

INTERNATIONAL TRADE WORKING PAPER

Sustainable Economic Recovery after COVID-19: Committing to International Co-operation, Trade and Investment

*Markus Gehring, Freedom-Kai Phillips
and Marie-Claire Cordonier Segger*



The Commonwealth



Centre for International
Sustainable Development Law

International Trade Working Paper 2021/09

ISSN 2413-3175

© Commonwealth Secretariat 2021

By Markus Gehring, FK Phillips, and MC Cordonier Segger

Dr Markus Gehring, JSD (Yale), LL.M (Yale), Dr iur (Hamburg), MA (Cantab); Freedom-Kai Phillips, LL.M (Ottawa), LL.B (Dalhousie), MA (Seton Hall), Hon. BSc (E. Michigan), PhD Researcher, University of Cambridge; Professor Marie-Claire Cordonier Segger, DPhil (Oxon), MEM (Yale), BCL & LL.B (McGill), BA Hons (UVic/Carl), FRSA. The authors would like to thank Ira Poensgen (Cambridge), Claire Perttula (York), Cassandra Hayward (Waterloo), Blessing Ajayi (Waterloo) and Chantalle Byron (Cambridge) for their insights and valuable contributions to this research.

Please cite this paper as: Gehring, M, FK Phillips, and MC Cordonier Segger (2021), 'Sustainable Economic Recovery after COVID-19: Committing to International Co-operation, Trade and Investment', *International Trade Working Paper 2021/09*. Commonwealth Secretariat, London.

The International Trade Working Paper series promptly documents and disseminates reviews, analytical work and think-pieces to facilitate the exchange of ideas and to stimulate debates and discussions on issues that are of interest to developing countries in general and Commonwealth members in particular. The issues considered in the papers may be evolving in nature, leading to further work and refinement at a later stage. The views expressed here are those of the author(s) and do not necessarily represent those of the Commonwealth Secretariat.

For more information contact the Series Editor: Dr Brendan Vickers,
b.vickers@commonwealth.int.

Abstract

The global pandemic caused by COVID-19 has initiated economic and social disruptions at an unprecedented scale. As we prepare to rebuild our economic engines in a post-pandemic world, we have an opportunity to revisit our approaches to enable alignment with international climate change and sustainable development priorities. This report investigates how existing international legal and governance frameworks can guide state action to ensure that post-pandemic recovery trajectories are aligned with global efforts towards achieving the Sustainable Development Goals. It sheds light on the opportunities to leverage existing commitments enshrined in trade and investment agreements, derives key learnings from the good practices of Commonwealth countries, and outlines how key SDGs can be incorporated into international initiatives and trade and investment instruments to support post-pandemic economic stimulus.

JEL Classifications: F13, F18, K33, O19, O24

Keywords: sustainable development goals, post-pandemic recovery, low-carbon economic stimulus, build back better, covid-19 recovery, policy recommendations, international law, international trade and investment, green economy

Contents

1. Introduction	5
2. International trade and investment law and governance: the SDGs in economic recovery	7
3. Commonwealth approaches to post-pandemic recovery policy	13
4. Exploring legal intersections	22
5. The way forward	23
Appendix	25
Notes	26
References	29

Abbreviations and Acronyms

CARIFORUM	Caribbean Forum
CBD	Convention on Biological Diversity
CETA	Comprehensive Economic and Trade Agreement
CFAF	Communauté financière d’Afrique [Financial Community of Africa] francs
CISDL	Centre for International Sustainable Development Law
CoP	Conference of the Parties
DNSH	do no significant harm
EFTA	European Free Trade Association
EPA	economic partnership agreement
ESA	Eastern and South African Region
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FTA	free trade agreement
GDP	gross domestic product
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
IMF	International Monetary Fund
IPRs	intellectual property rights
MDGs	Millennium Development Goals
MEA	multilateral environmental agreement
NAFTA	North American Free Trade Agreement
NDC	nationally determined contribution
SCP	sustainable consumption and production
SDGs	Sustainable Development Goals
SMEs	small and medium-sized enterprises
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UDHR	Universal Declaration of Human Rights
UNCRC	United Nations Convention on the Rights of the Child
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
USMCA	United States–Mexico–Canada Agreement
WCED	World Commission on Environment and Development (Brundtland Commission)
WFP	World Food Programme
WHO	World Health Organization

1. Introduction

As we prepare to rebuild our economic engines in a post-pandemic world, we have an opportunity to revisit and refine our approaches to international climate change and sustainable development priorities. Post-pandemic economic recovery trajectories should aim at investment in measures that address unsustainable consumption and production patterns—particularly those that aggravate global income inequalities and contribute to the continued deterioration of our natural environment (United Nations, 1993: ch. 4). Such efforts will be a pathway to synergy among international legal obligations, advancing action on critical sustainable development priorities and rebuilding industry to further the green economy.

Sustainable consumption and production (SCP)—defined by the Oslo Symposium in 1994 as ‘the use of goods and services that respond to basic needs and bring a better quality of life, while minimising the use of natural resources, toxic materials and emissions of waste and pollutants over the life cycle, so as not to jeopardise the needs of future generations’ (Norwegian Ministry of the Environment, 1994)—is central to the advancement of a green post-pandemic agenda. Using economic recovery funds to stimulate a green recovery can enable climate adaptation while also advancing a range of international treaty obligations, including the United Nations’ Sustainable Development Goals (SDGs).

Effectively achieving SDGs 2 (Zero Hunger), 6 (Clean Water and Sanitation), 7 (Affordable and Clean Energy), 12 (Responsible Consumption and Production), 13 (Climate Action) and 15 (Biodiversity Protection) will require complex connections between siloed policy fields such as trade, waste and chemical management, corporate social responsibility, public procurement and environmental education. Thus, in the transition towards a green economy, these need to be considered both in isolation and from a systemic perspective to highlight synergies. New research findings in relation to these synergies can inform pathways to help the world to ‘build back better’ after COVID-19.

1.1 The COVID-19 crisis

On 11 March 2020, after several months of speculation and rising concern, the World Health Organization (WHO) declared COVID-19 a

global pandemic (WHO, 2020). Recognising the limits of their healthcare systems, many countries implemented lockdowns, self-isolation or social distancing protocols to limit the spread of the disease and ‘flatten the curve’ (*ibid.*). All but essential workers were confined, meaning that any activities that could not be performed remotely or with implementation of 2-metre social distancing were brought to a halt. While these measures supported containment efforts, they threatened economic stability, especially in developing and the least-developed countries, thereby impacting the poorest and most vulnerable populations (United Nations, 2020).

The pandemic has had unprecedented economic effects, including disruption to supply chains and widespread unemployment (ILO and OECD, 2020). The International Labour Organization (ILO) estimated an increase in unemployment worldwide of 5.3–24.7 million persons (ILO, 2020). The International Monetary Fund (IMF) estimated that the global economy contracted by approximately 3.3 per cent in 2020—an effect ‘much worse than during the 2008–09 financial crisis’ (IMF, 2020a).

The fallout from this economic shock is expected to strike developing and heavily indebted least-developed countries, such as small island developing states, the hardest. With estimated lost income of more than US\$220 billion, there will be significant damage to education and healthcare systems, human rights and food security (UNDP, 2020). To lessen the severity of the economic downturn, the IMF urges countries to focus their stimulus efforts on post-pandemic economic growth, arguing that it will be more impactful than increased spending during the pandemic (IMF, 2020b). Economic stimulus measures and packages for post-pandemic recovery will play a significant role in the sustainability and effectiveness of global social and economic development over the coming years.

The current economic crisis is unique because, while spurred by the pandemic, it has largely been the result of policy decisions. Within a short period of time, the global economy functionally closed for all but the most essential products and services, resulting in surging unemployment rates, negative market impacts and significant threats to the survival of businesses at all levels—especially the small

and medium-sized social and environmental enterprises likely to contribute most to recovery. Even though governments put in place short-term stimulus packages, limited in scope and aiming to address only certain immediate business and employee needs, such as furlough to prevent unemployment, payments to citizens to spur economic activity, and funding for key sectors' operational needs and expenses, market structures across all levels of the economy have been irreparably changed by the pandemic and governments' policy responses to it. As the European Commission (2019) notes, 'it takes 25 years—a generation—to transform an industrial sector and all the value chains. To be ready in 2050, decisions and actions need to be taken in the next five years.' Given this time frame, it is essential that post-pandemic economic stimulus packages build on the SDGs, boost international climate commitments, and make global and local economies more resilient in the long run (Mukherjee and Bonini, 2020).

The European Union (EU) has established a new taxonomy for sustainable finance under which activities must 'make substantive contribution to one of [the] six environmental objectives; do no significant harm (DNSH) to the other five, where relevant; and meet minimum safeguards' (European Commission, 2019). Applying these objectives to post-pandemic stimulus packages, investments should therefore be effective on two fronts: *supporting economic recovery*; and *advancing sustainability*. At time of writing, most Commonwealth nations are weighing their options for creating and implementing post-pandemic economic recovery stimulus packages. As a global leader in efforts to implement the SDGs and to mitigate climate change and support adaptation efforts through the Paris Agreement, Canada has collated a stimulus package that will serve as a key model to other countries—particularly its fellow members of the Commonwealth, many of which share similar legal systems and regulatory heritage.

1.2 Research questions and core findings

Our research on the legal and governance framework within which economic stimulus innovations emerge focuses on the ways in which such innovations may enable a low-carbon recovery post-pandemic that actively contributes to the

SDGs. In this paper, we seek to inform further research and policy in this field, and to answer three key research questions.¹

1. How can the commitments enshrined in international treaties on sustainable development, including trade and investment agreements, guide Commonwealth member countries in designing and implementing their post-pandemic economic recovery strategies?

The legal and policy framework for implementing green post-pandemic economic recovery strategies already exists. Explicitly grounding the recovery process in established international accords and agreements on sustainable development and responsible trade and investment can ensure that a government designs its post-pandemic recovery policies optimally to support these goals and avoids retroactively forcing existing commitments to fit.

Building on a literature review of the SDGs, the green economy and development, in this paper we identify case studies that link key country-level or regional post-pandemic recovery measures with selected SDGs.

2. How can post-pandemic recovery strategies and plans best contribute to the SDGs, and what can be learned from the good practices of Commonwealth countries to date?

Potential policy avenues aiming at sustainable post-pandemic recovery should be informed by international and Commonwealth best practices, which we summarise in this paper to support other countries' efforts. This includes a review of the international legal measures underpinning SDGs 6 (Clean Water and Sanitation), 7 (Affordable and Clean Energy), 12 (Responsible Consumption and Production), 13 (Climate Action) and 15 (Biodiversity Protection).

Green investing and post-pandemic recovery projects that improve equality and new opportunities for inclusion are highlighted as contributing to SDGs 1–5, 10–12, 16 and 17.

These recovery options must consider long time horizons, and both contribute to long-term goals and meet immediate needs.

3. How can the Commonwealth and its member countries specifically incorporate

key SDGs, such as SDGs 1 (No Poverty) or 13 (Climate Action), and related accords, such as the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC), into international co-operation and trade and investment policies to support post-pandemic economic stimulus?

In aligning post-pandemic recovery with the SDGs, the Paris Agreement and other accords, the Commonwealth and its member countries have an opportunity to further goals for and commitments to international co-operation and investment in the coming years.

Such policies could include investing in domestic renewable-energy industries to stimulate short-term job development and long-term energy sustainability, or focusing job-creation efforts in agricultural and food-processing sectors, targeting SDGs 7 and 2, respectively (IMF, 2021).²

Strong, progressive sustainable post-pandemic recovery plans can pave the way for climate and sustainability action. These methods can be disseminated through online mechanisms including webinars, as well as collaborations between the Commonwealth Secretariat and partner institutions.

2. International trade and investment law and governance: the SDGs in economic recovery

2.1 Poverty, food security and climate goals

The measures put in place to foster post-pandemic recovery have the potential to either support or frustrate the achievement of key SDGs. International trade and investment flows, as well as the rules that govern them, may be essential to ensure that trillions of dollars in stimulus spending can support efforts to ‘build back better’—or indeed to ‘build forward’—as the world economy slowly responds to and recovers from the devastating impacts of the COVID-19 pandemic. A framework of existing international trade and investment agreements underpins the SDGs related to poverty, food security, affordable energy, and innovation and sustainable infrastructure, and can inform post-pandemic initiatives and the allocation of resources.

There are myriad ways in which international trade and investment law can contribute to efforts to reopen a global economy that can better address the targets of SDGs 1 (No Poverty), 2 (Zero Hunger), 7 (Affordable and Clean Energy) and 9 (Innovation, Industry and Infrastructure), all in the context of commitments under SDG 13 (Climate Action). More specifically, economic agreements can include commitments to:

- raise living standards, reduce poverty and optimise economic development opportunities;
- create mechanisms that increase trade and investment in more sustainable agriculture and food products;
- eliminate tariff and non-tariff barriers to incentivise trade and investment in renewable energy and energy efficiency; and
- set out programmes to foster technological co-operation, promote scientific advancement, and encourage the exchange of information and technologies across borders.

In particular, trade and investment accords often seek to contribute directly towards SDG 1—that is, the goal of ending poverty in all of its forms, everywhere. Numerous bilateral and regional treaties explicitly acknowledge in their objectives or preambles the need to raise living standards. For instance, the China–Peru Free Trade Agreement (FTA) contains a preambular provision in which the parties recognise that the Agreement ‘should be implemented with a view toward raising the standard of living, creating new employment opportunities, reducing poverty and promoting sustainable development’. Similarly, the Economic Partnership Agreement (EPA) between the Caribbean Forum (CARIFORUM) and EU lists

the ‘development and the eradication of poverty in CARIFORUM States, and the smooth and gradual integration of these economies into the global economy’ as a ‘fundamental objective’ of the Agreement.³ Such provisions can support the achievement of several targets linked to SDG 1, such as that which aims to ensure the mobilisation of resources to ‘provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty in all its dimensions’ (SDG 1.a), or that which requires states to create sound policy frameworks to support accelerated investment in poverty eradication (SDG 1.b). In addition, trade and investment agreements may enable the reduction of poverty through provisions that support and strengthen small and medium-sized enterprises (SMEs), or those that encourage gender equality in specific industries. For example, the interim EPA between the EU and the Eastern and South African Region (ESA) contains commitments in its title on inland fisheries to improving access to development financing for SMEs, and seeks to ‘develop the capacity of women’ and ‘other disadvantaged groups with the potential to engage in fisheries for sustainable social economic development’.⁴

Similarly, the rules governing trade and investment can further SDG 2, which aims to end world hunger, achieve food security and improved nutrition, and support sustainable agriculture. More specifically, international trade rules can help to achieve SDG 2.4, according to which countries must seek to ensure sustainable food production systems and implement resilient agricultural practices. For instance, the EU–Central America Association Agreement contains a co-operative provision whereby the parties seek to strengthen capacity for the production, market access and distribution of organic goods.⁵ Similarly, in the Peru–Korea FTA, the parties commit to considering issues of food security and biodiversity protection when adopting policies on issues such as energy efficiency and the research into, promotion, development and use of renewable and environmental technologies.⁶ Furthermore, trade agreements may support SDG 2.5, which seeks to maintain genetic diversity and promote access to, and fair and equitable sharing of, benefits from the use of genetic resources. By way of illustration, the EU–South Korea FTA commits the parties to

fairly and equitably sharing the benefits arising from the use of ‘knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles.’⁷ Finally, trade and investment law is particularly relevant to achieving the implementation targets under SDG 2, which call on states to increase investment to enhance agricultural productive capacity in developing countries (SDG 2.a), to correct and prevent trade restrictions and distortions in world agricultural markets (SDG 2.b), and to adopt measures to ensure the proper functioning of food commodity markets (SDG 2.c). In the China–Peru FTA, for example, the parties agree to co-operate in multilateral negotiations regarding the elimination of export subsidies for environmental goods, thereby addressing SDG 2.b.⁸

It is equally possible to highlight mechanisms through which international trade and investment law can support parties in their efforts to achieve SDG 7, which aims at access to affordable, reliable, sustainable and modern energy for all. Myriad agreements contain clauses to promote energy efficiency and renewable energy. The EU–Canada Comprehensive Economic and Trade Agreement (CETA), for instance, contains provisions to remove obstacles to ‘trade or investments in goods and services of particular relevance for climate change mitigation and in particular trade or investment in renewable energy goods and related services.’⁹ Similar provisions are included in the Japan–Switzerland FTA,¹⁰ as well as the EU–South Korea FTA.¹¹ These can help to substantially increase the share of renewable energy in the global energy mix (SDG 7.2) and support the aim of doubling the global rate of improvement in energy efficiency (SDG 7.3). Furthermore, the EU–ESA Interim EPA showcases how trade agreements can strengthen collaboration in the energy sector: the parties commit to co-operating across several relevant areas including, but not limited to, the expansion and diversification of the energy mix and enhancing the production and distribution capacity of existing energy sources, with the aim of strengthening access to modern, efficient, reliable and sustainable sources of clean energy.¹² Such clauses directly support SDG 7.a, on facilitating access to clean energy research and technology, and 7.b, which aims to expand infrastructure and upgrade technology for supplying modern and sustainable energy services.

Finally, trade and investment law can play a role in the achievement of SDG 9, which focuses on building resilient infrastructure, promoting inclusive and sustainable industrialisation, and fostering innovation. More specifically, economic agreements can foster technological co-operation, promote scientific advancement, and encourage the exchange of information and technologies across borders. For example, the CARIFORUM–EU EPA contains several provisions aiming to foster co-operation between research bodies across all parties.¹³ This is in support of SDG 9.5 (‘enhance scientific research, upgrade the technological capabilities of industrial sectors in all countries, in particular developing countries’) and 9.b (‘support domestic technology development, research and innovation in developing countries’). In addition, trade and investment rules can advance sustainable and resilient infrastructure development. This is a further important contribution of the EU–ESA Interim EPA, which highlights infrastructure development as a fundamental area for co-operation and support.¹⁴

As the world emerges from the throes of the pandemic, these provisions—which are already enshrined in the existing governance framework of international investment and trade—can and should guide decision-making on economic stimulus packages. By aligning spending decisions with these existing commitments, policy-makers can help to ensure that the trillions of dollars committed to economic stimulus can have the optimal impact on SDGs 1, 2, 7 and 9.

2.2 Economic, social and human rights goals

International economic law can also be leveraged to foster a sustainable recovery that addresses several challenges of the ‘just transition’, including improving access to health care, education, decent work, drinking water and sanitation. Existing agreements showcase that trade and investment provisions can be used to progress SDGs 3 on good health and well-being, 4 on quality education, 5 on gender equality, and 8 on decent work and economic growth, as well as SDG 6.1 on universal access to safe drinking water and 6.2 on sanitation and hygiene for all.

These goals can be further strengthened by adapting international economic law in several

ways. Importantly, new trade rules can further enhance market access for medical supplies, improve knowledge-sharing on issues relevant to public health and ensure that the protection of intellectual property rights (IPRs) does not constrain access to medicines. Furthermore, trade and investment rules can strengthen co-operation on issues of education across all stages of the education system. Efforts to achieve gender equality can be propelled forward by strong non-discrimination clauses and provisions that directly address gender inequities in particular sectors. Future agreements should also continue to strengthen labour rights, emphasise the need for decent jobs and develop co-operative mechanisms on labour issues. Finally, trade and investment laws can incentivise investments in improved water infrastructure, dismantle trade barriers for environmental goods and services that strengthen sanitation and hygiene systems, and facilitate capacity-building in water resource management.

First, international rules on trade and investment can play an important role in efforts to achieve SDG 3, which aims to ensure healthy lives and promote well-being for all at all ages. The targets related to this SDG include reducing the global maternal mortality ratio to less than 70 per 100,000 live births (SDG 3.1), ending preventable deaths of infants under 5 years of age (SDG 3.2), and ensuring universal access to sexual and reproductive healthcare services (SDG 3.7). International economic commitments can help to further such targets by improving access to medicines, facilitating knowledge-sharing and encouraging co-operation on issues of health across borders. International trade law plays a particularly central role in achieving SDG 3.b, according to which countries seek to ‘support the research and development of vaccines and medicines ..., provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration on the TRIPS [Trade-Related Aspects of Intellectual Property Rights] Agreement and Public Health’. It is crucial that states ensure that global rules on IPRs and market access help, rather than hinder, efforts to distribute vaccines and medicines—particularly those relevant to combating COVID-19.

In addition, international trade and investment commitments can be conducive to reaching SDG 4, which is to ensure inclusive and equitable quality education and to promote

lifelong learning opportunities for all. Several agreements contain some provisions that actively support this aim. For instance, the Canada–Peru FTA sets out a commitment to co-operation on labour activities, including by creating joint workshops, conferences, and training and education programmes.¹⁵ Similarly, the parties to the Peru–Korea FTA agreed to co-operate on issues related to intellectual property skills, for example by facilitating educational projects, training schemes and knowledge exchange on IPRs and patent technologies.¹⁶ Such provisions support efforts to achieve various of the targets linked to SDG 4, such as SDG 4.4, which aims ‘to substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship’. New agreements could strengthen this function of international economic law by placing additional emphasis on not only higher education but also all stages of learning. The China–Peru FTA offers an example of how a trade agreement can take a more comprehensive approach to tackling SDG 4.¹⁷ The treaty creates a series of commitments on information exchange, professional development and collaboration between educational institutions at all levels of education.

There are further ways in which international economic law can help to foster progress on SDG 5 on achieving gender equality and empowering all women and girls. Issues of gender equality are explicitly addressed in a series of trade agreements. For example, the Chinese Taipei–Nicaragua FTA emphasises the importance of ending discrimination against women, particularly in employment and occupation, in its provisions on labour issues. This furthers the goals of ending all forms of discrimination against all women and girls everywhere (SDG 5.1), as well as the full and effective participation of women at all levels of decision-making in political, economic and public life (SDG 5.5). Furthermore, economic agreements can include commitments to engaging in reforms that strengthen women’s rights and improve their access to economic resources, in support of SDG 5.a. Some agreements already contain such provisions with respect to agriculture and fisheries, as well as regional co-operation provisions. For instance, the EU–ESA Interim EPA specifically addresses gender as a ‘key area’ in its

regional co-operation programme and works to strengthen women’s entrepreneurship.¹⁸

International economic treaties play a particularly central role in furthering SDG 8, through which states have committed to work towards sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all. Most directly, trade agreements may contribute to achieving SDG 8.a, which calls for increased Aid for Trade support and trade-related technical assistance for developing and least-developed countries. However, the importance of trade governance to this goal is much broader: SDG 8 sets out a series of labour-related targets, such as SDG 8.5 on achieving full and productive employment, 8.8 on the protection of labour rights and 8.7 on the eradication of forced labour. International economic agreements such as the CETA or the United States–Mexico–Canada Agreement (USMCA) frequently contain substantive labour provisions.¹⁹ Since the original North American Free Trade Agreement (NAFTA), FTAs have often steered parties away from lowering labour standards to gain a trade advantage. Such a clause was, for example, included in the Japan–Switzerland FTA.²⁰ In addition, they can outline positive commitments on labour rights and commit parties to respecting the ILO’s labour standards. The US–Colombia FTA, for instance, contains strong language on the protection of worker’s rights, agreements on addressing forced labour and commitments to enforcing domestic labour laws.²¹ Furthermore, international economic agreements can create co-operative mechanisms on a range of labour issues, including the enforcement of standards, occupational health and safety, labour relations and skills development. Examples for such co-operation and capacity-building provisions can be found in the US–Colombia FTA²² and the Chinese Taipei–Nicaragua FTA. International trade and investment law can also further SDG 8 by advancing economic productivity growth and supporting the creation of jobs, which are at the core of SDG 8.1, 8.2 and 8.3.

Lastly, the international rules governing investment and trade can support efforts to reach SDG 6.1 on universal access to safe drinking water and 6.2 on sanitation and hygiene for all. For instance, economic agreements can encourage trade and investment in environmental products that improve sanitation or catalyse investments in improving the

infrastructure required to reach these targets. Several existing agreements already take steps in this direction. For example, the Japan–Switzerland FTA encourages trade in and the dissemination of ‘environmental products and environment-related services that support the environmental protection and development goals, such as improved sanitation.’²³ Such references can facilitate the efforts required to achieve SDG 6.2. The EU–ESA Interim EPA also contains comprehensive provisions on water resources that recognise the need for enhanced regional co-operation to ensure the sustainable management of water resources and promotes a series of activities to strengthen regional water infrastructure.²⁴

In sum, the international legal framework on trade and investment can play a constructive role in addressing the challenges of the ‘just transition’ in the post-pandemic period. Many existing agreements already provide a framework that can be conducive to progress on SDGs 4, 5 and 8, and SDG 6.1 and 6.2. Existing provisions within the treaty landscape can therefore help to define priorities for the post-pandemic policy response. However, it is crucial that efforts are undertaken to further integrate the SDGs into international economic law and to ensure that future treaties build and expand on these foundations.

2.3 Natural resources, biodiversity and climate goals

International economic commitments can also guide post-pandemic policies that seek to address challenges to sustainable natural resources management, as well as the global biodiversity and climate crises. In the language of the SDGs, international investment and trade governance can underpin the goals related to water management (SDG 6), sustainable production and consumption (SDG 12), and climate action (SDG 13), as well as marine and terrestrial biodiversity (SDG 14 and 15).

In the post-pandemic period, there will be several avenues through which strengthened international economic law can help to ensure that states can ‘build back greener’. For example, economic law can go further in:

- incorporating provisions to promote local community participation in improving water and sanitation management (SDG 6);

- strengthening commitments to phasing out fossil fuel subsidies, to enforcing domestic and international environmental laws, and to promoting environmental disclosures and transparency mechanisms (SDG 12);
- facilitating market access to environmental goods and services, and ensuring that marginalised communities are included in climate crisis planning (SDG 13);
- removing harmful fisheries subsidies and creating co-operative mechanisms for marine conservation (SDG 14); and
- delineating commitments to encourage trade and investment in products from sustainably managed sources (SDG 15).

In addition to ensuring universal access to water and sanitation, as outlined in the last section, SDG 6 also creates a series of targets closely linked to environmental goals. For example, to achieve SDG 6.3, countries need to ‘improve water quality by reducing pollution’ and ‘eliminating dumping and minimising release of hazardous chemicals and materials.’ Similarly, SDG 6.6 calls for the protection and restoration of water-related ecosystems. Investment and trade commitments can facilitate progress towards these targets, primarily by creating co-operative mechanisms that allow for joint progress. One example of such a mechanism is included in the CARIFORUM–EU EPA, which calls for co-operation on ‘eco-innovation’—a term that specifically covers ‘projects related to environmentally friendly products, technologies, production processes, services, management and business methods, including those related to appropriate water-saving and Clean Development Mechanism applications.’²⁵ This provision directly contributes to co-operation and capacity-building efforts in support of water- and sanitation-related activities and programmes in developing countries (SDG 6.a), and it can help to improve water efficiency (SDG 6.4). Relatedly, the co-operative mechanism included in the EU–ESA Interim EPA on issues related to water resources can strengthen the control of water pollution and support purification and conservation schemes, thereby contributing to SDG 6.3 and 6.6.

Trade and investment agreements can also form an integral part of the global push towards SDG 12, whereby countries commit to ensuring SCP patterns. First, trade agreements and multilateral negotiations have the potential

to catalyse efforts towards SDG 12.c, which requires the phasing out of inefficient fossil-fuel subsidies. In addition, international economic agreements can guide the efforts of businesses to voluntarily report their environmental impact by encouraging disclosures, creating common standards for environmental reporting and audits, and facilitating transboundary information-sharing. Such commitments are included, for example, in the Chinese Taipei–Nicaragua FTA,²⁶ which encourages voluntary information-sharing initiatives to support sustainable production and to foster progress toward SDG 12.2 on the sustainable management of natural resources and 12.6 on encouraging companies to adopt sustainable practices. Furthermore, international trade and investment law can facilitate the dissemination of goods and services that are beneficial to the environment or which allow for a more efficient use of resources. Several existing agreements, such as the Japan–Switzerland FTA²⁷ and the European Free Trade Association (EFTA)–Central America FTA,²⁸ already contain explicit commitments to facilitating investment, trade and dissemination of environmental goods and services. By increasing efficiency, such measures can help in pursuit of a variety of targets linked to SDG 12, including combating food waste (SDG 12.3), ensuring the efficient use of natural resources (SDG 12.2) and reducing waste generation (SDG 12.5). As showcased by the EU–ESA Interim EPA, economic agreements can also be a framework for regional integration, which can in turn facilitate the more efficient and sustainable use of natural resources.²⁹ Finally, such agreements can support the enforcement of domestic environmental laws. For example, the US–Colombia FTA includes a strong commitment to making procedures available to ensure that violations of environmental laws are sanctioned or remedied.

In calling upon states to take urgent action to combat climate change and its impacts, SDG 13 points towards several ways in which international economic agreements can form part of the response. First, they can support adaptation efforts and strengthen states' resilience to climate-related hazards and natural disasters (SDG 13.1). For example, the EU–ESA Interim EPA calls for co-operation among the parties to mitigate and prevent natural disasters.³⁰ Secondly, trade and investment treaties can facilitate efforts to integrate climate change

measures into national policies, strategies and planning. Under the CETA, for example, parties commit to co-operating on domestic climate policies and addressing the adverse effects of trade on climate.³¹ Similarly, in the EU–Colombia–Peru FTA, the parties agreed to enhance climate efforts, including by promoting both domestic policies and international efforts.³² Finally, economic agreements can strengthen the dissemination of technologies that underpin clean energy production or lower the emission intensity of production.

Under SDG 14, states have agreed to work towards conserving and sustainably using the oceans, seas and marine resources for sustainable development. Because economic agreements often cover fisheries or other sectors directly related to marine life, they can be an important building block towards this goal. First, agreements can address illegal and unregulated fishing and overfishing, thereby allowing for progress on targets such as SDG 14.4 on the effective regulation of harvesting, 14.c on the conservation and sustainable use of oceans and their resources, and 14.6 on the prohibition of fisheries subsidies that contribute to overfishing. For instance, the EC–Colombia–Peru FTA recognises that there is a need to responsibly conserve and manage fish resources, and it calls for co-operation on fishery resources through regional bodies. The parties commit to combating illegal and unregulated fishing, and to adopting effective monitoring and control procedures to ensure compliance with international and domestic rules.³³ Similarly, economic agreements such as the CARIFORUM–EU EPA provide a vehicle for co-operation on research and the development of scientific knowledge, thereby contributing to SDG 14.a.³⁴ Furthermore, investment and trade agreements can aid market access for small-scale artisanal fisheries. The EU–ESA Interim EPA, for example, contains a chapter on marine fisheries in which the parties commit to measures that improve investment, build capacity and open up market access for fisheries.³⁵ This treaty also showcases the value of economic agreements that strengthen the sustainable use of marine resources by fostering regional integration and the co-operative management of marine resources between coastal states. Finally, as the EU–Colombia–Peru FTA highlights, international economic treaties can directly expand

protected areas and create conservation commitments for the parties, thereby facilitating the achievement of SDG 14.5, which targets the conservation of at least 10 per cent of coastal and marine areas.

Last, but not least, trade and investment law can support SDG 15—that is, the goal of protecting, restoring and promoting the sustainable use of terrestrial ecosystems, sustainably managing forests, combating desertification, halting and reversing land degradation, and halting biodiversity loss. Existing agreements often address particular elements of SDG 15, specifically targeting biodiversity protection, sustainable forest management and the equitable sharing of benefits from genetic resources. For example, all of these are considered in the EU–ESA Interim EPA. In its title on natural resources and environment, the agreement sets out various co-operative commitments, including those to strengthening the implementation of international environmental agreements, to ensuring the sustainable use of biodiversity, forest and wildlife resources, and to capacity-building to foster compliance with environmental and biodiversity requirements.³⁶ Such clauses promote SDG 15.2 on the sustainable management of forests, 15.7 on urgent action to end poaching and trafficking, and 15.5 on taking action to reduce the degradation of natural habitats. Relatedly, the US–Colombia FTA creates a commitment to promoting conservation and the sustainable use of biological diversity, and to preserving

traditional knowledge that contributes to biodiversity, and it recognises the importance of local participation on issues of conservation.³⁷ As the Chinese Taipei–Nicaragua FTA shows, economic treaties can also promote the use of incentives and other flexible mechanisms to encourage conservation—thereby supporting the aim of mobilising additional financial resources for biodiversity protection enshrined in SDG 15.A. Specifically in relation to forests, international economic law can also facilitate co-operation on activities related to the reduction of emissions from deforestation and forest degradation or encourage the adoption of voluntary forestry certification schemes, as is the case in the EU–Colombia–Peru FTA.³⁸ By means of such clauses, economic agreements can help to achieve SDG 15.b on mobilising resources to finance sustainable forest management and 15.2 on the promotion of sustainable forest management.

In the wake of the pandemic, states should commit anew to strengthening the framework of international economic treaties such that it continues to explicitly underpin the SDGs related to water management, sustainable production and consumption, and climate action, as well as marine and terrestrial biodiversity. Furthermore, immediate recovery plans and economic stimulus packages should explicitly build on existing commitments such as those outlined to ensure that the economic recovery supports global efforts towards a ‘green transition’.

3. Commonwealth approaches to post-pandemic recovery policy

Commonwealth member countries have adopted a range of innovative economic recovery measures that can be grouped according to their SDG impact.³⁹ The global effect of these measures will be shaped by international trade and investment flows, as well as the rules that govern them. In this section, we consider them in the context of their potential to help countries to meet their domestic SDG targets and nationally determined contributions (NDCs) under the Paris Agreement.⁴⁰

SDG 1: No Poverty

Articles 10⁴¹ and 13⁴² of Chapter IV of the UN Charter empower the United Nations General Assembly (UNGA) to, among other things, promote social and economic development.⁴³ Like their predecessors, the Millennium Development Goals (MDGs) (UNGA, 2000), the SDGs are adopted under Articles 10–13 of the UN Charter. Various international instruments support SDG 1 and it has been noted that the eradication of poverty is ‘both at the centre

of sustainable development, and a necessary pre-condition to it' (Atapattu, 2004: 319). The 1948 Universal Declaration of Human Rights (UDHR), which is at the foundation of modern international human rights law, provides for the universal and effective recognition and observance of various human rights, including several that relate directly to SDG 1. Some examples include the right to own property, the right to equal access to a national public service, the right to social security, and the right to realise one's economic, social and cultural rights.⁴⁴ Other rights that relate to poverty are reflected elsewhere in the SDGs.⁴⁵

In addition, the two leading human rights treaties, the 1966 International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), set out obligations to protect and promote various human rights that pertain to ending poverty. Although the ICCPR does not speak directly to the issues raised in SDG 1, its focus on self-determination, equal rights, and meaningful participation in society and governance is essential to various aspects of economic and social progress that are reflected elsewhere in the SDGs.⁴⁶ The ICESCR speaks to the need for self-determination and equal rights, and it deals with the issues raised by SDG 1 more directly than the ICCPR. For example, the ICESCR includes an undertaking whereby all signatory states must take steps—to the extent of their available resources—to progressively realise the rights contained within it.⁴⁷ In addition, the treaty recognises that everyone has the right to social security, including social insurance.⁴⁸ The ICESCR also recognises the need to accord protection to women and mothers by requiring that marriage is entered into only with full consent, that new mothers are provided with paid leave from their employment, and that women and mothers receive adequate social security benefits.⁴⁹ In addition to those provisions that specifically reflect the text of SDG 1, there are others in the ICESCR that could help to bring about an end to poverty and achieve other SDGs.⁵⁰

A number of additional international treaties recognise the importance of poverty eradication. For instance, the Preamble to the 1992 United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, recognises the connections

between sustainable economic growth, social development and poverty eradication, and notes that these are all essential to meeting sustainability objectives. The 1992 United Nations Convention on Biological Diversity (CBD) likewise recognises the importance of prioritising poverty eradication, in its third preambular objective on benefit-sharing, as well as in Article 20 regarding financial resources. Moreover, Article 3 of the 1992 UNFCCC sets out the right to sustainable development, and it recognises the need to eradicate poverty both in its Preamble and Article 4, regarding the commitments of signatory states. International and domestic policy and governance mechanisms that have been established to pursue certain aspects of these mandates and updated through the Conference of the Parties (CoP) to these conventions can consequently be harnessed to guide and support the implementation of SDG 1.

In addition to these binding treaties, other non-binding UN Resolutions, such as the 1986 Declaration on the Right to Development (UNGA, 1986), provide support for the adoption of SDG 1. This Declaration addresses the ongoing need to protect human rights and human development by means of international co-operation in general terms. On some occasions, however, it speaks more directly to the issues raised in SDG 1. For example, Article 4 of the Declaration addresses the need to promote more rapid and comprehensive development of developing countries.⁵¹ Moreover, Article 8 recognises the need to undertake measures to ensure equal access to basic resources, education, healthcare services, food, housing and employment, and the fair distribution of income. Article 8 further recognises the need to ensure that women have an active role in the development process,⁵² while Article 10 provides for steps to adopt and implement policy, legislative, or other measures that promote development at both the national and international levels.⁵³ In 1987, the year after the UNGA published its Declaration on the Right to Development, the report of the World Commission on Environment and Development (WCED, known as the Brundtland Commission) recognised the link between poverty and global environmental challenges, stressing that it will be impossible to solve the climate crisis without also tackling the factors that fuel poverty (WCED, 1987: 3).

The Rio Declaration adopted at the 1992 United Nations Conference on Environment and Development (UNGA, 1992) is another example of an international instrument supporting SDG 1. Among other things, the Rio Declaration advocates co-operation to eradicate poverty (Art. 5),⁵⁴ highlights the special needs of developing countries and the most environmentally vulnerable (Art. 6),⁵⁵ and promotes the potential for enhancing capacity building by means of shared technologies (Art. 9).⁵⁶

Agenda 21, also adopted at the 1992 Conference, includes a separate chapter on combating poverty (ch. 3), which notes that a strategy to combat poverty ‘is one of the basic conditions for ensuring sustainable development’ (United Nations, 1993: para. 3.2). Similarly, the 2002 Johannesburg Declaration on Sustainable Development (United Nations, 2002) recognises poverty eradication as one of the ‘overarching objectives of and essential requirements for sustainable development’ (Atapattu, 2004: 316). In addition, the 2012 Rio+20 Outcome Document, *The Future We Want*, which was adopted by the UNGA and is the basis of the SDGs, described poverty eradication as the ‘greatest global challenge facing the world today and an indispensable requirement for sustainable development’ (UNGA, 2012: para. 2).

Together, these legal instruments amplify the importance of eradicating poverty to sustainable development. In a post-pandemic recovery context, several countries have implemented policies and practices supporting SDG 1.

Sri Lanka (SDGs 1.3–1.5 and 16.6)

The government of Sri Lanka has created a Task Force on Economic Revival and Poverty Eradication in response to COVID-19. In tandem with this initiative, it developed a special fund for containment, mitigation and social welfare spending, which includes local and foreign tax donations. Other measures include distributing cash payments to vulnerable communities, totalling 0.25 per cent of gross domestic product (GDP), and food allowances for those below the poverty line (IMF, 2021: Sri Lanka).

Australia (SDG 1.3 and 1.5)

Until mid-July 2020, the Australian government provided free childcare to more than 1 million families. In recognition of the importance of childcare, the government also

announced targeted support of the education system. The government also tackled SDG 1 by developing and continuing income support for households until December 2020, with payments slowly reducing over time to facilitate a gradual transition to the recovery period (IMF, 2021: Australia).

Tuvalu (SDG 1.3)

In March 2020, Tuvalu’s government re-prioritised US\$4 million that had originally been intended for island development to support the welfare system in the form of a cash payment of \$40 per person per month to all citizens living in the country. The amount was based on the poverty line of \$1.47 per person per day (IMF, 2021: Tuvalu).

SDG 2: Zero Hunger

Hunger, food insecurity and unsustainable agriculture practices have been impacted by several factors across sectors. As such, many steps to achieve SDGs 1, 3, 6, 8 and 10–12 will also support the achievement of SDG 2. The Food and Agriculture Organization of the United Nations (FAO), as well as the World Food Programme (WFP), support acute solutions to these issues and advocate for the long-term achievement of zero hunger.

Fiji (SDG 2.1)

Fiji’s government implemented an agriculture-specific stimulus, the Agriculture Response Package, and a loan repayment delay to free up funds in support of food security. Its recovery plans also included the Farm Support Package, which provided material support such as seeds and tools for farms, with an emphasis on those foods that grow quickly, to ensure a steady and bountiful food supply (IMF, 2021: Fiji).

The Gambia (SDG 2.1)

The Gambian government has spent US\$15.8 million on a national food distribution programme, which has reached 84 per cent of households. The WFP supported the programme by providing technical help and training towards the effective targeting, design and distribution of government food relief programmes. These efforts towards zero hunger were coupled with the distribution of 2,000 tonnes of fertiliser, in partnership with the FAO, to meet the needs of farmers (IMF, 2021: The Gambia).

Lesotho (SDG 2.2)

Lesotho has allocated 46 million maloti (US\$3.26 million), or 0.1 per cent of GDP, to food security initiatives. These initiatives include food basket deliveries to vulnerable households, support for school meals programmes, and supplementary cash transfers to citizens living in South Africa and within the nation's borders (IMF, 2021: Lesotho).

Samoa (SDG 2.a)

The Samoan government approved the nation's first economic stimulus package in April 2020, totalling 66.3 million tala (US\$26.2 million), which amounts to 3 per cent of the island's total GDP. The package is centred on the key principle, 'Support the private sector, so they can feed the nation'. Support includes a grace period of three months for all loan payments, an exemption on import duties for nearly all commonly bought food items, and an expansion in the duty concessions applied to agricultural and fishing materials (IMF, 2021: Samoa).

SDG 3: Good Health and Well-Being

Since 1946, the Constitution of the World Health Organization has defined health as 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity' (WHO, 1946: Preamble). The scope of this definition is reflected in the range of targets set out under SDG 3, including an ambitious commitment to end the HIV/AIDS epidemic, tuberculosis, malaria and other communicable diseases by 2030. The Goal also aspires to universal health coverage and equal access to safe and effective affordable medicines and vaccines. Targets 3.4 and 3.5 are particularly notable as the first time that mental health and well-being, including the treatment of substance abuse, have been explicitly designated as health priorities within the global development agenda.

Many of the other SDGs have impacts on health outcomes and aim at healthy individuals and communities by supporting determinants of health. For example, SDG 2.1 and 2.2 aim to 'end hunger, achieve food security and improved nutrition and promote sustainable agriculture' by 2030, while SDG 5.3 and 5.6 in particular aim to improve the sexual and reproductive rights and health of women and girls. In aiming to 'ensure the availability and sustainable management of water and sanitation for

all', SDG 6 recognises the importance of access to safe and clean water for human health and hygiene, while SDG 10 aims to 'reduce inequality within and among countries'.

Health is therefore reflected in the SDGs not only as a sectoral area of focus in SDG 3 but also as a cross-cutting issue, affirming that the broad range of human rights are intertwined.

Togo (SDG 3.d)

As one of the first African countries to respond to the COVID-19 pandemic, Togo developed a multi-year response plan centring on protecting lives and livelihoods. The Togolese government has invested more than 19 billion CFA francs (CFAF) (US\$34.8 million) in containment and mitigation measures since the beginning of the pandemic, including laboratory diagnostic capacity, equipping treatment centres with infrastructure to screen and treat patients with COVID-19, and improving drug availability. The government has additionally invested CFAF 33 billion (US\$60.4 million) in constructing new health centres and purchasing medical equipment, and it has relieved all medical equipment and other products used exclusively for COVID-19 purposes from taxes and duties (IMF, 2021: Togo).

Malawi (SDG 3.c)

The Malawian government responded to the COVID-19 pandemic by creating a plan that includes spending of US\$20 million on health care and targeted social assistance programmes. One of the key programme areas included hiring 2,000 more healthcare workers to support the strained system (IMF, 2021: Malawi).

Tuvalu (SDG 3.c)

The Tuvaluan government adopted a COVID-19 response package which included AUD\$2.75 million (US\$2.1 million) for purchase of additional medical equipment, additional compensation for essential workers, recruitment of additional healthcare workers, and establishment of risk allowances to additionally compensate frontline workers (IMF, 2021: Tuvalu).

SDG 4: Quality Education

In SDG 4, we see a reflection of existing international law commitments to education as a human right, such as that found in the UDHR, Article 26(1) of which covers access, while Article 26(2) covers content.⁵⁷ In this way, the

UDHR supports SDG 4.1, 4.2 and 4.3, which advocate for equal access to quality education at all levels, as well as childcare and early childhood education.

The Goal is supported by commitments in the ICESCR. Article 13 ICESCR builds on the right to education set out in the UDHR and extends it, noting that secondary and higher education must be not only generally available but also accessible to all by every appropriate means—in particular, by the progressive introduction of free education. As such, both the UDHR and the ICESCR recognise not only the right of children to education but also the rights of adults to lifelong learning. This supports SDG 4.2 and 4.3, which go beyond the initial focus on primary education set out in the earlier MDGs to encompass access to all of pre-primary, primary, secondary, tertiary, vocational and technical education.

Article 13 ICESCR also refers to the requisite preconditions to the right to education by requiring that a system of schools at all levels be actively developed, an adequate fellowship system be established and the material conditions of teaching staff be continuously improved, supporting the achievement of SDG 4.b and 4.c. Further, at Article 14, the ICESCR required each signatory state that had not yet established free and compulsory primary education at the time of ratification to develop a detailed plan of action for progressive realisation of this right within a reasonable time frame. As such, in 1966 the Convention was already calling on states to pursue many aims that would be formalised as SDG 4 on education, and the plans of those states then yet to establish free primary education became mandates for action for those countries, regions and donors seeking to implement SDG 4.

Several important SDG 4 targets can also be linked to states' commitments under the 1989 United Nations Convention on the Rights of the Child (UNCRC), which has been nearly universally ratified. For instance, Article 28 UNCRC recognises that while the right to education may be achieved progressively, it must be based on equal opportunity. The Convention further provides that states must encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures to that end, such as by introducing free education and offering financial assistance in case of need.

Importantly in the context of the SDGs, Article 28 UNCRC requires states to promote and encourage international co-operation on matters relating to education—in particular, towards eliminating ignorance and illiteracy throughout the world, and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account is to be taken of the needs of developing countries. This provision supports SDG 4.6, as well as SDG 4.a and 4.b, and the international co-operation systems established under the Convention might be activated to support the environmental and other pillars of SDG 4.

Article 29 UNCRC further provides that education shall be directed towards the development of the child to their fullest potential. This includes the development of respect for human rights and fundamental freedoms, the preparation of the child for a responsible life in a free society and the development of respect for the natural environment. This aligns with, and is extended by, SDG 4.7, which aims to ensure that all learners acquire the knowledge and skills needed to promote sustainable development. Other instruments, such as the World Declaration on Education for All (World Conference on Education for All, 1990), provide further context and collaborations undertaken in the context of the Declaration might easily be directed to support SDG 4. This is not only important for achievement of SDG 4 and its commitment to education for sustainable development but also directly relevant to the environmental pillar (SDG 13): environmental education is the foundation of more environmentally aware citizens, leading to more widespread implementation and observation of environmental laws and policies, and more effective public involvement in monitoring compliance on the ground.

Guyana (SDG 4.1)

On 10 September 2020, the newly elected Guyanese government presented a G \$330 billion (US\$1.6 billion) emergency budget, which included spending totalling 15 per cent of GDP on the education sector. In addition, the Ministry of Education received a donation of 2,000 face shields from the United Nations International Children's Fund to support measures aiming to stem the spread of COVID-19 in schools (IMF, 2021: Guyana).

SDG 6: Clean Water and Sanitation

In SDG 6.3, a focus on pollution reduction, rooted in a range of international instruments⁵⁸ and aiming to minimise release of ‘hazardous chemicals’, implicates the Basel, Rotterdam and Stockholm Conventions⁵⁹ as the principle instruments relating to the release and transport of hazardous chemicals. Parties to the Conventions have adopted a range of mechanisms to enhance synergies, co-operation and co-ordination, including the Ad Hoc Joint Working Group on enhancing cooperation and coordination among the Basel, Rotterdam and Stockholm Conventions,⁶⁰ simultaneous meetings of the CoP, and synchronised budget and auditing,⁶¹ and harmonisation of the Secretariats.⁶²

Additionally, SDG 6.4, 6.5 and 6a engage three international treaties that have intersecting scope in relation to the environmental protection of waters.

- Article 6 of the 1971 United Nations Convention on Wetlands of International Importance especially as Waterfowl Habitat (known as the Ramsar Convention) seeks to facilitate the conservation and sustainable use of natural resources through emphasis on the wise use of wetlands.
- The Preamble to, and Articles 3(2), 6(2) and 33 of, the 1997 Convention on the Law of the Non-Navigational Uses of International Watercourses (known as the New York Convention) pursue the harmonisation of terms and principles relating to watercourse agreements, facilitation of co-operation and consultation relating to the protection and management of international watercourses, and constructive reconciliation of disputes.
- The Preamble to the 1992 United Nations Economic Commission for Europe Convention on the Protection and Use of Transboundary Watercourses and International Lakes (known as the Helsinki Convention) aims to protect transboundary watercourses and international lakes.

Given the transboundary operative scope of the Helsinki Convention⁶³ and the New York Convention,⁶⁴ co-operative arrangements under these treaties may support SDG 6.5, which commits to implementing integrated water resources management at all levels, including through transboundary co-operation.

For instance, regional efforts to prevent the health and socio-economic impacts of environmental damage to transboundary rivers, supported by the Helsinki and New York Conventions, might be recognised as good practices for SDG 6.5 or might benefit from capacity building, international co-operation and other support under SDG 6a. Further, under Article 1(1) of the Ramsar Convention, states recognise that wetlands—whether naturally occurring or otherwise, permanent or temporary, and with adjacent marine water deeper than 6 metres at low tide⁶⁵—constitute vital ecosystems, providing broad socio-cultural, environmental and economic benefits. With an inclusive definition of ‘wetlands’ as one contiguous whole (Ramsar Convention Secretariat, 2013: 7), Ramsar can help states in achieving SDG 6.3, 6.4, 6.5 and 6.6.

The New York Convention and the Helsinki Convention set out key principles relating to the co-operative and equitable use and management of international watercourses, including sustainable use, environmental protection and a duty to co-operate on equitable governance.⁶⁶ Additionally, the Helsinki Convention prescribes the precautionary principle, the ‘polluter pays’ principle, and the principle that water resources should be managed for both present and future generations.⁶⁷ Under the Ramsar Convention, parties aim to facilitate co-operation relating to the ‘wise use’ of wetlands and water resources based on an ecosystem approach,⁶⁸ with ‘wise use’ conceptually defined as ‘the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development’.⁶⁹ Co-operative and precautionary mechanisms provide an active institutional framework empowering parties to achieve core aspects of SDG 6, including:

1. the reduction of pollution under SDG 6.3;
2. the support of sustainability across the water-use chain under SDG 6.4;
3. policy harmonisation and collaboration under SDG 6.5;
4. the establishment of protective measures under SDG 6.6; and
5. mobilization of international support for capacity building and water-usage programmes under SDG 6a.

The three water Conventions aim to facilitate states' abilities to develop and strengthen regional, national and local measures that protect transboundary waters, and hence they form a normative framework guiding regional and subregional agreements on key water-courses and helping governments to actively work towards achieving SDG 6.

Eswatini (SDG 6.1, 6.2 and 6.b)

As a component of a two-part stimulus package—100 million emalangeni (E) (US\$6.9 million or 0.14 per cent of GDP) for fiscal year 2019/20 and E 1 billion (US\$69.4 million or 1.5 per cent of GDP) for 2020/21—the Swazi government aims to improve access to water and sanitation facilities for the most vulnerable, including postponing a planned increase in water and electricity prices (IMF, 2021: Eswatini).

Gabon (SDG 6.1, 6.2 and 6.b)

Beyond a CFAF 66.1 billion (US\$118.1 million or 0.74 per cent of GDP) COVID-19 response package, Gabon envisions a CFAF 108 billion (US\$194.1 million or 1.2 per cent of GDP) stimulus package that includes electricity and water subsidies (IMF, 2021: Gabon).

Maldives (SDG 6.1, 6.2 and 6.b)

The government of Maldives passed an economic recovery plan of 2.5 billion rufiyaa (US\$162.7 million or 2.8 per cent of GDP). The plan includes, among other things, a subsidy for utility bills related to electricity (40 per cent) and water (30 per cent) (IMF, 2021: Maldives).

SDG 8: Decent Work and Economic Growth/SDG 9: Industry, Innovation and Infrastructure

Strongly connected to poverty reduction (SDG 1), SDGs 8 and 9 are preconditions to economic growth, infrastructure, innovation and decent work, all of which support the ability of citizens to improve their livelihoods. The international treaties considered in SDG 1—that is, the ICCPR and the ICESCR—are therefore also applicable here.

Kenya (SDG 8.6)

The Kenyan 2020 budget introduced a 56.6 million Kenyan shilling (US\$0.5 million or 0.5 per cent of GDP) economic stimulus package, including a new youth employment scheme.

One part of the scheme has resulted in the employment of more than 200,000 young people under the National Hygiene Programme (IMF, 2021: Kenya).

Bangladesh (SDG 9.a)

In March 2020, the Bangladeshi Ministry of Finance announced a stimulus package of 50 billion taka (US\$588 million) to be delivered through the Bangladesh Bank for exporting industries. The funds were predominantly used to create loans allowing businesses to pay worker salaries and any firms that had laid off workers were excluded from applying. The loan stimulus was found to fall short of industry demand, however, and rising industry pressure resulted in allocation of a second wave of funding between July and August. The loan benefited close to 4 million workers across the country and ensured the continued productivity of exporting businesses (IMF, 2021: Bangladesh).

United Kingdom (SDG 9.5)

In April 2021, the UK government announced a grants and loan package of £1 billion (US\$1.4 billion) to support businesses driving innovation and development. Small and medium-sized enterprises (SMEs) focusing on research and development have received £750 million (US\$1.06 billion) of the funding to date, while impacted high-growth firms were allocated £500 million (US\$704 million) through an investment fund comprising both private and public monies (IMF, 2021: UK).⁷⁰

Canada (SDG 9.4)

Part of Canada's pandemic stimulus spending of CA \$1.7 billion (US\$1.38 billion) has been dedicated to cleaning up orphan and inactive oil wells across the prairies to aid the struggling energy industry. There are roughly 5,000 orphan wells and more than 100,000 inactive wells in the region, which pose high environmental threat. The funding is intended to create immediate jobs in the sector and to ensure that companies hard hit by the pandemic avoid bankruptcy, whilst also meeting environmental targets (IMF, 2021: Canada).⁷¹

Singapore (SDG 9.b)

In response to the pandemic, the Singaporean government has announced large investments in research and development over the next five years. In late June 2020, the deputy prime

minister announced that S \$20 billion (US\$15 billion) would be set aside for investment in research in high-impact areas including health and biomedical sciences, artificial intelligence and climate change. The government has also assembled the initiative Singapore Together Alliances for Action, led by industry, to develop and prototype new ideas (IMF, 2021: Singapore).⁷²

SDG 13: Climate Action

The 1992 UNFCCC, its 1997 Kyoto Protocol and its 2015 Paris Agreement are the key international law instruments propping up SDG 13. Paragraph 6 of the Preamble to the UNFCCC acknowledges that ‘the global nature of climate change calls for the widest possible co-operation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions’. The overall sustainability aim of SDG 13 echoes the ‘ultimate objective’ of the UNFCCC, particularly in prioritising the integration of climate change measures in national policies, strategies and planning.⁷³ Binding and soft law governance mechanisms have been developed in response to decisions of the CoP or meetings of the parties and contribute to the interpretation of international law on climate change.

Article 3(1) UNFCCC reiterates the responsibility of signatory states to ‘protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities’. Accordingly, the Convention recognises that developed-country parties should take the lead in combating climate change and its adverse effects. This principle is reiterated in the 2015 Paris Agreement and its Adoption Decision. Overall, the principle that they must collaborate to support developing countries is reinforced by the now-global recognition of formally shared policy links between climate change and sustainable development, as evident in both the UNFCCC and SDG 13.

The UNFCCC also directly supports international efforts towards SDG 13.2, regarding integration of climate measures into national policy-making. In Article 4.1(f), the UNFCCC urges all parties to the Convention

to mainstream climate change considerations in their policies, laws and institutions.⁷⁴ Corresponding guidelines and plans have been developed through resolutions of the UNFCCC CoP, and related provisions are found in the Paris Agreement. For example, its review procedures tracking efforts to mitigate carbon emissions or to reduce energy consumption across economic sectors both support the implementation of the UNFCCC and advance SDG 13.2. Article 4.2 UNFCCC commits to national mitigation policies and measures.⁷⁵ In addition, SDG 13.2 is underpinned by international legal principles such as the ‘general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control’, which the International Court of Justice (ICJ) confirmed in its *Nuclear Weapons* and *Gabčíkovo-Nagymaros* advisory opinions.⁷⁶ This obligation highlights the need to integrate climate change measures into national policies, strategies and planning.

Further, Article 4.3 UNFCCC on climate finance⁷⁷ links directly to SDG 13.a on raising funds for mitigation actions. Corresponding guidelines and plans have been developed through UNFCCC CoP resolutions for the Green Climate Fund and other international instruments, with related provisions found in the Paris Agreement. Actions taken to comply with these commitments, such as reports on the growth of national climate funds and insurance schemes or public-private partnerships that invest in retrofitting infrastructure, can communicate a country’s contributions to meeting SDG 13.a. In addition, the law, policy and governance mechanisms already established to secure and distribute this climate finance equitably can contribute directly to the attainment of SDG 13.a.

Supporting the priorities of SDG 13.3, Article 4.1(i) UNFCCC also encourages education, training and raising awareness on climate change.⁷⁸ Corresponding guidelines and plans have been developed through UNFCCC CoP resolutions, and related provisions are found in the Paris Agreement. International and domestic mechanisms established under Article 4.1(i), such as systems to review and promote inclusion of climate change teaching modules in school curriculums, could be harnessed to directly support the implementation of SDG 13.3 in the post-pandemic context. Overall, the existing key international legal instruments

can contribute to the delivery of SDG 13. Governance systems and benchmarks already in place to monitor this progress could be immensely helpful, even at national levels, for efforts to report on progress towards SDG 13.

Because climate change affects a wide range of environmental, social, cultural and economic development challenges, other international instruments beyond the climate regime contribute to the implementation of SDG 13.

Fiji (SDG 13.b)

The government of Fiji has increased its Substitution Export Finance Facility by FJ \$100 million (US\$49 million), to a total of FJ \$400 million (US\$196 million). The Facility is meant to provide credit to renewable energy businesses at a concessional rate. By May 2020, it was reported that \$40 million (US\$19.6 million) of the Facility had been used by businesses involved in renewable energy projects and other import substitution activities (IMF, 2021: Fiji).⁷⁹

United Kingdom (SDGs 13.1, 13.2, 7.2 and 7.4)

The United Kingdom, meanwhile, has announced plans to invest £160 million (US\$225.5 million) in offshore wind energy to create jobs, reduce carbon emissions and increase exports. The funding is being directed towards upgrading ports and infrastructure across the country, with the goal of creating upwards of 60,000 jobs indirectly and 2,000 directly (Government of the United Kingdom, 2020b). This contributes to a wider effort to mobilise £4.42 billion (US\$6.2 billion) in UK public and private investment towards renewable energy for 2020. The United Kingdom has provided a further £200 million (US\$281.9 million) in support for developing energy efficiency technologies, implementing home retrofits and reducing the carbon footprint of the transport sector (IMF, 2021: UK).

Canada (SDG 13.1, 13.2 and 7.2–7.4)

Prime Minister Justin Trudeau has focused on deploying climate-friendly investments as a way of ‘building back better’ (Governor General of Canada, 2020: 5, 14). Canada is committing CA \$2.65 billion (US\$2.19 billion) over five years to delivering a broad array of climate action: new jobs from climate-related technologies, energy-efficient innovations and building retrofits, zero-emission vehicles and infrastructure;

climate-related disaster impact reduction; and net zero future industries (*ibid.*, at 22–23). These efforts are reinforced by a Pan-Canadian Framework on Climate Change, which provides a pathway for achieving Canada’s NDC under the Paris Agreement of an emissions reduction of 30 per cent below 2005 levels (IMF, 2021: Canada).⁸⁰

SDG 15: Life on Land

There are three principles of governance that guide actions supporting better management of the environment, natural resources and ecosystems—namely, *good* governance (the process of inclusive decision-making), *effective* governance (dealing with set goals and targets) and *equitable* governance (based on distributive justice) (Shroeder and Pisupati, 2010). In the context of SDG 15, countries have had some success establishing effective governance measures through actions related to multilateral environmental agreements (MEAs). Issues related to good and equitable governance, however, require more attention when countries are preparing to set a national SDGs-oriented agenda. For the purpose of this paper, we focus on using the extant MEAs related to biodiversity as the primary trigger to strengthen governance, law and policy.

A key treaty in this context is the 1992 CBD. The CBD aims to foster the conservation of biological diversity⁸¹ and the sustainable use of biological resources,⁸² at ecosystem, species and genetic levels. In addition, it seeks to ensure the fair and equitable sharing of benefits arising from the use of genetic resources,⁸³ which includes ensuring appropriate access to such resources and the transfer of relevant technologies, taking into account all rights over those resources and to technologies, and allowing for appropriate funding. The CBD is perhaps the most comprehensive international environmental and legal instrument to deal with justice and the governance of biodiversity and ecosystems (Shroeder and Pisupati, 2010).

In 2010, the 10th CoP to the CBD adopted the Strategic Plan for Biodiversity 2011–20 (CBD, 2010). Its purpose was to inspire broad-based action and to meet the three objectives of the CBD by establishing a shared vision⁸⁴ and mission,⁸⁵ grounded in five cross-cutting strategic goals and twenty targets known as the Aichi Biodiversity Targets. The CBD Strategic Plan and related targets have subsequently guided several biodiversity MEAs (CBD, 2010: paras 4, 7–11). Through

new policies and innovative governance arrangements, including monitoring and peer review mechanisms, these CoP decisions can contribute to the implementation of SDG 15. National reports provided by parties in accordance with Article 26 CBD will also provide a valuable window on the status of implementation.

United Kingdom (SDG 15.1, 15.2, 15.5 and 15.b)

In March 2020, the UK government announced various programmes supporting biodiversity initiatives through the economic stimulus package. It included £640 million (US\$902 million) for the Nature for Climate Fund to plant more than 40 million trees and to restore 35,000 hectares of peatland in England. It also dedicated £25 million (US\$35.2 million) to create a new

Nature Recovery Network in England and £10 million (US\$14.1 million) in support per year for the Darwin Plus programme, which protects unique wildlife in the UK Overseas Territories (IMF, 2021: UK).⁸⁶

Canada (SDG 15.2)

In July 2020, the Minister of Natural Resources announced that the federal government was dedicating CA \$30 million (US\$24.8 million) to offset the additional costs associated with COVID-19 safety measures for SMEs working in the forestry sector, including tree-planting operations. The government stated that a successful 2020 tree-planting season would be essential if the government were to deliver on its commitment to plant 2 billion trees incrementally over the coming ten years (IMF, 2021: Canada).⁸⁷

4. Exploring legal intersections

Post-pandemic measures may be further enhanced by rights-based approaches, elevating livelihoods by ensuring human-centred development.⁸⁸ The recent 2020 Global Symposium on Human Rights, the SDGs and the Law, convened by the Centre for International Sustainable Development Law (CISDL) in partnership with the McGill Centre for Legal Pluralism, discussed how post-pandemic measures can best leverage human rights. The

presentations and discussions at the event were sophisticated, enlightening and forward-looking, and underscored the close link between human rights, international sustainable development and the law. The symposium concluded with a call to action for the urgent emphasis of human dignity in post-pandemic law and governance outcomes.

Some of the key recommendations emerging from the Symposium are as follows.

Indigenous Peoples' Rights

- Adopt the nation-to-nation principle, which recognises the important role of Indigenous peoples in society
- Recognise the jurisdiction of Indigenous peoples
- Adopt the United Nations Declaration on the Rights of Indigenous Peoples
- Implement an inclusive trade chapter with Indigenous peoples (following Canada's lead)
- Co-ordinate responses and consultation with regional Indigenous authorities to ensure that access to food, jobs and resources can be maintained sustainably
- Bring to an end the harms that continue to be perpetuated against Indigenous peoples, such as land grabs and violence against Indigenous women
- Endorse co-management schemes and joint governance provisions, such as those that currently exist in Canada for fisheries and wildlife management
- Adopt culturally sensitive laws and policies that respect the right to self-governance of Indigenous peoples

Rights of People with Disabilities

- Recognise people with disabilities as agents and beneficiaries of inclusive sustainable development for themselves and for their communities

- Adopt the United Nation Convention on the Rights of Persons with Disabilities and enshrine the Convention's terms in the national laws of Commonwealth countries
- Ensure access to education and participation in public life for those with disabilities, including large font material or Braille-based materials and adapted technology for the visually and hearing impaired so that they have equality of access and ability to study and to access information
- Increase access to health facilities for those with disabilities, especially those from vulnerable or marginalized populations (e.g. skin cancer detection centres for those at high risk because of conditions such as albinism, which is itself often the source of vulnerability), to health care facilities and social service facilities and service providers staffed by appropriately trained personnel to accommodate the needs to those with disabilities (e.g. staff that know sign language) and to counselling that recognizes the multifaceted needs of those with disabilities (e.g. for those experiencing trauma and trauma-related conditions)
- Encourage donors to promote the inclusion of women with disabilities when they support the activities of non-governmental organisations
- Provide special arrangements to women with disabilities to support them in delivering childcare that is responsive to their needs as well as the needs of their children
- Remove structural barriers to education and employment opportunities for people with disabilities
- Increase awareness campaigns to prevent discriminatory practices and beliefs, such as witchcraft claims
- Educate persons with disabilities on the health risks to which their conditions may expose them and the steps they can take to mitigate those risks
- Strengthen the mechanisms supporting the investigation of attacks and prosecution of those who commit hate crimes against people with disabilities
- Ensure access to adequate housing for persons with disabilities

Children's Rights

- Improve the quality of education to increase children's participation in sustainable development projects
- Adopt ambitious plans to boost children's resilience to climate change, urgently and with sensitivity to those children who are more vulnerable
- Develop climate action policies that are rights-based and rooted in the substantive and procedural rights of children
- Include children's voices in policy initiatives by means of consultative mechanisms such as children's parliaments and councils, or the United Nations' Voices of Future Generations Children's Rights programme
- Consider lowering the voting age to allow younger voices to be heard
- Increase children's access to justice

Women's Rights

- Prohibit practices such as forced sterilisation, forced abortion and virgin testing
- Increase access to education and employment opportunities for women and girls
- Ensure that health, legal and psychosocial services, including shelters and family planning clinics, remain open even in times of national emergency
- Fund campaigns to raise awareness of women's issues
- Promote sexual and reproductive rights and gender equality by means of legislation
- Include women's voices in policy discussions and consultation processes
- Avoid practices such as mass layoffs in industries that disproportionately affect women

5. The way forward

Integrating the SDGs and international legal obligations in policy and planning is beneficial at all levels of government. In assessing its preparedness to achieve the SDGs within the existing legal framework, a government can follow

a stepwise approach of adoption, consultation, implementation and refinement.

1. **Outline and formulate policy** Begin by adopting the relevant SDGs and targets,

and establishing a commitment to development, implementation and refinement based on a clear timeline and metrics. This often consists of a policy statement and high-level targets, such as a designated percentage of protected areas by 2030.

2. **Assess legal preparedness** Take stock of the law and governance instruments already in place within and/or applicable to the jurisdiction, and identify those that support the designated objective.
3. **Prioritise policy initiatives and reforms** Engage with relevant stakeholders—governmental, civil society and Indigenous—to establish the appropriate priority order of relevant programmes, initiatives and reforms. In this way, local stakeholder considerations will contextualise and inform relevant aspects of the SDG targets.
4. **Develop a legal action plan** Outline the identified priorities in a formal action plan, to include appropriate milestones and metrics, as well as the financial resources required to support the initiatives.
5. **Monitor and refine** Use a ‘learning by doing’ model, informed by iterative reporting and refinement, to reform law and policy. Continue to fine-tune the initiatives to broaden their implementation and effect.

In post-pandemic contexts, states must seek an integrated approach that comprehensively protects nature, addresses the climate crisis and values human dignity. Governments must listen to the voices of stakeholders outside of traditional political and legal communities, in the interests of transparency, inclusivity and accountability. To forge solid partnerships, states must prioritise the acquisition of data, the accessibility of information, the integration of human rights in public policy at both design and implementation stages, and the elimination of discrimination and dismantling of structural barriers.

In 2021, as global leaders take stock of six years of ongoing efforts to implement the SDGs, the need for increased policy ambition is readily apparent. The challenge of worsening inequality has demonstrated the inadequacy of current development practices, while the planet’s acceleration towards critical climatic tipping points demands reassessment of social and economic systems. COVID-19 has brought into sharp focus the costs of a status quo trajectory in the absence of the institutional reforms set out here. By integrating climate and SDG ambitions in post-pandemic policy, governments’ recovery policies can focus across long time horizons and contribute to both long-term goals and immediate physical, social and economic needs.

Appendix

This project establishes and engages a diverse group of researchers from the Centre for International Sustainable Development Law (CISDL) and the Commonwealth Secretariat. The goal is to encourage low-carbon post-pandemic economic stimulus that supports the Sustainable Development Goals (SDGs).

There are two key objectives:

1. to identify and analyse law and governance economic stimulus innovations targeting the SDGs; and
2. to develop and disseminate an adaptive tool to inform and impact research and policy.

The goal and objectives respond to the complex challenges facing all Commonwealth nations, but especially the most poor and vulnerable. The Commonwealth is a voluntary association of 54 independent and equal countries, home to 2.4 billion people, including both advanced economies and developing countries. Thirty-two Commonwealth members are small states, including many small island developing states. The member governments have agreed to shared goals such as development, democracy and peace, and their values and principles are expressed in the Charter of

the Commonwealth.⁸⁹ While its roots may be found in historical developments that have shaped countries' legal and policy systems, and governance, any country can join the modern Commonwealth. The Commonwealth Secretariat provides support to member countries to enable achievement of the aims of the Commonwealth, aided by the Commonwealth Foundation, which aims to foster the participation of people in democracy and development, and the Commonwealth of Learning, which promotes educational development through open and distance learning. Member countries are also supported by means of engagement with more than 80 intergovernmental, socio-cultural and professional organisations.⁹⁰

This report should enable the Commonwealth Secretariat to guide countries' recovery in the aftermath of COVID-19 in a manner that supports sustainable development. Recognising the extraordinary scale and scope of this challenge, the Commonwealth Secretariat and researchers at the CISDL have jointly developed this project to assess legal and policy innovations and to generate recommendations and best practices towards yielding maximum economic, social and environmental benefits from post-pandemic economic recovery stimulus packages.

Notes

- * Dr Markus Gehring, JSD (Yale), LLM (Yale), Dr iur (Hamburg), MA (Cantab); Freedom-Kai Phillips, LLM (Ottawa), LLB (Dalhousie), MA (Seton Hall), Hon. BSc (E. Michigan), PhD Researcher, University of Cambridge; Professor Marie-Claire Cordonier Segger, DPhil (Oxon), MEM (Yale), BCL & LLB (McGill), BA Hons (UVic/Carl), FRSA; Cassandra Hayward, MA (Waterloo), BA (King's College). The authors would like to thank Ira Poensgen and Claire Perttula for their insights and valuable contributions to this research.
- 1 See also the Appendix.
 - 2 See, e.g., IMF (2021: Fiji).
 - 3 CARIFORUM–EU EPA, art. 1(a).
 - 4 EU–ESA Interim EPA, art. 35(1)(e)(ii).
 - 5 EU–Central America Association Agreement, art. 61.
 - 6 Peru–Korea FTA, art. 19.8.
 - 7 EU–South Korea FTA, art. 10.40(1).
 - 8 China–Peru FTA, art. 16.
 - 9 CETA, art. 24.9.
 - 10 Japan–Switzerland FTA, art. 9.
 - 11 EU–South Korea FTA, art. 13.6(2).
 - 12 EU–ESA Interim EPA, art. 47(1).
 - 13 CARIFORUM–EU EPA, art. 136.
 - 14 EU–ESA Interim EPA, art. 51.
 - 15 Canada–Peru FTA, Annex 18-A.
 - 16 Peru–Korea FTA, art. 17.1.
 - 17 China–Peru FTA, art. 154.
 - 18 EU–ESA Interim EPA, art. 36.
 - 19 See, e.g., CETA, ch. 23.
 - 20 Japan–Switzerland FTA, art. 101.
 - 21 US–Colombia FTA, art. 17.
 - 22 *Ibid.*, Annex 17.
 - 23 Japan–Switzerland FTA, art. 9.
 - 24 EU–ESA Interim EPA, art. 49.
 - 25 CARIFORUM–EU EPA, art. 136.
 - 26 Chinese Taipei–Nicaragua FTA, art. 19.
 - 27 Japan–Switzerland FTA, art. 9.
 - 28 EFTA–Central America FTA, art. 9.7.
 - 29 EU–ESA Interim EPA, Annex IV, art. 3(c).
 - 30 *Ibid.*, art. 51 2(g).
 - 31 CETA, art. 24.9.
 - 32 EU–Colombia–Peru FTA, art. 275.
 - 33 *Ibid.*, art. 274.
 - 34 CARIFORUM–EU, arts 31 and 41.
 - 35 EU–ESA Interim EPA, Title II.
 - 36 *Ibid.*, Title IV.
 - 37 US–Colombia FTA, art. 18.11.
 - 38 EU–Colombia–Peru FTA, art. 273.
 - 39 This section draws on the IMF policy database to summarise approaches (IMF, 2021).
 - 40 This section is informed by and draws upon the Centre for International Sustainable Development Law (CISDL) legal brief series developed in collaboration with the United Nations Environment Programme (UNEP) in 2016: Atapattu and Fraser (2016); Bruce and Stephenson (2016); Cabrera *et al.* (2016); Fenton-Glynn and Towela Sambo (2016); Gehring *et al.* (2016); Harrington and Shipley (2016); Koutouki and Phillips (2016); Lofts *et al.* (2016); Phillips *et al.* (2016); Prabhu and Blakely (2016).
 - 41 UN Charter, Art. 10 provides: ‘The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and ... may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.’
 - 42 UN Charter, Art. 13 states: ‘1. The General Assembly shall initiate studies and make recommendations for the purpose of: (a) Promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; (b) Promoting international co-operation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.’
 - 43 In support of this, Art. 13(2) refers to Chapters IX and X, which address ‘International Economic and Social Co-operation’ and ‘The Economic and Social Council’, respectively. In very general terms, Chapter IX requires the United Nations and its Member States to promote human rights, as well as economic and social development, without discriminating against persons or groups based on immutable characteristics, including the requirement to co-operate with specialised agencies established by intergovernmental agreement. Chapter X establishes an organ of the United Nations that is permitted to achieve some of these ends by initiating studies or reports and making recommendations to various UN branches and UN Members on ‘international economic, social, cultural, educational, health, and related matters’.
 - 44 UDHR, Arts 17 (see SDG 1.4), 21(2) (see SDG 1.4) and 22 (see SDG 1.3), respectively.
 - 45 See, e.g., UDHR, Arts 23 (the right to work), 25 (the right to an adequate standard of living) and 26 (the right to Education).
 - 46 See, e.g., ICESCR, Arts 2 and 3 (equality), 9 (security of the person), 14 (equal access to courts) and 19 (freedom of expression and access to information).
 - 47 ICESCR, Art. 2 (see SDG 1.a).
 - 48 ICESCR, Art. 9 (see SDG 1.3).
 - 49 ICESCR, Art. 10 (see SDG 1.b).
 - 50 See, e.g., ICESCR, Arts 6 and 7 (the right to work), 11 (the right to an adequate standard of living), 12 (the right to physical and mental health), 13 (the right to education) and 15 (the right to take part in culture and enjoy the benefits of scientific progress).
 - 51 See SDG 1.a.
 - 52 See SDG 1.b.
 - 53 See SDG 1.b.
 - 54 See SDGs 1.1 and 1.2.
 - 55 See SDGs 1.5 and 1.a.
 - 56 See SDG 1.4.
 - 57 UDHR, Art. 26(1) states that everyone shall have the right to education. It requires that education be free and compulsory, at least in the elementary stages, that technical and professional education be made generally available, and that higher education be equally

- accessible to all on the basis of merit. Article 26(2) focuses on the content of education, providing that it shall be directed towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It is required to promote understanding, tolerance and friendship among all nations, racial or religious groups, and to further the activities of the United Nations for the maintenance of peace.
- 58 See, e.g., Agenda 21 (United Nations, 1993); Johannesburg Declaration on Sustainable Development (United Nations, 2002); Governing Council of the UNEP (2012); UNGA (2012).
- 59 That is, the 1989 United Nations Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal ('Basel Convention'), 1999 United Nations Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade ('Rotterdam Convention'), and 2001 United Nations Stockholm Convention on Persistent Organic Pollutants ('Stockholm Convention').
- 60 Decisions BC-IX/10 (June 2008), RC-4/11 (October 2008) and SC-4/34 (May 2009).
- 61 See Decisions BC.Ex-1/1, RC.Ex-1/1 and SC.Ex-1/1; Decisions BC.Ex-2/1, RC.Ex-2/1 and SC.Ex-2/1; Decisions BC-12/17, RC-7/9 and SC-7/27 (on international co-operation); Decisions BC-12/18, RC-7/8 and SC-7/22 (on integrated financing); Decisions BC-12/20, RC-7/10 and SC 7/28 (on enhanced co-operation); Decisions BC-12/20, RC-7/11 and SC-7/29 (on a clearing-house mechanism); Decisions BC-12/22, RC-7/12 and SC-7/30 (on science); and Decisions BC-12/22, RC-7/13 and SC-7/31 (on the co-ordination of CoPs).
- 62 See Decisions BC-10/29, RC-5/12 and SC-5/27; Executive Secretary of the BRS (2011).
- 63 Article 1 of the Helsinki Convention applies to: (1) 'transboundary waters', including both surface and groundwater, and which traverse two or more States; and (2) 'transboundary impacts', which are human-induced adverse effects on the environment impacting human health, biodiversity, cultural heritage and socio-economic conditions.
- 64 New York Convention, Art. 1, states that the treaty applies to uses of international watercourses for purposes other than navigation, and to measures relating to protection, preservation and management. Article 2 defines 'watercourse' to include the system of surface and groundwater as a unitary whole.
- 65 Ramsar Convention, Art. 2(1) provides that 'wetlands' as a category includes areas of marsh, fen, peatland or water (fresh, brackish or salt), and may extend to riparian and costal zones adjacent to wetlands or islands, and marine water deeper than 6 metres at low tide.
- 66 New York Convention, Arts 5, 7, 8-9, 20; Helsinki Convention, Arts 2(1)-(6), 5, 6, 9-10, 12.
- 67 Helsinki Convention, Art. 2(5); de Chazournes (2009).
- 68 Ramsar Convention, Art. 3(1); Ramsar Convention Secretariat (2013: 46-7); Burhenne and Jahnke (1993).
- 69 Ramsar Convention, COP 9 Resolution IX.1, Annex A (2005).
- 70 See also Government of the United Kingdom (2021).
- 71 See also Harris (2020).
- 72 See also Elangovan (2020).
- 73 UNFCCC, Art. 2 sets out to achieve 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.'
- 74 UNFCCC, Art. 4.1(f), which calls for States to '[t]ake climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change.'
- 75 UNFCCC, Art. 4.2 states that 'each Annex I Party shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention.'
- 76 *Legality of the Threat or Use of Nuclear Weapons* [1996] ICJ Reports 226, at 241; restated in *Case Concerning the Gabčíkovo-Nagymaros Project* [1997] ICJ Reports 7, at 41.
- 77 UNFCCC, Art. 4.3 states that developed-country Parties and others included in Annex II 'shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.'
- 78 UNFCCC, Art. 4.1(i) encourages States to '[p]romote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations.'
- 79 See also Elbourne (2020).
- 80 See also United Nations Climate Change (2015).
- 81 'Biological diversity' is the variation among living organisms from all sources and the ecological complexes of which they are a part.

- 82 'Biological resources' includes any biotic component of ecosystems with actual or potential use or value for humanity.
- 83 'Genetic resources' means genetic material of actual or potential value; 'genetic material' means any material of plant, animal, microbial or other origin containing functional units of heredity.
- 84 The *vision* set out in the Strategic Plan reads: 'By 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people.'
- 85 The *mission* set out in the Strategic Plan reads: 'Take effective and urgent action to halt the loss of biodiversity in order to ensure that by 2020 ecosystems are resilient and continue to provide essential services, thereby securing the planet's variety of life, and contributing to human well-being, and poverty eradication. To ensure this, pressures on biodiversity are reduced, ecosystems are restored, biological resources are sustainably used and benefits arising out of utilisation of genetic resources are shared in a fair and equitable manner, adequate financial resources are provided, capacities are enhanced, biodiversity issues and values mainstreamed, appropriate policies are effectively implemented, and decision-making is based on sound science and the precautionary approach.'
- 86 See also Government of the United Kingdom (2020a).
- 87 See also Government of Canada (2020).
- 88 See CISDL (2020) for further thoughts along the lines set out in this section.
- 89 See <https://thecommonwealth.org/sites/default/files/page/documents/CharteroftheCommonwealth.pdf>
- 90 See <https://thecommonwealth.org/about-us>

References

- Atapattu, S. (2004). 'International human rights and poverty law in sustainable development', pp. 311–321, in Cordonier Segger, M.-C. and A. Khalafan, *Sustainable Development Law: Principles, Practices and Prospects*, Oxford: Oxford University Press.
- Atapattu, S. and S. Fraser (2016). 'SDG 1 on ending poverty in all its forms: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/07/12/sdg-1/
- Bruce, S. and S. Stephenson (2016). 'SDG 7 on sustainable energy for all: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/04/01/sdg-7/
- Burhenne, W. E. and M. Jahnke (1993). *International Environmental Soft Law: A Collection of Relevant Instruments*, The Hague: Martinus Nijhoff.
- Cabrera, J., F. Perron-Welch and B. Pisupati (2016). 'SDG 15 on terrestrial ecosystems and biodiversity: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/02/10/sdg-15/
- Centre for International Sustainable Development Law (CISDL). (2020). 'Post-pandemic measures: enabling a green recovery', Policy brief, 3 November, www.cisd.org/2020/11/03/post-pandemic-measures-enabling-a-green-recovery-policy-brief/
- Convention on Biological Diversity (CBD). (2010). *Strategic Plan for Biodiversity 2011–2020, COP 10 Decision X/2*, www.cbd.int/decision/COP/?id=12268
- de Chazournes, L. B. (2009). *Freshwater and International Law: The Interplay between Universal, Regional and Basin Perspectives*, United Nations World Water Assessment Programme Report 3, <http://unesdoc.unesco.org/images/0018/001850/185080E.pdf>
- Elangovan, N. (2020). 'Staying open, investing in infrastructure, R&D key to Singapore's post-Covid-19 success: DPM Heng', *Singapore Today*, 20 June, www.todayonline.com/singapore/staying-open-investing-infrastructure-rd-key-singapores-post-covid-19-success-dpm-heng
- Elbourne, F. (2020). 'Further funding possible: Reserve Bank of Fiji', *Fiji Sun*, 17 May, <https://fjijun.com.fj/2020/05/17/further-funding-possible-reserve-bank-of-fiji/>
- European Commission. (2019). *A European Green Deal—2019*, https://ec.europa.eu/info/strategy/priorities-2019–2024/european-green-deal_en
- Executive Secretary of the Basel, Rotterdam and Stockholm Conventions (BRS). (2011). *Proposal from the Executive Secretary of the Basel, Rotterdam and Stockholm Conventions for the Organization of the Secretariats of the Three Conventions*, 21 December, www.brsmeas.org/SynergiesProcess/JointManagerialFunctions/OrganizationoftheSecretariats/tabid/2619/language/en-US/Default.aspx
- Fenton-Glynn, C. and P. Towela Sambo (2016). 'SDG 4 on ensuring inclusive and equitable quality education: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/06/12/sdg-4-issue-brief/
- Gehring, M., F.-K. Phillips and W. B. Shipley (2016). 'SDG 12 on ensuring sustainable consumption and production patterns: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/05/01/sdg12-issue-brief/
- Governing Council of the United Nations Environment Programme (UNEP). (2012). *Manila Declaration on Furthering the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities*, Nairobi, 20–22 February, UNEP/GCSS.XII/INF/10, <https://undocs.org/UNEP/GCSS.XII/INF/10> ('Manila Declaration').
- Government of Canada. (2020). 'Fall Economic Statement 2020: supporting Canadians and fighting COVID-19', 30 November, www.budget.gc.ca/fes-eea/2020/report-rapport/toc-tdm-en.html
- Government of the United Kingdom. (2020a). 'Budget 2020: what you need to know', 11 March, www.gov.uk/government/news/budget-2020-what-you-need-to-know
- Government of the United Kingdom. (2020b). 'New plans to make UK world leader in green energy', Press release, 6 October, www.gov.uk/government/news/new-plans-to-make-uk-world-leader-in-green-energy
- Government of the United Kingdom. (2021). 'Financial support for businesses during coronavirus (COVID-19)', 6 April, www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19
- Governor General of Canada. (2020). *A Stronger and More Resilient Canada: Speech from the Throne to Open the Second Session of the Forty-third Parliament of Canada*, 23 September, www.canada.ca/content/dam/pco-bcp/documents/pm/SFT_2020_EN_WEB.pdf
- Harrington, A. and W. B. Shipley (2016). 'SDG 5 on gender equality: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/05/12/sdg-5-issue-brief/
- Harris, K. (2020). 'Trudeau announces aid for struggling energy sector, including \$1.7B to clean up orphan wells', *CBC News*, 17 April, www.cbc.ca/news/politics/financial-aid-covid19-trudeau-1.5535629
- International Labour Organization (ILO). (2020). 'COVID-19 and the world of work: impact and policy responses', *ILO Monitor*, 18 March, www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_738753.pdf
- International Labour Organization (ILO) and Organisation for Economic Co-operation and Development (OECD). (2020). 'The impact of the COVID-19 pandemic on jobs and incomes in G20 economies', Paper prepared for G20 Leaders Saudi Arabia's G20 Presidency 2020, www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_756331.pdf
- International Monetary Fund (IMF). (2020a). 'The Great Lockdown: worst economic downturn since the Great Depression', Press release, 23 March, www.imf.org/en/News/Articles/2020/03/23/pr2098-imf-managing-

- director-statement-following-a-g20-ministerial-call-on-the-coronavirus-emergency
- International Monetary Fund (IMF). (2020b). *G-20 Report on Strong, Sustainable, Balanced, and Inclusive Growth*, November, www.imf.org/external/np/g20/pdf/2020/110220.pdf
- International Monetary Fund (IMF). (2021). 'Policy responses to COVID-19: policy tracker', 4 March, www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19
- Koutouki, K. and F.-K. Phillips (2016). 'SDG 14 on ensuring conservation and sustainable use of oceans and marine resources: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/04/12/sdg-14/
- Lofts, K., S. Shamin, S. Tahura Zaman and R. Kibugi (2016). 'SDG 13 on taking action on climate change and its impacts: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/02/12/sdg-13/
- Mukherjee, S. and A. Bonini (2020). 'Achieving the SDGs through the COVID-19 response and recovery', UN/DESA Policy Brief 78, 11 June, www.un.org/development/desa/dpad/publication/un-desa-policy-brief-78-achieving-the-sdgs-through-the-covid-19-response-and-recovery/
- Norwegian Ministry of the Environment. (1994). *Report of the Symposium on Sustainable Consumption*, Oslo: Norwegian Ministry of the Environment.
- Phillips, F.-K., C. A. Miles, A. Khalfan and M. Lechner Reyna (2016). 'SDG 6 on ensuring water and sanitation for all: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/05/01/sdg-6-issue-brief/
- Prabhu, M. and S. Blakely (2016). 'SDG 3 on ensuring healthy lives and promoting well-being for all at all ages: contributions of international law, policy and governance', UNEP/CISDL Issue Brief, www.cisd.org/2016/06/12/sdg-3/
- Ramsar Convention Secretariat. (2013). *The Ramsar Convention Manual: A Guide to the Convention on Wetlands (Ramsar, Iran, 1971)*, 6th edn, Gland: Ramsar Convention Secretariat.
- Shroeder, D. and B. Pisupati (2010). *Ethics, Justice and the Convention on Biological Diversity*, Nairobi: United Nations Environment Programme.
- United Nations. (1993). *Report of the United Nations Conference on Environment and Development*, Vol. I: Resolutions Adopted by the Conference, Rio de Janeiro, 3–14 June 1992, www.un.org/esa/dsd/agenda21/Agenda%2021.pdf, Resolution 1, annex II ('Agenda 21').
- United Nations. (2002). *Report of the World Summit on Sustainable Development*, Johannesburg, South Africa, 26 August–4 September, UN Doc. A/CONF.199/20, www.un.org/ga/search/view_doc.asp?symbol=A/CONF.199/20&Lang=E ('Johannesburg Declaration on Sustainable Development').
- United Nations. (2020). 'Impacts of COVID-19 disproportionately affect poor and vulnerable: UN chief', *UN News*, 30 June, <https://news.un.org/en/story/2020/06/1067502>
- United Nations Climate Change. (2015). 'Canada's INDC [intended nationally determined contribution] submission to the UNFCCC', www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Canada%20First/INDC%20-%20Canada%20-%20English.pdf
- United Nations Development Programme (UNDP). (2020). 'COVID-19: looming crisis in developing countries threatens to devastate economies and ramp up inequality', Press release, 30 March, www.undp.org/press-releases/covid-19-looming-crisis-developing-countries-threatens-devastate-economies-and-ramp
- United Nations General Assembly (UNGA). (1986). *Declaration on the Right to Development*, UN Doc. A/RES/41/128, 4 December, <https://digitallibrary.un.org/record/126476?ln=en>
- United Nations General Assembly (UNGA). (1992). *Report of the United Nations Conference on Environment and Development*, UN Doc. A/RES/47/190, 16 March, <https://undocs.org/en/A/RES/47/190> ('Rio Declaration')
- United Nations General Assembly (UNGA). (2000). *United Nations Millennium Declaration*, UN Doc. A/RES/55/2, 18 September, www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_55_2.pdf
- United Nations General Assembly. (2012). *The Future We Want*, UN Doc. A/RES/66/288, 27 July, www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_66_288.pdf
- World Commission on Environment and Development (WCED). (1987). *Our Common Future*, Oxford: Oxford University Press.
- World Conference on Education for All. (1990). *World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs*, 5–9 March, Jomtien, www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNESCO_World_Declaration_For_All_1990_En.pdf
- World Health Organization (WHO). (1946). *Constitution of the World Health Organization*, <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1>
- World Health Organization (WHO). (2020). 'Coronavirus disease (COVID-19): events as they happen', 11 March, www.who.int/emergencies/diseases/novel-coronavirus-2019/events-asthey-happen