



Increasing Trust and Effectiveness under the UNFCCC: Learning from International Monitoring Processes

The Quaker United Nations Office

The Quaker United Nations Office (QUNO) has been involved in various UN environmental processes, including chairing the NGO Committee for the 1972 UN Conference on the Human Environment, the first NGO forum during a UN conference. More recently, we supported preparations for the 1992 Earth Summit and the Desertification Convention negotiations.

Quakers have participated in the UN since its founding and through our world Quaker body have had UN consultative status since 1948. Our work is primarily carried out by the Quaker UN Offices in Geneva and New York, which seek to promote multilateral cooperation for a fair and peaceful world. This work is often done behind the scenes to facilitate a constructive outcome in difficult negotiations such as the Law of the Sea (1970s), the development of the Human Rights Council (2000s) and the Landmine Ban Treaty (1990s).

We are concerned to support States and other stakeholders in building trust among parties engaged in the UNFCCC in order to help with cooperative progress.

Quaker United Nations Office
13 Avenue du Mervelet
1209 Geneva
Switzerland

Tel: +41 22 748 48 00
Fax: +41 22 748 48 19

quno@quno.ch
www.quno.org

As the UNFCCC moves towards new arrangements under the Durban Platform, facilitating trust among its Parties will be vital to enabling and encouraging States to stabilise their greenhouse gas (GHG) emissions and prevent dangerous levels of climate change. An effective and positive monitoring system can be an important part of building mutual trust between Parties to an international Convention, increasing confidence that all Members will fulfill their obligations by providing support for implementation while also identifying areas of non-compliance.

This paper is a contribution by the Quaker United Nations Office to a discussion on what effective monitoring under the UNFCCC and its Protocols might look like, offering a small sample of approaches adopted by other international bodies and discussing some of the merits of each. By drawing on QUNO's experience of human rights, trade, disarmament and other monitoring mechanisms, the paper considers four elements that are needed to build confidence among Parties to a Convention: submission of reliable information; competent assessment of information; clear recommendations; and follow-up. As this is a discussion paper, comments are very welcome and can be sent to lfcook@quno.ch.

1) Submission of Information

Identifying the areas where States are in need of greater assistance with implementation, are not taking action or are in non-compliance with specific commitments, depends upon the regular submission of reliable information by, or regarding, all Parties to a Convention.

Practices from International Processes

The sources of this information are commonly the State under review,

an international organisation or other actors relevant to the specific nature of a process. For example under the World Trade Organization (WTO) Trade Policy Review Mechanism, the WTO Secretariat prepares a report which forms one of the bases on which each WTO Member's trade policies are reviewed; the State under review also provides a report.

A standardised method for collecting data and presenting information helps the relevant actors to submit reports that are comprehensible, comparable and easily analysed, while also enabling review bodies to identify incorrect or

incomplete reporting. This has proven to be the case within the UN's human rights treaty mechanisms.

Submissions from a range of stakeholders, ensuring that reports can be enhanced, completed or queried by independent sources, also help to increase accuracy and allow for a more complete representation of a country's situation. For example, following the recent increase in NGO submissions to the human rights treaty bodies, many agree that NGO input has helped States, the UN and others to get a fuller picture of a country's circumstances. This information can either be submitted collaboratively, with governments and other stakeholder presenting information in partnership, or as separate reports (see Box 2 for discussion of relevant stakeholders under the UNFCCC).

The UNFCCC: Possible Implications for Submission of Information

National Inventories submitted by States are currently compared with other authoritative sources such as reports compiled by the International Energy Agency (IEA) and the Food and Agricultural Organisation (FAO). Adopting a similar system for National Communications, as well as for future International Consultation and Analyses or Reviews, could be one way of ensuring reliable and verifiable submissions of information.

Box 1 Examples of Existing Good Practice: Multi-stakeholder Submissions

The Universal Periodic Review (UPR)

The UPR of the UN Human Rights Council evaluates the human rights record of all UN Member States using information provided by three separate sources: a report by the State under Review; a compilation of relevant information from the UN human rights system; and a summary of submissions by human rights NGOs, National Human Rights Institutions (NHRIs) and regional human rights systems.

The International Labour Organisation (ILO)

The ILO uses a tripartite system for the provision of information, with the government under review, workers' organisations and employers' organisations submitting either a collaborative report or separate observations depending on the levels of cooperation between the three stakeholders within a certain country.

Box 2 Submissions under the UNFCCC: Who are the Relevant Stakeholders?

Whilst the State under review and other countries party to the Convention are obvious stakeholders, UN system representatives, scientific institutions and NGOs could also make valuable contributions to the UNFCCC process.

Four possible sources of information could include:

- 1) A national communication by the State under review.
- 2) A compilation of information from relevant UN System representatives such as UNEP, the IEA and the FAO.
- 3) A compilation of relevant scientific studies undertaken by the Intergovernmental Panel on Climate Change (IPCC), as well as national scientific or academic institutions.
- 4) A summary of observations by civil society, private sector organisations and other non-governmental groups.

2) Assessment

At the assessment stage of a State review, gathered information is analysed in order to evaluate a State's progress towards fulfilling its Convention obligations or meeting specific targets. This allows clear recommendations for further implementation and support to be drawn from the information provided, as well as enabling the factors affecting a State's ability to implement a Convention to be identified.

Practices from International Processes

Two key aspects of an assessment process are the composition of the assessment body and the standards against which submitted information is measured. A technical review by a team of independent experts can increase Party confidence in a system by ensuring that evaluations are completed by a trusted and qualified group. Confidence in the unbiased and objective nature of the review team may be encouraged if these experts are appointed according to certain criteria such as competence, independence and regional balance, whilst also as a group providing the necessary range of expertise for their purpose.

Another approach is a peer review process, where States review other States' implementation of their relevant obligations; the Human Rights Council's

UPR and the WTO's Trade Policy Review Mechanism are two examples of this.

A process where all State Parties are reviewed according to one set of standards that "level the playing field", also facilitates trust, increasing States' willingness to meet Convention requirements by encouraging perceptions of fairness. Under the UPR the human rights records of all UN Member States are reviewed regardless of a country's national circumstances or whether specific treaties have been ratified. This means that all States can be subjected to questions or recommendations regarding any human rights issue, which they are then able to accept, consider or reject. This type of system can nonetheless reflect differentiated responsibilities and abilities; for example while the ILO and UPR consider it important to use the same set of criteria when assessing States, they maintain differentiated levels of support, providing assistance when a State's inaction is due to a lack of capacity. There is also considerable experience within the human rights treaty monitoring bodies of how to measure "progressive realisation" of human rights in a way that is both rigorous in terms of the human rights standards the State has agreed to, and cognisant of levels of development that vary from State to State.

It is accepted practice for assessments to be publicly accessible, with written contributions available both online and on paper as with the UPR, UN human rights treaty bodies and the WTO. The UPR also webcasts oral dialogues. An accessible and transparent compliance regime enables governments and other actors not present during a review to both assist with and monitor Party implementation.

The UNFCCC: Possible Implications for Assessment

Determining what is being monitored, and therefore who might be best equipped to do the monitoring, is key when considering what makes an effective monitoring system. Under the UNFCCC, two reports are currently submitted by Parties: the first a National Inventory to provide estimations of GHG emissions; the second a National Communication that includes information on GHG emissions, specific vulnerabilities to climate change, and adaptation strategies. While National Inventories may benefit from review by a team of scientific or climate change experts, the Expert Review Team for National Communications, or any similar forms of reporting, could be composed of a variety of experts, drawing on experience from scientific, humanitarian, human rights and peacebuilding fields. When considering the standard against which Parties are assessed, it may be useful to look at the experience of the human rights treaty bodies in holding States to account while recognising different circumstances and capabilities.

Box 3 Examples of Existing Good Practice: Equalised Assessment under the ILO Monitoring Mechanism

While all States, regardless of their national circumstances, are declared to be in non-compliance when failing to fulfill their obligations as ILO Members, there is flexibility in what a State is encouraged to do when in non-compliance. The time period within which a State is expected to make changes, the frequency with which it is required to report on progress, and the support it is given, all vary depending on the circumstances. The ILO seeks to take a supportive stance to complement its supervisory role, acknowledging all cases of non-compliance but also constructively suggesting ways to increase assistance.

Box 4 Examples of Existing Good Practice: Expert Review

The International Labour Organisation (ILO)

Reports are submitted to an independent Committee of Experts appointed by the ILO Governing Body. The more serious comments or observations are then communicated to the International Labour Conference, where the most urgent cases are reviewed by Member States, and workers' and employers' organisations.

Human Rights Committee

The Committee, which is responsible for monitoring implementation of the International Covenant on Civil and Political Rights (one of the oldest human rights treaties), is elected by States with consideration given to equitable geographical distribution and representation of different legal systems. Committee members are required to be of high moral character and to have recognised competence in the field of human rights.

3) Clear Recommendations

Specific, clear and realistic recommendations provide an opportunity for solutions to be identified, allowing stakeholders to suggest ways in which Parties can change their policies to facilitate greater implementation. They further ensure that governments know what is required of them and help the bodies responsible for follow-up to understand which areas of implementation are in need of greater monitoring.

Practices from International Processes

Expert recommendations can help to ensure that suggestions are credible and reliable, while also mak-

ing clear what support is needed to implement the recommendations made. States add legitimacy, peer pressure and credibility to recommendations; a peer recommendation system, under which Member States make suggestions to one another, can therefore also be effective, with States using the expert review and expert-made recommendations as an information base for relevant suggestions.

In practice, the human rights treaty bodies have two-part recommendations; first the expert bodies suggest specific changes that the State under review could make, then the Office of the High Commissioner for Human Rights provides assistance in following-up on those recommendations. Assistance can be as simple as a verbal declaration of support or can be more detailed, with a commitment to transfer expertise, resources or finance in order to build capacity for implementation. One of the treaty bodies, the Committee on the Rights of the Child, can request assistance with Party implementation from UNICEF. Two-part recommendations need not be limited to pledges of support from developed to developing countries; rather they can facilitate a cooperative relationship between States, UN agencies and other actors, constructing an approach that encourages compliance rather than punishing non-compliance.

The UNFCCC: Possible Implications for Expert Recommendations

Under the UNFCCC, representatives from scientific institutions, as experts on climate change, could make recommendations in order to ensure that suggestions are credible and evidence based. An example of this in practice is the setting of fishing quotas by the European Union (EU) each year, which are proposed by the European Commission on the basis of recommendations made by two scientific institutions.

Box 5 Examples of Existing Good Practice: Supportive Recommendations

The ILO, WTO and UPR all allow States to review one another's compliance record, raise concerns and make recommendations, with the ILO also giving workers' and employers' organisations the right to participate. The effectiveness of the ILO system, which focuses on finding solutions rather than accusing Members of failure, shows us that States are more likely to comply when a mechanism identifies areas in need of assistance as well as highlighting non-compliance.

4) Follow-Up

A predictable and consistent follow-up process increases confidence that all Parties will be monitored and assisted with the implementation of recommendations, helping to facilitate compliance by encouraging perceptions of fairness.

The Kyoto Protocol provides an example of a follow-up procedure, establishing both a facilitative and enforcement branch to address the dual needs for assistance with implementation and consequences for non-compliance. Alternatively, follow-up can tackle both needs simultaneously, establishing a consistent and cooperative relationship between the bodies of a convention and its Parties.

Box 6 Examples of Existing Good Practice: Follow-up under the ILO

The ILO actively encourages States to seek assistance with implementation. If a State requests support voluntarily, supervision of that State is suspended for an agreed period of time, creating an incentive for Parties to admit to their capacity problems. Countries who have asked for help are then required to report back on progress more regularly, with the time period between reports varying depending on the circumstances.

Concluding Summary

An effective monitoring system builds trust among Parties to a Convention and between the Parties and Convention monitoring bodies, enabling States to feel confident that all Members will be held to rigorous standards while providing Parties with the support needed for improved implementation and taking differing national circumstances into account. The above examples of good practice demonstrate that reliable information and competent assessment increase perceptions that all States will be held to account, while both expert and State-made recommendations, as well as a supportive follow-up procedure, promote action. While monitoring and trust are both part of a much bigger picture, with many other factors such as scope and design of commitments also influencing the effectiveness of a Convention, this paper presents some options that could be considered when seeking to build confidence among Parties to the UNFCCC.

Author: Ellie Roberts, QUNO, November 2012