

INTERNATIONAL CONFERENCE

# Earth System, the Common Heritage

The need for a new legal approach to the global climate emergency



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After 25 years' of climate negotiations gridlock, the first question raised since the 1980's UN negotiations is still unanswered - the *Legal Status of Climate* - A legal framework to globally govern our common good, the Earth System, is a necessary structural condition to make collective action possible.

*If You Want Different Results, You Have to Try Different Approaches*  
Albert Einstein

## Defining our global commons...

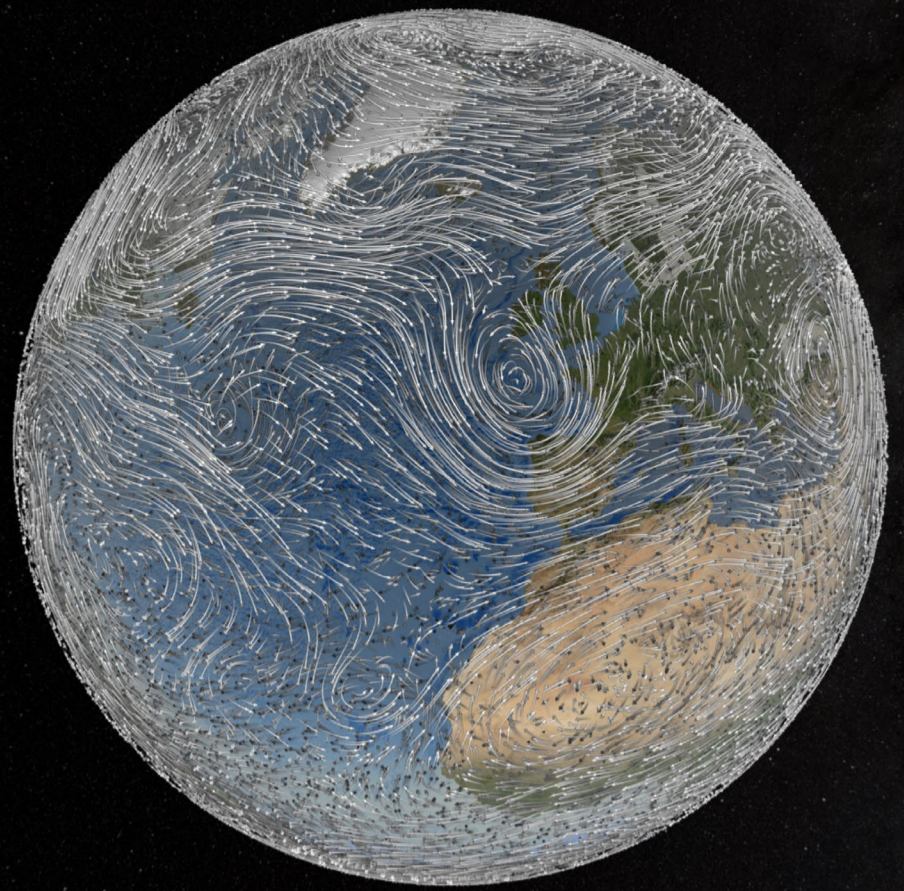
In over 40 years of international environmental and climate negotiations, there has been a systematic omission of the most basic requirement that makes possible any human enterprise: **an appropriate legal framework**.

The planetary system that we inhabit - the Earth System - is comprised of interacting physical, chemical and biological cycles and energy flows that not only support life, but are regulated by life. The Earth System is the ultimate common good, yet it has no legal recognition and is thus subject to increasing degradation and destruction by human actions.

We now face a **tragedy of the commons** at the global scale, where everyone operates in a *free-for-all* scenario and there are neither restrictions on the use of the Earth System, nor compensation for those who maintain it in a well-functioning state.

The first step for a successful management of the commons, is the adoption of a clear **legal definition of the common good**. The failure to do so has led to the climate and biosphere emergencies, as inevitable and logical outcomes of the unregulated use of the Earth System.





## ...as a single highly interconnected system...

The most critical scientific principle is that the **Earth System functions as a single integrated system** at the planetary level. Therefore, we must find appropriate technical and legal instruments to define and represent the unity of this system as it exists in the real world.

It is now possible to scientifically define the key processes that underpin the functioning of the Earth System and the limits to degradation of those processes – the **planetary boundaries**, and quantitatively measure the favourable bio-geophysical state corresponding to a well-functioning Earth System – the **safe operating space for humankind**. This means that we have the necessary technical conditions to define the fundamental common good that ultimately supports us.

The vital necessity of a well-functioning Earth System for humankind, although intangible, can no longer be ignored by law. Fortunately, human societies have a long history of recognizing intangible assets and granting them legal protection (i.e. copyright). Because it cannot be appropriated by any sovereignty, the well-functioning, global and indivisible Earth System should belong to all humanity as the intangible Common Heritage of Humankind.

## ...transferring it from “externality” to the centre of our social organization...

Until now, the non-existence of the Earth System in legal terms resulted in a global economy in which planetary biogeophysical processes that support life are ‘invisible and external’ to the economic and social system. The legal invisibility of this global common good has led to the failure of international law to meet the climate change challenge and the extinction crisis. Since the current legal framework does not recognize the Earth System as an intangible global good, it has become socially and economically impossible to restore and maintain the proper functioning of the Earth System.

## ...to be the common ground of our self-organization.

The legal recognition of the Earth System as an intangible Common Heritage with no borders could become the global framework needed to self-organize the relationships among all users of the Earth System. With the definition of the common good that unites us all, new forms of cooperation and inclusive multilateralism can then be designed, grounded and developed.

Economic sciences have already defined the structural conditions for successful management of common goods. Could this knowledge be applied to the most vital global common, the Earth System? Effective collective action can only happen if we build the structural, legal conditions from which it can emerge and progress.

## Is it possible to achieve a mechanism for collective action on climate change without building an appropriate legal framework?

There is an intimate connection between legal structures and economic and social models, as well as between economic models and bio-geophysical cycles, and they cannot meaningfully be separated from one another. Similarly, since the Earth System is not just climate, nor is the climate only influenced by CO<sub>2</sub> (although it is certainly the dominant factor of change), the challenge resides in the integration of the various “drivers” of the Earth System with necessary “social engineering” to make collective action possible. To stabilize temperature rise at around 1.5°C, the planet will require the fastest economic transition in history and this will only be possible if we address the issue challenge in an integrated way. On the brink of a global emergency, our ultimate challenge is to rethink international law, economics and governance, around the maintenance of the common good that supports all life on Earth. As a critical step on this path, we propose an international conference to discuss how the global community can and must meet this daunting challenge. Crucial questions to guide our thinking for the future are:

1. Can the Safe Operating Space be the scientific framework to describe a well-functioning state of the Earth System in law?
2. Is it possible to make this transition without a legal framework that provides visibility and accountability to the positive and negative impacts on the Earth System state?
3. Is a legal framework for the global commons an indispensable tool in order to reach agreement and build exponential action and scalable plans for each country to contribute its fair share to the restoration of the Earth System?
4. Could the legal recognition of the Earth System be the propellant to shift our current economy, addicted as it is to the consumption of resources, towards an economy that is able to restore and sustain the natural intangible conditions that support all life?
5. How could such recognition of our common heritage help reduce economic inequalities, and trigger redistributive and inclusive social outcomes?

## ...on the path to Stockholm+50.

We have in our hands the necessary knowledge about the Earth System, law, economics and the management of commons to shift the pathway. The milestone of the 50th anniversary of the first UN Conference on the Human Environment, held in Stockholm in June 1972, could be the last window of opportunity we have. It is now time to make the conceptual evolution in law needed to overcome the obstacles that have prevented success in the fight against climate change and biosphere degradation. Let’s join the dots to build this innovative path to Stockholm+50.

**Join us in building a liveable future!**