

3 Regulatory frameworks: Integration, partnerships and dialogue

KEY FINDINGS

International labour standards (ILS) provide a regulatory framework for the social pillar of the green economy and help ensure decent work practices in sectors affected by the green transition. In addition, ILS protect the environment. On the one hand, they do so indirectly through the protection of workers and the working environment, as is the case of standards on occupational safety and health (OSH), for example. On the other hand, certain ILS address environmental issues directly. These include the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which requires environmental impact assessments, the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

Labour dimensions such as environmental rights at work, employment protection and promotion, and in particular occupational safety and health are being increasingly integrated into multilateral environmental agreements (MEAs).

National environmental legislation and policies have begun to include labour issues. For example, a review of climate change policies in 26 countries shows that in 19 of them these policies include labour issues. In particular, climate change policies include the promotion of skills and training, as well as setting job creation as a formal objective or as an outcome of climate change adaptation and mitigation measures. Sectoral legislation also includes employment and decent work concerns. Indeed, out of 40 countries whose energy legislation was analysed, in different regions and at different levels of development, 27 include labour issues such as skills development and training.

Both developed and emerging countries have enacted legislation and policies to foster the “greening” of jobs, but this has also been done in developing countries. A recent analysis of 16 countries in sub-Saharan Africa shows that legislation linking labour and environmental issues has been adopted increasingly since the early 2000s, particularly in relation to renewable energy and waste management.

Social dialogue is a valuable tool for advancing towards a just transition. At the international level, green issues, together with labour standards, have become the subject of social dialogue between multinational enterprises and global union federations in International Framework Agreements. At the national level, social dialogue has contributed to making environmental governance more labour-friendly, for instance through collective agreements.

There is emerging consensus on the regulatory and policy framework needed to facilitate the interaction between the environmental and the decent work agenda, but it is too early to pinpoint obstacles to further progress.

Introduction

It is undeniable that, to be just, a transition to a low-carbon economy needs to take into account decent work and social justice. This premise has been reinforced by the UN 2030 Agenda for Sustainable Development, as well as the Paris Agreement. In the preamble to the latter, the Parties recognize the “imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities”.

There is currently no distinct area of law dealing with green jobs. While legal researchers have recently started exploring the possibility of a “just transition law” in the framework of environmental sustainability, they have also acknowledged that its emergence is still distant (Doorey, 2017).¹ Rather, what exists is two separate branches of standards and policies within the fields of labour and the environment.

Chapters 1 and 2 have examined the rationale behind the need for a transition to environmentally sustainable economies and provided evidence of its job creation potential. This chapter focuses on analysing existing international rules and instruments which form part of the policy options available for the process of a “just transition”.

The chapter first looks at international instruments on labour and environmental matters. It reviews international labour standards (ILS), based on their broad acceptance and universal relevance, as a means of promoting and ensuring decent working conditions in sectors most affected by the transition.² Multilateral environmental agreements (MEAs) are also examined with a view to identifying the labour issues that they incorporate, principally occupational safety and health (OSH) (section A). The chapter then analyses how the process of the integration of labour and environmental laws has taken place at the national level. It reviews and compares the links between environmental legislation and policies with labour considerations in 52 countries (section B). Finally, it discusses the role of social dialogue as a means to a just transition towards environmentally sustainable economies and societies for all and examines the different ways in which the social partners have contributed to the process of greening (section C).

1. Nevertheless, a “just transition law” would “provide a framework for organizing a coherent body of law”, including aspects of other legal fields, including labour and environmental law (Doorey, 2017).

2. ILS are legal instruments developed by governments and the representatives of employers and workers, the ILO’s constituents, which establish basic principles and rights at work. They mainly take the form of Conventions, Protocols and Recommendations (ILO, 2014).

A. Integration of environmental protection and labour issues at the international level

This section examines the role of international labour standards (ILS) in a just transition. Analysis of the structure of ILS identifies that the entire body of standards found in ILO Conventions and Recommendations is relevant to the green transition. In addition, at least 11 ILO instruments contain express references to environmental concerns. As the section demonstrates, ILS can also contribute to implementing principles of sustainable development, and therefore contribute to dealing with the environmental impact of the world of work and framing responses to environmental challenges.

INTERNATIONAL LABOUR STANDARDS RELEVANT TO THE PROCESS OF GREENING WITH JOBS

International labour standards ensure a just transition to a green economy

As yet there is no specific international labour standard on a just transition.³ However, the tripartite *Guidelines for a just transition towards environmentally sustainable economies and societies for all*, noted by the ILO Governing Body at its 325th Session in 2015, set out the roles of the ILO's constituents and provide a non-exhaustive list of ILO instruments relevant to the just transition framework and covered in this chapter.⁴ As the *Guidelines* point out, international labour standards offer a framework for addressing most of the issues associated with the greening of the economy and, more broadly, with the transition towards sustainable development. In view of their universality and flexibility, ILS are relevant to all workers, sectors and workplaces, including emerging green sectors.⁵ ILS therefore contribute to the regulatory framework of the green economy's social pillar and can promote decent working conditions in green sectors. Additionally, ILS deal with issues that have environmental ramifications, such as lack of employment and adequate standards of living, and also provide a legal framework for skills relevant for the green transition, as further analysed in Chapter 5.

Certain specific ILS, and particularly the fundamental and governance Conventions,⁶ make an overall contribution to the regulation of the labour market. They also act as a tool for the social partners to address the challenges posed for the workplace and employment in general by the process of greening (Olsen, 2009). For example, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), provide guidelines on how to ensure participation in decision-making related to environmental and climate change policies affecting the world of work.

Impacts of climate change on livelihoods and labour markets have increasingly drawn attention (and sometimes alarm) to the prospects of cross-border human displacement (Kagan et al., 2017). Recognizing the importance of protecting the rights of migrant workers as essential to social justice in the world of work,⁷ the ILO has adopted a number of standards on, or affecting, migrant workers (Rodgers et al., 2009). These standards include the Migration for Employment Convention, 1949

3. A proposal was made to include an item on the agenda of the International Labour Conference with a view to the adoption of a standard on a just transition. It was argued that such an instrument would provide the *Guidelines* with “force and authoritative guidance” and that it would be a means for the International Labour Conference and the Governing Body “to monitor the implementation of social and labour issues in relation to environmental change and related policies”. So far there is no consensus on this question among the ILO's tripartite constituency. Irrespective of the adoption of an instrument on this issue, the *Guidelines* are starting to be implemented, as seen in Chapter 2.

4. ILO, 2017a, Appendix I.A, indicates that the governance structures of the climate change regime are not sufficient to address the needs and realities of the world of work, and that the International Labour Conference is the body that is best placed to “complement the global policy framework on environmental matters”.

5. On *universality and flexibility*, see e.g. Valticos (1979); Von Potobsky and de la Cruz (1990); ILO (2014); Servais (2017).

6. The eight fundamental Conventions are: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); the Equal Remuneration Convention, 1951 (No. 100); and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The four governance Conventions are: the Labour Inspection Convention, 1947 (No. 81); the Employment Policy Convention, 1964 (No. 122); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

7. Constitution of the International Labour Organisation, as modified by the Instrument of Amendment of 1972 (entry into force: 1 November 1974).

Table 3.1

International labour standards relevant to climate adaptation and mitigation policies	
Adaptation policies	Mitigation policies
<p>Climate change induced stress at work:</p> <ul style="list-style-type: none"> • Hazardous air quality: C148 (Working Environment); • Measures to cope with heat and other stress at work: C110 (Plantations), R116 (Reduction of Hours); • Occupational safety and health: C155 & P155 (OSH), C187 (Promotional Framework for Occupational Safety and Health), C161 (Occupational Health Services). 	<p>Enhancement of adaptive capacity:</p> <ul style="list-style-type: none"> • Poverty reduction: various ILS, including on fundamental rights at work, employment, social security, OSH; • Improving education/knowledge and skills: C140 (Paid Educational Leave), C142 (Human Resources Development); C155 & P155 (OSH); • Promoting rights of groups vulnerable to the climate change: C111 (Discrimination), C159 & R168 (Vocational Rehabilitation and Employment (Disabled Persons)), C183 (Maternity Protection), C169 (Indigenous and Tribal Peoples).
<p>Compensation and protection of workers in affected sectors:</p> <ul style="list-style-type: none"> • Unemployment: C102 (Social Security (Minimum Standards)), C168 (Employment Promotion and Protection against Unemployment); • Compensation for the victims of pollution/environmental damage: R181 (Prevention of Major Industrial Accidents); • Compensation for removal from traditional lands: C169 (Indigenous and Tribal Peoples); • Minimum levels of benefits to workers facing an accident or illness related to work: C121 & R121 (Employment Injury Benefits), R202 (Social Protection Floors). 	<p>Prevention of damage to the environment:</p> <ul style="list-style-type: none"> • Prevention and protection measures: C162 & R172 (Asbestos); C176 (Safety and Health in Mines); R192 (Safety and Health in Agriculture); • Environmentally sound management of pollution and waste disposal: C162 & R172 (Asbestos); C170 & R177 (Chemicals); C184 & R192 (Safety and Health in Agriculture); • Environmental impact assessment: C169 (Indigenous and Tribal Peoples).
<p>Climate-induced displacement (migration):</p> <ul style="list-style-type: none"> • Labour migration specific standards: C97 (Migration for Employment); C143 (Migrant Workers); R100 (Protection of Migrant Workers); R151 (Migrant Workers). 	<p>Reduction of greenhouse gas emissions:</p> <ul style="list-style-type: none"> • Agriculture: C184 & R192 (Safety and Health in Agriculture); • Mining: C176 & R183 (Safety and Health in Mines).
<p>Measures to address disasters:</p> <ul style="list-style-type: none"> • Preparedness and response to industrial disasters: C174 (Prevention of Major Industrial Accidents); • Preparedness and response to natural disasters and other situations of crisis: R205 (Peace and Resilience). 	<p>Sectoral policy measures:</p> <ul style="list-style-type: none"> • Agriculture: C184 & R192 (Safety and Health in Agriculture); • Chemicals: C170 & R177 (Chemicals); • Waste management: C170 & R177 (Chemicals); C184 & R192 (Safety and Health in Agriculture).
<p>Diversification of economies and redress of inequality:</p> <ul style="list-style-type: none"> • Employment policy: C122 (Employment Policy), R189 (Job Creation in Small and Medium-Sized Enterprises), R198 (Employment Relationship), R205 (Peace and Resilience); • Skills: C140 (Paid Educational Leave), C142 (Human Resources Development). 	<p>Sustainable patterns of production and consumption:</p> <ul style="list-style-type: none"> • Elimination/reduction of production processes that may damage the environment, respect for ecological thresholds, waste minimization: C148 (Working Environment); C162 (Asbestos); C169 (Indigenous and Tribal Peoples); C170 (Chemicals); C174 (Prevention of Major Industrial Accidents); C176 (Safety and Health in Mines); C184 (Safety and Health in Agriculture).

Note: C = Convention; R = Recommendation.

Source: ILO compilation.

(No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1974 (No. 143), and apply to workers who are forced from their homes and across borders as a result of climate change and natural disasters.

More recently, the ILO adopted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), which contains measures specifically related to recovery and building resilience in response to crisis arising from environmental and climate-related disasters. The need for a just transition towards an environmentally sustainable economy is one of the guiding principles and proposed strategic approaches of this Recommendation. Although Recommendation No. 205 consolidates the main principles related to building resilience to climate-induced disasters, it is important to note that a much wider range of ILS are relevant to climate adaptation and mitigation policies (table 3.1).

ILO instruments are also relevant to the structural transformation of the economy and the protection of workers through social dialogue

As noted above, the fundamental and governance Conventions are particularly important in fostering a just transition. In particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), through the promotion of social dialogue, play an important role in ensuring public participation and consultation, which are crucial to sustainable development. Without these, societies cannot be inclusive, equitable or democratic (Olsen, 2009 and 2010).

Other instruments that contain provisions giving a voice to the parties involved in the greening process include the Rural Workers' Organisations Convention, 1975 (No. 141) and Recommendation (No. 149), which seek the organization of rural and agricultural workers, and indirectly benefit migrant workers, who are highly involved in agriculture.⁸ Section C further discusses the role of the social partners and social dialogue, and specific jointly agreed instruments, in facilitating the greening of the economy.

THE CONTRIBUTION OF ILS TO ENVIRONMENTAL PROTECTION AND THE IMPLEMENTATION OF THE PRINCIPLES OF SUSTAINABLE DEVELOPMENT

The role of ILS is not limited to the social dimension of the transition to a low-carbon society. Alongside social and developmental aspects, outlined above, they also support and reinforce the environmental pillar of the green economy and, more broadly, sustainable development.

Environmental issues are addressed in ILS in different ways. Some ILO instruments are more closely linked, either directly or indirectly, to the protection and preservation of the environment (figure 3.1).⁹ The Indigenous and Tribal Peoples Convention, 1989 (No. 169), is directly protective of the environment. It strengthens the role of indigenous and tribal peoples in environmental management and sets out a legal framework for environmental impact assessments.¹⁰ It also provides that measures should be taken to “protect and preserve the environment of the territories inhabited by indigenous peoples”. Another instrument directly protective of the environment is the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). It should be noted that the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), puts protection of the environment on an equal footing with that of workers and the public.

In contrast, ILO instruments on occupational safety and health (OSH) address environmental challenges indirectly through the protection of workers. Some ILS on the control of hazards and accident prevention also pursue both environmental and worker protection. Underlying this approach is the idea that the deterioration of conditions in the working environment is among the main causes of environmental pollution and the degradation of the human environment. This idea is reflected in the *Resolution concerning the contribution of the International Labour Organisation to the protection and enhancement of the environment related to work*, adopted by the ILC in 1972.¹¹ The role of ILS in this respect was seen as setting legal standards to prevent harm to the environment stemming from the workplace. Standards, particularly on OSH, can contribute to the design of policy solutions in situations of environmental degradation and to mainstreaming environmental concerns into the world of work. As the following section demonstrates, OSH standards provide a significant body of rules aimed at the protection of the environment.

8. Some governments have provided support services to agricultural workers for environmental activities. For example, in Austria, alternative energy and energy conservation have been included in such support services (ILO, 2015b).

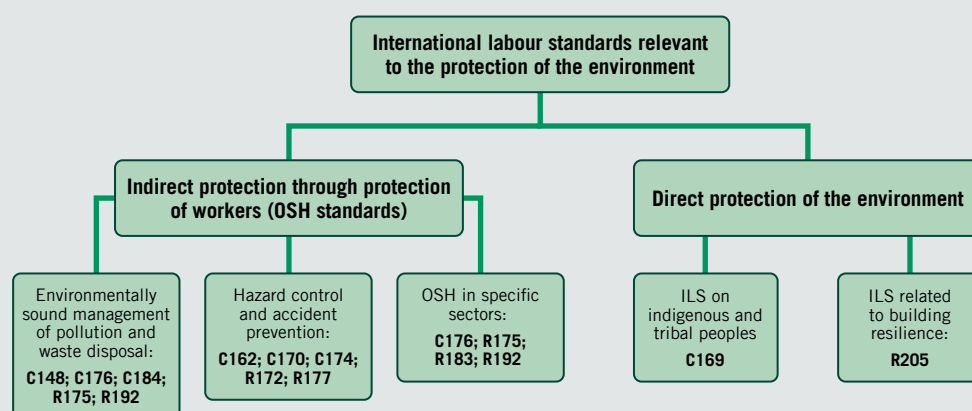
9. Olsen (2009) explores a different classification of ILS that are directly and indirectly related to the climate change agenda.

10. Article 7(3) of the Convention provides that “[g]overnments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.”

11. For a study of the ILO's involvement in environmental matters, see Olsen and Kempter (2013).

Figure 3.1

The structure of ILS from an environmental protection perspective



Source: ILO compilation.

Occupational safety and health: From worker protection to environmental protection

Although environmental concerns were initially addressed through the prism of worker protection, the protection of the environment has steadily become an objective of its own in these standards (box 3.1). For example, the preparatory work, preamble, scheme and structure of the Chemicals Convention, 1990 (No. 170), and the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), make it clear that the objective of protecting the environment is pursued equally alongside worker protection.¹² OSH standards can promote the protection of the environment through rules on: (a) environmentally sound management of pollution and waste disposal; (b) hazard control and accident prevention; and (c) the protection of the environment through OSH in specific sectors.

Box 3.1

The relationship between the working environment and the general environment

Environmental concerns were first introduced into ILS in the context of, and in relation to, the working environment. The Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156), is the first ILO standard to make an explicit link between the protection of the working environment and of the general environment, which should be taken into account by the competent authorities (Paragraph 15).

As the working environment is not a closed system isolated from the general environment, factors that give rise to a deterioration in the working environment are also among the main causes of the deterioration

in the human environment (ILO, 1987, para. 344). The workplace, as a source of risk generation, is a place where primary control should be exercised and where measures should be taken to coordinate environmental and labour protection (ibid., para. 345).

ILO instruments on hazard control and accident prevention in relation to the use of hazardous substances and processes in industry focus on potential risks emanating from the working environment. They therefore provide a framework for further developing the principle of the inter-relationship between the protection of the working environment and the general environment (ibid., para. 347).

12. The inclusion of considerations of environmental protection in ILS has not always been widely welcomed by some ILO constituents. See, for example, ILO (1995) on safety and health in mines.

(a) Environmentally sound management of pollution and waste disposal

The management of pollution and waste disposal is addressed by the Asbestos Convention, 1986 (No. 162) and Recommendation (No. 172), the Chemicals Convention, 1990 (No. 170) and Recommendation (No. 177), and the Safety and Health in Agriculture Convention, 2001 (No. 184) and Recommendation (No. 192). These instruments contain provisions that address unsustainable patterns of production. Prevention, precaution and respect for ecological thresholds are important aspects of all these instruments.

Thus, Article 19(2) of Convention No. 162 requires that appropriate measures be taken by the competent authority and by employers to prevent pollution of the general environment by asbestos dust released from the workplace.¹³ Recommendation No. 172 further specifies measures to be taken and encourages opting for environmentally friendly technologies and processes which reduce or eliminate the formation of asbestos dust and its release (Paragraphs 17(c) and 28(2)).

Convention No. 170 addresses environmentally friendly handling and disposal of hazardous chemicals (Article 14).¹⁴ Similarly, Convention No. 184 and Recommendation No. 192 contain provisions on the sound management of chemicals in agriculture. Convention No. 184, in particular, requires measures to ensure there is a suitable system for the safe collection, recycling and disposal of chemical waste and to eliminate or minimize risks to the environment. Environmentally sound management of waste disposal in mining operations and construction is governed by Article 5(4)(d) of Convention No. 176 and Paragraph 41(3) of Recommendation No. 175, respectively.

(b) Hazard control and accident prevention

In addition to the potential human and material losses, and injuries inside or outside the workplace, an industrial disaster has an impact on the environment. The Prevention of Major Industrial Accidents Convention, 1993 (No. 174), requires member States to formulate, implement and periodically review a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents, in consultation with the most representative organizations of employers and workers, and with other interested parties who may be affected (Article 4(1)).¹⁵ Additionally, the Convention requires employers to establish and maintain a documented system of major hazard control, including emergency plans and procedures, for each major hazard installation (Article 9(d)(ii)). Article 15, on the responsibilities of the competent authorities, requires them to “ensure that emergency plans and procedures containing provisions for the protection of ... the environment outside the site of each major hazard installation are established, updated at appropriate intervals and coordinated with the relevant authorities and bodies” (see [box 3.2](#)).

(c) OSH in specific sectors

Environmental protection is also integrated into several ILO standards on OSH in specific sectors, including some of those most relevant for the transition towards sustainable economies, namely mining, agriculture and construction. The Safety and Health in Mines Convention, 1995 (No. 176), recognizes that it is desirable to prevent any damage to the environment arising from mining operations. This principle is further developed in its accompanying Recommendation No. 183, which states that emergency response plans developed by employers (in accordance with Article 8 of the Convention) could include adequate protection of the environment (Paragraph 19(d)). The Recommendation adds that due regard should be given to the possible impact of mining on the surrounding environment (Paragraph 33).¹⁶

13. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has requested information on the measures taken in law and practice in relation to work on land and on ships to give effect to the requirement to prevent pollution of the general environment by asbestos released from workplaces. See, for example, Denmark – CEACR, Convention No. 162, direct request, published in 2012.

14. Recommendation No. 177 adds two parameters: first, that chemical safety data sheets for hazardous chemicals should also contain ecological information (Paragraph 10(1)), and, second, that the “criteria for the use of chemicals at work ... should be as consistent as possible with the protection of the general public and the environment and any criteria established for that purpose” (Paragraph 17).

15. The drafters of the instrument saw Convention No. 174 as being designed to protect equally the public and the environment as, in the view of some States, workers are protected by OSH standards (ILO, 1992).

16. Some measures of due diligence include the control of subsidence, vibration, flyrock, harmful contaminants in water, air or soil, the safe and effective management of waste tips, and the rehabilitation of mine sites (*ibid.*).

Box 3.2

Implementation of the Prevention of Major Industrial Accidents Convention, 1993 (No. 174): Recent CEACR comments

The comments of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on the implementation of Convention No. 174 have highlighted the equal importance accorded to the protection of the environment and to the rights of workers and the public. For example, when reviewing the application of Article 4, the CEACR has recalled that the focus of the Convention “is not only on the management of accidents in such installations, nor on environmental law, but on the management of major industrial accidents to which not only workers, but also the environment and the public are exposed”.¹ It has also indicated that a national OSH policy is not sufficient to address the objective and focus of the Convention,² as “neither labour legislation, nor environmental legislation, is sufficient to give effect to this Convention” and, in line with Article 4(1), there has to be a coherent national

policy concerning the protection of workers, the public and the environment against the risks of major accidents,³ rather than fragmented or separate labour or environmental regulation.⁴ The CEACR has therefore emphasized the objective of the Convention to protect “workers, the public and the environment”.

Through its direct requests, the CEACR has raised a number of issues, including requesting information on the manner in which risks to workers, the environment or the public are taken into account in the application of Article 6 in relation to the protection of confidential information;⁵ and information on the effect given to Article 15 on the establishment and regular updating of off-site plans and procedures to protect the environment outside the sites of hazardous installations,⁶ and the consultations held for this purpose.⁷

¹ Colombia – CEACR, Convention No. 174, observation, published in 2014. ² See also, for example, Brazil – CEACR, Convention No. 174, direct request, published in 2012. ³ Colombia, 2014, op. cit. ⁴ Brazil, 2012, op. cit.; Colombia – CEACR, Convention No. 174, direct request, published in 2012. ⁵ Saudi Arabia – CEACR, Convention No. 174, direct request, published in 2015; Colombia, 2014, op. cit. ⁶ Armenia – CEACR, Convention No. 174, direct request, published in 2014. ⁷ Zimbabwe – CEACR, Convention No. 174, direct request, published in 2015.

The Safety and Health in Agriculture Recommendation, 2001 (No. 192), indicates that when implementing the national policy on this issue, the measures adopted for the prevention and control of occupational hazards should take into account the need to protect the general environment from the impact of agricultural activities (Paragraph 3).¹⁷ Similarly, the Safety and Health in Construction Recommendation, 1998 (No. 175), calls for the preservation of the environment to be safeguarded, as prescribed by national laws and regulations, when materials are used that contain hazardous substances and in the removal and disposal of waste (Paragraph 41(3)).

The environment and the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Convention No. 169 is one of the two ILO instruments dealing with the environment directly. One of its objectives is to reflect the special relationship that indigenous peoples have with their land and environment. As a general principle, the Convention stipulates that indigenous peoples have the right “to the natural resources pertaining to their lands”, including the right “to participate in the use, management and conservation of these resources”. It sets out the general obligations of ratifying States, including the adoption of measures, in cooperation with indigenous peoples, to protect and preserve the environment of the territories that indigenous and tribal peoples inhabit (Articles 4 and 7).

17. These measures should also protect the general environment from risks which may arise from agricultural activities (such as agrochemical waste, livestock waste, soil and water contamination, soil depletion and topographic changes).

The Convention also requires that environmental assessments be carried out on the possible impact of planned development projects on the peoples concerned. The environment is considered to be an inseparable component of the right of indigenous peoples to land, the use of natural resources and their traditional life. Article 7 thus emphasizes the right of indigenous peoples to participate in the formulation, implementation and evaluation of development plans which may affect them directly, and specifies that the results of environmental assessments should be considered as fundamental criteria for the implementation of development activities.

ILS contribute to the implementation of sustainable development principles

As the *Guidelines for a just transition* make clear, sustainable development provides the framework for the transition at the global level (ILO, 2015a). Understanding the contribution of ILS to the principles of sustainable development is helpful in that respect. The main points of convergence and contribution of ILS to the implementation of sustainable development principles are set out in [table 3.2](#).

This equation of international labour standards with sustainable development leads to two substantive conclusions. First, ILS contribute to the implementation of a broad range of sustainable development principles. Olsen (2009) notes some of the linkages between sustainable development principles and labour standards, such as the fact that OSH standards are based on the precautionary principle. As [table 3.2](#) indicates, ILS contribute to the implementation of sustainable development principles in matters such as control of hazardous activities and substances, environmental impact assessments, integration of environmental, social and economic concerns, notification and assistance during emergencies, prevention of environmental pollution, public participation in environmental matters, participation of ITPs in environmental management, reduction of GHG emissions, and sustainable patterns of production and consumption.

Second, ILO instruments are also capable of broadening the scope of environmental protection, particularly in unregulated or insufficiently regulated areas. In relation to hazardous substances, for example, ILO instruments such as the Chemicals Convention, 1990 (No. 170), and its accompanying Recommendation (No. 177), focus on waste disposal at the *source* of their production. This is in contrast to the Rio Declaration, which only addresses the transfer or relocation of substances that cause severe environmental degradation, while other multilateral environmental agreements, analysed in the next section,¹⁸ regulate mainly the *transboundary movement* and *trade* in waste and other hazardous substances (Mbengue, 2015).¹⁹

Similarly, a series of ILO standards on OSH issues in specific sectors (such as mining, agriculture and construction) include provisions on environmental protection. For instance, the Safety and Health in Agriculture Convention, 2001 (No. 184), requires environmentally sound collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals in agriculture. This is a normative contribution by ILS to environmental protection, as many industrial and other activities, such as transport, mining, and energy generation, which may pose significant long-term environmental threats, “are not subject to significant specific international environmental regulation” (Sands and Peel, 2012, p. 516).

18. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989) and the Stockholm Convention on Persistent Organic Pollutants (2001), which goes further in addressing the international movement of hazardous waste by directly limiting/regulating the production and use of hazardous chemicals known as persistent organic pollutants; and the Minamata Convention on Mercury (2013), which provides for the phase-out of mercury mining.

19. For example, Article 4(2) of the Basel Convention requires States parties to take “appropriate measures” to reduce the generation of hazardous wastes to a minimum and to ensure the availability of adequate disposal facilities for their environmentally sound management.

Table 3.2

Contribution of international labour standards to the sustainable development normative framework¹

Sustainable development legal principles and policy guidelines	International labour standards	Methods set out in international labour standards
Capacity building and knowledge	Human Resources Development Convention, 1975 (No. 142); Occupational Safety and Health Convention, 1981 (No. 155); Protocol of 2002 to the Occupational Safety and Health Convention, 1981; Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Recommendation, 2006 (No. 197)	<ul style="list-style-type: none"> • Skills necessary to meet changing methods of production • New skills to ensure safety in environmental jobs
Compensation for the victims of pollution/other environmental damage	Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)	<ul style="list-style-type: none"> • Establishment of a system to compensate workers following major accidents and adequately address their effects on the environment
Hazardous activities and substances	Chemicals Convention, 1990 (No. 170) and Recommendation, 1990 (No. 177)	<ul style="list-style-type: none"> • Chemical data sheets to include information on environmental impact² • Ensuring the use of chemicals is consistent with protection
	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)	<ul style="list-style-type: none"> • National policies that protect the environment against the risk of major accidents (for workers and the general public)
Environmental impact assessments	Indigenous and Tribal Peoples Convention, 1989 (No. 169)	<ul style="list-style-type: none"> • Studies carried out, and followed up, in cooperation with indigenous and tribal peoples to evaluate the environmental impact of development activities
Integration of environmental, economic and social dimensions	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) and Recommendation, 1977 (No. 156)	<ul style="list-style-type: none"> • Control of the workplace as a source of risk for the environment • Coordination of measures to protect the environment, both within and outside the workplace
	Safety and Health in Agriculture Convention, 2001 (No. 184)	<ul style="list-style-type: none"> • OSH mechanisms in agriculture that also take into account the protection of the environment
	Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)	<ul style="list-style-type: none"> • Strategies for sustainable development, poverty eradication and inclusive growth
	Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)	<ul style="list-style-type: none"> • Support the public sector and promoting socially, economically and environmentally responsible public–private partnerships
Notification and assistance (natural disasters or other emergencies)	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)	<ul style="list-style-type: none"> • Obligation of the employer to maintain emergency plans and procedures³
	Safety and Health in Mines Recommendation, 1995 (No. 183)	<ul style="list-style-type: none"> • Emergency response plans in mining operations that include adequate protection of the environment
Prevention of environmental pollution/degradation	Asbestos Convention, 1986 (No. 162) and Recommendation, 1986 (No. 172)	<ul style="list-style-type: none"> • Elimination and minimization of the release of asbestos dust
	Safety and Health in Agriculture Convention, 2001 (No. 184) and Recommendation, 2001 (No. 192)	<ul style="list-style-type: none"> • Reduction of greenhouse gas emissions through the control of hazards in agriculture and due diligence measures in related to agricultural and mining activities
	Safety and Health in Mines Convention, 1995 (No. 176) and Recommendation, 1995 (No. 183)	<ul style="list-style-type: none"> • Need to prevent damage to the environment arising out of mining operations
	Safety and Health in Mines Convention, 1995 (No. 176); Chemicals Convention, 1990 (No. 170) and Recommendation, 1990 (No. 177); Safety and Health in Agriculture Convention, 2001 (No. 184); Occupational Health Services Recommendation, 1985 (No. 171)	<ul style="list-style-type: none"> • Development of an adequate system for the handling and disposal of chemicals to prevent their use for other purposes and to eliminate/minimize risks to the environment • Participation of occupational health services in measures to prevent an undertaking's activities from having an adverse effect on the general environment
	Safety and Health in Agriculture Recommendation, 2001 (No. 192); Safety and Health in Construction Recommendation, 1988 (No. 175); Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)	<ul style="list-style-type: none"> • Measures to protect from risks due to agrochemical waste, livestock waste. Measures to protect soil and water contamination, soil depletion and topographic changes in agricultural activities • Preservation of the environment in the use of hazardous substances, the removal and disposal of waste in the construction sector • In response to crisis, identifying and monitoring negative and unintended consequences to avoid harmful spillover effects on the environment

Table 3.2 (cont'd)

Contribution of international labour standards to the sustainable development normative framework¹

Sustainable development legal principles and policy guidelines	International labour standards	Methods set out in international labour standards
Participation of indigenous and tribal peoples in environmental management	Indigenous and Tribal Peoples Convention, 1989 (No. 169)	<ul style="list-style-type: none"> Requirement for governments to facilitate contacts and cooperation between indigenous and tribal peoples across borders, including activities in the environmental field
Right to information	Occupational Safety and Health Convention, 1981 (No. 155); Safety and Health in Construction Convention, 1988 (No. 167); Safety and Health in Agriculture Convention, 2001 (No. 184)	<ul style="list-style-type: none"> Obligation of the relevant parties to provide information on: hazards relating to machinery and equipment; dangerous properties of substances, biological agents or products; and instructions on how to avoid known hazards Workers' right (enterprise level) to know and be informed of workplace hazards that may affect their safety or health, to have access to information on the OSH measures taken by the employer as well as risks from new technologies
Sustainable patterns of production and consumption	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Indigenous and Tribal Peoples Convention, 1989 (No. 169); Chemicals Convention, 1990 (No. 170); Safety and Health in Mines Convention, 1995 (No. 176) and Recommendation, 1995 (No. 183); Safety and Health in Agriculture Convention, 2001 (No. 184) and Recommendation, 2001 (No. 192)	<ul style="list-style-type: none"> Elimination or reduction of production processes that may damage the environment, in accordance with ecological thresholds, and waste minimization

¹ The legal principles and guidelines on sustainable development stem from the 1992 Rio Declaration on Environment and Development (the Rio Declaration), which underpins the international community's approach to the environment. ² A chemical data sheet is a document containing information on the properties of hazardous chemicals. ³ The ILO Code of practice on prevention of major industrial accidents (1991) indicates that the objective of emergency plans is to minimize the harmful effects of an emergency on people, property and the environment.

Source: ILO compilation.

THE EMPLOYMENT AND DECENT WORK DIMENSIONS OF MULTILATERAL ENVIRONMENTAL AGREEMENTS

Multilateral environmental agreements (MEAs), which are international treaties between States on environmental issues,²⁰ entail legal and policy consequences for labour law and practice. A concern that is frequently expressed is that MEAs and their incorporation into national legislation may displace jobs or that, although they foster job creation, the resulting jobs may lack decent work components. A review of MEAs helps to identify their labour dimensions and ways of effectively voicing labour concerns in environmental policy-making.

MEAs that include labour concerns

Over the past several decades, the number of MEAs has increased, particularly since the United Nations Conference on the Human Environment in 1972 (the "Stockholm Conference"). The first generation of MEAs were aimed at protecting specific species or ecosystems. However, during the 1990s, environmental regulations, frameworks and mechanisms increasingly integrated social and economic considerations, including employment and decent work. Indeed, 18 of the 20 MEAs that include labour issues have been adopted since 1992.²¹ As shown in table 3.3, MEAs containing labour provisions cover various fields of ILO standard-setting action such as decent work, employment promotion and protection, just transition, OSH, issues pertaining to the resolution of conflicts of law regarding workers' compensation and, to a lesser extent, the protection of certain environmental rights at work (for an example, see table 3.3).

20. For a review of the features of MEAs and their historical evolution, see Brunnée (2011).

21. The Vienna Convention on Civil Liability for Nuclear Damage of 1963 is the earliest recorded agreement that contains a reference to "labour". It provides that, where national provisions related to workmen's compensation or occupational disease compensation systems include compensation for nuclear damage, rights of beneficiaries of such systems to obtain compensation and rights of recourse shall be determined by the applicable national law.

Table 3.3

Labour issues in multilateral environmental agreements

Policy area	MEA
Decent work	<ul style="list-style-type: none"> • United Nations Convention on the Law of the Sea (1982) • Convention on the Protection of the Marine Environment of the Baltic Sea area (1992) • International Tropical Timber Agreement (2006) • Paris Agreement under the United Nations Framework Convention on Climate Change (2015)
Employment promotion and protection	<ul style="list-style-type: none"> • United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (1994) • Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) • International Tropical Timber Agreement (2006)
Environmental rights at work	<ul style="list-style-type: none"> • Kiev Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (2003)
Just transition	<ul style="list-style-type: none"> • Paris Agreement under the United Nations Framework Convention on Climate Change (2015)
OSH	<ul style="list-style-type: none"> • Convention on Nuclear Safety (1994) • Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997) • Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Heavy Metals (1998) • Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998) • Stockholm Convention on Persistent Organic Pollutants (2001) • International Convention on the Control of Harmful Anti-Fouling Systems on Ships (2001) • Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009) • Minamata Convention on Mercury (2013)
Rules on the resolution of conflicts of law regarding the compensation of workers	<ul style="list-style-type: none"> • Vienna Convention on Civil Liability for Nuclear Damage (1963) • International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1996) • Convention on Supplementary Compensation for Nuclear Damage (1997)

Note: See Appendix 3 for a full analysis of employment and decent work parameters in MEAs.

Source: ILO compilation.

OSH is an area regulated by both MEAs and ILS. A number of MEAs on the environmental impact of hazardous substances and activities refer to OSH standards. Examples include the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997), the Minamata Convention on Mercury (2013), Annex II to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Heavy Metals (1998), and the Regulations concerning the International Carriage of Dangerous Goods by Rail (2015). These agreements include specific references to the safety and health of workers engaged in radioactive waste management and the training of workers on occupational exposure to mercury, radiation and dust from pyrometallurgical production. Box 3.3 presents an example of a synergistic interface between labour and the environment in the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009).

Some MEAs seek to support vulnerable groups through the enhancement of income generation and employment opportunities.²² Others, such as the Kiev Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (2003), include elements of environmental rights at work, namely the protection of workers who report a violation of the national laws implementing the Protocol.

Finally, other MEAs, although they do not refer explicitly to specific labour issues, such as OSH or social dialogue, have indirect implications for the activity of certain sectors and the working conditions therein. This is the case, for example, of the Montreal Protocol on Substances that Deplete the Ozone Layer (in force since 1989), which was amended in 2016 during the 28th Meeting of the Parties in Kigali. In the amendment the parties agreed to reduce the production and usage of hydrofluorocarbons in phases, contributing to climate change mitigation as they are powerful GHGs. By altering the methods of production of particular industries, these agreements can bring about direct and indirect effects (for more details on economy-wide effects of achieving sustainability, see Chapter 2).

22. The United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, 1994, and the International Tropical Timber Agreement, 2006.

Box 3.3

Integrated environmental and labour regulation: The case of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009)

The shipping industry has been effective at recycling and reusing materials, through the adoption of practices related to sustainability and a “life-cycle approach”. However, ship dismantling has been associated with processes that are dangerous to human safety and health and cause environmental pollution, in particular in emerging and developing economies, where the ship recycling industry offers new economic opportunities. Since the maritime legal framework does not apply to the latter cycle of a vessel’s life, there were no standards relating to ship decommissioning and disposal until recently (Andersen, 2001).

A normative response to some of these issues in the ship scrapping industry is the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009) (the “Hong Kong Convention”). The Convention challenges older models of production that neglect life-cycle safety and environmental impact in the design of ships. It also pursues the objectives of the protection of the environment and of human health, and particularly of

workers involved in ship recycling. While certain ILO Conventions provide a legal framework for OSH in shipyards and the ILO has developed guidelines on shipbreaking (ILO, 2004), the Hong Kong Convention is an instrument that integrates both environmental and labour concerns in a single regulation.

The Hong Kong Convention incorporates the labour dimensions of shipbreaking by including important aspects of ILS, including the fundamental labour standards and those on OSH, social dialogue, guidance and training.¹ For example, the Convention includes a framework for the development of a programme to provide appropriate information, training and equipment to workers for safe and environmentally sound operations and the management of hazardous materials (Regulations 18 and 20); information and training on emergency preparedness and response for all workers in the ship recycling facility (Regulation 21); worker safety (including the use of personal protective equipment) and training covering all workers, including contractor personnel and employees (Regulation 22).

¹ These standards are included in the Annex to the Convention (Regulations for Safe and Environmentally Sound Recycling of Ships) which, in accordance with Article 1, forms an integral part of the Convention.

The promotion of ILS can be broadened through MEAs

Another approach to integration is the manner in which MEAs make direct reference to ILS. For example, the United Nations Convention on the Law of the Sea (1982), the International Tropical Timber Agreement (2006) and the Hong Kong Convention (2009) consider ILO instruments as relevant legal frameworks for the implementation of their measures.

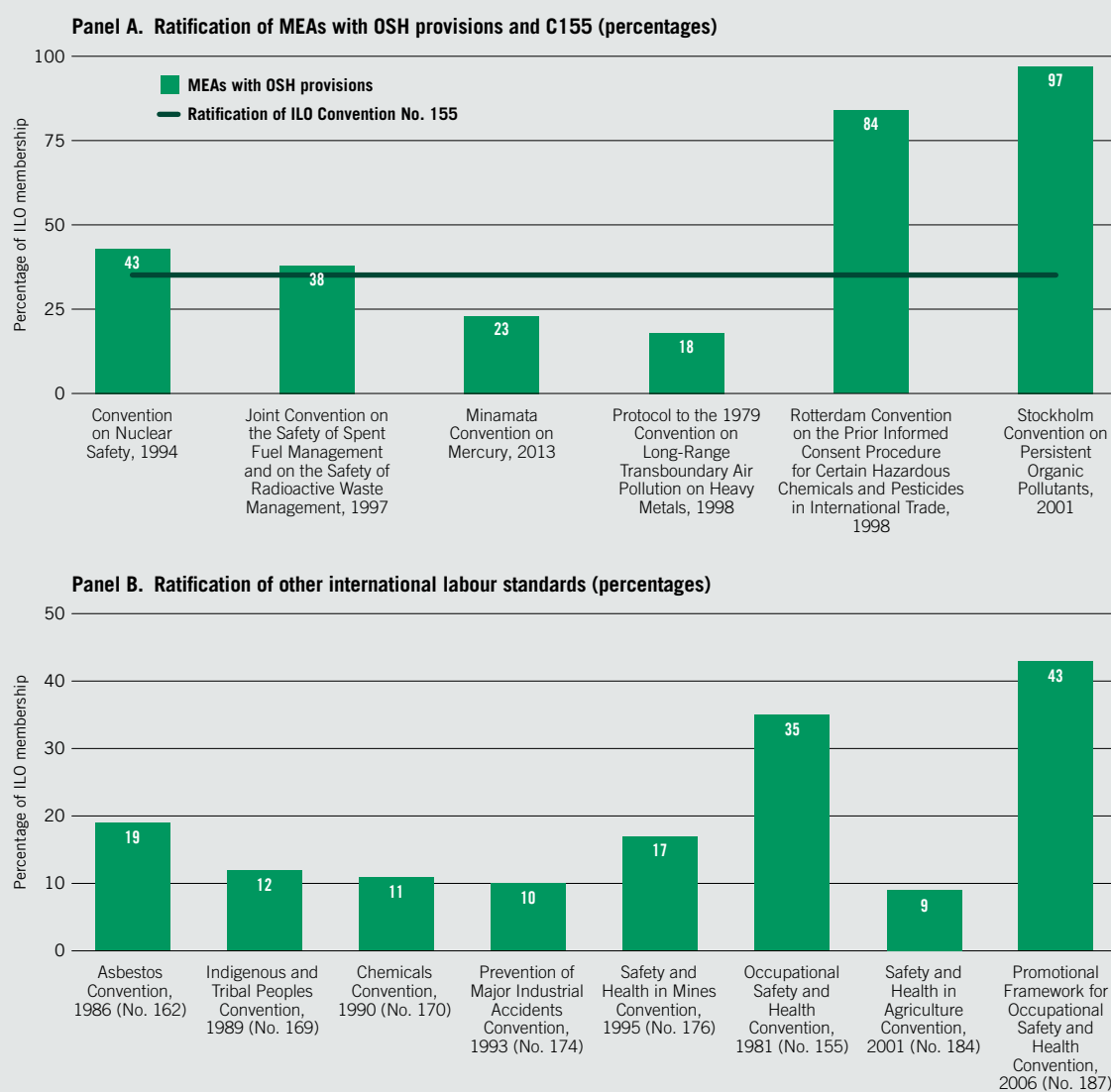
The United Nations Convention on the Law of the Sea (1982) refers to the applicable international regulations, which include ILS, to ensure health and safety at sea with regard to labour conditions (Article 94). Comparable legal linkages with labour and decent work are also present in the Minamata Convention on Mercury (2013), which provides for institutional cooperation between States parties to the Convention and the ILO on health and safety issues (Article 16). Such references may be regarded as evidence of the impact of the ILS on treaty-making processes as well as open routes for the broad incorporation of ILS in the implementation of international environmental treaties.

In some cases, MEAs with OSH provisions have received higher endorsement than ILO Conventions on OSH, as shown in figure 3.2. For example, the Stockholm Convention on Persistent Organic Pollutants (2001) has been ratified by 97 per cent of ILO member States, while the figure for the Occupational Safety and Health Convention, 1981 (No. 155), is only 35 per cent (Panel A). Panel B shows the percentage of ILO member States which have ratified OSH and other related Conventions.

However, ILO Conventions, regardless of ratification, may be reflected in national legislation, policies and practices. For example, 21 countries that had not ratified Convention No. 155 reported to the ILO that the Convention had been or was being taken into consideration in efforts to improve domestic OSH law and practice, in some cases with a view to future ratification (ILO, 2009). Obstacles to ratification of OSH Conventions include difficulties in reaching agreements with the full support of the social partners,

Figure 3.2

Ratification by ILO member States of MEAs with OSH provisions vis-à-vis the Occupational Safety and Health Convention, 1981 (No. 155), and ratification of certain other ILS



Source: ILO compilation.

the need to strengthen coordination between government authorities working on various OSH issues, lack of capacity, and lack of conformity between the Convention and existing national legislation.²³ When parties to an MEA with a labour reference implement such reference, they could also seek guidance in the content of ILS. For instance, the Stockholm Convention on Persistent Organic Pollutants (2001) sets out that appropriate techniques to prevent or reduce releases of certain chemicals must take into consideration the need to ensure OSH at workplaces. To comply, States may refer to ILS on OSH. MEAs with labour dimensions could therefore help to improve the impact of ILS by broadening their substantive scope and outreach.

23. See Chapter IV of ILO (2009) on impact, obstacles and prospects for further ratifications of ILO standards on occupational safety and health.

B. Mainstreaming decent work in laws and policies at the national level

At the national level, rules and policies to make the environment more sustainable are scattered among regulations governing specific issues or areas (such as climate change) and specific sectors, including energy, land use and agriculture, forestry, waste management and transport. Accordingly, although an increasing number of legal and policy frameworks have been adopted on the “green economy” or “green growth”, this is not yet a widespread practice in all countries and regions. Environmental legislation and policies have emerged in various forms and reflect country-specific contexts. This section focuses on national laws and regulatory instruments in countries at different levels of development. It identifies certain trends and documents legal developments in sectors and focus areas relevant to the green economy (e.g. climate change). It also shows how employment and decent work parameters have been integrated into national regulation and provides a basis for discussion of emerging regulatory approaches to the employment in transition.²⁴

NATIONAL LEGISLATION AND POLICIES GOVERNING THE TRANSITION TO A GREEN ECONOMY

Labour dimensions are found in various types of green policies and national legislation

Legislation and policies aimed at greening jobs can be varied and adopted in various contexts.²⁵ This section has identified four in particular. First, they can be adopted as part of a specific legal or policy framework on employment in transition, addressing most issues related to them. Some countries have adopted or discussed green jobs acts that deal with green jobs across all or sectors of interest (e.g. Bill for a Green Jobs Act introduced in 2016 in New Brunswick, Canada).²⁶

Second, countries can integrate employment in transition issues into wider development and green growth legislation, policies and plans. For example, in the Republic of Korea, the Framework Act on Low Carbon, Green Growth (2010) includes several provisions on employment. The definition of “green growth”²⁷ includes the creation of new job opportunities and employment is identified as one of the basic principles for the promotion of low-carbon growth. Moreover, the Government is required to provide technical support, and to create and expand jobs for green technology and green industries, so that every citizen can benefit from green growth and learn about new technologies (Article 35).

Third, countries can incorporate labour considerations into laws and policies on specific sectors or particular focus areas, such as climate change adaptation/mitigation, renewable energy, environmental protection, land use and forestry, and waste management. For example, the legislation in Algeria on energy efficiency and the promotion of renewable energy supports the creation of conducive environment that may lead to creation of energy services enterprises, and thus to the generation of employment opportunities.²⁸

Fourth, a mixed approach can be adopted combining specific legislation on green jobs and integrating labour issues into sectoral laws and policies. For example, the Philippines has adopted the Green Jobs Act of 2016 and has incorporated employment-related provisions into sectoral laws, such as the Renewable Energy Act of 2008 and the People’s Survival Fund Act of 2011.

24. Chapter 2 explores the impact of environmental legislation on the level and composition of employment, with a particular focus on greenhouse gas (GHG) emissions.

25. A number of countries have embarked on green growth and green policies as a result of the 2008 financial crisis. A concept that rose to popularity in this context was the “Green New Deal”, culminating in the endorsement of the concept of green economy at the Rio+20 Conference in 2012.

26. The purpose of the Bill is job creation and strengthening the province’s local economy, while at the same time reducing dependence on fossil fuels. At the time of drafting the present report, the Act was not yet adopted.

27. Article 2 on definitions provides: “The term ‘green growth’ means growth achieved by saving and using energy and resources efficiently to reduce climate change and damage to the environment, securing new growth engines through research and development of green technology, creating new job opportunities, and achieving harmony between the economy and environment”.

28. Law on Energy Management, Law no. 99-09, 28 July 1999, see particularly Article 33.

Box 3.4

Greening jobs in sub-Saharan Africa

Sub-Saharan Africa is one of the fastest-developing regions in the world. However, due to such factors as widespread poverty, recurrent droughts and over-dependence on rain-fed agriculture, it is considered to be more vulnerable to the impacts of environmental degradation. This intensifies the vulnerability of the region's economies, which are dependent on natural resources (German Federal Ministry for Economic Cooperation Development, 2015).

In this regard, the Constitutions of 12 of the 16 countries analysed defend the right to work and live in a clean and healthy environment, and most of the countries promote environmental impact assessments. Moreover, sectoral laws emphasize the role of workers in respecting and protecting the environment. This is the case of the Mining Codes in Benin (2006) and Burkina Faso (2003), the Forest Code in the Central African Republic (2008), the Oil Code in the Comoros (2012) and agriculture laws in the Democratic Republic of the Congo (2011).

Legislative and policy measures also try to combine the goal of job creation with the preservation of the environment, including training for workers and the introduction of environmental concerns into educational programmes. Examples of development plans or national strategies on climate change that include labour issues exist in Chad, Burkina Faso, Burundi, Mali, Niger

and Senegal. In the case of Niger, the National Policy on Climate Change (2012) promotes the creation of “green jobs” and the adoption of tax incentives for employers that create them.¹

In the case of sectoral laws, legislation targeting renewable energy and waste management acknowledges the need for new knowledge area and employment opportunities. In order to remedy electricity shortages, legal texts encourage the production, consumption, sale and import of renewable energy. There are tax incentives to support this sector in countries such as Benin, Burkina Faso, Burundi, Djibouti and Mali. Legislation also promotes waste management, taking into account population growth. The public authorities are responsible for ensuring the provision of adequate waste management services, and the private sector is encouraged to supplement government efforts to preserve public health.

Finally, some countries have adopted green jobs programmes. For instance, in Senegal, a joint programme with the United Nations Development Programme seeks to promote and develop new sectors with green jobs, to build the capacities of certain groups (including women) and to provide training on the creation of green jobs. At least 1,000 green jobs have been created in Senegal since 2015, and 10,000 more are expected within the next five years (UNDP, 2015).²

¹ The Policy defines green jobs as follows: “Green jobs are jobs that help reduce the environmental impact of economic sectors to keep it at an acceptable level, so as to ensure development on a sustainable basis preserving the interest of present and future generations” (unofficial translation). ² While the programme does not provide a definition of green jobs, it does indicate as an objective the creation of “decent green jobs”. The UNDP has acknowledged that the ILO definition of green jobs is one of the most widely accepted (see, for example, UNDP, 2013).

Environmental legislation has been adopted not only in developed economies, but also in developing and emerging economies in various regions. A review of 16 countries in sub-Saharan Africa²⁹ found that environmental issues are linked to employment and work-related matters in the legislation adopted since the early 2000s. Box 3.4 presents an overview of legal developments and examples of green jobs legislation covering specific sectors or focus areas in sub-Saharan Africa.

29. The countries analysed are: Benin, Burkina Faso, Burundi, Central African Republic, Chad, the Comoros, Democratic Republic of the Congo, Djibouti, Guinea, Madagascar, Mali, Mauritania, Niger, Rwanda, Senegal and Togo.

Different approaches in defining “green jobs” exist in national legislation and policies

A qualitative analysis of national legislation shows that existing regulatory frameworks across countries have not yet established a set of common criteria to define green jobs, green employment, greening with jobs or what a just transition to a green economy will imply. What exists is rather a variety of approaches. Table 3.4 provides examples of various national laws and policies aimed at promoting a just transition to a green economy.

Labour dimension	Country	National law	Content of provision
Decent work	Côte d'Ivoire	Act No. 2015-537 on agricultural policy, 2015	Pursues environmental and decent work objectives in an integrated manner. It aims to develop an “optimized” agricultural sector that preserves and restores biodiversity while contributing to poverty alleviation and job creation, and combating forced labour and the worst forms of child labour. It reaffirms the obligation of the State to protect young persons and to ensure the safety and health of agricultural workers.
Green jobs	Philippines	Green Jobs Act of 2016	Promotes the creation of green jobs, granting incentives and appropriating funds. It also provides a comprehensive definition of “green”, which incorporates decent work dimensions (i.e. productive jobs creation, respect for the rights of workers, delivery of a fair income, provision of security in the workplace and social protection for families, and the promotion of social dialogue).
Greening the workplace	Mexico	General Act on climate change, 2012	Identifies a number of measures to reduce emissions in the transport sector by changing consumption behaviour at the workplace. Agencies and entities of the federal public administration, federal entities and municipalities, acting within their competence, have to promote the design and development of policies and mitigation actions. The law encourages the establishment of programmes to reduce displacement of workers (e.g. telework or providing collective transport).
Job creation	Brazil	Act No. 12.305 establishing the National Policy on Solid Waste, 2010	Recognizes reusable and recyclable solid waste as an economic good of social value, a generator of work and income and promoter of citizenship. It also requires any municipal solid waste management plan to include, among other measures, mechanisms for the creation of sources of business, employment and income through the valuation of solid waste.

Source: ILO compilation.

This analysis also reveals a range of components that make up a broader concept of green jobs, in which various elements central to the concept of greening with jobs emerge: the importance of decent work and fundamental rights at work, the participation of the social partners as well as environmental action and rights at work. The addition of environmental rights at work to the notion of greening with jobs is significant (box 3.5), as any workplace can contribute to the reduction of environmental impact and to green growth. This is consistent with the idea that the reduction of GHG emissions cannot be limited to polluting industries. A broad-based approach is necessary to encourage behavioural adjustments and changes in consumption and production patterns throughout the economy.

National legislation and policies also have specific implications for the forecasting of skills needed for the green transitions, skills surveys and the provision of skills programmes (such as the 2015 Act on the energy transition for green growth in France). Chapter 5 reviews how skills development policies have taken into account the requirements implied by environmental legislation.

Box 3.5

Environmental rights at work: The French Labour Code

The Labour Code in France includes environmental elements in the rights and duties of employers and workers. Section L.4133 establishes the right of alert (*droit d'alerte*), or early warning. This right has its origins in the constitutional obligation to protect the environment, and in Act No. 2013-316 of 16 April 2013 which empowers natural or legal persons to make public information which, if not available to the public, may pose a serious risk to the environment. Workers may exercise the right of alert in the presence of three cumulative conditions: the existence of a risk to the environment; the seriousness of the risk; and its relation to the product or manufacturing processes used by the enterprise. A notification can be submitted by the staff representative to

the health, safety and working conditions committee. The alert should be recorded in writing and the employer is required to inform the notifying worker of the action taken as a result. The employer decides on the action to be taken. However, it could be argued that recorded communications provide an in-built tracking system and that the employer should be required to justify due diligence and the adequacy of the measures taken in the event of a civil or criminal procedure. The right of alert appears to be a positive development, as it contributes to a better integration of the world of work and the environment. Importantly, this early-warning mechanism can help an enterprise to take action in the event of an imminent threat of environmental damage.

LABOUR DIMENSION IN LEGISLATION AND POLICIES OF STRATEGIC IMPORTANCE FOR ENVIRONMENTAL PROTECTION

Climate change policies that also address employment and decent work issues

In view of the role assigned to climate change policy frameworks, including nationally determined contributions (NDCs), in the current context of the transition to a low-carbon economy, the inclusion of provisions related to employment and decent work is important. One question in this respect is whether coherence is being sought in current climate change policies (as part of green policies) between economic, environmental and social objectives.

A review of climate change policies in 26 countries (including adaptation and mitigation action) found that 19 of the policies include labour dimensions.³⁰ Of these, ten make reference to skills, training and capacity building for adaptation, eight refer to job creation as an objective or outcome of climate policies, and seven consider job creation as a component of sectoral action. Other labour-related aspects range from the integration of climate change into training for various professions and the development of capacity-building for adaptation strategies (awareness of the phenomenon and its technical and organizational implications) to the re-skilling of specific groups of professions. Figure 3.3 provides a breakdown of the labour dimensions identified in climate change policies.

Few climate change frameworks (three out of 26 countries studied) include explicit references to a just transition. Similarly, several include references to decent work and quality employment. In contrast, the climate policy in France specifies detailed transition measures, such as: inclusiveness (everyone affected directly or indirectly is taken into account); the development of plans to consider converting plants that face closure; and the involvement of the social partners in designing solutions for sectors affected by the transition.³¹ Table 3.5 includes further examples of the design and content of climate change and green growth policies that include labour issues. Furthermore, Small Island Developing States have taken steps to develop national policy frameworks that address climate-induced displacements through pre-emptive labour migration opportunities abroad.³²

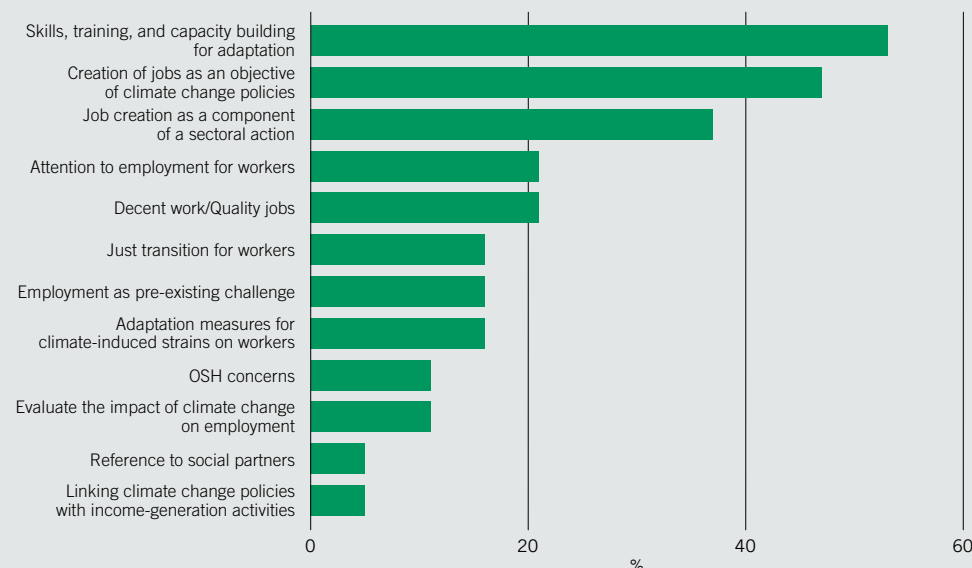
30. The policies examined do not include NDCs. A separate review of NDCs for G20 countries has shown that integration of employment and decent work has been rather limited.

31. Climate Plan (*Plan Climat*), 1 July 2017.

32. International Labour Organization Office for Pacific Island Countries: *Compendium of Legislation and Institutional Arrangements for Labour Migration in Pacific Island Countries* (2014). Suva, Fiji. Available at: <http://www.unescap.org/sites/default/files/Compendium-of-Legislation-and-Institutional-Arrangements-for-Labour-Migration-in-Pacific-Island-Countries.pdf>

Figure 3.3

Breakdown of labour dimensions in general climate change policies



Note: Based on data from 26 countries (Algeria, Argentina, Australia, Bangladesh, Belgium, Brazil, Burkina Faso, Canada, China, Chile, Colombia, France, Germany, India, Kazakhstan, Kenya, Mexico, Namibia, Nepal, Russian Federation, Senegal, Singapore, South Africa, Switzerland, Thailand, United Kingdom). Extensive desk studies, analysis and review of climate change laws and policies of these countries were undertaken with a view to identifying labour-related content.

Source: ILO calculations.

Table 3.5

Examples of green policies that include labour issues

Country	National policy	Content of policy
Cambodia	National Policy on Green Growth, 2013	Focuses on strategic human resources development in the framework of green growth. Measures include: mainstreaming the principle of green growth, including jobs in the green economy (i.e. employment in such sectors as green investment, telecommunications, transport, energy and tourism); and integrating green growth into the curricula of vocational training schools.
Canada	Pan-Canadian Framework on Clean Growth and Climate Change, 2016	While also improving environmental performance, clean technologies could enhance the productivity and competitiveness of businesses and foster job creation. In terms of skills, Canada should be able to access talented workers from around the world and provide training for national workers.
Fiji	Green Growth Framework for Fiji, 2014	Seeks to address unemployment and underemployment issues through the enhancement of job skills for sustainable development focusing on youth by 2020. This includes apprenticeship schemes, trade skills, incentives for micro-, small and medium-sized enterprises, and vocational training programmes.
France	Climate Plan, 2017	Provides for the creation of “ecological transition contracts” for workers whose jobs are threatened. Stakeholders, including the social partners, contribute to discussions on changes to jobs in such sectors as energy as a result of current and future transitions.
Mongolia	Green Development Policy, 2014	Identifies green employment ¹ as a strategic objective and a key indicator to measure progress in the transition to a green economy. Provides for measures such as: securing income through decent employment for at least 80 per cent of working-age population; involving citizens in vocational training programmes; creating job placement services; providing sufficient compensation to women for childcare; and increasing resilience to the negative impacts of climate change.

¹ The policy defines a “green job” as any job that contributes to the reduced consumption of energy, raw materials and water and to limiting greenhouse gas emissions, waste and pollution, ecosystem preservation and restoration, and is aimed at environmental protection and the improvement of environmental quality through climate change adaptation.

Source: ILO compilation.

Litigation on climate change as a useful tool, but currently of limited relevance to labour issues

It should also be noted that litigation on climate change issues has become a tool in some countries to address climate challenges.³³ A recent report finds that, outside the United States, there have been over 250 court cases in which climate change has been a subject of litigation, although mostly not the core claim (Nachmany et al., 2017). Most of the lawsuits focus on obtaining more information and disclosure from governments or sources considered as emitters. Others relate to the implementation of laws and policies, even if they are adopted at the international level, such as the Kyoto Protocol and the Paris Agreement, while others relate to claims for protection or losses and damages to personal property arising out of events linked to climate change. However, labour issues do not appear to be central in loss and damage cases, with the exception of cases in which specific types of workers have been affected, such as farmers. The same study finds that most of the cases are filed against governments (46 per cent), followed by corporations (13 per cent), and that they are brought by corporations (102), followed by governments (51), individuals (56), non-governmental organizations (33), or a combination of plaintiffs (11). Although these lawsuits have enhanced the impact of legislation, more research is required on their overall impact.

Employment and decent work issues in sectoral legislation and policies

In addition to general climate change laws and policies, sectoral environmental and green growth laws and policies that address labour issues have also been adopted. The key sectors relevant to the greening of the economy and subject to regulation worldwide include agriculture, forests, biodiversity, fisheries, marine issues, water regulation, tourism, energy, transport, building and construction, manufacturing, mining, waste disposal and waste minimization.

Energy legislation is a case in point. Some countries have adopted laws, policies and programmes to promote: environmentally sound energy generation and reduced emissions; low-carbon energy production (including wind, solar, geothermal, hydro and nuclear power); energy efficiency; and the use of renewable energy in the renovation and reconstruction of buildings. Labour issues, including skills development and training, are also taken into account in legislation governing the energy sector. Of the 40 countries for which the energy legislation was analysed, 27 include labour issues, and particularly skills and training. Table 3.6 shows the distribution of labour issues by country income group.

Table 3.6

Labour considerations in energy legislation by country income group (analysis of 40 countries)¹

Income group (number of countries considered)	General reference to labour	Job creation	Skills/ training	Social dialogue	Total number of references
High income (15)	8	5	9	1	23
Upper-middle income (13)	7	5	10	0	22
Lower-middle income (8)	2	2	5	0	9
Low income (4)	1	1	1	0	3
Total number of references	18	13	25	1	57

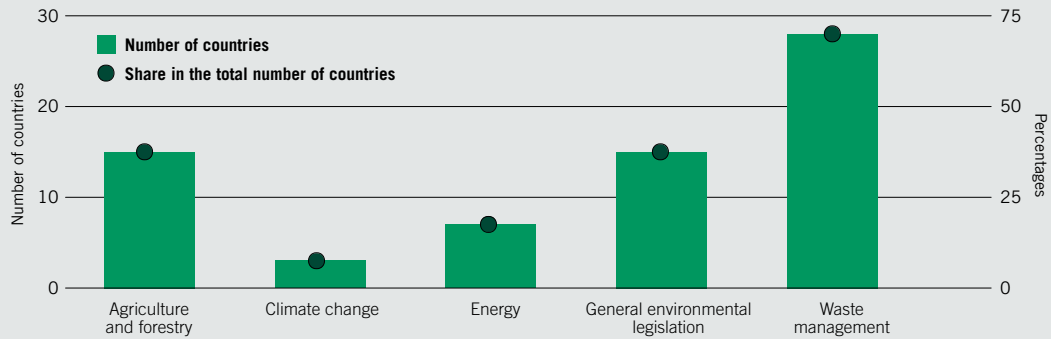
¹ Algeria, Argentina, Australia, Bangladesh, Belgium, Brazil, Burkina Faso, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Egypt, Fiji, France, Germany, India, Indonesia, Italy, Kenya, Kyrgyzstan, Luxembourg, Maldives, Mexico, Mongolia, Namibia, Nepal, Nigeria, Norway, Saudi Arabia, Senegal, Singapore, South Africa, Switzerland, United Republic of Tanzania, Thailand, Trinidad and Tobago, Turkey, United Kingdom.

Source: ILO compilation.

33. See e.g. *Urgenda Foundation v. the State of the Netherlands (Ministry of Infrastructure and the Environment)*, C/09/456689 / HA ZA 13-1396, 24 June 2015.

Figure 3.4

OSH issues in legislation relevant to green transition (analysis of 40 countries by sector and focus area)¹



¹ Algeria, Argentina, Australia, Bangladesh, Belgium, Brazil, Burkina Faso, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Egypt, Fiji, France, Germany, India, Indonesia, Italy, Kenya, Kyrgyzstan, Luxembourg, Maldives, Mexico, Mongolia, Namibia, Nepal, Nigeria, Norway, Saudi Arabia, Senegal, Singapore, South Africa, Switzerland, United Republic of Tanzania, Thailand, Trinidad and Tobago, Turkey, United Kingdom.

Source: ILO calculations.

Although environmental and green growth laws and policies may seek to create new employment opportunities, the jobs created are not automatically safe and decent. This is partly because OSH policy and practice can sometimes be reactive, rather than seeking to prevent new risks (EASHW, 2013). Workers in the new industries or occupations may face hazards, including new and emerging risks, often associated with new technologies (ILO, 2017b). Figure 3.4 presents the results of a review of legislation and policies in specific sectors and focus areas in the same 40 countries at different levels of development in the various regions. The review shows that 37.5 per cent of countries include OSH dimensions in laws and policies focusing on agriculture and forestry, 17.5 per cent in energy and 70 per cent in waste management. Moreover, 37.5 per cent of countries include OSH issues in general environmental legislation and 7.5 per cent in climate change legislation. It is therefore important not only to strengthen the role and place of OSH standards in laws and policies related to the greening of the economy, but also to incorporate these aspects as a fundamental element of training (UNFCCC, 2016).

C. Greening the workplace through social dialogue

SOCIAL DIALOGUE: INCLUSION OF ALL CLIMATE ACTORS

Enterprises are often recognized as “climate actors”, meaning agents capable of contributing to the green transformation of the economy. Hence, employers’ organizations are important agents of change who are able to develop new ways of working that safeguard the environment. Chapter 2 has also noted the various voluntary initiatives adopted, particularly by large enterprises, to improve environmental sustainability (e.g. the inclusion of environmental provisions in codes of conduct for suppliers, which may be enforced when introduced in contracts).³⁴ Although these efforts should be recognized, not all firms are able to adopt voluntary practices for the reasons discussed in Chapter 2 (including additional costs for micro-, small and medium-sized enterprises, or the perceived lack of benefits).

Trade unions also play a role in responding to the occupational impact of environmental policies and in identifying challenges and opportunities for workers in the transition to the green economy.³⁵ Indeed, much of the work carried out on the implications of climate change for employment, such as policy articulation to address the trade-off between employment and climate action, and advancing workplace action on the environment, has been undertaken by trade unions.³⁶ However, the impact achieved by trade unions acting alone may be rather limited (Glynn, Cadman and Maraseni, 2017).

The role of the governments in supporting an enabling environment and the participation of all social actors, including the social partners, is of paramount importance, as recognized in the *Guidelines for a just transition towards environmentally sustainable economies and societies for all* (ILO, 2015a). Although the number of policies and institutional initiatives at the international level that combine decent work and environmental concerns in a fully integrated manner is limited,³⁷ the participation of workers’ and employers’ organizations must be integrated in mitigation and adaptation policies.³⁸ They are the ones who are best placed for their implementation, for taking action at the workplace and reducing the environmental impact of production activities.

For example, collaboration between workers and employers can help to: (a) prevent and reduce the environmental impact of enterprises; (b) put into action environmental policies, plans and actions within an enterprise; (c) improve working conditions, as appropriate environmental regulations and practices also help to prevent and minimize risks to worker health; (d) preserve the quality of jobs and promote the quality of new “green jobs”; and (e) enhance public participation and voice in environmental decisions and decision-making processes.

As observed in section A, ILS support consultation mechanisms at the workplace are a tool for workers to exercise their right to participate in decisions affecting their lives. Although the rights of the public to information, participation and access to justice are set out in the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998), also known as the “Aarhus Convention”, the right of the social partners to participate in environmental matters is not specified. The Aarhus Convention concerns participation at a broader policy level, rather than strictly in the workplace.

The review of legislation in this section has shown that environmental rights at work are rarely addressed comprehensively or explicitly by national legislation. Agreements negotiated by the social partners (including collective agreements) have thus become, at least in the short term, an important instrument of social dialogue to promote environmental commitments within enterprises at the national and global levels.

34. See, for example, Beckers (2016); Mitkidis (2014).

35. For a thorough analysis, see Hampton (2015).

36. Some major statements and reports include: ITUC: *Trade unions and climate change: Equity, justice & solidarity in the fight against climate change*, Trade Union Statement to the 15th Conference of the Parties, United Nations Framework Convention on Climate Change (UNFCCC), Copenhagen (7–18 December 2009); ITUC: *Growing green and decent jobs*, 2012. See also TUC: *The Union Effect: Greening the workplace*, 2014.

37. Despite the progress achieved, the 2015 Paris Agreement, the single most important roadmap to tackle climate change, refers to the concept of a just transition for workers only in its preamble.

38. This point is developed in ETUC (2004).

NATIONAL PRACTICES RELATING TO THE INCLUSION OF ENVIRONMENTAL CLAUSES IN COLLECTIVE AGREEMENTS

Social dialogue on environmental rights has been progressing slowly in certain countries, and has permeated into policies adopted at the national level. For example, the Green Skills Agreement in Australia (between the Federal Government and state and territory governments) is the result of negotiations that included participation by the social partners, however limited (Chapter 5).

Laws do not currently grant trade union representatives who deal with environmental issues at the workplace the right to time off, training or facilities to extend the scope of union activities to cover environmental issues. This role is usually performed under agreements negotiated with employers. At the enterprise level, employers and trade unions have worked together to identify areas, including GHG emissions, where a reduction in environmental impact could be achieved without losses in jobs, pay and working conditions. In Italy, for example, enterprise-level collective bargaining agreements recognize commitments for sustainable development, such as strengthening OSH, promoting sustainable mobility (e.g. car sharing), protection of vulnerable groups, elimination of waste, and adopting initiatives aimed at enhancing the well-being of workers and families, among others.³⁹ Other agreements have included in the calculation of the workers' productivity premium an indicator linked to resources consumption (such as water or energy), where lowering consumption could lead to a higher premium.⁴⁰

Green provisions in collective agreements, particularly those containing concrete and appropriate actions oriented on greening workplaces, are part of a new direction taken recently at the national level. Moving towards the transformation of global production and consumption, as well as the impact of environmental laws and policies, the trend is for the environment to become a key aspect of social dialogue. Indeed, there is a growing understanding that environmental policies are essential to ensure decent and sustainable employment in the long term. [Table 3.7](#) shows some examples of green provisions that have been negotiated in collective agreements in Canada.

In comparison with the global level, national collective bargaining agreements tend to be more inward-looking. Green clauses in these agreements are often mainly focused on the specific action that workers and enterprises can take to contribute to the greening of workplaces, and ultimately to the improvement of the general environment.

In Belgium, the National Collective Agreement 98 (CCT 98), negotiated by employers and workers with government approval, provides for a benefit known as "eco-cheques" (*éco-chèques*), intended to help workers access and acquire ecological services and products. The agreement includes an annex listing the products and services that can be purchased with the cheques; these include energy-saving appliances, vehicles providing environmentally friendly mobility, ecotourism, sustainable gardening and second-hand and recycled products.

A model agreement⁴¹ on the environment and climate change in the United Kingdom includes provisions on energy use (eco-efficient energy use and energy-saving measures), recycling and resource use (eco-purchasing, energy-saving equipment, minimizing the use of non-recyclable materials, opting for re-used or re-usable supplies, low-cost water-saving measures), food (locally sourced, not over-packaged or over-processed, and avoiding food in disposable packages), transport (working to design a travel plan that uses sustainable modes of transport, encouraging tele-conferencing) and other miscellaneous provisions (such as considering the use of plants to improve CO₂ absorption).

39. See e.g. Agreement between Luxottica and the Luxottica Union Coordination (30 October 2015).

40. See e.g. Agreement between Marposs S.p.A and R.S.U. and OO.SS. (1 September 2017).

41. Broadly speaking, a model agreement is a sample collective bargaining agreement to be used as a basis for a negotiation.

Table 3.7

Green provisions in a national context: Examples of Canadian collective bargaining practice¹

Areas of action	Good practice/green provisions
Green procurement	<p>International Association of Machinists and Aerospace Workers (2010): the green provision negotiated sets out the employer's commitment to undertake reasonable efforts to provide environmentally friendly products and services for employees to use, such as paper, ink, soap and cleaning supplies. Where the employer provides products, to the greatest extent possible they will be: locally grown and produced; pesticide free; non-genetically modified; and products produced in an ethical and fair-trade manner.</p> <p>The Canadian Union of Public Employees (CUPE, 2012), the British Columbia Community Social Services Bargaining Association of Unions (CSSBA, 2014) and the British Columbia Government and Service Employees' Union (BCGEU, 2012): in the provision the employers commit to investigate the use of or to use, whenever possible, environmentally friendly products.</p> <p>Canadian Union of Public Employees (CUPE, 2008): The clause includes the establishment of a Joint Review Committee (employer-worker) with a mandate to identify alternatives to any potentially hazardous chemicals/equipment and to seek to promote environmentally friendly products in facilities.</p>
Green travel	<p>The British Columbia Government and Service Employees' Union (BCGEU, 2012): the agreement provides that the employer shall actively participate in environmentally sustainable employee transit programmes.</p> <p>The Public Service Alliance of Canada (2013) negotiated an agreement under which employees and their family members are encouraged to use public transit, with the employer reimbursing 50 per cent of the cost of a pass on the city-operated public transit system. Similar arrangements have been negotiated by the Manitoba Government and General Employees' Union (2014) and other trade unions.</p> <p>The International Association of Machinists and Aerospace Workers (2010): the agreement provides for a transport incentive of an amount equal to 85 per cent of the cost of a transport pass each month, when employees use public transport or alternative means. Employees driving to work (including by carpool) more than four days a month are ineligible.</p> <p>A collective agreement (2014) negotiated between the Canadian Union of Public Employees (CUPE) and the Simon Fraser University provides that regular shifts are to be scheduled according to certain public transport schedules.</p> <p>The Camosun College Faculty Association and Camosun College agreed (2014) to implement an Alternative Transportation Dividend Program to reduce the percentage of single occupancy vehicles parking on campus. Employees who decline parking privileges receive a dividend payment.</p>
Cutting waste, saving resources	<p>An agreement negotiated in 2012 between the British Columbia Government and Service Employees' Union (BCGEU, 2012) and the Government of the Province of British Columbia includes a clause allowing the review of ways in which the employer can reduce workplace consumption of non-renewable and renewable resources, increase the amount of material that is reused in the workplace, and implement recycling programmes.</p> <p>The National Automobile, Aerospace, Transportation and General Workers Union of Canada (2011) negotiated green provisions that provide, among other measures, that the employer will endeavour to: use substances in work processes that eliminate or minimize impact on the environment; evaluate all substances used or produced with a view to substituting them with less hazardous substances; and, where substances cannot be substituted, evaluate and handle as follows: (i) reuse; (ii) recycle; (iii) dispose of them in a manner that eliminates or minimizes harm to the environment; or (iv) store them in an environmentally sound manner.</p> <p>The Public Service Alliance of Canada (2011) negotiated an agreement providing for a set of guidelines for energy conservation, insulation, summer savings, appropriate heating use and turning off lights when they are no longer required.</p>
The right to refuse to work	<p>According to the terms negotiated by the International Union of Operating Engineers (2010), employees may refuse to perform work that would be an offence under provincial environmental legislation.</p> <p>In the agreement reached between the National Automobile, Aerospace, Transportation and General Workers Union of Canada (2011) and Canadian Pacific Railway Co., the employer commits to informing employees that they have the right to refuse hazardous work which may harm the environment, and to posting signs in the workplace advising them of this right. Under the agreement, no employee may be penalized for exercising this right. Similar provisions were also integrated into the agreement negotiated by Unifor in 2013.</p>
Whistle-blower protection	<p>The National Automobile, Aerospace, Transportation and General Workers Union of Canada, UNIFOR, and the Canadian Union of Public Employees (CUPE) negotiated a clause in their collective agreements recognizing the responsibility of employees to notify authorities of the violation of environmental regulations or of a release of hazardous substances to the air, earth or water systems. No employee may be disciplined for such notification, providing that the company and the health, safety and environment committee have been notified first.</p>

¹ Based on *Adapting Canadian Work and Workplaces to Respond to Climate Change (ACW)*, *Green Collective Agreements Database*, available at: https://www.zotero.org/green_agreements.

GREEN PROVISIONS IN GLOBAL SOCIAL DIALOGUE

Environmental provisions (“green clauses”) have increasingly become a subject of social dialogue between global union federations (GUFs) and multinational enterprises (MNEs), resulting in the inclusion of environmental issues in international framework agreements (IFAs), alongside labour rights and principles (box 3.6).

IFAs include a wide range of provisions that can make a useful contribution to the debate on the green transition and greening workplaces and can inform further negotiations by providing specific content (including language) on environmental issues. The inclusion of green clauses in IFAs is the result of negotiations in which joint commitments are adopted, which in some cases reflect the environmental policies of MNEs that are already in existence or the negotiation agenda of the GUFs (ETUC, Syndex and Sustainlabour, 2010). Despite some positive outcomes, it is necessary to recognize the limitations of IFAs. In comparison with nationally negotiated collective agreements, questions arise about their implementation and enforcement, and about compliance along the supply chain (Hadwiger, 2015).

Box 3.6

International framework agreements

International framework agreements (IFAs), also known as global framework agreements, are agreements between multinational enterprises (MNEs) and global union federations (GUFs). They are voluntary instruments concluded through cross-border social dialogue which promote minimum labour standards, sometimes referring to ILS, in MNEs and throughout their global supply chains (Papadakis, 2008 and 2011). The emergence of IFAs is partially a response to the absence of a comprehensive body of binding international standards governing the conduct of MNEs, and the relative inefficiency of national regulation in ensuring respect for labour rights in certain situations (Drouin, 2015).

IFAs are important instruments of cross-border social dialogue for a number of reasons. The vast majority include references to rights and principles contained in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, ILO Conventions and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (revised in March 2017). They also provide a set of labour standards for a company’s establishments worldwide that may be recommended to its suppliers. In some cases, strong implementation and monitoring mechanisms are also negotiated. It has been suggested that IFAs are the building blocks of an emerging cross-border industrial relations framework (ETUC, Syndex and Sustainlabour, 2010; Papadakis, 2008).

IFAs contain “green” provisions

A review of 104 IFAs sheds light on examples of practice relating to the inclusion or promotion of green provisions.⁴² The majority of IFAs are signed by MNEs with headquarters in Europe. However, more recently – starting from mid-2000s – some Asian, African and North and Latin American companies have also signed IFAs. In all, some 20 IFAs have been negotiated by non-European MNEs.

The analysis of the IFAs reveals a number of trends. First, 59 per cent of them (61 agreements) include green provisions in the preamble to the agreement, in a declaration of common understanding or as a specific commitment in the operative part of the agreement. Some 6 per cent of IFAs have been concluded with non-European based MNEs. IFAs concluded by these MNEs also contain green provisions.

42. The number of IFAs is based on publicly available agreements accessed on the website of Global Unions (21 IFAs are signed by BWI, 46 IFAs by IndustriALL Global Union, 30 IFAs by UNI Global Union, 8 IFAs by IUF, and 3 IFAs by PSI).

Second, the IFAs reviewed covering the period between 1995 and 2017 show an evolution in the nature and content of their environmental provisions. Initial generic references to sustainable development and the environment have developed into more detailed and complex clauses, including provisions on their enforcement and monitoring, transparency and support for a just transition. The trend is for IFAs signed in recent years to be more specific and precise in their content and scope of application.⁴³

Green provisions in IFAs often contain generic commitments undertaken by the MNE and/or union to pursue protection of the environment, but without setting out specific objectives, rights or action by workers and their representatives. Some IFAs do set out specific environmental objectives, for example in relation to water, waste disposal and the preservation of natural resources, which are formulated in greater detail and allow for a better implementation framework, monitoring and review.

Third, while OSH and the environment were frequently addressed together in early IFAs, most recent IFAs include a dedicated provision on environmental issues. This trend can be attributed to: (a) the increasing importance placed on climate change and environmental policies; (b) the greater involvement of workers in elaborating and monitoring environmental issues at the workplace (ETUC, Syndex and Sustainlabour, 2010); and (c) the realization that environmental clauses are important to ensure decent and sustainable jobs.

Fourth, some agreements explicitly acknowledge the environment as a theme of social dialogue. In one IFA, for example, the MNE commits “to conduct a constructive social dialogue with the employee representatives in determining its health, safety, environment and quality policy”.⁴⁴ Another provides that “[g]lobal social dialogue will continue based on this agreement [leading to] ... subsequent agreements in specific areas, for example, in such areas as ... sustainable development/climate change”.⁴⁵ As decisions about production are progressively more influenced by environmental policies, the role of the environment will become more prominent in cross-border social dialogue and in the national context.

The issues covered by green provisions

One of the most frequent “green” commitments in IFAs is related to sustainable development. More precisely, this commitment is formulated in a general statement by the MNEs parties to IFAs that “sustainable development is part of doing business”. This statement is present in about 10 per cent of the 216 green commitments⁴⁶ identified in IFAs.⁴⁷ This is followed in importance by a commitment to respect and/or promote the environment as a corporate objective and social responsibility (about 9 per cent of all green provisions).

Other key commitments endorsed widely in the agreements reviewed include: (a) MNEs being aware of the environmental impact of their activities; (b) a commitment to respect international agreements, standards and principles, as well as national environmental legislation; (c) the reduction or management of the environmental impact of enterprise activity; and (d) due regard (or due diligence) for the environment as an overall policy, and specifically in conducting enterprise activities.

Table 3.8 lists the most widely endorsed green commitments in IFAs. Most of these commitments are outward-looking, in the sense that they address the environmental impact of enterprise activities, rather than environmental action at the workplace. Although general in nature, they may serve as an entry point for the “recognition of workers’ responsibilities and rights on environmental issues”.⁴⁸

Other green provisions are more specific and target action at the workplace, including encouraging employees to adopt ecological behaviour, such as energy efficiency at the workplace and green

43. See, for example, IFAs concluded with multinationals such as AEON (2014), Lukoil (2014), Total (2015), Tchibo (2016), PSA Peugeot Citroen (2017).

44. IFA with Total.

45. IFA with GDF Suez.

46. The number of commitments that served as the basis of analysis does not correspond to the number of green provisions found in an IFA. This is because one green clause may in effect include two or more commitments of a different nature.

47. For a critical commentary on the integration of sustainable development issues in IFAs, see ETUC, Syndex and Sustainlabour (2010), p. 35.

48. *Ibid.*, p. 41.

Table 3.8

List of main green commitments in IFAs	
Type of green provisions in IFAs	Number of IFAs
Sustainable development as part of “doing business”	22
Respect for, or promotion of, the environment as a corporate objective/social responsibility	19
Awareness by the enterprise of the environmental impact of its activities	17
Respect for international agreements, principles and standards, and national environmental laws	15
Commitment to reduce or manage the environmental impact of company operations	14
Due regard for the environment in general and in carrying out enterprise activities	10
Make efforts and/or achieve improvement in environmental performance	9
A general commitment to adopt a preventive and precautionary approach to the environment when conducting operations	9
Promotion and development of environmentally friendly technologies, or a statement of intent to introduce such technologies	8
Respect for, or preservation of, the environment and/or natural resources and the protection/preservation of biodiversity	8
Commitment to take measures to reduce or control greenhouse gases	7
Ensuring that products and production processes display environmental friendliness or compliance with environmental standards	7
Sustainable use of natural resources (water, mineral resources, agricultural commodities, fossil fuel, etc.) and awareness thereof	7
Raising employees’ awareness of applicable environmental standards	6
Waste management and recycling	6

Source: ILO compilation.

Table 3.9

List of innovative but less common green commitments	
Innovative green commitments in IFAs	Number of IFAs
Energy eco-efficiency (including use and development of alternative energy sources)	4
Encouraging employees to adopt ecological behaviour	4
Termination of relations with contractor or supplier in the event of non-compliance with environmental regulations	3
Workers’ rights as an element of sustainable development	2
Transparency, dialogue on the company’s environmental activities, publicizing environmental assessment reports or damage caused	2
Review of the implementation of environmental commitments	2
Support for a “just transition”	1
Social dialogue in determining environmental policy	1
Development of employees’ skills in respect of environmental challenges	1
Adaptation measures adopted in a way that ensures workers’ rights and interests	1

Source: ILO compilation.

travel (rationalizing work-related travel and commuting). However, compared with the overall number of green provisions, the number of innovative provisions entailing workplace-related action is still modest (table 3.9).

It is crucial to address environmental issues as they relate to workplaces, which burn energy, consume resources, generate waste and travel, to help make jobs more sustainable. Only one green IFA provision makes reference to a “just transition” and measures of workforce adjustment. It provides as follows: “Signatory Global Union Federations support reduction of carbon emissions and will co-operate with [MNE] to ensure that any necessary adaptation takes place in a way that protects the rights and interests of workers and that the impact of any such changes are (sic) designed and implemented in an agreed, fair manner; [MNE] actively supports ‘Just Transition’ principles.”⁴⁹

49. IFA with GDF Suez.

A sector-specific analysis of IFAs reveals that sectors with a high environmental impact may include more environmental commitments. The oil and gas, energy, chemicals, pulp and paper (which includes stationery and printing), mining and manufacturing sectors are known to be the largest GHG emitters, and the total number of IFAs in these sectors (including aerospace and defence) amounts to 37 IFAs with green provisions.

The analysis shows that green commitments are increasingly included in IFAs.⁵⁰ Further research in this regard should be conducted to assess the impact of such commitments. Additionally, as noted earlier, some companies have pursued environmental policies through other voluntary initiatives and in a decentralized manner at the country level.

The examples provided, both at national and international levels, show that social dialogue could make a substantive contribution to reducing the environmental impact of the workplace and to combating climate change. However, in parallel with the steady emergence of environmental unionism, and with enterprises on board, there is a call to gradually continue incorporating social dialogue into the environmental debate to go further and to challenge the status quo of global production and consumption patterns (Barry, 2012). For environmental improvements to occur, social dialogue could focus more on supporting a qualitative improvement in living standards, rather than maintaining a prevalent framework of “continuous productive growth” on a planet with limited resources (María-Tomé Gil, 2013).

Conclusions

This chapter has examined whether and to what extent existing legal and policy frameworks consider labour and the environment as allies that are mutually dependent in order to produce the material resources necessary for socially, economically and environmentally sustainable development. The chapter starts by acknowledging that a “just transition law” does not exist, but that it is crucial to take advantage of the principles embedded in labour law to better utilize the benefits of environmental law, including the priority placed on promoting collective action and dialogue. Moreover, it is difficult to calculate costs and benefits related to a green transition since climatic disasters can be rare events, and such risks might be better covered by protective investments rather than insurance-type of coverage. Hence the theory of justice underlying labour law may serve as a tool to ensure these investments are distributed in an equitable way (Doorey, 2017).

ILO Conventions, Recommendations and Protocols offer policies, tools, measures and frameworks, and promote behavioural changes that can improve the normative framework of sustainable development. ILS adopt a dual approach to reconciling social and economic goals with environmental policy. First, they deal with issues that may cause environmental tensions, such as lack of employment and inadequate standards of living. Second, ILS can also contribute to the design of policy solutions in situations of environmental degradation. Over time, ILS, and particularly those on OSH, have evolved from focusing purely on the protection of workers to include the protection and preservation of the environment. The universality of ILS is therefore key to the greening of the economy.

The chapter also notes that there are ILS that integrate the environment, however there is yet no single international labour standard that deals specifically with issues related to a just transition. Nevertheless, other ILO means of action can also be used to promote a transition that is just, including capacity building and cooperation with other international and regional organizations (Olsen and Kernter, 2013).

Some ILS offer tools for the protection of the environment in areas that remain unregulated or insufficiently regulated by multilateral environmental agreements (MEAs). For example, Conventions Nos 170 and 184 contain standards dealing with waste disposal at source, an issue that has not been fully resolved by international environmental agreements. Similarly, although there is no other significant specific international environmental regulation covering agriculture, ILO standards, and particularly Convention No. 184, provide for agricultural processes to be conducted in an environmentally sound

50. For specific case studies on the impact of global framework agreements on global supply chains, see Hadwiger, 2015.

manner. Admittedly, ILS do not fulfil the direct function of protecting the environment, as envisaged by environmental law, but they reflect the reality that the working environment has a close relationship with the general environment.

National regulation is increasingly contributing to a better understanding of how legislation and policies can foster the transition to greening with jobs. In terms of the integration of social goals, the major focus of climate change policies (both adaptation and mitigation) in relation to labour is on skills (53 per cent) and re-training and job creation (42 per cent). There is still a need to improve our understanding and knowledge base about the impact of different laws, policies and institutional designs and the changes that they have achieved on the ground as regards employment and decent work. As implementation of climate policies is beginning to involve courts in some countries, further research is required to investigate how climate litigation includes just transition dimension. Other issues of crucial importance must not be neglected, for instance, social dialogue.

Laws and regulations are part of an enabling environment. A well-designed and effective regulatory framework can promote and encourage a streamlined and systematic approach to the national structural change required for the transition to green growth. Effective and well-enforced legal frameworks are also crucial to securing domestic and international investment.

Finally, social dialogue has a key role to play. As decisions about production are increasingly shaped by environmental policies, the environment will become more prominent in cross-border and national social dialogue. Social dialogue can act as a useful tool to promote the institutionalization of environmental action at the workplace. Workplace action can help to foster changes in policy and structures, as well as in individual behaviour, and may prove to be more effective in reducing carbon emissions than measures taken at the individual level.

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