

UN Climate Change Conference – COP22, Marrakesh, 7-18 November 2016

## **Urgent Appeal for the Ecological Truth and the Sustainability of Life on Earth**

On the occasion of the UN Climate Change Conference – COP22, we urge Governments and civil society to carefully consider this message.

### **Premise**

To this day, the legal instruments in place since the Rio de Janeiro Conference in 1992 have not been able to effectively prevent or mitigate climate change: this global phenomenon is increasingly accelerating and threatening the life of the ecosystem.

Oceans, forests and soil **cannot absorb the enormous quantity of pollution produced** daily by the existing model of production and consumption, an economic model dominated by international finance and politics and which is no more sustainable.

ICC Report (5<sup>th</sup> Report 2014) and WMO data are alarming: 2016 has been the year that carbon dioxide officially passed the symbolic 400 ppm mark, never to return below it in our lifetimes, according to scientists.

Even though there are some hopeful signs that world leaders are willing to take actions to reduce emissions, those efforts will have to happen on an **accelerating timetable** in order to avoid 2°C (3.6°F) of warming. That's the level outlined by policymakers as a safe threshold for climate change. And even if the world limits warming to that benchmark, it will still likely spell doom for low-lying small island states and have serious repercussions around the world, from more extreme heat waves to droughts, coastal flooding and the extinction of many coral reefs.

**World peace is also at stake:** the desire to control valuable oil and natural gas assets is fueling world conflicts.

### **Priorities**

It's against this backdrop that we believe that human health and the continuity of life on Earth for future generations should be the main political responsibility of governments and the international community.

**The “ecological truth” needs to be told** and made known to all, governments, the United Nations and civil society, resisting those economic and political powers interested in reassuring, hiding, underestimating, mystifying.

**Fossil fuel production** not only consumption must be stopped and new efforts should be put in developing clean and renewable energy and innovative technology.

Limiting fossil fuel emissions without stopping fossil fuel production will not be enough since the economy will keep on depending on this source.

## **International justice and global governance**

A global emergency such as climate change cannot be dealt with only at a national level: the existing economic model based on fossil fuel is already international. We need new rules and supranational governance hastening the transition away from fossil fuels and to a clean energy economy and holding governments to account for reaching those targets.

The international obligations related to cutting carbon emissions post-2020 are indivisible and *erga omnes*, since all member States need to comply with them.

Equally indivisible are the obligations related to the allowed emissions during the transitional period (which should not exceed 2025).

Access to justice for individuals and NGOs must be guaranteed also at the international level since the environment is about life itself, therefore a real human right.

US Courts have already been dealing and could do it further in the future with supranational issues: in the Volkswagen case (accused of cheating diesel pollution tests in the United States and elsewhere); and as a consequence of the JASTA Act (Justice Against Sponsors of Terrorism Act) which gives families and survivors of the September 11 attacks an avenue to pursue justice in American courts against Saudi Arabia for what they believe is its connection to the terrorist attack. JASTA narrows the scope of the legal doctrine of foreign sovereign immunity by authorizing federal courts to exercise personal jurisdiction over any foreign state's support for one's act of international terrorism against a U.S. national or property.

In the light of the climate change emergency, **we believe** that two supranational institutions are necessary:

- a) a reformed, **strengthened UNEP** with monitoring and control powers;
- b) an **International Court for the Environment** in the form to be considered to be the most appropriate by the international community: a new specialised institution which will give access not only to States but also to international organizations, NGOs and individuals, in the name of a universal human right which is life itself.

Waiting for such a Court to be created, **we propose** that present crimes committed by individuals against the environment be immediately included within the jurisdiction of the **International Criminal Court**, if it gains a majority of two thirds of the Parties without it being necessary to amend the Rome Statute.