Anatomy of the EU tax list: a case-study on EU external tax policy
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9 Conclusions and recommendations

9.1 Research summary

9.1.1 Problem statement and research question

As of 2017, the EU has been listing non-EU countries on the basis of their national corporate tax systems. The EU tax list represents a new kind of instrument, standing apart from national lists and the OECD's list on tax transparency. Its function is not limited to the application of national countermeasures, but it aims at re-shaping domestic corporate tax systems worldwide by compelling non-EU countries around the world to adhere to both OECD and EU standards on key aspects of international taxation, including tax regimes and zero taxation.

The list was initially driven by several motivations,[1] notably the desire to combat harmful tax competition globally – thereby reacting to numerous tax avoidance scandals within and outside the EU – while preserving the competitiveness of the EU's internal market. The EU has praised the list's achievements, portraying it as a global benchmark-setter (see Chapter 1).

However, this self-congratulatory stance contrasts sharply with widespread criticism from NGOs and media outlets, which have questioned the list's credibility and effectiveness. Academic discourse has echoed these concerns, though mostly through isolated remarks rather than a comprehensive analytical and theoretical framework that could understand the list's complex dynamics, empirically assess its efficacy, incorporate diverse stakeholders' perspectives (including those of developing countries), and address its shortcomings. Such a framework is essential to ultimately assess how and why the EU's current external tax policy came to be, which goals it is capable to achieve, and at which costs.

Against this background, this dissertation examines the EU tax list, evaluating its merits and weaknesses as a policy initiative towards non-EU countries. It addresses the main research question concerning the level of efficacy of the EU tax list, namely its capacity to achieve its predefined goals. The study explores the historical background and evolution of the EU tax list, and identifies its explicit and implicit objectives. It investigates the key actors and

1 As summarized in subsection 9.1.2 and more extensively analysed in Chapter 4.

influencers, as well as the interplay of power, influences, interests, and policy failures, that shaped the EU tax list's establishment.

The dissertation analyses the EU tax list's *modus operandi*, including its geographical scope, listing process, criteria, and deterrence mechanisms. It reflects on the technical strengths and limitations of the EU tax list, its connection with the OECD's work, and the tax reforms required of non-EU countries to comply with the list. Additionally, it addresses the political elements and perceptual aspects influencing the EU tax list, particularly listing decisions and deterrence.

By focusing on the perspectives of various stakeholders, including non-EU stakeholders such as the OECD and non-EU countries, the dissertation highlights the EU tax list's impact on national and international taxation, the compliance strategies and perception-based responses it triggers in non-EU countries, and the power dynamics between the EU and non-EU jurisdictions, with a focus on developing countries.

Empirical data were collected and analysed inductively, subsequently connected to a multi-theoretical framework inspired by a constructionist epistemology and directed towards EU and governance studies, law, political science, and sociology.

The dissertation ultimately assesses the EU tax list's level of efficacy in addressing harmful tax competition and tax avoidance while promoting international cooperation and protecting the EU market. Examining the goals of the EU tax list revealed its hybrid nature, the complexity of its definition, and how the contributions of multiple actors over its formation and evolution created divergent objectives, leading to policy incoherence. The dissertation explores whether balancing competitiveness and cooperation goals has affected the list's results, potential, image, and credibility.

9.1.2 Answering the research question: research findings

This section provides a brief summary of the research findings, structured around the dissertation's research question and sub-questions.

In relation to the main research question on the level of efficacy of the EU tax list, the dissertation identifies internal contradictions: most – if not all – components at once advance and undermine the list's stated objectives (Chapters 4-8). This undermines the list's policy coherence and, ultimately, its credibility, long-term results, potential, and EU's international tax relations.

This conclusion is reached through the analysis of this dissertation's research sub-questions, investigating the details of the list's *modus operandi*, governance, and goals.

An examination of the development and establishment of the EU tax list shows that a wide range of actors and interests shaped this policy project, producing a complex, contradictory tax instrument driven by multiple objectives.

Reflections on the geographical scope and listing procedure[2] highlighted the contradictory character of the EU tax list, showing how its coercive nature coexists with elements of cooperation. They emphasise the need of realigning the list's goals more consistently, to shape its features in a coherent and purposeful way (as suggested in section 9.2 below on policy recommendations).

Listing criteria support anti-tax avoidance – although fail to achieve it – and competitiveness goals, but conflict with development and cooperation objectives. Ultimately, the criteria align with the coercive nature of the EU tax list by imposing pre-fixed OECD and EU tax rules across the world without verifying their adaptability to countries' national economies, especially developing ones. Despite its intention to reinforce the OECD's work, the EU tax list paradoxically threatens to complicate the OECD's peer-review process and strain its relations with jurisdictions, particularly developing countries.[3]

The list's deterrent dynamics reinforce its coercive nature, undermining efforts for equal-footed dialogue. EU's interventions on countries' corporate tax systems are driven by coercion exerted on non-EU countries, leveraging their fear of reputational damage and the potential economic consequences of being blacklisted.[4] As later discussed, developing countries are the most exposed to this coercive pressure.[5] The reluctance of EU Member States to implement actual defensive measures has, for years, undermined the list's coordination objective; meanwhile, EU-level countermeasures may pose additional challenges for developing countries.

As highlighted by the compliance typology in Chapter 8, and consistent with earlier observations on deterrence, compliance is driven largely by fear of reputational damage and economic consequences of blacklisting, rather than genuine agreement with EU tax good governance. By imposing short compliance deadlines and reforms that overlook domestic socio-economic contexts, the list fosters expedient, 'tick-the-box' reforms rather than substantive measures. This undermines efforts to build a sustainable anti-tax avoidance culture and weakens long-term policy evaluation, ultimately jeopardising the list's anti-avoidance objective. Meanwhile, non-EU countries' views of the EU tax list as unfair and illegitimate strain international relations.

Regarding the list's diplomatic character, engagement with external jurisdictions inevitably introduces political influence and geopolitical considerations, carrying the risk of turning the list into a tool that benefits certain non-EU countries while straining relations with others.[6] In contrast with its cooperative

2 See Chapter 5.
3 See Chapter 6.
4 See Chapter 7.
5 See Chapter 8.
6 See especially Chapters 2, 6 and 8.

ambition, coercion disproportionately affects developing countries with limited geopolitical leverage, which face greater vulnerability and constrained capacity to implement reforms. This inevitable rise of political influence in the functioning of the EU tax list raises the broader question of whether it is an appropriate tool for regulating international taxation.

In conclusion, despite the stated aims of promoting compliance, cooperation, and dialogue in support of developmental goals and anti-tax avoidance while raising EU's competitiveness, this dissertation reveals the contradictory nature of the EU tax list and highlights its fundamentally coercive character. In the EU tax policy, blacklisting remains a coercive mechanism, distinct from compliance through socialization or persuasion. Its regulatory power has significant political and policy implications, while its results and potential are undermined by policy incoherence, limited technical soundness, perceived unfairness, and insufficient inclusivity in global governance. Although intended to discipline non-compliant states and curb harmful tax competition, its mission is compromised by internal inconsistencies, technical limitations, political preferences, and the marginalisation of vulnerable economies.

9.2 Policy recommendations

The research findings of the dissertation conclude that the EU tax list, in its current configuration, is a problematic policy tool. It has multiple objectives without clear prioritization, presents technical limitations, strains international relations on taxation, and is entangled in negative perceptions questioning its legitimacy, fairness, and credibility. This section aims to explore aspects of the list that should be improved and how, acknowledging the results achieved and working towards their enhancement.

The primary achievement of the EU tax list is its revitalization of multiple aspects of today's debate on international taxation. Firstly, it recognizes the need to continue combating international tax avoidance. Secondly, it motivates countries to change their national tax policies in favour of less harmful competitive strategies and more rules against tax avoidance. Thirdly, it revitalizes the question of the appropriateness of tax regimes and the options to make them less susceptible to tax abuse.[7] Nonetheless, the shortcomings of the EU tax list emerge when actualising the tools intended to reduce harmful tax competition and tax avoidance.

As explained throughout the dissertation and summarised in section 9.1, a significant weakness of the EU tax list lies in the variety of purposes it tries to achieve. This is an inevitable feature generated by the multiple actors and ideologies shaping its tax policy and the range of issues it addresses (harmful tax competition and tax avoidance, reawakening economic competitiveness

7 See Chapters 6 and 8.

of the EU internal market, and promoting international cooperation and dialogue).[8] This results in features of the EU tax list that both strengthen and hinder its objectives, generating policy incoherence. The most significant example is its geographical scope and how this policy choice affects other characteristics of the list, from the listing criteria to the listing process and the list's deterrence.[9]

By making a more precise choice on its policy objective, the EU could transform the tax list into a tool sharply targeting problematic countries (i.e., those statistically contributing the most to international tax avoidance at the expense of EU tax revenues) or into a tool of cooperation whose broad scope is aimed at changing countries' approach to tax policy through equal-footed cooperation and no coercion. If cooperative and development goals have priority, extending the geographical scope of the EU tax list could be reasonable, provided that dialogue with non-EU countries is conducted on equal footing, with equal bargaining power, full transparency, and resources invested in developing countries to implement tax standards suitable for combating tax abuse while fostering national socio-economic development (as later explained).

In contrast, if the priority of the EU tax list is to boost the EU economy and increase tax revenue collection within the EU internal market, the geographical scope should be limited to countries that play a crucial role in harmful tax competition to the detriment of the EU economy. This would allow EU's resources to focus on analysing and monitoring such countries, rather than being scattered among numerous jurisdictions, including those that do not pose a serious threat to the EU. While the current strategy on geographical scope may help the EU and Member States demonstrate the comprehensiveness of the EU tax policy on tax avoidance, it ultimately undermines its purposes by creating negative perceptions towards its policy tool and attempts at apparent, minimal, and reluctant compliance, defeating the aim of a sustainable long-term approach to international taxation. Additionally, the broad geographical scope challenges the proper employment of EU resources to evaluate countries' compliance and prevent the risk of whitewashing. A more focused approach could also give room to the EU to strengthen their technical standards, target tax avoidance strategies currently omitted (see Chapter 6), and reinforce standards' enforcement monitoring (as the mere implementation of standards is not necessarily indicative of effective anti-tax avoidance strategy; see Chapter 8). This approach should also be combined with more reasonable deadlines and reinforced enforcement of EU Member States' anti-tax abuse measures.

The idea of a blacklist should be abandoned towards developing countries. As explained in Chapter 3, the EU tax list distinguishes itself from Member

8 See Chapters 3 and 4
9 See Chapters 5, 6, and 7.

States' national tax blacklists by compelling non-EU countries to implement tax reforms and engaging with them through dialogue. This dialogue should be prioritized over coercion at least towards developing countries, to establish a more equitable discussion. Developing countries should be given the opportunity to raise concerns about EU-requested reforms in relation to their socio-economic situations, assess the economic advantages of their regimes, and refuse rollback if they can provide evidence of the regimes' benefits. If a regime is harmful and unbalanced due to the national loss of tax revenues versus its economic gain, developing countries should be granted more time to abolish the regime and replace it with a more suitable tax scheme that supports sustainable growth. The spirit of cooperation should encourage the EU to consult regional bodies experienced with the geopolitical, socio-economic, administrative, and budgetary needs of the emerging economies they represent. Besides sharing awareness and experience, involving regional bodies (such as the UNDP and ATAF in Africa, and but many more in any other developing region) in the dialogue between the EU and developing countries can support the latter in their anti-tax avoidance efforts. These bodies can facilitate dialogues among tax administrations, enhance technical assistance, help design, implement, and monitor tax incentives, support capacity-building initiatives focused on economic forecasting and policy analysis, and exchange best practices to strengthen tax policy design – all tailored to the needs of the countries they represent.[10]

These dynamics would be reinforced by involving developing countries and regional bodies early in the dialogue with the EU, particularly the COCG, to promote good governance and sustainable taxation, and by allowing the necessary time for reform. This approach would help move away from the EU tax list's current imposition of pre-fixed standards shaped by developed economies without the participation of developing countries, which may be unsuitable for their developmental needs and country-specific contexts. Finally, if this approach is used for developing countries, the EU should also ensure the use of an up-to-date definition of what constitutes a developing country, while allowing flexibility of the definition if circumstances require (e.g., natural disasters, political concerns).

The purpose of cooperation could be further extended to interactions at international fora. If the EU aims to constructively include developing countries in the fight against international tax avoidance, rather than forcing them to adopt OECD-oriented standards, it should promote their central involvement in international tax discussions. This could foster the participation of developing countries in forming and promoting anti-tax avoidance standards that are suitable for their economies and feasible to implement. This would promote a culture of responsibility, sustainability, inclusiveness, and commitment in

10 These recommendations have been discussed with the UNDP Africa and are currently include in a policy brief forthcoming under the UNDP.

taxation and related global governance. In practical terms, this could be achieved through multilateral and bilateral negotiations, emphasizing genuine engagement with developing countries' perspectives and forming political alliances to ensure their positions are included and respected in decision-making processes. This would enhance the credibility, sustainability, and effectiveness of the EU tax policy towards global tax reform.[11]

In another regard, section 9.1 summarised that political interference in the EU listing decisions has emerged from the research as a relevant, yet intrinsic, element of the EU tax list. This interference encourages perceptions of unfairness and EU-centric orientation of the EU tax list, especially among developing countries. The list's deterrence power exacerbates this issue, leaving politically weaker countries with no choice but to comply.[12] Given the diplomatic implications of a policy tool that deals with countries, political interference should not be omitted but rather acknowledged and addressed by the EU. In light of the empowering effect of the media, as shown by this dissertation, and the role of NGOs and the European Parliament in democratising EU tax policy,[13] increased transparency in the COCG's decision-making process could help control political interference. This transparency could make the COCG accountable to public scrutiny, including evaluations by stakeholders and the non-EU countries subject to its scrutiny. Furthermore, the inclusion of a third party for non-EU countries to appeal and object to COCG's decisions could enhance the credibility and accountability of the list while controlling political interference that undermines the anti-tax avoidance goal. This third party could function similarly to an ombudsman or a specialized court, particularly if the Council's decisions are compared to administrative acts.

These suggested strategies could enhance the EU's accountability through the two-fold approach previously mentioned, i.e. a stringent approach towards developed countries that have not implemented anti-tax avoidance standards; and a more cooperative approach, based on flexibility and adaptability, towards developing and small countries where pre-fixed tax standards could undermine economic growth, social goals, opportunities for economic diversification, and international competitiveness (if non-tax factors, such as inadequate infrastructure, prevent these countries from competing and attracting investments against developed countries).

Greater transparency could also address the current situation of double standards between the treatment of EU Member States and non-EU countries, which is partially true and partially subject to negative perception.[14] Transparency should not only refer to public disclosure of the COCG's and Council's

11 These recommendations have been discussed with the UNDP Africa and are currently include in a policy brief forthcoming under the UNDP.
12 See Chapter 8.
13 See Chapter 3.
14 See Chapter 6.

decisions regarding non-EU countries but also towards EU Member States. It should include increased public acknowledgment of the results achieved and not yet achieved in the fight against tax avoidance within the EU, such as the amount of artificial arrangements recognized and blocked, the tax revenues collected, the use of information received from non-EU countries, the preferential regimes eliminated due to the COCG's influence, data on the enforcement of anti-tax abuse rules, and information on Member States' delayed implementation and enforcement of anti-tax avoidance standards, along with the reasons behind these delays. Additionally, transparency should involve public acknowledgment of instances where the Commission's infringement procedures towards non-compliant EU Member States are not taken when they should be, and the reasons for this. This would ensure more visibility on the work achieved internally by the EU, while creating enough public transparency to push for further enforcement of anti-tax avoidance standards within the EU, positively affecting the perception of equal treatment between EU and non-EU countries.

9.3 Direction for future research

The investigation on the EU tax list brings opportunities for follow-up research.

Regarding countries' compliance strategies and perceptions of the EU tax list, this research employs a case-study approach, primarily analysing legislative changes, commitment letters, and public statements from 15 countries (Bahamas, Barbados, BVI, Bermuda, Cayman Islands, Costa Rica, Curaçao, Hong Kong, Jersey, Mauritius, Namibia, Panama, Seychelles, UAE, Uruguay), while incorporating additional insights from Turkey and the USA. This approach aligns with the exploratory nature of the research, contributing to a new theoretical framework by identifying observable trends in countries' compliance responses and perceptions of the EU tax list, as well as the internal procedural mechanisms used to manage compliance (see section 9.1 and Chapters 7 and 8). To better generalise the developed theoretical framework, future studies could test these trends in other countries within the geographical scope of the EU tax list, examining their susceptibility to its deterrence. This would also test the hypothesised reasons for non-compliance with the EU tax list (i.e., higher compliance costs than non-compliance due to non-EU-centric economic interests, and strong disagreement with the EU tax list's assessment; see section 9.1 and Chapters 7 and 8) by considering a country's specific economic, social, political, historical, and geographical context through country-specific analysis. The scope could include any country persistently blacklisted by the EU and compare its case to the economic, geopolitical, and historical context of a compliant country.

Furthermore, this dissertation directs future research into the implications of the EU tax list on undemocratizing national tax reforms. The contrast between conducting national consultations and adhering to the COCG's imposed timing and content necessitates further investigation into the significance of such consultations in countries complying with coercive mechanisms like the EU tax list. Additionally, the absence of national parliamentary debate on the merits of COCG's requested reforms, and the inability to consider political opposition or socio-economic factors as reasons to postpone or reject reforms without facing blacklisting, calls for further exploration. This exploration should focus on the alignment of the EU's influence, exercised through the EU tax list or similar blacklisting mechanisms, with collective values of legitimacy and democratic power, and its balance with the overall goal of combating international tax avoidance, which may reflect the democratic will in other countries.

As summarized in section 9.1 and elaborated in Chapters 6, 7, and 8, the coercion of the EU tax list and the forced implementation of OECD tax standards particularly affect developing countries. These imposed standards may disregard the socio-economic needs of emerging economies, whose bargaining power is limited. A perception of unfairness and reluctant compliance among developing countries towards the EU tax list have also emerged. Future research could explore how critical studies and decolonization theories might aid developing countries in resisting dominant powers in international tax contexts, thereby better pursuing their socio-economic goals through sustainable and more suitable tax-reform options. This includes, for instance, examining whether the EU tax list's coercion has prompted developing countries to shift towards the UN framework for international tax discussions.

Further research opportunities related to the EU tax list arise from the material limitations of this dissertation's scope. This study conducted an exploratory analysis of the main technical, political, intra institutional, and country-relational aspects of the EU tax list from both EU and non-EU perspectives, focusing on evaluating the EU tax list as an EU tax policy instrument. Consequently, the research does not include an analysis of tax havens and their history, in the style of scholars such as Ogle, Palan, Murphy, and Shaxson. This omission is due to the study's focus on the EU tax list itself, rather than the potential evolution of tax havens' strategies in response to it. Nonetheless, the findings can be interpreted through the lens of historical literature on tax havens to predict how countries historically engaged in tax competition might strategize around the EU tax list to maintain their competitive tax policies.

Furthermore, the empirical data of this research focuses on the experiences of the EU and countries at institutional and governmental levels. It does not include the specific experiences of tax collectors, tax administrations, or companies in compliant and non-compliant countries regarding issues such as increased tax revenue collection or company relocation due to the EU tax list. Nonetheless, the dissertation's considerations on the EU listing criteria, the technical reforms required to introduce substance requirements and roll back preferential regimes, and countries' compliance strategies can offer insights and direction for investigating the effectiveness of the EU tax list towards its anti-tax avoidance goal, i.e., the effects of the list on companies' and investors' tax-avoidance behaviours, as well as the effects of EU-requested reforms on national economies and budgets.

9.4 Final remarks

This research has traced the complex trajectory of EU tax policy, revealing a landscape marked by both ambition and contradiction. Despite its stated goal of fostering enhanced cooperation and enforcing global tax standards, the EU tax list remains a contested and imperfect policy instrument. It is characterized by a multiplicity of objectives lacking clear prioritization, and it relies more on coercive mechanisms than on fostering compliance through socialization or persuasive engagement.

The regulatory authority of the list carries substantial political and policy consequences. Yet, its effectiveness is compromised by limited technical robustness, perceptions of unfairness, and a lack of inclusivity in global tax governance. While the list aspires to curb harmful tax competition and incentivise compliance with tax standards, its mission is vulnerable to technical shortcomings, political biases, and the marginalization of economically weaker states.

If these limitations remain unaddressed, they risk deepening the divide between developed and developing countries and undermining the EU's credibility as mediator of legitimate interests in the international tax arena. This dissertation proposes a range of adjustments – encompassing policy negotiations, tax technicalities, and administrative measures (as outlined in section 9.2) – to support a reconsideration of the EU tax list. The aim is to make the fight against harmful tax competition and resulting tax avoidance more targeted and effective, without marginalizing developing economies or hindering their growth. The overarching goal is clear: a level playing field among nations, where tax abuse and scandals become relics of the past.