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**International Environmental Legal Standards:
A Missed Corporate Strategic Opportunity?**

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Abstract

For business transactions in the United States, and transactions in countries with similar environmental laws and regulations, the applicable environmental standards typically are federal and state laws and regulations, and sometimes local ordinances. If a project meets or exceeds these standards, that usually is the end of the matter because the requirements are comprehensive, detailed, and easily identifiable.

In many international transactions, the parties to a deal often will have to negotiate what the applicable environmental standards will be. For example, if one company is purchasing a power plant from an Eastern European government, the lender involved in the transaction may require the purchaser to operate the plant in accordance with a set of standards defined in the lending agreement. Because local environmental standards may not exist, or may not be stringent enough for the lender, the purchaser and the lender usually will negotiate a set of environmental standards for the transaction. In such transactions, environmental standards can take on a variety of possibilities, some more risky than others: (1) no standards; (2) host country standards; (3) home country standards; (4) public international (Rio, NAFTA, Basel, Kyoto Protocol); (5) private international (bank policy, ISO, ASTM); (6) non-governmental (World Bank, ASEAN, IFC); (7) citizen groups (CERES), and, finally, (7) corporate policies. As a matter of corporate policy, some companies comply with U.S. EPA standards no matter the location.

The firm operating abroad thus confronts a strategic choice-which international environmental standards, or sets of standards, should be the standard of compliance? If a firm selects (or agrees to accept) too stringent a standard, its competitors, assuming they select a less stringent standard, may gain a competitive advantage by not having to comply with more stringent requirements. Conversely, if as Hart (1997) proposes, the natural environment is a limiting strategic factor, a firm operating or investing abroad may decide to select the most stringent standard, and hope to prosper as the world's environmental requirements standardize even more. Focusing on the independent power producer/utility industry sector, this paper examines the strategic opportunities presented

by international environmental standards.

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