

UNDER WHAT CONDITIONS DOES INTERNATIONAL REVIEW ALTER NATIONAL POLICY?
REFINING CONCEPTS AND BUILDING THEORY

Thomas Hale¹

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Abstract: *Many international institutions create formal and informal processes through which state behavior is reviewed by international bodies. Under what conditions can such review processes alter state behavior? Despite the existence of review mechanisms in many areas of international relations, including arms control, trade, financial regulation, and the environment, scholars have yet to systematically theorize the causal mechanisms through which review itself can affect behavior and outcomes. This theory-building paper addresses this gap by providing a summary and typology of existing review processes and positing causal mechanisms through which review processes are likely to affect state behavior. The 2015 Paris Agreement on climate change, in which review processes are envisioned to play a major role, is used as an example to illustrate the theoretical considerations at stake. I argue that review should be seen not merely as a compliance mechanism, but as an ongoing process through which political contestation occurs. Seeing review in this way helps address longstanding theoretical dilemmas around compliance in IR theory.*

1. Introduction

A core tenant of institutionalist international political economy (IPE) is the idea that states create international institutions to help ensure compliance with agreements between states. Such institutions typically do two things in the rational institutionalist view. First, they provide information about state behavior (e.g. via monitoring mechanisms). States' actions are often difficult to observe because they are distant, technical, furtive, shielded by sovereignty, or otherwise non-obvious. Moreover, states often have strategic incentives to misrepresent their actions. For these reasons, information produced or vetted by IOs can help states better understand the costs and benefits of their own policies, give states the ability to send credible signals to others, allow them to follow reciprocal strategies of cooperation, or help them mobilize domestic constituencies at home or abroad, altering state behavior (Keohane 1984, Milner 1997, Morrow 1999).

¹ Associate Professor, Blavatnik School of Government, University of Oxford.
Thomas.hale@bsg.ox.ac.uk. I would like to thank my co-authors (on related pieces) Max Harris and Harro van Asselt, as well as all the participants of an April 2016 workshop on the Paris Agreement at Arizona State University, for helping me think about these issues. I also thank Jessica Green and Robert O. Keohane for their thoughts, as well as the Oxford IPE Seminar group.

Second, international institutions create incentives for states to comply by offering technical or material support (e.g. through capacity-building or funding mechanisms) and/or, more rarely, penalizing non-compliance (e.g. through dispute settlement or enforcement procedures that result in sanctions). When such positive or negative incentives sufficiently outweigh the advantages of flouting agreements or the costs of implementing them, states should comply.

IOs can provide information or alter incentives via many different institutional arrangements. Amongst them, review by an international body stands out as one of the most common instruments. Review processes can be found in IOs in every issue area of world politics, from arms control, to trade, to human rights, to the environment. They also exist in a number of private and transnational bodies, though here I focus on intergovernmental organizations. While they take many different forms, most review processes involve reporting by the state and/or independent groups on its behavior, often comparing the state's actions to some standard, hard or soft. The report is then considered by other actors, for example, the IO secretariat, other states, technical experts, or civil society groups, who may question or otherwise engage with the state under review. In some cases a final evaluation of the state's behavior is issued. Review processes vary significantly in their stringency and formality, and in whether they are focused on enforcement, opening the door to legal or informal sanctions, or "facilitative" in nature, focused on problem-solving and capacity-building.² Viewed through the lens of rationalist theories of compliance, review processes therefore mix information provision and incentive creation. In this way they seem to sit between the two compliance mechanisms most studied in IPE, monitoring arrangements and dispute settlement procedures.

Review processes acquired new salience following the 2015 Paris Agreement, widely hailed as an important step forward in efforts to address climate change after some 25 years of multilateral gridlock. The Agreement puts review processes at its very core (van Asselt, Hale et al. 2016). Countries were able to find agreement in large part because they shifted the climate regime from a traditional "regulatory" model, in which legally binding emissions reductions would be negotiated amongst all countries, to a "catalytic" model in which countries would pledge their own "nationally determined contributions," which would then be subject to various forms of international scrutiny. The Paris Agreement creates three kinds of review processes: an "enhanced transparency framework" that reviews individual states' implementation of their pledged contributions (Article 13); a "global stock-take" that reviews collective efforts toward the Paris Agreement's goals by all states (Article 14); and an expert-based "compliance mechanism" that seeks to help states fulfill their

² International legal scholars have emphasized distinctions along these lines in the context of legal compliance. See Chayes, A. and A. H. Chayes (1995). *The New Sovereignty: Compliance with International Regulatory Agreements*. Cambridge, Harvard University Press.

, Raustiala, K. and A.-M. Slaughter (2002). *International Law, International Relations, and Compliance*. *Handbook of International Relations*. W. Carlsnaes, T. Risse and B. Simmons. London, Sage Publications.

commitments in a “facilitative, non-punitive” fashion (Article 15). The logic of this catalytic, “pledge and review” regime is to shift the difficult task of raising country’s efforts on climate change from the negotiation process to the review process, making review the hinge on which the Paris Agreement will succeed or fail. This switch allowed countries to come to an agreement, but is it able to reduce their emissions more than they would have otherwise? This question echoes the longstanding debate in international relations theory on whether international agreements induce compliance in states that join them, or if states simply join agreements that are easy to comply with (Downs et al. 1996).

Given the critical nature of this question, and the widespread use of review processes in international organizations, it would be natural to expect a wide literature on how review processes function, and, specifically, the conditions under which, and mechanisms through which, they affect national policies. But while the IR literature has devoted significant attention to how IOs provide information regarding state behavior, on the operation of information and enforcement provisions, and on the issues compliance with international agreements, very little has been written on review processes per se; two important exceptions, discussed below, are (Victor, Raustiala et al. 1998) and Chayes and Chayes (1995). The Rational Design literature, for example, emphasizes how the degree of uncertainty can lead to different institutional designs, or how certain cooperation problems require harder enforcement provisions, but looks less at the mechanisms through which information or sanctions are provided (Koremenos, Lipson et al. 2001, Koremenos 2005). Other literature has considered how transparency provisions (Hale 2008) or systematic reporting indicators (Kelley and Simmons 2014) affects state behavior, and there is a substantial empirical and theoretical literature on monitoring mechanisms and enforcement procedures in trade, security, human rights, and other realms. While there has been some attention to IO review processes in legal scholarship, particularly in the realm of human rights, it does not seek to theorize the casual effect of review on national policy.

This paper argues that the monitoring and enforcement functions studied in the literature are conceptually distinct from review, which should not be understood simply as the provision of information or the creation of positive and negative incentives, though review processes can often serve these functions. Indeed, review should not be seen only through the lens of compliance. Rather, review is best conceptualized as a set of political processes that can affect state behavior through a number of distinct causal pathways, which this paper explores. These pathways encourage us to see review processes not only as tools to enhance compliance post agreement, but as instruments through which states and other actors seek to alter state behavior over time. Review processes therefore provide, in part, a forum to continue political contestation around the cooperation problem at hand after an agreement has been made. States and other actors use them to advance their goals through both informational and incentive-based strategies, as well as more sociological processes of learning and norm construction and diffusion (Chayes and Chayess 1995). Moreover, beyond the scope of the agreement itself, review processes can create informal opportunities for states, transnational actors, and domestic groups to engage

with governments and pressure or entice them to alter behavior. (Victor and Raustiala 1998) In these ways review can affect not only states' compliance with existing agreements, but their broader policies, including their propensity to make new agreements on a topic in the future.

Seeing review processes in this way helps to shed light on the longstanding dilemma of compliance in international relations theory. Compliance with international agreements is generally observed to be high, but is this because international institutions "work," or because states are only likely to sign up to weak agreements that do not ask much of them (Downs et al. 1996)? Empirically, it is often difficult address this endogeneity by establishing a plausible counterfactual. Looking at how review affects not just compliance, but behavior more broadly, can help to elide this difficulty.

The aim of this paper is theory-building, It firsts examines the theoretical issues at stake, specifying the dependent variable of interest and elaborating the research question (section 2). It then proceeds inductively, surveying the use of review mechanisms in international institutions (section 3) and putting forward a general conceptualization of "review" as a distinct function IOs perform (section 4). It then posits a range of causal mechanisms through which review processes can be expected to alter states' behavior (section 5). Section 6 then applies these ideas to the Paris Agreement, considering how it might best be designed to alter states' behavior. The paper does not engage in empirical testing—the Paris Agreement's review processes are still being finalized and are not yet operational—but this will be an important next step for future work.

2. Cooperation versus compliance: international review and state behavior

International cooperation can be defined as the mutual adjustment of national policies to realize joint gains between states (Keohane 1984). Such cooperation is often achieved by creating an international agreement and institutions to implement it. Critically, however, cooperation is not necessarily the same thing as creating and joining a treaty or IO, though the process of achieving cooperation often includes that latter. Indeed, as Downs et al. (1996) note, the creation of agreements and compliance with those agreements is in part endogenous to states' willingness to cooperate. Consider a typical trade agreement. Such agreements often set an upper limit on tariffs or quotas, forbidding countries from raising barriers to imports over a certain level. However, actual tariff rates are typically set by each state through a domestic policy process. International agreements influence or even determine (for example when treaties are automatically incorporated into national law) the tariffs or quotas a state sets, but are distinct from it. For the purposes of this paper, I define "compliance" as state behavior that meets international agreements (e.g. setting a tariff below the proscribed maximum), and "cooperation" as state behavior that realizes joint gains (e.g. setting a tariff barrier that creates more trade).

This paper focuses on cooperation as the dependent variable of interest, not compliance. The distinction is important for understanding the effect of review

processes, and of international institutions more broadly. If agreements are weak, compliance may not mean much in substantive terms. It may not even constitute international cooperation at all, if there are no mutual policy adjustments that create joint gains. For compliance to generate cooperation, agreements must be substantively meaningful. Many treaties, for example the many bilateral investment treaties between states that have only trivial investments in each other's economies (Poulsen 2015), may see significant compliance but only because they demand little cooperative behavior.

Alternatively, if agreements are very stringent, states may not reach compliance, but still make meaningful policy changes that produce common benefits. For example, many states fall short of the WHO's International Health Regulations, a technically challenging and resource-intensive standard for healthcare systems, but the agreement and associated processes nonetheless help them improve their healthcare systems in ways that meliorate the risk of infectious diseases spreading internationally (Kickbusch 2016).

Because the level of compliance is defined by the stringency of the agreement, which is in turn endogenous to states' propensity to cooperate in the first place, looking at the effect of review (only) on compliance may lead to ambiguous conclusions. For these reasons, is it important to focus on cooperation, not compliance to understand the effect of review on state behavior.

There are other analytic reasons to distinguish cooperative behavior from compliant behavior as well. Many regimes do not have a rigid definition of compliance, but rather seek to harmonize policies toward best practices amongst a peer group or to improve on past performance. The OECD, for example, runs a number of transgovernmental networks aimed at diffusing best practices between member governments. Compliance is not a helpful concept for understanding how such agreements generate international cooperation. Finally, even in those regimes that define compliance explicitly, the determination of formal compliance or non-compliance is often a strategic and political choice. Labeling a state compliant or non-compliant may be a strategy states, IOs, or other actors use to reward or punish states. Sometimes states are happy to tolerate non-compliance in another state because do not wish to antagonize it into becoming even less cooperative than it already is. Alternatively, states may declare even a well-performing state to be non-compliant as a pressure strategy. Even in highly technical, legalized institutions, such as the WTO DSM, political considerations can shape determinations of when and how compliance is determined, just as in national courts (Kucik and Pelc 2016). The point is not that compliance is not meaningful or worthy of study; in many cases, compliance is exactly the mechanism that causes cooperation. However, for the purpose of understanding the effect of review, whether state behavior is cooperative or not is the more useful dependent variable.

Looking at how review processes affect states' propensity to engage in cooperative behavior encourages us to see these institutions as more than just compliance mechanisms. They can instead be seen as a set of institutions and processes through which a variety of actors seek to alter state behavior—to

make it more cooperative—on an ongoing basis. Review processes may help enforce previously made agreements, but they also create a variety of channels for states, international organizations, and other actors to work to alter state behavior over time. This broader, “compliance plus” perspective comports with many elements of the empirical record. In some cases review mechanisms have been created long after the original treaties were agreed. In others, there is no firm standard for compliance, but rather a set of shifting practices that states converge around. In still other regimes, agreements change over time, with new treaties being adopted to increase or alter the level of commitment. This iteration means that new agreements are potentially influenced by the review processes created in previous episodes. And even in the “traditional” cases when review processes are created as tools to promote compliance via information and incentives, there is no a priori reason to expect states and other actors *not* to use the review process to further their objectives beyond what was originally agreed.

Seeing review processes in this way suggests various pathways for review to alter state behavior. In this respect, two critical insights emerge from the existing literature on review, which see review processes as an ongoing set of political interactions with the potential to affect state behavior, not just a tool for compliance.

The first is the idea that review processes can implicate a wider array of actors and institutions than just the formal elements of an intergovernmental regime. Victor and Raustiala’s (1998) excellent study of review in environmental treaties captures this idea by defining the unit of analysis as “systems of implementation review,” by which they mean “rules and procedures by which the parties to international agreements (as well as interest groups, administrative bodies, and the like) exchange data, share information on implementation, monitor activities, assess the adequacy of existing commitments, and handle problems of poor implementation” (p. 18). The idea is that the information and interactions review processes create may give rise to a wider series of political dynamics than explicitly outlined in the treaty, or originally intended. In their study of review in environmental treaties, Victor and Raustiala (1998) find,

“Typically, the functions of implementation review have been performed by a decentralized array of institutions and procedures; only a small fraction...were explicitly dedicated to that purpose. In all cases, most functions of implementation review evolved informally, after the agreement entered into force” (p. 677).

For example, in the Montreal Protocol, review of China and India’s compliance with the agreement came up not in the formal compliance body, but in the funding body intended to build capacity to implement the Protocol (ibid, p. 677). In other cases, independent scientific groups came to play a critical assessment role in reviewing data on compliance, even though they had no formal standing under the agreement.

The second insight from the literature is that review processes are ripe institutional environments not just for the mechanisms of information and incentives most favored by rationalist IPE scholars, but also for epistemic, sociological, and norm-based dynamics, which also offer pathways to push state behavior toward compliance. Chayes and Chayes (1995) explored these dynamics in depth in their concept of “managerial compliance.” In this view, non-compliance is only rarely a problem of strategic, intentional cheating, and more often a result of ambiguity in international agreements, deficiencies in state capacity, or exogenous shocks. The implication is that compliance should be perceived less as an exercise of identify and potentially punishing defectors, but rather as a problem solving exercise, something to be “managed.” Such management occurs in a variety of ways, according to Chayes and Chayes, as states learn from each other’s experience, emulate and adopt norms through socialization and a logic of appropriateness, or persuade each other how best to address a barrier to realizing joint gains. Within this framework, Chayes and Chayes devote a chapter to review processes in the ILO, OECD, and IMF, which they describe as quintessentially managerial:

When questions about performance emerge, the review explores the shortfalls and problems, works with parties to understand the reasons, and develops a program for improvement...Differences about the content and applicability of the governing norms is resolved. Technical and sometimes financial assistance is provided” (Chayes and Chayes 1995, p. 229-230).

Downs et al. (1996) place the managerial approach to compliance in contraposition to the rational institutionalist approach that emphasizes information and incentives. Focusing on review, as opposed to monitoring and enforcement, and on cooperation, as opposed to compliance, suggests that this juxtaposition is intellectually tempting but ultimately facile. There is no theoretical reason why review mechanisms cannot operate in both ways, and, as we will see below, many are designed with elements of both in mind, though some tend more one way or the other. Indeed, the ability of review processes to bring a diverse range of forces to bear on state behavior is often what makes them effective and attractive. As Victor and Raustiala (1998) note, “Compliance with binding treaties is high because they often contain only modest, easily implemented regulatory commitments. Nonbinding agreements frequently contain more ambitious commitments—they are often marked by low compliance buy higher influence on behavior. We suggest ways that binding and nonbinding instruments can be used in tandem to maximise effectiveness (xi).”

3. A survey of review processes in international organizations³

This section briefly summarizes several review processes in IOs from different areas of world politics in order to demonstrate their scope and variation (see

³ This section draws on Hale, T. and M. Harris (2014). Country-to-Country Review under the Next Climate Treaty: Lessons from Other Intergovernmental Review Processes. Policy memo, Blavatnik School of Government.

also (van Asselt, Sælen et al. 2015)). Notably, many review mechanisms exist alongside other information provision functions (e.g. a complaint mechanism or a monitoring mechanism).

Review has now emerged as a common feature of international organizations. But this was not always the case. The ILO's review process was perhaps the first formal review mechanism (Chayes and Chayes 1995). Lanchbery (1998) traces how review mechanisms emerged slowly and at first informally in environmental treaties (Lanchbery 1998). These informal models were then included as explicit, formal features of later treaties. In human rights, a similar pattern can be seen, with review shifting from informal practice to explicit design feature. The Paris Agreement, with its heavy emphasis on formal review mechanisms, shows how central the instrument has now become.

The Universal Periodic Review of the Human Rights Council

In 2006 the UN General Assembly established the Human Rights Council (HRC) to serve as a clearinghouse for human rights in the UN system. Supported by the Office of the High Commissioner for Human Rights (OHCHR), the HRC performs various information-provision functions: it considers specific thematic issues, often commissioning teams of experts to report on a topic; it operates a complaint procedure through which evidence of human rights violations can be submitted to the Council; and it runs the Universal Periodic Review (UPR). This review process considers the entire human rights situation in a country, across all relevant international human rights laws, and is envisioned as a "cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs" (UN Doc A/RES/60/251, 2006). The UPR came into existence only decades after many of the core human rights treaties had been agreed. It was therefore never part of the institutional design of the agreement whose compliance it seeks to enforce. Rather, it represents a more recent effort to improve human rights practices by states.

The UPR is explicitly government-to-government; each country's review is overseen by a "troika" of three HRC member states. Information for the review comes from three sources: a national report compiled by the country under review (around 20 pages in length); reports produced for other United Nations treaty bodies (and compiled in a document no more than 10 pages long); and reports from other stakeholders, such as non-governmental organisations (not more than 10 pages long). These reports are packaged into a report by the HRC, with the troika compiling the relevant information, and then discussed by the HRC in its meeting. HRC members make recommendations about particular countries' human rights records: for example, the Russian Federation recommended that the United Kingdom set up a national programme to tackle overcrowding in prisons. Countries will respond to recommendations, and can accept the recommendations, not accept the recommendations, reject the implication of certain recommendations, and/or choose to act in certain ways (for instance, countries can agree to implement recommendations immediately). In addition, NGOs are allowed to make comments and take part in the

proceedings, although some observers describe NGO participation as insufficient to affect outcomes (Henderson 2008).

The Human Rights Committee of the International Covenant on Civil and Political Rights

The Human Rights Committee is a body of 18 independent experts established by the International Covenant on Civil and Political Rights (ICCPR). Like the Human Rights Council, the Committee has a complaint mechanism that allows states and, optionally, individuals, to bring concerns to its attention. States are also required to submit reports to the Committee every five years, though the committee may request more frequent reporting when specific concerns exist (e.g. a civil conflict). State reports are considered by a sub-panel of the Committee, which may also compile information from NGOs and other actors. These reports are then discussed by the full committee at one of three annual meetings, at which representatives of the state under review, NGOs, and others may be present. Following this dialogue, the Committee issues a set of “Concluding Observations.” This model (involving inter-state complaints, citizen-state complaints, and periodic reports) is similar to the approach used by other United Nations human rights instruments, such as those on torture and children’s rights.

The Organization for Economic Cooperation and Development peer review process

The Organization for Economic Cooperation and Development (OECD) uses peer review to compare experiences and share best practices in a wide range of its committees and working groups. Economic reviews of individual member countries take place every 18 months. Environmental performance reviews happen every 5–7 years. Peer reviews by the OECD Development Assistance Committee occurs approximately every 4 years. Particularly rigorous peer review occurs under the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. While OECD staff play a key coordinating role, and external stakeholders including businesses and NGOs have been invited to participate, reviews are largely state-to-state affairs. While the exact procedures vary considerably within the OECD, the organization identifies four general “share[d] ... structural elements” (OECD 2016):

- A basis for proceeding;
- An agreed set of principles, standards and criteria for review;
- Designated actors to carry out the review; and
- A set of procedures leading to a final result.

The OECD observes that peer reviews allow the exchange of information (often involving civil society, as well), advance cooperation, build capacity (through mutual learning), and encourage compliance through “soft law”. An internal paper praising the OECD model adds that the model produces policy dialogue and transparency (Pagani 2002). According to the OECD, there are also certain preconditions for successful review mechanisms. There must be shared values on the part of nations participating, mutual trust to ensure cooperation and

confidence-building through the disclosure of information, and credibility of the process.

The International Labour Organization model for supervision

Like other IOs, the International Labour Organization (ILO) has both special procedures for complaints (lodged by a member state and leading to a Commission of Inquiry, which carries out an investigation and makes recommendations) and a regular supervision model. This review process has two parts, one consisting of expert review and one consisting of peer review by the ILO's members. The Committee of Experts on the Application of Conventions and Recommendations responds to country reports submitted by governments every two years (for fundamental or priority conventions) or every five years (for other conventions). The Committee of Experts is made up of 20 jurists who sit for three-year terms. The Committee of Experts can make observations (comments on governments' application of conventions), which are published in the Committee's annual report. The Committee can also direct requests (requests for more information, or technical questions), which are not published but are communicated to governments. While Committee comments are non-binding, they focus on compliance with ILO law.

In parallel, the Conference Committee on the Application of Standards, which is composed of states, employers' groups, and workers' groups (following the ILO's tripartite governance structure), considers the annual report of the Committee of Experts. Observations are discussed, and governments referred to in comments are invited to respond and to provide further information. The Conference Committee then concludes that governments should take specific steps, or recommends that it receive ILO missions or technical assistance. This information is compiled in a report.

The United Nations Educational, Scientific and Cultural Organization's World Heritage Committee

The United Nations Educational, Scientific, and Cultural Organization (UNESCO)'s World Heritage Committee (WHC) aims to review countries' performance in maintaining cultural and environmental sites that have been designated as part of global patrimony. The Committee meets once a year and is made up of 21 countries, nominated from the 190 states that have ratified the World Heritage Convention. The role of the Committee is to review reports on existing world heritage sites, to consider adding new sites to the World Heritage List, and to make other decisions about how the World Heritage Convention ought to be implemented. Parties to the Convention submit reports on the status of their heritage sites every six years. These reports are grouped regionally, with all members of a region coming under review in the same year, in order to facilitate exchange and cooperation between countries in similar circumstances. The Committee also considers reports from the International Council on Monuments and Sites and the International Union for the Conservation of Nature, hybrid organizations that include both states and non-governmental actors, as well as

other technical organizations. The Committee therefore functions primarily as an updating body and vehicle for information exchange.

4. Conceptualizing review as an institutional function

The examples cited above demonstrate the range of issues in which review occurs and the variety of forms it takes. Despite this diversity, a common set of features can be found across review mechanisms, which makes them analytically distinct from monitoring or complaint processes. Three core characteristics of review can be identified.

First, review processes involve a **report** on a state's behavior. This report may be generated either by the state itself, by other states (peer review), by IO officials, by designated experts, by external groups, or some combination thereof. The report provides a body of information regarding state behavior that is often qualitatively different from other information available. If the information is provided by the state itself, it may reflect proprietary knowledge of the state's behavior that may not otherwise be available to outsiders. While states may often wish to present themselves in a favorable light, the specific reporting procedures of the review process may at least partially constrain states' abilities to shape the information provided (for example, fiscal data reported to the OECD must be reported in a certain format). If the report is produced by experts, it may have a higher epistemic quality than other information, particularly in resource-constrained or closed countries where the quality of public information may be poor. Finally, information presented in an "official" report may be perceived differently than general information. The very fact that it appears in a report may make it more salient, rising above the 'noise' of information generally available. It may also be seen as more legitimate, having gone through official vetting procedures. For both these reasons, communication via official reports in a multilateral review process may be less likely to constitute "cheap talk" than unilateral disclosures by a state, potentially increasing audience costs.

Second, review processes put information on state behavior into a **context** by comparing reported state behavior to some standard. In some cases, such as the human rights bodies mentioned above, the standard is a hard legal requirement. In other cases, the standard is the performance of other states, as in the OECD's peer review mechanism. And in other cases the standard is the state's own performance in the past, as in the World Heritage Convention review. Regardless of the source and nature of the standard, the contextualization that review provides is essential because it gives meaning to the body of information provided by the report. Is a state's behavior "good" or "bad"? How does it match the requirements to which the state has agreed, or the policy goals to which it aspires? If reporting sends a signal, context clarifies what the signal means, potentially contributing further to the salience and legitimacy of the information. The composition and processes of the review body shape the way context is created, and can vary significantly across review processes. The review body may comprise other states, IO officials, experts, civil society groups, or other

actors. In some cases, the review body issues a formal written statement evaluating the extent to which state behavior conforms to a certain standard. In other cases, no final evaluation is given, and instead the report and the set of comments and interactions it engenders serve as a more disparate form of contextualization.

Third, review provides for a regularized form of **interaction** between a state and other actors (states, IO officials, civil society, etc.) regarding its behavior. This interaction often occurs in a formal meeting at which the report on state behavior is presented and discussed, but may also occur in written exchanges between the state and IO officials or experts. The review process therefore often provides a forum in which state officials are required to explain and justify their behavior against external actors, creating a discursive set of interactions (Risse 2000). Such exchanges are not dissimilar to, for example, legislative hearings or regulatory comment periods, which are common features of domestic politics. For more authoritarian states, such procedures can be deeply uncomfortable, especially when they give voice to domestic interest groups that would not have such an open platform at home.

While all review processes share these three elements—report, context, interaction—as noted above, they vary significantly in form. It is therefore analytically useful to distinguish two ideal types of review, which I term compliance review and facilitative review. In practice, many review processes mix elements of both ideal types, or sit somewhere in between them. Table 1 summarizes the elements of review across the two ideal types.

Compliance review is concerned with assessing the extent to which state behavior conforms to a certain agreed standard. Reporting is likely to be relatively detailed, legalistic, and intrusive, with expert evaluation often playing a strong role. State behavior is contextualized vis-à-vis a “hard” standard or commitment, such as international human rights law. Precise failings in state behavior are identified, and often noted in a formal evaluation issued by the reviewing body. Interaction between the state and other actors often has an adversarial quality, with external actors pressing the state for additional information or details regarding its behavior, or making specific recommendations for how it can better come into compliance. States or civil society groups may also use such review processes as a basis for “naming and shaming” tactics.

Facilitative review, in turn, aims to help states identify and overcome barriers to implementation of agreed or aspirational goals through problem-solving and capacity-building. Chayes and Chayes (1995) have termed such systems “managerial” compliance. Reporting is likely to be by states themselves, and to focus on both successes and challenges. State behavior is typically compared to that of other states or past performance, often with a goal of converging on best practices. If behavior is contextualized vis-à-vis legal standards they are often soft or aspirational. Definitive final evaluations of state behavior are eschewed in favor of recommendations or suggestions for improvement. Interaction often

takes the form of peer-to-peer exchange or technical cooperation amongst experts.

Table 1. Elements of review processes in two ideal types

		Ideal type	
		Compliance	Facilitative
Element	Report	<ol style="list-style-type: none"> 1. Information compiled or vetted by experts or IO officials 2. State reports subject to questioning 	<ol style="list-style-type: none"> 1. Information generated by state under review 2. Peers and experts investigate blockages
	Context	<ol style="list-style-type: none"> 1. Performance vis-à-vis hard agreements 2. Definitive evaluation of behavior and specific failures 	<ol style="list-style-type: none"> 1. Performance vis-à-vis peers, past performance, soft targets
	Interaction	<ol style="list-style-type: none"> 1. Adversarial 2. Aimed at generating additional information 3. Recommendations to come into compliance 	<ol style="list-style-type: none"> 1. Cooperative exchange 2. Joint problem solving 3. Suggestions for improvement

With review conceptualized in this fashion, we can usefully distinguish it from other information-provision functions that IOs provide. For example, monitoring mechanisms typically involve the compilation of reports by states, IO officials, and/or outside experts. Sometimes these reports compare state behavior to a certain standard, and sometimes they do not. As Kelley and Simmons (2014) have noted, ranking systems can be a particularly powerful form of monitoring because they contextualize state behavior so effectively. Lacking from monitoring or ranking functions, however, is the interactive component of review. In contrast, complaint procedures tend to be more elaborate than review mechanisms. The procedure is typically triggered by a state or non-state actor claiming that a state has breached its legal obligations. There may then be an investigation by IO officials or a dispute resolution process in which information on state behavior is put forward and adjudicated. In such processes state behavior is typically judged against hard legal requirements. States found to be in error are then given specific sanctions, legal “teeth” that review processes lack. Complaint procedures therefore tend to be more complex processes and to hew more strictly to the “compliance” ideal type.

Review therefore should be thought of not just an informational mechanism, though it very much is that, but as a specific set of political processes. Depending on its design, review can either have quasi-judicial elements that enable strategies that pressure states to alter their behavior, or discursive elements that create epistemic benefits for states or alter the beliefs that underlay their

preferences. Review processes may also mix these compliance- and facilitative-oriented components. The question thus arises, under what conditions can review processes affect state behavior?

5. Under what conditions can international review affect state behavior? Six causal pathways.

Below I posit six causal pathways through which a review process can alter state behavior. Victor and Raustiala (1998, pp. 51-52) draw many of these insights from their study of environmental review processes, but do not elaborate the causal dynamics and enabling conditions systematically in a way that would allow future empirical testing. Below I highlight the conditions required for each pathway to operate and the mechanisms through which they function. The first four pertain to the state under review. The last two consider the behavior of other states in the review process. The first, fourth, and sixth pathway conform more closely to the facilitative ideal type of review, while the second, third, and fifth reflect more the logic of compliance.

P1: Review gives states additional information about how to achieve their policy objectives. Review processes may have a positive epistemic effect on the state under review (Keohane, Macedo et al. 2009). Often compliance with international agreements demands the implementation of complex policies under conditions of uncertainty. States may lack the technical capacity to perform these tasks. In such contexts, review becomes a way for outsiders (IO officials, independent experts, other states) to share valuable information about how to improve outcomes in a way tailored to the state under review. Such information may be particularly helpful if the review process focuses on barriers or obstacles, and thus helps the state make the case to potential supporters (e.g. donor states, IOs) that additional assistance of a certain kind could lead to an increase in cooperation. Such dynamics are likely to be especially salient for technical issues where expertise plays a key role, when standards are relatively soft or aspirational, when there are little or no costs to the state under review for demonstrating failure (or, at least, difficulty in achieving compliance), and when the state under review has low capacity to achieve the desired policy outcome.

P2: Review gives other states credible, salient, legitimate information that allows them to trigger diplomatic sanctions/rewards. Review processes may disclose information about state behavior that leads other states to behave differently toward the state under review. For example, should review reveal a state to be failing to keep to the terms of an agreement, other states may withdraw cooperation or otherwise sanction the laggard state. Similarly, a state may be able to use the review process to credibly communicate its pro-compliance behavior to other states, unlocking reciprocal benefits or other positive rewards from them. For review to provide these functions, the information it generates must be credible. We can therefore expect such dynamics to be more frequent when IOs or external experts play a role in the preparation of reports, and when state behavior is contextualized vis-à-vis a specific performance standard. Review processes that increase the salience and legitimacy of the information generated—for example, information that is vetted by experts and discussed in

public by NGOs—are likely to increase the overall quality and weight of the signal review provides. The interaction element of the review process provides one forum in which diplomatic pressure or rewards can be applied, but states may also act bilaterally or in other multilateral settings to sanction/reward the state under review.

P3: Review gives interest groups credible, salient, legitimate information that can trigger various forms of domestic and external political pressure/rewards. While some review processes occur behind closed doors, many, particularly in the human rights realm, allow for the participation of NGOs and other interest groups, both from country under review and internationally. Just as other states can use the information a review process provides as a basis for negative or positive actions toward the state under review, so can other actors. As with states, the power of external actors to employ the information generated by a review process will be greater to the extent the information is credible, salient, and legitimate. The latter two qualities may be especially important for interest groups seeking to employ “naming and shaming” tactics, and so this pathway is likely to be especially common in review processes that involve expert review and public participation. For example, an NGO accusing a government of human rights violations may be able to convince many more people to pay attention and take seriously its charges if the violation is validated by a multilateral review body. These dynamics may be especially potent in more restrictive regimes that limit the ability of domestic groups to challenge governments directly in domestic fora, analogously to the way international human rights bodies sometimes operate (Goodman and Pegram 2012). It is important to note that international review empowers not just domestic interest groups, but also international groups that may pressure the state under review directly or via their home governments, creating a “boomerang effect” (Keck and Sikkink 1998).

P4: Review can socialize state representatives into a “compliance” or “facilitation” process. Like all institutions, review processes provide a specific ‘template’ in which state interactions occur, structuring state and even inter-personal interactions. Under certain conditions, regular, institutionalized interactions shape both the information state representatives receive, their causal beliefs, and even the underlying preferences that guide their strategies. When the state representatives engaged in review processes also are the officials that shape state behavior, these “process effects” can have a meaningful impact on state behavior. We may expect such dynamics to occur particularly in peer-to-peer interactions among technical officials, for example in the OECD. Such dynamics have long been posited with regard to transgovernmental networks (Slaughter 2004, Slaughter and Hale 2010). Review processes may add additional power to such ideas. Because review processes explicitly orient participants around compliance or facilitation—how closely they are meeting the standards or best practice—they may give state representatives powerful social incentives to engage in pro-compliance behavior. “Doing well” in a review process can become a source of social prestige amongst peers. Conversely, we would not expect these dynamics to apply in areas where state interests are more zero-sum, or marked by contentious politics.

P5: Review processes can reassure (warn) states that other states are complying (shirking). In aggregate, a review process can give a state an accurate picture of the behavior of all other members of an institution. Such information is particularly valuable in the context of collective action problems in which states may have an incentive to cooperate if they can trust other states cooperate as well, but have an incentive to shirk if others free ride. As for P2 and P3, review processes are more able to provide this function to the extent the information they generate is credible, salient, and legitimate. This “classic” informational function of international organizations can of course also be served by other forms of information provision, such as monitoring arrangements or complaint procedures. That said, review processes, to the extent they enhance the quality of the signal through contextualization and interaction, may provide a stronger form of reassurance / warning than monitoring arrangements.

P6: Review processes can facilitate learning and norm diffusion amongst states. In aggregate, review processes can generate significant information on state behavior, comparing a wide range of experiences. For technical issues or policy areas subject to uncertainty, review processes can therefore provide a mechanism through which solutions or best practices emerge. When review processes operate in this way they function as a kind of experimentalist governance system (Dorf and Sabel 1998, Hoffmann 2009). All states involved in the review process could be beneficiaries of these epistemic benefits. Analogously, by comparing the experience of many states to certain goals or objectives, review processes can provide a fertile ground for norm diffusion. If a critical mass of states begin to address a certain issue in a given way—for example, by adopting a common human rights ordinance to implement a treaty obligation—other states may feel various forms of pressure to follow suit.

6. Review under the Paris Agreement – a critical test

Following the 2015 Paris Agreement, how, and under what conditions, review processes “work” has become a critical question for global efforts to respond to climate change. For decades, countries sought to negotiate a legally binding schedule of national emissions reductions that would proscribe how much each country could emit over a certain time period. This approach, common to many international environmental agreements, proved unable to secure both the depth and breadth of cooperation needed to reign in global greenhouse gas (GHG) emissions. Instead, countries have now opted for a catalytic regime with the following features relevant for the present discussion:

1. Countries are required to put forward “nationally determined contributions”—statements about what they commit to achieve in terms of climate policy—every 5 years, with new contributions being no less ambitious than previous ones.
2. The implementation of individual national contributions are reviewed at regular intervals
3. Every five years there is to be a “global stock take” to review the aggregate level of ambition from all countries

4. There will be a mechanism to facilitate implementation and promote compliance through a committee that is expert-based, non-adversarial and non-punitive

The logic of this system is to generate an upward spiral of ambition in which countries adopt strong contributions that then reassure other countries about their cooperative intentions. Over time, review of implementation adds credibility to these signals, while review of overall progress highlights what more needs to be done. At the same time, a facilitative compliance mechanism seeks to ‘troubleshoot’ difficulties. The Paris Agreement thus represents a sharp break from the Kyoto Protocol and previous efforts to address climate change, and is in many ways different from standard international environmental agreements.

How this system works in practice very much remains to be seen, as key details of how these various review processes will work are the subject of current negotiations (for a detailed description of the finer points see van Asselt et al. 2016). Disclosure provisions (known in climate policy circles under the umbrella of monitoring, reporting, and verification, or MRV) have long been one of the most controversial areas of climate negotiations. Roughly, developed countries push stringent international and expert-based reporting and verification systems for national emissions, emerging economies like China and India instead prefer a more flexible, national-led system, and poorer countries push for programs to boost their scientific and administrative capacity to monitor emissions, while also insisting on transparency and reporting for wealthy countries’ financial contributions to climate change. These political cleavages were very much at play in the negotiation of the Paris Agreement and continue to shape the bargaining now occurring around the design of the various review processes it creates.

How might the causal pathways posited above come to operate in the Paris Agreement once it becomes operational. Below I briefly consider each of the Agreement’s review provisions and discuss which pathways, under which conditions, might be expected to apply.

Implementation review of national contributions

Article 13 of the Paris Agreement calls for review of countries’ implementation of their nationally determined contributions through what it calls an “enhanced transparency framework.” The review may cover countries’ emissions reduction commitments, their employment of GHG sinks, their efforts to adapt to climate change, and the support they offer other countries (e.g. aid or technical assistance) to address climate. It has yet to be decided how frequently reviews will occur. The review will include national and expert reports, with the latter based on either desk research or in-country visits that may include consultation with domestic experts and stakeholders. Exactly how experts are selected remains to be determined. The country reports will then be subject to “multilateral consideration,” though the procedures for this potentially interactive component have yet to be agreed. The poorest countries will be given flexibility in how they are required to report, although how much, and precisely

which countries qualify for flexibility, has yet to be determined. It also remains unclear whether non-state actors would have any role in the development of reports, commentary on reports, or “multilateral consideration.” While many details therefore remain unresolved, in general countries have agreed that the implementation review process should embody the following characteristics: facilitative; non-intrusive; non-punitive; respectful of national sovereignty; avoiding undue burdens.

Multilateral scrutiny of individual countries’ performance is one of the most politically sensitive issues in the talks, especially for large emerging economies like India and China that have resisted intrusive international monitoring of their actions. The Paris Agreement text therefore reflects a compromise position that includes both compromise- and facilitation-oriented elements of review. The involvement of independent experts suggests that the epistemic quality and legitimacy of the information generated on implementation may be high, and therefore potentially an effective tool for diplomatic pressure or “naming and shaming” tactics under P2 or P3. However, it remains to be seen if the procedures for the interactive process allow these mechanisms to operate, for example by allowing states to comment on other states’ behaviour and make suggestions for improvement, or by allowing NGOs to engage in the process. The more facilitative elements of the review process are also still insufficiently detailed to know whether we can expect learning to apply, as per P1 and P6. If the expert review process is able to identify the key challenges countries face (especially low capacity countries) and then bring those gaps to the attention of the larger climate community, it may help countries to improve their climate policies and connect them to potential supporters and donors. And if many countries are reviewed, a substantial body of comparative knowledge on climate policy implementation may be generated that could provide additional epistemic benefits while also promoting norm diffusion. To the extent these facilitative elements engage with government officials who actually implement policy, they may create a positive socialization effect as imagined in P4. But if review is reserved to foreign ministries and diplomats, such an effect is unlikely. Finally, the expert review envisioned in Article 13 seems most likely empower P5, giving all countries a good sense of what their peers are doing (or not doing). It could therefore serve as a crucial reassurance mechanism that can be expected to increase countries’ incentive to cooperate in the future.

Review of collective progress and ambition toward long-term goals

While countries agreed to be reviewed on how well they were implementing their nationally determined contributions, it proved too politically difficult to ask countries to be reviewed on their level of ambition—that is, how much their national pledge contributes to the goals of limiting climate change and adapting to its effects, or how it compares to other countries’ contributions. Instead, the political compromise was for an aggregate review of the total level of ambition, or “global stock take,” every five years (Article 14). This review process is intended to look at all efforts to achieve the Paris Agreement’s long term goal of limiting temperature change to at most 2C during this century, and ideally to less than 1.5C, as well as the other objectives of the Agreement that pertain to

adaptation, finance, etc. This review process is intended to be “comprehensive” and “facilitative,” and to be done “in light of equity” (how countries’ efforts compare to their ‘fair’ share given their levels of current and historical emissions and level of development) and the “best available science.” Information from the stocktake is to come from 1) Information on overall effect of nationally determined contributions; (2) adaptation communications and reports that countries make to the UNFCCC; (3) information on mobilization and provision of support; (4) latest reports by the Intergovernmental Panel on Climate Change; (5) reports by subsidiary bodies of the UNFCCC, although the other sources of information are not explicitly excluded. The process for how the stock take unfolds—what format it takes, who is responsible for contextualizing countries’ efforts, the role of experts or non-state actors—is completely unspecified.

The aggregate nature of the global progress/ambition review reduces some of the key pathways noted above. Without a review of individual countries’ level of contribution, it is difficult to see how P1, P2, or P3 could operate, as there will be no country-specific information provision to create epistemic benefits for countries or allow other states or civil society groups to confront them with positive or negative incentives. That said, the occasion of the global stocktake may provide an informal opportunity for states or NGOs to put pressure on states they perceive to be laggards (or to reward states they can motivate with positive incentives). The mere existence of a global stocktake may help to create a “political moment” that advocates can take advantage of. But the official process will not provide them any “hooks” to support such efforts. Nor does it seem likely that P4 will come into play, as nothing about the global stock take suggests it will occur with sufficient frequency or engage the right state representatives to socialize participants.

Instead, the collective nature of this review process highlights the importance of P5 and potentially P6. The logic of the review process is to create a sense of what has been achieved and what more needs to be done, with the aspiration of getting countries to increase their next round of pledges. For the review process to have this effect, it is likely important for countries to receive a signal that progress has been made (so future efforts are not in vain), but that more needs to be done (so that future efforts are needed to achieve their policy goals). Focused only the question of emissions reductions or financial contributions, however, it is not clear that the global stock take will escape the free-riding problems that have plagued the climate regime since its inception. If global ambition remains insufficient, why should my country do more and not yours? It is therefore perhaps useful to emphasize instead the (potential) facilitative review component of the global stocktake. The collective nature of the process could make it ideal for diffusing best practices and norms, for example.

Compliance mechanism

The compliance review mechanism envisioned in the Paris Agreement is perhaps the most undefined element of the new regime. Article 15 creates a committee that “is to be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.” It is intended to review

countries' compliance with the provisions of the Paris Agreement, but it is not clear whether this extend to the implementation of national contributions or merely the more procedural elements of reporting. Nor is it clear what actions may trigger countries to be reviewed by the compliance mechanism, or what outputs the committee may produce that could potentially bring countries back into compliance. Without further details it is of course difficult to say which pathways may apply, but the text of the article seems to make clear that countries see this feature of the agreement as providing what I have termed facilitative review, not compliance review.

7. Conclusion

This paper has attempted to refine our conceptualization of review processes in international organizations and theorize their effect on state behavior. It has argued that review is a crucial function of IOs that is worth distinguishing from other forms of information provision. It has used the 2015 Paris Agreement to explore how several posited causal pathways may operate in the context of the international climate regime.

Going forward, it is my ambition to move from concept refinement and theory-building to empirical testing. Have the causal pathways explored above led to changes in state policies under the conditions and via the mechanisms described? While it is far too soon to test these ideas in the context of the Paris Agreement, the experience of other issues areas can offer critical guidance for countries as they design the procedures through which review will operate in the Paris Agreement.

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