

Speech delivered by Rt Hon Lord Mance, Executive Chair, International Law Association, as part of the Opening Group on the Climate Law and Governance Day UN Climate Change Conference (COP26) on 5th November 2021

Distinguished guests and participants,

I am delighted as Chair of the International Law Association to welcome you at the start of this important [Climate Law and Governance] Day. Let me also congratulate the co-hosts, the Universities of Glasgow, Cambridge and Strathclyde, as well as the many supporting organisations.

The Day highlights the role which the law can and must play in countering an impending climate change disaster. Law includes domestic law: witness the UK Supreme Court's 2015 judgment ordering the UK government immediately to reduce nitrogen dioxide emissions to within statutorily permitted limits. Even more dramatically, witness the May 2021 Hague District Court judgment, ordering Shell to reduce its global net carbon emissions by 45% by 2030 compared to 2019 levels, a decision which Shell is seeking to overturn on appeal.

Law also includes international law which is the focus of today and of the Association I chair. The ILA was founded in 1873 in Brussels to clarify, develop and promote international law, is currently HQ'd in London and has worldwide branches and a membership of some 4,500. It organises biennial conferences and its work has led to many significant recommendations and conventions. We have a flourishing scholarship programme to ensure that younger voices are heard. Before the Rio conference in 1992, our work in the present area was veiled under the heading of Legal Aspects of a New International Economic Law. Since Rio, we think more broadly. The words "sustainable development" encapsulate the reality that much of the world may not survive recognisably at all.

International law is playing a crucial role in the combatting of climate change.- from the Rio Convention of 1994 to the Paris Agreement of 2015 and now on to COP26 the purpose of which is to make more specific individual states' role and duties - to resolve what The Economist last week called the cognitive dissonance of the Paris Agreement, when it set an ambitious global targets, to which almost everyone could sign up, while individual states committed themselves voluntarily to "nationally determined contributions" that offered too little to meet the targets, which they are struggling to meet.

The ILA has in successive reports looked at the international legal principles governing sustainable development and the struggle to combat climate change. First, in its 2002 New Delhi Declaration of Principles relating to Sustainable Development, with the father of the Constitution of Bangladesh, Dr Kamal Hossain, in the chair, and Professor, now Senator, Nico Schrijver as Rapporteur from The Netherlands - two countries in the frontline of climate change.

Second, at The Hague in 2014 the ILA built on this foundation with a report directly addressing the Legal Principles relating to Climate Change, "the common concern of humankind", underlining the need for an integrated, equitable balancing of all the interests involved. It also

highlighted the duty, so critical at COP26, of states to be prepared to change and update their thinking and targets.

Thirdly, at its recent 79th or “Kyoto” biennial conference 2020 the ILA adopted Guidelines on the role of international law in the Sustainable Management of Natural Resources for Development, formulated by a committee with Professor Schrijver now as Chair and Professor Marie-Claire Cordonier Segger as Rapporteur. The conference was held remotely due to the pandemic, at benefit to the environment (even though COP26 requires direct contact, if only for arm-twisting).

The 2020 Guidelines aim to synthesise the legal learning and lessons conveyed by past instruments and reports, and emphasise a holistic approach - recognising that all aspects of our treatment of the world in which we live interrelate and potentially combine to change our climate - that is, our treatment of the environment (land, oceans, atmosphere and space), our treatment of animals, organisms, trees, plants, and our treatment also of each other, in war or peace and by maintaining human rights, law and order, good governance, transparency and access to justice.

We know that in these respects we have to act now, even though it may be painful - which is what COP26 is about. And states are not the only actor. States are a human construct, and they act or fail to act because of human decisions. COP26 has already shown how the power of financial markets and institutions can be harnessed by individual action. The more we as individuals urge states to adhere to a sound sustainable approach, the more we must recognise that it is our individual responsibility to act to the same end in our personal lives. I know that this is a message that everyone at COP26 carries. An extraordinarily rich programme awaits all attending this Day. It is a privilege to have been able to say these preliminary words about the relevance of the law.

Rt. Hon. Lord Mance
5 November 2021