, Ghana, Kazakhstan	Partially Compliant	
Marshall Islands		Provisionally Partially Compliant	Marshall Islands
Trinidad and Tobago		Non Compliant	Trinidad and Tobago
		Non Assessed by OECD	Fiji, Oman

*Unincorporated territory of the US which is "Largely Compliant" - not separately listed on the OECD list

Source: OECD, EU

THE EU ISSUES ITS OWN SEPARATE BLACKLIST

Enter the European Union (EU)[2] whose members are mostly also OECD members. As distinct from the OECD's Mission which is global in nature, the goals of the EU are specific to its Members only. The EU published its first blacklist of 17 countries in December 2017, and updated it in March 2019 to reflect 15 countries, including the OECD's "Largely Compliant" territories of Aruba, Barbados, Belize and Bermuda.

Additionally, 25 countries had been 'cleared' and "another 34 jurisdictions have already taken many positive steps to comply with the requirements under the EU listing process, but should complete this work by the end of 2019 to avoid being blacklisted next year."

The EU's separate 'listing' assessment considers not only whether the OECD's requirements are met, but goes further to include additional requirements, including: "The country should not... go against the principles of the EU's Code of Conduct."

The obvious question arises: Why should non-EU member countries be obligated to adhere to the EU Code of Conduct and other requirements in the first place, but especially when, as in the case of Aruba, Barbados, Belize, and Bermuda, they are already "Largely Compliant" with the OECD's requirements?

Furthermore, the OECD's BEPS framework effectively removes the incentive for any corporate entity to declare tax residency in a jurisdiction where it is unable to prove that its economic substance exists. So what more could the EU justifiably want?

Well, it appears the EU's concern is that its competitiveness as a place to do business is in jeopardy - and with good reason.

According to taxfoundation.org, corporate tax rates across the EU range from a low of 9% in Hungary to a high of 34.4% in France, with an overall average of 22.5% in the EU, which is higher than the global average of 21.4%.

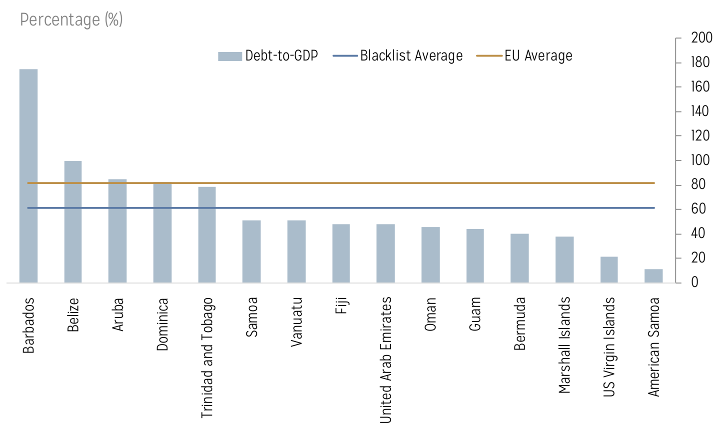
[2]The EU member countries are Austria, Italy, Belgium, Latvia, Bulgaria, Lithuania, Croatia, Luxembourg, Cyprus, Malta, Czechia, Netherlands, Denmark, Poland, Estonia, Portugal, Finland, Romania, France, Slovakia, Germany, Slovenia, Greece, Spain, Hungary, Sweden, Ireland, United Kingdom

This, despite a 2008 OECD study which found that corporate income taxes are the most harmful form of taxation for economic growth: "Countries with a lower corporate income tax are likely to grow faster and attract more investment and jobs than high-tax countries. Low corporate tax rates in Hungary, Ireland, and Lithuania can have a positive impact on these countries' economic growth."

And why are the EU's corporate taxes relatively higher on average? Well, by the end of 2017, EU countries in total had accumulated over EUR12.5 trillion in Government debt, equal to about 82% of EU GDP. The EU blacklisted countries, however, tell a different story.

The EU blacklisted countries on average carry Government debt at 61.3% of GDP - about 20 percentage points lower than the EU average, despite the EU having higher than average corporate tax rates.

Debt-to-GDP: Blacklisted Countries vs EU



Source: Eurostat, IMF, Government Ministries and Central Banks, Marla Dukharan

According to IMF data for 2018, General Government revenue reached 46% of GDP in the Euro Area, but only 26.8% in Emerging Market and Developing Economies, and 26% in Latin America and the Caribbean (which is where the majority of blacklisted countries are classified).

General Government total expenditure in 2018 reached 46.5% of GDP in the Euro area, 30.6% in Emerging Market and Developing Economies, and 31.5% in Latin America and the Caribbean.

So the EU is clearly concerned about collecting sufficient fiscal revenue not just to repay its relatively high Government debt, but to finance its high level of fiscal spending.

This pattern of spending suggests that the EU members have arguably adopted a certain ideology that supports high levels of Government spending on the provision of public services and benefits, financed by relatively high levels of taxation.

The EU members are well within their sovereign right to adopt such an ideology and to manage their economies in a manner that they see fit. Similarly, other countries are equally within their right to adopt a different ideology, which does not support high levels of Government spending, but which, in keeping with the OECD's 2008 findings, supports economic growth via lower corporate taxes in an effort to support private sector led growth and job creation.

The EU appears to be overstepping its bounds in attempting to indirectly influence (at least) the ideologies of Governments beyond its membership.

And finally, there is another possible explanation for the EU's departure from the OECD stance in blacklisting certain countries. The data suggest a particular commonality among the EU blacklisted countries which is too striking to be dismissed as mere coincidence, or to be ignored.

According to a 2017 article in the Politico, "There are close to 50 million people of a racial and ethnic minority background living in the EU - about 10% of the bloc's population." This means that the vast majority – about 90% - of the EU is, well, white. Furthermore, "the minority population directly employed by EU institutions (stands) at around 1%. The only major international institution in Brussels with a somewhat ethnically diverse staff is NATO: thanks to Turkey and the United States."

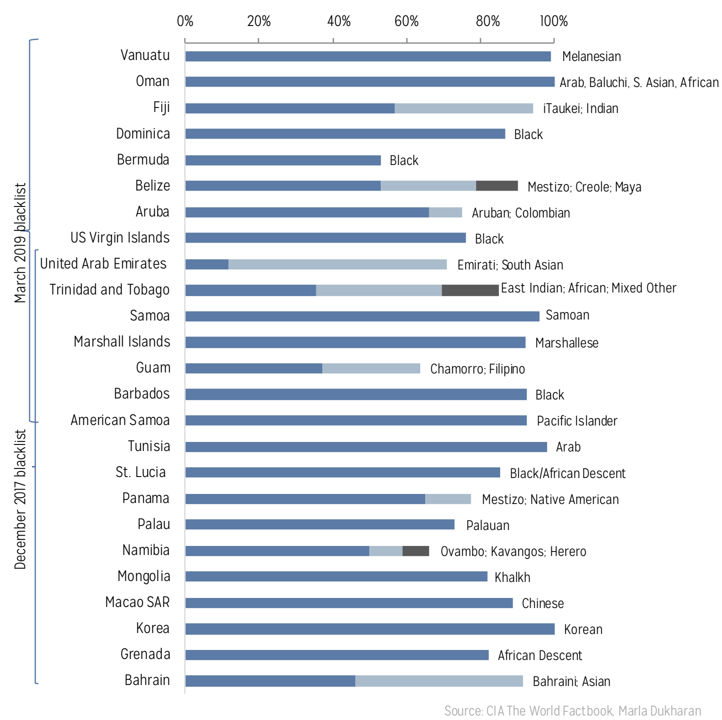
This means that at 1% of employees, minorities are under-represented in the governance and decision-making architecture of the EU, despite accounting for 10% of the population.

Now, let's look at the ethnic composition of the EU's blacklists:

Across both the December 2017 EU blacklist of 17 countries and the March 2019 EU blacklist of 15 countries, it's probably not necessary to point out that the population in EACH country is predominantly non-white.

Non-white Population: EU Blacklisted Countries

Percentage (%) by racial or ethnic category (as reported) labels left to right



Incidentally, EU blacklisted territories of US Virgin Islands, American Samoa and Guam are US "unincorporated territories", while Bermuda is an "overseas territory" of the UK, and Aruba is a "constituent country" of the Kingdom of The Netherlands. The USA, UK and The Netherlands are all listed as "Largely compliant" according to the OECD, and so are Aruba and Bermuda.

The EU blacklist has, however, omitted the USA's and UK's other low-tax territories, such as the US states of Delaware (69.2% Caucasian) and Nevada (68.1% Caucasian), and British Overseas Territory Gibraltar (Gibraltarian 79%, other British 13.2%). It's probably not necessary to point out that these US and UK / EU low-tax jurisdictions which were not blacklisted by the EU are, well, predominantly white.

And finally, on what basis could the EU possibly justify blacklisting Dominica, 18 months after she suffered an estimated USD1.3 billion or 224% of GDP in hurricane damage? Is Dominica even reasonably capable of complying with EU requirements at this time?

While a confluence of factors likely explains the EU's stance and more importantly, its departure from that of the OECD in creating its own blacklist (which includes some OECD "Largely compliant" jurisdictions) which carries the threat of sanctions, perhaps the EU could benefit from some collective introspection and self-examination to determine whether any unconscious biases could have possibly contributed to the blacklisting of 17 and then 15 countries, ALL of which are predominantly non-white.

Furthermore, rather than submit to political and economic pressure and comply with the arguably unreasonable (particularly for small, developing countries) demands of the EU, these blacklisted countries (especially Aruba, Barbados, Belize, Bermuda and Dominica) should collectively resist by using whatever diplomatic and legal recourse possible, through the OECD, OAS, Commonwealth, CARICOM or otherwise.

The statement issued by CARICOM is an appropriate initial response to the EU's pressure, but escalation to a higher authority, if the EU recognizes the OECD for example as such, could also be useful.

Indeed, the evidence presented here suggests that there may be reasonable grounds to argue that there was racial/ethnic discrimination in the compilation of the EU blacklist, as well as apparent attempted de facto interference in the domestic affairs of these countries.

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A clear and deep commitment to making a difference in the Caribbean is the driving force behind Marla Dukharan's career and work. Marla is recognized as a leading economist and thought-leader in the Caribbean, known for her insightful and frequent analysis on the regional implications of international events. She has taken a leading role in driving discussion, public policy formation and action, that foster gender equality, reduce income inequality, and promote new models of fiscal and economic resilience, to lead the region toward a more prosperous and sustainable future. Her resolve to play an active role in supporting solutions to the Caribbean's economic and social challenges led her to begin her series of change-inspiring webinars on key topics of regional importance, such as the need for legislated fiscal resilience frameworks, means to achieving sustainable growth, and defeating crime and corruption. Her monthly Caribbean Economic Report has become a critical piece for regional monitoring, and closely following risks, vulnerabilities and successes in top Caribbean economies.

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