



UiO • **Faculty of Law**
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Sustainability and sustainable due diligence as a point of connection in the regulatory framework

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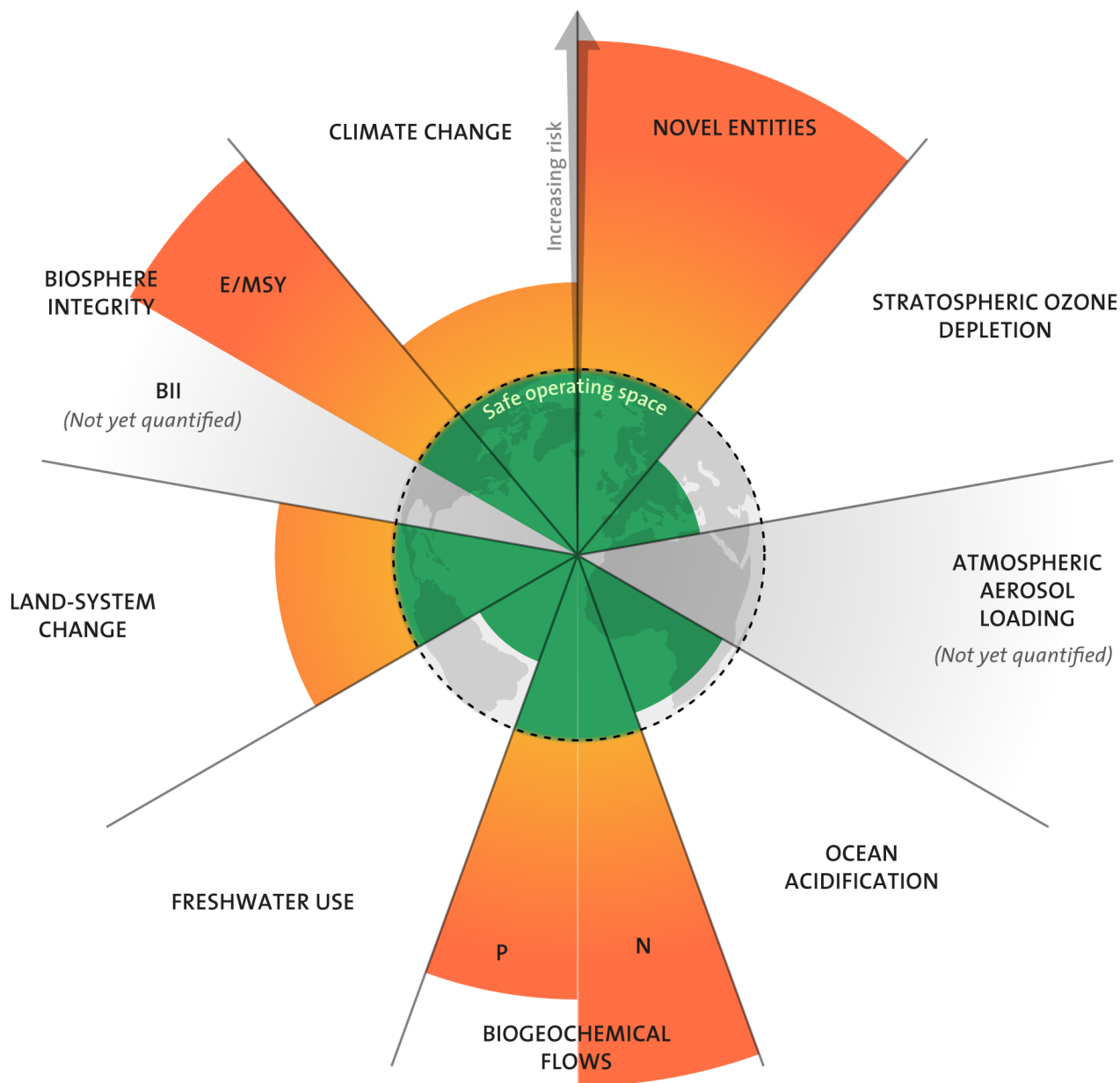
UN Sustainable Development Goals



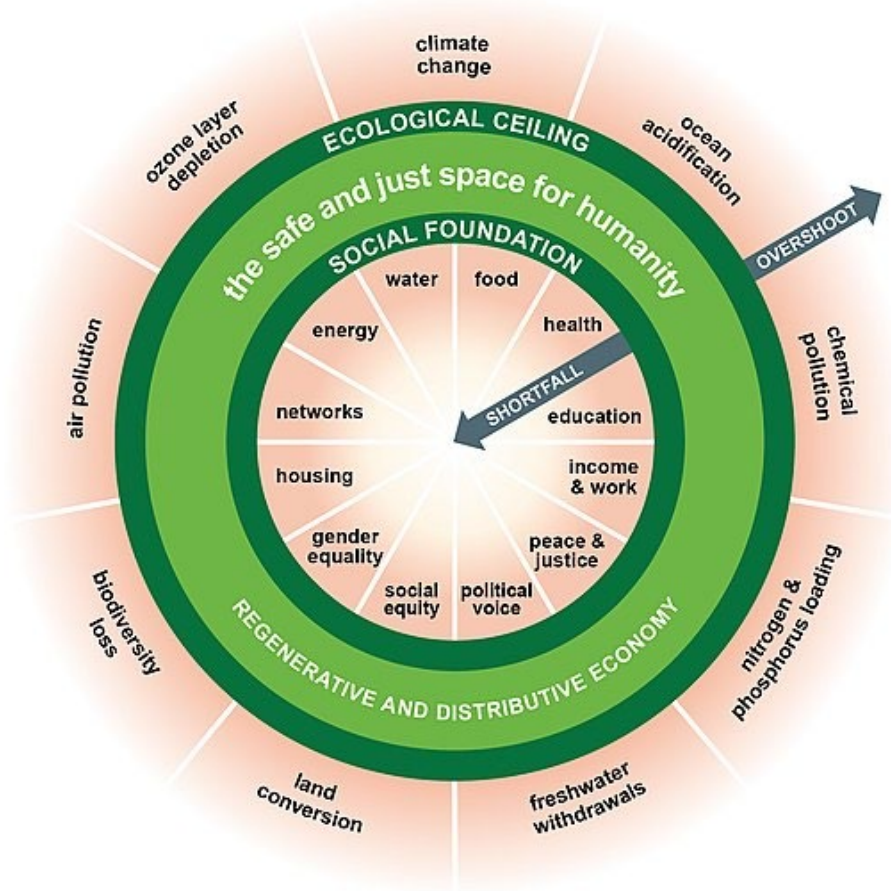
Photo source: un.org:
About the Sustainable
Development Agenda



Photo: Michael Held



Credit: Azote and Stockholm Resilience Centre, based on analysis in Persson et al. 2022 and Steffen et al. 2015



Source: Raworth 2017;
Leach, Raworth &
Rockström 2013

The role of business: corporate sustainability

- Corporate sustainability is about business creating sustainable value within planetary boundaries & contributing to society's overarching goal of sustainability
- More specifically, business that creates value that is:
 - a) environmentally sustainable, in that it ensures the long-term stability and resilience of the ecosystems that support human life;
 - b) socially sustainable, in that it facilitates the achievement of human rights and other basic social rights, as well as good governance; and
 - c) economically sustainable, in that it satisfies the economic needs necessary for stable and resilient societies

Sustainability in EU law

- Sustainability is an overarching Treaty objective for the European Union internally in Europe and as a global actor as set out in Article 3(3) and 3(5) TEU, and:
 - The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties (Article 3(6) TEU)
- Horizontal integration duties and consistency requirements: including Article 11 TFEU, Article 9 TFEU & Article 7 TFEU
- Boundaries for the EU's competence:
 - Principle of subsidiarity (Article 5(3) TEU)
 - Principle of proportionality (Article 5(4) TEU)

Sustainability on the EU agenda

A European Green Deal

Striving to be the first climate-neutral continent

FINANCING A
SUSTAINABLE
EUROPEAN ECONOMY



Buying green!

A handbook on green public procurement
3rd Edition



Circular Economy Action Plan

For a cleaner and
more competitive
Europe

Sustainable corporate governance

European Commission conference
24 January 2019
Brussels

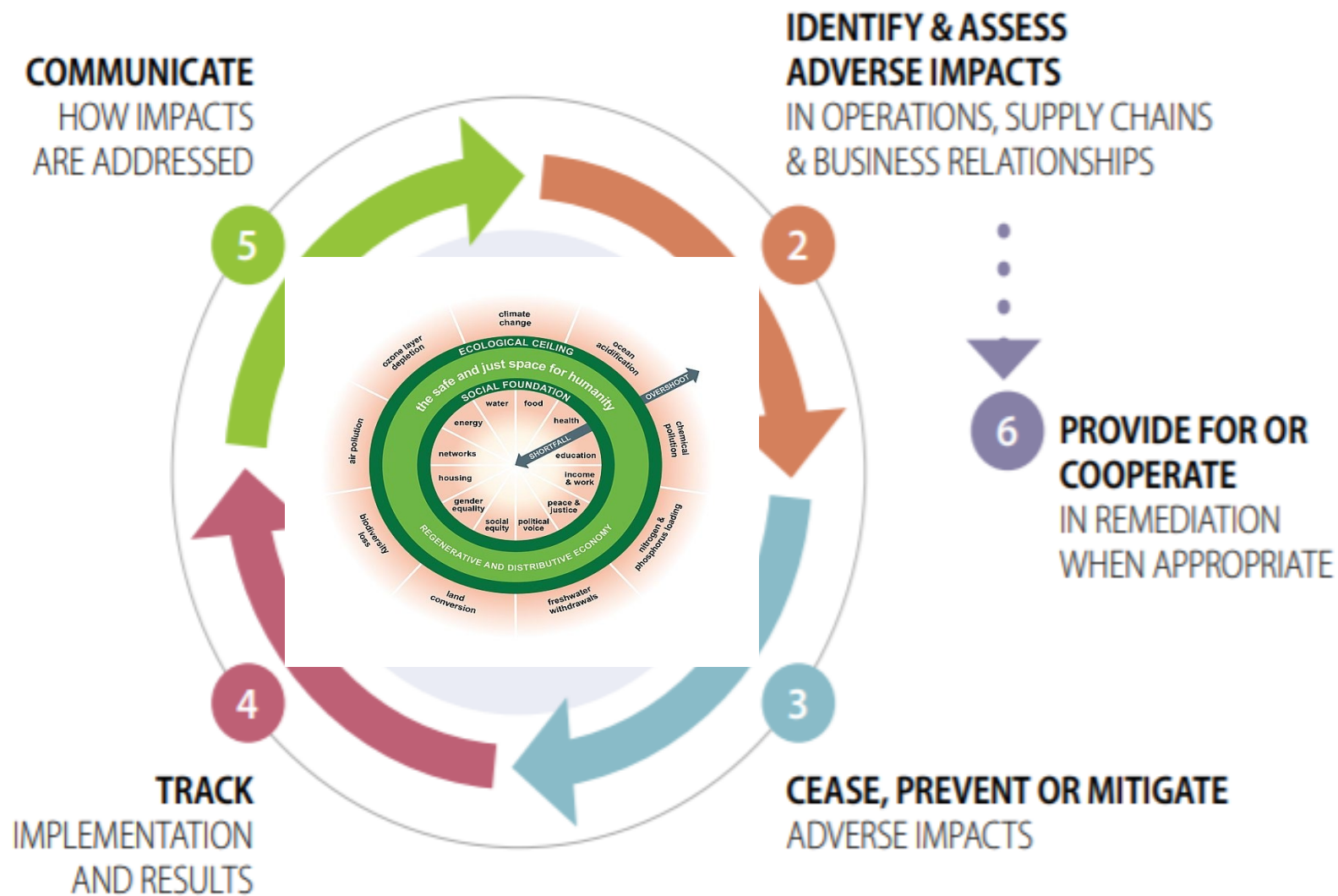


Sustainability initiatives & sustainability due diligence

- Financing the transition
 - Sustainable finance initiatives (eg taxonomy)
 - Central and domestic banking
 - Public procurement
- Sustainable business
 - Company law and corporate governance
 - Corporate Sustainability Due Diligence proposal
 - Accounting and auditing: latest, Corporate Sustainability Reporting Directive proposal
- Sustainable circular economy
 - Waste management
 - Ecodesign 2009 and much needed further work
 - Extended producer responsibility

Corporate sustainability through Corporate Sustainability Due Diligence?

- ‘Non-company law’? – but duty of care and civil liability
- *Corporate sustainability* due diligence, yet limited to environmental and human rights
- Limited scope of directive & ‘established business relationships’ may constrain interpretation of ‘value chain’
- Process: ‘stakeholder’ language
- Reporting, public and private enforcement – sufficient for level playing field and legal certainty?
- [Corporate purpose, the proposed Directive and the misleading shareholder vs stakeholder dichotomy](#) (blog post 25 Feb 2022)



Adapted from Figure 1, OECD DD Guidance, 2018



Possible further reading

- B. Sjøfjell, T. Häyhä, & S. Cornell, [A Research-Based Approach to the UN Sustainable Development Goals. A Prerequisite to Sustainable Business](#), 2020
- B. Sjøfjell & J. Mähönen, [Corporate Purpose and the Misleading Shareholder vs Stakeholder Dichotomy](#), d2022
- H. Ahlström & D. Monciardini, [The Regulatory Dynamics of Sustainable Finance: Paradoxical Success and Limitations of EU Reforms](#), 2021
- D. Monciardini, J. Mähönen & G. Tsagas, [Rethinking Non-Financial Reporting: A Blueprint for Structural Regulatory Changes](#), 2020
- L. Smit & C. Bright, [The concept of a 'safe harbor' and mandatory human rights due diligence](#), 2020

Sustainability is possible, with legislative reform to support the transition

Research Group **Companies, Markets & Sustainability**
(the Company Law Group): jus.uio.no/companies

[Blogging for Sustainability](#)

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