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# THE SUSTAINABLE DEVELOPMENT GOALS AND INTERNATIONAL ENVIRONMENTAL LAW: NORMATIVE VALUE AND CHALLENGES FOR IMPLEMENTATION

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## ABSTRACT

This article explores the implications for international environmental law of the adoption of the Sustainable Development Goals (SDGs), which occurred at the 2015 United Nations Sustainable Development Summit. Following a summary of the main outcomes of the Summit, the paper evaluates the process and vision of the SDGs against both the Millennium Development Goals (MDGs) and the past efforts of the UN General Assembly (UNGA) in the field of sustainable development. The paper then examines how the environmental dimension of the SDGs is integrated into the general framework of the post-2015 development agenda and addresses two important questions which will most likely prove instrumental in the achievement of the Goals themselves. First, in the light of UN General Assembly Resolution 70/1, it discusses the normative value of the environmental obligations of States enshrined in the SDGs. Secondly, it deals with problems of implementation of the outcomes of the Summit, and accordingly attempts to identify the main legal challenges for the operationalization of the environmental component of the SDGs, in the wider context of the Agenda and taking the recent developments under the UN Framework Convention on Climate Change (UNFCCC) into account.

**Keywords:** Sustainable Development Goals; United Nations; International Environmental Law; Integration; 2030 Agenda; Post-2015.

*OS OBJETIVOS DO DESENVOLVIMENTO SUSTENTÁVEL E O  
DIREITO AMBIENTAL INTERNACIONAL: VALOR NORMATIVO E  
DESAFIOS PARA IMPLEMENTAÇÃO*

**RESUMO**

*Esse artigo explora as implicações para o Direito Ambiental internacional da adoção das Metas de Desenvolvimento Sustentável, que ocorreu na Cúpula de Desenvolvimento Sustentável das Nações Unidas de 2015. Seguindo um resumo dos principais resultados da Cúpula, o artigo avalia o processo e a visão das Cúpulas em face das Metas de Desenvolvimento do Milênio e dos esforços passados da Assembleia Geral das Nações Unidas no campo do desenvolvimento sustentável. O artigo então examina como a dimensão ambiental das Metas de Desenvolvimento Sustentável é integrada na estrutura geral da agenda de desenvolvimento pós-2015 e então trata de duas importantes questões que provavelmente se mostrarão instrumentais para alcançar as próprias Metas. Primeiramente, à luz da Resolução 70/1 da Assembleia Geral das Nações Unidas, ele discute o valor normativo das obrigações ambientais dos resultados da Cúpula, e nesse sentido tenta identificar os principais desafios para operacionalizar as Metas de Desenvolvimento Sustentável, no contexto amplo da Agenda e considerando os desenvolvimentos recentes da Convenção-Quadro das Nações Unidas Sobre Mudança do Clima.*

**Palavras-chave:** *Objetivos do desenvolvimento sustentável; Nações Unidas; Direito Ambiental internacional; Integração; Agenda 2030; Pós-2015.*

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## INTRODUCTION

This article explores the implications for international environmental law of the adoption of the Sustainable Development Goals (SDGs), which occurred at the 2015 United Nations Sustainable Development Summit (UNITED NATIONS, 2016). In Section 2, following a summary of the main outcomes of the Summit, it evaluates the process and vision of the SDGs against both the Millennium Development Goals (MDGs) and the past efforts of the UN General Assembly (UNGA) in the field of sustainable development. The article then examines how the environmental dimension of the SDGs is integrated into the general framework of the post-2015 development agenda (Section 3) and addresses two important questions which will most likely prove instrumental in the achievement of the Goals themselves (Section 4). First, in the light of UN General Assembly Resolution 70/1 (entitled *Transforming Our World: the 2030 Agenda for Sustainable Development*), it discusses the normative value of the environmental obligations of States enshrined in the SDGs. Secondly, it deals with problems of implementation of the outcomes of the Summit, and accordingly attempts to identify the main legal challenges for the operationalization of the environmental component of the SDGs, in the wider context of the Agenda and taking the recent developments under the UN Framework Convention on Climate Change (UNFCCC) into account. By way of conclusions, the paper reflects on the potential of *Transforming Our World* to deliver on its ambitious goals in the field of the environment, adding a note of caution but also an element of optimism (Section 5).

Central to the analysis is the concept of sustainable development as a principle of integration between environmental, social and economic considerations, with a particular focus on its evolution and progressive refinement since the publication in 1987 of the report *Our Common Future* of the World Commission on Environment and Development (WCED, 1987). Over the past few decades, such concept has shaped the landscape of international environmental law and other key areas of international law, such as human rights and trade and investment law. This has led authors to reflect on its normative value and, consequentially, on its potential to be regarded as either a general principle of law or a norm of customary international law. However, neither the WCED report nor subsequent international instruments, including the 1992 Rio Declaration on Environment and Development (UNITED NATIONS, 1992), have

succeeded in providing clear answers as to what sustainable development as a principle of integration exactly implies for multi-level environmental governance. It is still uncertain, in other words, whether the conceptual synergies existing between environmental protection and development are bound to remain an elusive aspiration of the international community or if they can instead provide effective guidance for international, national and sub-national law and decision-making on environmental issues.

Inevitably, answering such a question becomes all the more urgent when considering the dramatic changes caused to the global environment by the combination of a growing human population and the economic development of human societies. Over the last decades, while the world economy has continued to grow,<sup>1</sup> anthropogenic pressures on the Earth system also escalated to reach critical levels, altering the stable functioning of ecosystems, influencing biogeochemical cycles, and leading to the unsustainable exploitation of both renewable *and* non-renewable natural resources on which humanity depends (MILLENNIUM ECOSYSTEM ASSESSMENT, 2005; A GLOBAL, 2011; UNEP, 2012a; CLIMATE CHANGE, 2014). As a consequence, not only some of the inescapable trade-offs that exist between environmental protection and development are made more evident (most notably, this period of worsening environmental degradation has coincided with tangible progress on issues like poverty reduction, child mortality, agricultural productivity, and disease prevention, diagnosis and treatment)<sup>2</sup>, but the emergence of and scientific consensus around concepts such as those of planetary boundaries (ROCKSTROM et al, 2009; STEFFEN et al., 2015) and ecosystem services (COSTANZA, 1997; MILLENNIUM ECOSYSTEM ASSESSMENT, 2003, 2005; TEEB, 2010) also demonstrates how the disruption of vital biophysical systems could in turn have catastrophic implications for human well-being and development objectives in the long-term.<sup>3</sup>

From this perspective, the adoption of the SDGs represents an unprecedented effort not only to move away from a development agenda still heavily dominated by a narrow focus on the economic and social components (something which is evident in the design -and failures- of

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1 The Gross World Product (GWP) has increased twenty-fold in the last 100 years, and it is currently estimated by the International Monetary Fund to be in the range of USD 73-74 trillion, after growing by an average of 3 to 4 percent between 1980 and 2015. See WORLD ECONOMIC OUTLOOK DATABASE, 2015.

2 See WORLD DEVELOPMENT INDICATORS, 2016.

3 See SDSN, 2013, p. 2-3; ROCKSTROM; SACHS, 2015a, p. 4.

the Millennium Development Goals, or MDGs)<sup>4</sup>, but also to positively identify reciprocal interactions between the various components of sustainable development, in terms of issues and challenges, that must be taken into account by States at the stage of implementation. For instance, the *2030 Agenda*: (i) explicitly acknowledges that the challenges and commitments identified at previous major conferences and summit call for integrated solutions and require a new approach to be addressed effectively (paragraph 13); (ii) proclaims that “the Sustainable Development Goals and targets are integrated and indivisible, global in nature and universally applicable” (paragraph 55); and (iii) recognizes that “social and economic development depends on the sustainable management of our planet’s natural resources” (paragraph 33). Even more significantly, the 17 Goals and 169 targets identified by the Agenda directly emphasize the above-mentioned interconnectedness and attempt to trace a practical framework for action (i.e. many environmental targets are envisioned as simultaneously relating to both environmental *and* socio-economic Goals) that dodges the rigid compartmentalization ingrained in the structure of the MDGs.

Despite its weaknesses, this approach holds great significance for the future of international environmental law. Indeed, on the one hand, the approach shows the potential to innovate and concretize the statements of principles contained in the Rio Declaration and other related ‘soft-law’ instruments, thereby playing an important role in the advancement and further specification of the concept of sustainable development as a (legal) principle of integration. On the other hand, international environmental law constitutes the normative backbone for most (possibly all) of the SDGs, and identifying (and addressing) its failings should therefore be seen not only as a crucial step in the implementation of the environmental component of the *2030 Agenda*, but also as a key requirement for ensuring that human development stays within the Earth’s planetary boundaries in the next 15 years and beyond (ROCKSTROM; SACHS, 2015a, p. 2-3).

## 1 THE SUSTAINABLE DEVELOPMENT GOALS IN CONTEXT

On 25 September 2015, Heads of State and Government from the 193 Member States of the United Nations gathered at the 70<sup>th</sup> Session of the UN General Assembly (UNGA) in New York to adopt the *2030 Agenda for*

<sup>4</sup> See for example UNITED NATIONS, 2015a, p. 52-57.

*Sustainable Development* (UNITED NATIONS, 2016),<sup>5</sup> a “comprehensive, far-reaching and people-centred set of universal and transformative Goals and targets” (UNITED NATIONS, 2016, para. 2) which will “stimulate action over the next 15 years in areas of critical importance for humanity and the planet” (UNITED NATIONS, 2016, preamble).

In its essence, the outcome document of the UN Sustainable Development Summit delineates a policy framework - one “accepted by all countries and applicable to all” (UNITED NATIONS, 2016, para.5) - concerned with mobilizing efforts at the international, national and subnational level around a set of common priorities relating to sustainable development, and by doing so it seeks to address challenges as diverse and ambitious as ending poverty and hunger, combating inequalities, building peaceful and inclusive societies, promoting human rights, and ensuring the protection of the planet and its natural resources (UNITED NATIONS, 2016, para.3). More specifically, the *2030 Agenda for Sustainable Development* contains: (i) a Declaration outlining the vision, principles and objectives that must guide the behavior of UN Member States in the post-2015 development framework (paras. 1-53); (ii) 17 aspirational Goals and 169 quantitative and qualitative targets that represent the output of at least three years of intergovernmental negotiations and several work streams across the three dimensions of sustainable development (paras. 54-59);<sup>6</sup> (iii) a section on Means of Implementation and the revitalization of the Global Partnership for Sustainable Development (paras. 60-71, expanding on the list of targets under Goal 17); and (iv) a section on Follow-up and review processes (paras. 72-91). In addition, all of these components must be seen in the light of a plurality of other UN-sanctioned frameworks and programmes of action, which “constitute an integral part” of the Agenda and are critical for the realization of the SDGs, such as the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (held in Addis Ababa from 13 to 16 July 2015) (UNITED NATIONS, 2015), the Istanbul Declaration and Programme of Action for the Least Developed Countries (UNITED NATIONS, 2011), the SIDS Accelerated Modalities

<sup>5</sup> UN Res 70/1.

<sup>6</sup> Although the Resolution only refers to the traditional “three dimensions of sustainable development” (economic, social, and environmental) and broadly states that “sustainable development cannot be realized without peace and security [...]” (para.35), the most recent conceptualizations of this notion add the element of good governance and therefore identify the following four dimensions of sustainable development: (i) economic development and poverty alleviation; (ii) social inclusion; (iii) environmental sustainability; and (iv) good governance, including peace and security. See SDSN, 2013, p. 1. The full list of 17 Goals and 169 targets is available at <<https://sustainabledevelopment.un.org>>. Accessed: 23 Feb. 2016.

of Action (SAMOA) Pathway (UNITED NATIONS, 2014a), the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024 (UNITED NATIONS, 2014b), and the African Union's Agenda 2063 and the programme of the new Partnership for Africa's Development (AFRICAN UNION COMMISSION, 2015). Finally, one last key element is represented by the ongoing work under the Inter-Agency Expert Group on Sustainable Development Goal Indicators (IAEG-SDGs),<sup>7</sup> which attests to the unprecedented importance attached to the establishment of a global monitoring framework as the only way of ensuring the availability of "quality, accessible, timely and reliable disaggregated data" to measure progress and guide decision-making (UNITED NATIONS, 2016. para. 48).<sup>8</sup>

It is self-evident, however, that despite its composite structure and the vast number of inputs (see *infra* § 2.1) which converged in Resolution 70/1, the Agenda is defined by the SDGs. Driven by a communicative force which is intrinsic in the idea of a limited and measurable set of Goals, the SDGs obtained widespread visibility and political support (UNITED NATIONS, 2015b), and are now recognized by many as a potentially valuable tool for assessing achievements, facilitating national priority setting, and encouraging investments and stakeholders' engagement. As such, and in order to frame the question of their implications for international environmental law, it is particularly useful to consider the negotiating process that led to the adoption of the *2030 Agenda*, along with some preliminary reflections around the significance of the SDGs in the context of past developments under the aegis of the UNGA.

## 1.1 Negotiations on the Post-2015 Sustainable Development Agenda: features and significance

As mentioned above, the negotiation of the 17 Goals and

<sup>7</sup> The IAEG-SDGs, composed of UN Member States and including regional and international agencies as observers, was created by the UN Statistical Commission at its 46th Session in March 2015. It is expected to formulate a proposal on a global indicator framework (and associated global and universal indicators) at the 47th Session of the UNSC in March 2016.

<sup>8</sup> Along with the IAEG-SDGs, the Statistical Commission at its 46th Session also created a High-level Group for Partnership, Coordination and Capacity-Building for Post-2015 Monitoring (HLG). Its aim is to establish a global partnership on the use of data for sustainable development, ensuring consistency between national and global monitoring and reporting, strengthening capacity in national statistical processes and more generally providing "strategic leadership" on the implementation of the SDGs "as it concerns monitoring and reporting". See Terms of Reference for the HLG, available at <[http://unstats.un.org/files/HLG%20-%20Terms%20of%20Reference%20\(April%202015\).pdf](http://unstats.un.org/files/HLG%20-%20Terms%20of%20Reference%20(April%202015).pdf)>. Accessed: 29 Feb. 2016.

169 targets that are proclaimed in the *2030 Agenda* constitutes an essential component of broader intergovernmental negotiations aimed at the definition of the UN post-2015 development agenda, which were formally launched at the 68<sup>th</sup> Session of the UNGA (UNITED NATIONS, 2013, para. 20). From this perspective, the SDGs are envisioned as the immediate follow-up to the commitments enshrined in the UN Millennium Declaration (UNGA, 2000) and later condensed into the Millennium Development Goals (MDGs) (UNITED NATIONS, 2001), with the stated objective of building upon the achievements of that experience while simultaneously addressing the shortcomings that hampered the full attainment of the MDGs during their period of validity (UNITED NATIONS, 2016, preamble and paras.2 and 16). This objective was first endorsed at the 2012 UN Conference on Sustainable Development (UNCSD, or ‘Rio+20’ Conference), whose outcome document, entitled *The Future We Want*, recognized “the importance and utility of a set of Sustainable Development Goals” in pursuing “focused and coherent action on sustainable development”, and accordingly resolved to “establish an inclusive and transparent intergovernmental process [...], that is open to all stakeholders, with a view of developing global Sustainable Development Goals to be agreed by the General Assembly” (UNGA, 2012, paras. 246-248).

The direct consequence of the mandate expressed in *The Future We Want* was the creation, at the 67<sup>th</sup> Session of the UNGA, of an Open Working Group (OWG) on Sustainable Development Goals.<sup>9</sup> The OWG, relying on inputs and support from the UN System Technical Support Team<sup>10</sup> (as well as on a series of meetings with UN Major Groups and others stakeholders from civil society and the scientific community),<sup>11</sup>

9 UNGA Decision 67/555 (see UN Doc A/67/L.48/Rev.1). An innovative feature of the OWG is its constituency-based system of representation, which was decided by the UN Member States (grouped in five UN regional groups) in order to achieve “fair, equitable and balanced geographical representation” as mandated by *The Future We Want*. In practice, this means that the thirty seats in the OWG are shared by several countries.

10 The UN System Technical Support Team (TST), co-chaired by the UN Department of Economic and Social Affairs and the United Nations Development Programme, was established pursuant to paragraph 249 of *The Future We Want*. It comprises 40 entities from the UN System as members and operates under the umbrella of the UN System Task Team. The full list of issue briefs prepared by the TST, along with a list of member entities, can be found at <<https://sustainabledevelopment.un.org/owg.html>>. Accessed: 22 Feb. 2016.

11 The OWG held eight sessions from March through September 2013 around 26 Thematic Clusters, each coordinated by a steering committee which was responsible for engaging with Major Groups and other stakeholders in order to prepare joint position papers or briefs for consideration of the OWG itself. The nine UN Major Groups, as identified in Agenda 21, are the following: (i) Women; (ii) Children and Youth; (iii) Indigenous Peoples; (iv) Non-governmental Organizations; (v) Local Authori-

presented its Proposal for Sustainable Development Goals in July 2014, and its recommendations were later adopted at the 68<sup>th</sup> Session of the UNGA as “the main basis” for integrating a set of SDGs in the post-2015 development agenda.<sup>12</sup> Meanwhile, in order to provide further perspectives on the Goals and the means of their implementation, additional work streams were also initiated, ranging from the two rounds of global, national and local consultations/dialogues organized by the so-called UN Development Group<sup>13</sup> to non-governmental contributions like that of the UN Sustainable Development Solutions Network, an independent network of research centres, universities, governments, civil society organizations and businesses which submitted its own report, entitled *An Action Agenda for Sustainable Development*, in May 2013 (SDSN, 2013).

In the next phase, the Proposal of the OWG, along with a variety of other formal and informal inputs focused on different aspects of the post-2015 development agenda, was encapsulated in *The Road to Dignity by 2030*, a UN Secretary-General’s Synthesis Report released in December 2014 with the aim of outlining a shared vision to be carried forward by UN Member States in the final phase of the negotiations leading up to the UN Sustainable Development Summit (UNITED NATIONS, 2014c). Among these other inputs, it is important to mention: (i) the Report of the Intergovernmental Committee of Experts on Sustainable Development Financing; (ii) the Summary of the General Assembly Consultative Workshops on “Development, transfer, and dissemination of clean and environmentally sound technologies in developing countries”; (iii) the outcome documents of the annual meetings of the High-Level Political Forum on Sustainable Development; (iv) the Consultations led by the UN Regional Commissions; (v) the High-level events and thematic dialogues convened by the President of the UNGA; (vi) the Reports of the UN System Task Team; and (vii) the Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda.<sup>14</sup>

Eventually, the final phase of the intergovernmental negotiations took place at the 69<sup>th</sup> Session of the UNGA from January to August 2015,

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ties; (vi) Workers and Trade Unions; (vii) Business and Industry; (viii) Scientific and Technological Community; (ix) Farmers.

12 UNGA Res 68/309, para 2.

13 See UNDG, 2013; UNDG, 2014.

14 All the outcome documents of these processes, with the exception of the Reports from the UN System Task Team, can be found at <<http://sustainabledevelopment.un.org/post2015>> accessed 24 February 2016. For the UN System Task Team reports, see <[http://www.un.org/en/development/desa/policy/untaskteam\\_undf/index.shtml](http://www.un.org/en/development/desa/policy/untaskteam_undf/index.shtml)>. Accessed: 24 Feb. 2016

culminating in Resolution 69/315 (UNITED NATIONS, 2015d), which welcomed their conclusion and decided to transmit the draft outcome document to the General Assembly for consideration at the beginning of its 70<sup>th</sup> Session, where it was adopted by consensus. While it is by no means possible to summarize all the implications of such a complex (and at times convoluted) process in a detailed fashion, three particular aspects stand out as significant improvements over the approach which characterized the MDGs.

First, the procedure that led to the adoption of the *2030 Agenda*, as opposed to the drafting of the MDGs, has been correctly described as “an exemplary model of public participation” (ETTY, 2015, p. 235). In fact, the MDGs were not even mentioned when the Millennium Declaration was agreed upon at the 55<sup>th</sup> Session of the UNGA, and were later accepted by the Assembly only indirectly, as an Annex to the 2001 Report of the Secretary-General on the implementation of the Declaration (WISOR, 2012, p. 115).<sup>15</sup> Moreover, they were effectively designed “inside a UN conference room” during an inter-agency technical process co-chaired by the UN Assistant Secretary-General Michael Doyle and UNDP Director of the Poverty Group Jan Vandemoortele, with no formal or informal consultations held among relevant stakeholders other than follow-up conversations with Member States and particularly developing countries of the so-called Group of 77 (although some of the outcomes can arguably be seen as rooted in inputs from earlier 1990s conferences and work streams) (McARTHUR, 2014).<sup>16</sup> By contrast, the realization of the “inclusive and transparent process” imagined in *The Future We Want* (and recalled above) facilitated national ownership of the SDGs and ensured that they became reflective of a comprehensive, widely shared set of common priorities of the international community, including through the recognition of the central role of ‘environmental’ targets in achieving the post-2015 agenda as a whole (UNITED NATIONS, 2016, paras. 14 and 33). Assuming that sustainable development requires “a political system that secures effective citizen participation in decision making”, as stated in the WCED Report *Our Common Future* and supported by the Rio Declaration (WCED, 1987, p. 65; UNITED NATIONS, 1992, Principle 10), negotiations on the SDGs can be said to have followed a guiding principle which the drafting of the

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<sup>15</sup> For the Report, see UNITED NATIONS, 2001, p. 57.

<sup>16</sup> Also WISOR, 2012, p. 119-21.

MDGs largely ignored.<sup>17</sup>

Secondly, and notwithstanding the description of poverty eradication as the “greatest global challenge” in paragraph 2 of Resolution 70/1, the vision lying at the heart of the SDGs marks a fundamental return to a framework which seeks to address the three dimensions of economic development, social inclusion, and environmental protection in an integrated way. Arguably as the core component of sustainable development,<sup>18</sup> which has informed the conclusion of all the major environmental agreements of the 1990s,<sup>19</sup> the principle of integration was distorted under the MDGs, as the drafters seemingly overlooked the more balanced conceptualization set forth in the Millennium Declaration and proceeded to squeeze the entire environmental pillar into a single Goal (out of eight MDGs) and only two targets.<sup>20</sup> The arbitrary nature and ill-defined formulation of the MDGs, in particular, made sure that their Goal 7 (vaguely tasked with “ensuring environmental sustainability”) became largely ignored in general discussions over the accomplishments of the Declaration, and while it remains to be seen whether the SDGs’ greater emphasis on integration actually results in a coherent implementation of the *2030 Agenda*, its potential significance for the interpretation and understanding of the concept of sustainable development is in itself a landmark achievement, as will be discussed *infra*.

Lastly, the plurality of work streams which defined the negotiation of the *2030 Agenda* ensures that a series of developments which are likely to prove instrumental in mobilizing stakeholders and promoting the effective monitoring of progress (most notably, the Addis Ababa Action Agenda on Financing for Development (UNITED NATIONS, 2015c) and

17 In particular, the positive inclusion of non-state actors in international law- and policy-making processes, including non-governmental organizations, epistemic communities, citizens, and the private sector, can then lead these groups to more actively lobby for domestic implementation, and in general it is assumed to enhance awareness about (and acceptance of) new rules and principles in the society at large.

18 See WCED, 1987, Chapter 2; and UNITED NATIONS, 1992, Principle 4.

19 i.e. Convention on Biological Diversity (1992) 1760 UNTS 79, and its Cartagena Protocol (1997) 39 ILM 1027; United Nations Framework Convention on Climate Change (1992) 1771 UNTS 107, and its Kyoto Protocol (1997) 2303 UNTS 148; United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (1994) 1954 UNTS 3; and Straddling Fish Stocks Agreement (1995) 2167 UNTS 88.

20 More specifically, only one of the two targets, namely Target 7.a (“Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources”), was contained in the initial Road Map of the Secretary-General. The second one (Target 7.b, “Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss”) was included in the MDGs as a result of UNGA Resolution 60/1, which represented the outcome document of the 2005 World Summit.

the global indicator framework emerging from the work of the IAEG-SDGs) (UNITED NATIONS, 2015e) now constitute an ‘integral’ part of the process and not something purely ancillary, external or even hypothetical.<sup>21</sup> This aspect, which was prominently lacking under the MDGs, should instead be of utmost interest in the context of a non-binding instrument such as the SDGs, because it reinforces the idea of a coherent, focused and comprehensive action plan while also harnessing the spirit of Global Partnership which permeates Resolution 70/1, and in doing so it enhances the legitimacy of the entire Agenda and its potential to induce compliance (FRIEDRICH, 2013, p. 256-58).

## **1.2 The Sustainable Development Goals and the UN General Assembly: non-binding instruments and the idea of goal-based development**

Beyond the somewhat obvious comparison with the framework devised in the Millennium Declaration and mirrored in the MDGs, the outcome of the UN Sustainable Development Summit is also reflective of a more general trend, which has seemingly defined the evolution of international relations and international law over the last few decades: the ever-increasing focus on the role of non-binding instruments (‘soft law’), including, *inter alia*, memoranda of understanding, codes of conduct, guidelines, action plans, and policy frameworks, in enhancing cooperation between States and translating normative achievements in the field of sustainable development into actual implementation strategies at the international, national and sub-national levels (FRIEDRICH, 2013, p. 1-2).<sup>22</sup>

For the purpose of our work, it is important to acknowledge that the UNGA has been at the forefront of this process, of which the *2030 Agenda* can be seen as the most recent (and ambitious) chapter, for a long time.<sup>23</sup> In particular, the growing attention devoted by the Assembly to the

<sup>21</sup> While extensively mentioned in both the Millennium Declaration and the 2001 Report of the Secretary-General, the outcome of the International Conference on Financing for Development (Monterrey, March 2002) was in fact still a hypothetical undertaking at the time the MDGs were drafted, as the Conference itself took place after the Report was adopted by the UNGA. In addition, the work of the Inter-Agency Expert Group on Millennium Development Goal Indicators (IAEG-MDG), which developed the indicator framework for the Goals, appeared from the outset as an inconsequential effort that was manifestly inadequate for the monitoring objectives it was supposed to achieve, and lack of transparency and inclusiveness were perceived as major causes for this failure (see WISOR, 2012, and SDSN, 2015).

<sup>22</sup> See also VINUALES, 2015, p. 6-7.

<sup>23</sup> Paragraph 11 of *Transforming Our World* explicitly reaffirms “the outcomes of all major United

solution of the environment-development conundrum (which traditionally finds its legal basis in Articles 1 and 55(a) - (b) of the Charter of the United Nations, as well as in the doctrine of implied powers) (FRIEDRICH, 2013 at 52, 23-25; WOLFRUM, 2002, p. 897-917)<sup>24</sup> has concurred to shape an international landscape where the weight and functions of non-binding instruments have profoundly expanded, with a specific emphasis on the potential of long-term action plans and/or policy frameworks to forge transnational partnerships and facilitate the integration of economic, social and environmental considerations into the policies and legislation of countries.

Historically, for example, the outcome documents adopted at each of the major conferences convened by the UNGA on this topic have all been accompanied by plans of implementation of some sort, including the Action Plan for the Human Environment (associated with the 1972 Stockholm Declaration on the Human Environment) (UNITED NATIONS, 1972),<sup>25</sup> Agenda 21 (adopted in 1992 together with the Rio Declaration) (UNITED NATIONS, 1992b)<sup>26</sup> and the Plan of Implementation of the World Summit on Sustainable Development (laid out during the 2002 World Summit on Sustainable Development which also yielded the Johannesburg Declaration) (UNITED NATIONS, 1992).<sup>27</sup> In 1997, the UNGA further complemented its past endeavours with the Programme for the Further Implementation of Agenda 21, which focused on the need to accelerate the operationalization of Agenda 21 and accordingly identified priority actions to be taken by States in the face of a deteriorating environmental situation (UNGA, 1997). UNGA Resolutions, finally, have been instrumental in strengthening the institutional component of the equation, establishing intergovernmental bodies specifically tasked with promoting cooperation and ensuring the follow-up and review of these processes (i.e. the UN Environment Programme (UNGA, 1972; UNGA, 2013), the Commission on Sustainable Development (UNITED NATIONS, 1993) and – more

Nations conferences and summits which have laid a solid foundation for sustainable development and have helped to shape the new Agenda.” Paragraph 13 further proclaims that “the challenges and commitments identified at these major conferences and summits are interrelated and call for integrated solutions. To address them effectively, a new approach is needed.”

24 For a historical perspective on the UNGA’s policy-making powers on sustainable development matters, see for example SANDS, 2003, p. 80-83.

25 Chapter 1: ‘Declaration of the United Nations Conference on the Human Environment’ and Chapter 2: ‘Action Plan for the Human Environment’.

26 Annex I: ‘Rio Declaration on Environment and Development’ and Annex II: ‘Agenda 21’.

27 Resolution 1: ‘Political Declaration’ and Resolution 2: ‘Plan of Implementation of the World Summit on Sustainable Development’.

recently - the High-Level Political Forum on Sustainable Development) (UNGA, 2012, paras. 84-86), while also assigning coordinating and/or annual reporting responsibilities to the UN Secretary-General.

Even within this multifarious context, the innovative idea born with the MDGs<sup>28</sup> and now lying at the core of the *2030 Agenda* (namely, that of a limited number of Goals which are comprehensive, time-bound, measurable, and universally applicable) sets these instruments apart from each of the past accomplishments that we have mentioned, and probably concurs to explain the great enthusiasm the SDGs have been met with and the even greater promise that is ascribed to them. From a policy perspective, in fact, this concept of ‘goal-based development’ carries unique benefits (SACHS, 2015a, p. 268). First of all, defining a limited number of concise Goals is generally regarded as a powerful strategic approach, because it helps communicate these objectives more effectively and thereby informs the public’s awareness about and understanding of complex economic, social, and environmental challenges (SDSN, 2013, p. 26; FUKUDA-PARR; GREENSTEIN, 2013, p. 448). In addition, it is often argued that time-bound targets act as a benchmark for the assessment of progress, and thereby encourage performance evaluation, facilitate policy planning, and convey a sense of urgency which in turn mobilizes larger efforts and promotes innovation (MANNING, 2009, p. 78-79; SACHS, 2012; SDSN, 2013, p. 26), especially when “no one could possibly disagree” with the decided outcomes (NAYYAR, 2012, p. 5). Lastly, in this particular case, the global nature of the Goals is supposed to promote integrated thinking and harmonisation between the three dimensions of sustainable development (“the Goals cannot be ordered by priority”) (SDSN, 2015) as well as a long-term perspective on law- and policy-making processes.<sup>29</sup>

## 2 INTEGRATION AND THE GENERAL FRAMEWORK OF THE SDGS

Throughout the first two sections of this paper, we have repeatedly emphasized the fact that the SDGs represent a noticeable shift away from other experiences, such as the MDGs and other UNGA

<sup>28</sup> But see McARTHUR, 2014, p. 6-7.

<sup>29</sup> Evidence on a fourth benefit of goal-based development, namely the promotion of accountability and public pressure at the national and local level, is more mixed. As Nayyar (*supra* note 67) states with regard to the MDGs: “the constituencies, poor countries or poor people, that might have invoked accountability, simply did not have the voice, let alone any power of sanction.”

instruments, in terms of their capacity to promote an integrated approach to the three dimensions of sustainable development. We have also argued that the focus on integration represents a key requirement for the SDGs to succeed and ensure that the Earth-system continues to support economic development and human well-being in the long-term. Now we will analyze how this integration is carried out in practice within the structure of the *2030 Agenda*, before starting to discuss its implications for international environmental law and beyond.

## 2.1 Environmental Goals and targets in the 2030 Agenda

When looking at the SDGs, it can easily be observed that the primary driver of the statements of principles contained in the Declaration (*supra* § 1) is a quest for exhaustiveness in the formulation of the 17 Goals which was entirely lacking in the MDGs. This sort of *horror vacui* in the listing of Goals and targets applies to the entire Agenda, but it is particularly evident with respect to environmental matters. Here, the concept of integration manifests itself in the comprehensiveness of the challenges addressed, ranging from climate change (SDG13) to loss of genetic diversity in agriculture (SDG2), and including (but not limited to) topics as heterogeneous as terrestrial ecosystem destruction and biodiversity depletion (SDG15), waste management and unsustainable production patterns (SDG12), marine pollution (SDG14), wildlife crime (SDG15), protection of water-related ecosystems (SDG6) and energy efficiency (SDG7).

At first glance, at least four of the sixteen ‘substantive’ Goals<sup>30</sup> are directly and primarily concerned with environmental sustainability,<sup>31</sup> while another six explicitly refer to environmental sustainability in their formulation.<sup>32</sup> Upon closer inspection, however, it is evident that

30 SDG17 calls for countries to “Strengthen the Means of Implementation and Revitalize the Global Partnership for Sustainable Development”.

31 Namely, SDG12: ‘Ensure sustainable consumption and production patterns’; SDG13: ‘Take urgent action to combat climate change and its impacts’; SDG14: ‘Conserve and sustainably use the oceans, seas, and marine resources for sustainable development’; and SDG15: ‘Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss’.

32 SDG2: ‘End hunger, achieve food security and improved nutrition and promote sustainable agriculture’; SDG6: ‘Ensure availability and sustainable management of water and sanitation for all’; SDG7: ‘Ensure access to affordable, reliable, sustainable and modern energy for all’; SDG8: ‘Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’; SDG9: ‘Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation’; and SDG11: ‘Make cities and human settlements inclusive, safe, resilient and

the endorsement of these SDGs (though they certainly constitute an advancement as compared to the vague language of the MDGs) can do little, in and of itself, to concretize the integration of the three dimensions of sustainable development which is reaffirmed in the *2030 Agenda* at the principles level. Indeed, even a higher number of ‘environmental’ Goals would create a fragmented framework, similar to that of the MDGs, if cross-cutting environmental issues were not taken into account under the other ‘economic’ and ‘social’ Goals, and vice versa. It follows that the biggest role in this sense is played by the 169 targets, together with the related indicators that are currently being developed by the IAEG-SDGs. First, targets which require concrete actions to be taken on environmental issues are present throughout the Agenda, and not only under the above mentioned ‘environmental’ Goals: for example, target 1.5 (included under SDG1 - ‘End poverty in all its forms everywhere’) calls upon countries to “build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters”, while target 3.9 (relating to SDG3 - ‘Ensure healthy lives and promote well-being for all at all ages’) mandates to “substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination”. Secondly, some of the targets included under the ‘environmental’ Goals clearly reflect the importance attached to an economic valuation of biodiversity and ecosystems and its implications for people’s livelihoods, especially in developing countries (i.e. target 14.7<sup>33</sup> and, most notably, target 15.9)<sup>34</sup>. Thirdly, economic, social, and environmental targets are often grouped together under all those Goals which are intrinsically multi-dimensional, such as, *inter alia*, SDG 11 on cities, whose targets comprise ensuring access for all to housing and basic services (target 11.1), but also reducing direct economic losses caused by disasters (target 11.5) and the adverse per capita environmental impact of cities (target 11.6).

This approach has been described as a ‘network of targets’ (LE BLANC, 2015) which stresses the reciprocal relationships and cross-sectoral sustainable’.

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33 “By 2030, increase the economic benefits to small island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism”.

34 “By 2020, integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts”.

challenges that exist in the SDGs,<sup>35</sup> and it has two remarkable effects. First, it conveys a sense of pervasiveness of the environmental dimension of sustainable development throughout the *2030 Agenda*, suggesting that while different Goals might be pursued at a different pace or through different policy strategies, each goal still commands an integrated approach to its own realization (integration *within* Goals and not just *between* Goals). Going back to the example of SDG1 and target 1.5, this plainly means that a country should evaluate not only whether its policies are conducive to poverty eradication in and of itself, but also if they are reducing exposure and vulnerability to environmental shocks which could prevent the same objective of poverty eradication from being reached or maintained in the future. Secondly, it emphasizes a view of the environmental component of the SDGs which is proactive and not reactive, framing environmental challenges in terms of positive opportunities for economic development, job creation, increased social welfare, technological innovation, public health, improvements in infrastructure, urban livelihoods, and so forth.<sup>36</sup> Particularly revealing, in this respect, is target 8.4, which in the context of SDG8 strives to achieve “global resource efficiency” and exhorts countries to “endeavour to decouple economic growth from environmental degradation”.

It should be noted that criticism directed at the model just described cannot be dismissed altogether. To start with, it has been argued that attempting to develop a coherent network of targets is meritorious but does not necessarily translate into a network in which gaps do not exist at all, especially in the face of an intergovernmental process which is normative, not scientific, and based on the need for compromise solutions. As such, some political links between targets are particularly weak, while many Earth-system links are not even reflected, or are reflected inadequately, in the framework (i.e. the climate, land, energy and water nexus) (ICSU; ISSC, 2015; LE BLANC, 2015, p. 11-15). In addition, some reviewers have singled out specific targets as being weak, too vague (especially those that are formulated with a qualitative and not quantitative objective), or in

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35 In the input submitted by the Sustainable Development Solutions Network (SDSN) to the IAEG-SDGs, the authors describe a set of cross-cutting issues which could potentially be relevant in the future SDG indicator framework, and accordingly identify a number of indicators that could monitor progress over more than one Goal and/or target. See SDSN, 2015, p. 51, 29-67 and 68-92. Also see ICSU; ISSC, 2015.

36 cf UNITED NATIONS, 2016, paras.18-38.

conflict with others (that is, requiring trade-offs),<sup>37</sup> a problem exacerbated by the fact that the ‘network’ structure of the SDGs is not made evident, for example through a schematic listing of the potential interlinkages (ICSU; ISSC, 2015, p. 9). Finally, there is a widely voiced perception that the ‘shared narrative’ which would be needed to make the SDGs a truly integrated, transformative framework is simply not transformative enough, as it leaves the core “orthodox thinking” on development unaddressed (NAYYAR, 2012, p. 5-6). Indeed, whereas the OWG Proposal stated that “changing unsustainable patterns [...] of consumption and production and protecting and managing the natural resource base of economic and social development” should be two of the overarching priorities of the *2030 Agenda* (UNITED NATIONS, 2014d, para.3), poverty is identified in Resolution 70/1 as the “greatest global challenge” for sustainable development. At the same time, similarly powerful concepts such as those of ‘ecological integrity’, ‘natural capital’, or ‘planetary boundaries’ were not included in the outcome document of the UN Sustainable Development Summit despite having received support throughout many of the Agenda’s work streams.<sup>38</sup>

## 2.2 Consistency with international environmental law

From a legal perspective, and notwithstanding the considerations relating to the normative value of the SDGs that will be addressed *infra*, the inclusion of a robust set of environmental Goals and targets in the *2030 Agenda* calls for mutual supportiveness to be established between the SDGs and the evolving body of international environmental law. On the one hand, it specifically suggests the need to acknowledge (and harness) the important governance function that international environmental law should play in their implementation (KIM, 2014). On the other, it implies the potential for the SDGs to become a blueprint for the development of international environmental law itself, promoting cross-fertilization among legal regimes, providing insights into how to fill existing gaps, and more generally advancing and further specifying the concept of sustainable development as a legal principle.

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37 One comprehensive study in particular has come to the conclusion that only 29% of the SDG targets are well developed, whereas 54% could be strengthened and 17% are weak or irrelevant. See ICSU; ISSC, 2015.

38 See for example ROCKSTROM; SACHS, 2015a; ICSU; ISSC, 2015, p. 7-9; KIM; BOSSELMANN, 2015, p. 194.

This double-edged relationship is explicitly reaffirmed in the Agenda. At the principles level, the UNGA proclaims that the Agenda “is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law”, and needs to be implemented in a manner “that is consistent with the rights and obligations of States under international law” (UNITED NATIONS, 2016, paras. 10 and 18). As a consequence, the Assembly: (i) acknowledges “the outcomes of all major United Nations conferences and summits which have laid a solid foundation for sustainable development” (UNITED NATIONS, 2016, para. 11); (ii) reaffirms “the principles of the Rio Declaration, including the principle of common but differentiated responsibilities” (UNITED NATIONS, 2016, para. 12); and (iii) declares that the Agenda “is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration (UNGA, 2000) and the 2005 World Summit Outcome” (UNITED NATIONS, 2005).

More in practice, Resolution 70/1 then confirms that international conventions and other instruments of international law are expected to provide the normative framework for the achievement of the SDGs, directly contribute to their attainment, or be supported by them. In this context, and with a specific focus on international environmental law: (i) a clear reference is made to the 21<sup>st</sup> session of the Conference of the Parties (COP21) to the UNFCCC (which soon after the adoption of UNGA Resolution 70/1 yielded the historic Paris Agreement) (UNFCCC, 2015) and to the UNFCCC itself as the “primary international, intergovernmental forum for negotiating the global response to climate change” (UNITED NATIONS, 2016, para.31); (ii) the activity of the Conference of the Parties to the Convention on Biological Diversity (CBD) is mentioned in the light of Member States’ determination to conserve and sustainably use all sorts of ecosystems, biodiversity, and wildlife, and to promote ecosystems’ resilience and disaster risk reduction (UNITED NATIONS, 2016, para.33);<sup>39</sup> and (iii) many of the 169 targets are specifically or implicitly tasked with strengthening the implementation of related processes and/or objectives of international environmental law, including (but not limited to) the Sendai Framework for Disaster Risk Reduction 2015-2030 (Target 11.b), the 10-year Framework of Programmes on Sustainable Consumption and Production Patterns (Target 12.1), the commitments undertaken by developed countries on climate finance according to the UNFCCC (Target

<sup>39</sup> The 13<sup>th</sup> Meeting of the CoP to the CBD is to be held in Mexico from 4 to 17 December 2016.

13.a), the obligations on the conservation and sustainable use of the oceans and marine resources as reflected in the UN Convention on the Law of the Sea (Target 14.c), the Nagoya Protocol on Access and Benefit-sharing (target 15.6), and several of the Aichi Biodiversity targets (mirrored, but not explicitly mentioned, throughout the targets set for SDG14 and SDG15) (CBD, 2010).

Taken as a whole, this uneven coordination with legal regimes relating to the environment reflects an encouraging but incomplete process of integration between the environmental dimension of the *2030 Agenda* and international law. On the one hand, the use of implicit references to other internationally-agreed targets has led to certain issues being prioritized vis-à-vis others which were addressed in the same instrument,<sup>40</sup> while transforming some targets that were originally quantitative into qualitative ones (ICSU; ISSC, 2015, p. 72).<sup>41</sup> On the other, whereas the *2030 Agenda* does try to highlight some (but not all!)<sup>42</sup> of the existing linkages between international environmental law and the environmental targets, a divide remains between the latter and other fields of international law, and more specifically trade and investment law. Indeed, while the human rights dimension seems to have gained traction within the ‘environmental’ SDGs,<sup>43</sup> the promotion of a “universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization” (target 17.10) will instead continue to lead to tensions and clashes with environmental protection concerns, unless the WTO system itself and bilateral and regional trade agreements (more recently, the proposed Transatlantic Trade and Investment Partnership and the Trans-Pacific Partnership) become more closely aligned with the principle of sustainable development and its legal implications.<sup>44</sup>

40 For the Aichi Biodiversity Targets, see ICSU; ISSC, 2015, p.71.

41 For instance, targets 15.2 and 15.3 are broadly concerned with the restoration objectives contained in Target 15 of the Aichi Targets, but they lack the 15 percent restoration figure that those Targets have. In general, the vast majority of the targets under SDGs 12-15 are qualitative, and the only quantitative ones adopt contested figures, such as target 14.5 which refers to the conservation of at least 10 percent of coastal and marine areas, a number widely regarded as insufficient according to common scientific understanding. See VISBECK *et al.*, 2014.

42 For example, none of the major conventions and agreements on pollution and hazardous substances (i.e. the 2001 Stockholm Convention on Persistent Organic Pollutants, 2256 UNTS 119) are mentioned in the Agenda.

43 i.e. target 14.b (“Provide access for small-scale artisanal fishers to marine resources and markets”) and target 15.6 (Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed”).

44 See for example LYDGATE, 2012, p. 637-638; WATSON, 2013; JINNAH; MORGERA, 2013; and ASSELT, 2014.

## 2.3 Integration and the Implementation of the 2030 Agenda

Integration between the three dimensions of sustainable development is also a matter of utmost importance for the effective implementation of the *2030 Agenda*, as trade-offs are bound to emerge every time countries seek to reach one particular target without taking into due account the implications for other targets within the same SDG or under a different one. By applying systems terminology to the targets set by the MDGs, this lack of coordination has been defined as a typical problem of suboptimization (KIM; BOSSELMANN, 2015, p. 198-199).

In the context of non-binding instruments such as the SDGs, the problem is exacerbated by the need to promote compliance with commitments that are merely voluntary. As a consequence, follow-up and review processes become the fundamental means through which government policies are informed and oriented, knowledge transfer and mutual learning is promoted, and attention is drawn to specific issues and potential actions. Here, two sets of considerations come into play: (i) considerations relating to the text of Resolution 70/1 itself; and (ii) considerations relating to how follow-up and review processes are structured in the Resolution and how they will (foreseeably) be conducted in the future.

With respect to the first set of considerations, and notwithstanding the recognition of the potential of the SDGs as a ‘network of targets’ in promoting an integrated approach among the stakeholders involved in the implementation of the Agenda (LE BLANC, 2015, p. 9),<sup>45</sup> two critiques must be advanced to the framework devised in the Resolution. On the one hand, certain targets could serve as powerful enablers of integration at the level of implementation, yet they are listed under some of the ‘substantive’ SDGs and not in SDG17, thereby losing their potential to influence the broader architecture of the *2030 Agenda*. This is especially evident with target 15.9,<sup>46</sup> which in dictating the integration of ecosystem and biodiversity values into “local planning, development processes, poverty reduction strategies and accounts” embodies a powerful instrument of policy coherence across the three dimensions of sustainable development

<sup>45</sup> In opposition, see ICSU; ISSC, 2015.

<sup>46</sup> “By 2020, integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts”.

whose role is unfortunately restricted to informing the achievement of a single Goal (SDG15). On the other hand, a consensus exists on the fact that the formulation of an overarching goal could have helped “bind individual SDGs and targets” (KIM; BOSSELMANN, 2015, p. 199) to contribute to the realization of the common purpose of sustainable development, promoting integration under institutional diversity at both the horizontal and vertical levels (OSTROM, 2005). The lack of this “shared narrative” is particularly troubling from a legal perspective, because it can be argued that the emergence and specification of sustainable development as a general principle of law (or a norm of customary international law) might help fill this gap in the implementation of the *2030 Agenda*.

Coming to the second sets of considerations, in order to make sure that integration is not only implicitly reaffirmed in the wording of the SDGs, but also actually reflected in their implementation,<sup>47</sup> the outcome document of the UN Sustainable Development Summit also focuses on follow-up and review processes at different levels, acknowledging that a guiding principle in this sense must be the need to track progress “in a manner which respects the universal, integrated and interrelated nature [of the SDGs] and the three dimensions of sustainable development” (UNITED NATIONS, 2016, para.74(b)). The document assigns a central role in the global oversight of these follow-up and review processes and for the enhancement of integration to the High-level Political Forum on Sustainable Development (HLPF) (UNGA, 2012; UNITED NATIONS, 2016, para.82), which is the leading UN platform tasked with providing “political leadership, guidance and recommendations for sustainable development”. The Forum’s meetings take place on an annual basis under the auspices of the UN Economic and Social Council (ECOSOC) and every four years at the level of Heads of State and Government under the auspices of the UNGA (UNGA, 2012, paras. 2-8; UNITED NATIONS, 2016, para.83).

The main functions of the HLPF essentially consist in: (i) facilitating integration within the UN system, with a particular emphasis on the enhanced mandate of UNEP for formulating UN system-wide strategies

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<sup>47</sup> Implementation of the SDGs, according to the *2030 Agenda*, will primarily rely on country’s own sustainable development strategies, and will thus be led by Governments with the support of the UN system and related international frameworks. More broadly, the preamble of Resolution 70/1 calls for the participation of all stakeholders and all people in the achievement of the Goals. See UNITED NATIONS, 2016, paras. 41 and 63; JANUS; KEIJZER, 2014. For a comprehensive assessment of follow-up and review processes, see KINDORNAY; TWIGG, 2015.

on environmental issues (UNGA, 2012, para.88; UNITED NATIONS, 2016, para.87); and (ii) strengthening science-policy interfaces and the role of transdisciplinary analysis within them at all relevant scales (international, regional, national, and sub-national), thereby informing “an integrated approach to policy making for the SDGs and the post-2015 development agenda” (UNITED NATIONS, 2015f, p. 171). According to experts contributing to the 2015 edition of the *Global Sustainable Development Report*, these functions should be carried out in three broad areas. First, the HLPF should identify past and future trends and provide analysis on cross-sectoral linkages and policy coherence, using its meetings and recommendations to identify policy obstacles to sustainable development through the application of evidence from both natural and social sciences. Secondly, it should support dialogue between epistemic communities and policy-makers, and especially “between international assessments and regional and national policy-making”. Third, it could capitalize on its political leeway and agenda setting responsibilities to expedite agreement on emerging issues and “provide guidance to the scientific community regarding research needs” (UNITED NATIONS, 2015f, p. 170).

### 3 THE SDGS AND INTERNATIONAL LAW: A MUTUALLY SUPPORTIVE RELATIONSHIP?

Throughout this article, we have identified the SDGs as a product of a voluntary, non-binding, unilateral instrument, consistent with the normative value attributed to UNGA resolutions (BRUNNÉE, 2008, para. 40; POGGE; SENGUPTA, 2015, p. 572). In other words, it is clear that the *2030 Agenda* is not, *stricto sensu*, a source of international law as listed under Article 38 of the Statute of the International Court of Justice. More precisely, it could be described as a classic example of what scholars increasingly refer to as ‘soft law’,<sup>48</sup> and it is in this light that the question of their contribution to the formation and evolution of international law must therefore be examined (ABI-SAAB, 1971, p. 9-10).

As a preliminary consideration, whether or not one accepts the considerable scholarly support that exists for reconsidering the role and normativity of non-binding instruments in international law,<sup>49</sup> it is

<sup>48</sup> See for example HILLGENBERG, 1999.

<sup>49</sup> See for example BOTHER, 1980; CHINKIN, 1989; and SHELTON, 2000. On the concept of relative normativity, see for example FASTENRATH, 1993; and, for a critique, KLABBERS, 1996. For a general overview, see FRIEDRICH, 2013, p. 3-5.

nevertheless widely acknowledged that such instruments do have certain “legal and behavioural effects” (HANDL, 1988; FRIEDRICH, 2013, p. 2; BRUNNÉE, 2008, para.40) and may carry a strong instrumental value (BRUNNÉE, 2008 § 2.2), be it at the international or national level, or for private actors (and potentially, at different scales at the same time) (FRIEDRICH, 2013, p. 143-171). With respect to their behavioural effects and their instrumental value, not only could the SDGs perform all the functions that have been identified for similar instruments (i.e. other UNGA resolutions, recommendations adopted by international institutions and so forth), but the impact of these functions might also be enhanced by some of the peculiar characteristics of the *2030 Agenda*, such as, *inter alia*: (i) the inclusive process that led to its definition; (ii) its universal applicability and strong emphasis on the idea of global partnership and cooperation; (iii) its consensus adoption; (iv) the specific language used in the formulation of the 17 Goals and 169 targets; and (v) the high reporting and monitoring standards that it seeks to achieve.<sup>50</sup> At the international level, for example, the SDGs might play an important role in strengthening inter-institutional cooperation and cross-sectoral norm setting (FRIEDRICH, 2013, p. 218). At the State level, they could facilitate capacity-building efforts, contribute to learning processes, offer guidance for law- and policy-making, and assist the ‘public watchdog’ role of domestic actors and NGOs. Finally, at the private sector level, they might provide businesses with effective policy signals that lead them to re-direct investments, revise internal processes, and address reputational concerns.

Regarding their legal effects, the non-binding nature of Resolution 70/1 dictates a more cautious approach, but this does not mean that the SDGs are not capable of influencing the formation and evolution of international law. On the contrary, the idea of ‘goal-based development’ which lies at the core of the *2030 Agenda* presents a significant opportunity in terms of its capacity to influence, and be influenced by, international law regimes. There is in particular ample scope to suggest that building mutual supportiveness between the SDGs and international law will be necessary to achieve the environmental targets set by Resolution 70/1, while simultaneously promoting the development of and compliance with international environmental law, an objective set forth by UNEP at the first universal session of its Governing Council in 2013 (UNEP, 2013b).<sup>51</sup> Our

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<sup>50</sup> See UNITED NATIONS, 2015e.

<sup>51</sup> See FRIEDRICH, 2013, section 3.2.

analysis in this section will focus on two particular questions, namely: (i) the normative value of the environmental goals and targets enshrined in the SDGs (with a specific focus on their role in the emergence and further specification of sustainable development as a general principle of law or as a norm of customary international law); and (ii) the legal challenges standing in the way of an effective implementation of the environmental component of the *2030 Agenda*.

### **3.1 Normative value of the environmental goals and targets in the SDGs: Advancing sustainable development as a principle of integration**

First of all, Resolution 70/1 neither has intrinsic legal effects, which (it is argued) can only stem from a resolution based on treaties or from the customary law internal to the UN legal order (OBERG, 2006, p. 881), nor is it a ‘law-declaring resolution’ in the sense that it does not interpret or restate existing general international law (HILLGENBERG, 1999, p. 514-515; OBERG, 2006, p. 882). Such a consideration appears obvious when one takes into account the powers attributed to the UNGA by Article 10 of the UN Charter, as well as from the basic evidence that the *2030 Agenda* is not (or not only), in the intention of UN Members, a normative declaration. However, this leaves the question open as to whether further effects can be produced by the Agenda, with a particular focus on the function that non-binding instruments can play in the development of customary international law or general principles of law (OBERG, 2006, p. 895-896; FRIEDRICH, 2013, p. 143-144). In order to answer this question, it is then essential to reflect on at least four theoretical problems, and namely: (i) the very possibility that UNGA resolutions may have an impact in the emergence of such norms or principles; (ii) the norms or principles that Resolution 70/1 could contribute to advance; (iii) the reasons why it might do so and the implications of this advancement.

With respect to the first issue, it is now widely accepted that non-binding instruments, including UNGA resolutions, can indeed contribute to the emergence of customary international law or general principles of law recognized by civilized nations, as referenced in Article 38.1(b) and (c) of the Statute of the International Court of Justice (ICJ). For customary law, this possibility was confirmed by the ICJ in the 1986 *Nicaragua* case (ICJ, 1986, para.188) and, more evidently, in the 1996 *Nuclear Weapons* opinion. Here, the Court stated that UNGA resolutions “can, in certain

circumstances, provide evidence important for establishing the existence of a rule or the emergence of an *opinio juris*” (ICJ, 1996, para.70), which is required to infer, in conjunction with State practice, the existence of a customary norm. As far as general principles of law are concerned, legal doctrine increasingly concedes that they can be identified directly at the international level, in addition to their adoption from domestic legal systems,<sup>52</sup> and given that State practice is generally not considered necessary for general principles to emerge in the way it is for customary law,<sup>53</sup> it has been acknowledged that UNGA resolutions (especially when broadly accepted by Member States) can also play a role in their development and interpretation.

As to the second issue, the norm (or principle) that Resolution 70/1 might contribute to crystallize would be none other than sustainable development itself, understood as a legal principle of integration between the three dimensions of economic development, equity and social inclusion, and environmental sustainability, from which a number of other key principles (i.e. inter- and intra-generational equity, precaution, co-operation, sustainable use of natural resources and so forth) are drawn as its necessary components (FITZMAURICE, 2001, p. 52; DERNBACH, 2003; SANDS, 2003, p. 263; VOIGT, 2009, p. 36). Despite the considerable uncertainty surrounding its normative status, scope, precise meaning, and legal implications, the realization of sustainable development through integration (as reflected in Principle 4 of the Rio Declaration)<sup>54</sup> no doubt constitutes the central concept of the *2030 Agenda*,<sup>55</sup> and increasingly appears set to become the mantra according to which the international community understands and seeks to shape the world and the future trajectory of human societies on Earth (SACHS, 2015b). Thus, the ongoing scholarly debate on sustainable development, not to mention the diverging views of States in the definition of its boundaries, should not discourage interpreters and practitioners from further clarifying its meaning and implications as a

<sup>52</sup> See for example BOS, 1982; SIMMA; ALSTON, 1992, p. 156.

<sup>53</sup> According to Simma and Alston (SIMMA; ALSTON, 1992) “the concept of a recognized general principle seem to conform more closely than the concept of custom to the situation where a norm invested with strong inherent authority is widely accepted even though widely violated”. See also CHENG, 1953; and DUPUY, 2007.

<sup>54</sup> “In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it”. For an extensive assessment of the principle, see BARRAL; DUPUY, 2015.

<sup>55</sup> cf UN Res 70/1, para.2: “We are committed to achieving sustainable development in its three dimensions — economic, social and environmental — in a balanced and integrated manner.”

principle of integration. In particular, it would be misguided to consider past failures to integrate environmental concerns within development processes as structural limitations of the principle of sustainable development,<sup>56</sup> rather than the fruit of conflicting interpretive arguments which can be reconciled in the light of the continuous advancements occurring in this field. Moreover, to the extent that this critique leads to a quest for uncovering and conceptualizing alternative principles and structures in international law,<sup>57</sup> not only such a quest would do little to promote a coherent system of norms across different legal regimes, but these alternative principles would themselves be corollaries of sustainable development.

No one usually refutes that integration represents one of the most important aspects of sustainable development.<sup>58</sup> Most notably, integration is also extensively referred to in the jurisprudence of the ICJ (ICJ, 1997; ICJ, 2010), the WTO Dispute Settlement Body (UNITED STATES, 1988; CHINA, 2012; CHINA, 2014), the International Tribunal for the Law of the Sea (ITLOS) (ITLOS, 1999), the Permanent Court of Arbitration (PCA) (PCA, 2005, p. 35), arbitral tribunals in investment related disputes,<sup>59</sup> and so forth. For instance, in 1997, in its landmark judgment in the *Gabčíkovo-Nagymaros* case, the ICJ stated that the need to reconcile economic development with environmental protection is “aptly expressed in the concept of sustainable development” (ICJ, 1997, para.140), and in his famous separate opinion Judge Weeramantry elaborated on the concept by considering that “the law necessarily contains within itself the principle of reconciliation. That principle is the principle of sustainable development”.<sup>60</sup> Thirteen years later, in the *Pulp Mills* case, the Court reiterated that “the balance between economic development and environmental protection [...] is the essence of sustainable development” (ICJ, 2012, p. 134, para.177). Similarly, the WTO Dispute Settlement Body has acknowledged the role of integration in its rulings. In the *Shrimp-Turtle* case, the Appellate

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56 As pointed out by Professor Dire Tladi in the second report of the International Law Association, this criticism essentially can be traced back to two objections moved to sustainable development as a principle of integration, namely: (i) the indeterminacy objection; and (ii) the subordination objection. See COMMITTEE, 2006, p. 5.

57 Kim and Bosselmann, for example, emphasize that sustainable development is unfit to be an overarching goal for the post-2015 agenda and focus on the concept of ‘ecological integrity’. See KIM; BOSSELMANN, 2015, p. 201-206.

58 See for example SANDS, 2003, p. 263; MAGRAW; HAWKE, 2007, p. 628-30; BARRAL, 2012, p. 380-381.

59 *SD Myers, Inc v Canada*, UNCITRAL case, Partial Award of 13 November 2000, 121 ILR 173.

60 Separate Opinion of Vice-President Weeramantry, p. 90 (ICJ, 1997).

Body defined sustainable development as a concept which “has been generally accepted as integrating economic and social development and environmental protection” (UNITED STATES, 1998, para.129, fn 107); later, in the *Raw Materials* case, a WTO Panel maintained that a proper reading of the notion of ‘conservation’ in Article XX(g) of the General Agreement on Tariffs and Trade “should take into account the challenge of using and managing resources in a sustainable manner that ensures the protection and conservation of the environment while promoting economic development”, with the consequence that different policy objectives cannot be viewed in isolation, as they are “related facets of an integrated whole” (CHINA, 2012, paras.7.375-7-376). Lastly, the best-known application of integration occurred in the PCA award in the *Iron Rhine Railway* case, as the Arbitral Tribunal emphasized that “environmental law and the law on development stand not as alternatives but as mutually reinforcing, integral concepts, which require that where development may cause significant harm to the environment there is a duty to prevent, or at least mitigate, such harm.” (PCA, 2005, para.59)

Within this context, a major obstacle for the definitive establishment of sustainable development as a principle of integration, in the form of either customary international law or a general principle of law, is represented by the fact that such integration is often considered to be procedural in nature, that is, reflective of a process rather than an outcome, and thus lacking any substantive content in and of itself. This view is echoed by, *inter alia*, Chapter 8 of Agenda 21, which corroborates the idea that integration must primarily be located within decision-making processes and implies that environmental protection should only be taken into due account in a balance of interests, with no actual impact on the content of policy decisions (BARRAL; DUPUY, 2015, p. 164.). It is further argued that integration is a ‘technique’, ie, that it defines the means by which sustainable development will be achieved (BARRAL, 2012, p. 381), or at best the core ‘philosophy’ underlying that concept (BOYLE; FREESTONE, 1999, p. 10–12). Vaughan Lowe takes the view that the relation between sustainable development and integration is even reversed, with the former acting as a goal or policy tasked with reconciling conflicts between development and environmental protection (LOWE, 1999, p. 34-35).

Construed as a procedural obligation, there is little doubt that integration presents very limited appeal to those seeking to identify

a substantive normative value of sustainable development under international law, and the diversity of opinions that continues to surround its characterization conceivably plays a role in the broader lack of clarity over what sustainable development as a whole exactly entails.<sup>61</sup> However, we see no reason to dilute the interpretation of integration in such a way. On the contrary, integration may be considered as a principle which not only requires that an integrated approach be followed in decision-making, but also mandates that a balanced outcome be achieved, at least if the basic requirement of maintaining the natural resource base as an essential requirement for sustainable development is to be met.<sup>62</sup> This can be inferred from, *inter alia*, the findings of the ICJ and the PCA in the *Gabčíkovo-Nagymaros* (ICJ, 1997, para.140) and *Iron Rhine Railway* (PCA, 2005, paras.223-34) cases, respectively, which confirm the possibility of adopting integration as a tool for judicial reasoning endowed with the capacity of reconciling conflicting norms while also yielding substantive outcomes (CORDONIER-SEGGER, 2004, p. 590; VOIGT, 2009, p. 169-171; BARRAL; DUPUY, 2015, p. 163, 165 and 173-174). In general, integration has overarching implications at the systemic, institutional, and legal levels, as reaffirmed in the second report of the International Law Association (ILA) Committee on the International Law on Sustainable Development. This essentially implies that sustainable development can truly be achieved only when its three pillars are concurrently attained in practice, and not just at the conceptual level (COMMITTEE, 2006, p. 5).

This reflection brings us to the final element of this part of our analysis, that is to the question of whether the *2030 Agenda* can help overcome the indeterminacy and subordination objections advanced against sustainable development and accordingly whether it may be capable of crystallizing integration as an obligation of result, rather than one of means. Indeed, if integration is conceptualized as an obligation of result, the traditional definition of sustainable development (i.e. that contained in *Our Common Future*) morphs into the one suggested by Griggs and others in 2013, that is, one of a “development that meets the needs of the present *while safeguarding Earth’s life-support systems, on which the welfare of current and future generations depends*” (GRIGGS, 2013). There is a tangible objective inherent in this vision, one which commands that integration be translated into a holistic framework for action tasked

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61 See for example MAGRAW; HAWKE, 2007; and VOIGT, 2009, p. 160-162

62 cf IUCN, 2010, Article 16.1.

with achieving specific, measurable goals through the application of a series of supporting sub-principles (i.e. precaution, prevention, sustainable use of natural resources, intra-generational and inter-generational equity, and so forth) which are nothing else than components of sustainable development as a principle of integration itself. Freed from the duty of identifying abstract rules, something which is normally reserved to law-making declarations, the SDGs and *Agenda 30* do just that. Specifically, they set desired outcomes, rather than procedural obligations, and in doing so they advance and specify sustainable development as a trajectory where the results in fact matter, and must be simultaneously pursued. Finally, insofar as they provide the scientific understanding and factual evidence that make a substantive characterization of integration possible, the SDGs clarify that the normative force of sustainable development demands a reconciliation of its three dimensions which secures in practice, and not just conceptually, “the functioning of essential natural processes” (VOIGT, 2009, p. 171).

Three elements suggest that Resolution 70/1 might indeed play such a role for the principle of sustainable development. First, the Resolution was adopted by consensus, after months of preliminary groundwork and behind-the-scenes bargaining that also involved a plurality of work streams so as to ensure “an inclusive and transparent intergovernmental process” (UNGA, 2012, para.248). Secondly, its wording places a particularly strong emphasis on the need for States to see the SDGs as an integrated, indivisible, and universally applicable framework, while also aiming at a level of comprehensiveness and detail which is unknown to the MDGs and inherently impossible to achieve in abstract declarations of principles. Finally, the Resolution must be seen in the context of a number of separate processes which are either strictly related to it or directly instrumental for its success, including the Addis Ababa Action Agenda, the work of the IAEG-SDGs on SDG Indicators, and the negotiations conducted under the UNFCCC which led to the adoption of the Paris Agreement. Taken together, these elements do more than merely confirming the emergence of sustainable development as either customary international law or a general principle of law;<sup>63</sup> arguably, they also specify and enrich the normative content of such a principle, highlighting its potential to promote integration

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<sup>63</sup> It remains evident that the subsequent practice of States and their attitude towards the *2030 Agenda* will be decisive in further clarifying the question relating to the *Agenda's* legal nature. See for example MAGRAW; HAWKE, 2007, p. 622-627; VOIGT, 2009, p. 160-169; and FRIEDRICH, 2013, p. 144-152 and 155-157.

among different regimes (i.e. biodiversity, climate change, human rights, trade, intellectual property, and so forth) and to ensure that they are consistently interpreted in a mutually supportive way.

### 3.2 Legal challenges for the implementation of the SDGs

The other side of the relationship between the SDGs and international environmental law is concerned with the important governance function that the latter can play in the implementation of the ‘environmental’ goals and targets contained in Resolution 70/1. On the one hand, UNEP has recently maintained that violations of international environmental law “have the potential to undermine sustainable development and the implementation of agreed environmental goals and objectives at all levels” (UNITED NATIONS, 2015e). On the other, international environmental law constitutes the normative backbone of many (possibly all) of the SDGs, in the sense that institutional and legal developments in the field of the environment can either “foster” or “frustrate” such goals (GEHRING, 2015), and that the development of innovative legal approaches, coupled with increased stakeholder engagement, is necessary to accommodate environmental protection concerns in the operationalization of the *2030 Agenda*.

It may be argued that the underlying problem in this respect will remain the lack of integration between international environmental law and different legal regimes, with a particular emphasis on areas such as trade and investment law and human rights law, unless the advancement of sustainable development as a legal principle of integration is able to reconcile these dimensions in the evolution of international law. When examining the contents of the *2030 Agenda* in the light of other recent developments, one may pinpoint some of the challenges that international environmental law will have to address in the next fifteen years in order to enable its mutually supportive relationship with the post-2015 development agenda. While it is beyond the scope of this article to specifically discuss each of them, we may identify nine key topics in this respects, four of which are concerned with substantive issues (broadly corresponding to SDGs 12-15) while the rest mainly relates to procedural elements, means of implementation, and shortcomings in the general architecture of international environmental law.

The four substantive challenges are: (i) swiftly implementing

the Paris Agreement on climate change and ensuring that commitments contained in the Intended Nationally Determined Contributions (INDCs) of the Parties remain ambitious on a pathway to the decarbonization of the economy by 2050 (UNFCCC, 2015);<sup>64</sup> (ii) developing a new regime for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction under the UN Convention on the Law of the Sea, as currently mandated by Resolution 69/292 of the UNGA (UNGA, 2015);<sup>65</sup> (iii) strengthening integration *within* international environmental law (KIM; BOSSELMANN, 2015, p. 200) by promoting the definition of linkage-based plans, policies and programmes,<sup>66</sup> with a particular focus on the widespread adoption of an ecosystem-based approach to environmental protection,<sup>67</sup> increased consideration of the underlying drivers of biodiversity loss and ecosystem destruction, and the role of environmental impact assessment (EIA) laws;<sup>68</sup> and (iv) advancing a holistic approach to the management of chemicals and waste under existing international conventions and developing new multilateral agreements on the subject, where needed (UNEP, 2012b, p. 188-189). Taken together, these challenges continue to highlight major gaps in international environmental law, and addressing them would also mean achieving concrete progress around at least five critical planetary boundaries, including climate change, biosphere integrity, land-system change, and introduction of chemicals, nanomaterials, and other novel substances (STEFFEN et al., 2015).

The remaining topics emphasize the need to further advance key procedural norms and to strengthen the means of implementation in legal regimes in the field of the environment. Most of them reflect long-standing normative trends in the development of international environmental law

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64 See also UNFCCC, 2016.

65 In the Resolution, the General Assembly welcomed the outcomes of the meetings of the Ad-Hoc Open-Ended Informal Working Group convened by the Secretary-General and decided to establish a preparatory committee tasked with making substantive recommendations on the draft text of an international legally binding instrument on the topic. The Committee is expected to report to the GA by the end of 2017.

66 See for example LONG, 2011.

67 At its core, the ecosystem approach can be said to present a strong element of integration between conservation and equity concerns, as well as interactions with the precautionary principle, adaptive management, and the study of socio-ecological systems' resilience. It has emerged as a holistic regulatory strategy that aims at guiding the definition and implementation of cross-cutting actions under different international regimes, thereby contributing to mutual supportiveness among them. See for example MORGERA, 2016.

68 In particular, it is important that EIA laws provide for EIAs to be carried out at the policy level and not project level only, that robust data gathering is available in decision-making, that the regulatory dimension of assessment is strengthened, and that participatory principles are observed. See for example UNEP, 2012a, p. 465; UNEP, 2012b, p. 51; and VINUALES, 2015, p. 468-469.

(if not actual principles, as reaffirmed in the Rio Declaration and/or the New Delhi Declaration of Principles drafted in 2002 by the ILA) (ILA, 2002), while others represent relatively new topics lying at the intersection of law and policy which must increasingly inform the development of multilateral environmental agreements and the evolution of already existing institutions and regimes. They are: (i) harnessing foreign direct investment, official development assistance, and domestic finance for environmental protection, including through further promotion of the role of market-based instruments such as payments-for-ecosystem-services schemes (PES), consistent with the vision outlined in the Addis Ababa Action Agenda;<sup>69</sup> (ii) increasing capacity-building in, and technology transfer to developing countries in order to operationalize the global indicator framework and, more generally, foster conservation and sustainable use efforts (i.e. in terms of establishment, management and effective monitoring of protected areas); (iii) reinforcing science-policy interfaces and bolstering the role of intergovernmental platforms in building capacity for the effective use of science in law- and decision-making at all relevant levels (i.e. in terms of the assessment and accounting of the economic value of ecosystem services);<sup>70</sup> (iv) enhancing public participation in decision-making and access to justice and information as an indispensable component in the implementation of the procedural and substantive environmental rights of individuals and communities, as most recently urged at Rio+20 (UNITED NATIONS, 2012, para.99); and (v) advancing liability regimes at the domestic and international level (but also, more generally, non-compliance procedures), particularly by moving away from the traditional rules of State responsibility in favor of more stringent civil liability rules.<sup>71</sup>

It should be noted that it was not by chance that we reserved these two essential aspects for last. On the one hand, despite the message contained in Principle 10 of the Rio Declaration, progress on the topics of public information and participation and access to justice remains uneven, held hostage by geographical differences in the way human rights are being re-considered, translated into law and interpreted from an environmental

<sup>69</sup> See for example DUPUY; VINUALES, 2013. Specifically on PES schemes, see PAVONI, 2012, p. 206.

<sup>70</sup> For example, the functions devised for the recently-created Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) are in theory broader and more incisive than those attributed to the Intergovernmental Panel on Climate Change (IPCC), but it remains to be seen how its assessments are incorporated in the work of the CBD and other biodiversity related conventions. See BROOKS; LAMOREUX; SOBERON, 2014.

<sup>71</sup> See for example FITZMAURICE, 2015, p. 351.

perspective<sup>72</sup>. As a consequence, it will be important to ensure that ambitious regional achievements on this topic, such as the Aarhus and Espoo Conventions (UNTS, 1998), which provide for key procedural rights in the field of the environment, inform significant developments in other parts of the world (EBBESON, 2015, p. 308-309). On the other hand, more than 20 years after the proclamation of Rio Principle 13 on liability and compensation, the emergence of rules of strict State liability and civil liability regimes in domestic legislation and/or multilateral environmental agreements continues to be undermined by the conflicting perspectives of States on issues such as the very definition of environmental damage, the role of the State in redress, the burden of proof, the scope of compensation, the limits of liability, and so forth (FITZMAURICE, 2007; FITZMAURICE, 2001). That these problems were carefully ignored in the drafting of the SDGs<sup>73</sup> (not to mention the specific provision on liability and compensation contained in the decision adopting the Paris Agreement) (UNFCCC, 2015, para. 52) bears further testimony to the steep task placed upon international environmental law in the implementation of the *2030 Agenda*.

## CONCLUDING REMARKS

Throughout this article, we have emphasized that the adoption of the *2030 Agenda* deserves to be considered as a historic step forward for the integration of environmental concerns in the wider context of sustainable development policy instruments, while also considering some of the criticism directed towards its perceived flaws. In addition, we have reflected on the possibility of building mutual supportiveness between the SDGs and international environmental law, examining the potential for these frameworks to address existing gaps with the goal of promoting environmental sustainability as an overarching priority of the international community. Moreover, we have focused our attention on an interpretation of sustainable development as a principle of integration which appears consistent with the vision outlined in the *Agenda* and shows the potential to support the crystallization of such principle as either a customary norm or a general principle of law.

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72 See for example RAZZAQUE, 2012, p. 144-145. According to Francioni, another problem lies in the 'individualistic' perspective in which courts interpret the environmental dimension of human rights, see FRANCIANI, 2010, p. 41. See also PAVONI, 2014, p. 331-359.

73 On the link between human rights and environmental protection, see KNOX, 2015.

By way of conclusion, we wish to add a note of caution but also an element of optimism. On the one hand, the evident improvement of the environmental dimension of the SDGs over that of the MDGs needs to be evaluated against the long-standing shortcomings of international environmental law (i.e. emphasis on the sovereignty of States, lack of mechanisms to ensure compliance and/or ineffectiveness of regulatory regimes, insufficient resources, fragmentation, and so forth), some of which are reflected in Resolution 70/1 itself and which together cast doubt into the possibility of a more effective system of global environmental governance emerging from the post-2015 agenda. On the other, it should be noted that the UN Sustainable Development Summit (along with the Paris Climate Change Conference) is a symbolic milestone whose importance stretches far beyond textual analysis. Indeed, one of the main qualities of the SDGs lies in their aspiration to build awareness and trust among institutions and stakeholders (particularly in the private sector) about the transformational change that needs to happen if humanity is to embark on a sustainable development trajectory. From a legal perspective, investigating the extent to which this aspiration will be reflected in the subsequent practice of States and translated into norms to be interpreted and applied by international and domestic courts will shed light on the real potential of the *2030 Agenda* to deliver on its ambitious Goals.

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