Brasília, July 18th  2014

**Subject: Open Letter from a group of Civil Society Organizations in Brazil**

Dear Members of the OGP Steering Committee,

The Government of Brazil welcomes the opportunity to clarify the information regarding the letter sent by Mrs. Elda Mariza Valim Fim to the Steering Committee on July 10th, 2014.

At the outset, we would like to distinguish between two different processes: our national consultation process on the drafting of OGP action plans and the National Conference on Transparency and Social Control (CONSOCIAL). Although both initiatives aim to increase and strengthen transparency and accountability in Brazil, they are neither the same nor dependent on each other.

1. CONSOCIAL – The National Conference on Transparency and Social Control

The CONSOCIAL, held from 2011 to 2012, from the municipal level to the national level, was the first national conference to address transparency and social participation in anticorruption issues. It followed Brazil’s deep-seated process used for all national conferences, which begins with conferences in municipalities all over the country, in which citizens draft initial proposals on the most various policy issues, like health, education, sustainable development, environment, gender and women’s rights. These proposals are then further discussed, refined and prioritized in state-level conferences, until they are adopted in national conferences and become subsidies for the Federal Executive Branch to draft national policies and action plans on these issues. Note that these proposals range from a variety of types, including proposals for actions involving different levels or branches of government[[1]](#footnote-1).

Following this procedure, the national phase of the National Conference on Transparency and Social Control (CONSOCIAL) was included as part of Brazil’s first OGP action plan. As stated in the action plan, the Conference had defined phases with different deadlines, including the national phase that would result in its main and most ambitious product and scheduled for May 2012 – 9 months after OGP was launched. While CONSOCIAL aimed to develop proposals to assist the country improve in areas of great relevance to OGP, its proposals were not developed under the same requirements of the Open Government Partnership – that is: specific, measurable, actionable, relevant, time-bound (S.M.A.R.T.) international commitments.

Nonetheless, CONSOCIAL did provide a lot of important insights and powerful policy proposals to the Brazilian government. Some of them will require long-term implementation; others will demand coordination among different autonomous institutions and levels of government. There are also ongoing discussions on budgetary and human resources to be allocated for their implementation. So, while the Conference will contribute to the country’s policies in transparency and social participation for years to come, they could not translate automatically into an OGP action plan.

1. The consultation process for the drafting of the 2nd OGP Action Plan

The consultation process for the drafting of our second OGP action plan was established within the Interministerial Committee on Open Government (CIGA), Brazil’s forum for decisions on OGP and our actions plans[[2]](#footnote-2), which is coordinated by the Civil House of the Presidency (*Casa Civil da Presidência)*. The Committee is composed by eighteen Ministries, and seven of these Ministries make up the Executive Group (GE-CIGA) of the Committee, which is coordinated by the Office of the Comptroller General (CGU) and tasked with drafting proposals and preparing the action plans to be adopted by the full group. The Executive Group can create working groups to discuss specific issues and invite different stakeholders to participate in them and to contribute to the group’s work.

As such, a working group, named the Civil Society Working Group and composed of two members of the CIGA’s Executive Group (CGU and the General Secretariat of the Presidency), eight civil society organizations (*Transparência Hacker, W3C- Brazil, Amarribo, Ethos Institute, Article 19, CESE, CFEMEA,* and *SINSEPE*), and two representatives from Academia (*GPOPAI-USP* and *PDMA-FGV Direito RJ*) was created to design the consultation process for our second OGP action plan. It is important to note that, aiming to let other actors be involved in OGP in Brazil, INESC, our fellow Steering Committee member, declined to participate in this working group.

The process was divided into two phases of consultation, and its procedures were clearly defined in two manuals: one for the virtual dialogue (online consultation), and another for the national in-person meeting (offline consultation). Both documents were discussed in and designed by the Civil Society working group. These two were published on the *E-democracia* platform, a website created by the Chamber of Deputies (<http://edemocracia.camara.gov.br/web/acoes-ogp>), and on the Office of the Comptroller General website before the process begun (they are still available at <http://www.cgu.gov.br/governoaberto/documentos/index.html>).

According to the procedures designed by the Civil Society Working Group, the manuals informed citizens that the proposals made in either consultation process (online or offline) were to be prioritized (by the participants) and then analyzed by governmental agencies, before being included in the action plan, so as to ensure focus and viability in the implementation of the commitments and that they were adopted in accordance with the guidelines and rules of OGP.

Every single proposal prioritized by citizens and civil society organizations in either consultation process, in accordance to these rules of procedure, received a feedback from government agencies identified as potential implementers of the proposals, stating whether the proposals would fully or partially become commitments or if they could not be accepted.

The reasons and justifications for every decision on a proposal that was not accepted or that was partially accepted were also made public and are still available at <http://www.cgu.gov.br/governoaberto/documentos/index.html>.

1. The Executive Group (GE-CIGA) meetings

Those reasons were first presented at a meeting held by Executive Group of the Interministerial Committee on Open Government (GE-CIGA) on April 12, 2013 and in a second meeting on July 17th. It is worth noting that civil society organizations were present– including INESC – and that we provided live online transmission of this meeting.

Additionally, we wish to highlight that the minutes of the GE-CIGA meetings are available at <http://www.cgu.gov.br/governoaberto/ciga.asp> since 2013. The minutes include the attendance list of the participants, including the name and job title of each one of the members of the Executive Group of the Interministerial Committee for Open Government. The three meetings of the GE-CIGA held in 2013 (April 8th, April 12th and July 17th) were attended by at least one civil society member. Mrs. Elda Fim herself was present at the April 8th meeting of the members of the GE-CIGA. Moreover, we have received and answered several information requests regarding Brazil’s participation in OGP and answered them within the deadlines of our Access to Information Law.

So, while it is understandable that there is some frustration about proposals that were not turned into commitments in this particular edition of our OGP national action plan, we strongly believe the process for our second OGP action plan was very fair and transparent. In order to address any concerns or shortcomings of this process, we continue to seek inputs and a strong, honest and direct dialogue with citizens, civil society organizations, and any other interested stakeholder that wishes to contribute to improving our national consultations on OGP action plans.

It is also important to clarify that the Brazilian Federal Constitution states the independence of Powers between the Executive, the Judiciary and the Legislative Branches, as well as the autonomy of each level of government (municipalities, the Federal District, states and the Union). Plus, the Constitution defines Foreign Affairs policies as a role of the Federal Executive Branch.

Therefore, as much as the Federal Executive government gladly supports the implementation of open government policies by the other branches or levels of government, it cannot command them to do so. In this context, while proposals to change current legislation are received, discussed and may be successfully turned into new laws, they could not be accepted as international commitments under OGP, since there was no discussion about them by the senators and representatives in Congress.

1. The proposal to change the governance model for OGP in Brazil

Regarding the proposal for changes in the governance model for Open Government in Brazil, we wish to state that we did received a proposal, but in 2013, and not in 2012, at the above-mentioned national in-person meeting held as part of the process to draft our second OGP action plan[[3]](#footnote-3). The Executive Group of the Interministerial Committee, when addressing all of the proposals received during both consultations held, decided that it would not turn this proposal into one of the commitments under our second action plan, as it understood that further discussions and the engagement of more stakeholders were necessary. However, it clearly stated that it would not in any way insist on the current governance model nor prevent its reformulation.

In 2014, the Executive Group (GE-CIGA) publicly presented a proposal on the establishment of a formal Working Group within the Interministerial Committee, which is to be formed by seven non-governmental members: four from civil society organizations, one from Academia and two from the private sector (one from companies’ associations and one from labor associations). The group would work with the government to develop a new process to draft and monitor the implementation of action plans and to broaden participation in all processes related to OGP in Brazil, building on the experiences and lessons learned from the second action plan.

The proposal was published on the website Participa.br and received many suggestions for improvements, which the Executive Group of CIGA is currently analyzing one by one. The government agencies that comprise the Executive Group also offered to discuss the proposal at an event held in May 2014 in Brasilia, in which, however, a group of organizations decided to forfeit the discussion about the new Working Group and send a letter to the Federal Executive government to advocate for the proposal made at the above-mentioned 2013 meeting.

While CIGA’s Executive Group strongly believes in the important role to be played by the proposed new Working Group under consultation, it has clearly stated in different occasions that the group is open to receive alternative proposals and to discuss how to improve the current one, as demonstrated by its presence at the event of May this year and the online consultation about the working group.

On July 10th, 2014 we received a letter (dated of July 1st) asking for the revision of the decision on the 2013 governance proposal, signed by an unidentified person (possibly Mrs. Neide de Sordi, from *Sociedade Brasileira de Gestão do Conhecimento*) and a list of 33 organizations. Understanding the relevance of the demand, CIGA’s Executive Group has already agreed to discuss the demands of this group at its meetings to analyze the proposals received during the consultation period for the new Working Group and will release a statement about this particular demand once it has reached a consensus.

1. Final remarks

As a founding country of the Open Government Partnership, Brazil reiterates its commitment to its principles and values. Transparency is and will continue to be a pillar for the work of the Interministerial Committee on Open Government and its Executive Group, which work to provide clear information about OGP and all phases of our national process and the results it bears– especially when those do not meet the expectations of citizens or organizations. We strongly believe in participation and in dialogue – which is why we had several meetings and online discussions opportunities with our stakeholders.

Once again we would like to state that we strongly believe in the openness of our processes and in our commitment to dialogue. We are at the disposal of the Brazilian civil society and the OGP community to continue collaborating toward more ambitious action plans and results, as well as to provide any information or further detail about open government in Brazil.

Sincerely,

****

1. **JORGE HAGE SOBRINHO**

Minister of State, Head of the Office of the Comptroller General of Brazil

1. For more information: <http://www.dialogosfederativos.gov.br/?p=2456> [↑](#footnote-ref-1)
2. CIGA was established by the [Presidential Decree](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/dsn/dsn13117.htm) of September 15th 2011. [↑](#footnote-ref-2)
3. The meeting had the presence of Ms. Emilene Martinez, independent civil society coordinator for Latin America (<http://www.ogphub.org/blog/brazil-broadens-public-consultation/>). Over 80 organizations were invited. [↑](#footnote-ref-3)