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President of the Supreme Court of the United Kingdom
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Cc
Rt Hon Alok Sharma MP, President COP26
Rt Hon Michael Ellis QC MP, Attorney General
Mr. Tim Crosland, Director, Plan B.Earth

Re. Humanity's Lifeline: the Paris Agreement Temperature Limit

March 30, 2021

Dear Lord Reed:

We write concerning the Supreme Court's decision last December, which ruled that the Government's policy in support of Heathrow expansion was lawful, despite the Government's failure to take into account the Paris Agreement's agreed temperature limits which constitute a key part of its architecture.¹

There was uncontested evidence before the Court that:

- The expansion of Heathrow Airport would lead to around 40,000,000 tonnes of carbon dioxide emissions from UK aviation by 2050²;
- That in order to meet the Paris Temperature Limit (ie 1.5°C and "well below" 2°C), carbon dioxide emissions would need to be "net zero" before 2050³; and that
- Breaching the Temperature Limits prescribed in the goals of the Paris Agreement would have dire implications for humanity, in particular for the younger generation and the Global South.

The Government did not explain how the expansion of Heathrow Airport could be reconciled with the goals agreed in Paris by every country in the world. To the contrary, it argued that the Paris Agreement was "not relevant"⁴. Chris Grayling MP, the Transport Minister at the time, relied instead on the historic 2°C temperature limit, rejected by governments (including the UK

¹ See R (on the application of Friends of the Earth Ltd and others) (Respondents) v Heathrow Airport Ltd (Appellant) [2020] UKSC 52

² See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878705/uk-aviation-forecasts-2017.pdf, p.107, Table 36

³ See Court of Appeal judgement, para. 207: https://www.judiciary.uk/wp-content/uploads/2020/02/Heathrow-judgment-on-planning-issues-27-February-2020.pdf?fbclid=IwAR3OQKZqQ_Wd41jVtcxrBimnVuqWMogMaPXgi1JYWwAA6XCF3lqhZL1uowQ

⁴ *Ibid.* para. 186

Government) in December 2015. The Court of Appeal ruled that approach unlawful, on the basis that it was the Government's own policy to uphold the Paris Agreement - including its globally agreed temperature limits which are based on impeccable science:

“It is clear ... that it was the Government's expressly stated policy that it was committed to adhering to the Paris Agreement to limit the rise in global temperature to well below 2°C and to pursue efforts to limit it to 1.5°C.”⁵

Reversing the Court of Appeal's decision, the Supreme Court held that the Paris goals could not be regarded as Government policy (despite the fact that the Government itself had accepted the Court of Appeal's ruling⁶). Consequently, the Court held that there was no requirement on the Government to take the Paris goals set out in Article 2 into account.⁷

We urge you to consider the grave implications of this judgment. The highest court in the United Kingdom has set a precedent that major national projects can proceed, even where they are inconsistent with maintaining the temperature limit on which our collective survival depends. Indeed, the precedent goes further still. It says that the Government is not bound even to consider the goals of an Agreement that is near universally agreed. Not only does that undermine the UK's status as a “champion of the Paris Agreement,” just ahead of the critical climate talks in Glasgow later this year (COP26). It also substantially reduces humanity's prospects of maintaining that limit and hence, averting disaster.

The rule of law, including international law, is a vital part of the fabric of a democratic society and it is key to securing the safety of our interconnected world. We understand why Tim Crosland of Plan B. Earth felt it necessary to raise the alarm about the goals of the Paris Agreement being ignored by British courts. We remind the Court of its own obligations under the Human Rights Act 1998 to safeguard the right to life. That entails taking all reasonable measures to ensure respect for the entirety of the Paris Agreement.

The climate crisis jeopardizes civilization and the natural world alike, with those who have contributed least to the crisis, the younger generation and the Global South, on the frontline. With all that is at stake, in the UK and beyond, we urge the Court to take appropriate steps to mitigate the profound harm its judgment has caused and to consider the actions of Tim Crosland in this light.

Yours sincerely,

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⁵ *Ibid.* para. 212

⁶ It was only the Interested Party, Heathrow Airport Limited, which brought the appeal

⁷ Supreme Court judgment, para. 112:

<https://www.supremecourt.uk/cases/docs/uksc-2020-0042-judgment.pdf>

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