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CITY BAR

**New York City Bar Association –  
Statement on Rio + 20 Outcome Document “The Future We Want”**

On the eve of the Conference for Sustainable Development which will take place in Rio on June 20-22, 2012, the New York City Bar Association (the “Association”), through its relevant committees,<sup>1</sup> thanks the Co-Chairs of the Bureau for the United Nations Conference on Sustainable Development for their efforts in preparing the text of the Outcome Document entitled “The Future We Want”. The Outcome Document lays out important steps for promoting and implementing sustainable development and environmental protection. Nonetheless, the Outcome Document inadequately addresses important issues, among which are the following, to which the Association would like to draw special attention: displacement of populations due to climate change, and development of a reliable funding mechanism to finance adaptation to climate change. The Association also believes the achievement of an appropriate institutional framework for sustainable development (“IFSD”), Rio+20’s second theme, is crucial and outlines below concerns about continuing uncertainties evident in the Outcome Document.

*First: The displacement of populations as a result of the impacts of climate change warrants greater attention.*

Climate change undermines the health, the economies and the governance of numerous populations. For example, saltwater contamination through storm surges diminishes supplies of fresh drinking water and destroys croplands, reducing food security; storms and rising sea levels will undermine current infrastructure. Coastal areas and small islands are at particular risk, but other areas are also threatened. Climate change poses national and economic security issues for most countries. Coastal communities around the world often depend directly on activities based at their seashores, such as tourism and artisanal fisheries, for their economic livelihood.

Over 40% of the world’s population (more than 2.8 billion people) live within 100 kilometers of the coast. Thirteen of the world’s 20 megacities, including New York, where the Association is headquartered, lie along coasts, and nearly 700 million people live in low lying coastal areas less than ten meters above sea level. A recent report estimates that by 2050, adverse effects associated with global climate change will result in the displacement of between 50 and 200 million people globally.<sup>2</sup>

Many people living in at-risk areas inevitably will be forced to move within their country or migrate to other countries. Either course can destroy their livelihood and traditional ways of living. It is difficult to overstate the fundamental challenges such changes pose to sustainability. Intelligent planning to address relocation and related climate displacement must start now to avoid the prospect of dramatic and much more costly last-minute mass migrations.

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<sup>1</sup> The Council on International Affairs, the Environmental Law Committee, the International Environmental Law Committee, the International Human Rights Committee, and the United Nations Committee.

<sup>2</sup> IOC/UNESCO, IMO, FAO, UNDP (2011). A Blueprint for Ocean and Coastal Sustainability. Paris: IOC/UNESCO, at 9.

The Outcome Document should expressly address the issue of climate displacement, both displacement within borders as well as migrations to other countries.<sup>3</sup> Responses to climate displacement need to be guided by respect for human dignity, human rights and international cooperation, with a view to empowerment, participation of affected groups, and protection of minorities and cultural heritage, with all countries committing, to the best of their ability, to provide technical and logistical as well as financial and legal assistance in addressing climate displacement.

***Second:*** *The enormity of this issue warrants a reliable funding mechanism, such as an appropriate tax, to finance adaptation to climate change.*

Financing adaptation should not be left to the vagaries of *ad hoc* negotiations, pledges, and collections. Otherwise, the ability of affected countries and populations to plan for and respond to climate change adaptation in a timely and cost-effective way will be profoundly compromised.

A relatively neutral, largely self-executing mechanism, such as some form of tax, appears to be an effective way to generate reliably the financing needed for a wide range of essential adaptation measures. While the details of transferring funds raised, effectively managing and administering the funds collected, and maintaining the funds at appropriate levels will require critical attention, any fund for such purposes will pose similar issues. The key first step will be to design a reliable fundraising mechanism capable of garnering broad support (e.g., perhaps a micro-tax on a wide range of international transactions). The Outcome Document should clearly address that need. The Association is amenable to participating in thinking through what such a mechanism could be.

***Finally:*** *The Association is concerned about continuing ambiguities and uncertainties in the Outcome Document regarding the achievement of a suitable IFSD.*

While the Association takes no position here on the ideal IFSD, we note that in previous multilateral negotiations on this subject, the integrity of the structures needed has been repeatedly compromised. Our concern is that, while the various options – strengthening the United Nations Environment Programme, transforming or replacing the United Nations Commission on Sustainable Development, creating sustainable development goals, reorganizing the United Nations Economic and Social Council, creating the high level political forum and the high level representative of future generations – all have merit, there is no overarching mandate for designing a multilateral framework that would link the integrative process to the achievement of tangible goals. Throughout the preparatory committee meetings for Rio+20, the Secretariat and negotiators alike have stressed that Rio+20 is a summit of implementation. It can only be such a summit if more substantive attention is devoted to how such an IFSD can be structured and implemented on a schedule consistent with the urgent needs the IFSD will be responsible for addressing.

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<sup>3</sup> The Association underlined these concerns in its December 1, 2009 Climate Change Mitigation and Adaptation Principles, pointing out the vulnerability of certain populations, regions, ecosystems and sectors to climate change impacts. <http://www.nycbar.org/pdf/report/uploads/20071828-ClimateChangeMitigationandAdaptationPrinciples.pdf>.

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We urge the Conference to address each of the points above in the Outcome Document.

Respectfully submitted,

The New York City Bar Association,

and its following committees and council:

The Council on International Affairs  
The Environmental Law Committee  
The International Environmental Law Committee  
The International Human Rights Committee  
The United Nations Committee

June 15, 2012