



# SDG 13 ON TAKING ACTION ON CLIMATE CHANGE AND ITS IMPACTS

A Toolkit of Legal & Institutional Practices



Global Compact  
Network Canada

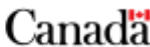


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# SDG 13 on Taking Action on Climate Change and its Impacts

## A Toolkit of Legal & Institutional Practices

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## About the Toolkit

CISDL, in cooperation with the Dalhousie Schulich School of Law, Balsillie School of International Affairs/University of Waterloo, McGill University Faculty of Law/ Faculté de droit Université de Montréal, University of Victoria Peter A. Allard School of Law, and a consortium of institutional partners, held a multisite symposium on March 14, 2019 convening legal experts across Canada to discuss areas of opportunity to inform Canada's 2030 agenda. This toolkit is a part of a series, which builds upon legal research conducted in collaboration with UN Environment. The by-projects of this research looking at legal measures for achievement of the SDGs in Canada is intended to inform policy-making moving forward.

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# List of Abbreviations and Acronyms

CBD	Convention on Biological Diversity
CEAA	Canadian Environmental Assessment Act
COP	Conference of the Parties
EU	European Union
GHG	Greenhouse Gases
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDG	Millennium Development Goals
NDC	Nationally Determined Contribution under the Paris Agreement
PAWP	Paris Agreement Work Programme
RTA	Regional Trade Agreement
SDG	Sustainable Development Goals
SFDRR	Sendai Framework for Disaster Risk Reduction 2015-2030
UNCCD	<i>United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa</i>
UNFCCC	<i>United Nations Framework Convention on Climate Change</i>

# I. Introduction

## SDG 13: An Opportunity to Strengthen Engagement, Innovation and Action on Climate Change in Canada

Climate change has risen to the top of the social and, in many jurisdictions, the political agenda in recent years. Following the passage and rapid entry into force of the Paris Agreement,<sup>1</sup> and the intensely sobering conclusions provided by the Intergovernmental Panel on Climate Change (IPCC) in its 1.5°C report stressing that failure to halt global temperature rise could result in increased cases of extreme heat, biodiversity loss, and destruction of coral reefs globally,<sup>2</sup> calls for enhanced climate action shifted in urgency and resolve. This groundswelling of pressure for more ambitious action is epitomized in many ways by the spread of global climate strikes and youth marches calls for enhanced climate action shifted in urgency and resolve. This groundswelling of pressure for more ambitious action is epitomized in many ways by the spread of global climate strikes and youth marches.

This Toolkit focuses Sustainable Development Goal 13 (SDG 13 Climate), which commits to take “urgent action to combat climate change and its impacts”, emphasizing the globally agreed upon need to mitigate anthropogenic greenhouse gas emissions and to adapt to the damages caused by climate change, while acknowledging that the “United Nations Framework Convention on Climate Change (UNFCCC) is the primary international, intergovernmental forum for negotiating the global response to climate change.” Specifically the Toolkit highlights potential contributions of law and policy instruments in delivering targets 13.1-13.3, as is reflective of Canada’s national and international commitments and role as a leader in climate change action.<sup>3</sup>

### Structure of the Toolkit

The Toolkit provides a cursory survey of principal national and international law, policy and governance measures that have the potential to contribute to realizing SDG 13. It considers options for legal and policy preparedness, notes potential for mainstreaming and more integrated implementation at the international and national levels, and offers some recommendations to deal with these issues.

The Toolkit is separated into four sections and additional reference materials:

- **Introduction** offers brief background to the issues, the structure of the Toolkit, and an overview of the intended audience.
- **Legal Innovations & Practices from Across Canada to Achieve SDG 13** provides an initial survey of federal, provincial, and territorial approaches which support achievement of specific targets under the SDG.

<sup>1</sup> UNFCCC, “Decision CP.21: Adoption of the Paris Agreement” FCCC/CP/2015/L.9/Rev.1, <<https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>> [Paris Agreement]; Marie-Claire Cordonier Segger, “Advancing the Paris Agreement on Climate Change for Sustainable Development” (2017) Cambridge Journal of International and Comparative Law Vol 5 / 2, p202

<sup>2</sup> IPCC, *Global Warming of 1.5°C* (Incheon, South Korea: IPCC, 2018) at C.2.3, D7, D7.1–7.2, online: <[http://report.ipcc.ch/sr15/pdf/sr15\\_spm\\_final.pdf](http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf)>.

<sup>3</sup> *Transforming our World: The 2030 Agenda for Sustainable Development*, UN Doc A/RES/70/1. [Transforming our World]

- **International Legal Dimensions of SDG 13** highlighting legal obligations under international instruments related to biodiversity.
- **Legal Preparedness for Achieving SDG 13** with Canadians summarizes findings and provides mechanisms for enhancing efforts across all levels of government.
- **Recommended Resources** provides a brief list of resources which could supplement information provided.
- **Annex I: Domestic Legal Instruments: Overview Table** provides a single reference table which includes all of the domestic laws identified separated by SDG target.
- **Annex II: About the Project** summarizes the project, key partners, and goals.

The analysis suggests that the SDG 13 targets are supported by international environmental governance systems and legal measures, including multilateral environmental agreements (MEAs), as well as Canadian domestic instruments and institutions which provide pre-existing pathways to support national implementation. While law and governance mechanisms which support achievement of the SDG 13 have been identified, there remain significant areas of opportunity to promote greater policy cohesion, refinement, scaling up of ambition, and engagement with civil society actors. This project, in collaboration Economic and Social Development Canada (ESDC), as well as law schools and research networks across the country, identifies current pathways that provide for the achievement of SDG 13 in Canada.

## Reference Guide



Key Aspects

Summarizes principal takeaways from the legislation. Emphasizes the elements exemplified by the approach.



SDG Targets

Identifies the SDG targets which the legislative approach may be used to implement.



Jurisdiction

Indicates the jurisdiction of the legislation.

The above icons are used throughout the report to provide guidance on aspects of the legislative approach highlighted with align with specific needs of users of this toolkit.

## Target Audience

Sustainable development as a crosscutting policy goal requires engagement of law and governance authorities at all levels. This Toolkit has a target audience of law and governance professionals at the federal, provincial, and territorial levels, as well as Aboriginal communities, and local and municipal authorities, who seek to engage in and influence debate. In addition, the Toolkit acts as a valuable resource for non-governmental organization (NGOs) and other members of civil society who are seeking to understand and identify options to inform decision makers within their constituencies. Lastly, the Toolkit aims to support legal professionals, members of the judiciary, law professors, and students seeking to gain insights on the role played by law and governance institutions in supporting achievement of SDG 13.

## SDG 13: Catalyzing action and increased ambition on climate change

### SDG 13 – Take Urgent Action to Combat Climate Change

\*Acknowledging that the United Nations Framework Convention on Climate Change is the primary international, intergovernmental forum for negotiating the global response to climate change.

13.1 Strengthen resilience and adaptive capacity to climate related hazards and natural disasters in all countries

13.2 Integrate climate change measures into national policies, strategies, and planning

13.3 Improve education, awareness raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction, and early warning

13.a Implement the commitment undertaken by developed country Parties to the UNFCCC to a goal of mobilizing jointly USD100 billion annually by 2020 from all sources to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible

13.b Promote mechanisms for raising capacities for effective climate change related planning and management, in LDCs, including focusing on women, youth, local and marginalized communities

## II. Legal Innovations & Practices from Across Canada to Achieve SDG 13

In 2016, the *Pan-Canadian Framework on Clean Growth and Climate Change* was announced.<sup>4</sup> Aimed at fueling green growth while fulfilling Canada's 2030 targets, encapsulated in the Nationally Determined Contribution (NDC), of a 30 percent reduction in emissions below 2005 levels,<sup>5</sup> the *Framework* is grounded on four pillars: (i) carbon pricing to encourage a reduction in pollution, (ii) complementary actions which remove barriers and enhance ambition, (iii) adaption and building of resilience in infrastructure and communities, and (iv) fostering development of clean technology, innovation and green jobs.<sup>6</sup> Given both the nature of climate change as a multi-dimensional challenge, and the federalist system in place in Canada whereby aspects of governance authority are split between the federal, provincial, and territorial, government, as well as aboriginal authorities, collaboration across all levels government is crucial to driving reductions of GHG emissions nationally. Governance powers to pass laws relating to the environment are split between the federal, provincial and territorial governments. Federal powers include fisheries, shipping, interprovincial

<sup>4</sup> Canada, "Pan-Canadian Framework on Clean Growth and Climate Change" (2016) online <[http://publications.gc.ca/collections/collection\\_2017/eccc/En4-294-2016-eng.pdf](http://publications.gc.ca/collections/collection_2017/eccc/En4-294-2016-eng.pdf)> [Pan-Canadian Framework]

<sup>5</sup> Canada, "Nationally Determined Contribution" (2015), online:

<<https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Canada%20First/INDC%20-%20Canada%20-%20English.pdf>>.

<sup>6</sup> Pan-Canadian Framework, *supra* note 3, at 2-3.



trade and commerce, and criminal law, as well as residuary legislative powers relating to “Peace, Order and Good Governance in Canada.” While provincial/territorial powers derive from environmental issues of a local nature, with most natural resources owned by provincial and territorial authorities.<sup>7</sup> This section will explore approaches to achieve SDG 13 at the federal, provincial and territorial level.

## Federal

### ***International Financial Assistance Act*** **Support mechanism for climate change related activities by Crown Corporations**


The Canadian *International Financial Assistance Act* puts in place a mechanism to provide international assistance by way of sovereign loans for acquiring, holding, or disposing of a security interest.<sup>8</sup> A dedicated program on climate change is included in this mechanism in order to promote mitigation and adaptation efforts through acquiring, holding, assigning, exchanging or disposing, either directly or indirectly, of shares by a Crown Corporation.<sup>9</sup> This mechanism aims to assist in mobilizing mitigation and adaptation efforts internationally in support of SDG 13.1.

 **SDG 13.1.**

 **Federal**

### ***Emission Reduction Incentives Agency Act*** **Institutional approach for engagement and incentivization of emission reductions**

Through the *Emission Reduction Incentives Agency Act* of 2005, Canada created an agency to provide incentives for the reduction or removal of greenhouse gas (GHG) emissions through the issuance of credits based on verification of reductions under the Kyoto framework.<sup>10</sup> An advisory board was also created to advise on the types of projects which would provide reductions and advance national competitiveness, and market conditions for carbon offset credits.<sup>11</sup> Creation of institutional mechanisms to incentivize climate adaptation and mitigation, and to provide strategic guidance on projects, outcomes, and market factors strengthens domestic resilience and adaptive capacity, along with integrating climate factors into decision making at all levels in line with SDG 13.1 and 13.2.

 **SDG 13.1, SDG 13.2.**

 **Federal**

<sup>7</sup> For further discussion see: Peter W. Hogg, *Constitutional Law of Canada*, 5th Edition (Scarborough, ON: Thomson Carswell, 2007).

<sup>8</sup> *International Financial Assistance Act*, SC 2018, c 27, s 659(5), Sec 3-4. [Canada IFFA]

<sup>9</sup> *Ibid*, Canada IFFA, Sec 5.

<sup>10</sup> *Canada Emission Reduction Incentives Agency Act*, SC 2005, c 30, s 87, Sec 4, 6. [Canada ERIAA]

<sup>11</sup> *Ibid*, Canada ERIAA, Sec 12.

## ***Canadian Environmental Assessment Act*** **Evaluation of projects for environmental impacts, potential to consider climate-related project impacts**

The 2012 *Canadian Environmental Assessment Act*, which replaced a preexisting framework, provides that designated projects, which require federal approval or as designated by a Minister, are subject to an environmental assessment requirement prior to implementation.<sup>12</sup> Environmental assessments are intended to consider, among other factors direct, indirect, accidental and cumulative environmental impacts and their significance, public comments, mitigation measures or alternative means to carry out the project, and findings of experts.<sup>13</sup> Efforts are underway to update the factors considered in the assessment process. Bill C-69, which makes amendments to the federal impact assessment framework, proposes additional factors including impacts on rights of indigenous people, contributions of the project to sustainability, and the extent to which the project supports the ability of Canada to reach of climate change commitments.<sup>14</sup> Following first and second readings in Parliament, Bill C-69 was referred to committee in December 2018.<sup>15</sup> These proposed reforms are a progression of the CEAA showing the potential for adaptation to the needs of Canadian communities in the future,<sup>16</sup> and providing support for SDG 13.2 through assessment factors and SDG 13.3 through public consultations in the CEAA framework as a whole.



**SDG 13.2, SDG 13.3.**



**Federal**

## ***Greenhouse Gas Pollution Pricing Act*** **Federal framework for carbon pricing**

Building on the momentum following the Paris Agreement, Canada put forward the *Pan-Canadian Framework on Clean Growth and Climate Change*, which provides a structural pathway to a low carbon economy.<sup>17</sup> A core component of the framework rests on establishing a price for carbon.<sup>18</sup>

In 2018, the *Greenhouse Gas Pollution Pricing Act* was introduced, creating a federal backstop on carbon pricing to assist in the achievement of Canada's commitments under the Paris Agreement.<sup>19</sup> Fossil fuel and combustible waste producers, distributors, and importers in provinces and territories which do not have their own legislation must register and provide monthly reporting.<sup>20</sup> Taxes are calculated based on a usage or output based model with designated fees set in the

<sup>12</sup> Canadian Environmental Assessment Act 2012, SC 2012, c 19, Sec 13-14. [CEAA]

<sup>13</sup> *Ibid*, CEAA, Sec 19, 52.

<sup>14</sup> House of Commons of Canada, Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, Third Reading (20 June 2018), Sec 22, online: <[www.parl.ca/DocumentViewer/en/42-1/bill/C-69/third-reading](http://www.parl.ca/DocumentViewer/en/42-1/bill/C-69/third-reading)>.

<sup>15</sup> Parliament of Canada, House Government Bill: C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts (Status Overview), online: <[www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=9630600&View=0](http://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=9630600&View=0)>.

<sup>16</sup> Meinhard Doelle, & A. John Sinclair, "The New Federal Impact Assessment Act in Canada: Delivering on Reform Expectations?" Working Paper (November 25, 2018), online: <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3290255](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3290255)>.

<sup>17</sup> Canada, Pan-Canadian Framework on Clean Growth and Climate Change (2016), online: <[www.canada.ca/content/dam/themes/environment/documents/weather1/20170125-en.pdf](http://www.canada.ca/content/dam/themes/environment/documents/weather1/20170125-en.pdf)>. [PCF]

<sup>18</sup> *Ibid*, PCF, 6-7.

<sup>19</sup> Greenhouse Gas Pollution Pricing Act, S.C. 2018, c. 12, s. 186, preamble. [GHG PPA]

<sup>20</sup> *Ibid*, GHG PPA, Sec 41, 55-63, 68, 168, 171, 174,

attached Schedules.<sup>21</sup> Applicable fees progressively increase annually, as does the cost of CO<sub>2</sub> emissions, which are set to increase from \$10/tonne in 2018 to \$50/tonne by 2022.<sup>22</sup> Adoption of a policy vision buttressed by a recently refined legislative framework which more accurately integrates climate change into domestic decision-making supports the entirety of SDG 13. Canada has also deposited \$168 million (CAD) into the Green Climate Fund, with an additional \$133 million committed.<sup>23</sup> Support for global initiatives specifically supports SDG 13.a and 13.b.

 **SDG 13.1, SDG13.2, SDG 13.3, SDG 13.a, SDG 13.b.**

 **Federal**

## Provincial and Territorial Laws

At the subnational level exist several examples which support achievement of specific targets under SDG 13 in differing ways. SDG 13 on climate is structured on four core pillars: resilience and adaptive capacity, policy planning, education and capacity building, and financial and technical support. These pillars can be seen in a number of Canadian provincial laws and rules as well as at the federal level. Often there are significant interfaces and points of convergence across multiple SDGs within these laws since the legal instrument is mutually reinforcing of a range of targets, as opposed to any individual target. While each instrument is presented as fulfilling a particular SDG target, these intersections are identified to highlight the mutually supportive nature of the law and governance approach profiled.

### *13.1 Strengthen resilience and adaptive capacity to climate related hazards and natural disasters in all countries*

#### ***Environmental Management Act***

 **Framework for policy development, planning, and environmental management**

In the *Environmental Management Act*, British Columbia establishes provincial institutional and structural capacities to respond to climate change.<sup>24</sup> Ministerial authority is defined as oversight relating to management, protection and enhancement of the environment including: (a) planning, research and investigation in relation to the environment; (b) development of policies for the management, protection and use of the environment; (c) planning, design, construction, operation and maintenance of works and undertakings for the management, protection or enhancement of the environment; (d) providing information to the public about the quality and use of the environment; (e) preparing and publishing policies, strategies, objectives, guidelines and standards for the protection and management of the environment; (f) preparing and publishing environmental

<sup>21</sup> *Ibid*, GHG PPA, Sec 166, 168, 174.

<sup>22</sup> *Ibid*, GHG PPA, Schedule 4.

<sup>23</sup> Green Climate Fund, Status of Pledges and Contributions made to the Green Climate Fund, (24 January 2019), online: <[www.greenclimate.fund/documents/20182/24868/Status\\_of\\_Pledges.pdf/eef538d3-2987-4659-8c7c-5566ed6afd19](http://www.greenclimate.fund/documents/20182/24868/Status_of_Pledges.pdf/eef538d3-2987-4659-8c7c-5566ed6afd19)>

<sup>24</sup> Environmental Management Act, SBC 2003, c 53. [BC EMA]

management plans for specific areas of British Columbia which may include, but need not be limited to, measures with respect to the following: (i) flood control, flood hazard management and development of land that is subject to flooding; (ii) drainage; (iii) soil conservation; (iv) water resource management; (v) fisheries and aquatic life management; (vi) wildlife management; (vii) waste management; and (viii) air management.<sup>25</sup> Institutional approaches are critical to effective coordination of climate change policies and enhancement of resilience and adaptive capacity in line with the core aspects of SDG 13.1.



**SDG 13.1.**



**British Columbia**

### *Environmental Quality Act*



**Consideration of climate change factors when assessing environmental impacts**

Similarly, Quebec adopted an institutional approach to strengthened climate resilience through the *Environmental Quality Act*.<sup>26</sup> When assessing the environmental impacts of a project the Minister is expected to take into account climate change risks and anticipated adaptation measures, with the Minister granted discretion to recommend an environmental impact assessment for any work, activity or operation which involves major environmental or climate change issues.<sup>27</sup> Decisions relating to water usage and withdrawal are to be informed by the precautionary principle, the effects of climate change on the proposed usage or withdrawal, and aiming to reconcile factors relating to protection of aquatic ecosystems, competing commercial needs (i.e. agriculture, aquaculture, energy production, and tourism), and availability of water over the short, medium, and long-term.<sup>28</sup> Specific conservation measures may be adopted for key aquatic systems (i.e. the Great Lakes-St. Lawrence River Basin) to ensure efficient use or water access in light of the cumulative impacts of climate change on the ecosystem.<sup>29</sup>

Regulatory powers over GHG emissions are established, with the Minister required to prepare a multiyear climate change action plan with annual progress reporting, setting of GHG emission reduction targets based on a 1990 baseline, and putting in place a cap-and-trade system.<sup>30</sup> Regulations may also be developed to promote the reduction of GHG emissions through the creation of climate change impact mitigation and adaptation measures.<sup>31</sup> Systemic approaches which integrate climate change into a broad range of decision-making functions, including long-term usage of natural resources, supports adaptive capacity and strengthens resilience in accordance with SDG 13.1 and 13.2.



**SDG 13.1, SDG 13.2.**



**Quebec**

<sup>25</sup> *Ibid*, BC EMA, Sec 5.

<sup>26</sup> Loi sur la qualité de l'environnement, RLRQ c Q-2. [QC Environmental Quality Act]

<sup>27</sup> *Ibid*, QC Environmental Quality Act, Sec 24-25, 31.1, 31.1.1.

<sup>28</sup> *Ibid*, QC Environmental Quality Act, Sec 31.76.

<sup>29</sup> *Ibid*, QC Environmental Quality Act, Sec 31.101-102.


<sup>30</sup> *Ibid*, QC Environmental Quality Act, Sec 46.1-5, 46.18.

<sup>31</sup> *Ibid*, QC Environmental Quality Act, Sec 95.1(29).

***Red River Floodway Act / Emergency Measures Amendment and Consequential Amendments Act***  Preparation for environmental disasters, coordination and processing of claims

An additional aspect of adaptive capacity is preparation for environmental disasters which can be exacerbated by climate change. Manitoba established *The Red River Floodway Act* to address flood preparation and restoration efforts, establish a flood-loss recovery scheme, put in place emergency management powers, and set analysis and reporting guidelines for flood modeling.<sup>32</sup>

In addition, under the terms of *The Emergency Measures Amendment and Consequential Amendments Act*, the Manitoba Emergency Management Organization was created to coordinate and implement disaster assistance, develop and maintain emergency preparedness plans and programs, and process all claims for damage.<sup>33</sup> A further set of factors underpinning adaptive capacity is research and conservation grounded in an integrated ecosystem approach governing ecosystem interactions as a continuous whole.

 SDG 13.1, SDG 13.2.

 Manitoba

***Mackenzie River Basin Agreements Act***  Institutional arrangement for disaster management and resource governance

The Yukon *Mackenzie River Basin Agreements Act* provides for the establishment of agreements with federal and provincial authorities relating to study and use of water resources from the river basin, including research, conservation, development, usage, regulation and control of water quality, and the creation and operation of intergovernmental committees.<sup>34</sup> Creation of institutional capacity for disaster management and governance of resources through an integrated ecosystem approach supports achievement of SDG 13.1 on climate resilience and resistance.

 SDG 13.1.

 Yukon

<sup>32</sup> The Red River Floodway Act, SM 2004, c 18, Sec 2-3, 8-10.

<sup>33</sup> The Emergency Measures Amendment and Consequential Amendments Act, SM 1997, c 28, Sec 2.

<sup>34</sup> Mackenzie River Basin Agreements Act, RSY 2002, c 144.

## 13.2 Integrate climate change measures into national policies, strategies, and planning

### *Climate Change Accountability Act* / Carbon pricing and rebates as components of a broader framework *Carbon Tax Act*

The legislative framework on climate change in British Columbia is comprised of 17 instruments encompassing all aspects of governance including, industrial reporting, energy production and use, emission, building codes and fuel standards. During the 2007 – 2008 legislative session, British Columbia passed the *Climate Change Accountability Act*, setting GHG emission reduction targets (40% below 2007 level by 2030, 60% by 2040, and 80% by 2050) and establishing the goal of a carbon neutral public sector,<sup>35</sup> coupled with the *Carbon Tax Act*, setting in place a provincial carbon tax on the purchase, use, transfer, and combustion of fuel, and establishing credit schemes and sets offenses and penalties.<sup>36</sup> For 2018, the carbon tax was \$35/tonne with an annual increase reaching \$50/tonne in 2021,<sup>37</sup> but also with a tax credit (\$135 per adult, \$40 per child) to help subsidize rising costs.<sup>38</sup>

These measures work in concert as a component of a broader framework including: a cap-and-trade system for industrial emissions,<sup>39</sup> prioritization of renewable energy and low carbon-fuel promotion,<sup>40</sup> refinements in waste management to reduce emissions and support bioenergy production,<sup>41</sup> vehicle emissions standards,<sup>42</sup> promotion of action by local governments,<sup>43</sup> and introduction of energy efficiency standards for buildings (“Solar Hot Water Ready”) and appliances.<sup>44</sup> This highlights the various legal pathways which are mutually supportive of SDG 13.2.

 SDG 15.2, SDG 15.5, SDG 15.8.

 British Columbia

<sup>35</sup> Climate Change Accountability Act, SBC 2007, Ch 42, Sec 2-6; Carbon Neutral Government Regulation, B.C. Reg. 392/2008.

<sup>36</sup> Carbon Tax Act, SBC 2008, Ch. 40, Sec 8-13.1, 14-14.3, 75-81 [BC CTA]; Carbon Tax Regulation, B.C. Reg. 125/2008.

<sup>37</sup> *Ibid*, BC CTA, Schedule 1-2.

<sup>38</sup> BC, “British Columbia’s Carbon Tax” Province of British Columbia, online: <[www2.gov.bc.ca/gov/content/environment/climate-change/planning-and-action/carbon-tax](http://www2.gov.bc.ca/gov/content/environment/climate-change/planning-and-action/carbon-tax)>.

<sup>39</sup> Greenhouse Gas Industrial Reporting and Control Act (GGIRCA), SBC 2014, Ch 29; Greenhouse Gas Emission Reporting Regulation, B.C. Reg. 249/2015; Greenhouse Gas Emission Control Regulation, B.C. Reg. 250/2015; Greenhouse Gas Emission Administrative Penalties and Appeals Regulation, B.C. Reg. 248/2015

<sup>40</sup> Clean Energy Act, SBC 2010, Ch 22; Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act, SBC 2008, Ch 16.

<sup>41</sup> Greenhouse Gas Reduction (Emissions Standards) Statutes Amendment Act, Bill 31 – 2008 (21 May 2008), online: <[www.leg.bc.ca/pages/bclass-legacy.aspx#/content/legacy/web/38th4th/3rd\\_read/gov31-3.htm](http://www.leg.bc.ca/pages/bclass-legacy.aspx#/content/legacy/web/38th4th/3rd_read/gov31-3.htm)>.

<sup>42</sup> Greenhouse Gas Reduction (Vehicle Emissions Standards) Act, SBC 2008, Ch 21.

<sup>43</sup> Local Government (Green Communities) Statutes Amendment Act, (22 May 2008), online: <[www.leg.bc.ca/pages/bclass-legacy.aspx#/content/legacy/web/38th4th/3rd\\_read/gov27-3.htm](http://www.leg.bc.ca/pages/bclass-legacy.aspx#/content/legacy/web/38th4th/3rd_read/gov27-3.htm)>

<sup>44</sup> Energy Efficiency Act, SBC 1996, Ch 14; BC Building Code Revision Package 2015 (version 1.01), online: <[www.bccodes.ca/BCBC\\_Update\\_01.16.pdf](http://www.bccodes.ca/BCBC_Update_01.16.pdf)>; See: 9.36.3.11, 9.36.4.3.

***Climate Leadership Act*****Carbon levy and conservation fund**

Alberta, through the 2017 *Climate Leadership Act*, applied a carbon levy to a range of fuels (locomotive diesel, aviation gas and jet fuel, and raw gas and natural gas) and set out requirements for the remittance, refund and recovery of the carbon levy along with administrative matters such as record-keeping and reporting.<sup>45</sup> Since many of these costs are passed on to consumers, with eligible households receiving a full or partial rebate.<sup>46</sup> Integration of climate change into subnational instruments in support of SDG 13.2 is possible, as demonstrated in this example, but requires a tailored approach responsive to the preexisting legislative framework.



SDG 13.2, SDG 13.a.



Alberta

*13.3 Improve education, awareness raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction, and early warning*

***Environmental Bill of Rights / Ontario Securities Act*****Central coordination group and flood response planning**

A further aspect which is critical to climate change readiness is increased awareness, education and institutional capacity for adaptation, mitigation and early assessment as encapsulated in SDG 13.3. The *Environmental Bill of Rights* in Ontario provides that the Minister will support environmental educational programs and establishes a registry which lists all environmental decisions for public comment, thereby entrenching public participation in environmental decisions.<sup>47</sup> In addition, Part XVIII of the *Ontario Securities Act* requires that reporting issuers continually disclose material changes to shareholders, in practice meaning any alteration to an asset.<sup>48</sup> As indicated by the UN's Task Force on Climate-Related Financial Disclosures, climate change will have a profound effect on future assets, and therefore corporations must continually disclose to shareholders any material changes resulting from adaptation or mitigation efforts.<sup>49</sup>

<sup>45</sup> Climate Leadership Act, SA 2016, c C-16.9, Sec 4; Climate Leadership Regulation, AB Reg 175/2016, Sec 2-6, 24, 27-29, 33-35.

<sup>46</sup> Government of Alberta, "Carbon Levy and Rebates" online: <[www.alberta.ca/climate-carbon-pricing.aspx](http://www.alberta.ca/climate-carbon-pricing.aspx)>

<sup>47</sup> Environmental Bill of Rights, SO 1993, Ch 28, Sec 2.1, 5.

<sup>48</sup> Securities Act, RSO 1990, Ch S.5, Sec 75-86.

<sup>49</sup> Task Force on Climate-related Financial Disclosures, Recommendations of the Task Force on Climate-related Financial Disclosures, Final Report (June 2017), online: <[www.fsb-tcf.org/wp-content/uploads/2017/06/FINAL-2017-TCFD-Report-11052018.pdf](http://www.fsb-tcf.org/wp-content/uploads/2017/06/FINAL-2017-TCFD-Report-11052018.pdf)>; Jaray Zhao, "Trends in Environmental Social Governance," Norton Rose Fulbright Special Situations in Law (2018), online: <[www.specialsituationslaw.com/2018/01/18/trends-in-environmental-social-governance/?utm\\_source=Mondaq&utm\\_medium=syndication&utm\\_campaign=View-Original](http://www.specialsituationslaw.com/2018/01/18/trends-in-environmental-social-governance/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original)>.

Modalities for public participation and transparency of climate risks to financial assets helps increase awareness and engagement with climate related issues in furtherance of SDG 13.3.



SDG 13.2, SDG 13.3.



Ontario

*13.a Implement the commitment undertaken by developed country Parties to the UNFCCC to a goal of mobilizing jointly USD 100 billion annually by 2020 from all sources to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible*

*13.b Promote mechanisms for raising capacities for effective climate change related planning and management, in LDCs, including focusing on women, youth, local and marginalized communities*

### ***Environmental Quality Act***



**Green Fund for conservation, emissions reductions and mainstreaming**

Quebec has also used a cap-and-trade system,<sup>50</sup> while adopting a multifaceted approach including the establishment of the Ministry of Sustainable Development, Environment and Parks (as of 2018 referred to as the Department of the Environment and Climate Change).<sup>51</sup> The Ministry is responsible for policy development relating to ecosystem protection, prevention of pollution to water, air, and soil, establishment of protected areas, measures to protect vulnerable species, and sharing of environmental knowledge,<sup>52</sup> with a Green Fund created to support conservation of ecosystems, emission reductions, mitigation and adaptation measures, public awareness campaigns, and to finance Québec's participation in relevant international partnerships.<sup>53</sup> Inclusion of a funding mechanism to support the furtherance of emissions reductions, adaptation and mitigation efforts, and public awareness and capacity localizes the functional aspects of SDG 13.a and 13.b.



SDG 13.1, SDG 13.2, SDG 13.a, SDG 13.b.



Quebec

<sup>50</sup> Règlement concernant le système de plafonnement et d'échange de droits d'émission de gaz à effet de serre, RLRQ c Q-2, r 46.1. [Regulation respecting the cap-and-trade system for greenhouse gas emission allowances]

<sup>51</sup> Loi sur le ministère du Développement durable, de l'Environnement et des Parcs, RLRQ c M-30.001 [QC MSDEPA]; Decree 1280-2018 of October 18, 2018, (2018) 150 GO 2, 7380.

<sup>52</sup> *Ibid*, QC MSDEPA, Sec 10-11.1.

<sup>53</sup> *Ibid*, QC MSDEPA, Sec 15.4; QC Environmental Quality Act, *supra* note 25, Sec 46.16.





## III. International Legal Dimensions of SDG 13

As acknowledged in SDG 13, the UNFCCC is recognized as the primary international, intergovernmental forum for negotiating the global response to climate change in a manner that some experts explain as “separat[ing] the UN’s legal process to address climate change from the UN’s voluntary process to address sustainable development.”<sup>54</sup> Leading research emphasizes in the context of realizing targets under SDG 13 through mutually supportive implementation of a breadth of international instruments allowing for the establishment of effective governance measures.<sup>55</sup> The Paris Agreement reinforces each of the SDG 13 targets, and its success hinges on the design of effective policy, governance and other measures for implementation on all levels.<sup>56</sup>

SDG 13 is strengthened by harmonizing cooperation among the international community and related stakeholders, including through the provision of adequate financial resources to developing countries. Developing climate change measures at the subnational level which leverage complementarity and are mutually supportive of national efforts is an important factor to the realization of SDG 13. Canada is a Party to many of these agreements, providing areas of opportunity to further domestic opportunity. For the purpose of this Toolkit, focus is placed on how the MEAs related to climate change provide a primary trigger to further strengthen governance, law and policy.

**Table 1: Relevant International Agreements**

<p>The United Nations Framework Convention on Climate Change (UNFCCC)</p> <p>The Paris Agreement to the United Nations Framework Convention on Climate Change</p> <p>The Convention on Biological Diversity (CBD)</p> <p>The Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)</p> <p>The United Nations Convention to Combat Desertification in Those Countries Experiencing Drought and/or Desertification, Particularly in Africa (UNCCD)</p> <p>The Sendai Framework for Disaster Risk Reduction 2015-2030 (SFDRR)</p> <p>International Covenant on Economic, Social and Cultural Rights (ICESCR)</p> <p><i>Special Note:</i> Inclusion in Regional Trade Agreements*</p> <p>The Canada-European Union (EU) Comprehensive Economic and Trade Agreement (CETA)</p> <p>EU-Japan Economic Partnership Agreement</p>
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<sup>54</sup> Ilan Kelman, “Climate Change and the Sendai Framework for Disaster Risk Reduction” (2015) 6:2 Int J Disaster Risk Sci 117 at 118.

<sup>55</sup> This section of the toolkit draws upon research previously conducted through a collaboration of CISDL and UNEP. See: Katherine Lofts, Sharawat Shamin, Sharaban Tahura Zaman & Robert Kibugi, “SDG 13 on Taking Action on Climate Change and its Impacts: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

<sup>56</sup> Paris Agreement, *supra* note 4.

## ***United Nations Framework Convention on Climate Change*** **International agreement for governance of climate change**

The key international law instruments in support of SDG 13 are the 1992 United Nations Framework Convention on Climate Change (UNFCCC), its 1997 Kyoto Protocol and its 2015 Paris Agreement. The UNFCCC acknowledges that “the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions.”<sup>57</sup> The “ultimate objective” of the UNFCCC echoes the overall sustainability aim of SDG 13, particularly the priority placed on integrating climate change measures into national policies, strategies, and planning.<sup>58</sup> A body of governance mechanisms, including subsequent practice and policy, has built up surrounding decisions of Conference/Meeting of Parties that are either binding or constitute soft law, and contribute to the interpretation of international law on climate change.

The UNFCCC reiterates the responsibility of Parties to “protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.”<sup>59</sup> Accordingly, it recognizes that developed country Parties should take the lead in combating climate change and the adverse effects thereof. With respect to the protection of the climate system, and to the stabilization of greenhouse gas concentrations, both the UNFCCC and SDG 13 find a common interface within the goal to strengthen resilience and adaptive capacity. Indeed, many of the outputs required by developing countries in pursuit of sustainable development include framing and implementing climate change interventions, such as enhancing resilience and building adaptive capacity, which may require both financial and technological inputs. In this respect, reinforced collaboration to support developing countries in special circumstances may be assisted by the now-global recognition of formal policy linkages between climate change and sustainable development, as evident in both the UNFCCC and SDG 13.

In support of SDG 13.2 regarding integration, Article 4.1(f) of the UNFCCC urges all Parties to the Convention to mainstream climate change considerations in their policies, laws and institutions.<sup>60</sup> Corresponding guidelines and plans have been developed through UNFCCC Conference of the Parties (COP) Resolutions, and related provisions are found in the Paris Agreement.<sup>61</sup> As such, for example, review procedures which track efforts to reduce carbon footprints or save energy across economic sectors will support both UNFCCC implementation, and SDG 13.2. UNFCCC Article 4.2

<sup>57</sup> *United Nations Framework Convention on Climate Change*, 9 May 1992, 31 ILM 849 (entered into force 21 March 1994) [“UNFCCC”] at Preamble, Para. 6.

<sup>58</sup> *Ibid.* at Art. 2. To achieve “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.”

<sup>59</sup> *Ibid.* at Art. 3.1.

<sup>60</sup> UNFCCC. at Art. 4.1(f), which calls for States to “[t]ake climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change.” Lecture at Faculty of Law, University of Cambridge, 3 February 2016.

<sup>61</sup> Paris Agreement, *supra* note 4.

commits to national mitigation policies and measures.<sup>62</sup> In a similar way, SDG 13.2 is underpinned by international legal principles, such as the "general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control" that was confirmed by the International Court of Justice in the *Nuclear Weapons* and *Gabcikovo-Nagymaros* opinions.<sup>63</sup> This obligation highlights the need to integrate climate change measures into national policies, strategies, and planning.

Further, UNFCCC Article 4.3 on climate finance<sup>64</sup> links directly to SDG 13.a, and corresponding guidelines and plans have been developed through UNFCCC COP Resolutions for the Green Climate Fund and other international instruments, with related provisions found in the Paris Agreement.<sup>65</sup> As such, the law, policy and governance mechanisms already established to secure and distribute climate finance equitably can contribute directly to the attainment of SDG 13.a and 13.b. For instance, reports on the growth of national climate funds and insurance schemes, or public-private partnerships which invest in retrofitting infrastructure, established to comply with UNFCCC climate finance commitments, can communicate a country's contributions to meeting SDG 13.a.

Supporting the engagement priorities of SDG 13.3, UNFCCC Article 4.1(i) also encourages education, training and awareness on climate change.<sup>66</sup> International and domestic policy and governance mechanisms established under Article 4.1(i) of the UNFCCC could be harnessed to directly support the implementation of SDG 13.3. For instance, existing international and national systems to review and promote inclusion of climate change teaching modules in school curriculums, or to support climate awareness training programs for sub-national government authorities, directly assist in meeting SDG 13.3 commitments. Indeed, international legal obligations in the UNFCCC, Kyoto Protocol and Paris Agreement touching on these issues, and other important mechanisms such as incentivizing clean technology, reducing emissions from deforestation and land degradation, promoting adaptation and resilience, and securing transparency, can contribute to the delivery of SDG 13. Governance systems and benchmarks already in place to monitor this progress could be immensely helpful, even at national levels, for efforts to report on progress towards SDG 13.

### Relevance for Canada

Canada remains active in international climate negotiations under the auspices of the UNFCCC system, taking a leadership role the Gender Action Plan,<sup>67</sup> and the Local Communities and

<sup>62</sup> UNFCCC, at Art. 4.2, states that "each Annex I Party shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention."

<sup>63</sup> Nuclear Weapons ICJ Report 241, 1996 at para. 29; re-stated in *Gabcikovo-Nagymaros Project* ICJ Report 7, 1997 at 41.

<sup>64</sup> UNFCCC, *supra* note 1 at Art. 4.3, which states that developed country Parties and others included in Annex II "shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties."

<sup>65</sup> Paris Agreement, *supra* note 4.

<sup>66</sup> *Ibid.* at Art. 4.1(i), which encourages States to "[p]romote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations."

<sup>67</sup> UNFCCC, "Decision 3/CP.23 Establishment of a gender action plan" Report of the Conference of the Parties on its twenty-third session, held in Bonn from 6 to 18 November 2017, FCCC/CP/2017/11/Add.1(8 February 2018), online: <<https://unfccc.int/documents/65126>>.

Indigenous Peoples Platform advanced at COP 23.<sup>68</sup> In addition, Canada announced collaboration with the UK and 70 other member governments – both national and subnational – to phase out coal through the Powering Past Coal Alliance (PPCA).<sup>69</sup> Reporting provided for under the UNFCCC assists in driving further ambition, including an annual national inventory report on GHG emissions,<sup>70</sup> a biennial progress report on implementation, finance, technology transfer, and capacity building, and quadrennial national communications.<sup>71</sup> Domestically, this process feeds into monitoring, reporting and verification of emissions as well as sinks as a core component of the *Pan-Canadian Framework*.<sup>72</sup>



SDG 13.1, SDG 13.2, SDG 13.3, SDG 13.a, SDG 13.b.



Multilateral Environmental Agreement. Canada is a Party.

### ***Paris Agreement / Paris Agreement Work Programme*** **Nationally determined targets, enhanced transparency, and facilitative compliance**

The Paris Agreement's preamble acknowledges that climate change is a common concern of mankind, emphasizing the importance of protecting biodiversity and maintaining ecosystem integrity in particular oceans.<sup>73</sup> Key objectives outlined include: holding global temperature rise well below 2°C in pursuit of only a 1.5°C rise, fostering resilience to climate-related impacts, and mobilizing finance flows as a pathway to low emission and climate resilient development.<sup>74</sup> National commitments are established by way of non-binding nationally determined contributions (NDCs), which are reviewed every five years, with the aim to increase ambition.<sup>75</sup>

Market and non-market mechanism are provided to promote adaptation and mitigation actions, foster sustainable development, and generate transferable mitigation outcomes towards domestic NDCs.<sup>76</sup> A commitment is made by the Parties to strengthen cooperation to enhance technology development and transfer, capacity building, climate change education, and public participation, with implementation of the Agreement to be conducted in accordance with the principle of common but differentiated responsibilities.<sup>77</sup> In addition, Parties further agreed to cooperate to avert, minimize, and address climate change loss and damage including actions relating to early

<sup>68</sup> UNFCCC, "Decision 2/CP.23 Local communities and indigenous peoples platform" Report of the Conference of the Parties on its twenty-third session, held in Bonn from 6 to 18 November 2017, FCCC/CP/2017/11/Add.1(8 February 2018), online: <<https://unfccc.int/documents/65126>>.

<sup>69</sup> Canada, "Powering Past Coal Alliance Declaration" (November 2017), online: <[www.canada.ca/en/services/environment/weather/climatechange/canada-international-action/coal-phase-out/alliance-declaration.html](http://www.canada.ca/en/services/environment/weather/climatechange/canada-international-action/coal-phase-out/alliance-declaration.html)>.

<sup>70</sup> See: UNFCCC, "National Inventory Submissions 2019," online: <<https://unfccc.int/process-and-meetings/transparency-and-reporting/reporting-and-review-under-the-convention/greenhouse-gas-inventories-annex-i-parties/national-inventory-submissions-2019>>.

<sup>71</sup> Government of Canada, Canada's Seventh National Communication on Climate Change and Third Biennial Report—Actions to meet commitments under the United Nations Framework Convention on Climate Change, (2017) online: <[http://unfccc.int/files/national\\_reports/national\\_communications\\_and\\_biennial\\_reports/application/pdf/4623051\\_canada-br3-nc7-1-5108\\_eccc\\_can7thncomm3rdbi-report\\_en\\_04\\_web.pdf](http://unfccc.int/files/national_reports/national_communications_and_biennial_reports/application/pdf/4623051_canada-br3-nc7-1-5108_eccc_can7thncomm3rdbi-report_en_04_web.pdf)>

<sup>72</sup> Government of Canada, Greenhouse gas sources and sinks: executive summary (2019), online: <<http://publications.gc.ca/site/eng/9.816345/publication.html>>.

<sup>73</sup> Paris Agreement, *supra* note 1, preamble; For further discussion, see: Freedom-Kai Phillips and Konstantia Koutouki "International Law and Marine Ecosystem Governance: The Climate Change Nexus" in Paul Harris ed. Climate Change and Ocean Governance: Politics and Policy for Threatened Seas (Cambridge: Cambridge University Press,

<sup>74</sup> *Ibid*, Paris Agreement, Article 2.

<sup>75</sup> *Ibid*, Paris Agreement, Article 4.

<sup>76</sup> *Ibid*, Paris Agreement, Article 6.

<sup>77</sup> *Ibid*, Paris Agreement, Article 2.2, 11-12.

warning systems,<sup>78</sup> to create an enhanced transparency and accountability reporting framework to provide flexibility domestically, and internationally a clear picture of climate change actions which contribute to achievement of the NDCs,<sup>79</sup> as well as a compliance framework which is facilitative, transparent, non-adversarial and non-punitive.<sup>80</sup>

Corresponding guidelines and plans have been developed through UNFCCC COP Resolutions, and related provisions are found in the Paris Agreement and the Paris Agreement Work Programme (PAWP) agreed at COP 24.<sup>81</sup> The PAWP provides a detailed set of rules to guide the enhanced transparency framework, including climate finance, response measures, the global stocktake, and compliance among others.<sup>82</sup> These cooperative measures enhance accountability and assist in increasing the level of ambition and operationalizing many of the aspects of SDG 13.

### Relevance for Canada

Climate change is a significant policy driver domestically, with the passage of the *Pan-Canadian Framework* and the *Greenhouse Gas Pollution Pricing Act* seen as “the product of Canada’s efforts to meet its commitments under the Paris Agreement.”<sup>83</sup> Further action is needed to localize climate change governance and engage broader stakeholders in implementation of SDG 13 in Canada.

 SDG 13.1, SDG 13.2, SDG 13.3, SDG 13.a, SDG 13.b.

 Multilateral Environmental Agreement. Canada is a Party.

### *Convention on Biological Diversity* Primary framework agreement for governance of biodiversity (CBD)

As the key biodiversity related instrument, the Convention on Biological Diversity (CBD) supports actions at ecosystem, species and genetic levels, focusing on conservation of biological diversity,<sup>84</sup> the sustainable use of biological resources,<sup>85</sup> and the fair and equitable sharing of benefits arising from utilization of genetic resources.<sup>86</sup>

The CBD reflects the international principle that States have the sovereign right to exploit their biological and genetic resources pursuant to their own national laws and policies, subject to the constraint that such actions do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.<sup>87</sup> Parties are expected to cooperate with other Parties directly, or through international organizations, on issues of conservation and sustainable use of

<sup>78</sup> *Ibid*, Paris Agreement, Article 8.4(a), 8.4(e), 8.4(h)).

<sup>79</sup> *Ibid*, Paris Agreement, Article 13.

<sup>80</sup> *Ibid*, Paris Agreement, Article 15.

<sup>81</sup> Paris Agreement, *supra* note 1; UNFCCC, Decision 1/CP.24 “Preparations for the implementation of the Paris Agreement and the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement” Report of the Conference of the Parties on its twenty-fourth session, held in Katowice from 2 to 15 December 2018, (19 March 2019), FCCC/CP/2018/10/Add.1.

<sup>82</sup> *Ibid*.

<sup>83</sup> *In the matter of the greenhouse gas pollution pricing act, Bill C-74, Part 5*, Court of Appeal for Saskatchewan, 2019 SKCA 40 (03 May 2019), para 119-120.

<sup>84</sup> “Biological diversity” is the variability among living organisms from all sources and the ecological complexes of which they are a part.

<sup>85</sup> “Biological resources” includes any biotic component of ecosystems with actual or potential use or value for humanity.

<sup>86</sup> “Genetic resources” any material of plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.

<sup>87</sup> *Ibid* at Article 3.

biodiversity in areas beyond national jurisdiction, and on other matters of mutual interest.<sup>88</sup> For implementation, commitments to collaborate in the areas of financing and capacity development are also vital to the potential achievement of the CBD's terms and those in SDG 13.<sup>89</sup>

In 2010, the 10<sup>th</sup> Conference of the Parties (COP) to the CBD adopted the *Strategic Plan for Biodiversity 2011-2020*<sup>90</sup> with the purpose of inspiring broad-based action by all countries and all stakeholders in order to meet the three objectives of the CBD through the establishment of a shared vision<sup>91</sup> and mission,<sup>92</sup> grounded in 5 cross-cutting strategic goals and 20 targets known as the *Aichi Biodiversity Targets*. The CBD Strategic Plan and related targets have subsequently been adopted by several biodiversity MEAs as the guiding elements for their work.<sup>93</sup> A significant part of SDG 13 targets and indicators are in direct alignment with the provisions of CBD and several other biodiversity MEAs.

The CBD COP has adopted a series of programmes of work to further the conservation and sustainable use of biodiversity, in particular ecosystems, including:

- The *Programme of Work on Dry and Sub-humid Lands*<sup>94</sup>
- The *Expanded Programme of Work on Forest Biological Diversity*<sup>95</sup>
- The *Programme of Work on Mountain Biodiversity*<sup>96</sup>
- The *Revised Programme of Work on Inland Water Biological Diversity*<sup>97</sup>

The COP has also adopted a series of principles, guidelines and other tools to support implementation of specific provisions of the CBD and that are of relevant to SDG 15, such as:

- The *Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity*<sup>98</sup>
- *Guidelines on Biodiversity and Tourism Development*<sup>99</sup>
- *Guiding Principles for the Prevention, Introduction and Mitigation of Alien Species that Threaten Ecosystems, Habitats or Species*<sup>100</sup>
- *The Ecosystem Approach*<sup>101</sup>
- *The Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities*<sup>102</sup>

<sup>88</sup> *Ibid* at Article 5.

<sup>89</sup> CBD, *supra* at Articles 1 & 2.

<sup>90</sup> CBD, COP Decision X/2, *Strategic Plan for Biodiversity 2011-2020*, online: <[www.cbd.int/decision/cop/?id=12268](http://www.cbd.int/decision/cop/?id=12268)>. [Strategic Plan]

<sup>91</sup> The Vision of the Strategic Plan: "By 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people.

<sup>92</sup> The Mission of the Strategic Plan: "Take effective and urgent action to halt the loss of biodiversity in order to ensure that by 2020 ecosystems are resilient and continue to provide essential services, thereby securing the planet's variety of life, and contributing to human well-being, and poverty eradication. To ensure this, pressures on biodiversity are reduced, ecosystems are restored, biological resources are sustainably used and benefits arising out of utilization of genetic resources are shared in a fair and equitable manner, adequate financial resources are provided, capacities are enhanced, biodiversity issues and values mainstreamed, appropriate policies are effectively implemented, and decision-making is based on sound science and the precautionary approach.

<sup>93</sup> CBD COP Decision X/20, Paragraphs 4, 7-11.

<sup>94</sup> CBD COP Decision V/23, Annex, online: <[www.cbd.int/decision/cop/?id=7165](http://www.cbd.int/decision/cop/?id=7165)>.

<sup>95</sup> CBD COP Decision VI/22, Annex, online: <[www.cbd.int/decision/cop/?id=7196](http://www.cbd.int/decision/cop/?id=7196)>.

<sup>96</sup> CBD COP Decision VII/27, Annex, online: <[www.cbd.int/decision/cop/?id=7764](http://www.cbd.int/decision/cop/?id=7764)>.

<sup>97</sup> CBD COP Decision VII/4, Annex, online: <[www.cbd.int/decision/cop/?id=7741](http://www.cbd.int/decision/cop/?id=7741)>.

<sup>98</sup> CBD COP Decision VII/12, Annex II, online: <[www.cbd.int/decision/cop/?id=7749](http://www.cbd.int/decision/cop/?id=7749)>.

<sup>99</sup> CBD COP Decision VII/14, Annex, online: <[www.cbd.int/decision/cop/?id=7751](http://www.cbd.int/decision/cop/?id=7751)>.

<sup>100</sup> CBD COP Decision VI/23, Annex, online: <[www.cbd.int/decision/cop/?id=7197](http://www.cbd.int/decision/cop/?id=7197)>.

<sup>101</sup> CBD COP Decision VII/11, Annex I, online: <[www.cbd.int/decision/cop/?id=7748](http://www.cbd.int/decision/cop/?id=7748)>.

<sup>102</sup> CBD COP Decision X/42, Annex, online: <[www.cbd.int/decision/cop/?id=12308](http://www.cbd.int/decision/cop/?id=12308)>.

- *Voluntary Guidelines on Biodiversity-Inclusive Impact Assessment*<sup>103</sup>

### Relevance to Canada

Climate change affects a wide range of environmental, social, cultural and economic development challenges, and other international instruments contribute to implementation of SDG 13. Information collected for a wide range of climate factors informs inputs provided as part of Canada's reporting under the CBD.<sup>104</sup> Given the potential contributions of biodiversity, such as tropical forests or oceans ecosystems, to climate change mitigation and adaptation, existing CBD obligations and reporting mechanisms may be leveraged to deliver SDG 13, particularly 13.2 and 13.a. Work in furtherance of the priorities of the CBD is mutually supportive of the Paris Agreement obligations.



SDG 13.1, SDG 13.2, SDG 13.3, SDG 13.a, SDG 13.b.



Multilateral Environmental Agreement. Canada is a Party.

### *Ramsar Convention on Wetlands of International Importance (Ramsar Convention)* Identification and protection of wetlands of international importance

Under the *Ramsar Convention on Wetlands of International Importance* (Ramsar Convention), 169 Parties create a framework for national action and international cooperation for the conservation and wise use of internationally significant wetlands and their resources, recognizing that wetlands are ecosystems that are important for biodiversity conservation in general, and for the well-being of human communities.<sup>105</sup> In the context of the Ramsar Convention, the term “wetlands” includes all lakes and rivers, underground aquifers, swamps and marshes, wet grasslands, peatlands, oases, estuaries, deltas and tidal flats, mangroves and other coastal areas, coral reefs, and all human-made sites such as fish ponds, rice paddies, reservoirs and salt pans.<sup>106</sup> The Ramsar Convention requires Parties to formulate plans and implement them in order to promote the conservation of wetlands included in the Ramsar List of Wetlands of International Importance, to wisely use wetlands in their territory as far as possible, to promote the conservation of wetlands and waterfowl by establishing nature reserves on all wetlands, listed or not, and provide adequately for their protection.<sup>107</sup>

In 2015, a new strategic plan was established under the Ramsar Convention for the period 2016-2024, recognizing alignment with the SDGs, including the terms of SDG 13.<sup>108</sup> At COP 13, a wide

<sup>103</sup> CBD COP Decision VIII/28, Annex, online: <[www.cbd.int/decision/cop/?id=11042](http://www.cbd.int/decision/cop/?id=11042)>.

<sup>104</sup> Canada 6<sup>th</sup> CBD Report, *supra* note 4, at 124.

<sup>105</sup> Ramsar Convention, *supra* at Article 3(1).

<sup>106</sup> *Ibid* at Article 1(1); Ramsar Convention Secretariat, “The Ramsar Convention and its Mission”, online: <[www.ramsar.org/about/the-ramsar-convention-and-its-mission](http://www.ramsar.org/about/the-ramsar-convention-and-its-mission)>.

<sup>107</sup> *Ibid* at Article 4(1).

<sup>108</sup> Ramsar Convention, Resolution XII.2 The Ramsar Strategic Plan 2016-2024, (1-9 June 2015), online: <[www.ramsar.org/sites/default/files/documents/library/cop12\\_res02\\_strategic\\_plan\\_e\\_0.pdf](http://www.ramsar.org/sites/default/files/documents/library/cop12_res02_strategic_plan_e_0.pdf)>.



range of resolutions were passed addressing issues at the intersection of wetlands, climate change, agriculture, and coastal zones.<sup>109</sup>

### Relevance for Canada

Canada has 37 Ramsar Sites covering 13,086,767 hectares.<sup>110</sup> The Canadian national report provided at COP 13 highlights an emphasis on wetland preservation as a component of the *Pan-Canadian Framework on Clean Growth and Climate Change*.<sup>111</sup> As many wetland environments such as lakes, rivers, swamps and marshes, mangroves and coral reefs are under increasing threat from climate change, certain obligations and mechanisms enshrined in the Ramsar Convention may support the implementation of SDG 13.



SDG 13.1, SDG 13.2, SDG 13.3, SDG 13.b.



Multilateral Environmental Agreement. Canada is a Party.

### *United Nations Convention to Combat Desertification (UNCCD)* Global cooperation to address drought and desertification

In addition to these specialized biodiversity instruments, the *United Nations Convention to Combat Desertification in Those Countries Experiencing Drought and/or Desertification, Particularly in Africa* (UNCCD) calls upon national governments, NGOs, and local populations to cooperate to combat desertification and mitigate the effects of drought and dryland degradation.<sup>112</sup> The UNCCD contains five regional annexes, with the initial focus on the African continent as it is the region most threatened by desertification. It promotes sustainable development as the primary means to combat desertification.<sup>113</sup> A strategic planning framework is also established to coordinate national action programs on sustainable development to operationalize the goals of the UNCCD.<sup>114</sup>

### Relevance for Canada

Canada is considered an affected country under the UNCCD with drylands in the western parts of the country and played a key role in passing the Gender Action Plan at COP 13.<sup>115</sup> Furtherance of priorities under the UNCCD supports broader efforts to combat climate change internationally and domestically in support of SDG 13.



SDG 13.1, SDG 13.2, SDG 13.3, SDG 13.a, SDG 13.b.



Multilateral Environmental Agreement. Canada is a Party.

<sup>109</sup> Ramsar Convention, Resolution XIII.16: Sustainable urbanization, climate change and wetlands (29 October 2018); Ramsar Convention, Resolution XIII.19: Sustainable agriculture in wetlands, (29 October 2018); Ramsar Convention, Resolution XIII.14: Promoting conservation, restoration and sustainable management of coastal blue-carbon ecosystems (29 October 2018).

<sup>110</sup> Ramsar Convention, "Country Profile: Canada," online: <[www.ramsar.org/wetland/canada](http://www.ramsar.org/wetland/canada)>.

<sup>111</sup> Ramsar Convention, Ramsar National Report to COP 13: Canada" (2018), online: <[www.ramsar.org/sites/default/files/documents/importftp/COP13NR\\_Canada\\_e.pdf](http://www.ramsar.org/sites/default/files/documents/importftp/COP13NR_Canada_e.pdf)>.

<sup>112</sup> UNCCD, *supra* at Article 2.

<sup>113</sup> *Ibid* at Preamble, Articles 1(a), 2-3.

<sup>114</sup> *Ibid* at Article 6.

<sup>115</sup> Government of Canada, "United Nations Convention to Combat Desertification," online: <[www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/united-nations-convention-combat-desertification.html](http://www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/united-nations-convention-combat-desertification.html)>.

## ***Sendai Framework for Disaster Risk Reduction 2015-2030*** **Framework for policy prioritization and planning for disaster risk reduction**

As a governance mechanism rather than treaty rule, the *Sendai Framework for Disaster Risk Reduction 2015-2030* (SFDRR) recognizes the important interrelationship between climate change, sustainable development and disaster risk reduction.<sup>116</sup> The *Framework* acknowledges climate change as a disaster risk driver, and recognizes the need for cross-sectoral approaches to address the relationship between climate change and disaster risk reduction. In addition, the SFDRR allows for voluntary commitments, and emphasizes implementation measures, such as the need to “[i]ncorporate disaster risk reduction measures into multilateral and bilateral development assistance programmes within and across all sectors, as appropriate, related to poverty reduction, sustainable development, natural resource management, environment, urban development and adaptation to climate change.”<sup>117</sup> Efforts to implement adaptation and resilience commitments under this Framework, particularly those focused on Small Islands Developing States, can support the achievement of SDG 13.1 and 13.b.

### **Relevance for Canada**

Developed by the Third UN World Conference on Disaster Risk Reduction, with the participation of all UN Member States and bodies, the Sendai Framework encourages domestic disaster planning which can inform experience under the agreement and enhance climate resilience in line with SDG 13.1.



SDG 13.1, SDG 13.b.



UN Framework. Canada is a Party.

## ***International Covenant on Economic, Social and Cultural Rights (ICESCR)*** **Framework for establishment of economic, social and cultural rights**

Climate change will also affect a wide range of human rights, including the rights to life, health, an adequate standard of living, housing, food and water, culture, education, and self-determination. The enjoyment of these rights will be impacted not only by the effects of climate change but also by States’ mitigation and adaptation actions. Given these significant impacts, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) provides an important legal justification for the implementation of SDG 13. Effective climate change-related planning and management, as well as strengthened resilience and adaptive capacity, are crucial for respecting, protecting and fulfilling the rights enshrined in ICESCR. As the Committee on Economic, Social and Cultural Rights has stated, “in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the Covenant itself, international cooperation for development and thus for the realization of economic,

<sup>116</sup> UNISDR (United Nations International Strategy for Disaster Reduction), *Sendai Framework for Disaster Risk Reduction 2015–2030* (Geneva: UNISDR, 2015).

<sup>117</sup> *Ibid.* at para. 47(d).

social and cultural rights is an obligation of all States,”<sup>118</sup> and would continue to apply in the context of climate change.

As Professor John Knox, former UN Special Rapporteur on Human Rights and the Environment, noted in his reports,<sup>119</sup> and in his interventions during the UNFCCC COP 21 Climate Law and Governance Day in Paris in 2015, there are both substantive and procedural rights which are directly relevant to climate change, and can contribute to the implementation of the SDG 13, while the effectiveness of the global response to climate change critically determines whether human rights can be realised in the future. Many regional human rights instruments and their respective governance systems are also relevant to, and provide support for, the implementation of SDG 13.

### Relevance for Canada

Canada is strong proponent of social and cultural rights domestically and abroad. Climate change impacts livelihoods, threatens cultural traditions, and places increased emphasis on rights-based approaches to governance. Human rights related initiatives support mainstreaming of climate-related issues.



SDG 13.1, 13.b.



International Agreement. Canada is a Party.

## Regional Trade Agreements

### *The Canada-European Union (EU) Comprehensive Economic and Trade Agreement (CETA) (2016)*



Promotion of sustainable development and cooperation on climate change related matters

The Canada – European Union Comprehensive Economic and Trade Agreement (CETA) (2016) includes a chapter on trade and environment, as well as a chapter on trade and sustainable development.<sup>120</sup> The Parties emphasise the importance of international environmental governance, reaffirm a commitment to implementing the obligations of agreements to which they are a Party, and agree to consult and cooperate on trade-related environmental issues of mutual interest.<sup>121</sup> The Parties also establish the promotion of sustainable development as a key objective.<sup>122</sup> Special attention is paid to the removal of trade obstacles relevant to climate mitigation, particularly in relation to renewable energy goods and services.<sup>123</sup> In addition, the Parties aim to enhance cooperation on a range of matters including climate change, specifically:

<sup>118</sup> CESCR, General Comment No 3, UN Doc E/1991/23 (14 December 1990) at para 14.

<sup>119</sup> 2015 A/HRC/28/61 Good practices report to the 28th Session of the HRC; 2014 A/HRC/25/53 Mapping report to the 25th session of the Human Rights Council; 2013 A/HRC/22/43 Preliminary report to the 22nd session of the Human Rights Council.

<sup>120</sup> ECF/CISDL, *supra* note 119.

<sup>121</sup> Canada EC (CETA) (2016), Article 24.4.

<sup>122</sup> Canada EC (CETA) (2016), Article 24.2, 22.1.

<sup>123</sup> Canada EC (CETA) (2016), Article 24.9.

“... trade-related aspects of the current and future international climate change regime, as well as domestic climate policies and programmes relating to mitigation and adaptation, including issues relating to carbon markets, ways to address adverse effects of trade on climate, as well as means to promote energy efficiency and the development and deployment of low-carbon and other climate-friendly technologies”.<sup>124</sup>

In aiming to promote trade that supports the goal of sustainable development, the Parties agree to encourage the use of voluntary schemes, best practices, integration of sustainability criteria into decision-making, and the improvement of environmental performance goals and standards.<sup>125</sup> An institutional mechanism is established – the Committee on Trade and Sustainable Development – along with a Civil Society Forum to support the objectives of the agreement.<sup>126</sup>

### Relevance for Canada

A recent example of a bilateral trade agreement to which Canada is a Party, CETA lays the groundwork for a future progressive trade framework which is responsive to sustainable development and climate change. The institutional measures created – such as the Committee on Trade and Sustainable Development and the Civil Society Forum – offer modalities for further cooperation to support achievement of SDG 13 in both jurisdictions.



SDG 13.2.



Bilateral trade agreement. Canada is a Party.

## *EU Japan Economic Partnership Agreement (2018)* **Prioritization of sustainable development, commitment to combat climate change**

Given the scale of climate change as a governance challenge, provisions that explicitly or implicitly impact climate change are often found in multiple places within a single trade agreement.<sup>127</sup> The EU Japan Economic Partnership Agreement (2018) provides a novel approach. First, the Agreement includes a chapter on ‘Trade and Sustainable Development,’ which situates the overall agreement in the context of current international governance priorities.<sup>128</sup> Second, the importance of multilateral environmental agreements is stressed, and the Parties reaffirm their commitment to implement “laws, regulations and practices” underpinning these agreements.<sup>129</sup>

Third, a specific clause on climate change is included:

“The Parties recognise the importance of achieving the ultimate objective of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992

<sup>124</sup> Canada EC (CETA) (2016), Article 24.12.(1)(e).

<sup>125</sup> Canada EC (CETA) (2016), Article 22.3(2).

<sup>126</sup> Canada EC (CETA) (2016), Article 22.4-5.

<sup>127</sup> This section draws upon research conducted on relating to sustainable development and climate change provisions in RTAs to inform options for a potential Brexit agreement. See: Markus Gehring, Freedom-Kai Phillips, “Legal Options for Post-Brexit Climate Change and Energy Provisions in a Future UK-EU Agreement,” (European Climate Foundation/CISDL, 2019), online: <[https://europeanclimate.org/wp-content/uploads/2019/04/Post-Brexit\\_Provisions\\_report\\_final.pdf](https://europeanclimate.org/wp-content/uploads/2019/04/Post-Brexit_Provisions_report_final.pdf)>. [ECF/CISDL]

<sup>128</sup> Japan EC (2018), Article 16.4(1).

<sup>129</sup> Japan EC (2018), Article 16.4(2).

(hereinafter referred to as "UNFCCC"), in order to address the urgent threat of climate change, and the role of trade to that end. The Parties reaffirm their commitments to effectively implement the UNFCCC and the Paris Agreement, done at Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session. The Parties shall cooperate to promote the positive contribution of trade to the transition to low greenhouse gas emissions and climate-resilient development. The Parties commit to working together to take actions to address climate change towards achieving the ultimate objective of the UNFCCC and the purpose of the Paris Agreement".<sup>130</sup>

In this clause, the Parties recognise the importance of achieving the objectives of the UNFCCC, reaffirm their commitment to effectively implement the Paris Agreement and encourage cooperation to that end. In aiming to position trade in support of sustainable development, the Parties also agree to "strive to facilitate" trade and investment in climate relevant areas such as renewable energy and energy efficient goods and services.<sup>131</sup> This clause is supplemented by a commitment to cooperate on trade-related aspects of the climate change regime, including promotion of low-carbon and energy efficient technologies.<sup>132</sup> Finally, protection of the environment, including tackling climate change, is explicitly provided as an element of good regulatory practice and an objective of the agreement.<sup>133</sup>

### Relevance for Canada

While Canada is not a Party to this bilateral agreement, it provides a strong example of the progression of trade agreements to include references to sustainable development and climate change. The direct reference to aiming to support the objectives of the Paris Agreement is of particular note. This agreement provides an example for future EU trade-related agreements, and could further influence the progression of international trade.



SDG 13.2.



Bilateral trade agreement. Canada is not a Party.

### Links between SDGs and targets and international agreements

While the UNFCCC and the Paris Agreement are recognized as the principal vehicles to address climate change, international agreements relating to the environment have mutually supportive goals and modalities to facilitate achievement of SDG 13. Various RTAs contain provisions preventing the weakening of environmental protections in domestic law. These provisions can serve as "windows" within trade regimes to the extent that they are interpreted "to preserve the flexibility of a regulator responding to new challenges, such as climate change."<sup>134</sup> In addition, RTAs can promote cooperation on climate change issues and encourage trade and investment liberalization for adaptation and mitigation response measures by promoting the adoption of new policies and governance mechanisms. These include commitments to strengthen laws to address climate

<sup>130</sup> Japan EC (2018), Article 16.4(4).

<sup>131</sup> Japan EC (2018), Article 16.5(c).

<sup>132</sup> Japan EC (2018), Article 16.12(h).

<sup>133</sup> Japan EC (2018), Article 18.2(e), preamble.

<sup>134</sup> Markus W. Gehring, MC Cordonier Segger *et al.*, "Climate Change and Sustainable Energy Measures in Regional Trade Agreements (RTAs): An Overview", ICTSD Global Platform on Climate Change, Trade and Sustainable Energy, Issue Paper No. 3 (August 2013), at 16.

change,<sup>135</sup> the promotion of climate finance instruments and carbon markets,<sup>136</sup> the promotion of climate change technologies,<sup>137</sup> and the inclusion of provisions on disaster risk reduction.<sup>138</sup>

**Table 2: International Agreements and the SDGs**

<i>MEA</i>	<i>Focus</i>	<i>Link to SDG and target</i>
UNFCCC	Stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.a, 13.b.</b>
Paris Agreement	Nationally determined contributions, increasing ambition, country reporting in enhanced transparency framework, and facilitative compliance	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.a, 13.b.</b>
CBD	Conservation of biodiversity; sustainable use of biodiversity; fair and equitable sharing of benefits arising from the use of genetic resources	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.a, 13.b.</b>
Ramsar Convention	Framework for national action and international cooperation for the conservation and use of wetlands and their resources	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.b.</b>
UNCCD	Combat desertification and mitigate the effects of drought through national action programmes that incorporate long-term strategies supported by international cooperation and partnership arrangements	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.a, 13.b.</b>
Sendai Framework	Internationally agreed framework for policy prioritization and planning for disaster risk reduction	<b>Goal 13, targets 13.1, 13.2, 13.3, 13.a, 13.b.</b>
ICESCR	Framework for establishment of economic, social and cultural rights	<b>Goal 13, targets 13.1, 13.b.</b>
EC Japan *	Prioritization of sustainable development and commitment to combat climate change	<b>Goal 13, targets 13.2.</b>
CETA *	Promotion of sustainable development and cooperation on climate change related matters	<b>Goal 13, targets 13.2.</b>

\* *Regional trade agreement*

<sup>135</sup> See: EU - South Korea Free Trade Agreement at Art. 13.5(2); Canada – Chile Free Trade Agreement at Article. A-04 (referencing the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal); Canada – Costa Rica Free Trade Agreement at Article.1.4; Canada-Colombia Free Trade Agreement at Annex 103; and Dominican Republic-Central America-United States Free Trade Agreement at Ch. 17.

<sup>136</sup> See: Mexico-Japan Free Trade Agreement at Article. 147; EU-Columbia-Peru Agreement at Article. 271 (relating to trade favouring sustainable development).

<sup>137</sup> See: Agreement on the Environment between Canada and the Republic of Peru at Preamble; EU-Central America Association Agreement at Article 50, 65; CARIFORUM-EU Economic Partnership Agreement at Article. 83.26; EU-South Africa Trade, Development and Cooperation Agreement (TDCA) at Article. 57; EU - South Korea Free Trade Agreement at Article. 13.6; Mexico – EU Free Trade Agreement at Article. 23.

<sup>138</sup> See: EU-Central America Association Agreement at Article. 51.

## IV. Legal Preparedness for Achieving SDG 13 with Canadians

Notwithstanding the international community's support for SDG 13, the policy and governance implications of the UNFCCC and its COP decisions, and the commitments taken by States in many other treaties with further instruments that can be activated, for the effective implementation of the proposed SDG 13, much hinges on the effectiveness of the new Paris Agreement. SDG 13 can be realized, and intensive efforts are underway to persuade States, individually and collectively, to turn their stated goals into a practical reality. The examples of existing mechanisms summarized briefly in this review present diverse ways and methods such a development can be achieved.

Research, awareness and collaboration at all levels, especially amongst the legal research academic community, policy and decision makers and international organizations, to mention but few, will be needed in order to strengthen solutions and provide further innovations on climate change mitigation and adaptation to avert its impacts and ecosystems, and environmental sustainability can only be achieved where there are fair, effective and transparent national governance arrangements and the rule of law. Establishment of a climate action plan also place an important role in coalescing support for broader climate action under SDG 13 with currently 9 provinces having one in place.<sup>139</sup> Effective legal and policy regimes are essential, as are effective implementation, accessible legal procedures and collective access to justice, and a supporting legal and institutional framework and principles. An independent judiciary and judicial process can also prove vital for the implementation, development and enforcement of sound environmental laws.

Integration of SDG 13 into policy planning is beneficial at all levels of government. Legal preparedness for achieving SDG 13 follows a stepwise approach of adoption, consultation, implementation, and refinement.

1. **Policy formulation and outline:** Begin by adopting SDG 13 and the relevant targets and establishing a commitment for development, implementation, and refinement based on a clear timeline and metrics. This often consists of a policy statement and high-level targets such as a designated percentage of protected areas by 2030.
2. **Legal preparedness assessment:** Take stock of law and governance instruments in place within and/or applicable to the jurisdiction and identify those that support the designated objective.
3. **Prioritize policy initiatives and reforms:** Engage with relevant stakeholders – governmental, civil society, and aboriginal – to consult on prioritization of relevant programs, initiatives, and reforms. Through consultations the relevant aspects of the SDG target may be contextualized and informed by local stakeholder considerations.
4. **Legal action plan:** Identified priorities should be outlined in a formal action plan with established milestones and metrics, as well as appropriate financial resources to support the initiatives.

<sup>139</sup> C2ES, "Canadian Province Climate Policy Map," online: <[www.c2es.org/content/canadian-province-climate-policy-maps/](http://www.c2es.org/content/canadian-province-climate-policy-maps/)>.

5. **Monitoring and refinement:** Legal and policy reform would benefit from a learning-by-doing model informed by iterative reporting and refinement. Established reporting requirements should continue to inform fine-tuning of initiative to broaden implementation.

Governance of climate change impacts in Canada is facilitated by a broad set of legislative tools at the federal, provincial and territorial levels which lay the groundwork for achievement of the SDGs. However, given the breadth of intersections, and governance actors at all levels, a crucial factor underpinning achievement of the 2030 Agenda in Canada will be effective communication, coordination, and cooperation at all levels. Effectively engaging and supporting governance institutions at all levels, including Aboriginal Nations, to localize the SDGs into decision making will assist in mainstreaming priorities and delegation of implementation actions. Rapidly increasing conservation activities, broadening of incentivization programs, and creating pathways for equitable access and utilization of traditional knowledge to inform sustainable development policies, priorities, and practices would further support achievement of the SDGs in Canada.



## V. Recommended Resources

### Books:

Sumudu Atapattu, ed., *Human Rights Approaches to Climate Change: Challenges and Opportunities* (Cambridge: Cambridge University Press, 2016).

Marie-Claire Cordonier Segger, HE C.G. Weeramantry, eds., *Sustainable Development in International Courts and Tribunals* (Routledge, 2017).

Marie-Claire Cordonier Segger, Frédéric Perron-Welch, Christine Frison eds., *Legal Aspects of Implementing the Cartagena Protocol on Biosafety* (Cambridge: Cambridge University Press, 2013).

Marie-Claire Cordonier Segger, Markus Gehring and A. Newcombe, eds., *Sustainable Development in World Investment Law* (The Hague: Kluwer Law International, 2010).

Marie-Claire Cordonier Segger and Ashfaq Khalfan, *Sustainable Development Law: Principles, Practices and Prospects* (Oxford: Oxford University Press, 2004).

Marie-Claire Cordonier Segger and Judge C.G. Weeramantry, eds., *Sustainable Justice: Integrating Environmental, Social and Economic Law* (Leiden: Martinus Nijhoff, 2004).

Claire Fenton-Glynn, ed., *Children's Rights and Sustainable Development: Interpreting the UNCRC for Future Generations* (Cambridge: Cambridge University Press, 2019).

Alexandra Harrington, *International Organizations and the Law* (Routledge, 2018).

Hoi Kong, L. Kinvin Wroth, eds. *NAFTA and Sustainable Development: The History, Experience and Prospects For Implementation* (Cambridge: Cambridge University Press, 2015).

Armand L.C. de Mestral, P. Paul Fitzgerald & Tanveer Ahmad, eds., *Sustainable Development, International Aviation, and Treaty Implementation* (Cambridge: Cambridge University Press, 2018).

Michel Morin, Marie-Claire Cordonier Segger, Fabien Gelin, and, Markus Gehring, *Responsibility, Fraternity and Sustainability in Law: In Memory of the Hon Charles Doherty Gonthier* (LexisNexis, 2012).

Chidi Oguamanam ed., *Genetic Resources, Justice and Reconciliation: Canada and Global Access and Benefit Sharing* (Cambridge: Cambridge University Press, 2018).

Stavros Tasiopoulos, *Climate Change & International Energy Law: Renewable energy as a necessary legal instrument* (Oxford: Oxford University Press, 2018).

### Articles and Reports:

Sumudu Atapattu & Sean S. Fraser, "SDG 1 on Ending Poverty in all its Forms: Contributions of International Law, Policy and Governance," Issue Brief 2016 (CISDL-UNEP).

Stuart Bruce & Sean Stephenson, “SDG 7 on Sustainable Energy for All: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Jorge Cabrera, Frédéric Perron-Welch & Balakrishna Pisupati, “SDG 15 on Terrestrial Ecosystems and Biodiversity: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Marie-Claire Cordonier Segger, “Advancing the Paris Agreement on Climate Change for Sustainable Development” *Cambridge Journal of International and Comparative Law* 2016 Vol 5:2, 38.

Marie-Claire Cordonier Segger, “Sustainable Development through the 2015 Paris Agreement” *Canadian International Lawyer* 2017 Vol 11:2, 155.

Marie-Claire Cordonier Segger, Freedom-Kai Phillips, “Indigenous Traditional Knowledge for Sustainable Development: The Biodiversity Convention and Plant Treaty Regimes” *Journal of Forest Research* (2015) 20:5, 430.

Claire Fenton-Glynn & Pamela Sambo, “SDG 4 on Ensuring Inclusive and Equitable Quality Education: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Markus Gehring, Sean Stephenson & Marie-Claire Cordonier Segger, “Sustainability Impact Assessments as Inputs and as Interpretative Aids in International Investment Law” *Journal of World Investment and Trade* 2017 Vol 17, 130.

Markus Gehring, Freedom-Kai Phillips & William B. Shipley, “SDG 12 on Ensuring Sustainable Consumption and Production Patterns: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Alexandra Harrington & William B. Shipley, “SDG 5 on Gender Equality: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Konstantia Koutouki & Freedom-Kai Phillips, “SDG 14 on Ensuring Conservation and Sustainable Use of Oceans and Marine Resources: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Katherine Lofts, Sharawat Shamin, Sharaban Tahura Zaman & Robert Kibugi, “SDG 13 on Taking Action on Climate Change and its Impacts: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Freedom-Kai Phillips, “Intellectual Property Rights in Traditional Knowledge: Enabler of Sustainable Development,” *Utrecht Journal of International and European Law* (2016) 32(83), pp. 1–18.

Freedom-Kai Phillips, Cameron A. Miles, Ashfaq Khalfan, & Maria Lechner Reynal, “SDG 6 on Ensuring Water and Sanitation for All: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

Maya Prabhu, Stephanie Blakely, “SDG 3 on Ensuring Healthy Lives and Promoting Well-Being for All at All Ages: Contributions of International Law, Policy and Governance,” Issue Brief 2016 (CISDL-UNEP).

**Web Resources:**

Centre for International Sustainable Development Law (CISDL), online: <[www.cisd.org](http://www.cisd.org)>.

International Law Association (ISA), online: <<http://www.ila-hq.org/>>.

International Law Association Canada (ISA Canada), online: <<http://ila-canada.ca/>>.

Sustainable Development Solutions Network (SDSN), online: <<http://unsdsn.org/>>.

World Commission on Environmental Law (IUCN-WECL), online: <[www.iucn.org/commissions/world-commission-environmental-law](http://www.iucn.org/commissions/world-commission-environmental-law)>.

IUCN Academy of Environmental Law (IUCN-AEL), online: <[www.iucnael.org/en/](http://www.iucnael.org/en/)>.

# Annex I: Domestic Legal Instruments: Overview Table

## Federal

*International Financial Assistance Act*, SC 2018, c 27, s 659(5).

*Canada Emission Reduction Incentives Agency Act*, SC 2005, c 30, s 87.

*Canadian Environmental Assessment Act 2012*, SC 2012, c 19

*Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, s. 186

## Provincial / Territorial

### SDG 13.1

*Environmental Management Act*, SBC 2003, c 53.

*Loi sur la qualité de l'environnement*, RLRQ c Q-2.

*The Red River Floodway Act*, SM 2004, c 18.

*The Emergency Measures Amendment and Consequential Amendments Act*, SM 1997, c 28.

*Mackenzie River Basin Agreements Act*, RSY 2002, c 144.

### SDG 13.2

*Climate Change Accountability Act*, SBC 2007, Ch 42.

*Carbon Neutral Government Regulation*, B.C. Reg. 392/2008.

*Carbon Tax Act*, SBC 2008, Ch. 40.

*Carbon Tax Regulation*, B.C. Reg. 125/2008.

*Greenhouse Gas Industrial Reporting and Control Act (GGIRCA)*, SBC 2014, Ch 29.

*Greenhouse Gas Emission Reporting Regulation*, B.C. Reg. 249/2015.

*Greenhouse Gas Emission Control Regulation*, B.C. Reg. 250/2015.

*Greenhouse Gas Emission Administrative Penalties and Appeals Regulation*, B.C. Reg. 248/2015.

*Clean Energy Act*, SBC 2010, Ch 22.

*Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*, SBC 2008, Ch 16.

*Clean Environment Act*, RSNB 1973, c C-6.

*Greenhouse Gas Reduction (Vehicle Emissions Standards) Act*, SBC 2008, Ch 21.

*Local Government (Green Communities) Statutes Amendment Act*, (22 May 2008)

*Energy Efficiency Act*, SBC 1996, Ch 14

*BC Building Code Revision Package 2015* (version 1.01).

*Climate Leadership Act*, SA 2016, c C-16.9.

*Climate Leadership Regulation*, AB Reg 175/2016.

### ***SDG 13.3***

*Environmental Bill of Rights*, SO 1993, Ch 28.

*Securities Act*, RSO 1990, Ch S.5,

### ***SDG 13.a***

*Règlement concernant le système de plafonnement et d'échange de droits d'émission de gaz à effet de serre*, RLRQ c Q-2, r 46.1

*Loi sur le ministère du Développement durable, de l'Environnement et des Parcs*, RLRQ c M-30.001.

## Annex II: About the Project

The Sustainable Development Goals (SDGs) offer Canada a unique opportunity to assess the many areas of policy innovation in which it is already excelling at the national and provincial levels, as well as to craft new, durable implementation mechanisms that will benefit Canadians and the international community now and in the future. As Canada embarks on the development of its National Strategy on the SDGs, this is a critical moment for analysis of existing laws and dialogue regarding new legal and societal avenues reflecting the SDGs.

Through “The Sustainable Development Goals for Canada: What’s Law Got to Do with It?” conference, the Centre for International Sustainable Development Law (CISDL) and its partners, along with the Sustainable Development Goals Unit at Employment and Social Development Canada and Justice Canada, engaged in a vital dialogue on the SDGs broadly, and specifically SDGs 4 (quality education), 7 (affordable and clean energy), 13 (climate action), 14 (life below water), 15 (life on land) and 16 (peace, justice and strong institutions). Overall, the SDGs are an indivisible construct of Agenda 2030, however these particular SDGs were chosen for focus at this conference because they relate to climate change, biodiversity, education and institution building, which together form the foundation of systems and issues that must be analyzed and established in order to meaningfully achieve the SDGs in Canada. This event convened local, regional and national stakeholders, academics, policy makers, lawyers and legal experts located at four sites around the country – Waterloo, Montreal, Halifax and Victoria – through a virtual meeting platform. Additionally, governmental officials and other experts not present in these locations were able to join through the virtual meeting system, allowing for further diversity in perspectives and insights.

In addition to the conference, a set of 5 SDG focused Issue Briefs have been published by the CISDL and are being shared across a number of national and international networks in order to reach a large audience of stakeholders and interested member of the public. The findings of the conference and research conducted in conjunction with it also serve as the basis for a series of new modules on the SDGs that will be offered as part of the CISDL’s Continuing Legal Education (CLE) course for members of bars across Canada. In the approximately 2 months since these new modules were announced, registrations for the CLE course has more than quintupled, indicating a strong interest in these topics among those in the legal and policy fields throughout Canada.

As noted in the conference keynote address by Ms. Janet McIntyre, Deputy Director General, Intergovernmental and External Relations Division, Justice Canada, “when Canada submitted its National Voluntary Review last year before the United Nations, Canada recognized that the 2030 Agenda for Sustainable Development is among the defining global frameworks of our time. And further, the Government of Canada strongly supports the overarching principle of the 2030 Agenda, to leave no one behind. Canada is a staunch supporter of SDG 16 and its inclusion in the 2030 Agenda marked a milestone.” These words highlight the importance of the SDGs to Canada and the need to understand the place they currently occupy in existing Canadian national and provincial law as well as the areas in which Canada can create new laws and policies that will ensure the inclusion of Canadians and serve as an example to the international community.



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