

INTERNATIONAL SUPPORT FOR DOMESTIC CLIMATE
POLICIES

***Establishing and Maintaining an Effective
Cooperation Facilitation System***

AMICHAI MAGEN

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Project Leader: Karsten Neuhoff, Senior Research Associate, University of Cambridge

Contributing Authors:

Name of Author	Institution
Amichai Magen	Stanford University

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To effectively communicate insights into climate change policy, Climate Strategies works with decision-makers in governments and business, particularly, but not restricted to, the countries of the European Union and EU institutions.

Contact Details:

Managing Director: Jon Price
Climate Strategies
c/o University of Cambridge,
13-14 Trumpington Street
Cambridge, CB2 1QA, UK

Office: +44 (0) 1223 748812
www.climatestrategies.org
jon.price@climatestrategies.org

Outline

Cooperation facilitation systems are built into international environmental institutions in order to further the substantive, procedural, or transformational goals of those institutions.¹ The purpose of this paper is to address the main conceptual and policy building-blocks of an effective cooperation facilitation system for an *International Support for Domestic Climate Policies* initiative (herein “ISDCP initiative” or “an initiative”). The paper is structured in three main parts: **Part 1** defines what is meant by an effective cooperation facilitation system for the purposes of an initiative. It also addresses overarching considerations pertaining to the design of cooperation facilitation arrangements within a broader ISDCP initiative. Drawing on a range of theoretical traditions and emerging empirical insights in compliance and institutional theory, development and governance-export research in North-South relations, **Part 2** deduces a set of key conjectures to guide the architects of an initiative towards the establishment and maintenance of an effective cooperation facilitation system for an ISDCP initiative. Particular emphasis is placed on conceptualizing varying methods of external influence on domestic transformation, the structure and nature of domestic constituencies, pathways to change, as well as potential barriers to change. Finally, **Part 3** addresses a set of specific cooperation facilitation issues that are of special interest to an ISDCP initiative. The section identifies – in more detail than is possible here – key challenges to cooperation facilitation and raises possible means of tackling these. Part 3 outlines a set of mechanisms for promoting the establishment and maintenance of high-quality North-South process design, stakeholder participation, problem-solving, implementation and complex learning. Particular attention is placed on identifying concrete instruments for cooperation.

1. Effective Cooperation Facilitation: Conceptualization and Overarching Considerations

Conceptualizing Effectiveness

The notion of “effectiveness” (or “success”) can, for our purposes, be approached using two questions: effectiveness for whom? And effectiveness in terms of what outcomes? With regards to the “effectiveness for whom” question, three answers are possible: First, an ISDCP initiative may be beneficial to those who initiated it and directly come to enjoy its resources. Second, an ISDCP initiative may be judged effective to the degree it delivers value to a broader community of stakeholders who come to be involved in it in some capacity. And, thirdly an ISDCP initiative could be judged effective to the degree it brings benefit to North-South societies at large.

¹ An “international environmental institution” (or “international environmental regime”) is defined for our purposes as an explicit arrangement negotiated between international actors that prescribes, authorizes and/or limits behavior relating primarily to environmental policy. Although there is some disagreement in the literature whether the terms “international institutions” and “international regimes” are entirely synonymous, for our purposes the two terms can be used interchangeably. Both terms refer to negotiated arrangements that may or may not involve a formalized, legal agreement between the parties, and that may, or may not rely on the existence of a permanent organization to facilitate cooperative behavior. As such the term “international institutions/regimes” possess a broader, more flexible and dynamic meaning than either of the terms “international agreement” or “international organization”.

With regards to the “effectiveness in terms of what outcomes?” question, again several answers are possible. Would an initiative constitute a success if it “merely” brings interested parties together in a process of dialogue (input)? Will it be a “success” if it generates some quantity of useful new knowledge – papers, conferences, networking (outputs)? Alternatively, will a scheme be judged a success if its addressees come to adhere to its mandated norms and standards (compliance)? Or will it only achieve success to the degree that the problems it seeks to solve are in fact solved as a result of an initiative (impact)?²

Clearly, these measures of effectiveness are not mutually exclusive – an ISDCP initiative may benefit its initiators, wider stakeholder communities *and* societies at large, and progress in effectiveness at one level may well generate positive externalities for others. Still, *a conscious effectiveness target is essential* as a benchmark, and the usage of the term most logically to be embraced, if an ISDCP initiative is to have genuine meaning, is one in which it strives to achieve substantial positive impact for the benefit of North-South societies at large.

The purpose of an ISDCP initiative, after all, is to promote the adoption and development of domestic policies in developed and developing countries that would lead to the gradual transformation of those countries into low-carbon economies. The principle of common but differentiated responsibility for climate policy dictates that both developed and developing countries pursue sound and determined domestic policies to ensure the achievement of this goal, but that in addition developed countries contribute more towards the technical, policy and financial resources necessary for this transformation, including in developing countries. Effective cooperation facilitation, therefore, can be defined as the establishment and maintenance of cooperative conditions, between North-South countries, that would best encourage and support the transfer of knowledge and capacities necessary to fulfill the aims of policy cooperation. The effectiveness of ISDCP cooperation can, accordingly, be conceptualized, and assessed, based on four related outcomes, each of which forms an interlinked dimension in a “cycle of cooperation”:

² I am very grateful to Professor Marianne Beisheim, co-director of the DFG/SFB 700-Project “Transnational Public Private Partnerships for Environment, Health, and Social Rights: Determinants of Success”, Free University of Berlin, for these insights. Several prominent international lawyers and IR theorists go to great lengths to distinguish between inputs, outputs, compliance, and impact. The full details of these distinctions are rather tangential to our purpose and do not merit extensive consideration in this paper. Impact (or “effectiveness” as it is sometimes rather confusingly referred to) relates to the capacity of an international support for domestic climate policies initiative to solve the problem it sets out to address [See: Oran Young and Marc Levy, “The Effectiveness of International Environmental Regimes” in Oran Young ed. *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioral Mechanisms* (Cambridge, MA: MIT Press, 1999): 1-32]. Similarly, the notion of “implementation” is sometimes used by legal scholars to distinguish between mere “formal compliance” (or “fake compliance”) and “real compliance” which involves formally embraced commitments actually put into practice. [See: David Victor, Kal Raustiala and Eugene Skolnikoff, “Introduction and Overview” in David G. Victor, Kal Raustiala and Eugene B. Skolnikoff eds. *The Implementation and Effectiveness of International Environmental Commitments: Theory and Practice* (Cambridge, MA: MIT Press, 1998): 1-46.

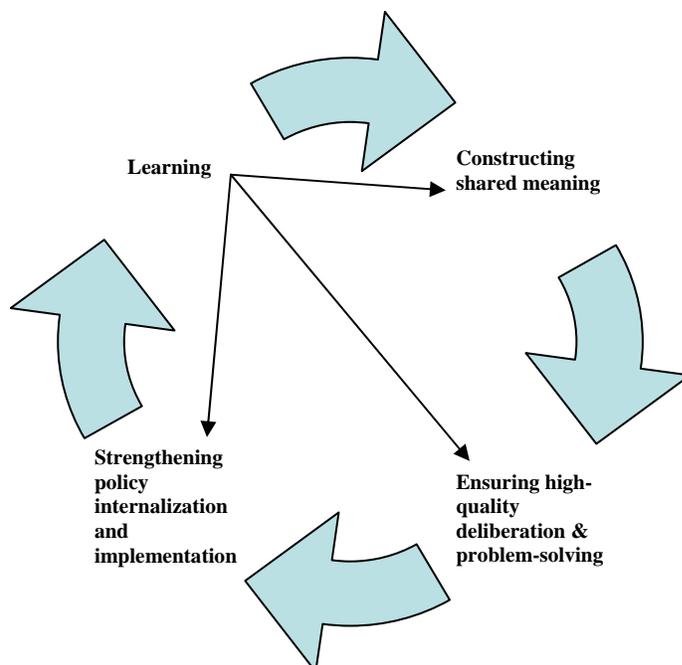


Figure 1: Cooperation Facilitation.

Constructing Shared Meaning

In order to agree on a course of action, priorities and timelines, the relevant stakeholders (state and non-state) need to arrive at a common understanding of the nature of the problem facing them, the joint costs and gains at stake, and the policy choices available to them, actually and potentially, in addressing the problem. This means that the first dimension of effective cooperation facilitation must be the construction of a shared understanding of the problems and possible solutions at hand. This in turn requires the fullest gathering (and/or generating) possible of relevant knowledge, the dissemination of that knowledge, and the *engagement in shared meaning construction*, so that all relevant stakeholders come to, and remain, “on the same page” as an ISDCP initiative is pursued. The first role of an ISDCP initiative, in other words, would be to act as an institutional platform for *norm construction* (or “norm entrepreneurship”).³ Given that environmental policy solutions do not float freely but are constructed by specialized “meaning architects” (or “meaning managers”),⁴ at both the domestic and international levels, the first step towards effective cooperation would involve the ongoing development of a shared mental framework (or “private language”) among stakeholders – defining, elaborating and teaching the standards and practices necessary to advance an initiative’s aims.

³ On “norm entrepreneurs” see: Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change” (1998) *International Organization* 52: 887.

⁴ On “meaning architects” and “meaning managers” see: Lawrence Lessig, “The Regulation of Social Meaning”, (1995) *University of Chicago Law Review* 62: 943.

Ensuring High-quality Deliberation and Problem-solving

Arriving at a common understanding of problems and possible policy solutions is a necessary, but not in itself sufficient condition for effective cooperation. Domestic actors soon realize that there exist multiple “efficient solutions” for addressing identified problems – in the areas of renewable energy, energy efficiency, transportation, deforestation and so forth – each with different distributional effects (both negative and positive) for domestic stakeholders.

This raises a multitude of questions, including: What range of domestic actors need to be taken into account and what weight should different interests carry? What criteria determine fair and feasible distributional losses and gains? Who can legitimately decide? Where costs or gains are initially viewed as unacceptable, can these be alleviated or at least mitigated, and if so how? Where conflict emerges over the interpretation or application of reforms, how would it be resolved?

In the absence of external enforcement, neither power nor information alone can address these questions effectively. In addition to shared meaning construction, therefore, effective cooperation requires a **high quality deliberative and problem-solving** environment capable of ongoing early and efficient identification, legitimate consideration, and authoritative resolution of conflicts.

The second key role for an ISDCP initiative, therefore, is to establish and maintain an institutional and cultural environment that best promotes **norm acceptance**. Acceptance entails domestic constituencies, and particularly policy-makers, coming to view the policy prescriptions emanating from an initiative as legitimate, appropriate and authoritative. The factors that promote high quality deliberation and problem-solving, therefore, are key to the construction of effective cooperation facilitation systems. Accordingly, special attention is placed on elucidating these factors in Part 3.

Strengthening Policy Internalization and Implementation

Thirdly, effective cooperation facilitation must strive to **prevent “decoupling”** (or so-called “**institutional hypocrisy**”). In essence, decoupling involves the existence, or emergence over time, of a substantial gap between verbal (“on paper”) commitments to change, on the one hand, and the reality of internalization and implementation of those commitments, on the other hand.⁵ There is growing evidence that decoupling constitutes a serious and persistent problem for many international regimes, even those with clear metrics and enforcement procedures.⁶

Overcoming – or at least mitigating – the expectation-reality gap in decoupling involves advancing as far as possible effective internalization and implementation.

⁵ For a detailed discussion of decoupling see: See: Amichai Magen and Leonardo Morlino eds., *International Actors, Democratization and the Rule of Law: Anchoring Democracy?* (London: Routledge, 2008) chapters 2 and 8.

⁶ See: Amichai Magen and Leonardo Morlino *Ibid*; Oona Hathaway, “Do Human Rights Treaties Make a Difference?” (2002) *Yale Law Journal* 111: 1935.

Internalization refers to the incorporation of the norms and standards generated by an ISDCP initiative into the *discourses* of domestic state institutions (legislation, bureaucracies, courts, regulatory agencies, administrative practices) and societal actors (corporations, NGOs, consumer habits, scientific and academic activity).⁷ Going beyond mere acceptance, internalization involves the endogenization of the policies generated by an ISDCP initiative into the domestic system. There are various layers of such internalization: how the challenges of moving towards a low-carbon economy are articulated in elite and mass discourses; how policy options are framed and discussed; and what concrete legislative, regulatory and administrative resources are applied to translate an initiative's goals into domestic policy.

Implementation, on the other hand, involves the additional dimension of translating policy discourse into actual, "on the ground" change – *altering the behavior of addressees*. This is the stage where the rubber hits the road and where, ultimately the success or failure of an ISDCP initiative will be judged. Based on accumulated experience in the international environmental field, effective cooperation often fails not as the result of willful recalcitrance or lack of good intentions, but because of inadequate information, lack of technical expertise and inadequate implementation *capacity*.⁸

Efforts to overcome the problem of decoupling should, therefore, focus on: (a) articulating clear and determinate standards for reform; (b) establishing and maintaining robust forums for efficient transfer and clarification of technical and policy knowledge and (c) providing strong financial and technical support for domestic "capacity-building", adaptation and implementation of policy.⁹

Learning

Finally here, effective cooperation facilitation must ensure *efficient adaption to new information* (including the progressive clarification of currently known challenges and the identification of new ones) and *new problem-solving possibilities* (including new technologies and discovered best practices).

⁷ One of the main tenets of liberal theories is the notion that the key to compliance with international regimes lies in the degree to which these are effectively internalized into domestic regulatory systems. For a detailed elucidation of this argument see: Philip Trimble, "International Law, World Order, and Critical Legal Studies" (1990) *Stanford Law Review* 42: 811. At its fullest, internalization entails a norm becoming so accepted by domestic elites that it achieves a "taken for granted" quality that makes conformance with the norm almost automatic (see: Martha Finnemore and Kathryn Sikkink, *Supra* note 2 at 904). Jeffrey Checkel refers to this as "Type II socialization". See: Jeffrey Checkel, "International Institutions and Socialization in Europe" (2005) *International Organization* 59: 801.

⁸ This is a key insight of the managerialist school of compliance in international law and policy. See in particular: Abram and Antonia Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995); Neil Craik, *The International Law of Environmental Impact Assessment: Process, Substance and Integration* (Cambridge, Cambridge University Press, 2008).

⁹ See: Neil Craik, *Ibid.*; Markus Ehrmann, "Procedures of Compliance Control in International Environmental Treaties" (2002) *Colorado Journal of International Law and Policy* 13: 377; Emeka Duruigbo, "International Relations, Economics and Compliance with International Law: Harnessing Common Resources to Protect the Environment and Solve Global Problems" (2001) *California West International Law Journal* 31: 177; Simon S. Tay, "Southeast Asian Fires: The Challenge for International Environmental Law and Sustainable Development" (1999) *Georgia International Environmental Law Review* 11: 241.

In an environment of considerable uncertainty – incomplete scientific and policy information, lack of clarity about the impact of policies or the appropriate role of different stakeholders in the process of domestic adaptation – *lesson-drawing* and *feedback mechanisms* of knowledge into the meaning-construction and deliberation and implementation functions of North-South cooperation are essential.¹⁰ The effectiveness of cooperation facilitation, therefore, would depend *inter alia* on the degree to which useful information is gathered, analyzed, and lessons drawn, disseminated and applied among applicable actors.

Overarching Considerations

The exact objectives, form and procedures of a cooperation facilitation system for an ISDCP initiative will inherently depend upon the specific goals (initial and evolving), capacities and limitations of the resulting initiative. Early attention to cooperation facilitation is required not only to ensure the viability and success of the overall project, but also to maximize opportunities and remove obstacles to North-South cooperation.

The very nature of cooperation facilitation should, in other words, be broad-based (integral to various phases of the project), *relational to the overall regime* it is intended to serve and constitutive of that overall regime. In its design and methodologies, accordingly, the cooperation facilitation system should be thought of as process-oriented. It ought to identify and engage all relevant stakeholders early, form an integral part of the broader deliberation between the partners to the North-South cooperation effort, and do so in a manner that enhances (not diminishes) the aspirations of an initiative and the feasibility of these aspirations being attained. At the same time, the architects of an overall ISDCP initiative must be prepared to consider a range of strategies and instruments for promoting cooperation – tailoring these to the goals of the regime, and the specific needs of participating members, especially the developing country members: Brazil, China, Ghana, South Africa? and India.

Unlike other multilateral environmental arrangements, the cooperation facilitation system for ISDCP is also being developed *simultaneously* with an overall initiative. While this parallel process offers opportunities for making cooperation facilitation an integral and robust dimension of the overall regime, it also exposes the negotiation over the mechanisms that would be used to facilitate cooperation between the partners to the risk of being tangled with – and potentially diluted by – wrangling over other parts of an initiative.¹¹

¹⁰ On policy lesson-drawing and transfer from international regimes to the domestic context see: David Dolowitz and David Marsh, “Learning from Abroad: The Role of Policy Transfer in Contemporary Policy-Making” (2000) *Governance* 13:5.

¹¹ The compliance procedures of the Convention on Long-Range Transboundary Air Pollution (1979) and the Montreal Protocol on Substances that Deplete the Ozone Layer (which entered into force January 1st 1989) for example, were only negotiated when the overall commitments of the regimes were already in place. See: Jutta Brunnee, “A Fine Balance: Facilitation and Enforcement in the Design of a Compliance Regime for the Kyoto Protocol” (2000) *Tulane Environmental Law Journal* 13: 223 at 228.

2. *Effective Cooperation Facilitation: Methods, Domestic Structures, Pathways and Barriers to Change*

The use of formal and informal international regimes to structure world environmental relations has greatly increased over the past two decades.¹² This has led both policy-makers and academics to ask when and how international institutions and processes can best promote domestic change in the field of environmental policy.¹³ Over the past decade in particular, practitioners and scholars working from within different disciplines and theoretical orientations have generated valuable insights into the external and domestic variables that are likely to promote, or hinder, cooperation facilitation in the transnational environmental governance regimes.

Methods of Cooperation Facilitation

In the absence of hierarchical, enforcement-based compliance mechanisms, an ISDCP initiative may draw upon three main types of methods of influence to encourage North-South cooperation – positive material incentives, normative suasion and learning, and managerialism.

Positive material incentives: The use of positive material incentives can assume two broad forms: the first, and historically dominant form used by Western donors and the multilateral aid agencies they control (notably the IMF and World Bank) is “reinforcement by support” (or *ex ante* conditionality). Here benefits are provided *prior* to confirmation of fulfilment of required reforms or as a simple matter of reinforcement. In contrast, the second – and increasingly utilized form – is “reinforcement by reward” (or *ex post* conditionality). Here the conferment of benefits follows improvement in the domestic policy environment or tangible progress in benchmark attainment, and is premised on retrospective evaluations of performance.¹⁴ In a pure *ex post* model then, none or insufficient performance results in the withholding of benefits. Governments that fail to meet required standards are neither coerced nor rewarded, but are left to “bear the costs of exclusion” until such a time as they, or a successive government, decide to comply.

Positive material incentives may be applied at different stages in the life of an ISDCP regime. There are ***three main sets of opportunities*** to utilize such incentives: first, ***in-negotiation***

¹² See: John W. Meyer, David John Frank, Ann Hironaka, Evan Schofer and Nancy Brandon Tuma, “The Structuring of a World Environmental Regime 1870-1990” (1997) *International Organization* 51: 623-51.

¹³ A discourse typically conducted in terms of “compliance”. See for example: Edith Brown Weiss and Harold Jacobson eds. *Engaging Countries: Strengthening Compliance with International Environmental Accords* (Cambridge, MA: MIT Press, 1998); Kal Raustiala and Anne-Marie Slaughter, “International Law, International Relations and Compliance” in Walter Carlsnaes, Thomas Risse and Beth A. Simmons eds., *Handbook of International Relations* (London: Sage, 2002): 538-558. See also note 2, *Supra*.

¹⁴ The terms “reinforcement by support” and “reinforcement by reward” were coined by: Frank Schimmelfennig, Stefan Engert and Heiko Knobel, “Costs, Commitment and Compliance” (2003) *Journal of Common Market Studies* 41: 495-518. *Ex post* conditionality is practiced most prominently in EU enlargement, the Millennium Challenge Corporation (MCC) initiative launched by the Bush administration in 2002 [for the selection criteria see: <http://www.mcc.gov/selection/index.php> For commentary on the MCC see: http://www.cgdev.org/nv/features_MCA.html and increasingly in the World Bank, which refers to the practice as “selectivity” – where aid agreements are only concluded with those states whose policy choices already demonstrate a prior commitment to reform.

conditions could be made a dimension of the overall regime construction process. Policy actions agreed upon between North-South partners as part and parcel of establishing an ISDCP fund would then have to be fulfilled before North countries would vest the fund. Second, once the overall regime is established, performance criteria would define whether and when prescribed goals are attained, leading to *trigger* points, where the release of benefits either follows or is withheld. Finally, an ISDCP regime could contain *additional commitments*, which are neither pre-conditions for the establishment of the regime, nor trigger points for the release of benefits. By their nature, such commitments follow a “reinforcement by support” dynamic.¹⁵

What unites all forms of material incentive mechanisms of influence is a shared set of assumptions about state (indeed human) motivations and behaviour. Domestic actors are taken to be autonomous agents, free to exercise rational will, and motivated by “logic of anticipated consequences and prior preferences.”¹⁶ External actors, this logic maintains, are able to influence domestic constituencies (both governmental and societal) to internalize and implement desired policies by getting the incentives right.

Incentives act either directly – by altering the cost-benefit calculations of domestic decision-makers – or indirectly, through the relative weakening of veto players opposed to change and the differentiated empowerment of change agents who seek to advance reform internally.¹⁷

The potency of material incentives varies greatly across international regimes. The conditional prospect of full EU membership – to cite an extreme example – represents “a golden carrot” whose attractiveness is probably unmatched by any other existing international entity. Clearly, an ISDCP initiative cannot hope to match the “magnetic pull” of conditional EU membership, but that does not mean that it is precluded from being established and pursued in a manner that would optimize its power to encourage North-South cooperation to its fullest potential.

Five main factors need to be taken into account in this context:

Size of benefit versus size of cost: to optimize its power of influence an ISDCP initiative must first strive to maximize the value of the benefits for partner-countries. This will depend on the scale and time-lines of funding able to be generated from auction revenue and national budgets, but there may also be important indirect financial benefits (tax incentives, licensing or other market access benefits) that an initiative could generate. At the same time, an initiative must strive to *reduce* the domestic costs of adaptation with the prescribed goals.

Availability of alternatives: to optimize its influence capacity, secondly, an ISDCP should, wherever possible, provide value that is either not available to partner-countries or if it is available through alternative means would result in the incurring of greater domestic costs on their part. Where a majority of the same benefits are obtainable by partner-countries through

¹⁵ See: Tony Killick et al. *Aid and the Political Economy of Change* (London: Routledge, 1998); Jeffrey Checkel, “Compliance and Conditionality” ARENA Working Paper 00/18 (2000) (available at: http://www.arena.uio.no/publications/wp00_18.htm).

¹⁶ March and Olson, “The International Dynamics of International Political Orders” (1998) *International Organization* 52: 943-69, at 949.

¹⁷ See: Frank Schimmelfennig and Ulrich Sedelmeier eds. *The Europeanization of Central and Eastern Europe* (Ithaca: Cornell University Press, 2005) chapter 1. On veto players and change agents see Part 2 in this paper.

alternative means – which either do not carry with them the commitments required by an ISDCP initiative, or impose lower costs of adaptation on the part of domestic actors – the influence of an initiative is likely to be diminished.

Credibility: to be influential – an initiative must be credible in two senses; *positively* – in its ability to deliver benefits to partner countries – and *negatively* – in withholding such benefits in cases of obstruction or under-cooperation. This means that an initiative must possess value that partner-countries want; that it is able to deliver that value to partner-countries over time and; that it is prepared to withhold coveted benefits where one or more partner-countries do not fulfil their side of the bargain. This latter factor has often proven to be the Achilles heel of international regimes that aspire to exercise conditionality. Often, the constitutive stakeholders that control international initiatives have emptied conditionality of its content by politicizing it. Multilateral institutions in particular, often find themselves pressured by their controlling members to release benefits despite abject failure on the part of targeted states to meet reform commitments.¹⁸ Such instances of “wasted leverage” occur where partner-countries learn that they can obtain “something for nothing”, creating a pernicious atmosphere of hypocrisy which often seriously damages the entire regime.

Determinacy: finally, and importantly, to optimize effective cooperation an initiative should strive to generate and continuously develop highly determinate norms and standards, rather than vague, weakly legalized ones. The notion of determinacy, in other words, refers to two related but distinct concepts: (a) the clarity and “thickness” of the prescribed norms and standards – what some have called the “density of norms” imbued in the regime¹⁹ – and (b) the formality, or legal status, of the standards generated by an initiative.²⁰ The more specific and legalized the standard, the higher its determinacy value.²¹

Highly determinate standards serve three key functions that contribute to the cooperation promotion capacity of an ISDCP initiative. First, highly determinate standards perform a pivotal *informational role*. They make the regime, from which the standards emanate (either directly or by reference to external standards), provide partner-countries with a detailed roadmap for reform. In doing so, they shape the domestic policy debate, perform an agenda-setting function, and help constrain the range of behaviour deemed suitable for a partner-country to follow in the relevant policy areas addressed by the regime.²² Second, the “roadmap to reform” function – which is present where standards prescribed are highly determinate but is

¹⁸ See: Amichai Magen and Leonardo Morlino eds., *Supra* note 5.

¹⁹ On “thin” and “thick” rule environments see: Wade Jacoby, *The Enlargement of the EU and NATO: Ordering From the Menu in Central and Eastern Europe* (Cambridge: Cambridge University Press, 2004); Wade Jacoby and Pavel Cernoch, “The Pivotal EU Role in the Creation of Czech Regional Policy” in Roland H. Linden ed., *Norms and Nannies: The Impact of International Organizations on the Central and East European States* (Lanham: Rowman & Littlefield, 2002): 317-340.

²⁰ These concepts are often articulated in terms of the “legalization” of international norms. See: Kenneth Abbott et al. “The Concept of Legalization” (2000) *International Organization* 54: 401-19. On the importance of the specificity of rules in international regimes see also: Thomas Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990).

²¹ Thomas Franck, *Ibid.* 52-83.

²² On the constraining function of international regimes see: Stephen D. Krasner, “Structural Causes and Regime Consequences: regimes as intervening variables” in Stephen D. Krasner ed., *International Regimes* (Ithaca: Cornell University Press, 1983): 1-22; John Ruggie, “What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge” (1998) *International Organization* 52: 855-85.

weak or absent where the prescribed rules are vague, opaque or viewed as non-committing – serves the critical role of forming a *concrete agenda* around which change agents – governmental and non-governmental, domestic and international – can coalesce and rally. The presence of a highly determinate set of proposed policy changes, in other words, helps alleviate crippling problems of collective action, by providing a substantive focal point and benchmark vis-à-vis which the domestic policy debate is conducted. Some domestic actors will undoubtedly disagree vehemently with the standards advanced by an ISDCP initiative, but if those standards are sufficiently authoritative and determinate then even opponents will at least have to relate to them, and make their opposing case with reference to them. And thirdly, if and where conditionality is made part of the regime, the presence of determinate standards helps enhance the *credibility* of conditionality by (a) reducing the scope for error and manipulation by narrowing the ability of the partner-government to interpret required changes arbitrarily, and (b) aiding monitoring and reporting functions.

Normative suasion and learning: In contrast to interest-based approaches to cooperation-facilitation, norm-based, suasion and learning methods view states as dynamic social actors, motivated at least in part by the “logic of appropriateness” of certain ideas and practices,²³ notions of procedural and substantive fairness, legitimacy and reputation. Since “actors who enter into a social interaction rarely emerge the same” normative suasion and leaning based explanations assume that domestic processes of policy change are best facilitated by deliberative, communicative processes of habituation, argumentation, persuasion and transfer of complex knowledge.²⁴

The ability of an ISDCP initiative to succeed in its goals would not, according to this rationale, be confined to its capacity to manipulate prefixed government cost-benefit calculations. Rather, those interests themselves are malleable and can be shaped by environments and processes that facilitate genuine deliberation, iterative interaction around depoliticized problem-solving, persuasion, and complex learning.

As in the case of material-incentive based mechanisms, norm-based systems of cooperation facilitation vary – and can be actively moulded to maximize impact – along four main axes:

Resonance: Domestic actors are more likely to engage in learning and be persuaded to accept and internalize applicable climate control rules if these rules resonate positively with them – if they are seen to “fit” well with pre-existing domestic values. The degree of resonance (or “salience”) is shaped by a number of factors, domestic and international. Domestic resonance is increased where the standards promoted by an ISDCP already correspond – or are made to correspond – to local cultural or policy beliefs that they represent “good policy”. Where the consequences of global warming, or other forms of environmental damage, are on the agenda of elite and popular discourses – through the activities of NGOs, the media and think tanks for example – or where the desired reforms are tied successfully to traditional values (nature’s balance, harmony, environmental custodianship), domestic resonance will increase. The openness to accept and internalize externally generated rules is also likely to increase if

²³ March and Olson, *Supra* note 9 at 951.

²⁴ See: Alastair Iain Johnston, “Treating International Institutions as Social Environments” (2001) *International Studies Quarterly* 45: 487, at 488. See also: Ann Florini, “The Evolution of International Norms” (1996) *International Studies Quarterly* 40: 363.

domestic rules are either absent – typically in new issue areas – or have been shown to be inadequate.²⁵

At the same time, international resonance (or “prominence”) is an important feature of norms and standards that are likely to be influential. Norms and standards proclaimed and practiced by states that are widely seen as successful models are more likely to diffuse through the international system. Some aspects of resonance, therefore, are not amenable to immediate shaping. However, the articulation of the new institutions’ norms as universal, rational and “good”, and the mobilization of domestic media, scientific, policy and cultural pressures in favour of the view that the new regime’s values are good and desirable ones would strengthen resonance, further acceptance and internalization.

Legitimacy: A respected branch of international legal scholarship views the propensity of international norms to be accepted and internalized as depending on “the clarity with which the rules communicate, the integrity of the process by which they were made and are applied, their venerable pedigree and conceptual coherence. In short it is the legitimacy of the rules which conduces to their being respected.”²⁶ An institution is legitimate, in the sociological sense, when it is broadly *believed* to have the “right to rule” – i.e. to prescribe authoritative rules.²⁷ Legitimacy, is enhanced where the parties to the regime – and the international community more generally – share the perception that the applicable standards arose and are applied in a manner that is fair and just (procedural legitimacy) and that the norms, standards or rules the regime promotes are grounded in principles of morality, good sense and fairness (substantive legitimacy).²⁸ In contrast, where the standards with which compliance is sought are challenged as inappropriate, viewed as incoherent, unfair, or imposed without consent, the legitimacy of the standards is undermined, and so is their influence capacity. Legitimacy theorists view the legitimacy of regimes as emerging out of discursive processes in which a variety of actors (states, groups, individuals) articulate and propound norms and standards, develop a sense of real ownership in these standards and encourage others to adhere to them on the grounds that they are substantially and procedurally fair.²⁹ Determinacy plays an important role here too, but under a different rationale than in the case of conditionality. Incoherent or inconsistently applied standards are seen to undermine the legitimacy.³⁰

Peership: ISDCP participating actors are more likely to be persuaded by the efficacy of adopting the reforms emanating from an initiative if they perceive the community of states constituting an initiative as a desired “peership group” (or “aspiration group”) whose aims they share and to which they want to belong.³¹ Similarly, domestic actors are motivated by a desire

²⁵ See: Jeffrey Checkel, “Why Comply? Social Learning and European Identity Change” (2001) 55:553, at 562-3.

²⁶ Thomas Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990) at 39.

²⁷ See: Allan Buchanan and Robert O. Keohane, “The Legitimacy of Global Governance Institutions” (2006) *Ethics and International Affairs* 20: 405 at 405.

²⁸ See: Thomas Franck, *Fairness in International Law and Institutions* (Oxford: Oxford University Press, 1995). See also: Ian Hurd, “Legitimacy and Authority in International Politics” (1999) *International Organization* 53: 379.

²⁹ Thomas Franck, *Ibid.*

³⁰ Empirically, a number of studies validate the notion of a linkage between compliance and the substantive and procedural legitimacy of the standards in question. See for example: Peter M. Gerhart, “Beyond Compliance Theory – TRIPS as a Substantive Issue” (2000) *Case Western Reserve Journal of International Law* 32: 357.

³¹ See: Alastair Iain Johnston, *Supra* note 18; Jeffrey Checkel, *Supra* note 22.

to preserve and enhance their international reputation, partly to avoid international censure and loss of face, and partly because international reputation represents an important contributor to domestic perceptions of government legitimacy held by a state's own citizens. Accordingly, the establishment and maintenance of a sense of shared mission, on the one hand, and the mobilization of the psychological need of decision-makers to conform with their peer group, protect and enhance their self-esteem and reputation, on the other hand, are likely to shape an institutional environment capable of producing learning and generating more self-enforcing norms and standards, without the need to revert to formal enforcement.³² As in the case of positive material-incentives (but for reasons of identification rather than utilitarian calculation) the peership factor will be enhanced by the absence of acceptable alternatives. Indeed, an initiative should strive to become a (and if possible *the*) standard bearer of international efforts to promote low-carbon economic transformation in the participating North-South countries. Making the policy targets and methods of an initiative a “rallying point” for other international actors (global and regional institutions, NGOs and the media) to refer to will strengthen the legitimacy and peership value of an initiative.

Deliberative quality: Arguably the most important factor for the architects of an ISDCP to consider – and over which they potentially have the greatest degree of control – can be subsumed under the notion of “deliberative quality”. Deliberative quality refers to the degree of expertise, scope of collaboration, trust, intensity, and continuity generated by a given institutional environment seeking to encourage learning or persuasion. High deliberative quality institutional environments are characterized by the availability of valuable technical expertise and the free flow of information; broad scope collaboration (involving not only states, but private sector actors, consumer groups, scientific associations and advocacy groups); an atmosphere of openness, flexibility and genuine problem-solving collaboration; frequent, substantive and ongoing interaction; and a high capacity for institutional lesson-drawing and learning, on the basis of detailed, well-understood benchmarks. Given the centrality of this issue to an initiative, it is a topic considered in detail in Part 3 (below).

Managerialism: Finally, a third strand of influence deployed by international actors to promote successful acceptance and implementation of international standards derives from Abram and Antonia Chayes's managerial theory of compliance.³³ For managerialists the primary obstacles to compliance with international environmental standards are not to be found in either failure of material incentives *per se*, or in the failure of international regimes to persuade domestic actors about the appropriateness of these standards. Instead, the propensity of states to cooperate is often frustrated by inadequate information, and lack of technical and financial capacity.

The sheer complexity of international environmental regimes, lack of certainty as to what precisely they entail (particularly in new regimes) and the implementation costs (financial, technical and administrative) they impose upon participating members can all weaken the effectiveness of the regime. Following the managerialist logic, the development of clear, detailed and shared knowledge, and the enhancement of state capacities ought to be the

³² See: Peter H. Huang, “International Law and Emotional Rational Choice” (2002) *Journal of Legal Studies* 31: 237; Ryan Goodman and Derek Jinks, *Supra* note 3.

³³ Abram and Antonia Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995).

primary methods of strengthening the effectiveness of adherence to the goals of an ISDCP initiative. Financial and technical assistance to relatively underdeveloped states is therefore an imperative, in international environmental policy.³⁴ Enforcement based approaches, managerialists posit, are costly and seldom productive. Instead, a “partnership method” should be pursued to best facilitate effective cooperation. This would involve non-politicized, technically-oriented consultation and negotiation, aided by financial and technical capacity-building instruments.³⁵ The latter focus in particular on preventing decoupling.

Combining Different Methods of Cooperation Facilitation

It is vital to stress that these methods of influence are by no means antagonistic to one another, and may in practice be used in combination with one another to form integrated cooperation facilitation environments.³⁶ Behavioral changes are, in practice, grounded in different motivations: from preexisting beliefs and assumptions, to the information different actors possess, and from cost-benefit calculations to social pressures and enhanced capacities for action. Ensuring effective cooperation facilitation would, therefore, require conscious utilization of different methods – mixing rational-bargaining with normative and managerial instruments to shape different aspects of the cooperation facilitation cycle.

Domestic Structures and Actors

For our purposes relevant stakeholders are those who have a significant interest in the processes and decisions of an ISDCP, either as individuals or as representatives. In the broadest sense, this definition would include all those affected by an initiative’s effort to promote transformation to a low-carbon economy – a very large group of people indeed. A more focused (and manageable) conception of relevant stakeholders, however, would include all those actors who are capable of substantially influencing ISDCP processes and decisions, or whose acquiescence or active participation is required to substantially achieve ISDCP goals.

All relevant stakeholders must be thought of by the architects of an ISDCP initiative as participants. These include not only state actors in the strict sense but regulatory agencies, industry, consumers, relevant NGOs, scientific communities, media and educational institutions.

Participation may be direct or it may be by representation, but it must exist in a meaningful, legitimate sense. Inadequate inclusiveness has resulted in many well-meaning processes failing

³⁴ Philip M. Saunders, “Development Cooperation and Compliance with International Environmental Law: Past Experience and Future Prospects” in Thomas J. Schoenbaum et al. eds., *Trilateral Perspectives on International Legal Issues: From Theory Into Practice* (Irvington: Transnational Publishers, Inc., 1998).

³⁵ Shihata, drawing on the experience of the World Bank in development policy, for example, argues that enforcement-based instruments in international environmental policy are ill advised and that targeted technical support packages and learning-oriented deliberative processes facilitate constructive change. See: Ibrahim Shihata, “Implementation, Enforcement and Compliance with International Environmental Agreements – Practical Suggestions in Light of the World bank Experience” (1996) *Georgia International Environmental Law Review* 9: 37.

³⁶ See: Oona Hathaway, “Beyond Power and Principle: An Integrated Theory of International Law” (2005) *Chicago University Law Review* 72: 469.

from lack of a broad constituency and implementation difficulties. One of the earliest and most fundamental tasks of an effort to design an effective cooperation facilitation system for an ISDCP would therefore be *stakeholder identification* on the basis of clear, transparent criteria. The main issues to watch out for here are the issues which the stakeholders will need to address, inclusiveness, diversity and size. The process of stakeholder mapping must itself be a collaborative effort. Careful analysis and consultation among those involved initially in an ISDCP initiative will be required to identify all those who need to be included in a future initiative. Each one of the developed and developing states participating in an ISDCP initiative possess unique knowledge of their own domestic power structures, decision-making procedures and culture. An early, comprehensive stakeholder identification process is essential to the subsequent steps of shared meaning construction, deliberation and consensus-building, decision-making, internalization, implementation and learning. In addition, a *mechanism for inviting additional stakeholders* should developments so require, and for refining participants where necessary, needs to be agreed upon in advance.

Even a cursory review of an ISDCP reveals that it is a *multi-stakeholder process* whose relevant stakeholders cover both state and non-state actors, national governments and in some cases sub-national provinces (Brazil, China, India), regulatory agencies, private sector actors, NGOs, expert communities (scientific, policy, advocacy) and consumers. The architects of an ISDCP initiative will need to carefully study other relevant examples of multi-stakeholder processes involving multiple layers of government and state-nonstate actor participation (for instance, the multi-stakeholder dialogue established by the UN Commission on Sustainable Development (CSD) and the multi-stakeholder process developed by the World Commission on Dams).³⁷ However, the following factors can be identified as being of high relevance to effective cooperation facilitation:

Domestic government organization: Ensuring effective cooperation facilitation will require careful attention to be paid to domestic modes of government organization, particularly as it relates to the issue areas of an ISDCP initiative (energy, agriculture, transport, and environmental regulatory oversight).

At the highest level of aggregation, allocation of policy-development, decision-making and implementation authority will vary depending on whether the addressees constitute unitary or federal states, as well as the degree of domestic government fragmentation.³⁸ At a finer level of analysis, the design and pursuit of an ISDCP initiative must be grounded in a detailed mapping – and realistic understanding – of domestic authority allocation and constraints at the national (and where applicable sub-national), regulatory and private sector levels. Particular attention needs to be paid to identifying and bringing onboard potential *veto players* and *change agents*.

Veto players constitute actors capable of effectively blocking policy change or, preventing or retarding its internalization and implementation. Change agents, on the other hand, represent

³⁷ On Multi-Stakeholder Processes see: Minu Hemmati, *Multi-Stakeholder Processes for Governance and Sustainability* (London: Earthscan, 2002).

³⁸ See: Curtis A. Bradley, “Breard, Our Dualist Constitution and the International Conception” (1999) *Stanford law Review* 51: 529; See: Daniel E. Ho, “Compliance and International Soft Law: Why Do Countries Implement the Basle Accord? (2002) *Journal of International Economic Law* 5: 647.

domestic or transnational actors who, for whatever reason, are disposed to advancing the reform agenda at hand.³⁹

Given that the acceptance, internalization and implementation of ISDCP objectives require the cooperation of governments and private sector actors, ISDCP cooperation effectiveness will depend on the preferences and relative distribution of power between veto players and change agents at different levels of governance and society. The difficulty for significant change in the *status quo* increases with the number and relative power of veto players.

Where the number and power of veto players is small and change agents abound, acceptance, internalization and implementation of reforms toward low-carbon economic activity is likely to be relatively quicker and smoother. In contrast, domestic issue areas or institutions characterized by a scarcity of powerful change agents, on the one hand, and entrenched interests capable of effectively preventing or retarding progress towards the attainment of ISDCP objectives, on the other hand, typically pose a difficult challenge to change.⁴⁰ In either case – and in relation to in-between contexts – effective cooperation facilitation would require ISDCP participants to conduct a ***detailed mapping exercise of potential veto players and change agents*** at relevant layers of governance and across an initiative’s issue areas. Early identification and detailed knowledge of veto players and change agents represents a key precondition to comprehensive identification of relevant stakeholders, and the development of strategies to engage them with the range of influence tools available to an ISDCP initiative.

Domestic government openness: A related factor concerns government openness to deliberation and learning, and its responsiveness to the preferences of domestic constituencies. Government openness constitutes an important variable in determining the effectiveness of international cooperation facilitation, particularly in relation to norm acceptance, internalization, and adaptation in response to lesson-drawing. National and sub-national institutional environments that are rich in private sector and civil society actors (and which possess a culture of openness, participatory inclusiveness, and established channels of incorporating interest groups’ inputs into policy consultation and decision-making) are likely to do better on these scores than ones characterized by highly hierarchical, secretive and unaccountable institutions.⁴¹ Accordingly, as part and parcel of planning and developing an

³⁹ On the concept of “veto players” in public policy deliberation and decision-making see: George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton: Princeton University Press, 2002). See also: Tanja Borzel and Thomas Risse, “Conceptualizing the Domestic Impact of Europe”, in Keith Featherstone and Claudio Radaelli eds., *The Politics of Europeanization* (Oxford: Oxford University Press, 2003).

⁴⁰ For a detailed illustration see: Amichai Magen and Leonardo Morlino, *Supra* note 4.

⁴¹ Analysts disagree about whether liberal democracies do better than non-democracies. Some argue that wealthy liberal democracies are simultaneously more capable of complying and more domestically responsive to the preferences of domestic constituencies and interest groups that advocate for adherence to the rules and standards of international regimes. In contrast, poorer illiberal states, they argue, are less likely to comply under the same rationale. [For this view see: Anne-Marie Slaughter, “International Law in a World of Liberal States” (1995) *European Journal of International Law* 6: 503; Peter Haas, “Why Comply, or Some Hypotheses in Search of an Analyst” in Edith Brown Weiss ed., *International Compliance with Nonbinding Accords* (Washington, DC: American Society of International Law, 1997); Roger Fisher, *Improving Compliance with International Law* (Charlottesville: The University Press of Virginia, 1981)]. Other analysts reject the notion that democratic regimes are inherently better at complying with international regimes. Some argue that democratic regimes tend to be more corrupt and internally fragmented. [For this view see: Edith Brown Weiss, “Understanding Compliance with International Environmental Agreements” (1999) *University of Richmond Law Review* 32: 1555; Daniel E. Ho,

ISDCP initiative, partner countries need to evaluate the degree and type of openness – and correspondingly barriers to openness – as a means of better tailoring bilateral and multilateral deliberative processes with domestic actors in participating states. Domestic openness mapping should, in particular, aim at identifying all relevant potential veto players and change agents.

Domestic government capacities: Inadequate information, scientific or policy expertise, as well as financial and technical resources are likely to prove a prominent (perhaps even primary) obstacle to effective cooperation facilitation. This is true particularly when it comes to implementation and policy adaptation in response to learning in the participating developing countries. The internal organization of government can play a key role here too. Studies show that failure of state compliance with international regulatory agreements may well result from weaknesses in domestic sovereignty, where central government authorities are either unable, or lose their capacity, to effectively ensure adherence to policy on the part of sub-national actors.⁴² An integral part of establishing an ISDCP initiative would, therefore, be to undertake a tailored, government capacities mapping exercise that would identify in detail areas of weakness. Country specific (and perhaps even province specific) *capacity maps* would not only help locate areas of weakness with specificity, but would be indispensable to setting expectations, timelines, and priorities for change. They would also help ensure that financial and technical assistance is targeted where it is most needed and likely to produce the greatest added value to desired outputs.

Pathways to Change: Intergovernmental and Transnational Routes to Cooperation Facilitation

All phases of cooperation facilitation in an ISDCP initiative – from shared-meaning construction to deliberation and consensus-building, implementation and lesson-drawing – are likely to entail some mixture of governmental (executive, legislative and regulatory agencies) and non-governmental (business, NGO, consumer, scientific communities) participation. Policy elites are critical actors in creating and maintaining compliance with international standards.⁴³ Yet effective norm-generation, deliberation, internalization and implementation of environmental reform in domestic systems are most likely when the knowledge, technical expertise and buy-in of societal actors is solicited and obtained throughout the transformation process.

Information and activist networks of technical and policy experts and advocates are increasingly understood to play a vital role in contributing knowledge, defining reform agendas, and mobilizing domestic change agents outside intergovernmental relations.⁴⁴ Indeed,

“Compliance and International Soft Law: Why Do Countries Implement the Basle Accord? (2002) *Journal of International Economic Law* 5: 647].

⁴² See: Mariano-Florentino Cuellar, “Reflections on Sovereignty and Collective Security” (2004) *Stanford Journal of International Law* 40: 211.

⁴³ See: Robert O. Keohane, “International Relations and International Law: Two Optics” (1997) *Harvard Journal of International Law* 38: 487; Anne-Marie Slaughter, *Supra* note 38.

⁴⁴ On transnational activist and other networks see: Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, Cornell University Press, 1998); Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2004). Transnational Legal Process theory also views nongovernmental organizations, loose networks and individuals as being key actors in promoting domestic internalization of international norms and

the importance of scientific and policy transnational networks to effective shared meaning construction and quality deliberation is well established in the international environmental field.⁴⁵ Thus, we can think of an ISDCP initiative's cooperation facilitation as potentially working through a variety of pathways. Influence may be direct or indirect, and it may follow intergovernmental (government-to-government) channels –bilateral or multilateral – or transnational ones.

Conceptualizing pathways to change should aid the architects of an ISDCP initiative in thinking through the design of deliberation, monitoring and reporting mechanisms, as well as assist comprehensive evaluation of an initiative's impact:

Methods of cooperation-facilitation	Intergovernmental (bilateral/multilateral)		Trans-governmental (bilateral/multilateral)	
	Direct	Indirect	Direct	Indirect
Positive material-incentives	Incentivizing policy reform by participating governments	Government actor acceptance, internalization and lesson-drawing through changes in cost-benefit analysis	Differentiated weakening of veto players and empowerment of change agents	Non-governmental (societal) actor acceptance, internalization and lesson-drawing through emulation
Normative persuasion/learning	Intergovernmental deliberation, problem-solving, and learning	Government actor acceptance, internalization and lesson-drawing through persuasion and learning	Activist networks and expert communities deliberation, problem-solving, and learning	Non-governmental (societal) actor acceptance, internalization and lesson-drawing through social learning
Managerialism	Capacity-building of state agencies	Creation/strengthening of state change agent constituencies	Non-state (societal) capacity building	Creation/strengthening of non-state (societal) change agent constituencies

Figure 2: Pathways to change.

3. Effective Cooperation Facilitation: Establishing and Maintaining Cooperative Deliberation, Decision-Making and Implementation

ISDCP initiatives are envisaged to constitute a form of governance, beyond the state, that does not draw on binding legal commitments. This means that an ISDCP will not rely on a central international enforcement agency. Moreover, it means that within participating states themselves, measures adopted subsequent to ISDCP activities will possess no legally binding

standards. See: Harold Hongju Koh, "Why Do Nations Obey?" (1997) *Yale Law Journal* 106: 2599; Harold Hongju Koh, "Bringing International Law Home" (1998) *Houston Law Review* 35: 623.

⁴⁵ See: Kal Raustiala, "The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law" (2002) *Virginia Journal of International Law* 43: 1.

force. Accordingly, effective cooperation facilitation in the context of an ISDCP will depend, to a great degree, on its ability to generate positive externalities for participants, persuade them of the legitimacy and appropriateness of its objectives, and strengthen their internal capacities to implement transformational policies. The purpose of this is to outline an “ISDCP process” which – based on the best available insights – will optimize the legitimacy, learning, and implementation-aiding capacity of an initiative.

The ISDCP process suggested below does not pretend to prescribe a definitive, conclusive model for action. Its purpose, however, is to act as a starting point for a discussion of what such a process might look like in practice. Accordingly, alongside concrete suggestions for different building blocks, decision-junctures and phases of the process, readers will find questions for future consideration, and indeed may want to add further questions and possible solutions themselves.

ISDCP Process Design: Overarching Considerations

An initiative needs to invest adequate thought, time and resources in carefully designing an “ISDCP process”. This is necessary to ensure, as far as possible, the establishment and maintenance of an effective deliberation, decision-making, implementation and learning cooperation cycle. A poorly designed, rushed, or insufficiently resourced process can lead to stakeholder disillusionment, and even abandonment of an initiative, resulting in failure. Such failure can leave the prospects of a successful ISDCP initiative weaker than they would have been if the abortive attempt hadn’t taken place in the first instance. Entering the process raises participant expectations, and the frustration of these expectations will reduce trust in an initiative and diminish stakeholder willingness to expend financial, time and human resources on real collaboration, problem-solving and learning.

Successful deliberative, decision-making and implementation processes are likely to depend on the establishment and maintenance of an environment governed by principles of inclusiveness, equitable participation, fairness, transparency, accountability, flexibility and learning. To carry validity, these principles must be established early and explicitly, as part of the *process design* phase of an initiative, and practiced faithfully throughout the process. How should these principles be formulated, articulated and credibly followed in the process, are questions to be considered by the architects of an ISDCP initiative.

Flexibility and learning, in particular, need to be established early, as guiding principle of an initiative. As far as possible, participants must enter an ISDCP initiative prepared to learn from other participants, and engage in collaborative, creative experimentation towards agreed objectives, but in a reality characterized by challenge and incomplete knowledge. How to encourage the participation of learners and maximize the willingness of key stakeholders to learn is a primary challenge for an ISDCP initiative. The principles of flexibility and learning also apply to any ISDCP process itself. An ISDCP initiative has to include conscious means of allowing participants to reflect on the process they are participating in and, where necessary, adjust it to better suit evolving knowledge and needs. A mechanism for questioning and adjusting the process itself (so-called *meta-communication*) is therefore essential to the ISDCP process.

It is clear that, at a minimum, the planning, design and implementation of an ISDCP initiative must itself be pursued in *collaboration with relevant stakeholders*. To what degree does the process have to constitute a representative multi-stakeholder affair from its very outset? is an open question however. Clearly, the goals of inclusiveness and transparency would suggest that such a goal is desirable. However, sheer lack of knowledge about what the range of applicable stakeholders really is, and considerations of efficiency would suggest starting with a small group of participants. Initiating the process typically requires a *core coordinating group* composed of representative stakeholders of high diversity. As soon as possible after the initial design of the process, however, broader circles of stakeholders need to be engaged.

The main considerations relating to *stakeholders* pertain to issue-needs of an ISDCP initiative, inclusiveness, diversity and logistics. The guiding principle here should be that an initiative needs to be as inclusive as necessary and possible. A careful mapping of issues will help with initial stakeholder identification. Early consultation and analysis within the core coordinating group should be undertaken to identify stakeholders, particularly potential veto players and prominent change agents.

It is also vital to consider to what degree *diversity* among stakeholders must be achieved and at what stage. High diversity would help avoid “group think” and improve the gene pool of ideas through the flow of divergent views. High diversity should also promote an environment characterized by roughly equal power symmetry between participants in the deliberative process. Not all stakeholders need to necessarily “have a vote” but each stakeholder must have a real voice in the process.

As part of setting the context for an initiative (see below) mechanisms need to be established to ensure the *continuity of stakeholder participation*. One way of promoting this would require that each stakeholder group have a minimum of 2 representatives, so that continuity of representation be ensured as much as possible. A clear mechanism for inviting additional stakeholders into the process as it develops is also important.

That said, an “all-inclusive” arrangement could undermine an initiative by producing logistical complications, inefficiency and reduced problem-solving capacity. Accordingly, it is necessary to consider the appropriate role of stakeholder participation at *different phases*, decide on the roles of different stakeholders (advisory, decision-making, implementing), and to think of establishing several *layers of participation*. For instance, a broad group of stakeholders could be involved in initial consultations and early phases of meaning construction and then brought together again to structure an implementation plan, but the work of deliberation and detailed lesson-drawing could be structured with the participation of a much smaller group of representatives. An example of different layers of participation, can be observed in the work of the World Commission on Dams, where a small (12 member) core group was advised by a broader forum representing 70 organizations.

Setting the Context

Effective cooperation begins with the formulation of a *common agenda* which addresses a mutually agreed set of problems, and the design of a framework-process with which to

approach the common agenda – a process specifically tailored to the objectives, abilities and constraints of the participants. This initial phase would address:

- The establishment of the core coordinating group;
- Who would act as facilitator/facilitators of the process;
- The scope of an initiative;
- Initial stakeholder identification;
- Overarching structure of an initiative (bilateral/multilateral elements);
- Procedures for preparation, communication, and ground rules for meetings;
- Governing principles (transparency, representation, and any confidentiality rules);
- Decision-making rules;
- Timelines;
- Linkage to government decision-making;
- Information gathering and management (rapporteurship, data collection, access and storage);
- Conflict-resolution and meta-communication procedures;
- Relations with non-participants (including public relations);
- Organizational factors (meeting venues, travel, communication, administrative support) and;
- Funding.

In essence, the formulation of a *common agenda* involves issue identification – the precise definition of what issues an initiative will address.

Issue identification is the first substantive step of an initiative. Proper issue identification is essential for avoiding misunderstanding and conflict down the road, and laying the foundations for shared meaning construction. Early shared issue identification can also help locate knowledge gaps and missing stakeholders who can then be brought into the process. Providing support for stakeholders to identify issue areas may be appropriate, particularly in developing countries.

One way to culminate this initial process is through the conclusion of a comprehensive *Terms of Reference document* – specifying clearly the problems an initiative is to address, governing principles, activities to be undertaken, stakeholder participation modes and criteria, information issues, and resource commitments – and a *Process Agreement document* – specifying the respective roles of participants, responsibilities of facilitators, methods of decision-making and conflict resolution mechanisms, linkage to decision-makers and public relations, and time-frame commitments.

Prior to formulating these two documents, the initiators of the ISDCP process should consider conducting open consultation rounds with stakeholders, so that the principles of inclusiveness, representation, transparency and equitable participation are established from the outset, and an initiative gains early traction and buy-in from as broad a range of stakeholders as possible.

Sufficient preparation, time and resources need to be allocated to ensure successful context setting. Early attention must be placed on process facilitation, organizational, logistical and

financial support. These must be part and parcel of the initial planning phase, and agreed to by the participants in the Terms of Reference and Process Agreement documents.

Establishing and Maintaining High-quality Shared Meaning Construction, Deliberation and Problem-solving

Following a preparatory, context-setting phase, the primary task of an ISDCP initiative will be to promote shared meaning-construction, deliberation and problem-solving among stakeholders. As new knowledge accumulates in later phases of an initiative – through learning about new science, as well as failed and successful implementation efforts – mechanisms will be required to feed new knowledge into new phases of shared meaning construction, deliberation, and problem-solving leading to a cyclical dynamic of learning.

Highly *participatory, de-politicized, intensive, knowledge-based and transparent exchange* among stakeholders is likely to prove the most effective strategy in facilitating shared meaning construction, deliberation, implementation and learning.⁴⁶ Participation must be inclusive, with all stakeholder interests effectively represented and diverse perspectives on possible issue areas, barriers to transformation, and potential sources for solutions actively sought. Shared meaning construction, open deliberation and problem-solving are more likely to transpire in de-politicized settings – typically in relatively small, private environments – where participants do not feel under pressure to take and defend entrenched positions for the sake of audiences or in the name of political correctness. Stakeholder participation must also be fair and transparent, with power asymmetries, the early formation of interest-coalitions, “cliques”, and pressures for group-think consciously avoided. All stakeholders must be provided with adequate preparation time and possess equitable access to information.

The *reliability and availability of information* (particularly specialized technical and policy knowledge) is likely to constitute a determinative dimension for an ISDCP initiative. The generation and sharing of reliable, useful expert knowledge will increase the material-incentive and credibility weight of an initiative, improve deliberative-quality and strengthen monitoring and reporting by aiding the formulation of determinate benchmarks against which progress can be measured. In the absence of reliable, expert knowledge being generated and shared by an ISDCP initiative, in contrast, the material value, credibility, communication, problem-solving ability, monitoring and learning will all suffer.

Information considerations involve three distinct functions – generation, sharing, and management. One of the most valuable functions an ISDCP initiative could perform is to foster – and act as a forum for – scientific, technical and policy *expert networks (so-called “epistemic communities”)* that would generate and share relevant, expert knowledge.⁴⁷ Scientific, technical, policy and complex learning communities play an increasingly important role across a wide range of transnational governance schemes, both governmental and private.

⁴⁶ See: Karin Backstrand, “Democratizing Global Environmental Governance? Stakeholder Democracy after the World Summit on Sustainable Development” (2006) *European Journal of International Relations* 12: 467.

⁴⁷ On epistemic communities and their role in environmental regimes see: Peter Haas, “Do Regimes Matter? Epistemic communities and Mediterranean Pollution Control” (1989) *International Organization* 43: 377; Peter Haas, “*Epistemic Communities and International Policy Coordination*” (1992) *International Organization* 46: 1.

UN and EU specialized agencies and programs, for instance, foster such communities; providing them with a secure, de-politicized forum for shared meaning construction through information generation, sharing and deliberative problem-solving. Where domestic knowledge is weak, special effort needs to be placed on providing *capacity-building resources for knowledge generation*.

Moreover, the fostering of expert communities (intergovernmental, transnational or both) can strengthen cooperation facilitation by creating domestic constituencies who possess authoritative knowledge which government officials are more likely to view as carrying validity and weight. In the area of environmental regulation of space debris, for example, experts have found that government officials who are ultimately responsible for implementing decisions emanating from the international environmental regime are respectful of and dependent upon scientific expert communities, and are discouraged from noncompliance by their scientific advisors who would be shamed if they did not persuade government officials to follow recommended standards.⁴⁸

Information accessibility and management are also likely to constitute critical dimensions in an ISDCP process. In principle, all stakeholders need to have equitable access to information, and access to information should be conceived as a valuable asset of an ISDCP initiative. Thinking of ISDCP knowledge as an asset that is not only valuable but shared among the participants would strengthen the material-incentive quality of an initiative.

In terms of information management: gathering, organization and storage of information would be an important component of an ISDCP initiative. This function needs to be carefully planned from the outset of an initiative, and centrally organized so that valuable knowledge (including about an ISDCP process itself) is not lost or dispersed.

To initiate and foster the development of intergovernmental deliberation and the emerging of expert communities in its areas of activity, an ISDCP initiative could pursue two tracks. The first would require stakeholders to prepare initial position papers (governments may be asked to prepare comprehensive *National Challenge Identification and Action Plans*). The experience of the IMF, World Bank and EU, for example, suggests that preparation of detailed, written national reports can be beneficial for obtaining political, bureaucratic, NGO and media attention, early stakeholder ownership, and later problem-solving and implementation. Preparatory documents should follow an agreed, standard format, be highly determinate, and submitted to other stakeholders well in advance of multilateral meetings, so that they can be properly read and commented on before meetings.

Alternatively, an ISDCP initiative might choose to begin shared meaning construction and deliberation by organizing a multilateral stakeholder convention, the objective of which would be to formulate an initial “*common vision*”. The advantage of such an approach lies in the fact that the early preparation of national papers runs the risk of “fixing” national positions, thus harming later collaborative efforts as domestic constituencies form an attachment to pre-prepared positions. Thus, an alternative strategy would begin with a collective “brain-

⁴⁸ See: Robert C. Bird, “Procedural Challenges to Environmental Regulation of Space Debris” (2003) *American Business Law Journal* 40: 635.

storming” convention where a common vision is generated by participants, on the basis of the initial Terms of Reference document prepared by the core coordinating group.

Following the crystallization of the common vision, negotiation can proceed on defining concrete transformational goals at the national level, resolving identified differences, and designing strategies for progress, based on the common vision and the initial Process Agreement document prepared by the core coordinating group.

A hybrid solution could also be considered, where the preparation of initial stakeholder position documents is followed by a common vision exercise, or alternatively, where an initial common vision exercise is followed by stakeholder groups preparing position papers.

Whether the architects of an ISDCP initiative choose an “individual-collective”, “collective-individual” or hybrid form of initial meaning construction and deliberation, the key here is to ensure that all stakeholders come to the table willing to engage in real learning, that positions are well-prepared on the basis of genuine expert knowledge, and that the process established is equitable and iterative – with regular, structured opportunities for back and forth construction of new meaning, deliberation and problem-solving. One model from which an ISDCP initiative could draw in this regard, is the EU’s *Open Method of Coordination (OMC)*. The OMC represents a “soft” intergovernmental deliberation method, in which EU Member States: (a) bring to the table a range of policy challenges falling within their domestic competence, (b) jointly identify and define objectives and priorities to be achieved, (c) formulate national reform plans to pursue defined objectives, (d) establish benchmarks to evaluate progress in meeting targets (statistics, indicators, guidelines), (e) share best-practices and experience gathered from different national contexts and, (f) provide each other with peer-review and feedback to maintain a cyclical reform dynamic.⁴⁹

Indeed, knowledge-based, constructive, de-politicized *peer review* has been identified as a valuable mechanism for creating a sense of ownership through participation in multi-stakeholder processes, social learning and persuasion in the environmental field.⁵⁰ More broadly, empirical data from the field of international trade support the notion that nonbinding frameworks for cooperation are more successful where technocratic, flexible, consensus-based participatory deliberation and decision-making conditions are established and maintained over time.⁵¹

Rapporteurship, Monitoring and Reporting

Rapporteurship, monitoring and reporting have increasingly become integral aspects of transnational governance arrangements, both governmental and private. All relevant

⁴⁹ On the Open Method of Coordination (OMC) in the EU see: Claudio Radaelli, *The open method of coordination: a new governance architecture for the European Union?* (Swedish Institute for European Policy Studies, 2003); Sabrina Regent, “The Open Method of Coordination: A New Supranational Form of Governance?” (2003) *European Law Review* 9: 190.

⁵⁰ See: Gunther Handl, “Compliance Control Mechanisms and International Environmental Obligations” (1997) *Tulane Journal of International and Comparative Law* 5: 29.

⁵¹ Janet K. Levit, “The Dynamics of International Trade Finance Regulation: the Arrangement on Officially Supported Export Credits” (2004) *Harvard Journal of International Law* 45: 65.

stakeholders need to be involved in a process to agree on appropriate *rappotreuring*, monitoring and reporting. Rapporteurs (namely persons responsible for recording an initiative's activities) need to be agreed by participants and assigned early on in the process, and built into the overall information gathering, sharing and storage strategy of an initiative. Rapportreuring needs to be conducted in as full and neutral a manner as possible. If resulting reports are disputed as inaccurate or tilted, the credibility of the process will suffer. To promote a sense of shared ownership, furthermore, rapportreuring must also be equitable, with North-South countries equally involved.

The absence of adequate *monitoring and reporting* mechanisms has been identified as a major causal factor of noncompliance with international regimes in various fields.⁵² In contrast, the experience of several international environmental regimes suggests that “soft enforcement” mechanisms which combine monitoring, reporting and verification with reform-focused financial and technical assistance, provide the best means of promoting voluntary adherence to environmental standards.⁵³

Monitoring and reporting serve important informational roles – aligning participants' expectations, helping to set priorities and timelines, tracking progress and identifying barriers to change – as well as act as accountability instruments.

Three important factors need to be addressed in this context – *agency, intensity and visibility*.

First, will an ISDCP initiative involve *internal monitoring* (self-monitoring), *external-monitoring* (or so-called independent-monitoring) or some combination of both? The answer to the question of monitoring agency would depend on the willingness of participating states to subject themselves to external monitoring, as well as by the availability of resources and organizational capacity for monitoring activities (both internal and external). In practice, over the past two decades, external monitoring and peer-review have proliferated in many fields. International Electoral Monitoring by intergovernmental organizations and NGOs (such as the UN, OSCE, or the Carter Center), for instance, has become ubiquitous in many parts of the world. The New Partnership for Africa's Development (NEPAD), led by the African Union, similarly, established an African Peer Review Mechanism (APRM) to improve standards of human rights, economic management, conflict resolution and democratic decision-making on the continent. To what degree can specific monitoring and reporting mechanisms be derived from these examples?

Second, international monitoring mechanisms vary greatly in their *intensity*, with some regimes requiring one time, non-iterative three or even five-yearly reviews, whereas others entail ongoing, detailed and iterative monitoring and reporting processes. One concrete model from which an ISDCP initiative could learn is the EU's monitoring and reporting system

⁵² See for example: Ulrich Beyerlin and Thilo Marauhn, *Law-Making and Law Enforcement in International Environmental Law After the 1992 Rio Conference* (1997); George H. Aldrich, “Compliance with the Law: Problems and Prospects” in Hazel Fox and Michael Meyer eds., *Armed Conflict and the New Law, Volume II: Effecting Compliance* (London, The British Institute of International and Comparative Law, 1993): 3; Richard L. Williamson, “Hard Law, Soft Law, and Non-Law in Multilateral Arms Control: Some Compliance Hypotheses” (2003) *Chicago Journal of International Law* 4: 59.

⁵³ See: Neil Craik, *Supra* note 8; O. Yoshida, “Soft Enforcement of Treaties: The Montreal Protocol's Noncompliance Procedure and the Functions of Internal International Institutions” (1999) *Colorado Journal of International Environmental Law and Policy* 10: 95.

adopted for candidate states, and now extended to potential candidates in the Western Balkans and (in a more diluted form) to neighboring countries participating in the European Neighbourhood Policy (ENP).⁵⁴ *EU accession monitoring* involved two distinct mechanisms. *Within EU-candidate country association committees* and sub-committees, Commission officials and other experts engaged in highly regularized (typically every 3 months), detailed monitoring of progress towards adoption of the *Acquis Communautaire* (including administrative and judicial instruments deemed necessary for successful internalization and implementation). This was complemented by *annual progress reports*, as well as occasional country strategy papers, which identified *short and medium term reform priorities*, commented on progress, or lack thereof, in meeting prescribed benchmarks, and identified specific action items for improvement, on the basis of new knowledge. The United States Department of State annual Country Reports on Human Rights practices constitutes another example, and possible model, for monitoring and reporting methodologies.⁵⁵

The example of EU monitoring and reporting mechanisms also serves to highlight a third and final decision-juncture for an ISDCP initiative in this context, namely whether to conduct *private, public* reporting, or some combination of? Private monitoring is to be preferred where the primary goal is the facilitation of substantive, de-politicized deliberation and problem-solving. In contrast, regular (annual, biannual) public reporting increases the visibility of an initiative, improves transparency, serves to praise progress, “name and shame” laggards, and performs the important role of providing domestic and transnational change agents with a concrete reference and rallying point around which they can coalesce in deliberative and advocacy activities. Public monitoring and reporting, also tends to be more inclusive, with business and civil society constituencies better able to participate.⁵⁶

Bilateral, Multilateral or Hybrid Strategies for North-South Cooperation?

A further set of questions that will determine the framing, processes and dynamics of North-South cooperation facilitation relate to whether an initiative is structured *bilaterally, multilaterally, or in some hybrid form*. In addition, the architects of an initiative may seek to structure at least some dimensions of an ISDCP process along *thematic*, as opposed to geographic or actor-centered lines.

Structuring North-South relations bilaterally carries several strengths, but also weaknesses. *Bilateral* arrangements tend to involve fewer actors in direct interaction. Consequently, a bilateral system (such as pairing of North-South countries for example) would tend to foster participating state ownership and a sense of responsibility for outcomes, reduce logistical challenges, and probably increase potential for focused deliberation and problem-solving. North-South countries with a history of collaboration in other fields would also be able to draw

⁵⁴ For a detailed discussion see: Amichai Magen, “The Shadow of Enlargement: Can the European Neighbourhood Policy Achieve Compliance” (2006) *Columbia Journal of European Law* 12: 383.

⁵⁵ See: <http://www.state.gov/g/drl/rls/hrrpt/>. Another possible source of inspiration for monitoring and reporting methodologies is the Freedom House, Freedom in the World index. See: <http://www.freedomhouse.org/template.cfm?page=15>.

⁵⁶ On the importance of NGO monitoring and reporting participation see: David S. Ardina, “Does the Emperor Have No Clothes? Enforcement of International Law Protecting the Marine Environment” (1998) *Michigan Journal of International Law* 19: 497.

on a reservoir of good will, trust, resources and networks of contacts and institutions to further cooperation in the areas covered by an ISDCP initiative.

A parallel system of bilateral relations might, furthermore, help create positive competition between paired-up participating countries. Parallel pairs of partners working towards the same goal could foster a competition dynamic, with both developed and developing countries striving to develop policies. On the other hand, by reducing the number of actors involved in cooperation, bilateral structuring of ISDCP relations inherently limit the amount of information, expertise and experiences to which North-South countries would become exposed as part and parcel of an ISDCP initiative. This would not only substantially reduce the scope of possible learning and creativity in problem-solving, but may also contribute to divergence in national environmental policies, as national pride and bilateral alliances push for competing standards, transformational program design, information management and implementation modalities.

The closeness of bilateral relations may also prove excessive, with North-South partner familiarity and vested interests compromising honest assessment of progress and application of conditionality. If a sense of competition with other paired countries does develop, it may lead to perverse incentives to demonstrate greater success than actually achieved, as a face saving measure. Moreover, the standards advocated by one state (as successful and virtuous as it may be) are unlikely to carry the same normative weight as those endorsed and promoted by a community of countries. Hence, all other things being equal, the pedigree, legitimacy – and therefore compliance pull – of standards endorsed by a multilateral effort, are likely to be greater than those of a bilateral one.⁵⁷

The strengths and weaknesses of *multilateral* efforts, in other words, often reverse-mirror those of bilateral relations. Multilateral fora tend to provide a richer set of perspectives and wield a greater sense of persuasive legitimacy. Yet they can also be wasteful and shallow affairs. The formality and multiplicity of interests inherent in multilateral arrangements can

exacerbate problems of power asymmetry, grandstanding and the sticking to entrenched positions. As a result, many multilateral fora – particularly those, like the UN, that bring together countries with widely disparate traditions and capacities – are unwieldy. They are often plagued by problems of inefficiency and politicization, problems which all too often lead to lowest common denominator “solutions” or gridlock. Flexibility, learning and pragmatic problem-solving tend to be more difficult in multilateral institutions, as does attribution of responsibility for success and failure. Last but not least, challenges of organization, communication, consensus based problem-solving and decision-making, all become exponentially more difficult with the growth in the number of parties participating in multilateral institutions.

Clearly, the architects of an ISDCP initiative would want to maximize the benefits imbued in bilateral and multilateral approaches to international and transnational intercourse, while minimizing their respective downsides. One approach, therefore, would be to design a *hybrid*

⁵⁷ On this point see: Amichai Magen, “Transformative Engagement Through Law: the *Acquis Communautaire* as an Instrument of EU External Influence” (2007) *European Journal of Law Reform* 9: 361.

cooperation structure, combining bilateral and multilateral elements. Real life examples of such arrangements are to be found in the various activities of the *Council of Europe, OSCE, OECD, ASEAN, and the EU*, where country specific programs (and even permanent missions) are linked in various permutations to an overarching multilateral framework. The EU's Barcelona Process, for instance, combines EU-bilateral relations on the basis of contractual Association Agreements, with an ongoing multilateral process of political, security, economic and cultural exchange.

Hybrid arrangements can also include a variety of *mid-level arrangements*, such as world regional groupings (China and India in Asia, for example), as well as various opportunities for *informal exchange*, and non-state stakeholder participation.

A *sequential dimension* to bilateral-multilateral cooperation could also be considered. In the context of an ISDCP initiative specifically, this may result in an initial multilateral summit establishing an overarching agenda and process (as embodied in Terms of Reference and Process Agreement documents) then being followed by a bilateral, "delegative" phase (either geographic or thematic), with another multilateral summit convened at a later stage to review achievements, share lessons, and adjust the overall process.

Finally here, organizing North-South interaction *along thematic lines*, at least in part, may make eminent sense in the case of an ISDCP initiative. Participating states sharing similar problems – in deforestation for example – could be grouped into deforestation-focused working groups, and matched with expertise and resources pertaining directly to this area and emanating from any one of the participating stakeholders, regardless of geographic location. Overtime, an ISDCP initiative could then develop *a cluster of thematic working groups* where participating stakeholders of different types voluntarily gather in intergovernmental or transnational arrangements that draw on a broad range of expertise, but enjoy flexibility and focus.

Supporting Capacity-Building

If an ISDCP initiative is to make significant progress in translating policy into genuine internalization and implementation (i.e. into impact), effective provision of financial and technical assistance is likely to be key, particularly in developing countries.

Doing justice to the vast topic of capacity-building modalities and experiences in applicable fields requires detailed treatment. At a minimum, in fact, a study of the policies and lessons of the United Nations Development Program (*UNDP*), *World Bank Poverty Reduction strategies*, the United States Millennium Challenge Account (MCA), EU development, enlargement, and Governance Facility of the European Neighbourhood and Partnership Instrument (*ENPI*) mechanisms, would be highly advisable in this context; as would lesser-institutionalized mechanisms in the environmental field specifically. In the available scope, a number of key considerations can be identified however:

First, to stand a chance of making a real difference to the policies and behaviour of giants such as Brazil, China and India, the Fund must be substantial, amounting to several billion €/\$ rather than hundreds of millions. The experience of relatively small \$100-\$300 million funds distributed over multiple years and to multiple recipients – the EU's European Initiative on

Democracy and Human Rights (*EIDHR*) or the United States' led Middle East Partnership Initiative (*MEPI*) for example – suggests that a lack of critical mass in funding would likely render an ISDCP initiative moot. That being said, the financial clout which an ISDCP will be able to deliver need not be entirely dependent on direct financing. Other material-value incentives – notably tax benefits, investment subsidies/guarantees, market access, technology transfer, and licensing benefits – can also be used to stimulate governmental, private sector, NGO and scientific research interest in the goals of an initiative; not least in North partner countries themselves. The award of financial benefit may be combined with the provision of in-kind material benefits to incentivize public and private sector actors to engage in North-South and South-South transfer of beneficial technology or other knowledge (e.g. pay Brazilian flex-fuel technology and policy experts to share knowledge with other developing and developed countries). Grant subsidies, matching funds, and tax incentives can all be used to spur North-South or South-South low-carbon economic zones, incubator research, implementation projects, and public-private sector cooperation.

Second, the *competitive award of substantial benefits linked to demonstrated progress towards meeting clearly defined ISDCP standards* – coupled with robust deliberative processes, support for expert scientific and policy communities, as well as monitoring and reporting – probably constitutes the most promising approach to financial and technical aid delivery. In this context the architects of an ISDCP initiative should seek to derive lessons from the experience of the U.S's *Millennium Challenge Account (MCA)*, emerging World Bank “selectivity” modalities for assistance delivery, as well as the EU's provision of *PHARE, TACIS and TAIEX* assistance in the course of pre-accession preparations vis-à-vis the New Member States of the EU, Turkey and the Western Balkan countries. To be effective, financial and technical aid, the experience of these institutions indicates, must be closely reform-focused, and conditional on demonstrable progress, rather than *ex post*.

Third, the provision of financial and technical resources should be closely and *systematically linked* to the problems, needs and opportunities jointly identified and defined by North-South collaborative deliberation, problem-solving exercises and learning. This has been one of the key lessons from the pre-accession aid of the EU for example. Thus, the provision of financial and technical assistance – including *Twinning* type programs – needs to form an integrated part of an overall strategy of knowledge generation, deliberation, problem-solving, and learning from internalization and implementation efforts.

Finally, financial and technical support should flow through both intergovernmental (top-down) and transnational channels (bottom-up), in a manner that is consistent with the reform priorities established in collaboration among stakeholders, and which are revised as new knowledge and learning takes place within the overall ISDCP initiative. Substantial resources should, in particular, be directed towards encouraging the establishment of non-governmental North-South scientific, technological, public policy and civil society expert networks that work to promote low-carbon directed legislative and regulatory reform, scientific problem-solving, knowledge transfer and training. Where strong political will exists within state agencies, such assistance should focus on enhancing state administrative, technical and enforcement capacities. Direct aid to government needs to be tied to clearly identified reform priorities, and be based on the genuine needs and wishes of the recipient government. In contrast, where political will is lacking or other substantial barriers to progress are identified (notably

corruption), the architects of an ISDCP initiative would need to think through alternative means of financial and technical assistance provision. In either case, supporting broader societal involvement is important, although it is doubtful whether diffuse societal impact alone will be sufficient to achieve ISDCP goals in the absence of strong government support.

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Contact: Contact: Jon.price@climatestrategies.org

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C/O University of Cambridge

13-14 Trumpington Street,

Cambridge, CB2 1QA

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