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The universal institutionalization of International Tax Cooperation under United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance.

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ABSTRACT:

This article aims to promote the universal institutionalization of international tax cooperation through the constitution of a new International Tax Organization within the United Nations, in collaboration with other international organizations and stakeholders, which could be signed as the International Tax Organization.

Since the pioneer constitution of the United Nations Organization in 1945, a group of international cooperation organizations has been created within the organization itself, such as the World Bank, the IMF, UNICEF, FAO, UNHCR, etc. However, there is a lack of a specific organization for international tax cooperation so that international tax cooperation can be developed in an institutionalized and universal way for all the States of the world. Fortunately, Resolution A 77/441, recently approved, makes it possible. Its creation must be carried out through a UN founding multilateral treaty that regulates the legal regime of the new International Tax Organization and is approved by the United Nations with the consensus of the Countries and parties involved.

This International Tax Organization would have a universal composition, be endowed with its legal personality, and be created for international tax cooperation in line with good global tax governance with the cooperation of the International Organizations and stakeholders.

It would represent a fundamental legal instrument for the construction of a new Global Tax Legal Order design, also made up of other regulatory and policy-making mechanisms such as a framework agreement on international tax cooperation and development regulations, such as the creation of a general principle of international tax cooperation, the creation of an International Tax Cooperation and Governance Code, the creation of a global mathematical model for the efficiency of tax administrations, the creation a taxpayer Global Charter: global bill of rights for taxpayers at the national and international levels, among others.

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# The universal institutionalization of International Tax Cooperation under United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance.


## 1. THE ART STATE OF THE UNIVERSAL INSTITUTIONALIZATION OF INTERNATIONAL COOPERATION

### 1.1 GENERAL REMARKS

We are in a historical moment of world transformation in which the design of a global architecture of guidelines and international legal instruments for the institutionalized regulation of international tax cooperation and global tax governance relations is pending.

Possibly the historical fact that most call our attention to and that we would like to underline is the absence or lack of universally institutionalized international tax cooperation of which all the worldwide States or most of them are part, unlike what happens with the other sectors related to international cooperation within the United Nations, where a process of institutionalization of international collaboration has taken place through the creation of different international organizations created within the UN family, such as an example: the WB, the IMF, the ACNUR, FAO, UNICEF, etc.<sup>12</sup>

 In this article, we highlight the importance that, also in international tax cooperation relations, a process of Institutionalizing international tax cooperation between States be carried out within the United Nations, which regulates cooperation relations. Furthermore, international tax cooperation between States and stakeholders should be institutionalized universally by creating an International Organization for International Tax Cooperation or International Tax Cooperation under the leadership of the United Nations (in collaboration with other international organizations and stakeholders )

 This International Tax Organization should be approved by a founding multilateral treaty within the General Assembly of the United Nations, inspired by the bases and principles that preside over the pillars of the United Nations Organization, in particular, by the principles of generality, universality and democracy, based on universal participation of "all countries" and "each country one vote".

Recently the United Nations Resolution A 77/441 has opened the doors towards the Institutionalization of International Tax Cooperation. We, therefore, underscore the importance of the recently approved Resolution A/77/441 (77th session, Macroeconomic Policy Issues) of December 30, 2023, entitled Promotion of the United Nations inclusive and effective international cooperation, on which par. 3 establishes the possibility of carrying out the following steps, such as establishing an ad hoc open-ended intergovernmental committee led by Member States to recommend actions on options to strengthen the inclusiveness and effectiveness of the international tax cooperation.

<sup>2</sup> FAO. World Organization for Food and Agriculture; IMF. International Monetary Fund; w.b. World Bank; ILO; International Labor Organization; WHO. World Health Organization; UNWTO. World Tourism Organization, UNHCR, etc.

## 1.2 THE RESOLUTION A 77/441 ON AN EFFECTIVE AND INCLUSIVE INTERNATIONAL TAX COOPERATION ABOUT THE CREATION OF A NEW INTERNATIONAL TAX AGENCY. A UN FISCAL POLICY PROPOSAL. CHARACTERISTICS



On December 30, 2022, the General Assembly of the United Nations approved by consensus, the **Resolution A/77/441 (77th session, Macroeconomic Policy questions)** entitled ***Promotion of the United Nations of inclusive and effective international cooperation in matters of taxation.***

In november 23 th, 2022 the second Commission of the United Nations General Assembly approved -by consensus- Resolution A/C. 2/77 L.11/Rev.1. with the same title: ***Promotion of the United Nations of inclusive and effective international cooperation in matters of taxation.***

The resolutions passed by the United Nations General Assembly reinforce the Organization's role in promoting inclusive and effective international tax cooperation to ensure global sustainability.

The Resolution A 77/441 includes the par.3:

*Requests the Secretary-General to prepare a report analysing all relevant international legal instruments, other documents and recommendations that address international tax cooperation, considering, inter alia, avoidance of double taxation model agreements and treaties, tax transparency and exchange of information agreements, mutual administrative assistance conventions, multilateral legal instruments, the work of the Committee of Experts on International Cooperation in Tax Matters, the work of the Organisation for Economic Co-operation and Development/Group of 20 Inclusive Framework on Base Erosion and Profit Shifting and other forms of international cooperation, as well as outlining potential next steps, such as the **establishment of a Member State-led, open-ended ad hoc intergovernmental committee to recommend actions on the options for strengthening the inclusiveness and effectiveness of international tax cooperation.***

Among the alternatives of international tax cooperation, this resolution includes the possibility of carrying out next steps is approved, such as the establishment of a Member State-led, open-ended ad hoc intergovernmental committee to recommend actions on the options for strengthening the inclusiveness and effectiveness of international tax cooperation.

## 1.3 THE NEED FOR AN INTERNATIONAL TAX ORGANIZATION WITHIN THE UNITED NATIONS FOR THE DEVELOPMENT OF AN UNIVERSAL AND INSTITUTIONALIZED INTERNATIONAL TAX COOPERATION

The state of the matter is also defined because, on the international scene, there is no global architecture design for tax cooperation relations and global tax governance, nor is there a global regulatory body for these matters. In this sense, the existence of an international cooperation organization in tax matters that completes the list of international cooperation organizations under the UN family and collaborates harmoniously with the rest of the international organizations and stakeholders is missed.

In the field of international tax cooperation, in addition to the set of international hard tax laws (multilateral and bilateral treaties that affect the matter in one way or another), a set of soft rules has been produced where different interactions between international organizations take place, with the prominent role of the OECD, sometimes causing overlaps and gaps, either between the regulations of said international organizations or between the international organizations and some States, such as the United States, for example.

In this current scenario, the problem of double taxation remains to be eradicated. In recent decades, however, the pendulum has shifted from the issue of international double taxation (which we have dragged along for centuries) to the increasingly aggressive reality that assists us consisting of the non-taxation of States, zero or minimal taxation and the resistance of States to cooperate in tax matters, issues to which, in the case of multinationals, attempts have been made to provide concrete solutions, such as the BEPs plan, to prevent the diversion of tax bases and benefits to jurisdictions with low or null taxation, or other cooperation instruments or regulations, but which in no way supposes a law of the architecture of international tax cooperation relations and global tax governance (with the breadth of objectives that this entails).<sup>3</sup>

This and other factors lead us to think about the opportunity to carry out an institutionalization of international tax cooperation through an International Tax Organization within the United Nations, thus completing the list of International Cooperation Organizations of the UN family and claiming the essential role of the organization of the United Nations to carry out the institutionalization of international cooperation, in a universal manner, that includes all States and actors in the field of international taxation. This international organization would have the following characteristics:

- A) It should be approved by the General Assembly of the United Nations through a founding treaty of the constitution with the consensus of the General Assembly.
- B) It will be configured as an international subject with its legal personality.
- C) It will be a type of international organization with a universal composition, with a versatile and non-regional vocation addressed only to some regions.
- D) It will also be characterized by having specific purposes according to its category, which responds to the purposes of international tax cooperation and global tax governance, with powers over intergovernmental collaboration.
- E) This international organization must be approved by the General Assembly and included in the United Nations orbit with the rest of the international organizations of the United Nations by the following arguments.<sup>4</sup>:

- The United Nations occupies the vertex position regarding institutionalized and permanent international cooperation.<sup>5</sup>
- The United Nations occupies the highest legal rank in the International Legal Order (Article 103 of the Magna Carta).<sup>6</sup>
- The United Nations is an international organization whose functions include institutionalized international cooperation for social, economic, and cultural development, etc. (art. 1.3; art. 2, art. 13 and arts. 55, 56, 58, 59), which is also exercised through its specialized agencies, and among those that are missing, precisely, an International Organization dedicated to Tax Cooperation International. However, a committee for international tax cooperation has been doing commendable work since its creation.
- The United Nations is the international organization that creates and regulates the purposes and principles of world order (arts. 1.3 and 2) developed by General

<sup>3</sup> See Andrés-Aucejo, E. Africa has spoken: Resolution A/C.2/77/L.11/Rev.1 Of The United Nations General Assembly (Second Committee): "Promoting Inclusive and Effective International Tax Cooperation within The United Nations", *Review of International and European Economic Law*, Vol. 2, n.3, 2023.

<sup>4</sup> For a maximum extensive development of each of these reasonings, see, E. ANDRÉS-AUCEJO, The primary legal role of the United Nations on international Tax Cooperation and Global Tax Governance: Going on a new International Organization on Global Tax Cooperation and Governance under the UN "Family"(\*) *Education and Law Review*, 2020; <https://revistes.ub.edu/index.php/RED/article/view/31297>.

<sup>5</sup> GONZÁLEZ CAMPOS et al. *ter. ob., cit.*, p. 101.

<sup>6</sup> Mariño, *Derecho Internacional...*, *ob., cit.*, p. 82.



Assembly Resolution 2625 (XXV), where the "Principle of Peaceful Cooperation" is typified for the global peoples. These principles contained in Resolution 2625 constitute the most authoritative formulation of the fundamentals of International Law.<sup>7</sup>

- The United Nations holds the coordination functions of the States and International Organizations as it has been attributed to it by Article 1.4 of the Charter of the United Nations.
- The United Nations includes practically all the States of the world, which are, therefore, the G-77 and, which is very important, presides over the principle of universality and voting democracy: Each country has one vote.
- The United Nations has also held the function of codification and progressive development of international law since its founding charter was approved in San Francisco. Principles are far from contradicting each other since it is difficult to imagine a codification that does not entail a progressive development in practice. This is especially applicable to the matter of international tax cooperation. And this CODING role, we want to emphasize, is the key to building a dogmatic and International Tax Law under the design of a global architecture of the Global Tax Legal Order inspired by international tax cooperation, Human Rights and Good Tax Governance International.<sup>8</sup>

Today, more than ever, we consider it crucial to appeal to the role of the United Nations as the leading world body for peaceful, cooperative relations between states and inclusive of all states in the world, as a world forum for the creation of global tax regulations, with repercussions for the entire planet world, to achieve the sustainable development objectives of the present and future International Agendas and that is the basis of a neural system of global international cooperation relations that will prevail in the coming centuries to make tax cooperation channels effective between the states of the world (Andrés-Aucejo, E.).<sup>9</sup>

## 2. BACKGROUND OF INSTITUTIONALIZED INTERNATIONAL COOPERATION

In this section, before describing a brief tour of institutionalized peaceful cooperation, we would like to start with starting hypothesis that international tax cooperation relations cannot be understood apart from the history of international political cooperation. , nor outside the very concept of the international community, because precisely "the international community" describes the social, political and legal framework in which relations between States... and other members take place..<sup>10</sup> Nor can they be understood apart from the evolution suffered by the said international community, especially in recent times, a consequence of first and second-world globalization.

To arrive at the current concept of institutionalized international cooperation, we will go back centuries in history, briefly commenting on those most notable milestones in this regard:

**In the Middle Ages**, S. XII and S. XIII, there was the Christian Republic formed by the Kingdoms of Western Europe, other inferior and superior powers such as the Papacy and the Holy Roman Empire, whose leiv motiv was the religious theme (religious faith)—confronted frontally for centuries with Islam. At the end of the Middle Ages, the disintegration of that Christian Res publica or Christianity occurred when the national

<sup>7</sup> MARIÑO, *Derecho Internacional...*, p. 79.

<sup>8</sup> See: Owens, J. (dir), Andrés-Aucejo et al. Toward a Global Tax Legal Order based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals, Review of International and European Economic Law, Vol. 2 Issue n. 3, www.rieeel.com.

<sup>9</sup> All the previous arguments have been created and defended by Eva Andrés Aucejo, in her General Theory of International Tax Cooperation. Exercise II for the Full Professor contest at the University of Barcelona.

<sup>10</sup> CASANOVAS DE LA ROSA, O. y RODRÍGUEZ, A., *Compendio de Derecho Internacional Público*, 2018, p. 37.

sovereign States reappeared, which enjoyed autonomy and were instituted as entities not dependent on the Papacy and the Holy Roman Empire.<sup>11</sup>

**European System of States (17th-18th centuries):** In the following centuries, the so-called European System of States was produced, and it was based on the "territory", the decentralization of political power and the assumption of political power by the States that assumed a position of the fundamental nucleus on which the National and International Relations pivot,<sup>12</sup>

International Law was born due to the Treaties of Osnabrück and Münster (1643 and 1648) that gave rise to the Peace of Westphalia, which constituted a crucial moment in the History of Humanity and International Relations.<sup>13</sup> Indeed, the treaties of Osnabrück and Münster signed on May 15, 1643, and October 24, 1648, respectively, which ended the Thirty Years' War in Germany and the Eight Years' War between Spain and the Netherlands, constitute, as has been said, "the origin of the current international system".<sup>14</sup> From here, there is a disconnection of politics around religion as sovereign states, the recognition of the fundamental principles that have sustained the international order to this day, such as the principle of territoriality of the territorial jurisdiction of the States, sovereign equality and non-intervention in internal affairs. Affairs.<sup>15</sup> "The Westphalian Treaties represented a fundamental step in the formation of European public law that regulated relations between European States and that has been the basis of classical international law".<sup>16</sup>

In this new international law generated in the 16th and 18th centuries as a consequence of peace and trade treaties, the key to the vault lies in the principle of free consent of the States. And this is especially relevant to the effects at hand about determining the origin of international cooperation between States, in this case, cooperation also in matters of trade. We can say, therefore, that the head of international cooperation relations between states derives from the principle of free consent of sovereign states to bind themselves, which, in turn, is the main foundation or, as it has been called, "corollary". of state sovereignty."<sup>17</sup>

We would like, therefore, to emphasize that the origin of international tax cooperation cannot be understood apart from the history of peaceful cooperation, particularly from the "**Peace of Westphalia**" and the two treaties above<sup>18</sup>. Thus, already in the constitutive treaty of Münster, the obligation of the States to cooperate in customs matters was established, obliging the States not to impose tariffs on trade by the signatory States.<sup>19</sup>

<sup>11</sup> CASANOVAS DE LA ROSA, O., y RODRÍGUEZ, A., *Compendio de Derecho Internacional...*, ob., cit., p. 43.

<sup>12</sup> Vid. MARIÑO MENÉNDEZ, *Derecho Internacional Público*, ob., cit., pp. 100 y ss. See GROSS, L. (1948). The Peace of Westphalia, 1648-1948. *The American Journal of International Law*, 42(1), 20-41. HOB DEN, S. Historical sociology of international relations. Cambridge, UK: Cambridge University Press, 2002. HOOKER, W. CARL SCHMITT'S International thought: Order and orientation. Cambridge, UK: Cambridge University Press, 2009; LARKINGS, J. From hierarchy to anarchy: Territory and politics before Westphalia. Nueva York: Palgrave Macmillan, 2009.

<sup>13</sup> GROSS, L. The Peace of Westphalia, 1648-1948. *The American Journal of International Law*, 42(1), 20-41, 1948.

<sup>14</sup> CASANOVAS DE LA ROSA, O., y RODRÍGUEZ, A., *Compendio de Derecho Internacional...*, ob., cit., p. 38. PHILPOTT, D., Sovereignty. En *The Stanford Encyclopedia of Philosophy*. Stanford, CA: Stanford University, 2014. Aldea Vaquero, Quintín. España y Europa en el siglo XVII: correspondencia de Saavedra Fajardo. II. La tragedia del imperio. Madrid: CSIC, 1991; Baviera, Adalberto y Gabriel Maura. Documentos inéditos referentes a las postrimerías de la casa de Austria en España. II. 1692-1695, Madrid: Revista de Archivos Bibliotecas y Museos, 1929.

<sup>15</sup> CASANOVAS DE LA ROSA, O., y RODRÍGUEZ, A., *Compendio de Derecho Internacional...*, ob., cit., p. 38.

<sup>16</sup> Ibidem.

<sup>17</sup> GONZÁLEZ CAMPOS, J., SÁNCHEZ RODRÍGUEZ, L., SÁENZ DE SANTA MARÍA, P. A., *Curso de Derecho Internacional Público, cuarta edición revisada*, 2008, p. 101.

<sup>18</sup> See *350 años de la Paz de Westfalia 1648-1998. Del antagonismo a la integración en Europa. Fundación Carlos de Amberes*. Publication: 1-1-1999.

<sup>19</sup> Its titles 68 to 91 are the agreements that affect the States of the empire and that deal with free trade, cession of territories, customs, tolls, and taxes... Title 89º: "(...) In the future, trade and transport will be free for the inhabitants of



**XIX century:** at the beginning of the s. XIX, the first antecedents of said institutionalized international cooperation arise. A turning point in this sense was the Congress of Vienna in 1814, whose main objective was the territorial reorganization of Europe and the reconstruction of borders. The victorious countries of Napoleon Bonaparte participated in it: Austria, Great Britain, Russia, Prussia and France. (Initially, it was established that Great Britain, Austria, Prussia and Russia, powers of the sixth coalition, took the decisions). This Treaty was forged between September 18, 1814, and July 9, 1815. Austria and Great Britain were vital in preventing future wars and establishing a political balance. The method was not plenary but bilateral negotiation sessions between States, drawing up a Final Act that was not signed by all the delegations either. Throughout the cycle, there were regular meetings<sup>20</sup>

In addition to the crucial goals of the **Congress of Vienna** on the reconstruction of European States and the maintenance of peace between States, it is essential to highlight that said Congress of Vienna already constitutes a significant precedent of institutionalized international cooperation, with them to satisfy a general need, since already in the Act of the Congress of Vienna signed in 1815 it is proclaimed: the freedom of navigation in international rivers. Subsequently, other international Organizations branded as "rudimentary" constitute the germ of the international organization to satisfy a general interest. In this regard, the following are worth mentioning: the International Telegraphic Union (1865), the Universal Postal Union (1874), and the International Union for the publication of Customs Tariffs (1890).

In this Europe of the Restoration, the so-called "**European Concert**" took place, which lasted from the end of Napoleon's War with the Act of the Congress of Vienna (1815) until the First World War. It is known as the 'Congress System', and its primary purpose was maintaining peace. The 1st and 2nd Hague Peace Conferences of 1899 and 1907, in which the US participated, should be highlighted. As Professor Pastor Ridruejo points out, these pioneering international organizations, although rudimentary in their forms (they operated through periodic conferences, having a single Bureau or Secretariat), "had the immense merit of making States discover the potential of international Cooperation institutionalized", and to serve as an experience for those carried out, much more ambitious, that in terms of international organization [...] took place after the First World War."<sup>21</sup>

**20th century:** institutionalized international cooperation. It is precisely from the 20th century when the international community peaked. A series of global factors of a different nature (political, economic, social, territorial, etc.) are triggered chronologically to reach the background of the international community that governs today.

Without prejudice to different events in international politics (such as the Bolshevik Revolution of 1917), the bulk of internationalist doctrine places the end of the First World War, with the creation of the **League of Nations (1919)** as the origin of the League of Nations. Global.<sup>22</sup>

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both sides of the Rhine and the adjacent provinces. Above all, the navigation of the Rhine will be free (...), and it will not be allowed to impose on the Rhine new and unwanted tolls, customs, taxes, (...), but both parties will be content with the taxes, rights and tolls that were paid before these wars.

<sup>20</sup> DE LA TORRE, R. (2016). "La adhesión de España a los Tratados multilaterales de 1815", *Cuadernos de Historia Contemporánea* nº 38 (pp. 65-75). NICOLSON, Sinn H. (2001), *The Congress of Viena: A study in Allied Unity: 1812-1822*, Grove Press: ISBN O-8021-3744-X. JARRET, Mark (2013), *The Congress of Viena and its' Legacy: War and Great Power Diplomacy after Napoleon*, London: I-B. Tauris & Company, Ltd., ISBN 978-1780761169.

<sup>21</sup> PASTOR RIDRUEJO, *Curso de Derecho Internacional Público y Organizaciones Internacionales*, 2017, ed. Tecnos, op. cit., p. 709.

<sup>22</sup> PASTOR RIDRUEJO, *Curso de Derecho internacional público y organizaciones internacionales*, op. cit., p. 738 y BOWETT, D. W., *The Law of International Institutions*, 4<sup>th</sup> ed., London, 1982, p. 17 y ss. League of Nations, *The Mandate System: Origins-Principles-Application*, L. of N. Doc., 1945, VI. A. I.

Also, after the creation of the League of Nations, an institutional and centralized framework for the design of norms will be institutionalized, which is ultimately the framework of international organisations operating in a global society.<sup>23</sup>

Undoubtedly, **the League of Nations of 1919** marked a crucial milestone in the history of Public International Law and the international community. It was the result of a determined will to avoid armed conflicts. For what we are interested in highlighting, the League of Nations was the first historical manifestation of institutionalized international cooperation with a universal vocation and for general purposes..<sup>24</sup>

This is confirmed by the Preamble to the Covenant of the League of Nations when it states that the League was established to promote "cooperation among nations and to guarantee peace and security."

The doctrine of Public International Law has highlighted the fact that, although the League of Nations failed in its objective of achieving peace, given that years later, World War II would occur. This is how authors such as Rafael Casado or Pastor Ridruejo state that the fact of having achieved institutionalized cooperation in different matters, such as economic, financial, public health, transportation and communications, social, labour,<sup>25</sup> with vocation and general purposes.<sup>26</sup>

This League of Nations was very basic in terms of the configuration of its organs since it only had an Assembly and a Council, plus a permanent Secretariat. Finally, its formal dissolution dates from April 18, 1946, after constant discredit, which is why creating a new body called the United Nations Organization was considered better.

A global milestone is reached with the United Nations: **institutionalized international cooperation**. The most critical antecedents leading to the signing of the San Francisco Charter were: The Declaration of St. James's Palace (1941), The Atlantic Charter (1941); The Declaration by United Nations (1942); The Moscow and Tehran Conferences (1943); The Dumbarton Oaks Conversations and the Yalta Conference (1944) [Breton Woods] and The San Francisco Conference (1945), open for signature on June 26, entering into force on October 24, having signed the US, China, France, England and the USSR.<sup>27</sup>

Since the creation of the UN in 1945, it is also a matter of advancing in terms of institutionalized international economic cooperation (to put into practice principles and purposes contained in its founding Charter). For this purpose, international financial organizations have emerged and were approved in Bretton Woods agreements.

Therefore, from the **second half of the 20th Century**, institutionalized economic cooperation began to be carried out (through the international organizations United Nations and also other International Organizations dependent on the United Nations, such as the World Bank or the International Monetary Fund, with particular significance of other International Organizations such as the OECD, and also with the presence of other international and intergovernmental organizations.

However, even though a cooperation commission for fiscal issues was initially created within the United Nations, it was not granted the legal status of an International Organization, but rather a commission on fiscal affairs, which only lasted a few years.

<sup>23</sup> GONZÁLEZ CAMPOS, *Curso de Derecho internacional público*, op. cit., p. 305.

<sup>24</sup> MARIÑO, *Derecho internacional público*, op. cit., p. 34. Cfr. MICHAEL VIRALLY, *L'organisation mondiale*, Paris, 1972, pp. 40 y ss.

<sup>25</sup> VIRALLYM, M., *L'organisation mondiale*, Paris, 1972, p. 70 y ss.

<sup>26</sup> CASADO RAIGÓN, R. (2017), *Derecho internacional*, Tecnos, p. 35. PASTOR RIDRUEJO, *Curso de Derecho internacional público y organizaciones internacionales*, op. cit., p. 738 y ss.

<sup>27</sup> "Steps to the Charter", in UN Chronicle, vol. XXII., nº 4, 1985, pp. 4-11. United Nations, 1946-47, vol. I. Lake Success, New York, 1947, pp. 1-50. HAACK, K., *The United Nations Democracy Agenda. A conceptual History*, Manchester University Press, 2011. GONZÁLEZ GARCÍA, I., *Naciones Unidas y la coordinación para el desarrollo*, Dykinson S. L., UCA 2005.

After its abolition, the OECD was created in 1960, which, as is well known, is not organically linked to the United Nations and has a minimal composition of first world States, even though an inclusive platform has been created in recent years (it does not undermine the legal regime of said organization).

*in 1968 the Ad Hoc Group of Experts on Tax Treaties between Developed and Developing Countries was established pursuant to the ECOSOC resolution [1273 \(XLIII\)](#) of 4 August 1967 after considerable efforts made by the League of Nations, the Organization for European Economic Cooperation and the United Nations. In 1980, the Group of Experts finalized the United Nations Model Double Taxation Convention between Developed and Developing Countries, whose aim was to promote the conclusion of treaties between developed and developing countries, acceptable to both parties and would fully safeguard their respective revenue interests. Accordingly, in its resolution 1980/13 of 28 April 1980 (see doc. [E/1980/80](#)), the ECOSOC gave a broad title to the Group, namely, "Ad Hoc Group of Experts on International Cooperation in Tax Matters". By its resolution 2004/69 of 11 November 2004 the ECOSOC renamed the Group the Committee of Experts on International Cooperation in Tax Matters.<sup>28</sup>*

"From 2013, the Economic and Social Council (ECOSOC) of United Nations decided to hold -on an annual basis- a especial meeting on International Tax Cooperation (Resolution 2013/24). There have been different Resolutions of the subsidiary body of ECOSOC tasked with work on international tax cooperation and in the last years ECOSOC has also been interested to strengthening United Nations role in international tax cooperation.<sup>29</sup> An enabling international environment has been emerging towards enhancing and improving the International Tax Cooperation, as show the following sources: a) The Economic and Social Council (ECOSOC) of United Nations, Resolutions 2004/69 of 11 November 2004 and 2014/12 of 13 June 2014, b) The UN General Assembly resolutions 68/1 of 20 September 2013, 69/313 of 27 July 2015 and 70/1 of 25 September 2015, c) The Doha Declaration on Financing for Development: outcome document of the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus<sup>30</sup>; d) The paragraph 29 of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development,<sup>31</sup> in which Member States emphasized the importance of inclusive cooperation and dialogue among national tax authorities on international tax matters, among others. Both, the 2030 Agenda and the Addis Ababa Agenda have set as one of the priorities the strengthening regimes and fiscal policies, as well as the international tax cooperation". (Andrés-Aucejo, Eva, *The global tax model...*, 2018).

"Strengthening tax systems has emerged as a key development priority in the 2030 Agenda of SDG and Addis Ababa. The Addis Ababa Agenda contains a commitment to work to improve the fairness, transparency, efficiency and effectiveness of tax systems. At the beginning of the present year (2018) the IMF, the OECD, the UN and the WB launched a Platform for cooperation in fiscal matter to hold regular discussions to improve the assistance they provide to developing countries going on modernized tax administrations" (Andrés-Aucejo, Eva, *The global tax model...*, 2018).

### 3. CLOSE BACKGROUND OF INTERNATIONAL TAX COOPERATION <sup>32</sup>

<sup>28</sup> For more information can be consulted: <https://www.un.org/esa/ffd/tax-committee/about-committee-tax-experts.html>

<sup>29</sup> <http://www.tadat.org/>

<sup>30</sup> United Nations. General Assembly resolution 63/239, annex, para. 16.

<sup>31</sup> United Nations. General Assembly resolution 63/303, annex, para. 56 (c)

<sup>32</sup> This epigraph of this work has been prepared following original ideas created by Eva Andrés-Aucejo in the studies: "The global tax model: building tax systems towards International tax cooperation and global tax governance: architecture for sustainable development (ongling UN 2030 and Addis Ababa Action Agendas, in *International Administrative Cooperation in Fiscal Matter and International tax governance*. Dir. Owens, J., Pistone., Andrés-Aucejo, E., Ed. Thomson Reuters, 2018, and "Toward an International administrative global Code in tax matter", *Revista del Estado de Derecho*, 2018.

The bibliographical studies published on the recent history of international cooperation in tax matters determine its origin in the beginning of the 20s and following with the nations league and on the occasion of the events that occurred later to try to solve the problems of international double taxation, which would culminate in the approval of the MC OECD and Other Convention Models to avoid double income taxation<sup>33</sup>. In 1928 the League of Nations was produced -among others- Models related to Mutual Assistance and Judicial Assistance in the collection of taxes<sup>34</sup>.

One can cite as precedents the 1928 Models to avoid international double taxation and Income Tax, as well as the 1943 Mexico Model and the London Model (1946), which, as has been said, were never unanimously accepted<sup>35</sup>.

Years later, specifically in 1963, the efforts of the Organization for Economic Cooperation and Development would bear fruit to reach a generic Model to avoid double taxation with the approval of the MC OECD. As is known, these Convention Models were the basis for the signing of the bilateral Conventions to prevent double taxation, the MC OECD being the most followed in the world, notwithstanding that, as is well known, there are many other Convention Models to avoid double taxation. Double taxation from the United Nations, the United States, the Andean Pact Model, etc. In the final version of the OECD MC to avoid double taxation dated 1963, the original wording of the Information Exchange Clause (CII from now on) is included, without prejudice to subsequent modifications of a said clause in successive versions of the MC OECD (1977, 2000, 2005, 2015...). Similarly, to what happened in the MC OECD, the models of the UN Convention, the USA, and the Multilateral Convention of the Andean Pact included an article dedicated to the exchange of tax information (n. 26)<sup>36</sup>.

In the recent history of international tax cooperation, some significant milestones can be marked, namely: The Peace of Westphalia; - The Europe of the Restoration (before institutionalized cooperation through the League of Nations and the United Nations); - The League of Nations and the Charter of the United Nations; - The creation of MCs to avoid international double taxation, in particular the MC OECD, which is mainly followed in the world<sup>37</sup>. Researchers have extensively reported on the historical evolution of cross-border

<sup>33</sup> On the origin of international double taxation vid. CALDERÓN, J. M. in his book *International double taxation and methods for its elimination, (Spanish versión)*, establishes the basis of the phenomenon of double taxation after World War II, although he points out some specific precedents on the elimination of international double tax dating from: century v.c., from the 16th and 17th centuries and other examples in the USA and the Netherlands. Ed. Mc Graw-Hill, Madrid, 1997, p. 1 y ss.

<sup>34</sup> *Proceso de integración de México en la Sociedad de Naciones 1919-1931*, (tesis de licenciatura inédita), Morelia, UMSNH, 2002, Robert Freeman Smith, "Estados Unidos y las reformas de la Revolución, 1915-1928", *Historia Mexicana*, Núm. 2, octubre-diciembre de 1969, p. 193,

<sup>35</sup> LEAGUE OF NATIONS, "London and Mexico Model Tax Conventions: Commentary and text", Doc. C. 88.M.1946, ILA (1946), cfr. en SERRANO ANTÓN, F. (2002, p. 6).

<sup>36</sup> MC OCDE 1963; MC OCDE 1977-2000; *US MODEL* (MC EEUU, version 1996: *United Status Model Income Tax Convention* of september 20, 1996); y *UN Model* (MC ONU: *United Nations Model Double Taxation Convention between the developed and developing Countries*, 2001), See: **KEES VAN RAAD** (2001, pp. 117-118). Ruiz García, J. R. & Calderón Carrero, J. M. (Coordinadores) (2004) *Comentarios a los convenios para evitar la doble imposición y prevenir la evasión fiscal concluidos por España (Análisis a la luz del modelo de Convenio de la OCDE y de la legislación y la jurisprudencia española)*. La Coruña: Fundación Pedro Barrié de la Maza-Instituto de Estudios Económicos de Galicia; – Serrano Antón, F. (Director) (2007) *Fiscalidad internacional*. Madrid: CEF; Esquerro, T. (Director): *Manual de fiscalidad internacional*, Vol. I. Madrid: Instituto de Estudios Fiscales; 2010 update to the Model Tax Convention, 22th July 2010; – Abbott, K. W. & Snydal, D. (2000). "Hard and soft law in international governance". En 45<sup>o</sup> International Organization; – Cacciapuoti, E. (2010) "I rapporti tra casa madre e stabile organizzazione: tra valore di mercato e costo storico". *Rassegna tributaria*, Nº 1, gennaio-febbraio 2010, pp. 198 y ss.

<sup>37</sup> Calderón Carrero, J. M. (2004): "Comentarios al artículo 7". En Ruiz García, José Ramón & Calderón Carrero, José Manuel (Coordinadores): *Comentarios a los convenios para evitar la doble imposición y prevenir la evasión fiscal concluidos por España (Análisis a la luz del modelo de Convenio de la OCDE y de la legislación y la jurisprudencia española)*. La Coruña: Fundación Pedro Barrié de la Maza-Instituto de Estudios Económicos de Galicia; – Castañeda Ricci, S. & Muñoz García, L. F. (2010) *Algunos comentarios en relación con la propuesta de modificación al artículo 7 del Convenio Modelo de la OCDE, en cuanto a la forma de atribuir utilidades a un establecimiento*. México: PricewaterhouseCoopers; – Chinkin, C. M. (2000). *Normative development in the international legal system*, Oxford: Oxford University Press; Cacciapuoti, E. (2010) "I rapporti tra casa madre e stabile organizzazione: tra valore di mercato e costo storico". *Rassegna tributaria*, Nº 1, gennaio-febbraio 2010, pp. 198 y ss.



tax information exchange. Given the abundance of literature on these topics, it is unnecessary to delve further into them since they have already been widely discussed<sup>38</sup>. More recently, the activation of the global forum for cooperation and international fiscal transparency of the OECD from the worldwide crisis of 2008 and following.

Very singularly, we must highlight the role of the Committee of Experts on International Tax Cooperation and the gap opened by ECOSOC towards consolidating international tax cooperation (putting ECOSOC resolutions, beginning in 2004, with significant influence from the 2016 regulations until reaching the moment).

Significant international initiatives have been implemented to foster extensive cooperation and mutual assistance between countries, including the exchange of information and other forms of collaboration among tax administrations. These initiatives have been developed through specific regulatory instruments, such as a) the Convention on Mutual Administrative Assistance in Tax Matters (1988), which is currently the most comprehensive multilateral instrument available for all forms of tax cooperation aimed at combating tax evasion and avoidance<sup>39</sup>, b) the Agreement on Exchange of Information on tax matters, which seeks to promote international cooperation in tax matters through exchange of information, and the new OECD Standard of automatic exchange of financial account information in tax matters, c) the Common Reporting Standard (CRS), and d) the Base Erosion and Profit Shifting (BEPS) Project. The BEPS project, consisting of reports on 15 actions, is a crucial instrument for international tax cooperation aimed at combating base erosion and profit shifting, which is of significant significance for developing countries that heavily rely on corporate income tax, particularly from multinational enterprises. In addition, the international tax landscape has undergone substantial changes in recent years due to economic challenges, and new standards have been developed to enable countries to protect their revenue bases.

Other initiatives can be cited such as the EU Recommendation from the Parliament to Council 2012 about measures to promote the application, by third countries, of minimum standards of good governance in the tax field. Or its update by Recommendation of January 28, 2016. The EU Directives and Regulations on tax cooperation.

The IMF and the World Bank have also been widening their natural circle of activities, including aspects related to global tax governance, focusing their attention on the fight against tax havens and offshore centres (mainly) and other tax aspects. In 2018, the International Monetary Fund (IMF), Organisation for Economic Co-operation and Development (OECD), United Nations (UN), and World Bank (WB) have established a platform for international tax cooperation.

<sup>38</sup> See J. Owens, "Moving towards better transparency and exchange of information on tax matters", *Bulletin for International Taxation*, 2009, n. 63(11) 557 and F. Vanistendael, "The international information exchange puzzle", *Tax Notes International*, 2014, Vol. 75, n. 13, 1149. 17 See League of Nations: Committee of Technical Experts on Double Taxation and Tax Evasion, *Double Taxation and Tax Evasion (Report)*, 1927; S.D. Dean, "The incomplete global market for tax information", *Boston College Law Review*, 2008, Vol. 49, 605-672; H.J. Ault, "Corporate Integration, Tax treaties and division of the international tax base: principles and practices", *Tax Law Review*, 1992, Vol. 47, n. 3, 565-608; S. Piccioto, S. International Business Taxation as a Study in the Internationalization of Business regulation, CUP, Cambridge, 1992; F. Cannas, "The historical development of the exchange of information for tax purpose", in *Exchange of information for tax purposes* (O.C. Gunther and N. Tuchler (eds), Linde Verlag, Wien, 2013, 15-34; E. Andrés Aucejo, "La cláusula de intercambio de información tributaria según el Convenio bilateral Hispano-Brasileño para evitar la doble imposición y prevenir la evasión fiscal en materia de impuestos sobre la renta; Impuestos." *Revista de doctrina, legislación y jurisprudencia*, 2011, vol. 27, n. 15-16, 19-48; R. Seer, "Recent Development in Exchange of Information within the EU for Tax Matters", *EC Tax Review*, 2013, Vol. 22, n. 2, 66-77; J. Wouters and K. Meuwissen, "Global Tax Governance", *Leuven Centre for Global Governance Studies Working Paper*, 2011, 59; V. Tanzi and H.H. Zee, "Can Information Exchange be Effective in Taxing Cross-Border Income Flows? in *Modern Issues in the Law of International Taxation* (K. Andersson, P. Melz and C. Silfverberg (eds) Kluwer Law International, Stockholm, 2001, 259-268; R. Seer and I. Gabert, *Mutual assistance and information exchange*, eds., IBFD, Amsterdam, 2010; A. Turina, "I recenti sviluppi internazionali in materia di scambio di informazioni", *Fiscalità internazionale*, 2010, Vol. 8, n. 2, 155-161; L.U. Cavelti "Automatic information exchange versus the withholding tax regime globalization and increasing sovereignty conflicts in international taxation", *World Tax Journal*, 2013, Vol. 5, n. 2, 172-214; M. Stewart, "Transnational Tax Information Exchange Networks: Steps towards a Globalized, Legitimate Tax Administration", *World Tax Journal*, 2012, Vol. 4, n. 2, 152-178, among others.

<sup>39</sup> OCDE. Center of Tax Policy and Administration. Exchange of Information. Convention on Mutual Administrative Assistance in Tax Matters. Last updated- July 2018.

Additionally, the OECD has developed various multilateral instruments such as the Common Reporting Standard (CRS) and Base Erosion and Profit Shifting (BEPS), as well as the MLI. The WB and IMF have also implemented other efforts to combat money laundering and tax havens. Moreover, there are various data collections and analysis tools available, including the OECD tax database and WB World Development indicators. In addition, tax administration assessment tools like the Tax Administration Diagnostic Assessment Tool (TADAT) and guidelines such as transfer pricing manuals and guidelines have also been introduced. Lastly, initiatives like Tax Inspectors Without Borders have been created to enhance tax audit capacities.<sup>40</sup>

In the past two decades, especially since 2009, the Global Forum on Transparency and Exchange of Information for Tax Purposes and the G20 have played a crucial role in promoting international cooperation among countries, including the European Community, on tax matters. A significant push has been made towards enhancing various initiatives to encourage collaboration. The G20 and the OECD have actively pursued a strategy to achieve genuine and effective international administrative cooperation on tax issues. Central to this cooperation is the exchange of tax information between tax authorities.

It is important to note that some information exchange rules were established before 2009. However, the creation of the Global Forum on Transparency and Exchange of Information for Tax Purposes, with the full support of the G20, has brought about greater awareness and cooperation among countries in tax administration. This has been made possible through the adoption of standards on transparency and exchange of information, the establishment of peer review processes by the Global Forum, the publication of annual progress reports by the OECD, and the release of the 'A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard' on April 2, 2009, which assessed both cooperating and non-cooperating countries (also known as the famous blacklist).<sup>41</sup> The jurisdictions have demonstrated their commitment to adhering to international standards to avoid being on the blacklist.<sup>42</sup>

The United States took a significant step towards promoting administrative cooperation between tax administrations by automatically exchanging tax information in 2010. This was done by enacting the "Hiring Incentives to Restore Employment (Hiring) Act", which added new sections 1471 to 1474, also known as the Foreign Account Tax Compliance Act (FATCA), to the United States Internal Revenue Code.<sup>43</sup> The enactment of the Foreign Account Tax Compliance Act (FATCA) by the United States has significantly impacted the fight against tax havens and income relocation. The USA's strong influence through FATCA has encouraged other countries to move towards greater cooperation through the automatic exchange of information. This has been seen as an effective mechanism towards administrative cooperation in tax matters. Therefore, FATCA is considered a game changer in automated business.<sup>44</sup> The United States enacted the Foreign Account Tax Compliance Act (FATCA) in 2010 and worked with the G5 countries to develop an intergovernmental approach to implement it. This approach, known as the Model 1 IGA, is commonly called

<sup>40</sup> See OECD, Automatic Exchange of Financial Account Information, Background information brief, 2015, 2; P. Malherbe and M. Beynsberger, "The year of implementation of the standards", in Exchange of information and bank secrecy (A. Rust and A. Fort (eds.), Wolters Kluwer, 2012, 119-127.

<sup>41</sup> This report contains three lists: countries that had implemented standards (white list), those that had committed but had not implemented (grey list) and those that were not committed to implementing the standards (blacklist).

<sup>42</sup> In the same way, P. Pistone, "Exchange of information and Rubik Agreements: the perspective of an EU Academic", Bulletin for International Taxation, 2013, Vol. 67, n. 4/5, 219, said: Many, if not all, countries have 'voluntarily' changed their position on fiscal transparency from 2009 onwards to avoid being considered as non-cooperative jurisdictions and ultimately being included in the list of undesirable jurisdictions. See also Vanistendael, above fn. 16, 1149.

<sup>43</sup> Commission on Taxation, JCX-42-09, Technical explanation of the "Foreign Account Tax Compliance Act of 2009". See Cavelti, above fn. 17, 182-183.

<sup>44</sup> See A. Pross, "How tax transparency went global in 2014", International Tax Review, 2014, Vol. 26, n. 3, 10-13.



"Model 1A". The UK was the first to sign an IG with the US on September 12, 2012 (UK-US IGA)".<sup>45</sup>

*On June 2013, the G8 Leaders adopted the commitment to establish automatic exchange as the new global standard of transparency. On September 2013, the G20 Leaders endorsed the OECD (Global Forum) proposal for a truly global model of automatic exchange in order to present such a new single standard in time for the G20 February 2014 meeting. In February 2014, the G20 Finance Ministers and Central Bank Governors endorsed the global standard for automatic exchange of tax information. At the OECD Ministerial Council Meeting in Paris May, 6-7, 2014 was adopted the Declaration on Automatic Exchange of Information in Tax Matters, and on July 15, 2014 the OECD Council approved the Standard for Automatic Exchange of Financial Information in Tax Matters, and on September 2014 this standard was endorsed by the G20 Finance Ministers at meeting in Cairns.<sup>46</sup> The first edition of the CRS implementation handbook was published in August 2015. At the present (2016 and beyond), the Global Forum is undertaking a review of the confidentiality rules and practices in place in committed jurisdictions, as to ensure that the automatic exchange of CRS information takes place in a secure environment.<sup>47</sup> In February, 2016 the business and industry advisory committee to the OECD (BIAC) has drafted the self-certification forms and has requested the OECD to make these forms available on the AEOI Portal to assist with the implementation of the CRS.<sup>48</sup> Recently the OECD has published the following documents: the CRS Implementation Handbook, the CRS Status Message XML Schema – as well as the related User Guide and the “CRS-related Frequently Asked Questions”. Besides that, the Action 5 of BEPS Project “is committed the Forum on Harmful Tax Practices to Revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime” (executive summary Action 5: 2015 Final Report, p. 9).<sup>49</sup> (Andrés-Aucejo, Eva., 2018). For the latest developments in the matter, you can consult the website of the OECD.*

Nowadays still several challenges still need to be addressed to achieve practical cooperation on tax matters. These challenges include coordination between different legal instruments, managing overlapping rules, and balancing the need for the automatic exchange of information with the protection of taxpayers' rights. In addition, there are concerns about the costs of implementing these measures, the need for risk analysis, and data privacy security. There are several obstacles that countries must overcome to enforce the Common Reporting Standard (CRS). For example, some countries may not have the technical or practical capacity to implement the CRS, and national barriers may prevent its application. Moreover, changes to federal legislation may be required in some cases, such as removing restrictions on access to bank information or collecting more customer information to pass on to tax authorities. Although some legal instruments have attempted to address these problems, they do not provide a comprehensive global solution, and not all tools cover the same issues.<sup>50</sup>

At present, the central lack is the design of the architecture of a global tax order through the creation of solid laws and instruments of policy formulation that regulate the relations of international tax cooperation between the States and the parties involved in the framework of a new global architecture that aspires to efficient and fair tax systems. That is why in our previous work recently published, we have proposed a global design of a new Tax Legal Order based on international tax cooperation, human rights and global tax governance, through the codification and progressive development of International Tax Law, creating hard law and soft law policy making instruments.

<sup>45</sup> See Andrés-Aucejo, E., *Toward an Global Code...*, *Revista de Derecho del Estado*, 2018; J. Dodd “International agreements to improve tax compliance (FATCA)”, *British Tax Review*, 2013, Vol 4, 529-540.

<sup>46</sup> See OECD, *Automatic Exchange of Financial Account Information, Background information brief*, above fn. 15; OECD, *Common Reporting Standard. Standard for Automatic Exchange of Financial Account Information (Report)*, 2014; OECD, *Standard for Automatic Exchange of Financial Account Information in Tax Matters (Report)*, 2014.

<sup>47</sup> See OECD, *Automatic Exchange Portal*, available at <<http://www.oecd.org/tax/automatic-exchange/about-automatic-exchange/>>.

<sup>48</sup> See OECD, *Automatic Exchange Portal*, above fn. 29.

<sup>49</sup> ANDRÉS-AUCEJO, E. *The global tax model...* in *International Administrative Cooperation in Fiscal Matter and International tax governance*. Dir. Owens, J., Pistone., Andrés-Aucejo, E., Ed. Thomson Reuters, 2018

<sup>50</sup> For a more extensive comment on these particulars, see ANDRÉS-AUCEJO, *Towards a Towards an International Code for administrative cooperation in tax matter and international tax governance*, *Revista de Derecho del Estado*, n. 40

Note: In terms of international tax cooperation, up to now, there are several international organizations (such as the OECD, the United Nations, the International Monetary Fund, the World Bank), other corporations such as the Platform for the international Tax Cooperation, Associations such as CIAT, IOTA, tax African forum, and other stakeholders, that have developed international tax cooperation performances with special prominence of the OECD. However, there is no global design of cooperation relations and international tax governance. In this sense, for many years, we have proclaimed the need of different global tax policy and rulemaking proposal, as for instance the need for a multilateral general agreement or Instrument on International Tax Cooperation and Global Tax Governance,<sup>51</sup> and many others.

#### 4. THE UNITED NATIONS INTERNATIONAL TAX ORGANIZATION AS CENTRAL EXE OF A NEW UNITED NATIONS GLOBAL TAX LEGAL ORDER INSPIRED BY INTERNATIONAL TAX COOPERATION, HUMAN RIGHTS AND GLOBAL GOVERNANCE WITH THE COOPERATION OF INTERNATIONAL ORGANIZATIONS AND STAKEHOLDERS

(See Owens, J., Andrés-Aucejo, E., et al. "Toward a Global Tax Legal Order ...", *rieel*, vol.2, n. 3, February 2023 <https://www.rieel.com/index.php/rieel/article/view/36>)

In recent years, intergovernmental and non-governmental organizations alike have made global tax matters a part of their agendas, recognizing that international cooperation and global tax governance are critical components of the emerging global order (Andrés-Aucejo, E., 2018)<sup>52</sup>.

As we have refereed about, cooperation between tax administrations is critical in the fight against tax evasion regarding worldwide earnings. Policy-making on the mobilization of internal resources, international tax cooperation policies, and the elimination of international tax fraud are vital pillars to achieve the return of economic and financial flows to developing countries and help reduce corruption and tax fraud. We also defend that cooperation between tax administrations is critical in a global economic and humanitarian crisis environment for states to maintain their revenues (Owens, J., Lennard, M., Andrés-Aucejo, E., 2020).

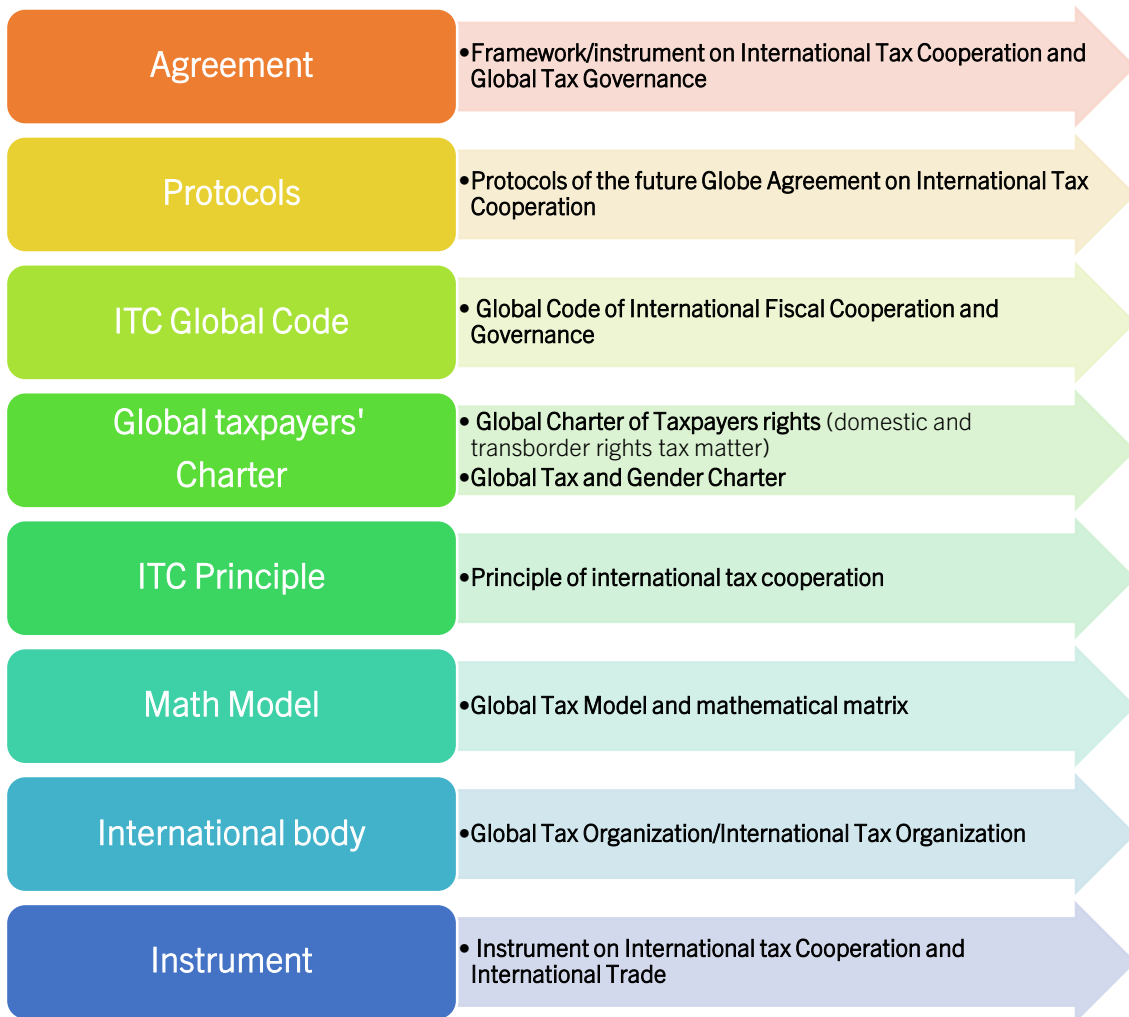
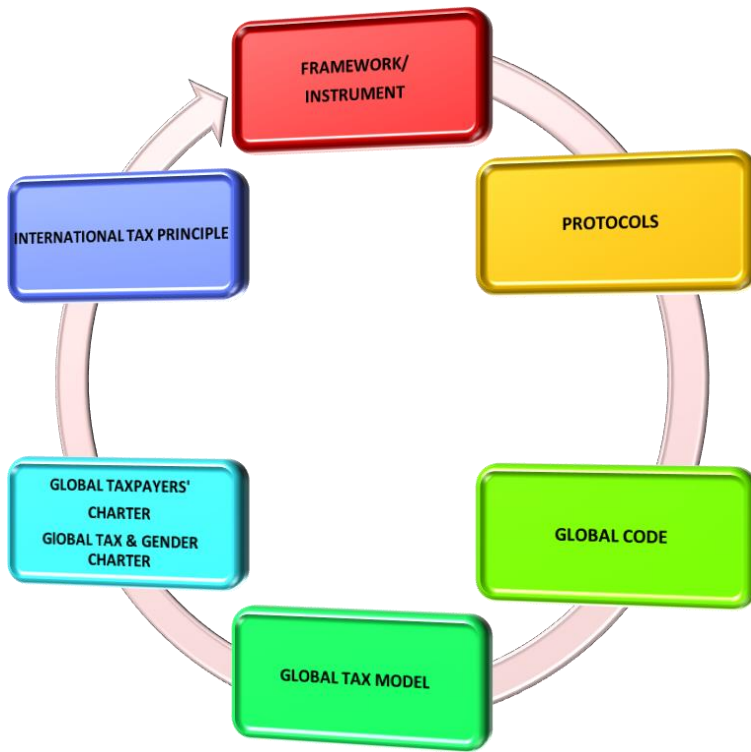
An enabling international tax cooperation environment is crucial to arrive to a global tax justice and a holistic and representative global tax governance architecture ([www.rieel.com](http://www.rieel.com). Vol 2, N. 3, 2023), for this reason, the need for institutionalized tax cooperation for all countries is becoming increasingly evident.

Institutionalized tax cooperation would be a crucial piece in order to achieve a Global Tax Legal Order based on international tax cooperation, human rights and global tax governance through the codification and progressive development of International Tax Law, creating hard law and soft law normative instruments.

<sup>51</sup> Several general agreements have been approved on international trade cooperation as well as the development protocols. See Xavier Fernández Pons (2022) <https://www.rieel.com/index.php/rieel/article/view/28/23> Annex I

<sup>52</sup> <https://www.un.org/development/desa/en/news/intergovernmental-coordination/intl-coop-tax-ecosoc.html>

**A GLOBAL TAX  
LEGAL ORDER  
Under UNITED  
NATIONS framework  
Resolution A 77/441  
UNITED-NATIONS**



- a) **International Tax Organization** with universal carácter and its own legal personality. created under the United Nations Organization orbit, by a founding treaty approved by the General Assembly of the United Nations. Said international tax organization would have specific goals in international tax and economic cooperation matters and competence in intergovernmental tax cooperation.

**b) General Agreement on international tax cooperation**

The general framework or Instrument on international tax cooperation is an available treaty, which must be approved and ratified by the States and includes the main rules and bases of international economic cooperation and global tax governance (in our case). General agreements do not include obligations or duties for the signatory parties, limiting themselves to containing the great principles and bases of the matter in question.

A framework or Instrument is a general agreement that the General Assembly of the United Nations must approve. So it is a mandatory rule for countries. **HARD LAW.**

Note: of course, the World Bank or the IMF can approve a general agreement, for example. However, the preferential situation is probably that the United Nations support it because it is the most representative and democratic international Organization (each country has one vote, without quotas).

We have developed a model of a general treaty on international tax cooperation and governance. See: Owens, J., Andrés-Aucejo, E., Mezang Akamba, Nicoli, M., General Agreement on International Tax Cooperation and Global Tax Governance, vol.1, n.2 2022, [www.rieel.com](http://www.rieel.com)

**c) Protocols**

In international public Law, the General Agreements must be developed by protocols. The protocols are also treaties signed and ratified by States (hard Law), but on contrary to the general agreements, the protocols usually include obligations for the parties.

So, we would like to propose the creation of eight protocols for the future development of the Framework Agreement of international tax cooperation and global tax governance:

1. Protocol for INTERNATIONAL TAX COOPERATION ON TAX ADMINISTRATION 3.0, digitization of tax administrations, robotics and cybersecurity, risk management processes
2. Protocol for INTERNATIONAL TAX COOPERATION PROTOCOL ON DOMESTIC AND INTERNATIONAL TAXPAYERS' RIGHTS. **Towards a new Global Charter on Global Taxpayers' Rights and Guarantees.**
3. PROTOCOL FOR THE DEVELOPMENT OF INTERNATIONAL TAX COOPERATION ON TAXATION OF DIGITAL ECONOMY for highly digitized and non-digitized businesses and protocol for global transfer pricing regulation
4. PROTOCOL ON INTERNATIONAL TAX COOPERATION FOR A NEW SOCIAL CONTRACT ON TAXATION AND GENDER, considering gender tax policies as crucial to reduce social and economic disparities in gender discipline.
5. PROTOCOL FOR INTERNATIONAL TAX COOPERATION AND GLOBAL TAX GOVERNANCE, GOOD GOVERNMENT, GLOBAL TAX COMPLIANCE POLICIES, MORALITY AND TAX EDUCATION including a general principle in tax education.
6. PROTOCOL FOR INTERNATIONAL JUDICIAL COOPERATION AND THE FIGHT AGAINST INTERNATIONAL TAX FRAUD and aggressive tax competition.
7. PROTOCOL FOR THE INTERNATIONAL TAX COOPERATION ON TAX LITIGATION TRANSBORDER MATTERS (MAPS/ SETTLEMENTS & ADR).
8. PROTOCOL FOR THE INTERNATIONAL TAX COOPERATION ON ENVIRONMENTAL TAXATION AND EXTRACTIVE SECTOR.

- d) **Code of International Tax Cooperation** and Global Tax Governance. It is an articulated and consolidated text that includes the best practices, standards, rules and regulations still created, in this case in international tax cooperation and global tax governance. It should be divided by Titles and chapters. It is the purest sense of the French code. In international tax law, the rules are scattered and scattered, that is why we are proposing the creation of a general code that includes all the regulations on international tax cooperation and a code of good practice. In general, this kind of instruments are not **coercive**.  
In addition, it could be a great way to comply with Resolution A 77/441 on enhancing international tax cooperation regarding the UN requirement to compile and review existing instruments on international tax cooperation.
- e) **International Tax Principle:** We are proposing and developing the effective creation of this general principle within the framework of a General Theory of International Tax Cooperation, as a policy-making instrument of international tax cooperation, in line with the provisions of United Nations Res A 77/441<sup>53</sup>
- f) **The global Tax Model:** it is a global model for the efficiency, evaluation and fairness of tax administrations. It consists in a global math model, developed by a math matrix that includes descriptors and indicators of international tax law (for transborder tax issues) and not only for domestic taxation, as well as accounting descriptors..

The analytic-empiric math matrix model includes an empiric mathematic method in order to these general tax policies can be applied by the countries tax administrations The formulation of the general tax policies in order to achieve the main specific objectives described. The global tax policies will be inclusive, interdisciplinary and transversal, with the goal of developing efficient and sustainable economies inspired on the fundamental protection of the human and social rights of civil society and inspired on the cooperation principles and a good global tax governance architecture.

This matrix has some performance areas (work packages), each one of them is divided in sections or parts, being assigned indicators to evaluate if the tax administrations have or follow these tax policies and the new deal tax governance, as well as if they could enhance incorporating some best tax policies practices.

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