...of Global Business, BEPS, DTAs, Panama Papers, etc...

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At the onset, I clarify that the views expressed below are entirely mine, and do not necessarily represent the views of the managing committee or members of the Association of Trust and Management Companies, of which I am the Chairman and my firm is a member.

OYE! OYE! OYE! ...Attention, all discerning people of Mauritius!

Beware of the campaign of skewed information or misinformation (...out of sheer ignorance or by design?) that is being meted out by so called investigative journalists & certain writers internationally and unfortunately reinforced by our very own local Jacks of All Trades! The target is one of the economic sectors of Mauritius which the IMF itself, on page 61 of its 2015 ARTICLE IV CONSULTATION—PRESS RELEASE (the "Report") dated March 2016, describes as an "enormous Global Business Companies (GBC) sector"!

For those who still doubt the materiality of the GBC sector and the considerable impact that it has on the Mauritian economy, please allow me to briefly mention/quote a few comments from the Report:

1. Currently, the global business company (GBC) sector is a source of economic dynamism on the back of a Double-Taxation Avoidance Agreement (DTAA) Treaty with India, legal and accounting expertise, bilingualism and the record of political stability. Going forward, the authorities seek to position the country as a prime route for foreign investment into Africa and to depart from the tax-centered model to attract capital inflows.
2. GBCs have a balance sheet some 50 times GDP, based on 2013 and 2014 data!

3. Cash/deposits held at resident banks account for 72% of GDP
4. Other Assets held with residents/cross-claims on other GBCs constitute 304% of GDP!
5. GBCs' and related activities contribute around 6.5 percent of total revenues.
6. "A decline in GBC or non-resident foreign currency funding, for instance triggered by a significant revision of the DTAA Treaty with India or by an intensification of initiatives against tax base erosion and avoidance, could worsen Mauritius' balance of payments position, lead to exchange rate pressure, a weakening of reserves, and rising inflation and external debt servicing costs." The Report explains that potential impacts on banks include a possible decline in GBC deposits in domestic banks leading to deleveraging pressures particularly in small and medium-sized banks, a cutback of foreign and domestic credit, and broader confidence effects which would impact the domestic economy.

The writing is on the wall…if the GBC sector fails, the consequence is likely to be absolutely dire on the Mauritius economy and could usher in a more comprehensive de-risking strategy by Mauritius based international banks and certain local banks (note that they have already started de-risking their operations since the last 5 years). Eventually, a real outcome could be brick and mortar delocalization out of Mauritius or downsizing of operations of banks and MCs are not likely to be spared as well…we are talking of employment risks across middle and higher income groups across the board!

My message to those who flippantly and publicly demean the GBC sector as vile, immoral or the Mauritius International Financial Centre (IFC) as a tax haven, is…STOP !…please understand that there are forces at play that, unless you fell in the GBC proverbial melting pot, you are most likely ignorant of. Taking Oxfam, Tax Justice Network or similar reports as Gospel Truths is no less than an aberration of natural justice and an injustice to the thousands of Mauritians and expatriates (many more thousands if we count their families living off them) who work in the GBC ecosystem.

Let us get a few facts straight…

Base Erosion and Profit Shifting (BEPS)…generally

The so called developed (old ?) world is currently crying foul and wants to bring back source based taxation through initiatives like BEPS, labelling several jurisdictions as tax havens & issuing black lists to block perceived tax leakages.

It is interesting to know that the model income tax treaties (both OECD and UN) were initially designed to minimize income that would be allocated to source countries, with the big chunk allocated to residence countries. This process occurred in the 1920s, immediately following World War I. After both global wars (World War I and II) just ended, Europe had enormous debt and needed to be reconstructed. The mercantilist belief at the time was that the residence countries contributed capital and know-how while the source countries were mere suppliers of goods or services. It suited the former to impose that the bulk of trading income should be taxed by them (helps them to rebuild their cities) while the latter was allowed to tax only routine profits deemed earned and impose withholding taxes on certain types of outbound payments. Today, BEPS calls the process of taxation by countries which contribute capital and know how as base erosion and profit shifting! Wasn't that the case then?

As a small island jurisdiction, the truth is that we often have to, helplessly bear the brunt of international initiatives such as BEPS. However, let's maintain our dignity by recognizing BEPS for what it is really…a hypocritical concept…and by making an effort to understand the workings of BEPS and how Mauritius can navigate purposefully through it.

Some have found it expedient, fuelled by a superficial understanding of BEPS and hearsay, to brandish BEPS as an ogre dangling on our head waiting to devour us imminently to justify all kinds of proposed changes to the GBC sector or to the India treaty, for instance!

BEPS – Is the effective rate of taxation of 3% considered a harmful tax practice?

In its report entitled "OECD (2013), Action Plan on Base Erosion and Profit Shifting", OECD states that "no or low taxation is not per se a cause of concern, but it becomes so when it is associated with practices that artificially segregate taxable income from the activities that generate it." Taxable income accrues to Mauritius companies in line with the very legal residence based taxation system that Mauritius along with several countries in the world has adopted, notably India, UK, Singapore, South Africa etc.

To avoid double taxation arising out of source based and residence based taxation methods, tax treaties provide for a tradeoff whereby generally, source jurisdictions retain their right to tax active (business) income, except for short-term activities, but give up some of their right to tax passive (investment) income to achieve a reasonable balance between providers and users of capital. In the case of Mauritius companies involved in cross border businesses, the active income is taxed in the source countries and the passive income is taxed in Mauritius.

Agreeably, certain Multi-National Corporations (MNCs) have indulged in aggressive tax planning whereby passive income such as royalties, interest or dividend are excessively paid to shell companies in certain low or no tax jurisdictions and are set off against active income to artificially reduce taxable income. European jurisdictions have traditionally been used for such MNC tax planning activities because of benefits under EU Parent-Subsidiary and other directives, geographical proximity to mainland Europe, less strict regulatory framework, cheaper costs, secrecy laws and limited exchange of information legislation. Such practices are not prevalent in Mauritius. So if MNCs are the root of the problem, why not tackle them principally? Well most large MNCs are American corporations and tackling the US has always been a problem for the world and certainly for Europe. It is easier to harass the rest than the US!

Mauritius has a flat and uniform tax rate of 15%. Most countries allow foreign tax credits to be claimed by their resident corporations or individuals and DTAs assist this process by providing a certain method of eliminating double taxation. Proof of foreign taxes paid is often not readily available or not available before cut off tax or accounts closing dates and GBC clients dread having to face bureaucratic procedures to secure the required documents on time. To promote ease of doing business, Mauritius settled on a practical method of allowing deemed foreign tax credits in 1996 which may reduce the effective tax rate of a Category 1 Global Business License entity (GBC1) to 3%. Even a Mauritius resident corporation or ordinary tax payers can benefit from deemed foreign tax credits if foreign income is earned through a GBC1 vehicle. Otherwise, foreign tax credits are also available to any domestic companies and Mauritius tax liability may be reduced to zero if sufficient foreign taxes are paid to reduce such Mauritius tax liability. The deemed foreign tax credit system is a transparent and legal procedure to grant relief of international double taxation design to promote international trade and investments. Sorry, naysayers, there is no sinister motive behind it!

OECD and EU have very much recently been at loggerheads when it comes to tax matters. In June 2015, Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration commented the following on OECD website, in relation to the EU blacklist: "As the OECD and the Global Forum we would like to confirm that the only agreeable assessment of countries as regards their cooperation is made by the Global Forum and that a number of countries identified in the EU exercise are either fully or largely compliant and have committed to AEOI, sometimes even as early adopters."!

EU does have its own assessment of what constitutes harmful tax measures and while we may sit in judgement of the EU, with good reasons, we also need to recognize that the deemed foreign tax credit system may fall foul of EU's taxation policies.

Mauritius therefore does not have a harmful tax practice from OECD's standpoint but may perhaps have one from EU's standpoint! Europe cannot even get its own house in order and is out and about lecturing the world on good governance!

BEPS – Action 5 (Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance)

As in several other countries, BEPS is also hotly being debated and alternative solutions being considered in Mauritius. We are still a distance away from conclusively “tackling” the BEPS package of 15 actions but then so are most, if not all countries. Since harmful tax competition is the flavor of the day, let’s briefly look at Action 5 of BEPS which deals primarily with

1. Preferential regimes used for artificial profit shifting; and
2. The lack of transparency in tax ruling relating to preferential regimes.

For Mauritius, the non-IP Regime is more relevant and covers seven so called preferential regimes, of which I will focus briefly on the following more relevant regimes :

1. Headquarters regimes
2. Fund management regimes
3. Holding company regimes

Concerns identified by the Action 5 report include inability to identify the beneficial owner of dividends and the granting of undue treaty benefits. The law in Mauritius has always required the identity of immediate and ultimate beneficial owners of corporations to be known and treaty benefits are granted only upon compliance with stipulated substance conditions.

In the area of transparency, compulsory spontaneous exchange of information on principally transfer pricing related rulings is identified. Mauritius has no detailed transfer pricing rulings and adopts an arm’s length approach which gives authority to the Director General of the Mauritius Revenue Authority to make adjustments if he thinks fit to do so.

Mauritius has undergone in June 2010 a combined Phase 1 and 2 peer review by the Global Forum on Transparency and Exchange of Information for Tax purposes. All elements, save for one, were found to be in place, some needing improvements. A further review of the amendments made to the legal and regulatory framework for transparency and exchange of information pursuant to the combined Phase 1 and 2 review was undertaken by the Global Forum in August 2011. All elements were determined to be in place, some requiring improvements. A second review was undertaken in February 2014 by the Global Forum of further amendments brought to address recommendations made earlier in the first supplementary review report of the Global Forum. The report concluded that Mauritius has implemented all recommendations of the Global Forum and achieved an overall rating of "largely compliant". Exchange of information therefore is not an issue.
Given that substance is key with respect to Action 5, as pointed out above, let’s consider what Mauritius has done and is doing in this respect. Mauritius has from the beginning of its IFC in 1991 been a tax treaty centric jurisdiction which required that at least a minimum set of substance conditions be present in the local operations of corporations to obtain Mauritius tax residency status for tax treaty benefits purposes. These minimum substance conditions are that the corporation:

1. has at least 2 directors, resident in Mauritius, who are appropriately qualified and are of sufficient calibre to exercise independence of mind and judgement;
2. maintains, at all times, its principal bank account in Mauritius;
3. keeps and maintains, at all times, its accounting records at its registered office in Mauritius;
4. prepares, its statutory financial statements, and causes to have such financial statements to be audited in Mauritius;
5. provides for meeting of directors to include at least 2 directors from Mauritius.

Additional substance requirements are in force in Mauritius since 1 January 2015 to mitigate BEPS.
A new compulsory requirement is that a corporation which is authorised/licensed as a collective investment scheme, closed end fund or external pension scheme, is administered from Mauritius and at least one of the following criteria must be adopted by Mauritius based corporations:

1. the corporation has or shall have office premises in Mauritius; or
2. the corporation employs or shall employ on a full time basis, at administrative/technical level, at least one person who shall

be resident in Mauritius; or

3. the corporation's constitution contains a clause whereby all disputes arising out of the constitution shall be resolved by way of arbitration in Mauritius; or
4. the corporation holds or is expected to hold, within the next 12 months, assets (excluding cash held in bank account or shares/interests in another corporation) which are worth at least USD 100,000 in Mauritius; or
5. the corporation's shares are listed on a securities exchange licensed by the Financial Services Corporation; or
6. the corporation has or is expected to have a yearly expenditure in Mauritius, which can be reasonably expected from any similar corporation, which is controlled and managed from Mauritius.

By contrast, it is only on 1 January 2014 that a new Decree entered into force in the Netherlands, a European IFC, which codifies the existing administrative guidance on substance requirements for companies engaged in inter-company financing and/or licencing activities and for Dutch companies that claim treaty benefits. Well, very similar substance requirements have been in effect in Mauritius since 1991 and were enhanced in 2015 as stated above!

The view is taken in Mauritius that the existing substance conditions will go a long way to address Action 5 concerns and requirements. Nevertheless, the interaction of Action 5 with other Action plans such as exchange of information, treaty abuse, neutralize effect of hybrid mismatch, ring fencing and CFC rules are still being considered.

BEPS – Action 6 (addresses treaty abuse)

Action 6 of the OECD/G20 BEPS Project, in its final report, identifies treaty abuse, and in particular treaty shopping, as one of the most important sources of BEPS concerns. OECD recognizes that countries (participating in the project) have "agreed to include a minimum standard to counter treaty shopping. They also agree that some flexibility in the implementation of the minimum standard is required as these provisions need to be adapted to each country's specificities and to the circumstances of the negotiation of bilateral conventions."

The report goes on to clarify that "Also, if a country is not itself concerned by the effect of treaty-shopping on its own taxation rights as a State of source, it will not be obliged to apply provisions such as the LOB or the PPT as long as it agrees to include in a treaty provisions that its treaty partner will be able to use for that purpose."

The OECD Action 6 final report, without ambiguity, therefore recognizes the right of countries to negotiate bilaterally their tax conventions. I draw attention to this important fact which means that the outcome of the DTA with India can be determined through able and pertinent negotiation, despite BEPS. My personal view is that the insertion of an LOB clause in the DTA is the way to go, provided that such LOB clause is reasonable and compliance thereto grants the benefits of Art13 along with a reasonable grandfathering clause.
I draw attention to the fact that India amended its DTA with Japan by signing a Protocol in December 2015. The amendments included the inclusion of a more effective exchange of information article and assistance for the collection of taxes. The India Japan DTA therefore still follows the residence based system of allocation of taxation rights, includes no LOB rules and still allows capital gains on movables like shares to be taxed in the residence country. Did GAAR, GIFT, BEPS or any other matter impact the India Japan DTA? Not even by an iota!

Is BEPS imminent?

OECD itself recognizes that "Other [BEPS] measures require domestic legal or regulatory changes to take effect." In my view, most BEPS measures require such changes. The BEPS project to date has accomplished the relatively easy part of the mission which is to get countries to agree to an objective…on paper! In fact the G20 Heads of States, meeting in October 2015 in Lima, Peru, endorsed the final BEPS reports only three days after their issue. It would have been humanly impossible for the Heads of States to have appreciated the basic, technical and finer details of the voluminous 2000+ reports in just three days. Evidently, their quick

endorsement was in the interest of sending a strong political signal that aggressive tax planning is out.
However, the proof of the pudding will be when these countries actually attempt to change their domestic laws and bilateral treaties in line with BEPS. This would mean general alignment of fiscal policies of a vast number of countries which virtually mean removal of competing fiscal incentives to attract FDI, the demise of special economic zones which generally offer tax holidays etc. It is interesting to note that BEPS allows bilateral agreements to be negotiated at the option of participating countries. It is likely that this method will be preferred as opposed to the multilateral instrument which makes sovereignty and government flexibility moot concepts.

OECD has announced that the Action 15 Multilateral Instrument (MI) is expected to be ready in December 2016! Most experts internationally and locally are skeptical because the MI raises more issues than it settles. OECD acknowledges that technical hurdles need to be resolved. Since a multilateral instrument will coexist with many bilateral treaties, potential conflicts may result. Such conflicts may be variations in scope between similar provisions of existing tax treaties; or in wording of similar provisions of existing tax treaties. The MI also impacts taxpayers' rights which are addressed under the bilateral agreements and in respect of which work is in progress.

Furthermore, Professor Baker, in his recent address at FSC House, warned Mauritius against rushing to sign the BEPS multilateral instrument.

Added to these uncertainties is the outcome of the US presidential election late this year. In February this year, Jack Lew, US Treasury secretary, has accused the EU of unfairly targeting American companies in its investigation into possible corporate tax avoidance, warning it could jeopardise investment in the bloc. In the letter addressed to the President of the European Commission, Mr Lew warned that he had "serious concerns about fundamental fairness" of the EU's tax policy. Such statements say a lot about the mindset prevailing on the other side of the Atlantic and since the overwhelming MNCs that are impacted by BEPS are American, it will be interesting to see how all this plays out and perhaps at the end, BEPS may morph into something very different!

I think A LOT of water will need to flow under the bridge before BEPS becomes a big reality!!

Tax leakages…real or myth?

The objective of a Double Tax Avoidance Treaty (DTA) is stated in the preamble of such DTAs. Other than the obvious prevention of double taxation, a crucial objective is often cited as to encourage mutual trade and investment as in the case of our DTA with India. A typical DTA has around 29 Articles which covers the taxation allocation rights in respect of various income streams of individuals and body corporates, amongst others. Limiting the scope of a DTA to taxation of income of individuals indicates at best tunnel vision or at worse abject ignorance!

The DTA with India was in fact meant to facilitate investments by Indian companies into Africa via Mauritius. A change in circumstance in the early 1990's gave a boost to India bound investments through Mauritius. However those Indian companies are now going more global, so the existing DTA can be very beneficially used by such Indian companies to access Africa. This aspect must be showcased more effectively.

Even in the case of India bound investments out of the Mauritius IFC, there is a misunderstanding about taxation of income under the DTA. The funds that flows to India from a Mauritius company is invested in shares, debt, projects in India and the money flows through the Indian economy and generates income. The multiplier effect on the Indian economy is huge as well. A standard article of DTAs, generally Article 5, provides that income arising out of a Permanent Establishment (PE) in the source country is taxable in that country. A PE includes an office, place of management, branch, factory, workshop, warehouse, farm, building site or construction etc. Subject to certain reasonable conditions, therefore, the active income arising from a PE in India which was funded by the investments of a Mauritius company in India is taxed in India. Securities Transaction Tax (STT) is a tax payable in

India on the value of securities (excluding commodities and currency) transacted through a recognized stock exchange. The bone of contention is principally in respect of the taxation of the passive income that results from the investment made. Capital gains tax and dividends are the fruits of an active income that has already been taxed.

Note that the issue of excessively inflating royalties, dividends or interest to reduce taxable income in India has never been an issue between our friendly neighbour on the other side of the Indian Ocean and us. All countries with which Mauritius has tax treaties always have the taxing rights over active income. Therefore the argument of Mauritius depriving any country of their rightful taxes is a bogus one.

It is interesting to note that the recent India 2016/2017 Budget contained proposals to award tax incentives to the still-in-gestation Indian International Financial Services Centre (IFSC), a finance special economic zone in Gujarat i.e GIFT. These include:

1. Lower minimum alternate tax (MAT) rate of 9% as against the prevailing 18.5%;
2. No securities transaction tax (STT) and commodity transaction tax (CTT) on exchange dealings in securities and commodity derivatives;
3. No dividend distribution tax and NO CAPITAL GAINS TAX.

According to Indian press articles, in spite of regulatory relaxations in the previous and last year's budget, GIFT lost out to global peers because of a lack of tax incentives. It is clear that India itself recognizes that without fiscal incentives, GIFT is a nonstarter. Food for thought!

Note that several countries either have zero or low capital gains tax. In any case, a country has the sovereign right to impose or not to impose any type of tax based on its realities and circumstances.

Shell companies

The Mauritius IFC is also often accused gratuitously of harbouring shell companies. Well, the Financial Services Commission of Mauritius, on Thursday 14th February 2013, hosted a talk by Professor Jason Sharman from the Centre for Governance & Public Policy, Griffith University, Australia on his report on "Shell Companies - Launderers Anonymous". Professor Sharman is particularly known for his contribution to the knowledge in the regulation of global finance, especially relating to money laundering, tax, corruption and international financial centres. His work has featured in media like the Economist and the New York Times and he has worked as a consultant with international institutions like the World Bank, Commonwealth Secretariat, Financial Action Task Force and in the private sector. This report by Professor Sharman & colleagues is entitled "Shell Companies – Launderers Anonymous". It is a study on shell companies mainly because, for criminals moving large sums of dirty money internationally, there is no better device than an untraceable shell company. The Professor concluded that "The study by Michael Findley, Daniel Nielson and myself found that in terms of following international Know Your Customer standards on company formation Mauritius applies the rules more effectively than the average IFC, and far more effectively than the average OECD country". He also went on to say that, "Judging from the results of our study, the Mauritius FSC is highly effective in ensuring that Mauritian management companies live up to international standards on company formation."
A shell company, by definition, is one which earns mainly passive income and does not have much activity. In 2013, in response to a Private Question posed in the Mauritius Parliament by the member of Parliament, K. Li Kwong Wing, the Vice-Prime Minister, Minister of Finance and Economic Development reported that he is informed by the Mauritius Revenue Authority that the amount of corporate tax received from global business companies as a percentage of total corporate tax revenues is 30% and 35% for 2011 and 2012 respectively. Now we know that GBC1 companies pay tax at 15% but benefit from foreign tax credits, deemed or otherwise, which may result in an effective tax rate of 3% or less. Passive foreign income like dividends and interest are taxed in Mauritius (only dividends of Mauritius companies are exempt) but the bulk of foreign source income is often capital gains which

are not taxed in Mauritius. I am therefore puzzled how can a shell company pay so much corporate tax in Mauritius and yet do nothing much. It stands to reason that it cannot. The high level of tax collection proves beyond doubt that there is definitely substance in the Mauritius operations of the GBC1s!

The Oxfam report

Often the fallacious argument is made that source countries where the actual business activities take place are the losers as they are deprived of their rightful tax revenues. Such lack of revenues thus are said to prevent investment in public infrastructure and services and results in poverty! Mauritius is cited by the latest Oxfam report as being used by the International Finance Corporation of the World Bank for 40% of its investments in sub Saharan Africa. Oxfam alleges maliciously that Mauritius is known to facilitate "round-tripping". This is utterly baseless. The regulatory framework in Mauritius has several provisions which prohibits round tripping. Oxfam remarks that sub-saharan Africa is the poorest region in the world and it desperately needs corporate tax revenues to invest in public services and infrastructure.

The Oxfam author, on the one hand, acknowledges that these sub-saharan countries are seriously lacking in several ways but fails to recognize that no one would pour millions of dollars in any venture or any African countries without hedging the considerable inherent and systemic risks, including currency risks present there. Putting millions of dollars of third party money into a poorly developed country without investment security, without repatriation guarantee, without proper regulatory framework etc and where ease of doing business is a remote concept, has to be madness for most, save for certain ignorant crusaders ! Another crucial fact seems to be lost on the author of the Oxfam article. This is that under any tax agreements between Mauritius and the investee countries that were used by IFC to invest in sub-saharan Africa, the active income so generated would be taxed in the source African country and only passive income would be taxed in Mauritius! He does not seem to have considered that without appropriate risks hedge, the money would probably not have flowed to those countries and no income tax would have been raised in the first place!
Credulous crusaders are invited to check the publicly available (on internet) credentials of the author of the blatantly malevolent Oxfam report. He holds a Bachelor of Arts (B.A.), Journalism and Mass Communications and has been working as a Media Officer with Oxfam only since September 2015 i.e only 8 months! Prior to that he worked in several other positions with an international cable network tv company, all unrelated to taxation matters! The unbearable lightness of the Oxfam report is astounding…but then as they say, there are none so blind as those who will not see!

It is sufficient and yet highly significative that the World Bank rubbished the Oxfam report by saying simply that it is "flawed"!!

The Panama Papers

I am concerned about negative criticisms being unfairly thrust upon the Mauritius IFC in the wake of the Panama Papers despite the fact that the International Consortium of Investigative Journalists (ICIJ) has not revealed any Mauritius names yet and has not listed Mauritius among the IFCs found to be most used in the leaked documents.

There have been reports however about a company being redomiciled from Bahamas to Mauritius with the foregone conclusion that this was done to avoid Ugandan taxes by making use of the Mauritius Uganda double tax avoidance treaty (DTA) which the company has denied. There is nothing illegal in this per se but this transaction has motivated arguments that Mauritius facilitates round tripping! Mauritius is one of very few countries that have procedures, introduced FSC, to mitigate round tripping.

Looking closer, I find that ICIJ is based in the US, is funded by the Ford Foundation, George Soros's OSF & the international banking cartel of the Rockefeller family! So huge US business cartels are behind the Panama Papers...surprised no US names are out yet?

The reasons why Americans aren't stashing their money in Panama is that Americans don't need to. They have alternatives itself at home in Delaware, Nevada and Wyoming, which legally promote tax evasion by those who can afford their shelter schemes!

It is interesting and revealing that Wikileaks in recent tweets has accused the ICIJ of shady designs and has labeled the reason (i.e source protection) for withholding information put forward by ICIJ, as an entirely bogus excuse for the lucrative privatization of the Panama Papers archive.

This seems to be a case of the pot calling the kettle black! although Wikileaks certainly seem to be having a point here.

The Global Business ecosystem

Management Companies

Gullible experts on the Global Business sector who never worked in the sector, mind you, shamefully find that the hard work and long hours put in by the thousands of professional accountants, lawyers, ICSA and other graduates and consultants, amount to zilch i.e nothing. Yet IMF says that the sector is enormous and the contribution to income tax collections is so material and young Mauritius professionals are queuing up to find jobs in the sector!

Fortune 500 and Global Business clients generally who are industrious enough to make big money elsewhere must suddenly become dumbos once they become clients in our GBC sector! … why would they otherwise pay material fees to professionals in the sector and to MCs when there is nothing that we do in Mauritius!

In truth, the GBC Sector can be described as one of the truly democratized and social leveler sector in Mauritius. Professionals from all walks of life, including the underprivileged are employed by principally Management Companies (MCs). Any person may start a MC operation provided such person has what it takes in terms of professional qualifications, track record, international network, access to reasonable and yet not enormous funding and success is exclusively on a merit basis...and perhaps luck as well! Women are employed in large numbers and in senior positions by MCs. The result is tangible upward social mobility and women emancipation as they are treated on par with men.

Recent comments about MCs show that there is a perceptible fallacy of the role and importance of MCs in the conduct of global business. This may be due to a misconception as to what MCs actually do. Briefly, one needs to recognize that IFCs are more prone to risks of money laundering and terrorist financing. MCs play a crucial role to assist in guarding against such risks and to ensure that clean business is transacted through our IFC. MCs do this by performing several roles:

1. Risk profiling, risk mitigation and due diligence role;
2. Governance role by acting as company secretary and providing directors to the board of GBC1 companies thereby enabling closer scrutiny of clients' operations, enhancing risk management and adding value to client's business;
3. Provision of Substance Services such as administration, accounting, tax compliance and business facilitation services to support global business operations from Mauritius. Clients find it attractive to outsource, at reasonable costs, non-key but yet important processes to a professional service firm whilst focusing on their core business.
4. Promotion of the IFC;
5. Contribution to society at large

(a). MCs contribute to direct and indirect taxes and create direct employment for a number of associated sectors such as banks, law firms, accounting firms and in other sectors that support the financial services sector;

(b) . The international aspect, financial sophistication and general nature of the sector is such that qualified and both experienced & young professionals are attracted to the sector which provides superior career advancement potential.

1. 6. Think tank for authorities;
2. 7. Protection of the interests of the jurisdiction - MCs have been critical in defending and rebutting the various vile attacks on Mauritius. Given the unfair but yet strong criticisms faced by our IFC, many global players would have migrated their business to other jurisdictions had it not been for the collective sustained effort of MCs. The comfort given by MCs to global

players has been critical in preventing any severe and acute hemorrhage of business following the various Indo-Mauritian DTA tremors that we have encountered.

3. 8. Provision of world standard quality services – Dealing with savvy international clients whether Ultra HNWIs, financial institutions, family offices, high level businessmen require a different and unique set of skills which MCs have developed over the last 25 years successfully, some more than others, in the face of strong global competition. The stakes are often high in the GBC sector and admittedly the rewards may be as well. However, no one owes any MC a living and no client pays MCs fees for substandard work or for no work done, as some would have you believe!

Employment in the Global Business sector

A quick survey of international banks and certain local banks as well as the big 4 and other audit firms (about 100 firms) show clearly that Global Business and moreso India related work is a material contributor to their business. A rough but realistic estimate is around 70% of turnover and employment rate is connected to India business and Global Business generally. It is well known in the industry that audit firms, moreso the Big 4, derive at least 70% of their income from Category 1 Global Business companies.

There is much other employment created in tax and regulatory consultancy firms, law chambers, regulatory bodies and so on. In addition, huge numbers of indirect employment is created including property development (the constructions of offices and houses), tertiary education and professional education, continuous professional development, hospitality sector, the airport of Mauritius (people coming to Mauritius for the purposes of board and other ancillary meetings), taxi drivers, business and leisure, hotels, conferences being held in Mauritius. In addition, given that earnings and the living standards in the financial/global business sector tend to be higher than in any other sector, the multiplier effect on the Mauritian economy is higher than in any other sector. Therefore, the global business sector touches the lives of numerous people directly and indirectly.

The true value of a segment of any economy can only be judged objectively and correctly by considering the direct as well as the indirect contribution that it makes to the economy.

Economists often say that synergy is the creation of a whole that is greater than the simple sum of its parts. The Global Business ecosystem is thus a better indicator of the impact of Global Business on the Mauritius economy than looking at any individual component like direct employment only.

Finally, I emphasize that I do not condone tax evasion, aggressive tax planning (even if legal) or anything illegal. However, blindly believing whatever is dished out internationally or unintelligently diving into any international commitments without carefully weighing the pros and the cons or plainly dishing out comments based only on a superficial understanding of a subject matter are, in my view, nothing short of self-flagellation and a gross disservice to the Mauritius jurisdiction!

I rest my case!

Kamal Hawabhay
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(a Global Business MC)

Source: Income Tax Treaty Policy in the 21st Century: Residence vs. Source by Bret Wells1, Cym H. Lowell2; Information freely available on internet; MRA website; OECD website.

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