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**How to Accommodate Emerging Forces in Climate Governance?
- Multilateral Negotiation Process and NGOs in Climate Change -**

Norichika KANIE, Ph.D.
Associate Professor
Graduate School of Decision Science and Technology
Tokyo Institute of Technology
2-12-1-W9-43 Ookayama, Meguro-ku, Tokyo 152-8552, Japan
Tel/Fax: +81-3-5734-2189
Email: kanie@valdes.titech.ac.jp

1. Introduction²

The preamble to the United Nations Framework Convention on Climate Change (UNFCCC), which has been ratified by 189 parties including the US,³ acknowledges that “the widest possible cooperation by all countries and their participation in an effective and appropriate international response” is necessary to tackle “the global nature of climate change.” After the entering into force of the Convention, it was becoming clear by the time of the first Conference of the Parties (COP1) that many OECD countries were not on course to fulfill “an effective and appropriate response,” and that commitments beyond 2000 were necessary to address climate change as a global and long-term issue (Grubb 1999, Oberthur and Ott 1999). Thus, it was agreed in the form of the Berlin Mandate that the “Conference of Parties, having reviewed [the commitments] and concluded that these are not adequate, agrees to begin a process to enable it to take appropriate action for the period beyond 2000, including the strengthening of the commitments of Annex I parties.” The negotiations that followed led to an agreement on the

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³ As of 24 May 2004. See

http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php

Kyoto Protocol in 1997, which included quantified GHG reduction objectives for Annex I countries for the period between 2008 and 2012 and which entered into force on 16 February 2005.

However, in contrast to the UNFCCC, the Kyoto protocol, which recalls the provisions of the Convention, has yet to achieve “the widest possible cooperation by all countries and their participation.” Although 148 countries and the EU have ratified the Kyoto Protocol,⁴ the number of ratification countries is still smaller than that of the Convention, and more importantly, it lacks the participation of the largest emitter of GHGs in the world. This has caused the current stalemate on international cooperation in tackling climate change: global participation is necessary to solve the global problem, but there is a dilemma between the level of commitment and the level of participation. In other words, *lack of global participation* for a global issue is the stumbling block to be addressed in this paper.

Overcoming such a stumbling block entails facilitating and encouraging participation. The solutions may involve several possibilities. One is to change the institutional framework so that it could allow greater participation. As the Kyoto Protocol includes only the commitments between 2008 and 2012, and no concrete commitments have been made for the period beyond 2012, negotiations for the future commitments are expected to be initiated by 2005, as set out in the Article 3.9 of the Kyoto Protocol. This may be seen as an opportunity to facilitate greater participation by changing the institutional framework, although it might hamper environmental integrity to a certain extent, and in fact, already more than 40 proposals have been either published or presented publicly (NIES and IGES 2004, Bodansky 2004). Some address a country-based approach for reducing GHG emissions, while others address a sector-based approach. Some propose that the issue should be dealt with by an agreement only by major players, but many others see that this is an opportunity for greater participation.

Another way is to steer facilitation activities directly to the country at stake through diplomatic channels. This works occasionally when issue linkage is successfully made, as we saw in the Russian ratification process. It is widely recognized that the Russian ratification to the Kyoto Protocol was realized because of the issue linkage between climate change and the Russian WTO participation tabled by the European Union. Another case is that since the US rejection of the Kyoto protocol, the Japanese government, as well as the governments in Europe, has taken a variety of opportunities for bilateral (and some multilateral) talks to convince the US to participate in the Kyoto regime. There is no doubt that such expressions of international voices from the “front door” is important to make the US government realize how it is perceived by others. However, with solid domestic grounds both in the Administration and Senate not to ratify Kyoto, and taking into account that the US government does not usually

⁴ As of 22 April 2005.

change its course of policy due to pressure from the outside, it may be very difficult to change the course of policy actions in the US only by such external pressure. As historical institutionalism suggests, once a government program embarks upon a path, there is an internal tendency to persist with the initial policy choices (Peters 1999). And, the path can be altered only when a good deal of political pressure can be applied; in case of the US, only a good deal of domestic pressure may change the path.

The third way to facilitate global participation takes a different approach. Rather than focusing on state actors, this method attempts to focus on non-state actors. Facilitating the participation of non-state actors leads not only to global “participation” in a broader sense, or multi-stakeholder participation, but it may also alter norms and domestic public opinion, and thus indirectly influence the position of a country. Given the growing roles of NGOs in the environmental policy process and their network all over the globe (Princen and Finger 1994, Potter 1996, Newell 2000), this mode of facilitation may have a greater impact in overcoming the stumbling block than one would at first think. As Chasek put it, NGOs are “increasingly serving as a catalyst to initiate” environmental negotiations (Chasek 2001: 29). Therefore, this paper investigates possibilities for this third type of facilitation, and focuses on the function of NGO participation in the facilitation of climate talks.

The chapter starts with a brief review of the formal decision-making structure of the United Nations Framework Convention on Climate Change (UNFCCC) and the status of NGOs in that structure. It also includes a definition of “climate NGOs” in the context of this chapter. This is followed by a section identifying six modes of engagement in climate talks by climate NGOs. Those are: (1) activist, (2) advisor, (3) observer, (4) legitimator, (5) implementer/monitor, and (6) a hybrid mode. Among the six, the “hybrid mode” will be further examined in the following section. This mode is made possible through NGO members’ direct participation in the multilateral negotiation process by means of membership in a national delegation. As this is not commonly done in many countries, I have chosen the cases of Denmark, Switzerland and Canada for deeper investigation, all of which have long had NGO members in their delegations to the Conference of the Parties (COP) to UNFCCC. I will discuss the effect of such type of NGO participation in the climate change international decision-making process by arguing that a coalition between (a) state(s) and non-state actors would create a new dynamic in the multilateral negotiation process, and thus the potential to facilitate climate talks. In the concluding section, I will also argue that organizing multi-stakeholder dialogues facilitates participation.

2. UNFCCC Decision-making Process and Non-governmental Actors

The existing decision-making procedure of the United Nations Framework Convention on

Climate Change (UNFCCC) centers on the Conference of the Parties (COP) as the highest decision-making authority, which is normally convened once a year, except for the case of the sixth COP (COP6 and COP6bis) which was held twice in one year due to the failure to reach an agreement at the first part of COP6. The COP reviews the implementation of the Convention and examines the commitments of parties in light of (1) the Convention's objectives, (2) new scientific findings and (3) experience gained in implementing climate change policies (Climate Change Secretariat 2002: 16). In principle, the Presidency of the COP rotates among the five UN regions (Africa, Asia, Latin America and the Caribbean, Central and Eastern Europe, and Western Europe and Others), and often it is the case that the Presidency offers to host the session. If there is no offer, the session meets in Bonn, the station of the secretariat. The COP makes decisions at the Plenary, but negotiations on various individual issues usually take place in contact groups or other negotiation groups (see Figure 1).

[Figure 1 about here]

New scientific findings are expected to reach most of the policy-makers (government officials) from the Intergovernmental Panel on Climate Change (IPCC), although in theory some crude information and results of research may also come from other sources as well. The IPCC's assessment report, which is the best-known IPCC publication, put out approximately once every five years, has relatively short reports called executive summaries and summaries for policy-makers (SPMs), which are probably the best source of scientific information for policy-makers who do not usually have enough time to go through all the scientific reports and analyses. It should be noted, however, that SPMs are subject to line-by-line approval by the IPCC's working groups, and the panel members usually consist of government officials together with scientists. Therefore, they are likely to be influenced by politics (Kameyama 2004).

The FCCC has two permanent subsidiary bodies: the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA). They give advice to the COP, and usually meet twice a year. The SBI deals with all matters related to the implementation of the FCCC. The SBSTA deals with scientific, technological and methodological matters. Among others, it plays the important role of dealing with scientific information provided by experts such as the IPCC and giving policy-oriented needs to them in return. In fact, it works closely with the IPCC and sometimes makes requests for specific information or reports (Climate Change Secretariat 2002). Such a close relationship between a political body and the IPCC has created skepticism concerning the ability to extract scientifically credible and usable knowledge from the IPCC as it is too strongly under the influence of politics (Haas 2004).

Inside and outside of such inter-governmental negotiation bodies and international organizations, there exists the non-governmental organization (NGO) community. They are allowed to observe sessions and, upon approval by the secretariat, they are allowed to enter conference venues, including the meetings of open-ended contact groups, and to observe inter-governmental negotiations.⁵ In addition to attending and following the formal debate as observers, a representative group of NGOs is invited to make statements to the COP under its agenda item of “Statements by NGOs.”⁶ On some occasions, it is even allowed to intervene. At COP9, for example, NGOs were given an opportunity to intervene on two substantive agenda items in the COP plenary.⁷ However, some high-level meetings and contact group meetings such as the final negotiations of the compliance procedure are held behind closed doors (Gulbrandsen and Andersen 2004).

The number of NGOs registered at the first ten COP sessions (from COP1 in 1995 to COP9 in 2003) and the number of NGO participants is shown in Table 1. The fourth row of Table 1 shows the ratio of total NGO participants compared to the number of the governmental delegations. With the exception of COP6bis, which was held on shorter notice than others because of the failure to reach an agreement at COP6, and which was unusual in that it was held in the middle of the year, and COP7, which was held right after 9.11, the number of recorded NGO participants exceeds the number of the governmental delegates. Generally speaking, this shows that the interests of the NGOs in climate talks are more than negligible. The UNFCCC secretariat acknowledged that “NGOs play a pivotal role in the climate change intergovernmental process. Almost half of all registered participants of Convention bodies are from NGOs, with the share reaching 64 and 56 per cent in Kyoto and the Hague, respectively”.⁸

Table1.

	COP1	COP2	COP3	COP4	COP5
(1) Number of Delegations	869	405	2273	1430	1514
(2) Number of NGOs	165	n/a*	236	148	n/a*
(3) Number of NGO participants	979	n/a*	3663	2357	n/a*
(4) (3) / (1)*100	112.7	n/a*	159.8	164.8	n/a*

⁵ FCCC/SBI/2005/5

⁶ FCCC/SBI/2005/5, para. 24.

⁷ FCCC/SBI/2005/5, para. 24.

⁸ FCCC/SBI/2005/5, para. 37.

* No total numbers on the official documents.

	COP6	COP6bis	COP7	COP8	COP9
(1) Number of Delegations	2215	1819	2432	1468	1951
(2) Number of NGOs	275	219	194	168	267
(3) Number of NGO participants	3552	1587	1327	1858	2404
(4) (3) / (1)	151.3	87.2	54.6	126.6	123.2

NGO participants, or non-state actors, in UNFCCC climate talks are not limited to environmental groups. Broadly speaking, all participating organizations in the UNFCCC except for the governmental parties are NGOs, but usually intergovernmental organizations are acknowledged as IGOs (intergovernmental organizations such as the OECD or UN agencies). In fact, the UN definition of a Non-Governmental Organization (NGO) in a resolution by the UN Economic and Social Council (ECOSOC) leads with “Any such organization that is not established by a governmental entity or intergovernmental agreement shall be considered a non-governmental organization” (Feld and Jordan 1994, 22). Currently there are more than 600 NGOs and 50 IGOs recognized as observer organizations.⁹

NGOs form loose groups, generally recognized as “constituencies.”¹⁰ There are currently five constituencies acting as focal points for the exchange of information. Among them there are two constituencies with longer histories: the business and industry non-governmental organizations (BINGOs) and the environmental non-governmental organizations (ENGOS). Since COP1 there have been local government and municipal authorities (LGMAs), and since COP7 there have been indigenous peoples organizations (IPOs) as participants. Most recently, the research-oriented and independent organizations (RINGOs) have joined another constituency, whose members sometimes coincide with the IPCC members.

In academic literature, NGOs in climate talks may be defined in a different manner. The Union of International Associations has set up a number of criteria to define International Non-Governmental Organizations (INGOs). They include aims, membership, governance, and financing.

The aims must be genuinely international in character and manifest the intention to

⁹ http://unfccc.int/parties_and_observers/items/2704.php

¹⁰ <http://unfccc.int/resource/ngo/const.pdf>

engage in activities in at least three states, the membership must be drawn from individuals or collective entities of at least three states and must be open to any appropriately qualified individual or entity in the organization's area of operations, the constitution must provide for a permanent headquarters and make provisions for the members to periodically elect the governing body and officers, the headquarters and the officers should be rotated among the various member states at designated intervals, the voting procedure must be structured in such a way as to prevent control of the organization by any one national group, and substantial financial contributions to the budget must come from sources in at least three states. (Feld and Jordan 1994, 22)

By this definition many non-governmental participants in the COP may be excluded as NGOs, as the standards required in the above definition are too high (e.g. funding source must be from at least three countries). Therefore, others make a definition in a different manner and focus on the nature and the goals of NGOs, and refer to them as *pressure groups*, which seek to influence political decisions (Arts 1998, Willets 1982). Arts argues that pressure groups are composed of *sectional groups* and *promotional groups*. The former pursue the interests of a particular section of society, and include (1) economic groups (companies, commerce, trade, agriculture), (2) professional associations (doctors, nurses, lawyers, scientists), and (3) recreational groups (Scouts, IOC). The latter groups may be defined by general interests, including (1) welfare agencies (development associations), (2) religious organizations (World Council of Churches), (3) communal groups (indigenous groups, women's groups), (4) political parties, and (5) issue-specific groups (environmental organizations, peace groups). The main focus of this paper is on the latter, with particular focus on the issue-specific groups on climate change. Of course, there are also other groups such as indigenous groups, which fall under communal groups in the above mentioned categorization, coming to climate talks, but when they are at climate talks, they can also be regarded as one of the groups that have interests in the protection of the climate. There are overlaps in groups, meaning that they can belong to both groups. The same applies to NGOs with research interests. Although there might be an overlap in professional associations, if one sees it from a different angle, a climate-oriented research NGO that has the potential to facilitate climate talks rather than academic associations per se may also be part of an issue-specific group with climate interests.

Hereafter I will refer to issue-specific groups on climate change as "climate NGOs". These groups are interested in tackling climate change, and therefore, indigenous groups interested in tackling climate change, or research groups focusing on climate research are included in the group, but business organizations whose interests are in economic prosperity are not. Newell distinguishes between advocacy organizations and research or think-tank oriented

NGOs (Newell 2000: 123). Similarly, Gulbrandsen and Andersen emphasize the difference between activist organizations and advisory organizations (Gulbrandsen and Andersen 2004). To this end, this chapter's focus includes both activist and advisory NGOs, as long as they are climate NGOs.

3. Modes of engagement of climate NGOs in climate talks

Recalling that the main focus of the current project is on facilitation that can breakthrough the existing obstacles in climate talks, this chapter addresses the issue of participation with a focus on the functions of climate NGOs in climate talks, and examines the better, if not best, way for climate NGOs to function in order to facilitate climate talks. In order to do this, I shall now look at the modes of engagement in climate talks of current climate NGOs. A climate NGO's engagement can be divided into the following six modes. Those are: (1) activist, (2) advisor, (3) observer, (4) legitimator, (5) implementer/monitor, and (6) a hybrid mode. There are cases in which one NGO has one mode only, but also cases in which one NGO has two or more modes. I will go through these six modes one by one.

(1) Activist

Climate NGOs can engage in the climate change negotiation process as activists. Some of them obtain observer status for the purpose of lobbying negotiators *inside* the meeting venue, while others stay out of the formal institutional settings of inter-governmental negotiations completely and protest *outside* the venue. Those "protestors" are not necessarily composed of only climate NGO members, but many NGOs "involved in international meetings have also played a role in organizing protests that take place outside the conference halls during the meetings" (Fisher 2004: 179). For example, during COP3 in Kyoto, Japan, a 20,000-person demonstration was organized (Rwomann 2000), and during COP6 in 2000 and COP6bis in July 2001, 3,000-person and 5,000-person demonstrations were organized respectively (Fisher 2004: 184). Fisher argues that NGOs have a strong role in organizing protests, and through such demonstrations outside the conference venues NGOs may draw the attention of the negotiators inside to the need to shift the discussion (to think about the interests of citizens) or to the voices that call for blocking negotiation itself (Fisher 2004). They can also apply pressure from the outside, both at home and at the place of conference, and both in the short run and long run, through campaigning, rallying, direct actions, boycotts and civil disobedience (Gulbrandsen and Andersen 2004).

The activist mode of NGO engagement in climate talks can also be seen inside the formal international negotiation structure. Climate NGOs communicate the interests of their constituents to the representatives of governments and international institutions inside the venue

(Fisher 2004). They can put pressure on negotiators, governments and target groups, including industry, through lobbying and letters of protest. They can also raise issues and set agendas by holding side events and exhibits. The UNFCCC secretariat has introduced web-based tools to “streamline the application procedures and to create an information resource with an electric archive of side event presentations and reports”, which helps climate NGOs to hold side events and gather information in order to enhance activities in this regard.¹¹

Generally, long-term activities at home and through international networks (such as international campaigns) are more important than the activities just done at the conference venue, because the influence of their activities relies on their main resource, which is their membership and public opinion. As Newell puts it, contact with diplomats at international meetings is only effective with popular backing (Newell 2000: 129).

(2) Advisor

With a strong intellectual base, climate NGOs can engage in climate negotiations as advisors. They work closely with negotiators and government officials, and give policy recommendations and advice on legal, scientific and technical matters (Gulbrandsen and Andersen 2004). Organizations such as the Center for International Environmental Law (CIEL) and the Foundation for International Environmental Law and Development (FIELD) are especially well-known for their capacity to give advice to governments such as those of AOSIS countries. They are said to “have counterbalanced the industrial lobby, worked closely with government officials and assumed a new responsibility for the implications of their findings for policy options” (Chasek 2001: 28). In addition, climate NGOs’ engagement as advisors is not limited to advising governmental officials; their advice may also be directed to other NGOs, or to both NGOs and, for example, to BINGO members in trying to bridge the gap between the two. Such advice does not influence the outcome of political negotiations in the short run, but it can influence the long-term direction of climate talks, especially in the agenda-setting phase (Haas, Kanie and Murphy 2004).

Advisor NGOs also hold side events and exhibits during the sessions, through which their research results are presented. They also attend workshops organized by the UNFCCC secretariat: of the fourteen workshops organized in 2003, ENGOs and RINGOs attended 10 workshops each.¹² As climate talks go into technical details, and taking into account that diplomats or policy-makers change their position normally once every few years in most countries, the importance of climate NGOs in their advisory capacity has been growing. Some of the advisory NGOs are even “qualified as intellectual leaders in the compliance system

¹¹ FCCC/SBI/2004/5

¹² FCCC/SBI/2004/5. With regard to other constituencies, BINGOs attended eight workshops, IPOs attended two workshops, and LGMAs attended one workshop.

negotiations as a result of their ability to frame the compliance issue in a novel and constructive way” (Gulbrandsen and Andersen 2004, Young 1991). Chasek put it as follows. NGOs “usually have better technical expertise than many governments and, thus, can assist and clarify the issues in the issue definition phase. During the negotiations themselves, governments can benefit from updated scientific, technical, and human-focused reports prepared by the non-governmental community. As some governments have found, a non-governmental perspective may shine new light on a contentious issue” (Chasek 2001: 231).

(3) Observer

Promoting transparency while safeguarding effectiveness is one of the rationales of the UNFCCC secretariat for facilitating NGO participation. For this purpose, observing the negotiation process remains a pivotal part of the role of NGOs. Fisher explains that international NGOs not only communicate the interests of their own constituents to the representatives of governments and international institutions inside the conference venue, but also report the progress of the meetings to their members (Fisher 2004). In this manner NGOs also increase the accountability of governmental delegations to their domestic constituencies. The most well-known publication put out by an observer climate NGO is a report called “Earth Negotiations Bulletin” (ENB), published by the Canadian-based International Institute for Sustainable Development (IISD). Created in March 1992, the report covers everyday negotiations during sessions, is usually distributed every morning and has the readership of 34,000 people worldwide, serving as one of the most reliable and comprehensive sources of information.¹³ In addition, other NGOs such as the Climate Action Network (CAN) and Kiko Network of Japan provide their newsletters extensively during the sessions, covering the negotiation process as well as providing their views on it. Observing negotiations benefits NGOs themselves. “By observing the negotiations, NGOs can obtain the information they need to follow the negotiation process, monitor the positions of governments, develop their own stance, and report back to their members” (Depledge 2005: 217).

Such observation activities, however, are not always welcomed by negotiators. At a certain stage, being observed by NGOs prevents negotiators from speaking freely and modifying their positions. Joanna Depledge has shown such an instance during the Kyoto negotiations, arguing that when the Chair, Estrada, wanted to give parties the necessary privacy to engage in bargaining, the negotiations took place behind closed doors, while at the end of the deal-making he made use of transparency to place the strongest possible pressure on parties to compromise and not to block the agreements (Depledge 2005: 219). In fact, the “absence of scrutiny from NGOs and the media is indeed commonly viewed as pivotal to encouraging

¹³ For more details, see <http://www.iisd.ca/>

parties to speak more freely” (Depledge 2005: 219). When the negotiations occur behind closed doors where NGOs cannot observe, and subsequently cannot put implicit pressure on the negotiators, they have to become “activists” and return to traditional corridor diplomacy, lobbying negotiators and distributing documents during the sessions. This happens especially during important phases of the negotiations, such as the deal-making in Kyoto or in the final negotiations on the compliance issue (Gulbrandsen and Andersen 2004, Depledge 2005).

(4) Legitimitor

NGOs have important epistemic and legitimating functions in formulating international regimes (Hall and Biersteker 2002: 13). Particularly when it comes to an issue that is related to sustainable development, greater transparency and participation in the decision-making process may create greater responsibility on the part of stakeholders, and therefore the governments become more accountable for the actions. Thus, “the resulting agreements may be stronger than in cases where governments work in a vacuum” (Chasek 2001: 231). In addition, one unique aspect of climate change is that its impact is more serious and severe in areas where voices often tend to be neglected in the current setting of world politics. This means that in order to increase the legitimacy of climate talks, voices from people under the impact of climate change have to be heard more. Climate NGOs can voice the interests of these vulnerable people, who might not otherwise be represented through governmental channels. As new science entails uncertainty and time is required before scientific rigor proves it to be true, voices from the people being impacted may serve to legitimate climate talks, which may in turn increase participation while securing the level of action.

At present, the legitimitor mode of engagement is seen more on the implementation aspect and less on the impact side. NGOs associated with transnational social movements “legitimate challenges to the existing international order” (Hall and Biersteker 2002: 13). In this regard, more attention should be paid to the legitimitor role of climate NGOs in terms of impact of climate change, especially when adaptation gains attention.

(5) Implementer/Monitor

An important and unique outcome of the 2002 World Summit on Sustainable Development (WSSD) held in Johannesburg was the so-called “partnerships for sustainable development”, one of the non-negotiated “type 2 outcomes” of voluntary, multi-stakeholder initiatives aimed at implementing sustainable development, which is complementary to the outcome of inter-governmental negotiation.¹⁴ It has a basis in the General Assembly Resolution

¹⁴ The number of listed partnerships is 307 as of 3 May 2005. See the updated information at the following web site. <http://webapps01.un.org/dsd/partnerships/public/browse.do>

56/226, which states that it encourages “global commitment and *partnerships*, especially between Governments of the North and the South, on the one hand, and between Governments and major groups on the other”. On these grounds, the Guiding Principles for the Partnerships for Sustainable Development states:

Partnerships should have a multi-stakeholder approach and preferably involve a range of significant actors in a given area of work. They can be arranged among any combination of partners, including governments, regional groups, local authorities, non-governmental actors, international institutions and private sector partners. All partners should be involved in the development of a partnership from an early stage, so that it is genuinely participatory in approach. Yet as partnerships evolve, there should be an opportunity for additional partners to join on an equal basis.¹⁵

As can be seen in this initiative, NGOs have been acknowledged as “partners” in implementing sustainable development policies, not to mention in the implementation of multilateral agreements on issues related to sustainable development. In other words, they have an important role as implementers of policies on sustainable development, of which climate change is of course a part.

Partnership initiatives that are registered with the UN Commission on Sustainable Development (CSD) as mentioned above are of a voluntary, self-organizing nature, but in general, partnerships with NGOs in implementing policies are encouraged and gain greater importance. In the realm of climate change, climate NGOs are expected to be especially active in the implementation of the Kyoto Protocol and in achieving the objectives of the UNFCCC. The Kiko Network in Japan, for example, works on environmental education as well as on community based climate change prevention in the city of Kyoto in order to help achieve the six percent target of the Kyoto Protocol.¹⁶ Similarly, the WWF runs an international campaign called “PowerSwitch!” in order to change the source of energy from fossil fuel to clean energy in collaboration with electric power companies.¹⁷

Equally important is monitoring compliance, particularly that with the Kyoto mechanisms, sinks and CDM project activities. Such monitoring activities are even “essential to prevent misuse of the Kyoto Protocol in general and the flexibility mechanisms in particular” (Gulbrandsen and Andersen 2004: 69). Gulbrandsen and Andersen point out a few examples of monitoring: to prevent the CDM from being used to finance coal power plants, the quality of CDM sink projects and the use of CDM for the building of nuclear power plants (Gulbrandsen

¹⁵ http://www.un.org/esa/sustdev/partnerships/guiding_principles7june2002.pdf

¹⁶ <http://www.jca.apc.org/kikonet/english/index-e.html>

¹⁷ <http://www.wwf.or.jp/lib/climate/powerpioneers.pdf>

and Andersen 2004: 69). Also, comprehensive websites on CDM and sink projects such as CDM Watch and Sinks Watch function as important monitoring tools for NGOs.¹⁸ Project investors will be sensitive to criticism by NGOs, particularly considering the possibility that it might lead to an international campaign (Gulbrandsen and Andersen 2004: 69). Furthermore, although NGOs are not allowed free access to the CDM Executive Board meetings, they still can observe the meetings through live webcasts at the UNFCCC website, which adds transparency to the discussion. They can also submit factual and technical information to two branches of the compliance committee, although each branch does not necessarily have to consider it for its bases of deliberation.¹⁹

Still, not only providing one-way communication by means of webcasts or providing information that might not be considered, but also exchanging views on and interacting concerning experiences of implementation of such mechanisms as CDM and sink projects may enrich the knowledge base to be utilized in future projects and may even provide better ideas on evolutionary institutional design change. One possibility to complement the current lack of information exchange and to facilitate further participation while securing efficiency is to hold a multi-stakeholder dialogue (MSD). With the Kyoto Protocol entering into force, climate talks and policies are now entering a new phase: concurrence of implementation of Kyoto with agenda-setting for negotiations beyond Kyoto. This means that experience can be gained effectively for future institutional innovation, because post-Kyoto international institutions are supposed to be discussed starting from 2005 anyway. Multi-stakeholders can bring into global level discussions matters of how to implement decisions, and which tools, strategies and partnerships would be needed for sustainable policy and policy-making, which would also secure their engagement and generate more commitments (Hemmati 2002: 215). In fact, reviewing the implementation of the Convention and examines the commitments of parties in light of the experience gained in implementing climate change policies is one of the objectives of the COP (Climate Change Secretariat 2002: 16). Further discussion of MSD will be presented below.

(6) Hybrid mode

The engagement mode of Climate NGOs in the climate negotiation process switches from one to another depending on the situation. An activist NGO may also play the role of an observer, and an implementer/monitor may also work as an advisor. One NGO can employ a few modes of engagement even within the period of one conference. Nevertheless, they play roles as NGOs.

¹⁸ Their homepages can be found at the following addresses. <http://www.cdmwatch.org/index.php> (CDM Watch), <http://www.sinkswatch.org> (Sinks Watch).

¹⁹ UNFCCC Decision 24/CP.7, VIII, 3, 4.

However, there are also original NGO members who are at the same time members of governmental delegations to climate negotiations. This mode of NGO participation in the climate change decision-making process, the mode of an NGO in delegations, or the hybrid mode, as they cross the border of governmental delegation, is very unique and also very interesting in terms of the changing nature of global governance, and in particular in facilitating broader participation at both governmental and non-governmental levels. Up to the 5th mode of participation there is a clear distinction between governmental organizations and non-governmental organizations, and a member of one organization does not become a member of the other. However, in this mode NGO members become governmental delegates to climate negotiations such as the COP, and walk in the venue with the badge of a governmental delegation (a red badge), even though other members of the same NGO wear a badge of different color (yellow). This kind of erosion of government-NGO border needs more attention, as it may change the whole dynamics of NGO participation in the international negotiation process and decision-making procedure, and thus may lead to long-term facilitation of climate talks.

Since COP1 there have been climate NGO members in some of the governments' delegations. It is hard, however, to identify at a glance which organizations are climate NGOs, as there are 189 parties to the UNFCCC and each country has different names for respective climate NGOs in its own country. Still, there are some internationally acknowledged NGOs such as Greenpeace, the WWF and Climate Action Network (CAN) that have sent delegations to climate negotiations. Among the countries that have consistently included climate NGO members in their delegations are Canada, Denmark Switzerland, South Africa, Indonesia and the Philippines, whereas countries such as Japan and the US usually do not have any NGO participants in their delegations.²⁰

Table 2 shows the number of NGO representatives in official (governmental) delegates to the COP meetings. The data source used is the list of participants by UNFCCC secretariat. In order to identify types of NGOs we searched through internet and visited the organizations' home page, and categorized NGOs by their main interests. In case of climate NGOs, we also looked at the funding sources, as long as they are available, and omitted the ones whose funding relies too much on the government (e.g. more than 90%). Generally speaking, the number of research NGOs and industry participants in the governmental delegate is in the trend of increase. On the other hand, the number of climate NGO has been stable, with exceptions of two COP6s. Some NGOs choose to not to be in the delegation, because the institutional setting of climate talks is effective enough to allow them staying outside of official governmental delegation (in

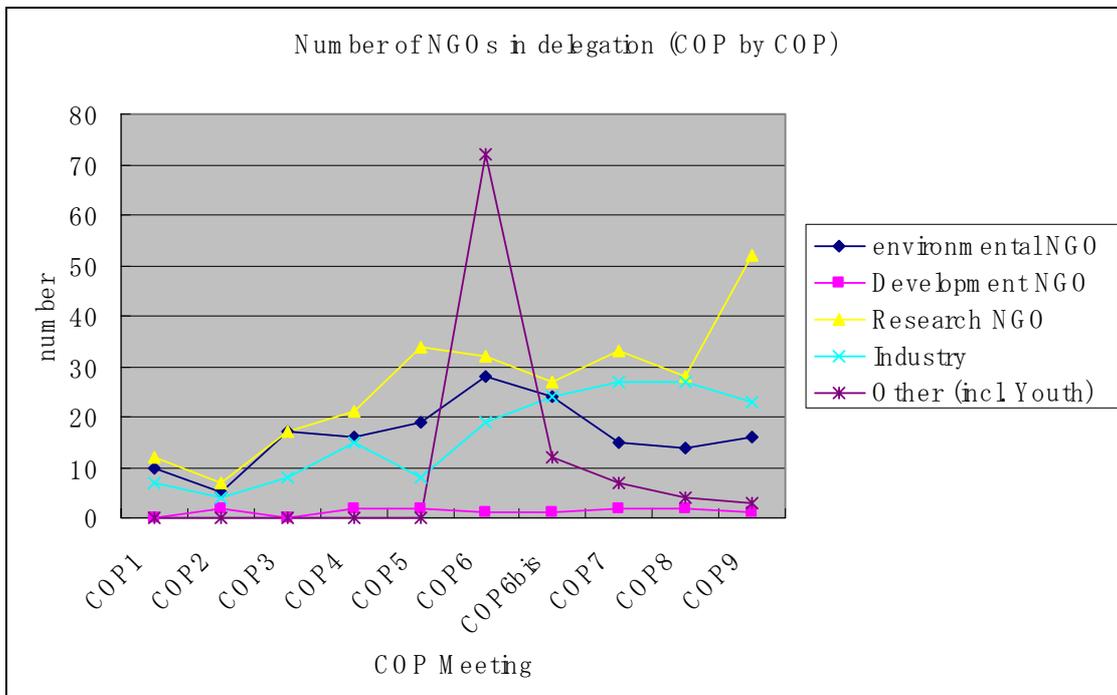
²⁰ Japan included five NGO members in their delegation to WSSD, but not in UNFCCC COP. The only exception was at COP6 when they included a youth delegate from an environmental NGO.

terms of transparency, etc), or because they have better free hands to speak in public by staying outside. In order to investigate further into the reasons for this and the effects of NGOs in the delegation, particularly the effects for climate NGOs, we now investigate closely into a few examples of NGO participations of this mode in the next section.

Table 2.

	COP1	COP2	COP3	COP4	COP5
climate NGO (develop't NGO)	10(0)	5(2)	17(0)	16(2)	19(2)
Research NGO	12	7	17	21	34
Industry	7	4	8	15	8

	COP6	COP6bis	COP7	COP8	COP9
climate NGO (develop't NGO)	28(1)	24(1)	15(2)	14(2)	16(1)
Research NGO	32	27	33	28	52
Industry	19	24	27	27	23
Other (incl. Youth)	72	12	7	4	3



In summarizing this section, the six modes of NGO engagement in climate talks are summarized in Figure 2.

[Figure 2 here]

4. Hybrid mode of Climate NGOs: The cases of Denmark, Switzerland and Canada

For a closer look at the actual function of the hybrid mode of participation by climate NGOs, I have chosen the cases of Denmark, Switzerland and Canada, first because those countries tend to have climate NGO members in their delegation, and second, because they represent different types of engagement. Of course, this may not paint a comprehensive picture of the hybrid mode. However, through the interviews I have conducted during the World Climate Change Conference in Moscow in October 2003, COP9 in December 2003, COP10 in December 2004, three international conferences organized by NIES, IGES and TITech in September in 2003 and 2004 and March 2005, and various other occasions including workshops to talk to delegates to climate talks, including Japanese delegates, I believe that deeper observation of one case and complementary cases to this, with the help of insight gained by other interviews and secondary sources of research results, covers most of the important aspects from which we need to draw lessons for facilitating global participation.²¹

4.1. The case of Denmark²²

The Danish government began close collaboration with NGOs in the early 1990s in the process leading up to the UN Conference on Environment and Development (UNCED, Rio de Janeiro, 1992) on the grounds that sustainable development needs wider participation and transparency. The platform on the NGO side was the “Danish 92 Group”, a coalition of 20 Danish NGOs working on environment and development in order to co-ordinate Danish NGO preparations for UNCED. The cooperation has continued since then, integrating environment and development related NGOs in the spirit of the Rio Conference.²³ They have a secretariat in Copenhagen, and meet approximately once a month.

The Danish NGO community has sent members to the government delegation to climate change conferences since the 1993 International Negotiating Committee for a Framework Convention on Climate Change (INC), even before COP started. With few

²¹ Interviews were conducted with delegates of the following countries and NGOs: Argentina, Australia, Austria, Canada, Denmark, EC, Finland, Germany, Indonesia, Japan, Malta, Morocco, Netherlands, South Africa, Surinam, Sweden, Switzerland, UK and US; CAN Europe, Greenpeace, United Nations University, FIELD, WWF (China, Netherlands, Denmark, Switzerland), IISD and members of IPCC.

²² The section on Denmark is drawn from a personal interview with Mr. Lars Jansen and Mr. John Nordbo during COP9 and March 2004 in Copenhagen. I am grateful for their generous cooperation.

²³ <http://www.92grp.dk/inenglish/Default.htm>

exceptions, they have continuously sent delegations. Usually there is one delegation from the environment side, and there is another from development side. Selection depends on the NGO side, and therefore, in principle, the 92 Group decides. The 92 Group also sends delegations (within the governmental delegation) to WTO meetings, etc., and they present their position paper beforehand. This is not necessarily the same as the government position, but interestingly, until 2001 almost 90 percent of the positions coincided with each other, which of course helped their delegates' activities. When it comes to different positions, they bind themselves under a gentleman's agreement: should they wish to criticize the position of the government in public, they must raise the issue beforehand with the delegation, and most likely to the head of delegation.

There is another gentleman's agreement. The NGO delegates are allowed to enter the meetings (deliberations) of delegations. As Denmark is a member state of the EU, they are also allowed to observe the EU meetings. Sometimes NGO delegates are asked to step out of the meeting, but this depends on the situation and on the personality of the delegates. In those meetings, sometimes very sensitive information can be heard, which can be obtained just because they are in the delegation. And here is the gentleman's agreement that NGO delegates do not disclose the information until it appears from other source(s) of information.

Under such conditions, the government benefits from having a few NGOs in the delegation. They are able to get to know NGO positions and NGO movements, which has had a greater impact on the direction of the negotiations in recent years, through the channel of the NGO delegate in a timelier manner. Furthermore, the government has an interest in the NGOs acting based on accurate information, not rumors or mistaken information. It is healthy for neither the NGO nor the government if the NGO acquires and acts on incorrect information. There are merits in sending delegates for NGOs as well. In a sense, the delegates, even though they are from NGOs, are restricted by joining the government delegation and cannot speak freely as long as they are wearing a red badge. However, the chance of having their arguments realized is also higher if they are in the delegation. If successful, NGO delegations would be able to go "between a lobbyist and an advisor". Especially in case of Denmark, the NGOs' position and the Danish government's position, which has generally been perceived by climate NGOs as one of the most environmentally friendly, were very similar, which also helped in closer collaboration. At COP9, for example, comment made by an NGO delegate was incorporated into a speech of the government.

This means that NGO delegates should have well-balanced sensibilities. They need to have a good sense for getting a general view of the NGO as well as a good sense for reading the political atmosphere, and they need to be trusted by both sides. In the words of one of the Danish NGO delegation members, NGO delegates need the sense of a "thermometer" between

the NGO and the government, and must sensibly translate the languages of each other for each other. In fact, one of the Danish NGO delegates was the coordinator of an international NGO when he chose not to participate in the COP as a government delegate, where he had more freedom to speak. In short, an NGO delegate's role, position and effectiveness depend largely on their personal capacity, trust and vision.

4.2. **The cases of Switzerland and Canada**

Switzerland has usually included two representatives from civil society in their delegation since COP1: one representative from an environmental NGO and another representative from a development NGO. Sometimes a representative from business or industry (mostly from chambers of commerce or employer's confederations) as well as a researcher is also included. An NGO's coordination office decides whom to nominate, but the record shows that representatives from WWF Switzerland are often nominated.

Before attending the COP they are invited to several preparation meetings, and at the COP they can attend delegation meetings every morning. The information gathered at the morning meeting is confidential, but there is no other confidentiality agreement. Sometimes they also are part of informal negotiation groups of the Swiss delegation. For this there is "no detailed mandate from the government about what to say in the negotiation".²⁴

What the government expects of the NGO is to inform them of the position of the NGO community, namely the Climate Action Network (CAN) in this case, and to act as a bridge between the government and NGO. On the other hand, NGOs do not expect the government to inform them explicitly of the government's position. The positions of the NGO that the delegate is originally from and the positions of the Swiss government do not conflict, according to a Swiss NGO delegation.

The Canadian case is quite similar to the other two, but one major difference is that in the case of Canada delegates are bound by a confidentiality agreement and they are not able to disclose the information obtained because they are in the governmental delegation. Also, NGO representatives are not invited to closed meetings. Canada has a negative experience: at COP3, a NGO delegate leaked information. According to one Canadian government official, that incident decreased the credibility of the NGO representative, and the person has not been invited to the delegation since then. At COP9, an NGO representative was a researcher and was doing his research with neither a close working relationship with the government nor the NGO community.

4.3. Lessons from the cases: Interactive diplomacy to facilitate greater participation

²⁴ Personal interview with Swiss NGO delegation at COP9, December 2003.

The following points can be learned from the cases.

- The hybrid mode of NGO participation depends on the strategy of the government and on how the government perceives NGOs. If the government is willing to collaborate closely with NGOs, there is room for NGOs to be in a delegation, should the NGOs also find it valuable. However, if the government does have a close working relationship with NGOs, then NGO involvement in the delegation may not be necessary, as they have close contacts with delegates anyway (Gulbrandsen and Andersen 2004: 60-61). The Netherlands' government, for example, has maintained a good relationship with NGOs, but both the NGO members and government delegations are satisfied with the NGO not being in the delegation in the climate talks, as they maintain adequate informal interaction.²⁵
- The hybrid mode of NGO participation also depends on historical relationship between the government and NGOs in the given state. Japan, for example, the nature of domestic decision-making has been top-down and NGOs' expertise and knowledge have not often been utilized in its external policy, whereas Canada works closely with NGOs in building international regimes such as in the case of the "Ottawa process" for the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction. Such difference is significant whether or not, and to what extent NGOs are engaged in the deliberation both internally and externally.
- Participation does not necessarily mean influence. The role of an NGO representative in the delegation may be greater and more influential if the position of a climate NGO is similar to that of the government. Another important element to determine influence is the personal trust between the NGO representative and other governmental delegates.
- NGO delegates are likely to have their freedom of activities restricted in return to wearing the red badge. In some cases it is in the form of a written agreement, while in others it is in the form of gentleman's agreement.
- When in the delegation, an NGO has more room to realize their ideas than otherwise, because of the information they can obtain just by being in the delegation. Again, however, this depends on their relationship with the governmental delegates and their position relative to the position of the government.
- The government gets closer access to NGOs' positions and their possible actions when they have NGOs in the delegation. The government can also provide with accurate sources of information to NGOs to prevent misunderstandings.

Having NGOs in the delegation or not depends very much on the will and strategy of

²⁵ Interview with Mr. Yvo de Boer (Ministry of the Environment) and Mr. Sible Shone (WWF Netherlands). Also see Kanie (2003).

the governments as well as those of NGOs. Moreover, as long as they have mutual contact and established relationships to the extent that they are confident that information is being provided to the NGOs without problems, and as long as the manner in which the NGOs are engaged in the negotiation process is satisfactory to each of the parties, it may not really matter much whether or not NGOs are actually in the delegation. Yet, it certainly has a symbolic effect to have NGOs in the delegation with regard to a perceived distance between the government and NGOs. In fact, since the 1992 UNCED a growing number of have begun to have NGO members in the delegations, especially in the sessions of Commission on Sustainable Development (CSD), including WSSD, and in other social issue-related groups such as World Conference on Women, and growing attention is being paid to NGOs' relations with government (Princen and Finger 1994, Newell 2000). In some cases, an NGO delegate may end up as just a symbol: there may be little practical effect and NGOs may have limited access to the actual negotiating table or limited capacity to disclose the information gathered because s/he is a delegate, while in other cases it has a real effect. Lawyers from the British-based foundation FIELD (Foundation for International Environmental Law and Development) have had a considerable amount of impact on the negotiation of legal issues such as compliance issues through their participation in the inter-governmental negotiations as delegates of AOSIS countries, in which they participated as advisors (Gulbrandsen and Andersen 2004: 60). Again, we should not just pay attention to whether or not NGOs are in the delegation, but we need to pay attention to the general relations between NGOs and the government in order to evaluate the actual effect.

In addition to the possibility of turning into merely a symbol, the hybrid mode of NGO participation also has the potential to further erode the border between the government and climate NGOs. By being in the governmental delegation, an NGO member can go beyond being an advisor and even become a (quasi-)negotiator as an approved member of the government. More importantly, they can bridge the information and position gap between the government and climate NGOs and might be able to create a new coalition through "interactive diplomacy" (Cooper, English, Thakur 2002). I would like to explain this further.

Interactive leadership, as explained by Andrew F. Cooper, takes the form of a joint management between state and non-state actors based on the interaction between like-minded countries and the NGO community (Cooper 2002). Although not an environmental issue, the case of the global ban on anti-personnel landmines, for example, shows that "non-hegemonic states and transnational social movements can achieve diplomatic ends by working in partnership" (Cooper 2000: 10). By developing a good working relationship with non-governmental actors, a country or a group of countries could work together towards a common goal, which would have a positive influence on the mobilization of public opinion in and out of the conference venue, and then exert an influence back on the negotiation outcome.

Climate NGO members in the delegation, using their network, may be able to make a coalition with like-minded climate NGOs. What is important here is that those NGO members are in the governmental delegation, which means that a like-minded country (or like-minded country's coalition) is behind such coalition. In a state-centric international multilateral negotiation process, governments make coalitions on the one hand and NGOs utilize their networks on the other hand (Zartman 1994, Chasek 2001), but, with NGOs in the delegations there may be a hybrid coalition between the like-minded governments and NGOs. Of course, a precondition for this is that the government should maintain close collaboration with NGOs even without having them in the governmental delegation, but through this arrangement the collaboration becomes more intimate than it would be otherwise, and a positive "multiplier effect" between NGOs and government may be created (e.g. producing better ideas). In most cases environmental ministries and ministers are situated in relatively a weak position in the governmental hierarchy, but through international interactive coalition they can gain more normative backup than they would otherwise have, with NGOs acting as a "moral authority" (Hall and Biersteker 2002, Hall 1997).

In the long-term there is also a possibility of expanding the membership of the coalition to, for example, like-minded local authorities or states (in case of the US), which would have an increased significance when the implementation of climate policy, including the Kyoto mechanisms, makes further progress. This kind of facilitation to create a new type of transnational, hybrid coalition could become a new type of interactive diplomacy that may even become a new type of leadership in the bottom-up multilateral negotiation process (Cooper, English, Thakur 2002). Climate NGOs, even those who come to climate talks, include those from non-Kyoto parties such as the US and Australia. Taking into account that those NGOs, such as Environmental Defense (ED) or the World Resources Institute (WRI) in the US, also often work with the Federal Government (Gulbrandsen and Andersen 2004: 60-61), they may be able to function to facilitate global participation in the long-run. States are not able to participate in the Kyoto regime by themselves, for example, but their policy or normative basis may be influenced, or informed at least, by the network developed through such a coalition.

5. Conclusion

To go back to the original research question, what should we do to facilitate and encourage global participation in tackling the global issue of climate change and overcome the obstacles causing the lack of global participation? To begin with the conclusion of this chapter, we should be reminded that there are two levels of facilitation. One level is relatively short-term facilitation, directly addressing those not party to the internationally negotiated agreements of the Kyoto Protocol (and its future form) to facilitate participation. To this end, traditional

diplomatic efforts and stronger international leadership matters. Climate NGOs may exert influence as activists and put international pressure on non-parties. They may also apply pressure by observing and criticizing international behavior of a non-party. Furthermore, they may also be able to create new ways to frame the negotiations (e.g. suggesting new issue linkages, creating new proposals for institutional settings, etc.) through their advisory capacity. Climate NGOs have been, and will be, changing the dynamics of the international negotiation process, but when it comes to influence on the decisions of non-parties who are not actively engaged in the negotiation process, their mode of activity is limited to that of a “traditional” pressure group.

Another level is long-term facilitation, which is to facilitate global participation in a longer term. Such participation includes not only country-level participation, but also broader societal participation that has normative impacts and will in turn influence decisions at the level of individual countries. It is in this respect that the current variety of modes of engagement of climate NGOs in climate talks matters more for facilitating participation. In addition to the three modes mentioned above, the hybrid mode of engagement can blur the gap between the government and NGOs, and further facilitate wider participation, through likeminded coalitions between governments and climate NGOs, and through interactive diplomacy. Equally important for long-term facilitation are the roles of climate NGOs as legitimator and implementer/monitor. NGOs can “serve important epistemic and legitimation functions in formulating transnational policy decisions, regime rules, principles, and decision-making procedures”, and therefore, their participation itself legitimates the participation of their country of origin in the long run (Hall, Biersteker 2002). Through an international network of NGOs, implementation and monitoring also legitimate parties to international frameworks, and also develop norms. Moreover, implementation of CDM projects may also bring the development NGOs on board, so that number of participants who work on the climate issue might also grow.

In order to promote further long-term facilitation of participation, I propose here to organize multi-stakeholder dialogues (MSD). This may complement the current institutional lack of interactive information exchange between the inter-governmental bodies and implementers/monitors (or even among implementers and monitors themselves), and facilitate further participation while securing the efficiency of the negotiation process. If this could include the issue of the impact of climate change, it could also legitimate the inter-governmental process in terms of impact and complement scientific evidence on the impact of climate change. In fact, it has also been proposed by the UNFCCC secretariat as one of the options for improving participation. They point out that current human resources and budget do not allow convening such a process, but also state that it can bring new ideas and practical realism into the deliberations and increase understanding between parties of different positions. With the Kyoto

Protocol entering into force on 16 February 2005, climate talks and policies have entered a new phase where implementation of Kyoto is concurrent with agenda-setting for negotiations beyond 2012, which is expected to start at COP11/MOP1 in Montreal. MSDs can bring into the global level discussions matters concerning how to implement global decisions at national and local levels in a concrete manner. It can also inspire global exchange of information in such issues as which tools, strategies and partnerships would be needed for sustainable policies and policy-making. This would also generate more engagement and more commitments (Hemmati 2002: 215). Such a dialogue is in line with one of the objectives of the COP, stating that reviewing the implementation of the Convention and examining the commitments of parties in light of the experience gained in implementing climate change policies is an objective of the COP (Climate Change Secretariat 2002: 16). A participatory and transparent exchange of views improves the prospects for a more effective enforcement and compliance system (Haas 2004).

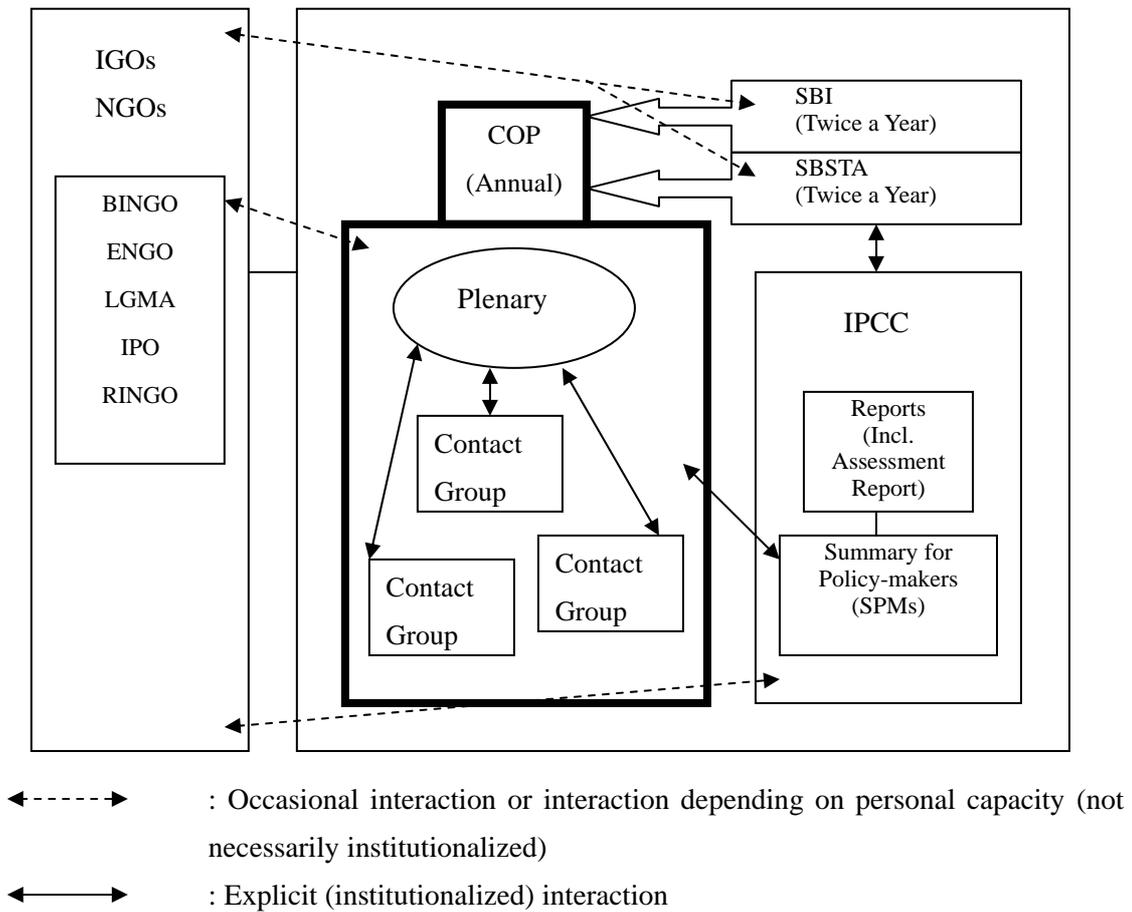
After all, as climate change is a long-term global issue, only broader participation, both in terms of parties and in terms of civil society, can create a sustainable solution. For this purpose, NGOs are key to facilitating long-term climate talks.

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Figure 1. UNFCCC decision-making process and non-governmental actors²⁶



²⁶ Details are simplified in this figure. More detailed account of the institutions of the Convention and the future institutions of the Protocol can be found at Climate Change Secretariat (2002).

Figure 2. UNFCCC decision-making process and engagement of climate NGOs

