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Agenda 2030 as a source of law: Different shades of soft

1 Introduction

Agenda 2030 for sustainable development is contained in a resolution adopted by the United Nations (UN) General Assembly in 2015.¹ The resolution adopted by the UN General Assembly is a non-legally binding instrument as most resolutions adopted by the UN General Assembly are. This kind of non-legally binding resolution adopted by the UN General Assembly or any other international organization on the global or regional level is often referred to as ‘soft law’ in the international legal literature. International environmental law, and international economic law, are two areas of international law especially characterized by the existence of a large amount of soft law.²

¹ United Nations General Assembly (UNGA), A/RES/70/1, 21 October 2015, Transforming our world: the 2030 Agenda for Sustainable Development.

² See, for instance, Malcolm Shaw, *International Law*, 9th ed, Cambridge: Cambridge University Press, 2021, p. 100; *Akehurst's Modern Introduction to International Law*, 9th Ed. 2022, p. 52; Jan Klabbbers, *International Law*, 3rd Ed., Cambridge: Cambridge University Press, 2021, pp. 313–316; Paola Gaeta, Jorge E. Viñuales and Salvatore Zappalà, *Cassese's International Law*, 3rd Ed., Oxford: Oxford University Press, 2020, pp. 471–473. Jonas Ebbesson and Ellen Hey, “Introduction: The Sustainable Development Goals, Agenda 2030, and International Law”, in *The Cambridge Handbook of the Sustainable Development Goals and International Law*, Jonas Ebbesson and Ellen Hey (Eds.), Cambridge: Cambridge University Press, 2022, pp. 1–49, p. 16, point out that in international economic law it is primarily the concerns of the developing states that are present in soft law instruments: “While international trade and investments are protected by ‘hard’ law regimes, the transfer of funds, technology, and medicine from developed to developing states is either provided for in ‘soft’ law instruments or expressed in terms of conditioned duties on the part of developed states.”

In this contribution the contents of Agenda 2030 is presented and commented upon from the point of view of its normative weight under international law, and from the point of view of its potential legal significance as an instrument of soft law in particular. Agenda 2030 is ambitious and comprehensive with respect to the goals it is striving to achieve. Even though Agenda 2030 is not legally binding as to its form it might still play a role in affecting the behavior of states. Differences in degrees of softness in Agenda 2030 might be of importance for instance; are some of its goals perhaps formulated in stricter language than others? Are some of the ambitions expressed by the states in Agenda 2030 more tangible whereas others are more indeterminate? What are the conceivable consequences of the one or the other way of formulating the ambitions in substance? Thus, this contribution uses the term “soft” as in “soft law” in two senses, one relating to form and another related to the contents of the (non-legally binding) objectives stipulated in Agenda 2030.

Also, the means for the realization of the goals contained in Agenda 2030 are provided for in the resolution. This factor might be of particular significance in the case of an instrument of soft law. Thanks to effective means of implementation, if nothing else, the provisions of a soft law instrument may be put into practice despite the fact that the instrument lacks legally binding force and thus is typically not perceived by the states to be as compelling as a legally binding agreement would be. We will see what kinds of means of implementation are laid down in Agenda 2030 and the potential effectiveness of the means of implementation conceived by the states for the realization of the goals contained in the Agenda will be discussed. The follow-up and review procedures also provided for in Agenda 2030 might hypothetically further strengthen the possibilities of actually implementing Agenda 2030 in practice.

This contribution will begin with a presentation and analysis of the Sustainable Development Goals (SDGs) primarily the goals relating to the environment and the climate. After that, the Declaration also contained in Agenda 2030 will be discussed. Then the sections in Agenda 2030 dealing with the means of implementation and the follow-up and review procedure will be commented upon. Before the conclusion there is a brief section looking backwards, to 1972, and forward, to November 2022 and beyond, in order to put Agenda 2030 into perspective. Fifty years on from the beginning of modern international environmental law it might be the time to take the temperature of the international ambitions for sustainability. It is concluded that judging from the impression

conveyed by Agenda 2030 and the other soft law instruments analyzed in this contribution, the temperature of the international ambitions might not match the rising temperature globally.

2 Sustainable Development Goals

The most important part of Agenda 2030 from a normative perspective are the 17 Sustainable Development Goals (SDGs) stated in the Agenda.³ Each goal is first briefly indicated and then elaborated upon in further detail.⁴ The goals concern the three dimensions that together make up sustainable development: the economic, social and environmental dimensions.⁵ This contribution focuses on the environmental dimension of Agenda 2030 and thus the way in which the goals are stated and the way they are elaborated upon will be exemplified by referring to the goals relating to the environment and the climate. Since all the goals are integrated and interdependent – and indivisible as Agenda 2030 states⁶ – it may be difficult to single out specific goals as relating particularly to the environment and the climate. For the sake of merely exemplifying the way in which the goals are formulated and then how they are elaborated upon further, the development goals that according to their wording most directly concern the environment and the climate will nevertheless be singled out here, tentatively.

SDG 13 to “[t]ake urgent action to combat climate change and its impacts” is an obvious example. It is added as a footnote to SDG 13 in Agenda 2030 that the UN Framework Convention on Climate Change is the primary international, intergovernmental forum for negotiating the global response to climate change.⁷

SDG 14 to “[c]onserve and sustainably use the oceans, seas and marine resources for sustainable development” also concerns the environment and the climate. On the subject of the conservation and sustainable use of the oceans, seas and marine resources it can be noted that efforts to pass an international agreement on the conservation and sustainable use

³ United Nations General Assembly (UNGA), A/RES/70/1, 21 October 2015, Transforming our world: the 2030 Agenda for Sustainable Development, p. 14.

⁴ UNGA, A/RES/70/1, pp. 15–27.

⁵ UNGA, A/RES/70/1, preambular paragraph (pre. para.) 3 and operative (op.) para. 2.

⁶ UNGA, A/RES/70/1, pre. para. 3.

⁷ UNGA, A/RES/70/1, p. 14; the convention was concluded on 9 May 1992 and entered into force on 21 March 1994, 198 parties.

of marine biological diversity of areas beyond national jurisdiction – often referred to as BBNJ – failed in August 2022.⁸ This convention would be a follow-up to and further development of certain parts of the UN Convention on the Law of the Sea adopted in 1982.⁹ Renewed efforts will be made to reach agreement on the new treaty in early 2023.

SDG 15 is a further example of a sustainable development goal relating to the environment and the climate. The goal in this case is to “[p]rotect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss”.

Also SDG 6 to “[e]nsure availability and sustainable management of water and sanitation for all”, SDG 7 to “[e]nsure access to affordable, reliable, sustainable and modern energy for all”, and SDG 11 to “[m]ake cities and human settlements inclusive, safe, resilient and sustainable” would seem to have a close connection to the environment and the climate.

With respect to substance the examples given here relate to the SDGs that most directly concern the environment and the climate. With respect to the way in which the goals are formulated, however – i.e. their wording as such, not the goals in substance – their formulation reflect a more general characteristic of all the 17 SDGs contained in Agenda 2030.

First of all, even at the outset the SDGs are presented precisely as “goals”. The SDGs are not presented for instance as “undertakings”, “pledges” or “promises” which would signal something more obligating than just a goal to strive to fulfil. The SDGs are goals and goals can be reached or not.

The SDGs as such are relatively precisely worded, i.e. what is supposed to be strived for is relatively clearly formulated. The goal for instance is to “ensure availability and sustainable management of water” or “make cities sustainable”, to “ensure sustainable consumption and production patterns” or “conserve and sustainably use the oceans”. However when it comes to the goal directly relating to climate change – SDG 13 arguably the most fundamental and perhaps the most important goal of all the SDGs – then the wording and thus the goal becomes slightly more vague, as we saw. The goal here is to “[t]ake ‘urgent action’ to ‘combat’ climate change and its impacts”. With respect to SDG 15 which is also closely

⁸ See <<https://www.un.org/bbnj/>> accessed 17 October 2022.

⁹ Concluded on 10 December 1982, entry into force 16 November 1994, 168 parties.

related to the goal of combating climate change, the wording is partly less and partly (slightly) more precise. The goal here is to “[p]rotect, restore and promote’ sustainable use of terrestrial ecosystems, ‘sustainably manage’ forests, ‘combat’ desertification, and ‘halt and reverse’ land degradation and ‘halt’ biodiversity loss.” Irrespective of the fact that none of the SDGs have been reached so far, in the case of the goal directly referring to climate change in particular – SDG 13 –, not even the original formulation of the goal is done in a way which would make the goal at all attainable in the first place.¹⁰

With regard to the question of who are the actors intended to carry out the actions necessary to reach the SDGs, the UN General Assembly resolution in which the SDGs are included states this in the beginning of the Declaration which is also included in the resolution and which precedes the presentation of the SDGs.¹¹ The Declaration is opened by “[w]e the Heads of State and Government and High Representatives” deciding on new global SDGs.¹² Then the Declaration states that “[w]e’ commit ourselves to working tirelessly for the full implementation of this Agenda by 2030”.¹³ Thus, it is the states of the world who commit themselves and who are ultimately responsible for the implementation of Agenda 2030. In the preamble to the UN General Assembly resolution, it is added that “[a]ll countries and all stakeholders, acting in collaborative partnership, will implement this plan”.¹⁴

In addition to the enumeration of the 17 SDGs, Agenda 2030 for each goal also contains an elaboration of the goal in up to 19 targets.¹⁵ The detailed elaborations of the SDGs mainly contribute to confirming the little obliging impression of the normative undertakings on the whole with respect to the SDGs. The detailed elaborations generally add nothing

¹⁰ According to Frank Biermann, Thomas Hickmann, Carole-Anne Sénit and Leonie Grob, “The Sustainable Development Goals as a Transformative Force? Key Insights”, in *The Political Impact of the Sustainable Development Goals: Transforming Governance Through Global Goals?*, Frank Biermann, Thomas Hickmann and Carole-Anne Sénit (Eds.), Cambridge: Cambridge University Press, 2022, pp. 204–226, p. 218, Agenda 2030 and the sustainable development goals thus far have only had limited political effects in global, national and local governance since their launch in 2015.

¹¹ UNGA, A/RES/70/1, pp. 3–12, op. paras. 1–53; on the Declaration, see further below section 3.

¹² Ibid., op. para. 1.

¹³ Ibid., op. para. 2.

¹⁴ Ibid., preamble pp. 1–2, p. 1, pre. para. 2.

¹⁵ Ibid., pp. 15–27.

that would in any way “harden” from a normative point of view or make more concrete or tangible the otherwise soft non-legally binding commitments of the states through the SDGs. From a formal point of view, the resolution in which the SDGs are contained would remain a legally non-binding instrument under all circumstances, but through detailed and concrete instructions with respect to every goal the substance of the text contained in the formally non-binding instrument could become somewhat more compelling, at least in theory.

On the subject of measures relating to the environment and the climate, which is the focus of this article, the most concrete commitment by the states is made under SDG 13 on climate change, target 13.a where the objective is to “[i]mplement the commitment undertaken by developed-country parties to the United Nations Framework Convention on Climate Change to a goal of mobilizing jointly \$ 100 billion annually by 2020 from all sources to address the needs of the developing countries...”.¹⁶ Here, some of the states addressed in the UN General Assembly resolution containing the SDGs – the developed countries – undertake to realize their legally binding commitment under the Framework Convention on Climate Change, to the extent they are parties to the latter convention.

Under SDG 14 relating to the oceans, seas and marine resources, target 14.c expresses the target to “[e]nhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea”.¹⁷ As we saw above, negotiations are ongoing on a new UN treaty – the BBNJ – for this purpose, developing further certain provisions of the Convention of the Law of the Sea, but as late as in August 2022 efforts to reach a final agreement failed.¹⁸ Hopefully, agreement will be reached by early 2023. On the subject of SDG 14, Karen N. Scott writes in a critical comment, that “SDG 14 is a product of thinking based on assumptions and approaches characterizing the Holocene: relative environmental stability and progress through perpetual economic growth”.¹⁹ In Karen N. Scott’s

¹⁶ Ibid., p. 23, op. para. 13.a; cf. *supra* note 7.

¹⁷ Ibid., p. 24, op. para. 14.c.

¹⁸ Cf. *supra* note 8.

¹⁹ Karen N. Scott, “SDG 14: Conserve and Sustainably Use the Oceans, Seas and Marine Resources for Sustainable Development”, in Jonas Ebbesson and Ellen Hey (Eds.), *The Cambridge Handbook of the Sustainable Development Goals and International Law*, *supra* note 2, pp. 354–375, p. 375.

opinion, the greatest challenge for future ocean governance is developing a law of the sea fit for the Anthropocene.²⁰ But, unfortunately, “[w]hile SDG 14 has contributed to the beginning of that process – particularly with respect to the sources or actors within the law of the sea – it fundamentally fails to provide the necessary conceptual framework for the law of the sea in the Anthropocene”.²¹

SDG 15 on the sustainable use of terrestrial ecosystems among other subjects, includes among 11 other targets the aspiration to “[t]ake urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species”.²² Elsa Morgera writes that “[t]he main challenge that SDG 15 poses for international law and international institutions is the effective and urgent implementation of existing obligations under international biodiversity law in the face of competing economic pressures”.²³

SDG 17 on strengthening the means of implementation and revitalizing the Global Partnership for Sustainable Development is the SDG that is elaborated upon in as many as 19 targets in the General Assembly resolution. In the case of the 17th and last SDG, to “[s]trengthen the means of implementation and revitalize the Global Partnership for Sustainable Development” the elaboration of the SDG encompasses 19 different

²⁰ Ibid.

²¹ Ibid.

²² UNGA, A/RES/70/1, p. 25, target 15.5. The recent report by WWF (World Wildlife Foundation), R.E.A. Almond, M. Grooten, D. Juffe Bignoli and T. Petersen (Eds.), WWF: Gland, Switzerland, 2022, “Living Planet Report 2022: Building a Nature-Positive Society”, would seem to indicate that developments in the area of biodiversity are continuing in a radically different direction than the one indicated in target 15.5 in Agenda 2030; in December 2022, COP (conference of the parties) 15 was held by the parties to the Convention on Biological Diversity (concluded 5 June 1992, entry into force 29 December 1993, 196 parties) in order for them to agree on a new set of goals to guide global actions through 2030 to protect and restore nature, the Kunming-Montreal Global biodiversity framework, <https://www.cbd.int/doc/c/ebd3/cd1d/daf663719a03902a9b11bc34/cop-15-I-25-en.pdf> accessed 1 February 2023.

²³ Elisa Morgera, “SDG 15: Protect, Restore and Promote Sustainable Use of Terrestrial Ecosystems, Sustainably Manage Forests, Combat Desertification, and Halt and Reverse Land Degradation and Halt Biodiversity Loss”, in Jonas Ebbesson and Ellen Hey (Eds.), *The Cambridge Handbook of the Sustainable Development Goals and International Law*, supra note 2, pp. 376–398, p. 397. At least then, with respect to the potential realization of SDG 15, there already exists binding international (hard) law that could potentially be of help.

targets under different headings and sub-headings relating to different aspects of the implementation and revitalization of the partnership such as finance, technology, capacity-building and trade among others.²⁴ The sheer number of targets in which the topic of means of implementation is elaborated upon in the resolution could convey the impression that this SDG is the most significant one of all among the 17 SDGs. This impression could be strengthened by the circumstance that means of implementation is dealt with in relative detail in other parts of the UN General Assembly resolution as well, as we will see below. Means of implementation and the global partnership is even devoted a part of its own in the resolution, bearing this very title.²⁵

The impression of relative importance could further be strengthened by the fact that it is pointed out in the resolution that what makes Agenda 2030 something truly novel is that it defines means of implementation, in addition to going far beyond the preceding Millennium Development Goals, as we will also see below.²⁶ Furthermore, the circumstance that means of implementation thus constitutes both an SDG in itself and at the same time constitutes an instrument for the realization of all the SDGs would seem to somehow increase the significance of this very dimension of Agenda 2030. World developments until 2030 will tell whether this emphasis on means of implementation in the UN General Assembly resolution on Agenda 2030 was heeded by the partners involved and followed by the corresponding mobilization of the means of implementation of the SDGs – including means of implementation – in reality.

3 Beyond the Sustainable Development Goals: The Declaration

3.1 The Declaration in substance

Beyond the part containing the list of the SDGs and their ensuing elaboration, the same UN General Assembly resolution also includes a couple of other significant elements. The operative part of the UN General Assembly resolution containing Agenda 2030 begins with a Declaration

²⁴ UNGA, A/RES/70/1, pp. 26–27, para. 17.1–17.19.

²⁵ *Ibid.*, pp. 28–31, op. paras. 60–71.

²⁶ *Ibid.*, p. 6, op. para. 17.

which we will go through here.²⁷ The Declaration for its part is preceded by a preamble to the resolution as a whole in which five catchwords for the Agenda 2030 project are presented: people, planet, prosperity, peace and partnership.²⁸ The Declaration itself is very extensive. In one of the first paragraphs it is stated that “[a]s we [i.e. ‘[w]e, the Heads of State and Government and High Representatives’] embark on this great collective journey, we pledge that no one will be left behind”.²⁹ It is also solemnly declared that “[t]his is an Agenda of unprecedented scope and significance”.³⁰ Somewhat sadly, since the prospects for achieving the “universal goals and targets which involve the entire world”³¹ included in Agenda 2030 currently look bleak, at least by 2030.

The Declaration in general terms covers all the topics subsequently concretized – at least to a certain degree – in the form of the 17 SDGs. The Declaration also covers the issues of means of implementation and follow-up and review which are subsequently dealt with in separate sections of their own in the UN General Assembly resolution, lastly after the section in the resolution dealing with the 17 SDGs, which as we have seen also contain “means of implementation” as one particular SDG. In the Declaration, the sub-headings indicate the width of topics covered and the all-embracing approach in principle of the Heads of State and Government and High Representatives making up the UN General Assembly. The Declaration is opened by an “Introduction” from which two paragraphs were quoted above, and then comes “Our vision” which is characterized as “supremely ambitious and transformational”.³²

Then follows “Our shared principles and commitments” after which comes “Our world today”. Under our shared principles and commitments, the Declaration begins by stating that Agenda 2030 is guided by the purposes and principles of the UN Charter, including full respect for international law.³³ Then references are made to different human rights instruments and different other instruments relating to the right to development and to the environment and sustainable development general-

²⁷ Ibid., pp. 3–12, op. paras. 1–53.

²⁸ Ibid., pp. 1–2.

²⁹ Ibid., p. 3, op. para. 4.

³⁰ Ibid., p. 3, op. para. 5.

³¹ Ibid.

³² Ibid., p. 3, op. para. 7.

³³ Ibid., p. 4, op. para. 10.

ly.³⁴ Under the sub-heading “Our world today” the UN General Assembly resolution opens by stating that Agenda 2030 is adopted “at a time of immense challenges to sustainable development”.³⁵ It can be observed that today, 2022, we are still finding ourselves in an era of immense challenges among other things to sustainable development.

The sub-heading “The new Agenda” then follows in the Declaration, implicitly referring back to an earlier Agenda namely the Millennium Development Goals adopted 15 years before Agenda 2030.³⁶ In the Declaration opening the 2030 Agenda for Sustainable Development, it is explained that the new Agenda builds on the Millennium Development Goals and seeks to complete what they did not achieve, particularly in reaching the most vulnerable.³⁷ It is explained also, however, that the framework that the Heads of State and Government and High Representatives were announcing in 2015 goes far beyond the Millennium Development Goals: “Alongside continuing development priorities such as poverty eradication, health, education and food security and nutrition, it sets out a wide range of economic, social and environmental objectives.”³⁸ Agenda 2030 “also promises more peaceful and inclusive societies”.³⁹ “[C]rucially”, the Declaration states, Agenda 2030 also “defines means of implementation”.⁴⁰ We will come back to the means of implementation below when the respective sub-headings in the Declaration entitled “Means of implementation” and “Follow-up and review” are dealt with,

³⁴ Ibid., pp. 4–5, op. paras. 10–12.

³⁵ Ibid., p. 5, op. para. 14.

³⁶ Ibid., pp. 6–12, op. paras. 18–38; referring back to op. paras. 16–17; UNGA, A/RES/55/2, 18 September 2000, United Nations Millennium Declaration.

³⁷ UNGA A/RES/70/1 p. 6, op. para. 16.

³⁸ Ibid., p. 6, op. para. 17; the novel and unique character of the SDGs is underlined by Frank Biermann, Thomas Hickmann and Carole-Anne Sénit, “Assessing the Impact of Global Goals: Setting the Stage”, in Frank Biermann, Thomas Hickmann and Carole-Anne Sénit (Eds.), *The Political Impact of the Sustainable Development Goals: Transforming Governance Through Global Goals?*, supra note 10, pp. 1–21, pp. 2–4.

³⁹ Ibid., p. 6, op. para. 17; see also SDG 16 to “[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (A/RES/70/1, pp. 14, 25–26); on the international legal significance of SDG 16, see further Pål Wrangé, “SDG 16: Promote Peaceful and Inclusive Societies for Sustainable Development, Provide Access to Justice for All and Build Effective, Accountable and Inclusive Institutions at All Levels”, in Jonas Ebbesson and Ellen Hey (Eds.), *The Cambridge Handbook of the Sustainable Development Goals and International Law*, supra note 2, pp. 399–421.

⁴⁰ UNGA, A/RES/70/1, p. 6, op. para. 17.

as well as when the respective sections “Means of implementation and the Global Partnership” and “Follow-up and review” in the Declaration are discussed.

On the subject of law and the force of law, which is not a very prominent characteristic either of the Declaration or of Agenda 2030 as a whole, the reference to the UN Framework Convention on Climate Change under the sub-heading of “The new Agenda” in the Declaration can be noted, and in particular the way in which the Declaration envisages the potential outcome of the then forthcoming 21st session of the Conference of the Parties in Paris in the autumn of 2015.⁴¹ The Heads of State and Government and High Representatives adopting the UN General Assembly resolution containing Agenda 2030 “underscore the commitment of all States to work for an ambitious and universal climate agreement”.⁴² What form the ambitious and universal climate agreement to be adopted in Paris would take was far from universally agreed however. “We reaffirm that the ‘protocol, another legal instrument or agreed outcome with legal force under the Convention’ applicable to all parties shall address in a balanced manner...”.⁴³ The addition of the phrase “in a balanced manner”, probably, was intended to try to further soften any legal obligatory force of any agreement resulting from the forthcoming meeting in Paris.

The Paris Agreement in the end was adopted in the form of a treaty, which is unequivocally legally binding under international law from the formal point of view, but in this case with a content of an almost entirely indeterminate nature.⁴⁴ The most definite obligation for the parties to the Paris Agreement, and perhaps the most famous of its provisions, is “[h]olding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5°C above pre-industrial levels”.⁴⁵ “Well below 2°C” was what the parties to the negotiations could agree on, when it came to the lower 1,5°C limit which was the originally desired on among many

⁴¹ Ibid., pp. 8–9, op. paras. 31–32.

⁴² Ibid., p. 9, op. para. 32.

⁴³ Ibid.

⁴⁴ Paris Agreement, adopted 12 December 2015, entry into force 4 November 2016, 194 parties: cf. Alan Boyle, “Soft Law in International Law-Making”, in Malcolm D. Evans (Ed.), *International Law*, 5th Ed. Oxford: Oxford University Press, 2018, pp. 119–137, section VI. Treaties as soft law, pp-131-132.

⁴⁵ Paris Agreement, supra note 44, Article 2.1 (a).

of the participants, the softer obligation to “pursue efforts to limit” had to be used instead.

On the subject of law further, but from a slightly different perspective, namely the importance of law and a robust domestic legal system in every state, under the sub-heading “The new Agenda”, the Declaration lays down that “[t]he new Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions”.⁴⁶ In an earlier provision of the Declaration, under “Our vision”, even the term “democracy” appears in the context of the rule of law and good governance, but this is the only instance in which the term “democracy” appears in the Declaration.⁴⁷ Then the subject of international law appears in what could be considered a surprising manner when the Heads of State and Government and High Representatives suddenly in the Declaration on Agenda 2030 felt it necessary to “reaffirm, in accordance with the Charter of the United Nations, the need to respect the territorial integrity and political independence of States”.⁴⁸ It would seem as if the SDGs proclaimed in Agenda 2030 would pose no such threat to the states as would motivate a reaffirmation of the fundamental rules of international law just cited.

In the Declaration contained in the UN General Assembly resolution on Agenda 2030, further, there is a sub-section dealing with “Means of implementation” and a sub-section dealing with “Follow-up and review”.⁴⁹ Both the means of implementation if they are forceful enough and procedures for follow-up and review can potentially be important factors in the implementation of commitments that are non-legally binding like the ones in Agenda 2030. Even if the states have not agreed to legally binding undertakings, powerful means of implementation and a careful procedure for follow-up and review of the progress made in realizing the ambitions contained in the non-legally binding instrument, could potentially have as a result that the undertakings of the states are implemented in fact although they are not legally binding in principle.

⁴⁶ UNGA, A/RES/70/1, p. 9, op. para 35. see also SDG 16, *supra* note 39.

⁴⁷ *Ibid.*, p. 4, op. para. 9.

⁴⁸ *Ibid.*, p. 10, op. para. 38.

⁴⁹ *Ibid.*, pp. 10–11, op paras. 39–46 and pp. 11–12, op. paras. 47–48.

3.2 Means of implementation and follow-up and review in the Declaration

Under “Means of implementation” in the Declaration it is stated early on that the means of implementation targets under SDG 17, which we looked at above, and under each SDG are key to realizing Agenda 2030 and are of equal importance with the other goals and targets.⁵⁰ Further on it is stated in the Declaration on the subject of the means of implementation that the states, as a starting point, “recognize that each country has primary responsibility for its own economic and social development”.⁵¹ Then the Declaration notes that Agenda 2030 deals with the means required for implementation of the goals and targets.⁵² We saw above that this was a new and crucial aspect of Agenda 2030 in comparison with the Millenium Declaration.⁵³ After that, the Heads of State and Government and High Representatives “recognize that [the means required for implementation of the goals and targets] will include the mobilization of financial resources as well as capacity-building and the transfer of environmentally sound technologies to developing countries on favourable terms”.⁵⁴ Contributing the necessary financial and other resources to the poorer states could potentially be an effective way of assisting these states in implementing their non-legally binding commitments. Even if the SDGs had placed legally binding obligations on the states the poorer states might still not be able to actually implement their obligations due to lack of financial resources and lack of capacity in the technical as well as other areas.

While laying out the plans in the Declaration for the mobilization of the means of implementation of the SDGs, the states on the subject of expressing support for “the implementation of relevant strategies and programmes of action” suddenly seem to remind themselves that there will sometimes be some considerable hinders on the road to the realization of Agenda 2030. The Heads of State and Government and High Representatives “recognize the major challenge to the achievement of durable peace and sustainable development in countries in conflict

⁵⁰ Ibid., p. 10, op. para. 40.

⁵¹ Ibid., p. 10, op. para. 41.

⁵² Ibid.

⁵³ Ibid., p. 6, op. para. 17.

⁵⁴ Ibid., p. 10, op. para. 41.

and post-conflict situations”.⁵⁵ This consideration would seem to be one relevant for the entire Agenda 2030 and consequently all the SDGs, but it appears as we saw without further comment in a paragraph relating to the means of implementation and in particular “relevant strategies and programmes of action”.

Under the sub-heading of “Follow-up and review” in the Declaration, further, the states begin by saying that “[o]ur Governments have the primary responsibility for follow-up and review, at the national, regional and global levels, in relation to the progress made in implementing the Goals and targets over the coming 15 years”.⁵⁶ And further, “[t]o support accountability to our citizens, we will provide for systematic follow-up and review at the various levels”.⁵⁷ “The high-level political forum under the auspices of the General Assembly and the Economic and Social Council will have the central role in overseeing follow-up and review at the global level”.⁵⁸ The decision to establish the “universal, intergovernmental, high-level political forum” was contained in the outcome document of the United Nations Conference on Sustainable Development held in Rio de Janeiro in 2012.⁵⁹ The outcome document was then endorsed by the UN General Assembly the same year.⁶⁰

It is not specified further in the Declaration how exactly the follow-up and review will be carried out at the various levels. Neither are the precise functions of the General Assembly or the Economic and Social Council in their overseeing role at the global level presented in any more detail in the Declaration, except for the specification that these organs will have the central role. In the most concrete explication in the Declaration concerning the way the follow-up and review will take place, the states say

⁵⁵ Ibid., p. 11, op. para. 42.

⁵⁶ Ibid., p. 11, op. para. 47.

⁵⁷ Ibid.

⁵⁸ Ibid., on the high-level political forum, see further UNGA, A/RES/66/288, 11 September 2012, Resolution adopted by the General Assembly on 27 July 2012, Annex: The future we want, paras. 84–86, establishing the high-level political forum; see also UNGA, A/RES/67/290, 23 August 2013, Resolution adopted by the General Assembly on 9 July 2013, Format and organizational aspects of the high-level political forum on sustainable development; Frank Biermann, Thomas Hickmann, Carole-Anne Sénit and Leonie Grob, *supra* note 10, pp. 206–207, conclude that the high-level political forum has not lived up to expectations.

⁵⁹ UNGA, A/RES/66/288, *supra* note 58, op. para. 2.

⁶⁰ Ibid.

that “[i]ndicators are being developed to assist this work”.⁶¹ Less concrete still, but an interesting addition in the context of SDGs, is the statement that ends the brief section of the Declaration dedicated to follow-up and review. “We are committed to developing broader measures of progress to complement gross domestic product”, the Heads of State and Government and High Representatives certify.⁶²

As in the case of powerful means of implementation, a careful and well thought out follow-up and review procedure may potentially be an effective instrument in furthering the implementation of undertakings by states even and in particular if the undertakings do not have legally binding force. The follow-up and review may help the states in organizing their implementation. The feedback that the states receive on their progress reporting may also be of help. The knowledge on the part of the states that their efforts to realize their commitments will be followed up and reviewed may also work as an incentive to actually taking the commitments seriously. The follow-up and review may work as a stick as well as a carrot so to say, states risk criticism if they do not keep their promises, even if not legally binding, or may look forward to praise if they actually do all they can to fulfil the expectations. Hopefully, the shaming of the states who do not engage in realizing their commitments which would indirectly result from a follow-up and review process will be scaring enough to deter these states from not taking their commitments seriously.

Lastly in the declaration, the Heads of State and Government and High Representatives express “[a] call for action to change our world” under a separate sub-heading.⁶³ Comparing themselves to the founders of the UN seventy years earlier, the Heads of State and Government and High Representatives in September 2015 state that “[t]oday we are also taking a decision of great historic significance. /.../ We can be the first generation to succeed in ending poverty; just as we may be the last to have a chance of saving the planet. The world will be a better place in 2030 if we succeed in our objectives.”⁶⁴ And further, “[w]hat we are announcing today – an Agenda for global action for the next 15 years – is a charter for people and planet in the twenty-first century. Children and

⁶¹ UNGA, A/RES/70/1, p. 12, op. para. 48.

⁶² Ibid.

⁶³ Ibid., p. 12, op. paras. 49–53.

⁶⁴ Ibid., p. 12, op. para. 50.

young women and men are critical agents of change and will find in the new Goals a platform to channel their infinite capacities for activism into the creation of a better world.”⁶⁵

The declaration comes back to the role of young people in the realization of Agenda 2030 in the last paragraph under this sub-heading. In the last paragraph of the declaration, the Heads of State and Government and High Representatives lay down that “[t]he future of humanity and of our planet lies in our hands. It lies also in the hands of today’s younger generation who will pass the torch to future generations.”⁶⁶

It seems as if the Heads of State and Government and High Representatives place a great deal of trust in young people in general in the implementation of Agenda 2030. This implicitly also places a great burden on the shoulders of young people around the world who most likely lack the means to take any forceful and effective measures in order to realize the SDGs contained in the Agenda. In comparison and in addition to children and young women and men as well as “all people” in general or “the people”, the following actors, some of whom should reasonably dispose of considerably more forceful instruments of implementation of Agenda 2030 than do young people, the people or all people, are mentioned in the declaration as involved in “[o]ur journey” “on the road to 2030”: “Governments as well as parliaments, the United Nations system and other international institutions, local authorities, indigenous peoples, civil society, business and the private sector, the scientific and academic community”.⁶⁷

It is a fact that young people, for obvious reasons, tend to be engaged in matters relating to the environment and the climate – not least as illustrated by the Swedish activist Ms Greta Thunberg who has succeeded in mobilizing young people around the world for the sake of stopping or at least mitigating the current climate change – but the question is firstly, whether the Heads of State and Government and High Representatives are justified in implicitly relieving themselves of a large part of their own fundamental responsibility for the implementation of Agenda 2030 and placing the responsibility with young people or “all people” or “the peo-

⁶⁵ Ibid., p. 12, op. para. 51.

⁶⁶ Ibid., p. 12, op. para. 53.

⁶⁷ Ibid., p. 12, op. para. 52.

ple” instead.⁶⁸ Secondly, after almost half the period of time from 2015 to 2030 has passed, the question may be asked whether the Heads of State and Government and High Representatives have given the impression of actually taking notice in instances where the “infinite capacities for activism” of children and young people has been channelled through the SDGs of Agenda 2030 and the young have been doing their best to create a better world.⁶⁹ It would rather seem as if the world leaders have not been listening carefully.

The young people thus seem to be left with a great responsibility under Agenda 2030 but without any powerful means of putting this great responsibility into practice. The responsibility of the young people or “the people” or “all people” under all circumstances can merely be a moral and not a legal responsibility for implementing Agenda 2030. The question is whether anyone has such a legal responsibility considering the soft nature of the undertakings and the soft nature of the foreseen means of implementation and procedures for follow-up and review.

4 Putting the Sustainable Development Goals into action

4.1 Means of implementation

The UN General Assembly resolution on Agenda 2030, in addition to the SDGs, the preamble, the Declaration which we have just gone through, and the enumeration and explication of the 17 SDGs, towards the end also contains under two separate headings the states’ commitments relating to “Means of implementation and the Global Partnership” and to “Follow-up and review” respectively.⁷⁰ We will begin by the means of implementation and the global partnership. We recognize the subject of means of implementation both from the declaration preceding the enumeration of the SDGs and from the list of SDGs themselves.⁷¹

⁶⁸ Cf. *ibid.*, p. 12, op. para. 52; in the 4th and latest edition of *Birnie, Boyle & Redgwell’s International Law and the Environment*, Oxford: Oxford University Press, 2021, Ms Greta Thunberg is cited with great respect in the preface.

⁶⁹ Cf. UNGA, A/RES/70/1, p. 12, op. para. 51.

⁷⁰ *Ibid.*, pp. 28–31, op. paras. 60–71 and pp. 31–35, op. paras. 72–91 respectively.

⁷¹ Cf. *supra* note 27 and note 3.

The Heads of State and Government and High Representatives open by reaffirming “our strong commitment to the full implementation of this Agenda”.⁷² They then “recognize that we will not be able to achieve our ambitious Goals and targets without a revitalized and enhanced Global Partnership and comparably ambitious means of implementation”.⁷³ The Global Partnership comprises Governments, civil society, the private sector, the UN system and other actors, according to the declaration.⁷⁴ On the subject of the legal quality of Agenda 2030 we remember that the starting position of the UN General Assembly resolution containing Agenda 2030 is that it is not legally binding as to its form, i.e. it is a non-legally binding instrument. The means of implementation as well as the follow-up and review procedures envisaged, as pointed out above, could play a role in increasing the effectiveness of the otherwise non-legally binding UN General Assembly resolution. Likewise, if the means of implementation and the follow-up and review procedures are not ambitious enough they will most likely not help make Agenda 2030 more effective. In the latter case, the low ambitions will further contribute to the non-legally binding character of the commitments contained in the UN General Assembly resolution.

The Heads of State and Government and High Representatives state that “[c]ohesive nationally owned sustainable development strategies, supported by integrated national financing frameworks, will be at the heart of our efforts”.⁷⁵ And in a following paragraph that “[w]e underscore that, for all countries, public policies and the mobilization and effective use of domestic resources, underscored by the principle of national ownership, are central to our common pursuit of sustainable development, including the Sustainable Development Goals”.⁷⁶ The domestic resources, furthermore, according to the resolution “are first and foremost generated by economic growth, supported by an enabling environment at all levels”.⁷⁷ The Heads of State and Government note that “[p]rivate business activity, investment and innovation are major drivers of productivity, inclusive economic growth and job creation”.⁷⁸ And, “[w]e

⁷² UNGA, A/RES/70/1, p. 28, op. para. 60.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid., p. 28, op. para. 63.

⁷⁶ Ibid., p. 29, op. para. 66.

⁷⁷ Ibid.

⁷⁸ Ibid., p. 29, op. para. 67.

call upon all business to apply their creativity and innovation to solving sustainable development challenges”.⁷⁹ Here we can note that the world leaders call upon private actors to perform certain functions that are important in the context of sustainable development, which is interesting since private actors normally are not considered parties in their own right to the – interstate – international legal system.⁸⁰ The question may be asked with what legal effect the world leaders consider themselves to be calling upon the private actors to dedicate their efforts to solving the challenges that the states foresee. The legal effect must under all circumstances be even weaker than if the world leaders themselves undertake to perform any functions within the framework of the UN General Assembly resolution with respect to Agenda 2030.

The Heads of State and Government and High Representatives furthermore state that “[i]nternational trade is an engine for inclusive economic growth and poverty reduction” and that they “will continue to promote a universal, rules-based, open, transparent, predictable, inclusive, non-discriminatory and equitable multilateral trading system under the World Trade Organization, as well as meaningful trade liberalization”.⁸¹ During the period after the adoption of Agenda 2030 it would seem as if the general international trading system has developed in a different direction from the one that the leaders intended to promote in the UN General Assembly resolution.

On the economic side again, the Heads of State and Government and High Representatives “recognize the need to assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief, debt restructuring and sound debt management, as appropriate”.⁸² The states observe that “[m]aintaining sustainable debt levels is the responsibility of the borrowing countries; however we acknowledge that lenders also have a responsibility to lend

⁷⁹ Ibid.

⁸⁰ See further for instance, Florian Wettstein, *Business and Human Rights: Ethical, Legal, and Managerial Perspectives*, Cambridge: Cambridge University Press, 2022; Chiara Macchi, *Business, human rights and the environment: the evolving agenda*, The Hague: T.M.C. Asser Press, 2022; see also *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, United Nations Human Rights Office of the High Commissioner, United Nations: New York and Geneva, 2011.

⁸¹ UNGA, A/RES/70/1, p. 29, op. para. 68.

⁸² Ibid., p. 29, op. para. 69.

in a way that does not undermine a country's debt sustainability".⁸³ In case the lender is a state then the commitment also concerns states. The sub-section on means of implementation in the UN General Assembly resolution ends with the launching of a multi-stakeholder Technology Facilitation Mechanism composed of a UN inter-agency task team on science, technology and innovation for the SDGs, a collaborative multi-stakeholder forum on science, technology and innovation for the SDGs and an online platform.⁸⁴ The respective form and roles of the three different components of the Technology Facilitation Mechanism are elaborated upon in the UN General Assembly resolution in relative detail but entirely lacking in concreteness. The meetings of the high-level political forum "will be informed by the summary of the multi-stakeholder forum [on science, technology and innovation for the Sustainable Development Goals]".⁸⁵ That is not a very strong commitment on the part of the states to take the views of the multi-stakeholder forum seriously.

Even taking the non-legally binding nature of the General Assembly resolution and the SDGs into account, the presumably innovative and crucial provisions on the means of implementation of the SDGs contained in the resolution are almost surprisingly devoid of substance and of any kind of obliging nature.⁸⁶ Also, with respect to the presumably expanded Agenda 2030 in comparison with the preceding Millennium Development Goals, the means of implementation include surprisingly little if anything relating to the new range of social and environmental objectives as well as the promises of more peaceful and inclusive societies.⁸⁷ The climate is not mentioned at all whereas from the point of view of sustainable development it might be considered fundamental, a *sine qua non* for the other SDGs to ever be attained. The economic objectives, and primarily and in fact almost exclusively the economic objectives, seem to the ones seriously taken care of, relatively speaking, as far as the means of implementation are concerned although, of course, the sub-section on the means of implementation ends with the reiteration by

⁸³ Ibid.

⁸⁴ Ibid., p. 30, op. para. 70.

⁸⁵ Ibid., p. 31, op. para. 70; on the high-level political forum see *supra* note 58.

⁸⁶ Cf. *ibid.*, p. 6, op. para. 17.

⁸⁷ Cf. *ibid.*

the state leaders, that Agenda 2030 and the SDGs including the means of implementation, “are universal, indivisible and interlinked”.⁸⁸

4.2 Follow-up and review

The sub-section on follow-up and review in the UN General Assembly resolution is even airier, if possible, than the sub-section on the means of implementation. The sub-section opens with a commitment “to engaging in systematic follow-up and review of the implementation of this Agenda over the next 15 years”.⁸⁹ However, the second sentence establishes that “[a] robust, *voluntary*, effective, participatory, transparent and integrated follow-up and review framework will make a vital contribution to implementation and will help countries to maximize and track progress in implementing this Agenda in order to ensure that no one is left behind” (emphasis added).⁹⁰ To an outside observer at least, it is difficult to see how a voluntary follow-up and review framework will simultaneously be robust and effective, even though this is theoretically possible of course. The follow-up and review procedures will operate at the subnational, national, regional and global levels.⁹¹ Somewhat ominously in retrospect perhaps, the Heads of State and Government and High Representatives solemnly pronounce that “[a]s this is a universal Agenda, mutual trust and understanding among all nations will be important”.⁹²

⁸⁸ UNGA, A/RES/70/1, p. 31, op. para. 71; noting the primacy of economic concerns, Jonas Ebbesson and Ellen Hey, supra note 2, p. 21, argue that “[i]mplementation of the SDGs and attaining sustainable development, then, require a fundamental reconsideration of international trade and investment law”; Stuart Bruce and Jorge E. Viñuales, “SDG 7: Ensure Access to Affordable, Reliable, Sustainable and Modern Energy for All”, in Jonas Ebbesson and Ellen Hey (Ed.), *The Cambridge Handbook of the Sustainable Development Goals and International Law*, supra note 2, pp. 185–207, p. 207, agree: “[t]here is a n urgent need to improve the integration of non-economic objectives in the major disciplines of international economic law”; Duncan French and Lous J. Koetzé, “SDG 17: Strengthen the Means of Implementation and Revitalize the Global Partnership for Sustainable Development”, in Jonas Ebbesson and Ellen Hey (Eds.), *The Cambridge Handbook of the Sustainable Development Goals and International Law*, supra note 2, pp. 422–442, p. 422, argue on the subject of the means of implementation of the SDGs, that “a focus on trade, investment, and voluntarism excludes and omits other important building blocks of human rights, rule of law and civil society engagement”.

⁸⁹ UNGA, A/RES/70/1, p. 31, op. para. 72.

⁹⁰ Ibid.

⁹¹ Ibid., p. 31, op. para. 73; p. 33, op. para. 77.

⁹² Ibid., p. 31, op. para. 73.

Then come the nine guiding principles for the follow-up and review processes at all levels.⁹³ The most significant guiding principle perhaps is the one that comes first, and it opens by stating that follow-up and review processes “will be voluntary and country-led, will take into account different national realities, capacities and levels of development and will respect policy space and priorities”.⁹⁴ That might make for an effective review and follow-up process or it might not. And the reviews at the regional and global levels will build upon the outcome from national-level processes, as “national ownership is key to achieving sustainable development” and “the global review will be primarily based on national official data sources”.⁹⁵ This guiding principle is closely connected with another of the following guiding principles namely that the follow-up and review processes “will require enhanced capacity-building support for developing countries, including the strengthening of national data systems and evaluation programmes, particularly in African countries, least developed countries, small island developing States, landlocked developing countries and middle-income countries”.⁹⁶

Reassuringly, the SDGs and targets will be followed up and reviewed using a set of global indicators, the UN General Assembly resolution states.⁹⁷ These will be complemented by indicators at the regional and national levels which, according to the resolution, will be developed by Member States.⁹⁸ The global indicator framework will be adopted by the Economic and Social Council and eventually by the UN General Assembly, “in line with existing mandates” it is added somewhat enigmatically or self-evidently.⁹⁹ According to the resolution further, the global indicator framework will be simple yet robust, address all SDGs and targets, including for means of implementation, and “preserve the political balance [a remark which appears particularly interesting since it has not been made explicitly earlier in the resolution or in the particular part of the resolution dealing in some detail with the SDGs], integration and ambition contained therein”.¹⁰⁰ What the political balance contained in

⁹³ Ibid., p. 31, op. para. 74.

⁹⁴ Ibid., p. 31, op. para. 74 (a).

⁹⁵ Ibid., p. 31, op. para. 74 (a).

⁹⁶ Ibid., p. 32, op. para. 74 (h).

⁹⁷ Ibid., p. 32, op. para. 75.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

the SDGs refer to more specifically is far from clear in particular considering that different Member States most likely have quite different views of what the political balance is which is contained in the SDGs and what the political balance should be.

Then a relatively detailed or at least long list of measures to be taken at the national, regional and global levels respectively is provided at the end of the resolution.¹⁰¹ At a closer look, the provisions are of a general and unspecific nature and quite undemanding from the Member States' point of view something which most likely is not a coincidence. The provisions for follow-up and review are also considerably fewer with respect to the measures to be taken at the national and regional levels than at the global level despite the fact that the national level would seem to be the most significant one, considering in particular what was stated earlier in the resolution, namely that the outcome from national-level processes will be the foundation for reviews at the regional and global levels.¹⁰²

At the national level the Heads of State and Government and High Representatives "encourage all Member States [presumably implying the members of the UN] to develop as soon as practicable ambitious national responses to the overall implementation of this Agenda".¹⁰³ The state leaders "also encourage Member States to conduct regular and inclusive reviews of progress at the national and subnational levels which are country-led and country-driven".¹⁰⁴ These requirements on the states are not very demanding, to put the matter mildly. The demands on the states could not have been very strict under any circumstances for formal reasons since they were expressed in a non-legally binding UN General Assembly resolution, but even given the formal soft law framework the demands on the states in substance are expressed in an exceptionally gentle manner. Hopefully, the Member States feel encouraged enough to consider developing in due time ambitious national responses to the overall implementation of Agenda 2030 and that they will ultimately all have the capacity to perform the country-led and country-driven reviews of progress that they are encouraged to conduct.

At the regional level the demands on the states are even weaker if possible. The Heads of State and Government and High Representatives begin

¹⁰¹ Ibid., p. 33, op. paras. 78–90.

¹⁰² Ibid., p. 31, op. para. 74 (a).

¹⁰³ Ibid., p. 33, op. para. 78.

¹⁰⁴ Ibid., p. 33, op. para. 79.

by stating that the “[f]ollow-up and review at the regional and subregional levels can, as appropriate, provide useful opportunities for peer learning, including through voluntary reviews, sharing of best practices and discussion on shared targets.”¹⁰⁵ And, further, in the following paragraph, “[r]ecognizing the importance of building on existing follow-up and review mechanisms at the regional level and allowing adequate policy space, we encourage all Member States to identify the most suitable regional forum in which to engage”.¹⁰⁶ It is difficult to find anything in the provisions relating to follow-up and review at the regional level which could even be labelled a demand on the Member States to take any particular measures at all for the purpose of actually following up and reviewing any action taken, or not, in order to realized the SDGs.

At the global level finally, on the subject of follow-up and review, which constitutes the most comprehensive or at least the longest part of the three parts devoted to the three different levels where measures presumably are to be taken, it is stated in the UN General Assembly resolution that “[t]he high-level political forum will have a central role in overseeing a network of follow-up and review processes at the global level, working coherently with the General Assembly, the Economic and Social Council and other relevant organs and forums, in accordance with existing mandates”.¹⁰⁷ Generally, as was the case with the two lower levels of follow-up and review, there is very little substance in the provisions. For instance, “[f]ollow-up and review at the high-level political forum will be informed by an annual progress report on the Sustainable Development Goals to be prepared by the Secretary-General in cooperation with the United Nations system, based on the global indicator framework and data produced by national statistical systems and information collected at the regional level”.¹⁰⁸ We should remember also that follow-up and review processes will be voluntary, according to the resolution, at all levels, as noted above.¹⁰⁹

Further on among the provisions relating to the global level, the UN General Assembly resolution lays down that “[m]eeting every four years under the auspices of the General Assembly, the high-level political fo-

¹⁰⁵ Ibid., p. 33, op. para. 80.

¹⁰⁶ Ibid., p. 33, op. para. 79.

¹⁰⁷ Ibid., p. 33, op. para. 82; the global level is dealt with in op. paras. 82–90; on the high-level political forum see *supra* note 58.

¹⁰⁸ Ibid., pp. 33–34, op. para. 83.

¹⁰⁹ Ibid., p. 31, op. para. 74 (a).

rum will provide high-level political guidance on the Agenda and its implementation, identify progress and emerging challenges and mobilize further actions to accelerate implementation”.¹¹⁰ The high-level political guidance will be synchronized with the quadrennial comprehensive policy review process.¹¹¹ Hopefully, the high-level political forum through its meetings in the General Assembly will be able to inject the energy and motivation needed among the different actors involved to accelerate the implementation of the SDGs. The political forum after all is destined to have a central role in the follow-up and review process, as we saw above.¹¹² And the relative lack of substance of the provisions relating to follow-up and review, at all levels including the global one, would in reality necessitate a vigorous and enterprising overseer in order to compensate for the feeble formal framework for review.

Finally, at the very end of the UN General Assembly resolution laying down Agenda 2030, the Heads of State and Government and High Representatives solemnly reaffirm their “unwavering commitment to achieving this Agenda and utilizing it to the full to transform our world for the better by 2030”.¹¹³ At the time of writing, there are seven years left to transform the world then, under the provisions of the current resolution; it is an open question whether developments have turned in the direction of a better world already, during the first seven years that have passed since the adoption of the resolution.

5 Looking backward, looking forward

Fifty years ago the so called Stockholm declaration was adopted at the UN conference on the human environment, held in Stockholm in June 1972.¹¹⁴ The Stockholm declaration is a non-legally binding instrument but it is still considered significant for the development of international environmental law; in fact it is referred to in the doctrine as one of the two founding documents of modern international environmental law,

¹¹⁰ Ibid., p. 34, op. para. 87.

¹¹¹ Ibid.

¹¹² Cf. *supra* note 58.

¹¹³ UNGA, A/RES/70/1, p. 35, op. para. 91.

¹¹⁴ Declaration of the United Nations Conference on the Human Environment, Report of the United Nations Conference on the Human Environment (Stockholm declaration), Stockholm, 5–16 June 1972, UN Doc. A/CONF.48/14/Rev.1, pp. 3–5.

the other document being the 1992 Rio declaration.¹¹⁵ The Stockholm declaration is centered on “man” and the “human’ environment” as we can see already from its official title – Declaration of the United Nations Conference on the Human Environment.¹¹⁶ The combination of concern for the human environment on the one hand and for economic and social development on the other hand is evident already in the Stockholm declaration although at the time of the adoption of the Stockholm declaration the term “sustainable development” had not yet been coined.¹¹⁷

The initial principle in the Stockholm declaration state that “[m]an has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.¹¹⁸ Furthermore, “[t]he natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate”.¹¹⁹ Moreover, “[t]he capacity of the earth to produce vital renewable resources must be

¹¹⁵ Pierre-Marie Dupuy and Jorge E. Viñuales, *International Environmental Law*, 2nd Ed., Cambridge: Cambridge University Press, 2018, p. 40; Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992, UNGA, A/CONF.151/26 (Vol. I), 12 August 1992, Annex I, Rio Declaration on Environment and Development; on the subject of soft law, the title of another document adopted at the same conference is particularly interesting: Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests, Report of the United Nations Conference on Environment and Development, *ibid.*, p. 480.

¹¹⁶ Cf. *supra* note 114.

¹¹⁷ Cf. the Stockholm declaration, *ibid.*, pp. 4–5, principles 8–16, 23; the term “sustainable development” was coined by the Report of the World Commission on Environment and Development: Our Common Future, 1987 (also known as the Brundtland Report after its chairman Ms Gro Harlem Brundtland, former Prime Minister of Norway), <<https://sustainabledevelopment.un.org/content/documents/5987our.common.future.pdf>> accessed 29 September 2022. In the Report, sustainable development is defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”, Chapter 2, para. 1 of the Report.

¹¹⁸ Principle 1; on the development of international environmental law since the Stockholm declaration from the perspective of human rights, see further Jonas Ebbesson, “Getting it right: Advances of Human Rights and the Environment from Stockholm 1972 to Stockholm 2022”, *Environmental Policy and Law*, vol. 52, 2022, pp. 79–92.

¹¹⁹ Principle 2.

maintained and, wherever practicable, restored or improved”.¹²⁰ And further, “[m]an has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperiled by a combination of adverse factors”.¹²¹ In addition, “[t]he non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind”.¹²²

Further, “[t]he discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems”.¹²³ This principle is reminiscent of the more recent discussions in terms of climate change. And, “[s]tates shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea”.¹²⁴ This principle reminds us of the current efforts of the states to agree on the BBNJ treaty, mentioned earlier.¹²⁵

Generally, we recognize the content of the principles of the Stockholm declaration that we find recast and further developed, for instance, in the UN General Assembly resolution containing Agenda 2030. Basically, the same issues are on the agenda today as in 1972. They were somewhat differently conceived and consequently somewhat differently expressed and defined in 1972, but the concerns are the same today as they were then. The means of implementation are not directly referred to in 1972, but the need to transfer technical and financial resources to the developing countries from the developed countries in order to make it possible for the former to afford “incorporating environmental safeguards into their development planning” is highlighted in the declaration.¹²⁶ Still, the declaration points out that, “it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced coun-

¹²⁰ Principle 3.

¹²¹ Principle 4.

¹²² Principle 5.

¹²³ Principle 6.

¹²⁴ Principle 7.

¹²⁵ See *supra* note 8.

¹²⁶ Principle 12.

tries but which may be inappropriate and of unwarranted social cost for the developing countries”.¹²⁷ Contrary to the Stockholm declaration, no such exceptions from the SDGs for the developing countries can be found in Agenda 2030.

Reminiscent of the era in which the Stockholm declaration was adopted in 1972, in the first principle it is also stated that “policies promoting or perpetuating *apartheid*, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated”.¹²⁸ Also, it is laid down in the Stockholm declaration that, in accordance with the Charter of the United Nations, states have “the sovereign right to exploit their own resources pursuant to their own environmental policies” and then, according to the generally recognized ‘no-harm’ principle, that states have “the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction”.¹²⁹

Finally, ending the Stockholm declaration we find a principle which is absent from Agenda 2030 that “[s]tates must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of [nuclear weapons]”.¹³⁰ Today we have a Treaty on the Prohibition of Nuclear Weapons although not all states of the world are party to the convention.¹³¹ Sweden for instance, hosting the conference in Stockholm in 1972, is not a party.

In 2022 in order to celebrate the adoption of the Stockholm declaration an international meeting referred to as Stockholm +50 was held, in Stockholm again.¹³² This time, no final declaration was adopted but the outcome of the meeting was a Presidents’ summary of the discussions containing key recommendations for accelerating action towards a healthy planet for the prosperity of all, which is included in the report of the international meeting which in its turn was adopted by the interna-

¹²⁷ Principle 23.

¹²⁸ Principle 1.

¹²⁹ Principle 21; on the no-harm principle, see for instance Pierre-Marie Dupuy and Jorge Viñuales, *supra* note 115, pp. 63–64.

¹³⁰ Principle 26.

¹³¹ Adopted 7 July 2017, entry into force 22 January 2021, 68 parties.

¹³² Stockholm +50: a healthy planet for the prosperity of all – our responsibility, our opportunity, Stockholm, 2–3 June 2022, Report, UN Doc. A/CONF.238/9.

tional meeting.¹³³ The terms climate or climate change do not appear in the Presidents' summary although climate change probably constituting the most acute issue with respect to sustainable development today.

In November 2022 the 27th conference (COP 27) of the parties to the UN Framework Convention on Climate Change will be held in Sharm el-Sheikh.¹³⁴ The 26th conference of the parties (COP 26) was held in November 2021 in Glasgow. At the adoption of the Glasgow Climate Pact at the end of COP 26 one particular formulation in the document stood out as particularly difficult to reach agreement on. The final amendment which made it possible to reach consensus on the Glasgow Climate Pact in the last minute made the document famous, or infamous; the phase-out was softened to the “‘phase-down’ of unabated coal power”.¹³⁵ Perhaps it will be possible to reach an even more progressive final outcome at the COP 27, as climate change is increasingly making itself felt around the world.¹³⁶

6 Conclusion

There is great potential in Agenda 2030. The form is soft but the provisions – the SDGs, targets, means of implementation and procedures for review – are there if the states, and other actors, are willing to put them into practice. The soft quality of the document, in legal terms, might be a sign that the states are not convinced that they really wish to submit to the requirements of Agenda 2030 after all. The soft legal quality might also be a way to start; all the different elements of Agenda 2030 might in due time develop further into legally binding instruments according to which the states, if they agree to, take on legally binding obligations to do what they began to consider doing in Agenda 2030 in non-binding legal form. The states might first need to get used to the idea of having

¹³³ Ibid., pp. 25–26, op. para. 157, and p. 27, op. para. 160.

¹³⁴ Cf. supra note 7.

¹³⁵ Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its third session, held in Glasgow from 31 October to 13 November 2021, Addendum, Part two: Action taken by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its third session, UN Doc. FCCC/PA/CMA/2021/10/Add. 1, 8 March 2022, Glasgow Climate Pact, pp. 2–10, op. para. 36.

¹³⁶ Cf., however, the Sharm el-Sheikh Implementation Plan, Advance unedited version, Decision -/CP.27, https://unfccc.int/sites/default/files/resource/cma4_auv_2_cover_decision.pdf accessed 1 February 2022.

obligations of some form and realize that there exist means of implementation and that follow-up and review of their actions might be of great benefit to their efforts and thereby to their chances of success in implementing Agenda 2030 to the full. Then the states might perhaps be ready to transform their non-legally binding commitments into legally binding ones.¹³⁷

An Agenda 2030 expressed in legally binding terms would not necessarily solve the problem of sustainable development, however. Not even all binding international legal instruments are always fully complied with. Entering into a binding legal commitment does signal a strong motivation on the part of the state to fulfil its pledges under the agreement but the binding form might not be the solely decisive factor in whether the agreement will actually be respected or not in reality. Under all circumstances a binding form in addition to a comprehensive and elaborate content – as in Agenda 2030 to a certain degree – is most desirable, at least from the point of view of the law and arguably from the point of view of the effectiveness of the international commitments of the states. As the world has become painfully aware of recently, however, the means of implementation and review processes available under binding international law in case a state would not respect its legally binding obligations are not as many nor as powerful as might be appropriate either. Thus, in practice, not even binding international legal rules might be really convincing to the wrongdoer. The political will is crucial whether the law is soft or hard.

We can only hope that the world leaders stand by their “unwavering commitment” to utilizing Agenda 2030 to the full “to transform our world for the better by 2030”, as they promise in the UN General Assembly resolution.¹³⁸ In 2022 there are another seven years left to prove it.

¹³⁷ Cf. Jonas Ebbesson and Ellen Hey, *supra* note 2, section I.5.1 From Governance Concepts to Legal Development, pp. 31–35.

¹³⁸ Cf. *supra* note 113.