



Selected References in Preparation for COP 15 Copenhagen, December 2009.

These references have been compiled for those who want to learn more about COP15, climate change and prior international negotiations, environmental and climate-related conflicts, and use and performance of environmental mediation and other conflict resolution methods. Within each topic, highly recommended readings are placed first, otherwise they are in alphabetical order. Many references are available through the recently verified weblinks, others are posted on MBB's website: <http://www.mediatorsbeyondborders.org/what/mbbcopenhagen.shtml>. The more recent books cited are available in most libraries or bookstores.

I. The International Call for Mediation of Environmental and Climate-related Conflicts

1. United Nations Secretary General. *Report of the Secretary-General on Enhancing Mediation and its Support Activities*. United Nations Security Council. Report # S/2009/189 [MBB website]

This report examines the challenges faced by the United Nations and its partners in providing professional mediation assistance to parties in conflict. It describes the need for experienced and knowledgeable mediators and support teams, with women adequately represented, and sufficient resources to provide assistance at an early stage to help parties design and pursue processes that will address the root causes of their conflicts, overcome obstacles that block progress, and achieve agreements that lead to sustainable peace. It discusses the importance of building local, national and regional capacity for mediation and the need for coherent partnership between the United Nations, regional and subregional organizations, States and non-governmental organizations. The cost-effectiveness of mediation is also highlighted.

2. United Nations Environment Programme. *From Conflict to Peacebuilding The Role of Natural Resources and the Environment*. UNEP. February 2009.

http://postconflict.unep.ch/publications/pcdmb_policy_01.pdf

This report, which inaugurates a new policy series by UNEP on the environmental dimensions of disasters and conflicts, summarizes the latest knowledge and field experience on the linkages between environment, conflict and peace building, and demonstrates the need for those linkages to be addressed in a more coherent and systematic way by the UN, Member States and other stakeholders. Its first recommendation is to: "Prioritize capacity-building for dispute resolution, environmental governance and land administration in states that are vulnerable to conflicts over natural resources and the environment."

3. Spain, Anna. *Global Legal Integration: International Dispute Settlement Reform in an Era of Climate Change*. (unpublished) 2009. [available December 1, 2009 on MBB website]

This article analyzes the capacity of the international dispute settlement system to respond to conflicts arising from resource scarcity, which will be exacerbated by climate change. Drawing

from cases studies, the article describes existing failures and argues for reform through global legal integration of dispute settlement methods (e.g. mediation and adjudication at the ICJ).

II. Background on COP15: International Climate Change Treaties and Negotiation

4. COP15 Official Website. The Kyoto Protocol's Flexible Mechanisms
<http://en.cop15.dk/climate+facts/the+kyoto+protocol/the+kyoto+protocol%E2%80%99s+flexible+mechanisms>

A key website with background information on COP15, climate change, the history of prior negotiations, terminology, as well as important logistical information.

5. The Pew Center on Global Climate Change <http://www.pewclimate.org/international>
The upcoming UN Conference on Climate Change in Copenhagen in December presents an historic opportunity to strengthen the international response to global climate change. The aim in Copenhagen should be agreement on the fundamentals of a new multilateral framework ensuring that all major economies contribute equitably to the global climate effort. This interim agreement should establish the basic legal and institutional architecture of a post-2012 framework within which governments can then negotiate a final agreement containing specific national commitments.
6. Dessai, Suraje, Nuno S. Lacasta, and Katherine Vincent. International Political History of the Kyoto. *International Review for Environmental Strategies* 4.2. 2003: 183-205. Academic Search Premier. Web. 13 Oct. 2009.

A discussion of the effect that international politics had on the Kyoto Protocol and subsequent COP conferences, placing the environmental agreements in context. Could be used to better understand how the framework of past international environmental agreements came about.

7. Mintzer, Irving M., J.A. Leonard and Michael J. Chadwick (eds.) *Negotiating Climate Change: the Inside Story of the Rio Convention*. Cambridge: Cambridge UP. 1994.

A series of interviews with participants in the Rio de Janeiro Earth Summit and Framework Convention on Climate Change. Emphasis on lessons learned from the conference and key recollections from the negotiations process.

8. Betsill, Michele. Environmental NGOs meet the sovereign state: the Kyoto Protocol negotiations on global climate change. *Colorado Journal of International Environmental Law and Policy* 13.1 Wntr 2002: 49-64.

A summary of the efforts of ENGOs (Environmental Non-Governmental Organizations) in international negotiations, with emphasis on impacts from state sovereignty.

9. Newell, Peter. *Climate for Change: Non-state Actors and the Global Politics of Greenhouse Gas*. Cambridge, U.K: Cambridge UP. 2000.

An overview of how organizations outside of national governments affect global negotiations on climate change and environmental policy. Could be used as an example case study of how outside organizations impact international environmental negotiations.

III. Understanding Environmental Mediation and Other Conflict Resolution Methods

10. O’Leary, Rosemary with Terry Amsler and Malka Kopell. *Environmental Conflict Resolution Strategies for Environmental Grantmakers*. Menlo Park, CA. Hewlett Foundation. 2005.
<http://www.hewlett.org/news/environmental-conflict-resolution-strategies-for-grantmakers>

Excellent, brief summary of the practice and accomplishments of environmental conflict resolution, including specific case studies, research findings, and advice for funders.

11. Emerson, Kirk, Patricia J. Orr, Dale L. Keyes, and Katherine M. McKnight. Environmental Conflict Resolution: Evaluating Performance Outcomes and Contributing Factors. *Conflict Resolution Quarterly*. 27.1 2009: 27-64. <http://www.u.arizona.edu/~kemerson/EmersonECREvaluation.pdf>

In this landmark study, associates of the U.S. Institute for Environmental Conflict Resolution have examined fifty-two environmental conflict resolution processes conducted in the U.S. and identified those factors that contributed to reaching agreement, the quality of those agreements, and improved working relationships among parties. The findings of this study will be of great use to those studying or working on long-term environmental or public policy processes.

12. U.S. Institute for Environmental Conflict Resolution <http://www.ecr.gov/Basics/Basics.aspx>

Basic information on this website for the U.S. federal program designed to provide environmental mediation and other conflict resolution services to parties involved in environmental, natural resources and public lands disputes where there is a federal agency or interest involved. The USIECR site also links to other sources for more information.

13. U.S. Institute for Environmental Conflict Resolution. *ECR Cost Effectiveness* April 2003
http://www.ecr.gov/pdf/ecr_cost_effect.pdf

Evidence from the field confirms the contribution environmental conflict resolution (ECR) can make to resolving environmental disputes in a cost-effective manner as compared with more traditional resolution processes (e.g. litigation).

14. Daniels, Steven E. and Gregg B. Walker. *Walking Through Environmental Conflict: The Learning Approach*. Westport, Conn.: Greenwood, 2001.

15. Dukes, Frank E. “What We Know About Environmental Conflict Resolution: An Analysis Based on Research.” *Conflict Resolution Quarterly*, 22(1–2), 2004: 191–221.

16. Louis, Daniel E. Challenges in multiparty environmental mediation. *Journal of the National Association of Administrative Law Judges* 19.1 Spring 1999: 77-108.

A discussion of the role of the mediator in environmental conflicts, the advantages of using a third-party negotiator, and various mediation styles with the advantages and disadvantages thereof.

17. O’Leary, Rosemary and Lisa Blomgren Bingham. (eds.) 2003. *The Promise and Performance of Environmental Conflict Resolution*. Washington, DC. Resources for the Future. 2003
A comprehensive collection of articles on 30 years of practice and research in the field of environmental conflict resolution.
18. Shmueli, Deborah and Sanda Kaufman. Environmental Mediation. *The Jerusalem Institute for Israel Studies The Center for Environmental Policy*. 2006
<http://www.jiis.org/?cmd=publication.8&act=read&id=40>
Mediation characteristics — voluntary participation and agreement, confidentiality of exchanges among parties, the search for mutually satisfactory solutions — are well suited for the multi-party, complex context of environmental conflicts. Mediation is often used concurrently with other modes of conflict management. Some current challenging issues for environmental mediation include: the production and communication of technical data to lay publics, especially concerning risks; approach to conflicts that are resistant to resolution; the timing of intervention; and whether agreement should be sought in all cases. Attention is also given to the application of environmental mediation techniques in Israel.
19. U.S. Environmental Protection Administration. *Is ECR Good for the Environment and Does it Produce Good Decisions*. http://www.ecr.gov/pdf/SEEER_Overview.pdf
A synopsis of ongoing research by US EPA on the value and performance of environmental conflict resolution.

IV. Primers on Climate Change Science and Policy

20. COP15 Conference Site
<http://en.cop15.dk/climate+facts/background+articles/what+isthe+greenhouse+effect>
This link connects to climate change basics and other research on global climate change and its impacts.
21. Intergovernmental Panel on Climate Change. *Fourth Assessment Report: Climate Change 2007 Impacts, Adaptation and Vulnerability*. IPCC. 2007.
http://www.ipcc.ch/publications_and_data/publications_ipcc_fourth_assessment_report_wg2_report_impacts_adaptation_and_vulnerability.htm
This watershed publication provides the consensus reports of hundreds of scientists from around the world on the state of the research on global warming as of 2007.
22. U.S. Global Change Research Program. *Global Climate Change: Impacts in the United States*. 2009.
<http://www.globalchange.gov/publications/reports/scientific-assessments/us-impacts/full-report/global-climate-change>
This introduction to global climate change explains very briefly what has been happening to the world’s climate and why, and what is projected to happen in the future. While this report focuses on climate change impacts in the United States, understanding these changes and their impacts requires an understanding of the global climate system.

23. The Pew Center on Global Climate Change <http://www.pewclimate.org/global-warming-basics>

This link (and the site generally) provides a reliable and understandable introduction to global climate change, giving policy makers the basic information they need as they face decisions about climate policy. The new 2009 edition incorporates the most recent information on climate change and major developments in the climate field since the first edition of the series was published in 2006. The series begins with an overview report which serves as a summary and introduction to the series and consists of nine briefs covering climate science and impacts, adaptation, technological solutions, cap and trade, business solutions, international action, action in the U.S. states, and efforts by local governments.

V. Climate Change and Conflicts

24. Conca, Ken and Geoffrey DaBelko. *Environmental Peacemaking*. Woodrow Wilson Press, Washington, DC. 2002.
25. Dixon, Homer F. *Environment, Scarcity and Violence*. Princeton University Press, Princeton, NJ. 1999.
26. Gleditsch, Nils Petter and Ragnhild Nordås. IPCC and the Climate-Conflict Nexus. Presented at the annual meeting of the *ISA's 50th Annual Convention "Exploring the Past, Anticipating the Future"*. New York Marriott Marquis, NEW YORK CITY, NY, USA, Feb 15, 2009

Climate change has recently been presented as a challenge not only to human security in a broad sense, but also to security in the narrower sense of armed conflict. However, the climate change-armed conflict nexus is neither well developed nor well documented...We review how the two last IPCC reports have dealt with the climate-conflict nexus and the empirical basis for the claims made in the reports.

27. Salehyan, Idean. From Climate Change to Conflict? No Consensus Yet, *Journal of Peace Research*, 45. 3. 2008: 315-326. <http://jpr.sagepub.com/cgi/content/abstract/45/3/315>

Many scholars, policymakers, and activists have argued that climate change will lead to resource competition, mass migration, and, ultimately, an increase in armed conflict around the world. This article takes issue with the 'deterministic' view that climate change and resultant resource scarcities will have a direct impact on political violence. Rather, the effect of climate change on armed conflict is contingent on a number of political and social variables, which, if ignored by analysts, can lead to poor predictions about when and where conflict is likely.

28. Zhang, David. D., Peter Brecke, Harry F. Lee, Yuan-Qing He, and Jane Zhang. Global Climate Change, War, and Population Decline in Recent Human History in *Proceedings of the National Academy of Sciences* Published online before print November 28, 2007. <http://www.pnas.org/content/104/49/19214.short>

Although scientists have warned of possible social perils resulting from climate change, the impacts of long-term climate change on social unrest and population collapse have not been quantitatively investigated. In this study, high-resolution paleo-climatic data have been used to

explore at a macroscale the effects of climate change on the outbreak of war and population decline in the preindustrial era.... long-term fluctuations of war frequency and population changes followed the cycles of temperature change... The findings suggest that worldwide and synchronistic war–peace, population, and price cycles in recent centuries have been driven mainly by long-term climate change.

VI. Dispute Resolution Mechanisms in International Treaties

29. Butler, Jo Elizabeth. The Establishment of a Dispute Resolution/Noncompliance Mechanism in the Climate Change Convention. *Proceedings of the Annual Meeting-American Society of International Law 91* (Annual 1997): 250-258. Academic OneFile.

A discussion of the consequences of dispute resolution/non-compliance language being included in Article 13 of the 1992 United Nations Framework Convention on Climate Change. This article was written prior to the Kyoto Convention and discusses possible impacts to the Kyoto Convention.

30. Kalas, Peggy Rodgers and Alexia Herwig. Dispute Resolution Under the Kyoto Protocol. *Ecology Law Quarterly* 27.1 Feb 2000: 53. Academic OneFile.

An overview of two of the Kyoto Protocol trading regimes, and examination of current dispute settlement mechanisms established under international treaties, and a summary of potential disputes that may arise under the Protocol's trading regimes, with suggestions for dispute resolutions, as well as an outline of lessons learned from previous experience with the dispute settlement mechanisms.

VII. Mediating International Environmental Conflicts

31. Romano, Cesar. *The Peaceful Settlement of International Environmental Disputes*. London. Kluwer (2000).

This book provides a comprehensive overview of all forms of dispute settlement methods currently used for international environmental disputes.

32. Schueli, Deborah and Ariella Vranesky. Environmental Mediation in International Relations. In Bercovitch, Jacob (ed.). *Resolving International Conflicts : The Theory and Practice of Mediation*. Boulder, Colo. Lynne Rienner Publishers. 1996.

33. Bakken, Larry. International Joint Commission: Water Conflicts and Dispute Resolution, 31 *HAML* 593. The Larson-King Symposium. 2008.

Disputes over water among competing interests can be explained by its unique ability to provide a foundation for life and society. The authors lay a historical foundation of international approaches to resolving such environmental disputes such as mediation, and goes into detail over the Canada-US Boundary Waters Treaty as a model.

34. U.S. Institute of Peace. *Natural Resources, Conflict, and Conflict Resolution. A Study Guide Series on Peace and Conflict*. September 14, 2007. <http://www.usip.org/files/file/08sg.pdf>

This study guide is designed to serve independent learners who want to find out more about international conflict and its resolution, as well as educators who want to introduce the topic to their students. The main text discusses natural resources and related issues that play significant roles in managing conflicts and building international peace.

VIII. Recent Applications of Environmental Mediation

35. MBB. *COP15 Case Studies Demonstrating the Use of Mediation, Consensus Building and Collaborative Problem Solving in Resolving Environmental and Climate-related Conflicts* November 2009. Mediators Beyond Borders document published on the MBB website.

This document consolidates several environmental mediation case studies into a single document that supports the idea of using mediation to resolve climate change conflicts.

36. Adams, Jamie R. Using ADR Principles to Resolve Environmental Disputes: How Mediated Settlements Have Helped Struggling CERCLA Survive, 8 *PEPDRLJ* 331, 2008.

The goal of this article is to show that the use of Alternative Dispute Resolution (“ADR”) principles has made the remediation of numerous hazardous waste sites possible, and has thus enabled the struggling program to continue benefiting Americans everywhere. This article also discusses the specific ways in which mediated settlements are helping to fund remediation and reduce costs to the parties involved.

37. Brand, Peter. *Urban Environmentalism: Global Change and the Mediation of Local Conflict*. New York: Routledge, 2005.

Brand explores the phenomenon of urban environmentalism and how it can be used to solve global environmental problems.

38. Gillette, Lynne, Jeff Silven and Rebecca Guiao. Using Collaboration to Address Renewable Energy Sitting Challenges, 56-JUN *FEDRLAW* 50, 2009.

The authors describes current government efforts relating to renewable energy projects; their barriers and the potential for a carefully considered and effectively implemented stakeholder engagement plan that would help dispel such concerns, as suggested by various ADR associations.

39. Kreisberg, Jeffrey. Transformation Mediation May Have Led to a Greener Buyout of a Texas Utility. <http://www.mediate.com/articles/kreisbergJ1.cfm>

Kreisberg explains how mediation was used to negotiate a more environmentally-friendly buyout of an energy company that was forced to sell after the value of its stock dropped considerably in the wake of public outrage over the environmental degradation caused by coal-fired power plants and the lax regulations thereof in Texas.

40. O’Leary, Rosemary and Susan S. Raines. Lessons Learned from Two Decades of Alternative Dispute Resolution Programs and Processes at the United States Environmental Protection Agency. *Public Administration Review*, 61.6. 2001: 682–711.

41. Shih, Wen-chen. Conflicting Jurisdictions over Disputes arising from the Application of Trade-Related Environmental Measures, 8 *RMDJGLB* 351, 2009.

The author uses the WTO’s Chile-Swordfish dispute to analyze the possibilities and implications of conflicting jurisdictions in a dispute concerning the application of TREMs and its consequences. The author also analyses various Standard Dispute Resolution Clauses (such as CITES, CBD and UNCLOS as Examples) and Non-compliance mechanisms.

42. Sipe, Neil G. and Stiftel, Bruce. Mediating Environmental Enforcement Disputes: How Well Does It Work? *Environmental Impact Assessment Review*. 25. 1995: 139–156.

43. Talbot, Allan R. *Settling Things: Six Case Studies in Environmental Mediation*. Washington, DC: Conservation Foundation. 1983.

44. Talbot, Allan R. and Lee, Kai N. *Environmental Mediation: Three Case Studies - The Island, The Highway, The Ferry Terminal*. Seattle, WA: Institute for Environmental Mediation. 1981.

IX. Additional References for Environmental Mediation

45. Amy, Douglas. *The Politics of Environmental Mediation*. New York. NY Columbia University Press. 1987.

46. Bacow, Lawrence S. and Wheeler, Michael. *Environmental Dispute Resolution*. New York, NY: Plenum Press. 1984.

47. Bingham, Gail. *Resolving Environmental Disputes: A Decade of Experience*. Washington, D.C.: Conservation Foundation, 1986.

48. Mills, Miriam K. *Alternative Dispute Resolution in the Public Sector*. Chicago: Nelson-Hall, 1991.

49. Riesel, Daniel. Negotiation and Mediation of Environmental Disputes. *Ohio State Journal of Dispute Resolution* 1. Spring 1985: 300-330.

50. Stein, Robert E. The Settlement of Environmental Disputes: Towards a System of Flexible Dispute Settlement. *Syracuse Journal of International Law and Commerce* 12.2. 1985: 283-298.

Credits & Contacts

Special recognition is due to the following people for volunteering their time to help build this document: Kelly Panayi, Jesse McCartney, Anastasia Wincorn, Erik Steinecker, Adam J. Roth

For further information, please contact:

Mark Batson Baril, Mediators Beyond Borders, COP15 Project (markb@disputeresolutionpartners.com)

Kirk Emerson, Mediators Beyond Borders, COP15 Project (kirk_emerson@mindspring.com)