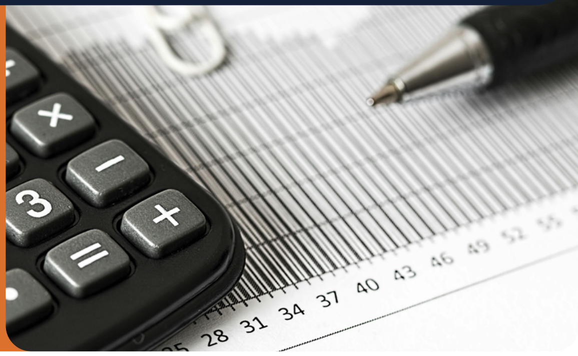
The Pact for the Future and the UN Framework Convention on Tax Cooperation



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The Summit of the Future was recently held in New York City, spanning from 20-23 September 2024. Alongside other organisations of civil society, GI-ESCR has been actively involved following the process towards the elaboration of the Pact for the Future, providing inputs and engaging with policy-makers in the lead up to the Summit. Ultimately, on 22 September 2024, Heads of State and Government adopted the Pact for the Future (hereafter, the Pact), a landmark declaration aimed at fostering a safer, more peaceful, sustainable, and inclusive world for future generations. The Pact focuses on five key areas: sustainable development, international peace and security, science and technology, youth engagement, and global governance transformation.

Adopted by consensus—despite various underlying challenges and unfulfilled demands from civil society, as GI-ESCR has repeatedly highlighted—the Pact reaffirms the UN as the core vehicle by which to enhance international cooperation to address urgent global issues in the pursuit of a just and prosperous future.

The Pact emphasises accelerating efforts towards the fulfilment of the Sustainable Development Goals (SDGs). Therefore, following the Pact's adoption, attention rightfully turns to strengthening financial and fiscal aspects. Through Action 4 of the Pact, the Heads of State and Government commit to closing the SDGs financing gap in developing countries. Tax-related efforts are therein mentioned. We highlight the decision to **"(i) [p]romote inclusive and effective international tax cooperation, which contributes significantly to national efforts to achieve the Sustainable Development Goals, as it enables countries to effectively mobilize their domestic resources and stress that the current international tax governance structures need improvements."** Heads of State and Government have thus **"committed to strengthening the inclusiveness and effectiveness of tax cooperation at the United Nations, while taking into consideration the work of other relevant forums and institutions and will continue to engage constructively in the process towards developing a United Nations framework convention on international tax cooperation".**

The UN Framework Convention on International Tax Cooperation (hereafter, UN Tax Convention) is a proposed treaty aimed at reforming the global tax system to promote economic growth and achieve the 2030 Agenda for Sustainable Development. This initiative seeks to create a more inclusive, fair, and effective international tax framework, addressing challenges emerging from an increasingly globalised and digitalised world. The Terms of Reference (ToRs) for the UN Tax Convention were adopted on 16 August 2024. They will now be submitted to the United Nations General Assembly for approval at its 79th session.

Against this background and taking account of the current momentum, this article will illustrate the synergies between the Pact and the UN Tax Convention, demonstrating that it is imperative for the General Assembly to adopt the final version of the ToRs due to the UN Tax Convention's potential to serve as an effective vehicle by which to achieve the objectives set out in the Pact.

Reference will be made to Member States' positions and contributions during the Second Session of the Ad Hoc Committee to Draft the ToRs for a UN Tax Convention. These references bring attention to likely supporters and challengers as well as to their respective arguments.

Bridging the Pact for the Future and the UN Tax Convention (ToRs): Points of Contact

Illicit Financial Flows

Action 4(h) of the Pact reflects the commitment to strengthening **"ongoing efforts to prevent and combat illicit financial flows, corruption, money laundering, tax evasion, eliminate safe havens and recover and return assets derived from illicit activities"**. During the ToRs negotiations, prevention and combat of illicit financial flows and tax evasion generated disagreement. Article 15(b) of the ToRs proposes **"measures against tax-related illicit financial flows"** as one of the four priority areas that the second early protocol -to be negotiated in parallel to the UN Tax Convention- should focus on. Opponents of this article, mostly "Global North" countries, argued that commitments to combat illicit financial flows should be removed for a "lack of universal definition". In response, supporters persuasively countered the lack of definition argument by highlighting that numerous studies and General Assembly resolutions already illuminated the meaning of illicit financial flows. Unsurprisingly, the argument was presented by Ghana, part of the wider African Group acting in support of the article and backed by Pakistan and India.

On the other hand, when in Article 10(e) of the ToRs it was established that "addressing tax-related illicit financial flows, tax avoidance, tax evasion and harmful tax practices" should be one of the Commitments of the UN Tax Convention, no reservations were made by Member States.

Taxation of High Net-Worth Individuals

Action 4(j) of the Pact refers to the decision to **"explore options for international cooperation on the taxation of high net-worth individuals in the appropriate fora"**. As to the future UN Tax Convention, the taxation of high net-worth individuals was also mentioned in Article 10(b) as one of the commitments under the ToRs. During the negotiations, the USA reserved on this paragraph while the EU and Canada expressed their desire for more open language. Surprisingly, Argentina supported the EU. In contrast, Brazil argued that the article was a good compromise that took into consideration the topic and how it would work with the protocols. Indeed, taxation of high net-worth individuals was also mentioned in Article 16(d) of the ToRs as a priority area for the second early protocol.

It is interesting that even though Global North Member States such as USA, UK, Canada and EU countries, among others, were reluctant to agree on the topic of the early protocols arguing that more analysis was needed, in the area of high net-worth individuals, work has been presented and commitments have been recently made by those same countries moving in such direction in other fora. This can be seen, in particular, at the recent Rio de Janeiro G20 Ministerial Declaration on International Tax Cooperation, where the need for progressive fiscal reforms was explicitly recognised, highlighting taxation of high net-worth individuals as one of the possible vehicles for its implementation (in close dialogue with Dr Gabriel Zucman's blueprint proposal for a global minimum standard for the taxation of ultra high net-worth individuals, commissioned by the Brazilian presidency of the G20).

Human Rights

Action 7 of the Pact posits that leaders of the world will strengthen their efforts to build peaceful, just and inclusive societies for sustainable development, provide access to justice for all, build effective, accountable and inclusive institutions at all levels, and uphold human rights and fundamental freedoms. Additionally, Action 8 commits to achieving gender equality and the empowerment of all women and girls as a crucial contribution to progress across all the SDGs and targets. It is crucial to highlight the interconnection between tax reform and the promotion, safeguarding and attainment of human rights, particularly economic, social and cultural rights. By adopting measures against illicit financial flows, aggressive tax planning and tax avoidance, while building effective tax policies to tax high net-worth individuals, countries' fiscal space will increase, raising sufficient tax revenue and growing national budgets in a way which enables States to effectively fulfil their human rights obligations through the allocation of adequate and sufficient funding to public services and transformative policies.

As to the UN Tax Convention, the inclusion of human rights obligations, and its specific scope, was a controversial point throughout the negotiations. Countries belonging to PTLAC, the African Group, and individual States like Pakistan were adamant supporters and defenders of an ambitious inclusion of this concept. In contrast, challenges were raised by Saudi Arabia, Iran, Iraq, and Cuba, among others, though they ultimately conceded. Finally, the adopted text of the ToRs explicitly determines in art. 9(c) as one of its principles that **"efforts to achieve the objectives of the framework convention therefore should (...) in the pursuit of international tax cooperation be aligned with States' obligations under international human rights law"**.

Conclusions

The Pact aims to transform global governance and reinvigorate the multilateral system, putting the United Nations at its core, with the objective of tackling the challenges and seizing the opportunities of today and the future. Adopting the ToRs and developing the UN Tax Convention is a step towards creating a vehicle by which to transform the current system of governance in such a direction. Indeed, Article 7(b) of the ToRs ensures that one of the objectives of the Convention is to **"establish a system of governance for international tax cooperation capable of responding to existing and future tax and tax-related challenges on an ongoing basis"**. The wording of the UN Tax Convention ToRs therefore echoes that of the Pact for the Future in the context of taxation.

The countries that voted against the ToRs, namely Australia, Canada, Israel, Italy, Japan, New Zealand, the Republic of Korea, the United Kingdom and the United States, will most likely try to dilute the UN Tax Convention's transformative potential. Nevertheless, alongside the 110 votes in favour, it was positively surprising to find that former votes against this process became abstentions, with a majority of EU countries changing their position from the previously negative one that they had assumed when debating the original resolution which granted the mandate for the discussion of the ToRs to begin with.

Executive Summary

Points of Contact between the Pact for the Future and the UN Tax Convention, and positions of selected States during the latter's ToRs negotiations

Point of contact	Supportive position during UNTC ToRs negotiations	Opposing position during UNTC ToRs negotiations
Human Rights • Pact for the Future: Actions 7, 8, etc. • UNTC ToRs: Art. 9(c)	PTLAC African Group Pakistan	Saudi Arabia Iran Iraq
IFF • Pact for the Future: Action 4(h). • UNTC ToRs: Art. 10(e).	PTLAC African Group Pakistan Singapore	Canada USA Argentina
Taxation of High Net-Worth Individuals • Pact for the Future: Action 4(j). • UNTC ToRs: Arts. 10(b) and 16(d).	PTLAC African Group Pakistan	Japan Canada Bahrain