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The EU tax list through the experience of three African countries

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1. Introduction

In the context of the international fight against harmful tax competition and tax avoidance, the European Union (EU) published its first EU list of non-cooperative jurisdictions for tax purposes (EU tax list) in 2017. This policy instrument targets non-EU countries and requires them to align with OECD and EU tax standards. The list consists of a blacklist of non-cooperative jurisdictions and a greylist of those that are cooperating but still in the process of implementing the required reforms. Failure to comply may lead to their inclusion on the EU blacklist, which carries significant reputational and economic risks. These may affect trade and investment flows[1] and trigger defensive measures imposed by both the EU and its Member States (see section 3).

Through this list, the EU has been applying OECD and EU tax standards to non-EU jurisdictions and has thereby established itself as a significant actor in shaping international taxation. Since 2017, the list has addressed at least 95 non-EU jurisdictions.[2] Although most least developed nations are outside its scope,[3] at least 55 developing economies (eight in Africa,[4] twenty-one in America,[5] five in Europe,[6] twelve in Asia,[7] six in Oceania[8]) have been targeted and scrutinized by the EU regardless of their income-level.[9]

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[1] Federica Casano, *Anatomy of the EU Tax List: a Case-Study on EU External Tax Policy* (forthcoming 2026); Jason C. Sharman, *The Bark is the Bite: International Organizations and Blacklisting*, 16 Review of International Political Economy 573 (2009).

[2] *Annual Report on Taxation 2022* (2022) European Commission.

[3] *First step towards a new EU list of third country jurisdictions: Scoreboard* (2016) European Commission; Report to the Council, doc. 14364/18, Annex I (2018) COCG; Casano, supra n. 1.

[4] Botswana, Cabo Verde, Eswatini, Mauritius, Morocco, Namibia, Seychelles, and Tunisia.

[5] American Samoa, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Brazil, British Virgin Islands, Colombia, Costa Rica, Dominica, Grenada, Jamaica, Panama, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, and Uruguay.

[6] Albania, Bosnia and Herzegovina, , Montenegro, North Macedonia, and Serbia.

[7] Armenia, Georgia, India, Indonesia, Jordan, Malaysia, Maldives, Marshall Islands, Mongolia, Thailand, Turkey, and Viet Nam.

[8] Cook Islands, Fiji, Guam, Palau, Samoa, and Vanuatu.

[9] European Commission, supra n. 3; UN, *Small Island Developing States* https://www.un.org/ohrlls/content/list-sids (accessed on 23 Sept. 2025); UN, *List of Landlocked Developing Countries* https://unctad.org/topic/landlocked-developing-countries/list-of-LLDCs (accessed on 23 Sept. 2025); UN, *Namibia* https://data.undp.org/countries-and-

This article specifically focuses on the relation between the EU tax list and developing countries by analysing the experience of three African jurisdictions – Mauritius, Namibia, and Seychelles – in dealing with the EU-requested rollback of tax regimes.[10] The contribution's findings are relevant to broader discussions on procedural fairness, institutional compliance, and global governance. They offer, for the first time, an explanation of how certain African developing countries experience the EU tax list from the perspective of compliance strategy and tax cooperation. The analysis illustrates the interactions between these jurisdictions and the EU in the context of the list by identifying their coping mechanisms and compliance responses—also in comparison with established response theories in international relations—and by clarifying the reforms that the EU tax list entails. It further examines countries' perceptions of the list in terms of fairness, highlighting the compliance challenges faced by developing countries and showing how their limited bargaining power has shaped their national policy choices.

It is contended in this article that the EU tax list fails to foster robust national policy adjustments and long-term attitude against harmful tax competition despite the EU's celebrated success in promoting tax cooperation. It instead encourages short-term and volatile policy changes and aligns with prevailing international tax trends that marginalize developing countries and prioritize the Global North's interests when attempting to achieve tax coordination. Rather than challenging the current dynamics, the EU tax list perpetuates a dichotomy between the self-serving strategies of wealthier nations and the Global South's overlooked challenges, priorities, and constraints. This undermines the legitimacy of the EU's rhetorical commitment to inclusive tax cooperation.

The article makes five central conceptual and empirical contributions to its argument. First, it introduces new empirical data on countries' compliance responses and perceptions to the EU tax list. Second, it highlights the tension between the EU's demands and the policy priorities and challenges faced by developing countries, showing how the list's coercive nature tends to resolve this tension advantageously for the EU's own interests. The article adopts a decolonizing perspective to clarify the stance of developing countries towards the EU tax list and addresses current issues initially raised by nongovernmental

territories/NAM (accessed on 23 Sept. 2025); Government UK, *Countries defined as developing by the OECD* https://www.gov.uk/government/publications/countries-defined-as-developing-by-the-oecd/countries-defined-as-developing-by-the-oecd (accessed on 28 Sept. 2025); IMF, *World Economic Outlook Database: Groups and Aggregates Information* (2025) https://www.imf.org/en/Publications/WEO/weo-database/2023/April/groups-and-aggregates#lac (accessed 28 Sept. 2025).

[10] The contribution is part of a broader PhD research carried out by this author to investigate the efficacy of the EU tax list (*see* Casano, supra n. 1). The PhD research investigated the efficacy of the EU tax list by analysing its underlying goals and political dynamics, its coercive vs. cooperative nature, its tax technical strengths and deficiencies, and the reactions that non-EU countries have had to it. The research also unveiled the impact of the EU tax list on countries' tax policy and latest diplomatic and tax trends generated by it.

organizations (NGOs)[11] but not yet explored in academic literature.[12] Third, drawing on its inductive design (see section 2), the research proposes a new analytical framework that can be tested on any countries affected by the EU tax list. Finally, the article offers recommendations for (African) developing countries on navigating EU compliance demands and for the EU on promoting a more collaborative and equitable approach to tax cooperation.

While this study focuses on empirical findings and highlights the suppression of developing countries' voices in the implementation of the EU's external tax policy, normative considerations on the Global North–South dichotomy and justice in international tax negotiations will be comprehensively explored in a follow-up study.[13]

The article is divided into five sections. First, the research methodology is explained. Second, the main aspects of the EU tax list are described. Third, it is explained how the three African countries dealt with the list in terms of implemented reforms. Their compliance behaviour and the changes in their tax policy are also discussed, as well as their perception of the EU tax list in terms of fairness. Fourth, such perceptions are interpreted in the context of contemporary international tax studies. Last, conclusions are shared including concrete recommendations for developing countries and the EU, and suggestions are offered for follow up research.

2. Methodology

Classical desk research was used to analyse relevant literature and legal texts. The study also employs a qualitative empirical methodology and a selection of nineteen country case studies,[14] including the three African nations reported in this paper. A broad constructivist framework is used, which emphasizes the relevance of perceptions and interpretations in shaping reality.[15] Empirical data was collected from

[11] Eurodad, The false EU promise of listing tax havens (2016) https://www.eurodad.org/the_false_eu_promise_of_listing_tax_havens?utm_source=chatgpt.com (accessed on 2 Oct. 2025).

[12] A suspicion of a certain level of 'injustice' had been reported in literature (e.g. Alexandra Koutsouva, *The European Union's List of Non-Cooperative Jurisdictions for Tax Purposes*, 29 EC Tax Review (2020); Irma J. Mosquera Valderrama, *The EU Standard of Good Governance in Tax Matters for Third (Non-EU) Countries*, 47 Intertax 454 (2019)) but not yet evidenced and/or discussed in its materiality and extent.

[13] Federica Casano, *Tax fairness after the EU tax list* (forthcoming 2027).

[14] Australia, Bahamas, Barbados, Bermuda, British Virgin Islands (BVI), Cayman Islands, Costa Rica, Curaçao, Hong Kong, Jersey, Mauritius, Namibia, Panama, Seychelles, Switzerland, Turkey, United Arab Emirates (UAE), the United States, and Uruguay. To define the research scope and country selection while enhancing representativity, these non-EU countries were selected based on three criteria: i) their status on the EU tax list (blacklisted, greylisted, or not listed); ii) their development and financial profiles to ensure a mix of developed and developing economies with and without financial centres; and iii) their geographic diversity with countries selected from different continents. Additionally, data availability was considered to ensure sufficient primary and secondary sources for an in-depth analysis at country-level.

[15] Micheal Crotty, *The Foundations of Social Research* 17, 80 (SAGE Publications 1998).

hundreds of EU documents and expert interviews with twenty-eight participants, which are cited throughout the article.

The collection of EU documents includes both working and final documents from a variety of EU institutions and working bodies. Examples include minutes of the Code of Conduct Group (COCG) meetings drafted by the European Commission; Council decisions; European Commission communications and reports to the COCG; the COCG's report to the Council; and the COCG's letters to non-EU countries and the latter's responses (see Appendix I for a complete list). Some of the documents were consulted publicly via the Council's database while others were obtained via freedom-of-information (FOI) requests to the European Commission and the Council.

Given the high level of confidentiality surrounding the EU's work on the EU tax list, a key contribution of this research is to supply new data derived from interviews and to enrich the analysis of the EU tax list by providing voice to non-EU perspectives. Interviews have integrated documental information and given data on stakeholders' perceptions on the EU tax list – including those of non-EU countries. The interview data was aggregated through semi-structured interviews with tax experts, policymakers, and policy advisors from the European Commission, the European Parliament, the General Secretariat of the Council (GSC), EU Member States, non-EU countries, the OECD, NGOs, and the private sector.[16] Appendix I offers an pseudonymized and codified list of semi-structured interviews[17] while Appendix II presents a summary of topic lists used during the interviews.[18]

Both interview and document data were utilized which enabled triangulation and consequently strengthens the credibility of the empirical findings. Triangulation involved integrating perspectives from various stakeholders and interpreting the data through multiple theoretical frameworks such as deterrence theories, compliance behaviour, and international tax relations. It also allowed mitigating respondents' bias while the researcher's personal bias was limited by respondents' expertise of the topic and dominance in interview discussions.

[16] It is important to highlight that interviews used to explore subjective experiences aim to reflect individuals' perceptions rather than objective facts (*see*, for example, Ariadne Vromen, *Debating Methods: Rediscovering Qualitative Approaches* 258, in Theory and Methods in Political Science (David Marsh, Gerry Stoker eds., Palgrave Macmillan 2010); Catrien Bijleveld, *Research Methods for Empirical Legal Studies: an Introduction* 70–71 (Eleven 2023); Kari Lancaster, *Confidentiality, Anonymity and Power Relations in Elite Interviewing: Conducting Qualitative Policy Research in a Politicised Domain*, 20 International Journal of Social Research Methodology 93, 94 (2017)). Accordingly, when examining subjective experiences, stakeholders' perceptions are emphasized as these shape their behaviour and subsequently influence the EU tax list's evolution.

[17] Due to privacy concerns, the interviewed stakeholders' identities cannot be disclosed, therefore, they have been pseudonymized according to interviewees' informed consent.

[18] In most cases, only one interviewee per country was consulted. This was primarily due to practical constraints either because a single staff member is responsible for the EU tax list within the relevant institution (such as national ministries of finance or national representations at the COCG) or because only one individual was available for an interview. Reaching potential interviewees proved particularly challenging given the topic's perceived sensitivity and its diplomatic implications.

The empirical data was analysed manually and on Atlas.ti using the in-vivo pattern coding method (see Appendix III for group codes) with the goal of identifying patterns and trends.

Finally, the study employed an inductive explorative design for an open-ended investigation which a deductive method might have limited. Its empirical findings are ultimately connected to existing literature and corroborate or challenge current theories. For instance, the study engages with research on regulatory compliance and the deterrent role of reputation (section 4) as well as critiques of the pro-developed country bias in international taxation (section 5). This exploratory study represents an important initial step toward addressing a previously under-researched area with significant implications for international tax dynamics. Future research building on these findings – for instance, by testing them across a broader scope – will further advance the understanding of the EU tax list and its wider implications.

3. The EU tax list: main elements

The EU tax list is a policy initiative that screens and scores non-EU jurisdictions to evaluate the alignment of their tax systems with international tax standards.[19] The listing process is carried out by the COCG with the European Commission's technical support. The COCG is a working body at the Council. The latter adopts final listing decisions based on the COCG's suggestions.[20]

As a political initiative, the EU tax list is used to pursue multiple goals: discouraging tax avoidance and harmful tax competition by encouraging countries' compliance with OECD/EU tax standards; protecting EU Member States' tax bases from erosion; further developing the EU internal market's competitiveness; promoting the EU's role as a leader in anti-tax abuse; and promoting cooperation and tax development in developing countries.[21]

Although some EU institutions such as the European Commission, the Council, and some EU Member States often tend to identify the EU tax list as a platform for dialogue and tax cooperation, non-EU jurisdictions perceive it as a naming-and-shaming exercise that limits their tax policy decisions.[22] This perception is further elaborated in this article through the case studies of three African countries.

The EU tax list concerns specific countries that have been included in the scope of the EU screening. Countries have been selected based on their economic ties with the EU, their institutional stability, and

[19] Federica Casano, *The EU Tax List of Non-Cooperative Jurisdictions: a Caribbean Experience*, 5 Caribbean Tax Law Journal 37 (2024).
[20] *Commission Communication on an External Strategy for Effective Taxation and Commission Recommendation on the implementation of measures against tax treaty abuse*, doc. 9452/16 (2016) European Commission; *Council Conclusion of 8 November 2016, Criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes*, doc. 14166/16 (2016) Council of the EU.
[21] Casano, supra n. 1; Casano, supra n. 19.
[22] Casano, supra n. 1; Casano, supra n. 19.

the importance of their financial sector.[23] From 2017 until the writing of this article, at least 95 non-EU countries, including developed and developing economies, have been scrutinized under the EU tax list.[24] This large number shows the scale of the EU listing phenomenon.

Selected jurisdictions have been scrutinized under three listing criteria:[25]

(1) Tax Transparency: countries must ensure the exchange of tax information with all EU Member States by effectively implementing OECD standards on Automatic Exchange of Information (AEOI) and Exchange of Information on Request (EOIR) as evaluated by the OECD. They should also either join the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MCMAA) or maintain a comprehensive network of exchange agreements with all EU Member States.
(2) Fair Taxation:
    a. Tax regime criterion: countries should avoid harmful corporate income tax (CIT) regimes in accordance with the EU Code of Conduct.
    b. Offshore criterion: if a country has no CIT system or applies a zero or near-zero nominal tax rate, it must enforce substance requirements for resident companies, collective investment vehicles (CIVs), and partnerships.
(3) Implementation of OECD/G20 BEPS Minimum Standards: countries should either join the OECD Inclusive Framework (OECD IF) or commit to implementing the OECD/G20 BEPS minimum standards. They must also receive positive assessments from the OECD regarding their implementation of country-by-country reporting (CBCR).

All criteria rely on the OECD's work and country assessments – specifically, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD Global Forum), the OECD Forum for Harmful Tax Practices (FHTP), and/or the OECD IF. However, the fair taxation criteria are also centred on the COCG's assessments of non-EU countries' tax regimes. These are assessed based on the EU Code of Conduct which also covers those regimes that are outside the scope of the OECD FHTP's scrutiny, e.g. the manufacturing regimes and foreign source income exemption (FSIE) regimes analysed in this article (section 4.1).

Jurisdictions that commit to comply with the listing criteria are included in the EU greylist. To be de-listed, they should implement their commitment within one year; this is two years for developing countries without a financial centre, although the extension does not apply to rolling back tax regimes.

[23] European Commission, supra n. 3.
[24] European Commission, supra n. 2; European Commission, supra n. 3.
[25] Council Conclusions, supra n. 20.

Jurisdictions that do not commit to complying or do not accomplish their commitment within the deadline are blacklisted. These countries are subject to defensive measures applied at the EU and the EU Member States' level.[26] At the EU level, the measures include the denial of EU funding for projects conducted through blacklisted countries thereby ensuring that public resources are not channelled through non-compliant tax regimes.[27] Companies operating in grey/blacklisted jurisdictions are subject to enhanced public disclosure requirements under the EU Public Country-by-Country Reporting (PCbCR) Directive, which increases the transparency of their financial activities.[28] Additionally, access to the EU financial market is restricted since securitization sponsors and securitization special purpose entities (SSPEs) wishing to access the EU financial market cannot be established in blacklisted countries.[29] Finally, EU Directive 2018/822 (DAC6) stipulates that intermediaries are obligated to report cross-border arrangements involving taxpayers located in blacklisted jurisdictions.[30]

In addition to EU-level measures, individual Member States have implemented a range of national defensive measures coordinated at COCG level. These are encompassed in two primary categories: tax-related and administrative.[31] Tax measures include the application of controlled-foreign-company (CFC) rules, the non-deductibility of costs associated with blacklisted jurisdictions, the imposition of (higher) withholding taxes, and limitations on participation exemptions. Administratively, Member States have reinforced monitoring transactions involving blacklisted countries and have increased the audit risk for taxpayers who benefit from preferential tax regimes deemed harmful or who use structures linked to blacklisted jurisdictions.

[26] European Commission, supra n. 20; Council Conclusion, supra n. 20.
[27] Regulation (EU) No. 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009, OJ L 209, 14.6.2021; Regulation (EU) No. 2017/2396 of the European Parliament and of the Council of 13 December 2017 mending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub, OJ L 345, 27.12.2017; Regulation (EU, Euratom) No. 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018.
[28] Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches, OJ L 429, 1.12.2021.
[29] Regulation (EU) No. 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012, OJ L 347, 28.12.2017.
[30] Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements, OJ L 139, 5.6.2018.
[31] *Report to the Council*, doc. 14114/19 Annex IV (2019) COCG.

Reputational damage (i.e. naming-and-shaming) is also perceived by non-EU countries as a defensive measure,[32] as further explained in this article.

4. The inclusion of Mauritius, Namibia, and Seychelles in the EU tax list

Mauritius, Namibia, and Seychelles are three African jurisdictions that, despite different income levels,[33] are all classified by the UN,[34] the OECD,[35] and/or the IMF[36] as developing countries. All three nations face significant socio-economic challenges despite differing income levels and progress. They struggle with economic inequality, labour and skills shortages, and vulnerability to climate and external shocks. Namibia's legacy of apartheid and the COVID-19 pandemic have deepened poverty and structural barriers to growth, productivity, and job creation with nearly 20% of the population affected.[37] Seychelles, though wealthier, contends with limited economic diversification, geographic isolation, and social vulnerabilities such as youth unemployment.[38] Mauritius has made strides through investment and openness but continues to face labour shortages and social inequality in income and education with its Human Development Index (HDI) dropping significantly when adjusted for disparities.[39]

Common priorities include investing in human capital, addressing labour and skills shortages, and promoting private sector innovation while improving social protection and climate resilience. Debt sustainability and structural reforms – particularly in governance, public finance for revenues and expenditures, and digitalization – are essential for long-term development. Inclusive growth strategies and targeted measures to reduce inequality are critical for ensuring sustainable and inclusive progress across all three countries.[40]

All three countries have registered economic development in recent years despite their socio-economic struggle. For Mauritius, this was the result of democratic stability, economic diversification (including

[32] Casano, supra n. 1; Casano, supra n. 19.
[33] According to the World Bank's classification, based on the 2024 gross national income (GNI), Namibia is categorized as a low-income country, Mauritius as an upper-middle-income country, and Seychelles as a high-income country (*see* The World Bank, *The World by Income and Region* (2025) https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html (accessed on 22 Sept. 2025)). However, it should be noted that the EU classified Seychelles as upper-middle-income country in 2018 for the purpose of the EU tax list (*see* COCG, supra n. 3).
[34] UN, supra n. 9.
[35] Government UK, supra n. 9.
[36] IMF, supra n. 9.
[37] The World Bank, *The World Bank in Namibia* https://www.worldbank.org/en/country/namibia/overview (accessed on 22 Sept. 2025).
[38] The World Bank, *The World Bank in Seychelles* https://www.worldbank.org/en/country/seychelles/overview (accessed on 22 Sept. 2025).
[39] The World Bank, *The World Bank in Mauritius* https://www.worldbank.org/en/country/mauritius/overview (accessed on 22 Sept. 2025); UN, *The Human Development Report 2023/2024: A snapshot of trends and insights for Mauritius* (2024) https://www.undp.org/mauritius-seychelles/blog/human-development-report-2023/2024-snapshot-trends-and-insights-mauritius (access on 23 Sept. 2025).
[40] UN, supra n. 39; The World Bank, supra n. 37, 38, 39.

tourism, manufacturing, fisheries, ICT, and financial services), and investment in education, infrastructure, and foreign investments also due to its offshore financial strategy.[41] Growth in Seychelles has been supported by the service sector, although the economy is still heavily reliant on tourism and fisheries. In the last 20 years, macroeconomic and structural reforms – specifically the liberalization of exchange rates also due to its offshore financial strategies and factor markets – have been a key factor in driving economic progress.[42] Finally, although Namibia has recently fallen into the low-income category, its previous transition to upper-middle-income status had been supported primarily by investments in extractive industries while sound governance and macroeconomic management attempted to reduce poverty. Future growth potential depends on major energy projects that could attract foreign investment and boost their gross domestic product (GDP). Economic performance and fiscal stability are impacted by global and regional developments given Namibia's reliance on commodity exports especially within the Southern African Customs Union (SACU).[43]

Mauritius, Namibia, and Seychelles have economic relations with the EU in terms of development aid and trading. The EU agreed under the Multi-Annual Indicative Programme (MIP) to allocate EUR 37 million in grant funding to Namibia for 2021-2024.[44] The country also benefits from a number of multi-country EU programmes.[45] The MIP agreement grants amounts of EUR 2 million and EUR 5 million for Seychelles and Mauritius, respectively.[46] For trading, the EU appeared as one of Namibia's main export markets in 2023 and recorded a 'positive trade surplus with the EU almost every year since 2004'.[47] For Mauritius, data from 2014 to 2024 shows that, despite some negative growth in 2018, 2020, and 2024, the EU trading relation with the country has been regular and reached the value of EUR 1,847 million in total trade.[48] Although lower in value compared to the trade with Mauritius, the EU also has regular trade relations

[41] The World Bank, supra n. 39.
[42] The World Bank, supra n. 38.
[43] The World Bank, supra n. 37.
[44] European Commission, *International Partnerships: Namibia* https://international-partnerships.ec.europa.eu/countries/namibia_en#:~:text=The%20EU%20adopted%20a%20Multi,with%20Namibia%20for%202021%2D24 (accessed on 21 Sept. 2025).
[45] European Commission, *Press release Global Gateway: EU and Namibia agree on next steps of strategic partnership on sustainable raw materials and green hydrogen* (2023) https://ec.europa.eu/commission/presscorner/detail/en/IP_23_5263 (accessed on 21 Sept. 2025).
[46] European Commission, *International Partnerships: Mauritius* https://international-partnerships.ec.europa.eu/countries/mauritius_en (accessed on 21 Sept. 2025); European Commission, *International Partnerships: Seychelles* https://international-partnerships.ec.europa.eu/countries/seychelles_en (accessed on 21 Sept. 2025); European Union External Action, *Relations with the EU: The European Union and the Republic of Mauritius* (2021) https://www.eeas.europa.eu/mauritius/european-union-and-republic-mauritius_en?s=110 (accessed on 21 Sept. 2025).
[47] European Union, *EU-Namibia Trade Infographics* (2023), https://www.eeas.europa.eu/sites/default/files/documents/2025/EU%20-%20NAM%20Trade%20Statistics%20Infographic.pdf (accessed on 25 Aug. 2025).
[48] *Trade in goods with Mauritius* (2025) European Commission.

with Seychelles. Despite some negative growth in 2018, 2021, and 2023, the trade value grew in 2024 and reached a total trade value of EUR 569 million.[49]

Although not mentioned among the world's top tax havens,[50] Mauritius and Seychelles have been committed to developing and maintaining offshore financial centres (OFCs) with the aim to alleviate trade deficits and achieve high foreign exchange, fiscal autonomy, and stronger welfare.[51] In terms of financial sector size, this contributes to 14% of Mauritius' GDP.[52] The service sector in Seychelles has grown primarily due to administrative and support services but also because of financial and insurance services (which added 2.1 and 1.0 percentage points to GDP growth, respectively, from 2023 to 2024).[53] Differently, Namibia has generally not been reported as a tax haven.[54]

4.1. Countries' analysis under the EU tax list

Namibia

The COCG requested Namibia to undertake a series of commitments in 2017 that would have changed its corporate tax system and its participation at the OECD. This included both joining the OECD Global Forum and signing and ratifying the MCMAA by the end of 2019. Namibia was also asked to implement the OECD base erosion and profit shifting (BEPS) minimum standards (or join the OECD IF) within the same timeframe. Additionally, the country was expected to roll back its tax regimes by the end of 2018.[55]

As Namibia did not reply to the COCG's requests, the country was blacklisted as a non-cooperative jurisdiction. Namibia criticized this and the EU tax list.[56] Nonetheless, it was compelled to initiate cooperation promptly to be delisted; it intensified its dialogue with the EU and committed to the COCG's requests. It eventually joined the OECD Global Forum and the OECD IF in August 2019 and ratified the MCMAA in December 2020.

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[49] *Trade in goods with Seychelles* (2025) European Commission.
[50] Thomas Tørsløv, Ludvig Wier, Gabriel Zucman, *The Missing Profits of Nations*, NBER Working Paper 24701 1 (2018); Giulia Aliprandi, Thijs Busschots, Carlos Oliveira, *Mapping the Global Geography of Shell Companies*, EU Tax Observatory Note 3 (2023); Attiya Waris & Leonard Seabrooke, *Arrested Development in Africa's Global Wealth Chains: Accountability and Hierarchy among 'Tax Havens'*, in The Routledge Companion to Tax Avoidance Research (Nigar Hashimzade, Yuliya Epifantseva eds., Routledge 2017); Ashton Robinson, *Seychelles: Prospects, Probity and Legacy – Governance under Transnational Pressures*, 108 The Round Table 307 (2019).
[51] Waris et al., supra n. 50; Robinson, supra n. 50; Pritish Behuria, *The Political Economy of a Tax Haven: the Case of Mauritius*, 30 Review of International Political Economy 772 (2023); Justin Robertson & Michael Tyrala, *The Uneven Offshore World: Mauritius, India, and Africa in the Global Economy* (Routledge 2022); Pritish Behuria, *Offshore Dependencies: The Adverse Incorporation of African Countries in Global Wealth Chains*, 31 Brown Journal of World Affair 21 (2024); Antonia Hohmann, Nadine Riedel, Ida Zinke, *Tax havens: a Developing Country Perspective* 149, in Research Handbook on the Economics of Tax Havens (Arjan Lejour, Dirk Schindler eds., Edward Elgar 2024).
[52] The World Bank, supra n. 39.
[53] The World Bank, supra n. 38.
[54] Charles A. Dainoff, *Outlaw Paradise: Why Countries Become Tax Havens* 14-15 (Lexington Books 2021).
[55] *Compilation of letters seeking commitment*, doc. 6671/18 (2018) COCG.
[56] *Responses to the letter by the Code of Conduct Group: Namibia (part one)*, doc. 15732/17 (2017) COCG.

With concerns to Namibia's tax regimes, these had not been under the assessment of the OECD FHTP as the country was not a member of the OECD IF until 2019. The COCG was therefore the first to scrutinize its tax regimes; it addressed specifically two manufacturing regimes: the Export Processing Zone (EPZ) and the Exporters regime. Both were operating through special economic zones to promote export-oriented manufacturing with tax incentives aimed at increasing Namibia's gross GDP and diversifying its local economy by job creation, capital and technology exchange, and transfer of industrial skills to the local workforce.[57] At the COCG's request,[58] Namibia abolished the two regimes with a grandfathering period of five years and yearly reports on the effects of the grandfathering to the European Commission.[59] This resulted in Namibia's delisting since 2021.[60]

In 2020, the COCG identified Namibia's territorial tax system, i.e. a general tax regime exempting foreign income, as a potentially harmful FSIE regime. However, its final assessment was postponed because priority was given to the scrutiny of these regimes in developed countries and/or developing countries with financial centres.[61]

Mauritius

The EU classified Mauritius as a developing country with a financial centre[62] and therefore treated it as being equal to a developed country (e.g. no deadline extensions would be granted for compliance with any of the listing criteria).[63]

Mauritius was greylisted in 2017 after committing to rollback its harmful tax regimes. These included mostly those under the assessment of the OECD FHTP except for the manufacturing elements in its Freeport Zone regime, which were exclusively assessed by the COCG in 2018.[64] At the COCG's request, Mauritius abolished the regime's tax benefits in 2019 and even imposed substance requirements on Freeport companies.[65] This might signal the country's strong willingness to cooperate as merely abolishing the tax special treatment would have been sufficient to comply with the EU's demands.

[57] *Namibia's NA001 "Export Processing Zones (EPZ)" and NA002 "Exporters" regime – Final description and assessment,* doc. 6840/21 (2021) COCG.
[58] The COCG assessed the regimes as being harmful because of ring-fencing (i.e. tax advantages were granted only to foreign enterprises or for transactions carried out with non-residents) (*see* COCG, supra n. 57).
[59] COCG, supra n. 57.
[60] *Report to the Council*, doc. 9341/21 (2021) COCG.
[61] *(Draft) 6-month Progress Report by the Code of Conduct Group (business taxation) to the ECOFIN Council*, doc. WK 12605/2019 (2019) COCG.
[62] COCG, supra n. 3.
[63] Council Conclusions, supra n. 20, par. 11; *Council Conclusions of 12 March 2019*, doc. 7441/19, par. 6-7 (2019) Council of the EU.
[64] The Freeport Zone created a special economic zone dedicated to products' manufacturing and export (*Mauritius' Manufacturing activities under the Freeport zone regime (MU012) – Final description and assessment*, doc. 13209/19 (2019) COCG).
[65] COCG, supra n. 64.

Another regime exclusively assessed by the COCG was Mauritius' FSIE regime. The country replaced tax regimes previously abolished at the COCG's request by introducing a Partial Exemption regime allowing an 80% exemption on specified income of global business companies (e.g. foreign-source dividends, profits from foreign permanent establishments (PEs)).[66] The COCG deemed this harmful which prompted Mauritius to reform the regime in 2019 in conformity with the COCG's demands. The reforms included safeguards for outsourcing activities[67] and introducing CFC rules aligned with Article 8B of the EU Anti-Tax Avoidance Directive (ATAD). These amendments reflect both Mauritius' willingness to cooperate and its limited ability to negotiate with the COCG, especially considering its initial refusal to adopt additional anti-abuse measures.[68]

In view of Mauritius' compliance, the country has been off the list since 2019.

Seychelles

As in the case of Mauritius, the EU classified Seychelles as a developing country with a financial centre[69] and treating it as being equal to a developed country.

Like Mauritius, Seychelles was greylisted in 2017 after committing to roll back its harmful tax regimes. Most of the regimes under review by the COCG were already being assessed by the OECD's FHTP except for Seychelles' International Trade Zone (ITZ) manufacturing regime[70] and its FSIE regime, which was introduced to replace previously abolished harmful regimes at the COCG's request,[71] similar to Mauritius. These two were assessed exclusively by the COCG. In reforming the two regimes in conformity with COCG's requests, Seychelles abolished the tax benefit under the ITZ regime in 2021 [72] and introduced anti-tax abuse requirements under the FSIE regime.[73] These reforms were implemented after the EU's one-

[66] *The EU list of non-cooperative jurisdictions for tax purposes – Progress Report: Mauritius*, doc. 5443/19 (2019) European Commission.
[67] These are restrictions prescribed by the COCG on outsourcing core economic activities conducted by an entity in the country: the entity should not outsource these activities outside the country and should maintain control over the outsourced activities. It should also show the local tax authority that the service provider has enough qualified personnel and premises to perform the activities. The latter cannot double count such resources for multiple outsourcing entities (*see*, for example, *Bermuda: final legislation and assessment under criterion 2.2*, doc. 9671/19 (2019) COCG).
[68] *Mauritius' Partial Exemption regime (MU010) – Final description and assessment*, doc. 13208/19 (2019) COCG.
[69] COCG, supra n. 3.
[70] It offered corporate tax exemptions to export-focused companies operating in the free trade zone contrasting with the country's standard 25-33% corporate tax rate (*Seychelles' Foreign source income exemption (SC011) and International Trade Zone Regime (SC002) - Final description and assessment*, doc. 13057/21 (2021) COCG).
[71] It was introduced in 2018/2019 and allowed all companies a tax exemption on foreign income against the general tax rate of 25-33% (COCG, supra n. 70; *The EU list of non-cooperative jurisdictions for tax purposes – Letters seeking commitment on the replacement by some jurisdictions of harmful preferential tax regimes with measures of similar effect*, doc. 5981/19 (2019) COCG).
[72] Companies in the free trade zones are now subject to the general CIT rate and to substance requirements (COCG, supra n. 70).
[73] Seychelles connected the exemption of foreign active income to the PE concept and the exemption of passive income to substance and nexus requirements (COCG, supra n. 70).

year compliance deadline; as a result, Seychelles was initially blacklisted in 2020 for non-compliance. This prompted the country to intensify its efforts, which led to its removal from the blacklist in 2021.[74]

4.2. Countries' reform strategies and process

It can be observed from countries' commitment letters[75] that matters were escalated to the governments' highest levels when the EU required them to implement a reform. A process of coordination with the tax authorities also began to assess the impact of the negative assessment and possible reforms. The ministry subsequently worked on policy recommendations and legal amendments to the tax regimes after having collected feedback from the European Commission and also from relevant stakeholders via public consultations. These were submitted for approval to the minister and their cabinets.[76]

Countries have little time to perform this process as they generally have a one-year deadline to abolish tax regimes via enacted law.[77] Therefore, countries find themselves with limited time and material scope for public consultation and national parliamentary debate because, should they wish to be off the blacklist, the EU-requested reforms must be implemented exclusively within the timeframe and with the material terms dictated by the COCG.

The process may rather rely on technical consultations with third parties to enhance the reform. Countries such as Seychelles required technical support by the OECD and the IMF to provide expertise.[78] An interview with a developing country[79] also shows that, when blacklisted, a country might consult with other blacklisted countries to inquire what response strategies they are adopting. The same interviewee reported that Namibia relied on the technical expertise of the African Tax Administration Forum (ATAF).

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[74] COCG, supra n. 70. However, Seychelles was blacklisted again in 2023 because it had not been granted a rating of at least 'largely compliant' by the OECD Global Forum for exchange of information on request (*Council Conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes*, doc. 13879/23 (2023) Council of the EU).

[75] *The EU list of non-cooperative jurisdictions for tax purposes - Compilation of commitment letters received from jurisdictions: Seychelles*, doc. 6972/18 ADD 30 (2018) COCG; *The EU list of non-cooperative jurisdictions for tax purposes - Compilation of commitment letters received from jurisdictions: Mauritius*, doc. 6972/18 ADD 22 (2018) COCG; *Commitment letters by some jurisdictions regarding the replacement of harmful preferential tax regimes with measures of similar effect: Mauritius*, doc. 6097/19 ADD 1 (2019) COCG.

[76] Interview NEC6.

[77] Deadlines under the EU tax list for reforming tax regimes are generally strict with extensions granted only at the COCG's discretion (based on factors such as the regime's aggressiveness, credible reform timelines, and genuine cooperation efforts. *See Costa Rica's Manufacturing activities under the amended Free Zones regime: Final description and assessment,* doc. 13207/19, 6 (2019) COCG). As a result, all countries typically face a one-year deadline to roll back harmful regimes regardless of development status (*see* COCG, supra n. 3; *Report to the Council*, doc. 9637/18, Annex III (2018) COCG; Council Conclusions, supra n. 20, par. 11). This is exemplified by Mauritius, Namibia, and Seychelles which were all subject to the same deadline despite differing country classifications (*see* Sections 4 and 4.1). Namibia received extension was a rare exception due to the Covid-19 pandemic (Report by the Code of Conduct Group (business taxation) suggesting amendments to the Annexes to the Council conclusions of 18 February 2020, doc. 11054/1/20 REV 1, 7 (2020) COCG).

[78] COCG (Seychelles), supra n. 75.

[79] Interview NEC3.

Interviews[80] indicate different trends regarding countries' consultation with other jurisdictions during the reform process. For example, Namibia has found support in other countries and regional bodies, including the SADC, to dialogue with the European Commission and implement the requested reforms. According to an interviewee, dialoguing through the SADC might help with the country's bargaining power.[81]

The trends described above are summarized in Table 1 below.

	Resort to external support	Regionalist trend
Seychelles	OECD, IMF	–
Namibia	OECD, IMF	ATAF, SADC, other (African) blacklisted countries
Mauritius	–	–

Table 1: Countries' reform process: external aid

4.3. EU's assessment strategy and countries' compliance response

When observing countries' compliance strategies, the research identifies three main trends, specifically, i) apparent compliance; ii) reluctant compliance; and iii) pre-emptive compliance.

The distribution of these strategies is summarized in Table 2 below.

	Apparent compliance	Reluctant compliance	Pre-emptive compliance
Seychelles	✓	✓	✓
Namibia	✓	✓	✓
Mauritius	✓	✓	✓

Table 2: Countries' compliance strategies

Apparent compliance

The cases of Mauritius and Seychelles offer an example of apparent compliance since the two countries introduced the FSIE regimes as a response to the EU's request to abolish previous preferential tax regimes. The new FSIE had effects that were similar to or broader than the previously abolished regimes. For this reason, it can be argued that the two countries' formal compliance in relation to harmful tax regimes was apparent since it did not reflect the actual aim of the EU's requested compliance.

[80] Cfr. Interview NEC3 with other interviews conducted in the research project (e.g. interview NEC4, NEC2, NEC5). No information on the matter has emerged relating to Seychelles and Mauritius.
[81] Interview NEC3.

Similarly, an interviewee[82] reported that the Namibian Government began developing a new regime following the repeal of tax incentives for manufacturing activities. It is centered around special economic zones and reduced tax rates and is expected to produce similar economic outcomes as the previously abolished ones – particularly in terms of investment. The source indicates that Namibia interprets the COCG's standards to mean that tax reductions resulting in rates above zero percent are permissible while full tax holidays are prohibited. At the time of the interview, the proposed regime was undergoing preliminary evaluation by the OECD FHTP with limited involvement from the COCG. This reflects a (mis)belief that OECD approval alone is sufficient to avoid EU blacklisting. However, this article demonstrates that the COCG retains the authority to independently assess and reject tax regimes based on EU standards. Namibia's approach seeks to satisfy EU expectations while introducing a tax regime with comparable effects. This approach reflects apparent compliance but also suggests a limited understanding of the specific measures and procedures required to obtain COCG approval.

A possible explanation for apparent compliance may be the EU listing requirements' ambiguousness, for example, the erroneous understanding that a tax regime would be approved by the COCG if it is not ring-fencing. This interpretation would be supported by studies on regulatory compliance for which the lack of clarity is identified as a possible obstacle to conformity.[83]

Another explanation could be an attempt of manipulation compliance[84] by which countries aim at protecting their international image as a cooperative country without losing their tax system's competitiveness. Thereby, countries might have attempted to manipulate the interpretation and flexibility of the EU listing criterion on tax regimes to silently negotiate a balance between avoiding blacklisting and preserving their attractiveness to foreign direct investment. Nonetheless, the lack of strong bargaining power may have prevented the countries from convincing the EU of their compliance through political pressure thereby rendering the manipulation attempt unsuccessful.[85]

Reluctant compliance

This category includes countries that disagreed with the COCG's assessment – some even accused the EU of abandoning the international dialogue at the OECD[86] – yet ultimately complied with the COCG's demands to avoid the reputational damage associated with blacklisting. For example, a pattern of reluctant compliance can be observed among compliant countries expressing discontent with the assessment of FSIE regimes (see section 4.4).

[82] Interview NEC3.
[83] Christine Oliver, *Strategic Responses to Institutional Processes*, 16 The Academy of Management Review 145 (1991).
[84] Oliver, supra n. 83.
[85] Indeed, as explained in section 4.1, the COCG has identified the new FSIE regimes and assessed them as harmful.
[86] Interviews IntF1, NEC2.

Among the three countries analysed in this article, the case of Namibia is an example of reluctant compliance given its disagreement with the COCG's requests and its disappointment for being blacklisted in 2017.[87] An interviewee[88] stressed how Namibia's blacklisting was caused by a misunderstanding due to lack of clear communication from the EU to the country. Specifically, it was explained that, before being blacklisted, Namibia did not understand the priority to be given to the COCG's letters because of its unawareness of the COCG's role in international taxation. This caused a misunderstanding that the COCG interpreted as lack of commitment and cooperation which consequently led to Namibia's blacklisting. The same interviewee stated that Namibia surprisingly learned about its blacklisting from the media rather than the EU and urgently took action by contacting the COCG and the European Commission and sending two officials from the Namibian Ministry of Finance to Brussels. This initiated a political and technical dialogue between the EU and Namibia as the latter wanted to be immediately removed from the blacklist as it feared reputational damage and economic repercussions.

The interviewee also criticized that the COCG's assessment occurred without actually engaging with the country or understanding its corporate tax system and also without properly explaining the consequences of that assessment. It was then criticized that Namibia's technical and administrative difficulties at achieving the reforms were not considered as a justification for the compliance delay which prolonged the amount of time that the country remained on the blacklist.

Namibia's disagreement with the EU tax list further emerges in relation to the COCG's request to rollback its manufacturing tax regimes. Data from an interview[89] and public documentation[90] refers to the relevance of those regimes regarding Namibia's emerging economy with the plan of stimulating employment, know-how, and investments.

Mauritius and Seychelles can be also identified as cases of reluctant compliance. An interviewee[91] highlighted multiple issues of disagreement with the EU's listing activity. The EU tax list is criticized for being an oppression of countries' control on their own tax policy and for its alignment with national priorities. Further, it is perceived as an extra and substantial administrative burden that adds to the already demanding OECD's reviews. This imposition appears to be greater for countries that do not have sufficient resources to rapidly implement tax reforms. Misalignment between OECD and EU standards complicates the implementation of national reforms, as noted by Seychelles.[92] The research shows that

[87] COCG, supra n. 56.
[88] Interview NEC3.
[89] Interview NEC3.
[90] COCG, supra n. 57.
[91] Interview NEC6.
[92] COCG (Seychelles), supra n. 75.

similar issues have been flagged by other countries regardless of differences in their geopolitical relations with the EU.[93]

Pre-emptive compliance and the deterrence of reputational threat

Namibia's experience further illustrates a high level of engagement that immediately (within a few days) followed the country's blacklisting – before economic damage occurred. The mere fact of being blacklisted instigated Namibia's cooperation since being compared to a tax haven would have risked the country's reputation and reduced its attractiveness for foreign direct investments (FDIs).[94] Therefore, compliance with the EU tax list became a high priority on the ministry's agenda, and it was spearheaded by the Minister of Finance himself (see section 4.2).[95]

Another instance of enhanced compliance after being blacklisted is demonstrated by Seychelles. The country did not comply with its commitment to rollback its FSIE regime by the stipulated deadline (end of 2019). Although it had introduced some amendments to the regime, the COCG considered the reform incomplete and decided to blacklist Seychelles (2020).[96] Afterwards, the country seemed to intensify its level of compliance. The Seychelles Government issued a commencement order in September 2021 to enact the legislation to reform its tax regimes, including those of the FSIE and the FTZ regimes. The law was published in the Gazette on the day after the order, and the provisions came into effect on that day.[97] As the COCG analysed the reform and approved it, Seychelles was removed from the blacklist.[98]

In addition, countries' cooperation with the EU can be subject to changes over time during the pre-listing cooperation phase. For example, when the EU scrutiny of Mauritius' Partial Exemption regime began, Mauritius showed a certain level of cooperation by engaging in a dialogue with the European Commission on the issues of substance and lack of anti-abuse rules. The European Commission was not convinced by Mauritius' arguments advocating for the new regime and requested the country to roll it back. Mauritius' cooperation was then limited to introducing substance requirements while rejecting the implementation of anti-abuse rules such as CFC rules or a switchover clause.[99] Its limited cooperation subsequently transformed into full compliance when drafting the reform to the FSIE regime and introducing CFC rules.[100] The change in strategy could be explained by the country's failed attempt to manipulate the requested outcomes, which ultimately led to reluctant conformity.[101]

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[93] Casano, supra n. 19; Casano, supra n. 1.
[94] As emerged from interview NEC3.
[95] Interview NEC3.
[96] *Council Conclusions of 18 February 2020 on the revised EU list of non-cooperative jurisdictions for tax purposes*, doc. 6129/20 (2020) Council of the EU; COCG, supra n. 70.
[97] COCG, supra n. 70.
[98] *Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes*, doc. 12519/21 (2021) Council of the EU.
[99] European Commission, supra n. 66.
[100] COCG, supra n. 68.
[101] Oliver, supra n. 83.

At the same time, Mauritius' interest in conformity can be explained by the appreciation of international reputation. This is true not only in the negative context of preventing blacklisting to avoid reputational damage, but also in the positive sense of preventing blacklisting to *improve* its international reputation. Interview data reports that not being in the EU blacklist has helped the country to improve its international reputation as a jurisdiction of substance willing to promote sustainable investments. This came at the expense of reforms that limited the competitiveness of its financial system.[102]

When compared to regulatory compliance studies, these empirical findings on pre-emptive compliance confirm Sharman's theories according to which a country's reactions to blacklisting is motivated by the mere expectation of harm compared to actual harm suffered following reputational damage.[103] In fact, the findings further extend regulatory compliance literature as they deconstruct pre-emptive responses into apparent and reluctant compliance (as explained above).

Finally, Mauritius and Seychelles' demonstrated commitment to high-level compliance prompted this research to reconsider prevailing theories on reputation and blacklisting. Notably, the findings challenge Guzman's theoretical expectations which suggest that compliance would be low for countries already exposed to reputational threats in international law as their reputational cost for non-compliance would be lower than other countries.[104]

Other remarks on observed compliance

Among the three selected countries and in contrast with the previous finding on apparent compliance, the highest level of cooperation can be observed in Mauritius and Seychelles. Mauritius' compliance process has been relatively smoother than for other countries analysed in this article as it was able to navigate the EU's expectations of regulatory compliance to avoid blacklisting at all costs. Despite some setbacks, Seychelles showed a similar understanding from the beginning of the listing procedure. In contrast, Namibia's experience shows confusion and unawareness of the process. Considering that Mauritius and Seychelles might have more experience in dealing with blacklisting given their reputation as tax havens,[105] the initial lack of cooperation from Namibia may be understood as a lack of experience, as well as surprise in even been considered for blacklisting (as explained earlier in this section).

This would suggest that countries with more compliance experience in terms of blacklisting have been able to manage their compliance strategies with the EU better than countries who have not been previously assessed as potential tax havens. Therefore, there may be a risk that the EU tax list affects

[102] Interview NEC6.
[103] Sharman, supra n. 1.
[104] Andrew Guzman, *Reputation and International Law*, UC Berkeley Public Law Research Paper No. 1112064 1 (2008).
[105] Financial Times, *Mauritius aims to shed 'tax haven' image* (2022) https://www.ft.com/content/b0a0d885-12b7-458d-87cc-8f36c565fb07 (accessed on 24 Sept. 2025); Financial Times, *Welcome to crypto archipelago* (2024) https://www.ft.com/content/ff55e8aa-7759-40aa-b9c6-a1f70472ccab (accessed on 24 Sept. 2025).

more those countries that are less commonly assessed as potential threats to international taxation, e.g. developing countries without financial centres which are rather often described as the victims of international tax avoidance.

4.4. Countries' perception of the EU tax list

The experience of Mauritius, Namibia, and Seychelles in dealing with the EU tax list reveals a disapproving stance towards it. Interview data[106] stressed the existence of double standards between non-EU and EU countries since the latter are not included in the list, while developing countries – including those with no financial centre – are blacklisted. The interviewee explained that, as a consequence, their country felt singled out unfairly.

Concerns about unfairness also seem to emerge when considering the developmental difficulties of developing countries. For example, Namibia faces economic challenges, high unemployment rates, and a high level of inequality.[107] Based on information from Namibia's formal communication to the COCG[108] that was reiterated in interview data,[109] those challenges were addressed through a tax policy designed to incentivize FDIs via generous manufacturing regimes. As these were expected to contribute to increased job opportunities and skill transfer, abolishing such regimes as prompted by EU requirements was seen by Namibia as conflicting with the country's needs and priorities.[110]

Besides economic development, the limitations of national administrative capacity should also be considered as prompt reforms and effective standards implementations require personnel and other resources that (African) developing countries may often lack.[111]

The issue of unfairness and coercion in the EU's demands on non-EU countries has also emerged in relation to the limited bargaining power of African nations when negotiating with the EU, specifically in the context of the EU tax list procedure. Interviewees[112] indicated that countries may acknowledge the value that the EU places on dialogue and its interest in supporting compliance efforts. However, they

[106] Interview NEC3.
[107] The World Bank, supra n. 37.
[108] COCG, supra n. 57.
[109] Interview NEC3.
[110] Interview NEC3. *See also* section 4 highlighting the challenges and priorities of Namibia and its economic reliance on exports.
[111] *Summary Record of the Meeting of the Platform for Tax Good Governance held in Brussels on 15 June 2017*, doc. TAXUD/D1/AC/lr(2017), 1-6 (2017) PTGG; *Summary Record of the Meeting of the Platform for Tax Good Governance held in Brussels on 7 December 2016*, doc. TAXUD/D1/CP/equ (2016), 4 (2016) PTGG; *Reflections on the EU Objectives in Addressing Aggressive Tax Planning and Harmful Tax Practices*, Final Report 53 (2020) European Commission; Martin Hearson, *Imposing Standards: The North-South Dimension to Global Tax Politics* (Cornell University Press 2021); Guzman, supra n. 104; Sharman, supra n. 1; Interviews NGO3, NEC2, NEC3, NEC4, InF1, EP3, MS1.
[112] Interview NEC3, NEC6.

express dissatisfaction with the lack of transparency in the listing process and the inability to engage directly with the Council and the COCG that are ultimately responsible for the listing decisions. Criticism is also directed at the absence of any scope for negotiation during the dialogue phase with the European Commission – especially for countries with limited bargaining power – which complicates efforts to align EU requirements with national economic priorities of developing countries.[113] This situation appears to underscore the coercive nature of the EU tax list given the combination of reputational threat[114] with the restricted influence that countries have over the content of the EU's listing standards, the type of national reforms, and the timeframe within which these reforms are to be implemented.

Concerns about procedural transparency and coercion have emerged when comparing countries' interactions with the EU and the OECD. Countries generally perceive negotiations with the OECD as more straightforward than those with the EU.[115] Although the OECD process has been criticized for favouring the interests of developed countries and often leaving developing nations in a passive, observer role,[116] the EU's approach in the context of the tax list appears to raise even greater concerns regarding equal dialogue. In contrast, the OECD is perceived as more familiar, more attuned to the challenges faced by developing countries, and clearer in its expectations regarding tax reforms.[117]

From a substantive perspective, the coercion of the EU tax list has effectively imposed EU and OECD tax standards on developing non-EU countries without allowing them time to evaluate the economic and social implications of the required reforms. This, together with developing countries' limited bargaining power in liaising with EU Member States and institutions, has further limited flexibility and prevented meaningful negotiations to adapt these standards to each country's specific context. As a result, the EU listing initiative is perceived as an exertion of power by developed nations[118] up to the point of contributing to the increasing support for the UN as a new international tax body among developing countries.[119]

However, if imposing OECD standards on developing countries is perceived as unfair, the opposite concern also arises as the imposition of EU tax standards diverging from OECD practices has raised significant issues. For example, the COCG's interpretation of FSIE regimes as harmful, which is misaligned with the

[113] Interviews NEC6, NEC3.
[114] Casano, supra n. 1.
[115] Interview NEC3, NEC2, NEC6, NEC4.
[116] Interview NEC3; Rasmus C. Christensen, Martin Hearson, Tovony Randriamanalina, *At the table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations*, ICTD Working Paper 115 1 (2020); Matthew Collin, *Does the Threat of Being Blacklisted Change Behaviour? Regression Discontinuity Evidence from the EU's Tax Haven Listing Process*, Brookings Global Economy and Development Working Paper 139 1 (2020).
[117] Interview NEC3.
[118] Interviews NGO3, NGO2, NEC3, NEC2, NEC4, NEC6.
[119] Interview NGO3.

OECD's stance,[120] has generated frustration among countries, as reflected in the commitment letters from Seychelles[121] and in interviews conducted with non-EU countries.[122] They emphasize that the COCG's position on territorial tax systems concerns a core element of their tax policy as capital-importing countries, and that the proposed reforms would impose an unnecessary administrative burden on the local tax administration since a higher number of tax inspections would more likely not lead to greater amounts of tax revenues as not enough residents invest abroad.

Another problematic effect of divergence between EU and OECD tax standards is reported by the case of Seychelles and echoed by the experience of other countries.[123] Seychelles warned in its commitment letter to the COCG that the divergence would have 'dramatically affect[ed] [its] capability to meet [its] commitment within the timeframe'. By highlighting awareness of the risk of blacklisting if reforms were not completed on time, Seychelles stated that it had to 'trust [that the COCG would ensure technical difficulties were] taken into account in any decision made at a level inaccessible to third countries'.[124] This reflects a sense of disempowerment in countries' ability to influence outcomes and, consequently, a position of vulnerability towards EU's decision making. This condition is further reinforced by the general disregard for technical difficulties as valid grounds for extending reform deadlines,[125] regardless of well-known administrative capacity constrains featuring (African) developing countries (as discussed earlier throughout the section).

5. Interpreting the empirical data in the context of contemporary international tax studies

The perceptions and reactions discussed in the latest sections reflect broad trends identified by this research. A diverse range of stakeholders, including non-EU countries, questioned whether the EU tax list correctly prioritizes developing counties' interests and addresses their administrative struggle. They also highlighted, among other concerns, the influence of political considerations on EU listing decisions and the lack of participation by non-EU countries in the EU's country assessments.[126] Considering the large scope of developing jurisdictions involved in the EU's scrutiny (see sections 1 and 3), this highlights the broad implications of the EU tax list for emerging and developing economies, extending beyond technical compliance to include matters of national policymaking.

[120] The OECD has traditionally considered such regimes not harmful (*see Harmful Tax Competition: An Emerging Global Issue* (1998) OECD); *Harmful Tax Practices: 2018 Progress Report on Preferential Regimes: Inclusive Framework on BEPS: Action 5* (2019) OECD).
[121] COCG (Seychelles), supra n. 75.
[122] Interviews NEC3, NEC2, NEC4.
[123] Interviews NEC3, NEC4, NEC6, NEC2. See also Casano, supra n. 19.
[124] COCG (Seychelles), supra n. 75.
[125] As explained in section 4 (especially 4.1 and 4.2) and in Casano (supra n. 1), technical difficulties are not among possible justifications to allow an extension of deadlines.
[126] Interviews NEC2, NEC4, NEC5, NEC3, NEC7, NGO3, NGO2, InF1, as confirmed by a variety of related EU documentation. *See also* Casano, supra n. 1; Casano, supra n. 19.

From a regulatory perspective, interview data and the analysis of countries' reforms and compliance strategies across fifteen non-EU countries[127] suggest that the EU tax list appears to *de facto* stimulate short-term, expedient measures aimed at meeting EU requirements. This is evidenced by the minimal, superficial, and reluctant compliance observed across the countries and as illustrated, for example, by poor enforcement practices, the substitution of abolished preferential tax regimes with broader tax benefits, or the automatic abolishment of manufacturing regimes without prior fiscal economic assessments.[128] This does not show a successful promotion of a culture rooted in policy assessment and public accountability, which should inspire a move away from risky OFC strategies.[129]

From a fairness perspective, the latter is given empirical meaning in section 4.4 through the lens and experiences of non-EU countries.[130] The EU's rhetorical legitimization[131] celebrates the EU tax list as a successful attempt of tax cooperation with developing countries.[132] However, the emerging perception of unfair coercion can be interpreted as the result of a trapping dichotomy between the EU's ambition to curb harmful tax competition[133] and the countries' priority to implement tax reforms adequately reflecting their societal and economic needs.[134] These concerns are exacerbated when the EU's scrutiny affects jurisdictions with limited experience in regulatory compliance. Their interaction with the EU tax list would tend to resemble that of Namibia, where a lack of awareness about the process and effective compliance strategies heightened the risk of blacklisting.

From a procedural perspective, the complaints raised by non-EU countries mirror longstanding concerns expressed by developing countries regarding OECD decision making – particularly the lack of meaningful participation and involvement in shaping outcomes.[135] These issues appear even more pronounced when

[127] Bahamas, Barbados, BVI, Bermuda, Cayman Islands, Costa Rica, Curaçao, Hong Kong, Jersey, Mauritius, Namibia, Panama, Seychelles, UAE, Uruguay. Interviews NEC2, NEC3, NGO3, NGO2 (see Casano, supra n. 1, at Chapter 8).
[128] Casano, supra n. 1, at Chapter 8.
[129] Robinson, Behuria, and Robertson et al., for example, highlight the risks involved in OFC development strategies. They show that these strategies are shaped by complex historical, political, and economic factors that cannot be addressed through simple, one-off reforms. They instead require a thorough restructuring of economic systems, political institutions, and international relations (*see* Robinson, supra n. 50; Behuria (2023 and 2024), supra n. 51; Robertson et al., supra n. 51).
[130] E.g. interviews NEC2, NEC3, NEC6, NGO2, NGO3.
[131] Terence Halliday, Susan Block-Lieb, Bruce G. Carruthers, *Rhetorical Legitimation: Global Scripts as Strategic Devises of International Organizations*, 8 Socio-Economic Review 77 (2010); Terence C. Halliday, *Legitimacy, Technology, and Leverage: The Building Blocks of Insolvency Architecture in the Decade Past and the Decade Ahead*, 32 Brooklyn Journal of International Law 1081 (2007); Terence C. Halliday & Bruce Carruthers, *Bankrupt: Global Lawmaking and Systemic Financial Crisis* (Stanford University Press, 2009).
[132] E.g. interviews EC1, GSC1, MS1, MS6, MS3, MS5. See also European Commission, supra n. 2.
[133] E.g. interviews EC1, GSC1, MS1, MS2, MS6, MS3, MS5. European Commission, supra n. 2.
[134] E.g. interviews NEC2, NEC3, NEC4, NGO3, InF1. A reference to the persistent tendency of international power states to address harmful tax competition without proper considerations for lesser developed countries and their consequences for a sudden transition away from haven-like features is made in Hohmann et al., supra n. 51.
[135] Tsilly Dagan, *International Tax Policy: Between Competition and Cooperation* (Cambridge University Press 2017); Hohmann et al., supra n. 51, at 151-153; Christensen et al., supra n. 116; Hearson, supra n. 111; Irma J. Mosquera Valderrama, *Global Tax Governance*, in The Oxford Handbook of International Tax Law (Florian Haase and Georg Kofler eds., Oxford Handbooks 2023); Irma J. Mosquera Valderrama, *Legitimacy and the Making of International*

developing non-EU countries engage with the EU tax list. In such cases, countries often face significant barriers to effective communication with the list's decision makers (i.e. the COCG and EU Member States), lack sufficient political leverage to engage with them individually, and are entirely excluded from the processes that establish both the list and the underlying tax standards – whether set by the OECD or the EU. Further, the EU does not seem to account for each country's specific administrative advancement, level of development, and corresponding priorities nor customize the requested reforms to reflect them.[136]

As highlighted in other studies on international taxation,[137] the lack of procedural involvement should not be underestimated. Social science research has emphasized that perceptions of fair processes can be

Tax Law: The Challenges of Multilateralism, 7 World Tax Journal 343 (2015); Irma J. Mosquera Valderrama, *Output Legitimacy Deficits and the Inclusive Framework of the OECD/G20 Base Erosion and Profit Shifting Initiative*, 72 Bulletin for International Taxation 160 (2018); Irma J. Mosquera Valderrama, *Regulatory Framework for Tax Incentives in Developing Countries After BEPS Action 5*, 48 Intertax 446 (2020); Irene Burgers & Irma J. Mosquera Valderrama, *Corporate Taxation and BEPS: A Fair Slice for Developing Countries?*, 10 Erasmus Law Review 29 (2017); Dries Lesage, *The Current G20 Taxation Agenda: Compliance, Accountability and Legitimacy*, 9 International Organisations Research Journal 32 (2014); Yariv Brauner, *BEPS: an Interim Evaluation*, 6 World Tax Journal 10 (2014); Reuven Avi-Yonah & Haiyan Xu, *Evaluating BEPS*, 10 Erasmus Law Review 3 (2017); Sissie Fung, *The Questionable Legitimacy of the OECD/G20 BEPS Project*, 10 Erasmus Law Review 76 (2017); Allison Christians & Laurens van Apeldoorn, *The OECD Inclusive Framework*, 72 Bulletin for International Taxation 226 (2018); Richard Eccleston & Lachlan Johnson, *The OECD's Governance of International Corporate Taxation: Initiatives, Instruments, and Legitimacy,* in Handbook on the Politics of Taxation (Lukas Hakelberg, Laura Seelkopf eds., Elgar Publishing 2021); Ivan Ozai, *Institutional and Structural Legitimacy Deficits in the International Tax Regime*, 12 World Tax Journal 53 (2020); Ivan Ozai, *Two Accounts of International Tax Justice*, 33 Canadian Journal of Law & Jurisprudence 317 (2020); Wouter Lips & Irma J. Mosquera Valderrama, *Global Sustainable Tax Governance in the OECD-G20 Transparency and BEPS Initiatives*, in Tax Sustainability in an EU and International Context (Cécile Brokelind, Servaas Van Thiel eds., GREIT Series IBFD 2020); Irma J. Mosquera Valderrama, Wouter Lips, Dries Lesage, *Tax and Development: The Link between International Taxation, the Base Erosion Profit Shifting Project and the 2030 Sustainable Development Agenda*, UNU-CRIS Working Paper Series W-2018/4 (2018); Natalia Quiñones, *Challenges of the Emerging International Tax Consensus for Low- and Middle-Income Countries* 1001-1005, in The Oxford Handbook of International Tax Law (Florian Haase and Georg Kofler eds., Oxford University Press 2023); Wouter Lips & Alex Cobham, *Paradise lost - Who Will Feature on the Common EU Blacklist of Non-Cooperative Tax Jurisdictions?*, Open Data for Tax Justice (2017); Cassandra Vet, Danny Cassimon, Anne Van de Vijver, *Getting the Short End of the Stick: Power Relations and Their Distributive Outcomes for Lower-Income Countries in Transfer Pricing Governance*, in Taxation, International Cooperation and the 2030 Sustainable Development Agenda (Irma J. Mosquera Valderrama, Dries Lesage, Wouter Lips eds., Springer 2021); Wouter Lips, *Conclusion*, in Taxation, International Cooperation and the 2030 Sustainable Development Agenda (Irma J. Mosquera Valderrama, Dries Lesage, Wouter Lips eds., Springer 2021); Mbakiso Magwape, *Agenda Setting and Decision Making under the OECD/G20 IF and the WTO – Developing Countries and Reform*, 52 Intertax 270 (2024); Tarcísio Diniz Magalhães, *What Is Really Wrong with Global Tax Governance and How to Properly Fix It*, 10 World Tax Journal 499, 502-511 (2018); Afton Titus, *The Perspective of the EAC on International Tax Law*, in The Oxford Handbook of International Tax Law (Florian Haase and Georg Kofler eds., Oxford University Press 2023) highlights the inadequacy of OECD standards for developing countries. In this context, it should be noted Tucker's remark that any state should be afforded the possibility to opt out from delegating to international organizations when the result of such delegation is contrary to the interests of the state's people (Paul Tucker, *Global Discord: Values and Power in a Fractured World Order* 349 (Princeton University Press (2022)). This option is removed when the consequence of opting out is punitive international blacklisting.

[136] Interviews NEC2, NEC4, NEC5, NEC3, NEC6, NGO3, Inf1, as confirmed by a variety of related COCG's documentation.

[137] Rita de la Feria, *The perceived (un)fairness of the global minimum corporate tax rate*, in The 'Pillar Two' Global Minimum Tax (Werner Haslehner, Georg Kofler, Katerina Pantazatou, Alexander Rust, eds., Edward Elgar Publishing 2024).

more influential than substantive fairness – particularly when outcomes are unfavourable – by helping to mitigate dissatisfaction.[138] The ability to express individual views and to be treated with respect, both of which are highly valued according to empirical evidence,[139] appears to be undermined for developing non-EU countries scoped by the EU tax list.

The lack of fair process in dealing with the EU is more noticeable than with the OECD due to a profound absence of transparency and equal footing.[140] This enables the EU to exert a form of coercion that exceeds the parameters of mere political pressure relying on threats of reputational harm and tangible countermeasures, both of which inflict economic consequences, whether perceived or real. The limited political bargaining power of developing countries amplifies this coercion and leaves them effectively defenceless. Their dependence on larger economies and foreign investors makes them reliant on the goodwill of coercive actors to avoid the reputational and economic consequences associated with blacklisting.[141]

From a substantive perspective and from the EU's standpoint, the imposition of the OECD's and the EU's standards is justified as necessary to curb harmful tax competition by applying uniform standards across jurisdictions thereby promoting tax coordination.[142] However, it is important to recognize that the benefits of tax cooperation may disproportionately favour developed countries and potentially disadvantage developing nations when the latter have limited room to contribute to standard-setting.[143] While the impact of removing preferential tax regimes on FDIs and national economies remains uncertain

[138] Robert J. MacCoun, *Voice, Control, and Belonging: The Double-Edge Sword for Procedural Fairness*, 1 Annual Review of Law and Social Science 171 (2005); Joel Brockner & Batia M. Wiesenfeld, *An Integrative Framework for Explaining Reactions to Decisions: Interactive Effects of Outcomes and Procedures*, 120 Psychological Bulletin 189 (1996); Halliday et al. (2010), supra n. 131, at 81; Tom R. Tyler, *A Psychological Perspective on the Legitimacy of Institutions and Authorities*, In The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations (John T. Jost, Brenda Major eds., Cambridge University Press 2001); Bruce Cronin & Ian Hurd, *Introduction*, in The United Nations Security Council and the Politics of International Authority (Bruce Cronin, Ian Hurd eds., Routledge 2008).

[139] David de Cremer & Alain van Hiel, *Procedural Justice Effects on Self-Esteem Under Certainty Versus Uncertainty Emotions*, 32 Motivation and Emotion 278 (2008). For more theoretical foundations, *see* David De Cremer & Constantine Sedikides, *Self-Uncertainty and Responsiveness to Procedural Justice*, 41 Journal of Experimental Social Psychology 151 (2005); David De Cremer & Constantine Sedikides, *Reputational Implications of Procedural Fairness for Personal and Relational Self-Esteem*, 30 Basic and Applied Social Psychology 66 (2008); Gerda Koper, Daan Van Knippenberg, Francien Bouhuijs, Riel Vermunt, Henk Wilke, *Procedural Fairness and Self-Esteem*, 23 European Journal of Social Psychology 313 (1993); Tom R. Tyler, Peter Degoey, Heather Smith, *Understanding Why the Justice of Group Procedures Matter: A Test of the Psychological Dynamics of the Group-Value Model*, 70 Journal of Personality and Social Psychology 913 (1996); Robert Folger, *Distributive and Procedural Justice: Combined Impact of ''Voice'' and Improvement of Experienced Inequity*, 35 Journal of Personality and Social Psychology 108 (1977).

[140] As confirmed by Interviews NEC2, NEC3, Inf1, NGO3.

[141] Lukas Hakelberg, *The Hypocritical Hegemon: How the United States Shapes Global Rules Against Tax Evasion and Avoidance* (Cornell University Press, 2020).

[142] Interviews EC1, EC2, MS1, MS5, MS6, MS3; confirmed by a variety of EU documentation, such as *Council Conclusions of 8 November 2016, Criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes*, doc. 14166/16 (2016) Council of the EU; *Council Conclusions of 25 May 2016*, doc. 9452/16 (2016) Council of the EU.

[143] Dagan, supra n. 135; De la Feria, supra n. 137.

and dependant on the specific features of each regime and domestic context,[144] it is important to note that such impacts may vary depending on whether the regime targets mobile or non-mobile income. Research shows that FDI patterns to the detriment of developing economies are strongly correlated with IP-income. This may suggest that regimes favouring non-mobile income – for example, manufacturing regimes – could be more beneficial for the real economy, especially when adequately monitored.[145] Nonetheless, the EU tax list, due to the design of its decision making, its coercion, and the strict deadlines, gives countries no option to assess the economic utility of a tax regime, the merits of the EU-requested reforms, and their effects on national economies – after all, such evaluations would even be pointless as the EU has not shown acceptance of alternative, perhaps domestically better-suited, reforms plans. Meanwhile, global competition for FDIs is unlikely to diminish as a result of harmonized or less competitive tax systems. When corporate taxation as a key determinant of FDIs is constrained, other factors such as infrastructure, regulatory quality, and labour conditions become more influential in investment

[144] Hohmann et al., supra n. 51, at 149. For example, E. Cary Brown, *Tax incentives for Investment*, 52 The American Economic Review 335 (1962); E. William Dinkelacker, *Alternative Tax Incentives for Investment*, 72 Journal of Political Economy 184 (1964); Robert E. Hall & Dale W. Jorgenson, *Tax Policy and Investment Behaviour*, 57 The American Economic Review 391 (1967); Robin Boadway, *Investment Incentives, Corporate Taxation, and Efficiency in the Allocation of Capital*, 88 The Economic Journal 470 (1978) highlighted the attractiveness of different tax incentives while acknowledging governments' risk of losing revenues. Johannes Hers, Joost Witteman, Ward Rougoor, Koert van Buiren, *The Role of Investment Hubs in FDI, Economic Development and Trade*, SEO Amsterdam Economics, commissioned by Investment Facilitation Forum (2018), highlighting the role of financial hubs, such as Mauritius, in incentivizing FDIs towards or from developing countries. Thornton Matheson, Victoria Perry, Chandara Veung, *Territorial vs. Worldwide Corporate Taxation: Implications for Developing Countries*, IMF Working Paper WP/13/205 3 (2013) emphasized the importance for low-income countries to closely monitor international tax reforms initiated by major economies. They argued that, in light of these countries' shift to territorial taxation that enhances their competitive advantage, it is crucial for them to remain responsive and increase their competitiveness. In contrast, Beverly Moran, *The Second War Between the States: How the United States Became the World's Best Tax Haven*, 16 Law and Development Review 295, 308-310 (2023); *Tax incentives for businesses in Latin America and the Caribbean*, Project Documents LC/TS.2020/19 (2020) Economic Commission for Latin America and the Caribbean (ECLAC) & Oxfam International (with reference to tax incentives in Latin America and Caribbean region); Akhilesh Ranjan, *International Tax Law and Low- and Middle-Income Countries*, in The Oxford Handbook of International Tax Law (Florian Haase and Georg Kofler eds., Oxford University Press 2023); Alessandra Celani, Luisa Dressler, Tibor Hanapp, *Assessing Tax Relief from Targeted Investment Tax Incentives Through Corporate Effective Tax Rates: Methodology and Initial Findings for Seven Sub-Saharan African Countries*, OECD Taxation Working Papers No. 58 1 (2022) ; Hohmann et al., supra n. 51, highlighting how haven-like measures in developing countries risk raising social and income inequality; Dev Kar & Guttorm Schjelderup, *Financial Flows and Tax Havens: Combining to Limit the Lives of Billions of People*, Global Financial Integrity Report 1 (2015), who, despite emphasizing primarily the need for tax transparency measures, also argue that forms of beneficial tax treatment have attracted tax evaders and facilitated illicit financial flows with spillover effects on developing countries; Jannick Damgaard, Thomas Elkjaer, Niels Johannesen, *Piercing the Veil*, 55 IMF Finance & Development 51 (2018), whose criticism specifically refers to tax incentives consisting of letter-box companies and instigating phantom investments, thereby suggesting the importance of resorting to better competition practices to attract FDIs that result in economic growth by creating job opportunities and technology transfer.

[145] Damgaard, supra n. 144; Ali Ahmed Howlader, Chris Jones, Yama Temouri, *The Relationship Between MNE Tax Haven Use and FDI into Developing Economies Characterized by Capital Flight*, 27 Transnational Corporations Journal 1 (2020).

decisions,[146] with outcomes that remain nonetheless uncertain for welfare and tax revenue.[147] Limiting tax-based incentives compels countries to rely on alternative drivers of competitiveness, which developing countries may lack or not readily strengthen while manufacturing tax incentives are withdrawn at short notice under the EU tax list. As a result, such competition may ultimately favour developed economies that are already equipped to attract FDIs through structural advantages such as robust infrastructures, efficient public services, a reliable judicial system, or strategic geographic positioning.

To date, international taxation has provided little evidence of developed countries prioritizing collective interests over their own. On the contrary, the overall trajectory suggests a pattern of self-interested policymaking by powerful countries, which often results in spillover effects that disproportionately impact others.[148] Regrettably, the EU tax list appears to perpetuate this pattern rather than challenge it.

6. Conclusions and recommendations

This article provides a comprehensive analysis of how three African countries – Mauritius, Namibia, and Seychelles – have responded to the regulatory demands of the EU tax list. They all share similar experiences and perceptions regarding the EU's tax governance framework despite differences in international reputation, economic structure, and income level.

Their compliance behaviour can be broadly characterized as willing conformity, albeit marked by administrative challenges, misunderstandings, and attempts at apparent compliance. The latter reflects failed attempts to negotiate the terms of compliance (sometimes to better align with national policies) and reveal the coercive nature of the EU tax list that ultimately forces the three countries into reluctant conformity.

A key driver behind compliance is the urgency to protect international reputation. The threat of blacklisting – or the experience of it, as seen in the cases of Namibia and Seychelles – has proven to be a powerful motivator for reform. As blacklisting damages a country's image and threatens its economic prospects, it prompts a shift toward more stringent compliance even before actual economic repercussions.

[146] As explained by economic theories of the second best. *See* De la Feria, supra n. 137; Richard G. Lipsey & Kelvin Lancaster, *The General Theory of Second Best*, 24 Review of Economic Studies 11 (1956); Rita de la Feria & Clemens Fuest, *The Economic Effects of EU Tax Jurisprudence*, 41 European Law Review 44 (2016).

[147] As pointed out by de la Feria regarding the effects of the OECD's Pillar Two, tax cooperation may lead a country to lower environmental or labour standards or introducing preferential personal income tax regimes to attract FDIs (*see* De la Feria, supra n. 137). On the other hand, if real economic investments are lost due to tax cooperation and more specifically due to the removal of manufacturing tax regimes, this could further cause a detriment for national welfare due to job loss and loss of personal income tax revenues.

[148] De la Feria, supra n. 137.

The role of third-party regional organizations such as the ATAF and the SADC emerges as crucial as they offer both technical and political support to help countries navigate the complex reform requirements and diplomatic engagement. Their involvement underscores the importance of regional cooperation in enhancing compliance strategies among developing nations.

Empirical findings on regulatory compliance from the three case studies partially support current studies. They provide empirical support to Oliver's theories on manipulative compliance and Sherman's concept of pre-emptive compliance. The findings further develop this concept as articulated into apparent and reluctant compliance. On the other hand, the findings challenge Guzman's theory on international reputation; contrary to expectations, Mauritius – despite its reputation as a tax haven – actively pursued compliance to enhance its global standing rather than dismissing reputational risks.

The compliance and perception data regarding the EU tax list that was gathered from three African jurisdictions is consistent with this author's findings from other countries worldwide. The experiences of these jurisdictions offer valuable lessons for other developing countries. The EU COCG's demands can be particularly burdensome for small or resource-constrained administrations. These countries often lack the analytical capacity and institutional infrastructure to implement reforms within the strict deadlines imposed by the EU. The challenge intensifies when EU requirements exceed those of the OECD, which increases the risk of blacklisting due to delayed or incomplete reforms.

The experience of relatively seasoned jurisdictions like Mauritius and Seychelles, which continued to struggle despite prior exposure to regulatory compliance, accentuates the vulnerability of less experienced developing countries such as Namibia. This risks turning the EU tax list into a tool that ultimately benefits countries with strong geopolitical influence and well-established regulatory compliance techniques while disadvantaging developing and emerging economies that lack these conditions.

Moreover, the unilateral and coercive nature of the EU tax list undermines the ability of developing countries to assess the timing, quality, and broader impact of the reforms. Due to strict deadlines and coercion, the reforms are often rushed, leaving no room for dialogue, rebuttal, or adaptation to national contexts. This lack of procedural fairness contributes to a widespread perception of injustice, especially as the standards are established without meaningful input from the countries expected to implement them. Furthermore, the limited scope for public consultation and the diminished role of national parliamentary debate when EU-requested reforms are imposed under coercive conditions (especially if a country seeks to avoid being placed on the blacklist) risk affecting democratic power within national borders. The extent and consequences of this effect should be investigated by future research.

The issue does not lie in the EU-requested removal of harmful tax regimes—particularly those associated with highly mobile income that generates little real economic activity—as this is widely regarded as a

positive step in curbing tax competition and the race to the bottom. Rather, the concern relates to the inability of developing countries to evaluate the economic implications of such reforms and plan ahead in full autonomy. The EU presents its tax list as a cooperative tool aimed at helping developing countries eliminate harmful tax practices; it may have the positive effect of bringing issues of harmful tax competition directly to the attention of an individual country and may prompt countries to reassess preferential regimes and consider whether they contribute to sustainable development goals (SDGs). In this sense, it could serve as a catalyst for reflection and reform, for which practical effectiveness could be measured in future research by observing companies' behaviour in response to EU-requested reforms nationally implemented. Yet, the COCG does not evaluate regimes based on their developmental impact, and countries do not perceive the list as transparent or genuinely cooperative. The process lacks proportionate opportunities for dialogue and fails to consider the socio-economic realities of the countries involved. The EU's approach disregards whether a regime is beneficial or detrimental to the local economy; the reform must proceed regardless. This deprives countries of the opportunity to explore alternative or more suitable policy options.

Therefore, it is concluded that, despite the EU's declared success in curbing harmful tax competition, the tax list appears to offer only a short-term solution. As evidenced by the compliance strategies of the countries studied – particularly reluctant and apparent compliance – there is little indication of long-term structural change. Furthermore, the EU list's reactive approach means that, while one regime may be removed, another with similar effects may soon replace it – which brings the process back to square one. Finally, the lack of an equal-footing dialogue and the accelerated implementation of reforms risk preventing countries from reconstructing their tax systems in a way that could be functional to pursuing SDGs and broader socio-economic objectives.

In the broader context of international tax governance, the EU tax list exemplifies a trend for which developed countries dominate reform initiatives, often without adequate consultation with developing nations. This dynamic exacerbates existing inequalities and undermines both procedural and substantive fairness even more than other current international tax initiatives due to its coercive and unilateral character. The EU tax list is ultimately a powerful example of the tension between global tax governance and national policy autonomy as much as it reflects a stark dichotomy: while it aims to curb harmful tax competition, its coercive implementation risks harming the very countries and developmental goals it professes to support.

For the list to evolve into a truly cooperative and tax sustainable instrument, it must embrace inclusive dialogue and a shared understanding of fair tax practices while respecting national contexts, allowing transitional plans based on a country's development ability, and supporting long-term reform strategies (including anti-tax abuse measures) that align with and are functional for each country's developmental

priorities. The EU can rely on the local expertise and representative power of regional organizations to liaise and coordinate its tax actions in emerging economies.

Meanwhile, developing countries are encouraged to promptly prepare for compliance with the EU tax list. Their efforts would benefit from early planning and strengthened political and technical cooperation with regional organizations and alliances. Proactively assessing their national tax regimes against the criteria of the EU Code of Conduct can ensure readiness to respond promptly when formal EU requests are issued. This will reduce the risk of being blacklisted and control the negative consequences of rushed reforms. Regional collaboration can also provide access to technical support during these preliminary assessments and facilitate the timely implementation of required reforms. Furthermore, acting collectively can enhance these countries' diplomatic and political strategies in negotiations with the EU, thereby increasing their bargaining power by presenting a unified voice.

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APPENDIX I: Analysed EU documents and codified list of interviews[149]

The set of analysed EU documents includes:

- COCG's agenda documents drafted by the GSC;
- working papers drafted by the GSC;
- minutes of COCG's meetings drafted by the European Commission;
- minutes of meetings of the Platform for Tax Good Governance (PTGG)[150] drafted by the European Commission and approved by the PTGG's members;
- progress reports on non-EU countries' commitments and compliance drafted by the European Commission and/or the GSC;
- COCG's reports to the Council drafted by the GSC;
- COCG's assessments of non-EU countries' tax system/regimes and their reforms drafted by the GSC;
- European Commission's draft-assessments of non-EU countries tax system/regimes for discussion at the COCG;
- minutes of public hearings held by the European Parliament;
- Council's Conclusions drafted by the GSC and approved by the ECOFIN Council;
- European Parliament's Resolutions;
- MEPs' letters and communications;
- European Commission's Communications.

[149] Casano, supra n. 1.

[150] The PTGG is an expert group established by the European Commission in 2013 to assist the Commission in developing initiatives to promote tax good governance standards in non-EU countries and to tackle tax avoidance (*Communication from the Commission to the European Parliament and the Council of 6 December 2012 on an Action Plan to strengthen the fight against tax fraud and tax evasion*, doc. COM(2012) 722 final, 7 (2012) European Commission; *Decision on setting up a Commission Expert Group to Be Known as the Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation*, doc. C(2013) 2236 final (2013) European Commission).

List of interviews:

Code (ID)	Country/Institution	Category	Number of interviewees present	In-person/online	Year of interview	Confidentiality*
EP1	European Parliament	Policy Advisors	2	In person	2022	A
EP2	European Parliament	Policy Advisor	1	In person	2022	B
EP3	European Parliament	Member of European Parliament	1	In person	2023	B
EC1	European Commission	Civil Servant; participant in COCG meetings	1	In person	2022	B
EC2	European Commission	Civil servant; participant in COCG meetings	1	In person	2023	A
GSC1	General Secretariat of the Council	Civil Servant; participant in COCG meetings	1	In person	2022	B
MS1	EU Member State	Fiscal attachés; COCG members	3	In person	2022	B
MS2	EU Member State	Fiscal attaché; COCG member	1	Online	2022	A
MS3	EU Member State	Fiscal attaché; COCG member	1	In person	2022	B
MS4	EU Member State	Fiscal attaché; COCG member	1	In person	2022	B
MS5	EU Member State	Fiscal attaché; COCG member	1	In person	2022	A
MS6	EU Member State	Fiscal attaché; COCG member	1	On the phone	2022	B
NGO1	NGO	Ex-NGO employee; ex-participant in PTGG meetings	1	Online	2023	B

NGO2	NGO	Ex-NGO employee; ex-participant in PTGG meetings	2	In person	2022	A
NGO3	NGO	NGO employee; participant in PTGG meetings	1	Online	2023	B
NEC1	Developed non-EU country	Policy advisor/diplomat	1	On the phone	2022	B
NEC2	Developing non-EU country	Policy advisor	1	Online	2023	B
NEC3	Developing non-EU country	Policy advisor	1	Online	2023	B
NEC4	Developed non-EU country	Policy advisor	1	Online	2023	B
NEC5	Developed non-EU country	Policy advisor/diplomat	1	Online	2022	B
NEC6	Developing non-EU country	Policy advisor	1	Written communication	2022	B
NEC7	Developed non-EU country	Policy advisor/diplomat	1	In person	2022	A
PS1	Private sector tax consultant	Tax consultant on countries' tax policy, supporting countries' compliance to get off the EU tax list	1	Online	2023	B
PS2	Private sector company based in a developed non-EU country	Employees supporting countries' compliance to get off the EU tax list	2	Online	2023	B
InF1	OECD	OECD policy advisor (high hierarchy)	1	Online	2022	B

**Confidentiality map:*

A = reference and quotes allowed

B = references, but no quotes, allowed

APPENDIX II: Interviews' list of topics[151]

INTERVIEWS WITH EU CIVIL SERVANTS:

- The process of the EU tax list:
  - How does the process go?
  - What is your role in the process?
  - Any comments on the process?
- EU Member States' response to the EU tax list:
  - What is the EU Member States' position with regard to the EU tax list?
  - How do they contribute?
  - To what extent are EU Member States' national tax haven blacklists replaced with the new EU tax list?
- Relation with non-EU countries:
  - How do you find the relation with non-EU countries?
  - What are the factors influencing a certain outcome (listed/not listed/delisted) for the non-EU countries?
- Defensive measures:
  - What is the rate by which EU Member States apply national defensive measures?
  - What are the most common defensive measures used by EU Member States?
  - How does the application of defensive measures work?
  - To what extent are the measures applied in practice?
  - What effects have you noticed in practice?
  - Why was it difficult to reach agreement at EU level on the defensive measures?
- Relation with OECD standards and bodies.
- Upcoming steps for the EU tax list.

INTERVIEWS WITH EU MEMBER STATES' NATIONAL CIVIL SERVANTS:

- Your country involvement in the EU tax list:
  - What is your country's position on the EU tax list?
  - What was/is your response to the EU tax list?
  - Did/does your country have a national list?
  - Did your country replace its national list (if any) with the new EU tax list?
- Relation with non-EU countries:
  - How do you find the relation with non-EU countries?
  - What are the factors influencing a certain outcome (listed/not listed/delisted) for the non-EU countries?
- Defensive measures:
  - Does your country apply national defensive measures? If no, why? If yes, what measures?
  - If so, how does the application of defensive measure work?
  - To what extent are the measures applied in practice?
  - What effects have you noticed in practice?
  - Why was it difficult to reach agreement at the EU level on the defensive measures?

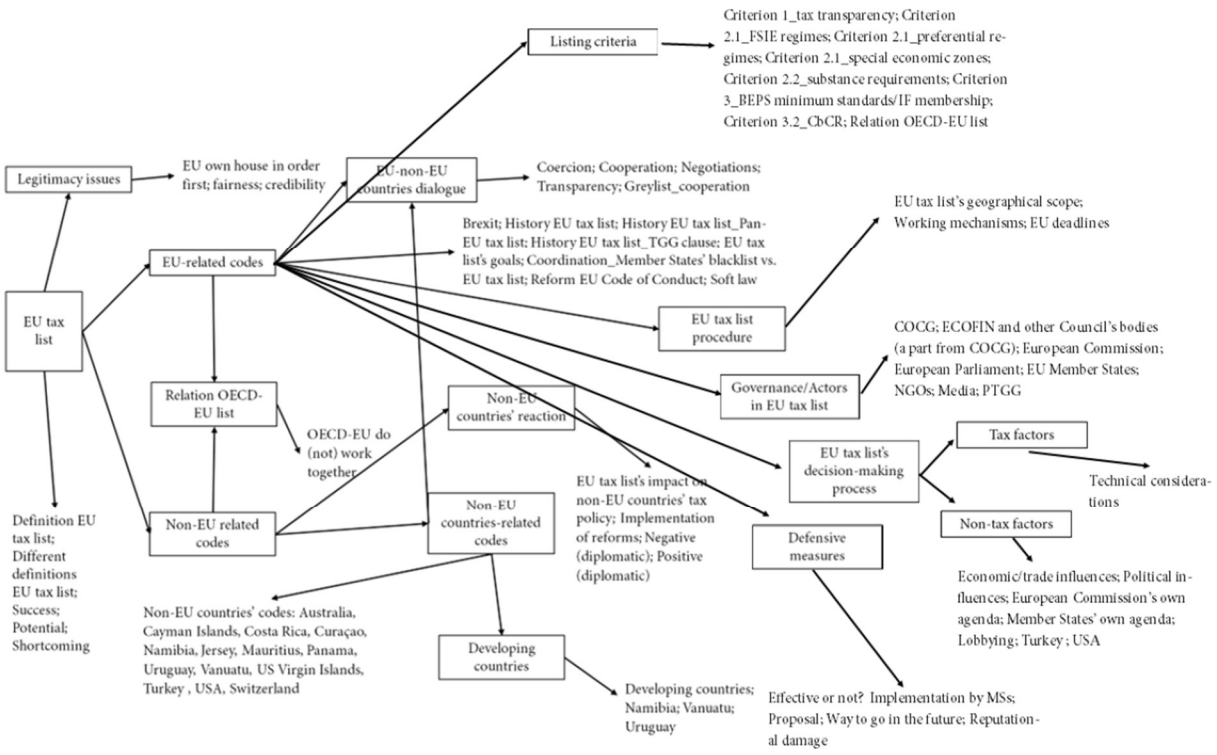
[151] Casano, supra n. 1.

- Relation with OECD standards and body.
- Upcoming steps for the EU tax list.

Interviews with non-EU countries' national civil servants:

- Your country's involvement in the EU tax list.
- Your response to the EU requests (for example, national reforms).
- Effects of your response in the list (for example, being greylisted and/or de-listed by the EU) and in your country.
- When applicable, application of defensive measures by EU and EU Member States.
- Relation with OECD standards and body
- Upcoming steps involving your country.

APPENDIX III: Data Analysis[152]



[152] Casano, supra n. 1.