

Assessment and Review under a 2015 Climate Change Agreement





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Abbreviations

A&R	Assessment and review
ADP	Ad Hoc Working Group on the Durban Platform for Enhanced Action
AILAC	Association of Independent Latin American Countries
ALBA	Bolivarian Alliance for the Americas
AOSIS	Alliance of Small Island States
BASIC	Brazil, South Africa, India, China
BR	Biennial Report
BUR	Biennial Update Reports
CGE	Consultative Group of Experts
CMP	Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol
COP	Conference of the Parties (to the UNFCCC)
CRF	Common Reporting Format
CTF	Common Tabular Format
DAC	Development Assistance Committee
EIG	Environmental Integrity Group
ERT	Expert review team
HRC	Human Rights Council
IAR	International assessment and review
ICA	International consultations and analysis
IEA	International Energy Agency
IMF	International Monetary Fund
INDC	Intended nationally determined contribution
IPCC	Intergovernmental Panel on Climate Change
LDCs	Least-Developed Countries
LMDCs	Like-Minded Developing Countries
LULUCF	Land use, land-use change and forestry

MOP	Meeting of the Parties (to the Montreal Protocol)
MRV	Monitoring, reporting and verification
NC	National Communication
NDC	Nationally determined contribution
NIR	National Inventory Report
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office the High Commissioner for Human Rights
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
SCF	Standing Committee on Finance
SED	Structured Expert Dialogue
SIDS	Small Island Developing States
TPRM	Trade Policy Review Mechanism
TTE	Team of Technical Experts
UN	United Nations
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UPR	Universal Periodic Review
WTO	World Trade Organization

Foreword

As the Parties to the UNFCCC start to communicate their Intended Nationally Determined Contributions (INDCs) it is important to ask two questions. How do the proposed contributions add up collectively with respect to reaching the agreed target of keeping the global temperature increase below 2°C compared to preindustrial levels? And are the contributions fair and equitable vis-à-vis the intended contributions made by other Parties?

This report discusses different ways to assess and review the INDCs. First, it looks at and analyses different options from other review processes under and outside the UNFCCC. It then explores Parties' views on assessment and review processes based on their submissions. Various options for designing an assessment and review are identified and further discussed. Finally, recommendations for further actions before and after COP21 in Paris are formulated.

The Stockholm Environment Institute (SEI), the Center for International Climate and Environmental Research – Oslo (CICERO) and the German Development Institute (DIE) have carried out the study for NOAK, a working group under the Nordic Council of Ministers. The aim of NOAK is to contribute to a global and comprehensive agreement on climate change with ambitious emission reduction commitments. To this end, the group prepares reports and studies, conducts meetings and organizes conferences supporting Nordic and international negotiators in the UN climate negotiations.

Oslo, March 2015

Peer Stiansen
Chair of the Nordic Working Group
for Global Climate Negotiations

Preface

This report is the outcome of the project “Practical Approach to an Assessment of Contributions for the 2015 Agreement,” carried out for the Nordic Working Group for Global Climate Negotiations (NOAK) by the Stockholm Environment Institute (SEI) in collaboration with the Centre for International Climate and Environmental Research – Oslo (CICERO) and the German Development Institute (DIE) between June 2014 and February 2015.

The report reflects the state of affairs in the international negotiations on a 2015 agreement as of January 2015. To offer timely input into the twentieth Conference of the Parties (COP20) in Lima in December 2014, the authors have published a short briefing paper about the options for *ex ante* assessment in the run-up to COP21 in Paris in December 2015 (van Asselt *et al.*, 2014). The present report includes an update reflecting the developments in Lima.

The authors would like to express their gratitude to the NOAK Steering Group (Henrik Jepsen, Elin Kronqvist, Turid Tersmeden, Paula Perälä, and Håvard Toresen) for offering helpful guidance and comments on the interim report, the briefing paper and the draft final report. We are particularly grateful to Outi Leskelä of NOAK for her support and guidance throughout the project. The report has also greatly benefited from a series of semi-structured interviews with international experts on the climate negotiations (for a list of interviewees, see Appendix III). Interim results of the project were presented at a side-event in the EU pavilion at COP20 in Lima. We would like to thank Yamide Dagnet (WRI), Jane Ellis (OECD), Sebastian Oberthür (Vrije Universiteit Brussels) and Sivan Kartha (SEI) for their contributions to that event. Lastly, we would like to thank Yamide Dagnet (WRI), Thomas Hale (Oxford University), Marion Davis (SEI) and Steffen Kallbekken (CICERO) for their comments on the draft final report.

The views expressed in this report are solely those of the authors, and do not necessarily reflect the views of NOAK or its member governments.

Summary

In 2013, Parties to the United Framework Convention on Climate Change (UNFCCC) were invited to prepare and communicate their Intended Nationally Determined Contributions (INDCs) under a 2015 international climate change agreement.

Assessment and review (A&R) of INDCs can help to ensure that these contributions are in line with internationally agreed objectives and principles. A&R can further help to establish and enhance transparency, trust and accountability between Parties by creating a shared understanding of Parties' intended contributions, as well as the underlying information, data and assumptions. Moreover, A&R can help to increase ambition by providing an opportunity for feedback and exchange of ideas and approaches, and by encouraging additional reciprocal actions.

A&R can focus on Parties' contributions individually or collectively. A distinction can further be made between *ex ante* A&R, taking place before contributions are formalized; A&R of implementation, taking place during a contribution period; and *ex-post* A&R, taking place upon the conclusion of a contribution period.

Several questions regarding the design and organization of A&R under a 2015 agreement are still outstanding. This report examines the options for A&R, with a focus on the following questions:

- What exactly should be assessed and reviewed? And how should A&R account for the possibility that contributions may cover not only mitigation, but also means of implementation and adaptation?
- Should A&R processes be differentiated, and if so, how?
- Against which criteria should contributions be assessed and reviewed?
- When should A&R be carried out?
- How should A&R be organized, and which actors should be involved in it?
- How should A&R feed into new contributions?

The report starts by analysing existing review processes under the UNFCCC and the Kyoto Protocol. These processes have resulted in a wealth of information about Parties' efforts thus far, and offer valuable lessons for A&R under a 2015 agreement. The analysis shows that some forms of differentiation are possible not only between Annex I and non-Annex I Parties, but also within those groups. They further show that technical reviews are increasingly combined with Party-to-Party interactions in a political setting. While reviews mainly focus on mitigation efforts, there is experience with reviews of other relevant information (including means of implementation and adaptation), offering a basis for future A&R of a variety of contributions. Lastly, most technical review processes have been hindered by resource limitations and capacity constraints, which may well challenge future A&R systems; however, those challenges are starting to be overcome through streamlining of review processes as well as capacity-building.

The report next draws lessons from reviews in intergovernmental processes outside of the UNFCCC. The analysis shows that these processes generally apply to all Parties, but that differentiation has been possible in several processes (e.g. based on regime-specific criteria, such as the share of world trade). Processes outside of the UNFCCC also highlight resource and capacity challenges, but offer possible solutions in the form of group reviews, differentiated frequencies of review, and access to funding. Importantly, even in international regimes dealing with sensitive issues (e.g. human rights), non-governmental stakeholders have been involved in the review process. Finally, the processes underline the importance of carrots (e.g. access to finance) and sticks (e.g. trade sanctions) in ensuring cooperation with the review process.

The report next analyses Parties' views on A&R under a 2015 agreement. Considerable differences between Parties exist on some issues, especially on A&R of individual contributions and on differentiation between Parties in the A&R process. These issues relate to the larger question of how to reconcile a system of nationally determined contributions with the UNFCCC's binary division of Annex I/non-Annex I Parties. More convergence between Parties is found with respect to A&R of collective efforts, connecting A&R to five-year contribution cycles, and on building A&R on the experiences of existing review processes under the UNFCCC. Furthermore, the idea that contributions should be adjusted upwards only (i.e. no backsliding is allowed) has received wide support.

The report offers a systematic discussion and evaluation of the wide range of options for designing and organizing A&R under a 2015 agreement against five criteria: environmental effectiveness, equity,

political feasibility, administrative efficiency, and transparency and openness. While the evaluation is limited in that it examines specific options at a time in which the overall architecture of a 2015 agreement is still being negotiated, it nevertheless highlights tradeoffs that need to be made and offers a basis for some initial recommendations.

Key findings and recommendations

The following findings and suggestions flow from the report:

- *Ex ante A&R:*
Some form of *ex ante* A&R of individual contributions under the UNFCCC would likely help ensure that contributions are ambitious and fair. Such A&R can be complemented by informal assessments outside of the UNFCCC process by observer organizations and through bilateral and plurilateral discussions among Parties. Lessons learned in the run-up to Paris with both formal and informal *ex ante* assessment should be captured and built upon in a 2015 agreement.
- *A&R of collective ambition:*
A periodic review of collective ambition is desirable from the perspective of environmental effectiveness, and is feasible (building on existing review processes). Collective A&R forms an important complement to A&R of individual efforts. It also offers an opportunity to review the entire agreement should Parties collectively not live up to their ambitions.
- *Types of contributions:*
Subjecting more elements of Parties' contributions to A&R increases transparency, but might not be practical in terms of political feasibility and administrative efficiency. Yet given the emphasis placed by developing-country Parties on means of implementation, some form of A&R of the delivery of means of implementation, whether in conjunction with a review of mitigation contributions or organized separately, would likely help to forge consensus on the 2015 agreement.
- *Differentiation:*
Parties cannot be exempted from A&R completely, for reasons of transparency and political feasibility. However, requiring less *ex ante* scrutiny of the contributions of some smaller and poorer Parties (e.g. Least-Developed Countries and Small Island Developing States)

would reduce administrative burdens and induce their participation. Such Parties would also likely benefit more from a facilitative A&R process in the implementation stage.

- *Review criteria:*
It is unlikely that Parties will agree to substantive criteria for A&R under a 2015 agreement. Applying procedural criteria in the *ex ante* process would be an important first step in clarifying the ambitions of Parties. Increased transparency indirectly helps Parties and non-governmental stakeholders to understand how ambitious or equitable contributions are.
- *Role of non-governmental actors:*
The importance of domestic politics in developing INDCs points to the need to clarify and enhance the role of non-governmental actors in A&R. Such actors can prove particularly valuable in the absence of a formal assessment of individual INDCs. The involvement of non-governmental stakeholders can further strengthen A&R of implementation.
- *Ratcheting up:*
Beyond a general commitment to avoid backsliding, procedural safeguards against backsliding, such as notification periods and commenting rounds among Parties, can help ensure that contributions become increasingly ambitious.

1. Introduction

1.1 Assessment and review of nationally determined contributions

In a crucial paragraph of the decision on the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) reached in Warsaw in 2013, all Parties to the United Framework Convention on Climate Change (UNFCCC) were invited

“... to initiate or intensify domestic preparations for their intended nationally determined contributions, without prejudice to the legal nature of the contributions, ... and to communicate them well in advance of the twenty-first session of the Conference of the Parties (by the first quarter of 2015 by those Parties ready to do so) in a manner that facilitates the clarity, transparency and understanding of the intended contributions, without prejudice to the legal nature of the contributions.”

(UNFCCC, 2014a: para. 2(b)).

The Warsaw decision led to a discussion among Parties on the content of the “intended nationally determined contributions” (INDCs), as well as the information that would need to accompany them. In December 2014, the Parties reached initial agreement on this point by specifying the types of information that could be provided with INDCs in the Lima Call for Climate Action (UNFCCC, 2014e: para. 14). While most of this information is mitigation-oriented, Parties may also consider an “adaptation component” (UNFCCC, 2014e: para. 12). Furthermore, Parties may include information related to means of implementation (i.e. finance, technology and capacity-building support). INDCs are expected to be formally communicated over the course of 2015.¹

The word “intended” may suggest to some that the “nationally determined contributions” (NDCs)² put forward by Parties are subject to

¹ See http://unfccc.int/focus/indc_portal/items/8766.php

² This report refers to “NDCs”. The UNFCCC negotiations often refer to INDCs; the word “intended” is included as an indication that NDCs are not yet finalized or inscribed in an international agreement.

some kind of *ex ante* consideration or assessment prior to the 21st Conference of the Parties (COP21) in Paris in December 2015. In addition, to the extent that NDCs are incorporated and formalized in a 2015 agreement, an *ex post* review process could verify their implementation.

The Lima Call for Climate Action effectively rules out an extensive assessment process involving Parties prior to COP21 (UNFCCC, 2014e). It asks the UNFCCC Secretariat to publish the INDCs as communicated online, and to prepare by 1 November 2015 a synthesis report of the aggregate effect of INDCs communicated by 1st October. This outcome implies that there will be no formal assessment of individual INDCs prior to Paris. Still, it is likely that INDCs will be reviewed and discussed bilaterally or plurilaterally, as well as by observers (Van Asselt *et al.*, 2014).

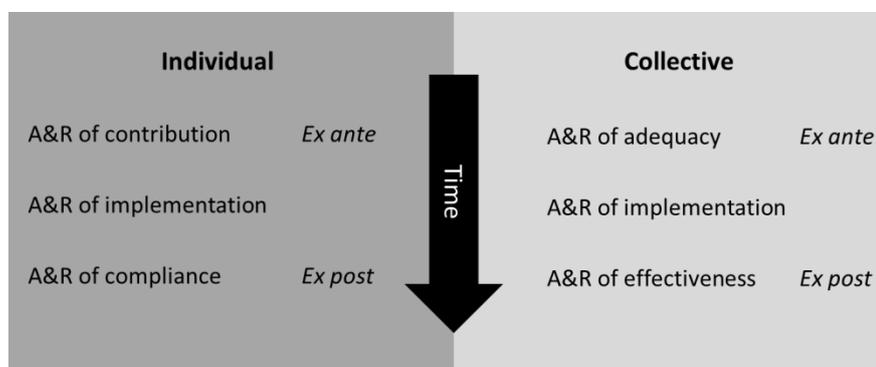
Assessment and review (A&R) processes are important for a meaningful climate change regime that can become more ambitious over time. A&R processes embody the “top-down” part in a hybrid “bottom-up”/“top-down” model of international climate policy (Dubash and Rajamani 2010; Bodansky and Diring 2014; Van Asselt, 2015, forthcoming), and are essential to ensure that internationally agreed objectives and principles do not fall through the cracks in a system of nationally determined offers. The overall purpose of A&R is therefore to ensure that (intended) NDCs meet the objectives and principles of the Convention:

- In aggregate and/or individually, NDCs should be in line with the overall objective of the UNFCCC to avoid dangerous anthropogenic interference with the climate system (Article 2). This objective has been translated by Parties to a goal to keep the average global temperature increase below 2 °C above pre-industrial levels.
- NDCs should be in line with the UNFCCC’s principles. In particular, A&R can reveal whether NDCs can be considered to be fair and equitable (cf. Article 3.1).

A&R of contributions under a 2015 agreement could take a variety of forms. First, such processes may focus on individual contributions, or on the contributions in aggregate (i.e. collective A&R). Second, A&R can take place at various points in time. For instance, it can occur before a contribution is formalized (or otherwise anchored) in the agreement. Although this is commonly referred to as *ex ante* consideration or assessment, this option is not necessarily limited to the pre-Paris period: future contribution cycles could similarly involve *ex ante* processes to assess and review new or updated proposed contributions. A&R can also take place after a 2015 agreement is adopted (or the contributions are

formalized). This could involve reviews focusing on progress made with implementation (similar to existing measurement, reporting and verification (MRV) processes). There could also be reviews focused on whether commitments have been fulfilled (i.e. whether compliance has been achieved). Such A&R processes are usually referred to as *ex post* processes, but they need not strictly be *ex post* – they may also look forward to future contribution cycles or take into account future developments (e.g. emission or economic projections). Figure 1 summarizes the possible options for A&R under a 2015 agreement.³

Figure 1. General options for A&R under a 2015 agreement



As Figure 1 shows, the range of A&R reflects a wide range of issues under negotiation for a 2015 agreement, from transparency to implementation and compliance review.⁴ Given the important role played by national contributions in a 2015 agreement, options for the design of A&R will also affect the agreement’s overall ambition and fairness.

More generally, A&R can help to establish and enhance transparency and accountability among Parties by creating a shared understanding of Parties’ intended contributions, as well as the underlying information, data and assumptions. A&R can also provide information showing whether the international community, in aggregate, is on track to meet its agreed goals. Furthermore, depending on the specific design, A&R could help build trust by determining the assumptions and conditions

³ As this report will highlight, A&R can also be carried out outside of the UNFCCC process, for instance by non-governmental organizations or international organizations. The UNFCCC process should be seen in this wider context.

⁴ Although this report will discuss aspects relevant to the review of compliance under a 2015 agreement, the report will not discuss options for a compliance mechanism in detail (but see Oberthür, 2015).

under which Parties' intended contributions are commensurate with a fair share. Finally, A&R can help to increase ambition, by providing opportunities for feedback, exchange of ideas and approaches, and thus encouraging additional reciprocal actions.

While the purpose and usefulness of the assessment and review processes may thus be clear, the question of how these processes should be designed and organized in practice remains largely unresolved. At COP20 in Lima, Parties came to an initial understanding on the process leading up to COP21; however, details on the shape of A&R under a 2015 agreement remain unclear. In particular, the following questions still need to be addressed:

- What exactly should be assessed and reviewed? And how should A&R account for the possibility that contributions may cover not only mitigation, but also means of implementation and adaptation?
- Should A&R processes be differentiated, and if so, how?
- Against which criteria should contributions be assessed and reviewed?
- When should A&R be carried out?
- How should A&R be organized, and which actors should be involved in it?
- How should A&R feed into new contributions?

This report addresses these questions by examining the options for designing assessment and review under a 2015 agreement.

1.2 Purpose and structure of the study

Against this background, the overarching objective is to identify a set of options to assess and review the nationally determined contributions by UNFCCC Parties that meets the criteria of environmental effectiveness, equity, political feasibility, administrative efficiency, and transparency. The report aims to achieve this objective in three steps:

The first step consists of a review of the existing academic and think-tank literature and policy documents, with a view to identifying the range of concepts and approaches that have been proposed or could be useful for assessing and reviewing NDCs, and thereby generate a range of practical options for the organization of A&R. To this end, we first explore the literature on review processes that have been established

under the UNFCCC, the Kyoto Protocol, and the Cancún Agreements (*Chapter 2*; more in-depth overviews are offered in *Appendix I*). The literature review will further incorporate lessons learned from review mechanisms outside the climate regime (such as the trade and human rights regimes) (*Chapter 3*; more in-depth overviews are offered in *Appendix II*). Our review also includes an analysis of submissions from Parties and observers made in the course of the ADP negotiations relevant for the organization of A&R under a 2015 agreement (*Chapter 4*). These submissions contain a wealth of ideas that can inspire the design and implementation of assessment and review processes before and after Paris. The analysis offers insights into what can be expected from the NDCs and indicates how they should be assessed and reviewed.

In a second step, we evaluate a set of practical options in more detail. Building on Chapters 2–4, we first outline the set of options – with reference to the questions raised in Section 1.1 (*Chapter 5*). We then evaluate the options with a view to examining their environmental effectiveness, equity, political feasibility, administrative efficiency, and transparency (*Chapter 6*).

In the third and final step, we offer conclusions and recommendations for a practical approach to assessing and reviewing NDCs (*Chapter 7*).

2. Lessons from existing review processes under the UNFCCC

This chapter provides an overview of lessons that can be learned from existing review processes under the UNFCCC. This discussion is important for two reasons. First, just like regimes are rarely constructed on a blank slate and continuously evolve (Depledge and Yamin, 2009), A&R under a 2015 agreement is likely to build (for reasons of both feasibility and practicality) on existing review processes. Second, existing review process may offer important lessons on the practicality of options for A&R under a 2015 agreement.

The overview in this Chapter is based on the more in-depth analyses that can be found in Appendix I. Where possible and appropriate, the overview will link to the key questions introduced in Chapter 1.

2.1 In-depth review of National Communications from Annex I Parties

The UNFCCC contains various obligations for Annex I Parties to report on their progress with implementation. Much of the required information is contained in Parties' National Communications (NCs). The UNFCCC provides a basis for the COP to regularly review developed countries' NCs. These in-depth reviews are carried out by expert review teams (ERTs), which are coordinated by the UNFCCC Secretariat, and comprise experts nominated by Parties and, at times, from intergovernmental organizations. The ERTs review the data and information provided, and assess progress made. The process is intended to be non-political, facilitative and transparent. The reviews generally include in-country visits in addition to desk-based studies; centralized reviews are possible for economies in transition with low emission levels. The process allows for Parties to respond to the review reports before their release. The reports are forwarded to the Subsidiary Body for Implementation (SBI); however, political consideration of the reports is minimal. The reports provide valuable information to other Parties and ob-

servers, and help build capacity in the reviewer community; however, the number of available experts to carry out reviews is limited.

NCs by non-Annex I Parties are not subject to an in-depth review, although a Consultative Group of Experts (CGE) provides technical assistance and advice to non-Annex I Parties in the preparation of their NCs.

Table 1. Overview of the in-depth review process for Annex I Parties' NCs

Information needs	The assessment is based on information provided in the NCs as well as other inputs (e.g. latest inventories). A basic level of consistency, transparency and comparability is ensured through detailed reporting guidelines and templates.
Object of the review	Annex I Parties' NCs cover various types of information, including greenhouse gas emissions, policies and measures, emission projections, adaptation, finance, technology transfer, and education and public awareness.
Differentiation among Parties	While NCs have to be submitted by all Parties, the reporting requirements and timing are more flexible for Least-Developed Countries (LDCs) and Small Island Developing States (SIDS). In-depth review process only applies to Annex I Parties; non-Annex I Parties are assisted by the CGE. Annex I Parties with emissions less than 50 megatonnes CO ₂ -eq. may undergo centralized review only (except for Annex II Parties).
Criteria for review	Transparency Completeness Timeliness Adherence to reporting guidelines
Timing	NCs are currently submitted every four years. Review should be completed within 15 months.
Organization of process	Review coordinated by UNFCCC Secretariat, involving experts nominated by Parties and, at times, international organizations. Expert group needs to have geographical balance; two lead reviewers, from a developed and a developing country. Experts act in personal capacity.

Lessons learned

- Differentiation in the review process (centralized review only) is possible for some Parties with low emission levels.
- Publicly available reviews can disclose valuable information for other Parties and observers on Parties' emission levels and actions undertaken.
- The review process itself helps build capacity in the expert reviewing community that can help improve the quality of reporting as well as data and information availability.
- The number of experts available to carry out the reviews is limited.

2.2 Technical review of greenhouse gas inventories from Annex I Parties

All Parties need to communicate national greenhouse gas inventories; for Annex I Parties, this needs to happen annually. The reports follow a common format and guidelines, and need to be transparent, consistent, comparable, complete and accurate. Since 2003, inventory reports have been subject to a technical review process.

The UNFCCC Secretariat carries out initial checks of individual reports, and synthesizes the information from all reports. Detailed reviews are conducted by ERTs. Such reviews include desk-based reviews, centralized reviews, as well as in-country visits (the latter should be carried out at least once in every five years). The ERTs verify whether relevant guidelines have been followed, and information is complete and consistent; they also identify areas for further improvement. The review reports are made publicly available. As the reviews are subject to strict deadlines and are carried out on an annual basis, there is a need for training to ensure that there is sufficient capacity of expert reviewers – a concern that was acknowledged by the Parties in Lima.

Non-Annex I countries are not required to submit separate National Inventory Reports (NIRs), but they are required to include the results of their greenhouse gas inventories in their NCs.

Table 2. Overview of the technical review process for Annex I Parties' national greenhouse gas inventories

Information needs	Review is based on annual inventories. The information provided in the inventory reports is highly standardized through the NIR guidelines and the Common Reporting Format (CRF) tables.
Object of the review	Inventories mitigation-related information (greenhouse gas emissions and removals).
Differentiation among Parties	While inventories have to be submitted by all Parties, the requirements and timing are more flexible for non-Annex I Parties. The technical review process only applies to Annex I Parties.
Criteria for review	Transparency Consistency Comparability Timeliness Accuracy Adherence to reporting guidelines
Timing	Reviews take place annually after submission of the reports to the UNFCCC. In-country reviews at least once in every five years. ERT review should take up to 20 weeks.
Organization of process	Review coordinated by UNFCCC Secretariat, involving experts nominated by Parties and, at times, international organizations. Expert group needs to have geographical balance; two lead reviewers, from a developed and a developing country. Experts act in personal capacity.

Lessons learned

- Common guidelines and methodologies enhance consistency and facilitate comparability of mitigation actions.
- Review of all inventory reports on an annual basis is a resource-intensive process, putting pressure on the capacity of experts, the UNFCCC Secretariat and Parties.

2.3 Technical review of reports by Annex I Parties

The Kyoto Protocol requires Annex I Parties to report annually to demonstrate compliance. For accounting purposes, these reports include detailed inventories as well as information on calculations related to assigned amounts, land use, land-use change and forestry (LULUCF) activities and the national registry tracking transactions of Kyoto units. Given the importance of emissions accounting for the environmental integrity, this information is more detailed than what is required under the UNFCCC. The reports include information complementing the NCs, such as on the use of the Kyoto Protocol's flexibility mechanisms, policies and measures, and the provision of finance and technology transfer.

In addition to these regular reports, the Protocol requires several “one-off” reports: (i) an initial report clarifying Parties’ assigned amounts under the Protocol; (ii) a report on the “demonstrable progress” made with the implementation of commitments by 2005; and (iii) a true-up period report, through which Parties’ compliance with their Kyoto targets can be assessed.

With the exception of demonstrable progress reports, all reports are reviewed by ERTs, who carry out a technical assessment and may raise questions of implementation. If these cannot be resolved, the ERT can refer the matter to the Kyoto Protocol’s Compliance Committee. Although ERTs are to refrain from political judgements, by raising potential questions about implementation, they have played an important role in facilitating compliance. ERTs are responsible for various reviews:

- *Annual review of inventory reports:*
This review starts with an initial check for completeness, timeliness and consistency, accuracy, transparency and comparability, followed by an in-depth review, which may involve an in-country visit. ERTs can identify problems and, if necessary, apply “adjustments” to the emissions data. Challenges that have arisen with the annual review include a shortage of experts, a bias towards Annex I reviewers, insufficient resources to fund experts, inconsistencies among ERTs, and delays in the reviews.
- *Periodic review of NCs:*
This review includes an in-country visit, along with centralized or desk-based reviews. NCs are checked for completeness, and ERTs carry out a detailed examination of the various sections of the NCs. The report needs to include a technical review and discuss potential problems identified in the NC, linked to the criteria of transparency, completeness and timeliness. Unlike annual reviews, there is no methodological guidance, limiting the scope of the review.
- *Review of initial reports:*
This review, carried out in 2007–2009, focused on the inventory, the calculation of assigned amounts, the national system⁵ and the national

⁵ National systems are needed for the accurate estimation of emissions, and thereby for the functioning of the Kyoto Protocol’s flexibility mechanism. They further provide the necessary information to assess compliance with the Kyoto targets.

registry, and provided a timely assessment of whether the national system and registry were in place.

- *Review of true-up period reports:*
This review (due in 2015) is crucial in determining whether Parties have complied with their targets. ERTs are to check if the information is provided according to the guidelines, whether it is consistent with other information sources, and whether a country has met its target.

Table 3. Overview of the technical review process for Annex I Parties' reports under Article 7 of the Kyoto Protocol

Information needs	Various reports under the Protocol. For each report, detailed guidance is established (including information on emissions data and trends, policies and measures, monitoring systems, etc.).
Object of the review	The process covers all relevant information, including non-mitigation and non-domestic contributions.
Differentiation among Parties	The reporting requirements and review processes only apply to Annex I Parties.
Criteria for review	For annual inventory reports: - Transparency - Consistency - Comparability - Timeliness - Accuracy - Completeness For NCs: - Transparency - Completeness - Comparability - Timeliness
Timing	Inventory reviews take place annually after submission of the inventory reports, and should be completed within one year. Periodic reviews of NCs to be completed within two years following the submission of NCs:
Organization of process	Review coordinated by UNFCCC Secretariat, involving experts nominated by Parties and, at times, international organizations. Expert group needs to have geographical balance. Experts act in personal capacity. Review reports can raise questions of implementation, which can be forwarded to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) and the Compliance Committee.

Lessons learned

- An international agreement can combine several types of review processes, including one-off and more regular reviews.
- An expert review process flagging problems with implementation can help facilitate compliance even without the intervention of a compliance mechanism.

- Annual expert reviews of a large number of reports require a larger group of experts (including from non-Annex I countries) and more resources from the UNFCCC Secretariat and Parties.
- Detailed guidance is necessary to ensure consistency in the review process.

2.4 International Assessment and Review of Annex I Parties' Biennial Reports

In addition to NCs and annual greenhouse gas inventory reports, Annex I Parties are expected to submit biennial reports (BRs) on their progress in achieving emission reductions and providing finance, technology and capacity-building support to developing countries. The reports follow a specific format and guidelines. BRs are subject to international assessment and review (IAR) every two years, either independently or together with NCs. IAR includes two separate steps: a technical review and a multilateral assessment.

Common guidelines for the technical review process of NCs, BRs and inventories were agreed at COP20 in Lima. When submitted simultaneously, BRs and NCs are subject to a joint in-country review; otherwise a centralized review will be carried out. Technical reviews examine in depth issues not covered in the inventory review, including information related to emission reduction targets and the provision of support. The review focuses on transparency, completeness, timeliness, and adherence to reporting guidelines. ERTs can ask questions and request information from the Party, and can also offer suggestions and advice.

The multilateral assessment draws on the technical review, the Party's reports, and supplementary information on the achievement of the Party's emission reduction target, the role of LULUCF, and carbon credits from market-based mechanisms. Other Parties can submit written questions, or raise questions in a session of the SBI. The Secretariat drafts a record of the questions and answers, and the SBI can forward conclusions to the COP. The first multilateral assessments took place at an SBI session during COP20.

Table 4. Overview of the IAR for BRs by developed country Parties

Information needs	Information contained in the BRs, based on detailed guidance and a common format for reporting.
Object of the review	The BRs and IAR cover mitigation-related information, as well as information about financial, technological and capacity-building support.
Differentiation among Parties	BR reporting requirements only apply to Annex I Parties; non-Annex I Parties submit biennial update reports (see below). The IAR process only applies to Annex I Parties; non-Annex I Parties are subject to international consultations and analysis (see below).
Criteria for review	Transparency Completeness Timeliness Adherence to reporting guidelines
Timing	Technical reviews should be completed within 15 months after submission of the BR. Multilateral assessment starts three months before an SBI session, and is completed within two months after the session.
Organization of process	The technical reviews are coordinated by the UNFCCC Secretariat, involving experts nominated by Parties and, at times, international organizations. Expert group needs to have geographical balance; two lead reviewers, from a developed and a developing country. Experts act in personal capacity. Multilateral assessment involves Party-to-Party questions and answers, in both written and oral form.

Lessons learned

- Overlaps between different review processes (for inventories, NCs and BRs) have been acknowledged, and streamlining efforts to ensure cost-effectiveness and efficiency are made.
- No political judgements are to be made in the technical reviews, but technical expert reviews can be combined with a more political process of questions and answers between Parties.
- The first multilateral assessments took place during COP20 in Lima.

2.5 International Consultations and Analysis for developing country Parties' Biennial Update Reports

In 2010, the Parties agreed that developing countries (except for LDCs and SIDS) should submit new biennial update reports (BURs) every two years from 2014 onwards, either in conjunction with NCs or separately. BURs should include information on, among others, national circumstances and institutional arrangements, mitigation actions, and financial, technical and capacity needs.

BURs are subject to international consultations and analysis (ICA) under the SBI. The aim of ICA is to enhance transparency through a non-confrontational, non-intrusive process that respects national sovereignty. For LDCs and SIDS, group ICA is available. The process starts with an analysis by a team of technical experts, in consultation with a Party. Based on the experts' report, a facilitative sharing of views will take place, which can include questions and answers between Parties.

Table 5. Overview of the ICA for BURs by developing country Parties

Information needs	Information is provided in the BURs, but may include other information submitted by Parties.
Object of the review	The focus of BURs and their analysis is on emissions and mitigation actions; however, other information (notably on financial, technological and capacity-building support needed) is also included.
Differentiation among Parties	BUR reporting is for non-Annex I Parties only; LDCs and SIDS are allowed to submit later; various references are included to national circumstances and capabilities. The ICA process is for non-Annex I Parties only; it is voluntary for LDCs and SIDS. LDCs and SIDS can be reviewed as a group.
Criteria for review	None indicated.
Timing	The ICA process needs to start within six months after submission of the BURs. Technical reviews need to be completed within nine months.
Organization of process	Experts are selected by the Secretariat, drawing on advice of the CGE, among others. Expert group needs to have geographical balance, but involve a majority of non-Annex I Party experts. Experts act in personal capacity. Multilateral "facilitative sharing of views" involves Party-to-Party questions and answers.

Lessons learned

- The designs of review processes for Annex I and non-Annex I Parties can mirror each other, but references to national circumstances and capabilities are likely needed, and the process needs to avoid being seen as overly intrusive.
- Differentiation in the design of a review process among non-Annex I Parties is possible; in this case for LDCs and SIDS.

2.6 The 2013–2015 review

The 2013–2015 review is a collective periodic review of the adequacy of the 2 °C goal, drawing on the latest science and information on steps taken by Parties. The review is carried out with the assistance of the Subsidiary Bodies and supported by expert inputs. Parties established a

joint working group as well as a structured expert dialogue (SED) to ensure the scientific integrity of the review and assist the Subsidiary Bodies with the preparation of synthesis reports.

Table 6. Overview of the 2013–2015 review under the UNFCCC

Information needs	Assessment and special reports and technical papers of the Intergovernmental Panel on Climate Change (IPCC). Submissions from Parties, NCs, BURs and BRs, national inventories, reports on ICA, IAR, and other relevant reports from Parties and processes under the Convention. Relevant reports from UN agencies and other international organizations, including reports on emission projections, technology development, access, transfer and deployment, and reports on gross domestic product, including projections. Scientific knowledge as well as observed impacts on climate change.
Object of the review	Exclusive focus on mitigation. Focus on global effort; hence the issue of non-domestic contributions does not apply.
Differentiation among Parties	Draws on other processes that are differentiated between Parties.
Criteria for review	Is the 2 °C goal adequate in the light of the ultimate objective of the Convention, or should it be strengthened to 1.5 °C? Is the overall progress towards achieving the long-term global goal adequate?
Timing	Started in 2013, to be completed in 2015. The information-gathering and compilation phase should end at least six months before the conclusion of the review in 2015. Subsequent reviews will take place following the adoption of an IPCC Assessment Report or at least every seven years.
Organization of process	Conducted by the COP, assisted by the Subsidiary Bodies. Joint contact group under the Subsidiary Bodies. SED to support the contact group; and hold scientific workshops and expert meetings. Phases include information-gathering and compilation, technical assessment through the organization of workshops, technical studies, and the preparation of synthesis reports.

Lessons learned

- It is possible to establish a review process that focuses on global ambition and the aggregate effect of the steps taken by Parties to achieve the ultimate objective of the Convention, without reviewing individual Parties specifically.

2.7 Biennial assessment and overview of climate finance flows

The Standing Committee on Finance (SCF) is mandated to prepare a biennial assessment and overview of climate finance flows. The assessment is conducted against the criteria and goals of fast-start finance: thematic balance; geographical distribution, consistency with the 2 °C goal; CO₂

impact/performance; country needs, priorities and ownership; and access modalities. The SCF was further asked to consider ways of strengthening methodologies for reporting climate finance and to consider ongoing technical work on operational definitions of climate finance. To support these activities, developed country Parties were invited to submit information on the appropriate methodologies and systems used to measure and track climate finance to the Secretariat. Further information is drawn from international and national development banks, NGOs, think tanks, research institutions, academia, and international organizations.

Consultants were hired to do the actual work, with SCF members serving as resources. The assessment part of their report should also include a section on limitations/gaps as well as broader regulatory and policy barriers, and a five-page section on ways to strengthen methodologies for reporting climate finance.⁶

Table 7. Overview of SCF assessment process

Information needs	Drawing on existing sources of information, including NCs and BRs, Parties' information on assessments of their needs, reports prepared by the operating entities of the financial mechanism, and information from other entities providing climate finance.
Object of the review	To ensure that climate finance supports adaptation and mitigation in developing countries.
Differentiation among Parties	Only developed countries pledged to mobilize climate finance. Only developed country Parties were invited to submit information to the Secretariat on the appropriate methodologies and systems used to measure and track climate finance. The assessment analyses the geographical distribution, without further indicating its implications for differentiation.
Criteria for review	Fast-start finance criteria, set by the COP: - Thematic balance - Geographical distribution - In line with the 2 °C goal - CO ₂ impact/performance - Country needs, priorities and ownership - Finance access modalities
Timing	Biennial; first assessment was in 2014.
Organization of process	The COP mandates the SCF to prepare the assessment and set criteria. Developed country Parties are invited to submit information on the methodologies and systems used to measure and track climate finance to the Secretariat. The SCF calls for inputs from observers and interested organizations on elements to be included in the work programme. Independent consultants do the actual work, with SCF members serving as resources.

⁶ There is no internationally agreed definition of "international climate finance". Due to the lack of both a clear definition and reporting standards for climate finance, there is high uncertainty surrounding the actual amount of UNFCCC-related climate finance.

Lessons learned

- The mandate for review can be expanded over time.
- Input from Parties can be combined with input from relevant observers (including intergovernmental organizations and research institutions).
- A lack of clarity on the subject matter of the review (i.e. the absence of a clear definition of climate finance) has hindered the review.

2.8 Inferences

This chapter has examined existing review processes under the UNFCCC and the Kyoto Protocol, with a view to identifying lessons for the design of A&R under a 2015 agreement. On the basis of the analysis of these processes, the following inferences can be drawn:

First, although the most common differentiation in the review processes is between Annex I and non-Annex I Parties, differentiation among non-Annex I Parties is possible and already happening in practice. In addition to singling out LDCs and SIDS, references to “national circumstances and capabilities” suggest that further differentiation is conceivable. Nonetheless, review processes for developed and developing country Parties increasingly mirror each other, and further convergence over time may be possible (cf. Dagnet *et al.*, 2014).

Second, all review processes under the UNFCCC and the Kyoto Protocol involve some form of technical expertise. Such technical reviews are generally aimed at clarifying information; checking for consistency between different sources of information; and ensuring completeness, comparability and accuracy. However, technical reviews are increasingly combined with Party-to-Party interactions, such as the multilateral assessment under IAR and the facilitative sharing of views under ICA, and Parties have begun to gain practical experience with these processes. The open dialogue among Parties could help build trust through direct exchanges, and enhance the transparency of Parties’ efforts. It remains to be seen, however, precisely how such processes will influence the ambition and implementation of efforts.

Third, existing review processes focus primarily on mitigation (examining both emissions levels and reductions, as well as mitigation actions undertaken), but they also cover a wealth of non-mitigation-related information, notably related to financial, technological and capacity-building support as well as adaptation. This body of infor-

mation can help provide a basis for future review processes covering non-mitigation contributions.

Fourth, the various technical review processes require a large number of technical experts from a wide array of countries, particularly if the frequency of review is increased and more Parties are included. In addition to requiring further (financial) resources, expanding the scope and frequency of reviews would require capacity-building and further training.⁷ Streamlining of different technical review processes can help address capacity-related constraints, however, and is becoming commonplace within the UNFCCC (notably through harmonized guidelines for the review of Annex I Parties' inventories, NCs and BRs).

Fifth, a wealth of experience in developing rules for expert review processes already exists within the UNFCCC, including on such issues as the selection of experts and composition of review teams; timelines for reviews; and the publication of review reports. These rules offer a useful basis for the development of modalities and procedures for future A&R processes.

⁷ The need for further training of experts was recognized in two separate decisions in Lima (UNFCCC, 2014h; UNFCCC, 2014i).

3. Lessons from review processes outside of the UNFCCC

This chapter discusses a variety of intergovernmental review processes outside the UNFCCC context, with a view to identifying lessons learned for A&R under a 2015 agreement. Clearly these experiences have occurred in a different context, and any analogies should be made with care. Still, an analysis of these processes may offer useful insights into how A&R of national goals, policies and measures can be organized in intergovernmental settings. The review processes examined in this chapter include: international economic institutions – the World Trade Organization (WTO) and the International Monetary Fund (IMF); a human rights institution – the Human Rights Council; an international environmental institution – the Montreal Protocol; and a regional institution – the Organisation for Economic Co-operation and Development (OECD).

More detailed analyses of the review processes can be found in Appendix II. As in the previous chapter, where possible and appropriate, references will be made to the key questions outlined in Chapter 1.

3.1 Trade Policy Review Mechanism (WTO)

The Trade Policy Review Mechanism (TPRM) of the WTO aims to enhance transparency and understanding of trade policies and practices of WTO Members and their impacts on trade. The mechanism applies to all WTO Members, but takes into account national circumstances. Moreover, the frequency of reviews is determined by the share of world trade of a Member, with the top four Members being subject to the review biennially, the next 16 Members every four years, and other Members every six years. For LDCs this period may be even longer. Reviews may also take place in groups, addressing increasingly heard concerns regarding capacity and available resources.

The reviews are carried out by the Trade Policy Review Body (TPRB) on the basis of reports by the Member concerned and a report by the

WTO Secretariat. The Secretariat report is an independent evaluation, although it has been as viewed by some as insufficiently critical. The process itself takes a little over a year, and involves a series of interactions between the Secretariat and the Member under review, as well as an in-country visit. The reports are discussed at a TPRB meeting; other Members can submit questions ahead of this meeting. The meetings do not lead to recommendations. The reports, as well as the record of the meeting, are published shortly after the review, and forwarded to the WTO Ministerial Conference.

Table 8. Overview of TPRM process under the WTO

Information needs	Reports by WTO Members on their trade policies and practices, with a minimum level of standardization.
Differentiation among Parties	Reviews take place against the background of economic and developmental needs. The review process applies to all, but the frequency depends on each Party's share of world trade; for LDCs there may be further flexibility. The process allows for group reviews. The WTO Secretariat can assist smaller Members in preparing reports.
Criteria for review	No criteria mentioned, but transparency is an overall objective.
Timing	The process takes one year and six weeks. The WTO Secretariat and government reports need to be sent to Members five weeks in advance of the meeting. Members have four weeks to respond to unresolved questions after the meeting.
Organization of process	The WTO Secretariat drafts a report in close consultation with the Member. TPRB meeting involves Member-to-Member questions and answers, in both written and oral form.

Lessons learned

- The frequency of reviews can be linked to regime-specific criteria (i.e. the share of world trade).
- Group reviews for some countries sharing similar characteristics may address concerns of increasing costs and resource requirements for review.
- Administrative bodies involved in a review process will need to tread carefully, as they need to be viewed as independent yet respectful of countries' sovereignty.

3.2 Bilateral Surveillance (IMF)

Through a bilateral surveillance mechanism, exchange rates of member countries are monitored by the IMF to ensure that they do not impair financial and economic stability. The mechanism needs to respect the

policies of member countries, and take into account national circumstances. Surveillance usually takes place annually, although biennial reviews are possible for lower-risk countries (e.g. LDCs).

The process consists of an IMF visit to member countries to discuss the economic and financial policies of the country with the government, the central bank and other stakeholders. IMF staff draft a report, which is discussed by IMF’s Executive Board. The Board discussions, which are closed to the public, resemble a peer review although members tend to come with prepared positions. The Board does not have to come to an agreement, either internally or with the country’s government. Following the discussions, the staff report is usually made public, although countries can – and have – refused publication.

The system has been criticized for being too much of a one-way process, and for not being even-handed and favouring the larger members. “Integrated surveillance” was introduced to respond to these criticisms. As a result, bilateral surveillance now also takes into account the global impacts of financial and economic policies on individual member countries, with a view to securing global financial stability. In addition, the option to hold multilateral consultations (involving IMF staff and officials from several member countries) has been introduced.

Table 9. Overview of the IMF’s bilateral surveillance process

Information needs	Information on policies of members that can significantly influence present or prospective balance of payments and domestic stability.
Differentiation among Parties	The process applies to all countries. The surveillance process is to take into account domestic circumstances. Reviews can be less frequent for countries of lesser relevance for the overall objective of securing (global) financial stability.
Criteria for review	None indicated.
Timing	Usually an annual review. No timeline for staff consultations; Board discussion is expected within 65 days after the staff report is submitted.
Organization of process	IMF staff conducts desk-based study and in-country consultations, followed by a report. Discussions by 24-member Executive Board of the IMF lead to summary conclusions. Multilateral consultations involving several countries are possible.

Lessons learned

- Stringent reviews do not guarantee influence on larger, more powerful countries, and may put disproportionate burdens on smaller countries.
- A review process can combine an assessment of national and global impacts of domestic policies and measures.

3.3 Universal Periodic Review (UN Human Rights Council)

The Universal Periodic Review (UPR) is an intergovernmental process under the UN Human Rights Council (HRC) that examines countries' adherence to a range of legally binding human rights instruments as well as voluntary pledges, with a view to improving the human rights situation, enhancing compliance with international commitments, building capacity, and sharing best practices. The review is to take into account countries' national circumstances, and should be objective, transparent, non-confrontational, non-politicized, efficient and inclusive. Countries have shown a high level of engagement with the process, and the process has led to the ratification of human rights treaties and new voluntary pledges and commitments. The review process follows a schedule to ensure an equitable geographical distribution. The first UPR cycle lasted four years and reviewed all States; the second cycle is taking place between 2012 and 2016.

The review draws on information provided by the country under review, a compilation of information by the Office of the High Commissioner for Human Rights (OHCHR), and additional information submitted by stakeholders. The review is carried by the UPR Working Group of the HRC, which is composed of 47 member States. Other States may also participate, and other stakeholders may attend. Three rapporteurs facilitate the review and draft the Working Group's report with support from the OHCHR. The report summarizes the proceedings, along with conclusions and recommendations.

The outcome may include an assessment of the human rights situation, but may also lead to the provision of support or to new voluntary commitments. The final outcome report, including the State's response, includes recommendations that may or may not be supported by the State. The report, which is made publicly available, is then forwarded to the HRC for adoption. The HRC can indicate whether any follow-up is warranted. There have been concerns that politics influence the recommendations and their implementation, and that recommendations are insufficiently action-oriented. The implementation of the outcome of a review is discussed in more detail in the next review, and States are encouraged to submit mid-term reports. If States refuse to cooperate with the UPR, the HRC can address the issue; however, no measures have been taken yet in one case of non-cooperation.

The HRC has established a Voluntary Trust Fund to facilitate the participation of developing countries (particularly LDCs) and a Voluntary Fund for Financial and Technical Assistance to assist countries (particularly LDCs and SIDS) with the implementation of recommendations.

Table 10. Overview of the Human Right Council’s UPR process

Information needs	Information on implementation of legally binding commitments and voluntary pledges, provided by: the State under review; reports by other UN bodies and experts; and input from non-governmental stakeholders.
Differentiation among Parties	The process applies to all countries, but taking into account the country’s level of development and other characteristics. Funds are established to facilitate the participation of LDCs and the implementation of recommendations by LDCs and SIDS.
Criteria for review	None indicated.
Timing	Reviews take place every 4.5 years, according to a schedule. Reviews in the UPR Working Group last 3.5 hours per country.
Organization of process	A country prepares a national report, with the OHCHR preparing additional reports based on other sources. UPR Working Group open to non-HRC members and relevant stakeholders. Documents are discussed in a question-and-answer session. Conclusions and recommendations are forwarded to the HRC plenary for adoption.

Lessons learned

- Information for the review can be provided by non-governmental stakeholders.
- Review schedules can help structure and organize the review process in a predictable fashion.
- The review process can cover legally binding commitments as well as voluntary pledges, and can lead to new voluntary pledges.
- States do not have to accept the outcome of the review process.
- Subsequent reviews can explicitly focus on implementation of the outcomes of the previous cycle.
- The review process can be combined with specific funds to facilitate participation of smaller, lower-income countries in the process, and help countries implement recommendations.
- A fallback clause may be warranted to deal with countries that persistently fail to cooperate with the review process.

3.4 Implementation review (Montreal Protocol on Ozone-depleting Substances)

Under the 1987 Montreal Protocol, all Parties need to report annually on data on the production, import and export of the ozone-depleting substances covered by the treaty. As part of the Protocol's compliance mechanism, Parties have established an Implementation Committee. A compliance procedure can be launched if one or several Parties have concerns about another Party's implementation, if Parties self-report non-compliance, or if the Ozone Secretariat, through compiling data reported by Parties and other information sources, brings issues of non-compliance to the attention of the Committee. The Committee can request further information and try to uncover the reasons for non-compliance, carry out an in-country visit at the invitation of the Party, and liaise with the Executive Committee of the Protocol's Multilateral Fund on the provision of financial and technical assistance to the Party.

The Committee, which meets twice a year, consists of 10 Parties, which are elected for two years by the Meeting of the Parties (MOP) of the Montreal Protocol. The meetings are not open to the public, but are attended by international organizations. The Committee reports to the MOP, and can provide recommendations, such as preparing an action plan to return to compliance. Should a Party refuse to follow the recommendations, cautions or sanctions (e.g. suspensions from some of the benefits of the Protocol) may be adopted. Alternatively, a decision may be adopted to provide financial or technical assistance.

The non-compliance procedure has developed a regular routine that facilitates and streamlines the work of the Committee. It has been widely used, although the focus has been mainly on developing countries and economies in transition. Part of its appeal is that it is non-confrontational, so Parties clearly do not view it as a venue for dispute resolution, but rather as a practical way to discuss non-compliance.

Table 11. Overview of the implementation review of the Montreal Protocol

Information needs	Information provided in national reports on production, export and import data for ozone-depleting substances, standardized through data reporting tools and formats.
Differentiation among Parties	All Parties are included in the process. Reviews have, in practice, not focused on developed countries. Multilateral Fund assists developing countries.
Criteria for review	None indicated.
Timing	Reports are to be submitted annually. Reviews take place at sessions twice a year.
Organization of process	(Potential) non-compliance is brought to the attention through other Parties, self-reporting, or Secretariat reporting. Implementation Committee analyses causes of non-compliance. In-country visits are done upon invitation only. The recommendations from the Committee are forwarded to the MOP for adoption. Not following the recommendations can lead to further measures, ranging from sanctions to assistance.

Lessons learned

- A review can be done by a selection of Parties only, based on an election system and predefined rules.
- Linking the outcome of a review process with financial and technical assistance enhances the acceptability of the process.
- In some cases, the threat of “sticks” (cautions or suspensions) may be needed.

3.5 Peer reviews (OECD)

A variety of peer reviews take place under the auspices of the OECD, including economic reviews, environmental performance reviews, reviews of development aid, and reviews of regulatory reform. Reviews can follow from a decision by a subsidiary body, a decision by the Ministerial Council, or provisions in treaties. Depending on the issue area under review, the standard of review could be broadly defined principles, internationally legally binding norms, numerical targets, indicators and benchmarks, or a mixture of these. The frequency of the reviews differs for each body and depends on the subject matter. Peer review usually applies to all members of an OECD body, and can even be a condition for membership. Members are expected to fully cooperate by providing information, hosting visits and responding to questions. Non-members can also ask to be reviewed. The reviewing countries usually rotate, and are to act as representatives of the body.

Peer reviews commonly take place in three stages: (i) a preparatory stage, consisting of background analysis and a self-evaluation; (ii) a consultation stage, in which the reviewers and the OECD Secretariat closely interact with the country under review, carry out in-country visits, and consult with stakeholders; and (iii) an assessment phase, which includes a discussion of the draft report in the OECD body. The meeting leads to a final report, usually adopted by consensus, which forms the basis for the next peer review, and is made publicly available.

Table 12. Overview of the OECD peer review system

Information needs	Information from questionnaire filled out by member. Independent analysis under auspices of the OECD.
Differentiation among Parties	Only applies to OECD members (although non-members are reviewed upon their request). The scope of some reviews depends on agreement between the Secretariat and the country under review, which may result in <i>de facto</i> differentiation.
Criteria for review	Broadly defined: policy principles, internationally legally binding norms, and specific benchmarks and indicators.
Timing	Review cycles vary from 12–18 months to 6–7 years. The length of the review process varies.
Organization of process	The OECD Secretariat helps prepare the information base. Reviewing country carries out review, including possible in-country visits in which it engages with non-governmental stakeholders. Draft report is discussed in the OECD body in plenary. The final report, which contains conclusions and recommendations, is adopted by consensus. The next review follows up on recommendations from the previous review.

Lessons learned

- The standard of review can range from qualitative/abstract criteria to quantitative/concrete criteria, which can be applied in parallel.
- Review processes can be applied to non-members or non-Parties on a voluntary basis.

3.6 Inferences

This chapter has examined a selection of intergovernmental review processes outside the UNFCCC context. The following inferences can be drawn for the design of A&R under a 2015 agreement:

First, there are multiple ways to differentiate between countries. Differentiation can take place through a broad and undefined reference to national circumstances or conditions (e.g. under the IMF's bilateral surveillance system or the UPR); by mentioning specific country groupings

(e.g. LDCs); or with reference to issue-specific criteria (e.g. the share of world trade in the WTO's TPRM). Furthermore, the needs and conditions of less developed countries can be addressed by providing for preferential treatment, for instance in the form of financial support and technical assistance in preparing reports, or lower review frequencies (see also Joffe *et al.*, 2013).

Second, multilateral review processes covering all countries or Parties participating in a regime can be very resource-intensive, for the bodies involved in the reviews and the countries/Parties themselves. To address the capacity constraints of the bodies involved in the reviews, various solutions have been suggested (and sometimes adopted), such as group reviews, lower frequencies of reviews for some countries, shorter reports and shorter meetings. Some institutions may also have the capacity to deal with in-depth reviews of multiple countries (e.g. the IMF). For the countries and Parties under review, capacity-building (especially for smaller countries with lower capacity) is a key suggestion emerging from the overview.

Third, the discussion shows that non-governmental stakeholders can be involved in various ways. The main way in which this occurs is usually in the collection of information at the start of a review, to complement the information provided by a country under review. Additionally, stakeholders (usually accredited observers) may attend relevant meetings of the reviewing body (e.g. the TPRM or the UPR Working Group). However, this participation generally does not extend to asking critical questions, or making other statements. Moreover, some processes are completely closed to the public (e.g. the IMF meetings), although in some cases international organizations may attend (e.g. the meetings of the Montreal Protocol's Implementation Committee).

Fourth, in terms of the review process, the examples show that reviews need not involve all countries. Both the Montreal Protocol's Implementation Committee and the UPR involve a selection of countries, and have established rules and procedures to ensure a fair process and avoid conflicts of interest.⁸

Finally, it can be challenging to address complete non-cooperation with a multilateral review process. In the case of the Montreal Protocol, the last resort would be to impose trade sanctions provided for under the treaty. However, in explicitly facilitative review processes, such as

⁸ This is also true for the Kyoto Protocol's compliance mechanism. See e.g. Lefeber and Oberthür 2012.

the UPR, no such “sticks” are available. One way of addressing this dilemma is to provide for “carrots” by linking the outcome of a review process to financial and technical assistance (as under the Montreal Protocol and the UPR). The review itself could be seen as helping a country, explaining the willingness of non-OECD members subjecting themselves to the OECD peer reviews. Alternatively, the outcomes of any review process can be “softened”, meaning that either no recommendations are offered, or any recommendations do not require follow-up by the country under review. However, it is unclear whether this would provide sufficient incentives for the Party to change its behaviour.

4. Analysis of Parties' views on assessment and review

This chapter reviews all Party submissions to the ADP prior to COP20, along with recent Earth Negotiation Bulletins from ADP 2–4 (March 2014), ADP 2–5 (June 2014), ADP 2–6 (October 2014) and COP20 (December 2014), with a view to examining the extent to which Parties' views on relevant issues for assessment and review diverge or converge.

4.1 The object of the assessment and review

One of the key issues in the negotiations related to INDCs concerns their substance: what can and must a “contribution” include? Many developed countries insist that the Warsaw mandate includes mitigation only, as the relevant paragraph in Decision 1/CP.19 refers to the objective of the Convention. Most developing countries, by contrast, argue that INDCs may or should also include contributions in the form of adaptation and means of implementation (i.e. financial, technological and capacity-building support). Parties' positions on what to include in INDCs are shown in Table 13 (Parties' positions on what INDC elements to assess or review are discussed below).

Decision 1/CP.20 maintains a clear mitigation focus, by reiterating the link to the UNFCCC's objective (UNFCCC, 2014e: paras. 9 and 14) and by specifying mitigation-oriented information (e.g. base years, assumptions and methodological approaches for estimating and accounting emissions and removals). By contrast, its call for adaptation contributions is formulated in a tentative fashion, with the decision inviting “all Parties to consider communicating their undertakings in adaptation planning or consider including an adaptation component in their intended nationally determined contributions” (UNFCCC, 2014e: para. 12). Means of implementation is not referred to at all in the context of INDCs.

An option that some Parties have put forward is to include non-mitigation elements in contributions, but exclude them from any assessment and review. Colombia has pointed out that the elements of INDCs do not need to be treated symmetrically. The EU has questioned

the usefulness of assessing adaptation contributions, and Australia has argued that *ex ante* review should not apply to adaptation and means of implementation in the same way as mitigation. Calls for a review mechanism for finance have been made by the LDCs, the African Group, China, the Philippines, and Dominica, and have been opposed by the EU. The Association of Independent Latin American Countries (AILAC) has proposed different *ex ante* processes for mitigation and means of implementation, and no process for adaptation. Jordan has argued all three should be reviewed *ex post*, and Thailand has called for equal treatment of adaptation and mitigation. Brazil has included both mitigation and means of implementation in its proposal for an “Aggregate Consideration Process”. Lastly, South Africa has argued that A&R should focus on mitigation but must also consider adaptation and support.

Convergence/Divergence

Review of the provision of means of implementation will likely remain a central demand of developing countries, despite the lack of reference to means of implementation in Decision 1/CP.20. This is in line with developing countries’ long-standing demand that support from developed countries to developing countries should be subject to MRV (Lahn, 2013: 29). Such demands will face strong opposition from developed countries. This disagreement may also block progress on A&R of mitigation. Although adaptation is very important to many developing countries, the A&R of adaptation is a less contentious issue, which could be excluded or made voluntary.

Table 13. Parties' positions on the scope of INDCs (as of early 2015)

Mitigation only*	Mitigation mandatory	Adaptation	Means of implementation
Canada	AILAC	ALBA	Brazil
EU	AOSIS	African Group	African Group
Grenada	Australia	AILAC	AILAC
New Zealand	Cook Islands	Arab Group	ALBA
Russia	Japan	Bangladesh	Bangladesh
Switzerland	Mexico	Brazil	BASIC
US	Norway	Dominican Republic	Columbia
	Singapore	Fiji	Dominican Republic
		Iran	DRC
		Korea	Fiji
		LDCs	Indonesia
		LMDCs	Korea
		Malawi	LDCs
		Mexico	LMDCs
		Nigeria	Malawi
		Philippines	Nigeria
		Solomon Islands	Philippines
		South Africa	Papua New Guinea
		Thailand	Solomon Islands
		Turkey	Turkey

* Parties listed are the advocates of a certain option, and not those that merely stated a willingness to accept. For example, according to the Earth Negotiations Bulletin, Norway noted that countries may wish to include adaptation, but should not be requested to do so, while Switzerland and the EU have signalled a willingness to consider adaptation in INDCs as part of a tradeoff in Lima.

4.2 Differentiation

Several developing countries argue that INDCs should be differentiated according to the Annex I/non-Annex I distinction, and that only developed countries' contributions should be subject to A&R. Furthermore, they call for developed country leadership, stressing that developing countries' contributions depend on support from developed countries (in line with Article 4.7 of the UNFCCC). The group of Like-Minded Developing Countries (LMDCs) have been the most vocal proponents of these views. They see no reason for *ex ante* assessment of developing countries' contributions, arguing that "[a]ny framework which seeks to determine for developing countries what they should contribute in any future regime is ab initio not acceptable and goes against the principle of equity and common but differentiated responsibilities based on historical responsibility."⁹ The African Group has also suggested differentiation

⁹ https://unfccc.int/files/documentation/submissions_from_parties/adp/application/pdf/adp2-3_lmhc_workstream_1_20131118.pdf

along the lines of the Annexes: “Annex I Parties commit to quantified economy-wide emission reductions assessed for adequacy against their relative fair efforts through an *ex ante* process of the principle based reference framework; non Annex I Parties commit to mitigation action that supports a deviation from business-as-usual, enhanced by support in the context of Article 4.7 of the Convention.”¹⁰ In another submission, the Africa Group proposes that Annex I countries be subjected to individual *ex ante* assessment, while non-Annex I contributions are assessed in aggregate. China proposes that the *ex post* process should also be differentiated: assessing emission reductions by developed countries and barriers faced by and needs of developing countries. It has also opposed a review cycle applicable to all Parties.

By contrast, developed countries such as New Zealand and Australia have called for arrangements to be differentiated based on the type of contribution rather than country categories. Japan has called for the *ex post* process to be the same for all Parties, but specifies that its frequency and depth should be equitable, hence signalling willingness to accept some differentiation based on Party status.

Convergence/Divergence

Differentiation was a key issue in Lima, surfacing in many discussions. The issue may well have influenced the limited outcome on the *ex ante* process, as some developing countries opposed A&R of their contributions, whereas developed countries were generally not in favour of a process differentiated according to the Annex I/non-Annex I division. Differentiation will be a core issue in negotiations in 2015, and is likely to remain a challenge for achieving agreement on A&R.

4.3 Assessment and review criteria

Many Parties have called for contributions to be assessed in terms of ambition and fairness/equity. Most proposals relate primarily to the *ex ante* process, but some also explicitly relate to *ex post* A&R. The EU has suggested assessing also whether contributions are “sufficiently trans-

¹⁰ https://unfccc.int/files/documentation/submissions_from_parties/adp/application/pdf/adp_african_group_workstream_1_20131008.pdf

parent, quantifiable and comparable.”¹¹ Singapore has highlighted these criteria as well, adding that “the objective is not to pass judgement on individual NDCs.”¹² Some Parties and observers had hoped that COP20 would help operationalize the terms “clarity, transparency and understanding’ from Decision 1/CP.19, with some calling for a common template for INDC submissions, but achieving this proved impossible in Lima. The compromise outcome gives relatively limited guidance on how to communicate INDCs, and is littered with terms granting countries flexibility (“may include, as appropriate, inter alia”; UNFCCC, 2014e: para. 14). Notably, Parties could not agree on a requirement for a quantifiable mitigation component, and did not define a detailed, common reporting format. The lack of these requirements means that at least for the *ex ante* process, assessing comparability will be challenging.

On ambition, references are frequently made to the 2 °C goal, and occasionally to the need to keep global warming below 1.5 °C above pre-industrial levels. The EU calls for assessing contributions against ambition, both individually and collectively. The EIG argues that aggregation of contributions will help generate an understanding of the collective ambition needed to stay below 2 °C, with AILAC presenting a similar argument. Various Parties have recently proposed long-term emission goals defined in terms of emissions (e.g. net zero emissions by 2050). Such goals could also serve as benchmarks for A&R. The synthesis report requested from the Secretariat in Decision 1/CP.20 may be able to facilitate an assessment of the aggregate level of ambition by civil society, but the decision does not mandate any official assessment against specific criteria before Paris (UNFCCC, 2014e: para. 16(b)).

On fairness/equity, a handful of proposals exist. South Africa and the African Group have suggested that contributions should be assessed against a principle-based equity reference framework. The process involves negotiating a common basket of indicators of responsibilities, capabilities, development, and adaptive capacity. Another proposal comes from Brazil and calls on the IPCC to develop a reference methodology on historical responsibilities, which should guide mitigation contributions. At COP19, informal consultations on the proposal were held under the Subsidiary Body for Scientific and Technological Advice (SBSTA). The Group of 77 and China gave their endorsement to the pro-

¹¹ https://unfccc.int/files/documentation/submissions_from_parties/adp/application/pdf/adp_eu_workstream_1_20130527.pdf

¹² https://unfccc.int/files/bodies/awg/application/pdf/singapore_adp_submission_22_may_14.pdf

posal; however, many Annex I Parties opposed it, and Parties were unable to reach consensus. A more open-ended and less prescriptive approach has been suggested by the EU:

“During the assessment phase, Parties should be prepared to outline how their proposed commitment represents an appropriate contribution based on their emissions profile and national circumstances, responsibilities and capabilities ... objective criteria/indicators could be used It will be up to individual Parties to choose which criteria/indicators they want to use in order to develop their own proposed commitments.”

(European Commission, 2013).

Similarly, the US has indicated that Parties should explain why their contribution is fair given their national circumstances, while Norway has suggested Parties must clarify how their contribution is both ambitious and equitable. AILAC, the Marshall Islands, and the Environmental Integrity Group (EIG) have made similar suggestions, with AILAC proposing that these clarifications provided by the Parties would in turn be inputs to an equity/fairness assessment by the SBSTA. New Zealand has proposed that Parties should explain “why their INDC represents appropriate ambition for their national circumstances.”¹³ China, Bolivia and the Arab Group opposed references to fairness and ambition in Lima, and Australia has opposed judgements by the UNFCCC Secretariat on the fairness or ambition of countries’ INDCs.

While references to equity were notably absent from the COP19 decision and conclusions (Kallbekken *et al.*, 2014; Pauw *et al.*, 2014), Decision 1/CP.20 includes the option for Parties to specify “how the Party considers that its [INDC] is fair and ambitious, in light of its national circumstances, and how it contributes towards achieving the objective of the convention” (UNFCCC, 2014e: para. 14). While the decision effectively rules out formal assessment and review of individual INDCs before Paris, this paragraph opens up the possibility of fairness/equity as criteria in any A&R at later dates.

A more complete overview of which countries have proposed different criteria is presented in Table 14. Some proposals relate to information requirements for supporting INDCs, and did not explicitly endorse the terms as criteria for A&R. Individual ambition, fairness and

¹³http://unfccc.int/files/bodies/awg/application/pdf/new_zealand_submission_to_the_unfccc_on_the_adp_work_stream_1_-_october2014_-_ufi.pdf

equity can be overlapping concepts, which is reflected in partly overlapping lists of proponents. The pattern identified by Kallbekken *et al.* (2014), that Annex I Parties systematically use the term “fairness” while non-Annex I Parties use “equity,” is not seen here. Notably, every criterion receives support from both developed and developing countries.

Table 14. Proponents of different A&R criteria

Transparency etc.	Aggregate ambition	Individual ambition	Equity/ Equitable	Fair(ness)
EU	African Group	AILAC	African Group	African Group
Singapore	AILAC	EIG	AILAC	AILAC
	Brazil	EU	Brazil	EIG
	EU	Marshall Islands	EIG	EU
	Korea	New Zealand	EU	Korea
	Marshall Islands	Norway	Norway	Marshall Islands
	Norway	South Africa	South Africa	South Africa
	Switzerland			US
	US			

Convergence/Divergence

Aggregate ambition emerges as the most broadly supported criterion. “Clarity, transparency and understanding” are also likely to be viable criteria for A&R, since the terms are already established in Decisions 1/CP.19 and 1/CP.20. Assessment of individual contributions in terms of individual ambition, fairness or equity is likely to be much more contentious, as it is closely related to the overarching issue of differentiation in the 2015 agreement.

4.4 Organization of the *ex ante* process

A&R of INDCs prior to Paris proved a difficult negotiation item in Lima. Decision 1/CP.20 rules out many of the *ex ante* assessment proposals that had been suggested by Parties and observers (for an overview, see van Asselt *et al.*, 2014), at least for the pre-Paris period. This section discusses different proposals that had been made on the timing of *ex ante* A&R, taking into account the Lima decision. Although the *ex ante* process before Paris is unlikely to change given this decision, the discussion retains relevance for the design of future *ex ante* processes.

The EU, the US, Australia, Norway and Switzerland had envisioned the *ex ante* process to take place before COP21. By contrast, South Africa and the African Group had proposed to assess contributions after COP21, with the final inscription of contributions taking place by June 2017. South Africa, along with the EIG, also had suggested a threshold in terms of a number of countries that must submit intended contributions

before the assessment begins, while New Zealand had suggested a threshold in terms of percentage of global emissions. Singapore had suggested a double threshold, combining the two criteria.

The draft decision presented in Lima by the ADP Co-Chairs on 8 December 2014 contained four elements of *ex ante* assessment:

- An electronic platform for Parties to seek and provide clarification on INDCs, in line with proposals from the EU and the US. Japan and New Zealand had proposed that actors other than Parties could also submit questions.
- A dialogue organized by the UNFCCC Secretariat, which had been proposed by the EU, Singapore, Australia, Marshall Islands and New Zealand.
- A technical paper on the aggregate effect of the INDCs to be delivered by the UNFCCC Secretariat by 30th June 2015. Such a report had been proposed by the EU, South Africa, Singapore, the EIG and New Zealand.
- An invitation to observer organizations to submit analyses of INDCs to the UNFCCC. A role for civil society had been proposed by the EU, the US and Japan, but was not included in proposals from Singapore and South Africa.

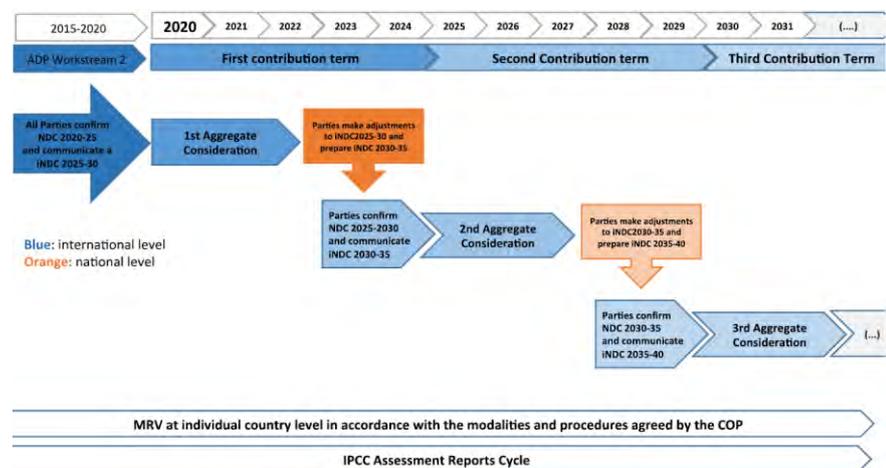
The LMDCs strongly resisted the provisions for *ex ante* assessment in Lima, and suggested deleting the relevant paragraphs altogether, as suggested in a statement delivered by Bolivia in a contact group meeting on 10th December 2014. Version 2 of the draft, published late on 11th December 2014, contained three options, all of which were less extensive than the provisions in the first draft. The first option merely asked the Secretariat to publish the INDCs online as communicated, and was supported by India, China, Brazil, Nicaragua, Cuba, Belarus, Saudi Arabia, Vietnam and Bolivia. Options 2 and 3 both included a dialogue (in-session or between sessions) and a technical paper similar to that of the first draft. Option 3 included “fair and equitable” as criteria to be used in the dialogue, and was supported by the EU, the LDCs, Mexico and South Africa, among others. The clean draft decision submitted for adoption on 12th December essentially contained Option 2. The final decision includes Option 1 plus a synthesis report by the UNFCCC Secretariat on aggregate effect of the INDCs. This means that there will be no formal assessment under the UNFCCC of individual INDCs. Opponents, led by the LMDCs, were also successful in pushing

back the date for the report to 1st November 2015, leaving less than a month for revisions, if any, before Paris. Moreover, there is no provision for consideration of the synthesis report in Paris. While no formal review process may take place, it is likely that INDCs will be reviewed and discussed bilaterally or plurilaterally, as well as by observers (Van Asselt *et al.*, 2014).

4.5 Organization of implementation reviews and *ex post* processes

Only seven submissions contain relatively detailed proposals for implementation review and *ex post* processes. Almost all include these processes in a cycle of contribution periods. The proposals are summarized in Table 15, which shows that not all proposals contain details on all design aspects. Other Parties that have called for a regular review process without describing it in detail include the LDCs, Canada, Switzerland, Mexico, Norway, Turkey and Korea.

Figure 2. Brazil's proposed Dynamic Contribution Cycle



Source: Brazil (2014).¹⁴

¹⁴ The cycle is one of eight proposed elements for the new agreement. During the first half of each five-year contribution term, an Aggregate Consideration Process would be conducted, producing a set of decisions or recommendations to be taken into account by Parties when adjusting and confirming their subsequent contributions.

Several countries link future *ex ante* A&R to the contribution cycle. Japan proposes that when revising contributions, each Party be subjected to an *ex ante* consultation, taking into account the results of the previous review. AILAC and South Africa propose future *ex ante* processes in addition to the processes described in Table 15. Brazil's proposal covers both *ex ante* and *ex post* review (Figure 2).

Table 15 Parties' views on future A&R processes

	Brazil	US	EU	Japan	AILAC	Marshall Isl.	South Africa
Name of proposal	Dynamic Contribution Cycle/ Aggregate Consideration Process	Facilitative examination	Cycle for regularly strengthening mitigation ambition	<i>Ex post</i> international evaluation and review	<i>Ex post</i> review	Cycle of commitments	Implementation review and <i>ex post</i> assessment
Length of period	5 + 5 years ¹⁵	5 years	10 years	10 years	5 years	5 years	10 years
Frequency of review	5 years	2 years ¹⁶	5 years	Varies between Parties	5 years	5 years	5 years
First A&R	2020–2023		2025		2025	2025	2025
Purpose	Enhancing ambition over time	Assess progress in achieving mitigation targets or other actions	Raise level of mitigation ambition; formulate ambitious subsequent commitments	Facilitate each Party's fulfilment of its commitments	Monitor, report and verify achievement and progress	Enhancing ambition and ensuring environmental effectiveness	Identification of opportunities, support requirements and the need for adjustments
Criteria	Contribution to global temperature increase and efforts to limit this; 2 °C goal; adequacy, scale and predictability of means of implementation delivery		Transparency, clarity, and understanding; ambition and fairness; 2 °C goal		Global goals set in the UNFCCC and the 2015 agreement	1.5 °C or 2 °C goal	Science and equity
Elements covered	Mitigation and means of implementation	Mitigation	Mitigation				Mitigation and means of implementation
Actors' roles	<i>Secretariat</i> : produce a technical paper based on inventories and registries; <i>COP</i> : produce decisions/ recommendations	<i>Party</i> : Submit biennial communications; <i>Experts</i> : technical review; <i>Other Parties</i> : ask questions	<i>Party</i> : Explain commitment and why it is fair and ambitious	<i>Party</i> : Submit regular reports; <i>SBs</i> : hold review sessions; <i>Interested actors</i> : ¹⁷ submit questions and opinions; <i>Experts outside the UNFCCC</i> : provide analysis. ¹⁸			

¹⁵ Each 10-year cycle consists of a 5-year contribution term and a 5-year indicative term.

¹⁶ Not stated explicitly, but the US proposes BRs as the objects of review.

¹⁷ Such as Parties, international organizations, private sectors and NGOs.

¹⁸ E.g., international organizations, international private organizations, international think-tanks, private sectors and NGOs.

	Brazil	US	EU	Japan	AIAC	Marshall Isl.	South Africa
Provision against backsliding	Reduced ambition (in terms of type or effort level) only permitted in response to extraordinary and specific circumstances (<i>force majeure</i>)		Mitigation commitments should progress in ambition and scope		Principle of non-backsliding and gradual scaling up	Proposed commitments must be no less ambitious in type, scope or scale than those previously implemented	More ambitious mitigation commitments in each period

Convergence/Divergence

Notably, all proposals, except those of the US and Japan, share five-year review periods, regardless of whether the contribution period is five or 10 years. However, the Marshall Islands have argued that a mid-term review – as part of a 10-year contribution period – is very unlikely to deliver more ambitious commitments over time, based on the experience with the Kyoto Protocol’s second commitment period; the country has therefore advocated five-year contribution periods. In a similar fashion, although the Brazilian proposal has a 10-year contribution cycle, it is divided in a contribution term and an indicative term. The indicative term will become a contribution term over time, and a new indicative term will be set. The US and Japan proposals are less explicit on the review frequency, but the US proposed review is based on biennial reports (which would be optional for LDCs and SIDS). Japan brings in differentiation through a suggestion that the frequency should vary according to Parties’ emissions and capabilities.

All proposals, except for those by the US and Japan, explicitly champion a “no-backsliding” provision, something Parties also managed to agree on in Lima (UNFCCC, 2014e: para. 10).

Regarding the purpose, the US and Japan focus primarily on assessing compliance with adopted NDCs, while other proposals focus on ratcheting up the ambition of NDCs for the current and future periods, except AILAC’s proposal, which covers both.

On the role of different actors, the proposals do not paint a complete picture yet. However, the suggestions summarized in Table 15 may be relevant also for the implementation review and *ex post* processes.

Most proposals contain no vision of what the outcome of the process should be. Exceptions are AILAC and South Africa, which propose the results of the process should trigger a compliance mechanism. In addition, Brazil proposes that Parties would be legally obliged to adjust their NDCs in light of the outcomes of the A&R process.

Parties converge on the usefulness of anchoring implementation reviews and *ex post* A&R in existing processes. Proposals have referred to a number of reviews and other processes, both within and outside the UNFCCC, as summarized in Tables 16 and 17 below. Parties listed in the second column have, in their submissions or statements, made reference to the process listed in the corresponding row in the first column.

Table 16. Existing UNFCCC processes referred to in proposals for future A&R processes

Process	Party/Group of Parties
National inventory reports	EU Japan US
National Communications	African Group Japan
Kyoto Protocol processes	EU Republic of Korea South Africa
IAR	African Group AILAC EU Japan South Africa Switzerland
ICA	African Group AILAC China EU Iran Japan South Africa Switzerland US
2013–2015 review	African Group EU Norway
Multilateral consultative process ¹⁹	South Africa

Table 17. Existing review processes outside the UNFCCC referred to in proposals for future A&R processes

Process	Party/Group of Parties
WTO TPRM	New Zealand
Montreal Protocol	New Zealand
IPCC assessment	Brazil EU Marshall Islands

¹⁹ Referring to the multilateral consultative process under Article 13 of the UNFCCC, which remains unadopted.

4.6 Inferences

Parties' submissions and statements show that considerable differences remain between them on how to incorporate A&R in the 2015 agreement – particularly with regard to A&R of individual NDCs and differentiation between Parties in the A&R process. The lack of convergence reflects continuing debates over how a 2015 agreement should differentiate among Parties, and implies a risk that a decision on A&R in Paris will be based on the lowest common denominator, similar to the Lima outcome on *ex ante* assessment. Given that the Paris agreement will be designed to endure multiple contribution periods, such an outcome would have long-term implications. Delaying some of the A&R-related decisions beyond Paris might therefore be more conducive to ambition in the long run.

The areas where agreement is most plausible is on A&R of aggregate effects, five-year review periods, and anchoring A&R in existing processes, including those reviewed in Chapter 2.

A question Parties have been relatively silent about is how the outcomes of A&R can serve to ramp up ambition, an inherently difficult question given the low political feasibility of coercive mechanisms. However, a provision against backsliding, as contained in Decision 1/CP.20, could be built into the process. While it would not in itself ensure increasing ambition, it might protect against decreasing ambition, which would be a significant accomplishment.

5. Options for assessment and review

This chapter offers an overview of a broad range of options for A&R of contributions under a 2015 agreement. The discussion draws on lessons learned from existing review processes within and outside of the UNFCCC (Chapters 2–3), submissions by Parties (Chapter 4), as well as existing literature on options for A&R processes under the UNFCCC that has not yet been covered in the preceding chapters. The options are organized according to the questions identified in Chapter 1.

5.1 The object of the assessment and review

The type of information to be assessed and reviewed depends on (i) what can be considered a “contribution”; and (ii) the type of information Parties must provide when submitting their contribution. The COP in Lima did not completely resolve these questions for INDCs, leaving the Parties with significant choice as to the types of contributions to communicate, as well as the accompanying information, even though the focus was more on mitigation than on adaptation, and means of implementation was not referred to (see Chapter 4).

While Decision 1/CP.20 may hint at the content of future contributions, there is still a range of possibilities for the ultimate content of contributions under a 2015 agreement and, subsequently, for their A&R:²⁰

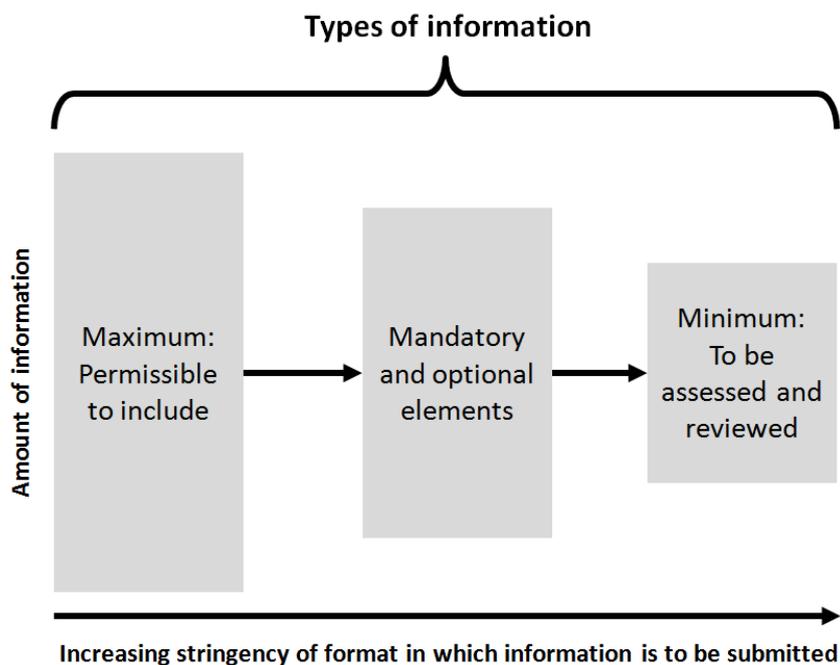
²⁰ The table does not include all options theoretically possible: It could, for instance, be possible that adaptation elements are mandatory, and mitigation elements are optional. The options listed here are those most in line with existing Party submissions (see Chapter 4).

Table 18. Types of contributions and A&R options

NDC content	A&R options
Mitigation only	A&R of mitigation only
Mitigation mandatory, other elements (adaptation, means of implementation) optional	A&R of mitigation only A&R of everything that is submitted
Mitigation and means of implementation mandatory; adaptation optional	A&R of mitigation only A&R of mitigation and means of implementation A&R of everything that is submitted
The contents are completely left up to Parties	A&R of mitigation only A&R of mitigation and means of implementation A&R of everything that is submitted

With regard to the information accompanying the NDCs, a distinction can be made between: (i) information that will be subject to A&R; (ii) additional information about the mandatory and optional elements of the contribution (see above); and (iii) other permissible information (Figure 3). The minimal requirements for each INDC would be the information that would be subject to A&R. This may differ per Party (see also Section 5.2), but could consist of mitigation-related information about the target, time period, scope and (sectoral) coverage, base year, estimated greenhouse gas and sectoral emissions, inventory method, and use of offsets (see also Morgan *et al.* 2013). In addition, the information about the mandatory and optional elements would include at least all the information that would be assessed and reviewed, but could also include supplementary information on macro-economic and marginal costs of achieving targets, an explanation of the ambition, an explanation of how the contribution is fair and equitable, as well as information on adaptation and means of implementation should this be proposed as part of the NDC. Permissible information describes any additional information, for example on a peaking year and rate of change in emissions (see Morgan *et al.*, 2013). The permissible information can be descriptive, and could also include information about adaptation and means of implementation.

Figure 3. Types of information related to the contributions



5.2 Differentiation

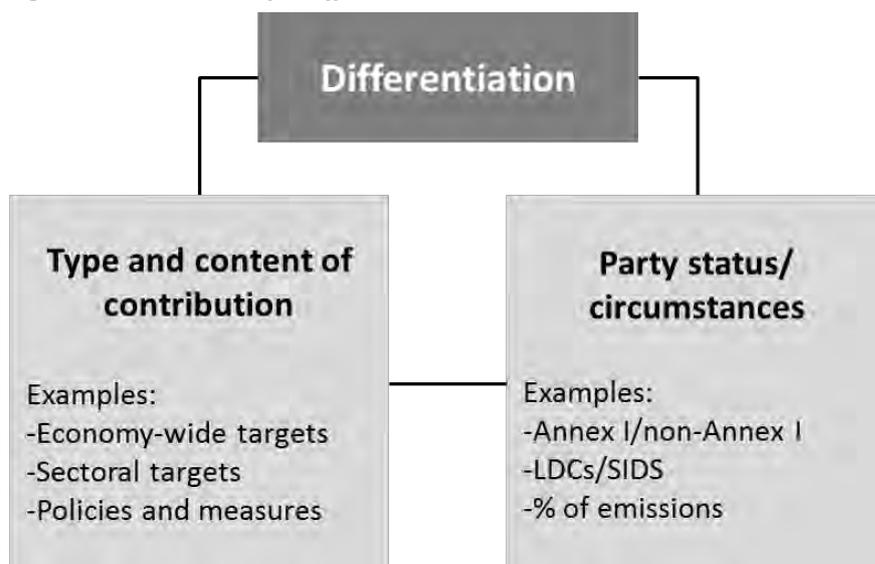
With respect to differentiation, a range of options emerges for A&R of individual contributions. Broadly speaking, the basis for differentiation of INDCs can be linked to: (i) a Party’s status or national circumstances, (ii) the nature of a contribution or (iii) both (Figure 4).

Differentiation between (groups of) Parties based on their status or circumstances can take place: (i) with reference to their specific status (e.g. Annex I/non-Annex I; LDCs/SIDS); (ii) on the basis of objective criteria and indicators allowing for classification (e.g. based on capability indicators, such as income per capita, or responsibility indicators, such as share of global greenhouse gas emissions); and (iii) using contextual phrasing (e.g. referring to countries’ national circumstances, levels of development or other conditions to be further specified in the course of a review process).

Differentiation could also be based on the specific type and content of the contribution adopted by a Party (e.g. a quantified, economy-wide

emission reduction commitment; a sectoral energy-efficiency target; a commitment to phase out fossil fuel subsidies; see Briner and Prag, 2013, for an overview).²¹ Given that INDCs are inherently nationally determined, some see this as a form of “self-differentiation”. A combination of the two is possible – for instance by treating Annex I Parties that adopt quantified economy-wide targets differently from those that do not.

Figure 4. Possible bases for differentiation



In addition to the basis for differentiation of INDCs, there are multiple options for how to differentiate in practice in the A&R process. Table 19 shows a (non-exhaustive) list of options for differentiation, organized by four different categories. A first set of options relates to the *A&R process as a whole*. For instance, A&R may apply to either all Parties, or a sub-set of Parties (e.g. Annex I Parties, as suggested by the LMDCs; see Chapter 4). The frequency of reviews may also differ, with some (groups of) Parties being subject to more regular reviews than others. Another option would be to allow for the possibility of group reviews for certain groups of Parties (e.g. LDCs or countries with low emission levels).

²¹ The examples give here are all mitigation-related. The scope for differentiation between types of contribution expands further with the inclusion of contributions related to adaptation and means of implementation.

Table 19. Options for differentiation in assessment and review

General	Input to A&R	Modalities and procedures of A&R	Output of A&R
Applicability of A&R	Level of guidance for input	Political/technical review	Normative force of the outcome
Frequency of review	Frequency of submission of information	In-country visits/ centralized review	Flexibility in implementation
Group reviews	Input from stakeholders	Selection of experts	Funding for implementation
	Funding for preparation of the INDC	Observer participation	
		Funding for participation	

A second set of options applies differentiation to the *input for the A&R process*. This could mean that the level of guidance for information to be provided by the Party is more detailed for some Parties (cf. Morgan *et al.*, 2013), or that some Parties are required to submit such information more frequently. It could also mean that only for some Parties non-governmental stakeholders (e.g. civil society, international organizations) are allowed to provide additional input into the A&R. Finally, some Parties might get access to funding to generate their input, as is currently the case for some smaller countries.

A third set of options concerns *the modalities and procedures for A&R*. For some Parties, the review could be strictly technical (involving only technical experts), while others could be subject to technical and political review (involving other Parties). The process for some Parties may involve in-country visits, whereas for others a desk-based or centralized review would suffice. Moreover, it is possible to allow for a more flexible selection of experts for some Parties. It could also be decided that observer organizations are allowed to participate in the A&R of some Parties only. Finally, there may be access to funding to allow some Parties to effectively participate in the A&R process (e.g. for preparing reports).

The last set of options applies differentiation to the *output of A&R*. An option here would be to have outcomes that vary in terms of their normative force, with some Parties being subject to specific (and possibly legally binding) recommendations, and others only receiving broad conclusions that would not require follow-up (or it could be decided that a record of the review, without any conclusions or recommendations,

would suffice).²² Should the output of the review contain recommendations, some Parties could be allowed more flexibility in the implementation of the recommendations. Finally, a system could be developed in which some (groups of) Parties have access to financial support in order to implement the recommendations emerging from the A&R.

5.3 Assessment and review criteria

The criteria chosen for A&R will effectively determine its purpose, and therefore merit careful consideration. Two types of criteria can be distinguished (Table 20): substantive and procedural.

Table 20. Types of review criteria

Substantive	Procedural
Ambition (individual)	Transparency
Ambition (collective)	Consistency
Equity/Fairness	Comparability
	Completeness
	Accuracy
	Timeliness

Substantive criteria link back to the objective and principles of the Convention. First, *ambition* refers to the extent to which contributions help meet the internationally agreed objective to avoid dangerous climate change (as translated in the 2 °C goal). Ambition can be a criterion:

- For Parties individually (i.e. is the Party’s contribution sufficiently ambitious?). Contributions could be compared with business-as-usual emissions projections, existing targets, policies and measures, or another benchmark.
- For Parties collectively (i.e. do all contributions, in aggregate, help meet the collective goal?). Such a criterion could build on aggregated analyses such as the UNEP Emissions Gap reports (UNEP, 2013; UNEP, 2014) and the Climate Action Tracker.²³ The technical paper that the UNFCCC Secretariat needs to deliver by 1st November 2015

²² This type of differentiation could be linked to a possible compliance mechanism, where only certain types of outcomes of A&R would trigger such a mechanism.

²³ <http://climateactiontracker.org/>

also deals with collective ambition, as it analyses the aggregate effect of the INDCs.

A second, often-mentioned substantive criterion is *equity or fairness*. Whether a contribution is equitable or fair could be determined multilaterally (on the basis of agreed equity criteria and indicators) or by each Party for itself, on the basis of indications of what a Party thinks is fair and equitable (as also alluded to in Decision 1/CP.20). For either option, equity criteria and indicators could be quantitative or qualitative (Morgan *et al.*, 2013: 14). Furthermore, Parties could have unlimited flexibility in the choice of criteria, or they could be given a limited set of criteria. For instance, Climate Action Network (CAN) International (2014) suggests the following set of criteria: (i) adequacy; (ii) responsibility; (iii) capability; (iv) sustainable development needs; and (v) adaptation needs.

Procedural criteria relate not to the substance of what is communicated, but to how the information is communicated. These criteria are widely used in most existing review processes under the UNFCCC and the Kyoto Protocol, and are also alluded to in Decision 1/CP.19 (UNFCCC, 2014a), which says INDCs should be communicated “in a manner that facilitates the *clarity, transparency and understanding* of the intended contributions” (emphasis added). Common procedural criteria include:

- *Transparency*, meaning that information about the contribution needs to be presented in a way that is clear and understandable – for instance, by explaining the underlying methodologies and assumptions, providing information about base years, use of offsets, whether LULUCF is included, etc. (see Sections 2.1–2.5; Morgan *et al.*, 2013: 14).
- *Consistency*, meaning that the contribution is in line with the format or other requirements for its submission, and that information provided is in line with information reported earlier and elsewhere (see Sections 2.2–2.5).
- *Comparability*, meaning that the information accompanying different Parties' contributions can be compared – for instance, because the

same indicators are used, or political situations are presented in a similar manner²⁴ (see Sections 2.2–2.4).

- *Completeness*, meaning that the information provided is complete (see Sections 2.1–2.5).
- *Accuracy*, meaning that emission estimates are relatively exact (see Sections 2.2–2.5).
- *Timeliness*, meaning that the contribution should be submitted on time (see Sections 2.1 and 2.3–2.5).

Substantive and procedural criteria could be applied simultaneously; for example, the A&R process could determine both whether a contribution fits the relevant format, and whether it is ambitious or fair.

5.4 Timing

The key question with respect to timing is: When should A&R take place, and how often should it be carried out?²⁵ To address this question, it is useful to refer back to the types of A&R referred to in Chapter 1:

- i. A&R of contributions before formalizing (i.e. *ex ante* consideration); here a distinction should be made between *ex ante* consideration in the run-up to COP21, the procedure for which was decided in Lima (UNFCCC, 2014e), and *ex ante* A&R in future contribution cycles
- ii. A&R of the implementation of contributions
- iii. A&R of compliance with the contributions
- iv. A&R of collective contributions.²⁶

Table 21 offers an overview of the possible timing of these various processes.

²⁴ For a discussion of technical and political comparability, see Ellis *et al.*, 2011: 32.

²⁵ In addition a smaller, more practical question in terms of timing is how long the A&R processes should last. This question can be split up into different questions for various stages of the review, including possible desk-based studies, in-country visits, multilateral consultations and follow-up by the country.

²⁶ As noted in Chapter 1, it is theoretically possible to have different types of collective A&R: (i) a review of all the contributions; (ii) a review of the overall implementation of the agreement; or (iii) a review of the agreement's effectiveness. These will be discussed here in conjunction.

Table 21. Timing of A&R

Type	When?
A&R of contribution	
<i>Before COP21</i>	Synthesis report of all INDCs up to 1 October 2015 by 1 November 2015.
<i>Future cycles</i>	On a rolling basis. When a certain number of Parties have submitted their contribution. When Parties responsible for a certain share of global emissions have submitted intended contributions. When a double threshold is met (number of Parties and share of global emissions). Periodically.
A&R of implementation	Periodically, in conjunction with existing (and possibly improved) MRV processes. Periodically, as part of a new process.
A&R of compliance	After the end of a contribution cycle. Continuously (depending on the mandate of the compliance body).
Collective A&R	Periodically, before new contributions are communicated. Periodically, after new contributions have been communicated. Periodically, in conjunction with IPCC reports or otherwise synchronized with the 2013–2015 review.

With respect to the *A&R of the INDCs as they are proposed* (i), Parties in Lima agreed to draft a synthesis report of the contributions received up to 1 October 2015 (UNFCCC, 2014e: para. 16). This decision was in part a response to resistance to any such an assessment (see Chapter 4), and in part an acknowledgment that time was short for a full-fledged process before Paris. Although the Lima decision may have set a precedent for future *ex ante* A&R, Parties can depart from this decision in the agreement, and decide to consider contributions: when they come in (on a rolling basis); when a certain number of Parties have submitted their contributions (e.g. all Annex I Parties, or at least 50 Parties), when a number of Parties representing a certain share of global greenhouse gas emissions have submitted their contributions, or a combination of these two (i.e. a double threshold); or on a regular basis (e.g. with A&R taking place every five years, following a contribution cycle).

The timing of *A&R of implementation* (ii) very much depends on how existing MRV processes are or are not integrated in the 2015 agreement. Two broad options can be identified (see also Morgan *et al.*, 2014a: 13; Dagnet *et al.*, 2014):

- A&R will build on existing review processes (which are themselves increasingly streamlined; see Chapter 2). Under this option, Parties could either decide to move towards a single framework for developed and developing country Parties, or keep the existing bifurcated

framework (Dagnet *et al.*, 2014). In this case, the timing of the A&R would depend on the timing of submission of NIRs, NCs, and BR/BURs.

- A new MRV process is created to accommodate the diversity of contributions. In this case, the timing will depend on the new reporting requirements to be agreed (which may well be streamlined with the timing of existing reporting requirements) (Dagnet *et al.*, 2014).

The timing of *A&R of compliance* (iii) is related to the inclusion of a possible compliance mechanism in a 2015 agreement. It is beyond the scope of this report to examine the options for a compliance mechanism in detail, but a few points can be noted. First, in the absence of a compliance mechanism, existing MRV processes could partly fulfil the facilitative function of such a mechanism (although they would likely need strengthening; see Oberthür, 2014). This would mean that the timing of A&R of compliance could coincide with that of existing MRV processes. Second, should a compliance mechanism be agreed upon, its activities need not be timed to occur only at the end of a contribution cycle. As an illustration, the Kyoto Protocol's Compliance Committee has been active before, during and after the 2008–2012 commitment period, as the Committee's mandate was not limited to the Kyoto targets as such. Similarly, the mandate of a compliance body (e.g. an Implementation Committee) could extend well beyond the contributions themselves, meaning that it could be active on a continuous basis. However, it could also be agreed that a compliance review is simply limited to the question: did a Party achieve its pledged contribution?

As for *collective forms of A&R* (iv), it is likely that such reviews will occur periodically. This could be before new contributions are made (e.g. to show the emissions gap that needs to be bridged), after new contributions have been communicated (e.g. to obtain an up-to-date picture on the remaining emissions gap), or in line with the timing of the 2013–2015 review and its follow-up (see Section 2.6), i.e. following new IPCC reports, or every seven years. Finally, it could also be decided to review the effectiveness of the 2015 agreement on an *ad hoc* basis.

5.5 Organization of the process

With respect to the organization of the A&R process, several groups of actors could be involved. Table 22 identifies the key actors and their possible roles in the process.

Table 22. Key actors and their possible role(s) in A&R

Actor	Possible role(s)
Party under review	<p>Provide information through:</p> <ul style="list-style-type: none"> - Communicating the contribution - Existing national reports (NCs, BURs/BRs, NIRs) - Responses to written and oral questions <p>Respond to draft outcome of A&R. Implement follow-up recommendations/ adjustments. Address recommendations in the next INDC.</p>
Other Parties	<p>Provide information relevant for A&R. Submit written and/or oral questions. Propose technical experts for the A&R process.</p>
UNFCCC Secretariat	<p>Synthesize and compile information about contributions. Carry out aggregate assessment of contributions. Synthesize and compile information from national reports. Provide logistical support. Support experts in the technical analysis. Organize in-country visits. Draft technical reports. Maintain an online portal to make all INDCs and related documentation publicly available.</p>
Independent technical experts	<p>Carry out technical analysis and review of contributions. Carry out in-country visits. Consult with country under review to verify information. Draft technical reports.</p>
COP/Subsidiary Bodies/New review body	<p>Hold meetings for multilateral consultations, including questions and answers sessions. Decide on follow-up/adjustment measures. Draft clear recommendations.</p>
International organizations (e.g. IEA, OECD, UNEP, World Bank)	<p>Provide relevant input into technical analysis. Be involved in the technical analysis. Carry out independent technical analysis.</p>
Non-governmental stakeholders (e.g. civil society, research institutions)	<p>Provide input into technical analysis. Provide submissions in advance of multilateral assessment. Submit written questions. Make oral statements. Carry out independent technical analysis.</p>

The involvement of subsidiary bodies (or the creation of a new body), as well as independent technical experts in the A&R process, raises questions about their selection and composition.

The experience with existing review processes suggests that the body responsible for assessment and review under the 2015 agreement could either involve all UNFCCC Parties, or only a subset chosen for this purpose (e.g. similar to the UPR – see Section 3.3, or the Green Climate Fund under the UNFCCC). Which Parties will be involved ultimately depends on the size of the body; what is likely is that it will be a mix of Annex I and non-Annex I (or developed and developing country) Parties.

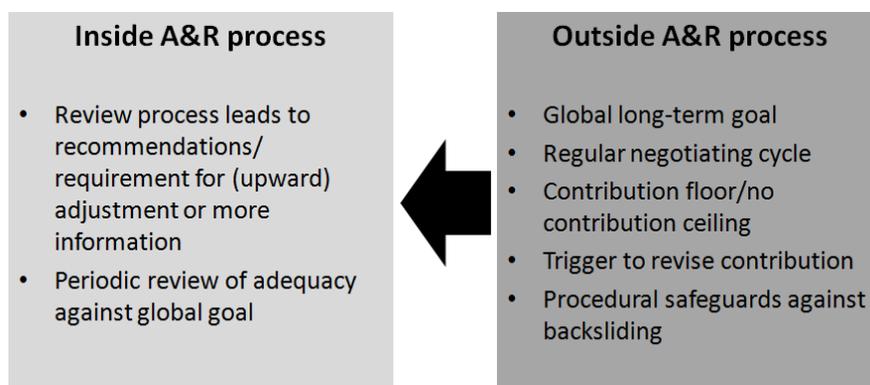
Experts can be selected on the basis of their geographical background (to ensure a geographical balance), their skills relevant for the review (which will depend on the type and scope of a contribution), their inclusion on a roster of experts; or various or all of the above. Moreover, to increase objectivity (and reduce the risk of conflicts of interest) experts can be required to act in their personal capacity (Morgan *et al.*, 2014a).

5.6 Feedback into the UNFCCC process

What happens after the A&R is important for the functioning of a future ratcheting mechanism under the 2015 agreement. The outcome of A&R could consist of a request or demand for further or more detailed information. Four broad options can be distinguished for the outcome of A&R (i) there could be a requirement for adjustment or the provision of further information; (ii) the adjustment would only be a recommendation, and the provision of further information would merely be requested; (iii) the review would lead to no recommendations; or (iv) the review would lead to the provision of specific financial, technological and/or capacity-building support.

A key question that distinguishes the INDC A&R from other review processes is whether (and, if so, how) the outcome of the assessment and review processes could lead to adjustments of the contribution. Such adjustments could be made unilaterally on a voluntary basis (possibly including an explanation by the Party concerned); collectively by the COP or another decision-making body under the UNFCCC (this could be in the form of a recommendation or a requirement; see Winkler, 2014: 4); or through a hybrid, where unilateral adjustments are checked by a collective process – for instance, in a subsequent review (Bodansky and Diringer, 2014: 13).

Figure 5. Ratcheting mechanisms in- and outside of the A&R process



Yet although the potential role of A&R in creating pressure for (upward) adjustment of contributions is important, there are other ways to ratchet up ambition under a 2015 agreement that are not directly related to A&R (Figure 5; see Bodansky and Diringer, 2014; Donat and Bodle, 2014; Morgan *et al.*, 2014a; Winkler, 2014). Notably, as part of A&R, a periodic assessment of the adequacy of aggregated contributions against an agreed global goal could provide an impetus for Parties to step up their efforts. What this shows is that the ratcheting function of A&R is closely related to other design elements of a 2015 agreement. In this case, a precondition of assessing the adequacy of contributions would be to agree on a global long-term goal in the first place. While there is international agreement on the 2 °C goal, a 2015 agreement may further specify this goal, for instance with reference to global emission levels or a global carbon budget.²⁷ Similarly, a regular negotiating cycle, allowing Parties to revise their contributions periodically, is not part of A&R in a narrow sense, but will influence how A&R can help ratchet up ambition (Morgan *et al.*, 2014a).

Other rules governing INDCs are also important for ensuring that the 2015 agreement leads to enhanced ambition over time. These include (i) the notion of a contribution floor or “no backsliding” with respect to the scale or type of contribution (this was agreed upon in Lima, where Parties decided that contributions “will represent a progression beyond the current undertaking of that Party”; UNFCCC, 2014e: para. 10), possibly with a few exceptions, such as *force majeure*; and (ii) the absence of a

²⁷ Various concrete suggestions can be found in the elements text coming out of Lima (UNFCCC, 2014: Annex, para. 13).

contribution ceiling – i.e. no country should be prevented from taking on a more ambitious (type of) commitment. Parties could also agree on objective triggers that would require the revision of contributions. Such triggers could be substantive (e.g. if a certain level of income or emissions is reached or following a major technological breakthrough) or procedural (e.g. after a certain number of Party and/or observer submissions has been received about a certain contribution). There may also be procedural safeguards against backsliding. For instance, Parties could be required to justify why they wish to lower their contribution, other Parties could be allowed to comment, or a notification period could be required. Finally, there are procedural options facilitating the upward revision of contributions, including expedited, automatic or simplified entry into force requirements, or adoption not by consensus but by simple or three-fourths majority (Morgan *et al.*, 2014a).

5.7 Inferences

Without pretending to offer an exhaustive overview of the wide universe of options for designing A&R under a 2015 agreement, this chapter has provided an indication of the many difficult decisions ahead. By organizing these options along the lines of the questions raised in Chapter 1, and identifying broad categories, the chapter has sought to bring some structure to the discussion.

The options discussed here should not be considered in isolation. Options to differentiate between Parties may, for instance, have implications for the timing of A&R, and the inclusion of certain review criteria (e.g. ambition or equity) will be important for the ratcheting function of A&R.

Furthermore, the general distinctions made in Chapter 1 between individual and collective processes, as well as *ex ante*, implementation review, and *ex post* processes, should be kept in mind both in the discussion of options and their evaluation.

6. Evaluating the options

This chapter provides a preliminary evaluation of the options for the design and organization of assessment and review under a 2015 agreement. It starts by outlining the evaluation criteria, then discusses the options according to the key questions listed in Chapter 1. The evaluation covers most, but not all, of the options discussed in Chapter 5. For some very detailed options, it would be premature to assign a specific score for some criteria. The focus will be on some of the key choices to be made in the design and organization of A&R.

Options will be evaluated according to the following set of criteria:

- *Environmental effectiveness.* This refers to the likelihood that an option will lead to contributions that show ambition or are likely to increase ambition over time (e.g. through a ratcheting-up mechanism) or that the option will result in early delivery on national contributions.
- *Equity.* This refers to the extent to which an option offers incentives for broad participation, and responds to varying circumstances and capacities prevailing in different countries.
- *Political feasibility.* This refers to the likelihood that Parties could agree on a specific option. Political feasibility can be suggested by the fact that the option is:
 - a) already implemented in existing review processes under the UNFCCC
 - b) already implemented in non-UNFCCC review processes
 - c) mentioned or suggested in several Party submissions
 - d) not implemented in- or outside the UNFCCC, mentioned by only one or a few Parties, or not mentioned at all.
- *Administrative efficiency.* This refers to the financial and human resources likely needed to implement a specific option, as well as the negotiation time an option may take up.
- *Transparency and openness.* This refers to the extent to which options ensure that information related to the A&R can be accessed by other Parties, observers and other relevant stakeholders, and to which extent the process is open to public participation.

The evaluation of the options follows a five-grade scoring system (“--”, “-”, “0”, “+”, “++”). The evaluation and scoring in this chapter is based on an analysis of review processes within and outside of the UNFCCC (Chapters 2–3); an analysis of submissions from Parties and observers made in the course of the ADP negotiations (Chapter 4), as well as interviews with selected experts (see Appendix III).

It is important to note, however, that the evaluation is of a preliminary nature, as negotiations are ongoing and details of specific options and their likely impacts are still emerging. First, the different elements of the design and organization of A&R are closely intertwined. For instance, although A&R of mitigation contributions may arguably enhance ambition over time, much will depend on whether the A&R process will apply to all Parties or a subset thereof (differentiation), whether it uses ambition as a review criterion (review criteria), how regularly it will take place (timing), etc. Second, the effects of A&R will often depend on the overall shape and contents of the 2015 agreement. For example, A&R of mitigation ambition would strongly benefit from agreement on a clear mitigation goal (e.g. net zero emissions by 2050) that could offer a benchmark against which to assess mitigation efforts. In addition, the operationalization of evaluation criteria (notably equity) may vary depending on one’s particular perspective. These caveats should be kept in mind when interpreting the evaluation that follows, and in particular the scoring assigned to specific options.

Where we have been unable to evaluate the possible effects of an option, we have left the relevant cell of a table empty. Where we see no discernible effect of an option, we have scored “0”.

6.1 The object of the assessment and review

As noted in Chapter 4, there has been much discussion in the ADP about the nature and contents of INDCs, which the COP20 decision did not fully resolve. Chapter 5 distinguishes three broad options for A&R: (i) it could focus on mitigation only; (ii) cover both mitigation and means of implementation; or (iii) apply to all the information that has been submitted.

From the perspective of *environmental effectiveness*, all other things being equal, what arguably matters most is that A&R covers mitigation, which will give Parties an incentive to keep reducing emissions. Also covering means of implementation, however, could help enhance the trust of developing countries and thus strengthen their contributions.

In terms of *equity*, broadening A&R to non-mitigation elements could be viewed as responding to the needs and demands of a wider set of Parties, enhancing the chances of broader participation in a 2015 agreement. Some developing country Parties have insisted that they will only accept A&R of mitigation contributions if there is also some form of A&R of means of implementation (notably of finance) for developed country Parties (see also Morgan *et al.*, 2014b).

Regarding the *political feasibility* of options, it should be noted that while there has been resistance to A&R of mitigation only (e.g. from the LMDCs), several existing processes already review mitigation-related information for all Parties. Again, all else being equal, it can be expected that some form of A&R of mitigation contributions will be politically feasible. A&R of means of implementation still faces resistance from some developed countries, but a basic review of financial, technological and capacity-building support is already incorporated in the IAR process.

The *administrative efficiency* will likely be lower for any option that extends A&R to non-mitigation elements. For instance, more time may be needed to find experts on other issue areas (e.g. adaptation, finance, technology), and more time may be spent in discussing the contributions in political bodies. Moreover, deciding on rules and procedures for the various elements may take up additional negotiation time (although this depends on the extent to which additional elements are indeed subject to A&R).

Finally, extending A&R to everything that is submitted would arguably enhance *transparency and openness*, as it would offer the most clarity on the range of efforts to be undertaken by a Party. However, an excessive amount of information could also make it harder for other Parties and observers to identify the core of the contribution.

Table 23. Preliminary evaluation of options for A&R of different types of contribution

Criteria	EE	EQ	PF	AE	TR
Option					
A&R of mitigation only	+	0	0	0	+
A&R of mitigation and means of implementation	++	+	+	-	+
A&R of everything that is submitted	+	+		--	+

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.2 Differentiation

Differentiation is not only one of the most contentious issues for A&R, as noted in Chapter 4 – it also generates a wide range of options. It is beyond the scope of this chapter to assess all those options, but a few illustrative examples are discussed here.

It is difficult to assess the implications of differentiation with respect to A&R for the *environmental effectiveness* of a 2015 agreement. Still, the complete absence of A&R for some Parties (e.g. all non-Annex I Parties) would likely lead to a lower overall environmental effectiveness, as there would be no pressure on those Parties to raise ambition coming from an A&R process.

Differentiation between Parties in the A&R process would in principle promote *equity*, although much depends on the specific type of differentiation. For instance, differentiating Parties by Annex I/non-Annex I only might be viewed as equitable by China or India, but seem less equitable to LDCs that see a substantial gap between themselves and emerging economies.

The *political feasibility* of some options for differentiation appears constrained. While developed country Parties have suggested that “self-differentiation” (i.e. differentiation on the basis of the type of contributions) is a logical consequence of the very notion of NDCs, some developing country Parties (notably the LMDCs) still remain opposed to any system that would not take into account existing Party divisions (i.e. Annex I/non-Annex I). Completely exempting some Parties from A&R seems hard to imagine; instead, other flexibilities in the A&R process (see Table 19) are likely to be more feasible (e.g. lower frequencies of reviews for some Parties; centralized reviews for some Parties and in-country visits for others; access to funding for some Parties).

In terms of *administrative efficiency*, having no reviews, or less frequent, less in-depth and/or group reviews for some Parties would significantly reduce the time and resources required. Similarly, providing access to funding for some Parties would clearly help those Parties in the A&R process. An A&R process where the review is tailored to the type of contribution would likely be more resource-intensive, as it would likely require specific expertise (e.g. sectoral) depending on the contribution.

Exempting some Parties from A&R would mean that the contributions and accompanying information of those Parties would not be subject to international scrutiny, thereby lowering the overall *transparency and openness* of the process. Similarly, group reviews for some Parties would likely go less in-depth than individual reviews.

Table 24. Preliminary evaluation of options for differentiation in A&R

Criteria	EE	EQ	PF	AE	TR
Option					
A&R differentiation by type of contribution		+	0	-	
No review for some Parties	-	+	-	++	--
Group reviews		+	+	++	-
Access to funding for some Parties		+	+	++	

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.3 Assessment and review criteria

Chapter 5 made a distinction between substantive and procedural criteria that could be applied in a future A&R process. Applying any specific review criteria will likely help increase the *environmental effectiveness* of a 2015 agreement over time. Particularly, review criteria related to ambition and equity would provide Parties with a reputational reason to put their best offer on the table.

As a review against equity-related criteria would first and foremost seek to ensure that contributions are equitable, it is not surprising that this option would fare well against the evaluation criterion of *equity*. It is harder to tell how other criteria would help ensure that countries' circumstances are taken into account, although a review of Parties' ambition is likely to take into account the specific national circumstances.

Generally, given their wide application in existing review processes under the Convention and the Kyoto Protocol, the *political feasibility* of procedural criteria (e.g. transparency, accuracy, consistency, completeness, timeliness) is higher than that of any substantive criteria (ambition, equity).²⁸ As noted in Chapter 4, several Parties have called for A&R of both individual and collective ambition, as well as the equity/fairness of contributions, meaning that these options may well be feasible; however, other Parties still strongly oppose the use of such criteria.

In terms of *administrative efficiency*, it is difficult to estimate whether the application of particular review criteria will increase the burden for Parties, experts and others involved in the A&R. On one hand, a lack of review criteria gives Parties more leeway in the process. On the other

²⁸ This depends, however, on how procedural criteria are put in practice. Assessing "comparability", for instance, could involve an analysis of Parties' respective efforts, and therefore be closely connected to assessing "ambition" or "equity".

hand, lack of clarity about how Parties are assessed and reviewed might also lead to an inconsistent and unpredictable process. Arguably, the application of equity criteria may lead to a complex and resource-intensive process, as using various equity criteria (e.g. as suggested in proposals for an equity reference framework; see Ngwadla and Rajamani, 2014) could require different types of review processes as different Parties may use different metrics.

With respect to *transparency and openness*, a review against any criterion – substantive or procedural – likely enhances the access to important information for other Parties, observers and other stakeholders.

Table 25. Preliminary evaluation of options for review criteria in A&R

Criteria	EE	EQ	PF	AE	TR
Option					
Ambition	++	+	0		++
Equity	++	++	0	-	++
Procedural criteria			+		++

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.4 Timing

Chapter 5 distinguished between several types of A&R that matter in terms of timing, including: (i) A&R of the contribution itself; (ii) A&R of implementation; (iii) A&R of compliance; and (iv) collective A&R. As the third type (the timing of A&R of compliance) is related more to the design and organization of a compliance mechanism, the focus here will be on types (i), (ii) and (iv).

The *environmental effectiveness* of the timing of A&R is hard to assess. Arguably, the more frequently A&R takes place, the more often Parties will be encouraged to raise their ambition.²⁹ In general, one would expect collective reviews to exert a positive influence on Parties' ambition.

The impact of the timing of A&R on *equity* is unclear, but more frequent A&R is likely to ensure that Parties' (changing) national circumstances and conditions are taken into account. At the same time, more frequent reviews might have a disproportionate impact on (smaller) developing countries.

²⁹ Moreover, the earlier a review would start, the more it would have a chance to influence future contributions.

The *political feasibility* of the different options for timing the A&R of contributions is not yet clear. Parties refrained from a formal assessment process before COP21, but in several proposals by Parties, periodic A&R of contributions is part of the contribution cycle (see Chapter 4).

The timing of A&R of implementation depends on the extent to which such an A&R process aligns with existing review processes (and their timing). The political feasibility of continuing to use existing processes (including their timing) would seem high – Parties would simply continue to do what they have already agreed upon. However, existing processes are based on a system of Annex I/non-Annex I Party differentiation, and developed country Parties are likely to increase pressure to move to a new process. Conversely, developing country Parties may resist moving towards a new system where Parties are treated more uniformly. This dilemma could possibly be overcome through a gradual convergence towards a common MRV process, initially on a voluntary basis for developing country Parties (Dagnet *et al.*, 2014).

As for the political feasibility of collective A&R, Chapter 4 concluded that Parties generally agree that this type of A&R is welcome. When such reviews would be held is unclear, although at a minimum the continuation of the process started by the 2013–2015 review would seem feasible (i.e. in conjunction with IPCC Assessment Reports or every seven years).

The *administrative efficiency* of A&R would likely be affected by the frequency of reviews, with higher frequencies likely to exert more pressure on available resources. With respect to MRV, it is possible that a new, more streamlined process may reduce costs (Dagnet *et al.*, 2014), although this will ultimately depend on how a new MRV process is organized for each Party.

Transparency and openness would generally benefit from more frequent reviews, as Parties would need to provide more (and more up-to-date) information on their contributions and progress made.³⁰

³⁰ That is assuming that more frequent reviews are not at the expense of the depth and accuracy of the review.

Table 26. Preliminary evaluation of options for timing of A&R

Criteria	EE	EQ	PF	AE	TR
Option					
Periodic A&R of contributions	+	0	0		+
A&R of implementation: existing processes			+	0	0
A&R of implementation: new process			0		
Collective A&R	+		++	0	+

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.5 Organization of the process

Several questions emerge in the organization of an A&R process. One is whether Parties will be subject to a technical review (e.g. a technical study by independent experts) and/or a political review (e.g. a multilateral process involving interventions from other Parties). Another key question is whether other stakeholders, such as international organizations (e.g. IEA, OECD, UNEP, World Bank) or civil society can be involved.

It is unclear whether the type of review (technical/political) will influence its *environmental effectiveness*, although experiences with existing processes under the UNFCCC and the Kyoto Protocol suggest that technical reviews are most conducive to pointing out implementation challenges and suggesting ways forward for Parties, meaning they exert a positive influence on environmental effectiveness (at least in the long run). The effectiveness of multilateral consultations between Parties remains unclear, and will likely depend on how constructively Parties are willing to engage with one another.

The involvement of stakeholders, meanwhile, could help raise Parties' ambition – particularly domestic actors can help put pressure on governments in between UNFCCC meetings.

Considerations of *equity* are intrinsically political, but national circumstances could also be taken into account in a technical process. The involvement of other stakeholders increases the likelihood that contributions are indeed fair and equitable, as they would provide additional insights into the prevailing circumstances in a country.

The experience with existing processes, in particular IAR and ICA, has established the *political feasibility* of technical and political review processes, although it remains to be seen to what extent they can be strengthened (e.g. along the lines proposed by Dagnet *et al.*, 2014).

The involvement of stakeholders (other than independent technical experts), by contrast, is so far not yet an established practice in UNFCCC review processes (see Chapter 2 and Duyck, 2014). Given the resistance

by some Parties to opening up processes to such actors (in particular NGOs), it can be questioned whether stronger involvement of other stakeholders in A&R under a 2015 agreement will be feasible.

From the perspective of *administrative efficiency*, both technical and political reviews may consume considerable time – from Parties under review, independent technical experts, and others such as the UNFCCC Secretariat – particularly if the review is extended to all Parties. There are measures to address this, however, such as the exclusion of some countries from the review process (e.g. LDCs), lower review frequencies for some groups of Parties, the introduction of group reviews (e.g. of smaller polluters), and the inclusion of experts outside the UNFCCC’s roster (Herold, 2012).

Finally, with respect to *transparency and openness*, it is likely that the technical review will provide greater clarity and understanding about the contributions made by Parties. Whereas political reviews may have a similar effect, the limited time generally available for such reviews (as well as a general reluctance of Parties to engage in a critical debate) means that the effect on transparency may be more limited.

The involvement of other actors by definition enhances the transparency and openness of the A&R process.

Table 27. Preliminary evaluation of options for organization of the A&R process

Criteria	EE	EQ	PF	AE	TR
Option					
Technical review	+		++	-	++
Political review			++	-	+
Involvement of international organizations	+		-		++
Involvement of other stakeholders	++	+	--		++

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.6 Feedback into the UNFCCC process

Chapter 5 discussed a range of options that could help with the ratcheting up of ambition. The focus here is on options that are directly related to the A&R process. One of the key questions in that regard is what type of follow-up will be required after the A&R. Four broad options were distinguished in Chapter 5: (i) Parties could be required to adjust their contributions or to provide more information; (ii) Parties would only be given recommendations for adjustments, or requests for further information, neither of which would be mandatory; (iii) reviews cannot lead

to recommendations; or (iv) the review leads to the provision of specific financial, technological and/or capacity-building support.

From the perspective of *environmental effectiveness*, a clear requirement to adjust upwards following A&R would be the best option, but a recommendation would also provide an important signal for a Party to raise its ambition level, although it will depend on who makes the recommendation (e.g. an expert review team or a political body such as the COP). Not providing any recommendation or imposing any requirement at all would be less likely to increase ambition.

The implications of the different options for *equity* are unclear. Depending on the precise contents, a requirement or recommendation for upward adjustment may be in line with a Party's circumstances, but may also go well beyond Party's capabilities or responsibilities.

A hard requirement for Parties to adjust their NDC would likely not be acceptable to many Parties, and would arguably also not be practical, as it is unlikely that a process of national determination would be repeated following the pronouncement of such a requirement. Instead, considerations of *political feasibility* point to option (iii). No recommendations would be the least confrontational and least intrusive of Parties' sovereignty. This would also be in line with the facilitative approach adopted in processes such as ICA and IAR (as well as the Kyoto Protocol's compliance mechanism in practice). Nonetheless, a requirement or recommendation for providing (further) information seems more feasible than requiring or recommending an adjustment.

In terms of *administrative efficiency*, requiring adjustments or additional information would have the largest implications, as Parties would need to do their "homework" again and report back to the COP. Recommendations and requests would have a smaller effect, as they would not have to be followed.

Lastly, in terms of *transparency and openness*, the requirement for adjustment and particularly for more information would result in further clarity about a Party's contribution. Recommendations may have a similar effect, whereas no recommendations at all are unlikely to improve information availability.

Table 28. Preliminary evaluation of options for feedback into UNFCCC process

Criteria	EE	EQ	PF	AE	TR
Option					
Requirement for adjustment (or provision of further information)	++		--	-	++
Recommendation for adjustment (or provision of further information)	+		-	0	+
No recommendations	0	0	++	+	0

EE=environmental effectiveness; EQ=equity; PF=political feasibility; AE=administrative efficiency; TR=transparency and openness.

6.7 Inferences

This chapter provided an initial evaluation of various options for designing and organizing A&R under a 2015 agreement. As noted in the introduction, the evaluation is preliminary, as the effects of choosing one option over another will depend on other choices in the negotiations – with respect to both A&R and other elements of a 2015 agreement. Indeed, the risk of a micro-analysis of various options for A&R is that the larger picture is lost. This evaluation is thus primarily meant as a basis for further discussion of the practicality of the options. Still, some inferences can be drawn from the preceding discussion.

First, the more elements of a contribution (i.e. not just restricted to mitigation) that are subject to A&R, the more transparent a Party's efforts are likely to become. The review of various types of contributions may also prove important for enhancing the environmental effectiveness of a 2015 agreement over time. Moreover, existing experiences with MRV of information on both mitigation and means of implementation shows that A&R of various types of contributions may be politically feasible. However, there may be tradeoffs with administrative efficiency, in that it would require a wide range of expertise and further financial and human resources.

Second, the discussion of options for differentiation in A&R suggests that there is a basic tradeoff between the administrative efficiency and transparency of the A&R process: while having fewer or no reviews, less in-depth or group reviews for some Parties (e.g. non-Annex I Parties, or LDCs) would reduce costs, a basic level of transparency would require a minimum standard of review for all Parties. This is related to the political feasibility of options: it is unlikely that some Parties would be completely exempted from A&R. Nevertheless, the circumstances of some (groups of) Parties can still be taken into account by increasing the flexibilities in the A&R process (see Section 5.2 for a list of options).

Third, applying review criteria would help enhance the transparency of the contributions and would likely enhance the ambition of such contributions over time. However, the political feasibility of introducing substantive criteria (particularly equity-related) for assessing and reviewing individual contributions remains constrained, even though such criteria have been proposed by several Parties (see Chapter 4).

Fourth, with respect to timing, more frequent A&R would be preferable from the viewpoints of environmental effectiveness and transparency, but it could add burdens to Parties, experts and other stakeholders. A distinction should be made between the A&R of contributions and A&R of implementation. Proposed new contributions are likely to be reviewed in the context of new contribution cycles (e.g. every five years), unless Parties agree that contributions can be submitted (and thus assessed and reviewed) on a rolling basis. A&R of implementation, like existing MRV processes, is likelier to take place on a more regular basis (e.g. annually, biennially, or every four years).

Fifth, the continuation (and possible strengthening) of existing practices of technical and political reviews under the UNFCCC's MRV system would help enhance transparency, and would likely help improve the ambition of contributions over time. However, increasing pressure on the available time and resources for Parties, experts, and the UNFCCC Secretariat would need to be addressed if an enhanced, in-depth A&R process is to be created for 196 Parties. The involvement of other stakeholders (notably actors at the national level) would be a welcome development from the perspective of raising ambition and ensuring equity, but is likely to meet with resistance from some Parties.

Finally, while requiring that contributions be adjusted, or that more information be provided, may be optimal from the perspective of environmental effectiveness and enhancing transparency, it is also the least likely to be agreed by Parties. Making recommendations at all, conversely, would be less likely to lead to increased ambition or further transparency, but would be more politically feasible.

7. Conclusions and recommendations

7.1 Conclusions

This report has sought to identify a wide range of options for designing and organizing assessment and review of nationally determined contributions under a 2015 agreement. A&R can help identify whether the international community is on track to meet collectively agreed goals, whether existing contributions are adequate, and whether progress is being made with implementation. Assessment and review can further help show whether countries' individual contributions are fair and equitable, and support trust-building between Parties by showing what information lies underneath Parties' pledges. Finally, by sharing this information widely, Parties – individually and as a group – can be held to account by domestic and international stakeholders.

Chapter 2 demonstrates that any future A&R as part of a 2015 agreement need not start on a blank slate. Parties to the UNFCCC and the Kyoto Protocol already have gained a wealth of experience with MRV of reported information under both treaties. This experience shows, among other things, that some forms of differentiation (notably for LDCs and SIDS) is possible. It also shows that technical reviews involving independent experts can be combined with more political reviews involving Party-to-Party consultations. However, problems have already been identified with regard to the limited resources and capacity of experts under the current system, implying that an extended system of A&R will have to confront this challenge head-on. Finally, *Chapter 2* shows that the existing review processes not only uncover important information about mitigation efforts, but also about other aspects, including means of implementation. A&R under a 2015 agreement would be wise to build on these experiences.

The overview of review processes outside of the UNFCCC in *Chapter 3* highlights challenges in establishing A&R of national contributions through an intergovernmental process, but also identifies possible solutions. Innovative ways of differentiating between countries have been developed in several other processes (e.g. based on criteria specific to a regime, such as the share in world trade). But even in those processes where flexibility for some countries has been built in, processes generally apply to all (e.g. the UPR). The discussion of other processes also highlights resource and capacity challenges, but provides possible solutions, such as group reviews, differentiated frequency of review, and access to funding. Another important finding from this chapter is that even in international regimes dealing with sensitive issues (e.g. human rights), it has been possible to ensure involvement of non-governmental stakeholders in various stages of the review process. Finally, examples in the chapter illustrate the challenge of non-cooperation with A&R, and point to the need to connect the A&R process either with carrots (e.g. access to finance) or sticks (e.g. trade sanctions).

The systematic analysis of Party submissions and statements to the ADP of *Chapter 4* illustrates that for some issues, Parties' positions remain far apart. Notably, diverging positions about differentiation in A&R are inherently tied to the lingering discussions about how a system of nationally determined contributions (i.e. self-differentiation) can be reconciled with the UNFCCC's binary division of Annex I/non-Annex I Parties (or developed and developing countries). One way of addressing this dilemma would be to postpone some decisions related to A&R until after COP21. Nevertheless, the chapter also shows that there is some convergence of Parties' positions with respect to A&R of collective efforts, building A&R around five-year contribution cycles, and on building A&R on the experiences highlighted in Chapter 2. Furthermore, a basic area of agreement – also reflected in the Lima decision – is that contributions should be adjusted upwards only (i.e. no backsliding is allowed).

Building on the insights from Chapters 2–4, a review of the existing literature, and interviews with a select group of international experts (see Appendix III), *Chapter 5* offers a systematic discussion of the very wide range of options for designing and organizing A&R under a 2015 agreement. Although the chapter highlights the many choices that negotiators need to make, not all need to be made in the run-up to Paris, as will be discussed below.

Lastly, *Chapter 6* provides a systematic, yet preliminary, evaluation of a range of options for A&R. With a view to assess the options against the criteria of environmental effectiveness (i.e. how likely they are to lead to enhanced ambition), equity (i.e. how likely they are to take into account national circumstances or to lead to broad participation), political feasibility (i.e. how likely Parties are to agree to them), administrative efficiency (i.e. the implications in terms of resources), and transparency and openness (i.e. how likely they are to enhance access to more information, and how they involve the public). The chapter highlights the challenges of an evaluation of sometimes very specific options at a time where the overall architecture of a 2015 agreement is still under discussion. Nevertheless, it highlights some of the tradeoffs that need to be made, and offers a basis for some initial recommendations.

7.2 Recommendations

Recommendations on A&R under a 2015 agreement can be made with respect to different types of A&R, as identified in Chapter 1:

(i) Ex ante A&R of the first contribution period

As discussed in Chapter 4, Decision 1/CP.20 significantly limits the options for a formal *ex ante* consideration process in the lead-up to COP21. We would suggest, however, that the decision leaves ample *room for informal assessments* outside of the UNFCCC process. Several such assessments will be carried out irrespective of Parties' actions, including assessments by international organizations (e.g. UNEP's Emissions Gap analyses), civil society (e.g. Climate Action Network), and research organizations (e.g. Climate Action Tracker). In addition, such informal assessments can be carried out through bilateral and plurilateral discussions among Parties, where Parties can seek to engage in discussions about the INDCs and their accompanying information. Given the limited formal process, such informal assessments are to be encouraged.

We also suggest that any *lessons from the ex ante process before COP21 be captured*, so they can inform future A&R processes. Moreover, if the Parties decide in Paris that formalizing INDCs may also take place beyond COP21 (e.g. in 2016 or 2017), they should reconsider the options for organizing the *ex ante* assessment. As discussed in Chapter 4, some Parties have proposed *ex ante* A&R during 2015–2017.

(ii) Future ex ante A&R

The time for *ex ante* consideration before Paris is short, meaning that any formal *ex ante* A&R is likely to be challenging. However, for future contribution cycles there should be sufficient time to build in this important step. We therefore recommend that *as part of a 2015 agreement, Parties decide on some form of ex ante A&R of new contributions.*

Beyond the decision of whether to have *ex ante* A&R, another question is whether non-mitigation-related contributions should be subject to review. Given the emphasis placed by developing country Parties on means of implementation (and in particular climate finance), we would suggest that *some form of assessment and review of delivery of means of implementation*, whether in conjunction with a review of mitigation contributions or organized separately, would be welcome.

Chapter 6 further suggests that *some form of differentiation in a future ex ante A&R process is warranted.* While this does not mean that Parties should be exempted completely, the contributions of some smaller and poorer Parties merit less *ex ante* scrutiny to reduce administrative burdens. Instead, such Parties would likely benefit more from a facilitative A&R process in the implementation stage. More specifically, and in line with existing review processes, we would recommend providing *flexibility for LDCs and SIDS* in particular.

Although an *ex ante* review of future NDCs against substantive review criteria could help clarify how ambitious or fair Parties' contributions are, Parties' views to date suggest that it is unlikely they will agree to such criteria. However, we would suggest that *applying procedural criteria in the ex ante process* would be an important first step in clarifying the ambitions of Parties. In other words, procedural criteria can help enhance the transparency of the contributions and thereby indirectly help other Parties and non-governmental stakeholders assess how ambitious or equitable contributions are.

(iii) A&R of implementation

With respect to A&R of implementation, a key question is whether (and if so, how) to build on existing review processes. We would follow the recommendation by Dagnet *et al.* (2014) to *build a future MRV process on existing processes under the UNFCCC (including reviews of inventories, NCs, BRs, and BURs), but to gradually work towards a single system for all Parties.* We should stress that a single system does not mean an undifferentiated one; for example, as above, we would suggest to *maintain flexibility for LDCs and SIDS.*

Given the increasing importance of domestic politics in a system of nationally determined contributions, we suggest to *enhance and clarify the role of non-governmental stakeholders in the A&R process*, with a view to strengthening the accountability of national policies and measures for domestic constituencies. In the run-up to Paris, non-governmental stakeholders can prove very valuable in the absence of a formal assessment of individual INDCs. As can be seen in other intergovernmental review processes (e.g. the UPR), the involvement of non-governmental stakeholders can also strengthen A&R of implementation.

(iv) Collective A&R

The report suggests that the review of collective ambition is not only desirable (e.g. from the perspective of environmental effectiveness), but also politically feasible (e.g. building on existing reviews such as the 2013–2015 review). We would therefore recommend *including a periodic review of the collective ambition of Parties* in the 2015 agreement. Although this review should at least be linked to currently agreed global goals (e.g. 2 °C), it could be link to newly agreed long-term goals.

Collective A&R would form an important complement to Parties' A&R of individual efforts. It could also help to identify needs for the development of further guidelines for NDCs, and it would provide an opportunity to review the entire agreement should Parties collectively not live up to their ambitions.

On a final note, it is important to remember that *not all the questions raised in this report need addressing in or before COP21*. More detailed rules (e.g. in the form of modalities and procedures) could be developed in the period up to 2020 (and be refined and updated after that). For instance, the details about the organization of A&R (be it of the contribution itself, its implementation or compliance) could be decided by the new agreement's governing body after 2015. Nevertheless, there are some elements for which it would be important to have agreement in principle in Paris. Table 29 shows an initial list of elements that require further attention before or at COP21. This list would expand if we included other elements of a 2015 agreement that may well have an impact on A&R (e.g. agreement on a long-term goal, length of contribution cycle, MRV of means of implementation, etc.).

Table 29. Elements requiring further attention before or at COP21

Element	Explanation
General	Decide whether there should be an <i>ex ante</i> process during the 2016–2020 period. Decide whether future contributions will be subject to an <i>ex ante</i> A&R. Decide whether A&R will build on existing MRV processes and, if so, which ones. Decide whether Parties' collective effort should be subject to A&R.
Type of contribution	Decide how and to what extent mitigation contributions will be subject to A&R. Decide whether A&R of mitigation, adaptation and/or means of implementation will differ.
Differentiation	Decide whether A&R will be differentiated by type of Party, type of contribution, or both. Decide on flexibility for LDCs/SIDS. Decide whether there will be financial resources for (groups of) developing country Parties to formulate INDCs, participate in reviews, and implement the recommendations from A&R.
Review criteria	Decide whether substantive review criteria (ambition, equity) will be applied. Decide which, if any, procedural criteria will be applied in A&R of contributions.
Timing	Decide when future <i>ex ante</i> A&R will take place. Decide how often A&R of implementation should take place (with options to differentiate between countries and/or types of contributions).
A&R of compliance	Decide whether to establish a compliance mechanism under the 2015 agreement.
Organization	Decide on how non-state actors will be involved.
Ratcheting up	Decide whether contributions can be adjusted only upwards (and whether exceptions are possible).

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Appendix I:

Analysis of existing review processes under the UNFCCC

In-depth review of National Communications from Annex I Parties

The UNFCCC requires all Parties to report regularly on implementation of the Convention (Article 4.1(j) and 12). This information needs to include a national greenhouse gas inventory, a general description of steps taken or planned, and any other relevant information. Moreover, Annex I Parties need to report on policies and measures they have adopted, including on their anticipated effects, and Annex II Parties are obliged to report on financial and technological support provided to developing countries. Specific guidelines have been prepared for the NCs of Annex I Parties (UNFCCC, 2000) to enhance the transparency and comparability of reports.³¹ NCs by Annex I Parties need to be submitted every four years. As of mid-2014, all Annex I Parties (except for Turkey) have submitted their sixth NCs (which were due in January 2014).³²

In Article 7.2(e), the Convention instructs the COP to:

“[a]ssess ... the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved.”

In addition, the COP is tasked to: “[p]eriodically examine the obligations of the Parties and the institutional arrangements under the Convention” (Article 7.2(a)); and to “review the adequacy” of Annex I Parties’ commitments (Article 4.2(d)). These various provisions provide a solid basis

³¹ For more information on NCs, see http://unfccc.int/national_reports/annex_i_natcom/items/1095.php

³² http://unfccc.int/national_reports/annex_i_natcom/submitted_natcom/items/7742.php

for the review of NCs. The Subsidiary Body for Implementation (SBI) plays an important part in this (Article 10.2).

To prepare the review process, the UNFCCC Secretariat drafts compilation and synthesis reports to provide an overview of the key features of the various NCs (e.g. emissions trends, policies and measures, means of implementation).³³ Similar compilations are made for non-Annex I Parties' NCs.

The details for the review process for Annex I Parties' NCs ('in-depth reviews') were updated in Warsaw in 2013 (UNFCCC, 2014a) and in Lima in 2014 (UNFCCC, 2014f). Reviews are to be carried out by ERTs within 15 months following the submission of an NC. They should be coordinated by a representative of the Secretariat, with a team of experts nominated by Parties and, as appropriate, by intergovernmental organizations (e.g. the IEA, OECD) (UNFCCC, 2014f: Annex, para. 28). In selecting experts, the Secretariat needs to ensure that they possess the necessary skills and competencies to carry out the review, and that a geographical balance is achieved (UNFCCC, 2014f: Annex, paras. 36-37). In addition, the guidelines distinguish two lead reviewers (one from an Annex I country; one from a non-Annex I country) and other reviewers, with the lead reviewers taking charge of the ERT review process (UNFCCC, 2014f). The Secretariat provides part of the funding for ERTs, but the experts' own institutions are also expected to contribute (Yamin and Depledge, 2004: 341).³⁴ The tasks of the ERTs are to (UNFCCC, 2014f: Annex, para. 118):

- Assess the completeness of the NCs compared with the guidelines for their preparation.
- Check the consistency of information with the information provided in the BR and greenhouse gas inventory.
- Undertake a detailed technical examination of the information provided in the NC as well as the procedures and methodologies used.
- Give consideration to national circumstances, and identify potential issues.

³³ http://unfccc.int/national_reports/annex_i_natcom/compilation_and_synthesis_reports/items/2736.php

³⁴ For the in-depth review (as well as for other review processes), the UNFCCC Secretariat maintains a roster of experts. See https://unfccc.int/parties_and_observers/roster_of_experts/items/534.php

The process is meant to be non-political and is not intended to result in policy recommendations (Yamin and Depledge, 2004: 340). In fact, the in-depth review – like the review of BRs and inventories – is to be facilitative, non-confrontational, open and transparent (UNFCCC, 2014f: Annex, para. 5(b)).

Reviews generally should include in-country visits to complement a desk-based study (UNFCCC, 2014f: Annex, paras. 115 and 117). Such visits aim to clarify the information provided rather than critiquing it, and can help improve the quality of the next NC (Yamin and Depledge 2004: 340). However, for some countries with low emission levels (under 50 megatonnes CO₂-eq), it is possible to carry out only a centralized review, although this only applies to non-Annex II countries (i.e. economies in transition; see UNFCCC, 2014f: Annex, para. 116).

The resulting reports are written following a template outlined in Decision 13/CP.20. Parties can respond to the report before it is finalized (UNFCCC, 2014f: Annex, paras. 124–125). This allows Parties to express any concerns, such as if they believe the ERT has exceeded its mandate. For instance, in an early review report, the United States noted that “it would not be appropriate for the teams to make policy recommendations about the relative merits of one or another policy choice by individual countries”, suggesting that the ERT had ventured into policy recommendations (UNFCCC, 1996: 5). The main criteria applied in the review include “completeness”, “transparency” and “timeliness” as well as adherence to the reporting guidelines (UNFCCC, 2014f: Annex, para. 119).

Reports by the ERTs are forwarded to the SBI, meaning that any technical questions of implementation have to be dealt with in a political setting. Establishing a “Multilateral Consultative Committee” under Article 13 of the UNFCCC (which would be akin to the Facilitative Branch of the Kyoto Protocol’s Compliance Committee) to deal with questions of implementation proved impossible because of disagreement on the composition and size of the Committee (Wang and Wisner, 2002: 186). However, even if the Committee had been established, it would not have allowed ERTs to forward questions of implementation; this would have been the prerogative of Parties (Yamin and Depledge, 2004: 385). As a consequence, the international political consideration of in-depth reviews within the UNFCCC process is still minimal. Nevertheless, the reviews do provide valuable independent analyses for individual Parties and observers. Moreover, the process itself builds capacity within the expert community itself that could help improve the quality of future NCs (Yamin and Depledge, 2004: 340). However, experts are faced with a range of limitations, including a lack of available experts, an outdated

roster of experts managed by the UNFCCC, limited time slots for in-country reviews, and tight timeframes (UNFCCC, 2014g). Parties in Lima decided to establish a training programme for expert reviewers of Annex I Party NCs and BRs (UNFCCC, 2014i).

Non-Annex I Parties (except for LDCs and SIDS) also need to submit NCs every four years. NCs by non-Annex I Parties are not subject to an in-depth review. However, to help improve the quality of their NCs, Parties established a Consultative Group of Experts (CGE) at COP5 to provide technical assistance and advice to non-Annex I Parties in the preparation of their NCs (UNFCCC, 1999: para. 3). The mandate of the Group has been extended on several occasions (most recently in 2013).

Technical review of greenhouse gas inventories from Annex I Parties

The Convention specifies that all Parties need to communicate national greenhouse gas inventories, with Annex I Parties required to report on an annual basis (see Article 12.1(a) and UNFCCC, 1995b: para. 2(b)), meaning that they offer a more regular complement to the NCs.³⁵

These annual reports need to follow reporting guidelines under the UNFCCC, which were recently updated (UNFCCC, 2014b). The guidelines specify that reports should consist of a National Inventory Report and a Common Reporting Format, which provides the main information in table form. The guidelines further specify the main criteria to which the reports should adhere (UNFCCC, 2014b: para. 4):

- *Transparency*: assumptions and methodologies need to be clearly explained.
- *Consistency*: inventories should be internally consistent with previous inventories (by applying the same methodologies).
- *Comparability*: inventories can be compared across Annex I Parties.
- *Completeness*: inventories cover all sources and sinks; all gases; and the entire territory of a Party.
- *Accuracy*: estimates of emissions or removals should be as exact as possible, and uncertainties reduced as much as possible.

³⁵ For more information, see http://unfccc.int/national_reports/annex_i_ghg_inventories/review_process/items/2762.php

To meet these criteria, the reports are based on methodologies developed by the IPCC. In addition to the IPCC Guidelines for National Greenhouse Gas Inventories (IPCC, 2006), these include sector-specific guidance (e.g. for LULUCF).

Following an initial trial period that started in 2000, a technical review process for inventory reports was made compulsory from 2003 onwards. The technical review of the reports is organized in three stages (UNFCCC, 2014f). First, the Secretariat carries out an initial check of each inventory, focusing on completeness and adherence to the reporting guidelines. This results in a brief, publicly available status report, which Parties may comment on. Second, the Secretariat conducts a synthesis and assessment. It compiles and synthesizes the data from the inventory reports in a presentable format.³⁶ It also offers a preliminary analysis of each individual report, flagging possible issues for ERTs. Parties may also offer comments on this report resulting from this stage.

In the third stage, ERTs carry out detailed individual reviews, which examine estimates, methodologies used, supplementary material as well as previous inventory submissions when necessary. These reviews can consist of desk-based studies covering up to two inventories; in-country visits (once every five years); as well as a centralized review where up to four inventories are discussed at the same time by an ERT (UNFCCC, 2014f: Annex, paras. 59-66).

Among others, the ERTs need to: examine whether the inventories correctly applied the reporting guidelines and the IPCC guidelines; compare estimates, data and calculations with previous inventory submissions; identify missing sources; assess consistency between the NIR and CRF; assess to what extent issues raised by the Secretariat and ERTs have been addressed and resolved; and identify areas for further improvement (UNFCCC, 2014f). All ERT reviews are made publicly available.

The ERTs – like the ERTs for NCs and BRs – need to fulfil certain basic criteria (e.g. geographical balance; serve in a personal capacity). Like NCs, lead reviewers need to include one person from an Annex I country and one from a non-Annex I country. The review reports should “not contain any political judgement” (UNFCCC, 2014f: Annex, para. 94), and Parties are allowed to comment before the publication.

ERTs need to meet tight deadlines. Reviews should be carried out within 20 weeks (UNFCCC, 2014f: Annex, para. 90). The inventory re-

³⁶ See http://unfccc.int/ghg_data/ghg_data_unfccc/items/4146.php, and publications listed there.

view process places significant burdens on experts, the Secretariat and countries alike (UNFCCC, 2013a). Training for ERT members to carry out their tasks is provided for, although there is a need for further training of new experts to ensure that there is sufficient capacity (Fransen, 2009: 5). Parties in Lima decided to establish a training programme for expert reviewers of Annex I Party inventories (UNFCCC, 2014h).

Non-Annex I countries are not required to submit NIRs, but are required to submit inventories as part of their NCs (Article 12.1(a) UNFCCC).

Technical review of reports by Annex I Parties

The Kyoto Protocol requires Annex I Parties to include supplementary information in their inventories and NCs for the purposes of demonstrating compliance (Article 7.1 and 7.2). Its guidelines are much more detailed than the Convention's (UNFCCC, 2005b), which is not surprising given the importance of accounting and reporting for the integrity of the Protocol. As a result, they replace the guidelines under the Convention for those Annex I Parties that are also Party to the Protocol.

The first annual reports (for 2008) under the Kyoto Protocol had to be submitted in 2010 (Article 7.3 of the Protocol). Just like the inventory reports under the UNFCCC, inventories are prepared using IPCC methodological guidance, and need to include greenhouse gas inventory information. In addition, annual reports under the Protocol need to provide information about calculations related to assigned amounts, LU-LUCF activities, the national inventory system (i.e. the institutional and legal arrangements necessary for preparing and reporting of inventories; see Article 5.1 of the Protocol), the national registry (i.e. a system to record all transactions of the Protocol's emission/removal units), and on a Party's implementation of its commitments in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties (UNFCCC, 2005b: Annex, Section I).

Initial information for most Annex I Parties on the Kyoto Protocol was provided in their fourth National Communications, which were due 1st January 2006, with the Kyoto Protocol entering into force 10 months earlier (see Article 7.3 of the Protocol). In addition to the information required under the UNFCCC, NCs under the Kyoto Protocol need to offer information on: national inventory systems; national registries; the use of the Kyoto Protocol's flexibility mechanisms in a way that is supplemental to domestic action; policies and measures adopted; domestic or regional legislative arrangements and enforcement and administrative

procedures; and activities undertaken in the area of scientific research, capacity building, the provision of financial resources and technology transfer under Articles 10 and 11 of the Protocol.

In addition to these regular reports, the Kyoto Protocol also provides for several “one-off” reports:

- An *initial report*, which needed to be submitted either before 1st January 2007 or a year after the entry into force of the Protocol for a Party (whichever date was earlier). The report needed to include, among others: complete inventories for all years from 1990 (or alternative base years where applicable); base years for non-CO₂ greenhouse gases; an indication if Parties sought to fulfil their commitments jointly with other Parties; a calculation of a Party’s assigned amount; information about its registry and national system to estimate emissions (UNFCCC, 2005a: Annex, para. 6–8). This information was intended to clarify Parties’ assigned amounts under the Protocol, as well as to show that Parties would have the capacity to monitor emissions (Yamin and Depledge, 2004: 351–352).
- A report on *demonstrable progress*, in which Parties need to show how much “demonstrable progress” with the implementation of their commitments by 2005 (pursuant Article 3.2 of the Protocol). The report provided a “check-up” opportunity before the start of the first commitment period to ensure Parties would be on the right track. It needed to include: an indication of implementation measures and emissions trends; an evaluation of how measures will help Parties meet commitments; and information how Parties would meet their non-mitigation-related commitments.
- A *true-up period* report, through which Parties’ compliance with their Kyoto targets can be assessed. Reports will follow after the ERTs have completed their reviews of the last annual inventory of the commitment period (for 2012). Taking into account the time for that review, as well as an additional grace period of 100 days, these reports are due by mid-2015. The report needs to contain information on the assigned amount and relevant transactions (UNFCCC, 2005b: Annex, para. 20), quantities and serial numbers of the emissions units it retired to achieve compliance, and quantities and serial numbers of units it intends to carry over to the next period (UNFCCC, 2005a: Annex, para. 49).

Article 8 of the Kyoto Protocol establishes a review process by ERTs for the reports submitted pursuant to Article 7 (thereby excluding the demonstrable progress reports³⁷). This process is to “provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol” (Article 8.3 of the Protocol). In addition, however, ERTs are tasked with “assessing the implementation of the commitments of the Party included in Annex I and identifying any potential problems in, and factors influencing, the fulfilment of commitments” (UNFCCC, 2005c: Annex, para. 21).³⁸ If potential problems are identified, the ERT can raise questions of implementation to the Party concerned. If these cannot be resolved by the Party, the ERT can raise them again in its report, and the matter will be considered by the Compliance Committee under the Protocol. While this clearly is a sensitive task for the ERTs, they are still expected to refrain from political judgements.

ERTs under the Protocol are coordinated by the Secretariat, need to have a geographical balance, cover a variety of relevant skills, and are led by two reviewers: one from an Annex I Party and one from a non-Annex I Party. (UNFCCC, 2005c: Annex, Part I, Section E). Experts are required to act in their personal capacity. Training is required for all experts.

ERTs under the Protocol are responsible for various review processes. First, reviews of the inventory reports are carried out on an annual basis (Figure 1). These annual reviews start with a (desk-based or centralized) initial check for completeness, timeliness and consistency. This is followed by an individual inventory review, which may involve an in-country visit. In this stage, ERTs examine how the IPCC methodological guidance has been applied, compare emission and removal data with previous submissions and other relevant sources, check the internal consistency, assess whether previous issues and questions have been addressed, and offer recommendations for improving the reporting (UNFCCC, 2005c: Annex, para. 65). The main difference with the Convention review process is that ERTs can identify problems (in relation to the criteria for annual inventories under the UNFCCC, namely transparency, consistency, comparability, completeness and accuracy). Such problems may lead to an application of “adjustments” to the emissions data if the ERTs find that the Party provid-

³⁷ These reports are not reviewed by ERTs but were compiled and synthesized by the Secretariat, and subsequently considered by the CMP, which simply called on Parties to “to continue, or, where appropriate, intensify, their efforts aimed at reducing or limiting their greenhouse gas emissions” (UNFCCC, 2007: para. 4).

³⁸ This goes beyond the criteria for annual inventories under the UNFCCC (transparency, consistency, comparability, completeness and accuracy).

ed information that did not follow the IPCC guidance, was inconsistent or incomplete. Parties are given the opportunity to comment on this, but if they refuse to accept the finding, the matter will be brought to the consideration of the Compliance Committee. In the annual review, ERTs also look at supplementary information, such as transactions of Kyoto units, the national system and registry, and information on how Parties minimize adverse impacts of their actions on developing countries. Reviews are to be completed within one year.

The reviews have led to more adjustments than anticipated (Herold, 2012: 136). More importantly, perhaps, by raising potential questions of implementation, Parties have a chance to address issues of compliance before a referral to the Compliance Committee. In practice, therefore, the ERTs played an important role in facilitating compliance, a role initially envisaged for the Facilitative Branch of the Compliance Committee (Stockwell, 2011). At the same time, the process faces several problems, including a lack of experts; a geographical bias towards Annex I reviewers; insufficient training of experts; insufficient resources to fund experts; inconsistencies among the different ERTs (e.g. in the interpretation of IPCC guidance); and increasing problems to ensure the timeliness of reviews (Herold, 2012: 138-140).

Second, periodic in-country reviews are conducted for each NC, in combination with centralized or desk-based reviews (UNFCCC, 2005c: Annex, Part VII). NCs are checked for completeness, and the ERTs are tasked to carry out a detailed examination (e.g. emissions trends, policies and measures, financial resources, supplementarity) of the various sections of the reports. The reviews should be completed within two years. The report needs to include a technical review, as well as a section on any potential problems identified in the NC. These problems need to be linked to the criteria of transparency, completeness and timeliness. Parties have an opportunity to comment on the draft report. In addition, the Secretariat is instructed to draft a compilation and synthesis report of the NCs, which is forwarded to the CMP. The review reports are made publicly available.

The NC review process is constrained by the fact that, unlike the annual reviews, there is no methodological guidance to check against. As a result, “the review can only assess whether the requested information was provided and whether it is the type of information requested in the guidelines” (Herold, 2012: 142).

Third, there is a review process for the initial reports (UNFCCC, 2005c: Annex, paras. 11–14; UNFCCC, 2005d). The process is similar to that of annual reviews, although the focus is specifically on the inven-

tory, the calculation of assigned amounts, the national system and the national registry. As under the annual reviews, ERTs can suggest adjustments if the inventories did not follow the IPCC methodological guidance. The initial review was an important milestone in the preparations for the first commitment period, establishing the base year data, confirming the calculations of assigned amounts, and providing a timely assessment of whether the national system and registry are in place (Yamin and Depledge, 2004: 361).

Fourth, a review process will be organized for true-up period reports once they start coming in from mid-2015 onwards. This report will be crucial in determining whether Parties have been in compliance with their Kyoto targets. ERTs are tasked with assessing whether: the information is provided according to the guidelines; the information is consistent with other information sources; and the total emissions in the commitment period exceed the quantities of Kyoto units retired (i.e. whether a country has met its target) (UNFCCC, 2005c: Annex, paras. 89–91). The review process is to be completed by 10 August 2015 (UNFCCC, 2014d).

International Assessment and Review of Annex I Parties' Biennial Reports

In Cancún in 2010, Parties decided that, in addition to NCs and annual inventory reports, Annex I Parties should submit biennial reports (BRs) on “their progress in achieving emission reductions, including information on mitigation actions to achieve their quantified economy-wide emission targets and emission reductions achieved, projected emissions and the provision of financial, technology and capacity-building support to developing country Parties” (UNFCCC, 2011: para. 40). In addition, the Cancún Agreements established “a process for international assessment of emissions and removals related to quantified economy-wide emission reduction targets under the [SBI], taking into account national circumstances, in a rigorous, robust and transparent manner, with a view to promoting comparability and building confidence” (UNFCCC, 2011: para. 44). The Agreements further established a work programme on, among others, the revision of guidelines for review of NCs, BRs and annual inventory reports and “[m]odalities and procedures for international assessment and review [IAR] of emissions and removals related to quantified economy-wide emission reduction targets, ... including the role of [LULUCF], and carbon credits ...” (UNFCCC, 2011: para. 46(b) and (d)).

At COP17 in Durban, the Parties agreed on guidelines for BRs (UNFCCC, 2012: para. 13 and Annex). The guidelines indicate that the BRs should provide information on emissions trends of all greenhouse gases; descriptions of quantified economy-wide emission reduction targets (including base year, gases and sectors covered, global warming potential values, approaches to LULUCF emissions/removals, and use of market-based mechanisms), as well as progress in achieving these targets; greenhouse gas projections; and the provision of financial, technological and capacity-building support. In 2012, Parties adopted a common tabular format (CTF) for biennial reporting (UNFCCC, 2013b). This decision includes 27 tables which Parties need to fill out, “taking into account their national circumstances” (UNFCCC, 2013b: para. 4).

An International Assessment and Review process needs to take place every two years, either independently or together with the review of NCs. The IAR process of BRs includes two separate steps: a technical review, in line with earlier technical reviews of inventories and NCs, and a novel multilateral assessment (UNFCCC, 2012: para. 23).

The technical review focuses on: emissions and removals related to emission reduction targets; assumptions, conditions and methodologies related to the target; progress towards the target; and the provision of financial, technological and capacity-building support. By contrast, the last point is not covered in the multilateral assessment process (UNFCCC, 2012: Annex, paras 4–5).

Detailed guidelines for the technical review process of NCs and BRs and inventory reports were agreed at COP19, and were included in common guidelines for the review of inventories, NCs and BRs (UNFCCC, 2014f). The purposes of the technical review process of BRs are (UNFCCC, 2014f: Annex, para. 5):

“(a) To provide, in a facilitative, non-confrontational, open and transparent manner, a thorough, objective and comprehensive technical review of all aspects of the implementation of the Convention by individual Annex I Parties and Annex I Parties as a whole;

(b) To promote the provision of consistent, transparent, comparable, accurate and complete information by Annex I Parties;

(c) To assist Annex I Parties in improving their reporting of information contained in [greenhouse gas] inventories, BRs and NCs ...; and

(d) To ensure that the COP has accurate, consistent and relevant information in order to review the implementation of the Convention.”

BRs need to be reviewed within 15 months after their submission (just like NCs), allowing for BRs and NCs to be subject to a joint in-country

review, should they be submitted simultaneously. In other years, the BR will undergo a centralized review (but an in-country review can be requested). Moreover, the Secretariat may coordinate the review process with other review processes (UNFCCC, 2014f: Annex, paras. 16-20).

As is the case for other review processes, ERTs are coordinated by the Secretariat. Experts are to act in their personal capacity (to avoid political bias), and need to have relevant competence, and the teams need to be composed as much as possible with a view to achieving a regional balance, with lead reviewers coming from an Annex I and a non-Annex I Party. In addition to the roster of experts used for other review processes, ad hoc review experts nominated by Parties can be invited to join. The SBSTA can offer advice on the selection of ERTs and on the review process, following reports by the Secretariat and lead reviewers (UNFCCC, 2014f: Annex, paras. 24–52).

Technical reviews need to:

- assess the completeness and timeliness of the BR
- examine consistency with the annual inventory report and NC
- provide an in-depth technical examination of issues not covered in the inventory review (i.e. emissions and removals related to emission reduction targets; assumptions, conditions and methodologies related to the target; progress towards the target; and the provision of financial, technological and capacity-building support).

ERTs look at the criteria of transparency, completeness, timeliness, and adherence to the BR reporting guidelines (UNFCCC, 2014f: Annex, paras. 63–64). ERTs can ask questions, request additional information from the Party, and offer suggestions and advice on resolving any issues that arise from the review. However, ERTs are still to refrain from making political judgements (UNFCCC, 2014f: Annex, paras. 11–12 and 25). By January 2015, 21 technical reviews had been completed.³⁹ As noted above, Parties in Lima decided to establish a training programme for expert reviewers of Annex I Party NCs and BRs (UNFCCC, 2014i).

The multilateral assessment draws on the technical review report, the Party's reports (including BR, inventory report and NC) and supplementary information on the achievement of the Party's quantified econ-

³⁹ http://unfccc.int/national_reports/biennial_reports_and_iar/technical_reviews/items/8446.php

omy-wide emission reduction target, including on the role of LULUCF, and carbon credits from market-based mechanisms. The first reviews took place at an SBI session during COP20 in Lima, covering 16 developed country Parties as well as the European Union.⁴⁰ In the assessment, any Party (but not observers) is allowed to ask questions in advance, which the Party should try to respond to within two months. At the SBI session, the Party can make an oral presentation, and other Parties can raise questions. The Secretariat finally makes a report of the written questions and answers, the SBI session, and any response from the Party concerned. The SBI can forward conclusions to the COP (UNFCCC, 2012: Annex II, paras. 8–12).

International Consultations and Analysis for developing country Parties' Biennial Update Reports

In addition to the provisions on BRs and IAR, the Cancún Agreements, for the first time, also introduced a process for developing country Parties. Developing countries should “submit biennial update reports [BURs] containing updates of national greenhouse gas inventories, including a national inventory report and information on mitigation actions, needs and support received” (UNFCCC, 2011: para. 60(c)).

Guidelines for BURs were adopted one year later, at COP17 (UNFCCC, 2012). Non-Annex I countries “should take into account their development priorities, objectives, capacities and national circumstances” (UNFCCC, 2012: para. 41(b)). Non-Annex I Parties, with the exception of LDCs and SIDS, needed to submit their first BURs by December 2014, and thereafter every two years (either as part of their NCs or as an independent report).

The aims of BURs are (UNFCCC, 2012: Annex III, para. 1):

- to assist non-Annex I Parties in meeting reporting requirements
- to foster the presentation in a consistent, transparent, complete, accurate and timely manner

⁴⁰ More information (including summary reports) on the multilateral assessment in Lima can be found here: http://unfccc.int/national_reports/biennial_reports_and_iar/international_assessment_and_review/items/8451.php

- to enhance reporting by non-Annex I Parties on mitigation actions, their effects, needs and support received
- to offer policy guidance to the operating entity of the financial mechanism to assist non-Annex I Parties in preparing BURs
- to allow for the presentation of finance, technology and capacity-building support needed and received
- to facilitate reporting on the economic and social consequences of response measures.

The reports need to include: information on national circumstances and institutional arrangements; a national inventory (by and large following the information included in the earlier guidelines for inventories for non-Annex I Parties); information on mitigation actions; constraints and gaps, and financial, technical and capacity needs; information on the level of support received to prepare the BURs; information on monitoring, reporting and verification (MRV) arrangements; and any other relevant information (UNFCCC, 2012: Annex III, para. 2).

BURs are subject to international consultations and analysis (ICA) under the SBI, “in a manner that is non-intrusive, non-punitive and respectful of national sovereignty.” The term “consultations and analysis” is considered less intrusive than “assessment and review.” The process is expressly not intended to examine the appropriateness of domestic policies and measures. Rather, the ICA should aim at enhancing transparency, and it should be “efficient, cost-effective and practical” (UNFCCC, 2012: para. 56, recital). The analysis should be carried out by technical experts and through consultations with the Parties (UNFCCC, 2011: para. 63).

The ICA process is to start within six months after the submission of the first round of BURs; subsequent processes depend on the timing of submissions of future BURs. For LDCs and SIDS, ICA is available as a group if they wish to subject themselves to it (UNFCCC, 2012: para. 58). The process consists of two steps. First, a technical analysis is carried out by technical experts in consultation with the Parties. The information to be considered should include the national inventory report, information on mitigation actions, progress in implementation information on MRV, and support received. Second, and based on the report from the technical analysis, a “facilitative sharing of views” will take place (UNFCCC, 2012: Annex IV, paras. 3(a) and (b)).

The technical analysis is conducted by a team of technical experts (TTE). The UNFCCC Secretariat selects members for the TTE, drawing among others on advice from the CGE on non-Annex I Parties’ NCs. The majority of experts are to come from non-Annex I Parties, although a

geographical balance should be ensured. Like other review processes, there are two lead experts (from an Annex I Party and a non-Annex I Party); experts are to act in their personal capacity and need to undergo a training programme. Furthermore, they should not be from the Party under scrutiny or be nominated by that Party; they should also not have been involved in the preparation of the BUR; and they cannot examine two successive BURs from the same Party (UNFCCC, 2014c: paras. 5–6). The modalities for the TTE do not state anything about in-country visits, but state that the analysis needs to take place “in a single location” (UNFCCC, 2014c: para. 7).

The report of the technical analysis is prepared in close consultation with the Party. The draft report needs to be ready within three months, and needs to be shared with the Party, which should provide comments within three months. Within another three months the report should be finalized, in consultation with the Party (UNFCCC, 2014c: paras. 8–10). The report itself will be noted by the SBI, and will be made publicly available.

As for the facilitative sharing of views, the SBI is instructed to regularly convene a workshop of 1–3 hours where Parties can exchange views for the Parties for which a BUR and summary report is available. Parties can be discussed individually or in groups of up to five Parties. All Parties can send in written questions in advance; in addition, oral questions and answers are possible in-session. The outcomes of the ICA are a summary report and a record of the facilitative sharing of views (UNFCCC, 2012: Annex IV, paras. 4–8).

The 2013–2015 review

The 2013–2015 review was negotiated as part of the Shared Vision agenda under the Ad Hoc Working Group on Long-term Cooperative Action. Paragraph 4 of the Cancún decision (UNFCCC, 2011: para. 4) establishes the 2 °C goal and recognizes “the need to consider, in the context of the first review, ... , strengthening the long-term global goal on the basis of the best available scientific knowledge, including in relation to a global average temperature rise of 1.5 °C.”

Parties decided specifically “to periodically review the adequacy of the long-term global goal ... , in the light of the ultimate objective of the Convention, and overall progress towards achieving it ...” (UNFCCC, 2011: para. 138). The review

“Should be guided by the principles of equity, and common but differentiated responsibilities and respective capabilities and take into account, inter alia:

(i) The best available scientific knowledge, including the assessment reports of the Intergovernmental Panel on Climate Change.

(ii) Observed impacts of climate change.

(iii) An assessment of the overall aggregated effect of the steps taken by Parties in order to achieve the ultimate objective of the Convention.

(iv) Consideration of strengthening the long-term global goal, referencing various matters presented by the science, including in relation to temperature rises of 1.5 °C”

(UNFCCC, 2011: para. 139(a)).

Finally, Parties agreed that the review was to take place from 2013 to 2015 (UNFCCC, 2011: para. 139(b)).

In Durban, Parties agreed that the review should be based on various information sources. These include:

- The assessment and special reports and technical papers of the IPCC.
- Submissions from Parties, NCs, first BURs from developing country Parties and BRs from developed country Parties, national inventories, reports on ICA, IAR, and other relevant reports from Parties and processes under the Convention.
- Other relevant reports from UN agencies and other international organizations, including reports on emission projections, technology development, access, transfer and deployment, and reports on gross domestic product, including projections.
- Scientific knowledge as well as observed impacts on climate change.

Parties also decided that the review will be conducted with assistance of the Subsidiary Bodies and supported by expert considerations of inputs, organized in several phases. The Subsidiary Bodies are asked to organize workshops, provide assistance to the review, and report to COP21. The review should be repeated following the adoption of an IPCC Assessment Report or at least every seven years (UNFCCC, 2012: paras. 157–167).

In Doha, Parties invited the Subsidiary Bodies to establish a joint working group and established a “structured expert dialogue” (SED) to ensure the scientific integrity of the review and assist the Subsidiary Bodies with the preparation of synthesis reports (UNFCCC, 2013d). Three SED meetings have been held to date. These have featured presentations by experts, mostly IPCC authors.

Biennial assessment and overview of climate finance flows

At COP17, Parties mandated the Standing Committee on Finance (SCF)⁴¹ to prepare a biennial assessment and overview of climate finance flows, to include:

“Information on the geographical and thematic balance of such flows, drawing on available sources of information, including national communications and biennial reports of both developed and developing country Parties, information provided in the registry, information provided by Parties on assessments of their needs, reports prepared by the operating entities of the financial mechanism, and information available from other entities providing climate change finance.”

(UNFCCC, 2013c: para. 121f).

The assessment is conducted against the criteria and goals of fast-start finance; thematic balance; geographical distribution; the goal to keep global warming below 2 °C; CO₂ impact/performance; country needs, priorities and ownership; and access modalities. No common definition of international climate finance was suggested for the assessment. At COP18, the mandate for assessment was extended with a request to consider ways of strengthening methodologies for reporting climate finance and to take into account relevant work by other bodies and entities on the MRV of support and the tracking of climate finance (UNFCCC, 2014). At COP19 the mandate was again extended, to consider ongoing technical work on operational definitions of climate finance, including private finance, to assess how adaptation and mitigation needs can most effectively be met by climate finance.

To support these activities, developed country Parties were invited to submit information on the appropriate methodologies and systems used to measure and track climate finance to the Secretariat. Further information is drawn from international and national development banks, NGOs, think tanks, research institutions, academia, and international organizations.

⁴¹ The SCF was established at COP16 to assist the COP in exercising its functions in relation to the financial mechanism of the Convention. This involves improving coherence and coordination in the delivery of climate finance, rationalization of the financial mechanism, mobilization of financial resources and MRV of support provided to developing country Parties. The committee consists of 20 members, with equal representation of Annex I and non-Annex I country parties.

A variety of organizations also replied to a call by the SCF to provide information.⁴² Stakeholder inputs provided several suggestions:

- It should build on existing work (e.g. CPI, 2013; IETA, 2013; OECD, 2013).
- The biennial assessment could become a step towards a regime for MRV of climate finance. However, comparability of data is seen as a challenge, so the biennial assessment would need to come up with a method to capture relevant flows as well as reporting requirements (CPI, 2013; Germanwatch, 2013; OECD, 2013).
- IETA (2013) proposes a harmonization of frameworks for measuring finance from different types of sources (e.g. private, public-private partnerships, multinational lending, bilateral finance), but the OECD (2013) states that methodological and knowledge gaps on private finance complicate such efforts.
- Most institutions mentioned the lack of a clear definition of climate finance as a clear barrier for the assessment (CPI, 2013; Haites, 2013; IETA, 2013; OECD, 2013).

Consultants were hired to do the actual work, with SCF members serving as resource persons. The “assessment” part of their report should also include a section on limitations/gaps as well as broader regulatory and policy barriers; and a five-page section on ways to strengthen methodologies for reporting climate finance (UNFCCC, 2013c: Annex II). The biennial assessment was presented at COP20 in Lima.

⁴² https://unfccc.int/cooperation_and_support/financial_mechanism/standing_committee/items/8034.php

Appendix II:

Analysis of other review processes

Trade Policy Review Mechanism (World Trade Organization)

The 1994 Agreement establishing the World Trade Organization (WTO) included the creation of a Trade Policy Review Mechanism (TPRM).⁴³ The goals of the TPRM are to enhance transparency and understanding of trade policies and practices of WTO Members and their impacts on trade. Although the mechanism is also intended indirectly to improve adherence of Members to WTO law, the mechanism is expressly not intended to add to Members' commitments or form the basis of enforcement (WTO, 1994: Annex 3, para. A(i)). While the reviews do not assess the consistency of Members' policies with WTO law in detail, the process examines policies and practices in light of existing commitments (Laird and Valdés, 2012). However, enforcement of obligations remains the sole prerogative of the WTO's Dispute Settlement Mechanism.

The TPRM applies to all WTO Members, but reviews need to be conducted "against the background of the wider economic and developmental needs, policies and objectives of the Member concerned, as well as of its external environment" (WTO, 1994: Annex 3, para. A(ii)). Moreover, the frequency of reviews is determined by the share of world trade of a Member, with the top four Members being subject to the review biennially, the next 16 Members every four years, and other Members every six years. For LDCs this period may be even longer. Reviews may also take place in groups (e.g. smaller groups or regional trade unions). The link to the share in world trade means that the frequency of review of Members may change over time as countries' circumstances and trade patterns change. When there are "changes in a Member's trade policies or practices that

⁴³ The TPRM was not the first transparency mechanism of the international trading system. Predecessors of the TPRM were already put in place in the 1980s (Laird and Valdés, 2012: 484).

may have a significant impact on its trading partners” (WTO, 1994: Annex 3, para. C(ii)), the review may be brought forward after consultation.

The reviews are carried out by the Trade Policy Review Body (TPRB, which is basically the WTO’s General Council (its highest decision-making body) in another guise. The TPRB works on the basis of a report submitted by the Member concerned and a report by the WTO Secretariat based on information provided by the Member subject to the review as well as other information (e.g. from international organizations and academia). The reports by Members are standardized to some extent but are not necessarily comparable. The WTO Secretariat can provide assistance to smaller WTO Members in preparing the reports. The report by the WTO Secretariat is prepared according to a standardized format. Both reports, as well as the record of the TPRB meeting, are published shortly after the review, and forwarded to the WTO Ministerial Conference. They also feed into the annual report of the TPRB and the annual overview of the Director-General of the WTO (Bodansky, 2010: 7).

The process itself takes a little over a year, and involves a series of interactions between the Secretariat and the Member under review, including opportunities to comment on drafts of the report. The process also includes a short in-country visit. In advance of the TPRB meeting in Geneva, other Members are invited to send questions. The meeting is open to accredited observers, but not to the general public. It usually starts with a statement by the Member, and an introduction by two discussants selected by the TPRB’s Chairman. The meeting does not result in recommendations, but simply with conclusions drafted by the Chairman on a personal basis. After the meeting, the Member has a chance to respond in written form to questions remaining unanswered at the meeting. While meetings allow other Members to raise questions, they have a “ritualistic quality” and “a real interactive exchange of views is seldom in evidence” (Laird and Valdés, 2012: 475).

At the end of 2013, the TPRB had conducted 384 reviews since its formation, spread over 289 review meetings, and covering 147 out of 159 WTO Members (WTO, 2013: para. 3).

Although some Members have argued that the reports by the Secretariat included an evaluation of policies and practices outside of the mandate, observers have argued that the reports have been insufficiently critical (Laird and Valdés, 2012). Furthermore, there have been concerns that the information generated by the process is not useful for developing countries (Ghosh, 2010). The most recent internal appraisal of the TRPM provides an indication of the challenges (in terms of resources and timing) of organizing a steadily increasing number of re-

views (WTO, 2013b). One solution to this issue has been the increased use of group reviews.

Bilateral Surveillance (International Monetary Fund)

Article IV.3 of the Articles of Agreement of the International Monetary Fund (IMF) establishes a surveillance mechanism to monitor exchange rates in IMF member countries, also known as “bilateral surveillance”. This mechanism examines individual countries’ macroeconomic policies, and in particular their exchange rate policies, to ensure that they do not impair financial and economic stability. According to Article IV.3, the principles guiding bilateral surveillance “shall respect the domestic social and political policies of members, and in applying these principles the Fund shall pay due regard to the circumstances of members.” Surveillance is one of the key functions of the IMF, taking up almost half its budget (Bodansky, 2011: 7).

Members are to provide the IMF regularly with the necessary information, and are being consulted on their policies. Surveillance usually takes place on an annual basis, although biennial reviews are possible for lower-risk countries such as LDCs (Bodansky, 2011: 3). In the surveillance process, the IMF visits member countries on an annual basis to discuss the economic and financial policies of the country with the government, the central bank and other relevant stakeholders. In particular, they examine whether the effects of such policies on financial stability and whether they are in line with the IMF Articles of Agreement. At the end of the mission (no time limit is indicated), the IMF staff drafts a concluding statement (which the country government can comment on) and a report with policy recommendations, which is forwarded for discussion to the IMF’s Executive Board.

The Board discussions are closed to the public, are to be completed within 65 days (IMF, 2012: para. 27), and somewhat resemble a peer review. However, there are no formal country delegations (instead, the country is represented by a permanent representative). Furthermore, room for flexibility is limited since Board members tend to come with prepared positions (Lombardi and Woods 2008). There is no need for the Board to come to an agreement, either internally or with the country’s government. Following the Board’s discussions, the staff report is usually made publicly available, along with a press release summarizing the Board’s conclusions. Countries can – and have – refused publication because of the inclusion of sensitive or confidential material, in accord-

ance with the IMF's transparency policy (Bodansky, 2011). The individual reports are used in the IMF's broader economic reports, which are prepared under the heading of "multilateral surveillance".

The surveillance system has been criticized for being too much of a one-way process, even though it is supposed to be based on "[c]ontinuous dialogue and persuasion" (IMF, 2012: para. 14; Lombardi and Woods, 2008). The functioning of the surveillance system has come under severe criticism in the wake of the recent financial crisis, which the IMF failed to anticipate. The system has also been criticized for not being even-handed and favouring the larger members (IMF, 2011: 21). Academic literature also emphasizes that the surveillance system works best for those low-income countries "that cannot afford to be noncompliant with the IMF, not least because it would affect their other sources of multilateral and bilateral aid" (Lombardi and Woods, 2008: 732). Partly in response to these criticisms, the Executive Board adopted a decision on "integrated surveillance." The IMF's bilateral surveillance now also takes into account the global impacts of financial and economic policies in individual member countries with a view to securing global financial stability. In addition, it introduces the possibility to hold multilateral consultations. Such consultations would bring together IMF staff and officials from several member countries with a view to encouraging members to agree on policy adjustments (IMF, 2012: paras. 31-33).

Universal Periodic Review (UN Human Rights Council)

In 2006, the UN Human Rights Council (HRC) was instructed by the UN General Assembly to "[u]ndertake a universal periodic review [UPR], based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States." The UPR is an intergovernmental process that is aimed to be a "cooperative mechanism" based on "interactive dialogue" (UN, 2006: para. 5(e)). The review examines countries' adherence to a range of legally binding human rights instruments, but also voluntary pledges and commitments made, with a view to improving the human rights situation, enhancing compliance with international commitments, building capacity and sharing best practices.

The HRC outlines a range of basic principles for the review. Notably, it suggests that while all countries are to be covered and treated equally, the review should "take into account the level of development and speci-

ficiencies of countries” (UN HRC 2007a: para. 3(l)). Furthermore, the UPR should be “conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner” (UN HRC, 2007a: para. 3(g)). The review should not be “overly burdensome” to either the State involved or the HRC, not be “overly long” and “realistic and not absorb a disproportionate amount of time, human and financial resources” (UN HRC 2007a: para. 3(h) and (i)). Finally, the principles emphasize the importance of participation of all relevant stakeholders as well as taking into account a gender perspective (UN HRC, 2007a: para. 3(k) and (m)).

The HRC guidelines indicate a schedule for the review process, which is aimed at ensuring an equitable geographic distribution. The first cycle of the UPR lasted four years, reviewing all States.⁴⁴ The second cycle (2012–2016) lasts for four and a half years (UN HRC, 2011a: Annex), and takes into account States’ capacity to prepare for, and stakeholders’ capacity to respond to, the requests arising from the review (UN HRC, 2007a: para. 13).

The review is based on: (i) information provided by the State, usually in the form of a national report, complemented by oral and written evidence; (ii) a compilation of information by the Office the High Commissioner for Human Rights (OHCHR) contained in reports from independent human rights experts (so-called “special procedures”), treaty bodies and other relevant UN documents; and (iii) additional information submitted by relevant stakeholders, as compiled by the OHCHR. The short OHCHR reports follow a similar structure for each country. The documentation needs to be ready six weeks before the review takes place (UN HRC, 2007a: paras. 15–17).

The review itself is carried by the UPR Working Group of the HRC, which is composed of 47 member States and meets three times a year for two weeks. Non-member States may also participate in the review, and other stakeholders may attend. Three rapporteurs from among the Council facilitate the review and draft the Working Group’s report with support from the OHCHR. The State under review may request that a rapporteur is substituted, for instance by one from the country’s own regional group. The rapporteurs collect questions for the State to structure the review process (UN HRC, 2007a: paras. 18–22). The review itself lasts for three and a half hours.

⁴⁴ See <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf>

The review results in a report summarizing the proceedings, along with conclusions and/or recommendations. This outcome may include an assessment of the human rights situation, but may also lead to the provision of technical assistance and capacity building, or new voluntary commitments. The State concerned, as well as other States and stakeholders, are given an opportunity to share their views on the outcome. The final outcome report, including the State's response, will include recommendations that may or may not be supported by the State concerned (UN HRC, 2007a: paras. 26–32). The report is then forwarded to the HRC in plenary for adoption. The Council can indicate whether any specific follow-up is warranted. The reports are made publicly available.

The implementation of the outcome of the first review will be discussed in more detail in the next review. States are further encouraged to submit mid-term reports (UN HRC, 2011a: Annex, para. 18). If States refuse to cooperate with the UPR mechanism, the Council will “address, as appropriate, cases of persistent non-cooperation with the mechanism” (UN HRC, 2007a: para. 38). One such case – Israel – has taken place so far, with the Council adopting a decision urging the country to resume its participation, and indicating the consideration of further measures at a later stage (UN HRC, 2013). No specific measures have yet been taken, however.

The HRC has established a Voluntary Trust Fund to facilitate the participation of developing countries (and in particular LDCs) in the UPR, including travel to Geneva and preparation of the national reports. It also has established a Voluntary Fund for Financial and Technical Assistance to assist countries, in particular LDCs and SIDS, with the implementation of the recommendations from the review (UN HRC, 2007b).

Evaluations of the UPR have so far been predominantly positive, with commentators pointing at the generally high level of engagement of a wide range of countries (McMahon, 2012; Smith, 2013). They have also pointed out that the process has, among others, led to the ratification of human rights treaties, new voluntary pledges and commitments, increased dialogue with non-governmental stakeholders and improved reporting (Cameron and Limon, 2012; McMahon, 2012). However, observers also point to existing politics influencing the recommendations and their implementation, and a lack of concreteness in some of the recommendations (i.e. they are insufficiently action-oriented) (McMahon, 2012). Moreover, the process still has to find a way of dealing with potentially persistent non-cooperation.

Implementation review (Montreal Protocol on Ozone-depleting Substances)

Under the 1987 Montreal Protocol, States have taken on commitments to adopt control measures related to the production and consumption of ozone-depleting substances. All Parties need to report annually on data on the production, import and export of several substances covered by the treaty (Article 7), using data reporting tools developed by the Ozone Secretariat.⁴⁵ The Protocol further suggests that Parties should consider establishing a mechanism to promote compliance with the treaty (Article 8). The non-compliance procedure was eventually adopted in 1992, although it has undergone several alterations since (Montreal Protocol, 2007). A crucial part of this procedure is the Implementation Committee.

The compliance procedure may be launched, first, if one or several Parties have concerns about another Party's implementation. Parties need to write to the Ozone Secretariat, providing supporting information. The Secretariat forwards this information to the Party concerned, who can respond within three months. After six months, the Secretariat forwards all information to the Protocol's Implementation Committee. Second, Parties may self-report non-compliance, explaining the reasons and circumstances. Finally, the Secretariat, through compiling data reported by Parties and other information sources can bring issues of non-compliance to the attention of the Committee (Montreal Protocol, 1998: Annex II, paras. 1–4). This is the most common trigger for the non-compliance procedure (Brack, 2003: 217).

The Committee can request further information and try to uncover the reasons for non-compliance. It can do an in-country visit, but only upon invitation of the Party. Importantly, the Committee is instructed to liaise with the Executive Committee of the Multilateral Fund on the provision of financial and technical assistance. In carrying out its tasks, the Committee is instructed to find an "amicable solution" (Montreal Protocol, 1998: Annex II, para. 8).

The Committee meets twice a year. It consists of 10 Parties are elected to two-year terms by the Meeting of the Parties (MOP) of the Montreal Protocol (Parties may be re-elected for one more consecutive term). The membership needs to ensure an equitable geographical distribution. If a Party is not a member of the Committee at a time when it is being

⁴⁵ See http://ozone.unep.org/new_site/en/ozone_data_tools.php

discussed, it can participate in the consideration by the Committee. However, to avoid conflicts of interest, Parties are not allowed to influence the recommendations of the Committee (also if they are in the Committee itself). Although the meetings are not public, they are attended by representatives of international organizations such as the World Bank and UNEP (Raustiala, 2001: 36).

The Committee reports to the MOP, and can provide recommendations, such as preparing an action plan to return to compliance. The report should be available at least six weeks before the MOP. The MOP may draft its own recommendations, or refer the matter back to the Committee to make recommendations. Should a Party refuse to follow the recommendations of the MOP, cautions or sanctions (e.g. suspensions from some of the benefits of the Protocol) may be adopted. Alternatively, a decision may be adopted to provide financial or technical assistance to the Party through the Multilateral Fund.

The non-compliance procedure is seen as one of the most developed procedures in international environmental law (Klabbers, 2007). Indeed, it has developed a regular routine, facilitating and streamlining the work of the Committee.⁴⁶ It has been widely used, although the focus has been mainly on developing countries and economies in transition. Part of its appeal has resided in its non-confrontational nature, with Parties clearly not viewing it as a venue for dispute resolution but rather as a practical way to discuss non-compliance (Raustiala, 2001: 36).

Peer reviews (Organisation for Economic Co-operation and Development)

Under the auspices of the OECD, a variety of peer reviews take place. Examples include:

- Economic reviews by the Economic and Development Review Committee.
- Environmental performance reviews by the Working Party on Environmental Performance.

⁴⁶ See, e.g., its primer for new Committee members: http://ozone.unep.org/Publications/ImpCom_Primer_for_parties.pdf

- Reviews of development aid policies and practices by the Development Assistance Committee (DAC).
- The country reviews on regulatory reform by the Ad Hoc Multidisciplinary Group on Regulatory Reform (which comprises various OECD Committees and Working Parties).

The OECD (2003: 9) defines peer review as “systematic examination and assessment of the performance of a State by other States, with the ultimate goal of helping the reviewed State improve its policy making, adopt best practices, and comply with established standards and principles.” The practice of peer reviews, starting with economic reviews, has been in place since the inception of the organization.

The basis for peer reviews in the OECD system varies. They can follow from a decision by a subsidiary body, a decision by the Ministerial Council, or provisions in treaties. Likewise, there are various principles, standards and criteria that are applied, depending on the issue area. Some reviews, such as the economic and development assistance reviews apply broadly defined principles (e.g. policy coherence). Another standard used is internationally legally binding norms. Other review criteria are more specific, with numerical targets, indicators and benchmarks being used in the environmental performance, development assistance and regulatory reform reviews. The three types of review criteria do not exclude each other and are used in parallel (OECD, 2003).

The frequency of the reviews has differed for each body and depends on the subject matter, with for instance short cycles for the economic reviews (12–18 months) and longer cycles for the environmental performance reviews (6–7 years). Peer review usually applies to all members of the OECD body in question, and can even be a necessary condition for membership. OECD members are expected to fully cooperate by making relevant information available, hosting visits and responding to questions (OECD, 2003). Interestingly, non-members can request to be reviewed, and have been reviewed in the past. For instance, China, Russia and South Africa have all undergone environmental performance reviews by the OECD.⁴⁷

Usually, OECD peer reviews take place in three stages:

⁴⁷ See <http://www.oecd.org/env/country-reviews/oecdenvironmentalperformancereviews.htm>

- A *preparatory stage*, which consists of background analysis and a self-evaluation (through questionnaires). For some reviews (e.g. environmental performance reviews), the scope of the review is determined in consultation with the member.
- A *consultation stage*, in which the reviewers and the Secretariat closely interact with the country under review, carry out in-country visits, and interact with non-governmental stakeholders (e.g. civil society and academia). This stage results in a draft of the final report (usually according to a certain template), including the main conclusions and recommendations. This draft is commonly shared with the country concerned.
- An *assessment phase*, which includes a discussion of the draft report in the plenary meeting of the OECD body. The discussion is led by the reviewers, but other countries can participate. The meeting leads to a final report, which is usually adopted by consensus. In some cases, differences of views can be stated. At this stage, non-governmental organizations may still be involved in the process through submissions. The final report and its recommendations form the basis for the next peer review, and are made publicly available.

The reviewing countries usually rotate. The reviewers are to act as representatives of the body. As such, they examine the documentation submitted, consult with the country under review, and liaise with the OECD Secretariat. In-country missions take place, although not for all reviews. The individual reviewers are generally acting in their official capacity on behalf of their State, but for some reviews they are required to act in their personal capacity (OECD, 2003).

The OECD Secretariat supports the review process by preparing questionnaires, conducting analyses, and organizing meetings and in-country visits. Because of its nodal position, “[t]he independence, transparency, accuracy and the analytic quality of work of the Secretariat are essential to the effectiveness of the peer review process” (OECD, 2003: 16).

Appendix III:

List of interviewees

#	Name	Affiliation	Date of interview
1	Daniel Bodansky	Arizona State University	21st November 2014
2	Gregory Briner	OECD	14th November 2014
3	Harald Dovland	Carbon Limits	18th November 2014
4	Thomas Hale	University of Oxford	6th November 2014
5	Bo Kjellén	SEI/Former diplomat	10th November 2014
6	Lina Li	Ecofys	7th November 2014
7	Timmons Roberts	Brown University	12th November 2014
8	Thomas Spencer	IDDRI	7th November 2014
9	Rixa Schwarz	Germanwatch	14th October 2014
10	Antto Vihma	FIIA	11th November 2014
11	Jake Werksman	European Commission	11th November 2014

Sammanfattning

År 2013 uppmanades länderna som deltar i FN:s klimatkonvention, UNFCCC, att presentera löften om nationella utsläppsminskningar, så kallade *Intended Nationally Determined Contributions – INDCs*, där de avser förbinda sig att genomföra dessa inom ramen för ett internationellt klimatavtal år 2015.

En utvärdering (*assessment and review*) av dessa löften om minskade utsläpp kan hjälpa till att säkerställa att de är i linje med internationellt överenskomna mål. Utvärdering av de planerade utsläppsminskningarna kan också bidra till att öka transparensen, förtroendet och ansvarstagandet mellan parterna inom UNFCCC. En utvärdering kan också skapa en ömsesidig förståelse för de olika parternas löften om utsläppsminskningar, underliggande information bakom dessa samt existerande antaganden. Dessutom kan utvärdering av löfterna om minskade utsläpp bidra till en högre ambitionsnivå då det ökar möjligheterna till återkoppling och utbyte av idéer mellan parterna, vilket i sin tur kan uppmuntra dem till att vidta och förbinda sig till ytterligare utsläppsreduceringar.

En utvärdering av löften om utsläppsminskningar inom ett internationellt klimatavtal kan fokusera på länders individuella eller kollektiva förpliktelser. En distinktion kan göras mellan *ex ante* utvärdering, vilken genomförs innan bestämmelserna kring utsläppsminskningarna är helt fastställda, och *ex post* utvärdering, vilken genomförs efter avtalsperiodens slut.

Flera frågor kring utformningen av denna utvärderingsmekanism inom ett klimatavtal 2015 är fortfarande obesvarade. Denna studie undersöker olika alternativ för denna utvärderingsmekanism, och kommer att fokusera på följande frågor:

- Exakt vad är det som bör utvärderas? Och hur kan utvärderingen innefatta möjligheten att löfterna om utsläppsminskning inte bara inkluderar en begränsning av klimatförändringarna, utan också åtaganden för klimatanpassning?
- Bör utvärderingsprocessen delas upp, och i så fall, hur?
- Mot vilka kriterier bör löfterna om utsläppsminskningar utvärderas?
- När bör utvärderingen genomföras?

- Hur bör utvärderingen genomföras, och vilka aktörer borde vara inkluderade?
- Hur kan denna utvärdering användas vid utformningen av nya löften?

Studien inleds med en analys av de redan existerande utvärderingsprocesser som används inom UNFCCC och Kyotoprotokollet. Dessa tidigare utvärderingsprocesser har bidragit med mycket information om länders tidigare arbete kring utsläppsminskning, och bidrar med värdefulla lärdomar för en ny utvärderingsmekanism under ett nytt klimatavtal år 2015. Analysen visar att det i viss mån är möjligt att ha skiftande utvärderingsprocesser inte bara mellan Annex I och non-Annex I länder, men också inom dessa grupper. Analysen av de existerande utvärderingsprocesserna visar också att tekniska utvärderingar allt oftare kombineras med möten mellan parterna. De flesta av de existerande utvärderingarna fokuserar på hur klimatförändringarna kan begränsas, men det finns även några utvärderingar som inkluderar annan relevant information (såsom åtgärder för klimatanpassning). Dessa tidigare utvärderingar kan utgöra en grund att bygga kommande utvärderingsprocesser på. Slutligen bör det påpekas att de flesta tekniska utvärderingar har varit begränsade på grund av resurs- och kapacitetsbrist, vilket också riskerar påverka framtida utvärderingsprocesser. Dock kan dessa begränsningar minskas genom en effektivisering av utvärderingsprocessen samt utbildnings- och kapacitetshöjande åtgärder.

Studien analyserar även mellanstatliga utvärderingsprocesser utanför UNFCCC. Generellt sett kan dessa utvärderingsprocesser appliceras på alla aktörer, men skilda utvärderingsprocesser har varit möjliga i flera fall (t.ex. när de baserats på lands-specifika kriterier, så som andel av världshandeln). Utvärderingsprocesser genomförda utanför UNFCCC belyser också problem med resurser och kapacitet, men föreslår möjliga lösningar så som grupputvärderingar, varierande frekvens av utvärderingar över tid och tillgång till finansieringsstöd. Det är viktigt att påvisa att även vid hanteringen av känsliga frågor har icke-statliga aktörer varit inblandade i utvärderingsprocessen, som till exempel mänskliga rättigheter inom det internationella systemet. Slutligen understryker analysen vikten av både positiva och negativa incitament, (finansieringsstöd och handelssanktioner) för att säkerställa att parterna är delaktiga i utvärderingsprocessen.

Vidare analyserar denna studie parternas olika syn på utvärdering av klimatlöften inom ett internationellt klimatavtal år 2015. Inom vissa frågor har parterna vitt skilda åsikter, speciellt rörande utvärdering av

enskilda klimatlöften och särskiljning mellan parterna i utvärderingsprocessen. Dessa frågor är relaterade till den större frågan om hur man ska förena ett system av nationellt fastställda klimatlöften med UNFCCC's binära uppdelning av stater i Annex I eller non-Annex I. Angående utvärdering av kollektiva löften och insatser finns det större konsensus parterna emellan. Detta innebär att de är överens om att cyklerna för utvärdering bör vara fem år och att utvärderingsmekanismen bör vara baserad på erfarenhet från de befintliga utvärderingsprocesser som redan används under UNFCCC. Dessutom har diskussionen om att löften om utsläppsminskning endast får justeras om det resulterar ökade åtaganden (dvs. mindre ambitiösa löften är inte tillåtna) fått brett stöd.

Denna studie gör en systematisk granskning av designen av en framtida utvärderingsmekanism inom ett internationellt klimatavtal år 2015 gentemot fem olika kriterier: miljöeffektivitet, politisk genomförbarhet, administrativ effektivitet, transparens och öppenhet. Studien är begränsad i och med att den undersöker specifika alternativ för en utvärderingsmekanism samtidigt som den övergripande strukturen för ett internationellt klimatavtal 2015 fortfarande är under förhandling. Trots detta belyser analysen vilka kompromisser som kommer att behöva göras, samt erbjuder en grund för vissa inledande rekommendationer.

Viktiga observationer och rekommendationer

Studien leder fram till följande slutsatser och förslag:

- *Ex ante utvärdering:*
Någon form av ex ante utvärdering av individuella klimatlöften under UNFCCC skulle sannolikt bidra till att säkerställa att löftena är ambitiösa och rättvisa. Dessa utvärderingar kan kompletteras med informella utvärderingar utanför UNFCCC-processen gjorda av INGOs och NGOs som har mandat att observera processen, eller genom bi- och multilaterala diskussioner mellan parterna. De lärdomar som kan dras från både formella och informella *ex ante* utvärderingar i upptakten till Paris, bör ligga till grund för ett klimatavtal 2015.
- *Utvärdering av kollektiva löften:*
Regelbunden översyn av de kollektiva löftena är önskvärt och genomförbart ur ett miljöeffektivitetsperspektiv (baserat på existerande utvärderingsprocesser). Utvärdering av kollektiva löften är ett viktigt komplement till utvärdering av individuella löften. Detta

gör det också möjligt att se över hela avtalet utifall att någon av parterna inte lever upp till sina löften.

- *Typer av löften:*
Att inkludera fler delar av parternas klimatlöften i utvärderingen ökar öppenheten men riskerar att inte vara praktiskt när det gäller politisk genomförbarhet och administrativ effektivitet. Utvecklingsländerna har uttryckt hur viktig klimatanpassning är och någon form av utvärdering av metoderna för dessa, vare sig i samband med begränsning av klimatförändringarna eller separata, skulle sannolikt bidra till ökad enighet inför ett klimatavtal 2015.
- *Differentiering:*
Inga parter löften bör helt undantas från utvärdering, detta för att garantera transparens och politisk genomförbarhet. Men att kräva en lättare ex ante utvärdering av löften från vissa mindre, utvecklade länder (t.ex. Least-Developed Countries and Small Island Developing States) skulle minska deras administrativa börda och öka deras deltagande. Dessa nationer skulle sannolikt ha större nytta av en utvärderingsprocess som underlättar genomförande av klimatlöften.
- *Kriterier för utvärdering:*
Det är osannolikt att parterna kommer att komma överens om betydelsefulla utvärderingskriterier inför ett klimatavtal 2015. Att tillämpa tillvägagångssättskriterier i ex ante utvärdering skulle vara ett viktigt första steg mot att klargöra de olika parternas ambitioner med sina klimatlöften. Ökad transparens bidrar indirekt till att parterna, inklusive NGOs, får en ökad förståelse för hur ambitiösa och jämbördiga klimatlöftena är.
- *Icke-statliga aktörers roll:*
Vikten av inrikespolitik för åtaganden för nationella utsläppsminskningar visar på behovet för att klargöra och stärka rollen för icke-statliga aktörer i utvärderingsprocessen. Dessa aktörer är särskilt värdefulla när det saknas en formell utvärdering av individuella löften nationella utsläppsminskningar. Icke-statliga aktörer kan bidra till utvärdering av åtgärder för klimatanpassning.
- *Försäkran om ökande ambition för klimatlöften:*
Förutom ett allmänt åtagande att undvika mindre ambitiösa klimatlöften kan garantier för säkerhet mot tillbakadragande av löften (t.ex. specifika tider för tillkännagivanden och kommentarer från andra parter) hjälpa till att säkerställa att löftena blir mer ambitiösa.



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Assessment and Review under a 2015 Climate Change Agreement

In 2013, Parties to the UNFCCC were invited to prepare and communicate their Intended Nationally Determined Contributions (INDCs) under a 2015 agreement. Assessment and review of INDCs can help to ensure that these contributions are in line with internationally agreed objectives and principles, help establish and enhance transparency, trust and accountability between Parties, and raise ambition over time.

This report analyses the existing review processes both under and outside the UNFCCC. It suggests that some form of ex ante assessment and review process of INDCs could help ensure that they are ambitious and fair. Such process can be complemented by assessments by observer organizations and informal discussions among Parties. In addition, a periodic review of collective ambition is desirable from the perspective of environmental effectiveness, and can build on existing review processes.

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