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- His Excellency Mahinda Rajapaksa, President of Sri Lanka
- Chief Justice of Sri Lanka, Honourable Mohan Peiris
- Vice President of ADB, Mr. Bruce Davis
- Honorable Chief Justices,
- Distinguished members of other judiciaries in South Asia,
- Distinguished Guests, Ladies and Gentlemen.

* I wish to first of all sincerely thank His Excellency, the President of Sri Lanka and the people of this wonderful country for the warm welcome and hospitality so far received which has so far created this positive ambiance for us to begin our deliberation. The President's presence to officiate this important meeting is a clear testament of his dedication and commitment to environmental sustainability and to his support to the role of the judiciary in environmental sustainability.

* I also wish to express my gratitude to the Honourable Chief Justice of Sri Lanka, Mohan Pieris for inviting UNEP as a partner to this important event and in that context to be one of the key speakers.

* UNEP was very pleased to be one of the organizing partners for the first South Asia Chief Justices Roundtable (Conference) on Environmental Justice held in 2010 in Bhurban, Pakistan. As a matter of fact, we were very proud that the first South Asia Chief Justices Conference was the result of the discussion UNEP and IUCN had at the time with then Chief Justice of Pakistan, Honorable Justice Iftikhar Mohammad Chaudhry. It is a great satisfaction, also for me personally, to see this work continue and that today through the leadership of the Honourable Chief Justice of Sri Lanka we are meeting for the third time in this beautiful city of...
Colombo and that you all are prepared to take a leading and strengthened role in this endeavour.

Your Excellencies, Honorable Chief Justices, Ladies and Gentlemen,

• In a recent Post-2015 South Asia Development Agenda Report jointly prepared by the South Asia Co-operative Environment Programme (SACEP) and UNEP key environmental challenges in South Asia were highlighted, among others, included:

  - **Climate change** - The impacts of climate change pose a threat to human security, with, the poor especially more vulnerable to these threats such as increasing temperature, extreme weather events and rising sea-levels.
  
  - **Poor air and water quality** – as a result of population growth, industrialization and urbanization are affecting air quality adding to the threat of climate change, and putting pressure on environmental services such as water and sanitation.
  
  - **Inadequate solid waste disposal** – resulting from rapid population increase and urbanization also produce unprecedented amount of wastes without proper and adequate treatment and disposal.
  
  - **Degraded natural resources** – Due to rapid economic development (annual over 6% GDP growth), ecosystems are being degraded at an alarming rate posing an increasing challenge for water, food and energy security.
  
  - **Natural disasters** – As you are all aware, in this region, in the past decade, South Asia has been subject to some of the world’s worst disaster situations,, all causing immense loss of life and tremendous damage to property with consequential environmental degradation and loss.

• In facing these ever increasing complexities, people everywhere view environmental rights, environmental law and jurisprudence and environmental governance as becoming increasingly central to resolving problems of environmental justice. Consequently, the role of the judiciary in safeguarding environmental rights through environmental rule of law and sustainability is becoming even more central as a key player in the identification and determination of the viable and optional solutions to the environmental challenges.

• UNEP has been at the forefront of legal and institutional developments over the past four decades. These show that environmental law can indeed make a significant contribution to forging an enduring partnership between environmental protection and a development approach.
founded on the three pillars of sustainable development, namely, ecological/environmental, economic and social sustainability.

- At the national level, lawmakers in many countries have adopted constitutional and legislative provisions setting forth the rights and obligations to an environment of a specified quality, such as healthy, safe, secure, clean, or ecologically sound. Over 130 constitutions in the world, and the overwhelming proportion of those amended or written since 1970s, do include varying degree of provisions on environmental rights including a state obligation to protect the environment or a right to a safe, healthy, or ecologically balanced environment.

- Let us look as an example the Sri Lanka Constitution which provides, inter alia, that “the State shall protect, preserve and improve the environment for the benefit of the community.” (Article 28(f) A) and imposes a duty on every person “to protect nature and conserve its riches.” In addition, Sri Lanka has also had a comprehensive set of laws, regulations, policies and institutional arrangements for dealing with biodiversity conservation, cleaner production, climate change, disaster management, energy, land management, air and water pollution, watershed, waste, marine and coastal resources management, to name a few. Many innovative mechanisms have been used including a forest certification programme, eco-rating, and eco-labelling all geared toward the protection and preservation of the environment as stipulated in its national constitution.

- Despite this positive development on incorporating environmental rights in the many national constitutions around the world, many countries’ judiciaries are still faced with the challenge and intrinsic value of balancing the competition between environmental protection and national development goals. For instance, in a recent book published in 2009 on Green Justice: Creating and Improving Environmental Courts and Tribunals, at its page 10, is a case in Sweden whereby a windmill company sought for a permit in a Regional Environmental Court in Umea to build a number of wind energy turbines on top of mountains in a large forest area. The court had granted a permit for nineteen windmills but with many conditions for the protection of the environment based on national goals to support renewable energy to reduce reliance on carbon fuels.

- However, on appeal by the county administrative board, an indigenous government and a prominent environmental NGO argued that the central government had violated its environmental quality objectives to
protect sustainable forest and to promote diversity of plant and animal life, thus succeeded to have the decision reversed. The Environmental Court of Appeal carefully sought to balance the national environmental objective of reducing climate change with the competing national objectives of protecting forests and biological diversity. As a result, it ultimately ruled that 14 of the windmills on three mountains were appropriate and required the company to take even more additional steps to safeguard the environment. In denying the permit for five windmills, the Environmental Court of Appeal found that the proposal would cause substantial damage even if necessary environmental precautions were taken. In this respect, the Court had to carefully choose to balance the values and goals of the nation, and struck a middle ground. These are some of the challenges the judiciary faces but nonetheless judges have succeeded to struck the middle ground needed to guarantee a win-win solution in favour of both protection and preservation of the environment while also ensuring that economic and social development goals are not adversely affected.

Distinguished members of the judiciaries, Ladies and Gentlemen,

• The Sri Lankan judiciary has played a significant role in developing environmental law in this country. The courts safeguard environmental law principles, even in the absence of direct legislation. For example, non-discrimination and equal protection of the law was applied in the case of Bulankulama v Secretary, Ministry of Industrial Development (the Eppawela phosphate mining case) [2000] 3 Sri L.R. 243.

• Also, the court ruled in favor in a case that attempted to invoke the ‘right to life’ directly, on the basis an implicit right embedded in the Constitution (Deshan Harindra (a minor) v Ceylon Electricity Board).

• We are pleased to see that other South-Asian countries, just like Sri Lanka, have also progressively improved their legal and institutional frameworks for environmental protection and sustainable development.

• As we all know, however, laws and regulations are not an end in themselves since implementation, compliance and enforcement of those laws and regulations are more important and critical without which they remain nice documents decorating our offices and shelves. To address the implementation gap, efforts at all levels increasingly concentrate on the implementation of environmental law. To support the efforts of countries in the national implementation of their international obligations,
the then UNEP Governing Council adopted in 2002, a guidance tool on *Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements*. The Guidelines provides a checklist of required national measures and actions for effective implementation, compliance with and enforcement of MEAs to assist countries to address the implementation gap.

• Environmental law needs to be backed by a strengthening of the entire chain of enforcement, which is generally weak in many parts of the world. The judiciary has a critically important role to play in this. This role was underscored during the Rio+20 Conference in 2012 where UNEP, with many partners – including the Asian Development Bank (ADB), organized the World Congress on Justice, Governance and Law for Environmental Sustainability, which a number of you also attended.

• Following the World Congress as well as the Rio+20 Summit in its Outcome Document on the *Future We Want*, strengthened and upgraded the role of UNEP at its paragraph 88 as the leading global environmental authority capable of setting future global environmental agenda and promote coherent implementation of the environmental dimension of sustainable development within the UN system. Furthermore, UNEP’s strategic regional presence to provide capacity building and assist countries upon request was equally acknowledged and enhanced.

• Building upon the successes of the World Congress and the Rio+20 Summit Outcome, UNEP Governing Council adopted, in February 2013, the first internationally negotiated document to establish the term ‘environmental rule of law’ and recognized the many examples from around the world that underlined the fact that law, coupled with strong implementing institutions, was essential for societies to respond to increasing environmental pressure in a way that respected fundamental rights and principles of fairness, including for future generations. The rule of law was therefore seen as critical to the achievement of sustainable development objectives and environmental goals, including the green economy. It is expected therefore that the judiciaries across the globe will further refine the terminology to be better understood in the context of environmental suitability and sustainable development.

**Distinguished members of the judiciaries, Ladies and Gentlemen,**

• The World Congress was driven by the outcome of the Johannesburg Global Judges Symposium on Sustainable Development and the Role of
Law held ten years earlier as a parallel event of the World Summit on Sustainable Development (WSSD) in August 2002. This Symposium agreed on the Johannesburg principles on the role of law and sustainable development for which one of the critical principle adopted was on "collaboration among members of the judiciary and others engaged in the judicial process within and across regions as essential to achieve a significant improvement in compliance with, implementation, development and enforcement of environmental law (Principle 4 of the Johannesburg Principle). To realize this principle, it was then proposed that focus be channeled towards, "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".

- The call for regional collaboration as repeated at the World Congress in 2012 has since been taken up by various regions in Europe, Asia and America resulting in the establishment of regional judicial fora on environmental law. Such fora and networks have since be established in Europe such as the European Union Forum for Judges for the Environment as well as the Ibero-American Judicial Summit, in West Africa - The Francophone Africa Association of Judges on Environment and closer here, for Asia - The Asian Judges Network on the Environment which is a platform for senior judges of the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC) launched last year in Manila during the second Asian Judges Symposium on Environment. Discussions are already underway among judges in Africa for the establishment of such region-wide forum for environmental justice. It is hoped that when all regions would have their own region specific fora and/or networks, global exchange of information, experiences and jurisprudence as one of the main achievement and result of the World Congress as initiated and envisaged in Johannesburg in 2002 would have been achieved. UNEP stands ready to continue to collaborate with all such existing regional fora and networks as well as to support establishment of new ones where they do not as yet exist to further the implementation, compliance with and enforcement of environmental law.

- In December of 2013, UNEP organized the first regional Colloquium on environmental rule of law which took place in Putrajaya, Malaysia, and paved the way for an ambitious programme to advance the environmental rule of law in this important region. I do hope that this timely Roundtable today will further contribute to this objective, because
it is indeed only through the environmental rule of law that conditions can be established under which justice and respect for environmental obligations arising from treaties and other sources of law can be maintained and societies be enabled to respond to increasing environmental pressure in a way that respects fundamental rights and principles of fairness, including for future generations.

• Access to information, access to Justice and public participation in decision-making as enshrined in the Rio Principle 10, as well as transparency and accountability of all persons, institutions and entities, both public and private and including the State itself, rely on the supremacy of the law, embodied in the environmental rule of law. Through adequate, publicly promulgated environmental legislation, fairly enforced and independently adjudicated, the environmental rule of law ensures legal accountability, fairness in the application of the law, separation of powers, participation in decision-making and respect for human rights and delivers environmental justice.

• Over the years, national environmental laws have become increasingly complex, rule-laden and reliant on technical and economic considerations. Separate and distinct sectoral laws have as a result been developed and adopted to deal with specific sectors such as, water, air, land, noise, waste streams, environmental protection, environmental impact assessments (EIAs), mining, forests, habitat, flora and fauna, to mention but some. Added to this, environmental principles have also emerged or be strengthened, including sustainable development; intergenerational equity; and the precautionary, prevention, and polluter-pays principles all which also need to be integrated and balanced with more traditional socio-economic rights, including personal property use, employment, and economic development.

• These complex, fragmented, and often conflicting aspects of environmental management and protection have made it difficult for governments, developers, communities, and advocacy groups to achieve consistent and long-range sustainable development. This has resulted in pressures to streamline and rationalize the adjudication and enforcement process and increase access to justice. The resultant effect, as has been as demonstrated by the recent research in the Green Justice book referred to earlier on in that to date over 350 environmental courts and tribunals have been established in more than forty countries worldwide with more yet to be established but some anticipated in the existing national environmental legislation. Such
courts or tribunals exists in this region in Thailand, Malaysia, Pakistan, Philippines, to mention but only few. It clearly shows that the role of the judiciary in environmental adjudication continues to not only to grow in importance but an institution to further expand and be strengthened in future. Your presence here today for the third Roundtable is clearly evidence of this fact and trend.

Distinguished members of the judiciaries, Ladies and Gentlemen,

• Jurisprudence and precedents are key elements in environmental justice and that is the essence of the importance of these Roundtables as this one in the next two days as well as other regional and global fora, symposia and colloquia being organized at different places and during different times of the year. These events continue to serve as principle opportunities to share and exchange ideas, legal reasoning and opinions on the different judicial matters you may have handled including the recent emerging issues and thus each learn from the other. In this regard, one stop shop on the compilation and collection of environmental judicial decisions as well as national environmental laws and regulations becomes one of the important tool to support the judicial role in handling environmental related cases.

• We, in UNEP, and I am sure also in your own national or regional judicial institutes or other relevant organized judicial programmes do need environmental related judgements from as many jurisdictions as possible to further empower the legal and judicial fraternity to be better equipped to handle environmental related cases. UNEP with its partners IUCN and FAO continue to strengthen and promote the growth of the existing comprehensive global database and gateway for environmental law called ECOLEX at www.ecolex.org but its further growth can only succeed through your support and involvement. Please do share with us all your recent environmental related judgements and related legal opinions as well as recent environmental related legislation to be shared with the entire global legal fraternity. Alternatively, let us link your own institutional established databases of such national judgements as well as environmental laws, if they exist, with this global environmental law gateway as one of the mechanism and tool to share your own national cases and legislation as you too learn and receive the same from other jurisdictions. By so doing, we will not only work together, support each other and collaborate in further strengthening the judicial capacity and empowerment of the judicial personnel on environmental law and justice but we will all build a strong and effective body of environmental law and its sustainability.
Distinguished members of the judiciaries, Ladies and Gentlemen,

As we are all aware, debates are on going both at national, regional and international levels among different stakeholder on the future sustainable development goals (SDGs) as well as Post 2015 Development Agenda which should in essence also respond to the theme of our Roundtable, namely, *environmental Justice for sustainable green development*. I am certain that environmental lawyers would wish to have a specific SDG on rule of law or environmental rule of law. However, recent debates among lawyers and attempts to develop and propose such SDG has not been easy due to the fact that each SDG proposed or to be adopted will or may need legal framework(s) for their effective implementation.

Consequently, a call has been made to ensure environmental rule of law be fully integrated into the upcoming SDGs and Post-2015 Development Agenda. Although the rule of law including the environmental rule of law is often thought of as an abstract concept, in fact, it ensures that rules and regulations in all three dimensions of sustainable development are realized. It is like the baking powder that permeates the whole cake and thus increases its volume and makes it lighter. Environmental rule of law ensures that good laws and regulations are fairly administered by transparent and accountable institutions and, most importantly, produce fair outcomes for all. It is essential to tackle insecurity and inequality in that it sets standards and provides avenues for people to realize their rights. The environmental rule of law, at the national and international levels, is both a development outcome in its own right and an enabler of other outcomes.

Distinguished members of the judiciaries, Ladies and Gentlemen,

Strengthening environmental rule of law may require different interventions in different countries. In countries where no or discriminatory laws exist, these will have to be addressed, whereas in countries that already have fair laws and rights but lack enforcement of these the latter will need to be addressed. Governance and law related targets within the environmental dimension should include natural resource management, sustainable procurement policies, national accounting that integrates environmental externalities into budget and profit calculations, valuing of ecosystem services, sustainable resource management and human rights based standards for partnerships and for
development, whether they are North-South, South-South or Triangular, to mention just a few. We can thus also speak of strengthening environmental rule of law including environmental rights to achieve environmental sustainability.

• While it is essential for the SDGs and Post-2015 Development Agenda to be grounded in the environmental rule of law, we should not re-invent the wheel when it comes to establishing substantive laws and rights in this process. According to the Rio+20 Outcome Document, the SDGs “must build on existing commitments”. Within the environmental field, countries around the world have already made very many commitments. These are contained in about or over 500 binding multilateral environmental agreements (MEAs) as well as non-binding outcomes of global summits and conferences, such as Agenda 21 and the Johannesburg Plan of Implementation, to mention just few. It is, therefore, tantamount that the SDGs and their targets do not regress on these existing commitments which still lack effective implementation and enforcement but strengthen them and call for their further implementation and integration of environmental rules in the SDGs to be adopted. We will rely on the judiciaries across the globe to reinforce the SDGs and Post 2015 Agenda when adopted and guarantee their implementation by ensuring integration and mainstreaming of legal frameworks into them through their judgements for environmental sustainability.

Distinguished members of the judiciaries, Ladies and Gentlemen,

• In June this year, the first United Nations Environment Assembly (UNEA), a new body designed to place environmental issues at the heart of the global agenda, debated some of the negative consequences resulting from a lacking rule of law in the field of the environment:

  o Only 4 out of 90 of the world's most important environmental goals have registered significant progress to date. The financial toll of just one aspect of this shortfall on the global economy, that from international organized environmental crime, is US$70 to 213 billion annually, according to a joint UNEP-INTERPOL report on the Environmental Crime Crisis. The human toll is even greater: UNEP estimates that at least 40 per cent of internal conflicts over the last 60 years are linked to the exploitation of natural resources.
• The world’s leaders at the UNEA responded with resolutions on the illegal trade in wildlife or access to justice in environmental matters – all referring to environmental rule of law. In addition, and I want to highlight this here particularly, a Global Symposium on Environmental Rule of Law during the UNEA, brought together Chief Justices, Heads of Jurisdiction, Attorneys General, Auditors General, Chief Prosecutors, lawyers and legal experts to raise awareness of the role of environmental law as an indispensable tool to achieving sustainable development and a Green Economy.

• This Symposium concluded with a powerful call that we – together – must move forward in making the environmental rule of law a reality for all by realizing its intrinsic value for environmental justice and sustainable development.

• The world’s Chief Justices, Attorneys General, Judges, Chief Prosecutors, Auditors General, leading legal scholars, practitioners and experts, and all relevant stakeholders must continue their dialogue on environmental rule of law in order to increase cooperation and the broad ownership of environmental rule of law measures.

• UNEP is looking forward to being a part of this journey together with all of you as well as other key stakeholders in environmental sustainability, namely, parliamentarians to ensure the national environmental laws and regulations adopted will effectively protect and preserve the environment. Also the prosecutors and legal practitioners to ensure environmental related cases are well prepared, presented in courts, argued and defended for the judges to play their effective role.

• “Environmental rule of law” is now at the core of UNEP’s mandate and we will place renewed focus on working with you and your peers, the world’s judges, prosecutors, police officers, auditors, parliamentarians and other important stakeholders. We are committed and ready to work with partners – like the ADB – and each and every one of you to making the environmental rule of law a reality for all; locally, nationally, regionally and globally.

• I wish this Roundtable a great success!

****** Thank you! *****