

WELCOME AND OPENING REMARKS

By

**Her Honour Sandra Paul
Chairman
Environmental Commission of Trinidad and Tobago**

**At the Inaugural Lecture of the Environmental Commission
Distinguished Lecture on Environmental Law**

July 23rd 2008

**Keynote Speaker: The Honourable Justice Brian J. Preston, Chief
Judge, Land and Environment Court, New South Wales, Australia**

**Theme: “Looking at the New South Wales Experience: Accountability,
Public Participation and Public Interest – The Judicial Approach in the
Land and Environment Court of New South Wales”**

1. Greetings:

**2. Good afternoon. I am pleased to welcome you to the Inaugural
Lecture of the Environmental Commission’s Distinguished Lecture
Series on Environmental Law. It is an honour for me to welcome the
Honourable Justice Brain J. Preston, Chief Judge of the Land and
Environment Court of New South Wales, Australia to deliver this
Inaugural Lecture. I am also delighted to welcome the Honourable
Bridgid Annisette-George, the Attorney General, of the Republic of**

Trinidad and Tobago and the Honourable Minister Emily Gaynor Dick-Forde, the Minister of Planning Housing and the Environment.

3. This is a special day for the Environmental Commission. This Inaugural Lecture marks a further step in the Commission's execution of its Strategic Plan – Achieving the Vision, for the period 2007 – 2010. Our first Goal as articulated in our Strategic Plan, is ensuring Access to Justice, and one of the strategies identified for achieving this Goal is educating and informing the citizens of Trinidad and Tobago about the role, function and jurisdiction of the Environmental Commission.

4. I wish to take this opportunity to share with you a condensed view about the establishment and jurisdiction of the Environmental Commission of Trinidad and Tobago.

5. Trinidad and Tobago can be justifiably proud of the fact that it has established the only environmental court in the region and is one of the few in the world.

6. Section 1 (2) of the Environmental Management Act, Chap.35:05 altered the Constitution of the Republic of Trinidad and Tobago so as to ensure that the establishment of the Environmental Commission was not *ultra vires* the Constitution. The altered sections of the Constitution are sections 104 to 107 which provide for the appointment of judges to the Supreme Court of Judicature and sections 136 and 137 which provide for the tenure of judges and the removal from office of judges, respectively.

7. By section 81 of the Environmental Management Act the Environmental Commission of Trinidad and Tobago was established as a superior court of record with all the powers inherent in such a court. Further, the Act provides that the Commission shall have the power to enforce its own orders and judgments and the same power to punish contempts as the High Court of Justice. These are two of the fundamental characteristics of a superior court of record.

8. The Commission was established as a specialist superior court of record for the purpose of exercising the jurisdiction conferred on it by the Environmental Management Act and any other written law.

9. The specific jurisdiction of the Commission is set out at section 81 (5) of the Act. Further, the Commission has been given jurisdiction with respect to specific matters related to the regimes created by various pieces of subsidiary legislation made under the enabling Act, that is, to hear appeals against decisions or actions of the Environmental Management Authority, with respect to noise pollution, water pollution, environmentally sensitive species, environmentally sensitive areas and certificates of environmental clearance.

10. The Commission has been mandated by section 84 (3) to encourage and promote alternative dispute resolution, being any mechanism for resolving disputes other than by way of litigation. Mediation has been identified by the Commission as the alternative dispute resolution process best suited to resolving environmental disputes. I am happy to report that the Commission has had an eighty-six per cent (86%) success rate in resolving matters through the use of mediation.

11. The court was operationalised with the appointment of its first members by His Excellency the President of the Republic of Trinidad

and Tobago on October 30th, 2000. Because of the nature of environmental disputes that are likely to be filed at the court the Act provides for the constitution of the Commission to be multi-disciplinary. The Chairman and Deputy Chairman of the court are required to each be attorneys-at-law of not less than ten years standing. The other members are appointed from amongst such persons as appear to the President to be qualified by virtue of their knowledge of, or experience in environmental issues, engineering, the natural sciences or the social sciences.

12. It is noteworthy that the composition of the Environmental Commission of Trinidad and Tobago is very similar to that of the Land and Environment Court of New South Wales, Australia and it should be further noted that the Land and Environment Court's jurisdiction includes, among other things, the same jurisdiction exercised by the Environmental Commission.

13. The Environmental Management Act also provides at section 81 (5)(i) for the jurisdiction of the Commission to be expanded. This provision is a clear indication that Parliament contemplated the

creation of a court with wider jurisdiction, perhaps a court with jurisdiction like that of the New South Wales Court, where all matters affecting the sustainable use of its natural and man made resources are dealt with by one institution instead of diverse judicial entities.

14. The Commission's Distinguished Lecture is important on two fronts. Firstly, it highlights the existence of the Commission on the landscape of the administration of justice in Trinidad and Tobago. Secondly, it is a forum for educating the citizenry on aspects of environmental law.

15. Today's Lecture takes place at a critical time in the history of the Republic Trinidad and Tobago. The citizenry is a well educated one and are cognizant of what is affecting our environment locally, regionally and internationally. We in Trinidad and Tobago are experiencing a time of great prosperity and growth and issues surrounding our sustainable development are very much in the fore. Questions surrounding accountability, public participation and public interest have been engaging the public's attention. Here to explore these issues with us, from a judicial perspective is our Keynote Speaker the Honourable Justice Brian J. Preston.

16. The Honourable Justice Preston is the Chief Judge of the Land and Environment Court, New South Wales, Australia an office he has held since November 2005. Prior to being appointed as Chief Judge he practiced primarily in the areas of environmental, planning, administrative and property law. On October 27th 1999 he had the distinction of being appointed Senior Counsel.

17. Justice Preston is no stranger to Trinidad and Tobago. During the period 1995 and 1996 he was part of a three-person consultant team to the World Bank and the Government of Trinidad and Tobago. His team drafted the National Parks and Wildlife Conservation Legislation for this country.

18. He has lectured in the field of environmental law for the past sixteen years. His courses included Environmental Dispute Resolution, Biodiversity Law, Environmental Impact Assessment Law and Sustainability Law. These courses are taught at universities in Australia and China.

19. In 1989 Justice Preston was the author of Australia's first book on Environmental Litigation in Australia. He has authored over forty articles, books and reviews on environmental law. He holds numerous editorial positions in environmental publications in Australia.

20. Justice Preston is:

- **Chairperson of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific;**
- **Member of the ad hoc Advisory Committee of Judges, United Nations Environment Programme, Judges Program; and**
- **Member of the Environmental Law Commission, the World Conservation Union.**

21. We are delighted and honoured to have the Honourable Justice Preston here with us today. Please join me in welcoming him.

