# Anatomy of the EU tax list: a case-study on EU external tax policy

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# Summary

The EU list of non-cooperative jurisdictions for tax purposes (hereafter, the EU tax list) is a EU external policy tool established in 2016 to assess non-EU countries' tax systems. Jurisdictions committing to implement EU-requested reforms into their tax system are greylisted, while those refusing or failing to meet the reforms within one year are blacklisted. Both lists are formalized by Council Conclusions and are publicly available on the Official Journal of the EU. The EU tax list has generated questions of legitimacy, fairness, credibility, and success among scholars, policymakers, and NGOs.

This PhD dissertation is the first comprehensive study on the EU tax list that examines its efficacy. It identifies and categorizes the primary objectives of the list and assesses the extent to which the *modus operandi* of the list (such as the procedures, listing criteria, deterrence, interactions with non-EU jurisdictions) contributes to achieving those objectives. It applies an empirical qualitative methodology, 19 country case-studies, and a broad constructivist framework. Empirical data was collected and analysed from hundreds of EU (working) documents and interviews with 28 participants (see Appendix II for participants list).

The dissertation identifies five key objectives of the list, including combating tax avoidance, protecting the internal market's competitiveness and fostering international cooperation. Tensions arise particularly between cooperation and competitiveness, reflecting contrasting approaches – dialogue versus coercion – underpinning the hybrid nature of the EU tax list. This hybrid nature reveals its multidimensional political character, rooted in compromises among diverse EU governing actors and shaped by differing stakeholder interpretations of its purpose – some view it as a blacklist, others as a cooperative instrument.

An efficacy-based analysis (Chapters 4–8) reveals further significant contradictions within the list: many of its components simultaneously advance and undermine its objectives, compromising internal coherence. The geographical scope and listing procedure combine coercive elements with cooperative dialogue. Listing criteria support anti-tax avoidance – although fail to achieve it – and competitiveness goals, but conflict with development and cooperation objectives. Pre-fixed criteria may not suit diverse national contexts, challenging the list's fairness and results. Deterrence mechanisms, such as reputational pressure and defensive measures, further emphasise coercion. 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 disregarding national socio-economic contexts, the list fosters expedient, 'tick-the-box' reforms rather than substantive measures, thereby undermining efforts to build a sustainable anti-tax avoidance culture and weakening long-term policy evaluation. Against the cooperative goal, coercion disproportionately affects developing countries with no geopolitical leverage, which face greater vulnerability and limited capacity to implement reforms. Political dynamics favouring countries with greater leverage raise doubts about the appropriateness of this instrument as a regulator of international taxation.

The primary contribution of the EU tax list lies in reinvigorating key dimensions of the contemporary debate on international taxation and tax avoidance – e.g., the imperative to continue combating cross-border tax avoidance and the need to critically assess the limitations of existing tax standards governing national regimes.

The EU tax list does shape countries' tax policies but is widely perceived as EU-centric, neglecting the priorities of emerging economies and reinforcing their vulnerability. This perception fuels criticism that the EU leverages its political power for competitive advantage, undermining multilateralism and fairness. Although low legitimacy has not yet eroded compliance among EU-dependent or reputation-sensitive states, it encourages semi-compliance strategies focused on avoiding sanctions rather than embracing substantive reforms.

The sections below report further main findings per chapter, and final recommendations.

– *Governance*

The dissertation identifies two key actor groups shaping the list: makers (Chapter 2) and influencers (Chapter 3). Makers – primarily the Council, notably the COCG, and EU Member States – dominate decision-making, aligning the list with national agendas. Influencers, including the European Parliament, NGOs, and media, exert informal pressure through public debate, advocacy, and political influence, though they lack formal authority. The European Commission occupies a hybrid role: formally involved in drafting and managing procedures while mediating between makers and influencers. Despite its insider position, the Commission cannot dictate outcomes but channels external demands into discussions.

While Member States and the Council dominate, influencers have contributed to shape the list's nature and objectives. When analysing their agendas against the list's goals, the European Commission appears to embrace all identified objectives, whereas Member States, the Council, NGOs, and the European Parliament prioritise specific goals (Chapter 4).

An examination of the list underscores key findings: power dynamics and institutional interactions were central to the list's development, although influencers' success depends on political alliances and contextual factors. NGOs face barriers due to Council opacity but leverage national debates and Commission mediation. Media-driven scandals can disrupt established dynamics.

Chapter 3 also concludes that traditional intergovernmental approaches are insufficient to explain the development of the EU tax list; instead, sociological institutionalism and constructivism better explain its complex interactions. Constructivist analyses highlight how ideas, influences, and power dynamics among makers and influencers have produced a policy instrument, albeit one marked by contradictions.

– *Listing process, criteria, and countries compliance*

Chapter 5 examines the expanding geographical scope of the list, its exclusion of EU Member States and inclusion of developing countries. It analyses the listing procedure, highlighting limited tolerance for missed deadlines, weak monitoring, and contrasting perceptions of EU's dialogue with non-EU jurisdictions – constructive for the EU, opaque and frustrating for non-EU countries. Together with Chapters 2, Chapter 5 confirm political influences in listing decisions, rooted in diplomatic engagement and the Council's intergovernmental structure.

Chapter 6 examines the EU listing criteria, while Chapter 8 analyses the experiences of 15 non-EU countries in implementing EU-requested reforms to comply with the criteria. Together, Chapters 6 and 8 offer crucial insights into the specific reforms that countries should undertake to meet EU's requests.

The study identifies the listing criteria as a positive first attempt to address letter-box companies, revitalizing economic substance requirements at the OECD level and a global discussion on anti-tax abuse measures in tax regimes. Nonetheless, the list's credibility suffers from perceived double standards between EU and non-EU countries. Furthermore, the criteria have technical limitations that leave tax avoidance loopholes open. They fail to cover practices such as tax treaty shopping and transfer pricing mismatches, which significantly contribute to global tax avoidance. While addressing the use of collective investment vehicles in tax-free countries, this remains unregulated in countries implementing harmful tax regimes. Compliance monitoring (particularly on the offshore criterion) presents shortfalls exacerbating weaknesses in EU standards, where adequate monitoring is essential to prevent abuse.

Chapter 6 highlights the mutual influence between the EU and the OECD, evident in the EU tax list's dependence on OECD standards and the EU's contribution to their development. The EU tax list has impacted also OECD's decision-making dynamics, as its coercion has altered countries' attitudes toward OECD recommendations, making them more sensitive to negative reviews and intensifying compliance efforts to avoid EU blacklisting. The list has increased membership in the OECD Inclusive Framework; however, the reluctant participation of developing countries – constrained by limited administrative capacity and divergent policy priorities – may hinder effective cooperation with the OECD.

While promoting global coherence, the criteria's reliance on OECD and EU standards can disadvantage developing countries due to high administrative demand. These countries face challenges implementing OECD and EU standards that were designed without their input, raising concerns about legitimacy and fairness. Adopting tax measures inspired by EU law can strengthen compliance, but interpreting EU law and standards can be technically challenging for extra-EU administrations. It further questions the legitimacy of EU influence over non-EU tax policies, especially given the lack of participation in shaping these standards, and poor democratic consultation when assessing the merit of EU-requested reforms. Implementation often occurs under strict EU-imposed timelines and content requirements, reducing parliamentary debate and limiting evaluation of reforms' alignment with national socio-economic goals. While the EU tax list rightly scrutinizes the potential harmfulness of certain tax regimes, the EU should better understand the priorities of small, developing, and capital-importing economies and allow countries a socio-economic evaluation of their regimes before forcing their rollback (Chapter 8).

– *Compliance stricto sensu*

Countries' reactions to the EU tax list varied throughout the compliance process, often adopting multiple strategies or shifting between them. Their cooperation efforts increased immediately after blacklisting, highlighting the reputational threat's influence on compliance behaviour. At the same time, strong disagreement with the COCG's requests and challenges in domestic reform processes may have hindered higher levels of compliance, resulting in slower and lower cooperation (Chapter 8).

Four compliance types are identified: apparent compliance (simulating cooperation while preserving tax competitiveness), minimum compliance (meeting only basic requirements), reluctant compliance (complying under protest), and preventive compliance (exceeding requirements before formal requests). Countries often complied reluctantly or minimally – avoiding blacklisting despite opposing EU-requested reforms – yet without consistently embracing the EU tax list's underlying anti-tax avoidance objectives. The EU enforces stricter deadlines to curb apparent compliance, yet experienced tax havens often succeed with apparent compliance, raising concerns about credibility and potential whitewashing.

– *Deterrence*

Chapter 7 explores the critical role of reputation in shaping non-EU countries' compliance with the EU tax list. Empirical evidence demonstrates that reputational damage – stemming from blacklisting or greylisting – acts as a powerful deterrent, compelling states to adopt regulatory reforms even before economic harm is realised ('pre-emptive compliance'). Both small and large countries prioritise their international image, as negative perceptions can affect investment, trade, and financial flows. The fear of reputational loss outweighs compliance costs (e.g., administrative, technical, and economic challenges), driving proactive reforms. Especially in developing countries, high reputational and EU-trade dependence, combined with coerciveness, limit alternative responses. Persistent non-compliance is an exception to the list's generally strong deterrence and can stem from high opposition to EU demands and low economic dependence on the EU. Lack of political leverage would lead non-compliant countries to blacklisting.

Defensive measures appear to serve dual purposes – discouraging non-compliance while acting as anti-tax abuse rules – although their deterrent impact appears limited partly due to their delayed and varied implementation among the EU Member States. Implementation discrepancies stem from different national investment cultures, reliance on domestic blacklists, persistent protection of their tax sovereignty, and legal constraints, with constitutional, EU, and tax treaty obligations further complicating coordination. Divergence raise concerns about intra-EU tax competition.

– *Recommendations*

To address the shortcomings of the EU tax list, this dissertation proposes guidelines aimed at improving policy coherence, fairness, and credibility. Recommendations include adopting a differentiated approach for developing and developed jurisdictions, concentrating EU resources on the most problematic jurisdictions, and fostering equal-footed cooperation and dialogue with developing countries. Such dialogue should involve regional organizations and consider each jurisdiction's socio-economic context, market dependencies, and regimes assessments. Further suggestions advocate for a fairer process through the institutionalization of an independent third-party 'ombudsman' to oversee transparency and equity in the listing procedure. Finally, while acknowledging that political bias cannot be fully eliminated from a tool with diplomatic implications, the dissertation calls for greater transparency – not only in listing decisions and procedures but also in the EU's internal efforts to combat tax avoidance and their implementation among Member States.