Session 3c – Legislators, Government, Agencies, Civil Society and the Environmental Rule of Law

WORLD ENVIRONMENTAL LAW CONGRESS
Rio de Janeiro, Brazil
Friday 29 April 2016

Venue: State Supreme Court of Rio de Janeiro

Conveners: GLOBE, UNEP, WCEL, Senate of Brazil and State Assembly of Rio de Janeiro

Co-Chairs: Senator Jorge Viana (Vice-President of the Senate of Brazil) and Malini Mehra (CEO, GLOBE International secretariat)

Session Rapporteur: GLOBE/ELI

In collaboration with GLOBE and UNEP, this session will provide a forum for legislators, policymakers and legal experts to assess legislative deficiencies related to environmental law and discuss opportunities for drafting legal frameworks that promote ecological sustainability. The discussion will draw on efforts to identify new needs and to define emerging legal and policy frameworks, such as the 2004 Earth Charter, the 2015 Draft International Covenant on Environment and Development, as well as national and regional initiatives.

9:00 Opening Session:

Hon. Deputy Thiago Pampolha (State Assembly of Rio de Janeiro)

Ambassador Aud Marit Wiig (Embassy of Norway in Brazil)

Senator Jorge Viana (Vice-president, Senate of Brazil)

10:00 Session 1: Examining the linkages between legislative design and implementation in the context of the Environmental Rule of Law

Chair: Malini Mehra, GLOBE International

Speakers:

Senator Loren Legarda, (Chair, Senate Finance Committee, Philippines Senate; GLOBE Philippines), via video message
Dr Hitoshi Ushijima (Professor, Chuo University, Japan)

Deputy Cheikh Oumar Sy, Chamber of Deputies, Parliament of Senegal; GLOBE Focal Point in Senegal

Deputy Daniel Melo, Chamber of Deputies, Parliament of Chile and GLOBE Focal Point in Chile

Deputy Andrea Molina, Chamber of Deputies, Parliament of Chile

Followed by: Interactive dialogue between panel participants

11:00 - 11:15 Coffee Break

11:15 Session 2 Towards more effective environmental governance – Opportunities for law-makers and the enforcement community

Chair: Malik Amin Aslam Khan (IUCN Councilor and Chair, Green Growth Initiative in KPK Province, Pakistan)

Speakers:

Deputy Vivianne Le Dissez, National Assembly, Parliament of France; GLOBE France

Deputy Juan Carlos Villalonga, Chamber of Deputies, Parliament of Argentina; GLOBE Focal Point in Argentina

Deputy Braulio Guerra Urbiola, Chamber of Deputies, Parliament of Mexico; GLOBE Mexico

Hon. Congressman Sarney Filho, House of Representatives, Parliament of Brazil and former Minister of the Environment, Brazil

Followed by: Dialogue with legislators and public and private environmental enforcers

12:15 Keynote Address: Hon. Marina Silva (Senator and former Minister of the Environment, Brazil)

Discussion and Close
SESSION SUMMARY

This session brought together leading legislators, policymakers, academics, environmental law professionals and others to assess legislative deficiencies related to environmental law and discuss opportunities for drafting legal frameworks that promote ecological sustainability.

The discussion drew on emerging legal and policy frameworks, such as the 2004 Earth Charter, the 2015 Draft International Covenant on Environment and Development, as well as national and regional initiatives. The recently-concluded Paris Agreement on climate change and the Global Goals/ Sustainable Development Goals setting out Agenda 2030, also came into focus and their implementation through appropriate national legislative and policy frameworks was robustly discussed by lawmakers.

The session saw contributions from two acclaimed former ministers of environment from Brazil, distinguished speakers from the Rio State Assembly, the Embassy of Norway, leading current and former parliamentarians from Argentina, Brazil, Chile, France, Mexico, Pakistan, Philippines and Senegal, as well as an expert contribution from Japan.

Held in the imposing main chamber of the Supreme Court of the state of Rio de Janeiro, the Session attracted in excess of 150 delegates with every continent well represented. The discussion yielded a number of insights from a range of parliamentary and legal jurisdictions, including recent innovations in biodiversity and energy laws in France and Mexico respectively.

Key themes and recommendations which emerged from the 3-hour session included the following:

**Need to Prioritize Education**
- Laws need to be appreciated, understood and implemented
- Intergenerational responsibility needs to be made more concrete
- Education programmes needed to develop awareness of environmental impacts
- Demonstrate link between the preservation of biodiversity and well-being of local populations
- Make laws clear for the market actors, for public sector, industry
- Convey benefits and costs of sustainable development to policy makers
- Convey the science and the urgency to government so that they understand the demands of the challenging times people living in

**Make Law that is Inclusive/Equitable**
- Participation: ensure that the implementation process is holistic and involves all actors
• Transparency: make decisions of the courts, particularly green courts, available to the public
• Consult with indigenous peoples, civil society, and communities
• Consider various points of view: technical, civil society, parliament, executive branch in formulating laws and policies
• Pay more attention to migrants, refugees and how mass migrations are affecting resources and resource security

Evaluate Environmental Impacts Effectively
• Environmental audit covering the performance of relevant national agencies to identify where implementation can be supported, how to remove barriers
• Hold governments and business to greater accountability
• Include stronger assessment and analysis processes in environmental impact analysis

Create Strong Institutions/Agencies/Legislation
• Find balance between multiple environmental codes – unite them more
• Incorporate clear mandates for authority, standards for authority, even judicial institutions
• Establish environmental courts
  ◦ independent and partial
  ◦ conform to the particular situation with countries
  ◦ effective dispute resolution
• Turn commitments in Paris Agreement into law
• Fill legislative gaps with dynamic multi-layered legal systems
  ◦ Capacity building, soft law, regulatory competition

Incorporate Technology
• Make use of technology that exists, apply it
• Initiate more digitalization of lands, better monitoring

Work on a More Appropriate Time/Scale
• Act immediately
• Create long term policies

Addresses the Challenge of Sustainability versus Development
• Create regulatory frameworks that protect environment but allow countries also to grow
• Translate environmental issues into absolute dollar figures – value the environment
• Provide international finance with environmental and social considerations
• UN program for a green economy, take this into account
• Develop a strategy for green jobs
• Laws and legal frameworks take into account use of hydro carbons

**Restore and Change Values**
• Break old patterns, consider new paradigms
• Speak for the most vulnerable, act on their behalf
• Transform attitudes
• Base paradigms on human rights
• Ensure that the right to the environment is on equal footing to other rights
• Think broadly about international law paradigms, that goes from international law to global rights
• Think in terms of national environmental security, the impacts of degradation on education, immigration, economy, global security

NB.: With thanks to Talia Fox, Environmental Law Institute for support with Session Summary