



GOVERNMENT OF BERMUDA
The Ministry of Finance

Ministry of Finance Headquarters

Ministerial Statement

To the House of Assembly

By

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The European Commission's List of "Uncooperative" Jurisdictions

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Mr. Speaker, Honourable Members are aware that on Wednesday June 17th 2015, the European Commission (EC) published a list of 30 "uncooperative" tax jurisdictions from around the world, including Bermuda. It was stated that this action was part of their effort for tackling corporate tax avoidance by large multinational corporations. The criterion for inclusion on the list was that 10 or more EU member states had to list a country on their national blacklist. The list is not the Commission's own list, based on EU criteria (which do not exist), but rather a compilation of blacklists from different Member States, all with different criteria for blacklisting.

Mr. Speaker, I can advise that 11 EU Member States have Bermuda on their national blacklist. Bermuda has signed a large number of tax information exchange agreements with countries around the world and today we have over 80 treaty partners because of signing a multilateral TIEA called the Multilateral Tax Convention. This convention is today's international standard for tax cooperation and information exchange.

Mr. Speaker, the construction of this latest list is replete with errors, inconsistencies and opaque rationales. For example, one of the 11 EU member states, Bulgaria, has us on its national blacklist is even though it has not signed the Multilateral Tax Convention. That fact alone should disqualify Bulgaria's blacklist from being counted by the European Commission for its list.

Mr. Speaker, to complete a tax cooperation arrangement between two countries both countries have obligations to fulfill. Bermuda has fulfilled its obligations to institute tax cooperation with at least five of those 11 EU member states that have us on their national blacklist but they have not performed their obligations with respect to Bermuda, in one way or the other, so the arrangement remains incomplete: not because of failure on our part but failures on theirs.

Mr. Speaker, other relevant facts are as follows:

- Italy and Spain indicated their intention to adopt the Multilateral Tax Convention in their blacklist criteria so as to delist Bermuda but have not yet done so;
- Italy also publically announced earlier this year that it had taken Bermuda off its blacklist.
- Latvia, like Bulgaria, have not signed the Multilateral Convention and is still in the process of considering recognition of the Multilateral Convention, yet we are on its national blacklist;
- Despite significant follow up, Belgium has not kept their promise made to us several years ago to send Bermuda documents to sign to take us off their blacklist.

Considering the above mentioned facts it is incomprehensible that we would be labelled by the European Commission as "uncooperative".

Mr. Speaker, this list is baseless and does not survive even cursory scrutiny. Something is very wrong with the selection process. The criterion for inclusion on this new "uncooperative" list, is itself arbitrary. One has to be "blacklisted" by 10 or more EU member states: why not 9, 8, 7 or 13? No rationale is given. This speaks to a lack of transparency, something they say they are striving for. An absence of transparency leads to a reduction of credibility.

Mr. Speaker, there is little consistency in terms of standards for inclusion on their member states' national blacklists. For example:

- Some use a combination of tax transparency concerns and low tax rates; or
- others are triggered by low tax rates alone; or
- still others are triggered by a lack of a tax information exchange agreement.

Mr. Speaker, implementation of domestic tax policy is recognized by the UN, WTO, IMF, the OECD and the G20 as a jurisdiction's **sovereign right**. Therefore any national list whose trigger includes the fact that your income tax rate is too low or that you have no income tax at all should be rejected by the EC. There's nothing illegal or immoral in not having income tax.

Any national list that does not give recognition to the Multilateral Tax Convention as demonstrating cooperation in tax matters should be disqualified by the EC.

Mr. Speaker, furthermore, EU rules require that authorized decisions by the EU for matters pertaining to tax are to be made by unanimous decision. No such decision appears to have been made by the EU. The EC published its own list containing the arbitrary decision to use the number 10 as its criteria for a blacklist. It's hard to imagine the UK voting to blacklist virtually all of its own OT's and one of its CD's.

Mr. Speaker, this list was published without any prior consultation with us and Government House has advised that neither was HM Treasury. Had we been consulted things may have been very different. Unfortunately, we note that the UK were and are part of the EU's Platform for Tax Good Governance, which comprises representatives of all Member States and 15 organisations representing business, civil society and tax practitioners and which has met since 10 June 2013.

Mr. Speaker, sadly, it is clear that some branch of the UK Government has been fully involved in the process which has led this week to the publication of this list. At no time did any department of the UK Government see fit to inform and consult with the Bermuda Government. If they had done so, I could have raised this matter when I visited the Commission earlier this year and pointed out the inconsistencies and erroneous conclusions inherent in the promulgation of this list.

Mr. Speaker, under all aspects of the principle of fairness and justice, these five EU member states' blacklists, and possibly more, were erroneously included in the count for Bermuda, thereby putting us over an arbitrarily chosen 10 EU member state threshold.

Mr. Speaker, Bermuda has done its part, we have signed every tax agreement the OECD and others have thrown at us and today we have over 80 treaty partners in every corner on this Earth, but at least five EU member states who have us on their national list have either not fulfilled their obligations or have not kept their promise made to Bermuda, yet we are the ones labelled as uncooperative. This process is fatally flawed.

Mr. Speaker, Bermuda prides itself in being a highly cooperative business center and has gone the extra mile to be ahead of the curve in this respect. Yet there are forces out there that will do their utmost to undermine our good name and business model in their quest to raise taxes on people who can't vote in their countries.

Mr. Speaker, I have meetings in Brussels next week with members of the European Parliament, meetings I arranged several weeks ago, long before the events of this week. The European Commission's actions of this week will be at the top of my agenda. I will also meet with the Secretary General and Head of Taxation in the OECD. Given the increasingly close cooperation between the OECD and the EU on tax policy, I will make it clear that Bermuda will do everything it can, with the resources at its disposal, to fight the use, by the OECD and EU Member States, of spurious and unfounded political slogans to denigrate small jurisdictions such as Bermuda, when we have made every effort to comply with the highest international standards on tax, financial regulation and international economic crime.

Thank you Mr. Speaker.