



UNEP Global Judges Programme



United Nations Environment Programme

**UNEP
Global
Judges
Programme**



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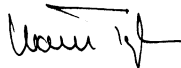
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MESSAGE

Success in tackling environmental degradation relies on the full participation of everyone in society. It is essential therefore, to forge a global partnership among all relevant stakeholders for the protection of the environment based on the affirmation of the human values set out in the UN Millennium Declaration: freedom, equality, solidarity, tolerance, respect for nature and shared responsibility. The judiciary plays a key role in weaving these values into the fabric of our societies.

The judiciary is also a crucial partner in promoting environmental governance, upholding the rule of law and in ensuring a fair balance between environmental, social and developmental considerations through their judgements and declarations. The courts of many countries have shown sensitivity to promoting the rule of law in the field of environment and sustainable development, which has been amply demonstrated at several Regional Judges Symposia organised by UNEP across the world and at the Global Judges Symposium held on the eve of the World Summit on Sustainable Development, in August 2002. This publication outlines the work done by UNEP in co-operation with several partners in developing and implementing a programme to engage the judiciaries of all countries in the pursuit of the Rule of Law in the area of environment and sustainable development.

I wish to express our deep appreciation to the Chief Justices and other Senior Judges for their contribution into the global and regional judges symposia, and their sincere commitment to collaborate with UNEP in the development and implementation of national activities for the implementation of the UNEP Governing Council Decision 22/17/II A on follow-up to the Global Judges Symposium focusing on capacity-building in the area of environmental law.



Klaus Toepfer
Executive Director
UNEP

INTRODUCTION

UNEP's work in support of the Judiciary began in 1996 with the convening a series of Regional Judges Symposia on environmental law, sustainable development and the role of the judiciary in several regions of the world. In August 2002, UNEP convened the Global Judges Symposium on Sustainable Development and the Role of Law in parallel with the World Summit on Sustainable Development (WSSD). The Symposium, hosted and chaired by Chief Justice Arthur Chaskalson of South Africa, brought together more than 120 Chief Justices and senior judges from over 60 countries including several judges from International Courts and Tribunals.

Never before had so many distinguished Chief Justices and other Senior Judges from national and international courts and tribunals, of both developing and developed countries around the world, met to discuss any branch of law. The unique gathering itself was therefore, glowing testimony to their conviction that the Judiciary, well informed of the rapidly expanding boundaries of environmental law and sensitive to their role and responsibilities in promoting the rule of law in regard to environmentally friendly development, is essential for the realisation of sustainable development. UNEP was convinced that this process had therefore to be systematically highlighted and fostered.

The outcome of the Symposium was a unanimous recognition by these senior judges representing the various legal systems of the world, of the crucial role that the judiciary plays in enhancing environmental governance and the rule of law, through the interpretation, application, further development, and enforcement of environmental law in the new context of sustainable development. This recognition was embedded in the Johannesburg Principles on the Role of Law and Sustainable Development (the Johannesburg Principles), that the judges adopted by acclamation, which were presented to the Secretary General of the United Nations, Mr. Kofi Annan, and to the World Summit on Sustainable Development by the Chair of the Symposium, the Chief Justice of South Africa.

In January 2003, a follow-up meeting in Nairobi brought together 25 judges representative of the world's legal systems and regions to provide guidance to UNEP in the development and implementation of a programme directed at the judiciaries of the world, to achieve more effective application and enforcement of domestic environmental law.

The Global Judges Symposium and the subsequent Nairobi Meeting inspired the UNEP Governing Council to adopt Decision 22/17 II(A) which called upon the Executive Director to help improve the capacity of those involved in the process of developing, implementing and enforcing environmental law at the national and local levels, including judicial officers.

To implement UNEP Governing Council decision 22/17 II(A) UNEP has embarked upon an extensive work programme (the Global Judges Programme), developed and carried out with the advice and guidance of a UNEP Advisory Group of Chief Justices and other senior judges drawn from around the world, headed by the Chief Justice of South Africa.

The goal of this programme of work is for UNEP in cooperation with its many partners agencies, to carry out on a cohesive, structured and sustained basis, national activities for strengthening the role of the judiciary in securing environmental governance, adherence to the rule of law and the effective implementation of national environmental policies, laws and regulations including the national level implementation of multilateral environmental agreements.

It is imperative that such a programme of work be carried out in each country, under the direction and guidance of the respective Chief Justices. To facilitate the national level activities to be carried out in over 100 developing countries and countries with economies in transition during the period 2004-2006, UNEP in cooperation with several partners agencies convened eleven Regional Chief Justices Needs-Assessment and Planning Meetings. These Meetings have drawn up needs-responsive and country specific national programmes of work for strengthening judicial capacity in the area of environment and sustainable development.

Several governments, including the governments of the Netherlands, Belgium and Norway have provided significant financial support to UNEP for the implementation of this programme of work.

The programme, set out in a Road Map, is implemented by the Environmental Law Branch of UNEP's Division of Policy Development and Law and delivered nationally, responding to the specific needs of each country. It includes developing training materials; formulating national capacity-building plans for judges and conducting national level capacity building.

These national programmes of work will be implemented at the national level by the Chief Justices and the respective national judicial training institutions, and will be supported by UNEP in partnership with a global alliance of partners, including the World Bank Institute, the United Nations University, UNITAR, IUCN, the global academia and regional and national institutions with relevant capabilities in the area of environmental law, training and education.

One of the outcomes of the Global Judges Symposium was the conviction expressed by the judges 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”*. In response, UNEP is developing a series of environmental law training materials, to be translated into the official languages of the UN as well as requested national languages for widest possible dissemination and use. These materials include:

- A UNEP Manual in Environmental Law;
- A Judges Handbook on Environmental Law;
- Legal Drafters handbooks on specific topics such as water, energy and economic instruments;
- Two UNEP collections of Texts of Selected Documents on International Environmental Law and of National Environmental Legislation; and
- Compendia of Summaries of Judgments in environment-related cases from around the world.

In addition, UNEP, FAO and IUCN have jointly established an Internet-based Environmental Law Information System (ECOLEX), accessible at <http://www.ecolex.org>. A Judgments Portal within ECOLEX enables judges from around the world to upload decisions in environmental cases, thereby giving an impetus to the progressive development of jurisprudence in the field.

The global support that has emerged behind UNEP’s Global Judges Programme holds out real hope for change, demonstrated by the cross-disciplinary commitment for the Global Judges Symposium; the judicial commitment to safeguarding and promoting environmental governance and the rule of law in the field of environment and sustainable development; the adoption of the UNEP Governing Council’s unanimous decision to empower the Executive Director of UNEP to implement the outcome of the Global Judges Symposium in regard to capacity strengthening of judiciaries; the financial support of several donor governments, in particular, the

Netherlands, Norway and Belgium, and Foundations and other institutions, such as the World Bank Institute, and the Hanns Seidel and Ford Foundations; the overwhelming support for this initiative from the global academia and partner agencies, within and outside the United Nations system; and most of all, from the Chief Justices and senior judges of countries throughout the world.

A handwritten signature in black ink, appearing to read 'Bakary Kante', with a stylized flourish at the end.

Bakary Kante
Director
Division of Policy Development and Law
UNEP

UNEP GLOBAL JUDGES PROGRAMME – ACHIEVEMENTS AT A GLANCE

1995-2002- SIX (6) UNEP REGIONAL CHIEF JUSTICES SYMPOSIA ON SUSTAINABLE DEVELOPMENT, THE RULE OF LAW AND THE ROLE OF THE JUDICIARY

UNEP's Global Judges Programme commenced with the organisation of regional judges symposia on sustainable development, the Rule of Law and the role of the Judiciary, convened in Africa, (1995), South Asia (1997), South East Asia (1999), Latin America (2000), Caribbean (2001) and the Pacific (2002). The results of these Symposia may be summarised as follows:

1. Initiating and fostering of a judicial dialogue and exchange of experiences in the field of environmental law in the region with sensitivity to the cultures and traditions of the region.
2. Discussion on possible conceptual and procedural advances, which will facilitate the development and application of environmental law and jurisprudence by the courts.
3. Establishing a network among the judiciaries, the legal profession and Law Faculties in universities in the region to share information and material on environmental law.
4. Developing and disseminate widely in the region, through written and electronic means, environmental law publications of particular relevance and importance to the region, including environmental law reports.
5. Calling on the Executive Director of UNEP to provide active support to strengthen the capacity of judges and other legal stakeholders to engage more actively and on a more informed basis in the development, application and enforcement of environmental law in the context of sustainable development.

REGION	PARTICIPATING CHIEF JUSTICES/ SENIOR JUDGES	UNEP'S PARTNERS
Africa	South Africa, Kenya, Uganda, Tanzania, Mozambique, Sao Tome and Principe, Burkina Faso, and Mauritania	Dutch Government
South Asia	Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka	NORAD, South Asia Cooperative Environment Programme, Govt. of Sri Lanka
South East Asia	Brunei Darussalam, Cambodia, Indonesia, Lao P.D.R. Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam	UNDP, Hanns Seidel Foundation, United Nations University, ESCAP, ASEAN Secretariat, Government of the Philippines
Latin America	Argentina, Brazil, Chile, Colombia, Cuba, Mexico and Peru. A publication with the proceedings, the judges' presentations and the core working paper of the symposium was prepared and released by UNEP in September 2000	Federal Attorney General's Office for Environmental Protection (PROFEPA) of the Mexican Government
Caribbean	Fifteen states and territories of the English-speaking Caribbean	World Bank Institute, Commonwealth Secretariat, INECE, US Environmental Protection Agency, CIDA-ENACT Jamaica and the Natural Resources Conservation Authority of Jamaica
Pacific	Fiji, Samoa, Vanuatu, Solomon Islands, Kiribati, Tonga, Marshall Islands, Palau, Federated States of Micronesia	Queensland Premier's Office, Commonwealth Secretariat, South Pacific Regional Environmental Programme, United Nations University

2002- UNEP GLOBAL JUDGES SYMPOSIUM ON SUSTAINABLE DEVELOPMENT AND THE ROLE OF LAW

The Global Judges Symposium was convened by the Executive Director of UNEP, Mr. Klaus Toepfer, in close cooperation with Hon. Valli Moosa, the Minister of Environment Affairs and Tourism of South Africa, and was

chaired by the Chief Justice of South Africa, Hon. Arthur Chaskalson. One hundred and twenty six (126) Chief Justices and senior Supreme Court justices participated in the Symposium including thirty two (32) Chief Justices. Judges of the International Court of Justice, the European Court of Justice and the Court of COMSEC also participated.

UNEP's partners in organising the Symposium included World Bank Institute, Hanns Seidel Foundation, Environmental Law Institute, United Nations University, Center for International Sustainable Development Law (CISDL), ENVIROLAW, The World Conservation Union (IUCN), the Ford Foundation, Government of South Africa, International Network for Environmental Compliance and Enforcement (INECE), the Government of the Netherlands, and the U.S. Environmental Protection Agency. Several other global, regional and national organisations also participated as observers at the invitation of UNEP.

The outcome of the Symposium was a unanimous recognition by these senior judges representing the various legal systems of the world, of the crucial role that the judiciary plays in enhancing environmental governance and the rule of law, through the interpretation, development, implementation and enforcement of environmental law in the new context of sustainable development.

They also concluded, in what was called the *'The Johannesburg Principles on the Role of Law and Sustainable Development'*, that:

- An independent judiciary and judicial process is vital for the implementation, development and enforcement of environmental law;
- The fragile state of the global environment requires the Judiciary as the guardian of the Rule of Law, boldly and fearlessly to implement and enforce applicable international and national laws, which will assist in alleviating poverty, while also ensuring that the inherent rights and interests of succeeding generations are not compromised;
- 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;

- The Judiciary plays a critical role in the enhancement of public interest in a healthy and secure environment;
- The rapid evolution of multilateral environmental agreements, national constitutions and statutes concerning the protection of the environment increasingly requires the courts to interpret and apply new legal instruments in keeping with the principles of sustainable development;
- The deficiency in the knowledge, relevant skills and information in regard to environmental law is one of the principle causes that contribute to the lack of effective implementation, development and enforcement of environmental law.

Finally, they called on the Executive Director of UNEP to provide leadership to the development and implementation of the programme designed to improve the implementation, development and enforcement of environmental law. The UNEP-IUCN Judicial Portal in the UNEP-FAO-IUCN information network ECOLEX, was also launched at the Symposium.

The outcome of the Global Judges Symposium was presented to the Secretary General of the United Nations, Mr. Kofi Annan and also to the World Summit on Sustainable Development by the Chair of the Symposium, the Chief Justice of South Africa.

2003 - JUDGES AD HOC PLANNING MEETING FOR THE DEVELOPMENT OF A PLAN OF WORK AS A FOLLOW-UP TO THE GLOBAL JUDGES SYMPOSIUM

Over thirty Chief Justices and senior Judges representative of the various regions and legal systems of the world met at the UNEP headquarters in January 2003, on the eve of the twenty-second session of the UNEP Governing Council, to assist in planning the implementation of the outcome of the Johannesburg Global Judges Symposium. They adopted a final document, containing suggestions on how to develop and implement the capacity building programme, which was presented to the Governing Council of UNEP at its opening session on 3 February 2003 by the Chief Justice of South Africa.

In the document, the judges recognised the positive impact that the capacity building programmes being undertaken by UNEP could have in terms of achieving a tangible and measurable improvement in regard to awareness and enforcement of environmental law, and expressed full support and co-operation to UNEP for the development and implementation of these capacity building programmes.

From a more practical point of view, the participants:

- urged UNEP to undertake an assessment of capacity building needs of developing countries and countries with economies in transition to design and implement programmes responding to their specific needs at national level, utilising existing national and other organisations and institutions for this purpose, and to reinforce where possible existing training programmes;
- encouraged all countries to support these programmes with available resources and to share their experiences in every possible way and the donor community to support these programmes with necessary financial and material resources;
- recognised the important role that international organisations, the academic community, and regional and sub-regional organisations could play in supporting UNEP in the development and implementation of capacity building programmes in environmental law in developing countries and countries with economies in transition;
- called on UNEP and IUCN to further develop the judicial portal for the purpose of collecting and making available widely environment-related judgements, and providing an opportunity for interaction and sharing of experiences among judges worldwide;
- set up an Ad Hoc Advisory Group of Judges representative of the different regions and legal systems to advise UNEP in the development and implementation of this programme of work especially in regard to the training and capacity of judicial officers. The Ad Hoc Advisory Group, comprises the Chief Justices and Senior Judges from the following countries: South Africa (Chair), Tanzania, Philippines, France, Russian Federation, Samoa, Egypt, United States, Brazil, Australia.

2003 – UNEP GOVERNING COUNCIL ADOPTS DECISION 22/17/II(A) ON IMPLEMENTATION OF THE OUTCOME OF THE UNEP GLOBAL JUDGES SYMPOSIUM FOR CAPACITY BUILDING OF JUDGES AND OTHER LEGAL STAKEHOLDERS

Following the Johannesburg Symposium, the Governing Council of UNEP, at its Twenty Second Session held in Nairobi in February 2003, unanimously adopted decision 22/17 IIB which expressly called upon the Executive Director to support within the framework of the Montevideo Programme III *“the improvement of the capacity of those involved in the process of promoting, implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors, legislators and other relevant stakeholder, to carry out their functions on a well informed basis with the necessary skills, information and material with a view to mobilizing the full potential of the judiciaries around the world for the implementation and enforcement of*

environmental law, and promoting access to justice for the settlement of environmental disputes, public participation in environmental decision-making, the protection and advancement of environmental rights and public access to relevant information”.

2003-2005- NINE (9) REGIONAL NEEDS-ASSESSMENT AND PLANNING MEETINGS OF CHIEF JUSTICES OF DEVELOPING COUNTRIES AND COUNTRIES WITH ECONOMIES IN TRANSITION

Purpose

To provide opportunity for Chief Justices to develop needs-responsive national, sub-regional and regional action plans for strengthening the capacity of their respective judiciaries to engage effectively in upholding the rule of law, strengthening governance and enforcing environmental law.

Results

- Country and region specific plans of action prepared by the Chief Justice or their representatives to strengthen the capacity of judges at all levels for promoting the rule of law, governance and the interpretation and enforcement of environmental law.
- Establishing networks of Regional Judges Forums on Environmental Law in several regions, including Arab states, Caribbean, Europe, Eastern and West Africa, Southern Africa, Mekong countries, Latin America and Pacific Island States.
- Mobilisation of regional and national partners to collaborate with UNEP in supporting national capacity building activities in each of the regions.

REGION	PARTICIPATING COUNTRIES	PARTNERS
Asia	Cambodia, Lao PDR, Myanmar, Thailand and Vietnam	Mekong Law Centre
West and East Africa	Eritrea, Ethiopia, Ghana, Liberia, Kenya, Nigeria, Sierra Leone, Tanzania, The Gambia, Uganda	COMESA
Southern Africa	Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia, Zimbabwe	University of Pretoria, Constitutional Court of South Africa

REGION	PARTICIPATING COUNTRIES	PARTNERS
Eastern Europe and Central Asia	Armenia, Belarus, Bulgaria, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tadjikistan, Tbilisi, Ukraine, Uzbekistan, Uzbekistan, Azerbaijan	IUCN, EcoPravo-Lviv, the Constitutional Court of Ukraine, the Supreme Court of Ukraine, and the Judicial Administration and Academy of Judges of Ukraine
Latin America	Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Honduras, Paraguay, Peru, Uruguay, Venezuela	WBI, FARN, Lawyers for a Green Planet
Caribbean	Bahamas, Barbados, Belize, Guyana, Jamaica, Suriname, Trinidad and Tobago, OECS (Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines)	Supreme Court of Jamaica, Ministry of Land and Environment and the National Environmental Protection Agency of Jamaica
Pacific	Australia, Cook Islands, Fiji, Kiribati, New Zealand, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Vanuatu, Micronesia	University of Auckland, SPREP, Government of New Zealand
Arab countries	Algeria, Bahrain, Egypt, Djibouti, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen	Supreme Constitutional Court of Egypt, Arab League, Government of Egypt
Francophone countries	Algerie, Bénin, Burkina Faso, Burundi, Cameroun, Cap Vert, CEMAC, République Centrafricaine, Comores République du Congo, République Démocratique du Congo, Cote d'Ivoire, Djibouti, République du Gabon, Guinée Bissau, Guinée Equatoriale, Guinée, Ile Maurice, Madagascar, République du Mali, Royaume du Maroc, Niger, OHADA, Rwanda, Sao Tome et Principe, Sénégal, République du Tchad, Togo, Tunisie	Cour de Cassation of France, International Francophone Organisation (OIF)

2002-2005- DEVELOPMENT OF TRAINING MATERIALS

Purpose

To provide core training materials to all countries to ensure consistency and uniformity in the substantive content of training programmes worldwide.

Training Materials

- UNEP Manual of Environmental Law
- UNEP Judges Handbook of Environmental Law
- Selected texts of legal Instruments in Environmental Law
- Legal Drafter's Handbooks on Environmental law
- Multimedia Training materials
- ECOLEX – Information website of FAO, IUCN & UNEP, including the Judgements Portal

2003-2004 - COMMENCEMENT OF NATIONAL JUDICIAL CAPACITY BUILDING ACTIVITIES

National judicial capacity building activities have already commenced with judicial training workshops that have been convened under the direction of the respective Chief Justices and in collaboration with several partners such as the Environmental Law Institute (ELI) in countries such as Tanzania, Uganda, South Africa, Kenya, Vietnam, Cambodia, Lao PDR, Thailand, Argentina, Trinidad and Tobago. UNEP expects to support judicial capacity building activities in over one hundred developing countries and countries with economies in transition in the next five years, in collaboration with relevant global, regional and national organisations.

OVERALL OUTCOME IN A DECADE OF UNEP ACTIVITY (1995-2005)

The outcome of this UNEP global initiative may be summarised as follows:

- Creation of a Global Alliance of Chief Justices and Senior Judges from over 100 countries, fully supportive of the UNEP Judges Programme and have declared their commitment to carry out capacity building of Judges at national level with the support of UNEP and its partner agencies,
- The adoption by the UNEP Governing Council of Decision 22/17/II(A) on *Follow-up to the Global Judges Symposium focusing on capacity-building in the area of environmental law*, which called on the Executive Director of UNEP to carry out a programme of work aimed at *“improving the capacity of those involved in the process of promoting,*

implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors legislators and other relevant stakeholder”

- Creation of Regional Judges Forums for the Environment in Europe, Pacific, Southern Africa, Eastern and West Africa, the Arab States, and the Caribbean, and shortly, for the Francophone countries in Africa.
- Development and publication of a UNEP Judges Handbook and other Manuals/ case law books, to respond to call from judiciaries of the developing world for urgently required books on environmental law.
- The UNEP-IUCN Judgments Portal within the Internet-based Environmental Law Information System (ECOLEX) established by UNEP, FAO and IUCN accessible at <http://www.ecolex.org/TR>. enables judges from around the world to upload decisions in environmental cases, thereby giving an impetus to the progressive development of jurisprudence in the field.
- Mobilising a consortium of partners for the UNEP capacity building programme on environmental law of judiciaries, prosecutors, and other legal stakeholders. The organisations and institutions that have collaborated with UNEP in the above programme include, UNDP, the World Bank Institute, United Nations University, UNITAR, IUCN and its Academy of Environmental Law, Commonwealth Secretariat, Francophone Secretariat, Commonwealth Magistrates and Judges Association, the Asia Foundation, the Hanns Seidel Foundation, Secretariat of the Pacific Regional Environment Programme (SPREP), South Asian Cooperative Environment Programme (SACEP), Environmental Law Foundation of the UK, Environmental Law Institute and the Centre for International Environmental Law.
- Commencement of systematic national training of judges through national judicial institutions with support of UNEP and partners agencies. While such national judges training programmes were held during 2004 in South Africa, Uganda, Tanzania, Vietnam, Cambodia, Lao PDR, plans are underway to hold similar national training workshops in over thirty countries during 2005.

WAY FORWARD

The global support that has emerged behind this UNEP initiative holds out considerable promise of success. Demonstrative of this promise are: the world-wide support for the UNEP Global Judges Symposium and its far-

reaching outcome; the declaration by the judges of their commitment to safeguarding and promoting environmental governance and the rule of law in the field of environment and sustainable development; the adoption of the UNEP Governing Council's unanimous decision to empower the Executive Director of UNEP to implement the outcome of the Global Judges Symposium in regard to capacity strengthening of judiciaries; the financial support of several donor governments, in particular, the Netherlands, Norway, and Belgium, and foundations and other institutions, such as the World Bank Institute, the Hanns Seidel and the Ford Foundation; the overwhelming support for this initiative from the global academia and partner agencies, within and outside the United Nations system; and most of all, from the Chief Justices and senior judges of countries throughout the world.

It will also be appreciated that environmental problems will differ from one country to another and that the history of environmental legislation and case law will also differ from jurisdiction to jurisdiction. While this is so, judges from around the world have held it important that judiciaries should be able to reach out beyond their jurisdiction and advise themselves on how related matters have been dealt with in other jurisdictions.

The focus of the UNEP Global Judges Programme in the next five years will be on supporting, in partnership with relevant global, regional and national organisations, Chief Justices and relevant Judicial Training Institutes, to carry out sustained national capacity building of judges at all levels, in the field of environmental law, with the ultimate objective of actively engaging judges at all levels throughout the world in upholding the rule of law, and governance in the area of sustainable development through the effective application and enforcement of environmental law. Towards this end the following activities have been planned:

- National, regional, sub-regional judges training workshops.
- Networking among Judges in the regions and beyond.
- Preparation of national environmental law publications
- Translation of relevant UNEP Publications to national languages including Judges Handbook on Environmental Law
- Strengthening the teaching of environmental law at Law Schools.
- Collation and dissemination of judgements.
- Judicial exchanges, seminars and symposia.
- Periodic evaluation of the effectiveness of the programme.

REGIONAL JUDGES SYMPOSIA ON ENVIRONMENTAL LAW AND THE ROLE OF THE JUDICIARY (1996–2002)

UNEP has convened six regional symposia on the judiciary's role in promoting sustainable development. More than 50 Chief Justices and other senior judges from around the world have participated in these judicial symposia that were held in Mombasa, Colombo, Manila, Mexico City, St Lucia, Brisbane. Two additional Judges Symposia, in Kuwait and London, were held in collaboration with IUCN.

Legal areas considered at the symposia

- the role of the judiciary in strengthening the Rule of Law, Governance and the enforcement of environmental law
- public participation, including substantive and procedural matters relating to public interest litigation
- the public's right to information
- the importance of promoting public awareness and environmental education at secondary and tertiary levels
- incorporation of the principle of sustainable development
- the polluter pays principle
- the precautionary principle
- the principle of continuous mandamus in the corpus of international and national law
- invocation of the extraordinary jurisdiction of the Supreme Court in environmental matters
- the *erga omnes* character of environmental matters and the problem of applying *inter partes* procedures in environmental dispute resolution; limits of the concepts of 'aggrieved person' and *locus standi* in regard to environmental damage
- inter-generational and intra-generational equity
- court commissions to ascertain facts and an authoritative assessment of the scientific and technical aspects of environment and development issues
- interpretation of constitutional rights including right to life and right to a healthy environment
- environmental impact assessment
- application of the public trust doctrine in regard to natural resources and the environment
- corporate responsibility and liability

- approaches to judicial reasoning in environment related matters including the importance of traditional values and ideas.

Key aims of the symposia

- To provide a forum for judges from different world regions to exchange views, knowledge and experience in strengthening the Rule of Law, Governance and the further development and implementation of environmental law.
- To examine contemporary developments in the field of environmental law.
- To review the role of the courts in promoting the rule of law in the area of sustainable development, including an examination of high profile and landmark judgements.
- To set in train a scheme for regional co-operation among judiciaries in the South Pacific countries, including the collation and dissemination of information and material on environmental law among judges from within the region.

The immediate outcome of the Symposia

1. Reaffirmation by judges around the world of the key role that they play in strengthening the Rule of Law, Governance and the development and implementation of environmental law.
2. Initiation and fostering of widespread judicial dialogue among the Bench and the Bar and exchange of experiences in the field of environmental law at national level and in each region with sensitivity to the cultures and traditions of the region.
3. Promoting discussion on possible conceptual and procedural advances, which will facilitate the development and application of environmental jurisprudence by the courts and promote compliance with and enforcement of environmental law.
4. Establishing the basis for networking among the judiciaries, the legal profession and law faculties in universities in the region to share information and material on environmental law.
5. Establishing a basis for developing and disseminating widely in each region and beyond environmental law publications of particular relevance and importance to the region.
6. Through the above means, promote the more vigorous and effective application of environmental law as an instrument for translating sustainable development policies into action.

GLOBAL JUDGES SYMPOSIUM

As a parallel event to the World Summit on Sustainable Development (WSSD) in August 2002, UNEP convened the Global Judges Symposium on Sustainable Development and the Role of Law. The participants, including 127 judges from 67 countries with 32 Chief Justices and Heads of Judiciary, shared their experiences and views on the role of law and the judiciary in promoting sustainable development in their respective countries.

The outcome of the Symposium was recognition by senior judges around the world of the crucial role that the judiciary plays in enhancing environmental Governance and the Rule of Law. At its closing session, the participants unanimously adopted the Johannesburg Principles on Sustainable Development and the Role of Law that should guide the judiciary in promoting the goals of sustainable development through the application of the Rule of Law and the democratic process and recommendations concerning the work programme to implement the principles. The judges concluded, among other things, that:

- An independent judiciary and judicial process is vital for the implementation, development and enforcement of environmental law.
- The fragile state of the global environment requires the judiciary, as the guardian of the Rule of Law, to boldly and fearlessly enforce the law. This will help alleviate poverty while ensuring that the inherent rights and interests of succeeding generations are not compromised.
- The people most affected by environmental degradation are the poor and, 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.
- The rapid evolution of multilateral environmental agreements, national constitutions and statutes concerning the protection of the environment increasingly requires the courts to interpret and apply new legal instruments in keeping with the principles of sustainable development.

- The Judiciary plays a critical role in the enhancement of public interest in a healthy and secure environment.
- The deficiency in the knowledge, relevant skills and information in regard to environmental law is one of the principle causes that contribute to the lack of effective development, implementation and enforcement of environmental law.

Finally, the judges called on UNEP’s Executive Director to provide leadership for the Global Judges Programme.

The outcome of the Global Judges Symposium including the Johannesburg Principles was presented to the Secretary-General of the United Nations, Mr Kofi Annan, by the Symposium Chair, the Chief Justice of South Africa.

The Global Judges Symposium laid the foundations for a long-term, sustained programme of capacity building of the judiciary and other legal stakeholders in the field of environmental law to be implemented mainly at national level.

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

FROM 18-20 AUGUST 2002, MEMBERS OF THE JUDICIARY ACROSS THE GLOBE ASSEMBLED AT THE GLOBAL JUDGES SYMPOSIUM ON SUSTAINABLE DEVELOPMENT AND THE ROLE OF LAW IN JOHANNESBURG, SOUTH AFRICA HOSTED BY THE CHIEF JUSTICE OF SOUTH AFRICA, 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 affirmed 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 requires 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:

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,

To realise the goals of the Millennium 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,

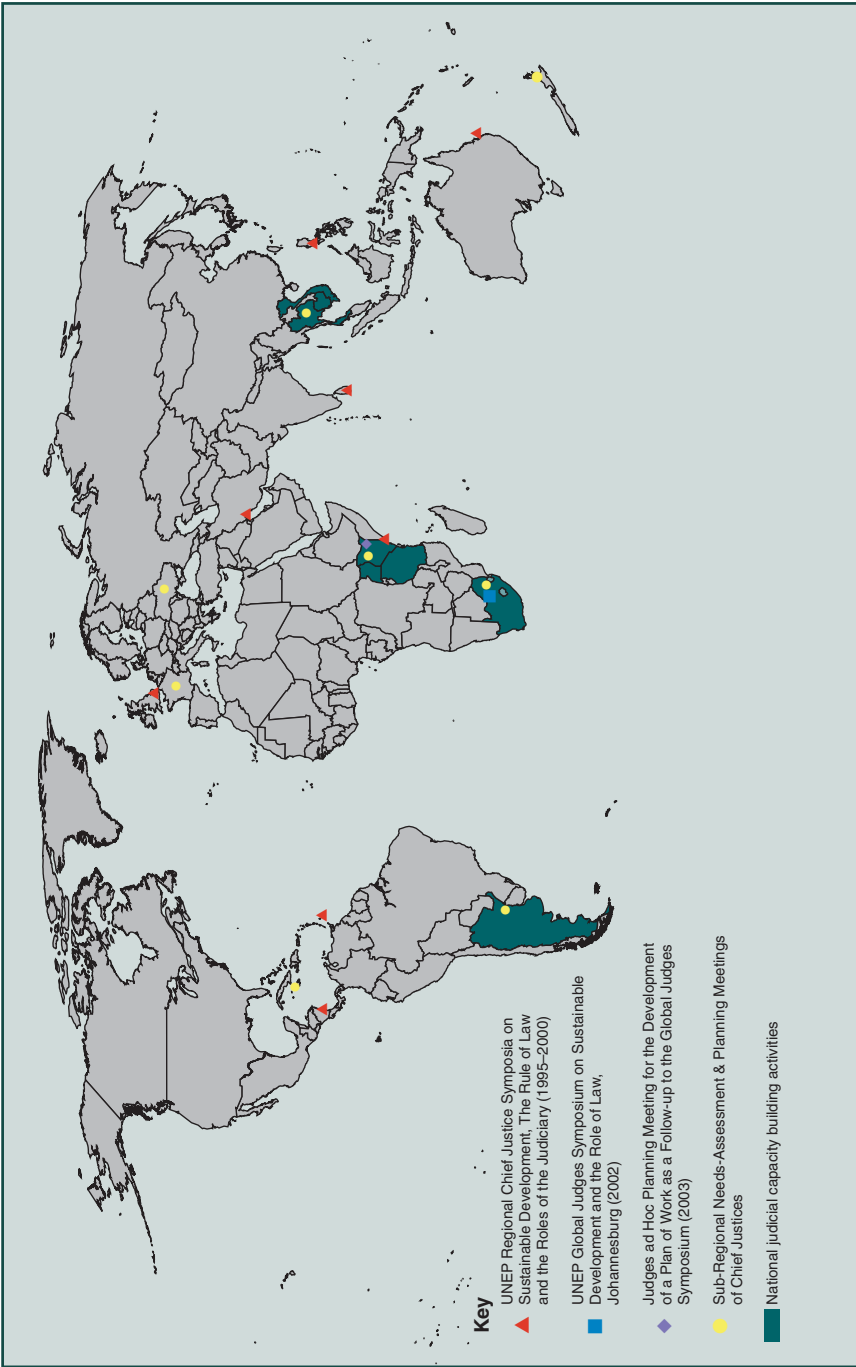
In the field of environmental law there is an urgent need for a concerted and sustained programme of work focused on education, training and dissemination of information, including regional and sub-regional judicial colloquia, and

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 defense 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 publicise 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.*



NAIROBI PLANNING MEETING

In January 2003, following on from the Global Judges Symposium, UNEP organised in Nairobi an *ad hoc* meeting of 25 judges representative of the world's legal systems, the Judges Ad Hoc Meeting for the Development of a Plan of Work as a Follow-Up to the Global Judges Symposium Relating to Capacity Building of Judges, Prosecutors, and Other Legal Stakeholders. Its aim was to develop a strategy for more effective implementation, compliance with and enforcement of domestic environmental law by strengthening the capacity of critical groups of actors such as judges, prosecutors, enforcement officers, lawyers, public interest groups and, in the long term, teachers and students of environmental law.

OUTCOME OF THE JUDGES AD HOC MEETING (ADOPTED BY ACCLAMATION ON 31 JANUARY 2003)

The Honourable Chief Justices and other senior judges participating in the Nairobi Planning Meeting on 30-31 January 2003:

Expressed their full support and co-operation to UNEP for the development and implementation of capacity building programmes directed at target groups, and undertook to contribute towards the programmes for the capacity building of the judiciary.

Urged UNEP to undertake an assessment of capacity building needs of developing countries and countries with economies in transition to design and implement programmes responding to their specific needs at national level utilising existing national, and other organisations and institutions for this purpose, and to reinforce where possible, existing training programmes.

Encouraged all countries to support these programmes with available resources and to share their experiences in every possible way.

Recognised the important role that international organisations, academic community, regional and sub-regional organisations could play in contributing towards the development and implementation of cohesive, concerted and sustained programmes of capacity building in environmental law in developing countries and countries with economies in transition and called on UNEP and these organisations to co-operate in the design and implementation of the programmes and activities.

Encouraged developed countries, international financial institutions, donor agencies, foundations and other organisations with the capacity to do so, to support these programmes with necessary financial and material resources.

Called on UNEP and IUCN to further develop the judicial portal for the purpose of collecting and making available widely environment-related judgements, and providing an opportunity for interaction and sharing of experiences among judges worldwide.

Established an Advisory Group of Judges representative of the different regions and legal systems to advise UNEP in the development and implementation of this programme of work especially in regard to the training and capacity of judicial officers.

Chair: *Hon. Justice A. Chaskalson, Chief Justice of South Africa, Hon. Justice Barnabas A. Samattta, Chief Justice of Tanzania, Hon. Justice Hilario G. Davide Jr. Chief Justice of the Philippines, Hon. Justice Guy Canivet, President of the Court de Cassation of France, Hon. Justice Vyacheslav M. Lebedev, Chief Justice of the Russian Federation, Hon. Justice Falefatu M. Sapolu, Chief Justice of Samoa, Hon. Justice Adel Omar Sherif, Deputy Chief Justice of Egypt, Hon. Justice Clifford Wallace, Chief Judge Emeritus, United States Court of Appeal, Hon. Justice Vladimir Passos de Freitas, Federal Judge at the Court of Appeal of Brazil, Hon. Justice Paul L. Stein Am, Judge, New South Wales Court of Appeal*

UNEP GOVERNING COUNCIL DECISION 22/17/II(A)

At the inauguration of the 22nd Session of the UNEP Governing Council, held in Nairobi in February 2003, the Chief Justice of South Africa, Hon. Justice Arthur Chaskalson presented the outcome of the Global Judges Symposium to the meeting. He highlighted the opportunity before UNEP to contribute to the strengthening of the Rule of Law and Governance and the enforcement of environmental law by utilising the full potential of the judiciaries around the world. The Governing Council unanimously adopted decision 22/17/II(A) which expressly called upon its Executive Director to support:

“the improvement of the capacity of those involved in the process of promoting, implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors, legislators and other relevant stakeholder, to carry out their functions on a well informed basis with the necessary skills, information and material with a view to mobilising the full potential of the judiciaries around the world for the implementation and enforcement of environmental law, and promoting access to justice for the settlement of environmental disputes, public participation in environmental decision-making, the protection and advancement of environmental rights and public access to relevant information”.

From this, UNEP has set in train an extensive work programme to enhance the capacity of judicial officers and other legal stakeholders to engage in the strengthening of the Rule of Law, Governance and the development and implementation of environmental law. An Advisory Group of Chief Justices and senior judges from around the world has been set up to provide guidance on matters relating to judicial capacity building.

The work programme will enable UNEP to carry out, on a structured and sustained basis, national activities *under the direction and guidance of the respective Chief Justices*, for strengthening the role of the judiciary in securing environmental governance, adherence to the Rule of Law and the effective implementation of national environmental policies, laws and regulations including the national level implementation of Multilateral Environmental Agreements.

THE WAY FORWARD

To implement the work programme initiated at the Nairobi Planning Meeting and adopted by GC Decision 22/17/II(A) and the Meeting of the UNEP Judicial Advisory Group, UNEP has prepared the Road Map set out below.

THE REQUIREMENTS OF GC DECISION 22/17 II(A)

Objective: To mobilise the potential of the judiciary around the world for the implementation and enforcement of environmental law and to promote access to justice for the settlement of environmental disputes, public participation in environmental decision-making, the protection and advancement of environmental rights and public access to information.

Strategy: UNEP's Executive Director to support the improvement of the capacity of those involved in the process of promoting, implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors, legislators and other relevant stakeholders, to carry out their functions on a well-informed basis with the necessary skills, information and material.

THE ROAD MAP

The Road Map is a 3-phase work plan managed by UNEP's Division of Policy Development and Law (DPDL) and delivered nationally in a way that responds to the needs of each country, using sub-regional approaches, to optimise cost-effectiveness and efficiency. The Road Map engages the DPDL out-posted legal officers and the Directors of the regional officers.

Phase I: Development of training materials (2003)

Judges handbook on Environmental Law. This will make relevant knowledge on environmental law readily available to judges confronted with an environmental law matter. It will provide an overview of the structure, sources and principle issues in environmental law. The guide will present judges with a comparative and universal structure because although environmental problems differ from country to country it is important that judges should be able to reach beyond their jurisdiction and advise themselves on how related matters have been dealt with elsewhere.

Training Manual in Environmental Law. This is a comprehensive manual designed specifically for legal stakeholders in developing countries and countries with economies in transition, to develop legal knowledge and skills of those involved in the development, implementation and enforcement of environmental law. It will address important issues including: mandate and role of UNEP; sources of international environmental law, relationship between international and national law; emerging principles and concepts of international environmental law; compliance and enforcement; dispute settlement, dispute resolution mechanisms and non-compliance procedures; liability and compensation; criminal law and the environment; the Global Environmental Facility; access to information, public participation and access to justice; transboundary air pollution; ozone; climate change; international control of hazardous wastes; chemicals; marine pollution; conservation of species and habitats; conservation and sustainable use of biological diversity; access to genetic resources and benefit sharing; biosafety; protection of marine biodiversity and ecosystems, sustainable fisheries and fisheries cooperation; freshwater resource management; desertification; mountain, forest and polar ecosystems; environmental impact assessment; human rights and the environment; health and the environment and labour standards; military activities and the environment, security, environmental emergencies, natural disasters; trade and environment; energy; business and environmental law; and international organizations in the field of the environment.

Texts of **Selected Documents on International Environmental Law** and **National Environmental Legislation.** The two collections are companion volumes for the Training Manual outlined above. They are comprehensive compilations of the relevant legal instruments and a source of reference for users of the Training Manual. However, they also stand alone as independent publications.

Several **Legal Drafters Handbooks** on different sectoral topics such as water, energy, land and soil management and economic instruments. These will assist legal drafters in developing countries who do not have ready access to legislation of other countries to obtain basic understanding of how other countries have legislated for environmentally sound management of resources. They will include a general introduction to the scientific aspects of environmental harm and possible actions to prevent, mitigate or remediate the problem; positive policy and legal actions undertaken at the international level to respond to the problem; major trends in response mechanisms adopted at national level for addressing the issue; lists of issues and their related sub-issues that should be addressed in a national legislative regime; a

concluding section on lessons learned and mistakes to be avoided including guidelines for policy-makers, legal drafters and legislators.

Compendia of Summaries of Judgements in Environment-related Cases. The summaries from around the world are being prepared to provide an overview of the thrust of judicial decisions on environmental matters. These compendia will contribute to promoting the use of law as a key instrument in the translation of environmental and development policies into action at national and international level by providing a flavour of the trend in recent judicial decisions that have dealt with environment and development related issues from different jurisdictions around the world.

Suite of multimedia training presentations on selected subjects, translatable into national languages.

Phase 2: Formulating National Capacity Building Plans by Sub-Regional Needs-Assessment & Planning Meetings of Chief Justices.

The following Chief justices and Senior Judges Sub-Regional Needs Assessment and Planning Meetings have been held in 2003 in accordance with the Road Map:

- Lviv, 16-17 May 2003, for Chief Justice of Eastern and Central Europe;
- Bangkok, 17-18 June 2003), for the Mekong region countries;
- Buenos Aires, 23-24 September 2003, for the Latin American countries;
- Nairobi, 10-11 Oct 2003, for Anglophone African Countries;
- Johannesburg, 7-8 December 2003, for Southern African Countries;
- Auckland, 15-17 December, for Asia and the Pacific;
- Cairo, 29-31 May 2003, for the Arab countries;
- Trelawny Jamaica, June 12-14 2004, for the English Speaking Caribbean countries;
- Paris, February 2005, for the Francophone African countries.

The statements adopted at the needs-assessment meetings are reproduced in Appendix I.

In this context, UNEP also organized in cooperation with other partners, the following meetings:

- The Symposium on “Johannesburg Summit Next Steps: The Role of the Judiciary in the Implementation and Enforcement of Environmental Law”, held in Rome, on 9-10 May 2003, and organized in cooperation with IUCN and ICEF.

- The Meeting for the Establishment of an European Union Judges Forum for the Environment, held at the European Court of Justice, Luxembourg, on 26 April 2004. During the meeting, the participants adopted the Statute of The European Union Forum of Judges for The Environment. The text of the statute is reproduced in Appendix II.

Similar associations are being established in different regions. The draft Statute of the Arab Judges Union for the Protection of the Environment, whose establishment was decided at the Cairo Meeting in May 2004, is also reproduced in Appendix II.

SUMMARY OF THE RECOMMENDATIONS ADOPTED AT THE CHIEF JUSTICES AND SENIOR JUDGES SUB-REGIONAL NEEDS ASSESSMENT AND PLANNING MEETINGS

The following points summarize the recommendations made by the participants in the different needs-assessment and planning meetings.

- *Endorsement of the Johannesburg Principles on the Role of Law and Sustainable Development adopted at the UNEP Global Judges Symposium which were presented as a contribution to the World Summit on Sustainable Development.*
- *Recognition of the importance of judicial independence to strengthen the rule of law for the effective implementation, development and enforcement of environmental law, and the critical role played by the judicial system in this task.*
- *Recognition that the lack of 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*
- *Recognition of the 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, and the need to build awareness of international norms and their application in the domestic sphere.*
- *Recognition of the need for closer cooperation between the judiciaries in the regions, for sharing of information and experience and contributing to the advancement of the Rule of Law.*
- *Recognition of the need to undertake the following actions:*
 - *Organization of training programmes on environmental law for members of the judiciary and environmental tribunals to increase awareness among them on global and regional environmental issues as well as to strengthen their capabilities and to apply effectively national and international environmental law in judicial decision-making processes ;*

- Organization of training programmes on environmental law for legal stakeholders beyond the judiciary, to include prosecutors, police officers, enforcement officers, legal practitioners and NGOs;
- Organization of programmes designed to increase awareness and sensitization on environmental matters among both legal stakeholders and the public in general;
- Preparation and dissemination of environmental law publications including compendia of environmental legislation and case law in the respective languages;
- Creation of Permanent Fora of Judges for regular collaboration and sharing of experience on environmental law matters;
- Promotion of the use of the interactive internet-based UNEP/IUCN Judgments Portal and other relevant electronic databases as instruments for sharing information on contemporary developments in environmental jurisprudence ;
- Call upon UNEP and other organizations to assist in developing and implementing judicial capacity-building activities in the field of environmental law at the regional, sub-regional and national levels based on the assessment of the needs of the respective judiciaries.
- Recognition of the need to draw upon the experience of judges training institutes and other competent organizations to conduct the training
- Recognition of the importance to promote public participation in environmental decision-making as well as access to information and to justice in environmental matters and of the need to promote further analysis of key areas such as the rules of standing and their interpretation as well as of the impediments to access to justice in environmental matters such as the lack of resources available to the Judiciary and lack of economic resources such as legal aid to pursue environmental litigation.

The Needs-Assessment and Planning meetings produced programmes of work for the capacity building of Judiciaries and other stakeholders in environmental law in the countries represented at those meetings. These programmes of work will be the basis for conducting the national training activities envisaged in the Road Map and mandated by the UNEP Governing Council.

Phase 3: Conducting National Level Capacity Building Activities in Accordance with the Agreed National Capacity Building Plans (2004-06)

The third phase of the Global Judges Programme involves the following:

- National Judges Training Workshops,
- Networking among Judges in the region and beyond,
- Translation of relevant UNEP Publications to national languages, including The Judges Guide of Environmental Law.

- Development of national language compendia of Environmental Legislation.
- Strengthening the teaching of environmental law at university level.

The national work programmes beginning in 2004 will be carried out in over 100 developing countries and countries with economies in transition. The content and scope of the national activities will be based on the outcome of the Chief Justices and Senior Judges Sub-Regional Needs Assessment and Planning Meetings convened by UNEP throughout 2003 and 2004, which have drawn up needs-responsive and country-specific national programmes of work for strengthening judicial capacity in the area of environment and sustainable development.

The work programmes will be implemented at the national level by the Chief Justices and the respective national judicial training institutions, and will be supported by UNEP in partnership with a global alliance of partners, including the World Bank Institute, the United Nations University, UNITAR, IUCN, the global academia and regional and national institutions with relevant capabilities in the area of environmental law, training and education. At a recent meeting organised in Washington DC by the US State Department, several US based Environmental Law organisations including the Centre for International Environmental Law, the American Bar Association, the US EPA, The Environmental Law Institute and others agreed to join UNEP in the implementation of the national judges programmes on the basis of shared responsibility, shared ownership and cost-sharing.

On this basis, UNEP has already conducted training for Judges and other legal stakeholder at national level in several countries, including Tanzania, Uganda, South Africa, Kenya, Vietnam, Cambodia, Lao PDR, Thailand, Argentina, Trinidad and Tobago. Several other national and regional training programmes for Judiciaries and other legal stakeholders have been conducted by UNEP throughout the past years.

To help ensure the best available inputs into the national work programmes, UNEP is working on the preparation and translation of environmental law training materials, as indicated in the Road Map.

In addition, the Global Judges Programme involves:

- The development of an environmental judgements portal on the UNEP Website, mirrored on the UNEP-IUCN-FAO-ECOLEX site.

- Arranging with sub-regional/national Organisations and Institutions to upload Judgements into the portal.
- Preparation and publication of Compendia of Summaries of such Judgements and their wide dissemination, and translation to UN languages as well as national languages, where necessary.

UNEP, FAO and IUCN have jointly established an Internet based Environmental Law Information System: ECOLEX at www.ecolex.org. A Judgements Portal within ECOLEX will enable judges from around the world to download environment-related judgements thereby giving an impetus to the progressive development of jurisprudence in this field.

Evaluation of the Global Judges Programme

To ensure that the work carried out is realised and, importantly, is effective, UNEP has identified performance indicators including:

- the number of participating countries;
- the number of partners involved and inputs provided by them in terms of funding, human resources, technical and organisational support;
- how many workshops, training courses, and other initiatives organised at all levels;
- the participation in the training programmes, workshops and other initiatives, number of judges trained, number of Chief Justices involved;
- the range and quantity of documents produced, disseminated and requested;
- the number of other training tools developed, disseminated and requested;
- the total cases and other information material posted on the Judicial portal and provided in other forms to UNEP;
- access to the judicial portal;
- the number of environment related cases decided/environmental law principles applied by beneficiaries after participating in the programme.

GLOSSARY, CONTACTS AND FURTHER INFORMATION

- ASEAN Sec.** **Association of South East Nations Secretariat**
t. 6221-726-2991, public@aseansec.org, www.aseansec.org
- CIEL** **Centre for International Environmental Law**
t. 202-785-8700, info@ciel.org, www.ciel.org
- CISDL** **Centre for International Sustainable Development Law**
t. 1-514-398-8918, secretariat@cisdl.org, www.cisdl.org
- The Commonwealth Secretariat**
www.thecommonwealth.org
- ECOLEX** An internet based environmental information system at:
www.ecolex.org
- Ecopravo-Lviv** t. +380-322-72-27-46, epac@mail.lviv.org,
www.ecopravo.lviv.org
- EECCA** Eastern Europe, Caucasus and Central Asia countries
- ELF** **Environmental Law Foundation**
t. +44-20-7404-1030, info@elflaw.org, www.elflaw.org
- ELI** **Environmental Law Institute**
t. 202-939-3800, law@eli.org, www.eli.org
- FAO** **Food and Agriculture Organisation of the United Nations**
t. +39-06-5705-1, FAO-HQ@fao.org,
www.fao.org/UNFAO/e/wmain-e.htm
- Ford Foundation**
www.fordfound.org
- Hanns Seidel Foundation**
t. +49-89-12-580
- INECE** **International Network for Environmental Compliance and Enforcement**
t. 1-202-338-1300, inece@inece.org, www.inece.org

- IUCN **The World Conservation Union**
t. +41-22-999-0001, mail@hq.iucn.org, www.iucn.org
- NORAD **Norwegian Agency for Development Cooperation**
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- ROE **UNEP Regional Office for Europe**
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- ROLAC **UNEP Regional Office for Latin America and the Caribbean**
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www.rolac.unep.mx
- RONA **UNEP Regional Office for North America**
t. 1 (202) 785 0465, info@rona.unep.org,
http://www.rona.unep.org/
- ROWA **UNEP Regional Office for West Asia**
www.uneprowa@unep.org.bh
- SACEP **The South Asia Cooperative Environment Programme**
t. 941-589-787, melahi@eureka.lk, www.sacep.org
- SPREP **South Pacific Regional Environment Programme**
t. +685-21929, sprep@sprep.org, www.sprep.org

- UNDP **United Nations Development Programme**
www.undp.org
- UNEP **United Nations Environment Programme**
t. 254-2-621-234, eisinfo@unep.org, www.unep.org
- UNITAR **United Nations Institute for Training and Research**
t. +41-22-917-1234, info@unitar.org, www.unitar.org
- University of Auckland**
t. +64-9-373-7999, postmaster@auckland.ac.nz,
www.auckland.ac.nz
- University of Pretoria**
t. +27-12-420-4111, www.up.ac
- UNU **United Nations University**
t. 81-3-3499-2811, mlex@hq.unu.edu, www.unu.ed
- WBI **World Bank Institute**
t. 202-473-1000, www.worldbank.org
- US EPA **United States Environmental Protection Agency**
www.epa.gov
- WSSD **World Summit on Sustainable Development** *held in
Johannesburg, South Africa in August 2002*

APPENDIX I

**STATEMENTS ADOPTED BY
CHIEF JUSTICES PARTICIPATING IN THE
CHIEF JUSTICES AND SENIOR JUDGES
SUB-REGIONAL NEEDS ASSESSMENT
AND PLANNING MEETINGS**

LVIV STATEMENT

ADOPTED AT THE FIRST SYMPOSIUM ON ENVIRONMENTAL LAW FOR JUDGES OF CENTRAL/EASTERN EUROPE, CAUCASUS AND CENTRAL ASIA: 'THE ROLE OF THE JUDICIARY IN ENFORCEMENT AND IMPLEMENTATION OF ENVIRONMENTAL LAW: A REGIONAL NEEDS ASSESSMENT, HOUSE OF SCIENTISTS, LVIV 16 – 17 MAY 2003

From 16 – 17 May 2003, 15 Chief Justices and senior judges from Supreme and Constitutional Courts from 11 countries of Central/Eastern Europe, Caucasus and Central Asia (the EECCA Region) met with judges and experts from across the globe to advance the implementation of the World Summit on Sustainable Development (WSSD) Johannesburg Plan of Implementation, insofar as it relates to the role of the judiciary in achieving sustainable development and the UNEP Global Judges Symposium, and to carry out a regionally based needs assessment to guide future regional and national programmes for capacity building initiatives.

The Lviv Symposium noted:

- 3. The large number of countries (ten) from the EECCA Region who have ratified the UNECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters ('the Aarhus Convention') and the future role of the courts in its effective implementation.*
- 4. Judgements made by courts from the EECCA Region and from other courts across the globe on environmental laws, the role of the courts in the effective implementation and enforcement of environmental laws, and the future needs of the EECCA Region.*
- 5. The variety of Constitutional and legislative provisions within the EECCA Region concerning the environment, including those dealing with environmental rights and access to justice, as well as related international instruments.*
- 6. Outcomes of the Global Judges' Symposium on the Role of Law and Sustainable Development, convened by the UNEP in Johannesburg, South Africa on 18-20 August 2002 as a parallel event to the WSSD and Decision 22/17(II)A of the Governing Council of UNEP, which called on the Executive Director of UNEP, in partnership with IUCN and other competent organisations, to implement the outcome of the Global Judges' Symposium in regard to capacity building of judges and other legal stakeholders in the field of environmental law, within the framework of the UNEP Montevideo Programme III.*
- 7. The 'Rome Statement' agreed by acclamation at the Symposium on Environmental Law for Judges on May 9-10 2003 and the 'London Bridge Statement' agreed by acclamation at the Symposium on Environmental Law for Western European Judges, held in London on October 10-11 2002.*

The Lviv Symposium agreed by acclamation to:

1. *Recognise the importance of judicial independence to strengthen the rule of law in the EECCA Region for the effective implementation, development and enforcement of environmental law, and the critical role played by the judicial system in this task.*
2. *Acknowledge the importance of having effective means to access the courts and the critical role of citizens and their organisations in taking initiatives to bring environmental issues before the courts.*
3. *Endorse the need to draw upon the experiences of courts and competent organisations, including the sponsors of the Lviv Symposium, to co-operate with the judiciary from the EECCA Region at all levels to enhance knowledge and skills in environmental law in the context of sustainable development.*
4. *Invite IUCN, UNEP and Ecopravo-Lviv to continue to collaborate with judges from the EECCA Region in order to facilitate co-ordination of future work with judges from the region with broader global and pan European initiatives.*
5. *Encourage judges from across the EECCA Region to actively participate in the UNEP/ IUCN Judicial Portal and to request that it be made available in additional languages.*
6. *Identify the need to follow up on this Lviv Symposium with a series of focused capacity building activities addressing a number of specific issues, including:*
 - i. *the ability of citizens and their organisations to access the courts to further enhance the effective implementation, compliance with, and enforcement of, environmental laws, with a particular focus on the implementation of the Aarhus Convention;*
 - ii. *access to comparative materials on the decisions and the practice of other courts, including specialist environmental courts, available in the languages of the region;*
 - iii. *training on the electronic exchange of information through the use of the UNEP/ IUCN Judicial Portal;*
 - iv. *training for judges in dealing with environmental cases, including training on how to consider environmental scientific evidence.*
7. *Further identify the need for financial and other support for:*
 - i. *lawyers to assist citizens and their organisations to apply to the courts to defend environmental rights;*
 - ii. *education and training for citizens in environmental rights;*
 - iii. *translation into national languages of international instruments, and publication in print and on the Internet.*
8. *Explore the value of establishing a regional judicial forum for the EECCA Region to progress the outcomes of this Lviv Symposium and to also explore the value of undertaking pan European initiatives.*

9. *Call on UNEP, IUCN, Ecopravo-Lviv and other organisations to assist in developing and implementing judicial capacity building activities for the EECCA Region in the field of environmental law at the regional and national level based on an assessment of the needs of the judiciary.*
10. *Request the Executive Director of UNEP and the Director General of the IUCN to present this 'Lviv Statement' to the Fifth Ministerial Conference 'Environment for Europe' to be held in Kiev, Ukraine on 21-23 May 2003.*
11. *Extend a vote of thanks to Ecopravo-Lviv for organising the Lviv Symposium, which was organised at an extremely high level, to each of the cosponsors and to the State Judicial Administration of Ukraine and the Judicial Academy of Ukraine for their co-operation and hospitality in supporting this most successful event.*

BANGKOK STATEMENT

MEKONG CHIEF JUSTICE AND SENIOR JUDGES NEEDS ASSESSMENT AND PLANNING MEETINGS BANGKOK, THAILAND, 17-18 JUNE 2003

From 17 – 18 June 2003, 15 Chief Justices, Deputy Chief Justices and Justices from Cambodia, Lao P.D.R., Myanmar, Thailand and Vietnam met at UNEP/ROAP, Bangkok to advance the implementation of the Outcome of the UNEP Global Judges Symposium, and the UNEP Governing Council Decision 22/17(II)B, on the Follow-up to the Global Judges Symposium focusing on capacity-building in the area of environmental law, and towards this end, to carry out a regional and national needs assessment to guide future regional and national programmes for capacity building of judges, lawyers, law enforcement officers and other legal stakeholders, in the field of Environmental Law.

The Bangkok Justices Meeting noted:

- 1. Outcomes of the Global Judges' Symposium on the Role of Law and Sustainable Development, convened by the UNEP in Johannesburg, South Africa on 18-20 August 2002 as a parallel event to the WSSD and Decision 22/17(II)B of the Governing Council of UNEP, which called on the Executive Director of UNEP, in partnership with competent organizations, to implement the outcome of the Global Judges' Symposium in regard to capacity building of judges and other legal stakeholders in the field of environmental law, within the framework of the UNEP Montevideo Programme III.*
- 2. The important role of that Judiciary plays in promoting the Rule of Law in the area of environment and sustainable development, through the effective interpretation, implementation and enforcement of environmental law.*

The Bangkok Justices Meeting agreed by acclamation to:

- 1. Recognise the importance of judicial independence to strengthen the rule of law in the Region for the effective implementation, development and enforcement of environmental law, and the critical role-played by the judicial system in this task.*
- 2. Acknowledge the importance of ensuring access to justice for the settlement of environmental disputes and the critical role of citizens and their organizations in taking initiatives to bring environmental issues before the courts, and recognizing the crucial need for improvement in the level of public participation in environmental decision-making.*
- 3. Endorse the need to draw upon the experience of courts and competent organizations to cooperate with the judiciary from within and outside the region, to enhance knowledge and skills in environmental law in the context of sustainable development.*

4. *Invite UNEP and the Hanns Seidel Foundation (HSF) to continue to collaborate with the Judiciaries in the region in order to facilitate the development and implementation of needs-responsive activities at regional and national levels for strengthening judicial cooperation in the region and the effective implementation and enforcement of environmental law.*
5. *Encourage judges from countries in the region to actively participate in the UNEP/IUCN Judicial Portal and to request that it be made available in national languages, as requested.*
6. *Call on UNEP, the Hanns Seidel Foundation and other organizations to assist in developing and implementing judicial capacity building activities in the field of environmental law at the regional, sub-regional and national levels based on the assessment of the needs of the respective judiciaries and other legal stakeholders, as set out in the Annex hereto.*
7. *Extend a vote of thanks to the Executive Director of UNEP for organizing the Bangkok Justices Meeting in partnership with the Hanns Seidel Foundation and to the Chief Justice of the Supreme Court of Thailand for hosting the Meeting.*

DECLARATION OF BUENOS AIRES

ADOPTED AT THE LATIN AMERICAN CHIEF JUSTICE AND SENIOR JUDGES NEEDS-ASSESSMENT AND PLANNING MEETING, BUENOS AIRES, 23-24 SEPTEMBER 2003

We, Judges, Attorneys and Directors of Law Schools from different countries of Latin America have agreed to enact the following:

Declaration

1. Convinced as we are of our role, as judges and attorneys, on the effective application of Environmental Law to achieve a sustainable development; and bearing in mind the Declaration of Mexico of 2000, and the Declaration of Johannesburg of 2002, we have arrived to different conclusions and recommendations that we consider as fundamental to our region in fields related to: the capacitation of judges, the organization of justice and of environmental competences, the relation of the Judicial branch with other governmental branches and the civil society, the evaluation of the application of environmental law by the judiciary and attorneys, the constitutional processes, the civil action, legal proceedings for environmental damage, and criminal environmental actions.
2. Involvement of judges and attorneys in environmental subjects. An exchange of experiences has evidenced a lack of motivation in environmental subjects by judges and attorneys. Hence, we agree on a strategy of capacitation and a strategy of awareness.
3. Strategy of Capacitation. We propose to:
 - (a) Propitiate polls or studies that identify the concrete needs of judges and attorneys.
 - (b) Promote campaigns for environmental consciousness.
 - (c) Channel local capacitation through the organisms charged with the capacitation of judges and attorneys; and regional capacitation through the Iber-American Web of Judicial Schools.
 - (d) Encourage environmental formation through incentives.
 - (e) Use compilations of basic environmental principles, as well as local environmental law compendiums, as tools for capacitation.
 - (f) Promote the creation of spaces for exchanging experiences.
 - (g) Optimise the use of resources. However, we acknowledge resource limitations. Thus, we suggest to search for resources through international cooperation and to include environmental affairs within the existing curricula of Law Schools.
 - (h) Tend to institutionalise the capacitation of judges and attorneys, bearing in mind the importance to implement its evaluation and follow-up.
 - (i) Include judicial clerks, clerks of the Public Ministry and public administration personnel in the announced capacitation programmes.
4. As part of the awareness strategy we commit to:
 - (a) Generally divulge the present Declaration in the jurisdictions for our participation and performance.

- (b) Particularly propitiate the presentation of this Declaration before summits of high courts, the encounter of Judicature Councils, and the Annual Meeting of the Iber-American Association of Public Ministries.
5. With regards to the organization of justice and of environmental competences:
- (a) We consider that all magistrates should take immediate and adequate action for the protection of the environment and the people, or any injunctive measures that look forward the said end, even though there still exists a controversy on the corresponding competence.
- (b) It is necessary to solve the problems that arise from the normative imprecision and tribunal interpretation regarding competence. Otherwise, citizens may see limited their right to access justice.
- (c) We propitiate the creation of special jurisdictions for environmental, civil and criminal matters. Regardless of the above, and until the said jurisdictions are put to work, it is plausible to imagine gradual or intermediate solutions that look towards the same end.
- (d) We encourage the creation of supra-national environmental courts within the current integration framework of Latin American nations, looking forward to support the idea of environment as a fundamental human right.
- (e) We consider pertinent to build indexes related to the performance of justice, looking towards an agreement on the creation of supra-national environmental courts.
6. Bearing in mind the several shared experiences and identified common difficulties regarding the coordination and interaction between the Legislative, Executive and Judicial branches of government, we acknowledge the need to obtain concrete results in certain fields:
- (a) We recognize the essential importance of generating and systematizing the information related to the development, application and compliance of environmental law, granting its free access.
- (b) We propitiate a permanent communication between the Legislative, Executive and Judicial branches of government, concerning their actions regarding the development, application, and compliance of environmental law. We especially suggest, as a plausible start, an exchange of experiences and information throughout national and regional webs.
- (c) We encourage the identification of technical support units to the organs in charge of the development, application and compliance of environmental law.
- (d) We understand the need to optimise the use of resources destined to the development, application and development of environmental law
- (e) Finally, we exhort the Legislative, Executive and Judicial branches of government to promote a permanent inter-institutional dialogue that looks forward a better development, application and compliance of environmental law.
7. Regarding the evaluation of the application and compliance of environmental law by the Judiciary and the Public Ministry:

- (a) *We plead for the implementation of serious policies for the application and compliance of environmental law in our countries.*
 - (b) *We believe that efficiency and efficacy indexes should be linked to plans and policies of application and compliance of environmental law, looking forward to evaluate its implementation.*
 - (c) *We consider important to encourage the use of alternative dispute resolution systems (mediation, arbitration), looking forward to decrease the quantity of environmental suits.*
8. *We consider essential to promote public participation in environmental decision-making, inserting into the society a civic-environmental conscience, and tending to the capacitation to the use of existing legal tools.*
9. *Concerning Public Environmental Information, we say that:*
- (a) *The right of citizens to access public information on environmental matters must be recognized or strengthened as a tool to know the potentially affected rights and grant an access to justice.*
 - (b) *To grant an access to public environmental information it is essential to achieve clear and short proceedings, to establish a mandatory spontaneous diffusion of information by the public and private sectors, to foresee mechanisms to punish non-compliance, and to fix limits to industrial or military secrets and to reverse the burden of evidence regarding whom is obliged to grant the information.*
 - (c) *We thus plead the organs of public administration to grant judges and attorneys an access to information, ending with the common “culture of secrecy” of our countries.*
10. *With regards to judicial processes linked to the protection of the environment, we say that:*
- (a) *We believe that an environmental judicial action of pre-emptive character and whose decision has dissuasive effects is necessary in our countries.*
 - (b) *We stress the importance of recognizing an ample and real -not merely formal- judicial standing to access justice in environmental proceedings.*
 - (c) *Given the complexity of the environmental problematic and the celerity that its resolution requires, the proceedings for the protection of diffuse interests should be very short. It should also be considered to provide such proceedings at no cost.*
 - (d) *Priority should be afforded to the treatment of processes that regard fundamental rights such as health, life and the environment, over those that mainly regard property questions.*
 - (e) *Bearing in mind some experiences with highly positive results, we believe that there are plausible stages of participation for an effective and real access to justice, which should be encouraged, such as the participation of the citizens and of the Public Ministry in the promotion of environmental suits and the figure of “Amicus curiae”.*

- (f) *We believe in the necessity of granting judges with a freedom of evaluation (sana crítica) of the evidences presented within procedures that regard to environmental matters, excepting criminal procedures for the inherent characteristics of these last.*
 - (g) *Administration of justice, particularly regarding environmental matters, is not limited to the literal application of the law: We believe necessary to provide with sharp and ingenious answers to the presented issues. Hence, we are convinced of the need to have an active judge in environmental procedures, with ample powers such as the ones to promote complementary evidence, to incorporate evidences not presented by the parties, and to impose fines.*
 - (h) *We cannot avoid remarking the necessity to count with an official assessment body for environmental matters, as well as granting public information originated at public entities with a similar weight in terms of evidence. We regard convenient the celebration of agreements among governmental bodies to ease the access to information related to existing evidence and their utilization in other processes. This would imply a “socialization” of the evidence that would prevent from an unnecessary double work.*
 - (i) *We consider essential to generally grant a procedural anticipation of the evidence and injunctive measures, looking forward to avoid losing them.*
 - (j) *The theory of the dynamic burden of evidence must be applied, considering that the burden of evidence should be imposed to the party that is in the best technical, economic, legal or factual situation.*
 - (k) *We regard a prime importance to the coordination among the different jurisdictional stages in environmental matters.*
 - (l) *We consider plausible to apply the principle “in dubio pro ambiente”*
 - (m) *Due to the collective nature of environmental rights, an erga omnes character should be granted to judicial decisions that regard environmental matters.*
 - (n) *We observe that, along with the expedite environmental judicial proceedings, adequate mechanisms for the execution of the corresponding judicial decisions should be granted in order to prevent the respective right from becoming denaturalised.*
11. *Regarding the constitutional processes and environmental protection:*
- (a) *We recognize the need to incorporate a human right to a healthy and balanced environment for the development of life, into those constitutions that do not provide for so. Likewise, it is necessary to incorporate the environmental principles contained in international treaties and agreements into domestic legislations.*
 - (b) *We believe that the constitutionally entrenched rights should be made effective without a legal regulation, as an acknowledgement of constitutional supremacy (recognition of the “in dubio pro ambiente” principle”)*
 - (c) *We believe in the necessity to strengthen the juridical asset protected within our constitutional and legal systems, and to incorporate the duty to conserve natural resources and protect sustainable development.*
 - (d) *We hold that access to justice should never be denied when it regards to constitutional guarantees, because of formal or unnecessary issues. Procedure tributes but does not condition constitutionally entrenched rights.*

- (e) *We propitiate the use of constitutional actions of agile procedures (in some countries this is exemplified by the action of amparo).*
 - (f) *We believe necessary to incorporate or amplify the obligation to fix the caused environmental damage, into the judicial decisions over constitutional guarantees that protect the environment, in addition to the suspension of the main activity.*
12. *In dealing with the environmental civil action, and the process for environmental damage, we hold:*
- (a) *We stress the necessity of recognizing an ample judicial standing in the processes for environmental damage, not limiting jurisdictional access to Non-Governmental Organizations. Thus, we consider fundamental to incorporate and strengthen class actions for environmental damage in the region, and decrease the impact of judicial costs for judicial standing.*
 - (b) *We believe in the necessity to command Public Ministries to impulse actions for environmental damage.*
 - (c) *We plead regional judges and attorneys to apply the precautionary principle.*
 - (d) *In processes for environmental damage, we consider plausible the utilization of oath caution measures, and to exempt the payment of a caution measure for the damages that the implementation of a caution measure could eventually imply.*
 - (e) *We propose the creation of a fund consisting of the monies collected from administrative environmental fines, as a means to support the creation of evidence. Likewise, looking forward to the production of evidence, we plead for the cooperation of administrative bodies and universities, as well as for the celebration of agreements with international entities that can support with knowledge and technologies.*
 - (f) *We regard as very interesting the capacitation of judges in techniques of environmental damage assessment.*
 - (g) *We plead for the incorporation of an objective liability in those countries of Latin America that do not foresee it within their legal frameworks.*
 - (h) *We suggest the addition of the assessment of the environmental damage to the actual material damage, as well as the need to establish assessment criteria for environmental assets and services.*
 - (i) *We suggest the convenience of extending the benefit to litigate free of charges to the action of environmental repair and damage prevention.*
 - (j) *We plead that the content of the judicial decision follows the principle of integral damage reparation.*
 - (k) *We consider highly convenient to include in the final part of the decision a provision to follow-up the compliance of the judicial sentence.*
13. *With regards to the criminal environmental action:*
- (a) *We believe that while legislating on environmental felonies, the core of forbiddance should be defined in the legal description of the felony, and its reckless happening should also be punished.*
 - (b) *We exhort to the compliance and strengthening of administrative provisions for punishment.*

- (c) *We consider plausible an ample standing to denounce the occurrence of environmental felonies, and that the corresponding claim may be done by the directly offended and by organizations of the civil society and the public ombudsman.*
 - (d) *It is necessary to provide the Public Ministry with a further active role regarding environmental felonies, in such countries that do not provide for so.*
 - (e) *It is necessary to grant through legislation the evidential strength of reports rendered by public bodies, universities and Non-Governmental Organizations within environmental criminal procedures.*
 - (f) *It is important to grant judges and attorneys the power to provide for urgency measures that look forward to the suspension or freezing of an activity that damages the environment, and to generate mechanisms of coordination with the judicial branch in the countries where the attorney is not granted such power.*
 - (g) *Encourage the involvement of the civil society in the criminal investigation of the deeds that have damaged the environment.*
 - (h) *It is appropriate to use alternative measures as a source of information in the investigation of environmental felonies.*
14. *Convinced of the necessity to strengthen the role of Latin American attorneys immersed in environmental subjects, and due to the relevance of their intervention in the corresponding judicial processes, we promote:*
- (a) *The creation of new associations of attorneys and lawyers from the Public Ministry for the defence of the environment, and the strengthening of the existing ones.*
 - (b) *The magnification of the former initiative, in the incorporation of a Latin American Federation of Environment Attorneys.*
 - (c) *The arrangement of a web site with the purpose of accumulating information and documentation relevant to the investigation of environmental felonies.*
 - (d) *Start, within the proposed Federation of Attorneys, courses of formation and training in the task of assessing an economic value to environmental damage or degradation.*

NAIROBI STATEMENT

ADOPTED AT THE CHIEF JUSTICES NEEDS ASSESSMENT AND PLANNING MEETING,
NAIROBI 10-11 OCTOBER 2003

Honourable Chief Justices and Senior Judges from Eritrea, Ethiopia, Ghana, Kenya, Liberia, Nigeria, Sierra Leone, Tanzania, The Gambia and Uganda met in Nairobi, Kenya on 10-11 October 2003 at the UNEP Chief Justices Meeting of Eastern and West African Countries under the chairmanship of the Honourable Chief Justice of the Republic of Kenya, Hon. Justice Johnson Evan Gicheru. The purpose of the meeting was to develop national, sub-regional and regional programmes of work for the implementation of the outcome of the UNEP Global Judges Symposium, within the framework of UNEP Governing Council decision 22/17(II(A)).

The Honourable Justices discussed the capacity building requirements of judicial officers of their respective countries for promoting the Rule of Law in the area of environment and sustainable development, and how these efforts could be further enhanced through regional and sub-regional cooperation. At the conclusion of the two day meeting the Chief Justices and Judges unanimously adopted the following conclusions and recommendations.

1. *They endorsed the Johannesburg Principles on the Role of Law and Sustainable Development adopted at the UNEP Global Judges Symposium held in Johannesburg on 18-20 August 2002, which were presented to the World Summit on Sustainable Development as a contribution to the deliberations at the WSSD.*
2. *They reaffirmed once again their conviction expressed by the Judges at the Global Judges Symposium that:*
 - i *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,*
 - ii *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,*
 - iii *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,*
3. *They expressed their deep appreciation to the Executive Director of UNEP for the several measures that he has taken to implement the outcome of the UNEP Global Judges Symposium within the framework of Governing Council decision 22/17/II(A). They also*

commended UNEP for convening the meeting of Chief Justices and Senior Judges of Eastern and West Africa for the purposes of assessing the specific capacity building needs of each country, and for developing needs-responsive, practical and effective plans of activities for strengthening the capacity of judges and to carry out their judicial functions in the area of environment and development.

- 4. They called upon the Executive Director of UNEP to expeditiously implement the national, sub regional and regional plans of work that they have developed during the meeting to enable judiciaries in their respective countries to contribute effectively to the development, implementation and enforcement of environmental law, and thereby contribute towards the realization of the goals of environmental protection, sustainable use of natural resources and environmentally sustainable development.*
- 5. The recommendations prepared by the Chief Justices and other senior Judges in respect of each of their countries as well as for sub-regional and regional cooperation are attached hereto, and will constitute an integral part of this Statement.*
- 6. The participants expressed their deep appreciation to the Honourable Chief Justice of the Republic of Kenya, Hon. Justice J. E. Gicheru for so effectively guiding the deliberations as the Chair of the meeting and to UNEP for the excellent arrangements made for the meeting.*

JOHANNESBURG STATEMENT

ADOPTED AT THE MEETING OF THE CHIEF JUSTICES OF THE SOUTHERN AFRICAN REGION IN JOHANNESBURG, SOUTH AFRICA, ON 6 – 8 DECEMBER 2003

Honourable Chief Justices and Senior Judges from the Republic of Angola, the Republic of Botswana, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of Seychelles, the Republic of South Africa, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe met in Johannesburg, South Africa on 6 – 8 December 2003, under the chairmanship of the Chief Justice of the Republic of South Africa, Honourable Arthur Chaskalson.

The meeting had a dual purpose: (1) the launching of the Southern African Judges Commission, and (2) needs assessment and planning for the development of national, sub-regional and regional programmes of work for the implementation of the outcome of the UNEP Global Judges Symposium, within the framework of UNEP Governing Council decision 22/17(II(A)).

The Honourable Justices discussed the capacity building requirements of judicial officers of their respective countries for promoting the Role of Law in the area of environment and sustainable development, and how these efforts could be further enhanced through regional and sub-regional cooperation. At the conclusion of the two day meeting the Chief Justices and Judges unanimously adopted the following conclusions and recommendations.

- 1. They endorsed the Johannesburg Principles on the Rule of Law and Sustainable Development adopted at the UNEP Global Judges Symposium held in Johannesburg on 18 – 20 August 2002, which were presented to the World Summit on Sustainable Development as a contribution to the deliberations at the WSSD.*
- 2. They reaffirmed once again their conviction expressed by the Judges at the Global Judges Symposium that:*
 - i. 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,*
 - ii. the lack of knowledge, relevant skills and information in regard to environmental law is one of the principle causes that contribute to the lack of effective implementation, development and enforcement of environmental law,*
 - iii. there exists 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.*

3. *They expressed the need for closer co-operation particularly in order to ensure the harmonisation and modernisation of the various domestic statutes on the environment, paying due regard to the principles of sovereignty.*
4. *They emphasised the need to build awareness of international norms and their application in the domestic sphere.*
5. *They further noted that obstacles to environmental justice include the rules of standing and their interpretation by judicial officers. They call for the revision of such rules and for the preference of interpretations that enhance rather than restrict access.*
6. *They expressed their deep appreciation to the Executive Director of UNEP for the several measures that he has taken to implement the outcome of the UNEP Global Judges Symposium within the framework of Governing Council decision 22/17(II(A)). They also commended UNEP for convening the meeting of Chief Justices and Senior Judges of Southern Africa for the purposes of assessing the specific capacity building needs of each country, and for developing needs-responsive, practical and effective plans of activities for strengthening the capacity of judges and to carry out their judicial functions in the area of environment and development.*
7. *They called upon the Executive Director of UNEP to expeditiously implement the national, sub regional and regional plans of work that they have developed during the meeting to enable judiciaries in their respective countries to contribute effectively to the development, implementation and enforcement of environmental law, and thereby contribute towards the realisation of the goals of environmental protection, sustainable use of natural resources and environmentally sustainable development.*
8. *The recommendations prepared by the Chief Justices and other senior Judges in respect of each of their countries as well as for the sub-regional and regional cooperation are attached hereto, and will constitute an integral part of this Statement.*
9. *The participants expressed their deep appreciation to the Honourable Chief Justice of the Republic of South Africa, Hon. Justice Arthur Chaskalson for so effectively guiding the deliberations as the Chair of the meeting and to UNEP for the excellent arrangements made for the meeting.*

AUCKLAND STATEMENT

ADOPTED AT UNEP'S PACIFIC ISLAND CHIEF JUSTICES NEEDS- ASSESSMENT
AND PLANNING MEETING HELD IN AUCKLAND, NEW ZEALAND,
ON 15-17 DECEMBER 2003:

The Honourable Chief Justices and Senior Judges of Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu met in Auckland, New Zealand on 15-17 December 2003, at the above meeting organised by UNEP, SPREP and the New Zealand Centre for Environmental Law at the University of Auckland.

The purpose of the meeting was to assess the specific judicial capacity building needs of each country and the region as a whole, and to develop plans for the implementation of the outcome of the Global Judges Symposium, held in Johannesburg from August 18th –20th 2002, within the framework of UNEP Council decision 22/17 (II(A)).

The meeting discussed the capacity building requirements of judicial officers of their respective countries and the Pacific region, for promoting the role of law in the area of environment and sustainable development and how these efforts could be further enhanced through regional and sub-regional cooperation. At the conclusion of the three-day-meeting the Chief Justices and Senior Judges unanimously adopted the following conclusions and recommendations.

- 1. They endorsed the Johannesburg Principles on the Role of Law and Sustainable Development adopted at the UNEP Global Judges Symposium which were presented as a contribution to the World Summit on Sustainable Development.*
- 2. They expressed the need for closer cooperation between the countries of the region particularly to foster the harmonisation of the statutes on the environment whilst paying due regard to the principles of sovereignty.*
- 3. They expressed their deep and continuing concern over the most serious impact of climate change on countries of the Pacific region.*
- 4. They emphasised the need to build awareness of international environmental law norms and their application in the domestic sphere including, where appropriate, the integration of custom and traditional practices.*
- 5. They called upon the UNEP, SPREP and other organizations to assist in enhancing awareness of environmental protection and sustainable development including environmental law in the countries of the Pacific region.*
- 6. They confirmed the establishment of a regional body of Chief Justices to be called the Pacific Islands Judicial Environmental Committee to contribute effectively to the development, implementation and enforcement of environmental law towards the*

realisation of the goals of environmental protection, sustainable use of natural resources and sustainable development.

- 7. They called upon UNEP to assist the Committee in the implementation of its purposes.*
- 8. They expressed their deep appreciation to the Executive Director of UNEP for the several measures that he has taken to implement the outcome of the UNEP Global Judges Symposium within the framework of Governing Council decision 22/17(II (A)). They also commended UNEP for convening the meeting of Chief Justices and Senior Judges of the Pacific Island States for the purposes of assessing the specific capacity building needs of each country, and for developing needs-responsive, practical and effective plans of activities for strengthening the capacity of judges and to carry out their judicial functions in the area of environment and development.*
- 9. They also expressed their deep appreciation to the Chief Justice of New Zealand and the Government of New Zealand for its support to this important regional initiative and to the New Zealand Centre for Environmental Law at the University of Auckland for the excellent arrangements made for the Meeting.*

CAIRO STATEMENT

ADOPTED AT THE MEETING OF THE CHIEF JUSTICES NEEDS ASSESSMENT AND PLANNING MEETING IN CAIRO, EGYPT, ON 29-31 MAY 2004

Chief Justices and senior Judges from the Algeria, Bahrain, Egypt, Djibouti, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen met in Cairo, Egypt, on 29-31 May 2004 at the above Arab Chief Justices Meeting convened jointly by the Supreme Constitutional Court of Egypt and the United Nations Environment Programme (UNEP). The meeting was chaired by the Chief Justice of the Republic of Egypt, the Honourable Chief Justice Mamdouh Marie, Chief Justice of the Supreme Constitutional Court of Egypt.

The meeting served as a Symposium on Environmental Law and a forum to formulate needs-responsive national, sub-regional and regional activities for the implementation of the outcome of the UNEP Global Judges Symposium on Sustainable Development and the Role of the Judiciary, within the framework of the UNEP Governing Council decision 22/17(II(A)).

With regard to environmental issues, the Chief Justices and the other Judges discussed the capacity building requirements of judicial officers of their respecting countries for promoting the Rule of Law in the area of environment and sustainable development, and how these efforts could be further enhanced through regional and sub-regional cooperation. At the conclusion of the three-day meeting, the Chief Justices and Judges unanimously adopted the following conclusions and recommendations.

1. *They endorsed the Johannesburg Principles on the Rule of Law and Sustainable Development adopted at the UNEP Global Judges Symposium held in Johannesburg on 18 – 20 August 2002, which were presented to the World summit on Sustainable Development (WSSD) as a contribution to the deliberations at the WSSD.*
2. *They reaffirmed once again their conviction expressed by the Judges at the Global symposium that:*
 - i. *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 enhancements of the public interest in a healthy and secure environment;*
 - ii. *the lack of 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;*
 - iii. *there exists 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.

- 3. They expressed the need for closer co-operation among the Chief Justices of the Arab countries on matters of mutual concern and to encourage the interpretation and enforcement of environmental legislation in the wider context of sustainable development.*
- 4. They emphasised the need to create awareness of international environmental legal norms and their application in the domestic sphere.*
- 5. They noted further that obstacles to access to environmental justice include the rules of standing and their interpretation by judicial officers. They called closer examination of these and other relevant issues by the judiciaries of the Arab countries with a view to facilitating access to justice in environmental matters.*
- 6. They noted with concern the devastating impact of the degradation of the environment in the Arab region, and the challenges faced by courts in the application and enforcement of environmental law in countries in the region. They noted also the generally accepted principle of environmental law that everyone has the right to an environment that is not harmful to their health and well-being.*
- 7. The Chief Justices and Judges expressed their deep appreciation to the Executive Director of UNEP for the several measures that he has taken to implement the outcome of the UNEP Global Judges symposium within the framework of Governing council decision 22/17(II)(A). They also commended UNEP for convening the meeting of Chief Justices and Senior Judges of the Arab region for the purposes of assessing the specific capacity building needs of each country, and for developing needs-responsive, practical and effective plans of activities for strengthening the capacity of judges and to carry out their judicial functions in the area of environment and development.*
- 8. They called upon the Executive Director of UNEP to present the recommendations of the Arab Chief Justices meeting to governments at the 23rd session of the UNEP Governing Council to be held in 2005 and to expeditiously implement the national, sub regional and regional plans of work that they have developed during the meeting to enable judiciaries in their respective countries to contribute effectively to the development, implementation and enforcement of environmental law, and thereby contribute towards the realisation of the goals of environmental protection, sustainable use of natural resources and environmentally sustainable development.*
- 9. The recommendation prepared by the Chief Justices and other Senior Judges in respect of each of their countries, as well as for sub-regional and regional cooperation will be submitted to the Executive Director of UNEP by the Rapporteur of the Arab Chief Justices Meeting, the Hon. Justice Adel Omar Sherif, Deputy Chief Justice of Egypt.*

10. *The Chief Justices and senior Judges participating in the Arab Chief Justices Meeting established the Arab Judges Union for the Protection of the Environment and adopted its Statute of Incorporation. They called on the Executive Director of UNEP to provide support and assistance to realising the objectives of the Union, in partnership with other international and national organisations working in the field of environmental law.*

11. *The participants expressed their deep appreciation to the Chief Justice of the Republic of Egypt, Honourable Mamdouh Marie, for effectively guiding the deliberations as the Chair of the meeting, to the United Nations Environment Programme for its co-sponsorship, and to the Hon. Justice Adel Omar Sherif, Deputy Chief Justice of Egypt and Staff of the Supreme Constitutional Court of Egypt for the excellent arrangements made for the meeting.*

JAMAICA STATEMENT

THE ROLE OF THE JUDICIARY IN ENFORCEMENT AND IMPLEMENTATION OF ENVIRONMENTAL LAW: A REGIONAL NEEDS ASSESSMENT BRACO, TRELAWNY, JAMAICA, 11-12 JUNE 2004

We, the Chief Justices and Senior Judges from the Bahamas, Barbados, Belize, the Organization of Eastern Caribbean States (OECS), Guyana, Jamaica, Suriname and Trinidad and Tobago, who have been convened by the United Nations Environment Programme (UNEP) to participate in the Meeting on “The Role of the Judiciary in Enforcement and Implementation of Environmental Law: a Regional Needs Assessment”, met in Braco, Trelawny, Jamaica, on 11-12 June 2004, to discuss the promotion of environmental law and sustainable development as well as the capacity building requirements of our respective countries and the Caribbean region as a whole and have decided to issue the following:

STATEMENT

Having noted the Johannesburg Principles on the Role of Law and Sustainable Development adopted at the UNEP Global Judges Symposium held in Johannesburg on 18-20 August 2002, which were presented to the Secretary General of the United Nations and to the World Summit on Sustainable Development;

Recognizing the importance of the role of the judiciary in promoting sustainable development through strengthening the rule of law in the region for the effective implementation, development and enforcement of environmental law;

Recognizing the importance of ensuring access to justice for the settlement of environmental disputes and acknowledging that there are significant obstacles to access to justice in environmental matters;

Considering that deficiency in knowledge, relevant skills and availability of information in regard to environmental law is one of the principal causes that contribute to the lack of effective development, implementation and enforcement of environmental law;

Recognizing the need for co-operation and contact among judges in the region to share judicial experiences including judgments and for drawing upon judicial experiences from outside the region;

Made the following recommendations:

- 1. Call upon UNEP and other organization to assist in developing and implementing judicial capacity-building activities in the field of environmental law at the regional, sub-regional and national levels based on the assessment of the needs of the respective judiciaries and therefore propose:*

- a. *the organization of regional, sub-regional and national workshops/seminar/symposia on environmental law for members of the judiciary and environmental tribunals to increase awareness among them on global and regional environmental issues as well as to strengthen their capabilities and to apply effectively national and international environmental law in judicial decision-making processes; and*
 - b. *the preparation and dissemination of environmental law publications including compendia of environmental legislation and case law in the languages of the Caribbean Community.*
2. *Request UNEP to support, in conjunction with the CARICOM Secretariat, the institutionalisation of a Permanent Forum of Judicial Officers for regular collaboration and sharing of experience on environmental law matters;*
 3. *Encourage judges from countries in the region to participate actively in the internet-based UNEP/IUCN Judgments Portal and other relevant electronic databases in order that judges around the world may benefit from contemporary developments in environmental jurisprudence in the region and vice versa;*
 4. *suggest re-examination of the rules of standing and their interpretation by the judiciaries of the Caribbean Community, in order to facilitate access to justice in environmental matters.*
 5. *Urge the consideration of possible solutions to other impediments to access to justice in environmental matters such as the lack of resources available to the Judiciary and the lack of economic resources such as legal aid to pursue environmental litigation;*
 6. *Call for the intensification of programmes designed to increase awareness and sensitisation on environmental matters among legal stakeholders and the public in general;*
 7. *Propose that the arrangements for sensitization, collaboration, capacity-strengthening and information sharing should extend, as appropriate and feasible, beyond the judiciary to include prosecutors, police officers, enforcement officers, legal practitioners and NGOs;*

We express deep appreciation to the Chief Justice of Jamaica, Honourable Lensley Wolfe O.J., who hosted and chaired the Meeting and to the Ministry of Land and Environment and the National Environmental Protection Agency of Jamaica for the role-played in the organization of the Meeting;

We extend appreciation and thanks to UNEP for organizing and sponsoring the Meeting.

PARIS STATEMENT

DÉCLARATION DE PARIS ADOPTÉE À LA CONFÉRENCE DES PRÉSIDENTS DE COURS SUPRÊMES DES ETATS FRANCOPHONES D'AFRIQUE SUR LA CONTRIBUTION DU DROIT AU DÉVELOPPEMENT DURABLE

PARIS, 3-4 FÉVRIER 2005

Les chefs de cours suprêmes des Etats francophones d' Afrique, et notamment des pays suivants : Algerie, Bénin, Burkina Faso, Burundi, Cameroun, Cap Vert, CEMAC, Comores, République du Congo, République Démocratique du Congo, Cote d'ivoire, Djibouti, Egypte, République du Gabon, Guinée, Guinée Bissau, Guinée Equatoriale , Ile Maurice, Madagascar, République du Mali, Royaume du Maroc, Niger, OHADA, République Centrafricaine, Rwanda, Sao Tome et Principe, Sénégal, Tchad, Togo, Tunisie, ainsi que leurs représentants, se sont réunis à Paris, France, les 3 et 4 février 2005, pour une conférence consacrée à la contribution du droit au développement durable. Cette conférence a été organisée conjointement par le PNUE, la Cour de cassation de France, l'Agence internationale de la francophonie et l'Association des hautes juridictions de cassation des pays ayant en partage l'usage du français (AHJUCAF) sous le haut patronage de monsieur Jacques Chirac, président de la République française. La conférence a été présidée par Monsieur Guy Canivet, Premier président de la Cour de cassation de France.

La conférence a évoqué les problèmes généraux de mise en œuvre du droit de l'environnement et permis aux participants de formuler des plans d'activités régionaux correspondant aux besoins effectifs des pays concernés, en vue de la mise en œuvre des principes relatifs à la contribution du droit au développement durable, adoptés par le Colloque mondial des juges tenu à Johannesburg (Afrique du Sud) du 18 au 20 août 2002.

En ce qui concerne les questions environnementales, les chefs de cours suprêmes et leurs représentants ont discuté des besoins de formation des juges et de la manière dont ces besoins peuvent être satisfaits à travers la coopération au niveau régional et sous régional. En conclusion de la conférence, les chefs de Cours suprêmes et leurs représentants ont adopté, à l'unanimité, les conclusions et recommandations suivantes.

Ils souscrivent aux principes de Johannesburg relatifs au rôle du droit et au développement durable adoptés par le Colloque mondial des juges tenu à Johannesburg (Afrique du Sud) du 18 au 20 août 2002, qui ont été présentés par le Président de la Cour constitutionnelle sud-africaine au Secrétaire général de l'Organisation des Nations-unies en tant que contribution du Colloque mondial des juges au Sommet mondial pour le développement durable.

Ils ont réaffirmé la conviction, déjà exprimée par les chefs de cours suprêmes présents au Colloque mondial des juges, que :

un pouvoir judiciaire au fait du développement rapide du droit de l'environnement et conscient de son rôle et de ses responsabilités en ce qui concerne l'application, le développement et l'exécution des législations, des règlements et des accords internationaux relatifs au développement durable, se doit de jouer un rôle déterminant lorsqu'il s'agit d'intéresser davantage le grand public à la nécessité de disposer d'un environnement salubre et sûr,

l'insuffisance des connaissances et les carences en matière de compétences et d'informations pertinentes touchant le droit de l'environnement sont l'une des principales causes contribuant à une mise en œuvre, à une application et à un développement défectueux du droit de l'environnement,

Nous croyons fermement qu'il est impératif et urgent de doter de plus grands moyens les juges, les procureurs, les législateurs et toutes les personnes jouant un rôle déterminant au niveau national dans l'application, le développement et l'exécution du droit de l'environnement, y compris les accords multilatéraux sur l'environnement, par le biais notamment du processus juridictionnel,

Ils ont exprimé le besoin d'une coopération plus étroite entre les chefs de Cours suprêmes des Etats francophones d'Afrique dans les domaines d'intérêt commun ainsi que le besoin d'encourager l'interprétation et la mise en oeuvre de la législation environnementale dans le contexte plus vaste du développement durable.

Ils ont insisté sur la nécessité de prendre davantage en considération les normes internationales environnementales et de les appliquer au niveau national.

Ils ont aussi relevé que entre les raisons qui créent des obstacles à l'accès à la justice dans le domaine de l'environnement résident dans les règles sur la capacité et l'intérêt à agir et leur interprétation par les juridictions. Ils appellent à une examen de cette question en vue de faciliter l'accès à la justice en matière d'environnement.

Ils ont pris note, avec préoccupation de l'impact dévastateur de la dégradation de l'environnement en Afrique, et des défis rencontrés par les juridictions pour faire appliquer et respecter le droit de l'environnement. Ils ont aussi pris note du principe de droit de l'environnement universellement accepté selon lequel toutes les personnes ont le droit à un environnement qui n'est pas dangereux pour leur vie et leur bien-être

Les chefs de cours suprêmes des états francophones d'Afrique et leurs représentants ont apprécié que le Directeur exécutif du PNUE ait pris des mesures pour la mise en œuvre des conclusions du Colloque mondial des juges dans le contexte de la décision du Conseil d'administration du PNUE 22/17 II A, Suivi du Colloque mondial des juges, dans l'objectif du renforcement des capacités dans le domaine du droit de l'environnement. Ils se sont félicités avec le PNUE, la Cour de Cassation de France, l'AIF et l'AHJUCAF de l'organisation de la Conférence des présidents de cours suprêmes des états francophones d'Afrique sur la contribution du droit au développement durable pour évaluer les renforcement des capacités de juges pour chaque pays représenté, pour formuler et réaliser, au niveau national, régional et sous régional, des plans d'activité qui correspondent aux besoins effectifs des pays concernés, pour le renforcement des capacités des juges dans le domaine de l'environnement et du développement.

Les chefs de cours suprêmes des états francophones d'Afrique et leurs représentants se sont félicités de l'initiative du PNUE de publier un Manuel Judiciaire de droit de l'environnement pour les pays de droit écrit, sous la direction de M. Guy Canivet, M. Luc Lavrysen et Mme

Dominique Guihal, fondé sur l'ouvrage de Alexander Kiss and Dinah Shelton. Ils ont prié le PNUÉ de mener à son terme la finalisation du Manuel et de le distribuer largement aux juges des pays francophones d'Afrique.

Les chefs de cours suprêmes des Etats francophones d'Afrique ont appuyé à l'unanimité le projet de proposition concernant le développement des capacités et l'assistance technique dans le domaine de l'environnement et des institutions compétentes en la matière, à l'intention des pays francophones en développement qui est joint à cette déclaration et qui comporte un plan effectif de travail de formation des juges dans les pays africains francophones dans le domaine de droit de l'environnement.

Ils ont lancé un appel au Directeur Exécutif du PNUÉ pour mettre en œuvre sans délai ce projet de proposition afin que les institutions judiciaires des différents pays puissent contribuer de manière effective au développement, à l'application et la mise en œuvre du droit de l'environnement et qu'elles contribuent ainsi à la réalisation des objectifs de la protection de l'environnement, de l'utilisation durable des ressources naturelles et du développement environnemental durable.

Les chefs de cours suprêmes des Etats francophones d'Afrique ont appuyé la décision du PNUÉ de créer des centres de formation en matière de droit de l'environnement à Bruxelles et au Caire, qui travailleront en collaboration avec les autorités judiciaires. Les centres permettront de renforcer de manière effective les capacités des acteurs du monde juridique, juges, avocats, ministères publiques, mais aussi des parlementaires et de la société civile, afin de développer, mettre en oeuvre et de faire respecter le droit de l'environnement dans les pays en voie de développement et dans les pays en transition.

Les chefs de cours suprêmes des Etats francophones d'Afrique ont demandé au Directeur Exécutif du PNUÉ de créer des centres sub-régionaux de formation afin d'accroître le caractère opérationnel des centres susmentionnés particulièrement dans les pays francophones d'Afrique.

Ils ont invité le Directeur Exécutif du PNUÉ à prendre les mesures nécessaires afin que la Déclaration de Paris, adoptée à la réunion des Chefs de cours suprêmes et leurs représentants des pays francophones d'Afrique, puisse être présentée aux gouvernements lors de la 23^{ème} session du Conseil d'administration du PNUÉ, qui sera organisé du 21 au 25 février 2005 et ils ont invité monsieur Guy Canivet, Premier président de la Cour de Cassation de la France, en qualité d'hôte de la conférence de Paris, de présenter la Déclaration en leurs noms au Conseil d'administration du PNUÉ.

Les chefs de cours et les juges ont aussi convenu de créer un Forum de juges francophones concernant le droit de l'environnement et ont invité le Directeur Exécutif du PNUÉ à soutenir la création de ce Forum.

Les participants ont exprimé leur profonde satisfaction au Premier Président Guy Canivet de la Cour de Cassation de France pour la conduite efficace des travaux comme président de la réunion, ainsi qu'au PNUÉ, l'AIF et le AHJUCAF pour leur aide à l'organisation de cette réunion décisive des Chefs de cours suprêmes, et de leurs représentants, des pays francophones dans le domaine du droit de l'environnement.

APPENDIX II

**STATUTES OF REGIONAL JUDGES
ASSOCIATIONS**

STATUTE OF THE EUROPEAN UNION FORUM OF JUDGES FOR THE ENVIRONMENT

ADOPTED AT THE MEETING FOR THE ESTABLISHMENT OF AN EUROPEAN UNION
JUDGES FORUM FOR THE ENVIRONMENT
EUROPEAN COURT OF JUSTICE, LUXEMBOURG , 26 APRIL 2004

1. Name, Seat, Objectives

Article 1

An international non-profit association named “European Union Forum of Judges for the Environment” is established.

Article 2

The registered office of the Association is at the Cour d’arbitrage de Belgique, place Royale 7,1000 Bruxelles.

Article 3

The purpose of the Association is to promote, in the perspective of sustainable development, the implementation of National, European and international Environmental Law.

The Association seeks more particular to:

- share experience on judicial training in environmental law;
- foster the knowledge of environmental law among judges;
- share experience on environmental case law;
- contribute to a better implementation and enforcement of International, European, and national environmental law.

Within this framework, the Association may initiate or promote studies and publish a review or juridical collections.

Recognising each other’s independence, the Association shall promote contacts and exchanges of information between its Members or Observers and with the European Union authorities.

At intervals to be established by the General Assembly, it shall organise a colloquium to consider matters falling within its terms of reference.

The Association shall up a database, consisting principally of decisions, advises and studies by its Members relevant to the purpose of the Association, reports and conclusions produced during the colloquiums of the Association as well as any other useful information.

2. Members

Article 4

Can be Member of the Association: every judge interested in environmental law who is member of the Court of Justice of the European Communities, the European Court of Human Rights or a court or tribunal of a Member State of the European Union or a Member State of the European Free Trade Association.

There are two categories of Members: corresponding Members and working Members.

The General Assembly decides upon applications for corresponding and working membership.

The founders Members are:

for Belgium:	Luc Lavrysen, Judge a' la Cour d'arbitrage;
for France:	Guy Canivet, First President of the Cour de cassation;
for Great Britain:	Lord Justice Robert Carnwath, Judge Royal Courts of Justice;
for Italy:	Amedeo Postiglione, Counsellor with the Cour de cassation.

Similarly empowered judges of States which are engaged in negotiations with a view to their actually joining the European Union can be admitted as Observers.

Decisions concerning the admissions as Observer are made by the General Assembly.

As soon as the State to which it belongs has joined the European Union, the Observer becomes automatically at its request a Member of the Association. A representative of the European Commission, of the Council of Europe, of the United Nationsl Environmental Programme and, subject to approval of the general assembly, other international organizations, can participate in the activities of the association in an observer capacity.

Article 5

Decisions concerning the exclusion of Members and Observers are made by the General Assembly and require a two-thirds majority of those Members present.

Every Member or Observer may withdraw from the Association by sending a recorded delivery letter to the secretary general of the Association who shall inform all Members and Observers of this decision.

A Member or Observer who withdraws from the Association has no right to its assets.

3. General Assembly

Article 6

The General Assembly has power to do anything instrumental to achieving the purpose of the Association.

The General Assembly is composed of one working Member per Member State and per European Court. Each working Member has one vote. He can appoint a substitute who has voting right when the working Member is absent.

Observers attend the General Assembly with a consultative voice.

Article 7

The General Assembly shall meet by right each year, in principle on the occasion of the colloquium referred to in Article 3.

Its quorum is half the Members of the Association at the time of the meeting.

Except in particular cases provided for in these Articles, decisions shall be taken by a simple majority of the Members present. They shall be notified to all Members and Observers.

4. Administration

Article 8

The Association shall be administered by a Board.
The Board may take any measure required for the functioning of the Association in the interval between general assemblies.

Article 9

The Board shall comprise:
the president,
two vice-presidents,
the secretary-general,
the treasurer,
the auditor.

The president, the vice-presidents, the secretary general, the treasurer and the auditor are elected by the General Assembly for a renewable period of 2 years.

The First Board shall be elected by the First General Assembly held in 2004. The founder Members shall, prior to this election, act as a Provisional Board.

Article 10

The Board shall meet at least once a year and whenever convened by its president.

The quorum of the Board shall be at least half of its Members.

Decisions are taken by a majority of the present Members of the Board. In the case of an equality of votes the president's vote shall prevail.

Minutes of all meetings shall be sent to all Members and Observers of the Association.

In emergencies or when the minor importance of the point under consideration does not justify calling a meeting of the Board, the president or the secretary general is authorised to ask for the written agreement of the members of the Board.

Article 11

The secretary general shall be in charge of the general secretariat of the Association.

The general secretariat is in particular responsible for the following tasks:

- he shall set up and manage the database referred to in Article 3;
- he shall promote and co-ordinate activities relating to the development of the studies referred to in article 3 and activities relating to the exchange of experience such as training courses;

- he shall suggest themes for the colloquiums or other meetings of the Association;
- he shall attempt to strengthen the ties between Members and Observers as well as with the European Union Authorities;
- he is responsible for the everyday management of the Association.

Article 12

Every document binding the Association shall, unless there be express authority of the Board for someone else to sign, be signed by the president, the secretary general or the treasurer who will not have to justify to outsiders the powers they have been granted to this end.

Article 13

The Board, represented by the secretary general, shall have the sole right to institute, defend and have conduct of all judicial actions concerning the Association.

5. Working languages

Article 14

The working languages of the Association are English and French. All documents produced at the Associations expense shall be prepared in these languages.

6. Finances, budget and accounts

Article 15

The assets of the Association shall comprise:

- subscriptions from Members;
- such gifts and grants as may be made by Members or by any public or private person or institution, and in particular by any European Union Authority, as are accepted by the Board;
- receipts resulting from the activities of the Association.

Article 16

The General Assembly shall determine the amounts of the Members' subscriptions.

Article 17

The financial year of the Association runs from 1st January to 31st December. The Board approves the budget of the following financial year and, if need be, carries out adjustments of the budget of the current financial year. The Board shall provisionally settle the accounts for each past financial year approved by the auditor. The Board shall submit the accounts for the past two financial years to the General Assembly.

7. Amendments to the articles – dissolution of the association

Article 18

Amendments to the articles and the dissolution of the Association require a two-thirds majority vote of the General Assembly. In case of dissolution, the General Assembly shall decide on the transfer of the Associations assets to a similar institution.

Article 19

The Association shall be governed by Title III of the Belgian Law of June 27th, 1921 concerning non-profit associations, international non-profit associations and foundations.

Done in Brussels, 28 February 2004.

STATUTE OF THE ARAB JUDGES UNION FOR THE PROTECTION OF THE ENVIRONMENT

On the occasion of the convening of the Regional Conference and Symposium for the Arab Chief Justices on Environmental Law and Sustainable Development, held from the 29th to 31st of May 2004, at the premises of the Supreme Constitutional Court of Egypt in Cairo, in the presence of chief justices and members of supreme courts and judicial bodies from the following Arab countries:

1. Bahrain,
2. Djibouti,
3. Egypt,
4. Iraq,
5. Jordan,
6. Lebanon,
7. Libya,
8. Oman,
9. Palestine,
10. Qatar,
11. Sudan,
12. Tunisia, and
13. United Arab Emirates;

Unifying ties of brotherhood and friendship among judges of Arab countries concerned with environmental matters;

Deepening the notion of environmental protection in the Arab Nation;

Strengthening the role of Arab judges in the field of environmental protection;

Facilitating the exchange of experiences and knowledge related to the protection of the environment between experts in the application of laws related thereto; and

With the willingness to build an Arab framework specialised in the protection of the environment;

The participants in the conference have unanimously agreed, in principle, to establish a union called the “Union of Arab Supreme Courts for the Protection of the Environment” in accordance with the principles laid down in the original draft statute previously presented by the Honourable

Mamdouh Marie, Chief Justice of the Supreme Constitutional Court, Egypt, provided that some of its articles be revised in light of the remarks expressed by some participants during conference discussions about the draft statute. Said text has, therefore, addressed all participants' remarks following consultations between the chief justices in concerned Arab countries.

As a follow-up to the conference, invitations have been extended to all Arab chief justices to meet again in Cairo at the Supreme Constitutional Court of Egypt from the 24th to 25th November 2004, with a view to adopting and implementing said Statute.

The 2nd Cairo meeting was attended by chief justices and representatives of supreme courts and judicial bodies from the following Arab countries:

1. Egypt,
2. Jordan,
3. Lebanon,
4. Libya,
5. Palestine,
6. Sudan,
7. United Arab Emirates, and
8. Yemen.

The delegates have hereby unanimously agreed to adopt the following articles to regulate the Union's affairs.

Chapter One: Establishing the Union

Article 1:

A union shall be established among Arab Supreme Courts with a view to protecting the environment. It shall be named the "Union of Arab Supreme Courts for the Protection of the Environment" and shall be referred to hereinafter as the "Union."

Article 2:

The Union shall enjoy an independent moral personality and shall be represented by its President, or his delegate, before all local and international entities.

Article 3:

The permanent headquarters of the Union shall be located in the city of Cairo in the Arab Republic of Egypt.

Chapter Two: Objectives of the Union

Article 4:

The Union shall have the following objectives:

1. Establishing and maintaining means of co-operation on environmental matters between states of Union members.
2. Facilitating the exchange of ideas, experiences and knowledge related to environmental protection.
3. Promoting legal research and scholarship on environmental issues and protection.
4. Promoting and facilitating training of judges and other legal stakeholders about environmental issues and protection.
5. Organising and advancing means of co-operation between the Union and each of other regional bodies, the United Nations Environment Programme and international organisations concerned with environmental issues; and concluding required agreements with such organisations to secure their support for and assistance to achieve the Union's goals.
6. Participating in regional and international conferences concerned with environmental issues and protection.
7. Promoting awareness about legal, cultural and scientific aspects of environmental issues and protection in the states of Union members.

Article 5:

The Union shall carry out its objectives through the following means:

1. Issuing a periodic review publishing legal research, legal studies and national and foreign judicial decisions related to environmental protection.

2. Issuing booklets, publications and periodicals about environmental protection.
3. Exchanging national and international judgments and decisions pertaining to environmental protection.
4. Holding conferences and seminars to present and discuss research and studies related to environmental protection.
5. Promoting authorship, translation and publication in the field of environmental protection.
6. Collecting environmental legislation from the states of Union members, and establishing and maintaining a comprehensive database of said environmental legislation and a legal library at the Union's headquarters, both of which shall be regularly updated.
7. Making recommendations on and drafting environmental protection legislation of states of Union members.

Chapter Three: Membership of the Union

Article 6:

All Arab supreme courts, whose representatives have signed this statute, shall be considered founding members of the Union.

Membership in the Union will be accessible to all other Arab supreme courts.

Voting shall be done by the Arab chief justice of each member of the Union, either personally or through his official delegate.

Any judge of a Union member shall have the right to participate in Union activities without the right to vote, following a nomination by the chief justice of that Union member.

Article 7:

Membership in the Union shall terminate on the occurrence of any of the following events:

1. Withdrawal from the Union, effective upon official notification to the Secretariat General.

2. A Union member's failure to pay its dues for two successive years, effective upon the passing of a resolution by the Council of the Union by a simple majority of its present members. Alternatively, the Council of the Union may resolve by a simple majority of its present members to suspend the Union member's membership.

The Council of the Union may resolve by a simple majority of its present members to reinstate a former member's membership if the former member pays its outstanding dues.

Article 8:

The United Nations Environment Programme and the Council of Arab Ministers of the Environment shall have the status of permanent observers at the Union and may participate in its activities without having a right to vote.

The Council of the Union may invite non-members, foundations or individuals to participate as observers in the Union's activities without the right to vote.

Chapter Four: Bodies of the Union

Article 9:

The Union shall be composed of:

1. The Council of the Union, and
2. The Secretariat General.

First Division: The Council of the Union

Article 10:

The Council of the Union shall be composed of the chief justices of the Union members and shall have a President and a Vice President.

The Council of the Union shall elect the Secretary General for a four-year term by a simple majority of its present members. The Secretary General shall be Rapporteur of the Council.

Article 11:

The Council of the Union shall be competent to:

1. Establish the internal and financial policies of the Union.
2. Determine the working agenda of the Union for the following session.
3. Adopt the general budget of the Union and approve the final financial report for every fiscal year.
4. Determine the means to promote and develop co-operation among the Union's members, and between the Union and other international and regional entities.
5. Review the report prepared by the Secretariat General of the Union on its various activities.
6. Ratify agreements – within the scope of the Union's objectives – with regional and international entities.
7. Determine the membership of the Union, and its suspension, termination and resumption.
8. Accept any gifts, grants or other contributions made to the Union in accordance with its objectives.
9. Modify the Statute of the Union by way of a resolution passed by a two-thirds majority of the Council's members.

The Council may form sub-committees from among Union members and may seek the assistance of experts to study specific subjects.

Article 12:

The Council of the Union shall convene an annual, ordinary session. An extraordinary session of the Council may be held upon a request of the President of the Union or of one third of the Union members.

Article 13:

The meeting of the Council will be valid upon the presence of a simple majority of its members. Resolutions of the Council shall be passed by a simple majority of present members.

Article 14:

Every two years, the Presidency of the Union shall rotate between each of the chief justices of the members, according to the alphabetical order of the names of the states of members.

The President of the following session shall be Vice-President of the Union.

Article 15:

The President of the Union shall be responsible for handling the Union's affairs. He shall be authorized to disburse funds from the Union's budget.

However, he may delegate some of his financial and administrative powers in this respect to the Vice-President or to the Secretary General of the Union.

Article 16:

The President of the Union shall undertake his other powers according to this Statute.

The Vice-President shall replace the President in carrying out the latter's functions and powers if he is absent or unable to undertake them.

Second Division: The Secretariat General**Article 17:**

The Secretariat General is the administrative body of the Union and shall be competent to:

1. Execute the decisions of the Council of the Union.
2. Undertake the secretarial works of the sessions of the Council of the Union, including recording their minutes and preparing the agenda for their meetings.
3. Prepare the topics to be presented to the Council of the Union and prepare and archive all necessary documents and reports therefor.
4. Handle the administrative and financial matters of the Union.
5. Extend invitations, and communicate decisions and recommendations issued by the bodies of the Union, to members and observers.

6. Oversee the publication and distribution of studies, reviews, flyers and periodicals issued by the Union.
7. Oversee the Union's library, including the expansion of its Arabic and comparative collection.
8. Appoint the required number of technical and administrative employees at the General Secretariat in co-ordination with the President.
9. Prepare the draft of the general budget of the Union and the final financial report for the Council of the Union's consideration.
10. Prepare and organise conferences, including their subject matter, timing and location, following approval of the Council.

Article 18:

The Secretary General shall present a report on the activities of the Secretariat General to the Council of the Union during each of its ordinary sessions.

Article 19:

Egypt, being the host country, shall bear the costs associated with establishing and maintaining the Union's headquarters, and the allocations to the Secretary General shall come out of the Union's budget.

Chapter Five: Financial Provisions

Article 20:

The financial resources of the Union shall consist of:

1. Members' dues, the determination of which shall be in accordance with the League of Arab States' rules governing members' dues.
2. Gifts, grants and other contributions made to the Union by Arab countries, and by other regional and international organizations and entities in accordance with the objectives of the Union.
3. Revenues generated through the activities of the Union.

Article 21:

The fiscal year of the Union starts on the first of January of each year and ends on the last day of December of the same year.

Article 22:

The financial regulations of the Union shall set out the methods of money management, the criteria for expenditures, the bases of its budgets, the methods for their execution, and all other financial rules.

Chapter Six: General and Transitional Provisions

Article 23:

This Statute shall take effect upon signature by all of its founding members.

Article 24:

As an exception to Article 14, the Chief Justice of the Supreme Constitutional Court of Egypt shall, after executing this Statute, occupy the Presidency of the Union for the first session.

This Statute has been executed in nine originals in the Arabic language, one of which has been deposited at the General Secretariat of the Union and the remainder of which have been given to each of the founding members.

And on the 12th of Shawaal 1425 Higira, the 25th of November 2004, in Cairo, the representatives of the founding members have executed it.

1. Egypt
2. Jordan
3. Lebanon
4. Libya
5. Palestine
6. Sudan
7. United Arab Emirates
8. Yemen