



# General Assembly

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GENERAL

A/43/241  
12 September 1988

ORIGINAL: ENGLISH

## Climate as a Common Heritage of Humankind

12/09/1988 Maltese Proposal

## Climate System (Reservoir/Stock)

Legally recognized  
as a object of  
International Law  
belonging to all  
Humanity

Forty-third session

REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM  
IN THE AGENDA OF THE FORTY-THIRD SESSION

DECLARATION PROCLAIMING CLIMATE AS PART  
OF THE COMMON HERITAGE OF MANKIND

Letter dated 9 September 1988 from the Permanent Representative of  
Malta to the United Nations addressed to the Secretary-General

I have the honour to request, on behalf of the Government of Malta, in accordance with rule 15 of the rules of procedure of the General Assembly, the inclusion of an additional item entitled "Declaration proclaiming climate as part of the common heritage of mankind" in the agenda of the forty-third session of the General Assembly.

In accordance with rule 20 of the Assembly's rules of procedure, an explanatory memorandum concerning my Government's request is attached hereto.

(Signed) Alexander BORG OLIVIER  
Ambassador  
Permanent Representative



# ILC Report

# 2 Different Concepts

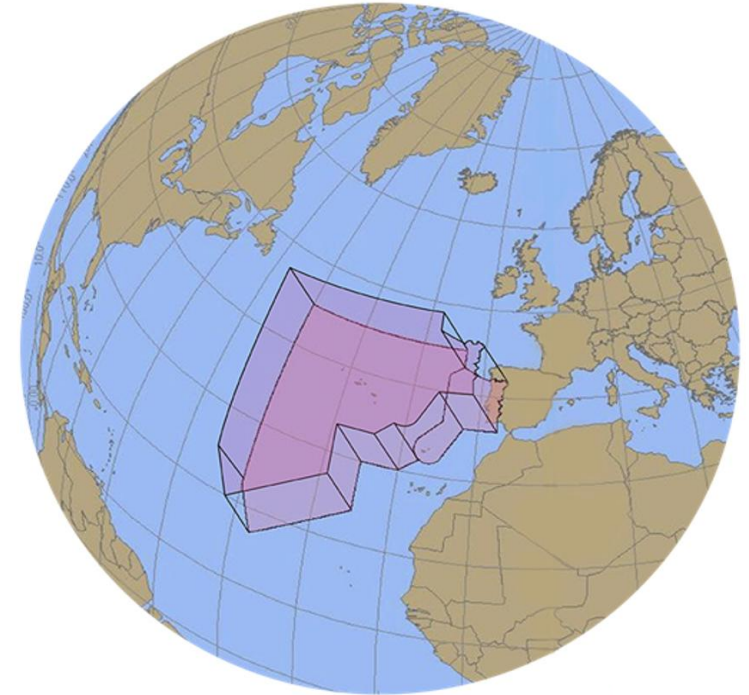
Athmosphere

vs

Airspace



**The Functional Aspect**



**The Static Spatial- Based Institution**

"The atmosphere and airspace are two different concepts, which must be distinguished." (ILC) 2021-2029



# The Current Legal Status - Including Paris Agreement

## Climate Change Common Concern of Humankind

06/12/1988 70th plenary  
UNGA meeting

The Focus  
are the flows  
(emissions/removals)

tlement needs of displaced persons;

9. Requests the Secretary-General to apprise the Economic and Social Council at its first regular session of 1989 of his efforts and to report thereon to the General Assembly at its forty-fourth session.

70th plenary meeting  
6 December 1988

### 43/53. Protection of global climate for present and future generations of mankind

*The General Assembly,*

*Welcoming with appreciation the initiative taken by the Government of Malta in proposing for consideration by the Assembly the item entitled "Conservation of climate as part of the common heritage of mankind",*

*Concerned that certain human activities could change global climate patterns, threatening present and future generations with potentially severe economic and social consequences,*

*Noting with concern that the emerging evidence indicates that continued growth in atmospheric concentrations of "greenhouse" gases could produce global warming with an eventual rise in sea levels, the effects of which could be disastrous for mankind if timely steps are not taken at all levels,*

<sup>5</sup> A/43/755.

whole and should be confronted within a global framework so as to take into account the vital interests of all mankind,

1. *Recognizes that climate change is a common concern of mankind, since climate is an essential condition which sustains life on earth;*

2. *Determines that necessary and timely action should be taken to deal with climate change within a global framework;*

3. *Reaffirms its resolution 42/184 of 11 December 1987, in which, inter alia, it agreed with the Governing Council of the United Nations Environment Programme that the Programme should attach importance to the problem of global climate change and that the Executive Director of the United Nations Environment Programme should ensure that the Programme co-operates closely with the World Meteorological Organization and the International Council of Scientific Unions and maintains an active, influential role in the World Climate Programme;*

4. *Considers that activities in support of the World Climate Programme, approved by the Congress and Executive Council of the World Meteorological Organization and elaborated in the system-wide medium-term environment programme for the period 1990-1995, which was approved by the Governing Council of the United Nations*

<sup>6</sup> See *United Nations Environment Programme, Annual Report of the Executive Director, 1985 (UNEP/GC.14/2), chap. IV, paras. 138-140.*

# UNFCC Rio Convention 1992, defines Climate System, but not its Legal Status.

## Art.1.3

**“Climate system”** means the totality of the atmosphere, hydrosphere, biosphere and geosphere and **their interactions.**



## Art.1.7

**“Reservoir”** means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas **is stored.**



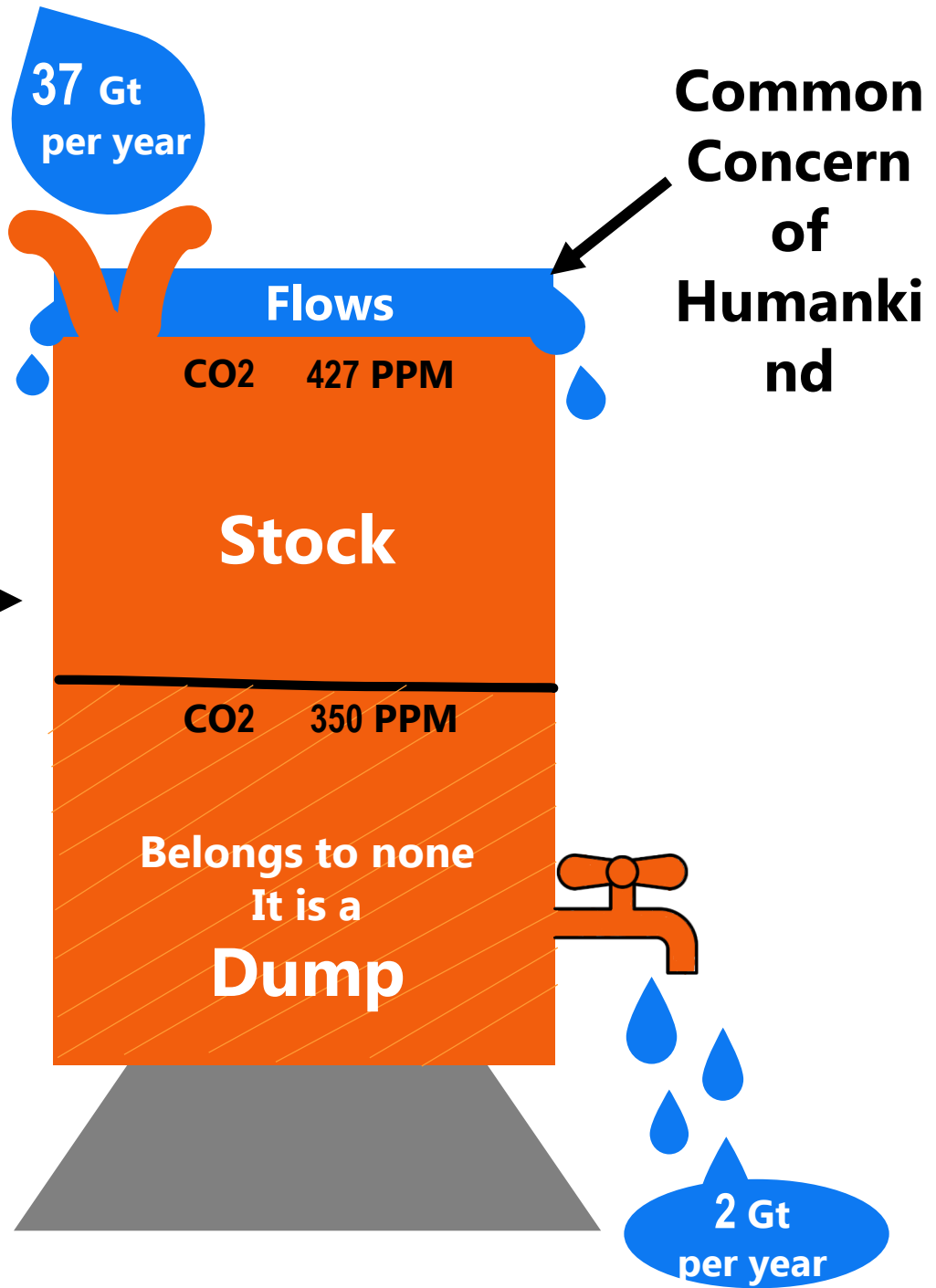
*(Atmosphere, Oceans, Soil, Biodiversity)*

# **“How a good that belongs to none can be the subject of a legal regime ?”**

ALEXANDER KISS, “[La notion de patrimoine commun de l'humanité](#)”,  
*Académie de droit international de La Haye, Recueil des cours*, tomo 175, 1982, pp. 103–256.

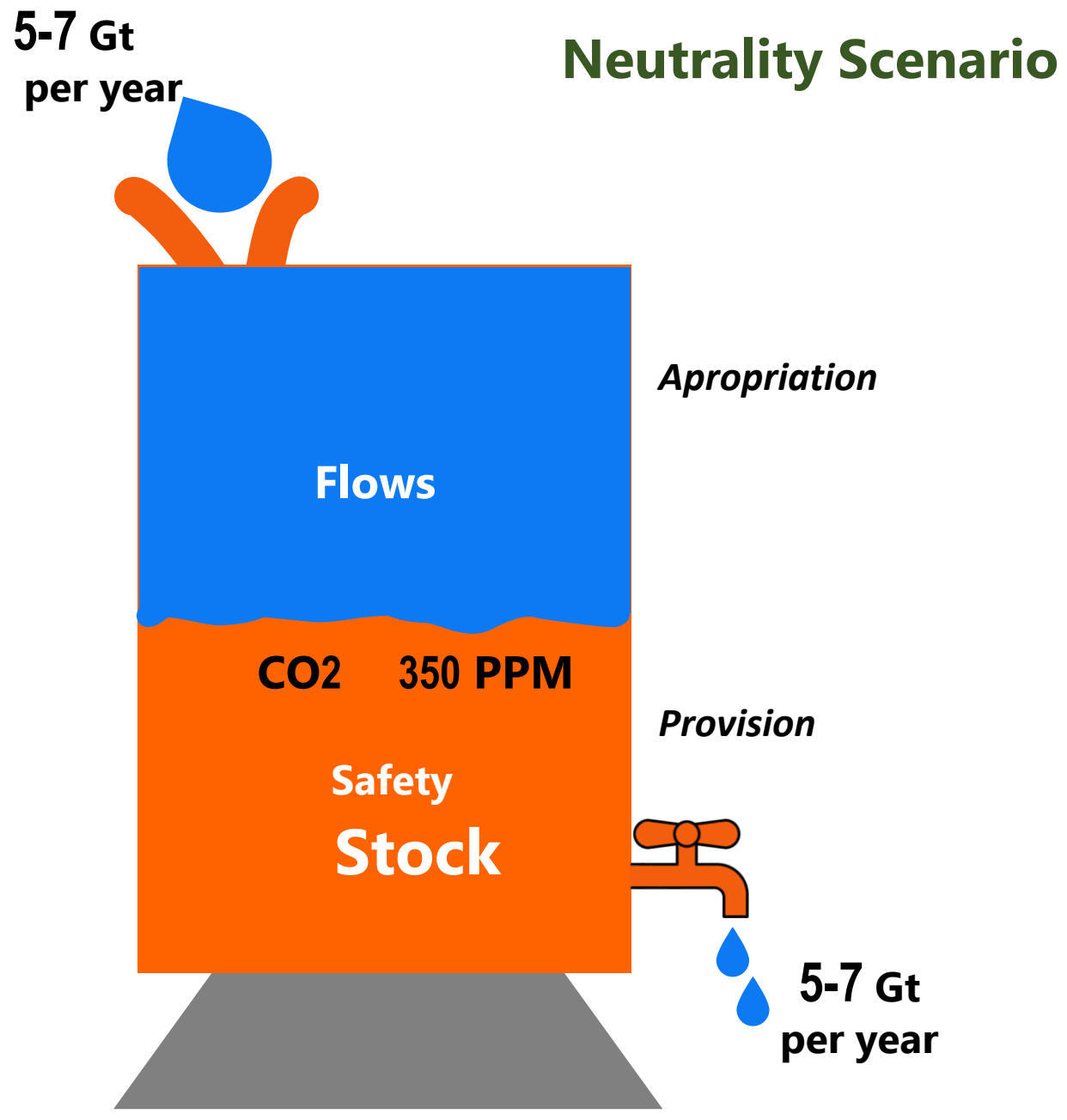
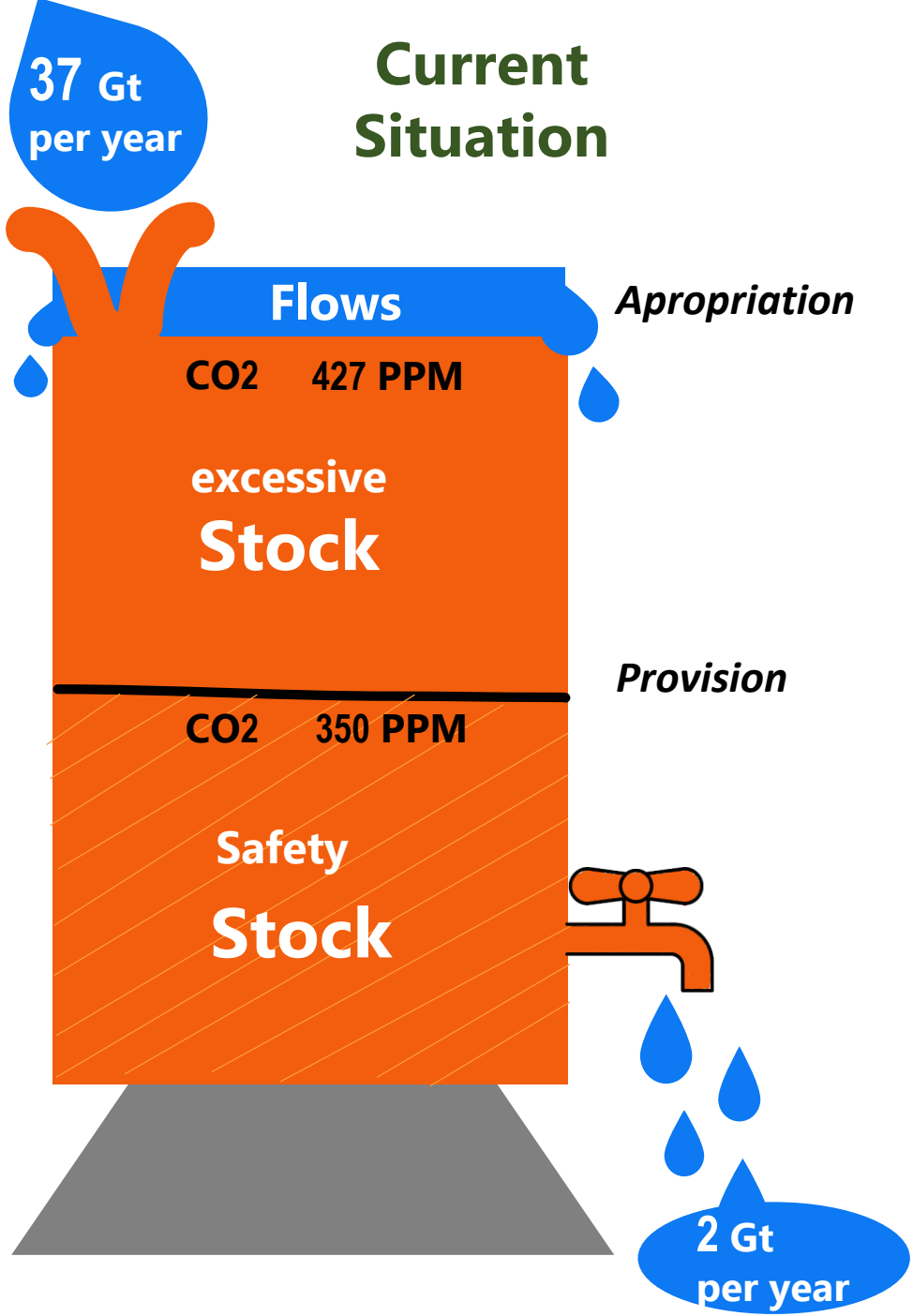
# Current Legal Statuts of the Reservatoir

**Tragedy of Commons**  
"is the result of a poorly managed  
common good, or of situations  
in which there are uncertainties  
surrounding its ownership"  
Garret Hardin 1968



*"Problems of **appropriation** are centered with the allocation of the **flow (emissions)**, problems of **provision** concern the **stock (reservoir)**. (...) **The solutions to one problem must be congruent with the solutions to the other.**"*

Ostrom, E. (1990). *Governing the Commons: The evolution of Institutions for Collective Action*. Editors, James E. Alt, Douglass C. North. *The Political Economy of Institutions and Decisions*. Cambridge University Press.

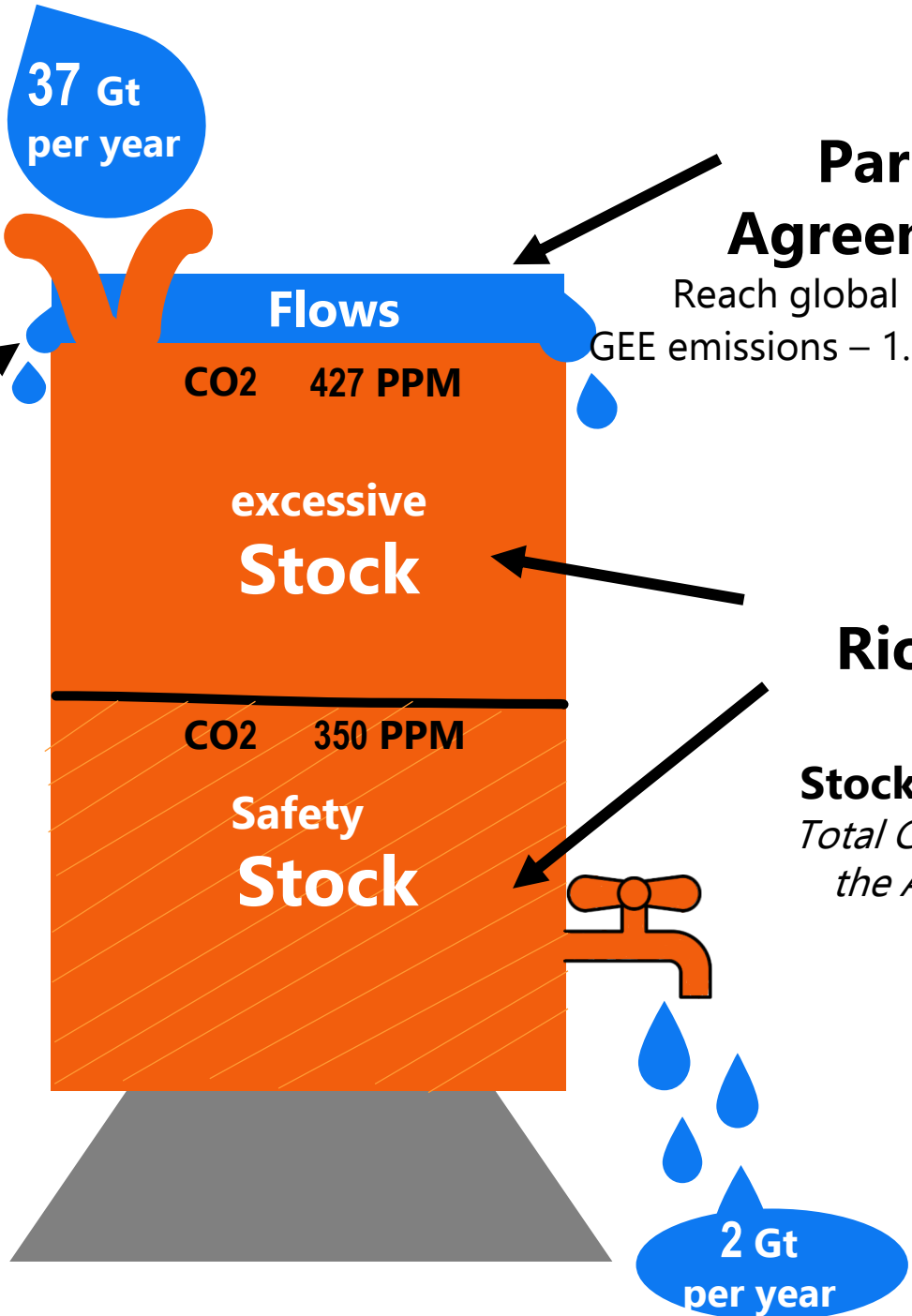




**Differences between Paris Agreement and Rio Convention**

**Common Concern of Humankind**

**Accounting on flows**  
Art.4° Paris Agreement  
GOAL -Balance Emissions/Removals



**Paris Agreement**

Reach global peaking of GEE emissions – 1.5C (Art.2, Art.4)

**Rio Convention 1992**

**Stock/Reservoir** (Art 1°.7)  
*Total Concentration of Co2 in the Atmosphere* (Art. 2°)

# Removals are used to maintain/increase emissions



Why the oil industry's pivot to carbon capture and storage – while it keeps on drilling – isn't a climate change solution

Published: November 23, 2021 8:35am CET

The Washington Post  
Democracy Dies in Darkness

BUSINESS

## How a pricey taxpayer gambit on carbon capture helps Big Oil

The climate bill includes subsidies for projects that are...

...more fossil fuel extraction



By Evan Halper

October 9, 2022 at 6:00 a.m. EDT



## Guterres quer mais na luta pelo

MadreMedia / Lusa

22 abr 2023 09:24

Atualidade

Guterres - ONU - Planeta A - Alterações Climáticas



O secretário-geral das Nações Unidas, António Guterres, pediu hoje, Dia da Terra, maior "ação climática" das comunidades mais vulneráveis.

Guterres, pediu hoje, Dia da Terra, maior "ação climática" para países e comunidades mais vulneráveis.



Most carbon dioxide captured in the U.S. today is used to extract more oil.



AEROPIN



Início > Empresas Aéreas

### Anunciada a 1ª empresa aérea do mundo a contratar a iniciativa de remoção de carbono da Airbus



“(...) a **dilemma** for policymakers who need to find ways to **incentivise sustainable carbon removal scale-up, while avoiding the risk of disincentivising** greenhouse gas emission reductions in different sectors by more conventional means.”

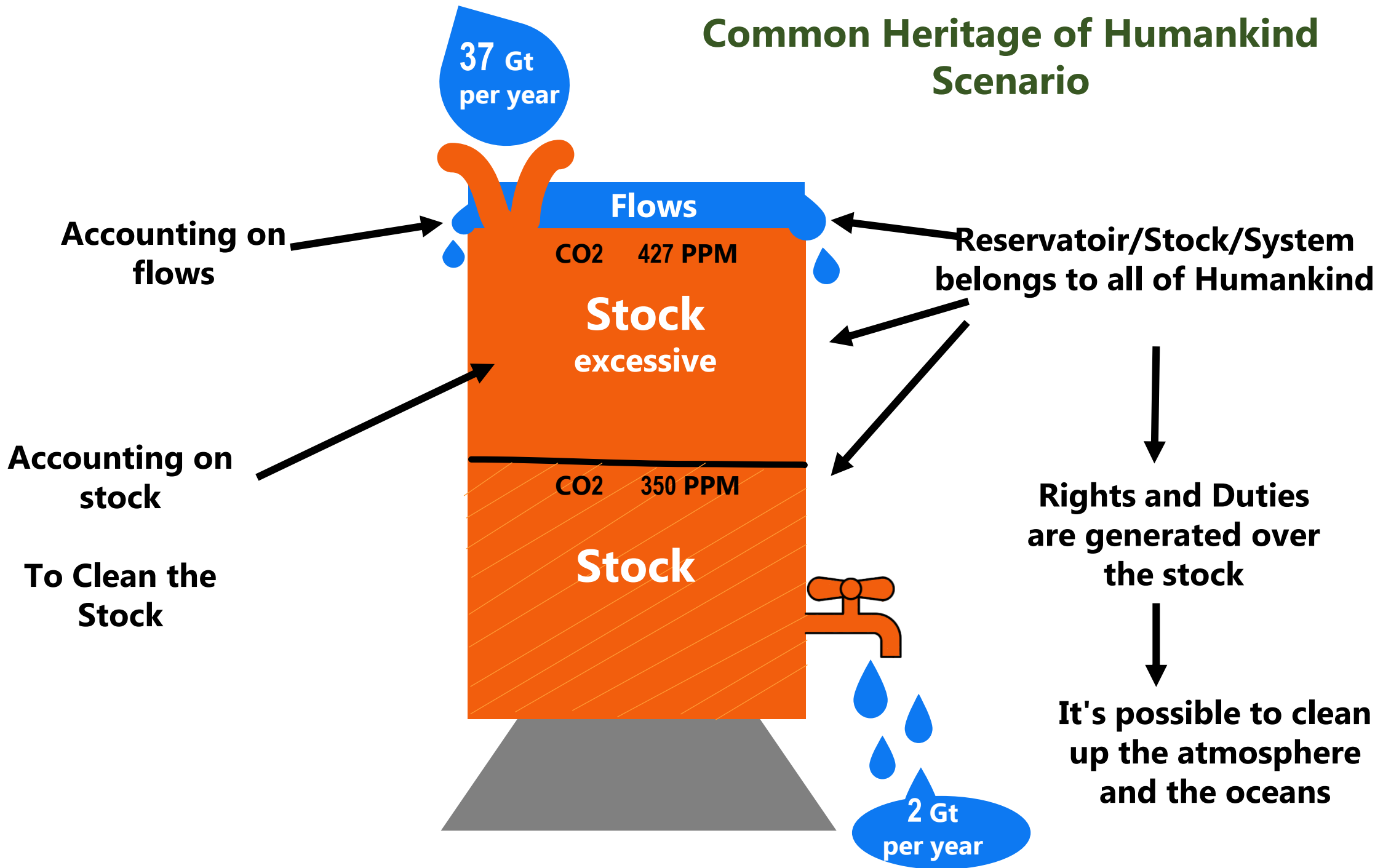
- *European Scientific Advisory Board on Climate Change - 2023*

“The central message is that carbon removals must play a role in climate change mitigation strategies, **in addition to, not instead of,** for rapid decarbonisation efforts, starting today.”

- *Energy Transitions Commission, 2022*



# Common Heritage of Humankind Scenario



***"Is the conventional theory of collective action the best theory for analyzing how to reduce the massive threats of climate change?"***

Elinor Ostrom 2009

**1<sup>st</sup> Condition**

Legal definition of the common good, with concrete global boundaries

**2<sup>nd</sup> Condition**

Congruence between the rules of provision and appropriation

**How to finance negative emissions?**