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PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT • PROGRAMA DE LAS NACIONES UNIDAS PARA EL MEDIO AMBIENTE

ПРОГРАММА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ОКРУЖАЮЩЕЙ СРЕДЕ

Senior Judges Adopt Ground-Breaking Action Plan to Strengthen World's Environment-Related Laws

World Summit on Sustainable Development Given Pioneering Principles for Fighting Poverty and Delivering Environmental Justice

30 Years UNEP: Environment for Development: People Planet Prosperity

Johannesburg/Nairobi, 27 August 2002 - An action plan to strengthen the development, use and enforcement of environment-related laws has been drawn up by over 100 of the world's most senior judges in a move that signals a new era in the quest to deliver sustainable development.

The High Court and Supreme Court judges, whose action plan or “programme of work” was announced today at the World Summit on Sustainable Development (WSSD), believe a key to improving the adoption and implementation of environment-related laws hinges on improving the capacity, training, funding and education of legal experts particularly in developing nations.

Boosting the access of the public to public information on environment and development related issues as well as access to the legal system and the courts is also key, the judges argue.

They are also proposing improvements in the way land-mark cases in one part of the world are shared with legal experts in other parts of the world “with a view to benefiting from each others knowledge, experience and expertise”.

The so called Johannesburg Principles on the Role of Law and Sustainable Development (see notes to editors for the full text and declaration) were adopted last week at the Global Judges Symposium organized by the United Nations Environment Programme (UNEP). The pioneering principles have been kept confidential until today so that they can be delivered first to UN Secretary-General Kofi Annan at the WSSD.

Experts are convinced that, the world-wide effort to crack down on pollution, challenge environmentally-damaging developments and comply with agreements covering issues such as hazardous wastes to the trade in endangered species have been undermined partly as a result of weaknesses in many countries legal systems.

These weaknesses are particularly acute in many developing countries and nations of the former Soviet Union where lack of resources, the difficulties of turning international treaties into national laws and lack of awareness, if not apathy, as a result of difficult economic conditions are making it harder for cases to reach or succeed in the courts.

Klaus Toepfer, Executive Director of UNEP, said: “The field of law has, in many ways, been the poor relation in the world-wide effort to deliver a cleaner, healthier and ultimately fairer world. We have over 500 international and regional agreements, treaties and deals covering everything from the protection of the ozone layer to the conservation of the oceans and seas. Almost all, if not all, countries have national environmental laws too. But unless these are complied with, unless they are enforced, then they are little more than symbols, tokens, paper tigers”.

“This is an issue affecting billions of people who are effectively being denied their rights and one of not only national but regional and global concern. We are increasingly aware that what happens in one part of the world can affect in another part of the globe-- be it toxic pollutants from Asia, Europe and North America contaminating the Arctic or the greenhouse gases of the industrialised regions triggering droughts or the melting of glaciers in the less industrialised ones,” he said.

Justice Arthur Chaskalson, Chief Justice of South Africa who co-hosted the symposium, said:” Our declaration and proposed programme of work are, I believe, a crucial development in the quest to deliver development that respects people and that respects the planet for current and future generations and for all living things. The rule of law is the basis for a stable country and ultimately stable world. I am personally committed to realizing and taking forward these historic principles in cooperation with my fellow judges, other legal practitioners, UNEP, the general public and non-governmental organizations. I commend them to the UN Secretary-General and world leaders gathered here in Johannesburg”.

Notes to the Editors:

The Johannesburg Principles on the Role of Law and Sustainable Development adopted at the Global Judges Symposium held in Johannesburg, South Africa, on 18-20 August 2002

IT WAS HOSTED BY THE HON. JUSTICE ARTHUR CHASKALSON, AND
SPONSORED BY THE UNITED NATIONS ENVIRONMENT PROGRAMME

(UNEP). AT THE END OF THE SYMPOSIUM THE JUDGES ADOPTED THE FOLLOWING STATEMENT:

We affirm our commitment to the pledge made by world leaders in the Millennium Declaration adopted by the United Nations General Assembly in September 2000 “*to spare no effort to free all of humanity, and above all our children and grandchildren, from the threat of living on a planet irredeemably spoilt by human activities, and whose resources would no longer be sufficient for their needs*”,

We express our firm conviction that the framework of international and national law that has evolved since the United Nations Conference on Human Environment held in Stockholm in 1972 provides a sound basis for addressing the major environmental threats of the day, including armed conflict and attacks on innocent civilians, and should be underpinned by a more determined, concerted and sustained effort to implement and enforce these legal regimes in order to achieve their objectives,

We emphasize our commitment to the Universal Declaration of Human Rights and the UN Human Rights Conventions and recognize their close connection with sustainable development and upholding the Rule of Law,

We recall the principles adopted in the Rio Declaration on Environment and Development and affirm adherence to these principles which lay down the basic principles of sustainable development,

We affirm that an independent Judiciary and judicial process is vital for the implementation, development and enforcement of environmental law, and that members of the Judiciary, as well as those contributing to the judicial process at the national, regional and global levels, are crucial partners for promoting compliance with, and the implementation and enforcement of, international and national environmental law,

We emphasize the importance of the peaceful resolution of conflicts to avoid situations in which weapons of war degrade the environment and cause irreparable harm directly through toxic agents, radiation, landmines and physical destruction and indirectly destroy agriculture and create vast displacement of people,

We recognize that the rapid evolution of multilateral environmental agreements, national constitutions and statutes concerning the protection of the environment increasingly require the courts to interpret and apply new legal instruments in keeping with the principles of sustainable development,

We emphasize that the fragile state of the global environment requires the Judiciary as the guardian of the Rule of Law, to boldly and fearlessly implement and enforce applicable international and national laws, which in the field of environment and sustainable development will assist in alleviating poverty and sustaining an enduring civilization, and ensuring that the present generation will enjoy and improve the quality of life of all peoples, while also ensuring that the inherent rights and interests of succeeding generations are not compromised,

We agree that the Judiciary has a key role to play in integrating Human Values set out in the United Nations Millennium Declaration: Freedom, Equality, Solidarity, Tolerance, Respect for Nature and Shared Responsibility into contemporary global civilization by translating these shared values into action through strengthening respect for the Rule of Law both internationally and nationally,

We express our conviction that the Judiciary, well informed of the rapidly expanding boundaries of environmental law and aware of its role and responsibilities in promoting the implementation, development and enforcement of laws, regulations and international agreements relating to sustainable development, plays a critical role in the enhancement of the public interest in a healthy and secure environment,

We recognize the importance of ensuring that environmental law and law in the field of sustainable development feature prominently in academic curricula, legal studies and training at all levels, in particular among judges and others engaged in the judicial process,

We express our conviction that the deficiency in the knowledge, relevant skills and information in regard to environmental law is one of the principal causes that contribute to the lack of effective implementation, development and enforcement of environmental law,

We are strongly of the view that there is an urgent need to strengthen the capacity of judges, prosecutors, legislators and all persons who play a critical role at national level in the process of implementation, development and enforcement of environmental law, including multilateral environmental agreements (MEAs), especially through the judicial process,

We recognise that the people most affected by environmental degradation are the poor, and that, therefore, there is an urgent need to strengthen the capacity of the poor and their representatives to defend environmental rights, so as to ensure that the weaker sections of society are not prejudiced by environmental degradation and are enabled to enjoy their right to live in a social and physical environment that respects and promotes their dignity,

We are also of the view that the inequality between powerful and weak nations in terms of their relative capacity and opportunity to protect the sustainable development of the shared global environment places a greater responsibility on the former to protect the global environment, and

We feel reassured that the implementation and further development of international environmental law aiming at sustainable development, the implementation of agreed international norms and policies, and the strengthening of the capacity of those engaged

in promoting the implementation and enforcement of environmental law are cornerstones of the UNEP Programme of Work in the field of Environmental Law, as reflected in the Nairobi Declaration adopted at the 19th session of the Governing Council in February 1997, and the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, adopted by the UNEP Governing Council in February 2001(Montevideo Programme III).

WE AGREE UPON THE FOLLOWING PRINCIPLES THAT SHOULD GUIDE THE JUDICIARY IN PROMOTING THE GOALS OF SUSTAINABLE DEVELOPMENT THROUGH THE APPLICATION OF THE RULE OF LAW AND THE DEMOCRATIC PROCESS:

- 1) A full commitment to contributing towards the realization of the goals of sustainable development through the judicial mandate to implement, develop and enforce the law, and to uphold the Rule of Law and the democratic process,
- 2) To realise the goals of the Millenium Declaration of the United Nations General Assembly which depend upon the implementation of national and international legal regimes that have been established for achieving the goals of sustainable development,
- 3) In the field of environmental law there is an urgent need for a concerted and sustained programme of work focused on education, training and dissemination of information, including regional and sub-regional judicial colloquia, and
- 4) That collaboration among members of the Judiciary and others engaged in the judicial process within and across regions is essential to achieve a significant improvement in compliance with, implementation, development and enforcement of environmental law.

FOR THE REALISATION OF THESE PRINCIPLES WE PROPOSE THAT THE PROGRAMME OF WORK SHOULD INCLUDE THE FOLLOWING:

- a) The improvement of the capacity of those involved in the process of promoting, implementing, developing and enforcing environmental law, such as judges,

- prosecutors, legislators and others, to carry out their functions on a well informed basis, equipped with the necessary skills, information and material,
- b) The improvement in the level of public participation in environmental decision-making, access to justice for the settlement of environmental disputes and the defence and enforcement of environmental rights, and public access to relevant information,
 - c) The strengthening of sub-regional, regional and global collaboration for the mutual benefit of all peoples of the world and exchange of information among national Judiciaries with a view to benefiting from each other's knowledge, experience and expertise,
 - d) The strengthening of environmental law education in schools and universities, including research and analysis as essential to realizing sustainable development,
 - e) The achievement of sustained improvement in compliance with and enforcement and development of environmental law,
 - f) The strengthening of the capacity of organizations and initiatives, including the media, which seek to enable the public to fully engage on a well-informed basis, in focusing attention on issues relating to environmental protection and sustainable development,
 - g) An *Ad Hoc* Committee of Judges consisting of Judges representing geographical regions, legal systems and international courts and tribunals and headed by the Chief Justice of South Africa, should keep under review and publicize the emerging environmental jurisprudence and provide information thereon,
 - h) UNEP and its partner agencies, including civil society organizations should provide support to the *Ad Hoc* Committee of Judges in accomplishing its task,
 - i) Governments of the developed countries and the donor community, including international financial institutions and foundations, should give priority to financing the implementation of the above principles and the programme of work,
 - j) The Executive Director of UNEP should continue to provide leadership within the framework of the Montevideo Programme III, to the development and implementation of the programme designed to improve the implementation, development and enforcement of environmental law including, within the

applicable law of liability and compensation for environmental harm under multilateral environmental agreements and national law, military activities and the environment, and the legal aspects of the nexus between poverty and environmental degradation, and

- k) This Statement should be presented by the Chief Justice of South Africa to the Secretary-General of the United Nations as a contribution of the Global Judges Symposium to the forthcoming World Summit on Sustainable Development, and for broad dissemination thereof to all member States of the United Nations.

Adopted on 20th August 2002, in Johannesburg , South Africa.

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