



Beyond Paris: The Next Step
The Earth's Atmosphere as A Global Trust Part I
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The following article outlines a call for a United Nations General Assembly Nonbinding Resolution recognizing the Earth's Atmosphere as a Global Trust. In Part I, I describe how and why the Earth's Atmosphere should be recognized as a Global Trust. In Part II, I will expand on this approach to show how it can be used to support varied mitigation methods. Together, these two articles, are a summary of an article published in the [Barry University Environmental and Earth Law Journal](#).

The Paris Agreement of 2015 calls for capacity building for developing states as an important step in combatting climate change; a critical component of such capacity building must be creating and enhancing the **global legal framework** required to insure sustainable development by progressively reducing the danger and risks of climate change for developing countries.

Such a global legal framework can be initiated by the United Nations General Assembly (UNGA) in support of the capacity building goals of the Paris Agreement (2015). Specifically, the UNGA has the legal authority, based on Articles 13, 16 and 85 of the UN Charter, to pass a nonbinding resolution explicitly recognizing the Earth's atmosphere as a *global trust* (see "*areas*," Art. 85). Or, the UNGA can simply recognize in a nonbinding resolution what is already implicated in the international legal order—namely that the Earth Atmosphere is a global commons that belongs

to all as a trust. *This resolution can then become the basis for a treaty—initiated by the developing states— that recognizes the Earth’s atmosphere as a global trust as a critical component of the Common Heritage of Humanity.*

1. Recognize The Earth’s Atmosphere as A Global Trust.

Such a nonbinding resolution can be the first step towards an explicit **global legal framework** which is needed to establish the subsequent and primary fiduciary responsibilities for the preservation, restoration or restitution of the global atmosphere among states. Such a resolution can build upon and strengthen the principle of “common yet differentiated responsibilities,” as well as already existing legal principles concerning fiduciary duties that are recognized in many members’ domestic jurisdictions. This will then require a fast track treaty to be negotiated by developing states as soon as possible that legally recognizes the Earth’s Atmosphere as a Global Trust that belongs to everyone on Earth, including future generations; as such, this is the first critical step in the eventual restoration of the Earth Atmosphere to sustainable levels that will secure life and development for future generations.

Such a resolution can also build upon and strengthen the principle of the “Common Heritage of Humanity (mankind).” The Earth’s atmosphere as a global commons is essential to all life on the planet; yet, its legal status as a global trust still needs to be explicitly recognized and reaffirmed in order to allocate proportionate responsibility among all states concerning its preservation and restoration for present as well as future generations. In this way, the current implicate legal order for this global commons becomes fully operative within the Law of Nations and, ultimately, should be embodied in a binding treaty. Initiated by the developing countries, this process can begin with a nonbinding UNGA resolution and then a treaty that recognizes the Earth Atmosphere as a Global Trust. This first principle can stand on its own or as a basis for further action; each one of the legal principles (listed here and in Part II) are an independent yet interrelated element of a global legal framework to confront and overcome climate change. The next step is thus:

2. Consistent with Legal Capacity Building for Developing Countries, the UNGA Resolution Can Recognize a State’s *Proportionate* Responsibility to Monitor, Maintain and Restore Earth’s Atmosphere as a Global Trust.

So, the UNGA nonbinding resolution, as the first step to a binding treaty, should also recognize that *all member-states have a proportionate responsibility to monitor, maintain and restore the atmosphere as a global trust for present and future generations.* In this sense, governments are

trustees, while the people of the world are both trustors and beneficiaries of the Earth's atmosphere as a global trust.

Simply stated, there will be no further sustainable development without a sustainable global atmosphere that makes continuing progress in achieving critical development goals possible. Reversing climate change, collectively as well as individually, to insure sustainable development for all is the greatest and most urgent challenge of our time. In short, we have to insure a sustainable global atmosphere first in order to achieve sustainable development for all present and future peoples. **Time is rapidly running out so we have to take decisive and effective action now, building on the Paris Agreement's call for capacity building, beginning with the developing states who, frankly, have the most to lose.**

As the Paris Agreement (2015) clearly states, **there is a "significant gap" between what was promised and what is needed, so that the current commitments made during COP 21 to cut carbon emissions are simply not enough to prevent increasing global temperatures and thus catastrophic climate change.** Extreme weather events, increasing global temperatures and eroding shorelines indicate the effects of climate change are already occurring. In view of this, there is an urgent need to accelerate efforts in every form available that can contribute to **concrete and effective action** that reverses the heating up of the Earth's atmosphere as well as restores it to a sustainable level for life and development.

So the Paris Agreement, while absolutely necessary, must not be the end but the beginning of enhanced and accelerated collective efforts to cut emissions, restore the atmosphere and insure a viable global environment for future generations. In short, building on the work embodied in the Paris Agreement (2015), much more still needs be done, beginning with the legal international recognition of the Earth Atmosphere as a global trust.

A global commons belongs to all, and no one state has the right to abuse it for its own purpose or profit. In particular, proportionate responsibility requires that the "Most Industrialized or Polluting States" (the MIOPS) that have historically placed the majority of greenhouse gases (GHGs) in the Global Atmosphere must *be the first* to take steps and act collectively to restore the Earth's atmosphere firstly, as the *immediate task*, to levels below 400 parts per million (ppm) of CO₂. Each MIOPS state's proportionate responsibility can be roughly calculated and then the state can use its own uniquely tailored portfolio of mitigation methods to restore the atmosphere to accomplish this urgent and historic priority of humanity as a whole. At the same time, all states have a responsibility to lower carbon emissions emanating from their soil.

To achieve the goals of this Global Trust resolution, the UNGA could, based upon Articles 16 and 85 of the UN Charter, also approve a single trusteeship agreement that recognizes the “area” (Article 85) of the Earth’s atmosphere as a global trust. This would be the beginning of the “United Nations Ecological Trusts” or UNETs. In this way, all states of the United Nations become trustees of the Earth’s atmosphere and their proportionate responsible for its restoration.

Conclusion

Expanding upon the important work already accomplished by the Paris Agreement (2015), the United Nations General Assembly (UNGA) can help create the international legal framework needed for recognizing the Earth’s atmosphere as a global trust thus helping to create the necessary legal capacity-building among nation-states to monitor, maintain and ***restore*** the Earth’s atmosphere for future generations.

This can still be done, but we are simply running out of time. A variety of mitigation methods besides carbon cuts have to be quickly developed and deployed to avert catastrophic climate change in the near future. In Part II I will explore why a variety of mitigation methods deserve attention and how an international legal framework recognizing Earth’s atmosphere as a global trust can enable efforts to do so.

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