GEORGETOWN, Guyana – On March 12, 2019, the European Union (EU) issued a revised list of countries purportedly not adhering to tax good governance, which included five members of the Caribbean Community (CARICOM), Barbados, Belize, Dominica, Trinidad and Tobago and Bermuda.

Seven other members of the community have been placed on a monitoring list having made commitments to undertake reforms by December 2019 and are making efforts in that regard. These are Antigua and Barbuda, The Bahamas, St Kitts and Nevis, Saint Lucia, Anguilla, British Virgin Islands and the Cayman Islands.

The narrative provided by the EU council to support the inclusion of the blacklisted states is grossly misleading and misrepresents the response, in good faith, of our members since the initial listing in December 2017.

This renewed attack on our member states' economic prospects constitutes an infringement of our sovereign right of self-determination in the best interests of the CARICOM people. Moreover, we are concerned that the EU's 'tax good governance strategy' is beginning to border on anti-competitive behaviour targeted at the decimation of the international business/financial services sector in the Caribbean.

The EU council has stated that Barbados "has replaced a harmful preferential tax regime by a measure of similar effect and did not commit to amend or abolish it by the end of 2019.'" However, Barbados undertook a review of its corporate tax regime in 2018 and decided to pursue tax convergence which removed the alleged 'preference' accorded the international business sector. Barbados now applies a tax rate of 1 percent to 5.5 percent on the taxable income of all corporations registered in that jurisdiction.

This policy has been sanctioned by the OECD, as the recognised global authority on tax governance, which has reiterated that a low tax rate does not constitute a brutal tax regime. Moreover, Barbados requested clarification on the areas of divergence in the requirements for a 'low tax jurisdiction' as established by the OECD Forum on Harmful Tax Practices (FHTP) and the EU's 'fair taxation criterion.' However, the EU only responded to Barbados' request on the day after the issuance of the revised blacklist.

The case of Belize and Bermuda represents a clear departure from the practice of placing jurisdictions on the grey list (Annex II) for purposes of monitoring once they have given high-level commitments to address alleged 'deficiencies.'

The EU council has asserted that Belize “has not yet amended or abolished one harmful preferential tax regime” notwithstanding the legislative, administrative and tax reforms undertaken by December 31, 2018 which were sanctioned by the OECD. The EU has also asserted that Belize has introduced a ‘new and preferential tax measure’ in its 2018 tax reforms.

However, Belize contends that the referenced tax rates of 1.75 percent to 3.35 percent on taxable income of international business companies and entities operating in Belize’s designated processing areas are consistent with Belize’s actual income and business tax regime. Nonetheless, Belize acquiesced and provided, as demanded by the EU, an undertaking to amend this so-called ‘new preferential tax measure’ by December 31, 2019.

Despite Belize’s commitment to amend or abolish the “newly identified harmful preferential tax regime by the end of 2019,” which the EU stated it would monitor, as well as an additional high-level political and time-bound commitment to address any other concerns of the EU, Belize was included on the March 12 blacklist.

Bermuda’s inclusion on this list is as a result of an omission which was remedied after the revised commitment date.

The case of Dominica highlights the insensitivity of the EU council to a country that was devastated by two natural disasters in 2015 and 2017 and lost its largest investor. Despite this, the country completed all the required legislative and administrative reforms to which the government had committed in mid-2018 to undertake. Notwithstanding, Dominica has been included in the revised blacklist because the jurisdiction “does not apply any automatic exchange of financial information, has not signed and ratified the OECD multilateral convention on mutual administrative assistance as amended, and has not yet resolved these issues.”

However, the signature of the multilateral convention is dependent on the sanctioning of the request for admittance and a determination of readiness by the OECD and totally outside the control of Dominica.

Trinidad and Tobago is in the unique circumstance where the government lacks the parliamentary majority under the country’s constitution to undertake the legislative reforms required to comply with the tax good governance standards. Despite this circumstance, the EU has retained Trinidad and Tobago on the blacklist for having a “’noncompliant’ rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes for Exchange of Information on Request.”

The Caribbean community reiterates that the labelling as 'non-cooperative tax jurisdictions' has wreaked irreparable reputational damage on our small, highly vulnerable member states. CARICOM member states have acted in good faith to mitigate this egregious action by the European Union while upholding the shared values and principles underlying the United Nations Addis Ababa Action Agenda. These principles emphasise, among other things, shared responsibility, mutual accountability, fairness, solidarity, and different and evolving capacities concerning the mobilisation of resources to achieve the 2030 Agenda for Sustainable Development.

However, the process of engagement which has unfolded between the CARICOM member states and the European Union, specifically from the latter part of 2017 until the present, has regrettably, been devoid of the shared values that have informed our relationship over the years prior. There is a clear regression to the days of metropolitan imposed policies on the governed.

The ECOFIN council's allegation of 'harmful tax regimes' not only lacked any supporting empirical evidence, but the process has been non-consultative, inflexible and insensitive to our circumstances as small, highly vulnerable States seeking to build both economic and climate resilience. Moreover, the EU has selectively relied on the OECD tax governance process to pursue the blacklisting of jurisdictions like Dominica and Trinidad and Tobago while ignoring the conclusions of the OECD FHTP in respect to the tax regimes in Barbados and Belize.

It is becoming apparent that the actions of the ECOFIN council are designed to destroy the financial sector in our member states even as we seek to build resilience in all our economic areas to mitigate our inherent vulnerabilities. The Caribbean community deplores this injurious development and will continue to resist this retrograde approach by the EU.

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https://www.caribbeannewsnow.com/2019/03/29/caricom-issues-statement-on-revised-eu-blacklist-of-members-of-the-community/