

Tanzania's second action plan focused on improving public access to information in important sectors including land and extractives. The Access to Information Act was enacted shortly after the action plan ended, and it represents a major step forward for increasing government transparency. Although the commitments were ambitious and highly relevant to opening government, successful implementation was limited. Moving forward, the government could focus on improving institutional capacity to carry out commitments.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance.

The Independent Reporting Mechanism (IRM) carries out a review of the activities of each OGP participating country. This report is a summary of the results in implementing OGP commitments for Tanzania for the period July 2014 to June 2016. Additionally, some relevant developments that happened up to mid-September 2016 are also included.

The State House Good Governance Coordination Unit, located in the presidency, serves as the secretariat of OGP in Tanzania. Further support for implementation of commitments at the city, municipal, and district level comes from the Prime Minister's Office for Regional Administration and Local Government.

A Steering Committee, composed of government officials and civil society representatives, oversees the implementation of the second action plan. Consultations with stakeholders were done during the development of the second action plan (2014–2016) through face-to-face interactions and online submissions. The stakeholders consulted include local civil society organisations (CSOs) though only about four of these CSO groups were involved in the actual implementation of the country's action plan.

At the time of publishing this report, the commitment on enacting access to information legislation is complete, and the government made substantial progress on two other commitments since the latest IRM midterm report. The government published its end-of-term self-assessment report in March 2016. Tanzania has already drafted its third OGP action plan (2016–2018) with seven commitments in total, five of which have been carried forward. Two additional commitments have been added, focusing on medical and health services and performance management. Although the commitment on the Access to Information Act was completed, it has been carried forward from the previous action plan (2014–2016) with a focus on implementation. The first of the seven commitments is on enacting the Access to Information Act and its guidelines.¹

Table I: At a Glance

	Mid-term	End-of-term
Number of commitments		5
Level of completion (commitments)		
Completed	0	0
Substantial	0	2
Limited	4	3
Not started	1	0
Number of commitments with:		
Clear relevance to OGP values	5	
Transformative potential impact	1	
Substantial or complete implementation	0	2
All three (⊕)	0	0
Did it open government?		
Major	N/A	2
Outstanding	N/A	0
Moving forward		
Number of commitments carried over to next action plan		5

Consultation with civil society during implementation

Countries participating in OGP follow a process for consultation during development of their OGP action plan and during implementation.

Tanzania has a functional OGP Steering Committee, which is a forum for dialogue, monitoring, and advice on planning and implementing the OGP commitments. The committee is made up of representatives from relevant government ministries, departments, and agencies (MDAs) and civil society groups that meet on a quarterly basis. Twaweza, Tanganyika Law Society, REPOA, and the Foundation for Civil Society were CSOs that formed part of the OGP Steering Committee. In the post midterm period, more than two Steering Committee meetings were held including those for the development of the third action plan. The Steering Committee meetings largely remained an invitation-only forum.

Table 2: Action Plan Consultation Process		
Phase of Action Plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement?
During Implementation	Regular forum for consultation during implementation?	Yes
	Consultations: Open or Invitation-only?	Invitation only
	Consultations on IAP2 spectrum ¹	Consult

¹“IAP2 Spectrum of Political Participation,” International Association for Public Participation, http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/Foundations_Course/IAP2_P2_Spectrum.pdf

Progress in commitment implementation

As part of OGP, countries are required to make commitments in a two-year action plan. End-of-term reports assess an additional metric, “did it open government?” The tables below summarise the completion level at the end of term and progress on this metric. In the second OGP action plan, Tanzania had five commitments with 17 milestones. The IRM did not cluster the commitments. The commitment to enact the Access to Information Act was completed during the second action plan period. Developing the regulations necessary for implementing the law are part of the commitment carried forward into the third OGP action plan, and it is expected to be operational by June 2017.

The second OGP action plan’s priorities were on access to information, public accountability, and the use of technology to foster accountability and transparency in the provision of government services. The third OGP action plan draft draws on the experiences and lessons from the previous plan, including constructive inputs from civil society and different MDAs and recommendations by the IRM. Commitments in the third OGP action plan focus on open government priorities to promote government reforms by strengthening transparency, accountability, and citizen participation. A total of seven commitments are being proposed in the new OGP action plan, five of which are carried over from the previous plan. The two new commitments are on medical and health service transparency and performance management systems.¹

All of the indicators and methods used in the IRM research can be found in the IRM Procedures Manual, available at <http://www.opengovpartnership.org/about/about-irm>.

One measure deserves further explanation due to its particular interest for readers and usefulness for encouraging a race to the top between OGP participating countries: the “starred commitment” (★). Starred commitments are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:

1. The commitment must be specific enough that a judgment can be made about its potential impact. Starred commitments will have "medium" or "high" specificity.
2. The commitment’s language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values (Access to Information, Civic Participation, or Public Accountability).
3. The commitment has a potentially "transformative" impact if implemented completely.
4. Finally, the commitment must see significant execution, receiving a ranking of "substantial" or "complete" implementation.

Based on these criteria (which changed in 2015), the Tanzania action plan contained no starred commitments at either the midterm or the end of term.

Commitments assessed as starred commitments in the midterm report can lose their starred status if their completion falls short of substantial or full completion at the end of the action plan implementation cycle. IRM assesses the commitment progress across the entire term.

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for Tanzania, see the OGP Explorer at www.opengovpartnership.org/explorer.

About “Did it Open Government?”

Often, OGP commitments are vaguely worded or not clearly related to opening government, but they actually achieve significant political reforms. Other times, commitments with significant progress may appear relevant and ambitious, but fail to open government. In an attempt to capture these subtleties and, more importantly, actual changes in government practice, the IRM introduced a new variable—“did it open government?”—in end-of-term reports. This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice has changed

as a result of the commitment's implementation. This can be contrasted to the IRM's "starred commitments" which describe *potential* impact.

IRM researchers assess the "did it open government?" question by examining each of the OGP values relevant to the commitment. We ask, "Did it stretch the government practice beyond business as usual?" The scale for assessment is as follows:

- Worsened: Worsens government openness as a result of the measures taken by the commitment.
- Did not change: Did not change the status quo of government practice.
- Marginal: Some change, but minor in terms of its impact over level of openness.
- Major: A step forward for government openness in the relevant policy area, but remains limited in scope or scale.
- Outstanding: A reform that has transformed "business as usual" in the relevant policy area by opening government.

To assess this variable, researchers establish the status quo at the outset of the action plan. They then assess outcomes *as implemented* for changes in government openness.

Readers should keep in mind limitations. IRM end-of-term reports are prepared only a few months after the implementation cycle is completed. The variables focus on observable outcomes in open government practices at the end of the two-year implementation period. The report and the variables considered do not intend to assess impact because of the complex methodological implications and the time frame of the report

¹ http://www.twaweza.org/uploads/files/FINAL%20OGP%20ACTION%20PLAN%20III%2030_8_2016.pdf.

Table 4. Overview: assessment of progress by commitment

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact			Completion		Midterm	Did It Open Government?	
	None	Low	Medium	High	None	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	End of Term		
3.1. Access to Information				✓		✓							✓	Not started	✓	Worsened
3.2. Open Data		✓				✓			✓			✓		✓	✓	Did Not Change
3.3. Open Budgets			✓		✓		✓		✓		✓			✓	✓	Marginal
3.4. Land Transparency		✓			✓				✓		✓		✓	✓	✓	✓
3.5. Extractive Industry Transparency			✓		✓				✓		✓		✓	✓	✓	Major

Commitment 3.I. Access to Information Act

Commitment Text: To enact Access to Information Act by December 2014

The legislation will be established in line with international best practice and shall include:

(i) Recognition of a human right to information, along with a broad presumption of openness of information held by public bodies, including state-owned enterprises and bodies, and private bodies undertaking public functions or operating under public funding;

(ii) An obligation to publish a wide range of information on a proactive basis;

(iii) Robust procedures for making and processing requests which are simple, free and quick (with a clearly specified maximum response time).

(iv) A limited regime of exceptions based on preventing harm to protected and security related interests, a public interest override and severability where part of a record is exempt;

(v) A right of appeal.

(vi) Protection for good faith disclosures and sanctions for obstruction of access; and

(vii) Obligations to report on requests received backed up by sanctions for refusal to disclose information without reasonable cause.

Responsible institution: Ministry of Constitutional and Legal Affairs (MoCLA)

Supporting institution(s): Attorney General's (AG) Office, unspecified Civil Society Organisations (CSOs) and Private Sector Organisations (PSOs)

Start date: 1 July 2014 End date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Midterm		Did It Open Government?		
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal
3.I. Overall			✓	✓								✓		✓		✓			

Commitment Aim:

The commitment aims to enact an Access to Information (ATI) law, and it evolved from a commitment previously outlined but never implemented in Tanzania's first OGP action plan (2012–2013). Tanzania's first OGP action plan lacked specific details on the contents of the access to

information legislation. The government created this commitment in response to recommendations made in the IRM progress report for the first OGP action plan, including inclusive consultations with stakeholders and a set deadline for enacting the law.

Prior to drafting the commitment in the second OGP action plan, accessing government-held information was difficult, and there was no legal requirement for the government to disclose information.¹ Issues of public interest were not regularly disclosed, and civil servants responsible for providing such information often applied excessive censorship. The commitment thus seeks to ensure that information held by the government is accessible to all, provided within specified time limits, and shared among communities, media, and the general public.

Status

Midterm: Limited

By 30 June 2015, the Ministry of Constitutional and Legal Affairs (MoCLA) had made limited progress on the commitment. Although the Access to Information bill went through the first and second readings, it was not passed by the Parliament in 2015. Parliament rejected the bill because it lacked wide stakeholder consultation,² delaying the process.³ According to civil society stakeholders interviewed, the process further stalled due to the general elections held on 25 October 2015.

To pass the ATI law, MoCLA had to redraft the bill, conduct broad stakeholder consultations, and receive approval from the Parliament. For more details, please see the IRM progress report (2014–2016).

End of term: Substantial

The commitment to enact legislation on access to information was completed during the reporting period for the IRM end-of-term report but missed the commitment period deadline of 30 June 2016. The bill was submitted to Parliament and went through two readings, deliberations, and finally approval on 6 September 2016.

Did it open government?

Access to information: Major

As a result of the ATI law, Tanzanian citizens have a legal right to request and access government-held information. In the past, one could not cite any legal instrument for accessing similar information, save for under Clause 18 of the National Constitution (URT, 1977). The new access to information legislation increases the amount of information available to the general public; however, it contains a subcategory of defined exceptions that could hinder full information disclosure.⁴

In April 2015, the Centre for Law and Democracy awarded the Access to Information Act 91 out of a possible 150 points for providing a right to information. The Centre applauded the relatively broad scope, narrow categories of exceptions, and oversight by the independent Commission for Human Rights and Good Governance as major steps in the right direction. However, the Centre expressed concern over the law's lack of detail on requesting appeals procedures, the small number of promotional measures to publicise the law, and the exclusion of legal entities and non-citizens from being covered by the law.⁵ All these gaps are still evident in the ATI law enacted in September 2016.

The ATI law was passed at a time when the government implemented many legal changes that may hinder the effective exercise of the right to information granted by the new law.⁶ An access to information expert from a Tanzanian CSO⁷ expressed concern that the law does not go far enough to limit loopholes for shielding potentially confidential information or data that may be considered unflattering or controversial in nature from public scrutiny. For example, the law gives the government 30 days to respond to a request, which according to Deputy Chairman Deodatus Balile of the Tanzania Editors Forum is too long a period for a journalist to wait for information.⁸

VERSION FOR PUBLIC COMMENT: PLEASE DO NOT CITE

While the ATI law represents important progress in improving legal access to information in Tanzania, it is unclear whether or not the law is undermined by the regressive and draconian Cybercrimes Act that also passed in 2015. In a report prepared by Privacy International, the Collaboration on International ICT Policy in East and Southern Africa (CIPESA), and Tanzania Human Rights Defenders (THRD) Coalition,⁹ Clauses 31, 32, 33, 34, 35, and 37 in the Cybercrimes Act¹⁰ “give powers to law enforcers to search and seize computer systems, data and information without court order thus can infringe right to privacy” and freedom of information.¹¹ These contradictory legal grounds for accessing and using information could limit the ability of citizens to freely use information for civil society purposes.

This commitment represents a major achievement in providing legal mechanisms to establish the right to information. Stakeholders¹² have hailed the enactment of the ATI legislation as opening more doors, especially for oversight institutions and stakeholders such as CSOs. The law could be important for citizens seeking previously unavailable information on local policies and programs that directly affect their communities. For example, citizens can request budget and expenditure reports from local councils when conducting public expenditure tracking surveys (PETs) and other similar social accountability monitoring exercises. Establishing the legal right to information helps create the necessary environment for holding public officials accountable.

Carried forward?

The third OGP action plan draft¹³ includes and builds upon this commitment, with two planned activities under the new commitment to enact the Access to Information Act by December 2016. Another proposal under the draft ATI commitment is to develop the Access to Information Act’s regulations by June 2017 in consultation with civil society and other stakeholders. The draft action plan has been published online.¹⁴

It is not clear whether this commitment—as written in the draft action plan—will be maintained given that Parliament already has enacted the ATI legislation before the third OGP action plan has been finalised. During a national consultative workshop in September 2016 to review the draft action plan, civil society stakeholders thought that the commitment may be removed altogether because of its current implementation status. Some argued that it is important to have fewer commitments in the final action plan document. They¹⁵ were of the opinion that this commitment should be omitted from the forthcoming action plan given that the most important part of the commitment (having the ATI Act in place) has already been accomplished prior to the implementation of the third OGP action plan (July 2016–June 2018). They instead call for a new commitment to be incorporated for disclosure of assets and liabilities of senior politicians and civil servants.

¹ Lillian Nalwoga, “Access to Information in Tanzania: Laws, Policies, and Practice,” Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 24 March 2015, <http://cipesa.org/2015/03/access-to-information-in-tanzania-laws-policies-and-practice/>.

² IRM Progress Report 2014–2016: Tanzania, http://www.opengovpartnership.org/sites/default/files/Tanzania_IRM_Progress_Report_2014-15_for_public_comment.pdf.

³ Tanzania’s Parliament Rejects Media Censorship Bill, 21 November 2013, <http://bit.ly/1VIUcG9>.

⁴ Interview with media stakeholder, 29 September 2016, Dar es Salaam.

⁵ Centre for Law and Democracy, Tanzania: Note on the Draft Access to Information Act, 2015, May 2015, http://www.law-democracy.org/live/wp-content/uploads/2015/05/ATI-Law-analysis.rev_.pdf.

⁶ Tanzania Assembly Backs Information Access Bill, Freedominfo.org, 8 September 2016, <http://www.freedominfo.org/2016/09/tanzanian-assembly-hears-criticisms-of-pending-ati-bill/>.

⁷ Interview with civil society ATI expert, 21 October 2016, Dar es Salaam.

⁸ <http://www.freedominfo.org/2016/09/tanzanian-assembly-hears-criticisms-of-pending-ati-bill/>.

⁹ Excerpt from https://www.privacyinternational.org/sites/default/files/privacy_tanzania.pdf.

¹⁰ Ibid.

¹¹ Excerpt from https://www.privacyinternational.org/sites/default/files/privacy_tanzania.pdf.

¹² Interview with an anonymous source, 29 September 2016, Dar es Salaam.

¹³ Tanzania’s third OGP action plan draft, multi-stakeholder consultation workshop at the State House in Dar es Salaam, 6 September 2016.

VERSION FOR PUBLIC COMMENT: PLEASE DO NOT CITE

¹⁴ http://www.twaweza.org/uploads/files/FINAL%20OGP%20ACTION%20PLAN%20III%2030_8_2016.pdf.

¹⁵ Interview with an anonymous source, 24 September 2016, Dar es Salaam.

Commitment 3.2. Open Data

Commitment Text: To establish an open data system by December 2016

Key steps to operationalizing this commitment include the following:

(i) Establishing a coordinating body or working group under the Ministry of Finance for exploration of this issue.

(ii) Supporting guidelines issued, followed by legislative resolutions demonstrating support for transparent operations and the integration of open data into policy considerations, including provision of data in machine readable formats.

(iii) Establishment of a user-friendly, interactive open data portal data.go.tz.

(iv) Publication of key datasets on data.go.tz, particularly related to the education, health and water sectors, including data from Basic Education Statistics in Tanzania (BEST) and national examinations (NECTA), medical facilities and Medical Stores Department (MSD), water points, company registrations, NBS census and survey data and GIS data on village and ward boundaries; and with all data an emphasis on provision of disaggregated data at the facility level so as to be meaningful to citizens.

Additional activities as listed in the implementation plan:

- Review existing data disclosure Policy, Act and Regulations.
- Formulate Open Data Policy

Editorial note: The milestones reviewed in this commitment are a combination of the key steps listed in the commitment and activities outlined in the implementation plan.

Responsible institution(s): Ministry of Finance (MoF), National Bureau of Statistics (NBS), President's Office-Public Service Management (POPSM), e-Government Agency (eGA), Ministry of Education and Vocational Training (MOEVT), Ministry of Water (MOW), Ministry of Health and Social Welfare (MOHSW), National Archives, and Prime Minister's Office-Regional Administration and Local Government (PMO-RALG)

Supporting institution(s): PMO-RALG, unspecified CSOs, and the private sector

Start date: Not specified

End date: 31 December 2016

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion	Midterm End of Term		Did It Open Government?		
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsened	Did Not Change
3.2. Overall			✓		✓			✓		✓		✓		✓		✓		

Commitment Aim:

This commitment aims to develop a framework on open data in Tanzania that includes forming guidelines and policies, establishing an oversight body, and mandating that government MDAs publish data immediately in a new open data portal.

Prior to the commitment implementation, data was largely inaccessible to the general public. Typically, the lead government institutions responsible for a policy area would publish information internally, barring it from public access. For more than four decades, government-held data such as water points, medical supplies, and basic education statistics remained the exclusive preserve of a few civil servants, select parliamentary committee members, and development partners.

This commitment offers a pathway to opening government data and enabling Tanzanian citizens and the public in general access to reusable information. Through the commitment's implementation, the government could potentially build public trust by providing accountability or evidence for services rendered.

Status

Midterm: Limited

The IRM researcher found limited implementation of the commitment. The open data portal (www.opendata.go.tz) was established and key datasets were published. The IRM researcher also found that the data was easily searchable and that the format used on the portal—comma-separated-values (CSV)—allows files to be reprocessed by users.¹ However, the other four activities, including establishing a coordinating body under the leadership of the Ministry of Finance, reviewing procedures for open data disclosure, issuing open data support guidelines, and developing an open data policy, had limited or no progress at all.

It is important to note that in the first action plan (2012–2013), the government created a system to publish certain datasets online in a machine-readable format, including water-point mapping datasets.² According to the current action plan, the portal was to be populated by datasets from three sectors: education, health, and water.

The IRM progress report recommended that one government institution take the lead on coordinating data to improve the efficiency of releasing information on the portal in a timely manner. Further recommendations included reviewing the open data disclosure policy, publishing more open datasets on the portal, developing a new open data policy, and developing a coordinating body to oversee all processes.³

End of term: Substantial

As of August 2016, 100 datasets have been uploaded on the portal (www.opendata.go.tz): 65 from education, 11 from water, 10 from health, and 14 from the National Bureau of Statistics (NBS).⁴ Stakeholder interviews⁵ and the government self-assessment report show that the open data policy is still being developed, and there is an ongoing review of the open data disclosure policy.

The government also issued an open data circular in March 2016 (URT, 2016) with a designated coordinating body for collecting, processing, and publishing open data for all MDAs and local government authorities. To complete the commitment, more open datasets need to be published on the portal in a machine-readable format. Additionally, a new open data policy should also be developed. Civil society stakeholders interviewed⁶ have questioned the accessibility and value of published data due to low levels of internet penetration in Tanzania. They argue that the same data, or a summary of the content, should be made available offline in an easily readable, Kiswahili language document that is available to the wider Tanzanian public.

Further, the third OGP action plan draft (2016/17–2017/18) envisages cleaning up the existing open data portal and populating it with more datasets in line with new policy developments.⁷

Did it open government?

Access to information: Major

This commitment aims establish an open data system to provide the public with access to high quality government information. However, despite the potential benefits, several factors have limited the potential value of this commitment in opening government through various open data initiatives, such as a lack of internet access among the general population.⁸

The Tanzania Citizens Information Bureau (TIB), a civil society organisation that works with information access and related issues, confirms that the published datasets have changed the way citizens view the work of their government and has reclaimed some of the public trust lost in the past.⁹ The portal displays data valuable to the public interest in Tanzania, such as statistics on student-teacher ratios in schools, water access points and maps, and the number of health workers by region. The previously unavailable data covers health, water, and education sectors and is in an open data format with reusable (CSV) files.¹⁰ While the information released is highly useful for citizens, the low internet penetration rate (4.9 percent in 2014) has limited citizens' ability to use the portal directly.¹¹ According to a 2016 GovLab report, while most citizens lack sufficient internet access to use the portal, civil society groups are able to act as "infomediaries" and disseminate information from the portal through offline means to areas with limited online access.¹²

Further measures to improve user feedback could be enhanced by linking mobile technology to the portal. This is especially important because there is a growing use of mobile phones in Tanzania,¹³ and allowing public feedback via mobile phones could greatly increase citizen's ability to influence and request the release of datasets. In addition, the IRM researcher established from a government official¹⁴ that one of the challenges for data uptake is the absence of applications to make open data easily understood and accessed by information users or consumers in Tanzania.

Carried forward?

Tanzania's third OGP action plan draft has a commitment on open data where the focus is on fully completing this commitment. Moreover, there is a proposal to revamp the open data portal to contain features that will allow for more user-provided feedback and more options for citizens to interact with the government online to request clean open data¹⁵.

¹ The Open Data Institute, <http://bit.ly/1PSbMmA>.

² Ngunga Tepani, Tanzania OGP IRM Report. March 2014.

³ Ngunga Tepani, Tanzania OGP IRM Report, December 2015.

⁴ Interview with an anonymous government agency official, 24 August 2016, Dar es Salaam.

⁵ Interview with an anonymous civil servant, 23 August 2016, Dar es Salaam.

⁶ Interview with a civil society ATI expert, 21 October 2016, Dar es Salaam.

⁷ http://www.twaweza.org/uploads/files/FINAL%20OGP%20ACTION%20PLAN%20III%2030_8_2016.pdf.

⁸ <http://www.tcra.go.tz/images/documents/telecommunication/CommStatMarch16.pdf>.

⁹ Telephone interview civil society stakeholder, 13 October 2016, Dar es Salaam.

¹⁰ <http://www.opendata.go.tz/dataset?organization=ministry-of-health-and-social>.

¹¹ Juliet McMurren, David Sangokoya, Stefaan Verhulst, and Andrew Young, "Open Education Information in Tanzania: A Tale of Two Dashboards," GovLab, 16 January 2016. <http://odimpact.org/case-open-education-information-in-tanzania.html>.

¹² Ibid.

¹³ Subscription to Mobile and Fixed Network, April to June 2016, TCRA. Available at <https://www.tcra.go.tz/images/documents/telecommunication/CommStatJune16.pdf>.

¹⁴ Interview with an anonymous government agency official, 24 August 2016, Dar es Salaam.

¹⁵ http://www.twaweza.org/uploads/files/FINAL%20OGP%20ACTION%20PLAN%20III%2030_8_2016.pdf.

Commitment 3.3. Open Budgets

Commitment Text: To make budget data (eight key budget reports), audit committee reports and tax exemptions publicly available by December 2014

In line with internationally accepted good practices for open budgets, this includes:

(i) Publish, in a timely manner, the following eight key budget reports each budget year: a pre-budget statement; the executive's budget proposal; the enacted budget; a citizens budget; in-year reports on revenues collected, expenditures made and debt incurred; a mid-year review; a year-end report; and audit reports.

(ii) Publish the reports of the Parliamentary Audit Committees.

(iii) Publish all tax exemptions, on a monthly basis.

(iv) Publish Budget data online, in machine-readable formats, as well as key information made available at district councils as far as possible at all education and health facilities.

Responsible institution(s): Ministry of Finance (MoF), Parliament, and the Controller and Auditor General's (CAG) Office

Supporting institution(s): Prime Minister's Office-Regional Administration and Local Government (PMO-RALG), unspecified CSO, and private-sector organisations

Start date: 1 July 2014

End date: 30 June 2016

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion	Midterm End of Term	Did It Open Government?		
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative					
3.3. Overall			✓	✓	✓	✓	✓	✓		✓			Not started	Limited	Substantial	Completed	
													✓	✓	Worsened	Did Not Change	Marginal

Commitment Aim:

This commitment sets an ambitious goal to publish reports in three key areas: budget, tax exemptions, and parliamentary audit committees.

The initiative to release eight key budget reports in line with international criteria for budget transparency and open data formatting predates the commitment period. Tanzania has regularly released six of the eight budget documents defined in the commitment since 2012.¹ The eight reports include (1) a pre-budget statement; (2) the executive's budget proposal; (3) the enacted budget; (4) a citizens' budget; (5) in-year reports on revenues collected, expenditures made, and debt incurred; (6) a mid-year review; (7) a year-end report; and (8) audit reports.

In addition to publishing budget data online in machine-readable formats, the government also committed to making budget data publicly available offline at the district council level, including at all education and health facilities. The government also committed to publishing tax exemption and parliamentary audit committees' reports for the first time.

Status

Midterm: Limited

At the midterm, although improvements had been made in the release of budget reports, two key reports out of eight were not published—the mid-year review and the end-of-year budget report. Therefore, six budget reports were published by the midterm assessment. These were a pre-budget statement; the executive's budget proposal; the enacted budget; a citizens' budget; in-year reports on revenues collected, expenditures made, and debt incurred; and audit reports.

Other key deliverables to be released as part of this commitment were not disclosed, including tax exemption reports, parliamentary audit committees' reports, and the publication of online budget data in a machine-readable format.

End of term: Limited

By end of the two-year implementation cycle (30 June 2016), the government created seven of the eight key budget reports, though not all were made available to the public. The seven budget reports produced included (1) a pre-budget statement; (2) the executive's budget proposal; (3) the enacted budget; (4) a citizens' budget; (5) in-year reports on revenues collected, expenditures made, and debt incurred; (6) a mid-year review; and (7) audit reports. The end-of-year (budget execution) report was being finalised but had not been published² at the time of writing this report.

The government's self-assessment report on 30 June 2016 states that monthly tax exemptions and parliamentary audit reports have been published online—on the Ministry of Finance and National Parliament websites, respectively. However, a search by the IRM researcher revealed that some of these pending reports were incomplete, behind schedule, or not published. Tax exemptions and relevant tax documents were to be released on a monthly basis, but only two out of four quarterly reports were published during 2015.³ The parliamentary audit committees' reports were also not completed during the second action plan implementation cycle.

Did it open government?

Access to information: Marginal **Public accountability: Marginal**

The commitment intended to improve fiscal transparency by making eight key budget reports, tax exemptions, and parliamentary audit reports publicly available. During the commitment period in 2015, the Tanzanian government publicly released six of the eight key budget documents it aimed to make available for 2014. However, the mid-year review and the end-of-year report remained undisclosed to the public.

According to the Open Budget Survey, as of April 2016 Tanzania had regressed since the 2015 reporting period, making only five of eight key budget documents publicly available. The previously accessible in-year report was published for internal government use only. As of September 2016, the in-year report, end-of-year report, and mid-year review were not available to the public,⁴ while the pre-budget statement; the executive's budget proposal; the enacted budget; a citizens' budget; and audit reports continued to be publicly accessible.

The government's commitment to publish vast amounts of budget data, along with tax and audit reports, could have significantly changed fiscal operations and practice in Tanzania. Further, the newly released information would have helped lay the foundation for the future systematisation of publishing budget data.

During the commitment period, the government began releasing tax exemption documents that were not previously available. The government's end-of-term self-assessment report states that the tax exemption and the parliamentary audit committees' reports are available on the Ministry of Finance and Parliament websites, respectively. However, the IRM researcher's search revealed two quarterly tax exemption reports for April–June and July–September 2015 were published by the end-of-term assessment deadline (30 June 2016), meaning two quarterly tax exemption reports were behind schedule and some reports for the fiscal year 2014–2015 were not published at all.⁵ Parliament's website (www.bunge.go.tz) did not display any parliamentary audit committee reports for the fiscal years 2014–15 and 2015–16.

Civil society stakeholders⁶ observed that the government was producing the eight key budget reports prior to the commitment period and their inclusion in the commitment had little effect on stretching government practice. However, publishing reports on tax exemptions and parliamentary audit committee findings would have had a more significant impact on increasing public trust by offering citizens detailed information on the government's budget and expenditures that previously went undisclosed. In addition, publicly releasing the remaining three key budget documents from the eight the government produces would further increase transparency.

Carried forward?

Tanzania's third OGP action plan draft⁷ includes a commitment to publish budget data online with similar deliverables to those in the second OGP action plan. The only change is that the government will aim to publish tax exemption reports on a quarterly instead of monthly basis. Also the government intends to issue a directive to local government authorities, schools, and health facilities to ensure that detailed budget and expenditure information is made available to any local resident on request and posted on a public notice board.

¹ Open Budget Survey, 30 April 2016, <http://www.internationalbudget.org/budget-work-by-country/findgroup/group-data/?country=tz>.

² Interview with an anonymous civil servant, 25 August 2016, Dar es Salaam.

³ Screenshot of Ministry of Finance website, 20 October 2016. Available at http://www.mof.go.tz/index.php?option=com_content&view=category&id=80&Itemid=999.

⁴ Open Budget Survey, 30 April 2016, <http://www.internationalbudget.org/budget-work-by-country/findgroup/group-data/?country=tz>.

⁵ Screenshot of Ministry of Finance website, 20 October 2016. Available at http://www.mof.go.tz/index.php?option=com_content&view=category&id=80&Itemid=999.

⁶ Telephone interview with a civil society stakeholder, 13 October 2016, Dar es Salaam.

⁷ Tanzania Open Government Partnership (OGP) Third National Action Plan 2016–18, http://www.twaweza.org/uploads/files/FINAL%20OGP%20ACTION%20PLAN%20III%2030_8_2016.pdf

Commitment 3.4. Land Transparency

Commitment Text: Make land use plan, ownership and demarcated areas for large scale land deals accessible online for public use by June 2016.

This includes:

- (i) Publish demarcated areas for large scale agricultural investment (farming and livestock keeping)
- (ii) Publish all land use plans and make it accessible both at national and local levels
- (iii) Make easily searchable land ownership database online

Responsible institution: Ministry of Land, Housing and Human Settlement Development (MLHHSD)

Supporting institution(s): Prime Minister's Office-Regional Administration and Local Government (PMO-RALG), TIC, and unspecified civil society and private-sector organisations

Start date: None specified

End date: 30 June 2016

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion	Midterm		Did It Open Government?			
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		End of Term	Substantial	Completed	Worsened	Did Not Change	Marginal
3.4. Overall			✓		✓			✓			✓		Not started	✓	Limited	Substantial	Completed		✓
													✓						

Commitment Aim:

The commitment aims to ensure fair and equitable governance over land matters through publishing land use plans, ownership information, and demarcated areas. Disputes over land represent a significant challenge in Tanzania and are a major source of conflict between farming and pastoralist communities, as well as between rural communities and investors.¹ The government had committed to publishing demarcated areas for large-scale agricultural investment (e.g., farming and livestock keeping) and to providing an easily searchable online database on land ownership in Tanzania. This commitment could contribute to solving the problem of countrywide land conflicts between farmer and pastoralist communities that live adjacent to each other. The majority of these conflicts are ongoing and are yet to be resolved. Communities are also in conflict with investors, with the former often accusing the latter of land-grabbing.²

Status

Midterm: Limited

At the midterm, this commitment achieved limited completion with only the preliminary groundwork completed for surveying land in one administrative region of the country, Morogoro. Initial efforts on establishing an online database were ongoing, but no data was posted online with regard to land use plans and/or demarcated areas.

End of term: Limited

The government self-assessment report (as of 30 June 2016) states that a list of 348 demarcated areas for large-scale agricultural investments in the Eastern Zone of Tanzania have been identified and verified, but this data has yet to be uploaded online. During a telephone interview³ with the IRM researcher, a government official confirmed the number of demarcated areas and a survey of villages in the Morogoro region—15 in the Morogoro District, 25 in Kilosa District, and 25 in the Mvomero District—that will result in land use plans. The same were reported to have been posted into the MLHHSD website. However, the IRM researcher could not find any published land use plans on the ministry’s website.

Further, in the same telephone interview, the IRM researcher established that a contractor to develop the online database (ILMIS) was identified, the prototype was launched, and the next step is to receive an inception report from the contractor who will further develop the ILMIS. To fully complete this commitment, the government must develop the online database, publish land use plans online, and disclose all demarcated land areas for commercial and large-scale agricultural use.

Did it open government?

Access to information: Marginal

Public accountability: Did Not Change

The commitment aims to make land use plans, land ownership, and demarcated areas for large-scale land use accessible online for public use. Land in Tanzania is characterised as state property, with the president acting as the peoples’ custodian. Individuals can own land through rights granted by the state. The problem has been that no land use plans were immediately available and that land is sold/disposed of in a one-off payment without consideration to the appreciation of land value over time.⁴ Further, land surveys if financed by individuals are costly, and can range widely in price-per-acre. Often villages will have customary certificates of occupancy that cannot be commercially mortgaged against. Therefore, this commitment, which among other things seeks to publish land use plans (both online and offline at the community level), is very important in addressing land conflicts and improving land governance in Tanzania.⁵

Steps the government has taken, such as identifying demarcated areas and conducting land surveys, indicate marginal improvements in government practice. Given that internet access is limited in Tanzania, publishing land information online is not the best way to reach a wide, general audience. However, the government did improve on the quality of information and data published on land issues. Available information now includes a list of demarcated areas for large-scale agricultural use. This information was not readily available before, and although further data regarding the size and use of investments in each area remains unavailable, the promise of this kind of land data could have a major impact as more datasets become available in the future. The IRM researcher and civil society stakeholders interviewed⁶ believe that the completion of this commitment would change the way government authorities, especially those in rural areas, operate and bring about good practices in land governance in Tanzania. Although this is still a work in progress, civil society stakeholders were of the view that the completion of this commitment could drastically stretch government practice in the way land is planned, allocated, and generally managed in a more transparent manner, eliminating most of the existing land conflicts.

Carried forward?

This commitment has been carried forward to the third OGP action plan draft (2016/17–2017/18). The next steps in this commitment include, but are not limited to, publishing online demarcated, large-scale areas for commercial agricultural use and publishing surveyed land use plans in the yet-to-be-developed ILMIS database.

VERSION FOR PUBLIC COMMENT: PLEASE DO NOT CITE

¹ IRM Progress Report.

² Songa wa Songa, "SPECIAL REPORT: Land grabbing in Tanzania: The truth, fallacies and fights-part I," *The Citizen*, 24 March 2015, <http://bit.ly/1NQuGc8>.

³ Telephone interview with an anonymous civil servant, 22 September 2016, Dar es Salaam.

⁴ Kizito Makoye, "Complex land rights feed 'grabbing' complaints in Tanzania," *Reuters*, 17 April 2014, <http://news.trust.org/item/20140417110316-z13bv/?source=spotlight>.

⁵ Deodatus Mfugale, "Tanzania: Land Use Plans May Solve Conflicts, Attract Investment," *Daily News*, 16 December 2014, <http://allafrica.com/stories/201412160029.html>.

⁶ Face-to-face interview with an anonymous civil society stakeholder, 30 September 2016, Dar es Salaam.

Commitment 3.5. Extractive Industries Transparency

Commitment Text: Tanzania to fulfill its EITI commitments by June, 2015

This includes:

(i) Publish signed mining development agreements (MDAs) and Profit Sharing Contracts (PSCs) from 2014 onwards by June, 2015,

(ii) Document Governments policy on actual practice for disclosure of contracts signed before 2014 by June, 2015,

(iii) Publish Demarcated areas for Mining by December, 2014.

Responsible institution: Ministry of Energy and Minerals (MEM)

Supporting institution(s): Attorney General's Office

Start date: Not specified

End date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)			Potential Impact				Completion		Midterm End of Term		Did It Open Government?		
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsened	Did Not Change
3.5. Overall				✓	✓		✓				✓		✓					✓

Commitment Aim:

The commitment seeks to comply with the Extractive Industries Transparency Initiative (EITI) requirements by publishing several key documents online that will improve transparency in extractive industry (EI) issues in Tanzania. As of writing this report, Tanzania is compliant with EITI requirements, and the activities proposed in this commitment serve to further improve transparency in the extractive sector. Additionally, this commitment aims to secure public accountability by requiring mandatory disclosure of all mining development agreements (MDAs) and gas production sharing agreements (PSCs) signed before and after the Tanzania Extractive Industries Transparency and Accountability (TEITA) Act came into force on 16 October 2016.¹ The complete implementation of the commitment could provide the public with more meaningful access to information about revenues received by Tanzania's mineral, oil, and natural gas resources.

Status

Midterm: Not started

At the midterm assessment, the government had not started implementing any of the commitment activities. The government was suspended from EITI due to missing the 30 June 2015 deadline for publishing the EITI report.

End of term: Limited

Important developments were underway in Tanzania that laid the groundwork for greater transparency for the extractives sector in the country.

In July 2015 the Parliament passed three legislative acts: the Petroleum Act 2015, the Tanzania Extractive Industry Transparency and Accountability Act 2015, and the Oil and Gas Revenues Management Act. The acts update and consolidate existing legislation for the oil and gas sector. The Petroleum Act defines the tax regime for licence holders and contractors in the extractives sector. The TEITA Act requires that all new concessions, contracts, and licences must be made available to the public. Tanzania joins a short list of countries that have dedicated EITI legislation in place, and this is significant because all extractive companies in the country must disclose beneficial owners. Tanzania EITI has also produced inception reports reviewing the legal and institutional framework for beneficial ownership transparency, which are publicly available online as of 26 March 2016. All of these initiatives serve to strengthen transparency in Tanzania's extractives sector.

Despite the progress made and the changes brought about by these laws, activities specific to this commitment, such as publishing mining development agreements and profit-sharing contracts, saw limited completion. The disclosure and publication of those agreements and contracts are crucial to the country's standing in the EITI community and in opening up the extractives sector in Tanzania.

The government's end-of-term self-assessment report (as of 30 June 2016), asserts that 217 out of 423 large-scale mines were registered in the online mining cadastre transactional portal (OMCTP), which serves as a repository of all mining tenements,² applications for licenses or permits, geological maps, and satellite imagery. The IRM researcher searched the mining portal and corroborated the government's assessment.³ Civil society actors⁴ state that the mining portal is a platform to enable customers to register applications, review the licenses, send performance information, and make licencing payments and royalties electronically.

To fully complete this commitment, the government needs to publish its policy on actual practices for disclosing contracts, in addition to publishing all signed mining development agreements and profit-sharing contracts from 2014 onwards through offline and online means. Through the OMCTP, the government has started to publish required and relevant information on demarcated areas for large-scale mining activities, but stakeholders were of the view that more information needs to be made available, including in offline formats and in the Kiswahili language.⁵

Did it open government?

Access to information: Marginal

Public accountability: Did Not Change

Tanzania is a member of the Extractive Industries Transparency Initiative (EITI), which demonstrates the country's commitment to having its extractive industry data and revenue become more open to public access and scrutiny. The country is currently compliant with EITI standards, although it fell short during the midterm assessment. This commitment represents a step in the right policy direction to ensure effective and transparent management of the extractive industries. In the past, the media have reported on corruption cases involving contracts in the mining sector between the government and extractive companies [for agreements entered before 2014], with corruption and rent-seeking significantly influencing the secret signing of mining development agreements and gas production sharing agreements. However, the final version of the 2015 TEITA Act (Article 27) provides for the retroactive disclosure of contracts that were signed prior to when the act came into force. According to one civil society stakeholder,⁶ the online mining portal (OMCTP) helps curb corruption, increases efficiency on the part of the ministry officials, and additionally helps oversight institutions with data to monitor revenue, governance, and transparency of the mining subsector.

However, the same stakeholder⁷ was of the view that to make major inroads and open up the extractives sector to uninhibited public scrutiny, the government needs to fully implement the

provisions of the TEITA Act. This includes publishing agreements and contracts as mandated by the legislation. A civil society stakeholder said that more than knowing the identities of licence owners, citizens are most interested in having information on what benefits these contracts are providing for the country.⁸

The full implementation of the TEITA Act will help disclose information that was previously in the exclusive purview of the government on one side and the mining, oil, and gas companies on the other. The IRM researcher is convinced that with the central government's ongoing drive to instill fiscal discipline on its MDAs, the environment is ripe for opening up government further when it comes to the extractive industry.

Carried forward?

This commitment has also been carried forward to the third OGP action plan draft. The next steps in this commitment include, but are not limited to, publishing demarcated large-scale mining areas online and including agreements and contracts on the Ministry of Energy and Mineral's website.

¹ The Tanzania Extractive Industries (Transparency and Accountability) Act, No. 23 of 2015. Downloaded on 16 October 2016 at <http://www.teiti.or.tz/wp-content/uploads/2016/02/Date-Commencement-of-TEITA-Act2015.pdf>.

² A mining tenement is a permit, claim, licence, or lease that may be granted by a mining registrar or the minister of energy and minerals.

³ <http://portal.mem.go.tz/map/>.

⁴ Interview with a civil society stakeholder, 24 October 2016, Dar es Salaam.

⁵ Interview with a civil society EITI expert, 24 October 2016, Dar es Salaam.

⁶ Telephone interview with a civil society stakeholder, 13 October 2016, Dar es Salaam.

⁷ Telephone interview with a civil society stakeholder, 13 October 2016, Dar es Salaam.

⁸ Telephone interview with a civil society stakeholder, 13 October 2016, Dar es Salaam.

METHODOLOGICAL NOTE

Commitments are analysed as written, albeit in short form, in the second Tanzania OGP action plan (2014–2016). This report is a result of a combination of approaches to data collection, including a desk review of commitments in government online resources; the researcher's own review of legislation, regulations, and governmental directives; and a review of the government's self-assessment report at the end of the two-year implementation cycle.

The IRM researcher also analysed the commitments both in the midterm and end-of-term report and conducted interviews with government points of contact and civil society stakeholders to assess completion at the end of term.

Nine government points of contact from ministries, departments, and agencies were interviewed for the end-of-term assessment. These were in the President's Office-Good Governance Coordination Unit (PO-GGCU), the Ministry of Finance, the PO-RALG, the Ministry of Constitutional and Legal Affairs, the Ministry of Health, the Ministry of Education and Science, Tanzania Extractive Industries Transparency Initiative, the e-Government Agency, and the Government Information Centre (MAELEZO). In addition, the researcher interviewed three media stakeholders from the Tanzania Media Fund; *Nipashe*, which is a daily newspaper; and *Raia Mwema*, which is a Kiswahili weekly newspaper. The IRM researcher also interviewed six civil society stakeholders from Hakiardhi Land Rights Alliance, ForDIA, Twaweza, Tanzania Investment Bank, Kisarawe Women Group, and Ubunifu Associates.

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The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

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