



DRAFT DISCUSSION DOCUMENT 2

CCXG seminar breakout session 2b

Key Issues Relating to International Consultations and Analysis¹

Prepared for the
CCXG/Global Forum on Environment
Seminar on MRV and Carbon Markets²

28-29 March 2011, Paris

Please do not cite or quote the contents of this document.

The ideas expressed hereafter are those of the authors and do not necessarily represent views of the OECD, the IEA, or their member countries, or the endorsement of any approach described herein.

¹ This document was prepared by Gregory Briner (OECD), Nina Campbell (IEA) and Jane Ellis (OECD). The authors would like to thank OECD/IEA colleagues Helen Mountford, Shardul Agrawala, Richard Baron, Jan Corfee-Morlot, Christa Clapp, Katia Karousakis, Andrew Prag and Virginie Marchal for their inputs to an earlier draft. Please send any comments to gregory.briner@oecd.org.

² The CCXG Secretariat would like to thank the EC, Germany and Japan, who provided funding specifically for this event, as well as OECD member countries who provide funding for the Global Forum. They would also like to thank Canada, Finland, Japan, Netherlands, Norway, Sweden, Switzerland, UK and US for their direct funding of the CCXG in 2010, and OECD and IEA for their in-kind support.

Key Issues Relating to International Consultations and Analysis

1. Background and context

At the sixteenth meeting of the Conference of the Parties (COP 16) to the UN Framework Convention on Climate Change (UNFCCC) in Cancún, Parties decided to conduct international consultations and analysis (ICA) of biennial update reports³ from developing countries. This represents a significant evolution for developing countries, as the existing reporting and review framework does not provide for any form of review of their national communications.⁴ The COP 16 decision provides guidance on the aim of ICA and the information that should be considered, and specifies that the process should be carried out “in a manner that is non-intrusive, non-punitive and respectful of national sovereignty” (see Box 1). However, the details of what exactly ICA entails are yet to be agreed.

Box 1: COP 16 decision text relating to ICA

The following decision text relating to ICA was agreed at COP 16 (UNFCCC, 2010):

Paragraph 63: “Decides to conduct a process for international consultations and analysis of biennial reports in the Subsidiary Body on Implementation, in a manner that is non-intrusive, non-punitive and respectful of national sovereignty; [t]he international consultations and analysis aim to increase transparency of mitigation actions and their effects, through analysis by technical experts in consultation with the Party concerned, and through a facilitative sharing of views, and will result in a summary report”.

Paragraph 64: “Also decides that information considered should include information on mitigation actions, the national greenhouse gas inventory report, including a description, analysis of the impacts and associated methodologies and assumptions, progress in implementation and information on domestic measurement, reporting and verification and support received; discussion about the appropriateness of such domestic policies and measures are not part of the process. Discussions should be intended to provide transparency on information related to unsupported actions”.

This draft discussion document explores options for various aspects of the ICA process. The purpose, scope, outcomes, process and sequence, form and location, frequency and timing, stakeholder participation, and content and distribution of the summary report are each considered in turn, followed by a list of key questions for discussion at the end. This document, while not comprehensive, draws on existing experience with other multilateral review processes, including the UNFCCC Review of Annex I (AI) National Communications (NCs), UNFCCC Greenhouse Gas (GHG) Inventories Review, IEA In-Depth Review of Energy Policies (IDR), OECD Environmental Performance Review (EPR)⁵, OECD Review of Progress Towards Transparency and Exchange of Information for Tax Purposes, Montreal Protocol Implementation Review, UN Human Rights Council (HRC) Universal Periodic Review, IMF Bilateral Surveillance and the WTO Trade Policy Review Mechanism (TPRM), as well as previous analyses (e.g. Pew Centre, 2010). The review processes surveyed cover a broad range of different purposes, scales, frequencies and outcomes.

³ The term “biennial” is inappropriate since these reports will only be prepared once every four years (in between national communications), and perhaps less frequently as reporting will be consistent with the “capabilities and the level of support provided” for developing countries (UNFCCC, 2010). This document therefore proposes to use the term “update reports” rather than “biennial reports”.

⁴ By contrast, national communications and greenhouse gas inventories from developed countries are reviewed by international expert review teams.

⁵ Other OECD reviews covering climate-related information include Economic Surveys, conducted by the Economic and Development Review Committee (EDRC), and Development Assistance Committee (DAC) Peer Reviews. These reviews were not surveyed for this analysis.

2. Purpose and scope of ICA

Key issues

The stated aim of ICA is to “increase transparency of mitigation actions and their effects” (UNFCCC, 2010). In order to achieve this, ICA would need to be combined with enhanced reporting in national communications and update reports (see Ellis *et al.*, 2011, draft). The COP 16 decision indicates that ICA is to discuss the effects, but not the appropriateness, of mitigation actions in developing countries. Other purposes of ICA could be:

- to enhance dialogue between countries and facilitate sharing of views and experience regarding climate policy responses;
- to improve reporting of climate-relevant data and information in update reports over time;
- to establish internationally-comparable and consistent update reports that are transparent and accurate.

A key challenge will be to design a non-intrusive ICA process that respects national sovereignty, respects resource constraints and achieves its aim to increase the transparency of the reporting system for mitigation actions and their effects.

Existing examples

The purposes of the multilateral review processes considered here vary widely. All aim to ensure that reporting requirements are fulfilled and that information reported is complete. Several aim to ensure that countries implement certain international standards – be it standards for human rights in the UN HRC Review, standards for GHG inventories in the UNFCCC GHG Inventories Review, or standards on transparency and exchange of information in the OECD Tax Transparency Review. Some go a step further and aim to assess the effectiveness of countries’ actions in the context of an international agreement, such as the Montreal Protocol Review, the WTO TPRM and the IMF Review. The Montreal Protocol Review attempts to maintain respect for national sovereignty by presenting the outcome in terms of collective implementation rather than individual implementation by country (although implementation issues pertaining to a particular country are considered by the Montreal Protocol Implementation Committee on an individual basis).

3. Outcomes of ICA

Key issues

The ultimate objective of the UNFCCC is to prevent dangerous anthropogenic interference with the climate system. A robust framework for measuring, reporting and verifying (MRV) information and data from developed countries, combined with ICA of update reports from developing countries, can help the international community move towards this objective. For example, improved understanding of GHG emission levels and potential benefits and costs of mitigation policies can help national governments to design effective mitigation strategies. Further, as demonstrated by the increased quality and content of national communications from Annex I Parties, facilitative review can help countries improve their reporting over time. Increased MRV and ICA can therefore be seen as an opportunity for individual countries (as well as the wider international community) to improve their climate policy response. The COP 16 decision stipulates that ICA should be non-punitive, respectful of national sovereignty and should focus on a facilitative sharing of views. Accordingly, outcomes could focus on collaborative processes which assist the Party concerned to enhance its reporting, such as intensified ongoing consultations with the Party concerned, the provision of recommendations, or enhanced financial, technology and capacity building support.

Existing examples

As the engagement of countries in multilateral obligations depends entirely on their own consent, most review procedures do not envisage punitive consequences. A common feature of existing reviews is that the outcome includes a set of recommendations for action by the Party concerned; examples include the IEA IDR, the OECD EPR and the UN HRC Review. In addition, several reviews assist the Party concerned to implement the recommendations by providing them with additional capacity building, technical assistance and/or funding (e.g. the UN HRC Review, the Montreal Protocol Review and the WTO TPRM). Several reviews employ “peer pressure” (in part, by making the outcomes publicly available) between countries to encourage improvement in performance over time, such as the IEA IDR and the UNFCCC Review of AI NCs. Some reviews, such as the OECD EPR, encourage the Party concerned to report back at a later stage on progress made in implementing the recommendations provided.

4. Process and sequence of ICA

Key issues

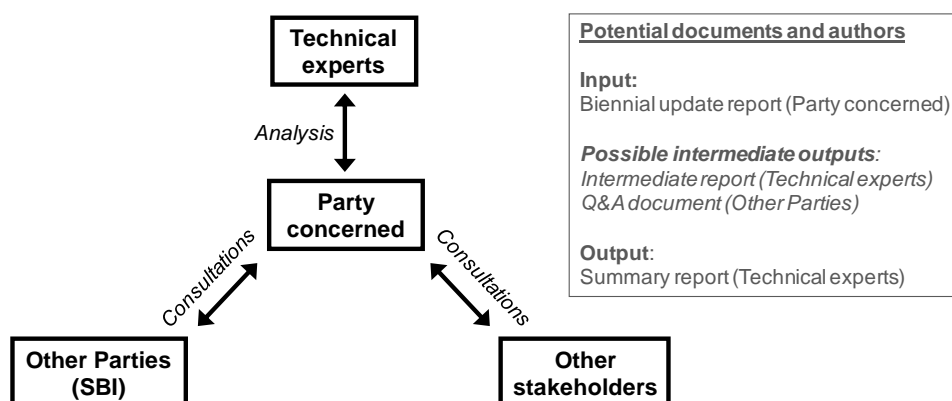
ICA can be split into the following constituent components:

- **actors** involved – these include the Party concerned, the team of technical experts, other Parties, and potentially other national and international stakeholders;
- **actions** undertaken by the actors – e.g. analysis, consultations;
- **documents** – including update reports, summary reports, and potentially intermediate documents.

Figure 1 outlines the actors involved in ICA and the interactions between them, including documents produced during these interactions. Actors are denoted by black rectangular boxes and documents that could potentially be prepared by them are listed in grey. The Party concerned is at the centre of the diagram and is involved at all stages of the ICA process. The first stage is the submission of an update report by the Party concerned; this provides the input for the process. Two actions follow: (i) analysis by technical experts in consultation with the Party concerned; and (ii) international consultations and facilitative sharing of views. The sequence of these actions is not stipulated by the COP 16 decision; the analysis could be conducted before, after, or at the same time as the international consultations. Equally, there could be more than one round of consultations, although this would have resource implications.

It is possible that intermediate documents could be prepared during ICA and used as a basis for international consultations. For example, an intermediate report could be prepared by the technical experts, and/or a Q&A document could be prepared by other Parties. The COP 16 decision stipulates that ICA will result in a summary report, but does not indicate who should write it.

Figure 1: Interactions between actors in ICA, and potential documents produced



Existing examples

In most existing review processes the first step in the review process is the submission of information by the Party concerned. This information may be subjected to a completeness check (as in the case of the Montreal Protocol Review). In several reviews the information is used to generate an expert report or list of questions which subsequently form the basis for sharing of views between the Party concerned and a group of international stakeholders (e.g. the UNFCCC Inventories Review, IMF Review, WTO TPRM, UN HRC Review, IEA IDR and the OECD EPR). In some cases the preparation of the expert report is prepared in consultation with the Party concerned (e.g. the UN HRC Review, UNFCCC Review of AI NCs, OECD EPR and the IEA IDR).

While all international processes examined here include consultations with the Party concerned, the form of these consultations can vary; it can involve an in-country assessment (e.g. OECD EPR, IEA IDR, UNFCCC Review of AI NCs and IMF Review), communication of questions to the Party concerned (e.g. Montreal Protocol Review, WTO TPRM), and/or or an invitation to the Party concerned (and sometimes other stakeholders) to participate in an interactive meeting (e.g. the UN HRC Review). Several reviews involve a combination of these approaches so that the Party concerned is consulted more than once during the review. For example, the OECD EPR and IEA IDR combine an in-country visit and an interactive Q&A session based on an expert report, while the UN HRC Review includes both an interactive dialogue with the Party concerned and an opportunity for them to respond to the final report. In addition, the sequence of some review processes is organised by topic, rather than by action. For example, the OECD Tax Transparency Review contains two phases; the first examines the legal and regulatory framework in the country, and the second evaluates implementation in practice.

5. Frequency and timing of ICA

Key issues

In order to be effective, the timing of the outcomes of ICA should allow the Party concerned adequate time for implementation of any recommendations before the next update report. Considering that there are currently 159 non-Annex I Parties to the UNFCCC, this would present a challenging timetable if every update report were to be subject to ICA. In addition, the COP 16 decision text decides to conduct ICA of biennial reports, but not of national communications; in years when a national communication is produced, it has yet to be clarified whether this will also be subject to ICA. It may not be practical to conduct ICA of all update reports from every developing country, and some form of phased or tiered timetable may be appropriate. The frequency of ICA will need to be decided (e.g. by the COP).

Existing examples

There is considerable variation in the frequency and timing of existing reviews. The OECD Tax Transparency Review has the highest review turnover of those studied, with 42 reviews scheduled for 2011. WTO TPRM reviews approximately 16-18 countries per year. The IEA IDR and OECD EPR are less frequent; IEA IDRs are undertaken every four to six years (with update reports in between IDRs) and OECD EPRs are conducted in cycles of roughly eight or nine years, with no provisions for tiered frequency. The IMF Review, on the other hand, features a tiered timetable which allows for extension from annual to biennial frequency in the case of countries considered to have a negligible impact on the financial system or those whose actions are supported. Similarly, the frequency of the WTO TPRM is set at two years for countries with the largest share of world trade, and four or six years for smaller trading nations, with additional flexibility for Least Developed Countries. In terms of the sequence of reviews undertaken, OECD Tax Transparency Reviews for countries with greater capacities for implementing actions were scheduled before those for countries with limited capacities for implementation.

6. Location and type of ICA

Key issues

The COP 16 decision states that ICA will be conducted in a manner that is “non-intrusive”, but does not provide further qualification of this term. This provision may have important implications for the location and type of the technical expert analysis and international consultations, i.e. whether this includes an in-country visit or consists primarily of a desk-based review (either convened in other countries or centralised at the UNFCCC secretariat). The principle advantages of in-country visits are that they can foster collaboration by enhancing reviewers’ understanding of domestic context and provide opportunities for increased participation of the Party concerned. The principle disadvantage is the higher associated resource needs relative to a desk-based analysis.⁶ A compromise could be to undertake in-country visits in some cases and desk-based analyses in others. If this approach was taken, criteria would be needed in order to determine which Parties have an in-country visit, and when.

Existing examples

In other review processes a centralised assessment is common, with the Party concerned and other potential stakeholders either invited to provide input to the reviewers in writing (e.g. the Montreal Review) or in person at a meeting of the reviewing body. Both the Montreal Protocol and the UN HRC Reviews provide for the submission of written queries to the Party concerned by the reviewing body before a centralised consultative meeting. Alternatively, the OECD EPR, IEA IDR, UNFCCC Review of AINCs and IMF Review all include an in-country visit during which discussions between the expert review team and the Party concerned take place. Both the OECD EPR and the IMF Review feature a review timetable which lessens the associated resource requirements (an infrequent timetable in the case of the OECD EPR and a tiered timetable in the case of the IMF Review). The UNFCCC Inventories Review rotates between three types of expert review: an in-country review, a centralised review convened at the UNFCCC secretariat, and a desk-based review conducted by experts in their home countries. The criteria used to select the type of review undertaken can also include historical performance; in the case of the OECD Tax Transparency Review, a condensed review may be proposed for countries with long standing commitments to high tax transparency standards and histories of sharing information with other countries.

⁶ Although even a centralised, desk-based analysis can have substantial resource requirements (e.g. if the Party concerned is requested to provide further information and data, or submit written answers to questions).

7. Participation of stakeholders and experts in ICA

Key issues

The Cancún decision emphasises that ICA is a collaborative process that aims to increase transparency through a “facilitative sharing of views”. Who participates in this facilitative sharing of views is not clarified; it could include the government of the Party concerned, technical experts and/or members of the wider national or international community. International consultations and facilitative discussions could be conducted either in a small group (e.g. an international team of experts or a “board” with representatives from several governments in different regions) or in a large group (e.g. at meetings of the Subsidiary Body for Implementation). For the analysis stage, the COP 16 decision text stipulates that the analysis will be conducted by “technical experts”. Parties will need to agree procedures for how this team of experts is to be selected, whether they will rotate, and where they will convene.

Experience to date

Various examples for the composition of the expert team and the group involved in consultations exist. An expert review team may consist of selected members of secretariat staff, perhaps with the addition of experts from other countries and independent international organisations (as is currently the case for UNFCCC Reviews of AI NCs); or a working party of representatives from some or all member countries (as in the OECD EPR and HRC Reviews). The nomination, selection, rotation, and the potential availability of representative groups of experts are all important issues that need to be considered.

In the consultation and “facilitative sharing” phases, input may be provided solely by the government of the Party concerned, with expert reviewers focusing on a country’s report and subsequent response to written queries (as is the case with the Montreal Protocol Review); or input may be sought from a range of stakeholders from relevant academia, industry, and non-governmental organisations at various stages. The participation of these other stakeholders may be subject to the discretion of the Party concerned, as it is for the IEA IDR. Information from these sources may be gathered in a combined consultation session or compiled into separate stakeholder reports, as it is in the UN HRC Review. A final post-report consultation phase is often carried out in the presence of all member countries, with the Party concerned present to provide responses to issues raised (e.g. the UN HRC Review).

8. Content and distribution of the summary report

Key issues

The COP 16 decision calls for a summary report, and its form will depend on the purpose and intended audience of ICA. In order to fulfil the stated aim of increasing transparency of mitigation actions and their effects, it is likely that the summary report will need to be prepared in a UN language and made available to Parties other than the Party concerned. However, Parties would need to agree whether or not to make the summary reports publicly available, as is currently standard practice with the reviews of national communications from Annex I Parties. Guidelines could be developed for the content of the summary report. Parties would also need to decide whether or not to publish any intermediate documents prepared during the ICA process, such as the outcome of consultations.

Existing examples

The WTO TPRM makes all its results public, reflecting its aim to protect the multilateral trading system. If the public release of results in pursuit of transparency objectives raises concerns over respect for national sovereignty, then only summary results for all Parties could be published (as is the case in the Montreal Protocol Review), or any punitive effect of public release could otherwise be neutralised by that ensuring all comments from the Party concerned are fully incorporated into the

summary report before release. Although the OECD EPR does not have a strong compliance imperative, it publishes all results, highlights accomplishments and shortfalls, and makes recommendations. The IMF Review, which is essentially bilateral in nature, makes the publication of results contingent on permission granted by the Party concerned. The requirement of consent provides recognition of national sovereignty, and the division of results into two reports - Public and Staff - offers the Party concerned an opportunity to authorise piecemeal intrusion into its jurisdictional privacy.

9. Key questions for discussion

1. What is the overriding goal of ICA? What principles should guide its focus?
2. Could the focus, form, frequency and/or outcome of ICA be tiered to reflect the widely varying national circumstances of developing country Parties? If so, how, and on what basis?
3. What do the stages of “consultation with the Party concerned”, “facilitative sharing of views”, and “analysis” entail? Should they be separate stages? If so, in which order should they be conducted?
4. How could consistency of ICA across different Parties be ensured, given that ICA is likely to be undertaken by different teams for different Parties?
5. Would ICA be conducted in years when a national communication is published, and if so, how?
6. Should an in-country visit be part of ICA? If so, who should carry it out? If an in-country visit is rotated between countries, how would the timing of in-country visits be determined?
7. What does “facilitative sharing of views” entail, and which group of national and/or international stakeholders should be involved in this?
8. Who should participate at each stage of ICA, and who should prepare the summary report? What form should such participation take?
9. Should all of the summary report (together with background information used in its preparation) be made public? If so, would this raise any confidentiality or other issues? If not, how would transparency be ensured?

References

Ellis *et al.* (2011, draft), “Tiers and Transparency: Options for Tiered Reporting Formats in Biennial Update Reports”, draft OECD/IEA Information Paper.

Pew Center (2010), *MRV: A Survey of Reporting and Review in Multilateral Regimes*,
<http://www.pewclimate.org/docUploads/survey-reporting-review-multilateral-regimes.pdf>

UNFCCC (2010), *Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention*, COP 16, Cancún,
http://unfccc.int/files/meetings/cop_16/application/pdf/COP_16_lca.pdf.