**Policy on Upholding the Values and Principles of OGP, as articulated in the Open Government Declaration**

*Agreed by the OGP Steering Committee on September 25th, 2014*

**Rationale:**

OGP has grown quickly in size since its launch in September 2011, to 65 participating countries as of September 2014. This reflects the momentum and interest in open government reform around the world, and the recognition of OGP as a voluntary vehicle for government - civil society engagement and exchange of ideas. To maintain the organization’s credibility – and safeguard its long-term future – it is important that participating countries uphold OGP values and principles, as expressed in the Open Government Declaration and in the Articles of Governance.

The OGP Articles of Governance ask the Criteria and Standards subcommittee to make a recommendation to the Steering Committee when a review of a country’s participation in OGP is necessary. This includes when countries are ‘*taking actions that undermine the values and principles of OGP’.* This is in addition to triggers relating to changes in a country’s eligibility score or IRM report findings. Countries are only eligible to become an OGP participant – and remain a participant – if they can demonstrate a degree of budget transparency, access to governmental information, asset disclosure, and citizen engagement. Participating governments are also expected to strive to meet their own open government commitments in their National Action Plans, which are assessed by the IRM.

All participating governments are to endorse the Open Government Declaration to become full participants in OGP. While adherence to the Open Government Declaration is done on a non-binding, voluntary basis, and with recognition that countries are at different stages in their efforts to promote openness in their governments and that each pursues an approach consistent with its national priorities, circumstances and the aspirations of its citizens, the Declaration includes a commitment to ‘*protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion*’. In addition, OGP’s theory of change in the 2015-18 strategy document highlights the importance of having an engaged civil society with the space to participate and influence National Action Plans.

On principle OGP favors positive interventions to ensure this engagement takes place, but considerable evidence points to the space for CSO activities decreasing in a wide range of countries, including in some OGP participating countries. This trend has worrying implications for OGP.

This policy of reacting to actions that contradict the Open Government Declaration is thus designed to uphold the pre-existing commitments that OGP participating countries have made, but without imposing any additional requirements. The aim is to take actions that:

1. Assist the country in question to overcome difficulties and to help re-establish an environment for government and civil society collaboration, and
2. Safeguard the Open Government Declaration and mitigate reputational risks to OGP.

**How to trigger an inquiry into whether an OGP participant country is acting in a manner that undermines OGP values and principles:**

There are three main ways in which an inquiry can be triggered in the Criteria and Standards subcommittee under this response policy:

1. A Steering Committee member – government or civil society – brings to the attention of the chair of Criteria and Standards concerns, including details on which country and why.
2. One of the official OGP multilateral partners or Working Groups co-anchor brings to the attention of the OGP Steering Committee or Support Unit concerns, including details on which country and why.
3. The OGP Steering Committee or Support Unit receives a letter of concern from a civil society, not-for-profit organization, or media organization involved in OGP at the national or international level, including details on which country and why.

**The process of establishing the relevance of a concern:**

Once a concern has been registered through one of the correct channels, it is the responsibility of the Criteria and Standards subcommittee, working with the OGP Support Unit, to establish what – if any – action should be taken. The first phase of this process is an evaluation of the merits of the concern. This is to be carried out by the OGP Support Unit with member(s) of the Criteria and Standards subcommittee, both from government and civil society, and is to include the following steps:

1. Establish the veracity of the information by cross-referencing concerns with government, civil society, IRM researchers and third parties, including UN bodies, according to the nature of the issue.
2. Establish the relevance of the concern to the Open Government Declaration and OGP’s Articles of Governance – i.e., is the matter being reported directly undermining fulfillment of the nation’s commitment to OGP principles, thereby calling into question the process of its OGP participation.
3. Check with previous OGP data points, such as cross-referencing with the findings of the most recent IRM report on the country, including the national context section.
4. Assess whether an OGP intervention could have the desired impact in a country or is necessary to protect the credibility of OGP.

The OGP Support Unit can then write a letter to the OGP point of contact in the country identified for review, asking for a response to the concern. If the response from the country satisfies the Criteria and Standards subcommittee and indicates that the issue is being addressed domestically, then no further action may be needed. The letter and the response from the country are to be included in a short report that the Support Unit is to circulate among the Criteria and Standards subcommittee for further comment and deliberation. A list of all sources of information used in the process is to be included in the report. If a consensus cannot be reached, a vote may be taken in the Criteria and Standards subcommittee on whether to adopt the report. A two-third majority is required when a vote is taken. This process of evaluation and deliberation in the Criteria and Standards subcommittee should take no longer than 20 working days.

**The types of issues that may form a relevant concern:**

Over time, the Criteria and Standards subcommittee is to build up a list of factors and measurements for what issues should be considered relevant to OGP. The Criteria and Standards subcommittee is to, in due time, publish this list of factors to consider what types of concerns are deemed sufficiently relevant for consideration. In the initial implementation of this policy the subcommittee should adopt a flexible, case-by-case approach to the various concerns that may be raised. Some of the types of issues that have been previously raised in concerns to the Steering Committee as damaging to the OGP process in a country may include (but are not limited to):

* Introduction of new/revised policies or actions that significantly reduce access to information for citizens and civil society.
* Introduction of new/revised policies or actions that significantly reduce the space for non-governmental organizations to work independently, voice critiques, and/or receive funding from domestic or international sources (e.g. new NGO laws).
* Manipulation of the OGP process by governments in terms of civil society participation (e.g. only inviting GONGOs to participate in consultations).
* Introduction of new/revised policies, laws, or practices, or actions, that significantly reduce enjoyment of fundamental freedoms, notably freedoms of expression and peaceful assembly, and freedom to associate.
* Introduction of new/revised policies or actions that significantly reduce online or offline media freedom, or threaten media ownership and independence.

**The process of acting on a concern:**

Once a concern is found to have merit by the Criteria and Standards subcommittee, a short notice is to be circulated to the OGP Steering Committee informing the group of the decision. The following stage 1 actions can then be carried out by members of the Criteria and Standards subcommittee, the co-Chairs, the OGP Support Unit, and other interested Steering Committee members, without the approval of the full Steering Committee:

1. Engage in or broker diplomatic outreach to the government concerned at the official and/or political level, including from the co-chairs.
2. Write an official letter from the Support Unit to the OGP point of contact in the country informing them that the Criteria and Standards subcommittee adopted the report on the concern (the point of contact should already have been informed by the Support Unit that a concern was being investigated).
3. Offer to broker technical assistance to work on the issues raised in the concern.
4. Contact multilateral partners active in the country to help address the issues raised in the concern.
5. Invite the OGP point of contact in the country to work with the Criteria and Standards subcommittee in establishing a work plan and a timeline for the country to address the situation, where applicable.

Assistance offered by the Support Unit or by multilateral partners of OGP is to be carried out according to the Open Government Declaration and the Articles of Governance, and, therefore, should not be based on standards as a precondition for assistance or engage in ranking countries.

If the stage 1 interventions fail to have the desired impact, or the situation does not improve within three months (even after the establishment of a work plan and a timeline where applicable), the Criteria and Standards subcommittee is to recommend to the full OGP Steering Committee that one of the following stage 2 actions take place:

1. Recommend that the OGP co-chairs invite the government principal to attend a special session of the Steering Committee to discuss the situation and consequences for the country’s participation in OGP.
2. Recommend the OGP co-chairs author a letter to the country informing them they are to be temporarily listed as inactive in OGP until the concern is resolved.

If a government becomes temporarily inactive it is not be entitled to claim back its dues to OGP for the current financial year.

All the response policy steps are to be carried out in accordance with OGP’s disclosure policy.

**Roles and Responsibilities of official OGP bodies:**

Criteria and Standards subcommittee:

* Mandated by the Articles of Governance to lead on the process of reviewing a country’s participation in OGP;
* Signs-off on Support Unit report on concerns;
* Can carry out Stage 1 actions;
* Makes recommendations to the full Steering Committee if a concern is recommended to have Stage 2 action but is unresolved by a country.

Governance and Leadership subcommittee/co-chairs:

* Mandated by the Articles of Governance to speak on behalf of OGP, so should, therefore, be involved in diplomatic outreach and any interventions that involve the Steering Committee as a whole.

Support Unit:

* Authors report on initial concerns;
* Shepherds the process.

Steering Committee:

* Supports stage 1 actions;
* Final arbiter stage 2 actions, including on listing a country as temporarily inactive or any other decision on a country’s participation in OGP.

Independent Reporting Mechanism:

* Source of information for report on a concern.