

Statement of IIDMA under Agenda item 4

13/01/2019

Ms. and Mr. Chairs, distinguished delegates,

I am Ana Barreira, Director of International Institute for Law and the Environment (IIDMA) and also representative of Common Home of Humanity. Humankind we are at a crucial time: scientists are not only warning us on the dramatic consequences that an increase above 1.5 ° C will have on present and future generations but also they have called upon our attention that we are entering a new geological epoch: the Anthropocene and that we have transgressed some planetary boundaries. The Holocene is the only state of the Earth System that with certainty is able to support our complex contemporary society. Law provides answers to human challenges addressing them. However, until now Law has disregarded the foundation of our all forms of life: the Earth System comprised of the functioning interaction of the planet's physical, chemical and biological processes.

The most critical challenge for humanity is to create institutions and governance systems that respect the biophysical reality and manage our behaviour towards the Earth System.

This first substantive meeting of the WG for a Global Pact for the Environment represents a unique opportunity to give a step further giving a response to this gap of international environmental law. It is a crucial moment for us to take a qualitative and structural leap forward in environmental law and to introduce into the legal system the latest scientific developments regarding knowledge of the Earth System. For this, I call upon all distinguished delegates not to miss this opportunity and recognize the Earth System as an intangible common heritage of mankind. After my colleague Paulo Magalhaes will provide guidelines on how this could be achieved.

If we do not protect our Earth System not only our way of living but also life itself are under risk. As it is well known the ecological interdependence of our planet is a fact and law must provide responses to this. Resistance to accept the reality of how our Earth System works is not the solution. Without protecting the functioning of the Earth System the very same objectives of SDGs and MEAs will be not achieved. Cooperation at different governance levels is required. We are in the 21st century, how societies functioned in the XXth century is a thing of the past. We respectfully call upon delegates to be responsible, constructive and think in a comprehensive manner during these present negotiations. Negotiating a new Treaty which does not reflect the reality of how our Planet Earth functions and that is not ambitious and robust will weaken the credibility of the whole process.

I'm Paulo Magalhães, and, I'm representing IIDMA and Common Home of Humanity.

The problem most stressed by the Report of the Secretary General is the fragmentation and a general lack of coherence and synergy among a large body of sectoral regulatory frameworks.

The Global Pact for Environment aims to be a lasting instrument that can unify and structure environmental law for the long term, and to be the legal basis for changing the current pathway for a planet in HotScenario, where the supports of life will be destroyed.

For this to be possible, it is necessary that the legal instrument to be constructed is not only a maintenance of the fragmented structure, accompanied by an attempt to connect the different documents through the reinforcement of some existing principles, and the creation of some new ones.

To be effective it must have a greater capacity to represent the global function of the Earth System. The legitimacy of this document will depend on its ability to explain the reality of functioning and to represent the interdependencies and interconnections of the environmental System.

The gaps we are talking about are mainly the result of trying to divide what is deeply interconnect and interdependent. When we divide the oceans from biodiversity from atmosphere, you are hiding the interconnections that make the Earth System to work as a single system, and for so, all the work we are trying to do will be nullified by the fact that we are disregarding these interconnections. This is a structural failure that has prevented us from getting positive results and making correct predictions.

The coverage of all sectors of the environment can only be achieved through the concept of Earth System, since the gaps we are talking about are the interconnections, interdependencies, cascade effects of the functioning of the Earth System as single system, and this is only possible through the creation of a new intangible global legal object that does not conflict with the territorial sovereignty of sovereign states.

For so, we propose as the main outcome of the Global Pact of Environment, the recognition of the Earth System as Intangible Common Heritage of Humankind, that will be the legal basis for capturing in this new legal instrument, all the negative impacts (pollution), as well positive impacts (Ecosystem services) on the Earth System state, and to create an environmental accounting system (Earth System Accountancy Framework)

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to integrate the environmental legal system with the main drivers that determine the functioning of the economy. This conceptual advance is a structural evolution that will enable reciprocity and equity, the basic conditions for a collective action and for the effectiveness of a legal system.