Submission to the Global Digital Compact (GDC) zero draft

Global Partners Digital
April 2024

Introduction

We welcome the publication of the zero draft of the Global Digital Compact, as a comprehensive and action-oriented document. We particularly applaud that the Compact recognises human rights as a cross-cutting principle, underlying each of the Compact's objectives, commitments and actions.

In our input, we provide our observations on positive aspects of the Compact, as well as recommendations for those aspects which should be strengthened or revised.

Objective 1. Closing the digital divides and accelerating progress across the Sustainable Development Goals

Cluster 3. Digital public goods and infrastructure

We applaud the focus in this cluster on establishing a framework to harness the opportunities posed by digital public infrastructure (DPI), and to ensure more equal distribution of its benefits. However, in certain instances, we are concerned that the Compact contains inadequate references to conditions which would ensure respect for human rights. We therefore recommend additional language to mitigate against risks that may result from the transfer of digital technologies in a manner which does not comply with international human rights law and cannot fulfil the purpose of SDGs fulfilment. The SDG goals and targets are derived from and refer to international human rights, and we recommend that the Compact more clearly recognises the mutually reinforcing and symbiotic relationship between them.

We are concerned that, in parts, the text risks leaning too heavily on techno-optimism to fulfil the ambition of SDGs fulfilment given the other structural barriers to addressing the Goals. It is imperative to take a balanced
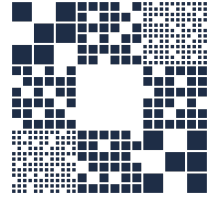
approach to ensure that digital public goods can support an inclusive digital transformation, particularly given the need to leverage digital technologies sustainably and minimise their environmental impact.

Objective 2. Expanding inclusion in the digital economy

Cluster 1. Access to digital technologies

We support the aim of this cluster to ensure inclusion in the digital economy on an equitable basis, which requires the establishment of an enabling policy and legal framework and institutional capacity building, underpinned by human rights. We recommend the inclusion of additional, operative references to clarify that access should be provided in accordance with international human rights law.

We regret that the Compact neglects to incorporate references to combatting power concentration and market dominance as a means to secure equitable and affordable access to digital technologies. We suggest that the Compact explicitly recognises this, particularly as market dominance may ultimately have a negative impact on human rights by decreasing the choices available to individuals in how they access information and express themselves online.

Objective 3. Fostering an inclusive, open, safe and secure digital space

Cluster 1. Human rights

We consider the Compact provides an ideal vehicle to build upon established guidance and risk assessment methodologies, grounded in the international human rights law framework, to ensure the effective, responsible and accountable management of emerging technologies, including AI.

We recommend that this cluster be strengthened by reflecting the recently adopted General Assembly resolution "Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development" which provides an important precedent for the Compact given its focus on fostering digital cooperation and improving governance of technologies (A/RES/78/265). In particular, we recommend the Compact builds upon the resolution's operative language that states should refrain from or cease the use of AI systems that are impossible to operate in compliance with international human rights law by specifying technologies or use cases which meet this
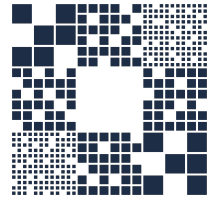
definition. This should include, for example, AI systems using biometrics to identify, categorise or infer characteristics or emotions of individuals, and the use of AI systems for social scoring.

## Cluster 2. Internet governance

We recommend that the Compact uses language which is widely understood to refer to the need to safeguard an Internet which is open, global and interoperable, and preserve the multistakeholder model that underpins it. We recommend that the Compact refers to safeguarding the Internet as an open, global and interoperable resource and avoids the use of terms which may be subject to divergent interpretations, such as the description of the Internet as universal, free and secure. Similarly, we recommend that the Compact refers to the multistakeholder approach or multistakeholder governance, as opposed to cooperation, which may be understood to refer to a more restrictive approach. We believe that this is particularly important in the context of Internet governance, given the potential risks that the deviation from historically agreed language may pose to the multistakeholder model.

We welcome that paragraph 25(d) acknowledges that states should refrain from Internet shutdowns, however we recommend that this language be strengthened to reflect agreed upon language that states should refrain from imposing full or partial Internet or telecommunications network disruptions and shutdowns (see, for instance: A/HRC/44/244).

Cluster 3. Digital Trust and Safety

We welcome the purpose of this cluster to ensure trust and safety in the digital environment, with a particular focus on preventing discrimination on the basis of characteristics including gender and sex, and ensuring the protection of groups in vulnerable situations. While applauding this ambition, we note the complexity of the issues addressed, which have offline and online dimensions, and which therefore require a whole–of–society approach to effectively address and advance equality. As a general principle, we recommend that aspects of this cluster be revised to ensure that the inclusion and descriptions of specific harms use terminology which is reflected in relevant international standards, and to clarify that responses to these harms should be grounded in international human rights law, and specifically the principles of legality, legitimacy, necessity, proportionality and non–discrimination.

We further welcome the reference to ensuring that laws and regulations in areas such as encryption are consistent with international standards, which accurately
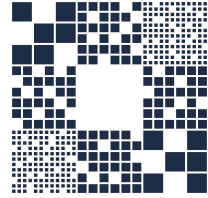
reflects that strong encryption secures and protects the confidentiality of digital communications, and therefore ensures the enjoyment of human rights, in particular the rights to privacy, to freedom of opinion and expression and to freedom of peaceful assembly and association (A/RES/52/21). We recommend that this reference be reinforced with language that acknowledges the need for States to *promote* measures for encryption, pseudonymization and anonymity, reflecting agreed upon language from the 2023 Human Rights Council resolution, "Right to privacy in the digital age" (A/HRC/RES/54/21).

Objective 5. Governing emerging technologies, including Artificial Intelligence, for humanity

While we agree in principle that there are institutional functions which the UN can usefully perform with respect to AI governance, we consider that it is important not to pre-empt the outcomes of the work of the UN Secretary-General's AI Advisory Body, particularly given the Body's ongoing consultation process. In addition, it is our recommendation that the UN should conduct an in-depth ex ante human rights impact assessment, and report externally on their findings, before establishing any new governance entity or mechanism, to ensure that the potential positive and negative impacts are fully understood, and that measures are taken to prevent and mitigate any negative impacts.

In order to contribute to discussions of the UN's role in AI governance, and to inform the ongoing work of the AI Advisory Body, Global Partners Digital, in collaboration with the European Centre for Not for Profit Law (ECNL), published a research paper, "AI Global Governance: Assessment of governance mechanisms with a human rights approach", assessing with a human rights approach pre-existing governance mechanisms proposed as models for the UN's work on AI governance. Our research provides findings of lessons learned and risks which should be mitigated when establishing any new entity or mechanism to foster international cooperation and improve the governance of emerging technologies.

The research provides insights relevant to the proposed International Scientific Panel on AI, Annual global dialogue on AI governance, and the Global Fund for AI and Emerging Technologies for Sustainable Development. Specifically, we observe the following, with reference to our recently published research:

**International Scientific Panel on AI:**
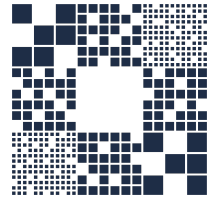
- We consider that the UN has a valuable role to play in conducting independent multidisciplinary scientific risk and evidence-based opportunity assessments (pages 34–37). We recommend that the Scientific Panel builds upon the model of the International Panel on Climate Change (IPCC) by providing policy relevant, rather than policy prescriptive, guidance (pages 14–15). We further recommend that the Scientific Panel is focused on risk monitoring, and that this is separated from the function of ensuring normative alignment and coordination.
- Analysis of the IPCC demonstrated how consensus-based decision-making risks leaning in to pressure to exclude or mollify concerns based on geopolitical considerations; the Scientific Panel should avoid this risk in favour of being explicit where disagreement exists, as well as areas of consensus (pages 34–35).
- We recommend at least annual reporting cycles, as opposed to six-month cycles, which we consider better balances the need for detailed analysis with keeping on top of technological developments.

Annual global dialogue on AI governance:
- We welcome the focus of the annual global dialogue on ensuring inclusive engagement and participation of all communities, however we are concerned by the possible merging of an institutional function focused on convening with the function of the development of normative standard-setting. It is our view that the function of normative coordination would be better performed by an entity akin to the proposed UN Digital Human Rights Advisory Service under the mandate of OHCHR, which is better placed to ensure coordination and to build upon the existing expertise of the UN human rights mechanisms in ensuring accountable and responsible governance of emerging technologies, grounded in international human rights law (pages 37–38).
- As earlier noted, we recommend that all stakeholders be consulted and enabled to input to the design of modalities of any new body or entity, to ensure that their roles and responsibilities are accurately reflected, and to ensure the adoption of a genuinely multistakeholder approach.

Global Fund for AI and Emerging Technologies for Sustainable Development:
- We welcome the focus of the proposed fund on supporting and accelerating capacity building, and directing actions towards the fulfilment of the SDGs; we agree that any mechanism designed to facilitate access to technology should also be accompanied by the institutional and normative strengthening of local capabilities. However, it is essential that capacity building is built on a strong normative foundation. We therefore
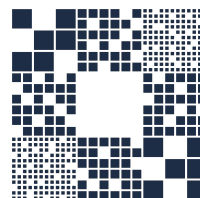
recommend that the fulfilment of the institutional functions of risk monitoring function, and the coordination of human rights-based normative and technical standards, must precede the implementation of an access mechanism in the manner of the Global Fund. This is in order to ensure technology transfer which is underpinned by human rights and to avoid mission creep in the transfer of technologies intended to pursue SDGs fulfilment (pages 48-50). In this manner, we consider that the General Assembly resolution "Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development" provides an important precedent in ensuring digital cooperation and improving governance of emerging technologies, and that these guardrails should be further built upon, in the manner proposed under Cluster 1. Human Rights.

Follow up and review

We recommend that the follow up and review section includes additional references to guarantee the inclusive nature of the GDC implementation, follow-up and review process, which is necessary to ensure that the Compact guarantees a multistakeholder approach. In addition, any new entities or mechanisms proposed should be subject to an in-depth ex ante human rights impact assessment prior to their establishment, and should mandate an inclusive approach to their design to ensure a multistakeholder approach.

While we do not comment at this stage on each of the proposed new bodies and processes, we highlight our support in principle for the proposed UN Digital Human Rights Advisory Service under the mandate of OHCHR. We consider that this mechanism would serve a valuable purpose of ensuring coordination and complementarity with existing human rights mechanisms, ensuring that the existing work of these mechanisms to apply and interpret the international human rights law framework to the governance of digital technologies is properly leveraged. Specifically, the Advisory Service should ensure to utilise the expertise of OHCHR's B-Tech project to practically apply the principles to the activities of technology companies, and OHCHR's experience of ensuring inclusive engagement with stakeholders, including affected communities, should inform the design of the Advisory Service. As earlier noted, we consider that the Advisory Service would fulfil a valuable role in fostering normative harmonisation and interoperability of approaches to AI governance.

Textual recommendations
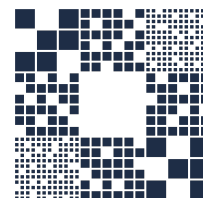
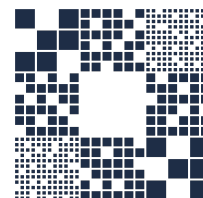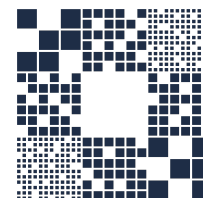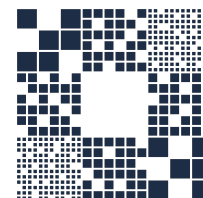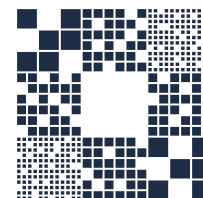| **Preamble**	
3. Our goal is an inclusive, open, safe, and secure digital future for all. We can only achieve this through international cooperation and governance that closes digital divides and advances an equitable and inclusive digital world. This Global Digital Compact sets out the objectives, commitments, and actions we undertake to achieve this goal.	3. Our goal is an inclusive, open, safe, secure <u>and sustainable</u> digital future for all. We can only achieve this through international cooperation and governance that closes digital divides and advances an equitable and inclusive digital world. This Global Digital Compact sets out the objectives, commitments, and actions we undertake to achieve this goal.
4. We have strong foundations on which to build. Our digital cooperation rests on the purposes and principles of the United Nations Charter and international law, including the Universal Declaration of Human Rights, and the 2030 Agenda. We remain committed to the vision of the World Summit on the Information Society and its outcome documents. The United Nations provides an indispensable platform for the global digital cooperation we need.	4. We have strong foundations on which to build. Our digital cooperation rests on the purposes and principles of the United Nations Charter and international law, including the Universal Declaration of Human Rights, <u>the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR)</u> and the 2030 Agenda. We remain committed to the vision of the World Summit on the Information Society and its outcome documents. The United Nations provides an indispensable platform for the global digital cooperation we need.
Principles	

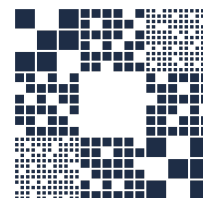|	
7. (d) Gender equal: The full, equal, and meaningful participation and leadership of women and girls in the digital space is essential to close gender digital divides and advance sustainable development. Our cooperation will empower women and girls, mainstream gender perspectives and prioritize the elimination of sexual and gender-based violence online;	7. (d) Gender equal: The full, equal, and meaningful participation and leadership of women and girls <u>in all their diversity</u> in the digital space is essential to close gender digital divides and advance sustainable development. Our cooperation will empower women and girls, mainstream gender perspectives and prioritize the elimination of sexual and gender-based violence online;
7. (i) Multi-stakeholder: Governments, the private sector, civil society, the technical community, academia and international and regional organizations have roles and responsibilities in advancing an inclusive, open, safe and secure digital future. Our cooperation will involve all stakeholders, according to their respective mandates, functions and competencies;	7. (i) Multi-stakeholder: Governments, the private sector, civil society, <u>community organzations,</u> the technical community, academia and international and regional organizations have roles and responsibilities in advancing an inclusive, open, safe and secure digital future. <u>Multi-stakeholder governance includes</u> all stakeholders, according to their respective mandates, functions and competencies;
7. (f) Accessible and interoperable: Digital accessibility as well as equitable and affordable access to data and digital technologies are critical catalysts for development. Our cooperation will advance communication and exchange between digital systems and interoperable approaches to their	7. (f) Accessible and interoperable: Digital accessibility as well as equitable and affordable access to data and digital technologies <u>underpinned by human rights</u> are critical catalysts for development. Our cooperation will advance communication and exchange between digital systems and interoperable approaches to their

governance at national, regional and international levels;	governance at national, regional and international levels;
7. (g) Responsible and accountable: Our cooperation will advance the accountable, transparent and human-centric design, development and deployment of digital and emerging technologies and promote their use in the public interest. This includes safe, secure, and trustworthy AI systems that promote and protect human rights, support sustainable development, and are reliable, explainable and inclusive;	7. (g) Responsible and accountable: Our cooperation will advance the accountable, transparent and human-centric design, development and deployment of digital and emerging technologies, promote their use in the public interest, and <u>provide for redress and remedy mechanisms.</u> This includes safe, secure, and trustworthy AI systems that promote and protect human rights, support sustainable development, and are reliable, explainable and inclusive;

Commitments and actions

Objective 1. Closing the digital divides and accelerating progress across the Sustainable Development Goals

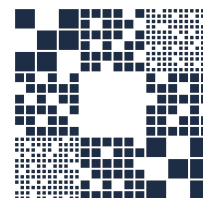|	
14. We recognize that there are multiple models of digital public infrastructure, and that each society will develop and use shared digital systems according to its specific needs and digital transformation goals. Transparent and lawful digital systems and safeguards promote public trust and use of digital services.	14. We recognize that there are multiple models of digital public infrastructure, and that each society will develop and use shared digital systems according to its specific needs and digital transformation goals. Transparent and lawful digital systems and safeguards <u>to ensure compliance with international human rights law and</u> promote public trust and use of digital services.

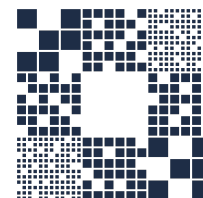|	
15. We commit by 2030 to: (a) Develop, disseminate and maintain, through multistakeholder cooperation, safe and secure open-source software, platforms and standards that benefit society as a whole (SDGs 8, 9 &10);	15. We commit by 2030 to: (a) Develop, disseminate and maintain, through <u>a multistakeholder approach</u>, safe and secure open-source software, platforms and standards that benefit society as a whole (SDGs 8, 9 &10);
15. (d) Develop and agree on a set of safeguards for safe, inclusive, secure and responsible digital public infrastructure that can be adopted and tailored to the specific needs of each society (SDG 16);	15. (d) Develop and agree on a set of safeguards for safe, inclusive, responsible <u>and human rights-respecting</u> digital public infrastructure that <u>should be adopted prior to deployment</u> (SDG 16);
15. (f) Increase and strategically reallocate investment and funding toward the development of digital public infrastructure, especially in developing countries (SDG 17)	15. (f) Increase and strategically reallocate investment and funding toward the development of digital public infrastructure, <u>to be accompanied by legal, normative and institutional capacity-building, with a particular focus on</u> developing countries (SDG 17)
Objective 2. Expanding inclusion in the digital economy	
17. Widening the opportunities for inclusion requires an enabling policy, legal and regulatory environment that supports innovation, nurtures digital talent and skills, and promotes digital entrepreneurship. Such environments, at international and national levels, support investment and the voluntary transfer of digital	17. Widening the opportunities for inclusion requires an enabling policy, legal and regulatory environment that supports innovation, nurtures digital talent and skills, and promotes digital entrepreneurship. Such environments, at international and national levels, support investment and the voluntary transfer of digital

technologies and on mutually agreed terms to developing countries.	technologies <u>in accordance with international human rights law and</u> on mutually agreed terms to developing countries.
19. We commit by 2030 to: (a) Support international, regional and national efforts to develop enabling environments for digital transformation, including legal and regulatory frameworks (SDGs 10 & 16);	19. We commit by 2030 to: (a) Support international, regional and national efforts to develop enabling environments for digital transformation, including legal and regulatory frameworks <u>established in accordance with international human rights law</u> (SDGs 10 & 16);
19. (e) Pool knowledge and best practices on digital enterprise to support innovation programmes and local technological solutions in developing countries (SDG 9);	19. (e) Pool knowledge and best practices on digital enterprise to support <u>diverse, distributed and</u> competitive innovation programmes and local technological solutions, <u>with a particular focus on</u> developing countries (SDG 9);
Objective 3. Fostering an inclusive, open, safe and secure digital space	
20. We recognize all human rights to be enablers of sustainable development and closing digital divides. We commit to promote, respect, protect and fulfill the human rights of everyone in the digital space. We will apply international human rights law in the design, development, deployment, use, and regulation of digital and emerging technologies so that users are protected from harm, bias and all	20. We recognize all human rights to be enablers of sustainable development and closing digital divides. We commit to promote, respect, protect and fulfill the human rights of everyone in the digital space. We will apply international human rights law in the <u>transfer,</u> design, development, deployment, use, and regulation of digital and emerging technologies so that users are protected from harm, bias and all

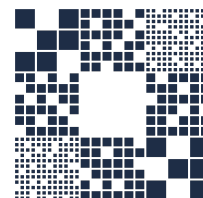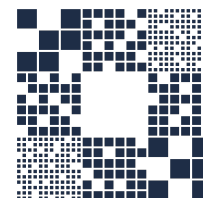|	
forms of discrimination and can fully benefit from digitalization. We recognize the roles and responsibilities of all stakeholders in this endeavour, especially the private sector, including as outlined in the UN Guiding Principles on Business and Human Rights.	forms of discrimination and can fully benefit from digitalization. We recognize the roles and responsibilities of all stakeholders in this endeavour, especially the private sector, including as outlined in the UN Guiding Principles on Business and Human Rights.
21. (b) Establish appropriate safeguards to prevent and address any adverse human rights impacts arising from the use of digital and emerging technologies. (All SDGs);	21. (b) Establish appropriate safeguards to prevent and address any adverse human rights impacts arising from the use of digital and emerging technologies by exercising human rights due diligence and impact assessments across the technology lifecycle, which should include prohibiting the use of AI systems that are incompatible to operate in compliance with international human rights law, such as AI systems using biometrics to identify, categorise or infer characteristics or emotions of individuals, and the use of AI systems for social scoring (All SDGs);
25. We recognize and commit to uphold the role of the Internet Governance Forum and multi stakeholder cooperation in maintaining a universal, free and secure Internet at the governance, content and technical layers.	25. We recognize and commit to uphold and strengthen the role of the Internet Governance Forum and its contribution in deepening and advancing discussion on public policy issues related to the Internet and digital governance, as well as the multi stakeholder approach in maintaining an open, global and interoperable

|	Internet at the governance, content and technical layers.
26. We commit to: (a) Promote a universal, free and secure Internet and take concrete steps to create and maintain a safe, secure and enabling online environment for all (SDG 9);	26. We commit to: (a) Promote <u>an open, global and interoperable</u> Internet and take concrete steps to create and maintain a safe, secure and enabling online environment for all (SDG 9);
26. (d) Refrain from Internet shutdowns and ensure that any restrictions are in full compliance with international law, including with the principles of legality, necessity, proportionality and non-discrimination (SDG 16).	26. (d) Refrain from <u>imposing full or partial Internet or telecommunications network disruptions or shutdowns</u> and ensure that any restrictions are in full compliance with international law, including with the principles of legality, <u>legitimacy,</u> necessity, proportionality and non-discrimination (SDG 16).
27. We must urgently eliminate and prevent technology-facilitated gender-based and sexual violence, hate speech, discrimination, information manipulation and disinformation, cybercrime, cyberbullying and online child sexual exploitation and abuse. We acknowledge our collective responsibility to establish and maintain robust risk mitigation and redress measures that also protect privacy and freedom of expression.	27. We must urgently <u>combat and address</u> technology-facilitated gender-based and sexual violence, hate speech, discrimination, information manipulation and disinformation, cybercrime, cyberbullying and online child sexual exploitation and abuse. We acknowledge our collective responsibility <u>are in accordance with international human rights law, including with the principles of legality, legitimacy, necessity, proportionality and</u>

	non-discrimination, by distinguishing between illegal and harmful content, and establishing and maintaining robust risk mitigation and redress measures that also protect privacy and freedom of expression.
28. (b) Prioritize, as governments, the development and implementation of national online child safety policies and standards, in accordance with international human rights law. (SDGs 3, 5 & 10);	28. (b) Prioritize, as governments, the development and implementation of national online child safety policies and standards, in accordance with international human rights law, including with the principles of legality, legitimacy, necessity, proportionality and non-discrimination. (SDGs 3, 5 & 10);
28. (d) Ensure laws and regulations on the use of technology, in areas such as surveillance and encryption, are consistent with international standards and norms on privacy, freedom of expression, due process and access to information and effective recourse (SDGs 10 & 16);	28. (d) Ensure laws and regulations on the use of technology, in areas such as surveillance and encryption, are consistent with international standards and norms on privacy, freedom of expression, due process and access to information and effective recourse (SDGs 10 & 16); 28. (e)(bis) Promote technical solutions which secure and protect the confidentiality and security of digital communications, including measures for encryption, pseudonymization and anonymity;
28. (f) Monitor and review digital platform policies and practices on	28. (f) Monitor and review, through multistakeholder consultations, digital platform policies and practices on

countering child sexual exploitation and abuse online (SDG 3).	countering child sexual exploitation and abuse online (SDG 3).
31. (b) Promote diverse and resilient information ecosystems, including by strengthening public service media (SDGs 9 & 16);	31. (b) Promote diverse and resilient information ecosystems, including by strengthening diverse independent media (SDGs 9 & 16);
32. (c) Call on digital technology companies and communities to continue to develop and publicly communicate actions to mitigate risks arising from AI-generated deception, including by identifying AI-generated material, authenticity certification for content and origins, watermarking and other techniques (SDGs 10, 16 & 17).	32. (c) Call on digital technology companies and communities to continue to develop and publicly communicate actions, _informed by prior research,_ to mitigate risks arising from AI-generated deception, including by identifying AI-generated material, authenticity certification for content and origins, watermarking and other techniques (SDGs 10, 16 & 17).
Objective 4. Advancing equitable international data governance	
34. We commit to develop international and national data governance frameworks that maximize the benefits of data use while protecting privacy and securing data in ways that are lawful, transparent and accountable.	34. We commit to develop international and national data governance frameworks _in accordance with international human rights law_ that maximize the benefits of data use while protecting privacy and securing data in ways that are lawful, transparent and accountable.
35. (c) Ensure that data collection, storage and processing practices are transparent, secure and in full respect of international law (All SDGs);	35. (c) Ensure that data collection, storage and processing practices are transparent, secure and in full respect of international law, _and widely recognised data protection principles such as lawful and fair processing,_

	transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality, and accountability (All SDGs);
42. (c) Promote and support the implementation of regional and global data policy frameworks that contribute to the emergence of harmonized data economies through the use and sharing of cross-border data and the determination of liabilities (SDGs 8,9 & 10).	(c) Promote and support the implementation of regional and global data policy frameworks that contribute to the emergence of harmonized data economies through the use and sharing of cross-border data and the determination of liabilities in accordance with international human rights law, including with the principles of legality, legitimacy, necessity and proportionality (SDGs 8,9 & 10).
Objective 5. Governing emerging technologies, including Artificial Intelligence, for humanity	
44. International cooperation on AI governance is urgently required to inclusively assess and address the potential impact of AI systems on all societies and individuals, and to promote coordination and interoperability across emerging AI governance frameworks. We commit to advance equitable and inclusive approaches to harnessing AI benefits and mitigating risks.	44. International cooperation on AI governance is urgently required to inclusively assess and address the potential impact of AI systems on all societies and individuals, and to promote coordination and interoperability across emerging AI governance frameworks. We commit to advance equitable and inclusive approaches to harnessing AI benefits and preventing and mitigating risk, and remediating any harm which has occurred.
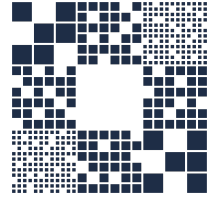
Follow up and review

54. We invite international and regional organizations, digital technology companies, technical community and civil society groups to endorse the Global Digital Compact and take active part in its implementation. We request the Secretary-General to put in place modalities for the voluntary endorsement of this Compact and to make this information public and accessible by December 2024.	54. We invite international and regional organizations, digital technology companies, technical community and civil society groups to endorse the Global Digital Compact and take active part in its implementation. We request the Secretary-General to put in place modalities that ensure that all stakeholders are enabled to meaningfully contribute to the implementation, follow-up and review of the Compact. As a first step, this may include allowing for the voluntary endorsement of this Compact and to make this information public and accessible by December 2024.