

## **ACPECT 2010**

### **Welcome Remarks**

**by**

**The Hon. Justice Brian J Preston**

In 2002, in conjunction with the World Summit on Sustainable Development in Johannesburg, the United Nations Environment Program (UNEP) held a Global Judges Symposium on Sustainable Development and the Role of Law. The Global Judges Symposium adopted the Johannesburg Principles on the Role of Law and Sustainable Development.

The Johannesburg Principles enunciated principles and actions to implement the principles. The representatives stated four 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. The third and fourth principles are:

- “3). In the field of environmental law there is an urgent need for a concerted and sustained program of work focussed on education, training and dissemination of information, including regional and sub-regional judicial colloquia; and
- 4). That collaboration among members of the Judiciary and others engaged in the judicial process within and across regions is essential to achieve a significant improvement in compliance with, implementation, development and enforcement of environmental law.”

These principles are to be realised by undertaking certain specified actions. These actions include:

- “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,  
...
- 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.”

Subsequently, UNEP established an ad hoc committee of judges and adopted a program of work to assist the judiciary to play its role in promoting environmental good governance, upholding of the rule of law and ensuring sustainable development. A number of the members of that ad hoc committee of judges have honoured us with their presence at this conference. UNEP produced valuable legal materials including the Judicial Handbook on Environmental Law, Compendia of Summaries of Judgments in Environment-Related Cases, and Judicial Training Modules in Environmental Law. UNEP also organised, participated in and/or provided funding to various training and capacity building programs on environmental law for members of the judiciary throughout the world.

However, as the Johannesburg Principles recognise, education, training and dissemination of information, and collaboration between members of the judiciary within and across regions, need to be on-going and sustained over time. Judicial colloquia are, and were specifically recognised in the Johannesburg principles as, important means of satisfying these objectives.

This conference is such a judicial colloquium. It brings together members of courts and tribunals not only in the Australasia region but also from the regions of Asia, North and South America and Africa.

Environmental law, as a field of learning, is comparatively recent. Although it is still in a formative stage, it is undergoing a process of rapid development. This rapid development has been caused partly by a quantum leap in our understanding of the environmental challenge and partly by the urgent need for the law to respond in an effective manner.

Judicial institutions throughout the world have responded to the rapid development of environmental law in innovative ways. Specialised environmental courts and tribunals have been established in many countries throughout the world (at last count there were 350 in 41 countries). Traditional courts have also responded by establishing specialised environmental divisions or chambers or designating or certifying judges trained in environmental law to hear and determine environmental cases. These specialised environmental courts and tribunals as well as the

specialised environmental divisions of traditional courts have adopted innovative practices and procedures, including special rules of court, for the resolution of environmental disputes.

Unfortunately, there is rarely an opportunity for members of the judiciary who have special involvement in environmental disputes to come together in person. Information on the innovative practices and procedures that have been adopted for the resolution of environmental disputes is rarely published and is not readily available. It needs to be shared in person. This conference provides such an opportunity for information sharing, both in the formal sessions of the conference and informally through discussions in the breaks and on social occasions, as well as by establishing networks for future collaboration.

Finally, the conference provides an opportunity to address highly topical issues of common concern to members of the judiciary in all jurisdictions. It addresses, firstly, big picture issues such as the ethical influences that shape environmental law and the globalisation and harmonisation of environmental law; secondly, the influence of environmental law on traditional areas of law such as administrative law, criminal law and civil law; thirdly, particular topical issues such as climate change and bushfires; and fourthly, the differing responses of courts and tribunals to ensuring the appropriate resolution of environmental disputes.

The Land and Environment Court of NSW is privileged to be able to host this year's conference. I welcome each of the speakers and delegates, and their partners, to what I am sure will be a thought provoking and enriching conference.

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