Environmental Dispute Resolution: Combining Settlement Mechanisms for Transnational Enforcement of International Environment Disputes

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Sustainable development in a global economy requires a delicate long-term balance between human activity and nature's ability to renew itself. Future prosperity depends both on preserving ecological treasures for the benefit of future generations and on continued economic growth and innovation. Since there will always be tension between industrial development and preservation of the environment, improved systems and techniques for managing the inevitable conflicts and resolving the inevitable disputes must be developed.¹

Natural resources are distributed underground through unpredictable regions of land, oceans, ecosystems, and islands. This type of distribution weaves through geopolitical borders, communities, cultures, and sovereign states. Physical boundaries associated with environmental issues often do not correspond to the jurisdictional boundaries that constrain regulatory authorities.² Protecting fragile environments while exploring for, developing, producing, and transporting

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² Id. at 6.
oil and gas in and through ecologically and socially sensitive areas present important environmental governance challenges and associated security risks. This is a particular challenge because of the extent to which


4 Nigeria is a member of OPEC and is its 10th largest producer. MBendi, Nigeria: Oil and Gas, http://www.mbendi.co.za/indy/oilg/af/ng/p0005.htm [hereinafter MBendi]. The “oil-rich Nigeria[n] economy, long hobbled by political instability, corruption, . . . and poor macroeconomic management” “faces the daunting task[s] of rebuilding a petroleum-based economy, whose revenues have been squandered through corruption and mismanagement, . . . institutionalizing democracy,” and “defus[ing] longstanding ethnic and religious tensions.” CIA WORLD FACTBOOK, http://www.cia.gov/cia/publications/factbook/print/ni.html [hereinafter WORLD FACTBOOK].

Its “former military rulers failed to diversify the economy away from overdependence on the capital-intensive oil sector, which provides 20% of Nigeria’s GDP, 95% of [its] foreign exchange earnings, and about 65% of [its] budgetary revenues” “and the country, once a large net exporter of food, now must import food” to keep up with its expanding population base. Id. Value-based and emotionally volatile conflicts among and between the Nigerian federal government, local communities and ethnic groups, and multinational petroleum companies demonstrate linkage between environmental degradation, disputes over equitable distribution of oil revenues, and longstanding ethnic disputes. See e.g., “Nigerian Environmental Activist Ken Saro-Wiwa Receives UN Environment Award,” United Nations Environment Programme (“UNEP”) Global 500 Roll of Honour Press Release (May 29, 1966). Ken Saro-Wiwa, who had earlier received international renown by winning the 1995 Goldman Environmental Prize for Africa, was “posthumously elected to UNEP Global 500 Roll of Honour for advancing the cause of environmental protection” and survival of the Ogoni people, with a focus on the pollution of their Niger Delta homeland, an emphasis on the inextricable link between human rights and the environment, and advocacy up to the date of his November 1999 execution for “peaceful resistance to the forces that would deprive the Ogoni people of a say in the development of their region.” Remember Saro-Wiwa, http://www.remembersarowiwa.com/after.htm. See also Wale Adabanwi, “Nigeria: Shell of a State,” DOLLARS AND SENSE MAGAZINE (July/August 2001), available at http://www.thirdworldtraveler.com/Africa/Nigeria_Shell_State.htm (in February 2000, Nigerian federal troops “sacked and razed” to its foundations the entire Niger Delta village of Odi during a search for suspects alleged to have “kidnapped and killed 12
environmental compliance laws, rules, and regulations vary widely from jurisdiction to jurisdiction;\(^5\) treaties to protect our "global commons" (e.g., Earth’s air and its atmosphere; the high seas and deep seabed; the polar regions; and the planet’s magnetosphere and gravitational field in outer space) are signed by some but not all nations.\(^6\) “International environmental disputes, whether in terms of conflicts initiated from tensions over scarce resources or noncompliance with multilateral treaty obligations, pose new threats to international security.”\(^7\)

The focus of this article is to discuss mechanisms for international environment enforcement dispute resolutions for an oil producing region that has been the site of major confrontations regarding environmental protection issues – the Niger Delta in the western coastal region of Africa. Over twenty multinational and national oil production companies are engaged in oil and gas exploration in the area. Allegations have been raised that oil and gas exploration companies and African environmental law lack standards to ensure environmental protection. The results have caused regional environmental issues that can expand into global development deficiencies, tensions, or threats to international security.

This article also describes emerging methodologies for achieving sustainable solutions to complex and emotionally volatile multi-stakeholder conflicts, to support the achievement of sustainable development objectives, and urges the support and modification of new mobile policemen in one of the region’s numerous uprisings against ecological devastation and neglect.”

“Civil unrest has resulted in more than 700 deaths since President Obasanjo’s take over.” MBendi, supra. He was scheduled to stand for re-election on April 19, 2002. WORLD FACTBOOK, supra. In response to ongoing and escalating violence, ChevronTexaco and Royal Dutch Shell recently shut down production, invoking the “force majeure” clauses of their concession contracts. See Rigzone.com, “ChevronTexaco Declares Force Majeure on Nigeria Production” (March 20, 2003), available at http://www.rigzone.com/news/article.asp?aIid=5988.

\(^5\) See MACNAUGHTON & MARTIN, supra note 1, at 280-285.


multilateral treaty enforcement mechanisms through the United Nations. It identifies three emerging systems and techniques for managing these environmental risk management and related security risks: (1) ISO 14000 / 14001 and the development of standardized templates for governmental, community, and industry environmental management systems; (2) the recognition and application of the Non-Compliance Provision of the Montreal Protocol; and (3) merging the goals of the 2002 World Summit on Sustainable Development into conflict management methodologies, while seeking to link the individual mechanisms to one jurisdiction for conflict management.

II. HISTORY AND BACKGROUND

One of the concerns of global warming is that if the concentrations of human-made greenhouse gases continue to increase, the average temperature of the Earth will get warmer, causing a change in the global weather patterns and raising the sea level. At the Kyoto summit on greenhouse gases, participants considered a solution to carbon-dioxide emissions. Scientists have determined that inefficient and increased use of coal, oil, and natural gases cause carbon dioxide, sulfur dioxide, and methane emissions to enter into the atmosphere. These emissions have been the focus of international environmental controversy.

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"Nigeria is the world's eighth largest exporter of crude oil" and the largest oil producer in Africa, with a daily output of some 2.4 million barrels. "In January 2005 Oil and Gas Journal estimated that Nigeria contains 176 trillion cubic feet . . . of proven natural gas reserves mainly from onshore fields and the swampy areas of the Niger River Delta." The mega-corporations, operating in a region that "lack[s] legally binding air pollution regulations," non-binding guidelines, and enforcement authority, are alleged as the chief culprits implicated in global warming and oil spills, especially due to the high volume of oil transport.

"Due . . . to the lack of a gas infrastructure, 75% of associated gas is flared and 12% is re-injected." Many continuously burning gas flares that have been lit and burning steadily, "some for over 30 to 40 years", are "polluting the air with dangerous CO2 and methane gases." The gas flares are heavily contributing "to the global warming trend, while resulting in destructive acid rains and serious contamination of air, water and land." "Flaring of produced gas is the most significant source of air emissions, particularly where there is no infrastructure or market available

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13 See, e.g., MBendi, supra note 4.
14 Id.
17 Id.
18 Ikeme, supra note 8.
19 EIA, supra note 16.
20 MBendi, supra note 4.
22 Id.
for the gas."\(^{23}\) Reports indicate the daily total energy wasted in Nigeria by flaring equals "all the daily power usage of the entire African Continent."\(^{24}\) The International Union for the Conservation of Nature and Natural Resources reports, "flaring of associated gas must be considered as the most significant environmental impact of the Nigerian oil industry, both locally and globally."\(^{25}\) "These errant flaring practices in Nigeria far exceed any other country's allowable flaring limits."\(^{26}\)

"Besides the grave problems associated with . . . gas flares," other problems include "on-site oil leaks and ruptured pipelines [which] are commonplace" in the Niger Delta region.\(^{27}\) "On average, there are three major oil spills in the Niger Delta recorded each month."\(^{28}\) "[O]ld pipes, rusty and in possible need of repair, run above ground, crisscrossing . . . in cumbersome clusters," may experience undetected leaks.\(^{29}\) When the pipes leak, the oil companies are accused of being slow to repair them. One Shell oil leak near the Otuegwe 1 community had reportedly "spilled over 800,000 barrels of crude oil from a 16 inch buried pipeline [that] began leaking in June 1998."\(^{30}\) "The 'economic and cultural heart of the community' was seriously imperiled."\(^{31}\) "The leak which was [located] in a remote [area], was not repaired [until] months after it had begun."\(^{32}\) The failure to correct the leak caused environmental and economic hardship on the residents of Otuegwe 1 community.\(^{33}\)


\(^{25}\) Id.

\(^{26}\) Id.


\(^{28}\) Id.

\(^{29}\) Id.

\(^{30}\) Id. See also http://www.essentialaction.org/shell/Final_Report.pdf.

\(^{31}\) Fleshman, *supra* note 27.

\(^{32}\) Id.

\(^{33}\) Id.
Many villages in the Delta community have registered environmental complaints and concerns about environmental responsibilities of the multinational oil companies.34 Shell, Chevron, Agip, Texaco, Nigerian National Petroleum Corp., Elf Oil, and ExxonMobile were among those mentioned most often in their denunciations.35 “By far, Shell Oil, which runs over 50% of oil operations in the Delta,” is reported to be “the most notorious and troublesome of the multinationals,” and has been “accused by locals of gross negligence involving violations of human rights and callous disregard for the environment.”36

During the early 1990’s, “Shell Oil [was] barred from Ogoniland where . . . the popular Movement for Survival of the Ogoni People (“MOSOP”)” protested the oil spillage “of several Shell operations in the region.”37 In Nigeria’s southern state of Ondo, reports indicated that government action was necessary to prevent the community from suffering from outbreaks of epidemic water-borne diseases “due to . . . contamination of . . . fresh water sources [as a result of] oil exploration activities.”38 Wildlife experts indicated that “certain species of fish [would likely] . . . move into the deep sea due to unfavorable environmental conditions along the coast.”39 The traditional occupation and lifestyle of fishing, a “mainstay of the economy of the local people,” would be completely disturbed.40 Oil spills and frequent vandalism of pipelines by the local residents, as alleged by the multinational oil companies, “bec[a]me a common scene in Nigeria’s oil producing areas as [a] result” of the operations by the multinational and domestic oil companies.41 In addition, corrosion on production pipelines caused an outbreak of gas leakage in the Gana Community.42 The air was offensive and dangerous emissions escaped from the affected site.43 “Civil unrest has resulted in

34 Mangrove Action Project, supra note 21.
35 Id.
36 Id.
37 Id.
38 Id.
39 Id.
40 Id.
41 Id.
42 Id.
43 Id.
over 700 deaths,” “result[ing] in the shut [down] of oil terminals and flow stations,” border disputes, and sabotage.44

Internal disputes and civil unrest are commonplace in the Niger Delta. One such incident occurred in July 8, 2002, “when hundreds of unarmed [Ugborodo] women commandeered a boat and infiltrated” a ChevronTexaco “terminal that pumps oil from deep in West Africa’s great Niger Delta.”45 The villagers believed that the multinational company, ChevronTexaco, had widened and extended the creek to separate the village from the oil terminal “through a section of mangrove forest[, which] the Ugborodo had long used as a cemetery.”46 As a result of the widened creek, the village began to sink.47 The Ugborodo took issue with the widening and extension of the creek, other trenches “that the oilmen had dug in the area for pipelines,” and the lack of community development in the area.48

“ChevronTexaco stopped pumping crude for four days and failed to meet its export quotas for more than 10 days” as a result of the protest and a subsequent fire that occurred on an oil storage tank caused by a lightning strike.49 The inherent conflict between economic development and sustainable environmental protection caused the delay in production and resulted in the failure to meet certain obligations.50

The despoliation of the environment in the Niger Delta “and the resultant conflicts have their roots in the discovery of oil, exploitation, exploration, and production activities by the oil multinationals in the late 1950s.”51 The Niger Delta “is now increasingly threatened by environmental devastation and worsening economic conditions.”52 “[T]he

44 MBendi, supra note 4.
46 Id.
47 Id.
48 Id.
49 Id.
50 MACNAUGHTON & MARTIN, supra note 1, at 1269. See also, Onishi, supra at 45.
52 Id.
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extraction and production of oil by large companies[,] in accordance with
the Nigerian federal government, has caused environmental damage in this
extremely sensitive ecosystem."\(^5\) This is a malign problem that has
occurred "where [the] ecological vulnerability is prominent and abatement
costs are high."\(^3\) The vulnerability of the Niger Delta may be measured
by "the ability of socio-economic systems to absorb the ecological
impact."\(^5\) Abatement costs in this situation "are a function of the extent to
which solutions of the relevant environmental problem affect core
economic activities, like power supply, industry, and transportation."\(^6\) "In
the complex boundary delimitations of the Niger delta area, border
disputes are common."\(^5\) "Nigeria [has had disputes] with both Cameroon
and Equatorial Guinea over borders relating to oil finds in the Gulf of
Guinea."\(^5\)

External disputes concern international agreements that control
pollution and protect natural resources. The Vienna Convention for the
Protection of the Ozone Layer was signed on March 22, 1985 while the
Montreal Protocol on Substances that Deplete the Ozone Layer was signed
on September 16, 1987.\(^5\) All of the countries, including the Niger Delta,
are parties to these treaties. Thus, external disputes may arise because the
treaties address both pollution and natural resource problems (several key

\(^5\) Okechukwu Ibeanu, Oiling the Friction: Environmental Conflict Management in the Niger Delta, Nigeria, available at http://www.wilsoncenter.org/index.cfm?topic_id=1413&categoryid=A82CCAEE-65BF-E7DC-46B3B37D0A3A575F&fuseaction=topics.events_item_topics&event_id=7401. Dr. Ibeanu presented his research findings on the conflict and challenges of this oil rich but environmentally fragile region of Nigeria known as the oil belt, at a discussion meeting co-hosted by the Environmental Change and Security Project and the Africa Project of the Wilson Center.


\(^5\) Id.

\(^6\) Id.

\(^5\) MBendi, supra note 4.

\(^5\) Id.

environmental issues connected with global change) and they involve

different issues that occur primarily within states’ borders that are

inherently global in nature.  

II. ISO 14000: AN INTERNATIONAL STANDARD FOR ENVIRONMENTAL

PERFORMANCE AND THE DEVELOPMENT OF GOVERNMENTAL, COMMUNITY,

AND INDUSTRY MANAGEMENT SYSTEMS

How do we organize a set of standards amongst the multinational
oil companies and the domestic oil companies to monitor environmental
risk management, human rights, and especially related security risks?
Although the environmental problems may vary from region to region and
from company to company, “the need for integral systems which aim to
promote environmental performance and continuous improvement is
universal.”

In recent years, Nigeria has become a test case for balancing
economic and resource development with community development. Regional variation, environmental performance, business performance,
and regulatory controls require “a need for greater use of standardization[s] and cooperative . . . incentives” “to promote super-efficiency, restoration, continual improvement, . . . and certifiable
environmental performance.” “Environmental technology is developing
at such a rapid rate that a host of solutions have already been discovered to
alleviate these problems on a global basis.” One such solution is to work
within a similar system of environmental standards. Beginning in 1987, a
set of standards has been employed by “leading multinational companies
from industrialized countries” that have developed a methodology for

60 Id.

61 David Monsma, Sustainable Development and the Global Economy: New Systems in

62 Mike Johnson, Nigeria: New Energy From New Partnerships, CVX Magazine, First
Quarter 2003 at 19, available at
August 4, 2003).

63 Monsma, supra note 61, at 1249.

64 John Voorhees, Global Environmental Solutions: Management Systems and
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"international management standards under the auspices of the International Organization for Standardization ("ISO")." The "ISO builds consensus within government, industry, and other interested parties to create globally accepted standards that are voluntarily adopted by the international business community." The ISO 14000 series of standards apply a management systems approach. "Management system" refers to the organization's structure for managing its processes or activities that transform inputs of resources into a product or service which meet the organization's objectives, such as satisfying the customer's quality requirements, complying with regulations, or meeting environmental objectives. The management systems approach acts as "a series of generic and reliable global standards that provide a structured mechanism for businesses to measure, manage, and ultimately reduce their environmental risks and impacts." "Within the ISO 14000 series of standards," ISO 14001 is "the core standard for the development of an environmental management system." ISO 14001 is an auditable standard governing the essential elements of an environmental management system. It contains "'hard' provisions that. . . force important environmental performance improvements in participating industrial and commercial organizations." 

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66 See Voorhees, supra note 64, at 1159. The ISO 9000 series of standards was established to set a guideline for companies to use when they create product management systems for themselves and their suppliers. "Modeled after ISO 9000, the ISO 14000 became a means 'to reduce pollution by weaving environmental thinking into the design and manufacture of products, rather than simply tagging on environmental management as an after-thought to production.'" Id. at 1163 (citing Mary Lynne Calkins, Make Friends First, Certify Later: China and ISO 14000, 9 GEO. INT'L ENVTL. L. REV. 609, 612 (1997)).
67 Id.
68 Id. at 1163.
69 Id. at 1164 n.44.
71 Id.
that meet the requirements of ISO 14001 can be certified, thereby earning the right [to] publicize their operations as meeting the international standard for an environmental management system."

"[T]he ISO 9000 and ISO 14000 families . . . are known as 'generic management system standards.'" "'Generic' [indicates] that the same standards can be applied to any organization, large or small, whatever its product - including whether its 'product' is actually a service - in any sector of activity, and whether it is a business enterprise, a public administration, or a government department." An environmental management system "is the part of the overall . . . system that includes organizational structure, planning activities, responsibilities, practices, procedures, processes, and resources for developing, implementing, achieving, reviewing, and maintaining [an] environmental policy." Thus, the ISO 14000 series is designed as a set of generic, internationally recognized standards for environmental management.

The ISO is committed "to respond[ing] to the . . . challenge of 'sustainable development' articulated at the 1992 [U.N.] Conference on Environment and Development in Rio de Janeiro." "ISO 14000 has a two-pronged approach to meeting the needs of all stakeholders from business, industry, governmental authorities[,] and non-governmental organizations." The first prong "offers a wide-ranging portfolio of standards to deal with . . . environmental challenges" from air, water, and

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74 ISO14000.com, http://www.iso14000.com/Implementation/Impl_DeFsGlossary.htm. "'Generic' also signifies that no matter what the organization is or does, if it wants to establish a quality management system or an environmental management system, then such a system has a number of essential features that are spelled out in the relevant standards of the ISO 14000 families." Overview of the ISO System, supra note 73.
75 Voorhees, supra note 64, at 1163.
77 Id. at 2.
soil;\textsuperscript{78} and the second prong develops the "standards that help organizations take a . . . pro-active approach to managing environmental issues."\textsuperscript{79} "To spearhead this . . . approach, ISO established a new technical committee, ISO/TC 207,"\textsuperscript{80} to further the process.\textsuperscript{81} DEVCO is known for its collaboration with other international organizations, such as the United Nations Conference on Trade and Development ("UNCTAD") and the United Nations Industrial Development Organization ("UNIDO") in their efforts to assist developing countries.\textsuperscript{82}

A. Creating a Roadmap for the Municipality Management Application of ISO 14000 in the Niger Delta Region

The environmental management system, ISO 14000, identifies waste and oil operations facility generates, the energy and materials it consumes, the environmental hazards and risks it creates, and develops management systems that continuously improve its performance with respect to those impacts.\textsuperscript{83} In contrast to an industrial facility, a municipal facility must account directly to the customers it serves, its residents, who are also the neighbors affected by the facility.\textsuperscript{84} The same environmental management system can be utilized by the Niger Delta region acting as a non-traditional municipality.

The Niger Delta Development Commission ("NDDC") is a committee formed by the Nigerian government with the aim of creating a development plan for the Niger Delta region.\textsuperscript{85} The NDDC is a federal commission established by Nigerian president Olusegun Obasanjo, in 2000, with the sole mandate of developing the oil-rich Niger-Delta region

\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} Id. at 3.
\textsuperscript{82} Id.
\textsuperscript{83} Best Practice Guide, \textit{supra} note 66.
\textsuperscript{84} Id.
of southern Nigeria.\textsuperscript{86} To achieve the mandate, the NDDC board identified the areas of focus: development of social and physical infrastructure, technology, economic revival and prosperity, ecological/environmental remediation and stability, and human development.\textsuperscript{87}

The Niger-Delta Development Commission Act indicates that the functions and powers of the commission shall include: addressing "ecological and environmental problems that arise from the exploration of oil mineral in the Niger-Delta area and advise the Federal Government and . . . member States on the prevention and control of oil spillages[,] gas flaring[,] and environmental pollution."\textsuperscript{88} The NDDC is also to act as a "liais[on] with the various oil[,] mineral[,] and gas prospecting and producing companies on all matters of pollution prevention and control."\textsuperscript{89} In addition, the NDDC "execute[s] such other works and perform[s] such other functions . . . [as] are required for the sustainable development of the Niger- Delta area and its people."\textsuperscript{90} The NDDC is "subject to the direction, control or supervision in the performance of its functions under this Act by the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria."\textsuperscript{91}

The NDDC possesses authority as part of the government, thus, it is conceivable that the NDDC has the power to create a non-traditional municipality as a social and physical infrastructure in the Niger Delta region. Applying the framework for municipality application of the ISO 14001, the NDDC would be in a position to develop management systems that continuously improve the performance of the multinational oil companies with respect to the waste an oil operations facility generates. The non-traditional municipality application would yield a better outcome as compared to the outcome in the Ogoniland situation. The Ogoniland protest was focused on the environmental impacts of the oil operations itself. Ogoniland, acting as an unofficial municipality facility, by and through the MOSOP, took up the unofficial responsibility to the customers it serves, the residents, and also the neighbors who are affected by the oil

\textsuperscript{86} Id.
\textsuperscript{87} Id.
\textsuperscript{88} Id.
\textsuperscript{89} Id.
\textsuperscript{90} Id.
\textsuperscript{91} Id.
In contrast, non-traditional municipality application of the NDDC would focus on accountability for all of the stakeholders and the avoidance of conflicts with the customers of the non-traditional municipality, its residents, in the development of a management system beneficial to both parties.

The quasi-governing body of the Niger Delta, the NDDC, is focused on nine oil producing states: Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Rivers, Abia, Imo and Ondo. The establishment of the NDDC is premised as a regional development initiative. "It is expected to offer an enduring and sustainable solution to the development needs of the

92 Best Practices, supra note 65, at 8.
93 At the beginning, the area referred to as the Niger Delta was limited to the geo-political zone occupied mainly by minorities of Southern Nigeria, which currently comprises the six states of Akwa Ibom, Bayelsa, Cross River, Delta, Edo and Rivers. In recent years, the Niger Delta region was redefined and enlarged to include all the contiguous nine oil-producing states. The new states of Abia, Imo and Ondo were, therefore, added to the original six. Her Majesty's government set up the Sir Henry Willink's Commission to recommend the best strategies for the development of the region which has the most difficult terrain in the country. When the Commission turned in its report in 1958, it specifically recommended that the Niger Delta region deserves special developmental attention and should, therefore, be made a special area to be developed directly by the Federal Government. The Federal Government established the Niger Delta Development Board ("NDB") in 1960 to cater to the unique developmental needs of the area. After the civil war, an omnibus body, called the River Basin Development Authority, was established not just for the development of the Niger Delta, but for the whole country. At this time, the Niger Delta region was already producing crude oil, which accounted for a large chunk of the nation's foreign exchange earnings. As a request for special attention to be paid to the developmental needs by the people in the region, a Presidential Task Force devoted 1.5% of the Federation Account to the development of the Niger Delta region. In 1993, the Commission then recommended the establishment of a developmental agency for the region to ameliorate the problems that arise from the oil production. This led to the establishment of the Oil Mineral Producing Area Development Commission ("OMPADEC"). By 1998 following his election and inauguration as President on May 29, 1999, President Obasanjo sent a bill to the National Assembly to establish the Niger Delta Development Commission as the agency to implement a programme for the sustainable development of the Niger Delta region. Louis Achi, The Niger Delta Region is Sinking, available at http://www.nigerdeltacongress.com/narticles/niger_delta_region_is_sinking.htm. See also Scott Dolezal, The Systematic Failure to Interpret Article IV of the International Covenant on Civil and Political Rights: Is There a Public Emergency in Nigeria?, 15 AM. U. INT'L L. REV. 1163, 1165 (2000).
However, the activities of the NDDC "do not preclude, but rather complement, other [f]ederal [g]overnment initiatives that are constitutionally [guaranteed] to the states and people of the region." The NDDC Board mandates "initiat[ion], develop[ment], and facilit[ation of] the implementation of a comprehensive and detailed Master Plan for the Niger Delta region." The NDDC has the authority to develop an environmental management system that would work for the region in a similar matter as a municipality. In adopting the ISO, the NDDC would contribute to the implementation of inter-governmental commitment for sustainable development. However, the NDDC, as the governing body, must first establish a partnership with the domestic refineries, the multinational oil companies, local initiatives that are the normal responsibilities of state and local governments, the private sector, non-governmental organizations, local and international development agencies, and the local communities (hereinafter referred to as the "NDDC Partnership"). There is no question that the NDDC Partnership, acting as a non-traditional municipality, could avail itself of the ISO 14001 and the supporting technology from the TC207. When the TC 207 drafted the ISO 14000 series standards, the term "organization" was used deliberately rather than "business" or "corporation" because the committee recognized the principles applied to municipal and other operations as much as they did to business functions.

The willingness of multinational oil companies to create a partnership has been growing. The oil companies, along with Nigerian stakeholders, recently "reviewed . . . findings of [a] draft [of the] Niger Delta Human Development Report and deliberated on how to boost human development in the region that houses the bulk of Nigeria’s crude oil." A

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95 Id.
96 Id.
97 Best Practices, supra note 65, at 7-8.
The human development report was also created as "part of a five-year, multi-pronged partnership between [the United Nations Development Programme] and Shell Petroleum Development Corporation." The partnership's aim is to "reduce[e] poverty and promot[e] human development in the Nigeria Delta." In addition, the NDDC, in collaboration with the United Nations Development Programme (UNDP), sponsored an International Conference on the Development of the Niger Delta Region. The Conference was primarily intended to "open up dialogue among important stakeholders of the Niger Delta, with the objective of building consensus around the major developmental issues and fashioning out a strategy for addressing those issues." The participants included Governors of NDDC member-states, members of National and State Assemblies, Cabinet Ministers, Traditional Rulers, and officials of the NDDC. The UN Assistant Secretary-General and Director, UNDP Regional Bureau for Africa, stakeholders, including representatives of the Niger Delta communities, local and international NGOs, community leaders, media, labor, academia, oil and gas companies, and donor organizations were also in attendance.

Further willingness to participate in the sustainable development of the Niger Delta Region was evident during the spring 2003 official visit with the NDDC, when the Group Managing Director of Shell Petroleum Development Company stated that Shell Oil can help bring development and make a difference, while assuring the NDDC of greater cooperation with Shell. "ExxonMobil states that [it] respond[s] to the needs of the communities where it does business, which may include providing relief assistance to the homeless, improving the lives of children, or simply helping build a sense of pride by revitalizing disadvantaged

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100 Id.
101 Id.
103 Id.
104 Id.
105 Id.
ExxonMobil has identified the improved process procedures and maintenance systems that lead to opportunities for emissions reductions. This led to the signing of a memorandum of understanding with the Nigerian government to study the feasibility of a liquefied natural gas venture in the West Niger Delta region of Nigeria. Previously formed partnerships between the government, Chevron Nigeria Ltd. (CNL), other oil companies, the United Nations, and the Ugborodo oil community have displayed a new willingness to resolve conflict peacefully, in small steps.

B. Establishing the Framework of the Environmental Management System

While developing an environmental management system with and for the domestic and multinational oil companies, the NDDC Partnership plan must keep in mind external compliance, treaties, multilateral agreements, and sustainable development. In doing so, it is important to focus on the five major components of an environmental management system framework. The framework must include Environmental Policy, Planning Processes, Implementation and Operation, Performance Measurement and Corrective Action, and Management Review.

The cornerstone of an environmental management system is a written environmental policy aligned with the organization’s business or mission which also requires the organization’s compliance with applicable laws and regulations, prevention of pollution, and continuous improvement. To respond to the environmental mission associated with the Niger Delta region, the NDDC Partnership must adopt a policy

110 Johnson, supra note 62.
111 Best Practices, supra note 65, at 5.
112 Knight, supra note 70, at 623.
statement setting the overall level of environmental responsibilities and performances which the partnership seeks. The plan must 1) take into consideration all environmental treaty obligations, regulations, and multilateral agreements; 2) be appropriate to the scale and kinds of environmental impacts of the Region; 3) provide the framework for setting and reviewing the environmental objectives and targets; 4) include a commitment for continual improvement, prevention of pollution, and compliance with applicable environmental standards and regulations, codes, and principles to which the NDDC Partnership subscribes; 5) document, implement, maintain, and communicate to all parties; and 6) be available to the public.

A documented planning process must identify the environmental aspects of the activities, products, and processes of the organization as well as the applicable legal and regulatory requirements. The system components relating to the planning process with the NDDC Partnership must be agreed upon by the members of the joint venture. First, the groups should identify the environmental aspects as being actual or potential interactions of the oil industry with the environment. This process includes using the reservoir of technology available in the ISO standards, the TC 207, to identify such environmental aspects. Then all parties must have access to the plain language and intent of all environmental laws, regulations, multilateral environmental agreements, and environmental related treaties applicable to oil and gas exploration.

It is equally important that all parties are allied with the goals and concepts of sustainable development, the mission of the 2002 World Summit on Sustainable Development, Agenda 21, and ISO 14000. The parties must also set appropriate targets and environmental objectives that fit within the overall environmental policy statement and that the objectives are reasonable as well as achievable. "An environmental target is defined as a 'detailed performance requirement, quantified where practicable, applicable to the organization or parts thereof, that arises from

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113 Best Practices, supra note 65, at 11.
114 Id.
115 Knight, supra note 70, at 623.
116 Best Practices, supra note 65, at 12.
117 Id.
118 Id.
the environmental objectives and that are essential to be met in order to achieve those objectives." Lastly, the NDDC Partnership must develop a set of specific management programs to achieve the environmental objectives and targets. Each program would be assigned a specific task.

Roles, responsibilities, and authorities associated with essential components of the environmental management system, including a direct accountability link to senior management, must be defined. The environmental management responsibilities must be extended to all functions in the organization. The implementation and operations component of ISO 14001 would require organizational structure and responsibilities, operational controls, training, awareness and competence, communications, environmental management systems documentation, document control, and emergency preparedness and response. The relevant Directorates from the NDDC that may have experience in these required responsibilities include the Directorate of Environment Protection and Control, the Directorate of Commercial and Industrial Development, the Directorate of Project Monitoring Supervision, and the Directorate of Planning, Research, Statistics and Management Information. The other members of the NDDC Partnership may have departments or areas of expertise to organize missing elements of the Implementation and Operation component of the environmental management system. This "systems approach to environmental management [would also] require[]

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119 Id. at 13.
120 Id.
121 Id.
122 Knight, supra note 70, at 624.
123 Id.
124 Best Practices, supra note 65, at 13-16.
125 See Kaniye S.A. Ebuku, Appraising Nigeria's Niger Delta Development Commission Act 2000 (2004). Essentially, the NDDC has the duty to formulate policies and guidelines for the development of the Niger Delta area, to conceive, plan and implement projects and programmes for the sustainable development of the area in the field of transportation (including roads, jetties and waterways), health, education, employment, industrialization, agriculture and fisheries, housing and urban development, water supply, electricity, and telecommunications, and to tackle ecological and environmental problems that arise from the exploration of oil mineral in the area. Id.
that [the] environmental management system[] be integrated” within the many operations and functional groups of the NDDC Partnership.\textsuperscript{126}

The intended purpose of the measurement and auditing component is to “have a process for verifying whether operations are in compliance with applicable environmental regulatory requirements,” measuring progress of stated goals, “and for periodically auditing conformity of the [environmental management systems]” with ISO 14001.\textsuperscript{127} “An auditor might . . . evaluate [the many facilities’] compliance with environmental requirements [and] the efficacy of the . . . environmental management [program], or the nature and extent of risks to the firm . . . from regulated and unregulated materials and practices.”\textsuperscript{128} “[T]he use of . . . regulated entities [helps] achieve and maintain compliance with environmental laws and regulations, as well as [assists in] identify[ing] and correct[ing] unregulated environmental hazards.”\textsuperscript{129} The NDDC Partnership “must also maintain a process for investigating ‘non-conformance’ . . . for taking action to mitigate environmental impacts, and for initiating and completing corrective and preventive actions.”\textsuperscript{130}

“The final component of the ISO 14001 standard requires the organization to have a system for conducting a management-level review of the overall effectiveness of the environmental management system.”\textsuperscript{131} In the case of a municipality environmental management system, the top management-level review would be the General Director, General Manager, Municipality Manager, mayor, etc.\textsuperscript{132} In the case of the NDDC Partnership, the top management-level would be the individual appointed by the NDDC Partnership or the President, Chief Olusegun Obasanjo.

\textsuperscript{126} Best Practices, supra note 65, at 13.
\textsuperscript{127} Id. at 16.
\textsuperscript{128} William L. Thomas, Bertram C. Frey, & Fern Fleischer Daves, Using Auditing, Pollution Prevention, and Management Systems to Craft Superior Environmental Enforcement Solutions, 30 ENVTL. L. REP. 10,299, 10,299 (May 2000).
\textsuperscript{129} Id.
\textsuperscript{130} Knight, supra note 70, at 625.
\textsuperscript{131} Id.
\textsuperscript{132} Best Practices, supra note 65, at 18.
C. The Establishment of an Environmental Management System, in Accordance with ISO 14000, is Not a New Concept in Developing Countries

Leading multinational companies from industrialized countries have already begun developing a methodology for international management standards with ISO 14000. Voluntary environmental management systems have a footing in Mexico, as well as Canada and the United States. In 1999, “South Africa [was] leading the rest of the countries in Africa with twenty-five [ISO 14000] certifications.” The government developed and facilitated the implementation of the environmental management system under ISO 14000 to help companies deal with their requirements. The Department of Environmental Affairs was created to handle the task. The Integrated Environmental Management (IEM) system was developed by the government to create a process with steps that would demand compliance and provide for enforcement action. “In Argentina, the first oil fields and pipeline[s] in the world were . . . certified to ISO 14000.” “In November 2001, BP Pipelines became the only liquids pipeline company in North America to achieve ISO certification.” As of 2005, Argentina had 408 certifications while another oil producing country, Venezuela, had seventeen. Japan led global growth in 2005 with 19,584 certificates while China had 8,862 certificates. The new total represents a 37 percent increase over the

133 Voorhees, supra note 64, at 1168-77.
134 Id. at 1175.
135 Id. at 1174.
136 Id.
138 Id.
139 Id. at 1175.
142 Id.
same period in 2003, according to the ISO Survey of Certifications 2004. In response to the growing need to identify and reduce the impact products and services have on the environment; both domestic and multinational companies around the world have adopted Environmental Management Systems as frameworks for integrating corporate environmental protection policies, programs, and practices. Advocates of ISO 14001 claim that the new trend of public and private organizational structures helps companies reduce negative environmental impacts caused by their activities and establishes a strong image of corporate social responsibility. Building peace prevents conflicts and instability, improves governance, and enhances sustainable development. A sincere commitment is needed to ensure consistency and the NDDC or the Niger Delta area must be a part of the growing ISO trend. Such a commitment will aid in achieving sustainable peace in the Niger Delta region. Some advocates for peace would suggest the Niger Delta communities sign an offshore/onshore oil dichotomy bill. However, supporting the ISO standards is a starting place.

"ISO has a specific program[] for developing countries" to participate in "training seminars, sponsorships[, ] fellowships, and publications." DEVCO has "membership of nearly 117 standards institutes from both industrialized and developing countries." ISO also collaborates with its partners on international standardization. With these support systems already established, creating an environmental management system for a non-traditional municipality under the leadership of the NDDC Partnership would be as simple as following a well-defined recipe. For governments, ISO standards "provide the

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143 Id.
145 Id. at 4-5.
147 Id.
149 *Overview of the ISO System*, supra note 73.
150 Id.
For multinational oil companies, the widespread adoption of international standards means that consistency is applied and can be the basis of development and wide acceptance in their sectors. For businesses, the widespread adoption of international standards means that suppliers can base the development of their products and services on specifications that have wide acceptance in their sectors. For trade officials negotiating in emerging regional and global markets, international standards create "a level playing field" for all competitors in those markets. This, in turn, means that all oil companies involved in the NDDC Partnership, by using international standards, are increasingly free to compete in many more markets around the world.

The goals of the Kyoto Protocol, the Vienna Convention, and the Montreal Protocol call for the elimination of greenhouse gases and ozone-depleting substances. Each document has allowed for a grace period for compliance for developing countries. By taking the lead in acting as a municipality, the NDDC could ensure that the nation is attempting to achieve the guideline requirements within the allocated grace period. Developing social responsibility by achieving guideline requirements leads to conflict avoidance and achieving a sustainable solution. Although the ISO 14001 was initially designed for voluntary participation by businesses, the process of working with individual businesses may not occur quickly enough for the Niger Delta region to meet environmental compliance. With the NDDC Partnership acting as a leader in the coordination of business participation, the non-traditional municipality environment management system may prove to be much more effective in reducing ozone and greenhouse gases in the Niger Delta region.

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151 Id.
152 Id.
153 Id.
154 Id.
155 Ikeme, supra note 8.
ENVIRONMENTAL DISPUTE RESOLUTION

III. RECOGNITION AND APPLICATION OF THE NON-COMPLIANCE PROVISIONS OF THE MONTREAL PROTOCOL

Today an immensely important case in point exists in Nigeria where petroleum and natural gas extraction has been carried out with an alleged reckless abandon by some multi-national oil companies. Nigeria is the world’s eighth largest exporter of crude oil and one of the largest oil producers in Africa with a daily output of some 2.4 million barrels. However, almost three-quarters of the production is by Western oil companies operating in the Niger Delta Region. These mega-corporations, operating in a region that “lack[s] legally binding air pollution regulations,” with “non-binding guidelines and no enforcement authority,” are the chief culprits implicated in global warming and “oil spills due to the high volume of oil transport[]. The companies in this area have “consumed the most energy and emitted the most carbon per dollar of GDP among major countries in Africa.”

In order to examine the potential impacts arising from exploration and production operations it is important to understand the sources and nature of the emissions and their relative contributions to atmospheric impacts as well as how they relate to global issues such as stratospheric ozone depletion and climate change. Emissions into the air may be categorized by their discharge method in two ways: “[p]oint source emissions (e.g. fuel combustion, flares), where the release is through single point sources into the atmosphere;” and “[f]ugitive emissions (e.g. volatilization of vapor from open vessels and equipment leaks such as

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156 Mangrove Action Project, supra note 21.
157 Pipeline, supra note 12.
158 Comtex, supra note 15.
159 EIA, supra note 16.
160 Id.
161 Ikeme, supra note 8.
162 EIA, supra note 16.
163 Id.
164 Environmental Management in Oil, supra note 23.
valves and flanges).” These discharge emissions arise from flaring, venting and purging gases; combustion processes such as diesel engines and gas turbines; fugitive gases from loading operations; tankage and losses from process equipment; airborne particulates from soil disturbance during construction and from vehicle traffic; and particulates from other burning sources, such as well testing. Ozone depletion and climate change emission gases include carbon dioxide, carbon monoxide, methane, volatile organic carbons, and nitrogen oxides. Emissions of sulphur dioxides and hydrogen sulphide can also occur.

"Trans-boundary air pollution has given rise to some of the most important international disputes." The United Nations recognizes that environmental problems have the potential to cause tension between states, perhaps to the extent of causing or escalating international conflicts. International environmental case studies, conventions, and treaties have been enacted to demonstrate that numerous agreements and remedies are available to defuse trans-boundary problems and to resolve international conflicts between states regarding ozone depletion, global warming, and protection of the environment.

Treaties are difficult to enforce and compliance is a problem, and even more so in developing countries. Treaties that incorporate dispute resolution provisions may be the answer to enforceability. “Non-

166 Environmental Management in Oil, supra note 23.
167 Id.
168 Id.
169 DAVID HUNTER, JAMES SALZMAN, & DURWOOD ZAELKE, INTERNATIONAL ENVIRONMENTAL LAW AND POLICY 498 (2d ed. 2002).
170 Konisky, supra note 7.
compliance mechanisms could be used by the contracting parties to provide a vehicle to identify possible . . . non-compliance at an early stage[,] the causes of non-compliance, and to formulate appropriate responses[,] including addressing and . . . correcting the state of non-compliance without delay." The Montreal Protocol on Substances that Deplete the Ozone Layer was agreed upon on September 16, 1987, and it contains a dispute resolution provision to handle non-compliance issues between states. The Protocol also contains clauses to cover the special circumstances of several groups of countries, especially developing countries with low consumption rates, the ability or inability to comply with the ozone depletion requirement within the same time frame, and utilization of the same ozone-depleting methods as other countries. The Protocol's primary objective is eliminating ozone-depleting substances. The Protocol was signed by forty-seven participants, including Nigeria. The most unique section of this agreement was the dispute resolution provisions and non-compliance procedure in Article 8. Specifically, the

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177 Montreal Protocol, supra note 174.

178 Non-Compliance procedure:

The following procedure has been formulated pursuant to Article 8 of the Montreal Protocol. It shall apply without prejudice to the operation of the settlement of disputes procedure laid down in Article 11 of the Vienna Convention.

1. If one or more Parties have reservations regarding another Party's implementation of its obligations under the Protocol, those concerns
may be addressed in writing to the Secretariat. Such a submission shall be supported by corroborating information.

2. The Secretariat shall, within two weeks of its receiving a submission, send a copy of that submission to the Party whose implementation of a particular provision of the Protocol is at issue. Any reply and information in support thereof are to be submitted to the Secretariat and to the Parties involved within three months of the date of the dispatch or such longer period as the circumstances of any particular case may require. If the Secretariat has not received a reply from the Party three months after sending it the original submission, the Secretariat shall send a reminder to the Party that it has yet to provide its reply. The Secretariat shall, as soon as the reply and information from the Party are available, but not later than six months after receiving the submission, transmit the submission, the reply and the information, if any, provided by the Parties to the Implementation Committee referred to in paragraph 5, which shall consider the matter as soon as practicable.

3. Where the Secretariat, during the course of preparing its report, becomes aware of possible noncompliance by any Party with its obligations under the Protocol, it may request the Party concerned to furnish necessary information about the matter. If there is no response from the Party concerned within three months or such longer period as the circumstances of the matter may require or the matter is not resolved through administrative action or through diplomatic contacts, the Secretariat shall include the matter in its report to the Meeting of the Parties pursuant to Article 12 (c) of the Protocol and inform the Implementation Committee, which shall consider the matter as soon as practicable.

4. Where a Party concludes that, despite having made its best, bona fide efforts, it is unable to comply fully with its obligations under the Protocol, it may address to the Secretariat a submission in writing, explaining, in particular, the specific circumstances that it considers to be the cause of its noncompliance. The Secretariat shall transmit such submission to the Implementation Committee which shall consider it as soon as practicable.

5. An Implementation Committee is hereby established. It shall consist of 10 Parties elected by the Meeting of the Parties for two years, based on equitable geographical distribution. Each Party so elected to the Committee shall be requested to notify the Secretariat, within two months of its election, of who is to represent it and shall endeavour to ensure that such representation remains throughout the entire term of office. Outgoing Parties may be re-elected for one immediate
consecutive term. A Party that has completed a second consecutive two-year term as a Committee member shall be eligible for election again only after an absence of one year from the Committee. The Committee shall elect its own President and Vice-President. Each shall serve for one year at a time. The Vice-President shall, in addition, serve as the rapporteur of the Committee.

6. The Implementation Committee shall, unless it decides otherwise, meet twice a year. The Secretariat shall arrange for and service its meetings.

7. The functions of the Implementation Committee shall be:
   (a) To receive, consider and report on any submission in accordance with paragraphs 1, 2 and 4; Section 2.7 Non-compliance procedure 296
   (b) To receive, consider and report on any information or observations forwarded by the Secretariat in connection with the preparation of the reports referred to in Article 12 (c) of the Protocol and on any other information received and forwarded by the Secretariat concerning compliance with the provisions of the Protocol;
   (c) To request, where it considers necessary, through the Secretariat, further information on matters under its consideration;
   (d) To identify the facts and possible causes relating to individual cases of non-compliance referred to the Committee, as best it can, and make appropriate recommendations to the Meeting of the Parties;
   (e) To undertake, upon the invitation of the Party concerned, information-gathering in the territory of that Party for fulfilling the functions of the Committee;
   (f) To maintain, in particular for the purposes of drawing up its recommendations, an exchange of information with the Executive Committee of the Multilateral Fund related to the provision of financial and technical cooperation, including the transfer of technologies to Parties operating under Article 5, paragraph 1, of the Protocol office. Outgoing Parties may be re-elected for one immediate consecutive term. A Party that has completed a second consecutive two-year term as a Committee member shall be eligible for election again only after an absence of one year from the Committee. The Committee shall elect its own President and Vice-President. Each shall serve for one year at a time. The Vice-President shall, in addition, serve as the rapporteur of the Committee.
8. The Implementation Committee shall consider the submissions, information and observations referred to in paragraph 7 with a view to securing an amicable solution of the matter on the basis of respect for the provisions of the Protocol.

9. The Implementation Committee shall report to the Meeting of the Parties, including any recommendations it considers appropriate. The report shall be made available to the Parties not later than six weeks before their meeting. After receiving a report by the Committee the Parties may, taking into consideration the circumstances of the matter, decide upon and call for steps to bring about full compliance with the Protocol, including measures to assist the Parties’ compliance with the Protocol, and to further the Protocol’s objectives.

10. Where a Party that is not a member of the Implementation Committee is identified in a submission under paragraph 1, or itself makes such a submission, it shall be entitled to participate in the consideration by the Committee of that submission.

11. No Party, whether or not a member of the Implementation Committee, involved in a matter under consideration by the Implementation Committee, shall take part in the elaboration and adoption of recommendations on that matter to be included in the report of the Committee.

12. The Parties involved in a matter referred to in paragraphs 1, 3 or 4 shall inform, through the Secretariat, the Meeting of the Parties of the results of proceedings taken under Article 11 of the Convention regarding possible non-compliance, about implementation of those results and about implementation of any decision of the Parties pursuant to paragraph 9.

13. The Meeting of the Parties may, pending completion of proceedings initiated under Article 11 of the Convention, issue an interim call and/or recommendations.

14. The Meeting of the Parties may request the Implementation Committee to make recommendations to assist the Meeting’s consideration of matters of possible non-compliance.

15. The members of the Implementation Committee and any Party involved in its deliberations shall protect the confidentiality of information they receive in confidence.

16. The report, which shall not contain any information received in confidence, shall be made available to any person upon request. All information exchanged by or with the Committee that is related to any recommendation by the Committee to the Meeting of the Parties shall be made available by the Secretariat to any Party upon its request; that Party shall ensure the confidentiality of the information it has received in confidence.
ENVIRONMENTAL DISPUTE RESOLUTION

Protocol allows a state to address its concerns about another state’s failure to meet the ozone-depletion obligation by way of a formal complaint to the Secretariat of the 1985 Vienna Convention for the Protection of the Ozone Layer.\(^7\) This step begins a formal dispute resolution process with an interim procedure.\(^8\) This dispute resolution provision has been vital in ensuring that the objectives of the Protocol are being met.\(^9\) The provision is non-adversarial and includes procedural safeguards for the promotion, facilitation, and security of compliance.\(^10\)

As of July 2003, twenty-three Open-ended Working Group of the Parties of the Montreal Protocol on Substance that Deplete the Ozone Layer meetings had been held.\(^11\) These meetings are sometimes combined with the Conference of the Parties to the Vienna Convention of the Protection of the Ozone Layer, meetings of the Implementation Committee under the Non-Compliance Procedure of the Protocol, the Task Force under the Technology and Economic Assessment Panel, and the Executive Committee of the Multilateral Fund.\(^12\) The meetings of the Parties in 2000, 2001, and particularly the Fourteenth Meeting in 2002, have tested the vitality of the treaties and their compliance procedures. The November 29, 2002 meeting was the sixth combined meeting of the two Agreements.\(^13\) This meeting was described as a major example of

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*Handbook*, supra note 176. *Annex II of the Report of the Tenth Meeting of the Parties* includes the texts of the Ozone Treaties and their Amendments, as well as all decisions taken by the Parties during the meetings of the Conference of the Parties to the Vienna Convention and to the Montreal Protocol up to the end of 2002.

\(^7\) *Id.*

\(^8\) *Id.*

\(^9\) *Id.*

\(^10\) *Id.*


\(^12\) *Guidelines on Compliance*, supra note 173.


\(^14\) *Id.*

global initiatives aimed at achieving sustainable development. During the presentation by the representative of the United Nations Implementing Agencies, the United Nations Environment Programme reported that a “key strength of the UNEP . . . was its joint activities with bilateral agencies, non-governmental organi[z]ations, UN and government bodies, industry associations, national, regional and international organi[z]ations, [c]onvention secretariat[] and regional and local training institut[ions].” This report served as a welcome-mat to concerned groups seeking to resolve potential conflicts regarding international environmental concerns, thereby allowing disputing parties the opportunity to be heard in an agreeable dispute resolution procedure.

At the Tenth Meeting of the Parties to the Montreal Protocol it was agreed that “in situations where there has been a persistent pattern of non-compliance by a Party, the Implementation Committee should report and make appropriate recommendations to the Meeting[s] of the Parties . . . to ensur[e] the integrity of the Montreal Protocol.” “[T]he circumstances surrounding the Party’s persistent pattern of non-compliance” would be taken into consideration. In addition, it was decided that “consideration [w]ould be given to progress made by a Party towards achieving compliance and measures taken to help the non-compliant Party return to compliance.”

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186 Id. A representative of Nigeria was present at this meeting. Id. Non-parties to this meeting included intergovernmental and non-governmental bodies, such as: Division of Technology Industry and Economics (DTIE) of UNEP, United Nations Development Programme (UNDP), World Bank, World Trade Organization (WTO), United Nations Environment Programme, Secretariat of the Basel Convention, Ozone Secretariat, Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol, United Nations Office at Nairobi, Environmental Crime Protection Programme (ECPP), American Lung Association, Environmental Investigation Agency (EIA) Greenpeace International, Methyl Bromide Global Coalition, etc. Id. at 3. However, the area of focus for this project is the non-compliance update.

187 Id. at 37.


189 Id.

190 Id.
ENVIRONMENTAL DISPUTE RESOLUTION

A. Illustration of the Resolution Noncompliance Process

The presentation by the United Nations representative of the Implementing Agency reported at the Fourteenth Meeting of the Parties to the Montreal Protocol. In addition to congratulating the collaboration of the partnerships within the Montreal Protocol, reports indicated that the United Nations Development Programme "was already working with a number of Article 5 countries on the implementation of [sixteen] national phase-out plans." In accordance with Decision X/10 of the Tenth Meeting of the Parties and "Decision XIII/16 of the Thirteenth Meeting of the Parties, the Implementation Committee requested the Secretariat[,] keeping in mind the Protocol’s provisions[,] to write to Nigeria since it had not reported data on CFC consumption for either . . . 1999 [or] 2000." The failure to do so placed Nigeria clearly in non-compliance with its obligations under Article 2A of the Montreal Protocol. The Committee expressed concern about the non-compliance of Nigeria but noted that Nigeria "ha[d] submitted a plan of action with time-specific benchmarks to ensure a prompt return to compliance." The plan submitted by Nigeria indicated a reduction of ozone depleting substances on a yearly basis, phasing out chlorofluorocarbon consumption, and periodically reporting "on the operation of the system for licensing imports and exports of [ozone-depleting substances]." The plan would enable Nigeria "to return to compliance by 2003 . . . [while] relevant implementing agencies [work] to phase out consumption of ozone-depleting substances" in accordance with the Montreal Protocol. “However, . . . the Parties caution[ed] Nigeria, in accordance with item B of the indicative list of measures, that in the event that it fails to return to compliance in a timely manner, the Parties shall consider measures” which may include eliminating the supply of CFC’s “and [ensuring] that exporting parties are

191 FOURTEENTH MEETING, supra note 185.
192 Id. at 37.
193 Id.
194 Id. at 56.
195 Id.
196 Id.
197 Id. at 57.
not contributing to a continuing situation of non-compliance."198 With this understanding the Committee concluded that Nigeria should continue to be treated in the same manner as a Party in good standing thus allowing them "to receive international assistance to enable it to meet these commitments."199

On July 20, 2005, the Implementation Committee met again.200 The agenda included a follow-up on previous decisions of the Parties and recommendations of the Implementation Committee regarding compliance by parties with commitments contained in their approved plans of action for their return to compliance with the Montreal Protocol.201 Nigeria had been listed for consideration because of a previous decision of the Parties (decision XIV/30) which contained the plan of action for returning to compliance with the Protocol's CFC control measures.202 The Implementation Committee urged Nigeria to submit to the Secretariat its data so that the Implementation Committee could have an opportunity to assess the Party's implementation of its commitments and make appropriate recommendations.203 On July 10, 2006, Nigeria was once again involved with the Protocol's non-compliance procedure at the Implementation Committee Meeting.204 Nigeria had been included for consideration to ensure its prompt return to compliance with the Protocol's control measures for CFC's. The Implementation Committee made note that Nigeria had reported 2004 CFC consumption maintaining its commitment to phase out CFC's, however no CFC data was submitted for

198 Id.
199 Id.
201 Id. at 23.
202 Id.
203 Id.
Nigeria was also given an opportunity to report on the pending ozone depletion plan. Ozone legislation was drafted, which was awaiting clearance by the legal department of the Government and subsequent parliamentary approval, that included an ozone depleting substance licensing system. The Implementation Committee commended Nigeria for the plan and urged Nigeria to submit to the Secretariat the ozone-depleting substance data for 2005 for assessment.

B. Forum Shopping with the United Nations Environmental Programme

At the present time, the Meeting of the Parties to the Montreal Protocol is a potential forum to address international environmental disputes, and to monitor compliance and non-compliance with international treaty obligations and the failure to adhere to previously agreed to standards of multilateral environmental agreements. The Protocol serves as an emerging system for managing environmental risk. Potential participants in this forum would have at their disposal support in developing environmental related policies, the ability to articulate policy positions, and establish a framework to make environmental policy more effective. In addition, the non-compliance provision of the Montreal Protocol has established a procedure where reservations regarding a Party’s implementation of its obligations can be addressed as a means of achieving sustainable solutions and to best provide for the effective enforcement of responsible global practices.

205 Id. at 30.
206 Id.
207 Id. Nigeria reported that such a system had been in place since 1999, but that it had been established through administrative procedures only lacked a legislative base. The new legislation was drawn up with all stakeholders, and it would establish a strong base for the licensing system and set appropriate penalties for any breach. Id.
208 Id.
IV. MERGING THE GOALS OF THE 2002 WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT INTO CONFLICT MANAGEMENT METHODOLOGIES

As a result of the standoff between hundreds of Ugborodo women with ChevronTexaco, the chief executive of ChevronTexaco stated that "the company [will] focus on 'sustainable development' projects in education and the creation of local businesses, working with organizations like USAID and the United Nations" because they are not satisfied with the results of the $36 million the company has spent "on community development in the last decade."\(^{209}\) To achieve this goal the community development budget will increase to $80 million over the next five years and "a 'longer term strategic plan' for community development" will be created.\(^{210}\) The community development will focus on projects in education and the creation of local businesses.\(^{211}\) As part of this community development project, the villagers negotiated for 100 jobs, new roads, "500 two-bedroom houses[,] and embankments to [prevent] Ugborodo's erosion."\(^{212}\)

"On July 17, 2002, the two sides signed a seven-page [M]emorandum of [U]nderstanding" where the "oil company agreed to provide electricity and water to the community," "build schools, a community center, and houses for the [community leaders] and the rival traditional leader[s]."\(^{213}\) ChevronTexaco also agreed to increase student scholarships and help the women set up poultry and fish farms to supply the terminal’s cafeterias.\(^{214}\) ChevronTexaco “also pledged to resume construction on its New Town project for the people of Ugborodo” "with the clearing of land less than a mile away so the people of Ugborodo would have a place to live when the creek, rivers, and ocean finally wash over their village."\(^{215}\)

"Different dispute dynamics require different conflict management and dispute resolution resources, depending on the nature and extent of

\(^{209}\) Onishi, supra note 45.

\(^{210}\) Id.

\(^{211}\) Id.

\(^{212}\) Id.

\(^{213}\) Id.

\(^{214}\) Id.

\(^{215}\) Id.
any emotional or values conflicts, different beliefs about the facts, conflicting needs and interests, power struggles, and other situational variables."216 One suggestion is to convert the goals of the 2002 World Summit on sustainable development into conflict management methodologies. A number of objectives must be attained, including management of renewable resources over the long term; reduction of waste and pollution; use of energy and materials with scrupulous efficiency; economical use of solar energy; and investment in repairing the damage, as much as possible, done to the earth.217 Such an institutional framework would include "implementation of sound sustainable development strategies and international treaties by countries, which should contribute to improved socioeconomic and environmental conditions, and help reduce potential sources of conflict between countries."218 Sustainable development as a concept is difficult to translate into practical measures, including the degree to which small, medium, and large businesses should be involved.219 The journey is in its early stages and the U.S. business community is by and large still formulating a case for, and a plan of action concerning, sustainable development.220

Development and environmental protection must be integrated and this process of integration lies at the core of the concept of sustainable

216 MACNAUGHTON & MARTIN, supra note 1, at 10. See also id. at chs. 4-10 ("in-depth analysis of how different dynamics drive different settlement strategies in diverse EDR contexts").
217 Robert Goodland & Herman Daly, Environmental Sustainability: Universal and Non-negotiable, Ecological Applications 6 (4), at 1003-13 (1996).
219 Rio's Unfinished Business: American Enterprise and the Journey Toward Environmentally Sustainable Globalization, 32 ENVTL. L. REP. 10,873 (August 2002). With the 2002 World Summit on Sustainable Development (WSSD) approaching, it was unclear where either the federal government or the American business community was headed. Id. For its part, American business has tended to ignore sustainable development, and of the firms that have engaged the concept, most have concentrated exclusively on its environmental dimension. Id.
220 Id.
development. "The urgency of making progress toward economic development that could be sustained without depleting natural resources or harming the environment" was the beginning of the development of sustainable development as identified in the Brundtland Report, also known as Our Common Future. "[T]he report provided a key statement on sustainable development, defining it as: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Sustainable development also emphasizes a participatory, multi-stakeholder approach to policy making and implementation, mobilizing public and private resources for development and making use of the knowledge, skills and energy of all social groups concerned with the future of the planet and its people. However, sustainable development requires the participation of all members of society, as public policy makers, producers, consumers, scientists, engineers, educators, communicators, community activists, and voters.

Agenda 21 is the global plan of action adopted by more than 178 governments at the 1992 United Nations Conference on Environment and Development, or "Earth Summit," in Rio de Janeiro, Brazil, that serves as the blueprint for sustainability in the 21st century. Agenda 21 noted the need for mechanisms and procedures to improve the exchange of data and information, notification and consultation regarding situations that might lead to disputes with other states in the field of sustainable development, and for the effective peaceful means of dispute settlement in accordance with international law.

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223 Id.
with the Charter of the United Nations.\textsuperscript{225} "Information for decision-making is the subject of chapter 40 of Agenda 21."\textsuperscript{226} Chapter 40 calls for the development of indicators of sustainable development and strengthening existing institutions and programs.\textsuperscript{227}

Indicators for monitoring progress towards sustainable development are needed in order to assist decision-makers and policymakers at all levels and to increase focus on sustainable development. Economic indicators of well-being are commonly used, however, social, environmental, and institutional indicators must be taken into account to arrive at a more complete picture of societal development.\textsuperscript{228} In addition, "Agenda 21 advocates a holistic approach using integrated, ecosystem-based, management to achieve sustainable development of the land resource."\textsuperscript{229} "The implementation of such an approach is intended to resolve conflicts between competing land uses, while addressing access and rights to land; and to increase productivity, while protecting the environment and natural resources."\textsuperscript{230} "Agenda 21 specifically calls for the harmonization of efforts to design sustainable development indicators at the national, regional and global levels."\textsuperscript{231}

"[E]nvironmental issues[] that bear on the international economic environment can be approached effectively only through a constructive dialogue and genuine partnership on the basis of mutuality of interests and benefits, taking into account that, in view of the different contributions to

\textsuperscript{225} Konisky, \textit{supra} note 7, at 5.


\textsuperscript{230} \textit{Id.}

global environmental degradation, States have common, but differentiated, responsibilities." The common responsibility of states for the protection of the environment, or parts of it, at the national, regional, and global levels is balanced by the need to account for different circumstances, particularly in relation to each state's contribution to the creation of a particular problem and its ability to prevent, reduce, and control the threat. Since the Niger Delta region has over twenty multinational and national oil production companies in the area, drafting ozone legislation is sufficient to address their particular circumstances. Although the reasoning may differ between developing and consuming nations, the need for integral systems which aim to promote environmental performance and continuous improvement is universal; we share the same global economy, trafficked by the same transnational corporations, and fundamentally, have the same ecology. The preamble of Agenda 21 encourages international cooperation to support and supplement such national efforts and indicates that the United Nations system has a key role to play.

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232 United Nations Division for Sustainable Development-International Cooperation; Decision by the Commission on Sustainable Development at its Ninth Session, (June 23-27, 1997), available at http://www.un.org/esa/sustdev/sdissues/cooperation/cooperation.htm (regarding an enabling international economic climate). The term "enabling environment for sustainable development" is not clearly defined either in Agenda 21 or in the Programme for the Further Implementation of Agenda 21. In the context of the CSD, consideration of the enabling environment for sustainable development focuses on the impact on sustainable development of major changes in the world economy due to globalization, as well as on national conditions affecting sustainable development. Id.


234 IMPLEMENTATION COMMITTEE 36TH MEETING, supra note 204.

235 Monsma, supra note 61, at 1250.

ENVIRONMENTAL DISPUTE RESOLUTION

From August 26 to September 4, 2002, ten years after the original "Earth Summit" in Rio in 1992, governments, non-governmental organizations, and businesses gathered under the auspices of the United Nations to discuss strategies to promote sustainable development in a forum entitled the World Summit on Sustainable Development.\textsuperscript{237} The need for global international environmental governance was among the myriad of issues on the agenda.\textsuperscript{238} The aim was to create a global dialogue that takes into account the needs of both developing and developed countries, and also allows for a multi-stakeholder process that includes civil society and non-governmental organizations.\textsuperscript{239} At its fourteenth session in 2006, the Commission on Sustainable Development (CSD) undertook a review focusing on identifying constraints and obstacles with respect to implementation in the area of energy, which forms part of a thematic cluster with industrial development, atmosphere/air pollution and climate change.\textsuperscript{240} Since the United Nations created a body for sustainable development issues, the Commission on Sustainable Development, the United Nations Economic and Social Counsel, and the United Nations General Assembly proposed strengthening international environmental governance including expansive United Nations involvement as urged in the Preamble of Agenda 21.\textsuperscript{241}

The United Nations Charter indicates that when a dispute may be construed as a threat to international peace and security, the Security Council may become seized.\textsuperscript{242} The Security Council has established methods available for the peaceful settlement of international disputes.\textsuperscript{243}

\textsuperscript{238} Id.
\textsuperscript{239} Id.
\textsuperscript{241} Id.
\textsuperscript{242} U.N. CHARTER art. 33.
\textsuperscript{243} Report of the Special Committee on the Charter of the United Nations and on Strengthening the Role of the Organization, 46 GAOR supp. No. 33 (A/46/33), Annex (1991) (\textit{reproduced in} UN doc. OLA/COD/2394 (UN, New York 1992)). “Taking into account the need to exert utmost efforts in order to settle any situations and disputes
Thus, "the United Nations is competent to step in when the Security Council, under Article 39, or the General Assembly, under the Uniting for Peace Resolution, defines a dispute as a breach of the peace, a threat to the peace, or an act of aggression."244 "Formal resolutions of both the Security Council and the General Assembly characteristically stress the need to resolve the dispute and to diffuse the crisis without addressing the grievances of the parties."245 The United Nations "is the most representative international organization in the world, with participation from nearly all of the nations of the international community, and it offers a neutral forum for discussing matters within the organization's jurisdiction."246 The United Nations also has access to appropriate scientific information and expertise within the "specialized agencies such as the United Nations Environment Programme."247 With the specific United Nations mandate, access to scientific information and established methods of conflict resolution in the field of sustainable development, the United Nations is the best forum for international environmental dispute resolution in accordance with the goals of Agenda 21.

It is a clear mandate in the United Nations Charter to maintain international peace and security and this "Charter places States under a general obligation to cooperate and resolve disputes peacefully."248 "Adversarial systems such as litigation and arbitration have formalized rules of procedures that serve . . . to insulate the dispute management process [in environmental cases] from the volatility of emotional and values conflicts."249 "Other mechanisms are available for the settlement of

between States exclusively by peaceful means, and to avoid any military action and hostilities, which can only make more difficult the solution of existing problems." United Nations General Assembly, Peaceful Settlement of Disputes Between States (December 10, 1981), available at http://www.un.org/documents/ga/res/36/a36r10.htm. "The U.N. [c]alls again upon all States to adhere strictly in their international relations to the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered." Id.

245 Id.
246 Konisky, supra note 7, at 11.
247 Id.
248 U.N. Charter art. 33.
249 MACNAUGHTON & MARTIN, supra note 1, at 270.
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international disputes that are non-[adversarial, do not occur in a public judicial forum, and are not so clearly directed toward a win-lose outcome of adjudication." The mechanisms are "directed towards formulating a constructive, efficient, and lasting solution that addresses and targets the substratum of a dispute [that] is acceptable to all participants." While the dispute settlement method most effective for the United Nations forum remains unclear, social scientists typically prefer negotiation and mediation. As noted earlier, the American in charge of ChevronTexaco’s Nigerian operations conveyed a passionate determination to understand the needs of the conflict with the Ugborodo women. Mediating disputes must take “emotion into account [when a real] resolution (instead of decision) is possible,” as in the situation of the Ugborodo women. With a specific mandate to maintain peace and security, an established system of conflict resolution, “access to appropriate scientific information and expertise,” and a legitimate and credible representation of international organizations, the United Nations is the appropriate forum for mediated settlements focused on sustainable development.

Negotiations in dispute resolutions are becoming an increasingly important part of the international system. “Environmental issues are now being regulated . . . and negotiated at the world level through conventions [hosted by the United Nations,] like the Framework Convention on Climate Change,” the Montreal Protocol, and the Vienna Convention. The United Nations seems to have the greatest potential to contribute to the resolution of international environmental disputes while utilizing a variety of dispute resolution techniques.

250 Chinkin & Sadurska, supra note 244, at 54.
251 Id.
252 Konisky, supra note 7, at 13.
253 MACNAUGHTON & MARTIN, supra note 1, at 270.
254 Id.
255 Konisky, supra note 7, at 12.
256 See Chinkin & Sadurska, supra note 244.
258 Konisky, supra note 7, at 17.
environmental disputes may involve parties who hold very strong feelings that present unique challenges when "fundamental values are in conflict."259 "Value conflicts [or right-based conflicts] can generate emotional intensity and typically are not open to negotiation."260 However, from a theoretical perspective, the following are three general approaches to dispute resolution techniques: (1) a power-based approach as characteristic of the realist perception of international relations in which disputes are settled through a power contest, the most extreme case being war; (2) a right-based approach, where disputing parties attempt to determine who is right according to a standard which, in the multilateral context, is typically defined by international law and regulation; and 3) an interest-based approach, where the disputing parties attempt to reconcile their divergent positions through discovery of mutually-acceptable solutions.261

Making a new dispute resolution system work for the effective management of conflicts, even within the United Nations, with a focus on sustainability, is a new task. The system must have "many layers and different ingredients [that can] come together [for] an international dispute" resolution system.262 "Selecting the right neutral resources for a particular dispute is key to effective resolution."263 The appropriate resource "depends on the nature and dynamics of the particular dispute itself, the goals and objectives of the participants, . . . and the resources required to produce those results."264 "The first task is the apparently easy one of defining the participants in an international dispute in order to determine who should be represented in [a] dispute resolution process and whose interests should be taken into account."265 "Where the focus is on 'resolution,' in contrast to 'decision,' it is important to have all

259 MACNAUGHTON & MARTIN, supra note 1, at 270. See also Konisky, supra note 7, at 13.
260 Id.
262 Chinkin & Sadurska, supra note 244, at 39.
263 MACNAUGHTON & MARTIN, supra note 1, at 274.
264 Id.
265 Chinkin & Sadurska, supra note 244, at 40.
stakeholders at . . . the negotiation table." Labeling "various actors as participants in an international dispute is relevant to determine the appropriate arena and mechanisms for attempted settlement, the patterns of responsibility, attaching liability, and the types of reparation sought." Keeping this in mind, Article 34 (1) of the United Nations Charter declares that only states may be parties in cases before the Court. Therefore, if interested non-governmental organizations, as stakeholders, seek party identification or to engage in the problem-solving process, the international courts would not be the appropriate forum for the dispute settlement.

International claims may be legal, factual, or both. Claims can be based on differences in the facts, differing perceptions, or values-based, interest based, or cross-cultural disputes. "All claims need not be verbally communicated [as] flagrantly provocative behavior can be construed as a claim." Whatever the nature of the claim, "if the goal of the [environmental dispute resolution] process is to establish communication[s] channels, or a system for sharing information, then it may be important to engage" many multi-skilled facilitators. The international environmental claim that is the subject of this project can be based on: "subjective perceptions of external threat;" "security needs;" "violations of human rights;" and "the interest of non-participants and the wider international community in ending, containing, or prolonging the dispute." These causes can be complex, therefore the environmental dispute resolution process must be made clear and the "participants [must] assess which process skills and experience will be required to achieve [the] objectives."
The outcome of a disputed international environmental dispute “must be assessed both in terms of individual participants’ goals and international community goals, the two of which may coincide” for proper sustainable development.275 “The dispute may appear [moot] because of a change in the background situation such as a change in technology, law, or government.”276 “In these cases, the dispute is likely to remain diffused, but not settled.”277 “Sometimes common overarching objectives[, such as a sustainable development focused goal,] can be identified and [may] serve as a foundation for developing an agreement.”278 For example, “[f]ew would argue that it is not important to protect the planet’s natural resources.”279

Sabotage and hostage taking by community activists, labor groups, and thieves demanding compensation for land use and alleged environmental damage are relatively common in the Niger Delta Region.280 To resolve the strikes from locals, all levels of the Nigerian system, including government authorities, must be involved as participants, along with stakeholders, seeking to negotiate their interest-based claims to a sustainable remedy. Although environmental conflicts are considered local threats with the residents in the African villages, the same or similar environmental problems should be, and are sometimes, considered a threat to national or international security.281 However, the same conflict management methodology strategies can be employed on all levels: locally, national and internationally. Establishing the conflict management system is key. Litigation is a costly form of managing a dispute.282 An alternative form of conflict management would allow for the recognition of efforts made by all parties, make special note of a voluntary status, and assess any recommendations made on the exchange of plans. It is apparent that certain regional and global environmental

275 Chinkin & Sadurska, supra note 244, at 75.
276 Id.
277 Id. at 77.
278 MACNAUGHTON & MARTIN, supra note 1, at 273.
279 Id. at 274.
280 Human Rights Watch, supra note 99.
281 Konisky, supra note 7, at 7.
282 Chinkin & Sadurska, supra note 244, at 54.
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deficiencies can produce conditions that render conflicts more likely. Borrowing from the environmental dispute strategy of the local threats and the focus of Agenda 21 with the sustainable development flavor, it is dispute settlement that is one of the key elements to ensure that the environmental dimensions of security can be maintained. "[T]he trend toward [an] organizational use of an environmental management system . . . and the infrastructure it provides for conflict management" includes early dispute resolution. "The key [is] to recognize that conflict can be 'managed' and [how] to apply appropriate knowledge, skills, and tools to manage it effectively." Since the Earth Summit, the United Nations has made considerable progress in establishing an appropriate institutional framework for the implementation of sustainable development. This includes the development of national strategies aimed at integrating social, economic, and environmental priorities; and action to sign, ratify, and initiate the implementation of global agreements such as the Non-Compliance Provision of the Montreal Protocol, and acknowledging the International Standards of Organizations.

CONCLUSION

Consider three parallel processes moving toward the same target; the processes will eventually arrive at the same target of sustainability and development of international settlement mechanisms, but on different levels. The three relevant processes are ISO 14000, the non-compliance provisions of the Montreal Protocol, and the goals of the World Summit. Representatives such as government officials, stakeholders, members of the NDDC, members from the multinational oil companies, and elected individuals are involved in the three parallel processes. If the main goal is sustainability, the parallel processes are necessary. However, if the main goal is sustainability and developing international settlement mechanisms to include conflict resolution, the parallel processes are unnecessary.

283 Id.
284 Id. at 5.
285 MACNAUGHTON & MARTIN, supra note 1, at 269.
286 Id. at 270.
In viewing these parallel processes, three conclusions can be drawn. One, the mission of the Montreal Protocol is to encourage phasing out emissions of dangerous ozone depleting substances in the environment. The non-compliance provisions serve as a check and balance system to assure members are complying with the phase-out plan. The provision, as a multilateral treaty enforcement mechanism, is designed to address non-compliance. The procedures are non-judicial and allows for an opportunity to have their conflicts regarding environmental compliance heard. The resolutions are addressed at the Implementation meetings. The outcome from these meetings would help resolve potential global environmental development deficiencies, as alleged against the Niger Delta region by local and international stakeholders.

Two, the ISO process has not been utilized in the Niger Delta, but is important because of the lack of the development of standardizations. Implementing a plan to incorporate the ISO 14000 as an environmental system of standards must be adopted in the Niger Delta. Such a plan would assist in achieving sustainable solutions to all stakeholders and may limit environmental risk management. While the drafting of ozone legislation has been reported as awaiting clearance by the legal department of the government and subsequent approval by parliament, it does not have the audit procedures and the technology support to qualify as an ISO. Creating a non-traditional municipality would help the Niger Delta government, multinational oil companies, local initiatives, private sector, non-governmental organizations, and international development agencies address potential global environmental deficiencies.

Three, sustainability has been implemented mostly by the oil companies in the Niger Delta as a result of conflicts between the companies and the villagers; stronger leadership by the officials of the Niger Delta is needed. Sustainability emphasizes a participatory multi-stakeholder approach to policy-making and implementation. There is global dialogue, consistent with the World Summit on Sustainable Development, regarding compliance and promoting sustainable development at the Implementation Committee Meetings and the combined forces causes the sustainability process to intersect with the Non-Compliance provision of the Montreal Protocol. Thus, the processes are no longer parallel. The combined processes are an example of how the movement towards the same goals of sustainability and enforcement of
dispute resolution can be achieved. The combination is a beginning in the resolution of potential global environmental deficiencies alleged against the Niger Delta.

Many environmental issues are trans-boundary in nature and would require a measurable standard of compliance and an international institution to manage information. By actively incorporating: (1) ISO 14000 / 14001 and the development of standardized templates for governmental, community, and industry environmental management systems; (2) the recognition and application of the Non-Compliance Provision of the Montreal Protocol; and (3) merging the goals of the 2002 World Summit on Sustainable Development into conflict management methodologies, human resources, and working towards the same goal, combining settlement processes would aid international and local dispute resolutions because all of the stakeholders would have an understanding of the assessment plans.

Combining settlement mechanisms for transnational enforcement of international environmental disputes is the solution to support the sustainable development objectives under one jurisdiction for conflict management. Reports regarding compliance, environmental assessments, and sustainability are provided in different forums causing a lack of dissemination to all stakeholders, local and international. By utilizing the United Nations as a central dispute resolution forum, stakeholders will have a centralized place to access information and resolve conflicts informally.