



## **Parallel Informal Negotiation: An Alternative to Second Track Diplomacy**

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**Abstract.** Recently adopted international environmental treaties on climate change and biodiversity represent some of the most complex agreements ever negotiated, involving science-intensive policy questions and implicating not only governments, but industry and a range of nongovernmental organizations. The inter-connections that should have been taken into account in drafting these agreements were difficult to achieve, given the fractured structure of multilateral institutions. Even if the parties were willing to expose their interests as necessary for effective problem-solving, commitments made to home constituencies made it impossible to be flexible. The Consensus Building Institute has pioneered efforts to design a process that can overcome such barriers in high stakes, high profile, multi-party negotiations. Each has involved senior diplomats in what is best described as collaborative problem solving. This article will use the lessons learned from three experiences to show how parallel informal negotiation provides an alternative – or complement – to more traditional second track diplomacy.

**Keywords:** international negotiation, parallel informal negotiation, second track diplomacy

### **Introduction**

Recently adopted international environmental treaties on Climate Change and Biodiversity represent some of the most complex agreements ever negotiated, involving science-intensive policy questions and implicating not only governments, but industry and a range of nongovernmental organizations (NGOs). The inter-connections that should have been taken into account in drafting these agreements were difficult to achieve, given the fractured structure of multilateral institutions. Interestingly, the high stakes involved made it almost impossible to create a problem solving setting in which differences could be worked out effectively. The parties arrived at the designated time with explicit marching orders that reflected a carefully calculated attempt to balance the

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concerns of domestic constituencies. The formalities inhibited exploration of new options for resolving differences and prohibited the participation of NGOs. Even if the parties were willing to expose their interests as necessary for effective problem-solving, commitments made to home constituencies made it impossible to be flexible.

The Consensus Building Institute (a non-profit dispute resolution organization in Cambridge, Massachusetts) has pioneered efforts to design a process that can overcome such barriers in high stakes, high profile, multi-party negotiations. Each has involved senior diplomats in what is best described as collaborative problem solving. We have dubbed these experiments *parallel informal* negotiations. This terminology fits because it involves bringing the **actual parties** (senior government officials, not their designees, and senior NGO representatives) together to engage in a *neutrally facilitated, informal problem-solving policy dialogue* outside the confines of **formal diplomatic negotiations** (thus, parallel and informal). The published summary reports produced by these problem-solving groups do **not attribute** ideas or statements to individual participants. The dominant objectives are to build relationships and find common ground on specific problems or policy questions.

The first experiment was known as the Talloires Policy Dialogue on Trade and Environment. The Talloires Dialogue met five times between 1994 and 1996. It involved 55 senior officials from the World Trade Organization, national trade delegations, as well as NGOs. The second and third experiments – the Schlangenbad and Buenos Aires Pre-COP Informal Workshops on Climate Change – involved 30 senior diplomats together with a dozen experts in law, policy, technology and science preparing for the climate change negotiations at Kyoto in 1997 and Buenos Aires in 1998, respectively.

From our experience, parallel informal negotiations depend on professionally facilitated, informal meetings of stakeholder representatives; a steering committee comprised of regular participants from the formal negotiations, with substantial credibility who guide preparation of an agenda and preparatory research. Parallel informal negotiation also requires freeing the participants from their formal instructions so that they can participate in brainstorming, without attributing specific ideas to particular individuals or organizations in written or public comment. The “non-attribution” rule allows participants to be candid and open without worrying about implied commitments. Brainstorming, in turn, is not aimed at resolving specific disputes or brokering a single text agreement, but rather at deepening understanding and discovering which views diverge and why.

This article will use the lessons learned from these three experiences to show how parallel informal negotiation provides an alternative – or complement – to more traditional second track diplomacy.<sup>1</sup>

### **International Negotiation: A Profile**

Bargaining in the international arena is intrinsically positional: negotiators from various countries arrive at international meetings with carefully crafted marching orders – from which they are not supposed to deviate. Their stated “positions” are, for the most part, not open to revision without consultation with various domestic ministries. Even though members of the international diplomatic community recognize that the invention of additional “packages” might well produce better results for all sides, they are allowed precious little leeway at the negotiating table. The risk that something offered in an informal exploratory exchange might be misinterpreted as a commitment or misused by others is too great. Moreover, the top leadership on both sides want to retain the final say over any brokered agreement; they do not want this power to reside with their emissaries.

Practice-based negotiation theory acknowledges this limitation. In recent years, two approaches to dealing with this problem in international conflict resolution have received a great deal of attention: workshops involving surrogate negotiators, and informal mediation efforts dubbed “second track” diplomacy. We have been testing a third approach that we call “parallel informal negotiation,” or “PIN.”

In the workshop model, as described by Kelman and his colleagues (Kelman 1976; Rouhana and Kelman 1994), negotiations involve surrogate negotiators (“doves”, not “hawks” on both sides), preferably with access to policy makers. In the relative safety of the workshop setting, they are free to hear how the world looks from the other side’s perspective and to explore options that those in official negotiating positions would probably not consider. Over time, relationships are built between “doves” on both sides and, ideally, trust develops. As the workshop participants move into positions of influence and power, improved relationships permit more effective problem solving during official negotiations.

Second-track negotiations rely on “unofficials” who shuttle among the parties presenting unofficial proposals even as hostilities continue. Second-track diplomacy can help to test possible elements of an agreement, even though it does not necessarily alter underlying relationships among the disputing parties.

Parallel informal negotiation represents a third alternative that seeks to merge critical elements of these first two strategies by bringing together the

actual disputants to engage in facilitated discussions aimed at both relationship building and problem solving. While both PIN and the workshop model focus on informal problem solving, PIN differs in that it involves actual negotiating officials in their personal capacity, not second-tier officials, to achieve a real-time advance in negotiations. It does not seek primarily to build a foundation for future progress. In addition, PIN differs from second track diplomacy in that it is informal rather than formal, and involves actual senior negotiators rather than deputy officials.

### **Parallel Informal Negotiations (PIN) as an Alternative**

The matrix below attempts to capture the common and distinctive features of various formal and informal approaches to international diplomacy.

The Process axis in Table 1 distinguishes formal negotiations from informal problem-solving. The Participants axis describes the participants in each process: actual negotiators representing their governments in an official capacity, actual negotiators appearing in their personal capacity with the participation of non-governmental experts, and second-tier governmental officials. The six cells highlight the most important differences. Parallel informal negotiations are characterized by the following:

- **Actual negotiating officials (both state and non-state).** Actual national representatives, not their deputies or assistants, with decision making responsibility are involved. (This also recognizes the increasingly important role of non-state actors as unofficial participants in internal negotiations.) Apart from the carefully organized PIN process itself, it is expected that contemporaneous second-track and workshop processes will also provide short- and long-term opportunities to indirectly shape the positions of senior officials through the experience of second tier officials.
- **Non-public process devoted to problem-solving, not negotiating formal commitments.** Parallel informal efforts seek to take the actual negotiators “out of the box” and out of the public eye so they can explore a range of possible options and gain a sense of how these options might be packaged in different ways to satisfy the preferences of multiple stakeholders. Such dialogue has the potential to promote learning, information exchange and clearer statements of interest, as well as to create a setting in which question-asking and intellectual exchange will not be misread as official “position-changing”.
- **Informal process parallel to and affiliated with formal negotiations.** The existence of a formal process reflects the extent to which a dispute warrants official attention. Designated officials are briefed on the various

Table 1.

Participants	Process	
	Formal negotiation	Informal problem-solving
Actual national representatives in their official capacity	<b>Formal diplomacy</b> <ul style="list-style-type: none"> <li>● Actual officials</li> <li>● Negotiating official positions</li> <li>● Formal, public forum</li> <li>● May be chaired or facilitated</li> </ul>	<b>Bilateral/plurilateral negotiations</b> <ul style="list-style-type: none"> <li>● Actual officials</li> <li>● Exploring and negotiating commitments</li> <li>● Informal, non-public forum</li> <li>● May be chaired or facilitated</li> </ul>
Actual national representatives in their personal capacity plus NGO experts	<b>Expert meetings</b> <ul style="list-style-type: none"> <li>● Senior and deputy officials</li> <li>● Non-governmental experts observe and participate</li> <li>● Position statements with attribution</li> <li>● Chaired or facilitated</li> </ul>	<b>Parallel informal (PIN)</b> <ul style="list-style-type: none"> <li>● Actual officials from governmental delegations and non-governmental organizations</li> <li>● Non-public process devoted to brainstorming and developing options, not negotiating commitments</li> <li>● Informal process parallels formal negotiations</li> <li>● Neutral facilitator</li> <li>● No attribution</li> </ul>
Second-tier officials	<b>Second track diplomacy</b> <ul style="list-style-type: none"> <li>● Deputy officials</li> <li>● Formal, non-public negotiations</li> </ul>	<b>Workshop</b> <ul style="list-style-type: none"> <li>● Deputy or junior officials</li> <li>● Informal, problem-solving process extending over time</li> <li>● Focus on building relationships and increased understanding of different perspectives</li> </ul>

interdependent domestic interests and provided position papers to serve as the basis for negotiation. The formal process is a key indicator of the issue's importance and the priority accorded to it in diplomatic circles. Bilateral discussions provide flexibility, but it is difficult for negotiators to explore "what if" scenarios without being held publicly accountable for the statements they make. Further, there is no way to assure that domestic interests will be satisfied or supportive of long term commitments.

- **Neutral facilitator.** Often, the term "facilitator" is loosely applied to anyone who chairs or manages such discussions. Such individuals typically lack real training in facilitation techniques and are often not neutral. Such facilitators are likely to advocate a particular outcome (albeit not explicitly) and may be loath to explore the full range of options.

For our purposes, a "facilitator" is one who is both trained and experienced in the techniques of facilitation. It is also important that facilitators have substantive knowledge of the topics under discussion as well as credibility with all the participants. Further, given the range of qualifications likely to be of significance to various parties – professional credibility, technical expertise and management capability – a facilitation *team* may be most effective. It may be possible for a convening agency or foundation to choose the initial facilitation team, but that selection must be ratified by all participants after the initial meeting, perhaps through the creation of a steering committee that takes over the management of the process.

- **No attribution.** Often, the source of an idea shapes how others view its validity. Parallel informal efforts seek to provide a forum for considering a range of ideas independent of the author's identity. This is achieved in two ways. First, ideas and concerns generated through pre-dialogue confidential interviews are summarized in a background paper that serves as the basis for discussion. The paper is usually prepared by the facilitation team. Second, a report after the parallel informal negotiation sessions reviews the common and divergent views, without attribution. Thus, the focus is on informed options for resolving disagreements, not on specific positions voiced by particular parties.

These features of PIN have been applied in several instances of high-profile international diplomacy. After a brief summary of these experiences, we will describe how the theory holds up in light of actual results.

### **Talloires Policy Dialogue on Trade and Environment**

In March 1994, several American foundations<sup>2</sup> took the initiative to host a meeting to bring representatives from the international environmental community and the trade policy community together to discuss (privately and informally) conflicts that had emerged between advocates of “free trade” and “environmental protection”.<sup>3</sup> As the invitation to the preliminary meeting put it, the objectives were:

- To create a forum in which groups, who for too long have pursued an adversarial relationship with regard to trade and the environment, might seek common ground;
- To map the conflicts and to identify, to the extent possible, areas of agreement on at least a few of the many pending issues;
- To see whether the scope of such areas of agreement might usefully be communicated to the relevant policy making bodies such as the GATT/WTO Ministerial Meetings and the WTO’s Committee on Trade and Environment (CTE).

Following a successful preliminary meeting in New York in March 1994, the Talloires Policy Dialogue met four additional times from 1994–1996 in Talloires, France – one hour from the Geneva offices of the WTO. Designed by a Steering Committee (representing a balance of environmental and trade participants, as well as developed and developing country interests) to be closely synchronized with the work of the CTE, the Dialogue took up the tough and contentious questions pending before the CTE: environmental taxes or charges imposed to achieve environmental purposes, multilateral environmental agreements, transparency, unilateral trade actions for environmental purposes, domestically prohibited goods and eco-labeling. The last meeting considered recommendations that might be included in the CTE’s report to the WTO Ministerial Conference held in Singapore in December 1996, with particular emphasis on reframing its mandate and implementing a more transparent approach to its ongoing negotiations.<sup>4</sup>

In advance of each meeting, the organizers prepared a background paper on each issue suggested by the Steering Committee, drawing on writings of experts in the field, and framing the key questions in dispute. The background papers (not more than 10 pages each) were distributed with copies of the referenced literature in advance of each session.

Each two-three day session began with a brief, informal introduction by two of the participants (selected in advance by the organizers). These opening remarks helped to launch free-ranging discussions involving all participants. The object was not to build consensus, but to develop an intellectual and policy framework for dealing with conflicts between the trade and environmental points of view. Each session ended with the facilitators

summarizing and identifying the main points of agreement and disagreement. These summaries were prepared by the facilitators in a written form (without attributing specific proposals or comments to particular individuals) and distributed to the participants for use at their discretion.

The Talloires Dialogue only met for two years, but the results were quite favorable. Each group was surprised and impressed at the intelligence and thoughtfulness behind the positions taken by the others (Susskind, Chayes and Martinez 1996a). The participation of non-governmental representatives from various sectors (environmental advocacy organizations, business leaders, scientific organization, etc.) underscored that these discussions were not formal governmental negotiating sessions, but rather informal “brainstorming” sessions. NGO involvement not only highlighted the resources and perspectives they brought to the negotiations, but served to jump-start their support for proposals that would later be publicly debated.

Overall, the Talloires experience supported the following propositions (Susskind, Chayes and Martinez 1996b):

#### *Institutional Arrangements*

- It is necessary to draw from a group of 50 invitees to get a balanced representation of at least 25 repeat representatives at any meeting. This reflects the realities of individual schedules as well as shifting levels of interest as the topics of conversation change.
- High-ranking “champions” on all sides are needed to maintain the credibility of parallel informal discussions and to keep them connected, at least indirectly, to formal negotiations.
- Supplemental or preparatory working groups, each involving a facilitator and a small number of people, meeting at rotating geographical locations, may be needed to raise the discussions to a more technically sophisticated level.

#### *Process Design*

- It is possible for official and non-state actors to engage in substantive, non-defensive dialogue, if the conversations are facilitated effectively. (Professional facilitation requires trained, neutral parties who manage participant selection, agenda development, and process ground rules, without trying to impose substantive outcomes of their own choosing.)
- It is possible for off-the-record discussions to stay off-the-record, that is, for there to be no attribution of views or positions outside the meetings.

- Attractive surroundings and facilities enhance the quality of conversation and the ease with which partisans interact. Thus, adequate funding for policy dialogues is essential.
- Cutting edge research results must be summarized and presented thematically (not chronologically), with full texts available for reference.

### *Outcomes*

- It is possible to achieve improved levels of group problem-solving over time. “Improved” means that the parties improve their capacity to understand each other’s interests and concerns and to generate proposals that respond to all these considerations. “Time” is needed to build a common understanding, trust, and personal relationships.
- Multiple “texts” presenting multiple perspectives should be on the table at all times.

The Talloires Policy Dialogue suggested five defining characteristics of parallel informal negotiation:

- (i) the participants were actual senior delegates representing national trade delegations at the World Trade Organization and highly visible NGOs;
- (ii) the Dialogue was non-public and devoted to understanding disputed issues from different viewpoints and to probing possible solutions, not negotiating commitments;
- (iii) the Dialogue was coordinated with the agenda and key participants in the formal WTO Committee on Trade and Environment sessions;
- (iv) the co-facilitators were neutral as to the outcome, but knowledgeable on the issues; and
- (v) the background papers and summary reports (with no attribution) were prepared on the personal responsibility of the facilitators.

### **Schlangenbad Pre-COP Informal Workshop on Climate Change**

In 1997, the impending Kyoto Conference on Climate Change stimulated an inquiry as to whether a PIN approach might help overcome a likely impasse. The Schlangenbad Workshop on Climate Change<sup>5</sup> was designed to provide an opportunity for senior negotiators and other experts in law, policy, technology and science, deeply involved in the climate change negotiations, to discuss issues related to the convention in a setting free from the constraints of formal negotiation.

The Schlangenbad Workshop was held immediately prior to the final negotiating session of the Ad Hoc Group on the Berlin Mandate and the Third Meeting of the Conference of the Parties in Kyoto, Japan.<sup>6</sup> It was intended

to be a setting in which senior negotiators could explore a wide range of ideas and suggestions, with the aim of seeing whether an overall package more satisfactory to all might be developed. Participants in the Workshop attended in their personal capacities and were drawn from a wide range of developed and developing countries, environmental organizations and business interests. In advance of the Workshop, the facilitation team undertook more than 20 off-the-record, confidential interviews with national delegates. The interviews were used to probe possible tradeoffs and generate policy suggestions. The results were incorporated into an unofficial background paper for the Workshop. The paper highlighted points of disagreement that were creating barriers to consensus, and sketched possible trade-offs that might bridge these differences and advance the effort to reach consensus in Kyoto. As a result of the interviews, sessions at the Workshop were devoted to each of the following key topics:

- What are the major issues that should be resolved before Kyoto?
- What are the linkages among these issues that might provide a basis for tradeoffs that could promote consensus?
- What needs to be done after Kyoto – both to implement whatever Protocol is adopted and to further the objectives of the convention – to stabilize greenhouse gas concentrations in the atmosphere at a safe level?

This last point represented a significant shift in thinking since the participants were focused almost entirely on the upcoming Kyoto negotiations to the exclusion of the period beyond.

The Schlangenbad Workshop was not intended to reach closure on major policy matters before the Conference of the Parties, but it did provide an opportunity for joint exploration and informal problem-solving that included testing the level of acceptance of certain new policy options. The participants noted that this informal exercise contributed to:

- Improved relationships among the participants involved in the formal process;
- Clarification of misunderstandings that had emerged, but which were difficult to recognize and resolve in a formal multilateral, or even informal bilateral setting;
- Identification and discussion of “ideas in good currency” without asking anyone to risk the appearance of premature commitments; and
- Identification of strategies and packages of options that might help resolve disagreements.

The Workshop extended the parallel informal negotiation process used in Talloires in three ways:

- The process paralleled a real-time formal negotiation of a specific treaty;

- Prior to the Workshop, an extensive issue assessment was compiled, based on interviews with prospective participants; and
- The Workshop produced a summary document that was distributed to all participants and interested parties in a time frame intended to convey the key understandings of the brainstorming process to a broader audience and influence formal decision-making. There was a general sense that, given more time, a series of such workshops could have stimulated an even deeper and more far-reaching result.<sup>7</sup>

### **Buenos Aires Pre-COP Informal Workshop on Climate Change<sup>8</sup>**

On 6 October 1998, CBI's second Pre-COP Informal Workshop on Climate Change began in Buenos Aires, Argentina. The CBI facilitation team prepared a background paper based on interviews with nearly 30 invited participants. The Workshop began with a two-day session for 11 senior officials from non-Annex I countries and non-governmental organizations. ("Non-Annex I" refers to those developing countries which have not undertaken specific carbon emission reduction targets under Annex I of the 1992 Framework Convention on Climate Change.) Twenty-five participants from both Annex I and non-Annex I countries spent a third day jointly discussing the following six issues:

- (i) How to increase the pace of signature and ratification of the Kyoto Protocol;
- (ii) How to move toward implementation of the key elements of the Kyoto Protocol, even as we wait for its entry into force;
- (iii) How to engage the private sector more directly and formally in the implementation of the original objectives of the Climate Change Convention;
- (iv) How to build confidence in on-going efforts to implement the Climate Change Convention while increasing the cooperation between Annex I and non-Annex I Parties;
- (v) How to support ongoing efforts in non-Annex I countries to reduce the growth of greenhouse gas emissions; and
- (vi) How to shape a research agenda responsive to the original objectives of the FCCC.

The discussions generated a number of conclusions, all related to giving a clear signal that progress was being made to implement the Protocol and the Convention and convincing the world-at-large that climate change remained a crucial issue. Suggested strategies for doing so included: documenting progress and publishing detailed descriptions of voluntary efforts to date, developing preliminary pilot tests of new implementation mechanisms (such

as emissions trading), expanding the role of the private sector, and reorganizing the work of the COP Secretariat and Subsidiary Bodies. In conjunction with the Climate Change Secretariat and its Extended Bureau, as well as the Chairman for the upcoming Buenos Aires COP, CBI's facilitation team synthesized these ideas and recommendations into a formal report that was distributed to all 175 national delegations in advance of the 2–13 November 1998 COP. A number of the recommendations in the report were reflected in actions adopted in the formal sessions, including the idea of a Buenos Aires Action Plan to mobilize public and private action at the international and national levels.

The significant lesson learned from the second pre-COP workshop was the importance of a key institutional design feature – the use of supplemental or preparatory working groups to raise the discussions to a more technically sophisticated and productive level. The need for more preparation and negotiation opportunities had been discussed internally every time official delegates gather, but there is significant resistance to any formal dispersal of agenda items to working groups, or the introduction of formal intersessional meetings. Nevertheless, parties concur that the current system of an annual 2-week Conference of the Parties is not adequate to address the mandated agenda topics. The problem is exacerbated for the 133 members of the Group of 77 coalition who are constrained by human, economic and temporal resources which make it difficult to develop an internal understanding of the issues before engaging in high profile international negotiations. Thus, PIN, at an international and regional level, would offer the opportunity to overcome a significant barrier to global progress on the issue of climate change.<sup>9</sup>

### Summarizing the Initial Experience

The table below summarizes the details of these three parallel informal negotiations.

As noted above, each experience with PIN has included: national delegates plus NGO experts; a non-public, informal problem-solving process; a sequencing of efforts to coordinate with a formal negotiation process; a neutral facilitation team; and non-attribution of specific views and opinions of particular participants outside of the meeting. The Talloires Policy Dialogue highlighted the importance of these five considerations and their significance was confirmed by the climate change workshops.

- **Actual national representatives plus NGO experts.** In the Talloires Dialogues, there were actually multiple sets of negotiating officials: international trade delegates, environment ministers, and international agency officials – as well as environmental advocates from a variety

of grass roots and international NGOs with whom many national officials had limited or no prior interaction. If the world's principal trading organization were going to seriously address environmental issues, it seemed critical that both trade and environmental experts understand the perspectives of, and build relationships with, each other. The formal evaluation conducted after the Talloires Dialogue<sup>10</sup> was extremely positive. Almost all the respondents agreed that "Through my participation in the dialogue I have gained a broader understanding of the perspectives of institutions and interest groups other than my own." Two representative comments noted "surprise at the intelligence and thoughtfulness behind the positions taken by others" and that the "best outcome [of the Dialogues] will certainly be a better understanding between delegates attending the CTE and other interested parties by helping to clear up constraints and misperceptions on both parts." Participants at Schlangenbad and Buenos Aires noted that the pre-COP workshops served to "jump start" the formal sessions by giving the participants an opportunity to clarify concerns about the motives of others and the likely consequences of supporting or opposing pending proposals.

- **Non-public, informal problem-solving process.** The ground rules for non-public sessions, non-attributed reports, and informal discussion all contributed to creating an atmosphere focused on problem-solving, rather than formal negotiation. Of necessity, problem solving requires a certain amount of mutual education and information exchange, after which it becomes easier to generate additional options for resolving disagreements. This follows negotiation theory that urges participants to separate the process of generating the best thinking (or, "inventing") for resolution of an issue, from the making of actual commitments (Fisher, Ury and Patton 1981). In traditional international diplomacy, negotiations follow a prescribed process in which free thinking and "brainstorming" is difficult. Thus, PIN attempts to provide official decision makers the physical and intellectual time and space in which to explore options.
- **Parallel to formal process.** PIN assumes an ongoing formal process that by its very nature identifies the most important issues and participants. The channel for linking the informal dialogue and the formal process is a carefully selected steering committee. In both the Talloires Dialogue and the climate change workshops, key individuals associated with the formal process (both actual negotiators and senior officials of the WTO and Climate Change Secretariat) were involved from the outset and guided the design and implementation of the informal events. After the Dialogue and workshops, these individuals ensured that the

ideas captured in the summary reports came into the subsequent formal discussions in the most appropriate ways.

- **Neutral facilitation.** The facilitation team was selected by the organizers of the initial Talloires Dialogue and participants explicitly evaluated the facilitators' conduct as neutral and beneficial to the discussions. Had the facilitators been aligned with either free trade or environmental protection advocates, their interventions would surely have been suspect and their ability to mediate would have been hampered. The climate workshops provided a further test of this premise. The chair of the Ad Hoc Group on the Berlin Mandate had conducted months of intense shuttle diplomacy in preparation for the Kyoto conference. He had prepared a draft Protocol which he hoped would generate widespread support. The timing of the Schlangenbad workshop provided a opportunity for him to secure a candid appraisal of his draft in an informal setting. The fact that the discussion was facilitated by independent, but knowledgeable neutrals relieved the chair of need to serve both as meeting manager and draft author.
- **No attribution.** The Talloires Dialogue on Trade and Environment differed from the climate change sessions in its timing. The CTE was a new institution, without any immediate pressure to negotiate a legal instrument, but it had received a mandate from the WTO to review and make recommendations on a number of issues. The CTE members knew they would profit from an interchange with other institutions and experts before establishing principles for policy-making of their own. The climate change negotiators, on the other hand, had already adopted a treaty, but needed to build consensus on the details of strategies for implementation. Both benefited from a protected problem-solving opportunity. By not attributing ideas or positions to particular countries, organizations or individuals in the background papers or summary reports, the focus was on the substantive merits of various options rather than who had proposed what. Ideas captured in the Dialogue and Pre-COP session summary reports found their way into the formal WTO and climate change deliberations, as hoped.

### **When and How to Use PIN: Key Lessons**

CBI's experience has shown that it is possible to bring the "real" leadership on all sides of a global policy dispute (with very high stakes) to a confidential but informal extended dialogue, facilitated by an intermediary, aimed at finding common ground, but not necessarily at producing a treaty or signed agreement. It may be more important to emphasize the value of

understanding differences among the participants as a baseline for moving ahead. Sometimes, it may be premature to press for consensus on a specific set of issues currently on the agenda. Rather, effort may be better directed at issue-understanding and relationship-building activities that can, in turn, enable the dialogue to be more productive in the long term. But, at a pragmatic level, an explicit emphasis on relationship building will likely diminish the perceived relevance of the discussions and thus, may result in the loss of key participants. In the final analysis, PIN is likely to be more effective when it balances both relationship-building and problem-solving dimensions.

We have identified five characteristics that, in the aggregate, make PIN distinctive from other processes. At a general level, many international negotiations could benefit from PIN, but given its cost in time, financial and political resources, it seems important to distill when PIN offers the greatest comparative advantage and likelihood of making a significant difference. The key factor that shapes when PIN should be considered is that PIN not only be parallel, but connected to, a formal process. This relationship legitimizes the effort in several ways. First, the senior officials managing the formal negotiations must be persuaded that PIN will advance the prospects for institutional success and be willing to participate. Second, these officials will need to join the PIN sponsor (either formally or informally) in inviting a representative and balanced array of other stakeholders (both state, and non-state) to participate. Third, this level of commitment to a PIN effort is more likely to ensure that the results of a PIN are relayed back into the formal process.

### **Concluding Note**

We have sought to lay out a theory of parallel informal negotiation as an alternative to second track diplomacy, in effect, track one-and-a-half diplomacy. The theory specifies several conditions: (1) national representatives together with NGO experts need to be involved in a (2) non-public problem-solving process, with (3) no-attribution of ideas to specific individuals; (4) the parties need to operate in parallel to a formal process, with (5) neutral facilitators. While other processes can and will continue to make significant contributions to international negotiations of all kinds, most notably second track diplomacy and interactive problem-solving workshops, PIN should be added to the array of possible strategies. Second track diplomacy involves actual officials in formal, non-public negotiations. Problem-solving workshops focus on building understanding and relationships among future lead negotiators. PIN (track one-and-a-half diplomacy) seeks to merge the defining attributes of these other two processes and raise the level and breadth of participation: actual official negotiators with non-state experts facilitated by

Table 2. Three parallel informal negotiations

	Actual national representatives plus NGO experts	Non-public, informal problem-solving process	Parallel to formal process	Neutral facilitation	No attribution
Talloires	<ul style="list-style-type: none"> <li>• 22 national ambassadors to WTO</li> <li>• 5 Senior officials of WTO</li> <li>• 32 heads of intergovernmental and nongovernmental organizations</li> </ul>	<ul style="list-style-type: none"> <li>• Not open to press or public</li> <li>• Informal atmosphere and dialogue</li> <li>• Explicitly focused on relationship building and possible resolution of designated issues addressed at meeting</li> </ul>	<ul style="list-style-type: none"> <li>• Each dialogue was coordinated with formal sessions of the WTO Committee on Trade and Environment</li> </ul>	<ul style="list-style-type: none"> <li>• 2-person co-facilitation team expert on issues and neutral as to resolution</li> </ul>	<ul style="list-style-type: none"> <li>• Neither the background paper, nor the dialogue discussions nor the summary reports attributed ideas or positions to individual participants</li> </ul>
Schlangenbad	<ul style="list-style-type: none"> <li>• 15 senior officials serving as national delegates to the UNFCCC</li> <li>• 8 senior officials of nongovernmental organizations</li> <li>• 2 senior officials of UNFCCC</li> </ul>	<ul style="list-style-type: none"> <li>• Not open to press or public</li> <li>• Informal atmosphere and dialogue</li> <li>• Explicitly focused on relationship building and possible resolution of issues on COP agenda</li> </ul>	<ul style="list-style-type: none"> <li>• Workshop was coordinated to precede formal session of the COP</li> </ul>	<ul style="list-style-type: none"> <li>• Four individuals working in 2-person co-facilitation teams expert on issues and neutral as to resolution</li> </ul>	<ul style="list-style-type: none"> <li>• Neither the background paper, nor the dialogue discussions nor the summary reports attributed ideas or positions to individual participants</li> </ul>
Buenos Aires	<ul style="list-style-type: none"> <li>• 16 senior officials serving as national delegates to the UNFCCC</li> <li>• 6 senior officials of nongovernmental organizations</li> <li>• 3 senior officials of UNFCCC</li> </ul>	<ul style="list-style-type: none"> <li>• Not open to press or public</li> <li>• Informal atmosphere and dialogue</li> <li>• Explicitly focused on relationship building and possible resolution of issues on COP agenda</li> </ul>	<ul style="list-style-type: none"> <li>• Workshop coordinated with formal session of the COP</li> </ul>	<ul style="list-style-type: none"> <li>• Three individuals working in 2-person co-facilitation team, expert on issues and neutral as to resolution</li> </ul>	<ul style="list-style-type: none"> <li>• Neither the background paper, nor workshop discussions nor the summary reports attributed ideas or positions to individual participants</li> </ul>

neutrals to build a level of understanding that will enable better problem solving. PIN will not always be appropriate. It is unclear whether the PIN experience with environmental and economic issues, for example, can be extended to situations involving armed conflict. We do suggest that officials attempting to manage intractable conflicts consider PIN as an option for building relationships among the key actors, identifying common ground, and developing new problem-solving options.

## Notes

1. For an overview of literature on “second track diplomacy” see Berman, M.R. and J.E. Johnson, eds., *Unofficial diplomats* (New York: Columbia University Press, 1977); McDonald, J.W. and D.B. Bendahmane, eds., *Conflict Resolution: Track Two Diplomacy* (Washington, D.C.: Foreign Service Institute, Department of State); Volkan, V.D., D.A. Julius and J.V. Montville, eds., *The Psychodynamics of International Relationships* (Volume I: Concepts and Theories and Volume II: Unofficial Diplomacy at Work), (Lexington, MA: Lexington Books, 1991).
2. The German Marshall Fund, The Kendall Foundation, The Pew Charitable Trust, The Rockefeller Brothers Fund, and The Charles Stewart Mott Fund.
3. Two examples typify the issues in contention for trade and environment policy: multilateral environmental agreements (MEAs) and unilateral regulation. A number of MEAs such as the Montreal Protocol on Substances that Deplete the Ozone Layer and CITES (The Convention on International Trade in Endangered Species) contain trade restrictions. The issue is whether such trade restrictions contravene the international trading rules in the General Agreement on Tariffs and Trade (the “GATT”). While no MEA has been directly challenged in an international trade forum, the WTO could eliminate the current uncertainty through an amendment, waiver or interpretation to address existing and prospective MEAs – if the qualifying criteria could be agreed upon. Unilateral environmental regulation and market access is another difficult issue. National environmental regulation can take many forms (import restrictions, outright product or process ban, environmental taxes and charges, technology subsidies, labeling, and the like). The question concerns the effects that environmentally-motivated regulation can have on access by developing country exporters to markets in advanced industrial countries. Environmentalists maintain that trade restrictions are necessary in some cases, and in any event are a useful tool for protecting domestic environmental standards, ensuring compliance with international agreements, and helping to catalyze international consensus on more effective environmental practice. The GATT has traditionally held that members are free to impose whatever health, safety and environmental regulations they choose, so long as the regulations are applied without discrimination against imported products and do not operate as concealed protectionist barriers to international trade. There is general agreement at this level of generality, but intense controversy on how to articulate the circumstances under which the unilateral action is a warranted and acceptable constraint on trade flows.
4. Discussions on transparency focus on three key things: allowing participation of inter-governmental and non-governmental experts in the WTO processes, as observers; allowing NGO experts to make oral and written submissions on issues under consideration by the WTO; and making WTO documentation available in a more timely manner. See

- James Cameron, "Participation by NGOs in the WTO," Global Environment and Trade Study (GETS) Working Paper (1995).
5. Consensus Building Institute, A Report of the Schlangenbad Workshop on Climate Change, 17–19 October 1997. The Schlangenbad Workshop was underwritten by the Dutch Ministry of Housing, Spatial Planning and the Environment and the Charles Stewart Mott Foundation.
  6. "COP" means Conference of the Parties under the United Nations Framework Convention on Climate Change, adopted in Rio de Janeiro in 1992. COP-3 was held in Kyoto in December 1997, at which time the Kyoto Protocol was adopted.
  7. This conclusion is based on conversations with participants following the Workshop and on direct observation of the extent to which the Workshop Summary Report was referred to during the actual Conference deliberations.
  8. The Workshop was underwritten by the Dutch Ministry of Housing, Spatial Planning and the Environment and the Rockefeller Brothers Fund. COP-4 was held 2–13 November 1998 in Buenos Aires, Argentina.
  9. CBI has launched a 3-year project with UNITAR-New York, Building Negotiating Capacity for the G77, funded by the United Nations Foundation. The project will provide facilitation of a series of leadership and issue-focused workshops for members of the G77.
  10. A 30-question evaluation survey was completed by 22 out of 35 of the repeat participants. Questions covered the following: the extent to which the stated objectives of the Dialogue were met, the participants' sense of what they and others learned, an assessment of the merits of the brainstorming process, the impact on long-term relationships, the quality of the background materials, and reactions to the styles of the other participants.

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