World Environmental Law Congress

Congrès Mondial de Droit de l'Environnement | Congreso Mundial de Derecho Ambiental

RIO DE JANEIRO – APRIL 27th-29th, 2016

CHARTER OF THE GLOBAL JUDICIAL INSTITUTE FOR THE ENVIRONMENT

Preamble

Recognizing the compelling need for the elaboration, implementation, compliance and enforcement of effective laws in responding to environmental crises, such as biodiversity loss and climate change, and in restoring and maintaining the ecosystems that support the community of life on Earth;

Affirming the critical role of judges in promoting the environmental rule of law, human rights, and climate justice, and the importance of judicial independence and integrity in fulfilling this imperative;

Recalling the recommendations of the Global Judges Symposium on Sustainable Development and the Role of Law (Johannesburg 2002), the Rio+20 Declaration on Justice, Governance, and Law for Environmental Sustainability (2012), and the World Declaration on the Environmental Rule of Law (Rio 2016);

Considering the contributions that courts, tribunals, and judicial institutions have made and can make in promoting access to justice, in furthering Principle 10 of the 1992 Rio Declaration on Environment and Development, and in attaining the UN Sustainable Development Goals;

Acknowledging the decades of efforts by international, regional, national, subnational, and non-governmental organizations on the issue of judicial capacity building in environmental law and related areas; and

Noting the need for strong, independent, effective, and transparent judicial institutions that facilitate access to justice for all, to achieve peaceful and inclusive societies for sustainable development, pursuant to Sustainable Development Goal 16.

Aware of the need expressed by many judges and judicial institutions for continued opportunities, led by judges and for judges, for education, capacity building, collaboration, and exchange of information, practices, and experiences;

The council of judges meeting at the Supreme Court of the State of Rio de Janeiro, in conjunction with the 1st IUCN World Environmental Law Congress *hereby set forth* this Charter to found the *Global Judicial Institute for the Environment*.

Article I – Establishment

The Global Judicial Institute for the Environment is hereby founded, under the general terms provided by this Charter, in Rio de Janeiro, Brazil, on April 29, 2016.

Article II – Mission

The mission of the Global Judicial Institute for the Environment is to support the role of courts and tribunals in applying and enforcing environmental laws and in promoting the environmental rule of law and the fair distribution of environmental benefits and burdens.

Article III – Objectives

Consistent with its mission, the Institute is established to promote and fulfill the following objectives:

(a) Provide research, analysis, and publications on environmental adjudication, environmental dispute resolution, court practices and procedures, court administration, legal claims and actions, judicial remedies, and environmental justice, including access to environmental information, public participation in environmental decision-making, and access to justice;

(b) Strengthen the capacity of judges in administration and resolution of cases and disputes related to the environment;

(c) Provide a forum for convening international, regional, national, and subnational judges, court officials, and judicial institutions, to create partnerships for collaboration and information exchange on environmental law issues; and

(d) Pursue such other objectives as consistent with the mission and with this Charter of the Institute.

Article IV – Activities

The Institute will engage in or facilitate activities to fulfill its mission and objectives, including, for example:

(a) Developing, carrying out, and facilitating programs and projects for judicial capacity building and education;

(b) Promoting platforms for mutual exchange and knowledge-sharing among judges;

(c) Providing reports, publications, case studies, and comparative analyses on judicial administration practices, remedies, and other key aspects of environmental adjudication;

(d) Developing an interactive portal with resources such as a database of judicial decisions on environmental issues, interactive mechanisms for facilitating secure communication and discussion among judges, or other online resources;

(e) Providing technical assistance, advice, and recommendations regarding judicial administration and practice;

(f) Encouraging courts, tribunals, and judicial institutions to develop and utilize sustainable practices in their own internal management;

(g) Convening symposia and facilitating cooperation at global, regional, national, and subnational levels among judicial institutions and networks;

(h) Facilitating linkages with the community of actors and agencies involved in environmental compliance and enforcement;

(i) Collaborating with other multilateral or non-governmental institutions and organizations engaged in building capacity or support for courts and tribunals on environmental issues;

(j) Conducting outreach and raising public awareness on environmental law and the role of courts and tribunals; and

(k) Other activities that advance the mission and objectives of the Institute.

Article V – Membership

5.1 Categories of Membership

The Institute shall have two categories of judicial members: institutional and individual.

5.2 Institutional Members

(a) Institutional Membership is open to any international, regional, national, and subnational courts and tribunals, and to judicial institutions, such as judicial institutes, schools, associations, academies, and other similar organizations that are directed by judges and are composed of or provide services to judges and judiciaries. The Institute particularly encourages the participation of

courts, tribunals, and institutions of judges that include within their jurisdiction the consideration of environmental, land use, or natural resources issues.

(b) The Bylaws shall provide for the process and criteria for receiving, reviewing, and approving institutional membership applications.

(c) Membership will extend so long as the institution continues to operate and otherwise meets the requirements in this article, including the payment of any dues. An institution may resign its membership upon written notice to the Governing Council.

5.3 Individual Members

(a) Individual Membership is open to:
   1) Individuals currently serving as judges or in a capacity as judicial decision-makers on specialized environmental courts or tribunals; or

   2) Individuals currently serving as judges or in a capacity as judicial decision-makers on other courts or tribunals, with an expressed interest or expertise in environmental matters.

(b) The Bylaws shall provide for the process and criteria for receiving, reviewing, and approving individual membership applications and nominations.

(c) Membership will extend so long as the individual continues to serve as a judge or tribunal member and otherwise meets the requirements in this article, including the payment of any dues. Membership may continue until a judge's retirement. An individual may resign his or her membership upon written notice to the Governing Council.

5.4 Responsibilities of Members

Members work to assist and advance the mission of the Institute by providing and receiving capacity building and training in environmental law issues, by participating in meetings and symposia for sharing judicial experiences, collaboration, and other opportunities for information sharing, and by undertaking other activities consistent with the Institute's mission and objectives. Additionally, Institutional Members play an essential role in assisting with the carrying out of the Institute's activities.

5.5 Membership Dues

The Governing Council may set applicable annual dues for institutional and/or individual members in order to support the work of the Institute. Any such dues will be scaled to reflect the economy in the member's country.

5.6 Cessation of Membership

The Bylaws shall provide for a process for withdrawing an individual or an institution's membership due to professional misconduct or other actions contrary to the mission of the Institute. Members accused of misconduct or malfeasance shall be duly notified and shall have the opportunity to respond prior to any decision by the Council.

Article VI – Governance

6.1 General Assembly

(a) The General Assembly is composed of the Institutional and Individual Members of the Institute.

(b) The General Assembly shall meet from time to time, according to procedures that shall be defined in the Bylaws for the Institute. The Assembly's meetings may be held via tele or videoconference, or may, in exceptional circumstances, in person.

(c) The General Assembly shall elect, by electronic secret ballot, the Governing Council described in Article 6.2. All Institutional Members shall have the right to cast a vote for the Institutional Members on the Council; All Individual Members shall have the right to cast a vote for the Individual Members on the Council, elected in the manner provided by the Bylaws.

(d) The General Assembly shall appoint, upon recommendation from the Governing Council, two independent external auditors to audit the financial accounts of the Institute.

6.2 Governing Council

(a) The Institute shall have a Governing Council, which shall serve as its board of directors.

(b) The Governing Council shall consist of 14 members, elected by the General Assembly, including:

1) 6 Institutional Council Members;

2) 8 Individual Council Members, representing the geographic or linguistic regions as provided pursuant to Article 6.5; and

3) Up to 2 Members who may be appointed by the Governing Council under Article 6.2(c).

(c) The Governing Council may, from time to time, appoint up to 2 Members who have particular expertise that would assist in the governance and work of the Institute to serve on the Governing Council.

(d) The Governing Council shall serve for a term of 2 years. Council members shall not be eligible to serve for more than two terms.

(e) The Governing Council shall have responsibility for directing and overseeing the implementation of programs and activities that fulfill the Institute's mission and objectives.

(f) The Governing Council shall meet regularly to conduct the business of the Institute and discuss its ongoing work.

1) The Council shall meet in person at least once annually; other meetings may take place via video or teleconference, as agreed upon by the majority of the Council.

2) The Governing Council shall, in the Bylaws of the Institute, establish rules of procedure for convening and conducting meetings, including practices for calling special meetings, notifying members, and reporting on the minutes or proceedings of each meeting.

3) The President or Governing Council may request that other Members from the General Assembly or additional observers attend a meeting of the Council or any part thereof; such observers shall not be entitled to vote on matters before the Council.

(g) Decisions

1) The participation of a majority of the total members of the Governing Council constitutes a quorum for making decisions and conducting the business of the Institute.

2) Unless otherwise provided, Governing Council decisions are approved by a simple majority of those voting. In the case of a tie vote, the President may cast a deciding vote, at his or her discretion.

3) The Council shall prescribe, in the Bylaws, processes for voting on decisions, including votes on important matters in between meetings of the Council.

(h) Governing Council members shall receive no remuneration for carrying out their duties on the Council. However, the Council may adopt policies for Council members to receive reimbursement for reasonable expenses incurred in fulfilling their duties, including travel expenses for attending meetings and other expenses as specifically authorized by the Council.

(i) Cessation of Membership on the Governing Council: Governing Council members and Officers may be removed for good cause, only upon a two-thirds majority vote of the Council, for reasons and in a process as provided by the Bylaws. Prior to such a vote, a Council Member shall be duly notified and shall have an opportunity to respond, pursuant to the process established in the Bylaws.

(j) Vacancy: The Governing Council shall provide in the Bylaws a process for filling any vacancy that should occur on the Council, due to termination of membership, resignation, or any other reason.

6.3 Officers

(a) The Governing Council shall elect from among the Council Members the following officers:

1) A President;

2) Two Vice Presidents;

3) A Chief Financial Officer; and

4) A Secretary.

(b) No two of the above officers may be from the same region, and no President shall be elected from the same region as the President immediately preceding his or her term.

6.4 Committees

(a) The Governing Council shall establish Committees from within the Institute's membership, and shall establish the rules and terms of reference for such Committees.

(b) The Governing Council shall designate a member to serve as Chair of each Committee established. Committees may, at the discretion of the Governing Council, invite other members or individuals to serve as advisors to the committees, on a non-voting basis.

6.5 Geographic Regions

The Institute shall be organized by geographic or linguistic regions, as provided by the Bylaws.

Article VII – Partnerships

The Institute may collaborate with international, regional, national, subnational governmental and non-governmental organizations and legal professional bodies to establish initiatives and develop programs for work that further the mission and objectives of the Institute.

Article VIII – Finances

8.1 Financial Management of the Institute

(a) The Chief Financial Officer, under the direction of the President and the Council, shall exercise financial management authority for the Institute.

(b) The Council shall set financial regulations for the Institute, including the establishment of a bank account, the formation of an annual or biennial budget, and other matters as needed. In doing so, the Council shall follow the highest standards of transparency and accounting practices.

(c) The Council shall prepare an annual financial report providing an accounting of the Institute's activities.

(d) The independent external auditors appointed under Article 6.1 shall review the accounting and practices of the Institute on a regular basis and shall provide reports of these audits, to be made available to the General Assembly and to the public.

8.2 Financial Resources

The Council shall establish guidelines for the receipt of financial resources for the Institute, which may include sources such as membership dues, voluntary contributions and donations, courses and seminar tuitions, technical assistance grants and fees, revenue from publications and other services, and interest income from trusts, endowments and bank accounts.

Article IX – Secretariat

9.1 Role of Secretariat

(a) The Institute shall have a Secretariat, tasked with administering the day-to-day work of the Institute and carrying out the directions of the Governing Council.

(b) The Governing Council shall appoint an Executive Director to lead the work of the Secretariat, and may provide for the appointment of other positions within the Secretariat.

9.2 Secretariat Location

(a) The Governing Council shall determine the location for the Secretariat. The Council's decision in this regard should take into account the privileges and immunities provided by the jurisdiction in which the Secretariat is located, and other considerations as deemed relevant for ensuring the functioning of the Institute.

(b) Upon the formation of the Institute, the Interim Governing Council may choose a temporary location for the Secretariat until a long-term location can be found.

Article X – Bylaws

The Governing Council shall prepare and adopt and may, from time to time, amend Bylaws for conducting the business of the Institute, consistent with the provisions of this Charter.

Article XI – Incorporation

The Global Judicial Institute for the Environment shall be incorporated pursuant to a decision of a transitory committee appointed following the adoption of this Charter.

Article XII – Interpretation

Unless specifically provided otherwise, as used in this Charter:

(a) "Assembly" shall mean the General Assembly under Article 6.1;

(b) "Council" shall mean the Governing Council under Article 6.2;

(c) "Institute" shall mean the Global Judicial Institute for the Environment;

(d) "Members" shall include both Institutional and Individual Members as provided in Article V.

Article XIII – Interim Governing Council

Notwithstanding Article 6.1(c) and 6.2(b)-(c), an Interim Governing Council shall be elected to serve for a period of 2 years, at a meeting to be determined by the transitory committee described in Article XI, following initial approval of this Charter. The Interim Council may, by decision of said Council, continue serving for an additional 2 years until a Governing Council can be duly elected. The Interim Council shall exercise the authority and responsibilities provided for the Governing Council in this Charter.

Article XIV – Amendments

The Governing Council may, by a two-thirds majority vote, propose amendments to this Charter. Amendments shall be adopted if approved by a simple majority of the General Assembly.

Signed on 29 April 2016 in
Rio de Janeiro, Brazil