Crafting trade and investment accords for sustainable development

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The global economy, the SDGs and international law
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As the world struggles to recover from combined challenges of a global pandemic, climate and economic hardship, international cooperation has never been more important. Forces of populism, economic nationalism and intolerance are challenging the value of collaborative relationships across borders, eroding confidence in the rules that govern international trade and investment flows, and their impacts. Indeed, the imperative of crafting durable international accords that rise to meet the economic, social, and environmental challenges of our day has never been more pressing.

Complex international economic regimes

The current world trading system is governed by national economic authorities that regulate trade and investment in accordance with the principles and disciplines set out in the agreements of the World Trade Organization (WTO), the UN Commission on International Trade Law (UNCITRAL), the UN Conference on Trade and Development (UNCTAD), the International Centre for the Settlement of Investment Disputes (ICSID) and in an increasingly complex web of hundreds of regional and bilateral trade and investment agreements. The terms agreed in the global institutions and regional accords may serve to reduce barriers to trade and investment, in turn facilitating economic growth. There is no guarantee of free trade or investment in international law; it is every State’s sovereign decision to permit trade with another State, to set the terms of trade and investment and to govern investments from other States, though their engagements in international trade and investment negotiations and their compliance with their economic law obligations. This is a crucial responsibility, shaping myriad aspects of lives and livelihoods, and conditioning efforts to ‘build back better’ in a carbon-constrained world.

The pandemic is undoing years of progress on development and poverty reduction. The world needs vaccine equity to jumpstart economic growth and restore convergence. Trade is indispensable for ramping

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1 Building on nearly two decades of research, recently published in MC Cordonier Segger, Athena’s Treaties: Crafting Trade and Investment Accords for Sustainable Development (Oxford University Press, 2021) and other earlier volumes.


up the production of COVID-19 vaccines on the scale needed to end the pandemic, as key vaccines rely on complex international supply chains.5

Trade policies have to be updated to respond to the new realities of climate change and global pandemics. We can do this in several ways - by freeing up vaccine supply chains and lowering export restrictions and facilitating trade; by working with manufacturers to identify supply chain bottlenecks and ramping up investment in increased production; and by finding pragmatic solutions to issues around technology transfer, know-how and intellectual property to assure developing countries near-automaticity of vaccine access, while still incentivizing research and innovation.6

Potential impacts of economic liberalisation

As efforts to re-open the global economy intensify, terms agreed in the global institutions and regional accords may serve to reduce barriers to trade and investment, in turn facilitating economic growth.

Trade has made people's lives better, even though not everyone has benefitted equally. Trade helped lift a billion people out of extreme poverty and has led to remarkable improvements in human wellbeing - in 1980, 40% of the world's population lived on less than the equivalent of $1.90/day, in 2019 less than 10% of the population live on less than $1.90. 7

Countries with relatively small or poor home markets have been able to use the demand from other countries to shift people and resources out of subsistence activities and into more productive work in tradeable sector. Trade has also accelerated important aspects of sustainable development in reducing costs for green energy technologies and contributed to greater efficiency in resource use.8

However, there is also concern that absent due care, promotion of trade and investment could lead to unnecessarily destructive impacts on the environment and on social cohesion.9 Critics warn that the type of economic growth stimulated by a trade or investment agreement singularly designed for this purpose may harm both social and environmental sustainability.10 In certain circumstances, studies show, trade liberalization under the WTO or regional and bilateral trade and investment agreements could encourage

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5 WTO Director General Ngozi Okonjo-Iweala, Opening Remarks (Leverhulme lecture on Crafting Trade and Investment Accords for Sustainable Development, Cambridge, United Kingdom, 2021)
6 Ibid
7 Ibid
8 Ibid
economic growth that undermines social protections, worsens conditions for the rural and urban poor, degrades biological diversity, increases greenhouse gas emissions, augments soil erosion and increases unsafe exposure to toxic pollutants. As UNCTAD and others have noted, in certain cases, trade and investment agreements can exacerbate social and economic inequalities, leaving the poorest and most vulnerable groups worse off. Leading legal scholars have underlined the potential of new trade and investment rules to pose difficulties for the implementation of multilateral environment agreements (MEA), for protection of the environment beyond national jurisdiction, for adoption of regulations to protect domestic environments and for efforts to improve environmental standards. The United Nations Environment Programme (UNEP) has repeatedly expressed similar concerns, linking particular environmental problems, especially in developing economies, to growth in volume of certain trade or investment flows. These concerns can affect States’ willingness to cooperate in multilateral trade and investment negotiations. In the WTO, debates on such issues have led to deadlocked negotiations, trade

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disputes, and even violent public protests characterized by self-immolations. At the regional and bilateral levels, challenges related to effects on the environment and development may lead trade negotiations to falter or to be abandoned altogether. Increased trade and investment in certain natural resources may lead to conflict and governance challenges that leave a country worse off than before. Rather than promote sustainable development through trade and investment, global, regional and bilateral economic agreements can, when designed without regard for the non-economic measures, limit environment and social development regulations, causing difficulties for treaty implementation in developing and developed countries alike.

In order to better understand such risks, many countries use impact assessment techniques to identify potential negative environmental and social effects of trade agreements, mainly prior to concluding trade or investment negotiations, and indeed, recent studies consider over 110 such assessments, which may form part of the travaux préparatoires for the accords. Drawing on this growing body of assessments, it is possible to identify key material impacts and also emerging normative tensions of legal concern, evaluating new ways to integrate environment and social development priorities into the economic rules of the treaties themselves.

The first type of assessment is used mainly by the EU, pursuant to a 2002 Communication of the European Commission (EC), the related guidelines and a handbook. The EC (DG-Trade) commissions a sustainability impact assessment (SIA) of each new international economic agreement that is being contemplated. These SIAs are undertaken both before and during a trade and investment agreement negotiation, and aim to identify the potential economic, social and environmental impacts of the resulting agreement. In this way, the SIAs and other such processes are carried out to test a new trade and investment agreement’s propensity to satisfy sustainable development priorities. First, scenarios of outcomes are anticipated, then available economic and scientific data is surveyed to analyse the potential economic, social and environmental effects of the treaty under each scenario. SIAs examine impacts both

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21 A Estevadeordal, M Shearer and K Suominen, ‘Multilateralizing RTAs in the Americas: State of Play and Ways Forward’ in R Baldwin and P Low (eds), Multilateralising Regionalism: Challenges for the Global Trading System (Cambridge, CUP 2009) 427. By way of a recent example, the environment was one source of opposition to the Comprehensive Economic and Trade Agreement (CETA) from the Belgian region of Wallonia, which delayed conclusion of the deal until 2018; see P Magnette (President of Wallonia) ‘Wallonia Blocked a Harmful EU Trade Deal— But We Don’t Share Trump’s Dreams’ op-ed to The Guardian (18 November 2016), who states citizens ‘wonder if it is reasonable to import beef from the other side of the Atlantic when we are at the same time supposed to be fighting global warming’. In addition, observers have noted that efforts to initiate talks on a Canada-China trade agreement failed due to Canadian Prime Minister Justin Trudeau’s insistence on including environmental and social provisions in an eventual deal: A Ballingall, ‘Trudeau Fails To Come Back from China with the Trade Talks He Wanted’, The Toronto Star (7 December 2017).
26 European Commission, Handbook for Trade Sustainability Impact Assessment (Brussels, 2006); C George, C Kirkpatrick and S Scricciu, Final Global Overview Trade SIA: Inception and Mid-Term Reports (Manchester, Institute for Development Policy & Management 2006); UNEP, Reference Manual for
in Europe and in developing country trading partners, often making particular efforts to uncover the potential impacts in the less-developed partner country.

The second type of assessment involves an environmental review (ER). These are carried out by the US in accordance with an Executive Order and by Canada as mandated by Cabinet Directive, prior to the conclusion of a new regional trade or investment treaty. For instance, the US-Chile ER was carried out before the conclusion of the US-Chile Free Trade Agreement. Such reviews, known as environmental assessments (EAs) in Canada, involve an investigation by a government inter-agency task force with opportunity for public comment; they focus on potential physical and regulatory effects of the economic growth predicted from the trade agreement on the environment. The North American reviews are usually limited in scope, addressing only impacts within the country’s territory, though global impacts may also be taken into account.

Based on a survey of the concerns raised in impact assessments (IAs) and environmental reviews (ERs), a few illustrative examples are uncovered which can help explain the potential material impacts of increased trade and investment on economic, social, and environmental conditions that can affect a country’s potential for sustainable development. Concerns about potential environmental and social impacts of rapid and unsound economic growth in many sensitive sectors have been raised in SIAs commissioned by the EU prior to the conclusion of economic cooperation agreements with strong trade liberalization components, including the EU-Central America AA SIA, the EU-Andean AA SIA, the EU-Mercosur AA SIA, and the EU-India AA SIA, among others. As has been recognized in economics literature, not all sectors actually benefit from a new trade or investment agreement in terms of direct economic impacts. Upon reviewing both potential positive and negative economic impacts, many SIAs

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31 ECORYS, Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America: Draft Final Report (Rotterdam, July 2009) [EU-Central America SIA] 42 – 43, 60 with regard to losses in different sectors, 45 – 47 with regard to increases in poverty.

32 Development Solutions, EU-Andean Trade Sustainability Impact Assessment: Draft Final Report (Brussels, July 2009) [EU-Andean SIA] 91 with regard to output reduction and employment loss in Peru’s machinery and equipment sectors, and Ecuador’s automotive sector, 120 with regard to decreases in financial, insurance, business and recreation services.

33 IARC, Trade Sustainability Impact Assessment (SIA) of the Association Agreement under Negotiation between the European Community and Mercosur: Final Overview Report Trade SIA EU-Mercosur (Manchester, March 2009) [EU-Mercosur SIA] 48 with regard to manufacturing, metals, textiles and other sectors, especially for Paraguay

34 PricewaterhouseCoopers, Sustainability Impact Assessment of the EU-ACP Economic Partnership Agreements: Key Findings, Recommendations and Lessons Learned (Paris, May 2007)

predict that without the adoption of mitigating or flanking measures at domestic or international levels to offset the negative impacts, the accord would only result in very small economic gain.

Material environmental impacts of increases in trade volumes can be raised in the interim and final reports of impact assessments especially in the interim report during the negotiations. Developing country parties can also raise concerns about environmental impacts. For instance, some economies are heavily dependent on exports from natural resource sectors, such as mining and metals processing, forestry products, fisheries and agriculture. If a trade and investment agreement increases market access for a trading partner’s products, assessments caution, the resulting pressures could stimulate over-exploitation of fisheries and forestry resources. Without appropriate controls, such trade increases could generate harmful levels of pollution in terrestrial and marine environments and cause significant encroachment on the habitat of wildlife and endangered species. Potential environmental impacts on fisheries from changes in trade volumes and patterns have been identified in other environmental assessments of new trade and investment agreement negotiations.

While material economic, social and environmental concerns such as those documented in both European SIAs and in North American Environmental Reviews must be acknowledged, of course the impacts of new global or regional trade or investment agreements are not all negative. Indeed, as noted by Professor John H Jackson and others, there are surely many positive effects, or one would beg the question as to why such treaties are concluded by States at all. States may leverage trade and investment agreements to unlock a range of positive economic effects and other co-benefits, including diplomatic aims to signal close ties between countries or a region. There can also be potential for high economic benefits from agreements that successfully externalize social and environmental costs of increases in opportunities, even if it simply means that these costs are covered by taxpayers. However, even a brief comparative survey of impact assessments affirms that negative social and environmental impacts may be either caused or exacerbated by a wide variety of provisions in a trade and investment accord. Indeed, in some cases, each tariff line that is reduced or eliminated might lead to a distinct impact. The assessments also demonstrate that material impacts are specific to the character of actual relationships between the Parties, as well as existing social and environmental conditions in the sectors stimulated by the new trade and investment agreement. Material impacts are also a function of the degree to which a new treaty would redefine the

36 USTR, *Interim Environmental Review of the US- Chile FTA* (Washington, 2001) [Interim US- Chile ER]; Overall, as the economic changes directly attributable to the accord itself in the US were minimal, the reviews conclude that overall environmental impacts could be low. However, concerns raised during the process help to explain linkages between trade, the environment and development
39 Ibid
scale or character of existing trade transport routes or generate increases in actual production and consumption within the industries which seek to benefit.

There are also important normative impacts to consider. In light of more than three decades of global and regional ‘soft law’ commitments by States to harness trade and investment flows in order to foster rather than frustrate sustainable development, such concerns are worth careful consideration. In this regard, through a survey of the literature, and of recent sustainability impact assessments, environmental assessments and reviews, three normative tensions affecting trade and investment agreements in relation to sustainable development can identified. These tensions provide a framework for the later analysis of sustainable development-related innovations in global and regional economic agreements in this paper.

The first tension involves situations in which new trade liberalisation obligations constrain the adoption of new regulations to meet international commitments on sustainable development. The concern is that application of trade liberalisation rules, absent appropriate exceptions, may prevent States from regulating effectively to prevent environmental or social harm, leading to unsustainable development. For instance, assessments identify concerns that trade disciplines such as non-discrimination without taking processing and production methods (PPMs) in account in the determination of like-products, or restricting the use of trade bans, would constrain the adoption of laws and standards to stop natural resources from being depleted, to control the import of unknown living modified organisms, or to phase out chemicals that harm human health. Assessments also identify concerns that the liberalisation of investment rules would lead regulators to lower standards related to the environment, labour and sustainable development, in order to attract investment.

The second tension involves pre-existing social and environmental challenges that can be indirectly exacerbated by economic growth due to trade and investment occasioned by a new treaty. In these situations, the main problem is often lack of domestic capacity to enact and enforce adequate environmental and social regulations that exist to achieve sustainable development, or lack of human and financial resources to address problems. For instance, assessments identify concerns that due to trade liberalisation, tariff reductions could increase low-wage employment for women in unsafe conditions where social security laws are not always enforced, or increase unsafe disposal of hazardous waste where pollution laws can be weak. Further, by opening forest areas for increased exploitation, trade liberalisation could exacerbate the marginalization of indigenous peoples where property rights and land use planning laws are inadequately respected.

The third and most challenging tension involves situations in which trade and investment agreements may encourage economic development in sensitive zones, obsolete technologies or economic sectors that States have multi-laterally agreed to phase out. For instance, assessments have signalled concerns about trade agreements that may perversely incentivise increased investment and trade in fossil fuels, in illegally logged timber, in agricultural practices that deplete soils, in fisheries that threaten fragile fish stocks, and in obsolete goods that threaten health or public safety.

A common global policy agenda towards sustainable development

In recent decades, international trade and investment law have faced legitimacy challenges. Rules are transforming practices and constituencies but are also being interactionally transformed on all levels. An
'interactional' account of international law traces clarity, non-contradiction, constancy, congruence, and other criteria establishing a 'practice of legality' with law as a purposive international legal enterprise that builds and maintains reciprocity, through legal framework and culture. 44 The WTO, UNCITRAL, ICSID and other international organizations, including the 335+ FTAs and 2,060+ BITs, can evolve interactionally as law and governance regimes, contributing to global SDGs objectives, through SD integration principle where appropriate.

Building on the Millennium Development Goals from 2000, in 2015 a new global cooperation agenda toward 2030 was agreed, when countries adopted 17 Sustainable Development Goals (SDGs) with 169 key targets, covering key areas of public policy from poverty, hunger, health, education and gender equality to water, energy, employment, infrastructure, equality, cities, production and consumption patterns, climate change, biodiversity, oceans and justice, and establishing global partnerships for action.

As an agenda for the global community, the SDGs apply to all countries – rich or poor – providing a common framework to facilitate cooperation and action. They offer a succinct set of public policy priorities and time-bound targets to unite international organizations, countries and stakeholders. Of course, detractors underline that each SDG target is aspirational, strictly non-binding in nature. However, like other important and universal aspirations such as world peace, or human rights, the Sustainable Development Goals are not legally irrelevant. Indeed, as has been noted before,45 the opposite is true.

**Law and policy will help – or hinder – the implementation of every global Sustainable Development Goal.** Efforts to achieve the 17 SDGs and their 169 targets are supported by the principles of international law itself, and by many binding international, regional and bilateral treaties. In fact, a vast network of increasingly specific international accords prioritizing sustainable development has been adopted in recent decades, from key global human rights instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Discrimination Against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC); to the ILO Labour Conventions; to the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA); to the UN Framework Convention on Climate Change (UNFCCC) and its Paris Agreement, the Convention on Biological Diversity (CBD) and its Cartagena and Nagoya Protocols, the Ramsar Convention on Wetlands of International Importance, or the UN Convention on the Law of the Sea (UNCLOS).

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Commitments to sustainable development are also enshrined in the Agreements establishing the World Trade Organization and in a web of inter-regional, regional and bilateral trade and investment agreements. These binding accords set specific and enforceable obligations, along with cooperative work programmes and institutions that can support achievement of each SDG. In each case, the inter-governmental regime engages a community of stakeholders, from local to global in scope, to implement key operational requirements, often with public participation, financing, monitoring, reporting and verification arrangements, as well as dispute settlement and other provisions. Efforts to achieve each SDG target and the related international obligations are also facilitated by a toolkit of related domestic legal obligations, regulations and institutions at the national and sub-national levels in each country,\(^{46}\) and also by important customary rules, economic incentives, and cultural values.\(^{47}\)

Mobilizing and scaling up action across all these channels to achieve the SDGs by 2030 could make a significant difference in response to the global challenges we face, keeping our international legal promises, and laying the foundations for great advances, even in this time of crisis.

The SDGs make specific reference to trade and investment policy, specifically as a means of implementation in SDG 17, as well as in other SDGs. In SDG 17 (Target 17.11), the goal is to “significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries' share of global exports by 2020.”, while SDG 10 stresses the importance of upholding special and differential treatment for developing countries as per the WTO agreements.

**Sustainable development innovations in economic agreements**

It is possible to survey the current landscape of international economic law through a sustainable development lens, and identify procedural and legal provisions related to sustainable development in free trade and investment agreements.

Taking a fresh perspective based on these surveys, and the concerns raised in impact assessment as mentioned above, it is possible to identify three key tensions in the effects of trade and investment liberalisation accords on sustainable development efforts. Causing tensions are the situations in which (1) obligations can constrain the adoption of new regulations to meet international commitments on sustainable development; (2) pre-existing social and environmental challenges can be indirectly exacerbated by growing trade and investment flows occasioned by a new treaty; or (3) trade and investment agreements may incentivize economic growth of an unsustainable nature.

Turning to the future, States are currently testing innovative measures to address these tensions, by integrating environmental and social considerations into trade and investment accords, through

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discussions in the World Trade Organization which holds sustainable development as an objective, and
also in regional or bilateral treaties. Indeed, a review of nearly three decades of WTO negotiations, and
also over 110 economic treaties which explicitly commit to sustainable development, reveals specific legal
innovations that are already being adopted and piloted by States in treaties today to integrate
environmental and social development considerations into the law.

Responding to the three principal tensions, and the opportunities analysed in relation to the principle of
integration for sustainable development, an analytical framework (typology) was designed which identifies
a series of legal options for States seeking to deliver on a commitment to sustainable development in a
trade and investment treaty. The framework assists in understanding the measures that are linked to
sustainable development in their trade treaties, in the context of the principle that environmental and
social development concerns must be integrated into economic (trade and investment) decision-making.

Initially, Parties may, in accordance with the intentions reflected in the Sustainable Development Goals
and other ‘soft law’ declarations, be using introductory provisions to signal a joint commitment to a
sustainable development purpose. These include a ‘joint resolution’ to ‘promote sustainable development’
by Parties in the Preambles of trade accords; affirmations that sustainable development is an Objective of
the treaty, other initial statements of Parties intentions to implement the accord in accordance with a
‘principle of sustainable development’, and even, most recently, preambles to full Articles characterizing
the trade and investment treaty as a new ‘Partnership for Trade and Sustainable Development.’

Then, as a second step, there are operational provisions that may be interpreted in light of this sustainable
development purpose, particularly given the emerging customary principle to integrate environmental
protection and social development with economic development.

In a first category, addressing the first tension identified in this article, the regulator finds exemptions
from trade rules, where trade obligations might otherwise constrain regulators and policymakers,
mitigating their effects. These include:

a. General exceptions related to the conservation of natural resources, and to the use of measures,
   including environmental measures, necessary to protect human, animal, or plant life or health.48

b. Specific exceptions in sections of the Agreement where trade rules on *inter alia* sanitary and
   phytosanitary standards, technical barriers to trade, intellectual property rights, government
   procurement, services, or investment, might constrain the use of environmental and social
   measures.49

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48 The principal general exception in the US-Chile FTA is found at article 23.1, which provides exceptions to obligations covering national treatment
and market access for goods, rules of origin and origin procedures, customs administration, sanitary and phytosanitary measures and technical
barriers to trade. It states that: *Article XX of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, mutatis mutandis.*
The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal, or
plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural
resources. The Chile-US FTA approach is based on the NAFTA, an approach still echoed in the USMCA, and provides for exceptions by incorporating
references to exceptions in the General Agreement on Tariffs and Trade (GATT) article XX.48 This approach is taken by other similar regional trade
and investment treaties.

49 An example includes the specific exceptions for trade in services and investment (or ‘establishment’ only, in the case of the EU-Chile AA). In the
US-Chile FTA, Parties agreed on fairly stringent services and investment obligations, going beyond WTO commitments. Services obligations apply
c. Explicit ‘non-application notes’ by the Parties to prevent socially or environmentally sensitive sectors from being disciplined by new trade and investment liberalisation commitments, such as keeping parks and natural resources from being subject to investment provisions, or health and education sectors from being subject to services disciplines.50

d. General interpretive statements to guide potential areas where trade rules could otherwise constrain the use of measures agreed in other international (or regional) agreements.51

In a second category, which has become more prevalent than one might expect from WTO experiences, the regulator finds provisions that can permit or prescribe ‘mitigation-oriented’ social and environmental cooperation activities among the Parties, to strengthen domestic environmental or social laws, such as:

a. Parallel agreements (or chapters, or both) for cooperation on environmental and social matters.52

b. Joint coordination of new institutions for social and environmental cooperation.53

c. Common work programmes on specific environmental or social projects, often accompanied by capacity-building, technology transfer and financing commitments.54

d. Factual report / complaints mechanisms to provide recourse when environmental or social rules appear to be violated to attract trade or investment.

In a third category, addressing the third tension identified in this article, the regulator will find new commitments to liberalise or enhance trade in sectors that contribute sustainable development. These opportunities appear specific to each trade relationship, but can include:

to cross-border supply of services, including those delivered electronically, or through the travel of services professionals across borders. In the US-Chile FTA Services chapter, Parties agreed to extend national treatment and most-favoured-nation treatment for services suppliers in ‘like circumstances’, and to avoid application of certain non-discriminatory measures. Furthermore, measures to ensure that qualification requirements and procedures, technical standards and licensing requirements are disciplined to avoid burdensome or unnecessary barriers to trade in services. 50 One of the concerns raised in the US-Chile ER was that economic measures to benefit displaced or marginalized peoples, including past measures to compensate indigenous peoples who were removed from their lands to permit hydroelectric, mining or other development, could be questioned under the trade and investment agreement. These issues are directly addressed in the US-Chile FTA through specific ‘non-application notes’ included by each Party. In Annex II-Ch-6, Chile notes its decision, agreed by the other Party, to set aside: the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.51

An example is found in the EU-Central America AA, which states that: The Parties recognise that international environmental governance and agreements are important elements to address global or regional environmental problems and stress the need to enhance the mutual supportiveness between trade and environment. The Parties commit to consult and co-operate as appropriate on trade-related environmental issues of mutual interest. The treaty also specifically notes seven major MEAs, reaffirming the commitment of the parties to these treaties.182 Such provisions are more directly respectful of the integration principle, and can directly address particular concerns raised in the SIA to this treaty.

52 A variation of this involves a format of separate side agreements that establish new institutions and non-enforcement claims procedures for other Parties and civil society. These mechanisms were originally pioneered by Canada, the US and Mexico in NAFTA and its related North American Agreement on Environmental Cooperation (NAEAC) and North American Labour Cooperation Agreement (NALCA). Most free trade agreements involving Canada since the NAFTA, including the Canada-Costa Rica FTA215 and the Canada-Chile FTA, are accompanied by parallel environmental side agreements and labour side agreements. This NAFTA-style approach suggests that Parties view a commitment to sustainable development as a goal, a reason for including separate environmental collaboration agreements within (or parallel to) their trade agreements.53

The EU-CARIFORUM EPA established a Trade and Development Committee responsible, among other things, for overseeing the implementation of the trade and development provisions of the treaty, which would include provisions linked to sustainable development. For instance, the committee would be involved in overseeing collaboration in areas such as quality standards for food production and marketing, or promotion of private investment and public-private partnerships in viable production.54

In the EU-Chile AA, Part III of the Association Agreement focuses on an integrated cooperation agenda. At article 16.1, Parties commit to establish close cooperation to promote ‘social development, which should go hand in hand with economic development and the protection of the environment’. At article 28, covering cooperation on the environment, the Parties agree to encourage conservation and improvement of the environment, prevention of contamination and degradation of natural resources and ecosystems and rational use of the latter in the interests of sustainable development.
a) Technical barriers to trade provisions which improve certification processes, promoting mutual recognition of sustainability standards.
b) Sanitary and phytosanitary provisions which promote scientific cooperation and risk assessment to improve levels of health or environment protection.55
c) Intellectual property rights provisions which support biodiversity protection or recognition of indigenous/traditional knowledge.56
d) Government procurement provisions which make public purchasing of sustainable development goods or services more affordable.57
e) Investment provisions which privilege socially responsible corporations.58
f) Measures to enhance liberalisation of environmental goods and services, or to pilot differential tariffs for sustainable products.59
g) Measures to promote indigenous small/medium enterprises, and to promote trade in indigenous goods.
h) Measures to reduce illegal trade in forestry products and promote trade and investment in certified sustainable wood.60
i) Measures to secure reductions in unsustainable fishery, fossil fuels and other subsidies.61
j) Measures to promote trade or investment in eco-innovation, clean / renewable energy technologies and organic agriculture.62

55 In the US-Chile FTA at article 6.3, Parties agree to establish a committee on SPS matters to enhance the implementation by each Party of the WTO SPS Agreement, specifically noting that its objective is also to protect human, animal and plant life and health, and enhance consultation and cooperation on SPS matters, as well as to facilitate trade between the Parties. They agree that the committee will coordinate positions in international and regional fora on food safety and human, animal and plant health; and also, that it will coordinate technical cooperation programmes on SPS matters.
56 In the US-Peru TPA, Parties agree several innovations. At article 18.11 on biological diversity, the Parties ‘recognize the importance of the conservation and sustainable use of biological diversity and their role in achieving sustainable development’, emphasize their commitment to ‘promoting and encouraging the conservation and sustainable use of biological diversity and all its components and levels, including plants, animals, and habitat’, and ‘recognize the importance of respecting and preserving traditional knowledge and practices of indigenous and other communities that contribute to the conservation and sustainable use of biological diversity’. In the USMCA, the Parties ‘recognize the importance of respecting, preserving, and maintaining knowledge and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity’.
57 The EU-Colombia-Peru FTA encourages the Parties to collaborate, including in public procurement, in order to promote ‘the development of Micro and SMEs, using trade as a tool for reducing poverty’.
58 In the Canada-Peru FTA, the Preamble notes both Parties’ intention to ‘promote sustainable development’ and also to ‘encourage enterprises operating within their territory or subject to their jurisdiction, to respect internationally recognized corporate social responsibility standards and principles and pursue best practices’. The Parties also include further provisions on corporate social responsibility at article 810 in the investment chapter of the trade agreement.
59 In the EU-CARIFORUM EPA, Parties agree broadly to collaborate in order to promote ‘public awareness and education programmes in respect of environmental goods and services in order to foster trade in such products between the Parties. The Indonesia-ETI provides a product differentiation framework for differential tariffs for sustainable products, including palm oil, taking into account production and processing methods (PPMs).
60 The US-Peru TPA incorporates an Annex 18.3.4 on forest sector governance, with detailed and mandatory provisions to address illegal logging and trade in wildlife. Each Party commits to combat trade associated with illegal logging and illegal trade in wildlife. They also note that ‘good forest sector governance is critical to promoting the economic value and sustainable management of forest resources’, and establish a new mechanism, a Sub- Committee on Forest Sector Governance, under both the Committee on Trade in Goods and the Environmental Affairs Council, to facilitate consultation and information exchange, and secure implementation.
61 The EU-Colombia-Peru FTA includes a designated provision on trade in fish products. It asserts that ‘Parties recognise the need to conserve and manage fish resources in a rational and responsible manner, in order to ensure their sustainability’, and also ‘the need to cooperate in the context of Regional Fisheries Management Organisations’.
62 The Peru-Korea FTA provides that Parties, within their own capacities, shall adopt policies and measures for promoting sustainable development on issues such as measures for improving energy efficiency, research, promotion, development and use of new and renewable energy, technologies
Such measures have been proposed in trade and environment, or trade and labour related literature over the decades of WTO debates. This research finds they are starting to be included in regional trade and investment agreements. It brings them together within an analytical framework based on their normative effects, in order to examine how such provisions might be interpreted to better integrate environmental and social concerns into trade agreements for the realisation of sustainable development.

The comparative review of negotiations in the surveyed treaties also reveals certain procedural innovations undertaken by the Parties could inspire or advance future trade agreements. In particular, sustainable development proposals are being made during the following procedures:

a. **Ex-ante** (or ongoing) environment, development, human rights or sustainability impact assessments and reviews of trade liberalization policies and draft treaties;

b. Consultations between economic, environment and development authorities;

c. Mechanisms to ensure transparency and public participation in trade or investment negotiations or implementation (consultations, councils, forums);

d. Mechanisms to inform trade and investment arbitration tribunals about sustainable development issues, including expert panels, fact-finding missions and consultations, receptivity to *amicus curiae* briefs, transparency and public participation for hearings, publication of awards, net zero or green arbitration codes and policies.

Through this integration, international economic law could be increasingly positioned to play its part in guiding global economic recovery, to foster rather than frustrate attainment of the Sustainable Development Goals (SDGs). Restoration of international trade dispute settlement, including in the WTO Appellate Body, could also contribute. The study of these innovations offers useful insights for future economic treaty-making among States seeking to achieve the SDGs, as well as a forward looking agenda of carbon dioxide capture, and updated and innovative environmental technologies that do not affect food security or the conservation of biological diversity' and 'measures for evaluating the vulnerability and adaptation to climate change'.

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63 A general description of the two main models of review of assessment was explained earlier in this article.

64 In the negotiation processes for the trade and investment liberalization treaties studied in this research, such procedural innovations were adopted by Chile and other countries, as well as the US and the EU. In particular, Chilean negotiations with the US and the EU led to great public debates in the Chilean Congress, business associations, labour unions, non-governmental organizations (NGOs) and others. During the negotiation of both the US-Chile FTA and the EU-Chile AA, the Chilean Office of International Economic Relations (DIRECON) sought to facilitate public participation. The Chilean experience is documented in a DIRECON Study of Lessons Learned, and as a developing country experience, provides a useful example.

The US and the EU also have extensive inter-departmental and inter-directorate consultation mechanisms in place which, while they might not serve as realistic models for developing countries due to their complexity and expense, secured several avenues for the integration of economic, social and environmental policy in the negotiations of the US-Chile FTA, and the EU-Chile AA. Similarly, in Canada major trade and investment policy decisions are made with full involvement of thirty federal departments, and even impact assessments are chaired by a Steering Committee of officials from many departments.

65 The EU hosts forums and events to inform and engage European civil society on trade issues during negotiations. For instance, on 12 October 2000, the European Commission (EC) hosted a conference in Brussels with representatives from the European civil society to exchange views on both the EU-Mercosur and the EU-Chile AA negotiations, focusing on how to improve consultation processes. The conference brought together different sectors of civil society including environmental organizations who planned to participate in the SIA, business and industry groups who planned a series of consultations through the Mercosur-EU Business Forum (MEBF), workers’ rights groups engaged through the European Confederation of Trade Unions (CES), and scientific institutes that had formed an academic ‘Groupe de Suivi’ network for the negotiations.

66 The US-Chile FTA specifies that the Panel may receive *amicus curiae* submissions, unless the Parties agree otherwise. In the EU-Chile AA Parties agreed to develop model rules of procedure so that the Panel shall consider requests from external stakeholders to provide written views and give the Parties an opportunity to respond.

to advance the reopening of a more just and sustainable world economy, proposing an explicit commitment to sustainability as a purpose of trade and investment law, proposed for through three key pathways increasingly considered in the World Trade Organization and already being piloted in the treaties surveyed, and supported *inter alia* by impact assessment and monitoring, inter-agency collaboration, transparency and public participation, more sustainable dispute settlement practices and other procedural innovations.

**Trade and investment law contributions to the Sustainable Development Goals**

Finally, new legal and policy scholarly analysis highlights that trade and investment rules can contribute to achieving the SDGs, offering examples of provisions from recent treaties which address SDGs such as eradicating poverty (SDG 1), ending hunger (SDG 2), and achieving gender equality (SDG 5), affordable and clean energy (SDG 7), decent work and economic growth (SDG 8) and innovation and infrastructure (SDG 9); to responsible consumption and production (SDG 12), climate action (SDG 13), protecting life below water (SDG 14) and life on land (SDG 15), as well as SDG 17, which underpins all other SDGs in calling for a global partnership for the SDGs, and directly addresses trade, investment and development cooperation priorities for sustainable development. There are several examples of trade and investment agreement provisions which if implemented, could support achievement of the SDGs directly.

**SDG 1: End poverty in all its forms everywhere**

In the first of the objectives of the 2009 EU-ESA Interim Economic Partnership Agreement, the Parties seek to contribute ‘to the reduction and eventual eradication of poverty through the establishment of a strengthened and strategic trade and development partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement’, thereby making specific reference to the predecessors of the SDGs. Such provisions in trade and development partnerships may facilitate implementation of target 1.A, which requires countries to ‘ensure significant mobilization of resources from a variety of sources, including through enhanced development cooperation, in order to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty’.

**SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture**

Countries’ targets towards advancing SDG 2 include, by 2030, to ensure access by all people to safe, nutritious and sufficient food at all times; end all forms of malnutrition; double agricultural productivity and incomes of small-scale food producers; ensure sustainable food production systems and implement resilient agricultural practices. With respect to genetic resources, States are asked to, by 2020, take measures to maintain genetic diversity of seeds, plants and animals, and promote access to fair and equitable benefit-sharing. Current economic agreements address a number of these targets.

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68 EU-ESA Interim EPA, art 2(a)
The 2016 CETA requires Parties to notify one another of significant food safety issues relating to products traded between the Parties, which is conducive to achieving target 2.1: ensuring ‘access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round.

**SDG 5: Achieve gender equality and empower all women and girls**

A number of economic agreements feature provisions that assist countries to ‘undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws’ (target 5.A), through, firstly, provisions encouraging gender equality in agriculture and fisheries industries, and second, provisions facilitating regional cooperation.

The 2009 China-Peru FTA asks for a ‘gender approach in development policies and strategies’ as part of the application of good agricultural and agro-industrial practices to promote sustainable rural development.

The 2009 EU-ESA Interim EPA's provisions on inland fisheries and aquaculture cooperation require socio-economic and poverty alleviation measures to encourage ‘participation of marginal groups in the fishing industry, for example, through the promotion of gender equality in fisheries by developing the capacity of women engaged in fisheries.’

**SDG 6: Ensure availability and sustainable management of water and sanitation for all**

In SDG 6, governments agreed to try, by 2030, to achieve universal and equitable access to safe and affordable drinking water for all, as well as universal access to sanitation and hygiene (paying special attention in this regard to the needs of women, girls and people in vulnerable situations); improve drinking water quality through reducing pollution and dumping; increase water-use efficiency across all sectors; and implement integrated water resources management at all levels.

The 2006 Chinese Taipei-Nicaragua FTA engages with the latter part of target 6.4, by providing that its programme of work (a programme to be developed to reflect the Parties’ priorities for cooperative activities), may include long- medium- and short-term activities relating to ‘facilitating technology development, transfer and training on protection, conservation and preservation of basins and water bodies’.

**SDG 7: Ensure access to affordable, reliable, sustainable and modern energy for all**

The 2008 EU-CARIFORUM EPA's articles on cooperation on eco-innovation and renewable energy firstly provide that the Parties recognize the importance of fostering forms of innovation that benefit the environment in all sectors of their economy, with such forms of ‘eco-innovation’ including energy efficiency and renewable forms of energy. Agreed areas of cooperation and support include ‘projects related to energy efficiency and renewable energy’ and ‘promotion of eco-innovation networks and clusters, including through public-private partnerships’, as well as various activities relating to information exchange, research and technical assistance. The 2009 Japan-Switzerland FTA encourages ‘trade and dissemination of

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69 CETA, art 5(11).
70 SDG 2, target 2.1.
71 China-Peru FTA, art 164.
72 EU-ESA Interim EPA, art 35.
73 Chinese Taipei-Nicaragua FTA.
74 EU-CARIFORUM EPA.
environmental products and environment-related services in order to facilitate access to technologies and products that support the environmental protection and development goals, such as sustainable promotion of renewable energy and climate-change-related goals. These provisions directly advance SDG 7 by promoting measures that increase the share of renewable energy in the global energy mix, and promoting improved energy efficiency.

**SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all**

SDG 8 requires that countries ‘sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7% gross domestic product growth per annum in the least developed countries’, and ‘achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value added and labour-intensive sectors’. The 2006 US-Colombia FTA chapter on labour provides a strong example of an agreement that facilitates protection of workers’ rights and ‘safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment’, whilst also promoting measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour.

In the 2019 USMCA, Parties are encouraged to seek to increase trade and investment opportunities for Small and Medium-sized Enterprises, strengthening collaboration on activities to promote SMEs owned by under-represented groups, including women, indigenous peoples, youth, and minorities, as well as start-ups, agricultural and rural SMEs. As part of efforts to build back better after the events of the global pandemic, the US and Canada have strengthened their resolve to address the disproportionate impacts of the pandemic on indigenous people through joint initiatives to accelerate economic recovery of SMEs, especially women-owned, minority-owned and indigenous-owned enterprises.

**Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation**

SDG 9 focuses on developing quality, reliable, sustainable and resilient infrastructure to support economic development and human wellbeing; promoting inclusive and sustainable industrialization, including by doubling the manufacturing industry’s share of employment and gross domestic product (GDP) in least developed countries (LDCs); increasing access of small-scale industrial and other enterprises to financial services; upgrading infrastructure and retrofitting industries to make them sustainable by 2030; and enhancing scientific research and technological capabilities of industrial sectors in all countries.

In the 2016 CETA, Parties agree to ‘endeavour to encourage, develop and facilitate cooperative activities on a reciprocal basis in support of, or supplementary to the Agreement for Scientific and Technological

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75 Japan-Switzerland FTA, art 9
76 SDG Target 8.1; SDG Target 8.2; SDG Target 8.10.
77 US-Colombia FTA; SDG Target 8.7; SDG Target 8.8
78 United States-Mexico-Canada Agreement
79 Adv Wayne Garnons-Williams, Expert Intervention (Leverhulme lecture on Crafting Trade and Investment Accords for Sustainable Development, Cambridge, United Kingdom, 2021)
80 Target 9.1; Target 9.2; Target 9.3; Target 9.4; Target 9.5
Cooperation between the European Community and Canada’. These activities are to be of mutual benefit to the Parties; and the Parties are to agree on their scope and parameters. Further, the activities should take into account ‘the important role of the private sector and research institutions in the development of science, technology, research and innovation, and the commercialization of goods and services thereof’.81

UNCITRAL is currently working on initiatives to ensure that the technological disruptions occurring in international transactions and international supply chains have a strong legal foundation. These disruptions have been encouraged because moving trade into the digital space has been a good way to respond to many of the challenges arising from a global pandemic. UNCITRAL is making sure that digital trade can work, and that the available legal infrastructure is put to its best use. They are also working to ensure that the digital transformation does not leave 75% of the world behind, but that it is equitable and inclusive of everyone. 82

SDG 12: Ensure sustainable consumption and production patterns
In SDG 12, governments agreed to implement programmes on sustainable consumption and production, with developed countries taking the lead; achieve the sustainable management and efficient use of natural resources by 2030; halve per capita global food waste; achieve environmentally sound management of chemicals and all wastes throughout their lifecycles by 2020; and substantially reduce waste generation. Countries are also to encourage companies—especially large and transnational companies—to adopt sustainable practices, and promote sustainable public procurement practices.83

The 2008 EU-CARIFORUM EPA’s articles on cooperation on eco-innovation and support ‘promotion of eco-innovation networks and clusters, including through public-private partnerships.’84

SDG 13: Take urgent action to combat climate change and its impacts
SDG 13 calls for countries to strengthen resilience and adaptive capacity to climate-related hazards and natural disasters, integrate climate change measures into national policies, strategies and planning and improve education, awareness raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning.85 A number of trade and investment agreements also engage with target 13.B, which requires countries to promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youths and local and marginalized communities.

In the 2012 EU-Colombia-Peru FTA, Parties agree to promote trade and investment measures that promote and facilitate access, dissemination and use of best available technologies for clean energy production and use, and for mitigation of and adaptation to climate change. Further, the agreement recognizes the importance of cooperating in activities such as those related to climate change adaptation and mitigation, including activities related to the reduction of emissions from deforestation and forest degradation (REDD) mechanism.86

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81 CETA, art 25.5.
82 Adv Anna Joubin-Bret, Expert Intervention (Leverhulme lecture on Crafting Trade and Investment Accords for Sustainable Development, Cambridge, United Kingdom, 2021)
83 Target 12.1; Target 12.2; Target 12.3; Target 12.4; Target 12.5; Target 12.6; Target 12.7.
84 EU-CARIFORUM EPA
85 Target 13.1; Target 13.2.
86 EU-Colombia-Peru FTA, art 275.
SDG 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Achieving sustainable use of ocean and marine resources under SDG 14 requires that countries sustainably manage and protect marine and coastal ecosystems, effectively regulate harvesting and end over-fishing and destructive fishing practices, implement science-based management plans to restore fish stocks, conserve areas of coastal and marine areas and prohibit certain forms of fisheries subsidies which contribute to overcapacity and over-fishing.87

The 2016 CETA's article on trade in fisheries and aquaculture concerns, within its chapter on trade and environment, similarly addresses illegal fishing and the need for cooperation with Regional Fisheries Management Organisations. Parties explicitly 'recognise the importance of the conservation and the sustainable and responsible management of fisheries and aquaculture and their contribution to providing environmental, economic and social opportunities for present and future generations'. As well as monitoring measures and cooperating to combat IUU fishing, the Parties also undertake to 'cooperate with, and where appropriate in, regional fisheries management organisations in which the Parties are either members, observers, or cooperating non-contracting parties, with the aim of achieving good governance, including by advocating for science-based decisions and for compliance with those decisions in these organisations', and to 'promote the development of an environmentally responsible and economically competitive aquaculture industry.'88

SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

SDG 15 requires that countries ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services; reduce degradation of natural habitats; halt biodiversity loss, and integrate ecosystem and biodiversity values into countries' planning and development processes and poverty-reduction strategies, calling on the international community to mobilise and significantly increase financial resources to conserve and sustain use of biodiversity and ecosystems.89

The 2009 EU-ESA Interim EPA provides one example of an agreement that considers diverse aspects of SDG 15, including biodiversity, environmental degradation, forestry management and desertification: the scope of its title on natural resources and environment in the Agreement's chapter on economic and development cooperation covers biodiversity, enhancing trade-environment linkages and supporting the implementation of international environmental agreements.90

A future agenda: Crafting trade and investment agreements for sustainable development

This paper concludes with concern, but also cautious optimism. It is an invitation for more sustainable international economic law and policymaking in the future, and for increased engagement in the design, negotiation and implementation of more sustainable trade and investment regimes. In bilateral and regional

87 Target 14.2; Target 14.4; Target 14.4; Target 14.5; Target 14.6.
88 CETA, art 24.11.
89 Target 15.1; Target 15.5; Target 15.9; Target 15.A.
90 EU-ESA Interim EPA chapter IV, title IV, art 49.
economic accords, States are testing many types of provisions related to sustainable development. This paper has classified them into four categories: a general commitment to sustainable development, and three sets of operational provisions, each of which involves the inclusion of diverse measures in the trade and investment treaty to address one of three main normative tensions which arose numerous times in the impact assessment studies carried out on the likely scenarios of outcomes of economic negotiations. It is not yet clear which of the range of sustainability instruments surveyed in this paper will have the most success in helping to integrate social and economic development and environmental protection. It is likely that no one single measure can provide ‘the solution’ to all trade- and investment- related sustainable development challenges. Rather, many different provisions may be needed, operating in concert throughout the treaty, in order to fully address potential impacts as they arise.

There is also room for a great deal of further development, especially in terms of ‘process’ innovations. For instance, sustainability impact assessments are being used with increasing frequency and effect. The normative or regulatory evaluation elements could benefit from more rigorous evaluation and development. Further legal research may be needed to monitor and propose improvements in State attempts to address regulatory elements in SIA and other processes. Other examples of process innovations include consultations between economic, environment and development authorities, mechanisms to ensure transparency and public participation in trade or investment negotiations or implementation (consultations, councils, forums), and mechanisms to inform trade and investment arbitration tribunals about sustainable development issues.

Future research can also focus on investigating the continuing elaboration of the rules governing the diverse forms of exception to trade and investment, as well as the actual implications and effects of new ‘sustainable or green growth’ initiatives in regional and global trade and investment treaty negotiations. By extension, it will also be necessary to monitor and ensure that such cooperative mechanisms as regional social and environmental institutions and work programmes are actually being implemented. Future research might examine, for instance, how regional trade and investment agreements are addressing specific priorities such as sustainable use of biological resources, nature-based solutions to climate change, sustainable development of renewable energy resources and carbon negative technologies.

Additional scholarship is needed, perhaps activating a similar framework to the one deployed in this paper based on related legal research,91 to analyse international investment treaties in greater depth, considering how States might address the potential social and environmental impacts of bilateral investment treaties (BITs), and what types of provisions could integrate social and environmental considerations into resulting international investment law, harnessing investment rules for more sustainable development.92

The rules which facilitate trade and investment could defend the interests of Hermes, Greek god of commerce and thieves, or learn to draw inspiration from Athena, goddess of justice, wisdom and the crafts.


It is hoped that this framework can serve as a useful tool for more sustainable international economic law and policymaking in the future. Ideally, elements of this paper’s findings might offer valuable insights, for instance, for the new Agreement on Climate Change, Trade and Sustainability (ACCTS) between Costa Rica, Fiji, Iceland, New Zealand and Norway, 93 or to ensure compatibility with the SDGs for recent trade and investment negotiations being led by the UK. 94 There is more to explore in how other treaties committed to sustainable development are activating trade, investment and other economic instruments to directly achieve their social or environmental goals, and how, at the areas of intersection with related trade rules, integrated outcomes can actually be secured on the ground, as well as in the law. Such future findings will be especially relevant in the context of post-COVID-19 pandemic recovery measures, as countries strive to revive their economies while simultaneously meeting their obligations under international law on sustainable development especially, for instance, under Article 6 of the Paris Agreement of the UN Framework Convention on Climate Change (UNFCCC). 95 It seeks to support open-minded actors from governments, academic experts, civil society and industry in the design, negotiation and implementation of more sustainable trade and investment regimes. More broadly, it is hoped that this research can contribute to a deeper understanding of trade and investment law, and its potential to foster not frustrate sustainable development.

94 Ibid
95 Ibid